

# CRS Report for Congress

## Youth Gangs: Background, Legislation, and Issues

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# Youth Gangs: Background, Legislation, and Issues

## Summary

Gang activity and related violence threaten public order in a diverse range of communities in the United States today. Congress has long recognized that this problem affects a number of issues of federal concern, and federal legislation has been introduced in the 110<sup>th</sup> Congress to address some aspects of the issue.

Youth gangs have been an endemic feature of American urban life. They are well attested as early as the 18<sup>th</sup> century and have been a recurrent subject of concern since then. Contemporary views of the problem have been formed against the background of a significant adverse secular trend in gang activity during the last four decades. In particular, the rapid growth of gang membership, geographical dispersion, and criminal involvement during the violent crime epidemic — associated with the emergence of the crack cocaine market during the mid-1980s to the early 1990s — have intensified current concerns. The experience of those years continues to mark both patterns of gang activity and public policy responses toward them. Reports about the increased activity and recent migration of a violent California-based gang, the Mara Salvatrucha (MS-13), have heightened concerns about gangs in certain areas of the country.

Policy development and implementation in this area are bedeviled by discrepant uses of the term “gang” and the absence of uniform standards of statistical reporting. There are reasons for special care in the use of data on gangs and their activity. Without a standardized definition of what is meant by “gang,” such as the age group or activities engaged in by its members, or standardized reporting among the state, local, tribal, and federal levels of government, it is difficult to target anti-gang initiatives and evaluate their effectiveness. According to a national gang survey, the most recent estimate indicates that there were about 760,000 gang members in 24,000 gangs in the United States in 2004.

In the 110<sup>th</sup> Congress, several bills have been introduced that would address various aspects of the gang problem. Some of the bills would address the problem through comprehensive gang prevention initiatives, such as H.R. 3846. Other bills address the gang problem through combinations of criminal penalty enhancements, targeted prosecutorial efforts and anti-gang task forces, and gang prevention provisions. These anti-gang proposals include H.R. 880, H.R. 1582, H.R. 3547, H.R. 3922, S. 456, S. 990, and S. 2237.

This report provides background information on the issue of youth gangs, including data on gangs and gang crime. It reviews existing anti-gang initiatives at the federal, state, and local levels, and describes some of the legislation proposed during the 110<sup>th</sup> Congress to address the gang problem, as well as some of the issues raised by those bills. This report will be updated in response to significant legislative activity in the 110<sup>th</sup> Congress.

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# Youth Gangs: Background, Legislation, and Issues

## Introduction

Organized youth gangs<sup>1</sup> and the criminal activity they engage in have long been a concern to policy makers. National attention on gangs reached a high point in the mid-1980s and early 1990s as the violent crime rate reached unprecedented numbers. Although concerns about gangs and gang-related violence during these years were essentially isolated to inner-city urban areas, today the concern has shifted to include violent gang activities that have more recently proliferated into rural and suburban areas. Growing concerns about the number and geographic migration of certain violent Latino gangs into new areas, both rural and suburban, brought the issue before Congress. In addition, concerns about the potential threat gangs pose to domestic security, along with longstanding concerns about the prevalence of gangs in urban areas and the proliferation of gangs in rural areas, continue to fuel congressional interest.

For the most part, gangs and gang crime have been a state and local law enforcement issue. Until recently, the federal role in stemming illegal gang activity was largely limited to grant programs to state and local law enforcement and community-based agencies. As gangs became more sophisticated and expanded the types of illegal activities they engaged in (i.e., money laundering, drug enterprise, etc.), Congress and the Administration began to take note. Although federal laws already existed for prosecuting the types of crimes committed by gang members at the federal level, Congress began to specifically address the gang problem and gang-related violence linked to the “crack” cocaine epidemic of the late 1980s through the Anti-Drug Abuse Acts of 1986 and 1988 (P.L. 99-570 and P.L. 100-690).<sup>2</sup> Further congressional action on gangs did not occur until 1994, when Congress passed

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<sup>1</sup> The terms “youth gang,” “street gang,” and “gang” are often used interchangeably in much of the literature on youth gangs, and generally, these terms are used to refer to individuals ranging in age between 12 and 25 years. In contrast, the term “juvenile” generally refers to individuals who are under 18 years of age. When the term “youth gang” is used, as it is in most of the literature on gangs, it is possible for some to assume incorrectly that a gang member is typically a juvenile although gang memberships also include adults. See Irving A. Spergel and G. David Curry, “Strategies and Perceived Agency Effectiveness in Dealing with the Youth Gang Problem,” *Gangs in America*, 1990, p. 289.

<sup>2</sup> Both acts provided mandatory minimum sentences for drug traffickers who were found to be in possession of certain types of illicit drugs. The illicit drug trade is often associated with more highly organized criminal gangs.

legislation designed to address the gang problem through more comprehensive approaches.<sup>3</sup>

This report provides background information on the issue of youth gangs, including data on gangs and gang crime. It reviews existing anti-gang initiatives at the federal, state, and local levels and describes proposed federal legislation designed to address the problem, as well as some of the issues raised by these proposals. The report then briefly discusses policy options for dealing with the gang problem.

## Background

Gang activity in the United States has been traced back to the late 18<sup>th</sup> century, in the years following the end of the American Revolution.<sup>4</sup> The earliest identifiable gangs were recorded living in the slums of New York City in 1783.<sup>5</sup> It has been estimated that in 1855, New York City alone had more than 30,000 gang members.<sup>6</sup> The emergence of youth gangs in the U.S. is thought by some to be connected to immigration patterns, forming as a collective response to urban conditions in many of the large cities populated by recent immigrants as they struggled to make economic, social, and cultural adjustments. One of the earliest researchers on youth gangs, Frederic M. Thrasher, wrote in 1927 that the gangs he studied in Chicago may have emerged from “play groups” in immigrant neighborhoods.<sup>7</sup>

Early in American history, gangs were made up of specific ethnic groups, such as Irish, Italian, Jewish, Slavic, and other ethnic groups who immigrated to the United States and were drawn to the first large cities of New York, Boston, and Philadelphia. Most gang researchers agree that waves of immigration played a major role in the formation and spread of gangs in the United States. For many immigrant groups, gangs have historically provided a way of developing economic or social advantages in a strange country. In more recent history, the past 35 years have brought waves of immigrant groups of Asians (Cambodians, Filipinos, Koreans, Samoans, Thais, and others) and Latin Americans (Colombians, Cubans, Dominicans, Ecuadorians, Mexicans, Panamanians, Puerto Ricans, and many others)

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<sup>3</sup> See the *Violent Crime Control and Law Enforcement Act of 1994* (P.L. 103-322).

<sup>4</sup> Luc Sante, *Low Life: Lures and Snares of Old New York*, 1991, pp. 198-199. In the late 1780s, there were at least five known gangs in New York City: the Smith’s Vly gang, the Bowery Boys, and the Broadway Boys, who were white, and the Fly Boys and the Long Bridge Boys, who were black. Historically, most gangs have been locally based groups that often took names that indicated the neighborhoods where they lived and carried on their activities. For example, the Fly Boys were from the area around Fly Market, and like the Smith’s Vly gang, their name was derived from the Dutch word *vly*, meaning valley.

<sup>5</sup> James C. Howell, “Youth Gangs: An Overview,” *American Youth Gangs at the Millennium*, by Finn-Aage, p. 17.

<sup>6</sup> Kenneth J. Peak and Timothy Griffin, “Gangs: Origin, Status, Community Responses, and Policy Implications,” in *Visions for Change Crime and Justice in the Twenty-First Century*, Roslyn Muraskin and Albert R. Roberts, eds. (2005), p. 44.

<sup>7</sup> Frederic M. Thrasher, *The Gang: A Study of 1,313 Gangs in Chicago* (1927), pp. 26-32.

into urban areas across the country where many of the same language and cultural barriers have led to the formation of gangs among these groups.<sup>8</sup>

Most of the research on youth gangs has traditionally been based on sociological, ethnographic, and psychological methods. Using the methodological constructs of these disciplines, the majority of the research focuses on how the socioeconomic and environmental factors work to foster youth gangs. Poverty, poor educational opportunities, joblessness, and unstable family structures are among the social structures identified that can influence *at-risk* youth to join and to remain in gangs. Gangs are found in urban and suburban neighborhoods or rural areas where disaffected youths or migrant populations face poverty, poor schools, and joblessness. Researchers have also identified many factors that contribute to heighten a juvenile's risk of joining a gang, including familial and individual problems, such as juveniles growing up with little or no parental involvement (no parents, single parents, or both parents working) or juveniles with behavioral problems (see **Table 1**). According to gang researchers, such *at-risk* juveniles would be more likely to look to gangs to find acceptance, stability, companionship, and a sense of identity, particularly when their communities or the larger society is not perceived to provide opportunities for integration and acceptance.

**Table 1. Selected Risk Factors For Youth Gang Membership**

<b>Community</b>	Poverty, social disorganization Gangs in the neighborhood Availability of firearms Availability of drugs High crime
<b>Family</b>	Broken home, parental drug/alcohol use Lack of parental role models Low socioeconomic status Family violence
<b>Individual</b>	Prior delinquency Deviant attitudes Aggression Behavioral problems Victimization

**Source:** Phelan A. Wyrick and James C. Howell, "Strategic Risk-Based Response to Youth Gangs," *Juvenile Justice Journal*, vol. IX, no. 1 (September 2004).

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<sup>8</sup> U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, *The Growth of Youth Gang Problems in the United States 1970-1998* (April 2001).

Gang membership is also influenced by socioeconomic and class distinctions that often stem from prejudice, racism, and alienation from many of society's institutions. Gangs provide affiliation with others who have certain characteristics in common to one another but who may be considered as outsiders in the larger society, often providing income to those with few prospects of finding a job or making a living. Gang membership has not always been associated with serious criminal activity, although research indicates that joining a gang does increase an individual's risk of involvement in crime. Gangs often fight other rival gangs over *turf* issues and often are involved in petty crimes and misdemeanors. More highly organized gangs are often involved in more serious crimes such as drug trafficking, violence, and illegal possession of firearms.

## Definition of a Youth Gang

Academics and other experts on gangs continue to debate the formal definition of the term "gang" and the types of individuals included in gangs. Does a gang consist of members of certain ages? Are gangs always involved in crime? Do gangs vary in composition and organization from community to community, or do they all have some common elements in their organization, activities, and cultures? Despite decades and mountains of research there is still not a common definition of "gang" that is accepted by police, schools, academics, and communities across the nation.

Generally, there is agreement that gangs usually have a name and some sense of identity that can sometimes be indicated by symbols such as clothing, graffiti, and hand signs that are unique to the gang. Typically, gangs tend to have some degree of permanence and organization and are generally, to some degree, involved in delinquent or criminal activity. The criminal activities of gangs can range widely from graffiti, vandalism, petty theft, robbery, and assaults, to more serious criminal activities such as drug trafficking, drug smuggling, money laundering, alien smuggling, extortion, home invasion, murder, and other violent felonies. Some of the characteristics that are used to identify gang membership, often in combination with self-identification, are symbols or symbolic behavior, the association with known gang members, participation in certain criminal behavior, the individual's location or residence, identification by a police informant, or direct observation of certain symbols or symbolic behavior by law enforcement officers.<sup>9</sup>

Gang definitions vary widely and have changed over time. Early in the twentieth century, gangs could be seen by some as benign groups of friends from the same neighborhood providing social support and a sense of community, sometimes bound by kinship, and not established to commit delinquent acts. Gang members could be perceived as providing a protective function for their communities by attacking or driving out unwanted interlopers. However, today gangs are most often seen as juvenile delinquents and criminals who are more likely to be a threat to communities and public order, frequently as drug traffickers and violent criminals. Although this may not be true of all gang members, it is certainly clear that popular

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<sup>9</sup> U.S. Department of Justice, Office of Justice Programs, OJJDP, *Youth Gang Programs and Strategies* (August 2000), p. 27.



images in the media often portray gang members as criminals, and they are widely perceived as such by many.

The Department of Justice (DOJ) Office of Juvenile Justice and Delinquency Prevention (OJJDP), relying on several definitions offered by “leading theorists and researchers,” defines a youth gang as a group that is involved in a pattern of criminal acts, typically composed only of juveniles, but may include young adults in their membership. Prison gangs, ideological gangs, hate groups, motorcycle gangs, and gangs whose membership is restricted to adults and that do not have the characteristics of youth gangs are excluded. The DOJ National Criminal Justice Reference Service (NCJRS), while acknowledging that gangs are defined in many ways, provides a common definition of a gang as a group of three or more individuals who engage in criminal activity and identify themselves with a common name or sign.

Gangs are also defined in current federal law. The U.S. Criminal Code defines a “criminal street gang” as:

an ongoing group, club, organization, or association of 5 or more persons — (A) that has as 1 of its primary purposes the commission of 1 or more of the criminal offenses described in subsection (c); (B) the members of which engage, or have engaged within the past 5 years, in a continuing series of offenses described in subsection (c); and (C) the activities of which affect interstate or foreign commerce.<sup>10</sup>

The criminal offenses ascribed to a *criminal street gang* in subsection (c) include certain federal felonies that involve a controlled substance with a maximum penalty of five or more years of imprisonment; a federal felony that involves violence, or attempted violence, against another person; or, a conspiracy to commit either of these types of federal felonies.<sup>11</sup>

Several of the broad anti-gang bills introduced in the 110<sup>th</sup> Congress would modify the federal criminal code definition<sup>12</sup> of a *criminal street gang* as groups, associations, organizations, etc., consisting of *three* or more (instead of five or more) persons. In addition, most of these anti-gang bills would increase the penalties applied to *criminal street gang* crime and specified a number of violent crimes that would be punishable under the bills. Introduced in the 110<sup>th</sup> Congress, S. 456, H.R. 1582, H.R. 880, S. 990, and H.R. 1692 contain some version of this type of provision (see discussion below).

For most of the history of the research on gangs, the definition of gang membership relied on most by researchers has been self-identification by gang

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<sup>10</sup> 18 U.S.C. 521.

<sup>11</sup> This definition was added to current law in 1994 by Title XV §150001 of the *Violent Crime Control and Law Enforcement Act of 1994* (P.L. 103-322).

<sup>12</sup> The definition of a *criminal street gang* in federal statute is used for the purposes of federal prosecutions as sentencing enhancements, but is not a definition that has been used by the larger community of gang experts and researchers.

members themselves. Law enforcement officers, too, most often rely on a suspect's willingness to self-identify or "claim" gang membership for police identification and reporting purposes. For policy makers, how the term "gang" is defined and who is a gang member are important concepts for gauging the extent and nature of the problem, as well as for developing appropriate policy and program responses. The continued absence of a standard definition limits the utility of data collection for research purposes and for criminal reporting. It also limits the ability to quantify and understand the extent of the gang problem and complicates any national public policy response.

