

CITY OF OAKLAND



ONE FRANK H. OGAWA PLAZA • 6TH FLOOR • OAKLAND, CALIFORNIA 94612

Office of the City Attorney
John A. Russo
City Attorney

(510) 238-3601
FAX: (510) 238-6500
TTY/TDD: (510) 238-3254

April 29, 2010

Dear Oaklander,

As you may know, the City Attorney's Office is asking the Alameda County Superior Court for an injunction to restrict the operations of a violent gang responsible for dozens of shootings, robberies and other major crimes in North Oakland over the last few years.

This injunction is based on what many residents and merchants in the area have been asking for. It is sharply focused on stopping the violence that is holding our city back, while giving those responsible an opportunity to leave the criminal life.

Gang injunctions are a tool used by many cities in California. I believe injunctions must be narrowly tailored. We must always balance our need for safety and peace in our communities with the civil rights of those affected by an injunction.

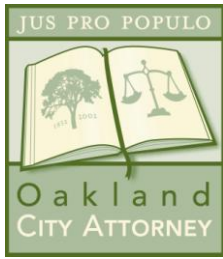
This brief fact sheet explains what this gang injunction is about. It answers some basic questions about what this injunction is – and what it is not.

The next court hearing on the injunction is scheduled for 2 p.m. on May 27 in Department 1 of the Rene C. Davidson Courthouse – 1225 Fallon Street in Oakland. As a leader in our community, I hope you can use the information on this fact sheet, and I welcome you to attend the hearing on May 27 to show your support.

Sincerely,

A handwritten signature in black ink, appearing to be 'John Russo', written in a cursive style.

John Russo
Oakland City Attorney



Gang Injunction Fact Sheet

In February 2010, the City Attorney's Office and the Oakland Police Department announced a civil complaint seeking an injunction against the North Side Oakland gang. Please see the below frequently asked questions about gang injunctions.

Important facts:

- **When is the next hearing on the gang injunction?**

The next hearing is scheduled for 2 p.m. May 27 in the Rene C. Davidson Courthouse, Department 1, at 1225 Fallon Street in Oakland.

- **What is a gang injunction?**

A gang injunction is a civil court order – similar to a restraining order. The North Oakland gang injunction is designed to protect the neighborhood from continued harm by a small group of hard core gang members who are deeply involved in dangerous activity. It is a tool used in many cities to prevent gang crime, but by itself it cannot be the solution to all gang crime. Education, intervention and other measures are also needed.

- **Where is the injunction zone?**

The injunction restricts the operations of specific gang members within a geographically-defined area called a "Safety Zone," about 100 blocks of North Oakland bordered by Berkeley, Emeryville, I-580 and Telegraph Avenue.

- **Who exactly does the injunction apply to?**

When issued by a judge, the injunction will apply only to specific members of the North Side Oakland gang. Oakland initially asked the court to include 19 gang members in the injunction based on evidence including convictions for strong arm robbery, battery, armed robbery, auto theft, felony drunk driving, drug sales, carjacking, grand theft, possession of an assault weapon, carrying a concealed weapon, reckless flight from a police officer in a vehicle, vandalism and domestic battery. Four of the 19 have pending charges for murder. One has a pending case for assault with a deadly weapon and threatening a witness not to testify. *The injunction only applies to adults – no minors are included.*

- **Does the injunction apply to anyone else in the neighborhood?**

No. It is narrowly tailored and only applies to people who the court finds are active gang members. The burden of proof is on the City to present evidence in court that these individuals are in fact members of the gang. Everyone included in the injunction has due process rights and the opportunity to argue their case in court.

- **Does this lead to racial profiling?**

No. The City Attorney's Office is against racial profiling and we do our best to prevent it in any context. The injunction is based on the extensive criminal/nuisance conduct of specific gang members within the Safety Zone. It is only applied with court approval and cannot be applied to anyone based on appearance or race.

More information and court documents can be found at www.oaklandcityattorney.org

Phone: (510) 238-3148

- **How does the injunction work?**

The injunction is designed to disrupt the gang by preventing members from operating in the area. Within the zone, individual gang members subject to the injunction cannot associate with each other in public – with exceptions for work, school, etc. Within the zone, gang members subject to the injunction cannot be on the street between the hours of 10 p.m. and 5 a.m. – with exceptions for emergencies. They are also restricted from recruiting young people into the gang, carrying firearms and threatening witnesses. Gang injunctions typically include activities that are in themselves violations of the law.

- **Can a gang member subject to the injunction do normal things like go to work?**

Yes. The injunction does not prevent anyone from going to work, school or church. It will not at any time prevent someone from seeking medical care for themselves or their children. It is not a “lock down” on the neighborhood – it protects the neighborhood. It only applies to a small group of people who are proven in court to be active members of the gang. Police cannot just decide on their own to include anybody in the injunction – only a judge can include someone after that individual is served with the opportunity to be heard in a court hearing. It is not a banishment order – enjoined gang members can still be in the neighborhood, but they must abide by the restrictions of the court’s order.

- **What happens if a gang member violates the injunction?**

A violation of the injunction is considered contempt of court and is punishable by up to six months in jail and up to a \$1,000 fine.

- **If someone breaks the law, why not just arrest them? Why use an injunction?**

The reason for an injunction is to break up the criminal association responsible for so much crime and violence in the neighborhood. If someone breaks the law, police can still arrest them. The injunction makes it harder for members to plan and commit crimes together as a gang.

- **Other neighborhoods have gangs – why get an injunction in North Oakland?**

The City is seeking an injunction against North Side Oakland because of the severe and increasing violence associated with its members. In 2007, there were three NSO-related incidents involving murder, shooting or gun possession. In 2008, that number rose to seven incidents. In 2009 that escalated to 18 incidents, including seven murders. That same year there were 20 robberies directly attributed to the gang.

- **How does someone get out of the injunction?**

Anyone who is no longer associated with the gang will be able to go through an “opt-out” process to be removed. Anyone included in the injunction also has the right at any time to petition the court to be removed.

- **Are gang injunctions constitutional?**

Yes. Injunctions were upheld as constitutional by the California Supreme Court in the 1997 Acuna case.