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Urban Gangs: Defining the Problem and a Review of Law Enforcement Strategies

Matthew Davis & Kristofer Nystrom
Criminal Justice

Introduction

In 2004, the Office of Juvenile Justice and Delinquency Prevention (Office of Juvenile Justice and Delinquency Prevention, 2004) took a stand against gangs. The OJJDP enacted a study that targeted smaller cities districts and rural areas. (Office of Juvenile Justice and Delinquency Prevention, 2004) The study was enacted as a means to examine and understand the causes and effects of extreme social and economic stressors in neighborhoods that are disadvantaged. Under the OJJDP, the Gang Reduction Program (GRP) was started and implemented in four unique pilot cities across the nation.² The Gang Reduction Program's primary goal is to “[reduce] youth gang crime and violence in targeted neighborhoods by helping communities take an integrated approach to

² This was a precursor to the grant funding of the Rochester Safe and Sound Initiative.

applying proven practices in primary prevention, secondary prevention, intervention, suppression, and reentry.” (Office of Juvenile Justice and Delinquency Prevention, 2004) The four pilot sites that were included in the program were Los Angeles, CA; Miami, FL; Milwaukee, WI; and Richmond, VA. The GRP was conducted in only a few squared miles in each location. Of these specified locations, each one was either characterized by high levels of crime and gang activity or by strong indicators of citizen's involvement. Under GRP, the OJJDP broke the program into three separate areas that detail methods and theories that the program focused on key elements that are used to target and deter gang activity. These three areas include Prevention, Enforcement, and Reentry. For the purposes of this paper, the Law Enforcement aspect will be the focus.

National Characteristics of a Gang

It is hard to put an exact definition on what a gang is. In the literal sense, a gang can be a group of friends that “hangout” together on a weekday night. However, most often a gang is associated with crime and violence. Across the nation, definitions of gangs vary. There has been little specialization of the roles and organization of gangs, which has led to a number of types of gangs with varying structures and criminal activities. (Reed & Decker, 2002, pg. 38) Gang violence can stem from a number of different issues. In a study conducted in the mid 80's, the researchers found that gang violence can be generalized in a few basic categories. These categories range from actions that suggest a need to defend

another, collection of money/ debit, and the protection of a territory/neighborhood honor. (Hughes & Short, 2005, p. 48) There are often unclear “rules” that delineate accepted gang behaviors and what a gang member would consider unacceptable. Overall, to define a gang on specific terms is extremely hard due to fact that no one gang is alike. A majority of gangs find little specialization among which criminal activity they participate in, but have the predominance of crime in drugs and assaults. (Reed & Decker, 2002, pg. 39) Each city in the United States has a differing view of what constitutes a gang and the violence that is associated with them.

Rochester Gang Characteristics

According to the 2000 U.S. Census, there are currently about 219,773 people living in the City of Rochester, New York. Of these, 1,558 have been identified by Rochester Police Department (RPD) gang intelligence specialists as gang members or gang associates. Of the 1558, there are 704 gang associates and 854 gang members. This classification is based on the following definition of a gang and gang member.³ A gang is “three or more persons, organized formally or informally, for the purpose of criminal activity, and utilizing, for the purposes of identification, a common name, hand signs, colors, tattoos, symbols, or geographic area.” The definition then states that “an individual is classified as a member of a gang when he or she 1) possesses a prior record of arrest OR documented

³ Data and definitions provided by Nicholas Petitti, Crime Research Specialist, Rochester Police Department, Special Investigations Section.

information exists which provides a reasonable basis to believe that the individual is engaged or has been engaged in criminal activity AND 2) meets three of the following criteria over the course of three years:

