

GANGING UP ON COMMUNITIES?

PUTTING GANG CRIME IN CONTEXT

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A POLICY BRIEF

“Gangs have declared war on our nation. They are ravaging our communities like cancer—urban, rural, rich and poor – and they are metastasizing from one community to the next as they grow.” **Congressman J. Randy Forbes, Fourth District of Virginia (April 5, 2005)**

“Criminal street gangs have grown over the past two decades from a local problem to a national crisis. Every day, we read about a new tragedy – where a gang member has shot a police officer as part of an induction ceremony, used a machete to murder an innocent victim, or tracked down and killed someone who may have witnessed a crime. There are reports of gangs actively recruiting elementary school students – 7 and 8 years old – into their criminal enterprise. They must be stopped.” **Senator Dianne Feinstein (D-CA) (June 13, 2005)**

Although crime has been decreasing in the United States for the past twelve years, many people fear that violent crime, especially gang-related crime, is rising. While no one disputes the need to effectively respond to violent crime that disproportionately affects certain communities and neighborhoods, questions remain on the pervasiveness of gang crimeⁱ and the nature of appropriate responses. Currently, public opinion is swayed by sensationalized stories from media and lawmakers who say that gang-related crime is a “national crisis,” requiring new federal and state legislation, mandatory minimums, and new powers to arrest, detain, imprison, and deport young people.

In 2005, several new pieces of federal legislation are being advanced to address the “gang crisis,” federalizing law enforcement efforts that have historically been the jurisdiction of the states. The “Gang Prevention and Effective Deterrence Act of 2005” (S. 155) is winding its way through the Senate, and would create new gang offenses, enhance existing penalties, lower the number of people defined as a gang from five to three, and transfer more youth to adult courts and prisons.ⁱⁱ The Senate bill comes after the passage of a House bill, the “Gang Deterrence and Community Protection Act of 2005” (H.R. 1279), which calls for new mandatory minimums for gang-related offenses, and an expansion of the death penalty.

The reach of the gang crisis is portrayed as broad and omnipresent, said to connect to everything from drug trafficking, to immigration, to terrorism. In June, Representative J. Randy Forbes (R-VA) introduced the “Alien Gang Removal Act” (H.R. 2933), a bill that authorizes the Department of Homeland Security (DHS) to deport groups, and associations that are designated as “criminal street gangs.”ⁱⁱⁱ

These bills were introduced to reduce gang crime, yet they rely almost exclusively on approaches that have been shown to be the most expensive and least effective ways to respond to crime. Responding to provisions to transfer youth to adult prison, Robert Shepherd, Professor of Law at the University of Richmond and former Virginia prosecutor, says: “this bill flies in the face of what works with young people ... the evidence shows that trying young people as adults exacerbates rather than lessens crime.”^{iv} Shepherd suggests that “rather than federalizing crime with policies that will not solve the problem, we should provide federal resources and support for state intervention and prevention programs.”^v

In testimony before House Committee on the Judiciary, David Cole, Professor of Law at Georgetown University Law School, said that H.R. 2933 “will empower the DHS to deport foreign nationals who have never committed any crimes whatsoever, and who have obeyed all of our laws, simply because the DHS has determined that they are members of designated street gangs.”^{vi}

In an effort to better understand the national public safety impact of gangs, this policy brief examines leading national indicators of crime to put the concern around gangs in the context of those crime trends. The brief also discusses research on gangs, youth crime, and the potential the impact of proposed policy changes on youth and their communities, to evaluate the appropriateness and effectiveness of some proposed policies.

According to Leading National Indicators, Crime and Gang Crimes are Falling

“It is easy to underestimate the grip that gangs have on some of our cities. But the sad reality is that their grip on urban life is lethal. First, the sheer number of gang members is staggering. In Chicago alone, there are estimated to be 70,000 to 100,000 gang members – compared with about 13,000 Chicago police officers. Several “super gangs” dominate.”^{viii} **United States Attorney Patrick J. Fitzgerald, Northern District of Illinois. (April 5, 2005)**

In Chicago, homicide arrests fell 25%, and robbery arrests fell 8%. *viii* **Federal Bureau of Investigation, Uniform Crime Report, January 2004 -December 2004 (June 6, 2005).**

