



CALIFORNIA LEGISLATURE
SENATE COMMITTEE ON JUDICIARY
SENATOR BILL LOCKYER, CHAIRMAN

Interim Hearing on
JUVENILE GANG VIOLENCE

October 15, 1986
9:30 a.m. to 5:00 p.m.
State Building
San Diego, California

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HEARING TRANSCRIPT

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SENATOR WADIE DEDDEH: In anticipation of Chairman Bill Lockyer, let me make an apology on his behalf. He is flying from Oakland, and those of us who fly back and forth from San Diego to Sacramento or Oakland have three problems. He may not be able to take off from San Diego sometime because it's fogged in, and this foggy season is around us; or he may land in Los Angeles -- he couldn't land in Sacramento. In fact, this happens to me a million times in the twenty years that I've served. Senator Lockyer will be here with us.

So, since I am the first witness, and since this interim committee is dealing with one of the legislation introduced, one of which is Senate Bill 2118, which is mine, and I am State Senator Wadie Deddeh representing the 40th District -- in fact, where you are sitting right now is part of my senatorial district -- let me read the statement that I would have read had Chairman Lockyer been here dealing with juvenile crime.

Juvenile crime has changed. Juvenile crime is no longer limited to acts of malicious mischief, vandalism, or stealing hub caps. Today, juveniles commit nearly one-third of the serious crime in America. Our current juvenile justice system, however, which is supposed to act only in the best interest of the child, is largely incapable of responding to this more serious category of offenses committed by juveniles. Although I am sure there are some who would minimize the criminal aspects of juvenile crime and instead treat juvenile crime as the mere indiscretions of youth, the facts suggest something quite different -- it is a grave problem on a national scale. Consider the following: There are currently 15 million Americans between the ages of 14 and 17, or about 7 percent of the entire population of the United States. But about 30 percent of all people arrested for serious crimes are juveniles. Despite the beliefs of social theorists, juveniles commit serious crimes at a higher rate than the rest of the population. In fact, and I emphasize that, 16-year-old males commit serious crimes at a higher rate than any single age group.

The violence and intensity of juvenile crime is truly staggering. In 1985 alone, 2,000 juveniles were arrested for murder; 4,000 for rape; 34,000 for aggravated assault. I believe it is time we face the fact that juvenile crime is committed by criminals who happen to be young and not by children who happen to commit a crime.

In the face of this increase in serious juvenile crime, our juvenile justice system has been unable to keep pace. The fact of the matter is that the juvenile justice system was never designed to deal with sophisticated or ultra-violent criminal activity. Indeed, the juvenile justice system even uses different jargon to enunciate the difference between juveniles and adults.

Juveniles do not commit crimes, but rather acts of delinquency we're told. They're not found guilty, but they are instead adjudicated delinquent. They are not punished but treated. If secure confinement is necessary, it is not in a prison or a jail but in a training school. Juveniles do not complete their sentences, but they are rather rehabilitated. In theory, a procedure exists where the most serious offenders can be prosecuted in adult court. Under the Welfare and Institutions Code Section 707,

prosecutors can petition the juvenile court to have the most serious offenders, who are between 16 and 17, be tried in adult court. In practice, of court decisions, most notably by the case In re Edsel P., have made it more difficult for those cases to be transferred to adult court. It is somewhat anomalous that despite the fact that juvenile crime is increasing in its seriousness, it is not more difficult to handle those cases in the proper forum.

It is for this reason that I introduced Senate Bill 2118. This legislation was sponsored by the Los Angeles County District Attorney. It will enable prosecutors to elect to file more serious crimes committed by 16-or 17-year-old offenders directly in adult court, rather than being first required to make an affirmative showing in juvenile court that the defendant's case should be transferred to adult court.

I should emphasize here that the prosecutor's discretion is not unfettered. Defense counsel can still move to have the matter transferred back to juvenile court. But that motion must be made in adult court after the prosecution files its case. I believe that SB 2118 is a partial response to the challenge of serious juvenile crime. There are other areas as well -- dealing with the release of the names of juvenile offenders to the public, the sealing of juvenile records, the requirement that juvenile sanctions always begin with the most lenient one, more lenient one, as well as the unique challenges posed by the marriage of juvenile crime with street gangs -- this legislation needs to address.

I believe that this interim hearing is an important forum for the ventilation of new and innovative approaches for dealing with these problems. In that spirit, I am pleased to be a participant here today.

And still I don't see Chairman Lockyer, and so I will exercise the privileges of the chair and ask our first witness, Keith Burt, Chief of the Gang Prosecution Unit, San Diego County Deputy District Attorney.

MR. KEITH BURT: Thank you. Ladies and gentlemen, as you have just been informed by Senator Deddeh, a lot of the things that impact juvenile crime dramatically is the correlation between juvenile crime and street gang activities. In San Diego, that has been shown as it has been shown throughout the state. According to the San Diego Police Department statistics, gang-related serious assaultive crimes have intensified dramatically during the year of 1986. In January through September of 1986, gang-related homicides, assault with deadly weapons, robberies, and rapes have increased, respectively, 150 percent, 100 percent, 12.5 percent, and 100 percent over the same time period for 1985.

With that in mind, I will address the issues raised in the invitation to this hearing. The first, which has been addressed by Senator Deddeh is, of course, should juveniles be tried as adults under any circumstances? And the answer is categorically yes. What circumstances should trigger the prosecution? Certainly, the circumstances enumerated in the current Section 707(b) of the Welfare and Institutions Code, which are reembodyed in Senate Bill 2118, Section 603(b).

I think another factor that ought to be considered is the lowering of the age from 16 to 17, or maybe 14 or 15, to include those individuals that we find at those young ages -- and we're seeing more and more of them -- who are hardened, calloused, and totally unremorseful people who will kill for the most trivial of reasons. These individuals should not be mixed with those individuals for the juvenile system was truly designed for. We find that they are currently the people that result in a move among defense counsel for

jury trials. And finally, we're going to see a full panoply of the trimmings and trappings of the adult criminal justice system introduced into the juvenile system because we have failed to recognize there are some individuals who, though youthful chronologically, are unfit for that particular system.

SENATOR DEDDEH: May I ask a question at this time? Could you identify for us the background of some of these young men and women who are involved in violent crimes and gang-related crime? What is their background?

MR. BURT: You will find a very wide background in the individuals involved in gang-related crime. It was traditionally though, of course, that your lower socioeconomic groups are going to be the only people involved in crime; but we have seen what appears to be a pattern similar to that of the development of the narcotics traffic within the country. Gang-related crime has something for every socioeconomic strata. We find gang members who are upper middle class, wealthy; and we find them all the way down to the very lower end. By far the vast majority of gang members are from the lower socioeconomic classes and from ethnic minorities. However, we are finding the development of Caucasian gang members and, increasingly, those individuals who are drawn to gang membership through the narcotics trade and the mainstream individuals because of the exhilaration that gang life provides.

SENATOR DEDDEH: OK, thank you.

MR. BURT: We also find, of course, that the juvenile system, since it is designed primarily for the benefit of the offender, that sometimes the best interests of the offender are in conflict with the best interest of the community at large. Therefore, that is another reason that the juveniles should be removed from that system, because it is ineffective.

Prior to doing any of this, of course, we've got to define what a youth gang is. There is no official accepted definition of a street gang embodied in---or codified within the State of California. But I think with the advent of the Southeast Asian gangs and communities that heretofore have not had them and those communities that have had them for some period of time, we need to redefine the traditional law enforcement ideals of what a gang is. Say, that primarily, they all have at least four factors. The first is that they claim a name or an identifiable leader or philosophy that they follow. The second is that they claim a geographic or an economic turf or territory. Because we're finding that particularly among the Southeast Asians, they do not claim geographic territory like our traditional street gangs, but are more involved in extortion-type enterprises. The third would be that gang may be a group of persons who associate on a continuous or a regular basis; and the fourth one which would distinguish from other groups of people traditionally seen as stereotypically meeting the image of gangs, but not involved in criminal activity, it is important that they regularly engage in criminal or delinquent acts. That, of course, should be what we should call a gang.

Gang membership, I think, in and of itself should not be criminalized. Certainly for the reason that because gangs, as we know them in California, as opposed to East Coast gangs which are very well-structured, are loosely organized, rarely with specific leaders or specifically stated criminal goals or they're written or otherwise promulgated. Proving the existence of an identifiable group whose membership in general could be considered a conspiracy to violate the laws of the state and country would make prosecution of membership or near-membership alone a nearly impossible task. So I think

that making gang membership alone a crime would be unwise. However, a consideration in that direction would be making the encouraging, instigating, intimidating, or otherwise soliciting a person to become a member of a gang a criminal offense, or maybe limited to encouraging a minor to become a member of a gang. Since by definition, if we set the definition of a gang, a gang is involved in criminal activity. Perhaps we could add that encouragement or soliciting to force or violently threaten a force of violence would be a felony at best.

We should further, perhaps, add enhancements of one or two years to a criminal offense committed for a gang-related crime as defined by Penal Code Section 13825. That is an offense where either the victim or the defendant is a known gang member.

Tools that law enforcement agencies need to combat new gang violence are many. Here are some of the salient ones, and one I think that is most needed is wiretap legislation, legislation that allows law enforcement to listen in to the conspiratorial conversations of gang members as they decide what type of crimes they're going to commit, what type of weapons they are going to use, where they hide the fruits of their crime, and perhaps being able to recover some of the contraband and weapons and, certainly, prevent serious assaultive acts by the gang members.

We also need some legislation which will allow prosecutors to discover surprise evidence such as undisclosed

SENATOR DEDDEH: Mr. Burt, just for the record, since we're talking about Greater San Diego, I think the people of San Diego should know that the Senate did pass the wiretapping legislation that you are talking about, and it did not make it through the Assembly, but we did our share.

MR. BURT: That is correct. I am aware of it.

I think that legislation allowing prosecutors the ability to discover surprise evidence such as an alibi witness who, up to that point within the trial, had been totally unknown. Some time, at least a reasonable time, prior to the presentation at trial would be appropriate. Although there was some legislation in that area, it was found to be unconstitutional at some point. Perhaps we ought to try again in that area.

An amendment to Penal Code Sections 136.1 and 137, which are the witness intimidation statutes, to include retaliatory types of intimidation, after the criminal proceedings had been concluded, would be very beneficial in encouraging witnesses to come forward and testify. So they know that they will be protected, at least to some degree, from further harassment after the proceedings are concluded.

Legislation is needed to make good cause include good cause for a continuance of a preliminary hearing, to include a delay for the purpose of joining properly joinable co-defendants, particularly those who are in juvenile court. Gang-related crimes very frequently involve anywhere from two to ten defendants, half of whom are juveniles, prosecutable or handled in the juvenile court, and the other half in adult court; and half of those in the juvenile court could be of an age to be brought into the adult system. The problem is we have two different time frames that are worked with in the two different systems, and you wind up putting on the same hearing over and over again with the same witnesses. And we currently have a robbery series going that involves several defendants who were arrested a matter of days apart. The case has involved approximately 53 witnesses, all of whom will have to be called to

testify about the same matter four or five times. It is a waste of public resources and it is a ridiculous amount of time.

We also should allow some legislation that specifically allows for joinder of juvenile defendants in one hearing when they start at the same time or crimes arising from the same set of facts.

Another factor raised in the invitation is drug use by gang members. Drug use is extremely pervasive within a gang subculture. We did a survey in our office of gang-related homicides and found that roughly 90 percent of the defendants in homicide cases had some form of drug other than alcohol in their system at the time of apprehension or at the time of the commission of a crime. Generally speaking, at that time which was a year or so ago, the drug employed was PCP. It was primarily involved in Hispanic gangs. We are finding today that the drug of choice appears to be rock cocaine or crack and that is primarily involved with black gangs. And gang members certainly are a significant factor in the distribution of illicit drugs. It is something that we are seeing increasingly, and certainly, the majority of our crime---there's been a shift in the types of gang-related crimes that we are seeing, primarily, more robbery-type of activity which revolves around the drug subculture. We are finding children 10 and 12 years old riding bicycles making deliveries, and that's the type of information that certainly the representatives from the police department or other first line law enforcement can provide more information on.

In concluding, I would say that in order to get a handle on the problem or at least significantly retard the growth of gang activity, because I don't think it's a problem that we can totally eradicate, in the smaller community as opposed to, for example, Los Angeles where you have large numbers of gangs that have been established for, maybe, fifty years, if we find that local law enforcement and governmental agencies recognize and retard development, recognize the development of gang activity and marshal the resources of the community including schools, community-based organizations, prosecution, probation, police enforcement and they work jointly and in harmony with monetary support, they can certainly retard the growth; and that has been experience we've had in San Diego County and certainly throughout other counties that I have talked to the prosecutors with throughout the state.

SENATOR DEDDEH: Mr. Burt, I was in Detroit last week and casually, I had a visit with the assistant to the chief of police there. He was complaining about the fact that because of the juvenile court system and how we treat juveniles, the real drug pushers and those who are making millions and so on are using kids 14, 15, 16, to distribute and, of course, to sell and so on, with the knowledge that these people are not going to be sentenced to ten years in jail or something. Three months, six months, and they're released. Have you seen any evidence of that out in the drug culture in San Diego County? Are the real big fish pushing those little kids -- we call them kids -- to sell and distribute narcotics?

MR. BURT: I think there is evidence of that within San Diego County. However, I don't think they have reached the level of sophistication where they are doing it for the purpose of those juvenile evading serious punishment. It is just easy to do because the money involved is fantastic to a juvenile. Any kid that can make a couple hundred bucks a day, at 10 to 12 years old, is going to be highly motivated.

SENATOR DEDDEH: Any questions? Thank you very much. I see we're honored to see with us the district attorney of Los Angeles County, Mr. Ira Reiner.

The chairman is not here yet. I am acting on his behalf, Mr. Reiner. So if you don't mind. I think he should---Senator Lockyer should walk in at any minute.

MR. IRA REINER: Thank you, Senator. I might note in passing before I begin that San Diego is indeed fortunate that as of yet there is not clear evidence that juveniles are being used very systematically by adults in narcotic trafficking. In Los Angeles, that isn't something we see occasionally. That is simply the way it operates. That's the modus operandi; that young kids are continually used because of their treatment in juvenile courts, to act as runners for narcotic dealers. And occasionally, not frequently, but that just simply is a part of the organized practice.

This morning I would like to speak briefly to a new and dangerous development in street crimes, and that's the rise of organized -- emphasis on the word "organized" -- organized criminal activity by street gangs. First, we should understand the extent and scope of gang activity, street gang activity, and what they are and what they do.

First of all, what they are not. Street gangs are not merely a grouping, a loose grouping of anti-social, crime prone individuals. They are organizations that exist solely to engage in criminal activity. And this is a somewhat recent phenomenon or change that we are starting to see. The criminal activity that they are organized to engage in is primarily robbery, murder, and narcotic trafficking, with any number of other crimes thrown in as well, and, further, to occupy territory primarily to protect their economic interests in carrying out the robberies and the narcotic trafficking. They do not walk around with zip guns and switchblade knives. That is part of a dimmed romantic past, though at the time I don't suppose we thought that street gangs walking around with zip guns were romantic, but if we could only go back to such a date presently.

The weapon of choice in Los Angeles, and I fully expect that's exactly the same that you would find in any other urban area, is the becoming the Uzi and Mac-10 machine gun. We see them not just occasionally, but it is becoming the weapon of choice. Beepers attached to the belts of young kids going around the ghetto area are becoming as commonplace as the ubiquitous ghetto blaster. And I might point out, to risk sounding facetious, these are not young doctors and lawyers wearing these beepers. They are young kids who receive notice that there is sale to be made, a delivery to be made. They go to a phone with a prearranged number and then deliver. And so, as you drive through the ghetto areas and you see these young kids everywhere, everywhere, wearing beepers, you know that you are looking at drug runners and drug dealers and part of that organization. It is that prevalent.

