

**COMBATING GANG VIOLENCE IN AMERICA:  
EXAMINING EFFECTIVE FEDERAL, STATE AND  
LOCAL LAW ENFORCEMENT STRATEGIES**

---

---

**HEARING**

BEFORE THE

**COMMITTEE ON THE JUDICIARY**

**UNITED STATES SENATE**

**ONE HUNDRED EIGHTH CONGRESS**

**FIRST SESSION**

—————  
**SEPTEMBER 17, 2003**

—————  
**Serial No. J-108-42**

Printed for the use of the Committee on the Judiciary



U.S. GOVERNMENT PRINTING OFFICE

93-250 PDF

WASHINGTON : 2004

---

For sale by the Superintendent of Documents, U.S. Government Printing Office  
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800  
Fax: (202) 512-2250 Mail: Stop SSOP, Washington, DC 20402-0001

COMMITTEE ON THE JUDICIARY

ORRIN G. HATCH, Utah, *Chairman*

CHARLES E. GRASSLEY, Iowa	PATRICK J. LEAHY, Vermont
ARLEN SPECTER, Pennsylvania	EDWARD M. KENNEDY, Massachusetts
JON KYL, Arizona	JOSEPH R. BIDEN, JR., Delaware
MIKE DEWINE, Ohio	HERBERT KOHL, Wisconsin
JEFF SESSIONS, Alabama	DIANNE FEINSTEIN, California
LINDSEY O. GRAHAM, South Carolina	RUSSELL D. FEINGOLD, Wisconsin
LARRY E. CRAIG, Idaho	CHARLES E. SCHUMER, New York
SAXBY CHAMBLISS, Georgia	RICHARD J. DURBIN, Illinois
JOHN CORNYN, Texas	JOHN EDWARDS, North Carolina

BRUCE ARTIM, *Chief Counsel and Staff Director*

BRUCE A. COHEN, *Democratic Chief Counsel and Staff Director*

# CONTENTS

## STATEMENTS OF COMMITTEE MEMBERS

	Page
Durbin, Hon. Richard J., a U.S. Senator from the State of Illinois .....	4
Feinstein, Hon. Dianne, a U.S. Senator from the State of California .....	3
Hatch, Orrin G., a U.S. Senator from the State of Utah, prepared statement ..	92
Leahy, Hon. Patrick J., a U.S. Senator from the State of Vermont, prepared statement .....	103
Sessions, Hon. Jeff, a U.S. Senator from the State of Alabama .....	1

## WITNESSES

Ashley, Grant D., Special Agent, Assistant Director, FBI Criminal Investiga- tive Division, Washington, D.C. ....	11
Christie, Christopher J., U.S. Attorney, District of New Jersey, Newark, New Jersey .....	9
Fitzgerald, Patrick, U.S. Attorney, Northern District of Illinois, Chicago, Illi- nois .....	5
Jordan, Eddie J., Jr., District Attorney, District of New Orleans, New Orle- ans, Louisiana .....	21
McBride, Wesley D., President California Gang Investigators Association, Huntington, Beach, California .....	25
McCulloch, Robert P., President, National District Attorneys Association, Al- exandria, Virginia .....	23
Yang, Debra W., U.S. Attorney, Central District of California, Los Angeles, California .....	7

## QUESTIONS AND ANSWERS

Responses of Christopher J. Christie to questions submitted by Senators Chambliss and Leahy .....	36
Responses of Patrick Fitzgerald to questions submitted by Senators Chambliss and Leahy .....	43
Responses of Debra W. Yang to questions submitted by Senator Chambliss .....	50
Responses of Robert P. McCulloch to a question submitted by Senator Leahy ..	55
Responses of Eddie J. Jordan to questions submitted by Senator Leahy .....	56

## SUBMISSIONS FOR THE RECORD

Ashley, Grant D., Special Agent, Assistant Director, FBI Criminal Investiga- tive Division, Washington, D.C., prepared statement .....	58
Christie, Christopher J., U.S. Attorney, District of New Jersey, Newark, New Jersey, prepared statement .....	72
Fitzgerald, Patrick, U.S. Attorney, Northern District of Illinois, Chicago, Illi- nois, prepared statement .....	82
Jordan, Eddie J., Jr., District Attorney, District of New Orleans, New Orle- ans, Louisiana, prepared statement .....	93
McBride, Wesley D., President California Gang Investigators Association, Huntington, Beach, California, prepared statement .....	105
McCulloch, Robert P., President, National District Attorneys Association, Al- exandria, Virginia, prepared statement .....	108
Yang, Debra W., U.S. Attorney, Central District of California, Los Angeles, California, prepared statement .....	118



**COMBATING GANG VIOLENCE IN AMERICA:  
EXAMINING EFFECTIVE FEDERAL, STATE  
AND LOCAL LAW ENFORCEMENT STRATE-  
GIES**

---

**WEDNESDAY, SEPTEMBER 17, 2003**

UNITED STATES SENATE,  
COMMITTEE ON THE JUDICIARY,  
*Washington, D.C.*

The Committee met, pursuant to notice, at 2:00 p.m., in Room SD-226, Dirksen Senate Office Building, Hon. Jeff Sessions presiding.

Present: Senators Sessions, Feinstein, and Durbin.

**OPENING STATEMENT OF HON. JEFF SESSIONS, A U.S.  
SENATOR FROM THE STATE OF TEXAS**

Senator SESSIONS. Good afternoon. We're glad you are here. It is a good looking panel out there. As a former United States Attorney, it's the best looking panel I think I have ever seen, three out of the four of you there.

I would like to welcome everyone to this important hearing on the issue of the problem of gang violence in America. Chairman Hatch very much wanted to chair this hearing but was not able to do so today. It was just unavoidable and he asked me to do so. I look forward to that.

The problem of gang violence is not a new one, nor is it a problem limited only to the urban areas. Once thought to be only a problem of our Nation's largest cities, gangs have invaded smaller communities. I have seen that personally in Alabama.

Gangs in America are no longer the romanticized, movie-like characters depicted in "West Side Story". In reality, gangs now resemble organized crime syndicates, who readily engage in gun violence, illegal gun trafficking, illegal drug trafficking, and other serious crimes.

All too often we read in the headlines about gruesome and tragic stories of rival gang members gunned down, with innocent bystanders, adults and teenagers and children caught in the cross fire of gangland shootings, and family members crying out in grief as they lose loved ones to the gang wars plaguing our communities.

Recent studies confirm that gang violence is an increasing problem in all of our communities. Based on the latest available national youth gang survey, it is now estimated that there are more than 25,000 gangs and over 750,000 gang members who are active in more than 3,000 jurisdictions throughout the United States.

Current surveys now show that gang activity is once again on the rise.

While we are all committed to fighting the global war on terrorism, we must redouble our efforts to ensure that we devote sufficient resources to combatting this important national problem.

I have been and remain committed to supporting Federal, State and local task forces as a model for effective gang enforcement. Working together, these task forces have demonstrated they can make a difference in the communities. We must act in a bipartisan fashion to ensure that adequate resources are available to all of our communities to expand and fund these critical task force operations.

I am also mindful of the fact that, to be successful in reducing gang violence, we must address not only effective law enforcement strategies, but we also must take steps to protect our youth so that the next generation does not fall into the abyss of gang life which so often includes gun violence, drug trafficking, and other serious crimes.

The young people of our cities need to be steered away from gang involvement. We need to ensure that there are sufficient tools to intervene in the lives of these troubled youth. Federal involvement is crucial to the control of gang violence and to prevent new gang members from replacing old gang members.

I would just add parenthetically that I had the honor to represent Senator Hatch this morning before the National Conference of the Boys and Girls Clubs of America, which I think is one of the most cost-effective methods that this country has, probably the most. The National Center for Philanthropy has rated the Boys and Girls Club number one for youth activities and in helping youth for the ninth consecutive year. But there are programs like that that are important, that are receiving both local support and are receiving support from the Federal Government.

So we must take a proactive approach to solving this problem. We need to educate ourselves and redouble our efforts to fight gang violence. If we really want to reduce gang violence, we need to ensure that law enforcement has adequate resources and legal tools, and that our communities have the ability to implement proven intervention and prevention strategies so that gang members who are removed from the community are not simply replaced by the next generation of new gang members.

So I want to take a few moments here to express my appreciation for Senator Feinstein. She has worked with Senator Hatch and I in the past on gang legislation, and I expect she will be able to join us later on today.

So, without further ado, I would be delighted to hear from our panelists. I believe there is much that we can do to deal with this problem. I would like very much to hear from you, your ideas and suggestions on the current situation on the streets of America.

Senator Feinstein, it's good to see you. I just made reference to your interest in this issue for a number of years. I was just going to the panel, but now I would be delighted if you would like to make some comments before we do that.

**STATEMENT OF HON. DIANNE FEINSTEIN, A U.S. SENATOR  
FROM THE STATE OF CALIFORNIA**

Senator FEINSTEIN. Thank you very much, Mr. Chairman.

I would really like to make some comments. I would like to thank Chairman Hatch for holding this hearing, and you for chairing it. I understand the Chairman had a small accident and hopefully he's fine.

In 1996, Chairman Hatch was good enough to join me in my efforts to address this problem through legislation. In that year we introduced our first bill, in April, and we have been trying to get at this ever since. We have introduced legislation in each of the last four Congresses—the 4th, the 5th, the 6th and the 7th. Our efforts have focused on targeting those who recruit and use minors in gang crimes, and those who travel in interstate commerce to further gang activity.

We have also worked to provide for more cooperation between Federal and local officials, and to make it easier for prosecutors to go after gang members who commit serious or violent crimes on behalf of their gangs.

Now, so far we have not succeeded. We did offer an anti gang amendment to the juvenile justice bill in the 106th Congress. That passed 96–3. The legislation never made it to the President's desk for other reasons. So the problem has just gotten worse.

For example, in 2002, there were over 650 homicides in Los Angeles in that year. Half of them were gang related. Homicides are up 11 percent over last year. And law enforcement believes that much of this increase is due to gang activity. There are more than 100,000 gang members and associates in Los Angeles, and at least 200 active gangs there.

I am often struck by how vicious gang crimes can be and how damaging they are to their victims. I want to just give you a couple of examples.

In 2000, gang members tried to rob a passerby with an assault weapon from their car. When the victim resisted, the gang shot the victim 17 times. Only two months before that, two rival gangs had a shootout in San Francisco's Mission District and an innocent bystander was caught in the cross fire and shot through both legs. I mean, I have seen stories of weapons fired, bullets going through walls from gangs, killing children in their beds, killing a grandmother ironing at her ironing board. I walked around a block in Los Angeles where, in a two-week span, about seven people had been shot dead by gangs.

The evolution of gangs is interesting. In 1980, there were gangs in 286 jurisdictions. Today, they're in 1,500 jurisdictions throughout the United States. In 1980, there were about 2,000 gangs; today, there are 26,000 different gangs. In 1980, there were about 100,000 gang members; today, there are more than 800,000 gang members in the United States.

In addition, gangs have gone from relatively disorganized groups of street toughs to highly disciplined, hierarchical corporations, often encompassing numerous jurisdictions. That's where we come in.

For example, the Gangster Disciples has a chairman of the board, two boards of directors, one for prisons and one for streets,

governors, regents, area coordinators, enforcers and “shorties”, the youth who staff drug selling sites and help with drug dealers.

For 1987 to 1994, this gang was responsible for killing more than 200 people. One-half of their arrests were for drug offenses, and only one-third for nonlethal offenses.

In 1996, the Gangster Disciples Nation and other Chicago based gangs were in 110 jurisdictions in 35 States. I am delighted the Senator from Illinois has just come in. Southern California based gangs are equally well dispersed. In 1994, gangs claiming affiliation with the Bloods or Crips, both of whom are based in southern California, were in 180 jurisdictions in 42 States.

As a result of such dispersal, violent criminal gangs can be found today in rural areas. Washington State law enforcement has told us about one gang member they traced from Compton, CA to San Francisco, then to Portland, Seattle, Billings, and finally to Sioux Falls, SD.

The Justice Department has found that from the seventies to the nineties, the number of small cities or towns—those with populations of less than 10,000—with gangs increased by 15 to 39 times. This is a larger relative increase than for cities with populations larger than 10,000.

Now, as they have increased, so have all forms of violence. I don’t want to take any more time, but I can go on with that.

What I want to do—and I think Chairman Hatch has agreed—is make it a Federal crime to recruit as juvenile into a gang that crosses State lines, that commits certain crimes, and subject that to a minimum sentence of three years—the recruitment of as juvenile to a gang. We have to stop this. The killings just can’t go on. They are wanton, they are evil.

The two Williams sisters, great tennis stars, just had their half-sister slain in what looks like it might have some relationship to gang activity. It goes on and on and on. So I am hopeful that the Chairman and I will finally be able to move this bill. Our original bill established some racketeering statute predicates for gang crimes. I know the Chairman wants to go in a slightly different way now, which is fine with me. But I think we really need to get this bill moving and out.

I thank you very much for the opportunity.

Senator SESSIONS. Thank you, Senator Feinstein. You are knowledgeable and have been committed to that.

Senator Durbin, you have a U.S. Attorney here, and if you have any opening comments, we would be glad to hear those.

**STATEMENT OF HON. RICHARD J. DURBIN, A U.S. SENATOR  
FROM THE STATE OF ILLINOIS**

Senator DURBIN. Thank you, Senator Sessions, and thank you for presiding over this hearing, and I am particularly honored that U.S. Attorney Patrick Fitzgerald of the Northern District of Illinois is here. My colleague, Senator Peter Fitzgerald, as they often say in the newspaper, “no relation,” appointed him as U.S. Attorney. He has done a terrific job, and I was happy to support his nomination.

I am glad that we are going to broach this topic. 25 percent of gang members nationwide are in Los Angeles, LA County and Chi-



ago. I am pleased that the two U.S. Attorneys from these areas are going to tell us about their strategies to deal with gang crime. Chicago is a great city. I am honored to represent it and glad every moment I spend there. It is heartbreaking when you look at the murder rate in this city, and particularly when you see the victims, kids, innocent kids caught in gang cross-fire, some kids mistakenly or for whatever reason drawn in to these gang battles, and it just breaks your heart to see it. Mayor Daley has been very responsive to this as has State's Attorney Dick Devine and U.S. Attorney Patrick Fitzgerald. But I think we need to do more.

We lost 650 people last year as victims of homicide in Chicago, three times the number of New York. It breaks my heart to say that, but it is a fact, and we have to deal with it squarely.

There is an issue here that is part of this conversation that I hope to raise that some members do not want to talk about and that is, where are they getting the firearms they are using to kill other people? I think that has to be part of this conversation, and if we do not have an honest discussion about that, we are addressing only part of the problem. Let us be honest enough to address it completely.

Thank you.

Senator SESSIONS. We are pleased to have a panel today who can answer some of the questions raised for sure. We have two panels. Our first panel will have three United States Attorneys and the Assistant Director of the FBI. Mr. Patrick Fitzgerald is a United States Attorney from the Northern District of Illinois; Ms. Debra Yang is the United States Attorney for the Central District of California; and Mr. Christopher Christie is United States Attorney for the District of New Jersey. Mr. Grant Ashley is an Assistant Director of the FBI for the Criminal Investigative Division. All of these witnesses have extensive experience combating gang violence and will bring unique perspective to the problems. So if there are no further comments—

Senator FEINSTEIN. Mr. Chairman, would you just allow me to welcome Ms. Yang?

Senator SESSIONS. Yes, please.

Senator FEINSTEIN. I came in here very fast and did not realize that you were here. As you know, she is U.S. Attorney over a huge Los Angeles office, and I just want her to know how welcome she is. Thank you.

Senator SESSIONS. Mr. Fitzgerald?

**STATEMENT OF PATRICK FITZGERALD, UNITED STATES ATTORNEY, NORTHERN DISTRICT OF ILLINOIS, CHICAGO, ILLINOIS**

Mr. FITZGERALD. Thank you, Senator. Good afternoon. My name is Pat Fitzgerald, and I am the United States Attorney for the Northern District of Illinois. It is truly an honor to appear before this Committee and I am very gratified that we are having this hearing on this particular problem.

I think when you look at the problem that plagues America these days of violence, but particularly urban violence, both in cities as large as Chicago and in smaller urban areas, we have to recognize that the problem of violence has three different legs: gangs, drugs

and guns, and often we do not pay enough attention to that leg of the problem that consists of gangs.

I will briefly talk about some statistics. Senator Durbin already mentioned that we have a homicide rate in Chicago last year three times the per capita rate of New York, and of those homicides, so far this year it is estimated that 45 percent are gang related. Last year it was estimated that 60 percent were gang related. That is a serious problem.

The chilling statistic made real is to learn that it has been estimated that every two weeks a Chicago Public School student loses his life or her life to gun violence, and since school opened several students have been shot. Yesterday a 15-year-old was killed in Chicago as a result of that violence.

I think if we look at the statistics, Senator Feinstein mentioned the Gangster Disciples. One chilling fact is to look back that in 1995 during a Federal search of the Gangster Disciples, a membership list was recovered of employees that listed 7,000 people working for the Gangster Disciples, selling drugs, almost half the size of the Chicago Police Department. That puts in perspective precisely what Senator Sessions said. This is not about West Side Story. This is an organized crime syndicate that is very well organized and very violent.

The other chilling fact is to look at how gangs can corrupt. Just a few weeks ago we arrested several prison officers in an Illinois jail, one of whom was a gang member himself, who was bringing drugs in to 9 different gang members in jail, 6 of whom had been convicted of murder. We have prosecuted police officers who were working with other police officers to steal drugs from gangs and sell them. Gangs are extensive, they are violent and they corrupt.

In looking at the problem of violence we recognize that every time we went after the problem of guns we ended up looking at gangs as well. We recognize that when we went after the problem of drugs, we looked at gangs as well. We recognize we also have to focus on gangs as gangs.

In my own office we have restructured the Narcotics Section to become the Narcotics and Gangs Section. Half the attorneys work with agents and police to work on national and international cartels. The other half work on gang cases. But we recognize they run into each other all the time because the gangs are the source of supply for those cartels.

One thing we have done is we have recognized that this has to be a bipartisan Federal, State and local joint effort. We are working extremely well with the State's Attorney's Offices in Illinois, particularly Dick Devine, the Cook County State's Attorney. We are working well with the Federal agencies and the local agencies to partner together. We form gang strategy teams to make sure we share information that the FBI develops as part of its investigations, that DEA develops, that ATF develops and the local police, to make sure we are doing the best we can with our resources to focus on those gangs and the leadership of those gangs.

We are taking advantage of the Project Safe Neighborhoods' effort against guns to go after the worst offenders in particular districts, with special emphasis on four districts in Chicago that seem to be the most violent. We are sitting down jointly with State pros-

ecutors, the Chicago Police Department and ATF and saying, "Who are the worst offenders most likely to kill," and selecting them for Federal prosecution as a joint decision in making sure that we send those people away for the harsher sentences.

We also recognize that half the battle is to deter people from joining gangs and carrying guns. So we are having parolee forums, where we meet with parolees as they are released from prison, 30 at a time, and present them with two stark images, what will happen to them if we catch them breaking the law and carrying a gun and what the alternatives are.

We recognize that the effort has to be joint. We cannot do it alone and the State and local authorities cannot do it alone, and it is a true partnership. It is not about seeing who gets credit and what court the case is prosecuted in. The mandate is to get results.

I think the most important thing we can do is to make sure we keep up that fight on a bipartisan, Federal, State and local effort as a joint effort, and recognize that gangs are at the core of the problem, and send the message out that if people participate in gangs they will get our attention and that we will bring prosecutive efforts.

The message of hope that we can get from some examples besides the rate of violence in Chicago is what we saw in Joliet, another city in my district, where the FBI went after some gang members and went after particular offenders associated with gangs a couple of years ago. As a result of those prosecutions, we saw the rate of shootings drop 40 percent and murders drop 50 percent. We saw that in another city, another area in the district in Aurora. So we recognize that there is hope, that by being smart and by focusing our efforts correctly and working together, we can see results as to what is an extremely vexing problem that plagues my district but really the whole country.

Thank you.

[The prepared statement of Mr. Fitzgerald appears as a submission for the record.]

Senator SESSIONS. Thank you, Mr. Fitzgerald. I would just add that I definitely agree that well-applied law enforcement can make communities safer. At one point we got to the view somehow that nothing we did made any difference, but it does made a difference. It is done in New York and Boston, and some Alabama areas I know about it made a difference, and I appreciate your leadership.

U.S. Attorney Yang.

**STATEMENT OF DEBRA W. YANG, UNITED STATES ATTORNEY,  
CENTRAL DISTRICT OF CALIFORNIA, LOS ANGELES, CALI-  
FORNIA**

Ms. YANG. Thank you, Chairman, and thank you for having us here today, and other members of the Subcommittee.

I am Debra Yang, and I am the United States Attorney in Los Angeles. I cover the Central District of California which encompasses about 17 million people.

I have to say that I am extremely gratified that we are discussing this subject today. On a personal note, as a young girl growing up in Chinatown I was surrounded by Asian gangs and always told to stay away from a particular group called the Hua

Ch'iao, who are still currently in existence, if not even stronger now. And when I moved on to junior high school there were gangs there by the name of avenues, Frogtown, Tuners, that I also tried to stay away from, who are still in existence and part of the focus of what we do now in my office. So it is a longstanding problem that we definitely need to address.

I will say that violent crime and narcotics distribution by street gangs has been a significant problem in the Central District. As Senator Feinstein alluded to earlier, the statistics are staggering. In Los Angeles County alone conservative estimates put street gangs at about 1,000. This is just in Los Angeles County. The number of individual gang members in those street gangs at 150,000. In addition, there is approximately another 20,000 gang members in Orange County, Ventura and San Bernardino Counties, which are in my district. I will say that gangs are the driving force behind the homicide rate in my district, and that fully half of all gang members in the District are believed to participate in violence connected to the distribution of narcotics. Indeed, the homicide rate in Los Angeles was probably one of the highest in the country last year.

Los Angeles is known as what is called a source city. We export gang members, violent gang members, across the country, across State lines. Members and cliques of the Los Angeles-based 18th Street Gang have migrated outside of California into the southwest border up into the Pacific Northwest, out to New Jersey, Mexico, El Salvador. There is a current case pending right now in Tennessee. We have also tracked Los Angeles-based gang members to Indianapolis, Oklahoma, Omaha, Raleigh and St. Louis, and this only arises out of a few cases that are going on in the office right now.

My district has focused on the investigation and prosecutions of gangs and gang members since 1992. It essentially arose out of the wake of the Los Angeles riots. The intense focus has continued unabated. What we have done is we have worked in a collaborative manner, because in order for us to respond to the problem on a Federal level, we have to have the intelligence that is gained on the street side through the local law enforcement officers. As a result I have sought to make our district a leader in targeting criminal street gangs as criminal enterprises, and focusing on the gang leaders where appropriate, while at the same time continuing to target gang individuals, the so-called soldiers for Federal crimes and criminal conspiracies where appropriate.

We use such Federal legislation such as RICO, VICAR, money laundering statutes and the more traditional narcotics statutes and firearms statutes to aid us in that regard. In essence we try to focus on what I call the big Federal cases, where we can strike to the heart of a gang and try to take out the entire entity as opposed to just picking off individuals and not really getting to the root of the problem.

A prime example of our long-term investigation and prosecution strategy for organized street crimes was recently in the case of the 18th Street Gang and against the Mexican Mafia. This investigation spanned four years from beginning to end and led to the convictions of more than 75 Mexican Mafia members and 18th Street

Gang leaders. The Mexican Mafia is a hispanic street gang which is believed to have upwards of 10,000 members in California as well as in Mexico and El Salvador. During that time it took an arsenal of resources, both Federal and local, to put that case together. A total of 19 search warrants were executed during that time, a total of 26 defendants were ultimately charged, and all were convicted.

This case in particular marked the first time that my district used the RICO statute against a street gang, and a street gang is vastly different from a prison gang, much more loosely organized, not as hierarchical, much more fluid, because they pick up with other crews from other neighborhoods. This was something that took a tremendous amount of resources. We ultimately were able to get about \$2 million in narcotics proceeds which were forfeited to the Government, and most importantly, the efforts had an extremely positive effect on the quality of life in the MacArthur Park District of California. For those of you who are not from California, it is right on the Wilshire Corridor. It is in the center of California, right next to the LA County Museum of Art, right next to the Otis School of Design, right in the heart of downtown. This two-mile radius has managed to sort of have a stronghold. It is also known as the Rampart area, and we were able to sort of clean that up and improve the quality of life there.

I want to say that one of the other things that we have managed to do is sort of work hand-in-hand with the FBI, ATF. We currently have an ACES program going on where there are 60 agents who have been deployed to our jurisdiction for a period of 6 months. DEA's Met team, where they go in and they focus on certain areas where the homicide rate has been extremely high and try to get to the root of the problem, and as we work in conjunction with them, that is how we essentially try to eradicate some of the problems that we see.

Thank you, Senators.

[The prepared statement of Ms. Yang appears as a submission for the record.]

Senator SESSIONS. Very well said, and that is impressive. I have no doubt that if you maintain that pressure in targeted areas, you will see a reduction in crime in those areas.

Mr. Christie.

**STATEMENT OF CHRISTOPHER J. CHRISTIE, UNITED STATES ATTORNEY, DISTRICT OF NEW JERSEY, NEWARK, NEW JERSEY**

Mr. CHRISTIE. Thank you, Mr. Chairman, members of the Committee. It is an honor for me to appear today before the Committee along with my colleagues from Chicago and Los Angeles, and I think it shows what a national problem this is, that you have someone here from New Jersey, someone from the midwest in Chicago, and someone from the West Coast in Los Angeles. This problem is now a national problem and it is getting worse.

In May of 2002, early in my term, in response to a steadily escalating gang problem in New Jersey, we created a violent crime unit within the U.S. Attorney's Office, and they were to target street gangs, violent narcotic enterprises and firearms trafficking networks. We have 10 experienced Federal prosecutors in my office

that are assigned to this unit and are working on fighting this new brand of organized crime.

As Debra said very well, these gangs are structured. They are sophisticated criminal organizations. In New Jersey they have a clear hierarchy in their decision making and in distributing the criminal proceeds among the gang members. So this sophistication is now allowing them to have considerably longer life spans than gangs were maybe 20 years ago. These gangs operate like big businesses, and albeit they are businesses that are unrestricted by any sense of right and wrong, but they are operating like businesses.

They typically work in the narcotic drug market and they work to build and expand that territory and to exploit it. We have one particular gang that I will talk about in a moment that was bringing in proceeds of nearly a million dollars a week in the northern part of New Jersey from heroin trafficking. We have to though, I think, work with our local and State partners, and one case that we worked on in particular was regarding the Latin Kings, which is a national gang. We were able to work with our partners in the State Police in New Jersey and the State Attorney General's Office, to bring down 53 members of the leadership of the Latin Kings, from the person who was in charge of the Latin Kings in New Jersey, on down through the leadership. This leadership in the Latin Kings in particular is male and female, and these people were brought down and arrested. The charges were split up between some being prosecuted by my office, some by the State Attorney General and some by local county prosecutors. We have tried to use that as a model to be able to bring other large street gangs under control in our district.

