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GANG CRIME PREVENTION AND THE NEED TO FOSTER INNOVATIVE SOLUTIONS AT THE FEDERAL LEVEL

HEARING

BEFORE THE

SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

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GANG CRIME PREVENTION AND THE NEED TO FOSTER INNOVATIVE SOLUTIONS AT THE FEDERAL LEVEL

TUESDAY, OCTOBER 2, 2007

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME, TERRORISM,
AND HOMELAND SECURITY
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to notice, at 1:06 p.m., in Room 2141, Rayburn House Office Building, the Honorable Robert C. "Bobby" Scott (Chairman of the Subcommittee) presiding.

Present: Representatives Scott, Waters, Delahunt, Johnson, Jackson Lee, Sutton, Forbes, Sensenbrenner, Coble, Chabot, and Lungren.

Staff present: Bobby Vassar, Subcommittee Chief Counsel; Gregory Barnes, Majority Counsel; Veronica Eligan, Professional Staff Member; Michael Volkov, Minority Counsel; Caroline Lynch, Minority Counsel; and Kelsey Whitlock, Minority Staff Assistant.

Mr. SCOTT. The hearing will come to order.

Good afternoon. I am pleased to open the hearing today on what is effective in preventing gang crime and what is not. In working on crime issues over the years, I have learned that when it comes to crime policy, you have a choice. You can reduce crime, or you can play politics.

The politics of crime calls for so-called tough on crime approaches such as more death penalties, more life without parole, a mandatory minimum, treating more juveniles as adults, or gang members, even cutting out cable television in the prisons. However, we can now show of our research and evidence that, while these approaches sound good, they have done nothing to prevent crime.

Under the get tough approach no matter how tough you got last year, you have to get tougher this year. And we have been getting tougher and tougher year after year for over 25 years now. Since 1980 we have gone from around 200,000 persons incarcerated in the United States to over 2 million, with annual prison costs increasing year after year.

As a result of these approaches, the United States is the world's leading incarcerator by far, with the average incarceration rates at seven times the international average. The world incarceration average is about 100 to 150 persons per 100,000 citizens. The average rate of incarceration in the United States is over 700 per 100,000.

In some inner city communities the rate isn't 700 or 1,000. It is 2,000, 3,000, as high as 4,000 per 100,000.

The next highest incarceration rate in the world is 560 per 100,000 in Russia. Everybody else is much lower than that such as India, the world's leading democracy, the largest democracy with 36 per 100,000 and China, the largest country by population at a rate of 118 per 100,00.

And the United States has some of the world's most severe punishments for crime, including juveniles. Of more than 2,200 juveniles sentenced to life without parole, all but 12 are in the United States. And some of those given this sentence were first-time offenders under circumstances such as being a passenger in a car from which there was a drive-by shooting.

Under proposals before us to expand the definition of a gang and treatment of conspiracies and attempts the same as the commission, we will find that we have a lot more of fringe-involved young people serving life without parole sentences. So no one can say that we are not already tough on crime.

All States have provisions which allow, if not require, juveniles, some as young as 12, to be treated as adults for trial and sentencing as well as incarceration. Most juveniles who are treated as adults are convicted of nonviolent offenses. So we are already very tough on crime, including crimes by juveniles. Yet crime persists and has been growing.

Research and analysis, as well as common sense, tells us that no matter how tough you are on people you prosecute for crime today, unless you are addressing the reasons that got them to the point to commit crimes in the first place, the next wave developing in the system will simply replace the ones you take out and the crime continues. So just getting tough on sentencing has a limited impact on crime.

And the impact for all of this focus on tough on crime approaches fall grossly disproportionately on minorities, particularly Black and Hispanic children. Many studies have been established that when compared to similarly situated White children, minorities are treated more harshly at every stage of the juvenile and criminal justice system.

I am concerned that policies such as expanding the definition of gang and expanding gang databases would only exacerbate that problem without any impact on reducing crime. These are kids who are on a cradle to prison pipeline without appropriate intervention.

When we see how simple it is to get them on a cradle to college pipeline, it is tragic and even more costly to society in the long run if we don't do so. So all of the credible evidence and research shows that a continuum of programs for youth identified as at risk to involvement of delinquent behavior, and intervention for those already involved, will save much more than they cost when compared to the avoided costs in law enforcement and other costs by reducing crime.

These programs are most effective when they are provided in the context of coordinated, collaborative strategy involving the law enforcement community, education, social services, mental health, nonprofit, faith-based, and business sectors working with identified children at risk of involvement in the criminal justice system.

I am developing a bill to incorporate these proven concepts and will be calling our bill the "Youth Prison Reduction Through Opportunities, Mentoring, Intervention, Support, and Education," or "Youth Promise Act." The bill is being developed in consultation with researchers, law enforcement, juvenile justice practitioners, and child development experts focusing on research and evidence-based preventive and intervention approaches which have been proven to reduce crime. And I look forward to working with my colleagues in adopting these proven concepts.

I will now yield to my colleague from Virginia, the distinguished gentleman from the 4th congressional district, Randy Forbes.

Mr. FORBES. Thank you, Mr. Chairman, for holding this hearing. And I would certainly like to thank all of our very distinguished witnesses who will be here today. I guess I could sum it up with one phrase. Here we go again.

You know, when we deal with gang problems and gang crimes, it is exactly like the end of the Casablanca movie where they look around and say, "Round up the usual suspects." Every time we have a problem with gangs—well, I can't say that.

The first time we had a problem with gangs, and I brought a gang bill before the Committee, those that are now in the majority asked this question. They said, "Do we have a gang problem? We don't really have a gang problem."

I don't think anybody questions today whether or not we have a gang problem. I think at least that part of it is clear. But beyond that, we continue to do the same thing.

We bring in the same basic arguments. We hear. We chat. We talk. And yet we don't create the solutions that we need to to go out and deal with the problem.

My good friend, the distinguished colleague, says that we can either reduce crime, or we can play politics. Playing politics is what we do. We talk, and we talk. And we don't put any solutions in.

The Chairman mentioned the fact that we want to have evidenced-based programs. The reality is that over and over again, based on witnesses that the majority has brought in to testify on these very issues, despite all the money we are spending on prevention programs, their witnesses have said very clearly.

And, look, I understand. Everybody that has a program—it's like after 9/11. Everybody that wanted to renovate an old building anywhere in the country was coming into my office and saying, "This is all about national security and homeland security." And you know, I see people day after day who come before us, and they have programs and many of them are meritorious.

But they are getting funding and money. And it is important for them to keep that money stream going.

But based on the majority's witnesses and the testimony we have had in here, less than 20 percent of the over 600 programs that we are funding for gang prevention and prevention of teenage crime have ever even been evaluated as to whether or not there was any evidence that they actually helped reduce crime. And, in fact, based on their witnesses, the testimony was that of the ones that were evaluated, some of them where we are spending money were actually harmful.

We have heard so much of the issues that surround gang violence and gang crimes and the increase in gangs in the country. And we recognize that we do have this tick up in violent crime. And a lot of it is related to gangs. But there are really two big approaches that we have.

One of them is this. If I have a school and outside there are five individuals who are vandalizing cars and slashing tires, one approach says we are going to go arrest the people that are slashing the tires and vandalizing the cars and stop them from doing it. The other approach is let us go to the 1,000 that are in the school and have a chat with them and tell them why they shouldn't be out there slashing tires and vandalizing the cars.

And we support prevention programs. We have said that over and over again. But one of the things that we have also said is we are not going to stop the gang violence in this country until we create the partnerships between the Federal, State and local levels that are needed to go after these large gang networks that we are seeing across the country. We have got to do that.

Number two, we have got to stop just waiting until we have crimes that are committed, because if we prosecute them, we are going to see 20 new people out on the street the next day for every one we prosecute. We have got to pull these networks down and stop the recruiting machines.

And then we have also got to recognize that based on the testimony that we have had ad nauseum in this Committee—we have had testimony that a large portion of some of the most violent gangs in America were a result sometime between 65 and 80 percent of people who were here illegally, which means that most of the programs that we have that we are trying to get to prevent them would never have stopped them in the first place. And we have got to stop that door from continuing to remain open.

So we thank you for your work. Thank you for being here. We are looking forward to your testimony. But I know that hope springs eternal. And I am still hoping that one day we will be able to actually get the solutions that we need, and get that bill passed out of the House and the Senate, so that we can stop this rising gang problem that we have across the country.

And, Mr. Chairman, I yield back the balance of my time.

Mr. SCOTT. Thank you, Mr. Forbes.

I want to recognize the presence of the gentleman from Massachusetts, Mr. Delahunt, and the gentleman from North Carolina, Mr. Coble, and ask that additional opening statements be made part of the record, without objection. We have two very distinguished panels of witnesses today to help our deliberations about Federal solutions to gang crime prevention.

Our first panel will be a panel of Members. Our first witness will be the Honorable Adam B. Schiff. He represents California's 29th Congressional District, serves on the Judiciary Committee and Appropriations Committee during his tenure in Congress, is focused on bolstering national security, strengthening our communities, and introducing a kids-first agenda of initiatives to improve education, safety and health care for children.

In fact, among many awards that he has received from local organizations for his commitment to our community is the Presi-

dent's Award from the Child Education Center Preschool in LaCanada for his work on his kids first agenda. He also has been presented with Day One's Community Champion Award for his effort to protect youth through support of after school programs, drug prevention programs and children's health care initiatives.

Prior to serving in Congress, he was a State senator in California. And before serving in the California legislature, he was an assistant U.S. attorney in Los Angeles for 6 years. He is a graduate of Stanford University and Harvard Law School.

Our next witness will be Elijah Cummings, from Maryland's 7th District. He serves as a senior Member of the House Committee on Transportation and Infrastructure and is Chairman of the Subcommittee on Coast Guard and Maritime Transportation. He continues the work he began as Ranking Member of the now defunct Subcommittee on Criminal Justice, Drug Policy, and Human Resources.

In that capacity he oversaw the reauthorization of the Office of National Drug Control Policy, better known as the drug czar's office. And he was an outspoken voice of fair treatment-based solutions to the country's drug problems, as well as for increased and comprehensive oversight of our Nation's clinical laboratory inspection process.

Prior to Congress, he served in the Maryland House of Delegates for 16 years, graduated from Howard University in Washington, D.C., and the University of Maryland Law School. He practiced law for 19 years before entering Congress.

Our next witness will be the Honorable Joe Baca, from California's 43rd District. He serves on the House Agriculture Committee and Chairs the Subcommittee on Departmental Operations Oversight, Nutrition and Forestry. He worked for 15 years in community relations with General Telephone and Electric.

In 1979 he was elected to the board of trustees for the San Bernardino Valley College District. He was elected to the State assembly in 1992 and State senate in California in 1998. He earned a bachelor's degree in sociology from California State University at Los Angeles.

And our next witness will be Nick Lampson, from the 22nd District of Texas. He is a Member of the Committee on Science and Technology and Chairs the Subcommittee on Energy and the Environment. In addition to his Committee assignments, he has worked hard on behalf of children and education generally.

He is a former high school science teacher. And his wife, Susan, is a special education teacher. He has two degrees from Lamar University in Beaumont, Texas, a bachelor's degree in biology and a master's degree in education.

Our next witness will be Jerry McNerney, from California's 11th District. He is a first term in the United States House of Representatives, and serves on the Transportation Infrastructure Committee and is a Member of both the Highways and Transit and Water Resources and Environmental Subcommittees. He also serves on the House Committee on Veterans Affairs and House Committee on Science and Technology.

Prior to Congress, he served as a CEO of a startup company that manufactures wind turbines. During his career in wind energy, his

work contributed to saving the equivalent of approximately 30 million barrels of oil. Given this unique background and dedication, he is appointed to the Select Committee on Energy and Dependence and Global Warming. He has three degrees from the University of New Mexico, a bachelor's, master's and Ph.D. in mathematics.

Our next witness will be Charles Dent, from Pennsylvania's 15th District. He serves on the Subcommittee, and he is joining us just in time, serves on the Committee of Homeland Security and the Committee on Security and Transportation Infrastructure.

During his congressional tenure he has also worked for urban redevelopment and crime prevention. He has a bachelor's degree in foreign science and international politics from Pennsylvania State University and a master's degree in public administration from Lehigh University in Pennsylvania.

And our final witness will be David Reichert, from Washington's 8th District. He is serving his second term as a representative from the 8th district. He serves on three Committees, Homeland Security, Transportation and Infrastructure, and Science and Technology. He also serves on the Subcommittee on Emergency Preparedness, Science and Technology.

Prior to Congress, he served in the King County, Washington, Sheriff's office, and in 1997 became the first elected sheriff in over 30 years. Under his leadership the county saw a significant drop in violent crime. He brought national recognition to the sheriff's office as head of the Green River task force solving the largest serial murder case in United States history. He is a graduate from Concordia Lutheran College in Portland.

And I would want to mention to each of our witnesses that your written statements will be entered in the record in their entirety. I would ask each of you to summarize your testimony in 5 minutes. You are familiar with the lighting devices. And so, we will begin with Representative Schiff.

TESTIMONY OF THE HONORABLE ADAM B. SCHIFF, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. SCHIFF. Mr. Chairman, thank you very much for having this hearing and for inviting us to testify. Those are probably the nicest introductions we have ever received by any Chairman. And we are very appreciative.

I also want to thank you for allowing me to suggest a witness for the second panel, Paul Seave, who I had the opportunity to serve with in the U.S. attorney's office in Los Angeles, who then went on to become a U.S. attorney in Sacramento, who worked with our attorney general on gang prevention and now heads up Governor Schwarzenegger's office of gang and youth violence policy.

As the Chairman knows, I have long been interested in the gang problem, going back to my days as a prosecutor. And I welcome this opportunity to testify about H.R. 3547, the Gang Prevention, Intervention and Suppression Act, that includes strong prevention as well as intervention components.

Los Angeles, unfortunately, probably has the distinction of being the gang capital of the country, maybe the gang capital of the world. Our problem is not only extensive in terms of numbers, but

it is multi-generational. We have seen not only the problem, I think, in Los Angeles, but we have also seen part of the solution, the positive role that gang intervention workers, such as Homeboy Industries in Los Angeles, play in helping gang involved youth find an alternative to a life of crime.

When I was in the State senate, I authored a bill that was unique at the time that required that we invest as much in prevention as we are investing in suppression. As the time we were investing hundreds of millions of dollars in the COPS program, which I think was money very well spent. But we matched that through a bill I authored with Tony Cardenas with an equal amount of money for prevention.

And Rand has subsequently done an analysis of this approach and found that this combination of prevention and enforcement has been very effective in attacking the problem of gang violence. And I think a model similar to that on the Federal level could be equally successful.

For that reason, in 2005, I introduced a bipartisan gang bill along with Representative Mary Bono. And our Senate counterpart was introduced by Senators Feinstein and Hatch. Our bill was a comprehensive effort to strengthen gang enforcement and prevention efforts. It included numerous tools to help law enforcement and prosecutors combat gang violence. And it provided resources to bolster the fight against gangs through law enforcement as well as intervention and prevention programs for youth.

However, the prevention components of my bill were stripped out last session. A number of death penalties and mandatory minimums were added, and the bill was reintroduced and marked up but with the elimination of all the prevention components of the bill. I was compelled to vote against the legislation.

This year Representative Bono and I again joined Senators Feinstein and Hatch to introduce new gang legislation. During the Senate Judiciary markup, a number of changes were made to the Senate bill. And that bill has since passed unanimously.

I have also been working with my colleagues here in the House and with numerous outside organizations interested in this issue to revise our legislation, which we introduced in its revised form 2 weeks ago. And I appreciate the feedback that I have received both from the Chairman of the Subcommittee and his staff as well as Chairman Conyers. I very much appreciate having Chairman Conyers' input and support for this legislation.

The bill provides significant resources for evidence-based community gang prevention, intervention, and reentry activities. It revises criminal penalties for gang members who are convicted of gang crimes. And significant funding in the bill is directed toward the high intensity gang activity area program, which targets resources in areas where gang activity is particularly prevalent.

Significantly, though, half of the funding supports prevention and intervention initiatives through schools, community service providers and faith-based leaders to provide gang-involved or seriously at-risk youth with alternatives to gangs. And the other half of the funding supports multi-jurisdictional criminal street gang enforcement teams and research to identify best practices among numerous gang prevention and intervention models.

Our legislation also provides new funding for community-based gang prevention and intervention programs for both communities with newly emerging gang problems and those with decades old issues. The bill also recognizes that education and jobs are critical to help gang involved youth and young adults that are reentering society from the criminal justice system. The bill has grants to help youth develop educational skills and enhance their long-term employability.

Another grant programs works with young adults to develop the skills and education to be placed in an apprenticeship in the construction industry. These prevention programs total a $700 million authorization over 5 years.

H.R. 3547 is a comprehensive bill that recognizes that enforcement efforts are necessary to address our gang problem and authorizes $500 million over 5 years for suppression activities. The legislation includes funding for DOJ's Project Safe Neighborhoods anti-gang initiative. It expands the FBI Safe Street Program to support gang enforcement. It also provides grants to State and local law enforcement and prosecutors for hiring, technology, equipment and training.

Legislation also amends the criminal code to define criminal street gang and gang crime and sets out penalties for commission of a gang crime and furtherance of the gang and for recruitment. The bill also addresses violent crimes committed during drug trafficking. And it also limits possession of firearms by adjudicated gang members and terrorists, and it raises the statute of limitations on violent crimes and terrorism offenses.

I am proud of the efforts we have made in this legislation to comprehensively address the gang problem. And I believe this takes an important step toward providing the resources and tools to attack the problem at its roots. The legislation is supported by members and organizations across the political spectrum, from the Conference of Mayors to the National Association of Police Organizations, from L.A. Mayor, Villaraigosa to California Governor Arnold Schwarzenegger.

Again, we made substantial changes from the earlier introduced version of the bill and from the Senate vehicle, which I encourage the Subcommittee to examine carefully. And I thank the Chairman again for the opportunity to testify.

[The prepared statement of Mr. Schiff follows:]

PREPARED STATEMENT OF THE HONORABLE ADAM B. SCHIFF, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. Chairman, thank you for inviting me to testify before the Subcommittee. This hearing focuses on gang crime prevention and the need to foster innovative solutions at the federal level. I have long been interested in gang crime prevention, and I am proud that my legislation, H.R. 3547, the Gang Prevention, Intervention and Suppression Act, includes strong prevention and intervention components.

Since my days as a prosecutor, I have been concerned with the growing threat posed by gangs. I have seen the destructive impact that gangs have on families, our youth, and our communities. And I have the positive role that gang intervention workers, such as Homeboy Industries in Los Angeles, play in helping gang-involved youth find an alternative to a life of crime.

As a state Senator, I authored one of the landmark approaches to dealing with juvenile crime, and for the first time, we invested as much in the prevention of crime as in the suppression of crime. We put $100 million into preventive work to keep kids out of trouble, and we matched it with $100 million in the COPS program.

Analyses have demonstrated its effectiveness. I believe that such a model that invests heavily in prevention programs should be implemented at the federal level.

For this reason, in 2005, I introduced a bipartisan gang bill along with Rep. Mary Bono, and our counterpart Senate legislation was introduced by Senators Feinstein and Hatch. Our bill was a comprehensive effort to strengthen gang enforcement and prevention efforts. It included numerous tools to help law enforcement and prosecutors combat gang violence, and it provided resources to bolster the fight against gangs through law enforcement as well as intervention and prevention programs for at-risk youth. However, the prevention components of my bill were stripped out, numerous death penalties and mandatory minimums were added and the reintroduced bill was marked up in this Committee. I offered amendments to add back in the prevention elements, but these efforts failed. I was compelled to vote against the legislation.

This year, Rep. Bono and I joined with Senators Feinstein and Hatch to introduce new gang legislation. During Senate Judiciary Committee markup, a number of changes were made to the Senate bill and the bill has since passed unanimously. I have also worked with my colleagues and with numerous outside organizations interested in this issue to revise our legislation. We introduced the revised legislation two weeks ago. I am proud to have Chairman Conyers' support throughout the process.

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H.R. 3547 is comprehensive legislation that recognizes that enforcement efforts are necessary to address our gang problem and authorizes $500 million over five years for suppression activities. The legislation includes funding for DOJ's Project Safe Neighborhoods anti-gang initiative. It also expands the FBI Safe Street program to support gang enforcement. The bill also provides grants to state and local law enforcement and prosecutors for hiring, technology, equipment and training.

The legislation also amends the criminal code to define "criminal street gang" and "gang crime" and sets out penalties for commission of a gang crime in furtherance of the gang and for recruitment. The bill also addresses violent crimes committed during drug trafficking. The bill limits possession of firearms by adjudicated gang members and terrorists, and it raises the statute of limitations on violent crimes and terrorism offenses.

I am proud of the efforts we made in this legislation to comprehensively address the gang problem, and I believe this legislation takes important steps to provide resources and tools attack the problem at its roots. The legislation is supported by Members and organizations across the political spectrum from the Conference of Mayors to the National Association of Police Organizations, from Los Angeles Mayor Villaraigosa to California Governor Arnold Schwarzenegger.

Thank you again Mr. Chairman for this opportunity to testify on my legislation.

Mr. SCOTT. Thank you. We have been joined by the gentlelady from California, Ms. Waters.

Mr. Cummings?

TESTIMONY OF THE HONORABLE ELIJAH E. CUMMINGS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

To Mr. Forbes and to the entire Committee, I appreciate this opportunity.

And to you, Mr. Chairman, I want to thank you for your efforts to try to do some things to prevent some of the problems that we are now seeing in all of our communities. Today's hearing is extremely timely. Last week during the Congressional Black Caucus, annual legislative caucus, I hosted a panel issue forum that discussed a group of gangs and drug-related gang activity and their impact in our communities.

As you know, gangs are very real and a very serious threat which do not recognize geographical, socio-economic or racial boundaries. They are not just plaguing our inner cities. We are finding them in increasing numbers in the suburbs as well.

In Baltimore City, gang activity has historically been limited to small neighborhood crews. But we are now seeing an alarming trend where these smaller groups are beginning to identify with the national gangs like the Bloods, the Crips and MS-13. If we do not stop this trend before it spreads, we will begin to see gang activity across the country that is comparable to many other cities.

We must also address the allure of gangs to our children. The number one preventive action we can take to help our children avoid gang involvement is strong parenting. We must be active in their lives, whether it is helping them with their homework, eating dinner with them as a family or just talking to them, and as my mother would often say, keeping them busy in positive activities.

It is also critical that parents learn the warning signs so that they might identify gang activity. While preventing young people from being lured into gangs is such an important part of addressing the crime problem plaguing our country, it is only one of many steps we need to take.

One large part of reducing the violence in our communities is recognizing that without witnesses there will be no justice. I am referring to the conspiracy of silence associated with witness intimidation. Known murderers in Baltimore right now walk the streets because witnesses are too scared to come forward.

I was motivated to address the issue of witness intimidation after the death of Angela and Carnell Dawson and their five children, ages 9 to 14. They lived only a few blocks from where I live.

The entire family was incinerated in October of 2002, when their home was fire bombed in the middle of the night in retaliation for Ms. Dawson's repeated complaints to police about recurring drug trafficking in her East Baltimore neighborhood. In my home town of Baltimore, it is estimated that witness intimidation occurs in 90 percent, 90 percent of the cases.

We must also combat the stop snitching movement spreading through our streets. And we must come together as a community to rise up against the campaign of intimidation and fear.

Protecting witnesses is a core Government function. It is standard in the Federal system. And State and local prosecutors should have the same tools. Currently there is a great disparity between

funding and witnesses services, if any, that are provided by local authorities and the Federal witness security program within the United States Marshal Service that operates on a $40 million budget.

For example, the witness assistance program in my home town of Baltimore, which has the unfortunate distinction of being one of the most dangerous cities in the United States, is only able to obtain $300,000 per year from the state of Maryland. This is why I introduced H.R. 933, the Witness Security Protection Act of 2007, that authorizes $270 million over the next 3 years to enable States and local prosecutors to establish short-term witness protection programs.

Priority will be given to prosecuting offices in States with an average of at least 100 murders during the immediate past 5 years. However, smaller entities also have a chance to receive funding.

H.R. 933 and H.R. 3547, the Gang Abatement Intervention and Suppression Act, introduced by the gentleman from California, Mr. Schiff, will assist in correcting this inequity and allow us to demonstrate our commitment to our constituents and the justice system.

In closing, please know that I appreciate this opportunity to testify before you. But please keep in mind that, without witnesses and the cooperation of the public, our criminal justice system and our system of justice simply cannot function.

With that, Mr. Chairman, I yield back.

[The prepared statement of Mr. Cummings follows:]

PREPARED STATEMENT OF THE HONORABLE ELIJAH E. CUMMINGS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Good Afternoon.

Chairman Scott, Ranking Member Forbes, and Members of the Subcommittee, I appreciate the opportunity to testify before you regarding gang crime prevention.

This is a very important issue to me. Just last week, during the CBC Annual Legislative Conference I hosted a three-panel issue forum that discussed the grip of gangs and drug-related gang activity, and their impact in our communities.

Violent crime in the United States is on the rise nationwide.

According to a report recently released by the FBI's Uniform Crime Reporting Program:

- robberies surged in 2006 by 7.2 percent;
- homicides rose by 1.8 percent; and
- violent crime overall rose by 1.9 percent.

Taken together, 2005 and 2006 represent the first steady increase in violent crime since 1993.

We need look no further than my hometown of Baltimore City, where we are headed for record-breaking incidents of violence.

Yesterday, the *Baltimore Sun* reported that since January 1st there have been 231 homicides, eclipsing the rate set during the same period last year by 23. At this pace, it is conceivable that the City will regretfully reach 300 homicides by the end of the year. While this figure is significantly lower than the record-high 353 homicides in 1993, the current situation is simply unacceptable.

I find these statistics to be deeply troubling, and I know that they are attributable, in large part, to the ravages of gang activity in our communities.

As you know, gangs are a very real and serious threat, which do not recognize geographical, socio-economic, or racial boundaries.

They are not just plaguing our inner cities—we are finding them in increasing numbers in the suburbs, as well.

In Baltimore City, gang activity has historically been limited to small, neighborhood crews, but we are now seeing an alarming trend where these smaller groups are beginning to identify with the national gangs like the Blood and the Crips.

If we do not stop this trend before it spreads, we will begin to see gang activity across the country that is comparable to that of cities like Los Angeles, with whole generations affected.

We must also address the allure of gangs to our children. It is time for us to come together as a community to minimize these risk factors. The number one preventive action we can take to help our children avoid gang involvement is strong parenting.

We must be active in their lives, whether it is helping them with their homework, sitting down to eat dinner with them, or just talking to them about the events taking place in their daily lives.

We must be proactive in knowing whom our children are befriending and what they do in their spare time. We must ensure that our children know they are loved and valued. We must keep informed of their progress in school and be in communication with their teachers. We must provide constructive activities to keep them engaged.

It is also critical that parents learn the warning signs so that they might identify gang activity. The things our children say at the dinner table or to their friends on the phone or through the internet may be more than just harmless slang; they may be specific gang language. Likewise, a wardrobe filled with one particular color may not be indicative that the child merely favors it; it could be the color representing that child's gang.

Most gang members go through progressive stages of involvement, and early detection can play a key role in helping our children before it is too late. It is hard for any parent to believe that his or her child may fall victim to this epidemic, but the risk is real. We must be prepared to recognize and prevent the risk.

In my Congressional District, I have teamed up with Mr. Frank Clark, the Director of Gang Intervention and Investigation for the Maryland Department of Juvenile Services, to hold three gang prevention summits.

Mr. Clark gives an excellent presentation for parents, teachers, and other members of the community to educate them about the signs and language of gang activity to make sure that we do not mistakenly dismiss dangerous communication from our children as harmless or useless slang.

While preventing young people from being lured into gangs is such an important part of addressing the crime problem plaguing our country, it is only one of many steps we need to take.

One large part of reducing the violence in our communities is through recognizing that without witnesses, there can be no justice. I am referring to the "conspiracy of silence" associated with witness intimidation. Known murderers walk the streets because witnesses are too afraid to come forward.

I was motivated to address the issue of witness intimidation after the death of Angela and Carnell Dawson and their five children, ages 9 to 14. The entire family was killed in October 2002, when their home was firebombed in retaliation for Mrs. Dawson's repeated complaints to the police about recurring drug trafficking in her East Baltimore neighborhood.

Witness intimidation is a plague on our justice system. According to the National Institute of Justice, 51 percent of prosecutors in large jurisdictions find witness intimidation to be a major problem. These prosecutors also suspect that witness intimidation occurs in up to 75 to 100 percent of the violent crimes committed in gang-dominated neighbors. In my hometown of Baltimore City, it is estimated that witness intimidation occurs in 90 percent of the cases that are prosecuted.

We must combat the "Stop Snitchin" movement spreading through our streets, and we must come together as a community to rise against this campaign of intimidation and fear.

I have been working closely with the State's Attorney for Baltimore City Patricia Jessamy to help curb witness intimidation and spread the message that coming forward as a witness to a crime is not snitching—it is the right thing to do. In fact, we are working on putting together a public service announcement to air throughout Baltimore encouraging witnesses to come forward and educating them about how to effectively do so without becoming the victim of retaliation.

Protecting witnesses is a core government function. It is standard in the federal system and state and local prosecutors should have the same tools.

Currently, there is a great disparity between funding and witness services (if any) that are provided by local authorities and the federal witness security program within the U.S. Marshals Services that operates on a $40 million budget.

In comparison, the witness assistance program in my hometown of Baltimore City, which has the unfortunate distinction of being one of the most dangerous cities in the United States, is only able to obtain $300,000 per year from the state.

This is why I introduced H.R. 933, the Witness Security and Protection Act of 2007 that authorizes $270 million over the next three years to enable state and local

prosecutors who demonstrate a need for funds to protect witnesses in cases involving gangs or other violence to establish short-term witness protection programs.

Improving protection for state and local witnesses will move us one step closer to alleviating the fears and threats to prospective witnesses and help safeguard our communities from violence. It is time that we show our commitment to our constituents and the justice system—because without witnesses, there can be no justice.

In closing, please know that I appreciate the opportunity to testify before this Subcommittee. I also commend each of my colleagues on the panel for their work in the area of gang prevention and awareness.

Mr. SCOTT. Thank you. I think that is a recess. So it wasn't a vote, so we are not in as much hurry as we thought we were when the bells went off.

I want to recognize the gentlelady from Ohio, Ms. Sutton, and her presence.

The gentleman from California, Mr. Baca?

TESTIMONY OF THE HONORABLE JOE BACA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. BACA. Good afternoon, Mr. Chairman Scott and Ranking Member Forbes and distinguished Members of the Subcommittee. I am pleased to present testimony today in behalf of H.R. 1069, the Mynisha Law.

This bill serves two primary purposes. First, it directs the attorney general to review an application from cities wanting to be designated as comprehensive gang prevention and relief areas.

Second, it establishes an inter-agency gang prevention task force where Federal agencies will coordinate efforts focused on gang prevention. I would like to share with you a sad story behind the creation of the Mynisha Law.

Senator Boxer and I became involved with a local anti-gang group called Mynisha's Circle that was formed in the wake of a killing of an 11-year-old named Mynisha Crenshaw, who died on November 13, 2005. Young Mynisha was from my district in San Bernardino, California.

She was killed while eating Sunday dinner with her family, after gang members shot at the Crenshaw home located in Cedar Apartment in the Del Rosa neighborhood. Another young, innocent life was lost due to gang violence. And there are 24,500 gangs operating in the United States.

These acts of violence are not uncommon for city streets. Young people regularly claim that they live in the world of domestic warfare.

We hear about the devastation happening in Iraq. And we honor the soldiers fighting for freedom. But are we not giving the necessary tools to young people here in our own country to avoid gang problems? We are willing to provide those in Iraq. But are we willing to provide the tools for those that are right here in the United States to fight gangs?

We do not hear about the mother who has to bury the young son or daughter. We do not see the elementary, middle school aged children who are recruited to join the ranks of gang members for sisterhood. And after Mynisha's death, I am proud to say that our community did unite. We came together and vowed to find solutions to gang violent crisis. Mynisha's Circle was created as a forum to address this issue.

Senator Boxer, with the help of Reverend Beamon and Steve Lambert and other members of the Mynisha's Circle created S. 2671, Mynisha Law. I am proud to sponsor the House companion to the Senate bill.

This bill is critical to fight against gangs. It creates a Federal task force with members from the Departments of Justice, Education, Labor, Health, Human Services, Housing and Urban Development. This task was to create a comprehensive national prevention strategy that would focus on all aspects to fight against gangs from early childhood intervention to at risk youth intervention, literacy, employment and community policing.

By allowing the attorney general to decide which city has the highest gang activity, many communities where gang violence is growing or is out of control will have a newfound resource to combat the issue. Anyone who thinks this bill is unnecessary or that gang violence is no longer a problem in America is wrong, and I state, is wrong.

There are currently an estimated 24,500 gangs operating in the United States. Gang violence and drug trafficking remains a serious problem throughout the country causing injuries and death to innocent victims and too often, children that will never fulfil their lives.

According to the National Drug Threat Assessment, criminal street gangs are responsible for the distribution of much of the cocaine, methamphetamines, heroine, and other illegal drugs throughout the United States. I thank Chairman Scott for your leadership and your support.

I thank Reverend Schiff and others for including the Mynisha provision in the gang prevention bill. It is important that we explore all avenues, and I state, that we explore all avenues, in addressing the issue because the cause of inaction, I state the cause of inaction is too high.

We cannot forget that we are fighting for the future to make tomorrow a better and safe place for our children. We want our children to fulfil their lives. We want our children to have a better quality of life, and we want our neighborhoods to have a better quality of life.

I yield back the balance of my time. And I thank you, Mr. Chairman, for having this important hearing.

[The prepared statement of Mr. Baca follows:]

PREPARED STATEMENT OF THE HONORABLE JOE BACA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Good afternoon Chairman Scott, Ranking Member Forbes, and distinguished members of the Subcommittee. I am pleased to present testimony today on behalf of HR 1069, Mynisha's Law.

This bill serves two primary purposes: first, it directs the Attorney General to review applications from cities wanting to be designated as Comprehensive Gang Prevention and Relief Areas; and second, it establishes an Interagency Gang Prevention Task Force where federal agencies will coordinate efforts focused on gang prevention.

I would like to share with you the sad story behind the creation of Mynisha's Law.

Senator Barbara Boxer and I became involved with a local anti-gang group called *Mynisha's Circle* that was formed in the wake of the killing of eleven year old Mynisha Crenshaw, who died on November 13, 2005.

Young Mynisha was from my district, in San Bernardino, California. She was killed while eating Sunday dinner with her family after gang members shot at the

Crenshaw home, located at the Cedarwood Apartments in the Del Rosa neighborhood.

Another young, innocent life was lost due to gang violence.

These acts of violence are not uncommon for city streets. Young people regularly claim they live in a world of domestic warfare.

We hear about the devastation happening in Iraq and we honor the soldiers fighting for our freedom. But, we are not giving the necessary tools to young people here, in our own country, to avoid gang life.

We do not hear about the mothers who have to bury there young sons and daughters. We do not see the elementary and middle-school aged children who are recruited to join the ranks of gang brother and sisterhood.

After Mynisha's death, I am proud to say that our community did unite. We came together and vowed to find solutions to the gang violence crisis. Mynisha's Circle was created as a forum to address this issue.

And Senator Boxer, with the help of Rev. Reggie Beamon, Steve Lambert and other members of Mynisha's Circle, created S. 2671 Mynisha's Law. I am proud to sponsor the House companion to the Senate bill.

This bill is crucial to the fight against gangs.

It creates a *Federal Gang Task Force*—with members from the Departments of Justice, Education, Labor, Health and Human Services, and Housing and Urban Development.

This task force would create a comprehensive national gang prevention strategy that would focus on all aspects of the fight against gangs—from early childhood intervention to at-risk youth intervention, literacy, employment, and community policing.

By allowing the Attorney General to decide which cities have the highest gang activity, many communities where gang violence is growing or is out of control will have newfound resources to combat this issue.

Anyone who thinks this bill is unnecessary, or that gang violence is no longer a problem in America is wrong. There are currently an estimated 24,500 gangs operating within the United States. Gang violence and drug trafficking remain serious problems throughout the country, causing injury and death to innocent victims, and too often children.

According to the National Drug Threat Assessment—criminal street gangs are responsible for the distribution of much of the cocaine, methamphetamine, heroin, and other illegal drugs throughout the United States.

I thank you, Chairman Scott for your leadership and support, and I thank Rep. Schiff and others for including Mynisha's provisions in your gang prevention bills.

It is important that we explore all avenues in addressing this issue because the cost of inaction is too high. We cannot forget that we are fighting for the future, to make tomorrow a better and safer place for our children. Thank you.

Mr. SCOTT. Thank you, Mr. Baca.

Mr. Lampson?

TESTIMONY OF THE HONORABLE NICHOLAS V. LAMPSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. LAMPSON. Thank you, Mr. Chairman Scott, Ranking Member Forbes, for taking our testimony today regarding our efforts to catch, prosecute, and incarcerate gang members.

Gang participation has reached obviously unacceptable levels in our country. And it is threatening the safety and security of big cities as well as small towns. And according to the Department of Justice, 82 percent of police departments serving large cities have reported youth gangs while the DOJ also reports gang activity has been increasing in smaller cities since 1999.

In my district in Houston, crime has been on the rise. FBI reports growing trends of murder, rape and assault from 2005 to 2006. And according to law enforcement officials, much of this increase in crime in Houston is related to the relocation of street gangs and drug traffickers from New Orleans following Hurricane Katrina.

The New Orleans gangs are extremely violent and intimidate many of the established Houston gangs. As such, gang-related crime, particularly gang-related murders, has increased significantly. Additionally, New Orleans gangs have expressed intent to take over large portions of the Houston drug market, which could lead to further violence. We must be vigilant to protect our communities from these thugs and criminals.

Recently, I introduced the Prosecutorial Tools Improvement Act of 2007, which will make our homes safer by providing greater latitude and resources to our Nation's prosecutors to go after the gangs with the fullest extent of the law.

H.R. 3462 protects families and communities by enhancing criminal penalties for violent felonies committed during and in relation to drug trafficking crimes. According to the National Drug Intelligence Center, NDIC, high levels of violent crime in Houston, Texas are "closely associated with the distribution and abuse of illicit drugs, particularly crack cocaine and methamphetamine. Crack cocaine is the drug most associated with violent and property crime."

The NDIC affirms that gangs involved in drug crimes are responsible for violent assaults, car jackings, drive-by shootings, home invasions, robberies and firearm violations. They commit these acts to protect and to expand their drug operations. These criminal activities must be stopped. And my legislation sends a strong and clear message, "We will catch you, and we will put you in jail."

Texas highways have become thoroughfares for the drug trade. Unfortunately, Houston has become the on ramp. The Texas Highway Patrol leads the Nation in criminal arrests and seizures of drugs and in currency. Between 60 and 80 percent of all drugs pass through Houston alone.

My bill imposes stiff penalties for crimes committed by drug traffickers and gangs that participate in drug trafficking. The Prosecutorial Tools Improvement Act of 2007 mandates a life sentence for incidents of murder or kidnapping that are in relation to drug trafficking.

Other violent crimes will result in imprisonment for a minimum of 30 years. And crimes such as conspiracy to commit a violent crime will result in imprisonment for a minimum of 10 to 20 years. By instituting harsher penalties and strengthening the consequences for gang involvement prosecutors will be given the tools they need to pursue and punish modern gangs.

According to the National Center for Missing and Exploited Children, NCMEC, the income drug trafficking provides for gangs serves to attract many young people, especially runaways and homeless children. The NCMEC has outlined that gang activity when combined with trafficking of crack or other drugs is "becoming increasingly involved in prostitution of youth," which can prove to be very profitable for gangs.

As co-chairman and founder of the Congressional Caucus on Missing and Exploited Children, this is an issue of the utmost importance to me. As a father and grandfather, I know that the protection of our children is paramount. We can deter our Nation's children from joining gangs by imposing stiff penalties for gang ac-

tivity, as well as providing opportunities for young people in their communities that keep them off the street.

