

The California STEP Act: Racialized Policy, Policing, and Health Effects

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ABSTRACT:

Juan Flores critically examines the consequences of the 1988 California Street Terrorism Enforcement and Prevention (STEP) Act on gang policing, community well-being, and poverty. Through an overview of the STEP Act's history, provisions, and effects, this article

analyzes how repealing the law, eliminating discriminatory "gang" databases, and investing in community-based and restorative justice programs would help promote racial equity and accountability in law enforcement.

INTRODUCTION

The California Street Terrorism Enforcement and Prevention (STEP) Act has long exacerbated systemic racial disparities under the guise of public safety. Instead of deterring gangs and reducing crime, it raises concerns about its role in criminalizing marginalized populations while failing to address the root causes of violence.^{1,2,3} The STEP Act grants law enforcement the discretion to document and arrest individuals they perceive to be "gang members" and prosecutors and courts the broad, authoritative power to impose sentencing enhancements and enforce civil gang injunctions.^{1,3,27} These tools have allowed the hyper-policing of communities, often based on racially biased criteria, social relationships, geographic area, and superficial characteristics, such as clothing, without any clear evidence of criminal behavior.^{1,4,5,6} By relying on vague definitions of what constitutes a "gang member" and granting discretionary power to law enforcement and prosecutors, the STEP Act reinforces systemic inequities and perpetuates cycles of incarceration and poverty.^{2,5,7,27}

The STEP Act was further strengthened in 2000 by the Gang Violence and Juvenile Crime Prevention Act (Proposition 21), which introduced even stricter policies. This legislation permitted juveniles to be charged as adults for certain gang-related offenses and allowed for the death penalty in extreme cases.³ More recently, Assembly Bill 333 (AB 333) was introduced in 2021 to mitigate the STEP Act's disproportionate impacts. AB 333 narrowed the definition of participation in gang activities, making it more challenging to apply gang enhancements.⁸ Senate Bill 81 (SB 81) gave judges discretion to dismiss sentence enhancements if public safety is not jeopardized.

Together, these reforms reflect an effort to reduce the overuse of sentence enhancements and mitigate the inequities perpetuated by the original STEP Act.⁸ Aside from its legal implications, the STEP Act has inflicted profound social and psychological harm. Communities subjected to its enforcement experience surveillance, eroded trust in law enforcement, and increased mental health symptoms such as stress and PTSD. These practices have fragmented communities, exacerbated mental health symptoms, and created barriers to rehabilitation and economic opportunities.^{3,9,10} By prioritizing punishment instead of addressing poverty, limited educational opportunities, or providing mental health resources, the STEP Act has failed to enhance public safety.⁷

This article critically examines the STEP Act mechanisms, its consequences on communities of color, and the urgent need for policy reform. It explores the broader social and health outcomes, policing practices, and alternative approaches prioritizing equity, community well-being, and systemic change.

CALIFORNIA STEP ACT: BACKGROUND AND MECHANISMS

Background and legislative history

The California STEP Act was enacted in the 1980s, during the height of the "war on gangs," an era characterized by a nationwide shift toward tough-on-crime policies.¹¹ The media and politicians heightened public concern and fear of gang violence, resulting in a moral panic due to the existential threat to public safety by "organized criminal enterprises."^{2,12} The climate of fear led to legislation targeting perceived gang activity, resulting in the STEP Act's passage in 1988.¹ The STEP Act, codified as penal

code 186.22, introduced severe punishment for individuals accused of participating in or benefiting from ‘criminal street gang’ membership. Specifically, subdivision (a) criminalized known participants involved in gang-related activity, while subdivision (b) allowed prosecutors and courts to impose sentence enhancements, also known as gang enhancements, ranging from 16 months to 15 years for offenses allegedly associated with gang activity. In addition to these legal penalties, the STEP Act restricted and criminalized otherwise legal behavior, such as freedom of association or congregating in public spaces.^{1,2,13} Despite its goal of deterring gang activity, reducing crime, and enhancing public safety, the STEP Act instead encouraged law enforcement to adopt aggressive gang policing tactics. These mechanisms include civil gang injunctions, gang enhancements, and gang databases. Since its enactment, the STEP Act has failed to achieve its objectives. Rather than decreasing gang involvement, the number of gangs has dramatically increased from 600 to over 6,400, a staggering increase of about 973%.¹³

