

Chapter 12. Violent Juveniles and Gangs in Texas

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Introduction

The state of Texas is familiar with violent offenders and juveniles with gang membership. Cox, Conrad, Allen and Hanser (2008) provide the reader a general overview of juvenile violence and gang activity. This chapter presents Texas specific issues related to violent offenders and gang activities.

Violent Offenders

Changes as a result of the Texas Legislature in 1995 now deal out severe punishment for violent juvenile offenders. Two weapons at the disposal of prosecutors are the use of determinate sentencing and waiver to an adult. Both have been covered in previous chapters thus an overview will be provided here.

The Family Code of Texas lists criminal offenses, including habitual felony conduct for which a juvenile may receive a determinate sentence. The offenses include:

- ❖ Murder
- ❖ Capital Murder
- ❖ Manslaughter
- ❖ Aggravated Kidnapping
- ❖ Sexual Assault or Aggravated Sexual Assault
- ❖ Aggravated Assault
- ❖ Injury to a Child, Elderly or Disabled Individual
- ❖ Felony Deadly Conduct (by discharging a firearm)
- ❖ First Degree or Aggravated Controlled Substances Felony
- ❖ Criminal Solicitation
- ❖ Indecency with a Child
- ❖ Criminal Solicitation of a Minor
- ❖ Criminal attempt (if the offense attempted was murder, capital murder, or an offense listed under 3g(a)(1), Art.42.12.C.C.P.);
- ❖ Arson (if bodily injury or death occurs; or
- ❖ Intoxication Manslaughter.

(Office of the Attorney General, 2007)

Thus a juvenile begins in TYC for a minimum stay (up until the 19th birthday) and transferred to the adult system if all efforts of rehabilitation have failed. This practice allows for rehabilitation of the youth as well as protects the public as offender could face the remaining time in adult prison or on parole (Office of the Attorney General, 2007).

The other provision available for prosecutors against violent offenders is certification of a juvenile as an adult. If a juvenile is 14 years of age or older at the time of the offense and there is probable cause to believe the offender committed a capital felony, an aggravated controlled substance felony, or a first degree felony, additionally if a juvenile is 15 or older at the time of the offense and there is probable cause that the offender committed a second or third degree felony or a state jail felony the prosecutor may seek a hearing to determine if the juvenile court will waive its jurisdiction and give the offender to the adult court. Before the hearing a complete diagnostic

study, social evaluation and full investigation of the child and the circumstances of the offense must take place (54.02(d), F.C.). Certification is favored when the offenses above take place against a person. It is the responsibility of the juvenile court to consider these factors:

- ❖ Sophistication and maturity of the child
- ❖ Previous record of the child
- ❖ Continuing danger the child poses to the public; and
- ❖ The likelihood of the child's rehabilitation with the resources available to the juvenile court.

(Family Code 54.02).

Once a wavier has been granted from the juvenile court the prosecuting attorney must seek an indictment against the offender from a grand jury. If the grand jury does not return a true bill then the case must be dismissed and it may not be remanded, or returned, to the juvenile court (Office of the Attorney General, 2007).

Texas Gang Activity

The state of Texas defines a criminal street gang in Section 71.01 (d) of the Texas Family Code as: "Three or more persons having a common identifying in or symbol or an identifiable leadership who continuously or regularly associates in Commission of Criminal activities." In the state Gang survey conducted in 2001 police and school districts reported almost 3,000 gangs; sheriff departments reported 319 gangs; prosecutors reported 2,165 gangs. The total number of gang members in the state for all departments responding was 97,600 (Office of the Attorney General 2001). The survey titled *The 2001 Gang Survey* was mailed to 1,453 police chiefs, school district police departments, sheriffs, district attorneys, criminal district attorneys and county attorneys. Four hundred twenty nine, (30%) responded. Of the 1,125 police departments, sheriff's departments and school district police departments surveyed 368 responded (33%). Finally, 61 of the 328 prosecutors (19%) responded. Thus with less than an overall 30% return rate the number of gangs and gang members in the state is probably underestimated. Further survey results will be referred to later in the chapter.

The Office of the Attorney General (2001) acknowledges there are groups whom "hang out", spend time together and may appear to be gang members but unless they are three or more members acting together as a group committing an offense they are not tracked or labeled as a gang. Four basic types of gangs have been identified and this identification no longer runs along race and ethnicity lines. "Gangs in Texas adopt more multi-ethnic memberships" (p.1).

