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12
 13 **UNITED STATES DISTRICT COURT**
 14 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
 15

16 MANUEL VASQUEZ, MIGUEL
 BERNAL LARA, GABRIEL BASTIDA,
 17 JAMES DOE by and through his guardian
 ad litem JANE DOE, and all others
 18 similarly situated,

19 Plaintiff-Petitioners,

20 vs.

21 TONY RACKAUKAS, Orange County
 22 District Attorney, in his official capacity;
 23 ROBERT GUSTAFSON, Chief of Police,
 24 Orange Police Department, in his official
 25 capacity; DOES 1 through 10, in their
 official and individual capacities,

26 Defendant-Respondents.

Case No. **SACW09-1090 VBF (RNBx)**

The Honorable

**COMPLAINT FOR
 DECLARATORY AND
 INJUNCTIVE RELIEF AND
 PETITION FOR WRIT OF
 HABEAS CORPUS**

CLASS ACTION

Complaint Filed:

Trial Date: TBD

ORIGINAL

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CLERK OF DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA
 SANTA ANA, CALIFORNIA

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CLERK U.S. DIST. COURT
 CENTRAL DISTRICT OF CALIFORNIA
 SANTA ANA, CALIFORNIA

INTRODUCTION

1. Defendant-Respondent TONY RACKAUKAS, the Orange County District Attorney (“Defendant OCDA” or “OCDA”), and Defendant-Respondent ROBERT GUSTAFSON, Chief of the Orange Police Department (“Defendant OPD” or “OPD”), have violated the Constitution of the United States and the California Constitution by denying due process of law to Plaintiff-Petitioners MANUEL VASQUEZ (hereinafter “VASQUEZ”), MIGUEL BERNAL LARA (hereinafter “LARA”), GABRIEL BASTIDA (hereinafter “BASTIDA”), JAMES DOE (hereinafter “DOE”), and others similarly situated.

2. The OCDA is a public official, elected by the People of this County and entrusted with representing the People of the State of California in criminal prosecutions, as well as public nuisance actions. As a public official, the OCDA is vested with considerable powers, but those powers are “conditioned by the fact that he is the representative not of any ordinary party to a controversy but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all.” *People ex rel. Clancy v. Superior Court*, 705 P.2d 347, 350 (Cal. 1985) (internal citation marks and quotation omitted). Indeed, as a public official, the OCDA has a responsibility to seek justice, to develop a full and fair record, and not to use his position or the economic power of the government to harass parties or bring about unjust results. *Id.* The OCDA has failed to meet these basic responsibilities.

3. On February 17, 2009, the OCDA brought a civil nuisance abatement lawsuit against an alleged criminal street gang, 115 named individuals alleged to be members of the gang, including Plaintiff-Petitioners, and 150 unnamed individuals alleged to be members of the gang, seeking to subject them to virtually identical preliminary and permanent injunctions that prohibit and, in effect, criminalize commonplace and lawful activities – such as going outside in the

1 evening, walking into a restaurant or onto a bus, or attending a political meeting or
2 religious service – in an area of the City of Orange totaling approximately 3.78
3 miles, referred to as the “Safety Zone.” For every act in violation of the
4 injunction, a person can receive up to six months in jail and a \$1,000 fine.

5 4. At least 61 individuals, including Plaintiff-Petitioners, contested the
6 OCDA’s allegations and sought as best they could – most had no attorney
7 representing them – to hold the OCDA to the burden of proving the case by clear
8 and convincing evidence. However, to avoid having to meet this burden, the
9 OCDA dismissed the suit against these individuals, depriving them of their day in
10 court. Having intentionally short-circuited the judicial process insofar as the
11 individuals dismissed from the suit are concerned, the OCDA and OPD turned
12 around and served them with a permanent injunction obtained via default against
13 the gang. These individuals are now bound by the injunction and immediately
14 subject to arrest and criminal prosecution for any violation of its terms. Thus, the
15 OCDA and OPD subjected individuals to the injunction without the apparent
16 nuisance of having to prove its case against them. Such tactics fly in the face of
17 due process and violate the Fourteenth Amendment to the United States
18 Constitution and Article I, section 7, of the California Constitution. Accordingly,
19 Defendant-Respondents should be prohibited from serving or enforcing the
20 injunction against Plaintiff-Petitioners unless and until they have had a meaningful
21 opportunity to contest the allegations against them and there has been a judicial
22 determination that the Order is justified and should issue against them.

23 **JURISDICTION AND VENUE**

24 5. This Court has jurisdiction over the federal civil rights claim under 28
25 U.S.C. §§ 1331 and 1343. The Court has supplemental jurisdiction over the state
26 law claims under 28 U.S.C. § 1367(a).

27 6. Because Plaintiff-Petitioners assert that Defendant-Respondents have
28

1 custody of them in violation of federal statutory and constitutional law, this Court
 2 has jurisdiction to hear their challenge under the federal habeas corpus statute and
 3 the Suspension Clause. *See* 28 U.S.C. § 2241(a); 28 U.S.C. § 2241(c)(3); U.S.
 4 CONST. ART. I, cl. 9.

5 7. This Court may grant relief under the habeas corpus statute, 28 U.S.C.
 6 § 2241 et seq., the general federal question statute, 28 U.S.C. 1331, the federal
 7 civil rights statute, 42 U.S.C. § 1983, the Declaratory Judgment Act, 28 U.S.C. §
 8 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

9 8. Venue is proper in this Court under 28 U.S.C. § 1391(b) because
 10 Defendant-Respondents reside in, and all incidents, events, and occurrences giving
 11 rise to this action occurred in, the County of Orange, California. Venue is also
 12 proper because all of the Defendant-Respondents are amenable to service of
 13 process in this district.

14 BACKGROUND

15 **A. Gang Injunctions**

16 9. More than a decade ago, the California Supreme Court authorized an
 17 unprecedented law enforcement technique to deal with criminal street gangs -- the
 18 issuance of a civil public nuisance injunction against alleged gang members that
 19 restricted their activity in a four square-block area. *People ex rel. Gallo v. Acuna*,
 20 929 P.2d 596 (Cal. 1997). But *Acuna* and subsequent appellate decisions have
 21 recognized that this is an extraordinary remedy that must be applied with great
 22 caution. *Id.*; *People v. Englebrecht*, 106 Cal. Rptr. 2d 738 (Cal. App. 2001);
 23 *People ex rel. Reisig v. the Broderick Boys*, 59 Cal. Rptr. 3d 64 (Cal. App. 2007).
 24 Accordingly, the courts have made it clear that the prosecutor must meet a
 25 heightened standard of proof by presenting "clear and convincing" evidence that
 26 the necessary elements of a gang injunction are present before a trial court can
 27 invoke its injunctive powers. *Englebrecht*, 106 Cal. Rptr. 2d at 738.

1 10. Gang injunctions warrant careful scrutiny because they prohibit
 2 commonplace, lawful activities, and thus can have a pervasive impact on the
 3 everyday lives of those bound and on their families. Indeed, the reason that gang
 4 injunctions are so desirable from the perspective of law enforcement is precisely
 5 because they enjoin lawful and innocent activity that can be easily detected. The
 6 police can arrest individuals for violating the gang injunction, and the prosecutor
 7 can charge them with contempt of court, a misdemeanor punishable by up to six
 8 months in jail and a fine of up to \$1,000 under California Penal Code § 166.

9 11. This case underscores the need for courts to scrutinize the way in
 10 which prosecutors obtain and police enforce gang injunctions.

11 **B. The Initial Litigation**

12 12. On February 17, 2009, the OCDA filed a civil complaint in the
 13 Orange County Superior Court (the “OCSC”) for preliminary and permanent
 14 injunction to abate, as a public nuisance, the activities of an alleged criminal street
 15 gang referred to in the complaint as the “Orange Varrio Cypress Criminal Street
 16 Gang” (“OVC”). The civil complaint named not only OVC, but also 115
 17 individuals¹ and 150 Does, all of whom were alleged to be active members of the
 18 gang. The named defendants included 32 juveniles. The complaint sought to
 19 enjoin OVC, “115 of its members, agents, servants, employees, and all persons
 20 acting under, in concert with, for the benefit of, at the direction of, or in
 21 association with them or any one of them” from engaging in certain activities –
 22 some prohibited activities that are otherwise lawful, while other activities are
 23 already prohibited by statute – in an area of the City of Orange totaling
 24 approximately 3.78 miles, referred to as the “Safety Zone.”

25 13. The Safety Zone, which constitutes approximately 16 percent of the
 26

27 ¹ The civil complaint did not contain any specific allegations against
 28 any particular individual.

1 City of Orange, consists of three separate territories in the City: (1) the
2 “Downtown Territory,” which the complaint alleges is OVC’s primary turf and
3 where a majority of the named defendants in the civil complaint live; (2) the
4 “Highland Territory,” an area which the civil complaint alleges is claimed by
5 OVC’s rival “Orange County Criminals” (“OCC”) and that OVC is attempting to
6 take over and control; and (3) the “Hoover/Wilson Territory,” which the complaint
7 alleges OVC is also trying to take over and control.

8 14. On February 23, 2009, the OCDA filed an Ex Parte Application for
9 Order to Show Cause re Preliminary Injunction (“OSC”). In support of his
10 request, the OCDA filed a memorandum of points and authorities, 87 officer
11 declarations relating to alleged criminal activity by OVC members, including a 91-
12 page declaration by an officer designated as an expert witness, 110 officer
13 declarations relating to alleged criminal activity by alleged juvenile OVC
14 members, 10 “citizen” declarations relating to the gang’s alleged nuisance activity,
15 and a chart showing alleged OVC gang convictions and juvenile sustained
16 petitions. On that date, the OCDA also filed ex parte applications for orders to
17 seal the declarations regarding the juveniles, the citizen declarations, and the chart
18 of convictions, all of which the OCSC granted that day.²

19 15. On or about February 24, 2009, during the early morning hours,
20 police officers from the OPD served the summons, complaint, and supporting
21 papers, totaling at least 500 pages, on numerous homes in the City of Orange and
22 neighboring cities. The package of documents that juveniles and their parents
23 received, including Plaintiff-Petitioner DOE, did not include any of the police
24 declarations regarding the juveniles; these declarations were identified in an
25

26 ² Specifically, the order to seal the citizen declarations prohibited their
27 disclosure to anyone, including the named defendants, until “such time as the
28 Defendants secure an attorney or attorneys to represent them in this action.”

1 “Index of Incidents” as sealed.³ Similarly, some of the packages served on
2 individual defendants who were between the ages of 18 and 21, including
3 Plaintiff-Petitioners VASQUEZ, LARA, and BASTIDA, did not include police
4 declarations which referred to alleged incidents that occurred when those
5 individuals were juveniles, and were also identified in the Index of Incidents as
6 sealed.

7 16. The individuals served were confused; they did not know how the
8 papers related to them – the pleadings did not include any specific allegations
9 about anyone, much of the evidence was sealed, and the unsealed evidence
10 relating to any individual was scattered throughout the various police officer
11 declarations – or what, if anything, was required of them. As news spread
12 throughout the community about the service of these papers, neighbors began
13 talking, organizing, and researching. They learned that some packets included an
14 Order to Show Cause re Preliminary Injunction, which indicated that a hearing on
15 the OSC was scheduled for March 27, 2009 and that the defendants could file and
16 serve an opposition to the OSC by March 16, 2009. Other packets, however, did
17 not include a copy of the order at all; still others contained a copy of the order, but
18 the lines where a date could have been handwritten in were left blank.

19 17. On or about March 13, 2009, parents of at least four juveniles named
20 in the civil complaint, including Plaintiff-Petitioner DOE’s mother, attempted to
21 file with the OCSC various documents on behalf of their children pro per,
22 including fee waivers, requests for extension of time to respond to the complaint
23 and OSC, and peremptory challenges to the judge that was assigned to the case.
24 However, the OCSC clerk refused to accept any paperwork on behalf of their

25 ³ One of the parents telephoned the deputy district attorney assigned to
26 prosecute the litigation to request copies of the sealed declarations regarding her
27 son. The deputy OCDA advised the parent that he would not give those
28 declarations to her as they were filed under seal and that she would have to bring a
formal motion with the court to unseal the declarations.

1 children because they had to first file applications to act as guardians ad litem and
2 they could not do so without an attorney. The parents could not afford to hire an
3 attorney to represent their children, and they would later learn that the OCSC
4 would not appoint attorneys.

5 18. On or about March 16, 2009, at least seven adult individuals named
6 in the civil complaint, in pro per, filed various documents with the OCSC,
7 including fee waivers, general denials to the complaint, peremptory challenges to
8 the judge, and ex parte applications to continue the March 27 hearing on the OSC.

9 19. All told, approximately 34 adult individuals filed either an answer or
10 a general denial in response to the civil complaint. No answers or general denials
11 were filed on behalf of the juvenile defendants.

12 20. On March 27, 2009, approximately 45 individuals named in the civil
13 complaint, including some juveniles accompanied by their parents and some
14 without their parents, "appeared" pro per at the hearing on the OSC. The OCSC
15 permitted the parents there to speak on behalf of their children, and the parents
16 explained their failed attempts to file documents with the OCSC on behalf of their
17 children. The OCSC continued hearing on the OSC for some juveniles and adults
18 to April 10, but did not provide those individuals with an opportunity to file a
19 written opposition.

20 21. At the March 27 hearing on the OSC, the OCSC would not allow the
21 individual defendants to present any facts as to why the preliminary injunction
22 should not be issued against them. The court limited the individuals to presenting
23 legal arguments only. None of the individuals present at the March 27 hearing
24 were represented by legal counsel and the OCSC advised them that they did not
25 have a right to a court-appointed attorney in a civil case.

