

### **Declaration by Alex Alonso**

It is my opinion, based on my review of the materials that have been made available to me that the gang injunction against the Colonia Chiques Gang (COCH) in the City of Oxnard, County of Ventura has several issues that need to be reevaluated before an injunction should be pursued.

It has often be cited in the academic literature and news reports that characterizing a street gang as a “criminal organization” is an inaccurate depiction of what a street gang is that just draws on a minority of the actions committed by a gang and its members. For the most part, for those that study street gangs, they are more defined as a loosely knit group of youth that grow up together in the same community and usually share similar ethnic and racial characteristics. Although many of the members engage in a life of crime, there are far more members that are not convicted felons, murderers and rapists. Many of the members mature out the gang as they grow up, have families and become what society deems “productive citizens. Others continue their associations and affiliations with the gang, and then there is a small group of members that take on a predatory lifestyle of crime & violence, but the label of “criminal organization” often stigmatizes the entire gang and its members for acts committed by a minority of its members.

Many cities and jurisdictions have began to change their understandings of street gangs during that last ten years, and even recently Los Angeles Chief of Police William Bratton stated that their efforts to combat crime committed by street gangs should be directed towards the 5 – 10% of the hardcore members that are responsible for the majority of the crime. Sheriff Lee Baca concurs, that the gang does not pose the major problem, but a hard core group is where law enforcement should focus their attention on. A gang injunction does the complete opposite, by targeting the entire gang, and even targeting members that are merely affiliates and those that are friends. Since just a minority of the gang are responsible for the majority of crime, this also challenges the assertion that CoCh’s main purpose is to “sell drugs and commit crime” and that their primary activities include “robberies, felony assaults, vandalisms, and narcotics violations” (p. 4). This is a blatant exaggeration of the main activities of this gang or any gang. According to Ventura County District Attorney Greg Totten, the CoCh gang has 1,000 members (*Los Angeles Times, March 25, 2004*) and in the initial complaint the DA suggests that the 1,000 gang members are terrorizing the community which is an extreme exaggeration of the true nature of the gang and quite misleading and not representative of the totality of the gang’s activities. In Neil Holland’s declaration, he documented 36 of the most active members of COCH, which are mostly responsible for misdemeanor offenses, but this core group represents 3.6% of the 1,000 gang members that are believed to be active COCH members.

In the initial complaint, it is alleged that CoCh is directly involved in 39 murders that occurred between December 1992 – March 2004 in the City of Oxnard, and it is these murders that are being used to define the CoCh gang as a notorious gang that are “terrorizing” the community. These homicides that are being defined as “gang-related,” represent 35% of all homicides in the City (§ #27 of Michael Palmieri’s declaration). A closer look into these homicides will reveal three important facts; 1) not all of the 39 murders are indeed “gang-related” as the Oxnard PD suggests, 2) CoCh are victimized in more of the homicides than are responsible for, in other words, there are more non-

COCH homicide assailants that the residents of Oxnard, the police and the courts should be concerned about, 3) and many of the murders that are cited in the report are unsolved with no arrests or convictions and they are left to speculation, with no clear definitive explanation for who may be responsible for these incidents or whether they are truly gang-related. According to the Oxnard Police Department and Michael Palmieri's declaration, 39 murders are directly connected to COCH members, but a closer look at Michael Palmieri's declaration suggests that this is not the case. For example, of the 39 homicides, 23 (59%) of those homicides resulted in COCH being victims to gun or knife violence. Of these 23 incidents where COCH were the victims of violence, one included a failed robbery (Mark Estrada on December 2, 1992), three homicides were the result of personal non-gang related disputes (Gregorio Jimenez on May 25, 2003, Vincent Rodriguez on June 8, 2002, and Raymond Caballero (45) on June 18, 1993) and of these three, two were alleged to have been committed by members of the same gang, which suggests that these homicides resulted from an extremely personal event, not one that would be deemed "gang-related". Two more homicides were the result of the accidental discharge of a firearm (Carlos Gomez (19) on March 20, 1999 and Carlos Martinez (13) on February 16, 1998), and the remaining 17 COCH victims are believed to have been committed by gang members of five different rival gangs including Southside, Sur Town, El Rio, Lemonwood, and Black Mafia.

Of the other 16 homicides attributed to the COCH gang, only **four** of those 16 murders during this 11-year period resulted in the direct implication of a COCH member that lead to an arrest, conviction or a warrant being issued for a COCH member. The other 13 homicides are "believed" to have been committed by COCH members but that is based purely on speculation and supposition with no evidence, arrests or convictions that links any COCH member to those murders.