## Prevalence of the Problem

To establish a framework for considering federal gang policy, it is important to consider the data sources that indicate the pervasiveness of the gang problem. National estimates of gangs and gang members are provided through an annual survey administered by the National Youth Gang Center and funded through grants from the Office of Justice Programs (OJP). The 2004 NYGC survey is discussed below along with a brief look at data trends since the survey began in 1995. In addition, this section will provide an overview of the latest blended-year analysis from the NYGC of the 2002-2003 surveys, which elicited responses to slightly different questions than are included in the standard annual survey. These two surveys provide the only national estimates of how widespread the gang problem is and the extent of gang involvement in certain types of criminal victimization.

### National Youth Gang Survey

Since 1995, the National Youth Gang Center (NYGC) has conducted an annual survey of a selected sample of law enforcement agencies on the characteristics of youth gangs. The NYGC survey is federally initiated by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) and administered by the Institute for Intergovernmental Research. The NYGC survey provides the *only* national estimates of gang membership and activity. The survey is based on responses of a nationally representative sample of law enforcement agencies taken from the U.S. Census Bureau and the Federal Bureau of Investigation (FBI) data. The information reported in the survey concerns solely youth gangs, defined for purposes of the survey as "a group of youths or young adults in your jurisdiction that you or other responsible persons in your agency or community are willing to identify as a 'gang' member." The survey specifically excludes motorcycle gangs, hate or ideology groups, prison gangs,<sup>13</sup> and exclusively adult gangs.

**The 2004 NYGC Survey.** The 2004 NYGC survey, released April 2006, examined the prevalence of gangs and their illegal activities.<sup>14</sup> According to the

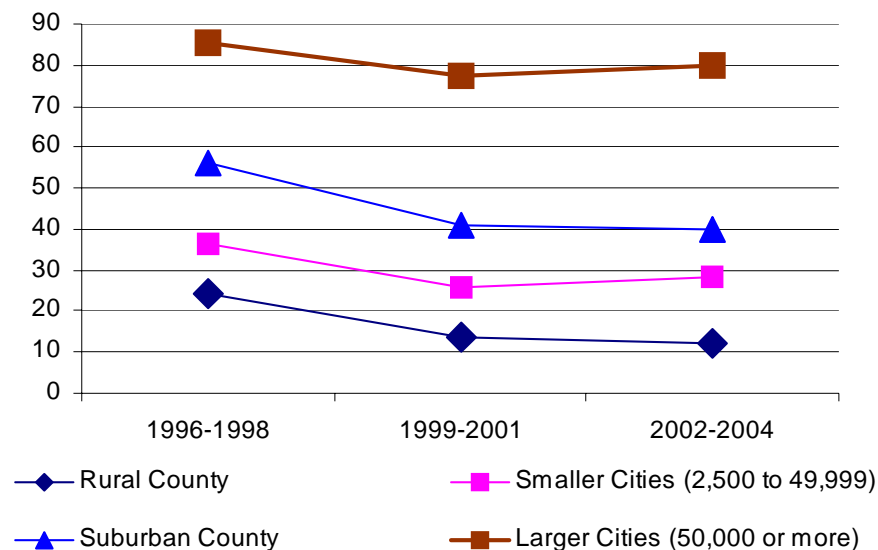
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<sup>13</sup> It is important to note that in much of the literature on gangs, connections exist between street gangs and prison gangs, particularly among certain Latino gangs.

<sup>14</sup> U.S. Department of Justice, Office of Justice Programs, OJJDP Fact Sheet, *Highlights of* (continued...)

survey results, youth gangs were active in more than 2,900 jurisdictions that city and county law enforcement agencies served in 2004. The survey also estimated that approximately 760,000 gang members and 24,000 gangs were active in the United States in 2004. The estimated number of gang members between 1996 and 2002 increased 14%. As **Figure 1** indicates, in the larger cities the number of respondents reporting a gang problem dropped slightly for the period 1999-2001 and began to rise slightly for the 2002-2004 period, whereas in rural counties there has been a decline between 1996 and 2004.

**Figure 1. Respondents Reporting Youth Gang Problems by Size of Jurisdiction, 1996-2004 (in averaged percentages)**



**Source:** NYGC Survey, 1997-2004.

Of the 2,554 survey recipients, 2,296, or 90%, responded to the 2004 survey.<sup>15</sup> The 2004 survey summary reported that youth gang problems were reported by *all* large-city<sup>16</sup> law enforcement agencies that responded to the survey for the years 1996-2004. The majority of larger cities<sup>17</sup> law enforcement agencies that responded to the NYGC survey (82%) also reported youth gang problems. Forty-two percent of responding agencies serving suburban counties, 27% of agencies serving smaller

<sup>14</sup> (...continued)

*the 2004 National Youth Gang Survey*, no. 1, April 2006.

<sup>15</sup> For the 2004 NYGC survey, local agencies in the nationally representative sample included all police departments serving cities with a population of 50,000 or more (n = 625); all suburban county police and sheriff's departments (n = 741); a randomly selected sample of police departments serving cities with a population between 2,500 and 49,999 (n = 696); and a randomly selected sample of rural county police and sheriffs departments (n = 492).

<sup>16</sup> Cities with a population of 250,000 or more.

<sup>17</sup> Cities with a population of 50,000 or more.

cities with populations below 50,000 reported youth gang problems, as did 14% of responding rural-county law enforcement agencies.

**Table 2** provides national estimates of gangs, gang members, and jurisdictions reporting gang problems reported by the NYGC from the annual surveys of law enforcement agencies for 1995-2004. As **Table 2** indicates, the national estimates of the number of youth gangs have been declining since 1996, whereas the estimated number of gang members has fluctuated over the years and seems to be rising since 2001. The most notable trend has been the decline in the total number of surveyed jurisdictions reporting gang problems, which decreased 52% between 1996 and 2004 (as shown in the table). The drop in respondents reporting such problems raises questions about how reliably the survey results indicate whether or not the gang problem is or is not growing.

**Table 2. NYGC Estimated Youth Gang Problem in the United States, 1995-2004**

	1995	1996	1997	1998	1999	2000	2001	2002	2004 <sup>a</sup>
Gangs (000)	23	31	30.5	28.7	26	24.5	N/A	21.5	24
Gang members (000)	664.9	846	816	780	840.5	772.5	693.5	731.5	760.0
Jurisdictions reporting gang problems	N/A	4,824	4,712	4,464	3,911	3,330	3,000	2,850	2,296

**Source:** U.S. Department of Justice, OJJDP, *Highlights of the 2004 National Youth Gang Survey*, #01, April 2006; and *Highlights of the National Youth Gang Survey*, 1995-2002.

a. The OJJDP *Highlights of the 2002-2003 National Youth Gangs Surveys* June 2005, did not include estimates of gangs, gang members or jurisdictions (described separately below).

N/A = Not available.

A recent detailed reanalysis of the NYGC survey data from 1996 to 2001 provides some clues as to what may underlie these disparate survey responses and declining respondent numbers. According to NYGC reanalysis respondents from *all* the largest cities (populations greater than 250,000) and the vast majority of large cities (populations greater than 100,000) reported gang problems in *all* survey years. Law enforcement agencies in small cities (populations above 2,500 and below 50,000) reported 16% fewer gang problems over the 1996-2001 survey period. In addition, rural and suburban counties reported significantly fewer gang problems over the same period. In the first two survey years, nearly 60% of suburban counties reported gang problems; however, the number of respondents declined steadily, and by the 2001 survey, suburban county respondents had dropped to just over one-third. Similarly, one-fourth of rural counties reported gang problems in the first two survey

years; however, the response rate of these jurisdictions also declined, so that by 2001 the response rate of rural counties was just over 1 in 10.<sup>18</sup>

There are many possible explanations for the decline in survey responses among small town and rural jurisdictions that could affect the gang estimates. One possible explanation could be that gang activity varies and may be more entrenched and constant in some areas, whereas in other areas, particularly in areas of low population density, gang activity could be a more episodic, fluctuating problem. In other areas, gangs could be a relatively new problem that perhaps has not yet firmly established itself in a community or area. As a result, the reported experience of gang problems reflected in the NYGC survey for larger cities remained fairly constant over the survey period. In smaller cities and rural and suburban counties, the decline in reported gang problems could reflect the variability of gang problems in these jurisdictions while simultaneously and disproportionately driving down the number of jurisdictions responding to the NYGC survey. Another explanation might be connected to the fact that responding to the survey is voluntary and not linked to any programmatic requirement or receipt of federal funding, which could help explain why law enforcement agencies, particularly in low-population jurisdictions with limited staff, might not consider completion of the NYGC survey to be the most important expenditure of staff time. Finally, the decline in survey respondents and gangs or gang membership might not reflect the experiences of all jurisdictions for reasons related to methodological issues inherent in surveys and population sampling, including sample size and weighting of responses, which are beyond the scope of this report.

Although the NYGC survey may indicate that the reported youth gang problem could be receding in some areas, respondents to the survey reported that gang-related violence has been increasing in larger cities and some rural areas. The 2004 NYGC survey indicated that among larger cities (population of 100,000 or more), 173 cities reported both a gang problem and gang homicide data in 2004 (homicides involving a gang member). Of the 171 larger cities, approximately one-fourth of all homicides were considered gang related. In the two remaining large cities, Chicago and Los Angeles, more than half of all homicides were considered gang related. The combined gang related homicides in Chicago and Los Angeles accounted for nearly half of the total number of homicides (nearly 1,000 homicides) reported in the NYGC 2004 survey.<sup>19</sup>

In addition to the survey responses on gang homicides, the NYGC survey reports responses regarding the respondent's perception of whether the gang problem in their jurisdiction was improving or worsening. Of respondents to the 2004 NYGC survey, 52% of law enforcement officers indicated that they thought their youth gang problem was "getting worse," while 48% reported that there was "a decrease or no significant change" in their gang problem. According to the NYGC survey, since

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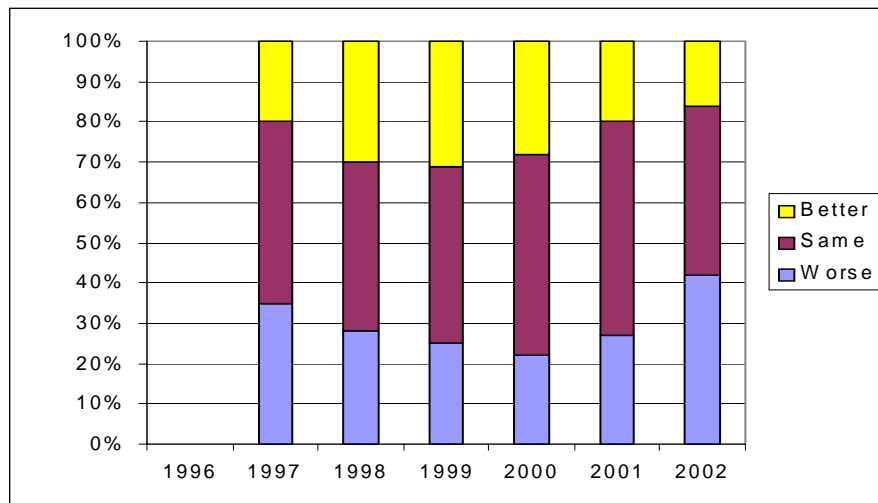
<sup>18</sup> Finn-Aage Esbensen, Stephen G. Tibbetts, and Larry Gaines, *American Youth Gangs at the Millennium*, "Recent Patterns of Gang Problems in the United States," by Arlen Egley, Jr., James C. Howell, and Aline K. Major, p. 96.

<sup>19</sup> According to the NYGC, Chicago and Los Angeles have historically had the highest rates of gang-related homicides of all U.S. cities.

2001, law enforcement officers have been reporting that the gang problem in their area is worsening: 27% in 2001, rising to 42% in 2002, and to 52% in 2004 (see **Figure 2**).

**The 2002-2003 NYGC Survey.** In June 2005, OJJDP issued a fact sheet, *Highlights of the 2002-2003 National Youth Gang Surveys*, reporting that law enforcement agencies serving cities with populations of 250,000 or more *all* continue to report youth gang problems (95.7% responding).<sup>20</sup> Law enforcement agencies in jurisdictions with the smallest populations continued to be the least likely to report gang problems, and this was especially the case in rural counties (31.7% responding). Of the larger cities, more than one-third of the agencies reported an annual maximum of 10 or more gang-related homicides, whereas relatively few agencies serving rural counties and the smallest cities reported gang-related homicides in the study period. The analysis of the surveys over both years provided evidence that gangs, gang members, and gang-related homicides are predominately concentrated in larger cities.

**Figure 2. Status of Gang Problem in Jurisdiction of Survey Respondents, 1997-2002**



**Source:** NYGC 2002.

Although the fact sheet on the analysis of the 2002-2003 survey responses does not provide estimates of the number of gang members for those years, based on unpublished data for 2003, the NYGC survey estimated that the number of gang members was approximately 750,000 nationally.<sup>21</sup> According to the NYGC survey, the increasing number of gang members continues to be a serious policy issue. This trend indicates that there is still much to do at the federal level in the fight against the

<sup>20</sup> U.S. Department of Justice, Office of Justice Programs, OJJDP, *Highlights of the 2002-2003 National Youth Gang Surveys*, OJJDP Fact Sheet #01, June 2005.

<sup>21</sup> Personal communication with Arlen Egley, Jr. Ph.D., Senior Research Associate with NYGC, operated for OJJDP by the Institute for Intergovernmental Research, September 7, 2005.

youth gang problem. Moreover, the migration of gangs into suburban and rural areas, beyond their traditional base of operation in the urban inner-cities, has also raised concerns about the possible spread of gang violence in areas of the country that have not been the types of communities usually besieged by gang activities and violence.

## Crime Statistics

Crime statistics are often used as one measure of gauging the impact of gangs on communities. Much of the recent concern about gangs is attributed to the violent crimes that are often linked to gang activities. One would assume that if violent gang activity is increasing, this would result in a similar movement in violent crime statistics; however, as discussed below, this has not always been the case. Two crime data sources administered by the U.S. Department of Justice, the Uniform Crime Report (UCR) and the National Crime Victimization Survey (NCVS), are often used to frame a discussion of trends in gang criminal activity.

The FBI's UCR program compiles monthly crime reports from over 17,000 city, county, and state law enforcement agencies across the country. The UCR provides data on *violent crimes*, including homicide and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault. *Property crimes* of burglary, larceny-theft, motor vehicle theft, and arson are also included in the UCR.

According to the most recent UCR, the number of violent crimes decreased 1.7% between 2003 and 2004.<sup>22</sup> The most significant decline was in cities with populations of one million and over, where the violent crime rate dropped an average of 5.4%. The declining trend in violent crime is not a new phenomenon. Since peaking in 1990 at a rate of 729.6 per 100,000 inhabitants, the crime rate dropped to a rate of 475 per 100,000 inhabitants in 2003, a decline of more than 34% over the period.<sup>23</sup> However, by 2004, the murder and nonnegligent manslaughter rates were beginning to inch upward.

