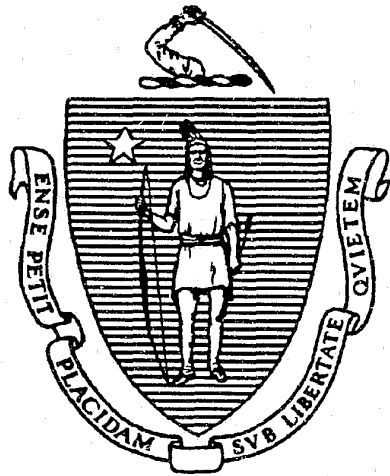


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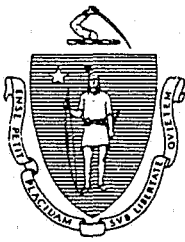


**A Special Report
Regarding the Constitutionality of
Massachusetts Civil and Criminal Civil Rights Laws**

March 16, 1993

This report has been endorsed by the Attorney General's Hate Crimes Study Group

149194



The Commonwealth of Massachusetts

Office of the Attorney General

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March 16, 1993

To Members of the Law Enforcement and Civil Rights Communities:

In September, 1992, following the United States Supreme Court decision in R.A.V. v. City of St. Paul, in which the Court declared the St. Paul, Minnesota hate crime ordinance unconstitutional, I convened the Attorney General's Hate Crimes Study Group, consisting of civil rights and constitutional law experts, to conduct a comprehensive legal review of the Massachusetts civil rights statutes. The results of the legal review are contained in this Report.

Our findings are that the Massachusetts civil and criminal civil rights statutes are constitutionally sound and on firm legal foundation. The Massachusetts statutes are fundamentally different from the city ordinance at issue in R.A.V., which the Supreme Court held violated the First Amendment because it prohibited the expression of certain ideas on the basis of their content and not on the basis of the method in which these ideas were conveyed. Massachusetts civil rights statutes target only conduct, not ideas. They proscribe conduct already criminal in nature and do not apply to speech or conduct that would otherwise be lawful.

The findings in this Report should send a clear message both to victims and to potential perpetrators that bias-motivated crimes will be vigorously prosecuted in Massachusetts. It should also prove a useful tool to District Attorneys throughout the Commonwealth in the event of a First Amendment challenge to any Massachusetts civil or criminal civil rights statute.

The Legislature has provided law enforcement with strong, constitutionally sound statutes for the battle against bias-motivated crime. Together, we can ensure the continued and vigorous enforcement of the statutes and the protection of all citizens of the Commonwealth.

Sincerely,

Scott Harshbarger

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**U.S. Department of Justice
National Institute of Justice**

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ATTORNEY GENERAL'S REPORT
REGARDING THE CONSTITUTIONALITY
OF MASSACHUSETTS CIVIL AND CRIMINAL CIVIL RIGHTS LAWS

The United States Supreme Court's recent opinion on R.A.V. v. St. Paul, 112 S. Ct. 2538 (1992), declaring unconstitutional St. Paul, Minnesota's hate crime ordinance, and recent decisions by the Wisconsin^{1/} and Ohio Supreme Courts^{2/} holding their hate crime statutes unconstitutional on First Amendment grounds, has caused public confusion and raised law enforcement concern about the constitutional validity of Massachusetts civil and criminal civil rights statutes.^{3/} This Report explains that the validity of these Massachusetts statutes is in no way called into question by these case decisions, and law enforcement officials at the state and local level should continue to enforce these statutes vigorously.

^{1/}Wisconsin v. Mitchell, 169 Wisc. 2d 153, 485 N.W.2d 807 (Wisc. 1992), cert. granted, 113 S. Ct. 810 (Dec. 14, 1992)

^{2/}Ohio v. Wyant, 64 Ohio St.3d 566, 597 N.E.2d 450 (Ohio 1990), petition for cert. filed, 61 U.S.L.W. 3303 (Sept. 29, 1992).

^{3/}G.L. c. 239, § 37; G.L. c. 239, § 39 and G.L. c. 12, §§ 11H-I.

In R.A.V. v. St. Paul, the Supreme Court struck down a local ordinance as facially unconstitutional under the First Amendment, because it prohibited the expression of certain ideas on the basis of their content and not the illegal method in which these ideas were conveyed.^{4/} The Minnesota Supreme Court had construed the ordinance to apply only to "fighting words."^{5/}

The offender argued that, although it was permissible to prosecute him under a generally applicable criminal statute for having burned a cross on a black family's property, it would be unconstitutional to punish him for his expressions of bias or hate. The majority of the Supreme Court found that the St. Paul ordinance directly proscribed words that communicated messages of racial, gender or religious intolerance, indicating that the city was "seeking to handicap the expression of particular ideas," rather than the conduct itself. R.A.V. v.