To understand the magnitude, nature and impact crime in the nation, experts and scholars rely largely on two statistical programs administered by the U.S. Department of Justice: the Uniform Crime Reporting (UCR) Program and the National Crime Victimization Survey (NCVS). While these are two different reporting devices that rely on two different methodologies to count crime, together, they provide a picture of the nation's crime problem.^{ix}

Uniform Crime Reporting Program: Violent Crime is Falling

“Between 1994 and 2003, violent crime fell by 26%.” ***Crime in the United States: Uniform Crime Report (2003).***

The UCR data is compiled from monthly law enforcement reports or individual crime incident records transmitted directly to the FBI or to centralized state agencies that then report to the FBI. In 2003, law enforcement agencies representing approximately 291 million U.S. inhabitants reported to the UCR Program, which is the equivalent to 93 % of the total population.

Despite fears of proliferating gang violence in recent years, violent crime throughout the U.S. has steadily decreased. According to the latest crime survey under the FBI's UCR program, the number of violent crimes decreased 1.7% between 2003 and 2004.^x According to the FBI's Supplemental Homicide Report, in 2002, four times as many homicides were related to an argument than were related to gang activity.^{xi}

Several provisions of the S.155 and similar legislation that passed the House specifically call for new federal powers to prosecute 16 and 17-year-old youth as adults for gang crimes, including homicide. But according to the FBI Uniform Crime Reports, the number of people nationwide reported to be

arrested in 2003 for either a “gangland” or “juvenile gang homicide” is small, totaling 1,111—approximately 7% of the 16,503 homicide arrests that year. Of those, only 111 were reported to be under 18 years-of-age.^{xii}

According to the most recent UCR, serious violent crime is also on the decline in the cities most identified with a gang problem. In Chicago, reported to be a site of “super gangs,” there was a 35% decrease in the reported number of violent crimes in between mid-year 1999 and 2004.^{xiii} The most recent reporting period (mid-year 2003-4) saw homicide arrests fall by 25%, and robbery arrests fall by 8%.

In Los Angeles, where gang crime has been reported to be severe, there was a 9% drop in violent crime reported between mid-year 1999, and 2004. The most recent reporting period (mid-year 2003-4) saw no change in homicide arrests, and 12% decline in violent crime. One University of Southern California study showed that gang homicides have significantly decreased between 1992 and 1998 in Los Angeles, during a time when crime generally declined in Los Angeles, California, and the United States. Whereas gang-related homicides in Los Angeles fell by 50% over this period, overall reported homicides in the city fell by 61%, and California saw a 45% decline in reported homicides.^{xiv} This suggests that gang crime trends track overall crime trends, or, put another way, when crime is falling, gang crimes are likely to be falling as well.

National Crime Victimization Survey: Reported Gang Crime has Declined

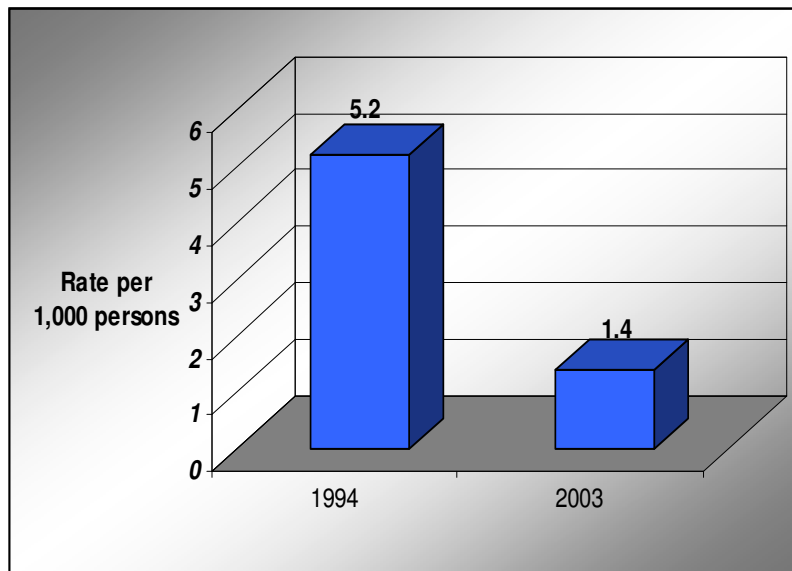
“Violent crimes for which victims identified the offender to be a gang member peaked in 1996 at 10% of all violent crime and decreased until 1998 to about 6%, not significantly changing since.”^{xv} Bureau of Justice Statistics, Crime Data Brief, Violence by Gang Members, 1993-2003.

