ADDRESSING HATE PROVOKED BY THE PANDEMIC

Theodore Roosevelt Inn of Court

May 19, 2020

Via Zoom

BIOGRAPHY

Evelyn Kalenscher is a participant in the New York State Attorney Emeritus Program for retired attorneys who work pro-bono. Since 2009, Ms. Kalenscher has worked two days a week through the Nassau/Suffolk Law Services Volunteer Lawyers Project in the Landlord/Tenant Part of the Nassau County District Court, representing indigent clients who are at risk of being evicted from their homes. Prior to retiring, Ms. Kalenscher was a founding member and partner in the law firm of Genoa, Kalenscher & Noto, P.C., where she practiced Matrimonial and Real Estate Law.

Ms. Kalenscher is a member of the Nassau County Bar Association where she served on the Ethics Committee as chair from 2010-2012 and as Chair of the Domus House Committee from 2012-2013. Ms. Kalenscher is also a member of the New York State Bar Association on the Real Property Committee.

In addition to being a long time member and current President of the Theodore Roosevelt American Inn of Court, Ms. Kalenscher sits on the board of Yashar Hadassah, the attorneys' and judges' chapter of Hadassah. She was a member of the Board of Managers of her condominium community for sixteen years and served as its president for ten years until 2018. She currently sits on the board of the property association in her community as its treasurer.

Ms. Kalenscher has been recognized by numerous organizations for her pro-bono work. In 2012, she was honored as the Nassau County Bar Association's Pro Bono Attorney of the Year. In 2014, she received the New York State Bar Association's President's Pro Bono Service Award and the Pro Bono Award from the Legal Services Corporation. In 2018 she was named an Outstanding Woman in the Law by the Maurice A. Deane School of Law at Hofstra University for her pro-bono work, and she was presented with the Distinguished Volunteer Service Award in 2018 by the Office for Justice Initiatives of the New York Unified Court System.

Ms. Kalenscher received a Bachelor of Business Administration Degree from Hofstra University and her JD degree from Hofstra University School of Law in 1989. She is admitted to practice in the State of New York, the United States District Court for the Eastern District of New York and the Supreme Court of the United States of America.

MEYER SUOZZI

Hon. Randall T. Eng

Of Counsel

990 Stewart Avenue
Garden City, New York 11530
(516) 741-6565
Reng@msek.com

Practice Areas

Litigation Appellate Practice
Criminal Defense Alternative
Dispute Resolution

Education

St. John's University
J.D., 1972

State University of New York at Buffalo
B.A., 1969

Memberships

Association of Supreme Court Justices of the City of New York

Admissions

New York State

Justice Randall T. Eng is Of Counsel to Meyer, Suozzi, English & Klein, P.C., and a member of the Litigation Department, including the Appellate Practice and Criminal Defense groups.

Immediately prior to joining Meyer Suozzi, Justice Eng served as the Presiding Justice of the Appellate Division, Second Department from 2012 - 2017.

Born in Guangzhou, China, Justice Eng was raised in New York City. He earned his undergraduate degree from State University of New York at Buffalo and his juris doctor degree from St. John's University School of Law in 1972.

Following law school, Justice Eng began his legal career in public service as an assistant district attorney in Queens County. At the time, he became the first Asian American appointed as an assistant prosecutor in New York State history, and then served as the Deputy Inspector General of the New York City Correction Department and later Inspector General.

In 1983, Justice Eng became the first Asian American to become a judge in New York State, when he was appointed to the Criminal Court of the City of New York. In 1990 and 2004, Justice Eng was elected and reelected to terms on the New York State Supreme Court.

In 2008 he was designated as an associate justice of the Appellate Division, Second Department.

Justice Eng served as President of the Association of Supreme Court Justices of the City of New York and as a member of the Advisory Committee on Judicial Ethics. He is currently a member of the New York State Judicial Institute on Professionalism in the Law. He has also served as an adjunct professor at St. John's University School of Law.

Justice Eng proudly served his country as a member of the New York Army National Guard and retired as State Judge Advocate holding the rank of Colonel.

Mr. Cohen currently serves as Eastern Director of the Simon Wiesenthal Center, a global human rights organization using the lessons of the Holocaust to confront anti-Semitism, hate and terrorism, training tens of thousands on prejudices, diversity and tolerance issues and supporting the state of Israel. Mr. Cohen previously served as the NYS Director of Political and Strategic Affairs to Pitta Bishop Del Giorno & Giblin, widely recognized as one of the most influential lobbying firms in New York. Mr. Cohen has also served as a senior staff member to the NYS Senate Leadership, senior staff member to Congressman Edolphus Towns, former chair of the of the Congressional Black Caucus, and as Senior Advisor to NYC Councilmember Mathieu Eugene. Mr. Cohen has served as a campaign strategist on over 100 political campaigns and is currently serving his fourth term on the Englewood, NJ City Council. Mr. Cohen was recognized in 2010 as one of the Capital newspapers 40 Under 40 Rising Stars in State Government and again in 2017 as New York Media's 40 Under 40 Rising Stars in the Not-for-Profit Sector. Mr. Cohen is a graduate of Brooklyn College and holds a Master's Degree in Political Science.

Rick Eaton is a Senior Researcher with the Simon Wiesenthal Center and the Museum of Tolerance. As Co-Director of the Center's Digital Terrorism and Hate Project he has supervised the production of all 22 editions of the Digital Terrorism and Hate interactive report. Rick regularly meets with Facebook, Twitter, Google/YouTube and other social networking companies to give feedback and assist in shaping policy. Rick has worked extensively with California P.O.S.T. (Peace Officer Standards and Training) and been a subject-matter expert on 11 educational "Tele-Courses" produced by P.O.S.T. and the U.S. Department of Homeland Security. Rick has twice testified in Congressional hearings and conducted many staff briefings on Capitol Hill. In his 34 years with SWC he has conducted hundreds of training sessions with law-enforcement, educators, civic groups and schools.

Tracy Keeton is a life-long Long Island resident, a 2008 graduate of the University of Maryland, College Park and a 2011 graduate of St. John's University School of Law. She has worked at the Nassau County District Attorney's Office since 2011 and is currently a Senior Assistant District Attorney in the County Court Trial Bureau and part of District Attorney Madeline Singas' specialized Hate Crimes Unit.

Tracy has prosecuted a wide range of hate crimes including harassment cases involving religious-based offenses and gang assault where a victim was targeted based on his sexual orientation.

She has spoken to numerous community groups on the topic of hate crimes and recently attended a Hate Crimes Investigation Training hosted by the Anti-Defamation League. There, she heard from and interacted with experts in the field of investigating, prosecuting, and preventing crimes motivated by hate and bias and learned many valuable concepts that she has already implemented in her day to day duties in prosecuting these offensive and violent criminals who target their victims just for being themselves.

Program Outline

Evelyn Kalenscher	Introduction of participants	5:30-5:35
Hon. Randall T. Eng.	Anti-Asian bias	5:35-5:45
Michael Cohen	Anti-hate legislation, Hate emerging during the pandemic toward the Jewish & Asian communities	5:45-6:30
Rick Eaton	Digital hate	6:30-6:45
Tracy Keeton	Prosecution of hate crimes	6:45-7:15
Questions.		7:15-7:30

Legislative/Legal

Legislation protecting houses of worship

NY State Assembly
A06235 Summary:

BILL NO A06235

SAME AS No Same As

SPONSOR Mosley

COSPNSR

MLTSPNSR

Amd §70.25, Pen L

Relates to consecutive sentencing for certain crimes that occur at a place of religious worship; requires consecutive sentencing for homicide convictions that occur in any building, structure or upon the curtilage of such building or structure used as a place of religious worship by a religious corporation, as incorporated under the religious corporations law or the education law.

Title VI training for the IHRA definition

NY State Assembly
A09707 Summary:

BILL NO A09707

SAME AS No Same As

SPONSOR Mosley

COSPNSR

MLTSPNSR

Add Art 129-C §6450, Ed L

Requires Title VI training for certain colleges or universities in New York state which includes the definition of antisemitism adopted by the international holocaust remembrance alliance.

NYC Council Resolution condemning the BDS Movement

NOTE: This Resolution was discussed by the Mayor and Council during its work session meeting on February 18, 2020. The Mayor and Council are scheduled to consider the adoption of this Resolution at its meeting on March 3, 2020.

BOROUGH OF HIGHLAND PARK
NO. 10-19-316

RESOLUTION CONDEMNING ALL FORMS OF ANTISEMITISM

WHEREAS, Jewish residents of and visitors to Highland Park are experiencing a significant increase in antiSemitic incidents, including several incidents of antiSemitic harassment of individuals on the street, property destruction, and hate speech; and,

WHEREAS, the Highland Park Borough Council is aware of the rise of incidents of bias, hate speech and discriminatory behaviors that have impacted our Highland Park youth in our schools on social media, and that hate speech groups are targeting our school age children with messages of hate and sowing division and antiSemitism among them; and,

WHEREAS, the Mayor and Council recognize that antiSemitism today is being promoted by individuals and groups at both ends of the political spectrum throughout the country; and,

WHEREAS, we acknowledge that following the attacks on the Tree of Life Synagogue in Pittsburgh and the Chabad of Poway in San Diego by white supremacists, as well as recent attacks on a Kosher super market in Jersey City and at a Chanukah gathering in Monsey, New York, synagogues in Highland Park felt compelled to re-evaluate their own security measures to keep their congregations safe; and,

WHEREAS, we commend New Jersey's Acting Governor Sheila Oliver for issuing Executive Order No. 78 on August 7, 2019, which establishes an interagency task force to provide advice and recommendations to the Offices of the Governor and the Attorney General, and to other state agencies, on strategies and actions to reduce incidents of hate, bias, and intolerance involving students and young adults in our schools[1]; and,

WHEREAS, we recognize that to many Highland Park residents, including people of different faiths, Israel represents the historical, spiritual and religious homeland of the Jewish people, as expressed in Israel's Declaration of Independence and before that in the Balfour Declaration; and,

WHEREAS, we denounce current efforts to deny the Jewish people their right of self-determination and even their basic human rights, by claiming that the existence of a State of Israel, as a homeland for the Jewish people is racist, despite evidence that while imperfect, Israel provides freedom of religion, culture, and economic aspirations even during periods of intense terrorist activities; and,

WHEREAS, we note that in contrast to legitimate protest movements that have sought racial justice and social change and promoted coexistence, civil rights and political reconciliation, movements that

[1] https://www.nj.gov/oag/newsreleases19/EO-78.pdf

coopt legitimate means of social action to unfairly promote economic warfare against the State of Israel in an attempt to deny its legitimacy are another form of antiSemitism and contrary to the essential values of government under which this council performs its obligations to the public; and,

WHEREAS, the Mayor and Council recognize that there are residents of Highland Park who may criticize the political actions of the State of Israel and support economic boycotts against it, but are themselves not antiSemitic[2] or anti-Zionist, and still support the right of the Jewish people to self-determination; and

WHEREAS, the Mayor, Highland Park Council members, State officials and large members of the community recently attended a lecture by the Wiesenthal Center defining and characterizing antiSemitism[3] which has also been integrated into the United Nations Special Rapporteur's Report on Freedom of Religion or Belief;

NOW THEREFORE, BE IT RESOLVED that the Mayor and Highland Park Council accept and adopt the International Holocaust Remembrance Association ("IHRA") Working Definition and its Characterizations by the Wiesenthal Center and its further description in the UN Special Rapporteur's Report; and

BE IT FURTHER RESOLVED that the Human Relations Commission establish a subcommittee of members to address antiSemitism in Highland Park.