Now, I mentioned a couple of times here -- I referenced ghetto areas. Yes, we should be terribly concerned about what happens in central city. But for those---and it is human nature to be most concerned about what happens close to home, let me point out that everyone is at risk. There are no safe enclaves any longer. Gang activity is no longer limited to the ghetto as perhaps it once was. They are highly mobile and they are reaching out into every community. Every part of Los Angeles from Beverly Hills to Westwood to the fine communities out into the deep suburbs, there is strong, heavy -- emphasis on the word "heavy" -- gang activity. The Crips and the Bloods and all of the gangs from south central Los Angeles travel 30 miles or more into forays, dealing drugs, involved in robberies, and shootings throughout the entire community. Not as an unusual occasion, but as something that is very distinctly a

pattern. They now see not only all of Los Angeles County, but we're seeing L.A. street gangs going outside of Los Angeles County committing their crimes and returning to Los Angeles County. So, for those who feel that yes, the problems in the ghettos are serious and must be addressed, they ought also to understand that this is not a ghetto problem any longer. But when they step outside their door and they walk on the streets of their neighborhood 30 miles removed from the ghetto, it is a---Uzi machine guns have to be stuffed in their ear and their head blown off as well as if they were in the ghetto.

In Los Angeles, street gangs have a membership of between 40 or 50 thousand. We throw around numbers a lot, particularly in government where we talk about a million here and a hundred million or billion there; and sometimes you lose track of what real numbers are. But 40 or 50 thousand people are part of gangs in just the County of Los Angeles, and approximately one-half of them are considered to be hardcore gang members; that is, the very violent prone gang members that I've earlier referenced. There are between 400 and 500 individual gangs in Los Angeles. If this is beginning to sound like a criminal army without using such hyperbole, frankly, that's exactly what it is. And to think that it is something else, you need only drive around. I would not suggest one to walk around, but to drive around certain parts of the community and see for yourself and it is a frightening thought.

The communities that are most deeply affected by gangs or so terrorized that they simply are afraid to fight back and with good cause. It is not a pleasure to do business with these street gangs. They do murder -- not occasionally, but continually. There is hardly a day that goes by that you cannot pick up a Los Angeles newspaper -- never mind the reports that we see as the district attorney -- without reading of the gang-related killing.

SENATOR DEDDEH: Mr. Reiner, pardon me for interrupting. What response do they give to the DA's office or the police department when they are apprehended and asked, "Why did you do this?" What do they say? What's their answer? What's their rationale?

MR. REINER: Those are the kinds of questions, Senator, that all of us ask when we first get involved in this, because we can't appreciate, we can't comprehend, we can't understand how people can be so inhuman as to kill so wantonly without concern. And so, we expect some sort of what we consider to be a rationale answer. They are angry, or whatever it is -- the kinds of human emotions that we can understand, although not acceptable to understand, why it could lead to violence. It's not that at all. They don't care. They are a-human. They kill, they murder, and they walk away from murders. They don't even have enough emotion involved in it to run from the murder. They shoot, they kill, they walk away. It is -- that is perhaps it's most frightening aspect -- it is that commonplace. There are not ordinary human responses redeeming the people so far removed from these other

SENATOR DEDDEH: No remorse at all. No---

MR. REINER: Remorse is just an inappropriate word. It's an inappropriate concept. You're dealing with people that simply do not have any concept of human life. If that sounds excessive or if that sounds harsh, I assure you that anyone can be disabused, with the fact that I perhaps am overstating it only by being exposed to it for a brief period, and you see just how violent it gets. And the normal responses of remorse that we would associate with just simply aren't there. They kill randomly. They kill with specificity. And it matters not at all.

Senator, there are two very dangerous social problems that have come together which have made this a very special problem: One is narcotic trafficking, which all of us are becoming increasingly aware; and street gang activity. And the two of them have come together and so this is why we are not seeing as we have in the past a street gang as simply being antisocial, violent prone, generally kids, but young adults that you just don't bump into them on the street; but if you stay out of their way or out of their neighborhood, you're not necessarily at risk. That isn't the case, primarily because they're coming together in emergencies. Social problems of street gangs are narcotic activity.

These street gangs are involved in a multimillion dollar business. And it is one thing to speak of legitimate businesses or even organized crime as we understand it to be involved in multimillion dollar business. But we're talking about 14-, 15-, 16-, 18-, 20-year-old kids that it is becoming commonplace when they are arrested they are found having \$1000, \$2000, \$3000 in their jeans. Is that startling? Yes, of course, it is. But why do they have that kind of money? Because drug trafficking is---it's a highly--- obviously, it involves a great deal of money, a tremendous amount of money exchanging hands. And it is, as I referenced, the ubiquitous ghetto blaster. It's not quite so common, but becoming very common to see these young kids walking around with thousands of dollars in their jeans. You can bring together the antisocial attitudes of the gangs, put them into a business that they've never known before, having millions of dollars. It's not like knocking over a 7-Eleven for \$25, \$40, or \$50. And so if you have that kind of money, it leads, yes, it inevitably leads to the kind of violence that we're talking about. And that more than anything else has lead to the explosion, and it is indeed an explosion, of gang murders in Los Angeles. It seems like almost daily we read of a gang shooting and about weekly we read of an innocent bystander being shot. And so often, tragically, it seems to be some young kid. They're either in school or they're walking around the school or in neighborhoods where there are other gang members, and young kids are being shot and killed, that it seems like a week doesn't go by that we don't see one of those in Los Angeles.

And frankly, and I get to my point, and that is that the criminal justice system in California is not equipped to handle this problem of organized street gang activity. Yes, we are equipped to investigate a murder and an armed robbery, a major drug deal. You go out and make an arrest for one person committing one crime or several people committing one particular crime. But we are not equipped in the State of California, given our statutes, to deal with organized street gang activity or any organized criminal activity. And what is needed in California is a statute that would permit us to deal with the criminal organizations as organizations. What we need in California is a California statute modeled after the federal RICO statute. That's the Racketeering Influence or the Corrupt Organization statute which the federal government is able to use to go after organized criminal activity. And street gangs in California, and clearly in Los Angeles, have graduated, if that's the word, into organized criminal activity at a very high level. And I believe that California law should explicitly make membership in a street gang a crime. And specifically what I am proposing is a California RICO statute that would provide that any person who participates in a street gang with the knowledge that the common purpose of the gang is to engage in a pattern of robbery, murders, and narcotic trafficking is by virtue of that membership in such a street gang guilty of a felony.

SENATOR DEDDEH: How do you---Mr. Reiner, and I'm not an attorney, but let me---how do you get that---to convince a committee, whether it's Judiciary or Public Safety or whatever in the Legislature, that even though I may have belonged to an organization, but I am not a person who participated in committing an unidentifiable crime. I belong to it. I do little errands for them. But why should that be a crime if I have not in fact committed a crime myself?

MR. REINER: Well, the entire history of the RICO statute in its application for a good many years at the federal level has dealt with, in practice and in terms of court decisions, with the problems that you suggested. What we're talking about is a gang that has as its purpose, sole purpose, the pattern of, not the occasional unrelated individual acts of its members, but the organization exists for the sole purpose of engaging in a pattern of criminal activity, specifically certain enumerated crimes, three of which I mentioned, which would be narcotic trafficking, murder and robbery. And so a person who joins such an organization with the knowledge that that is the purpose of the organization, with the knowledge that that is the type of activity that they are carrying on, membership in such an organization which the aids and abets them by virtue of that membership and engaging in that activity would itself be a crime. But it would require, and it would be a difficult burden, but when it can be shown, then it should be shown; and that is, that indeed the organization is not just made up of a collection, a misfit collection of antisocial crime-prone people, but the organization has a purpose and that purpose has a pattern to it and the pattern is to commit various crimes and to provide territorial protection for those within the organization committing those crimes. If someone knows that that is the pattern of that organization, knows that that is their common purpose, and then joins that organization and participates in organization activity, that should be a crime. We're not talking about someone who is involved in an organization unaware of these activities or involved in an organization where any number of its members may individually be committing crimes, but where it can be proven beyond a reasonable doubt that that's his purpose, that's the pattern and this person had full knowledge of it, joined the organization, and participates generally in its activities.

Now, we are seeing, unfortunately, the wave of the future; and that is the transformation that we spoke of, of street gangs in the highly mobile, incredibly violent, organized criminal enterprises. And I use each of those words advisedly: that they are highly mobile; they fan out from the ghetto; they are incredibly violent. As we discussed just a moment ago, just how violent they are. And they are indeed organized. And before it gets further out of hand, and indeed it is expressedly very much out of hand, we must deal with the problem as it is today, as street gangs are today, not as it was in the past when street gangs really were problems of zip guns and switchblade knives.

And Senator, in addition and in conclusion, although I addressed myself to another matter, I do want to indicate that I do support your bill, SB 2118, to give authority to the DA to charge juveniles between 16 and 17 directly into adult court.

I also have the head deputy from our Hard Core Division, which is the division we have that deals with gangs, present here today, Mike Genelin. He's here for whatever needs this committee will need him for the rest of the day.

SENATOR DEDDEH: I'm delighted you're here, sir. We appreciate your testimony, and I learned a

lot. I don't serve on the Judiciary Committee, but I learned a lot by listening to what I've heard so far. It's a very scary thing; gangs must be taken seriously. Thank you very much.

MR. REINER: Thank you, Senator.

SENATOR DEDDEH: I see---I have on the list, Jon Hopkins, California District Attorneys' Association, DA's office.

MR. JON HOPKINS: Good morning, Senator. It's a pleasure to be asked to be here. I see by the distinguished list of guests that you have planning to speak that a lot of what I would say would be repetitive.

I want to address myself, then, briefly to some of the questions that Senator Lockyer has posed here to me in his letter. I want to start out by saying that I agree with you wholeheartedly on your premise that we've got to stop treating this issue the way we do and start considering that we're dealing with crimes that are being committed by criminals rather than juveniles; and that they happen to be young rather than considering them as children. I think that's one of our major mistakes.

I spent years in the Los Angeles Public Defender's office and among some of those years I represented members of some of Los Angeles' youth gangs. And I can tell you that none of them had any real respect for our system. Most of them found the juvenile court system a big joke. I think if we start saying that these are not children, that these are very sophisticated criminals and start dealing with them as such, we've started in the right direction.

I think that your SB 2118 is a step in the right direction. When you give the district attorney the discretion to make the decision as to what direction to go, whether in adult or juvenile court, and shift the burden basically onto the juvenile to make sure that he can be properly treated and dealt with in juvenile court, then we're again stepping in the right direction. What I would suggest is that actually 2118 be expanded. The list of crimes that you have there was excellent, and I would urge that it include use of weapons to many of those problems. I think that one of the areas for concern, of course, are situations where juveniles use any type of deadly weapon, not just simply a firearm, and not just simply the weapons that are listed in 12020 of the Penal Code.

SENATOR DEDDEH: I'll be happy to get this bill the way it is (Laughter.)

MR. HOPKINS: Sure, sure. And of course, I am talking in an ideal sense there. I remember that there were many assault types of crimes that I've seen in my years both prosecuting and defending that amaze of how inventive these juveniles can be when it comes to getting deadly weapons together. And I can't remember ever handling an adult assault case that involved the wrong end of a claw hammer used on another individual, but that's what I saw in juvenile court. And to expand this list to include those and some of the possession for sale and sale of all dangerous---the more dangerous drugs I think it would be important too.

And I think you might also consider including the participation in the crime, where one of the principals is either armed or using a deadly weapon, not just the person who used it by themselves.

SENATOR DEDDEH: You've heard the district attorney of Los Angeles testify. Do you agree with his statement that belonging to a gang would be known knowledge that this is what his function or her function would be that that would be a crime by itself?

MR. HOPKINS: Yes, I agree with Mr. Reiner's premise wholeheartedly. I think that it's a difficult task to try to punish membership in an association as individuals. But when you have proof that there's a continuing criminal enterprise, and you pattern it after the RICO statutes, I think we're off in the right direction. I also like the idea of having additional enhancement, a punishment, for persons who commit crimes and then are proven to be members of these same gangs.

There's an issue about age, too. Of course, along with my premise that we stop treating these criminals as children, I wanted to point out to you that some research that I think is fairly accurate shows that there are 16 states that put the minimum age at 16, at which you can then---above 16 you can take them into adult court. All the other states, some of them use 15, 14, 13, 10, 10 to 14, some have no minimum of age -- in other words, California is in the minority by requiring that juvenile must be 16 years or age before they can be treated as an adult.

SENATOR DEDDEH: Are these mostly southern states?

MR. HOPKINS: They range all over,
North Dakota, Pennsylvania, Ohio.

can qualify for treatment in adult court. I think it's a worthwhile endeavor to try to go after some of the lower age groups that are participating in extremely serious crimes.

The district attorneys in California have not historically abused the discretion to go forward with having fitness hearings in juvenile court. They do not historically simply say that because a juvenile file falls technically into the range that's permissible, that they may therefore prosecute all of those juveniles as adults or try to by having fitness hearings. They use a remarkable amount of discretion and limit their attempts in those areas to the truly sophisticated criminals who happen to fall in that age limit.

I assume that the Senator and the members of the committee are familiar with the California Council on Criminal Justice's work, the State Task Force on Youth Gang Violence; and I've gone through that at length, and I feel that its recommendations in this identification of the problems are very accurate. We in the prosecuting ranks find that when we do establish hard core gang units, we provide for vertical prosecution so the prosecutor can start with the case at its inception. And when you put together a unit where people get to know, the prosecutors get to know the membership of these gangs, they get to know them as well as the police officers who have been assigned to those beats, when you leave them in that unit long enough that they can be very useful because they know all these individuals and they know what individuals handle the cases, then you're going to have much better results.

Some of the other recommendations of the task force that I think are particularly helpful with some of the problems are an idea that we eliminate the requirement that preliminary hearings be held after grand jury indictment; and yet I would suggest, too, that hearsay preliminary hearings would go a long way towards solving the problem of witness intimidation. It's difficult to describe what a witness goes through when they know in the first place that they're dealing with a gang. And sometimes they're not really sure who is in the gang or what types of gangs they're dealing with. And they come into court for the preliminary hearing, and they sit there and they see a bunch of the defendant's buddies, perhaps in the gang getup, sitting in the back of the court glaring at them. You might be successful in having them

complete their preliminary hearing testimony, but you can bet we're going to have a real difficult time finding them to subpoena them or talking them into coming back into court. When their addresses and telephone numbers and their work information is readily given to the defense and shared with the defendant and his friends, why they're easy targets for intimidation of all sorts. And I've seen all sorts in my time in the criminal justice process.

I think it's also important to enlarge the death penalty category to include killing a witness who is a witness for a juvenile proceeding. Juvenile proceedings should not be any lesser of a situation than adult court proceedings simply because they're not jury trials should not disqualify them from the same treatment.

There are a couple of questions that were asked about drug use in gangs; and of course, Ira Reiner has already addressed themselves specifically to that in Los Angeles. And I asked our California District Attorneys' Association Juvenile Committee to kick this around among the juvenile units, and their response to me was that they have found it statewide to be a growing problem, not only possession of narcotics as it's related to gang membership and activity, but the actual sales also. So it's not just a problem in Los Angeles or here in San Diego. It's a problem statewide, Senator.

That pretty much wraps up my remarks unless you have any questions for me.

SENATOR DEDDEH: Thank you, Mr. Hopkins.