The Bureau of Justice Statistics' (BJS) National Crime Victimization Survey (NCVS) provides another picture of crime incidents, victims, and trends. Two times a year, U.S. Census Bureau interviews a nationally representative sample of approximately 42,000 households (about 75,000 people), in which respondents are asked about crimes suffered by individuals and households and whether or not those crimes were reported to law enforcement. The NCVS estimates and extrapolates their survey findings to the rest of the nation.

The most recent BJS analysis of the NCVS, “Violence by Gang Members, 1993-2003,” echoes the findings of the UCR, reporting that gang violence, like most violent crime, peaked in the early 1990s. Since the 1990s, however, “violence by perceived gang members declined over most of the 11-year period.” Between 1994 and 2003, the NCVS shows that the rate of reported violent victimizations by perceived gang members fell from 5.2 per 1,000 to 1.4 per 1,000—a decline of 73%. BJS reports, *“violent crimes for which victims identified the offender to be a gang member peaked in 1996 at 10% of all violent crime and decreased until 1998 to about 6%, not significantly changing since.”*

According to the BJS analysis of the NCVS, police were as likely to be notified when the victims believed the offender *not* to be a gang member (45% of violence reported to the police) as when they believed the offender belonged to a gang (47% reported). This suggests that, whether or not a victim perceived a crime to be a gang crime had little effect on whether they reported the crime to the police. In other words, for this national crime measure, the reporting of gang crimes are not necessarily underreported just because the victim perceived the assailant to be in a gang.

Violence by Perceived Gang Members Declined by 73% between 1994 and 2003

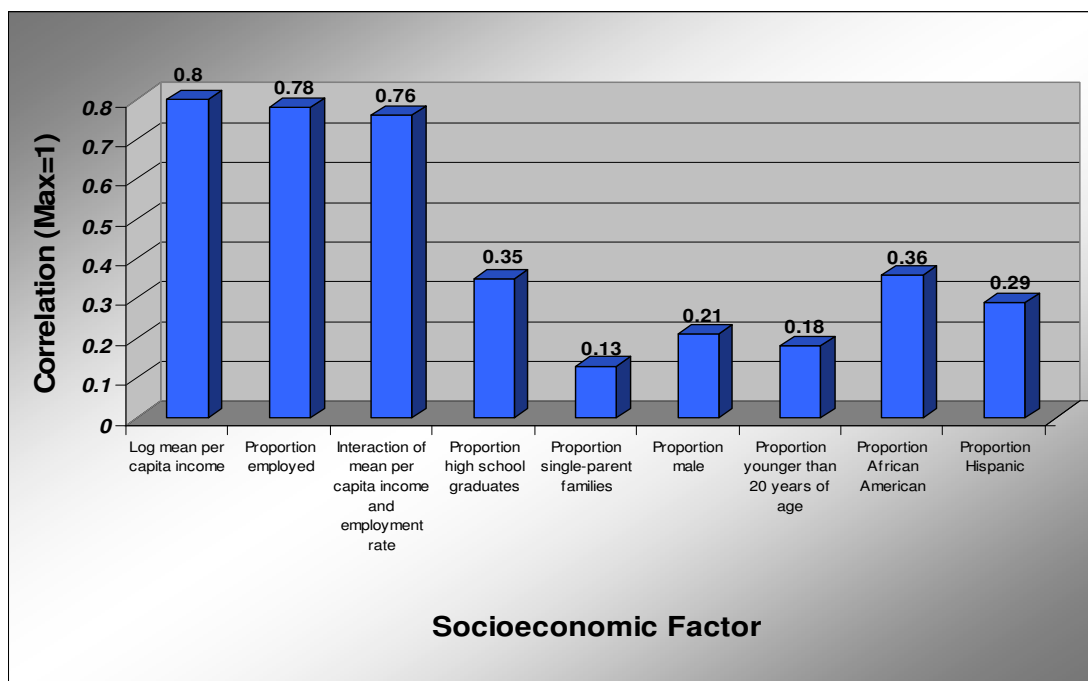


Source: Harrell, Erika. *Violence by Gang Members, 1993-2003*. (2005) Washington, DC: Office of Justice Programs, Bureau of Justice Statistics.