26 22. On March 27, 2009, the OCSC granted the OCDA's request for a
27 preliminary injunction against approximately 31 adult defendants, some of whom
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1 appeared at the hearing, others who did not appear at all; and 17 juveniles, some of
2 whom “appeared” at the hearing, others who did not appear at all. The OCSC
3 continued the hearing on the OSC as to approximately six adults and nine
4 juveniles to April 10, 2009.

5 23. By April 10, 2009, approximately eleven individuals named in the
6 civil complaint, including two juveniles, secured representation of counsel. The
7 ACLU Foundation of Southern California (“ACLU”) represented five individuals,
8 including one juvenile, pro bono. Attorney David Haas represented four
9 individuals, including one juvenile and Plaintiff-Petitioner LARA, pro bono.
10 Attorney Roland Rubalcava represented one individual and attorneys Mike Sethi
11 and Sanjay Sobti represented one individual.

12 24. The ACLU, on behalf of its clients, immediately filed an ex parte
13 application to continue the April 10, 2009 hearing on the OSC and to seek leave
14 to file written oppositions by April 27, 2009, which the OCSC granted.

15 25. The ACLU, on behalf of its clients, also moved for an ex parte order
16 to produce any declarations that the OCDA intended to use in support of its
17 request for preliminary injunction and to allow an ACLU attorney to have access
18 to the sealed citizen declarations. The OCSC granted both of the ACLU’s
19 requests. The next day an ACLU attorney went to the OCDA’s office where she
20 was allowed to review the ten “citizen” declarations that the OCDA had submitted
21 as evidence of the existence of a public nuisance in the Safety Zone. The ACLU
22 attorney was prohibited from obtaining copies of the declarations under the OCSC
23 February 23, 2009 ex parte order and had to review the declarations in the
24 presence of the deputy OCDA and an OCDA investigator.

25 26. At the April 10, 2009 hearing on the OSC, at least twenty-eight
26 individuals appeared, including ten juveniles. Eleven of the individuals present
27 were represented by counsel, the remaining individuals appeared pro per. The
28

1 court also continued the hearing on the OSC regarding the eleven represented
2 individuals, including two juveniles, to May 7, 2009, and allowed those
3 individuals to file written oppositions to the OSC by April 27, 2009. The OCSC
4 granted the OCDA's request for preliminary injunction against seven adults and
5 denied the OCDA's request for preliminary injunction against five adults. On that
6 date, the OCSC indicated for the first time its concerns about issuing a court order
7 against unrepresented juveniles. Accordingly, the court continued the hearing on
8 the OSC for the unrepresented juveniles to May 7, 2009, to allow the OCSC and
9 the OCDA the opportunity to research the issue further.

10 27. On April 27, 2009, the ACLU filed an application for appointment of
11 a guardian ad litem for its juvenile client, filed an answer to the complaint for that
12 juvenile, and filed written oppositions to the OCDA's request for preliminary
13 injunction, including expert declarations and approximately fifteen citizen
14 declarations denying the existence of a public nuisance in the Safety Zone.

15 28. On April 27, 2009, attorney David Haas filed an application for
16 appointment of a guardian ad litem for his juvenile client, filed answers to the
17 complaint for all of his clients, and joined the ACLU written opposition to the
18 OCDA's request for preliminary injunction. Attorneys Mike Sethi and Sanjay
19 Sobti also joined the ACLU written opposition.

20 29. At the May 7, 2009 hearing on the OSC, the OCSC granted the
21 OCDA's request for preliminary injunction against two adults, and two
22 represented minors, and denied the OCDA's request, on the merits, against five
23 adults and one represented minor, and on procedural grounds, against nine
24 unrepresented juveniles. The OCSD continued the hearing as to one represented
25 adult to March 14, 2009. The OCSC concluded that juveniles who did not have
26 guardians ad litem and were not represented by counsel could void a court order or
27
28

1 judgment.⁴ The OCSC therefore denied the preliminary injunctions against these
 2 juveniles.⁵ In response, the OCDA indicated to the court that it intended to
 3 formally request the court appoint guardians for the unrepresented juveniles so
 4 that they could seek permanent injunctions against them. Of the eleven
 5 individuals represented by counsel, the court issued the preliminary injunction
 6 against only four.

7 30. On or about April 15, 20, and May 6, 2009, the ACLU propounded
 8 extensive written discovery directed at the OCDA, totaling almost 1500 separate
 9 requests and began noticing the depositions of OCDA witnesses. Responses to the
 10 first round of written discovery were due on or before May 14, 2009. Other
 11 individual defendants responded to discovery propounded by the OCDA.

12 31. On May 11, 2009, the OCDA filed a request for dismissal against 62
 13 individuals, most of whom had responded to the complaint either by filing a
 14 general denial or an answer, some of whom had counsel, others who were pro per,
 15 and the approximately 26 unrepresented juveniles. The OCDA did not notify the
 16 individual defendants of the dismissal until May 14, 2009, and in fact continued to
 17 represent to the ACLU that the litigation was still active against the ACLU's
 18 clients.

19 **C. Default Judgment Against OVC and the Permanent Injunction.**

20 32. No general denial or answer was filed on behalf of OVC.

21 33. The civil complaint, which was filed with the OCSC on February 17,
 22 2009, alleged that OVC is "an unincorporated association of two or more
 23 individuals commonly referred to as a criminal street gang that are joined together

24 ⁴ In California, a judgment entered against a minor not represented by
 25 legal counsel or a guardian ad litem is voidable and can be disaffirmed by the
 26 minor. *Pac. Coast Joint Stock Land Bank of S.F. v. Clausen*, 8 Cal. 2d 364 (1937).

27 ⁵ The court, however, did not vacate its March 27, 2009 Order granting
 28 preliminary injunctions against 17 unrepresented juveniles.

1 for social, recreational, profit and other common purposes, and which acts by and
2 through its members, both individually and collectively.” The next sentence of the
3 complaint alleged that “OVC is a ‘criminal street gang’ as defined in Penal Code §
4 186.22(f).”

5 34. The OCDA identified individual defendant, Patrick Philip DeHerrera,
6 to receive service on behalf of OVC.

7 35. On February 23, 2009, the OCDA filed an ex parte application for an
8 order to serve OVC pursuant to California Civil Procedure Code section
9 416.40(c). Specifically, the OCDA requested the court issue an order allowing the
10 OCDA to serve Patrick Philip DeHerrera, who the OCDA alleged was an OVC
11 member. The OCDA stated “The Declarations on file prove that PATRICK
12 PHILIP DEHERRERA (aka Patrick Phillip DeHereba, Popeye), is an active
13 participant of Orange Varrio Cypress criminal street gang.” Patrick DeHerrera
14 was not given notice of the OCDA’s ex parte application.

15 36. On March 16, 2009, Patrick DeHerrera filed a general denial on his
16 own behalf denying that he is a member of OVC. On May 7, 2009, the OCSC
17 denied the OCDA’s request for preliminary injunction against Patrick DeHerrera.

18 37. On March 30, 2009, and in the days thereafter, the OCDA filed a
19 request for entry of default against OVC and individual defendants, including
20 juvenile defendants, who had not formally responded to the civil complaint by
21 filing a general denial or an answer, although many of the individuals had
22 appeared in the OCSC for one or more of the OSC hearings. The OCDA’s request
23 for default was granted as to OVC and some of the adult individuals, and
24 judgment against OVC and others was entered May 14, 2009.

25 **D. The Order**

26 38. On May 14, 2009, the OCSC signed an Order for Permanent
27 Injunction (the “Order”) against OVC, forty-four individuals who had not filed a
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1 formal response to the complaint and had default entered against them, and OVC's
2 "members, participants, agents, associates, servants, employees, aiders, and
3 abettors whose membership, participation, agency, association, service,
4 employment, aid, or abetment is more than nominal, passive, inactive, or purely
5 technical, and all persons acting under, in concert with, for the benefit of, at the
6 direction of, or in association with [OVC] in a manner that is more than nominal,
7 passive, inactive, or purely technical."

8 39. The provisions of the Order obtained through default against OVC
9 are essentially the same as the relief sought in the original complaint and the
10 OCDA's request for preliminary injunction.

11 40. The Order imposes restrictions on the individuals subject to it within
12 the Safety Zone, which covers approximately 3.78 square miles, or 16 percent of
13 the entire City of Orange.

14 41. The Order applies not just to public places, but also to any building
15 "accessible by or to the public," or "in public view," which includes schools,
16 churches, grocery stores, community centers, to name only a few. Specifically,
17 this area includes at least twelve places of worship, four public schools and a
18 university, a hospital, City Hall and the police department, a train station, two post
19 offices, and countless businesses, including a Walmart, various supermarkets, and
20 the Village, the City's primary shopping mall.

21 42. Any person subject to the Order, who is alleged to have disobeyed
22 any of the terms, can be criminally prosecuted under Penal Code s§ 166(a)(4). *See*
23 CAL. PENAL CODE § 166(a)(4) ("[E]very person guilty of any contempt of court . .
24 . is guilty of a misdemeanor.").

25 43. Section "a" of the Order, entitled "Do Not Associate," broadly
26 prohibits a person subject to the injunction from standing, sitting, walking,
27 driving, bicycling, gathering or appearing "in any public place, any place
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1 accessible to the public, or in public view” with (1) “any person named herein”;
 2 (2) “anyone you know to be a member, participant, agent associate, servant,
 3 employee, aider, or abettor of the Orange Varrio Cypress street gang”; and (3)
 4 “anyone you know to be acting under, in concert with, for the benefit of, at the
 5 direction of, or in association with the Orange Varrio street gang.”

6 44. Section b of the Order, entitled “Do Not Intimidate,” states:

7 Anywhere in any public place, any place accessible to
 8 the public, or in public view, do not (1) confront,
 9 intimidate, annoy, harass, threaten, challenge, provoke,
 10 assault, or batter anyone in the Safety Zone, or (2)
 11 remain in the presence of or assist anyone you know in
 12 confronting, intimidating, annoying, harassing,
 13 threatening, challenging, provoking, assaulting, or
 14 battering anyone in the Safety Zone.

15 45. Several provisions of the Order subject a person to criminal sanctions
 16 for “remain[ing] in the presence” of certain classes of individuals. Specifically,
 17 the Order makes it unlawful for a person to remain in the presence of anyone
 18 known to be:

- 19 • unlawfully under the influence of any drug. (Order §c(3));
- 20 • unlawfully fighting or challenging another person to fight
 21 (Order §e(2));
- 22 • using offensive words which are inherently likely to provoke
 23 an immediate violent reaction (Order §e(6));
- 24 • present on any property not open to the public without the
 25 voluntary consent of the owner, owner’s agent, or the person in
 26 lawful possession of the property. (Order §f(2));
- 27 • willfully and maliciously blocking the free passage of any

1 person or vehicle on any street, walkway, sidewalk, driveway,
2 alleyway, or other area of public passage. (Order §g(2));

- 3 • maliciously spray painting, marking with marker pens, or
4 otherwise defacing property with graffiti or other inscribed
5 material on any public or private property not belonging to
6 him, her, or you. (Order §h(2));
- 7 • maliciously damaging or destroying real or personal property
8 not belonging to him, her, or you. (Order §h(4));
- 9 • unlawfully possessing spray paint cans, marker pens, knives,
10 screwdrivers, razor blades, nails, or other objects capable of
11 destroying, damaging, or defacing property. (Order §h(6));
- 12 • wearing, displaying, exhibiting, or possessing any clothes or
13 accessories that you know advertise, advance, promote,
14 represent, or refer to the Orange Varrio Cypress criminal street
15 gang. (Order §j(2));
- 16 • unlawfully using, possessing, transporting, furnishing,
17 manufacturing, delivering, dispensing, distributing, or selling
18 any screwdrivers, porcelain spark plug chips, shaved keys,
19 picklocks, wire cutters, dent pullers, slingshots, steel shots,
20 spark plugs, "slim jims," "bump keys," or any instrument or
21 tool listed in Penal Code §466. (Order §k(2)).

22 46. Section j(1), entitled "Do Not Wear Gang Clothing" orders persons
23 subject to the Order not to "wear, display, exhibit or possess any clothes or
24 accessories you know to advertise, advance, promote, represent, or refer to the
25 Orange Varrio Cypress," including clothes that display various enumerated
26 combinations of the words "Orange," "Varrio," Old Towne Orange," and
27 "Cypress" and the color orange.

1 47. Section m imposes a curfew on adults and Section l imposes a curfew
2 on minors. Section m orders individuals subject to the injunction who are over the
3 age of 18 not to “remain in or upon any public place, vacant lot, or business
4 establishment unless require[d] for a lawful employment; for official school,
5 recreational, educational, charitable, entertainment, cultural, religious or other
6 constitutionally protected expressive activity; volunteering at a charitable
7 institution; for transport to or from the above activities; while on the sidewalk
8 directly in front of the person’s dwelling; or for emergencies or interstate travel.”
9 For minors served with the injunction, similar terms would apply, with additional
10 exceptions when accompanied by, or acting at the direction of, a parent or
11 guardian.

12 48. Sections n(4) and (5) prohibit a person “anywhere in any public place,
13 or any place accessible to the public” from “knowingly remain[ing] in the presence
14 of anyone in possession an open container of an alcoholic beverage,” or
15 “knowingly remain in the presence of an open container of an alcoholic beverage.”

16 49. The Order covers approximately 3.78 square miles, or 16 percent of
17 the entire City of Orange. For many of those served with the Order, including
18 Plaintiff-Petitioners, the area affected by the Order will include not only their
19 homes, but the homes of most friends and relatives, their schools, their places of
20 employment, the local restaurants they patronize – nearly every place they conduct
21 their daily lives.