BE IT FURTHER RESOLVED that the Mayor and Council, through the Human Relations Commission, establish a series of small group social events that bring together members of the community to build connections over the issue of antiSemitism.

BE IT FURTHER RESOLVED that the Mayor and Council, with the Human Relations Commission, establish a series of educational events about the recent rise in antiSemitic acts.

BE IT FURTHER RESOLVED that the Borough of Highland Park, will embark on a communications campaign featuring different groups in Highland Park explaining how bias against any marginalized group effects all marginalized groups.

BE IT FURTHER RESOLVED that the Borough of Highland Park will continue to work closely with all houses of worship to ensure that residents feel safe and secure when practicing their religions within the borough, through the establishment of an ongoing House of Worship Security Chairs Committee with representation from the HPPD for guidance.

BE IT FURTHER RESOLVED, that the Mayor and Council of the Borough of Highland Park condemn all forms of antiSemitism, just as it condemned hate against any other marginalized population in its Fair and Welcoming Resolution, and the Mayor and Council pledge to work with the Human Relations Commission and other interested parties to develop significant and sustained programming designed to educate our community about all aspects of antiSemitism and combat its continued spread.

ADOPTED: March 3, 2020

ATTEST:

_____

Joan Hullings, CLERK

[2] https://www.adl.org/resources/tools-and-strategies/what-is-anti-israel-anti-semitic-anti-zionist
[3] https://holocaustremembrance.com/working-definitiion-antisemitism

I, Jennifer Santiago, Deputy Clerk of the Borough of Highland Park, New Jersey, do hereby certify the above to be a true copy of a resolution adopted by the Borough Council of said Borough on March 3, 2020.

_____

Joan Hullings, Clerk

RECORD OF COUNCIL VOTES

Council Member	Ayes	Nays	Abstain	Absent
Fine				
Foster-Dublin				
George				
Hale				
Kim-Chohan				
Welkovits				

V:\Users\Edwin\Highland Park\2020 Resolutions\Anti-Semitism Resolution_22020 note.docx

News

- *Councilwoman Quiet Over Hate Posts On Her Facebook Page*
- *Simon Wiesenthal Center Blasts Edison City Council President Joyce Ship-Freeman for Anti-Semitic Anti-Chinese Postings*
- *The Pandemic and Yom Hashoah*
- *Combatting Anti-Semitism In The Age of Pandemic*
- *As Americans battle the world's newest virus, we must also fight history's oldest | Opinion*
- *Anti-Semitism in the Time of Coronavirus*
- *The As Now We Were Warned A Catastrophe Was Coming*

In the Simon Wiesenthal Center's newest report, ***A Watershed in Fighting Antisemitism: The IHRA Working Definition of Antisemitism***, SWC Director of Government Affairs Mark Weitzman, who introduced and steered the Working Definition of antisemitism to adoption, describes what this essential tool is, how it came into prominence and what it's impact has been.

Outside of the 34 member nations of the International Holocaust Remembrance Alliance (IHRA), it has also been

adopted or endorsed by over 25 countries and international organizations such as the United Nations. In the US it is used by the State Department, Department of Education and served as the basis of President Trump's Executive Order on Antisemitism.

Digital Terrorism and Hate 2020 Release

Simon Wiesenthal Center


DIGITAL HATE 2000
Digital Terrorism + Hate 2005
HATE 2001
DIGITAL TERRORISM & HATE 2011
THE POWER OF SOCIAL NETWORKING IN THE DIGITAL AGE
The Global Reach of
DIGITAL TERRORISM AND HATE 2010
digital
terror + hate 2013
DIGITAL TERRORISM & HATE 2012
THE POWER OF SOCIAL NETWORKING IN THE DIGITAL AGE
simon wiesenthal center
digital terrorism +hate
Europe 2019
AGAIN
RISE
WILL
WE
simon wiesenthal center
digital terrorism +hate 2020
The Great Replacement
simon wiesenthal center
digital terrorism +hate
40,000
DAILY TWEETS BY
ISLAMIC STATE SUPPORTERS
digital terrorism +hat
ENCRYPTION
ONLINE SECURITY
"just as a Mujahid does not enter the battlefield without his Iman (faith) and his weapon, you must not exchange correspondence without encryption."
- Al Risalah Magazine, Issue #2
RUMIYAH
ISSUE #2
Foreword
Exclusive
Articles
News
RORISM
TE 2.0
SIMON WIESENTHAL CENTER
iReport
www.wiesenthal.com
EN ESPAÑOL . EN FRANÇAIS
2006
Simon Wiesenthal Center Snider Social Action www.wiesenthal.com
PORT
cal hate 2002
www.wiesenthal.com

simon wiesenthal center

2020 digitalterrorism+hate report card

'the big five'

FACEBOOK	TWITTER	VK.COM	GOOGLE / YOU TUBE	INSTAGRAM
B-	B	D+	B-	C

alt-tech

GAB	PARLER	CANUND	VOAT	DISQUS
F	D	D	D-	C-

SPOTIFY	BITCHUTE	BRIGHTEON	REDDIT	8KUN (8CHAN)
C-	F	D	B-	F

messaging

TELEGRAM	SIGNAL	RIOT INC.	SNAPCHAT
D	Incomplete		

gaming

DISCORD	STEAM	TWITCH
D	C	D

video / memes

TIKTOK	iFUNNY
C	C-

Corona Virus 4chan

3x1024)
/pol/ /pol/ was right Anonymous 02/14/20(Fri)02:50:32 No.243692844 [Reply]

' is always right

s://www.youtube.com/watch?v=FHA5Nfg5sCI

partment of Defense confirms coronavirus is a bioweapon leaked form BSL-4 lab in Wuhan

Anonymous 02/14/20(Fri)06:26:22 No.243715392
File: jew terrorists.jpg (111 KB, 515x399)

>>243692844
>>Department of Defense confirms coronavirus is a bioweapon leaked form BSL-4 lab in Wuhan

I fucking HATE the low IQ sub-humans that mass migrated here from r/The_Donald. I'm so sick of listening to you regurgitate whatever you heard on (((Reddit))) and (((me, which one of these makes sense?

T_D posters:
>reddit said it was bat-soup!
>omfg fox news and reddit said it was snake-bat soup!1
>n-no it's not bat soup anymore, it's the lab in Wuhan! That must be it! /pol/ is always right!

Oldfag/patrician/high-IQ /pol/:
>The Jews have engaged in non-stop biological warfare against goyim for thousands of years and has been well documented throughout history (pic related).
>Corona is a bioweapon that was engineered and this is easy to verify by looking at the science/data.
>There are only two countries on Earth with the experience and technology to engineer such a bioweapon: (((America))) and Israel.
>The (((CIA's))) Hong Kong coup failed miserably.
>The (((CIA))) takes the Coronavirus to a lab in Canada and allows two Chinese patsies to take it back to China.
>Once the virus is safely in Chinese labs, CIA agents and Jews release the exact same virus near the lab where it's now being stores
>Jews/CIA/Israel/Trump/Mossad/America, watch China's economy crash and burn allowing the rootless cosmopolitan global Jewry to maintain hegemony for another 30+ years at least.

Fuck you people are so god damned stupid. No wonder whites always fall for the same ruses over and over. Wake the fuck up.

TLDR: IT WAS THE JEWS. IT'S ALWAYS THE JEWS.

"The Jews have engaged in biological warfare for thousands of years…IT'S ALWAYS THE JEWS"

888E4448-A4DF-48ED-814D-2BE224F38EB2.jpg (11 KB, 192x144)

/pol/ Anonymous 02/09/20(Sun)08:52:51 No.243024276 [Reply]

We need Corona-Chan to still be kicking about at the end of July. This is when the Hajj begins and millions of Muslims will be packed into Mecca and it will just take a couple of sneezes and coughs to infect them all

>> **Death Wish** 02/09/20(Sun)12:14:15 No.243037601

They already have diseases stored on a shelf to control when the other races get out of hand. Ebola for Niggers. AIDS for Fags. Ovens for Jews. Corona was developed because there wasn't one that targeted Asians until now.

"We need the Corona-Chan to still be kicking about at the end of July. That's when the Haj begins and million of Muslims will be packed into Mecca and it will only take a couple of sneezes and coughs to infect them all."

"They already have diseases stored on the shelf to control when the other races get out of hand. Ebola for Niggers. Aids for Fags. Ovens for Jews. Corona was developed because there wasn't one that targeted Asians until now."

February 2020

Corona Virus - Telegram

/pol/ news

⚠️REMINDER⚠️

If you get infected with Corona virus, go visit your local synagogue and hug as many jews as possible, cough on all the door knobs, rails, pens etc.

3339 1:12 PM

/pol/ news

Sharing this GIF will grant you immunity to Corona virus and will feed Corona Chan with energy to kill off LGBT, niggers, poos, roaches, jews, jannies and roasties.

9979 edited 1:09 PM

Corona Virus - Twitter

Felix Carrasquillo Jr
@Phylistic

There has to be an international arrest warrant issue against Bill Gates for Virus and vaccines crimes against humanity--- a lot of people are waking up to the fact that the coronavirus is a Jew organize crime created hoax intended to coverup Jew organize crime being carried out

Bill is walking in his father's footsteps, who was also tasked with depopulation while head of Planned Parenthood. A proud legacy of eugenicists.Guess who owns a patent for a coronavirus strain that can be used to develop a vaccine? The Pirbright Institute. And guess who partially owns them? Bill Gates!

Telegram

Telegram “Feed”

Edit | Chats

Search for messages or users

All Chats | Waffen 3 | Boogaloo 1

CoronaWaffen 1:18 PM
Channel photo updated

Atomwaffen Division 1:01 PM
https://www.youtube.com/watch?v=wuN5ZMwtRgo

Atomwaffen Division Videos 1:00 PM
The account of the user that created this channel has been inactive for the last 5...

T E R R O R W A V E B U L G... 9:28 AM
Photo
87

T E R R O R W A V E R E... 7:19 AM
Anti-Communist, Anti-Capitalist, Direct-Action. #131 [nsc131na@proton...

