

**Virginia Department of
Juvenile Justice**

**2008 Impact of Gang
Activity on Juvenile
Justice Operations**

*In response to:
Chapter 879, 2008 Virginia
Appropriations Act,
Item 410(B)*





Barry R. Green
Director

COMMONWEALTH of VIRGINIA

Department of Juvenile Justice

700 Centre, 4th Floor
7th and Franklin Streets
P.O. Box 1110
Richmond, VA 23218-1110
(804) 371-0705
Fax: (804) 371-0773
Voice/TDD: (804) 371-0772

September 1, 2008

The Honorable Charles J. Colgan
Chairman, Senate Finance Committee
General Assembly Building, Room 625
Capitol Square
Richmond, Virginia 23219

The Honorable Lacey E. Putney
Chairman, House Appropriations Committee
General Assembly Building, Room 947
Capitol Square
Richmond, Virginia 23219

The Honorable John W. Marshall
Secretary of Public Safety
Patrick Henry Building
1111 East Broad Street, 3rd Floor
Richmond, Virginia 23219

Gentlemen:

Pursuant to Item 410 B, Chapter 879 (2008 Acts of Assembly), I am submitting to your respective committees the Department of Juvenile Justice's study of the *Impact of Gang Activity on Juvenile Justice Operations*.

Please do not hesitate to contact me if I can provide any additional information.

Sincerely,

A handwritten signature in cursive script that reads "Barry R. Green".

Barry R. Green

BRG/dch
Enclosure

Preface

Authority for the Study

Chapter 879, 2008 Appropriations Act - Item 410(B) of the Virginia General Assembly provides that:

The Department of Juvenile Justice shall analyze the extent of juvenile gang activity as it affects the operation of court services units, local and regional detention facilities, and state juvenile correctional facilities. The analysis shall describe the programs which the department has developed to address gang activity, along with recommendations for further actions. Copies of the analysis shall be provided by September 1, 2008, to the Secretary of Public Safety and to the Chairmen of the Senate Finance and House Appropriations Committees.

Acknowledgements

The Department of Juvenile Justice would like to thank everyone who contributed to this document. Our appreciation goes to all the local and regional juvenile detention home superintendents and court service unit directors that provided feedback to our questions. We would also like to thank Sam Abed, Marilyn Brown, John Coble, Marilyn DiPaolo, Ed Holmes, Deron Phipps, Pat Rollston, Sergio Sanchez, Janet Van Cuyk, and George Wakefield from the Department of Juvenile Justice for their assistance in gathering the data necessary for this report.

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Executive Summary

Item 410(B) of the 2008 Appropriation Act (Chapter 879, 2008 Acts of Assembly) provides that:

“The Department of Juvenile Justice shall analyze the extent of juvenile gang activity as it affects the operation of court services units, local and regional detention facilities, and state juvenile correctional facilities. The analysis shall describe the programs which the department has developed to address gang activity, along with recommendations for further actions. Copies of the analysis shall be provided by September 1, 2008, to the Secretary of Public Safety and to the Chairmen of the Senate Finance and House Appropriations Committees.”

The Department of Juvenile Justice (DJJ) has been assessing gang activity and developing programs for addressing the impact of such activities for several years. A more formalized process began in 2004 with the creation of a position to oversee the development of data, assessment tools, an automated system for managing data, and programs for addressing gang activities.

While youth gangs have existed for many years, the more recent introduction of national business organization models in gangs has exacerbated problems they create. Many small, local gangs now affiliate with national organizations (primarily the Crips and Bloods) and align against each other in more structured ways. This change has altered both the structure of local gangs and the ability to recruit.

Large, organized gangs may follow a business model to engage in illegal activities, such as drug distribution, prostitution, or obtaining and disposing of stolen property. Many youth gangs associate with these larger adult gangs, but generally have not yet adopted those criminal business practices.

Studies by several national organizations identify the primary ages of gang members as between 14 to 24. However, recruitment of new members may begin in middle, and even elementary, schools. Those involved with the juvenile justice system are prime targets for gang recruitment.

DJJ has implemented a number of measures, as described in this report, to address gang membership in its Court Service Units (CSUs) and its Juvenile Correctional Centers (JCCs). These measures include: assessment and identification; supervision; programs to assist juveniles in leaving gangs; and, programs to prevent gang affiliation prior to membership.

