



**Office of the Public Defender**  
City and County of San Francisco

Jeff Adachi  
*Public Defender*  
Teresa Caffese  
*Chief Attorney*

December 19, 2007

**VIA FACSIMILE AND U.S. MAIL**

City Attorney Dennis J. Herrera  
Office of the City Attorney  
City Hall, Room 234  
San Francisco, CA 94102

**RE: San Francisco Gang Injunction Exit Process**

Dear City Attorney Herrera:

We write to express our disappointment concerning your refusal to support a clear and accessible exit process for individuals named in the San Francisco gang injunctions. While you have professed your commitment to ensuring civil rights for everyone, your resistance to providing explicit means for persons who are no longer associated with gang activities to remove themselves from the injunction, speaks otherwise.

In our letter dated December 7, 2007, we asked to meet with you to discuss designing an exit process to give enjoined individuals the opportunity to demonstrate that they are no longer members of a gang and thereby be removed from the injunctions. We received a letter from you, dated December 12, 2007, in which you resisted a formalized administrative exit process.

In your letter, you claimed to be a "proponent for advancing access to justice" and asserted that persons are free to come to you for removal prior to initiating the judicial injunction modification process. However, these statements are meaningless unless you establish a formalized administrative process by which enjoined persons can approach the City to seek support in removal from the injunctions. This requires, at minimum, providing notice to bound individuals regarding how they can initiate contact with your office and a clear explanation of the process.

As you know, individuals seeking to remove their names from a gang injunction are required to make a formal noticed motion to the court with an accompanying Memorandum of Points and Authorities. This path is impractical for many of the persons named in the injunction, who cannot afford legal representation. This was made evident by the difficulty faced by Karwarn Thorn, the one individual in *People v. Chopper City, et al.* who attempted to respond to his summons *pro se* by filing an answer with the Court. Your office made clear by making two motions to strike Mr. Thorn's answer, that it will oppose individuals' attempts to navigate the legal system without counsel.<sup>1</sup> As a result, Mr. Thorn was unable to proceed in challenging the

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<sup>1</sup> According to the Register of Actions in *People v. Chopper City*, Karwarn's answer was filed on August 13, 2007. The City made a motion to strike on August 23, 2007. They made a second motion to strike on September 25, 2007. The motion was denied on October 19, 2007, and then finally granted on October 23, 2007.

injunction and is permanently enjoined, unless or until he again attempts to file a motion with the court to argue for release.

A clear and accessible exit process is vital because, in all likelihood, individuals who want to petition the court for release from the injunction, like Mr. Thorn, will have to proceed *pro se*. Of the ninety-seven people the City has sought to enjoin in its three injunctions, only eight were able to secure representation. Despite your belief that the San Francisco legal community has “admirably and aptly demonstrated its commitment to pro bono legal services,” in reality there were many other individuals who actively sought representation to challenge the preliminary injunction and could not find it. The fact that three of the eight who did manage to secure representation were removed from the injunction, speaks volumes to the importance of counsel.

A clear and accessible exit process, either judicial or administrative, will show that while this City is serious about addressing violence, it also supports people who wish to turn their lives around. Furthermore, at the December 10, 2007 Public Safety Committee hearing, the people of San Francisco made it clear that they believe in fairness and redemption and overwhelmingly favor a gang injunction exit process. For this reason, we are asking the Board of Supervisors to enact legislation calling for an exit process that will ensure that all persons named in this and future gang injunctions are given the opportunity to have their names taken off the gang injunction when appropriate.

A gang injunction, without an exit plan, is no victory for San Francisco. Therefore, we truly hope that you will reconsider your position and work with us in designing an exit plan that will assist individuals who are seeking to break gang ties and protect those who have been unfairly enjoined.

Sincerely,

Jeff Adachi  
Public Defender

Kendra Fox-Davis  
Lawyers Committee for Civil Rights

Alan Schlosser  
Juniper Lesnik  
ACLU-NC

cc: Board of Supervisors, Police Commission