

U.S. COMMISSION ON CIVIL RIGHTS

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BUSINESS MEETING

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THURSDAY, FEBRUARY 19, 2026

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The Commission convened at 1331
Pennsylvania Avenue NW, Suite 1150, Washington,
D.C., at 10:02 a.m., Rochelle Garza, Chair,
presiding.

PRESENT:

ROCHELLE GARZA, Chair

VICTORIA NOURSE, Vice Chair

J. CHRISTIAN ADAMS, Commissioner

STEPHEN GILCHRIST, Commissioner

MONDAIRE JONES, Commissioner

PETER KIRSANOW, Commissioner

GLENN MAGPANTAY, Commissioner

MARIK XAVIER-BRIER, Acting Staff Director

DAVID GANZ, General Counsel and
Parliamentarian

1 ALSO PRESENT:
EUGENE VOLOKH
2
MARK GOLDFEDER
3
BENJAMIN EIDELSON
4
CARLY GAMMILL
5
MICHAEL C. DORF
6
GENEVIEVE LAKIER
7
CRAIG TRAINOR
8
MATHEW NOSANCHUK
9
LINDA MANGEL
10 BETH GELLMAN-BEER
11 GREGORY DOLIN
12 ALYSSA LAREAU
13 TOVA KAPLAN
SETH ORANBURG
14
SARAH SILVERMAN
15
ADIRA FOGELMAN
16
ELLIE SWEET
17
AMY SPITALNICK
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KENNETH MARCUS
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KEVIN RACHLIN
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ERIN BEINER
21
22
23
24
25

1 A G E N D A

2

3 I. INTRODUCTORY REMARKS 4

4 PANEL 1: ANTISEMITISM, FREE SPEECH, AND 16
CIVIL RIGHTS LAW IN HIGHER EDUCATION

5 PANEL 2: POLICY IN PRACTICE: IMPLEMENTING 89
6 TITLE VI TO ADDRESS CAMPUS ANTISEMITISM

7 PANEL 3: CAMPUS LIFE AND ANTISEMITISM: 161
STUDENT AND INSTITUTIONAL PERSPECTIVES

8 PANEL 4: BUILDING INCLUSIVE AND SECURE 228
9 CAMPUSES: POLICY, ADVOCACY, AND PRACTICE

10

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1 P-R-O-C-E-E-D-I-N-G-S

2 (10:02 a.m.)

3 CHAIR GARZA: Good morning. This
4 briefing of the United States Commission on
5 Civil Rights comes to order at 10:02 a.m.
6 Eastern Time on February 19th, 2026, and it
7 takes place here at our Commission Headquarters
8 at 1331 Pennsylvania Avenue, NW, Suite 1150 in
9 Washington, D.C. 20425.

10 So good morning, everyone. I'm
11 Rochelle Garza. I'm the Chair of the
12 Commission. Participating in person for this
13 briefing are Vice Chair Nourse, Commissioner
14 Adams, Commissioner Gilchrist, Commissioner
15 Jones, Commissioner Kirsanow and Commissioner
16 Magpantay.

17 Will the court reporter confirm for the
18 record that you are present?

19 COURT REPORTER: (No audible response.)

20 CHAIR GARZA: Okay, confirmation.
21 Acting Deputy Staff Director, will you confirm
22 for the record that you are present?

23 MR. XAVIER-BRIER: (No audible
24 response.)

25 CHAIR GARZA: So confirmed. I welcome

1 everyone to our public briefing entitled,
2 Antisemitism on America's College and University
3 Campuses, Current Conditions and the Federal
4 Response.

5 Every student, as we all know, deserves
6 the freedom to learn, speak and participate
7 fully in campus life without fear of harassment
8 or intimidation. Antisemitism has no place in
9 our society and neither does any form of
10 discrimination. Upholding free speech does not
11 mean tolerating hate and protecting civil rights
12 does not require silencing lawful expression.
13 Those principles guide the Commission's work.

14 As such, the Commission is committed to
15 examining how institutions can meet both
16 obligations so that no one's rights are
17 compromised in the process.

18 Today's briefing is part of the
19 Commission's Fiscal Year 2026 Statutory
20 Enforcement Report, the Federal response to the
21 rise in antisemitism on American college and
22 university campuses. Following our unanimous
23 vote to undertake this investigation, the
24 Commission has been conducting research in
25 preparation for this discussion and the report

1 that will follow.