And finally, Mr. Chairman, my bill increases the ability for our law enforcement agencies to pursue terrorists by increasing the statute of limitations from 8 to 10 years. Terrorism is the greatest threat we face as a free Nation. Time should not stand between terrorists and justice. We must ensure that prosecutors have every tool they need to fight terrorism.

Gang cause irreparable damage to communities and families throughout the United States. My bill gives prosecutors the tools they need to stop gang violence from invading our neighborhoods.

Violent gang complaints are up 38 percent since 2002. But convictions have only increased by 12 percent. Clearly, we need more tools and resources to combat and stop gangs. This is exactly what my bill, the Prosecutorial Tools Improvement Act, does.

I thank you for this important hearing and for listening to our testimony, Mr. Chairman and Committee.

[The prepared statement of Mr. Lampson follows:]

PREPARED STATEMENT OF THE HONORABLE NICHOLAS V. LAMPSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Chairman Scott, Ranking Member Forbes, and Members of the Subcommittee: thank you for taking my testimony today about my efforts to catch, prosecute and incarcerate gang members.

Gang participation has reached unacceptable levels in our country and is threatening the safety and security of big cities, as well as small towns. According Department of Justice, 82% of police departments serving large cities have reported youth gangs while the DOJ also reports gang activity has been increasing in smaller cities since 1999.

In my district, in Houston, crime has been on the rise, FBI reports growing trends of murder, rape and assault from 2005 to 2006. According to law enforcement officials, much of this increase in crime in Houston is related to the relocation of street gangs and drug traffickers from New Orleans following Hurricane Katrina.

The New Orleans gangs are extremely violent and intimidate many of the established Houston gangs. As such, gang-related crime, particularly gang-related murders, has increased significantly. Additionally, New Orleans gangs have expressed intent to take over large portions of the Houston drug market, which could lead to further violence.

We must be vigilant to protect our communities from these thugs and criminals. Recently I introduced the Prosecutorial Tools Improvement Act of 2007, which will make our homes safer by providing greater latitude and resources to our nation's prosecutors to go after gangs with the fullest extent of the law.

H.R. 3462 protects families and communities by enhancing criminal penalties for violent felonies committed during and in relation to drug trafficking crimes. According to the National Drug Intelligence Center (NDIC), high levels of violent crime in Houston, Texas are "closely associated with the distribution and abuse of illicit drugs, particularly crack cocaine and methamphetamine. Crack cocaine is the drug most associated with violent and property crime."

The NDIC affirms that gangs involved in drug crimes are responsible for violent "assaults, carjacking, drive-by shootings, home invasions, robberies, and firearms violations." They commit these acts "to protect and expand their drug operations." These criminal activities must be stopped. My legislation sends a strong and clear message—we will catch you, and we will put you in jail.

Texas' highways have become thoroughfares for the drug trade, unfortunately Houston has become the on ramp. The Texas Highway Patrol leads the nation in criminal arrests and seizures of drugs and currency, between 60 and 80 percent of drugs pass through Houston alone.

My bill imposes stiff penalties for crimes committed by drug traffickers and gangs that participate in drug trafficking. The Prosecutorial Tools Improvement Act of 2007 mandates a life sentence for incidents of murder or kidnapping that are in relation to drug trafficking. Other violent felonies will result in imprisonment for a minimum of 30 years. And crimes such as, conspiracy to commit a violent crime, will result in imprisonment for a minimum of 10 to 20 years.

By instituting harsher penalties, and strengthening the consequences for gang involvement, prosecutors will be given tools they need to pursue and punish modern gangs.

According to the National Center for Missing and Exploited Children, NCMEC, the income drug trafficking provides for gangs serves to attract many young people, especially runaways and homeless children.

NCMEC has outlined that gang activity, when combined with the trafficking of crack or other drugs is "becoming increasingly involved in the prostitution of youth," which can prove to be very profitable for gangs.

As co-chairman and founder of the Congressional Missing and Exploited Children Caucus, this is an issue of the utmost importance to me. As a father and grandfather, I know that the protection of our children is paramount. We can deter our nation's children from joining gangs, by imposing stiff penalties for gang activity, as well as providing opportunities for young people in their community that keeps them off the street.

Finally, my bill increases the ability for our law enforcement agencies to pursue terrorists by increasing the statute of limitations from eight years to ten. Terrorism is the greatest threat we face as a free nation, time should not stand between terrorists and justice. We must ensure that prosecutors have every tool they need to fight terrorism.

Gangs cause irreparable damage to communities and families throughout the United States. My bill gives prosecutors the tools they need to stop gang violence from invading our neighborhoods. Violent Gang complaints are up 38 percent since 2002, but convictions have only increased 12 percent. Clearly, we need more tools and resources to combat and stop gangs. That is exactly what my bill, the Prosecutorial Tools Improvement Act, does.

Thank you.

Mr. SCOTT. Thank you.

Mr. McNerney?

TESTIMONY OF THE HONORABLE JERRY McNERNEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. MCNERNEY. Thank you, Chairman Scott, Ranking Member Forbes and distinguished Members on the Subcommittee on Crime, Terrorism, and Homeland Security. I appreciate the opportunity to speak here today about gang activity and about my bill, H.R. 3474, the National Safe Streets Gang Crime Prevention Act, which will provide law enforcement agencies across the country the tools they need to fight gangs and prevent crime.

My constituents and individuals across the Nation are fighting to protect their communities, schools and children by taking strong stands against gangs. Unfortunately, the growth in gangs and gang activities shows that the existing enforcement mechanisms alone are not sufficient to stop the gangs. And in fact, the Ranking Member and the Chairman both pointed out the difficulties with our current system.

We also need to establish strong prevention tools for our authorities to manage and reduce gangs and gang-related problems. We need to stop gang crimes before they get started.

We should provide all levels of law enforcement the necessary resources to prevent gang activity. And one of the best things we can do is share information and work together.

Gang activity does not stay neatly within one jurisdiction. It spreads out across geographic boundaries. Therefore, law enforcement officials need a mechanism to share intelligence and track crime. I have witnessed what this level of cooperation can do locally to prevent gang activity.

In my district, the city of Stockton Police Department coordinated efforts with the DEA, the FBI, and the ATF and other local jurisdictions to target suspect drug traffickers and gang operations in San Joaquin County. Impressively, these efforts have resulted in 51 arrests since January. It is clear when law enforcement agencies share information and work together they can reduce gang activities.

Inter-agency cooperation is critical to preventing crimes. That is why I introduced the Safe Streets Gang Crime Prevention Act of 2007. My bill creates a strong gang national database to allow law enforcement officials nationwide and at all levels of law enforcement to share information and track gang members and their activities.

The data will contain information on gangs, gang members, firearms, criminal activities, vehicles and other background information that can help solve crimes. This database will be accessible to law enforcement officers nationwide to prevent gang crime.

Additionally, my bill provides funding to expand the FBI's Safe Street Program, which has also been mentioned this afternoon, which conducts long-term investigations of violent gangs in coordination with other law enforcement agencies. This legislation will have a significant impact on reducing gang activity.

Since coming to Congress I have seen firsthand how Federal, State, and local law enforcement officers have done an outstanding job in their fight against gang crime. In fact, just this weekend the city of Manteca Police Department's gang unit discovered a large cache of weapons and was able to arrest the documented gang member who was responsible. Yet despite some successes, gang crimes still constitute a significant threat.

In the largest city in my district there are at least 84 gangs and hundreds more in the state of California. With this level of membership and activity, information sharing is absolutely vital.

Mr. Chairman, gang crime can be prevented if we work together. I thank you for this opportunity to testify. That concludes my written statement.

I want to say that your comments have been useful. There have been many things that have been tried in the past. We need to be open to new ideas. And that is exactly what this panel is trying to produce. I yield back the balance of my time.

[The prepared statement of Mr. McNerney follows:]

PREPARED STATEMENT OF THE HONORABLE JERRY MCNERNEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Thank you Chairman Scott and Members of the Subcommittee on Crime, Terrorism, and Homeland Security: I appreciate the opportunity to speak today about gang crime, and my bill, H.R. 3474, the National Safe Streets Gang Crime Prevention Act, which provides law enforcement agencies across the country the tools they need to fight gangs and prevent crime.

My constituents, and individuals across the nation, are fighting to protect their communities, schools, and children by taking a strong stand against gangs.

Unfortunately, growth in gangs and gang activities shows that existing enforcement mechanisms alone are not sufficient to stop gangs. We also need to establish strong prevention tools for our authorities to manage and reduce gangs and gang related problems. We need to stop gang crime before it gets started.

We should provide all levels of law enforcement the necessary resources to prevent gang activity, and one of the best things we can do is share information and work together.

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It's clear: when law enforcement agencies share information and work together they can reduce gang activity.

Interagency coordination is critical to preventing crimes.

That is why I introduced the Safe Streets Gang Crime Prevention Act of 2007. My bill creates a National Gang Activity Database to allow law enforcement officials nationwide—and at all levels—to share information and track gang members and their activities.

The database will contain information on gangs, gang members, firearms, criminal activities, vehicles, and other background information that can help solve crimes. This database will be accessible to law enforcement officials nationwide to help prevent gang crime.

Additionally, my bill provides funding to expand the FBI's Safe Streets Program, which conducts long-term investigations of violent gangs in coordination with other law enforcement agencies.

This legislation will have a significant impact on reducing gang activity.

Since coming to Congress, I have seen firsthand how federal, state, and local law enforcement officers have done an outstanding job in their fight against gang crime. I cannot commend them enough. In fact, just this weekend, the Manteca Police Department's Gang Unit discovered a large cache of weapons and was able to arrest the documented gang member who was responsible.

Yet despite some successes, gang crime still constitutes a significant threat to our nation.

In the largest city in my district, there are at least 84 gangs and hundreds more in the state of California. With this level of membership and activity, information sharing is absolutely vital.

Mr. Chairman, gang crime can be prevented if we work together.

I thank you again for this opportunity to testify before the Subcommittee. I yield back the balance of my time.

Mr. SCOTT. Thank you.

Mr. Dent?

TESTIMONY OF THE HONORABLE CHARLES W. DENT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. DENT. Thank you, Chairman Scott, Ranking Member Forbes, Members of the Subcommittee. I truly appreciate this opportunity for allowing me to come before you today to discuss H.R. 3152, the Anti-Gang Task Force Act of 2007. This legislation will help our local law enforcement communities combat the scourge of gang violence.

It authorizes $20 million for each fiscal years 2008 through 2011 to establish new multi-jurisdictional anti-gang task forces bringing together State and local prosecutors with Federal officials from the FBI, the DEA, the Bureau of Alcohol, Tobacco, Firearms, and Explosives, DHS, as well as others.

Gangs, as you all know, are mobile, and they often cross jurisdictional lines in order to facilitate the dealing of drugs or to avoid detection by local law enforcement authorities. And providing funds to the different municipalities may, with Federal assistance, pool resources to track, combat, and prosecute gang activity and will be a major assist to the quality of life in communities that are plagued by this gang violence. A multi-jurisdictional approach is clearly

necessary in order to stop the proliferation of gang violence and gang activity.

My district encompasses a good portion of what is called the Route 222 corridor. This corridor bisects five cities: Easton, Bethlehem, Allentown, Reading and Lancaster.

They are located in four Southeastern and East Central Pennsylvania counties. It is uniquely situated in that it is linked directly to New York City approximately about 80 miles due east of the Lehigh Valley via Interstate 78 and through other easily accessible roads, including Route 222 to Philadelphia, which is about 60 miles due southeast of the Lehigh Valley area where I live.

Gang violence along the Route 222 corridor primarily involving drug trafficking and armed robberies dates back more than a decade. There has been a chronic problem infecting each of the five cities within this corridor. And these are small to mid-sized cities, Allentown being the largest, about 110,000.

The roadways that have allowed commerce to thrive in this region have also strongly benefited these gangs who can move between the cities with relative ease thereby making their operations much more difficult to detect and to track. As a result, the 222 corridor has been plagued by this insidious gang activity.

Each of the cities in the corridor has a number of home-grown violent gangs, most of which are involved in drug trafficking. According to the United States attorney's office for the eastern district of Pennsylvania, these gangs such as the Second Street Gang in Allentown and the Tenth Street Gang in Reading, usually operate in relatively small areas of their respective cities and use violence to control and defend their drug trafficking operations.

While these gangs generally do not use symbols or dress similarly to identify themselves, they are often as violent as their national counterparts. And many gang members, according to the U.S. attorney's office, are illegal aliens who migrate to the 222 corridor in the Southwest and New York City and join existing gangs.

H.R. 3152, the Anti-Gang Task Force Act of 2007, would bring Federal, State and local law enforcement agencies together to help stop multi-jurisdictional gang activities in places like the 222 corridor. Further, 3152 would be a nice complement to a recent anti-gang initiative funded through the Project Safe Neighborhood Program in our area. And that Project Safe Neighborhood initiative involves a cooperative law enforcement effort between the counties and cities along the corridor.

For the reasons I described earlier, I push very hard to make sure the corridor was one of six locations included in this $15 million comprehensive anti-gang initiative undertaken by the Department of Justice. The initiative has a three-pronged approach to combating gang violence: first, the prevention of gang affiliation; second, enforcement of existing laws; and third, the rehabilitation of gang members seeking to reenter society.

And again, Mr. Chairman Scott, I commend the work that your Subcommittee is doing to curb gang violence. And I really want to thank you for providing me this opportunity to discuss this legislation. And I hope that you and the rest of the Subcommittee will be supportive of these endeavors in the future. And I thank you again. And I would like to yield back.

[The prepared statement of Mr. Dent follows:]

PREPARED STATEMENT OF THE HONORABLE CHARLES W. DENT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Chairman Scott, Ranking Member Forbes, and Members of the Subcommittee: Thank you for allowing me to come before you today to discuss HR 3152, the Anti-Gang Task Force Act of 2007.

This bill will help our local law enforcement communities combat the scourge of gang violence. It authorizes $20m for each of Fiscal Years 2008 through 2011 to establish new multi-jurisdictional anti-gang task forces, bringing together state and local prosecutors with federal officials from the FBI, DEA, the Bureau of Alcohol, Tobacco, Firearms, and Explosives (BATFE), DHS, and others.

Gangs are mobile and they often cross jurisdictional lines in order to facilitate the dealing of drugs or to avoid detection by local law enforcement authorities. Providing funds so that different municipalities may, with federal assistance, pool resources to track, combat, and prosecute combat gang activity will be a major assist to the quality of life in communities that are plagued by gang violence.

A multi-jurisdictional approach is clearly necessary in order to stop the proliferation of gang violence and gang activity. My District encompasses a good portion of what is called the Route 222 corridor. This corridor bisects five cities—Easton, Bethlehem, Allentown, Reading, and Lancaster—located in four southeast Pennsylvania counties. It is uniquely situated, in that it is linked directly to New York City, approximately eighty miles away via Interstate 78, and, through other easily accessible roads (including Route 222), to Philadelphia, which is 60 miles to the southeast.

Gang violence along the 222 corridor, primarily involving drug trafficking and armed robberies, dates back more than a decade and has been a chronic problem infecting each of the five cities within the corridor. The roadways that have allowed commerce to thrive in the region have also strongly benefited the gangs, who can move between the cities with relative ease, thereby making their operations much more difficult to detect and to track.

As a result, the 222 corridor has been plagued by gang activity. Each of the cities in the corridor has a number of home-grown violent gangs, most of which are involved in drug trafficking, according to the United States Attorney's Office for the Eastern District of Pennsylvania. These gangs, such as the 2nd (Street) in Allentown and the 10th Street Gang in Reading, usually operate in relatively small areas of their respective cities and use violence to control and defend their drug trafficking operations. While these gangs generally do not use symbols or dress similarly to identify themselves, they are often as violent as their national counterparts. And many gang members are illegal aliens who migrate to the 222 Corridor from the southwest and New York City and join existing gangs.

HR 3157, the Anti-Gang Task Force Act of 2007, would bring federal, state, and local law enforcement agencies together to help stop multi-jurisdictional gang activity in places like the Route 222 corridor. Further, HR 3157 would be a nice complement to a recent anti-gang initiative funded through the Project Safe Neighborhoods (PSN) program in our area.

This PSN initiative involves a cooperative law enforcement effort between the counties and cities along the corridor. For the reasons I described earlier, I pushed very hard to make sure that the Corridor was one of the six locations included in this $15 million Comprehensive Anti-Gang Initiative undertaken by the Department of Justice. The initiative has a three-pronged approach to combating gang violence: prevention of gang affiliation, enforcement of existing laws, and the rehabilitation of gang members seeking to re-enter society.

Mr. Chairman, I commend the work that your Subcommittee to doing to curb gang violence, and I want to thank you for providing me the opportunity to talk about the Anti-Gang Task Force Act of 2007 and the Project Safe Neighborhoods Anti-Gang initiative. I hope that you and the rest of the Subcommittee will be supportive of both of these endeavors in the future.

Thank you, I yield back the balance of my time.

Mr. SCOTT. Thank you.

Mr. Reichert?

TESTIMONY OF THE HONORABLE DAVID G. REICHERT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON

Mr. REICHERT. Thank you, Mr. Chairman. And I would like to thank you and the Ranking Member for holding this hearing. I find myself a little bit confused. And that is because my world before this world was in law enforcement, 33 years in the King County Sheriff's office, starting out as a patrol officer and now finding myself in this position here in Congress trying to construct laws that might help those that I was recently in the ranks and members of the ranks.

Now I find myself also in a different position this afternoon, testifying instead of asking the questions. So I am happy to be here today, though.

And I want to associate myself with all the comments that have been made by each of the Members who have testified and also, sir, with your opening statement and also the Ranking Member's opening statements. We all recognize there is a gang problem here in the United States.

It is not a new problem. It has been an old problem, one that I dealt with in my 33 years in law enforcement.

I would like to mention, though, that, you know, we can rattle off all these figures and all these statistics. And we think about our role here and your role in this Committee in hearing our testimony. And we go about our political world, as Mr. Forbes said. We sometimes lose sight of the fact we are talking about lives here, human lives.

I have seen the death on the streets as a cop on the streets. And not only young people who have lost their lives, but police officers. And every day this is happening in our Nation.

And so, if there was a time, if there ever was a time for us to come together as a party, a party, an American party, this is the time. You and this Committee listening to the testimony of each one of us today in presenting our ideas and thoughts on legislation that can help our local community stop this killing. This is the time.

And this really is not a part of my written statement, but I just felt compelled to share this with you. Please come together. Look at these bills. Add the language that you would seem to consider to be language that you would want to include in a bill that would be powerful enough to help people across this country end this murder, end the drug abuse, end the ripping and tearing apart of families.

We all know that gangs are an increasing threat to safety. We all know that there is 25,000 gangs active. We know that there is 3,000 jurisdictions across the country affected by gangs. We know there is 750,000 to 850,000 gang members here in the United States. That is larger than all but six armies in the world.

We have got to do something today. And to make matters worse, they are going after our junior high and our grade school kids now. Gang members are going after junior high, 12, 13-year-old kids and grade school kids. We have got to do something today.

You know, in order to become a gang member, you have to go through what some people see as a hazing. But it is called the

jump you. Gangs jump in—and maybe you have heard about this. They jump on young people, and they beat the holy living you know what out of them.

They beat them, and they torture them. And then they become gang members. And there are some other things that they do, too, that I won't describe. But that is the process our young people are going through in this country today.

One of the officers that I knew from a police department in the county that I was sheriff of made a traffic stop one night, got out of his car and was greeted by a gang member and had a bullet put in his head. That was the end of his life and the end of his family's.

The influence of gangs has reached beyond our own communities. Gangs have become increasingly sophisticated in their tactics and worked with crime organizations across the globe bringing guns and drugs into this country and onto our streets. Drug gangs are now the primary distributor of illegal narcotics in the United States. And these international drug cartels now number in thousands across the city, the State and the national boundaries.

Some gangs collect millions of dollars per month selling illegal drugs, trafficking weapons, operating prostitution rings and selling stolen property. These gangs are also directly linked with human trafficking, I.D. theft, fraud, violent maiming, assault and murder.

In 2001, there were over 631 gang-related homicides in the United States. Many police departments in our Nation are not prepared to handle this problem. They don't know how to address this growing threat.

Across the Nation gang statistics are maintained sporadically at best. Our local law enforcement officials who are on the front line of this battle cannot win the war if they don't have a clear understanding of what they are up against.

My bill, H.R. 367, the Gang Elimination Act, would require the attorney general to develop a national strategy to eliminate the gang epidemic plaguing our neighborhoods. Specifically, this legislation will identify and target the three international drug gangs that present the greatest threat to the United States measuring their ties to terrorist organizations, the amount of drugs they import and distribute, and the threat they pose to our children.

In essence, H.R. 367 creates a gang "most wanted" list. With these three gangs put on notice, we will be able to identify their members and aggressively pursue them.

And I agree, again, with some of the other comments that have been made. We need to do this by communicating, sharing our information, partnering not only with law enforcement organizations across this country, but partnering with our community and social agencies and bringing everyone together who touches this problem to address it from the very beginning.

And I appreciate the opportunity to share my thoughts, Mr. Chairman. And I yield back.

[The prepared statement of Mr. Reichert follows:]

PREPARED STATEMENT OF THE HONORABLE DAVID G. REICHERT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON

CONGRESSMAN REICHERT
Statement on H.R. 367, Gang Elimination Act
Subcommittee on Crime, Terrorism, and Homeland Security
October 2, 2007

I would like to thank Chairman Scott and Ranking Member Forbes for the opportunity to speak today about my bill, H.R. 367, the Gang Elimination Act.

Gangs are an increasing threat to the safety and quality of life of our towns and communities. What was once a problem assigned to large cities has now spread to suburbia and communities of all sizes across the nation – leaving no region untouched. There are currently over 25,000 gangs who are active in more than 3,000 jurisdictions across the U.S. The FBI and Department of Justice estimate that there are somewhere between 750,000 – 850,000 gang members in our nation. To put this number in context, it is larger than all but six armies in the world.

To make matters worse, the average recruit into a gang is in the seventh grade. In July, the Boston Globe reported on the allure gangs hold for preteens,

particularly those with an older sibling in a gang. The article details how young elementary and middle school aged boys and girls mimic their older counterparts by forming "crews" which they later abandon to join a bona fide gang, but not before enduring brutal hazing routines that include beatings until they bleed – which is called "jumping in." And just last month the New York Times reported on gang violence that erupted at a Salisbury, NC high school dance that left an innocent 13-year old girl dead.

The influence of gangs reaches beyond our own communities. Gangs have become increasingly sophisticated in their tactics and work with crime organizations across the globe to channel drugs and guns into the country and onto our streets. Drug gangs are now the primary distributor of illegal narcotics in the United States. These "international drug cartels" now number in the thousands, across city, state, and national boundaries. Some gangs

collect millions of dollars per month selling illegal drugs, trafficking weapons, operating prostitution rings, and selling stolen property. These gangs are also directly linked with human trafficking, ID theft and fraud, violent maiming, assault and murder. In 2001, there were over 631 gang related homicides in the U.S.

Unfortunately, many police departments are not prepared for this growing threat. Across the nation, gang statistics are maintained sporadically at best. Our local law enforcement officials who are on the front line of this battle cannot win the war if they don't have a clear understanding of what they're up against. My bill, H.R. 367, the Gang Elimination Act would require the Attorney General to develop a National Strategy to eliminate the gang epidemic plaguing our neighborhoods. Specifically, this legislation will identify and target the three international drug gangs that present the greatest

threat to the United States, measuring their ties to terrorist organizations, the amount of drugs they import and distribute and the threat they pose to our children. In essence H.R. 367 creates a "Gang Most Wanted List." With this list, we will be able to identify their members and aggressively pursue them. Gangs, be on notice.

Again, I would like to express my gratitude to the committee for their work to address the growing incidence of gang related crimes and find real solutions that will enable our local law enforcement agencies to eradicate gangs from our communities and keep our children safe. I appreciate the opportunity to speak on my bill and hope the committee will consider it.

Mr. SCOTT. Thank you very much. And I would like to thank all of our witnesses for their testimony today. Members may have written questions which we will forward to you, ask you to answer them promptly. Without objection, the hearing record will remain open for 1 week for submission of additional material.

And so, I would like to thank each and every one of our witnesses. Thank you.

The next panel will come forward.

Our first witness in the second panel is Brian W. Walsh, senior legal research fellow, Center for Legal and Judicial Studies at the Heritage Foundation. He directs the Heritage's project on countering the abuse of criminal law and criminal process, particularly at the Federal level. His work also focuses on the efforts to ensure that national and homeland security measures include protections for constitutional and other civil liberties.

Before joining the Heritage Foundation, he was an associate with the Washington office of Kirkland and Ellis. And he served as a law clerk for Judge Bowman of the U.S. Court of Appeals for the 8th Circuit. He is a graduate from Regent University Law School and holds a bachelor's degree in physics from the University of Colorado.

Our next witness will be the Honorable Jerrauld C. Jones, judge of the Norfolk Juvenile and Domestic Relations Court in Norfolk, Virginia. He is one of the few people in Virginia history to hold leadership positions in each branch of Government.

Prior to his appointment on the bench, he was the director of the Department of Juvenile Justice for the Commonwealth of Virginia. As head of the youth authority, he was responsible for the incarceration, rehabilitation and transitional reentry of juvenile offenders in the State.

He also served eight terms as a delegate in the Virginia General Assembly, where he oversaw many positive and progressive changes within the juvenile justice system. He is a graduate of Princeton University and the School of Law at Washington and Lee University.

Our next witness will be Kevin Pranis, researcher of the Justice Policy Institute, Washington, D.C. He has more than a decade of experience as a justice educator and policy analyst and has produced educational materials, training materials, reports and white papers on topics that include corporate accountability, municipal bond finance, prison privatization and sentencing policy. He has two degrees from the University of Chicago, a bachelor's in Latin American studies and a master's in social science.

Our next witness will be the Honorable Richard Roper, United States attorney for the northern district of Texas. He served as a U.S. attorney since 2004. He is a career prosecutor having served as an assistant U.S. attorney from 1987 to his current appointment.

Prior to joining the U.S. attorney's office, he served as Tarrant County assistant district attorney for five years. He earned his undergraduate degree from the University of Texas at Arlington and a law degree from Texas Tech University.

Our next witness would be Paul Seave, director, gang and youth violence police office of the governor in Sacramento, California. He

served as the governor's director for gang and youth violence policy since 2005. Prior to that appointment, he was a career Federal prosecutor, serving as an assistant U.S. attorney for 13 years and a U.S. attorney for the eastern district of California from 1997 to 2001.

From 2001 to 2005, he served as special assistant attorney general until his current appointment. He has a bachelor's degree from Princeton University and a law degree from the University of Pennsylvania Law School.

Our final witness will be Dr. Peter Scharf, research professor of criminal justice and executive director for the Center for Society Law and Justice at the Texas University. Dr. Scharf is an expert in criminal justice and with numerous contributions to progressive policies. He helped found the BJA Community Policing Consortium, developed a risk assessment management system and served as a primary consultant to the governor's report on the Crown Heights civil disorder.

He has received a great deal of media attention in the past year related to his research in youth violence, particularly those involving gangs. He is currently conducting research related to the control of murder and violent crime risk, prison rape patterns and new technologies related with the potential of reducing homicide risk. He received his doctoral degree from Harvard University.

So we will begin with Mr. Walsh.

TESTIMONY OF BRIAN W. WALSH, SENIOR LEGAL RESEARCH FELLOW, CENTER FOR LEGAL AND JUDICIAL STUDIES, THE HERITAGE FOUNDATION, WASHINGTON, DC

Mr. WALSH. Thank you, Chairman Scott and Ranking Member Forbes for inviting me here today. I want to touch briefly on two topics: constitutional principles of federalism that apply to inherently local gang-related crime and the effective Federal funding of programs to reduce and prevent gang-related crime.

Violent street crime committed by gang members is a serious problem in many States. But turning crimes that are fundamentally local in nature into Federal crimes is not the solution.

Approximately 95 percent of the criminal investigations and prosecutions in the United States are conducted—not by Federal law enforcement—but by law enforcement at the State and local level. Unjustified Federal intervention into anti-gang activities dilutes authority and accountability and detracts from the most effective anti-gang enforcement strategies that are available to State and local law enforcement officials.

The Federal Government does have an important role to play in combating gang-related crime. But that role is limited by the Constitution and should be further restricted to developing and funding programs that carry out traditional Federal functions.

Several broad bills in recent Congresses have attempted to federalize gang crime, conduct which, in most instances, is nothing other than ordinary street crime. S. 456 and H.R. 3547, for example, would effectively transform a broad class of State-law crimes into Federal offenses.

These Federal criminal provisions would invite serious constitutional challenges. The bills may in many cases unconstitutionally

attempt to extend Congress' powers beyond the limits of the Commerce Clause.

No power that civil government commonly uses against its citizens is greater or more prone to abuse than the criminal law and criminal process. This is a compelling reason to craft any new Federal criminal law with great care and attention to the limitations that the Constitution places on the legislative power.

S. 456 and H.R. 3547 include language purporting to restrict the scope of their central criminal provisions to conduct and activities that "occur in or affect interstate or foreign commerce." But to fall within Congress' power to regulate commerce among the several States, a problem must not merely be common to the States, it must be truly interstate in nature and substantially affect interstate commerce.

For this reason, Congress' power under the Commerce Clause does not include the authority to federalize most noncommercial street crimes, whether or not they share some minor nexus with interstate commerce. In short, local violent crime that is not directed at interstate commerce, that is, the sort of crime that is at the heart of most gang-related street crime, is not a proper subject matter for Federal legislation.

Not long ago the Supreme Court rejected the Federal Government's "costs of crime" and "national productivity" rationales for asserting Federal authority over crime that is essentially local in nature. The court explained that if it were to accept these attenuated chains of but-for reasoning, the constitutional limits on congressional power would be obliterated.

S. 456 and H.R. 3547 include similar rationales for justifying the assertion of Federal authority. Their findings sections state that gang presence, intimidation, and crimes "directly and substantially" affect interstate and foreign commerce—but merely saying so does not make it so, and such language adds little or nothing to the constitutional analysis.

The good news is this should not be viewed as a failing of our constitutional system. Former Attorney General Edwin Meese, my distinguished colleague at the Heritage Foundation, is a great friend of and advocate for State and local law enforcement. Ed Meese has frequently stated that unjustified assertions of Federal authority in State and local law enforcement dilutes accountability and responsibility and undermines rather than promotes effective law enforcement.

Constitutional concerns, such as those that arise from the Federal criminal provisions in these two bills, generally do not apply to Federal expenditures for gang-related programs, including those in the Youth PROMISE Act. Congress' constitutional power to spend Federal money to create programs involving State and local government agencies is broad and includes the authority to impose meaningful conditions on grant recipients.

Federal funding to combat gang-related crime should be focused on programs that, one, carry out traditional Federal functions, two, are carefully crafted and evaluated to ensure they achieve their stated goals, and three, include sufficient oversight and auditing to minimize waste and abuse of Federal funds and to ensure that

such funds do not merely supplant funds that would otherwise be provided by State and local governments.

I would like to direct the Committee's attention to my written statement for a broader discussion of the principles of effective Federal funding, and focus just on the second item in this list. One of the best uses of Federal funding is for programs to research and promote so-called evidence-based crime prevention, that is, crime prevention strategies and methods the results of which can be verified empirically.

Congress should set high standards for measuring effectiveness. No one other than the administrators of programs receiving Federal grants are well served by standards that are easy to satisfy.

As in any well run business, such programs must have measurable results to demonstrate their effectiveness. The metrics to be used must be standardized if each grantee's performance is to be readily compared with the performance of others. The Federal Government should also impose meaningful interim benchmarks to ensure that the gang prevention programs it funds are on target to meet the goals for which Congress has provided funding.

Thank you again, Chairman Scott and Ranking Member Forbes. And I look forward to responding to any questions.

[The prepared statement of Mr. Walsh follows:]

PREPARED STATEMENT OF BRIAN W. WALSH

STATEMENT OF

BRIAN W. WALSH

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CENTER FOR LEGAL AND JUDICIAL STUDIES
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TESTIMONY BEFORE THE

SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY
OF THE
COMMITTEE ON THE JUDICIARY
OF THE
UNITED STATES HOUSE OF REPRESENTATIVES

REGARDING

"GANG CRIME PREVENTION AND THE NEED TO FOSTER INNOVATIVE SOLUTIONS AT THE FEDERAL LEVEL"

OCTOBER 2, 2007

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Thank you, Chairman Conyers and Chairman Scott, for inviting me here today to address the subject of a proper and effective federal role in the prevention and elimination of gang-related crime. In my allotted time, I will touch briefly on two topics: the constitutional principles of federalism that apply to the criminalization of gang-related conduct and the effective federal funding of programs to reduce and prevent gang-related crime.[2]

My name is Brian Walsh, and I am the Senior Legal Research Fellow in The Heritage Foundation's Center for Legal and Judicial Studies. I direct Heritage's projects on countering the abuse of the criminal law and criminal process, particularly at the federal level. My work also emphasizes constitutional issues, such as the protection of civil liberties in national security and homeland security measures.

Violent street crime committed by gang members is a serious problem in many states, but turning crimes that are fundamentally local in nature into federal crimes is not the solution. Approximately 95 percent of U.S. criminal investigations and prosecutions are conducted – not by federal law enforcement – but by law enforcement at the state and local levels.[3] Unjustified federal intervention against "gang crime" would detract from the most effective anti-gang enforcement strategies available to state and local law enforcement officials, i.e., those who carry out the vast majority of anti-gang efforts.

The federal government has an important role to play in combating gang-related crime. But that role is limited by the Constitution and should be further confined to developing and funding programs that (1) carry out traditional federal functions, (2) are carefully crafted and evaluated to ensure they achieve their stated goals, and (3) include sufficient oversight and auditing to minimize waste and abuse.

On several occasions in recent Congresses, Members of Congress have proposed broad bills that attempt to federalize "gang crime," conduct which, in most instances, is nothing other than ordinary street crime.[4] Two of the most recent examples of such legislation, the Gang

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[2] Although all opinions expressed and any errors herein are my own, my Heritage colleagues Todd Gaziano, Erica Little, and David Muhlhausen contributed much to this analysis, and this testimony is based on papers I co-authored with Erica Little. *E.g.*, Erica Little & Brian W. Walsh, "The Gang Prevention and Abatement Act of 2007: A Counterproductive and Unconstitutional Intrusion into State and Local Responsibilities," Heritage Foundation *WebMemo* No. 1619, Sep. 17, 2007, *available at* www.heritage.org/Research/Crime/wm1619.cfm.

[3] Edwin Meese III & Robert Moffit, MAKING AMERICA SAFER: WHAT CITIZENS AND THEIR STATE AND LOCAL OFFICIALS CAN DO TO COMBAT CRIME xiv (Wash., D.C.: Heritage Foundation 1997).

[4] *See, e.g.*, "Gang Prevention & Effective Deterrence Act of 2005," S. 155, 109th Cong.; "Gang Prevention & Effective Deterrence Act of 2003," S. 1735, 108th Cong.. Previous publications by The Heritage Foundation have addressed the flaws in several of these bills. *E.g.*, Erica Little & Brian W. Walsh, "Federalizing 'Gang Crime' Remains Counterproductive and Dangerous," Heritage Foundation *WebMemo* No. 1486, June 6, 2007, *available at* www.heritage.org/Research/Crime/wm1486.cfm; Erica Little and Brian W. Walsh, "Federalizing Gang Crime Is Counterproductive and Dangerous," Heritage Foundation *WebMemo* No. 1221, September 22, 2006, *available at* www.heritage.org/Research/Crime/wm1221.cfm; Edwin J. Feulner, "Ganging Up on Crime," Heritage Foundation *Commentary*, May 19, 2005, *available at* www.heritage.org/Press/Commentary/ed052005a.cfm; Paul Rosenzweig, "The Gang Act Needs Modification," Heritage Foundation *WebMemo* No. 494, May 3, 2004, *available at* www.heritage.org/Research/Crime/wm494.cfm.

Abatement and Prevention Act of 2007 (S. 456), which passed the Senate last month, and a related bill in the House of Representatives, the Gang Prevention, Intervention, and Suppression Act (H.R. 3547), would effectively transform state-law crimes into federal offenses and dramatically increase federal penalties for existing federal offenses that the bills characterize as "gang crimes." The bills also include hundreds of millions of dollars of spending on new and expanded gang-prevention programs.[5]

The federal criminal provisions in these legislative proposals would invite serious constitutional challenges. Like their predecessor bills in the House and the Senate, S. 456 and H.R. 3547 may, in many cases, unconstitutionally attempt to extend Congress's powers beyond the limits of the Commerce Clause.[6] The bill incorporates boilerplate language purporting to establish jurisdiction under the Commerce Clause but nonetheless disregards most of the constitutional structure underlying the state and federal criminal justice systems.

Although inappropriate at the federal level, some of the bills' proposals to criminalize gang activity might be good ones if made at the state level, where, as constitutional precedent has long held,[7] criminal law enforcement and crime prevention have traditionally (and most effectively) been handled. New York City and Boston in the 1990s and early 2000s demonstrated that when accountability for law enforcement is increased at the state and local levels, local police officials and prosecutors can make impressive gains against crime, including gang-related crime. By contrast, federalizing authority over crime reduces accountability of local officials. Human nature being what it is, when it is convenient a significant percentage of state and local officials can be expected to shift responsibility or (depending on the circumstances) blame to federal law enforcement authorities.

Proposed Legislation Runs Afoul of Recent Supreme Court Precedent

Federal involvement may seem like a good idea whenever some crime or pattern of criminal activity becomes prevalent in several states. But the mere existence of the same crimes or types of crime in multiple states does not alone justify an exercise of federal criminal law. To warrant federal involvement, an activity must fall within Congress's constitutionally granted powers. There are serious reasons to doubt that S. 456 and H.R. 3547 do so.

In 2000, the Supreme Court held that the provision of the Violence Against Women Act at issue in *United States v. Morrison* was unconstitutional. The federal criminal provisions on which the challenged provision was based exceeded Congress's commerce-clause power. In the

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[5] *See, e.g.*, Cong. Budget Office, *S.456, Gang Abatement and Prevention Act of 2007* 1, July 2, 2007, *available at* http://www.cbo.gov/ftpdocs/82xx/doc8294/s456.pdf (estimating that "implementing S. 456 would cost $1.1 billion over the 2008-2012 period").

[6] The text of the Commerce Clause states that it grants Congress power "[t]o regulate commerce . . . among the several States." U.S. Const. art. I, § 8, cl. 3.

[7] *See, e.g.*, Cohens v. Virginia, 19 U.S. (6 Wheat.) 264, 426, 428 (1821) (Marshall, C.J.) (explaining that Congress has the right to punish violent crimes such as murder that are committed, for example, in federal facilities, but Congress has "no general right to punish [crimes] committed within any of the States"); *id.* at 428 ("It is clear, that Congress cannot punish felonies generally . . . ."); *accord* United States v. Morrison, 529 U.S. 598, 618 (2000).

course of this holding, the Court affirmed that the Constitution places fundamental limits on the federal legislative power:

> Every law enacted by Congress must be based on one or more of its powers enumerated in the Constitution. "The powers of the legislature are defined and limited; and that those limits may not be mistaken, or forgotten, the constitution is written."[8]

This limitation on Congress's power to legislate is neither arbitrary nor accidental. The Framers crafted it to protect the American people—including those suspected of criminal conduct—from the unchecked power of a centralized national government that would otherwise be all-powerful. As the Court stated, "This constitutionally mandated division of authority 'was adopted by the Framers to ensure protection of our fundamental liberties.'"[9]

No power that civil government commonly uses against its citizens is greater or more prone to abuse than the criminal law and criminal process.[10] This is a compelling reason for crafting any new federal criminal law with great care and attention to the limitations the Constitution places on the legislative power.

