



The EAGLE

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A Focus on Gangs

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The State of Gangs in Minnesota



Although the Minneapolis-St. Paul metro area remains the center of most of the state's gang

activity, gangs now can be found in almost every region of the state.

Earlier this year, a report released by the Minnesota Gang and Drug Oversight Council ("MGDOC") indicated that in 2007, law enforcement across the state witnessed an increase in gang recruitment efforts. Authorities in greater Minnesota cited intensified recruitment by outlaw



motorcycle gangs and Native American gangs on the reservations. Moreover, authorities saw an increase in the formation of small gangs with loose gang affiliations. These so-called "mini-gangs" are of particular concern because they lack organizational structure and, therefore, are hard to investigate or dismantle.

While Minnesota gangs continued to operate an array of criminal enterprises in 2007, the most common undertaking, according to the MGDOC report, was drug trafficking. In rural Minnesota,

methamphetamine production and distribution was of greatest concern to law enforcement. Even though reported meth-lab seizures were down, crimes related to the manufacturing and distribution of meth, such as property damage and child neglect, continued to



take a toll on rural communities by draining public coffers and social-service resources.

Statewide, the most notable drug trend in 2007 involved marijuana. The MGDOC reported that 2007 marijuana seizures were up 127 percent over 2006, while seizures of cultivated plants rose 55 percent. Moreover, 2007 drug charges related to marijuana grow operations jumped 42 percent over the preceding year.

In examining 2007, authorities from across the state also reported



a growing link between drug crime and violence. They found

From the Desk of...



Frank Magill
United States Attorney

Approximately 450 gangs call Minnesota home. According to the Metro Gang Strike Force, that number represents about 10,887 suspected and 2,744 confirmed or convicted gang members. Those gangsters continue to maintain drug and firearms trafficking operations as well as other criminal enterprises throughout the state.

In this issue of The EAGLE, we provide information on the present state of gang crime and related violence in Minnesota and across the nation. We also note gang-crime trends in an effort to assist you in the development of your future law enforcement plans. Finally, we offer investigation and prosecution information and resources.

While great strides have been made in the fight against gang activity and related crime, much more work remains to be done. We thank you for your past efforts and look forward to working with you on this issue in the future.

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What are the National Gang Trends?

- Gangs remain the primary national distributors of illegal drugs;
- Gangs do more business now with organized crime, including Mexican drug organizations and Asian and Russian crime groups;
- Gangs use technology far more now than in the past and, in particular, like the walkie-talkie or push-to-talk features on cell phones, believing them to be untraceable and not subject to wiretaps;
- Gangs with computer-savvy members are branching out into identity theft, bank fraud, and check kiting;
- Hispanic gang membership is on the rise, with almost half of all gang members now being Hispanic or Latino;
- Indian Country is seeing a dramatic increase in gang activity;
- Over three times more Native American females are now involved in gangs than the national rate for female gang involvement;
- Outlaw motorcycle gangs are expanding territories and forming new clubs at alarming rates, with violence escalating as clubs vie for turf;
- Women are taking a more active role in gathering gang intelligence and moving illegal drugs and guns in all gangs; and
- Communities are hesitant to admit to their growing gang problem.

The State of Gangs Nationally



Approximately 26,500 youth gangs, with a total of around 785,000 members, were active in the United States during 2006. Those gangs were responsible for criminal activity in about 3,400 jurisdictions.

Almost fifteen percent of U.S. rural counties experienced at least some gang-related problems during 2006, while 87 percent of the country's larger cities (populations of 100,000 to 250,000) dealt with gang activity. All cities with populations in excess of 250,000 were faced with at least some gang-related issues.

The Office of Juvenile Justice and Delinquency Prevention, which is part of the U.S. Department of Justice, recently reported these findings, based on the National Youth Gang Center's 2006 National Youth Gang Survey. The report, published annually since 1995, provides information obtained from over 2,000 law enforcement agencies that represent rural areas and small towns as well as suburbs and large cities. The report also offers national gang-trend data developed from survey findings.

According to the report, law enforcement agencies saw increases in an array of gang-related crimes during 2006. Over 50 percent of survey respondents indicated a rise in gang-related drug sales and aggravated assault in their jurisdictions. Between 30 and 50 percent of those surveyed also cited spikes in gang-related auto theft, burglary, larceny, and robbery.

When survey respondents were asked what factors influenced gang-related violence in their communities, more than half replied that inter-gang (gang against gang) conflicts and illegal drug operations led to most gang-related problems. However, between 25 and 50 percent said that most of their gang problems were the result of the migration of gang members from other areas of the U.S., the emergence of new gangs, or the return of gang members to the community following incarceration.



This report came on the heels of the 2005 National Gang Threat Assessment, developed by the National Alliance of Gang Investigators Associations, in partnership with the Federal Bureau of Investigation, the National Drug Intelligence Center, and the Bureau of Alcohol, Tobacco, Firearms and Explosives. That report, also funded through the Justice Department, obtained detailed information from 455 law

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State of Gangs *Nationally*

Continued from Previous Page

enforcement agencies across the country and represented gang investigators at the local, state, and federal levels.