2 This effort is being led on a
3 bipartisan basis by Commissioners Peter Kirsanow
4 and Commissioner Mondaire Jones in response to a
5 bipartisan request from more than two dozen
6 members of Congress, led by Representatives Jake
7 Auchincloss, Kevin Kiley and Debbie Wasserman
8 Schultz urging us to examine the rise in
9 antisemitism on campus, assess the Federal
10 government's enforcement of Title VI of the
11 Civils Rights Act of 1964 and provide
12 recommendations to Congress and the
13 administration. The concerns outlined in that
14 request are significant and the Commission takes
15 seriously its responsibility to respond to
16 Congressional inquiries with independent, fact-
17 based analysis that can inform legislative and
18 oversight efforts.

19 Civil rights enforcement is not
20 optional. Federal agencies charged with
21 enforcing Title VI have a duty to safeguard
22 students from discrimination while protecting
23 their ability to exercise First Amendment rights
24 without fear. Undermining, weakening or
25 misapplying enforcement mechanisms jeopardizes

1 the very protections its students depend on.

2 Today, we begin this phase of our
3 investigation by hearing directly from witnesses
4 about current conditions on campuses and the
5 levels of federal response. The Commission's
6 role is not to adjudicate individual disputes or
7 suppress lawful expression. Our charge is to
8 conduct careful, independent fact finding and
9 determine whether Federal civil rights
10 protections are being effectively enforced.

11 This Commission remains committed to
12 ensuring that America's college campuses are
13 places of learning, debate and inclusion, not
14 fear or intimidation. We thank our panelists
15 for contributing their expertise to this very
16 important work.

17 We have a very full agenda. We have
18 four panels that are going to discuss the
19 following. Panel one is going to be focused on
20 antisemitism, free speech and civil rights law
21 in higher education. Our second panel is going
22 to explore policy and practice implementing
23 Title VI to address campus antisemitism and on
24 panel three, we will hear about campus life and
25 antisemitism from the student and institutional

1 perspectives. And finally, on panel four, we
2 will discuss building inclusive and secure
3 campuses, policy, advocacy and practice.

4 And following the conclusion of the
5 hearing, the Commission will accept written
6 public comments until March 20th, 2026. So
7 again, I would thank all of the individuals that
8 are joining us here today to focus on this very
9 critical topic. Your testimony will help us
10 fulfill our mission in being the nation's eyes
11 and ears on civil rights.

12 Finally, I'd like to thank the
13 Commission staff, including our special
14 assistants, the Office of Civil Rights
15 Evaluation, General Counsel and our Technology
16 Team and all of the individuals that made this
17 briefing not only substantively, but
18 logistically possible, so thank all of you for
19 hard work here.

20 And I'm going to go ahead and turn the
21 floor over at this moment to Commission
22 Kirsanow, the Republic co-lead Commissioner on
23 this bipartisan investigation for a few words.

24 COMMISSIONER KIRSANOW: Thank you very
25 much, Chair Garza. I've been on the Commission

1 for 25 years and maybe because I can't get it
2 right, but in that 25 years, I don't recall
3 having any hearings with respect to
4 antisemitism. I don't know the reason for that
5 other than I think a lot of times, it's
6 something that is not on the minds of enough
7 people. It's been on my mind and I think it's
8 been on the minds of many other Commissioners
9 including, especially Mondaire Jones.

10 After October 7th, I expected that
11 there would be an uproar, there would be a
12 flourishing of concern related to antisemitism
13 and I was stunned, just the opposite occurred.
14 In fact, there was more antisemitism, at least
15 it appeared that way to me on casual
16 observation. That casual observation included
17 my alma mater, Cornell, where I was stunned to
18 see -- by the way which has a significant Jewish
19 population -- I was stunned to see harassment,
20 violence, threats and I think what really struck
21 me was there was one professor who was on the
22 Arts Quad, who said he was exhilarated by what
23 happened. I thought that form of evil needs to
24 be addressed immediately.