- a) Self admits to membership in a gang to a police, parole, probation, or jail officer
- b) Is identified as a gang member by a reliable informant
- c) Is identified as a gang member by a parent or guardian
- d) Is identified as a gang member by physical evidence (e.g., photographs or letters)
- e) Is observed associating with known members of a gang by a police, parole, probation, or jail officer
- f) Is observed at a known gang location by a police, parole, probation, or jail officer
- g) Is observed with a tattoo signifying gang affiliation on his/her body by a police, parole, probation, or jail officer
- h) Is observed possessing personal items with gang graffiti by a police, parole, probation, or jail officer
- i) Is observed using gang signs by a police, parole, probation, or jail officer
- j) Is observed wearing gang symbols (including gang-specific bandanas) by a police, parole, probation, or jail officer
- k) Is arrested with know gang member(s)

To be considered a valid criterion, the incident where the criteria occurred must be officially documented (through an arrest report, incident report, field interview form, etc.) and accessible by a law enforcement or criminal justice agency. According to the RPD, “if an individual fails to meet any further criterion in the course of three years (from their most recent criterion), he/she will be removed from the gang database.”

The number of gangs in Rochester is very fluid, but there are approximately 65 different gangs being tracked by the RPD. Some of the most notorious gangs located in Rochester are the Thurston Zoo, Dipset, Trust Street Crew, and the Murder Unit. However, there is also a large number of underlying neighborhood based gangs in the city as well. These lower based gangs are not to mistaken for lesser levels of crime. Although they are loosely organized, they can be linked to a number serious crimes and violent acts. Most of the gangs that are tracked in the City of Rochester are of male dominance. There are no solely female gangs. Of the all the gang members, the average age is predominately between 19-24 years of age.

The goals of the gangs in Rochester are hard to determine. Nicholas Petitti, a gang intelligence specialist with the RPD, estimates (e-mail communication, March 3, 2008) that the number one goals of the gangs in Rochester are to make money and keep respect among other gangs and gang members. Overall, gangs in the City of Rochester are nothing more than a large group of individuals hanging out together satisfying personal needs. As a means to reach these personal goals, these groups often commit crimes and violence.

Generally, there are two main methods that police departments use to identify and classify “gang-related” crime (Klein, 2006). These definitions include the *gang member/affiliate* method and the *gang motivation* method. In the first method, criminal incident reports are cross referenced with a gang member database to identify victims and suspects that are gang affiliated. Crimes involving either a victim or a suspect who is a known gang member are then classified as gang-related (regardless of the reason or motivation for the crime). The second method is less inclusive and requires specific evidence that the criminal incident was motivated by gang activity or affiliations. Because cities use these different methods, it is often difficult and misleading to compare the prevalence of “gang crime” across locations (Klein, 2007). Currently the Rochester Police Department utilizes the gang member method of identifying gang-related crime. The remainder of this paper addresses different enforcement and prosecution strategies that have been used to combat gang violence. The evaluation and assessment of these strategies will be valuable as local officials in Rochester develop the enforcement component of Rochester Safe and Sound.

Enforcement/Prosecution Approaches to Gangs: Lever Pulling

Introduction in Boston

The technique called “Lever Pulling” was first introduced in Boston in the early 1990’s through a program called “Project Ceasefire”. “Project ceasefire” used the tactic of “Lever Pulling” which involved

meeting with gang members, face to face, and having law enforcement officials inform the members that “all potential sanctions, or levers, would be applied to the group” (McGarrell, Chermak, Wilson, & Corsaro, 2006, p. 215). Rather than having merely empty threats, law enforcement would engage in “Crackdowns” against the gangs involved in the meeting. The swift implementation of crackdowns would lend credence to the lever pulling meetings. As a result of the Project Ceasefire’s tactics, Boston witnessed a 60% drop in youth homicides (McGarrell et al., 2006). When this method of enforcement was later applied to Minneapolis and Indianapolis, there was a considerable drop in youth homicides (McGarrell et al., 2006).

Though violence involving guns has been decreasing, the problem of violence, in general, is still increasing. According to the National Crime Victimization Survey (NCVS), there are 6 million violent crime victims per year, and according to the Universal Crime Report, there were 1.4 million violent crimes reported each year. In addition, 10,000 victims of homicide were killed by guns and guns were involved in one third of all violent crime in 1999 (McGarrell et al., 2006).

