



## WASHINGTON OFFICE ON LATIN AMERICA

*Celebrating 30 years of promoting democracy, human rights and social justice in Latin America.*

June 8, 2007

Honorable Patrick J. Leahy  
Chairman  
Senate Judiciary Committee  
433 Russell Senate Office Building  
Washington, DC 20510

Honorable Arlen Specter  
Ranking Member  
Senate Judiciary Committee  
711 Hart Senate Office Building  
Washington, DC 20510

RE: Gang Abatement and Prevention Act of 2007 (S. 456)

Dear Members of the Senate Judiciary Committee,

I am the Program Director of the Washington Office on Latin America, and the coordinator of our program on youth gangs, citizen security, and human rights in Central America. With my colleague, Elsa Falkenburger, I write today to express several concerns about aspects of the Gang Abatement and Prevention Act of 2007 that is under consideration in the Senate now.

The Washington Office on Latin America is a non-profit, non-governmental organization that monitors human rights and social justice issues in Latin America, and that advocates for U.S. policies that support human rights, democratization, and social justice in the region. For almost thirty-five years, WOLA has monitored issues of human rights and democracy in Latin America, and has provided information and analysis to Congressional offices, the Administration, and the general public about conditions in the region and the impact of U.S. policy.

Youth gang violence is a serious problem in the region. Four years ago, WOLA began to monitor the problem of youth gangs in Central America and the nature of government and civil society responses to the problem. Unfortunately, government responses in Central America have tended to focus predominantly on repressive measures which have placed thousands of youth in prison and which have aggravated the problem rather than ameliorated it.

WOLA examines government and civil society responses to the problem of gang violence in Central America, looking at the effectiveness of police and public security responses in controlling and reducing gang crime, and the impact of these programs on citizen security and the rule of law, including police practices, due process and human rights issues.

We do not normally comment on U.S. domestic policy issues, but we are expressing our concerns about S. 456 because we work on youth violence, citizen security and human rights in Central America, and how those issues are addressed in Central America is closely connected with how they are treated in the United States.

WOLA participated in a major comparative research project on youth gangs in partnership with a major Mexican university, the *Instituto Tecnológico Autónomo de México* and other universities

in El Salvador and Nicaragua. The investigation studied the youth gang phenomenon in six Mexican cities, El Salvador, Honduras, Nicaragua, and Guatemala, and in Washington, DC. A WOLA researcher led the Washington portion of the study, conducting interviews with former gang members, social service workers, and police officials in the metropolitan area.

**Our work with various research institutions, community service providers and government officials has lead us to several conclusions relevant to S. 456.**

**First**, a balanced and comprehensive approach to youth violence is required, one that invests heavily in prevention and supports effective policing. **We applaud the emphasis in S.456 on youth violence prevention, and urge fuller funding for community based violence prevention programs;** our research and our work in Central America has convinced us that an increased emphasis on youth violence prevention is vital.

**Second**, our research in Central America suggests that heavily punitive measures – such as lengthening sentences or criminalizing gang membership – are not effective public security strategies likely to reduce gang-related crime. Therefore, **we urge the Committee to re-consider the sentencing provisions in this bill.**

**Third**, it is clear that misconceptions abound about the nature of youth gangs in both Central America and in the United States, and that from these misconceptions spring inaccurate understandings of gangs as well as erroneous notions about what needs to be done to respond to the youth violence problem.

Our research has shown that the character of youth gangs varies significantly from place to place and gang to gang. “One size fits all” strategies are inappropriate and ineffective. Local communities, police and prosecutors must tailor their approaches to their specific local situation. For this reason, the definition of “criminal street gang” and of “gang crime” in this legislation is too broad and far-reaching, and would submit young people who have engaged in very different kinds of behavior, under very different circumstances, to inappropriately identical treatment and federal criminal prosecution. **We urge the Committee to re-consider the overly broad definitions of “criminal street gang” and of “gang crime” in this bill.**

**Fourth**, there is a pervasive misconception that the United States has imported youth gangs from Central America, gangs like MS-13 and the 18th Street Gang. Some believe that gangs in Central America are extending themselves and building criminal networks in the United States. This is a misconception, and an especially pernicious one. Both MS-13 and the 18th Street Gang emerged in Los Angeles, in Central American immigrant communities in the 1980s. During the 1990s it was U.S. deportation policy that brought gang culture and the names of MS-13 and the 18th Street Gang, to Central America. There, local youth gangs integrated some deportees and much of the style and approach of U.S. street gangs. These two gangs spread from the U.S. to Central America.

One consequence of this misperception is a tendency to increase criminal penalties for non-citizens involved in gang violence out of a belief that stiffer penalties will deter gangs in Central America from sending gang members to the United States. But there is no evidence that gangs in Central America are systematically engaged in sending their members to the U.S., and thus, there is no justifiable reason to impose harsher penalties for gang related crimes on non-citizens. **We urge the Committee to reject harsher sentencing provisions for non-citizens.**

## Key Points on Youth Gang Violence

1. A comprehensive approach is key: prevention needs to be adequately funded, and effective policing is necessary rather than heavy-handed arrest strategies combined with harsh sentencing.

