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Mountain View Police Department (650) 903-6395

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San Jose Police Department (408) 277-8900
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Gang Hotline (408) 293-GANG

San Jose State University Police Department (408) 924-2222

Santa Clara County Office of the District Attorney (408) 299-7400

Santa Clara County Sheriff (408) 299-2311

Santa Clara Police Department (408) 615-4700

Silicon Valley Crime Stoppers (408) 947-STOP

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Prepared by the Santa Clara County
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County of Santa Clara
Office of the District Attorney
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CRIMINAL STREET GANGS

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The Law

The California Street Terrorism Enforcement and Prevention Act or, as it is more commonly known, "The Criminal Street Gang Enhancement Law" is found at Section 186.22 of the California Penal Code. Simply put, it states,

Anyone who is convicted of a felony committed for the benefit of, at the direction of, or in association with any criminal street gang with the intent to promote, further or assist in any criminal conduct by gang members shall, upon conviction, also be sentenced as follows:

By an additional two, three or four years at the discretion of the Judge.

If the felony is a serious felony, by an additional 5 years.

If the felony is a violent felony, by an additional 10 years.

Serious and violent felonies include, but are not limited to:

Murder; manslaughter; certain sex crimes; use of a firearm; robbery; bank robbery; victim or witness intimidation; certain narcotics offenses and certain crimes against school officials, peace officers and correctional officers.

If the crime is committed on the grounds of, or within 1,000 feet of a public or private elementary school, vocational school, junior high school or high school during hours in

which the facility is open for classes or school-related programs or when minors are using the facility, upon conviction, by an increased sentence at the discretion of the Judge.

If the felony is a home-invasion robbery, carjacking, shooting into an inhabited dwelling or shooting from a motor vehicle, upon conviction, by an additional 15 years.

Frequently Asked Questions

Q: What is the Criminal Street Gang Enhancement Law?

A: The Gang Enhancement Law was enacted in 1988 when the State Legislature recognized that California was in a state of crisis caused by criminal street gang activity. To punish and deter criminal activities of such gangs, this law provides for greater punishments when a crime is committed for the benefit of, at the direction of, or in association with a criminal street gang.

Q: Is this law used in Juvenile cases?

A: Yes. Depending on the type of crime, the seriousness of the offense and the history and age of the juvenile, he/she could be charged with this gang enhancement.

Q: Does someone have to be a member of a gang before they are charged with a criminal street gang enhancement?

A: No, they do not. As an example, in a recent case, members of a criminal street gang committed a home invasion robbery. The driver of the get-

away car was not a member of the gang and although he did not take part in the actual robbery, his actions did further, promote and assist in the criminal conduct of gang members. He was recently sentenced to 19 years in state prison for ASSISTING the street gang during the robbery.

Q: Can you give me another example?

A: Of course. If someone is convicted of Assault with a Deadly Weapon (let's say a baseball bat), he could be sentenced to a maximum of 4 years in state prison. But if that same crime is committed for the benefit of, at the direction of, or in association with any criminal street gang with the intent to promote, further, or assist in any criminal conduct by gang members, even if the person with the bat is not a member of the gang, the penalty is increased to a maximum of 9 years in state prison.

Q: Witnesses are sometimes reluctant to come forward and report gang crimes. How does the law protect witnesses in criminal street gang cases?

A: Attempts to prevent or dissuade a witness from cooperating with the police, or testifying in court, are treated harshly by law. An attempt at witness intimidation for the benefit of a criminal street gang can be punishable by life in prison. The Santa Clara County District Attorney's Office has successfully prosecuted witness intimidation cases and, as you read this, there are gang members serving life terms in prison for efforts to intimidate witnesses from testifying at trial. The D.A.'s Office makes every effort to protect the identity and ensure the safety of witnesses who come forward to testify or offer information so that these cases can be prosecuted.