In 2005, the department obtained grant funding to develop a Gang Management System (GMS), an automated system into which data on juveniles identified as members of gangs are stored. That same year, DJJ created a separate gang management unit to develop and provide training of agency staff and monitor overall program implementation.

In 2006, DJJ obtained grant funding to purchase a treatment program (Phoenix Behavioral Curriculum), along with technical assistance for implementation, for use in both its JCCs and CSUs. This program contains multiple modules that address criminological and social matters common among gang-involved juveniles.

In 2007, the department developed a reporting mechanism to provide information on juveniles who meet statutorily defined gang criteria to the Commonwealth's Attorneys' Services Council, as provided in §66-3.2(B) of the Code of Virginia. Other information is also shared with law-enforcement agencies under the provisions of §16.1-309.1(G) of the Code of Virginia.

Overall, DJJ has taken measured steps to address the changes in gang activities over recent years and will continue to make changes as needs are identified.

A summary of the various statutes relating to gang activities and members is included as an appendix to this report.

Establishment of Gang Management Unit

In 2004, DJJ created the first position for the unit dedicated to assessing, monitoring, and planning a response to the changing gang problem. Today, that unit includes the manager, a training coordinator, a gang program coordinator, and a gang program specialist. This unit was instrumental in working with the information systems unit to develop a Gang Management System (GMS) – now a module within the department’s Juvenile Tracking System (JTS). The unit also is a resource to other agency and non-agency personnel.

The unit is responsible for developing procedures for use in JCCs and CSUs, developing and delivering training to DJJ, local detention, and other professionals who work with court-involved youth. Additionally, the unit has provided training and general information workshops for a range of non-DJJ individuals and organizations, including:

- Department of Correctional Education staff,
- Parent Teacher Associations,
- Virginia Municipal League representatives,
- YMCAs,
- School personnel and principals,
- Various law enforcement groups,
- Virginia Community and Residential Care Association,
- Human services staff from a number of localities,
- State and local prevention groups, and others.

Courses that have been provided to both agency staff and other entities include:

- Gang Awareness
- Advanced Gang Class
- Female Gang Members
- Gang Tattoos
- Gangster Rap: What’s Inside the Lyrics?
- Gangs and the Juvenile Intake Process
- Incarcerated Juvenile Gang members
- DJJ Gang Initiatives
- 25 Most Asked Questions about Gangs
- Youth Gangs and the Internet
- Virginia Local Gangs
- Understanding Gangs
- Gang Management System Training
- Phoenix Group Facilitation Training

Phoenix Behavioral Curriculum

This curriculum was viewed in other states, and those evaluations and results were examined before determining that it would meet the needs in Virginia. It was purchased

in 2006 using grant funding. Once information system modifications were made, training of institutional and CSU staff and trainers was initiated.

The Phoenix Curriculum, as noted in the handbook, “guides the students to develop self-efficacy in identifying and addressing the highest risk factors for substance abuse, violence, bullying, gang involvement, and other criminal activity. In this case, ‘self-efficacy’ will include the ability to recognize high risk people, places, things, and situations, and have confidence that they can handle these risk factors effectively using their new capabilities. These new capabilities and skills include a range of coping options for avoidance, escape, refusal, gang resistance, and violence prevention.”

Obviously, the curriculum alone is not sufficient to address gang membership and activities, but in tandem with other actions taken by the department improvements have been seen in how juveniles behave both inside the JCCs and in their communities.

Because those juveniles who are committed to the state are, both literally and figuratively, a captive audience, DJJ has a greater ability to effect change than for those juveniles in the community. Thus, methods of addressing institutional and community behavior are different.

Gang Specialists

DJJ has developed approximately 100 gang specialists, with at least one in each of the seven JCCs and 35 CSUs. A specialist is a staff member who has been thoroughly trained to identify gang membership (colors, signs, insignias, tattoos, behavior) and activity and for developing plans for aiding juveniles to withdraw from gang activity (or for those at greatest risk, to reduce the risk of joining).