22 **E. Service of the Order**

23 50. In early June 2009, the OCDA, by and through the Defendant-
24 Respondent OPD, began serving the Order on individuals who had been named as
25 individual defendants, including juveniles, in the initial litigation and who had
26 been voluntarily dismissed by the OCDA. Along with a copy of the Order, the
27 OCDA served a notice stating the following:

1 YOU ARE HEREBY PUT ON NOTICE THAT ON
2 MAY 14, 2009, JUDGE KAZUHARU MAKINO
3 SIGNED AN ORDER FOR PERMANENT
4 INJUNCTION AGAINST THE ORANGE VARRIO
5 CYPRESS CRIMINAL STREET GANG.

6
7 ALL MEMBERS OF THE GANG ARE SUBJECT TO
8 THE TERMS OF THE PERMANENT INJUNCTION.

9
10 ALL MEMBERS OF THE GANG, WHETHER OR
11 NOT NAMED IN THE ORIGINAL LAWSUIT OR
12 NAMED IN THE ORIGINAL LAWSUIT AND LATER
13 DISMISSED FROM THE LAWSUIT AND
14 PARTICIPANTS, AGENTS, ASSOCIATES,
15 SERVANTS, EMPLOYEES, AIDERS, AND
16 ABETTORS WHOSE MEMBERSHIP,
17 PARTICIPATION, AGENCY, ASSOCIATION,
18 SERVICE, EMPLOYMENT, AID, OR ABETMENT IS
19 MORE THAN NOMINAL, PASSIVE, INACTIVE, OR
20 PURELY TECHNICAL, AND ALL PERSONS
21 ACTING UNDER, IN CONCERT WITH, FOR THE
22 BENEFIT OF, AT THE DIRECTION OF, OR IN
23 ASSOCIATION WITH [OVC] IN A MANNER THAT
24 IS MORE THAN NOMINAL, PASSIVE, INACTIVE,
25 OR PURELY TECHNICAL, ARE SUBJECT TO THE
26 TERMS OF THE PERMANENT GANG INJUNCTION.

27 ...
28

1 ALL PERSONS DESCRIBED ABOVE WILL FACE
2 CRIMINAL PROSECUTION PURSUANT TO PENAL
3 CODE SECTION 166(a)(4) FOR ANY WILLFUL
4 VIOLATION OF ANY PROVISION LISTED IN THE
5 PERMANENT GANG INJUNCTION.

6 51. The notice and service of this Order on individuals named in the
7 original lawsuit but later dismissed from it makes plain the OCDA and the OPD's
8 claim of authority to unilaterally determine, without proof, opposition, or judicial
9 oversight, who is a "member of the gang" and subject to the Order. Attached as
10 Exhibit A to this Complaint is a true and correct copy of the notice and Order.

11 **F. Enforcement of the Order**

12 52. Plaintiff-Petitioners are informed and believe that since June 2009,
13 when the OPD began serving the Order, the OPD has arrested a number of
14 individuals named in the original lawsuit but later dismissed for allegedly
15 violating the Order.

16 53. Plaintiff-Petitioners are informed and believe that on or about July 29,
17 2009, at approximately 12:30 p.m., the OPD arrested Plaintiff-Petitioner
18 VASQUEZ'S 17-year-old brother, who was named in the original litigation,
19 voluntarily dismissed by the OCDA, and later served with the Order, for walking
20 home from summer school with another boy who was a neighbor and friend. The
21 boy lives and goes to school in the Safety Zone. He is accused of associating with
22 a "known associate" of OVC in violation of the Order.

23 54. Plaintiff-Petitioners are informed and believe that on or about August
24 1, 2009, the OPD arrested another 17-year-old boy, who was named in the original
25 litigation, voluntarily dismissed by OCDA, and later served with the Order, for
26 sitting on the steps of his apartment complex with a friend. The boy lives in the
27 Safety Zone. He is also accused of associating with a "known associate" of OVC
28

1 in violation of the Order. The “known associate” of OVC is alleged to be
2 Plaintiff-Petitioner BASTIDA, who was voluntarily dismissed by the OCDA from
3 the original litigation.

4 55. Plaintiff-Petitioners are informed and believe that in mid-August,
5 2009, at approximately 1:00 p.m., the OPD arrested an 18-year-old male, who was
6 named in the original litigation, voluntarily dismissed by OCDA, and later served
7 with the Order. The male, who lives in the Safety Zone, was the passenger of a car
8 driven by a 22-year-old female, who also lives in the Safety Zone and who was
9 named in the original litigation, voluntarily dismissed by OCDA, but has not yet
10 been served with the Order. They were on their way to eat pizza and had just
11 parked in the parking lot of the restaurant when police arrested the male. He is
12 accused of associating with a “known associate” of OVC in violation of the Order.

13 56. Plaintiff-Petitioners are informed and believe that on or about August
14 27, 2009, at approximately 5:00 p.m., OPD arrested two male juveniles, ages 17
15 and 15, both of whom had been named in the original litigation, voluntarily
16 dismissed, and served with the Order. The boys were passengers of a car driven
17 by a 22-year-old female, who also lives in the Safety Zone and who was named in
18 the original litigation, voluntarily dismissed by OCDA, but has not yet been served
19 with the Order. The female had stopped at a gas station in the Safety Zone to get
20 gas when the police arrested the two juveniles. They are accused of associating
21 with “known associates” of OVC in violation of the Order.

22 57. Plaintiff-Petitioners are informed and believe that on September 10,
23 2009, at approximately 4:30 p.m., OPD arrested a 21-year-old male who was
24 named in the original litigation, voluntarily dismissed by the OCDA, and later
25 served with the Order. The male, who lives in the Safety Zone was visiting a
26 friend, who also lives in the Safety Zone. They were in the friend’s garage and the
27 21-year-old male was drinking a beer. The garage door was open and in public
28

1 view. He is accused of being in possession of alcohol in violation of the Order.

2 **PARTIES**

3 **A. Plaintiff-Petitioner Manuel Vasquez**

4 58. Plaintiff-Petitioner MANUEL VASQUEZ ("Plaintiff VASQUEZ" or
5 "Mr. VASQUEZ") is and at all relevant times was a resident of Orange County
6 California, residing in the City of Orange within the geographical area referred to
7 in the civil complaint as the Safety Zone. He is nineteen years old.

8 59. Mr. VASQUEZ was named as a defendant in the public nuisance
9 abatement action filed by OCDA on February 17, 2009 and on or about February
10 24, 2009, OPD served Mr. VASQUEZ with approximately 500 pages of
11 documents, including the summons and the civil complaint. Mr. VASQUEZ was
12 not served with the declarations referred to in the Index of Incidents as being filed
13 under seal and relating to him.

14 60. Because he could not afford to hire an attorney to represent him, Mr.
15 VASQUEZ, in pro per, filed a general denial to the civil complaint on March 16,
16 2009, filed a declaration on April 3, 2009 denying that he was a member of any
17 criminal street gang, and appeared at various court hearings to defend himself
18 against the OCDA's allegations.

19 61. On May 12, 2009, the OCDA voluntarily dismissed the nuisance
20 abatement action against Mr. VASQUEZ; but, in about June 2009, the OPD
21 personally served Mr. VASQUEZ with a copy of the Order, which OCDA
22 obtained via default against OVC, advising that Mr. VASQUEZ is subject to the
23 terms of the Order whether or not he was named in the original lawsuit and later
24 dismissed. Mr. VASQUEZ fears being arrested for conducting his day-to-day
25 activities and has significantly curtailed his activities as a result.

26 62. Mr. VASQUEZ has suffered and continues to suffer great harm by
27 being subject to the terms of the Order. He lives, works, and shops in the Safety
28

1 Zone. He feels like a prisoner in his own home, although he is not on probation or
2 parole, because he fears being targeted by the police and accused of violating the
3 terms of the Order for engaging in routine, day-to-day activities. One of Mr.
4 VASQUEZ's brothers, whom he lives with, was dismissed from the original
5 litigation and then served with the Order. Mr. VASQUEZ is afraid of going
6 anywhere with his brother, because he fears being stopped, searched, and arrested
7 if they are seen together or arrive or leave home at the same time.

8 **B. Plaintiff-Petitioner Miguel Bernal Lara**

9 63. Plaintiff-Petitioner MIGUEL BERNAL LARA ("Plaintiff LARA" or
10 "Mr. LARA") is and at all relevant times was a resident of Orange County
11 California, residing in the City of Orange. He is twenty years old.

12 64. Plaintiff LARA was named as a defendant in the public nuisance
13 abatement action filed by the OCDA on February 17, 2009 and on or about
14 February 24, 2009, the OPD served Plaintiff LARA with approximately 500 pages
15 of documents, including the summons and the civil complaint. LARA was not
16 served with the declarations referred to in the Index of Incidents as being filed
17 under seal and relating to him.

18 65. Because he could not afford an attorney to represent him, Mr. LARA
19 appeared at various court hearings, in pro per, to defend himself against the
20 OCDA's allegations. Eventually, Mr. LARA was able to obtain the services of an
21 attorney, David Haas, to represent him on a pro bono basis. On or about April 27,
22 2009, Mr. LARA, by and through his attorney, filed an answer to the civil
23 complaint and filed a motion to join the memorandum of points and authorities
24 and expert declarations filed by the ACLU on behalf of their clients, in opposition
25 to the OCDA's OSC.

26 66. On May 12, 2009, the OCDA voluntarily dismissed the nuisance
27 abatement action against Mr. LARA; but, in about June 2009, the OPD personally
28

1 served Mr. LARA with a copy of the Order, which OCDA obtained via default
2 against OVC, advising that Mr. LARA is subject to the terms of the Order whether
3 or not he was named in the original lawsuit and later dismissed. Mr. LARA fears
4 being arrested for conducting his day-to-day activities and has significantly
5 curtailed his activities as a result.

6 67. Although Mr. LARA no longer lives in the Safety Zone, he has
7 suffered and continues to suffer great harm from being subject to the terms of the
8 Order. Mr. LARA has participated in several political rallies, marches, and
9 demonstrations, opposing the OCDA's actions and methods in seeking a gang
10 injunction in the City of Orange and wishes to continue such activity, but will not
11 do so because he fears being arrested. Mr. LARA, who lives in the City of
12 Orange, is afraid to attend his City's council meetings, because they are held at
13 city hall, which is located in the Safety Zone, and he fears that he will be arrested
14 for challenging the OCDA and OPD's policies and practices or if someone the
15 police believe to be a gang member is also in attendance. Mr. LARA also takes an
16 alternate route to work to avoid having to drive through the Safety Zone and being
17 seen in the vicinity of anyone alleged to be an OVC member.

18 **C. Plaintiff-Petitioner Gabriel Bastida**

19 68. Plaintiff-Petitioner GABRIEL BASTIDA ("Plaintiff BASTIDA" or
20 "Mr. BASTIDA") is and at all relevant times was a resident of Orange County
21 California, residing in the City of Santa Ana. He is eighteen years old.

22 69. Plaintiff BASTIDA was named as a defendant in the public nuisance
23 abatement action filed by the OCDA on February 17, 2009 and on or about
24 February 24, 2009, the OPD served Plaintiff BASTIDA with approximately 500
25 pages of documents, including the summons and the civil complaint. BASTIDA
26 was not served with the declarations referred to in the Index of Incidents as being
27 filed under seal and relating to him.

1 70. Because Mr. BASTIDA could not afford an attorney to represent him,
2 he appeared at various court hearings, in pro per, with the assistance of his mother,
3 to defend himself against the OCDA's allegations. Although Mr. BASTIDA filed
4 a Peremptory Challenge under California Civil Procedure Code section 170.6 as to
5 the judge originally assigned, as well as a declaration denying that he is a gang
6 member, he was not aware that he had to formally respond to the civil complaint,
7 or how he would do that. He therefore did not file a general denial, an answer, or
8 any other document formally responding to the civil complaint.

9 71. On or about April 27, 2009, the OCDA filed a request for entry of
10 default against Mr. BASTIDA, which the clerk of the OCSC entered that same
11 day. On or about May 12, 2009, Mr. BASTIDA was served with the OCDA's
12 request for court judgment against him, and on May 15, 2009, Mr. BASTIDA,
13 with his mother's help, filed a request to vacate the judgment under default. On or
14 about July 10, 2009, the court granted Mr. BASTIDA's request, set aside the
15 default, and set a case management conference.

16 72. On July 16, 2009, the OCDA dismissed the nuisance abatement
17 action against Mr. BASTIDA; but, on or about August 13, 2009, the OPD
18 personally served Mr. BASTIDA with a May 14, 2009 Order for Permanent
19 Injunction, which the OCDA obtained via default against the alleged gang OVC,
20 advising that Mr. BASTIDA is subject to the terms of the Order whether or not he
21 was named in the original lawsuit and later dismissed. Mr. BASTIDA fears being
22 arrested for conducting his day-to-day activities and has significantly curtailed his
23 activities as a result.

24 73. Mr. BASTIDA has suffered and continues to suffer great harm by
25 being subject to the terms of the Order. Although Plaintiff BASTIDA no longer
26 lives in the Safety Zone, his close relatives live in the Safety Zone. He used to
27 visit his relatives regularly, but no longer does for fear of being stopped and
28

1 arrested by the police for allegedly violating the Order. One of Mr. BASTIDA's
2 brothers, a juvenile, whom he lives with, was dismissed from the original litigation
3 and then served with the Order. Mr. BASTIDA is afraid to go to visit his relatives
4 with his brother, which they usually did together, because he fears being stopped,
5 searched, and arrested if they go to his relative's house or arrive there at the same
6 time.

7 **D. Plaintiff-Petitioner James Doe**

8 74. Plaintiff-Petitioner JAMES DOE, a minor, ("Plaintiff DOE" or
9 "DOE") is and at all relevant times was a resident of Orange County California.
10 Plaintiff-Petitioner DOE bring this litigation, by and through his next friend,
11 JANE DOE, his mother.

