



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

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December 7, 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: Creation of a Clear and Accessible Exit Process for Individuals Subject to the Terms of San Francisco Gang Injunctions**

Dear City Attorney Herrera:

We write to address several issues that we believe should be considered prior to the December 18, 2007 default judgment hearing before Judge Peter J. Busch in *People v. Chopper City, et al.*

As you are aware, in both the Chopper City case and the Norteño case, the ACLU-NC and the Lawyers' Committee for Civil Rights appeared amicus curiae, and the San Francisco Public Defender's Office represented two individual defendant-intervenors. We are jointly writing this letter on behalf of our respective organizations because of our specific concerns regarding the process by which persons who have been adjudicated active gang members will be able free themselves from the restraints of the permanent injunctions, and because we would like you to consider these concerns as a matter of public policy.

The stated goal of gang injunctions is to abate gang nuisance activity. We take it that a connected goal of the injunctions is to reduce gang membership and encourage the individuals targeted to turn their lives around. In order to meet these goals, there must be a clear and accessible exit strategy for individuals to demonstrate reform and thereby be removed from the injunctions. You have previously stated that you are open to establishing such a procedure that is fair and transparent for individuals subject to the terms of all three gang injunctions. Since the court will presumably consider issuing a permanent injunction at the December 18<sup>th</sup> hearing, we believe that it is in everyone's interest to open discussion on this issue prior to that hearing.

Under the terms of the Western Addition preliminary injunction, individuals seeking to modify the injunction are required to make a noticed motion to the court, (p. 14). We believe that this judicial process must be clarified to inform named individuals that it is a process by which they can seek removal from the injunction and modified to provide more meaningful access for individuals who lack the resources to obtain legal representation. Additionally, we believe the creation of an administrative "exit" process that would supplement the judicial process would advance the larger public

interest at stake in this litigation, by encouraging individuals to exit gang life and by making it clear to the individuals and the community that this remedial measure will not be a lifetime restriction.

Specifically, we ask that you consider the following

1. Propose Clear Language for the Permanent Injunction. The City will be submitting a proposed permanent injunction to the Court prior to December 18<sup>th</sup>. Unlike the permanent injunction issued in the Oakdale mob case (at p. 4) and the preliminary injunction in the Norteño case (at p. 14), the language of the preliminary injunction in the Chopper City case (at page 14) does not explicitly mention either an exit process or even the right of persons to be removed from the injunction. We would urge the City to propose to Judge Busch language that would more clearly and specifically reference the right of individuals to be removed from the list, and the process by which they can accomplish that, so that it can be understood by a layperson.
2. Propose an Accessible Court Procedure for Removal. It is unreasonable to expect that the ninety-four individuals subject to these injunctions will be able to secure free legal representation in the coming years if and when they seek to be removed from the injunction. In recognition of this reality, we would urge the City to propose to the Court in the permanent injunction a procedure that would make this exit process accessible for persons who do not have a lawyer. For example, rather than a formal noticed motion with an accompanying memorandum of Points and Authorities, a person could be permitted to file a simple declaration explaining why they should not be enjoined.
3. Establish a Clear Administrative Process for Removal. We also strongly urge the City to consider adopting an administrative exit process, as has been done in other jurisdictions with gang injunctions, including Los Angeles county. We understand that the San Francisco injunctions will only apply to persons who have been adjudicated active gang members by the Court. Our understanding of the City's position is that the Court must be involved in the eventual removal of a person from the injunction, but that the City Attorney's office will consider the cases of individuals who want to be removed from the list, and presumably stipulate to such removal by the Court when individuals demonstrate that they never were or are no longer active gang members. However, in order for this non-judicial review process to be effective, individuals need to be informed of how they can contact the City and initiate the process. They also must be given information as to the specific standards and criteria by which the City will agree to a person's removal from the list. Establishing and disclosing specific guidelines and information will not only provide incentives for persons to exit the gang life, but it will assure the public and the community that the exit process is fair and equally applied.

4. Create Internal Oversight through Periodic Review. Lastly, we believe the City should commit to a proactive periodic review of each individual's profile to determine whether he or she is still an active gang member. This systematic review has been incorporated into the Gang Injunction Exit Plan developed in Los Angeles. A standard review of the injunction lists will demonstrate to the effected communities that that the City is interested in releasing individuals who have turned their lives around. It will also ensure that individuals who have successfully exited gang life, but who may not have the resources or information to access either the judicial and administrative removal processes, do not remain on the injunction lists. We believe that requiring a review every two years would be fair and reasonable.

We firmly believe that the judicial and administrative processes outlined above are in the best interests of the public, the communities involved, and consistent with both public safety and fairness. We look forward to meeting with you at your earliest convenience to discuss this matter further.

Sincerely,

Jeff Adachi  
Public Defender

Alan L. Schlossser  
Juniper Lesnik  
ACLU-NC

Kendra Fox-Davis  
Lawyers Committee for Civil Rights

cc: Chief Attorney Alex G. Tse  
Deputy City Attorney Jill Cannon  
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