

**STATEMENT OF  
SUSAN R. PETITO  
ASSISTANT COMMISSIONER, INTERGOVERNMENTAL AFFAIRS  
NEW YORK CITY POLICE DEPARTMENT**

**BEFORE THE NEW YORK CITY COUNCIL  
PUBLIC SAFETY COMMITTEE**

**DECEMBER 3, 2009**

**Good morning, Mr. Chairman and members of the Council. I am Susan Petito, Assistant Commissioner of Intergovernmental Affairs of the New York City Police Department, and I am pleased to discuss with you the three bills before you today, Intro. Nos. 183-A, 941-A and 945-A.**

**At the outset, we commend the Council for seeking to strengthen the law to curtail the violent and dangerous activities conducted by criminal street gangs. We have for some time sought introduction of a bill with the same goal, which would make it a misdemeanor to engage in what we have called “criminal street gang activity,” such as soliciting someone to join a gang, attempting to deter someone from leaving a gang, and marking gang turf. We are gratified by the Council’s inclusion of some of the elements of our proposal, as we have worked together in crafting Intros. 183-A, 941-A and 945-A, and we strongly support the enactment of all three bills. All three bills would provide the City with a comprehensive legislative scheme, presenting new tools with which to address the pervasive problems caused by criminal street gangs.**

**The three bills would define “criminal street gang” as a group of three or more people that have as one of its substantial activities or purposes the commission of one or more felonies or misdemeanors from a specified list of articles of the Penal Law. The consistent use of this definition in all three bills underscores our intention that these bills address only the destructive criminal behaviors engaged in by street gangs, rather than covering arguably innocuous group activities that are beyond the intended scope of the bills.**

**Intro. 183-A would create new Administrative Code section 10-168, the offense of “Engaging in Criminal Street Gang Activity,” that would prohibit a person who is a member of a criminal street gang, or who is acting in concert with a member of a criminal street gang, from recruiting a third person into such gang or deterring a person from leaving such gang. Violation of this new provision would be a class A misdemeanor.**

**Intro. 945-A would create a new section 10-169, the offense of “Criminal Street Gang Solicitation” that would prohibit a person, as part of a criminal street gang, from soliciting another person to commit any misdemeanor offense from a specified list of articles in the Penal Law. Similar to the new provision that would be created by Intro. 183-A, violation of this provision would be a class A misdemeanor.**

**The third bill in this sequence, Intro. 941-A, would create a new section 10-170 entitled “Criminal Street Gang Initiation Activity,” which would prohibit a person from placing a person in danger of physical injury in the course of his own or another person’s initiation into a criminal street gang. Violation of this provision would also be a class A misdemeanor.**

**Although Intros. 945-A and 941-A share language with Penal Law provisions relating to Criminal Solicitation, and Menacing and Hazing, respectively, the provisions that would be added by these bills create new Class A misdemeanors targeting specific behaviors that have developed in the context of criminal street gangs. Thank you for the opportunity to express our strong support for the three bills before you today, and as always, we remain available to work with you on enacting legislation that will assist in the fight against criminal gangs.**

**Thank you, and we welcome your questions.**



Real Solutions to Gun Violence

Written Testimony of Daniel Gross  
Co-Founder and CEO of PAX

Before the

New York City Council  
Committee on Public Safety

Hearing on

**"Efforts to Combat the Stop Snitching Message"**

**Prop. Int. 183-A: A Local Law to amend the administrative code of the city of New York, in relation to criminal street gang activity.**

**Prop Int. 941-A: A Local Law to amend the administrative code of the city of New York, in relation to criminal street gang initiation activity.**

**Prop. Int. 945-A: A Local Law to amend the administrative code of the city of New York, in relation to criminal street gang solicitation.**

December 3, 2009

Good morning Chairman Vallone and Members of the Committee. Thank you for the opportunity to speak to you today on the critical issue of gang violence prevention, and on efforts to combat the insidious "stop snitching" message.

My name is Daniel Gross and I am the co-founder and CEO of PAX, the nation's largest non-partisan gun violence prevention organization. Like too many people, I was introduced to the tragedy of gun violence through personal experience. My younger brother, Matt Gross, was critically injured in the shooting on the observation deck of the Empire State Building in February of 1997. At the time of the shooting, I was a partner at the J. Walter Thompson advertising agency. I resigned that job to start PAX.

PAX stands firmly on the belief that together we can end youth violence in our city and our nation; but to do so, it will require us to change more than our laws. We need to change the individual and cultural behaviors and attitudes that currently help create and perpetuate a cycle of violence.

We believe changing laws like these can be very important. But to be most effective, these laws must be accompanied by fundamental changes to our social norms.

As an example, like many I'm a big fan of the hit TV show *Mad Men* (especially as a recovering advertising executive). Ironically, I've also found it to be a great source of inspiration for PAX, as an example of the extent to which we are capable of changing our social norms. For those of you who have seen the show, set in the early 1960s, you know that it's almost unbelievable to see how socially prevalent – even desirable – it was to smoke cigarettes in our offices or around children, or how acceptable it was to drink and drive. (I do realize that some of us may even have personal memories of this bygone era). You don't need to watch more than a few minutes of *Mad Men* to see how almost unthinkable social change is possible, how even the most deeply-entrenched and dangerous attitudes and behaviors can be reversed.

And, I strongly believe that could include "stop snitching."

To work toward this common goal, PAX creates focused public health and safety campaigns that work much like "friends don't let friends drive drunk" or "second hand smoke" have, to change our attitudes and behaviors on a social level.

PAX's campaigns are empowering. They provide simple and specific "calls to action," things that students, parents or others can do to prevent a tragedy, save a life, and make their homes, schools or streets safer. They show that we do not simply have to accept dangerous, destructive or violent behavior but that we can stand up, speak up and be accountable.

Ultimately, PAX's campaigns create hope... that youth violence is a problem that can be solved, giving everyone an opportunity to say, finally, "enough is enough!" And PAX gives us all the chance to back up those words with real action, and real results.

I consider the goals of this hearing and the proposed laws – to prevent gang violence and counter the message of "stop snitching" – to be directly in line with the goals and work of PAX, particularly with PAX's very successful **SPEAK UP** campaign.

It is a widely accepted fact in law enforcement – and one confirmed by numerous studies – that in most instances of youth violence, including gang violence, there are young people who know that the violence is going to occur before it does. Teens don't just know about who has committed crimes *after* they occur. They actually know who is *going to* commit violent crimes *before* they occur.

One recent and very disturbing example is this article from last Sunday's *Daily News* about how gangs are even using Twitter to detail and coordinate planned attacks.

All this points to a tremendous opportunity to prevent youth and gang violence by providing the inspiration and mechanisms for young people to come forward with information about weapons and threats.

And that's precisely what SPEAK UP has done very effectively. PAX has spent several years and millions of dollars developing messages and resources to make it safe and compelling for young people to speak up about weapon threats. This includes:

- The national 1-866-SPEAK-UP hotline, the first and only national hotline for teens to anonymously report weapon threats.
- A newly launched text messaging reporting platform.
- A national reporting center, staffed 24/7/365 by professionally-trained counselors (70% of whom have masters degrees), who handle and forward incoming threat reports according to a protocol developed in collaboration with leading experts in law enforcement and education like the United States Secret Service and the FBI.
- A campaign of social marketing materials including customizable PSAs, student wallet cards, school posters and much more.

I am pleased to be able to report today that the SPEAK UP program has been an overwhelming success, with more than 35,000 calls in 8 years and hundreds of confirmed instances where weapons were confiscated or serious threats were averted. There are probably hundreds of kids walking around today that would not be here were it not for SPEAK UP.

I am also proud and grateful to be able to announce now that we will be launching SPEAK UP this coming year in New York City, with the support of the City Council. Together, we will pilot the program in 10 schools. We are working closely with Speaker Quinn and the Board of Education to launch the program in the first quarter of 2010.

I realize that one of the goals here today is to discuss laws to crack down on illegal activity regarding gang participation and recruitment. While important, I want to take this opportunity also to emphasize that such laws are only one tool we have at our disposal to counter stop snitching efforts. To focus on these laws alone would not be doing justice to the full opportunity that exists to put an end to youth and gang violence in our city.

In the end, if we are going to effectively "combat" a cultural message like stop snitching, we are going to need to do it on a cultural level. In addition to telling young people what they can't do, we're going to need to tell them what they can do. We must give them alternatives, including the opportunity to do the right thing. And we must make doing the right thing, the socially popular and desirable choice. Laws aren't going to do it on

their own. To succeed, we're going to need to change social norms.

I hope SPEAK UP serves as an example and maybe a source of hope and inspiration that this change is truly possible. By creating a safe, accessible opportunity for young people to do the right thing, we have shown that they will, and in droves. The success of SPEAK UP provides a powerful demonstration that the overwhelming majority of kids are good kids – that given the right opportunity, they will make the right choices.

One of the greatest services we can provide as adults is to present young people with the positive alternatives that make the good choices as safe and as easy as possible. Let's not just show them what is wrong... but provide them with opportunities to do what is right.

Chairman Vallone and Members of the Committee, thank you again for the opportunity to address you today, for your clear commitment to preventing gang and youth violence, and for your continued support and leadership.



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## The PAX Success Story

Founded in 1998, PAX is an innovative and uniquely effective organization working to end the crisis of gun violence in America - a public health epidemic that claims the lives of more than 8 children every day. PAX develops empowering public health and safety campaigns that save children's lives. PAX's campaigns have achieved unprecedented support from leading organizations in fields including public health, media, education, law enforcement, and grassroots violence prevention. PAX's widely-acclaimed programs have shown proven results that immediately prevent tragedies and measurably shift dangerous attitudes and behaviors. The organization is laying the foundation for exciting cultural change.

Gun Violence kills over 8 children in America every day.

Every year, over 1,350,000 students are threatened or injured with a weapon on school property.

1,011,791 high school students across American take a weapon to school at least once in the past 30 days.

Among 14- to 17-year-olds, 1 in 10 witnessed a shooting in the past year.

Since the launch of PAX's programs, the number of children killed in America has been reduced by over 20%.



## The ASK Campaign

Over 40 percent of homes with children in America have guns, almost **half of which** are left unlocked or loaded. The ASK (Asking Saves Kids) Campaign -- in partnership with the American Academy of Pediatrics-- urges parents to ask if there are guns where their children play. Through a nationwide grassroots education campaign and a highly-acclaimed public service advertising initiative, the ASK Campaign has already inspired more than 19 million parents to begin asking its potentially life-saving question. Parents in communities across the country have become passionately enrolled in the issue of gun violence prevention as a simple issue of children's safety, and millions of homes and children are safer as a result.



## The SPEAK UP Campaign

The SPEAK UP Campaign empowers students with an unprecedented resource to prevent school and community violence. Based on the fact that in over 80 percent of school shootings the attackers tell other students about their plans, SPEAK UP features the first-and-only anonymous national hotline for students to report weapon threats: **1-866-SPEAK-UP**. Additionally, PAX has adopted a groundbreaking text messaging reporting mechanism as part of the comprehensive SPEAK UP solution, providing students with yet another opportunity to prevent violence by speaking up. The program includes a powerful public service advertising campaign, with millions of dollars in donated support from partners such as MTV and Atlantic Records, and a fully-accredited curriculum in schools around the country. In only seven years, the 1-866-SPEAK-UP hotline has received over 30,000 calls resulting in the prevention of countless tragedies and sending the powerful message that young people everywhere are no longer tolerating violent weapons and threats.



Richard A. Brown  
District Attorney

**TESTIMONY OF**

**MARIELA PALOMINO HERRING, BUREAU CHIEF**

**GANG VIOLENCE AND HATE CRIMES BUREAU**

**QUEENS DISTRICT ATTORNEY'S OFFICE**

**BEFORE THE**

**NEW YORK CITY COUNCIL PUBLIC SAFETY COMMITTEE**

**DECEMBER 3, 2009**

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Good Morning:

My name is Mariela Palomino Herring. I am an Assistant District Attorney in the Queens District Attorney's Office where I have worked since March of 1985. For the last 16 or so years I have served under District Attorney Richard A. Brown as the Bureau Chief of the Gang Violence and Hate Crimes Bureau. The Gang Violence & Hate Crimes bureau - as the name suggests- concentrates efforts and resources to combat bias motivated and gang related crime in Queens County. To that end, our bureau is assigned all hate crimes, gang crimes, violent school crimes and graffiti crime.

The lion's share of our caseload (about 85%) involves gang crime. Gang related criminal activity is criminal activity committed by one or more gang members because of their membership in a gang or in the furtherance of their gang's objectives. Based on our experience gangs are often composed of a group of three or more individuals who share a common name, and have an identifiable leadership. They usually claim a geographic, economic or criminal enterprise turf and associate on a regular basis to engage in delinquent or criminal activity. Our gang bureau, through experience and training, and by virtue of our close working relationship with other law enforcement agencies, has become adept in the prosecution of gang cases.

Our Assistant District Attorneys work closely with several units in the New York City Police Department. It is a symbiotic relationship in which the police officers make arrests and gather vital intelligence on gangs and their members and the Assistants draft search warrants, cell site orders, assist in conducting lineups, take statements, and conduct hearings and trials of gang member defendants.

Amongst the various police department units with which our bureau works closely are the NYPD Queens Gang Squad, youth officers assigned to schools where gang activity occurs, and several of the detective squads in precincts that also encounter gang activity. The information that we share is invaluable, because it apprises us of the gangs that are active in Queens, where they are active, which individuals are gang members, and what they are doing.

The gangs that have been identified as the most active in Queens County, are the Bloods; the Crips; the Latin Kings; ABK (Always Bangin' Kings), La Familia, Sombra Negra, Los Trinitarios, various Mexican gangs, such as M18, Surenos, The Mexican Boys, and a gang of El Salvadorean nationals called Mara Salvatrucha (MS13). Almost every precinct in Queens county has some gang presence with varying degrees of activity. These gangs are involved in a myriad of criminal acts such as homicides, assaults, robberies, assault weapons possession, narcotics trafficking, production of forged

instruments, and promotion of prostitution.