12 75. Plaintiff DOE was named as a defendant in the public nuisance
13 abatement action filed by OCDA on February 17, 2009 and on or about February
14 24, 2009, OPD served Plaintiff DOE and his mother, JANE DOE with
15 approximately 500 pages of documents, including the summons and the civil
16 complaint. Neither DOE nor JANE DOE was served with the declarations referred
17 to in the Index of Incidents as being filed under seal and relating to him.

18 76. On or about March 13, 2009, JANE DOE, along with other parents of
19 juveniles named in the civil complaint, attempted to file various documents on
20 behalf of DOE with the OCSC, including a fee waiver, a request for extension of
21 time to respond to the complaint and OSC, and a peremptory challenge to the
22 judge that was assigned to the case. However, the OCSC clerk refused to accept
23 any paperwork on behalf of DOE, or any other juvenile. The clerk of OCSC
24 advised JANE DOE, and other parents, that they would first have to file an
25 application to act as their children's guardians ad litem, but to do so they would
26 have to hire an attorney. DOE's mother could not afford to hire an attorney to
27 represent DOE.

1 77. Although JAMES DOE could not file a formal response to the civil
2 complaint because he could appear pro per, did not have an attorney, and could not
3 afford to hire one, he and his mother appeared at various court hearings to defend
4 himself against OCDA's allegations.

5 78. On May 12, 2009, the OCDA voluntarily dismissed the nuisance
6 action against DOE; but, in or about June 2009, the OPD personally served DOE
7 and his mother with a May 14, 2009 Order for Permanent Injunction, which
8 OCDA obtained via default against the alleged gang OVC, advising that Plaintiff
9 DOE is subject to the terms of the Order whether or not he was named in the
10 original lawsuit and later dismissed. Plaintiff DOE fears being arrested for
11 conducting his day-to-day activities and has significantly curtailed his activities as
12 a result.

13 79. Plaintiff DOE has suffered and continues to suffer great harm by
14 being subject to the terms of the Order. Although Plaintiff DOE does not live in
15 the Safety Zone, his grandmother and his aunt do. He used to visit his
16 grandmother and his aunt regularly, but no longer does for fear of being stopped
17 and arrested by the police for allegedly violating the Order. One of DOE's
18 brothers, whom he lives with, was named in the original litigation, later dismissed
19 and then served with the Order. DOE is afraid that he will be stopped, searched,
20 and arrested if he and his brother go to his grandmother's house together or arrive
21 there at the same time.

22 **E. Defendant-Respondents**

23 80. Defendant-Respondent TONY RACKAUKAS, is the District
24 Attorney for the County of Orange ("Defendant OCDA" or "OCDA"). As such,
25 he is responsible for overseeing and managing the Orange County District
26 Attorney's office. Defendant RACKAUKAS is sued in his official capacity. In
27 his official capacity, he is the legal custodian of Plaintiff-Petitioners, and others
28

1 similarly situated.

2 81. Defendant-Respondent ROBERT GUSTAFSON, is the Chief of
3 Police for the City of Orange Police Department ("Defendant OPD"). As such, he
4 is responsible for overseeing and managing the Orange Police Department.
5 Defendant GUSTAFSON is sued in his official capacity. In his official capacity,
6 he is the legal custodian of Plaintiff-Petitioners, and others similarly situated.

7 82. The true names and capacities, whether individual, corporate,
8 associate, representative or otherwise, of the defendant-respondents identified
9 herein as Does 1 through 10, inclusive, are unknown to Plaintiff-Petitioners, who
10 therefore sue these defendants by said fictitious names. Plaintiff-Petitioners will
11 amend this complaint to allege the true names and capacities of Does 1 through 10
12 when they have been ascertained. Does 1 through 10 are in some manner legally
13 responsible for the wrongs and injuries alleged herein.

14 83. At all times mentioned in this Complaint, unless otherwise alleged,
15 each Defendant-Respondent was the agent, employee, and/or co-conspirator of
16 every other Defendant-Respondent, and in doing the acts alleged in this
17 Complaint, was acting within the course, scope, and authority of that agency or
18 employment, and in furtherance of the conspiracy to violate Plaintiff-Petitioners'
19 constitutional rights, with the knowledge and consent of each of the other
20 Defendant-Respondents.

21 **CLASS ACTION ALLEGATIONS**

22 84. Plaintiff-Petitioners VASQUEZ, LARA, BASTIDA and DOE bring
23 this action on their own behalf and all other persons similarly-situated, pursuant to
24 Federal Rules of Civil Procedure 23(a) and 23(b)(2), or in the alternative, as a
25 representative action pursuant to a procedure analogous to Rules 23(a) and
26 23(b)(2). *See Ali v. Ashcroft*, 346 F.3d 873, 891 (9th Cir. 2003), overruled on
27 other grounds, *Jama v. ICE*, 543 U.S. 335 (2005) (allowing class action habeas
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petition). Plaintiff-Petitioners bring this action individually and on behalf of a class defined as:

All persons named as individual defendants in *People v. Orange Varrio Cypress Criminal Street Gang, et al.*, Orange County Superior Court, 30-2009 00118739, dated February 17, 2009, who appeared or attempted to appear, either pro per or through an attorney, in the Orange County Superior Court to defend themselves and were voluntarily dismissed by the Orange County District Attorney's office and have now been served or will be served with the Order for Permanent Injunction against "Orange Varrio Cypress Criminal Street Gang" dated May 14, 2009, and therefore subject to its provisions, but do not have contempt proceedings currently pending against them.

85. Additionally, Plaintiff-Petitioner JAMES DOE, brings this action individually and on behalf of the following sub-class:

All juveniles named as individual defendants in *People v. Orange Varrio Cypress Criminal Street Gang, et al.*, Orange County Superior Court, 30-2009 00118739, dated February 17, 2009, who attempted to appear in the Orange County Superior Court, either individually or through a parent, but could not have a guardian ad litem appointed because neither the juveniles nor their parents could afford an attorney and therefore could not and did not formally appear; were voluntarily dismissed by the Orange County District Attorney's office and have now

1 been served or will be served with the Order for
2 Permanent Injunction against "Orange Varrio Cypress
3 Criminal Street Gang" dated May 14, 2009, and
4 therefore subject to its provisions, but do not have
5 contempt proceedings currently pending against them.

6 86. The proposed class meets the requirements of Fed. R. Civ. Pro.
7 23(a)(1). At least 60 individuals were, like Plaintiff-Petitioners, named as
8 individual defendants in *People v. Orange Varrio Cypress Criminal Street Gang*,
9 appeared or attempted to appear in the case, thereby being willing and available to
10 defend against allegations in the complaint, and were ultimately voluntarily
11 dismissed by OCDA. To date, Plaintiff-Petitioners' counsel is aware of more than
12 20 other class members in this District who, like Plaintiff-Petitioners, have been
13 served with the Order and thereby subjected to its terms. Plaintiff-Petitioners
14 anticipate that Defendant-Respondents will subject other individuals similarly
15 situated to Plaintiff-Petitioners to the terms of the Order in the future. Joinder of
16 all members of this class is therefore impracticable.

17 87. The identity of the class members is known by Defendant-
18 Respondents and is readily ascertainable from their records.

19 88. The proposed class meets the requirements of Fed. R. Civ. Pro.
20 23(a)(2). There are several common questions of law and fact in the action. These
21 include: (1) whether being subject to the terms of the Order deprives an individual
22 of a liberty or property interest; (2) whether the individuals who were previously
23 dismissed as defendants from the original litigation have been denied adequate
24 procedural protections by now being subject to the terms of the Order in violation
25 of the Due Process Clause.

26 89. The proposed class meets the requirements of Fed. R. Civ. Pro.
27 23(a)(3). The claims of the named Plaintiff-Petitioner are typical of the claims of
28

1 the proposed class. Like the proposed class members, the named Plaintiff-
 2 Petitioners are subject to the terms of the Order without having been afforded
 3 notice and an opportunity to be heard as required by the Due Process Clause.
 4 Plaintiff-Petitioners anticipate that Defendant-Respondents will serve the Order in
 5 the future on other proposed class members, thereby subjecting them to the terms
 6 of the Order without due process.

7 90. The proposed class meets the requirements of Fed. R. Civ. Pro.
 8 23(a)(4). The named Plaintiff-Petitioners will fairly and adequately represent the
 9 interests of all members of the proposed class because they seek relief identical to
 10 the relief sought by all class members, and because they have no interests adverse
 11 to other class members. Moreover, named Plaintiff-Petitioners are represented by
 12 pro bono counsel from the ACLU. The ACLU and their attorneys have extensive
 13 civil rights litigation experience and broad experience litigating class actions.

14 91. The proposed class meets the requirements of Fed. R. Civ. Pro.
 15 23(b)(2). Defendant-Respondents have acted on grounds generally applicable to
 16 the class through their policy and practice of subjecting individuals who were
 17 named as defendants in the *People v. Orange Varrio Cypress Criminal Street*
 18 *Gang*, whom the OCDA voluntarily dismissed, to the Order without providing due
 19 process of law, making class-wide declaratory and injunctive relief appropriate.

20 **LEGAL BACKGROUND**

21 92. This case involves the egregious abuse of government power and
 22 denial of due process by the Defendant-Respondent OCDA and Defendant-
 23 Respondent OPD. The OCDA apparently intended to pursue the public nuisance
 24 abatement action against Plaintiff-Petitioners and others similarly situated, as long
 25 as it was uncontested. Indeed, as soon as some of the named individuals,
 26 including Plaintiff-Petitioners, attempted to contest, the OCDA dismissed the suit
 27 against them, thereby preempting any judicial determination as to whether these
 28

1 individuals should be subject to the permanent injunction. The OCDA and OPD
2 then turned around and served them with a permanent injunction obtained via
3 default against the gang. These individuals are now subject to the terms of the
4 Order without the OCDA and OPD having to prove its case against them.

5 93. Plaintiff-Petitioners, and other similarly situated, have a liberty
6 interest in their fundamental rights of free speech, freedom from vague and
7 arbitrary laws, and free movement, all of which are guaranteed by the state and
8 federal constitutions. The Order, when served on Plaintiff-Petitioners, and others
9 similarly situated, deprives them of these fundamental rights. The Order
10 proscribes otherwise legal acts and, in effect, creates a personal criminal code for
11 each individual who Defendant-Respondent decides, in their own unfettered
12 discretion, is subject to its terms. The deprivation of liberty interests thus stems
13 from the Order and the Defendant-Respondents' service of it on Plaintiff-
14 Petitioners, and others similarly situated, who now risk contempt prosecutions for
15 engaging in lawful and socially desirable conduct.

16 94. The Order, moreover, subjects Plaintiff-Petitioners, and others
17 similarly situated, to conditions that significantly confine and restrain their
18 freedom and that are not otherwise shared by the public generally. Such
19 restrictions on individual liberty subject a person to "custody" although there is no
20 physical confinement. *See Jones v. Cunningham*, 371 U.S. 236, 239 (1963); *id.* at
21 242 ("It is not relevant that conditions and restrictions such as these may be
22 desirable and important parts of the rehabilitative process; what matters is that
23 they significantly restrain petitioner's liberty to do those things which in this
24 country free men are entitled to do."); *see also In re Petersen*, 331 P.2d 24 (Cal.
25 1958) (holding that a bailee is constructively in custody because the purpose of
26 bail is to assure that he will attend the court when his presence is required). Thus,
27 Defendant-Respondents have custody of Plaintiff-Petitioners, and other similarly
28

1 situated, in violation of federal constitutional law.

2 95. A fundamental aspect of due process is that a person deprived of a
3 liberty interest be given an opportunity to be heard “at a meaningful time and in a
4 meaningful manner.” *Brewster v. Board of Educ. of the Lynwood Unified Sch.*
5 *Dist.*, 149 F.3d 971, 984 (9th Cir. 1998). Indeed, “the root requirement of the Due
6 Process Clause is that an individual be given an opportunity for a hearing *before*
7 he is deprived of any significant protected interest.” *Cleveland Bd. of Educ. v.*
8 *Loudermill*, 470 U.S. 532, 542 (1985). Such a hearing helps ensure fairness for
9 the individual and serves to protect citizens from arbitrary government
10 encroachment.

11 96. The OCDA’s and the OPD’s dismiss-and-serve strategy has
12 thoroughly subverted the judicial process and denied Plaintiff-Petitioners and
13 others similarly situated their constitutional right to due process. As a result of the
14 OCDA’s actions, the individuals dismissed from the suit not only have been
15 subjected to an injunction without any opportunity to oppose it, but they now find
16 themselves in the constitutionally untenable position of abiding by an injunction
17 that no court has determined to be lawful or justified as applied to them and
18 curtailing their daily activities and the lawful exercise of their freedoms or
19 continuing to live their lives and exercise their freedoms and risk arrest and
20 incarceration for violating the injunction. The opportunity to defend against
21 criminal contempt proceedings, following arrest and incarceration, is a pale
22 substitute for the opportunity, which the OCDA has eliminated, to defend against a
23 civil suit and to oppose issuance of the injunction in the first instance. Indeed, the
24 opportunity to defend in criminal contempt proceedings comes too late to prevent
25 precious constitutional freedoms and interests from being affected by this
26 unjustified and unlawful injunction.

27 ///

CAUSES OF ACTION

FIRST CLAIM FOR RELIEF

[Against Each and Every Defendant]

(42 U.S.C. § 1983 – Procedural Due Process

Under U.S. Const. Amend XIV)

97. Plaintiff-Petitioners reallege and replead all the allegations of the preceding paragraphs of this Complaint and incorporate them here by reference.

98. Defendant-Respondents acted under color of law.

99. The acts of Defendant-Respondents deprived Plaintiffs and those similarly situated of their rights under the Fourteenth Amendment to the United States Constitution.

100. Specifically, by subjecting Plaintiff-Petitioners and those similarly situated, or causing them to be subjected, to the terms of the Order, Defendant-Respondents deprived Plaintiff-Petitioners and those similarly situated of their constitutionally protected liberty or property interests without adequate procedural protections.

