



Safety & Security Council

**Wednesday, January 23, 2008
3:15 p.m. – 5:00 p.m.
102 House Office Building, Reed Hall**

ACTION PACKET

COUNCIL MEETING REPORT

Safety & Security Council

1/23/2008 3:15:00PM

Location: Reed Hall (102 HOB)

Attendance:

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
Dick Kravitz (Chair)	X		
Sandra Adams	X		
James Frishe	X		
Luis Garcia	X		
Dorothy Hukill	X		
Kurt Kelly	X		
Marcelo Llorente	X		
Mitch Needelman	X		
Frank Peterman	X		
Juan-Carlos Planas	X		
Dennis Ross	X		
Maria Sachs	X		
William Snyder	X		
Priscilla Taylor	X		
Nicholas Thompson	X		
Perry Thurston	X		
Totals:	16	0	0

Committee meeting was reported out: Thursday, January 24, 2008 8:43:01AM

COUNCIL MEETING REPORT

Safety & Security Council

1/23/2008 3:15:00PM

Location: Reed Hall (102 HOB)

HB 29 : DNA Testing

Favorable with Council Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Sandra Adams	X				
James Frishe	X				
Luis Garcia	X				
Dorothy Hukill	X				
Kurt Kelly	X				
Marcelo Llorente			X		
Mitch Needelman	X				
Frank Peterman			X		
Juan-Carlos Planas	X				
Dennis Ross	X				
Maria Sachs	X				
William Snyder	X				
Priscilla Taylor	X				
Nicholas Thompson	X				
Perry Thurston	X				
Dick Kravitz (Chair)	X				
Total Yeas: 14		Total Nays: 0			

Committee meeting was reported out: Thursday, January 24, 2008 8:43:01AM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. 29

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

*favorable
1-23-08*

1 Council/Committee hearing bill: Safety & Security Council

2 Representative Snyder offered the following:

3

4 **Amendment**

5 Remove lines 46-48 and insert:

6 3. An offense that was found, pursuant to s. 874.04, to have
7 been committed for the purposes of benefitting, promoting, or
8 furthering the interests of a criminal gang as defined in

COUNCIL MEETING REPORT

Safety & Security Council

1/23/2008 3:15:00PM

Location: Reed Hall (102 HOB)

HB 43 : Criminal Activity

Favorable with Council Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Sandra Adams	X				
James Frishe	X				
Luis Garcia	X				
Dorothy Hukill	X				
Kurt Kelly	X				
Marcelo Llorente	X				
Mitch Needelman	X				
Frank Peterman	X				
Juan-Carlos Planas	X				
Dennis Ross	X				
Maria Sachs	X				
William Snyder	X				
Priscilla Taylor	X				
Nicholas Thompson	X				
Perry Thurston	X				
Dick Kravitz (Chair)	X				
Total Yeas: 16		Total Nays: 0			

Appearances:

HB 43

William Shepherd, Statewide Prosecutor - Proponent

Attorney General Bill McCollum

PL -01 The Capitol

Tallahassee FL 32399

Phone: 850-245-0155

HB 43

Amy Mercer, Executive Director (Lobbyist) - Proponent

Florida Police Chiefs Association

P O Box 14038

Tallahassee FL

Phone: 850-219-3631

HB 43

Lynn Dodson, Legislative Affairs Director (Lobbyist) (State Employee) - Proponent

FDLE

P O Box 1489

Tallahassee FL 32302

Phone: 850-410-7014

Committee meeting was reported out: Thursday, January 24, 2008 8:43:01AM

COUNCIL MEETING REPORT

Safety & Security Council

1/23/2008 3:15:00PM

Location: Reed Hall (102 HOB)

HB 43

Frank Messersmith (Lobbyist) - Proponent

Florida Sheriff's Association

2901 Lake Braford Road

Tallahassee FL 32301

Phone: 850-576-5858

Committee meeting was reported out: Thursday, January 24, 2008 8:43:01AM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. 43

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
 ADOPTED AS AMENDED _____ (Y/N)
 ADOPTED W/O OBJECTION _____ (Y/N)
 FAILED TO ADOPT _____ (Y/N)
 WITHDRAWN _____ (Y/N)
 OTHER _____

*favorable
1.23.08*

1 Council/Committee hearing bill: Safety & Security Council
 2 Representative Snyder offered the following:

3
4 **Amendment (with directory and title amendments)**

5 Remove everything after the enacting clause and insert:

6 Section 1. Subsection (2), subsection (4), subsection (5),
 7 subsection (6), and subsection (7) of section 775.13, Florida
 8 Statutes, are amended to read:

9 775.13 Registration of convicted felons, exemptions;
 10 penalties.--

11 (2) Any person who has been convicted of a felony in any
 12 court of this state shall, within 48 hours after entering any
 13 county in this state, register with the sheriff of said county,
 14 be fingerprinted and photographed, and list the crime for which
 15 convicted, place of conviction, sentence imposed, if any, name,
 16 aliases, if any, address, and occupation. If the felony
 17 conviction is for an offense that was found, pursuant to s.
 18 874.04, to have been committed for the purpose of benefiting,
 19 promoting, or furthering the interests of a criminal gang, the
 20 registrant shall identify themselves as such an offender. The
 21 Department of Law Enforcement, in consultation with appropriate

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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22 local law enforcement agencies, may develop standardized
23 practices for the inclusion of gang affiliation at the time of
24 offender registration.

25 ~~(4) In lieu of registering with the sheriff as required by~~
26 ~~this section, such registration may be made with the Department~~
27 ~~of Law Enforcement, and is subject to the same terms and~~
28 ~~conditions as required for registration with the sheriff.~~

29 (45) This section does not apply to an offender:

30 (a) Who has had his or her civil rights restored;

31 (b) Who has received a full pardon for the offense for
32 which convicted;

33 (c) Who has been lawfully released from incarceration or
34 other sentence or supervision for a felony conviction for more
35 than 5 years prior to such time for registration, unless the
36 offender is a fugitive from justice on a felony charge or has
37 been convicted of any offense since release from such
38 incarceration or other sentence or supervision;

39 (d) Who is a parolee or probationer under the supervision
40 of the United States Parole Commission if the commission knows
41 of and consents to the presence of the offender in Florida or is
42 a probationer under the supervision of any federal probation
43 officer in the state or who has been lawfully discharged from
44 such parole or probation;

45 (e) Who is a sexual predator and has registered as
46 required under s. 775.21;

47 (f) Who is a sexual offender and has registered as
48 required in s. 943.0435 or s. 944.607; or

49 (g) Who is a career offender who has registered as
50 required in s. 775.261 or s. 944.609.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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51 (56) The fFailure of any such convicted felon to comply
52 with this section shall:

53 (a) With regard to any felon not listed in paragraph (b),
54 constitutes a misdemeanor of the second degree, punishable as
55 provided in s. 775.082 or s. 775.083.

56 (b) With regard to any felon who has been found, pursuant
57 to s. 874.04, to have committed any offense for the purpose of
58 benefiting, promoting, or furthering the interests of a criminal
59 gang, constitute a felony of the third degree, punishable as
60 provided in s. 775.082, s. 775.083, or s. 775.084.

61 ~~(67) All laws and parts of laws in conflict herewith are~~
62 ~~hereby repealed, provided that~~ Nothing in this section shall be
63 construed to affect any law of this state relating to
64 registration of criminals where the penalties for registration,
65 notification, or reporting obligations are in addition to or in
66 excess of those imposed by this section.

67 Section 2. Section 790.231, Florida Statutes, is created
68 to read:

69 790.231 Felons and delinquents; possession of bulletproof
70 vests.--

71 (1) It is unlawful for any person to possess a bulletproof
72 vest, as defined in s. 775.0846, if he or she has been:

73 (a) Convicted of a felony in the courts of this state;

74 (b) Found, in the courts of this state, to have committed
75 a delinquent act that would be a felony if committed by an adult
76 and such person is under 24 years of age;

77 (c) Convicted of or found to have committed a crime
78 against the United States which is designated as a felony;

79 (d) Found to have committed a delinquent act in another
80 state, territory, or country that would be a felony if committed

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81 by an adult and which was punishable by imprisonment for a term
82 exceeding 1 year and such person is under 24 years of age; or

83 (e) Convicted of or found to have committed an offense
84 that is a felony in another state, territory, or country and
85 which was punishable by imprisonment for a term exceeding 1
86 year.

87 (f) Found, pursuant to s. 874.04, to have committed any
88 offense for the purpose of benefiting, promoting, or furthering
89 the interests of a criminal-gang.

90 (2) This section shall not apply to:

91 (a) Persons convicted of a felony whose civil rights and
92 firearm authority have been restored; and

93 (b) Persons authorized to possess a bulletproof vest by law
94 enforcement officials, prosecutorial authorities, or the court,
95 for the purpose of aiding in the investigation of criminal
96 activity.

97 (3) Any person who violates this section commits a felony
98 of the third degree, punishable as provided in s. 775.082, s.
99 775.083, or s. 775.084.

100 Section 3. Section 823.05, Florida Statutes; is amended to
101 read:

102 823.05 Places and groups engaged in criminal gang-related
103 activity declared a nuisance; may be abated and enjoined.--

104 (1) Whoever shall erect, establish, continue, or maintain,
105 own or lease any building, booth, tent or place which tends to
106 annoy the community or injure the health of the community, or
107 become manifestly injurious to the morals or manners of the
108 people as described in s. 823.01, ~~or shall be frequented by the~~
109 ~~class of persons mentioned in s. 856.02,~~ or any house or place
110 of prostitution, assignation, lewdness or place or building

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111 where games of chance are engaged in violation of law or any
112 place where any law of the state is violated, shall be deemed
113 guilty of maintaining a nuisance, and the building, erection,
114 place, tent or booth and the furniture, fixtures and contents
115 are declared a nuisance. All such places or persons shall be
116 abated or enjoined as provided in ss. 60.05 and 60.06.

117 (2) As used in this section, the terms "criminal gang,"
118 "criminal gang member," "criminal gang associate," and criminal
119 gang-related activity" have the same meaning as provided in s.
120 874.03.

121 (3) A criminal gang, criminal gang member, or criminal
122 gang associate, who engages in the commission of criminal gang-
123 related activity is a public nuisance. Any and all such persons
124 shall be abated or enjoined as provided in ss. 60.05 and 60.06.

125 (4) The use of a location on two or more occasions by a
126 criminal gang, criminal gang members, or criminal gang
127 associates, for the purpose of engaging in criminal gang-related
128 activity is a public nuisance. Such use of a location as a
129 public nuisance shall be abated or enjoined as provided in ss.
130 60.05 and 60.06.

131 (5) Enforcement of local laws - Nothing in this section
132 shall prevent a local governing body from adopting and enforcing
133 laws consistent with this chapter relating to criminal gangs and
134 gang violence. Where local laws duplicate or supplement this
135 chapter, this chapter shall be construed as providing
136 alternative remedies and not as preempting the field.

137 (6) The State, through the Department of Legal Affairs or
138 any state attorney, or any of the State's agencies,
139 instrumentalities, subdivisions, or municipalities having
140 jurisdiction over conduct in violation of a provision of this

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141 act may institute civil proceedings under this section. In any
142 action brought under this section, the circuit court shall
143 proceed as soon as practicable to the hearing and determination.
144 Pending final determination, the circuit court may at any time
145 enter such injunctions, prohibitions, or restraining orders, or
146 take such actions, including the acceptance of satisfactory
147 performance bonds, as the court may deem proper.

148 Section 4. Section 874.01, Florida Statutes, is amended to
149 read:

150 874.01 Short title.--This chapter may be cited as the
151 "Criminal ~~Street~~ Gang Prevention Act of 1996."

152 Section 5. Section 874.02, Florida Statutes, is amended to
153 read:

154 874.02 Legislative findings and intent.--

155 (1) The Legislature finds that it is the right of every
156 person, regardless of race, color, creed, religion, national
157 origin, sex, age, sexual orientation, or handicap, to be secure
158 and protected from fear, intimidation, and physical harm caused
159 by the activities of criminal ~~street~~ gangs and their members. It
160 is not the intent of this chapter to interfere with the exercise
161 of the constitutionally protected rights of freedom of
162 expression and association. The Legislature recognizes the
163 constitutional right of every citizen to harbor and express
164 beliefs on any lawful subject whatsoever, to lawfully associate
165 with others who share similar beliefs, to petition lawfully
166 constituted authority for a redress of perceived grievances, and
167 to participate in the electoral process.

168 (2) The Legislature finds, however, that the state is
169 facing a mounting crisis caused by criminal ~~street~~ gangs whose
170 members threaten and terrorize peaceful citizens and commit a

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171 multitude of crimes. These criminal ~~street~~ gang activities, both
172 individually and collectively, present a clear and present
173 danger. Street gangs, terrorist organizations, and hate groups
174 have evolved into increasingly sophisticated and complex
175 organized crime groups in their criminal tactics, their schemes,
176 and their brutality. The state has a compelling interest in
177 preventing criminal ~~street~~ gang activity and halting the real
178 and present danger posed by the proliferation of criminal gangs
179 and the graduation from more primitive forms of criminal gangs
180 to highly sophisticated criminal gangs. For these reasons, and
181 the Legislature finds that the provisions of this chapter ~~aet~~
182 are essential ~~necessary~~ to maintain the public order and safety.

183 (3) It is the intent of the Legislature to outlaw certain
184 conduct associated with the existence and proliferation of
185 criminal gangs, provide ~~eradicate the terror created by criminal~~
186 ~~street gangs and their members by providing~~ enhanced criminal
187 penalties, and eliminate ~~and by eliminating~~ the patterns,
188 profits, proceeds, instrumentalities, and property facilitating
189 criminal ~~street~~ gang activity, including criminal ~~street~~ gang
190 recruitment.

191 (4) The Legislature finds that the timely reporting and
192 exchange of criminal gang information facilitates the ability of
193 law enforcement agencies to monitor and anticipate criminal
194 activities of gangs and their members. Additionally, the timely
195 and standardized reporting of such criminal gang information
196 supports the identification of gang members via the criminal
197 justice information system and directly contributes to law
198 enforcement officer safety. For these reasons, it is the intent
199 of the Legislature to encourage state and local law enforcement

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200 to facilitate the exchange of crime data information through the
201 statewide criminal gang database as provided in s. 874.09.

202 Section 6. Section 874.03, Florida Statutes, is amended to
203 read:

204 874.03 Definitions.--As used in this chapter:

205 (1) "Criminal ~~street~~ gang" means a formal or informal
206 ongoing organization, association, or group that has as one of
207 its primary activities the commission of criminal or delinquent
208 acts, and that consists of three or more persons who have a
209 common name or common identifying signs, colors, or symbols,
210 including but not limited to terrorist organizations and hate
211 groups. and have two or more members who, individually or
212 collectively, engage in or have engaged in a pattern of criminal
213 street gang activity.

214 (a) As used in this subsection, "ongoing" means that the
215 organization was in existence during the time period charged in
216 a petition, information, indictment, or action for civil
217 injunctive relief.

218 (b) As used in this subsection, "primary activities" means
219 that a criminal gang spends a substantial amount of time engaged
220 in such activity, although such activity need not be the only,
221 or even most important activity, in which the criminal gang
222 engages.

223 (2) "Criminal gang associate" means a person who:

224 (a) Admits to criminal gang association; or

225 (b) Meets any single defining criterion for criminal gang
226 membership described in subsection (3).

227 (3) "Criminal ~~street~~ gang member" is a person who is a
228 member of a criminal street gang as defined in subsection (1)
229 and who meets two or more of the following criteria:

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- 230 (a) Admits to criminal ~~street~~ gang membership.
- 231 (b) Is identified as a criminal ~~street~~ gang member by a
232 parent or guardian.
- 233 (c) Is identified as a criminal ~~street~~ gang member by a
234 documented reliable informant.
- 235 (d) Adopts the style of dress of a criminal gang. Resides
236 in or frequents a particular criminal street gang's area and
237 adopts their style of dress, their use of hand signs, or their
238 tattoos, and associates with known criminal street gang members.
- 239 (e) Adopts the use of a hand sign identified as used by a
240 criminal gang.
- 241 (f) Has a tattoo identified as used by a criminal gang.
- 242 (g) Associates with one or more known criminal gang
243 members.
- 244 (h) Is identified as a criminal ~~street~~ gang member by an
245 informant of previously untested reliability and such
246 identification is corroborated by independent information.
- 247 ~~(f) Has been arrested more than once in the company of~~
248 ~~identified criminal street gang members for offenses which are~~
249 ~~consistent with usual criminal street gang activity.~~
- 250 (i) Is identified as a criminal ~~street~~ gang member by
251 physical evidence ~~such as photographs or other documentation.~~
- 252 (j) Has been observed stopped in the company of one or
253 more known criminal street gang members four or more times.
254 "Observation" in a custodial setting requires a willful
255 association. It is the intent of the legislature to allow this
256 criterion to be used to identify gang members who recruit and
257 organize in jails, prisons, and other detention settings.

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258 (k) Has authored any communication indicating
259 responsibility for the commission of any crime by the criminal
260 gang.

261
262 Where a single act or factual transaction satisfies the
263 requirements of more than one of the above criteria; each of the
264 criteria involved has thereby been met for the purposes of the
265 statute.

266 ~~(3) "Pattern of criminal street gang activity" means the~~
267 ~~commission or attempted commission of, or solicitation or~~
268 ~~conspiracy to commit, two or more felony or three or more~~
269 ~~misdemeanor offenses, or one felony and two misdemeanor~~
270 ~~offenses, or the comparable number of delinquent acts or~~
271 ~~violations of law which would be felonies or misdemeanors if~~
272 ~~committed by an adult, on separate occasions within a 3-year~~
273 ~~period.~~

274 ~~(4) For purposes of law enforcement identification and~~
275 ~~tracking only.~~

276 ~~(a) "Criminal street gang associate" means a person who:~~
277 ~~1. Admits to criminal street gang association; or~~
278 ~~2. Meets any single defining criterion for criminal street~~
279 ~~gang membership described in subsection (2).~~

280 ~~(b) "Gang related incident" means an incident that, upon~~
281 ~~investigation, meets any of the following conditions:~~

282 ~~1. The participants are identified as criminal street gang~~
283 ~~members or criminal street gang associates, acting, individually~~
284 ~~or collectively, to further any criminal purpose of the gang;~~

285 ~~2. A reliable informant identifies an incident as criminal~~
286 ~~street gang activity; or~~

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287 ~~3. An informant of previously untested reliability~~
288 ~~identifies an incident as criminal street gang activity and it~~
289 ~~is corroborated by independent information.~~

290 (4) "Criminal gang-related activity" means:

291 (a) An activity committed with the intent to benefit,
292 promote, or further the interests of a criminal gang, or for the
293 purposes of increasing a person's own standing or position
294 within a criminal gang;

295 (b) An activity in which the participants are identified
296 as criminal gang members or criminal gang associates acting
297 individually or collectively to further any criminal purpose of
298 a criminal gang;

299 (c) An activity that is identified as criminal gang
300 activity by a documented reliable informant; or

301 (d) An activity that is identified as criminal gang
302 activity by an informant of previously untested reliability and
303 such identification is corroborated by independent information.

304 (5) "Electronic communication" has the meaning provided in
305 s. 934.02 and includes, but is not limited to, photographs,
306 video, telephone communications, text messages, facsimile,
307 electronic mail messages as defined in s. 668.602, and instant
308 message real-time communications with other individuals through
309 the Internet or other means.

310 (6) "Hate group" means an organization whose primary
311 purpose is to promote animosity, hostility, and malice against a
312 person or persons or against the property of a person or persons
313 because of race, religion, disability, sexual orientation,
314 ethnicity, or national origin.

315 (7) "Terrorist organization" means any organized group
316 engaged in or organized for the purpose of engaging in terrorism

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317 as defined in s. 775.30. This definition shall not be construed
318 to prevent prosecution of individuals acting alone under this
319 chapter.

320 Section 7. Section 874.04, Florida Statutes, is amended to
321 read:

322 874.04 ~~Criminal-street~~ Ggang-related offenses activity;
323 enhanced penalties.-- Upon a finding by the factfinder court at
324 ~~senteneing~~ that the defendant committed the charged offense for
325 the purpose of benefiting, promoting, or furthering the
326 interests of a ~~criminal-street~~ gang, the penalty for any felony
327 or misdemeanor, or any delinquent act or violation of law which
328 would be a felony or misdemeanor if committed by an adult, may
329 be enhanced. Penalty enhancement affects the applicable
330 statutory maximum penalty only. Each of the findings required as
331 a basis for such sentence shall be found beyond a reasonable
332 doubt ~~by a preponderance of the evidence.~~ The enhancement will
333 be as follows:

334 (1) (a) A misdemeanor of the second degree may be punished
335 as if it were a misdemeanor of the first degree.

336 (b) A misdemeanor of the first degree may be punished as
337 if it were a felony of the third degree. For purposes of
338 sentencing under chapter 921 and determining incentive gain-time
339 eligibility under chapter 944, such offense is ranked in level 1
340 of the offense severity ranking chart. The criminal ~~street~~ gang
341 multiplier in s. 921.0024 does not apply to misdemeanors
342 enhanced under this paragraph.

343 (2) (a) A felony of the third degree may be punished as if
344 it were a felony of the second degree.

345 (b) A felony of the second degree may be punished as if it
346 were a felony of the first degree.

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347 (c) A felony of the first degree may be punished as if it
348 were a life felony.

349
350 For purposes of sentencing under chapter 921 and determining
351 incentive gain-time eligibility under chapter 944, such felony
352 offense is ranked as provided in s. 921.0022 or s. 921.0023, and
353 without regard to the penalty enhancement in this subsection.
354 ~~For purposes of this section, penalty enhancement affects the~~
355 ~~applicable statutory maximum penalty only.~~

356 Section 8. Section 874.045, Florida Statutes, is created
357 to read:

358 874.045 Arrest and prosecution under other
359 provisions.--Nothing in this chapter shall prohibit the arrest
360 and prosecution of a criminal gang member under chapter 876,
361 chapter 895, chapter 896, s. 893.20, or any other applicable
362 provision of law except to the extent otherwise prohibited
363 pursuant to a statutory or constitutional provision.

364 Section 9. Section 874.05, Florida Statutes, is amended to
365 read:

366 874.05 Causing, encouraging, soliciting, or recruiting
367 criminal ~~street~~ gang membership.--

368 (1) Except as provided in subsection (2), a person who
369 intentionally causes, encourages, solicits, or recruits another
370 person to become a criminal gang member where ~~join a criminal~~
371 ~~street gang that requires as a condition of membership or~~
372 continued membership is the commission of any crime commits a
373 felony of the third degree, punishable as provided in s.
374 775.082, s. 775.083, or s. 775.084.

375 (2) A person who commits ~~Upon~~ a second or subsequent
376 violation ~~offense, the person~~ commits a felony of the second

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377 degree, punishable as provided in s. 775.082, s. 775.083, or s.
378 775.084.

