

# **GANG OFFENDING AND ISSUES WITH PROSECUTING GANGS IN OTHER COUNTRIES**

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## **Abstract**

This paper reviews international literature to provide an overview of the gang offending situation and challenges with prosecuting gang crimes in other countries. Gang offending remains a global threat to public order and safety. For many countries, while the prosecution approach remains the key judicial action to combat gang crimes, this approach comes with a myriad of challenges, such as witness non-cooperation and intimidation, difficulty in establishing criminal liability, and ambiguity of gang legislations. For Singapore, while prosecution in court remains the first-line jurisdictional action, the Criminal Law (Temporary Provisions) Act (CLTPA) provides a recourse in cases where prosecution is not feasible but there is a need to swiftly combat gang offending. The robust safeguards of the CLTPA ensure that each case is objectively assessed to arrive at a decision in the interests of public safety, peace, and good order.

## **Background**

1. This paper reviews international literature to provide an overview of the gang offending situation and challenges with prosecuting gang crimes in other countries. In particular, the paper examines the following:
  - a. The extent to which gang-related crimes and violence threaten safety and security in other jurisdictions;
  - b. Challenges with prosecuting gang crimes and supplementary approaches to traditional prosecution in other jurisdictions; and
  - c. Singapore's gang offending landscape and how the CLTPA provides a recourse in cases where prosecution is not feasible.

## **Definitions of "Gang"**

2. There has been ongoing debate within the research community and the criminal justice sphere on the definition of a gang. A frequently referenced definition of a street gang is "any durable, street-oriented youth group whose involvement in illegal activity is part of its group's identity" (Klein & Maxson, 2006). Another definition characterises gangs as groups comprising three or more individuals who unite for a shared objective, asserting ownership over specific territory within a community and participating together or separately through violent acts and various criminal behaviours (Egley et al., 2006). Meanwhile, the United States (U.S.) Department of Justice defines a gang as three or more individuals who collectively adopt a group identity which members use to create an atmosphere of fear, with the purpose of engaging in criminal activity through violence or intimidation to further their criminal objectives. While there is no

single uniform definition, one consistent theme is that members of gangs engage in criminal activities.

3. To provide context for subsequent discussion of gangs in this paper, it is important to understand the differences between two interconnected types of criminal groups – street gangs and organised crime syndicates. The term “street gang” is frequently used interchangeably with “youth gang” and “criminal street gang”, with the latter explicitly highlighting the involvement of criminal activities. A street gang carries a few distinct features that distinguishes itself from organised crime syndicates. First, it typically has a visible presence in the street. Second, street gangs engage in severe and violent offences, such as assaults, drive-by shootings, robberies and homicides, that generally occur on the streets (National Gang Center, n.d.). In addition, most street gangs are loosely structured, with transient leadership and membership, easily transcended codes of loyalty and generally informal roles among members. Organised crime syndicates, on the other hand, are highly coordinated and generally operate on a much larger and transnational scale, engaging in money laundering, trafficking of illegal drugs, firearms, people, wildlife and counterfeit goods (UNODC, 2019). To sustain these operations, organised crime syndicates require clear hierarchical structures, robust leadership, strict rules or codes of loyalty, severe punishments for misconduct, as well as high levels of entrepreneur expertise that enable the groups to accumulate and invest the proceeds from various illicit activities (National Gang Center, n.d.). In reality, the difference between street gangs and organised crime syndicates may be becoming increasingly blurred as there have been examples of gangs that have grown in size and become more sophisticated in their criminal activities.

4. The focus of this paper is on street gangs as the types of gangs operating in Singapore are closer to street gangs than organised crime syndicates.

### **Global Threat of Gangs**

5. A recent United Nations (U.N.) report highlighted that hundreds of thousands of people are being trafficked by criminal gangs and coerced into working in scam centres and other illegal online operations that have emerged across Southeast Asia (OHCHR, 2023). The report estimated that about 120,000 victims are based in Myanmar and 100,000 in Cambodia, while tens of thousands more people are being coerced to work in Laos, the Philippines and Thailand. Billions of dollars are being generated annually by gangs who forced victims into cybercrime, where they are subjected to threats, torture and sometimes sexual violence.

6. A 2008 report by the Criminal Intelligence Service Canada (CISC) revealed that there were approximately 900 organised crime groups operating in Canada that year, of which over 400 were categorised as street gangs.<sup>1</sup> The CISC noted that Canada’s major criminal markets involve illegal drugs, financial crimes, contraband tobacco,

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<sup>1</sup> ‘Organised crime groups’ is a generic umbrella term used by CISC for groups that represent significant public safety and societal threats in Canada. Such groups include mafia networks, outlaw motorcycle gangs, groups which are involved in money laundering and human trafficking activities, as well as local street gangs.

human trafficking, illicit firearms, intellectual property rights crimes, and vehicle-related crimes. In the United Kingdom (U.K.), while crimes committed by organised syndicates are a big concern, urban street gangs have also increased their involvement in more serious crimes, such as drug trafficking, exploitation of children and operating across multiple jurisdictions within the U.K. (Bullock et al. 2009; Gottschalk 2009; National Crime Agency, 2016). According to the Mayor's Office for Policing and Crime, in 2017, young Londoners are subjected to knife crimes, gang-related crimes, serious youth violence and exploitation by street gangs to engage in criminal activities (Annan et al. 2021).

7. In New Zealand (N.Z.), the two dominating gangs are the *Mongrel Mob* and *Black Power*, which together accounted for two-thirds of all known adult gang members, based on figures in 2014 (Ministry of Social Development, 2016). Between July 2017 and June 2019, the N.Z. police had seized about NZ\$103.5 million worth of cash and assets through organised crime and gang investigations, of which NZ\$29 million was attributed to drug-related offences (Cornish, 2019). In addition, The Economist reported that N.Z. had one of the world's highest gang membership rates in 2018 and the Police estimated over 7,000 patched gang members in 2020 and hundreds of prospects eager to join the ranks of the gangs.<sup>2,3</sup> In mid-2022, the N.Z. government noted the escalating gang tension and violence in recent years (N.Z. Parliament, 2022). Of note, the specialist Armed Offenders Squad Police was deployed 1,694 times in 2021 to respond to the most serious and violent armed offenders or gang members; this was a 64 percent increase compared to 2017. Another recent trend was the increase in the number of youths joining gangs. There was a 75 percent increase in the number of 18–25-year-olds joining gangs in the period between 2017 and 2022, the most significant increase among the age groups. The increase was attributed to the gangs using social media, public display of power and flaunting the proceeds of a criminal lifestyle to recruit young and vulnerable New Zealanders (Mitchell, 2022).