Project Ceasefire

Project Ceasefire, as part of the greater Boston Gun Project, was created in 1995 was a group of city officials and researchers that met to design and apply programs that would reduce the levels of violent crime in Boston. Initial research showed that gang members with a history of involvement in the criminal justice system committed the most homicides.

Also, only one percent of the city's population (1,200) consisted of "gang involved" chronic youth offenders who were responsible for more than sixty percent of homicides in Boston (McGarrell et al., 2006). In Project ceasefire, gang members were informed, at "Offender notification meetings" that all "levers" would be pulled. This meant that law enforcement would use any and all sanctions against gang members if they did not comply with the demands laid out in the offender notification meetings. An Offender Notification Meeting would be coupled with crackdowns and vigorous enforcement and prosecution. These meetings were arranged through either a gang member's probation or parole officer or, in the case of non-probationary gang members, through contact with a "street worker" or a member of clergy. Crackdowns were applied only to those gangs that were still involved in gun crimes after the Offender Notification meetings (McGarrell et al., 2006).

Results

After the formation of the Boston Project Ceasefire, and the subsequent implementation of lever pulling and crackdowns, violent offenses slowed dramatically. Reports of "shots fired", gun assaults and youth gun assaults dropped. In addition, Boston showed a youth homicide decrease of two thirds, which coincided with a 63% reduction in monthly homicides. As a result, Boston had the largest decline in youth homicide when compared to 39 other cities (McGarrell et al., 2006).

Reasons for success in Boston and Minneapolis

The programs created by Boston and Minneapolis are considered to be very successful and McGarrell and colleagues suggest that four aspects of their program were the cause of their success. First, since only a small number of offenders were responsible for the majority of the crimes, this minority “leave themselves open to an enormous range of sanctions, exactly because they are so highly criminal” (McGarrell et al., 2006, p. 217). Since it is known that only a minority commit a majority of the crimes, the programs were able to focus most of their deterrence towards those groups. Second, since there were “Multi-Agency” groups working together on these projects, this allowed for a wider range of sanctions, or levers, to be applied to the aforementioned minority. This would “increase the severity and the certainty of penalties” (McGarrell et al., 2006, p. 217). The third successful aspect was the process of directly confronting the offenders. These authors conclude that this “retail deterrence message” (McGarrell et al., 2006, p. 217) directly informs offenders about the consequences, should they continue their criminal actions. Finally, these programs are an important first step in the effort to infuse the criminal justice system into the “informal communications networks of offenders” (McGarrell et al., 2006, p. 217). This permeation will attempt to influence the communication of these types of offenders as well as to spread the news of crackdowns and vigorous enforcement. This technique is useful, especially because it will make offenders reassess the risks and rewards of any criminal action they attempt. A steady influx of new information directly from the criminal justice system will clearly

and frequently underscore the risks and penalties of certain criminal actions.

Indianapolis Violence Reduction Program

Indianapolis, in an attempt to stifle rising murder rates in the city, created and employed a program similar to the Boston and Minneapolis programs of “lever pulling”. The Indianapolis program was titled the Indianapolis Violence Reduction Partnership (IVRP). Groups of researchers had previously assessed the violent crime problems of Indianapolis and determined that very often these crimes were perpetrated with guns, and the victims of these crimes are often perpetrators of other violent crimes. This fact serves to emphasize the existence of an overlapping population that very frequently consists of both the victims and offenders in violent crimes (McGarrell et al., 2006). For instance, homicide victims averaged 12.5 prior arrests and homicide suspects had, on average, 11.5 prior arrests. Even more telling is the fact that about sixty percent of homicides included either a victim or a suspect (or both in some cases) that had links to “a group of known, chronic offenders (gang or neighborhood crew)” (McGarrell et al., 2006, p. 218). In addition, more than half of these violent crimes were drug related, either by location, or through the involvement of known sellers or users. As a result of these factors, the lever pulling strategy was specifically designed to target “illegal gun carrying and use among known groups of chronic offenders, often involved in the drug trade” (McGarrell et al., 2006, p. 219).