SECOND CLAIM FOR RELIEF

[Against Each and Every Defendant]

(Procedural Due Process Under Cal. Const. art. I, § 7)

101. Plaintiffs reallege and replead all the allegations of the preceding paragraphs of this Complaint and incorporate them here by reference.

102. By subjecting Plaintiff-Petitioners and those similarly situated, or causing them to be subject to, the terms of the Order, Defendant-Respondents deprived Plaintiff-Petitioners and those similarly situated of their constitutionally protected liberty or property interests without adequate procedural protections.

1 103. Defendant-Respondents' conduct deprived Plaintiff-Petitioners and
2 those similarly situated of their liberty without due process of law in violation of
3 Article I, section 7(a) of the California Constitution.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff-Petitioners respectfully request that this Court
6 enter judgment in their favor as follows:

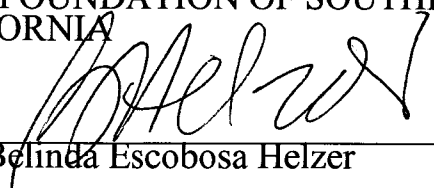
- 7 a. Assume jurisdiction of this matter;
- 8 b. Temporarily enjoin Defendant-Respondents and their directors,
9 officers, agents, and employees from enforcing the terms of Order against
10 Plaintiff-Petitioners and those similarly situated without first providing them with
11 a full constitutionally-adequate hearing;
- 12 c. Certify a class under Fed. R. Civ. Pro. 23 (or other analogous
13 procedures) as described above, pursuant to a motion for class certification to be
14 filed shortly;
- 15 d. Appoint Plaintiff-Petitioners as Class Representatives;
- 16 e. Appoint Plaintiff-Petitioners counsel as Class Counsel;
- 17 f. Declare that the actions, policies and practices of Defendant-
18 Respondents described above constitute violations of federal and state
19 constitutional law;
- 20 g. Permanently enjoin Defendant-Respondents and their directors,
21 officers, agents, and employees from enforcing the terms of Order against
22 Plaintiff-Petitioners and those similarly situated without first providing them with
23 a full constitutionally-adequate hearing;
- 24 h. Grant a writ of habeas corpus and order that Plaintiff-Petitioners and
25 those similarly situated are entitled to a constitutionally-adequate hearing before
26 Defendant-Respondents may significantly confine and restrain the freedom of
27 Plaintiff-Petitioners or others similarly situated;
- 28

1 i. Award Plaintiff-Petitioners their fees, expenses, costs, and other
2 disbursements associated with the filing and maintenance of this action, including
3 reasonable attorneys' fees pursuant to any applicable provision of law; and

4 j. Award such other equitable and further relief as the Court deems just
5 and proper.

6
7 Dated: September 21, 2009

ACLU FOUNDATION OF SOUTHERN
CALIFORNIA

8
9 By: 

Belinda Escobosa Helzer

Attorneys for Plaintiff-Petitioners

Exhibit A

NOTICE

YOU ARE HEREBY PUT ON NOTICE THAT ON MAY 14, 2009, JUDGE KAZUHARU MAKINO SIGNED AN ORDER FOR PERMANENT INJUNCTION AGAINST THE ORANGE VARRIO CYPRESS CRIMINAL STREET GANG.

ALL MEMBERS OF THE GANG ARE SUBJECT TO THE TERMS OF THE PERMANENT INJUNCTION.

ALL MEMBERS OF THE GANG, WHETHER OR NOT NAMED IN THE ORIGINAL LAWSUIT OR NAMED IN THE ORIGINAL LAWSUIT AND LATER DISMISSED FROM THE LAWSUIT AND ALL PARTICIPANTS, AGENTS, ASSOCIATES, SERVANTS, EMPLOYEES, AIDERS AND ABETTORS WHOSE MEMBERSHIP, PARTICIPATION, AGENCY, ASSOCIATION, SERVICE, EMPLOYMENT, AID OR ABETMENT IS MORE THAN NOMINAL, PASSIVE, INACTIVE, OR PURELY TECHNICAL, AND ALL PERSONS ACTING UNDER, IN CONCERT WITH, FOR THE BENEFIT OF, AT THE DIRECTION OF, OR IN ASSOCIATION WITH ORANGE VARRIO CYPRESS CRIMINAL STREET GANG IN ANY MANNER THAT IS MORE THAN NOMINAL, PASSIVE, INACTIVE, OR PURELY TECHNICAL, ARE SUBJECT TO THE TERMS OF THE PERMANENT GANG INJUNCTION.

(*PEOPLE EX REL. GALLO V ACUNA* (1997) 14 CAL.4TH 1090, 1125, *BERGER V SUPERIOR COURT* (1917) 175 CAL. 719, 721, *IN RE BERRY* (1968) 68 CAL.2D 137, 155-156, *PEOPLE EX REL. TOTTEN V COLONIA CHIQUES* (2007) 156 CAL.APP.4TH 31, 45, AND *PEOPLE V. CONRAD* (1997) 55 CAL.APP.4TH 896, 902)

ALL PERSON DESCRIBED ABOVE WILL FACE CRIMINAL PROSECUTION PURSUANT TO PENAL CODE SECTION 166(a)(4) FOR ANY WILLFUL VIOLATION OF ANY PROVISION LISTED IN THE PERMANENT GANG INJUNCTION.

NOTICE

AVISO

LE PONEN POR ESTE MEDIO EN EL AVISO QUE ESTE 14 DE MAYO DE 2009, JUEZ QUE KAZUHARU MAKINO FIRMÓ UNA ORDEN PARA LA PRESCRIPCIÓN PERMANENTE CONTRA LA CUADRILLA CRIMINAL DE LA CALLE DEL CIPRÉS ANARANJADO DE VARRIO.

TODOS LOS MIEMBROS DE LA CUADRILLA ESTÁN CONFORME A LOS TÉRMINOS DE LA PRESCRIPCIÓN PERMANENTE.

TODOS LOS MIEMBROS DE LA CUADRILLA, SI O NO NOMBRADO EN EL PLEITO ORIGINAL O NOMBRADO EN EL PLEITO ORIGINAL Y DESPEDIDO MÁS ADELANTE DEL PLEITO Y DE TODOS LOS PARTICIPANTES, LOS AGENTES, LOS ASOCIADOS, LOS CRIADOS, LOS EMPLEADOS, LOS AIDERS Y EL CÓMPLICE QUE CALIDAD DE MIEMBRO, PARTICIPACIÓN, AGENCIA, ASOCIACIÓN, SERVICIO, EMPLEO, AYUDA O ES ABETMENT MÁS QUE NOMINAL, PASIVO, INACTIVO, O PURAMENTE TÉCNICO Y TODAS LAS PERSONAS QUE ACTÚAN DEBAJO, EN CONCIERTO CON, EN BENEFICIO DE, EN LA DIRECCIÓN, O EN ASOCIACIÓN CON DE LA CUADRILLA CRIMINAL DE LA CALLE DEL CIPRÉS ANARANJADO DE VARRIO DE CUALQUIER MANERA QUE SEA MÁS QUE NOMINAL, PASIVOS, INACTIVOS, O PURAMENTE TÉCNICOS ESTÁN CONFORME A LOS TÉRMINOS DE LA PRESCRIPCIÓN PERMANENTE DE LA CUADRILLA.

(*GENTE REL EX. GALLO V ACUNA* (1997) 14 CAL.4TH 1090, 1125, *CORTE SUPERIOR DE BERGER V* (1917) 175 CALORÍAS. 719, 721, *EN BAYA RE* (1968) 68 CAL.2D 137, 155-156, *GENTE REL EX. TOTTEN V COLONIA CHIQUES* (2007) 156 CAL.APP.4TH 31, 45, Y *GENTE V. CONRADO* (1997) 55 CAL.APP.4TH 896, 902)

TODA LA PERSONA DESCRITA ARRIBA HARÁ FRENTE AL PROCESAMIENTO CRIMINAL CONFORME A LA SECCIÓN PENAL 166 (a) (4) del CÓDIGO PARA CUALQUIER VIOLACIÓN VOLUNTARIOSAMENTE DE CUALQUIER PROVISION ENUMERADO EN LA PRESCRIPCIÓN PERMANENTE de la CUADRILLA.

AVISO

COPY

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

MAY 14 2009

ALAN CARLSON, Clerk of the Court

M. Varela
BY M. VARELA

SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

THE PEOPLE OF THE STATE OF CALIFORNIA,

Case No. 30-2009-00118739

Plaintiff,

**~~PROPOSED~~ ORDER FOR
PERMANENT INJUNCTION**

v.

ORANGE VARRIO CYPRESS CRIMINAL
STREET GANG (an unincorporated association),
STEVE ABAD (aka Steven Abad), IVAN ABAD
(aka Ivan Dector Abad, Shadey, Shady),
ALEXANDER CISNEROS AGUIRRE (aka Alex
Garcia, Alejandro Aguirre, Alex Aguirre, Alex
Cisneros Aguirre, Pablo Gonzales, Cartoon), JOE
ANTHONY ALVARADO (aka Philip Estrada,
Joseph Alvarado, Felipe DeJesus Estrada, Joe,
Stranger), MIGUEL ALVIDREZ (aka Miguel
Aolvidrez, Sleeper, Sleepy), MONIQUE AMBER
ALVARADO, WILLIAM ARANDA (aka William
Chavez Aranda, Willie Aranda, William Chavez
Aranda, William Chavez, Willy Chavez Aranda,
William Aranda Jr., William Chavez Aranda Jr.,
Casper), ERIKA VANESSA ARANDA (aka Erika
Mariscal Aranda, Erika Vanessa Arando, Erika
Vanessa Miranda, Gumby, Ms. Smokey),
RAYMOND MARTIN ATENCIO (aka Ray
Atencio, Raymond Martin Attencio, Reymond

1 Martin Atencio, Rey Atencio, Reymond Martin
 2 Atencio, IV, Raymond Martin Atencio, IV, Raymond
 3 Atencio, Ray Ray, Rey Rey, Demon), JESUS JOSE
 4 AVILA (aka Jesus Avila, Jesus Avila Gonzalez,
 5 Chewy), JAVIER AVILA (aka Jesus Avila, Javier
 6 Avila Gonzalez, Javi, Javy, Smokey), JOSE AYALA
 7 (aka Jose Ayala, Jr., Shadow), JOSEPH ANTHONY
 8 BAEZ (aka Joseph Anthony Bael, Spooky, Spooks,
 9 Spookster), RANDY BASTIDA (aka Randy William
 10 Bastida), GABRIEL BASTIDA (aka Gabriel Nasario
 11 Bastida), JUAN BENITEZ, JR. (aka Juan),
 12 WILLIAM RYAN BOOKER (aka Ryan Booker,
 13 Stalker), JOSHUA ALLAN BRANCH (aka Josh
 14 Allen Branch, Joshua Branch, Joshua A. Branch,
 15 Joshua Allen Branch, Cricket), ANDREW
 16 CALDERON (aka Andrew Michael Calderon, Kid),
 17 BRIAN JAVIER CAMACHO, JAVIER
 18 CAMACHO (aka Brian Gutierrez, Laughing Boy),
 19 LAURO CAMPOS (aka Laura Campos, Lauro
 20 Campos, Lauro Campos-Rosas, Goofy, Midnight),
 21 JESUS COMEA CANO (aka Jesus Cano Correa,
 22 Jesus Cantu Correa, Chewee, Chewy, Chuy),
 23 CELERINO CARBAJAL (aka Whisper), ANGEL
 24 ANTHONY CERVANTES (aka Playboy),
 25 ENRIQUE OCHOA CERVANTES (aka Ricky
 26 Cervantes, Soldier Ricky), RENE RAYMOND
 27 CHAVEZ (aka Indio), ANNA SILVIA COOPER
 28 (aka Ana Silvia Nogales, Anna Silvia Nogales, Ms.
 Shaggy), MICHAEL GALBRAITH COOPER (aka
 Michael Galbrith, Mike Cooper, Michael Ortiz,
 Michael Cooper, Jesse Soto, Cartoon, Shaggy,
 Smokey), MARTIN SALVADOR CORNEJO (aka
 Lil Martin, Rabbit), RUBEN CANDILLARIA
 CRUZ (aka Reuben Cruz, Ruben Cruz, Ruben
 Candellarria Cruz, Pirate), MIGUEL ALAHONDRO
 CRUZ, LOUIS MIGUEL DEHERRERA (aka Louie,
 Tiger), ROY DAVID DEHERRERA (aka Patrick
 Phillip DeHerrera, Pat DeHerrera, Patrick Philip
 DeHerrea, Patric Philip DeHerera, Patrick Philip
 Herra, P. Herrera, Roy DeHerrera, Patrick
 DeHerrera, Patrick Phillip Herrera, Patrick P.