Types of Gangs

The first and least serious gang is the Delinquent Youth Gang. It is a loosely structured group of juveniles who "hang out" have a name, wear similar clothing, and use hand signals. They participate with enough regularity in delinquent or undesirable behavior that law enforcement, residence and school officials label and identify them. This type of gang does not participate in serious offenses such as robbery, assault or drive-by shooting.

The second group is the Traditional Turf-Based Gang. Another loosely structure group of juveniles and/or young adults held together by geographic territory. Members mark their gang's turf with graffiti and will defend their turf with violence. With this type of gang at least one shooting (assault, homicide, or drive-by) has occurred in the last year as a result of conflict with a rival gang.

The Gain-Oriented Gang consists of juveniles and or adults who repeatedly engage in criminal activities for economic gain. Within the last year at least two or more gang members have worked together in a gain-oriented criminal offense such as robbery, burglary, or the sale of a controlled substance. Common characteristics of the traditional Turf –Based Gang exists but in addition the group works together for economic gain. These types of gangs may use financial gangs to set-up new criminal operations in other locations.

The final type of gang is the Violent/Hate Gang. Juveniles and/or adults are involved and the type of activities of the gang do not fit in any of the three above. Just as with other gangs a style of dress, haircut, or tattoos has developed. Two or more members of the group have collectively committed an assault, homicide, or an offense that could be reported under the federal Hate Crimes Statistic Act. The bases for their coming together may be ideology or religion based on racism or Satanism. Often this type of group has members who are randomly and senselessly violent. Recruitment of juveniles into gangs takes shape in many ways as potential members and members seek involvement in order to gain self-worth, status, protection, bonding, materialism, recognition, excitement and survival (TCLEOSE 2007).

Responding to this need to stop the recruitment of juveniles or any person for that matter into a gang in 1999 it became a felony to coerce, solicit, or induce a child (or any person) to actively participate in activities of a criminal gang (22.015 and 71.022, Penal Code). Additionally in 2001 if a certain felony drug charges the defendant used or attempted to use a child in the commission of the offense the punishment must be increased by one degree. Also if the defendant used or threatened to use force against the child or another to gain the child's assistance, the punishment for the offense becomes a first degree felony (481.140, Health and Safety Code).

Gang Involvement and Propensity

Those in and around a gang have different levels of involvement. The Office of the Attorney General for the State of Texas defines levels of gang involvement consisting of “juniors” how are too young to be fully accepted but aspire to be involved. They may serve as pawns, lookouts or drug couriers. “Associates” are friends, acquaintances and relatives who supply services and assistance to the gang but as of yet are not fully trusted, accepted or informed about the gang's activities. The “regulars” are those gang members who hang out with the gang on a daily basis. They are familiar with most of the activities and will likely be present during gang related offenses occur. Within the regulars are “hard-core” members who are deeply committed to gang activities to the point of instigating and actually committing the most serious offenses attributed to the gang's activity.

In 2001 the Texas Attorney General Office conducted statewide research. Police and school districts departments reported a total of almost 3,000 gangs while sheriff departments reported 319 gangs and responding prosecutors reported 2,165 gangs. Most stated gang activity was a “moderate problem” verses a “serious problem” or “no problem”. Respondents from cities smaller than 10,000 most offend identified gang activities as “no problem”. These numbers should be viewed with caution due to no unified definition of gang, overlap in counting and only 30% of the law enforcement and prosecutors responded to this statewide survey.

Characteristics of Texas gangs were mostly as those participating in delinquent activities with the predominate age of gang membership members 16-18 years of age. Homogeneity was not a dominate factor of gang membership with respondents stating over 60 percent of their gangs had mixed racial or ethnic membership. The offense committed most by gangs, as identified by the Texas state survey was graffiti.

When asked which Gang Nation had the most influence the “Crips” were listed most often followed by the “Bloods”. After these to Gang Nations differences were seen depending on the population between “Folk”; “People”; “Surenos” and “Nortenos”.

Community Reduction of Gang Activity

The Office of the Attorney General of Texas notes that gang activity is not just a problem of law enforcement but is a community problem and thus should be a community concern. Noting that “denial is not beneficial” the Attorney General’s Office states: “Gangs are found in every locality- large, medium and even small towns” (Attorney General of Texas n.d. p.2). In a 2001 statewide survey 63% of the law enforcement and prosecutors questioned stated they not have a serious gang problem. Thus it is important for every locality to assess the problem and then act upon it. Each community should send a clear message that gang activity will not go answered. By calling neighborhood meetings, involving the media and cleaning up graffiti the neighborhood makes a stance against gang members. In support of graffiti clean up an individual convicted of a graffiti- related offense can be required to pay the court a fee which is placed in the county’s juvenile delinquency prevention fund. The fund provides monies to repair damage, provide education and intervention for graffiti abatement and delinquency prevention programs as well as provide public rewards for identify and aiding apprehension of those prosecuted for graffiti, teen recreation programs, teen court programs and the operation of local juvenile justice departments.