Like the National Youth Gang Survey, the National Gang Threat Assessment found that migration of gang members and their families and associates, due to incarceration or employment circumstances, contributed to the spread of gang violence. Moreover, the report stated that communities with high numbers of gang members returning from prison witnessed an increase in violence and drug trafficking.

In addition, the findings of the National Gang Threat Assessment suggested that Hispanic gangs were growing in number, often forming



Community members speak out against gang activity

to provide protection for their neighborhoods. The increasing number of Asian gangs, on the other hand, were routinely found to be victimizing their own community members, who often

State of Gangs in Minnesota

Continued from Page 1

that more drug users and distributors were carrying weapons, and more loaded firearms were being found near illegal drugs or illegal-drug proceeds. They also cited an increase in the number of murders, drive-by shootings, and dangerous assaults related to drug activity. The MGD OC report stated that in one northern Minnesota area, two of the last three homicides were directly connected to methamphetamine and marijuana trafficking.

These state trends also are being seen at the national level. The 2005 National Gang Threat

refrained from reporting criminal offenses to law enforcement authorities.

According to the Assessment, gang members also are becoming more sophisticated. They now more commonly associate with organized crime entities, such as Mexican drug organizations or Asian or Russian crime syndicates. In addition, they now commonly use computers and other technology to facilitate operations.

For many reasons, gang activity remains hard to combat. Assessment participants cite the lack of a national definition for “gang,” “gang member,” or “gang-related” criminal activity as just one obstacle in the fight against gang crime. They argue the absence of a uniform “language” makes gang information databases incompatible, which, in turn, causes information sharing to be difficult at best. Furthermore, the lack of a common “language” creates

suspect statistics, which hamper everything from problem-solving to funding decisions.

Perhaps, however, the greatest obstacle in the fight against gang violence is denial. Assessment participants state that while residents in their jurisdictions regularly express fear of neighborhood violence due to gangs as well as fear for children because of intensified gang

recruitment, they continue to deny the existence of gangs or gang problems. Approximately 31 percent of those who responded to the National Threat Assessment reported that their communities refused to acknowledge their gang problems until faced with an actual public occurrence.

Assessment indicated that drug trafficking remained the number-one enterprise among gangs across America. Over 60 percent of the law enforcement officials who answered the 2005 National Gang Threat Assessment reported that gangs were moderately or highly involved in local illegal drug operations. Moreover, the 2006 National Youth Gang Survey, funded by the U.S. Department of Justice, found a strong correlation between an increase in illegal drug operations and the recent spike in national violent crime statistics.

What is the Minnesota Gang and Drug Oversight Council?

The Minnesota Gang and Drug Oversight Council (“MGDOC”) is a policy board established in 2005 by the Minnesota legislature.

Its purpose is to develop a statewide gang and drug strategy and provide guidance relative to the investigation and prosecution of gang and drug crimes.

The 32 voting members of the MGDOC are appointed according to criteria established by law, under MSS 299A.641. They meet bi-monthly to discuss council business, in particular, the work of the two dozen gang and drug task forces in Minnesota that receive public funding.

The MGDOC is chaired by Rodney Bartsh, Wabasha County Sheriff. The vice chair is Bob Jacobson, Chief of the New Brighton Police Department.

Other members include police chiefs and sheriffs from across the state as well as representatives from the Minnesota County Attorneys Association, the DEA, ATF, FBI, the Minnesota Attorney General’s Office, and the U.S. Attorney’s Office.



Where Can You Get Gang and Drug Task Force Assistance?

Bob Bushman is the Statewide Gang & Drug Coordinator and works out of the Minnesota Department of Public Safety, Office of Justice Programs. He is responsible for coordinating task force activities, monitoring compliance with investigative protocols, providing technical assistance, and facilitating training.

In addition to Gang and Drug Coordinator Bob Bushman, other staff members from the Minnesota Department of Public Safety, Office of Justice Program ("OJP"), work with a variety of federal, state, and local partners to provide services to gang and drug task forces across Minnesota.

Sue Perkins is the OJP Grant Coordinator. She monitors the gang and drug task force grants and assists local fiscal agents and task force commanders with fiscal compliance and reporting issues. Sue also provides staff support to the Minnesota Gang and Drug Oversight Council. Michael Graif assists in the effort, compiling and reporting statistical information received from the task forces.

John Boulger is the Program Manager and is responsible for developing and delivering gang and drug training programs to Minnesota's gang and drug task forces and law enforcement throughout Minnesota.

For more information or assistance, visit the Minnesota OJP website, at www.dps.state.mn.us/OJP/.



Minnesota Gang and Drug Task Forces

By: Bob Bushman

The Minnesota Department of Public Safety, Office of Justice Programs, currently funds 25 multi-jurisdictional gang and drug task forces in Minnesota, with combined Federal and state grants totaling \$6,322,589 in 2008. They include twenty-one gang and drug task forces, the Hennepin County and Minneapolis violent offender task forces, and the St. Cloud and Metro Gang strike forces. These task forces are comprised of approximately 245 officers from cities and counties throughout Minnesota.

None of the task forces is funded solely with grant money. Rather, each operates under a Joint Powers Agreement executed by the participating agencies. The agreement allows for the sharing of resources, equipment, and personnel. While grant money may allow for some salary reimbursements to parent agencies, most personnel costs are paid by the member agencies. Grant dollars are most often used for investigative expenses, controlled buy money, and equipment.