Serious Gang Violence Correlates with Unemployment and Low Income

The national leading crime indicators suggest that gang crime is not something that happens everywhere. Concern for gang-related violence, historically and recently, has been concentrated in Los Angeles, Chicago, and other big cities. But even in these cities, gangs are concentrated in certain areas, and crime does not impact everyone equally. The gangs are centralized in neighborhoods within the city, specifically those areas that are struggling economically.

Serious Gang Crime Correlates with Income and Employment in Communities



Source: Kyriacou, Demetrio N. et al. "The Relationship between Socioeconomic Factors and Gang Violence in the City of Los Angeles." (1997). *Journal of Trauma: Injury, Infection and Critical Care*, Volume 46, Number 2.

A researcher studying the reemergence of gangs in Milwaukee found that their resurgence was due to the process of deindustrialization, and consequently, the lack of entry level manufacturing jobs available to previous gang members who matured out of gang-related activity.^{xvi}

According to one Los Angeles study published in the *Journal of Trauma: Injury, Infection and Critical Care* that analyzed the correlation between gang-related homicide at the community level and eight socioeconomic factors, the strongest correlations with gang violence were employment and income.^{xvii} In communities where unemployment rates were between 14% and 16%, there were 15 times as many gang homicides as neighborhoods where the unemployment rate was 4% to 7%.^{xviii} As

the study concludes, “the community-level correlations between unemployment, lower income and gang-related homicides suggest that community-based economic programs may be more effective than conventional criminal justice suppression and education reform programs.”

Given the Right Support, Most Youth “Age Out” of Delinquent Behavior.

While gang membership does not automatically equal criminality, research has shown that adolescents who join street gangs are more involved in delinquent behavior than are adolescents who are not involved in gangs, and this has been shown to be true for serious and violent offenders.^{xxix} Even as the media, policymakers and law enforcement promote the idea that much of the violent behavior of young men is solely gang-induced, evidence shows that some of these acts can instead be attributed to youth behavior caused by other factors. According to a report to Congress on juvenile violence research from the Office of Juvenile Justice and Delinquency Prevention (OJJDP), individual factors contribute to a male juvenile’s involvement in violent behavior.^{xxx} Studies show that all males around the age of 15 are more likely to engage in serious delinquency, whether they belong to a gang or not. According to a report of the Surgeon General on youth violence that summarizes research from the Monitoring the Future survey, in 1998 about 30% of high school seniors reported engaging in behavior that qualifies to be measured under their “violent index”: self-reported behavior that includes “hitting an instructor or supervisor, getting in a serious fight at school or work, taking part in a fight where a group of your friends were against another group, [or] hurt[ing] somebody bad enough to need a doctor.”^{xxxi} This rate of this behavior has been relatively stable for almost 20 years, in sharp contrast to the dramatic increase in youth arrests^{xxii}—suggesting that we may be using a justice system response for behavior that has occurred for sometime.

Dr. Delbert Elliot, Director of the Center for the Study and Prevention of Violence (CPSV), at the University of Colorado, employment is central to “maturing out” of delinquent behavior. His research shows that, while African American young males face some challenges “aging out” of this behavior before adulthood, when they have a steady job, or a significant social bond, such a mentor, or a spouse, they are just as likely to mature out of delinquent behavior as white men are.^{xxiii} Elliott’s research suggests that address other factors, like employment, would effective at reducing crime.