MR. HOPKINS: Thank you.

SENATOR DEDDEH: I see from Los Angeles Deputy District Attorney Bruce Coplen. Oh, City Attorney. Mr. Coplen.

MR. BRUCE COPLEN: Thank you, Senator. By way of introduction, I am with the Los Angeles City Attorney's office, and we have recently established gang prosecution units strictly for misdemeanors. As you may know, in Los Angeles felonies are handled by the district attorney's office whereas we handle misdemeanors. And the concept in creating our unit was to do the vertical prosecution and the intensive investigation that has characterized the DA's Hard Core unit. And so we're attempting for misdemeanors to match some of the very fine work that the district attorney's office has done in that regard. But one of Mr. Hahn's high priorities was to funnel attorney resources into the area of legal research and come up with some proposals that would provide prosecution, law enforcement, with new and necessary legal tools to fight what we feel is an uncontrolled problem.

I'm not going to elaborate other than to say I'm in total agreement with Mr. Reiner's statements on the seriousness of the problem. I would, however, like to emphasize a number of things. First, the State Task Force on New Gang Violence and the Attorney General's report to the California Legislature on organized crime and also, the Mayor of Los Angeles had a task force report -- they've all taken the same approach and all have observed that increasingly street gangs are not like they used to be. They are, in fact, organized crime. They're becoming increasingly violent. They're becoming increasingly profit motivated. They're involved with sales of narcotics with significant profits. And they're also involved in witness intimidation.

But I feel that the key to finding a solution to many of these problems is coming up with an adequate and workable definition of what a gang is. It's kind of like the old problem, well, I know one when I see

one, but how do you put it on paper in the way that gives a useful tool to law enforcement, to prosecutors, to the courts, to knowing what a gang is and what a gang is not.

I feel that Mr. Reiner's suggestion that we look at federal RICO is an excellent idea. There Congress was faced with much the same problem that we have today. They were wanting to do something in the area of organized crime, but Congressmen didn't know how to define it. Well, how do you know what a mobster is? Some of the proposals were to make membership in the Mafia a crime. Other proposals had specific emphasis on persons of Italian ancestry. It might seem a little ridiculous, but these were problems that Congress was faced with. And what they came up with was they took a hard look at the United States Supreme Court cases in three areas, and I'd like to hit the three so that you know what I'm talking about.

First, the First Amendment to the United States Constitution guarantees the right of freedom of association. And in a long line of cases, tracing back to Scales v. United States, the court held that mere membership or participation in any association without a showing of specific intent to further some criminal activity could not be made a crime in itself. So Congress had to look at that problem: How do we punish membership unless we can show intent?

Congress also looked at the line of cases which said that the mere status of membership in a criminal organization or in any organization would create a status offense. By that in Ronalds v. California, the court looked at the issue of a status offense and what it is. They said it was cruel and unusual punishment, to punish someone merely for being something, such as being a prostitute or being a rude person or being a common drunkard. He had to look at some act in order to get around the problem of status offense. The court has also looked at, in a long line of cases tracing back Wyamsetta v. New Jersey, the problem of vagueness. You have to be very specific in drafting criminal legislation. You can't just say "gangster" and punish it. And that's exactly what the court in Wyamsetta looked at. They looked at the law using the word gangster. And the United States Supreme Court said that the word gangster doesn't have a sufficiently clean and clear definition to meet constitutional standards of vagueness. So what Congress did was enacted a law which basically looked at patterns of offenses. And they said that a certain pattern of offenses such as loansharking or extortion were characteristic of organized crime, and that rather than trying to punish membership in some association per se, they said where we have such a pattern, a posteriori, we have a mobster. And so that's the approach that we have come up with and have merely put the finishing touches on a bill which would do that for gangs. To say that there are a certain pattern of offenses which are characteristic of street gangs. And I think there's a wide consensus statewide as to what those offenses are. If you have such a pattern, then, a posteriori, you have a gang.

Now, where I differ from Mr. Reiner is that I would not punish mere membership in such a gang, because I feel that would violate the Constitution. I especially feel that it would violate the status offense issue. If you have a statute which punishes mere membership in some offense without a showing of intent or without a showing that they actually did some act which promoted the illegal purpose of the gang, then I think you have a constitutional problem with very serious dimensions.

SENATOR DEDDEH: Even if the membership or the members themselves would knowingly be

aware of the fact of the purpose of that gang to which Johnny is going to join or enter is designed to extortion, murder, drug trafficking, knowingly, knowledgably, and so on, would that meet the test of First Amendment association?

MR. COPLEN: Well, I think it would meet the First Amendment problem. If you're showing that there is an intent to further some illegal purpose, then I believe you have a statute which meets the First Amendment issue. But what you do not have is a statute which meets the Robinson v. California line of cases of status offenses.

SENATOR DEDDEH: Is that a federal case or a state?

MR. COPLEN: That's the United States Supreme Court decision. So I feel that if you have any statute which says mere membership in an association even with knowledge and intent, it still is status offense.

We have come up with a definition of the word "gang" which we feel precisely tracks federal RICO. There is nothing in federal RICO which uses the word "membership." That word does not exist in federal RICO; and if there is any local statute which uses that word, it is not in fact modeled on federal RICO. We would use the concept of a pattern of predicate offenses and combine that with a series of California cases which talk about unincorporated association. And in cases---in civil law which state an unincorporated association is any group of individuals which have a name and a common purpose, we combine that concept with the pattern of predicate offenses, and I believe you have a workable definition of the word "gang." Then you add on and make---doing some purposeful active act of participation in the gang, then you have a crime. And that's what we've done, and we feel that we've come up with---will meet every constitutional test set forth by either the California Supreme Court or the United States Supreme Court. And of course, we believe that once you've shown this crime, you ought to have extremely serious criminal penalties.

But I don't think we should ignore the other aspects of federal RICO. Federal RICO is a multifaceted program. It involves not just new crimes. It also involves civil provisions and forfeiture provisions. The civil provisions allow individuals and/or prosecutors to sue mobsters or organized crime individuals to get injunctive relief and other kinds of equitable solutions to the problem. We would propose that a California RICO statute aimed at gangs also contain such language. The reason for that is the situation we're looking at in Los Angeles where we have a gang which has taken over a particular neighborhood. The neighbors there have erected ten-foot-high chain link fences to protect themselves. There are narcotics sales going on. There's robbery. There's homicides. And they believe that this neighborhood is their territory. We want to sue them and take that territory back. But we're having a very difficult time using old nuisance theories, other existing civil provisions, to meet the challenge. I believe we'll be able to do that, but we need a much cleaner, workable civil provision which addresses this exact situation.

And lastly, I'd like to emphasize that we need a forfeiture provision. These profits that Mr. Reiner was talking about are very real and are huge. I believe these profits should be seized and forfeited to the State of California. I'd like to say that I believe that the long-term solution to this problem is not in the area totally of law enforcement. I don't believe that law enforcement by itself can solve this problem. I

think the real solution, long-term, is in the area of prevention and education; and in order to do that, you need bucks. And I'm proposing that these forfeiture funds be placed in a fund which would then be used or administered for the purpose of gang violence prevention programs.

So, in summation, I believe that we have come up with a workable definition of the word "gang" and it is exactly precisely modeled on federal RICO and which will meet all of the constitutional challenges. Hopefully, Mr. Hahn will be making this public in the near future. And I thank you very much for

SENATOR DEDDEH: Thank you very much. Appreciate it. Now comes the San Diego Police Department, Sgt. John Madigan. (Inaudible.)

SGT. JOHN MADIGAN: I want to thank you very much for the opportunity to speak to the committee this morning on a very serious issue that we have seen in San Diego for the past couple years.

To begin with, the San Diego Police Department defines a street gang as a loose-knit group of people or an organization of people, loosely knit, that claim a territory or neighborhood that has a name that is involved in criminal activity. There are several other groups in San Diego such as car clubs and so on and so forth that basically do the same thing that are not involved in any type of criminal activity that does not attract our attention. OK? So to begin with, they have to be involved in some sort of criminal activity.

What we have been seeing in San Diego, not on a scale such as Los Angeles, as Mr. Reiner has stated, we have begun to see a lot of young people carrying around pagers or beepers, a lot of young people coming into my office with hundreds/thousands of dollars on them through narcotics raids that we have picked them up. We have discovered these things. We are seeing that an increased---

SENATOR DEDDEH: When they come to your office with hundreds of thousands of dollars---

SGT. MADIGAN: Hundreds to thousands of dollars.

SENATOR DEDDEH: Oh, OK. What do you do with that money if they are apprehended or arrested for---during crime? Do you appropriate the money? What happens?

SGT. MADIGAN: OK, that money usually is evidence of the crime they're arrested for which was sales of narcotics in the street

SENATOR DEDDEH: Counted and the money is impounded?

SGT. MADIGAN: Right. It is then counted.

SENATOR DEDDEH: And then the proceedings go on as---?

SGT. MADIGAN: (Inaudible.) We have been seeing that. We have also identified two out-of-county street gangs that have begun to set up roots down here which tends us to believe that, yeah, there is some organization coming into San Diego in a small way, so far, from what we can determine.

The drug usage---for an example, Saturday night my unit went out and they made over fifteen arrests. Every contact they made was for under the influence of PCP. Every person they contacted Saturday night was under the influence of PCP, and it was in our major gang area. And 90 percent of those people were gang members.

The question as to should juveniles be tried as adults, I agree with what Deputy DA Keith Burt has said in that area as far as yes, there should be power given over to the DA's office to begin on their side instead of in the juvenile 707. We define the street gangs to what the California Department of Justice

published approximately six years ago through a study on street gangs, and that was enumerated earlier as far as claiming the territory, neighborhood, so on and so forth.

SENATOR DEDDEH: Do we have that in San Diego?

SGT. MADIGAN: Yes. We use the same criteria. Actually, members of the San Diego Police Department were a part of that committee.

SENATOR DEDDEH: My question is do we have gangs in San Diego that claim certain territories as they occur?

SGT. MADIGAN: Yes. Yes, we do. To date, we have 27 street gangs in the City of San Diego with a population of approximately 1,650. Those 1,650 are hard-core gang members that we deal with -- the San Diego Police Department deals with. There could be a greater number if you were to account for associates and peripheral persons on the side. But right now there is about 1,650 documented street gang members in this city with a total of 27 street gangs.

We have seen an increase this year in gang-related homicides. They have increased quite dramatically. We have seen an increase in assaultive type crimes in the past ten months.

Chief Kolender and the City Council of this city have identified this problem and they have begun to really put a lot of resources into trying to combat the gang problem itself. The unit has nearly been doubled. The educational portion of it has just begun. And right now, they're putting together educational programs for the school, actually using some of Los Angeles as a mold for our programs down here.

The drug use is totally out of hand as far as street gangs are concerned. They are selling every day. As we sit here right now, there are sales going on out in the streets. Rock cocaine amongst the black street gang members is the drug of choice. The Hispanics' is marijuana and PCP. So as far as the distribution of the illicit, yes, we do have some of them that are networking between other cities outside of the City of San Diego; and that is how the drug is usually getting into this city.

SENATOR DEDDEH: Do we in San Diego have exclusive racial gangs, black or Hispanic or ...

SGT. MADIGAN: Yes, we do. It's just---

SENATOR DEDDEH: ... Latino, Asian, white or so on?

SGT. MADIGAN: OK, we have black and Hispanic. Hispanics make up approximately 60 percent of the gang-related problem; the black make up the other 40 percent. Our Asian problem in this city is---we are still trying to determine our Asian---if we have any Asian gang problems with the criteria that we have set down to identify them. It's very different to try and identify street gang members amongst the Asian community.

SENATOR DEDDEH: You've heard Mr. Reiner's testimony, and he said that the gangs they have in Los Angeles, they don't confine themselves to the neighborhood anymore. They can go 10, 20, 30 miles beyond the areas in which supposedly they reside. The ones we have in San Diego, do they go beyond a certain geographic limit in which that particular gang operates or what is it?

SGT. MADIGAN: I agree 100 percent with Mr. Reiner. They are very mobile. There's not an area of this city that is, you know, safe as far as gang-related activity. Recently I was in a very nice neighborhood of this city, giving a presentation to a school, and was talking to them, and there was

graffiti on some of the bulletin boards and stuff in school; and they had no idea that they had even had any gang-related problems up in that area. So I agree 100 percent. There's not a real safe neighborhood in the city that is away from street gang violence.

Lastly, the significant factor in this is the money factor. There's a lot of money to be made, as we've heard testimony before me. It's much easier to go out and sell, and we are seeing the young juvenile runners, what we call runners; in other words, the distributor will give a juvenile under the age of 18 the narcotics to run for him, to sell, and he knows that the punishment is going to be much different in the juvenile setting versus the adult setting.

SENATOR DEDDEH: That's what they told me.

SGT. MADIGAN: Yeah, exactly. And we are seeing that now in several areas of the City of San Diego. Are there any other questions?

SENATOR DEDDEH: Thank you very much. I appreciate it. From San Diego Sheriff's Department, John Galt, Commander John Galt. There he is.

COMMANDER JOHN GALT: Good morning, Senator.

SENATOR DEDDEH: Good morning, sir.

COMMANDER GALT: I am representing Sheriff John Duffy this morning who couldn't be here.

Mr. Chairman and members of the Committee, I am certain that through the testimony you have heard this morning, and that which you will hear throughout today, will illustrate the seriousness and the increasing magnitude of our youth gang situation within California. You have already heard and will continue to hear today the concerns and frustrations of the community, law enforcement, prosecutors and support groups in their attempts to deal with the young gang problem.

The reason for your hearing today gives those of us who are attempting to address the youth gang violence problem something positive. At the very least it is an assurance that the hard work of all those involved in the Governor's State Task Force on Youth Gang Violence has begun to take form, as a response from you the Legislature. At its best it will sound the beginning of the end of the reign of terror that these gangs have inflicted upon our communities.

Senate bills like Senator Roberti's 2485 and Senator Deddeh's 2118 are clear responses to the people's frustration with the violent youth gang environment. I feel confident that these bills are part of the decisive action to eliminate those criminal gangs from our streets. They will facilitate the return of peace to our communities and the security that we have a right to expect.

The focus of these two Senate bills is upon the illegal and violent activities of youth gangs, and rightfully so. The term "youth gang" has meant a variety of things to many different people. As a result, in the 1970s, the State Attorney General began formulating a legal definition of "youth street gangs". To date, my department has held to the original parameters set by the Attorney General. According to that definition, a gang is first a group of individuals who associate on a regular basis. Second, the group must have a name, which is often the name of the community they occupy. Third, they must claim a geographical territory; and finally, the group is involved in criminal activity. This last element provides the distinction between a criminal gang and a social club or service organization.

This definition has served well in the past years for the more traditional type of street gangs. Using

it, my department has documented over 2,000 gang members and their close associates. However, today it has failed to keep pace with the totality of the gang environment.

For instance, this traditional definition does not address such violent groups as "Stoners" and Asian street gangs. Both of these groups usually do not claim a geographical territory, but roam at will through our communities. In the case of the Asian street gangs, they are very mobile throughout the West Coast.

Both of these groups of gangs commit acts of violence upon the community and other perhaps - perhaps these two are even more vicious than the more traditional street gangs. These groups even lack the perverted sense of "community" usually associated with the traditional street gang.

This emerging problem has also been recognized by the recent Governor's Task Force on Youth Gang Violence. In their travels and subsequent hearings they too found the failure of the traditional definition of youth gangs. This prompted them to recommend, in their published findings, the need for "a uniform definition of gangs...." Here, I recommend that we now begin to address these two emerging groups -- Stoners and Asian youth gangs.