STERNENKRONE 7:13 AM
Salvator Mundi

Nuclear Front Mon
Make no mistake about it, I am advocating total and complete WHI...
36

RapeWaffen Division Sat
Perfectly intact? No we took all our stuff offline because of that, we...
5

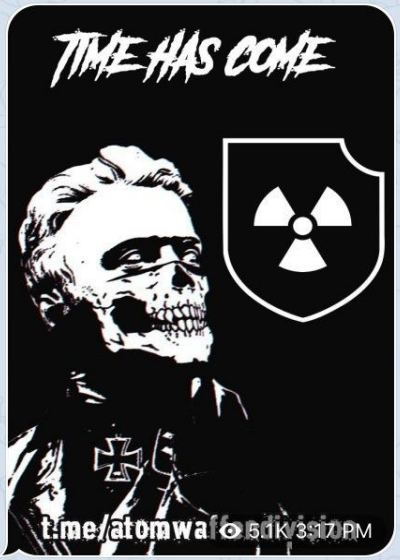
Atomwaffen Division Deuts... 4/27
Photo

Feuerkrieg Division **OFFICIAL** 4/7
https://www.dailystar.co.uk/news/world-news/mum-52-who-moved-cuba-2144...

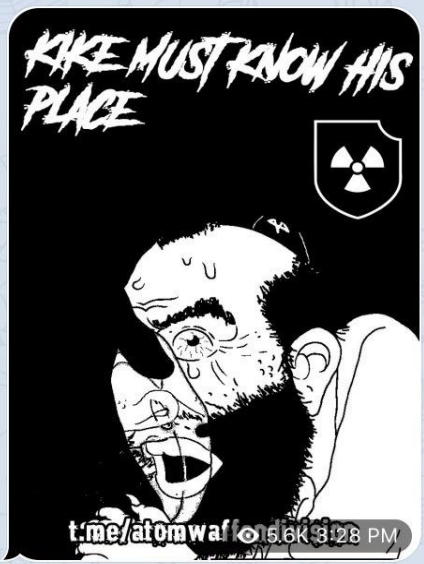
Close | Atomwaffen Division | 390 subscribers

Pinned Message
Photo

Channel photo updated



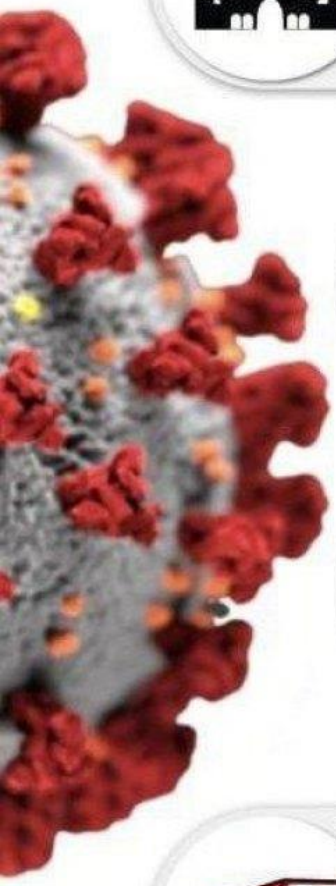
Atomwaffen Division pinned a photo



April 18, 2019

Atomwaffen Division
https://www.youtube.com/watch?v=wuN5ZMwtRgo 5.4K 12:58 PM

WHAT TO DO IF YOU GET COVID-19



Visit your local mosque!

Muslims have higher sanitary standards than the average person[1] and are far safer to be around during flu season.

Visit your local synagogue!

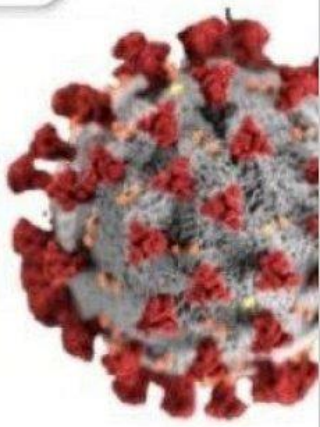
The Jewish community has pledged to assist with the Covid-19 outbreak and will provide complimentary masks to anyone who attends synagogue as of March 3, 2020[2].

Spend time in diverse neighborhoods!

Increased exposure to diversity is clinically proven to provide short-term and long-term benefits to immune system function[3].

Spend the day on public transport!

Modern public transport vehicles are made with antibacterial materials[4], meaning they are safer to use and reduce risk of re-infection.



CDC Centers for Disease Control and Prevention

World Health Organization

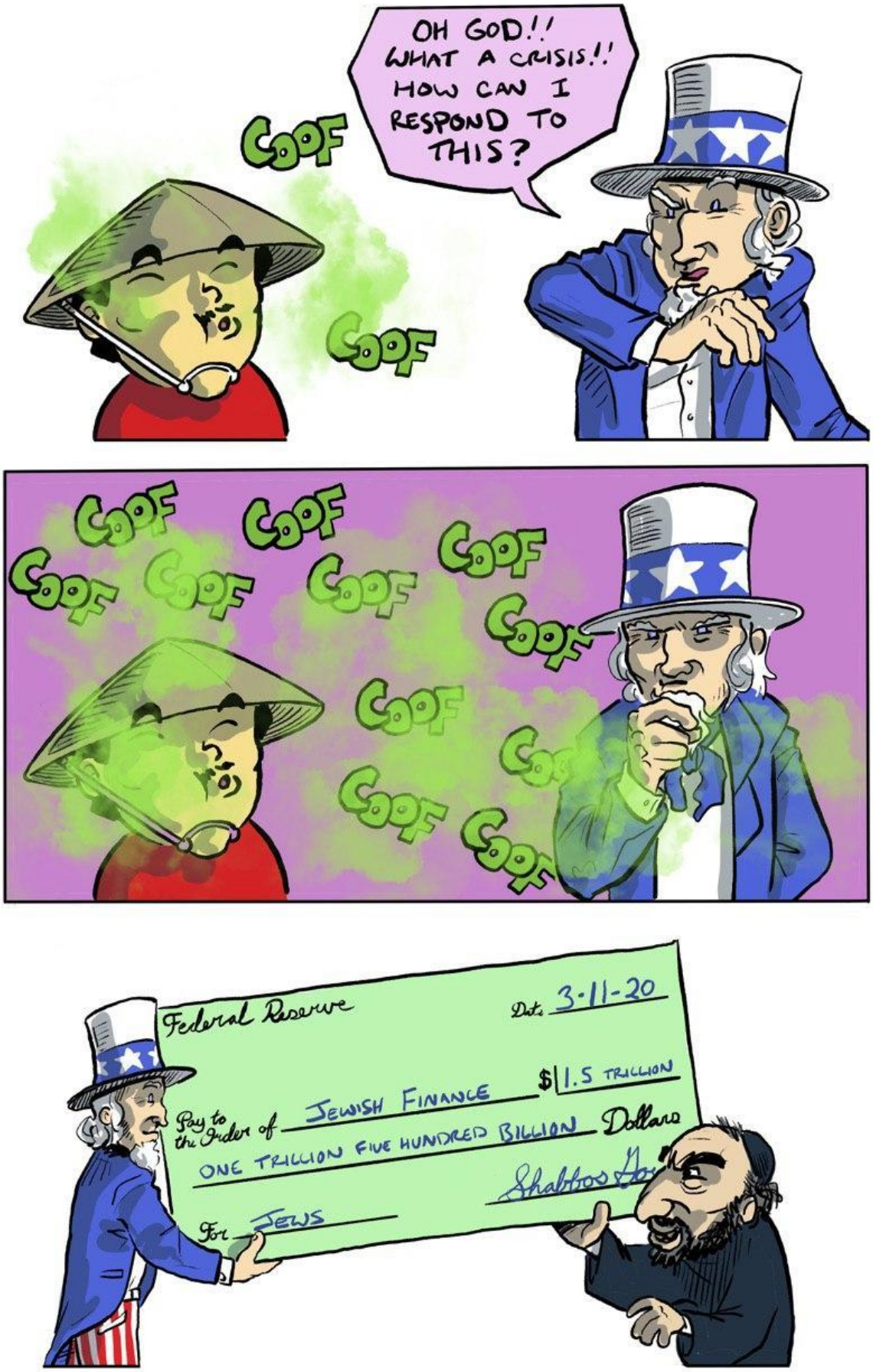
TERRORWAVE REFINED

Forwarded from Sternenkrone Division

OFFICIAL

CoronaWaffen – One of at least 5 Telegram channels linked to or inspired by the neo-Nazi Atomwaffen.

Dozens, possibly hundreds of extremist sites that can be found on the encrypted messaging platform Telegram.


OH GOD!! WHAT A CRISIS!! HOW CAN I RESPOND TO THIS?
COOF
COOF
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COOF
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COOF
COOF
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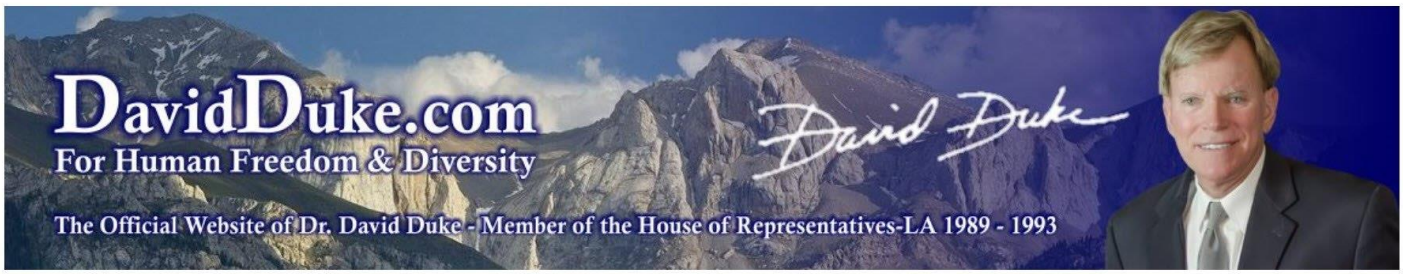
COOF
COOF
Federal Reserve
Date 3-11-20
Pay to the Order of JEWISH FINANCE
$ 1.5 TRILLION
ONE TRILLION FIVE HUNDRED BILLION Dollars
For JEWS



RADIO SHOW

Dr Duke & Mark Collett- Ripping off the Tyrannical ZioGlobalist Mask while they are Forcing Us to Wear Masks!

MAY 8, 2020 / 54,783 VIEWS

SHARE:

Dr Duke & Mark Collett- Ripping off the Tyrannical ZioGlobalist Mask while they are Forcing Us to Wear Masks!

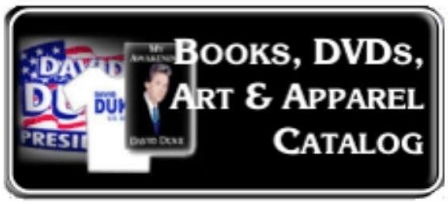
Download

00:00 00:00

Today Dr. Duke and Mark Collett talked about the Zionist censorship regime that is banning the presentation of facts regarding the coronapocalypse lock down while engaging in the worst fear mongering. One might almost think that they have some sort of ulterior agenda.

MARCH 12, 2020 / 9,835 VIEWS

HELP DR. DUKE'S WORK



ABOUT DR. DUKE

Silent Night – Holy Night – The most meaningful Time of the Year to European Peoples!