## Juvenile Gang Homicide

Much of the concern about the youth gang problem stems from the attendant violence associated with gangs and gang crime. Research indicates that the longer a gang member remains in a gang, the higher the risk they will become involved in crime, generally, and of particular concern, in violent crime. A CRS analysis of data from the FBI's Supplementary Homicide Reports (SHR), provided below, offers some insight into the commonly held view that gangs and youth gangs, particularly older juveniles, are more likely to be involved in violent crime. A similar analysis by the Justice Policy Institute of gang-related violent crime, as reported in the FBI's

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<sup>22</sup> U.S. Federal Bureau of Investigation, *Uniform Crime Report* (2004).

<sup>23</sup> CRS Report RL32824, *Federal Crime Control: Background, Legislation, and Issues*, by Lisa Seghetti, Coordinator.

SHR from 1994 to 2003, concluded that over that period gang-related violent crime declined by 73%.<sup>24</sup>

Some critics have claimed that the FBI data on gangland and juvenile gang homicides may inadvertently give the impression that these homicides are primarily committed by juvenile offenders. Yet juveniles are responsible for a smaller proportion of all homicides included in this crime category than are young adults and adults who are included in the counts of these gang-related killings.<sup>25</sup> The SHR count of gang-related homicides includes offenders of all ages. According to the FBI data, a large majority of offenders of known age in gangland and juvenile gang killings are not juveniles.<sup>26</sup> The 2003 SHR includes records for 1,111 offenders in such killings; age data were reported for 52.8% (n=587) of the 1,111. Among offenders of known age, only 18.9% (n=111) were under 18 years of age, or juveniles (see **Figure 3**).

Because no age data are reported for 47.2% (n=524) of offenders reportedly committing juvenile gang homicides, the exact proportion of all 1,111 offenders who are juveniles under 18 years of age is unknown. However, to hypothesize about the likelihood that those of unknown age are under or over 18 years of age, upper and lower bounds for those of unknown age can be established to determine the percentage of all 1,111 offenders who are juveniles. If the age-distribution of the offenders of unknown age were the same as that of offenders of known age, then 18.9% (n=210) of all offenders reported in 2003 would be under 18 because that is the proportion of offenders of known age reported in the SHR. Alternatively, if all offenders of unknown age were under 18, then 57.2% of all offenders would be under 18 (n = 111 + 524). Conversely, if all offenders of unknown age were 18 or older (n = 476 + 524), then 10.0% of all offenders would be under 18. Unless 85% or more of offenders of unknown age were under 18 (n = 445), a level that is 4.5 times this age group's share of offenders of *known* age, then it could be assumed that only a minority of the total number of offenders reported in the FBI's SHR as gangland and juvenile gang killings were in fact committed by juveniles. As a result, data on gang homicides must be considered with care if they are used in isolation as an indication of violent crime rates among juvenile gang members.

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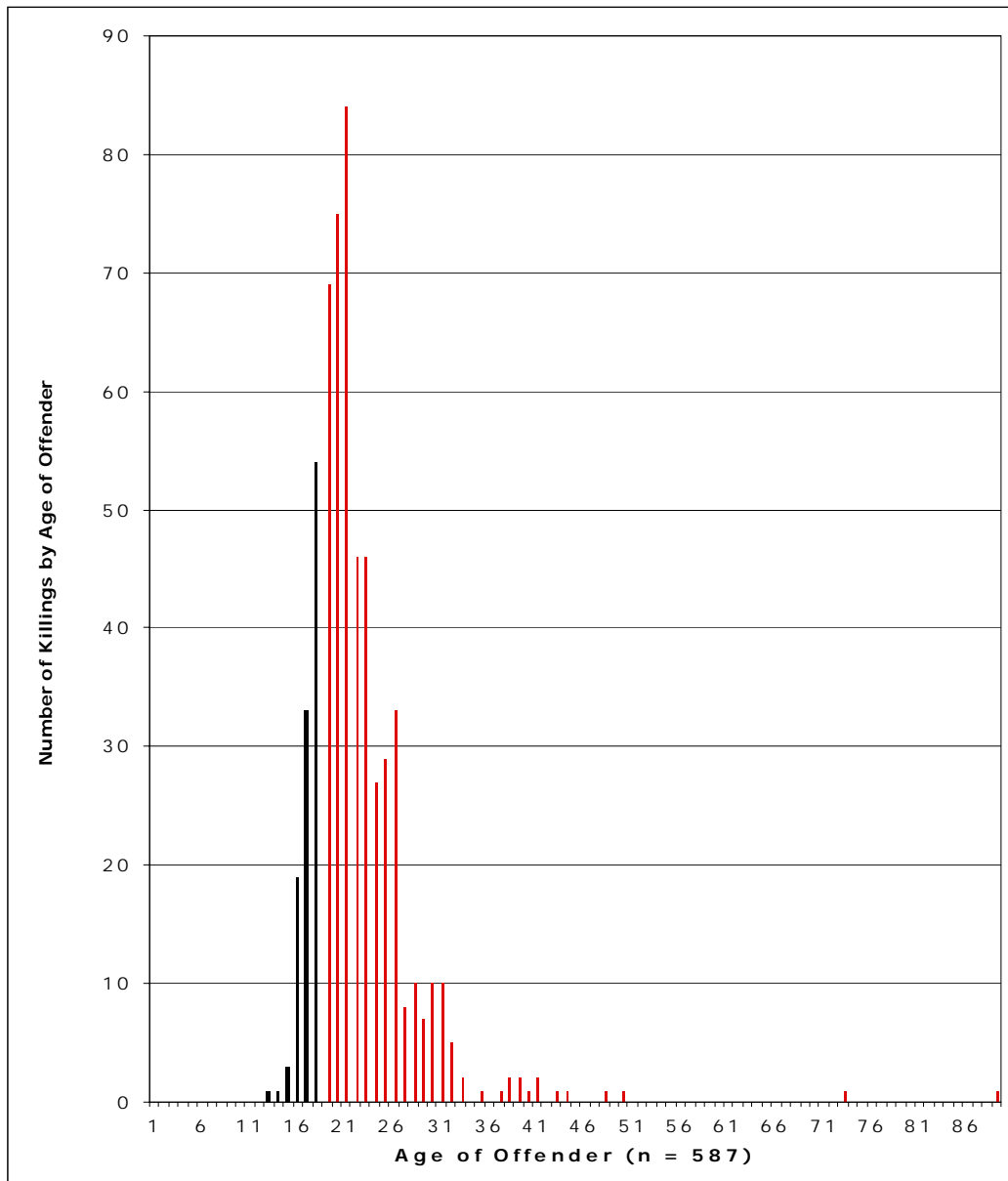
<sup>24</sup> Justice Policy Institute, "Gang Violence Declined 73% from 1994-2003," July 15, 2005, available online at [<http://66.241.216.26/releases/press050715gang-crime.dwt>], accessed on October 2, 2007.

<sup>25</sup> Tom Hayden, *Street Wars: Gangs and the Future of Violence* (New York: The New Press, 2005), pp. 7-8.

<sup>26</sup> Justice Policy Institute, *Ganging Up on Communities?: Putting Gang Crime in Context* (Washington, July 15, 2005).



**Figure 3. Gangland and Juvenile Gang Homicides by Age of Offender, 2003**



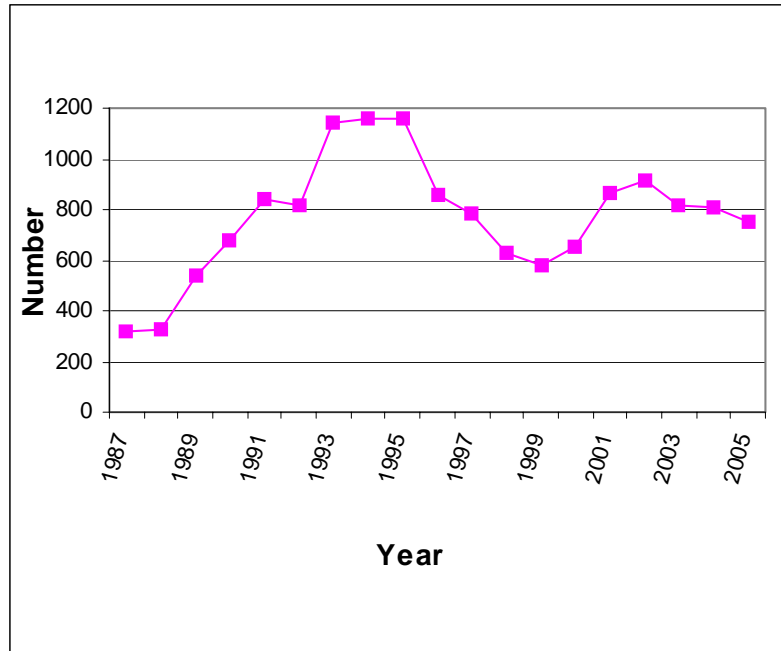
**Source:** CRS Analysis of FBI, Uniform Crime Reports, Supplementary Homicide Reports, 2003.

Despite the uncertainty about whether or not juvenile homicide rates reported in the SHR are actually perpetrated by juveniles or adults, most gang experts agree that gang members have higher offending patterns while they are actively participating in a gang compared with before they join and after they leave the gang.<sup>27</sup> The historical trend in total juvenile gang murders provided by **Figure 4** indicates that juvenile gang homicides, as reported in the SHR, have decreased slightly since

<sup>27</sup> Cheryl L. Maxson, "Gang Homicide A Review and Extension of the Literature," *American Youth Gangs at the Millennium*, 2004, p. 275.

2002. Overall, the rate of juvenile gang homicide in recent years continues to remain below peak levels last reached in 1995.

**Figure 4. Juvenile Gang Homicides, 1987-2005**



**Source:** FBI, Uniform Crime Reports, Supplementary Homicide Reports, 2005.

## National Crime Victimization Survey

The Bureau of Justice Statistics (BJS) administers the National Crime Victimization Survey (NCVS). Started in 1972, the NCVS is one of two DOJ measures of crime in the United States and is the primary source of information on criminal victimization. The NCVS data are obtained each year from a nationally representative sample of 42,000 households comprising nearly 76,000 persons that are surveyed on the frequency, characteristics, and consequences of criminal victimization. BJS statisticians then use the survey data to estimate the likelihood of victimization by various crimes, including rape, sexual assault, robbery, assault, and theft for the total population and for certain segments of the population such as women or the elderly. The NCVS provides the largest national forum for victims to describe the impact of crime and characteristics of violent offenders.

According to the survey, victims perceived perpetrators to be gang members in about 6% of violent victimizations between 1998 and 2003.<sup>28</sup> As a result, the NCVS estimates that gang members committed, on average for each year, approximately 5.7% (373,000) of the total 6.6 million violent victimizations over this period,

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<sup>28</sup> U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, Crime Data Brief, *Violence by Gang Members, 1993-2003*, NCJ 208875, June 2005.

including such nonfatal acts as rape/sexual assault, robbery, aggravated assault, and simple assault. In addition, the NCVS reports that, between 1994 and 2003, the rate of reported violent victimizations by perceived gang members declined by 73% over the period, from 5.2 per 1,000 to 1.4 per 1,000, after having peaked at 10% of all violent crime in 1996.<sup>29</sup>

Questions can be raised about the validity of the NCVS survey. Some have argued that the perceptions of crime victims are not an objective measure of anything more than an individual's recollection of a traumatic event, and that data collected through the survey cannot be deemed a reliable and objective source of criminal data. However, the NCVS has been systematically field tested and the methodology has been continually reviewed by an advisory panel of criminal justice policymakers, social scientists, victim advocates, and statisticians working in conjunction with a consortium of criminologists and social and survey scientists.<sup>30</sup>

## National Gang Threat Assessment

The U.S. DOJ's Bureau of Justice Assistance (BJA), issued a report, *2005 National Gang Threat Assessment*,<sup>31</sup> that provides a national perspective on the threat posed by gangs. The report was produced in collaboration with members of the National Alliance of Gang Investigators Associations (NAGIA), including the FBI, the National Drug Intelligence Center (NDIC), and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). According to the report, gangs were pervasive throughout society and more sophisticated and flagrant in their use of violence and intimidation tactics. The report also found that when today's gangs migrate across the country, they bring drugs, weapons, and criminal activity with them. However, the report was not backed by hard data or crime statistics, and instead was based on a survey of law enforcement agencies and anecdotal accounts and experiences.

Law enforcement respondents to the 2005 assessment's questionnaire identified a number of trends across the country. Gangs were identified as the primary distributors of drugs throughout the U.S., sometimes associating with organized crime entities such as Mexican drug organizations and Russian organized crime groups, and engaged in low-level criminal activities such as protecting territories and facilitating drug-trafficking activities. Gang members were reportedly becoming more sophisticated in their use of computers and technologies for improved communications, facilitating criminal activity and avoiding detection by law enforcement.

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<sup>29</sup> Ibid.

<sup>30</sup> Information on the NCVS is available at [<http://www.ojp.usdoj.gov/bjs/cvict.htm>], accessed on May 20, 2007.

<sup>31</sup> U.S. Department of Justice, Bureau of Justice Assistance, *2005 National Gang Threat Assessment*, National Alliance of Gang Investigators Associations, available at [[http://www.nagia.org/PDFs/2005\\_national\\_gang\\_threat\\_assessment.pdf](http://www.nagia.org/PDFs/2005_national_gang_threat_assessment.pdf)], accessed on May 18, 2007.

Respondents identified the migration of California-style gang culture, along with growing Hispanic gang membership, as a particular threat as these gangs spread into new areas and promote the gang subculture. Although outside of the scope of this report, the expansion of outlaw motorcycle gangs into new territories and the formation of new gangs were also identified as a threat to communities as these types of gangs battled over territories with increasing violence. In addition, 31% of survey respondents indicated that their communities refused to acknowledge the gang problem, and in some cases only began to address gang issues when a high-profile gang-related incident occurred.

The 2005 assessment identified a number of regional trends in gang activity affecting communities in the following areas:

**Northeast Region.** In the Northeast, neighborhood or homegrown gangs are increasingly visible and the growth of gangs within Hispanic immigrant communities has brought increased violence and crime to many communities. The region is identified as being particularly vulnerable to drug distribution by gangs because of the compact nature of the region and the well-developed transportation system throughout the region. Gangs are most frequently reported to be involved in crimes relating to vandalism and graffiti, firearms possession, assault, and homicide.

**The South.** In the South, the Mara Salvatrucha (MS-13), an Hispanic gang originally formed in Los Angeles, California, by immigrants from El Salvador, is reportedly one of the newest threats to the region, especially in Washington, DC, Virginia, and surrounding areas. Gangs in the South are reportedly most likely to be involved in the distribution and sale of marijuana and cocaine.

**The Midwest.** In the Midwest, gang activity has increased around schools and college campuses, and gangs are concealing their affiliations and colors to hide from law enforcement. Gangs are increasingly cooperating with one another to facilitate crime and drug trafficking. Gang and drug activity in Indian Country has increased, and according to the assessment's respondents, Hispanic street gangs are using Native Americans to transport narcotics onto reservations.