So, delinquency happens often—more often than indicated by the number of youth who are arrested (who are disproportionately non-white)—suggesting that our response to youth crime doesn’t necessarily impact different races and ethnicities in the same way. While a third of youth may engage in serious delinquency, researchers from the Pre-trial Resource Center reported that 82% of youth charged in select adult courts were minority youth, and that 7 out of 10 youth sentenced to an adult correctional term were African American or Latino.^{xxiv} Whether they are in a gang or not, African American and Latinos disproportionately bare the brunt of policies designed to incarcerate young people in the juvenile justice and adult system.^{xxv}

African American and Latino Youth are More Likely to be Impacted by Gang Crime, and Responses to Gang Crime.

Despite popular assumptions that gang crime impacts everyone, everywhere equally, victims of gang crimes are disproportionately non-white. While the majority of Americans are white, the National Crime Victimization Survey finds that African Americans are 1.5 times more likely to report being a victim of gang violence than whites. The NCVS also shows that Hispanics^{xxvi} are more than *twice* as likely to be a victim of gang violence. This suggests that what is true about crime generally is true about gang crime: the people and communities most likely to be impacted by unacceptable levels of crime are African American or Hispanic, who also now comprise nearly two-thirds of the people incarcerated in the United States.^{xxvii} So, whether policymakers choose employment and income support, or criminal justice responses to alleviate gang crime, non-white communities are more likely to be impacted these policy choices.

Incarcerating Young Gang Members May Increase Recidivism.

There is a growing body of research that suggests that the expansion of transfer laws, and increased juvenile imprisonment could negatively impact youth who may otherwise “age out” of delinquent behavior, and aggravate public safety goals.^{xxviii}

The policy impact of commitment and incarceration may be more acute among youth who are tried as adults. Research funded by the Justice Department on youth in Florida—a state which has led the nation in sending youth to the adult system—has found that transferring youth to the criminal court increased the likelihood of recidivism. Bishop, Frazier, Lanza-Kaduce, and White^{xxix} found that the transferred youths quickly re-offended at a higher rate than matched non-transferred youths. The seriousness of re-offending was also greater for the transfer group than for the non-transfer group, with transfers more likely to commit a subsequent felony offense. The findings suggest that transfer made little difference in deterring youths from re-offending. Adult processing of youths in criminal court actually increases recidivism and it appears to have little if any incapacitating effects on crime control and community protection.

Research by Jeffery Fagan, a professor at the Columbia University School of Public Health, shows that criminalization of adolescent crimes failed to provide more effective punishment and lower recidivism rates. The deterrent effects of juvenile versus adult court sanctions on recidivism and re-incarceration were compared for 15- and 16-year-old adolescents charged with robbery and burglary in juvenile court in New Jersey with identical offenders in matched communities in New York State whose cases were adjudicated in criminal court. The results indicated that recidivism rates were higher for adolescents in criminal court, their rearrests occurred more quickly, and their return to jail was more likely. Sentence lengths were comparable for both the juvenile and criminal court offender groups. The expected outcomes of greater accountability and lengthier sentences were not gained from criminal court punishment.

The fiscal policy implications from this research, which has been replicated in other jurisdictions, suggest continued special jurisprudence for adolescent crimes and a separate jurisdiction for juvenile offenders.^{xxx} Since three-quarters of youth who have been imprisoned in adult facilities have been released before their 22nd birthday, the public safety impact of the policies of adult imprisonment could be felt by communities in the future.^{xxxi}

Conclusion: Invest in Local Solutions to Local Problems.

Even at a time when the several leading national crime indicators suggest that serious and violent crimes are on the decline, *many communities still experience unacceptable levels of crime, including youth crime and gang crime.* However, the public safety issues affecting distressed neighborhoods in our big cities are not the same as those impacting other neighborhoods and communities. The places that are most impacted by crime tend to be the places with large investments in policing, detention, jails, prisons and law enforcement—which, according to the Bureau of Justice Statistics, now represents a \$167 billion investment in criminal justice infrastructure.^{xxxii} Fostering a national culture of fear concerning gangs only diverts our attention from the real problem and real solutions.