Intervention

Within the Texas statewide survey agencies were provided a list of enforcement and intervention strategies for dealing with gang activity. Respondents could choose more than one answer and add their own. Community policing was most popular, followed by graffiti abatement, with the responses for multi-agency collaboration and Code enforcement receiving similar responses among police, school police departments, sheriff, and prosecutor. Finally diversion and alternative sentencing was least popular by the respondents.

The Texas Attorney General Office (2007) notes four cause of gang behavior. The first is opportunity. When youth do not have access to socially acceptable alternatives the way of the gang becomes a way of life. Thus the strain of not being prepared for school and other social activities places at-risk youth in a position of identifying more clearly with gang behavior and associates than with middle-class people and practices. Additionally, alternatives must be in place for at-risk youth so there is an alternative to the world of gang life and behavior. Recreational programs, mentorship and community involvement are answers. Supervision provides another challenge as noted by the Attorney General’s Office. Between the hours of 3:30 and 6:00 is when most juvenile crime occurs. These hours right after school are when youth are unsupervised as parents and guardian are at work. Latchkey and after-school programs providing positive activities, notorious meals, tutoring and mentoring are positive responses to the lack of supervision so many youth face after school. Finally, social development skills which encourage interpersonal and decision making for betterment in the future are important. Through this development youth learn consequences for their actions and choose to make choices which will better them in the future.

Because of the popularity of community policing here is a good time to discuss its relationship to Texas, specifically Houston. Former Houston Police Chief and Mayor Lee P. Brown identified crime as the most serious domestic problem confronting the country (Brown, 1987). He believes police needed a new mission to address this problem. He proposed that policing become an interactive process between citizens and the police. He acknowledges that such changes are evolutionary and will take several years to accomplish because it involves police looking and responding to the community differently as well as the community responding and interacting with police differently, especially in poor and minority neighborhoods where the

police many not be seen as favorably. The end results of successfully community policing will be customized police service, community organization, greater citizen support, shared responsibility, job satisfaction, better internal relationships, and support for organization change in training, management and performance evaluation (Brown, 1989). Having these associations with people in the neighborhood should deter gang activity and strengthen citizen action against any gang activity.

Intervention/prevention strategy responses listed curfews as most popular, followed by Gang Awareness Training, GED/ Education Programs, Mentoring Programs, Job Training Programs, and finally Mediation Programs. In relation to the most popular response curfews there was a correlation for support of curfews increasing as the size of the jurisdiction increased. This held true expect that jurisdictions below 10,000 supported curfews 42% as compared to 32% for 10-50,000; 45% for 50-100,000; 57% for 100-500,000 and 79% for jurisdictions with populations above 500,000.

Legislative Response to Gangs in Texas

In an effort to coordinate gang prevention and control Texas law enforcement agencies that maintain information on gangs must do so in accordance with federal regulations found in the criminal intelligence system's operating procedures. All information must be sent to the Texas Department of Public Safety. The 76th Legislative Session in 1999 instructed the Office of the Attorney General to establish an electronic gang resource system in order to inform criminal and juvenile justice agencies about criminal street gang activities in the state. The information in the Gang Resource System includes: gang name, identifiers, criminal activities, migration trends, recruitment activities, and local law enforcement contact information. Collection of data, trends and information from around the state is useful to deter and reduce gang activity.

Summary

Texas prosecutors have a number of responses to violent offenders in Texas. One response carries a sentence of up to 40 years. These tools are for violent offenders in and out of gangs. Gangs are in Texas although a statewide survey shows different levels of involvement throughout rural, suburban and urban areas. The causes of gang involvement are many but a strong response from citizens and the police can deter their activity and in-turn prevent future children from joining this sub-cultural life-style. The Texas Legislature along with the Attorney General of Texas Office has implemented procedures and policies that appear to have an affect on gangs and violent offenders as the number of violent crimes in the state has stayed lower recently. Along with citizens and community policing Texans are working to make the state safer for all citizens.

Critical Thinking Questions

1. Do you think a determine sentence of 40 years is too harsh for a juvenile? Why so?
2. Police often express an opposition to community policing, why so?
3. Which intervention strategy would you use in your neighborhood to rid it of gang activity?

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