S. 456 and H.R. 3547 implicitly acknowledge these limits by purporting to rely on the Commerce Clause for the assertion of federal jurisdiction over crimes that are essentially local in nature. The bills include language purporting to restrict the scope of their central criminal provisions to conduct and activities that "occur in or affect interstate or foreign commerce."[11] But to fall within Congress's power to "regulate Commerce…among the several States," a problem must not merely be common to the states; it must be truly interstate in nature and "substantially affect" interstate commerce.[12] For this reason, Congress's power under the Commerce Clause does not include the authority to federalize most non-commercial street crimes, whether or not they share some minor nexus with interstate commerce. In short, local, violent crime that is not directed at interstate commerce – that is, the sort of crime that is at the heart of most gang-related street crime – is not a proper subject matter for federal legislation.

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[8] *Morrison*, 529 U.S. at 607 (quoting Marbury v. Madison, 5 U.S. (1 Cranch) 137, 176 (1803) (Marshall, C.J.)); *accord* United States v. Lopez, 514 U.S. 549, 552 (1995) ("We start with first principles. The Constitution creates a Federal Government of enumerated powers."): The Federalist No. 45, 292-93 (C. Rossiter, ed., 1961) ("The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite.").

[9] *Lopez*, 514 U.S. at 552 (quoting Gregory v. Ashcroft, 501 U.S. 452, 458 (1991)).

[10] *See* Herbert Wechsler, *The Challenge of a Model Penal Code*, 65 Harv. L. Rev. 1097, 1098 (1952) ("Whatever view one holds about the penal law, no one will question its importance in society. This is the law on which men place their ultimate reliance for protection against all the deepest injuries that human conduct can inflict on individuals and institutions. By the same token, *penal law governs the strongest force that we permit official to bring to bear on individuals*." (emphasis added)).

[11] *See, e.g.*, S. 456 § 101, 110th Cong.; H.R. 3547 § 101, 110th Cong..

[12] The Court reaffirmed in 2000 that the "regulation and punishment of intrastate violence that is not directed at the instrumentalities, channels, or goods involved in interstate commerce has always been the province of the states." *Morrison*, 529 U.S. at 618

Although broader and broader readings of the Commerce Clause during the latter part of the twentieth century allowed the federal government to regulate more and more economic activity,[13] the Supreme Court has set limits and rejected recent attempts to federalize common street crimes,[14] even ones that have some interstate impact. Yet an expansive (many would say virtually unlimited) interpretation of the Commerce Clause is still employed to justify the creation of many new federal crimes. This expansive interpretation does violence to the original meaning of the Constitution. As Justice Thomas wrote in a concurring opinion in *United States v. Lopez*, if Congress had been given authority over any and every matter that simply "affects" interstate commerce, most of Article I, Section 8 would be superfluous, mere surplusage.[15]

Both S. 456 and H.R. 3547 attempt to take advantage of a similarly broad and erroneous view of the Commerce Clause by including in their findings sections statements that "gang crime" disrupts communities by reducing property values and inhibiting corporations from transacting business, presumably because safety concerns make an area less attractive. Viewed in the light of recent Supreme Court precedent, this sort of lengthy, attenuated chain of causation is insufficient to establish federal jurisdiction over local crimes.[16]

In *Lopez*, the Supreme Court rejected the government's "costs of crime" and "national productivity" rationales for asserting federal authority over crime that is essentially local in nature. The government argued that violent crime resulting from the possession of firearms in the vicinity of schools affected interstate commerce by increasing the costs of insurance nationwide and by reducing interstate travel to locales affected by violent crime.[17] The government further argued that the possession of guns on or near school grounds threatened educational effectiveness, which would reduce productivity of students coming from those schools, which would in turn reduce national productivity.[18]

The Court explained that if it were to accept these attenuated chains of but-for reasoning, the limits on congressional power would be obliterated:

> Congress could regulate any activity that it found was related to the economic productivity of individual citizens: family law (including marriage, divorce, and child custody), for example. Under [these] theories…, it is difficult to perceive any limitation on federal power, even

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[13] *See Lopez*, 514 U.S. at 555–56 (surveying the advent and development of the Court's expansionist view of commerce-clause power starting from the New Deal era).

[14] *See generally Morrison*, 529 U.S. 598 (2000) (striking down § 13981 of the Violence Against Women Act of 1994 because the predicate crimes the Act created were beyond Congress's power under the Commerce Clause); *Lopez*, 514 U.S. 549 (1995) (striking down the provision of the federal Gun-Free School Zones Act of 1990 that made it a federal crime to possess a firearm in a school zone because the provision exceeded Congress's Commerce power).

[15] 514 U.S. at 589 (Thomas, J., concurring). By contrast, the express powers to coin money and punish counterfeiting granted to Congress in Article I of the Constitution surely do affect interstate commerce.

[16] *See, e.g.*, *Morrison*, 529 U.S. at 618.

[17] *Lopez*, 514 U.S. at 564

[18] *Id.*

> in areas such as criminal law enforcement or education where States historically have been sovereign. Thus, if we were to accept the Government's arguments, we are hard pressed to posit any activity by an individual that Congress is without power to regulate.[19]

Congress's recent proposals to create a new set of federal "gang crimes" have all raised these same constitutional concerns.

S. 456 and H.R. 3547 have attempted to "cure" this problem by asserting that gang presence, intimidation, and crimes "directly and substantially" affect interstate and foreign commerce. But merely saying so does not make it so, and such language adds little or nothing to the constitutional analysis.

Even though several of the criminal provisions in S. 456 and H.R. 3547 include language limiting their own application to criminal street gang activities that "occur in or affect interstate or foreign commerce," in *United States v. Morrison*[20] the Supreme Court ruled that this sort of language is not sufficient to bring an act within the scope of Congress's Commerce power.[21] The regulated act must have more than *some* effect on interstate commerce; the effect must be a *substantial* one, and the connection between the regulated act and its substantial effect may not be too attenuated.[22]

In addition to constitutional problems, the bills' extensive and unfocused list of predicate "gang crimes" is not well-tailored to the most problematic gang activity. The list of predicate offenses that would give rise to federal gang-crime prosecution includes many non-violent offenses, some of which are already federal crimes, such as obstruction of justice, tampering with a witness, misuse of identification documents, and harboring illegal aliens. Regardless of its unlawfulness, such conduct is not specific to criminal street gangs or gang-related crime.

GANG-CRIME PREVENTION PROGRAMS

The same constitutional concerns that would arise from the federal criminal provisions in S. 456 and H.R. 3547 do not generally apply to federal expenditures for gang-related programs, including those in the Youth PROMISE Act (Youth Prison Reduction through Opportunities, Mentoring, Intervention, Support, and Education Act). Congress's constitutional power to spend to create programs involving state and local government agencies is broad and includes the authority to impose conditions on grant recipients. There are, however, pragmatic and sound policy considerations to guide choices among competing proposals for spending programs to reduce state and local crime.

To be a prudent use of funds, any federal program should be carefully and thoroughly:

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[19] *Id.*
[20] 529 U.S. 598 (2000).
[21] *Id.* at 612-13.
[22] *Id.*

- Targeted to perform a traditional federal function;
- Evaluated to determine whether it is achieving stated goals/the purposes for which it is being funded; and
- Audited to prevent the diversion of funds and other abuses by grant recipients.

One of the best uses of federal funding include programs to research and promote so-called evidence-based crime-prevention, that is, crime-prevention strategies and methods the effectiveness of which can be verified empirically.[23] Other sound applications of federal funding include programs to fund the enforcement of existing federal laws vindicating inherently federal interests, which will free up state and local resources to be used to combat local street crime, and programs to share among the states information about gangs and gang members as well as law-enforcement best practices for reducing and preventing gang-related crime.

Targeted to Perform a Traditional Federal Function

Although universities, private foundations, and consortiums of state-government agencies should continue to play a central role in promoting research and information-sharing on gang-related crime, the federal government can fulfill an important role in such efforts. The federal government is well-situated to collect and rigorously analyze whatever information on gang-related crime that is made available by state and local agencies. In addition to disseminating this basic data and analysis, the federal government should promote those policies and innovations that have proven effective in reducing crime. The federal government should help foster and guide standards for identifying and establishing law-enforcement best practices for combating gang crime, while recognizing that what constitutes best practices may vary by state and region.

One example of a sound federal program is the FBI's National Gang Intelligence Center (NGIC). Created in 2004, the NGIC is intended to help federal, state, and local law enforcement coordinate the collection of intelligence on gangs and then analyze and share the information. The NGIC should allow law enforcement to identify and analyze whatever linkages may exist between gang members and gang activities across the nation.

Other proposals would similarly allow Congress to support the fight against gang crime without violating federalism principles. The federal government is well-situated to create national databases on gangs and gang-related crime and to gather and disseminate crucial information on gang activities and members. The goal would be to bring together the collective knowledge of law enforcement around the country, especially as some gangs and gang members move throughout a region. It would be similarly effective and appropriate for the federal government to fund comprehensive studies of the effectiveness of crime and delinquency prevention and intervention strategies. Many states may not have the resources or multistate data

[23] *See generally* LAWRENCE W. SHERMAN ET AL., EVIDENCE-BASED CRIME PREVENTION (2002) (focusing on a Justice Department-funded study that considered the effectiveness of a wide range of federally funded crime-prevention programs).

to carry out this type of meta-analysis, and such information could be a vital resource in choosing appropriate crime-fighting policies.

Another core federal function would be in increased funding to enforce related laws, such as immigration laws, that are by nature federal. The federal government should fund efforts to identify illegal aliens who have been convicted of crimes, including those who are in custody, and who are thus subject to immediate deportation. Enforcing these federal laws would reduce the pool of potential gang members who are on the streets or in state and local jails and prisons. Currently, state and local jurisdictions also bear a significant financial burden for their efforts detaining illegal aliens until federal immigration officers arrive. Providing federal funding for these detention services would allow state and local governments to spend more of their own money on local gang crime abatement.

The U.S. Department of Justice's primary mission is to promote and protect interests that are fundamentally federal in nature. The Department's main focus should not be on funding the responsibilities of state and local governments. Federal funding levels for law enforcement should reflect these priorities, and federal funding for state and local law enforcement programs should not be greater than funding for core federal responsibilities.

The federal government's spending priorities for law enforcement in the recent past have been out of balance. At the end of the last decade, for example, some elements of federal funding for law enforcement were weighted too heavily in favor of funding state and local law enforcement.[24] The programs administered by the Justice Department's Office of Justice Programs (OJP) and Office of Community Oriented Policing Services to fund local police officer salaries, programs for state and local juvenile justice, and related programs cost taxpayers approximately $23 billion from FY 1996 through FY 2000. By contrast, Congress appropriated just $1 billion for the Federal Bureau of Investigation's national security and counter-terrorism efforts over this same period. The federal government is intended under the Constitution to be the predominant actor in national security investigations and prosecutions.[25] The state governments are independent sovereigns, and they and their constituent governments at the local level should generally be expected to fund and operate their own law enforcement functions.

Crafted and Evaluated to Ensure Achievement of Stated Goals

Preference for funding should be given to those programs that are carefully crafted to implement strategies for crime reduction and crime prevention that have been tested empirically and proven reliable. Congress should set high standards for measuring effectiveness. No one other than the administrators of programs receiving federal grants are well-served by standards

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[24] *See* David B. Muhlhausen, "Where the Justice Department Can Find $2.6 Billion for Its Anti-Terrorism Efforts," The Heritage Foundation *Backgrounder* No. 1486, at 1-2, Oct. 5, 2001, *available at* http://www.heritage.org/Research/Budget/BG1486.cfm.

[25] The Preamble states that to "provide for the common defence" is one of the fundamental purposes of the U.S. Constitution. U.S. CONST. pmbl.

that are easy to satisfy, either because the standards are too subjective or not sufficiently rigorous to produce meaningful crime reductions.

As in any well-run business, such programs must have measurable results to demonstrate their effectiveness. The metrics to be used must be standardized if each grantee's performance is to be readily compared with the performance of others. The federal government should also impose meaningful interim benchmarks to ensure that the gang-prevention programs it funds are on-target to meet the goals for which they were funded.

By contrast, programs that are demonstrably ineffective, that are unproven and unsupported by empirical evidence, or that result in substantial waste should not be funded. If they already exist, they should not be given renewed or expanded funding. Whatever lessons can reasonably be learned from failed programs should be incorporated into the design of any new spending program intended to achieve the same or similar goals.

One current need for gang-crime funding is clearly evident: More research needs to be conducted to develop scientific standards for effectiveness of gang-crime prevention programs. The Justice Department published a 1997 University of Maryland report that compared evaluations of various federal crime programs.[26] After observing that many of the federal government's crime-prevention programs to that date had either been evaluated as ineffective or had never received any meaningful evaluation, the report concluded: "By scientific standards, there are very few 'programs of proven effectiveness.'" (Sherman et. al) The federal government thus should emphasize new programs to conduct multiple, independent research projects to study crime prevention. Studies designed to develop and test empirical standards should be given priority for funding.

Programs that improperly measure "intermediate effects" instead of actual prevention should not be funded.[27] The results of such programs tend to be entirely subjective and incapable of being repeated.[28] For example, of little value is a teacher's evaluation that a juvenile's behavior in school "improved" after attending a course intended to increase his sociability and decrease his likelihood of committing criminal or delinquent acts. A subjectively "better" attitude makes little difference if the student committed actual crimes for which the program's evaluation criteria did not account. Tracking official acts of delinquency in and out of school would be a far better measure of the crime-prevention effectiveness of the course.

Carefully Audited to Prevent Abuse by Grantees

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[26] Lawrence Sherman, Denise Gottfredson, Doris Mackenzie, John Eck, Peter Rueter, & Shawn Bushway, University of Maryland Department of Criminology and Criminal Justice, *Preventing Crime: What Works, What Doesn't, What's Promising* (Wash., D.C.: U.S. Dept. of Justice, Office of Justice Programs, 1997).

[27] *See* David B. Muhlhausen, "Where the Justice Department Can Find $2.6 Billion for Its Anti-Terrorism Efforts," The Heritage Foundation *Backgrounder* No. 1486, at 6, Oct. 5, 2001, *available at* http://www.heritage.org/Research/Budget/BG1486.cfm.

[28] For an example, see Gail A. Wasserman & Laurie S. Miller, "The Prevention of Serious and Violent Juvenile Offending," *in* RALPH LOEBER AND DAVID P. FARRINGTON, EDS., SERIOUS AND VIOLENT JUVENILE OFFENDERS: RISK FACTORS AND SUCCESSFUL INTERVENTIONS 197-247 (Thousand Oaks, Cal.: Sage, 1998).

Any successful crime-prevention program requires tight oversight and auditing controls. Without such controls, fraud and outright abuse are not the only possibilities. The funds may be used to supplant current state and local funding, sometimes resulting in less overall spending on the targeted activity.[29]

Even when there is a federal prohibition against supplanting state funding, as there was in the federal Community Oriented Policing Services (COPS) legislation, a lack of federal supervision may still allow state and local governments to use the funds to pay existing personnel. This resulted in several COPS-funded jurisdictions adding no additional police officers, despite promising to do so as a condition of receiving the federal grant money.[30] Even worse, some major jurisdictions took federal grant money for additional officers yet downsized their state-funded police forces.[31] Similar shortcomings of the COPS program have been well-documented by the media and independent reports.[32]

CONCLUSION

Thank you again, Chairman Conyers and Chairman Scott, for inviting me to address this subject. I look forward to responding to any questions.

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[29] *See* David B. Muhlhausen and Erica Little, *Federal Law Enforcement Grants and Crime Rates: No Connection Except for Waste and Abuse*, Heritage Foundation *Backgrounder* No. 2015, March 14, 2007, *available at* www.heritage.org/Research/Crime/bg2015.cfm.

[30] For example, audits by the Justice Department's inspector general indicated that Atlanta, El Paso, and Sacramento used COPS grants to supplant local funding. *See* U.S. Department of Justice, Office of Inspector General, "Office of Community Oriented Policing Services Grants to the Atlanta, Georgia, Police Department," Executive Summary, *Audit Report* No. GR–40–98–006, April 1998; U.S. Department of Justice, Office of Inspector General, "Office of Community Oriented Policing Services Grants to the El Paso Police Department, El Paso, Texas," Executive Summary, *Audit Report* No. GR–80–01–013, May 30, 2001; U.S. Department of Justice, Office of Inspector General, "Office of Community Oriented Policing Services Grants to the City of Sacramento Police Department, California," Executive Summary, *Audit Report* No. GR–90–98–022, May 1998. For additional audits of COPS-funded police departments, see U.S. Department of Justice, Office of the Inspector General, Office of Community Oriented Policing Services Grant Reports. http://www.usdoj.gov/oig/grants/_cops.htm.

[31] Dallas, Louisville, and Newark actually reduced their force sizes after receiving grants to hire *additional* officers. *See* U.S. Department of Justice, Office of Inspector General, "Office of Community Oriented Policing Services Grants to the City of Dallas, Texas, Police Department," Executive Summary, *Audit Report* No. GR–80–00–003, November 1999; U.S. Department of Justice, Office of Inspector General, "Office of Community Oriented Policing Services Grants to the Louisville, Keutucky, Police Department," Executive Summary, *Audit Report* No. GR–40–01–002, February 2001; U.S. Department of Justice, Office of Inspector General, "Office of Community Oriented Policing Services Grants to the Newark, New Jersey Police Department," Executive Summary, *Audit Report* No. GR–70–98–007, June 1998.

[32] David B. Muhlhausen, "Impact Evaluation of COPS Grants in Large Cities," Heritage Foundation *Center for Data Analysis Report* No. 06–03, May 26, 2006, *available at* www.heritage.org/Research/Crime/upload/97702_1.pdf; David B. Muhlhausen, "Why the Bush Administration Is Right on COPS," Heritage Foundation *Backgrounder* No. 1647, *available at* www.heritage.org/Research/Crime/bg1647.cfm.

Mr. SCOTT. Thank you. Thank you very much.

Judge Jones?

TESTIMONY OF THE HONORABLE JERRAULD C. JONES, JUDGE, NORFOLK JUVENILE AND DOMESTIC RELATIONS DISTRICT COURT, NORFOLK, VA

Judge JONES. To you, Mr. Chairman and to my friend and former colleague, Mr. Forbes, Members of the Judiciary Subcommittee, I say good afternoon. Let me begin by thanking each of you for the invitation to appear before you this afternoon in order to share with you my experiences and views on the issue of gang crime prevention. I am indeed honored to be included as a witness.

I must apologize for the late submission of my printed remarks. But the invitation to appear today arrived when I was out of the country at a judicial conference without a laptop computer. And I did not return home until the wee hours of yesterday morning fully jet lagged.

In any event, after hearing a full court docket of cases, I was able to gather my thoughts for this afternoon and reduce them to writing for your consideration. Again, please accept my sincerest apologies.

I think I must add that I am not here today to speak for or against any particular bill or resolution pending before the Committee, in as much as that would be in violation of my judicial ethics and of my office. So I want to make sure that everybody is very clear about that point.

But let me begin by applauding all of you who are focusing on this most serious issue by emphasizing prevention and early intervention in the lives of those children who are at risk of gang involvement.

After many years as a professional in the criminal and juvenile justice systems and from different vantage points both in Government and the community, I have concluded that the only sustainable solution to the problems created by criminal street gangs and other security threat groups is to focus on the elimination of the criminogenic factors which are causing some our Nation's children to become gang involved in the first place.

Let me hasten to add that we simply must fully enforce the criminal laws and fairly and appropriately punish the offenders accordingly. However, such criminal law enforcement, and in this case, gang suppression measures, cannot and must not be our only rational response. Put another way, we must not only lock up children when absolutely necessary, but we must lift them up in every possible way.

I know that what I am saying to you is not exactly rocket science, as the saying goes. However, sometimes even the most complex problems often have very simple solutions. Frankly stated, I draw this conclusion after over 27 years of experience as a juvenile prosecutor, juvenile defender, State legislator, as head of Virginia's youth authority, and now as a juvenile court judge hearing hundreds of cases per month.

Nothing that I have seen in all of that time has caused me to lose confidence in the belief that children, even those who are highly delinquent and criminalized in their behavior, are in need of the

same things that you and I, and I daresay, most everyone else in this room this afternoon, had as children growing up, the love and affection of a caring, responsible adult in their lives. Like many of you, I had parents and grandparents—today they would be called old school parents—who fully functioned as such, and who still vigorously and actively parent me to this very day.

Like us, the children of today need parents and other caring adults who provide not only love, but who also instill the proper discipline, values, morals and boundaries in the life of a child from birth and beyond. The sad reality is that so many children today lack parents and-or guardians who perform these functions. In particular, we see the causes and effects of this condition in the juvenile and family courts every day.

Each day that I sit as a judge, I adjudicate the cases of children who come from weak or even nonexistent family structures. Of course, we know that many children today are not born of marriage, as it is an institution in decline. It is not unusual for me to hear a full week's worth of juvenile and family cases involving children whose parents were never married.

Also, we know that many children do not live in homes where there are two parents or any parents at all. You may be surprised to know how many slightly older siblings are the primary caregivers for many of our Nation's children. We also know that many children do not live in homes where there is any positive reinforcement by parents or other adults of the pro-social, pro-family values to which we all subscribe.

I mention this situation first and foremost because I have concluded that this weakened family structure is one of the principal causes of children becoming gang involved. In essence, many of them are searching for a sense of belonging, an affiliation with others who care about them.

They are searching for something that they are not getting elsewhere in their lives. When asked, many of these children openly admit to their probation or parole officer, their teacher or school counselor, and yes, even to the judge, that they affiliate with the Bloods because it is the Bloods who care about them.

It is the MS-13's who will be there for them when they need them, who have their back, so to speak. Arguably then, in many cases, gang involvement is a child's cry for attention, the attention that you and I got from the Boy Scouts or the Little League or the youth group at church

If this is, in fact, correct, then I respectfully submit that anything and everything that can be done to support and promote the family is gang prevention and crime prevention. I think that just one of the innovative solutions that the Federal Government or that any government, for that matter, can foster is to promote the establishment of mentoring and other programs which connect children and young adults with other adults who will establish positive, pro-social relationships with them.

Many such programs and services already exist in many places, but, of course, more human and financial resources are needed. I am proud to report that the judges of the court on which I sit have worked to establish such a volunteer program with our court-involved youth, and the effort thus far is successful.

The volunteer mentors, many of whom are early retirees, are responding to the challenge. The mentees are responding by the avoidance of further acts of delinquency. Generally, our efforts to divert certain delinquent children from deeper penetration into the court system will include the establishment of a mentor-mentee relationship. It works, and it lasts, and it is cheap.

At this point, I feel obliged to observe that the suggestions I make to all of you all today are the same or similar suggestions which many of us made to the State legislative judiciary committee on which I served as a member, along with Representative Forbes, back in the middle 1990's. As you all are today, we were then seeking to find innovative governmental and public policy solutions to what was then seen as a rising tide of serious, chronic, and violent juvenile crime, including a perceived increase in youth gang activity. Virginia, like most other States, responded with a variety of responses, which included lowering the age of transfer to adult courts, automatic adult treatment for certain offenses, longer lengths of stay in secure confinement, and so on.

In sum, the legislature responded by adultifying the juvenile justice system. I am obliged to observe that virtually every State, including Virginia, is now engaged in a comprehensive review of the long term outcomes of those changes. In many States, highly reputable and unbiased evaluators, many of them university-based, have concluded that such highly punitive policies have not been effective in reducing delinquency and criminality in juvenile offenders.

Mr. SCOTT. Judge, I am going to have to ask you to kind of summarize the rest.

Judge JONES. I will. I will conclude. Of course, I am used to having the gavel myself. But I am happy to be here, Mr. Chairman and Members of the Committee. And I will be happy to answer any questions that you might have. Thank you very much.

[The prepared statement of Judge Jones follows:]

PREPARED STATEMENT OF THE HONORABLE JERRAULD C. JONES

To you, Mr. Chairman, and to the Honorable Members of the Judiciary Subcommittee, I say good afternoon. Let me begin by thanking each of you for the invitation to appear before this afternoon in order to share with you my experiences and views on the issue of gang crime prevention. I am indeed honored to be included as a witness. I must apologize for the late submission of my printed remarks, but the invitation to appear today arrived when I was out of the country at a judicial conference, without a laptop computer; and I did not return home until the wee hours of yesterday morning—fully jet-lagged. In any event, after hearing a full court docket of cases, I was able to gather my thoughts for this afternoon and reduce them to writing for your consideration. Again, please accept my sincerest apology.

Let me begin by applauding all of you who are focusing on this most serious issue by emphasizing prevention and early intervention in the lives of those children who are at risk of gang involvement. After many years as a professional in the criminal and juvenile justice systems, and from different vantage points both in government and the community, I have concluded that the only sustainable solution to the problems created by criminal street gangs and other security threat groups is to focus on the elimination of the criminogenic factors which are causing some our nation's children to become gang involved in the first place. Let me hasten to add that we simply must fully enforce the criminal laws and fairly and appropriately punish the offenders accordingly. However, such criminal law enforcement, and in this case, gang suppression measures cannot and must not be our only rational response. Put another way, we must not only lock up children when absolutely necessary, but we must lift them up in every possible way.

I know that what I am saying to you is not exactly rocket science, as the saying goes. However, sometimes even the most complex problems often have very simple solutions.

Frankly stated, I draw this conclusion after over twenty-seven years of experience as a juvenile prosecutor, juvenile defender, state legislator, as head of Virginia's youth authority, and now, as a juvenile court judge hearing hundreds of cases per month. Nothing that I have seen in all of that time has caused me to lose confidence in the belief that children, even those who are highly delinquent and criminalized in their behavior, are in need of the same things that you and I, and I daresay, most everyone else in this room this afternoon had as children growing up—the love and affection of a caring, responsible adult in their lives. Like many of you, I had parents and grandparents (today they would be called "old school" parents) who fully functioned as such, and who still vigorously and actively parent me to this very day. Like us, the children of today need parents and other caring adults who provide not only love, but who also instill the proper discipline, values, morals, and boundaries in the life of a child from birth and beyond. The sad reality is that so many children today lack parents and/or guardians who perform these functions. In particular, we see the causes and effects of this condition in the juvenile and family courts every day.

Each day I sit as a judge, I adjudicate the cases of children who come from weak or even non-existent family structures. Of course, we know that many children today are not born of marriage, as it is an institution in decline. It is not unusual for me to hear a full week's worth of juvenile and family cases involving children whose parents were never married. Also, we know that many children do not live in homes where there are two parents, or any parents at all. You may be surprised to know how many slightly older siblings are the primary caregivers for many of our nation's children. We also know that many children do not live in homes where there is any positive reinforcement by parents or other adults of the pro-social, pro-family values to which we all subscribe.

I mention this situation first and foremost because I have concluded that this weakened family structure is one of the principal causes of children becoming gang involved. In essence, many of them are searching for a sense of belonging, an affiliation with others who care about them. They are searching for something that they are not getting elsewhere in their lives. When asked, many of these children openly admit to their probation or parole officer, teacher or school counselor, and yes, even to the judge, that they affiliate with the Bloods because it is the Bloods who do care about them. It is the MS13's who will be there for them when they need them—who have their back, so to speak. Arguably then, in many cases, gang involvement is a child's cry for attention, the attention that you and I got from the Boy Scouts or the Little League or the youth group at church.

If this is, in fact, correct, then I respectfully submit that anything and everything that can be done to support and promote the family is gang prevention and crime prevention. I think that just one of the innovative solutions that the federal government, or that any government for that matter, can foster is to promote the establishment of mentoring and other programs which connect children and young adults with other adults who will establish positive, pro-social relationships with them. Many such programs and services already exist in many places, but, of course, more human and financial resources are needed. I am proud to report that the Judges of the Court on which I sit have worked to establish such a volunteer program with our court-involved youth, and the effort thus far is successful. The volunteer mentors, many of whom are early retirees, are responding to the challenge. The mentees are responding by the avoidance of further acts of delinquency. Generally, our efforts to divert certain delinquent children from deeper penetration into the court system will include the establishment of a mentor/mentee relationship. It works and it lasts. And, it is cheap. . . .

At this point, I feel obliged to observe that the suggestions I make to you all today are the same or similar suggestions which many of us made to the state legislative judiciary committee on which I served as a member back in the middle nineties. As you all are today, we were then seeking to find innovative governmental and public policy solutions to what was then seen as a rising tide of serious, chronic and violent juvenile crime, including a perceived increase in youth gang activity. Virginia, like most other states, responded with a variety of responses which included, lowering the age of transfer to adult courts, automatic adult treatment for certain offenses, longer lengths of stay in secure confinement, and so on.

In sum, the Legislature responded by "adultifying" the juvenile justice system. I am also obliged to observe that virtually every state, including Virginia, is now engaged in a comprehensive review of the long term outcomes of those changes. In many states, highly reputable and unbiased evaluators, many of them university

based, have concluded that such highly punitive policies have not been effective in reducing delinquency and criminality in juvenile offenders. Respectfully, I strongly urge the Congress to be informed in these matters by the experience of the states during the last fifteen years.

I might also add that the costs of juvenile incarceration are staggering. In Virginia today, it costs over $88,000.00 per bed per year to incarcerate a child, an increase of about $8,000.00 per year from when I headed the youth authority five years ago. As is often observed, one can do a whole lot of juvenile crime and gang prevention for a fraction of the cost of incarceration.

I would respectfully make one other observation and recommendation to the Committee. It appears to me that one of the criminogenic factors to which I earlier alluded is the extent to which delinquent and criminalized children read below age and grade level. If one reviews the pre-sentencing report of most juvenile offenders or gang involved youth, you will find school records and/or test scores which bear out this statement. Of course, the reading level is an early predictor of conventional academic success or failure. As the academic achievement gap grows, so does the likelihood that the child will become delinquent and eventually criminal. I urge you to ask any prosecutor, lawyer, probation officer or judge about this common characteristic. I assure you that they will heartily and readily agree. I am even advised that some states now look to the reading levels of third graders when forecasting their juvenile detention and prison bed needs into the next decade as they age into the crime prone years.

Therefore, one other innovative gang prevention strategy surely must be strong governmental efforts to promote reading proficiency among all children, but especially among delinquent children who are at risk of gang involvement. Again, I am proud to report that the Court on which I sit, does, indeed, understand the connection. Towards that end, we have recently established the LEAP into LITERACY program for court-involved youth in which a retired public school counselor volunteers every day of the week providing donated books and tutorials. Believe it or not, the "Book Lady" is now getting telephone calls at home from the little brothers and sisters of children in diversion programs and on probation who want to know if they can have a book, too! Yes, reading is fundamental! And again, promoting literacy is one of the most important and lasting ways to lift up children so that we do not have to lock them up down the road.

There are many other matters for your consideration but time does not permit any further remarks.

I do sincerely thank the Subcommittee for your time and attention to this critical issue in the public safety of our fellow citizens. I commend you for your good efforts today and in the future. I am honored by your invitation to participate and I stand ready and willing to assist you in any way possible. I am now ready and willing to answer any questions which you might have.

Thank you, again.

Mr. SCOTT. Thank you.

Mr. Roper?

TESTIMONY OF THE HONORABLE RICHARD ROPER, UNITED STATES ATTORNEY, NORTHERN DISTRICT OF TEXAS

Mr. ROPER. Chairman Scott, Ranking Member Forbes, and Members of the Subcommittee, I am Richard Roper, the United States attorney for the northern district of Texas. It is an honor to be here today to discuss this important matter.

As a 25-year prosecutor who has worked at both the State and Federal levels, I know that violent crime and gangs present a critical public safety challenge that grips communities of all sizes and demands a strong and coordinated response from all of us. I want to discuss briefly the department's efforts in this area and provide examples from my district, which I think demonstrate that we can work together with our State and local partners and with community leaders to implement an effective strategy to combat violent crime and gangs.

The department's comprehensive approach to gangs and violent crimes involves three prongs. First, the cooperative enforcement

initiatives which assist our State and local partners in identifying and incarcerating those involved in firearm and gang violence; two, innovative prevention strategies and public awareness campaigns designed to discourage gang membership, gun activity, truancy and violent crime; and three, prisoner reentry programs geared to keep former gang members and other violent criminals from returning to gang membership and criminal activity after they are released from prison.

Now, first is the enforcement initiative. That initiative revolves around the Project Safe Neighborhood Program that started in 2002, which is a cooperative effort among Federal, State and local law enforcement agencies and prosecutors to reduce gun crime.

In the 6 years PSN has been around, the department has more than doubled the number of Federal firearm prosecutions compared with the previous 6 years. And the conviction rate has been high. For example, in 2006, the rate was 92 percent, which is the highest it has ever been.

We have expanded PSN to include an increased focus on gang violence. The department's comprehensive anti-gang initiative has been pushed out to now 10 jurisdictions across the country, including in my area, the Dallas, Fort Worth area.

The department has also established the anti-gang coordination committee to organize the department's wide-ranging efforts to combat gangs. At the district level each U.S. attorney is appointed an anti-gang coordinator to provide leadership and focus to our anti-gang efforts locally.

In addition, the department has established a new national gang task force composed of the Federal law enforcement agencies, the Bureau of Prisons and the Marshall Service, to coordinate gang investigations and prosecutions both on a national level and also to deal with the threat posed by international gangs. Also the department has established numerous joint violent crime-related task forces.

You have already heard about some of those, the FBI-led Safe Streets Task Force, the Gang Streets Task Force that focus on dismantling organized gangs. The U.S. Marshall-led Regional Fugitive Task Force and district-based task forces across the country that focus on fugitive apprehension efforts and, of course, the ATF Violent Crime Impact Teams, composed of Federal agents working with State and local partners to identify, target and arrest violent criminals to reduce the occurrence of homicide and firearm-related violent crimes.

I wanted to give you some examples of how I think PSN and the gang initiative have worked. And let me deal with my areas.

First, there is two initiatives I wanted to talk about. The Cymbal Street investigation involved ATF working with the Dallas Police Department. And they faced two street gangs who worked together to maintain control of a neighborhood in East Dallas for their drug trafficking activities. They excluded other drug dealers from even working in that area.

The neighbors living there were afraid to go to their homes, come out of their homes or be seen talking to the police in public view because of fear of reprisal from gang members. Following the 2003

arrest and eventual Federal prosecution of these gang members, crime dropped in that area 47 percent.

Another initiative was the fishbowl initiative where 41 gang members were prosecuted resulting in—in just 1 year since we prosecuted that case—a 10 percent reduction in the violent crime rate in that area. But it involves more than just enforcement. The prevention programs we have that we are pushing out, the gang prevention summits that U.S. attorneys offices have put on, the ad council ads that have been put out, the gang resistance education program has been successful in bringing to the schools training and to keep the kids out of gangs.

In my district we have had a very successful program in the Dallas independent school district in reducing gang violence. It involves training and also reaching out to kids before they get in gangs all the way down to the elementary school.

We have also worked with the Boys and Girls Club. And finally, let me just briefly mention first, just a few seconds. What I am proud of is our reentry program. In the Dallas, Fort Worth area we have had two reentry programs, one our Project Safe Neighborhood Program that essentially is an education program to essentially scare released probationers and parolees from engaging in gun crime. Our research partner found that there was a 48 percent reduction in the incidents of gun crimes among probationers and parolees in Dallas County since we started that program.

And also we have initiated as part of the anti-gang grant that we received from the Department of Justice, a reentry initiative where we are taking 100 gang members that are released from prison and provide essential services to them. And that involves three areas: first, job training, job placement, and mentoring.

And I am really glad we can partner. We are partnering with a faith-based group headed by the Potter's House, in Dallas, to deal with that. And it is both in Dallas and Forth Worth. And I look forward to doing that.

I think the key to success in this area is cooperation with our State and local partners. And I think opening the door wide to crime reduction involves employing that three-pronged approach of enforcement, prevention, and reentry.

[The prepared statement of Mr. Roper follows:]

PREPARED STATEMENT OF THE HONORABLE RICHARD B. ROPER

Department of Justice

STATEMENT
OF

RICHARD B. ROPER
UNITED STATES ATTORNEY
NORTHERN DISTRICT OF TEXAS

- - -

BEFORE THE
COMMITTEE ON THE JUDICIARY

SUBCOMMITTEE ON CRIME, TERRORISM
AND HOMELAND SECURITY

UNITED STATES HOUSE OF REPRESENTATIVES

- - -

VIOLENT CRIME AND GANGS

- - -

October 2, 2007

Chairman Scott, Ranking Member Forbes, and Members of the Subcommittee. I am Richard Roper, the United States Attorney for the Northern District of Texas. It is an honor to appear before you today to discuss how the Department of Justice is partnering with federal, state, and local law enforcement agencies and members of communities small and large to address the problem of gangs and violent crime. This critical public safety challenge grips communities of all sizes and demands a strong and coordinated response. In this testimony, I will summarize the comprehensive approach the Department of Justice has taken to confront this problem.

First, I think it is important to consider the scope of the gang problem. Recent data from the FBI confirmed that there were slight increases in the number of violent crimes reported in 2005 and 2006. Any increase in crime is troubling, although we should be mindful that this small rise comes after more than 10 years of decline (1995-2005) during which the violent crime rate dropped by 17.6%. In general, the current data do not reveal any consistent nationwide trend. Violent crime continues to decrease in cities across the country, such as Cleveland, Ohio; Philadelphia, Pennsylvania; and Boston, Massachusetts. However, there are localized increases in certain communities.

There is no single explanation for the rise in violent crime. The rate of violent crime is influenced by countless factors, many of which are beyond the control of the Department of Justice. Because we recognize that many of the factors that lead to violent crime can be most effectively addressed by community leaders, educators and members of the faith-based institutions, the Department is committed to implementing comprehensive strategies to combat violent crime, focusing not just on traditional law enforcement, but also on working with our community partners to prevent people from becoming violent criminals.

The Department continues to do everything within its power to aggressively investigate and prosecute those who violate federal law by committing acts of violence. State and local authorities remain the primary prosecutors of violent crime, but the level of violence in some areas is a matter of compelling national concern. The federal government can supplement state efforts and supply a powerful deterrent against violent criminal acts. Because the federal government can prosecute only a fraction of violent crimes, however, we must target our federal resources in ways that will help our local partners work more effectively.

Federal prosecutors continue to focus our resources on the most serious violent offenders, taking them off the streets and putting them behind bars where

they cannot re-offend. In 2001, the Administration created Project Safe Neighborhoods (PSN), a cooperative effort among federal, state, and local law enforcement agencies and prosecutors to reduce gun crime. Since the inception of the PSN program, the federal government has committed more than $1.7 billion to support PSN efforts such as hiring more than 200 federal prosecutors to prosecute gun crime, making grants available to hire more than 500 new state and local gun crime prosecutors, and training more than 30,000 law enforcement officers, prosecutors and community members across the nation to develop effective prevention and deterrence efforts to reduce gun violence.

In the six years since PSN began, the Department has more than doubled the number of federal firearms prosecutions, compared with the previous six years. In FY 2006, the Department prosecuted 10,425 federal firearms cases against 12,479 defendants. Those prosecutions have been effective in keeping violent criminals off the streets and relieving some of the pressure on state prosecutors. Moreover, the conviction rate for federal firearms defendants in 2006 was 92% - the highest it has ever been. The percentage of those defendants sentenced to prison - nearly 94% - is also at a record high. Over 50% of the defendants sentenced to prison

received sentences of more than five years, and nearly 75% received sentences of more than three years.

In February 2006, the Attorney General expanded PSN to include new and enhanced anti-gang efforts, in addition to traditional gun crime reduction strategies. For FY 2007, the Department has administered nearly $50 million in PSN state and local grant funding to prosecute criminal misuse of firearms and illegal gang activity.

Now let me turn to the important steps the Department has taken specifically to address the prevalence of gang violence. The Department established an Anti-Gang Coordination Committee to organize the Department's wide-ranging efforts to combat gangs. The Department also established a Comprehensive Anti-Gang Initiative, which focuses on reducing gang membership and gang violence through enforcement, prevention and reentry strategies. That initiative currently operates in ten jurisdictions across the country. One of those sites is in my district, and I've seen first-hand how important it is to combine enforcement with prevention and reentry efforts when dealing with gang violence.