8. Scholars who conduct gang studies widely acknowledge that youth street gang members are recruited or form alliances with adult organised crime groups. Besides N.Z., this has also been observed in several countries. More will be elaborated in the next sections, which present case studies on gang offending and violence in (i) the U.S. and Central America, (ii) Africa and (iii) Hong Kong.

### **Case Study #1: Gang Offending and Violence in the U.S. and Central America**

9. The Central American Crisis in the late 1970s contributed to the rise of gang-related issues and violence in southern California, U.S., as new immigrants from Central America seeking refuge in the Hispanic urban neighbourhoods became targets

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<sup>2</sup> Patched gang members are individuals who completed a probationary period and earned the right to full gang membership.

<sup>3</sup> Prospects are individuals who have yet to achieve full gang membership but are actively working toward this goal.

for local gangs which harassed and extorted them.<sup>4</sup> Consequently, numerous young men either joined existing gangs or formed new ones as defensive measures. These gangs are known as 'maras'. In 1996, tightened immigration policies allowed for the deportation of incarcerated gang members, and this spread the gang culture from southern California to Central America. This led to an estimated 70,000 gang members dispersed across seven Central American countries, with the Northern Triangle countries, comprising El Salvador, Guatemala, and Honduras, being the worst affected (Jütersonke et al., 2009; UNODC, 2007).

10. The Northern Triangle is regarded as one of the most violent regions in the world with the prevalence of maras, which are often linked to extortion, drug trafficking, violence and high homicide rates (Paredes & Navarrete, 2023). Wolfe (2020) highlighted the sexual and gang violence in the Northern Triangle, citing findings from the U.N. Gender Equality Observatory on the high murder rates of women in El Salvador (2.1 per 100,000 women) and Honduras (4.7 per 100,000 women) in 2020. These crimes often go uninvestigated and unpunished. In some instances, victims were forced by gang members to withdraw charges against the perpetrators of sexual violence. The Northern Triangle is also a home to two major gangs – the *Mara Salvatrucha (MS-13)* and the *18th Street Gang*. Both gangs have witnessed considerable growth in size and power, leading to intense rivalry and frequent armed violence (Wolfe, 2020). Consequently, young children in the Northern Triangle continue to live in constant fear as they navigate through gang-controlled territories just to attend school. Children who encounter gangs are often given a grim choice – join within 24 hours or face death. Those who comply risk being killed by rival gangs or law enforcement officers, while those who refused are targeted by the inviting gang.

11. The National Gang Center (NGC) conducted annual surveys of over 2,500 law enforcement agencies nationally to monitor the nature and extent of gang activity in the U.S. from 1996 to 2012 (Lowe & Lane, 2019). In 1996, individuals under 18 made up 50 per cent of gang members but this declined to 35 per cent in 2011 (Finelli, 2019). Despite the decrease in share of youth gang membership over the years, street gangs and gang activities have remained prevalent in cities, small towns, suburbs and rural areas in the U.S. (Egley et al., 2014; Howell & Egley, 2005).<sup>5</sup> Between 2000 and 2009, NGC estimated that the number of gangs averaged about 25,000, with approximately 750,000 gang members in total (Egley & Howell, 2011). In 2012, the NGC estimated that there were around 30,700 gangs and 850,000 gang members scattered across the U.S., indicating a growing gang issue (Lowe & Lane, 2019). According to NGC's analysis of the survey data for 2011 and 2012, about 48 per cent of the surveyed enforcement agencies noted significant increases in non-lethal gang-related violent crimes and about 43 per cent reported rise in gang-related property crimes. In addition, about 40 per cent of the agencies reported a rise in gang-related drug offences during the same period.

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<sup>4</sup> The Central American Crisis began in the late 1970s, when major civil wars and communist revolutions erupted in various countries in Central America.

<sup>5</sup> According to NGC, gang activity includes gang graffiti, drug sales, firearms use, aggravated assault, burglary, robbery, theft and motor vehicle theft.

12. U.S. gangs actively recruit new members, establish drug distribution territories and collaborate with other criminal groups for power and financial gains. The three largest criminal street gangs in the U.S. are the *MS-13*, *Latin Kings*, and the *Crips*. These gangs are rapidly expanding beyond the states which they originated from. Lawmakers, law enforcement agencies and the media closely monitor these street gangs due to their strong ties with gangs and cartels in Mexico and Central America (Finelli, 2019). With a collective membership in the U.S. at about 38,000, these criminal street gangs are becoming more organised and capable of spreading their illegal activities like drug trafficking, assault, threats, intimidation, robbery, burglary, weapons trafficking, theft, and grand theft auto across national borders (Finelli, 2019).

13. The association between gang membership and violence in the U.S. has been extensively documented in the literature (Bendixen et al., 2006). Studies highlighted that gangs reinforce violent behaviour by routinely exposing members to high-risk situations and rewarding them for using violence. Moreover, gang members often consider violence necessary for gaining respect, status and reputation, as well as for financial rewards and business protection (Harris et al., 2011; Stretesky & Pogrebin, 2007). In 2009, most gang-related violence occurred in larger cities and suburban counties, accounting for over 96 per cent of all gang homicides (Egly & Howell, 2011). From 2009 to 2012, cities with populations of 100,000 and above saw a 13 per cent increase in gang-related homicides. In addition, nearly half of all homicides in Chicago and Los Angeles during the same period were attributed to gang violence (Egly & Howell, 2012). In 2012, gangs were responsible for 16 per cent of all homicides in the U.S. (Egley et., 2014).