All of the individual task forces are directed by advisory boards consisting of law enforcement administrators from the member agencies. The task forces operate according to policies and guidelines adopted by the Minnesota Gang and Drug Oversight Council ("MGDOC").

In 2007, Minnesota gang and drug task forces arrested 4,732 persons and filed 4,418 felony drug charges, including 378 federal charges. Task forces also seized 95 pounds of cocaine, 68 pounds of methamphetamine, and 4,715 pounds of marijuana, as well as 33 meth labs and 270 handguns. Gang officers imbedded in drug task forces also made non-drug arrests for 58 violent Part I crimes, 20 non-violent Part I crimes, and 58 Part II crimes committed by suspected or confirmed gang members. Forty-three arrests were charged federally, and seven individuals received enhanced sentences pursuant to MS 609.229.



In 2007, the St. Cloud and Metro Gang strike forces also posted impressive numbers. Investigators made 882 arrests of confirmed or suspected gang members, with 643 of the arrests involving felony level criminal activity. Fifty-five of the arrests were filed federally and charged through the U.S. Attorney's Office. The arrests included crimes of homicide, aggravated assault, robbery, sex offenses, and narcotic violations. These investigations resulted in the execution of 261 search warrants.

In the metro area, an additional 499 arrests were made and 148 search warrants executed while assisting other police agencies. Gang Investigators seized 189 firearms and a substantial quantity of narcotics: 65 pounds of marijuana, 48 pounds of cocaine-crack cocaine, and 72 pounds of methamphetamine.

In addition to their enforcement duties, these investigators conducted training for criminal justice system partners and made presentations to civic and school groups. A variety of topics, including gang characteristics, gang investigations, and gang prosecution, were presented to 87 groups, totaling 2,943 people.

Task force commanders submit quarterly reports to the Office of Justice Programs, a division within the Minnesota Department of Public Safety. Those reports are used to track progress, determine drug trends, and highlight task force activities. Each task force is reviewed on an annual basis to evaluate operations and compliance with MGDOC policies and guidelines. The evaluation process also is an opportunity to identify areas where training or technical assistance is needed.

For more information about Minnesota's drug and gang task forces, visit the OJP website, at www.dps.state.mn.us/OJP/



Minnesota's Gang and Drug Task Forces with Contact Information

Anoka-Hennepin Narcotics & Violent Crimes Task Force
Lt. Kevin Halweg, Anoka County Sheriff's Office
(763) 323-5000

Boundary Waters Drug Task Force
Investigator Dennis Benz, Virginia Police Department
(218) 748-7510

Brown Lyon Redwood Gang & Drug Task Force
Sr. Investigator Jeff Hohensee, New Ulm Police Department
(507) 233-6756

Buffalo Ridge Gang & Drug Task Force
Commander Troy Appel, Worthington Police Department
(507) 372-8402

CEE-IV Gang & Narcotics Task Force
Detective Sgt. Tony Cruze, Kandiyohi County Sheriff's Office
(320) 214-6700

Central Minnesota Gang & Drug Task Force
Sgt. David McLaughlin, Stearns County Sheriff's Office
(320) 259-3795

Dakota County Drug Task Force
Cpt. John Grant, Dakota County Sheriff's Office
(651) 994-6221

East Metro Narcotics Task Force
Lt. Rich Clark, Ramsey County Sheriff's Office
(651) 265-5942

Hennepin County Violent Offender Task Force
Lt. Pete Dietzman, Hennepin County Sheriff's Office
(612) 348-8392

Lake Superior Gang & Drug Task Force
Lt. Dan Chicos, Duluth Police Department
(218) 730-5487

Lakes Area Drug Investigation Team
Sgt. Joe Meyer, Crow Wing County Sheriff's Office
(218) 825-3416

Metro Gang Strike Force
Commander Ron Ryan, Metro Gang Strike Force
(651) 917-4805

Minneapolis Violent Offender Task Force
Lt. Andy Smith, Minneapolis Police Department
(612) 673-3963

Minnesota River Valley Drug Task Force
Lt. Dan Davidson, Mankato Police Department
(507) 587-8566

Northwest Metro Drug Task Force
Sgt. Jon Hunt, Plymouth Police Department
(763) 509-5144

Paul Bunyan Gang & Drug Task Force
SA Matt Grossell, Bemidji Police Department
(218) 333-8127

Pine to Prairie Drug Task Force
Commander Scott Jordheim, East Grand Forks Police
(218) 773-1104

Red River Valley Gang & Drug Task Force
Lt. Shannon Monroe, Moorhead Police Department
(218) 299-5128

South Central Gang & Drug Task Force
Sgt. Joel Welinski, Owatonna Police Department
(507) 774-7201

Southeast Minnesota Gang & Drug Task Force
Cpt. Bill Reiland, Olmsted County Sheriff's Office
(507) 285-8174

Southwest Metro Drug Task Force
Sgt. Chris Dellwo, Shakopee Police Department
(952) 233-9421

St. Cloud Metro Gang Strike Force
Sgt. Thomas Gjense, St. Cloud Police Department
(320) 650-3888

Washington County Drug Task Force
Sgt. Tom Stafford, Washington County Sheriff's Office
(651) 430-7942

West Central Drug Task Force
Deputy Scot Umlauf, Douglas County Sheriff's Office
(320) 650-3888

Keep your task force list close by
so you can keep your colleagues up to date
about your operations and investigations!
For updates to the contact list,
see www.dps.state.mn.us/strikeforce



Who is a Gang Member?

