



Addressing Gangs: What's Effective? What's Not?

Written Testimony Submitted to the Subcommittee on Crime,  
Terrorism and Homeland Security

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Dear Representative John Conyers, and Members of the House of Representatives  
Subcommittee on Crime, Terrorism and Homeland Security:

My name is Charles Ogletree, Jr. I am the Jesse Climenko Professor of Law at Harvard Law School. I am also Founder and Executive Director of the Charles Hamilton Houston Institute for Race and Justice, also at Harvard Law School. I thank you for inviting me to testify today about effective policies and practices aimed at reducing violence and gang involvement among young people. As the Subcommittee, and, eventually, the entire House of Representatives and Senate determine how to best invest funds in this area, we must not lose sight of the dual goals of any legislation involving the lives and futures of young people. This legislation must aim to both prevent youth crime and violence, and to facilitate the healthy development of all of our nation's children, especially those who are most vulnerable and who live in communities of concentrated disadvantage. I believe—and the evidence confirms—that these goals are not incompatible, and it is to this point that I plan to focus my testimony.

Before I begin, I believe it will be helpful to provide the Subcommittee with some background information about the Charles Hamilton Houston Institute that I founded at Harvard Law School, and about the man who inspired its name. Charles Hamilton Houston was one of the 20th century's most brilliant legal scholars and litigators. He was a native of Washington, D.C., a graduate of the M Street High School, now known as Dunbar High School, and valedictorian at Amherst College before he began his career at Harvard Law School in 1919. Later, as vice-dean of Howard Law School, Houston engineered and constructed the multi-year legal strategy that led to the unanimous Supreme Court decision, on May 17, 1954, repudiating the doctrine of "separate but equal" schools for black and white children. In this celebrated ruling the Court held that segregated educational facilities were "inherently unequal" and violated black children's rights to equal protection under the 14th amendment. *Brown v. Board of Education* was a watershed legal decision and is one of the proudest moments in our jurisprudence. Just as important, though, *Brown* was the progenitor of

the civil rights movement, which altered our nation's consciousness, changed its laws and chipped away at its long legacy of discrimination, segregation and inequality.

As Founder and Executive Director of the Charles Hamilton Houston Institute for Race and Justice, I, with a staff of experts in the areas of education, housing, child development and criminal justice, attempt to carry on Houston's legacy in remedying racial inequalities in opportunity and related injustices in connected systems of education and criminal justice. The Institute conducts policy and legal analysis, and regularly convenes meetings, roundtables and conferences. Staff members take part in activities ranging from community organizing efforts to spreading knowledge at academic conferences. Ultimately, the Houston Institute creates a bridge between knowledge and action. We reach deeply into the worlds of research, policy, and practice. While adhering to the most rigorous standards of academic scholarship, we are equally committed to ensuring that such knowledge is accessible and useful to policy makers, practitioners and the general public. This commitment is based upon our strong belief that effective, enduring policy, while emerging from our collective American values of fairness and justice, is always informed by solid evidence and data, rather than anecdotes or emotional appeals.

At the start of 2008, the Institute sought to identify and analyze key research findings about effective practices aimed at curbing gang violence and membership, and juvenile crime. At the time, the House and Senate were debating bills offering contrasting strategies for dealing with the challenges of youth violence and gang involvement. We believed it was critical that legislators have access to the best possible evidence before making critical decisions about how to invest dollars in crime and violence prevention. My staff and I were particularly concerned about the possibility that certain strategies may, perhaps inadvertently, further exacerbate already deeply troubling racial disparities that permeate both the criminal and juvenile justice systems. In fact, racial disparities within the juvenile justice system have grown so large that the 2007 Federal Advisory Committee on Juvenile Justice recommended that "Congress offer concrete incentives to states that ...begin implementing action steps that proactively address the [Disproportionate Minority Contact (DMC)] issue."<sup>i</sup> It is vital

that Congress not enact new legislation almost certain to increase DMC, particularly when it has already recognized this as a serious problem in need of deliberate and immediate action on the part of states.

