Los Angeles tweaks rules for injunctions against gangs

by Dan Laidman

LOS ANGELES - A gang-intervention worker rushed to the scene of a street fight, double-parking as he scrambled to reach the action.

A police officer threatened not only to impound the car, but also to arrest the counselor for associating with the very gang members he was trying to steer away from violence.

"I was there breaking up a fight," said the worker, who asked that he be referred to as John because of concerns for his safety. "But I'm on the injunction - I could go to jail anytime."

As gang injunctions - strict court orders barring gang members from associating with one another, carrying graffiti tools, violating curfews and other such activities - have spread from Los Angeles to San Diego and dozens of other jurisdictions, officials have begun to confront perceived glitches in the system such as those affecting John.

Since launching the first injunctions in the 1980s, Los Angeles officials have targeted 50 gangs and more than 10,000 people, and no individual has ever been released from a gang injunction.

Concerned that the program may be keeping some people in the gang lifestyle - and preventing gangsters-turned-counselors from doing their jobs - authorities in Los Angeles have overhauled the system.

City Attorney Rocky Delgadillo recently unveiled a program featuring tightened requirements for including gang members on the lists, as well as an exit plan for those no longer active in gangs. He expects his new system to become a model for balancing crime-fighting and civil-liberties concerns in gang injunctions nationwide.

"Our nation's history is littered with instances when a crisis occurs and we let the pendulum swing too far the other way," Delgadillo said. "(We are) not going to let that happen."

Delgadillo, a Democrat who ran unsuccessfully for California attorney general last year, brought in a pair of former high-ranking federal prosecutors to draft the new guidelines. On the front end, prosecutors will review the evidence against suspected gang members whom police want to add to the injunction lists, and those added to the lists will be personally served with the legal papers.

That contrasts with the old system, in which police could add people with little oversight and there was no requirement that individuals be formally notified of their inclusion.

Dane Staten was in prison when his South Los Angeles gang was hit with an injunction in 1996.

"Somebody sent me a newspaper article with all the names on it," he said. "That's how I found out they put me on the injunction."

Staten, who works for the group Stop the Violence Increase the Peace as a gang-intervention counselor, says the orders do little to deter crime in the long run.

However, San Diego County Deputy District Attorney Shawnalyse Ochoa says that by giving police extra tools to arrest gang leaders, injunctions have a "chilling effect" on gang violence.

To that end, San Diego County prosecutors have secured more than a dozen injunctions since 1997, including one in February against an Escondido group. Ochoa said San Diego's approach has differed from Los Angeles' in that it has more steps to screen gang members at the beginning, and it has a greater role for judges rather than relying on the discretion of prosecutors and police.

"We've felt very differently than (Los Angeles has) from the very beginning about what due process has required," Ochoa said.

On the back end, however, the process in both cities has been similar. While some suspected gang members have protested their inclusion at the start and not been added to the list in San Diego, no one has been removed once an order is approved.

Ochoa suggested that is because the San Diego orders are being applied only to active, committed gang members, but Kevin Keenan, executive director of the ACLU of San Diego and Imperial counties, contends that the injunctions are still casting too wide a net.

Keenan called the Los Angeles reforms "a positive step," although he said they raise due-process concerns because those on the lists petitioning for release may be turning over material to prosecutors that could later be used against them.

According to the new Los Angeles guidelines, individuals on the injunction lists can petition the City Attorney's Office for removal by explaining how they no longer - or never were - active in a gang. Meanwhile, authorities will conduct their own automatic reviews every three years, the assumption being that someone no longer belongs on the list if he or she has not committed a crime or been in police custody in that period.

At the Toberman Settlement House, a nonprofit group in Los Angeles' harbor area, John and his fellow gang-intervention workers are preparing to distribute dozens of exit petition forms. John plans to fill one out himself.

Veteran gang interventionist Howard Uller, the president emeritus of the organization, says he is hopeful that the reforms will help some people find work by removing a stigmatizing label. However, he says deeper changes may be necessary in the long term because the process rests on a fundamental misunderstanding of gang life.

The people Uller has worked with over the years rarely speak of "gangs," he said, instead pledging allegiance to their "neighborhoods" and the whole network of friends, family and common experience that entails.

"On the issue of the injunctions, people have made an emotional commitment to a neighborhood and now they're being asked to renounce that commitment," Uller said. "If you don't do it, you're remaining on the list, and if you do it, you're subject to harm and even death, so most people don't even bother - they've given up trying."

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