25 It wasn't just Cornell, it was a lot of

1 other places and in the months succeeding
2 October 7th, the ADL recorded 772 instances of
3 antisemitism in just two months, and those were
4 instances that included some form of violence.
5 Astonishing. So we expect to hear evidence and
6 we hope to elicit evidence on the extent of the
7 antisemitism, its trajectory, while protecting
8 First Amendment rights that students and faculty
9 have on college campuses.

10 That's a tough balance, I understand
11 that. You may make certain statements, critical
12 statements, that could be viewed as some form of
13 harassment. You know we've got issues with
14 respect to First Amendment and harassment,
15 sexual harassment law, racial harassment law,
16 ethnic harassment law, but those things can be
17 mediated in my estimation, but the scourge of
18 antisemitism needs to be addressed. And I want
19 to thank the panelists for appearing here to
20 provide your testimony.

21 CHAIR GARZA: Thank you so much,
22 Commissioner Kirsanow. We're going to now turn
23 to some remarks from our Democratic co-lead on
24 this bipartisan investigation, Commissioner
25 Jones.

1 COMMISSIONER JONES: Well thank you,
2 Madam Chair and Commissioner Kirsanow. Thanks
3 also to the more than 20 distinguished panelists
4 who will be testifying today, starting with our
5 first panel and all members of the public who
6 are present here or live streaming these
7 proceedings. Finally, thanks to my special
8 assistant, Irina Vitalovich, and our intern,
9 Michelle Balderrama, as well Commissioner
10 Kirsanow's special assistant, Carissa Mulder,
11 and the rest of the Commission staff for their
12 hard work and planning and executing today's
13 briefing and tomorrow's listening session.

14 The Commission voted unanimously to
15 conduct this bipartisan investigation into
16 antisemitism on America's college and university
17 campuses co-led by Commissioner Kirsanow and
18 myself. This investigation, its ultimate
19 report, it's what I hope will be findings and
20 recommendations, all of those are slated to be
21 issued in September of this year. And it is a
22 robust and important investigation as we all
23 know.

24 Antisemitism is the oldest bigotry in
25 the world and it has not gone away. In the days

1 and in the months following the deadly terrorist
2 attacks by Hamas on October 7, 2023, it reached
3 a fever pitch, not just in America but across
4 the world. This was obvious on America's
5 college and university campuses. And now, it is
6 critical to the safety and the well-being of
7 Jewish students, faculty, administrators and
8 staff to study the conditions of antisemitism on
9 those campuses and to evaluate the Federal
10 response.

11 As a civil rights agency, it is, in
12 fact, the Commission's solemn responsibility to
13 do just that. I, for one, have not prejudged
14 the outcome of this investigation and its
15 various facets. We are very much in the fact
16 finding phase of this investigation, in addition
17 to independent research done by our Office of
18 Civil Rights Evaluation, the information
19 gathered from today's briefing and tomorrow's
20 listening session, when we will hear from
21 members of the public.

22 In September of last year, we also
23 submitted discovery requests to the Federal
24 Departments of Education, Health and Human
25 Services and Justice. Those departments have

1 thus far refused to comply with our discovery
2 requests, specifically our document requests and
3 our interrogatories. In so doing, they are in
4 violation of 42 USC 1975(b), subsection E, which
5 provides that, "all Federal agencies shall
6 cooperate fully with the Commission to the end
7 that it may effectively carry out its functions
8 and duties." So I hope that this Commission
9 will rise to the occasion and assert itself
10 using every legal tool available to obtain those
11 documents and the answers that we requested.

12 And I hope that the members of
13 Congress, who expressed an interest in this
14 subject in September of 2024, will remain
15 interested in this issue by exercising their
16 constitutional oversight authority as a co-equal
17 branch of government. But in the meantime, I
18 very much look forward to this extremely
19 important briefing and I thank you again.

20 CHAIR GARZA: Thank you so much,
21 Commissioner Jones. I'm going to go ahead and
22 now turn us to begin our briefing with a few
23 housekeeping matters.

24 During the course of the testimony and
25 the question and answer period, I caution all

1 speakers including our commissioners, to refrain
2 from speaking over other for ease of
3 transcription and to allow for sign language
4 translation. I'd ask that we allow for any
5 individuals who might need to view the sign
6 language translation to sit closest to where
7 they can have a view.