^{4/}The ordinance provided: "Whoever places on public or private property a symbol, object, appellation, characterization or graffiti, including, but not limited to, a burning cross or Nazi swastika, which one knows or has reasonable grounds to know arouses anger, alarm or resentment in others on the basis of race, color, creed, religion or gender commits disorderly conduct and shall be guilty of a misdemeanor." St. Paul, Minn. Legis. Code § 292.02 (1990).

^{5/}The Supreme Court has defined "fighting words" as "those which by their very utterance inflict injury or tend to incite an immediate breach of the peace." Chaplinsky v. New Hampshire, 315 U.S. 568, 572 (1942) (footnote omitted).

St. Paul, 112 S. Ct. at 2549. The Court held that "[t]he government may not regulate use [of fighting words] based on hostility -- or favoritism -- towards the underlying message expressed." R.A.V. v. St. Paul, 112 S. Ct. at 2545 (citations omitted).

Massachusetts civil and criminal civil rights statutes authorize civil injunctions against and criminal punishment of those who commit unlawful acts and discriminatorily select their victims on the basis of their race, religion, ethnic background, national origin, disability or sexual orientation. These civil rights statutes are materially different from the ordinance at issue in R.A.V. v. St. Paul and, therefore, remain valid and enforceable.

A. G.L. c. 265, § 37 and G.L. c. 12, §§ 11H-I

In 1979 the Massachusetts General Court enacted both civil and criminal civil rights statutes to address the prevalence of civil rights violations, particularly racial violence and harassment, occurring in Massachusetts. Batchelder v. Allied Stores Corp., 319 Mass. 819, 821 (1985). The statutes, inserted by c. 801 of the Acts of 1979, are codified at G.L. c. 265 § 37, and G.L. c. 12, §§ 11H and 11I.

Chapter 265, § 37 and c. 12, §§ 11H and 11I, are laws of general applicability providing for criminal and civil penalties in cases of civil rights violations regarding any

secured right, rather than being confined to the rights of particular groups or classes of individuals.

In order to prosecute successfully an individual pursuant to Section 37^{6/}, the Commonwealth must establish that the defendant used force or the threat of force to interfere willfully with a victim's free exercise or enjoyment of a state or federal protected right or privilege. Commonwealth v. Stephens, 25 Mass. App. Ct. 117, 122 (1987).

Chapter 12, §§ 11H and 11I^{7/} are Massachusetts' counterpart to 42 U.S.C. § 1983, the federal civil rights law, except they also reach the conduct of private parties.

^{6/}G.L. c. 265, § 37 states in relevant part:

No person, whether or not acting under color of law, shall by force or threat of force, willfully injure, intimidate or interfere with, or attempt to injure, intimidate or interfere with, or oppress or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him by the constitution or laws of the Commonwealth or by the constitution or laws of the United States.

^{7/}G.L. c. 12, § 11H states in relevant part:

Whenever any person or persons ... interfere by threats, intimidation or coercion, or attempt to interfere by threats, intimidation, or coercion, with the exercise or enjoyment by any other person or persons of rights secured by the constitution or laws of the United States, or of rights secured by the constitution or laws of the Commonwealth, the attorney general may bring a civil action...."

G.L. c. 12, § 11I confers a private cause of action on aggrieved persons whose rights have been interfered with in the manner described in § 11H.

Batchelder v. Allied Stores Corp., 393 Mass. at 822-823. The Massachusetts civil rights statutes have been applied to violations of civil rights unrelated to bias motivated conduct. See e.g., Redgrave v. Boston Symphony Orchestra, 399 Mass. 93 (1987) (breach of contract interfered with plaintiff's First Amendment rights); Bell v. Mazza, 394 Mass. 176 (1985) (interference with plaintiff's property rights to construct a tennis court on their property); Karetnikova v. Trustees of Emerson College, 725 F. Supp. 73 (D. Mass. 1989) (interference by employer with protected speech); Batchelder v. Allied Stores Corp., 393 Mass. 819 (1985) (interference with the right to solicit signatures at a shopping center in support of a candidacy for public office).