The Gang Violence & Hate Crimes bureau was established to focus on the growing gang phenomenon that we began to see in the early 90's. Gangs in Queens evolved from small neighborhood gangs fighting other neighborhood gangs to the more flamboyant and violent gangs we see today. The continuity under this bureau has helped us identify not only the numerous gangs, but the ever-changing ways that they represent themselves and their criminal patterns. Through the centralization of gang cases, our Assistant District Attorneys have learned to successfully cope with the inherent challenges that come with the territory. In addition, knowing the dynamics of these gangs within a particular area of Queens and/or their rivalries has strengthened our ability to enhance our cases by bringing context to many apparently inexplicable acts of violence.

Through the years our bureau has kept abreast of the changing landscape of gang activity. Our prosecutions have stifled and in many instances extinguished violent gangs menacing our neighborhoods. Gangs such as "the Master Race," "Los Traviesos," "Nietas," "Pitufos," "Los Vatos Locos," and others, were swiftly prosecuted and snuffed out with long prison terms and deportation when applicable. More recently, we have successfully prosecuted some of the most violent members of the current gangs. One such case involved a Valley Stream Crip who came to Queens to kill a rival Blood member at his home in the 105 precinct. The Crip armed with a gun, opened fire when the Blood's 11-year-old brother answered the door, piercing his lung and thereby causing life threatening injuries. The Crip member was convicted and sentenced to 10 years in state's prison. In another significant case, a member of La Familia was chased down and stabbed and kicked to death by members of a Latin King set active in the 110 Pct, a.k.a. the "Killa Heitz" tribe. The stabber in the case, who was the leader of this violent set, is now serving 18 years in State prison. Four other defendants who were the kickers in the homicide, are also serving lengthy prison terms. The conviction of these members has left a vacuum in this Latin Kings set and has thwarted the momentum of this emerging gang. In yet another case, four members of the G-Stone Crips, which is a Crips set, were responsible for a series of gunpoint robberies of bodegas. The members wore masks and robbed some of the bodegas on more than one occasion. The ring leader is now serving 10 years in State prison. The other three are also serving significant time as well. We have set the tone even in the early stages of a prosecution. Just recently, within the last two weeks there have been approximately four shootings in the Rockaways that have landed the victims in the hospital. In one shooting a young man was shot three times in the chest by four members of the "Get it in Bricks" gang a.k.a. "GIB" during the theft of the victim's bike. The victim would have died from blood loss had it not been for his age and good physical condition. None of the defendant's believed anyone would come forward and testify against them. Despite their arrogant confidence, they were indicted

five days after the incident. Their arrest and swift indictment sends a powerful message to GIB and other gangs about the determination of law enforcement to seek justice.

The Assistants in the bureau also utilize a variety of tools in the courtroom to enhance the gang cases. The NYPD Queens Gang Squad, has provided us with a cadre of police officer experts who are well versed in the numerous gangs that populate the county. These police officers have been used in our trials to provide background and educate the jury on gangs. Their testimony has undoubtedly helped jurors understand the motives and the rituals involved in many of these cases. We have achieved positive results when Judges have permitted the use of gang experts.

The internet has also proven to be a useful tool in developing evidence of culpability of a crime and also to show membership in a gang. In one of our most recent cases tried in Queens County Supreme Court, the trial Assistant found a picture on the internet of her defendant holding a gun and a wad of money. The gun was identified by the victim as the gun displayed during the course of the robbery. The downloaded picture was successfully admitted into evidence thereby strengthening our one witness case. The defendant was convicted of the robbery.

One of the most important components in formalizing a strategy to combat gang violence is the creation of a collaborative multi-agency network designed to work together and share information. Local, state, and federal law enforcement agencies have joined forces with us and worked to get violent gangsters off our streets. For the last five years for example, our office has collaborated with the United States Attorney's Office, Eastern District of New York and the United States Immigration and Customs Enforcement in the racketeering investigation and successful prosecution of over 30 leaders and soldiers of the New York City cliques of La Mara Salvatrucha (MS13). The New York City Corrections Department has also partnered with our Office and other DA's offices in an extraordinary protocol of sharing gang intelligence.

Furthermore, the Queens District Attorney's Office instituted the Annual Violent Gang Conference started in 1990 to get law enforcement together for the purpose of training and sharing gang trends and patterns. The Violent Gang Conference, is cosponsored by the New York City Police Department, the East Coast Gang Investigators Association and MAGLOCLLEN, which stands for the Mid-Atlantic Great Lakes Organized Crime Law Enforcement Network. This conference has featured the most highly regarded authorities on the subjects of gang activity and prosecution to a diversified audience of more than 300 law enforcement professionals from inside and outside New York State. It is also a forum for these members of law enforcement to exchange experiences and intelligence amongst themselves.

Recognizing that trust cannot be manufactured spontaneously when a crime occurs, our Special Prosecutions Division has built strong and productive collaborative partnerships with a vast array of community groups. A network of advisory councils has been established which facilitates the free flow of information and ideas and helps make the criminal justice system more accessible and understandable to all members of the Queens community. The division oversees and operates a growing number of programs to mentor, educate and assist young people. These include, mock trial preparations, a Student Advisory Council, a Boy Scouts Explorer's Post, a Summer Youth Employment program, a truancy program with PAL, a Youth Enrichment Project in conjunction with the Queens Public Library, after school tutoring programs and a speakers bureau for schools, to name a few. Most notably, the Special Prosecutions Division launched the STAR TRACK school anti-violence program. Now entering its 16<sup>th</sup> year, this prosecution run program sends Assistant District Attorneys into classrooms in nine elementary, middle schools and high school throughout the school year to help students steer clear of guns, drugs, and gangs. Criminal cases occurring in and around the schools are given special attention. In a collaborative effort with the Department of Education, the Corporation Counsel's Family Court Division, the Legal Aid Society, local law enforcement and community leaders, STAR TRACK also features school safety routes patrolled by the local precinct, and an interagency council that helps identify factors contributing to violence in and around the schools and develop joint strategies to address them. All of these initiatives help to foster closer and more positive relationships between young people and law enforcement.

In addition to our day to day responsibilities we convene with various members of the community, including schools, community councils, religious groups, social workers, probation officers, etc. to provide education and training on gang identification and culture. In conducting this community outreach we in turn are also learning from the community about all the latest gang developments and trends.

There are many challenges to prosecuting gang related crimes. The nature of gang assaults for example, pose distinct issues. Quite often many of these incidents are committed by numerous perpetrators. Some of the perpetrators might punch and kick while one member of the mob will pull out a knife and stab the victim. Sometimes the mob will split up and attack two victims within a short distance from each other. Witnesses are often unable to remember and describe the event and the participants in sufficient detail. Assaults often develop into a big melee with the inability to perceive the distinct acts of each perpetrator. These present difficult scenarios for lay people who sit on juries to unravel. Our prosecutors have dealt with this issue through witness preparation and at trial, through voir dire, during the jury selection phase.

The lack of witness cooperation remains a daunting problem for law enforcement. This is manifested in many different ways. The first scenario is the rival gang member as the victim. Generally, these victims are not cooperative for a variety of reasons. Those reasons stem from fear, the code of the streets or a complete rejection of the criminal justice system. These witnesses are difficult to persuade and many times are transient individuals who cannot be located, rendering them impervious to persuasion or even court orders.

A second scenario is the civilian eyewitness whose reason for not coming forward is more than likely based on fear of retaliation. These witnesses often live or work in the neighborhood where the crime occurred. They feel vulnerable and also fear for their families. Yet, these are the very people that we need to prosecute a case. The unbiased witness who can testify about what happened and identify who did it, is compelling evidence before a jury.

The third scenario, and the most troubling, involves the victim who has suffered serious injury or has been permanently disabled and has the most at stake in a case, yet nonetheless, profusely refuses to name the perpetrator or cooperate in any way.

It is not unusual for the police to arrive at the scene of a shooting or stabbing that has taken place in broad daylight, or on a busy public street, and find that no one is willing to admit that they saw something or willing to identify the perpetrator(s). Law enforcement cannot move forward and make arrests or even conduct an investigation without witnesses.

Experience has taught us to devise different ways of dealing with the witness cooperation issue. Through persistence and enormous efforts we have prevailed. We go to great lengths to persuade a witness that it is safe to go forward and testify. We spend hours explaining to witnesses about the anonymity of the Grand Jury process, promising the protection of their identity until absolutely necessary. We try to provide evidence of our commitment to the witness by providing 24 hour phone numbers, our cell phone numbers and easy access to us and detectives. We have gone so far as putting handcuffs on a witness because he felt he would be safe if the community thought that he was "forced" to testify. As a result we have been able to successfully prosecute cases that would have otherwise ended in dismissals.

One particular case best exemplifies this issue. It is the case of a sixteen-year-old boy who was walking with a friend in the courtyard of the Queens apartment development where he lived. A member of the Bloods gang approached the young man and his friend, took out a gun and fired several shots. As the sixteen-year-old turned to run, one of the

bullets ripped through his body and lodged itself into his spine. He collapsed and woke up days later to face the fact that one random act of violence had left him to face the future as a paraplegic. The assigned Assistant District Attorney's first task was to visit the young boy at his home. She entered the home and his grandfather greeted her. The grandfather motioned toward the boy's bedroom where he sat bedridden playing video games. The Assistant District Attorney asked him what he saw, he responded, "nothing." He never deviated from that statement. Interviews of his friend netted the same results. An arrest was ultimately made based on the information from an informant but the true hero in this case was the one 911 caller who provided their name and phone number, and ultimately was able to make an identification. Today the person responsible for this heinous crime, a 17-year old member of the Bloods, is serving 10 years in State prison upon his plea of guilty to Attempted Murder in the 2<sup>nd</sup> Degree.

A final, but very significant challenge is the pervasiveness of the "Don't snitch" message, particularly among young people. While in the past community members would view it as their responsibility to their children, friends and neighbors to report crimes and cooperate with law enforcement to help keep their neighborhood safe, today the community code is silence and lack of cooperation. This silence is deadly for communities. It strengthens, supports and shields gang members and empowers them to commit crimes with impunity. Law enforcement cannot fight the "stop snitching" message alone. The community must join and fight this battle with us. They must make it clear that crime and gratuitous violence is unacceptable and must stop. The active support and partnership of local communities is critical to prevent the type of stray bullet shootings that have injured and killed too many innocent children and adults. The voices of respected community leaders and elected officials, such as yourselves, along with clergy members and the families of those injured or killed, raised in unison, could send a strong, powerful and persuasive message to encourage witnesses to step forward and testify in gang violence cases. A community led anti-violence initiative could help us bring violent gang members to justice and make our neighborhoods safer for our children.

## Discussion Of Proposed Legislation

### AC §10-168 Engaging in Criminal Street Gang Activity, Proposed Int. No. 183

The Penal Law currently does not define "criminal street gangs." One of the difficulties of defining street gangs is their amorphous nature. They are naturally secretive and do not advertise their exact size or extent of their membership. Many street gangs lack a definitive, consistent hierarchy. Instead, these gangs have a malleable leadership, committing opportunistic crimes or agreeing as a group to battle with rival gangs. Therefore, in many situations, the gang documents detailing membership or structure do not exist and individual gang members have varying degrees of commitment to their gang.

In this context, establishing membership in a particular gang can be very difficult. In our cases, we have been able to show gang membership through gang members' admissions, photographs of gang members throwing up gang signs and/or wearing gang paraphernalia, or recovering gang codes on particular members. It is rare that we are able to establish the entire membership of a particular gang or gang set. It is also difficult to establish the "substantial" activities of a gang.

The proposed statute would criminalize a defendant's effort to recruit someone into a street gang either voluntarily or involuntarily prevent someone from leaving the gang. However, to establish this crime, the People would need to prove that the defendant was a member of a "criminal street gang" or acting with a member of a "criminal street gang" and that this gang substantially engaged in "one or more of the designated crimes." This would be extremely challenging, since it would be difficult to establish who was a member of this gang and that the crimes they commit are a substantial part of their activities.

More important, prosecutors already have the tool in the Penal Law that prohibits a defendant from interfering with an individual's effort to join or exit a gang. Specifically, Coercion in the second degree under P.L. §135.60 (1, 2) prohibits a defendant from "compel[ing] or induc[ing] a person to join a group, organization or criminal enterprise which [he] . . . has a right to abstain from joining by means of instilling in him or her a fear" of physical injury to a person or damage to property. This is also an A misdemeanor.

Our biggest concern remains the requirement to prove the affiliation with "a criminal street gang" and the difficulty in presenting sufficient evidence to support it. One suggestion we would make is incorporating the language of "a group, organization or

criminal enterprise" from the Coercion statute, under P.L. §135.60, instead of "criminal street gang" into the proposed code. This change would eliminate the potential need to establish a gang's "substantial" criminal activities and capture the nature of many loosely organized street gangs and their random criminal acts.

### **AC §10-170 Criminal Street Gang Initiation Activity, Proposed Int. No. 941-A**

Currently, the Penal Law does not neatly address the situation where an individual is being initiated into a street gang. In these situations, the gang will either require the recruit to commit a crime to prove his dedication to the gang or, more commonly, be beaten into the gang. In such instances, the recruit is voluntarily engaging in this prohibited activity and seldom cooperates with prosecution. Given the lack of cooperation, it is frequently difficult to establish that the recruit suffered physical injury or was placed in fear of injury as is required to prove the A misdemeanor crimes of Assault in the third degree, Hazing in the first degree, or Menacing in the second degree.

As the current law exists, a defendant commits an A misdemeanor when he "recklessly causes physical injury to another person." (Assault in the third degree, P.L. §120.00(2)) But, when a recruit is uncooperative, it is difficult to establish physical injury, since the recruit will refuse to testify about his pain and injury. The proposed code would require the People to establish that reckless assault occurred "in the course of his own or another person's initiation or affiliation into a criminal street gang" but would only require us to establish that the conduct created "a substantial risk of physical injury." Therefore, the proposed code would make the recruit's refusal or reluctance to testify less problematic, since we would only have to establish a "substantial risk of physical injury" as opposed to actual physical injury.