379 Section 10. Section 874.06, Florida Statutes, is amended
380 to read:

381 874.06 Civil cause of action.--

382 (1) A person or organization establishing, by clear and
383 convincing evidence, coercion, intimidation, threats, or other
384 harm to that person or organization in violation of this chapter
385 has a civil cause of action for treble damages, an injunction,
386 or any other appropriate relief in law or equity. Upon
387 prevailing, the plaintiff may recover reasonable attorney's fees
388 in the trial and appellate courts and the costs of investigation
389 and litigation that reasonably incurred and costs.

390 (2) (a) For purposes of this subsection, the term "state"
391 includes any of the state's agencies, instrumentalities,
392 subdivisions, or municipalities, and includes, but is not
393 limited to state attorneys and the Department of Legal Affairs
394 Office of Statewide Prosecution.

395 (b) In addition to any remedies provided for by ss. 60.05
396 and 823.05, the state has a civil cause of action against any
397 person or organization if it proves by clear and convincing
398 evidence that it has been injured by reason of a violation of
399 this chapter by the person or organization. The state has a
400 civil cause of action for treble damages, injunctive relief, or
401 any other relief in law or equity which the court deems
402 appropriate. If the state prevails, it may also recover
403 attorney's fees in the trial and appellate courts and the costs
404 of investigation and litigation that are reasonably incurred.
405 The state may not recover punitive damages. The defendant is
406 entitled to recover reasonable attorney's fees and court costs

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407 if the court finds that the state raised a claim that was
408 without factual or legal support and was vexatious, frivolous,
409 or brought in bad faith.

410 (3) A prevailing plaintiff under subsection (1) has a
411 right or claim that is superior to any right or claim that the
412 state has in the same property or proceeds.

413 (4) A person who knowingly violates a temporary or
414 permanent order issued under this section or s. 60.05 commits a
415 misdemeanor of the first degree, punishable as provided in s.
416 775.082 or s. 775.083.

417 Section 11. Section 874.08, Florida Statutes, is amended
418 to read:

419 874.08 Criminal gang activity and Profits, proceeds, and
420 ~~instrumentalities of criminal street gangs or criminal street~~
421 ~~gang recruitment; forfeiture.--All profits, proceeds, and~~
422 ~~instrumentalities of criminal street gang activity and all~~
423 ~~property used or intended or attempted to be used to facilitate~~
424 ~~the criminal activity of any criminal street gang or of any~~
425 ~~criminal street gang member; and all profits, proceeds, and~~
426 ~~instrumentalities of criminal street gang recruitment and all~~
427 ~~property used or intended or attempted to be used to facilitate~~
428 ~~criminal street gang recruitment are subject to seizure and~~
429 ~~forfeiture under the Florida Contraband Forfeiture Act, s.~~
430 ~~932.704.~~

431 Section 12. Section 874.09, Florida Statutes, is amended
432 to read:

433 874.09 Crime data information.--

434 (1) The Department of Law Enforcement may:

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435 (a) Develop and manage a statewide criminal ~~street~~ gang
436 database to facilitate the exchange of information pursuant to
437 the intent and purpose of this chapter.

438 (b) Notify all law enforcement agencies that reports of
439 criminal gang members or associates shall be entered into the
440 database as soon as the minimum level of data specified by the
441 department is available to the reporting agency and no waiting
442 period for the entry of that data exists.

443 (c) Compile and retain information regarding criminal
444 gangs and their members and associates in a manner that allows
445 the information to be used by law enforcement and other agencies
446 deemed appropriate for investigative purposes.

447 (d) Compile and maintain a data repository relating to
448 criminal gangs and their members and associates in order to
449 develop and improve techniques used by law enforcement agencies
450 and prosecutors in the investigation, apprehension, and
451 prosecution of members and affiliates of criminal gangs.

452 (2) Local law enforcement agencies may:

453 (a) After carrying out any arrest of any individual who
454 they believe is a member or associate of a criminal gang, create
455 or update that individual's electronic file within the database.

456 (b) Notify the prosecutor of the accused individual's
457 suspected criminal gang membership or associate status.

458 Section 13. Section 874.10, Florida Statutes, is created
459 to read:

460 874.10 Directing the activities of a criminal gang.--Any
461 person who initiates, organizes, plans, finances, directs,
462 manages, or supervises criminal gang-related activity shall be
463 guilty of a felony of the first degree, punishable by
464 imprisonment for a term of years not exceeding life, or as

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465 provided in s. 775.082, s. 775.083 or s. 775.084, which is an
466 offense ranked in level 7 of the Criminal Punishment Code.

467 Section 14. Section 874.11, Florida Statutes, is created
468 to read:

469 874.11 Electronic communication.--Any person who, for the
470 purpose of benefiting, promoting, or furthering the interests of
471 a criminal gang, uses electronic communication to intimidate or
472 harass other persons, or to advertise his or her presence in the
473 community, including, but not limited to, such activities as
474 distributing, selling, transmitting, or posting on the Internet
475 any audio, video, or still image of criminal activity, commits a
476 felony of the third degree, punishable as provided in s.
477 775.082, s. 775.083, or s. 775.084.

478 Section 15. Section 874.12, Florida Statutes, is created
479 to read:

480 874.12 Identification documents; unlawful possession or
481 creation.--

482 (1) For purposes of this section, the term "identification
483 document" includes, but is not limited to, a social security
484 card or number, a birth certificate, a driver's license, an
485 identification card pursuant to s. 322.051, a naturalization
486 certificate, an alien registration number, a passport, and any
487 access credentials for a publicly operated facility or an
488 infrastructure facility covered under 18 U.S.C. s. 2332f.

489 (2) Any person possessing or manufacturing any blank,
490 forged, stolen, fictitious, fraudulent, counterfeit, or
491 otherwise unlawfully issued identification document for the
492 purpose of benefiting, promoting, or furthering the interests of
493 a criminal gang commits a felony of the second degree,
494 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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495 Section 16. Section 874.13, Florida Statutes, is created
496 to read:

497 874.13 Commission of a gang-related offense by a habitual
498 felony offender.--Any person who qualifies as an habitual felony
499 offender under s. 775.084 and who thereafter commits an offense
500 that was found, pursuant to s. 874.04, to have been committed
501 for the purpose of benefiting, promoting, or furthering the
502 interests of a criminal gang, shall be guilty of a first degree
503 felony, punishable by a term of years not exceeding life, or as
504 provided in s. 775.082, s. 775.083 or s. 775.084, which is an
505 offense ranked in level 7 of the Criminal Punishment Code.

506 Section 17. Section 874.14, Florida Statutes, is created
507 to read:

508 874.14 Suspension of driver's license.--

509 (1) For purposes of this section:

510 (a) "Department" means the Department of Highway Safety
511 and Motor Vehicles.

512 (b) "Convicted" means a determination of guilt that is the
513 result of a trial or the entry of a plea of guilty or nolo
514 contendere, regardless of whether adjudication is withheld.

515 (2) In addition to any other penalty provided by law, the
516 court shall order the suspension of the driver's license of each
517 person convicted or adjudicated delinquent of any offense
518 contained in this chapter and of any person who has been found
519 to have committed any offense for the purpose of benefiting,
520 promoting, or furthering the interests of a criminal-gang
521 pursuant to s. 874.04. Upon ordering the suspension of the
522 driver's license, the court shall forward the driver's license
523 to the department in accordance with s. 322.25.

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524 (a) The first suspension of a driver's license under this
525 subsection shall be for a period of 6 months.

526 (b) A second or subsequent suspension of a driver's
527 license under this subsection shall be for 1 year.

528 (3) A court that suspends a driver's license pursuant to
529 subsection (2) shall, if the person is sentenced to a term of
530 incarceration, direct the department to commence the suspension
531 of the person's driver's license upon the person's release from
532 incarceration.

533 (4) A person whose driver's license has been suspended
534 under subsection (2) is eligible for issuance of a license for
535 business or employment purposes only under s. 322.271 if the
536 person is otherwise eligible for the driving privilege.

537 Section 18. Paragraph (a) of subsection (1) and subsection
538 (3) of section 895.02, Florida Statutes, are amended to read:

539 895.02 Definitions.--As used in ss. 895.01-895.08, the
540 term:

541 (1) "Racketeering activity" means to commit, to attempt to
542 commit, to conspire to commit, or to solicit, coerce, or
543 intimidate another person to commit:

544 (a) Any crime that is chargeable by petition, indictment,
545 or information under the following provisions of the Florida
546 Statutes:

547 1. Section 210.18, relating to evasion of payment of
548 cigarette taxes.

549 2. Section 403.727(3)(b), relating to environmental
550 control.

551 3. Section 409.920 or s. 409.9201, relating to Medicaid
552 fraud.

553 4. Section 414.39, relating to public assistance fraud.

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- 554 5. Section 440.105 or s. 440.106, relating to workers'
555 compensation.
- 556 6. Section 443.071(4), relating to creation of a
557 fictitious employer scheme to commit unemployment compensation
558 fraud.
- 559 7. Section 465.0161, relating to distribution of medicinal
560 drugs without a permit as an Internet pharmacy.
- 561 8. Sections 499.0051, 499.0052, 499.00535, 499.00545, and
562 499.0691, relating to crimes involving contraband and
563 adulterated drugs.
- 564 9. Part IV of chapter 501, relating to telemarketing.
- 565 10. Chapter 517, relating to sale of securities and
566 investor protection.
- 567 11. Section 550.235, s. 550.3551, or s. 550.3605, relating
568 to dogracing and horseracing.
- 569 12. Chapter 550, relating to jai alai frontons.
- 570 13. Section 551.109, relating to slot machine gaming.
- 571 14. Chapter 552, relating to the manufacture,
572 distribution, and use of explosives.
- 573 15. Chapter 560, relating to money transmitters, if the
574 violation is punishable as a felony.
- 575 16. Chapter 562, relating to beverage law enforcement.
- 576 17. Section 624.401, relating to transacting insurance
577 without a certificate of authority, s. 624.437(4)(c)1., relating
578 to operating an unauthorized multiple-employer welfare
579 arrangement, or s. 626.902(1)(b), relating to representing or
580 aiding an unauthorized insurer.
- 581 18. Section 655.50, relating to reports of currency
582 transactions, when such violation is punishable as a felony.

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- 583 19. Chapter 687, relating to interest and usurious
584 practices.
- 585 20. Section 721.08, s. 721.09, or s. 721.13, relating to
586 real estate timeshare plans.
- 587 21. Chapter 782, relating to homicide.
- 588 22. Chapter 784, relating to assault and battery.
- 589 23. Chapter 787, relating to kidnapping or human
590 trafficking.
- 591 24. Chapter 790, relating to weapons and firearms.
- 592 25. Section 796.03, s. 796.035, s. 796.04, s. 796.045, s.
593 796.05, or s. 796.07, relating to prostitution and sex
594 trafficking.
- 595 26. Chapter 806, relating to arson and criminal mischief.
- 596 27. Chapter Section 810.02(2)(c), relating to specified
597 burglary and trespass of a dwelling or structure.
- 598 28. Chapter 812, relating to theft, robbery, and related
599 crimes.
- 600 29. Chapter 815, relating to computer-related crimes.
- 601 30. Chapter 817, relating to fraudulent practices, false
602 pretenses, fraud generally, and credit card crimes.
- 603 31. Chapter 825, relating to abuse, neglect, or
604 exploitation of an elderly person or disabled adult.
- 605 32. Section 827.071, relating to commercial sexual
606 exploitation of children.
- 607 33. Chapter 831, relating to forgery and counterfeiting.
- 608 34. Chapter 832, relating to issuance of worthless checks
609 and drafts.
- 610 35. Section 836.05, relating to extortion.
- 611 36. Chapter 837, relating to perjury.

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- 612 37. Chapter 838, relating to bribery and misuse of public
613 office.
- 614 38. Chapter 843, relating to obstruction of justice.
- 615 39. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
616 s. 847.07, relating to obscene literature and profanity.
- 617 40. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.
618 849.25, relating to gambling.
- 619 41. Chapter 874, relating to criminal ~~street~~ gangs.
- 620 42. Chapter 893, relating to drug abuse prevention and
621 control.
- 622 43. Chapter 896, relating to offenses related to financial
623 transactions.
- 624 44. Sections 914.22 and 914.23, relating to tampering with
625 a witness, victim, or informant, and retaliation against a
626 witness, victim, or informant.
- 627 45. Sections 918.12 and 918.13, relating to tampering with
628 jurors and evidence.
- 629 46. Section 316.1935, relating to fleeing or attempting to
630 elude a law enforcement officer and aggravated feeling or
631 eluding.
- 632 47. Section 777.03, relating to commission of crimes by
633 accessories after the fact.
- 634 48. Chapter 794, relating to sexual battery, but only if
635 such crime was committed with the intent to benefit, promote, or
636 further the interests of a criminal gang, or for the purpose of
637 increasing a criminal gang member's own standing or position
638 within a criminal gang.
- 639 49. Section 775.13(5)(b), relating to registration of
640 persons found to have committed any offense for the purpose of

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641 benefiting, promoting, or furthering the interests of a criminal
642 gang.

643 (3) "Enterprise" means any individual, sole
644 proprietorship, partnership, corporation, business trust, union
645 chartered under the laws of this state, or other legal entity,
646 or any unchartered union, association, or group of individuals
647 associated in fact although not a legal entity; and it includes
648 illicit as well as licit enterprises and governmental, as well
649 as other, entities. A criminal ~~street~~ gang, as defined in s.
650 874.03, constitutes an enterprise.

651 Section 19. Subsection (2) of section 903.046, Florida
652 Statutes, is amended to read:

653 903.046 Purpose of and criteria for bail determination.--

654 (2) When determining whether to release a defendant on
655 bail or other conditions, and what that bail or those conditions
656 may be, the court shall consider:

657 (a) The nature and circumstances of the offense charged.

658 (b) The weight of the evidence against the defendant.

659 (c) The defendant's family ties, length of residence in
660 the community, employment history, financial resources, and
661 mental condition.

662 (d) The defendant's past and present conduct, including
663 any record of convictions, previous flight to avoid prosecution,
664 or failure to appear at court proceedings. However, any
665 defendant who had failed to appear on the day of any required
666 court proceeding in the case at issue, but who had later
667 voluntarily appeared or surrendered, shall not be eligible for a
668 recognizance bond; and any defendant who failed to appear on the
669 day of any required court proceeding in the case at issue and
670 who was later arrested shall not be eligible for a recognizance

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671 bond or for any form of bond which does not require a monetary
672 undertaking or commitment equal to or greater than \$2,000 or
673 twice the value of the monetary commitment or undertaking of the
674 original bond, whichever is greater. Notwithstanding anything in
675 this section, the court has discretion in determining conditions
676 of release if the defendant proves circumstances beyond his or
677 her control for the failure to appear. This section may not be
678 construed as imposing additional duties or obligations on a
679 governmental entity related to monetary bonds.

680 (e) The nature and probability of danger which the
681 defendant's release poses to the community.

682 (f) The source of funds used to post bail or procure an
683 appearance bond, particularly whether the proffered funds, real
684 property, property, or any proposed collateral or bond premium
685 may be linked to or derived from the crime alleged to have been
686 committed or from any other criminal or illicit activities. The
687 burden of establishing the non-involvement in or non-derivation
688 from criminal or other illicit activity of such proffered funds,
689 real property, property, or any proposed collateral or bond
690 premium falls upon the defendant or other person proffering them
691 to obtain the defendant's release.

692 (g) Whether the defendant is already on release pending
693 resolution of another criminal proceeding or on probation,
694 parole, or other release pending completion of a sentence.

695 (h) The street value of any drug or controlled substance
696 connected to or involved in the criminal charge. It is the
697 finding and intent of the Legislature that crimes involving
698 drugs and other controlled substances are of serious social
699 concern, that the flight of defendants to avoid prosecution is
700 of similar serious social concern, and that frequently such

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701 defendants are able to post monetary bail using the proceeds of
702 their unlawful enterprises to defeat the social utility of
703 pretrial bail. Therefore, the courts should carefully consider
704 the utility and necessity of substantial bail in relation to the
705 street value of the drugs or controlled substances involved.

706 (i) The nature and probability of intimidation and danger
707 to victims.

708 (j) Whether there is probable cause to believe that the
709 defendant committed a new crime while on pretrial release.

710 (k) Any other facts that the court considers relevant.

711 (l) Whether the crime charged is a violation of Chapter 874
712 or alleged to be subject to enhanced punishment under Chapter
713 874. If any such violation is charged against a defendant or if
714 the defendant is charged with a crime that is alleged to be
715 subject to such enhancement, he or she shall not be eligible for
716 release on bail or surety bond until the first appearance on the
717 case, to ensure the full participation of the prosecutor and the
718 protection of the public.

719 Section 20. Subsection (1), subsection (2) of section
720 914.22, Florida Statutes, are amended to read:

721 914.22 Tampering with a witness, victim, or informant;
722 penalties.--

723 (1) A person who knowingly uses intimidation or physical
724 force, or threatens another person, or attempts to do so, or
725 engages in misleading conduct toward another person, or offers
726 pecuniary benefit or gain to another person, with intent to
727 cause or induce any person to:

728 (a) Withhold testimony, or withhold a record, document, or
729 other object, from an official investigation or official
730 proceeding;

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731 (b) Alter, destroy, mutilate, or conceal an object with
732 intent to impair the integrity or availability of the object for
733 use in an official investigation or official proceeding;

734 (c) Evade legal process summoning that person to appear as
735 a witness, or to produce a record, document, or other object, in
736 an official investigation or an official proceeding;

737 (d) Be absent from an official proceeding to which such
738 person has been summoned by legal process;

739 (e) Hinder, delay, or prevent the communication to a law
740 enforcement officer or judge of information relating to the
741 commission or possible commission of an offense or a violation
742 of a condition of probation, parole, or release pending a
743 judicial proceeding; or

744 (f) Testify untruthfully in an official investigation or
745 an official proceeding,

746
747 commits the crime of tampering with a witness, victim or
748 informant. a felony of the third degree, punishable as provided
749 in s. 775.082, s. 775.083, or s. 775.084.

750 (2) Tampering with a witness, victim or informant is a:

751 (a) Felony of the third degree, punishable as provided in
752 ss. 775.082, 775.083 or 775.084, where the official
753 investigation or official proceeding affected involves the
754 investigation or prosecution of a misdemeanor.

755 (b) Felony of the second degree, punishable as provided in
756 ss. 775.082, 775.083 or 775.084, where the official
757 investigation or official proceeding affected involves the
758 investigation or prosecution of a third degree felony.

759 (c) Felony of the first degree, punishable as provided in
760 ss. 775.082, 775.083 or 775.084, where the official

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761 investigation or official proceeding affected involves the
762 investigation or prosecution of a second degree felony.

763 (d) Felony degree of the first degree, punishable by a term
764 of years not exceeding life or as provided in ss. 775.082,
765 775.083 or 775.084, where the official investigation or official
766 proceeding affected involves the investigation or prosecution of
767 a first degree felony or a first degree felony punishable by a
768 term of years not exceeding life.

769 (e) Life felony, punishable as provided in ss. 775.082,
770 775.083 or 775.084, where the official investigation or official
771 proceeding affected involves the investigation or prosecution of
772 a life or capital felony.

773 (f) Felony of the third degree, punishable as provided in
774 ss. 775.082, 775.083 or 775.084, where the offense level of the
775 affected official investigation or official proceeding is
776 indeterminable or where the affected official investigation or
777 official proceeding involves a noncriminal investigation or
778 proceeding.

779 (32) Whoever intentionally harasses another person and
780 thereby hinders, delays, prevents, or dissuades any person from:

781 (a) Attending or testifying in an official proceeding or
782 cooperating in an official investigation;

783 (b) Reporting to a law enforcement officer or judge the
784 commission or possible commission of an offense or a violation
785 of a condition of probation, parole, or release pending a
786 judicial proceeding;

787 (c) Arresting or seeking the arrest of another person in
788 connection with an offense; or

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789 (d) Causing a criminal prosecution, or a parole or
790 probation revocation proceeding, to be sought or instituted, or
791 from assisting in such prosecution or proceeding;

792
793 or attempts to do so, commits the crime of harassing a witness,
794 victim, or informant. is guilty of a misdemeanor of the first
795 degree, punishable as provided in s. 775.082 or s. 775.083.

796 (4) Harassing a witness, victim or informant is a:

797 (a) Misdemeanor of the first degree, punishable as provided
798 in ss. 775.082 and 775.083, where the official investigation or
799 official proceeding affected involves the investigation or
800 prosecution of a misdemeanor.

801 (b) Felony of the third degree, punishable as provided in
802 ss. 775.082, 775.083 or 775.084, where the official
803 investigation or official proceeding affected involves the
804 investigation or prosecution of a third degree felony.

805 (c) Felony of the second degree, punishable as provided in
806 ss. 775.082, 775.083 or 775.084, where the official
807 investigation or official proceeding affected involves the
808 investigation or prosecution of a second degree felony.

809 (d) Felony of the first degree, punishable as provided in
810 ss. 775.082, 775.083 or 775.084, where the official
811 investigation or official proceeding affected involves the
812 investigation or prosecution of a first degree felony.

813 (e) Felony of the first degree, punishable by a term of
814 years not exceeding life or as provided in ss. 775.082, 775.083
815 or 775.084, where the official investigation or official
816 proceeding affected involves the investigation or prosecution of
817 a felony of the first degree punishable by a term of years not
818 exceeding life or a prosecution of a life or capital felony.

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819 (f) Felony of the third degree, punishable as provided in
820 ss. 775.082, 775.083 or 775.084, where the offense level of the
821 affected official investigation or official proceeding is
822 indeterminable or where the affected official investigation or
823 official proceeding involves a noncriminal investigation or
824 proceeding.

825 Section 21. Section 943.031, Florida Statutes, is amended
826 to read:

827 943.031 Florida Violent Crime and Drug Control Council.--

828 (1) FINDINGS.--The Legislature finds that there is a need
829 to develop and implement a statewide strategy to address violent
830 criminal activity, including crimes committed by criminal gangs,
831 and drug control efforts by state and local law enforcement
832 agencies, including investigations of illicit money laundering.
833 In recognition of this need, the Florida Violent Crime and Drug
834 Control Council is created within the department. The council
835 shall serve in an advisory capacity to the department.

836 (2)-(1) MEMBERSHIP.--The council shall consist of 14
837 members, as follows:

838 (a) The Attorney General or a designate.

839 (b) A designate of the executive director of the
840 Department of Law Enforcement.

841 (c) The secretary of the Department of Corrections or a
842 designate.

843 (d) The Secretary of Juvenile Justice or a designate.

844 (e) The Commissioner of Education or a designate.

845 (f) The president of the Florida Network of Victim/Witness
846 Services, Inc., or a designate.

847 (g) The director of the Office of Drug Control within the
848 Executive Office of the Governor, or a designate.

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849 (h) The Chief Financial Officer, or a designate.

850 (i) Six members appointed by the Governor, consisting of
851 two sheriffs, two chiefs of police, one medical examiner, and
852 one state attorney or their designates.