DECEMBER 24, 2018 /

The Corona Carnival

Brother Nathanael Channel. BroVids

The Corona Carnival

March 18 2020

Watch: 'Censor-Free!' HERE!

+Brother Nathanael's Amazing Videos!

How To Fix The Economy **Here**

Time To End The Jewish Fed **Here**

The Lie Of The US Dollar **Here**

A Presidential Platform For 2020 **Here**

+BN Classics On Brighteon!

Goldman Sachs Betrays America **Here**

America's Doomed Economy **Here**

Globalization And Jewish Nationalism **Here**

+BN Vids FULL Archive! HERE!
(Upload ALL My Vids On The Jew Internet!)

Support The Brother Nathanael Foundation!
Br Nathanael Fnd Is Tax Exempt/EIN 27-2983459

Donate SSL

Or Send Your Contribution To:
The Brother Nathanael Foundation, POB 547, Priest River, ID 83856

CATEGORIES:

Twitter

Khaled Safi # Gaza
@KhaledSafi

When will the world know that this is the greatest danger to all of humanity?
Covid_19 # Corona Virus < Israel #

Translate Tweet

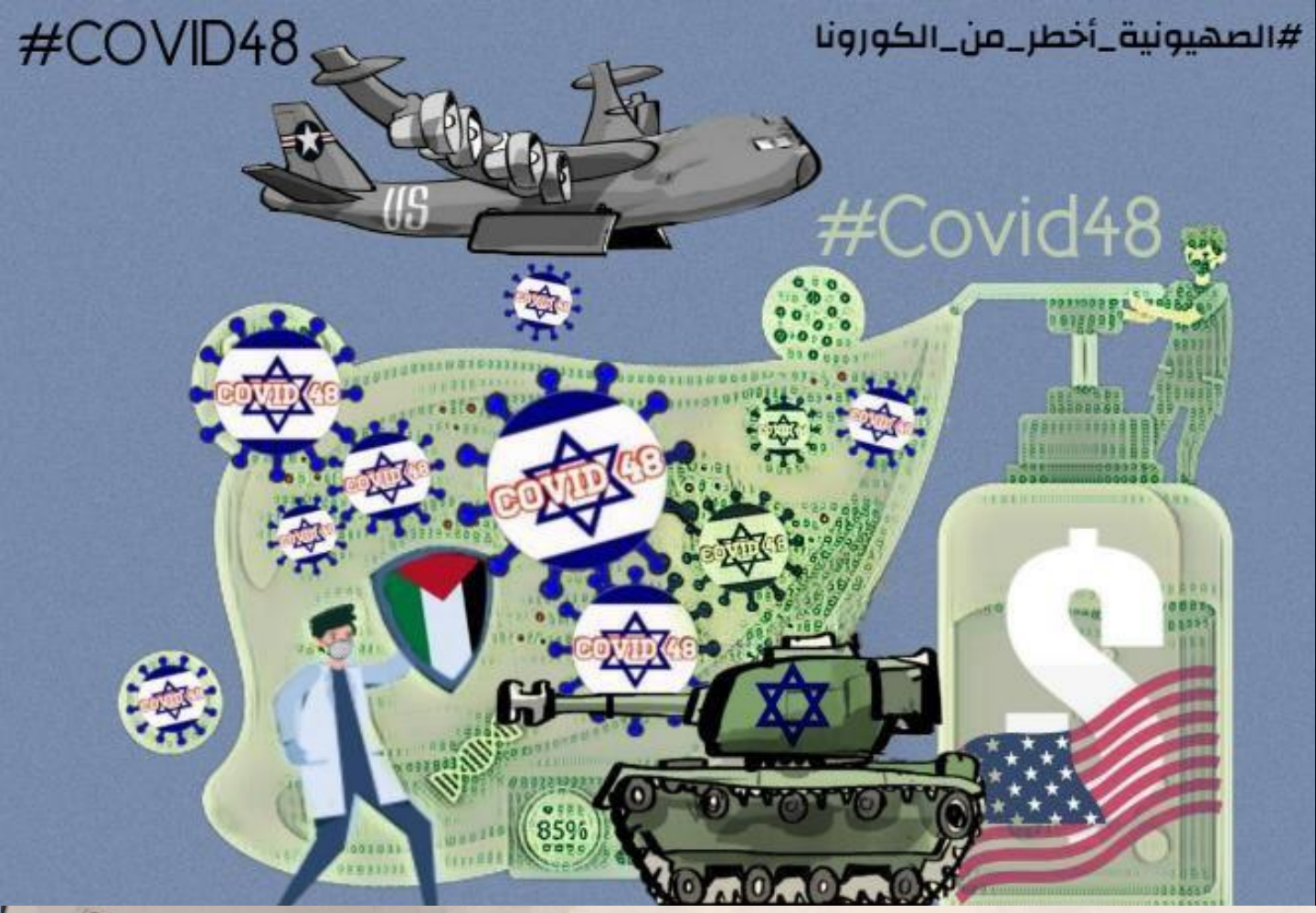
5:04 AM · Mar 15, 2020 · Twitter for iPhone

9 Retweets **54** Likes

Covid-48

#COVID48

#الصهيونية_أخطر_من_الكورونا



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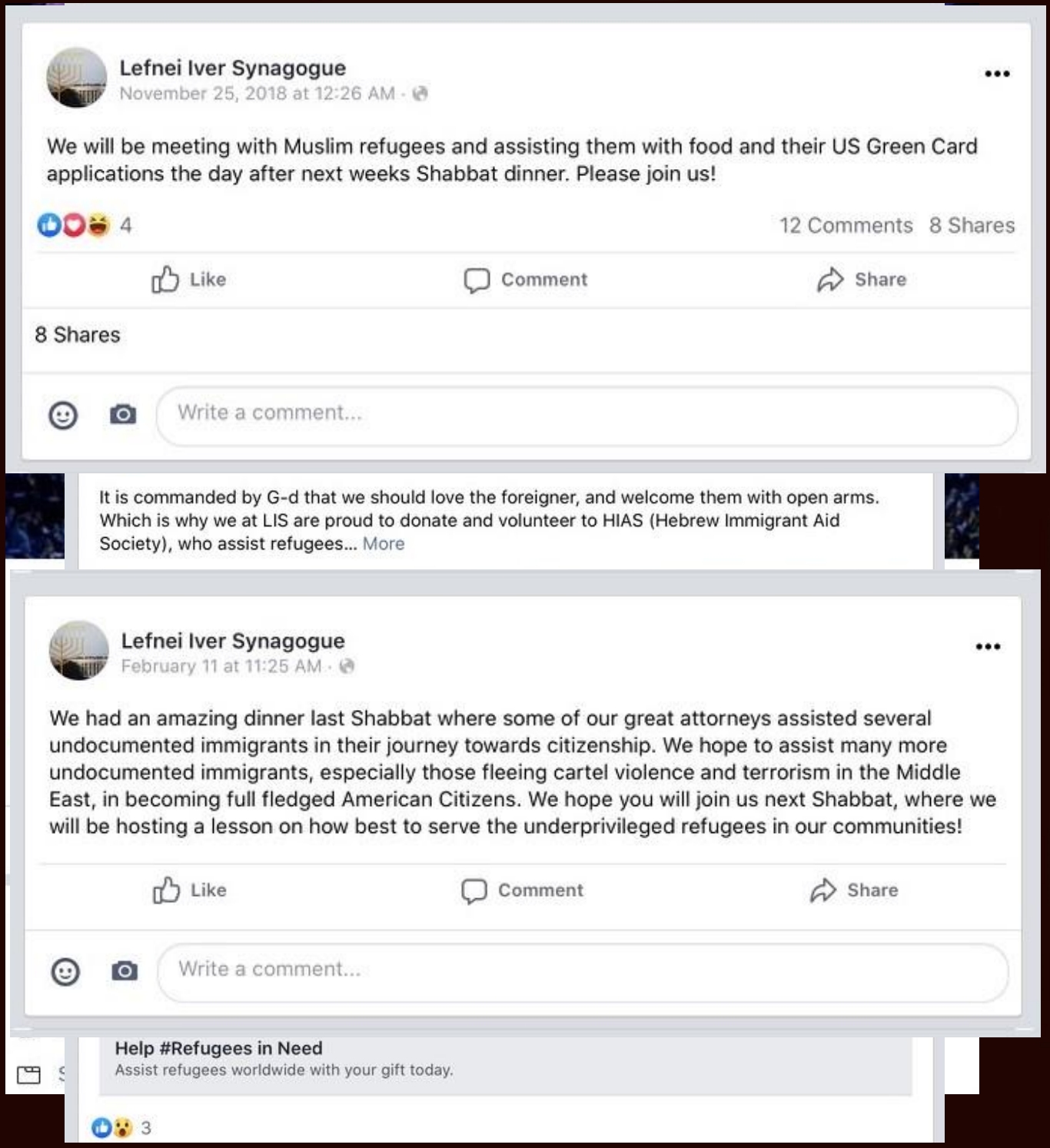

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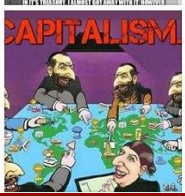

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We can do this one of two ways. You can all vote for me as president of the USA or we can all march up into Washington D.C. and beat the life out of every Jew there. I will eliminate Aipac, ADL, SPLC, JDL, The Federal Reserve, IRS and throat of anything in my way! That's how this is going to work! Fake semite terrorist paedophiles will pay flesh reparations soon!

Expand text...

FWD: Don't trust the gub'ment

Ha'mishpat 425:50 Everyone who sheds the blood of the impious [non-Jews] is as acceptable to God as he who offers a sacrifice to God. Yalkut 245c Extermination of the Christians is a necessary sacrifice. Zohar, Shemoth Tob shebbe goyyim harog - Even the best of the Goyim (Gentiles) should be killed.