Depending on the outcomes of the Senate and House crime bills, federal legislation may soon arise that imposes new mandatory minimums on gang crime, amplifying the already documented problem of the increased incarceration of mainly urban younger people. An estimated 12% of African American males, 4% of Hispanic males, and 1.6% of white males in their twenties and early thirties were in prison or jail at midyear 2002. The rate reflects the percentage of the population in prison on any given day. The rate is much higher when calculated over the course of a lifetime. The Bureau of Justice Statistics has calculated that rate to be 28% for African American men in their twenties and early thirties.^{xxxiii}

The new mandatory minimums being considered may assign longer sentences to gang members who have committed the same crime as someone not affiliated with a gang, solely because of their gang membership.^{xxxiv} Both the Senate and House bills advance the notion of creating new federal jurisdiction to try youth as adults. HR 1279 proposes to change the federal juvenile justice system to authorize prosecution of 16 and 17 year old gang members who commit violent crimes. Further, HR 2933, the “Alien Gang Removal Act,” proposes to allow for the individuals to be sanctioned through deportation, not based on their own illegal conduct, but rather through designation as a gang member by the Department of Homeland Security. Legal scholars have suggested that this legislation will instead deport individuals who have never committed a crime in their life, and who pose no threat to the community.^{xxxv}

Multiple studies show that incarcerating young people only increases the likelihood that they will recidivate, whereas alternative programs could facilitate the process of aging out of normative delinquent behavior. On a number of measures, including public safety, efforts to incarcerate youth have proven unsuccessful.

Investing in job opportunities in high-risk communities may be one solution to juvenile gang crime. Promises to manufacture jobs in the past have been unfulfilled, but an investment in preventative measures and a sincere effort to create opportunities could offer a productive destination into which delinquent youth could mature.

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ⁱ The FBI has said that, the decision to define the circumstances of a crime as “gang-related” is left to local law enforcement, and that is what is reported to be national gang crime: “If law enforcement investigators feel that the victims or offenders in an incident were involved in a juvenile gang-related circumstance, then they will report it as such. The circumstance reported is at the discretion of the investigating agency because the agency is in the best position to relay the details of the case.” Personal communications, FBI CJIS Communications Unit, July 11th, 2005.

ⁱⁱ Gang Prevention and Effective Deterrence Act of 2005, S.155. Online Available: <http://thomas.loc.gov/cgi-bin/query/D?c109:7:./temp/~c109fpj1BJ::>

ⁱⁱⁱ U.S. House of Representatives Committee on the Judiciary, Hearing on Alien Gang Legislation (June 16, 2005).

^{iv} Statement of Robert E. Shepherd, Jr., Emeritus Professor of Law, University of Richmond School of Law, Richmond, Virginia, Legislative Hearing on H.R. 1279 (April 5, 2005).

^v Statement of Robert E. Shepherd, Jr., Emeritus Professor of Law, University of Richmond School of Law, Richmond, Virginia, Legislative Hearing on H.R. 1279 (April 5, 2005).

^{vi} Statement of David Cole Before the United States House of Representatives Subcommittee on Immigration, Border Security and Claims of the House Committee on the Judiciary (June 28, 2005).

^{vii} Statement of Patrick J. Fitzgerald, United States Attorney, Northern District of Illinois, Hearing on H.R. 1279 (April 5, 2005).

^{viii} Uniform Crime Report (2004). Online Available: <http://www.fbi.gov/ucr/2004/04prelim.pdf>

^{ix} The Bureau of Justice Statistics, *The Nation's Two Crime Measures*. Online Available: <http://www.ojp.gov/bjs/pub/html/ntcm.htm>

^x Uniform Crime Report (2004). Online Available: <http://www.fbi.gov/ucr/2004/04prelim.pdf>

^{xi} Fox, J.A. and Zawitz, M.W., “Homicide trends in the United States,” Supplemental Homicide Reports 1976-2002. Online Available: <http://www.ojp.gov/bjs/homicide/tables/circumsttab.htm>

^{xii} Special data request from the FBI Uniform Crime Reporting program. 19 states did not provide information to the FBI accounting for any gang homicide offender arrests.

^{xiii} Uniform Crime Report (1999, 2004). Online Available: <http://www.fbi.gov/ucr/ucr.htm>.

In Chicago, 53,906 violent crimes were reported in 1999 while 35,106 were reported in 2004. Both of these figures exclude the number of forcible rapes in Chicago because the statistics given by the Illinois State Police do not comply with UCR regulations.