853
854 The Governor, when making appointments under this subsection,
855 must take into consideration representation by geography,
856 population, ethnicity, and other relevant factors to ensure that
857 the membership of the council is representative of the state at
858 large. Designates appearing on behalf of a council member who is
859 unable to attend a meeting of the council are empowered to vote
860 on issues before the council to the same extent the designating
861 council member is so empowered.

862 ~~(3)-(2)~~ TERMS OF MEMBERSHIP; OFFICERS; COMPENSATION;
863 STAFF.--

864 (a) Members appointed by the Governor shall be appointed
865 for terms of 2 years. The other members are standing members of
866 the council. In no event shall a member serve beyond the time he
867 or she ceases to hold the office or employment which was the
868 basis for appointment to the council. In the event of a vacancy,
869 an appointment to fill the vacancy shall be only for the
870 unexpired term.

871 (b) The Legislature finds that the council serves a
872 legitimate state, county, and municipal purpose and that service
873 on the council is consistent with a member's principal service
874 in a public office or employment. Membership on the council does
875 not disqualify a member from holding any other public office or
876 being employed by a public entity, except that no member of the
877 Legislature shall serve on the council.

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878 (c) The members of the council shall elect a chair and a
879 vice chair every 2 years, to serve for a 2-year term. As deemed
880 appropriate, other officers may be elected by the members.

881 (d) Members of the council or their designates shall serve
882 without compensation but are entitled to reimbursement for per
883 diem and travel expenses pursuant to s. 112.061. Reimbursements
884 made pursuant to this paragraph may be paid from either the
885 Violent Crime Investigative Emergency and Drug Control Strategy
886 Implementation Account within the Department of Law Enforcement
887 Operating Trust Fund or from other appropriations provided to
888 the department by the Legislature in the General Appropriations
889 Act.

890 (e) The department shall provide the council with staff
891 necessary to assist the council in the performance of its
892 duties.

893 ~~(4)~~ (3) MEETINGS.--The council must meet at least
894 semiannually. Additional meetings may be held when it is
895 determined by the chair that extraordinary circumstances require
896 an additional meeting of the council. A majority of the members
897 of the council constitutes a quorum.

898 ~~(5)~~ (4) DUTIES OF COUNCIL.--The council shall provide
899 advice and make recommendations, as necessary, to the executive
900 director of the department.

901 (a) The council may advise the executive director on the
902 feasibility of undertaking initiatives which include, but are
903 not limited to, the following:

904 1. Establishing a program which provides grants to
905 criminal justice agencies that develop and implement effective
906 violent crime prevention and investigative programs and which
907 provides grants to law enforcement agencies for the purpose of

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908 | drug control, criminal gang, and illicit money laundering
909 | investigative efforts or task force efforts that are determined
910 | by the council to significantly contribute to achieving the
911 | state's goal of reducing drug-related crime as articulated by
912 | the Office of Drug Control, that represent significant criminal
913 | gang investigative efforts, that represent a significant illicit
914 | money laundering investigative effort, or that otherwise
915 | significantly support statewide strategies developed by the
916 | Statewide Drug Policy Advisory Council established under s.
917 | 397.333, subject to the limitations provided in this section.
918 | The grant program may include an innovations grant program to
919 | provide startup funding for new initiatives by local and state
920 | law enforcement agencies to combat violent crime or to implement
921 | drug control, significant eriminal gang investigative efforts,
922 | or illicit money laundering investigative efforts or task force
923 | efforts by law enforcement agencies, including, but not limited
924 | to, initiatives such as:

- 925 | a. Providing enhanced community-oriented policing.
- 926 | b. Providing additional undercover officers and other
927 | investigative officers to assist with violent crime
928 | investigations in emergency situations.
- 929 | c. Providing funding for multiagency or statewide drug
930 | control, criminal gang, or illicit money laundering
931 | investigative efforts or task force efforts that cannot be
932 | reasonably funded completely by alternative sources and that
933 | significantly contribute to achieving the state's goal of
934 | reducing drug-related crime as articulated by the Office of Drug
935 | Control, that represent significant criminal gang investigative
936 | efforts, that represent a significant illicit money laundering
937 | investigative effort, or that otherwise significantly support

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938 statewide strategies developed by the Statewide Drug Policy
939 Advisory Council established under s. 397.333.

940 2. Expanding the use of automated fingerprint
941 identification systems at the state and local level.

942 3. Identifying methods to prevent violent crime.

943 4. Identifying methods to enhance multiagency or statewide
944 drug control, criminal gang, or illicit money laundering
945 investigative efforts or task force efforts that significantly
946 contribute to achieving the state's goal of reducing drug-
947 related crime as articulated by the Office of Drug Control, that
948 represent significant criminal gang investigative efforts, that
949 represent a significant illicit money laundering investigative
950 effort, or that otherwise significantly support statewide
951 strategies developed by the Statewide Drug Policy Advisory
952 Council established under s. 397.333.

953 5. Enhancing criminal justice training programs which
954 address violent crime, efforts to control and eliminate criminal
955 gangs, drug control, or illicit money laundering investigative
956 techniques or efforts.

957 6. Developing and promoting crime prevention services and
958 educational programs that serve the public, including, but not
959 limited to:

960 a. Enhanced victim and witness counseling services that
961 also provide crisis intervention, information referral,
962 transportation, and emergency financial assistance.

963 b. A well-publicized rewards program for the apprehension
964 and conviction of criminals who perpetrate violent crimes.

965 7. Enhancing information sharing and assistance in the
966 criminal justice community by expanding the use of community
967 partnerships and community policing programs. Such expansion may

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968 include the use of civilian employees or volunteers to relieve
969 law enforcement officers of clerical work in order to enable the
970 officers to concentrate on street visibility within the
971 community.

972 (b) The full council shall:

973 1. Receive periodic reports from regional violent crime
974 investigation and statewide drug control strategy implementation
975 coordinating teams which relate to violent crime trends or the
976 investigative needs or successes in the regions, including
977 discussions regarding the activity of significant criminal gangs
978 in the region, factors, and trends relevant to the
979 implementation of the statewide drug strategy, and the results
980 of drug control and illicit money laundering investigative
981 efforts funded in part by the council.

982 2. Maintain and use utilize criteria for the disbursement
983 of funds from the Violent Crime Investigative Emergency and Drug
984 Control Strategy Implementation Account or any other account
985 from which the council may disburse proactive investigative
986 funds as may be established within the Department of Law
987 Enforcement Operating Trust Fund or other appropriations
988 provided to the Department of Law Enforcement by the Legislature
989 in the General Appropriations Act. The criteria shall allow for
990 the advancement of funds to reimburse agencies regarding violent
991 crime investigations as approved by the full council and the
992 advancement of funds to implement proactive drug control
993 strategies or significant criminal gang investigative efforts as
994 authorized by the Drug Control Strategy and Criminal Gang
995 Committee or the Victim and Witness Protection Review Committee.
996 Regarding violent crime investigation reimbursement, an

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997 expedited approval procedure shall be established for rapid
998 disbursement of funds in violent crime emergency situations.

999 (c) As used in this section, "significant criminal gang
1000 investigative efforts" eligible for proactive funding must
1001 involve as a minimum an effort against a known criminal gang
1002 that:

1003 1. Involves multiple law enforcement agencies.

1004 2. Reflects a dedicated significant investigative effort
1005 on the part of each participating agency in personnel, time
1006 devoted to the investigation, and agency resources dedicated to
1007 the effort.

1008 3. Reflects a dedicated commitment by a prosecuting
1009 authority to ensure that cases developed by the investigation
1010 will be timely and effectively prosecuted.

1011 4. Demonstrates a strategy and commitment to dismantling
1012 the criminal gang via seizures of assets, significant money
1013 laundering and organized crime investigations and prosecutions,
1014 or similar efforts.

1015
1016 The council may require satisfaction of additional elements, to
1017 include reporting criminal investigative and criminal
1018 intelligence information related to criminal gang activity and
1019 members in a manner required by the department, as a
1020 prerequisite for receiving proactive criminal gang funding.

1021 (6) DRUG CONTROL STRATEGY AND CRIMINAL GANG COMMITTEE.--

1022 (a) The Drug Control Strategy and Criminal Gang Committee
1023 is created within the Florida Violent Crime and Drug Control
1024 Council, consisting of the following council members:

1025 1. The Attorney General or a designate.

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1026 2. The designate of the executive director of the
1027 Department of Law Enforcement.

1028 3. The secretary of the Department of Corrections or a
1029 designate.

1030 4. The director of the Office of Drug Control within the
1031 Executive Office of the Governor.

1032 5. The state attorney, the two sheriffs, and the two
1033 chiefs of police, or their designates.

1034 (b) The committee shall

1035 ~~3.~~ review and approve all requests for disbursement of
1036 funds from the Violent Crime Investigative Emergency and Drug
1037 Control Strategy Implementation Account within the Department of
1038 Law Enforcement Operating Trust Fund and from other
1039 appropriations provided to the department by the Legislature in
1040 the General Appropriations Act. An expedited approval procedure
1041 shall be established for rapid disbursement of funds in violent
1042 crime emergency situations.

1043 (c) Those receiving any proactive funding provided by the
1044 council through the committee shall be required to report the
1045 results of the investigations to the council once the
1046 investigation has been completed. The committee shall also
1047 require ongoing status reports on ongoing investigations using
1048 such findings in its closed sessions.

1049 (7)-(5) REPORTS.--The council shall report annually on its
1050 activities, on or before December 30 of each calendar year, to
1051 the executive director, the President of the Senate, the Speaker
1052 of the House of Representatives, and the chairs of the Senate
1053 and House committees having principal jurisdiction over criminal
1054 law. Comments and responses of the executive director to the
1055 report are to be included.

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1056 (8) ~~(6)~~ VICTIM AND WITNESS PROTECTION REVIEW COMMITTEE.--

1057 (a) The Victim and Witness Protection Review Committee is
1058 created within the Florida Violent Crime and Drug Control
1059 Council, consisting of the statewide prosecutor or a state
1060 attorney, a sheriff, a chief of police, and the designee of the
1061 executive director of the Department of Law Enforcement. The
1062 committee shall be appointed from the membership of the council
1063 by the chair of the council after the chair has consulted with
1064 the executive director of the Department of Law Enforcement.
1065 Committee members shall meet in conjunction with the meetings of
1066 the council.

1067 (b) The committee shall:

1068 1. Maintain and use utilize criteria for disbursing funds
1069 to reimburse law enforcement agencies for costs associated with
1070 providing victim and witness protective or temporary relocation
1071 services.

1072 2. Review and approve or deny, in whole or in part, all
1073 reimbursement requests submitted by law enforcement agencies.

1074 (c) The lead law enforcement agency providing victim or
1075 witness protective or temporary relocation services pursuant to
1076 the provisions of s. 914.25 may submit a request for
1077 reimbursement to the Victim and Witness Protection Review
1078 Committee in a format approved by the committee. The lead law
1079 enforcement agency shall submit such reimbursement request on
1080 behalf of all law enforcement agencies that cooperated in
1081 providing protective or temporary relocation services related to
1082 a particular criminal investigation or prosecution. As part of
1083 the reimbursement request, the lead law enforcement agency must
1084 indicate how any reimbursement proceeds will be distributed

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1085 among the agencies that provided protective or temporary
1086 relocation services.

1087 (d) The committee, in its discretion, may use funds
1088 available to the committee to provide all or partial
1089 reimbursement to the lead law enforcement agency for such costs,
1090 or may decline to provide any reimbursement.

1091 (e) The committee may conduct its meeting by
1092 teleconference or conference phone calls when the chair of the
1093 committee finds that the need for reimbursement is such that
1094 delaying until the next scheduled council meeting will adversely
1095 affect the requesting agency's ability to provide the protection
1096 services.

1097 (9) ~~(7)~~ CONFIDENTIALITY; EXEMPTED PORTIONS OF COUNCIL
1098 MEETINGS AND RECORDS.--

1099 (a) The Legislature finds that during limited portions of
1100 the meetings of the Florida Violent Crime and Drug Control
1101 Council it is necessary that the council be presented with and
1102 discuss details, information, and documents related to active
1103 criminal investigations or matters constituting active criminal
1104 intelligence, as those concepts are defined by s. 119.011. These
1105 presentations and discussions are necessary for the council to
1106 make its funding decisions as required by the Legislature. The
1107 Legislature finds that to reveal the contents of documents
1108 containing active criminal investigative or intelligence
1109 information or to allow active criminal investigative or active
1110 criminal intelligence matters to be discussed in a meeting open
1111 to the public negatively impacts the ability of law enforcement
1112 agencies to efficiently continue their investigative or
1113 intelligence gathering activities. The Legislature finds that
1114 information coming before the council that pertains to active

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1115 criminal investigations or intelligence should remain
1116 confidential and exempt from public disclosure. The Legislature
1117 finds that the Florida Violent Crime and Drug Control Council
1118 may, by declaring only those portions of council meetings in
1119 which active criminal investigative or active criminal
1120 intelligence information is to be presented or discussed closed
1121 to the public, assure an appropriate balance between the policy
1122 of this state that meetings be public and the policy of this
1123 state to facilitate efficient law enforcement efforts.

1124 (b) The Florida Violent Crime and Drug Control Council
1125 shall be considered a "criminal justice agency" within the
1126 definition of s. 119.011(4).

1127 (c)1. The Florida Violent Crime and Drug Control Council
1128 may close portions of meetings during which the council will
1129 hear or discuss active criminal investigative information or
1130 active criminal intelligence information, and such portions of
1131 meetings shall be exempt from the provisions of s. 286.011 and
1132 s. 24(b), Art. I of the State Constitution, provided that the
1133 following conditions are met:

1134 a. The chair of the council shall advise the council at a
1135 public meeting that, in connection with the performance of a
1136 council duty, it is necessary that the council hear or discuss
1137 active criminal investigative information or active criminal
1138 intelligence information.

1139 b. The chair's declaration of necessity for closure and
1140 the specific reasons for such necessity shall be stated in
1141 writing in a document that shall be a public record and shall be
1142 filed with the official records of the council.

1143 c. The entire closed session shall be recorded. The
1144 recording shall include the times of commencement and

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1145 termination of the closed session, all discussion and
1146 proceedings, and the names of all persons present. No portion of
1147 the session shall be off the record. Such recording shall be
1148 maintained by the council.

1149 2. Only members of the council, Department of Law
1150 Enforcement staff supporting the council's function, and other
1151 persons whose presence has been authorized by the chair of the
1152 council shall be allowed to attend the exempted portions of the
1153 council meetings. The council shall assure that any closure of
1154 its meetings as authorized by this section is limited so that
1155 the general policy of this state in favor of public meetings is
1156 maintained.

1157 (d) A tape recording of, and any minutes and notes
1158 generated during, that portion of a Florida Violent Crime and
1159 Drug Control Council meeting which is closed to the public
1160 pursuant to this section are confidential and exempt from s.
1161 119.07(1) and s. 24(a), Art. I of the State Constitution until
1162 such time as the criminal investigative information or criminal
1163 intelligence information ceases to be active.

1164 Section 22. Section 948.033, Florida Statutes, is created
1165 to read:

1166 948.033 Condition of probation or community control;
1167 criminal gang.--Effective for a probationer or community
1168 controllee whose crime was committed on or after July 1, 2008,
1169 and who has been found to have committed the crime for the
1170 purpose of benefiting, promoting, or furthering the interests of
1171 criminal gang, the court shall, in addition to any other
1172 conditions imposed, impose a condition prohibiting the
1173 probationer or community controllee from knowingly associating
1174 with other criminal gang members or associates, except as

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1175 authorized by law enforcement officials, prosecutorial
1176 authorities, or the court, for the purpose of aiding in the
1177 investigation of criminal activity.

1178 Section 23. Section 947.18, Florida Statutes, is amended
1179 to read:

1180 947.18 Conditions of parole.--No person shall be placed on
1181 parole merely as a reward for good conduct or efficient
1182 performance of duties assigned in prison. No person shall be
1183 placed on parole until and unless the commission finds that
1184 there is reasonable probability that, if the person is placed on
1185 parole, he or she will live and conduct himself or herself as a
1186 respectable and law-abiding person and that the person's release
1187 will be compatible with his or her own welfare and the welfare
1188 of society. No person shall be placed on parole unless and until
1189 the commission is satisfied that he or she will be suitably
1190 employed in self-sustaining employment or that he or she will
1191 not become a public charge. The commission shall determine the
1192 terms upon which such person shall be granted parole. If the
1193 person's conviction was for a controlled substance violation,
1194 one of the conditions must be that the person submit to random
1195 substance abuse testing intermittently throughout the term of
1196 supervision, upon the direction of the correctional probation
1197 officer as defined in s. 943.10(3). In addition to any other
1198 lawful condition of parole, the commission may make the payment
1199 of the debt due and owing to the state under s. 960.17 or the
1200 payment of the attorney's fees and costs due and owing to the
1201 state under s. 938.29 a condition of parole subject to
1202 modification based on change of circumstances. If the person's
1203 conviction was for a crime that was found to have been committed
1204 for the purpose of benefiting, promoting, or furthering the

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1205 interests of a criminal gang, one of the conditions must be that
1206 the person be prohibited from knowingly associating with other
1207 criminal gang members or associates, except as authorized by law
1208 enforcement officials, prosecutorial authorities, or the court,
1209 for the purpose of aiding in the investigation of criminal
1210 activity.

1211 Section 24. Subsection (11) is added to section 947.1405,
1212 Florida Statutes, to read:

1213 947.1405 Conditional release program.--

1214 (11) Effective for a releasee whose crime was committed on
1215 or after July 1, 2008, and who has been found to have committed
1216 the crime for the purpose of benefiting, promoting, or
1217 furthering the interests of a criminal gang, the commission
1218 shall, in addition to any other conditions imposed, impose a
1219 condition prohibiting the releasee from knowingly associating
1220 with other criminal gang members or associates, except as
1221 authorized by law enforcement officials, prosecutorial
1222 authorities, or the court, for the purpose of aiding in the
1223 investigation of criminal activity.

1224 Section 25. Paragraph (d) of subsection (2) of section
1225 893.138, Florida Statutes, is amended to read:

1226 893.138 Local administrative action to abate drug-related,
1227 prostitution-related, or stolen-property-related public
1228 nuisances and criminal ~~street~~ gang activity.--

1229 (2) Any place or premises that has been used:

1230 (d) By a criminal ~~street~~ gang for the purpose of
1231 ~~conducting a pattern of~~ criminal ~~street~~ gang activity as defined
1232 by s. 874.03; or
1233

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1234 * may be declared to be a public nuisance, and such nuisance may
 1235 be abated pursuant to the procedures provided in this section.

1236 Section 26. Paragraphs (d), (e) and (g) of subsection (3)
 1237 of section 921.0022, Florida Statutes, are amended to read:

1238 921.0022 Criminal Punishment Code; offense severity
 1239 ranking chart.--

1240 (3) OFFENSE SEVERITY RANKING CHART

1241 (d) LEVEL 4

1242

Florida Statute	Felony Degree	Description
1243 316.1935(3)(a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
1244 499.0051(1)	3rd	Failure to maintain or deliver pedigree papers.
1245 499.0051(2)	3rd	Failure to authenticate pedigree papers.
1246 499.0051(6)	2nd	Sale or delivery, or possession with intent to sell, contraband legend drugs.
1247 784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, intake officer, etc.
1248		

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	784.074 (1) (c)	3rd	Battery of sexually violent predators facility staff.
1249	784.075	3rd	Battery on detention or commitment facility staff.
1250	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
1251	784.08 (2) (c)	3rd	Battery on a person 65 years of age or older.
1252	784.081 (3)	3rd	Battery on specified official or employee.
1253	784.082 (3)	3rd	Battery by detained person on visitor or other detainee.
1254	784.083 (3)	3rd	Battery on code inspector.
1255	784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
1256	787.03 (1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
1257	787.04 (2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
1258	787.04 (3)	3rd	Carrying child beyond state lines

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with criminal intent to avoid producing child at custody hearing or delivering to designated person.

1259	790.115(1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
1260	790.115(2)(b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
1261	790.115(2)(c)	3rd	Possessing firearm on school property.
1262	800.04(7)(d)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
1263	810.02(4)(a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
1264	810.02(4)(b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
1265	810.06	3rd	Burglary; possession of tools.
1266	810.08(2)(c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
1267	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
1268			

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	812.014 (2) (c) 4.-	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.
1269	812.0195 (2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
1270	817.563 (1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03 (5) drugs.
1271	817.568 (2) (a)	3rd	Fraudulent use of personal identification information.
1272	817.625 (2) (a)	3rd	Fraudulent use of scanning device or reencoder.
1273	828.125 (1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
1274	837.02 (1)	3rd	Perjury in official proceedings.
1275	837.021 (1)	3rd	Make contradictory statements in official proceedings.
1276	838.022	3rd	Official misconduct.
1277	839.13 (2) (a)	3rd	Falsifying records of an individual in the care and custody of a state agency.

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1278	839.13 (2) (c)	3rd	Falsifying records of the Department of Children and Family Services.
1279	843.021	3rd	Possession of a concealed handcuff key by a person in custody.
1280	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
1281	843.15 (1) (a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
1282	874.05 (1)	3rd	Encouraging or recruiting another to join a criminal street gang.
1283	893.13 (2) (a) 1.	2nd	Purchase of cocaine (or other s. 893.03 (1) (a), (b), or (d), (2) (a), (2) (b), or (2) (c) 4. drugs).
1284	914.14 (2)	3rd	Witnesses accepting bribes.
1285	914.22 (1)	3rd	Force, threaten, etc., witness, victim, or informant.
1286	914.23 (2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
1287	918.12	3rd	Tampering with jurors.
1288			

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1289	934.215	3rd	Use of two-way communications device to facilitate commission of a crime.
1290	(e) LEVEL 5		
1291			
	Florida Statute	Felony Degree	Description
1292	316.027(1) (a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
1293	316.1935(4) (a)	2nd	Aggravated fleeing or eluding.
1294	322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
1295	327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
1296	381.0041(11) (b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
1297	440.10(1) (g)	2nd	Failure to obtain workers' compensation coverage.
1298	440.105(5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
1299	440.381(2)	2nd	Submission of false, misleading, or incomplete information with the

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			purpose of avoiding or reducing workers' compensation premiums.
1300	624.401(4)(b)2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
1301	626.902(1)(c)	2nd	Representing an unauthorized insurer; repeat offender.
1302	790.01(2)	3rd	Carrying a concealed firearm.
1303	790.162	2nd	Threat to throw or discharge destructive device.
1304	790.163(1)	2nd	False report of deadly explosive or weapon of mass destruction.
1305	790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.
1306	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
1307	800.04(6)(c)	3rd	Lewd or lascivious conduct; offender less than 18 years.
1308	800.04(7)(c)	2nd	Lewd or lascivious exhibition; offender 18 years or older.
1309	806.111(1)	3rd	Possess, manufacture, or dispense

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fire bomb with intent to damage any structure or property.

1310

812.0145(2)(b) 2nd

Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.

1311

812.015(8) 3rd

Retail theft; property stolen is valued at \$300 or more and one or more specified acts.