In order to obtain a civil injunction or other civil remedy under G.L. c. 12, §§ 11H-I, the Commonwealth or individual plaintiff must demonstrate that a victim's federal or state protected rights were abridged through threats, intimidation or coercion. Unlike the St. Paul ordinance, these statutes are content neutral. They do not impose prohibitions on speech or the content of speech. Rather, they only regulate conduct which violates a victim's legally protected rights, such as the right to use public accommodations or to vote.

On the basis of the United States Supreme Court's legal reasoning in the R.A.V. v. St. Paul decision, Section 37 and Sections 11H and 11I would withstand constitutional challenge.

B. G.L. c. 265, § 39

Chapter 165 of the Acts of 1983, entitled "An Act prohibiting certain acts against persons and properties," and Chapter 619 of the Acts of 1985, enacted three criminal and civil rights statutes addressing racial, religious and ethnic intimidation or violence, one of which was Section 39.

Section 39, which has more limited applicability than Section 37, makes it a crime when anyone "commits an assault or battery upon a person, or damages the real or personal property of another for the purpose of intimidating the victim because of his or her race, color, religion or national origin." The statute proscribes conduct which is already criminal in nature. It does not criminalize speech or conduct that would otherwise be lawful. It provides prohibitions against criminal conduct that occurs for the specific purpose of intimidating an individual because of his or her racial, ethnic or religious status. It does not, however, single out one form of racial bigotry over another for special protection or provide heightened protection to any particular racial, ethnic or religious group. It protects blacks, whites, hispanics and asians, for example, equally.

Section 39, therefore, is a criminal law that punishes discrimination in the selection of a victim of a crime. This Massachusetts criminal civil rights law does not necessitate inquiry into the offender's ideas, values or philosophy to

prove any element of the crime. The underlying reason an individual may have singled out a black man is not material to the prosecutor's case. The reason for or cause of the perpetrator's bias or prejudice which led the person to engage in the criminal conduct is not an element of the underlying offense under this statute. Whether the perpetrator was in fact biased or prejudiced, or actually communicated such bias or prejudice against the victim's group, is not an element of the crime. However, evidence of words reflecting bias would be admissible to prove that the victim was selected because of his or her status, just as evidence of any defendant's words may be used to prove intent or malice in any other criminal proceeding. Therefore, Section 39 survives the decision in R.A.V. v. St. Paul.

C. Section 37, Section 39, and Section 11H and I

1. CONSIDERATION OF BIAS MOTIVATION FOR CRIMINAL PUNISHMENT AND CIVIL CULPABILITY HAS NEVER BEEN DEEMED BY THE SUPREME COURT AS A VIOLATION OF THE FIRST AMENDMENT.

The First Amendment to the United States Constitution and Articles 16 and 19 of the Declaration of Rights of the Massachusetts Constitution secure the right of individuals to engage in expressive activities in furtherance of their personal beliefs and values. These provisions do not, however, protect violent, intimidating or threatening conduct which purposely or intentionally abridges another person's civil rights specifically because he or she is of a certain race,

color, religion, ethnic background or sexual orientation. In R.A.V. v. St. Paul the Court indicated that if St. Paul's ordinance had prohibited expression that "communicate[s] ideas in a threatening (as opposed to a merely obnoxious) manner," the statute would have been constitutional. 112 S.Ct at 2549.

Even conduct that has some expressive content may constitutionally be proscribed. Where the government does not target conduct on the basis of its expressive content, conduct is not shielded from regulation merely because it expresses a discriminatory idea or philosophy. R.A.V. v. St. Paul, 112 S. Ct. at 2546-2547; Cox v. Louisiana, 379 U.S. 536, 555 (1965); see also, Roberts v. United States Jaycees, 468 U.S. 609, 628 (1984) ("[A]cts of invidious discrimination ... like violence or other types of potentially expressive activities that produce special harm distinct from their communicative impact, ... are entitled to no constitutional protection.")

The Massachusetts civil and criminal civil rights laws are not directed at the content of any type, category, or form of message an actor might be communicating by his or her offense, and therefore are constitutionally valid. As the Supreme Court explained in R.A.V. v. St. Paul, "the reason why fighting words

are categorically excluded from the protection of the First Amendment is not that their content communicates any particular idea, but that their content embodies a particularly intolerable (and socially unnecessary) mode of expressing whatever idea the speaker wishes to convey." 112 S. Ct. at 2548-2549 (emphasis in original).^{8/}

A number of federal criminal civil rights laws and this nation's civil statutes governing employment, housing, public accommodations and credit discrimination would be jeopardized by a different conclusion. Congress has enacted numerous federal criminal civil rights statutes and civil anti-discrimination laws which, like Section 39, prohibit the discriminatory selection of victims because of their racial or religious status or ethnic background, and nothing in R.A.V. v. St. Paul calls these statutes into question. A series of Supreme Court decisions have upheld the use of discriminatory animus as an appropriate element of a crime or civil rights tort. As set forth below, the Court has never even suggested that any of these laws are inconsistent with the First Amendment.

