

GANG INJUNCTIONS AND GANG DATA BASES

CALIFORNIA LAW GANG DEFINITIONS

The following definitions were established by California's 1988 STEP (Street Terrorism 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.

Date: 5/15/08
Submitted in NO MORE GANGS Committee
Council File No: 08-0994
Item No.: 1
Deputy: Adam R. Lid

You only have to meet **three** criteria to be identified as a "gang member."

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.

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 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 led San Diego and San Jose, California, San Antonio, Texas, and Chicago, Illinois to adopt similar strategies.

There are currently more than 20 injunctions now in effect in LA City and many more in L.A. County. 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 below, 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	
Brown Nation	3/27/97	Bellflower/Long Beach	W
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." 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.

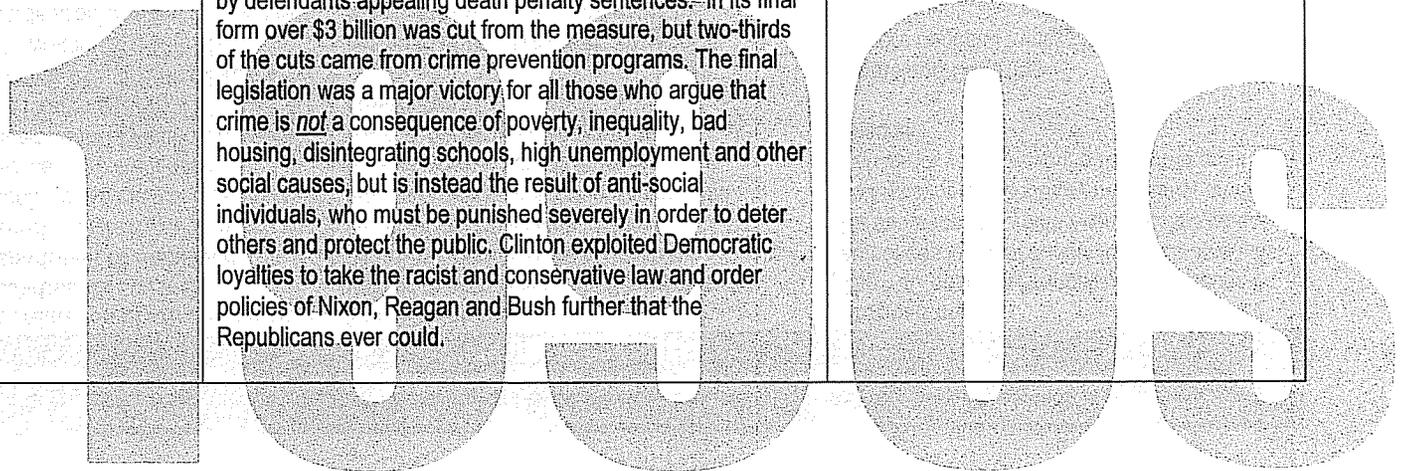
LOS ANGELES DEPARTMENT OF HOMELAND *BOY*SECURITY, 1980 – 2005

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

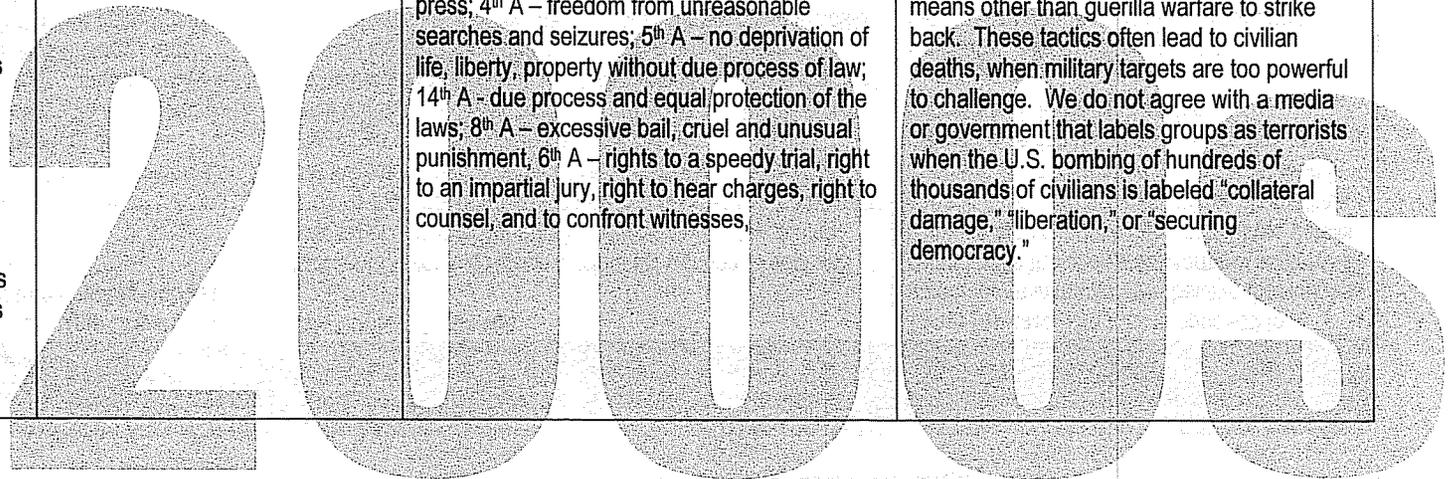
STATE AND LOCAL LAWS	LAW ENFORCEMENT TACTICS	THE YJC'S STAND ON THESE ISSUES
<p>Since the 1980s, California has led the nation in laws written to prosecute gangs.</p>	<p>"Gang suppression" tactics used by L.A. County have spread throughout California and across the U.S.</p>	
<p>1988: STEP Act – California Penal Code 186.20</p> <p>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.</p> <p>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.</p> <p>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 willfully promotes, furthers, or assists in any felonious criminal conduct by members of that gang.</p> <p>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.</p> <p>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.