The policy brief the Institute released in March 2008, entitled “No More Children Left Behind Bars” reviews the most robust research on juvenile justice, child development and educational interventions in an effort to assess the most promising approaches to curbing youth violence and gang affiliation. I want to thank Susan Eaton, Research Director of the Houston Institute, for serving as the primary author of this brief. She was assisted in her efforts by David Harris, Managing Director, Johanna Wald, Director of Strategic Planning, and Daniel Losen, Senior Research and Policy Associate. In this written testimony, I summarize some of the key conclusions drawn in the brief. I also attach the full policy brief as an Appendix, which is also available on the Charles Hamilton Houston Institute website.<sup>ii</sup>

The brief's main conclusion is that public dollars spent on education and prevention are far more effective in stemming violence and discouraging gang affiliation than broadening prosecutorial powers or stiffening criminal penalties for young people accused of gang-related crimes. The brief finds that a “get tough” approach heavily focused on prosecution and incarceration shows little evidence of working to deter gang affiliation. Rather, our reading of the scholarly research and our examination of trend data point to the following conclusions, which are supported in the brief:

- A. Data suggest the number of communities with active youth gangs increased in the last three decades, peaked in the early 1990s and has recently declined. Youth gang prevalence declined in non-urban areas but gang violence remains a serious problem in some urban communities of concentrated disadvantage. This suggests that gang involvement is related to a lack of opportunity in certain communities and calls into question the need for expanded law enforcement power and the appropriation of even more federal dollars on jails and prisons for children and teens.

- B. Many education-related and community based youth programs demonstrate effectiveness and promise in redirecting young people away from gangs, by preventing gang affiliation in the first place, and by assisting teens in completing high school, which together translate into reduced crime and healthier communities.
- C. Tactics focused on increasing prosecutions, expanding the definition of gang membership and lengthening prison sentences will likely strengthen, not reduce, gang affiliations by isolating children and teenagers with anti-social peers and by removing them from healthier social environments and opportunities to participate in more positive outlets. Such policies will also likely result in the unwarranted and counter-productive prosecution of non-violent youths who become marginally engaged in gangs for short periods of time, but would quickly lose interest on their own. <sup>iii</sup>
- D. Such tactics will also likely target children and teens of color, disproportionate shares of whom are economically disadvantaged and live in distressed communities that lack sufficient educational, recreational, and economic opportunities. In so doing, the tactics will worsen, rather than diminish, the problem of disproportionate minority contact, which Congress has recognized as a major problem that must be addressed in almost every state.
- E. Public opinion data strongly suggest that the American public endorses investments made in education and prevention strategies for youth rather than in more prosecutions and longer jail sentences.

Below, I elaborate on a few of these conclusions. A critical point made in the brief, which I want to reinforce here, is to refute the notion that broadened prosecutorial powers, combined with a small dose of prevention, constitute a “balanced” approach. This is a fallacy because, in fact, one approach actually negates the positive results of the other. Harsh law enforcement tactics may worsen the problem of juvenile crime by solidifying gang affiliation and isolating these children and teenagers from communities

and schools where they at least have a chance of finding more positive outlets. Such policies also are more expensive to taxpayers than funding prevention and education aimed at keeping youths away from gangs in the first place.

This is not to suggest that gang violence is not a very serious problem in some communities. It is. It is also true that a very small percentage of young people are dangerous and in need of intensive treatment away from the public. But they represent a small minority. There is absolutely no empirical evidence to suggest that vast swaths of our nation's youth are somehow beyond redemption and in need of permanent warehousing. The concept of the "superpredator" that was popularized during the 1990's has been thoroughly discredited by researchers and practitioners alike, and even denounced by the individuals who made that term famous. Most children who are drawn to gangs do so out of a need to affiliate and connect. They "age out" of this interest quickly and move on to more healthy activities and concerns on their own.

As the very profound work of Dr. Robert Macy, who is providing expert testimony today, supports, the most counter-productive direction that we can move in now is to expand the net of offenses for which youths can be prosecuted and incarcerated. If we do, we will snare into that net those children and teenagers who are neither dangerous nor violent, but very much in need of adult guidance and direction, and of opportunities to develop healthy pursuits, talents, and skills. By stepping up prosecutions of these non-violent children and teenagers, we will remove them from the communities, activities, social contacts and schools that could nurture healthy development, and instead isolate them with a group of anti-social peers who will only reinforce and harden their worst impulses. This harms not only the children, their families and communities, but the entire nation—morally, socially, and economically.

In addition, such a strategy is almost certain to target children and teens of color, particularly those who live in communities that lack the opportunities routinely afforded to more affluent children. The racial disparities permeating the juvenile justice system are deeply troubling. For example, in 2003, African American youth were detained at a rate four and a half times higher than that of their white counterparts.

According to these figures, minority youth represented 61 percent of all youth detained in 2003, despite accounting for only about one-third of the nation's youth population.<sup>iv</sup> Four out of five new juvenile detainees between 1983 and 1997 were youths of color. According to one study<sup>v</sup> black youths with no prior criminal records were six times more likely, and Latino youths three times more likely, to be incarcerated than white youths for the same offenses.