We have also used Project Safe Neighborhoods and its emphasis on trying to get guns off the streets of our cities, along with the FBI and the DEA and ATF and local authorities to try to work together to get the guns off the streets. It is, as Pat said I think, we have to talk about those issues. Those things coalesce, the guns, drugs and the gangs. That is their currency that they deal in. The other currency that they deal in is something that Senator Feinstein pointed out, which is the recruiting of juveniles. These juveniles are their currency. This is what they deal in. They are the most expendable to them. They are the ones most likely to be arrested by local law enforcement authorities because they are the soldiers on the street, and they do not include them in the hierarchy of the gang so that they cannot give any information to law enforcement that would harm the leaders of the gang and the leaders of the gang see them as expendable, both in terms of them being brought to jail or being killed on the streets.

We have a set of the Bloods in New Jersey called the Double "ii" set that comes this way. The Bloods began in Inglewood, California. They take the "I" from Inglewood, California and since their home is in East Orange, New Jersey, which they refer to as Ill-Town, that is how they get the Double "ii" set of the Bloods. We have been working with our PSN research partner, which in New Jersey is Rutgers University, and identified the Double "ii" set of the Bloods as the most violent gang in the State of New Jersey, and so we have begun to focus our resources on them. We have charged now seven members and associates of this gang with drug conspiracy

and using firearms in furtherance of drug trafficking. It is a very important case for us.

One anecdote that you might find interesting. They have weekly gang meetings, and the gang members come to those meetings, and all of them are required to contribute \$31 at every meeting. This goes into a fund for bail money and to buy firearms. When new members are initiated or "coming home," as they call it, to the gang, you come to this meeting and you are beaten by gang members for 31 seconds, and sometimes for several 31-second rounds. So why the number 31? Because the Bloods' code of conduct has 31 rules and rule 31 is "I will have love for my Bloods." The payment of the \$31 is a token of the loyalty oath, and the 31-second beating reinforces the discipline of the code of conduct. That is the way they enforce their rules.

These people also traffic in guns and briefly, I think it is important, and we have started to focus in New Jersey because we have particularly tough gun laws, State gun laws in New Jersey. The trafficking that is coming into New Jersey in guns is a particular problem, and we have begun to work with ATF to target out-of-state gun dealers who enable a pipeline of weapons into New Jersey, to flow through gangs like the Bloods. We have recently had a case where Federal agents intervened and cut off the gun supply from another state and the gang had sought to begin to supply other neighborhood gangs, getting into that business to make money.

They work in a very organized, hierarchical way and a very violent way. We are working in New Jersey to try to make sure that we focus on those bigger problems and work with local law enforcement.

I thank you for the time.

[The prepared statement of Mr. Christie appears as a submission for the record.]

Senator SESSIONS. Thank you.

Mr. Grant Ashley, Assistant Director of the FBI, Criminal Investigative Division.

**STATEMENT OF GRANT D. ASHLEY, ASSISTANT DIRECTOR,  
FBI, CRIMINAL INVESTIGATIVE DIVISION, WASHINGTON, D.C.**

Mr. ASHLEY. Thank you, Mr. Chairman, and members of the Committee. I appreciate the opportunity to speak to you regarding this important problem, and I thank you for your support regarding gang investigations. I also want to thank the United States Attorneys who are partners in this very important effort, and without them, we would not be able to do the things that we do.

I am going to speak from a national perspective from the investigative side, and I am currently responsible for the criminal investigations conducted by the FBI. As a native son of Los Angeles, I assisted in setting up the early gang investigations in the late 80's there, and I supervised violent crimes in Chicago for almost 6 years. I am very familiar with the problem both from a personal as well as a national perspective, as is my brother who is a lieutenant in the LAPD, and my sister, who is a judge in California. Okay, I am done with the family stuff.

On January 9th of 1992, the FBI announced the Safe Streets Violent Crimes Initiative. This initiative was designed to allow our local Special Agents in Charge of each FBI office to develop long-term and proactive task forces with their partner police agencies and other Federal agencies. They focused on violent gangs, other crimes of violence, and the apprehension of violent fugitives. Since 1992 these task forces have successfully aligned FBI agents with their local law enforcement counterparts, as well as the other Federal law enforcement, and our prosecutive partners to combat violent gangs. Task forces bring together all of these agencies in a force multiplier concept, and allows the unique expertise of each of the participating agencies to be deployed in a very efficient manner.

This approach also yields information sharing among the agencies. The task forces are very effective. They are efficient, and they are economical. Where joint goals are met, they bring together the investigative as well as the patrol and other information, and, they leverage components of the participants. To focus the task force efforts, the FBI developed a national violent crime strategy. There is a national strategy for organized drug investigations, as well as a national gang strategy. These serve as the framework for combating violence in America, and each of these strategies uses a component of the Safe Streets Task Force with a comprehensive plan.

The basic missions of the task forces, Safe Street Task Forces, are to focus primarily upon street gang and drug-related violence, address specific violent crime problems, and seek the most significant violent crime fugitives through teaming of Federal, State and local law enforcement officers with prosecutors, to conduct long-term proactive investigations, utilizing sophisticated techniques as necessary.

The Violent Gang Task Forces target the violent gangs and their associates responsible for their criminal activity. Additionally, they place a specific emphasis on the identification of the major violent street gangs, and the enterprises, who pose significant threats to our society.

The FBI is identifying and targeting these gangs as high priorities by utilizing our enterprise theory investigation.

The Major Theft and Transportation Crimes Task Forces target violent, major theft groups that include armed hijackings, automobile hijackings, and major jewelry rings.

The Violent Crime Task Forces address specific crime problems, including bank robbery, armed robbery, kidnapping, extortion, murder for hire, firearms violations, RICO, and other violent offenses that fall within the Interstate Transportation in Aid of Racketeering and the Hobbs Act statutes.

The Fugitive Task Forces are responsible for locating and apprehending the most violent Federal and State fugitives. As part of the Safe Streets Violent Crime Initiative to reduce violent crime by arresting felons fleeing jurisdiction, these task forces were created to specifically apprehend these fugitives. They utilize the Federal Unlawful Flight to Avoid Prosecution statute.

It should be noted that the task forces focused on gangs are applying investigative techniques and strategies which the FBI has



successfully used to target traditional organized crime, including the development of an intelligence base, undercover operations, and the use of various electronic surveillance techniques. These task forces pursue the gangs through sustained, proactive, multi-divisional, coordinated investigations using RICO and Continuing Criminal Enterprise statutes. In many cities, task forces are targeting individuals or groups associated with the Bloods, Crips, Black Gangster Disciples Nation, the MS13, Almighty Latin Kings Nation, Jamaican Posses, and other violent gangs, along with out-law motorcycle and prison gangs. By applying the same methods used in the successful war on traditional organized crime, the task forces are developing racketeering and continue enterprise cases to remove the leadership and hopefully the most dangerous members of our society.

Along with gang investigations, the investigation of other violent crimes of kidnapping, bank robberies, and drug-related murders, as well as an intensified focus on the apprehension of dangerous fugitives, continues to be a primary purpose for safe streets task forces.

There are approximately 75 FBI-led Safe Street Task Forces focused primarily upon gangs, another 50 Safe Street Task Forces focused specifically on violent crimes and fugitives, that I mentioned, and another 15 task forces directed at major theft and transportation crime matters. We have these in most of the States. The Safe Streets Task Forces employed 566 agents, 63 other Federal agents, and 899 local and State law enforcement officers in fiscal year 2003.

The task forces will significantly support the FBI's current Violent Cities Initiative that is intended to reduce gang-related crimes of homicide, robbery, and aggravated assault in targeted cities of St. Louis, Atlanta, Detroit, Baltimore, Washington, Newark, Memphis, New Orleans, Chicago, Kansas City, Los Angeles, and New York. Additionally, the task forces will support the other FBI initiatives of bank robbery, child prostitution, and violent fugitives, in other cities.

The task force concept increases the effectiveness and productivity of limited personnel and logistical resources; it avoids duplication of investigations and the consequent wasteful expenditure of resources in matters of concurrent jurisdiction, while expanding the cooperation and communication among the Federal, State, and local law enforcement agencies.

The task forces allow the application of sophisticated investigative techniques normally associated with the complex organized crime and racketeering investigations. These techniques are frequently not available to local police agencies.

Community outreach is another portion of the—

Senator SESSIONS. Mr. Ashley, if you could wrap up, if you can.

Mr. ASHLEY. Can I hit funding?

Senator SESSIONS. Please, go ahead. It is just we are going to be interrupted by a series of votes, and it is just going to be difficult.

Mr. ASHLEY. I am sorry. All right.

Beginning in 1996, Congress provided a recurring \$5 million to the FBI. This money was under the Violent Crimes Reduction Program. It has been sunsetted. Essentially our costs run over \$10 million a year, and with the \$5 million that has been employed to

our base, we are going to run approximately \$5 million shortages for the overtime that covers the police officers that are participants on these task forces.

Thank you for your time.

[The prepared statement of Mr. Ashley appears as a submission for the record.]

Senator SESSIONS. Very good. Well, that was a good series of statements, and I would just like to ask a couple of quick questions. If all of you would share in this answer, I would appreciate it.

What are the ages of the gang members you are seeing? How young are they and how old are they running nowadays? And has that been a change in the last 15 or 20 years? Mr. Fitzgerald, do you want to guess on that?

Mr. FITZGERALD. Senator, the gang members are very young. When you say the ones we see, the ones we prosecute are the adults because it is very difficult in the Federal system to prosecute juveniles, which feeds into what Senator Feinstein said about making sure we send a message to the leadership that they should understand that there is a penalty for employing juveniles. Right now juveniles are an asset that they figure they can use, they are expendable, and they won't be prosecuted.

If the leadership understands that juveniles are a liability and that the leadership of the gang, which is extremely rational, will pay a price for that, it would make a difference. But we see lots of young gang members, but we prosecute the adults.

Senator SESSIONS. Ms. Yang?

Ms. YANG. I was just going to add, Senator, that you will see that same thing with respect to using juveniles for some of the more heinous crimes in actually all of the different racial groups of gangs. You see it in the Asian gangs, the Hispanics, blacks, and also in some of the Aryan Brotherhood cases.

Senator SESSIONS. So the leaders in the gangs, are they sometimes 25 or 30? Or are they 19 or 20? How does it shake out, in your best judgment? Or is it different per gang?

Ms. YANG. Generally for us, with, I guess, the core gangs that I am talking about in Los Angeles City itself, if you are upwards of 25, around there, between 20 and 25, you are kind of an old guy. You are an OG, an old gangster. They are much younger than that, probably—you know, for what we do, as Mr. Fitzgerald said, everyone we see is 18 or older, essentially, but they are all hovering in that younger—older teen, young 20s age. But there are many others that are part of the gangs that we may not prosecute that we see as part of our investigation. Gang membership sometimes begins at birth. You are born into a gang. Many of the gangs are on their fourth or fifth generation of family members. The entity that I mentioned to you earlier, Frogtown, is now on their fifth generation of gang membership.

So it starts very early. It starts in many different ways. The young teens are asked to sort of do younger types of crimes, running around, picking things up, and then as you get a little into the mid-teens is when it starts to step up and get a little bit more serious. And, of course, I am speaking in a generalized manner, but that is essentially what we have seen.

Senator SESSIONS. Mr. Christie, will you comment on that?

Mr. CHRISTIE. Yes, we will see in New Jersey, we have seen children as young as 7 and 8 years old doing tasks for gangs, whether that is running drugs, being couriers on the streets for some of these violent street gangs. And I think Debra is correct that if you get to be into your 20s, you are a very old gang member in New Jersey. Most of the time you will see gang members who are dying in their teens and engaged in violent acts well before they are the age of majority, and turning those violent acts against both younger and older people in the community. So the ages can range as low as 7 or 8 years old that we have seen, and as Debra said, if you get to be in your 20s, you are both fortunate that you have not been a victim of violence, and you are a gray hair, so to speak, in the gang world. It is a problem of—as Pat said, that is the currency. These young people are the currency.

Senator SESSIONS. Mr. Ashley, have you got any thoughts to add?

Mr. ASHLEY. That is exactly what we are seeing.

Senator SESSIONS. To what extent do people in their 20s lead—I guess you have answered that question. There are people in their 20s that are leaders, but by the mid-20s, they are almost always gone and very few gang leaders would reach 30 years of age, for example. Any comment on that? I am just curious about how it looks out there.

Mr. FITZGERALD. Senator, I took a peek at a list of birth dates for a number of gang dealers we have charged in the last couple years, and if there was a bell curve, they were all born in the 1970s, and outliers are in the 1980s and some were born in the 1960s and one fellow from 1959 crept in there somehow. But I think they are mostly in their 20s, but they are still out there. There are some that still make it into their 30s, and they are likely to be more sophisticated and more savvy and more insulated.

Ms. YANG. I was just going to add that aside from opting out because you are no longer a part of this earth, they still participate in the gangs. It may be a more sort of emeritus type of role. I hate to use that term in this context, but in that capacity, they still participate. There is a situation in Los Angeles right now where there is a 42-year-old gang member. He participates by essentially victimizing 7- and 8-year-olds, sodomizing them, photographing that, and then using that as blackmail, threatening to show their mothers the pictures, and then getting them to run crimes on behalf of the gang.

Senator SESSIONS. All right. We are going to have a difficult time. I am just very distressed that the votes are the way they are. I understand that there are going to be six votes back to back in a minute. I will talk with Senator Feinstein and Senator Durbin, but I am not sure with that many votes it is feasible to try to come back and forth. But I would suggest we go as long as we can, and then we may have to recess until we can finish.

Senator Feinstein?

Senator FEINSTEIN. Thank you very much.

I thought the testimony was very interesting, but one of the things that cropped up—and I think only Ms. Yang mentioned the use of RICO statutes. And if you think about it, the gang movement today is growing robustly. It is a bigger criminal enterprise

than Mafia-type crime ever really was in the United States, and it is growing.

Would it be helpful if there were a new gang statute with specific gang crimes as predicates along the line of RICO but a different statute? And the crimes would be murder, kidnapping, sexual assault, maiming, assault with a deadly weapon, firearms offenses, gambling, obstruction of justice, tampering with a witness, burglary, distribution of controlled substances, use and distribution of explosive materials, and money laundering. Do you need a new gang statute along those lines? Or is it possible to use RICO effectively in this area?

Ms. YANG. Senator, I am not sure that I can answer that sort of without giving it a little bit more thought and taking a look at that as compared to RICO and the VICAR statute. VICAR we use a lot because we get a significant penalty when we can't prove up the RICO case because it is a little more difficult. But there is one thing here that follows through that has always been problematic for us, and that is for us to prove the interstate nexus, the interstate commerce aspect, because it is very difficult in court for us to have to prove up how this gang crime is related to some sort of interstate nexus. And part of that is in the drafting of the way that some of the statutes have done. Part of that is in the court's interpretation of what that language means. But that has always been very difficult for us, so in any RICO case, we end up having to litigate the whole interstate commerce aspect, and whether or not, you know, this gang is doing something that is affecting interstate commerce or whether or not the particular predicate crime really affects interstate commerce. And as you know, under RICO we have to prove multiple-predicate crimes.

That has been the thing that has actually been the most difficult for us in Los Angeles. So without answering your question directly, that is something—

Senator FEINSTEIN. So what would be your suggestion? I mean, one of the things we know is that these gangs are interstate, that they travel interstate, that they move firearms interstate, they move narcotics interstate. So the question is, I guess, how you draft a statute that deals with that. Their spread is interstate.

Ms. YANG. Right. Perhaps using language that is a little more open and broad so that—and I do not have any of the language particularly before me, but oftentimes, you know, there is particular language that says, you know, a facility of interstate commerce, or something like that.

Senator FEINSTEIN. Would you be willing to take a look at our statute and see if you can make any recommendations?

Ms. YANG. Absolutely, Senator. Actually, I think—is it Guillermo Gonzalez from your office?

Senator FEINSTEIN. Yes.

Ms. YANG. I met him recently, and he asked me to take a look at it. I did not have time because of some other things, but I am more than happy to do that.

Senator FEINSTEIN. Thank you.

Anybody else have comments on this subject of what we could do to give you the tool that you need to prove the interstate connections to apply the Federal law?

Mr. CHRISTIE. Senator, I think Debra summarized it really well. Whether you are using RICO or whether a new statute was developed along the lines that you are discussing, that is always the biggest challenge for us as Federal prosecutors in these gang cases, because while you are correct that there are many different interstate aspects to what they are doing, frequently, like within the II Set of the Bloods that I was discussing in my testimony, they also are very local. And so, you know, you have to be—in New Jersey, it is sometimes a bit easier because we have a lot of travel between northern New Jersey and New York and southern New Jersey and Philadelphia, and so a lot of that, we have maybe a bit of an easier time. But I think what Debra suggested in terms of the language in any statute that tries to get at this problem, being a little more open, a little broader for us to give us an opportunity to get into it, whether it is RICO or whether it is a new statute as you describe, I think that is really the key for us as Federal prosecutors.

Senator FEINSTEIN. Mr. Fitzgerald?

Mr. FITZGERALD. And I would add one other thought. Currently we use RICO a lot to go after gangs. We also use the drug statutes often because most gangs are dealing drugs. When we catch them doing drugs, we are going to charge them under the drug laws, which are much simpler and have heavy penalties.

I think if we would look into making a statute or amend 521 to make it more useful, because prosecutors look at what do I get and what do I have to prove out of all this, and RICO wins or the drug laws win, we should focus on two things: one would be to focus on those gang members who we cannot tie directly to drug trafficking, even though we know the gangs themselves are trafficking drugs, but tie to violence, because often the penalties for violence are less than drugs, so focusing on that. And, secondly, focusing on the gang leadership, because often you cannot tie the gang leaders directly into drug trafficking.

Those are the things we would look at because, otherwise, where we do find drugs, we use the drug laws. And when it gets more complicated, we use RICO.

Senator FEINSTEIN. Would you all support the part of the statute which I think is really new and rather consequential, and that is, a mandatory minimum of at least 3 years to anyone that recruits a youngster to go into one of these gangs?

Mr. FITZGERALD. Without addressing a particular penalty, not having seen the provision, what I would suggest is if we are going to focus on recruitment, that we not limit it to the person who recruits someone into a gang, because a person could be the recruiter and someone else can employ that juvenile, someone else can manage and supervise. So whether it is changing that statute or whether making a Sentencing Guideline provision or an enhancement penalty, the way 924(c) is for guns, making anyone who recruits, hires, employs, or supervises a juvenile pay some price I think would be important.

Senator FEINSTEIN. Thank you.

Mr. CHRISTIE. Senator, I would really agree with Pat, because what we want to try to do is get up into the leadership of these gangs, and oftentimes it is very difficult for us to get our way in and up to the top. But if that type of recruitment statute that you

were discussing was broadened to cover the areas that Pat just enumerated, that would be an extraordinary tool for us to be able to get at the leadership. Let the locals handle some of the street area stuff that they can handle. We can then use the Federal resources along with them to get up into the leadership. That would be very helpful.

Senator FEINSTEIN. Will you all work with us on the drafting of that part of it so we are sure we have it right?

Mr. FITZGERALD. We would be delighted to participate.

Senator FEINSTEIN. Okay.

Mr. CHRISTIE. Absolutely.

Senator FEINSTEIN. Thank you. Those are my questions. Thank you.

Senator SESSIONS. Thank you. Very thoughtful.

Senator Durbin, I think we will let you finish up, and then we have probably got to get to our vote.

Senator DURBIN. I will try to take less than the 5 minutes, and I just want to ask one question. Pat Fitzgerald talked about gangs, drugs, guns. I want to focus on guns for just a minute.

I took a look at some of the statistics on prosecutions for gun trafficking, which I think has to be an important part of this conversation, and I was concerned with what I learned. The period from October 1, 1999, to September 30, 2002, a 3-year period of time, in New York State, 105 prosecutions for gun trafficking; in Illinois, 16; in the States of Indiana and Mississippi, 5 and 3. And the reason I raise those States is that Indiana and Mississippi are the source States for more crime guns in Illinois than any other States because of their lax gun laws and because of the proximity of Indiana.

Can you explain to me why as the murder rate goes up and the gang activity goes up, the prosecutions for gun trafficking are so low?

Mr. FITZGERALD. I cannot explain the statistical numbers. I can tell you we are focused on the gun trafficking. I was acutely aware and surprised to learn that Mississippi was the third largest source of supply State for illegal guns in Chicago. I can tell you we found that in Mississippi there is an area called Little Chicago where they have gangs that mirror the Chicago gangs that were the source of supply.

I can tell you we prosecuted the gun shop in Mississippi that was illegally supplying guns to the gangs last year in Chicago and took the owner of the gun shop before a Chicago jury, convicted him, and had him sentenced.

I can also tell you that we sat down with our researcher, with ATF, with the Chicago Police Department, and we are focused specifically on where the guns are coming from, making sure they are traced, and seeing where they came from. And as a result, an ATF agent and one or two detectives from the Chicago Police Department were detailed to Mississippi. So the Chicago Police Department was actually recognizing the problem and sent manpower down there to figure out what we can do.

So we are alert to the issue. We do recognize that we have got to go after sources of supply gun trafficking, and when we can find

it and we look for it, we do prosecute, as we did with that gun shop owner from Mississippi convicted in Chicago last year.

Senator DURBIN. I would like to follow through, because we are out of time, with written questions and I will get into the proposal by the administration for the destruction of NCIC's records of firearm purchases. And I have a GAO report that suggests that that is going to make it more difficult for you to do your job, if you do not have the time to check the backgrounds of these guns, to run them and to see if there has been any violation. And I would like to figure out how that plays into all of our conversation about ending gang violence, too.

Thank you, Mr. Chairman.

Senator SESSIONS. Thank you.

The gun matters are important. I challenged the Attorney General and the FBI Director to prosecute guns, I believe, more aggressively than they have in the past when they were confirmed, and I recall that Attorney General Ashcroft said that there was, I believe, a 35-percent increase in guns prosecutions.

Give me a quick yes or no on this. Are you receiving support for increased gun prosecutions in your office? And are you providing the leadership to increase gun prosecutions in your district? Do you have a thoughtful plan to do that? I will ask each of you three United States Attorneys that.

Mr. FITZGERALD. Yes to both questions, and I can tell you I sit down once a month with a researcher at ATF, DEA, Chicago Police Department, and detectives and focus precisely on the issue of guns and people who possess them, and also send the message that we want to go after traffickers, for example, in that case in which we prosecuted the Mississippi gun owner in Chicago. It is clear to me that we have to choke off the source of supply of illegal guns.

Senator SESSIONS. Great prosecution, that is exactly what needs to be done, in my view.

Ms. Yang?

Ms. YANG. Yes, sir. The answer is yes and yes again. One of the things that we are doing through the Project Safe Neighborhoods Program is that we sit down with LAPD Chief Bratton, we sit down with the sheriffs, all the locals, ATF, DEA, the FBI, and we sort of figure out what we can do with the gang cases.

In our particular district, we have a brand-new Ballistics Tracing Center that ATF has put up where essentially each bullet that is shot, we can determine which gun it is traced to, and that allows us to sort of get some history on the gun and how it is moving from one individual to another or one gang or where it is going to try to get to that.

Senator SESSIONS. Good.

Mr. CHRISTIE. Senator, yes to both questions. In New Jersey, what I decided to do in our district was to set up the separate violent crime unit to focus just on guns and gangs. We have ten experienced Assistant U.S. Attorneys who are providing the leadership in the district through Project Safe Neighborhoods to coordinate the State and local efforts. When I got there, I think the efforts were kind of diffuse and not very coordinated.

Senator SESSIONS. Have the numbers gone up since the time you have been there? Do you know?

Mr. CHRISTIE. The numbers have gone up, and just as importantly, a State like New Jersey where there are very, very tough gun laws in the State, on the State level, we are really trying to focus now on gun trafficking because we are receiver State. And so our new focus has been in that area more on trafficking than it has been on anything else because of the fact that our State gun laws are so tough, we are receiver State.

Senator SESSIONS. I believe that is wise to trace each gun, if you see a common source, and I think it is worth the highest effort, and I think ATF and FBI and anyone else should be willing to follow those cases to whatever State they lead to and carry on those investigations. That is the advantage of Federal law enforcement. And I am telling you, I have been frustrated that people want to pass new laws burdening law-abiding people, but we have not been enforcing aggressively enough the existing laws, which have got some real teeth to them, actually. I heard an ad that is absolutely true. Five years without parole if you use a gun in a crime in America today, and I hope that message gets out. I think it is.

This is the deal. We have got to go vote. If any of you on this panel cannot come back or you have flights and you have a hurricane that is worrying you, go ahead and take your flight. Senator Feinstein and others may want to ask you some further questions. Otherwise, we will go to the second panel when we get back. Please do not disrupt your schedule to stay until after this vote. It may be 30 minutes or more—it probably will be—before we get back.

[Recess 3:00 p.m. to 3:55 p.m.]

Senator SESSIONS. All right. Good to be back. I stayed up so late, I got down to the subway, and the subway would not work, and I was the last vote to be cast. I almost missed that vote. But we apparently are not having as many as we expected, and I do not think we will have another vote now, although that was not absolutely clear when I left. So I think we will have time to go forward and have a good discussion.

Senator Feinstein needs to get back to California, and she needed to get out tonight before the storm, so I do not expect her to be able to be back with us this afternoon.

I thought the first panel was good. We had a panel of experts who do the work that is important to us in making the kinds of decisions we need to make to improve law enforcement, particularly with regard to gangs. This second panel is also very extraordinary and valuable to us.

Eddie Jordan is the elected district attorney in New Orleans, Louisiana. He brings a unique perspective to this hearing, having served as United States Attorney for the Eastern District of Louisiana and prior to his election as district attorney. So we have another U.S. Attorney in the bunch.

Robert McCulloch is the elected district attorney for St. Louis County, Missouri. He is also the president of the National District Attorneys Association. He has a long and distinguished career. I look forward to hearing his testimony. It is good to see you.

Wes McBride is the president of the California Gang Investigators Association and the former president of the National Gang Investigators Association. He brings 35 years of law enforcement experience to this problem.



We have got a time limit, but we may, because of matters that are ongoing, not have other Senators that come here. What you say will be recorded and it will be part of the record, and it will be a factor as we evaluate what to do about improving our effectiveness against gangs.

So if you would each share with us your comments on this subject, I guess in the order I introduced you, and I will have some questions after that. If we can stay within our time limit, then we might have a little time for some exchange.

Mr. Jordan?

