

# AB 90 Research Assessment: Gang Definitions, Duration, and Desistance

Todd C. Hiestand  
Visiting Scholar  
DOJ Research Center

# Presentation Overview

- Gang Definitions
- Identifying Gang Membership
- Duration of Gang Membership
- Gang Desistance
- Identifying Ex-Gang Members

# Gang Definitions

- Eurogang Research Program<sup>1</sup>
  - “A street gang is ... any durable, street-oriented youth group whose involvement in illegal activity is part of its group identity.”
- Durable – group must exist for at least three months
- Street-oriented – group spends time in public places
- Youth group – most members between 12 and 25 years old
- Illegal activity as part of group identity – culture of the group separate from individual group members
  - “Is doing illegal things accepted or okay for your group?”
  - “Do people in your group actually do illegal things together?”

# Gang Definitions

- AB 90
  - “‘Criminal street gang’ means an ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of crimes enumerated in paragraphs (1) to (25) inclusive, and paragraphs (31) to (33), inclusive, of subdivision (e) of Section 186.22 who have a common identifying sign, symbol, or name, and whose members individually or collectively engage in or have engaged in a pattern of definable criminal activity.”

# Gang Definitions – Eurogang/AB 90 Comparison

- Durable and Ongoing
- AB 90 – no age specification, no street-orientation
- Eurogang – no sign, symbol, or name requirement
  - Definers vs. Descriptors
- Illegality – Group identity/culture vs. Primary activity/Pattern

# Gang Definitions

- Miller Definition
  - “Youth gangs are a self-formed association of peers, bound together by mutual interests, with identifiable leadership, well-developed lines of authority, and other organizational features, who act in concert to achieve a specific purpose or purposes which generally include the conduct of illegal activity and control over a particular territory, facility, or type of enterprise”<sup>2</sup>
- Leadership, hierarchy, and organization
  - Debate surrounding degree of organization<sup>3</sup>
- Territory

# Gang Definitions

- National Longitudinal Survey of Youth 1997<sup>4</sup>
  - “A group that hangs out together, wears gang colors or clothes, has clear set boundaries of its territory or turf, and protects its turf against other rival gangs through fighting or threats.”
- Protection of territory through fighting with rival gangs

# Gang Definitions

- Howell definition<sup>5</sup>
  - The group has five or more members
  - Members share an identity, typically linked to a name and often other symbols
  - Members view themselves as a gang and are recognized by others as a gang
  - The group associates continuously, evidences some organization, and has some permanence
  - The group is involved in an elevated level of criminal activity



# Gang Definitions

- Studies sometimes avoid providing a definition
- National Youth Gang Survey
  - “A youth gang is a group of youths or young adults in your jurisdiction that you or other responsible persons in your agency or community are willing to identify or classify as a ‘gang.’ DO NOT include motorcycle gangs, hate or ideology groups, prison gangs, or other exclusively adult gangs.”<sup>6</sup>
- Self-nomination
  - “Are you now in a gang?”<sup>7</sup>

# Identifying Gang Membership

- Overinclusion and/or underinclusion
- Self-nomination is considered a valid and reliable method to determine gang membership by researchers and law enforcement<sup>7, 8, 9, 24</sup>
- Only 14 states define membership by statute<sup>10</sup>
  - 7 have criteria based definition

# CalGang Audit – Need two criteria<sup>11</sup>

- Subject has admitted to being a gang member. (58%)
- Subject has been seen associating with documented gang members. (44%)
- Subject is known to have gang tattoos. (43%)
- Subject has been seen frequenting gang areas. (30%)
- Subject has been seen wearing gang dress. (25%)
- In-custody classification interview. (24%)
- Subject has been arrested for offenses consistent with usual gang activity. (11%)
- Subject has been seen displaying gang symbols and/or hand signs. (7%)
- Subject has been identified as a gang member by a reliable informant/source. (6%)
- Subject has been identified as a gang member by an untested informant. (1%)

## Florida § 874.03 – Need two criteria

- Admits to criminal gang membership
- Is identified as a criminal gang member by a parent or guardian
- Is identified as a criminal gang member by a documented reliable informant
- Adopts the style of dress of a criminal gang
- Adopts the use of a hand sign identified as used by a criminal gang
- Has a tattoo identified as used by a criminal gang

## Florida § 874.03 – Need two criteria (cont.)

- Associates with one or more known criminal gang members
- Is identified as a criminal gang member by an informant of previously untested reliability and such identification is corroborated by independent information
- Is identified as a criminal gang member by physical evidence
- Has been observed in the company of one or more known criminal gang members four or more times. Observation in a custodial setting requires a willful association. It is the intent of the legislature to allow this criterion to be used to identify gang members who recruit and organize in jails, prisons, and other detention settings
- Has authored any communication indicating responsibility for the commission of any crime by the criminal gang

## Kansas § 21-6313 – Self-nomination or three criteria

- Is identified as a criminal street gang member by a parent or guardian
- Is identified as a criminal street gang member by a state, county, or city law enforcement officer or correctional officer or documented reliable informant
- Is identified as a criminal street gang member by an informant of previously untested reliability and such identification is corroborated by independent information
- Frequents a particular street gang's area
- Adopts such gang's style of dress, color, use of hand signs or tattoos

# Kansas § 21-6313 – Self-nomination or three criteria

(cont.)