14. Beyond the strong link between gangs and violence, another prevalent issue concerning gangs in the U.S. is their expansion through recruiting members, including juveniles. Adult gang leaders often involve younger members, even children, to transport drugs, weapons and carry out violent crimes, partly to shield themselves from law enforcement. In the state of Virginia, gang recruitment has been observed to start as early as fifth grade in elementary schools.<sup>6</sup> Additionally, the NGC reported that in 2011, majority of the crimes committed in 15 states were by juvenile gang members. In the state of Georgia, the authorities reported that gangs were creatively recruiting younger members in middle and elementary school through the façade of organising child-friendly activities, such as hiring ice-cream vendors and hosting sports tournaments, where children would likely let their guard down and see gang members as friends. The Georgia Department of Juvenile Justice estimated that in 2022, 30 per cent of the youths in their Regional Youth Detention Centers and 51 per cent of the youths in the Youth Development Campus had gang affiliations (Oak, 2023).

## **Case Study #2: Gang Offending and Violence in Africa**

15. Gangs are prevalent across Africa, with research predominantly focusing on South Africa and Nigeria due to their substantial street gang presence (Higginson & Kathryn, 2015). In South Africa, gangs gained prominence due to the Group Areas Act

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<sup>6</sup> This was an observation made by a Director from a Virginia Task Force.

whereby “non-white” South Africans were displaced from their homes and resettled in underdeveloped and distant areas, causing a surge in poverty and unemployment in the coloured and black communities. With the breakdown of social order, the formation of gangs in South Africa has come largely from two extremely disadvantaged township areas – the coloured township of Cape Flats and black township of Soweto (Higginson & Kathryn, 2015). In the 1990s, there were about 130 gangs with 100,000 youth members in the Cape Flats area (Daniel & Adams, 2010). Subsequent estimates in 2001 revealed that 5 per cent of the population belonged to 280 gangs in the Western Cape, surpassing gang membership rates in Los Angeles (Shields et al., 2008). Cape Town harbours major street gangs like the *Americans* and *The Hard Livings*, which are involved in the drug trade and violence, serving as umbrella organisations for smaller affiliated gangs. These gangs have easy access to inexpensive firearms and engage in various criminal activities, like car theft, drug distribution, robbery and murder. They are described by scholars as “violent criminal fraternities” with alarmingly powerful memberships and sophisticated criminal networks (Daniels & Adams, 2010; Dissel, 1997). In some communities in Cape Flat, gang membership is even regarded as the rite of passage to manhood whereby joining gangs offer protection, prestige, companionship, a sense of belonging and power (Bility, 1999). On the other hand, there is significant anti-gang vigilante presence in South Africa. They are commonly called self-defence units (examples include the People Against Gangsterism and Drugs), and they emerged due to the community’s dissatisfaction with state efforts to control gangs, reflecting the growing gang problem and violence (Dixon & Johns, 2001).

16. The culture of gang violence has become deeply entrenched in South Africa. A survey conducted with children from 185 Cape Town Township schools indicated that about half of the children witnessed gang members hitting, kicking, pushing or shoving people, while about four in ten witnessed attacks with sharp weapons or shooting by gang members. Additionally, one-third reported witnessing a murder (Shields et al., 2008). The increase in media coverage showcasing incidents where children and community members were shot, injured and in some cases killed due to gang violence shows worrying trends. For example, in 2013, the South African Police Service reported that 12 per cent of the 2,580 murders were linked to gangs, marking an 86 per cent increase from 2012. Moreover, children as young as 14 were arrested on gang-related homicides and in the first half of 2019, out of 1,600 homicides in Cape Flats, 900 had resulted from gang-related violence (Meyer, 2019; Swingler, 2014).

17. In Nigeria, the *Yan Daba*, also known as “area boys” or “macho boys” in the city of Kano, is one of the notorious gangs in the northern region (Matusitz & Repass, 2009; Salaam, 2011). The *Yan Daba* members are typically aged between 10 and 30, and members often join due to economic hardships and unemployment, earning a living through extortion and criminal activities (Salaam & Brown, 2012). Their entrepreneurial criminality includes, creating “pop-up” car parks in public places and charging parking fees, prostitution, drug trafficking, robbery, theft, acting as security guards for the rich, participating in turf wars and engaging in political intimidation for politicians (Salaam & Brown, 2012). Drug use is also widespread among the *Yan Daba* and approximately 90 per cent reported substance use.

18. Similar to the U.S. and other countries, gangs in Africa tend to recruit youths from economically disadvantaged backgrounds and those disconnected from their

communities (Daniels & Adams, 2010). Vulnerable youths from dysfunctional families are more prone to leaving home or loitering in the streets where recruitment often takes place (Dissel, 1997). In Africa, grooming for gang membership typically starts in primary school while actual recruitment tends to occur in the final year of primary school (Bility, 1999).

### **Case Study #3: Triads and Youth Gang Offending in Hong Kong**

19. Triad societies originated in the 17<sup>th</sup> century in China as a movement to overthrow the ruling Qing dynasty. By the 20<sup>th</sup> century, the triads began to break up into smaller gangs. When the Communist Party came into power in 1949, these gangs fled to other jurisdictions, including Hong Kong, Macau and Taiwan (Lo, 2020). In the early 1990s, Hong Kong triads were collaborating with criminal syndicates in China and these alliances allowed the exchange of criminal methods, intelligence and funds in exchange for inexpensive manpower, drugs, firearms and involvement in the sex trade (Lo, 2010).

20. Hong Kong triads are known to engage in street level crimes, like illegal bookmaking, peddling fake products (Rochelle et al, 2011), gambling, prostitution, drugs, loan sharking, cross-border smuggling and providing protection services for legitimate businesses from attack by rival gangs (Chu, 2000; Lo, 2020). The major triads in Hong Kong are the *Wo Shing Wo*, *14K*, *Sun Yee On* and *Wo On Lok (Shui Fong)* and these triads often engage in violence arising from turf wars (Lo, 2020). Armed clashes typically occur between two rival triads involving up to a dozen members from each side whereby they would meet at an appointed venue and time with weapons such as iron pipes, baseball bats, bladed knives to settle the dispute (Lee et al, 2006). High profile cases of triad related violence were reported in the media, such as a shoot-out incident in 2006 believed to be part of an escalating turf war between two rival triads, a high profile triad-related homicide in 2009 stemming from a long-running feud between *Wo Shing Wo* and *Sun Yee On* (Lo, 2020), and a triad shooting in 2022 at Hong Kong's central district which left three persons injured (Lee, 2022).