GANG INJUNCTIONS, ENHANCEMENTS, AND DATABASES

Civil gang injunctions

Civil gang injunctions are legal orders prohibiting individuals documented as gang members from engaging in certain behaviors within specific geographic areas. These behaviors include gathering in groups of three or more, associating with other documented gang members, or wearing particular “gang clothing.” While intended to prevent gang activity, these injunctions are placed in marginalized communities and disproportionately affect Latino and Black individuals.^{1,3} The nature of civil gang injunctions prevents individuals from participating in

everyday social interactions, isolating them from essential community and familial relationships.^{10,14} For example, individuals subjected to these injunctions are prohibited from attending family gatherings or walking with friends in their neighborhoods, making it impossible to maintain normal relationships. This form of relational fragmentation disrupts social cohesion while individuals live under constant police surveillance, harassment, and potential arrest.³

Gang enhancements

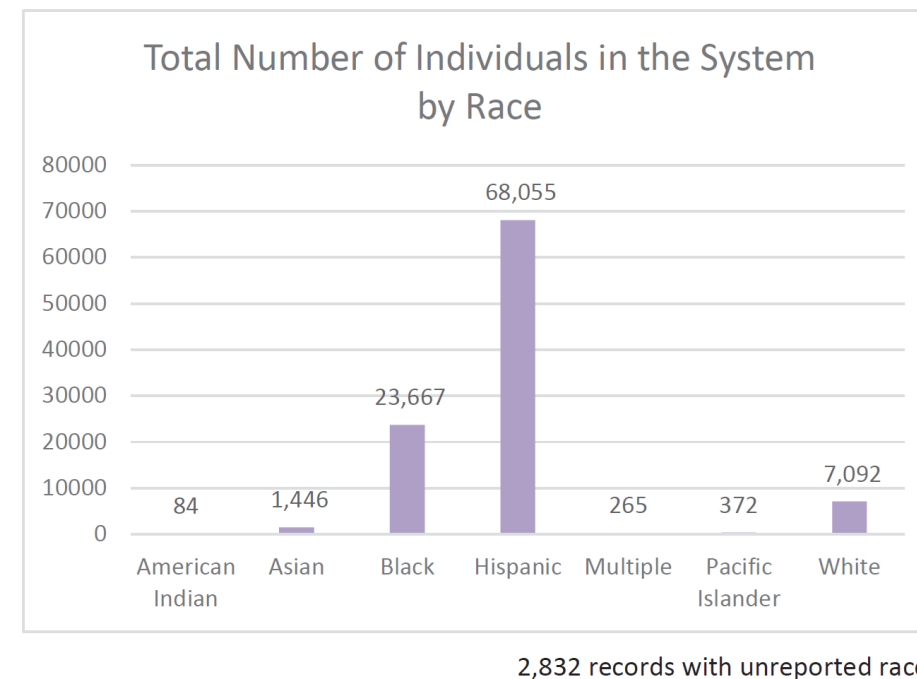
The STEP Act allows prosecutors to impose gang enhancements, which can significantly lengthen sentences even for minor offenses.²⁷ For instance, a minor graffiti offense might result in probation or community service. However, if the prosecutor argues that the act was committed to benefit a gang, the sentence may increase by one, two, or three years. These determinations usually rely on “gang experts,” often the same law enforcement officer who initially documented the defendant as a gang member.¹⁵ The criteria used to make these determinations often stem from racially biased police investigations, perceived gang affiliation, and reporting processes that disproportionately target marginalized communities.^{3,5} These sentencing disparities often place Latino and Black individuals in impossible legal situations, where they face immense pressure to accept plea deals to avoid the harsher sentences tied to gang enhancements.³

Gang databases

Gang databases, such as CalGangs, maintain records of individuals alleged to be affiliated with or part of a “gang.” These law enforcement systems catalog and track individuals suspected of being gang-related by storing and sharing information with agencies statewide. Similar to documenting people as gang members, the database often relies on sub-

Figure 1: Total Number of Individuals in the System by Race (California Department of Justice, 2017)

The following chart illustrates the number of individuals in CalGang by race and ethnicity:



jective and racially biased criteria.^{5,28} These databases aim to assist police investigations and prosecutorial efforts by documenting and surveilling individuals. This often results in targeting people of color and the increased likelihood of police harassment, arrest, and incarceration.³ A 2016 audit by the California State Auditor of the gang database, CalGangs, also revealed significant errors. It found babies documented as gang members based on the claim that these infants admitted to being gang-involved. These inaccuracies raise concerns about police integrity, reliability, and transparency as well as the validity of gang databases.^{16,17}

KEY FINDINGS

The following findings highlight a systemic issue with gang policing practices and the California STEP Act, creating an urgent need for policy change to prevent criminal-