Under section (2) of the proposed code the B misdemeanor of Menacing in the third degree, under P.L. §120.15, would be elevated to an A misdemeanor, when this crime occurred "in the course of his own or another person's initiation or affiliation into a criminal street gang." This too serves to increase the penalty for gang initiations.

Both of these changes would address the typical gang initiation situation and aid the prosecution of these crimes, especially in cases where the recruit victim and the gang member witnesses are uncooperative. However, our concern with the "criminal street gang" designation as explained before applies here as well.



## **AC§10-169 Criminal Street Gang Solicitation, Proposed Int. No. 945-A**

Currently, the Penal Law makes it a violation when a defendant, "with intent that another person engage in conduct constituting a crime, . . . solicits, requests, commands, importunes or otherwise attempts" to commit this crime. (Criminal Solicitation in the fifth degree, P.L. §100.00) The proposed statute would elevate this violation to an A misdemeanor if the defendant solicits another person as part of a "criminal street gang."

In the street gang context, gang members do not immediately seek to have a potential recruit commit a crime on the gang's behalf. Rather, gang members usually encourage the potential recruit to hang out with them, providing the potential recruit with gang "benefits" including access to comradery, liquor, drugs, and girls. It is only after the recruit has spent time with the gang and developed relationships with individual members, that these members then solicit the potential recruit to commit crimes on the gang's behalf. Therefore, it is extremely unusual for a potential recruit to report or provide information against one of his new "friends," when the gang solicits him to commit a crime. Therefore, this code does not appear to address any significant issue for us in gang prosecution.

In sum, while the proposed codes do address some of the issues we face in prosecuting gangs, we are still concerned that the difficulty in proving the elements outweighs the benefits.



## STATEMENT

**TO:** Hon. Peter F. Vallone, Jr., Chair, NYC Council-Public Safety Committee

**FROM:** Rev. Ronald Sullivan, Board Chair and Jackie Rowe-Adams, Co-Founder  
Harlem Mothers SAVE

**RE:** 12/3/2009 Public Safety Committee Hearing  
Efforts to Combat "Stop Snitching Message" and Criminal Street Gang Related Activities  
Proposed Int. No. 183-A; Proposed Int. No. 941-A; Proposed Int. No. 945-A

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On behalf of the Board of Directors, founders and members of Harlem Mothers S.A.V.E., I would like to thank Speaker Christine Quinn, the Chair of the Public Safety Committee, Peter F. Vallone, Jr., and the members of the Public Safety Committee for proposing amendments to administrative code of the City of New York in relation to criminal street gang activity, criminal street gang solicitation, and criminal street gang initiation activity.

Harlem Mothers S.A.V.E. has a vested interest in the elimination of criminal street gang activities. As the Committee may know, each member of our organization has lost at least one child to street gun violence and in some cases more than one child or family member. Unfortunately, the membership continues to grow as it seems almost on a weekly basis and the shootings and ultimate killings in our community are increasing at an alarming rate. So we have personally experienced the destructive impact on our families from criminal activities that in some cases were strongly suspected to be caused by street gangs. I say "suspected" because 90 percent of the cases have gone unresolved and in other cases the perpetrator was found to be a 13 year old or other teen with an illegal gun. Recently this summer, Cory Squire, a young man who wanted to leave the gang was murdered on west 144<sup>th</sup> Street. This is a real problem for our city and I will go as far to say for our nation.

We are indeed in support of the enactment of the amendments and believe that they represent good initial first steps in thwarting street gang activities that take the lives of our family members and create fear in our communities. We however want to lift up a few additional issues for your consideration.

First, while we strongly agree that these actions as described in the proposed amendments warrant penalties as proposed, we want to make sure that the application of the law does not penalize young people who may be “caught in the middle” i.e. how do you differentiate between those who are initiating gang activity and those who like Cory who have gained the courage to exit the gang but can’t get out safely?” How do we corroborate allegations that maybe brought against a young person suspected of gang initiation/solicitation activity? We would like more clarity on how the application of the amendment.

Second, we advocate very strongly for funding programs that offer preventive measures for young people. Additionally, we strongly solicit the support and assistance of the Committee in getting illegal guns out of the hands of the gangs.

Again, we thank you for giving us the opportunity to express our support of your efforts and our desire to preserve our families and the safety of our communities.

**Street Corner**



**Resources Inc.**

**Success Through Resources**

The no snitching rule was adopted from the Mafia. It became more of a hard and fast rule of the streets in the mid to late nineties. So much so that youth would lay in hospital beds near death and would know who shot them and would not tell. On the streets this along with other behaviors became a badge of honor the ability to take a bullet or see a crime committed even when you or your own family member was the victim this was considered good street etiquette. This rule often leaves the victims and their families accessible to more crime because the perpetrator is still at large. In addition the perpetrator is left on the streets to commit more crimes. As a responsible community member, mother and grandmother working to eliminate gun and gang violence I am in pain every time I am at a crime scene and see the blood and oftentimes brain matter of a young person on the pavement. It is even more painful to see the mothers and family members as they arrive at the scene wanting answers and no one has seen anything and no one will say anything.

This no snitching mentality is destroying the moral fiber of our community, leaving us not just with unsolved crimes but continued violent acts with no repercussions.

EXECUTIVE DIRECTOR IESHA SEKOU

646-377-8904



**NAACP New York State Conference**  
NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE

HAZEL N. DUKES  
President

**TESTIMONY BY HAZEL N. DUKES,  
PRESIDENT OF THE NEW YORK STATE NAACP  
AT THE NEW YORK CITY COUNCIL  
PROPOSED NEW LAWS TO COMBAT STREET GANG VIOLENCE  
DECEMBER 3, 2009**

**Good Morning my name is Hazel N. Dukes, President of the NAACP New York State Conference with fifteen branches located throughout the five boroughs of New York City.**

**The City Council's proposed new laws addressing the growth and violence associated with street gangs here in New York are an important step forward in curbing the growth and violence of street gangs. If for no other reason, they will provide a framework for law enforcement to act more aggressively.**

**However, the gang culture will only be eradicated when many other long overdue actions are undertaken with real seriousness and resolve. Gangs provide a social structure that takes the place of family and other nurturing structures in the lives of our children.**

**The criminal element exploits the hunger of children for structure, guidance, purpose, and affirmation. When the natural family is unable to do so, children will gravitate to any alternative, even a negative one. Gang recruitment begins at earlier and earlier ages, targeting children as young as 10 years of age.**

Until we mend the social fabric in our inner cities and poor communities all the laws in the world will not make a dent in the growth of street gangs and the violence and havoc they wreck. Our children will fall victim to the brutalization and wanton violence associated with gangs. More innocent bystanders will be killed with guns that are flooding our streets and winding up in the hands of our children who have been numbed to the finality of death and the consequences they face for using them.

The NAACP has sought to curb the proliferation of guns by suing gun manufacturers to hold them accountable for the legal and illegal sale of guns that wind up in crimes. But we were not successful. Neither have law enforcement agencies been able or willing to stem the flood of illegal firearms to our communities. Law enforcement has not been successful in stopping the flow of illegal drugs into our communities either.

I am a Civil Rights Advocate so I approach the gang issue from another perspective. We need to provide real alternatives to young people wherever they are and whatever their family status might be. What activities and programs exist to engage young people in positive activities in the communities where gangs thrive? Are their parents or guardians employed at a job that pays enough to put a roof over their head and food on the table?

Does their local public school have attractive classrooms and caring teachers who want them to learn? Does their school have the latest scientific and technology for students to learn 21<sup>st</sup> century skills? Do they have athletic programs to utilize the energy and latent talents these children possess? Are

they engaged in music, art and drama to expand their horizons and appreciate the beauty they provide?

Are there easily accessible after school centers to provide outlets in team sports and study skills; and just positive socializing under adult supervision? What portion of the City budget goes for youth programs and centers? Is it as much as we spend on law enforcement and jails? I think not. Where are the scouting programs? Where are the job training programs for technical and construction work? And where are the part time jobs and internships that teach work skills?

Once upon a time there were such programs and caring adults who stepped in when parents could not provide for their children. I remember the Neighborhood Youth Corps, and CETA, funded by the Anti poverty programs of the 60's and 70's. People had hope and a ladder out of mind numbing poverty. What do we have now in this current period of joblessness and hopelessness? No wonder gangs are thriving.

It is obscene to see our public tax dollars subsidizing the rich with ridiculous salaries and bonuses while leaving our children easy prey for street gangs. The best school facilities and the most talented teachers should be in the neighborhoods where there is the greatest need for uplifting and hope. We can beat the gang culture if we show our children some love and provide them with positive and continuing attention and activities.

Finally, I urge this Council to revisit the gang issue from the other perspective; and compete with the gangs for the hearts and minds of our children with

positive, pro-active programs that tell them we love them more than the gangs do by showing them and their parents some real love.

THANK YOU





# NYCLU

NEW YORK CIVIL LIBERTIES UNION

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**TESTIMONY OF RAHUL SAKSENA  
ON BEHALF OF THE NEW YORK CIVIL LIBERTIES UNION**

**before**

**THE NEW YORK CITY COUNCIL'S COMMITTEE ON  
PUBLIC SAFETY**

**regarding**

**INT. NO. 183-A: IN RELATION TO CRIMINAL STREET GANG ACTIVITY**

**INT. NO. 941-A: IN RELATION TO CRIMINAL STREET GANG INITIATION  
ACTIVITY**

**INT. NO. 945-A: IN RELATION TO CRIMINAL STREET GANG  
SOLICITATION**

**December 3, 2009**

My name is Rahul Saksena.<sup>1</sup> I am legislative counsel with the New York Civil Liberties Union (NYCLU). The NYCLU is the state affiliate of the American Civil Liberties Union. The NYCLU is dedicated to protecting and enhancing New Yorkers' civil rights and civil liberties as articulated in the Bill of Rights of the U.S. Constitution and the Constitution of the State of New York.

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<sup>1</sup> This statement is based, in part, on NYCLU testimony presented in 2003 regarding similar legislation (Int. 364-A).

I present testimony today primarily on Int. No. 183-A, which would create the crime of criminal street gang activity, but I would also like to comment briefly on Int. No. 941-A, which would create the crime of criminal street gang initiation activity, and Int. No. 945-A, which would create the crime of criminal street gang solicitation.

The NYCLU agrees with the central idea upon which these three bills are premised: that persons have a right to be secure and to be protected from fear and harm caused by violent groups and individuals. The recent death of Sadie Mitchell in the Bronx is a painful reminder of what violence (including gang violence) can do, and my heart goes out to Ms. Mitchell's family, friends, and community.

It is not clear whether Ms. Mitchell's death was caused by gang activity. But even if it were, it is the NYCLU's position that the proposed legislation is not an effective approach to preventing gang-related crime. Our concerns are three-fold.

First, the state penal code gives police and prosecutors ample grounds on which to prosecute those responsible for what happened to Ms. Mitchell and others who are harmed by street gang violence. For example, an individual who commits a crime in concert with one or more persons can be prosecuted under the state's conspiracy laws. An individual who solicits a crime in concert with one or more persons can be prosecuted under the state's conspiracy and solicitation laws. An individual who engages in harmful initiation activities can be prosecuted under the state's hazing laws. If he or she hazes in concert with one or more persons, they can all be prosecuted for conspiracy, too. An individual who helps another commit a crime can be prosecuted for facilitation.

Second, we believe enactment of the proposed "street gang crimes" will lead to unwarranted police actions directed at persons engaged in lawful conduct.

And finally, the introduction of these bills is an indication the City is failing to pursue affirmative strategies – employed in cities such as Boston and Chicago – that can be effective in intervening with young people who may be susceptible to involvement in criminal gang activity.

## **I. Int. No. 183-A: In Relation To Criminal Street Gang Activity**

I will begin by addressing Int. 183-A, which would create a new A-misdemeanor offense for “engaging in criminal street gang activity.” The NYCLU respectfully submits that the proposed law is flawed in several respects. We are concerned that the imprecision of the bill’s terminology will create confusion in applying that law, and that this confusion will lead to unauthorized police practices targeted at low-income communities of color.

**The proposed law would employ terminology and definitions that are vague and will therefore lead to misinterpretation by those charged with enforcing the law.**

The penal code is intended to establish rules that clearly define prohibited conduct; and to give unambiguous direction to law enforcement officials regarding what constitutes a criminal act. The proposed legislation fails to meet these standards.

The bill defines a “criminal street gang” as:

a group of three or more persons having as one of its substantial activities or purposes the commission of one or more of the felonies or misdemeanors defined in any of the following articles of the penal law: [list omitted] (Section 10-168(a)1.)

The bill then provides that a person who is a member of such a gang, and who knows that this group of persons is in fact a gang, is criminally liable if he solicits another to join the gang for a criminal purpose.

It is not difficult to foresee that this language would create (if not encourage) opportunities for misguided and unwarranted police action.

First, the bill is premised on the notion that gangs have discrete organizations, easy to identify. They are not. Gangs are complex organizations in their structure and mission; and gangs are no less complex in terms of the status and activities of their members.

Professor David Cole, an expert on gang culture, has written, “it is undoubtedly the rare gang that engages exclusively in illegal behavior. . . . [Gangs] also provide social activities and networks of support to their members. They provide for their members much as fraternities, sororities, basketball leagues. . . . Some gangs engage in political activity, working for community development, voter registration, and civil rights.”<sup>2</sup>

Another student of gang culture in the United States, Professor Richard Curtis, has observed that gangs like the Netas functioned “as an alternative family that prescribed rules and justifications for behavior, thereby bringing order and structure into potentially unmanageable social and emotional situations. For those who had histories of substance abuse or who were infected with HIV, the gangs functioned as vital support networks.”<sup>3</sup>

This is not to deny that certain gangs and certain gang members are involved in criminal activity, but rather to bring attention to the fact that a person who appears to be affiliated with a gang may not be – and to the extent he is involved, that involvement may have nothing to do with the gang’s allegedly criminal conduct.<sup>4</sup> However, the police may not be inclined to make such distinctions – or to make much of them – when the law sets out so imprecisely the indicia of criminal suspicion.