**STATEMENTS OF EDDIE J. JORDAN, JR., DISTRICT ATTORNEY,  
DISTRICT OF NEW ORLEANS, NEW ORLEANS, LOUISIANA**

Mr. JORDAN. Good afternoon, Mr. Chairman. My name is Eddie Jordan, and I would like to thank the Senate Judiciary Committee for providing me with an opportunity to address you on the issue of "Combating Gang Violence in America: Examining Effective Federal, State, and Local Law Enforcement Strategies."

In 1994, then-President Bill Clinton named me the U.S. Attorney for the Eastern District of Louisiana. Under my leadership, the office successfully prosecuted hundreds of violent offenders, corrupt police officer, and most notably, powerful Louisiana political and business figures, including former Governor Edwin Edwards. Subsequently, I retired from my position as U.S. Attorney in 2001 and returned to private practice. On November 5th, I was elected District Attorney of New Orleans.

Unfortunately, gang violence is increasing and it is evidenced in the number of homicides in New Orleans. Law enforcement officials routinely encounter problems whereby witnesses are being intimidated or killed because they come forward to testify in certain violent crime cases. In 2001, there were 212 homicides in New Orleans, and in 2002, that number increased to 257. If current trends continue, the projected number of homicides for this year will exceed last year's number. So far this year, we have had 204 murders.

According to Tara C. Kowalski, witness intimidation has increased dramatically in recent years. In fact, the first half of 2001 saw a 50-percent increase in witness intimidation. Witness intimidation occurs when defendants or others acting on defendants' behalf make threats or otherwise act to dissuade victims or eye-witnesses from testifying. Witness intimidation directly harms the witnesses involved; moreover, it adversely affects society as a whole because, without witnesses' testimony, prosecutors are powerless in prosecuting criminal offenses.

In New Orleans, two witnesses who turned down offers by my office for assistance and relocation were murdered. In March 2003, a potential witness was killed near the eve of trial after refusing relocation on two occasions. While there was insufficient evidence to prove the death was a retaliatory killing, the timing of the killing raised suspicion of a possible link. Also, in May 2003, another potential witness who rejected assistance was killed, along with her companion, shortly after testifies before a State grand jury. Many victims and witnesses are reluctant to relocate because my office is not adequately funded. My office is doing all it can with limited re-

sources. Adequate Government financing would allow us to better assist victims and witnesses and make the alternative of relocation more appealing.

The following are some of the more notable gang trends identified by the National Alliance of Gang investigators in their assessment:

Gangs are migrating from larger cities to smaller communities, a move fueled in large part by an increase in gang involvement in drug trafficking;

Most gangs have members who are involved in drug trafficking to some extent, ranging from street-level sales to wholesale distribution. However, the level of drug trafficking by gang members varies regionally;

Numerous law enforcement agencies report that some gangs involved in wholesale drug distribution have connections to major international drug-trafficking organizations;

While the overall violent crime rate has dropped nationwide, many smaller communities have experienced increases, sometimes double-digit increases, due to gang violence;

Gangs, for the most part, are unsophisticated with little or no hierarchical organizational structures; however, some are becoming much more organized and sophisticated.

Before I end, I just wanted to indicate that my office has no funds budgeted or allocated for victim and witness assistance. Our Victim/Witness Services Division was created in 1998. The Victim/Witness Services staff provides full services to adult victims of certain State crimes, including, but not limited to, domestic violence, sexual assault, and stalking. But despite inadequate funding, the Victim/Witness Services staff provides assistance to witnesses of violent crimes who are in danger as a result of their willingness to testify in court.

I would also indicate that in the year 2002, the entire division serviced approximately 600 clients. From January 2003 to July 2003, the seven-person staff made a total of 1,498 advocacy contacts on behalf of victims of domestic violence and permanently relocated a total of 53 witnesses.

But the costs involved here are substantial. The average cost to temporarily house a family of four in New Orleans is \$365 per week, \$100 per week for food, and \$50 per week for personal items. The costs are substantially more for permanent relocation of witnesses.

So I believe a coordinated approach is necessary to combat the gang violence and witness intimidation problems that we are facing. Perhaps the creation of a multi-jurisdictional task force should be utilized to address gang violence and witness assistance issues.

Thank you.

[The prepared statement of Mr. Jordan appears as a submission for the record.]

Senator SESSIONS. Thank you, Mr. Jordan. You make some very valuable points.

Mr. McCulloch?

**STATEMENT OF ROBERT P. MCCULLOCH, PRESIDENT, NATIONAL DISTRICT ATTORNEYS ASSOCIATION, ALEXANDRIA, VIRGINIA**

Mr. MCCULLOCH. Senator, my name is Bob McCulloch. I am the elected prosecutor in St. Louis County in Missouri and the president of the National District Attorneys Association. Of course, both of those entities would like to thank you and this Committee for taking the time and giving us the opportunity to present our views on the issue that is before us, not just gang violence but, as Mr. Jordan eloquently pointed out, the problem that is very much associated with that, and that in the area of witness intimidation. I have provided earlier some written remarks that I would like to ask be made part of the permanent record.

Senator SESSIONS. They will be made a part of the record.

Mr. MCCULLOCH. Thank you.

In order to place a lot of this in context, let me talk about St. Louis County. St. Louis County surrounds but does not include the city of St. Louis. It is a county of about a million people. We have about 91 or 92 municipalities within that and about 65 police departments. In my office—

Senator SESSIONS. Sixty-five police departments?

Mr. MCCULLOCH. Yes. I have to repeat that several times myself.

Senator SESSIONS. We have a lot around Birmingham, but not 65.

Mr. MCCULLOCH. Sixty-five, and some are in municipalities about the size of this room, which is part of the problem, and I will address that a little bit.

In my office, I supervise about 100 people, about half of whom—53 total are prosecutors. We handle and prosecute to completion 6,000, to 6,500 felony cases a year. Now, not all those are gang related, but just to give you a perspective of the amount of work that we do, much of it is related. The City of St. Louis has a similar size office. It is a smaller jurisdiction in terms of population, but a similar size office with a similar size staff and a similar caseload.

My family—I have a very long and, I think, terrific law enforcement background. I have been a prosecutor for about 20 years. Many other members of my family have been in law enforcement—my father, uncle, cousins, brothers, both as police officers and prosecutors, for well over a hundred years if you add all those up. And I say that only partially to brag about my family but, more importantly, to point out that even with that background, we were part of the massive middle America that thought gangs are a problem on the East Coast and on the West Coast, particularly in Southern California. If they did make their way to our neighborhood. They might make it to Chicago, and we have heard about how they have made it to Chicago. And I heard my city mentioned in there several times, my area mentioned in there. But to point out that this is a problem that is pervasive in America.

In checking with prosecutors across the country, we find that gangs have emigrated across the country. Primarily from Southern California, and through the Chicago area to everywhere. Our gangs have even migrated from our area to some of the smaller communities, and that brings me back a little bit to the police departments. These gangs are like water. They will follow the path of

least resistance, and that leads them to many of these smaller communities.

In my neighborhood, especially, where some of these communities once were very cozy bedroom communities, they are now infested because they do not have the ability, they do not have the resources to staff and adequately train and develop a police department. And following that path of least resistance, we have a number of these municipalities where the gang problem is a remarkably serious situation.

In one small area, we had five murders in a period of about 14 months. Everyone who was killed and everyone who did the killing was between the ages of 17 and 22. And it literally involved in some cases walking across the street to sell some drugs because you were on the other guy's turf at that point. That was the first murder. The second one, of course, would be in retaliation for that. The third one we may not know or they may not remember what it was about, but it all related and stemmed from that.

While drug trafficking is still the primary function of the gangs in our neighborhood, they have expanded out somewhat. And along with their expansion comes the violence, and that is where the witness intimidation problems come into our office.

We have a case pending now to illustrate that, and it is typical. I will try and get through this quickly before my time runs out, but to show that it is unfortunately typical of the problem we see in many, many other communities.

We found a body of a young man who had been shot to death, found him on the side of the road. Running his background check, we found that he was involved peripherally in the drug trade. At least we had some indications of that. Three years went by and then we developed information through a snitch that this one particular individual was the one who killed him. Following up on that, we were able to develop a good, solid case on that guy. We now have him in custody on the murder of that particular case.

What happened was the snitch came forward because the guy who did the killing had been released from jail. He had been released from jail because we already had him in jail on a different murder. And when he made bail in that case, our witness, our star witness, our only witness, eyewitness to that murder, was murdered himself. And that forced the other person to come forward and give us some information.

We now have a similar situation. Although he is in jail, his cohorts are not all in jail, and that intimidation goes across the board. Similar to across the country, our problem is in the funding. We are able to put our witness in this case up for a couple days in a motel, a week maybe, maybe send her on a bus ride to a distant relative's house. But eventually that runs out, and they are going to come back in. And there is just no mechanism or funding for a permanent solution to that situation, and that has been the biggest difficulty that we have.

I apologize for taking up more time. We do appreciate the efforts of this Committee and the Congress and the Senate in going into that, and not only applaud and support both as a prosecutor in St. Louis and the National District Attorneys Association, the funding, the adequate funding to provide for the protection for these people

who are brave enough or for whatever reason come forward in these cases.

Thank you.

[The prepared statement of Mr. McCulloch appears as a submission for the record.]

Senator SESSIONS. Thank you. Well said.

Our investigator, Mr. McBride.

**STATEMENT OF WESLEY D. MCBRIDE, PRESIDENT, CALIFORNIA GANG INVESTIGATORS ASSOCIATION, HUNTINGTON BEACH, CALIFORNIA**

Mr. MCBRIDE. Thank you, Senator. I would like to thank the Committee for inviting my testimony. My name is Wes McBride. I served 35 years with the Los Angeles County Sheriff's Department obtaining the rank of sergeant when I retired in 2002. I retired as the intelligence sergeant for the Sheriff's Department's gang unit. Twenty-eight years of that time I spent in the gang unit.

I am currently the president of the California Gang Investigators Association which puts on the largest law enforcement gang training in the Nation in partnership with the ATF. I am also the past president of the National Alliance of Gang Investigators.

In the nearly three decades that I served in the gang unit, I made an extensive study of gangs, and I must tell you that I have watched gangs grow in number and sophistication over these years. In Los Angeles County, we have hundreds of persons slain every year by gang members. I have watched this number grow from less than 200 a year to over 807 in our record year of 1995. Now, that is just gang-related homicides. A phenomenon that I have observed over this period is that while there have been occasional declines in statistics over the years, these respites are only temporary and slowly climb again. The declines never seem to set or establish a new record low; however, the climb almost always sets a new record for a high.

We already had some testimony earlier that there are 20,000 gangs in the Nation, but we have 1,100 of those in Los Angeles. Of the 700,000 gang members nationally, we have 100,000 in Los Angeles. These gangs started migrating across the country in the 1980s and established their presence in nearly every State in the Union. They freely cross State lines—

Senator SESSIONS. Including Alabama.

Mr. MCBRIDE. Including Alabama, particularly Alabama, in the Deep South. They go there a lot. In fact, I interviewed a gang member once, and he talked about traveling the triangle. The triangle to him was L.A. to St. Louis to Houston and all points in between.

Senator SESSIONS. And as I recall, we had some connections in St. Louis of gang members.

Mr. MCBRIDE. Yes, sir.

Senator SESSIONS. And Chicago.

Mr. MCBRIDE. Yes, sir, and particularly the airport in St. Louis. And they travel nationally. They bring their inane gang violence with them. The L.A. gangs solve their problems with violence. You kill the problem, then it is not a problem anymore. They have no other problem-solving technique, and they bring that technique with them as they travel around the Nation.

They will infect a community when they come into it with the disease of gangs, and it is a disease. It is always fatal. People die when the gangs arrive. This malignancy of gang presence kills a community just as surely as their bullets kill people. Gangs so intimidate the citizens of communities that they are afraid to testify, which goes to the point that was just brought up. They intimidate witnesses as a matter of course. It is not uncommon for them to injure or kill prospective witnesses. It is not uncommon for gangs to attack police officers who come into conflict with them. Many officers have lost their lives in the gang wars. However, gangs have been known to kill police officer solely because they were witnesses against them also, beyond the fact that they are interfering with their commerce.

The most important weapon in the arsenal of gangs is fear. Gangs are the master predators of the urban landscape. Their ability to instill fear into the community knows no bounds. They will kill indiscriminately to make their point, and this fear percolates through the community and so underlies all aspects of the gang's activity that it becomes part of the atmosphere. After a time, physical threats are not needed. The threats are unspoken but part of the community culture.

To counter these threats, strong witness protection programs must be put into place.

Law enforcement responses to gangs have been effective to a degree in various cities around the country. The underlying problem with current law enforcement approaches is that they tend to be crisis driven, short-lived in too many cases. There has never been a national coordinated effort to attack gangs. There have been effective and deserving programs, but they seem isolated to particular locales with little communication outside the affected areas.

I will tell you that the threat of gangs is more realistic to the people of this country than any threat of external terrorism can possibly make. While many may argue the term "urban terrorism" when speaking of street gangs, gangs generate community fear and disillusionment within the communities of local government due to the perceived power of the gangs. When I encounter people in my travels and lectures, they express their fear of gangs.

Since the tragic events of 9/11, many gang units have been re-assigned to investigate external terrorism threats active within our borders. These investigations are vital; however, they should be done in addition to, not instead of.

One of the disturbing issues that regularly comes to our association is the dismemberment of gang units across the Nation and the reclassification of what gangs are and gang members are in an effort to defuse the gang problem. Ignoring gangs is like ignoring cancer. You ignore it, it will come back, and it will kill you. Denial is the greatest ally that the gangs have, and it gives them room to formulate and take over their communities.

There has been no Federal leadership in the world of gang enforcement. Gang enforcement still tends to be done by pockets of investigators with little or no communication between these isolated pockets.

Prosecution of street gang members based on current RICO statutes are too time-consuming and labor-intensive for local gang

prosecution. Establishment of RICO requirements can take months to years. As an example, in L.A., I mentioned over 100,000 gang members, thousands and thousands of criminal cases. One study out of USC states that 10 to 15 people are shot for every one that dies. That is a lot of cases. It would overwhelm Federal prosecution. There is an undeterminable amount of narcotic and gang-related crime. A few years ago, one of the RICO prosecutions that we did took 4 years from beginning to end, took 39 people to jail. Of course, they were gone forever once they were convicted of a Federal crime. But it was out of a gang of 1,000 people. There wasn't a ripple. There wasn't a ripple within the gang. It did nothing to lower gang violence.

In concluding, I would like to just say that to effectively combat the rising gangs, there must be a multifaceted approach to prosecutions, and I will just list four: effective witness protection; establishment of a National Gang intelligence Center, similar to the National Drug Intelligence Center; funding of law enforcement training on street gangs; and legislation that eases and streamlines the burden of proving RICO cases.

Thank you, sir.

[The prepared statement of Mr. McBride appears as a submission for the record.]

Senator SESSIONS. Very good. Important comments each of you have made. I hardly know where to begin.

I think first I would like to ask you about the status of the gang situation in your areas, at the least the two of you, and then, Mr. McBride, if you have any comments.

I have been convinced today and for some time that we have a major national gang problem in America. It seems to me, however, that in certain communities, gangs go up and then they go down. At least in some of our communities in Alabama, I do not think the problem is as bad as it was in the 1980s.

What is your opinion of the overall status in your communities? Is it worse today than it was 10, 15 years ago? And what do we—let me just ask that first. How do you rate the circumstances today? I guess we will start with Mr. Jordan.

Mr. JORDAN. Senator, during my tenure as U.S. Attorney, my office prosecuted at least two very high-profile drug gangs, the Seventh Ward Soldiers and the Richard Pena Organization. These violent drug organizations were responsible for multiple murders in the city of New Orleans.

During my brief tenure so far as district attorney, I have not seen any dramatic change in the kinds of gangs that we have in the city. I believe that they are still neighborhood-based organizations, individuals who are loosely associated with each other, and they engage in crimes of convenience, often focused around drug activity.

Senator SESSIONS. How about you, Mr. McCulloch?

Mr. MCCULLOCH. Senator, we have a very similar situation. We have identified about 4,000 gang members in our county. Our county has a million people. Most of them are concentrated in a relatively small geographic area. They affiliate themselves with a total of about 180, 182 separately identifiable gangs. Most of them

have some sort of loose affiliation with many of the gangs that you have heard about before from Los Angeles, from Chicago.

While the number of crimes generally across the country, and certainly in our community, violent crime has decreased, the number of crimes that we can absolutely attribute to gang activity have also decreased. What we tend to see is that the violent crimes and the violent criminals we deal with tend to be much more violent than they ever were in the past.

A very good point made by Mr. McBride is that we focus, we tend to focus on the number of people killed. There are many, many, many more people who are maimed by these people than are actually killed by them. And in the old days, you know, if you ganked a drug dealer, they would beat you senseless. But now they are going to come back and shoot you and everybody around you, and that is the difference that we see. While there may be fewer crimes, they are much more violent, much more dangerous.

Senator SESSIONS. So you have a more dangerous group of gang members. You would not say they are larger today than 10 or 15 years ago in number.

Mr. McCULLOCH. I would say the number has not changed drastically.

Senator SESSIONS. Mr. McBride, you are the president of the California Association of Gang Investigators. How would you describe that?

Mr. McBRIDE. I would say that our gang population is static. It is at saturation points now. There was talk earlier about the age range of gang members. Our gang members range from 9 years old to in their 50s. The median age of an active gang member is the late teens, early 20s. And as we apply pressure and the gang problem grows and we put more pressure to it, it goes down for a while, as I said, and then it comes back up. We are on an upswing now. Our gang murders had dropped in to the 300s. Last year, there were 650. They are starting to climb again.

I checked just before I came to testify. The Sheriff's Department's records indicate we are up 34 percent over last year on just gang homicides. So the rise is starting again, and as I check with my counterparts across the Nation, that is what they are telling me. It is starting to rise once again.

Senator SESSIONS. Mr. Jordan, all of you mentioned witness intimidation.

Mr. JORDAN. Yes.

Senator SESSIONS. That is a very real problem. I found as a Federal prosecutor that we could put people in the witness protection program if you needed it, and you could arrest people and deny them bail, give them a prompt trial under the Speedy Trial Act, and they could be gone from the community, and you could get witnesses to testify against them. But if the courts are crowded, you have to wait a year to get a trial, and people have to be released on bail, and they are back in the community. I know that makes it more difficult.

How would you characterize the circumstances that make it difficult for your witnesses, increases fear on them? And are you suggesting that targeted Federal resources that would help you protect



key witnesses in very important prosecutions would be a good way for the Federal Government to assist in gang prosecutions?

Mr. JORDAN. Certainly, Senator, I think that you have certainly hit the nail on the head when you say that a coordinated effort with Federal law enforcement authorities would go a long way toward helping us address the problem of witness intimidation at the local level. We have had severe problems with getting witnesses to come forward when our resources are as limited as they are, and, of course, it makes it difficult for us to make a relocation offer appealing to a citizen. And that is what we need. We need those kinds of resources, but we need to be able to sit down with Federal law enforcement authorities and strategize about what can be done to protect this family that is facing danger with the prospect of one of the members coming forward to testify in a court hearing or a trial.

Senator SESSIONS. Well, the classic witness protection is very, very expensive.

Mr. McCulloch, in the joint Federal-State task forces, I know you participated in that.

Mr. McCULLOCH. Yes, sir.

Senator SESSIONS. Is there some midway? And I know the Federal Government will pay for overtime for local police officers and some things of that nature on the part of a task force. Could you have some money set aside for witness protection, maybe less than the Cadillac Mafia deal, but is there something we could do?

Mr. McCULLOCH. I think your statement there, I do not think anybody could have put it any better than that, some strategically placed Federal funding for that very purpose put in the hands of the local prosecutors, the local authorities for that specific purpose.

The situation that we have—the two most dangerous times we have found across the board on these cases are immediately after the crime is committed—during that investigation, when the witnesses are most vulnerable, the emotions are running so high—and then just before the trial when the witness himself is at the greatest risk. And if there is adequate funding to perhaps—you know, just those. We can generally, in very rare circumstances, I should say, in very extreme circumstances, get our witnesses out for those two time periods. But we have found now that the intimidation takes various forms. There is the classic intimidation of killing the witness, but there are other times when it is as subtle as driving by the house. We had an arson case. A guy drove by the house of our star witness on the arson case, stood outside the house, and just struck matches while our witness sat on her porch, blew the match out, threw it down, strike another one. It is that sort of intimidation, and, frankly, it did scare her, should have scared her. We had to get her out. But I think that strategic placement of local funds.

Better than 98, I want to say, percent of the criminal, the violent criminal cases in this country are prosecuted at my level and Mr. Jordan's level. And that is where that funding, I think, needs to be. It has to be there in order to enable us to protect those witnesses.

Senator SESSIONS. Just a yes or no, if you know. The task force monies, when one is set up, Federal and State, and Federal will

bring in some monies to support that task force, are there monies available for witness protection, or do you know?

Mr. MCCULLOCH. I am not 100 percent positive on that.

Senator SESSIONS. But it could use up all the money pretty quick because it can be expensive.

Mr. MCCULLOCH. It can go very fast, particularly if it is paying overtime to the officers to protect them, yes. And that may be a limited amount available for that, but I think most of the overtime money goes into the investigation itself as opposed to into the protection.

Senator SESSIONS. Mr. McBride, I know we talked about in California Asian gangs and all. What connection, if any, or what factor, if any, is it that the gang members may be illegal aliens or citizens? Is that a factor at all?

Mr. MCBRIDE. It is a minor factor. There is a very large immigrant gang, the Mara Salvatrucha, the El Salvadoreans that have traveled across this country. They were a problem that started in the Rampart area of Los Angeles City, spread through Central America, back up the eastern coast of the United States, almost all illegal aliens there.

But I would say that no more than 20 percent of our gang members in Los Angeles are illegal aliens. Our problem is Americans killing Americans.

Senator SESSIONS. What about the circumstance with known violent juveniles? A small number of juveniles in my experience can be very dangerous, and officers have told me they will kill you quicker than an older criminal will kill you, with less remorse. But I remember the story in New York, when we worked on the juvenile crime bill, of a teenager convicted—or charged, and convicted, I believe, in juvenile court of a very serious crime. It was unknown that that person had also been charged and convicted in New Jersey for a similar crime. They were let out on bail and they killed somebody the next day.

The point is that under the juvenile laws, juvenile violent criminal records do not go into NCIC and maybe even the probation officer and the judge do not know that this gang person arrested in Alabama may have had a serious crime of violence in Los Angeles or St. Louis.

Don't you think that with regard to juvenile cases, at least cases involving serious violence, should be available in the NCIC or crime history so that police officers and probation officers and judges would know that? Is that a weakness in our system?

Mr. MCCULLOCH. It is a weakness in our system, absolutely, and it falls right in with the fact that juveniles are defined differently across the country. At the Federal level, you heard that if you are—I believe it is 18. In Missouri, if you are 17, you are an adult, and there really is no age limit at which you can be treated as an adult, depending upon the type of crime.

I think most States have now recognized that those records are very important and they have loosened up some, but not enough to do a whole lot of good. I still have difficulty getting juvenile records in my own jurisdiction.

Senator SESSIONS. In your own jurisdiction.

Mr. McBride?

Mr. MCBRIDE. Yes, sir, that is a real problem. One State I saw, they could not even keep juvenile records in the same file cabinet as adult records.

Senator SESSIONS. I think that is basically the law.

Mr. MCBRIDE. But the problem is there is no national gang database either. If there were a database of gang members nationally, prosecutors could look up the gang member, maybe not his criminal record, if it was still protected by law, being a juvenile, but the fact that he is a gang member would come to his attention and he could call the investigators in these other States and locales. But that does not exist. A truly working system does not exist.

Senator SESSIONS. Mr. Jordan, do you think that we could do better in that?

Mr. JORDAN. Yes, Senator. I think that local prosecutors throughout the country could benefit from additional information, particularly background information about violent individuals. Having that kind of criminal history would put us in a much better position to make wiser decisions about charging decisions and what kinds of charges—

Senator SESSIONS. Whether to charge as an adult or a juvenile, for example.

Mr. JORDAN. That is right. That is exactly right.

Senator SESSIONS. So the weird situation is if you are 17 in a lot of States and you commit assault with intent to murder and are charged as a juvenile, it is a secret proceeding. It is not put in NCIC. They could move to the next State and commit another crime, and the judge could release them on bail. They could be tried as a juvenile again because nobody knew they had this history of violence.

We tried to fix that, and there were a lot of objections which I could not fathom why. The juvenile records are extraordinarily protected, but when there is violence involved in it, I think we have got to protect the public over the—and they should count themselves lucky they were not tried as an adult.

Now, I was thoroughly impressed with and supported Alabama departments, both in Birmingham and Mobile, who modeled programs on the Boston initiative in which—if you are familiar with that, they had a dramatic reduction in murders by teenagers in Boston with very intensive supervision, very serious law enforcement, and counseling and a lot of other things. But I think the key to it was probation officers went out at night to their homes on a regular basis to see if Billy was at home and in bed like he was supposed to be. And if he wasn't, they did something. And so there was credibility in the system. It took some money, but then the crime rate just began to plummet.

Do you think our system is so overwhelmed—if you would give me just briefly your thoughts on it. Are we so overwhelmed we cannot reach that? Or do you think that would work if we had the resources to do it throughout America?

Mr. JORDAN. I know, Senator, in Louisiana we have had a problem with supervised probation of young people, of adults, for that matter, and there are far too few resources put in that area. And if we could actually have individuals who are monitored very close-

ly by the system during the time before trial and certainly after they have been sentenced, that would help a lot.

I think that it could even take the form of electronic monitoring as well, and I know there have been a number of proposals to that effect. But our State is very poor, and we are having a hard time dealing with that particular challenge. But I think that, again, this is an area where the Federal Government could play a very important role in helping us to solve this problem.

Senator SESSIONS. The way they did it in Boston is probation officers were understandably uneasy going out at 9 and 10 o'clock at night, so they reached an accord with the police department that a police officer would go with the probation officer and they would actually go out to homes, which requires a commitment from the department and some resources.

I believe in Alabama they changed some people's hours of work, from 3 o'clock in the afternoon to 10 o'clock at night, probation officers, so they could do that.

Would either one of you like to comment on that?

Mr. MCBRIDE. I would comment on that we did that in 1979, my own unit, the Operation Safe Street on a grant with probation officers, and they rode with us. We did the exact same thing in 1979 and early 1980, and it absolutely works. Absolutely works. We decreased gang crime. We had to give them numbers, and we told them we would do it by 15 percent, would be our goal. Well, we reduced gang crime in every case 50 percent in the areas we did that at. It was labor-intensive, but it worked like a champ.

Probation officers rode with our deputy sheriffs, and we did home checks. We did everything. We would see them in violation as we drove down the street, had a probation officer with us, and we took the kid in custody. And it absolutely worked. The problem was funding ran out, probation did not have any money, and it stopped.

Senator SESSIONS. And you have to have a place to put them, a judge and a DA that understands the program, and everybody has got to be on the same sheet of paper. But it reduced murders dramatically where that has occurred.