21. Hong Kong triads tend to be loosely organised groups with some degree of hierarchy. However, some triads are capable of becoming more organised, forming affiliations and alliances with other triads to run profitable criminal enterprises, investing in legitimate businesses and collaborating with legitimate entrepreneurs to monopolise a newly developed market (Chu, 2000; Chu, 2005). Some also exert influence on and exploit youths from street gangs to carry out criminal activities on behalf of the triads, where youths from street gangs are also lower-ranked members within the triads. The top triad members issue orders to a specific "dai lo" (or big brother) and this is cascaded down to lower-ranked triad members operating under the "dai lo" (Ma, 2020). As youth gang members require money to pursue social activities, such as smoking, drinking, playing pool and karaoke (Fraser & Laidler, 2024), they hang out in pool halls, parks and video game centres waiting for calls for "work" from their "dai lo". The type of work assigned to them include providing "back up" and "sorting out trouble" at entertainment outlets like bars, clubs and restaurants. Youth gang members are also tasked with collecting protection fees from businesses and often act as lookouts for unlicensed street hawkers, minibuses and fish markets

operating under the triad's turf. The protection fees collected are subsequently used to produce and sell drugs. Through engaging in such criminal activities, the youth members win the trust of the "dai lo" to become trusted members of the triad (Chu, 2000). Other problems posed by the youth gang members include substance abuse (Fraser & Laidler, 2024) and acts of violence. Youth gangs tend to use violence to resolve conflicts whereby cases of "staring" incidents could escalate to verbal exchanges of vulgarities, fights or having one group retreat temporarily to call for reinforcements or to ambush the alleged "starer" at a later time. In some cases, these staring incidents eventually lead to fatal gang-related incidents (Lee et al, 2006).

### **Challenges Faced by Other Jurisdictions in Prosecution of Gang Crimes**

22. For many jurisdictions, prosecution remains the key judicial action to combat gang crimes, and several have enacted specific criminal laws pertaining to gang-related offences.<sup>7</sup> While there is a strong reliance on prosecution, gang trials often come with a myriad of challenges that not only impede swift conviction of offenders, but may even potentially thwart successful conviction, allowing the gang offending cycle to continue. The commonly cited challenges with prosecution of gang crimes include witness non-cooperation and intimidation, difficulty in establishing criminal liability, and ambiguity of gang legislations (Bjerregaard, 2003; Caldwell, 2015; Dedel, 2006; Egley Jr. & Arjunan, 2002; Jackson, 2004).

#### *Witness Non-cooperation and Intimidation*

23. Witness testimony is an important component of court trials as it supplements the objective evidence (e.g., DNA evidence, surveillance footages) to build a stronger prosecution case. This is especially so for gang cases that involve multiple defendants, and witness testimony can help to establish key aspects of the case, such as identities of perpetrators, the type and extent of involvement of individual perpetrators, gang connotations, association among the perpetrators, and the possible motives (Anderson et al., 2009).

24. Taking cases involving gang violence as an example, witnesses can include gang affiliates of victim(s), gang affiliates of defendant(s) and eyewitnesses who are not associated with the gangs (Anderson et al., 2009; Cartwright & Walutes, Jr., 2006; Jackson, 2004). These witnesses often refuse to testify in court due to various reasons (Cartwright & Walutes Jr., 2006; Jackson, 2004). Given the violent nature of gangs, the gang affiliates from the victim's gang would likely prefer to get even via physical retaliation, rather than through testifying against a rival gang in court. For members of the defendant's gang, testifying in court against their fellow gang members is likely to be frowned upon as it would be seen as a sign of betrayal that might result in violent reprisal. On the other hand, non-gang affiliated eyewitnesses are unlikely to testify in court due to a distinct reason – witness intimidation.

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<sup>7</sup> Some examples include Article 416-bis Association of Mafia-type of the Italian Penal Code, Section 98A of New Zealand's Crimes Act 1961, South Africa's Prevention of Organised Crime Act, United States' Federal Racketeer Influenced and Corrupt Organizations Act, and California's Street Terrorism Enforcement and Prevention Act (Association of Mafia-type, 1982; Crimes Act 1961, 1961; Prevention of Organised Crime Act, 1998; Racketeer Influenced and Corrupt Organizations Act, 1970; Street Terrorism Enforcement and Prevention Act, 1988).



25. Anecdotally, witness intimidation relating to gang trials is a widespread concern for many jurisdictions (Anderson et al., 2009; Anderson, 2007; Dedel, 2006; Jackson, 2004). While it is challenging to examine the prevalence as many cases of witness intimidation were not reported, there had been some earlier attempts in the U.S. to do so (Dedel, 2006; O'Malley, 2014). For instance, the NGC survey in 2000 reported that 66 per cent of the law enforcement agencies from the sample indicated that witness intimidation was common for cases involving youth gangs (Egley Jr. & Arjunan, 2002). The survey also found that perceptions on the prevalence of witness intimidation varied depending on the size of the jurisdiction, with 44 per cent of the agencies within smaller jurisdictions and 83 per cent of the agencies within larger jurisdictions reporting that witness intimidation was common for cases involving youth gangs. In an earlier study involving interviews with 32 criminal justice officers in the U.S., victim and witness intimidation was suspected in about 75 per cent to 100 per cent of the gang violence cases that were committed in gang-influenced neighbourhoods (Healey, 1995).