1312

812.019(1) 2nd

Stolen property; dealing in or trafficking in.

1313

812.131(2)(b) 3rd

Robbery by sudden snatching.

1314

812.16(2) 3rd

Owning, operating, or conducting a chop shop.

1315

817.034(4)(a)2. 2nd

Communications fraud, value \$20,000 to \$50,000.

1316

817.234(11)(b) 2nd

Insurance fraud; property value \$20,000 or more but less than \$100,000.

1317

817.2341(1),(2) 3rd
(a)&(3)(a)

Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.

1318

817.568(2)(b) 2nd

Fraudulent use of personal

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			identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or more individuals.
1319	817.625 (2) (b)	2nd	Second or subsequent fraudulent use of scanning device or reencoder.
1320	825.1025 (4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
1321	827.071 (4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
1322	827.071 (5)	3rd	Possess any photographic material, motion picture, etc., which includes sexual conduct by a child.
1323	839.13 (2) (b)	2nd	Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.
1324	843.01	3rd	Resist officer with violence to person; resist arrest with violence.
1325	847.0137 (2) & (3)	3rd	Transmission of pornography by

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893.13(1)(e)2.	2nd	Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) within 1,000 feet of property used for religious services or a specified business site.
893.13(1)(f)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)4. drugs) within 1,000 feet of public housing facility.
893.13(4)(b)	2nd	Deliver to minor cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs).
(g)	LEVEL 7	
Florida Statute	Felony Degree	Description
316.027(1)(b)	1st	Accident involving death, failure to stop; leaving scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily

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			injury.
1338	316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
1339	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
1340	402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
1341	409.920(2)	3rd	Medicaid provider fraud.
1342	456.065(2)	3rd	Practicing a health care profession without a license.
1343	456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
1344	458.327(1)	3rd	Practicing medicine without a license.
1345	459.013(1)	3rd	Practicing osteopathic medicine

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			without a license.
1346	460.411(1)	3rd	Practicing chiropractic medicine without a license.
1347	461.012(1)	3rd	Practicing podiatric medicine without a license.
1348	462.17	3rd	Practicing naturopathy without a license.
1349	463.015(1)	3rd	Practicing optometry without a license.
1350	464.016(1)	3rd	Practicing nursing without a license.
1351	465.015(2)	3rd	Practicing pharmacy without a license.
1352	466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
1353	467.201	3rd	Practicing midwifery without a license.
1354	468.366	3rd	Delivering respiratory care services without a license.
1355	483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
1356	483.901(9)	3rd	Practicing medical physics without a license.

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1357	484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
1358	484.053	3rd	Dispensing hearing aids without a license.
1359	494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
1360	560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by money transmitter.
1361	560.125(5)(a)	3rd	Money transmitter business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
1362	655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
1363	775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew driver's license or identification

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			card; other registration violations.
1364	775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.
1365	775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
1366	782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
1367	782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
1368	782.071	2nd	Killing of a human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).
1369	782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
1370	784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or

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			disfigurement.
1371	784.045 (1) (a) 2.	2nd	Aggravated battery; using deadly weapon.
1372	784.045 (1) (b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
1373	784.048 (4)	3rd	Aggravated stalking; violation of injunction or court order.
1374	784.048 (7)	3rd	Aggravated stalking; violation of court order.
1375	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.
1376	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility staff.
1377	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
1378	784.081 (1)	1st	Aggravated battery on specified official or employee.
1379	784.082 (1)	1st	Aggravated battery by detained person on visitor or other detainee.
1380	784.083 (1)	1st	Aggravated battery on code inspector.
1381	790.07 (4)	1st	Specified weapons violation

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			subsequent to previous conviction of s. 790.07(1) or (2).
1382	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
1383	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
1384	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
1385	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
1386	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
1387	794.08(4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
1388	796.03	2nd	Procuring any person under 16 years for prostitution.
1389	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;

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			victim less than 12 years of age; offender less than 18 years.
1390	800.04 (5) (c) 2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.
1391	806.01 (2)	2nd	Maliciously damage structure by fire or explosive.
1392	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
1393	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
1394	810.02 (3) (d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
1395	810.02 (3) (e)	2nd	Burglary of authorized emergency vehicle.
1396	812.014 (2) (a) 1.	1st	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
1397	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.

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1398	812.014 (2) (b) 3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
1399	812.014 (2) (b) 4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
1400	812.0145 (2) (a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
1401	812.019 (2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
1402	812.131 (2) (a)	2nd	Robbery by sudden snatching.
1403	812.133 (2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
1404	817.234 (8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
1405	817.234 (9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
1406	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.
1407	817.2341 (2) (b) & (3) (b)	1st	Making false entries of material

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			fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
1408	825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
1409	825.103(2)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.
1410	827.03(3)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
1411	827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
1412	837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
1413	838.015	2nd	Bribery.
1414	838.016	2nd	Unlawful compensation or reward for official behavior.
1415			

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1416	838.021(3) (a)	2nd	Unlawful harm to a public servant.
1417	838.22	2nd	Bid tampering.
1418	847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
1419	847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
	872.06	2nd	Abuse of a dead human body.
	<u>874.10</u>	<u>1st</u>	<u>Directing the activities of a criminal gang</u>
	<u>874.13</u>	<u>1st</u>	<u>Commission of a gang-related offense by a habitual felony offender.</u>
1420	893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
1421	893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b),

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			(1) (d), (2) (a), (2) (b), or (2) (c)4., within 1,000 feet of property used for religious services or a specified business site.
1422	893.13 (4) (a)	1st	Deliver to minor cocaine (or other s. 893.03 (1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c)4. drugs).
1423	893.135 (1) (a) 1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
1424	893.135 (1) (b) 1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
1425	893.135 (1) (c) 1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
1426	893.135 (1) (d) 1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
1427	893.135 (1) (e) 1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
1428	893.135 (1) (f) 1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
1429	893.135 (1) (g) 1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.

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1430	893.135(1)(h)1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
1431	893.135(1)(j)1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
1432	893.135(1)(k)2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
1433	896.101(5)(a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
1434	896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
1435	943.0435(4)(c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
1436	943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
1437			

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	943.0435(9)(a)	3rd	Sexual offender; failure to comply with reporting requirements.
1438	943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
1439	943.0435(14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
1440	944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.
1441	944.607(10)(a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
1442	944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
1443	944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
1444	985.4815(10)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
1445	985.4815(12)	3rd	Failure to report or providing

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false information about a sexual offender; harbor or conceal a sexual offender.

1446 985.4815(13) 3rd Sexual offender; failure to report and reregister; failure to respond to address verification.

1447 Section 27. Subsection (1) of section 921.0024, Florida
1448 Statutes, is amended to read:

1449 921.0024 Criminal Punishment Code; worksheet computations;
1450 scoresheets.--

1451 (1) (a) The Criminal Punishment Code worksheet is used to
1452 compute the subtotal and total sentence points as follows:

1453
1454 FLORIDA CRIMINAL PUNISHMENT CODE
1455 WORKSHEET

1456
1457 OFFENSE SCORE

1458
1459 Primary Offense

1460

Level	Sentence Points	Total
10	116	=
9	92	=
8	74	=
7	56	=

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1466	6	36	=	_____
1467	5	28	=	_____
1468	4	22	=	_____
1469	3	16	=	_____
1470	2	10	=	_____
1471	1	4	=	_____
1472				
1473				Total

1474
1475 Additional Offenses

1476	Level	Sentence Points		Counts	=	Total
1477						
1478	10	58	x	_____	=	_____
1479	9	46	x	_____	=	_____
1480	8	37	x	_____	=	_____
1481	7	28	x	_____	=	_____
1482	6	18	x	_____	=	_____
1483	5	5.4	x	_____	=	_____

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1484	4	3.6	x	_____	=	_____
1485	3	2.4	x	_____	=	_____
1486	2	1.2	x	_____	=	_____
1487	1	0.7	x	_____	=	_____
1488	M	0.2	x	_____	=	_____

1489						
1490						Total

Victim Injury

1493	Level	Sentence Points		Number		Total
1494						
1495	2nd degree murder- death	240	x	_____	=	_____
1496	Death	120	x	_____	=	_____
1497	Severe	40	x	_____	=	_____
1498	Moderate	18	x	_____	=	_____

1499						
------	--	--	--	--	--	--

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1500	Slight	4	x	_____	=	_____
	Sexual	80	x	_____	=	_____
	penetrati on					
1501	Sexual	40	x	_____	=	_____
	contact					

1502

1503

Total

1504

1505 Primary Offense + Additional Offenses + Victim Injury =

1506 TOTAL OFFENSE SCORE

1507

1508 PRIOR RECORD SCORE

1509

1510 Prior Record

1511	Level	Sentence Points		Number		Total
1512						
1513	10	29	x	_____	=	_____
1514	9	23	x	_____	=	_____
1515	8	19	x	_____	=	_____
1516	7	14	x	_____	=	_____

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1517	6	9	x	_____	=	_____
1518	5	3.6	x	_____	=	_____
1519	4	2.4	x	_____	=	_____
1520	3	1.6	x	_____	=	_____
1521	2	0.8	x	_____	=	_____
1522	1	0.5	x	_____	=	_____
1523	M	0.2	x	_____	=	_____
1524						

Total

TOTAL OFFENSE SCORE

TOTAL PRIOR RECORD SCORE

LEGAL STATUS

COMMUNITY SANCTION VIOLATION

PRIOR SERIOUS FELONY

PRIOR CAPITAL FELONY

FIREARM OR SEMIAUTOMATIC WEAPON

SUBTOTAL _____

PRISON RELEASEE REOFFENDER (no) (yes)

VIOLENT CAREER CRIMINAL (no) (yes)

HABITUAL VIOLENT OFFENDER (no) (yes)

HABITUAL OFFENDER (no) (yes)

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1541 DRUG TRAFFICKER (no) (yes) (x multiplier)
1542 LAW ENF. PROTECT. (no) (yes) (x multiplier)
1543 MOTOR VEHICLE THEFT (no) (yes) (x multiplier)
1544 CRIMINAL ~~STREET~~ GANG OFFENSE (no) (yes) (x multiplier)
1545 DOMESTIC VIOLENCE IN THE PRESENCE OF RELATED CHILD (no) (yes)
1546 (x multiplier)

1547
1548 TOTAL SENTENCE POINTS _____
1549

1550 (b) WORKSHEET KEY:

1551
1552 Legal status points are assessed when any form of legal status
1553 existed at the time the offender committed an offense before the
1554 court for sentencing. Four (4) sentence points are assessed for
1555 an offender's legal status.

1556
1557 Community sanction violation points are assessed when a
1558 community sanction violation is before the court for sentencing.
1559 Six (6) sentence points are assessed for each community sanction
1560 violation and each successive community sanction violation,
1561 unless any of the following apply:

1562 1. If the community sanction violation includes a new
1563 felony conviction before the sentencing court, twelve (12)
1564 community sanction violation points are assessed for the
1565 violation, and for each successive community sanction violation
1566 involving a new felony conviction.

1567 2. If the community sanction violation is committed by a
1568 violent felony offender of special concern as defined in s.
1569 948.06:

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1570 a. Twelve (12) community sanction violation points are
1571 assessed for the violation and for each successive violation of
1572 felony probation or community control where:

1573 (I) The violation does not include a new felony
1574 conviction; and

1575 (II) The community sanction violation is not based solely
1576 on the probationer or offender's failure to pay costs or fines
1577 or make restitution payments.

1578 b. Twenty-four (24) community sanction violation points
1579 are assessed for the violation and for each successive violation
1580 of felony probation or community control where the violation
1581 includes a new felony conviction.

1582
1583 Multiple counts of community sanction violations before the
1584 sentencing court shall not be a basis for multiplying the
1585 assessment of community sanction violation points.

1586
1587 Prior serious felony points: If the offender has a primary
1588 offense or any additional offense ranked in level 8, level 9, or
1589 level 10, and one or more prior serious felonies, a single
1590 assessment of thirty (30) points shall be added. For purposes of
1591 this section, a prior serious felony is an offense in the
1592 offender's prior record that is ranked in level 8, level 9, or
1593 level 10 under s. 921.0022 or s. 921.0023 and for which the
1594 offender is serving a sentence of confinement, supervision, or
1595 other sanction or for which the offender's date of release from
1596 confinement, supervision, or other sanction, whichever is later,
1597 is within 3 years before the date the primary offense or any
1598 additional offense was committed.

1599

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1600 Prior capital felony points: If the offender has one or more
1601 prior capital felonies in the offender's criminal record, points
1602 shall be added to the subtotal sentence points of the offender
1603 equal to twice the number of points the offender receives for
1604 the primary offense and any additional offense. A prior capital
1605 felony in the offender's criminal record is a previous capital
1606 felony offense for which the offender has entered a plea of nolo
1607 contendere or guilty or has been found guilty; or a felony in
1608 another jurisdiction which is a capital felony in that
1609 jurisdiction, or would be a capital felony if the offense were
1610 committed in this state.

1611

1612 Possession of a firearm, semiautomatic firearm, or machine gun:
1613 If the offender is convicted of committing or attempting to
1614 commit any felony other than those enumerated in s. 775.087(2)
1615 while having in his or her possession: a firearm as defined in
1616 s. 790.001(6), an additional eighteen (18) sentence points are
1617 assessed; or if the offender is convicted of committing or
1618 attempting to commit any felony other than those enumerated in
1619 s. 775.087(3) while having in his or her possession a
1620 semiautomatic firearm as defined in s. 775.087(3) or a machine
1621 gun as defined in s. 790.001(9), an additional twenty-five (25)
1622 sentence points are assessed.

1623

1624 Sentencing multipliers:

1625

1626 Drug trafficking: If the primary offense is drug trafficking
1627 under s. 893.135, the subtotal sentence points are multiplied,
1628 at the discretion of the court, for a level 7 or level 8
1629 offense, by 1.5. The state attorney may move the sentencing

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1630 court to reduce or suspend the sentence of a person convicted of
1631 a level 7 or level 8 offense, if the offender provides
1632 substantial assistance as described in s. 893.135(4).

1633

1634 Law enforcement protection: If the primary offense is a
1635 violation of the Law Enforcement Protection Act under s.
1636 775.0823(2), (3), or (4), the subtotal sentence points are
1637 multiplied by 2.5. If the primary offense is a violation of s.
1638 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points
1639 are multiplied by 2.0. If the primary offense is a violation of
1640 s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement
1641 Protection Act under s. 775.0823(10) or (11), the subtotal
1642 sentence points are multiplied by 1.5.

1643

1644 Grand theft of a motor vehicle: If the primary offense is grand
1645 theft of the third degree involving a motor vehicle and in the
1646 offender's prior record, there are three or more grand thefts of
1647 the third degree involving a motor vehicle, the subtotal
1648 sentence points are multiplied by 1.5.

1649

1650 Offense related to a criminal ~~street~~ gang: If the offender is
1651 convicted of the primary offense and committed that offense for
1652 the purpose of benefiting, promoting, or furthering the
1653 interests of a criminal ~~street~~ gang as prohibited under s.
1654 874.04, the subtotal sentence points are multiplied by 1.5.

1655

1656 Domestic violence in the presence of a child: If the offender is
1657 convicted of the primary offense and the primary offense is a
1658 crime of domestic violence, as defined in s. 741.28, which was
1659 committed in the presence of a child under 16 years of age who

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1660 is a family or household member as defined in s. 741.28(3) with
1661 the victim or perpetrator, the subtotal sentence points are
1662 multiplied by 1.5.

1663 Section 28. Paragraph (n) of subsection (5) of section
1664 921.141, Florida Statutes, is amended to read:

1665 921.141 Sentence of death or life imprisonment for capital
1666 felonies; further proceedings to determine sentence.--

1667 (5) AGGRAVATING CIRCUMSTANCES.--Aggravating circumstances
1668 shall be limited to the following:

1669 (n) The capital felony was committed by a criminal street
1670 gang member, as defined in s. 874.03.

1671 Section 29. Subsection (30) of section 984.03, Florida
1672 Statutes, is amended to read:

1673 984.03 Definitions.--When used in this chapter, the term:

1674 (30) "Juvenile justice continuum" includes, but is not
1675 limited to, delinquency prevention programs and services
1676 designed for the purpose of preventing or reducing delinquent
1677 acts, including criminal activity by criminal youth gangs and
1678 juvenile arrests, as well as programs and services targeted at
1679 children who have committed delinquent acts, and children who
1680 have previously been committed to residential treatment programs
1681 for delinquents. The term includes children-in-need-of-services
1682 and families-in-need-of-services programs; conditional release;
1683 substance abuse and mental health programs; educational and
1684 vocational programs; recreational programs; community services
1685 programs; community service work programs; and alternative
1686 dispute resolution programs serving children at risk of
1687 delinquency and their families, whether offered or delivered by
1688 state or local governmental entities, public or private for-

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1689 profit or not-for-profit organizations, or religious or
1690 charitable organizations.

1691 Section 30. Paragraph (c) of subsection (15) and
1692 subsection (29) of section 985.03, Florida Statutes, are amended
1693 to read:

1694 985.03 Definitions.--As used in this chapter, the term:
1695 (15)

1696 (c) "Delinquency prevention programs" means programs
1697 designed for the purpose of reducing the occurrence of
1698 delinquency, including criminal youth ~~and street~~ gang activity,
1699 and juvenile arrests. The term excludes arbitration,
1700 diversionary or mediation programs, and community service work
1701 or other treatment available subsequent to a child committing a
1702 delinquent act.

1703 (29) "Juvenile justice continuum" includes, but is not
1704 limited to, delinquency prevention programs and services
1705 designed for the purpose of preventing or reducing delinquent
1706 acts, including criminal activity by criminal youth gangs, and
1707 juvenile arrests, as well as programs and services targeted at
1708 children who have committed delinquent acts, and children who
1709 have previously been committed to residential treatment programs
1710 for delinquents. The term includes children-in-need-of-services
1711 and families-in-need-of-services programs; conditional release;
1712 substance abuse and mental health programs; educational and
1713 career programs; recreational programs; community services
1714 programs; community service work programs; and alternative
1715 dispute resolution programs serving children at risk of
1716 delinquency and their families, whether offered or delivered by
1717 state or local governmental entities, public or private for-

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1718 profit or not-for-profit organizations, or religious or
1719 charitable organizations.

1720 Section 31. Paragraph (c) of subsection (1) of section
1721 985.047, Florida Statutes, is amended to read:

1722 985.047 Information systems.--

1723 (1)

1724 (c) As used in this section, "a juvenile who is at risk of
1725 becoming a serious habitual juvenile offender" means a juvenile
1726 who has been adjudicated delinquent and who meets one or more of
1727 the following criteria:

1728 1. Is arrested for a capital, life, or first degree felony
1729 offense or sexual battery.

1730 2. Has five or more arrests, at least three of which are
1731 for felony offenses. Three of such arrests must have occurred
1732 within the preceding 12-month period.

1733 3. Has 10 or more arrests, at least 2 of which are for
1734 felony offenses. Three of such arrests must have occurred within
1735 the preceding 12-month period.

1736 4. Has four or more arrests, at least one of which is for
1737 a felony offense and occurred within the preceding 12-month
1738 period.

1739 5. Has 10 or more arrests, at least 8 of which are for any
1740 of the following offenses:

1741 a. Petit theft;

1742 b. Misdemeanor assault;

1743 c. Possession of a controlled substance;

1744 d. Weapon or firearm violation; or

1745 e. Substance abuse.

1746

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1747 Four of such arrests must have occurred within the preceding 12-
1748 month period.

1749 6. Meets at least one of the criteria for criminal youth
1750 ~~and street~~ gang membership.

1751 Section 32. Paragraph (a) of subsection (6) and subsection
1752 (7) of section 985.433, Florida Statutes, are amended to read:

1753 985.433 Disposition hearings in delinquency cases.--When a
1754 child has been found to have committed a delinquent act, the
1755 following procedures shall be applicable to the disposition of
1756 the case:

1757 (6) The first determination to be made by the court is a
1758 determination of the suitability or nonsuitability for
1759 adjudication and commitment of the child to the department. This
1760 determination shall include consideration of the recommendations
1761 of the department, which may include a predisposition report.
1762 The predisposition report shall include, whether as part of the
1763 child's multidisciplinary assessment, classification, and
1764 placement process components or separately, evaluation of the
1765 following criteria:

1766 (a) The seriousness of the offense to the community. If
1767 the court determines under chapter 874 that the child was a
1768 member of a criminal ~~street~~ gang at the time of the commission
1769 of the offense, the seriousness of the offense to the community
1770 shall be given great weight.

1771
1772 It is the intent of the Legislature that the criteria set forth
1773 in this subsection are general guidelines to be followed at the
1774 discretion of the court and not mandatory requirements of
1775 procedure. It is not the intent of the Legislature to provide
1776 for the appeal of the disposition made under this section.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

1777 (7) If the court determines that the child should be
1778 adjudicated as having committed a delinquent act and should be
1779 committed to the department, such determination shall be in
1780 writing or on the record of the hearing. The determination shall
1781 include a specific finding of the reasons for the decision to
1782 adjudicate and to commit the child to the department, including
1783 any determination that the child was a member of a criminal
1784 ~~street~~ gang.

1785 (a) The juvenile probation officer shall recommend to the
1786 court the most appropriate placement and treatment plan,
1787 specifically identifying the restrictiveness level most
1788 appropriate for the child. If the court has determined that the
1789 child was a member of a criminal ~~street~~ gang, that determination
1790 shall be given great weight in identifying the most appropriate
1791 restrictiveness level for the child. The court shall consider
1792 the department's recommendation in making its commitment
1793 decision.

1794 (b) The court shall commit the child to the department at
1795 the restrictiveness level identified or may order placement at a
1796 different restrictiveness level. The court shall state for the
1797 record the reasons that establish by a preponderance of the
1798 evidence why the court is disregarding the assessment of the
1799 child and the restrictiveness level recommended by the
1800 department. Any party may appeal the court's findings resulting
1801 in a modified level of restrictiveness under this paragraph.

1802 (c) The court may also require that the child be placed in
1803 a probation program following the child's discharge from
1804 commitment. Community-based sanctions under subsection (8) may
1805 be imposed by the court at the disposition hearing or at any
1806 time prior to the child's release from commitment.

Amendment No. 1

1807 Section 33. The Division of Statutory Revision is directed
1808 to redesignate the title of chapter 874, Florida Statutes, as
1809 "Criminal Gang Enforcement and Prevention."

1810 Section 35. This act shall take effect October 1, 2008.

1811

1812

1813 -----

1814

T I T L E A M E N D M E N T

1815

Remove the entire title and insert:

1816

An act relating to criminal activity; amending s. 775.13, F.S.,;

1817

requiring certain felons to register; providing penalties;

1818

creating s. 790.231, F.S.; prohibiting possession of bulletproof

1819

vests by certain individuals; providing penalties; amending s.