Do you have any thoughts about that?

Mr. MCCULLOCH. Senator, I think it works in all areas. We have seen in the use of drug courts, effective use of drug courts with the intense supervision that is placed upon them with reporting every week. Once a week they are in front of a judge, and if there is a slight violation, there is an immediate consequence for it. And that really drops our recidivism rate for the people that have gone through that court down to next to nothing. At least in the short term it has. We need to obviously study it over a lengthy period of time, but that has worked across the country in other areas.

One of our problems is, again, back with the juveniles in that so many of them are juveniles. We do not have enough juvenile officers to supervise anybody right now, much less this intense supervision. And it all comes down to funding for it.

Senator SESSIONS. I am very dubious about a lot of these ideas that say pay me now, pay me later. Sometimes they just—you know, this, that, and the other. But this deal is important, and I believe the numbers and the experience shows that if you carefully

monitor through drug courts, which I think are excellent programs for the very reasons you mentioned, it makes a difference.

A New York Times reporter, Fox Butterfield, said that in Chicago they spent 3 minutes a case on a juvenile case. It is just a revolving door. No attention is paid. No supervision is paid. Unless they go to jail, they are out essentially unsupervised. A judge has a bad choice then.

In our juvenile crime bill that we passed in the Senate and ended up in a conglomeration over gun issues, it failed over that issue alone, and it was terrible, in my view. We tried to emphasize that if you have a judge and a court system that has got some jail capacity and sufficient probation officers to monitor the kids—because they get arrested early. By the time they commit a murder, they have been arrested two or three times, normally. And then you would see a drop-off in crime, and it ends up saving money, I think. It also saves some young people's futures.

Do you have any thoughts about that?

Mr. JORDAN. In Louisiana, Senator, the options with respect to juveniles, the options are largely unsupervised probation and detention, and those are unacceptable options. I think you have to have a number of other alternatives there, particularly supervised, some kind of supervised monitoring of young people who have run afoul of the law. And until there are more alternatives, I think that we are going to continue to see a high recidivist rate. And I know that the State is now in the process of considering a change to the juvenile code or the juvenile regime in such a way that there will be more alternatives to the current options that we have today.

Senator SESSIONS. There is a limit to what the Federal Government should do, in my view. I was a United States Attorney for 12 years, and I know it is virtually impossible to prosecute a juvenile in Federal court. Maybe that is what people wanted. I would, frankly, say that I thought it was—and we had it in the legislation to give the U.S. Attorneys a little more discretion, Mr. Jordan, as to whether you are indicting a group of gang members, and maybe you want to charge some juveniles in that group, too. But we failed in getting that passed.

You are experienced prosecutors and investigators. What can the Federal Government do overall that would help the most?

Mr. MCCULLOCH. I hate to sound like a broken record, but as you said, the bulk of the cases, whether they are juvenile, adult—

Senator SESSIONS. Well, 99.999 percent of juvenile cases are tried in State courts.

Mr. MCCULLOCH. Absolutely.

Senator SESSIONS. There will not be one of 5,000 tried in Federal courts, juvenile cases.

Mr. MCCULLOCH. Absolutely. And without those resources to be there, you know, that is what we are stuck with. We can prosecute. We can bring all the juveniles, we can bring all the adults we want into a courtroom, and if we want to keep them on probation, we have got to have the ability to monitor them. We have to have the ability to keep tabs on them, to keep track of them so that we are not prosecuting them down the line for some more serious crime.

I will make a blanket statement, and I usually do not do that, but I will guarantee nobody, no 18-year-old starts off walking down

the street and shooting somebody dead. That is not the first crime committed by that person.

Senator SESSIONS. You are exactly right.

Mr. MCCULLOCH. And if we can intervene at a much earlier time at a point in that, and the problem is there is just no funding there. In all honesty, by the time the funding does make its way to us, it has been siphoned off into other many worthwhile programs, but some that it could be much better spent in this regard. As a prosecutor, my goal and the goal of most prosecutors, all prosecutors, is to prevent those crimes. I would much rather prevent it than prosecute it later, and we have to get in at a much, much earlier age and in a much earlier stage in the proceedings in order to have any chance of doing that.

Senator SESSIONS. Well, it is clear to me that you should intervene early in the kids who are most at risk. If you had to develop a cohort of kids most at risk, it clearly would be kids who have already been arrested, who are being arrested at 14, 15. You can be sure they are heading for big trouble if something does not happen. And the judge has control over those kids. The court system has them. If a child is misbehaving a little in school, who has got the power to do anything there? But if they have committed a crime and they are before that judge, he can order the family to be involved in counseling.

In my home town of Mobile, Judge Butler, my law school classmate, ran that program for many years. They have broken the back of juvenile crime. He expanded the supervision. He expanded jail capacity. He said, "I couldn't lock kids up for violation of court orders and probation because they had no place to put them. They gave us some additional space," and he said, "The amazing thing was we don't need it now." He said, "Crime has dropped 40 percent among juveniles." He is shocked at the dramatic decrease. But every youngster that gets involved with the court system is given attention. Now they have enough time to give them attention.

It is not just sweetness and light. They are told things they have to do, and if they do not do them, the system falls through.

Well, we could talk about this forever, but I know one thing. With regard to juvenile crime, it is State and local. That is where the rubber meets the road. If we are going to fight juvenile crime, we need to strengthen the local systems. It would be stupid, poor management, and very bad philosophy for the United States Federal Government to try to take over the prosecution of juvenile crime. We do not have juvenile centers. We do not have juvenile probation officers. We do not have juvenile prosecutors. You have all of those things. We do not have juvenile judges. And if we can figure out a way to assist the States and encourage them to follow intensive supervision, lock people up who are violent and dangerous, those who you take a chance on, monitor them closely, I think that would be helpful. We need to look at this witness intimidation, and we will be looking to see and make sure that the monies can be available to be used maybe in these joint operations, at least, to protect witnesses.

Do any of you have anything else to share before we adjourn?

Mr. JORDAN. Senator, I would just say that I do not think Louisiana is unique in the sense that we have a problem with pro-

viding the kind of supervision that is required in order to make certain that people do not become recidivist. I think this is a national problem, and that is the way, I think, to ensure that you have people who are held accountable, because everyone cannot be locked up. But there are a number of people who should be very carefully supervised during the time that they are out on the streets so that we can make sure that they are not getting into trouble again and not getting other people into trouble as well.

So I think that the Federal Government really has an interest in helping local law enforcement authorities to deal with this problem. The U.S. Attorney should not be prosecuting juveniles, but certainly local prosecutors and local law enforcement authorities need a lot more resources if they are to effectively address this problem.

Senator SESSIONS. Well said. I think there is a principle that the Federal Government does not need to become an essential funder of State criminal justice systems. But our national centers should be the center for research and assistance to local people. We can set up some grant programs to help energize new systems for States and help them make decisions, to leap forward and change the way they do business. And I certainly support that.

I also was impressed, Mr. Jordan, with Mr. Connick's ideas about drug testing in schools. I do not know how far he got there in Louisiana with that for school kids. But this country eliminated drugs in the military through drug testing, and I believe we could make dramatic progress in that, and we would identify early kids that are heading for trouble. Mom and Daddy would know that maybe some of their misbehavior was tied to drug use.

Mr. JORDAN. I think that drug testing has to be part of a comprehensive program. Testing alone would not be sufficient to deter young people from getting involved with drugs.

Senator SESSIONS. Well, I have a little different view of it. I do not think you need to arrest them, charge them, or even necessarily kick them out of school. But I think if a school says no drugs in our school and a child tests positive for drugs and Mother and Daddy are called and there is a little conference here, and if they need to go to counseling and be put on even more strict testing, I think the drug courts have shown that kind of monitoring does—can change behavior.

But, anyway, we could talk about that one forever. It is just one of my insights that I have had, and Mr. Connick came and saw me one time, and he was a big promoter of it.

Thank you so much for your excellent testimony. I value it greatly. It will be a part of the record. And I know that this Committee will move forward to try to do what we can to deal with the problem of gangs shortly.

Thank you. We are adjourned.

[Whereupon, at 4:50 p.m., the Committee was adjourned.]

[Other related material being retained in Committee files.]

[Questions and answers and submissions for the record follow.]

QUESTIONS AND ANSWERS



U. S. Department of Justice

Office of Legislative Affairs

---

Office of the Assistant Attorney General

Washington, D.C. 20530

January 7, 2004

The Honorable Orrin G. Hatch,  
Chairman  
Committee on the Judiciary  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

Enclosed please find responses posed to Mr. Christopher Christie, United States Attorney for the District of New Jersey, following the appearance of Mr. Christie before the Committee on September 17, 2003, concerning "Combating Gang Violence in America." We hope that this information is useful to you and that you will not hesitate to call upon us if we may be of additional assistance.

Sincerely,

A handwritten signature in cursive script that reads "William E. Moschella".

William E. Moschella  
Assistant Attorney General

Enclosure

cc: The Honorable Patrick J. Leahy  
Ranking Minority Member



Questions for the Record Submitted by  
the Senate Committee on the Judiciary to U.S. Attorney  
Christopher Christie  
District of New Jersey

**Combating Gang Violence**

September 17, 2003

Chambliss 1

Justice Anthony Kennedy recently told the American Bar Association that the United States Sentencing Guidelines need to be revised in a downward direction and that mandatory minimum prison terms should be abolished. I'd like each of you to respond to Justice Kennedy's criticism of these federal sentencing provisions. Specifically, is the present federal sentencing scheme helpful in addressing the gang problem that we have in America today?

Response:

In passing the Sentencing Reform Act of 1984, which created the present federal scheme of determinate sentencing, Congress intended to eliminate, to the extent possible, unwarranted disparity in federal sentencing while maintaining an appropriate measure of discretion for judges to craft an individualized sentence in each case. Both the United States Sentencing Commission and Congress continue to refine this system with these general principles in mind, and the Department of Justice attempts to further these principles in implementing its own charging and sentencing policies.

As I testified, in many districts the applicable federal sentences for gang-related crimes are considerably higher than their state or local counterparts. Although flexibility in sentencing is important, predictably stiff sentences for gang-related crimes is crucial for law enforcement to obtain the cooperation of lower-level gang members against gang leaders, and to adequately punish these serious crimes and prevent recidivism as well as deter others from joining criminal gangs.

Chambliss 2

Do you believe that federal judges currently have sufficient discretion in their sentencing decisions?

Response:

See above response to Question 1.

Chambliss 3

Do you have any recommendations on how the Congress can help you in your war against criminal gang enterprises?

Response:

The Department is continually reviewing the applicable statutes for combating the serious problem of criminal gangs, as we do for other pressing law enforcement matters. We look forward to reviewing any proposed legislation and working with Congress to improve and refine, as appropriate, any such proposals.

Chambliss 4

I've been concerned lately about some articles I've read about trafficking in minors for prostitution. In your experience, is this yet another gang-related enterprise? Please tell me what Congress can do to help you prosecute these horrendous operations.

Response:

Your concern is warranted, and I share it. In New Jersey, we believe that criminal gangs are increasingly getting involved in prostitution, including recruiting and trafficking minors for that purpose. Indeed, there are documented instances in New Jersey of the Salvadorian gang Mara Salvatrucha 13 and the Mexican gang La Mugre trafficking in young women and children for prostitution. Additionally, it is common for Mexican and Salvadorian gang members to provide protection to houses of prostitution, some of which employ minors, in certain areas.

In those instances where the gangs are actually involved in the interstate transportation of adults or children, Title 18, United States Code, Sections 2421 and 2423, respectively, encompass such criminal conduct. However, where the gang provides protection for the house of prostitution, but did not transport the adult or child prostitutes, those statutory sections would be inapplicable.

We would be happy to work with Congress if new legislation is considered in the future.

Chambliss 5

It is clear from your respective statements that a majority of gang activity continues to encompass drug trafficking all aspects of which are already governed by federal law. Each of you provided information on very important gang prosecutions your offices have spearheaded using the racketeering statutes, the Hobbs Act and drug trafficking crimes. Despite your successes, and in light of my view that we should not be in the business of simply "federalizing" state crimes, I am concerned that the solution offered by some to the very real problem of gang violence in our communities is simply to make new laws. Can you provide all specific instances, without, of

course, providing the names of the putative defendants, where your office has been unable to proceed with any federal prosecution in a gang case simply because a federal statute did not cover the alleged conduct? What specific problems, if any, have you encompassed in gang prosecutions relating to specific aspects of the federal laws?

Response:

Generally, in large-scale gang cases where federal jurisdiction exists to enable the application of federal law, our office is able to bring more prosecutorial tools to bear than would our state counterparts. Federal gun and drug-trafficking penalties tend to be substantially greater than state law provides, which gives prosecutors needed leverage in obtaining the cooperation of lower-level gangsters in putting together a case against the gang's leaders. While existing federal law can be applied, and is applied, to prosecute criminal gangs, some of the statutes we rely upon, for example those originally intended to target "traditional" organized crime or interstate trafficking in contraband, do not readily "fit" the distinct characteristics of gang crime. The Justice Department continues to review current law and consider various legislative proposals; we look forward to discussing any specific proposals with you and other Members of Congress once they are finalized by the Administration or formally introduced in Congress.

Regarding specific examples, in several gang investigations, we uncovered evidence of assaults resulting in serious physical injury and assaults with dangerous instruments that took place more than five years earlier. Since the statute of limitations for a prosecution under Section 1959 (Violent Crime in aid of Racketeering Activity) is five years, our only hope is to prosecute these incidents of gang violence as racketeering acts under RICO. However, while certain violations of state law such as murder, robbery, etc., are currently included in the statutory definition of racketeering activity, some crimes that are typically associated with gang activity are not currently considered predicates, for example, assault with a dangerous weapon and assault resulting in serious physical injury are not included.

Additionally, in connection with an Asian gang investigation, our office found that federal law generally does not allow the prosecution of "home invasion" robberies. Specifically, we were investigating a Fukinese gang based in New York which committed several "home invasion" robberies of wealthy Asian business owners in New Jersey. Prosecution under the Hobbs Act (18 U.S.C., Sec. 1951) was problematic because the robbery took place at a private home, and not a business, and therefore lacked the necessary effect on commerce. Additionally, prosecution under the Interstate Travel in Aid of Racketeering Enterprises statute (ITAR)(18 U.S.C., Sec. 1952) was also problematic because although ITAR makes it unlawful to travel between states to commit extortion, robbery is not one of the listed offenses.

In another case, we are prosecuting a gang that travels between two states committing high-end residential burglaries. Because ITAR (Section 1952) does not include burglary within the definition of "unlawful activity" we have had to charge the defendants with Interstate Transportation of Stolen Property, which carries a maximum statutory sentence of five years

incarceration.

Chambliss 6

One suggestion made during the hearing, was to consider federal legislation that would make it easier to prosecute juveniles in federal court that engage in gang activity. Yet, each of you described children as young as 8 or 9 years old involved in gang violence, often at the behest of older gang members. Though it certainly appears clear that the current federal system of handling juveniles may need revisiting, I have concerns about lowering the age limit for federal prosecutions particularly when are state and local partners in law enforcement have their own laws dealing with violence and juveniles as well as the proper facilities to deal with juvenile offenders. Moreover, I fear that we are on a slippery slope of prosecuting under the more harsher federal system what are usually first time offenders who often commit these heinous acts only at the instruction and destruction of older gang members who are subject to prosecution in federal court for procuring or soliciting these crimes. Please describe your position on the prosecution of juvenile as adults in federal court for gang activity as opposed to drug trafficking or other violations of federal law. How many juveniles have your respective offices declined prosecution on in gang-related prosecutions? How many juvenile prosecutions does your office handle? Were the juveniles prosecuted in state court? How do you think we could improve the federal system relating to the criminal prosecution of juveniles? Do you think the 18 year old threshold for adult prosecution should be lowered and, if so, to what age limit? Individuals under 18 are not eligible for the death penalty in federal cases involving murder or other capital cases. Please state your position reference handling juveniles in capital cases.

Response:

My office has not filed federal charges against any juveniles in recent years. While we are currently prosecuting a large gang case in which the methods and means of the drug organization involved the routine utilization of minors to commit serious drug and violent offenses, we have charged only the adults with such conduct. All information we have gathered about juveniles committing serious crimes has been given to the county prosecutor's office, which has charged several such minors under state law.

On the other hand, we have prosecuted, and will continue to prosecute, adult gang members, particularly gang leaders, who recruit vulnerable minors into gangs, and take advantage of their legal status, as well as their eagerness for acceptance, to further some of the most heinous gang crimes. As I testified, many gang leaders evidently assign violent "hits" – including serious assaults and murders – to juveniles who aspire to join the gang, or be promoted within the gang's ranks. Similarly, gang leaders in my district are known to recruit mere children – some less than ten years old – to serve as lookouts or couriers in drug trafficking. I believe that severe penalties – above and beyond what normally attend upon conviction for the underlying crimes – should result from such recruitment efforts by gang leaders.

As I testified, the Department's Project Safe Neighborhoods program ("PSN") has been of vital importance to federal efforts to combat gang crimes and violence. Congress's support of PSN has enabled my office, as well as those of my colleague United States Attorneys, to better coordinate with state and local law enforcement officers and prosecutors, and marshal the respective resources of many agencies in a collaborative manner. As mentioned, the appropriate treatment of juvenile gang members, including those juveniles who commit serious crimes in the hopes of being accepted into a gang, has been aided by our cooperation with the state and local authorities that deal with juveniles. Because my office has not prosecuted juveniles in recent years, I am not in a good position to evaluate how the federal system currently handles juveniles. As with other significant law enforcement issues, the Justice Department continues to review current law and consider various legislative proposals; we look forward to discussing any specific proposals with you and other Members of Congress.

Leahy 1

Each of you provided a compelling description of the problems associated with witness intimidation in gang prosecutions. I couldn't agree more that assisting in witness security issues in gang prosecutions is a role the federal government could play in these cases. Under federal law, specifically 18 U.S.C section 3521, the Attorney General may provide for the relocation and other protection of a witness or a potential witness for the federal government or for a state government in an official proceeding concerning an organized criminal activity or other serious offense. By law, the Attorney General is required to issue guidelines defining the types of cases for which he will exercise his relocation and protection authority. In this regard, the U.S. Attorney's Office Manual essentially provides that if a state or local request is received, the State is asked to reimburse the United States for expenses incurred in providing protection, and to enter into an agreement in which the State agrees to cooperate with the Attorney General in carrying out the provisions of the Witness Security Reform Act. What coordination, if any, does federal law enforcement have with state and local victim/witness staff in your specific offices with reference to assisting in witness protection and security issues for state and local law enforcement? Are there reporting mechanisms reference the number of requests for assistance that are made, the number granted, the system for reimbursement, the costs of reimbursement or any similar information? If so, could you provide me any data gathered in connection with state and local use of witness security and protection resources of the federal government?

Response:

The Project Safe Neighborhoods ("PSN") program has been of vital importance to federal efforts to combat gang crimes and violence. Congress's support of PSN has enabled my office, as well as those of my colleague United States Attorneys, to better coordinate with state and local law enforcement officers and prosecutors, and marshal the respective resources of many agencies in a collaborative manner. This collaboration has also facilitated making available federal resources in the context of witness security.

I am aware of two recent state/local requests for assistance in witness security. First, a local Police Lieutenant contacted this office about seven months ago and stated that the Bloods in Jersey City had put a "hit" out on a female Bloods member. Since we had a federal investigation which was parallel to the county one, the individual was a witness in both investigations. Therefore, the FBI could justify paying for her relocation.

The second request came from a county Prosecutor's Office, which was concerned about the safety of a Bloods cooperator who was incarcerated on a state murder charge. In that case, the county urged our office to accept a federal plea from the individual, who also had information in a federal Bloods investigations, so he could be placed in federal custody.



**U.S. Department of Justice**  
**Office of Legislative Affairs**

---

Office of the Assistant Attorney General

Washington, DC 20530

January 30, 2004

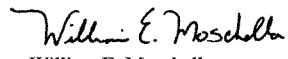
The Honorable Orrin G. Hatch  
Chairman  
Committee on the Judiciary  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

Enclosed please find responses to questions posed to United States Attorneys Patrick Fitzgerald and Debra Yang following their appearance before the Committee on September 17, 2003. The subject of the hearing was combating gang violence.

We hope this information is helpful to you. Please do not hesitate to call upon us if we may be of additional assistance in connection with this or any other matter.

Sincerely,

  
William E. Moschella  
Assistant Attorney General

Enclosure

cc: The Honorable Patrick J. Leahy  
Ranking Minority Member

U.S. Attorney Patrick Fitzgerald's Responses to  
Questions Submitted by  
the Senate Committee on the Judiciary  
September 17, 2003

Combating Gang Violence

Chambliss 1

Justice Anthony Kennedy recently told the American Bar Association that the United States Sentencing Guidelines need to be revised in a downward direction and that mandatory minimum prison terms should be abolished. I'd like each of you to respond to Justice Kennedy's criticism of these federal sentencing provisions. Specifically, is the present federal sentencing scheme helpful in addressing the gang problem that we have in America today?

Response:

Revising the United States Sentencing Guidelines in a downward direction would be counterproductive in our fight against juvenile gang violence, as this would weaken the incentive for cooperation among those charged in the federal system. The present sentencing guidelines scheme is helpful in addressing gang cases, because the serious penalties for drug trafficking create strong incentives for cooperation by those charged in the federal system.

Chambliss 2

Do you believe that federal judges currently have sufficient discretion in their sentencing decisions?

Response:

I think the question of whether judges have sufficient discretion in sentencing defendants presents the tradeoff between allowing for judicial discretion in appropriate cases, and the significant disparities in sentences among similarly situated defendants that in the past has resulted from unrestricted judicial discretion. Congress has chosen to strike a balance that reduces unwarranted disparity by limiting discretion, while providing for departures in exceptional cases. This system allows for greater predictability in the sentencing structure, which is a significant benefit as prosecutors and defense lawyers work to resolve cases, creates strong incentives for guilty pleas and cooperation, and limits the "lottery effect" of the judicial assignment process.

Chambliss 3

Do you have any recommendations on how the Congress can help you in your war against criminal gang enterprises?



Response:

I believe that Congress could help us in the war against criminal gang enterprises by increasing the penalty provisions for those who recruit, employ, manage or supervise juveniles in illegal activity.

Chambliss 4

I've been concerned lately about some articles I've read about trafficking in minors for prostitution. In your experience, is this yet another gang-related enterprise? Please tell me what Congress can do to help you prosecute these horrendous operations.

Response:

My office has not seen significant evidence of gang involvement in the trafficking of minors for prostitution. In general, Chicago's gangs have concentrated on their profitable drug dealing activities. The Chicago area has a task force of federal and state investigators and prosecutors who focus on human trafficking issues, including the trafficking in minors for prostitution. My office participates in that task force, and while to date it has not uncovered any evidence of organized trafficking by gangs in minors for prostitution, there are anecdotal reports that some of the alien smuggling organizations that import prostitutes to the Chicago area (primarily from Asia, Eastern Europe, and Mexico) occasionally deal in minors. My office also has a prosecutor who serves as the point of contact for matters involving child prostitution generally. I believe that we have the statutory tools to prosecute these organizations; the difficulty has been in investigating them, principally because of the close-knit nature of these organizations, the fear that potential witnesses have of retaliation against family members in foreign countries if they retaliate, and the limited number of law enforcement officers with the linguistic and cultural expertise to work these cases effectively.

Chambliss 5

It is clear from your respective statements that a majority of gang activity continues to encompass drug trafficking all aspects of which are already governed by federal law. Each of you provided information on very important gang prosecutions your offices have spearheaded using the racketeering statutes, the Hobbs Act and drug trafficking crimes. Despite your successes, and in light of my view that we should not be in the business of simply "federalizing" state crimes, I am concerned that the solution offered by some to the very real problem of gang violence in our communities is simply to make new laws. Can you provide all specific instances, without, of course, providing the names of the putative defendants, where your office has been unable to proceed with any federal prosecution in a gang case simply because a federal statute did not cover the alleged conduct? What specific problems, if any, have you encompassed in gang prosecutions relating to specific aspects of the federal laws?

Response:

There are at least two categories of gang targets we have a difficult time prosecuting under the current statutory framework – enforcers and gun suppliers. Both obviously play a substantial role in making gangs more violent.

We typically prosecute gangs, or a faction of a gang, through the drug conspiracy statute, because: gangs are almost always involved in drug trafficking; the elements are the easiest to prove; and the drug penalties will usually ensure appropriately stiff sentences. But even though our prosecutions often focus on the gangs' profit-making drug business, gangs are just as dependent on violence for their success.

On a regular basis, a violent gang member is used by the gang as an enforcer even though he is not personally involved in the gang's drug trafficking. He is usually someone closely linked to the gang and its leadership – thoroughly knowledgeable of the gang's nature, hierarchy, etc. – but may in fact have quite limited knowledge of the gang's drug-trafficking side. The criminal acts he commits usually include shootings, acts of intimidation, and being a felon in possession. We have trouble including this enforcer in a drug-conspiracy case because it is often difficult to prove that he shot someone or carried a gun in order to assist the gang's drug business, or even that he knew the specific reason for the shooting. What is usually easier to prove is that he shot someone or carried a gun because, broadly speaking, he wanted to help the gang leader who asked him to do so.

We, at times, charge the gang under RICO and include the enforcer's acts as part of the pattern of racketeering activity, but we often shy away from charging RICO because of the complexity and relative rigidity of its elements. Thus, a statute that appropriately defined gangs, and made it a federal offense to commit violent crimes (or drug crimes, etc.) in order to help the gang, or in furtherance of the gang's activities, would be helpful to us in prosecuting enforcers in situations like these.

A gang's gun supplier may be similarly situated. A gang leader, enforcer, or drug-spot operator may rely on a friend with no felony convictions to supply him with guns. If the gun supplier knows that the buyer is a convicted felon, we can charge that crime, but that fact is sometimes difficult to prove. What is sometimes easier for us to prove is that the gun supplier knew that he was supplying the gang, or part of the gang, with guns, even if he didn't know specifically how the gang was going to use the guns. This is in part true because Chicago gangs and factions have "brand names" that will make it plain to the seller who they are supplying. Thus, we could seek to use a gang enterprise statute to prosecute those who supply guns knowingly to gangs.