The strength of our efforts towards eliminating street gangs is the focus upon their criminal actions. Attempts to criminalize their mere association would not, in my estimation, survive the ultimate legal tests and thus would be counterproductive. We must focus on their criminal acts and strengthen sanctions against their criminal conspiracies.

All gang members committing criminal acts must be prosecuted swiftly and to the fullest extent that the law will allow. While in many occasions the offenders have been "chronologically" classified as juveniles, children they are not! All remnants of blissful child innocence is lost when one becomes a gang member - where a life of adult criminal activities is inherent.

"Juvenile"-age gang members regularly commit or aid and abet in the commission of the most heinous of crimes including murder, robbery, rape, felonious assaults, forced lewd sexual acts, and even the poisoning of many of our youth through their illicit drug activities.

One thing I must admit that they, gang members, are good at and that is identifying and exploiting weaknesses. It is a sad commentary that daily they exploit our sense of forgiveness and leniency towards "children" using juvenile gang members as trigger men and drug runners for their operations. All of this knowingly done to subvert the impact of our justice system by playing upon our natural sympathies. We must act to stop this insanity now, and I believe that Senator Deddeh's bill, 2118, is a way to do it.

Yes, it is saddening that this has come to pass, but we must now be more subjective, and in this concern leave behind our emotions. We have to accept the fact that we must deal with these "individuals" as adults when they commit "adult" crimes.

Another factor which we must consider when addressing the youth gang environment is the pervasiveness of illicit drugs throughout the subculture. I realize that lately it has been "trendy" to jump on the "drug proliferation bandwagon" with all the national and multinational publicity. However, I am sincere when I say that within the gang subculture, it is a very real and paramount problem.

As an example, my sergeant who commands my gang unit has a very sad comment about drug abuse by gang members. He has over the years reviewed, interviewed and researched the backgrounds of literally hundred of gang members and he notes that he has yet to meet one who has not been a substance

abuser. He has provided secret witnesses to committees such as yours who have told of their drug addiction even in their early teens.

Often it is found that drugs are the catalysts to the "macho" exploits of gang members. Their "courage" to carry out their vicious acts is all too often found in the drugs they take, be it PCP, methamphetamine or other illicit drugs.

Gang conflict is now more commonly being identified as a precipitant result of illicit drug operations. Control over the street sales from their drug operations has become the major motivator in "turf" wars. Here in San Diego we have experienced such a high degree of gang mobility that we have found Los Angeles gangs, like the Four-Trey Crips, have come here to set up their "rock houses" and other illicit drug operations. The result is the continued vicious cycle of drug victimization - drug abuse breeding drug sales to support the costly habit/addiction.

Finally, I need to address what it is going to take for law enforcement to immediately and effectively deal with the gang violence problem. Here, I see two major areas of support needs - public and legislative.

To address what I call the need for public support, I believe we need comprehensive public involvement. This would include such areas as the public being more active in providing law enforcement with information on the activities of these street thugs and their taking action with us to curb the gang's activities. Also, as parents we need to work together to redirect those youngsters away from the gang subculture.

Further, the public must become more active in directing and monitoring public policy. Here, we must exert our vested rights to remove or redirect those justices and judges who fail or refuse to take the needed action against those violent gang members. All the laws, like the two Senate bills before you today, can be rendered useless by weak and overly lenient judges.

Finally, the public must become more involved in legislative activities and promote the enactment of laws to address this problem. They must mandate the allocation of funds towards the eradication of these violent groups from our streets.

Further, I want to express my views on the types of legislative support I feel we in law enforcement need to effectively attack the gang problem. To begin with, we need the enactment of more effective laws like Senate Bill 2118 and Senate Bill 2485.

We need further enhancements to the punishment of drug use and drug sales by gang members. We also need further sanctions against gang conspiracies where these street monsters support each other in their violent acts. Finally, we need legislative support in regaining wiretap capabilities to help prove and break up their criminal conspiracies.

Another area we need assistance in is the appropriation of funding to develop and consolidate our efforts in addressing the gang violence problem. Funding for a "systems" approach is what is desperately needed. Here, the task force concept is essential for us to most effectively deal with the whole gang problem, including their high degree of mobility. Since gang members do not respect geopolitical boundaries, funds for the cohabitation and equipping of law enforcement agencies, probation, parole, district attorneys and juvenile diversion groups are a must!

In closing, I can sum up what we all need in one word and that's commitment! If we are going to do anything effectively to stop this insanity and to cast off these totally unacceptable conditions put upon us by these gangs - we must be committed to its end! This includes all of us, we the people, we the Legislature, and we the members of the criminal justice system.

Thank you for providing me this opportunity to testify before your Committee on a subject that is of great concern to law enforcement and the public throughout the state.

SENATOR DEDDEH: Thank you very much. John, the fact that these two bills have been introduced is an expression at least on the part of Senator Roberti and myself that there is a great deal of concern out there in the public---in the communities of the State of California, the fact that they did not pass last year or year before last should not be construed that the sentiment of the Legislature is not there to support some legislation like that. I think the Senate has made quite a few breakthroughs in the wiretapping and the passing at least of some mini pornography corrections. These bills will be seriously considered in 1987. So we're doing our part. We have a system of government, of course, that the checks and balances, as you well explained, how we can only do so much, you can only do so much, somebody can do only so much. But by and large, I think we will attend to these concerns that you have mentioned. And I think it's a shocking thing for us in this country to live in a home that's worth a quarter of a million dollars or half a million or live in La Jolla, wherever, in the fancy areas of the state or of this county, and to have an alarm system, to be a prisoner in your own home. Nothing shocks me more than that. Nothing, absolutely nothing. I mean, I turn it on at seven o'clock in the place where I live. I say, I feel like I am living in a different country, in a different world. And this offends me. You don't feel safe in your home and your own property.

COMMANDER GALT: It offends us all.

SENATOR DEDDEH: Yes. Thank you very much. Our next witness is Sue Burrell, Los Angeles County Public Defender. If I mispronounce any name, forgive me.

MS. SUE BURRELL: Good morning, Senator and members of the committee. I'm going to address each of the questions. I didn't prepare a written statement, so I'm just going to go point by point.

SENATOR DEDDEH: That's all right.

MS. BURRELL: I think that before we embark on the journey of changing legislation and particularly anything as important as the determination of juvenile treatment or whether juveniles belong in the adult system, we had better take a long and hard look at whether we need that kind of change.

We've heard a lot about what the juvenile crime statistics are. I would beg to differ with some of the characterizations that have been made this morning. The Juvenile Justice Court Law Revision Commission report of January 1984 and reading from pages 2 and 3:

On the measure of all felony arrests, the juvenile crime rate is down 10.8 percent from 1977 to 1982. In this same period, adult felony arrest rates had increased 18.8 percent. Examination of juvenile arrest rate statistics for violent felonies indicates that the rate is down 5.2 percent for the same period, while violent arrest rates for adults have increased 7.0 percent. Similarly, analysis of juvenile felony arrest rate statistics for all property crimes show a drop of 15.1 percent, a rate which contrasts sharply

with the 19.9 percent increase shown for adults within this crime category. Based only on an analysis of all felony arrests or simply violent versus nonviolent felony offenses, it would appear that the juvenile crime rate has decreased significantly.

OK, this is just a couple of years ago, and I'm not saying that there aren't flurries of crime activity in various categories of crime including gang crime; but overall, what we're looking at is a decrease in juvenile crime over the past decade. And I think that's been substantiated in numerous other studies.

In terms of gang crimes specifically, right around 1979, 1980, there was a tremendous gang problem, particularly in Los Angeles. I think there were 451 people killed as the result of gang violence in '79. And it was a result of that that we formed special police and sheriff agencies in Los Angeles, the DA Hard Core Gang Unit, and the Governor's State Task Force on Youth Gang Violence was formed. Since that time, gang homicides have decreased significantly. The reading that I have is that 269 people were killed last year. Now, obviously, that's too many. The query, whether we need to completely revamp the fitness procedures because of this concern for juvenile crime.

I might add that around 1978-79 there were maybe 20,000-30,000 gang members depending on whose statistics you were using. And now we're talking about 40,000-50,000 gang members. So that means that there are more gang members and less gang crime. So, you know, you can play with the statistics, but I don't think that the numbers justify our completely changing the fitness procedure. And we have to remember too that gang cases are only a small part of what a juvenile caseload is in this system.

What we need to be concerned with in deciding who should be found unfit for juvenile court treatment and who should be treated in the adult system, we need to look at amenability to treatment in the juvenile system. And that means, is this individual a person who can be rehabilitated? Is this a person who is susceptible to commitment in the YA facilities or the camp system or any other facilities that are available to the juvenile court system? Or is this a person that we should give up on? Is this a person who there's nothing left for but to incarcerate him or her or warehouse this person in the prison system? And that is principal purpose of the adult criminal system. And when we're looking at why would we want to do that, do we want to incarcerate gang members or other violent juvenile offenders for longer? Well, again, with the gang offenders, you have to look at the fact that gang activity is very much a function of age. And I read in the State Task Force on Youth Gang Violence that the vast majority of gang members are between 16 and 20 years old -- I think it's about 70 percent; 90 something percent are under age 25. So, if that's what we're working with with a lot of these juvenile offenders, and I think the gang age group is probably correspondent to what general serious crime is, we can deal with those kids in the juvenile system. We've got them up until age 25; and if they're still dangerous, there can be extension proceedings under Welfare and Institutions Code Section 1800.

I think one thing we need to look at is whether there is any reason to change what we've already got. And I said, I don't see anything to show that the wrong kids are staying in the juvenile system right now. In my experience, and I see a lot of the fitness cases that come through Los Angeles, the right kids are getting found unfit and they are going to adult court the way it is. I don't see why we need to completely change this.

Another statistic that might be of interest to you is that in the juvenile court system in Los Angeles, about 45 percent of the kids were found unfit and sent to adult court last year, meaning that 55 percent of the kids are found amenable. So if you shift all those kids, that 55 percent, over to adult court, presumably if the findings of amenability are correct, a lot of those kids are going to have to get shifted back to juvenile court anyway. So the burden on the system is going to be tremendous.

The other thing -- I have a complaint about both the proposed Senate Bill 2118 and the present 707(b) which is that I think there is way too much emphasis on the nature of the offense which is alleged. To come into the 707(b) category or under the proposed legislation, the 603 category, you have to be charged with one of the listed offenses. And it looks to me as though this 603(b) corresponds pretty much to 707(b).

OK, then, after that, we look at the five criteria which include two other criteria which again focus on the seriousness of offense. You look at the gravity and circumstances of the offense, and you look at criminal sophistication. And a lot of courts use criminal sophistication in relation to the offense just as they use circumstances and gravity. So three times we're looking at what the offense is. And from talking to people at the Youth Authority, it isn't always the seriousness of the offense which determines amenability to treatment. In fact, murderers, which would have to be the most serious of offenders, are more susceptible to rehabilitation than are kids who commit long series of other types of crimes, like armed robbery. A lot of times murderers are involved in a single serious offense, but they're not going to become career criminals. And I think what we're concerned about is recidivism. Are these people going to turn into adult criminals, and are they going to have to be incarcerated in adult facilities later on? So, I think that by focusing so much on the offense itself or the nature of the offense, we're missing the boat on actually determining amenability to treatment in terms of not having high rates of recidivism.

My proposal would be that whether we go with 2118 or whether we keep the present system that we knock out gravity and circumstances of the offense out of those five fitness criteria, so that we're considering the offense in fitting them into the category of either presumptive unfitness or automatic filing in adult court. But then we're looking at other criteria that relate to amenability to treatment in the juvenile system.

There's one thing that troubled me in addition about 2118, and that is, I like the fact that after the preliminary hearing, if the minor is not held to answer on a 603(b) offense, then he would automatically go back to the juvenile court. I think though that there needs to be an additional safeguard for retransfer or certification to juvenile court after finding of guilt, because there are a lot of kids who will get past a preliminary hearing but will not ultimately be found guilty of a 603(b) offense. And it seems to me if our main focus is serious offenders going to adult court, and the kid has not actually committed a serious offense, then there has to be a mechanism in the procedure for return to juvenile court. Let's say, for example, the minor is charged with murder but actually committed a manslaughter as determined by a jury verdict, even though the prosecutor said that he was held to answer on murder. That minor belongs in the juvenile system, because manslaughter is not a 603(b) offense. And I know there was a provision at some point of the bill, page 9, line---

SENATOR DEDDEH: Is that 2118 you're talking about?

MS. BURRELL: 603(c). Yes, in 2118. At line 15 through 19 it says that the superior court has jurisdiction to conduct sentencing and post-conviction proceedings even though the person was convicted of something other than a 603(b) offense. I don't think that should be in there, that really there ought to be---if you're not convicted of a 603(b) offense, what are you doing in automatic filing and automatic treatment as an adult? It seems to me that as a matter of fairness you ought to be sent back to the juvenile system.

SENATOR DEDDEH: Does 2118, if it were to become law, would that prohibit you totally from petitioning the court to go back to juvenile court?

MS. BURRELL: Well, I mean, I might do it as a defense lawyer anyway, but it would be a lot easier if it was written into the statute. I think as a matter of due process, if the prosecutor automatically files on you to adult court is that you're a 603(b) offender; and in fact, you aren't, then I think there's a good due process challenge, that an appellate court should send you back, but it would be better if that was written into the statute, just as you've written in the other consideration.

I also---there's a little of a drafting confusion in the bill. We've left in 707---what used to be 707(a) and fixed it a little bit, talking about fitness for treatment in the juvenile court and unfitness to be treated in the juvenile court. Well then, in Section 1376, it talks about fitness to be dealt with under the general law and amenability to the care, custody and treatment and training programs available to facilities of the superior court. But it doesn't say which---I mean, both adult and juvenile are superior court. And if what you're talking about, if you're referring to adult court and saying amenability to the care, custody, treatment and training programs available through the facilities of the superior court, meaning adult court, then it doesn't make sense because the purpose of adult court is punishment.

SENATOR DEDDEH: Well, if we were to amend the language of the bill the way you suggest, will you be supporting the bill?

MS. BURRELL: No. Oh, but no, but I'm saying that is a problem. Overall, I just don't see any need to change the existing system. I don't see that the wrong kids are being found fit.

SENATOR DEDDEH: See, you and I come from a different perspective or view this from a different perspective. I have to speak on behalf of 700,000 people -- not all of them, but some of them, are victimized. And I have to respond to their pleas to do something about the proliferation of crime. And to the people out there, it's probably hard for them to delineate who is committing what crime. They are victims and they don't care who did it -- do something about it. That is my job to respond to them.

MS. BURRELL: I do fully understand that.

SENATOR DEDDEH: And I don't think you'll find any member of the State Legislature, you know, maybe with a few, very small exceptions, that are not adherent to the due process of law, the constitutional protection for the alleged violator of the law no less than anybody else. But we do have to also respond to the proliferation of crime at all levels. And sometimes, it's even for me -- and I've been in the Legislature for 20 years -- it's hard for me to differentiate who commits what. And I, in frustration, as I was saying, when I sit in a relatively nice living room, relatively nice neighborhood, relatively nice home, when I have to turn the alarm on at 7 p.m., that offends me.

MS. BURRELL: I totally agree with that. I live in a very high crime rate neighborhood too. I've

been a crime victim. But what I am concerned about is that we---if what we're focusing on is finding unfitness on the basis of the offense committed, that if there is inaccuracy in the filing, if there's overfiling or if the district attorney doesn't really know the strength of their case and it turns out that the person did less, then that person should not be in adult court, if that's the basis that the law makes. I also do not see---I think I'm afraid that this bill will result in a great deal of confusion. I think it's going to result in increased court congestion in the sense that a lot of amenable minors are going to wind up being sent back to the juvenile system anyway.