According to Minnesota gang and drug task forces and the Minnesota Gang and Drug Oversight Council, a confirmed or convicted gang member is an individual who (a) is at least 14 years of age, (b) meets at least three of the ten criteria of gang membership (see below), and (c) has a gross misdemeanor or felony conviction or adjudication. A suspected gang member is an individual who meets at least one criteria of gang membership.

What are the Ten criteria of gang membership?

- (1) Admits gang membership or association;
- (2) Is observed to associate on a regular basis with known gang members;
- (3) Has tattoos indicating gang membership;
- (4) Wears symbols to identify with a specific gang;
- (5) Is in a photograph with known gang members or using gang-related hand signs;
- (6) Is named on a gang document, hit list, or in gang-related graffiti;
- (7) Is identified as a gang member by a reliable source;
- (8) Is arrested in the company of identified gang members or association;
- (9) Corresponds with known gang members or writes or receives correspondence about gang activities; and
- (10) Writes about gangs (graffiti) on walls, books, or paper.

Again, a confirmed or convicted gang member meets at least three of the ten criteria outlined above.



Most Prevalent Minnesota Gangs



Bloods Colors and Signs

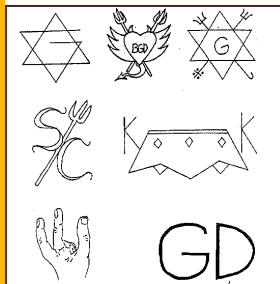
The Bloods and the Crips are rival street gangs, both originating in southern California. Their operations in the Midwest are similar and primarily focus on the distribution of cocaine and crack cocaine. However, both gangs routinely deal in marijuana; and the Crips also supply the region with PCP. The Bloods usually obtain their products from gang operations in Detroit, Chicago, and Los Angeles, while Crips normally receive their products from gang bases in L.A.

Crips Colors and Signs



The Latin Kings gang was formed in Chicago and is considered one of the most violent gangs in the country. The gang reportedly has ties to Mexican drug cartels as well as Colombian, Dominican, and Nigerian crime groups operating in Chicago. In the Midwest, members of the Latin Kings focus on cocaine distribution but deal in other drugs as well.

Latin Kings Colors and Signs



The Gangster Disciples, often referred to as the Black Gangster Disciples, is another Chicago-based street gang. The Gangster Disciples is recognized as one of the largest and best-organized gangs in the country, with over 100,000 members operating in 43 states. In the Midwest, the gang is primarily responsible for distributing cocaine, crack cocaine, heroin, and marijuana.

Gangster Disciples Colors and Signs



Chicago is also home to the Vice Lords or "Vice Lord Nation." They too have fanned out across the Midwest. The gang focuses on distributing crack and powder cocaine, as well as heroin and marijuana. The drugs are obtained from Mexican, Nigerian, and Colombian sources in Chicago.

Vice Lords Colors and Signs

TOP HAT	SHELTER
CANE	STRENGTH
GLOVE	PURITY
CHAMPAGNE GLASS	CONSERVATIVE
FIVE POINT STAR	LOVE, PEACE, FREEDOM, JUSTICE, TRUTH
EYE	ALLAH WATCH OVER US
360° CIRCLE	KNOWLEDGE ALL ROUND
HALF MOONS	PEOPLE LAST/PEOPLE FIRST



Originally, Surenos was a term to describe the gangs of southern California. Now, Surenos or Surenos 13 is the name used by some California gang members for the new gangs they have created elsewhere in the country. While some of these new gangs remain connected to criminal operations in California, most simply copy their drug trade.

Surenos Colors and Signs



RISS: Event and Case De-confliction

One of the main concerns about task-force work is de-confliction; that is, providing notice of instances when task-force street operations or investigative activities may intersect with those of other law enforcement entities.



The staff of the Office of Justice Programs at the Minnesota Department of Public Safety has been working with the Midwest Organized Crime Information Center to address this issue. They are looking to the RISS (“Regional Information Sharing System”) Network to employ a de-confliction system called RISSAFE.

That system is a web-based program that will allow task-force members as well as other law enforcement officers and agencies to report their operations to a monitored watch center, where conflicts will be identified and quickly resolved. The goal of the endeavor is to enhance officer safety and, at the same time, encourage information sharing, which will undoubtedly make investigative efforts more effective.

The program is scheduled to be implemented before the end of the year. Until it is employed, continue to keep your law enforcement partners informed of your actions by telephone.

NIBIN (National Integrated Ballistics Information Network)

NIBIN is a computer-based image system that allows the comparison of cartridge cases and expended bullets at the local, state, and national levels. NIBIN was developed to provide firearm examiners the opportunity to link criminal activity and solve gun cases by comparing evidence they gather with cartridge casings and recovered firearms from other jurisdictions.