At the district level, each United States Attorney has appointed an Anti-Gang Coordinator to provide leadership and focus to our anti-gang efforts locally.

The Anti-Gang Coordinators, in consultation with their local law enforcement and community partners, have developed comprehensive, district-wide strategies to address the gang problems in their districts.

In addition, the Department has created a new national gang task force, called the National Gang Targeting, Enforcement and Coordination Center (GangTECC). GangTECC is composed of representatives from the Bureau of Alcohol, Tobacco, Firearms and Explosives; Bureau of Prisons; Drug Enforcement Administration; Federal Bureau of Investigation; United States Marshals Service; and U.S. Immigration and Customs Enforcement, Department of Homeland Security, among others. The center coordinates overlapping investigations, ensures that tactical and strategic intelligence is shared among law enforcement agencies, and serves as a central coordinating center for multi-jurisdictional gang investigations involving federal law enforcement agencies. GangTECC works hand in hand with the National Gang Intelligence Center, which integrates the gang intelligence assets of all Department of Justice agencies, and has established partnerships with other federal agencies, including the National Drug Intelligence Center, and state and local agencies that possess gang-related information.

The Department has also established and leads numerous joint violent crime-related task forces, including, among others, FBI-led Safe Streets Task Forces and Gang Safe Streets Task Forces that focus on dismantling organized gangs; U.S. Marshals Service-led Regional Fugitive Task Forces and district-based task forces across the country that focus on fugitive apprehension efforts; and Violent Crime Impact Teams (VCIT) led by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and composed of federal agents from numerous agencies and state and local law enforcement, that identify, target, and arrest violent criminals to reduce the occurrence of homicide and firearm-related violent crime. Those task forces play significant roles in attacking our violent crime problems.

The Department has recently taken steps to ensure that these task forces act in concert and complement each other's efforts. In addition to the national-level Anti-Gang Coordination Committee I noted earlier, the Department has directed that the United States Attorney's Offices and components' task force managers in each jurisdiction with multiple violent crime task forces implement guidance for coordinating task force operations; required all agencies certify that they have policies and procedures in effect that mandate coordination other violent crime task forces, including, where effective and available, participation in information

sharing and deconfliction measures; directed that all proposed violent crime and anti-gang task forces now be subject to review by the Anti-Gang Coordination Committee, with final approval by the Deputy Attorney General; and finally, the Department directed DOJ law enforcement components to evaluate compliance with policies concerning task force coordination, information sharing and deconfliction efforts in periodic internal management reviews.

Parallel with its efforts to combat gangs domestically, the Department has drastically expanded efforts to sever the links that connect gang members transnationally, especially in Mexico and Central America. The Department realizes that effectively combating violent gangs at home requires combating violent gangs abroad. A myriad of recent initiatives aim to reduce the danger posed by transnational gang networks, most notably the U.S. Strategy to Combat Criminal Gangs from Central America and Mexico. This strategy is one component of a larger, developing regional security plan.Under this comprehensive strategy, the United States Government works with partner countries to combat transnational and other gangs that commit crimes in Central America, Mexico, and the United States through both prevention and enforcement. The Strategy sets forth five areas in which the United States will work with our neighbors to combat

criminal gangs: Diplomacy, Repatriation, Law Enforcement, Capacity Enhancement, and Prevention. The U.S. Gang Strategy enhances U.S. interagency and international cooperation, increases coordination, and systematically enhances linkages between foreign governments and U.S. Federal, State, and local law enforcement agencies.

The Department continues to enhance international partnerships in the fight against transnational gangs. One example of the progress made by the Department is the comprehensive, four-part agreement on combating transnational gangs between the U.S. and El Salvador. The agreement will assist efforts to identify and prosecute the most dangerous Salvadoran gang members through programs to enhance gang enforcement, fugitive apprehension, international coordination, information sharing and training and prevention. Several initiatives are included in the accord:

- The FBI and State Department personnel will assist El Salvador's Civilian Police (Policia Nacional Civil or PNC) in developing a new Transnational Anti-Gang Unit to better pursue and prosecute gang members.

  The FBI, in cooperation with the State Department, will

accelerate the implementation of the Central American Fingerprinting Exploitation (CAFE) initiative in order to better identify, track and apprehend gang members. CAFE has provided equipment and training to help law enforcement agencies in El Salvador and other Central American nations acquire digital fingerprints of violent gang members and other criminals who commit crimes under different identities in different countries. FBI is working to expand the CAFE initiative to Guatemala during FY 2008 and expects to expand the initiative to other Central American nations in the future. The U.S. is increasing its anti-gang training in Central America, including efforts through the International Law Enforcement Academy (ILEA) in San Salvador. The Academy recently graduated its third class of police and prosecutors from El Salvador and nearby countries. The curriculum covers best practices in targeting and fighting gang activity and other crimes.

The enforcement programs listed above are critical to the fight against gangs and violent crime, but we recognize that law enforcement alone can not solve this problem. To the extent that we can, we are leading and encouraging local prevention and public awareness programs. Let me give you some examples.

Over the past year, the nation's United States Attorneys have convened Gang Prevention Summits, designed to explore additional opportunities in the area of gang prevention. The summits brought together law enforcement and community leaders to discuss best practices, identify gaps in services, and create a prevention plan to target at-risk youth within their individual communities. These summits have reached over 10,000 law enforcement officers, prosecutors, social service providers, prevention practitioners, and members of the faith-based community.

In partnership with the Ad Council, the Department created four PSN public service announcements (PSAs) intended to educate youth about the perils of gun crime and the consequences of joining gangs. The most recent television and radio PSAs were launched at the Project Safe Neighborhoods National Conference on September 17, 2007 and began airing on that date. These ads are available in both English and Spanish.

In addition to the existing anti-gang training and technical assistance provided by Department components, the Department has hosted two Gang Prevention webcasts that are accessible to the public. These webcasts share best practices in gang prevention; identify resources; support and complement the Attorney General's Anti-Gang Initiative; emphasize a community-based approach to gang prevention and the importance of collaboration; and assist the United States Attorneys in implementing their district-wide anti-gang strategies. The webcasts are available at www.dojconnect.com.

The Department also has long supported other gang prevention activities such as the National Youth Gang Center, the Boys & Girls Clubs of America, and the Office of Juvenile Justice and Delinquency Prevention's Gang Reduction Program.

The Department has developed a number of resources and community policing solutions to help law enforcement and communities address the problem of gangs. These resources include guides for police on topics such as graffiti, bullying in schools, gun violence among youthful offenders, and witness intimidation; comprehensive gang prevention model programs; parent quick reference cards in English, Spanish, Vietnamese, and Hmong; multi-site

evaluations of gang programs; innovations documents on network analysis and jail information-gathering; and a *Solutions to Address Gang Crime CD-ROM* available free to the public containing DOJ anti-gang related resources and tools.

It is important to consider what these programs actually mean to the communities they are intended to help. To further clarify how federal programs translate into reducing violent crime and gang violence in the cities and suburbs that you represent, let me give you some examples of what we have done in the Northern District of Texas, which includes the Dallas-Fort Worth metropolitan area.

Working with our federal, state and local law enforcement and community partners, we have implemented a comprehensive three-prong approach to combat gangs, guns and violent crimes: (1) By employing enforcement initiatives in target areas to identify and prosecute those involved in firearm and gang violence; (2) By implementing prevention programs in target areas and certain schools to reduce gang and gun activity, truancy and violent crimes. and (3) By forming effective prisoner re-entry programs to keep former gang members and other violent criminals from returning to gang membership and criminal activity after t from prison or supervision.

1. The Enforcement Initiative

Like my colleagues across the country, my office has maintained a robust and effective PSN initiative to reduce firearm and violent crime. Our PSN partners include local police departments, state probation and parole authorities, the Bureau of Alcohol, Tobacco and Firearms (ATF), the North Texas High Intensity Drug-Trafficking Area (HIDTA), the Drug Enforcement Administration (DEA), the Federal Bureau of Investigation (FBI), the Immigration and Customs Enforcement (ICE), and the United States Marshals Service. We targeted areas in my district where firearm violence was high. Two examples illustrate the effectiveness of this initiative.

First, in the Cymbal Street investigation, ATF special agents and Dallas Police Department investigators, faced two street gangs who worked together to maintain control of a neighborhood in East Dallas for their drug trafficking activities. Gang members used firearms to protect their drug business and excluded other dealers from drug selling there. Understandably, the neighbors living there were afraid to come out of their houses and would not talk to the police in public view, for fear of reprisal from gang members.

Following the 2003 arrest and federal prosecution of 18 gang members for distributing crack cocaine, the crime rate (including Murder, Rape, Aggravated Robbery, Aggravated Assault, Burglary, Theft and Unauthorized Use of a Motor Vehicle) for the Dallas Police Department patrol beats surrounding this area dropped by 47%. This decrease illustrates the impact these gang members were having on the neighborhood, and region as a whole, with their criminal activities.

In another initiative in Fort Worth, Texas, "Operation Fish Bowl," FBI safe-street task force agents and Fort Worth Police Department officers took on a well-organized, hierarchical, crack and powder cocaine distribution network of various sets of the Crips Street Gang, who operated in a neighborhood of east Fort Worth. Gang members terrorized this neighborhood committing homicides, aggravated assaults, and drive-by shootings. In 2006, 41 Crips Street Gang members, including top players in the organization, and their associates were arrested and prosecuted in federal court for distributing crack and powder cocaine and illegally possessing firearms. 32 defendants received an average sentence of more than 15 years. One defendant received a 60-year sentence. Investigators seized 29 weapons, including assault rifles, shotguns and handguns, and a large cache of crack cocaine and black tar heroin. Following this operation, crime has decreased

nearly 10% in this area of Fort Worth in one year, which is area's lowest crime rate since 1991.

For any successful initiative, however, a sufficient structure must be in place to support the investigation and prosecution of gang members and violent criminals. Last year, as a part of the Department of Justice's anti-gang initiative, the Dallas-Fort Worth metropolitan area received a $2,500,000 grant. A portion of this grant has been used to enhance certain needed anti-gang enforcement efforts. First, we found that with rising gang membership and related crime, gang activity is spreading from larger urban areas into surrounding suburbs. As a result, the need to share information and intelligence on gang activities is becoming critically important. Consequently, we are installing a comprehensive gang intelligence program, Gang-Net, to be utilized by all local, state and federal law enforcement agencies in the Dallas-Fort Worth metropolitan area and adaptable to other state and national gang resource systems. This shared database will assist in tracking gangs, gang members, their criminal activities, gang identifiers, migration trends, recruitment activities and other information valuable to law enforcement. Information available through this database, will aid law enforcement agencies in

preventing and solving crimes, not only in the specified target areas, but also across jurisdictional boundaries.

Second, we have assisted in the creation of a much-needed gang unit within the Dallas County District Attorney's Office. In addition, through the assistance of the Office of the Governor of Texas, Rick Perry, the Dallas County District Attorney's Office also received a grant to pay for an assistant district attorney to work exclusively as a special assistant United States attorney to prepare and prosecute gang and firearm related offenses in federal court. These additional prosecutors and investigators will ensure that anti-gang enforcement efforts are coordinated at both the state and federal levels.

Third, in Fort Worth, the police department has instituted a program to issue gang injunctions, already successfully used in San Antonio, to reduce gang activity in targeted locations. The practice of issuing gang injunctions is based on the theory that a gang is a public nuisance that impacts an entire community. Through a court order and an injunction, the nuisance can be abated. In order to begin an injunction process, a city must document that gang members are carrying out illegal activity in a specified area and that the activity is having a negative impact on the community. The City Attorney then seeks an injunction against one or more

of these gang members that prohibits them from conducting certain activities within the target area. Prohibited acts may include things such as associating with other gang members, possessing spray paint, approaching vehicles in a manner consistent with drug sales, loitering, or trespassing on particular property. Once the injunction is in place, gang members are subject to immediate arrest if they are caught violating any terms of the injunction. The arrested person may be charged with a misdemeanor punishable by up to a year confinement in the County Jail and an optional fine not to exceed $4,000. These gang injunctions will give officers the opportunity to truly implement a zero tolerance to gang activity in Fort Worth.

Fourth, the United States Marshal Dallas/Fort Worth Fugitive Apprehension Strike Team (DFW FAST) from the Dallas and Fort Worth Police Department and the Dallas and Tarrant County Sheriff's Office coordinates with the Gang Units and Homicide units for the referral of fugitives. Following arrest of these fugitives, the FAST team members work with gang officers to ensure that arrested gang members are debriefed and gang intelligence is shared.

Fifth, we have conducted training in my district to provide law enforcement officers and community organizations the information and tools to combat gang and firearm violence. This year, we have conducted a training program for school

police officers and school resource officers to familiarize them with current gang trends and signs of gang membership among students. In 2006, we held our First Annual Gang and Youth Conference. We brought together law enforcement, social service agencies, probation and parole officers, and educators. The program featured an overview of gangs in our region and practical advice on development of comprehensive anti-gang strategies that include enforcement, prevention, intervention and suppression efforts.

2. The Prevention Initiative

The District's gang prevention program targets gang and violent crime in high crime areas by coordinating partnerships with various federal, state and local law enforcement agencies and with various crime prevention groups, faith-based organizations, school districts and Weed and Seed Communities. This program has been effective.

For instance, the PSN Dallas ISD gang-prevention project is implemented in 10 schools. This program involves two parts. First, in the Gang Membership Prevention component, training is provided to superintendents, principals, school personnel, parents and students. The goal of this component is to reduce recruitment of new gang members and increase parental awareness of gangs and

associated behaviors. Second, in the Gang Intervention Activities component, community teams conduct outreach to gang members and potential gang members. The teams develop individualized treatment plans and conducts case management for gang members in the secondary schools. Gang Intervention services were also provided to elementary schools when school personnel identified individual cases there. The Gang Crime Prevention component also includes intelligence gathering, and graffiti removal at schools. This endeavor also mobilized community members and business owners to be more educated and vigilant in reporting gang crime and activity.

Another notable program is the Career Launch Program offered by the Boys' and Girls' Club. The program involves three components targeting youth at risk of joining gangs. In the Occupational Skills Training Component, youth may receive certifications in Certified Nursing Aid (CNA), Office Technology, Medical Billing & Coding and the Automotive Technician Program. Youth enrolled in the Education Component of the program are working towards achieving their educational goals. Of the 69 youth enrolled in the program in the last sixth months, only one youth has quit the program due to moving out of the service area. Two youth received employment in their occupational field and 15 youth achieved their

educational goals. Two youth received their Certified Nursing Aid (CNA) certificate, and have found and maintained employment. In addition, one youth graduated from high school and is bound for college.

3. The Re-Entry Component

The re-entry component involves two separate initiatives. First, since October 2003, we have conducted a PSN Re-Entry Education Program. This one-hour power point presentation is presented each month to approximately 800 recently released probationers and parolees in Dallas and Fort Worth. The presentation has two purposes. First, the program informs recently released probationers and parolees about the coordinated effort between federal, state and local authorities to prosecute gun offenders to the fullest extent of the law. To demonstrate this coordinated effort, each local law enforcement government official speaks for 2-3 minutes on their agency's commitment to PSN. The presentation's second purpose is to inform them about the legal consequences of gun crime. Over 27,438 probationers and parolees have attended this session. Our Research Partner has been tracking the effectiveness of the program and has reported that since its implementation, gun crime committed by probationers and parolees has decreased by 48% in Dallas County, a rather dramatic result.

Second, through the Department of Justice anti-gang initiative grant, we are implementing a prisoner reentry initiative to address pre-release and post-release services and supervision for high-impact gang members returning to the community after a period of incarceration in state, local or other correctional facility. This holistic approach is to connect faith-based and community organizations (FBCOs) with criminal justice, law enforcement, treatment, and service agencies/providers with wrap around services tailored specifically for formerly incarcerated identified gang members. The goal is to provide job training, job placement and mentoring services, all designed to ensure that former gang members will not return to gangs and crime.

Conclusion

In order to reduce violent crime, the federal government must work cooperatively with our partners in state, local, and international law enforcement, and we must focus not just on dealing with today's criminals, but on preventing our children from turning into tomorrow's criminals. In some places in our country, social influences that lead children to obey the law – influences that many of us take for granted – simply do not exist. The best way to reduce violent crime is to employ an overarching strategy that includes all participants in the criminal

justice system, along with educators, community organizers and leaders of faith-based institutions who can help spread the word and counsel people who otherwise might be tempted to commit crimes. We need to work with state and local authorities to reach children in their homes, neighborhoods, schools and religious institutions, before they make the wrong choices that lead to lives of violence and despair. And we need to work with state and local authorities responsible for the law enforcement, juvenile justice and criminal justice systems that process the vast majority of violent criminals. We must ensure that those institutions, while dealing with the considerable challenge of prosecuting criminals for past crimes, also are able to focus on law enforcement's ultimate mission of preventing crime in the future.

Mr. SCOTT. Thank you.
Mr. Seave?

TESTIMONY OF PAUL L. SEAVE, DIRECTOR, GANG AND YOUTH VIOLENCE POLICY OFFICE OF THE GOVERNOR, SACRAMENTO, CA

Mr. SEAVE. Good afternoon, Mr. Chairman, Ranking Member Forbes, and Members of the Subcommittee. My name is Paul Seave. And I am California's director of gang and youth violence policy, a position to which I was recently appointed by Governor Arnold Schwarzenegger.

Thank you very much for allowing me to be here today to testify. And I am here to express strong support of H.R. 3547, the Gang Prevention Intervention and Suppression Act, sponsored by Congressman Adam Schiff and Congresswoman Mary Bono.

My support for H.R. 3547 derives directly from California's long and tragic experience with street gangs. Before I proceed, however, let me explain by way of background. As the Chairman mentioned in part, before assuming my current position I was a Federal prosecutor for 15 years, including the last 4 as the United States attorney in Sacramento. And after, that I spent 5 years as director of the California attorney general's crime and violence prevention center, where my staff of 40 promoted prevention and intervention strategies in a number of areas, including gang and youth violence.

Now, if there is one lesson that law enforcement in California has learned after decades of gang violence, concentrated suppression efforts and more than 10,0000 gang-related homicides in the last 20 years, it is that we can't arrest our way out of the problem. So says virtually every law enforcement leader in California.

This does not mean that law enforcement shouldn't pursue those who commit violence or that smart suppression efforts aren't necessary to interrupt the escalating cycle of retaliatory violence that often attends gang disputes. Instead what it does mean is that suppression should be viewed as both a short-term fix to gang violence and the critical first step to a long-term solution.

And that solution requires prevention and intervention activities, hopefully those that have been proven effective, implemented in a sustained and robust fashion according to a comprehensive strategic plan formulated by many sectors in the community. A strategy that overlooks any of these components, suppression, prevention or intervention, will inevitably allow the conditions that gave rise to the violence and the violence itself to reemerge.

The primary responsibility for addressing gang violence belongs to local communities with the support of State government. But the scope, persistence, and effects of gang violence leave no doubt that Federal help and leadership are now needed if we are to bring about a long-term reduction in gangs and gang violence.

H.R. 3547 delivers that help and leadership hitting all the marks. For example, Federal enforcement efforts are sometimes needed to supplement those of local and State agencies when street gangs are particularly dangerous or violent. This bill authorizes Federal agencies to prosecute those gangs for the types of crimes that they commit, particularly for acts of violence and for retaliation against witnesses.

Prevention and intervention must receive equal attention. And again, this bill does just that.

The provisions in title 3 that allow designation of high-intensity gang activity areas promote the most effective approach, in my view, to reducing gang violence in the long-term. Targeting the areas most afflicted by gang crime, requiring each high-intensity gang area to create a multi-disciplinary working group of law enforcement, educators, faith leaders, community leaders and service providers, giving preference for funding to areas that have comprehensive strategies, requiring Federal, State and local law enforcement to work together, giving 50 percent of the funds to enforcement and 50 percent to intervention and prevention, and finally, creating a national gang research evaluation and policy institute to conduct further research on programs that work, programs that don't work, and to facilitate and promote adoption of those programs that do work. This is an absolutely essential organization that is best situated at the Federal level.

California has learned the hard way that suppression is a critically important part of the answer, but not the complete answer to reducing gang violence, that prevention and intervention are absolutely essential to any long-term strategy to reduce gang violence, and that Federal assistance and leadership across all three dimensions are necessary. H.R. 3547 promises to deliver the needed help.

I would ask that the House move quickly to address the national problem of gang violence just as the Senate recently passed S. 456, a bill sponsored by Senators Feinstein and Hatch, that takes a similar approach to reducing gang violence. Thank you.

[The prepared statement of Mr. Seave follows:]

PREPARED STATEMENT OF PAUL L. SEAVE

INTRODUCTION

Good afternoon. My name is Paul Seave, and I am California's Director of Gang and Youth Violence Policy, a position to which I was recently appointed by Governor Arnold Schwarzenegger. I am here to testify in strong support of H.R. 3547, the Gang Prevention, Intervention, and Suppression Act, sponsored by Congressman Adam Schiff and Congresswoman Mary Bono.

My support for H.R. 3547 derives directly from California's long and tragic experience with street gangs. Before I proceed, however, let me explain, by way of background, that before assuming my current position I served as a federal prosecutor in CA for fifteen years—the last four as United States Attorney in Sacramento. I spent the next five years as Director of the CA Attorney General's Crime and Violence Prevention Center, where my staff of 40 promoted prevention and intervention strategies in a number of areas, including gang and youth violence.

CALIFORNIA'S EXPERIENCE

Now: If there is one lesson that law enforcement in California has learned after decades of gang violence, concentrated suppression efforts, and more than 10,000 gang-related homicides in the past twenty years, it is that "We can't arrest our way out of the problem."—So says virtually every law enforcement leader in California.

This does not mean that law enforcement should not pursue those who commit violence, or that "smart" suppression efforts aren't necessary to interrupt the cycle of retaliatory violence that attends gang disputes. Instead, what it does mean is that suppression should be viewed as both a short-term fix to gang violence and the critical first step to a long-term solution. And that solution requires prevention and intervention activities—hopefully those that have been proven effective—implemented in a sustained and robust fashion according to a comprehensive strategic plan formulated by many sectors in the community. A strategy that overlooks any of these components—suppression, prevention, or intervention—will inevitably allow the conditions that gave rise to the violence, and the violence itself, to re-emerge.

NEED FOR FEDERAL ROLE

The primary responsibility for addressing gang violence belongs to local communities with the support of state government. But the scope, persistence, and effects of gang violence leave no doubt that federal help and leadership are now needed if we are to bring about a long-term reduction in gangs and gang violence.

H.R. 3547 delivers that help and leadership, hitting all the marks. For example, federal enforcement efforts are sometimes needed to supplement those of local and state agencies when street gangs are particularly dangerous or violent. This bill authorizes federal agencies to prosecute those gangs for the types of crimes that they commit—particularly, for acts of violence and for retaliation against witnesses.

Prevention and intervention must receive **equal** attention and again this bill does just that. The provisions in Title III that allow designation of High Intensity Gang Activity Areas (HIGAAs) promote the most effective approach to reducing gang violence in the long-term—1) targeting the areas most afflicted by gang crime; 2) requiring each HIGAA to create a multi-disciplinary working group of law enforcement, educators, faith leaders, community leaders, and service providers; 3) giving preference for funding to areas that have comprehensive strategies; 4) giving 50% of the funds to enforcement and 50% to intervention and prevention; and 5) creating a National Gang Research, Evaluation, and Policy Institute, an absolutely essential organization that is best situated at the federal level.

CONCLUSION

California has learned—the hard way—that suppression is a critically important part of the answer, but not the complete answer, to reducing gang violence; that prevention and intervention are absolutely essential to any long-term strategy to reduce gang violence; and that federal assistance and leadership—across all three dimensions—are necessary. H.R. 3547 promises to deliver the needed help. I would ask that the House move quickly to address the national problem of gang violence, just as the Senate recently passed S. 456, a bill sponsored by Senators Dianne Feinstein and Orrin Hatch that takes a similar approach to reducing gang violence.

Mr. SCOTT. Thank you. We were joined previously by the gentleman from Ohio, Mr. Chabot, and the gentleman from Wisconsin, Mr. Sensenbrenner. And we also have with us today the gentleman from Georgia, Mr. Johnson. And Ms. Jackson Lee was here.

Mr. Pranis?

TESTIMONY OF KEVIN PRANIS, RESEARCHER, JUSTICE POLICY INSTITUTE, WASHINGTON, DC

Mr. PRANIS. Good afternoon. I want to thank Congressman Scott and Congressman Forbes and the Members of the Subcommittee for the opportunity to address this important issue today. My name is Kevin Pranis. And I am here representing the Justice Policy Institute, a criminal justice think tank based in the District of Columbia.

Youth crime in the United States remains near the lowest level seen in decades. Yet public concern and media coverage of gang activity has skyrocketed since 2000. Some policy makers have declared the arrival of a national gang crisis tying gangs to terrorism and connecting their formation and growth to everything from lax border enforcement to the illicit drug trade.

Rising fears have prompted calls for a new tough legislation that would raise penalties for a vaguely defined gang crimes and spend millions of dollars on gang suppression. Two years ago in response to these fears the Justice Policy Institute commissioned my organization to produce an in-depth report on what is known about gangs and the efficacy of common gang control strategies.

My colleague, Judy Greene, and I began with an extensive review of the social science literature on gangs and gang membership. We also interviewed a diverse group of stakeholders, includ-

ing scholars, law enforcement officials, former gang members. And we conducted original analysis of youth survey and law enforcement data.

"Gang Wars: The Failure of Enforcement Tactics, and the Need for Effective Public Safety Strategies," was released in July of this year. As the title suggests, we found that most common assumptions about gangs are inaccurate and that current gang enforcement practices are misguided. We hope that the report's findings, which I will briefly summarize today, will help policy makers advance more effective approaches to reduce unacceptably high levels of crime and violence in some of our communities.

You have heard gangs described as top down criminal organizations that are driven by their leaders' desire to maximize power and profit often by recruiting an army of young men to impose a reign of terror on a geographic area. This conception of gangs gives rise to a common set of enforcement strategies: target and remove the leaders, disrupt the gang's ability to function as a unit, deter youth from joining or remaining in the gang by exposing them to criminal processing and penalties.

Unfortunately, our review of the research literature shows that such strategies have failed time and again to achieve meaningful reductions in the crime and violence associated with gangs. The reason? The assumptions that underlie traditional gang enforcement are dead wrong.

Gangs are, for the most part, bottom-up associations formed by troubled adolescents who engage in self-directed disorganized crime. Gangs do not require leaders to get themselves in trouble. And they fear rival gang members more than they fear police or prison.

Fortunately, for the rest of us, most quickly outgrow their gang ties without the help of law enforcement or gang intervention programs. The typical gang member joins between the ages of 12 and 15 and quits the gang within the first year. Ex-gang members typically cite high levels of violence or maturation as reasons for leaving. Only rarely do they cite fear of arrest or criminal penalties.

Leaving the gang early sharply reduces the risk of negative life outcomes. But current policies make it more difficult for gang members to quit by continuing to target former members after their gang affiliation has ended.

Media reports are full of stories about cities where crime goes up, a crackdown is launched, and crime goes down. But a review of research on the implementation of gang enforcement strategies from 17 jurisdictions over a 20-year period shows an overall record of failure. Problems identified in the literature include: a lack of correspondence between the problem, typically lethal or serious violence, and a law enforcement response that targets low-level, nonviolent misbehavior; evidence that the intervention had no effect, or a negative effect, on crime and violence; a tendency for any reductions in crime and violence to evaporate quickly, often before the end of the intervention period; and failure of replication efforts to achieve results comparable to those of the pilot program.

Among our specific findings, police gang units are often formed for the wrong reasons and perceived as isolated and ineffectual by law enforcement colleagues. An in-depth study of four cities deter-

mined that the units were formed in response to political, public and media pressure and that "almost no one other than the gang unit officers themselves seemed to believe the gang unit's suppression efforts were effective at reducing communities' gang problems." There is, similarly, no evidence whatsoever that other gang targeting programs, including task forces, prosecution units or gang sentencing enhancements have any impact on gang activity.

Second, heavy-handed suppression efforts can increase gang cohesion and police community tension. And they have a poor track record when it comes to reducing crime and violence.

Results from a Department of Justice-funded interventions in three major cities yield no evidence that a flood of Federal dollars and arrests had a positive impact on neighborhoods. For example, Dallas residents saw the incidents of gang-related violence fall in target areas, but ended up worse off than residents of other neighborhoods because overall violent crime went up during the intervention period.

Third, so-called balanced gang control strategies have been plagued by replication problems and imbalances between law enforcement and community stakeholders. For example, replication of the Boston cease fire model in Los Angeles and Indianapolis produced no evidence that efforts to disseminate a deterrence message had changed the behavior of gang members.

The evaluators concluded "We suspect that the carrot of the interventions will always lag far behind the stick side, in spite of the best intentions that it not do so, unless some extraordinary efforts are made." Simply put, there is no balance in the balanced approach to gang enforcement.

I want to contrast America's two largest cities, New York and Los Angeles, to provide a case in point. New York City street work and gang intervention programs were fielded decades ago during a period when gang violence was on the rise. These strategies were grounded in social work practices that go outside the realm of law enforcement.

No seasoned New Yorker would deny the existence of gangs, but gang-related offenses represent just a tiny blip on the New York crime screen. Comparing New York to Los Angeles where gang violence is epidemic, city and State officials have spent billions of dollars on policing and surveillance, the development of databases containing the names of tens of thousands of alleged gang members, and long prison sentences for gang members.

Taxpayers had not seen a return on their massive investment. They now report six times as many gangs and at least double the number of gang members in the region. The crime statistics tell the story.

LAPD reported 11,402 gang-related crimes in 2005. The same year the New York Police Department reported just 520. FBI crime reports indicate New York's homicide rate that year was half of Los Angeles.

Yet absent better alternatives, lawmakers across the country risk blindly following in Los Angeles' troubled footsteps. I would make a plea that we let police do what they do best, to solve crimes, identify the perpetrators, and apprehend them, not chasing after kids

in baggy clothes under the assumption that gangs are the primary crime problem in the country.

[The prepared statement of Mr. Pranis follows:]

PREPARED STATEMENT OF KEVIN PRANIS

Good afternoon. I want to thank the Chair, Congressman Scott, and the members of the House Judiciary Subcommittee on Crime, Terrorism and Homeland Security for the opportunity to testify on this important issue. My name is Kevin Pranis, and I am here today representing The Justice Policy Institute—a criminal justice think-tank based here in the District of Columbia.

I have spent more then a decade working on criminal justice issues: as a case-worker, an educator, an advocate, and finally as a policy analyst with Justice Strategies—a nonprofit criminal justice research organization. During that time, I have authored or co-authored research reports and white papers on a wide range of topics, including prisoner reentry, sentencing policy, prison privatization, rising female imprisonment rates, and the use of substance abuse treatment as an alternative to incarceration.

Two years ago, Justice Policy Institute commissioned Justice Strategies to produce an in-depth report on what is known about gangs' contribution to problems of crime and violence, as well as the efficacy of common gang control strategies. My colleague Judy Greene and I began our work with an extensive review of the social science literature on gangs and gang membership, incorporating research that examined gangs from multiple perspectives (e.g. crime control, youth development) using varied techniques (e.g. ethnography, law enforcement data, youth surveys). We also interviewed a diverse group of stakeholders, including law enforcement officials, scholars, social service providers, and former gang members. Finally, we analyzed youth survey and law enforcement data to test common assumptions about the prevalence of gang membership and the relationship between gang activity and crime rates.

The resulting report, "Gang Wars: The Failure of Enforcement Tactics and the Need for Effective Public Safety Strategies," was released in July of this year. As the title suggests, we found that the most common assumptions about gangs and gang control lack foundation in the scientific literature. We hope that the results of our research—briefly summarized in this testimony—will provide an opportunity to pursue more fruitful approaches to reduce unacceptably high levels of violence in our communities.

GANG WARS FINDINGS

Youth crime in the United States remains near the lowest levels seen in the past three decades, yet public concern and media coverage of gang activity has skyrocketed since 2000. Fear has spread from neighborhoods with long-standing gang problems to communities with historically low levels of crime. Some policy makers have declared the arrival of a national gang "crisis"-tying gangs to terrorism and connected their formation and growth to everything from lax border enforcement to the illicit drug trade. Rising fears have prompted calls for new "tough" legislation that would raise penalties for vaguely defined gang crimes and spend hundreds of millions of dollars on gang suppression. Yet the evidence points to a different reality and suggests a more thoughtful policy response. The following are our key findings concerning gangs and gang members:

Gangs and gang members

There are fewer gang members in the United States today than there were a decade ago, and there is no evidence that gang activity is growing. It is difficult to find a law enforcement account of gang activity that does not give the impression that the problem is getting worse by the day. Yet the most recent comprehensive law enforcement estimate indicates that youth gang membership fell from 850,000 in 1996 to 760,000 in 2004 and that the proportion of jurisdictions reporting gang problems has dropped substantially. The myth of a growing gang menace has been fueled by sensational media coverage and misuse of law enforcement gang statistics, which gang experts consider unreliable for the purpose of tracking local crime trends.

There is no consistent relationship between law enforcement measures of gang activity and crime trends. *One expert observes that gang membership estimates were near an all-time high at the end of the 1990s, when youth violence fell to the lowest level in decades. An analysis of gang membership and crime data from North Carolina found that most jurisdictions reporting growth in gang membership*

also reported falling crime rates. Dallas neighborhoods targeted for gang suppression activities reported both a drop in gang crime and an *increase* in violent crime during the intervention period.

Gang members account for a relatively small share of crime in most jurisdictions. There are a handful of jurisdictions such as Los Angeles and Chicago where gang members are believed to be responsible for a significant share of crime. But the available evidence indicates that gang members play a relatively small role in the national crime problem despite their propensity toward criminal activity. National estimates and local research findings suggest that gang members may be responsible for fewer than one in 10 homicides; fewer than one in 16 violent offenses; and fewer than one in 20 serious (index) crimes. Gangs themselves play an even smaller role, since much of the crime committed by gang members is self-directed and not committed for the gang's benefit.

Gangs do not dominate or drive the drug trade. National drug enforcement sources claim that gangs are "the primary retail distributors of drugs in the country." But studies of several jurisdictions where gangs are active have concluded that gang members account for a relatively small share of drug sales and that gangs do not generally seek to control drug markets. Investigations conducted in Los Angeles and nearby cities found that gang members accounted for one in four drug sale arrests. The Los Angeles district attorney concluded that just one in seven gang members sold drugs on a monthly basis. St. Louis researchers describe gang involvement in drug sales as "poorly organized, episodic, nonmonopolistic [and] not a rationale for the gang's existence." A member of one of San Diego's best-organized gangs explains: "The gang don't organize nothing. It's like everybody is on they own. You are not trying to do nothing with nobody unless it's with your friend. You don't put your money with gangs."

Most gang members join when they are young and quickly outgrow their gang affiliation without the help of law enforcement or gang intervention programs. A substantial minority of youth (7 percent of whites and 12 percent of blacks and Latinos) goes through a gang phase during adolescence, but most youth quit the gang within the first year. One multistate survey found that fully *half* of eighth-graders reporting gang involvement were former members. When former gang members cite reasons why they left the gang, they commonly mention high levels of violence, and that they just grew out of it; only rarely do they cite fear of arrest or criminal penalties. Most youth who join gangs do so between the ages of 12 and 15, but the involvement of younger children in gangs is not new. Noted expert Malcolm Klein observes: "Although some writers and officials decry the 8- and 10-year-old gang member, they haven't been in the business long enough to realize that we heard the same reports 20 and 40 years ago."

Leaving the gang early reduces the risk of negative life outcomes, but current policies make it more difficult for gang members to quit. Gang involvement is associated with dropping out of school, teen parenthood, and unstable employment, but the risks are much smaller for those who leave the gang in a year or less. Yet little attention has been devoted to why and how youth leave gangs, and many gang control policies make the process of leaving *more* rather than *less* difficult by continuing to target former members after their gang affiliation has ended. Researchers note: "Police and school officials may not be aware of the decision of individuals to leave the gang or may not take such claims seriously, and records may not be purged of prior gang status. . . . When representatives of official agencies (e.g., police, school) identify an individual as a gang member, they are sending a powerful signal to rival gang members as well as to people in the community about the gang involvement of that person."

The public face of the gang problem is black and brown, but whites make up the largest group of adolescent gang members. Law enforcement sources report that over 90 percent of gang members are nonwhite, but youth survey data shows that whites account for 40 percent of adolescent gang members. White gang youth closely resemble black and Latino counterparts on measures of delinquency and gang involvement, yet they are virtually absent from most law enforcement and media accounts of the gang problem. The disparity raises troubling questions about how gang members are identified by police.

Gang enforcement

The conventional wisdom on gang enforcement is equally flawed. Media reports are full of stories about cities where crime goes up, a crackdown is launched, and crime goes down. But a review of research on the implementation of gang enforcement strategies—ranging from neighborhood-based suppression to the U.S. Justice Department Office of Juvenile Justice and Delinquency Prevention's Comprehensive Gang Program Model—provides little reason for optimism. Findings from investiga-

tions of gang enforcement efforts in 17 jurisdictions over the past two decades yield few examples of success and many examples of failure.

The problems highlighted in the research include:

- Lack of correspondence between the problem, typically lethal and/or serious violence, and a law enforcement response that targets low-level, nonviolent misbehavior.
- Resistance on the part of key agency personnel to collaboration or implementation of the strategy as designed.
- Evidence that the intervention had no effect or a negative effect on crime and violence.
- A tendency for any reductions in crime or violence to evaporate quickly, often before the end of the intervention period.
- Poorly designed evaluations that make it impossible to draw any conclusions about the effect of an intervention.
- Failure of replication efforts to achieve results comparable to those of pilot programs.
- Severe imbalances of power and resources between law enforcement and community partners that hamper the implementation of "balanced" gang control initiatives.

Among our specific findings concerning typical gang enforcement strategies:

Police gang units are often formed for the wrong reasons and perceived as isolated and ineffectual by law enforcement colleagues. A survey of 300 large cities found that the formation of gang units was more closely associated with the availability of funding and the size of the Latino population than with the extent of local gang or crime problems. An in-depth study of four cities determined that gang units were formed in response to "political, public, and media pressure" and that "almost no one other than the gang unit officers themselves seemed to believe that gang unit suppression efforts were effective at reducing the communities' gang problems." Investigators found that gang officers were poorly trained and that their units became isolated from host agencies and community residents. The chief of one police department admitted that he had "little understanding of what the gang unit did or how it operated." The authors observed that the isolation of gang units from host agencies and their tendency to form tight-knit subcultures—not entirely unlike those of gangs—may contribute to a disturbingly high incidence of corruption and other misconduct.

Heavy-handed suppression efforts can increase gang cohesion and police—community tensions, and they have a poor track record when it comes to reducing crime and violence. Suppression remains an enormously popular response to gang activity despite concerns by gang experts that such tactics can strengthen gang cohesion and increase tension between law enforcement and community members. Results from Department of Justice-funded interventions in three major cities yield no evidence that a flood of federal dollars and arrests had a positive impact on target neighborhoods. St. Louis evaluators found that dozens of targeted arrests and hundreds of police stops failed to yield meaningful reductions in crime in the targeted neighborhoods, even during the period of intense police activity. Dallas residents saw the incidence of "gang-related" violence fall in target areas but had little to celebrate because the overall violent crime numbers *rose* during the intervention period. Detroit evaluators reported initial reductions in gun crimes within two targeted precincts, but the apparent gains were short-lived: by the end of the intervention period, the incidence of gun crime in target areas was at preintervention levels and trending upward.