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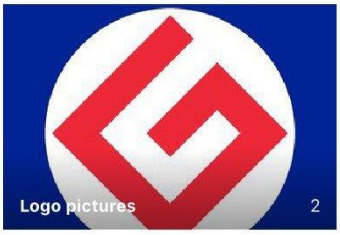

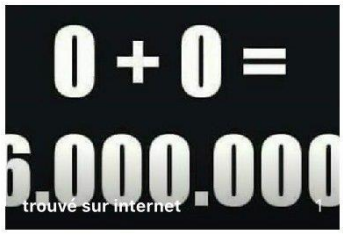

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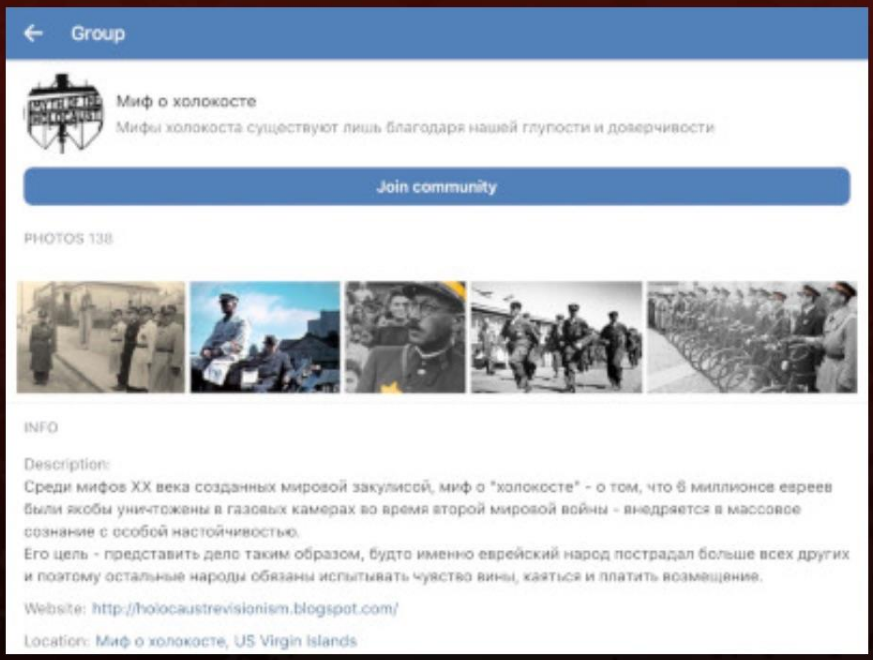

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The Myth of the Holocaust is a Russian group on *vk.com*, with over 8,400 members. The group promotes anti-Semitic conspiracies about the Holocaust. They allege Jews invented the Holocaust for financial and political benefit. Conversation on its discussion board dates back as far as 2010, with the question "Why don't I believe in the Holocaust?" There are many documents and images available for free download from the group, purporting to "prove" that the Holocaust was a myth. The group also has a donation button, which accepts Russian rubles. It also links to a Holocaust revisionism blog on *BlogSpot*.

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Cheryl Ann

When the Christmas attack happened in Monsey they were allowed to form Their own armed militia and walk around the streets protecting the people. I think that we should do the same now we should form our militia and protect our own community from them entering and coming in and spreading this deadly virus and killing us.

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1

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People v. Ivanov

Supreme Court of New York, Kings County

September 12, 2008, Decided

772-08

Reporter
23 Misc. 3d 1129(A) *; 2008 N.Y. Misc. LEXIS 7477 **; 2008 NY Slip Op 52683(U) ***; 886 N.Y.S.2d 68

[*1]** The People of the State of New York against Ivaylo Ivanov, Defendant

Notice: THIS OPINION IS UNCORRECTED AND WILL NOT BE PUBLISHED IN THE PRINTED OFFICIAL REPORTS.

Core Terms

hate crime, counts, penal law, religion, vague, intentionally

Headnotes/Summary

Headnotes

[*1129A] Crimes--Hate Crimes. Constitutional Law--Validity of Statute--Vagueness. Penal Law--§ 485.05 (Hate crimes). ***Penal Law--§ 240.31*** (Aggravated harassment, first degree).

Judges: [1]** Joseph Kevin McKay, J.S.C.

Opinion by: Joseph Kevin McKay

Opinion

Joseph Kevin McKay, J.

On June 17, 2008, after inspection of the Grand Jury minutes *in camera*, upon consent, I reserved decision on defendant's motion to dismiss the above-captioned indictment or counts thereof pending written submissions by both parties, which this Court has now received. With regard to those counts under New York's hate crime statute (*Penal Law § 485.05*) defendant now maintains 1)there is legally insufficient evidence to establish that defendant "in whole or in substantial part" based his actions on the religion or religious practices of the victims and 2) the statute is unconstitutional on an "as applied basis". As to the Aggravated Harassment in the First Degree counts (***Penal Law § 240.31***) defendant contends that these hate crime counts should be dismissed as the statute is unconstitutionally vague, a violation of defendant's *First Amendment* free speech rights and on an "as applied" basis. Defendant in his reply papers also seeks release of the Grand Jury minutes, which request is denied since such release is not "necessary to assist the Court in making its determination on the motion". *CPL 210.30(3)*.

The facts of this **[**2]** case are set forth in detail in the parties' papers and are incorporated by reference herein. In summary defendant is charged with defacing *inter alia* numerous buildings (including two synagogues), sidewalks and motor vehicles by spray-painting or etching vile anti-Semitic words and/or symbols, including the ***swastika***, within a relatively small area of Brooklyn Heights near his home during the overnight of September 24, 2007. Defendant is also charged with placing three identical anti-Semitic flyers on the windshields of publicly parked vehicles. Defendant has admitted to much of this reprehensible vandalism but contends he was only attempting to draw attention to the lack of police presence in Brooklyn Heights. The above-captioned 105 count indictment charges defendant with criminal mischief and making graffiti counts and numerous "hate crime" counts under *Penal Law §§ 485.05* and *240.31*.

ANALYSIS - LEGAL SUFFICIENCY

Although defendant has raised various constitutional challenges to the hate crime statutes it is well-settled that "[u]nder established principles of judicial restraint" a court should not address constitutional issues when a decision can be reached on some non-constitutional **[**3]** ground. *Matter of [***2] Syquia v. Bd. of Educ. of the Harpursville Cent. School District, 80 NY2d 531, 535, 606 N.E.2d 1387, 591 N.Y.S.2d 996 (1992)*. This is especially true where the court is one of original jurisdiction. Accordingly, before addressing any constitutionality arguments, this Court will consider defendant's challenges to the legal sufficiency of the evidence adduced before the Grand Jury.

In 2000, New York enacted the "Hate Crimes Act". The "Legislative findings" are set forth in *§ 485.00* and recognize *inter alia* that hate crimes have become increasingly more prevalent and "victims are intentionally selected in whole or in part, because of their race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation. Hate crimes do more than threaten the safety and welfare of all citizens, they inflict on victims incalculable physical and emotional damage and tear away at the very fabric of free society".

Penal Law § 485.05 enhances the penalty for committing specified offenses based upon bias motivation and is divided into two separate subdivisions, with defendant charged under *subdivision (b)* which provides: 1) A person commits a hate crime when he or she commits **[**4]** a specified offense [1] and (b) intentionally commits the act or acts constituting the offense in whole or substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practices, age, disability or sexual orientation a *of a person*, regardless of whether the belief or perception is correct. (Emphasis added). The Practice Commentary explains that *subdivision (1)(a)* is aimed at a perpetrator who selects an individual based upon a belief or perception regarding a specified attribute of that person, whereas *subdivision (b)* "is aimed at a perpetrator who does not intentionally select an individual, but who intentionally commits the predicate crime because of a belief or perception regarding a specified attribute of *a' person*. An example would be a perpetrator who, professing hatred against a particular religion, sets off a bomb in that religions' place of worship." (Emphasis provided). (Donnino, Practice Commentaries, McKinney's Cons Laws of NY, Book 39, Penal Law § 485, 2008, Supp Pamph at 230).

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[1] Subdivision three lists the specified offenses and defendant does not challenge that he has been properly charged in accordance **[**5]** with a delineated offense.

Defendant is also charged with Aggravated Harassment in the First Degree (***Penal Law § 240.31***), which contains hate crime language within the body of the statute itself. Specifically *§ 240.31*, as charged, provides: "A person is guilty of Aggravated Harassment in the First Degree when with intent to harass, annoy, threaten or alarm another person, because of a belief or perception regarding such person's race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation, regardless of whether the belief or perception is correct, he or she etches, paints, draws upon or otherwise places a ***swastika***, commonly exhibited as the emblem of Nazi Germany, on any building or other real ***property***, firm or corporation or any public agency or instrumentality, without express permission of the owner or operator of such building or real ***property***."

This Court finds that although *Penal Law § 485.05(1)(b)* may be somewhat inartfully drafted, in using the words "a person", the context of both that statute and *§ 240.31* clearly apply to protected classes and the targeted victim need not necessarily be identified as a member of such class. **[**6]** In other words, as long as a protected class is clearly targeted and identifiable, as it is here, by the charged conduct, a violation of these statutes is properly alleged and was supported by the evidence before **[***3]** the Grand Jury. This court agrees with the reasoning of the trial court in *People v. Moorjaney, 11 Misc. 3d 1079[A], 819 N.Y.S.2d 850, 2006 NY Slip Op 50618[U] (Sup Ct, Queens County 2006)* to that effect and accordingly I find that the evidence adduced before the Grand Jury was legally sufficient to support each and every count of the indictment. *See*, *People v. Bello, 92 NY2d 523, 705 N.E.2d 1209, 683 N.Y.S.2d 168 (1998)*; *People v. Deegan, 69 NY2d 976, 509 N.E.2d 345, 516 N.Y.S.2d 651 (1987)*; *People v. Jennings, 69 NY2d 103, 115, 504 N.E.2d 1079, 512 N.Y.S.2d 652 (1986)*. Additionally, the assistant district attorney adequately charged the Grand Jury on the applicable law. *See*, *People v. Calbud, Inc., 49 NY2d 389, 402 N.E.2d 1140, 426 N.Y.S.2d 238 (1980)*. There is therefore no reason to dismiss or reduce any of the counts in this indictment.

CONSTITUTIONAL CHALLENGE

Having determined that the evidence is legally sufficient to support all of the charged hate crime violations, the Court must now address defendant's constitutional challenges.

As to the counts under *§ 485.05* and *§ 240.31* defendant maintains that the statutes are unconstitutional "as applied" to **[**7]** him because they are so vaguely worded as to provide inadequate notice as to whether his conduct is illegal or not. When analyzing a challenge to the constitutionality of a penal law on the grounds of vagueness, it is well-settled that a court must apply a two-pronged analysis. *See*, *People v. Bright, 71 NY2d 376, 382, 520 N.E.2d 1355, 526 N.Y.S.2d 66 (1988)*. First, the statute must provide sufficient notice of what conduct is prohibited and second it must not be drafted in such a manner as to encourage or permit arbitrary and discriminatory enforcement. *Id, see also*, *People v. Nelson, 69 NY2d 302, 307, 506 N.E.2d 907, 514 N.Y.S.2d 197 (1987)*. When a statute is being challenged as being unconstitutionally vague as applied the reviewing court must consider whether such statute can be constitutionally applied to a defendant under the facts of the particular case. *People v. Stuart, 100 NY2d at 420*. If the penal law statute is not impermissibly vague as applied to the defendant and provides him with adequate notice and the police with clear enforcement criteria, the court's inquiry is at an end.

As to the *§ 485.05(1)(b)* hate crime counts and *§ 240.31* counts I conclude that the statutes are not unconstitutionally vague as applied to this defendant. [2] The **[**8]** statutes clearly provide a person of ordinary intelligence with notice that the anti-Semitic conduct of which defendant is accused is prohibited. Secondly, the statutes as drafted do not invite arbitrary or discriminatory enforcement by law enforcement officials.

