

Defending Gangland

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State Power Versus Local Culture

Street gangs have been a part of American culture since the inception of the nation. These organizations have evolved and changed over time, but the earliest iterations were little more than local affiliations. Some countercultural syndicates have grown into genuinely threatening criminal enterprises throughout the United States. However, ***not every gang is involved in a criminal enterprise, and many American gangs are little more than local groups that provide a sense of identity for the local community.*** While street gangs are generally anti-social elements within society, their activities do not typically reflect any cohesive countercultural effort or intention—street gangs typically do not generate or command significant financial or political power. Notwithstanding, there is a strong predilection for disgust towards gang membership in America. This is due primarily to the mainstream understanding inculcated by average Americans that criminal gangs are a primary source of criminality in society writ large. In turn, the public disdain for gangs precipitates efforts by legislators as well as state and local law enforcement officials. Consequently, significant policy measures intended to aggressively target gang members and gang activity have been codified throughout the United States. ***In order to effectively defend against the combined forces of social bias and the codified measures targeting gangs, anyone charged with a gang enhanced or gang-related charge should immediately seek out legal counsel with experience handling gangland cases.*** Wasatch Defense Lawyers are experienced and skilled in cases involving gang activity, and are eager and willing to ensure the best possible outcome for our clientele!

Defining Gangland

Gangland is any territory controlled or influenced by some non-governmental, countercultural organization or group. For much of American history, the term gang was more synonymous with the concept of tribe. The earliest active gangs in Western civilization were first recorded by British chroniclers in 1873. London was home to feared gangs such as the Mims, Hectors, Bugles, and Dead Boys who fought pitched battles with one another throughout the city. While historians extensively documented the existence of highway robbers and territorial street gangs throughout the 17th century, the records suggest that established criminal gangs existed in England as far back as the 12th century.

Street gangs in the United States began to proliferate at the end of the American revolution. These early “gangs” were more akin to militias governed by local authorities and strongmen. America was a wild and untamed land without the benefit of strong central governance; early American settlers formed groups to protect their interests and their personal safety. It wasn’t until much later that criminally oriented syndicates were well-established as a countercultural element in the United States. Until the early part of the 19th century and the advent of prohibition, criminal syndicates were not a significant feature of American. Prohibition-era gangs grew extremely wealthy and powerful by providing liquor to the American people; and since that time, organized criminal elements have been an established facet of American culture.

Today, criminal gangs and gang violence have proliferated across the entire nation. However, there is no definite understanding of what constitutes a gang or gang member. Gangs are generally informal associations that lack any official records that could objectively define their organization. Formal efforts to formulate a definition common to all gangs have failed, and similar efforts to define who constitutes a gang-member have likewise been unsuccessful in establishing a useful understanding. Yet gangs do exist.

Street gangs are by far the most prolific type of gang in the United States. Street gangs differ from prison gangs, terrorist organizations, criminal motorcycles clubs, and other organized criminal syndicates (such as the Mafia or the Yakuza) in their inclination toward limited territoriality and locally focused activity. Street gangs are objectively characterized by the following traits:

- 1) Local Territoriality, typically based on some common residence;
- 2) Versatility of criminality, as opposed to criminal specialization;
- 3) Predominance of race or ethnicity providing a basis for membership;
- 4) Age of members typically ranges from sixteen to twenty-one.

Street gangs tend to be loosely organized, and the degree of violence and anti-social behavior among different gangs can vary broadly. Street gangs generally lack the cohesion and hierarchy necessary to carry out any serious criminal enterprise. However,

there is a general conflation between street gangs and their more nefarious and well-organized counterparts.

Misconceptions about the nature of street gangs are commonplace, and such bias can lead to heavy-handed or outright unfair outcomes in court. Accordingly, it is important that defendants ensure that gang association is not prejudicially presented in the court of law or unfairly used to enhance a conviction.

The Prosecutorial Advantage Against Gang Members

The State has significant advantages whenever prosecuting a defendant who is associated with, or member of, a gang. First, many states and local municipalities have passed legislation intended to target and severely punish gang activity. For example, many states apply major sentence enhancements whenever a crime is committed in association with gang activity. This incentivizes prosecutors to define activity as gang-related and often leads to the mischaracterization of facts. Secondly, most cities with gang activity will utilize specialized police units. These specialized officers receive additional training and are often skilled expert witnesses. And third, in many major cities, the district attorney's office has special gang units. These units routinely practice heavy-handed litigation tactics including vertical prosecution, special search warrant training, and refusal of plea bargains in order to achieve high conviction rates in gang-related cases. With special laws, special police, and special prosecutors all arrayed against gang members, it is unsurprising that the likelihood of conviction and enhanced sentencing is greatly increased in cases involving gang activity.

Defending Street Gangs

There is no special unit to defend gangs in the public defender's office. The State provides significant resources to the prosecution of gangs but does not lend the same advantages to defense counsel. Those charged under a gang enhancement are in a very precarious situation. ***Defense counsel must be able to present the whole person for the court to evaluate the fact effectively.*** And both judges and juries are not inclined to view gang members as anything but malevolent actors. It is critical for defense counsel to either exclude gang membership from being presented in court or to provide some mitigating argument to dissolve the bias inhered by association with street gang activity. It is not an easy fight— but at [Wasatch Defense Lawyers](#), we understand the complexities and difficulties of defending street gang members and affiliates. Accordingly, our dedicated litigators are eager and able to navigate gang-related cases in order to help our clientele achieve the best possible outcome!