"Balanced" gang control strategies have been plagued by replication problems and imbalances between law enforcement and community stakeholders. Gang program models that seek to balance suppression activities with the provision of social services and supports have been piloted in Boston and Chicago with some success. But the results of attempts to replicate Operation Ceasefire and the Comprehensive Gang Program Model in other jurisdictions have been disappointing. Replications of the Ceasefire model in Los Angeles and Indianapolis produced no evidence that efforts to disseminate a deterrence message had changed the behavior of gang members. Meanwhile, replications of the Chicago model in five cities produced mixed results, with just two sites reporting reductions in participants' violent behavior that approached statistical significance. Prevention and intervention appeared to lag far behind suppression efforts in the many sites. The Los Angeles Ceasefire evaluators concluded: "We suspect that *the carrot side of these interventions will always lag far behind the stick side* in spite of the best intentions that it not do so, unless some extraordinary efforts are made" (emphasis added). A recent

analysis concluded that two-thirds of resources expended on gang reduction in Los Angeles have gone to suppression activities.

African American and Latino communities bear the cost of failed gang enforcement initiatives. Young men of color are disproportionately identified as gang members and targeted for surveillance, arrest, and incarceration, while whites—who make up a significant share of gang members—rarely show up in accounts of gang enforcement efforts. The Los Angeles district attorney's office found that close to half of black males between the ages of 21 and 24 had been entered in the county's gang database even though no one could credibly argue that all of these young men were current gang members. Communities of color suffer not only from the imposition of aggressive police tactics that can resemble martial law, but also from the failure of such tactics to pacify their neighborhoods. One researcher argues that in Chicago, for example, a cycle of police suppression and incarceration and a legacy of segregation have actually helped to *sustain* unacceptably high levels of gang violence.

New York vs. Los Angeles

The contrast between America's largest cities—New York and Los Angeles—provides a case in point. In New York City, a variety of street work and gang intervention programs were fielded decades ago during a period when gang violence was on the rise. These strategies were solidly grounded in principles of effective social work practices that fall outside the realm of law enforcement, and they seem to have helped dissuade city policy makers and police officials from embracing most of the counterproductive gang suppression tactics adopted elsewhere. No seasoned New Yorker would deny the existence of street gangs. But gang-related offenses represent just a tiny blip on the New York crime screen. Gang experts conclude that the city's serious problem with street gang violence had largely faded away by the end of the 1980s. Youth violence remains a problem in some New York City neighborhoods, but with crime falling to historic lows, the city's approach to gangs and youth crime seems to be remarkably effective.

Compare New York to Los Angeles, where gang violence is epidemic. City and state officials have spent billions of dollars on policing and surveillance, on development of databases containing the names of tens of thousands of alleged gang members, and on long prison sentences for gang members. Spending on gang enforcement has far outpaced spending on prevention programs or on improved conditions in communities where gang violence takes a heavy toll. Los Angeles taxpayers have not seen a return on their massive investments over the past quarter century: law enforcement agencies report that there are now six times as many gangs and at least double the number of gang members in the region. In the undisputed gang capital of the world, more police, more prisons, and more punitive measures haven't stopped the cycle of gang violence. Los Angeles is losing the war on gangs.

The contrast can be seen clearly in the crime statistics: The Los Angeles Police Department (LAPD) reported 11,402 gang-related crimes in 2005. That same year, the New York Police Department reported just 520. FBI crime reports indicate that New York's homicide rate that year was about half of Los Angeles', while the rate of reported gang crime in Los Angeles was 49 times the rate reported in New York City. Yet absent better alternatives, lawmakers across the country risk blindly following in *Los Angeles'* troubled footsteps. Federal proposals—such as S. 456, the "Gang Abatement and Prevention Act of 2007"—promise more of the kinds of punitive approaches that have failed to curb the violence in Los Angeles.

A better way

Our report does not endorse any particular program or approach for reducing the damage done by gangs and gang members. Instead, it points toward actions we can take to reduce youth violence. The most effective route toward reducing the harm caused by gangs requires a more realistic grasp of the challenges that gangs pose. The objective should not be to eradicate gangs—an impossible task—but rather to promote community safety. As one community stakeholder observes, "The problem is not to get kids out of gangs, but the behavior. If crime goes down, if young people are doing well, that's successful."

The lessons from the past and results from research on more recent innovations in juvenile justice policy point toward more effective public safety strategies:

* **Expand the use of evidenced-based practice to reduce youth crime.** Evidenced-based practices are those interventions that are scientifically proven to reduce juvenile recidivism and promote positive outcomes for young people. Rather than devoting more resources to gang suppression and law enforcement tactics, researchers recommend targeting funding to support research-based programs operated by agencies in the health and human services sector. As Peter Greenwood,

former director of the RAND Corporation's Criminal Justice Program and an evaluator of Operation Ceasefire in Los Angeles, notes, *"Delays in adopting proven programs will only cause additional victimization of citizens and unnecessarily compromise the future of additional youth."*

* **Promote jobs, education, and healthy communities, and lower barriers to the reintegration into society of former gang members.** Many gang researchers observe that employment and family formation help draw youth away from gangs. White youth have greater access to jobs and education, which may explain why there are many white gang *members* but little discussion of a chronic white gang *problem.* Creating positive opportunities through which gang members can leave their past behind is the best chance for improving public safety. This requires both investing resources and reforming policies and practices that now deny current and former gang members access to these opportunities.

* **Redirect resources from failed gang enforcement efforts to proven public safety strategies.** Gang injunctions, gang sweeps, and ominous-sounding enforcement initiatives reinforce negative images of whole communities and run counter to the positive youth development agenda that has been proven to work. Rather than promoting antigang rhetoric and programs, policy makers should expand evidence-based approaches to help former gang members and all youth acquire the skills and opportunities they need to contribute to healthy and vibrant communities.

Mr. SCOTT. Thank you very much.

Dr. Scharf?

TESTIMONY OF PETER SCHARF, EXECUTIVE DIRECTOR, CENTER FOR SOCIETY, LAW AND JUSTICE, AUSTIN, TX

Mr. SCHARF. Chairman Scott, Ranking Member Forbes, it is an honor to be here. I want to continue, I think, what Kevin started, which is to tear some of the assumptions apart as to how we deal with the gang issue. We really have two different paradigms at work.

One paradigm—and many cities are using it—is the interdiction paradigm. In Las Vegas they have a Squad-Up program that sort of proactively attacks gangs. In other cities, such as Minneapolis, they attempt to work with kids, deal with some of the underlying social issues and ameliorate gang risk through prevention and early intervention. In truth, it is a 200-year debate.

In the early 19th century there was a debate between people who believed in environmental stimuli as the cause of delinquency and those who believed in innate depravity. And you look in recent history we have things, programs such as Weed and Seed. We have community precincts with radically different assumptions.

And I think it is important that, as we look at the different bills under consideration, we think about really what are the differences. But here are a few things I think that are different between what is being proposed in the Schiff bill and that in the Scott-Thomas bill, which is under development.

In the Schiff bill, we have a balanced approach, but with a very strong interdiction approach that could result in large numbers of young people being sent to jail, sent to prison, especially those on the fringes of gang activity, as well as prevention efforts and some research efforts in the gang institute approach. In the Scott bill we have an attempt really to do four different things. One, to fund local communities with intensive early intervention and prevention resources to address and to provide a wide variety of evidence-based programming toward young people.

The second is to support and refine what we believe to be evidence-based by continuing the research. And the third thing is to

train police officers in working with young people, not in terms of interdiction model, but in terms of understanding adolescent behavior and the legal and ethical issues related to diverting them from the criminal justice system.

In the Schiff bill I think there is an emphasis, a belief, in the model of deterrence and incapacitation, that if you incapacitate large numbers of gang members, potential gang members and create general deterrence the public safety will be increased. In the Scott bill I think there is an assumption that, through reducing the underlying risks that lead to gang activity, that that will, in the long run, result in public safety.

And looking at the two bills through two different lenses, I think, may be productive for these discussions. One is what is the evidence behind each of these two positions. In terms of the Schiff bill, there is a disconnect, I think, between increasing prosecutorial resources with the goal of increasing deterrence and incapacitation in the sense there may be minimal evidence that that, in fact, works.

The most probable case, as we heard, in the crime summit on June 22nd, is that if you increase prosecutorial resources and you increase police capacity, what happens is you run up incredibly high criminal justice costs with the argument that, in fact, in the long run you increase public safety is almost nil.

There is a study by Pontell of the capacity to punish, which argues that the reason we have the rise, as Chairman Scott said, from 200,000 in 1931 when I started work in the system, to 2 million inmates today, has very little to do with changing crime risks. What it has to do with is increasing the capacity to punish by facilitating prosecutions such as is funded under the Schiff bill. Is there a chance that, in fact, what will happen is we will increase our criminal justice costs with no concurrent increase in safety?

If you just take—I developed a model in my presentation where I just assume, let us say, you have 2,000 kids a year who are incarcerated through the enhanced resources. Over the lifetime of a bill, a 10-year lifetime of the bill, the costs could be up to $8 billion. If we took that $8 billion and used it for other purposes, how many special education teachers, doctors in the inner city schools could be funded and schools built?

So the argument that in one bill we know that, given the evidence—well, we haven't been given the evidence of whether it worked. The one thing that is certain is we will increase the costs.

The Scott bill under preparation, the PROMISE bill, if assuming reasonable success of the prevention measures, each year the bill becomes a better deal, a better bargain for the taxpayer, in the sense your underlying risks will be reduced and your criminal justice costs will be abated. I strongly support consideration of this alternative paradigm.

Harry Lee died yesterday, the sheriff in Jefferson Parish. They took him to New York—from John Jay College he said, you have come here expecting the criminal justice to solve the problems we have in New Orleans, which are obvious to everybody. And in fact, the system may be the problem as much as the cure.

And if you look at the bill, this hybrid bill that is proposed by Congressman Schiff, the risk is that, in fact, the criminal justice system becomes its own dynamic, more kids become involved in the

system, the costs become excessive, and also—the disease caused by the treatment, that kids who would otherwise not stay in the gang life will, in fact, through the criminal justice system become identified—and trapped into that system.

Again, summarizing, what do I think? One, this is a huge problem, astronomic problem financially. The liability is enormous. We have two different choices, two different paradigms of how to proceed, one, of a focus on prevention, the other, the focus on interdiction and high-cost correctional alternative. I think the choices are profound and absolutely essential to be considered objectively. Thank you.

[The prepared statement of Mr. Scharf follows:]

PREPARED STATEMENT OF PETER SCHARF

Performance Measurement, Evidence-Based Research and Pending Legislation to Reduce the Risk of Juvenile Delinquency and Gang Involvement: a comparative analysis of Gang Risk Reduction Bills before Congress (Scott Promise and Schiff Gang Prevention Proposed Legislative Initiatives)

Written Testimony Presented to
The Subcommittee on Crime, Terrorism and Homeland Security of the Committee on the Judiciary, U.S. House of Representatives
Representative Bobby Scott, Chairman and Mr. Bobby Vassar, Chief Counsel
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I. Executive Summary and Abstract

This testimony by Dr. Peter Scharf of Texas State University focuses upon an examination of three legislative Bills (proposed by Representative Bobby Scott and Representative Adam Schiff (and Senator Diane Feinstein) designed to reduce youth gang activity and crime viewed from the point of view of evidence based research and performance metrics. Bill language was analyzed to determine the evidence based policy foundation of each Bill and compare performance metrics to be derived from each approach.

The analysis conducted by the witness suggests that the Scott PROMISE Bill has distinct advantages in terms of its foundation in research and definition of performance metrics. The Schiff Gang Prevention Bill is founded upon the lowest level evidenced based beliefs, that increased prosecution and prosecution capacity decreases gang risks by increasing sanctions and deterrence a position not supported by any identified research. While, the research related to prevention is complex, the restriction of the Scott PROMISE Bill to evidence based research offers a potential for long-term risk reduction and criminal justice costs lacking in the Schiff Gang Prevention Bills.

It is projected that the prevention programs articulated in the Scott Promise Bill over time will increase awareness of what works, improve efficiency and will reduce aggregate net costs over time through diverting youth from high cost involvement in the criminal justice system. The witness believes that the Schiff Gang Prevention emphasis upon high cost correctional involvement would have a potentially catastrophic fiscal and human impact. It is the opinion of the witness that the Scott PROMISE Bill's adherence to best available evidence based research and the focus of its performance measures represents the strongest option available to address the risks of delinquency and gang identification activity in the United States.

II. The Challenge of Congressional Policy regarding the reduction of gang violence-competing paradigms in the response to delinquency and gang affiliation

The problem of juvenile delinquency and gang involvement is very much a "*tale of two cities*" with conflicting facts and remedies. During the recent Crime-sub-committee Crime Summit (June 22, 2007) these conflicting views were presented by keynote speakers Dr. (s) Deborah Prothrow-Stith and Dewey Cornell with Dr. Prothrow Stith[1] arguing for" public health and value centered approach to the control of strong and (in her view) increasing violence in urban areas trends. Dr. Cornell[2] in contrast argued" that there has been a significant decline in youth murders" over the past 12 years, and that the "belief that juvenile violence is increasing or that schools are not safe is a serious misconception."

Similarly, two articles (one from Las Vegas and the other from Minneapolis) on gang violence suggest the polarities of public beliefs regarding the nature of youth gangs and the remedies needed to cope with gang violence. The first piece suggests the assumption that youth gangs have a new and violent focus[3]

> A new breed of street gangs has arrived in Las Vegas and cities across the nation, with violent results. Squad-Up, one of the newest Las Vegas gangs, was formed by smaller gangs, some of them rivals, which banded together to form a larger hybrid gang. These new gang members are young and especially profit driven. They are, as one law-enforcement officer calls them, Gangsters 2000…..During the day, the neighborhood is still quiet, Everson said. But she added, (the gangs) are like roaches. They only come out at night, she said. At night, Las Vegas Metro Police Departments gang unit hits the streets as well. Modern gang members are not likely to wear colors or any outward gang paraphernalia, so the gang unit stops anyone who seems suspicious.

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[1] Statement of Dr. Deborah Prothrow-Stith, Harvard Medical School, Crime Sub-Committee Crime Summit, June 22, 2007
[2] [2] Statement of Dr. Dewey Cornell University of Virginia, Crime Sub-Committee Crime Summit, June 22, 2007
[3] Hybrid gang violence sweeps nation Gangs terrorize Middle America

The second article published in Illinois suggested that a "holistic" approach to gang violence may be the most effective approach to the reduction of gang violence.[4]

> An innovative and promising effort to attack the roots of juvenile crime in Minneapolis is commanding the attention of police officials across the country. The holistic approach that views violence among kids as a public health issue as well as a police problem has reduced juvenile crime in Minneapolis by 20 percent from last year, and the approach was highlighted at a recent conference on violence held in Schaumburg, Ill. ( ) Police in cities where violent crime is escalating hope the Minneapolis lessons can help reduce the carnage -- especially among children… Juveniles brought to the new truancy and curfew center at City Hall are connected with resources that help them stay out of trouble.

Obviously the assumptions between Las Vegas and Minneapolis definition of the problem of youth and gang violence differ as do their solutions. Since at least the nineteenth century approaches to youth "gangs" and crime have meandered between poles regarding the nature of youth gangs and crime and what is it that society is to do to mitigate risks related to the threats posed. According to Mennel (l983) in the early 1800's, "neglected and delinquent children were objects of special attention because their behavior was more likely to be viewed as the product of environmental stimuli than as a sign of innate depravity.[5]

Since the l960's has been a troubling and almost a faddish pattern to beliefs about the control of youth and gang crime. In the l970's-1980's federally sponsored law enforcement approaches such as SHOCAP focused upon identifying the highest risk and most dangerous youth offenders-building upon the theories of Wolfgang (l985) and most recent Project Safe Neighborhoods (PSN) initiatives emphasized increased prosecution and imprisonment as a response to delinquency and gang identification.

Proactive prevention, however, has historically been absent from private and governmental responses to juvenile delinquency. It was not until the 1970s that serious

[4] Minneapolis is a template for fight on juvenile delinquency
[5] Mennel, p. 198

attention was given to preventing juvenile delinquency before the fact. The first real effort on the part of the federal government to reduce juvenile delinquency came with the 1950 Federal Youth Corrections Act instituted measures to train and rehabilitate young criminals. In addition, the Children's Bureau created a new division called the Juvenile Delinquency Service.[6]

These innovations were only temporary in scope. By the end of the 1950s, it became clear that juvenile delinquency was a serious problem that required attention beyond provisional policies. Previous measures on the part of governments and philanthropists had been aimed at responding to crimes after the fact by incarcerating or rehabilitating young delinquents. 1961 saw the introduction of the Juvenile Delinquency and Youth Offenses Act. This Act was the first of its kind designed to prevent and control delinquency on a federal level. It empowered the Department of Health, Education, and Welfare's (HEW) Secretary to allocate funding to individual communities and agencies, in order to tackle context-specific juvenile delinquency problems.[7]

However, neither this act, nor its 1968 follow-up entitled the "Juvenile Delinquency Prevention and Control Act," differentiated between prevention and control. This ambiguity was finally addressed in 1974 with the passage of the Juvenile Justice and Delinquency Prevention Act. In addition to transplanting the responsibility of issues pertaining to juveniles from the HEW to the Department of Justice, the bill was unmistakably written with *prevention* in mind.[8]

In building responsible legislation it is important to review what is it that is known about reducing delinquency and gang affiliation, it is important to ask how do we measure outcomes from different approaches to respond to threats posed by gang affiliated youth. Recent controversies between "get tough" and "preventive" approaches towards the reduction of youth gangs may differ however all agree on the cost and impact of uncontrolled juvenile delinquency and gang violence.

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[6] Olsen-Ramer, 1983: 587
[7] Ibid.
[8] Olsen-Raymer, 1983: 593

The Intellectual Climate of Congressional Debate between Scott PROMISE and Schiff Gang Prevention Bills

It is in this conflicting fact and idea context that the Debate before the Congress as to different solutions to delinquency and gang identification and crime patterns is taking place. The gang legislation sponsored by US Senators. Dianne Feinstein, D-California., and Orrin Hatch, R-Utah. Legislation establishes new federal crimes to cover gang by providing a federal hand of assistance to state and local task forces and other entities concerned with gang activity. Feinstein and Hatch have said that their bill reflects statistics that at least one-fourth of all homicides in major cities are now gang-related and that active gang members have grown from some 250,000 in 1991 to 800,000 today.

A somewhat similar (or intellectually compatible Bill proposed by Adam Schiff(D – California)-The Gang Prevention, Intervention and Suppression Act (H.R. 3547) would provide new resources for community-based gang prevention and intervention activities. The bill would also revise criminal laws and penalties to give gang prosecutors new tools in the fight against gang violence. The legislation will target resources to communities with severe gang activity and includes more than $1 billion in funding for law enforcement, prevention, and intervention programs. The purpose of this bill is to: to increase and enhance law enforcement resources committed to investigation and prosecution of violent gangs, to deter and punish violent gang crime, to protect law-abiding citizens and communities from violent criminals, to revise and enhance criminal penalties for violent crimes, to expand and improve gang prevention programs, and for other purposes.

The Scott PROMISE Bill assumes very different facts as to the causes of gang violence and useful remedies to reduce delinquency and gang identification. The Youth Prison Reduction through Opportunities, Mentoring, Intervention, Support, and Education Act (Youth Promise Act of 2007) implements the advice of the researchers, analysts and law enforcement experts by targeting resources to local communities encountering increased delinquency and gang identification risks to enable those communities to apply

evidenced-based prevention and intervention strategies. Communities with high juvenile delinquency and gang rates will receive a grant and technical assistance to assess the problem and develop a collaborative plan for effectively addressing it through evidenced-based strategies from a broad array of programs proven to substantially reduce the likelihood of an at-risk young person committing a crime and or recidivating if already adjudicated a delinquent, and particularly with respect to violent crimes. Provides for training, hiring and support of Youth Oriented Policing (YOPS) officers to work with youth in a manner, emphasizing prevention of juvenile delinquency and gang involvement by working with youth at-risk of gang and criminal activities before they join gangs or commit crimes to minimize juvenile delinquency and victimization from delinquent acts and reduce the long-term involvement of juveniles in the adult criminal justice system. Under this alternative, communities facing the greatest delinquency and gang identification challenges will bring together – via a local council that includes law enforcement, community-based organizations, schools, faith organizations, health, social service, and mental health providers – to develop and implement a comprehensive plan for evidence-based prevention and intervention strategies targeted at young people at risk of joining, or who have joined, gangs or are otherwise committing delinquent acts, to make our communities safer and help at-risk young people lead law-abiding lives.

Some of the broad differences in factual, value and risk reduction strategies in the Bills are found below in Table I:

TABLE I: BROAD COMPARISON OF THE SCOTT PROMISE AND SCHIFF GANG PREVENTION BILLS

Core Factual and Value Propositions	Scott PROMISE	Schiff Gang Prevention
Why are gangs a problem? Motives for gang participation by youth	Poverty, educational, social issues, criminal justice system label and institutional patterns favoring continued gang participation	Violent and Economically Driven motives. Criminal enterprise model for delinquency and gang identification activities. Gang behaviors respond to imposition of increased criminal sanctions
Knowledge base of Bill	Strong evidence base with controlled studies cited from education, public health, human development, criminology and treatment literatures	Patterns of gang involvement data, professional beliefs, case study and anecdotes ("horror stories"). Focus upon juvenile crime statistics, adult care costs and "prosecutor centered beliefs
Key entities for risk reduction	Schools, community councils, early intervention and prevention providers and trained juvenile officers	Police, Federal entities, gang task forces, witness protection personnel and prosecutors
Beliefs about risk reduction mechanisms	Early intervention, prevention, use of best-evidence programming and juvenile training of law	Prosecution based upon deterrence and incapacitation assumptions secured through increased imposition of sanctions through enhanced capacity of

	enforcement	prosecution
Desired Outcomes	Reduced crime and prison costs achieved through prevention and early intervention programs and community involvement	Increased deterrence/incapacitation of gang members achieved through enhancement of prosecutorial, law enforcement and related capacity

How are different assumptions related to fact and values reflected in Bills (Scott PROMISE and Schiff Gang Prevention Bills) presently under consideration before Congress? What is the status of our knowledge about the reduction of youth and gang violence? What are the goals of the different Bills as defined, results and presumed results in terms of metrics to be achieved were these Bills to be enacted. How would the public know if an effort to reduce these risks were to be successful? How might very different youth gang paradigms (reflected in the different Bills before Congress) that claim to have an impact upon violent crime be objectively compared? How might the impact in terms of programs described in these Bills be demonstrated to have an impact upon juvenile delinquency and gang involvement? How might this impact be best measured?

III. Evidence Based Congressional Policy re: the state of science and reducing the risk of youth and violent crime-a comparison of proposed legislation

What is known from research related to the dynamics regarding juvenile delinquency and violence? Evidenced Based Research may be used as a basis for discriminating among different congressional policies as reflected in different Bills before Congress. At the recent Crime Summit held by the Crime Sub-committee recognized experts testified regarding what they believed was the status of evidence regarding gang and youth

violence and reached consensus on facts related to the comparison among the different Bills under consideration in terms of what is known about gang and youth violence:[9]

1) Current criminal justice policies rely far too much upon incarceration as a response to youth gang and violence;
2) This incarceration oriented strategy, especially with juveniles, creates human and financial costs and contributes to long-term crime risks;
3) Current criminal and juvenile justice policies have a broad differential impact upon racial minorities, especially African Americans;
4) Juvenile justice policies are rooted in non-evidence based assumptions about juvenile delinquency causes and remedies;
5) Focus upon deterrence models, rather than broad child welfare and early intervention have created 'down stream' crime risks which might be avoided with more objective policies;
6) Arrest, sentencing and community release policies may have an iatrogenic(disease caused by the treatment) effect upon crime rates and over use of incarceration for youth;
7) The lack of funding for effective drug, alcohol and related treatment programs are a barrier to reducing levels of incarceration or reducing long-term juvenile delinquency trends

Competing claims of evidence in the different Bills may be compared as to the type of evidence presented. At the lowest level are essentially practitioner claims or belief. According to some authorities double blind studies with randomized controls may be needed to establish the usefulness of a particular strategy to control youth and gang crime.

[9] Crime Sub-Committee Crime Summit, June 22, 2007 Report by Dr. Peter Scharf

The risks of developing Congressional policies which are non-evidence based are significant as illustrated by Dr. Alfred Blumstein's example (presented during the June 22, Crime Summit), of Federal youth gang response in the l980's in response to non-evidence based beliefs related to crack cocaine. Dr. Blumstein's analysis tended to view juvenile delinquency trends in terms of the strategy and often misconceptions embedded in juvenile justice police. Dr. Blumstein[10] stated:

> The 1986 Anti-Drug Abuse Act which was intended to deal with the then growing problem of violence associated with crack markets. Crack was introduced as a technological innovation in the early 1980s to appeal to those who wanted the "pleasures" of cocaine but at a low price. As a new drug with widespread appeal in low- income neighborhoods, it introduced a flurry of competition, with that competition resolved too often through violence because the competitors could not resort to the regular civil dispute resolution mechanisms. Alarmed by the public's concern about this growth in violence, Congress enacted the law requiring a mandatory

[10] Statement of Dr. Alfred Blumstein Carnegie Mellon University Crime Sub-Committee Crime Summit, June 22, 2007

> minimum sentence of five years for 500 grams of powder cocaine but only 5 grams of crack cocaine.... Much younger people with far less restraint in the use of violence - would be far more dangerous than the older sellers they replaced. Indeed, the entire 25% rise in homicide between 1985 (when the recruitment of the young sellers began) and 1993 (when the demand for crack by new users declined sharply, not because of the law or the TV ads, but because they saw what crack had done to parents, older siblings, and to friends) and began the 40% decline in violence that ended in 2000"

Similarly, Marc Mauer, Executive Director of the Sentencing Project, similarly argued[11] that changes in public policy that can reduce racial disparities in sentencing and reduce long-term crime threats. Mr. Mauer described a variety of sentencing policies at the Federal and State levels which produced unintended effects upon both crime rates and racial disparity Such policies he argued not only resulted in unfairness within the justice system, but contribute to a de-legitimization of law enforcement in many communities of color due to the perception that the system is biased. Mauer further argued that "these policies have not been effective in promoting public safety." Dr. Robert Hahn[12] a participant at the June 22, 2007 Crime Summit, for example, suggested a number of evidence based programs which provided support relating juvenile justice system variables to further crime patterns. Dr. Hahn suggested that juveniles transferred to the adult system had a 34% increase in violent or other negative behaviors. He argued strongly that the evidence related to transfer to adult correction custody showed little deterrent effect and the evidence to date suggests strongly against transfer to adult correctional status. These concerns have been echoed by Dr. Henry Pontell (1996)[13] who has argued (l996) that increasing prosecutorial resources may increase incarceration rates but not reduce crime. Also Dr. David Bayley's (l996)[14] studies on increasing policing

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[11] Statement of Marc Maurer, Sentencing Project Crime Sub-Committee Crime Summit, June 22, 2007

[12] Robert Hahn Crime Sub-Committee Crime Summit, June 22, 2007

[13] Henry Pontell, The Capacity to Punish

[14] David Bayley, "Reducing Crime Through Hiring Policies: a paradoxical strategy

resources has suggested that increasing policing resources to address crime will rarely reduce crime but may increase arrests rates.

In terms of the differing fact claims, what are the different research foundations of the competing, Scott PROMISE and Schiff Gang Prevention Bills?

TABLE II: CLAIMS OF FACT, EVIDENCE-BASED RESEARCH AND COMPARATIVE ANALYSIS OF SCOTT PROMISE AND SCHIFF GANG PREVENTION BILLS

Evidence-Based Research Issue	**Scott PROMISE**	**Schiff Gang Prevention**
Research base	Research base with longitudinal, educational, treatment and criminology research based cost-effectiveness and intervention studies.	Gang patterns, anecdotes of crimes committed by gang members and correctional cost and juvenile crime data.
Key Findings summary	PROMISE Bill research foundations suggest that investment in prevention and intervention including evidence-based school, after school, treatment programs, etc., have been shown to lead to decreased youth arrests and achieve financial savings.	Schiff Gang Prevention research foundation suggests that by increasing police and prosecutorial resources there will be increased effectiveness in incapacitation, increased use of sanctions and enhanced general and specific deterrence related to gang members
Theory Premise interpretation of research	It is possible to reduce delinquency and gang identification risks through prevention, early intervention	It is possible to reduce delinquency and gang identification risks through increased sanctions resulting in increased general and

	programs and through employing trained officers to deal with youth.	specific deterrence.
Level of Evidence	Some of studies cited have strong evidence based foundation.	Studies which would support core tenets of Bill difficult to identify.
Link of research findings to Bill Proposals	Evidence suggests proven efficacy of several of the early intervention programs. Programming will improve over life of Bill as research is collected and disseminated.	Little support in the research literature for key elements and strategies in the Bill. No provision for new research to help modify or improve programming.

The evidence based research standard raises question about the Schiff Gang Prevention Bill in that the central strategies presented (prosecution of violent gangs, to deter and punish violent gang crime, to protect law-abiding citizens and communities from violent criminals, to revise and enhance criminal penalties for violent crimes, to expand and improve gang prevention programs) have mostly contrary evidence supporting their use as a technique to reduce delinquency and gang involvement. Another key issue is that the Scott PROMISE Bill proposes a continuous process of a cycle of research through which both programs will be improved as research models enhanced-a feature absent in the Schiff Gang Prevention legislative proposals.

IV. Performance Metrics and the Assessment of Legislative Initiatives e to Reduce The Risks of Juvenile Delinquency and Gang Involvement

Another approach to differentiating among different legislative approaches to reducing delinquent behavior and gang affiliation are the appropriate use of performance measures to define Bill outputs, efficiency gains and outcomes. Support for projects in government is becoming more and more dependent on hard evidence that such investments yield significant benefits. For criminal justice agencies, this need means that projects must be

justified in terms of documented improvements in justice, efficiency, and public safety. This justification is often best made with performance measures. Congress requires all federal agencies, including BJA, to provide performance measures assessing the value of their funding programs. Three types of measures are commonly used as indicators of program success and are used in the CSLJ/BJA performance measure model[15]:

- **Output measures**: Any product of a project activity. Output measures are usually indicators of the volume of work accomplished (e.g., number of traffic stops, number of officers attending training) as opposed to the intended results of that work (e.g., reduction in traffic fatalities, reduction in citizen complaints about officers' behavior).
- **Outcome measures**: The consequences of a program or project. Outcome measures focus on what the project makes happen rather than what it does, and are closely related to agency goals and mission (e.g. reduction in reported crimes, reduction in highway deaths, improved conviction rates, and reduction in officer injuries.) These are measures of intended results, not the process of achieving them.
- **Efficiency measures**: Measures that indicate the affect of the project on a criminal justice agency's efficiency in its use of resources (cost, time, personnel).

Effective measures using the CSLJ/BJA performance measures model must be:

1. **Goal focused**. The measure must be an indicator of the achievement of an agency goal, not just a count of your agency's activities. The goal should be accepted as important by citizens and public officials outside your agency.
2. **Feasible**. The measure must be possible for your agency to implement. The agency must have the subject matter expertise, time, personnel, technical capability, and access to the information necessary to implement the measure.

[15] Art of Performance Measures-CSLJ/BJA(2007)

3. **Unambiguous.** The measure must be stated in language sufficiently precise to be unambiguous. (Such precision sometimes requires legal and technical terms that place this feature into direct conflict with #4 above).

In thinking about developing performance measures for the three Bills there is an inquiry process defined in the *Art of Performance Measures*. Developing meaningful performance measures for a programmatic Bill involves asking and answering a series of questions:

- **Defining Bill Goals**: Which goals does the project help us achieve?
- **Results Chain**: How do the Bill's mechanisms help us achieve those goals?
- **Measurement:** What are the best measures of those goals of the Bill?
- **Format**: How should those measures best be presented?

What goals does each Bill seek to be achieved? How are results from the Bill to be attained? How might these results be measured and presented? The use of performance measures to assess the impact of the three Congressional initiatives is suggested below:

TABLE III: COMPARATIVE PERFORMANCE METRIC ANALYSIS OF SCOTT PROMISE, DEFINING PERFORMANCE METRICS FOR SCOTT PROMISE AND SCHIFF GANG PREVENTION BILLS

Performance Metrics Issue	**Scott PROMISE**	**Schiff Gang Prevention**
Defined goals	To reduce youth and gang crime risks through prevention and early intervention as well as through strategic police interventions to reduce risk.	To increase both general and specific deterrence through increased sanctions and incapacitation of identified gang members. Witness protection will increase conviction rates.
Results Chain: theory of change	Change will be achieved at community and Council levels and through care-givers being provided with additional resources.	Youth and gang violence will be reduced through increased chances of successful prosecution and through increased rates of long term deterrence and incapacitation of identified gang members.
Proposed Metrics	1. Increase in prevention and early intervention-output 2. Increase in measured scientific information (TA visits, training, web hits) available to communities implementing new programs compared with pre-	1. Increase in resources for gang related policing, prosecution and witness protection activities, measured in terms of dollars available per State-output 2. Increase in clearance, imprisonment and incapacitation

	Bill average-output 3. Decrease in funded Council juvenile arrest and conviction trends one year after program, compared with comparable unfunded programs or pre- Council funding two year average-outcome 4. Improvement of early intervention(judged by reduction in arrests and convictions of youth in funded Council area) through refinement from research in year three of the Bill, compared with year one-out-put 5. Decrease in percentage of youth who progress to adult criminal careers compared with pre-Bill two year average.-outcome	rates of identified gang members compared with pre-Bill rates-outcome 3. Increase in sentence average in youth adjudicated in year following Bill, compared with two year average prior to Bill-outcome 4. Increase in correctional funding and costs incurred comparing pre Bill and post Bill correctional investment.-efficiency. 5. Decrease in reported assaults by victimization surveys by youth in year three of the life of the Bill compared with year one.
Outputs	Increased resources for prevention, early intervention, effectiveness research and trained YP police officers	Increased capacity for police, prosecutors, prison witness protection and related services
Outcomes	Decrease in youth and crime risks and high cost imprisonment related to investments in early	Decrease in juvenile delinquency and gang activity related to increases in criminal sanctions for

	intervention, YOP and prevention	targeted gang individuals
Efficiency	Decrease in *downstream* high cost prison costs for juveniles	Decrease in some community juvenile care costs

IV. Analysis: Assessing Congressional Legislation Using Evidence Based Research Criteria and Proposed Performance Metrics

What might be concluded from this analysis of evidence and performance measurement related to the Scott PROMISE and Schiff Gang Prevention Bills? Which approach has the strongest evidence support and positive outcomes expected from introduction of legislation?

1) The costs of youth violence and murder in high crime cities are high. CSLJ research[16] suggests that a the murder of a teenager costs about $1 million in lost and accrued costs[17] A teen-ager disabled by gunshot costs about $2 million in lifelong social costs If juvenile progresses to adult court and is sentenced to a 10 year correctional sentence may approach $300,000.00-$500,000.00. Avoiding these costs through evidence based policies is a paramount interest of juvenile delinquency prevention and control policy.
2) While the evidence related to prevention and early intervention is nuanced and program specific, there is little in the Schiff Gang Prevention Bill that builds upon any public research conducted at a high level of evidence based confidence. The effort by the witness to identify through NCJRS, Google Scholar and Lexis and other sources the notion that research supports the major tenets of the Schiff Gang Prevention Bill were unproductive. This was especially true related to the presumed claim that increased investments in prosecutorial resources and law enforcement personnel has a research based link to the reduction of delinquency

[17] CSLJ: Geerken, Michael Safe-Home Outcome Analysis 2002.

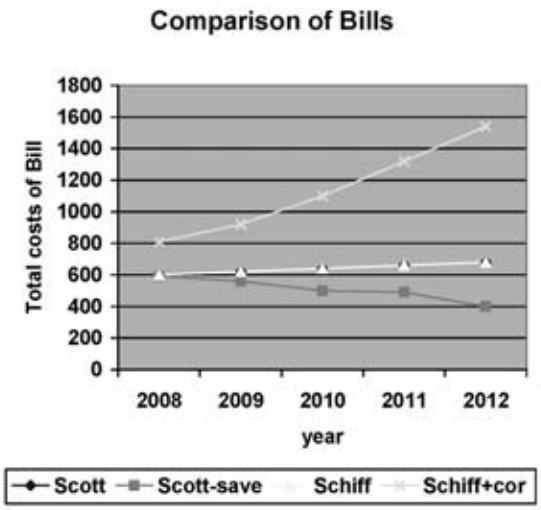
and gang patterns. Because of this gap, there is little assurance that any of the performance measures proposed in this testimony will be attained. Increasing resources and penalties as an effort to reduce juvenile delinquency and gang activity is highly speculative. The possibility that the effort will increase correctional costs, but not decrease juvenile delinquency and gang linked activities is a strong one in the view of the witness.

3) Performance measures analysis comparing outcomes between the approaches point in different directions in that the goals and value premises of the different Bills diverge. It is difficult to compare in terms of performance measures strategies which have divergent value premises. Having said this, the performance measures suggested in Table III have different cost and benefit consequences with the Schiff Gang Prevention Bill having extremely high cost correctional secondary consequences implicit in the logic of the Bill.

4) Based upon the information available to this witness it appears that the Schiff Gang Prevention Bill will even if successful increase costs through the increased use of high-cost correctional sanctions. Assuming an average cost of $40,000.00 per year in residential care or adult correctional care, court, prosecution costs and an increase of 20,000 juvenile offenders incarcerated in high cost youth or adult correctional facilities for an average of 10 years ($400,000.00 per offender) through the life of the Bill, the true cost of the Bill may exceed 8 billion dollars a figure eight times larger than present OJP funding.

5) Key issue for the Scott Promise Bill will be a break-even point where outcomes and efficiencies derived from investment in Council community projects equals or exceed investment in prevention; youth oriented policing and early intervention programs. The Schiff Gang Prevention Bill suggests that ongoing correctional costs will increase through the life of the Bill even with the most conservative estimate that the Bill will increase juvenile correctional caseloads by only 2,000 juveniles per year(with costs continuing through adulthood).. The following chart represents the differences in Bill pay-out with Scott PROMISE Bill projected through prevention and reinvestment to reduce total costs over time while Schiff

Gang Prevention is projected to incur enormous Bill costs and astronomic correctional costs, thereafter.



6) The argument that the Schiff Gang Prevention Bill will have through increased use of correctional sanctions a long-term, high cost and possibly irreversible long impact upon criminal justice spending is very real. A total indirect correctional consequence of 8 Billion Dollars to be added to the direct cost of the Bill is a conservative estimate, based upon the performance measures analysis used in this testimony; Were these funds used for other purposes such as improved special education, early childhood programs, the benefits of these programs would have to be weighed against the investment in long terms correctional care.
7) It is the opinion of the witness that the Scott Promise Bill's adherence to best available evidence based research and the focus of its performance measures represents the strongest option available to address the risks of delinquency and gang identification activity in the US. The Bill as proposed has several advantages compared to the Schiff Gang Prevention Bill:

1. It will raise prevention and early intervention resources available, important in a decade in which these resources have been scarce
2. It proposes prevention, policing and early intervention based on strong evidence based research
3. It increases research knowledge regarding the causes of delinquency and gang activity over the course of the Bill
4. It has far reduced secondary costs compared with the Schiff Bill
5. It proposes to reduce costs of criminal justice in all communities which is funded to reduce juvenile delinquency and gang risks
6. Funding would enhance community capacity to cope with a range of challenges through improved schooling, youth care, etc.
7. It offers an optimism and a correction against the dominant but(in the witness's view) stagnant deterrence and incapacity model to control delinquency and gang activity proposed in the Schiff sponsored legislation

Respectfully Submitted,

Dr. Peter Scharf

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B. WITNESS CREDENTIALS

The witness, Dr. Peter Scharf serves as Research Professor of Criminal Justice and Executive Director of the Center for Society, Law and Justice at Texas State University. Prior to coming to Texas State University he was for 13 years Executive Director and Founder of the Center for Society, Law and Justice at the University of New Orleans at the University of New Orleans.

Prior to joining UNO in l995 he served as the Director of Technology and Technical Assistance at the Police Foundation in Washington D.C. where he helped found the BJA Community Policing Consortium, developed the Risk Assessment Management System and served as a primary consultant to the Governor's Report on the Crown Heights Civil Disorder.