1 DeHerrera, Patrick Philip Herrera) ,PATRICK
 2 PHILIP DEHERRERA (aka Patrick Phillip
 3 DeHerceba, Patarick Philip DeHerrea, Popeye),
 4 HECTOR DELATORRE JR. (aka Hector Junior
 5 Delatorre, Matthew Montoya, Scrap, Scraps, Skrap),
 6 JAVIER ESPARZA (aka John David Esparz,
 7 Gizmo), HUGO ADRIAN ESTEVES (aka Blaze),
 8 CHRISTIAN MOISES GALINDO (aka Christian
 9 Msoses Galindo, Cristian Moises Galindo, Christian
 10 Mmoises Galindo, Anthony Perez, Edgar Galindo),
 11 ANDREW PAUL GARCIA (aka Andrew Garcia,
 12 Youngster, Wacko), JAVIER HUGO GARCIA (aka
 13 Negro), JOEL JOSEPH GARCIA (aka Joseph F.
 14 Garcia, Joseph Franklin Garcia), MIGUEL ANGEL
 15 GARCIA (aka Bunny, Rabbit), RICHARD
 16 ANTHONY GARCIA (aka Richard Garcia, Shorty,
 17 Little Richard, Rich, Valarta), RONNIE ANDREW
 18 GARCIA (aka Ronnie Guillermo Garcia, Evil, Run
 19 Run), EDUARDO GOMEZ (aka Eddie Gomez,
 20 Eddie, Eddy, Trip, Trips), ALEX GONZALEZ (aka
 21 Alex Gonzales, Alejandro Gonzalez, Lil Hitman),
 22 EMMANUAL GOMEZ (aka Gustavo Gomez,
 23 Manny, Pelon), JOSEPH MICHAEL GONZALEZ,
 24 JR. (aka Joe Michael Gonzales, Joseph Michael
 25 Gonzales, Joe Gonzales, Joseph M. Gonzales, Joseph
 26 Gonzales, Joseph Michael Gonzalez, Joseph
 27 Gonzalez, Joe Gonzalez, Shanker), JUAN LUIS
 28 GONZALEZ (aka Abel Pico Martinez, Lazy),
 JASON ROBERT GRAY (aka Demon, Jay),
 CHARLES RICHARD GREEN (aka Charles Green,
 Richard Green, Charles Richard Rojas, Richard
 Charles Rojas, Charles Fitchorp Green, Richard C.
 Green, Droopy, Green Eyes), JOSE DEJESUS
 GUZMAN (aka Jose DeJesus Guzman Macias, Jesus
 Guzman, Jose DeJesus Macias), ANTHONY
 CHRISTOPHER HART (aka Anthony C. Hart,
 Anthony Christophe Hart, Sucio), ALBERT
 ANTHONY HERNANDEZ (aka Albert Hernandez,
 Jr., Lil Shaggs, Lil Shaggy, Pee Wee), LORI
 ALEJANDRA HUERTA (aka Lady Wicked),
 JAVIER GREGORY HURTADO (aka Gregorio

1 Javier Hurtado, Javier Gregorio Hurtado, Jr., Lil
 2 Evil, Javy, Little Evil), JESSE BERNAL LARA (aka
 3 Jesse Lara, Joker), MIGUEL BERNAL LARA (aka
 4 Wicked Lara, Boxer, Wicked), DANIEL
 5 EMANUAL LOPEZ (aka Daniel Emanuel Lopez,
 6 Daniel Emanuel Lopez, Daniel Emanol Lopez,
 7 Daniel Lopez, Little Man, Travieso), JONATHAN
 8 MICHAEL LOPEZ (aka Jonathan Lopez, Johnathan
 9 Michael Lopez, Charles Michael Lopez, Jonthon
 10 Michael Lopez, Jonathan Michael Lopez, Johnny,
 11 Before, Polm, Sparky), JOSE ANTONIO
 12 LORENZO (aka Pooh), ANGEL LUNA (aka Angel
 13 Sevilla Luna), CARLOS MARTINEZ MAGANA
 14 (aka Carlos Magana Martinez, Mr. Goofy),
 15 ANTHONY PEREZ MARTINEZ (aka Anthony
 16 Martinez, Hector Martinez, Anthony Eliff, Anthony
 17 P. Martinez, Anthony Perez Martinez, Jr.), EDGAR
 18 EDUARDO MARTINEZ (aka Rascal), JOSE
 19 ANTONIO MARTINEZ (aka Tony Martinez, Tony),
 20 JOSE CARLOS MAYORGA (aka Doeboy, Dough
 21 Boy, Doughboy, Joe), HARVEY MEJIA (aka
 22 Chucky, Gardo), MELISSA NICHOLE MEJIA (aka
 23 Melisa Nichol Mejia, Melisa Nicole Mejia, Nicole
 24 Gonzales, Melisa Saucedo, Melissa Saucedo, Boo
 25 Boo), ADRIAN MENDOZA (aka Mr. Sparkey,
 26 Sparky), ENRIQUE CAMACHO MERAZ (aka
 27 Enrique Merez, Gangster, Gremlin, Lil OG, Lil
 28 Shortee, O.G. Original), MICHAEL ALBERTO
 MORALES, JAIME MIGUEL MORGUTIA, JR.
 (aka Jaime Morgutia, Jaime Morgutia, Jr., Jaime M.
 Morgutia, Jaime Miguel Morgutia), JOSE DANIEL
 MUNOZ (aka Jose Munoz, Goody, Innocent, Lil
 Good, Lil Goody, Lil Trips), ANGELA LAURA
 NAVARRO (aka Angie L. Navarro, Angeie Navarro,
 Angel Laura Navarro, Angie, Big Angie, Grumpy,
 La Grumpy), GILBERT NEGRETE (aka Gilberto
 Negrete, Wolfy), JOSE ADAN NIETO (aka
 Clumsy), OMAR PATINO (aka Lil Man), DANIEL
 NEFTALI PEREZ (aka Daniel Nafala Perez, Daniel
 Nefaly Perez), GUSTAVO ALFONSO PEREZ (aka
 Gustavo Perez, Cartoon), DIEGO RAMIREZ (aka

1 Diego Benitez Ramirez, Diego Javier Ramirez),
 2 JUAN SERGIO RAMIREZ (aka Juan Ramirez, Juan
 3 Carlos Ramirez, Boxer), NATHANIEL RYAN
 4 RAMIREZ (aka Nathaniel Ryan Ramirez, Nathaniel
 5 Ramirez, Minor), ROMIE DANIEL PEREZ (aka
 6 Oso, Slow, Slow Boy), ZACHARIAH ISAIAH
 7 RAMIREZ (aka Zacharia Isiah Rameriz, Boxer),
 8 ROBERT LOUIS REIL (aka Robert Luis Reil,
 9 Robert Luis Riel, Robert Louis Riel, Robert Reil,
 10 Shanke, Luis, Downer), HOMER LUIS ROSALES
 11 (aka Homer Alvarez, Luis Rosalez Alvarez, Luis
 12 Rosales Castro, Homer Alvarez Rosales, Luis
 13 Rosales, Luis Homer Alvarez Rosales, Homer,
 14 Maze), TYRONE CHRISTOPHER RYE (aka Troy
 15 Rye, William Rye, Tyrone Christophe Rye, William
 16 Norman Rye, Norman Rye William, Michael
 17 Mitchell Veramondi, Richard A. Portillo, Richard
 18 Aaron Portillo, Thumper), CARLOS MANUEL
 19 SANCHEZ (aka Carlos Perez, Carlos Sanchez Perez,
 20 Lost), LUIS ALBERTO SANCHEZ (aka Cheeks,
 21 Kashetez, Cachetes), SHAWN SANDOVAL (aka
 22 Shawny Boy), JESSE SAUCEDO (aka Big Jesse,
 23 Scarp), BEATRICE DESIREE SEPULVEDA (aka
 24 Desiree Sepulveda, Dee Dee, Desiree), ADAM
 25 WAYNE SNELL (aka Adam Wyane Snell, Bones,
 26 Casper), BRIAN JOHN SUAREZ (aka Brian Hugo
 27 Suarez, Dough Boy), FERNANDO TAPIA (aka
 28 Fernando Saul Tapia, Fernie, Panther), ISRAEL
 TEJEDA (aka Israel Tejada, Jr., Clever, J., Shorty),
 CLARENCE ANTHONY TENORIO (aka Clarence
 Tenorio, Tony Tenorio, Clarence Valdivai, Clarence
 Anthony Valdivia - Tenorio, Clever, Klever),
 RUBEN TENORIO (aka Ruben Palacios), DANNY
 BOY TORRES (aka Baby Boy, Danny Boy, Demon,
 Lil Demon, Little Demon), HERMES GERARDO
 TROCHEZ (aka Hermes Geraldo Trochez, Hermas
 Tarochez, Hermes Torchez, Hermes Tarochez,
 Herman Gerardo Trochez, Sleep, Psycho, Syko),
 MARTIN BLANCO TRUJILLO (aka Martin
 Trujillo, Jose Soto, Buggy, Crook, Rhino), DANIEL
 VASQUEZ (aka Danny Vasquez), DAVID VICTOR

VASQUEZ (aka Victor David Vasquez, David Vasquez, Herbie, Sneaky), MANUEL VASQUEZ, NATHANIEL VALDEZ (aka Nathaniel Valdez Arriano, Nathaniel Joseph Valdez, Leva, Nate, Nate Dogg, Punk), SERGIO VASQUEZ (aka Sergio Gonzalez), JESUS ANTONIO VELASQUEZ (aka Frog, Frogger, Froggy, Maniac, Groggy), YONI VELASQUEZ (aka Yony Velasquez, Clown), RAYMUNDO VELEZ (aka Raymundo Rivas Velez, Artic, Artik, Joker, Klone), JEFFREY SEBASTIAN VILLALBA (aka Jeffrey Villalba, Shy Boy, Shy One), ALFONSO MEJIA YEPEZ (aka Alfonso Majayepetz, Alfonso Yepez, Alfonso Clemente Reyes, Alfonso Mejia – Yepez, Alfonzo Yepez Mejia), ALEXIS FERNANDO ZAMORA (aka Alex Zamora, Rocky, Rookie, 4), EDGAR MIGUEL ZAMORA (aka Edgar Zamora, Edgar M. Zamora, Chief, Dopey, Doppy), and DOES 1 – 150, inclusive,

Defendants.

GOOD CAUSE HAVING BEEN SHOWN, IT IS HEREBY ORDERED ORANGE VARRIO CYPRESS CRIMINAL STREET GANG (an unincorporated association), and the ORANGE VARRIO CYPRESS CRIMINAL STREET GANG'S members, participants, agents, associates, servants, employees, aiders, and abettors whose membership, participation, agency, association, service, employment, aid, or abetment is more than nominal, passive, inactive, or purely technical, and all persons acting under, in concert with, for the benefit of, at the direction of, or in association with ORANGE VARRIO CYPRESS CRIMINAL STREET GANG in a manner that is more than nominal, passive, inactive, or purely technical, and Miguel Alvidrez (aka Miguel Aolvidrez, Sleeper, Sleepy), Raymond Martin Atencio (aka Ray Atencio, Raymond Martin Attencio, Reymond Martin Atencio, Rey Atencio, Reymond Martin Atencio, IV, Raymond Martin Atencio, IV, Raymond Atencio, Ray Ray, Rey Rey, Demon), Jose Ayala (aka Jose Ayala, Jr., Shadow), Joseph Anthony Baez (aka Joseph Anthony Bael, Spooky, Spooks,

1 Spookster), Gabriel Bastida (aka Gabriel Nasario Bastida), Joshua Allan Branch (aka Josh Allen
 2 Branch, Joshua Branch, Joshua A. Branch, Joshua Allen Branch, Cricket), Lauro Campos (aka
 3 Laura Campos, Lauro Cumpos, Lauro Campos-Rosas, Goofy, Midnight), Jesus Comea Cano
 4 (aka Jesus Cano Correa, Jesus Cantu Correa, Chewee, Chewy, Chuy), Rene Raymond Chavez
 5 (aka Indio), Martin Salvador Cornejo (aka Lil Martin, Rabbit), Ruben Candillaria Cruz (aka
 6 Reuben Cruz, Ruben Cruz, Ruben Candellarria Cruz, Pirate), Javier Esparza (aka John David
 7 Esparz, Gizmo), Ronnie Andrew Garcia (aka Ronnie Guillermo Garcia, Evil, Run Run), Andrew
 8 Paul Garcia (aka Andrew Garcia, Youngster, Wacko), Richard Anthony Garcia (aka Richard
 9 Garcia, Shorty, Little Richard, Rich, Valarta), Alex Gonzalez (aka Alex Gonzales, Alejandro
 10 Gonzalez, Lil Hitman), Juan Luis Gonzalez (aka Abel Pico Martinez, Lazy), Jason Robert Gray
 11 (aka Demon, Jay), Charles Richard Green (aka Charles Green, Richard Green, Charles Richard
 12 Rojas, Richard Charles Rojas, Charles Fitchorp Green, Richard C. Green, Droopy, Green Eyes),
 13 Jose DeJesus Guzman (aka Jose DeJesus Guzman Macias, Jesus Guzman, Jose DeJesus
 14 Macias), Javier Gregory Hurtado (aka Gregorio Javier Hurtado, Javier Gregorio Hurtado,
 15 Jr., Lil Evil, Javy, Little Evil), Jesse Bernal Lara (aka Wicked Lara, Joker), Jonathan Michael
 16 Lopez (aka Jonathan Lopez, Johnathan Michael Lopez, Charles Michael Lopez, Jonthon
 17 Michael Lopez, Jonathan Michael Lopez, Johnny, Before, Polm, Sparky), Jose Carlos Mayorga
 18 (aka Doeboy, Dough Boy, Doughboy, Joe), Harvey Mejia (aka Chucky, Gardo), Adrian
 19 Mendoza (aka Mr. Sparkey, Sparky), Enrique Camacho Meraz (aka Enrique Merez, Gangster,
 20 Gremlin, Lil OG, Lil Shortec, G.G. Original), Jaime Miguel Morgutia, Jr. (aka Jaime Morgutia,
 21 Jaime Morgutia, Jr., Jaime M. Morgutia, Jaime Miguel Morgutia), Omar Patino (aka Lil Man),
 22 Juan Sergio Ramirez (aka Juan Ramirez, Juan Carlos Ramirez, Boxer), Zachariah Isaiah
 23 Ramirez (aka Zacharia Isiah Rameriz, Boxer), Diego Ramirez (aka Diego Benitez Ramirez,
 24 Diego Javier Ramirez), Nathaniel Ryan Ramirez (aka Nathaniel Ryan Ramirez, Nathaniel
 25 Ramirez, Minor), Robert Louis Reil (aka Robert Luis Reil, Robert Luis Riel, Robert Louis Riel,
 26 Robert Reil, Shanke, Luis, Downer), Tyrone Christopher Rye (aka Troy Rye, William Rye,
 27 Tyrone Christophe Rye, William Norman Rye, Norman Rye William, Michael Mitchell
 28 Veramondi, Richard A. Portillo, Richard Aaron Portillo, Thumper), Carlos Manuel Sanchez (aka

