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Hon. Richard Durbin, Chairman
Hon. Lindsey Graham, Ranking Member
U.S. Senate Committee on the Judiciary
Washington, DC
by electronic mail

Dear Chairman Durbin, Ranking Member Graham
and Senators of the Judiciary Committee,

We write to you on behalf of the Union of Orthodox Jewish
Congregations of America – the nation’s largest Orthodox Jewish
umbrella organization – regarding your September 17 hearing: “*A
Threat to Justice Everywhere; Stemming the Tide of Hate Crimes in America*”.

We appreciate that the Committee is holding this hearing and that, we
expect, it will include an extensive examination of the unprecedented
surge in antisemitism in the United States that has occurred since the
October 7, 2023 Hamas attack upon Israel. However, we would be
remiss if we did not say that our appreciation is mixed with
disappointment.

In 1790, President George Washington wrote to the Jewish community
of Newport, RI and famously said that Jews would enjoy
unprecedented freedom in the United States because the newly
founded nation would “give to bigotry no sanction, to persecution no
assistance.”

Since October 7, American Jews have been subjected to physical
assaults on sidewalks, slander and harassment in subways, raucous
protests outside our synagogues and array of attacks – physical and
verbal – on school campuses. This has been going on for months. It’s
made headlines. President Biden and other senior officials of his
Administration have spoken out and taken various actions to address
the crisis (but surely more must be done because the crisis has not
abated). The surge of antisemitism in the U.S. has been the subject of
multiple hearings by congressional committees -- but only committees
in the House of Representatives. Until today, nearly a year into this
crisis, the Senate Judiciary Committee (not to mention the Senate
HELP Committee) has been missing in action. This has been
dispiriting to our community.

Yet, there is much this Committee and the U.S. Senate can do, even
now, to respond to the wave of unprecedented antisemitism in

America and thereby uphold the basic civil rights of American Jews – and recommit to fulfill George Washington’s promise to the American Jewish community. In that constructive spirit, we offer the following.

1. There are several federal laws which should be actively utilized to better protect American Jews from antisemitic attacks. These include 18 U.S.C. § 241 (prohibiting conspiracies to interfere with citizens’ civil rights) and 18 U.S.C. § 248 (the “FACE Act”, which prohibits obstruction, injury and intimidation of citizens seeking to exercise their free exercise of religion at a place of worship).

In addition to the much reported incidents that have occurred on American university campuses over the past year, antisemites have targeted Jewish synagogues and sought to obstruct and intimidate Jews accessing our synagogues. Two prominent examples of this occurred in Los Angeles¹ and in New Jersey². We have urged the Department of Justice to use the federal statutes cited above to prosecute those who have sought to intimidate our community and interfere with our fundamental rights. We have yet to see such charges brought.

2. Federal authorities could – and should – give better guidance to campus administrators and police about First Amendment law. As Senators on this Committee are well aware, “freedom of speech” is not a right without any limitations. Content neutral – time, place and manner restrictions are constitutional as are other limitations when speech can be inciteful and lead to harassment and violence. Yet, we have seen over the past year that antisemites, especially on university campuses, hide behind invocations of “free speech” and too many administrators and campus police seem to know how to respond appropriately. The Department of Justice should offer detailed guidance with illustrative examples – in parallel to guidance issued by the Department of Education³ – to both inform and hold accountable university officials who are responsible for protecting the rights of their Jewish students to be free from harassment.
3. The Senate should pass new legislation that will concretely address and combat the crisis of antisemitism. Several bills have already passed the House on a bipartisan basis and await Senate action. These bills include the following:
 - a. Antisemitism Awareness Act (H.R.6090, S.4127)
The AAA will codify the IHRA definition of antisemitism and expand its usage across the Federal government. It is currently utilized by the Dept. of State and the Dept. of Education. The IHRA definition has been endorsed by more than 40 countries and is recognized as the gold standard and a critical tool in combatting antisemitism.⁴

¹ <https://www.cnn.com/2024/06/24/us/los-angeles-synagogue-palestinian-israeli-protest-violence/index.html>

² <https://www.northjersey.com/story/news/bergen/teaneck/2024/04/01/demonstrations-outside-teaneck-nj-synagogue-over-israel-gaza-war/73173689007/>

³ <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-202405-shared-ancestry.pdf>

⁴ <https://forward.com/fast-forward/642348/deborah-lipstadt-antisemitism-jerusalem-declaration-nexus-ihra/>

b. Deterrent Act (H.R.5933)

The Defending Education Transparency and Ending Rogue Regimes Engaging in Nefarious Transactions Act is a bill about transparency. The bill requires an institution of higher education to annually disclose to the Department of Education (ED) any year in which the IHE: receives a gift from a foreign country of concern (e.g., China or Russia) or foreign entity of concern of any dollar amount; receives a gift or contract from a foreign source (other than a foreign country of concern or foreign entity of concern) that is valued at \$50,000 or more, considered alone or in combination with all other gifts or contracts within a calendar year (current disclosure threshold is \$250,000 or more), or which has an undetermined monetary value; enters into a contract with a foreign country of concern or foreign entity of concern after receiving a waiver for such contract; or is substantially controlled by a foreign source. The bill passed the House on a broad bipartisan vote.

c. H.R. 6408

This bill suspends the tax-exempt status of terrorist supporting organizations. The bill defines *terrorist supporting organization* as any organization designated as having provided (during the three-year period prior to its designation) material support or resources to a terrorist organization in excess of a *de minimis* amount. The Department of the Treasury must provide notice to such organizations of the impending designation and an opportunity to cure. Treasury must rescind a designation that it determines was erroneous or if the organization did not receive notice of designation. The bill provides for administrative review by the Internal Revenue Service Independent Office of Appeals of any dispute regarding a designation of an organization as a terrorist supporting organization. The U.S. district courts shall have exclusive jurisdiction to review any such designation. The bill passed the House on a broad bipartisan vote.

d. Domestic Terrorism Prevention Act (S.1591)

This bill establishes new requirements to expand the availability of information on domestic terrorism, as well as the relationship between domestic terrorism and hate crimes. It authorizes domestic terrorism components within the Department of Homeland Security (DHS), the Department of Justice (DOJ), and the Federal Bureau of Investigation (FBI) to monitor, analyze, investigate, and prosecute domestic terrorism. DHS, DOJ, and the FBI must review the anti-terrorism training and resource programs of their agencies that are provided to federal, state, local, and tribal law enforcement agencies. It creates an interagency task force to analyze and combat white supremacist and neo-Nazi infiltration of the uniformed services and federal law enforcement agencies.

Since October 7, the American Jewish community has endured a wave of antisemitism that is unprecedented in our history in the U.S. Since the founding of this nation, Jews have experienced freedom and liberty of a kind our ancestors never experienced in any nation outside Israel in which Jews lived. That is because religious liberty and equality was built into the foundational ‘DNA’ of this country.

The events we have experienced these past months – and the inability of national leaders and institutions to act effectively and reverse this tide of antisemitism – has caused too many Jews to question whether the promise of liberty and equality for Jews in America will continue for future

generations. We are wondering whether George Washington's words to the Jews of Newport remain true.

Today, we look to this Committee and you – Senators – of the United States to give this crisis its due attention and plan to take action in the U.S. Senate to defend the civil rights of American Jews and ensure the continuity of America's promise to its Jewish citizens.

Sincerely,

Nathan J. Diament

Executive Director