8 For any member of the public who would
9 like to submit materials for our review, our
10 public record will remain open until March 20th
11 of this year. Materials can be submitted by
12 mail to the U.S. Commission on Civil Rights,
13 Office of Civil Rights Evaluation, 1331
14 Pennsylvania Avenue, NW, Suite 1150, Washington,
15 D.C. 20425 or by email -- and the email address
16 is ASBriefing@USCCR.gov.

17 Each panelist will have seven minutes
18 to present their remarks. After each panel,
19 commissioners will have the opportunity to ask
20 questions within the allotted period of time. I
21 will recognize commissioners who wish to speak.
22 I will strictly enforce those time limits.
23 Unless we have received your testimony today,
24 you may assume that it has been reviewed, so
25 please summarize your key points and focus your

1 remarks on the subject of this briefing.

2 Finally, I do want to acknowledge that
3 the issues before us may prompt some strong
4 reactions, that is absolutely understandable.
5 However, this briefing is intended to serve as a
6 forum for respectful dialogue and careful fact
7 finding. I expect all participants,
8 commissioners and panelists alike, to maintain
9 civility, refrain from personal attacks or
10 disparaging remarks and allow one and other to
11 fully share their perspectives.

12 As Chair, I reserve the right to cut
13 short any statements, questions or comments that
14 defame, degrade or do not pertain to the issue
15 at hand. So I ask my fellow commissioners to be
16 cognizant of the interest of each commissioner
17 to ask questions, so please be brief in asking
18 your questions so we can move quickly and
19 efficiently through today's schedule. And I
20 will step in if I need to move things along.

21 Panelists, please notice the system of
22 warning lights that we have set up. When the
23 light turns from green to yellow that means that
24 you have two minutes remaining. When the light
25 turns red, you should conclude your statements,

1 so you don't risk me cutting you off, I don't
2 want to do that. My fellow commissioners and I
3 will do our part to keep the questions and
4 comments concise.

5 One other note is that these
6 microphones, once you finish your testimony, you
7 have to click them off so that the next person
8 can speak.

9 CHAIR GARZA: Now we're going to turn
10 to our first panel; Antisemitism, Free Speech,
11 and Civil Rights Law in Higher Education. I'll
12 introduce our speakers for this panel in the
13 order in which -- I believe in the order in
14 which they will speak. Eugene Volokh; Thomas M.
15 Siebel, Senior Fellow at the Hoover Institution;
16 and Gary T. Schwartz, distinguished Professor of
17 Law Emeritus and Distinguished Research
18 Professor at UCLA School of Law; Mark Goldfeder,
19 CEO, National Jewish Advocacy Center and
20 Assistant Clinical Professor of Law at Touro Law
21 School; Benjamin Eidelson, Professor of Law,
22 Harvard University; Carly Gammill, Director of
23 Legal Policy and Litigation, StandWithUs Saidoff
24 Law; Michael C. Dorf, Robert S. Stevens
25 Professor of Law, Cornell Law School; and

1 Genevieve Lakier, Professor of Law, University
2 of Chicago Law School.

3 Now, I'm going to ask each of our
4 speakers to raise your right hand to be sworn
5 in. Will you swear and confirm that the
6 information you are about to provide us is true
7 and accurate to the best of your knowledge and
8 belief? All in affirmative. All right. Thank
9 you so much.

10 We're going to go and ahead and begin
11 with you, Professor Volokh.

12 MR. VOLOKH: Thank you. Thank you very
13 much for holding this hearing, thank you very
14 much for the invitation. I'm going to speak
15 about the First Amendment issues raised by
16 restrictions on various kind of student speech.

17 I think I can pretty comfortably say
18 that though the academics on this panel are
19 quite ideologically mixed, I'd say I'm a man of
20 the center right, I think at least some of the
21 others are people of the left or center left, I
22 think we'll agree on what the legal rules are,
23 in part because they are the legal rules.

24 So the first point is that there is no
25 First Amendment exception for antisemitic

1 speech. There is no exception for anti-Israeli
2 speech. There is no exception for hate speech
3 more generally, racist speech, sexist speech,
4 and the like. There is no exception for
5 advocacy of genocide or the advocacy of the
6 destruction of a foreign state. I mean that's,
7 I think, particularly important to understand in
8 the context of debates about international
9 matters. We live in a brutal world in which
10 brutality is pretty common, especially in
11 foreign wars, and it is protected by the First
12 Amendment to defend even behavior that others
13 may think is monstrous. So, that I think is
14 quite well settled.