</p> <p>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.</p>	<p>Early-80s Gang Injunctions First Used in L.A.</p> <p>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. As part of his current campaign for a second term as L.A. City's Mayor, James Hahn stated his intent to initiate a citywide gang injunction.</p> <p>Court Challenges</p> <p>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.</p> <p>For details on how gang injunctions work, see the YJC's fact sheet on Gang Suppression Tactics (attached).</p>	<p>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.</p> <p>Gang Injunctions:</p> <p>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.</p>

<p>STATE AND LOCAL LAWS Since the 1980s, California has led the nation in laws written to prosecute gangs.</p>	<p>LAW ENFORCEMENT TACTICS "Gang suppression" tactics used by L.A. County have spread throughout California and across the U.S.</p>	<p>THE YJC'S STAND ON THESE ISSUES</p>
<p>1988: 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 <i>Countywide 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>

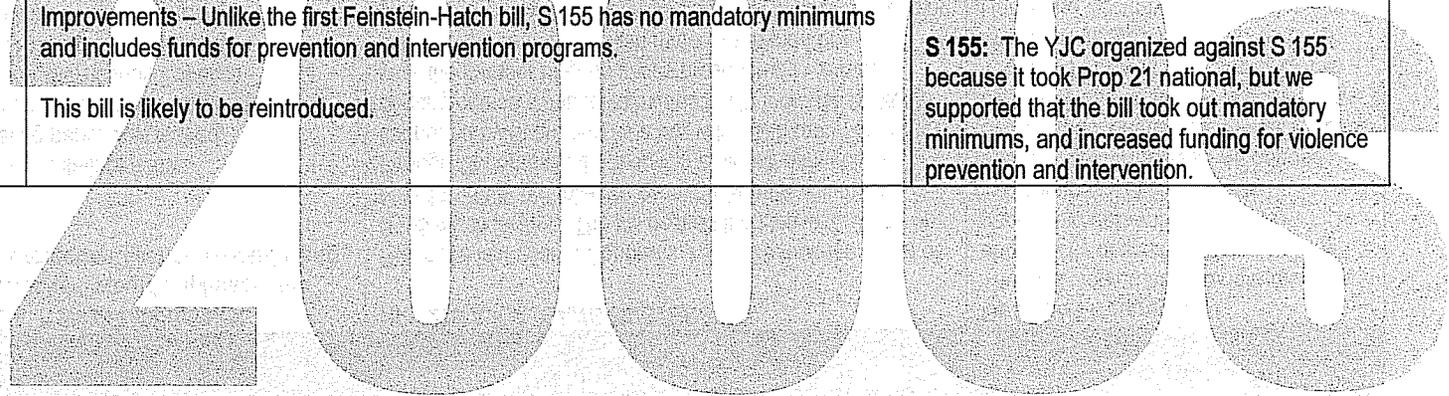
STATE AND LOCAL LAWS	LAW ENFORCEMENT TACTICS	FEDERAL LAWS By the 90's, L.A.'s policies were also spreading east...	THE YJC'S STAND ON THESE ISSUES
<p>1994 California Three Strikes/Proposition 184</p> <p>The California state legislature passed Three Strikes, which went into effect in March 1994. California 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).</p>	<p>1997 California Department of Justice Creates Cal/Gang Database</p> <p>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.</p>	<p>1994 Clinton Crime Bill</p> <p>President 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 than the Republicans ever could.</p>	<p>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.</p> <p>Cal/Gang: We are opposed to gang databases (see gang injunctions and gang databases above.)</p> <p>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.</p>