^{8/} Thus, for example, it is constitutionally permissible to prosecute interferences with secured rights by assaulting a person whom the defendant selected based on the victim's race, because the prosecution would be targeting an intolerable "mode of expression," i.e., assault, and not the defendant's beliefs with regard to race.

Federal criminal civil rights statutes, 18 U.S.C. §§ 242,^{9/} 245,^{10/} and 247,^{11/} and 42 U.S.C. § 3631,^{12/} criminalize actions based on discriminatory motive and the selection of victims because of their status, including race, color, ethnicity or religion. The Supreme Court has declared that the legislative history of 18 U.S.C. § 245(b) confirms that its central purpose was to prevent and punish violent interference with the exercise by specific classes of individuals of specified rights "for racial or other discriminatory reasons." See Johnson v. Mississippi, 421 U.S.

^{9/}18 U.S.C. § 242 prohibits willful deprivation under color of law of federal constitutional and statutory rights by reason of race, color, or alienability.

^{10/}18 U.S.C. § 245 prohibits willful interference under color of law, by force or threat of force, with the enjoyment of certain specified constitutional rights, e.g. voting, traveling in or using any facility in interstate commerce, and enjoying public accommodations, on account of race, color, religion, or national origin.

^{11/}18 U.S.C. § 247 makes it unlawful to deface, damage or destroy any religious real property, because of the religious character of that property, and to obstruct, by force or threat of force, any person in the enjoyment of that person's free exercise of religious beliefs.

^{12/}42 U.S.C. § 3631 prohibits interference, by force, with any person in selling, purchasing, renting, financing, occupying, or contracting for any dwelling because of that person's race, color, religion, sex or national origin.

213, 224-226 (1975); United States v. Lane, 883 F.2d 1484, 1487-1493 (10th Cir. 1989), cert. den., 493 U.S. 1059 (1990).

Justice Scalia, in his opinion in R.A.V. v. St. Paul, cited 18 U.S.C. § 242, indicating it was a statute that is proper and would withstand First Amendment scrutiny. 112 S. Ct. 2546. (18 U.S.C. § 242 criminalizes the deprivation of a person's federally protected rights by reason of race or color).

Similarly, the Supreme Court has interpreted 42 U.S.C. § 1985(3),^{13/} a non-criminal civil rights statute, to require "some racial, or perhaps otherwise class-based, invidiously discriminatory animus behind the conspirators' action." Griffin v. Breckenridge, 403 U.S. 88, 102 (1971). See also, United Brotherhood of Carpenters and Joiners v. Scott, 463 U.S. 825, 836 (1983); Bray v. Alexandria Women's Health Clinic, 113 S. Ct. 753, 760-761 (1993). (Statute requires proof of selection of "a particular course of action at least in part 'because of' its adverse effects upon an identifiable group," deriving from a class based animus.)

The Supreme Court in R.A.V. v. St. Paul made clear that the First Amendment does not prohibit laws such as Section 39, which protect only certain classes or groups of

^{13/}42 U.S.C. § 1985 (3) imposes civil liability on anyone who conspires to deprive a person or class of persons of "the equal protection of the laws, or of equal privilege and immunities under the laws."

individuals.^{14/} The Supreme Court in R.A.V. v. St. Paul stated: "What we have here, it must be emphasized, is not a prohibition of fighting words that are directed at certain persons or groups (which would be facially valid if it met the requirements of the Equal Protection Clause) ..." 112 S. Ct. at 2548 (emphasis in original).

Furthermore, under both state and federal employment discrimination statutes, including G.L. c. 151B, 42 U.S.C. § 1981 and Title VII of the Civil Rights Act of 1964, as amended by 42 U.S.C. § 2000e-2(a)(1), discriminatory motive may result in a civil damage award, including punitive damages. See Brown v. Freedman Baking Co., Inc., 810 F.2d 6, 11 (1st Cir. 1987). In a disparate treatment employment discrimination case wherein the aggrieved party alleges intentional discrimination, motive is an essential element of the claim. These anti-discrimination laws impose liability on an employer who takes some action, otherwise lawful, because of discriminatory motive based on the race, religion, sex or other protected legal status of the affected individual. In R.A.V. v. St. Paul the Court indicated that these anti-discriminatory statutes do not violate the First Amendment. 112 S. Ct. at 2546-47.