26. Witness intimidation can come in many different forms (Cartwright & Walutes Jr., 2006; Dedel, 2016; Healey, 1995). It can involve implicit threats that are sufficient to psychologically pressurise the witnesses into believing that they would suffer retaliation if they were to testify. Some examples of implicit threats include taunting eye-contact or gestures in the court room, stalking behaviours such as loitering around witnesses' neighbourhoods or workplaces and harassment calls. Witness intimidation can also involve explicit intimidation, such as verbal threats and vandalism of witnesses' cars or properties. For more serious cases, actual physical harm might be inflicted on the witnesses. To further coerce witnesses, the intimidation can even be extended to their loved ones.

27. Gangs are now tapping on social networking sites, such as X (formerly Twitter), Instagram and Facebook, to intimidate witnesses (Browning, 2014; Monagas & Monagas, 2016). This is a growing concern as social media provides a faster and easier way for gangs to reach witnesses, which could be done while maintaining anonymity behind pseudo profiles. One common way is to divulge personal information of witnesses (e.g., name, address, contact number, photos) and other confidential details, such as witnesses' court statements, on social networking sites (Browning, 2014). These social media intimidators would often capitalise on the online mob mentality to call for others to harass the witnesses. One recent example is the case of a 27-year-old female who was a member of a Northern Virginia street gang known as *Reckless Tigers* (Eastern District of Virginia, 2023). In April 2022, to intimidate the witnesses for a trial involving violent and drug offences allegedly committed by her fellow gang members, she posted names of the witnesses on an Instagram page one day before the trial. She name-called them as "*snitches*" in the posts and asked for other gang members to gather in the court room the following day to "*watch the snitches snitching*". As a result of the intimidation, some witnesses pulled out of testifying and the trial was postponed. She was later sentenced to a 15-month jail term for witness intimidation charges. Similarly, a 24-year-old female from Pottstown, Pennsylvania was jailed in 2012 after intimidating a witness for a gang-related murder trial involving her boyfriend through Facebook posts (Hessler Jr., 2012). Besides the witness' personal information, she also posted the court statement

made by the witness. She called the witness a “rat” and declared that the witness “Need 2 Exercise Their Right 2 Remain Silent”. There was another well-known case in the U.S. whereby a dedicated Instagram account, named “Rats215”, was set up to disclose personal information and statements of more than 30 witnesses for trials involving different violent crimes, including gang-related ones (The Guardian, 2013). The posts were endorsed by many through the “Like” function and commenters had asked to “put a hit on them”. When it was active between February 2013 and November 2013, the account posted daily and amassed close to 8,000 followers, before it was taken down after a police officer came across it.

28. To address the issue of witness intimidation, many jurisdictions have implemented witness protection programs. Dandurand and Farr (2010) provides a comprehensive summary of the witness protection programs in different countries, including the U.S., U.K., N.Z., Italy, and South Africa. Most of these programs share common protection measures, such as relocation, change of identity, physical security protection, financial subsidies including allowances and living expenses and provision of counselling services; these measures could be extended to witnesses’ families. However, witness protection programs are not foolproof and have their own limitations (Dandurand & Farr, 2010; Fyfe & Sheptycki, 2006; Kaur, 2011). First, such programs are costly to implement and require extensive manpower, particularly for those that involve overseas relocation of an entire family. Second, these protection measures are often extremely taxing on the protected witnesses as they would need to adapt to the life changes brought about by the measures (e.g., round-the-clock security, relocation to a new state or country) and for some cases, they might experience social isolation if they need to cut off contact with their family and friends. As a result, it is not uncommon for witnesses to drop out of witness protection programs. Third, local relocation might be ineffective in smaller countries as the intimidators could easily track the witnesses given the minimal geographical separation (Kaur, 2011). Given these limitations, witness protection programs are often only considered for more serious crimes, causing other cases to fall through the cracks.

### Difficulty in Establishing Criminal Liability

29. In a court trial, it is vital for prosecutors to prove the criminal liability of a defendant for the judge or jury to assess whether the defendant is guilty and the type and extent of sentencing if so. Criminal liability refers to the legal responsibility of an individual in the commission of a crime (Bell Lamb & Joynson Solicitors, 2022; Shein, 2015). The concept of criminal liability is made up of two aspects – the “mens rea” (intent to commit the crime despite knowing that the crime is a wrongdoing) and “actus rea” (physical commission of the wrongdoing) (Bell Lamb & Joynson Solicitors, 2022; Shein, 2015). To establish criminal liability, it is essential to prove the intent, but it may not be necessary to prove that the defendant physically committed the crime – one could be found guilty for aiding (e.g., escape driver) or abetting (e.g., mastermind who incited the crime), even though he or she had not directly committed the crime (Bell Lamb & Joynson Solicitors, 2022). For gang cases, it is often challenging and time-consuming to establish criminal liability. To craft the theories of intent and responsibilities, the prosecutors would need a significant amount of time to build a deep understanding of the involved gang, e.g., members, structure, insignia, activities, their ways of thinking and their rivalries with other gangs (Jackson, 2004; Lyddane, 2006). This is especially challenging as many jurisdictions do not have well-developed

processes to collect accurate gang intelligence (Lyddane, 2006). In addition, gang crimes like gang violence are often committed in groups – the prosecutors would need to establish the identities of the many who were responsible and their intent (Jackson, 2004). Witnesses' testimonies, whether that of the gang affiliates or bystanders, would be crucial in helping the prosecutors to build strong theories of criminal liabilities (Jackson, 2004). However, many of these witnesses would likely not cooperate with the prosecutors due to reasons such as witness intimidation (Jackson, 2004).

### *Ambiguity of Gang Legislations*

30. To prove a defendant's guilt, the prosecutor would have to demonstrate that the defendant had violated the statutory laws set out in a legislation. However, definitions of unlawful acts in legislations might be ambiguous and open to interpretation, posing a challenge for prosecutors (Bjerregaard, 2003; Caldwell, 2015).

31. For gang legislations, a commonly cited ambiguity relates to the definition of gang membership (Bjerregaard, 2003; Caldwell, 2015). For example, California's Street Terrorism Enforcement and Prevention (STEP) Act states that it is a criminal offence for any individual to "actively participate in any criminal street gang with knowledge that its members engage in or have engaged in a pattern of criminal gang activity, and who wilfully promotes, furthers, or assists any felonious criminal conduct by members of that gang" (Street Terrorism Enforcement and Prevention Act, 1988). The STEP Act does not clarify on what constitutes a gang member. By its hierarchical nature, individuals can be affiliated to a gang at different tiers and extent of involvement (Bjerregaard, 2003). The top leaders and nucleus members are more actively involved in the gang's activities, while there could be some fringe followers who aspire to join but are not seen as part of the gang by the other members. Therefore, there might be different perceptions on whether one is considered a gang member.