In a city where 65% of the homicides are committed by non-gang members, and where most "gang-related murders" are committed by gangs other than COCH, and where the city defines accidental shootings as gang related, calls into question their use of homicides statistics to support the injunction effort against COCH. For example, the accidental killing of Carlos Gomez as being defined as gang-related and used in the declaration of Palmieri is a perfect example of misidentifying the facts surrounding the death of the victim, and exploiting it to support the implementation of an injunction. Mr. Gomez was a father of two and had a full-time job at Saticoy Lemons at the time of his death. Additionally, the murder of Froylan Martinez (19) has been referenced in several of the declarations including Palmieri, Neail Holland, and Erica Escalante. Although COCH has been blamed for this murder, there were no arrests. The death of Vincent Rodriguez (27) on June 8, 2002 is another example of a death occurring not as the result of a "gang-related" incident. Vincent Rodriguez and Valentin Guzman (23) were friends that agreed to settle a disagreement by having a fight. Rodriguez, a hemophiliac, died as a result of internal bleeding and to deem this death, "gang-related" is a stretch. In ¶ 44 of Palmieri's declaration, he identifies the victim, Rodriguez as a COCH member, but just suggests that Guzman is a member of a gang too, but does not reveal that Guzman is actually a member of the same gang. This information is omitted because it undermines the notion that this death is "gang-related." Palmieri also writes that 23 homicides occurred in the calendar year of 2003, and of those 23 homicides, 12 of them involved COCH members. But he continues to state that these homicides included "former

members” and “perceived members” which would suggest that not all 12 of these homicides should be classified as “gang-related”, and never in my professional experience have never heard of the term “perceived member” in any official document with regards to gangs. Of the 12 “gang-related” homicides that COCH is believed to have been involved in, 11 of them are discussed in Palmieri’s declaration, and of those 11, five included COCH members or affiliates as victims, and the other six are attributed to COCH members as assailants. Of these six murders that occurred in 2003 that the police believe that COCH members committed, only one COCH member was arrested, Adam Lowe (28) in the stabbing death of Gregorio Jimenez (33) on May 25, 2003. Based on ¶ 36 of Palmieri’s declaration and on my expertise on the issue of gang-related homicides, I would not define this homicide as gang-related. These two individuals knew each other, had a disagreement that got extremely heated, a knife was brandished and a young man died, but not because of a gang dispute but over a personal disagreement. Of the “gang-related” homicides that occurred in 2003 where it is believed that COCH members were responsible, no arrested have been made. On the contrary, a Sur Town gang member, Luis Garcia (¶ 40) was arrested for murder of David Marceleno (23). It appears that several declarations written by the officers are designed to criminalize the COCH more so than the evidence suggests. Yes, they are a gang, and they have committed serious crimes, but reading through these declarations closely, suggests that there are at least five other gangs that have committed their fair share of crime and murders over the last 11 years and that these declarations are clearly biased towards this one gang, COCH, in an effort for get an gang injunction approved.

**C. Safety zone size.** The “safety zone” in the initial report is characterized as a place where residents know to be quiet and not to complain about CoCh and to where the residents of the “safety zone” are scared to call the police on CoCh and testify against CoCh. But the “safety zone” as it is defined in the initial complaint covers a much larger area than the actual turf of the CoCh. The “safety zone” as it is currently defined covers an area roughly from Gonzales Road (north) to W Huenem Road (south) covering an area of 6.61 square miles. The turf for the CoCh is roughly from Camino Road (north) to Third Street (south) between Oxnard Boulevard (west) and Kohala (east) occupying an area of roughly 0.80 square miles, a turf about 1/9 the entire size of the “safety zone.” The complete “safety zone” covers areas of several other gangs that are not named in the injunction which is unusual for an injunction to do. Gang injunctions are designed to cover the area of the turf of the gang, never have I seen an injunction in the last 15 years cover an area nearly ten times the size of the gang’s turf, an area nearly 25% of the entire city’s boundaries and close to 50% of the residential area of the city. In addition to covering the turf of CoCh, the “safety zone” covers the gang turfs of El Rio, South Side, and Sur Town just to name a few. The size of this “safety zone” is justified by the occurrences of the 39 homicides that have occurred in the past 11 years. As stated in the previous section it is questionable to define some of these homicides as “gang-related” therefore exaggerating the extent to which actual “gang-related” homicides have occurred.