^{14/}Section 39 makes it a crime to target a victim because of his or her race, color, religion or natural origin but does not protect those persons who are victimized because of gender, sexual orientation or disability, for example. The statute, however, protects and treats victims in all racial groups, equally.

Under both federal and Massachusetts employment discrimination laws, evidence of the failure to hire an applicant or the act of discharging an employee who is a member of a protected class is not sufficient to establish a claim. Rather, the plaintiff must convince the trier of fact that the employer acted on the basis of discriminatory motive. Texas Dept. of Community Affairs v. Burdine, 450 U.S. 248, 252-56 (1981); International Brotherhood of Teamsters v. United States, 431 U.S. 324, 335 (1977); Smith College v. M.C.A.D., 376 Mass. 221, 227 (1978); Lewis v. Area II Housecare for Senior Citizens, 397 Mass. 761, 765 (1986). In addition, a plaintiff may use evidence of illegal motive and prevail in a case in which mixed motives are involved, where an employer had both legitimate and illegal motivations for the decision not to hire or to discharge. See Price Waterhouse v. Hopkins, 109 S. Ct. 1775, 1790-92 (1989); Bulkley Nursing Home v. M.C.A.D.; 20 Mass.App.Ct. 172, 179-80 (1985); Trustee of Forbes Library v. Labor Relations Commission, 384 Mass. 559, 562-63 (1981).

Often words expressing discriminatory motive are admissible in federal and state civil rights actions as evidence of the prohibited conduct, or constitute the prohibited conduct itself. See, e.g., Meritor Savings Bank v. Vinson, 477 U.S. 57, 65-66 (1986) (plaintiff may establish Title VII violation by proving that unwelcome verbal conduct of sexual nature created hostile work environment); Lipsett v. University of Puerto Rico, 864 F.2d 881, 905 (1st Cir. 1988) (sexually explicit drawings, use of sexually-charged nicknames, and pornographic pictures displayed in workplace support plaintiff's hostile

environment claim); Katz v. Dole, 709 F.2d 251, 254 (4th Cir. 1983) (sexual slurs, insult and innuendo constitute sexual harassment and a violation of Title VII); Gnerre v. M.C.A.D., 402 Mass. 502, 509 (1988) (numerous incidents of offensive speech of a sexual nature constituted sexual harassment of tenant by landlord); College Town v. M.C.A.D., 400 Mass. 156, 162 (1987) (offensive comments of a sexual nature contributed to sexually harassing work environment).

These civil rights statutes cannot be distinguished from Massachusetts criminal civil rights laws on the basis of their imposition of civil remedies, in contrast to criminal penalties. This distinction would ignore federal criminal anti-discrimination laws that provides criminal penalties for racially motivated conduct. See, e.g., 18 U.S.C. § 245(b)(2) (prohibiting the willful injuring, intimidating or interference with certain federally protected rights "because of [the victim's] race, color, religion or national origin").

Similarly, the Supreme Court has explicitly held that judicial inquiry into the racial motivation of a defendant may be a legally relevant factor in determining a sentence in a criminal prosecution. The Supreme Court has made clear that there is no "per se barrier to the admission of evidence concerning one's beliefs ... at sentencing simply because these beliefs ... are protected by the First Amendment." Dawson v. Delaware, 112 S. Ct. 1093, 1097 (1992). Dawson reaffirmed the principle articulated in Barclay v. Florida, 463 U.S. 939, 949 (1983), where the Supreme Court approved the admissibility of a

defendant's underlying motives ("racial hatred" and "desire to start a race war") as a legally relevant sentencing factor.

If bias motivation is a constitutionally valid factor for a court in determining sentencing it would be illogical to prohibit it under the more rigorous standard of proving criminal liability.

Furthermore, if ~~examining~~ examining a person's motivation in committing a crime constitutes an unlawful intrusion into thought or expression, there is no constitutionally valid reason why such thought or expression would enjoy less protection during the sentencing state. A defendant enjoys far fewer procedural protections at the sentencing stage than at the culpability stage of a criminal trial.

It would also be anomalous to permit a judge to take into account racial animus in the sentencing decision but not permit a legislature to define the crime to include racial bias, or to prohibit it from setting the sentencing parameters the judge is required to follow.