32. If a gang member is defined based on gang insignia, there could also be inaccuracies (Bjerregaard, 2003). While gangs might have their representative clothing choices and styles, these could be part of the mainstream fashion trends that are adopted by others who are not part of the gangs. This is especially prevalent when gangs opt to wear well-known designer or sports brands as their attires. Another typical gang insignia, tattoos, could also be misleading. While tattoos could be removed via laser technology, it a painful and expensive procedure. As such, one might choose to keep the gang-related tattoos even after he or she renounced the gang. Therefore, it might be inaccurate to judge whether one is a gang member or not based on the tattoos that he or she dons.

33. With such ambiguity, two scenarios could happen (Caldwell, 2015). On one hand, innocent parties could be misconstrued as gang members and be wrongfully convicted. On the other hand, the defence might be able to take advantage of the ambiguity and argue against the charges, allowing the true gang members to go scot-free.

## Civil Gang Injunction as a Supplementary Approach

34. Given the challenges associated with the criminal prosecution of gang crimes, several jurisdictions, including the U.S., U.K. and Australia, have turned to civil gang injunctions as a supplementary approach to deter gang crimes (Carr et al., 2017; Shiner, 2009; Valasik & Reid, 2021).<sup>8</sup>

35. In essence, a civil gang injunction is an order issued by a civil court to restrain a gang from participating in activities that might constitute public nuisance within a defined geographical area – any individuals who are known to be associated with the gang would need to abide by the order (Myers, 2008; Vannoy, 2009). Examples of prohibited public activities include interactions with other gang members, possession of illegal substances or weapons, possession or consumption of alcohol, usage of gang insignia including words, gestures or wearing associated attire, and staying in public after curfew hours (Myers, 2008; Vannoy, 2009). The violation of a civil gang injunction can carry either a jail term and/or a fine, e.g., a maximum imprisonment of six months and/or a fine of US\$1,000 under California legislations, and a maximum imprisonment of two years in the U.K. (Caldwell, 2009; Carr et al., 2017; Shiner, 2009). Some of these civil gang injunction orders are issued on a permanent basis while others have a validity period, e.g., a maximum validity period of two years under the U.K. legislations (Caldwell, 2009; Carr et al., 2017). In California, as it may take more than a year to obtain a permanent order, a preliminary order with a short-term validity can be sought as an interim measure (O’Deane & Morreale, 2011).

36. These civil gang injunctions aim to reduce gang crimes by banishing gangs and their activities from the community (Vannoy, 2009). It also provides the opportunity for gang members to dissociate themselves from the gang by destroying their sense of gang identity and limiting their interactions with other gang members, with hopes of dissolving the gang culture in the long run (Vannoy, 2009).

37. Despite the potential to deter gang crimes, civil gang injunctions have received their fair share of criticism. Opponents of civil gang injunctions asserted that such orders are a violation of basic civil rights – ordered individuals are denied the rights to participate in otherwise legal public activities, such as social interactions, possession or consumption of alcohol and wearing of certain attires, simply because of suspected gang affiliation (Vannoy, 2009). Others have criticised that such measures would divert the gangs to commit crimes in other neighbouring areas that are not covered under such orders (Myers, 2009). As a civil gang injunction order is only tied to the defined geographical area, another shortfall is that it is not suitable to combat gangs that have high geographical mobility, e.g., those that have influence in many areas (O’Deane & Morreale, 2011).

38. Several studies have attempted to examine the impact of civil gang injunctions on gang-related outcomes but there have been mixed findings. Some studies have

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<sup>8</sup> The civil gang injunction is not meant to replace but to supplement the traditional prosecution approach. It is different from criminal prosecution as the offences are considered as civil rather than criminal offences and the sentences are typically lighter. It also differs in the nature – civil injunction is a blanket order while criminal prosecution deals with case-by-case crimes.

found that civil gang injunctions only have short-term impacts but are not as effective on longer-term outcomes (Burnett, 2019; Maxson et al., 2005). In their study, Maxson and Sloane (2005) surveyed California residents in a highly disordered neighbourhood (“Upper Flats”) where a civil gang injunction was issued and compared them against those in a nearby neighbourhood with similarly high level of public disorder (“North Area”) over two time points, i.e., 18 months prior and six months after the issuance of the order. The study found that Upper Flats had more significant improvements over the two time points as compared to North Area, in terms of immediate outcomes such as gang presence in the community and residents’ fear of being confronted by gangs. However, the two neighbourhoods did not significantly differ over outcomes which are medium-term (e.g., perceived level of public disorder and being a victim of actual or attempted violent gang crimes) and longer-term (e.g., perceived level of social cohesion and willingness to report gang intimidation to the authorities). In a similar vein, Burnett (2019) conducted a qualitative study involving seven phone interviews with residents, gang members and police officers residing or employed in a Tennessee neighbourhood where a gang injunction was imposed. Their thematic analysis revealed that some participants perceived no reduction in gang crimes in the neighbourhood and others observed a diversion of gang crimes to other nearby neighbourhoods. Some participants felt that the injunction had helped to step up police presence in the neighbourhood but this increased police presence did not last for long.

### **Singapore’s History of Gangs and Related Legislations**

39. In Singapore, gangs are commonly known as “Secret Societies” (SS). In the 19<sup>th</sup> century, SS were rampant in Singapore as they flourished from illegal activities involving opium and extortion, as well as vice businesses such as gambling dens and prostitution (Biblioasia, 2015). SS were characterised by violence, to establish their influence in the local communities and power over other rival gangs. The intense violence and the proliferation of vices fuelled by SS increasingly disturbed the public order and peace.