The NIBIN system works by electronically scanning and storing images of bullets and cartridges. The system has the ability to rapidly compare new images with those already in the database, using the Integrated Ballistics Identification System (IBIS). When image comparisons result in a “hit,” the database examiner notifies impacted agencies and provides investigator contact information.

In Minnesota, data entry and examination is done by the Minneapolis Police Department, at (612) 673-3335; the Hennepin County Sheriff’s Office, at (612) 596-7019; and the Bureau of Criminal Apprehension, at (651) 793-2900. Contact them for more information.

GangNET and the Minnesota Gang Pointer File

GangNET is a user-friendly, confidential Internet database of gang-related information. Its purpose is to provide investigators with up-to-date information about gangs and gang members, including names, whereabouts, affiliations, criminal records, photographs, as well as case information, such as lead investigator and investigation status. This information is fed into the secure database by the investigators who have signed on to use the system.

In Minnesota, GangNET is maintained by the Metro Gang Strike Force and is used by over 100 law enforcement agencies and 1,000 investigators across the state. If your agency or department is not using GangNET, you can do so simply by establishing a new user account. To find out more information, contact the GangNET analyst, at (612) 363-1870.

The Minnesota Gang Pointer File also is administered by the Metro Gang Strike Force. The Pointer File exists primarily for officer safety. By querying an individual’s driving record or other identifying information, an officer can find out if that person is a confirmed or convicted gang member. This can be done even during a routine traffic stop. As stated above, gang membership is not probable cause for arrest, but such knowledge may help an officer better handle a potentially dangerous situation. For more information, again contact the Metro Gang Strike Force analyst, at (651) 582-1247.



The Native Mob in Minnesota Prisons

Many in law enforcement across the state are interested in the actions of members of the Native Mob gang. That gang is predominantly comprised of Native American men who actively transport illegal drugs and guns between the state’s rural Indian reservations and the Indian neighborhoods of south Minneapolis. Those activities have resulted in increases in crime on Indian reservations throughout the state as well as in nearby communities.

The leaders of the Native Mob, like the leaders of other gangs, try to maintain their illegal enterprises even while serving time in state prison. Thus, the members of the Headwaters Safe Trails Task Force, led by the FBI and made up of local, state, and federal investigators in the Bemidji area, asked the Minnesota Department of Corrections (“DOC”) to help them address gang activity among prison inmates.

As a result of that partnership, a DOC investigator, funded in large part through a Project Safe Neighborhoods grant, now monitors the phone calls of Native Mob inmates. Then, pertinent information is passed on to investigators, whether or not those investigators are part of the Headwaters Safe Trails Task Force.

In addition, DOC investigators routinely obtain information pertaining to non-Native Mob cases and are eager to share that information with investigators as well. So, if you would like to learn how you can obtain the valuable investigative assistance of the DOC, contact Don Rothstein, at (651) 917-4770.



Federal Laws Used to Fight Gangs

General Gun Laws

18 U.S.C. 924(c)

Anyone who possesses or carries a firearm in relation to or in furtherance of a drug felony or a federal crime of violence is subject to the following penalties:

- Five years to life in prison without parole, or death, if death results from the use of the firearm.
- Such a sentence must be served consecutively to other sentences imposed.
- The mandatory minimum sentence increases depending on
 - The type of firearm used (short-barreled gun, 10 years; machine gun or silencer, 30 years);
 - Whether more than one offense was committed; and
 - Whether the gun was simply possessed (5 years) or actually brandished (7 years) or discharged (10 years.).

Note: Each drug or violent-crime offense will support only one charge under this statute. The statute also allows prosecutors to bring gun charges against gang members who never even possess a gun. For example, if a gang leader orders subordinates to be armed while dealing drugs but never touches weapons himself, he can still be charged with violating 18 U.S.C. 924(c)(1)(A).

18 U.S.C. 922(g)

This statute is the felon-in-possession statute. It affords federal prosecutors the opportunity to remove violent gang members from our streets. This statute is especially effective when gang members are found in possession of firearms, but insufficient evidence exists to charge them with any other crime. (The firearm must have been transported across state lines at some point during or before the defendant's possession of them.)

In such cases, prosecutors may wish to review the gang members' criminal histories, searching for recent convictions in any court for crimes punishable by imprisonment of more than one year. If such histories are found, the use of the federal felon-in-possession statute may be appropriate.

18 U.S.C. 924(e)

This statute is the armed career-criminal statute. It provides federal prosecutors with a powerful tool for removing the most dangerous gang members from our communities.

The statute provides federal prosecutors with the authority to bring career-criminal charges against gang members who violate Section 922(g), which is the felon-in-possession statute, and have at least three previous convictions by any court for violent felonies or serious drug offenses. In such cases, convicted offenders are subject to a mandatory minimum term of 15 years.



18 U.S.C. 922(g)(3)

It is unlawful for any person "who is an unlawful user of or addicted to a controlled substance" to possess firearms or ammunition. (The firearms or ammunition must have been transported across state lines at some point during or before the defendant's possession of them.) The maximum penalty for violation of this statute is ten years in federal prison.

