

Gang Signs

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A caller recently asked me whether it is a crime to use gang signs. First, some background. [According to one gang expert](#), “each gang has their own gang hand signs that they use to show allegiance to their gang or to disrespect . . . rival gang members. Many gangs have created hand signs, using their fingers and hands, to represent letters of the alphabet and other signs to represent a word or a phrase. Most members become highly proficient at this ‘art’ and can communicate with others without speaking. Displaying these gang hand signs is known as ‘flashing’ or ‘throwing’ the signs.” Signs vary from gang to gang, so there isn’t a universal dictionary of gang signs, but some examples can be viewed [here](#) and [here](#).

The first place I looked was the Street Gang Suppression Act, G.S. 14-50.15 *et seq.* But I didn’t see anything there that would prohibit the use of gang signs. Then I remembered G.S. 14-12.4, which makes it “unlawful for any person to use . . . any signs, grips, [or] passwords . . . in the furtherance of . . . any purpose of violating . . . the laws of the State.” Could that statute apply to gang signs? As a matter of historical interest, G.S. 14-12.4 is part of Article 4A of Chapter 14, entitled “Prohibited Secret Societies and Activities.” That article was enacted in 1953, and was known at the time as the “anti-Ku Klux Klan statute.” *A Survey of Statutory Changes in North Carolina in 1953*, 31 N.C. L. Rev. 375, 401 (1953).

Turning now to statutory interpretation, I doubt that the use of gang signs automatically constitutes a violation of G.S. 14-12.4. As far as I can tell, the statute has never been cited in an appellate case, so all we have to go on is the text of the statute. And the text requires that the signs be used in furtherance of an illegal purpose. The most common use of gang signs appears to be “claiming,” or asserting membership in a gang. Essentially, the person using the sign is saying “I’m a member of gang X.” Since being a member of gang isn’t a crime in itself, “claiming” doesn’t appear to be in furtherance of an illegal purpose. Similarly, using gang signs to spell out, for example, “I love rainbows and ponies” – I bet that happens all the time – doesn’t seem like it would be in furtherance of an illegal purpose. By contrast, using gang signs to communicate “I’m going to kill you” or “I have drugs for sale” would appear to violate G.S. 14-12.4, as well as other laws.

I should add that there may be constitutional concerns with regulating the use of gang signs. I’m not an expert in that area of law and haven’t researched it extensively, but a few minutes on Westlaw turned up *Martinez v. State*, 323 S.W.3d 493 (Tex. Ct. Crim. App. 2010) (affirming conviction of defendant for violating injunction prohibiting defendant and others from, inter alia, using gang signs, and finding the injunction consistent with the First Amendment), and *People v. Engbrecht*, 106 Cal.Rptr.2d 738 (Cal. Ct. App. 4 Dist. 2001) (rejecting First Amendment challenge to anti-gang injunction).

I think the best answer to the caller’s question is no, it isn’t in itself a crime to use gang signs. If you think otherwise or know of cases in which the use of gang signs has been charged as a crime, please weigh in.