Implementation

Due to the factors that were determined by the research done prior to the IVRP, the program was focused to specifically deal with “illegal gun carrying and use among known groups of chronic offenders, often involved in the drug trade” (McGarrell et al., 2006, p. 219). Similarly to the goals of the Boston and Minneapolis projects, an important strategy to the IVRP was the incorporation of the criminal justice system into the informal communication networks of these groups of offenders. Through this infiltration, the IVRP would be able to communicate a “deterrent message” to individuals determined to be more likely to commit the types of crimes targeted in this project. The long term goal of this would be using these individuals to spread the IVRP’s message to the entire network (McGarrell et al., 2006).

The means to this end goal was IVRP’s inclusion of “lever pulling” meetings. Just as in Boston and Minneapolis, these meetings involved “high risk” probationers and parolees. One slight difference was that the IVRP stressed a more personalized meeting in which gang members were encouraged to cease their actions. These “personalized” meetings expressed concern that the youths would commit violent crimes, or be the victims of violence. The meetings also encouraged parolees and probationers to make use of the services provided to them. Specific examples of services included mentoring, employment, housing, substance abuse, educational and vocational training (McGarrell et al., 2006). Though concern for the probationers and parolees was a main focus of subsequent lever pulling meetings, these meetings still “pulled

levers” and involved the U. S. Attorney describe what punishments would be sought for violations of the law, as well as other members of law enforcement describing what actions they were going to be taking in the pursuit of a reduction of violent gang crime.

In total, nine “lever pulling” meetings were held that involved 160 probationers and parolees. There was one initial meeting and 8 follow up meetings, all of which took place over the course of two and one half years (McGarrell et al., 2006). In addition to the “personalized” lever pulling meetings, Indianapolis implemented a “zero tolerance of violence” policy and implemented strict enforcement and prosecution of major gangs. The IVRP accomplished this by increasing police patrol, and direct communication from community members to gang members. Also the IVRP communicated to members of the community that the increases in arrests were part of a program to reduce violence (McGarrell et al., 2006).

Enforcement/Prosecution Approaches to Gangs: Saturated/Targeted Patrol

Introduction

Another area of enforcement technique is the strategy of saturated, or targeted, patrols. Generally, saturated patrols are considered to be a suppression tactic, meaning that it aims to reduce gang crimes and violence through the use of tactical patrols by police and other law enforcement officers, vertical prosecution and rigorous supervision by the probation department (Fritsch, Caeti, & Taylor, 1999). As of 1996, the

city of Dallas, Texas had “79 gangs and 6,145 documented gang members” (Fritsch et al.,1999, p. 123). In addition to the large number of gangs, there were 1,332 gang related incidents that occurred in 1996 (Fritsch et al., 1999). Because of the large amount of gang activity, Dallas began an anti-gang initiative that used a saturated patrol, aggressive curfew and truancy enforcement.

Methodology in Dallas

The main objective of the Dallas saturation program was to decrease gang related violence. To do this, the city was divided into target areas, and the program used two criteria for selecting these areas. The first requirement for a target area was that the area experienced large amounts of gang violence. The second criterion was that these zones overlapped the previously designated “Enterprise and Renaissance” zones. In Dallas, enterprise zones are “designated by the city to encourage economic development in an area, and businesses receive tax breaks for locating in the Zones” (Fritsch et al.,1999, p. 128). Renaissance Zones are areas where “neighborhood organizations use federal funds to design and implement programs to reduce crime and disorder” (Fritsch et al.,1999, p. 128).

