

**YOUTHJUSTICECOALITION**  
**Campaign Research**  
**GANG INJUNCTIONS AND GANG DATA BASE**

**CALIFORNIA LAW ENFORCEMENT GANG DEFINITIONS**

The following definitions were adopted by the California State Anti-Gang Coordinating Committee. These definitions steer law enforcement policy throughout California and increasingly throughout the U.S.

**Definition of "criminal street gang:"**

A criminal street gang is defined as any organization, association or group of three or more persons, whether formal or informal, which (1) has continuity of purpose, (2) seeks a group identity, and (3) has members who individually or collectively engage in or have engaged in a pattern of criminal activity. *Reference section 186.22(f) of the California Penal Code.*

**Definition of "gang-related" crime:**

A crime is considered to be "gang-related" if the suspect or the victim of the incident is a known member of a gang, or there is reliable information indicating that a gang member committed the offense.

**Definition of "gang member"**

A gang member is defined as anyone who (1) actively participates in any gang with knowledge that its members engage in or have engaged in a pattern of criminal gang activity; and who (2) willfully promotes, furthers, or assists in any felonious criminal conduct by members of the gang. *Reference Section 186.22(a) of the California Penal Code.*

**Identification Criteria**

An individual is identified as a gang member based on the following criteria:

1. Admits gang membership or association.
2. Is observed to associate on a regular basis with known gang members.
3. Has tattoos indicating gang membership.
4. Wears gang clothing, symbols, etc., to identify with a specific gang.
5. Is in a photograph with known gang members and/or using gang-related hand signs.
6. Name is on a gang document, hit list, or gang-related graffiti.
7. Is identified as a gang member by a reliable source.
8. Arrested in the company of identified gang members or associates.

9. Corresponds with known gang members or writes and/or receives correspondence about gang activities.
10. Writes about gangs (graffiti) on walls, books, paper, etc.

**Cal Gang Mission and Scope of Work as Defined by the California Department of Justice (2001)**

**What Is CAL/GANG?**

**State Department of Justice (DOJ) Definition of the CAL/GANG Database:**

A cooperative automation project between California Department of Justice (DOJ)/Bureau of Investigation, Division of Criminal Justice Information Services, Hawkins Data Center, local law enforcement agencies and ORION Scientific Systems, to electronically share information on criminal street gangs and gang members via a statewide automated Intranet.

**California State DOJ Argument for Why CAL/GANG Is Needed:**

Increased mobility of gangs throughout the state, enhanced ability of gangs to finance their activities through criminal enterprise, and increased sophistication of gangs in the use of technology has created an environment that requires a more cooperative and consolidated effort by law enforcement agencies to combat gang violence and crime.

CAL/GANG allows agencies to:

- Identify gang members involved in crimes.
- Track the movement of gangs and members throughout the state.
- Coordinate police response to gang violence.
- Enhance officer safety.
- Provide realistic, up to date, figures and statistical data on gang crime and violence.
- Forecast trends and respond accordingly.
- More easily solve crimes and prevent violence.

By using new Internet/Intranet technologies, all existing gang information is available to law enforcement officers at a central location at California, Department of Justice. This database contains critical information on gangs, gang members, firearms, criminal activities and histories, vehicles, and more than 150 other fields of information.

Additional law enforcement agencies are able to participate in CAL/GANG with only a computer and a modem can have access to and participate in a centralized method of sharing gang information.

CAL/GANG takes advantage of today's fast changing Internet technology. The system is comprised of a central server at DOJ and seven regional nodes (additional nodes are in the planning stages) deployed strategically throughout the state. The database was built using Microsoft SQL Server and Netscape Enterprise Server as the web server for each location.

Each regional node maintains a complete version of the application. The regional node is responsible for maintaining their local agency end user data. The data is replicated to the DOJ central server, creating a central repository of statewide gang information.

### **Gang Injunctions**

A gang injunction in Los Angeles is when the City Attorney's Office with approval from a judge issues a restraining order against specific gang members of a particular gang. With information gathered from police officers and the public, the judge will grant a restraining order against identified members of a gang, in essence suing them.

In the lawsuit, the actual gang members are mentioned, and they are forbidden to engage in a number of activities, some of which are already illegal such as selling drugs, vandalizing property and possessing weapons. Other activities that they are restricted from doing have included congregating in groups, being out after a particular time (curfew), being in possession of a pager or a cellular telephone, or riding bicycles.

Each gang injunction must define a geographic area where these activities are restricted.

