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THE MINNESOTA  
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Violent Crime Coordinating Council Public Forum  
September 22, 2011

My name is John Kingrey speaking on behalf of the Minnesota County Attorneys Association. I appreciate the opportunity to participate in tonight's public forum on gang membership criteria.

The opinions of national experts have shown that the 10-Point Gang Criteria used in Minnesota are an accurate and reliable indicator of whether a given individual is, in fact, a member of a gang. In 2005, two such experts testified in a pretrial hearing in *State of Minnesota v. Myon Damarlo Burrell*, Dist. Ct. File No. 02098794 (transcripts provided). Charles Katz, Ph.D., was employed by Arizona State University as an associate professor and director of the Center for Violence Prevention and Community Safety. Clarence Ronald Huff, Ph.D., was a Professor of Criminology, Law and Society and Dean of the School of Social Ecology at the University of California-Irvine. Both have published multiple peer-reviewed studies related to criminal gangs (T. 248-49, 380-81).

Both experts spoke in favor of maintaining a formal set of gang criteria in the first instance. According to Dr. Katz, "some of the best agencies . . . develop a set of criteria in which an individual has to meet so many of those criteria in . . . order to be able to document those individuals" (T. 262). This decreases the amount of discretion officers have in documenting individuals as gang members (T. 269).

Moreover, when asked whether Minnesota's criteria, in particular, accurately identify gang members, Dr. Katz responded, "Absolutely, yes." (T. 264) Dr. Katz stated that his colleagues across the country generally agree that these criteria are valid indicators of gang membership (*Id.*). As important, tools like the criteria enable gang experts to conclude that a given individual *is not* a gang member (T. 280-81), despite, for instance, an incorrect assumption within a community that he is because of the color of his clothing. Today's criteria are backed up by research and by self-report studies (T. 414). In fact, "a lot of the self-report studies produced data that suggests the same kinds of indicators of gang membership" as the criteria themselves (T. 386).

Minnesota's gang criterion has been tested for accuracy and reliability. As Dr. Katz notes, the criteria are accurate precisely because "there is 70 years of research suggesting that those same criteria are associated with membership in a gang" (T. 274). While the study of criminal gangs has been a field of academic research since the early 1900s (T. 253), the formalized criteria, of which similar versions are in use in Minnesota and around the country (T. 384), probably began in the state of California in the mid-1980s (T. 384-85). In the early years, there was significant criticism that law enforcement agencies were over identifying gang members – in fact, "there could be no

doubt that there were too many kids being identified as gang members (T. 387-88). Subsequently, however, according to Dr. Huff, "[t]he challenges that occurred both in courts by civil libertarians and others have dramatically improved and tightened up the criteria" (T. 388). Thus, from the 1990s to today, significantly more strict criteria have evolved in most jurisdictions (T. 386).

Compared with criteria used by other jurisdictions around the country, the two experts agreed that Minnesota's was *the most stringent* policy in use in the nation (T. 272, 283, 316, 389). This is due both to Minnesota's requirement that 3 of 10 criteria be met, as well as this state's further qualification that a person must be at least 14 years old and have a gross misdemeanor or felony conviction in order to be classified as a "gang member" (T. 271-73). By contrast, most other jurisdictions have no age criterion (T. 273), most have no prior conviction criterion (*id.*), and no other jurisdiction, at least at that time, required the satisfaction of 3 criteria (T. 273-74).

Both researchers looked at the possibility of over inclusion of racial minorities in Minnesota's GangNet and/or the Pointer File (T. 284-87, 396-99). Dr. Huff found that Minnesota's procedures were very well thought out and reasonable so as to prevent over inclusion (T. 396). He concluded Minnesota was not over documenting racial minorities in its gang database (T. 397). Similarly, Dr. Katz compared Minnesota's gang documentation with studies conducted in other communities, and did not see a problem in that area (T. 284). Specifically, Dr. Katz stated that the racial breakdown of the individuals documented in one or both of the state's gang databases "appear[ed] to be very consistent with self-report studies" (T. 285). In other words, unlike in other jurisdictions, the proportion of groups documented as gang members under the Minnesota criteria was consistent with the proportion of the given racial group self-reporting gang membership (T. 286). According to Dr. Katz, this "suggested that [Minnesota's] is a more conservative system in which individuals are being documented" (T. 286).

Thank you for the opportunity to participate in this forum. The Association supports your stated criteria that gang membership criteria must be reasonable, effective, and objective. The Association also supports your goal that with this data law enforcement will maintain public safety, reduce violent crimes in communities, and effectively serve and protect the public. Our current gang criterion meets your stated criteria and goals.