



Frequently Asked Questions: GANG INJUNCTIONS

Q. What is a gang injunction?

A. A gang injunction is a court issued restraining order prohibiting alleged gang members from participating in certain activities within a specified area. It is based on the theory that gang related conduct substantially interferes with the community's comfortable enjoyment of life and property, and therefore constitutes a "public nuisance."

Q. How does a gang injunction work?

A. The City Attorney files a request for an injunction in court, and a hearing date is set. Usually, the suit names several alleged "members" of the gang who are served with a notice to appear. The court then rules on a preliminary injunction, which keeps the injunction in place until a trial is held. At trial, the alleged "members" of the gang may contest the gang injunction in a hearing before a judge. If the judge finds that the injunction should be granted, an order is assigned and the injunction becomes permanent.

Q. Have gang injunctions been used before?

A. Yes, gang injunctions have been used since the early 1980s, primarily in Southern California. There are currently about 40 injunctions in place statewide.

Q. What is the purpose of a gang injunction?

A. By prohibiting individuals from engaging in restricted activities within a designated area, law enforcement officers have more power to detain those they suspect to be gang affiliated, even if they might not have had the right to detain them before. A person who has been served with notice of the gang injunction and is alleged to be a gang member can also be arrested for violating a gang injunction by being present in the restricted area.

Q. What does the injunction prohibit?

A. People who have been served with an injunction, or who law enforcement suspect to be being gang affiliated, are forbidden from engaging in a host of activities, some of which are already illegal, such as selling drugs, vandalizing, trespassing, and possessing weapons. Other restricted activities may include non-criminal conduct, such as congregating in groups, associating with particular people, being out after a designated time, or wearing certain color clothing.

Q. Who can enforce the injunction?

A. Police Officers may arrest any person within the safety zone that they suspect is a gang member in violation of the injunction.

Q. What is the penalty for violating an injunction?

A. Violations of a gang injunction can be pursued civilly by the City Attorney, for monetary penalties and up to five days in county jail for each violation, or prosecuted criminally by the District Attorney, as a misdemeanor for up to six months in county jail.

Q. How do I get out from under the injunction's authority?

A. An alleged gang member who is under the authority of the injunction may free themselves from the restrictions by disassociating himself from the gang. This usually involves not associating with other gang members, wearing the clothing of the gang, nor representing the gang in any fashion.

Q. Does someone who violates the injunction have the right to an attorney?

A. Since gang injunctions are tools of the civil court system, you do not have the right to appointed counsel to challenge the filing of the injunction or to defend against a civil contempt proceeding. In these circumstances, you will have to hire your own attorney. However, if you are arrested for engaging in activity in violation of the injunction, are charged with misdemeanor contempt of court, and cannot afford an attorney, you may contact the San Francisco Public Defender's Office at 415-553-1671.

Q. How long will the injunction be in place?

A. Forever.