Other Gun-Related Laws

- Anyone who knowingly makes a false statement to a federal firearms dealer when buying a gun is subject to ten years in prison.
- Anyone who buys a firearm from a federally licensed firearms dealer for the purpose of concealing the identity of the true and intended recipient of that firearm is subject to federal felony penalties.
- It also is a federal felony to be an unlicensed firearms dealer. A dealer is someone who devotes time, attention, and labor to dealing, manufacturing, importing, repairing, or pawnbrokering firearms as a regular course of trade or business with the principal objective of profit or livelihood.



Firearms and Young People

18 U.S.C. 922(q)(2)(A)

An adult who possesses or discharges a firearm in a school zone (within 1,000 feet of the grounds of a public or private school), except as authorized by law, is subject to five years in federal prison.

18 U.S.C. 922(x) and 18 U.S.C. 924(a)(6)(A)(1)

A juvenile (under age 18) who possesses a handgun or handgun ammunition, except in cases of employment, the military, or with parental consent, is in violation of federal law and subject to a fine and up to one year imprisonment.

18 U.S.C. 924(a)(6)(B)(i)

An adult who gives or sells a handgun or handgun ammunition to a juvenile under circumstances other than those noted above is subject to one year in prison.

18 U.S.C. 924(a)(6)(B)(ii)

An adult who gives or sells a handgun or handgun ammunition to a juvenile, knowing the juvenile plans to use either the weapon or ammunition in the commission of a crime of violence, is subject to ten years in federal prison.



What Weapons are Prohibited Under Federal Law?

- A machine gun;
- A fully automatic weapon;
- A sawed-off shotgun;
- A sawed-off rifle;
- A semi-automatic assault weapon;
- A silencer;
- A firearm that lacks a serial number or has an altered or obliterated serial number;
- A stolen firearm; or
- A destructive device.

When are Downward Departures Appropriate Under 18 U.S.C. 3553(e); U.S.S.G. 5K1.1?

Primarily, downward departures require a motion by the federal prosecutor, based on “substantial assistance” provided by the defendant in the investigation and prosecution of other persons engaged in criminal activities. Prosecutors can file:

- A 5K1.1 motion for downward departure below the applicable guideline range for imprisonment;
- A Section 3553(e) motion for downward departure below the statutory mandatory minimum penalties; and
- A “safety-valve” reduction under U.S.S.G. 5C1.2, which
 - allows the court to impose a sentence below the statutory mandatory minimum penalty;
 - is available to first-time, non-violent offenders;
 - permits a two-level guideline reduction under U.S.S.G. 2D1.1(b)(11); and
 - requires the defendant to provide a truthful “proffer” concerning narcotics trafficking activities.

Use the Hobbs Act to Fight Gangs

Title 18 U.S.C. 1951, known as the “Hobbs Act,” is a useful tool in addressing violent crime, including gang crime. The statute prohibits the obstructing, delay, or affecting of commerce or the movement of any article or commodity in commerce. Robbery, extortion, conspiracy, and the commission or threat of physical violence are specifically included in the statute and carry a penalty of up to 20 years. Robbery, however, is usually the subject of a Hobbs-Act case only in circumstances involving organized crime, gang activity, or criminal schemes.

The Hobbs Act does not require that the commerce affected be legitimate. Only a de minimis effect is necessary to establish the jurisdictional predicate. Moreover, use of the Hobbs Act is not restricted to actual interference with commerce. Threats or violence employed to compel furtherance of a plan that would violate the statute are also prohibited.



Who is a Prohibited Person?

The following categories of people cannot, under federal law (18 U.S.C. 922(g)), receive, possess, ship, or transport firearms or ammunition, if the firearms or ammunition were transported across state lines at any time:

- Felons (those convicted in any court of a crime punishable by imprisonment for more than one year);
- Those under indictment for a felony;
- Fugitives;
- Drug users;
- The mentally ill;
- Aliens (includes illegal aliens and aliens lawfully admitted under non-immigrant visas; i.e., aliens not admitted for permanent residence; but does not include green-card holders);
- Dishonorably-discharged military;
- Citizens who have renounced citizenship;
- Those subject to a domestic restraining order. (The order must prohibit contact with an intimate partner or child and must have been issued after a “noticed” hearing at which the subject had an opportunity to participate. The order also must find that the subject poses a threat to the physical safety of the partner or child or must prohibit the use, threatened use or attempted use of physical force.); and
- Those previously convicted of domestic assault (includes misdemeanor convictions in any court).

Anyone who violates this law is subject to ten years in federal prison. Violators with three or more prior felony convictions for crimes of violence are subject to a minimum sentence of 15 years and a maximum sentence of life (18 U.S.C. 924 (a)(2) and 18 U.S.C. 924(e)).

Anyone who knowingly sells, gives, or otherwise provides firearms or ammunition to a person described in the above categories is subject to ten years in federal prison (18 U.S.C. 922(d) and 18 U.S.C. 924(a)(2)).

In addition to the crimes named in the statute, criminal offenses, such as drug trafficking, carjacking, and drive-by shootings, should be considered for federal prosecution under the Hobbs Act. In fact, the Act may be useful in prosecuting many offenses associated with street gangs, including property destruction or intimidation linked to gang wars, robbery of drugs or drug money, and bribery of law enforcement officers.