Second, the bill directs police to make determinations about gang-related crime based upon elusive factual criteria. Membership in gang is an element of the gang activity crime. How is a police officer to determine membership status? And assuming this has been established, how will a police officer determine when a gang member’s solicitation of another has an innocent, lawful purpose, as opposed to one that is unlawful.

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<sup>2</sup> COLE, *supra* note 3, at 222.

<sup>3</sup> Ric Curtis, “The Negligible Role of Gangs in Drug Distribution in New York City in the 1990’s,” in *Gangs and Society, Alternative Perspectives*, Louis Kontos, David Brotheron, Luis Barrios, eds., at 50. New York: Columbia University Press (2003).

<sup>4</sup> See Richard Ball and David Curry, “The Logic of Definition in Criminology: Purposes and Methods for Defining ‘Gangs’,” *Criminology* 33 (2) (May 1995). (“Administrators may care less about the theoretical power or empirical applicability of a definition than the fact that it is simple enough to impose bureaucratic standardization for purposes of recordkeeping, and police may be interested primarily in an expedient definition allowing them to hold the collectivity responsible for criminal acts of individual members or vice versa.”)

The fact is the proposed law will lead cops to impute suspicion to individuals and to conduct based on little more than one's association with others in a community. As a practical matter, the bill tells police to consider criminally suspect the simple act of entering a residence or community center that is considered gang territory, or conversing with someone whose clothing seems to indicate gang affiliation. And it can be predicted with a degree of certainty that almost all of these suspects will be brown or black.

**The proposed law, if adopted, will lead to selective policing and prosecution based on race and ethnicity**

The NYCLU is concerned that the new gang crime law will be enforced selectively in communities of color. The City Council cannot ignore that a foreseeable consequence of enacting a criminal sanction framed with such breadth and ambiguity is the increased surveillance, criminal investigation and arrest of young black and Latino men and boys for conduct that is entirely lawful.

The NYPD already stops and frisks hundreds of thousands of law-abiding New Yorkers every year, the vast majority of whom are black and Latino. More than half a million New Yorkers were stopped by police last year, almost ninety percent of whom were entirely innocent of all wrong-doing and released without any further police action. Of those stopped, almost ninety percent were people of color. An analysis by the NYCLU reveals comparable stop-and-frisk statistics each year since 2004.<sup>5</sup>

Similarly, a 2001 report issued by the CCRB found that, as compared with whites, African Americans were approximately twelve times more likely to have been stopped by an officer using physical force, and approximately forty times more likely to have been stopped by an

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<sup>5</sup> In 2008, 531,159 New Yorkers were stopped by the police, 88 percent of whom were completely innocent. Of those stopped, 51 percent were black, 32 percent were Latino, and 11 percent were white. In 2007, 468,732 New Yorkers were stopped by the police, 87 percent of whom were innocent. Of those stopped, 52 percent were black, 31 percent were Latino, and 11 percent were white. In 2006, 508,540 New Yorkers were stopped by the police, 90 percent of whom were completely innocent. Of those stopped, 53 percent were black, 29 percent were Latino, and 11 percent were white. In 2005, 399,043 New Yorkers were stopped by the police, 88 percent of whom were completely innocent. Of those stopped, 49 percent were black, 29 percent were Latino, and 10 percent were white. In 2004, 315,483 New Yorkers were stopped by the police, 89 percent of whom were completely innocent. Of those stopped, 50 percent were black, 29 percent were Latino, and 9 percent were white.

officer using a gun.<sup>6</sup> The CCRB found that civilian complaints related to street stops were twice as likely to be substantiated as compared with other types of complaints, and that street-stop complaints filed by African Americans and Latinos were more likely to be substantiated, and less likely to be exonerated or unfounded, than street-stop complaints filed by whites.<sup>7</sup>

Racial bias is also evident in New York City's marijuana arrest data: although whites use marijuana at least as often as blacks, the per capita arrest rate of blacks for marijuana offenses in New York City between 1996 and 2006 was nearly eight times that of whites.<sup>8</sup>

These statistics indicate a stark racial bias in New York City police practices. The proposed gang recruitment bill would exacerbate the problem by directing police to consider criminally suspect an individual who in some vague, imprecise manner is perceived to be involved with gang-related activity.

**The allocation of police resources to investigate recruitment of suspected gang members may divert attention and resources from other interventions that have proved effective in reducing unlawful gang-related activity.**

If the objective is to steer young people away from criminal activity, then the solution requires an examination of the underlying dynamic that leads to such activity – and the adoption of strategies that can create a dynamic that promotes a more positive outcome.

In fact, relying primarily on a law enforcement strategy to deter unlawful gang activity may prove counterproductive. A recent report by the Justice Policy Institute concluded that “heavy handed suppression efforts can increase gang cohesion and police-community tensions, and they have a poor track record when it comes to reducing crime and violence.”<sup>9</sup> Indeed, the report

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<sup>6</sup> CCRB, Street Stop Encounter Report: An Analysis of CCRB Complaints Resulting from the New York Police Department's “Stop & Frisk” Practices, June 2001.

<sup>7</sup> *Ibid.*

<sup>8</sup> Harry G. Levine and Deborah Peterson Small, “Marijuana Arrest Crusade, Racial Bias and Police Policy in New York City, 1997-2007,” April 2008. Between 1996 and 2006, there were 353,000 marijuana possession arrests in New York City. Fifty-two percent of those arrested were black, 31 percent were Latino, and only 14 percent were white.

<sup>9</sup> Judith Greene and Kevin Pranis, “Gang Wars: The Failure of Enforcement Tactics and the Need for Effective Public Safety Strategies,” *Justice Policy Institute* 7 (2007).

cited the failure of gang suppression tactics in cities like Chicago, Los Angeles, Detroit, and St. Louis. Notably, the report states:

One city that never embraced the heavy-handed suppression tactics chosen elsewhere has experienced far less gang violence. In New York City, a variety of street work and gang intervention programs were fielded decades ago during a period when gang violence was on the rise. These strategies were solidly grounded in principles of effective social work practices that fall outside the realm of law enforcement, and they seem to have helped dissuade city policy makers and police officials from embracing most of the counterproductive gang suppression tactics adopted elsewhere. No seasoned New Yorker would deny the existence of street gangs. But gang-related offenses represent just a tiny blip on the New York crime scene.<sup>10</sup>

We urge the members of this committee to ask themselves this question: by allocating police resources to investigate gang recruitment, what effective, non-prosecutorial strategies for preventing unlawful gang activity are being overlooked? Instead of promoting gang suppression and law enforcement tactics, New York City should reinstitute (or reinvigorate) programs that have proved successful in the past. This includes authorizing health and human services agencies to promote job training, education, and health, and to remove barriers that prevent former gang members from reintegrating into the larger community.

In the past, the NYPD has participated in such education and prevention programs, including the Gang Resistance Education and Training (GREAT) program, that have proven effective, but are underutilized.<sup>11</sup> GREAT has been incorporated into school curricula in forty-seven states. The nine-week program provides students with tools to resist the lure of criminal gang activity, teaching students conflict resolution skills, cultural sensitivity, and the negative aspects of gang life.

Results from a survey of 5,935 eighth-grade students in 11 sites indicate that students who completed the program had more positive attitudes and lower rates of some types of delinquent behavior than did students in the comparison group.<sup>12</sup> These students reported lower levels on all measures of gang affiliation and self-reported delinquency, and these differences were often

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<sup>10</sup> *Ibid.*

<sup>11</sup> Finn-Aage Esbensen and D. Wayne Osgood, "Gang Resistance Education and Training (GREAT): Results from the National Evaluation." *The Journal of Research in Crime and Delinquency* 36 (2), 1999.

<sup>12</sup> *Ibid.*

statistically significant. Program participants had significantly lower rates of drug use and minor delinquent offenses.<sup>13</sup>

In light of these findings, it would seem that any City Council initiative that seeks to address criminal gang activity would incorporate some greater investment in prevention strategies. Innovative programs have been introduced in cities nationwide. However, the scholarly literature indicates that such programs are underutilized.<sup>14</sup>

Finally, we urge that City Councilmembers learn about an innovative program launched in the City of Chicago to combat the problem of youth violence that has plagued that city. Chicago has seen youth violence increase despite “hauling even larger numbers of children off to jail.”<sup>15</sup> In response, the city recently announced a new approach to youth violence that is aimed at solving the underlying problems that lead young people to gang violence, rather than expediting their involvement in the criminal justice system. The program focuses on helping at-risk students by offering them jobs and counseling. It pairs local advocates with these young people, giving them an opportunity to develop a constructive relationship with an adult. The Chicago model for addressing gang activity favors “mental health strategies and prevention over policing and punishment.”<sup>16</sup>

The Chicago model comes with a significant price tag, but New York City already spends significant amounts of money aggressively policing persons engaged in lawful activity, as well as low-level, nonviolent offenses such as marijuana possession. Why not allocate a small share of that budget to steering individuals away from gang activity and toward a successful life path.

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<sup>13</sup> Ibid.

<sup>14</sup> See James Diego Vigil, “Streets and Schools: How Educators Can Help Chicano Marginalized Gang Youth,” *Harvard Educational Review*, 69(3), Fall 1999. “Prevention, intervention, and suppression strategies provide a logical, flexible balance for addressing the needs and problems of children from marginal gang backgrounds. At present, however, schools reflect the visceral sentiments of society at large, which supports suppression as the sole solution to a complicated problem. Thus, prevention and intervention efforts that could be effectively implemented in elementary schools are largely untried, and the limited programs at the middle school and high school level tend to reinforce rather than alleviate gang deviance.”

<sup>15</sup> Editorial. “A Powerful Idea on Youth Violence.” *New York Times* Nov. 5, 2009.

<sup>16</sup> Susan Saulney. “Focus in Chicago: Students at Risk of Violence.” *New York Times* Oct. 7, 2009.



The foregoing analysis leads us to call on the City Council to withdraw the proposed legislation and to pursue non-prosecutorial strategies for preventing gang-related crime.

**II. Int. No. 941-A: In Relation To Criminal Street Gang Initiation Activity and Int. No. 945-A: In Relation to Criminal Street Gang Solicitation**

The concerns about vagueness and imprecision in the language of Int. No. 183-A also apply to the two related bills (Int. No. 941-A and Int. No. 945-A), which involve initiation and solicitation activity. The problem here is that the definition of “criminal street gang” is incorporated in each of the bills. In addition we find that Int. No. 941-A and Int. No. 945 are inconsistent with the state legislature’s intent as regards similar provisions in the New York Penal Law. Further, we believe that Int. No. 945-A criminalizes the same conduct as Int. No. 183-A.

Int. No. 941-A and Int. No. 945-A punish as class A misdemeanors conduct that is punished as a violation in state law. Significant penalty enhancements for relatively minor offenses are thus inconsistent with provisions of the New York Penal Law and raise a question as to whether the city is preempted from enacting the proposed legislation.

Under New York State Law, “hazing” is already an established crime.<sup>17</sup> A person, who, in the course of another person’s initiation into or affiliation with any organization, intentionally or recklessly engages in conduct that creates a substantial risk of physical injury to such other person or a third person, is guilty of hazing in the second degree. Under state law, this conduct is punished as a violation. By contrast, under Int. No. 941-A, titled “Criminal street gang initiation activity,” a person who engages in the exact same conduct in New York City would be guilty of a class A misdemeanor. Under the New York State law, only hazing in the first degree—which requires an actual injury—is punished as a class A misdemeanor.

Similarly, under New York State Law, “solicitation” is an established crime.<sup>18</sup> Criminal solicitation in the fifth degree – the intentional solicitation of another to commit a misdemeanor or other non-felony – is a violation under state law. By contrast, under the proposed Int. No.

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<sup>17</sup> NYPL § 120.17

<sup>18</sup> NYPL § 100.00

945-A, titled "Criminal street gang solicitation," a person who, in concert with another, intentionally solicits another person to commit a misdemeanor or other non-felony is guilty of a class A misdemeanor.

These increased penalties are not likely to have an increased deterrent effect. But the City would be punishing low-level conduct as a far more serious offense than under state law. This not only raises the issue of preemption; as a practical matter the enactment of criminal standards for New York City that depart significantly from the state's criminal law will create confusion for police, prosecutors, defense attorneys, and judges.

**Int. No. 945-A criminalizes the same conduct as Int. No. 183-A**

Under Int. No. 183-A, a person is guilty of "engaging" in criminal street gang activity when he solicits another to join the gang, provided that the purpose of the solicitation is to commit one of the enumerated crimes. Under Int. No. 945-A, a person is guilty of "gang solicitation" when he solicits another to commit one of the same specified crimes. Essentially, the elements of Int. Nos. 183-A and 945-A are the same, thus creating redundancy. Both bills require that a person: (1) is a member of "criminal street gang" and (2) solicits another to commit one of the crimes specified in bill.

Moreover, this person can also be charged with solicitation under State law, since by definition he has worked "in concert with another." This further redundancy will create even greater confusion for police, prosecutors, defense attorneys, and judges.

We urge the City Council not to proceed with Int. Nos. 941-A and 945-A.

# The New York Times

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November 5, 2009

EDITORIAL

## A Powerful Idea on Youth Violence

As a former beat cop, Ron Huberman, the new chief of public schools in Chicago, learned long ago that violence among young urban people could not be solved simply by hauling ever larger numbers of children off to jail.

With the prompting and support of his boss, Mayor Richard M. Daley, Mr. Huberman is trying a new approach to the violence that has killed and maimed hundreds of young people and turned Chicago's poorest neighborhoods into precincts of terror and despair.

The ambitious plan will offer mentoring, counseling and jobs to high-risk students. To determine who they are, Mr. Huberman analyzed the cases of more than 500 young people who were killed or wounded in gun violence over the last two years. The analysis suggests that nearly 10,000 of the city's 113,000 high school students are at risk of becoming victims of gun violence and need help.

Their lives follow a clear pattern. They are absent from school more than 40 percent of the time, on average. They have fallen behind and are more likely to be enrolled in special education. And they generally attend 38 of the city's nearly 140 public high schools.