Dr. Scharf received his doctoral degree from Harvard University (Lawrence Kohlberg dissertation advisor-"Moral Atmosphere in the Prison") and is the author of eight published books and numerous other publications, including Badge and the Bullet, Towards a Just Correctional System, etc.

The Center for Society, Law and Justice (CSLJ) has managed over 8 million dollars in projects funded by the Department of Justice including Managing Criminal Justice Technologies, Art, PSN Assessment of the EDLA, Managing Law Enforcement Integrity and a study of PREA prison rape risk factors.

Dr. Scharf has been the subject of media coverage in the past year related to youth violent crime and gang including PBS, NPR, BBC, CBC, CSM, NBC, ABC Nightline, NY TIMES, WA POST, CBS, Newsweek, TIME, etc. He is currently conducting research related to the control of murder and violent crime risk, prison rape patterns and new technologies related to new with the potential of reducing homicide risks.

Mr. SCOTT. Thank you. And I want to thank all of our witnesses for their testimony. We will bring 5-minute questioning beginning with the gentlelady from California, Ms. Waters.

Ms. WATERS. Well, thank you very much, Mr. Chairman.

And I would like to thank all of our witnesses who are here today.

As I have listened, starting with Mr. Walsh, who thinks there are constitutional problems with H.R. 3547, Judge Jones, who talked about the lack of family support and children who are looking for love, support and attention, to Mr. Roper, who says they are doing a fine job, and they are being successful, to Mr. Seave, who said that you don't believe that we can arrest our way out of this problem, to Mr. Pranis, who had just wonderful research based on gangs and got rid of for me a lot of the notions about who gangs are, how they operate, to Mr. Scharf, who talks about the two different approaches and how we could end up just increasing young people's involvement in the criminal justice system and exacerbating the problem.

I don't hear any support for this bill, H.R. 3547, even though Mr. Seave said he supported the bill. And I don't know if he has read the bill or not. I think the idea of some suppression, prevention and intervention as you described it, makes good sense. But when you take a look at the bill, do you know the definition of a criminal street gang in the bill?

Mr. SEAVE. Yes, I do.

Ms. WATERS. What is it?

Mr. SEAVE. The definition of a criminal street gang has several elements. I believe it requires 5 individuals, each of them has to have committed a criminal street crime, as defined in the statute, which is one of the listed Federal felonies, or a serious State felony requiring 5 years or more of imprisonment involving violence. And these 5 individuals have to have collectively committed three serious gang crimes. So that is my understanding of the definition.

Ms. WATERS. Does that definition bother you at all?

Mr. SEAVE. The definition does not bother me. Perhaps I could explain why.

Ms. WATERS. Does it fit any other associations that you could think about of people who may be in an association in some way, some of whom, at least three or more—let us see, as you have described, with 5 or more persons, each of whom have committed at least one so-called gang crime. And these gang crimes are being—a new definition of crime, some of which, I guess, overlaps with what is considered a State crime now.

Mr. SEAVE. Yes.

Ms. WATERS. Could this then fit other groups or organizations other than so-called gangs or certain associations?

Mr. SEAVE. Well, as I read this, the creation of this new Federal crime, I read it as being somewhat similar to the RICO statute but different. I read this as a former prosecutor creating, frankly, a high bar to be able to bring a prosecution.

Ms. WATERS. But all five need not have committed the three crimes. Is that right?

Mr. SEAVE. No, all five need to have collectively committed three crimes, plus each individually needs to have committed one crime.

Ms. WATERS. That is not how I read it at all.

Mr. SEAVE. Okay. I am focusing on the word collectively committed.

Ms. WATERS. Let me just move on to the database collection, the collection of names where people will go into a database. Are you familiar with the database that in Los Angeles, for example, that has been created of gang members?

Mr. SEAVE. Yes.

Ms. WATERS. Would you feel comfortable in saying that everybody on that list is a gang member?

Mr. SEAVE. No.

Ms. WATERS. Do you think it is a good idea to create these databases that stigmatize young people for the rest of their lives who may not be in gangs?

Mr. SEAVE. I think having databases for law enforcement for intelligence purposes are important. I think, frankly, there is a lot of room for improvement in the database that you are talking about, the need to really look at how people who are in that database can exit out of it and to make sure that those provisions are applied.

Ms. WATERS. Are you aware that there are young people who live in neighborhoods where there may be a gang, and if you ask them if they belong to the gang, they will say "yes," but they don't really belong to the gang?

Mr. SEAVE. I am not personally aware of that, but I can believe that that is possible.

Ms. WATERS. Well, do you understand why they do it?

Mr. SEAVE. Yes.

Ms. WATERS. Why?

Mr. SEAVE. They do it perhaps out of fear of the gangs.

Ms. WATERS. That is right. And they end up in a database because they say they belong to a gang to be a part of the neighborhood. I don't mean to grill you. I just wanted to walk through some of this because I know a lot about gangs.

I have worked in the Los Angeles area for the past, you know, 30 years or more. And I have worked with a lot of young people in public housing projects, many of whom have been in gangs, many of whom, just as Mr. Pranis said, were in gangs who became productive members of our society. And while we are all concerned about gangs and want to do something about them, I think we have to be very, very careful that we understand, and that we simply do not move to criminalize or to stigmatize young people and whole communities with a bill like this.

Because in this bill, the whole community is identified as a high gang activity operation, kind of. And I think we have to be very, very careful.

Some of our Members not only are concerned about gangs, but they really do think it makes them a better legislator because they are tough on crime and they get reelected on these kind of issues. I don't intend to sit in this Committee and not raise the kind of questions that I think should be raised about this serious, serious, serious leap into trying to come up with a bill, where many people don't even understand what they are doing when they look at these definitions and these databases and all of that.

So I just simply wanted to say I appreciate that everybody here at least have shown that they understand that this is not an easy thing to do and that you really do believe in prevention and intervention and not simply suppression. And there is a lot of suppression in this bill, a lot of Federal intervention in ways that Mr. Walsh says would cause some constitutional problems.

And so, even for my colleagues who were here today I intend to share with them that those of us who have worked on these kinds of issues are not going to easily support this kind of bill. And I yield back the balance of my time.

Mr. SCOTT. Thank you.

The gentleman from Virginia, the Ranking Member, Mr. Forbes?

Mr. FORBES. Thank you, Mr. Chairman. And once again, I want to thank all of you for being here and our previous panel. I apologize because I would love to sit down and talk with all of you. And I have worked on gangs a lot, but I know all of you have. And I would just love to by osmosis pick up some of what you have in your head.

My good friend, Judge Jones, I know, has worked on these issues for a long time. And unfortunately, the logistics of how we are set up with seven previous panelists that we couldn't even ask questions to and now we have seven new—and I have 5 minutes. I just can't do it.

So I want to try to hone in on some things that are here. I want to compliment Mr. Schiff. I don't agree with everything in this bill. I think maybe there are some things I would like to take a little further. But he has worked hard in this area over years. And we may disagree, but I certainly recognize his expertise, as I do the other Members that were here before and all of you.

But, Mr. Seave, I would like to follow up on some comments that you made, because you are now the California Director of Gang and Youth Violence Policy. You are the big guy there looking at the gangs.

And I am sure you have spent a lot of time in an evidentiary base analyzing this and pulling data together. And you know, you are not going to make statements that are off the cuff without doing the analysis. And the other side brought you here. We didn't, so I get to ask you, you know, some questions on that.

And the one question—Mr. Walsh kind of feels like Federal Government shouldn't be involved in this at all. You, I take it, since you support this bill, feel the Federal Government should be involved. And you are nodding your head, so I take it that is a yes, that Federal Government should be involved. Correct?

Mr. SEAVE. Yes, sir. Yes, sir.

Mr. FORBES. And you mentioned the concern with suppression. I know you were a Federal prosecutor before. Tell us what the Federal Government can do that the local and the State government can't do in terms of suppression. Because I notice you said here that the primary responsibility ought to belong to the communities and the State government. What do you need the Federal Government to do, suppression-wise?

Mr. SEAVE. Let me give you an example. And it was something that happened when I was United States attorney. I am sure that this Committee has heard testimony about Operation Cease Fire in

Boston. We did a similar operation like that in Stockton. Stockton at that time was suffering from an epidemic of gang-related homicides.

And Operation Cease Fire is an effort to bring in, identify the dangerous gang members, not all gang members, not all members of the community, to bring them together and to essentially warn them if you continue the violence, then——

Mr. FORBES. I know. But why couldn't a State do that?

Mr. SEAVE. A State could do it.

Mr. FORBES. Okay.

Mr. SEAVE. But the additional——

Mr. FORBES. But I want you to address—and I don't mean to cut you off. It is just I have got a limited amount of time.

Mr. SEAVE. Right. Sure.

Mr. FORBES. The Chairman will gavel me. I want to ask you what do you have to have the Federal Government to do, suppression-wise, that the State and the local community can't do.

Mr. SEAVE. Sure. The Federal Government had more resources.

Mr. FORBES. I know. I understand you can always pay more dollars to do it. But what do you need the Federal Government to do from a suppression point of view? Why is it important that the Federal Government get involved, other than dollars, just dollars? Why is it important for suppression?

Mr. SEAVE. By resources, I meant, for example, investigative tools. We have the grand jury, which is a very effective investigative tool. The State and the local does not have that kind of investigative tool.

Mr. FORBES. So you need a grand jury that can go on a larger multi-jurisdictional area. Is that a fair assessment?

Mr. SEAVE. Yes, yes. In addition, we have the ability—the State has to some degree—we have a great ability to use wiretaps. And wiretaps are a very effective way to investigate a crime, not go in and kick down doors and alienate everybody, but to target your investigation, get your evidence, and effectually, your arrests, which is what we did.

Mr. FORBES. And you have more venue opportunities with the Federal Government, correct?

Mr. SEAVE. That is correct.

Mr. FORBES. With prosecution. Now, you can quantify the dollars that are needed perhaps to do some of that suppression-type of activity. But now tell me on the prevention side of it. What is it that only the Federal Government could do, not because of money, but just because of the Federal Government that the State and the local government couldn't do.

Mr. SEAVE. They need to do research on programs, I think.

Mr. FORBES. That is money. I am talking about what could only the Federal Government do that the State and local government couldn't do.

Mr. SEAVE. Well, I think it is money, but I think it is more than money because research is done nationally. To be able to collect national research, national evaluations, bring in experts from all over the country in order to conduct evaluations, find out what works and what doesn't work requires a national effort. I mean, California itself——

Mr. FORBES. How much money would you need to do that kind of effort?

Mr. SEAVE. It would be millions of dollars.

Mr. FORBES. How much, do you know?

Mr. SEAVE. I am sorry, I don't know.

Mr. FORBES. Well, the reason I ask that is you were able to testify here that it ought to be 50-50 breakdown. Where do you come up with the dollars to make it 50-50 in terms of the allocation of dollars?

Mr. SEAVE. The 50-50 breakdown in the bill at the high-intensity gang area is an effort to split the money in half.

Mr. FORBES. I know what the effort is. But, I mean, how do you testify here today that that is the amount of resources you need? Have you done anything at all to calculate how many dollars you need to do what you think needs to be done?

Mr. SEAVE. No, I have not done a calculation.

Mr. FORBES. Okay.

Mr. Roper, I just want to ask you this question because as I understand it, when we come down to just looking at evidence and facts, if I understood your testimony, you stated that when you prosecuted gangs in Dallas, you had a 47 percent drop in murder, rape, aggravated robbery, assault. Did I miss——

Mr. ROPER. In that target area that we were looking at.

Mr. FORBES. Where you prosecuted the gangs?

Mr. ROPER. Yes, sir.

Mr. FORBES. How about Fort Worth? You had a 10 percent drop——

Mr. ROPER. Yes, that was——

Mr. FORBES.—when you prosecuted the gangs there?

Mr. ROPER. And what I try to do is pull out some examples of success we have had by targeting these drug trafficking gangs and try to essentially get them off the streets.

Mr. FORBES. Now, you have heard some comments today about mandatory sentences and how they are so horrible and so bad. As a prosecutor, mandatory sentences useful to you, not useful to you? What do they do?

Mr. ROPER. In my experience, I think over the last 20 years as a Federal prosecutor, they have come in handy in dealing with—if they are used in the right way—to either obtain cooperation. That is a great vehicle, even if you don't impose the mandatory minimum.

You have that ability to garner cooperation. And also you have the ability to essentially take out of the community some really bad people. And a 47 percent reduction in that area—I went up to a Weed and Seed community meeting, and a lady came up to me in that area.

And she said, "You know, thank you for doing that initiative in that area, because if we hadn't had that initiative, I couldn't go out of my house at night." So sometimes there are some individuals that really you have to incarcerate to make the community safer. And that is when mandatory minimums come into play.

Mr. FORBES. Last question for you, you heard the previous panelists, one of the legislators, talk about witness intimidation. What is more important, to give money to the witness to try to protect

them, or to keep the defendant incarcerated so they can't get back out?

Mr. ROPER. We obviously want to put the defendant in jail so they don't deal with the person, the witness and intimidate him. That is the best deal. And I think our failed prevention—some of the provisions to try to strengthen the bill, the reform act, would go a long way in helping us deal with any witness intimidation.

Mr. FORBES. Okay, thank you. My time is up.

I yield back.

Mr. SCOTT. Thank you.

The gentleman from Massachusetts?

Mr. DELAHUNT. Mr. Seave, I mean, you mentioned that States don't have investigative grand juries. Did I hear you say that?

Mr. SEAVE. Not in the way that the Federal grand jury operates. The State grand jury is limited in its jurisdiction. The State grand jury——

Mr. DELAHUNT. How is it limited in its jurisdiction? Because I must have been, you know, living in a——

Mr. SEAVE. Outside of California.

Mr. DELAHUNT. Outside of California? I happen to come from Massachusetts. I was a State prosecutor for 22 years. And I utilized grand juries in an investigative capacity frequently. As far as wiretaps is concerned, my office conducted more—let me emphasize this—court authorized wiretaps in a single year than the FBI did nationally. So with all due respect, sir, I have to vigorously disagree with those two observations you made about State jurisdictions. That is just inaccurate.

Mr. SEAVE. Well, I believe it is accurate in California. I recognize that it is inaccurate for Massachusetts.

Mr. DELAHUNT. I would daresay that my colleagues who served as State prosecutors all over the country would disagree with your conclusions. But having said that, let me just pursue the line of questioning that was being posed by the Ranking Member.

My experience has been that street crime, crimes of violence are best prosecuted at the State level. My own sense is that the role of the Federal Government is to provide resources. When we talk about the FBI and the ATF in the vast majority of cases, the information in task forces and collaborative efforts are developed at the State level.

The informants are the informant of, if you will, the detective bureau in the local police department. And most local and State jurisdictions will share that information with the FBI. The FBI rarely develops information independent of State and local prosecutors' office and investigative agencies. That is just the reality.

Most FBI walk around with suits on, very difficult to, you know, go up to a kid in an economically deprived section with a suit and a tie on and say do you want to be an informant. I mean, the reality is violent crime in this country is addressed at the local and State level. And they ought to be provided resources.

And on occasion, I think you are correct about doing research and providing forensic services. But I am concerned in the Schiff bill—and I have great respect for my colleague—there are references about the FBI leading these task forces. I think maybe it

was the sheriff, David Reichert, earlier talking about FBI-led task forces.

You know, we have a real problem here. We are having an FBI that, according to the director of the FBI, is reconsidering its mission and its emphasis in terms of anti-terrorism. And we are going to task them now with doing, you know, investigations into street crimes? Call it what you will, gang violence. But I daresay we need to hear from the director of the FBI as to what vision he has in terms of the future of the FBI.

There was a recent report out that referenced a new intelligence effort mimicking, I think, M-15 on, you know, that the United Kingdom utilizes. So even before we get to these issues, you know, you can slap things together and yet it doesn't coincide with what the reality is on the ground.

And I always, you know, fall down on the side of prevention. I think it makes a lot of sense. And you know, I think one of you indicated—I mean, gangs—this is not a new phenomenon. Maybe in terms of the order of magnitude and the transnational aspects of it. But gangs have been around since I was a kid.

I mean, we used to have gang wars back in my era. And I know there are programs out there that exist today, if we looked at them and did, I think, a real solid analysis based upon empirical data—not necessary to go reinvent the wheel and maybe tweak around the edges.

So, you know, I believe in joint task forces. I mean, we talk about drugs being the fuel, if you will, for gang violence. And yet we are talking about the FBI. Maybe we should be talking about the DEA.

You know, I just think we need a lot more in terms of having a single panel of, you know, seven, I am sure, preeminent individuals in the area of criminal justice coming. But take this thing one by one.

Go out, analyze what works. Let us be smart about it. What has worked in the past? Let us not reinvent the wheel. And what is the reality out there today in terms of gang violence?

We can update it. As far as mandatory sentences, are they a good thing? Of course, they are a good thing if you want to squeeze somebody. You know, you give them an option, and oftentimes they are going to tell you what you want to hear.

And oftentimes it is not the truth, because when you have got somebody and you are saying I am going to give you 20 years, now tell me about Joe, well, he is going to tell you all about Joe because he is not a fool. And I bet he doesn't carry around with him a copy of the, you know, United States criminal code to check the penalties.

I will yield back.

Mr. SCOTT. Thank you.

The gentleman from California, Mr. Lungren?

Mr. LUNGREN. Thank you very much, Mr. Chairman. And thank you for having this hearing. I find it very interesting, even though I wasn't here personally. I was monitoring it from my office on television to listen to the various commentaries. And there is a little bit of truth in everything everybody says here.

All I can do is my experience 8 years in California where we saw a drop in violent crime by over 35 percent. And we saw a drop in

homicides by 50 percent. Now, I don't know how you stack those things up, but it seems to me that means people's lives were saved.

If you can cut the homicide rate by 50 percent, that means something to people on the street because half the people otherwise would be homicide victims or not homicide victims. And I think part of it was tougher laws. And I will even say some of the laws that allowed us to prosecute juveniles as adults were appropriate.

But as I said then, and I will repeat it now. And, Judge, I think you are absolutely right. We can't put everybody in prison. We can't suppress our way out of a crime wave that affects our young people. And I understand how we are trying to solve the problem at all levels, the Federal Government level, the State government level, and every other level.

And, Judge, I think you were right on when you talked about the loss of that connection that we call the family, because when I had a task force from about 17 different disciplines, including law enforcement and social workers, mental health workers who spent a year and-a-half looking at the problem, one of the conclusions we came to is exactly what you said. The gangs are for many of these young people the families that they miss. The authority that they don't have anywhere else in their life is in a perverted way in the gang.

The actions that they take that are anti-social, that are violent, that are destructive and that we see from the outside as being self-destructive are, in fact, acts of affirmation within the context of a gang that serves as the surrogate family for them. And I am almost at a loss to see how we are ever going to successfully attack it when we are attacking it from the opposite side of where the problem is.

Now, to describe the problem is a lot easier than to solve the problem, because we have a culture today that tells us families are not important, that adults are more important than children, and adult responsibility trumps responsibility to children every time. And it is reflected in our actions. And it is reflected in our culture.

And so, at the one time we are sitting here worried about the violence that is going on and how kids are attracted to violence, kids have always been attracted to violence. But now it has been put on an altar of celebration by our culture. And we are trying to overcome that with tougher laws and greater sentencing and then also programs where we try and act as the parents that they are missing.

And you know, the real thing is always better than the artificial. And so, what we are dealing with here is how do we construct those artificial mechanisms that might prevent the attraction that kids have, the young people have to it. At the same time, responding to the cries of the people in the community that are being victimized.

I remember going and having a school safety program at one of the high schools in Los Angeles, and after it was all over, having a young girl come up to me. She was about 14 or 15, African-American. And she said why is it that it took the death of one of my fellow students before you adults got your act together.

Because a young man had been killed by another person who had brought a gun to school. It had discharged accidentally. He brought it to school to protect himself, he thought, from other things.

And I understand why every governor in every State would like more money. In fact, I even thought I would be in that position one day. It didn't happen.

But that doesn't determine what the appropriate Federal responsibility is and how we would parcel out our authority and our money. It is easier, I think, to justify us if we have the money, sharing the money than it is in some ways always assuming that the feds are best.

And, Mr. Seave, I have got great respect for you, but I must take issue with your delineation of the difference between the ability of the feds to go after a certain crime and networks under their Federal grand juries in State.

I remember my friend—I know you know him, George Williamson. I think the best, in my own opinion, the best prosecutor in California. He was my top criminal justice supervisor. And the cases down in Yosemite where the feds went in and copped a plea to the guy down there using their grand jury powers. And George went in there and got the death penalty after he got the California grand jury system to work to indict that individual and to prosecute him.

I think at times what works best is multi-jurisdictional task forces so long as the State or local agency or department has at least a co-equal authority because I have seen too many task forces where the feds take over and only they know what is right and how to do things. And the gang problem is a national problem because it affects many parts of this Nation.

But it is essentially a local jurisdictional problem. And it is one that we have to attack at that level. I know I am meandering in my thoughts, but I am just trying to respond to all the things that I heard here today.

And, Judge, you are the one that hit me the hardest because I think you are absolutely right. We are going to continue to be the proverbial dog chasing its tail so long as we don't understand what the destruction of the family unit has done to our society, but more particularly, to our children. And what we are all doing is trying to clean up after we have allowed tremendous problems to occur. And it is always tougher to try and deal with it.

So I appreciate what you are doing. And I appreciate your sentiment. And at times as we—and I think all of us here want to deal with the gang problem. And we have some differences about how to do it and where emphasis ought to be.

But I hope as we do that we will understand fundamentally where kids are denied the network that is the family, they are going to look elsewhere. And so long as that continues to be an acute problem in this country, we will have gangs. And we can do what we can to try and minimize the attractiveness of violence within those gangs. But if we are going to truly deal with the problem, we are going to have to get back to basics and figure out what we do as a society to give the kids what they need before they reach out and find this as that missing context in their society.

I thank the Chairman.

Mr. SCOTT. Thank you. Thank you very much.

The gentleman from Georgia?

Mr. JOHNSON. Behold, how wonderful, how good and pleasant it must be for politicians to make their way back to their respective districts and to be able to pound on their chests and say how tough that we have been on crime. And politicians have been following that track religiously since at least 1970.

And after remaining roughly steady through most of the 20th century, the U.S. incarceration rate has soared 470 percent, about one out of every 133 U.S. residents is in prison or jail today, as opposed to one out of every 620 in 1970. Behold, we have been so tough on crime that it has had such a great impact it has actually reduced crime. No, I don't think so.

Many more people are on probation or parole. The current U.S. incarceration rate is the highest in the world and far exceeds the global average of approximately one out of every 602 persons. I mean, as we get tougher on crime, as these proposals do, we are not producing a decrease in crime.

And it is coming at a great societal cost to those who choose to follow the law. There must be some other way that will actually get at crime reduction, a way that is different than levying new or I will say overlapping and harsher penalties against wrongdoing. Would anybody on the panel agree with that statement?

Everyone? Or would anyone disagree with it? No one will admit to disagreement. But let me ask Dr. Scharf.

Mr. SCHARF. Sure. Well, I mean, the irony—and I think Kevin said it so well. Here you have a decline in crime, and we have an increase in sanctions. And the numbers of people who would be projected to go through, you know, $400,000 experiences or 10 years in jail. And just what you said, Mr. Johnson. And that is the absurdity of where we are right now.

I mean, and the fiscal burden of the bill, I think, you know, you want the GAO or somebody to really look at this and really do a mathematical model. But, I mean, if you use this money for prevention, as everybody has said, for parenting, for childhood, with schools, with doctors, you would have a huge windfall.

And why would you, just as you were saying, throw that money down the rat hole? And you know, the racial disproportionality, the human cost goes on top of that. I mean, why does society, in my view, want to invest in a great project for more jails?

I mean, my daughter applied to UCB out in California, and she was told she couldn't get a fellowship because the correctional costs were 19 percent of the California budget. You know? And this is true all over the country.

This is the moral equivalent of the military bankrupting society. You know? And I absolutely agree with what you said.

Mr. JOHNSON. Thank you. In light of that, I think I have no further questions or comment. I will yield back.

Mr. SCOTT. Thank you.

The gentlelady from Texas?

Ms. JACKSON LEE. Thank you very much, Mr. Chairman and the Ranking Member.

And, gentlemen, thank you for your very instructive commentary. Forgive me for being detained in some other meetings.

But I think I have lived through this for a period of time. I was an associate municipal court judge in the city of Houston. And so, we saw a lot of the truants and others in the judicial system.

And we have an interesting structure in Texas, which I think is replicated in many places. And I think my good friend, U.S. Attorney Roper—I am looking without my glasses, so forgive me. But welcome back again—is familiar with our TYC in Texas. In fact, we had made some inquiries of the U.S. attorney about some of the crises that we were facing there.

But our TYC, our Texas Youth Commission—you are assigned to the youth commission. And then that is the end of you. I mean, you don't really have a term per se, and you can enhance your term by chewing bubble gum or something else. But we have, I think, a crisis where we don't sometimes know what to do.

I see my good friend who worked with me and continues to work with me—a case which involved individuals of a differing age in Texas. And then I would like to offer the backdrop of the Jena six, which I think is one of the glaring—two incidences.

The Georgia case, a young man unfortunately caught up in the system on an incident in the graduating year, an African-American, sexual case, still caught up in the system and then the Jena six, an individual tried as an adult. Thank goodness for the 3rd circuit in Louisiana who said that was wrong.

So we have a crisis of huge proportions. And I raise these questions. And I am delighted that some of the Members who are here offered a number of legislative initiatives. But I am just going to go on the basic premise that there should be intervention.

And I will give Mr. Walsh a chance. I am going to ask him a question directly. But I do think there should be intervention. Why? Because I think the Federal Government is a bully pulpit.

And I think it has the ability to set the tone and maybe even, Judge Jones, copy from you because we are the bully pulpit. But we usually look at the State and say I like what Judge Jones is doing. Let me copy that. And we have had with the leadership of our Chairman, Chairman Scott, we have had that kind of interest.

Let me go to Mr. Pranis because I just love what you said, if I have gotten the summary of it. Because this is what I believe. When you see gang exposes on TV, you see big guys with tattoos, and you see those guys, you know, also when you see prison stories, big guys with tattoos who graduated. You know, they are in their late twenties and maybe thirties. If you go to California, they have got grandpas.

But you seem to be saying that we are losing the battle when we begin to just put a big umbrella or tent over these babies that call themselves gangs who are either following the big tattooed guys. We are chasing them down like regular mafia rather than intervention.

For all we know, these kids are foster kids. These kids have not had the removal of the risk factors, which some Members have said. Help me understand that. And tell me where Federal intervention can work on understanding and responding to that population of which you can't intervene on.

Mr. PRANIS. Absolutely, I would be happy to. The profile of the typical gang member of the United States is between the ages of

12 and 15 years old. And most will leave the gang within a year. Right? Gangs are a transitory experience for most, a longer experience for some. And that is a concern.

You know, I was part of a group discussion with a former gang member who talked about when these 20-and 30-year-old guys come around. And he said they are kind of weird. They are losers.

They are these old guys who hang around us and they try to throw signs. But we don't know why. They are like get a life. Right? Like, this is kids stuff.

I mean, gangs are first and foremost kids stuff. And I think they only become, you know, serious adult problems when there is such a negative environment to grow in and a negative law enforcement response.

Ms. JACKSON LEE. Or they get into the law enforcement system.

Mr. PRANIS. Or they get into the law enforcement system. They go to prison. They come back out, and all of a sudden, you know, that is all they have. Right?

Ms. JACKSON LEE. Well, what is your intervention? What would you offer?

Mr. PRANIS. Several things. One is just to provide them—and the two things people cited before are families and jobs——

Ms. JACKSON LEE. And I just want to say can I get an answer on Mr. Roper and Judge Jones?

Mr. PRANIS. Yes. Families and jobs are two very big things and opportunity. So if you engage youth in basketball teams, you know, in jobs, most people naturally graduate and have for decades from gangs into jobs. Right?

They have kids, suddenly they have got a kid. They need to support them. Their parents won't support them. And so, if there is job opportunities available, if there is housing available, if there is supports for families, including social workers to help the families do a better job with the kids, as Mr. Lungren pointed out, you know, those are the kind of things that are shown to work.

New York is a wonderful model. But I also think, frankly, there is a whole lot of White kids in gangs. Yet we don't hear about a White gang problem.

And I think part of the reason is the opportunities available to most White suburban kids to transition out of a gang are very different. But law enforcement also treats White kids in the suburbs very differently than Black and Latino kids in inner cities. And I think if we looked at what small towns and suburbs do, that is probably a much better model than what Los Angeles does in terms of successfully transitioning kids out of gangs and not creating those institutional problems.

Ms. JACKSON LEE. May I have—yes.

Mr. ROPER. I think my answer to this is, it is not just one solution. I always look at the model that we have now as the three-legged stool: enforcement, prevention and reentry. That stool with one leg doesn't work if you just use one leg.

I think one of the panelists is missing the point if he thinks that incarceration hasn't had a positive effect in the drop of the crime rate. You look in Texas, Congresswoman, and remember the time when Texas had such a—everybody in the world could get parole at the drop of a hat. And we had a high crime rate.

When we started having sure, certain sentences, the crime rate dropped. And it dropped all the way until 2006 in historical proportions. So enforcement does have a role.

But I do agree that prevention and reentry strategies have to be in place to make a difference. And I think that is what I like about the Department of Justice's anti-gang initiative that it involves all three of that important legs of that stool for crime reduction.

Ms. JACKSON LEE. Judge Jones, does that work, putting them in jail all the time?

Judge JONES. Well, there are a lot of people who have to be incapacitated and kept away from all the rest of us. That is a basic, I think, reality that we have to understand.

The thing that I would like to at least comment upon as an intervention that you suggest is the part of the written remarks I didn't get to actually read. It just talks about reading, reading as a basic and fundamental skill that where reading deficiencies are the common characteristic of everybody who is delinquent and criminalized.

And the courts that I sit in—and I have been involved as a prosecutor, as a criminal defense attorney, a juvenile defense attorney for 27 years, and I will tell you very few of the people that I ever represented were reading on their grade level. And to the extent that we can improve the reading and keep that achievement gap closed and thereby increase the opportunity that that person or the possibility, rather that that person will become significantly and gainfully employed.

And if you talk to a lot of the kids who are out there getting in gangs, they will tell you, you know, I want a job. I would like to have a job. I wish I had a job that they can, you know, that they can support and sustain themselves on.

So, I mean, I think that, you know, those are kind of—the basic academic achievement gap is one of the most important areas that all Government, all levels of government need to be focusing on if they really want to kind of eliminate these problems of delinquency, criminality of which gang crime and gang involvement is a part of it. It is not the whole thing. I will tell you it is certainly not the whole thing, but it is important.

Ms. JACKSON LEE. So the baggy pants kids need to learn to read, the kids that Kevin is talking about, Mr. Pranis is talking about?

Judge JONES. They do need to learn how to read. And we need to be reinforcing, you know, reading and other things, other prosocial values. We don't get as much of that that we need. And these kids are not getting it from the significant adults, if there are adults in their lives, which is what I mentioned earlier. So we are behind the curve on trying to keep these kids moving in the right direction in the main stream toward the mainstream of society. And if they don't, then, I mean, we are going to get what we get.

Ms. JACKSON LEE. Thank you, Mr. Chairman.

Mr. SCOTT. Thank you.

And I had a couple of questions. I would recognize myself for 5 minutes.

Mr. Seave, there has been a lot of discussion about this definition of a gang crime.

Mr. SEAVE. Yes, sir.

Mr. SCOTT. And you mentioned five previous crimes. Are those committed or convicted?

Mr. SEAVE. The statute just says committed.

Mr. SCOTT. So after you have got the requisite number of allegations, when you have a defendant charged with, say, armed robbery who is a member of the gang, five people, other people in the gang have committed crimes, so that kind of designates it as a gang. And you have some totally different person in the gang charged with armed robbery.

In that trial, does the prosecutor get to bring in all of those five? Well, he would have to bring in all of those five predicate cases to show that it is, in fact, a gang. Is that right?

Mr. SEAVE. Congressman, I thought about that question. The statute doesn't answer that question. And I think it is really going to depend on the court.

Mr. SCOTT. You have got to prove your case.

Mr. SEAVE. Yes. But having prosecuted many cases, sometimes you have to prove it before the jury. Sometimes there will be a stipulation in order—the defense doesn't want that to go to the jury. And there will be a stipulation. How exactly that will be proven I am not sure. But that is a good question.

Mr. SCOTT. Well, the question is that you are sitting up here charged with armed robbery. And before they get to your little allegations, they get in all the riff raff from all over the community and say, well, this is his friend, that is his friend. You have got murder, rape and mayhem. And then you get to his little allegation. All that is what the jury gets to see.

Mr. SEAVE. Possibly and possibly not. It really depends on what the judge—on how the judge views the facts of the case and what is fair to the defense.

Mr. SCOTT. If he wants to suggest that it wasn't a gang crime, isn't going to stipulate anything, you have got to prove all of the elements of the case before the jury. You get to parade in all the riff raff in the community and associate him with that riff raff. Is that not true?

Mr. SEAVE. It could be true, yes.

Mr. SCOTT. Okay. And so, he is being tried by association and scare the jury to death. And I guess you would parade in all these guys and present the evidence and call them to let them plead the 5th and let the jury see all that. And——

Mr. SEAVE. I don't think that is the way it would proceed. I mean, if people are going to plead the 5th, that is not going to happen in front of the jury. If you remember, one of the elements of the crime is that the crime is committed to further the activities of the gang. So hopefully this isn't just—I mean, I would not support and I don't think the statute supports just charging somebody with a crime and parading in people for the sake of ruining their reputation.

Mr. SCOTT. And well, you have to prove all of the elements of the case. You would parade in all of the riff raff, associate the defendant with that riff raff. And even if the jury were to conclude that this really isn't a gang crime, they know all of his friends and associates and all of their bad deeds.

Let me ask Mr. Pranis and Judge Jones. Both got cut off. And I noticed in their written testimony they had specific recommendations as to what we could do. Why don't you take a minute to go through, starting with Mr. Pranis, what some of your specific recommendations are that you haven't been able to mention so far.

Mr. PRANIS. Sure. The general tenor is that we should be focusing on the behavior and not, in fact, on the eradication of gangs, which I think history has shown us is impossible to get the kids out of the behavior rather than the gangs. But the three recommendations are expanding the use of evidence practices to reduce youth crime. And that includes sort of social work interventions, particularly with the family.

There has been tremendous advances in juvenile justice in figuring out what works for kids. And a lot of the researchers we interviewed pointed out that, while there is no really good evidence of what works for gangs specifically, there is lot of information about what works with delinquent kids. And so, we should be focusing on those practices.

The second would be promoting jobs, education and healthy communities and, specifically, lowering barriers to social reintegration of former gang members. And that is where, I think, gang injunctions and databases are particularly dangerous, because what they can result in is the sort of black list of people who really need to transition out of gangs. And this becomes a barrier to their reintegration, which is the best way to reduce crime.

And then third, I think we need to end the use of failed gang enforcement strategies in favor of effective public safety. It is not an argument against doing law enforcement and enforcing the law. It is an argument against gang-focused law enforcement because there is no evidence that having law enforcement organized around gangs as opposed to around crime and public safety makes any sense.

Mr. SCOTT. Thank you.

Judge Jones?

Judge JONES. Well, I did get a chance to at least talk about the literacy, I think, that we all need to be really focused on as a common, kind of, criminogenic factor, the lack of literacy. But I just think also as a former State legislator, as a former head of a youth authority in a State and somebody who was responsible for a lot of the juvenile reform legislation that we went through in Virginia in the 1990's, which was a direct response to the rising tide or the perceived rising tide of violence and criminality, the predators all across the countryside, as they used to say in Virginia.

You know, I think it just would be very helpful if we would just kind of take a step back, pause, and look very carefully at what the results and outcomes of that have been. The point that I always lift up is that it costs in Virginia today $88,000 per year per bed to incarcerate a juvenile offender in our juvenile correctional center.

It is up $8,000 from what it was 5 or 6 years ago when I was the head of the authority. And we have got to look very carefully at where we are, what we have gotten for all of that money. And that is, I think, something that I would just caution.

You know, these automatic waivers, reverse waivers, lowering the age of transfer, all of the things that were rushed to implemen-

tation in the 1990's as a response for this has had a consequence. And it has had a very serious and expensive consequence.

And a lot of places right now, a lot of States, are actually beginning to roll those policies back, because they have seen—and it is based upon, you know, very important research that has been done, a lot of it, as I said, university-based, a lot of it coming out of, you know, nonprofit, nonpartisan agencies that are looking at these things.

And I just would hate to see, you know, that we kind of go down that road again in the allocation of significant resources, Federal, State and local into the kinds of things—I am not saying it has all been bad. And I am not saying, you know, that getting tough on crime—it has its place.

The Lord knows I am not looked at as a soft touch judge, I will tell you that. But it is certainly, I think, informative that we kind of look backward and carefully look at how we have dealt with these things in the past because it is not all, you know, a great outcome.

Mr. SCOTT. Thank you.

Mr. Roper, I asked Mr. Seave about how you would prove a case if this definition were into effect. Is there any way you can avoid being able to present to the jury all the community riff raff and associate it with the defendant as part of the trial, proving your elements of the trial?

Mr. ROPER. Well, Mr. Chairman, of course, the department hasn't taken a position on the bill that is under consideration. But, you know, spillover effect is always a concern for a Federal judge in any kind of case, in conspiracy cases, even, in RICO cases, in continuing criminal enterprise cases. We face that all the time. And I think judges are able to use their discretion to try to avoid that.

For instance, you know, you can't go in and claim the 5th in front of the jury. That is prohibited. You can't do that.

Well, I would say that, you know, I only have 90 prosecutors in my district. And I have 100,000 square miles, about 7 million people in that area. In the cases we bring, we can't fill the Federal court up with every drug trafficker or every gang member. We have to be selective in what we prosecute because we have so many other priorities.

And I think the people we bring in to Federal court to prosecute these cases are folks that need to be prosecuted in Federal court. At least I hope we are doing that.

Mr. SCOTT. Well, my concern was the conduct of the trial. Can you avoid having a defendant in a simple armed robbery case—can he avoid having everybody in the neighborhood who he has been associated with and all their crimes presented to the jury?

Mr. ROPER. Well, I think we have done that with the RICO statute, tried to avoid a spillover effect about that. In continuing criminal enterprises we have had it. It is similar to that. And I am not familiar enough with the legislation to give you an answer.

Mr. SCOTT. Well, it is not law, so there is no judicial history on it.

But let me ask one final question to Dr. Scharf. Can you explain the importance of having collaboration before you start figuring out

a strategy, local collaboration in the locality, before you start doing a strategy?

Mr. SCHARF. Well, the research shows that, you know, it may not be the program effect, but it is the community effect, that the community is targeted on a goal of early intervention or prevention. So, you know, whether anger management or substance abuse training, multi-systemic therapy is better than something else we don't know. What we know is that when a community focuses through education on reducing the risk factors of juvenile delinquency and gang involvement, it works.

And it is success stories like Dan Lungren mentioned before, the success in California—what we don't know was it the prisons or was it the community-oriented policing activities that you sponsored, you know, the community meetings that was the result. This is true in New York, Chicago, everyplace else that has done it.

So the argument that yes, we increased sanctions and crime went down, we also increased community mechanisms, as Chairman Scott suggested. And as a criminologist, I think the answer is we really don't know what was more important. The argument that it really is the kind of community partnership that Chairman Scott mentioned is there in California, Illinois, Massachusetts, and New York where these huge crime reductions in the 1990's occurred.

Mr. SCOTT. Thank you very much. And I would like to thank all of our witnesses for their testimony.

Our Members may have additional written questions which we will forward to you and ask that you answer as promptly as you can in order they may be part of the record. Without objection, the hearing record will remain open for 1 week for the submission of additional materials. And without objection, the Committee stands adjourned.