SENATOR DEDDEH: I still ask you -- if I were to take your language that you're suggesting, to incorporate it in the bill, and I ask would you support it after accepting your language, you say, "no." There are certain people out there, and I respect their rights to disagree with us, but you would never support legislation like this regardless of how we rewrite it. There are some people who cannot support that legislation, and I again respect that. But we also have to respond to what's going on in the state. I listened to testimony by the Attorney General, State of California, last year dealing with clandestine labs and drugs and so on. And I was scared out of my wits. I was going to give a speech to the Rotary Club on something else. I dropped that speech and I took quotes from him and then I verbalized and said this is what's happening in the state. I couldn't believe that in my neighborhood, in La Jolla -- I don't know whether you're familiar with San Diego; these are fancy neighborhoods, very fancy -- in that particular neighborhood there are clandestine labs. I don't know how far, how close they are from some very wealthy person living in La Jolla, Point Loma or Bonita or something, but they are all over this county!

MS. BURRELL: Well, I'm not saying that we should let that go on. I'm focusing on the fitness procedures, and that is whether a minor should be treated in the juvenile system and the adult system. And by the way, if a minor stays in the juvenile system, they can be, and many are, incarcerated up to their 25th birthday. So it's not as though they're going free if they stay in the juvenile court system.

SENATOR DEDDEH: I'm not disagreeing with you. I'm saying I would like to take you with me and have you convince the family of the victim, whose son or daughter was raped or murdered or so on by someone, a young punk, 14 or 15 years old, that they should be treated differently than some adult who is 18, 19, 20. How do you convince these people?

MS. BURRELL: OK, all right, let's change the subject. Let's talk about what---one of the other questions is, under what circumstances should we criminalize gang membership? All right, it goes without saying, several of the prosecutors and police agencies this morning have already discussed the fact that there are definitional problems. You're always going to have the problem of constitutional vagueness. I will not get into that. I think other people have addressed that. Every definition that was given this morning was different.

But what concerned me was, particularly Ira Reiner's testimony, that these are people who have no heart or have no remorse as though these people were just born with bad blood or something. Well, I think that it's completely explainable how these kids wind up the way they are and it's predictable. If you make a map of Los Angeles or any area that is riddled with gang violence, you will find that it is the same map that you have of poverty, of illiteracy, of family where there is no man in the home, where it's a mother raising multiple children, where the kids have no male role models, where there are families

where no one has ever graduated from high school, no one has ever had a job. Now what kind of a chance did those kids have? They get drawn into the gang situation because it provides them with status, because it provides them with peer support that they don't get elsewhere. Now it's a terrible alternative. There is no way that I can say that the gang violence is not a horrible thing. But I think that our efforts, rather than passing more laws and locking these guys up for longer, you ought to focus on doing preventive efforts and on intermediate steps which can stop gang violence when it's about to happen.

SENATOR DEDDEH: What's wrong with doing both? Let's take some real serious preventive effort on the part of the state and at the same time, serve notice that you break the law, we don't care how old you are or how young you are, you're going to be treated just as a criminal?

MS. BURRELL: Well, we are treating kids as criminals. We're treating them as criminals in the juvenile system.

SENATOR DEDDEH: Obviously, we're not doing enough of it. That's why Ira Reiner and others are coming to the Legislature asking Senators Roberti and Deddeh to carry some legislation on their behalf. I did not invent this legislation, because I'm not---I don't deal with the subject matter. But obviously, there's some concern out there that caused them to come to Senator Roberti -- he's a very well-known attorney, a respected attorney. I am not, but that's why they came to us.

MS. BURRELL: All right. But what I am saying is, No. 1, I'm not sure their statistics are right. The Juvenile Justice Commission came up with an opposite trend which is that the juvenile crime rate is going down. Every statistic I've seen is that so far the gang suppression efforts are taking effect. There are fewer homicides. There is a tremendous organization which is already dealing with the gang problem in this state, and prevention is a very important part of it.

But, ah, see, your bill affects a lot more than gang kids and a lot more than violent kids. The list of crimes is so long in the 603(b) clause that just about anybody who does any kind of a felony is charged with a felony could be filed on in adult court. And I just, you know, you're talking about a 16-year-old; that's a tenth grader. Tenth graders are going to be branded adult criminals and possibly sent to the state prison. And I just think we ought to look long and hard at whether we need it. What statistics have we seen this morning that shows that the wrong kids are staying in juvenile court?

SENATOR DEDDEH: OK, all right.

MS. BURRELL: OK. Just a couple more things. In terms of the criminalization of gang activity, I think it would be superfluous. The other bill that we were looking at this morning, No. 2485, Senate Bill -- this is a good example. It purports to criminalize the membership---well, to permit peace officers to arrest people where they have reason to believe that the person to be arrested is involved in gang-related activities and unlawfully possesses a concealed firearms. Well, we've really got a lot of firearms bills---laws already. There are any number of laws which criminalize carrying a concealed weapon or a loaded weapon. There are special laws for minors in possession of firearms without their parents' permission. I don't think we need anything more. And I think that officers---if an officer sees somebody that---and has an articulable suspicion that the person is involved in criminal activity, which would include carrying a concealed weapon, they can pat them down right now. So I don't see that we need anything more in this regard. And I think because of the problem of defining what gang-related activity is, that it would be a

mistake to pass specific laws toward that end.

So, in some---while I share your concern for the safety of the community and I am very concerned that many of my clients be weaned away from gang activity, I don't think that these bills are the way to do it. Thank you.

SENATOR DEDDEH: Thank you.

MR. GREG SCHMIDT: Mr. Barney. Let me just comment briefly that we are now down to testifying to the people who actually write all the bills, so it's not a futile effort. I think that the testimonies so far this morning have been very productive. And I hope we can continue down through the schedule. Mr. Barney, Children's Defense Project.

MR. DAVID BARNEY: Thank you. My name is David Barney. I'm the project director of the Children's Defense Project of Defenders, Inc. here at the San Diego County Juvenile Court. Children's Defense Project provides alternative sentencing programs at the request of defense attorneys, probation officers, and juvenile court judges for 10 percent of the caseload of this juvenile court. Our experience clearly indicates that serious violent crime is a complex issue. Thus, complex issues need complex resolution.

What I'd like to present today is an important aspect for a solution. It is a perspective which may differ from what you've already heard today from law enforcement, and I believe it's something which should be heard.

The issue of bringing more juveniles before the criminal adult courts must lead us ultimately to the question of examining the benefits of what criminal prosecution would be. Most of us would probably agree that criminal prosecution calls for increased use of incarceration and punishment as the primary methods to achieve rehabilitation. Yet the Rand Corporation of Research has shown that the juveniles with more than five prior arrest records, that we find restricted placements being made just as frequently and incarceration being used just as frequently as in the adult courts. In other words, for serious violent juvenile offenders, the same kind of sentencing pattern is found in the juvenile court as in the adult criminal courts with their emphasis on punishment and incarceration.

Anyone who believes that pushing juveniles into the adult correction system could result in more frequent and longer restricted placements must also bear in mind that this would call for additional resources. With a real problem here, that there's very little evidence, if any at all, to suggest that longer incarcerations would significantly reduce recidivism or serious crime itself.

I recognize that one of the issues that brings us here today is to address the specific kinds of things predatory to juvenile crime, which is so frequently gang-related. The response by the Legislature has traditionally been Section 707 of the Welfare and Institutions Code. In most of these cases, however, waiving juveniles to the adult court results in a commitment to the California Youth Authority, not state prison, thus making it easier to waive minors to the adult courts could easily create the impression of providing more punitive sanctions without actually those results. The practice of sending children with lighter weight records of criminal courts to the Youth Authority would also probably distort the entire basic purpose of the Youth Authority's rehabilitative mission. This is a not a decision to be taken lightly.

I'd like to stress that I believe that existing 707 Welfare and Institutions Code are sufficient to

meet the needs for public safety from serious predatory juvenile criminals. In terms of a recent gang-related case which my project worked on, the juvenile court found a 17-year-old be unfit for juvenile court proceedings. It was necessarily the seriousness of the homicide case itself that produced this finding, but instead it was acknowledged by the judge that the minor was a gang member. And to this judicial officer, being a gang member means that the homicide itself was a sophisticated act. The irony here in this case was that even though the minor was remanded to the adult courts, he could not be sent to prison even if the criminal court judge had ordered so. Existing law now provides that the Youth Authority permit an assessment; and if the Youth Authority finds some minor would respond to treatment, that minor cannot be committed to state prison, but must first go to the Youth Authority. And this was the case in this example of this homicide.

Every time that we define a social problem, we at the same time also create that same social problem. Gang membership would be no exception to this rule. While stating that a gang---while stating that gang membership itself could be a criminal activity, we would also be creating those same juvenile gang member criminals. In fact we would be creating thousands and thousands of juvenile criminals that do not necessarily exist today. Before embarking on such a monumental decision, I ask that you consider the concept of radical nonintervention. Radical nonintervention is a concept introduced by staff of the California Youth Authority. It resulted from their belief that the system itself usually does more harm than no intervention at all. Children's Defense Project believes that this is a very valid concept. We believe that children who are on the periphery of gang involvement are probably better off with no intervention or limited community-based interventions. Once a juvenile becomes entrenched in this juvenile justice system, they are more likely to be placed out of home. Out-of-home care can frequently mean, in gang cases, detention in a county camp facility or California Youth Authority. This is important to consider because according to the California Youth Authority, over 60 percent of their wards are involved in serious gang activity.

It would also be beneficial to realize that the majority of juvenile cases, that there is an effective rehabilitation taking place and that the majority of the children really are getting the message that the juvenile court is sending out. I think the issues and the children that we have been talking about today are the more sensational cases, and the I think the issue here is basically changing the entire system to deal with a very small minority of the sensational cases.

I do realize, however, that there is growing public frustration with gang involvement. Thus, in our search for answers, I would suggest that government and citizens of the state commit themselves to programs which have already proven to be effective. One of those programs which works is called Vision Quest, the program which removes juvenile offenders from the neighborhood, provides wilderness survival experience in that place. A recent Rand Corporation study has indicated that Vision Quest is more effective in reducing serious predatory juvenile crime than our traditional programs. The other program which has proven by far to be most successful in rehabilitating juvenile offenders is the Delancy Street Foundation. Delancy Street has taken some of our most serious violent gang members, not only rehabilitated them, but turned them into some of our most productive community leaders. In San Diego County, we are blessed to have a very progressive juvenile justice system, one in which the judges and the

Board of Supervisors have seen the benefits of effective rehabilitation. Thus, they have approved the use of Vison Quest and Delancy Street Foundation programs. San Diego County, however, is one of the very few counties that do utilize these two programs in the state.

Above all, I urge you to consider that in order to lead children away from gang involvement, it will be necessary to provide an alternative. At present it seems like the only alternative proposed out of Sacramento is that of locking up children. I urge you to carefully consider that locking up increasing numbers of our children will only serve to actually accelerate gang activity. It will also serve to perpetuate social stratification and inequality among our state's disadvantaged. Thank you.

MR. SCHMIDT: To summarize what we've sort of heard this morning, there seems to be a feeling that there is the general universe of juvenile offenders that really hasn't changed that much over the last few years. And then there's the specific problem that I think was characterized as sort of an urban guerrilla army. It's engaged in narcotics trade and so on and uses very sophisticated weapons that you wouldn't normally find around a high school. Do you accept that kind of distinction, and do you think that in that specific case, and maybe it doesn't involve that many hard-core members -- I think in Los Angeles there were supposed to be 15,000 or 20,000 -- do you think in that particular case it might be necessary to carve out a different way of dealing with them?

MR. BARNEY: No, not necessarily. Ira Reiner's comments about these kids with beepers and Uzi guns -- I think the 707 code can very effectively handle them, OK? I still agree that there is a very small percentage of juveniles who are getting more sophisticated in criminal activity, but I also think that we do have existing legislation that manages to deal with them.

MR. SCHMIDT: And you've run into people that would fall into that sort of cohort that he calls these hard-core gang offenders?

MR. BARNEY: Um-hmmm.

MR. SCHMIDT: And you find that they've been amenable to the kinds of diversionary programs and treatments that you've seen?

MR. BARNEY: Yes. I can't say that in every single case, but we do have statistics that they work.

MR. SCHMIDT: Thank you very much. Ms. Natalie Salazar. Let me also assure you that we're making a transcript of this which we work off of to draft legislation, if we feel that that's indicated after the hearing. And that transcript is made available to the members for their perusal as we move into the legislative year. Ms. Salazar.

MS. NATALIE SALAZAR: Thank you, Senator and members of the committee.

MR. SCHMIDT: I think I'm the consultant.

MS. SALAZAR: I just upgraded you now. (Laughter.)

MR. SCHMIDT: I'm the vice senator for the day.

MS. SALAZAR: I'm Natalie Salazar, and I'm the executive assistant to the Community Youth Gang Services Project in Los Angeles. I was also a member of the Governor's State Task Force on Youth Gang Violence. So it's interesting for me to sit on this end of the table, and now it's my turn to feel nervous.

I'd like to give you a little bit of history about our program as earlier in the day we've heard the testimony of public officials, law enforcement, district attorney's office. I'm here representing a

community-based program. We were established in the spring of 1981 for the specific purpose to try to reduce gang violence in Los Angeles City and County. As the public defender mentioned earlier, in 1980, there were 350 gang-related killings in Los Angeles. That's almost one a day. The alarm at that number spread so rapidly throughout Los Angeles that they thought that there had to be some other way to try to work to combat gang violence. Law enforcement, as you've heard earlier today other people express, can't do it by themselves. The district attorney can't do it by themselves. You've got to get the community involved.

We represent a component that works very closely with those agencies. We're part of an interagency gang task force that, we have heard throughout the hearings that the Governor did last summer, is something that's important. It's something that's needed in getting communications through. We possess different information networks; and as public agencies do and vice versa. We share gang trends, and they try to keep track of what's going on out there on the street. If there are special events that are upcoming, we provide the information to those public agencies that need to know and need to be there; and we know that this has helped prevent gang violence.

Last year, as the public defender also mentioned, we were up to a murder rate of gang-related murders of 268. We reached a low of 205. And frankly, we're all very concerned about why that murder rate is now rising. It's going to be close to that number again this year.

One of the questions, I know that I was given four questions to look at; and as a community-based agency, our answers, I am sure, will be quite different from the ones that you've already heard. But one of the things that you're asking is how pervasive is drug use among gang members. We rarely come into contact with gang members that have not used some kind of drugs, for recreational purposes, whatever. Unfortunately, that's almost a statement that we can make about a number of our young people today. It's not something that's just restricted to gang youth. We're looking at the programs, the media attempts, everything, to deal with this ever-growing drug problem. It means to put the pushers away, stiffer penalties. But we need to ask ourselves, why are people still using drugs out there? Why do kids want to get high? Why do adults want to get high? What we're seeing with not only the gang members, but other young adults that we're working with, and those that are becoming parents, is that they live in a time when they don't now want to be a hypocrite to their child. They want to show their kid, yeah, my parents drank, but they wouldn't let me smoke dope; therefore, I'm not going to be a hypocrite in front of you; I'm going to go ahead and smoke dope in front of you. And that's pretty scary when we're talking about people who are raising children.