None of the shooting incidents studied occurred inside the schools, and most happened well after school hours. But the chaotic schools attended by high-risk students tend to

differ from better-run schools in measurable ways. They have fewer counselors and social workers. They have higher rates of suspension and expulsion. They more often involve the police in minor skirmishes, like shoving matches, that then go unresolved.

Mr. Huberman wants to remake the high-risk schools by beefing up the social work and counseling staff, by better training security guards and overhauling a disciplinary process that seems designed to throw out as many children as possible as quickly as possible. Most crucial, he hopes to improve involvement by guardians and parents.

Chicago has a significant gang turf problem. To deal with that, the city plans to do a better job of creating safe-passage lanes so that students will be able to come and go from school without being harmed. At-risk students will be offered paying jobs and paired with local advocates who will engage the young person's family and be available around the clock. The point is to provide these young people with the constructive adult relationship that so many of them seem to lack.

The plan, which will be started with federal stimulus money, will cost \$60 million for the first two years. But it will more than pay for itself if it reduces the number of shootings and deaths and puts more young people on the road to productive lives instead of the road to prison. It deserves full and enthusiastic support from the city, community groups and from the business community, which could play an essential role by providing the young participants with jobs.

# The New York Times

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October 7, 2009

## Focus in Chicago: Students at Risk of Violence

By SUSAN SAULNY

CHICAGO — The new chief officer of the public schools here, Ron Huberman, a former police officer and transit executive with a passion for data analysis, has a plan to stop the killings of the city's public school students. And it does not have to do with guns or security guards. It has to do with statistics and probability.

The plan comes too late for Derrion Albert, the 16-year-old who was beaten to death recently with wood planks after getting caught on his way home between two rival South Side gangs, neither of which he was a member, the police said.

The killing, captured on cellphone video and broadcast on YouTube, among other places, has once again caused widespread grief over a seemingly intractable problem here. Derrion, a football player on the honor roll, was the third youth to die violently this academic year — and the 67th since the beginning of the 2007-8 school year. And hundreds of others have survived shootings or severe beatings on their way to and from school.

But if Mr. Huberman's hunch is right, about 10,000 high school students with the highest risk of becoming involved the violence as victims, or even perpetrators, will be better off once his plan is in place this winter.

Financed by federal stimulus grants for two years, the \$60 million plan uses a formula gleaned from an analysis of more than 500 students who were shot over the last several years to predict the characteristics of potential future victims, including when and where they might be attacked. While other big city school districts, including New York, have tried to focus security efforts on preventing violence, this plan goes further by identifying the most vulnerable students and saturating them with adult attention, including giving each of them a paid job and a local advocate who would be on call for support 24 hours a day.

From the study of the 500 shootings, Mr. Huberman said, officials know that deadly violent outbursts are not truly random. The students at highest risk of violence, by statistics, are most likely to be black, male, without a stable living environment, in special education, skipping an average of 42 percent of school days at neighborhood and alternative schools, and having a record of in-school behavioral flare-ups that is about eight times higher than the average student.

Attacks have typically happened beyond a two-hour window from the start and end of school — that is, late at night or very early in the morning — and blocks away from school grounds, where neighborhood boundaries press against one another.

Within the three dozen or so schools where 80 percent of the victims in the study attended classes, the plan calls for a rethinking of the security philosophy so that policies favor mental health strategies and prevention over policing and punishment. And officials are becoming more strategic about providing safe passage to school by increasing police enforcement and by keeping tabs on gang and clique activities in real time as their turf wars hopscotch around school catchment areas.

“We were hoping the analysis would reveal what we should do, and in fact it has,” Mr. Huberman said.

The new approach, which took a team of eight people six months to create, is the most detailed and expensive effort to be put to the test in Chicago. But made public last month, it is not without some controversy.

Public school parents on the South Side have grown weary of new plans as they watch the death toll for mostly minority children in poor neighborhoods rising. About 85 percent of the public school student population lives in poverty. Some question why only 10,000 students — a small fraction of the 410,000-student population — should get extra resources.

Chicago typically spends \$55 million a year on security for what is the third-largest school system in the nation. With the new plan, it will be spending \$30 million a year on just the 10,000 adolescents most at risk.

“We’re living a nightmare,” said Stacey Willis, a parent of a high school sophomore, “and the community is very upset.”

Mr. Huberman said one of the inspirations for the new approach came from his years as a rapid response officer with the Chicago Police Department, but he is clear-eyed about the plan’s limitations in a school setting. Derrion Albert, a student in good standing, would not have been on a risk list, for instance. But, as the official thinking goes, perhaps his attackers would have been because the perpetrators often seem to come from the same at-risk group of students as the victims, and that could have made a life-or-death difference.

“What this model won’t do is get every kid who gets shot, but what it does do is give us a fighting chance to identify those kids who are most in trouble,” said Mr. Huberman, who was appointed in January by Mayor Richard M. Daley after the previous schools chief, Arne Duncan, was tapped by the Obama administration to be secretary of education. Mr. Duncan and Attorney General Eric H. Holder Jr. are scheduled on Wednesday to visit with Derrion Albert’s family.

Upon his appointment, Mr. Huberman said, Mayor Daley gave him a mandate: think outside the box and help us figure this out.

The youth safety issue has presented numerous school chiefs here a vexing paradox. As crime is down in general and the Chicago schools themselves are among the safest places for students to be — none of the recent killings has taken place on school grounds — children continue to be killed in their neighborhoods. Reinvigorated gang wars, some say from the large-scale demolition of public housing and the scattering of tenants, have turned some West and South Side areas into terrifying places for children to crisscross. Over the years, some of the shooting victims have been affiliated with gangs, but many have not.

One was a 7-year-old waiting at a hamburger stand with her father.

“You can track where we’ve spent more or less money on security and initiatives, and it hasn’t helped,” Mr. Huberman said. “So we knew that fundamentally it was not going to make a difference for the kids. So we needed to alter how we do things.”

Other cities will be watching what Chicago does to try to solve its youth violence problem.



Michael Casserly, executive director of the Council of the Great City Schools, a Washington-based coalition of the nation's largest school systems, said education officials in Detroit, Los Angeles, Miami, New York and other cities have also worked on reducing violence against students. "But the Chicago proposal strikes me as far more comprehensive than you often see in other cities," he said.

The immediate challenge for Chicago is rolling out the complicated plan, which involves the coordination of various city departments and agencies, including the Police Department and Department of Children and Family Services, and local nonprofit and community groups.

The students will also have "to bite," as Mr. Huberman puts it, adding that many are unaccustomed to having the kind of meaningful adult relationships the program envisions. To help get their buy-in, the program includes part-time jobs for students who participate. (No student who participates would be publicly identified, officials said, except to the adults involved in his or her intervention.)

"We believe that if we can change the behavior of these 10,000 students," Mr. Huberman said, "we'll be able to make a significant difference in the level of violence in the city."

## TESTIMONY

The Council of the City of New York

Committee on Public Safety  
Peter F. Vallone, Jr., Chair

“Oversight--Efforts to Combat the "stop snitching" message:  
Proposed Int. No. 183-A: A Local Law to amend the administrative  
code of the city of New York, in relation to criminal street gang  
activity; Proposed Int. No. 941-A: A Local Law to amend the  
administrative code of the city of New York, in relation to criminal  
street gang initiation activity; Proposed Int. No. 945-A: A Local Law to  
amend the administrative code of the city of New York, in relation to  
criminal street gang solicitation. ”

December 3, 2009  
New York, New York

Submitted by  
The Legal Aid Society  
Juvenile Rights Practice &  
Criminal Practice  
199 Water Street  
New York, NY 10038

Good afternoon. I am Nancy Ginsburg, director of the Legal Aid Society's Adolescent Intervention and Diversion Project in the Criminal Practice, a specialized unit dedicated to the representation of adolescents aged 13 to 18 who are prosecuted in the adult criminal courts. I submit this testimony on behalf of the Legal Aid Society, and thank Chairman Vallone and the Committee on Public Safety for inviting our thoughts on the three proposed bills addressing gang activity, initiation and solicitation. We appreciate the Council's interest in reducing gang activity on the streets of New York City. We look forward to working with the Committee and the Council to create working solutions to the issue of street gangs.

The Legal Aid Society is the nation's largest and oldest provider of legal services to poor families and individuals. Legal Aid's Juvenile Rights Practice provides comprehensive representation as attorneys for children who appear before the New York City Family Court in abuse, neglect, juvenile delinquency, and other proceedings affecting children's rights and welfare. Last year, our staff represented more than 30,000 children, including approximately 4000 who were charged in Family Court with juvenile delinquency. The Society's Criminal Practice represented clients in some 232,000 cases last year. Our perspective comes from our daily contacts with children and their families, and also from our frequent interactions with the courts, social service providers, City agencies including the New York Police Department, Department of Education, Department of Juvenile Justice, Department of Probation Department of Correction and the Administration for Children's Services. In addition to representing many thousands of children each year in trial and appellate courts, we also pursue impact litigation and other law reform initiatives on behalf of our clients.

It is well documented that many young people join gangs, and talk to other young people about joining gangs, for reasons other than criminal activity. For example, they often organize themselves into gangs for reasons of friendship, pleasure, or harmless mischief, as well as for criminal gain. They seek identity, respect, and a sense of belonging and support.<sup>1</sup> Indeed, gang membership is often used by children as a means of self-preservation. Children frequently have to "make peace" with local gangs in order to go to school or to walk around their neighborhood.<sup>2</sup> Research has also documented that the higher ranking members of gangs tend to commit criminal activity, but not wear gang clothing or colors, whereas the younger members, or "wannabees," wear the right colors and flash gang signs, but are unlikely to engage in criminal activity.<sup>3</sup>

Enforcement of the proposed bills will disproportionately affect youth of color in impoverished neighborhoods, where teenage "life" tends to take place on the street. These young people live in neighborhoods already beset by numerous problems including failing schools, high rates of illiteracy, unemployment, fractured families, and a lack of adequate social services. While the bills may truly seek to strengthen communities that are struggling to resist the enticement of gangs, we believe these bills will not result in that outcome. The New York State Penal law already proscribes almost all the activity addressed by these bills.

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<sup>1</sup> Mayer, "Individual Moral Responsibility and the Criminalization of Youth Gangs," 28 Wake Forest Law Review 943,953 (1993); Molina, "California's Anti-gang Street Terrorism Enforcement and Prevention Act: One Step Forward, Two Steps Back?", 22 Southwestern University Law Review 457, 463 (1993).

<sup>2</sup> Mayer at 961; Kotlowitz, "There Are No Children Here: The Story of Two Boys Growing Up in the Other America" (1991), at 221.

<sup>3</sup> Mayer at 961; see also Anderson, "Streetwise, Race, Class, and Change in the Urban Community" (1990), at 176-78.

We share the Council's concern about the negative pull of the gangs on the youth of our City. We encourage the Council to look to evidence-based approaches that have a proven track record in addressing the issues of gang solicitation and activity by investing the necessary resources to strengthen families, improve schools, enhance pro-social opportunities, and bolster community organizations in poor neighborhoods. As former Labor Secretary Alexis Herman has said, "The best crime prevention strategy is a jobs promotion strategy."<sup>4</sup>

There is a well-established body of New York law that governs whether a local government may legislate in a field where the State Legislature has already acted. The principle, known as the "preemption doctrine," holds that localities may not enact ordinances inconsistent with State statutes, nor may the locality act on its own when the State has evidenced its intent to "occupy" a "field" of legislation. The Legislature need not expressly say it is preempting the field. That intent "may be implied from the nature of the subject matter being regulated and the purpose and scope of the State legislative scheme...A comprehensive, detailed statutory scheme, for example, may evidence an intent to preempt." See Robin v. Incorporated Village of Hempstead, 30 N.Y.2d 347 (1972); Consolidated Edison Co. V. Town of Red Hook, 60 N.Y.2d 99 (1983); New York State Club Ass'n. V. City of New York, 69 N.Y.2d 211 (1987); Jancyn Mfg. Corp. v. County of Suffolk, 71 N.Y.2d 91 (1987), and Albany Area Builders Association v. Town of Guilderland, 74 N.Y.2d 372 (1989).

The Legislature has carefully delineated, in Penal Law Articles 100 and 120, a gradation of offenses of the behavior contemplated by the proposed bills.

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<sup>4</sup> Hearing on Youth Violence Prevention, U.S. Senate Subcommittee on Labor, Health, Human Services and Education, 106th Congress 48, at 13 (2000).

The proposed package of bills essentially bumps up the seriousness of certain offenses from violations to misdemeanors. The bills create a separate penal system in which certain offenses may be punished more severely than elsewhere in the State, while other offenses may be prosecuted in New York City using a lower standard of proof than is required in other parts of the State.

For instance, Intro. 941-A contains two penal provisions. Proposed § 10-170 (a)(1) addresses conduct which is already a Class A misdemeanor, Reckless Endangerment in the second degree, if the offender creates a substantial risk of "serious" physical injury, and makes it a Class A misdemeanor in the City if the offender merely creates a substantial risk of "physical" injury, making the offense easier to prove. Viewed another way, the precise conduct addressed by this provision is currently the violation of Hazing in the second degree, P.L. § 120.17. The proposed bill would upgrade the offense to an A misdemeanor, only in New York City. The second clause of the bill, proposed § 10-170 (a)(2), makes the B misdemeanor of Menacing in the third degree an A misdemeanor if it occurs in the course of a gang initiation.

Additionally, we believe that enactment of the proposed law would be unwise because it will not have a significant impact on the activity that it targets. Its most likely effect would be to widen the net--bringing more children into the already overburdened Family Court system. Without appropriate services in place, more children will face the prospect of incarceration while the underlying reasons for gang activity will remain unaddressed. Of even more concern, it is widely known that gangs have a presence in the juvenile detention centers and on Rikers Island. Accordingly, incarceration often leads to further entrenchment in the gang culture.

Another practical effect of the proposed legislation will be to lower the jurisdictional floor of Family Court. Currently, children aged seven to fifteen can be prosecuted in Family Court for acts "that would constitute a crime if committed by an adult". (Family Court Act §301.2(1)) Children are not prosecuted for violation offenses in Family Court. The New York State Legislature has classified some of the offenses included in the bills under consideration as violations. These bills now make those offenses misdemeanors.

