

## Case challenges typical notion of gangs | Hearing in surfer's beating death nears

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### Document Text

Ask authorities to name local neighborhoods plagued by gang violence, and chances are La Jolla won't make the list.

Although not immune to crime, the affluent San Diego enclave hasn't been viewed as a magnet for gangs, nor as territory claimed by any specific criminal group.

Until recently.

Five men -- all graduates of La Jolla High School -- face murder charges in the beating death of Emery Kauanui Jr., 24, a professional surfer who was attacked outside his mother's La Jolla home. Key issues in the case include whether the defendants were members of a crew called the Bird Rock Bandits and whether the group qualifies as a gang under state law.

The high-profile case has piqued the public's interest partly because it challenges traditional notions of who can be called a gang member.

San Diego Superior Court Judge John S. Einhorn is expected to consider the issue and others at a preliminary hearing scheduled to begin this week. At the end of the hearing, the judge will determine whether there is enough evidence for the men to stand trial.

If a jury finds the men guilty of murder, and that they acted on behalf of a criminal street gang, the men could be sent to prison for life.

Gang allegations, also called enhancements, significantly increase penalties in criminal cases. In murder cases, the enhancements increase the time defendants must spend in prison before they become eligible for parole.

"It's a tough call," said Shaun Martin, a professor at the University of San Diego School of Law, who conceded that some facts in the case make it an unusual gang prosecution.

"A gang that just goes around beating people up isn't the kind of gang we're used to."

Experts say gang members commit crimes to boost their reputations within the group and instill fear within the community. Their crimes can run the gamut from drug sales to homicide.

"Most of these crimes are motivated by status," said Andrew Spear, a San Diego police detective and gang expert who has testified at numerous trials. "It gives the gang member a feeling of empowerment and it elevates the status of the gang."

The men accused in the Bird Rock Bandits case -- Seth Cravens, 22; Eric House, 20; Orlando Osuna, 22; Matthew Yanke, 21; and Henri "Hank" Hendricks, 22 -- were arrested last year in connection with the May 24 attack on Kauanui.

None of them has an adult criminal record.

Cravens, the only suspect still in jail, is being held on \$1.5 million bail. The others are free on bail.

Prosecutors say the Bird Rock Bandits, named for the beachside community at La Jolla's southern end, are responsible for more than a dozen assaults dating to 2002. Authorities say the loose-knit crew of about 12 people has intimidated and threatened people in the area for years.

Such behavior -- coupled with evidence in court records that the group used hand signs and maintained a Web page bearing the group's name -- appears to meet the gang criteria set by the Legislature, some experts said.

State law defines a gang as a group of three or more people with a common identifying sign, symbol or name, whose members engage in a pattern of criminal activity, such as robbery, assault or murder.

Defense attorneys in the case have refuted any assertion that the men were part of a gang. They say the men were simply high school friends and athletes who grew up near one another in the coastal neighborhood.

Michael L. Crowley, a defense lawyer who is not involved in the case, said it can be tough to defend a client who is accused of being a gang member because the laws are broadly written. Crowley said in some cases, the law allows prosecutors to present evidence that otherwise might not be relevant to the current charge.

For example, a prosecutor can present testimony about a defendant's past behavior as evidence that he or she is a gang member. Under those circumstances, Crowley said, it can be difficult to persuade jurors to look at an individual objectively.

"I can understand the public's frustration with gangs," said Crowley, president of the San Diego County Criminal Defense Bar Association. "But by the same token, a lot of times the net is spread way too wide for what is really gang activity."

According to a search warrant affidavit filed in the case, the five defendants and Kauanui were at a La Jolla bar the evening of May 23. Around 1 a.m., Kauanui spilled beer on House and the two got into an argument.

Security guards asked Kauanui to leave.

Later, House and others talked about retaliating and drove to a Draper Avenue home where Kauanui lived with his mother. Outside the home, House and Kauanui had a second confrontation and House lost a tooth in the ensuing fight. A witness told police that Cravens "sucker-punched" Kauanui, striking him in the head and causing him to fall to the pavement.

Kauanui sustained several skull fractures and died at a hospital four days later.

Prosecutors have characterized the fight as a "group attack," during which the men punched and kicked Kauanui as he lay on the ground.

Legal experts note that in cases involving several defendants, the levels of culpability tend to vary. They said prosecutors typically hope some defendants will plead to lesser charges in exchange for their testimony.

"It's an aggressive use of the (gang) statute," said Martin, the USD professor. "But I don't think it's so outrageous that it crosses the line."

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**Abstract** (Document Summary)

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