**D. Police declarations.** Several of the police declarations are based on speculation, lack factual foundation on several points, and are extremely vague. For example, declaration of Neil Holland contains a lot of interesting historical information

about the community and CoCh, but it contains much speculation with regards to crimes committed and the activities of the CoCh. In ¶ 49, Holland speculated that Ralph Lopez was involved in a homicide and in ¶ 50 he again speculates that CoCh was extorting on behalf of La Eme, a California Prison gang. In ¶ 60, Holland unequivocally defines CoCh as a “criminal street gang,” and continues in ¶ 68 that “the primary criminal activities of the CoCh criminal street gang are: robbery, felony assault, vandalism, and narcotics abuse (use, possession and sales).” But the primary criminal activities of any gang are misdemeanor nuisance violations and the serious felonious activities such as assault and narcotic abuse occur in lesser amounts. The primary activities of gangs and gang members are not criminal offenses, but because law enforcement comes into contact with gangs in response to some reported criminal activity they are not aware of the non-criminal activities that gang members engage in everyday a majority of their time. In ¶ 95, Holland states that murder is “common” but murder is actually a rare event with regards to gang activity. If we accept that the 39 murders that have occurred from 1992 to 2004 (11 year 4 month period) as being “gang-related,” that’s roughly 3.5 “gang-related” homicides per year, or “gang-related” murder once every 3 ½ months, in a city that has 2,000 gang members active (Holland ¶ 36) and a population over 170,000 residents is not reflective of a city where the residents are living in “terror”. If you disregard the accidental and personal conflict murders that occurred as being “gang-related,” that reduces these statistics even further. Again, the gang murder is a rare event, not a “common” one as suggested by Holland. In ¶ 128, Holland stated that not one person called 911 after a gang-related murder on October 29, 2003. His point is that the residents are living in fear and reluctant to call the police out of fear. Holland ignores the possibility that sometimes people assume that someone else has already called the police, resulting in no calls to 911 in some instances. Holland does not make this claim of the other 38 murders that occurred, and uses the anecdotal occurrence of one killing to make generalizations about the fear of a community.

Officer Mike Radziewicz, stated that many residents are intimidated by CoCh but offers no statistics on the matter, how often this occurs, or how many residents this has happened too. From my experience of driving through the community and talking to the residents, this “intimidation” is clearly exaggerated. Radziewicz has also stated in his declaration that he found CoCh members to possess deadly weapons, but offers no information on how often and during what time periods these events took place. He cited one incident with a known gang member from CoCh in his declaration that resulted in only a citation being issued. Reading through the declarations of residents that live and frequent the “safety zone” and from my own personal observations I don’t see residents living in fear but in fact see kids in the streets and the parks, enjoying life.

**E. Lack of Community Support.** At a recent community meeting regarding the injunction the community that was supposed to be “intimidated” and “coerced” by the gang expressed a completely different picture of the gang and their views of this gang injunction. Every single community member that expressed their opinions was against this injunction and stated that the claims by the police about the CoCh were exaggerated. I read no declarations of any community residents in support of the injunction. I understand that residents may be reluctant to go on the record to support an injunction, but there are no sealed declarations that I am aware of from the community that support

this injunction. A gang injunction is supposed to be an effort between the police, the District Attorney and the community, but this injunction has completely ignored the community's needs and concerns.

**F. Effectiveness.** Gang injunctions have been used in California since 1987, and since then, there are no serious studies to determine if gang injunctions reach their intended goal of reducing crime committed by gang members and making communities safer. Prosecutors that support gang injunctions have never done any community surveys, nor have they done any criminal analysis of arrests of gang members comparing crime rates and arrests before and after gang injunctions are implemented. An analysis of two gang injunctions in Long Beach, CA against the West Coast Crips (1997) and East Side Longos (2001) revealed that 80% of the named defendants in the injunction committed some sort crime after the injunction, with 70% of those crimes occurring in the "safety zone" areas. When Long Beach City prosecutor Tom Reeves learned of the arrest statistics, he stated that "the fact the gang members continue to offend does not surprise me because it's exactly that kind of conduct that the injunctions is trying to stop. Do I think the injunction is going to stop them? No...It's not the answer..." (*Long Beach Press-Telegram, November 19, 2003*). Long Beach Police Chief Anthony Batts' stated that "I can't sit here and tell you that I'm 100% behind it [gang injunction] or not behind it" and he continued to state that injunctions worked better in early years when they caught gang members off guard. Now that gang members know how the injunctions work, they know how to undermine them. He continued to state that he would not be surprised if gang injunctions become obsolete (*Long Beach Press-Telegram, November 19, 2003*). When LAPD Assistant Chief George Gascon was asked about his assessment of gang injunctions, he stated that, "The injunction is only a tool -- injunctions are one of many tools -- and like any tool, it has limitations, a hammer works in some places and sometimes you need a screwdriver. It's not the only answer" (*Los Angeles Daily News, March 6, 2004*). There is a growing sentiment among City officials that characterize gang injunctions as a "tool" which is a far cry from the notion that gang injunction are effective strategies to combat gangs that was the popular sentiment during the 1990s. Gang injunctions should be carefully evaluated before they are implemented, because some injunctions are received with unintended consequences. For example figures show the number of crimes committed in the Pacoima "safety zone" in Los Angeles after an injunction was passed climbed 37 percent since a permanent injunction was imposed in October 2001. Additionally gang-related crime jumped 33 percent in the Panorama City area of Los Angeles where the city filed an injunction against the Blythe Street gang in 1997, and 11 percent in the North Hills area of Los Angeles inhabited by the Langdon Street gang (*Los Angeles Daily News, March 6, 2004*). Why does crime increase? According to my research and research by other gang experts such as Malcolm Klein from the University of Southern California and Cheryl Maxson of University of Irvine, gangs become most active when they are challenged. When outside forces challenge a gang, it increases their cohesiveness and strengthens their sense of identity, which is one of the reasons people join gangs in the first place. Gang injunctions represent a challenge to the gang and can serve to increase gang cohesiveness, increase recruitment, cause gangs and gang members to move outside the "safety zone" area further spreading the gang to more parts of the city, and most importantly the injunction can actually cause