In 2006, the Minnesota U.S. Attorney’s Office prosecuted Carlos McAdory, of St. Paul, under the Hobbs Act, following a string of Twin Cities’ bar robberies perpetrated by a gang led by McAdory. A jury found McAdory guilty of one count of conspiracy, nine counts of robbery, nine counts of possession of a firearm in furtherance of a crime of violence, and two counts of possession of a firearm by a convicted felon. He was sentenced to 20 life sentences.



More Federal Law Considerations

Federal Drug Laws to Consider

Five-Year Mandatory Minimums

21 U.S.C. 841(b)(1)(B)

- Cocaine—500 grams
- Cocaine Base (“crack”)—5 grams
- Methamphetamine—50 grams (mixture); 5 grams (actual)
- Marijuana—100 kilograms; 100 plants
- Heroin—100 grams

Ten-Year Mandatory Minimums

21 U.S.C. 841(b)(1)(A)

- Cocaine—5 kilograms
- Cocaine Base (“crack”)—50 grams
- Methamphetamine—500 grams (mixture); 50 grams (actual)
- Marijuana—1,000 kilograms; 1,000 plants
- Heroin—1 kilogram

Enhancements for Prior Convictions

21 U.S.C. 851 (Information must be filed.)

- With one prior drug felony
 - Five-year mandatory becomes ten years, and
 - Ten-year mandatory becomes twenty years.
- With two prior drug felonies
 - Ten-year mandatory becomes mandatory life.

Other Federal Statutes to Consider

RICO; 18 U.S.C. 1962

If a gang’s illegal activities go beyond drug trafficking to include kidnapping, extortion, or murder, a federal RICO conspiracy charge may be appropriate.

Drive-By Shooting; 18 U.S.C. 36

The drive-by shooting statute makes it a crime for any person to, in furtherance of or to escape detection of any major drug offense, and with intent to intimidate, harass, injure, or maim, fire a weapon into a group of two or more people, causing grave risk to human life.

Criminal Street Gangs; 18 U.S.C. 521

This federal statute increases the maximum sentence by up to ten years for a person who commits various controlled-substance offenses or crimes of violence while participating in a gang.

Violent Crimes in Aid of Racketeering (VICAR) 18 U.S.C. 1959

This statute gives federal jurisdiction over murder, assault, kidnapping, and other violent crimes committed on behalf of a criminal organization whose activities affect interstate commerce.

That includes most gangs, provided the defendant committed the crime for the purpose of joining the gang, maintaining or increasing his position in the gang, or for hire.



The Gang-Drug Connection Here

According to the Minnesota Gang and Drug Oversight Council (“MGDOC”) report for 2007, Minnesota witnessed an increase in the abuse of cocaine during 2007.

Although cocaine and crack seizures were down, arrests were up. The MGDOC report states that many task force members believe young people, particularly college students, now see cocaine as an acceptable party drug that is far less dangerous than meth.

The 2005 National Gang Threat Assessment reports that gangs are highly involved in trafficking cocaine and crack cocaine throughout the Midwest. In particular, the Gangster Disciples, the Latin Kings, and the Vice Lords are responsible for street-level sales of both drugs in this region.

The ultimate source of cocaine and crack cocaine in the Midwest is primarily Colombia and Mexico, while Chicago serves as the hub for the regional suppliers.

While cocaine and crack cocaine remain problems in the Midwest, the biggest uptick in drug statistics for the region in 2007 involved marijuana. Seizures of that drug jumped by more than 120 percent over 2006.

As with cocaine and crack cocaine, the Gangster Disciples, the Latin Kings, and the Vice Lords are the major local distributors of marijuana in the Midwest. The principal wholesalers, again, are Mexican drug traffickers, while, once more, Chicago serves as the hub for regional suppliers.



When will the Feds Take a Drug Case?

The Minnesota U.S. Attorney’s Office does not have mandatory thresholds for prosecution of narcotics’ matters. As a guide, however, the Office considers the following:

1. Offender’s possession and use of firearms during the underlying narcotics offense;
2. Offender’s violent behavior during offense;
3. Offender’s prior criminal history, including previous felony drug convictions;
4. Offender’s use of juveniles to facilitate drug trafficking activities;
5. Offender’s affiliation with a structured criminal organization or street gang that contains five or more people;
6. Community impact of offense;
7. Whether or not declining prosecution as to a particular defendant will result in two or more jurisdictions handling essentially the same case;
8. The presence of large amounts of cash relative to the offense; and
9. Federal agency assessment as to the importance of the case for federal prosecution.

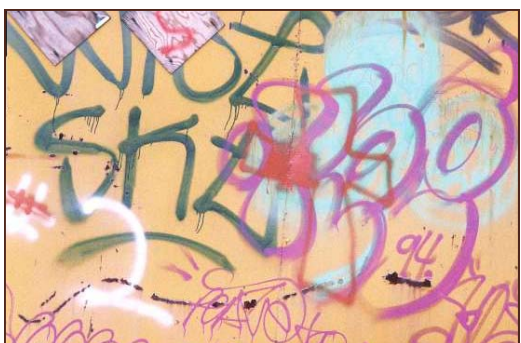


Using Conspiracy Statutes to Dismantle Gangs

By: David P. Steinkamp, AUSA, Anti-Gang Coordinator

“We got each other’s back. If one of us is low on product, he can call any of us. If I get jacked, I call my homeboys. If we need guns, we know who got what. We are in this together. This is our neighborhood, ain’t nobody going to take our customers. It is all about the money.” This quote is from a Minneapolis gang member, describing the agreement he and other gang members make to work together to sell drugs and commit other crimes.