Intro. 945-A adds §10-169, "Criminal Street Gang Solicitation," which takes an offense which is now a violation, Criminal Solicitation in the fifth degree, and upgrades it to an A misdemeanor if the offender acts "as part of a criminal street gang." Notably, this conduct is already an A misdemeanor under State law if the offender is over 18 and the person "solicited" is under 16. P.L. § 100.05(2). Therefore, the new provision is unnecessary to deter adults from luring young teenagers into criminal gang activity.

It should be noted that the Courts have limited powers to effectively address gang activity. The only tools available are incarceration and probation supervision. There are no alternative-to-detention or alternative-to-incarceration programs that focus specifically on gang involvement. This is the case despite repeated requests by Judges for such programs. Prop. Int. 941-A will bring an even larger number of children under the supervision of the Family Court for activity it lacks the tools to address.

Proposed § 10-168, "Engaging in criminal street gang activity," which would be added by Intro. 183-A, essentially mirrors the language of Penal Law §135.60, Coercion, a Class A misdemeanor offense committed when someone

"compels a person to engage in conduct which the latter has a legal right to abstain from engaging in" [such as joining a gang], or compels a person to abstain from engaging in conduct in which he has a legal right to engage" [such as leaving a gang], "by instilling in him a fear that, if the demand is not complied with, the actor or another will," among other things, "cause physical injury to a person, or cause damage to property," or "perform any other act which would not in itself materially benefit the actor but which is calculated to harm another person materially with respect to his health, safety, business, calling, career, financial condition, reputation or personal relationships."

Clearly this language encompasses any sort of intimidation, including "peer pressure," that may be employed to recruit reluctant youngsters into gangs, or to deter frightened youngsters from leaving gangs. The only conduct encompassed by the new bill, not already punishable under the Coercion statute, is non-threatening, non-violent, purely verbal conduct.

In particular, §10-168(b)(2) states that "[a] person is guilty of engaging in criminal street gang activity when he or she, being a member of a criminal street gang or acting in concert with a member of a criminal street gang, and knowing that such group is a criminal street gang, engages in any of the following activities: (2) deterring or attempting to deter another who knows the group is a criminal street gang from leaving such criminal street gang." This language could support the prosecution of individuals who were not intended to be covered by this provision. For instance, consider a sixteen-year-old boy and his fourteen-year-old brother joined a gang, or became affiliated with a gang, because they felt they needed to do so for the extra protection it provided for them between their apartment and school. One day, the sixteen-year-old tells his younger



brother that he wants to be out of the gang. The fourteen-year-old tries to convince him to stay in the gang, because he fears that something will happen to his brother. The fourteen-year-old can be prosecuted for an A misdemeanor. If it were the sixteen-year-old trying to convince the fourteen-year-old to stay in the gang for protection purposes, he would be prosecuted in adult Criminal Court.

The Penal Law already provides law enforcement with a broad arsenal of tools to suppress gang activity on our streets. We often see individuals prosecuted for "gang activity" for involvement in crimes with at least two others despite the fact not one individual is affiliated with an actual gang. While this approach allows people who act in groups to face enhanced punishment, it often has no connection to gang activity. This kind of law enforcement approach to the complex issues of gang membership simply does not address the conditions and problems that make these group affiliations attractive to young people.

The decision to join a gang for an adult is simple. It is almost always a decision that leads to criminal activity. It is a knowing decision which leads to foreseeable consequences. Children -- defined in all parts of New York law except in the area of Criminal law as being below the age of eighteen -- join gangs or become affiliated with gangs for a broader range of reasons. They may live in a dangerous building, block or neighborhood and see a gang as providing protection. They may attend a school where the same issue is presented. Some children join gangs because their family members belong. Those children join to show allegiance to their families. Some children look to gangs for the love and support they cannot get from their families. The gangs provide an alternative family for these youth. Some children seek out gangs to enhance their self-esteem. Other young people join gangs because they represent an opportunity

to stand out among their friends. It is a path to money, social stature and excitement in places that lack paths to achieve those things.

The federal government and many local governments have recognized the complexity and the attraction of gangs for children. The United States Department of Justice, Office of Juvenile Justice and Delinquency Prevention, has created what it calls a "Comprehensive Gang Model" which includes five strategies:

1. Community Mobilization: involvement of local citizens, including former gang involved youth, community groups, agencies, and coordination of programs and staff functions within and across agencies.
2. Opportunities Provision: development of a variety of specific education, training, and employment programs targeting gang-involved youth.
3. Social Intervention: involving youth-serving agencies, schools, grassroots groups, faith-based organizations in "reaching out" to gang-involved youth and their families, and linking them with the conventional world and needed services.
4. Suppression: Formal and informal social control procedures, including close supervision and monitoring of gang-involved youth by agencies of the juvenile/criminal justice system and also by community-based agencies, schools, and grassroots groups.
5. Organizational Change and Development: Development and implementation of policies and procedures that result in the most effective use of available and potential resources, within and across agencies, to better address the gang problem. <http://ojjdp.ncjrs.org/programs/antigang/index.html>

Recognizing that "gangs are often the result of system failures or community dysfunction", OJJDP has provided funding to jurisdictions throughout the country create programs to address gang activity. This past August, Attorney General Eric Holder recognized the power of implementing evidence-based approaches to gang violence. He credited a Los Angeles model which created partnerships with community-based organizations to provide services to young people in impoverished communities and a Chicago model which uses a public health approach to public safety. <http://www.justice.gov/ag/speeches/2009/ag-speech-090824.html>

We urge the Committee and the Council as a whole to join these other cities and make a commitment to innovative social service and public health programming to address the problems of gang recruitment and activity. New York has enough in its penal arsenal to prosecute gang members. What is needed now is a comprehensive, meaningful approach to create avenues for young people to follow that are more appealing than the gangs.

Law enforcement avenues already exist. Instead, the City should redirect resources towards the expansion of anti-gang programs and alternatives to gang membership. The best anti-gang program that we have seen is the Council for Unity, a program that receives the bulk of its City funding through the Department of Education and only has school-based programs. However, a community based alternative to incarceration program that has the staff diversity to work with different gangs is also critically needed.

Gang involvement cannot be effectively approached solely with a law enforcement model -- even those in law enforcement who are well versed in the issue will agree. Ron "Cook" Barrett, a gang prevention specialist with the Capital Region Gang Prevention Center, who advocates for a balance of law enforcement and social service provision has noted that he has been criticized for focusing too many resources on the prevention aspect of gangs rather than a sole focus on prosecution. However, he notes that "to treat the illness, you also have to take your vitamins".

<http://www.nysgangprevention.com/programcoord/nav.html>

The City should address the negative effects of gang membership through the provision of community-based programs and after-school activities to provide viable alternatives to our young people, not through the enactment of additional criminal statutes. The conditions that make gangs attractive should be attacked

with the kind of investment in our young people that, in the long run, will bring a safer, more secure City for all of us.

Thank you for the opportunity to speak about this important issue.

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**Written Comments of The Bronx Defenders  
New York City Council  
Committee on Public Safety  
December 3, 2009**

**Introduction**

My name is Rebecca Engel, and I am a staff attorney at the Bronx Defenders. I submit these comments with Kate Rubin, our Policy Director, on behalf of The Bronx Defenders, and thank the Public Safety Committee and the City Council for the opportunity to testify.

The Bronx Defenders is a community-based public defender service that provides holistic criminal defense, family defense, civil legal services, and social services to indigent people charged with crimes in the Bronx. We serve 14,000+ Bronx residents each year, nearly all of whom are poor and almost all of whom are Black and Latino. Because New York automatically tries all defendants over the age of 16 as adults, our office also defends nearly 1,000 adolescents every year. The Bronx Defenders views our clients not as "cases," but as whole people: caring parents, hard workers, recent immigrants, native New Yorkers, and students with hope for the future. Whether defending a client's liberty; connecting a young man to mental health services; preventing an elderly woman's eviction; working to keep a family together; or preparing a neighborhood teenager to join the next generation of leaders, The Bronx Defenders ultimately strives to improve the lives and futures of all of the Bronx's residents.

**Overbreadth of the Proposed Legislation**

We join the Council and the Public Safety Committee in searching for ways to keep this city's young people from entering the cycle of violence and crime. We appreciate the careful

thought that has gone into the drafting and revision of this legislation before the Council, particularly the greater precision of the language in the current bill, and the Committee's attention to some of the potential effects of these laws on freedom of association and speech.

However, as a public defender office located in the poorest Congressional district in America, we are still greatly concerned about the impact that the proposed legislation will have on the clients that we serve. As it stands, Bronx residents must already be on guard against the criminalization of their everyday behavior. For example, in 2008, high school interns at The Bronx Defenders surveyed over 200 South Bronx residents and found that 26% had been stopped and questioned about trespassing *in their own buildings*. Of those, 16% were actually charged with trespassing in their own buildings and had to fight their cases in court. Our experience on the ground has shown us that when so-called "quality of life" policing is combined with statutes that are as overbroad as the gang solicitation proposals currently before this Committee, the results are almost always disastrous for our clients.

In Proposed Laws 183-A and 945-A, this overbreadth is embodied in the list of crimes that constitute "criminal street gang" activities: among others, this list includes all offenses "involving marijuana" and all offenses of "harassment." However, low-level harassment behavior and marijuana possession are not even considered crimes in New York: by law, they are *violations*, the legal equivalents of traffic infractions. So, while one teenager smoking a marijuana cigarette in private can, by law, only be charged with a violation, under these new proposed laws, three teenagers smoking marijuana cigarettes in private could be charged with "engaging in criminal street gang activity." And if those same teenagers ask a friend to join them in their activities, then they are guilty of "criminal street gang solicitation"-- a Class A Misdemeanor that could appear on their criminal record forever. In other words, rather than

addressing the more serious issue of gang-motivated violence, this law would make misdemeanors out of low-level offenses that are not necessarily related in any way to gang activity.

### **The Problem of Selective Enforcement**

While this scenario may seem exaggerated to members of the Committee, the selective punishment of low-level criminal conduct is a reality of our clients' everyday lives. For example, despite consistent data showing that a greater percentage of whites than blacks or Hispanics have used marijuana in New York City, the marijuana arrest rate of Hispanics is nearly three times the arrest rate of whites, while the marijuana arrest rate of blacks is five times the arrest rate of whites.<sup>1</sup> Likewise, when it comes to trespassing, every single attorney at The Bronx Defenders can tell a story of a client who has been charged with Trespass simply for walking through a public park as a shortcut on her way home—or even through her own public housing complex without her ID. And as absurd as these charges are, for many of our clients, pleading not guilty and fighting the case in court is not a realistic option: they cannot afford to miss days from work or school to make the many court appearances they will have if they refuse to take a plea.

The proposed gang solicitation laws will only add to the selective enforcement problem, by allowing the police to use overly broad statutory language to target youth of color in low-income neighborhoods. National statistics back up this concern: as the Justice Policy Institute noted in a recent report, “Law enforcement sources report that 90% of gang members are nonwhite, but youth survey data show that whites account for 50% of adolescent gang members. White gang youth closely resemble black and Latino counterparts on measures of delinquency

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<sup>1</sup> Harry G. Levine and Deborah Peterson Small, “Marijuana Arrest Crusade: Racial Bias and Policy in New York City, 1997-2007,” The New York Civil Liberties Union, April 2008.

and gang involvement, yet they are virtually absent from most law enforcement and media accounts of the gang problem.”<sup>2</sup>

### **Gang Members For Life?**

Because our practice is built around holistic representation, we are also concerned about the wide range of life-altering consequences that this new category of criminal activity could expose our clients to. While nearly all violation convictions are sealed for civil purposes, misdemeanor convictions like those contemplated by the proposed laws, can never be sealed.<sup>3</sup> A plea to a misdemeanor will appear on a client’s record for the rest of her life – every time she applies for a job or seeks to rent an apartment. Among other consequences, a misdemeanor plea is enough to terminate an entire household’s tenancy in public housing and render a client’s family homeless. And for a green card holder who has lived in the United States since she was a small child, certain misdemeanor pleas can even lead to deportation.

These civil consequences fall with particular brutality on the adolescent clients that would be most affected by the proposed laws. Researchers have consistently found that the prevalence of gang membership drops after the early teenage years. Gang membership is usually a fleeting experience for these young teenagers—after less than a year, the majority of them have moved on.<sup>4</sup> However, in the short time that they are gang members, these younger teenagers, recent recruits themselves, are usually the ones responsible for recruiting new members. The proposed law would therefore punish precisely those whom it claims to want to protect, by branding these young teenagers with a lifetime criminal record for “criminal street gang

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<sup>2</sup> Judith Greene and Kevin Pranis, “Gang Wars: The Failure of Enforcement Tactics and the Need for Effective Public Safety Strategies,” *The Justice Policy Institute* 4 (2007).

<sup>3</sup> The one exception is when a judge chooses to give “youthful offender” treatment to a defendant between the ages of 16 and 19.

<sup>4</sup> *Id.*



solicitation.” And by placing the “gang” label on a huge range of social groupings and activities in communities like the Bronx, this law would criminalize peer pressure in a way that would never be considered in the city’s more affluent neighborhoods.

Indeed, the line between whom we want to protect and whom we want to punish is so thin that it virtually disappears in the proposed laws’ text. While the aim of Proposed Law 945-A is to protect vulnerable teenagers, declaring that “solicitation by a group creates peer pressure,” and that “gangs are known to target young people who feel lost and seek acceptance as potential members of the group,” its companion law, Proposed Law 941-A, states that “the person being initiated is as culpable in these activities as the person leading the initiation.” This inconsistency is more than just linguistic: by fixing the “gang” label on a young teenager, the proposed laws ensure that former gang members will be treated as gang members no matter how they manage to change their lives. As such, these laws will hardly deter youth from leaving gangs. They will, however, play their role in initiating a whole new category of teenagers into the criminal justice system.