The Office of Juvenile Justice and Delinquency Prevention at the Department of Justice (among many other domestic and international agencies) has repeatedly demonstrated the high success rates and cost efficiency of prevention programs in response to gang membership, activity and crime. Prevention programs funded by the OJJDP's *Title V Community Prevention Grants Program* such as Homeboy Industries are key examples of comprehensive approaches organized at a local level and funded by the federal government which have had a significant impact on reducing gang activity in their communities.

Operation Ceasefire in Boston (1996) is an example of prevention through law enforcement. This police-led program focused on gun violence control and community policing, and on the most "high risk" individuals in the community. After 2 years of operation, Operation Ceasefire succeeded in decreasing homicides by youth 24 years and younger by 71% and an overall reduction in gun assaults for all ages of 70%.<sup>1</sup>

2. Heavily punitive measures – such as lengthening sentences or criminalizing gang membership – are not effective public security strategies likely to reduce gang-related crime.

Central American governments have generally pursued a "*mano dura*" or "iron fist" approach to the problem of youth gang violence. These government responses have failed to improve the pervasive problem of crime and violence in Central America and have actually lead to greater numbers and cohesion within the existing gangs.<sup>2</sup> *Mano dura* policies incarcerated large numbers of non-criminal youth with violent offenders. To protect themselves they began to organize themselves secretly, no longer tattooing themselves or wearing identifiable clothing but they continue to meet and are coordinating gang activities from prison.<sup>3</sup> As a result, these gangs are more dangerous and increasingly participate in criminal activities. This poses a significant problem to public security in the region. It is essential to recognize this while ensuring that the policies and programs created to address the problem are appropriate and effective in order to avoid inadvertently making the problem worse.

3. Youth gangs are different everywhere and definitions of youth gangs must reflect these differences.

Our research found that youth gangs are not uniform – the structure, the make-up, the size, the level of involvement in criminal activity – varies greatly from city to city and country to country. Gangs that call themselves MS-13, for example, behave very differently in Washington than they

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<sup>1</sup> National Institute for Justice. **Reducing Gun Violence: Boston Gun Project's Operation Ceasefire.** Washington: September 2001.

<sup>2</sup> Harvard Law School. **No Place to Hide: Gang, State, and Clandestine Violence in El Salvador.** Boston: February 2007.

<sup>3</sup> Cruz, Miguel and Marlon Carranza. **Pandillas y Políticas Públicas: El Caso de El Salvador, Juventudes, Violencia y Exclusión.** San Salvador: January 2006.

do in Los Angeles, and require different kinds of community and police interventions. Gangs differ, and community, police, and prosecutorial responses to gangs must vary accordingly.<sup>4</sup>

Gangs in El Salvador engage principally in extortion while L.A. gangs make money predominantly from local drug trafficking. Both activities are serious offenses which should be subject to criminal investigation and prosecution. However, the manner in which law enforcement and prevention programs approach these different types of activity should vary accordingly. In Washington, DC, most gang members are employed and their association with the gang has more to do with personal identity or other personal troubles rather than drugs and extortion. Police forces and public security officials should ensure that their mechanism for responding to these varied forms of gang activity respond to the nature of the gang in that particular area.

4. Non-citizens who commit crimes should certainly be prosecuted and punished, as should citizens. But, disproportionate criminal sentences directed at non-citizens are inappropriate.

There is no evidence of any systematic pattern of international gang movements that need to be deterred. Therefore, it does not make sense to seek longer sentences for non-citizens on the theory that this might deter transnational gang crime. In fact, research conducted by our colleagues at the Institute for Public Opinion Research at the University of Central America in San Salvador shows that the links between gangs in El Salvador and gangs in the United States are not well developed or systematic. In a survey of 316 imprisoned gang members, the IUDOP found that 85% reported having no contact with gang members outside the country, and 91% had never traveled to either Mexico or the United States.<sup>5</sup> While there are individuals who flee from Central America to the United States, and vice versa, and evidence that those individuals stay in touch with their friends and fellow gang members in the country from which they fled, there is no evidence that gangs in Central America engage in any systematic way in sending their members to the United States.

In conclusion I would like to thank the Senate Judiciary Committee for this opportunity to testify and hope that this information will be of use as you consider S.654.

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<sup>4</sup> Instituto Tecnológico Autónomo de México, **Transnational Youth Gangs in Central America, Mexico and the United States**. Washington DC: March 2007. (available at [www.wola.org](http://www.wola.org))

<sup>5</sup> Aguilar, Jeannette. **Pandillas juveniles transnacionales en Centroamérica, México y Estados Unidos**. "Diagnóstico de El Salvador." San Salvador: March 2007.