In addition to selecting five targeted areas, the Dallas project selected four control areas and utilized a two step selection process. The first stage was to determine the amount of gang violence in each control area, though gang related property crimes were not included. The second stage matched the control areas with the largest amount of gang violence to the target areas that had the greatest amount of gang violence. When determining whether an instance of violence was gang related, the final decision was left to the Dallas gang unit detectives,

who then made their decision based on their written response contained in their original follow up report (Fritsch et al.,1999).

Dallas Implementation

The first step that the Dallas police department took was to create specialized patrols, specifically foot patrols, to engage in “Crackdowns” in five areas of Dallas that harbored seven of the city’s most dangerous gangs. These specialized patrols worked closely with Interactive Community Policing officers and together they created a program for each targeted area (Fritsch et al., 1999). Each anti gang patrol was composed of between six and eight officers, all working at overtime enforcement. Because of their specified nature, none of these officers need to respond to calls for service and they would be used specifically to implement the program designed for their area. These officers were mainly used to implement the three tactics designated by the program, namely, aggressive truancy and curfew enforcement as well as saturation patrols. Aggressive curfew enforcement specifically focused on juvenile curfews which were strictly enforced whenever suspected juvenile gang members were encountered. The aggressive truancy enforcement tactic involved officers working with schools to enforce truancy laws. The saturated patrol aspect of the Dallas program involved high visibility patrols in target areas and increased stop and frisk activities for suspected gang members or other suspicious persons (Fritsch et al., 1999).

Police Role in Gang Reduction

Though suppression techniques are widely used, they are generally seen as the least effective tactic against gangs and crime (Fritsch et al., 1999). Also, any data regarding the implementation of suppression techniques are largely anecdotal, and the results that are reported are more qualitative, rather than quantitative (Fritsch et al., 1999). Even with a growth of research into gang reduction techniques, many believe that, in all probability, gangs themselves cannot be eradicated. One researcher said “my informed hunch is that suppression programs...may deter a few members, but also increase the internal cohesiveness of the group” (Klein, 1993, p. 312). However, police can manage and suppress negative aspects of gangs (Fritsch et al., 1999). Many strategies have been suggested and tried in an attempt to suppress the negative aspects of gangs, specialized patrols, such as localized foot patrols have been suggested, as well as school based programs, like GREAT, which teach resistance to gangs, much like the DARE program (Fritsch et al., 1999). Another suggested strategy is that of “Crackdowns”.

Crackdowns

Crackdowns are defined as “Sharp Increases of law enforcement resources applied to the previously under enforced laws, with a clear goal of enhancing general deterrence of the misconduct” (Fritsch et al., 1999, p. 124). Crackdowns are shown to work initially, and create short term deterrence. However, they lose effectiveness because the tactic ceases to be a sharp increase of enforcement of under enforced crimes, but rather

becomes a sustained enforcement of the law. Greater success occurs when the crackdown becomes very specific as to what crimes are targeted; general increases of enforcement are not effective (Fritsch et al., 1999). Another successful application of crackdowns occurs when a specific group of offenders are targeted, rather than just a specific crime. However some have criticized the use of crackdowns as “an attempt to put out a forest fire with a water bucket” (Fritsch et al., 1999, p. 125), and that instead of trying to simply eradicate gangs, a better tactic would be to try to engage them and show “respect, acceptance and concern for gang youths” (Fritsch et al., 1999, p. 125), thereby employing a community centric model of gang reduction. In any case, it is accepted that the elimination of gangs (or their negative, criminal actions) requires the involvement of community leaders and members, schools in conjunction to actions taken by the police (Fritsch et al., 1999).