### **More Effective Alternatives**

Finally, The Bronx Defenders is concerned about the timing and need for the proposed legislation. In spite of some recent tragic and high profile events – two of which occurred in the Bronx - youth crime in the U.S. is at lowest level in three decades, including in New York City. There is no evidence of any increase in gang membership in New York, and gang experts agree that gang-related offenses represent just a tiny fraction of the New York crime scene.<sup>5</sup> In fact, New York City is often held up as a model for other large U.S. cities, when it comes to anti-gang

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<sup>5</sup> *Id.*

strategies. In the 1980s and 1990s, a variety of street work, job training, educational, and gang prevention programs helped to bring gang violence in New York City to historic lows.

Over the past decade, The Bronx Defenders has witnessed how these programs have worked for young people, and would welcome the Council's focus on similar strategies. However, we believe that increased criminal enforcement will only increase gang cohesion, and will exacerbate already strained police-community tensions in neighborhoods like the South Bronx. Specifically, we do not believe that creating a whole new category of crimes, as well as a new regime of punishment, for "criminal street gang solicitation," as recommended by Proposed Laws 945-A and 183-A, will have any deterrent effect, especially since, as noted by our colleagues at Legal Aid, these laws re-criminalize that which is already illegal. Ultimately, then, all that this legislation will do is open the door to more selective enforcement, more overcharging of minor offenses, and ultimately, more lives ruined by the label of "gang member" resonating on rap sheets and in our clients' own minds.

# DAILY NEWS

Sunday, November 29, 2009

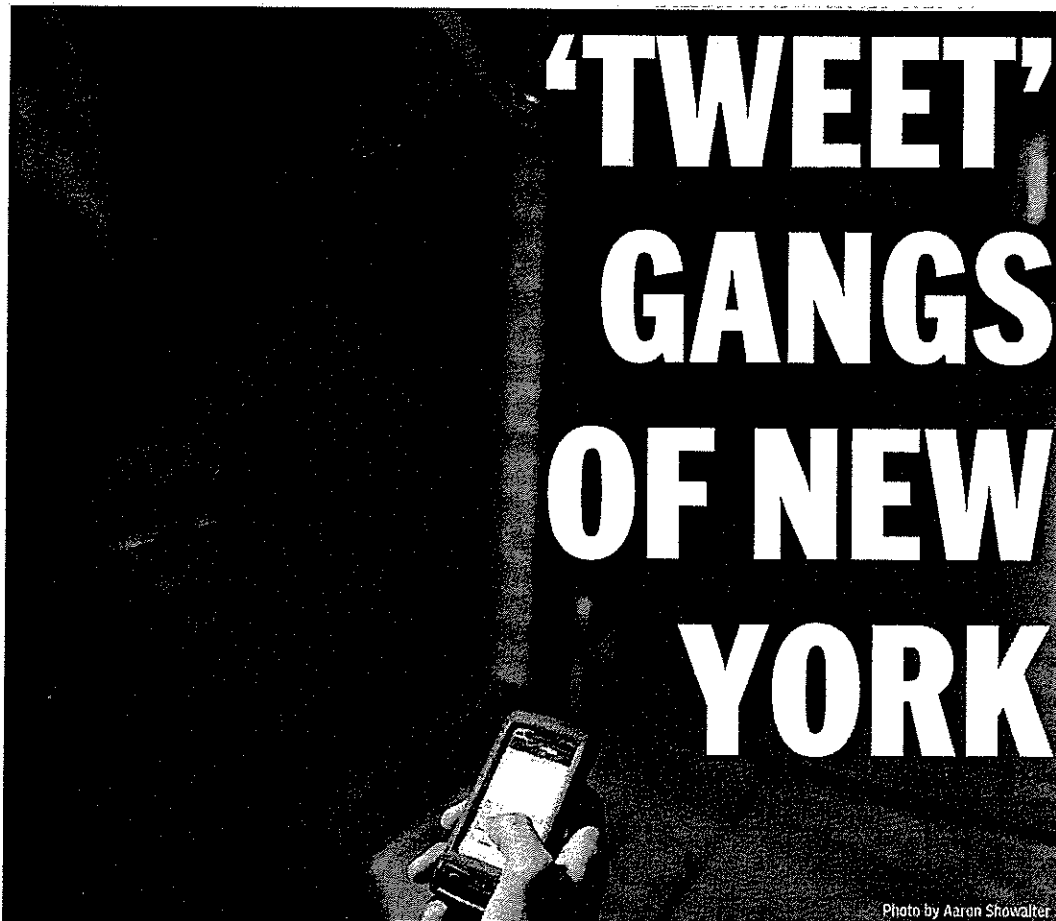


Photo by Aaron Showalter

# 'TWEET' GANGS OF NEW YORK

## Thugs use Twitter to trash-talk, plan fights

BY SIMONÉ WEICHELBAUM  
DAILY NEWS STAFF WRITER

THE CITY'S street gangs are becoming tweet gangs.

Manhattan's young thugs have turned to Twitter, and the cops who track them are fast behind, the Daily News has learned.

It's old-school crime meets new technology: attacks being plotted — and thwarted — 140 characters at a time.

One investigator recently warned parents and teens that the bastion of OMG and LOL has been infiltrated by violent crews waging turf wars.

A boy shot in the leg weeks earlier on Lenox Ave. may have been targeted because of a battle the Original Young Gangsters crew started on Twitter.

"It's horrible," NYPD Lt. Kevin O'Connor of Manhattan North's gang intelligence unit told a forum in Harlem.

A basic search of the social-networking site for OYG or Jeff Mob, the gang based in the Jefferson Houses in East Harlem, yields shout-outs and throw-downs.

"I knoe bitches from oyg that would dead mob yah s--t in har-

lem," one girl wrote in a series of tweets aimed at drawing out a rival for a fight.

Investigators are monitoring the traffic in hopes of sweeping up gangbangers before the bloodshed — and searching Twitter after attacks for clues.

"It is another tool . . . just like old phone records," a police source said. "We can go through them [messages] to track these guys."

Harlem pastor Vernon Williams, who runs Perfect Peace Ministry Youth Outreach, said his staff uses Twitter, MySpace and instant messaging to keep track of 4,000 at-risk teens.

A week ago, Twitter helped the volunteers stop a street war after they saw the Get Money Boys, based in the St. Nicholas Houses on W. 127 St., exchanging threats with Goodfellas and The New Dons, based just a few blocks north.

"They were threatening to go and hurt two people," said Williams, 51, who sent staff out to find the tweeters.

An NYPD spokesman and the Manhattan district attorney's office declined comment on the phenomenon, and Twitter did not respond to e-mails.

Gang members who grew up in the digital age are blasé about their tweeting.

One 15-year-old in the 28 Gunnaz gang said it's just like any other "form of communication," except that the world can listen in on the conversation.

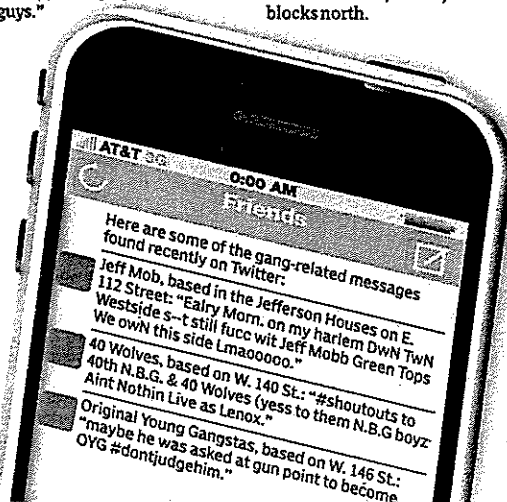
That feature can actually fuel disputes. A heated exchange between rivals on the service can turn into a full-fledged beef when others get wind, he said.

A 15-year-old nicknamed Lil V, who belongs to The New Dons, says Twitter is useful for "settin' up the fights" and making plans.

He seemed aware that the cops or anyone else could follow them — and said the gang takes precautions, using lingo gangsters from an earlier era wouldn't even understand.

"We got our own page," Lil V said. "Our page is private."

simonew@nydailynews.com



Luis Garden Acosta's Testimony  
NY City Council Committee on Public Safety  
December 3, 2009

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It is hard to believe that Williamsburg, today's so called, "hipster heaven" was, just 28 years ago, defined by the mass media as the "teenage gang capital of New York City". In just one neighborhood of Williamsburg, the Southside, a community, then, of a little over 30,000 people we lost 48 young <sup>people</sup> virtually one adolescent every single week to an epidemic wave of youth violence.

El Puente led a dramatic change which ended the terror and dissolved the gangs. Twenty years later the gangs are back – nowhere near in the number and kind of violent acts of days that have faded from memory. That fact, however, is little consolation to the parents of Richard Duran, a 22 year old, El Puente alumni who over a year ago met his death at the hands of gang members, ~~one of whom~~ one of whom waits in Rikers Island to be tried for his murder. That young man, Michael Torres, an older teenager, did not have the benefit of a family at home or could not find, early enough, an El Puente – like organization that could have guided him in a different direction. Instead, his only family, his only sense of safety and protection was the gang.

The three bills before you, unfortunately, will not prevent or significantly deter the growing gang violence in Williamsburg and Bushwick. They, simply, do not get to the root of the problem. None better than the members of El Puente understand the need to take direct action. In the past couple of months we have carefully carved out paths to and from school and El Puente to prevent our members from becoming ~~another~~ victims of a potential gang member's initiation process.

Twenty years from now, we will not be here again, if we vigorously adopt the following:

1. Allow community driven organizations like El Puente to connect directly with young people at police truant holding centers
2. Change the regulation for GED programs to allow for adolescents under 19 to take GED classes outside of a Department of Education school setting
3. Support organizations like El Puente to engage gang members and potential gang members as stipended participants in much needed, year round, community service projects
4. Support community led organizations to work with young gang members and their potential recruits, "one on one", in the streets or their homes and "hang outs" in a way that befriends them and supports their taking a more positive direction.
5. Rejuvenate community policing in a manner that allows for regular, respectful and consistent interface with young people in partnership with organizations like El Puente

## **Council for Unity Statement on Snitching for City Council Hearing**

Dictionary.com defines a snitch as either a thief or informer. Another informal definition of a snitch is someone who is engaged in a criminal activity and informs on others engaged in that same activity in return for a lesser sentence or other consideration from police and prosecutors. In either case, snitch is a word for a criminal practice. The fact that it is used now to describe, usually with derision, anyone who has witnessed and reports a crime is evidence of how increasingly criminalized our culture has become.

However, gang activity is on the rise and efforts to stem the rising tide will fail without the cooperation of the community. The goal now is to try to change the social perception of snitching. We at Council for Unity believe that there is no one-way to do this. And while suppression activities (increasing/strengthening the laws on the books about gang activity, initiation and solicitation) sometimes work in the short term, they are not what is needed to bring about a long-term change. We need a culture where community members become active partners in making their communities safer.

Research has shown that one of the barriers to reporting crime, especially among young people, is trust. Young people mistrust the police and to a lesser extent they mistrust school authorities. Young people themselves state relationship building as an important part of making their schools and communities safer. Furthermore, youth state that education, recreation and employment services that prevent them from getting involved in gangs to be effective solutions.

If relationships are the answer how then do we change the social relationships within our communities? How do we build trust between police and communities, schools and communities, parents and children? Out of fear, isolation and anonymity how do we create communities of possibility, synergy and hope? Increasing the legal consequences of certain gang activities cannot be the only answer.

To rebuild our fractured communities we need a holistic solution that addresses the cultural change that needs to take place. Youth need a new culture that addresses their deepest need to belong. They need avenues to constructively participate in our society. They need to feel that their voices are important and heard. While academic achievement is important the increasing focus on test scores and the cuts in non-academic programming have made schools a place of frustration for many youth.

We must also remember that in addition to providing our youth with academic skills the purpose of education is to create good citizens. This cannot be done without providing youth with activities where they can practice citizenship. Changing behavior and social practices cannot happen if there is no efficacy. Programs where youth actively engage police, school administrations, community leaders and others in finding solutions to the problems of their community are effective weapons against the spread of gangs and violence.

We also must seek to engage parents. Too often we forget that they are the gatekeepers. Research states that young people who witness criminal or gang activity will tell their parents first. Many will say "but we have tried to engage the parents but they do not come." First, we

must take a look at what that engagement looks like. We must provide parents with activities that address their needs and take them out of their isolation. We must meet them where they are at on their own turf and on their own terms.

Police too need venues with which to increase their positive interactions with the community. Programming needs to be implemented where community and public safety officials work together to identify problems and develop common solutions on a regular basis, not just during crisis.

We also need to engage ex offenders that have finished their sentences and have returned to their communities. We need to utilize their experience and their credibility with at-risk youth. They, more than anyone else, can show youth the consequences of criminal activity and point out bad behavior. They can provide youth with a road map made out of the "what ifs" that they have asked themselves as they paid for their crimes.

So what would happen if school administration, police, at-risk youth, parents, community leaders, corrections, ex offenders all came together in a common good. Riverhead, in Suffolk County, on Long Island knows the answer. They implemented the Council for Unity model five years ago and it changed their community. CFU started with a class of high school students in school making changes, confronting racism and conflict and grew to a community-wide movement. Utilizing the CFU Public Safety model, police go into the schools regularly for the purpose of working with an assigned group of kids on issues and problems. Through the CFU Adult and Family Partnership, parents and community leaders work together to provide emotional and economic support for these activities. And while criminal and gang activity still sometimes happen, it happens less and for the most part it is brought to the authorities attention before something happens.

In New York City Schools, Council for Unity teaches youth to engage all stakeholders to address issues of safety, bullying and achievement. The youth from our schools meet with community leaders to address community needs. Some of our students have met with some of you. Schools and the surrounding neighborhoods are brought together through these activities.

As a result of the CFU model gangs have difficulty controlling schools and surrounding neighborhoods. With everyone working together it is difficult for gangs to intimidate those that are working for change. However, the Council for Unity model, which incorporates all the aspects previously outlined, isn't an anti gang model. It is model that focuses on developing a culture of inclusion and trust where intimidation and threats aren't tolerated and fear is displaced by unity.