There is also growing evidence that racial bias—often implicit, unacknowledged, or unconscious—plays a large role in decisions and judgments made routinely by powerful actors within the criminal justice system.<sup>vi</sup> For example, one large-scale study from Florida showed that judges were far less likely to “withhold adjudication” for Hispanic and black males than they were for white males. (The withholding adjudication provision applied to people who had pled or had been found guilty of a felony and will be sentenced to probation. It allows the person on probation to retain their civil rights and to legally assert that they have never been convicted of a felony.) The racial association was strongest, researchers found, for blacks and for drug offenders.<sup>vii</sup> Other research from the field of cognitive science demonstrates that people tend to make unconscious associations between African Americans and crime, among other negative characteristics.<sup>viii</sup> An expansion of punitive policies, coupled with increased use of the loaded “gang” label, surely heightens the risk that bias, whether it is unconscious or not, will affect decisions -- about parole, sentencing and the like -- that powerful actors in the juvenile justice system make about young people of color.

Experience and research clearly demonstrate that, where children are concerned, the most judicious use of federal crime-prevention and gang-prevention dollars would be to focus on investments in proven programs that equip young people with life skills and alternative opportunities for engagement. Additionally, programs and policies that treat problems related to conditions of poverty, educational failure and isolation, all of which make gang membership attractive to youths living in communities of extreme disadvantage, have demonstrated their effectiveness and efficiency.

Top scholars in fields such as economics, educational psychology and public health have identified common characteristics of particularly promising programs and practices. Reports reaching these and similar conclusions have been released by the American Psychological Association, the Washington State Institute for Public Policy, the Social Development Research Group of Seattle, and the US Office of Juvenile Justice and Delinquency. They find that successful programs tend to have the following characteristics:

- They begin in pre-school and are sustained over time, through middle and high school. Economist James Heckman from the University of Chicago underscores the importance of continuing investments in these strategies through the teenage years. He found that boys from high risk families with access to mentoring, adolescent literacy tutoring, and opportunities to participate in meaningful community service were far less likely to commit crimes than boys who did not receive these services or treatments.<sup>ix</sup>
- They include families, schools and communities, thereby providing a web of support for youths.
- They focus both on individual development and on teaching children the social and cultural skills they need to succeed in school and in work.

The policy brief identifies and describes some of these programs, including Child-Parent Centers, Family Integrated Transition, the School Transitional Environmental Program, Multisystemic Therapy, and Gang Resistance Education and Training.

I believe it is particularly important to note the strong connection between high school completion and crime reduction. This is important because while Congress is considering spending more than \$1 billion to arrest and incarcerate more young people, it is simultaneously reducing spending on dropout prevention programs. From almost any perspective, such a tradeoff does not make sense. Leading economists from Columbia, Princeton and Queens College have estimated that increasing high school graduation rates would decrease violent crime by 20%, and property crime by 10%.

They calculate that each additional high school graduate would yield an average of \$36,500 in lifetime cost savings to the United States public. <sup>x</sup>

Below, I reproduce a chart found in the policy brief that estimates savings to states from averted crime costs if they increased high school graduation rates by ten percentage points. As you can see, states stand to save hundreds of millions—billions in California—of dollars from reduced crime if they invested in programs that would increase high school graduation rates.

**ESTIMATED STATE LEVEL SAVINGS FROM AVERTED CRIME COSTS  
RESULTING FROM 10 PERCENTAGE POINT INCREASE IN GRADUATION  
RATES FOR ALL STUDENTS**

10 States with largest grade 9 enrollment	# Grade 9 enrolled in 2000-01	10% of grade 9	Total lifetime crime cost savings for 10% grad rate improvement in one cohort	Estimated graduation rate for Class of 2004	Goal that would produce savings
California	476,142	47,614	\$1,261,771,000	68.9	78.9
Florida	238,161	23,816	\$631,124,000	53.0	63.0
Georgia	126,793	12,679	\$335,993,500	55.5	65.5
Illinois	163,806	16,381	\$434,096,500	75.0	85.0
Michigan	142,663	14,266	\$378,049,000	74.0	84.0
New York	245,311	24,531	\$650,071,500	61.4	71.4
North Carolina	111,745	11,175	\$296,137,500	63.5	73.5
Ohio	159,724	15,972	\$423,258,000	70.7	80.7
Pennsylvania	153,523	15,352	\$406,828,000	75.5	85.5
Texas	355,019	35,502	\$940,803,000	65.0	75.0

Graduation rate estimates from Christopher Swanson, “Projections of 2003-2004 High School Graduates.” Source: Common Core of Data Local Educational Agency and School Surveys, National Center for Education Statistics.

