

Drill music & gang affiliation: not always hand-in-hand?



Paul Jackson examines the complex relationship between drill music artists & the admissibility of music lyrics & videos to establish gang affiliation

IN BRIEF

► There is a considerable grey area between a legitimate artist and a genuine violent gang member.

► Any trial judge must be urged to take care before allowing violent lyrics and videos, especially if not supported by other evidence, to go before a jury as potential evidence of gang affiliation.

From its origin in South London from 2012 onwards, drill music has developed an ever increasing following and popularity. It is a legitimate form of musical entertainment notwithstanding that the genre's lyrics often necessarily include reference to violence, firearms and gangs. Power ballads they are not.

Yet despite that legitimacy, the Crown frequently seek to rely upon the lyrics and accompanying videos to show that the artist, with aspirations of fame and fortune, is in fact affiliated with a particular gang and glorifies the use of weapons and violence. Obviously, every case is fact-specific, and undoubtedly there will be occasions when that stance is entirely justified: for example, when a defendant effectively confesses to a violent crime within the lyrics, or when it is combined with some other form of evidence, such as threatening Instagram posts.

Record label recognition

Recent experience, however, has shown that whether or not a drill performer has the backing of a record label seems to be relevant to the Crown's perception of gang membership. In an attempted murder shooting trial I defended, which the Crown asserted had all 'the hallmarks' of being gang-related, the police treated an established drill music star very differently to the wannabe co-defendant. One of the co-defendant's drill videos, *More Muni*, had all the normal ingredients, but also included throughout the celebrated artist 'Yxng Bane'. The Crown produced stills from that video with accompanying text boxes setting out who was featured and what was known about them. Of course, it was asserted that the co-defendant's presence and rapping supported the suggestion he was a member of the Custom House gang. The following was said about 'Yxng Bane' however: 'In the pink hoodie is... Yxng Bane (who) is now a successful rapper. He is from the Custom House area and his early music involved rapping with Custom House gang members.' It seems that, according to the police gang expert who prepared the evidence, until you are signed by a record label, if you feature in a drill video: you're a gang member. The co-defendant's one million views on YouTube were not enough for him to be viewed solely as an artist.

In the same case, another interesting point arose. The Crown sought to rely upon my client's December 2018 drill video called *Custom Goons* which was a Pacman TV film production which the defendant had paid for. On its website, Pacman TV describes itself as a video production company. It routinely produces videos of this type which are said to encourage deadly gang conflict. In fact, it was Pacman that added the gun firing sounds and the bullet hole visual effects to my client's video which the Crown were most interested in. Yet the police seem not to take issue with them.

Joint enterprise risks

There is a considerable grey area between a legitimate artist and a genuine violent gang member, and so any trial judge must be urged to take care before allowing such lyrics and videos, especially if not supported by other evidence, to go before a jury as potential evidence of gang affiliation. Defence cases may benefit from expert evidence on this genre of music.

If I were to summarise the position in a sentence I would quote, with slight amendment, a 50 Cent album title, *Get Rich or Go To Prison Tryin'*: because even though you were merely present at the scene of a violent attack, your attempts to get rich can be used against you to establish gang affiliation and therefore joint enterprise involvement.

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