As to the counts under *§ 240.31* I reject defendant's contention that the statute abridges his *First Amendment* freedom of speech rights. In drafting its hate crime statutes New York was guided in part by a Wisconsin statute whose constitutionality was sustained by the United States Supreme Court. *See*, *Wisconsin v. Mitchell, 508 U.S. 476, 113 S. Ct. 2194, 124 L. Ed. 2d 436 (1993)*. The Supreme Court specifically held that the Wisconsin statute providing for enhancement of a defendant's sentence

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[2] Several trial courts have addressed the constitutionality of ***Penal Law § 485.05*** and have agreed it is constitutional. *See*, *People v. Fox, 17 Misc 3d 281, 844 N.Y.S.2d 627 (Sup Ct, Kings County 2007)*; *People v. Diaz, 188 Misc 2d 341, 727 N.Y.S.2d 298 (Sup Ct, NY County, 2001)*; *People v. Amadeo, (unreported) 2001 N.Y. Misc. LEXIS 406, 2001 NY Slip Op 40190[U, 2001 WL 1359091 (Sup Ct, Queens County 2001)*.

whenever he or she intentionally selects a victim based on the victim's race did not violate defendant's free speech rights by purporting to punish defendant's **[**9]** biased beliefs. The Court also found that the statute was not overly broad and was not directed at *content* but rather aimed at *conduct* unprotected by the *First Amendment*. *Id at 487*. *Cf.*, *R.A.V. v. St. Paul, 505 U.S. 377, 112 S. Ct. 2538, 120 L. Ed. 2d 305 (1992)*. This Court therefore rejects defendant's constitutional free speech argument.

Accordingly, for all the reasons discussed herein defendant's motion to dismiss is DENIED **[***4]** in all respects.

IT IS SO ORDERED.

ENTER,

/s/ Joseph Kevin McKay J.S.C.

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The Hate Crime statute under Penal Law section 485.05 is defined as follows:
1. A person commits a hate crime when he or she commits a specified offense and either:
(a) intentionally selects the person against whom the offense is committed or intended to be committed in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of a person, regardless of whether the belief or perception is correct, or
(b) intentionally commits the act or acts constituting the offense in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of a person, regardless of whether
the belief or perception is correct.
2. Proof of race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of the defendant, the victim or of both the defendant and the victim does not, by itself, constitute legally sufficient evidence satisfying the people's burden under paragraph (a) or (b) of subdivision one of this section.
3. A “specified offense” is an offense defined by any of the following provisions of this chapter: section 120.00 (assault in the third degree); section 120.05 (assault in the second degree); section 120.10 (assault in the first degree); section 120.12 (aggravated assault upon a person less than eleven years old); section 120.13 (menacing in the first degree); section 120.14 (menacing in the second degree); section 120.15 (menacing in the third degree); section 120.20 (reckless endangerment in the second degree); section 120.25 (reckless endangerment in the first degree); section 121.12 (strangulation in the second degree); section 121.13 (strangulation in the first degree); subdivision one of section 125.15 (manslaughter in the second degree); subdivision one , two or four of section 125.20 (manslaughter in the first degree); section 125.25 (murder in the second degree); section 120.45 (stalking in the fourth degree); section 120.50 (stalking in the third degree); section 120.55 (stalking in the second degree); section 120.60 (stalking in the first degree); subdivision one of section 130.35 (rape in the first degree); subdivision one of section 130.50 (criminal sexual act in the first degree); subdivision one of section 130.65 (sexual abuse in the first degree); paragraph (a) of subdivision one of section 130.67 (aggravated sexual abuse in the second degree); paragraph (a) of subdivision one of section 130.70 (aggravated sexual abuse in the first degree); section 135.05 (unlawful imprisonment in the second degree); section 135.10 (unlawful imprisonment in the first degree); section 135.20 (kidnapping in the second degree); section 135.25 (kidnapping in the first degree); section 135.60 (coercion in the third degree); section 135.61 (coercion in the second degree); section 135.65 (coercion in the first degree); section 140.10 (criminal trespass in the third degree); section 140.15 (criminal trespass in the second degree); section 140.17 (criminal trespass in the first degree); section 140.20 (burglary in the third degree); section 140.25 (burglary in the second degree); section 140.30 (burglary in the first degree); section 145.00 (criminal mischief in the fourth degree); section 145.05 (criminal mischief in the third degree); section 145.10 (criminal mischief in the second degree); section 145.12 (criminal mischief in the first degree); section 150.05 (arson in the fourth degree); section 150.10 (arson in the third degree); section 150.15 (arson in the second degree);

section 150.20 (arson in the first degree); section 155.25 (petit larceny); section 155.30 (grand larceny in the fourth degree); section 155.35 (grand larceny in the third degree); section 155.40 (grand larceny in the second degree); section 155.42 (grand larceny in the first degree); section 160.05 (robbery in the third degree); section 160.10 (robbery in the second degree); section 160.15 (robbery in the first degree); section 240.25 (harassment in the first degree); subdivision one , two or four of section 240.30 (aggravated harassment in the second degree); or any attempt or conspiracy to commit any of the foregoing offenses.

4. For purposes of this section:

(a) the term “age” means sixty years old or more;

(b) the term “disability” means a physical or mental impairment that substantially limits a major life activity.

2018: 34 total Reported Bias incidents in Nassau County 2019: 58 total Reported Bias incidents in Nassau County 2020 (January through April):

- January 2020: 3 Reported Bias incidents in Nassau County
- February 2020: 2 Reported Bias incidents in Nassau County
- March 2020: 0 Reported Bias incidents in Nassau County
- April 2020: 2 Reported Bias incidents in Nassau County

508 U.S. 476 (1993)

WISCONSIN
v.
MITCHELL

No. 92-515.

United States Supreme Court.

Argued April 21, 1993.
Decided June 11, 1993.
CERTIORARI TO THE SUPREME COURT OF WISCONSIN

477*477 Rehnquist, C. J., delivered the opinion for a unanimous Court.

James E. Doyle, Attorney General of Wisconsin, argued the cause for petitioner. With him on the briefs was *Paul Lundsten,* Assistant Attorney General.

Michael R. Dreeben argued the cause for the United States as *amicus curiae* urging reversal. With him on the brief were *Acting Solicitor General Bryson, Acting Assistant Attorneys General Keeney* and *Turner, Kathleen A. Felton,* and *Thomas E. Chandler.*

478*478 *Lynn S. Adelman* argued the cause for respondent. With him on the brief were *Kenneth P. Casey* and *Susan Gellman.*[*]

479*479 Chief Justice Rehnquist delivered the opinion of the Court.

Respondent Todd Mitchell's sentence for aggravated battery was enhanced because he intentionally selected his victim on account of the victim's race. The question presented in this case is whether this penalty enhancement is prohibited by the First and Fourteenth Amendments. We hold that it is not.

On the evening of October 7, 1989, a group of young black men and boys, including Mitchell, gathered at an apartment 480*480 complex in Kenosha, Wisconsin. Several members of the group discussed a scene from the motion picture "Mississippi Burning," in which a white man beat a young black boy who was praying. The group moved outside and Mitchell asked them: "`Do you all feel hyped up to move on some white people?'" Brief for Petitioner 4. Shortly thereafter, a young white boy approached the group on the opposite side of the street where they were standing. As the boy walked by, Mitchell said: "`You all want to fuck somebody up? There goes a white boy; go get him.'" *Id.,* at 4-5. Mitchell counted to three and pointed in the boy's direction. The group ran toward the boy, beat him severely, and stole his tennis shoes. The boy was rendered unconscious and remained in a coma for four days.

After a jury trial in the Circuit Court for Kenosha County, Mitchell was convicted of aggravated battery. Wis. Stat. §§ 939.05 and 940.19(1m) (1989-1990). That offense ordinarily carries a

maximum sentence of two years' imprisonment. §§ 940.19(1m) and 939.50(3)(e). But because the jury found that Mitchell had intentionally selected his victim because of the boy's race, the maximum sentence for Mitchell's offense was increased to seven years under § 939.645. That provision enhances the maximum penalty for an offense whenever the defendant "[i]ntentionally selects the person against whom the crime . . . is committed . . . because of the race, religion, color, disability, sexual orientation, national origin or ancestry of that person . . . ." § 939.645(1)(b).[1] 481*481 The Circuit Court sentenced Mitchell to four years' imprisonment for the aggravated battery.

Mitchell unsuccessfully sought postconviction relief in the Circuit Court. Then he appealed his conviction and sentence, challenging the constitutionality of Wisconsin's penalty-enhancement provision on First Amendment grounds.[2] The Wisconsin Court of Appeals rejected Mitchell's challenge, 163 Wis. 2d 652, 473 N. W. 2d 1 (1991), but the Wisconsin Supreme Court reversed. The Supreme Court 482*482 held that the statute "violates the First Amendment directly by punishing what the legislature has deemed to be offensive thought." 169 Wis. 2d 153, 163, 485 N. W. 2d 807, 811 (1992). It rejected the State's contention "that the statute punishes only the `conduct' of intentional selection of a victim." *Id.*, at 164, 485 N. W. 2d, at 812. According to the court, "[t]he statute punishes the `because of' aspect of the defendant's selection, the *reason* the defendant selected the victim, the *motive* behind the selection." *Ibid.* (emphasis in original). And under *R. A. V.* v. *St. Paul*, 505 U. S. 377 (1992), "the Wisconsin legislature cannot criminalize bigoted thought with which it disagrees." 169 Wis. 2d, at 171, 485 N. W. 2d, at 815.

The Supreme Court also held that the penaltyenhancement statute was unconstitutionally overbroad. It reasoned that, in order to prove that a defendant intentionally selected his victim because of the victim's protected status, the State would often have to introduce evidence of the defendant's prior speech, such as racial epithets he may have uttered before the commission of the offense. This evidentiary use of protected speech, the court thought, would have a "chilling effect" on those who feared the possibility of prosecution for offenses subject to penalty enhancement. See *id.*, at 174, 485 N. W. 2d, at 816. Finally, the court distinguished antidiscrimination laws, which have long been held constitutional, on the ground that the Wisconsin statute punishes the "subjective mental process" of selecting a victim because of his protected status, whereas antidiscrimination laws prohibit "objective acts of discrimination." *Id.*, at 176, 485 N. W. 2d, at 817.[3]

We granted certiorari because of the importance of the question presented and the existence of a conflict of authority 483*483 among state high courts on the constitutionality of statutes similar to Wisconsin's penalty-enhancement provision,[4] 506 U. S. 1033 (1992). We reverse.