Curfew and Truancy Enforcement

Another tactic used in the Dallas program was increased curfew and truancy enforcement. Curfews employed in Detroit were specifically designed to reduce juvenile gang activities. As a result of the curfew, gang activities shifted and consequently occurred in those time periods where there was no restriction on their activities (Fritsch et al., 1999). When Dallas instituted a curfew, the juvenile victimization dropped nearly eighteen percent during curfew hours and the juvenile arrest rate dropped nearly fifteen percent in those hours (Fritsch et al., 1999). In a study of Phoenix, Arizona’s curfew program, twenty one percent of curfew

violators were gang members and, after aggressive curfew enforcement, there was a ten percent drop in arrests for juvenile violence. Similar decreases in juvenile criminal activities also occurred in Chicago, Denver, Jacksonville, New Orleans, and North Little Rock (Fritsch et al., 1999). While curfew enforcement is an important step in the containment of juvenile and gang related crime, truancy enforcement is another large part of the equation. Truancy has been linked to many criminal activities such as drug use, auto theft, vandalism and day time crime (Fritsch et al., 1999). Though this link is documented, the effect of an aggressive truancy enforcement program has not been thoroughly researched.

Findings in Dallas

According to Fritsch and colleagues the tactics used in Dallas have shown a fifty seven percent decrease in gang related violence in the targeted areas. Though there was a decrease of thirty seven percent in the control areas, certain control areas (4 and 5) showed a twenty two percent increase in gang violence. These authors posit that a displacement of gang activities from target areas where enforcement was occurring, to areas of minimal enforcement could account for the seemingly contradictory results in the control areas (Fritsch et al., 1999). To test this theory, police beats near the targeted zones were analyzed. Out of these 33 non-initiative areas, 15 saw decreases, 10 saw increases, and 8 had no change. The results of this mini-test showed that the suggested displacement was nominal at best (Fritsch et al., 1999).

Even though the majority of the targeted areas used an “undirected” saturated patrol approach, the areas that showed the greatest decreases placed emphasis on curfew and truancy enforcement (Fritsch et al., 1999). Since most areas used undirected patrols, they showed minimal effectiveness; therefore, simply employing a saturated patrol will not cause any significant change (Fritsch et al., 1999).

One key area of data is the types, and amounts, of offenses that were reported to the police during the study. Fritsch et al posed two hypotheses to test regarding police reporting. The first hypothesis was that “Increased officer presence led to decreases in reported offenses, especially suppressible crimes such as robbery, auto theft, burglary and criminal mischief” (Fritsch et al., 1999, p. 132). The second hypothesis was that “Freedom from responding to calls for service led to greater officer initiated activity, which resulted in more arrests for drug and weapon offenses” (Fritsch et al., 1999, p. 132).

The research regarding the Dallas program showed statistically significant increases and decreases in a variety of crimes. For example, reported robberies increased by approximately twenty eight percent and reported auto theft increased by approximately fifteen percent (Fritsch et al., 1999). In contrast, reports of criminal mischief and weapons violations decreased by fifteen and thirty percent, respectively (Fritsch et al., 1999). Interestingly, statistically significant decreases in criminal mischief in the control areas occurred as well, which shows that the decrease cannot be credited to the Dallas program (Fritsch et al., 1999). As a result of these findings, neither hypothesis can be conclusively supported.

Though there is no conclusive supporting evidence, these authors believe that increases in auto theft and robbery were noticed in the targeted areas because of an increase in police presence encouraged people to report more of these crimes (Fritsch et al., 1999). Since robberies and auto theft crimes increased, the cause could be because the offenders were not being targeted by truancy or curfew patrols, that is, the offenders could have been adults, not juveniles. Again, in contrast to the hypothesized outcome, there were statistically significant decreases, rather than increases, in arrests for weapons violations (Fritsch et al., 1999). Fritsch et al suggest that the increase in police presence could cause decrease in *visible* criminal mischief and the carrying of weapons. However these authors have no data to support this theory (Fritsch et al., 1999).