STATE AND LOCAL LAWS	LAW ENFORCEMENT TACTICS	FEDERAL LAWS AND SUPREME COURT DECISIONS INCLUDING BILLS THAT ARE PENDING IN CONGRESS	THE YJC'S STAND ON THESE ISSUES
<p>2000 Proposition 21</p> <p>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%.</p> <p>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.</p>	<p>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.)</p>	<p>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.</p> <p>Because of the STEP Act, all aspects of the Patriot Act are applicable to people on gang files in California due to Cali's legal definition of gang members as "domestic terrorists" and gangs as "terrorist organizations."</p> <p>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.</p> <p>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.</p>	<p>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.</p> <p>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.</p> <p>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."</p>



STATE AND LOCAL LAWS	LAW ENFORCEMENT TACTICS	FEDERAL LAWS AND SUPREME COURT DECISIONS INCLUDING BILLS THAT ARE PENDING IN CONGRESS	THE YJC'S STAND ON THESE ISSUES
		<p>March 2005 – Juvenile Death Penalty Abolished</p> <p>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.</p>	<p>Death Penalty:</p> <p>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 people.</p>
	<p>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.)</p>	<p>S 155 by Senator Hatch (R-Utah) and Senator Feinstein (D-California), was raised last year 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.</p> <p>This bill included 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 proposed federal prosecution of 16 and 17-year-old gang members "who commit serious acts of violence." This bill looked horrible until the much worse HR1279 was introduced in the House.</p> <p>Improvements – Unlike the first Feinstein-Hatch bill, S155 has no mandatory minimums and includes funds for prevention and intervention programs.</p> <p>This bill is likely to be reintroduced.</p>	<p>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.</p> <p>S 155: The YJC organized against S 155 because it took Prop 21 national, but we supported that the bill took out mandatory minimums, and increased funding for violence prevention and intervention.</p>



STATE AND LOCAL LAWS	LAW ENFORCEMENT TACTICS	FEDERAL LAWS INCLUDING BILLS THAT ARE LIKELY TO BE RE-INTRODUCED IN CONGRESS	THE YJC'S STAND ON THESE ISSUES
	<p>May 2005 – In L.A. it was Rumored that “Operation Nutcracker” would Implement the Patriot Act’s Coordination Tactics Toward Gang Suppression</p> <p>As the rumor was 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 went much farther in proposing Marshall Law with military involvement, including that local law enforcement would be responsible for containing designated areas, and the military would be responsible for “extracting domestic terrorists,” e.g. gang members. Operation Falcon was also rumored to be a model for how the planned coordination could work. In the community, Operation Nutcracker was being <i>incorrectly</i> cited as the implementation strategy for HR 1279. 1279 was not connected to the Nutcracker rumor, which would 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>Proposed last year in Congress, HR 1279 took the intent of S155 much further. The bill passed the House 279-144 on May 11, 2005, but failed to pass the Senate. If it makes through Congress in the future, the bill will definitely be supported by Bush, and as a law will: (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. (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 <u>federal court</u> as adults. (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. (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. Defendants 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>Operation Nutcracker: The YJC worked hard to determine the authenticity of this rumor and briefing paper, and determined that the immediate threat was greatly exaggerated. However, we oppose every aspect of this strategy as Marshal Law. We also know that Nutcracker as it was laid out was 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: We opposed 1279 on all levels. It took California’s gang definition, laws and police tactics national; it further stigmatized all urban youth of color as criminals; it expanded the use of the death penalty; it assumed that crime and gang violence can be solved by police suppression and mass incarceration; and it prosecuted immigrants more harshly than others for the same charges.</p>

STATE AND LOCAL LAWS	LAW ENFORCEMENT TACTICS	FEDERAL LAWS INCLUDING BILLS THAT ARE LIKELY TO BE RE-INTRODUCED IN CONGRESS	THE YJC'S STAND ON THESE ISSUES
		<p>HR 970</p> <p>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 – was nearly identical to the Feinstein-Hatch bill. It authorized 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 increased funding for federal prosecutors and FBI agents to increase coordinated enforcement efforts against gangs. In addition, H.R. 970 created new criminal gang prosecution offenses, enhanced existing gang and violent crime penalties, proposed changes to more easily prosecute gang members, and proposed 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."</p> <p>While it didn't make it through Congress, this bill is also likely to be reintroduced again.</p>	<p>HR 970</p> <p>This bill was nearly identical to S 155. We opposed it for the same reasons. Even as Prop 21 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 nationwide.</p>