**The West.** In the West, gangs are reportedly using increasingly sophisticated, well planned and executed criminal acts, especially against law enforcement officers. Street gangs are frequently involved in the distribution of both marijuana and methamphetamine, and the number of cases of identity and credit card theft by gang members has increased. In addition, respondents from the West reported that gang members were increasingly using firearms.

## Characteristics of Gangs and Gang Members

### Youth Gang Demographics

Historically, gangs have been most prevalent in the central cities of large urban areas and members were primarily young adult males from homogeneous low-income, inner-city, ghetto or barrio neighborhoods. Research indicates that most gang members join a gang as juveniles, some only participate sporadically, and a significant number leave, or ‘age-out,’ of gangs before they reach adulthood.<sup>32</sup> Typically, gangs have been racially/ethnically segregated and actively involved in a variety of criminal activities. However, there is evidence that some gangs have evolved into *hybrid gangs* that are mixed ethnically, racially, and by gender.

Based on data from an in-depth analysis of survey data from the 1996-2000 NYCG surveys published in 2002 (see discussion above), law enforcement agency respondents reported that 94% of gang members were male and 6% were female. The analysis also indicated that 39% of youth gangs had some female members. According to the analysis, gangs formed since 1985 were reportedly more likely to have proliferated into less traditional areas such as small cities, towns, suburbs, and rural communities.

Data on age and race/ethnicity were also collected from the NYGC surveys for the years 1996, 1998, and 1999. In 1996, respondents reported that half of gang members were juveniles below the age of 18 and half were adults 18 years of age and older. By 1999, the age balance had shifted toward older gang members and, according to survey respondents, 37% were under the age of 18. In 1999, respondents reported that 47% of gang members were Hispanic, 31% African American, 13% Caucasian/white, 7% Asian, and 2% other. During the three-year period, the reported distribution of race/ethnicity remained relatively constant (see **Table 3**).

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<sup>32</sup> T.P. Thornberry, D. Huizinga, and R. Loeber, “The Causes and Correlates Studies: Findings and Policy Implications,” *Juvenile Justice*, vol. 10, no. 1, pp. 3-19, at [<http://www.ncjrs.org/pdffiles1/ojjdp/203555.pdf>], accessed on October 2, 2007.

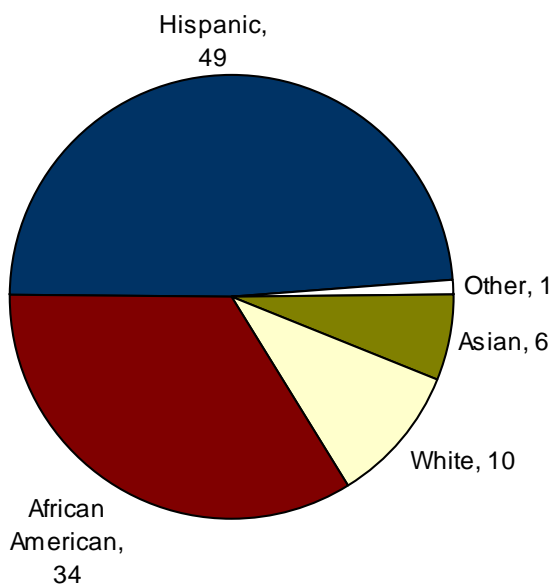
**Table 3. Estimated Demographic Characteristics of Gangs**  
(in percent)

	1996	1998	1999
<b>Age</b>			
Under 15	16	11	11
15-17	34	29	26
18-24	37	46	50
Over 24	13	14	13
<b>Race/Ethnicity</b>			
White	14	12	13
Black	35	34	31
Hispanic	44	46	47
Asian	5	6	7
Other	2	2	2

**Source:** NYGC (most recent detailed information available).

More recent demographic information on race and ethnicity from the 2001 NYGC survey show slight changes in gang composition (see **Figure 5**).<sup>33</sup> As **Figure 5** indicates, the 2001 demographic data show increases among Hispanic (49%) and African American (34%) gang members, declines among Caucasian/white (10%), and Other (1%), and the percentage of Asian gangs remained the same (6%).

**Figure 5. Youth Gang Demographics (2001)**  
(in percent)



**Source:** CRS Presentation of NYGC data (most recent detailed information available).

<sup>33</sup> National Youth Gang Center, forthcoming, Frequently Asked Questions: *What is the racial and ethnic composition of youth gangs?*, at [<http://www.iir.com/nygc/faq.html>], accessed on October 2, 2007.

## Rural Gangs<sup>34</sup>

Small towns and rural areas across the country report gang problems. In small towns and rural areas the gang problem is not typically chronic and perpetual, but instead is episodic and not likely to persist as it is in larger urban areas where gang problems typically are chronic.<sup>35</sup> In part, this is due to the fact that these areas do not have the population base from which gangs can recruit new members. The small size of most rural or small town gangs makes them more vulnerable to disruptions such as arrest or members dropping out of the gang, and although all gangs are characterized by movement among members in and out of the gang over the course of a year, this dynamic has a more disruptive effect on the permanence of a rural, small-town gang.

A recent analysis of small town and rural county respondents to the NYGC's annual gang survey of state and local law enforcement agencies looked at responses from agencies representing populations between 2,500 and 25,000.<sup>36</sup> NYGC's analysis revealed that few of these agencies reported persistent gang problems. Of 27 rural counties responding to the survey, only 4% (1.08 counties) reported persistent gang problems. Similarly, of the 36 small town respondents, only 10% of small towns (3.6 small towns) reported persistent gang problems.<sup>37</sup>

The analysis of small town and rural county agencies found that agencies reporting persistent gang problems had a higher proportion of adult-aged gang members. In addition, jurisdictions reporting persistent gang problems were more likely to have also had gang-related homicides in their jurisdiction than jurisdictions reporting variable gang problems. Thus, the analysis found that the reporting of a sudden gang problem in a particular community might not always signal the beginning of a protracted or persistent gang problem or one which would be likely to develop into a serious problem like that seen in some larger cities.

NYGC's analysis identified population shifts and changing demographics in some small towns and rural areas as potential factors contributing to the emergence or escalation of gang problems. As in larger cities, language barriers and exclusion of newly immigrating youths were identified as factors which could contribute to the formation of groups that could coalesce into a gang. Examples of such possible situations included the rapid growth of Latinos in North Carolina and Salvadorans in northern Virginia, both situations which could potentially contribute to development of local gang problems for these areas. However, no data were

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<sup>34</sup> The NYGC analysis of small town and rural gangs is based on responses to the annual survey described at the beginning of this report from which national estimates of gangs and gang activities are derived. However, this analysis is a separate and special analysis based on data that are not reported in the annual summary of the NYGC survey.

<sup>35</sup> James C. Howell and Arlen Egley, Jr., "Gangs in Small Towns and Rural Counties," *NYGC Bulletin*, DOJ, OJJDP, no. 1 (June 2005), p. 1.

<sup>36</sup> NYGC's analysis is based on data collected between 1996-2001. In 2002, the survey began using a new sample of smaller city and rural counties.

<sup>37</sup> *Ibid.*, p. 2.

presented indicating that these areas were experiencing such gang problems, and the analysis cautioned that the majority of youth gangs are “homegrown” with memberships composed of long-time residents in the particular area. Moreover, the analysis concluded that the formation of gangs was more likely to be the result of failed social institutions even in small towns and rural communities.<sup>38</sup> Broader applicability of the NYGC analysis to other similar areas across the country is, however, limited by the small sample size and small number of survey respondents, among other factors, which make it difficult to infer that the data are representative of all such jurisdictions across the nation.

## Gang Presence in Schools

The threat of gang crime and violence exists in many schools across the nation. According to an OJJDP report, youth gangs are linked with serious crime problems in elementary and secondary schools in the United States.<sup>39</sup> The OJJDP study indicated that the incidence of several factors, including household income and drug availability, were positively related to the reported presence of gangs in schools.<sup>40</sup> The analysis also found a high correlation between gangs and the incidence of student victimization in schools. However, the authors concluded that although the presence of gangs in a school is correlated with criminal activity, it was not clear that gangs were a direct cause of criminal victimization at schools.<sup>41</sup>

The School Crime Supplement to the National Crime Victims Survey periodically surveys youth in school about the presence of gangs in their schools (see **Table 4**). From the available data provided in **Table 4**, survey respondents reported a gang presence in schools that increased dramatically between 1989 and 1995, an increase of 92%. As **Table 4** indicates, the percentage of students reporting a gang presence dropped precipitously between 1995 and 1999, a 41% decline; the percentage again rose and remained fairly constant at just over 20% in 2001 and 2003.

**Table 4. Percentage of Students Reporting Gang Presence in Schools**

Year	1989	1995	1999	2001	2003
	15.3	29.0	17.0	20.1	20.9

**Source:** U.S. DOJ, BJS, School Crime Supplement to the National Crime Victims Survey, for the most recent years available.

<sup>38</sup> Ibid., p. 3.

<sup>39</sup> U.S. Department of Justice, Office of Justice Programs, OJJDP, *Juvenile Justice Bulletin*, “Youth Gangs in Schools,” James C. Howell and James P. Lynch (August 2000).

<sup>40</sup> Ibid., pp. 5-6.

<sup>41</sup> Ibid., p. 7.



Of the students surveyed, students in urban schools were significantly more likely to report the presence of street gangs at their schools than were students in either suburban or non-metro schools (see **Table 5**). In every residence category, whether student respondents lived in an urban, suburban, or non-metro area, the percentage of students reporting a gang presence increased significantly between 1989 and 1995. Although the percentage of students surveyed dropped between 1995 and 2003, the reported gang presence remained significantly higher in 2003 than it had been in 1989. The proportional increase between 1989 and 2003 was greatest in non-metro areas (57.7% increase).

**Table 5. Percentage of Students Reporting Gang Presence By Residence**

Year	Central City	Suburban	Non-Metro
1989	24.8	14.0	7.8
1995	40.7	26.3	19.9
2003	30.9	18.4	12.3

**Source:** School Crime Supplement to the National Crime Victims Survey, for the most recent years available.

Hispanic and black students were more likely than white students to report that there was a gang presence in their schools in 2003 (see **Table 6**). Among students aged 12-18, Hispanic students in every residence category, except rural, reported the highest percentage of gang presence in their schools. Black students reported the highest percentage of gang presence in rural schools.

**Table 6. Percentage of Students, Aged 12-18, Who Reported Gangs Were Present at School During the Previous Six Months, 2003**

Race/Ethnicity	Total	Urban	Suburban	Rural
White	14	20	14	11
Black	29	33	28	22
Hispanic	37	43	35	13
Other	22	31	18	11

**Source:** *School Crime and Safety: 2004*, November 2004.

Students in public schools were more likely to report the presence of gangs than students in private schools; 35% of urban public schools surveyed reported the presence of gangs compared to only 6% in surveyed urban private schools. Similarly, in suburban public schools students reported 20%, whereas only 2% in suburban

private schools reported a gang presence at school. In rural public schools the rate of reported gang presence was 12% compared to 4% in rural private schools.<sup>42</sup>

Gangs remain a serious concern for school safety and many advocate that particular attention should be given to signs of gang activity in schools. Gang-related fights and assaults are of a different nature and tend to escalate to other related, and occasionally larger, conflicts that can spill over into the neighborhood.<sup>43</sup> Some have argued that school-based, gang-related activity is often not reported, perhaps in part because of the negative attention that acknowledging a gang problem may bring to the school, parents, and surrounding community.<sup>44</sup>

Schools play a critical role in the socialization and development of children, and this is especially the case for at-risk children from strained families.<sup>45</sup> According to researchers, schools typically respond to gang problems by suppression methods that include getting rid of the “problem” by separating gang members from the other students. Some researchers have concluded that this type of tactic can further marginalize at-risk youth, bond them more completely to gangs, and reinforce their loyalty to gangs.<sup>46</sup> These and other studies have led some researchers to conclude that a more balanced use of prevention, intervention, and suppression strategies starting in elementary school could help to reduce gang violence in schools.<sup>47</sup>

## Latino Gangs: MS-13, A Case Study

In recent years, there has been growing attention in the press and among policy-makers on gang violence that is linked to gangs in Central America. Much of the concern about such gang members can be linked to the recent spread of certain Latino gangs from their origins in Los Angeles, California, into major urban and rural communities throughout the United States. Connections between gangs in the United States and gangs in other countries including Mexico, El Salvador, Guatemala, and Honduras have heightened concerns among U.S. policymakers about the threat these gangs pose to domestic security.<sup>48</sup>

The Mara Salvatrucha (MS-13) gang was originally formed in Los Angeles, California, by refugees and immigrants from El Salvador who saw the formation of their own gang as a way to neutralize the gang threat to their community posed by the

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<sup>42</sup> U.S. DOJ, BJS, School Crime and Safety: 2004, p. 47.

<sup>43</sup> Kenneth S. Trump, “Gangs, Violence, and Safe Schools,” *Gangs in America III*, 3<sup>rd</sup> Edition, ed. C. Ronald Huff (2002), pp. 121-122.

<sup>44</sup> *Ibid.*, p. 124.

<sup>45</sup> James Diego Vigil, “Streets and Schools: How Educators Can Help Chicano Marginalized Gang Youth,” *Harvard Educational Review*, vol. 69, no. 3 (Fall 1999), p. 272.

<sup>46</sup> *Ibid.*, p. 278.

<sup>47</sup> K. Trump, “Gangs, Violence, and Safe Schools,” pp. 126-128.

<sup>48</sup> For more information on Latin American gangs, see CRS Report RS22141, *Gangs in Central America*, by Clare Ribando.

18<sup>th</sup> Street Gang and others. MS-13 is reportedly one of the newest threats to the Washington, DC, metropolitan area, including the suburbs of Northern Virginia, Baltimore, MD, and other areas along the East Coast. According to testimony at a recent congressional hearing, the MS-13 gang is “estimated to have some 8,000 to 10,000 hardcore members [in the United States].”<sup>49</sup>

Although the estimated number of MS-13 gang members is a small fraction of the total number of U.S. gang members, they are reputed to be more violent. The MS-13 gang has followed the migratory pattern of Salvadoran immigrants, fanning out across the United States, and up and down the East Coast, in an effort to establish itself as a “national” gang organization. It is, by most estimates, the largest and most well organized of the Latino gangs, although other Latino gangs of concern across the country include the 18<sup>th</sup> Street Gang of West Los Angeles, the Latin Kings, and the Surenos 13. Many of these gangs that originated in California have also proliferated across the country, to some extent, but not to the extent of MS-13.

The FBI, other federal agencies, and local law enforcement agencies view the MS-13 gang as a national and international threat that must be addressed on several fronts. The Immigration and Customs Enforcement (ICE) bureau of the Department of Homeland Security (DHS) launched an operation focused on helping state and local law enforcement with the gang problem. ICE officials began an effort, *Operation Community Shield*, to use their immigration authority to detain and deport gang members of MS-13 from the United States.<sup>50</sup> The ICE effort focused on the cities of Los Angeles, Miami, Baltimore, Newark, and Washington, DC, and involved intelligence from state and local law enforcement, as well as the FBI, the Drug Enforcement Agency (DEA), the U.S. Marshals Service (USMS), and ATF.