15 Relatedly, public universities cannot
16 restrict speech based on viewpoints. K through
17 12 schools have somewhat more latitude under the
18 Tinker test, but the Supreme Court has made
19 clear in *Healy v. James* and in the *Papish* case,
20 *Papish v. Board of Curators*, that there is no
21 room for a double standard between public
22 university students' speech and citizens' speech
23 more generally. So universities cannot restrict
24 speech because they perceive it as antisemitic
25 or anti-Palestinian or whatever else.

1 Relatedly, the federal government may
2 not pressure public or private universities to
3 restrict students' speech based on viewpoint.
4 So it's true that private universities are not
5 bound by the First Amendment, and that's true
6 even if they get a great deal of government
7 funding. Government funding does not bring with
8 it constitutional obligations. So, if some
9 university wants to say, we're going to ban
10 antisemitic speech or anti-Jewish speech or
11 anti-Muslim speech or anti-Palestinian speech,
12 it's free to do that, but the federal government
13 may not pressure it into doing so through the
14 threat of withdrawal of government funds.

15 Lower courts have recognized this
16 specifically in the context of Title VI, and
17 that, of course, is also the holding of *NRA v.*
18 *Vullo*, a case decided a couple of years ago by
19 the U.S. Supreme Court, but reaffirming pretty
20 well-established principles.

21 Universities may restrict, and I think
22 often should restrict, speech that falls within
23 First Amendment exceptions. So one example is
24 true threats of illegal conduct. That is a
25 First Amendment exception. People can be

1 criminally punished for threatening violence. I
2 think universities should enforce similar rules
3 on campus. Another such exception is for
4 solicitation of specific illegal conduct. If
5 somebody puts up a list, here's a bunch of
6 students that you should beat up next time you
7 see them, that is constitutionally unprotected
8 speech.

9 There's also a separate exception for
10 incitement, which is intentional advocacy of
11 imminent illegal conduct that is likely to
12 happen. The solicitation exception does not, I
13 think, have this imminence component, but does
14 focus on specific targets, so even if you say
15 well, you should beat them up at some point in
16 the future, that is constitutionally
17 unprotected.

18 There's also an exception for libel.
19 There, I'm not sure that universities should be
20 trying to restrict defamatory speech. It's just
21 in many ways too complicated to determine what
22 assertions in that context are false and
23 defamatory and said with a requisite mens rea,
24 but again, at least as a First Amendment matter,
25 universities may do so.

1 Universities may also impose content-
2 neutral time, place, and manner restrictions on
3 speech. Certainly, they may impose it on
4 conduct, such as discrimination by faculty, for
5 example, if there's evidence that faculty are
6 treating Jewish students or Muslim students or
7 any other students worse based on their
8 identities. That is not constitutionally
9 protected when it comes to, say, grading, let's
10 say. Likewise, the Supreme Court has made clear
11 that the government can restrict outdoor camping
12 on government property, surely that is equally
13 true of the quad at a university. Likewise, as
14 to loud speech or speech that disrupts studying
15 or disrupts classes.

16 In particular, universities may protect
17 speakers from disruption using content-neutral
18 rules. So just as, presumably, if somebody
19 wants to get up and give a talk on some other
20 controversial topic, say abortion rights,
21 presumably people shouldn't be able to shout
22 them down and I think most universities have
23 rules prohibiting that, content-neutral rules,
24 and they should. Likewise, if somebody gives a
25 pro-Israel speech or a militantly anti-Israel

1 speech. So I think that is something where not
2 only do they have the right to do that, I think
3 they have an obligation to do that. Again, have
4 to do it even handedly, you have to protect all
5 speakers from this kind of restriction and the
6 obligation, just in part, because their job as
7 educational institutions is to allow speech and
8 protect speech from disruption. Of course, the
9 people who disapprove of the speakers have their
10 own free speech rights, they just don't have the
11 right to speak during and over the speaker.