Gang Management System (GMS)

The Gang Management System is an automated data base into which department personnel enter information, which then provides a resource for gang managers. This system was developed to provide for the safety and security of juveniles, DJJ staff, and the community at large. CSUs and JCCs all have access to the information contained on the system. A pilot program is currently being developed to allow a detention center access to the system and to enter data.

If a juvenile is convicted of a gang-related offense as defined in §§18.2-46.2 or 18.2-46.3 of the Code of Virginia, he is automatically considered a gang member and must be included in the GMS. If a juvenile has not been convicted of a gang-related offense but is determined by one of the department’s gang specialists to meet specified departmental criteria, then he also will be included within this system.

In addition to using this information for developing a program for these juveniles, it is also used to identify security risks within the institutions and to notify staff of potential violence between juveniles.

Juvenile Correctional Centers (JCCs)

As noted earlier, juveniles found guilty of gang-related offenses provided in §§18.2-46.2 and 18.2-46.3 of the Code of Virginia are automatically classified as a gang member and must be included in GMS. Of those committed by the courts to the state in FY2006, 16 juveniles had guilty findings under these sections. That number increased to 27 in FY2007 and to 40 in FY2008. While the number of juveniles adjudicated guilty and committed to DJJ under one of the above-mentioned sections has increased over the years, these numbers remain a small percentage of total commitments.

Gang affiliation is but one consideration in managing a safe correctional system. Research has identified a number of factors involved in juvenile gang membership, including: social needs – the gang may act as a family when the youth does not have an acceptable social structure at home or in his community; safety – a young person will join to feel that someone ‘has his back’ when threatened by others; and the need for acceptance – the juvenile may feel alienated from his family or associates. Many criminological factors are attributed to these needs; not only interest in belonging to a gang.

The department has implemented a number of programs to address these issues in its facilities. If a juvenile feels safe in a JCC environment and if he receives appropriate structure and attention from staff, then he is less likely to become involved with gangs. DJJ has modified the ways that it controls behavior in its institutions as well as the environment in which treatment programs and education are delivered. Staff have available a number of tools to use, depending on the individual needs of any facility resident, to maintain an appropriate working and living environment. If this feeling of safety is accomplished, then institutional violence is reduced, treatment and educational programs are more effective, and the youth is more likely to adapt better when released back to his community and, ultimately, will be less likely to commit new crimes.

While gang affiliation remains a challenging and ever-changing problem in the JCCs centers, DJJ has seen improvements in each of these areas over the past few years. The number of reportable incidents in the facilities has dropped by over 42% since 2006. The number of residents obtaining high school diplomas and GEDs this past school year was the highest in the past 15 years (even though the number of incarcerated juveniles is at a 15-year low). Recidivism has fallen more than 8% since 2005 and is at the lowest level since first measured in 1998.

Court Service Units (CSUs)

Juveniles committed to the state spend 30-45 days at the Reception and Diagnostic Center (RDC) prior to being placed in one of the department’s six JCCs. CSUs do not have the same opportunity to assess each youth with whom it works. As a result, the process for identifying and working with gang-related juveniles is somewhat different.

CSUs are responsible for a variety of functions within the locality, including intake, investigations and reports for the Juvenile and Domestic Relations (J&DR) courts, petitions related to domestic relations, custody investigations, and probation and parole services. There are

35 CSUs in the Commonwealth of Virginia – 32 are operated by DJJ and three are operated by localities (Fairfax, Arlington, and Falls Church).

All CSUs have access to and are required to use the GMS. Each CSU has at least one trained gang specialist who has the responsibility of identifying juveniles involved in gang activity, entering the juveniles' information, and maintaining the data in the GMS. The CSU gang specialists are the resource for CSU staff, helping to develop interventions. These gang specialists also work within the community representing the CSU on local and regional gang-related task forces and committees.

Depending on individual needs, juveniles identified as gang-involved may be placed onto intensive probation. They may be required to participate in the Phoenix program, mental health or substance abuse treatment, or various forms of counseling. Some localities have seen greater gang activity than others. About one-third of the CSUs have dedicated gang parole/probation officers. Four CSUs (Fairfax, Loudon, Newport News, and Manassas) have their own gang units.

Many CSUs participate in local or regional gang task forces, which bring together various community partners including law enforcement and adult probation/parole to provide training, information, and planning on gangs and gang activity.