- Associates with known criminal street gang members
- Has been arrested more than once in the company of identified criminal street gang members for offenses which are consistent with usual criminal street gang activity
- Is identified as a criminal street gang member by physical evidence including, but not limited to, photographs or other documentation
- Has been stopped in the company of known criminal street gang members two or more times
- Has participated in or undergone activities self-identified or identified by a reliable informant as a criminal street gang initiation ritual

# Texas Code of Criminal Procedure art. 61.02(c)(2)(C) —

## Need two criteria

1. A self-admission by the individual of criminal street gang membership that is not made during a judicial proceeding, including the use of the Internet or other electronic format or medium to post photographs or other documentation identifying the individual as a member of a criminal street gang
2. An identification of the individual as a criminal street gang member by a reliable informant or other individual
3. A corroborated identification of the individual as a criminal street gang member by an informant or other individual of unknown reliability
4. Evidence that the individual frequents a documented area of a criminal street gang and associates with known criminal street gang members



# Texas Code of Criminal Procedure art. 61.02(c)(2)(C) – Need two criteria (cont.)

5. Evidence that the individual uses, in more than an incidental manner, criminal street gang dress, hand signals, tattoos, or symbols, including expressions of letters, numbers, words, or marks, regardless of how or the means by which the symbols are displayed, that are associated with a criminal street gang that operates in an area frequented by the individual and described by [criterion 4]
6. Evidence that the individual has been arrested or taken into custody with known criminal street gang members for an offense or conduct consistent with criminal street gang activity
7. Evidence that the individual has visited a known criminal street gang member, other than a family member of the individual, while the gang member is confined in or committed to a penal institution
8. Evidence of the individual's use of technology, including the Internet, to recruit new criminal street gang members

# Texas Code of Criminal Procedure art. 61.02(d)

- Evidence that the individual frequents a documented area of a criminal street gang and associates with known criminal street gang members

AND

- Evidence that the individual has visited a known criminal street gang member, other than a family member of the individual, while the gang member is confined in or committed to a penal institution
- Will NOT count as both criteria – will need a third

# S.C. Code Regs. 73-550 – Need two criteria

1. An individual is identified as a criminal gang member by a documented reliable informant
2. An individual resides in or frequents a particular criminal gang's or group's area, and adopts their style of dress, their use of hand signs, or their tattoos, and associates with known criminal gang or criminal group members
3. An individual is identified as a criminal gang member as corroborated by independent information
4. An individual has been arrested more than once in the company of identified criminal gang members for offenses which are consistent with usual criminal gang activity, or criminal group activity for which the criminal group is associated with
5. An individual admits, at a time other than arrest or incarceration, to being a member of a criminal gang

# Identifying Gang Associates

- According to the CalGang audit individuals can be entered into the database “as a gang affiliate if a law enforcement officer suspects the individual is involved in criminal activity and he or she affiliates with a documented gang member.”<sup>10</sup>
  - AB 90 may remove jail classification, frequenting gang neighborhoods, and untested informants from consideration
- Florida statute
  - Criminal gang associate – “Admits to criminal gang association; or meets any single defining criterion for criminal gang membership”
- Kansas statute
  - Criminal street gang associate – “Admits to criminal street gang association; or meets two or more defining criteria for criminal street gang membership”
- Minnesota criteria<sup>12</sup>
  - “Suspected member” – meet single criteria
  - “Confirmed member” – meet three or more

# Identifying Gang Associates

- Official data has been used to find differences between members, associates, and non-members<sup>26</sup> – but there are other conflicting studies<sup>27</sup>
- Individuals may exhibit a degree of gang involvement, but not be considered members<sup>13</sup>
- Gang embeddedness<sup>14</sup>
  - Core/Fringe or Stable/Transient<sup>15</sup>
- Social network<sup>16</sup>

# Duration of Gang Membership

- Most gang membership is short-term and is not permanent<sup>15, 23</sup>
  - Longitudinal studies of youth indicate a majority are members for a year or less
  - Subset of individuals persist for four years or longer
- Law enforcement reports that the majority of gang members are over the age of 18<sup>6, 11</sup>
  - Some may be carry-over members and some may be adult-onset<sup>4</sup>

# Gang Desistance

- Disengagement includes de-identification and disembedding<sup>17</sup>
- An individual might deidentify as a member but retain social or emotional attachments to the gang<sup>15, 18, 19, 25</sup>
  - Older members might claim membership but do not engage in crime

# Identifying Ex-Gang Members

- Researchers identify ex-gang members by a self-nomination process<sup>20, 21</sup>
- Moving away from the neighborhood cuts social ties, and serious employment or education signals credible commitments to disengage<sup>22</sup>
- 76% of ex-gang members reported that they were treated like gang members by the police<sup>20</sup>
  - Only 16% reported that they were attacked because they left the gang



# Questions?

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