There are three different types on injunctions:

- A *Temporary Restraining Order* is usually issued very quickly by the court -- within 24 - 48 hours. Often police and a City or District Attorney will move first for a Temporary Order because of the speed in which it is issued. (In the case of the current 18th Street Injunction, LA City never moved for a temporary order.
- A Preliminary Injunction is a filed request where defendants must file papers in opposition. At a hearing, a judge grants or denies permission for the injunction. If a Preliminary Injunction is granted, then the injunction's conditions until final judgement is made either in a trial before a judge, a jury trial or the two sides agree to settle. Usually the civil lawsuit ends in a jury trial to determine final judgement.

- If the Preliminary Injunction is deemed in court to be legitimate, at that time it becomes a Permanent Injunction.

## HISTORY AND CURRENT GANG INJUNCTIONS

Los Angeles first started experimenting with gang injunctions in the early 1980s in Pomona, West Covina, and East Los Angeles, but the injunction against the Play Boy Gangster Crips in 1987 is when these civil abatement strategies first gained national attention.

The popularity of the LA County injunctions have seen places such as San Diego and San Jose, California, San Antonio, Texas, and Chicago, Illinois to adopt similar strategies against their gangs.

We don't have very accurate data on where injunctions are currently, but as far as we can tell there are 14 injunctions now in effect in LA County including the most recent injunctions added by Rocky Delgadillo's Gang Unit against 18<sup>th</sup> Street in Pico Union, as well as two focusing on public housing sites -- Nickerson Gardens and The Jungle. As in the case with 18<sup>th</sup> Street, injunctions have more often been placed in areas surrounded by middle class communities or in areas facing intense gentrification where political pressure is brought to bear (such as in the four "permanent" gang injunctions against San Fernando Valley street gangs, -- Canoga Park, Alabama, Pacoima Project Boys, Langdon Street and Blythe Street – and the injunctions in Venice and Long Beach. Since the use of injunctions began in L.A. County in the mid-eighties, the injunctions listed below have also been issued. (Please note, we need better intelligence on this – law enforcement hasn't been too anxious to share with us, so we need to figure out how to get a more updated and accurate list.)

When you look at the list, it's interesting to see injunctions aren't on the largest gangs or most notorious neighborhoods. We have marked the injunctions that are in areas surrounded by predominantly white communities (w) or areas that are facing extreme gentrification (g) since we think these are key factors in determining who gets injunctions as an intentional tool of both containment and displacement.

INJUNCTION	DATE	CITY	CODE
Dogtown (Eastside)	1982	LA	
62nd St East Coast Crips	1982	LA	
Primera Flats	1982	LA	
Playboy Gangster Crips	10/26/87	LA	
San Fers & Shakin' Cats	12/18/91	LA - San Fernando Valley	w
Barrio Elmwood Rifa	10/7/92	Burbank	w
Blythe Street Gang.	2/22/93	LA - Van Nuys	w

West Trece Gang 59th Street	7/1/93	Westminister	w
Orange Street Locos	7/21/94	Norwalk	w
West Side Longos	10/6/95	Long Beach	w
Pasadena Denver Lanes	10/25/95	Pasadena	g
North Side Redondo 13	4/30/96	Redondo Beach	w
Villa Boyz and Krazy Boyz	6/13/96	Pasadena	g
Headhunters	6/20/96	Fontana	w
Lennox 13	8/15/96	Lennox	
Chopper 12	8/20/96	Commerce	
Crenshaw Mafia Gang	12/17/96	Inglewood	w
18th Street Gang (Jefferson Park)	3/19/97	LA - Jefferson Park	
		Bellflower/Long	w
Brown Nation	3/27/97	Beach	
West Coast Crips	5/5/97	Long Beach	w
18th Street Gang (Pico-Union)	8/1/97	LA - Pico-Union	g
Mara Salvatrucha	3/1/98	LA- E Hollywood	w, g
18th Street Gang (Westlake-Shatto Park)	5/1/98	LA - Shatto Park	w
Harpys	7/16/98	LA - West Adams	g
Barrio Tortilla Flats Gang	8/25/98	Compton	
Langdon Street Gang	3/26/99	LA - North Hills	w
Culver City Boys	4/23/99	LA - Mar Vista	w
Venice Shoreline Crips	5/21/99	LA - Venice	w, g
Harbor City Crips	11/12/99	LA - Harbor City	w
Venice 13	2/10/00	LA - Venice/Oakwood	w, g

## **GANG ENHANCEMENTS**

Anti-gang laws come in the form of “gang enhancements,” which significantly increase the penalties imposed for an offense if it was “gang-related” under the aforementioned definition. Gang enhancement laws sometimes impose sentences which far exceed what the criminal law would have imposed for the same offense had it not been gang-related. For example, in California, youth can face a life sentence in adult prison for a residential robbery if it is deemed to have been “gang-related.” (Cal. Penal Code 186.22(b)). Presumptions about gang affiliation also have severe consequences under the state’s “Three-strikes” law intended for adults. Proposition 21 made any felony committed “on behalf of a gang” a strike (*Id.*). It also created new “juvenile strikes,” or juvenile offenses which count as adult strikes, which can lead to 25-year to life sentences for some youth. These new “juvenile strikes” include offenses such as unarmed robbery (California Welfare & Inst. Code 707(b)(3), (25)). Youth labeled with “gang affiliation” may also get more severe treatment in terms of the actual time they are required to serve in prison. Proposition 21, for example, enacted a new category of “violent felonies” which require that youth who receive prison terms serve 85%, rather than the previously standard 50%, of their sentences. This

category of offenses includes some gang-related offenses (California Penal Code 186.22(b)).