In terms of "are gangs a significant factor in the drug trade?", yes, they are. We're very concerned in Los Angeles because we're seeing a tie-in of immigrant gangs with traditional Hispanic gangs for the drug trade. As someone mentioned earlier, we're seeing PCP being still the major drug with Hispanic gangs and the very, very scary problem of rock cocaine with black gangs in the black community. As DA Ira Reiner mentioned earlier also, the gang problem is not just restricted to black and Hispanic communities. I think the sheriff from San Diego talked about Stoners and Asian gangs. We're concerned about those too. We don't have the language capabilities or the knowledge yet to really be effective in looking at the Asian gang problem. The Stoner problem we are working on also. But the media sometimes

tends to focus on what's happening with the Anglo kids, and they want to make a big deal out of that, the number of white gangs. The number of white gangs is very, very, very small in comparison to what we're looking at with black and Hispanic gangs. And let's not forget where the problems start. We've got to deal with that.

We talk about these two pieces of legislation, a uniform definition of gangs, and under what circumstances should gang membership be criminalized. This is something that I've talked with with our people in Los Angeles; and frankly, I'm a little concerned about it. If it was specific enough and if a definition was held to, and I understand the burden of proof is on the district attorney's office, but proving something like that, but we spoke earlier of the age-old saying, "Walk like a duck, talk like a duck, must be a duck." What about these kids that are on the periphery? How are they going to get tied in with arrests? Are they going to be trapped through the juvenile justice---criminal justice system because of their gang affiliation, the hangers-on that may not be part of the negative criminal activity? I think that needs to be looked at very carefully. Should juveniles be tried as adults under any circumstances? When I served on the Governor's Task Force, I heard a lot of testimony about this. Frankly, I'm scared and anybody that lives in Los Angeles County should be scared at the type of gang activity that's going on there.

But when we ask questions of secret witnesses who have been very active in youth gangs and some who had graduated into adult prison gangs, if they would have known during the commission of their crime or prior to the commission of their crime that they would have received life without possibility of parole, would they still have committed that crime. And the answer was yes. These young people don't think about penalties when they're doing these kinds of things. The people that are going to be involved in this don't think about that. That's the sad part about it -- that there needs to be stricter laws to deal with these hard-core gang members.

We talk about what tools the law enforcement agencies need in order to help combat this problem, even though in Los Angeles we're looking at over 50,000 gang members and close to 500 different gangs. We know that an interagency approach is the only way to work together on something like this. We have to have an interagency approach. And you need to contact the community and listen to what the community is telling you.

Someone mentioned earlier about people being virtually terrified in their neighborhoods. Our program has been in operation for five years. When I started with this program, I work community relations, I had people call up anonymously and ask me, "What can I do? These people are hanging out in front of my house. I can't deal with them. What can I do?" And I'd say, "Why don't you give me your name. I can send a team out to talk with you." "Oh, no, I can't give you my name. They'll know automatically who it was." It's taken us in some instances three and four years to get people in these neighborhoods to open up to us, to form neighborhood watches, to form community block groups. These are things that take time. they can't be done overnight, but you can't give up on them. And you have to let the community know that you're going to be there beside them all the way.

Now that I've tried to paint a bleak picture, I want to talk about some of the positive things that our agencies and others like them can do in the community. As I said, we've been in operation for five years.

Our initial charge was crisis intervention, to intervene between gang disputes, to stop these gang disputes from happening. What we've seen now is that that almost is an impossible task for anyone to undertake. What we need to concentrate on is prevention. We need to put monies into prevention programs. And then people earlier talked about school programs. That is the way to go.

We have an "alternatives to gang membership" program that is modeled after a very successful program in Paramount that deals with fourth through sixth grades. And believe me, we're being constantly asked to upgrade that for junior high and high school curriculum. It's a 15-week course that encourages young people not to be part of a gang. We have seven different files of current event articles that they look through, seven notebooks are a minimum of this thick. We call it "From the Headlines to the Dead Lines." And we tell those kids this is the way you're going to end up if you're going to get involved in this. We videotape them. We give them a chance to respond, to ask questions. We follow up with their families. And once they've graduated or moved on, we continue to track those kids. We've been doing this now for two years. Paramount has been doing it for quite a bit longer. And it works. We need to start with kids at a younger age. And believe me, I can't stress that enough.

We've talked about long-range solutions, short-range solutions. We need to combine both. But when we're talking long-range, we need to do some early intervention and education of these kids.

We have recently started with a family help line. It's a 24-hour number. The families can call in. We've literally saved people's lives -- parents that are concerned about the clothes that their kids are wearing. And believe me, there a lot of naivete on parents' parts about whether or not their child is a gang member. If the clothes that they're wearing are gang clothes, the parents oftentimes are the last to believe it. Cities oftentimes are the last to believe that they may have a gang problem. Maybe they have one gang in their city. But that gang has to have rivals somewhere, and we need to open our eyes to the fact that gangs are in almost every city throughout the State of California, and we need to take some preventative measures towards it. We as adults need to take charge of this situation, work with parents, not be scared to go into minority areas, and start to get some programs and some money behind these programs that's going to work. The only we can do it when people says it's the school's fault, it's the parents' fault, it's law enforcement, it's our fault. We're all part of this problem, and that's the only way we're going to solve it is if we all work on it. Thank you for your time.

CHAIRMAN BILL LOCKYER: Thank you very much. Mr. Epps, Donald Epps. Thank you for being here this afternoon.

MR. DONALD EPPS: Well, thank you very much for the invitation. I'd like to speak to you on a couple of things that we're dealing with today as far as youth gangs.

San Diego is not as bad a situation as Los Angeles, but there are a lot of similarities. The lady that spoke before me illustrated some of the same problems that we're encountering here in San Diego.

As far as a definition of gangs, I think that it should have a very wide broad definition of youth gangs. Any youngsters that define a territory and engage in criminal activity should be considered as gangs.

Also, as far as young people, that juveniles should be tried as adults, I believe that they should be tried as adults in situations where they become repeat offenders, when they use deadly weapons. They

should -- make it very clear -- understand what they're getting involved with, that there are going to be some serious repercussions. Here in San Diego---

CHAIRMAN LOCKYER: One---if I may, one of the issues that we are contemplating is whether that procedure of trial of juveniles should begin in adult court or juvenile court. Do you have any notion about that? Would you want to change it? It's currently juvenile. It determines adult fitness.

MR. EPPS: I think it should begin in adult court. Because what has happened, I think, recently things have changed where before we looked at young people who are relatively naive and look at them as irresponsible. I think the way things are happening in today's times that things are changing. These young people are starting to take actions that seem like adults. We read about the crimes and the activities that go on -- you would think they were done by adult individuals. So I think that this is something that they should start off in adult court and understand exactly what they're getting into. A lot of times youngsters get involved in criminal situations, they end up going to juvenile hall or Youth Authority camp and then when they become eighteen, they do similar crimes and they go to state prison. It's a big jump for them. They should be aware of what's happening.

As far as the drug situation with gangs, they are very much involved with drug activity. To what extent I really couldn't elaborate, but I would say about 90 percent---would estimate about 90 percent of the young people involved in gangs are using drugs. And those other 10 percent, maybe half of those are abusing alcohol. So there are some rare exceptions of people that don't use alcohol or drugs that are involved in gangs, but the vast majority are involved in the use of drugs. And I'd like to mention also, it's not just gang members that are involved in this, in the trafficking and use of illegal narcotics. It's just something that's happening in the minority community such as in southeast San Diego, just a general disrespect for law and order. People think that they can go out and do criminal activity and suffer no repercussions whatsoever. The message should be set down for things that have to change.

As the lady prior to me had elaborated, our program makes use of many preventative methods as far as dealing with youth gangs. I think that this is a situation that must be expanded upon. In other words, I think we had a situation where we have a little bit of carrying the stick. Where you come along with---it makes things for our program a lot easier when we have the laws that back up the illegal activities that youngsters are getting involved in. It forces them into a situation where if they want to get their lives together, they're going to have to participate with people that are out there willing to help them. Are there any questions?

MR. SCHMIDT: I would like to. From your experience, do you perceive any direct link between the street gang-type of organizations you run into in prison halls? Is it like---are the prison gangs alumni associations or vice versa?

MR. EPPS: Not a significant connection. Of course, they overlap and they have older brothers who are involved in prison gangs and then they should return to the city and they influence others and they're very much aware of when they go to prison and they return to the city. But I would say at this point in San Diego, it's not an organized concerted effort.

MR. SCHMIDT: Because that's one of the things you hear when you hear from people that have that kind of urban army view of what's going on.

MR. EPPS: To my knowledge we have a very low incidence of that here in San Diego.

MR. SCHMIDT: And then the second thing is, are you aware of some of those programs in other states for first-time youth offenders that are sort of boot camp-type prison experiences?

MR. EPPS: No, not in other states. I'm familiar with some of the things here in San Diego County as far as alternative diversion programs.

MR. SCHMIDT: OK, thank you.

MR. EPPS: Thank you.

SENATOR LOCKYER: OK, we have Mike Duran and Bill Bean, please, probation officers.

MR. MIKE DURAN: Honorable Senator Bill Lockyer and Senate Judiciary Committee members, I am the liaison -- notice the accent -- for youth, Mike Duran, director of the Specialized Gang Supervision Program, Los Angeles County Probation Department. In this capacity, I am here to address the issue of youth gangs, youth gang violence, what should be done about it, and what is being done about it in the County of Los Angeles Probation Department.

On October 28, 1980, the Board of Supervisors in response to growing public concern approved the development and implementation of the Probation Department's Specialized Gang Supervision Program to offer protection for the citizens of this county, to provide a more even administration of justice, to rehabilitate offenders, and to reduce gang violence.

PROGRAM DESIGN:

There are five units. Each unit consists of one supervising deputy probation officer, eight deputy probation officers, and an appropriate clerical and administrative support. Each unit supervisor supervises a maximum of 400 youth gang-oriented offenders with an individual officer supervising no more than 50 cases. The caseload consists of both adult and juvenile offenders as well as male and female offenders. Age range is generally 14 to 25.

SPECIFIC DUTIES OF THE DEPUTY PROBATION OFFICER:

Supervising and providing direct probation services to 50 offenders with a history of current youth gang involvement; expeditiously handling all violations of conditions of probation; maintaining close communication with law enforcement agencies such as courts, policing agencies, correction, probation, the district attorney, and other agencies engaged in gang control activities; maintaining close communication with schools and recreation centers as well as community-based services agencies; using reciprocal resources in order to maintain close supervision over probationers; and remain knowledgeable of community occurrences which may aid the DPO in carrying out his assigned tasks; become well-known in their assigned communities, spending a significant portion of their working time in the field on behalf of the program. Deputy probation officers are expected to provide extended supervision including evenings and weekends when indicated by caseload activity whether it's positive or negative in nature.

GEOGRAPHIC AREAS:

These areas are characterized by a large new population, substandard housing, and a high unemployment rate as well as policing by specialized units attempting to control crime on the streets. The urban areas of Los Angeles are prime targets as well as deteriorating suburban areas whether incorporated or not.

PARTICIPANTS:

The program includes minors and young adults who are on active probation status, identifies gang members and on record as actively involved in delinquency crime behavior.

GENERIC CASELOADS:

Deputy probation officers carry generic caseloads -- 70 percent juveniles and 30 percent adult. Offenders are referred to the Specialized Gang Supervision Program by various sources such as probation, police, schools, parents, and courts to the supervising deputy probation officer of the appropriate gang unit who screens the case for suitability. There is close monitoring of each case to insure compliance with all conditions of probation or the prompt handling of all violations and the return of these offenders to courts for appropriate disposition. We have significantly improved probation control and surveillance of gang-oriented probationers throughout the County of Los Angeles by being where they hang out at the time when they are hanging out. Home visits are the norm while probation office visits are not, once the initial interviews have taken place.

PROGRAMMING:

Collateral programming with caseload youth such as leadership and responsibility workshops as well as involvement with community-based agencies are becoming a part of the unit's priorities. Since funding is not available, the community at large has asked for support. These programs are set up to aid in the rehabilitative process of probationers who indicate a willingness to be aided in turning their life around.

FUNDING SOURCE:

The Specialized Gang Supervision Program is funded in part by probation county dollars and augmented by SB 90 money. The estimated total is \$2.3 million per year.

Because of the nature of the program, we are in a position to share with you our experiences with gangs over a period of six years. Hopefully, our report will serve to answer questions which come to mind because of these hearings. We work closely with other members of the criminal justice system. As such, the judge can generally expect that when a case merits it he will have in his court a law enforcement officer, a probation officer, and a deputy district attorney. They work together to insure that the judge is provided with the facts. This is especially so when a juvenile has been found unfit to be tried in juvenile court and is bound over for trial by an adult court.

Cases that may end up in adult court are generally when murder has been committed while in the commission of a robbery. There have been instances where juveniles have been tried as adults after involvement in gang fights where one or more murders took place. Rape and the use of a gun may move the deputy probation officer to recommend in favor of adult treatment.

In order to keep tabs on youth gangs and youth gang members, we have established a roster printout. Currently, we have a roster of 392 gangs which operate in Los Angeles County. We hasten to add that there are more gangs, but we do not count them unless we have members of these gangs on our caseloads. We are dividing the gangs into traditional and nontraditional youth gangs. The traditional gangs have been in existence for over ten years. They claim territorial imperatives, have a main gang name, and they may have several subgroupings generally in chronological age and commit offenses

consistent with gangs.

The two groups which fit the above description are Chicanos and blacks. Chicanos set the standards back in the late 1930s. They were located in East Los Angeles, San Fernando Valley, South Central Los Angeles, San Diego Valley, and the Harbor area. They have since expanded to outside of the supervisorial districts. They account for some 150 gangs and some 20,000 gang members. Blacks first ran with Chicano gangs in the '40s. Later, as more blacks moved into Los Angeles, blacks started their own gangs around the mid-fifties. They located in South Central Los Angeles. Many of the blacks who ran with Chicano gangs ended up leading black gangs which proliferated and patterned themselves after Chicano gangs.

The nontraditional gangs are becoming the vogue. They are made up of white punks and Stoners, Mexican Nationals, South and Central Americans, and Asians such as Filipinos, Samoans, Koreans, Chinese, and Vietnamese. Their activities range from narcotic sales and use to graffiti. Some of these neo-gangs may not survive. If there is no cause, they will go out of existence. Those that attempt to organize along traditional lines may survive. They all have violent leanings, although at this point they are not interested in killing or being killed except for some exceptions. They have become a concern so that the district attorney, policing agencies, and probation are assigning specialists to units in an attempt to cope with this problem.

I have a one-word definition for a gang. It is "fraternity." Young people join gangs because of wine, women, and song. They are offered brotherhood and something to belong to. They had to pay a heavy price to belong. Unfortunately, so does the public.

The law enforcement agencies have agreed that a tracking system for known gang members would be very helpful when gang activity takes place. The Probation Department has received a grant from the Office of Criminal Justice Planning to develop and implement a gang-reporting evaluation and track system. It's called "GREAT." The grant enables the hiring of two consultant evaluators and an ITC. An ITC is an intermediate typist-clerk. The gang consultants liaison with law enforcement, prosecutors and community organizations. They work closely with justice system agencies, seeking and exploring methods to effectively suppress gang violence and related gang activity. These consultants also enhance the Department's ability to more readily identify gang members and to assess the nature and extent of gang problems as they relate to probation services. The consultants are part of the Specialized Supervision Program which is headquartered in East Los Angeles.

A dual program goal is to automate all gang file information. An ITC will facilitate development and maintenance for the computerized file. This system will greatly enhance supervision ability. Authorized DPOs, law enforcement officers and prosecutors will have instant access to conditions of probation, identifying information and/or other pertinent data. Ultimately, the gang-reporting evaluation and tracking system will provide common information on all known gang members and gangs operating in Los Angeles County and municipalities to the various justice system agencies. At this point, Los Angeles Police Department, Los Angeles County Sheriff's Department, and the Probation Department are working to ensure that the GREAT system is in operation before too long.