The firearms trafficking statutes as they are written now are difficult to avail of in the typical prosecution of a person providing guns to gangs. For example, in order to be charged with dealing firearms without a license, we would need to prove that a gang member (or other person to whom the statute applies) was in the regular business of selling firearms as opposed to merely

showing that he sold to gang members on one occasion. We also have encountered venue issues with cases where the defendant travels out of state to pick up weapons to bring to Chicago. We know that many of the trafficking cases begin in other states such as Indiana and Mississippi. The charges usually available to us are violations of selling a gun to an individual whom he knows will carry it out of state. The resulting penalties certainly do not address the seriousness of the crime. As a hypothetical (based upon an actual fact pattern we have encountered): an out of state person provided 2 dozen weapons to a gang member who traveled out side of Chicago to obtain the guns. Half of the weapons were later used in crimes, one day after the sale. The likely sentence to the gun seller under the sentencing guidelines is three to four years, and the statutory maximum penalty is 5 years. That sentence is inconsistent with the impact that the supplier's provision of weapons had on the community here in Chicago. Moreover, such prosecutions encounter venue challenges if pursued in the district where the resulting crimes occur. Thus, a statute that specifically criminalized providing firearms to persons who there is reason to believe will carry out crimes of violence would be helpful, particularly if it provided for alternative venue in the districts: of the purchaser's residence, where the gun was brought and/or where the resulting crime was committed, as well as the district where the initial sale took place.

#### Chambliss 6

One suggestion made during the hearing, was to consider federal legislation that would make it easier to prosecute juveniles in federal court that engage in gang activity. Yet, each of you described children as young as 8 or 9 years old involved in gang violence, often at the behest of older gang members. Though it certainly appears clear that the current federal system of handling juveniles may need revisiting, I have concerns about lowering the age limit for federal prosecutions particularly when our state and local partners in law enforcement have their own laws dealing with violence and juveniles as well as the proper facilities to deal with juvenile offenders. Moreover, I fear that we are on a slippery slope of prosecuting under the more harsher federal system what are usually first time offenders who often commit these heinous acts only at the instruction and destruction of older gang members who are subject to prosecution in federal court for procuring or soliciting these crimes. Please describe your position on the prosecution of juvenile as adults in federal court for gang activity as opposed to drug trafficking or other violations of federal law. How many juveniles have your respective offices declined prosecution on in gang-related prosecutions? How many juvenile prosecutions does your office handle? Were the juveniles prosecuted in state court? How do you think we could improve the federal system relating to the criminal prosecution of juveniles? Do you think the 18 year old threshold for adult prosecution should be lowered and, if so, to what age limit? Individuals under 18 are not eligible for the death penalty in federal cases involving murder or other capital cases. Please state your position reference handling juveniles in capital cases.

#### Response:

As to the questions concerning prosecution of juveniles, we prosecute very few juveniles because of the logistical difficulties and legal complexities involved. We cannot give a true measure of

how many cases are declined because most of the law enforcement agencies know that it is too difficult to prosecute juveniles in the federal system and are thus likely not to make formal requests to prosecute juveniles. A helpful change that could be made would be to create an appropriate enhancement in either the statutory penalties or sentencing guidelines for offenders who recruit, employ, manage or supervise juveniles in gang activity. If consideration is given to lowering the age at which a defendant can be prosecuted as an adult, I think it would be important to make the decision to prosecute as an adult at the discretion of the United States Attorney, and not automatic for all juveniles of that specified age.

Leahy 1

Each of you provided a compelling description of the problems associated with witness intimidation in gang prosecutions. I couldn't agree more that assisting in witness security issues in gang prosecutions is a role the federal government could play in these cases. Under federal law, specifically 18 U.S.C section 3521, the Attorney General may provide for the relocation and other protection of a witness or a potential witness for the federal government or for a state government in an official proceeding concerning an organized criminal activity or other serious offense. By law, the Attorney General is required to issue guidelines defining the types of cases for which he will exercise his relocation and protection authority. In this regard, the U.S. Attorney's Office Manual essentially provides that if a state or local request is received, the State is asked to reimburse the United States for expenses incurred in providing protection, and to enter into an agreement in which the State agrees to cooperate with the Attorney General in carrying out the provisions of the Witness Security Reform Act. What coordination, if any, does federal law enforcement have with state and local victim/witness staff in your specific offices with reference to assisting in witness protection and security issues for state and local law enforcement? Are there reporting mechanisms reference the number of requests for assistance that are made, the number granted, the system for reimbursement, the costs of reimbursement or any similar information? If so, could you provide me any data gathered in connection with state and local use of witness security and protection resources of the federal government?

Response:

While we are aware of the federal government's ability to assist state authorities in connection with the admission of witnesses to the Witness Protection Program, this Office has seen few formal requests from state authorities for assistance regarding witness security matters. Although in one instance, the Cook County State's Attorney's Office explored the possibility of seeking our assistance in admitting a witness to the Witness Protection Program, we have not (at least in recent memory) had a state witness admitted to the program. We have had several cases, however, in which we have made witnesses in the Witness Protection Program available to state prosecutors for debriefing and testimony. One reason for the lack of requests for assistance from state authorities regarding witness security matters may be that both the State of Illinois and Cook County have well-developed witness security programs of their own, which provide relocation assistance to witnesses who may be endangered as a result of their cooperation in

either state or federal prosecutions. There may also be some reluctance by the state to deal with the difficult issue of reimbursing the federal government for costs incurred. Our office's victim/witness staff regularly works on an informal basis with their state counterparts, most frequently in cases where there is an overlap between state and federal interests. In one such case, for example, we worked together to relocate a domestic violence victim/witness who also was a witness against her abuser in a revocation hearing in federal court.

U.S. Attorney Debra Yang's Responses to  
Questions Submitted by  
the Senate Committee on the Judiciary

September 17, 2003

Combating Gang Violence

Chambliss 1

Justice Anthony Kennedy recently told the American Bar Association that the United States Sentencing Guidelines need to be revised in a downward direction and that mandatory minimum prison terms should be abolished. I'd like each of you to respond to Justice Kennedy's criticism of these federal sentencing provisions. Specifically, is the present federal sentencing scheme helpful in addressing the gang problem that we have in America today?

Response:

Mandatory minimum prison sentences have slowed the revolving door of justice, because they ensure that long prison sentences are in fact served for serious crimes. The Department of Justice therefore supports mandatory minimum penalties, especially penalties for gang violence that would apply to violent crimes involving the use of a firearm.

Chambliss 2

Do you believe that federal judges currently have sufficient discretion in their sentencing decisions?

Response:

This question is perhaps best addressed to the federal judiciary.

Chambliss 3

Do you have any recommendations on how the Congress can help you in your war against criminal gang enterprises?

Response:

We continue strongly to support the existing Violent Crime Task Force and the continued presence of the FBI and its agents in the war on criminal street gangs. The Task Force has made and is continuing to make an impact in my District.

## Chambliss 4

I've been concerned lately about some articles I've read about trafficking in minors for prostitution. In your experience, is this yet another gang-related enterprise? Please tell me what Congress can do to help you prosecute these horrendous operations.

Response:

Historically, my Office has not seen a significant number of cases involving the use of minors for prostitution in any context, be it gang-related or not. However, in an effort to ensure that this problem does not go undetected in our District, the Civil Rights Section of my Office recently formed a Task Force consisting of various federal agencies, including FBI, ICE and Labor, to work with local law enforcement to aggressively identify and proactively investigate the trafficking of minors for prostitution.

## Chambliss 5

It is clear from your respective statements that a majority of gang activity continues to encompass drug trafficking all aspects of which are already governed by federal law. Each of you provided information on very important gang prosecutions your offices have spearheaded using the racketeering statutes, the Hobbs Act and drug trafficking crimes. Despite your successes, and in light of my view that we should not be in the business of simply "federalizing" state crimes, I am concerned that the solution offered by some to the very real problem of gang violence in our communities is simply to make new laws. Can you provide all specific instances, without, of course, providing the names of the putative defendants, where your office has been unable to proceed with any federal prosecution in a gang case simply because a federal statute did not cover the alleged conduct? What specific problems, if any, have you encompassed in gang prosecutions relating to specific aspects of the federal laws?

Response:

While my Office has had great success with gang and criminal enterprise prosecutions, in some gang and organized crime investigations we have encountered real difficulty in proceeding due to the lack of an available federal statute or due to the strict interpretation by the Courts of the relevant federal statutes. We have encountered these problems with the investigation and prosecution of Asian Organized Crime Gangs as well as with the Crips and Bloods criminal street gangs.

The cornerstone of RICO and VICAR prosecutions is the "enterprise" theory of prosecution and the "enterprise" theory is a powerful weapon but it relies on proof that the specific gang is operating as an "enterprise." This can present both legal and factual hurdles. The first legal hurdle is the heightened definition of "enterprise" in the Ninth Circuit. This strict definition in the Ninth Circuit requires the government to show both that the enterprise has a structure for

making decisions and that is has a hierarchy within the organization. My District would benefit from a more liberal definition of "enterprise," because many gangs in my District, although organized, do not have a strict hierarchy. Some do, but many do not.

Thus, while many of the criminal street gangs are structured in a traditional "organized crime" model, many other gangs in our District are not so structured. As a result, for these unstructured gangs, we cannot prove that they operate as an "enterprise" within the strict Ninth Circuit definition of the term. They present law enforcement with the problem of "disorganized" rather than organized crime. Yet, the impact of their criminal activities is just as significant within the District. This less organized model is true for the very large, very criminal Crips and Bloods gangs, for example. Individual Crips and Bloods gang members can and do claim lifelong allegiance to the gang, but the various crimes perpetrated by the individual gang members are closer to discrete conspiracies rather than to a single racketeering enterprise as the term is currently defined.

My Office also confronts hurdles with more traditionally organized gangs such as the Black Dragons, the Red Door and the Wah Ching gangs which are entrenched in their respective Asian communities in my District. Local law enforcement has sought federal assistance to battle the problem and the resulting federal investigations may indeed develop evidence demonstrating that the gangs are organized and do fit within the legal definition of "enterprise" for the relevant racketeering statutes. However, the difficulty we then encounter is that the crimes in which the gangs are most heavily involved are crimes such as extortion of houses of prostitution and gambling dens, crimes which are very difficult to prove as having an impact on interstate and foreign commerce. This jurisdictional hurdle, the effect on interstate and foreign commerce element of the racketeering laws, may on first blush appear trivial. However, recent case law in the Ninth Circuit and in the Supreme Court has heightened the bar for the impact on commerce requirement. This jurisdictional hurdle has led federal investigators to struggle to collect and find evidence that the prostitution and gambling operations did indeed have an impact on interstate commerce, a task made all the more difficult due to the shadowy nature of prostitution and gambling operations. The effect has been to make us less successful in pursuing these investigations than we would like to be.

We also face problems in gang cases where the enterprise theory does not apply. Where the individual crime is a narcotics trafficking offense, federal jurisdiction is not a problem. However, where the crime is a local robbery or a series of local robberies, we have found significant difficulties due to reluctance of Federal Judges in our District to entertain such cases. For example, where a Hobbs Act robbery has been committed at a small "Mom & Pop" type business, such as a convenience store, a laundry, or a gas station, my Office has encountered significant friction in bringing such cases federally. It is not infrequent for my prosecutors to face dismissal of their cases when a District Court concludes that the federal government has stretched the jurisdictional element of the Hobbs Act, in this example, too far and charged a case that, in the opinion of the Court, should have been prosecuted by the state. We have had to refer some investigations to the state for prosecution rather than run the risk of having the cases



founder on the jurisdictional element of the crime.

Chambliss 6

One suggestion made during the hearing, was to consider federal legislation that would make it easier to prosecute juveniles in federal court that engage in gang activity. Yet, each of you described children as young as 8 or 9 years old involved in gang violence, often at the behest of older gang members. Though it certainly appears clear that the current federal system of handling juveniles may need revisiting, I have concerns about lowering the age limit for federal prosecutions particularly when our state and local partners in law enforcement have their own laws dealing with violence and juveniles as well as the proper facilities to deal with juvenile offenders. Moreover, I fear that we are on a slippery slope of prosecuting under the more harsher federal system what are usually first time offenders who often commit these heinous acts only at the instruction and destruction of older gang members who are subject to prosecution in federal court for procuring or soliciting these crimes. Please describe your position on the prosecution of juvenile as adults in federal court for gang activity as opposed to drug trafficking or other violations of federal law. How many juveniles have your respective offices declined prosecution on in gang-related prosecutions? How many juvenile prosecutions does your office handle? Were the juveniles prosecuted in state court? How do you think we could improve the federal system relating to the criminal prosecution of juveniles? Do you think the 18 year old threshold for adult prosecution should be lowered and, if so, to what age limit? Individuals under 18 are not eligible for the death penalty in federal cases involving murder or other capital cases. Please state your position reference handling juveniles in capital cases.

Response:

Let me take each of the Senator's questions as it is presented.

(A) My office does not make it a routine practice to prosecute juveniles in Federal Court. It is my Office's practice to refer the prosecution of juveniles to the State because California has a large and active Juvenile prosecution system which is best suited to deal with the special issues and problems raised by the prosecution of juveniles. Historically, my District has only prosecuted juveniles in the limited instances where the juvenile played such a significant role in an offense or a conspiracy which was otherwise committed by adults that federal prosecution of the juvenile really is the only practical option. These limited instances have included an arson conspiracy involving the burning of a local school where the actual arsonist was the juvenile who conspired with other young men to commit the crime. In this case, the most practical approach was to prosecute the entire case in Federal Court. In another case involving gang-related racketeering where one of the predicate racketeering crimes was murder, my Office prosecuted a juvenile, because the juvenile was the actual shooter in the murder. In this case, my Office worked closely with local authorities and successfully coordinated the prosecution with the District Attorney. Everyone involved agreed that this juvenile's prosecution was best suited for Federal Court.

(B) My Office is not frequently in a position to “decline” the prosecution of juveniles, because Federal Law Enforcement in my District does not typically bring juveniles to the USAO for prosecution, unless the prosecution is the only practical solution, as discussed above. As I stated above, in general it is my Office’s practice to refer juvenile prosecutions to the State.

(C) During the past two years, my Office has filed one case against a juvenile in a gang-related case. That case is currently in litigation and I am reluctant to provide any more specifics due to the unique privacy concerns that apply to juvenile cases.

(D) In those relatively few cases in which a federal agency does present a juvenile for prosecution to my Office, the matter typically involves either a narcotics offense or a firearms offense. If my office decides not to file against the juvenile then we refer the matter to the State for prosecution. In my District, that means a referral to the Los Angeles County District Attorney. During the past two years, referrals to the DA have been successful and typically the juvenile is prosecuted in State Court provided that sufficient evidence existed to support the prosecution. In some cases, we prosecute the adults in federal court and refer the juvenile to the state system. This is particularly appropriate in narcotics cases, where the adults are running the operation using a juvenile to hold the drugs or in some other minor role.

(E) Although I do not have any specific recommendations, we would welcome a study of the ways in which the federal system for the prosecution of juveniles could be improved.

(F) My Office does not recommend a lowering of the federal threshold for adult prosecution of all juveniles alleged to have committed a criminal offense.

(G) The most recent gang-related juvenile case that my Office has pursued during my tenure was the matter I referred to above in (C). It was, in fact, a prosecution of a juvenile in a multi-defendant capital eligible case. The juvenile was not eligible for the death penalty. However, my Office worked closely with local authorities and successfully coordinated the prosecution with the DA, which could have sought the death penalty had the matter been brought locally. The experience has been successful so far and my Office does not have any specific recommendation regarding the eligibility of juveniles for the death penalty. This situation is very rare in my District.

NDAANAPRI

Fax:7035193015

Oct 21 2003 13:40

P.04

*Office of the President***National District Attorneys Association**

99 Canal Center Plaza, Suite 510, Alexandria, Virginia 22314

703.549.9222 / 703.836.3195 Fax

[www.ndaa-apri.org](http://www.ndaa-apri.org)

October 20, 2003

Honorable Orrin G. Hatch  
Committee on the Judiciary  
224 Dirksen Senate Office Building  
Washington, DC 20510

Honorable Patrick J. Leahy  
Committee on the Judiciary  
152 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairman Hatch and Senator Leahy:

This is in response to the follow up question concerning the hearing on September 17, 2003, in regard to gang violence and witness intimidation.

I have no knowledge about the program described in Senator Leahy's inquiry and therefore cannot provide any information in its effectiveness.

Yours very truly,

A handwritten signature in black ink, appearing to read "R. McCulloch", is written over a horizontal line.

Robert P. McCulloch  
Prosecuting Attorney, St Louis County, Missouri  
President, National District Attorneys Association



Eddie J. Jordan, Jr.  
District Attorney of New Orleans ~ State of Louisiana

GAYNELL WILLIAMS  
EXECUTIVE FIRST ASSISTANT DISTRICT ATTORNEY

October 9, 2003

619 SOUTH WHITE STREET  
NEW ORLEANS, LOUISIANA 70119  
(504)822-2414

Mr. Barr Huefner  
Senate Judiciary Committee  
224 Dirksen Building  
Washington, DC 20510-6275

Dear Mr. Huefner:

This is in response to Senator Orrin Hatch's letter of September 24, 2003 regarding "Combating Gang Violence in America: Examining Effective Federal, State and Local Law Enforcement Strategies" posed by Senator Leahy.

Question #1: "What coordination, if any, does federal law enforcement have with state and local victim/witness staff in your specific offices with reference to assisting in witness protection and security issues for state and local law enforcement?"

Response: Currently there is limited coordination between federal law enforcement and our victim witness staff regarding assisting in witness protection. My office does maintain contact with the federal victim witness coordinator and she has provided training to my staff members. However, we have not received any assistance in relocating witnesses.

Question #2: "Are there reporting mechanisms in reference to the number of requests for assistance that are made, the number granted, the system for reimbursement, the costs of reimbursement or any similar information?"

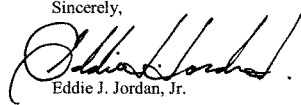
Response: Our division receives funds from the Violence Against Women Act, Encourage Arrest Policies and Crime Victims Assistance grants which are funded through the Commission on Law Enforcement. As a reporting mechanism, this division provides monthly, quarterly and annual progress reports and statistics to the local office of Criminal Justice Coordination, City of New Orleans under the direction of Linda Marye.

October 9, 2003  
Mr. Barr Huefner  
Page -2-

---

If I can be of assistance to you in the future please do not hesitate to contact me.

Sincerely,



Eddie J. Jordan, Jr.

SUBMISSIONS FOR THE RECORD

Testimony by  
Grant D. Ashley  
Assistant Director, Criminal Investigative Division  
Federal Bureau of Investigation

Before the  
Senate Judiciary Committee

September 17, 2003

INTRODUCTION:

Good morning Mr. Chairman and members of the Judiciary Committee. On behalf of the Federal Bureau of Investigation, I would like to express my gratitude for affording us the opportunity to speak with you concerning the importance of **continued support for the Safe Streets Task Forces (SSTFs)**.

HISTORY:

On January 9, 1992, the FBI announced the Safe Streets Violent Crimes Initiative. This initiative was designed to allow the Special Agent in Charge of each FBI field division to establish FBI-sponsored, long-term, proactive task forces. These task forces would be focused on violent gangs, crimes of violence, and the apprehension of violent fugitives.

Since 1992, the FBI's Safe Streets Violent Crime Initiative has successfully aligned FBI Agents, local law enforcement investigators, and federal and state prosecutors onto SSTFs to reduce violent crime. This combination brings not only resources together in a "force multiplier concept," but it also utilizes the expertise of each agency such as the FBI's enterprise theory of investigation and the local departments' uniform enforcement actions to effect gang

suppression. This approach also yields information sharing among the agencies involved.

SSTFs are an effective, efficient, and economical initiative by which the FBI achieves its goals of successfully investigating violent crimes while committing limited resources.

To focus SSTFs' efforts, the FBI developed a National Violent Crime Strategy, a National Strategy for Organized Crime/Drug Enterprises, and a National Gang Strategy. These strategies still serve as the framework for combating violence in America. Each of these strategies uses the SSTFs in a comprehensive plan to address investigations and prosecutions.

#### SSTF MISSIONS:

SSTFs focus primarily upon street gang and drug-related violence, address specific violent crime problems through the teaming of federal, state, and local law enforcement officers and prosecutors to conduct long-term, proactive investigations. In addition, the SSTFs addresses the most significant violent fugitives investigations.

VIOLENT GANG TASK FORCES target violent street gangs and their associates responsible for gang-related criminal activity. Additionally, they place a specific emphasis on the identification of the major violent street gangs/drug enterprises which pose significant threats to the integrity of our society. The FBI is identifying and targeting violent street gangs as a priority matter by utilizing SSTFs.

MAJOR THEFT/TRANSPORTATION CRIMES TASK FORCES target violent, major theft groups to include armed truck hijackings, armed automobile hijackings, and major jewelry robbery rings.

VIOLENT CRIME TASK FORCES address specific crime problems, including bank robbery, armed robbery, kidnaping, extortion, murder for hire, firearms violations, RICO violations, and the Interstate Transportation in Aid of Racketeering statute and Hobbs Act.

FUGITIVE TASK FORCES are responsible for locating and apprehending the most violent federal and state fugitives. As part of the Safe Streets Violent Crime Initiative to reduce violent crime by arresting fleeing felons, the FBI created SSTFs with state and local agencies to specifically apprehend violent fugitives. These task forces utilize the federal Unlawful Flight to Avoid Prosecution/Confinement Statute to apprehend those violent fugitives who have traveled interstate and beyond the reach of local law enforcement and justice agencies.

SSTFs' OPERATIONS:

SSTFs focused on gangs are applying investigative techniques and strategies which the FBI has successfully used to target traditional organized crime, including the development of a solid intelligence base, undercover operations, and the application of various electronic surveillance techniques. SSTFs pursue these gangs through sustained, proactive, multi-divisional, coordinated investigations under RICO and Continuing Criminal Enterprise Statutes. In numerous cities, SSTFs are targeting individuals or groups associated with the Bloods, Crips, Black Gangster Disciples Nation, Mara Salvatrucha 13, Almighty Latin Kings Nation, Jamaican Posses, and other violent street gangs, along with outlaw motorcycle gangs and prison gangs. By applying the same methods used in the successful war on traditional organized crime, SSTFs are



developing racketeering and continuing criminal enterprise cases to remove the leadership and the most dangerous members of violent street gangs and to seize gang members' assets.

Along with gang investigations, the investigation of other specific violent crimes of kidnaping, bank robberies, and drug related murders, as well as an intensified focus on the apprehension of dangerous fugitives, continues to be a primary purpose for the SSTFs.

There are approximately 75 FBI led SSTFs focused primarily upon gangs, another 50 FBI-led SSTFs focused primarily on specific violent crimes and fugitives, and another 15 FBI-led SSTFs directed at major theft and transportation crime matters. These SSTFs employed 566 FBI Agents, 63 other federal agents, and 899 local and state law enforcement agencies in fiscal year 2003.

BENEFITS TO LOCAL LAW ENFORCEMENT:

The task force concept increases the effectiveness and productivity of limited personnel and logistical resources, avoids duplication of investigations and consequent wasteful expenditure of resources in matters of concurrent jurisdiction, and expands the cooperation and communication among federal, state and local law enforcement agencies.

SSTFs allow the application of sophisticated investigative techniques normally associated with complex organized crime and racketeering investigations. Such techniques are frequently not available to local police agencies.

Community outreach is another portion of the Safe Streets Violent Crime Initiative which seeks to develop a partnership between law enforcement and community leaders

to coordinate community resources and community action against violent crimes. State and local agencies are well established with community outreach programs to deter violent crimes. The FBI-led SSTFs foster a liaison between the FBI and these state and local agencies' community outreach programs to further support the activities of the FBI's other investigative programs.

FUNDING:

Beginning in fiscal year 1996, the Congress provided a recurring \$5 million to the FBI for SSTF and Safe Trails Task Forces--that address violent criminal activities on Native American lands--through the Violent Crimes Reduction Program (VCRP). The VCRP allowed the FBI to carry forward any unobligated funds to the next fiscal years. With the dissolution of the VCRP in 1999, the \$5 million for SSTFs was included within the FBI's yearly, direct appropriation.

Thus far, the FBI has been able to fund its SSTF obligations, such as overtime, through a combination of the \$5 million base level funding and the VCRP carry-over funds. These carry-over funds, however, will be exhausted by the end of fiscal year 2003.

SUMMARY:

In summary, it is noted that SSTFs are extremely successful in fighting violent crime. They "force multiply" federal resources, benefit local law enforcement efforts, eliminate duplicitous investigative efforts, reduce concurrent jurisdictional issues, encourage information sharing and intelligence development, and reduce or impede violent crime rates.

The continued funding of the FBI's SSTFs is necessary to effect safe streets in America and provide security for America's citizens.

Thank you.

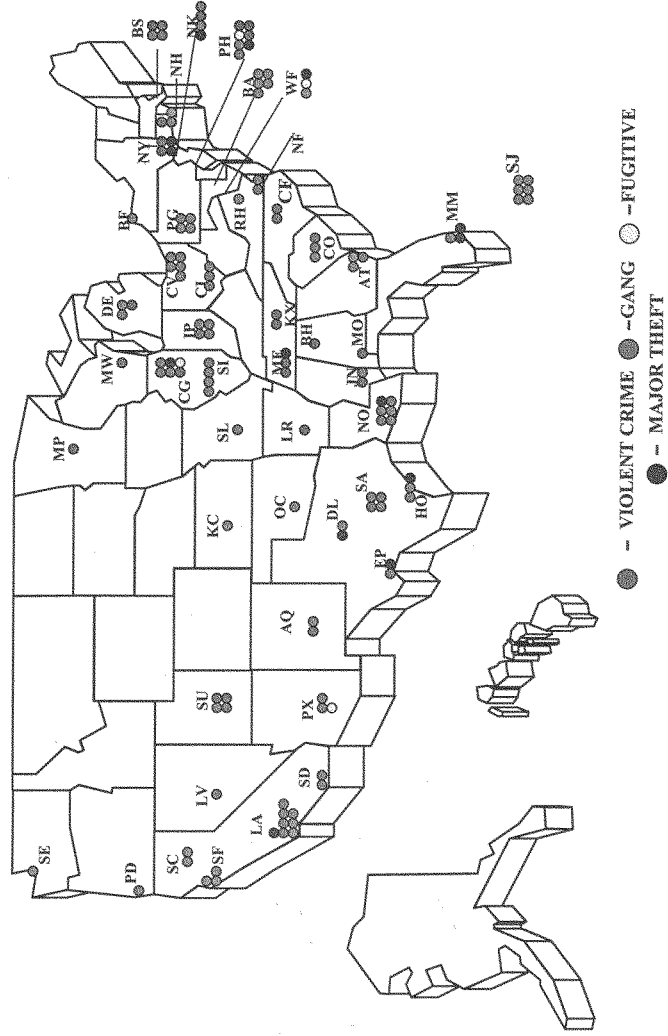
**SAFE STREETS TASK FORCE HEARING**



**SENATE JUDICIARY COMMITTEE  
SEPTEMBER 17, 2003**

FY 2003

# SAFE STREETS TASK FORCES



- ◆ On January 9, 1992, the FBI announced the Safe Streets Violent Crimes Initiative (SSVCI). The SSVCI is an initiative designed to allow the Special Agent in Charge of each FBI field division to address street gang and drug-related violence through the establishment of FBI-sponsored, long-term, proactive task forces focusing on violent gangs, crimes of violence, and the apprehension of violent fugitives.
- ◆ The FBI has developed a model methodology to identify a community's crime problem and develop a strategy to address that problem.

