Royal Commission
Legal Assistance Service

Fact Sheet
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Hate symbols: What you can do about it

This fact sheet provides general guidance about hate symbols and the law in Australia. You should not rely on it as legal advice.

What are hate symbols?

A hate symbol is a sign, image or symbol that is linked to groups or beliefs that promote hatred, racism, violence or discrimination. It may be used to show support for those beliefs.

A hate gesture is a movement or action used to show support for people or groups that promote hatred or violence against others.

Examples may include:

- Nazi symbols
- Nazi salutes
- Symbols used by listed terrorist organisations
- Other symbols commonly used by extremist groups.

Some hate symbols and gestures are against the law and cannot be publicly displayed.

The law in Australia

Under federal law, it is a crime to publicly display certain Nazi symbols or perform the Nazi salute.

These laws apply to

- the Nazi *hakenkreuz* (also known as a swastika or hooked cross)
- the Nazi double-sig rune (known as 'SS bolts' which appear as two lightning bolts).

It is a crime to buy, sell or trade certain Nazi symbols.

Federal law also makes it a crime to display or use symbols that identify:

- a terrorist organisation, such as its flag
- a listed prohibited hate group, such as a symbol used on a website
- a listed state sponsor of terrorism, such as its flag.

The law also applies to symbols that look so similar to one of these symbols that people could mistake them for the real symbol.

Some states and territories also have their own laws about hate symbols, hate speech and related behaviour. The law about hate symbols is not the same in every state and territory. Get legal advice if you need advice about the law where you live.

Examples of hate symbols

A hate crime involving hate symbols or gestures may include:

- painting Nazi symbols on a home, business, place of worship or other property
- performing the Nazi salute in public (this involves raising a straight arm at an angle from the body)
- displaying the symbol of a listed terrorist organisation like Al-Qa'ida, Hezbollah, Hamas or Islamic State
- posting or sharing the symbol of a state sponsor of terrorism like the Islamic Revolutionary Guard Corps (IRGC) online.

This list does not cover all possible hate symbols which are against the law. For more information about prohibited hate symbols, see the Australian Government's Prohibited hate symbols webpage.

When are hate symbols allowed?

Some laws allow people to use hate symbols for teaching, learning, research, art, reporting the news, or discussing important public issues. These are called 'exceptions'.

These exceptions do not apply if the use is against the law.

Even if a person is charged with a crime for displaying a hate symbol, they may still have a legal defence. For example, they may have acted in self-defence or been forced to do something by someone else.

It is not a hate crime to use religious symbols for genuine religious purposes. For example, the law does not stop the public display of:

- the sacred Swastika used in Buddhism, Hinduism and Jainism
- the Shahada used in Islam.

What to do if you see a hate symbol or gesture

Keep records

Keeping records can help police understand what happened and look into it.
If you can, keep:

- photos of hate symbols or gestures
- screenshots, messages, emails, letters or social media posts
- videos including phone, CCTV or dashcam recordings
- the names and contact details of any witnesses.

Report a hate symbol

Everyone has the right to feel safe. If a hate symbol, gesture or other behaviour makes you fear for your safety or targets you because of who you are, seek support and consider reporting the incident.

For information on how you can report a hate crime to the Police or other organisations see our Hate Crimes Factsheet.

You can also report what happened to:

- the person who displayed the hate symbol or to the organisation where it happened if it is safe to do so. This may be an employer, school, university, sports club, venue, service, social media site or community group;
- a government body or a community group that records hate events. Community groups may collect reports to find trends, raise awareness and call for change.

If it happened online, you may be able to report it to the website, app or to eSafety. For more information see our Online Hate Factsheet.

Get legal advice early

Early legal advice can help you understand:

- your options
- any risks or costs
- the time limits that apply
- the outcomes you want and whether they are reasonable.

For legal advice

Contact your local Legal Aid Commission, community legal centre or Aboriginal and Torres Strait Islander legal service in your State or Territory. You can also contact your local Law Society and ask about legal help.

For support

Witnessing hate symbols can be distressing. You may want help from someone you trust, a community group, a counsellor or another support service:

- Lifeline offers 24-hour crisis support and suicide prevention on 13 11 44
- Suicide Call Back Service is available on 1300 659 467
- eSafety counselling and support services offers support if you have experienced online abuse or harm
- Kids Helpline offers counselling, peer support and resources on a range of issues affecting young people.

Community organisations

- 13 YARN offers crisis support for Indigenous people
- Medicare Mental Health phone service offers mental health support
- Blueknot has a helpline, resources and support for people affected by complex trauma.

Disclaimer: This information is intended as a general information guide only. It should not be relied upon as legal advice. We recommend that you speak with a lawyer about your individual situation.
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