crime to increase in the area. Art Lopez, the Chief of Police for the City of Oxnard, states in his declaration that if the injunction is granted, it will “greatly improve the quality of life for those residents who have been unfairly impacted by the ongoing nuisance posed by the gang” (¶ 4), but these claims are clearly unsubstantiated and the facts should be clearly weighed before such a strategy is pursued. The City of Pasadena issued two gang injunctions, one in 1995 (*City of Pasadena v. Pasadena Denver Lanes*, Case #GC015651) and one in 1996 (*City of Pasadena v. Villa Boys & Krazy Boyz*, Case #GC017109) that are now view as unsuccessful. Bernard Melekian, who became Pasadena's police chief about the same time the city was seeking its second court order, called the injunctions "an intellectual substitute for responsible public policy. There are aggressive enforcement ways to deal with known gang members. All we've done is move their hangout, which is fine if you live in the injunction area. So why don't we enjoin the entire city?" (*The American Prospect*, no. 32, May-June 1997). I have maintained for years that there are already enough tools in place to arrest and investigate gangs and gang crime. Injunctions at most are short-term solutions for a long-term problem.

**G. The Broad impact of using DOES.** In 1987 when then City Attorney used the gang injunction for the first time against an entire gang, he sued the Play Boy Gangster Crips of Los Angeles as an unincorporated association (case #WEC 118860) not identifying actual members but just John Does 1 through 300. This injunction attempt was initially denied on Nov 5, 1987 by Judge Warren H. Deering, stating that it was “too broad to grant” (Los Angeles Times, November 6, 1987). After Hahn made modifications to the initial complaint and identified 21 defendants by name, the injunction was granted November 24, 1987. One of the problems with the gang injunction against the COCH is that actual members are not named in the suit which gives the police broad powers to arrest individuals that are not gang members but just live in the neighborhood and grew up in the community with and among gang members. For example one of the restrictions of the injunction is wearing gang clothing which is being defined as cloths that bear the specific logos of the Dallas Cowboys, Indianapolis Colts, and the Los Angeles Dodgers. As the injunction is currently drafted, youth that are wearing any of these logos is subject to arrest. This is a serious concern for many of the residents, because the injunction is vague on whom it targets, and gives the police broad powers against individuals within the “safety zone.” For example, a recent report revealed that Oxnard resident Paul Gallegos, a big Dallas Cowboys fan, was concerned about the injunction since he wears Dallas Cowboys logos often and is not a gang member (*Los Angeles Times*, July 30, 2004). This potential harassment is also a concern of the many residents that submitted declarations in opposition to this injunction. Although there have been injunctions in the past using John Does to identify the gang, most of gang injunctions issued today are targeted towards specific individuals such as the 31 named defendants in *City of Los Angeles v. Rolling 60s Crip* in 2003, the 16 named defendants in *City of Los Angeles v. Bounty Hunter Bloods* in 2003, the 20 named defendants identified in *People v. Mara Salvatrucha* (case #BC187039) issued in 1998, the 50 named defendants in *People v. 18<sup>th</sup> Street Gang* (case #BC175684) in 1997.

1. If asked to testify, I would do so regarding everything that is stated and if any investigators or attorneys contact me I will speak with them regarding my opinions of the injunction against the Colonia Chiques gang.

2. I have never met, and do not know any Colonia Chiques gang members personally.
3. No one has promised me anything in exchange for making this declaration and I make this declaration of my own free will.

I declare under penalty of perjury under the laws of the State of California and the United States that this document is true and correct.

Executed this 4<sup>th</sup> day of August 2004, at Los Angeles, California.

---

Alex Alonso