TEAM PROSECUTION OF GANG CASES IN GEORGIA

Implementing the Georgia Gang Act to Combat Gang Crime in the Peach State
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Today’s Presentation:
Examine the criminal justice system and how specialized gang prosecution laws improve public safety.
But first, to helps us keep perspective...

A tale that has leadership, management and initiative applications beyond our work in combating gangs
An Important Principle to Keep in Mind

The difference between taking *decisive* action and taking *effective* action
The Parable of the Chicken Farmer

Taking “decisive action,” alone:

1. Failed to resolve the original problem
2. Worsened that predicament
3. Generated another dilemma and
4. Wasted time and resources

- The lesson: decisive action must be effective in order to be useful
- Otherwise, we not only fail to contend with the problems that first faced us, we intensify them and create more
- Knowledge of not just the problem, but the actual mechanisms for resolution, is critical
- Regardless of comfort, convenience or preference
The Parable of Farmer Brown

lessons for the rule of law and public safety

- Are the actions we are taking effective?
- Are we aiming our efforts at the actual problem?
- Is our focus on the true methods for achievement?
- Or are we killing cats?

This means that we have to consider the size, breadth and dangers of criminal street gangs.
Protecting the public from gangs and gang crime

Understanding the scope and magnitude of gangs and gang crime and the legal means to approach and combat them
Gang Problem or Gang Crisis

What are the “hard numbers?”
U.S. National Gang Crisis

2009 FBI Estimates (2009 National Gang Threat Assessment)

- Over 1 million criminal street gang members nationwide
- Up 200,000 from 2005
- Responsible for up to 80% of crime in many communities
National Gang Crisis

Studies show that nearly half of the victims of gang-related shootings are innocent bystanders (66 Fordham L. Rev. 2033)
Southeastern U.S. Gang Crisis

Georgia Trends - Consistent with U.S.

– FBI 2009 estimates approximately 9,871 gangs with more than 172,360 members are criminally active in the Southeastern U.S.
International Gang Growth and Migration: Not a “One Way Street”

- Many major gangs originated in the U.S., and then spread into other countries as well as across America.
- SUR13, N14, 18th Street and MS13 are examples.
- Gangs cross many borders and in scores of directions.
Gang Colonizing in Georgia

Since as early as 2003, federal reports recognized a documented, growing concern in Georgia over the increased presence of older, more experienced gang members from Chicago and Los Angeles.*

*2003 Georgia Drug Threat Assessment
Drugs and Gang Violence

Violent disputes over control of drug territory and enforcement of drug debts *frequently occur among street gangs* in urban areas and, increasingly, in suburban communities *where gangs have expanded their drug distribution operations*.

* 2009 Gang Threat Assessment
Gangs & Drugs: Gangs the Top Narcotics Distributors

Drug distribution by gang members poses a growing concern in suburban and rural communities; *gang members are the primary retail-level drug distributors and are increasing* their wholesale-level drug distribution in most urban and suburban communities. *

*2009 Gang Threat Assessment*
Rising Levels of Gang Involved Drug Distribution

Gang Violence Spreading

As these gangs encounter resistance from local gangs or other drug distributors in these communities, an increase in violent incidents such as assaults, drive-by shootings, and homicides can be expected.*

*2009 Gang Threat Assessment
Law Enforcement Gang Reporting: Southeastern Percentages Close to West Coast’s

Gangs in Georgia: Just a “Metro Issue?”

Even anecdotal evidence shows trends consistent with other statistics.
GGIA/Case Law Sample: Over 1100 CSG’s Reported in 55 Georgia Counties

BALDWIN COUNTY
BARROW COUNTY
BARTOW COUNTY
BIBB COUNTY
BROOKS COUNTY
BULLOCH COUNTY
BRYAN COUNTY
CHARLTON COUNTY
CHEROKEE COUNTY
CLARK COUNTY
CLAYTON COUNTY
COBB COUNTY
COLOQUITT COUNTY
COLUMBIA COUNTY
COOK COUNTY
DeKALB COUNTY
DOUGHERTY COUNTY
DOUGLAS COUNTY
ELBERT COUNTY
FAYETTE COUNTY
FLOYD COUNTY
FULTON COUNTY
GLYNN COUNTY
GWINNETT COUNTY
HALL COUNTY
HENRY COUNTY
HOUSTON COUNTY
JEFF DAVIS COUNTY
LAMAR COUNTY

LEE COUNTY
LIBERTY COUNTY
LOWNDES COUNTY
LUMPKIN COUNTY
MACON COUNTY
MITCHELL COUNTY
MONROE COUNTY
MUSCOGEE COUNTY
OGLETHORPE COUNTY
PAULDING COUNTY
POLK COUNTY
PUTNAM COUNTY
RABUN COUNTY
RAYBURN COUNTY
RICHMOND COUNTY
ROCKDALE COUNTY
SPALDING COUNTY
STEPHENS COUNTY
TALBOT COUNTY
THOMAS COUNTY
TIFT COUNTY
TROUP COUNTY
WALTON COUNTY
WARE COUNTY
WAYNE COUNTY
WHITFIELD COUNTY
MARTA;
CORRECTIONS
(Locations not noted)
Georgia General Assembly: Criminal Street Gangs Have Caused “A State of Crisis”