Mitchell argues that we are bound by the Wisconsin Supreme Court's conclusion that the statute punishes bigoted thought and not conduct. There is no doubt that we are bound by a state court's construction of a state statute. *R. A. V., supra*, at 381; *New York* v. *Ferber*, 458 U. S. 747, 769, n. 24 (1982); *Terminiello* v. *Chicago*, 337 U. S. 1, 4 (1949). In *Terminiello*, for example, the Illinois courts had defined the term "`breach of the peace,'" in a city ordinance prohibiting disorderly conduct, to include "`stirs the public to anger. . . or creates a disturbance.'" *Id.*, at 4. We held this construction 484*484 to be binding on us. But here the Wisconsin Supreme Court did not, strictly speaking, construe the Wisconsin statute in the sense of defining the meaning of

a particular statutory word or phrase. Rather, it merely characterized the "practical effect" of the statute for First Amendment purposes. See 169 Wis. 2d, at 166-167, 485 N. W. 2d, at 813 ("Merely because the statute refers in a literal sense to the intentional `conduct' of selecting, does not mean the court must turn a blind eye to the intent and practical effect of the law—punishment of motive or thought"). This assessment does not bind us. Once any ambiguities as to the meaning of the statute are resolved, we may form our own judgment as to its operative effect.

The State argues that the statute does not punish bigoted thought, as the Supreme Court of Wisconsin said, but instead punishes only conduct. While this argument is literally correct, it does not dispose of Mitchell's First Amendment challenge. To be sure, our cases reject the "view that an apparently limitless variety of conduct can be labeled `speech' whenever the person engaging in the conduct intends thereby to express an idea." *United States* v. *O'Brien*, 391 U. S. 367, 376 (1968); accord, *R. A. V., supra*, at 385-386; *Spence* v. *Washington*, 418 U. S. 405, 409 (1974) *(per curiam)*; *Cox* v. *Louisiana*, 379 U. S. 536, 555 (1965). Thus, a physical assault is not by any stretch of the imagination expressive conduct protected by the First Amendment. See *Roberts* v. *United States Jaycees*, 468 U. S. 609, 628 (1984) ("[V]iolence or other types of potentially expressive activities that produce special harms distinct from their communicative impact . . . are entitled to no constitutional protection"); *NAACP* v. *Claiborne Hardware Co.*, 458 U. S. 886, 916 (1982) ("The First Amendment does not protect violence").

But the fact remains that under the Wisconsin statute the same criminal conduct may be more heavily punished if the victim is selected because of his race or other protected status 485*485 than if no such motive obtained. Thus, although the statute punishes criminal conduct, it enhances the maximum penalty for conduct motivated by a discriminatory point of view more severely than the same conduct engaged in for some other reason or for no reason at all. Because the only reason for the enhancement is the defendant's discriminatory motive for selecting his victim, Mitchell argues (and the Wisconsin Supreme Court held) that the statute violates the First Amendment by punishing offenders' bigoted beliefs.

Traditionally, sentencing judges have considered a wide variety of factors in addition to evidence bearing on guilt in determining what sentence to impose on a convicted defendant. See *Payne* v. *Tennessee*, 501 U. S. 808, 820-821 (1991); *United States* v. *Tucker*, 404 U. S. 443, 446 (1972); *Williams* v. *New York*, 337 U. S. 241, 246 (1949). The defendant's motive for committing the offense is one important factor. See 1 W. LeFave & A. Scott, Substantive Criminal Law § 3.6(b), p. 324 (1986) ("Motives are most relevant when the trial judge sets the defendant's sentence, and it is not uncommon for a defendant to receive a minimum sentence because he was acting with good motives, or a rather high sentence because of his bad motives"); cf. *Tison* v. *Arizona*, 481 U. S. 137, 156 (1987) ("Deeply ingrained in our legal tradition is the idea that the more purposeful is the criminal conduct, the more serious is the offense, and, therefore, the more severely it ought to be punished"). Thus, in many States the commission of a murder, or other capital offense, for pecuniary gain is a separate aggravating circumstance under the capital sentencing statute. See, *e. g.*, Ariz. Rev. Stat. Ann. § 13-703(F)(5) (1989); Fla. Stat. § 921.1415(f) (Supp. 1992); Miss. Code Ann. § 99-19-101(5)(f) (Supp. 1992); N. C. Gen. Stat. § 15A-2000(e)(6) (1992); Wyo. Stat. § 6-2-102(h)(vi) (Supp. 1992).

But it is equally true that a defendant's abstract beliefs, however obnoxious to most people, may not be taken into consideration by a sentencing judge. *Dawson* v. *Delaware*, 486*486 503 U. S. 159 (1992). In *Dawson*, the State introduced evidence at a capital sentencing hearing that the defendant was a member of a white supremacist prison gang. Because "the evidence proved nothing more than [the defendant's] abstract beliefs," we held that its admission violated the defendant's First Amendment rights. *Id.*, at 167. In so holding, however, we emphasized that "the Constitution does not erect a *per se* barrier to the admission of evidence concerning one's beliefs and associations at sentencing simply because those beliefs and associations are protected by the First Amendment." *Id.*, at 165. Thus, in *Barclay* v. *Florida*, 463 U. S. 939 (1983) (plurality opinion), we allowed the sentencing judge to take into account the defendant's racial animus towards his victim. The evidence in that case showed that the defendant's membership in the Black Liberation Army and desire to provoke a "race war" were related to the murder of a white man for which he was convicted. See *id.*, at 942-944. Because "the elements of racial hatred in [the] murder" were relevant to several aggravating factors, we held that the trial judge permissibly took this evidence into account in sentencing the defendant to death. *Id.*, at 949, and n. 7.

Mitchell suggests that *Dawson* and *Barclay* are inapposite because they did not involve application of a penaltyenhancement provision. But in *Barclay* we held that it was permissible for the sentencing court to consider the defendant's racial animus in determining whether he should be sentenced to death, surely the most severe "enhancement" of all. And the fact that the Wisconsin Legislature has decided, as a general matter, that bias-motivated offenses warrant greater maximum penalties across the board does not alter the result here. For the primary responsibility for fixing criminal penalties lies with the legislature. *Rummel* v. *Estelle*, 445 U. S. 263, 274 (1980); *Gore* v. *United States*, 357 U. S. 386, 393 (1958).

487*487 Mitchell argues that the Wisconsin penalty-enhancement statute is invalid because it punishes the defendant's discriminatory motive, or reason, for acting. But motive plays the same role under the Wisconsin statute as it does under federal and state antidiscrimination laws, which we have previously upheld against constitutional challenge. See *Roberts* v. *United States Jaycees*, 468 U. S., at 628; *Hishon* v. *King & Spalding*, 467 U. S. 69, 78 (1984); *Runyon* v. *McCrary*, 427 U. S. 160, 176 (1976). Title VII of the Civil Rights Act of 1964, for example, makes it unlawful for an employer to discriminate against an employee "*because of* such individual's race, color, religion, sex, or national origin." 42 U. S. C. § 2000e-2(a)(1) (emphasis added). In *Hishon*, we rejected the argument that Title VII infringed employers' First Amendment rights. And more recently, in *R. A. V.* v. *St. Paul*, 505 U. S., at 389-390, we cited Title VII (as well as 18 U. S. C. § 242 and 42 U. S. C. §§ 1981 and 1982) as an example of a permissible content-neutral regulation of conduct.

Nothing in our decision last Term in *R. A. V.* compels a different result here. That case involved a First Amendment challenge to a municipal ordinance prohibiting the use of "`fighting words' that insult, or provoke violence, `on the basis of race, color, creed, religion or gender.'" 505 U. S., at 391 (quoting St. Paul Bias-Motivated Crime Ordinance, St. Paul, Minn., Legis. Code § 292.02 (1990)). Because the ordinance only proscribed a class of "fighting words" deemed particularly offensive by the city—*i. e.*, those "that contain. . . messages of `bias-motivated' hatred," 505 U. S., at 392— we held that it violated the rule against content-based

discrimination. See *id.*, at 392-394. But whereas the ordinance struck down in *R. A. V.* was explicitly directed at expression (*i. e.*, "speech" or "messages"), *id.*, at 392, the statute in this case is aimed at conduct unprotected by the First Amendment.

Moreover, the Wisconsin statute singles out for enhancement bias-inspired conduct because this conduct is thought 488*488 to inflict greater individual and societal harm. For example, according to the State and its *amici*, bias-motivated crimes are more likely to provoke retaliatory crimes, inflict distinct emotional harms on their victims, and incite community unrest. See, *e. g.*, Brief for Petitioner 24-27; Brief for United States as *Amicus Curiae* 13-15; Brief for Lawyers' Committee for Civil Rights Under Law as *Amicus Curiae* 18-22; Brief for the American Civil Liberties Union as *Amicus Curiae* 17-19; Brief for the Anti-Defamation League et al. as *Amici Curiae* 9-10; Brief for Congressman Charles E. Schumer et al. as *Amici Curiae* 8-9. The State's desire to redress these perceived harms provides an adequate explanation for its penalty-enhancement provision over and above mere disagreement with offenders' beliefs or biases. As Blackstone said long ago, "it is but reasonable that among crimes of different natures those should be most severely punished, which are the most destructive of the public safety and happiness." 4 W. Blackstone, Commentaries *16.

Finally, there remains to be considered Mitchell's argument that the Wisconsin statute is unconstitutionally overbroad because of its "chilling effect" on free speech. Mitchell argues (and the Wisconsin Supreme Court agreed) that the statute is "overbroad" because evidence of the defendant's prior speech or associations may be used to prove that the defendant intentionally selected his victim on account of the victim's protected status. Consequently, the argument goes, the statute impermissibly chills free expression with respect to such matters by those concerned about the possibility of enhanced sentences if they should in the future commit a criminal offense covered by the statute. We find no merit in this contention.

The sort of chill envisioned here is far more attenuated and unlikely than that contemplated in traditional "overbreadth" cases. We must conjure up a vision of a Wisconsin citizen suppressing his unpopular bigoted opinions for fear that if he later commits an offense covered by the statute, 489*489 these opinions will be offered at trial to establish that he selected his victim on account of the victim's protected status, thus qualifying him for penalty enhancement. To stay within the realm of rationality, we must surely put to one side minor misdemeanor offenses covered by the statute, such as negligent operation of a motor vehicle (Wis. Stat. § 941.01 (1989-1990)); for it is difficult, if not impossible, to conceive of a situation where such offenses would be racially motivated. We are left, then, with the prospect of a citizen suppressing his bigoted beliefs for fear that evidence of such beliefs will be introduced against him at trial if he commits a more serious offense against person or property. This is simply too speculative a hypothesis to support Mitchell's overbreadth claim.

The First Amendment, moreover, does not prohibit the evidentiary use of speech to establish the elements of a crime or to prove motive or intent. Evidence of a defendant's previous declarations or statements is commonly admitted in criminal trials subject to evidentiary rules dealing with relevancy, reliability, and the like. Nearly half a century ago, in *Haupt* v. *United States*, 330 U. S. 631 (1947), we rejected a contention similar to that advanced by Mitchell here. Haupt was tried for the offense of treason, which, as defined by the Constitution (Art. III, § 3), may depend

very much on proof of motive. To prove that the acts in question were committed out of "adherence to the enemy" rather than "parental solicitude," *id.*, at 641, the Government introduced evidence of conversations that had taken place long prior to the indictment, some of which consisted of statements showing Haupt's sympathy with Germany and Hitler and hostility towards the United States. We rejected Haupt's argument that this evidence was improperly admitted. While "[s]uch testimony is to be scrutinized with care to be certain the statements are not expressions of mere lawful and permissible difference of opinion with our own government or quite proper appreciation of the land of birth," we held that "these 490*490 statements . . . clearly were admissible on the question of intent and adherence to the enemy." *Id.*, at 642. See also *Price Waterhouse* v. *Hopkins*, 490 U. S. 228, 251-252 (1989) (plurality opinion) (allowing evidentiary use of defendant's speech in evaluating Title VII discrimination claim); *Street* v. *New York*, 394 U. S. 576, 594 (1969).