1820

823.05, F.S.; revising provisions relating to the enjoining of

1821

public nuisances; amending s. 874.01, F.S.; revising a short

1822

title; amending s. 874.02, F.S.; revising legislative findings

1823

and intent; amending s. 874.03, F.S.; creating and revising

1824

definitions; redefining "criminal street gangs" as "criminal

1825

gangs"; amending s. 874.04, F.S.; conforming provisions;

1826

revising an evidentiary standard; creating s. 874.045, F.S.;

1827

providing that chapter 874, F.S., does not preclude arrest and

1828

prosecution under other specified provisions; amending s.

1829

874.05, F.S.; revising provisions relating to soliciting or

1830

causing another to join a criminal gang; amending s. 874.06,

1831

F.S.; authorizing the state to bring civil actions for certain

1832

violations; providing that a plaintiff has a superior claim to

1833

property or proceeds; providing penalties for knowing violation

1834

of certain orders; amending s. 874.08, F.S.; conforming

1835

provisions relating to forfeiture; amending s. 874.09, F.S.;

1836

providing additional powers for the Department of Law

Amendment No. 1

1837 Enforcement and local law enforcement agencies relating to crime
1838 data information; creating s. 874.10, F.S.; prohibiting persons
1839 from initiating, organizing, planning, financing, directing,
1840 managing, or supervising criminal gang-related activity;
1841 providing penalties; creating 874.11, F.S.; prohibiting use of
1842 electronic communications to further the interests of a criminal
1843 gang; providing penalties; creating s. 874.12, F.S.; defining
1844 the term "identification document"; prohibiting possession of
1845 identification documents for specified purposes; providing
1846 penalties; creating s. 874.13, F.S.; prohibiting certain
1847 offenders from committing gang-related crimes; providing
1848 penalties; creating s. 874.14, F.S.; providing definitions;
1849 providing for the suspension of driver's licenses for certain
1850 offenses; amending s. 895.02, F.S.; adding certain offenses to
1851 the definition of "racketeering activity"; amending s. 903.046,
1852 F.S.; adding to the list of items a court may consider when
1853 determining whether to release a defendant on bail; amending s.
1854 914.22, F.S.; revising the penalties for tampering or harassing
1855 witnesses; amending s. 943.031, F.S.; revising provisions
1856 relating to the Florida Violent Crime and Drug Control Council;
1857 providing duties concerning criminal gangs; creating the Drug
1858 Control Strategy and Criminal Gangs Committee; providing for
1859 duties of the committee concerning funding of certain programs;
1860 providing for reports; creating s. 948.033, F.S., prohibiting
1861 certain offenders from communicating with criminal gang members;
1862 providing exceptions; amending s. 947.18, F.S.; prohibiting
1863 certain parolees from communicating with criminal gang members;
1864 providing exceptions; amending s. 947.1405, F.S.; prohibiting
1865 certain conditional releasees from communicating with criminal
1866 gang members; providing exceptions; amending s. 893.138, F.S.;

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

1867 conforming cross-references and terminology to changes made by
1868 this act; amending s. 921.0022, F.S.; adding offenses to the
1869 criminal punishment code offense severity ranking chart;
1870 amending ss. 921.0024, 921.141, 984.03, 985.03, 985.047, and
1871 985.433, F.S.; conforming cross-references and terminology to
1872 changes made by this act; providing a directive to the Division
1873 of Statutory Revision; providing an effective date.

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

*favorable
1-23-08*

1 Council/Committee hearing bill: Safety & Security Council
2 Representative Snyder offered the following:

3
4 **Amendment to Amendment (1) by Representative Snyder (with**
5 **title amendment)**

6 Between lines 66-67 insert:

7 Section 2. Section 790.23, Florida Statutes, is amended to
8 read:

9 790.23 Felons and delinquents; possession of firearms,
10 ammunition, or electric weapons or devices unlawful.--

11 (1) It is unlawful for any person to own or to have in his
12 or her care, custody, possession, or control any firearm,
13 ammunition, or electric weapon or device, or to carry a
14 concealed weapon, including a tear gas gun or chemical weapon or
15 device, if that person has been:

16 (a) Convicted of a felony in the courts of this state;

17 (b) Found, in the courts of this state, to have committed
18 a delinquent act that would be a felony if committed by an adult
19 and such person is under 24 years of age;

20 (c) Convicted of or found to have committed a crime
21 against the United States which is designated as a felony;

22 (d) Found to have committed a delinquent act in another
23 state, territory, or country that would be a felony if committed

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1c

Bill No. 43

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

*favorable
1.23.08*

1 Council/Committee hearing bill: Safety & Security Council

2 Representative Snyder offered the following:

3

4 **Amendment to Amendment (1) by Representative Snyder**

5 Remove line 141 and insert:

6 chapter may institute civil proceedings under this section. In

7 any

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1d

Bill No. 43

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

*favourable
1.23.08*

1 Council/Committee hearing bill: Safety & Security Council
2 Representative Snyder offered the following:

3
4 **Amendment to Amendment (1) by Representative Snyder**

5 On lines 1168 and 1215, remove the word "July" and insert
6 the word "October."

washingtonpost.com

The Washington Post

MySpace deletes 29,000 sex offenders

Reuters

Tuesday, July 24, 2007; 6:14 PM

NEW YORK (Reuters) - Popular Internet social network MySpace said on Tuesday it detected and deleted 29,000 convicted sex offenders on its service, more than four times the figure it had initially reported.

The company, owned by media conglomerate News Corp (NWSa.N), said in May it had deleted about 7,000 user profiles that belonged to convicted offenders. MySpace attracts about 60 million unique visitors monthly in the United States.

The new information was first revealed by U.S. state authorities after MySpace turned over information on convicted sex offenders it had removed from the service.

"The exploding epidemic of sex offender profiles on MySpace -- 29,000 and counting -- screams for action," Connecticut Attorney General Richard Blumenthal said in a statement.

Blumenthal, who led a coalition of state authorities to lobby MySpace for more stringent safeguards for minors, and other state AGs have demanded the service begin verifying a user's age and require parental permission for minors.

The minimum age to register on MySpace is 14.

"We're pleased that we've successfully identified and removed registered sex offenders from our site and hope that other social networking sites follow our lead," MySpace Chief Security Officer Hemanshu Nigam said in a statement.

The service has come under attack over the past year after some of its young members fell prey to adult predators posing as minors. The families of several teenage girls sexually assaulted by MySpace members sued the service in January for failing to safeguard its young members.

Late last year, it struck a partnership with background verification company Sentinel Tech Holdings Corp. to co-develop the first U.S. national database of convicted sex offenders to make it easier to track offenders on the Internet.

Convicted sex offenders are required by law to register their contact information with local authorities. But the information has only been available on regional databases, making nationwide searches difficult.

As of May, there were about 600,000 registered sex offenders in the United States.

REUTERS 

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Conn. AG: Facebook Fails to Protect Young Users

Tuesday, July 31, 2007

SAN FRANCISCO/NEW YORK — Facebook came under fire on Monday from a state attorney general who accused the fast-growing social networking site of falling short in protecting young users from sexual predators on its site.

Connecticut Attorney General Richard Blumenthal said in an interview his office had learned of "at least three" convicted sex offenders on Facebook's site and that may be the "tip of the iceberg."

"These individuals are using their real names after convictions for felony sexual offenses," Blumenthal told Reuters. "There may be thousands or hundreds of thousands using aliases or false identities who have never been convicted."

The state official said Facebook appears to suffer some of the dangers from predators and pornography that larger and more freewheeling social network site **MySpace** does. Last week, MySpace said it had deleted 29,000 convicted sex offenders from its own service, which attracts 60 million U.S. visitors.

Started in 2004 by then-undergraduate **Mark Zuckerberg** as a socializing site for fellow Harvard University students, Facebook opened up more than a year ago to allow users of all ages to create personal profiles to share with friends.

(Story continues below)

Facebook, with privacy features encouraging members to share personal details like phone numbers, political loyalties or dating status for an approved circle of friends, has grown by more than a third to 33 million members in the past two months.

Chief Privacy Officer Chris Kelly said Facebook has privacy features unlike other social network sites that segment users by age, organization and region and make it hard for adults to contact users under the age of 18.

In particular, Facebook protects users under 18 by preventing adults from contacting them if the adults are not affiliated with a specific school network, Kelly said.

Kelly acknowledged Facebook has detected sexual predators and other abusive practices on the site but said the numbers were small.

"There is a non-zero number. We have been able to handle abuses with the accountability of having a real-name culture versus a 'screen-name' culture," he said.

Kelly said Facebook had been notified Monday afternoon by the Connecticut attorney general's office of three specific profiles set up by known sex offenders and that the Palo Alto, California-based company had quickly removed these Web pages.

"There is no city in existence, let alone one that has 33 million citizens, that doesn't have occasional crime," Kelly said. "The question is: Does the site make it easier or harder to commit crimes and what does it do to address them?"

TECHNICAL VERSUS LEGAL PROTECTIONS

Blumenthal and attorneys general from other states have been pushing for state and federal laws to require social network sites to seek age and identity verification from users as well as parental consent for minors to join such sites.

But critics of laws that rely on voluntary verification measures say there is no simple way to screen for sex offenders and kids masquerading as older users or to ensure whether parental authorization actually is given by parents or by kids pretending to be their parents.

Companies such as Facebook and MySpace are scrambling to develop technologies that automatically seek to protect underage users from predators as well as other forms of abuse including pornography and threats against individual users.

"We believe, and they (Facebook) agree, that screening out those images as well as age and identity verification are all affordable and feasible with today's technology," Blumenthal said after a meeting between his staff and Facebook on Monday.

"Their response, simply, was that they want to cooperate and do the right thing," he added.

MySpace has turned to background verification company Sentinel Tech Holding Corp., which has co-developed the first nationwide database of convicted U.S. sex felons to make it easy to detect offenders online. There were 600,000 registered U.S. sex offenders as of May.

"It's when adults and kids play in the same space that things get sticky and the effectiveness of age verification seems to go out the window," Sentinel CEO and founder John Cardillo said of the dilemma facing social networks.

Kelly said Facebook has designed its site from the outset to protect users' privacy and has developed additional technologies since then to offer further protections. The company is evaluating technologies from outside vendors to help it increase its surveillance of potential predators.

"It is better to have some sort of verification on the front end and various forms of behavioral verification on the back end," Kelly said of Facebook's approach to site safety.

MySpace.com is owned by News Corp., which also owns FOXNews.com.

Creator of MySpace sex offender database is ex-cop, data expert

Wednesday, August 1, 2007 FOX NEWS



MIAMI (AP) -- The man behind the technology that recently enabled MySpace to expel almost 30,000 registered sex offenders from its cyber community is a fast-talking, cop-turned-database expert with little tolerance for his targets.

John Cardillo, 38, spent more than a decade working as a police officer in the Bronx before leaving for the private sector. In that time, he said his encounters with sex offenders convinced him that evil does exist.

"We wouldn't want them to walk into a school yard; we certainly wouldn't want them in these online communities," Cardillo said in an interview with The Associated Press.

Seeing a void in the tools available to reliably identify sex offenders in these spheres, the Miami resident created a company five years ago to help Web sites like MySpace do just that. According to two state attorneys general, MySpace found 29,000 registered sex offenders among its 180 million profiles -- four times more than the company had cited two months earlier.

Where Sentinel Tech Holding Corp. differs from name-and-age match systems is in its wealth of data and its verification technique. Cardillo's staff compares the Web site profiles of potential matches with the biographical, criminal and geographic history of the offender, gleaned from various sources.

Some cases are clearly false matches, Cardillo said, but others warrant a closer look, so the person's profile is flagged and suspended. That person receives a notice that such action was taken and is provided Sentinel's 800-number to call if they believe a mistake was made.

If the person calls, Cardillo's staff asks them questions about their background, like their address from a certain period or their former neighbor's name, to determine if they have the right person or not. The questions are rotated to keep offenders on their toes.

Most people are very cooperative and appreciative of Sentinel's intentions -- except for those who turn out to be sex offenders, Cardillo said.

"They're enraged they're kicked off the site, they've threatened my staff... They truly show their character when we exclude them from our communities," Cardillo said. "I like hearing this because it reinforces every day that we're doing the right thing."

Sentinel isn't without its critics, though. Some argue that those who have served their sentences should not be barred from MySpace and other online communities.

"I simply don't care. My sympathies don't lie with the pedophiles, they lie with the victim," Cardillo said. "We can never afford not to err on the side of safety."

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**Exhibits for the Testimony of
William N. Shepherd
Statewide Prosecutor
January 23, 2008**





937 Palm Springs

07/24/2007 11:54:24.52



EIGHTEENTH STATEWIDE GRAND JURY
Case No. SC 07-1128

FIRST INTERIM REPORT
OF THE STATEWIDE GRAND JURY

CRIMINAL GANGS AND
GANG RELATED VIOLENCE

December 2007
West Palm Beach, Florida



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ATTORNEY GENERAL
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William N. Shepherd
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January 15, 2008

The Honorable Charlie Crist
PL 05 The Capitol
400 South Monroe Street
Tallahassee, FL 32399-0001

Dear Governor Crist:

The Statewide Grand Jury has heeded your call, and that of the Supreme Court, and has begun its work studying criminal gang violence and offering ways to strengthen existing laws and suggesting new enforcement strategies to better protect Floridians. Attorney General McCollum and I look forward to working with you and our legislative partners to implement the recommendations that are found in the enclosed Interim Report.

Criminal gangs are here, growing, and becoming more violent. Law enforcement and prosecutors are attacking the problem, but increased enforcement tools and long-term joint investigations are critical.

Criminal gangs run the gamut in their make-up: life-long Floridians as well as an influx of new arrivals and illegal aliens join gangs. Assault weapons and fists are the tools of their trade. They control neighborhoods and oppress our citizens by using violence and threats. Witnesses know these threats are not mere boasts but are deadly promises. Gang recruiters proselytize their lies to our youth on the street corner, in their music, and on the internet to try and grow their ranks. I have spoken to a witness who told me very matter of factly that if his fellow gang members knew he was talking, they would surely kill him in front of his young children. The gang problem is real.

But there is reason for hope amidst this troubling news. Florida is at a juncture in which we can slow this growth and reverse the trend. Now is the time to import the *mano dura* (firm hand) approach that has driven some of these gang members to what they consider the greener pastures of greater economic opportunity and lesser gang enforcement in the United States. This is no time to turn the other cheek.

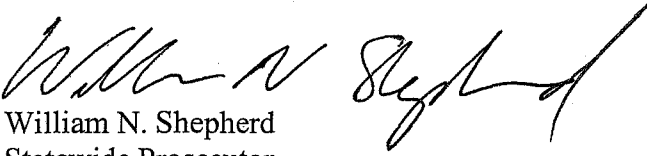
The Statewide Grand Jury's Recommendations focus on five areas: (1) acknowledge the gang problem and resolve, through all levels and branches of government, to attack it; (2) protect witnesses by enhancing tampering statutes and by closing the revolving door of automatic pre-trial bond; (3) streamline the statutory definition of criminal gang member to close loopholes and also update RICO; (4) provide additional training and resources for law enforcement and prosecutors; and (5) ensure law enforcement's collection and sharing of criminal gang intelligence.

While enforcement is a major component, the Statewide Grand Jury has determined that zero tolerance is not enough; it is also going to require strong efforts on the part of families, schools, non-governmental organizations, faith-based groups, and other intervention programs to present real opportunity and alternatives. Equally important to the solution is to help prisoners reenter society upon prison release so that after stiff sanctions, they can return to society to really repay their debt by being productive Floridians. These efforts will be the focus of the Grand Jury throughout the remaining term of their Call.

The Office of Statewide Prosecution has joined Florida's State Attorneys in this important fight. In the last year we have worked with State Attorneys, Sheriffs, Chiefs, and the Florida Department of Law Enforcement to investigate and prosecute gangs as an enterprise. We seek to break them apart, turn their members against each other, and return neighborhoods to their law-abiding residents. As our enforcement initiative gains momentum, and as we perfect our investigative and prosecution techniques, this effort will only improve.

The Statewide Grand Jury has identified the problem, offered recommendations, and now we must all act.

Respectfully,


William N. Shepherd
Statewide Prosecutor

Cc: The Honorable Ken Pruitt
The Honorable Marco Rubio

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➤ GRAND JURY SUMMARY

We, the members of the Eighteenth Statewide Grand Jury, find that gangs and gang violence are on the rise in Florida, as in many parts of the country. We see the increase not only in the rising number of gangs and their membership, but also in the number of violent crimes committed by gangs.

We also find that though some progress has been made, Florida's overall efforts have fallen short. This shortcoming is particularly striking in the lack of resources dedicated to law enforcement and prosecutors fighting gangs. In addition, we find that Florida's criminal laws must be revised and re-written to ensure the intent of the legislature can be carried out to "eradicate the terror created by criminal street gangs and their members."¹

As a result of our findings, we make several recommendations to address the most immediate issues: 1) strengthen our criminal statutes and eliminate loopholes, 2) make modest yet critical increases in funding to law enforcement investigators and prosecutors, and 3) increase communication and the sharing of information within the law enforcement community.

In addition to receiving testimony for this Interim Report, we received testimony that provided the basis for us to return a True Bill for Racketeering and Conspiracy to Commit Racketeering against eleven defendants who are members of a gang based in Palm Beach County. The testimony about their gang reinforced the testimony we had previously received about the gang problem in Florida.

¹ Section 874.02(3), Florida Statutes.

➤ **BACKGROUND**

The Eighteenth Statewide Grand Jury was called for by Governor Charlie Crist and ordered into existence by the Florida Supreme Court on June 20, 2007, to investigate, among other issues, the growing problem of gang violence in Florida. The Grand Jury was also authorized to return Indictments with regards to listed enumerated offenses including racketeering. The Honorable Kathleen Kroll, Chief Judge of the Fifteenth Judicial Circuit of Florida, was designated to preside over the Statewide Grand Jury composed of jurors selected from four judicial circuits: the Fifteenth, Seventeenth, Nineteenth, and Twentieth. Jury selection was completed on August 6, 2007, and we the jurors were sworn in to serve as Statewide Grand Jurors, seated in West Palm Beach, Florida, with Clerk and Comptroller Sharon Bock and her Deputies selected to serve as clerks.

During our investigation so far, we have called many witnesses from a number of areas including law enforcement officers, prosecutors, victims, parents, community activists, and corrections officers. We have even received evidence from gang members themselves. The problem is complex and we believe our own work must be handled in steps; however, ultimate success will require all of the recommendations we make be fully implemented in unison.

A Dade County Grand Jury examined the problem of gangs in Dade County and issued the first official Florida gang study in May 1985. The Tenth Statewide Grand Jury examined the state of gangs in Florida in 1992. Yet the problem has continued to grow exponentially over the years and now deserves a total commitment from Floridians at all levels. Our goal is to play a part in developing a statewide strategy to combat gangs in Florida through a

coordinated approach using law enforcement, prosecutors, legislators, state and local agencies, community programs, and the citizens of the State of Florida.

As a result of our inquiry we make certain findings and recommendations, though we point out that we are just beginning our work. Because of the urgency of this matter, and the obvious continuing danger to the public, we are issuing our first Interim Report as expeditiously as possible to allow the legislature time to assess the report and our recommendations in time for the upcoming legislative session. The first subject we tackle is Florida's effort to fight gangs through arrests and prosecution. In subsequent reports we hope to address other strategies such as: intervention with community involvement, parent-teacher groups, public education, and issues of rehabilitation and prisoner reentry. Therefore, this Interim Report focuses on recommendations to our legislature to address statutory changes and funding in areas we perceive need to be strengthened. It is only with enhanced enforcement tools that our state can put a halt to the growing gang problem.

➤ INTRODUCTION

A. PREVALENCE AND GROWTH OF GANGS

One benchmark for studying the gang problem is to analyze available statistics from research tools that have already tried to quantify gang activity. Although every Floridian is moved by the compelling tragic stories of innocent children killed in the crossfire of criminal gun violence, we want our analysis to be supported by evidence and to help lead Florida into the area of criminal intelligence-driven legislation, investigations, and prosecutions.

We have reviewed research studies on gangs by two different organizations. The National Youth Gang Center (NYGC), funded by the United States Department of Justice (DOJ), has conducted a National Youth Gang Survey annually since 1996.² We have reviewed their survey results. The Florida Department of Law Enforcement's Office of Statewide Intelligence (OSI) conducted a 2007 Statewide Gang Survey. In addition to reviewing the survey results, we received testimony on the survey from the Florida Department of Law Enforcement (FDLE).

The NYGC surveys relied on a nationally representative sample including law enforcement in both large and small cities and in suburban and rural counties. According to the NYGC, the 2005 National Youth Gang Survey reveals increases in gang problems within every type of jurisdiction. Rural and suburban counties reported the greatest percentage of increases in gang prevalence rates. Rural counties reported a 68% increase, while suburban counties reported a 32% increase. Gangs are even more established and active in larger cities. The survey reported an 8% increase in large cities, while smaller cities reported an

² The NYGC is funded by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) which is a part of the U.S. DOJ.

18% increase. Approximately half of reporting agencies in 2005 said their youth gang problem was “getting worse” when compared with the previous survey year.

The FDLE survey came up with similar results. Their survey was compiled from data gathered through questionnaires sent to police chiefs, sheriff’s offices, school resource officers, the Department of Corrections, and Florida’s State Attorneys. Prior to the 2007 Statewide Gang Survey, there has not been a statewide gang survey since FDLE conducted one in 1995. We hope that FDLE receives the funding to expand on this 2007 survey in the years ahead.

Although future studies may have a larger amount of data, we hope they will not be as startling. The FDLE report shows that 71% of law enforcement agencies, 75% of school resource officers, and nearly 83% of all state corrections departments who responded had gangs involved in criminal activities in their area. Gangs have been documented in all twenty judicial circuits in Florida. Both rural and urban areas in Florida responded to the survey with documented gang activity. Additionally, it is important to recognize that female gang involvement has increased 33% according to the FDLE survey. Gang activity does not appear to be slowing down; the majority of law enforcement agencies who responded indicated that gang activity has increased over the past 12 months.

B. TYPICAL GANG ACTIVITY

Criminal gang activity exists to further the overall interest of the gang. The interest of gangs is simple: money and reputation or “street cred.” Gangs amass money from illicit drug sales, robberies, burglaries, and thefts. Lately they have even begun to include white collar crimes such as identity theft and fraud. The gang’s reputation can be enhanced through fear and intimidation. Increasing a gang’s violent reputation gives the gang additional stature in

its members' warped sense of values. We heard testimony that criminal mischief through graffiti is a common way to mark territory and communicate threats. We also heard that clothing and self-produced music are another way gangs try to show their presence or dominance in an area. Gangs are even increasingly taking to the Internet to spread their reputation. Gang members wear jerseys with their own gang's name emblazoned upon them. Gang members have been arrested with their own CD recordings that tout their gang's violent history and threaten their rivals. Like sexual predators, gang members have taken to the Internet. They recruit and promote their gang using the Internet. Because even this Interim Report could be used by particular gangs to enhance their reputation by being named within it, we will refer to specific gangs only in general terms except when mentioned in the True Bill.

