



# Task Force to Study Maryland's Criminal Gang Statutes Meeting Minutes

Judicial Conference Room  
Montgomery County Judicial Center, North Tower  
50 Maryland Avenue, Rockville, Maryland 20850 (Third Floor)  
Monday, July 22, 2019, 9:30 a.m.

**Members in Attendance:** Senator Michael Hough, Maryland Senate; Delegate Jesse Pippy, Maryland House of Delegates; Delegate Wanika Fisher, Maryland House of Delegates; Bill Sage, Department of Public Safety and Correctional Services (DPSCS); Mary Siegfried, Esq., Office of the Public Defender; Toni Holness, American Civil Liberties Union; Robin Brady-Slifer, Department of Juvenile Services; James Trusty, Esq., Ifrah Law PLLC; Lt. Colonel David Ruel, Maryland State Police; Carl J. Kotowski, Governor's Office of Crime Control and Prevention (GOCCP); and Judge William Tucker, Maryland Judiciary.

**Members Not in Attendance:** Senator William C. Smith, Jr., Maryland Senate; Katie Dorian, Attorney General's Office; Nicole Hanson, Out for Justice; Michael Yeagy, Maryland Retailers Association; Anthony McNeil, Farming4Hunger; Scott Shellenberger, Baltimore County State's Attorney's Office; and Chief Henry P. Stawinski III, Prince George's County Police Department.

**Other Guests in Attendance:** Captain Michael D. Moore, DPSCS; Ricardo Flores, Office of the Public Defender; Conor McCarthy, Department of Legislative Services; Assistant State's Attorney (ASA) Patrick Mays, Montgomery County State's Attorney's Office; ASA Kelly McGann, Montgomery County State's Attorney's Office; ASA Gordon King, Montgomery County State's Attorney's Office; Don Hogan, GOCCP; Rachel Kesselman, GOCCP; State's Attorney John McCarthy, Montgomery County State's Attorney's Office; Steven Clark, Legislative Aide for Senator Hough; Danny Pletcher, GOCCP; Melanie Shapiro, Office of the Public Defender; and Ryan Turner, Community Law in Action (CLIA).

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## **Welcome by Senator Michael Hough**

Senator Hough called the meeting to order at 9:40 a.m. as he welcomed everyone to the third *Task Force to Study Maryland's Criminal Gang Statutes* (Task Force) meeting. He thanked Montgomery County for hosting the meeting and for providing refreshments. Senator Hough mentioned that the fourth meeting will occur in September in Prince George's County. He added that the fifth meeting will occur in October or November in Frederick County, and the final meeting to "wrap-up" the Task Force's recommendations and findings will occur in December in Annapolis. He also welcomed members to provide suggestions.



## Introductions of Gang Task Force Members

Senator Hough invited members and guests to introduce themselves.

## Approval of Meeting Minutes

Senator Hough mentioned the draft minutes from the April meeting and asked if any changes were needed. He then asked for a motion to approve the minutes. A motion was made to adopt the minutes which was seconded by Delegate Fisher, and approved without any edits or additions.

## Presentations

### Gang Statute and Criminal Laws

Senator Hough invited Mary Siegfried, Esq., to present on the gang statute and criminal laws from the perspective of the Office of the Public Defender. Ms. Siegfried directed everyone's attention to a PowerPoint presentation (*please see the **Office of the Public Defender Gang Task Force Presentation** for more information*). She said the criminal gang statute is a loose term that should be tailored to ensure it does not infringe on constitutional rights. She said there are also issues with the definition of a criminal gang and how individuals are perceived to be gang members. She added that a lot of rap groups tend to be people of color who are swept up in this definition of a gang or a gang member.

Ms. Siegfried illustrated an example of the Montgomery County Police's definition and documentation of a gang and/or gang member (*see slides #8-10*). She mentioned that, when Montgomery County tries to prove a member of a gang, the police department will send the Office of the Public Defender a letter with the definition of a gang which adds extra criteria to the statutory definition. Ms. Siegfried gave an example of a group of Girl Scouts who stole a car to sell cookies in a neighborhood. She said these individuals are less likely to be viewed as a gang, but individuals who are brown and black and decide to steal a neighbor's car to sell candy door-to-door - this illustrates a better example of gang activity compared to the Girl Scouts.

Mr. Trusty mentioned that you cannot translate this as one of your elements of truth. He added that this is not a shortcut for evidentiary admission in a RICO case. You must still make sure that each individual is meaningfully connected to the enterprise. Ms. Siegfried added that people may admit to things that are not true because they are an adolescent; and they may state an affiliation with a gang to "connect" with them based on demographics or race. Ms. Siegfried added that one should not be prosecuted for the "cloth" they wear. This should only occur when it is criminal.

Ms. Siegfried referenced the Maryland Rule 5-404. Character Evidence Not Admissible To Prove Conduct, and posed two questions in light of Maryland's already existing penal context



(see slides #11-13). She mentioned the potential need for two trials and then asked, do we really need § 9-804 of the Criminal Law Article? She directed everyone's attention to slides #14-16 and said Serious Punishment/Incapacitation already exist for underlying offenses, group activity, and repeat offenders. She brought this up because, from a Constitutional context, we have a freedom of Association, Expression, and Group Activity (see slide #18). She said the criminal gang component should only represent a "slice of the pie." Because of this, Ms. Siegfried said changes to Maryland statutes should avoid certain things in light of the Constitutional context (see slide #19). She also provided three initial suggestions which include: (1) do nothing; (2) focus on prevention; and/or (3) focus on oversight (see slides #20-25).