Carlos Perez, Carlos Sanchez Perez, Lost), Shawn Sandoval (aka Shawny Boy), Clarence Anthony Tenorio (aka Clarence Tenorio, Tony Tenorio, Clarence Valdivai, Clarence Anthony Valdivia – Tenorio, Clever, Klever), Yoni Velasquez (aka Yony Velasquez, Clown), Alexis Fernando Zamora (aka Alex Zamora, Rocky, Rookie, 4), Edgar Miguel Zamora (aka Edgar Zamora, Edgar M. Zamora, Chief, Dopey, Doppy), Danny Boy Torres (aka Baby Boy, Danny Boy, Demon, Lil Demon, Little Demon), Martin Blanco Trujillo (aka Martin Trujillo, Jose Soto, Bugsy, Crook, Rhino) are enjoined from engaging in or performing directly or indirectly, any of the following activities in the Safety Zone:

The Safety Zone is defined as follows:

I. DOWNTOWN TERRITORY

The north curb-line of Collins Avenue; to the west curb-line of Glassell Street; to the north curb-line of Jacaranda Avenue; to the east curb-line of Grand Street; to the north curb-line of Collins Avenue; to the west curb-line of Cambridge Street; to the north curb-line of Adams Avenue; to the east curb-line of California Street; to the north curb-line of Collins Avenue; to the east curb-line of Cambridge Street; to the south curb-line of La Veta Avenue; to the east curb-line of Shaffer Street, continuing along the wrought iron fence-line that borders the eastern perimeter of Hart Park; to the cinder-block wall that surrounds Hart Park; to the west curb-line of Glassell; to the south curb-line of La Veta; to the west curb-line of Crest Street; to the west curb-line of Feldner Street; to the south curb-line of Chapman Avenue; to the west curb-line of Eckhoff Street; to the south fence-line located to the rear of the businesses at 2100-2200 W. Orangewood; to the east curb-line of the Orangewood off-ramp of the northbound 57 freeway; to the north curb-line of Orangewood Avenue; to the west curb-line of Main Street; to the north curb-line of Collins Avenue.

II. HIGHLAND TERRITORY:

(Area 1) The north curb-line of Lincoln Avenue to the north, the south curb-line of Meats Avenue to the south, the west sound-barrier wall of the south-bound 55 Freeway to the east, and the west curb-line of Canal Street to the west; (Area 2) The north curb-line of Meats Avenue to

1 the north, the fence-line located behind the businesses at 1592 North Tustin Street to the south,
 2 the west sound-barrier wall of the south-bound 55 Freeway to the east, the cinderblock wall
 3 located behind the businesses on Tustin Street to the west; (Area 3) The fence-line located
 4 behind the businesses at 1592 North Tustin Street to the north, the south curb-line of Katella
 5 Avenue to the south, the west sound-barrier wall of the south-bound 55 Freeway to the east, the
 6 fence-line located behind the businesses at 1400-1518 and 1582 North Tustin Street to the west;
 7 (Area 4) The cinder block wall located behind the businesses on the north-west corner of Tustin
 8 Street and Katella Avenue to the north and west, the north curb-line of Katella Avenue to the
 9 south, the west sound-barrier wall of the south-bound 55 Freeway to the east; (Area 5) The north
 10 curb-line of the Katella Avenue to the north, the south curb-line of Collins Avenue to the south,
 11 the west sound-barrier wall of the south-bound 55 Freeway to the east, the east curb-line of
 12 California Street to the west; (Area 6) The north curb-line of Collins Avenue to the north, the
 13 south curb-line of Mayfair Avenue to the south, the west sound-barrier wall of the southbound
 14 55 Freeway to the east, the east curb-line of Shattuck Street to the west; (Area 7) The north
 15 curb-line of Mayfair Avenue to the north, the north curb-line of Walnut Avenue to the south, the
 16 west sound-barrier wall of the south-bound 55 Freeway to the east, the cinder block wall located
 17 behind the businesses on Tustin Street to the west; (Area 8) The north curb-line of Walnut
 18 Avenue to the north, the south curb-line of Palm Avenue to the south, the west sound-barrier
 19 wall of the south-bound 55 Freeway to the east, the east curb-line of Shattuck Street to the west;
 20 (Area 9) The north curb-line of Palm Avenue to the north, the north curb-line of Chapman
 21 Avenue to the south, the west sound-barrier wall of the south-bound 55 Freeway to the east, the
 22 cinder block wall locate behind the businesses on Tustin Street to the west; (Area 10) The north
 23 curb-line of Chapman Avenue to the north, the south curb-line of Palmyra Avenue to the south,
 24 the west sound-barrier wall of the south-bound 55 Freeway to the east, the east curb-line of
 25 Lincoln Street to the west.

26 III. HOOVER-WILSON TERRITORY:

27 The north curb-line of Katella Avenue to the north; the south curb-line of Collins Avenue to the
 28 south; the east curb-line of Glassell Street to the east; and the OCTA Metro-Link railroad tracks

1 to the west. (A map of the Safety Zone is attached hereto as Exhibit A.)

2 **a. Do Not Associate:** Anywhere in any public place, any place accessible to the public,
3 or in public view, do not stand, sit, walk, drive, bicycle, gather or appear with (1) any person
4 named herein, (2) anyone you know to be a member, participant, agent, associate, servant,
5 employee, aider, or abettor of the Orange Varrio Cypress criminal street gang, or (3) anyone you
6 know to be acting under, in concert with, for the benefit of, at the direction of, or in association
7 with the Orange Varrio Cypress criminal street gang. (*People ex rel. Gallo v. Acuna, supra*, 14
8 Cal.4th at 1110, 1117-1118, 1121-1122 [discussion of provision (a)], 1123-1125; *In re*
9 *Englebrecht, supra*, 67 Cal.App.4th at 488-489, 490 fn. 3 [quoting par (a)]; *People v.*
10 *Englebrecht, supra*, 88 Cal.App.4th at 1243 and 1261; *People ex. rel. Totten v. Colonia Chiques*
11 (2007) 156 Cal.App.4th 31, 37.)

12 **b. Do Not Intimidate:** Anywhere in any public place, any place accessible to the public,
13 or in public view, do not (1) confront, intimidate, annoy, harass, threaten, challenge, provoke,
14 assault, or batter anyone in the Safety Zone, or (2) remain in the presence of or assist anyone
15 you know is confronting, intimidating, annoying, harassing, threatening, challenging, provoking,
16 assaulting, or battering anyone in the Safety Zone. (*People ex rel. Gallo v. Acuna, supra*, 14
17 Cal.4th at 1118-1122; *In re Englebrecht, supra*, 67 Cal.App.4th at 490 fn. 3, 493, [par (k)]);
18 *People ex. rel. Totten v. Colonia Chiques, supra*, 156 Cal.App.4th, 31, 37.)

19 **c. Stay Away From Drugs and Drug Paraphernalia:** Anywhere in any public place,
20 any place accessible to the public, or in public view, do not (1) unlawfully use, possess,
21 transport, furnish, manufacture, deliver, dispense, distribute, or sell any drug or drug
22 paraphernalia, (2) remain in the presence of or assist anyone you know is unlawfully using,
23 possessing, transporting, furnishing, manufacturing, delivering, dispensing, distributing, or
24 selling any drug or drug paraphernalia, (3) remain in the presence of or assist anyone you know
25 is unlawfully under the influence of any drug, (4) knowingly remain in the presence of any
26 illegal drug or drug paraphernalia, or (5) unlawfully be under the influence of any drug. (Bus. &
27 Prof. Code §§ 4060, 4140-4141; Health & Saf. Code §§ 11014, 11014.5, 11018-11021, 11053-

1 11058, 11364, and 11550; Pen. Code § 31; *People v. Englebrecht, supra*, 88 Cal.App.4th at
 2 1243, fn. 2, [par (l)]); *People ex. rel. Totten v. Colonia Chiques, supra*, 156 Cal.App.4th, 31, 37.)

3 **d. Stay Away From Guns, Explosive Devices and Weapons:** Anywhere in any public
 4 place, any place accessible to the public, or in public view, do not (1) use, possess, transport,
 5 furnish, manufacture, deliver, dispense, distribute, or sell any firearm, gun, replica firearm,
 6 ammunition, BB gun, pellet gun, explosive device, destructive device, or weapon such as
 7 knives, dirks, daggers, clubs, metal knuckles, hard plastic knuckles, nunchakus, chains,
 8 slingshots, or any weapon listed in Penal Code § 12020, (2) remain in the presence of or assist
 9 anyone you know is using, possessing, transporting, furnishing, manufacturing, delivering,
 10 dispensing, distributing, or selling any firearm, gun, replica firearm, ammunition, BB gun, pellet
 11 gun, explosive device, destructive device, or weapon such as knives, dirks, daggers, clubs, metal
 12 knuckles, hard plastic knuckles, nunchakus, chains, slingshots, or any weapon listed in Penal
 13 Code § 12020, or (3) knowingly remain in the presence of any firearm, gun, replica firearm,
 14 ammunition, BB gun, pellet gun, explosive device, destructive device, or weapon such as
 15 knives, dirks, daggers, clubs, metal knuckles, hard plastic knuckles, nunchakus, chains,
 16 slingshots, or any weapon listed in Penal Code § 12020. (Health & Saf. Code §§ 12000, 12120,
 17 12303, and 12305; Pen. Code §§ 31, 12001, 12020, 12020.1, 12301, 12550; OMC §§ 9.32.010,
 18 9.32.020; *People v. Englebrecht, supra*, 88 Cal.App.4th at 1243, fn. 2, [par (c), (j)]); *People ex.*
 19 *rel. Totten v. Colonia Chiques, supra*, 156 Cal.App.4th, 31, 37.)

20 **e. Do Not Fight:** Anywhere in any public place, any place accessible to the public, or in
 21 public view, do not (1) unlawfully fight or challenge another person to fight, (2) remain in the
 22 presence of or assist anyone you know is unlawfully fighting or challenging another person to
 23 fight, (3) maliciously and willfully disturb another person by loud or unreasonable noise, (4)
 24 remain in the presence of or assist anyone you know is maliciously and willfully disturbing
 25 another person by loud or unreasonable noise, (5) use offensive words which are inherently
 26 likely to provoke an immediate violent reaction, or (6) remain in the presence of or assist anyone
 27 you know is using offensive words which are inherently likely to provoke an immediate violent
 28

1 reaction. (Pen. Code §§ 31 and 415; *People v. Englebrecht, supra*, 88 Cal.App.4th at 1243, fn.
2 2, [par (d)]); *People ex. rel. Totten v. Colonia Chiques, supra*, 156 Cal.App.4th, 31, 37.)

3 **f. Do Not Trespass:** Do not (1) be present on, remain on, or pass through any property
4 not open to the public unless you have the voluntary consent of the owner, owner's agent, or the
5 person in lawful possession of the property, or (2) remain in the presence of or assist anyone you
6 know is present on any property not open to the public without the voluntary consent of the
7 owner, owner's agent, or the person in lawful possession of the property. (*People v.*
8 *Englebrecht, supra*, 88 Cal.App.4th at 1243, fn. 2, [par (g)]); *People ex. rel. Totten v. Colonia*
9 *Chiques, supra*, 156 Cal.App.4th, 31, 37.)

10 **g. Do Not Block Free Passage:** Anywhere in any public place, any place accessible to
11 the public, or in public view, do not (1) willfully and maliciously block the free passage of any
12 person or vehicle on any street, walkway, sidewalk, driveway, alleyway, or other area of public
13 passage, or (2) remain in the presence of or assist anyone you know is willfully and maliciously
14 blocking the free passage of any person or vehicle on any street, walkway, sidewalk, driveway,
15 alleyway, or other area of public passage. (Pen. Code §§ 31 and 647c; OMC § 12.64.020; *In re*
16 *Englebrecht, supra*, 67 Cal.App.4th at 490 fn. 3, 493 [par (h)].)

17 **h. Do Not Engage In Graffiti and/or Vandalism And Stay Away From**
18 **Graffiti/Vandalism Tools:** Anywhere in any public place, any place accessible to the public, or
19 in public view, do not (1) maliciously spray paint, mark with marker pens, or otherwise deface
20 property with graffiti or other inscribed material on any public property or private property not
21 your own, (2) remain in the presence of or assist anyone you know is maliciously spray painting,
22 marking with marker pens, or otherwise defacing property with graffiti or other inscribed
23 material on any public or private property not belonging to him, her or you, (3) maliciously
24 damage or destroy real or personal property not your own, (4) remain in the presence of or assist
25 anyone you know is maliciously damaging or destroying real or personal property not belonging
26 to him, her or you, (5) unlawfully possess spray paint cans, marker pens, knives, screwdrivers,
27 razor blades, nails, or other objects capable of destroying, damaging, or defacing property, or (6)
28 remain in the presence of or assist anyone you know is unlawfully possessing spray paint cans,

1 marker pens, knives, screwdrivers, razor blades, nails, or other objects capable of destroying,
 2 damaging, or defacing property. (Pen. Code §§ 31, 594, and 594.2; OMC §§ 8.37.030, 8.37.040
 3 8.37.045; *People v. Englebrecht*, *supra*, 88 Cal.App.4th at 1243, fn. 2, [par (e), (f)]); *People ex.*
 4 *rel. Totten v. Colonia Chiques*, *supra*, 156 Cal.App.4th, 31, 37.)

