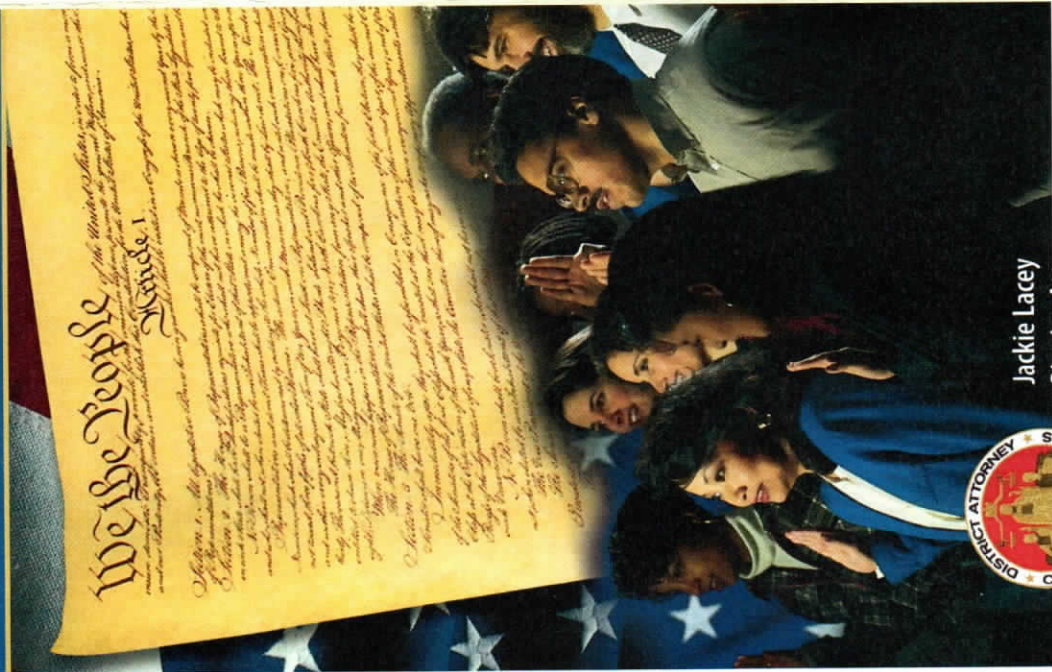


HATE CRIMES — UNDERMINING OUR NATION'S FOUNDING PRINCIPLES



Jackie Lacey

HATE CRIMES

California law defines a hate crime as a criminal act or credible threat of violence against a person or group of people in which the victims are targeted because of their actual or perceived race, color, religion, ancestry, national origin, sexual orientation, gender or disability.

Hate crimes cause victims and the targeted community to live in fear and tend to undermine the foundations of equal justice in our society.

To charge an offender with a hate crime under California law, there must be evidence that bias, hatred or prejudice was a substantial motivating factor in the commission of the crime.

The following acts are examples of hate crimes under California law if the victim is a member or perceived to be a member of the legally protected group:

- Targeting a victim for any crime, including property crimes such as burglary or vandalism, because of his/her race, color, religion, ancestry, national origin, sexual orientation, gender or disability
- Using force or threatening to use force to injure, intimidate or interfere with a person's exercise of constitutionally guaranteed rights and freedoms such as attending church or school, voting, moving freely in public places or being secure in one's home
- Defacing or damaging property to intimidate or interfere with a person's exercise of constitutionally guaranteed rights and freedoms
- Desecrating a religious symbol or displaying a swastika on another person's property with the intent to terrorize
- Vandalizing, burning or bombing a church, synagogue, mosque or other house of worship with the intent to terrorize
- Hanging a noose on another person's property, knowing it to be a symbol representing a threat to life and for the purpose of terrorizing the owner of the property including schools, parks and places of

FREE SPEECH OR HATE CRIME?

In our society, we sometimes encounter hateful words and behavior in the form of racial or ethnic slurs, religious insults or anti-gay messages posted on the Internet, shouted out at political rallies or spoken in anger during a confrontation on the street, such as a road-rage dispute. But such slurs, insults or hateful statements alone are not hate crimes.

Free speech is protected by the First Amendment of the United States Constitution, even when it may contain hateful or inflammatory ideas. So, while it may hurt and frighten people and communities, it is not a crime to speak or write words that advocate hate and bigotry. However, speech that includes a credible threat of violence against an individual or group is a crime.

Hate incidents are hate-motivated words or actions that do not rise to the level of a crime but are still offensive because the targeted person may feel victimized.

PROSECUTING HATE CRIMES

California has a number of laws that specifically apply to hate crimes. These offenses may be prosecuted either as misdemeanors or felonies depending on the severity of the act. Some crimes that are typically prosecuted as misdemeanors can be elevated to felonies if they are hate-motivated. Convictions for felony crimes where hate was a substantial motivating factor can carry penalty provisions that add one to four years to the standard state prison sentence.