Conclusions from Dallas

Through this study, Fritsch and colleagues have come to a number of conclusions regarding a topic that is not often thoroughly studied. One conclusion is that saturation patrol has little effect on reducing crime and to add officers to a beat, with no specific goals or guidance does not affect the outcome (Fritsch et al., 1999). This is not to say that saturated patrol never works, the real conclusion in this study is that saturated patrol is the most effective when there is some direction to the tactic (Fritsch et al., 1999). Specifically, saturated truancy and curfew enforcement were effective when directed at offenses in the precise, targeted areas. This dual layer of specification narrows the goals of the tactic and produces a greater effect. Also, simply freeing officers from the need to respond to

calls for service does not increase officer initiated activity (Fritsch et al., 1999). In a similar issue, saturated patrols did not increase the amount of offenses that were reported to the police, indeed calls for service have been shown to both increase and decrease as a result of various tactics, including crackdowns (Fritsch et al., 1999). Police intervention may not eliminate gangs wholesale, but it can reduce the side effect of gangs, namely, crime.

Enforcement/Prosecution Approaches to Gangs: Problem Oriented Policing/Prosecution

Legislative Approaches

The tactics often used by law enforcement will necessarily cause an increase in arrests, and at some point, some of those arrestees will be prosecuted. While reviewing the legislative approaches to solving the problems of gang criminality, Bjerregaard (2003) has highlighted three sets of strategies that are often employed. The first of these strategies is prevention. Legislation that attempts to deal with gangs should begin with a strategy of prevention that is designed to find, and change, the reasons for juvenile's involvement in criminal gangs. A second legislative strategy is intervention, where legislation is implemented to extricate youths from criminal gangs. A third legislative strategy is suppression. This strategy emphasizes the "supervision, arrest, prosecution, and subsequent incarceration of known gang members" (Bjerregaard, 2003, p.172). The tactic of suppression has increased in popularity because of a changing

political climate, but also because of the “perceived failure of rehabilitation” (Bjerregaard, 2003, p.172). Despite the popularity of suppression tactics, their implementation has not been particularly effective.

In addition to these three strategies, there is a fourth strategy that is used in conjunction with prevention, intervention and suppression. Specifically focused anti-gang legislation would criminalize certain aspects of day-to-day gang activities such as the use of anti-loitering, public nuisance and curfew laws. These examples are not specifically anti-gang, but they do target activities that gangs might be engaged in regularly. Another section of anti-gang legislation is designed to target gang activities, such as recruitment, witness intimidation and drive-by shooting (Bjerregaard, 2003).

Anti-Gang Ordinances

More than twenty eight states have laws that are specific in targeting gang activities, and most are organized around the California STEP Act, or federal laws concerning racketeering (Strosnider, 2002). Some states have employed anti-gang ordinances that outlaw gang recruitment, gang loitering, the tattooing minors (tattoos are often gang markings) and making parents legally accountable for “encouraging their children’s gang participation” (Strosnider, 2002, pp. 107-108).

California STEP

The California STEP program, or Street Terrorism Enforcement and Prevention, is an example of anti-gang legislation. STEP “makes it a

substantive crime to participate in criminal gang activity” (Bjerregaard, 2003, p.172). Under the STEP program, any person who “actively participates in any criminal street gang with knowledge that its members engage in or have engaged in a pattern of criminal gang activity, and who willfully promotes, furthers, or assists any felonious criminal conduct by members of that gang” has committed a crime (Bjerregaard, 2003, p.173).

In order to convict a person using the STEP act, a number of elements need to be satisfied. The prosecution must show that there is a *criminal gang*. This gang must have at least three individuals, some semblance of a formal or informal structure and it must include members who have a history of committing crimes (Bjerregaard, 2003). In addition, the prosecution must prove that the defendant has knowledge of the criminal activities of that gang. Also, the state must prove that the defendant has the “desire to promote, further or assist the gang’s criminal activities” (Bjerregaard, 2003, p.173). Finally, and most importantly, the state must prove that the defendant is part of that gang.