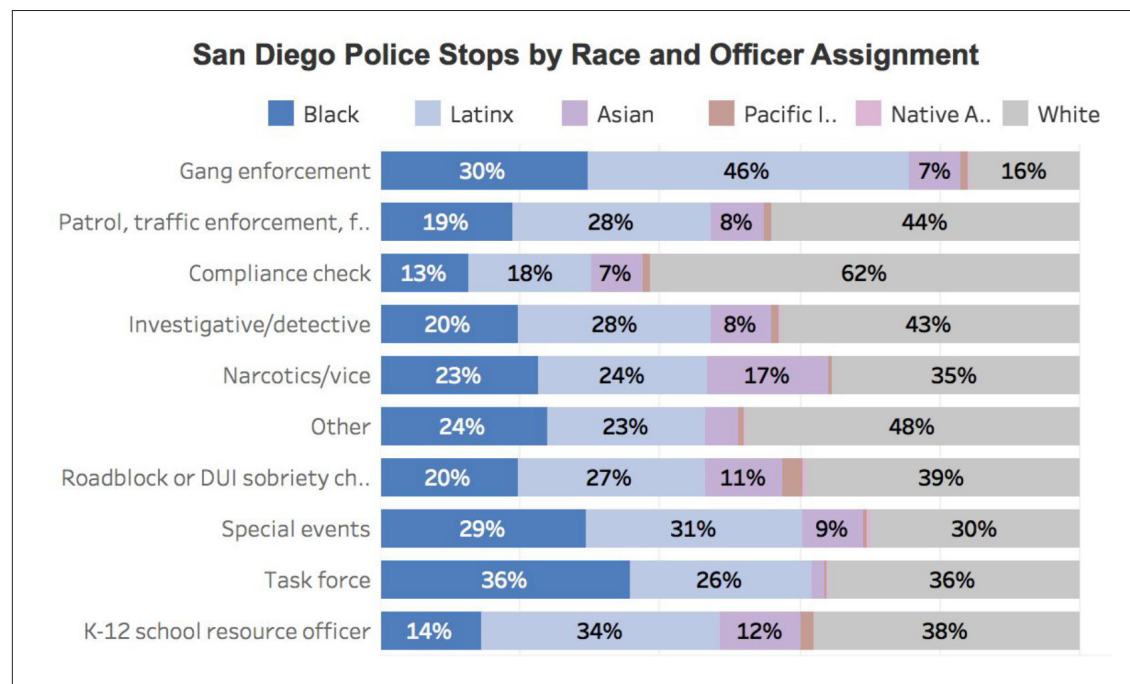
ization, enhance community well-being, and ensure community safety for all.

Arbitrary documentation as gang members

The STEP Act allows law enforcement to document individuals as gang members using unverified, discretionary criteria, such as attending social gatherings, associating with suspected gang members, or wearing specific clothing. This flawed process criminalizes ordinary social behaviors, erodes trust between communities and law enforcement, and increases individuals’ vulnerability to harassment, surveillance, and legal consequences. Without transparency or due process, these practices unjustly stigmatize individuals and undermine community cohesion.^{2,5,28}

Flaws in gang databases

Gang databases, such as CalGang, have historically lacked oversight, relying on

Figure 2: San Diego Police Stops by Race and Officer Assignment (Sinyangwe, 2019)

unverified and discriminatory practices that disproportionately target marginalized communities.¹⁷ Although the Fair and Accurate Gang Database Act (AB 90) introduced reforms—including a petition process for review, periodic audits, user training, and annual reports—these measures have not fully addressed the underlying flaws in gang databases.^{17,18} The first annual report on Cal-Gang, which analyzed 103,813 records as of December 31, 2017, highlighted the significant scale of the database and raised ongoing concerns about the accuracy and fairness of its documentation practices.¹⁹ These databases continue to disproportionately target Black and Latino communities, reinforcing cycles of over-policing, stigma, and systemic bias.^{3,17} Despite reforms, questions about its reliability and fairness require continued scrutiny.