On August 26, 2005, the ATF led a raid on MS-13 gang members in which 19 individuals were arrested and charged with conspiracy to intimidate the communities of Silver Spring, Langley Park, and Hyattsville, MD, through murders, attempted murders, and kidnappings. These MS-13 suspects were named in a federal indictment alleging that the gang’s activities violated federal criminal racketeering laws.<sup>51</sup> These Racketeering Influenced and Corrupt Organizations (RICO) statutes were originally designed to prosecute and convict organized crime groups like *La Cosa Nostra* under the premise that the violent operations of the Mafia were organized, structured, had leadership, and involved high-level, serious criminal activities. Hence, the organization and hierarchical structure of the MS-13 gang, rather than their violent criminal activities, will be what determines whether prosecution of MS-13 gang members under RICO statutes will be successful.

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<sup>49</sup> Testimony of FBI Assistant Director-Criminal Investigative Division Chris Swecker, in U.S. Congress, House of Representatives International Relations Subcommittee on the Western Hemisphere, *Gangs and Crime in Latin America*, hearings April 20, 2005.

<sup>50</sup> U.S. DHS, ICE, “ICE Launches Operation Community Shield, Arrest 103 MS-13 Gang Members in 6 Major U.S. Cities,” *News Release*, March 14, 2005, available at [<http://www.ice.gov/pi/investigations/comshield/index.htm>], accessed on October 2, 2007.

<sup>51</sup> For more information on RICO statutes see, CRS Report 96-950, *RICO: A Brief Sketch*, by Charles Doyle.

Conviction under the federal RICO statutes carries a maximum sentence of life imprisonment without parole.

## Gangs and the “Transnational Threat”

The prominence of gangs composed of recent immigrants from Central America, some of whose members are in the United States illegally, raises concerns about the ability of gang members to cross the southern border of the United States undetected. The porous southern U.S. border is often the method by which illegal goods and immigrants are smuggled into the country.<sup>52</sup> The continuing international connections between such Central American gangs raise the possibility that illegal entrants could pay gangs to smuggle them into the United States, and as such terrorists could also be illegally smuggled across the U.S. border by gangs.

The decision of DHS to crack down on MS-13 (discussed above) further indicates the significance of the transnational threat posed by gangs. The involvement of gangs in smuggling weapons, humans, and drugs has long been established. However, following the 9/11 terrorist attacks, there are heightened concerns that gang smuggling interests may be shared by terrorists groups interested in crossing the U.S. border illegally and undetected. Concern about the convergence of these smuggling interests may have been the impetus behind the sharpened focus of DHS on transnational gangs and their illegal activities, and particularly on Latino gangs, as a threat to domestic security.<sup>53</sup>

Despite the specter of transnational Latino gangs undermining domestic security, no evidence has been found linking U.S. gangs, regardless of their members' immigration status, with the smuggling of terrorists into the country. The *2005 National Gang Threat Assessment* concluded that despite their vigilance in looking for associations between gangs and international terrorist groups, few investigators identified any associations, and those who did described “the connections in terms of speculation [that was] supported by little evidence.”<sup>54</sup> Furthermore, ICE recently reported that of the 1,057 gang members and associates arrested since February 2005 as a part of its recent crackdown on gang members crossing the southern U.S. border, none were found to have any terrorist ties.<sup>55</sup>

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<sup>52</sup> For more information on smuggling and related issues on the southwest border, see CRS Report RL33106, *Border Security and the Southwest Border: Background, Legislation, and Issues*, by Lisa Seghetti, coordinator.

<sup>53</sup> Testimony of FBI Assistant Director-Criminal Investigative Division Chris Swecker, in U.S. Congress, House of Representatives International Relations Subcommittee on the Western Hemisphere, *Gangs and Crime in Latin America*, hearings April 20, 2005.

<sup>54</sup> U.S. DOJ Bureau of Justice Assistance, *2005 National Gang Threat Assessment*, (February 2005).

<sup>55</sup> Congressional Quarterly, Homeland Security, *ICE Sweep Nets Nearly 600 Gangsters — but No Terrorists So Far*, by Eileen Sullivan, CQ Staff, (August 1, 2005).

## Federal Anti-Gang Programs and Initiatives

For most of the history of gangs, the crimes they committed were generally the responsibility of state and local law enforcement. Gangs pose a significant threat to public safety, and as gangs have spread across the country the interest in finding adequate solutions to the problem has included all levels of government. In the mid-to late-1980s and early 1990s, Congress passed legislation federalizing certain gang-related crimes and providing additional penalties for individuals convicted under these laws. In addition, the federal government has taken an active role in helping state and local jurisdictions develop anti-gang responses through support for research on gangs, and through grant programs to help jurisdictions develop effective gang prevention and intervention strategies.

Developing an effective response to gangs, however, is complicated by the range of gang criminal activities (from juvenile delinquency to serious violent crimes by criminal organizations). Moreover, gang activities vary from community to community, making it difficult to establish national programs or provide uniform assistance. Strategies developed by the Congress to address the gang problem have included (1) *prevention*, aimed at preventing youths from joining gangs and engaging in gang behavior, by educating children and teens about the dangers of joining gangs; (2) *intervention*, aimed at diverting at-risk youth from crime, by providing alternatives such as after-school programs, counseling, work-study, conflict-resolution, etc.; (3) *suppression*, law enforcement tactics that usually involve arrest, prosecution, and incarceration; or (4) a comprehensive approach which would combine some or all of the strategies to address the spectrum of the gang problem.

### Selected Congressional Action

The federal focus on gangs began in the late 1980s when the OJJDP funded a research project dealing with drug use and delinquency among dropouts and gang members in New York City.<sup>56</sup> In 1987, OJJDP, in cooperation with the University of Chicago's School of Social Service Administration, initiated a major research and development program to address the gang problem. The project, the National Youth Gang Suppression and Intervention Program, was a four-stage process that included an assessment of the gang problem, the development of a model program for preventing youth gangs, a review of the literature on gangs, and a national survey of youth gang problems and programs.<sup>57</sup>

The federal response to youth gangs in the late 1980s was inextricably linked to drug trafficking and violence associated with what is often referred to as the "crack cocaine epidemic." The Anti-Drug Abuse Act of 1988 (P.L. 100-690) addressed the

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<sup>56</sup> Jeffrey Fagan, *Drug Use and Delinquency Among Dropouts and Gang Members*, DOJ OJJDP, Grant #87JNCX0012, 1987.

<sup>57</sup> Irving Spergel and Ronald L. Chance, *National Youth Gang Suppression and Intervention Program*, National Institute of Justice Research in Action, June 1991, pp. 21-22.

gang problem by establishing grant programs within OJP<sup>58</sup> and OJJDP designed to address a number of gang-related issues, including the prevention and treatment related to juvenile gangs, drug use, and drug trafficking. Further congressional action specifically on gangs did not occur until 1994, when legislation was enacted that took a more comprehensive approach to addressing crime and the youth gang problem.

The *Violent Crime Control and Law Enforcement Act of 1994* (P.L. 103-322) contained several anti-gang-related initiatives, including new or enhanced penalties for certain crimes that were often associated with gangs. The act provided new or enhanced penalties for gang-related crimes by (1) imposing an additional term of imprisonment of up to 10 years for involvement in a serious federal drug offense or federal violent felony affecting interstate or foreign commerce, (2) permitting the prosecution of youths 13 years of age and above if the juvenile possessed a firearm during a crime of violence, and (3) tripling the penalty for employing children to distribute drugs near schools and playgrounds. The law also authorized funding for a new grant program, the Gang Resistance Education and Training grants (G.R.E.A.T.) to state and local law enforcement and prevention organizations to be used for gang-prevention activities in schools. It also permitted existing grant programs, the Local Law Enforcement Block Grant and the Edward Byrne Memorial Grant programs,<sup>59</sup> to be used for various purposes, including multi-jurisdictional gang task forces. The act also directed the AG, in consultation with the Secretary of the Treasury, to develop a national strategy to coordinate gang-related investigations by federal law enforcement agencies.

In addition, P.L. 103-322 authorized the Community Oriented Policing Services (COPS) program, which was designed to put more police officers on the streets and make communities safer. The COPS program was generally designed to provide grants to state and local law enforcement agencies to fight crime at the local level through the strategy of having a larger police presence in high crime areas. Thus, COPS, by providing grants that could be used in preventing street crime, was indirectly providing assistance for fighting gangs and gang-related crime.

During the 107<sup>th</sup> Congress, anti-gang provisions were included in the *21<sup>st</sup> Century Department of Justice Appropriations Authorization Act* (P.L. 107-273). The law included a new Juvenile Accountability Block Grant (JABG) program that provides grants to states for strengthening the juvenile justice system. The grants can be used to fund projects designed to prevent and reduce the rate of participation of juveniles in gangs that commit crimes (particularly violent crimes), including the unlawful use of firearms and other weapons, or that unlawfully traffic in drugs.

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<sup>58</sup> The law created the Edward Byrne Memorial Grants, which were recently replaced by the Edward Byrne Memorial Justice Assistance Grant (JAG) program (P.L. 108-447) and provide grants to state and local and tribal law enforcement agencies for a number of purposes that can include anti-gang initiatives.

<sup>59</sup> Funding formerly provided through the Edward Byrne Memorial Formula Block Grant program is now funded through the Edward Byrne Memorial Justice Assistant Grant (JAG) program (P.L. 108-447). For additional information, see CRS Report RS22416, *Edward Byrne Memorial Justice Assistance Grant Program: Legislative and Funding History*, by Nathan James.

JABG funds can also be used to assist prosecutors to address drug, gang, and youth violence problems more effectively, and for acquiring technology, equipment, and training designed to help prosecutors with identifying and expeditiously prosecuting violent juvenile offenders.

More recently, the FY2005 Consolidated Appropriations Act (P.L. 108-447) earmarked \$10 million to establish a National Gang Intelligence Center at the FBI. The center is to be a clearing house of information from the FBI, ATF, and other federal law enforcement agencies on gang intelligence on a national and international level. The act also appropriated funding for hiring additional FBI agents, analysts, and support staff to address the most violent gangs throughout the country.

## **Selected Proposals and Initiatives**

Research on youth gangs indicates that each gang and each community is unique, so it is difficult to generalize and develop a “one-size-fits-all” strategy to address the issue. Over the last two decades, there have been many anti-gang projects and initiatives that have been developed and implemented in communities across the country. Federal, state, and local governments have actively developed approaches designed to prevent or stop gang involvement in violence, drug trafficking, firearms offenses, and other related activities of concern.

Research and experimentation on what might effectively end the gang problem has been a busy area of juvenile delinquency research. Currently, a mixture of approaches is being tried across the nation, but most programs attempt to integrate some component of prevention, intervention, and suppression strategies. Even municipalities have passed legislation and/or city ordinances targeting gangs. This section of the report will highlight a few of the most recent programs and strategies that have been and are being used to prevent youths from joining gangs and reduce gang membership and gang violence. The section will summarize some of the current federal programs and initiatives, followed by a generalized summary of state and local anti-gang initiatives.

Because gangs are involved in various types of criminal behavior, including juvenile delinquency, crimes of violence, property crime, firearms violations, and drug trafficking, various DOJ agencies are involved in fighting gang activities directly and indirectly. For example, through efforts to stop drug trafficking and crime, generally, the Drug Enforcement Agency (DEA) is working to address part of the gang problem to the extent that gangs are involved in drug trafficking. The U.S. Attorney’s Office works to prosecute federal gang cases that are investigated by the FBI, or that involve the ATF, and as such are involved in battling gang criminal activity as it relates to, or involves, firearms violations and falls into their purview.

In addition, several federal agencies outside of DOJ administer programs that indirectly address some aspects of the gang problem. These efforts take varied approaches to countering gang activities. For example, the Department of Education administers grant programs designed to prevent juvenile delinquency and promote safe schools, which can have anti-gang components.

**Compassion Capital Fund.** In his January 2005 State of the Union address, President Bush proposed an initiative to provide \$150 million over three years to community and faith-based groups to help troubled youth avoid gangs and prison. The initiative was proposed as a part of the Compassion Capital Fund (CCF) to help with building “service capacity and knowledge among faith- and community-based organizations and encourage replication of effective approaches to better meet the needs of low-income persons and families.”<sup>60</sup>

**FBI Efforts: The Safe Streets and Violent Crimes Initiative (SSVCI).**

In January 1992, the FBI announced the SSVCI, an initiative designed to allow the Special Agent in Charge of each FBI field division to establish long-term, proactive task forces focused on reducing violent crime.<sup>61</sup> The task forces placed specific emphasis on the identification of major violent street gangs and/or drug enterprises of national scope by applying the same methods used to successfully wage war on traditional organized crime. According to FBI testimony before the Senate Judiciary Committee, one of the first gangs to be targeted by the gang task force was the MS-13 gang. Moreover, the work of the task force enabled the U.S. Attorney for the Central District of California, Debra Yang, to successfully use statutes to prosecute the leaders of the 18<sup>th</sup> Street Gang and the Mexican Mafia, a prison gang.<sup>62</sup> The need for intelligence sharing forced uniformity and facilitated the FBI’s development of an integrated information sharing system for tracking criminal gang activity through a national system capable of sharing information by computers in “real time.”

According to the FBI, the task force concept increases the effectiveness and productivity of limited personnel and logistical resources, avoids duplication of investigations, and expands the cooperation and communication among law enforcement agencies. In response to the threat from gangs, the FBI established the Safe Streets Violent Gang Task Forces (SSVGTF) to coordinate the efforts of law enforcement at all levels of government and use the same statutes, intelligence, and investigative techniques against violent gangs that are used to fight organized crime. Between FY2001 and FY2006, the SSVGTF accomplished the following:

- 25,792 arrests
- 13,521 information/indictments
- 11,502 convictions
- 1,714 disruptions
- 301 dismantlements
- 344 RICO indictments

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<sup>60</sup> For additional information on the CCF, see CRS Report RS21844, *The Compassion Capital Fund: Brief Facts and Current Developments*, by Joe Richardson.

<sup>61</sup> Testimony of FBI Special Agent Grant Ashley, Assistant Director, Criminal Investigative Division, in U.S. Congress, Senate Committee on Judiciary, *Combating Gang Violence in America: Examining Effective Federal, State, and Local Law Enforcement Strategies*, (September 17, 2003).

<sup>62</sup> Ibid.



- 510 other racketeering statute indictments.<sup>63</sup>

For FY2006, Congress appropriated \$5 million for SSVGTFs. The *Revised Continuing Appropriations Resolution, 2007* (P.L. 110-5) and the *Consolidated Appropriations Act, 2008* (P.L. 110-161) did not specify funding for SSVGTFs.