^{xiv} Alonso, A.A. *Territoriality Among African-American Street Gangs in Los Angeles*, Masters Thesis, Geography Department, University of Southern California (1999). Gathered from the Los Angeles Sheriff's Department.

^{xv} Harrell, E., *Violence by Gang Members, 1993-2003*, Bureau of Justice Statistics (June 2005).

^{xvi} John, H., *Gangs, Neighborhoods and Public Policy*. *Social Problems*, 38(4), 529-42 (1991).

^{xvii} Demetrios, N. K., Range, H., Deirdre, A., and Corinne, P., “The Relationship Between Socioeconomic Factors and Gang Violence in the City of Los Angeles,” *The Journal of Trauma: Injury, Infection, and Critical Care*, 46(2), 344-349 (1999).

^{xviii} Krikorian, Gregory. “Study Ranks Joblessness as Top Factor in Gang Toll,” *The Los Angeles Times*, October 28th, 1997.

^{xix} Thornberry, T.P., and Burch, J.H. 1997. *Gang Members and Delinquent Behavior*. Bulletin. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

^{xx} *Bilchik, Shay*. Report to the Committee on Education and the Workforce of the House of Representatives and the Committee on the Judiciary of the Senate. (1999). Washington, DC: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention; <http://ojjdp.ncjrs.org/pubs/jvr/3.html>

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^{xxii} Report of the Surgeon General on Youth Violence, “Prevalence of Violent Behavior.” http://www.mentalhealth.org/youthviolence/surgeongeneral/SG_Site/chapter2/sec12.asp

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- ^{xxiii}Elliott, D. S., "Serious Violent Offenders: Onset, Developmental Course, and Termination—The American Society of Criminology 1993 Presidential Address," *Criminology*, 32(1) (1994).
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- ^{xxv}Poe-Yamagata, E. and Jones, M.A., *And Justice For Some: Differential Treatment of Minority Youth in the Justice System*, National Council on Crime and Delinquency, Building Blocks for Youth (2000). Online Available: <http://www.buildingblocksforyouth.org/justiceforsome/>
- ^{xxvi} Office of Management and Budget: The Executive Office of the President, *Federal Register Notice: Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity* (1997). Online Available: <http://www.Whitehouse.gov/omb/fedreg/ombdir15.html> Referring to persons who trace their origin or descent to Mexico, Puerto Rico, Cuba, Central and South America, and other Spanish cultures.
- ^{xxvii} Human Rights Watch, *Race and Incarceration in the United States* (2002). Online Available: www.hrw.org/backgrounder/usa/race
- ^{xxviii}Benda, B.B. and Tollet, C.L. (1999) "A Study of Recidivism of Serious and Persistent Offenders Among Adolescents." *Journal of Criminal Justice* Vol. 27, No. 2 111-126.
- ^{xxix} Bishop, D., Frazier, C., Lanza-Kaduce, L., and White, H., "The transfer of juveniles to criminal court: Does it make a difference?" *Crime & Delinquency*, Vol. 42, 171-191 (1996).
- ^{xxx} Fagan, J., "Separating the men from the boys: The comparative advantage of juvenile versus criminal court sanctions on recidivism among adolescent felony offenders," *A Sourcebook: Serious, Violent, and Chronic Juvenile Offenders*, Thousand Oaks, CA: Sage Publications, Inc. (1995). Available at National Criminal Justice Reference Service, 1-800-851-3420.
- ^{xxxi}Strom, J. K., *Profile of State Prisoners Age 18, 1985-1999*, Bureau of Justice Statistics (2000).
- ^{xxxii} Bauer, L., U.S. Department of Justice, Bureau of Justice Statistics, *Justice Expenditure and Employment in the United States, 2001* (May 2004).
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- ^{xxxiv} Gang Prevention and Effective Deterrence Act of 2005, S 155. Online Available: [http://thomas.loc.gov/cgi-bin/query/F?c109:3:./temp/~c1090CNCIR:e5232:](http://thomas.loc.gov/cgi-bin/query/F?c109:3:./temp/~c1090CNCIR:e5232)
- ^{xxxv}Statement of David Cole. Professor of Law, Georgetown University Law School, Hearing on H.R. 2933 (June 28, 2005).