This is only one tool which has been designed on a large scale to aid in combatting gang activity. It

is hoped that this tracking and classification system will spread throughout the state. Drug abuse and youth gangs go hand in hand. I feel that of the 2,000 gang cases we carry on a daily basis, 95 percent have tried some kind of drugs or are currently using it. Many times a gang member is being supervised by a narcotics testing unit. If that person is considered violent, then the case is transferred to us. The frequency of arrests for narcotics violations have prompted us to recommend to the judge that conditions against use and sales of drug plus testing orders be added to grants of probation. We note that drug sales have become a thriving business. Gang members have quit fighting and are busy selling drugs to all comers. Because they are tough, they are also used as muscle men and enforcers. There doesn't seem to be an early age limit, but the median age for a pusher is about 17 years while the middleman is in his mid-20s. In recent months, several gang-related murders and assaults have been caused by drug-related differences of opinion.

In closing, I would like to quickly suggest the following as a means of curtailing and finally controlling gang activity.

1. A community-based agency must play a larger part in offering youth assistance with personal needs. Law enforcement must be intimately involved and aware of what is being offered.
2. Schools at all levels should be involved in the prevention process. An administration cannot look the other way. It must both act and react. It should look to law enforcement and other child-serving agencies for health and direction and then use it.
3. Cities, whether large or small, should look to themselves to provide the resources to resolve their own problems or prevent gangs from taking over. An example of this are the cities of Inglewood and Commerce, who had expensive gang problems, faced up to them and are doing so much better. The City of Commerce has a two-pronged attack on the problem: one, prevention; and two, facing the problem with programs and doing whatever it takes to get the job done.

On behalf of the Los Angeles County Probation Department, I thank you for the opportunity to appear before you.

SENATOR LOCKYER: Thank you very much, Mr. Duran. Mr. Bean.

MR. BILL BEAN: Good afternoon. My name is Bill Bean. I'm a probation director of San Diego County Probation Department.

Mike just gave you my prepared statement and so I don't have to read what I have. I'd just like to summarize a couple of things that I've heard today. One is task force's handling of this kind of a problem as well as any type of social problem; it seeks the most effective way for us to deal with the problem. If there's no money involved in any legislation, it's very difficult for us to take the resources we have and move it, because if we move the probation officers that deal with kids like this, they have to come from somewhere else. So then somebody else loses the resources.

The main thing that I've noted is when I first went to work in probation fifteen years ago, the juvenile court was a court where we attempted to do what was best for the juveniles. That has changed significantly in the last fifteen years. Dispositional hearing is currently just like in adult court. It's an adversary kind of hearing. When we go into dispositional hearing, the district attorney has a deputy district attorney and then the defense attorney represents the minor. After the jurisdiction hearing is

over, then the district attorney is no longer representing the probation department's interests; and we then try to attempt to give a recommendation to the court which we consider to be the best for all parties concerned which would include the family, the community, and the minor. In almost all cases, the defense attorney when they go into court for a dispositional hearing will attempt to get the least restrictive placement for that juvenile, which may not be in the best interest of the community or of the minor because I think the defense feels that it is their job to do that. Just like in adult court, we try to get your client off. So it's easy. With the current war going on in juvenile law, it relates to dispositional hearings and the juvenile court. And I think prosecution is behind---is not effective in fighting the battle to try to represent both sides. I think defense is doing a much better job. And we're stuck in the middle, and I'm not personally happy with what's going on now. But this is where we are at in juvenile court. After the jurisdictional hearing is over, when you go for dispositional---some kind of a recommendation, defense does a much better job than anybody else in proposing the lesser restrictive alternative. That's all. That's all I have.

SENATOR LOCKYER: Thank you, Mr. Bean. Mr. Jim Pilling.

MR. JIM PILLING: OK, good afternoon, Senator Lockyer and Committee members. My name is Jim Pilling. I'm a supervisor of San Diego City Schools' Police Division. I'm here representing Dr. Tom Payzant, Superintendent of Schools, and also the administrators of the schools in San Diego Unified District.

We as school police officers and also as representatives and members of the California School Police Officers Association would support wholeheartedly both of these bills that are being presented. We also believe in addressing the three programs that juveniles should be treated as adults when they commit heinous crimes as listed in 707(b) of the Welfare and Institutions Code.

I think some of the other definitions have come forward this morning and this afternoon regarding what is a gang and the activities that they're involved in. And we see a different aspect in the schools. We see that there should be more training, more monies allocated for training of the personnel in the schools including our teachers, who very many of them are naive about a gang member. What is gang paraphernalia? We have to educate these people and we are attempting in San Diego Unified. Four times a year we have training programs for administrators and the teachers, a mandatory training program where we do emphasize and show them this is what a gang member looks like. This is what narcotics look like that's being passed around in your classrooms.

We also need more diversion programs as deterrents to the gang affiliation in grade schools whose communities reflect a high gang population. Early intervention and prevention must -- and I'd like to really emphasize -- must involve the parents to be a more effective program. I think it's been alluded to before that some of these parents do not know that their youngsters are involved in the gangs or some turn their heads to it. That's why we like to see them involved in gang activities when we have somebody under arrest. We had the parents come to the school to pick up their youngster, unless it's a type of crime where the individual is going to juvenile hall. But we want those parents to see what the youngster looks like now as compared to when he left home; in some cases, when she left home.

We need more protection for the victims and the witnesses who are being intimidated by the

suspects and the suspects' friends. Faster prosecution of the gang-labeled cases would help ease tensions and the fears of retaliation of the victims and witnesses as well as the community, and in some cases, some of the people in the schools if the activity did occur at the school site. School principals should have the discretion whether to have an open or a closed campus to cut down on the truancies and potential fights after off-campus lunch periods. This is a big problem that we see -- that youngsters leave school during their lunch time. They can go out into the community, go to parks where they may consume their alcohol and/or their drugs. They come back for the last two periods of the day because most school administrators are smart enough to put their school schedules for the first four periods---they had their education process and then the lunch period is after fourth period. That will allocate their monies for the ADA programs coming from the state. After the fifth and sixth periods of the day, the last two periods of the day, sometimes three, more than not we find the students who are supposed to be studying with their head down and they're taking a nap or they're loaded. And we need more education for these teachers and for the teachers' unions we believe also to get involved to refer those people, without feeling retaliation, over to either the school police or the administrators for some kind of justice to be done to those youngsters.

We feel more work programs for gang members to make restitution for vandalism and minor crimes as most members are unemployed and/or their parents or parent, in most cases, are on welfare and we are unable to recoup those losses.

Student dress code, Education Code Section 48916 should be strictly enforced especially with gang members flying their colors in school. We do our share here in San Diego, but there are some administrators who just let it go by the wayside and they more of a double standard policy rather than the single standard.

Another problem we should have is stressing the youngsters are getting smarter, and they're wearing their shoes and shoelaces to reflect their various gangs -- the Pirus and the Crips in their red and blue colors. We're having some difficulties with legislation and interpretation of that Education Code Section that we can't ask them to take out those red or blue shoelaces. We need more stress on that because that clearly identifies who those respective, especially in the black community, the Piru or the Crip gangs. Hall lockers are being removed in many San Diego City schools to cut down on vandalism to the lockers, graffiti, and also as a deterrent for storage of the students' drugs and/or alcohol.

One of the presenters earlier mentioned something about the advent of the youngsters coming around with beepers acting like doctors and lawyers. Our policy in the San Diego schools is we take those beepers away. They are not conducive to the education system. At the end of school, we'd be more than happy to return them to their parents, not to the youngster. We make the phone call to the parent and advise them about the beeper and where do they get the money to have the call system.

Open drug dealing occur around the schools and especially in our elementary schools. And thanks to San Diego police, they have placed mobile command vans around two of our elementary schools where there is a predominant involvement of drug activity. This has helped suppress some of it. The only problem: They've moved off into other parts of the community. But it's helped us in the schools to have a better teaching and learning environment. To show you an example, I've had to place our officers who

work in the patrol division to meet cafeteria workers at two of our schools where there's a large influx of crack cocaine dealers, 5:30 in the morning to meet the cafeteria workers as they come to school so that they're not hassled by the coke dealers out in the early morning trying to sell some of their wares.

Every junior and senior high school in San Diego has at least one gang member in that particular school, and we attribute this to the busing problem. The buses transport these youngsters throughout, and they also---some of these youngster are taking their drugs with them. Once again, we've helped to get rid of the lockers in the schools. And if they don't have the bus out there, they've got to either store the drugs on themselves or in their backpacks; and if we have a reasonable cause, of course, we will do all we can to alleviate those problems in the schools so that they are there and the majority of them are there for a better education process.

Thank you very much. I'll answer any questions you have.

CHAIRMAN LOCKYER: Sir, has there been, your legal counsel or anyone else sounding the alarm relative to an emerging issue? And it is---whether Proposition 8 that was passed, the Victim's Bill of Rights, what does the safe school provision mean in that? Has anyone tried to interpret that language for you yet, to tell you what you have to do or not in order to maintain safe schools? Do you know what I mean?

MR. PILLING: Yes, sir, we have addressed---

CHAIRMAN LOCKYER: Have any written something, a policy, or something like that about it?

MR. PILLING: Yes, the interpretation of the Education Code, the one that I talked of, 48916, they have said that---the interpretation has come back. We now have a test case to see what's going to happen with some people wearing particular colors, identifying with a particular gang, and also by their own admission, they have admitted they are a member of that particular gang. We are in the process now of testing that; and because of Prop. 8, it may be some time down the road before we find out the results of it. We will keep stressing that our concerns are important; we've taken the shoelaces out and replaced them and given them white shoelaces to show that they would be more appropriate in there. And once again, trying to get the involved; and that has become a problem, because a lot of the parents are feeling retaliation from their own sons, which is unfortunate.

CHAIRMAN LOCKYER: Thank you.

MR. SCHMIDT: Thank you.

MR. PILLING: Thank you.

SENATOR LOCKYER: Al Howenstein, please, executive director of the Office of Criminal Justice Planning and California Council on Criminal Justice.

MR. AL HOWENSTEIN, JR.: Al Howenstein, executive director of the State Office of Criminal Justice Planning. Good afternoon, Senator and members of the Committee. Thank you very much for giving us an opportunity to testify on this very critical issue to the State of California.

I think the previous testimony has very clearly outlined the severity of the problem that California is facing in the area of gang violence. Today I will be testifying both on the operations and activities of the Office of Criminal Justice Planning as they focus on the gang suppression program that we have as well as the recent events of the California Council of Criminal Justice. Chairman Bob Philibosian sends

his regrets that his schedule precluded his being here; but as the executive secretary and having attended all those meetings, I think I can fairly well represent what occurred.

The Office of Criminal Justice Planning is an agency that is designed to provide grant funds and support for local units of government, for criminal justice agencies, for community-based organizations, for schools, in order to impact and reduce the effect of crime in our state. One of the most important programs that we have is our Gang Violence Suppression Program. The Gang Violence Suppression Program first began as an operation of the state government in 1981, through state legislation utilizing leftover, rolled over LEAA dollars. At that time there was a recognition that we needed to begin doing something, and the first thoughts were patterned after the previous examples of Operation Hard Core at the Los Angeles County District Attorney's office where they focused special prosecutorial effort on those hard-core gang leaders. The purpose of the program is to reduce gang violence in the State of California with three major emphases: One, by the identification and prosecution and the removal from the community of those identified leaders and perpetrators; also, to prevent and deter the incidence of gang violence with the goal of prevention and reducing of gang membership.

In 1983, the State Legislature approved a proposal from the Office of Criminal Justice Planning for the first time to put state General Fund monies into supporting these programs. And from '83 to '84 we funded and supported nine prosecution programs and three community-based programs with the required match of \$250,000 from the federal Juvenile Justice Delinquency Prevention dollars that we administered. In 1985---

CHAIRMAN LOCKYER: How much---how big was the pot?

MR. HOWENSTEIN: There was \$1 million at that time, in '83, Senator. In 1985-86, in that budget year we proposed doubling the budget to \$2 million; and we were supported again by the Legislature in doing that. And the purpose at that time was to begin funding the remaining two components of the early enabling legislation of probation departments and law enforcement agencies. Well, we found, and you've heard it today, that we did not have a system-wide approach to confront the challenges of gang violence in local communities. And in reviewing our programs, it was obvious to me that if we're going to be affected, we must be comprehensive. We can't push at one end of the problem with having a bubble-up at another point. And so, with the support of the Legislature we were able to go to \$2 million which allowed us to begin funding probation departments and law enforcement agencies for the comprehensive approach. And I believe that, just a few moments ago, the gentleman from Los Angeles talked about the data collection program that we're funding in Los Angeles.

CHAIRMAN LOCKYER: Is that some of your money?

MR. HOWENSTEIN: Yes, it is.

CHAIRMAN LOCKYER: Where else are you doing it?

MR. HOWENSTEIN: I could give you the nine counties and then begin the other description. We are funding nine prosecuting offices in the state: Los Angeles, San Joaquin County, San Diego County, Orange County, Sacramento County, San Bernardino County, San Francisco County, Santa Barbara and Santa Clara. Then last year with the doubling of the dollars to \$2 million, we began funding five law enforcement agencies in the state for gang violence suppression programs requiring that those programs

be in areas where we already have prosecution programs.

CHAIRMAN LOCKYER: So some of those, same.

MR. HOWENSTEIN: So some of those are the same. So we have three policing agencies---or actually four policing agencies in Los Angeles. The L.A. County Sheriff's office and the Police Department came in with a joint proposal with the Probation Department for the data collection system. there are two municipalities in the County of Los Angeles and the Police Department in Sacramento. The three probation departments we're funding are in San Francisco, Sacramento, and in Los Angeles.

This last year, the office recommended---the Administration recommended doubling the budget one more time to \$4 million. This was at the conclusion of the California Council on Criminal Justice Task Force. The Governor had asked the Task Force to convene---or had asked the California Council on Criminal Justice to convene a task force to take a good look at what was the problem of gang violence in the State of California and to bring forth both legislative and budgetary priorities for this fiscal year. They began their hearings in August of '85, held four hearings -- one in San Jose, one in Fresno, one in the City of Los Angeles, and one here in San Diego. We actually added San Diego as we were going along, realizing that this community had a great deal of input to put into it.

As a result of those hearings, we proposed again, as I indicated, the doubling of the budget, but this time with an expansion to include the school programs. The authority to do that was then codified additionally by two pieces of legislation --one by Assemblywoman Hughes and one by Assemblywoman Waters -- that codified the ability to go into the schools and prepare the comprehensive program. So what it brings us to today is that we have \$4 million in state and federal funds. Actually it's a little over in addition to that because we're using some new federal dollars that have just been made available to us that will be funding comprehensive community counterattacks to the serious threat of gang violence that has really so much permeated our communities. And what we'll end up with is a fully coordinated community approach. The probation department, the policing agencies, the prosecutors, the community-based programs, and the schools in a joint effort, each carrying their own responsibility, each having the kind of impact that they may have and each realizing that the resolution of the problem is everybody's challenge. I think that Ms. Salazar earlier indicated that it is everybody's issue. We can no longer spend time trying to point a finger at a single component of the system. The problem of youth gangs, the violence, the threats, the loss of life, the amount of drug dealing that is going into their activity just poses a terrible threat to our state; and this comprehensive approach, we feel, will be effective. It's for that reason that we have at the Office is what we always try to do with all of our programs is look at comprehensive system-wide approaches because that's the only time it seems we really work the way we want to.