Witnesses explained that graffiti, style of dress, tattoos, Internet sites, and music are all passive ways to spread a gang's reputation; whereas, drive-by shootings and other senseless and reckless acts of violence are a more deadly and active form of increasing gang stature. Florida currently ranks second in the number of drive-by shootings according to a recent study by the Violence Policy Center released in July 2007.³ Florida cannot allow this senseless violence to continue.

C. LIMITATIONS OF CURRENT LAWS

Gangs are already being fought by police and prosecutors with the laws that are currently on the books. We have been impressed by the presentation of the law enforcement officers and prosecutors who have testified before us. Criminal gangs are investigated in one of two ways: either as individual gang members charged with individual crimes or as an entire

³ *Drive-By America*, The Violence Policy Center, July, 2007, this study was based on media reports of drive-by shootings across America and was not conducted by law enforcement.

organization. Because of the specific investigative decisions in any given scenario, one strategy may be better for a given criminal case than another.

In the case of an individual crime, if a gang member is charged for a single crime of robbery, for example, he may be charged under that statute alone, or an enhancement may be sought under Chapter 874, Florida Statute, the “Criminal Street Gang Prevention Act of 1996.” (*See Appendix A*). The gang member who receives an enhancement under statute 874 faces a stiffer punishment. Although statute 874 was intended to be a useful enhancement tool for police and prosecutors, it requires modifications to maximize its effectiveness.

Gangs may also be investigated and prosecuted by targeting the entire gang and prosecuting the members as a group. This is usually done under Chapter 895, Florida Statute, the “Florida RICO (Racketeer Influenced and Corrupt Organization) Act.” (*See Appendix B*). Although Florida’s RICO act was originally enacted in the 1970’s to counter the efforts of organized crime to infiltrate legitimate businesses, it has been specifically redrafted to allow for prosecuting a criminal street gang. Under Florida’s RICO law, investigators must first prove that the criminals acted together in an “enterprise” and that they committed a number of criminal acts in support and furtherance of their enterprise. Those underlying criminal acts must be on a list of qualifying RICO offenses known as “predicate incidents” that were written into the statutes thirty years ago. We will discuss this statute and its limitations later in greater detail.

We have seen evidence that gangs continue to grow, thrive, and commit crimes at an increasingly alarming rate here in the Sunshine State. While gang membership is not a new phenomenon, it is one which must be addressed and halted. Federal, state, and local agencies across the United States have considered various ways of reducing gang membership and its

associated violence. In addition to testimony and other forms of evidence, we have received evidence in the form of numerous publications and opinions on the topic. We are convinced that gangs cannot be handled effectively unless a more aggressive approach is taken with coordinated action by the legislature, law enforcement, and the community.

➤ FINDINGS

The Statewide Grand Jury makes specific findings and recommendations about the current state of the law and law enforcement strategies. It is critical to understand our findings in order to comprehend the importance and significance of our recommendations. We have grouped our findings into specific subject matter areas: (A) resource shortages, (B) statutory shortcomings, (C) witness protection needs, (D) law enforcement information sharing, and (E) public education and training.

A. LAW ENFORCEMENT AND PROSECUTORS NEED ADDITIONAL RESOURCES AND TRAINING

1. Need for designated gang prosecutors and training

While all twenty judicial circuits in Florida have identified gang activity,⁴ no judicial circuit has a state legislatively funded prosecutor designated to exclusively prosecute gang crimes. Rather, State Attorneys that do have a designated gang prosecutor rely on federally funded grants. These grants have limited funding and are not available unless certain requirements are met. While several State Attorneys have successfully sought and received federal grants to acquire funding for a designated gang prosecutor, there is still a need for state funded positions to supplement the federal grant positions and to serve as the primary source of funding in circuits where a federal grant has not been secured.

State Attorneys have some flexibility in their staffing choices, but without funding to hire new prosecutors, gang prosecutors are only taken away from ongoing caseloads resulting in a negative impact anywhere a shift takes place. We took testimony from prosecutors and investigators about the good results and benefits that can be achieved by having a fully funded prosecutor position created to handle gang cases. We heard about the strong working

⁴ Information provided by the Office of Statewide Intelligence.

relationship between gang prosecutors and investigators in Miami-Dade, Hillsborough, and Pinellas Counties where the State Attorneys have designated gang prosecutors. We also heard about staffing shifts in Palm Beach County to assign a full time prosecutor for gang cases. Although each office has taken a different organizational tack that works best for its own structure, the benefits of a designated prosecutor seem apparent. The very complex nature of the cases and the proof required to tie the whole gang together demand a team approach by investigators and prosecutors. We also heard how important it is that the dedicated prosecutor learn and develop advanced investigative techniques. This brings an additional level of support and capability to the investigation.

According to the FDLE survey, the majority of gangs have twenty one or more identified gang members. A RICO case against that whole enterprise may take several years to investigate and prosecute and may easily include the need to prosecute over ten defendants in order to dismantle the gang. To be most effective, a RICO case needs one designated prosecutor to see the case from investigation through verdict. The unfortunate reality we have heard is that Assistant State Attorneys generally rotate through assignments and are very unlikely to see a long-term RICO case through from beginning to end. We heard from Assistant State Attorneys who described typical large case loads that grow on a daily basis and do not allow for the time needed to put together large gang cases. Although the vast majority of criminal cases can be handled by a prosecutor who is assigned a typical case load, gang cases are different. Gang-designated Assistant State Attorneys who testified before us uniformly spoke of the benefits of prosecuting a smaller number of cases with greater levels of complexity and of being able to remain on a case from beginning to end.

The reason this continuity makes a difference is clear to the Grand Jury. When we studied the criminal histories of some of the gang members prosecuted by designated gang units, it was clear that when a specialized prosecutor had time to focus on the gang member and his criminal conduct, the results were more appropriate for the crimes charged. Having the ability to follow up on missing witnesses and run down additional leads strengthened cases and put them in a much better position for a trial or guilty plea. This continuity will send a strong message to the gang defendant that no matter what tack he takes in defense of his case (whether a lawful defense tactic or illegal witness tampering), the dedicated prosecutor is going to follow his every move and vigorously pursue the case.

The other apparent benefit we heard from prosecutors and law enforcement is the value of institutional knowledge developed over time about a gang and its members. The availability of the same prosecutor throughout an investigation is a significant help to an investigator. The ability to recognize the significance of activities such as one gang member meeting with a new member or branching out into a new geographic region comes only from knowledge developed over time.

We heard testimony that institutional knowledge also becomes critical when a charged gang member wants to negotiate a plea. The guilty plea may require an interview with law enforcement and cooperation against fellow and rival gang members. If the prosecutor conducting the interview is not versed in this gang's history or activities, then the prosecutor will not be in the position to effectively question the proffering defendant. It is unlikely that a proffering defendant will divulge information unless the prosecutor specifically confronts the defendant with questions about the illegal activity, and an opportunity to obtain valuable

information will be lost. Thus, the future prosecution of other gang members will suffer because a prosecutor lacks knowledge about the criminal gang.

We also heard about the need for Assistant State Attorneys to negotiate with convicted gang members after they were sentenced. For example, a gang member may not initially cooperate, but only decide to cooperate after he has been sentenced. Another example can be seen where a defendant provides information which may not have been relevant earlier. This could occur when a new gang investigation begins and a convicted gang member comes forward with information. Under Rule 3.800, Florida Criminal Rules of Procedure, the court may only resentence a defendant within sixty days from the imposition of the sentence. This limitation eliminates the incentive for a defendant to benefit from a reduced sentence for his cooperation at a later date. We have heard that Federal Rule 35(b) allows for mitigated sentences beyond sixty days. Gang prosecution could be more effective if Florida created a similar rule.

2. Need for designated gang investigative units and training

Prosecutors are not the only ones who need to be given the resources to focus specifically on gangs and gang violence. Targeting and eliminating an entire gang instead of taking a piecemeal approach is complex work and requires law enforcement to have the necessary resources. These resources should include specialized and trained gang investigators, gang units, gang-savvy school resource officers, and gang analysts. While the need for increased funding for additional law enforcement resources to combat gang activities has been well documented, almost 60% of law enforcement agencies in Florida reported no full-time sworn officers assigned to gang investigations. We also learned that only a little over 10% of law enforcement agencies in Florida reported just one sworn officer dedicated to gang

investigations.⁵ In order for law enforcement to identify, arrest, and deter gang members and membership, they need trained gang officers. We have heard from specialized gang detectives who admitted that until they received special training in gang investigation, they routinely came in contact with gang members and gang crime yet never made the connection. Without the proper training, police may not recognize an individual as a gang member or a crime's connection to gang activity. Like prosecutors, the detectives who are immersed in this work develop a special ability to pick up nuances in evidence and build a rapport with the gang members themselves.

We find that some law enforcement agencies have been slow to develop gang units and many agencies still deny the need for such specialized units. The agencies with a dedicated unit to handle gang enforcement are in the minority, and even then the average number of officers in existing units is two.⁶ Developing gang investigations can take long hours and extra manpower. If an agency wants to investigate a gang as a criminal enterprise, a gang unit is needed to make a case. A law enforcement officer with regular patrol duties lacks the time and knowledge to pursue a gang as an enterprise. Just as agencies have dedicated units for sex crimes, homicides, and white collar crimes, to name a few, agencies need dedicated gang units. Without fully manned gang units working together as a team, gangs will continue to thrive and put our communities at dire risk.

We have heard that some agencies in the state have shifted resources or sought federal grants, but again this is not a long-term solution. Multi-agency gang task forces, usually federally funded, do exist in some parts of the state. These task forces often combine state and federal law enforcement with state and federal prosecutors to address a specifically

⁵ 2007 Statewide Gang Survey Results (discussed in Law Enforcement Component Analysis).

⁶ *Id.* (See Law Enforcement Component Analysis).

identified issue such as gun and gang violence. Task forces can be very beneficial at bringing agencies together to share information and ideas and merit additional funding considerations from the state. While law enforcement can apply for federal funding, we believe law enforcement is fundamentally a state function. Because gang violence transcends Florida's geographic boundaries and a reputation for gang violence will negatively impact the entire state's economic development, resources should be made available from the state. The individual efforts made by some Police Chiefs and Sheriffs are to be applauded, but they need additional support from the state in their efforts.

We believe a successful gang unit requires more than just dedicated investigators; the investigators need to have the support of analysts assigned to the unit. In order to prove that a person belongs to a gang or that a gang is acting as an enterprise, a prosecutor must have proof of an individual's ties to the gang. A trained analyst can help link a defendant, through analysis of complex data, to a gang or gang related criminal activities. The difficulties of proving violations of Chapter 874 and Chapter 895 lie in the fact that dozens of witnesses may be needed to prove a single element of the enhancement or the crime. Only a few departments in the State of Florida have the resources to employ gang analysts. A gang analyst can enter the information or compile data needed for gang investigators to link up a defendant to the elements of the enhancement or crime charged. Without an analyst, such data entry and analysis likely will not occur, and valuable information gathered by law enforcement is wasted because it is not shared with other law enforcement agencies. Our country has seen the cost of such a failure to share information and it can be terribly heavy. Let us not see that failure repeated over and over and foisted upon the gangs' victims to teach us a lesson we should have already learned.

Another essential key for law enforcement is school resource officers who are trained as gang investigators. School resource officers come into contact with youth entering gangs or showing warning signs of possible gang involvement. If the officers are properly trained, they are able to identify which youth are in a gang or likely to join a gang and alert gang investigators who can place the information into a database such as InSite. However, if a school resource officer has not been trained, he may miss all the signs that could be shared not only with law enforcement but with psychologists, social workers, guidance counselors and parents.

3. Need for juvenile probation officers at schools

According to the FDLE survey, almost 60% of law enforcement respondents indicated that gang-related incidents were occurring on school grounds and almost 50% reported an increase of gang activity on school grounds.⁷ We heard testimony from a school resource officer who has received training as a gang investigator. A school that has a trained school resource officer receives a tremendous benefit because gang activity can be stopped before it develops into a major problem. Keeping gang activity out of the classrooms is vital if Florida wants a safe and productive educational environment.

While a trained school resource officer is helpful, more can be done. Juvenile probation officers should be present on school campuses. We heard that juvenile probation officers assist school resource officers by identifying which youth are involved in gang activity and on probation. This information can be used by the school resource officer to address parents of gang members. A juvenile probation officer may also help arrest those who have violated their probation and deter gang activity in the school.

⁷ 2007 Statewide Gang Survey Results, page 29.

4. Need for greater assistance to handle illegal immigration

We would be remiss in talking about the importance of state resources that should be targeted on this problem if we did not also address the alarming information we have heard from witnesses relating to the problems of illegal immigration and gang violence in Florida. Although gang violence is often "home-grown," there is no doubt in our minds that much of our gang problem has been imported through illegal immigration. We heard testimony from one gang member who said that he sneaked into the United States, was intercepted by Border Patrol, and was then sent by Border Patrol to rejoin his parents in Florida who had illegally immigrated years earlier. Had he been deported immediately upon interception, he would not have joined a gang in Palm Beach County, Florida, and would not have created the victims that were the result of his Florida crimes. This is but one example of the overall problem that is driving the national debate over immigration. Local law enforcement needs greater assistance from federal authorities to address gang violence problems created by illegal immigration issues in Florida and other states.

B. ENHANCEMENT AND ENFORCEMENT STATUTES ARE NOT FULLY EFFECTIVE

1. Florida's gang statute, Chapter 874, must be improved

In 1990 the Florida Legislature realized that gang violence was a growing problem and needed a statutory remedy. With that in mind, the Florida Legislature enacted the Street Terrorism Act and created Chapter 874. Florida has been a leader in the area and to this day is one of the few states to statutorily define gangs and gang membership.

a. Definitions under 874

The crux of the law is the complex section that defines gangs and gang membership. Under 874.03(2), eight criteria are used to define a “criminal street gang member.” In order to meet the definition of a gang member, the State must prove the individual was a member of a “criminal street gang” and that the individual meets two of the eight criteria as defined in the statute. The eight criteria are presently listed as follows:

- (a) Admits to criminal street gang membership.*
- (b) Is identified as a criminal street gang member by a parent or guardian.*
- (c) Is identified as a criminal street gang member by a documented reliable informant.*
- (d) Resides in or frequents a particular criminal street gang's area and adopts their style of dress, their use of hand signs, or their tattoos, and associates with known criminal street gang members.*
- (e) Is identified as a criminal street gang member by an informant of previously untested reliability and such identification is corroborated by independent information.*
- (f) Has been arrested more than once in the company of identified criminal street gang members for offenses which are consistent with usual criminal street gang activity.*
- (g) Is identified as a criminal street gang member by physical evidence such as photographs or other documentation.*
- (h) Has been stopped in the company of known criminal street gang members four or more times. (See Appendix A)*

We have heard from police investigators that although they may have documented a number of gang members and gang associates in their work on the streets, they have rarely if ever successfully seen individuals prosecuted under the gang enhancement in court proceedings. The bulk of the criteria on the statutory list requires live testimony of informants or the defendant’s parents or guardians. While these criteria may be reliable and appropriate in an investigative setting, these criteria do not prove practical in court for

various reasons such as witness intimidation and the bond of family members. A mother who desperately calls police for help with a gang member son does not usually continue to assist law enforcement once the immediate problem has been addressed that night. She is highly unlikely to testify against her own child and identify him as a gang member before the court.

Witnesses told us the criteria related to “being stopped in the presence of fellow gang members” forces witness upon witness to come to court to prove the gang membership of each person in a group even if only one passenger is targeted for prosecution. One part of the statute even requires that the defendant be stopped four or more times with other gang members, quadrupling the proof required for each stop. We heard from one prosecutor who planned to call nine separate witnesses to meet his burden of proof that a defendant was an actual gang member. This needs to be simplified.

An excellent example of this problem was presented to us from a thwarted robbery at a bank a few months ago. In this real life example, a would-be robber was dressed in a jersey with the name of his gang written on it, was tattooed with gang markings, had eyebrow shavings indicating his affiliation with a gang, and “threw a gang hand sign” directly to the security camera. In our view, that should be sufficient proof that the man is a gang member. Under current law it is not sufficient.

According to witnesses, the man attempted to commit a robbery he planned with two other men who were in the bank lobby. Those men also wore gang jerseys and had shavings or tattoos indicating their gang affiliation. One stood by the door while the other milled about the lobby scribbling on a bank form as if he was actually filling out bank paperwork. A plain clothes detective was in the bank during his lunch break conducting personal banking

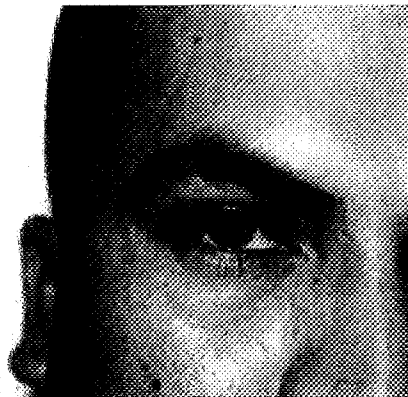
business and called for back-up when he saw these three men in gang jerseys go into the bank with a fourth man remaining inside a vehicle parked in front of the bank. Remarkably, even all of this evidence of gang affiliation is not sufficient under current law to prove the man in the photo was a gang member, since all of this evidence only partially meets criteria (d) above. Without evidence of where the man “resides” or “frequents” and without evidence that he associated with “known criminal street gang members” who must also be documented through the same multi-step process, law enforcement will not be able to satisfy the requirements of the statute. Certainly the legislature meant to capture the would-be robber below in the definition of gang member. The fact that the current law does not is simply ridiculous.⁸



Shown below are two close-up photos of the man in the surveillance picture above. One photo is of the right and the other of the left eyebrow where the shavings of one dash on one side and three dashes on the other indicated he was affiliated with a specific gang. While this type of shaving may appear subtle, it is very well known to gang investigators and gang members what this means. Over time, gangs change the ways they identify themselves and

⁸ After this person was arrested, federal immigration authorities deported him based on his immigration status.

statutes and the courts need to have the flexibility to adapt to the changes in gang culture over the years. These eyebrow shavings were not common when the statute was first written, but now are well documented.



We recognize and agree with the caution that has been applied to identifying gang members so as to avoid erroneously identifying a person simply wearing a specific hat or jersey, but that caution has been taken to the extreme.

We also heard testimony about another example that serves to demonstrate the shortcomings of the current statute. We heard testimony about a woman who attended a trial in August in West Palm Beach, Florida. She wore a heavy blue and white jacket. The witness suggested to us that this woman did not wear the heavy jacket because she was cold, but wore it inside and outside the courthouse on a hot August day because the gang colors on the jacket were a sign of solidarity to the gang member involved in the court proceeding. Under the current framework of 874.03(2)(d) this evidence of gang clothing in support of the gang would not even meet a single criterion. Under its current restrictions, she would also have to reside in a particular place, have tattoos, flash hand signs, and prove that she associates with known gang members. That is an unrealistic trial standard in order to meet a single criterion in 874.03(2)(d). Common sense must play a role in this determination instead of a formulaic approach driven by the current state of the law that creates unintended

loopholes for gang members who commit crimes. Wearing the jacket was not a crime, but let a jury decide if that gang gear was enough to meet one of the two required criteria should she be charged with a criminal act in furtherance of her gang. Remember, we do not ever mean to suggest that wearing the jacket in and of itself is her crime; however, if she robs a bank, allow law enforcement and prosecutors to produce that evidence to the jury and let the jury decide if that evidence meets a prong to satisfy sentencing enhancement for her gang membership.

b. Application of 874 in prison settings

We have also heard testimony about the difficulty associated with defining inmate gang members under Chapter 874. Presently one of the criteria under 874.03(2) allows a person who is stopped in the company of other organized criminal gang members to meet one of the criteria which defines a gang member. Corrections officers who have hundreds of gang members within their institutions have testified that they do not use Chapter 874 because of judicial concerns about the propriety of using it against someone who may be assigned to the same cell as a gang member. We have heard testimony that this criterion needs to distinguish between voluntary and involuntary associations. A general rule that might apply to inmates involuntarily assigned to share a cell is not the answer. Florida needs a rule that properly identifies gang inmates when they are seen voluntarily holding a gang meeting in the prison yard.

c. Constitutional issues

We are aware that the first enactment of Chapter 874 was challenged in the courts and found to be unconstitutional because it criminalized membership in gangs without requiring a

connection between criminal activity and gang membership.⁹ In 2001 changes to Chapter 874 were made to require a connection between the criminal activity and gang membership. We think that was a good change and will continue to provide a safeguard against the “accidental” gang member who is copying a hand sign or wearing a jersey. However, once a person goes forward and commits a crime for which he is charged as a gang member, he has entered into an area of lawbreaking and should be punished accordingly.

We have also been advised that the key sentencing provision related to the enhancement of gang members’ crimes may now pose constitutional problems because of recent federal sentencing cases that have been decided by the United States Supreme Court in *Apprendi* and *Blakely*. *Apprendi v. New Jersey*, 530 U.S. 466 (2000); *Blakely v. Washington*, 542 U.S. 296 (2004). Those cases stand for the proposition that judges may not enhance a sentence based on facts that have not been determined by a jury. Based on these cases it appears that the State must prove Florida’s gang enhancement to a jury, or a judge during a bench trial, rather than to a judge at sentencing as it is presently structured.

d. Requirements are excessive

Furthermore, we have heard testimony that there is some confusion among law enforcement as to whether or not one piece of evidence may satisfy two criteria at one time. That confusion should be clarified in the affirmative and allow for one piece of evidence to establish multiple criteria.

Another criterion in the current statute that seems to have been erroneously applied is statute 874.03(3) that requires a “pattern of criminal street gang activity.” Presently, this statute requires that a defendant commit multiple felonies thereby affecting multiple victims before the sentencing court may enhance his sentence recognizing his gang motives.

⁹ *State v. O.C.*, 748 So.2d 945 (Fla. 1999).

Whether a defendant has committed multiple felonies should really go more to the analysis of his criminal history than whether or not he is a gang member who committed a crime for his gang. Why should gang members get “free” crimes before they may be classified as gang members? Prosecutors should not have to explain to a gang member’s second and third victims that although it was obvious their attacker had been involved in criminal gang activity before, he was not punished as such because he did not have enough victims yet, but now their victimization has helped meet the required criterion of “pattern.” Florida statute 874 should not be an enhancement based on a person’s prior record; rather, this enhancement should be based on present criminal gang activity.

e. Benefit need not be financial

Statute 874.04 provides for an enhanced penalty upon a finding “that the defendant committed the charged offense for the purpose of benefiting, promoting, or furthering the interests of a criminal street gang...” Prosecutors and police from around the state have found some resistance from the courts in accepting that a gang member may be “benefiting, promoting, or furthering the interests of a criminal street gang” through non-monetary means. Actions that enhance a gang’s reputation are a benefit to the gang and thus actions taken for the purpose of enhancing a gang member’s or a gang’s reputation should qualify for an enhanced penalty. Gang investigators have told us that a reputation is vital in securing territory and in allowing a gang to continue its criminal enterprise without other gangs interfering or honest citizens trying to mobilize to take back their neighborhood.