Ms. Siegfried said the problem with a gang database is that when something is kept in the database from when the juvenile is 12 years old, that "tag" follows him/her because there are no regulations. She also stressed the need for an oversight group, similar to the RICO Review Unit, to ensure no one is wrongfully classified as a gang.

Ms. Holness asked a question in reference to an allegation. Ms. Siegfried said when an allegation is made of a gang, law enforcement will get an expert (usually a police officer) who will provide a definition of a gang.

Delegate Pippy thanked Ms. Siegfried for her presentation, and said some individuals may present themselves as a gang for street credit. He mentioned a case in Frederick County where a group - an alleged MS13 gang - kidnapped and dismembered a girl. He also mentioned the terms "and" versus "or" as it relates to a gang member. Ms. Siegfried responded that when pretending to be a gang member, the "and" does not really matter if they are a gang member. She then asked if there is another way we can address this without § 9-804 of the Criminal Law Article.

Mr. Trusty thanked Ms. Siegfried for her presentation, and said the entire concept of law enforcement is geared around evidence-based practices. When standing trial, the purpose is to prove the elements. He added that the long standing criminal problem in the community is more of a contextual thing for the jury to understand the whole picture. While it is good to find the low bearing fruit, at the federal level RICO goes after the smart guys who make the decisions. Ms. Holness said it is shocking that this response is not having a deterrent effect. Why do we need a gang task force for violent crimes? Mr Trusty said there is a practical issue - in federal cases there may be a murder but no one has resources to plow through it. He said it is less common to see all the players in the act of the story but in RICO, the jury sees all the roles play out over the crime. He added that he is unaware of a more robust system.

ASA Mays agreed with that characterization in which murder continues to get thrown out. He then asked, why would we have another penalty? Ms. Siegfried said the law currently states that if there are five people and only one is caught, then that one person can get double the penalty because of the conspiracy.



Delegate Pippy said the focus appears to be on the defendant and not the affiliation. However, the purpose of this Task Force as Mr. Trusty alluded to, is to determine if the current laws can address what we are trying to do here or are the resources limited for state's attorneys. Mr. Trusty said yes, and that the state's attorney was white-collar based and it is now street-based because it has resources. He also mentioned that when someone commits murder and then gains status in prison, there are more members to fill that one individual's spot on the street.

### Issue of Gangs

Senator Hough invited Deputy Director Bill Sage and Captain Mike Moore, with DPSCS, to present on the issue of gangs within our prison system. Mr. Sage introduced himself as the Deputy Director for DPSCS' Intelligence and Investigative Division (IID). IID conducts criminal and administrative investigations of misconduct or suspected criminal activity that involve employees of DPSCS, adult inmates confined in a correctional facility, or any individual that has contact with the employees or clients-inmates, arrestees, detainees, or parolees of DPSCS. It also serves as the DPSCS liaison with allied federal, State, and local law enforcement agencies to provide investigative services and support to their investigations.

Mr. Sage mentioned Security Threat Groups (STGs) that threaten the safety and security of correctional facilities, and some of the many assessments conducted by IID in different countries. The largest STG in Maryland is the Black Guerilla Family (BGF) which consists of about 463 members and is ever evolving.

IID has the most stringent validation process in the State, and maintains its own gang database which is regulated under [28 CFR Part 20 - Criminal Justice Information Systems](#). Unlike many other gangs, BGF is a prison gang that was founded in prison. In 2008, BGF became dominant and so powerful that it took control of a facility. In 2013, BGF recruited correctional officers at the Baltimore City Detention Center (BCDC).

In prison, individuals frequently go with a gang to feel protected. Once this occurs, IID validates the information and analyzes it to retrieve intelligence. IID gathers, analyzes, and disseminates prison intelligence to intelligence units/officers, correctional officers, civilian staff, outside law enforcement, etc. This intelligence is also shared internally to ensure the Bloods and Crips do not go into the same area - this is done to segregate individuals for safety purposes.

Captain Moore mentioned that IID examines information as it relates to the crimes that occur outside the prison and inside the prison (e.g., contraband thrown over the prison walls). They work with multiple sources, and have redeveloped the intelligence gathering process to a more modern and effective sense that is actionable.

In reference to traditional gangs, many may think of the Black Panther Party, BGF, Crips, Aryan Brotherhood, and Dead Man Inc (DMI). However, Captain Moore explained that there are other



gang groups that have an alliance with BGF, such as CRIP (Community Revolution in Progress). Captain Moore also provided examples of modern criminal gang structures for several gangs in Baltimore City (*as illustrated below*).

- Young Ballers Shining (YBS) was murdered in which his best friend was charged and is currently housed in Jessup prison. Members of YBS have a heavy Bloods affiliation.
- Young Go Getter (YGG)
- Out That Mob (OTM)
- 5200 Murdaland Mafia Piru (MMP)
- DMI has a specialty in murder-for-hire.
- Bloods battle with BGF and contribute to the increasing murder rate of Baltimore City.
- Aryan Brotherhood is the most dangerous gang in prison. They formed in 1967 and earned the respect of the Mexican Mafia.

Captain Moore said there are different ways for individuals to enter a gang (*as illustrated below*). He also said that gangs recruit members as young as six years old.

- “Blessed in”
- “Jumped in”
- “Sexed in”
- “Born in”

## **Discussion**

Delegate Fisher thanked the presenters, and said we have to look to our past to know our future. She also mentioned Jim Crow laws which were a collection of state and local statutes that legalized racial segregation. Delegate Fisher said rap music is viewed as an expression and she does not feel comfortable saying it is a gang-related thing.

## **Closing Remarks**

Senator Hough thanked Ms. Siegfried, Mr. Sage, and Captain Moore, again, for their time and presentation. The meeting adjourned at 11:30 a.m.