There are many tools in investigators’ and prosecutors’ toolboxes to combat gang crime. Statutes prohibiting murder, assault, felon in possession of firearms, drug crimes, and crimes for the benefit of a gang are good tools to combat crimes committed by individuals or small groups. These tools are effective but often have the drawback of only stopping individuals for individual crimes. Conspiracy charges, however, provide a way to impact the entire organization.



After all, what is a gang? A group of individuals who form a bond to commit crimes together. In essence, a gang is a super conspiracy. It is a conspiracy that gives itself a name. It is exclusive. It is secret. It has its own codes, language, clothing, and symbols.

Conspiracy is well-defined: “A person is guilty of conspiracy when he “agrees with another to commit a crime and in furtherance of the conspiracy one or more of the parties does some overt act in furtherance of such conspiracy.”

Minn. Stat. § 609.175, subd. 2 (2004). The federal statute is essentially identical except for one important distinction: no overt act is required. Gang crimes fit perfectly within this legal construct.

Some caveats are required here. Under Minnesota law, an accused may not be convicted on the uncorroborated testimony of an accomplice. Minn. Stat. § 634.04 (2002). No such restriction exists under federal law but, practically speaking, getting a conviction on the uncorroborated testimony of a gang coconspirator is difficult.



Nonetheless, there are several benefits of prosecuting a gang under conspiracy statutes. Specific acts of gang conduct that might otherwise be evidence analyzed under Rule 404(b) (Spreigl Evidence) are reviewed by the trial court as overt acts committed by members of the conspiracy, entirely admissible to show the breadth and scope of the gang’s activities. Statements made by members during and in furtherance of the gang’s activities, such as prison calls, are admissible as coconspirators’ statements under

Rules of Evidence. The likelihood of obtaining a joint trial, where all defendants are tried together, increases. Joint trials help the jury see the gang for what it really is, an organization acting together to commit crimes.

Putting together a gang conspiracy case can take time. Once a gang and its members are identified, old police reports must be reviewed to glean historical evidence that shows that the gang is acting as a conspiracy. Witnesses may need to be re-interviewed. Evidence from old cases may need to be re-examined. But, if the gang is, in fact, working as a group, the pieces will fit together, and investigators will find a story waiting to be told.

The benefits are enormous. Instead of prosecuting one member at a time, the whole group is impacted. This has a devastating effect on the group’s activities and creates a huge benefit for the neighborhoods impacted by the gang’s activities.

Editor’s Note: Call David Steinkamp, (612) 664-5600, with gang-related questions.

Drug Conspiracy 21 U.S.C. 846

Drug trafficking is the life-blood of most street gangs. The federal drug conspiracy statute provides a tool for prosecutors who seek to dismantle these gangs’ illegal drug operations.

The statute makes it a crime for an individual to “conspire” with others to distribute or possess with the intent to distribute controlled substances. A person may be subjected to drug-conspiracy charges if he or she knowingly becomes a member of the conspiracy with the intention of furthering it. The statute allows prosecutors to hold a gang member responsible for all of the gang’s illegal activities, including violence and threats of violence used to protect or promote the gang’s drug-trafficking business.

To prove a drug conspiracy under federal law, a prosecutor does not need to prove:

- That overt acts were committed;
- That each defendant knew all of the other defendants and their activities; or
- That each defendant was involved in the conspiracy from beginning to end.

The penalties for violation of this statute are set forth in 21 U.S.C. 841.



U.S. Attorney's Office Can Help with Gang Cases

The U.S. Attorney's Office, District of Minnesota, is very interested in helping you investigate and prosecute gang cases. In many circumstances, federal prosecu-

tion of gang members will produce the most beneficial results for communities victimized by these criminals. To discuss how the Office can assist you, please

contact AUSA David Steinkamp, Gang Coordinator, at (612) 664-5600.

Internet Resources for the Fight Against Illegal Gangs

Metro Gang Strike Force www.dps.state.mn.us/strikeforce

Midwest Gang Investigators Association www.mgia.org

National Alliance of Gang Investigators www.nagia.org

National Gang Center www.nationalgangcenter.gov

Minnesota State Association of Narcotics Investigators www.msani.org

Gangs or Us www.gangsorus.com

Street Gangs www.streetgangs.com

National Gang Crime Research Center www.ngcrc.com

Print Resources for the Fight Against Illegal Gangs

"Best Practices to Address Community Gang Problems: OJJDP's Comprehensive Gang Model," published by the U.S. Department of Justice, and available at <http://www.ncjrs.gov/pdffiles1/ojjdp/222799.pdf>.

"The High Point West End Initiative," a PSN-endorsed suppression program from North Carolina, with details available at <http://www.uncg.edu/csr/pdfs/west%20end%20report.pdf>.



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