#### **SAFE STREETS TASK FORCE CONCEPT**

- ◆ Safe Streets Task Forces (SSTFs) attack street gang and drug-related violence, as well as seek the most significant fugitives wanted for crimes of violence through the establishment of long-term, proactive and coordinated teams of federal, state, and local law enforcement officers and prosecutors.
- ◆ The FBI has developed a National Violent Crime Strategy, National Strategy for Organized Crime/Drug Enterprises, and National Gang Strategy which serve as the frameworks for combating violence in America. Each of these strategies incorporates the task force concept with a comprehensive investigative and prosecutive focus.
- ◆ Through the Unlawful Flight to Avoid Prosecution/Confinement Statute, the FBI has traditionally been tasked with seeking the Nation's most sought after state and local violent fugitives. As part of the SSVCI, the FBI has joined forces with state and local agencies to apprehend violent fugitives that are wanted in association with violent criminal activity.

#### **SAFE STREETS TASK FORCE MISSIONS**

- ◆ **VIOLENT GANG TASK FORCES (VGTF)**  
 VGTFs target violent street gangs and their associates responsible for gang-related criminal activity. Additionally, VGTFs place a specific emphasis on the identification of the major domestic violent street gangs/drug enterprises which pose significant threats to the integrity of our society. VGTFs pursue these gangs through sustained, proactive, multi-divisional, coordinated investigations under Federal Racketeer Influenced and Corrupt Organization; and Continuing Criminal Enterprise Statutes.
- ◆ **MAJOR THEFT TASK FORCES (MTTF)**

MTTFs target violent, major theft groups to include armed truck hijackings, armed automobile hijackings, and major jewelry robbery rings.

◆ **VIOLENT CRIME TASK FORCES (VCTF)**

VCTFs address crimes of violence including bank robbery, armed robbery, kidnapping, extortion, murder for hire, firearms violations, RICO violations, and other violent offenses that fall within the Interstate Transportation in Aid of Racketeering statute and Hobbs Act violations.

◆ **FUGITIVE TASK FORCES (FTF)**

FTFs are responsible for locating and apprehending the most sought after federal and state violent fugitives.

**BENEFITS TO STATE AND LOCAL AGENCIES**

- ◆ The task force concept increases the effectiveness and productivity of limited personnel and logistical resources, avoids duplication of investigation and consequent wasteful expenditure of resources in matters of concurrent jurisdiction, and expands the cooperation and communication among federal and state law enforcement agencies.
- ◆ SSTFs allow the application of sophisticated investigative techniques normally associated with complex organized crime and racketeering investigations. Such techniques are frequently not available to local police agencies.
- ◆ For Fiscal Year 2003 the FBI was authorized to reimburse state and local agencies for the overtime worked by full-time members of SSTFs at a rate of \$893.29 per month or \$10,719.50 annually (based upon GS-10 step 1 of the general schedule for federal pay).

**COMMUNITY OUTREACH**

- ◆ Community Outreach is the portion of the SSVCI which seeks to develop a partnership between law enforcement and community leaders to coordinate community resources and community action against violent crimes. The FBI led SSTFs enhances the liaison the FBI has with state and local agencies to include community outreach matters.

**INITIATIVES SUPPORTED BY THE SSTFS**

- ◆ Violent Cities Initiative
- ◆ Bank Robbery Initiative
- ◆ Child Prostitution Initiative
- ◆ Violent Fugitives Initiative

**SAFE STREETS TASK FORCE  
PERSONNEL RESOURCE ALLOCATION  
FY 1998 - FY 2003  
(10/01/1998 -10/01/2003)**

**FY 98**

54 FIELD OFFICES PARTICIPATING

TASK FORCE COMPOSITION:

FUGITIVE - 23  
VIOLENT CRIME - 50  
VIOLENT CRIME/FUGITIVE - 33  
VIOLENT CRIME/GANG - 41  
INTERSTATE THEFT/MAJOR OFFENDERS - 15  
TOTAL TASK FORCES - 162

PERSONNEL:

FBI AGENTS - 781  
OTHER FEDERAL - 182  
LOCAL - 1,207  
TOTAL PERSONNEL - 2,170

**FY 99**

54 FIELD OFFICES PARTICIPATING

TASK FORCES:

FUGITIVE - 26  
VIOLENT CRIME - 69  
VIOLENT CRIME/FUGITIVE - 31  
VIOLENT CRIME/GANG - 23  
MAJOR THEFT/MAJOR OFFENDERS - 16  
TOTAL TASK FORCES - 165

PERSONNEL:

FBI AGENTS - 750  
OTHER FEDERAL - 332  
LOCAL - 1,014  
TOTAL PERSONNEL - 2,096



**FY 2000**

53 FIELD OFFICES PARTICIPATING

TASK FORCE COMPOSITION:

FUGITIVE TASK FORCES - 22  
VIOLENT CRIME TASK FORCES - 49  
VIOLENT CRIME/FUGITIVE TASK FORCES - 38  
VIOLENT GANG TASK FORCES - 49  
MAJOR THEFT/TRANSPORTATION CRIMES - 17  
TOTAL TASK FORCES - 175

PERSONNEL:

FBI AGENTS - 823  
OTHER FEDERAL - 259  
LOCAL - 1,133  
TOTAL PERSONNEL - 2,215

**FY 2001**

51 FIELD OFFICES PARTICIPATING

TASK FORCE COMPOSITION:

FUGITIVE TASK FORCES - 22  
VIOLENT CRIME TASK FORCES - 49  
VIOLENT CRIME/FUGITIVE TASK FORCES - 36  
VIOLENT GANG TASK FORCES - 47  
MAJOR THEFT/TRANSPORTATION CRIMES - 19  
TOTAL TASK FORCES - 173

PERSONNEL:

FBI AGENTS - 618  
OTHER FEDERAL - 133  
LOCAL - 1,170  
TOTAL PERSONNEL - 1,921

**FY 2002**

49 FIELD OFFICES PARTICIPATING

TASK FORCE COMPOSITION:

FUGITIVE TASK FORCES - 3  
VIOLENT CRIME TASK FORCES - 51  
VIOLENT GANG TASK FORCES - 73  
MAJOR THEFT/TRANSPORTATION CRIMES - 15  
TOTAL TASK FORCES - 142

PERSONNEL:

FBI AGENTS - 626  
OTHER FEDERAL - 89  
LOCAL - 960  
TOTAL PERSONNEL - 1,675

**FY 2003**

48 FIELD OFFICES PARTICIPATING

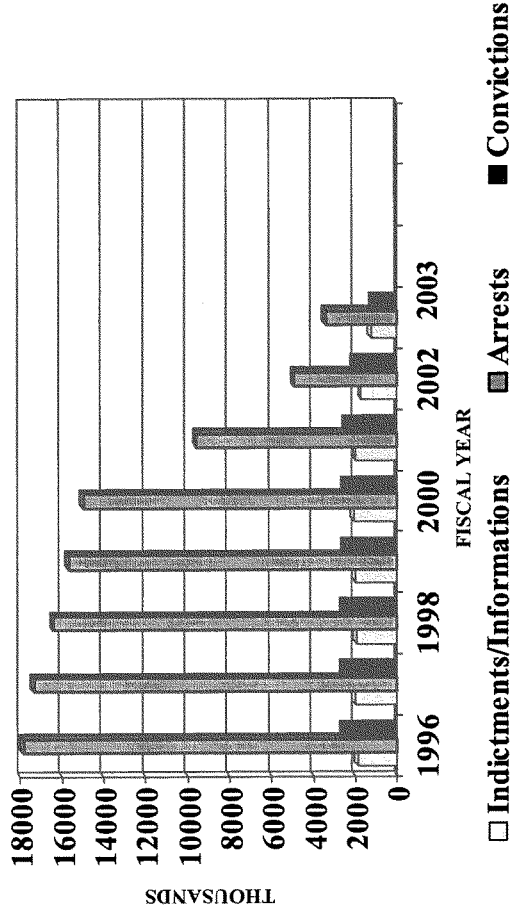
TASK FORCE COMPOSITION:

FUGITIVE TASK FORCES - 4  
VIOLENT CRIME TASK FORCES - 52  
VIOLENT GANG TASK FORCES - 69  
MAJOR THEFT/TRANSPORTATION CRIMES - 14  
TOTAL TASK FORCES - 139

PERSONNEL:

FBI AGENTS - 566  
OTHER FEDERAL - 63  
LOCAL - 899  
TOTAL PERSONNEL - 1,528

## SAFE STREETS TASK FORCE ACCOMPLISHMENTS (FY 1996 - FY 2003\*)



\*FY 1996 is the first fiscal year that reflected official reporting requirements. FY 2003 is based on third quarter reporting, 10/01/2002 - 06/30/2003. The Safe Streets and Gang Unit has stressed the importance of the enterprise theory of investigation in the Safe Streets Task Force investigations. The number of Fugitive Task Forces has been reduced. This reduction has resulted in the decline in the number of arrests. Indictments and convictions have remained relatively steady until post September 11, 2001.



## Department of Justice

---

STATEMENT

OF

CHRISTOPHER J. CHRISTIE  
UNITED STATES ATTORNEY  
DISTRICT OF NEW JERSEY

BEFORE THE

COMMITTEE ON THE JUDICIARY  
UNITED STATES SENATE

CONCERNING

COMBATING GANG VIOLENCE

PRESENTED ON

SEPTEMBER 17, 2003

STATEMENT OF UNITED STATES ATTORNEY CHRISTOPHER J. CHRISTIE  
District of New Jersey  
Before the Senate Judiciary Committee  
September 17, 2003

Concerning

Combating Gang Violence

Chairman Hatch, Senator Leahy, distinguished members of the Committee, I am Christopher Christie, the United States Attorney for the District of New Jersey. It is an honor to have the opportunity to appear before you today to discuss the subject of criminal street gangs and violent drug organizations in the District of New Jersey.

1. Gang Structure and Gang Violence

In May of 2002, in response to steadily escalating gang violence in my District, I created a Violent Crime Unit to specifically target street gangs, violent narcotics enterprises and firearms trafficking networks. The Violent Crime Unit, which is staffed by ten experienced Assistant United States Attorneys, operates on the premise that the gangs of today constitute organized crime and must be prosecuted in the same manner and with the same statutes that have been used against more traditional organized crime in the past. Today's gangs are structured and sophisticated criminal operations; they tend to have a clear hierarchy in the making of decisions and in the distribution of criminal proceeds. Moreover, they have considerable life-spans. Unfortunately, it has not been unusual for a gang or drug enterprise to control a certain neighborhood or area for ten years or more. Indeed, today's gangs operate like businesses-albeit businesses unrestricted by any sense of right and wrong. They create and exploit a market, typically the narcotic drug market, they maintain and expand their territory, they recruit members to replace the ones they lose to violence or incarceration, and they are set up to withstand local

prosecutions.

The structure of the typical gang or narcotics organization insulates the gang's hierarchy from the types of prosecutions typically brought by local authorities. Lacking the resources to commence global prosecutions, local law enforcement entities generally conduct "buy and bust" operations which result in the arrests of the lowest level of the gang's personnel. Gang leaders intentionally keep the "hand-to-hand sellers," "look-outs" and "steerers," who are typically arrested in such operations, unaware of information that could compromise the success of the organization. Additionally, gangs intentionally use their most fungible members - children and drug addicts - to fill these positions, which are highly vulnerable to prosecution. Thus, local authorities may be unable to build a case against the gang's leadership, and even a local "sweep" arrest of ten or fifteen street-level sellers may not affect the gang's ability to function.

Also, gang related murders and attempted murders present particular problems for local law enforcement. First, witnesses may be hesitant to testify against gang members for fear that local law enforcement is unable to ensure the witnesses' safety. Second, gang murders are most often witnessed solely by accomplices. These accomplices obviously will not testify unless they are compelled by the prospect of being a defendant in a criminal case carrying a substantial prison term. Unlike the federal narcotics sentencing guidelines, sentences under New Jersey drug laws, for instance, rarely compel an accomplice to testify against his gang confederates. Additionally, a gang defendant is more likely to be detained following his arrest on federal charges than on state charges.

The structure and diversification of criminal activities of today's gangs require an aggressive and comprehensive federal approach. It is not uncommon for a single gang to be

involved in drug dealing, firearms trafficking, murder, robbery, money laundering and, more recently, mortgage fraud. Therefore, a team led by the U.S. Attorney's Office and consisting of other federal agencies, such as the FBI, DEA, ATF, Main Justice and the Marshal's Service, along with local authorities, such as the county prosecutor, sheriff and police, must be assembled, and information shared that may demonstrate broader criminal operations.

For the third straight year, the murder rate in Newark, New Jersey's largest city, has risen, as has the number of handguns recovered by police officers. The rise in violence and unlawful gun possession corresponds directly to a substantial increase in documented gang activity beginning in 1999.

## 2. Investigation and Prosecution of Gang Members

Our office, using Project Safe Neighborhoods as our catalyst, has worked closely with the Prosecutor's Offices of the District's twenty-one counties, local police officials and our Project Safe Neighborhood research partner, Rutgers University, to identify areas of concentrated gang activity. Because federal resources should be reserved for those highly structured, large-scale, violent criminal enterprises, federal prosecutors exercise careful discretion in focusing their limited resources on the worst gangs. For instance, while a small crew of drug dealers in a certain location may be a pressing concern of local law enforcement, that activity would not be an appropriate target of an organized federal prosecution, or a coordinated state/federal investigation. However, our office routinely shares witnesses and information, generated from comprehensive gang investigations, with local prosecutor's offices to assist them with pending state homicides and other serious violent crimes. Similarly, our office has attempted to coordinate major gang prosecutions with local county officials.

In the District of New Jersey today, we have a wide variety of gangs and violent drug organizations. We have both national gangs and local drug organizations, which tend to identify with the street or neighborhood they come from. Currently, my office is prosecuting several gang and drug enterprise cases that are typical of the types of criminal organizations operating today in New Jersey. We have successfully prosecuted, or are currently prosecuting, members of the following gangs: (1) Van Nostrand Soldiers Out Politicking (VSOP), Jersey City, N.J.; (2) Lex Mob, Jersey City, N.J.; (3) Elvis Irizarry Crew, Jersey City, N.J.; (4) Grape Street/Rolling 60s Crips, Irvington, N.J.; (5) Double "ii" Bloods, East Orange, N.J.; (6) James Bond Gang, multiple New Jersey and New York counties; (7) Gangster Killer Bloods set of the Bloods, East Orange, N.J.; (8) Latin Kings, multiple counties in New Jersey; (9) Fukkianese Armed Robbery Crew, multiple counties in New Jersey. It is important to note that some of the gangs I just mentioned operate not only in New Jersey's cities, but in its affluent suburbs, as well. Indeed, the gang problem is spreading to every corner of New Jersey.

Although my office is investigating and prosecuting a large number of gang cases, I would like to discuss a few in more detail.

#### LEX MOB

My office is prosecuting 28 members of a violent Jersey City narcotics distribution organization called Lex Mob. Lex Mob is the prototypical large-scale, successful narcotics business found in many urban areas across the country. In 1992, the group took over a neighborhood in Jersey City by killing the previously-existing dealers. Over the next ten years, it increased its territory, again by intimidating or killing its rivals.

At any given time, the organization employed between 20 to 30 street sellers. The



number of active sellers doubled in the mid-afternoon to sell cocaine to the teenage children walking home from school. The enterprise was highly structured. The street sellers answered to one of between five and ten Lieutenants, who provided the sellers with bags of one hundred vials of packaged cocaine, and who collected the proceeds from the sellers throughout the day. The perimeter of Lex Mob's territory was guarded by sentinels on the roof-tops and the streets, who communicated with each other and with the sellers by means of walkie-talkies.

One cooperator estimated that the organization was taking in close to one million dollars per week in cocaine sales. Much of this drug money was laundered and used to purchase expensive cars and houses, as well as to bail out arrested gang members. In one state murder case, the bail for eight Lex Mob members, which totaled four million dollars, was paid in a matter of days. It is worth noting that each of the twenty-eight Lex Mob members charged federally were detained pending trial.

Lex Mob protected its business with force. If rival sellers dared to sell cocaine in its territory, Lex Mob hit men shot them.

#### Van Nostrand Soldiers Out Politicking

My office has recently convicted the leaders and members of a highly successful commercial armed robbery crew called Van Nostrand Soldiers Out Politicking, or VSOP. Hailing from Van Nostrand Avenue in Jersey City, members of this prolific criminal group committed five armed bank robberies, and over twenty armed commercial robberies of check-cashing establishments, restaurants, drug stores and other businesses in northern New Jersey between 1996 and 2001.

An active VSOP member became an informant and made consensual tape recordings of his fellow gang members over a two month period. My office, in conjunction with the FBI, convicted eight VSOP members of serious federal crimes, including RICO, Murder, Hobbs Act Robbery, Bank Robbery and Use of a Firearm During and In Relation to Violent Crimes. The greatest challenge in the case was to develop the evidence necessary to show that VSOP was a criminal enterprise, with a sufficient leadership structure, to allow use of the RICO statutes. Unlike large-scale narcotics enterprises, such as Lex Mob, armed robbery crews tend to be smaller and less structured. This makes it difficult, though not impossible, to prosecute groups of this type under the RICO statutes. When use of RICO is appropriate, we coordinate its use with Main Justice, and use it as an effective tool against these criminal enterprises.

#### Double "II" Bloods

The Double "II" Bloods are a particularly ruthless Bloods set from East Orange, New Jersey. Named for both their beginnings in Inglewood California and their home in East Orange, or what they call Illtown, New Jersey, the Double IIs are a prime example of how a disparate group of street thugs can fashion themselves into an organized criminal enterprise through a strict set of rules and brutal discipline. Using the resources given to us under Project Safe Neighborhoods, we worked with our PSN research partner, Rutgers University, to identify and target the Double II Bloods as the largest and most violent street gang in New Jersey. Our office has charged seven members and associates of this gang with drug conspiracy and using firearms in furtherance of drug trafficking.

The hierarchy of the Double II Bloods is as follows:

101- Superior - The 101 calls the meetings and gives the orders to do acts of violence.

He also runs the every day activities of the gang

- 102- Second in Command or Two Star General: if anything happens to the 101 - can call meetings and give orders to do acts of violence
- 103- Minister of Defense - The 103 is in charge of getting guns, carrying out discipline, and conveying orders of violence from 101 or 102 to the gang.
- 104- Minister of Information: The 104 is in charge of making sure everyone has and knows the gang's history, codes, and rules. He is also charged with knowing what acts of violence have been carried out, what threats have been made against the gang and what vendettas against the gang may be looming.
- 105 - Five Star General - The 105 is on par with the 101 and 102 and can call meetings and give orders to do acts of violence. This status position is an honorary one; the 105 does not run the every day activities of gang.
- 106 - Lieutenant - foot soldiers, follow orders
- 107 - Second Lieutenant - foot soldiers, follow orders
- 108 - Little Homie - foot soldiers, follow orders
- 109 - Little Homie - foot soldiers, follow orders

Meetings must be attended by all members. During the meetings, each member contributes \$31 into a fund that is used to bail out Double IIs who have been arrested and to purchase guns for the gang's use and protection. All members are charged with knowing the rules and code of conduct, which are set forth in written form and are to be committed to memory.

Member initiations also occur during the weekly meeting. Members "come home" or

join the Double IIs in one of several ways. Most common is for a member to get his or her "31" and to be "jumped in." This consists of the individual being beaten by a group of Double IIs for 31 seconds, and sometimes for several repeated sessions of 31 seconds. You may ask why the number 31? We have learned that this is because there are 31 rules in the Bloods Code of Conduct and that Rule number 31 is "I will have love for my Bloods." The payment of the \$31 is a sign of that love. The beating for 31 seconds is to reinforce the discipline of the 31 rules in the Code of Conduct.

Issues are voted on and disputes are discussed and resolved during meetings. The leadership may give an order that some act of violence be carried out against rival gang members in retaliation for disputes, which are often prompted by the gang's drug trafficking. Orders to discipline gang members are also given out during the meetings. If a member of the gang is suspected of cooperating with law enforcement, he or she is labeled "food," which authorizes the use of force against the member. As recently as this month, one member suspected of cooperating was brutally slashed in the face with a razor in a prison commons area.

The lifeline of the Double II Bloods is heroin trafficking. The members of the gang sell the same brands, which insures the "quality" of the heroin. At one point, the number of Double IIs involved in heroin sales became so numerous that they instituted "shift work," which ensured that certain members sold heroin only at certain times and that too many dealers were not out on the block at one time. The rich heroin demand in East Orange made it possible for many members to make thousands of dollars per week on a few square blocks.

In addition to trafficking narcotics, members of the Double II Bloods are also involved in firearms trafficking. As federal agents discovered, the Double II Bloods were purchasing guns en

masse from an out of state intermediary, who used straw purchasers to buy large quantities of guns from one particular gun store in another state. The interstate nature of the gun trade, especially into a state like New Jersey, cannot be understated. Our office is working closely with ATF to develop investigations that go after these out-of-state gun dealers who are a pipeline of weapons into New Jersey through gangs like the Bloods. Until federal agents intervened in this case and cut off the gun supply, the gang had sought to begin supplying other neighboring Blood sets with firearms.

The Double IIs are highly structured, methodically disciplined and extremely violent. Our investigation of them attributes numerous shootings and countless other acts of violence to this violent organization.

Comprehensive federal prosecution of street gangs is a necessity. It is one of the top local priorities I identified when I took office in January of 2002. It is, in my opinion, the new organized crime in the United States, an organized crime that destroys families, corrupts our children and lays waste to neighborhoods in our most vulnerable communities. We must mount a fight comparable to the fight against La Cosa Nostra in past decades if we expect to have the same success. We in New Jersey are engaging in the initial battle of this war against gang violence, and we hope our victories will lead to more successes.

I thank you for this opportunity to discuss this important issue and I would be happy to answer any questions you may have of me.



**Department of Justice**

---

STATEMENT

OF

**PATRICK J. FITZGERALD  
UNITED STATES ATTORNEY  
NORTHERN DISTRICT OF ILLINOIS**

BEFORE THE

**COMMITTEE ON THE JUDICIARY  
UNITED STATES SENATE**

CONCERNING

**COMBATING GANG VIOLENCE**

PRESENTED ON

**SEPTEMBER 17, 2003**

**STATEMENT OF UNITED STATES ATTORNEY PATRICK J. FITZGERALD**  
Northern District of Illinois  
Senate Judiciary Committee  
September 17, 2003

Concerning

Combating Gang Violence

Chairman Hatch, Ranking Member Leahy, and Members of the Committee, I am Patrick Fitzgerald, the United States Attorney for the Northern District of Illinois. It is an honor to have the opportunity to appear before you today to discuss the terrible problem of gangs that grips the nation's third largest city, Chicago, as well as other areas in my district and our nation.

In Chicago, gangs translate into murder and fear. Last year, Chicago's murder rate (homicides per 100,000 residents) was 22; by comparison, New York's was 8. For each of the 648 lives lost last year to homicide in Chicago, countless more lives were ruined for the survivors of those killed, for those wounded but not killed and for the too many thousands who live as prisoners in their homes for fear of walking the streets controlled by gangs. It is fairly estimated that 45% of the homicides in Chicago in 2003 are gang-related. The Chicago Tribune reported last month that one Chicago public school student dies from gunfire every two weeks. Twenty three students died from gun-related deaths between July 2002 and June 2003 – none on school property.

But statistics do not paint the full picture. Two incidents in recent months put in perspective the problem we face in Chicago. On July 27th, 9-year old Antonio Campbell was with his mother who had just come home from work at a restaurant and stopped to give her sister a ride home from a party. July 27th happens to be the day the Mickey Cobras gang holds a party to remember a slain gang leader. Antonio Campbell was shot in the head by a stray bullet from gunfire from feuding gang members at that party. A month later, 7-year old Ana Mateo was shot to death by gang gunfire in Chicago. Both victims were children under the age of ten; and both were gunned down by gangs doing what they do – picking up weapons to guard their turf and their profit from their illegal business of drug dealing.

The principal reason for the number of violent deaths in Chicago is the prevalence of street gangs and their entwined involvement with gun violence and drug-trafficking. Chicago's gangs are numerous, entrenched and organized as well as just plain violent. In 1995, an organizational chart of one Chicago gang – the Gangster Disciples -- was recovered in the execution of a federal search warrant; it set out the gang's highly centralized hierarchy which was more sophisticated than many corporations. That gang alone had a force of 7000 members – more than half the size of the Chicago Police Department. That gang dared to form a political action committee, bought legitimate businesses and even sponsored community events.



As if the raw violence is not enough, the gang problem poses unique threats of corruption. The gangs control drug trafficking in Chicago and have at times corrupted police and other law enforcement – some members actually infiltrate law enforcement. Chicago Police Officer Edward Lee Jackson was a high ranking member of the Conservative Vice Lords street gang. Under Officer Jackson's leadership, a tactical team assigned to a police district with heavy drug activity robbed drug dealers who were competing with Traveling Vice Lords and gave the stolen drugs to the Traveling Vice Lords to distribute until Jackson and his partners were prosecuted in federal court.

Chicago Police Officer Joseph Miedzianowski protected drug dealing by various gangs and robbed drug dealers with the assistance of street gang members, distributing kilograms of crack cocaine himself until he was arrested and convicted. Even in jail, the gangs have power. Just last month, our office charged a corrections officer in an Illinois state prison with smuggling drugs to 9 different gang members in jail, 6 of whom were incarcerated for murder. That corrections officer was a gang member himself. Those gang members who corrupt law enforcement undo the hard and honest work of the overwhelming majority of law enforcement officers.

Law enforcement in Chicago recognizes the severity of the problem and is fighting back, though we need more help. The first part of our strategy has been to focus on guns

as part of Project Safe Neighborhoods (“PSN”). Through PSN, we have substantially increased federal prosecution of convicted felons caught carrying a gun and have placed a special emphasis on areas of high violence and on offenders who are gang members. There is an unprecedented partnership between the Bureau of Alcohol, Tobacco, Firearms and Explosives, the Chicago Police Department, the U.S. Attorney’s Office, the Cook County State’s Attorney’s Office, the Illinois Department of Corrections, and local grass roots organizations serving their communities. Whenever a convicted felon with a gun is arrested by Chicago police in targeted police districts, state and federal prosecutors and ATF agents sit down together and decide in which court to prosecute cases. We tap every federal and local law enforcement agency who has relevant knowledge in order to coordinate our attacks on the gangs to which the offenders belong.