**Conclusion**

Given all that we now know about the effectiveness of prevention over harsh punishment, as well as the heavy cost paid by youth—disproportionately youth of color—due to policies of the previous decade that have heavily tilted toward incarceration and punishment over treatment, education and interventions, it would

defy logic for Congress to spend billions of dollars to send more young people to jail for longer periods than ever before.

Today, political leaders of all persuasions, ranging from Republican Senator Sam Brownback of Kansas to Democratic Senator Jim Webb of Virginia, from former President William Clinton to Supreme Court Justice Anthony Kennedy, have acknowledged that our current punitive policies are wasteful, ineffective, and unfair. We cannot afford to continue them by imposing harsher sanctions against youths; most of whom are non-violent and participate only marginally and temporarily in gang activities, before quickly losing interest. Rather, we need to focus on intensively treating that small minority of truly dangerous young people and on providing opportunities for the rest to develop skills, talents, and interests that will make them contributing adult members of our society and that will make our communities safer. This is a critical strategy for the young people themselves, for communities, for families, and for the nation as a whole.

Thank you for this opportunity to testify on this most important matter.

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<sup>i</sup> *Federal Advisory Committee on Juvenile Justice Annual Recommendations Report to the President and Congress of the United States ix* (Federal Advisory Committee on Juvenile Justice 2007), available at <http://www.facjj.org/annualreports/ccFACJJ%20Report%20508.pdf>.

<sup>ii</sup> <http://chhi.podconsulting.com/assets/documents/publications/NO%20MORE%20CHILDREN%20LEFT%20BEHIND.pdf>

<sup>iii</sup> Judith Greene & Kevin Pranis, *Gang Wars: The Failure of Enforcement Tactics and the Need for Effective Public Safety Strategies* (Justice Policy Institute Report, July 2007).

<sup>iv</sup> Hayward Burns Institute. San Francisco, California.

<sup>v</sup> Eileen Poe-Yamagata & Michael A. Jones. National Council on Crime and Delinquency. *And Justice for Some*. Building Blocks for Youths, Youth Law Center, Washington, D.C. 2000. <http://www.buildingblocksforyouth.org/justiceforsome/>

<sup>vi</sup> See, e.g., Katherine Beckett, Kris Nyrop & Lori Pfingst, *Race, Drugs, and Policing: Understanding Disparities in Drug Delivery Arrests*, 44 CRIMINOLOGY. 105-137 (2006). Researchers attempted to explain

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the racial disparities in Seattle's drug delivery arrests. The findings indicated that blacks were "significantly overrepresented among Seattle's drug delivery arrestees." This could be explained by several "organizational practices." Specifically, law enforcement focused on crack as opposed to powder cocaine offenders and placed priority on outdoor drug venues and also concentrated on heavily black areas. The "available evidence further indicates that these practices are not determined by race-neutral factors such as crime rates or community complaints." In other words, the researchers conclude: "race shapes perceptions of who and what constitutes Seattle's drug problem, as well as the organizational response to that problem."

<sup>vii</sup> Stephanie Bontrager, William Bales & Ted Chiricos, *Race, Ethnicity, Treatment and the Labeling of Convicted Felons*, 43 CRIMINOLOGY 589 (2005).

<sup>viii</sup> See, e.g., Ted Chiricos, Kelly Welch & Marc Gertz, *Racial Typification of Crime and Support for Punitive Measures*, 42 CRIMINOLOGY 358-390 (2004). In this study, researchers examined the extent to which people associate crime with African Americans. The "racism" that the authors noted in this study "eschews overt expressions of racial superiority and hostility but instead sponsors a broad anti-African American effect that equates African Americans with a variety of negative traits of which crime is certainly one. This study demonstrates that the equation of race and crime is a significant sponsor of the punitive attitudes that are given material substance in the extraordinary rates of incarceration now found in the United States."

<sup>ix</sup> James Heckman & Dimitri Masterov, *The Productivity Argument for Investing in Young Children* (2004), available at [http://www.ced.org/docs/summary/summary\\_heckman.pdf](http://www.ced.org/docs/summary/summary_heckman.pdf).

<sup>x</sup> Henry Levin, Clive Belfield, Peter Muennig & Cecilia Rouse, *The Costs and Benefits of an Excellent Education for America's Children*, Working Paper, Teachers College, Columbia University (2006). Available online at: [www.cbse.org/pages/cost-benefit-studies.php](http://www.cbse.org/pages/cost-benefit-studies.php).