We heard that reputation is often established by violence and fear. A gang will establish fear in rival gangs and in its own members. Gang members are often required to be “jumped-in;” that is, a new gang member is severely punched and kicked by other gang members as an

initiation. Female gang members have been initiated into the gang by being forced to have sex with multiple members of the gang, the horrific practice that gangs refer to as being “sexed in.” A new member may also be required to commit a crime to be a part of the gang. These crimes often involve violence towards another individual or gang. All of these are non-monetary acts. Non-monetary acts can enhance a gang member’s reputation in the gang and will enhance the gang’s general criminal reputation in the community. If a defendant injures or kills another gang member in his own gang in order to achieve a higher status within the gang and the community, this criminal act should meet the enhancement requirements since it benefited the gang member’s and the gang’s reputation. Financial benefit should not be the sole consideration.

f. Injunctions

The final component of Chapter 874 that we studied involves the civil law tool of injunctions as it has been adapted to various areas of criminal law. We heard from an Assistant City Attorney in Florida whose city is using civil injunctions in an attempt to protect neighborhoods and business owners who have been constantly harassed by gang activity in a specific area. These gang members consistently commit crimes in a given area, harass and intimidate neighbors, try to recruit new members, and in general threaten the quality of life for the law-abiding neighbors. Under current law, injunctions may be sought to stop that illicit behavior and to restore order to the neighborhood. The problem with the current law, however, is that a violation of a judicially entered injunction results in no immediate sanction against the violator. With gang members this is particularly emboldening and only serves to enhance the reputation of their entire enterprise. As it stands now, proving such a civil violation requires another notice and hearing in civil court and may

only result in a contempt sentence. Other areas of criminal law, notably domestic violence crimes, allow for an immediate criminal arrest if the officer witnesses a person in violation of the injunction. To give any real meaning to this powerful neighborhood protection tool, gang members must be subject to arrest for violation of injunctions.

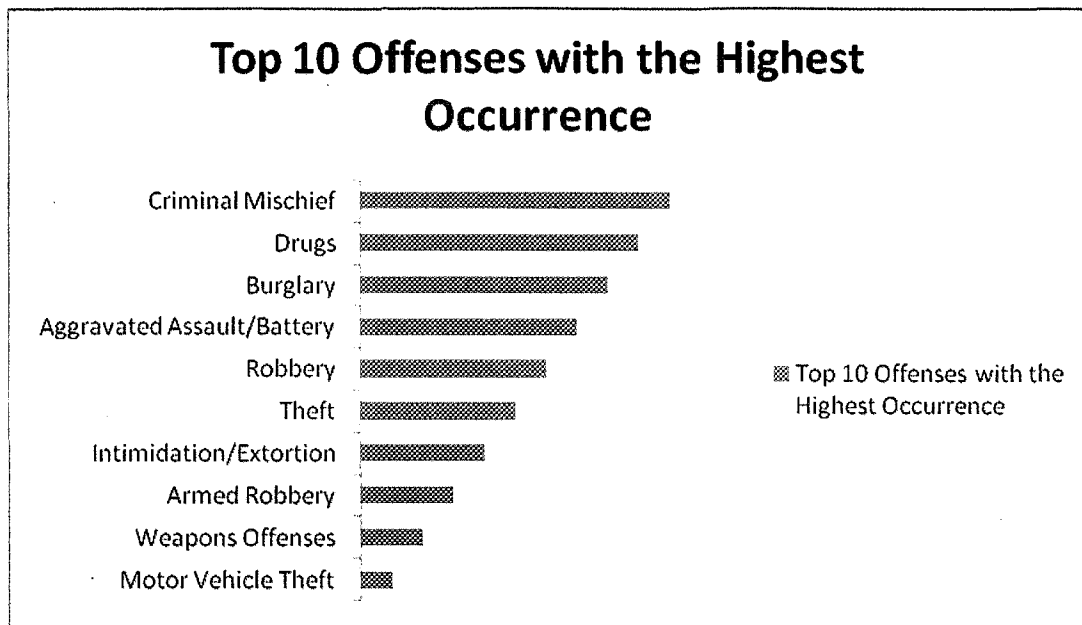
2. Racketeering statute fails to capture current activity

Gangs are becoming far more sophisticated and are developing new ways to recruit and commit crime. We have received testimony that a gang today may include a complex level of management and rules of operation. It is common for a gang to operate as an “enterprise” and thus a gang could be charged under the RICO statute. However, the RICO statute was not originally designed with prosecution of street gangs in mind; accordingly, many crimes committed by gangs are not listed as predicate offenses.

Florida’s RICO Chapter 895 is a vehicle to prosecute individuals committing crimes together in an organized fashion. RICO relies on the commission of multiple predicate offenses in order to establish a pattern of criminal activity. RICO would be a much more powerful and useful tool in prosecuting gangs if additional predicate offenses were included within statute 895.02 to capture typical street gang activities.

In addition we have heard that there has been some confusion as to whether a juvenile’s prior adjudication of delinquency can be used in proving a predicate offense. RICO’s usefulness in the gang context would be enhanced by creating statutory language to clarify the authority for using adjudications of delinquency to serve as predicate offenses. This is particularly true since the majority of gang members in Florida are juveniles.¹⁰

¹⁰ 2007 Statewide Gang Survey Results, page 22.



The chart above is based on information from the FDLE survey and demonstrates the most common gang crimes.¹¹ Burglary (except in limited circumstances), fleeing or eluding a law enforcement officer, and criminal mischief in relation to gang activity are not currently predicates under 895.02. Presently the only burglary predicate incident which qualifies is burglary of a dwelling or structure which involves the use of a motor vehicle as an instrumentality to assist in committing the crime, other than as a getaway vehicle, and damages the dwelling or structure, or if damage is caused to the dwelling or structure in excess of \$1,000. Burglaries are among the most common crimes committed by members of a gang and all burglaries, not just the current enumerated burglaries, need to be included as predicates. Proceeds from all such burglaries help to sustain a gang's criminal enterprise. Gangs have been known to establish an organizational structure for burglary offenses, including someone who directs what goods should be stolen, thieves who then steal the goods, and others who fence the goods.

¹¹ 2007 Statewide Gang Survey Results, page 26.

Fleeing to elude a law enforcement officer is another common offense committed by gang members.¹² These high speed car chases are dangerous to law enforcement officers and the citizens of the community who might be injured or killed during the flight of the defendant. Gang members are notorious for being anti-law enforcement. It is common for gang members to disobey the law, and a gang member whom police are attempting to stop is likely to flee in order to increase his reputation as a gangster who disobeys the law.

Graffiti is more than just an annoying eyesore to the community; according to testimony, it is one of the most common ways for gangs to mark their territory. When a gang indicates its presence in a community by committing acts of criminal mischief and defacing property, it causes a loss of value to the property. It also leads to increased tensions among rival gangs and to intimidation of law abiding citizens in the affected area. We received testimony that in the following series of photos, graffiti is also a form of communication used to insult rival gangs by crossing out the rival gang signs. The following is a series of photos taken over a single weekend. Below is the first photo claiming control by one gang of a specific area in Polk County, Florida.



¹² Although we heard that fleeing to elude is a common crime among gang members, it was omitted as a choice from the FDLE survey and is therefore not represented in the graph.

The next photo documents the same wall a short period of time later, in which a rival gang has defaced the first act of criminal mischief and created a new act of criminal mischief to demonstrate its own power in the same community. The graffiti by the rival gang soon leads to yet more criminal mischief when the first street gang reclaims its territory by marking out the rival gang.



This last photo from the same series shows the continuing pattern of criminal mischief that often leads to violence among the battling groups. Here a third rival gang has appeared and defaced the graffiti of the first and second gangs.



Graffiti, often called the “newspaper of the street,” is more than mere vandalism. It marks territory, intimidates law abiding citizens in the neighborhood, and, according to a number of witnesses who have testified before us, leads to feuds and killings. Another example of why criminal mischief needs to be added to Chapter 895, Florida Statutes, can be seen in the following photo. We received testimony that this graffiti occurred in Palm Beach County between rival gangs. The first gang painted their name on the fence using blue spray paint to represent their presence in the area. At the same time, they disrespected a rival gang using white spray paint. The rival gang’s leader sent a member on a “mission” to paint over the original graffiti. The gang member was caught in the act and arrested. The expert testified that the “187” which was painted over the rival gang’s name refers to the California penal code for homicide. Thus, the “187” over the name of the rival gang is an indication that one gang intended to kill the other gang.



Today, gangs have moved beyond the warehouse wall in spreading their graffiti. We have heard that given the advance of computers and technology, recruiting and territorial conflicts are also seeing a rise over the Internet. “MySpace” and other social networking sites have been used by gangs to boast about their activities and to recruit new members

while insulting rival gangs. Law enforcement has stated that Internet recruiting needs to be prohibited. We also heard testimony that additional Internet related crimes need to be made predicate offenses for a RICO charge.

3. Gang kingpin or leader

As it presently stands, the kingpin or leader of a gang does not receive any additional punishment for his role in the gang. Conventional wisdom would suggest that targeting the top tier of a gang will decrease the power of the gang and dismantle its activities. Both state and federal statutes commonly increase punishment for defendants who organize, direct, manage, or supervise criminal offenses. State statute 812.019(2) is an example whereby the legislature decided that the leader, financier, or organizer of dealing in stolen property should receive increased penalties. There exists a need to apply language similar to statute 812.019(2) in drafting a statute to target gang kingpins.

4. Repeat gang offender statute

Under Florida Statute 775.084, a defendant faces greater penalties if he meets certain repeat felony offender criteria. However, not all repeat felony offenders will qualify for a potential increase in sentencing range. The provisions under statute 775.084 require the last offense to have been committed within five years from the date of the current offense or for the offender to have been released from custody or supervision within that period of time. In addition, drug purchase and possession does not always qualify as a prior felony. An older gang member may have been committing crimes over his entire life but may not qualify as a repeat offender if he has not been sentenced or released from custody or supervision within the last five years from the date of his new offense. Given the fact that a RICO charge may include several years of activities and convictions within the charge itself, those crimes

would not qualify. In addition, we heard that gangs are commonly using drug sales to fund their gang activity. Gangs traffic in drugs and will fight to retain control over a drug territory. Therefore, drug possession or purchase should qualify under a repeat gang offender provision. A repeat gang offender statute would serve to punish those who continue to engage in criminal activities for the benefit of a gang. Longer sentences would serve to keep incarcerated those most active in a gang, deter them from continuing their criminal activity, and hopefully decrease the criminal gang activity overall.

5. Gangs and illegal guns

Gang members who choose to arm themselves and commit gun crimes should be sought out and punished using the most aggressive tactics as they are the most dangerous enemy plaguing our neighborhoods. We received evidence which shows that Florida is experiencing a rise in violent crime. When firearms are used by violent street gangs, the potential for deadly acts escalates. Approximately 80% of law enforcement agencies in the FDLE survey indicated that firearms were involved in gang related crimes.¹³

Table 13 – Firearms Involvement

Frequency Firearm Used	% Respondents
Often	24.1%
Sometimes	32.9%
Very little	24.1%
Not at all	19.0%

In addition, a national trend has indicated that gang members are joining military and law enforcement agencies in pursuit of advanced weapons and medical training. We have heard

¹³ 2007 Statewide Gang Survey Results, page 28.

from witnesses who testified that the military is actively guarding against this encroachment into their ranks. The military provides training in combat and firearm use that can be used against law enforcement which may have less firepower than the gang members. Military issued weapons, explosives, and body armor has been discovered by law enforcement during the arrest of gang members. Gangs are also trying to infiltrate law enforcement by participating in law enforcement academies.

According to evidence presented, gangs are associated with the rising violent crime rates in Florida. Gang members who use a firearm during the commission of a gang-related felony offense should be severely punished. While Florida already has tough laws to address gun crimes such as 10-20-Life, we feel a new statute or sentencing enhancement should be created which is specifically designed to punish gang members who illegally use guns.

C. WITNESS PROTECTION STATUTES NEED TO BE IMPROVED

Witness protection is a multi-faceted issue that begins before the time of arrest and continues through trial and even beyond appeal. It involves not just the witness but also that person's family. Since gang violence and neighborhood intimidation run hand in hand, witness intimidation is a critical issue for this Statewide Grand Jury to investigate. We have heard from investigators who routinely arrive at homicide scenes thronged with onlookers only to find that no one in the crowd witnessed anything. That wall of silence is not erected by a specific act but by the general concern that people put themselves in jeopardy to come forward and identify a criminal. We have been told that a person's constitutional right to confront the witnesses against him as provided for under the 6th Amendment of the United States Constitution has been extended in Florida when it comes to providing "discovery." "Discovery" generally requires that a prosecutor provide advance disclosure of witnesses'

names and addresses, along with any reports or statements that may exist. In addition, witnesses may be required to give sworn depositions that take place months prior to trial and the defendant will have the opportunity to review the statements when they are transcribed. Witnesses who understand the potential for threats, harm, and the realities of the criminal justice system are reluctant to come forward and identify a gang member.

In a perfect world, those extra steps would not pose an additional problem for witnesses, but the reality is very different. Dealing with the problems of witness intimidation is a regular part of gang prosecutions. Prosecutors from around the state have told us about instances of witnesses being intimidated or even killed. This danger is a fundamental attack not just on the witnesses who courageously come forward but on our judicial system as a whole. The legislature, law enforcement, and the courts must acknowledge this problem and confront it.

Because the risk runs throughout the process, we will address the issue in a chronological manner over the course of a typical judicial proceeding and discuss various areas that impact witness security.

1. Witness protection after arrest and bail

The first time that a defendant truly knows that he has been identified as the perpetrator is when he is arrested by the police and accused of a crime. After his arrest, he is booked into a detention facility and, pursuant to the Florida Constitution Article I, Section 14, Florida State Statute 903, and Florida Rules of Criminal Procedure 3.131, most defendants are entitled to post bail. In order to deal with routine cases and address jail overcrowding issues, we have been told that most counties have established a “standard” bond for particular crimes. In such cases, the defendant is permitted to post the standard bond prior to any hearing and prior

to any opportunity for the prosecutor to address the judge and to provide additional information that might be relevant to the court's determination of appropriate bond amount or bond conditions. The absence of an automatic mechanism throughout the state to provide for a defendant to be held for bond hearing is truly a missed opportunity for an initial step at witness protection. The judicial system needs to balance the right to bond along with the safety of witnesses so that when a gang member is released on bond he does not immediately track down and harm potential witnesses.

Another startling issue we have investigated is the fact that there is no current automatic prohibition restricting gang members from associating with other gang members while out on bond. When a defendant who is released on bond continues to associate with known gang members, he can use the gang association or communication to encourage witness harassment, intimidation, or harm. Rule 3.131(b)(1)(C) provides that a judge may place restrictions on "the travel, association, or place of abode of the defendant during the period of release" at first appearance. The Rule then allows for a mandatory restriction prohibiting a defendant from associating with other known gang members while out on bond.

When a gang defendant is released or even when he is in custody awaiting trial, he must decide his approach on witness intimidation. Will he rely on the reputation of his gang for violence to quiet any would-be witnesses or will he have to take a more aggressive tack? When he decides he must take a more direct approach and intimidate the witnesses against him through direct or third-party contact, he has decided to threaten dutiful citizens who have come forward out of civic responsibility, and he has determined that the downside of getting caught, arrested and prosecuted for that crime of tampering is worth the risk.

The current state of the law and the risk-reward incentives built into the sentencing structure in some ways seem to encourage witness intimidation or tampering. Florida State Statute 914.22 is titled "Tampering with a witness, victim, or informant." Law enforcement will continue to have problems finding cooperating witnesses as long as gang members are allowed to threaten anyone who testifies against them. Section 914.22 presently sets harassment of a witness as a first degree misdemeanor and if force, threats, or intimidation are used, then the crime is a third degree felony. For a gang member, the prospect of facing such a low level crime may be of little concern when compared to the original charges pending. The severity level for witness tampering or intimidation should be tied to the underlying crime for which the original defendant is awaiting trial. The current witness tampering laws are no longer sufficient to handle the developing culture of witness intimidation.

2. Witness protection pending trial

Once a witness has been tampered with, he is eligible for relocation and limited state protective services. Florida State Statute 914.25 is titled "Protective services for certain victims and witnesses." This statute allows a law enforcement agency to "provide protective services, including temporary relocation services to a victim or witness at risk of harm." Law enforcement may provide protective services for a maximum of four years if the witness is certified and recertified annually as a victim or witness who is at risk of harm. To be certified, the witness must be deemed critical by the prosecutor. The law enforcement agency may then provide the protective services but must do so at its own expense. Reimbursement for the protective services must then be applied for through the Victim and Witness Protection Review Committee, pursuant to statute 943.031. Law enforcement has

no guarantee that they will receive reimbursement. Furthermore, we have heard that some small law enforcement agencies may not have the money to fund witness relocation up front. In order for gang prosecution to be effective, the State must assure witnesses that significant steps are being taken to prevent harm against them. Witness relocation may be the only avenue to provide the necessary protection. Prosecutors and police have told us that witness protection funding must be available through a more effective process so that they can take immediate action in these very critical situations.

Another source of concern for some prosecutors familiar with the program is that there is no organized mechanism to follow up with program participants to assure their appearance at trial. There were reports that once a witness has been moved out of the threat area, they start a new life and have no interest in returning to the danger of the life in their old neighborhood as a known witness. Although that is understandable, it fails to meet the overarching state interest of securing convictions for violent offenders.

D. VALUABLE DATA MUST BE COLLECTED AND SHARED

1. No standard statewide collection practices for data

According to the Tenth Statewide Grand Jury, "it is evident that a statewide youth and gang computer database needs to be established with mandatory reporting from all law enforcement agencies in the State of Florida." As a result of this recommendation by the Tenth Statewide Grand Jury, FDLE was assigned the responsibility of carrying out legislation designed to implement this recommendation. "InSite" was chosen as the statewide database. Law enforcement has told us the need for a centralized database is now stronger than ever. However, law enforcement, DJJ, and DOC may each collect data in their own database using different standards. Agencies gathering information on gangs have

invested money into their own database system that is separate from InSite. Putting data into InSite after it has been stored in an agency's own database requires redundant and time consuming work. Because InSite needs detailed information about the activities of a gang member or gang, an investigator or an analyst will spend additional time inputting data rather than attending to his or her other responsibilities. Some agencies have been reluctant to input data into InSite because they already use their own database and InSite would require additional responsibilities for a law enforcement officer who is already short on time. While InSite could provide a standard statewide collection practice, figuring out how it can be implemented throughout every law enforcement agency presents a challenge.

2. No current requirement to share data once collected

Florida has seen an immigration of national gangs from all over the United States. Florida also has a large number of local gangs that are unique to one particular city or area. As gang members move and relocate around Florida, it is necessary that agencies share information with one another. If DOC is aware a gang member is being released and moving to Hillsborough, then the Hillsborough County Sheriff's Office should be notified and information about the gang member shared. Likewise, if the gang member then moves to West Palm, the Palm Beach Sheriff's Office should be notified and data about this gang member should be shared. We have heard testimony that sharing information would allow law enforcement to identify the presence of new gang members in their communities.

From what we have heard, sharing gang information could also be useful if a gang member commits a crime in a county outside his local area. A gang member may travel because he is partnering up with another gang or because a criminal episode is being committed outside his normal area. Since drug trafficking requires a lot of movement, gangs

often travel across different jurisdictions. Today, more and more gangs are joining forces to accomplish their needs. There are instances in which gangs who were traditionally enemies join forces for the mutual benefit of a larger purpose such as drug trafficking.

Information collected by DJJ, DOC, and all law enforcement agencies across the state should be stored in one centralized database. All agencies that collect data on gangs and gang members should be required to share the data collected with all agencies across the state since we heard testimony from law enforcement that some agencies have been reluctant to do so on their own.

3. No formal coordinated structure to facilitate the sharing of this data once collected

Although FDLE's InSite program is an excellent database that has been demonstrated to us, we note that there is no formal structure to serve as a manned clearinghouse. We have heard that gangs continue to adapt over time and develop new techniques. In order to keep up with these changes, law enforcement has testified that there needs to be a statewide office established to coordinate law enforcement's efforts. Some parts of the country have formalized this idea into what is called a "fusion center." We heard testimony about "fusion centers" located in a few cities around the U.S. that partner both state and federal investigators from a number of disciplines including corrections and law enforcement to maximize response to gang activity. Witnesses told us this would be a tremendous help to their investigations and to prosecutions.

4. No mandatory registry requirement for adjudicated gang members

A convicted sex offender in Florida is required to register with state agencies to ensure his whereabouts are well documented and known. This is an aid to law enforcement and to the sex offender's community. Gang members who have been adjudicated as such by the

court should also have to be placed on a registry. Unlike the sex offender registry that is a very public proclamation, the gang registry should be a list only available to law enforcement because of the nature of gang life that gang members would strive to achieve the prestige of being listed on a state gang member registry.

Registration and re-registration requirements upon relocating will allow law enforcement the ability to know the whereabouts of a gang member for a relevant period of time. Unlike a sex offender this need not be a lifetime listing, but should be listed for a period of time with a provision for an extension if appropriate. This registry information should be accessible in a law enforcement database, but also should be listed on a driver's license or state identification card so that any officer who approaches a person who is listed on the registry will immediately know the situation and can take appropriate precautions. We heard testimony that this information would be invaluable and particularly life saving if it is linked to license plate registration data.

E. PUBLIC EDUCATION AND TRAINING

We were amazed at the testimony of some officers that they had been directed not to use the term "gang" because their local elected officials did not want to admit the presence of gangs in their cities. While that specific situation has now changed, it speaks to a larger problem that affects all of Florida. We are in the midst of a battle for our streets and for the future of our children. If we are to stop the violence and gang recruiting, we must first acknowledge that we have let our guard down and allowed gang culture and gang violence to grow over the years. We have spent months learning about this problem and now see it for the domestic terrorism threat that it poses. Without greater education on the issue, decision

makers and casual observers alike will see occasional headlines without recognizing the pervasive problem gangs have become.

We recognize and applaud the efforts of those in the community and law enforcement arena who are already taking steps to better educate themselves. This is particularly true of the leadership shown by the Florida Gang Investigators Association. This type of effort needs to be extended to all community schools, law enforcement, local and state government, and the judicial system within our state. However, no strategy to combat gangs and gang activity would be complete without also educating the public on the importance of deterring gang activity and training the public on what they can do to stop the present trend. We have watched video clips and seen other evidence that many in our society endorse and even embrace the gangster lifestyle. The views of society must change if we are to stop the youth from joining gangs. Clearly we are glamorizing the gangster lifestyle when a self-professed gangster can be seen endorsing not only his music, but also high end merchandise such as luxury vehicles. The public must become educated on the dangers of promoting this lifestyle.

Punishment will only go so far. We must work together as a society to deter gang membership and rehabilitate those who have already joined. We intend to address public education and training in more detail in our next report. With that in mind, we turn to our recommendations.