Advantages of Legislation

Anti gang legislation is created to preempt, or respond to, gang crime and violence and is the foundation for the successful reduction of the negative aspects of the existence of gangs. Anti gang legislation is designed to give law enforcement more tools to deal with criminal gang activity and to circumvent certain issues that the criminal justice system is not currently designed to handle. For example, actions, such as flashing gang signs or hanging around territory, is not a criminal act and

subsequently officers would need to observe some kind of criminal activity in order to make an arrest (Bjerregaard, 2003). Also, without legislation, such as the STEP act, the criminal justice system has traditionally had difficulties with gang crimes. The STEP act, and others, is designed to address issues like hesitant or intimidated witnesses, juvenile and adult involvement in the same incident (which would require juvenile and normal court systems) and multiple offenders participating in the same incident (Bjerregaard, 2003).

Problems of Legislation

Though anti-gang legislation is designed to address the problems of gangs not fitting into the traditional legal landscape, there are some difficulties that need to be overcome in order to create an effective set of laws. The main question is fundamental: will this type of legislation be an effective tool to combat gang activities – will it even work? However, other, more definite, questions regarding the effectiveness of this type of legislation have been raised.

One questionable aspect of this type of legislation is that it is a result of “moral panic” of gang crime (Bjerregaard, 2003). Such “moral panic” is predictable and has three phases. First, the behavior is deemed undesirable, and actions are undertaken to stop this behavior (Goode & Ben-Yehuda, 1994). Next, the population directly involved in the behaviors of moral panics is “demonized and ... referred to in exclusively negative terms” (Bjerregaard, 2003, p.174). Finally, the moral panic will fluctuate in intensity over time. Over the years, the media, in conjunction

with law enforcement has, justified or not, created a moral panic of gangs and their activities. When crafting legislation that attempts to stifle activity that is associated with a “moral panic”, law makers must pay careful attention in order to ensure that the populations are *not* demonized and unfairly targeted. Specifically, anti-gang legislation must make sure that the statutes employed are constitutional.

Constitutionality of STEP-Style Legislation

STEP styled legislation is designed to combat gang activity itself, not just the resulting crime and as a result, it is often challenged as “unconstitutionally vague” and is accused of being “overbroad” (Bjerregaard, 2003). Another challenge to the STEP act is that it impinges on freedom of association by punishing someone who “actively participates” in a gang. Also, the term “Criminal street gangs” and “gang membership” are accused of being too vague (Bjerregaard, 2003). This imprecision is not malicious or intentional, but is a result of the fluidity and vagueness surrounding gangs and their activities. To temper the accusations of unclear legislation, the concepts of ‘specific intent’ and ‘knowledgeable active participation’ need to be included in anti-gang laws, as well as clear, concise, definitions of all terms (Bjerregaard, 2003, p.178).

In the case of the *City of Chicago v. Morales et al* (1999), the Supreme Court voiced their complaint that “absolute discretion” is given to law enforcement in “determin[ing] what activities constitute loitering” (Bjerregaard, 2003, p.179). Though this is one specific example, the worry

was that this “absolute discretion” would result in discriminatory or unreliable application of the law (Bjerregaard, 2003).

Proactive and Vertical Prosecution

Vertical prosecution is a process where cases are assigned to prosecutors based on the type of case. Cases of homicide would be assigned to the homicide prosecutor. This method is in contrast with rotational prosecution where cases are assigned on the determination of which prosecutor is available. One prosecutor commented that vertical prosecution causes an attorney to become a specialist in certain areas of the law (Carlie, 2002). Smaller groups of prosecutors, assigned to the sole task of gang crimes are considered to be the most effective way to prosecute gangs (Carlie, 2002). Vertical prosecution can have specialized prosecutors that are organized based on the type of crime, and in the case of gangs, prosecutors can be assigned to units that prosecute cases based on the race of the defendants, that is to say there is one unit designated to Asian gangs, one to Latin gangs and so on (Carlie, 2002).

Another approach to problem oriented prosecution is “proactive prosecution”. In this situation, prosecutors join police units while interviewing witnesses and victims of gang crimes. This allows prosecutors to take actions to get involved, instead of waiting for cases to come to them. In proactive prosecution, prosecutors have a more in-depth and complete knowledge of the case, almost directly from when the crime occurred. Proactive prosecution is used to some extent in San Diego, California.

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