CSU staff work with juveniles who may not meet the strict criteria for gang membership, but who appear likely to be associating with, or may desire to join, a gang. Intake, probation, and parole officers have absorbed this additional work within their caseloads.

DJJ has limited funding to purchase parole services when residents are released from the JCCs. For gang-involved youth, parole officers work with specialists in DJJ's central office to obtain funding for private and non-profit mentors and therapists who have the ability to work with both the youth and the families. Additionally, several CSUs have arrangements with local physicians who provide pro bono or reduced rate services for removing gang tattoos.

Gang Activity in Local and Regional Detention Homes

Virginia has 24 secure detention homes – half are locally operated and half are run by commissions (political entities comprised of three or more localities). DJJ receives an appropriation to assist with construction and operation of these facilities. The Virginia Board of Juvenile Justice is charged by the Code of Virginia with establishing standards under which detention homes must operate. These physically secure residential programs provide short-term housing and programming for juveniles who are admitted while awaiting a court disposition as well as juveniles who are sentenced for up to six months with a post-dispositional placement. About 20% of those juveniles in detention have been sent to a post-dispositional program.

Because gang activity is not equal in all parts of the state, some homes have more problems than others. DJJ has made the Phoenix program available to all detention staff. The Gang Management Unit staff have visited and provided training to all homes that have requested it. Overall, detention populations have declined somewhat since 2000; however, admissions in some localities have increased in recent years.

Local and regional programs generally take advantage of gang training and utilize expertise developed by agencies at the local level. As mentioned earlier, a pilot program is being developed to expand the GMS program to detention centers.

The Phoenix Curriculum is utilized in 14 detention centers for juveniles sentenced to post-dispositional programs (Blue Ridge, Chesterfield, Fairfax, Highlands, James River, Loudoun, Lynchburg Regional, Merrimac Center, New River Valley, Newport News, Northern Virginia, Rappahannock, Roanoke Valley, and W.W. Moore) and in five detention homes for pre-dispositional juveniles (Chesterfield, Newport News, Prince William, Roanoke, and Shenandoah Valley).

Summary and Conclusions

Problems with youth gangs are not new but have evolved to a different and more complex set of issues. At the same time, DJJ and its local partners have had to adapt to these changes, which has required a reordering of resource usage, changes in procedures and automated systems, and increased staff training and activities.

Gang membership cannot be dealt with as a stand-alone problem. Reasons for youth involvement are similar to those for general criminal involvement. Not all juveniles have the same needs, and not all gangs work in the same ways.

The department has developed a range of tools for managing these problems and, to date, has seen improved outcomes for court-involved youth. But, given the likelihood that gangs will continue to change their methods of operation, of recruiting, and of doing business, DJJ will need to continue to adjust its programming, training, assessment process, and collaboration with other youth-serving and law-enforcement agencies.

Appendices:

**Summary of Statutes Relating to
Youth Gang Involvement**

Appendix A: Crimes by Gangs

Article 2.1 of Chapter 4 of Title 18.2 of the Code of Virginia details crimes by gangs. The following section contains a brief description of some of the statutes contained in this Article.

Definition of Criminal Street Gang Activity

Section 18.2-46.1 of the Code of Virginia defines a “criminal street gang” as any ongoing organization, association, or group of three or more persons, whether formal or informal:

- (i) which has as one of its primary objectives or activities the commission of one or more criminal activities,
- (ii) which has an identifiable name or identifying sign or symbol, and
- (iii) whose members individually or collectively have engaged in the commission of, attempt to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least one of which is an act of violence, provided such acts were not part of a common act or transaction.

Definition of “Predicate Criminal Act”

An essential element of the definition of a criminal street gang requires that two of the gang’s primary functions are the commission of one or more predicate criminal acts. Section 18.2-46.1 of the Code of Virginia lists those acts that constitute predicate criminal acts. There are essentially two categories of predicate criminal acts. An “act of violence” as defined in §19.2-297.1(A) of the Code of Virginia is one set of predicate criminal acts. The second category simply lists by statute those offenses that constitute a predicate criminal act.