5 **i. Do Not Use Gang Hand Signs or Symbols:** Anywhere in any public place, any place
 6 accessible to the public, or in public view, do not (1) use, display, or communicate by means of
 7 any words, phrases, physical gestures, hand signs, or symbols that you know describe, represent,
 8 or refer to the Orange Varrio Cypress criminal street gang, or (2) remain in the presence of or
 9 assist anyone you know is using, displaying, or communicating by means of any words, phrases,
 10 physical gestures, hand signs or symbols that you know describe, represent, or refer to the
 11 Orange Varrio Cypress criminal street gang. (*People v. Englebrecht*, *supra*, 88 Cal.App.4th at
 12 1243 fn. 2, 1266-1267 [par (s)]); *People ex. rel. Totten v. Colonia Chiques*, *supra*, 156
 13 Cal.App.4th, 31, 37.)

14 **j. Do Not Wear Gang Clothing:** Anywhere in any public place, any place accessible to
 15 the public, or in public view, do not (1) wear, display, exhibit, or possess any clothes or
 16 accessories that you know advertise, advance, promote, represent, or refer to the Orange Varrio
 17 Cypress criminal street gang, including clothes or accessories that display, exhibit, or feature, in
 18 any variation or combination, the image, name, words, or letters, "Orange Varrio Cypress,"
 19 "Orange Varrio Cypress Street," "Cypress Street," "Cypress Street Killers," "Varrio Orange,"
 20 "Varrio Cypress," "Orange Gang," "Old Towne Gang," "Old Towne Orange Gang," "Old
 21 Towne Orange," "Orange," "Cypress," "OVC," "OVECE," "Killer Park Gang," "Los Royal
 22 Dukes," "Dukes," "Royal Dukes," "Los Dukes," "Creepers," "Los Creepers," "13," "X3,"
 23 "XIII," or clothes or accessories that display, exhibit, or feature the color orange, or (2) remain
 24 in the presence of or assist anyone that you know is wearing, displaying, exhibiting, or
 25 possessing any clothes or accessories that you know advertise, advance, promote, represent, or
 26 refer to the Orange Varrio Cypress criminal street gang. (*People v. Englebrecht*, *supra*, 88
 27 Cal.App.4th at 1243 fn. 2, 1266-1267 [par (t)]); *People ex. rel. Totten v. Colonia Chiques*,
 28 *supra*, 156 Cal.App.4th, 31, 37.)

1 **k. Stay Away From Burglary Tools:** Anywhere in any public place, any place
 2 accessible to the public, or in public view, do not (1) unlawfully use, possess, transport, furnish,
 3 manufacture, deliver, dispense, distribute, or sell any screwdrivers, porcelain spark plug chips,
 4 shaved keys, picklocks, wire cutters, dent pullers, slingshots, steel shots, spark plugs, "slim
 5 jims," "bump key," or any instrument or tool listed in Penal Code § 466, or (2) remain in the
 6 presence of or assist anyone you know is unlawfully using, possessing, transporting, furnishing,
 7 manufacturing, delivering, dispensing, distributing, or selling any screwdrivers, porcelain spark
 8 plug chips, shaved keys, picklocks, wire cutters, dent pullers, slingshots, steel shots, spark plugs,
 9 "slim jims," "bump key," or any instrument or tool listed in Penal Code § 466. (Pen. Code §
 10 466; *In re Englebrecht*, *supra*, 67 Cal.App.4th at 490 fn. 3, [par (o)]; *People v. Englebrecht*,
 11 *supra*, 88 Cal.App.4th at 1243 fn. 2 [par (n)].)

12 **l. Obey Curfew if You Are a Minor:** If you are under eighteen (18) years of age,
 13 anywhere in any public place, any place accessible to the public, or in public view, do not
 14 remain in or upon any public place, vacant lot, or business establishment between the hours of
 15 10:00 p.m. on any day and 5:00 a.m. of the following day, unless: (1) you are accompanied by
 16 your parent(s), legal guardian, or by a responsible adult, (2) you are on an errand without any
 17 detour or stop at the direction of your parent(s), legal guardian or responsible adult, (3) you are
 18 on a public or private sidewalk in front of your own dwelling or a dwelling directly adjacent to
 19 your dwelling, (4) you are acting within the course and scope of your lawful employment or
 20 business or when you are going to or from such place of lawful employment or business by a
 21 reasonably direct route, without detour, from or to your home, or when you are going to or from
 22 a bona fide interview for lawful employment by a reasonably direct route, without detour, from
 23 or to your home, (5) you are going to or from, are attending, or are engaged in, an official
 24 school, official religious, or other expressive activity within the scope of your rights under the
 25 First Amendment to the Constitution of the United States which activity is supervised or
 26 overseen by an adult person on behalf of any public entity, civic organization, non-profit
 27 organization, educational organization, governmental organization, or similar organization,
 28 where you are going to or from such activity in a reasonably direct route, without detour, from

1 or to your home, (6) you are going to or from a place of lawful entertainment, recreation,
 2 culture, or charity that is open to the public, such as a restaurant, theater, museum, church, sports
 3 arena, homeless shelter, food bank, library, public park during operating hours, gymnasium,
 4 bookstore, coffee shop, or hospital, for an activity that is supervised or overseen by an adult
 5 person on behalf of any public entity, civic organization, non-profit organization, educational
 6 organization, governmental organization, or similar organization, where you are going to or
 7 from such activity in a reasonably direct route, without detour, from or to your home, (7) you are
 8 a registered volunteer at any shelter, hospital, school or other charitable institution and you are
 9 going to or from your volunteer work in a reasonably direct route, without detour, from or to
 10 your home, (8) you are responding to an emergency situation, or (9) you are in a vehicle
 11 engaged in interstate travel. (OMC § 9.28.010; *In re Englebrecht*, *supra*, 67 Cal.App.3rd at 490
 12 fn. 3, [par (x)]; *People v. Englebrecht*, *supra*, 88 Cal.App.4th at 1243 fn. 2, [par (v)]; *In re*
 13 *Nancy C.* (1972) 28 Cal.3d 747; *Alves v. Superior Court* (1957) 148 Cal.App.2d. 419.)

14 **m. Obey Curfew if You Are an Adult:** If you are eighteen (18) years of age or older,
 15 anywhere in any public place, any place accessible to the public, or in public view, do not
 16 remain in or upon any public place, vacant lot, or business establishment between the hours of
 17 10:00 p.m. on any day and 5:00 a.m. of the following day, unless: (1) you are on a public or
 18 private sidewalk in front of your own dwelling or a dwelling directly adjacent to your dwelling,
 19 (2) you are acting within the course and scope of your lawful employment or business, or when
 20 you are going to or from such place of lawful employment or business by a reasonably direct
 21 route, without detour, from or to your home or when you are going to or from your home for a
 22 bona fide interview for lawful employment by a reasonably direct route, without detour, from or
 23 to your home, (3) you are going to or from, are attending, or are engaged in, an official school,
 24 official religious, or other expressive activity within the scope of your rights under the First
 25 Amendment to the Constitution of the United States, where you are going to or from such
 26 activity in a reasonably direct route, without detour, from or to your home, (4) you are going to
 27 or from a place of lawful entertainment, recreation, culture, or charity that is open to the public,
 28 such as a restaurant, theater, museum, church, sports arena, homeless shelter, food bank, library,

1 public park during operating hours, gymnasium, coffee shop, or hospital, where you are going to
 2 or from such place in a reasonably direct route, without detour, from or to your home, (5) you
 3 are a registered volunteer at any shelter, hospital, school or other charitable institution and you
 4 are going to or from your volunteer work in a reasonably direct route, without detour, from or to
 5 your home, (6) you are responding to an emergency situation, or (7) you are in a vehicle
 6 engaged in interstate travel. (OMC § 9.28.010; *In re Englebrecht, supra*, 67 Cal.App.3rd at 490
 7 fn. 3, [par (x)]; *People v. Englebrecht, supra*, 88 Cal.App.4th at 1243 fn. 2, [par (v)]; *In re*
 8 *Nancy C.* (1972) 28 Cal.3rd 747; *Alves v. Superior Court* (1957) 148 Cal.App.2d. 419.)

9 **n. Stay Away From Alcohol:** Anywhere in any public place, or any place accessible to
 10 the public, do not (1) drink alcoholic beverages, (2) possess an open container of an alcoholic
 11 beverage, (3) unlawfully be under the influence of alcohol, (4) knowingly remain in the presence
 12 of anyone possessing an open container of an alcoholic beverage, or (5) knowingly remain in the
 13 presence of an open container of an alcoholic beverage. (Pen. Code § 647(f); Veh. Code §§
 14 21221.5, 23140, 23152(a); OMC §9.16.020; *People ex. rel. Totten v. Colonia Chiques, supra*,
 15 156 Cal.App.4th p. 38-39); *People ex. rel. Totten v. Colonia Chiques, supra*, 156 Cal.App.4th, 31,
 16 37.)

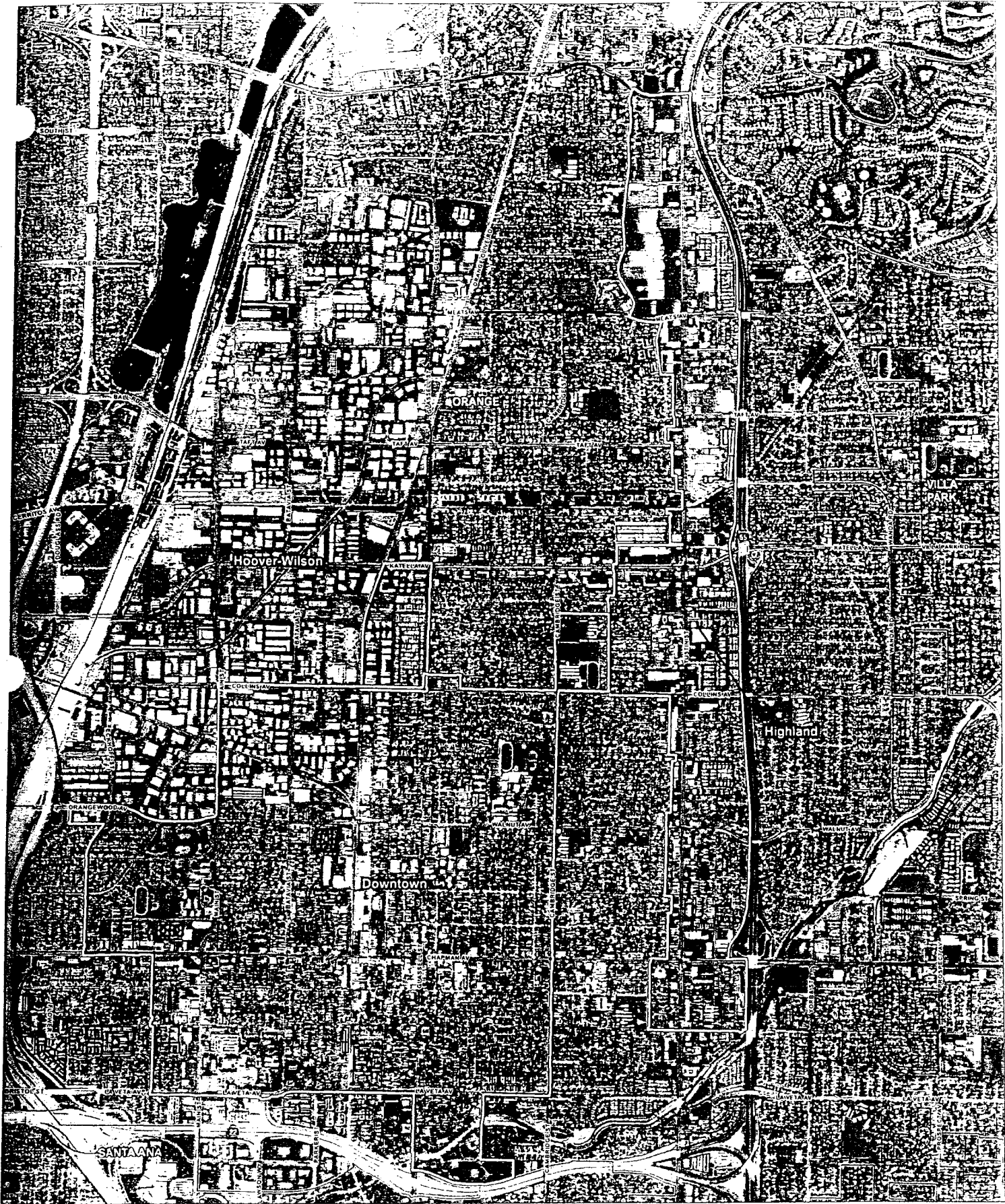
17 **o. Do Not Act as a Lookout:** Anywhere in any public place, any place accessible to the
 18 public, or in public view, do not keep watch, yell, whistle, signal, gesture, or otherwise act as a
 19 lookout to warn another person of the approach or presence of a law enforcement officer.
 20 (*People v. Engelbrecht, supra*, 88 Cal.App.4th 1236, 1243, fn. 2, [par (q)]; *In re Engelbrecht,*
 21 *supra*, 67 Cal.App.4th 486, 490, fn. 3, [par (r)]); *People ex. rel. Totten v. Colonia Chiques,*
 22 *supra*, 156 Cal.App.4th, 31, 37.)

23 **p. Obey All Laws:** Anywhere in any public place, any place accessible to the public, or
 24 in public view, obey all laws and court orders.

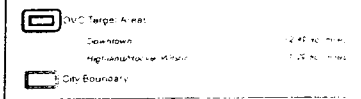
25
 26 DATED: 5-14-09

KAZU HARU MAKINO
 Hon. Kazuharu Makino
 Judge of the Superior Court

Exhibit A



OVC Target Areas



Orange County, California
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