[Whereupon, at 3:43 p.m., the Subcommittee was adjourned.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON LEE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS, AND MEMBER, SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY

Mr. Chairman, I thank you for holding this very important hearing on "Gang Crime Prevention and the Need to Foster Innovative Solutions at the Federal Level." When crimes are needlessly being perpetrated against citizens of this country, we as Members of this body have a duty to use whatever measures necessary to curtail such criminal behavior and ensure that we provide the most effective measures possible to be implemented and enforced to ensure the safety of all members of this society.

I am pleased to welcome our witnesses who have gathered here today to give us guidance and insights in our efforts to create innovative solutions at the federal level that will address the incredible challenges that we face in our attempt to curtail and prevent gang violence: Honorable Adam B. Schiff Representative, California's 29th District; the Honorable Joe Baca, Representative, California's 43rd District; the Honorable Elijah E. Cummings, Representative, Maryland 7th District; the Honorable Jerry McNerney, Representative, California's 11th District; and the Honorable Nick Lampson, Representative, Texas' 22nd District. Panel II will include juvenile justice experts including: the Honorable Jerrauld C. Jones, Judge, Norfolk Juvenile and Domestic Relations District Court; Dr. Peter Scharf, Executive Director, Center for Society, Law and Justice, Austin, Texas; and Mr. Brian W. Walsh, Senior Legal Research Fellow, Center for Legal and Judicial Studies, the Heritage Foundation, Washington, D.C. I hope that your testimony here today will prove fruitful in guiding this Committee to craft creative and effective means to help to eliminate such unnecessary and intolerable acts perpetrated through gang crime.

Mr. Chairman, the purpose of this hearing is to determine an appropriate response to gang crime in the United States. It is an opportunity for our witnesses to discuss several pending Congressional legislative proposals, alternative approaches to stemming violence, and the appropriateness of federal law enforcement in criminal activity traditionally addressed by the states.

We are here today to address the increase in violent crime. The FBI's Uniform Crime Reporting Program indicates that violent crime—specifically robberies, homicides, and aggravated assaults—has increased 1.9% over 2006; whereas some types of crime—rapes, burglaries and auto thefts have continued to fall, The overall crime rate—violent crime and non-violent crime considered together—is the lowest it has been in 30 years. The top five cities suffering from crime increases are St. Louis, MO, Detroit, MI, Flint, MI, Compton, CA, and Camden, NJ.

According to the FBI's report, some crime experts suggest that the increase in violent crime is linked to an increase in juvenile crime, specifically gang crime. In Oakland, police officials attribute recent rises to "an uptick in Latino gang violence, more turf wars between drug gangs and an increase in . . . 'mindless violence' among juveniles who escalate minor disputes to homicide." However, other experts disagree that gang activity is on the rise. According to a recently-released report from the Justice Policy Institute:

> There are fewer gang members in the United States today than there were a decade ago, and there is no evidence that gang activity is growing. . . . [] the most recent comprehensive law enforcement estimate indicates that youth gang membership fell from 850,000 in 1996 to 760,000 in 2004 and that the proportion of jurisdictions reporting gang problems has dropped substantially.

However, researchers Kevin Pranis and Judith Greene, authors of the JPI report, conducted a literature survey of all gang research. They found, paradoxically, that

there is no consistent relationship between law enforcement measures of gang activity and crime trends. An analysis of gang membership and crime data from North Carolina found that most jurisdictions reporting growth in gang membership also reported falling crime rates. Dallas neighborhoods targeted for gang suppression activities reported both a drop in gang crime and an increase in violent crime.

Mr. Chairman, some believe that demography has played a role in the crime increase. Some cities with rising juvenile populations are experiencing a rise in juvenile crime. In other cities, criminals are being released from prison after serving lengthy sentences imposed in the 80's and 90's. Often these newly released people never received treatment while incarcerated and there are few, if any, services available to them on the outside. This is a serious problem that must be addressed if we are to help lead criminals to a path of rehabilitation and to a life of productive citizenship.

Another explanation for the violent crime increase is diminished federal funding of local police forces. For example, under President Clinton the COPS program reached a high of $2.5 billion; in comparison to 2006 federal funding which was $894 million. The change in funding priorities is attributed to increased funding for terrorism instead of "bread-and-butter" crime fighting, according to Los Angeles Police Chief Bill Bratton, past president of the Police Executive Research Forum. Though funding is essential to combating terrorism, we still must provide funding for what is essentially domestic terrorism, gang crime.

Prevention saves lives and money. It pulls poor and minority children out of the Cradle-to-Prison Pipeline. While it saves enormous amounts in the long run, it can generate higher costs in the short run. Thus, garnering the political will among elected officials on two-, four-, and six-year electoral cycles to invest in prevention for at-risk youths is an ongoing and difficult challenge.

There have also been drastic cuts at the federal level in funding support for community-level law enforcement that works alongside of prevention and early intervention to reduce crime. Effective law enforcement, such as the Community Oriented Policing Services Program (COPS), complements and supports prevention and intervention efforts for at-risk youths. The cornerstone of community policing is building relationships with community members, so that an effective collaboration between law enforcement and community members takes root and increasingly contributes to community stability and safety. The active involvement and concern of community members, sometimes referred to as "collective efficacy," is critical to sustained crime prevention, particularly in low-income communities. All of these programs strengthen the core capabilities of law enforcement agencies and have greatly improved their ability to fight and prevent crime. Yet budget cuts are forcing layoffs of state and local officers.

The combination of devastating cuts to critical prevention and intervention programs and to community law enforcement is a recipe for disaster for poor children, families, and communities. We spend on average three times as much per prisoner as per pupil. We don't spend enough of the money when and where it can actually make a difference in the lives of poor children and families and prevent the need to spend more on after-the-fact law enforcement activities and prison.

We need to continue to seek solutions that will put in place effective guidelines for combating, preventing and eliminating gang crime in all corners of the United States. I look forward to hearing from our witnesses today in our attempt to gain some guidance on this very serious matter.

Thank you. I yield back the balance of my time.

ATF Comments on S. 456

Section 101 Should be Amended to Remove Firearms and Explosives Crimes as Predicate Gang Crimes

Section 101 would amend 18 U.S.C. § 521 *et seq.* to provide enhanced penalties (of up to 30 years to life imprisonment) for a wide variety of predicate "gang crimes," making it unlawful for any person to knowingly commit, or conspire, threaten, or attempt to commit, a gang crime for the purpose of furthering the activities of a criminal street gang. As currently drafted, the definition of "gang crime" in proposed section 521(2) includes as predicate "gang crimes" a variety of Federal firearms and explosives crimes falling within the scope of the Gun Control Act and the Federal explosives laws. ATF believes that it is unnecessary to include any Federal firearms crimes or explosives violations as predicate gang crimes because these criminal activities can already be charged--and are already subject to significant criminal penalties--under existing Federal firearms and explosives laws. To the extent the Congress wishes to enhance the penalties applicable to, *e.g.*, violations of 18 U.S.C. §§ 844, 922, 924, 930, or 931, a better approach would be to amend directly the Federal explosives laws and/or the Gun Control Act (GCA), as the drafters have seen fit to do with respect to the GCA in Sections 206 & 208 of the bill. Another preferable approach would be to amend the Federal sentencing guidelines.

ATF Violent Crime Task Forces

ATF firearms-trafficking investigations and the activities of ATF-led task forces focusing on firearms-related violent crime play a key role in combating gang violence in cities and other localities across the Nation. Working in concert with the United States Attorneys Offices and State prosecutors, ATF-led task forces---which include interagency Violent Crime Impact Teams, PSN Task Forces, and a wide-variety of other firearms-violence-reduction and/or trafficking task forces---work to remove gang members and other violent criminals from the streets through aggressive investigation and prosecution. Due to the importance of ATF and its task forces to the Department's anti-gang strategy, the bill should be amended to add another section---drafted in a fashion similar to Section 303---that would provide "ADDITIONAL RESOURCES NEEDED BY THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES TO INVESTIGATE AND PROSECUTE GANG MEMBERS AND OTHER VIOLENT CRIMINALS" and that would provide the Attorney General with funding that could be used by ATF to operate and expand its various gang-related task forces and firearms-trafficking investigative activity. To this end, $5,000,000 per year for each of the fiscal years 2008 through 2012 should be authorized to be appropriated to enhance ATF's firearms-trafficking and violent-crime-task-forces.

SEC. 301. DESIGNATION OF AND ASSISTANCE FOR HIGH INTENSITY INTERSTATE GANG ACTIVITY AREAS.

(a) Definitions- In this section:

(1) GOVERNOR- The term `Governor' means a Governor of a State, the Mayor of the District of Columbia, the tribal leader of an Indian tribe, or the chief executive of a Commonwealth, territory, or possession of the United States.

(2) HIGH INTENSITY INTERSTATE GANG ACTIVITY AREA- The term `high intensity interstate gang activity area' or `HIIGAA' means an area within a State or Indian country that is designated as a high intensity interstate gang activity area under subsection (b)(1).

(3) INDIAN COUNTRY- The term `Indian country' has the meaning given the term in section 1151 of title 18, United States Code.

(4) INDIAN TRIBE- The term `Indian tribe' has the meaning given the term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(5) STATE- The term `State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(6) TRIBAL LEADER- The term `tribal leader' means the chief executive officer representing the governing body of an Indian tribe.

(b) High Intensity Interstate Gang Activity Areas-

(1) DESIGNATION- The Attorney General, after consultation with the Governors of appropriate States, may designate as high intensity interstate gang activity areas, specific areas that are located within 1 or more States.

(2) ASSISTANCE- In order to provide Federal assistance to high intensity interstate gang activity areas, the Attorney General shall--

(A) establish local collaborative working groups, which shall include--

(i) criminal street gang enforcement teams, consisting of Federal, State, tribal, and local law enforcement authorities, for the coordinated investigation, disruption, apprehension, and prosecution of criminal street gangs and offenders in each high intensity interstate gang activity area;

(ii) school, community, and faith leaders in the area; and

(iii) service providers in the community, including those experienced at reaching youth who have been involved in violence and violent gangs or groups, to provide at-risk youth with positive alternatives to gangs and other violent groups and to address the needs of those who leave gangs and other violent groups;

(B) direct the reassignment or detailing from any Federal department or agency (subject to the approval of the head of that department or agency, in the case of a department or agency other than the Department of Justice) of personnel to each criminal street gang enforcement team;

(C) provide all necessary funding for the operation of each local collaborative working group in each high intensity interstate gang activity area; and

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(D) provide all necessary funding for national and regional meetings of local collaborative working groups, criminal street gang enforcement teams, and all other related organizations, as needed, to ensure effective operation of such teams through the sharing of intelligence and best practices and for any other related purpose.

(3) COMPOSITION OF CRIMINAL STREET GANG ENFORCEMENT TEAM- Each team established under paragraph (2)(A)(i) shall consist of agents and officers, where feasible, from--

(A) the Federal Bureau of Investigation;
(B) the Drug Enforcement Administration;
(C) the Bureau of Alcohol, Tobacco, Firearms, and Explosives;
(D) the United States Marshals Service;
(E) the Department of Homeland Security;
(F) the Department of Housing and Urban Development;
(G) State, local, and, where appropriate, tribal law enforcement;
(H) Federal, State, and local prosecutors; and
(I) the Bureau of Indian Affairs, Office of Law Enforcement Services, where appropriate.

(4) CRITERIA FOR DESIGNATION- In considering an area for designation as a high intensity interstate gang activity area under this section, the Attorney General shall consider--

(A) the current and predicted levels of gang crime activity in the area;
(B) the extent to which violent crime in the area appears to be related to criminal street gang activity, such as drug trafficking, murder, robbery, assaults, carjacking, arson, kidnapping, extortion, and other criminal activity;
(C) the extent to which State, local, and, where appropriate, tribal law enforcement agencies have committed resources to--
    (i) respond to the gang crime problem; and
    (ii) participate in a gang enforcement team;
(D) the extent to which a significant increase in the allocation of Federal resources would enhance local response to the gang crime activities in the area; and
(E) any other criteria that the Attorney General considers to be appropriate.

(5) RELATION TO HIDTAS- If the Attorney General establishes a high intensity interstate gang activity area that substantially overlaps geographically with any existing high intensity drug trafficking area (in this section referred to as a `HIDTA'), the Attorney General shall direct the local collaborative working group for that high intensity interstate gang activity area to enter into an agreement with the Executive Board for that HIDTA, providing that--

(A) the Executive Board of that HIDTA shall establish a separate high intensity interstate gang activity area law enforcement steering committee, and select (with a preference for Federal, State, and local law enforcement agencies that are within the geographic area of that high intensity interstate gang activity area) the members of that committee, subject to the concurrence of the Attorney General;

(B) the high intensity interstate gang activity area law enforcement steering committee established under subparagraph (A) shall administer the funds provided under subsection (g)(1) for the Criminal Street Gang Enforcement Team, after consulting with, and consistent with the goals and strategies established by, that local collaborative working group;

(C) the high intensity interstate gang activity area law enforcement steering committee established under subparagraph (A) shall select, from Federal, State, and local law enforcement agencies within the geographic area of that high intensity interstate gang activity area, the members of the Criminal Street Gang Enforcement Team; and

(D) the Criminal Street Gang Enforcement Team of that high intensity interstate gang activity area, and its law enforcement steering committee, may, with approval of the Executive Board of the HIDTA with which it overlaps, utilize the intelligence-sharing, administrative, and other resources of that HIDTA.

(c) Reporting Requirements- Not later than February 1 of each year, the Attorney General shall provide a report to Congress which describes, for each designated high intensity interstate gang activity area--

(1) the specific long-term and short-term goals and objectives;

(2) the measurements used to evaluate the performance of the high intensity interstate gang activity area in achieving the long-term and short-term goals;

(3) the age, composition, and membership of gangs;

(4) the number and nature of crimes committed by gangs; and

(5) the definition of the term gang used to compile this report.

(d) National Gang Activity Database-

(1) IN GENERAL- From amounts made available to carry out this section, the Attorney General shall establish a National Gang Activity Database to be housed at and administered by the Federal Bureau of Investigation.

(2) DESCRIPTION- The database required by paragraph (1) shall--

(A) be designed to disseminate gang information to law enforcement agencies throughout the country;

(B) contain critical information on gangs, gang members, firearms, criminal activities, vehicles, and other information useful for investigators in solving gang-related crimes; and

(C) operate in a manner that enables law enforcement agencies to--

(i) identify gang members involved in crimes;

(ii) track the movement of gangs and members throughout the region;

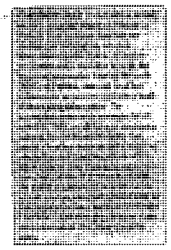
(iii) coordinate law enforcement response to gang violence;

(iv) enhance officer safety;

(v) provide realistic, up to date figures and statistical data on gang crime and violence;

(vi) forecast trends and respond accordingly; and

(vii) more easily solve crimes and prevent violence.



SEC. 302. ENHANCEMENT OF PROJECT SAFE NEIGHBORHOODS INITIATIVE TO IMPROVE ENFORCEMENT OF CRIMINAL LAWS AGAINST VIOLENT GANGS.

(a) In General- While maintaining the focus of Project Safe Neighborhoods as a comprehensive, strategic approach to reducing gun violence in America, the Attorney General is authorized to expand the Project Safe Neighborhoods program to require each United States attorney to--

(1) identify, investigate, and prosecute significant criminal street gangs operating within their district; and

(2) coordinate the identification, investigation, and prosecution of criminal street gangs among Federal, State, and local law enforcement agencies.

Comment [A1]: ATF is the primary investigative body for PSN (See addition to Section 301).

(b) Additional Staff for Project Safe Neighborhoods-

(1) IN GENERAL- The Attorney General may hire Assistant United States attorneys, non-attorney coordinators, or paralegals to carry out the provisions of this section.

(2) ENFORCEMENT- The Attorney General may hire Bureau of Alcohol, Tobacco, Firearms, and Explosives agents for, and otherwise expend additional resources in support of, the Project Safe Neighborhoods/Firearms Violence Reduction program.

(3) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated $20,000,000 for each of fiscal years 2008 through 2012 to carry out this section. Any funds made available under this paragraph shall remain available until expended.

SEC. 303. ADDITIONAL RESOURCES NEEDED BY THE FEDERAL BUREAU OF INVESTIGATION TO INVESTIGATE AND PROSECUTE VIOLENT CRIMINAL STREET GANGS.

(a) Responsibilities of Attorney General- The Attorney General is authorized to require the Federal Bureau of Investigation to--

(1) increase funding for the Safe Streets Program; and

(2) support criminal street gang enforcement teams.

(b) Authorization of Appropriations-

(1) IN GENERAL- In addition to amounts otherwise authorized, there are authorized to be appropriated to the Attorney General $5,000,000 for each of fiscal years 2008 through 2012 to carry out the Safe Streets Program.

(2) AVAILABILITY- Any amounts appropriated under paragraph (1) shall remain available until expended.

Deleted: 10

ADDITIONAL RESOURCES NEEDED BY THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES TO INVESTIGATE AND PROSECUTE VIOLENT CRIMINAL STREET GANGS.

(a) Responsibilities of Attorney General- The Attorney General is authorized to require ATF to--

(1) increase funding for the Violent Crime Impact Team Program; and

(2) support criminal street gang enforcement teams.

(b) Authorization of Appropriations-

(1) IN GENERAL- In addition to amounts otherwise authorized, there are authorized to be appropriated to the Attorney General $5,000,000 for each of fiscal years 2008 through 2012 to carry out the Safe Streets Program.

(2) AVAILABILITY- Any amounts appropriated under paragraph (1) shall remain available until expended.

Criminal Street Gang Prosecutions Under the Federal RICO Statute

Section 101 of S. 456 creates a new federal statute for prosecuting certain criminal acts under a scheme that has drawn comparisons to the federal RICO (Racketeer Influenced and Corrupt Organization) laws.

The need for this new federal criminal law rightly has been questioned.

- Section 101 sets forth predicate acts that already constitute crimes under state and federal laws.
- Multi-jurisdictional state-federal task forces already leverage federal law enforcement resources and tools for gang-related interdiction efforts. Tom Kertscher, Racine Street Gang Crushed by Task Force, Milwaukee Journal Sentinel, July 9, 2003.
- Existing RICO statutes have been used successfully to prosecute criminal street gangs.

Federal RICO statutes are used successfully to prosecute criminal street gangs.

- Federal prosecutors have secured indictments and convictions on the theory that criminal street gangs satisfy the essential elements of RICO — namely, an "enterprise" engaged in illegal activity and a "a pattern of racketeering activity."
- The author of the RICO Act, Notre Dame Law School Professor G. Robert Blakey, has stated that "RICO is ideally suited for street gangs." John Gibeaut, Prosecutors are Turning to Powerful Federal Statutes and Some Handy Local Ordinances to Stop Criminal Gangs in Their Tracks, 84 A.B.A. J. 64, 65 (1998).
- Numerous law review articles have noted with approval this use of the RICO statutes. See, e.g., Lesley Suzanne Bonney, The Prosecution of Sophisticated Urban Street Gangs: A Proper Application of RICO, 42 Cath. U. L. Rev. 579, 601 (1993) ("today's violent criminal street gangs can successfully be prosecuted under the RICO statute.").

RICO offers the same prosecutorial advantages as section 101 of S. 456:

- joinder of multiple defendants for trial
- prosecution of multiple crimes in one trial
- ability to target gang leaders as well as underlings
- introduction of "bad acts" of codefendants and other damaging evidence
- significant penalties, including life imprisonment and the death penalty (e.g., for murder in aid of racketeering)

Examples of street gang prosecutions under federal RICO laws:

- *United States v. Espinoza*, 52 Fed. Appx. 846 (7th Cir. 2003) (affirming RICO conviction of member of QC Bishops street gang).
- *United States v. Phillips*, 239 F.3d 829 (7th Cir. 2001) (affirming RICO convictions of members of Dawg Life street gang).
- *United States v. Diaz*, 176 F.3d 52 (2d Cir. 1999) (affirming RICO convictions of members of Latin Kings street gang).
- *United States v. Doe*, 49 F.3d 859 (2d Cir. 1995) (affirming transfer of juvenile member of Born to Kill street gang to face adult RICO prosecution).
- *United States v. Thai*, 29 F.3d 785 (2d. Cir. 1994) (affirming RICO convictions of members of Born to Kill street gang).

Greater Pittsburgh Violent Crimes/ Gang Task Force

United States Department of Justice
Office of the Attorney General of Pennsylvania
City of Pittsburgh Police Department

Subject	Date
INVESTIGATIVE STRATEGY FOR PROSECUTING THE "LAW" STREET GANG	APRIL [redacted] 1995

To	From
UNITED STATES ATTORNEY'S OFFICE SUPERVISORS	WILLIAM SNYDER AUSA

This memorandum outlines my early plans for the prosecution of the LAW street gang. I am soliciting advice, guidance and approval from you, the supervisors. Also, in order for this plan to work, I think we will need direct involvement of the U.S. Attorney, himself.

Here is my suggested prosecutive strategy:

I. GAIN ACCESS TO INFORMATION WITHOUT LOCAL REFERRAL

Much of our information about gang crimes comes from referrals of major cases by local law enforcement authorities. We need the ability to know of crimes and other activity which do not induce a local official to call upon the federal government. We need to know, for example, about the shootings in which no one is hit, or in which no arrests are ever made.

My proposed solution is for local officials to forward to us copies of all reports concerning particular people and particular areas. We need to convince local police commanders to copy us on all reports concerning people on our list of known gang members and crimes on the "turf" of our targeted gangs.

This information is crucial. Research by the Department of Justice has shown:

> The true advantage of a specialized gang unit is . . . in having a small number of lawyers filter related cases. As prosecutors come to know gangs and gang members in their jurisdictions, they can see connections (such as retribution, territorial feuds) between what at first glance seem to be random or unrelated criminal incidents.[1]

WCS 6/18/98 approved as redacted.

~~LIMITED OFFICIAL USE~~

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I do not know the gangs and gang members in this jurisdiction. We need the information that individual police officers and units already have. Past efforts to obtain local reports on a regular basis have failed. Perhaps it will be necessary for the U.S. Attorney to contact the local police chiefs to request their assistance.

Also, is there a gang-crime "hotline" in town? If so, we are not getting any information from it. If not, maybe we should start one.

II. DEVELOP ABILITY TO BE PROACTIVE

A recent National Institute of Justice research brief reports on the "proactive prosecution" model:

> The San Diego County, California, district attorney's office reported operations of a gang prosecution unit that has served as a national model for this approach. One San Diego assistant district attorney explained that "[w]hereas reactive prosecution tends to be more a response to a past chain of events (i.e., a crime occurring and a police investigation being completed), proactive implies an attempt to stop the crime from occurring or at least to participate in the initial investigation."
>
> In Riverside County, California . . . the district attorney's office has also taken a proactive approach. It operates an on-call program . . . . On these most serious crimes, the district attorney's office does not wait for cases to make their way through the system. **Instead, gang prosecutors go out on the street with police to interview victims and witnesses and talk to gang members.**[2]

Our gang task force needs to respond to the crime scenes at 2:00 am after shootings. In order to do that, the task force will need to make arrangements with local authorities to be notified of such incidents, and it needs an "on call" program to get at least two Violent Crimes/ Gang Task Force Agents dispatched to the scene. This prosecutor is ready to go with them, when that will be helpful.

III. DEVELOP ABILITY TO PROTECT WITNESSES

Again, from the National Institute of Justice:

> [P]rosecutors reported they consider victim and witness cooperation and protection a major issue. In intergang violence, perpetrator, victim and witness play interchangeable and revolving

> roles. **The likelihood of intimidation for pressing charges or agreeing to testify is always a factor in gang cases and should be among the first problems addressed by law enforcement and prosecutors.** . . . [T]he high visibility of gang violence creates an intimidating atmosphere that keeps non-gang witnesses from coming forward.[3]
>
> Prosecutors must often take extraordinary measures to protect witnesses in gang cases before, during, and after trial. They consistently stressed the importance of being able to offer protection immediately to ensure cooperation.
>
> * * *
>
> [T]he need for special victim and witness protection programs is particularly important. Prosecutors' offices in which victim advocates work in tandem with investigators also reported considerable success with gang-related cases. . . . An aggressive victim-advocate program, one that contacts the victim and witnesses immediately and develops and maintains their cooperation, can be one of the most significant factors in successful prosecutions. . . . **The gang unit lawyers also willingly go out on the street and visit witnesses with the advocate.**[4]

The only witness protection I have ever been able to offer is: "I can't make any promises, but if you really need it, I will make a recommendation to the U.S. Marshals' Witness Protection Program, but the decision is up to them." No doubt, the FBI and others have short-term abilities unknown to me. We need to know all of the witness protection resources available to the Department of Justice. If there is already one over-all set of policies and procedures for ensuring the safety of our witnesses, the Task Force and I need to be trained in it. If these policies and procedures do not already exist, we need to write them.

Perhaps, we need to create new abilities, as well. For example, the U.S. Attorney's Office for the District of Columbia created its own, in-house, short-term witness protection program.

IV. PROSECUTE AS IF SLAYING THE HYDRA

Virtually all of our targeted gang members have criminal records and/or pending cases. Clearly, prosecuting individual crimes and criminals one at a time has minimal impact on the level of crime and violence in the community.

Similarly, even a conspiracy prosecution is unlikely to eliminate more than one "set" of a gang at a time. My belief is that even a successful prosecution of an entire set will have little

community impact; the rest of the gang will simply expand to fill their turf. Perhaps, the vacuum created by prosecuting a set and removing all of the gang members controlling a particular area will simply escalate the violence as other gangs or sets of the same gang compete to take over the now-vacant territory and drug markets. We need to destroy the entire organization at one time.

Hercules was a great warrior, famous for successes in many battles with his sword. But, his successes at lopping off the heads of the Hydra only made things worse in Argus. The Hydra started as a beast with nine heads. Every time Hercules successfully swung his sword and cut off another head, two more heads grew back to take its place. He needed a new weapon to kill the beast entirely, all at once.

Coordinated Federal prosecution based on an organizational or enterprise theory is that new weapon for slaying the entire beast. We need to take out the LAW gang all at once. The LAW gang may well be too loosely structured to be prosecuted as one case. In that event, we need to coordinate the separate prosecutions of each drug conspiracy or each set or each whatever. We should adjust the timing of individual prosecutions so that indictments and arrests are simultaneous. Prosecuting the whole organization at the same time will reduce the number of organized criminals available to take over the newly-vacant territories, reduce the number of gang members at large available to incarcerated gangsters for witness intimidation, and send a message so loud that the entire community will hear it.

Coordinating the prosecution must include coordinating the investigation. With so many law enforcement agencies operating in the area, coordination is difficult. For example, on April 5, 1995, the Task Force learned that its prime target has two pending cases and is cooperating with a State Attorney General's Office investigation. The Task Force had no knowledge that the target was cooperating with law enforcement, even though the Task Force includes a State Attorney General's Agent, and even though the charging officer in the second case is a county detective who works very closely with the Task Force. There is also some overlap and lack of sharing of information with the Violent Traffickers Task Force, but nothing any where near as troublesome as the cross-over with the Attorney General's investigation. Distilled to its essence, the proactive side of our investigation was an attempt to have our confidential informant buy drugs from another agency's confidential informant.

Finally, we need to avoid adopting a state case simply because a federal offense occurred, a gang member was involved, and the case is strong. The Task Force should target its resources to what it alone can do: destruction of the gang as a whole. Since the end of the Hobbs Act robbery prosecutions, reportedly 100 percent of the Task Force's cases were adoptions of state cases. While federal adoption may be useful (presumably, federal defendants get longer sentences), it is rarely an effective use of the Task Force's unique abilities. All of those cases would have been prosecuted by someone, anyhow. If all we do is adopt state cases, we are little more than a glorified district attorney's office. Policing the streets should not be our job. Pooling the abilities of several agencies to do what no individual agency can do -- that is our job.

V. COMMIT THE RESOURCES NECESSARY

[redacted]

At this time, the Task Force has no confidential informant capable of purchasing drugs from our targets.** We will never make a major, high-impact case without more agents.

I recently received a request from the County District Attorney's Office that we adopt a case with the intention of developing a RICO prosecution of the CRIPS in Homewood. Clearly, there is also a need for someone to do something about the Deuce-Deuces and the Tres Eights and others in Northview Heights. We lack the resources to effectively prosecute the LAW. We can not begin to take on these other two prosecutions. Yet, clearly, the community would benefit from destruction of all of these gangs.

VI. TACTICS, IMPLEMENTATION, AND RECOMMENDATIONS

A. Gaining access to information without local referral

Recommendations:

1. Request that a Wilkinsburg police officer be assigned temporarily to the Task Force to assist the investigation of the LAW street gang. (Actually, since the first draft of this memorandum, a Wilkinsburg officer has started working very closely with the Task Force.)

2. The FBI approaches Wilkinsburg Police about faxing to the Task Force on a daily basis all reports relating to our targeted people and areas.

3. The U.S. Attorney approaches the Pittsburgh Police about faxing to the Task Force on a daily basis all reports relating to our targeted people and

---

[redacted]

** There had been one CI, but we now believe that he is compromised.

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areas. (The FBI SAC and Chief Buford have addressed this in the past, but we still do not get the reports.)

4. The U.S. Attorney tasks the appropriate person to investigate either: 1) obtaining tips coming in to some current gang hotline; or 2) persuading an existing hotline (e.g., the Gun Hotline) to make an anti-gang pitch and to share the results, or 3) starting a new gang hotline.

5. If the Task Force expands, see Section VI.E, *infra*, the U.S. Attorney approaches the Pittsburgh Police about designating a gang crimes liaison officer in each police zone to coordinate sharing of gang intelligence.

6. Develop (or adopt) community anti-gang groups capable of providing specific information on gang activity in their neighborhood to the hotline or the zone coordinator. (This recommendation and the one about police zone coordinators were suggested by [redacted], who I believe had experience with such things in Chicago.)

B. Developing ability to be proactive

Recommendations:

1. The FBI designates sufficient agents to respond to gang crime scenes (in targeted areas) and either: 1) makes arrangements to be notified by local agencies of gang crime; or 2) monitors local dispatch frequencies to learn of gang crime scenes.

2. The U.S Attorney's Office designates on-call AUSA's willing and able to respond to crime scenes when requested by the FBI.

C. Developing ability to protect witnesses

Recommendations:

1. Task one person to determine all witnesses protection resources available to us, department wide. Also, find out what the capabilities are of the city's witness protection program.

2. Develop specific policies on what specific protection measures can be offered under what circumstances.

3. Provide training for agents and AUSA's on the resources available and the policies for using them.

D. Prosecuting as if slaying the Hydra

Recommendations:

1. Adopt a policy for the U.S. Attorney's Office of adopting gang cases only if the individual case contributes to the goal of destroying the gang as an organization.

2. Adopt a policy for the U.S. Attorney's Office that, to the greatest extent practicable, all cases against the LAW will become public, arrests will be made, and the cases will proceed in court simultaneously.

3. Host a summit of all agencies with law enforcement authority in the areas where our targets operate to provide them with a list of our targets (and informants?) and to beg them to give us a list of their targets and informants, on an on-going basis.

E. Committing the resources necessary

Recommendations:

1. Request FBI to assign an additional agent(s) to investigate the Hunter Park set of the LAW so that it can be prosecuted simultaneously with the Uni 88 set currently being investigated by the Task Force.

2. Obtain for the Task Force an experienced narcotics agent from the FBI or the DEA.

3. Enlarge the Task Force. It may be necessary to find an additional funding source in order to accomplish this.

4.

5. Ask other agencies, such as the Pennsylvania State Police, to contribute agents.

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ENDNOTES

1. Johnson, Claire, *et al.*, "Prosecuting Gangs: A National Assessment," NIJ Research in Brief, February 1995, NCJ 151785, p. 9. ("NIJ" stands for National Institute of Justice, a component of our own department, the U.S. Department of Justice.)

2. *Id.* at 5.

3. *Id.* at 9-10.

4. *Id.* at 5-6.

The New York Times

Sunday, September 30, 2007

IDEAS & TRENDS

Reporting While Black

By SOLOMON MOORE

THE police officer had not asked my name or my business before grabbing my wrists, jerking my hands high behind my back and slamming my head into the hood of his cruiser.

"You have no right to put your hands on me!" I shouted lamely.

"This is a high-crime area," said the officer as he expertly handcuffed me. "You were loitering. We have ordinances against loitering."

Last month, while talking to a group of young black men standing on a sidewalk in Salisbury, N.C., about harsh antigang law enforcement tactics some states are using, I had discovered the main challenge to such measures: the police have great difficulty determining who is, and who is not, a gangster.

My reporting, however, was going well. I had gone to Salisbury to find someone who had firsthand experience with North Carolina's tough antigang stance, and I had found that someone: me.

Except that I didn't quite fit the type of person I was seeking. I am African-American, like the subjects of my reporting, but I'm not really cut out for the thug life. At 37 years old, I'm beyond the street-tough years. I suppose I could be taken for an "O.G.," or "original gangster," except that I don't roll like that — I drive a Volvo station wagon and have two young homeys enrolled in youth soccer leagues.

As Patrick L. McCrory, the mayor of Charlotte and an advocate of tougher antigang measures in the state, told me a couple of days before my Salisbury encounter: "This ganglike culture is tough to separate out. Whether that's fair or not, that's the truth."

Tough indeed. Street gangs rarely keep banker's hours, rent office space or have exclusive dress codes. A gang member might hang out on a particular corner, wearing a T-shirt and jeans, but one is just as likely to be standing on that corner because he lives nearby and his shirt might be blue, not because he's a member of the Crips, but because he's a Dodgers fan.

The problem is that when the police focus on gangs rather than the crimes they commit, they are apt to sweep up innocent bystanders, who may dress like a gang member, talk like a gang member and even live in a gang neighborhood, but are not gang members.

In Charlotte's Hidden Valley neighborhood, a predominately African-American community that is home to some of the state's most notorious gangs, Jamal Reid, 20, conceded that he associates with gangsters. Mr. Reid, who has tattoos and wears dreadlocks and the obligatory sports shirts and baggy jeans, said gangsters are, after all, his neighbors, and it's better to be their friend than their enemy.

Sheriff's records for Charlotte-Mecklenburg County show that Mr. Reid has been arrested several times since 2004 for misdemeanors including driving without a license, trespassing and marijuana possession. Despite his

run-ins with the law, Mr. Reid said he had never been in a gang and complained that the police had sometimes harassed him without a good reason.

"A police officer stopped in front of my house and told me to come to his car," he told me. "I said, no. They got out and ran me down. They did the usual face-in-the-dirt thing."

Maj. Eddie Levins of the Charlotte-Mecklenburg police said that officers are allocated to different areas based on the number of service calls they receive, so high-crime areas are likely to get more police attention.

"Where there are more police, expect more police action," Major Levins said. "Some people think 'I can just hang out with this gang member as long as I don't do any crime.' Well, expect to be talked to. We can't ignore them. In fact, we kind of want to figure out the relationship between all these gang members and their associates."

Major Levins said that his fellow officers aren't perfect and that he was aware of occasional complaints of harassment, but he said that most residents would like to see more police officers on the streets, not fewer.

Even Cairo Guest, a 26-year-old who complained he was handcuffed in his backyard, acknowledged that gang members in his neighborhood were "out of control."
"There are a lot of guys out here doing stuff they shouldn't have been doing," Mr. Guest said.

Still, some civil rights advocates complain that the definition of a gang member is vague. Gang researchers find that most active members usually cycle out of their gangs within about a year. Even active participants might only be marginal members, drifting in and out of gangs, said Kevin Pranis, a co-author of "Gang Wars," a recent report on antigang tactics written by the Justice Police Institute, a nonprofit research group.

Harsh penalties could actually reinforce gang membership by locking peripheral gangsters in jail with more hardened criminals, he said.

Suburban Salisbury, population 30,000, is about as far from the traditional ganglands of Los Angeles, Chicago or even Durham as you can get. But it has had an outsize voice in pushing for tougher antigang measures since a 13-year-old black girl was inadvertently killed there in a gang shootout after a dance party in March.

I arrived in Salisbury at midnight, figuring that gang members would be more visible after dark, and found a local hangout with the help of a cabdriver.

Striking up a conversation with young gang members in the middle of the night in an unfamiliar town is always a tricky proposition, but the one advantage I figured I had was that I am African-American. Brown skin can be a kind of camouflage in my profession, especially if you do a lot of reporting in minority neighborhoods, as I do. Blending in visually sometimes helps me observe without being observed.

But even when my appearance has been helpful, the benefits rarely survive the first words out of my mouth, which usually signal — by accent or content — that I'm not from around wherever I am.

"What's The New York Times doing down here?" asked an incredulous black man. He and about a dozen other men were standing in front of a clapboard house in Salisbury. I observed several drug sales there within minutes of arriving.

"Man, you a cop," said another. "Hey, this guy's a cop!"

"You've got me wrong," I said trying to sound casual as the men looked at me warily. I started to pull my press identification out of my wallet. "I'm a reporter. I'm just trying to talk to you about your neighborhood."

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"You've got me wrong," I said trying to sound casual as the men looked at me warily. I started to pull my press identification out of my wallet. "I'm a reporter. I'm just trying to talk to you about your neighborhood."

In the distance I heard neighborhood lookouts calling: "Five-O! Five-O!" — a universal code in American ghettos for the approaching police. I thought they were talking about me, but thought again as three police cars skidded to a stop in front of us.

A tall white police officer got out of his car and ordered me toward him. Two other police officers, a white woman and a black man, stood outside of their cars nearby. I complied. Without so much as a question, the officer shoved my face down on the sheet metal and cuffed me so tightly that my fingertips tingled.

"They're on too tight!" I protested.

"They're not meant for comfort," he replied.

While it is true that I, like many of today's gang members, shave my head bald, in my case it's less about urban style and more about letting nature take its course. Apart from my complexion, the only thing I had in common with the young men watching me smooch the hood of the black-and-white was that they too had been in that position — some of them, they would tell me later, with just as little provocation.

But here again I failed to live up to the "street cred" these forceful police officers had granted me. As the female officer delved into my back pocket for my wallet she found no cash from illicit corner sales, in fact no cash at all, though she did find evidence of my New York crew — my corporate identification card.

After a quick check for ontstanding warrants, the handcuffs were unlocked and my wallet returned without apology or explanation beyond their implication that my approaching young black men on a public sidewalk was somehow flouting the law.

"This is a dangerous area," the officer told me. "You can't just stand out here. We have ordinances."

"This is America," I said angrily, in that moment supremely unconcerned about whether this was standard police procedure or a useful law enforcement tool or whatever anybody else wanted to call it. "I have a right to talk to anyone I like, wherever I like."

The female officer trumped my naïve soliloquy, though: "Sir, this is the South. We have different laws down here."

I tried to appeal to the African-American officer out of some sense of solidarity.

"This is bad area," he told me. "We have to protect ourselves out here."

As the police drove away, I turned again to my would-be interview subjects. Surely now they believed I was a reporter.

I found their skepticism had only deepened.

"Man, you know what would have happened to one of us if we talked to them that way?" said one disbelieving man as he walked away from me and my blank notebook. "We'd be in jail right now."

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February 5, 2001

Honorable John Ashcroft
Office of the Attorney General
United States Department of Justice
Washington, D.C. 20550

Dear John:

Congratulations on your confirmation as attorney general. May I wish you all the best in this important position.

I would like to bring to your attention a recent particular success by the Department of Justice in my hometown of Pittsburgh, Pennsylvania. I am familiar with those involved in this undertaking and offer it to you as an exercise to be emulated elsewhere. The Department's anti-gang efforts in Pittsburgh are truly a model of this type of enforcement.

This saga was concluded recently when the United States Court of Appeals for the Third Circuit rejected the last pending appeals from members of the Larimer Avenue/Wilkinsburg or "LAW" street gang. This court's decision culminated a sustained effort against gang violence which was highly successful. One local newspaper stated: "It was a stunning effort." The *Pittsburgh Post-Gazette* declared it to be a model for other urban areas to follow.