2. MASSACHUSETTS HAS A COMPELLING INTEREST IN ERADICATING DISCRIMINATORY CONDUCT WITHIN ITS BORDERS, EVEN IF THE CONDUCT INCIDENTALLY HAS AN EXPRESSIVE ELEMENT.

Even if Massachusetts civil or criminal civil rights laws were determined to be content-based, these laws would be valid because they are narrowly tailored to serve a compelling state interest, the regulation of crimes and not expressive content, and the Supreme Court has indicated that laws meeting this standard are constitutional. R.A.V. v. St. Paul, 112 S. Ct. at 2546, 2549-50. See also, United States v. O'Brien, 391 U.S. 367 (1968).

The Massachusetts civil rights statutes manifest the Legislature's judgment that it is of paramount public importance to protect all individuals from being singled out for violence or threats on the basis of racial, religious or other forms of discrimination. The Commonwealth also has a compelling interest in providing protection, in addition to that which may be available under ordinary criminal laws, to members of groups whose personal characteristics are immutable and who have historically been subjected to discrimination and particularly subjected to bias motivated threats, intimidation and violence. See R.A.V. v. St. Paul, 112 S. Ct. at 2545-46 ("When the basis for the content discrimination consists entirely of the very reason the entire class of speech at issue is proscribable...", "no First Amendment violation has occurred.")

Congress and the Massachusetts Legislature have both recognized the special societal problem of bias motivated crimes by enacting, on April 23, 1990, the "Hate Crime Statistics Act of 1990," Pub.L. No. 101-275, and the Massachusetts Hate Crime Reporting Act of 1990, codified at G.L. c. 22, §§ 16-19. These laws require the collection of data on the incidence of "hate crimes." The legislative history of the Massachusetts civil rights laws also demonstrates that the legislature had a compelling basis for crafting special laws to provide enhanced protections against civil rights violations, particularly the serious problem of racial harassment. Batchelder v. Allied Stores Corp., 393 Mass. 819, 821 (1985). "Deprivations of secured rights by

private individuals using violence or threat of violence were prevalent at the time the Legislature considered G.L. c. 12 §§ 11H and 11I." Id.

Bias motivated crimes devastate more than the particular victim. They are often perceived as a personal attack against the victim's race, ethnic group, religion, disability or sexual orientation. Such incidents often polarize communities or neighborhoods and tend to lead to a cycle of retaliatory violence, and at times mass disturbances, requiring the expenditure of substantial law enforcement resources. See e.g., State v. Plowman, 314 Ore. 157, 838 P.2d 558, 563-64 (1992); People v. Grupe, 532 N.Y.S. 815, 818-20 (N.Y. City Crim. Ct. 1988). When a pattern of bias motivated crimes occur in particular locations, whole neighborhoods can become inaccessible to people because of fear they will be targeted because of their status.

Nothing better demonstrates the risk of social disorder from uncontrolled racial, ethnic or religious violence than the tragic scenes of civil wars and ethnic struggles being waged all over Europe and the former Soviet Union, and particularly in what was formerly Yugoslavia.

Bias motivated crimes cause victims to suffer extreme psychological and emotional trauma. In a 1989 study, the researchers concluded that victims of bias motivated crimes suffered 21 percent more psychological symptoms, including sleep problems, reduced ability to concentrate, more alcohol use, feelings of helplessness, and more symptoms of stress than

victims of other crimes. See, Joan C. Weiss, et.al.,
Ethnoviolence At Work, 18 J. of Intergroup Relations, 20, 27-28
(No. 4, Winter, 1991-92). Because victims feel they were
singled out as a result of personal characteristics that they
can not change, their fear of being victimized in the future is
greater than victims of most other crimes. Hate Crime
Statistics Act of 1988, hearings before a Subcommittee of the
Senate Committee on the Judiciary, (June 21, 1988) (testimony
of the American Psychological Association). Therefore, the
reasons for proscribing assaultive behavior in general
(protecting individuals from violence, the fear of violence and
from the disruption that violence engenders) "have special
force when applied to" bias motivated crimes. See R.A.V. v.
St. Paul, 112 S. Ct. at 2546.

Massachusetts civil and criminal civil rights statutes are
necessary and appropriate weapons to deter the increasing
incidence of bias motivated violence and intimidation in our
Commonwealth. These statutes guarantee victims full enjoyment
of their civil rights, without denying any First Amendment or
other constitutional rights of perpetrators. Vigorous
enforcement of these statutes must continue unabated.

WPPMM5/9

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