For the foregoing reasons, we hold that Mitchell's First Amendment rights were not violated by the application of the Wisconsin penalty-enhancement provision in sentencing him. The judgment of the Supreme Court of Wisconsin is therefore reversed, and the case is remanded for further proceedings not inconsistent with this opinion.

It is so ordered.

[*] Briefs of *amici curiae* urging reversal were filed for the State of Ohio et al. by *Lee Fisher,* Attorney General of Ohio, *Andrew S. Bergman,* Assistant Attorney General, and *Simon B. Karas, John Payton,* Corporation Counsel of the District of Columbia, and by the Attorneys General for their respective States as follows: *James H. Evans* of Alabama, *Charles E. Cole* of Alaska, *Grant Woods* of Arizona, *Winston Bryant* of Arkansas, *Daniel E. Lungren* of California, *Gale A. Norton* of Colorado, *Richard Blumenthal* of Connecticut, *Charles M. Oberly III* of Delaware, *Robert A. Butterworth* of Florida, *Michael J. Bowers* of Georgia, *Robert A. Marks* of Hawaii, *Larry EchoHawk* of Idaho, *Roland W. Burris* of Illinois, *Pamela Carter* of Indiana, *Bonnie J. Campbell* of Iowa, *Robert T. Stephan* of Kansas, *Chris Gorman* of Kentucky, *Richard P. Ieyoub* of Louisiana, *Michael E. Carpenter* of Maine, *J. Joseph Curran, Jr.*, of Maryland, *Scott Harshbarger* of Massachusetts, *Frank J. Kelley* of Michigan, *Hubert H. Humphrey III* of Minnesota, *Mike Moore* of Mississippi, *Jeremiah W. Nixon* of Missouri, *Joseph P. Mazurek* of Montana, *Don Stenberg* of Nebraska, *Frankie Sue Del Papa* of Nevada, *Jeffrey R. Howard* of New Hampshire, *Robert J. Del Tufo* of New Jersey, *Tom Udall* of New Mexico, *Robert Abrams* of New York, *Michael F. Easley* of North Carolina, *Heidi Heitkamp* of North Dakota, *Susan B. Loving* of Oklahoma, *Theodore R. Kulongoski* of Oregon, *Ernest D. Preate, Jr.*, of Pennsylvania, *Jeffrey B. Pine* of Rhode Island, *T. Travis Medlock* of South Carolina, *Mark Barnett* of South Dakota, *Charles W. Burson* of Tennessee, *Dan Morales* of Texas, *Jan Graham* of Utah, *Jeffrey L. Amestoy* of Vermont, *Mary Sue Terry* of Virginia, *Christine O. Gregoire* of Washington, *Daryl V. McGraw* of West Virginia, and *Joseph B. Myer* of Wyoming; for the city of Atlanta et al. by *O. Peter Sherwood, Leonard J. Koerner, Lawrence S. Kahn, Linda H. Young, Burt Neuborne, Norman Dorsen, Neal M. Janey, Albert W. Wallis, Lawrence Rosenthal, Benna Ruth Solomon, Julie P. Downey, Jessica R. Heinz, Judith E. Harris, Louise H. Renne,* and *Dennis Aftergut;* for the American Civil Liberties Union by *Steven R. Shapiro* and *John A. Powell;* for the Anti-Defamation League et al. by *David M. Raim, Jeffrey P. Sinensky, Steven M. Freeman, Michael Lieberman,* and *Robert H. Friebert;* for the Appellate Committee of the California District Attorneys Association by *Gil Garcetti* and *Harry B. Sondheim;* for the California Association of Human Rights Organizations et al. by *Henry J. Silberberg* and *Mark Solomon;* for the Chicago Lawyers' Committee for Civil Rights Under Law, Inc., by *Frederick J. Sperling* and *Roslyn C. Lieb;* for the Criminal Justice Legal Foundation by *Kent S. Scheidegger;* for the Crown Heights Coalition et al. by *Samuel Rabinove, Richard T. Foltin, Kenneth S. Stern, Elaine R. Jones,* and *Eric Schnapper;* for the Jewish Advocacy Center by *Barrett W. Freedlander;* for the Lawyers' Committee for Civil Rights of the San Francisco Bay Area by *Robert E. Borton;* for the National Asian Pacific American Legal Consortium et al. by *Angelo N. Ancheta;* for the National Conference of State Legislatures et al. by *Richard Ruda* and *Michael J. Wahoske;* and for Congressman Charles E. Schumer et al. by *Steven T. Catlett* and *Richard A. Cordray.*

Briefs of *amici curiae* urging affirmance were filed for the American Civil Liberties Union of Ohio by *Daniel T. Kobil* and *Benson A. Wolman;* for California Attorneys for Criminal Justice by *Robert R. Riggs, John T. Philipsborn,* and *Dennis P. Riordan;* for the Center for Individual Rights by *Gary B. Born* and *Michael P. McDonald;* for the National Association of Criminal Defense Lawyers et al. by *Harry R. Reinhart, John Pyle, Sean O'Brien,* and *William I. Aronwald;* for the Ohio Public Defender by *James Kura, Robert L. Lane, James R. Neuhard, Allison Connelly, Theodore A. Gottfried, Henry Martin,* and *James E. Duggan;* for the Wisconsin Freedom of Information Council by *Jeffrey J. Kassel;* for the Reason Foundation by *Robert E. Sutton;* for the Wisconsin Association of Criminal Defense Lawyers by *Ira Mickenberg;* and for Larry Alexander et al. by *Martin H. Redish.*

Briefs of *amici curiae* were filed for the Lawyers' Committee for Civil Rights Under Law by *Paul Brest, Alan Cope Johnston, Herbert M. Wachtell, William H. Brown III,* and *Norman Redlich;* and for the Wisconsin Inter-Racial and Inter-Faith Coalition for Freedom of Thought by *Joan Kessler.*

[1] At the time of Mitchell's trial, the Wisconsin penalty-enhancement statute provided:

"(1) If a person does all of the following, the penalties for the underlying crime are increased as provided in sub. (2):

"(a) Commits a crime under chs. 939 to 948.

"(b) Intentionally selects the person against whom the crime under par.

(a) is committed or selects the property which is damaged or otherwise affected by the crime under par. (a) because of the race, religion, color, disability, sexual orientation, national origin or ancestry of that person or the owner or occupant of that property.

"(2)(a) If the crime committed under sub. (1) is ordinarily a misdemeanor other than a Class A misdemeanor, the revised maximum fine is $10,000 and the revised maximum period of imprisonment is one year in the county jail.

"(b) If the crime committed under sub. (1) is ordinarily a Class A misdemeanor, the penalty increase under this section changes the status of the crime to a felony and the revised maximum fine is $10,000 and the revised maximum period of imprisonment is 2 years.

"(c) If the crime committed under sub. (1) is a felony, the maximum fine prescribed by law for the crime may be increased by not more than $5,000 and the maximum period of imprisonment prescribed by law for the crime may be increased by not more than 5 years.

"(3) This section provides for the enhancement of the penalties applicable for the underlying crime. The court shall direct that the trier of fact find a special verdict as to all of the issues specified in sub. (1).

"(4) This section does not apply to any crime if proof of race, religion, color, disability, sexual orientation, national origin or ancestry is required for a conviction for that crime." Wis. Stat. § 939.645 (1989-1990). The statute was amended in 1992, but the amendments are not at issue in this case.

[2] Mitchell also challenged the statute on Fourteenth Amendment equal protection and vagueness grounds. The Wisconsin Court of Appeals held that Mitchell waived his equal protection claim and rejected his vagueness challenge outright. 163 Wis. 2d 652, 473 N. W. 2d 1 (1991). The Wisconsin Supreme Court declined to address both claims. 169 Wis. 2d 153, 158, n. 2, 485 N. W. 2d 807, 809, n. 2 (1992). Mitchell renews his Fourteenth Amendment claims in this Court. But since they were not developed below and plainly fall outside of the question on which we granted certiorari, we do not reach them either.

[3] Two justices dissented. They concluded that the statute punished discriminatory acts, and not beliefs, and therefore would have upheld it. See 169 Wis. 2d, at 181, 485 N. W. 2d, at 819 (Abrahamson, J.); *id.*, at 187-195, 485 N. W. 2d, at 821-825 (Bablitch, J.).

[4] Several States have enacted penalty-enhancement provisions similar to the Wisconsin statute at issue in this case. See, *e. g.*, Cal. Penal Code Ann. § 422.7 (West 1988 and Supp. 1993); Fla. Stat. § 775.085 (1991); Mont. Code Ann. § 45-5-222 (1992); Vt. Stat. Ann., Tit. 13, § 1455 (Supp. 1992). Proposed federal legislation to the same effect passed the House of Representatives in 1992, H. R. 4797, 102d Cong., 2d Sess. (1992), but failed to pass the Senate, S. 2522, 102d Cong., 2d Sess. (1992). The state high courts are divided over the constitutionality of penalty-enhancement statutes and analogous statutes covering bias-motivated offenses. Compare, *e. g.*, *State* v. *Plowman*, 314 Ore. 157, 838 P. 2d 558 (1992) (upholding Oregon statute), with *State* v. *Wyant*, 64 Ohio St. 3d 566, 597 N. E. 2d 450 (1992) (striking down Ohio statute); 169 Wis. 2d 153, 485 N. W. 2d 807 (1992) (case below) (striking down Wisconsin statute). According to *amici*, bias-motivated violence is on the rise throughout the United States. See, *e. g.*, Brief for the National Asian Pacific American Legal Consortium et al. as *Amici Curiae* 5-11; Brief for the Anti-Defamation League et al. as *Amici Curiae* 4-7; Brief for the City of Atlanta et al. as *Amici Curiae* 3-12. In 1990, Congress enacted the Hate Crimes Statistics Act, Pub. L. 101-275, § 1(b)(1), 104 Stat. 140, codified at 28 U. S. C. § 534 (note) (1988 ed., Supp. III), directing the Attorney General to compile data "about crimes that manifest evidence of prejudice based on race, religion, sexual orientation, or ethnicity." Pursuant to the Act, the Federal Bureau of Investigation reported in January 1993, that 4,558 bias-motivated offenses were committed in 1991, including 1,614 incidents of intimidation, 1,301 incidents of vandalism, 796 simple assaults, 773 aggravated assaults, and 12 murders. See Brief for the Crown Heights Coalition et al. as *Amici Curiae* 1A-7A.