**FBI National Gang Strategy (NGS).** The FBI's NGS is designed to incorporate the investigative and prosecutorial practices that had been successful in the Organized Crime/Drug Program National Strategy.<sup>64</sup> The NGS promotes the sharing of information among federal, state, and local law enforcement agencies, which in turn helps the FBI identify violent gangs with coordinated investigations that support prosecutions. The Strategy is a component of DOJ's overall Anti-Violence Crime Initiative, which is designed to promote the development of cooperative strategies among corrections, parole and probation, and law enforcement to work together and share information on gang-involved offenders.

**FBI National Gang Intelligence Center (NGIC).** Pursuant to P.L. 108-447, the FBI is in the process of establishing an NGIC. According to testimony at a congressional hearing, the NGIC "will enable the FBI and its local, state, and federal partners to centralize and coordinate the national collection of intelligence on gangs in the United States and then analyze, share, and disseminate" the information to the law enforcement community.<sup>65</sup> The NGIC, maintained and operated by the FBI, received appropriations of \$4.7 million for FY2006. For FY2007, P.L. 110-5 did not specify funding for the NGIC. For FY2008, P.L. 110-161 similarly did not specify funding for the NGIC.

**FBI's Criminal Investigations of Gangs.** In September 2005, the DOJ Office of the Inspector General (OIG) released a report on how terrorism and the September 11, 2001, terrorist attacks transformed the FBI's investigative priorities.<sup>66</sup> Among the FBI's traditional criminal investigations, the OIG reported that the FBI did not reduce the number of agents involved in combating violent gangs between FY2000 and FY2004.<sup>67</sup> Despite the "reprioritization" of the FBI's operations to focus on stopping terrorist attacks, the number of FBI Field Agents used for

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<sup>63</sup> FBI, *About Us - Our Post 9/11 Transformation - Fighting Gang Violence*, available at [<http://www.fbi.gov/aboutus/transformation/gangs.htm>], accessed on October 2, 2007.

<sup>64</sup> *In the Spotlight - Gangs*, U.S. Department of Justice, Office of Justice Programs, National Criminal Justice Reference Service, available at [<http://www.ncjrs.gov/spotlight/gangs/summary.html>], accessed on May 20, 2007. For more detailed information, see [<http://www.fbi.gov/publications/strategicplan/strategicplanfull.pdf>], accessed on October 2, 2007.

<sup>65</sup> Testimony of FBI Assistant Director-Criminal Investigative Division Chris Swecker, in U.S. Congress, House of Representatives International Relations Subcommittee on the Western Hemisphere, *Gangs and Crime in Latin America*, hearings April 20, 2005.

<sup>66</sup> U.S. Department of Justice Office of Inspector General, *The External Effects of the Federal Bureau of Investigation's Reprioritization Efforts*, Audit Report 05-37, September 2005.

<sup>67</sup> *Ibid.*, p. 68.

investigating violent gangs increased from 266 in FY2000, to 315 in FY2004.<sup>68</sup> The number of violent gang cases opened by the FBI increased from 495 in FY2000, to 784 in FY2004, an increase of 58% during a period when the number of all other criminal enterprise cases declined.<sup>69</sup>

For most of the FBI's traditional criminal investigations in FY2004, fewer field agents were available as counterterrorism became the bureau's priority. In FY2004, there were 2,200 fewer field agents investigating criminal matters and the FBI opened 45% fewer criminal cases. However, the bureau's focus on fighting violent gang crime remained a priority.<sup>70</sup>

**Organized Crime Drug Enforcement Task Force (OCDETF).** The OIG's report also included data on other criminal enterprise programs. OCDETF, a congressionally funded program administered by the Criminal Division of DOJ that focuses on the disruption and dismantling of major drug trafficking organizations, includes a gangs component. FBI agents participate in OCDETF efforts to combat drug traffickers and violent gangs. Although the number of agents utilized for all OCDETF matters dropped from 1,062 in FY2000 to 540 in FY2004 (49% decrease), the number of agents used on gang-related matters only dropped from 171 in FY2000 to 120 in FY2004 (30% decrease).<sup>71</sup> For FY2006, Congress appropriated \$489.4 million for OCDETF. The *Revised Continuing Appropriations Resolution, 2007* (P.L. 110-5) specified FY2007 of \$494.8 million for OCDETF activities. For FY2008, P.L. 110-161 included \$497.9 million for the task force.

**The Gang Resistance Education and Training (G.R.E.A.T.) Program.** The G.R.E.A.T. program, administered by OJP, is designed to prevent children and young adolescents from joining gangs through a school-based curriculum presented by a law enforcement officer. The G.R.E.A.T program differs from other gang prevention programs because it is not directed at active gang members or at-risk youth, but instead is a broader program for all youths. The curriculum includes the following learning components: (1) crimes, their victims, and the impact of crime on the school and the neighborhood; (2) cultural sensitivity and prejudice and how these factors affect the school and neighborhood; (3) conflict resolution techniques to create an atmosphere of understanding that will help address interpersonal problems and solutions; (4) how to satisfy at-risk youth's basic social needs without joining a gang; (5) the diverse responsibilities of people in an at-risk youth's school and neighborhood; and (6) the need for personal goal setting and ways to establish short- and long-term goals.

The outcomes of the program are determined by followup surveys conducted between 12 and 18 months after completion of the program. The surveys indicate that students report lower levels of gang affiliation and delinquency, including drug use, minor offenses, property crimes, and crimes against other persons. When

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<sup>68</sup> Ibid., p. 56.

<sup>69</sup> Ibid., p. 57.

<sup>70</sup> Ibid.

<sup>71</sup> Ibid., p. 68.

compared to the control group of students, those who had participated in the G.R.E.A.T. program reported fewer delinquent friends, more positive attitudes towards police, more negative attitudes about gangs, higher self-esteem, more commitment to success at school, higher levels of attachment to both mothers and fathers, and less likelihood of acting impulsively.

From October 1994 through December 2001, the National Institute of Justice (NIJ) funded a national evaluation of the G.R.E.A.T. program.<sup>72</sup> The evaluation had two purposes: (1) to find out if the program's components were being executed as designed, and (2) to observe the actual delivery of the program by law enforcement officers in the classrooms. The evaluation included both a cross-sectional and a longitudinal survey of middle school youths in selected locations.

The evaluation used a control group of students and a group of students that had participated in the G.R.E.A.T. program. The cross-sectional survey obtained information from 5,935 eighth graders in 315 classrooms at 42 different schools located within 11 diverse law enforcement jurisdictions across the country. The cross-sectional survey found that self-reported gang membership was significantly related to self-reported juvenile delinquency. The survey also revealed higher than expected levels of female and white youth gang members (38% female, 25% white).<sup>73</sup> The results of the cross-sectional survey supported the effectiveness of the program. These results were similar to previous evaluations of the program that had yielded modestly positive results.<sup>74</sup>

In addition to evaluating the G.R.E.A.T. program, a longitudinal study was conducted in six cities consisting of 3,500 students in 22 classrooms in 22 schools.<sup>75</sup> One year after participating in the G.R.E.A.T. program, the differences between the students who had participated in the program and those who had not were small. The longitudinal evaluation did not find significant differences in the groups of student participants until three or four years after program exposure.<sup>76</sup> Overall, the evaluation found that the program's outcomes measures were greater "than would be expected by chance."<sup>77</sup>

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<sup>72</sup> Finn-Aage Esbensen, Adrienne Freng, Terrance J. Taylor, Dana Peterson, D. Wayne Osgood, "Final Evaluation of the Gang Resistance Education and Training (G.R.E.A.T.) Program," *Responding to Gangs*, Winifred L. Reed, Scott H. Decker, eds., DOJ, OJP, NIJ, NCJ 190351, July 2002, pp. 139-167.

<sup>73</sup> Curry, G. David, Decker, Scott H., *Confronting Gangs: Crime and Community* (2003), p. 58.

<sup>74</sup> *Ibid.*, p. 369.

<sup>75</sup> The cities participating in the program were: Philadelphia, PA, Portland, OR, Phoenix, AZ, Omaha, NE, Lincoln, NE (non-gang city), and Las Cruces, NM (small border town).

<sup>76</sup> Esbensen, Finn-Aage, Osgood, D. Wayne, Taylor, Terrance J.K., Peterson, Dana, Frang, Adrienne, "How Great is G.R.E.A.T.? Results from a Longitudinal Quasi-Experimental Design," *Criminology and Public Policy*, vol. 1, no. 1 (November 2001), pp. 108-109.

<sup>77</sup> *American Youth Gangs at the Millennium*, "Gang Prevention A Case Study of a Primary Prevention Program," by Finn-Aage Esbensen, Dana Peterson, Terrance J. Taylor, Adrienne (continued...)

The evaluation of the G.R.E.A.T program concluded that significant reductions in gang membership or future reductions in delinquent behavior could not be credited to the program's nine-hour curriculum. However, the report credited the program with producing educational benefits and improved police relations with students and their communities. Advocates of the program maintain that G.R.E.A.T. can contribute to anti-gang goals as part of a broader program of prevention and intervention.

Under Title V - Incentive Grants of the Juvenile Justice Programs, Congress included appropriations of \$25 million for FY2006 for the G.R.E.A.T. program (P.L. 109-108). The *Revised Continuing Appropriations Resolution* (P.L. 110-5) did not specify funding for the G.R.E.A.T. program. For FY2008, P.L. 110-161 provided \$18.8 million for the program.

**Project Safe Neighborhoods (PSN).** Project Safe Neighborhoods is an initiative designed to reduce gun violence. Although not specifically focused on youth gangs, the PSN program is an important part of reducing gun violence among the youth and reducing the use of guns in other criminal acts. The program includes five elements considered essential for a successful gun crime reduction strategy. The program is organized through the U.S. Attorney's Offices in 94 federal judicial districts across the country. The program has received funding of more than one million dollars since its inception in 2001. Funds can be used to hire new federal, state, and local prosecutors; provide training; hire research and community outreach support; and develop and promote effective prevention and deterrence efforts.

Under the PSN program, each U.S. Attorney develops a plan incorporating three national priorities: (1) increased prosecution of violent organizations by aggressively using federal conspiracy, racketeering, narcotics, and all other available laws to attack and punish violent drug traffickers, violent street gangs, and violent robbery rings; (2) strict enforcement of all federal laws against illegal gun traffickers and their suppliers, with an emphasis on those gun traffickers who supply illegal firearms to violent organizations and to juveniles; and (3) aggressive enforcement of federal firearms laws against those persons prohibited from possessing firearms or who use firearms in furtherance of illegal activities, including those persons denied under the Brady Act.<sup>78</sup> The strategic plans are required to reflect the unique features and problems of the particular district, but with the goal of reducing the levels of gun crime.

Training is provided for participants in PSN through the collaborative efforts of several DOJ agencies, including ATF, who conduct the training of prosecutors, agents, and law enforcement officers involved in gun crime cases. U.S. Attorneys are encouraged to design and conduct their own training programs at the local level.

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<sup>77</sup> (...continued)

Freng, & D. Wayne Osgood (2004), p. 363.

<sup>78</sup> The Brady Act (Brady Handgun Control Act), an amendment to the 1993 amendments of the *Gun Control Act of 1968* (P.L. 103-159), requires a waiting period of up to five days for handgun purchases and requires purchasers to undergo a background check (18 U.S.C. 922(s)(1)(C), (D)).

Community outreach, public awareness campaigns, and public service announcements are all methods that can be used to convey the PSN message and get the support of the local community. U.S. Attorneys are encouraged to regularly assess the effectiveness of their plans, noting emerging trends, and they are required to report to DOJ on the status of their PSN strategy.

According to DOJ, the PSN program is responsible for a significant increase in the number of federal firearms prosecutions, which are up 76.2% since the initiative began. DOJ further notes that federal firearms defendants convicted of federal firearms offenses are being sentenced to significant jail time.<sup>79</sup> For FY2007, The *Revised Continuing Appropriations Resolution* (P.L. 110-5) did not specify funding for PSN. For FY2008, P.L. 110-161 did not include specific funding for the program.

**OJJDP Gang Reduction Program.** In FY2004, OJJDP initiated the Gang Reduction Program (GRP), a pilot program designed to reduce youth gang crime and violence. GRP is underway in four pilot sites (East Los Angeles, CA; North Miami Beach, FL; Milwaukee, WI; and Richmond, VA) in targeted areas of approximately five square miles. The pilot sites were selected because these communities were characterized as already having significant existing anti-gang program investment, strong indications of citizen involvement in these anti-gang efforts, and high rates of crime and gang activity. The program is designed to integrate state, local, and federal resources to focus on prevention, intervention, and suppression with state-of-the-art, research-based practices. The program is designed to identify the needs at the individual, family, and community level and address those needs with a coordinated, comprehensive response. A three-year evaluation is being conducted by the Urban Institute to assess program implementation, examine outcomes related to reductions in crime and gang-activity, improvements in “prosocial” or positive activities for at-risk youth, and improved protective factors in the lives of high-risk youth.

## Selected State and Local Programs and Strategies

States and cities have long been developing local approaches to the gang problem. Some of the areas that these initiatives and programs fall under are prevention, intervention, and suppression of youth gang activity. The following discussion is not intended to be a comprehensive review of the numerous anti-gang programs that have been initiated and developed by state and local governments, but a mere sampling of initiatives that are considered models for programs that may be generally applicable and replicable in other communities.<sup>80</sup>

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<sup>79</sup> Project Safe Neighborhoods, Executive Summary and other information on the program is available at the PSN website at [<http://www.psn.gov/>], accessed on May 18, 2007.

<sup>80</sup> For more detailed information on programs and initiatives designed for addressing the gang problem, see U.S. DOJ, OJP, NIJ, *Responding to Gangs: Evaluation and Research*, July 2002, pp. 329, available at [<http://www.ncjrs.gov/pdffiles1/nij/190351.pdf>], accessed on October 2, 2007.

Prevention programs developed by states and localities include those designed to improve the living conditions of at-risk youth and provide them with opportunities to replace gang activities with safer and more beneficial activities and services. Examples of these types of programs include providing alternative recreation opportunities where at-risk or high-risk youth and others involved in the juvenile justice system can be involved in safe alternatives to being out on the streets late at night. Prevention programs can also include early intervention programs for parents and infants or small children designed to provide parental training and childhood skills development, including preschool for early social and cognitive development. Preventive programs can also include school-based programs, to ensure in-school safety and control, in-school enrichment procedures, with formal links to community-based programs, as well as afterschool activities to keep youths safe and involved in recreational or educational activities such as mentoring programs.

Intervention programs seek to coax youth away from gangs and reduce the criminal activities of gangs, and can include such services as employment counseling, job placement assistance, advocacy assistance with the police and courts, and other social assistance such as health care and other services. Boys & Girls Clubs across the country provide gang intervention programs that provide life-skills development, education, and employment programs. Other programs are designed to provide alternatives to gang life through jobs in the community or through the enterprises developed by the project to provide employment opportunities for participants. One example of a California-based program funds a daycare center, a homeless shelter, an alternative school for gang members, and a tattoo-removal service. Another example of a gang intervention initiative developed by a faith-based organization provides jobs and refurbishes neighborhoods, including removing graffiti and providing landscaping.