➤ RECOMMENDATIONS

- I. **Funding and commitments must be made for law enforcement and State Attorneys that allow for experienced and trained gang investigators and prosecutors who implement an investigator-prosecutor approach within dedicated gang units. Gang prosecutors, investigators, school resource officers, on-site school juvenile probation officers, and analysts must be funded in every circuit. Additionally, training and funding should be allocated to support the creation of specialized judicial divisions to focus on gang prosecutions much like specialized divisions have been created for domestic violence, juvenile and career criminals.**

- II. **Florida Statute Chapter 874 must be redrafted and modified in order for Prosecutors to enhance a defendant's sentence.**
 - i. **A “[c]riminal street gang member” under statute 874.03(2) must be redrafted so that it is more clear and usable by prosecutors. It is recommended that the statute be redrafted to state as follows:**
 - (2) **“Criminal street gang member” is a person who is a member of a criminal street gang as defined in subsection (1) and who meets two or more of the following criteria:**
 - (a) **Admits to gang membership.**
 - (b) **Is identified as a criminal gang member by parent or guardian.**
 - (c) **Is identified as a criminal gang member by a documented reliable informant.**
 - (d) **Adopts the style of dress of known criminal gang members.**
 - (e) **Adopts use of hand signs of known criminal gang members.**
 - (f) **Wears tattoos of known criminal gang members.**
 - (g) **Associates with known criminal gang members.**
 - (h) **Is identified as a criminal gang member by physical evidence.**

 - ii. **Under chapter 874.03(2), a paragraph should be written which states that it is the intent of the legislature to allow a single piece of evidence or a single incident to prove more than one criteria.**

 - iii. **“Pattern of gang activity” is defined under statute 874.03(3) and is required under statute 874.03(1) in defining a “criminal street gang.” Section 874.03(3) should be redrafted so that the definition of “pattern of gang activity” is less limiting and is not based on a defendant's prior convictions.**

 - iv. **Section 874.04 allows for enhanced penalties upon a finding that the defendant committed the charged offense “for the purpose of benefiting, promoting, or furthering the interests of a criminal street gang...” The legislature should clarify that proof of “benefiting, promoting, or furthering the interests of a criminal street**

gang” includes non-monetary benefits including but not limited to gaining credibility, status, or reputation.

v. Section 874.04 allows for the enhanced penalty provisions to be enhanced upon a finding by the court at sentencing once proven by a preponderance of the evidence. This appears to be unconstitutional as it would enhance the potential penalty beyond the statutory maximum without having the issue determined by a jury. Therefore, statute 874.04 must be reworded to require a jury finding of the enhanced penalty using the beyond a reasonable doubt standard.

III. The legislature should create a provision under Ch. 874 which creates a criminal offense for Gang Injunction Violation.

IV. The legislature should add a three year registry requirement for defendants who have been adjudicated as gang members under Ch. 874 and make failure to register by a convicted gang member a third degree felony. Registered gang members under this provision should not be published outside of law enforcement records. A convicted gang member under Ch. 874 will be required to have his or her driver’s license indicate that he is a registered gang offender.

V. Convicted gang members who are in possession of a firearm should receive an additional enhancement under Ch. 874.

VI. Create additional qualifying predicate offenses under the RICO statute c. 895. Additional predicates should include:

- i. Fleeing and Eluding**
- ii. Criminal Mischief (including gang graffiti)**
- iii. Burglary – all sections**
- iv. Gang Injunction Violation**
- v. Failure to Register as Ch. 874 Offender**
- vi. Sexual Battery, Ch. 794, and Lewd & Lascivious crimes, Ch. 800, pursuant to gang initiation.**

VII. It should be clarified in statutes that juvenile adjudications of delinquency may serve as predicate offenses for a RICO charge.

VIII. A gang kingpin provision should be created that mirrors the dealing in stolen property statute for anyone who “manages or directs” gang activity.

IX. A defendant who commits a felony and qualifies under Ch. 874 who has three prior felonies on separate sentencing dates should be eligible to receive a more severe punishment as a repeat gang offender.

X. Convicted felons who are prohibited from owning guns must also be prohibited from owning, possessing or using bullet proof vests.

XI. The legislature should recommend that the Florida Bar Rules Committee and the Supreme Court consider the creation of a Rule of Criminal Procedure similar to Federal Rule 35(b) to allow for mitigated sentences beyond sixty days for gang members who cooperate with law enforcement against their fellow gang members.

XII. Witness protection must be improved by creating a new bond structure for gang defendants. If a judicial circuit has a standard bond schedule, the standard bond should be doubled for any offense committed by a gang member. A gang member who is out on bond should be prohibited from contact with known gang members or witnesses. Prior to a gang member's release on bond, the State should be given a mandatory opportunity to be heard at first appearance before the bond is set.

XIII. Witness protection programs must be made more useful. Funding should be made available for witness protection in a manner that will encourage its use. A program through FDLE or State Attorney's Offices should be created that supports relocated witnesses with housing, jobs, and counseling. A victim/witness program should be created which allows a person to establish a new identity under special circumstances. Law enforcement must be made aware of all witness protection programs.

XIV. Witness intimidation and tampering statutes must be strengthened in instances in which a defendant who is charged with an offense attempts to tamper with or intimidate a witness. The crime of witness intimidation or tampering should be the same felony offense level as the most serious underlying offense and one level higher on the severity ranking chart than the most serious underlying offense. The bond amount for witness intimidation or tampering should be higher than the bond amount for the underlying charge. A third party who is charged with witness tampering or intimidation should receive the bond amount, felony offense level, and severity ranking in the case against the original defendant in cases where the bond amount, felony offense level, and severity ranking would be higher if this step-up were used.

XV. Data collection and sharing must be improved across the State of Florida. A Gang Fusion Center should be created at an already existing law enforcement facility to gather, evaluate, and disseminate data to the law enforcement on the street, adult and juvenile probation officers, and to prosecutors so that they may make real use of the information. The Center shall be staffed by state and federal agents from police, sheriffs, corrections, school resource officers, analysts and immigration agents. Data collection must be standardized and streamlined on a new FDLE Gang Form which is used by all law enforcement. InSite must be used and populated by all law enforcement. All departments seeking grant funding must be required to participate in InSite data program. Registration information for a convicted gang member must be collected. A defendant will be required to pay the fee for registration.

XVI. The legislature should adopt laws to severely punish gang offenders who commit gun crimes. Convicted felons who are gang members and commit any gun crime should face lengthy prison terms.

➤ **CERTIFICATION OF REPORT**

THIS REPORT IS RESPECTFULLY SUBMITTED in Open Court to the Honorable Kathleen Kroll, Presiding Judge of the Eighteenth Statewide Grand Jury, this 12th day of December, 2007.



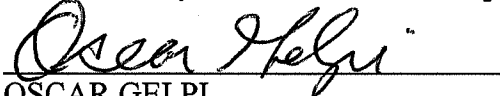
Juror #110
Foreperson
Eighteenth Statewide Grand Jury of Florida

I, WILLIAM N. SHEPHERD, Statewide Prosecutor and Legal Adviser, Eighteenth Statewide Grand Jury of Florida, hereby certify that I, as authorized and required by law, have advised the Grand Jury which returned this report on this 12 day of December, 2007.



WILLIAM N. SHEPHERD
Statewide Prosecutor
Legal Adviser

I, OSCAR GELPI, Special Counsel and Assistant Legal Adviser, Eighteenth Statewide Grand Jury of Florida, hereby certify that I, as authorized and required by law, have advised the Grand Jury which returned this report on this 12 day of December, 2007.



OSCAR GELPI
Special Counsel
Assistant Legal Adviser

I, MICHAEL W. SCHMID, Assistant Statewide Prosecutor and Assistant Legal Adviser, Eighteenth Statewide Grand Jury of Florida, hereby certify that I, as authorized and required by law, have advised the Grand Jury which returned this report on this 12th day of December, 2007.



MICHAEL W. SCHMID
Assistant Statewide Prosecutor
Assistant Legal Adviser

THE FOREGOING Interim Report was returned before me in Open Court this 12 day of December, 2007, and is hereby sealed until further order of this Court, upon proper motion of the Statewide Prosecutor.



HONORABLE KATHLEEN KROLL
Chief Judge of the Fifteenth Judicial Circuit
Presiding Judge
Eighteenth Statewide Grand Jury of Florida

➤ APPENDIX A

FLORIDA'S CRIMINAL STREET GANG ACT

§ 874.01. Short title

This chapter may be cited as the "Criminal Street Gang Prevention Act of 1996."

§ 874.02. Legislative findings and intent

(1) The Legislature finds that it is the right of every person, regardless of race, color, creed, religion, national origin, sex, age, sexual orientation, or handicap, to be secure and protected from fear, intimidation, and physical harm caused by the activities of criminal street gangs and their members. It is not the intent of this chapter to interfere with the exercise of the constitutionally protected rights of freedom of expression and association. The Legislature recognizes the constitutional right of every citizen to harbor and express beliefs on any lawful subject whatsoever, to lawfully associate with others who share similar beliefs, to petition lawfully constituted authority for a redress of perceived grievances, and to participate in the electoral process.

(2) The Legislature finds, however, that the state is facing a mounting crisis caused by criminal street gangs whose members threaten and terrorize peaceful citizens and commit a multitude of crimes. These criminal street gang activities, both individually and collectively, present a clear and present danger. The state has a compelling interest in preventing criminal street gang activity, and the Legislature finds that the provisions of this act are necessary to maintain the public order and safety.

(3) It is the intent of the Legislature to eradicate the terror created by criminal street gangs and their members by providing enhanced penalties and by eliminating the patterns, profits, proceeds, instrumentalities, and property facilitating criminal street gang activity, including criminal street gang recruitment.

§ 874.03. Definitions

As used in this chapter:

(1) "Criminal street gang" means a formal or informal ongoing organization, association, or group that has as one of its primary activities the commission of criminal or delinquent acts, and that consists of three or more persons who have a common name or common identifying signs, colors, or symbols and have two or more members who, individually or collectively, engage in or have engaged in a pattern of criminal street gang activity.

(2) "Criminal street gang member" is a person who is a member of a criminal street gang as defined in subsection (1) and who meets two or more of the following criteria:

(a) Admits to criminal street gang membership.

(b) Is identified as a criminal street gang member by a parent or guardian.

(c) Is identified as a criminal street gang member by a documented reliable informant.

(d) Resides in or frequents a particular criminal street gang's area and adopts their style of dress, their use of hand signs, or their tattoos, and associates with known criminal street gang members.

(e) Is identified as a criminal street gang member by an informant of previously untested reliability and such identification is corroborated by independent information.

(f) Has been arrested more than once in the company of identified criminal street gang members for offenses which are consistent with usual criminal street gang activity.

(g) Is identified as a criminal street gang member by physical evidence such as photographs or other documentation.

(h) Has been stopped in the company of known criminal street gang members four or more times.

(3) "Pattern of criminal street gang activity" means the commission or attempted commission of, or solicitation or conspiracy to commit, two or more felony or three or more misdemeanor offenses, or one felony and two misdemeanor offenses, or the comparable number of delinquent acts or violations of law which would be felonies or misdemeanors if committed by an adult, on separate occasions within a 3-year period.

(4) For purposes of law enforcement identification and tracking only:

(a) "Criminal street gang associate" means a person who:

1. Admits to criminal street gang association; or
2. Meets any single defining criterion for criminal street gang membership described in subsection (2).

(b) "Gang-related incident" means an incident that, upon investigation, meets any of the following conditions:

1. The participants are identified as criminal street gang members or criminal street gang associates, acting, individually or collectively, to further any criminal purpose of the gang;
2. A reliable informant identifies an incident as criminal street gang activity; or
3. An informant of previously untested reliability identifies an incident as criminal street gang activity and it is corroborated by independent information.

§ 874.04. Criminal street gang activity; enhanced penalties

Upon a finding by the court at sentencing that the defendant committed the charged offense for the purpose of benefiting, promoting, or furthering the interests of a criminal street gang, the penalty for any felony or misdemeanor, or any delinquent act or violation of law which would be a felony or misdemeanor if committed by an adult, may be enhanced. Each of the findings required as a basis for such sentence shall be found by a preponderance of the evidence. The enhancement will be as follows:

(1) (a) A misdemeanor of the second degree may be punished as if it were a misdemeanor of the first degree.

(b) A misdemeanor of the first degree may be punished as if it were a felony of the third degree. For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, such offense is ranked in level 1 of the offense severity ranking chart. The criminal street gang multiplier in s. 921.0024 does not apply to misdemeanors enhanced under this paragraph.

(2) (a) A felony of the third degree may be punished as if it were a felony of the second degree.

(b) A felony of the second degree may be punished as if it were a felony of the first degree.

(c) A felony of the first degree may be punished as if it were a life felony.

For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, such felony offense is ranked as provided in s. 921.0022 or s. 921.0023, and without regard to the penalty enhancement in this subsection. For purposes of this section, penalty enhancement affects the applicable statutory maximum penalty only.

§ 874.05. Causing, encouraging, soliciting, or recruiting criminal street gang membership

(1) A person who intentionally causes, encourages, solicits, or recruits another person to join a criminal street gang that requires as a condition of membership or continued membership the commission of any crime commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Upon a second or subsequent offense, the person commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

§ 874.06. Civil cause of action

A person or organization establishing, by clear and convincing evidence, coercion, intimidation, threats, or other harm to that person or organization in violation of this chapter

has a civil cause of action for treble damages, an injunction, or any other appropriate relief in law or equity. Upon prevailing, the plaintiff may recover reasonable attorney's fees and costs.

§ 874.08. Profits, proceeds, and instrumentalities of criminal street gangs or criminal street gang recruitment; forfeiture

All profits, proceeds, and instrumentalities of criminal street gang activity and all property used or intended or attempted to be used to facilitate the criminal activity of any criminal street gang or of any criminal street gang member; and all profits, proceeds, and instrumentalities of criminal street gang recruitment and all property used or intended or attempted to be used to facilitate criminal street gang recruitment are subject to seizure and forfeiture under the Florida Contraband Forfeiture Act, s. 932.704.

§ 874.09. Crime data information

The Department of Law Enforcement may develop and manage a statewide criminal street gang database to facilitate the exchange of information pursuant to the intent and purpose of this chapter.

➤ **APPENDIX B**

FLORIDA'S RICO STATUTE

§ 895.01. Short title

Sections 895.01-895.06 shall be known as the "Florida RICO (Racketeer Influenced and Corrupt Organization) Act."

§ 895.02. Definitions

As used in ss. 895.01-895.08, the term:

(1) "Racketeering activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(a) Any crime that is chargeable by indictment or information under the following provisions of the Florida Statutes:

1. Section 210.18, relating to evasion of payment of cigarette taxes.
2. Section 403.727(3)(b), relating to environmental control.
3. Section 409.920 or s. 409.9201, relating to Medicaid fraud.
4. Section 414.39, relating to public assistance fraud.
5. Section 440.105 or s. 440.106, relating to workers' compensation.
6. Section 443.071(4), relating to creation of a fictitious employer scheme to commit unemployment compensation fraud.
7. Section 465.0161, relating to distribution of medicinal drugs without a permit as an Internet pharmacy.
8. Sections 499.0051, 499.0052, 499.00535, 499.00545, and 499.0691, relating to crimes involving contraband and adulterated drugs.
9. Part IV of chapter 501, relating to telemarketing.
10. Chapter 517, relating to sale of securities and investor protection.
11. Section 550.235, s. 550.3551, or s. 550.3605, relating to dog racing and horseracing.
12. Chapter 550, relating to jai alai frontons.

13. Section 551.109, relating to slot machine gaming.
14. Chapter 552, relating to the manufacture, distribution, and use of explosives.
15. Chapter 560, relating to money transmitters, if the violation is punishable as a felony.
16. Chapter 562, relating to beverage law enforcement.
17. Section 624.401, relating to transacting insurance without a certificate of authority, s. 624.437(4)(c)1., relating to operating an unauthorized multiple-employer welfare arrangement, or s. 626.902(1)(b), relating to representing or aiding an unauthorized insurer.
18. Section 655.50, relating to reports of currency transactions, when such violation is punishable as a felony.
19. Chapter 687, relating to interest and usurious practices.
20. Section 721.08, s. 721.09, or s. 721.13, relating to real estate timeshare plans.
21. Chapter 782, relating to homicide.
22. Chapter 784, relating to assault and battery.
23. Chapter 787, relating to kidnapping or human trafficking.
24. Chapter 790, relating to weapons and firearms.
25. Section 796.03, s. 796.035, s. 796.04, s. 796.045, s. 796.05, or s. 796.07, relating to prostitution and sex trafficking.
26. Chapter 806, relating to arson.
27. Section 810.02(2)(c), relating to specified burglary of a dwelling or structure.
28. Chapter 812, relating to theft, robbery, and related crimes.
29. Chapter 815, relating to computer-related crimes.
30. Chapter 817, relating to fraudulent practices, false pretenses, fraud generally, and credit card crimes.
31. Chapter 825, relating to abuse, neglect, or exploitation of an elderly person or disabled adult.
32. Section 827.071, relating to commercial sexual exploitation of children.

33. Chapter 831, relating to forgery and counterfeiting.
34. Chapter 832, relating to issuance of worthless checks and drafts.
35. Section 836.05, relating to extortion.
36. Chapter 837, relating to perjury.
37. Chapter 838, relating to bribery and misuse of public office.
38. Chapter 843, relating to obstruction of justice.
39. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or s. 847.07, relating to obscene literature and profanity.
40. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s. 849.25, relating to gambling.
41. Chapter 874, relating to criminal street gangs.
42. Chapter 893, relating to drug abuse prevention and control.
43. Chapter 896, relating to offenses related to financial transactions.
44. Sections 914.22 and 914.23, relating to tampering with a witness, victim, or informant, and retaliation against a witness, victim, or informant.
45. Sections 918.12 and 918.13, relating to tampering with jurors and evidence.

(b) Any conduct defined as "racketeering activity" under 18 U.S.C. s. 1961(1).

(2) "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in this state in whole or in part because the debt was incurred or contracted:

(a) In violation of any one of the following provisions of law:

1. Section 550.235, s. 550.3551, or s. 550.3605, relating to dog racing and horseracing.
2. Chapter 550, relating to jai alai frontons.
3. Section 551.109, relating to slot machine gaming.
4. Chapter 687, relating to interest and usury.
5. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s. 849.25, relating to gambling.

(b) In gambling activity in violation of federal law or in the business of lending money at a rate usurious under state or federal law.

(3) "Enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, union chartered under the laws of this state, or other legal entity, or any unchartered union, association, or group of individuals associated in fact although not a legal entity; and it includes illicit as well as licit enterprises and governmental, as well as other, entities. A criminal street gang, as defined in s. 874.03, constitutes an enterprise.

(4) "Pattern of racketeering activity" means engaging in at least two incidents of racketeering conduct that have the same or similar intents, results, accomplices, victims, or methods of commission or that otherwise are interrelated by distinguishing characteristics and are not isolated incidents, provided at least one of such incidents occurred after the effective date of this act and that the last of such incidents occurred within 5 years after a prior incident of racketeering conduct.

(5) "Documentary material" means any book, paper, document, writing, drawing, graph, chart, photograph, phonorecord, magnetic tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into usable form, or other tangible item.

(6) "RICO lien notice" means the notice described in s. 895.05(12) or in s. 895.07.

(7) "Investigative agency" means the Department of Legal Affairs, the Office of Statewide Prosecution, or the office of a state attorney.

(8) "Beneficial interest" means any of the following:

(a) The interest of a person as a beneficiary under a trust established pursuant to s. 689.07 or s. 689.071 in which the trustee for the trust holds legal or record title to real property;

(b) The interest of a person as a beneficiary under any other trust arrangement pursuant to which a trustee holds legal or record title to real property for the benefit of such person; or

(c) The interest of a person under any other form of express fiduciary arrangement pursuant to which any other person holds legal or record title to real property for the benefit of such person.

The term "beneficial interest" does not include the interest of a stockholder in a corporation or the interest of a partner in either a general partnership or a limited partnership. A beneficial interest shall be deemed to be located where the real property owned by the trustee is located.

(9) "Real property" means any real property or any interest in such real property, including, but not limited to, any lease of or mortgage upon such real property.

(10) "Trustee" means any of the following:

(a) Any person acting as trustee pursuant to a trust established under s. 689.07 or s. 689.071 in which the trustee holds legal or record title to real property.

(b) Any person who holds legal or record title to real property in which any other person has a beneficial interest.

(c) Any successor trustee or trustees to any or all of the foregoing persons.

However, the term "trustee" does not include any person appointed or acting as a personal representative as defined in s. 731.201(27) or appointed or acting as a trustee of any testamentary trust or as a trustee of any indenture of trust under which any bonds have been or are to be issued.

(11) "Criminal proceeding" means any criminal proceeding commenced by an investigative agency under s. 895.03 or any other provision of the Florida RICO Act.

(12) "Civil proceeding" means any civil proceeding commenced by an investigative agency under s. 895.05 or any other provision of the Florida RICO Act.

§ 895.03. Prohibited activities and defense

(1) It is unlawful for any person who has with criminal intent received any proceeds derived, directly or indirectly, from a pattern of racketeering activity or through the collection of an unlawful debt to use or invest, whether directly or indirectly, any part of such proceeds, or the proceeds derived from the investment or use thereof, in the acquisition of any title to, or any right, interest, or equity in, real property or in the establishment or operation of any enterprise.

(2) It is unlawful for any person, through a pattern of racketeering activity or through the collection of an unlawful debt, to acquire or maintain, directly or indirectly, any interest in or control of any enterprise or real property.

(3) It is unlawful for any person employed by, or associated with, any enterprise to conduct or participate, directly or indirectly, in such enterprise through a pattern of racketeering activity or the collection of an unlawful debt.

(4) It is unlawful for any person to conspire or endeavor to violate any of the provisions of subsection (1), subsection (2), or subsection (3).



COUNCIL MEETING REPORT

Safety & Security Council

1/23/2008 3:15:00PM

Location: Reed Hall (102 HOB)

Other Business Appearance:

Cybercrime

Bill Ashworth, Director, State Government Affairs (Lobbyist) - Information Only

Yahoo!

444 N Capitol St

Washington DC

Phone: 202-777-1048

Cybercrime

John Cardillo, CEO - Information Only

Sentinel

1331 Brickell Bay Dr, Apt 2507

Miami FL

Phone: 305-499-5938

Presentation by Statewide Prosecutor on 18th Statewide Grand Jury report on Criminal Gangs and Gang Related Violence

William Shepherd, Statewide Prosecutor - Information Only

Attorney General Bill McCollum

PL -01 The Capitol

Tallahassee FL 32399

Phone: 850-245-0155

Committee meeting was reported out: Thursday, January 24, 2008 8:43:01AM

COUNCIL MEETING REPORT

Safety & Security Council

1/23/2008 3:15:00PM

Location: Reed Hall (102 HOB)

Summary:

Safety & Security Council

Wednesday January 23, 2008 03:15 pm

HB 29 Favorable with Council Substitute

Yeas: 14 Nays: 0

HB 43 Favorable with Council Substitute

Yeas: 16 Nays: 0

Committee meeting was reported out: Thursday, January 24, 2008 8:43:01AM