12 Universities may speak out against
13 antisemitic speech on campus, or again, anti-
14 Israel speech. I should mention, occasionally,
15 there are disputes about whether some criticism
16 of Israel is or is not antisemitic. From a
17 First Amendment perspective, both anti-Israeli
18 speech and antisemitic speech is protected.
19 From a Title VI perspective, both antisemitic
20 and anti-Israeli conduct, say discrimination by
21 faculty or violence, is unprotected just because
22 Israeli is a national origin. So, universities
23 may speak out against them, I don't think they
24 have any obligation to speak out on foreign
25 conflicts or atrocities, whether in Israel or

1 whether in the place I was born, which is
2 Ukraine. There are very many bad things
3 happening in the world, I don't think
4 universities have an obligation to speak out
5 about them. And I think it's probably best if
6 universities do not, although they do have the
7 First Amendment right to do so and the First
8 Amendment right to refrain from doing so.

9 And the last thing I want to close on
10 is universities should encourage reasoned and
11 thoughtful debate, partly because it is itself
12 part of their mission to help educate people,
13 both through what is said in class and what's
14 said outside, and partly because it models
15 proper behavior and proper attitudes, proper
16 approach to learning by students. So I think if
17 universities are finding there's not enough
18 serious debate about what's happening in Israel
19 or elsewhere, I think they should step in and
20 organize such things themselves.

21 So that's -- on that, I close.

22 CHAIR GARZA: Thank you so much,
23 Professor Volokh. We're going to go ahead and
24 hear from Professor Goldfeder. If you could
25 proceed.

1 MR. GOLDFEDER: Commissioners, thank
2 you for hosting this important conversation.
3 It's an honor to share this panel with some many
4 distinguished academics for whom I have great
5 respect, but there's a risk in a setting like
6 this, because civil rights law is not just an
7 academic exercise. It exists to provide
8 concrete, enforceable protections for real
9 people facing real discrimination in real-world
10 circumstances. And too often, when academics
11 discuss antisemitism, abstraction becomes a
12 distraction. It's not a criticism of academics,
13 I've taught at over half a dozen law schools
14 around the world, but my day job is protecting
15 Jewish civil rights, so my testimony will focus
16 on the gap between theory and practice.

17 I think we all agree on what the law
18 says in theory. Hate speech is protected, Title
19 VI does not override the First Amendment, so the
20 kinds of speech that would give rise to a Title
21 VI violation must fall under First Amendment
22 exceptions. Discriminatory conduct can include
23 expression when it crosses the Davis versus
24 Monroe line, when it's so severe, pervasive, and
25 objectively offensive that it effectively denies

1 the victim equal access to educational
2 opportunities. At that point, it's not just
3 speech in any meaningful sentence. One person's
4 rights can't trample another person's rights.

5 But the sad thing is, in practice and
6 reality, much of what we have repeatedly seen on
7 campus is not even plausibly characterized as
8 speech. Academics are often worried that
9 protected speech will get swept up in overbroad
10 conduct regulations, but what we are seeing is
11 the opposite. Conduct getting swept up in
12 overbroad speech protections. What does it look
13 like in practice? Blocking access to Jewish
14 students, invading the office of a Jewish
15 professor, then pretending that those things are
16 just policy debates. Those aren't forms of
17 speech, they're acts of intimidation which
18 schools must respond to and these are not
19 hypotheticals. Variations of this behavior have
20 been reported at Harvard, Columbia, MIT, UCLA,
21 Case Western, Chapman, Cooper Union, the list
22 goes on and schools have failed to respond and
23 the government has failed to hold them
24 accountable because they have gotten lost in the
25 academic exercise.

1 So the first step we should do is
2 forget about policing the close calls on
3 slogans, just make sure that the clear-cut
4 conduct that everyday Americans would recognize
5 as actions are not somehow allowed to be recast
6 as merely protected speech.

7 Second, we have to stop pretending
8 academic freedom has no limits. Consider
9 Muhlenburg College, where a professor told
10 students that Zionists should not be normalized
11 and were not welcome in her class. The school
12 concluded there was no Title VI violation,
13 citing, quote, academic freedom issues. The
14 only academic freedom that should have been
15 implicated was the students, their right to
16 learn in an environment where they're not
17 excluded because of who they are, which brings
18 me to my final point. All too often, Jewish
19 students are being singled out and discriminated
20 against because of an aspect of their Jewish
21 identity, namely their Zionism and then told
22 that this is permissible because Zionism is
23 merely a value, or as one of my co-panelists put
24 it, just a claim about how or by whom certain
25 territory in the Middle East should be governed.