Made this conclusion a matter of statutory law
O.C.G.A. § 16-15-2 Legislative Findings and Intent

(b) The General Assembly, however, further finds that the State of Georgia is in a state of crisis which has been caused by violent criminal street gangs whose members threaten, terrorize, and commit a multitude of crimes against the peaceful citizens of their neighborhoods. These activities, both individually and collectively, present a clear and present danger to public order and safety and are not constitutionally protected.
(c) The General Assembly finds that there are criminal street gangs operating in Georgia and that the number of gang related murders is increasing. It is the intent of the General Assembly in enacting this chapter to seek the eradication of criminal activity by criminal street gangs by focusing upon criminal gang activity and upon the organized nature of criminal street gangs which together are the chief source of terror created by street gangs.
Do We Need a Gang Act?

What is the value of a special set of laws?
Do We Need a Gang Act?

We have a “test case”

“RICO”
(enacted in 1970)

Racketeer Influenced and Corrupt Organizations Act
Prior to 1970, No Successful Mafia Prosecutions

The existing legal framework was unable to provide jurors with the complete picture of Cosa Nostra’s Activities and how they related to a given offense
Pre-RICO Mafia Prosecutions

“The problem of figuring out how to take action against organized crime was so widespread, that one legal analyst compared the situation to *putting out a forest fire with a garden hose.*” Gordon, Mark, “Ideas Shoot Bullets: How the RICO Act Became a Potent Weapon in the War Against Organized Crime,” Concept (Villanova University, 2003)
Pre-RICO Mafia Prosecutions

“Before the act, the government’s efforts were necessarily piecemeal, attacking isolated segments of the organization as they engaged in single criminal acts. The leaders, when caught, were only penalized for what seemed to be unimportant crimes. The larger meaning of these crimes was lost because the big picture could not be presented in a single criminal prosecution.” Blakey, Robert. “Debunking RICO’s Myriad Myths.” St. John’s Law Review, 1991, 64; p. 703
Pre-RICO Mafia Prosecutions

- Prosecutors were unable to charge a racketeering offense for what it was and could not prove the actual nature and extent of criminality in any given case.
- Once they were, Cosa Nostra was essentially dismantled in less than 25 years.
Do We Need a Gang Act?

Unique crime needs a specialized statute

- At Its Height, The Mafia Had 3,000-5,000 “Made” Men
- Compare that to 1,000,000 gang members
- Georgia did not get to “a state of crisis” because our legal system could adequately protect us

In other words, we cannot effectively combat a 21st Century Gang Crisis with 19th Century legal concepts
Gangs: Violence the Coin of the Realm

Gangs characterized by:

- Force
- Imposition of Will
- Excessive violence

Gangs consist of dangerous people who affiliate with other treacherous people to be part of organizations that require and promote violence and other criminal acts and that, in some cases, number in the tens of thousands.
Gang Act Needed

*embedded and intrinsic nature of gang violence*

Just like terrorists, gang members thrive on fear. The more fear they can instill in the communities and their enemies, the greater the freedom they enjoy while dealing in their dirty business of guns, drugs, and extortion. *That fear is implanted by taking credit for the violence they perpetrate.*

Gang Act Needed

RICO Tailored to Mafia Not Gangs

- **Cosa Nosta:**
  - Central driving force—MONEY

- **Gangs:**
  - Central driving force—VIOLENCE

Differences and distinctions in common activities, customs, and behaviors demand specialized laws that reflect the nature and threat of gangs
Gang Act Needed

- Practically: to effectively contend with the “gang crisis”
- Legally:
  - To provide a charge that accurately characterizes gang crime
  - To create pathways for admission of all relevant evidence

To enable investigations and prosecutions that will combat these highly dangerous groups whose “life’s blood” is force, intimidation and violence
Unfortunately, the United States has no federal gang prosecution law for adults.

So, states have developed their own (including states with prior RICO laws).
Georgia’s Gang Act

Includes

1. Definitions
2. Charging Provisions
3. Procedural Rules
4. Sentencing Penalties
Gang Cases

What are the goals?
What is the goal of a Gang Case?

Experience, the Gang Act and RICO tell us

- To stop “the gang”
  (rather than to “get this guy”)
- Otherwise, we violate the intent of the Gang Act, replicating the pre-RICO scenario
- We want to slay the Hydra (not feed it)
- a/k/a NO CAT KILLING!

a/k/a NO CAT KILLING!
Are Gang Acts Effective?

The Georgia Gang Act has been instrumental in making our streets safer in a very short period of time.
The Effectiveness of the Gang Act

The DeKalb County District Attorney’s Office has over 60 convictions (exceeding 1,000 years) under the Gang Act since 2007.

- Sentences included prison, probation and “splits”
- DeKalb County has experienced a significant decrease in violent crime from 2008 to 2009

From 2008 to 2009:

- 30% Decrease in Armed Robberies*
- 46% Decrease in Homicides*
- Have not had a violent crime involving our most notorious gang in over 18 months

* Statistics from 2008-2009 DeKalb County Crime Comparisons
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Thank you again for the opportunity to address and stand with you as we work together to keep our countries safe and protect the innocent.
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