



Office of the Public Defender
City and County of San Francisco

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VIA FACSIMILE AND U.S. MAIL

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RE: Creation of a Clear and Accessible Exit Process for Individuals Subject to the Terms of San Francisco Gang Injunctions

Dear Supervisors:

Thank you for holding last week's hearing on the enforcement of the San Francisco gang injunctions and for giving the community an opportunity to be heard on this subject. As you may be aware, in both the *Chopper City* and *Norteño* cases, 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 writing this letter on behalf of our respective organizations to ask that the Board of Supervisors enact legislation establishing an administrative exit process that will ensure that all persons named in this and future gang injunctions are provided an accessible process by which to have their names taken off the injunctions when appropriate.

Currently, 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* (without legal counsel) by filing an answer with the Court. The City Attorney's Office responded by making two motions to strike Mr. Thorn's answer, making it clear that it will oppose individuals' attempts to navigate the legal system without counsel.¹ As a result, Mr. Thorn was unable to proceed

¹ 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.

in challenging the 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 court 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. While a judicial remedy may be beyond the scope of your legislative powers, an administrative process certainly is not.

In a letter dated December 7, 2007, we expressed our interest in meeting with City Attorney Dennis Herrera to discuss creating a clear and accessible exit process for enjoined individuals to demonstrate reform and thereby be removed from the injunctions. *See Letter to City Attorney Dennis Herrera, attached*. Instead of a meeting we received a letter, dated December 12, 2007, that all but closed the door on further discussion. *See Letter from City Attorney Dennis Herrera, attached*. In his letter, the City Attorney refused to support court revisions that would make the current removal process more accessible to laypersons. He rejected the creation of a formalized and accessible administrative exit process. He disregarded our suggestion of a mandatory periodic review of each individual's profile to determine whether he or she is still an active gang member.

We believe that the City Attorney's public commitment to ensure civil rights for everyone is inconsistent with his recent refusal to support a clear and accessible exit process. Therefore, as a matter of policy we believe it is in the interest of justice that the Board of Supervisors craft a clear and accessible administrative process by which court adjudicated gang members can seek removal from the gang injunctions.

We believe that the proposal outlined in our December 7 letter to the City Attorney establishes a fair and equitable approach to this issue. In relevant part, it provides that a) the City Attorney notify individuals of the opportunity to present a case for removal directly to the City and that the City stipulate to the Court for removal of those individuals who successfully demonstrate that they should not be bound by a gang injunction, and b) the City review the list of bound individuals every two years to determine who is no longer an "active gang member" and present those names to the Court for release. Together, these steps would ensure that the City of San Francisco does not impose lifetime restrictions on people who are no longer engaged in nuisance or gang activity.

The growing concern regarding the enforcement and implementation of the gang injunctions was made evident at last week's hearing. Through the emotion and passion expressed at the meeting, one thing was made clear – the residents of this City believe in redemption and favor a gang injunction exit process. Residents and members of various community-based organizations met before the hearing to discuss their ideal administrative exit process and came up with suggested legislation. *See Draft Legislation – Gang Injunction Exit Strategy*. We would ask that you support this proposed

legislation and take steps to enact it. We would also be happy to further discuss the details of what we would consider an ideal exit plan with you.

A clear and administrative accessible exit process will demonstrate that while this City is serious about addressing violence, it also supports people who wish to turn their lives around. We thank you for your consideration of this matter.

Sincerely,

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cc: Board of Supervisors, Police Commission