In plain terms, our strategy is to go after the worst of the worst. For example, gang leader Earnest Wilson, with prior convictions for attempted first-degree murder, armed robbery, and manslaughter, was stopped while driving a Lincoln Navigator with a Cobray M-11 semi-automatic pistol by his side. The gun had an obliterated serial number and was loaded with 32 rounds. We prosecuted Wilson federally through PSN, and he was sentenced to the mandatory minimum sentence of 15 years without parole, which he is serving far from home in an East Coast prison. Gang member Nathaniel Saunders was found in possession of a gun after having been convicted of several serious felonies and

while on parole for murder. We prosecuted him federally through PSN and he was sentenced to 20 years without parole, a sentence that he is serving in a federal prison far from home.

A second part of our strategy to reduce gun violence has been the formation of neighborhood-based Gang Strategy Teams made up of all the law enforcement units – state and federal – that investigate and prosecute gangs. Their mandate is to share more gang intelligence on a regular basis, make greater use of technology, and make coordinated, strategic decisions about how and where to use our limited resources. At our first meetings of the teams, the law enforcement partners put some of their crown jewels – key informants – on the table to share in this battle. A closer partnership will mean deeper, more sustained, more permanent results in fighting gangs. Our success depends on deploying our resources more efficiently, through such techniques as pooling intelligence across agencies and coordinating investigations, jointly targeting the worst offenders for the harsher federal penalties, and refining our investigative and prosecutive strategies to enable us to handle cases more efficiently. And we have done that. I reorganized my Narcotics Unit to recognize the reality that gangs are the drug distribution network for the Chicago area. The Narcotics and Gang section is split in half between prosecutors investigating national and international narcotics rings and those prosecuting the gangs dealing drugs in the Chicago area. But we find that the wiretaps on the gangs

have led to wiretaps on members of Mexican cartels who use the gangs to distribute their drugs, and that the wiretaps on international drug traffickers regularly lead to their street gangs who control the distribution of their drugs in this region.

The third part of our strategy for ending the violence caused by street gangs is to focus directly on our ultimate goal, which is not sending people to jail but deterring young men from joining gangs and carrying guns. For many gang members, their affiliation draws attention that passes for respect on the street. We are letting them know that being in a gang will get attention in the police station and the federal courthouse and, then, far less attention in a federal prison in a state far away from their gang. If the word spreads that we are targeting gang members on parole who carry guns in the neighborhoods where people fear going out at night, we can make a difference in the futures of the neighborhoods.

A key part of this same effort at deterrence involves the Illinois Department of Corrections, which has mailed personalized letters to every parolee in the state, advising them that they are being tracked in case they are arrested with a gun and that they face strict federal sentences if caught. The Chicago Police Department's community service arm, Community Alternative Police Strategy ("CAPS"), has placed thousands of posters in targeted neighborhoods warning felons: "Don't Let This Happen To You!" In stark

terms, the posters provide details about specific felons from their neighborhoods who were caught carrying guns and are now serving long federal prison sentences.

In addition, in targeted police districts, the PSN partners regularly conduct “parolee forums.” Some 30 felons at a time, each convicted of a gun crime and recently paroled into these districts, sit at the same table with law enforcement representatives and community leaders, who present them with the straightforward message that they have a choice in life. For many of these men, when they leave prison, they return to the only things that they know – their neighborhoods, their gangs, their drug dealing. The idea of law enforcement telling each person directly that if he returns to that way of life, the whole community will be watching-- the local police, the state prosecutors, federal law enforcement and federal prosecutors -- is a direct and difficult message. Yet, the message is sent to let them know that they have a choice. At the same time, they hear community leaders speak about ex-offender job programs, educational opportunities, and substance abuse programs that are available to them. They also hear from a convicted felon, someone who has stood in their shoes, who reiterates the message that the felons can succeed in turning their lives around, showing them that success is an option. And we are seeking and receiving some critical support from corporate Chicago: civic-minded business leaders are helping us to disseminate the deterrent message and we hope will

help to underwrite efforts to provide options for ex-offenders other than a return to gangs and violence.

Law enforcement and community leaders in Chicago refuse to accept that nothing can be done about guns, gangs and violence in Chicago. Another city in my district, Joliet, is a city of 100,000. In 1999, state and federal law enforcement agencies began focusing our resources on the worst offenders -- mostly gang members -- in Joliet. In 2001 and 2002, there were large drops in the most violent crimes committed in Joliet -- a 53 percent drop in murders and a 40 percent drop in gang shootings from 2000. The lesson is clear: with a sustained effort, we can lower the murder rate and make a long term difference. We are trying to repeat in Chicago and other cities the success we have seen in Joliet.

One thing that we have learned in our efforts in Chicago and its outlying communities, is that we can not come in and make a splash and then leave. Community groups, citizens, the police, and yes, even the felons, tell us that what we need is a persistent effort to maintain our presence in these areas. We understand that we need to be there for the long run, not just for a sprint. We intend to continue our efforts in the neighborhoods we have targeted first. We intend to extend our efforts to other neighborhoods in need. We intend to expand our project to the school system to work

with children in proactive programs that are already underway and soon to be implemented in the schools. We know that it is only through a constant, persistent, and devoted effort that we will change the way of life on the streets. We are in it for the long haul and so are all of our law enforcement partners. On that note, the fight against gang violence in Chicago has not been a partisan effort. Persons of different party, ethnic, and governmental lines have been setting aside parochial interests to address this crisis. I can say without any hesitation that the Cook County States Attorney is my full partner on the anti-gang effort in Chicago, not a competitor, and our city is safer for that.

I applaud this Committee's efforts to address the war waged against our cities by gangs. Thank you for your time and attention. I appreciate the opportunity to speak on this important and timely matter. I would be pleased to answer any questions the members might have.

**Statement of Senator Orrin G. Hatch  
Chairman  
Before the Senate Committee on the Judiciary  
“Combating Gang Violence in America: Examining Effective Federal,  
State and Local Law Enforcement Strategies”  
September 17, 2003**

Good morning. I want to thank everyone for gathering to examine the issue of gang violence in America. We have some incredibly distinguished panelists with us today and we look forward to hearing from them.

Gang violence is not a new problem to this country. We have and we will continue to meet this challenge head on. The face of the problem has shifted and become severely more troubling in recent years. It is abundantly clear that this problem is no longer limited to our largest cities. Gangs now plague even our smallest communities.

The problem of gang violence is of great concern to the citizens of my State. According to the Salt Lake Area Gang Project, a multi-jurisdictional task force created in 1989 to fight gang crime in the Salt Lake area, there are at least 250 identified gangs in our region with over 3,500 members. Juvenile gang members in Utah account for over one-third of gang membership. In Salt Lake City, the Metro Gang Multi-Jurisdiction Task Force has for years demonstrated its critical role in fighting gang violence in Salt Lake City. We must act in a bipartisan fashion to ensure that adequate resources are available to all of our communities to expand and fund these critical task force operations to fight gang violence.

I want to take a moment here and commend my dear friend Senator Feinstein for her long-time commitment to this issue. She has been a leader in California and in the Senate in the war against gangs and gang violence. She and I have worked together for many years on this important issue. I look forward to working with you as we examine possible legislation to address the issues raised by the witnesses at today’s hearing.



Good afternoon, my name is Eddie J. Jordan, Jr. and I would like to thank the Senate Judiciary Committee for providing me with an opportunity to address you on the issue of “Combating Gang Violence in America: Examining Effective Federal, State and Local Law Enforcement Strategies.”

Prior to addressing the issue I would like to take a few moments to introduce myself to you. I grew up in New Orleans, Louisiana.

I was awarded an academic scholarship to Wesleyan University in Middletown, Connecticut. After graduating from Wesleyan University I was awarded a scholarship to the Rutgers University School of Law. Upon graduation from law school in 1977, I became a member of the Pennsylvania bar and served as a clerk for the Honorable Clifford Scott Green, United States District Court Judge in the Eastern District of Pennsylvania, in Philadelphia.

Upon returning to Louisiana in 1981, I served as a law professor at Southern University School of Law in Baton Rouge,

Louisiana and became a member of the Louisiana bar in 1982. Two years later, I returned to New Orleans to serve as an Assistant U.S. Attorney under then-U.S. Attorney John Volz. There, I specialized in the prosecution of narcotics cases involving multiple defendants and argued several appeals before the United States Court of Appeals for the Fifth Circuit.

In 1994, then-President Bill Clinton named me the U.S. Attorney in New Orleans, where I was the first African-American United States Attorney in Louisiana history. Under my leadership, the office successfully prosecuted hundreds of violent offenders, corrupt police officers, and most notably, powerful Louisiana political and business figures, including former Governor Edwin Edwards. I also launched an unprecedented number of crime prevention initiatives, including the nationally renowned Weed and Seed Program, which emphasized drug education, counseling and intervention. Subsequently, I retired from my position as U.S. Attorney in 2001 and returned to private practice to become of counsel to the firm of Rodney, Bordenave, Boykin and Ehret.

On November 5, 2002, I was elected District Attorney of New Orleans, making me the first African-American in the city to hold this position and the first new D.A. in 30 years.

Unfortunately, gang violence is increasing and it is evidenced in the number of homicides in New Orleans. Law enforcement officials routinely encounter problems whereby witnesses are being intimidated or killed because they come forward to testify in certain violent crime cases including murder, drug trafficking and gang violence. In 2001, there were 212 homicides in New Orleans, Louisiana and in 2002 that number increased to 257. If current trends continue the projected number of homicides for this year will exceed last year's number. So far this year, we have had 204 murders.

According to Tara C. Kowalski, witness intimidation has increased dramatically in recent years. In fact, the first half of [2001] saw a 50 percent increase in witness intimidation. Witness intimidation occurs when defendants or others acting on defendants' behalf make threats or otherwise act to dissuade victims or eyewitnesses from testifying. Witness intimidation

directly harms the witnesses involved; moreover, it adversely affects society as a whole, because without witnesses' testimony, prosecutors are powerless in prosecuting criminal offenses.

In New Orleans two witnesses who turned down offers by my office for assistance and relocation were murdered. In March 2003, a potential witness was killed near the eve of trial after refusing relocation on two occasions. While there was insufficient evidence to prove the death was a retaliatory killing, the timing of the killing raised suspicion of a possible link. Also, in May 2003 another potential witness who rejected assistance was killed, along with her companion shortly after testifying before a grand jury. Many victims and witnesses are reluctant to relocate because my office is not adequately funded. My office is doing all it can with limited resources. Adequate government financing would allow us to better assist victims and witnesses and make the alternative of relocation more appealing.

According to the National Alliance of Gang Investigators Association the gang problem has increased dramatically over the last 20 years. Membership in gangs has crossed all socioeconomic,

ethnic, and racial boundaries and now permeates American society. We are all affected by gangs in terms of heightened fear, crime, and economic costs. Gang violence results in a decrease in public safety, community image, and quality of life.

The following are some of the more notable gang trends identified by the National Alliance of Gang Investigators in their assessment:

- Gangs are migrating from larger cities to smaller communities, a move fueled in large part by an increase in gang involvement in drug trafficking.
- Most gangs have members who are involved in drug trafficking to some extent, ranging from street-level sales to wholesale distribution. However, the level of drug trafficking by gang members varies regionally.
- Numerous law enforcement agencies report that some gangs involved in wholesale drug distribution have connections to major international drug trafficking organizations.

- While the overall violent crime rate has dropped nationwide, many smaller communities have experienced increases, sometimes double-digit increases, due to gang violence.
- Witness intimidation is dramatically affecting the prosecution of violent gang offenders.
- Incidents of gang-related violence and drug trafficking are being reported in record numbers on Indian Reservations.
- Gangs are disrupting many schools and have infiltrated businesses, the military, prisons, and law enforcement agencies.
- Gangs, for the most part, are unsophisticated with little or no hierarchical organizational structures; however, some are becoming much more organized and sophisticated, encompassing politics, technology (Internet), and the media.
- Young women are taking active roles in gangs, and gang-involved females are being incarcerated in increasing numbers.

Even our judicial system can be affected by street gangs by:

- Intimidation of witnesses;
- Intimidation of jurors;
- Homicides, involving witnesses, jurors, law - enforcement officers, rival gang members and judges; and
- Fights in and out of the court house.

My office has no funds budgeted or allocated for victim and witness assistance. Our Victim Witness Services Division was created in 1998. The Victim/Witness Services staff provides full services to adult victims of certain state crimes, including, but not limited to the following: domestic violence, sexual assault, and stalking. Despite inadequate funding, the Victim/Witness Services staff provides assistance to witnesses of violent crimes who are in danger as a result of their willingness to testify in court. Staff members advocate for clients within the District Attorney's office, the legal system and in the community at large. The division also provides general services such as safety planning, relocation assistance, individual and group counseling, referrals to other resources in the community, obtaining stay away orders, crime

reparations assistance, explaining victims' rights, monitoring of domestic violence court and court advocacy and liaison with the assistant district attorneys and the clients.

In the year 2002, the entire division serviced approximately 600 clients. From January, 2003 – July, 2003, the seven-person staff made a total of 1498 advocacy contacts on behalf of victims of domestic violence and permanently relocated a total of 53 witnesses.

Additionally, the average cost to temporarily house a family of four is \$365.00 per week, \$100.00 per week for food and \$50.00 per week for personal items. If permanent relocation is a necessity, the cost escalates upward to thousands of dollars. Listed below are typical charges to permanently relocate a family of four 500—800 miles from their current residence:

1. Airfare \$200.00 per person	\$800.00
2. Ground transportation	50.00
3. Moving van	\$1,500.00
4. Security deposit on house/apartment	\$900.00



5. First month's rent on house/apartment	<u>\$900.00</u>
Total:	\$4,150.00

Currently, the Victim/Witness Services Division does not have a budget, so these funds come from our general operating budget.

A coordinated approach is necessary to combat the gang violence and witness intimidation problems. Perhaps the creation of a multi jurisdictional task force should be utilized to address gang violence and witness assistance issues. As a result of my experiences as a chief federal prosecutor, I am aware that the federal government has a well-established pattern of joining with local and state officials to create multi jurisdictional task forces which have been used successfully in the apprehension of fugitives and the investigation of violent drug gangs. We must utilize this approach to combat the issue of witness intimidation.

I am requesting \$1 million in funding to address the issues of gang violence and witness intimidation. With these funds my office will upgrade technology, coordinate with federal and local

authorities and finance our victim witness services division so that we may provide adequate assistance to those who testify in court proceedings.

# U.S. SENATOR PATRICK LEAHY

CONTACT: David Carle, 202-224-3693

VERMONT

---

**Statement of Senator Patrick Leahy  
Ranking Member, Committee on the Judiciary  
Hearing on "Combating Gang Violence in America:  
Examining Effective Federal, State and Local Law Enforcement Strategies"  
September 17, 2003**

Mr. Chairman, today's topic is one about which I have been concerned for some time. Gangs are not a problem in large cities, they infest smaller communities and rural areas, as well.

We are all aware that there are neighborhoods across the country – even some that border this very building – that are threatened by gang presence on a daily basis. Headlines in the local sections of our newspapers depict senseless acts of gang violence only to be followed by reports of retaliatory violence. Communities across the country continue to grapple with the reality of gang crime on their streets, in their schools, and behind prison bars.

The first defense in protecting our youth against gang influence is a good offense. Unfortunately, there are far too few programs that focus on gang prevention and education – programs that would examine why our youth choose to associate in gangs and prey on others.

I have long thought that programs aimed at combating gang activity must incorporate crime prevention and crime control initiatives to be effective. It is my hope that some of the testimony provided today will foster a better understanding of the gang problem. Community involvement, law enforcement outreach, and constructive ways to offer and provide our young people with positive alternatives to gang membership are all concepts that warrant this Committee's attention. Just this morning I was honored to attend the Boys and Girls Club annual breakfast. What a contrast those programs provide to that which we will discuss this morning.

Despite the impressive array of witnesses kind enough to join us today, I am sure that a one-size-fits-all solution for the myriad of communities that are faced with a crisis of gang violence does not exist. I am equally sure that the answer to gang violence is not likely to be found in simply enacting new Federal laws when the United States Code is replete with statutes carrying harsh Federal sentences that are already available to our Federal prosecutors when necessary to prosecute gang crimes that implicate a Federal interest.

Whenever the topic of this Committee's work turns to the scope of Federal law enforcement in association with our State and local partners, I become concerned about the issue of creating jurisdiction over criminal offenses traditionally handled by the States. The National District Attorney's Association urged the Attorney General at the beginning of his term to ensure that the Federal Government "resist any attempts to further expand the federalization of local crimes."

[senator\\_leahy@leahy.senate.gov](mailto:senator_leahy@leahy.senate.gov)

<http://leahy.senate.gov/>

The National Governor's Association agrees. So do I.

We should be wary of making a Federal crime out of everything, as though States do not have State police bureaus, or local police departments, or county sheriffs' offices, or as though they do not have State prosecutors and judges. As a former State's Attorney, I draw directly on my own experience in law enforcement in examining these issues of jurisdiction.

Though gangs have the ability to cross State lines, gangs are, more often than not, locally based, geographically oriented criminal associations. Even gangs that purportedly have the same name on the East and West coast are not necessarily affiliated with one another. Most often, a single gang is responsible for terrorizing a single area and the resulting crime is only enhanced by the presence of a gang in a nearby neighborhood that feels it must protect its turf. For this reason, I especially welcome witnesses here today with State law enforcement experience. The local communities are on the front lines of the fight against gangs and gang violence, and their experiences will help inform our debate on how to deal with this problem.

There is also a more practical problem when the lines between Federal and State law enforcement responsibilities are blurred. Federal law enforcement has been faced with a unique challenge in the months following September 11. The FBI is no longer just an enforcement agency, but has a critical terrorism prevention mission, as well. This mission is a daunting one, and our Federal law enforcement resources are not limitless. I, for one, do not want the FBI or U.S. Attorneys to focus these limited resources on cases that are best handled at the local level. In this regard, organizations like the NDAA have stepped up to the plate and have recognized that it is up to them to assume additional responsibilities while fulfilling their own duties and obligations to their citizens to keep them safe from, and to punish, street crime such as that associated with gangs.

I trust the law enforcement experts here today are prepared to speak on these issues. Combating gang violence should not be a partisan battle. The tragedy of gang violence affects too many. We in Congress need to make every effort to work with our partners in State and local law enforcement to provide meaningful solutions to the problem. No community can afford to lose a single youth to the arms of a waiting gang. No gang should be allowed to flourish without consequence in our communities.

#####

**Testimony of Wesley D. McBride, President of the California Gang Investigators Association**

I would like to thank the committee for inviting my testimony on the prosecution of criminal street gangs. My name is Wesley D. McBride. I served over 35 years with the Los Angeles County Sheriff's Department obtaining the rank of sergeant, and retired on January 31, 2002. I joined the gang unit in 1972 and for the next 28 years of my service I continuously worked street gang investigations I served as an intelligence officer, investigator, and team leader. At the time of my retirement I was the intelligence sergeant for Safe Streets Bureau, Operations Safe Streets (OSS), the Sheriff's Department's gang detail.

By way of introduction and to establish my credentials as a gang investigator I would like to quickly give you a snapshot of my background.

I am currently the president of the California Gang Investigators Association and am the past president of the National Alliance of Gang Investigator' Association, which encompasses all major gang investigators associations, along with representatives of each of the federal law enforcement agencies. I am also the co-author of a textbook on street gangs entitled "Understanding Street Gangs".

In my various capacities in the gang unit I have lectured extensively around the nation at various universities and for law enforcement agencies including the Bureau of Investigation's (FBI) National Academy and in-service classes for active Federal agents. I have also testified as an expert gang witness in many criminal case both in California and outside of the state of California.

I began the development of the Gang Reporting, Evaluation And Tracking (GREAT) computer system, and aided in the development of its more advanced replacement system entitled Cal/Gangs. I was a founding member of the California/Federal Committee investigating the development of a multi-state automated gang file system.

In the nearly three decades that I served in the gang unit I made an extensive study of gangs and I must tell you that I have watched the gangs grow in number and sophistication over the these years. In Los Angeles county we have hundreds of persons slain every year by gang members. I have watched this number grow from less than two hundred a year to 807 during our record year of 1995. A phenomena that I have observed over this period is that while there have been occasional declines in statistics over the years, these respites are only temporary and soon begin to climb again. The declines never seem to establish a record low, however the climatic rise at the end of the decline almost always does set a record.

We have over 1,100 gangs in Los Angeles County with a membership of nearly 100,000. These gangs began migrating across this county in the mid-1980s and have established their presence in nearly every state of the union. They freely cross state lines transporting firearms and narcotics, but possibly what may be even more important is the that they bring their street gang mentality with them, a mentality that depends on inane gang violence to establish their rule. Los Angeles gangs that migrate into the Eastern U.S. or Midwest are joining forces with the Chicago based gangs with the possibility of uniting into a Super-gang in the future. At the present time the two gang styles are very different in structure and style, thus preventing such a union.

These gangsters will infect the communities that they settle in with the disease of gangs, a disease that always brings death and desperation with it. The malignancy of the gang presences kills communities just as surely as their bullets kill people. Gangs so intimidate the citizens of communities that they are too afraid to testify, or even complain about the gang's activities. The gangs physically threaten and

intimidate witness as a matter of course. It is not uncommon for them to injure or kill prospective witnesses. It is not uncommon for gangs to attack police who come into conflict with them, and many officers have lost their lives in the war on gangs, however gangs have even been known to even kill police officers who serve as witnesses against them.

The most important weapon in the gangs arsenal is fear. Gangs are the master predators of the urban landscape. Their ability to instill fear into the people of a community knows no bounds. They will kill indiscriminately to make their point. This fear percolates through the community and so underlies all aspects of the gang's activity that it becomes a part of the atmosphere. After a time physical threats are not needed, the threat is unspoken but part of the community culture.

To counter this threat strong witness protection programs must be put in place by law enforcement and prosecution agencies. Programs that extend well past the present case that the witness is involved in. These programs need the funding to permanently relocate the witnesses and their families to new communities well away from the one affected by the gang case. Gangsters have a long and unforgiving memory.

Law enforcement responses to gangs have been effective to a degree in various cities around the country. The underlying problem with current law enforcement approaches is that they tend to be crisis driven and short lived in too many cases. There has never been a national coordinated effort to attack the gang problem. There have been effective and deserving programs, but they seem to be isolated in particular locales with little communication outside the effected area.

There has been very little coordination of gang enforcement between local and federal agencies beyond the establishment of a few task forces around the country. There is no effective nationwide database of gang members despite the fact that they travel across the country on a daily basis. There is no standard definition of gangs or gang crimes nationally. No federal agency collects or disseminates gang crime statistics or demographics in order to establish the true picture of gangs. What is done is done by the various Gang Investigators Associations. The National Alliance of Gang Investigators Associations and the National Youth Gang Center has just been awarded a grant to study and publish an assessment of the national threat that gangs present to our country.

The Los Angeles County Sheriff's Department in partnership with the Los Angeles Police Department has recently formed a multi-jurisdictional street gang-clearing house, known as L.A. Regional Gang Information Network (LARGIN). It will be staffed by officers and analysts from various police jurisdictions and provide daily intelligence data and statistical information enabling law enforcement agencies to tactically plan for anti-gang violence operations and aid investigators in their criminal investigations. A national model could easily be built from this kernel.

I will tell you that the threat of street gangs is a more realistic threat to the people of this country than any threat that external terrorism can make. While many may argue the term urban terrorism when speaking of street gangs, but gangs generate community fear and the disillusionment of the communities with local government due to the perceived power of the gangs. When I encounter community people in my travels and lectures they see and experience the threat of gangs.

Since the tragic events of 9/11 many gang units have been reassigned to investigate external terrorist threats active within our borders. These investigations are vital, however they should be in addition to, not instead of the continued investigation of street gangs. One of the disturbing issues that regularly comes to our association from various points across this nation is that the gang units are disappearing and that criteria used to qualify a person as a gang member or an incident as gang involved are being reworked into such narrow parameters that few qualify for gang file. Denial has become a tool of

administrators and officials to combat gangs. Apparently, hoping that they gangs will fade away without having to expend resources on them. Denial is the greatest ally the gangs have as it gives them room and time to formulate their take over of the communities.

There has been no federal leadership in the world of gang enforcement. Gang enforcement still tends to be done by pockets of investigators with little or no communication between these isolated islands.

Prosecution of street gangs based on current R.I.C.O. statues are too time consuming and labor intensive for local gang prosecution. Establishment of R.I.C.O. requirements can take months to years. As an example, in Los Angeles as mentioned there are over 1,100 gangs, 100,000 gang members, hundreds of murders a year, and thousands of violent crimes. One study out of U.S.C. states that 10 - 15 people are shot and wounded for everyone that dies of gunshot wounds. There is an undeterminable amount of narcotic/gang related crime. A few years back a R.I.C.O. prosecution against just one of these gangs took nearly 4 years to complete and took less than 50 people to jail, and less than half were known gang members. Granted those convicted were incarcerated for a very long time, but there was hardly a ripple in the gang violence committed by that gang or for that matter in the gangs activity.

Insistence on using R.I.C.O. many times scares local participation off. Use of specific crimes for quicker prosecution results in more arrests and more public displays of law enforcement action against the gangs. The criminals convicted may not serve the extended incarceration afforded by R.I.C.O. but the time is still significant and public perception if greatly enhanced.

To effectively combat the rise in gangs there must be a multi-faceted approach to prosecution of the gang. I will list just a few of those facets

1. Effective witness protection programs that includes funding for local prosecution
2. Establishment of a National Gang Intelligence Center, similar to the National Drug Intelligence Center.
3. Funding of law enforcement training on street gangs.
4. Legislation that eases or streamlines the burden of proving R.I.C.O. cases.

108

**TESTIMONY**

**OF**

**HONORABLE ROBERT P. MC CULLOCH  
PROSECUTING ATTORNEY  
ST. LOUIS COUNTY, MISSOURI**

**AND**

**PRESIDENT  
NATIONAL DISTRICT ATTORNEYS ASSOCIATION**

**BEFORE A HEARING OF THE**

**OF THE COMMITTEE ON THE JUDICIARY**

**ON**

**GANG VIOLENCE & WITNESS INTIMIDATION**

**SEPTEMBER 17, 2003**



My name is Bob Mc Culloch. I am the elected prosecuting attorney in St. Louis County, Missouri and am honored to serve as the president of the National District Attorneys Association. I want to thank you, on behalf of the National District Attorneys Association, for the opportunity to present our concerns on the increasing gang violence we see all across the United States and share some thoughts on the problem of witness intimidation.

To place my remarks in context – let me briefly tell you about my jurisdiction. St Louis County is the county immediately surrounding the city of St Louis. It has a population of over one million people living in a diverse community. I currently supervise a staff that includes 52 assistant prosecuting attorneys. Annually, my office prosecutes more than 6000 felony cases.

My family has a deep commitment to law enforcement in our community. I have been a prosecutor for 20 years and my father, my uncle, my brother and many of my cousins have been or are career police officers. Combined we have over 125 years of law enforcement experience in the St Louis area.