40. As an attempt to suppress SS and to maintain public order, the British Colonial Government enforced the Societies Ordinance in 1889 (Bolton & Hutton, 2000; Cheng, 1972). Under the Ordinance, it was illegal to run a society with more than ten members unless the Government’s approval was obtained. The Government also had the authority to disband societies that were deemed unlawful. While the Ordinance gained initial success in curtailing SS, the impact plateaued as the SS devised workarounds, e.g., turning underground, falsely registering themselves as legal recreational societies or quickly setting up new SS after their predecessors were dissolved by the Government (Biblioasia, 2015).

41. SS continued to threaten public order in Singapore, and the challenges to prosecute them became increasingly apparent – those who were aware of the illegal activities were afraid to provide evidence due to the fear of violent reprisal which the SS were known for (David, 1958). To protect public order, there was a need to swiftly combat SS crimes. As a result, the Government enacted the CLTPA in 1955.

42. SS continue to pose a threat in modern Singapore. *Ang Soon Tong*, a SS based in Singapore and Malaysia that has existed since the 1950s, is known for criminal

activities, such as gun trafficking, drugs, moneylending and illegal gambling (Kok, 2017). In recent times, a gang-related homicide case that shook Singapore involved the *Ang Soon Tong* gang leader, Tan Chor Jin, nicknamed the “One-Eyed Dragon”. He shot and killed nightclub owner Lim Hock Soon, who was believed to be from the *Sio Gi Ho*, at his home on 15 Feb 2006, (Yusof, 2021). In December 2020, following a rioting incident involving a deadly weapon in Clarke Quay, where five men aged between 21 and 40 were arrested (Lau, 2020), the police launched an islandwide operation over two months and arrested 151 suspected members of unlawful societies (Lim, 2021). In March 2022, over a two-week operation targeting crime in public entertainment and nightlife outlets, authorities arrested 26 men, aged between 16 and 41, on suspicion of their involvement in SS (Woon, 2022). Moreover, according to the Singapore Prisons Service, close to one quarter of the 7,572 inmates in 2021 had gang affiliations (Singapore Prison Service, 2022). These incidents and media coverage indicate that SS continue to exist in Singapore, posing a threat to Singapore’s public safety and security.

43. Similar to other countries, youth involvement in gang violence is a concern in Singapore. Examples of local youth gang violence include the high-profile gang-related clashes, such as the Downtown East slashing on 30 Oct 2010, whereby a 19-year-old male was murdered by gang members with a chopper due to a ‘staring incident’ and the Bukit Panjang slashing on 8 Nov 2010, whereby 16 youths were attacked by seven *Salakau* gang members brandishing chopping knives. One of the victims reported that the *Salakau* gang members were targeting a rival gang called *Pak Hai Tong* and the youngest among the attackers was only eight years old (Asiaone, 2010; Asiaone, 2012). More recently in 2021, a 16-year-old slashed the face of his victim with a knife during a clash between two rival gangs, leaving the victim permanently disfigured. In the same period, two SS members aged 18 and 21 slashed a 37-year-old man at a coffee shop in Depot Road, leaving the victim with multiple cuts and stab wounds over various parts of his body (Woon, 2022).

### **The Criminal Law (Temporary Provisions) Act 1955**

44. The CLTPA allows the Minister for Home Affairs to detain persons involved in criminal activities for up to one year or subject them to supervision for a maximum of three years, without trial, via the issuance of Detention Orders (DOs) or Police Supervision Orders (PSOs) (The Statutes of the Republic of Singapore, 2020 Ed.). The Act is only enforced if the Minister is satisfied that the detention or supervision is essential for the benefit of public order and safety. The scope of the CLTPA is not limited to criminal activities associated with SS but also covers other serious crimes, such as murder, robbery with firearms and organised crimes related to drug trafficking and unlicensed moneylending. As the enforcement of the CLTPA does not require a prosecution court trial, it circumvents the challenges associated with gang prosecution and allows Singapore to swiftly thwart gang offending. However, prosecution in court remains the first-line jurisdictional action and the CLTPA is only used as a last recourse in cases where court prosecution is not feasible, e.g., witnesses and accomplices are reluctant to testify against the defendant in court due to the fear of reprisal.

### Safeguards for the CLTPA

45. Several safeguards have been put in place to ensure the powers provided by the CLTPA are exercised appropriately. Each case goes through several layers of review, including that by independent parties, to ensure that facts of the case have been considered objectively to arrive at a decision on whether the DO or PSO is necessary for the benefit of public order and safety (gov.sg, 2018; Shanmugam, 2018). The layers of review include:

- a. The Attorney-General's Chambers (AGC) and senior officials from the Ministry of Home Affairs (MHA) are consulted before the Minister makes the decision on the issuance of a DO or PSO.
- b. The Minister must seek the consent from the Public Prosecutor to issue a DO or PSO.
- c. Each DO or PSO issued will then be reviewed by an independent Criminal Law Advisory Committee (CLAC) (Hearing).<sup>9</sup> Despite the absence of a prosecution trial, the detainee or supervisee can present his or her defence to the CLAC (Hearing) with the option of being represented by a Legal Counsel. The CLAC (Hearing) will examine the evidence and can further interview the relevant parties, including witnesses and Investigation Officers in charge of the case. If required, the CLAC (Hearing) can also request MHA to conduct further investigations. Following the review, the CLAC (Hearing) will make its independent recommendation on the need for the DO or PSO to the President.
- d. The President can revoke, retain or amend the conditions of the DO or PSO based on the CLAC (Hearing)'s recommendation and advice from the Cabinet.
- e. At the first instance, the Minister can issue a DO for up to one year. The DO can be extended by the President for a period of up to one year, at any one time. The DO will be reviewed by the CLAC (Review) at least annually. If a detainee is detained for more than ten years, the case will be reviewed by the Criminal Law Review Board to determine if such extended period of DO is still essential for the benefit of public order and safety.<sup>10</sup>

46. Besides the checks and balances, the temporary nature of the CLTPA by itself is also a safeguard. As a provisional Act, the Government will need to seek the Parliament's endorsement to renew the CLTPA every five years. This allows the Parliament to regularly review the necessity of the CLTPA vis-à-vis the crime landscape in Singapore.