Suppression programs are also designed to reduce gang crime by deterring such crimes through the arrest, prosecution, and incarceration of gang members. As early as 1979, Los Angeles, CA, created a prosecutorial gang suppression program through the city's District Attorney's office that targeted serious and violent juvenile gang-related crime. The formation of specialized "gang units" among local police departments improved intelligence gathering, investigation, and suppression of gangs through the use of gang sweeps, targeting gang gathering places or "hotspots," and intensified patrols in communities plagued by gang violence and drug trafficking to bring pressure to bear on gangs. In addition, there has been an emphasis on reducing handgun violence among gang members through various initiatives, often supported through grants from the federal COPS program (previously discussed).

Numerous communities across the country have used combinations of these examples and techniques to develop their anti-gang strategies. Community policing has been one strategy used to respond to gang activity, whereas other communities have approached the problem with strategies that combine local law enforcement with federal and state agencies. Many of these multiagency initiatives have been developed in Los Angeles, and other cities of southern California, where the gang problem is endemic. However, an influential multiagency project was developed in Boston, Massachusetts. Known as the *Boston Gun Project*, or *Operation Ceasefire*,

the program is considered a “model” multiagency gang suppression initiative.<sup>81</sup> Under the program, gang violence is tracked to the neighborhoods where it occurs, there is an explicit communication campaign to let the community and gang members know that there will be zero tolerance of all gang violence, and that those offenders who violate these conditions will receive long prison sentences.

## **California’s Street Terrorism Enforcement and Prevention Act**

California has long had an endemic gang problem and, as a result, has been at the forefront of innovative approaches to respond to gang activity. The Street Terrorism Enforcement and Prevention (STEP) Act enacted on September 23, 1988,<sup>82</sup> combines prevention, intervention, and suppression approaches to the gang problem. The STEP defines what constitutes a “criminal street gang,” what offenses are “gang offenses,” and imposes penalty enhancements for gang-related crimes. Once an individual has been convicted under the STEP Act, the law requires the offender to register with the local law enforcement agency on release from prison, and failure to register is a misdemeanor offense, which if ignored can lead to further imprisonment.

Under the STEP Act, targeted gang members are notified that they can be prosecuted under this law and subjected to its penalties. The police and/or prosecutors then gather evidence on targeted gang members that fit the act’s definition, and the information is presented to the court for a judicial order. Once a judicial order has been issued, convicted targeted gang members will have their imprisonment penalties enhanced.<sup>83</sup>

Several states have followed California’s example and have enacted, or have considered enacting, gang-specific laws.<sup>84</sup> The California STEP Act has raised many constitutional questions involving freedom of association, vagueness, and overreaching, but has withstood the scrutiny of California’s appellate court.

## **Gang Civil Injunctions**

Gangs are often cited as major contributors to various types of crime, including violent crime. One response that is being taken by cities and jurisdictions across the country has been to use civil injunctions or nuisance ordinances to curtail the activities of gang members. Los Angeles, a city with one of the worst gang problems in the country, pioneered this response in 1987 in neighborhoods around the city particularly hard-hit by gang violence and crime.

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<sup>81</sup> Ibid., pp. 265-288.

<sup>82</sup> “Selected 1988 California Legislation,” *Pacific Law Journal*, Vol. 20 No. 2, 1998. (Cal. Penal Code §§ 186.20-186.33.)

<sup>83</sup> Some law enforcement sources think that these provisions may be responsible for the recent trend among gang members of trying to conceal their membership status.

<sup>84</sup> Arizona, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Louisiana, Minnesota, Mississippi, Montana, Nevada, North Dakota, Rhode Island, and South Dakota have enacted STEP laws.

Civil injunctions are legal actions that prohibit specifically named individuals from engaging in particular activities within a specified area. A *civil gang injunction* (CGI) can restrict or prohibit both legal and illegal gang activities.<sup>85</sup> For example, a CGI could be used to ban a gang from using public parks or wearing certain articles of clothing or publicly associating with known gang members. CGIs could also be used to make it a violation of the injunction to possess graffiti tools (spray paint) or to carry a pager or cell phone because these items could be used for illegal activities. CGIs have been applied to specifically named gang members who have been prohibited from engaging in certain activities within a specified area, in an attempt to create a “safety zone” within a high-crime neighborhood. If permitted by courts, CGIs have also included curfews, although generally these types of restrictions are typically only imposed on juvenile gang members named in an injunction. Violations of a CGI generally carry a fine or incarceration that varies depending on whether the case is brought in civil or criminal court. Typically, CGIs go into effect as soon the named gang members are served with a copy of the injunction order.<sup>86</sup>

Since Los Angeles first issued an injunction against a gang in 1987, the use of this type of local ordinance has spread throughout southern California communities and into other states. The rationale for CGIs is based on the finding that much of gang-related crime is perpetuated by a small proportion of gang members who are repeat offenders that can be identified and targeted. Proponents of CGIs report that a drop in crime in the target areas after a CGI is imposed provides communities some “gang-free” time to organize and develop constructive ways of limiting a gang’s effect on their community. If a CGI worked as intended, communities that impose such measures would expect gang-related crime rates to drop, and this experience has been reported by communities employing CGIs, at least in the short-run. However, CGI critics argue that the use of injunctions infringes on the rights of targeted gang members, violating their constitutional right to freely associate and assemble peacefully. Several of the CGIs have been litigated; however, generally the courts have upheld their use.

A recent study of the use of CGIs in five neighborhoods in San Bernardino, CA, provides evidence supporting the use of CGIs as a strategic method of gang suppression.<sup>87</sup> The study found that CGIs were “relatively flexible tools” for fighting gang violence because they could be customized to address the particular needs of a community.<sup>88</sup> The study found that CGIs may also have an important psychological

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<sup>85</sup> Jeffrey Grogger, “The Effects of Civil Gang Injunctions on Reported Violent Crime: Evidence from Los Angeles,” *Journal of Law and Economics*, vol. XLV, April 2002, pp. 69-90.

<sup>86</sup> *Ibid.*, p. 86.

<sup>87</sup> Cheryl L. Maxson, Karen M. Hennigan, David C. Sloane, “‘It’s Getting Crazy Out There’: Can A Civil Gang Injunction Change A Community?,” *Journal of Criminology and Public Policy*, August 2005, vol. 4, no. 3., pp. 577-606.

<sup>88</sup> *Ibid.*, p. 579.



effect on gang members deterring them from criminal activities simply because of their concern about added police scrutiny resulting from a CGI.<sup>89</sup>

Surveys of residents in the CGI-covered communities found that the injunctions had an immediate impact on the visibility of gang members, and that the CGI, in turn, actually lowered the fear of gang members among residents.<sup>90</sup> Over time, the study found that the CGIs did have a positive effect on residents' perception of the gang threat even if the effect was temporary. The study concluded that even temporary reductions in gang activity and violence through CGIs have the potential to help communities reduce persistence of gang activity.

## Legislative Proposals in the 110<sup>th</sup> Congress

In the 110<sup>th</sup> Congress, several bills have been introduced to address various aspects of the gang problem. These proposals comprise some comprehensive bills that include both enhanced criminal penalties for violent gang crime and authorize gang prosecution and prevention grants, while other bills would address the gang problem with more targeted prevention or intervention efforts. The following section briefly discusses some of the major anti-gang provisions under consideration by Congress.<sup>91</sup>

### Criminal Street Gang and Associated Crimes and Penalties

Several anti-gang bills have been introduced, and one bill (S. 456) has been passed by the Senate, that would amend Title 18 of the U.S. Code to expand the definition of a criminal street gang and specify additional penalty enhancements for certain violent offenses committed by criminal street gang members. H.R. 880, H.R. 1582, H.R. 3156, H.R. 3547, S. 456, S. 990, and S. 2237 would specify federal gang-related crimes and increase the penalties related to violent criminal street gang activity.

H.R. 880 would provide *mandatory minimum* sentences for certain violent gang-related crimes, and would permit the imposition of a death sentence in cases where the violent crime resulted in the victim's death. H.R. 1582, H.R. 1692, H.R. 3156, H.R. 3547, H.R. 3922, S. 456, S. 990, S. 1860, and S. 2237 would provide *mandatory minimum* sentences of no less than 15 years and up to life in prison in

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<sup>89</sup> Ibid., p. 582.

<sup>90</sup> Ibid., p. 591, 596.

<sup>91</sup> This section does not discuss certain issues that are beyond the scope of a discussion of anti-gang legislation. For example, S. 456, H.R. 3547, H.R. 3922, and S. 2237 include provisions pertaining to short-term witness protection that are discussed in CRS Report RL33473, *Judicial Security: Comparison of Legislation in the 110<sup>th</sup> Congress*, by Nathan James. H.R. 3547 also includes a provision that would authorize the Attorney General to deny the sale, delivery, or transfer of a firearm or the issuance of such a license or permit to a terrorist, which is discussed in detail in CRS Report RL33011, *Terrorist Screening and Brady Background Checks For Firearms*, by William J. Krouse.

cases where the gang offender had three prior convictions for violent or drug-trafficking felonies, the last of which had been committed within 10 years of the current offense. S. 990 and H.R. 1692 would make it unlawful to participate or cause another to participate in specified violent gang criminal activities, and would provide criminal penalties of up to 30 years. Under all of these bills, conviction for certain violent gang-related offenses could carry penalties of up to life imprisonment.

Among other provisions, H.R. 1582, H.R. 1692, H.R. 3547, H.R. 3922, S. 456, S. 990, and S. 2237 would also make it unlawful to knowingly recruit, employ, solicit, induce, or otherwise cause a person to remain as a criminal street gang member, or attempt or conspire to do so, with the intent that the person would participate in a gang crime.

## **Amendments to the Racketeer Influenced and Corrupt Organizations Statute**

H.R. 880, H.R. 1582, H.R. 3150, H.R. 3156, H.R. 3547, S. 456, S. 990, and S. 2237 would increase the penalties for violent crimes committed in aid of racketeering. These bills would also increase the criminal penalties for certain violent offenses committed in the course of interstate and foreign travel or transportation in aid of racketeering.

## **Transfer of Juveniles for Adult Prosecution**

H.R. 880, H.R. 3156, and S. 1860 would amend current law to permit the Attorney General (AG) to transfer juveniles for federal prosecution as adults if the alleged violent felony occurred after the juvenile's 16<sup>th</sup> birthday. Under these bills, the AG's decision to prosecute a juvenile as an adult would not be subject to judicial review in any court. H.R. 1692 and S. 990 would require a study to determine the costs and benefits of expanding federal authority to prosecute offenders under the age of 18.

## **Gang Task Forces and Prosecutorial Assistance**

Several bills would address the gang problem with targeted approaches such as establishing gang task forces designed to coordinate the investigation and prosecution of gang-related crime. For example, H.R. 638, H.R. 880, H.R. 1582, H.R. 1692, H.R. 3156, H.R. 3547, H.R. 3922, S. 144, S. 456, S. 990, S. 1296, S. 1860, and S. 2237 would designate High-Intensity Interstate Gang Activity Areas (HIIGAAAs) where teams of federal, state, and local law enforcement authorities would coordinate the investigation and prosecution of criminal street gangs. Federal assistance would be provided by various federal agencies, and all necessary funding for the operation of the HIIGAAAs would be federally authorized. In addition, these bills would authorize the AG to hire 94 additional Assistant U.S. Attorneys for assignment to the HIIGAAAs and would authorize appropriations to fund the HIIGAAAs. H.R. 638 would authorize appropriations for grants to assist state and local prosecutors to fund technology, equipment, and training for prosecutors and law enforcement to help them identify and prosecute gang members and violent offenders, among other purposes, and it

would authorize appropriations for the hiring 94 additional prosecutors to fight violent gang crime through the HIIGAAAs.

Similarly, H.R. 1069 and S. 144 would establish comprehensive gang prevention and relief areas, as well as task forces to coordinate federal assistance to provide a comprehensive response to gang problems by focusing on early childhood intervention programs, at-risk youth intervention, literacy, employment, community policing, and comprehensive community anti-gang programs. In addition, the task forces would prioritize the federal funding needs of the areas under a number of federal programs. Among other provisions, H.R. 2466 includes a provision which would authorize the establishment of multi-jurisdictional anti-gang task forces. H.R. 3152 would also authorize multi-jurisdictional anti-gang task forces.

In addition, some bills would establish grant programs designed to assist state and local prosecutors in combating violent crime. H.R. 880, H.R. 1582, H.R. 3156, H.R. 3568, H.R. 3922, S. 1860, and S. 2237 would provide grants to prosecutors and law enforcement to combat violent crime, generally, and to fund technology, equipment, and training in order to increase the accurate identification of gang members and maintain databases of this information to facilitate coordination among law enforcement and prosecutors.

H.R. 3150, H.R. 3474, H.R. 3922, and S. 2237 would expand the FBI's Safe Streets Program to establish a National Gang Activity Database for use in supporting criminal street gang enforcement teams. The bill would require the AG to establish a DOJ-administered database designed to collect and disseminate gang information to law enforcement agencies at all levels of government, as well as provide aggregate statistical information on gangs, subject to appropriate controls. H.R. 3384 would authorize additional appropriations for the PSN program to improve the enforcement of criminal laws against violent gangs.

H.R. 367 would require the Attorney General (AG) to develop and report to Congress on a national strategy to eliminate the illegal operations of the top three international drug gangs whose illegal activities include drug-related offenses with any international terrorist organization or state. S. 456, H.R. 1582, and H.R. 3922 would authorize appropriations to provide the FBI with more resources for the investigation and prosecution of violent criminal street gangs.

## **Gang Prevention Grants**

H.R. 1070 would fund gang prevention programs from the proceeds of the sale of certain specially issued postage stamps. H.R. 1184 would permit the Secretary of Education to make grants to state educational agencies to award sub-grants to alternative schools or programs serving at-risk youth that agree to develop and implement a 100-hour community service requirement for students per school year. In addition, the bill would also require that students receive training and attend conflict resolution classes as a prerequisite to performing community service. H.R. 3168 would establish a grant program designed to help communities provide training, mentoring, and education programs designed to deter and prevent gang and youth violence by helping high-risk young adults become employable.

H.R. 1582, H.R. 3150, H.R. 3384, H.R. 3922, S. 456, and S. 2237 would expand the Project Safe Neighborhoods program, an initiative designed to reduce gun violence, to require each U.S. Attorney to identify, investigate, and prosecute significant criminal street gangs operating within their district. In addition, U.S. Attorneys would be required to coordinate these activities among federal, state, and local law enforcement agencies. The bills would authorize the AG to hire additional staff for carrying out the program.

H.R. 3846 would establish a series of new grants and would provide funding for coordinating entities charged with overseeing the implementation of the grants and creating an infrastructure between local units of government, state and local law enforcement agencies, and the federal government. Under H.R. 3846, evidence-based measures of local and tribal juvenile delinquency and criminal street gang activity prevention and intervention efforts would be used to identify promising prevention and intervention programs.