#### **OUR GROWING GANG PROBLEM**

Some eight years ago the NDAA Board of Directors meet in California and, at the Drug Control Enforcement Committee meeting, we heard a presentation about the proliferation of meth labs in the state and the problems they were causing both as an illegal drug and as an environmental threat. At the time many listened politely, commiserated with California in “its” problem and went on to what were viewed as more pressing issues. Since then we all know that meth abuse has raged rampant across the United States. Those who were shortsighted enough to believe it “only” a California problem were sorely wrong – in fact Missouri is now second, only to California, in meth production.

Our problem with gangs follows a similar analogy and it may be too late to get ahead of the power curve. Gangs were a big city problem many in law enforcement believed – they would never invade middle America. We could almost see the Grade B comedy about the gang member in the middle of Missouri and the pratfalls as cultures clash.

But it’s not a comedy and it is happening- every day and in every one of our communities. The big cities still have the majority of the gangs but their tentacles reach out from the cities into every aspect of our society. Suburban kids used to drive into the city to get their drugs but they don’t have to anymore as the drugs get delivered to the suburbs through regular supply lines. Gang graffiti and costumes are seen in even the most yuppie of suburbs now. The “thug” culture is romanticized in music video and in the movies.

In Denver the gangs and gang members are long-time Denver, “home grown,” criminals but the vast majority of their culture in Colorado can be traced back to California. Beginning in the mid-to-late 1980’s the California gangs started to “franchise” to the Denver-area. Intelligence reports showed that California gang members viewed the lack

of competition from local gangs; coupled with local law enforcement's and the community's relative lack of "gang sophistication," as making Denver easy prey, and labeled Denver the "The Big Easy." While the migration was from primarily Southern California gangs, Colorado has seen the migration of a significant number of Chicago-area gangs. From the late 1980's to the present, the number of gang members and gangs in Denver has grown steadily to the present estimated figure of 13,000 gang members in the metro-Denver area.

In years past, street gangs tended to emanate from Denver County, and the neighboring urban center of the city of Aurora. In the last 5-10 years, the gang problem has quickly expanded into neighboring suburban communities and counties. Additionally, gang-related issues have recently expanded to new frontiers in the agriculture communities in Alamosa and Castilla counties, as well as in the mountain/resort community of Eagle County. While the outlying communities may not have the sheer number of gang members, their gang related crime problem has grown significantly.

The gangs in the metro-Denver area have historically used drug trafficking as their criminal enterprise of choice. However, with the drug trade comes a wide assortment of other violent felonies, including armed robberies, aggravated assaults, homicides, etc. To conduct their business, and more often to protect their distribution locations, the gangs will often resort to means of extreme violence. Within the gangs' drug business, the Denver-area has seen what appears to be a greater and more wide-spread use of juveniles to commit and participate in gangs' business, particularly the drug transactions. Drugs (most common cocaine, with a recent surge in "meth") are the primary, but not exclusive, criminal enterprise for Denver-area gangs. Many gangs are also heavily involved in property crimes – auto thefts and business and residential burglaries. Recently, there have been reports of some traditionally African-America street gangs expanding into the area of prostitution. Likewise, Denver has seen a significant increase in Asian gangs becoming more and more involved with some traditionally white collar crimes (check and credit card fraud) as well as loan sharking and extortion.

Chicago tells a similar story. The gang problem in and around Chicago is widespread. While "only" listing 98 identified gangs in Chicago the membership is estimated to be over 100,000 – and this is only within the city limits. The gangs are well established with corporate structures and as many as three generations of a family in the gang. Gang leaders are frequently in their 40's and 50's.

With the demolition of numerous housing projects the impact on the Chicago gangs has been to geographically disperse gang members into other areas of the city and into the suburbs. This has had a major impact on the ability of law enforcement to collect intelligence about criminal activities. Since many of the suburbs have small police departments another problem has arisen over their ability to take any action to curtail the gang activity. In one instance a gang shot out the tires on the four police cars in the town and literally disabled the force for several days.

Another difference from previous gang activity has been that over turf battles. The gangs today are as antagonistic as seen previously. Frequently they operate more on corporate lines forming trade alliances to maximize profitability. Prosecutors in Chicago state that gang members are more into "making money" than worrying about gang rivalries. They further observe that this is carried through in the efforts of many gangs to develop enterprises to launder profits from criminal enterprises. Some of these businesses include construction companies, car washes, beeper shops, recording and music related businesses and restaurants.

In Phoenix the Police Department has on file two hundred and forty eight (248) criminal street gangs and lists membership as six thousand forty two (6,142) permanent members and three hundred twenty one (321) temporary associate members.

Hispanic gang members make up the majority of the gangs and gang members followed by Black gang members, Anglo members, and Asian.

In 1992 Phoenix suffered 918 gang related violent crimes. Even though the number has been declining since then they still suffered 159 gang related violent crimes in 2002.

They have not seen any growth of specific gangs or new gangs coming into Phoenix. The one gang that has seemed to change criminal activity is the Mexican National gangs known as "Wetback Power" or "Doble". These gangs have been around for about 10 years. These gangs formed to protect themselves from the traditional Mexican-American and Black street gangs. These gangs are now doing alien smuggling, home invasions on other illegal aliens, and ripping off Coyotes (alien smugglers).

More-and-more rural communities find they are not immune from the influx of gangs. In Snyder County, Pennsylvania, a relatively small county in central Pennsylvania the District Attorney recently met with the State Police officer assigned to gathering intelligence on gangs in his jurisdiction. He found out that one of the major bike gangs had infiltrated a local club that had been originally organized for charitable purposes and had "taken over" the club. This was done by gradually recruiting outside members until the local people no longer wanted to associate with the group. In the past 3 - 4 years, Snyder County had seen an increase in gang related crime (burglary and drugs primarily). There is a state police barracks in the county and the District Attorney frankly admits that without it they "totally lack the resources to deal with a problem of this sort."

In my own jurisdiction, St Louis County law enforcement officials have documented nearly 4000 gang members in approximately 180 identifiable gangs. Most of the smaller units are associated with one of about 10 different large groups with affiliates in many parts of the country. While some of the associations are loose, many have very close ties to the nation-wide gangs. This gives the members much greater mobility, in turn enabling them to hide from law enforcement and their other enemies.

While most of our gang members are home grown, a significant number have well documented origins in established gangs from both coasts and the Chicago area.

Increasingly our gang members have migrated to other parts of Missouri, far from St. Louis.

The primary criminal activity of the gangs is still drug trafficking. However, as the gangs mature they have moved first to car jacking and then to organized auto theft. Along with these, and in particular drug trafficking, comes a significant amount of violent crime. We are currently experiencing the early stages of a turf war between rival drug gangs. Law enforcement has documented an increase in the number of murders and assaults committed by, and upon, rival gangs.

Many of these cases are likely to be solved only on paper. That is, we will be able to determine who committed the crime but because of the very real threat of retaliation against any witness we still may not be able to develop a prosecutable case.

#### **WITNESS INTIMIDATION**

Prosecutors across the county believe that the issue of witness intimidation is the single biggest hurdle facing any successful gang prosecution. As you can see from the following examples the various jurisdictions are trying to establish some type of program but lack of resources and the witnesses themselves are difficult obstacles to overcome. For many prosecutors a witness protection program simply consists of a bus ticket or a motel room.

In Denver prosecutors believe that the issue of witness intimidation has become so pervasive that while the number of gang crimes has increased tremendously, the number of case filings (case investigated by the police in which the D.A. accepts and files formal charges) has decreased. They feel that the biggest reason for the lack of a successful prosecution (whether it be a mere filing or a conviction) is the witnesses' claim of fear of retaliation. Now the mere suggestion of a gang related crime has caused witnesses to assume that they will be the subject of retaliation, and therefore they refuse to cooperate with the investigation from the outset.

Recently, in Denver the district attorney prosecuted a felony case in which a criminal of some renown was convicted of first degree murder. While awaiting his own trial on yet another homicide, a critical witness was attacked and sexually assaulted by a gang member, who reportedly was working on "contract" for the killer in an effort to prevent this witness from testifying in the second murder trial. Likewise, recently in Denver County the district attorney prosecuted a capital case for the murder of a witness to a gang's drug trafficking activities in a neighboring county. Currently, there are several "unsolved" homicides where the victim was at one time a cooperating witness for the prosecution, and was presumably executed by the retaliating gang members.

In Colorado there is a program available for temporary witness relocation but they lack the resources for any type of witness "protection." If a witness makes a report of intimidation, and it is deemed credible, funds can be made available within a relatively short period of time (usually within a day), whereby the witness is relocated; the new

location is selected by the witness, and that location must be affordable to the witness, and one that appears to be reasonably "safe." The district attorneys office, through the state fund will pay for the cost of relocation and the initial costs to set-up the witness in the new location, thereafter, the witness must support himself in that location.

This program has had mixed results. There is no question that simply having this option available has been a remarkable comfort to fearful witnesses. In fact, often times the simple suggestion of relocation is enough to assuage the witnesses' fears, and they do not relocate yet continue to cooperate.

On the other hand, the Colorado system has its drawbacks. Funding is limited, so all that can be offered is the cost of transportation and establishment in the new location; after that it is the responsibility of the witness to pay for the new location. Frequently the witness fails to honor his end of the bargain, is evicted, and the process must be started again. This is particularly true because most times the witnesses to a gang crime are of limited economic means. The temporary "placing them on their feet" in the new location is not enough to sustain the witness to completion of the case.

Perhaps most significantly Colorado cannot provide any witness "protection." Ideally a fund would have the money and flexibility to allow for the payment of over-time to police officers to increase patrol and/or to provide some visible safety deterrence, if not protections, to the endangered witness for at least the initial stages of the relocation. This presence certainly would be a benefit for the witness.

In Connecticut a Witness Protection Program was officially established in October of 1999 and is operated out of the Office of the Chief State's Attorney.

It was created in response to the January 1999 murders of Karen Clarke and her 8 year old son, Leroy "BJ" Brown. BJ was a witness who was scheduled to testify against Russell Peeler, the individual charged with the May 1998 murder of his mother's boyfriend, Rudy Snead. BJ was a witness to an earlier attempted murder, a drive by shooting, of Snead. BJ provided the police with a statement which accused Russell Peeler of this crime.

Eight months later, Snead was murdered and Russell Peeler was charged with this crime. It was determined that the weapon used in the drive by shooting was the same weapon used in the murder. In December of 1998, the trial court ordered the release of the state's witness list to Peeler's defense counsel. Less than a month later, on January 7, 1999, BJ and his mother were ambushed and killed as they carried groceries into their house. Russell Peeler is now serving a life sentence without the possibility of parole for the murders of BJ Brown and Karen Clarke.

In response to this heinous crime, the Governor, requested then Chief State's Attorney, John M. Bailey, Chairman of the Governor's Law Enforcement Council to convene that body to "evaluate the effectiveness of the current policies on witness protection and the laws relating to victims, witnesses and pre-trial detention of criminal

defendants".

After an examination of these issues, the counsel presented recommended legislation which created a comprehensive witness protection program to be operated out of the Chief State's Attorney's Office. In October of 1999, the majority of the council's recommendations were enacted into law and the "Leroy Brown, Jr. and Karen Clarke Witness Protection Program" was created.

To date, the Connecticut Witness Protection Program has opened a total of 257 cases and has assisted over 670 individuals. This number includes family members of the witnesses. The policy of the program provides for the protection of witnesses in criminal proceedings where there is evidence of a substantial danger the witnesses may suffer from intimidation or retaliatory violence. The program provides funding for services rendered to witnesses who have been, or may be victimized due to pending testimony. Appropriations for the program are allocated from Connecticut's General Fund. Last fiscal year (July 2002 to June 30, 2003) the program disbursed a total of \$212,094.00.

The program provides funding on a case by case basis for the protection, temporary relocation, semi permanent relocation, or permanent relocation of witnesses and their families, friends or associates. The program is funded by the State of Connecticut. To be eligible for the program, a witness must be deemed by the prosecutorial official to be at risk of harm. A witness at risk of harm is defined in the statute. Any witness is eligible for the services of the program regardless of the crime being prosecuted or the degree of the offense.

The types of services provided to the witnesses in the program, include, but are not limited to, armed protection, escort, marked or unmarked surveillance or periodic visits or contact by law enforcement officials, temporary or permanent physical relocation to an alternate residence, housing expenses, transportation or storage of personal possessions, basic living expenses including food, transportation, utility costs and health care, and other services as deemed necessary by the program.

The Witness Protection Unit is responsible for the operations of the program and is responsible for determining the types of services a witness in the program may be entitled to. There are established procedures that the local prosecutorial officials must follow in order to seek assistance from the witness protection program. All witnesses certified into the program must enter into a written agreement that establishes the conditions of the program.

Although, the unit has been in operation for almost four years and operates very smoothly, there are always obstacles in witness protection. A few of these obstacles are affordable housing within which to relocate a witness and their family to, criminal records and behaviors of witnesses and the emotional trauma of witnesses.

Savannah, Georgia, had also developed a pilot protection program with “had” as the operative term. Their pilot program was funded by an 18 month Justice Department grant but ran out of money. The district attorney in Savannah firmly believes that had the program been allowed more time, it would have had a significantly greater impact on their witness intimidation problem.

The Savannah program was developed in response to an incident in which a murder occurred in a parking lot in front of 300 people – not one was willing to identify the perpetrator! The situation was so bad that in 1997 the prosecutor representing the state in murder cases stated that almost every witness summoned to testify has been subjected to some form of intimidation.

In reviewing the problem the Savannah district attorney developed the following observations: Witness intimidation, to a remarkable extent, occurs almost entirely within the following circumstances: after a violent crime; when the defendant and victim are either known to one another (domestic violence being a classic example) or have some tie between them, and the victim and defendant do not live far apart. Further that gang violence was classically a fertile breeding ground for witness intimidation

The program they put together merged both proactive and reactive elements. In the proactive phase the program efforts ranged from having defense counsel warn suspects of the additional consequences of interfering with a witness to checking old phone records to see if previous intimidation efforts had taken place. Efforts were made to enlist the media and community leaders to speak out against witness intimidation.

Reactive efforts included close tracking of cases, enhanced victim-witness efforts, zealous prosecution of witness tampering offenses, thorough briefings for witnesses as to the court system; minimalizing public disclosure of information in regard to witnesses, and using old case information in bond hearings.

Chicago’s witness protection program has averaged 100 relocations each year since 1994 and costs over \$1.5 million annually. They try not to use hotels because of the cost and have attempted to use shelters instead but have found that the gangs are sophisticated enough to place gang members in the shelters just to look for hidden witnesses. Many of the witnesses are in low paying jobs or on welfare and the efforts to protect them from intimidation increase their economic plight as they lose housing, jobs and community support.

The Cook County State’s Attorneys office has a Witness Relocation Unit that assists witnesses in moving out of gang “turf” when threatened or attacked. Funding limitations, however, make them gear their efforts towards temporary solutions.

Again witness protection efforts are not a city problem alone. In Mercer County, Pennsylvania, the district attorney has established his own program. He began a Witness Protection Program in 1999. Because of the small size of the county, it has had only six cases since that date. Under his program witnesses are relocated temporarily to a hotel in

a different community. Off duty police officers are paid to provide security. He then attempts to locate out of state family members or friends to assist in relocation. The district attorneys office pays for transportation to a new location and provides a stipend for start up expenses. His victim-witness staff facilitates public assistance transfer and assistance with address change. The defendants generally lack the sophistication (to date) to track someone moved to a different state but the prosecutor is sure that this will change.

In Missouri the victim's rights statutes provide that victims and witnesses are entitled to "reasonable protection" from harm or the threat of harm from a defendant. Other statutes provide that a court may order a defendant or any other person to refrain from harassing or intimidating a witness. In other words – to obey the law.

These are what we refer to as "feel good" laws. They make those involved feel good but do nothing to protect a witness from death or serious injury. The criminals we deal with are much more intimidating than a court order telling them not to "annoy" a witness.

Missouri does have a significant witness relocation statute. The statute allows the Department of Public Safety to expend up to \$95,000 for the protection of a witness and their family. The money can be spent for the direct personal protection of the individuals or for indirect protection by the purchase, rental or modification of housing. Our statute had only one major problem – no money has been appropriated to fund the program for many years.

In St. Louis County I do what I can to protect our victim's and witnesses. Unfortunately, this is generally limited to a bus ticket to a distant relative or a few days in a hotel. Even then, we are only able to provide that protection during the most dangerous periods – those immediately following the crime and immediately preceding the trial. Actual police protection during this time is rarely a possibility.

Although crime has been declining for several years, the crimes and criminals we see tend to be much more violent than those of the past. This violence will no doubt expand to include more victims and witnesses in the future.

On behalf of America's prosecutors I, and the National District Attorneys Association, urge you to take steps to provide federal assistance to state efforts to fight our gang problems and to provide us with the resources to effectively protect those brave enough to confront the gang bangers. We look forward to continuing to work with you on addressing this growing problem.



**NATIONAL DISTRICT ATTORNEYS ASSOCIATION**

**ROBERT P. MCCULLOCH**

Prosecuting Attorney, St. Louis County, Missouri  
President, National District Attorneys Association

Robert P. McCulloch received his Bachelors Degree in 1974 and JD in 1977, both from St. Louis University. He clerked for the Honorable Joseph G. Stewart of The Missouri Court of Appeals before becoming an Assistant Prosecuting Attorney in St. Louis County in 1978. Robert P. McCulloch was in private practice from 1985 – 1990 when he was elected Prosecuting Attorney of St. Louis County. He has held office since January, 1991, as Prosecuting Attorney of St. Louis County.

St Louis County is the geographical area immediately outside the city of St Louis, and has a population of over 1 million. His office has 52 assistant prosecutors and prosecutes over 6000 felonies each year.

Robert P. McCulloch is President of the National District Attorney's Association and past president of the Missouri Association of Prosecuting Attorneys.



**Department of Justice**

---

STATEMENT

OF

DEBRA W. YANG  
UNITED STATES ATTORNEY  
CENTRAL DISTRICT OF CALIFORNIA

BEFORE THE

COMMITTEE ON THE JUDICIARY  
UNITED STATES SENATE

CONCERNING

COMBATING GANG VIOLENCE

PRESENTED ON

SEPTEMBER 17, 2003

**STATEMENT OF UNITED STATES ATTORNEY DEBRA W. YANG**  
Central District of California  
September 17, 2003  
Senate Committee on the Judiciary

Concerning  
Combating Gang Violence

Chairman Hatch, Ranking Member Leahy, and Members of the Committee, I am Debra Yang, the United States Attorney for the Central District of California. It is an honor to have the opportunity to appear here today to describe to you my District's problem with organized criminal street gangs and my Office's coordinated attack on such gangs.

Violent crime and narcotics distribution by street gangs is a significant, long-term problem in the Central District of California. In Los Angeles County alone, conservative estimates put the number of separate street gangs at approximately 1,000 and the number of individual street gang members at approximately 150,000. In addition, there are approximately 20,000 gang members in Orange County and comparable numbers of street gangs and street gang members exist for Ventura and San Bernardino Counties. Gangs are considered the driving force for the homicide rate in my District, and it is believed that fully half of all gang members in my District participate in violence and/or the use and distribution of illegal narcotics. Indeed, the homicide rate in Los Angeles was probably one of the highest in the nation last year. Furthermore, Los Angeles is what is known as a "source city" for both illegal narcotics and gangs, meaning that Los Angeles-based gangs have migrated to other communities across the country, as well as to Central America. For example, members and cliques of the Los Angeles-based 18<sup>th</sup> Street Gang have migrated all over California, the Southwest Border and Pacific Northwest states, New Jersey and even Mexico and El Salvador. My Office's prosecutors have also tracked Los Angeles-based gang members to cities all over the United States, including Indianapolis, Oklahoma City, Omaha, Raleigh, and St. Louis, to name only a few.

My District has focused on the investigation and prosecution of gangs and gang crime since 1992, commencing in the wake of the Los Angeles riots. This intense focus has continued unabated during the time I have served as the United States Attorney. We have found that the street gangs based in Los Angeles County are some of the most organized and violent of any in the country. As a result, I have sought to make our District a leader in targeting criminal street gangs as criminal enterprises and focusing on the gang leaders, where appropriate, while at the same time continuing to target individual gang members, the so-called soldiers, for their federal crimes and criminal conspiracies, where appropriate. To do so, I have encouraged my Office's prosecutors to use every available federal tool, including the Racketeer Influenced and Corrupt Organizations (RICO), Violent Crimes in Aid of Racketeering Activities (VICAR), and money laundering statutes, in addition to the more traditional narcotics and firearms statutes.

A prime example of the Central District's long term investigation and prosecution strategy for organized street gangs are the recently completed 18<sup>th</sup> Street Gang and Mexican Mafia investigations and prosecutions, which spanned more than four years from beginning to end and which led to the convictions of more than 75 Mexican Mafia and 18<sup>th</sup> Street gang leaders and associates. To be specific, my Office employed the RICO statutes against the 18<sup>th</sup> Street Gang for the first time. This is a primarily Hispanic street gang that claims upwards of 10,000 members in California and other states, as well as Mexico and El Salvador. The 18<sup>th</sup> Street Case was a joint effort of the United States Attorney's Office, the Federal Bureau of Investigation (FBI) and local law enforcement, and it relied on the full arsenal of federal and local investigative weapons, with wiretaps being the most prominent tool in the arsenal. The first wiretap in the case was approved in October 1998, and the wiretapping continued unabated over several phone lines, for over a year, culminating in July 1999, when the federal grand jury returned a superseding indictment and the FBI and the Los Angeles Police Department (LAPD) executed a large-scale, multi-defendant, multi-county takedown. A total of 19

search warrants were executed during the take down, and a total of 26 defendants were charged with racketeering, narcotics, violent crime in aid of racketeering and money laundering offenses. This group of 26 defendants included the entire leadership structure of the gang, all of the major narcotics suppliers to the gang, and even the Mexican Mafia "godfather" of the gang. The FBI pursued the case vigorously, even tracking one fugitive to Honduras, where he was arrested and extradited to the United States to stand charges. The case climaxed with a ten-week, high-security, federal trial of the lead defendants before the Hon. Ronald S.W. Lew. The trial ended on May 2, 2002, with the conviction of all defendants on all counts, including three murders, five additional attempted murders, one conspiracy to murder a government informant (a murder plot which the FBI foiled), RICO charges, narcotics distribution charges, and money laundering charges. The two leaders of the gang and the Mexican Mafia Godfather received life sentences under the RICO laws.

As I noted, the case marked my District's first use of RICO against the highly organized, highly mobile and extremely violent 18<sup>th</sup> Street Gang. The result was 24 federal convictions, crippling the Columbia Lil' Cycos ("CLCS") clique of the 18<sup>th</sup> Street Gang. In addition, approximately \$2,000,000 in narcotics proceeds were seized and forfeited to the government, including luxury cars and homes, as well as caches of cash and jewelry. Most importantly, these efforts had a positive effect on the quality of life in the MacArthur Park area of Los Angeles, a large, two-mile square, multi-ethnic community in the heart of the city where the CLCS engaged in their criminal activities.

An even more recent example of a joint effort by federal and local law enforcement to target a violent organized street gang as an enterprise is my Office's current effort, in coordination with the FBI and LAPD, to target the powerful criminal partnership between two rival street gangs in the neighborhoods of the South Central and Central areas of Los Angeles. Using wiretaps and surveillance, among other techniques, the FBI,

LAPD, and Los Angeles County Sheriff's Department conducted this investigation in coordination with my Office for nearly two years, leading to a federal and state take-down on June 26, 2003, that netted over 28 leaders, members and associates of the twin gangs. These members of these gangs had terrorized their respective communities, such as the Pueblo Del Rio housing project in Los Angeles, for years with a vice-like grip on the drug trade in their communities. The gang members backed up that iron grip with the ever present shadow of violence, both real and threatened. The 28 defendants are now charged with federal and state crimes, including drug distribution, conspiracy charges and felon in possession charges, as well as fraud and identity theft violations. My Office anticipates extensive litigation on these cases for the next several months.

Because gang violence is such a serious and complex problem in the Central District of California, my Office has not only targeted organized street gangs as criminal enterprises, we have also grouped our efforts to combat this problem under the national Project Safe Neighborhoods program, which addresses gun violence through multiple approaches involving various levels of government working cooperatively with each other and with the community.

In our district, we have found that the most successful approach is to focus our efforts on certain geographical areas that have high rates of gun and other violent crime, which is typically related to street gang activity. Within those areas, we are pursuing a five-pronged approach to investigating and prosecuting gun and gang violence. First, because federal sentencing guidelines often provide for longer sentences for firearms offenders, we are prosecuting federally appropriate gun cases arising from arrests by local police officers and sheriff's deputies. Second, we are pursuing with federal and local investigators proactive gang investigations and prosecutions designed to disrupt gangs and imprison gang members who generate so much gun violence. Third, we are working with other prosecutorial agencies to prosecute felons and others who lie on background check forms. Fourth, we have begun what we call our "Untouchables" program, which combines the efforts

of white-collar criminal investigators from a number of federal agencies with those of local police officers to undertake financial investigations of known high-level gang leaders who are otherwise escaping prosecution, with the expectation that federal prosecutions of these gang leaders may result. Finally, we are working closely with intensive federal law enforcement initiatives that flood high-crime areas with federal agents from time-to-time.

My Office also is expanding its efforts to prevent gang and gun violence by increasing our involvement with community organizations and providing support to community efforts to combat the problem. Our prosecutors participate in community meetings to solicit community input and to demonstrate our office's commitment to improving the community. We meet with school administrators to identify ways in which to address the violence problem and we send prosecutors into classrooms to meet with students on a variety of topics. Each of these activities is designed to communicate important messages to community members or to assist us to be responsive to community needs. But in addition to these benefits, and together with Weed and Seed programs that allow us to create positive programs in the community, this kind of community outreach helps to lessen the mistrust and hostility that sometimes exists between community members and law enforcement in some of the areas of my district most affected by gangs and violent crime.

In addition to investigating and prosecuting gang-related crimes, we are also working to facilitate and strengthen efforts by government and non-governmental groups to prevent and deter violence. These efforts include efforts to deter gun crime by communicating the consequences of gun violence for offenders, victims families, and others, as well as efforts to give juveniles the motivation and tools to avoid involvement in gun violence.

The recent twin gang indictments, which I mentioned earlier, like the 18<sup>th</sup> Street and Mexican Mafia

convictions, were the product of an intensive dedication of human and technological resources. Gang cases and anti-gang programs of the size and scope I have described provide Assistant United States Attorneys in my District with the most rewarding opportunities for public service imaginable. As always, state and local authorities will continue to prosecute the gang soldiers for their violent crimes, but they inform me that they are operating at full capacity. At the Federal level, we will continue to reach beyond the soldiers and target the gang leaders, captains, shot-callers and self-styled Godfathers who control and profit from the gang menace, and we will continue to provide much needed support to the hard-working law enforcement personnel who are dedicated to eradicating the problem of gang violence.

Mr. Chairman and Members of the Committee, thank you for your time and attention. I would be pleased to answer any questions that you might have.