1 With respect, that misses a fundamental part of
2 what Zionism means, both to the vast majority of
3 Jews and to the people who are discriminating
4 against them. Yes, Zionism includes the belief
5 that Jews have a right to self-determination and
6 their ancestral homeland, but the crucial words
7 in that sentence are ancestral homeland. That's
8 the starting point. Zionism is at its core a
9 concrete statement of Jewish peoplehood and
10 origin. An actual historical connection to a
11 place called Zion. Zion it not an idea or a
12 gene or a metaphor, Zion is a mountain in
13 Jerusalem, Israel where the Jews are from.

14 Commissioners, this is a rock from
15 Mount Zion. It's real, from the very place
16 where King David established his kingdom and his
17 capitol. The right of self-determination in
18 that place flows from that specific grounded,
19 rock solid reality. The root of Zionism is the
20 fact that Jews are from Zion. Pretending that
21 it's merely a value divorced from that physical,
22 historical reality or a political preference
23 that's untethered from that national origin
24 identity is wrong.

25 And excluding someone for where their

1 ancestors are from or for an identity that
2 flows, that's rooted from where they are from is
3 not only wrong, it's national origin
4 discrimination that civil rights law forbids.
5 It does not matter that not all Jews are
6 Zionists, not all Jews keep kosher, but you
7 can't discriminate against those who do and tell
8 them that kosher is not part of their Jewish
9 identity. That's what's happening here.

10 Take Berkeley for example. After a
11 coalition led by SJP announced a no-Zionist
12 policy, the leaders of the Jewish student groups
13 that were being excluded put out a statement
14 clarifying that their Zionism was rooted in
15 ancestry and national origin, not politics.
16 SJP, through their attorney at Palestine Legal,
17 responded and said they know and they don't
18 care, they're still going to discriminate
19 against them. Here's the exact quote from their
20 attorney, Liz Jackson. She said she knows that
21 for these students, quote, their Jewish identity
22 is so deeply identified with Zionism that this
23 does effectively discriminate against them, but
24 that's their subjective view and choice about
25 how they understand their own Jewish identity,

1 and she disagrees.

2 So it is the openly stated, on-the-
3 record view of Palestine Legal and of SJP that
4 they get to define what Jewish identity can
5 include for Jewish people, and if they feel that
6 one or another aspect should not be included,
7 they can freely discriminate against them for it
8 and that can't be considered antisemitism.
9 Civil rights law can't work that way. Protected
10 identity isn't something your adversary gets to
11 edit, but the takeaway is that these groups
12 fully understand what they're doing. When they
13 say Zionists, they don't mean Netanyahu voter.
14 They mean the Jew who won't renounce that Jews
15 are from Zion.

16 And Berkeley wasn't a one off. At
17 Chapman, for instance, SJP said they were
18 excluding Zionists, but in practice, they
19 excluded people who had Jewish-sounding last
20 names. It might be clearer if we change a
21 couple of names. You can't require every
22 student of Mexican descent to denounce Mexico as
23 a condition of inclusion, then insist you're not
24 discriminating on the basis of national origin.
25 Of course, not all people of Mexican descent

1 identify as Mexican, some are even anti-Mexico
2 or anti the Mexican government, but it doesn't
3 give you license to discriminate against the
4 ones who do identify with their own identity and
5 their own origin and their own heritage.

6 What if they tried to hide it behind a
7 political term? Imagine a group that says we
8 have nothing against Mexicans, we're just anti-
9 illegal immigration, but then in practice, they
10 don't ask anyone's views on immigration, they
11 just exclude people with Hispanic-sounding names
12 or people who belong to Mexican cultural groups.
13 That's proxy discrimination and that's what's
14 happening here.

15 Now, why is it so important that we get
16 this right? Because once you give antisemites
17 this excuse, they will take it, and what you are
18 doing is unintentionally giving cover to even
19 the most vile acts of antisemitism as long as
20 they are hidden behind even the thinnest veil of
21 anti-Zionism.