### Renewal of the CLTPA

47. The CLTPA was last renewed in 2018 for a five-year period from 21 October 2019, along with amendments made to refine the Act (Indranee, 2018). The key amendments included:

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<sup>9</sup> The CLAC (Hearing) is chaired by a sitting Judge of the Supreme Court, and comprises senior and experienced lawyers.

<sup>10</sup> The CLAC (Review) and the Criminal Law Review Board are distinct entities from CLAC (Hearing) and comprise prominent private citizens who have relevant expertise and lawyers.

- a. Addition of a Fourth Schedule which specifies the list of criminal activities for which the Minister can issue a DO or PSO  
 Before the amendment, the Minister could issue a DO or PSO as long as Section 30(1) of the Act was fulfilled, i.e., the Minister was satisfied that the person was involved in criminal activities and the detention or supervision was essential for the benefit of public order and safety. With the introduction of the Fourth Schedule under Section 30(2), the Minister now must also ensure that the criminal activities associated with the person is covered under the Fourth Schedule in order to issue a DO or PSO. The addition of the Fourth Schedule provides better clarity of the power conferred to the Minister to issue a DO or PSO and ensures that a more objective decision-making process is in place. The list of criminal activities listed under the Fourth Schedule can be found in the Annex.
  
- b. Addition of a clause to solidify the existing position that the Minister's decisions made under the CLTPA are final  
 While the Court of Appeal has always supported the position that the Minister's decisions made under the CLTPA are final, the addition of the clause seeks to solidify the position to reduce ambiguity. The clause does not remove the safeguards already in place – the issuance of DOs and PSOs must still be consented by the Public Prosecutor, the CLAC (Hearing) will continue to review the DOs and PSOs and the Courts of Appeal will still have the power to perform judicial review on the Minister's decisions based on assessments of illegality, irrationality and procedural impropriety.
  
- c. Enhancing the PSO regime with a focus on targeted rehabilitation based on individual risk factors and needs  
 Previously, the CLTPA provided a standardised PSO regime where all supervisees were required to abide by the same set of supervisory conditions as part of their rehabilitation. Following the amendment, the Minister can now tailor the conditions (e.g., attend counselling, frequency of mandatory reporting to the Police) based on each supervisee's risk factors for reoffending. This targeted approach can more effectively address each supervisee's risk factors and needs to reduce the risk of reoffending.

#### Statistics on Gang Offending in Singapore

48. In Singapore, gang-related offences are defined as Rioting and Serious Hurt cases with connotations of SS, including cases where:
- a. Gangland weapons (e.g., parangs and knuckledusters) were used;
  - b. Gang names or slogans were shouted;
  - c. Any person involved claimed to be from a gang;
  - d. Any victim involved was asked whether they belonged to any gang; or
  - e. Any accused person involved had gang affiliations.



49. Singapore has seen consistently low numbers of Rioting and Serious Hurt cases with SS connotations over the years (refer to Exhibit 1).<sup>11</sup>

Exhibit 1: Total Number of Rioting and Serious Hurt Cases with SS Connotations from 2009 to 2021

<b>Year</b>	<b>Total Number of Rioting and Serious Hurt Cases with SS Connotations</b>
<b>2009</b>	115
<b>2010</b>	120
<b>2011</b>	90
<b>2012</b>	123
<b>2013</b>	104
<b>2014</b>	124
<b>2015</b>	125
<b>2016</b>	124
<b>2017</b>	104
<b>2018</b>	97
<b>2019</b>	119
<b>2020</b>	119
<b>2021</b>	90

50. The number of gang offenders detained under the CLTPA, known as the Criminal Law Detainees – Secret Society (CLD – SS), has been generally declining over the years (refer to Exhibit 2).<sup>12</sup>

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<sup>11</sup> Statistics on the total number of Rioting and Serious Hurt cases with SS connotations were extracted from the “Written Reply to Parliamentary Question on Number of Violent Offences Committed by Juveniles and Gangs from 2000 to 2020” published on MHA website on 8 November 2022.

<sup>12</sup> Statistics on the number of CLD – SS offenders were extracted from Singapore Prison Service’s Annual Statistics Releases published on their website.

Exhibit 2: Number of CLD – SS Offenders from 2011 to 2023

<b>Year</b>	<b>Number of CLD - SS Offenders</b>
<b>2011</b>	160
<b>2012</b>	138
<b>2013</b>	125
<b>2014</b>	99
<b>2015</b>	89
<b>2016</b>	91
<b>2017</b>	86
<b>2018</b>	93
<b>2019</b>	88
<b>2020</b>	95
<b>2021</b>	86
<b>2022</b>	78
<b>2023</b>	78

**Conclusion**

51. Gang offending remains a long-standing and pervasive issue that threatens public order and safety for many countries. For many of these countries, the prosecution approach remains the key judicial action to combat gang crimes. However, this approach comes with a myriad of challenges, such as witness non-cooperation and intimidation, difficulty in establishing criminal liability, and ambiguity of gang legislations. To supplement the prosecution approach, some jurisdictions have implemented alternatives such as civil gang injunctions, but these have limitations as well.

52. For Singapore, while prosecution in court remains the first-line jurisdictional action, the CLTPA provides a recourse in cases where prosecution is not feasible but there is a need to swiftly combat gang offending. The safeguards of the CLTPA ensure that each case is objectively assessed. The consistently low number of gang offending cases and the general declining trend in the number of CLD – SS offenders suggest that Singapore’s approach to gangs has been effective in keeping the local gang situation under control.

## **Annex**

### Fourth Schedule of the CLTPA

#### Activities of a Criminal Nature

1. Unlicensed moneylending
2. Drug Trafficking
3. Involvement in a secret society, or as a gangster
4. Human Trafficking
5. Robbery with firearms
6. Murder
7. Gang Rape
8. Kidnapping
9. Participating in, or facilitating, any organised crime activity as defined in section 48(1) of the Organised Crime Act 2015
10. Attempting to carry out, abetting, or being a party to a criminal conspiracy to carry out, any activity listed in items 1 to 9.

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