In conclusion, the answer to the gang problem isn't just about getting people to report or tell. The answer should be about listening to our communities' problems and issues, developing solutions and coming together for the common good. We should build communities of good will and trust that were created by the people that they are proud of and want to protect. Now that would give people something to talk about.

THE  
**INDEPENDENT**

East Hampton • Southampton • Riverhead • Southold • Shelter Island

September 05, 2007

## New Beginnings For Gang Members

By Lisa Finn

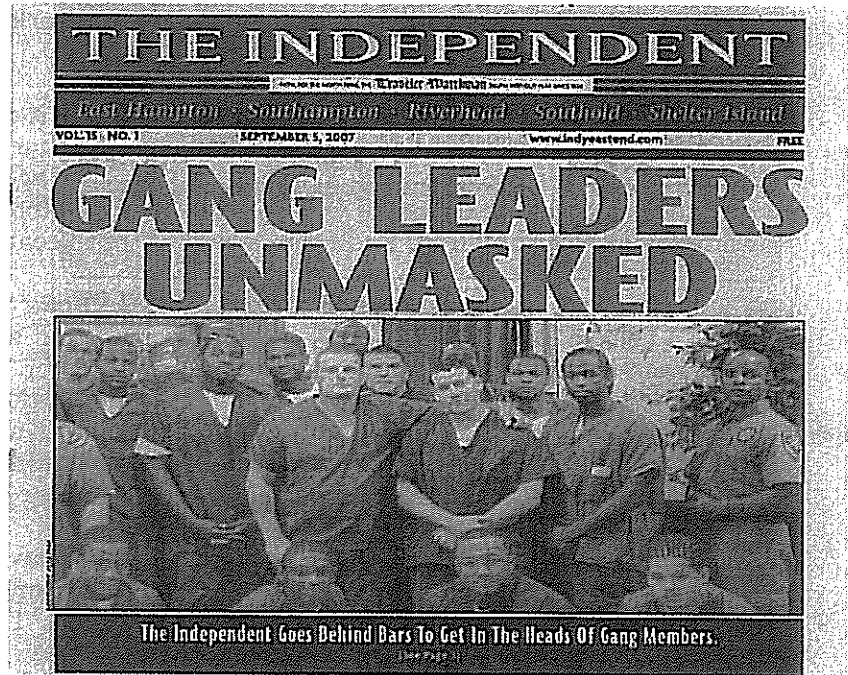
They've spent their lives bustin' guns, robbing banks, and beating their enemies bloody. They have been charged with an array of horrific crimes ranging from murder to career drug dealing. By their own accounts, they have grown up on poverty-stricken streets, been schooled in shattering lives, inflicting beatings and bringing despair upon the families of those they've brutally killed.

On the streets, each of the young men, members of some of the

deadliest gangs in the country, would admittedly have faced one another with hatred and violence. Bloods against Crips. Latin Kings against White Supremacists. But at the Suffolk County Correctional Facility in Riverhead, there is a program that has knocked down the walls, a program that is striving for new solutions to the gang problems that have rocked society in recent years. The program is called Council for Unity, and SCCF is being touted as a model, the first county facility to feature the program.

Council for Unity, founded by Bob DeSena in 1975, is a national non-profit organization with a history of successfully promoting inter-group relations and reducing violence in schools and communities. The idea is that by implementing school-based and after-school programs in leadership development, mentoring, career, college guidance and gang prevention, the Council fulfills a mission of empowering individuals and groups with the skills necessary to promote unity, safety and achievement.

Riverhead has been proactive in tackling gang issues, implementing Council for Unity in schools, the police department, the community, and most recently, in the correctional facility, where the program is in its first year. Last week, officials from Nassau County who are considering instituting the program in their own municipalities visited the facility to view a weekly meeting of the Council for Unity. And, based on the outpouring of emotion and heartfelt testimonials they witnessed, it is evident that, in the words of Sheriff Vincent F. DeMarco, "The program is working."



Before entering the jail, a visitor might harbor the belief that inside, one will find dark, dreary cells and an air of abject hopelessness. But last Thursday, as this reporter was buzzed through the gates and into the facility's chapel where Council for Unity meetings are held, the room was filled with artwork and poetry created by CFU members. And, as they entered the chapel in identical green uniforms, the prisoners greeted one another not with hostility or rage, but with handshakes and hugs, calling one another "Brother."

Brian Joseph, 17, is considered the "baby" of the group. He proudly displays a piece of artwork he created. "It took jail time to help me find God," he said. Gregory Roosa, who spent the entire night before the meeting drawing a depiction meant to represent the group's mantra, "Slaying the Dragon," created a piece of artwork so noteworthy that it may be used in the future with CFU materials.

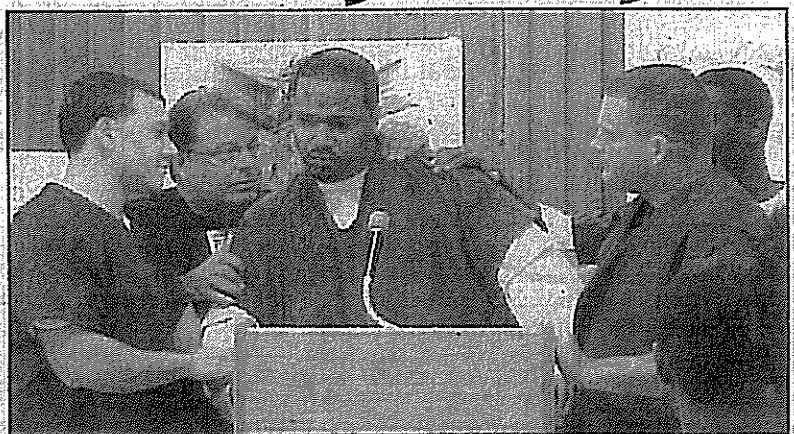
Despite the goodwill in the room, the prisoners make it clear that they've come from disparate places and lived on dangerous streets. LeQuarn "Lucky" Wade began the meeting by describing his life as a gang member. "A few years ago you could have caught me in your neighborhood selling drugs, or causing mischief. I watched businesses disappear, men and women lose their children, and I was a part of that because I sold them the drugs."

Then came DeSena, and an introduction to CFU. "I can't see myself doing that anymore," he said. "I believed that it was money, cars or women that would make me a man. What made me a man is what I'm doing today, what I'm fighting for." Sometimes, Wade can't believe the transformation himself. "You actually had to see me before, and then, see me here now. This is me, for real." At first, Wade admitted he had doubts about the program. "I didn't think it would work. No way could I see Bloods, Crips and Latin Kings all sitting in one room and talking, and then becoming something positive. But here we are, and it's so amazing."

Together, he said, the new family the gang members have forged "stands for something great. What we have done here is inspirational and touches my soul." Wade, who has been incarcerated for 14 months, said despite the jail time, "This is the most free I've ever been."

Roosa read a poem about his life in the streets. Today, he said, "Anger and hatred is no longer the food that feeds me." Another inmate known as "Mr. T" was picked up in the recent bust on the Shinnecock Reservation. As he stood up to speak, he began to cry, and his CFU "brothers" surrounded him, offering support and words of encouragement. "Nobody gave me a chance," he said, adding that if programs such as CFU had been in place when he was growing up, things may have been different. "Kids need an opportunity."

Run by corrections officer Alex Bryant and Sergeant Noreen Fisher, CFU classes focus on serious discussions about racism, watching films that deal with gangs, writing in journals, and about learning the concepts upon which CFU is built. Fisher said when the prisoners first came to CFU, they thought it was a GED class, and, unhappy to be there, slouched in, pants hanging low, and slumped in their seats. But when given a choice all returned to the program.



Independent / Lisa Finn  
Members from some of the most menacing and deadly gangs in the United States today, including the Bloods, Crips and Latin Kings, have found a new "family" through the Council for Unity program.



Jason Diadema, 22, had a mother who was a "crackhead and a prostitute. I'd see her on the streets with a pipe, hustling - selling her body for crack." Growing up, he said, "I thought I was all alone. I never had a mother and a father." Disenfranchised, he ran away from a group home and sought family ties with his gang, The Bloods, for over nine years. At one point, he went to live with grandparents on Long Island, where Diadema said the abuse continued. "I felt as though I had no place on this earth." When he first attended a CFU meeting, he had doubts. "I thought, 'I'm not going to sit with Crips and MS13.'" Today, however, Diadema considers rival gang members family and said Fisher "is a mom to me, the mother I never had." Diadema has two children. In the past, he didn't want them to know him, didn't want them to look at him "the way I looked at my mother." After CFU, said Diadema, "Now, I can't wait to go home."

All CFU members credit DeSena, as well as Butch Langhorne, assistant to DeMarco, and DeMarco, who were instrumental in bringing the program to Riverhead. They've bonded with Bryant, who's also the jail barber, and Fisher. And because DeMarco is on board, said Bryant, the program flourishes. If the mindset at the top does not change, old attitudes prevail, where "the perception is that inmates are garbage, and are treated as if they deserve nothing." Bryant acknowledges the high recidivism rate. According to United States Bureau of Justice statistics, 67.5 percent of prisoners released in 1994 were rearrested within three years, an increase over the 62.5 percent found for those released in 1983. But, he said, "If you can change one," that's a positive step.

And to work toward reducing recidivism rates, the goal is to implement CFU programs not only in jails, where the population is transient, but in prisons and in the community, so those who are released have a support network. Slaying the dragon, said Fisher, "seems to be working well. They are very optimistic, not as hopeless." Fisher adds that not all gang members are "mean-spirited." Gangs, she said, offer a "sense of family, of belonging. At first, they take care of you, and then payday comes and it means killing someone or burning down a house." Gang members, she said, wonder how getting "fancy sneakers ends up with them in jail. They wonder, "Where did it all go wrong?"

But, despite apprehension when she began running the program, today, Fisher is confident that she has "absolutely nothing to fear. Our group is a new family, where there is trust, love, encouragement and support." Fisher is adamant about working to effect change in the jail: "If you're really a correctional facility, you have to start thinking of ways to correct." Fighting in the jail has "calmed down," due to CFU.

DeSena, a champion for his program, greets all the inmates with hugs and support. "Gang violence," he said, "is stopping here." DeMarco agreed: "This is a bright light in a jail. The program is working, proving that some good can come out of the jail, perhaps for the first time in history."

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. 10-170 Res. No. \_\_\_\_\_

in favor  in opposition  
*with reservations*

Date: 12/3/09

(PLEASE PRINT)

Name: EDWARD CARROLL & DEANNA RODRIGUEZ

Address: \_\_\_\_\_

I represent: KINGS COUNTY DISTRICT ATTORNEY

Address: 350 JAY ST BROOKLYN NY 11201

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THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Susan Pelito

Address: Assistant Commissioner

I represent: NYPD

Address: \_\_\_\_\_

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THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. <sup>183-A</sup>041-4 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 2/3/09

(PLEASE PRINT)

Name: Rahul Saxena

Address: 125 Broad St. NY, NY

I represent: New York Civil Liberties Union

Address: 125 Broad Street, New York, NY

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I intend to appear and speak on Int. No. 183 et al. Res. No. \_\_\_\_\_

in favor  in opposition

Date: 12-3-09

Name: Nancy Ginsburg (PLEASE PRINT)

Address: 49 Thomas St

I represent: Legal Aid Society

Address: 49 Thomas St.

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I intend to appear and speak on Int. No. 183/945 Res. No. \_\_\_\_\_

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Date: 12/3/09

Name: Rebecca Engel / Kaitie Rubin (PLEASE PRINT)

Address: 860 Cortlandt Ave, Bronx, NY

I represent: Bronx Defenders

Address: 860 Cortlandt Ave, Bronx, NY

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Appearance Card

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in favor  in opposition

Date: 12/3/09

Name: Gloria Cruz (PLEASE PRINT)

Address: 295 ST. ANNS AVE

I represent: Million Mom March Bronx Chapter

Address: 295 ST. ANNS AVE

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in favor  in opposition

Date: 12/3

(PLEASE PRINT)

Name: EDWARD TATY - A.D.A.

Address: \_\_\_\_\_

I represent: BRONX DISTRICT ATTORNEY

Address: 498 EAST 161 STREET

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THE CITY OF NEW YORK**

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I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

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Name: Rev. Ronald Sullivan

Address: 215 West 123rd St

I represent: Harlem Mothers SAVE

Address: \_\_\_\_\_

**THE COUNCIL  
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I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

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Name: DANIEL L MASTER, Chief Asst. D.A.

Address: \_\_\_\_\_

I represent: D.A. Daniel Donovan, S.I.

Address: \_\_\_\_\_

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 in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)  
Name: HAZEL N. DUKES  
Address: 10 WEST 135<sup>th</sup> ST #4E  
I represent: NYS, NAACP  
Address: 1065 Grand Central Ave

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 in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)  
Name: Luis Garden Acosta + William Orellana  
Address: 211 South 4<sup>th</sup> St  
I represent: El Puente  
Address: 211 South 4<sup>th</sup> St, Brooklyn, NY 11216

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I intend to appear and speak on Int. No. 10-170 Res. No. \_\_\_\_\_  
 in favor  in opposition  
w/ reservation

Date: \_\_\_\_\_

(PLEASE PRINT)  
Name: Jesse J. Slight, EADA + Mariela Palomino Herring  
Address: 125-01 Queens Blvd Kew Gardens, NY  
I represent: Queens D.A. Office  
Address: s/a

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in favor  in opposition

Date: \_\_\_\_\_

Name: Iesha Sekou (PLEASE PRINT) (SAY-KOO)  
Address: 244 W 136<sup>th</sup> Harlem NY  
I represent: STREET CORNER RESOURCES  
Address: 244 W 136<sup>th</sup> Harlem N.Y.

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Appearance Card

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in favor  in opposition

Date: \_\_\_\_\_

Name: Robert J. DeSena (PLEASE PRINT)  
Address: 58 Karol Place Muttontown NY 11753  
I represent: Council for Family  
Address: 50 Bway Suite 1503, NY NY 10004

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THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 12/3

Name: Daniel Gross (PLEASE PRINT) (PAX)  
Address: 100 Wall Street  
I represent: PAX / Real Solutions to  
Address: Gun Violence

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