The California Council on Criminal Justice did come up with several findings that I believe are rather significant, Senator. One was we did come up with a definition, an operational definition that we use throughout the hearings; and the definition is "a gang is a group of people who interact at a high rate among themselves to the exclusion of other groups, have a group name, claim a neighborhood or other territory, and engage in criminal and other antisocial behavior on a regular basis." We found that to be very effective in identifying the things we were talking about.

One of the other findings of the Task Force was the need for a statewide data network information system so that we could identify and track those gang leaders and the gang perpetrators. For that reason we have funded as a pilot project the combined Los Angeles County Police Department, Sheriff's Office, Probation Department data collection system, GREAT, that was alluded to in earlier testimony. We hope that once that is operational and we see how effective it is that we will be able to expand that to a statewide service.

Another finding that we had is that current California laws do not effectively deal with the violent crimes of youth gangs. And there's been much testimony today that there is increasing violence by younger and younger members of gang organizations and a utilization of younger shooters by the older gang leaders in order to escape the severe penalties that are existent in their lives. And we recommend there---we have thought that legislation to increase the penalty for defendants 16 and 17 found guilty of first-degree murder with special circumstances to confine them in state prison without possibility of parole and/or a minimum of 35 years in state prison.

A second finding---or a third finding is that victim witness intimidation is a major threat to gang violence or to gang investigations.

MR. SCHMIDT: Pardon me. What's that crime---what's the sanction right now? First degree with special---?

MR. HOWENSTEIN: I think they can get out at 25.

MR. SCHMIDT: 25. So if we add it to the 10 which---

MR. HOWENSTEIN: Age 25.

MR. SCHMIDT: Age, OK.

MR. HOWENSTEIN: Age 25. That's the---

MR. SCHMIDT: Is there a way to recommit and extend after that?

MR. HOWENSTEIN: It is my understanding there is not. But that's my understanding. There have been efforts I think in the past to do that.

MR. SCHMIDT: I think we've tinkered with it. Probably didn't hit the duck.

MR. HOWENSTEIN: We haven't hit the duck, right. We've got it walking like a duck, now we just need to... I better not use another analogy. It may go too far.

The victim witness intimidation, as has been again testified to today, is a very serious threat to effective prosecution in getting cases. We found an interesting quirk in law that a witness in a juvenile case can be murdered without having the special sanctions of special circumstances applied in the death penalty not there.

CHAIRMAN LOCKYER: We tried to pass that last year.

MR. HOWENSTEIN: Yes, and I think we still need to do that, to amend that particular death penalty law.

We found a few other phenomena that I think are very peculiar to the problem. And one is that no longer are youth gangs restricted to territorial battles and concerns, that they have become actively involved in major dope dealing. It is big business; it is big enterprise. I heard earlier the testimony as to the weapon of choice, being the Uzi or the Mac-10. That does happen to be the fact. Those are not

fantasies. Those are the same factors that we found in our four hearings last year with continuing testimony from both gang members who are testifying incognito as well as citizens and parents who had lost their children in these acts of violence. They have become extremely sophisticated, highly organized, and have sophistication that on many times is equivalent to what we've experienced with other types of organized crime that we've identified in our nation. You've heard the facts in relation to the amount and the increase of violence in murders, the increase in drive-by shootings that are occurring. Again, these escalations in violence just underscores, I think, what the committee is doing and the importance of your activities today.

We need to enforce---or to increase the penalties for the position of controlled substances for sale and to include mandatory state prison for large quantity sales. We think that that would be very critical. We did have the recommendation last year and legislation Senator Seymour carried was passed that increased penalties for those who used minors in the sale of drugs and narcotics. The increase in that, I think it was SB 1960, was a step in the right direction..

Another emergence of a problem that has not been talked about today is the phenomena of the East Asian, Southeast Asian gangs. They are unique in a couple of categories. One is they usually do not have the same territorial boundaries as has been typically identified with Black or with Hispanic gangs. They have extreme mobility, and we have incidences where they are going out of the state to both commit robberies as well as to do contract killings. That interstate activity even creates I think more for us a unique problem. One of the other types of criminal behavior that they involve themselves in is prying upon their own community with high levels of extortion and home robberies. It makes it very, very difficult to crack, and we're working on that. One of the recommendations of the Task Force was to establish a Southeast Asian gang prevention and intervention program with the increased funding that we received this year. Our Office is funding a community-based program in Orange County and a policing agency in Los Angeles for the special focus to help assuage that particular problem or find techniques that will be effective.

One of the other critical findings that we had in the Task Force is the realization that parents are a critical factor to the success of any prevention and intervention strategies and aimed at deterring children from becoming involved in gangs. The bills by Ms. Waters and by Ms. Hughes increase our area of involvement in school training, community-based programs, working with the schools; and several of our community-based programs are working with parent educational components, which we found extremely valuable. Again underscored in the Task Force hearings, just yesterday I was speaking with one of the project implementers from East Los Angeles who was talking about the effectiveness they've had so far in strengthening the---both in creating and strengthening the assistance for parents whose children are involved in gangs as well as underscoring the identification of their colors and deterrent activities that parents can become involved in. They deem power in their parents as we empower our community to stand up against the ravage and the threat of this very serious crime will be our most effective weapon.

We have copies of the Task Force report that have been distributed. We should also note that also in legislation this year the California District Attorneys' Association will be receiving an increase in their legal training program funds from our office to go into a \$100,000 project to train prosecutors for

more effective prosecution of gang leaders. The concept there is to use the basic model of vertical prosecution, concentrated prosecution, reduction of bail, intensified efforts during the presentation of the case, and an effort to reduce also the time from when the arrest is made and the time that the defendant goes to trial, again realizing that we can protect the community by that incarceration process.

So, all in all, I think the testimony that I heard previously today, that the Committee has heard, I think underscores both the findings of the Task Force that the Governor asked the California Council on Criminal Justice to partake of last year and then the comprehensive approach that our office is trying to do to have that effective coordinated community approach with support from the state that has so generously been provided by the Legislature so that we can make a difference in helping restore to our communities the kind of safety and solace that they should have. To drive through some of these communities -- when our Task Force was going out, Senator, each night before the hearing or the following day, we would provide an opportunity for the Task Force members to ride along with special gang law enforcement units from each of the communities we were in; and there were some tremendously eye-opening experiences, an underscoring of the fact that what we're hearing is not just the press expanding incidences that occur on a rare occasion. I think they are accurately reported -- the level of violence, the level of intimidation, and the level of threat that the youth gangs propose to our communities today and the tremendous involvement, and the tremendous involvement, that narcotics and narcotic trafficking go to support their activities as well as to validate their goals and objectives.

I can answer any questions, sir, of you or members of the panel?

CHAIRMAN LOCKYER: I don't think so. I have no questions. Appreciate your being here this afternoon and this morning.

MR. HOWENSTEIN: Well, it's our pleasure. It was our pleasure and I commend the Committee for what you're doing because this issue is, I think, of utmost importance in our state.

CHAIRMAN LOCKYER: Well, we make a serious try.

MR. HOWENSTEIN: Well, you have already, Senator. Thank you very much.

CHAIRMAN LOCKYER: That concludes our set agenda for the hearing today. However, we have had a couple of requests from people who would like to make a statement, so if they would come up here now. I think we have at least two written: Ms. Atelano from Assemblyman Bill Bradley's staff and Mr. Greg Estabane, who left a note here that he wished to make some testimony.

MS. ROSALIA ATILANO: My name is Rosalia Atilano. Today I am speaking as an individual citizen and not on behalf of the Assemblyman. I'd like to thank you for giving me the opportunity to speak to you today. I come to you as a former gang member myself, from 1961 through 1965. I have lost three family members and have come very close to losing two of my sons.

The testimony that I've heard today was very impressive, and I still feel deep down that the laws still have to be stronger. It has been three years since the last family member that I lost and a year and a half ago that I almost lost my 17-year-old son. And most recently, my 10-year-old son. And it doesn't deal with the gang territories or the gang violence, but within the schools. And I've heard a lot of testimony today about the parents and the involvement of the parents and how important it is. With the Hispanics, specifically the Mexican people, it is very difficult to get those Mexican parents involved.

Some of them are victims of their own children's abuse. Some of those gang members abuse their parents. Many of them will not get involved. You will not reach them, unless you have specific programs that some of the people today have talked about. The funding is important, and I realize that many of the Mexican people are targeted as Medi-Cal recipients. However, there are many of them that are not. And this is another way that our state can help reduce the gang violence and that is by putting more money into these programs that deal with the gang violence.

In Escondido, from 1961 through 1965, there were a total of two gangs. We were not violent gangs. I was a member of the female gang. Why was I a member? The reason for that was called -- I can't think of the word again -- survival. Fortunately, my parents found that living in the barrio was not the place to raise a daughter and three sons. So we moved out into the country. But it took four years for me to get out of that gang. I did not commit any heinous crimes. I didn't kill anybody. I wasn't involved in any drugs. But I was in that gang for survival. Shortly thereafter I went to college, to a junior college. I was able to obtain two years of junior college education; and that really pulled me away from the gang, some people. Then I married, and he was a former gang member himself, and I lost him. Fortunately, I was able to continue with my education. And as I mentioned earlier, I have a son who is 17 going on 18. I made the mistake of moving to the Oceanside area, not knowing or realizing what area I was moving to. And the attempts to buy a home there, I decided first I would rent to see what kind of area I was going to. At the age of 12, I found out that my son was involved in gang-related activities in the Pasoli area. It was at that time that my son's life started to change. It has only been one year since my son has been out of the gang violence; and that is because I moved out in the country in Escondido, and he is still, fortunately, going to high school. He was almost a high school dropout for the last three years. But I have found that he is finally realizing that he has to be determined to continue his education. But even at the school he's at now, you either belong to a gang or you've had it. In Escondido, as I mentioned earlier, we had two gangs. Over this period time, it now has four gangs in that small community. It's not really small anymore, but it used to be. One of the gangs is the old timers gang. That still exists and that's the male gang, when I was a member of the female gang. That still exists. Then you have another gang that is made up of Mexican-Americans, those that are born and raised here, the traditional Mexican-American families. The other two are rival, undocumented aliens who cannot get along with each other. And the situation is really getting worse. Something has to be done.

And in listening earlier to the law enforcement agencies, at first I used to think, well, they just want to lock everybody up. But over the last few years my attitude has changed about that. And it isn't just in dealing with the problem on an emotional basis or dealing with the problem that it only hits our community. This problem, I believe, is really statewide; and the law enforcement agencies do have a tough time of it. And without changing our laws and making them stricter, they're not going to change. Unfortunately, and this may seem strange for you to hear from a parent, my son has never been arrested. Not once. Hasn't even been picked up by the police. And I can tell you of some very serious crimes that have been committed. As a parent, I would have hoped that he would have been arrested, so that he would have learned what the system is all about.

I have two other family members that are presently serving prison terms. I heard some testimony

earlier where they start with the small little crimes and they don't get picked up in between the ages of 12 and 16, they're juveniles. Then they're 18 or 17 and they're still juveniles. By the time my two nephews reached the age of 16, they were hard-core criminals from southeast San Diego. Had those penalties been stricter, I believe, in their younger days, they perhaps would not be where they are now. Sometimes I believe we have to make the penalties a lot stricter to teach them what our law stands for. And as our legislators, I feel that it is your responsibility to do that in representing the people. Because the reason I gave you, the chronology of events for the different gang activities that I've seen in my lifetime, I can tell you that they are getting progressively worse. And unless something is done about it now, I strongly believe that things are going to get worse. And that's why I come to you today. I came originally just to listen to the testimony and to listen to the hearing. But I felt that the testimony you were hearing today were from law enforcement agencies, probation officers, criminal justice people; but you did not hear from the public sector. And I feel I can speak to you from my own personal experience, the losses of my family, the near losing of my two children; and I still haven't combatted the total problem with one of them. But he's on his way. And with the help of this particular type of program that we're dealing with, I'm hoping to see some more positive changes.

I'd like to thank you very much for giving me this time this afternoon. Thank you.

CHAIRMAN LOCKYER: Thank you. I must tell you that that was probably the most eloquent testimony we've heard this morning. I hope as we go on and work through these things and legislation some we can talk to you about these things, because I think your personal experience is probably worth a lot more than just the legal background that some of us bring to the problem. Thank you very much.

If there is no other testimony, well---one more? Excuse me.

MR. GREG ESTABANE: My name is Greg Estabane. I'm a local private investigator here in San Diego and I've had some experience with gangs locally on a professional level. I've been an investigator for ten years and I've worked in the Riverside County area and in the San Diego County area.

I, too, like some of the people who have testified, have a legal background. I'm a graduate of a local law school. But in doing private investigations, I have a different perspective. I have worked for many public defender agencies. I've worked privately. In some cases, I've helped people get convicted; in other cases, I've helped people seek justice and were found innocent. I like to think of my viewpoint as a little balanced on both sides.

I've come to speak to so many different gang members in San Diego and feel a real personal sense of knowledge of a lot of different, various gangs here. I've met their families. I've met their relatives. I've been to where they live. And unlike a police agency where they, though I respect them greatly for the type of work they're doing, they have a different reception in these communities. They're not exactly welcome to families' homes or to perceive all the intricate, subtle social things going behind the scenes with one of these gangs.

The bottom line for me and the reason I wanted to testify here was two points: One was the use of the term "gang member" in the juvenile court 707 hearing. That worries me in the sense that right now there is a certain limited amount of criteria that is used in finding the juvenile unfit for the juvenile court system. They've seemed to have worked relatively well. I think by injecting the term "gang" it could

possibly be utilized to injustice as many times. I give out several examples -- in a lot of these communities, in the Latin and Black communities, a lot of these kids may not be gang members, but may by sheer association, by sheer geographics and demographics live in an area where they have no choice but to---not associate, but to walk through situations like this. I personally worry that there would be a great impetus to immediately stigmatize a lot of members in these communities as gang members. It's not so easy to identify a gang member as people may think. As the last gentleman spoke, Vietnamese gangs are a prime example. How do you identify a Vietnamese gang member? They don't wear clothes like baggies or khakis. They don't have tattoos. They don't spray graffiti. They don't hang in one neighborhood. Other than having someone come out and admit or through intelligence basis finds that, you know, this organization exists, it's relatively hard in contrast to Latin or Black gang members. This is one of the things that worries me in juvenile court proceedings of attaching that extra criteria to find someone fit.

The other side of the coin is I do agree gang activity is serious. It's incredibly serious. If you actually go there on the streets. I've been to most of these streets in these counties. This is the real stuff. These are not kids. A lot of them are adults. And I'm sure you've already heard before and I'm sure you know through mainly the persons testifying, these are adult-like criminal organizations. But that's not the point I'm making. The point I'm making is to attach the term "gang" onto proceedings is a different thing. We all agree that it's something we have to address. It's something that we have to discourage and to stop before it gets worse, but to utilize it in the 707 setting, I think could be very dangerous and detrimental.

And the last point I would like to make, in terms of the law enforcement aspect of utilizing a legislative term such as gang, I think there could also be some dangers inherent in the actual day-to-day process. Many, many young adults in this city hang around in groups. Does that mean that every time there's a small group of kids hanging around that they're going to be pulled over and photographed as possible gang members? That kind of thing worries me in the application.

I'd just like to point out that though I am in favor of what I would call violent organized gang members who are like an organized crime network, I am in total agreement that we should find legislative ways of seeking harsher penalties; but in juvenile court settings, I'd be very careful in trying to define the term "gang" and apply it on a general basis. Thank you.

CHAIRMAN LOCKYER: Thank you very much. That concludes the testimony for this morning, and we appreciate your presence and participation. Transcripts of the hearing will be available from the Committee. Thank you.

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