Racialized policing practices

The STEP Act grants law enforcement the discretion to document individuals as gang members, disproportionately target-

ing Latino and Black communities based on vague, racially biased criteria, such as appearance, geography, or perceived associations. These practices lead to increased surveillance, arrests, and incarceration of these groups, deepening structural racial disparities within the criminal justice system. Despite these disproportionate impacts, such practices fail to enhance public safety, exacerbating mistrust between law enforcement and communities.^{5,6,20,28}

Recent data from San Diego highlights the severe racial disparities in gang-related policing. Gang Enforcement officers stopped 4,128 people during a study period, of whom 46% were Latino and 30% were Black, compared to lower percentages stopped by officers with other assignments.²¹

Gang enhancements

Gang enhancements under the STEP Act impose excessive prison sentences, often adding up to 15 years for alleged gang-related felonies. These punitive measures sever-

Figure 3: Enhancements used concurrently that elevate an offense for people incarcerated in July 2022 (Bird et al., 2023)

ENHANCEMENT STATUTE	ENHANCEMENT DESCRIPTION	COUNT	PERCENT	CUMULATIVE PERCENT
PC186.22(b)(1)	Street Gang Act	486	45.5	45.5
PC12022.5(a)	Use of Firearm	282	26.4	71.9
PC12022.7(a)	Inflict GBI	132	12.4	84.3
Other	Other	85	8.0	92.3
PC12022(b)	Use of Deadly Weapon	82	7.7	100

Note: 'Other' contains enhancements with small cell sizes which were aggregated together. The enhancements included are: Inflict GBI Involving Domestic Violence, Cause Bodily Injury or Death to More than One Victim, Use of Firearm, Armed with Firearm, Inflict GBI on Person 70 Years or Older, Inflict GBI on Child Under 5 Years Old, Armed with Firearm During Commission of Specified H&S Code, GBI/Domestic Violence, Induce Minor/4+ yr Younger than Defendant, Use Firearm/Deadly Weapon During Specified Sex Offenses, Use of Assault Weapon/Machine Gun, Possess/Purchase/CSP Heroin/Cocaine Exceeding 1 Kilo, Armed with Assault Weapon, Intentional Discharge of Firearm Causing GBI/Death, Inflict GBI Victim Comatose or Suffer Paralysis.

Eighty-four enhancements were removed due to being attached to an LWOP or condemned sentence, where enhancements do not impact the current admission's sentence or subsequent prison terms.

social and familial ties, limit employment opportunities, and increase reentry challenges, making rehabilitation difficult. This approach prioritizes punishment over reintegration, leaving individuals with limited pathways to recovery and stability.^{3,22,23,29} The impact of these enhancements is staggering. As of July 2022, gang enhancements were applied in 8,349 cases, adding an average of 6.0 years per case and 47,890.5 additional years of incarceration. Among all sentence enhancements, the Street Gang Act (PC 186.22(b)(1)) accounted for 45.5%, making it the most frequently applied enhancement for incarcerated individuals (Figure 3). The 10-year enhancement was the most significant, accounting for the total years imposed.⁸

Mental health

The application of the STEP Act has led to pervasive injustices with significant impacts on mental health.¹⁴ Constant targeting, harassment, interactions with law enforcement, and incarceration subject individuals to chronic states of hypervigilance and stress. These conditions contribute to heightened rates of anxiety, depression, and PTSD, particularly among youth already exposed to community violence.^{3,9,10,24} The stigma associated with policing further exacerbates anxiety and trauma, compounding the psychological harm.²² These mental health challenges not only erode individual well-being but also destabilize families and fracture community cohesion, perpetuating cycles of trauma, exclusion, and hopelessness.^{4,10}

Perpetuation of poverty

By focusing on incarceration instead of addressing the root causes of violence, the STEP Act perpetuates cycles of poverty and marginalization. The criminalization of community members diverts resources from programs that address economic instability, education, and mental health, essential needs to reduce violence and crime while increasing economic opportunities.²⁵ This punitive approach increases barriers to employment, leaving people with a criminal record, even those with a bachelor's degree, with limited pathways to economic stability.²³ Instead of improving people's economic opportunities, the STEP Act assists in exacerbating poverty and inequality, perpetuating conditions that contribute to incarceration and recidivism.

RECOMMENDATIONS

This article proposes comprehensive policy reforms to address the systemic inequities and harm caused by the California STEP Act. These recommendations aim to dismantle biased systems, reduce over-policing, and promote equity and community well-being.