Other prevention initiatives would be supported by grant programs that would permit the development of a wide range of community-based programs for prevention and intervention alternatives for high-risk youth. H.R. 1582, H.R. 1692, H.R. 3922, and S. 456, S. 990, and S. 2237 would authorize grants for community programs designed to prevent young people from joining gangs. Generally, the grants could be used for a variety of gang prevention activities, including community and school-based projects designed to eliminate gang related crime through employment of security personnel; physical improvements designed to enhance security; measures designed to reduce gang activity in and around public and low-income housing; mentoring, counseling, and other activities to improve educational attainment and employability; as well as intervention initiatives designed to enhance reintegration strategies for offender reentry. Among other provisions, H.R. 1806 would similarly authorize school and community based gang prevention grants.

## **Selected Issues Raised by Legislative Proposals**

Most of the comprehensive anti-gang bills introduced in the 110<sup>th</sup> Congress focus on making changes to federal criminal law that would provide longer prison sentences for gang members convicted of certain violent felonies. These provisions would amend the current law definition of what constitutes a “criminal street gang” by lowering the number of affiliated persons required to trigger additional criminal penalties for serious violent offenses. Some of the bills address the gang problem through other indirect punitive measures, such as increasing the penalties for specified violent crimes, including the use of *mandatory minimum* sentences. Similarly, a few of the bills would permit the AG to determine whether a juvenile offender should be transferred for prosecution as an adult.

Proponents of these gang-related sentencing enhancements argue that these enhanced federal penalties are needed to address the rising gang crime in many communities. They argue that longer sentences could deter violent gang-related crime. In addition, the threat of a longer time in prison could encourage greater cooperation of gang members with prosecutors, which could lead to the identification, arrest, and prosecution of other gang members in exchange for a shorter sentence. Proponents of the anti-gang legislation argue that such measures

are supported by law enforcement officials who contend that they need these tougher sentences to stop gang violence.<sup>92</sup> Similarly, proponents of *mandatory minimum* sentences argue that this type of sentencing offers greater incentives for criminals to cooperate with law enforcement, providing evidence in exchange for prosecution for a different or lesser charge that does not carry a *mandatory minimum* or carries a lesser sentence. Proponents of new additional federal criminal penalties for gang crimes argue that tougher penalties and federal *mandatory minimum* sentences for gang crimes are an essential deterrent to gang crime, particularly violent crimes.

Critics of *mandatory minimum* sentences argue on several levels against these proposals. On the broadest level, there are critics opposed to the further federalization of laws that have traditionally been under the sole jurisdiction of states and localities. They cite the growing number of new federal crimes, recently estimated at almost 4,000 crimes,<sup>93</sup> and that a federal approach is less desirable and unnecessary when there are already adequate *federal*, state, and local laws to address gang-related crime. It is also argued that, not only are federal resources strained as they cope with investigating and prosecuting national threats, but it is the state and local law enforcement officers that have the necessary experience and local intelligence sources to investigate and prosecute gang crimes which may vary greatly by state, region, or locality. Opponents of *mandatory minimum* sentences for gang-related crime also point to the greater expense of imprisonment versus the costs of prevention and rehabilitation efforts. Moreover, it has also been argued that in certain situations, many individuals will break the law *notwithstanding* severe criminal penalties,<sup>94</sup> questioning the crime deterrence effect of harsher penalties.

The issue of prosecuting juveniles as adults is a highly contentious issue discussed voluminously in the literature on juvenile delinquency, and is beyond the scope of this report.<sup>95</sup> However, provisions such as the one proposed in H.R. 880 that would permit federal prosecution of juveniles who commit gang-related crimes after their 16<sup>th</sup> birthday could have significant implications. For example, under provisions of this bill, juveniles prosecuted and convicted as adults for serious gang-related violent offenses could be subject to *mandatory minimum* sentences. Under provisions such as the enhanced criminal penalties for gang-related crimes found in H.R. 880, juvenile gang members transferred for federal prosecution as adults could be eligible to receive a sentence of death for certain violent crimes. Opponents of prosecuting juveniles as adults point to research that shows juveniles who are tried as adults and imprisoned in adult facilities have higher recidivism rates and higher

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<sup>92</sup> Supported by the Fraternal Order of Police, the National Sheriffs' Association, and the National Association of Police Officers, statement by Rep. John Gingery, Congressional Record, May 11, 2005, p. H3120.

<sup>93</sup> Paul Rosenzweig, "The Gang Act Needs Modification," Heritage Foundation, WebMemo, May 3, 2004, available at [<http://www.heritage.org/Research/Crime/wm494.cfm>], accessed on October 2, 2007.

<sup>94</sup> Dan M. Kahan, Yale Law School, John M. Olin Center for Studies in Law, Economics, and Public Policy Working Paper Series, *The Logic of Reciprocity: Trust, Collective Action, and Law*, Paper 281, 2002, p. 23.

<sup>95</sup> For more information on juvenile justice, see CRS Report RL33947, *Juvenile Justice: Legislative History and Current Legislative Issues*, by Blas Nuñez-Neto.

rearrest rates compared to those of juveniles sentenced in juvenile court. Others argue that these measures could disproportionately affect racial and ethnic minority juveniles. In addition, they point to data from the FBI Uniform Crime Reports and the National Crime Victimization Survey (NCVS) reports (discussed above — Crime Statistics section) that indicate that juvenile gang crime has been declining.

Most of the comprehensive bills would amend the federal organized crime and racketeering statutes (RICO) to include provisions to make racketeering a gang predicate offense and increase penalties the penalties for such crimes. Proponents of such federal RICO amendments argue that these amendments are necessary to prosecute cases where drug trafficking activity has been conducted by gangs onto federal land and Indian reservations to avoid detection and state prosecution. Proponents argue that additional federal gang-specific RICO laws, as provided by some of these bills, would provide an important addition to the federal arsenal for investigating and prosecuting gang-related crime. Opponents argue that the existing federal RICO laws are sufficiently broad to provide for successful prosecution of gang-related crime. RICO prosecutions can present a number of obstacles to prosecuting gang violence and murder using these statutes. For example, one significant obstacle in a gang-related RICO prosecution can be the statutes requirement that a gang being prosecuted must be shown to have a defined structure and hierarchical organization, and that the crimes were committed, or that there was a conspiracy to commit crimes in furtherance of the gang.<sup>96</sup> Despite these and other evidentiary obstacles under existing federal RICO statutes, there have been a number of successful RICO prosecutions for gang-related crimes.<sup>97</sup>

A more general criticism of many anti-gang legislation that has been introduced in previous Congresses has been that many of the bills were not sufficiently focused on gang prevention assistance and that there was a lack of innovation or expansion of prevention strategies. Similarly, some have criticized the lack of focus on intervention efforts designed to help keep ex-offender gang members from falling back into the gang life after imprisonment.

Supporters of gang prevention and intervention programs have long argued that these types programs have been subjected to funding cuts in recent years despite research indicating that gang prevention can be an important and effective way of stopping gang growth. Moreover, there are few specifically targeted OJP or OJJDP anti-gang prevention programs and no gang-specific intervention programs. Most of the remaining OJP and OJJDP programs are broad grant programs with numerous programmatic purposes among which anti-gang initiatives are one among many. Opponents of prevention programs raise concerns about the costs of such programs and their effectiveness. They argue that rigorous evaluations are needed to

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<sup>96</sup> BNA Criminal Law Reporter, *Murdering Members of Rival Street Gang is Not Economic Activity for RICO Purposes*, September 22, 2204, Vol. 75, No. 23.

<sup>97</sup> For a recent example of successful prosecution and conviction under existing federal RICO statutes see, “3 MS-13 Leaders Convicted of Killings,” by Ruben Castaneda, *Washington Post*, Saturday, April 28, 2007, p. B02, available at [<http://www.washingtonpost.com/wp-dyn/content/article/2007/04/27/AR2007042702108.html>], accessed on May 18, 2007.

substantiate the cost and the outcomes of initiatives. Critics also argue that grant programs may not sufficiently reduce the gang problems facing communities across the nation. Given that, as some observers conclude, the root causes of gang formation and gang violence stem from poverty, a lack of employment opportunities, and alienation from the larger society, much more than grant programs may be needed to fully address the country's gang problem.

## Selected Options For Congress

The proliferation of youth gang problems has heightened interest in what can be done about gangs. Gang research indicates that youth gangs vary greatly, within and among communities, as well as across the nation. Gang members also vary by a number of factors including age, race or ethnicity, gender, and educational attainment, among many others. Research also indicates that there is much about youth gangs that authorities do not know, and may never fully understand because of the inherent complexity of the communities that give rise to gangs. As one researcher put it, “gangs emerge, grow, dissolve, and disappear for reasons that are poorly understood.”<sup>98</sup> It is also important to note that gangs are dynamic entities that evolve over time further defying easy or static responses.

Evaluations of youth gang initiatives are complicated by the numerous levels that must be assessed. Often anti-gang strategies must encompass broad contributing factors such as the formation and dissolution of gangs, the diversion of youth from gangs, delinquency, and crime prevention and/or reduction. Anti-gang strategies also involve gang members, their parents, educators, community leaders, community organizations, providers, law enforcement, the police, prison systems, parole and probation officers, and judges. Once again, the lack of a commonly accepted definition of “youth gang” perhaps most fundamentally hampers evaluation measures.

Despite this array of obstacles, numerous evaluations of federal, state, and local anti-gang initiatives have been conducted and model programs have been identified by gang researchers as promising responses to the gang problem. Careful consideration of the outcomes of anti-gang program evaluations could also contribute to the development of federal programs and policies. The following are a small sample of the numerous anti-gang options that could be implemented or expanded at the federal level to address the problem of youth gangs in the United States.

### Prevention Programs

- Congress could consider legislation to expand the G.R.E.A.T. program and require that it be provided (1) in all schools for all grades; or (2) in high-risk schools, in every grade; or (3) in all high-risk schools in each grade of middle school and high school.

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<sup>98</sup> Howell, James C., *Youth Gang Programs and Strategies*, National Youth Gang Center Institute for Intergovernmental Research, August 2000, p. 1.

- Congress could consider legislation to increase funding for grants to help fund after-school programs at schools with students at high-risk for gang participation. Research indicates that a disproportionate amount of juvenile crime occurs between 3-6 PM.

## Gang Data Improvements

- Congress could consider legislation that would require the expansion of the National Youth Gang Survey to provide a larger sample of law enforcement agencies so that more data on state and regional gang activity could be available for policy development on gangs.
- Congress could consider legislation that would require greater standardization of crime statistics reporting at all levels of government with an emphasis on reporting gang-related crime. This could result in consistent crime statistics reporting and provide better informed policy development and strategically targeted anti-gang programs.
- Congress could consider enacting an anti-gang task force required to work with all interested parties (researchers, law enforcement, judiciary, policy makers) to reach a consensus on the definition of the term “youth gang” in order to assure a better measurement and response to the gang problem.

## Comprehensive Approaches

- Congress could consider enacting a comprehensive, community-wide anti-gang program that would include prevention, intervention, and suppression elements, similar to the one developed by Spergel, et al.,<sup>99</sup> for OJJDP as a model program that would include five core strategies: (1) community mobilization; (2) provision of academic, economic, and social opportunities; (3) social intervention; (4) gang suppression; and (5) organizational change and development.<sup>100</sup>
- Congress could consider enacting legislation to fund a program designed to target older gang members (age 17-24), designed to provide services to individuals rather than to the gangs as groups through two coordinated strategies: (1) control of violent or potentially violent youth gang offenders through increased supervision and suppression by probation and police officers, and (2) the provision of a wide range of social services and opportunities

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<sup>99</sup> Spergel, I.A., Chance, R., Ehrensaft, K., Regulus, T., Kane, C., Laseter, R., Alexander, A., and Oh, S., *Gang Suppression and Intervention: Community Models*, U.S. Department of Justice Office of Justice Programs, OJJDP, 1994. (Also known as the NYGC Comprehensive Gang Model.)

<sup>100</sup> Howell, James C., *Youth Gang Programs and Strategies*, U.S. Department of Justice Office of Justice Programs, OJJDP, August 2000, pp. 34-35.



that would encourage and provide support to ex-offenders during their transition to legitimate behavior through education, employment, job training, family support, and brief periods of counseling.

## **Suppression Strategies**

- Congress could consider enacting legislation to support the development of programs similar to the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders, an OJJDP project first implemented in Rochester, NY, which provides for strategic community planning and program development targeting serious violent and chronic juvenile offenders through a framework of prevention, early intervention, and graduated sanctions.
- Congress could consider enacting legislation to support anti-gang programs that would consist of multi-agency initiatives, like the Boston Gun Project, for other cities. The Boston Gun Project is a model suppression program that targeted youth and adult gang members who are repeat offenders in high-crime areas. The community is involved along with the police and probation officers to communicate and enforce a “zero tolerance approach” to gang violence.
- Congress could consider legislation to enact a grant program to assist communities with implementing anti-gang-related city ordinances and civil injunctions. As the experience of localities in California have shown, this type of strategy alone could not solve a community’s gang problem, but coupled with some other strategies, it could provide communities with a pause in gang crime that is long enough to put in place more long-term anti-gang programs or initiatives designed to stop gang criminal activity.
- Congress could introduce legislation to provide for foreign policy initiatives to assist Latin American countries in addressing their serious and mounting gang problems like those of El Salvador and Guatemala.

No single program or initiative will work in every community facing a gang problem. Thus, program evaluations and other outcome measures would help to inform the development and evolution of programs and initiatives. Programmatic flexibility permitting adaptive changes to suit local needs also would be an important element of future federal efforts to address the gang problem at a national level.

## **Conclusion**

The gang problem in the United States is complex and requires multiple strategies to fully address the problem. The history of gang problems indicates that total elimination of gangs or the social problems that foster their formation and

development may always persist as a national concern. The range of gang problems, which span juvenile delinquency to drug trafficking and the serious violent offenses, indicates the complexity of addressing the problem and the need for multiple strategies targeted at different populations. Efforts to address the problem could be significantly improved by greater attention to data collection efforts on gang prevalence, characteristics, and criminal activities, as well as careful program evaluation measures to ensure that efforts to address the problem are functioning at optimal levels.

Law enforcement approaches at all levels of government could benefit from more coordinated efforts to assure that resources are being used in the most effective manner. Information and intelligence sharing between law enforcement at all levels of government could also enhance the development and execution of anti-gang strategies and could foster greater cooperation to address the gang problem.

Gang researchers have long advocated that a balance of strategies in the areas of prevention, intervention, and suppression may begin to effectively address the gang problem. Prevention strategies targeted on keeping juveniles from ever joining gangs, such as the G.R.E.A.T. program or Boys and Girls Clubs, offer some possible prevention approaches. Intervention strategies, such as training and employment assistance, to provide alternatives to the gang life for active members, is also suggested as a mechanism for providing economic alternatives to criminal gang activity. Imprisonment and other punitive measures such as forfeiture and fines are appropriate for serious violent gang perpetrators; however, such measures *alone* have not proven to be sufficient to stem the growth of gangs.