Gang affiliation is also a basis for transferring a youth to an adult court in some jurisdictions. Under California's Proposition 21, by merely alleging that an offense is "gang-related," prosecutors may have the power to file charges against a youth as young as 14 years old directly in adult court, without the generally required "fitness" hearing before a judge (Cal. Penal Code 186.22(b); California Welf. & Inst. Code 707(d)(2)). "Gang-related" offenses are defined as those "committed for the benefit of, at the direction of, or in association with any criminal street gang with the specific intent to promote, further, or assist in any criminal conduct by gang members" (California Penal Code 186.22(b); California Welfare & Inst. Code 707(d)(2)).

Allegations of gang involvement can also be extremely prejudicial to the outcome of the youth's case, sometimes serving to validate judges' decisions to transfer a youth to adult court initially, to deny bond, or to discount the youth's testimony entirely (Sue Burrell, *Gang Evidence: Issues for Criminal Defense*, SANTA CLARA LAW REVIEW (Summer 1990)). Moreover, even allegations that a youth is a "gang member" which are ultimately unsubstantiated may nevertheless instill fear in some jurors and thereby impact the verdict and sentencing.

## **COURT CHALLENGES**

### **1994, Oakland**

In 1994, the ACLU was successful in preventing injunction sought by the City of Oakland. According to ACLU-NC staff attorney Ed Chen, who successfully litigated *Oakland v. "B Street Boys,"* the perceived success of gang abatement injunctions, is not the pivotal issue. "Whether they work in reducing crime or not, they flagrantly violate the rights of groups targeted specifically because of their age, ethnicity and relationships. Illegal searches may also work, but our Constitution doesn't permit them, lest we were to allow the government to impose a complete police state."

### **People v. Acuna, 1995-1997**

In 1995, the City of San Jose named 38 gang members – all young Latinos who congregated in the Rocksprings area -- as gang members and obtained a preliminary injunction, based on public nuisance law, that imposed up to six months in jail or a \$1,000 fine for engaging in such legal activities as being seen in public with another "known gang member," talking to someone inside a car, climbing a tree, making loud noises, wearing certain clothing, or carrying marbles, screwdrivers, pens, pagers and sparkplugs.

Because the injunction came via a civil suit, those declared gang members were not allowed protections ensured in a criminal proceeding such as the right to an appointed attorney, a jury trial or criminal justice standards of proof.

The injunction was challenged, *People vs. Acuna*, and in the Appellate Court of California, the ACLU won an appeal to overturn the injunction in 1995 citing that the injunction was "overbroad."

But in 1997, the State Supreme Court ruled in the city's favor: Gang members legally were prevented from "standing, sitting, walking, driving, gathering or appearing in public view with any other defendant" in the Rocksprings neighborhood. The Court decided that the First and Fifth Amendment rights of the city's gang members were secondary to the rights of neighborhood residents against intimidation by their presence. The majority opinion written by Justice Janice Rogers Brown stated, "Liberty unrestrained is an invitation to anarchy...The freedom to leave one's house and move about at will and to have a measure of personal security is implicit in the concept of ordered liberty." The dissenting opinion claimed that the rights of the gang members to gather and freely associate were violated and that the terms of the injunctions against "confronting," "annoying," "challenging" and "provoking," were terms too vaguely defined. The United States Supreme Court refused to hear an appeal by plaintiffs against such use of injunctions thus allowing the California court ruling to stand.

The ACLU cooperating attorney on the case, Amitai Schwartz, argued -- "The enthusiastic affirmation of anti-gang injunctions by the state's highest court adds momentum to the broad movement in our state and across the country that advocates criminalizing non-criminal conduct, if such conduct is engaged in by people out of favor -- justifiably or not--with the social mainstream." The ACLU argued that San Jose's anti-gang injunction was unconstitutionally vague and overbroad and targeted Latino youths without sufficient proof that they have committed any crimes or harassed residents: "Simply because these men and women are suspected gang members, they are stripped of a variety of constitutional freedoms, the rights to associate, to assemble and the right to due process. This ruling effectively places law-making powers in the hands of judges instead of the Legislature."

Forty-eight cities in California submitted an *amici* brief in the case supporting the San Jose injunction.