Prohibited Criminal Street Gang Activity

Section 18.2-46.2 of the Code of Virginia makes it a crime for a member of a criminal street gang to participate in any predicate criminal act for the gang. It also increases the penalty if the participant/member is an adult who knows the gang has a juvenile member or participant. Subsection B of this section makes the violation of this statute “*a separate and distinct offense*” from the underlying predicate criminal act.

Recruitment of Persons for a Criminal Street Gang

Section 18.2-46.3 of the Code of Virginia makes it a crime to recruit persons to participate in or become a member of a gang. It also increases the penalty if the participant/member is an adult who recruits a juvenile to actively participate in or become a member of a gang. Subsection B of this statute makes it a crime to encourage an individual to join a gang, remain in the gang, or submit to a demand made by the gang through the threat or use of force against the individual or any of his family or household members.

Hazing of Youth Gang Members

In addition to the crimes listed above, §18.2-55.1 of the Code of Virginia makes it illegal to cause bodily injury by hazing any member or person seeking to become a member of a criminal street gang.

Appendix B: Sharing Gang Intelligence

As a general rule, department records and information about juveniles are confidential and only accessible to parties *outside* of DJJ when authorized by the Code of Virginia or with consent of the juvenile or parent, as applicable.

Article 12 of Chapter 11 of Title 16.1 of the Code of Virginia includes provisions relating to the confidentiality and expungement of juvenile records. The following section contains a brief description of some of the statutes contained in this Article. Sections 16.1-300 and 16.1-309.1 govern any such release of information.

Releasing Confidential Information for Purposes of a Criminal Street Gang Investigation: §16.1-300(A)(10) of the Code of Virginia

Confidential juvenile records and reports can be shared with the state police or local law enforcement only for conducting an investigation into alleged criminal gang activity involving: a predicate criminal act, or information that a person is a member of a criminal street gang.

1. Information that cannot be shared:
 - a. No information in “*medical, psychiatric, and psychological records and reports*” can be shared,
 - b. Staff shall redact any such information from other reports shared under this section prior to opening the report for inspection, and
 - c. Information means any information contained in or learned from any written record or report. Any information obtained through other means may not be shared under this Code section.

2. When the information can be shared:
 - a. Gang-related information can be shared with law enforcement when there is “*a criminal investigation of an allegation of criminal gang activity involving a predicate criminal act as defined in §18.2-46.1,*”
 - b. Gang-related information can be shared with law enforcement when there is “*information that a person is a member of a criminal street gang as defined in §18.2-46.1,*” and
 - c. The law-enforcement officer may divulge such gang-related information further only in connection with that criminal activity investigation.

Sharing Confidential Juvenile Gang Information with Law Enforcement: §16.1-309.1(G) of the Code of Virginia

Gang-related information may be shared with the state police and local law enforcement, including sheriff's departments. "Information" means any communication whether written or oral. Information may be shared under the following circumstances:

1. Prerequisites for sharing information:
 - a. The exchange of information shall be for the purpose of an investigation into criminal street gang activity,
 - b. The sharing of such information must be made in light of public safety considerations, and
 - c. The individual must be identified as affiliated with a criminal street gang as defined in §18.2-46.1 of the Code of Virginia.
2. The information shared is limited to that which is related to "*gang involvement*" or the "*gang-related activities of others,*" and

Gang information may also be shared with the Commonwealth's Attorneys' Services Council pursuant to §16.1-300(A)(11) of the Code of Virginia. The technical components of what information is to be shared and how frequently it is to be furnished are contained in §66-3.2 of the Code of Virginia.

Submitting Gang Information to the Commonwealth's Attorneys' Services Council

Section 66-3.2 of the Code of Virginia requires the director of the department to submit data on committed juveniles identified as affiliated with a criminal gang to the Commonwealth's Attorneys' Services Council. On a monthly basis, the director of the department must forward a list of juveniles, 14 years of age or older, who meet the following criteria:

- a) Have been committed to the department,
- b) Have been found guilty of a felony offense defined as a predicate criminal act under §18.2-46.1 of the Code of Virginia, or have been adjudicated delinquent on the basis of an act that would be a felony and a predicate criminal act under §18.2-46.1 of the Code of Virginia if committed by an adult, and
- c) Have been identified as belonging to a criminal gang.

The list must contain identifying information for each gang member as well as the offense, court, and date of conviction or adjudication.