As the *Post-Gazette* reported: "In 1993, Pittsburgh would have been no one's idea of America's most livable city. Once able to boast of big-city amenities and a low crime rate, Pittsburgh couldn't do so that year, when 83 murders were recorded, a whopping 84.4 percent higher than 1992. Countrywide, the total rocketed to 118, breaking a modern-day record set in 1917. For the first time, nearly half of the homicides were gang related, drug related, or both. But it wasn't just killings that were spurred by youth gangs. Violence had become numbingly common. Gang robberies, drive-by shootings, retaliation and intimidation occurred daily, making some neighborhoods less a place to live than one in which to try to survive."

In 1994, many law enforcement agencies in the greater Pittsburgh area investigated and prosecuted gang members. Many gang members were convicted, but gang crime continued at essentially the same rate. By early 1995, the obstacles to traditional prosecutions had become apparent. As some gang members went to jail, others continued the gang's reign of terror and put a heavy thumb on the scales of justice. For example, on a Wednesday through Friday in April, 1995, Troy Hicks testified against a LAW gang member who was being tried alone for

homicides. Sunday night, Hicks was shot dead. On April 20, LAW gang member Marcus Coffey, who had recently been identified as a police informant, was shot dead.

Under the direction of then-U.S. Attorney Frederick W. Thieman, that same month Assistant United States Attorney William C. Snyder and FBI Supervisory Special Agent Kenneth R. Carlson (now retired) proposed a strategy containing five elements, recommending to: "Above all, prosecute based upon an organizational or enterprise theory – rather than prosecute gang crimes or members individually – in order to slay the entire beast, the LAW gang, all at once." They believed that this approach, along with federal pretrial detention statutes, would minimize the gang's ability to intimidate or murder witnesses. In short, they brought the Department's organized crime resources to bear on the LAW gang.

Through my 1989 Attorney General's Order 1386-89, I had directed expansion of the Department's working definition of organized crime to include non-traditional and emerging organizations. The team in Pittsburgh put that expanded definition to good use. I am gratified that our re-targeting of resources committed to fighting organized crime, as further implemented by the 1991 Organized Crime Strategy, produced tangible benefits not only around the nation, but particularly in my own hometown.

Prosecuting an entire gang at the same time, however, had never before been done in Pittsburgh, and the task required more resources than any one agency, or even any then-existing multi-agency task force, could bring to bear. The knowledge and experience of local police detectives and prosecutors were needed, especially because virtually all of the gang's members had criminal records and/or pending cases. Thus, over time, what started with Thieman, Snyder and Carlson grew to a team including personnel from most federal law enforcement agencies and many state and local departments as well.

The team in Pittsburgh identified a substantial number of people who were considered worthy of federal prosecution. A computerized time-line was developed to locate past gang-related criminal acts of these subjects, which might be used as predicate acts for potential charges under the Racketeer Influenced and Corrupt Organizations (RICO) Act. For each of the 720 criminal events on the time-line, the team gathered existing police reports, forensic laboratory reports and court records. For many events, new witness interviews and other evidence were acquired. Significant evidence was developed to substantiate the existence of the gang and their ongoing criminal enterprise. Techniques used included Title III electronic surveillance, pole camera surveillance, controlled buys of illegal drugs and interviews of hundreds of community residents.

After months of late nights and worked weekends, the team's efforts ultimately led to obtaining the largest indictment of a criminal enterprise in the history of the Western District of Pennsylvania. On November 8, 1996, a federal grand jury returned a 155-count indictment against 47 alleged members of the LAW gang. The indictment alleged violations of the RICO

Act through a pattern of racketeering activity, including murder, attempted murder, arson, carjacking, drug dealing, robbery, witness intimidation, as well as conspiracy and firearms charges. Later, a superseding indictment added more counts and more defendants. In all, the task force brought the indictment mentioned above, the superseding indictment, and four separate informations or indictments against a total of 55 members of the LAW street gang.

This was a massive effort. Scores of witnesses were brought before the grand jury. Two hundred and thirty police officers were needed to effect the arrests. The court-ordered discovery process required the production to defense counsel of approximately 40,000 audio and video surveillance tapes and untold thousands of pages of reports and transcripts. In the end, all of the 55 people charged were convicted and they received a combined total of several thousand months of incarceration and supervised release. More important, crime dropped dramatically in areas that had once been LAW gang turf.

I am told that there was controversy about the Department's legal position that the LAW gang could be a RICO enterprise. In an opinion signed by Judge Theodore A. McKee, the Third Circuit Court of Appeals effectively ended this particular enterprise controversy in the Department's favor by finding "overwhelming evidence that could reasonably lead a juror to conclude that the LAW gang was a separate entity or 'enterprise' apart from its members, and the criminal activity they engaged in."

According to the current U.S. Attorney, Harry Litman: "The LAW gang prosecution was one of the most significant federal racketeering and narcotics prosecutions ever in Western Pennsylvania." Indeed, the June 1997 issue of the Department of Justice's Juvenile Justice Bulletin was devoted exclusively to the anti-gang initiative in Allegheny County. It described the Task Force's efforts as "impressive." Of the combined efforts of law enforcement and community crime prevention, it stated: "Other communities considering new ways to reduce juvenile justice will surely find both inspirational and practical lessons from the approach described in this Bulletin."

I applaud this imaginative use of federal law enforcement resources and recommend that it be examined by your staff, the Criminal Division and United States Attorneys across the country for appropriate application. To be sure, this effort may not be justified in every community, but it surely can be utilized in those affected by rapacious organizations like the LAW gang.

Sincerely,

Dick Thornburgh

PROSECUTION AND PREVENTION CUT GANG CRIME HERE

Pittsburgh Post-Gazette
Friday, October 3, 1997

By: MICHAEL A. FUOCO, POST-GAZETTE STAFF WRITER
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In 1993, Pittsburgh would have been no one's idea of America's most livable city.

Once able to boast of big-city amenities and a low crime rate, Pittsburgh couldn't do so that year, when 83 murders were recorded, a whopping 84.4 percent higher than 1992. Countywide, the total rocketed to 118, breaking a modern-day record set in 1917.

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But it wasn't just killings that were spurred by youth gangs. Violence had become numbingly common. Gang robberies, drive-by shootings, retaliation and intimidation occurred daily, making some neighborhoods less a place to live than one in which to try to survive.

Pittsburgh, it was apparent, was experiencing the same jump in juvenile crime that had been occurring nationally since 1987.

Everyone - from the woman cowering in her home to the kids ducking bullets in the streets to police to politicians - agreed that something had to be done.

But what? Other major cities had been struggling with gangs, some for decades, with little success. There was no gang suppression model for urban areas to follow.

There is now.

A two-pronged strategy of prosecution and prevention developed here in 1994 has been lauded by the U.S. Justice Department as a model for the nation. The June 1997 Juvenile Justice Bulletin by the department's Office of Juvenile Justice and Delinquency Prevention is devoted to the local strategy, calling it "one in which other communities will surely find both inspiration and practical lessons."

The cooperative effort by law enforcement, prosecutors, grass-roots and community organizations, foundations, corporations, churches, schools and government is heralded as one of the keys to the dramatic drop in the region's violent crimes, a plummet that has outpaced a national decline.

Violent crime in Pittsburgh plunged 18 percent in 1996, compared with a 7 percent drop in the nation's 64 largest cities. And the city's 1996 mark followed a 15.3 percent drop in 1995.

Attorney General Janet Reno announced yesterday that teen arrests for violent crimes nationally plunged 9.2 percent in 1996, the second straight drop after a juvenile crime wave that had risen steadily

for seven years. Studies have shown that gangs commit a disproportionate number of juvenile crimes.

Although local figures on juvenile arrests were not available yesterday, **Assistant U.S. Attorney William C. Snyder said: "In Pittsburgh, the reduction (in gang crimes) seems to be above the national average and we like to think it's because of community involvement and effective prevention and law enforcement."**

Still, no one contends that gangs have been eliminated from the region.

"We need to maintain what we've gained and build upon our gains," said Khalid Raheem, president and chief executive officer of the National Council for Urban Peace and Justice, formerly the Gang Peace Council. "We should never forget the situation we found ourselves in as a city and region five years ago, and need to work to make sure it doesn't happen again."

No denying gangs

Given the gang-related violence of 1993, it may be difficult to recall that there was once a debate over whether street gangs such as the Crips and the Bloods were operating here. In the early 1990s, then-police Chief Earl Buford and other city officials dismissed the notion, referring to young suspects in what appeared to be gang-related shootings and robberies as only "wannabe" gang members.

Still, no matter how the young armed suspects were categorized, the bullets they were firing were deadly enough. And as 1993 came to a bloody end, no one was denying the existence of gangs here.

There was little agreement about what to do about it. The issue became particularly politicized and heated in March 1994 when City Council President Jim Ferlo suggested that council sue then-U.S. Attorney Frederick W. Thieman and Allegheny County District Attorney Bob Colville to force them to take stronger action against youth gangs. With no support from council, Ferlo backed off.

"Everyone was sort of in a panic and pointing fingers," said Thieman, who is now in private practice. He recalled that initiatives were already under way when Ferlo leveled his criticism but, by necessity, were occurring behind the scenes.

Those efforts, and others that would take root in the months to come, would contribute to the decline of gang violence here.

Coordinating efforts

Shortly after taking office in August 1993, Thieman realized that the region's response to gang violence was scattershot and ineffective. Federal, state and local law enforcement agencies were working their own turfs. Politicians were pointing fingers, anxious for results to give to an anxious public. The community and its institutions weren't being involved in any kind of strategy.

Thieman said there were two reasons he stepped forward.

"One was the role of the U.S. attorney: to fight crime. Also, the issue was so politically charged at the time that it was difficult for politicians to touch it. . . . I wasn't a political official, per se, so I had some credibility to do it."

Months before Ferlo's criticism, Thieman had quietly convened a council that included Colville and heads of local, state and federal law enforcement agencies. Christened LEAD - Law Enforcement Agencies Directors - the group met monthly and, putting aside traditional jealousies, created two task forces, one headed by the FBI and the other by the Drug Enforcement Administration, but each including all the local, state and federal agencies. They targeted the Larimer Avenue/Wilkinsburg gang, known as the LAW, the region's most sophisticated street gang.

"Our goal in prosecuting the LAW gang was not only justice for past crimes but also an attempt to prevent future ones," said Snyder, who was assigned to the FBI's Greater Pittsburgh Violent Crimes/Gang Task Force. "It's really prevention through enforcement."

"The other thing we agreed was that law enforcement was only one part of the puzzle," Thieman said. "We wanted to get the worst people off the streets, but we wanted to have a long-term impact on crime."

Early in 1994, Thieman began meeting with a wide spectrum of community institutions and groups and floated his plan to coordinate prevention programs.

On May 5 and 6, a retreat was held at the University Club in Oakland. Among the 45 people attending were Mayor Murphy, Colville, then-Commissioner Tom Foerster, Bishop Donald W. Wuerl and representatives of schools, churches, unions, neighborhood groups, the Pittsburgh Branch of the National Association for the Advancement of Colored People, the Urban League, the United Way, foundations, corporations and law enforcement agencies.

"My take on (the gang problem) was, there was a spigot open in the basement," Thieman said, "and we keep sending more and more police in with mops, and they're running out of places to wring the mops. We needed to make an effort to shut the spigot off."

What came out of the retreat was agreement on a two-pronged strategy, which Thieman described as "getting the worst people off the street and providing opportunities for the others so you don't end up with a cycle." Law Enforcement Agencies Directors would focus on enforcement; prevention would be the responsibility of the Youth Crime Prevention Council, made up of the diverse groups at the retreat.

The problem in the prevention area, the group found, was much like that in the law enforcement arena - a lack of coordination between the numerous prevention and intervention programs providing such services as mentoring, job training and placement, tutoring and family support services.

The council's goal was to coordinate delivery of services so that they could be provided to those who needed them in something akin to "one-stop shopping."

The strategy was in place. Success depended upon a degree of cooperation heretofore unseen in

the region.

Success in the courts

Rick Mosquera was happily surprised in June of this year when he became FBI special agent in charge of the Pittsburgh office.

He learned that under arrest were 53 members of the LAW gang, which had been targeted by the FBI's task force and the DEA's Violent Traffickers Task Force. By the end of September, 40 had been convicted of more than 700 crimes ranging from drug dealing to murder to racketeering.

Mosquera, who has worked in New York and other major cities during his nearly 25 years in law enforcement, said the cooperation he found here was refreshing and the best in the country. "I find it really remarkable that people have set their egos aside to deal with the matter at hand."

"The seeds provided by the prevention programs and community development dollars weren't going to grow unless we could weed out the gangs first," said Snyder, the assistant U.S. attorney. "Prosecuting gang members one at a time could not clean out an area enough for citizens to take control. What was needed was to root out an entire gang at one time."

In addition to the federal prosecutions, Colville's office successfully prosecuted a number of gang members involved in everything from murder to robberies to drugs.

Just as important as the arrests and prosecution, Colville said, is the whole consortium that Fred Thieman built to bolster family support systems. "It's up and running and now we're seeing the fruits of that. The city and county are literally role models."

[missing from Westlaw] -related violence and activities can be attributed to the intensive, hard work of community-based organizations working for violence prevention and intervention, some which belong to the youth council and some which do not." His organization is a member of the council and operates intervention programs such a mentoring in Pittsburgh Public Schools.

"It's important to recognize (that) many young people came to the conclusion on their own that it was time to make a change . . . and turned their lives around and committed themselves" to steering others from gang involvement, he added.

"People never welcomed gang culture with open arms, but many didn't know what to do," he recalled. "They live in a city where even public officials entrusted with protecting them were in a state of denial. Now people are better informed and better organized and are finding ways to adequately respond to the issue. Now you're seeing the results."

"It's literally a case of what you do today bears fruit in five years," Thieman said.

Work continues

Intensive work continues on both fronts.

"Pittsburgh is one of the safest cities in the country and we are committed to keeping it that way," Snyder said.

"But law enforcement is not and never will be a final answer to gang violence," he continued. "It's really a battle of values and passing community values to the next generation. We hope to give people in the community the chance to reassert their values rather than those of drug dealers and gang bangers."

"There's a recognition we have to remain vigilant," said Ernest A. Batista, who heads the DEA's Pittsburgh office, and not just with law enforcement but with the community-based programs."

"This is not the time to be complacent," agreed Richard Garland, who works with youths through the Services for Teens at Risk, a program of Western Psychiatric Institute and Clinic and the Manchester Youth Development Center.

"I don't want people to think we don't have problems. The biggest problem is drugs and alcohol. That causes a lot of violence," said Garland, a former Philadelphia gang member who served time in prison. "I want to caution people that we have another generation coming up and we need to invest in them now, not when we get to a crisis stage like we did in 1993."

A decrease in violent crime

	Number of offenses*
1993	4,482
1994	4,105
1995	3,476
1996	2,849

In 1993, the number of violent crimes in the city soared to 4,482. For the first time, nearly half of the homicides were linked to youth gang activity or drugs. In 1994, a two-pronged strategy of prosecution and prevention was developed here by a wide-ranging group. Not only does that approach appear to be working, but it has been lauded by the U.S. Justice Department as a model for reducing juvenile crime nationwide.

* violent crimes include homicides, rapes, robberies and aggravated assaults.

INFORMATIONAL GRAPHIC: Post-Gazette: (A decrease in violent crime)

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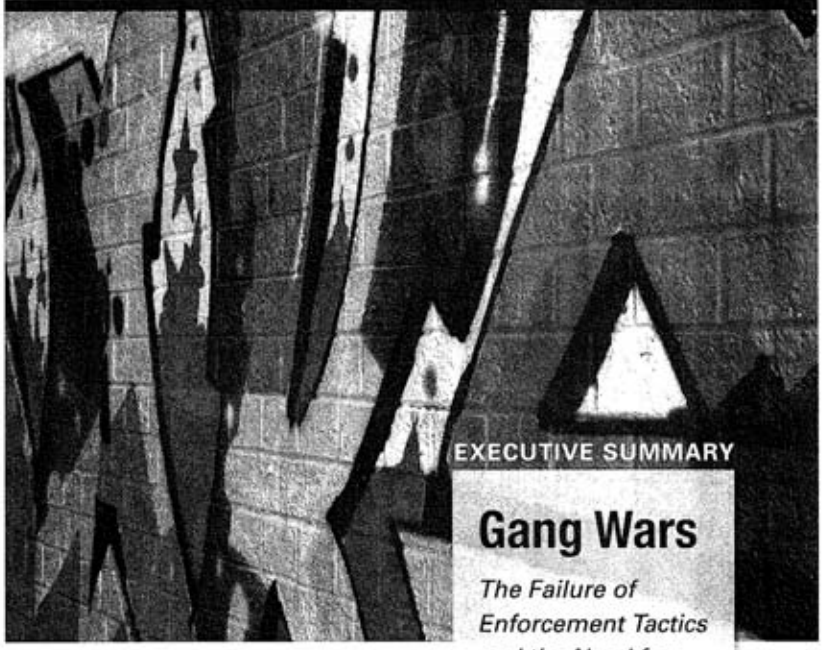


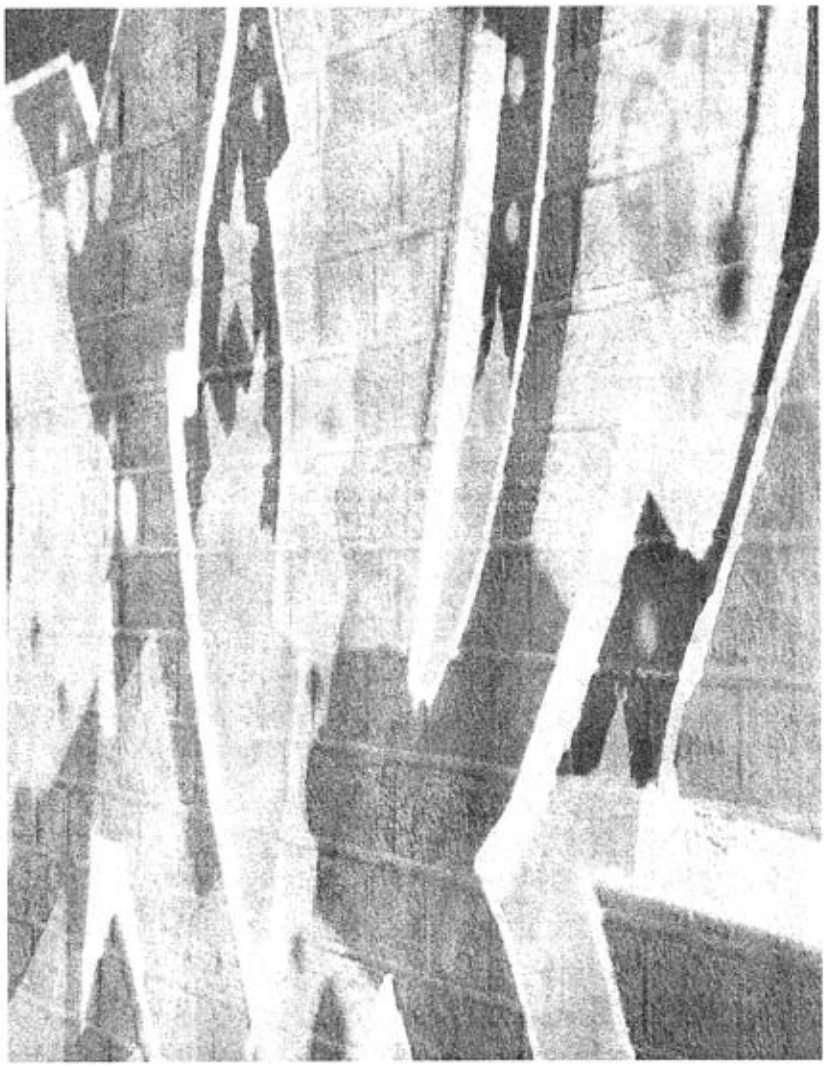
EXECUTIVE SUMMARY

Gang Wars

The Failure of Enforcement Tactics and the Need for Effective Public Safety Strategies

A Justice Policy Institute Report
July 2007

By Judith Greene and Kevin Pranis



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Youth crime in the United States remains near the lowest levels seen in the past three decades, yet public concern and media coverage of gang activity has skyrocketed since 2000. Fear has spread from neighborhoods with long-standing gang problems to communities with historically low levels of crime, and some policy makers have declared the arrival of a national gang "crisis." Yet many questions remain unanswered. How can communities and policy makers differentiate between perceived threats and actual challenges presented by gangs? Which communities are most affected by gangs, and what is the nature of that impact? How much of the crime that plagues poor urban neighborhoods is attributable to gangs? And what approaches work to promote public safety?

This report attempts to clarify some of the persistent misconceptions about gangs and to assess the successes and failures of approaches that have been employed to respond to gangs. We undertook an extensive review of the research literature on gangs because we believe that the costs of uninformed policy making—including thousands of lives lost to violence or imprisonment—are simply too high.

Los Angeles is a case in point. Author and former California state senator Tom Hayden reports that thousands of young people have been killed in Los Angeles gang conflicts despite decades of extremely aggressive gang enforcement. City and state officials have spent billions of dollars on policing and surveillance, on development of databases containing the names of tens of thousands of alleged gang members, and on long prison sentences for gang members. Spending on gang enforcement has far outpaced spending on prevention programs or on improved conditions in communities where gang violence takes a heavy toll.

Los Angeles taxpayers have not seen a return on their massive investments over the past quarter century: law enforcement agencies report that there are now six times as many gangs and at least double the number of gang members in the region. In the undisputed gang capital of the U.S., more police, more prisons, and more punitive measures haven't stopped the cycle of gang violence. Los Angeles is losing the war on gangs.

Absent better information, lawmakers in the nation's capital and across the country risk blindly following in Los Angeles' troubled footsteps. Washington policy makers have tied gangs to terrorism and connected their formation and growth to everything from lax border enforcement to the illicit drug trade. Federal proposals—such as S. 456, the "Gang Abatement and Prevention Act of 2007"—promise more of the kinds of punitive approaches that have failed to curb the violence in Los Angeles.

Gang Wars presents findings from an extensive review of the research literature on gangs and the effectiveness of various policy responses to gang problems.

The following conclusions may surprise those who follow the public discussion on gangs.

Gangs, gang members, and gang activity

There are fewer gang members in the United States today than there were a decade ago, and there is no evidence that gang activity is growing. It is difficult to find a law enforcement account of gang activity that does not give the impression that the problem is getting worse by the day. Yet the most recent comprehensive law enforcement estimate indicates that youth gang membership fell from 850,000 in 1996 to 760,000 in 2004 and that the proportion of jurisdictions reporting gang problems has dropped substantially. The myth of a growing gang menace has been fueled by sensational media coverage and misuse of law enforcement gang statistics, which gang experts consider unreliable for the purpose of tracking local crime trends.

There is no consistent relationship between law enforcement measures of gang activity and crime trends. One expert observes that gang membership estimates were near an all-time high at the end of the 1990s, when youth violence fell to the lowest level in decades. An analysis of gang membership and crime data from North Carolina found that most jurisdictions reporting growth in gang membership also reported falling crime rates. Dallas neighborhoods targeted for gang suppression activities reported both a drop in gang crime and an increase in violent crime during the intervention period.

Gang members account for a relatively small share of crime in most jurisdictions. There are a handful of jurisdictions such as Los Angeles and Chicago where gang members are believed to be responsible for a significant share of crime. But the available evidence indicates that gang members play a relatively small role in the national crime problem despite their propensity toward criminal activity. National estimates and local research findings suggest that gang members may be responsible for fewer than one in 10 homicides; fewer than one in 16 violent offenses; and fewer than one in 20 serious (Index[3]) crimes. Gangs themselves play an even smaller role, since much of the crime committed by gang members is self-directed and not committed for the gang's benefit.

3 One of the eight crimes listed on Part 1 of the Uniform Crime Reports: rape, robbery, murder, aggravated assault, burglary, larceny, theft of a motor vehicle, and arson.

Gangs do not dominate or drive the drug trade. National drug enforcement sources claim that gangs are "the primary retail distributors of drugs in the country." But studies of several jurisdictions where gangs are active have concluded that gang members account for a relatively small share of drug sales and that gangs do not generally seek to control drug markets. Investigations conducted in Los Angeles and nearby cities found that gang members accounted for one in four drug sale arrests. The Los Angeles district attorney concluded that just one in seven gang members sold drugs on a monthly basis. St. Louis researchers describe gang involvement in drug sales as "poorly organized, episodic, nonmonopolistic [and] not a rationale for the gang's existence." A member of one of San Diego's best-organized gangs explains: "The gang don't organize nothing. It's like everybody is on they own. You are not trying to do nothing with nobody unless it's with your friend. You don't put your money with gangs."

The public face of the gang problem is black and brown, but whites make up the largest group of adolescent gang members. Law enforcement sources report that over 90 percent of gang members are nonwhite, but youth survey data show that whites account for 40 percent of adolescent gang members. White gang youth closely resemble black and Latino counterparts on measures of delinquency and gang involvement, yet they are virtually absent from most law enforcement and media accounts of the gang problem. The disparity raises troubling questions about how gang members are identified by police.

Most gang members join when they are young and quickly outgrow their gang affiliation without the help of law enforcement or gang intervention programs. A substantial minority of youth (7 percent of whites and 12 percent of blacks and Latinos) goes through a gang phase during adolescence, but most youth quit the gang within the first year. One multistate survey found that fully half of eighth-graders reporting gang involvement were former members. When former gang members cite reasons why they left the gang, they commonly mention high levels of violence and say that they just grew out of gang activity; only rarely do they cite fear of arrest or criminal penalties.

Most youth who join gangs do so between the ages of 12 and 15, but the involvement of younger children in gangs is not new. Noted expert Malcolm Klein observes: "Although some writers and officials decry the 8- and 10-year-old gang member, they

haven't been in the business long enough to realize that we heard the same reports 20 and 40 years ago."

Leaving the gang early reduces the risk of negative life outcomes, but current policies make it more difficult for gang members to quit. Gang involvement is associated with dropping out of school, teen parenthood, and unstable employment, but the risks are much smaller for those who leave the gang in a year or less. Yet little attention has been devoted to why and how youth leave gangs, and many gang control policies make the process of leaving more rather than less difficult by continuing to target former members after their gang affiliation has ended. Researchers note: "Police and school officials may not be aware of the decision of individuals to leave the gang or may not take such claims seriously, and records may not be purged of prior gang status.... When representatives of official agencies (e.g., police, school) identify an individual as a gang member, they are sending a powerful signal to rival gang members as well as to people in the community about the gang involvement of that person."

Gang enforcement

The record of law enforcement antigang efforts provides little reason for optimism. Media reports are full of stories about cities where crime goes up, a crackdown is launched, and crime goes down. But a review of research on the implementation of gang enforcement strategies—ranging from neighborhood-based suppression to the U.S. Justice Department Office of Juvenile Justice and Delinquency Prevention's Comprehensive Gang Program Model—paints a very different picture. Findings from investigations of gang enforcement efforts in 17 jurisdictions over the past two decades yield few examples of success and many examples of failure.

The problems highlighted in the research include:

- Lack of correspondence between the problem, typically lethal and/or serious violence, and a law enforcement response that targets low-level, nonviolent misbehavior.
- Resistance on the part of key agency personnel to collaboration or implementation of the strategy as designed.
- Evidence that the intervention had no effect or a negative effect on crime and violence.
- A tendency for any reductions in crime or violence to evaporate quickly, often before the end of the intervention period.
- Poorly designed evaluations that make it impossible to draw any conclusions about the effect of an intervention.
- Failure of replication efforts to achieve results comparable to those of pilot programs.
- Severe imbalances of power and resources between law enforcement and community partners that hamper the implementation of "balanced" gang control initiatives.

The literature survey also yielded the following findings concerning typical gang enforcement initiatives:

Police gang units are often formed for the wrong reasons and perceived as isolated and ineffectual by law enforcement colleagues. A survey of 300 large cities found that the formation of gang units was more closely associated with the availability of funding and the size of the Latino population than with the extent of local gang or crime problems. An in-depth study of four cities determined that gang units were formed in response to "political, public, and media pressure" and that "almost no one other than the gang unit officers themselves seemed to believe that gang unit suppression efforts were effective at reducing the communities' gang problems." Investigators found that gang officers were poorly trained and that their units became isolated from host agencies and community residents. The chief of one police department admitted that he had "little understanding of what the gang unit did or how it operated." The authors observed that the isolation of gang units from host agencies and their tendency to form tight-knit subcultures—not entirely unlike those of gangs—may contribute to a disturbingly high incidence of corruption and other misconduct.

Heavy-handed suppression efforts can increase gang cohesion and police-community tensions, and they have a poor track record when it comes to reducing crime and violence. Suppression remains an enormously popular response to gang activity despite concerns by gang experts that such tactics can strengthen gang cohesion and increase tension between law enforcement and community members. Results from Department of Justice–funded interventions in three major cities yield no evidence that a flood of federal dollars and arrests had a positive impact on target neighborhoods. St. Louis evaluators found that dozens of targeted arrests and hundreds of police stops failed to yield meaningful reductions in crime in the targeted neighborhoods, even during the period of intense police activity. Dallas residents saw

the incidence of "gang-related" violence fell in target areas but had little to celebrate because the overall violent crime numbers rose during the intervention period. Detroit evaluators reported initial reductions in gun crimes within two targeted precincts, but the apparent gains were short-lived: by the end of the intervention period, the incidence of gun crime in target areas was at preintervention levels and trending upward.

"Balanced" gang control strategies have been plagued by replication problems and imbalances between law enforcement and community stakeholders. Gang program models that seek to balance suppression activities with the provision of social services and supports have been piloted in Boston and Chicago with some success. But the results of attempts to replicate Operation Ceasefire and the Comprehensive Gang Program Model in other jurisdictions have been disappointing. Replications of the Ceasefire model in Los Angeles and Indianapolis produced no evidence that efforts to disseminate a deterrence message had changed the behavior of gang members. Meanwhile, replications of the Chicago model in five cities produced mixed results, with just two sites reporting reductions in participants' violent behavior that approached statistical significance. Prevention and intervention appeared to lag far behind suppression efforts in the many sites. The Los Angeles Ceasefire evaluators concluded: "We suspect that *the carrot side of these interventions will always lag far behind the stick side* in spite of the best intentions that it not do so, unless some extraordinary efforts are made" (emphasis added). A recent analysis concluded that two-thirds of resources expended on gang reduction in Los Angeles have gone to suppression activities.

African American and Latino communities bear the cost of failed gang enforcement initiatives. Young men of color are *disproportionately* identified as gang members and targeted for surveillance, arrest, and incarceration, while whites—who make up a significant share of gang members—rarely show up in accounts of gang enforcement efforts. The Los Angeles district attorney's office found that close to half of black males between the ages of 21 and 24 had been entered in the county's gang database even though no one could credibly argue that all of these young men were current gang members. Communities of color suffer not only from the imposition of aggressive police tactics that can resemble martial law, but also from the failure of such tactics to pacify their neighborhoods. One researcher argues that in Chicago, for example, a cycle of police suppression and incarceration, and a legacy of segregation, have actually helped to *sustain* unacceptably high levels of gang violence.

Positive public safety strategies

This report does not endorse any particular program or approach for reducing the damage done by gangs and gang members. Instead, it points toward effective actions we can take to reduce youth violence. The most effective route toward reducing the harm caused by gangs requires a more realistic grasp of the challenges that gangs pose. The objective should not be to eradicate gangs—an impossible task—but rather to promote community safety. As one community stakeholder observes, "The problem is not to get kids out of gangs, but the behavior. If crime goes down, if young people are doing well, that's successful."

One city that never embraced the heavy-handed suppression tactics chosen elsewhere has experienced far less gang violence. In New York City, a variety of street work and gang intervention programs were fielded decades ago during a period when gang violence was on the rise. These strategies were solidly grounded in principles of effective social work practices that fall outside the realm of law enforcement, and they seem to have helped dissuade city policy makers and police officials from embracing most of the counterproductive gang suppression tactics adopted elsewhere. No seasoned New Yorker would deny the existence of street gangs. But gang-related offenses represent just a tiny blip on the New York crime screen. Gang experts conclude that the city's serious problem with street gang violence had largely faded away by the end of the 1980s. Youth violence remains a problem in some New York City neighborhoods, but with crime falling to historic lows, the city's approach to gangs and youth crime seems to be remarkably effective.

There is no "magic bullet" to end gang crime, but both the lessons from the past and results from research on more recent innovations in juvenile justice policy point toward more effective public safety strategies:

- **Expand the use of evidenced-based practice to reduce youth crime.** Evidenced-based practices are those interventions that are scientifically proven to reduce juvenile recidivism and promote positive outcomes for young people. Rather than devoting more resources to gang suppression and law enforcement

tactics, researchers recommend targeting funding to support research-based programs operated by agencies in the health and human services sector. As Peter Greenwood, former director of the RAND Corporation's Criminal Justice Program and an evaluator of Operation Ceasefire in Los Angeles, notes, "Delays in adopting proven programs will only cause additional victimization of citizens and unnecessarily compromise the future of additional youth."

• **Promote jobs, education, and healthy communities, and lower barriers to the reintegration into society of former gang members.** Many gang researchers observe that employment and family formation help draw youth away from gangs. White youth have greater access to jobs and education, which may explain why there are many white gang members but little discussion of a chronic white gang problem. Creating positive opportunities through which gang members can leave their past behind is the best chance for improving public safety. This requires both investing resources and reforming policies and practices that now deny current and former gang members access to these opportunities.

• **Redirect resources from failed gang enforcement efforts to proven public safety strategies.** Gang injunctions, gang sweeps, and ominous-sounding enforcement initiatives reinforce negative images of whole communities and run counter to the positive youth development agenda that has been proven to work. Rather than promoting antigang rhetoric and programs, policy makers should expand evidence-based approaches to help former gang members and all youth acquire the skills and opportunities they need to contribute to healthy and vibrant communities.

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Gangs Grow, But Hard Line Stirs Doubts

By DELORON MOORE

SALISBURY, N.C. — The party ended when a group of teenage boys shouted the name of their gang over the sound system: "Westside!" Across the dance floor another clutch of youths responded in kind: "Eastside!"

As more than 200 partygoers emptied onto the parking lot that March night, an argument between the two gangs devolved into a street-wide. The police arrived to find the crumpled body of a 15-year-old girl, Treasure Pearmon, an innocent bystander.

The killing here, 35 miles from Charlotte, has helped rally support in North Carolina for a Los Angeles-style crackdown on gangs.

At least 38 states have passed hard-line laws similar to those pioneered in the 1980s by Los Angeles, and enacted statewide in California. The laws prohibit public gatherings of two or more people suspected of being gang members; establish databases to track gang members; deploy broad sweeps of suspects; and lengthen prison sentences for gang-related crimes.

But even as lawmakers in Raleigh have worked to create a similar gang law, doubts have

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been raised across the country about the value of the sequence.

A growing number of law enforcement officials, including those in Los Angeles, suggest that such aggressive suppression tactics may worsen some gang problems by alienating whole groups of people from the police and marking persons with felonies of young people, many of whom are complemented into hardcore gang members while incarcerated.

"L.A. has this approach of being tough on crime," said Craig Watkins, the district attorney in Dallas, where some Los Angeles-style tactics are being voted back. "But the result of that is overflowing prisons, high crime rates and increasing numbers of gang members. Now we want to be smart as crime."

Large-scale arrests have been a key component of Los Angeles's swagger approach for more than 20 years. Chief Constance L. Rice, director of the Advancement Project, a liberal group founded by civil rights lawyers that focuses on racial justice issues, says that in the last decade, the authorities throughout Los Angeles County have arrested more than 100,000 gang members, Ms. Rice said, while gang membership doubled.

Earl C. Paysinger, an assistant police chief and operations director for the Los Angeles Police Department, said the department's "aggressive gang suppression" was appropriate for gang members "whose sole purpose is to create havoc on the community."

But Chief Paysinger said the department had not been discriminating enough in dealing with people suspected of being gang members who pose a lesser threat. He said a new strategy was beginning to take hold among the department's twelve gangs.

He said the police in Los Angeles were now focusing more on prevention and intervention before making arrests. Officers conduct more visits to the homes of possible gang members to encourage parents to become involved. Chief Paysinger said and the department has made it easier for youngsters to purge their tattoos from a gang, thereby ending stop-and-off trouble.

"During my career I've probably arrested tens of thousands of gang members," he said. "They doesn't work, and now we're doing what we can to, as my mentor Florida states."

In Dallas, Mr. Watkins has structed prosecutors to be increasingly selective when treating prison sentences against young gang members who may benefit from rehabilitation programs. In June, the Texas Legislature approved $270 million for new prisons, but also $100 million for drug treatment and rehabilitation programs.

"In Texas, we tried to lock gang members up and not worry about them anymore," Mr. Watkins said. "Now we want to lock them up, but we want to fix them."

In Boston, Police Commissioner Edward F. Davis said the de-

A killing in March caused anti-gang sentiment in Salisbury.

Police officers in Charlotte, N.C., above, questioning residents in an apartment complex where where gang members are thought to live.

partment had increased its force in violent offenders.

"We clearly don't participate in a wide net of arrests," Mr. Davis said. "What we're trying to do is to be very focused on those individuals who are actually doing the ...."

But the tough approach will has great appeal in many towns, especially those where serious gang problems are relatively new. State lawmakers here in North Carolina are working on legislation that would define a gang as any group of three or more people who final together for the "primary purpose" of committing a crime.

An early version of the bill included a provision that would have focused on gang members as young as 11. This part of the bill was eventually dropped, but it was an indication of the strong sentiment at a time law-and-order issues.

"This is organized crime, and you don't let bad apples have to begin organized crime is trying to break up the mafia, we need laws to break up the gangs," said Patrick L. McCrory, the mayor of Charlotte. "It's more than just selling drugs and participating in violence. These are coordinated and strategic acts within a structure, and you have to go after that structure."

But some critics in North Carolina worry that the proposed law would worsen racial profiling in a state where African-Americans are less than a quarter of the population but account for nearly 60 percent of state prison inmates.

"It's to be feared that it's going to catch a lot of young men or women who have nothing to do with gangs," said the Rev. Lucius I. Adams, director of the Raleigh Law Convention Task Force, a group in Raleigh that works to keep youths out of gangs.

In Charlotte, the state's most populous and violent city, the police already take a hard-line approach to gang crime, and there have been complaints of racial profiling.

The Charlotte police staged an independence Day sweep, arresting 28 juveniles and 42 adults. Of the adults, 32 were African-American. Civil rights advocates and African-American activists clamored for an apology the next day, assuring the roundup had been racially motivated and had snared innocent bystanders.

Harvey Holden, with his mother, Lilly, says he joined a gang after his second suspension from school. He now has a youth counselor. Left, a house in Salisbury, N.C., covered with gang graffiti.

Instead, Mayor McCrory, who is white, issued a public letter that thanked the police for their "assertive law enforcement" and stated about young black people in our city during Fourth of July the holiday.

"This disturbing trend which was strongly felt last night while observing the thousands of youth in Uptown City is the following," Mr. McCrory wrote. "Too many of our youth, primarily African-Americans, are mistaking violence participating in a gang into type of fitness, attitude, behavior and action."

A spokeswoman for the Charlotte police, Julie Hall, said that all of those arrested on July 4 had been charged with crimes, including juvenile curfew violations, disorderly conduct, unlawfully public gatherings and gun violations. A police report said that several of those arrested had been seen wearing gang clothing.

In a recent interview, Mr. McCrory, a Republican, said that young black men are affiliated with groups could easily be recruited for gang membership.

"If they act and dress like a gang member, most people will assume they are a gang member, and that's not beneficial for anyone," he said. "This generation is tough to separate out — whether that's fair or not, that's the truth."

After the death of Treasure Pearmon here in Salisbury, the police chief, Mark Williams, arrested several hundred teenagers and participants that his police force would be "tougher on the young people" to fight gang violence.

Detractors said the police when another high-profile gang violence like the killing in Charlotte the need for younger gang