

# AB 90: More Welcome Fixes to California’s Gang Databases

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The governor of California recently signed Assembly Bill 90, which addresses accuracy and fairness in information collection and accessing of gang-related allegations through CalGang and other shared gang databases in the state. The new law brings much-needed transparency and accountability to the use of these gang databases, which are relied on by the U.S. Department of Homeland Security (DHS) to target people for deportation.

Assemblymember Shirley Weber authored the bill, and CHIRLA (Coalition for Humane Immigrant Rights), NILC, PolicyLink, the Urban Peace Institute, and the Youth Justice Coalition cosponsored it.

As part of their gang suppression work, law enforcement agencies throughout California collect personal information to label and track hundreds of thousands of individuals they suspect of being gang members. The vast majority of this information collection occurs apart from any ongoing investigations of specific crimes. The largest system for accessing the collected information is CalGang, which is used by over 6,000 law enforcement officers in at least 56 counties.

Two recently passed state laws, SB 458 (Wright) and AB 2298 (Weber), began the process of addressing issues of accuracy, consistency, and transparency in shared gang databases in California. The laws are aimed at guaranteeing all people who live in California the rights (1) to be notified if they are designated a gang associate, affiliate, or member; (2) to challenge such a designation at the agency level; (3) to appeal an unfavorable decision to a civil court; and (4) to be notified if they are removed from a gang database.

The table below details the major changes AB 90 will make to the current situation when the new law is implemented beginning January 1, 2018.

	CURRENT SITUATION	CHANGES CREATED BY AB 90
<b>Oversight and administration</b>	The state of California doesn’t oversee CalGang. Instead, the <b>CalGang Executive Board</b> and the <b>California Gang Node Advisory Committee</b> oversee CalGang and function independently from the state. They do so without statutory authority, transparency, or public input.	AB 90 moves oversight and administration of the CalGang database and all shared databases in California away from law enforcement to the state <b>Department of Justice (DOJ)</b> . The DOJ will create regulations governing the use, operation, and oversight of shared gang databases.
<b>Problems and fixes</b>	A 2016 California State Auditor report, the first-ever investigation into the workings and impact of CalGang, revealed many concerns. They include: <ul style="list-style-type: none"> <li>• CalGang’s oversight structure is inadequate.</li> <li>• User agencies have not ensured that CalGang records are added, removed, and shared in ways that maintain system accuracy and safeguard privacy rights.</li> </ul>	AB 90 places a moratorium on the use of CalGang and other shared gang databases (including accessing or adding to the database) until a proper purge of data has been completed. The DOJ will create regulations that ensure: <ul style="list-style-type: none"> <li>• The criteria for designating a person as a gang member or associate are unambiguous, not overbroad, and consistent with empirical research on</li> </ul>

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	<ul style="list-style-type: none"> <li>• Only 0.2 percent of CalGang’s statewide individual records are reviewed each year.</li> <li>• Gang databases were “tracking people who do not appear to justifiably belong in the system.”</li> <li>• User agencies admitted that they use CalGang for employment or military-related background screenings, even though this is prohibited.</li> </ul>	<p>gangs and gang membership.</p> <ul style="list-style-type: none"> <li>• Any shared gang database records are not disclosed for employment or military screening purposes.</li> </ul> <p>Beginning on February 15, 2018, and every year after, the state DOJ will publish an annual report on the CalGang database. The report will include information categorized by ZIP Code, referring agency, race, gender, and age.</p>
<p><b>Advisors and decisionmakers</b></p>	<p>The <b>CalGang Executive Board</b> and <b>California Gang Node Advisory Committee</b> work with ten local agencies called <i>node administrator agencies</i>. These are all local law enforcement agencies, such as the Sonoma County Sheriff’s Office, Fresno County Sheriff’s Office, Los Angeles County Sheriff’s Office, Los Angeles Police Dept., and San Diego Police Dept.</p>	<p>AB 90 creates a <b>Gang Database Technical Advisory Committee</b> to provide feedback to the state DOJ. The committee is balanced among advocates and law enforcement, including a person impacted by gang allegations, an intervention worker, a person who provides immigration services, and a representative from a civil or human rights organization.</p>
<p><b>Gang allegations’ effects on immigrants, and new protections under AB 90</b></p>	<p>Gang allegations can negatively affect access to immigration relief such as Deferred Action for Childhood Arrivals (DACA) and places people at greater risk of deportation. A person’s information can be shared and accessed by federal law enforcement agencies, including the FBI and U.S. Immigration and Customs Enforcement (ICE). This has huge implications for a person’s ability to obtain lawful immigration status. The U.S. Dept. of Homeland Security (DHS) prioritizes gang members for deportation and recently launched raids across the country targeting alleged gang members.</p>	<p>AB 90 prohibits disclosing, for immigration enforcement purposes, information that’s in CalGang or other shared gang databases in California. This cuts DHS and ICE off from directly accessing the information in these databases to use as a basis for arresting, detaining, and deporting people. If anyone shares information from a shared gang database for federal immigration law purposes, the state DOJ will suspend or revoke their access to the shared gang database system.</p>