1. Repeal the California STEP Act.

Repeal the STEP Act to eliminate practices that allow law enforcement to document individuals as “gang members,” leading to civil gang injunctions, inclusion in gang databases, and gang enhancements. These mechanisms disproportionately target and criminalize communities of color, perpetuating systemic inequities, stigma, and long-term harm. Simultaneously, enact legislation to prohibit law enforcement from documenting people as “gang members.” This reform would ensure due process and accountability, reduce bias, and protect against the criminalization of marginalized communities.^{3,29}

2. Restrict discretionary powers of law enforcement and prosecutors.

Prohibit subjective indicators, such as clothing, geography, or social ties, to document individuals as gang members. Require independent judicial oversight and objective, evidence-based criteria before law enforcement can designate someone as a gang member or prosecutors can seek gang-related enhancements or injunctions. Ban automatic enhancements and prioritize individualized assessments considering rehabilitation potential.^{1,27}

3. Abolish civil gang injunctions and gang databases.

Eliminate the use of civil gang injunctions and gang databases, which disproportionately harm marginalized communities and lack transparency and accountability. Civil gang injunctions prevent individuals from associating with friends and family members documented (often mistakenly) as gang members. These injunctions fracture community bonds, reinforce stigma, and cause social isolation.^{3,14} Similarly, gang databases, such as CalGangs, are fundamentally flawed with little oversight and are built on discriminatory and unreliable evidence. These mechanisms perpetuate surveillance, harassment, and systemic inequities, contributing to cycles of incarceration.²⁶ Without reliability, transparency, and accountability, gang databases serve no constructive purpose and should no longer be used.¹⁷

4. Invest in community-based solutions.

Redirect funding from law enforcement agencies to community-based programs that address the root causes of violence, such as poverty, unemployment, and education inequities. Investments in youth mentorship, mental health services, education, and economic opportunities will promote long-term stability and remove the need for aggressive policing tactics.⁶

5. Expand restorative justice programs.

Allocate funding for restorative justice practices to promote healing and reintegrate individuals into society. These practices focus on repairing harm rather than punishment, fostering community cohesion and trust. These programs have proven effective in reducing recidivism and building stronger community trust.⁴ By expanding these programs, policymakers can reduce the harm caused by punitive systems, such as the STEP Act, while promoting equity, healing, and public safety.

6. Address systemic racism in law enforcement.

Implement mandatory racial bias training, extensive data collection, and transparency measures to hold police departments accountable.⁷ Police departments should prioritize de-escalation, trust-building, and equitable treatment of all people.²⁶ Policies such as mandatory body-worn cameras with strict oversight can help deter racism, biases, and the use of excessive force or violence that can result in death.

7. Use humanizing language.

The reductionist term “gang member” is inherently stigmatizing and reinforces criminalization. It should not be used or imposed on another. Attempts to replace the term with “gang affiliate,” “gang associate,” or even “former gang member” fail to eliminate the negative consequences and confusion associated with the original label. Instead, I propose adopting “Homie”—a cultural term that reflects solidarity and support among criminalized individuals³ and to humanize members from a specific community.²⁹ However, shifting language must be part of a broader effort to reform justice systems, address mental health, and support reentry.

CONCLUSION

The California STEP Act has left a legacy of harm, underscoring the dangers of policies that prioritize punishment over prevention and community. Instead of achieving its attendant goals of reducing gang violence and enhancing public safety, the STEP Act has perpetuated systemic racial disparities, stigmatized marginalized communities, and reinforced cycles of poverty and incarceration. Its mechanisms, such as arbitrary gang documentation, flawed databases, and excessive gang enhancements, have fragmented communities, eroded trust in law enforcement, and created significant barriers to rehabilitation and economic stability.

While recent reforms like AB 333 and SB 81 signal recognition of the Act's injustices, they do not address the root issues of systemic bias, over-policing, and the criminalization of marginalized populations. These incremental changes must be a foundation for more comprehensive action. The persistence of racialized policing practices and the continued reliance on punitive frameworks highlight the need for bold, transformative policies that prioritize equity, accountability, and community well-being.

This article calls for a complete paradigm shift in how public safety is approached—away from criminalization and toward healing and equitable policies. Repealing the STEP Act, eliminating civil gang injunctions and gang databases, and redirecting resources into community-based programs are critical first steps. Policymakers must also confront structural racism embedded in law enforcement practices by instituting mandatory racial bias training, independent oversight, and transparent accountability measures.

The STEP Act's legacy is a stark reminder of the consequences of policies shaped by fear and bias rather than evidence and equity. As California and the nation grapple with the long-term impacts of mass incarceration and systemic inequities, there's an urgent need to reimagine public safety as a system that centers on community health, restorative justice, and inclusion. By dismantling oppressive structures and investing in the root causes of violence, California can build a future that prioritizes safety and opportunity for everyone. In moving forward, policymakers must embrace a vision of justice that acknowledges past failures and commits to transformative change. Only by addressing systemic inequities can we ensure safety and justice.

ENDNOTES

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