22 Take Saadah Masoud. At his federal
23 hate crime trial, his attorneys had the audacity
24 to argue that he didn't target and assault three
25 innocent American-Jewish people because he's an

1 antisemite, but rather because he was seeking
2 to, and I quote, promote social and political
3 goals about Palestine. Thank God that argument
4 fell apart when his prosecutors introduced his
5 chats, where he told his co-conspirators,
6 remember, don't say Jews, say Zionists, in an
7 effort to preserve this academic argument.
8 That's the danger of theories that sanitize what
9 is actually happening.

10 Now, practically speaking, I think
11 there are a few tangible ways to make Title VI
12 function better. Mandate clear timelines for
13 investigations and remedies, more like Title
14 VII. Add meaningful intermediate sanctions, not
15 just the nuclear option. But most important,
16 don't ignore your eyes. Enforce what we already
17 have by looking at what is actually happening on
18 function, not framing it. Treat speech as
19 speech, but conduct as conduct and don't let
20 anyone launder discrimination through the veil
21 of political labels, because that is what is
22 actually happening on campus and it must stop.

23 Thank you. I look forward to your
24 questions.

25 CHAIR GARZA: Thank you very much. So

1 we're going to now go ahead and turn to
2 Professor Eidelson. You can please proceed.

3 MR. EIDELSON: Thank you, Chair Garza.
4 My name is Ben Eidelson, I'm a professor at
5 Harvard Law School. One of my areas of
6 expertise is anti-discrimination law and I'm
7 going to focus my time on trying to clarify what
8 title VI means as applied to claims of
9 antisemitism.

10 I agree with Professor Volokh, the
11 First Amendment is also critical here, but I
12 have the impression that there is real confusion
13 about what Title VI requires in the first place.
14 I think it's really important for the Commission
15 to characterize that accurately and for the
16 public to understand it accurately as well. The
17 critical point is that Title VI is an anti-
18 discrimination statute. It is not a general
19 anti-hostility statute. And the essence of
20 discrimination is that it's adverse treatment
21 because of a protected characteristic. People
22 mistreat each other in all kinds of ways, but
23 without that special connection to a protected
24 characteristic, claims about that misconduct are
25 in the domain of campus rules, pedagogy,

1 potentially other laws about all sorts of
2 things, but not federal civil rights law under
3 Title VI.

4 So everything turns initially on this
5 because of a protected characteristic question
6 and the protected characteristics under Title VI
7 are limited to just three. There's race, color
8 and national origin, which the Supreme Court has
9 described as meaning ancestry. So basically,
10 we're talking about these immutable, heritable
11 characteristics, things like the color of your
12 skin, the shape of your facial features, where
13 your parents were from, you know, where you're
14 from. And people of Jewish ancestry are
15 protected by Title VI against that form of
16 discrimination, just like anybody else.

17 So in the 1920s, when Harvard started
18 scrutinizing the applications to look at the
19 photos and try and reduce the number of Jews,
20 that clearly would have violated Title VI.
21 Similarly, if that kind of racial antisemitism
22 plays out through peer harassment, the
23 university can be in violation of Title VI if it
24 doesn't try to do anything about that.

25 But the government's recent enforcement

1 actions rest on a very different premise that
2 the statute also covers discrimination or
3 hostility based on support for Israel or Zionism
4 as opposed to just race or ancestry. And that
5 premise, respectfully, is just not supported by
6 the law, and the simple reason for that is that
7 no views about Zionism or Israel are inherent in
8 anyone's ancestry, like to state the obvious,
9 there is no Zionist gene that I have or that
10 Jews have. I'm not compelled to be for or
11 against Zionism because of who my parents were
12 or who their parents were.

13 And for what it's worth, there's new
14 data out just in the last couple of weeks from
15 the Jewish Community study finding that in the
16 greater Boston area, where I live, in the 18 to
17 29 age bracket, there are more Jews who identify
18 as anti-Zionist than there who are identify as
19 Zionist. And what that reflects is that Jews,
20 like other people, understand Zionism as a label
21 for a set of political and religious and
22 cultural commitments that they might embrace,
23 but that they might not embrace. That's why
24 Zionism is an ism, it's not a fact about your
25 birth in the way that being Italian or being

1 Irish or being Black or being Jewish in the
2 sense that's protected under Title VI is. Okay,
3 I think that part is actually really pretty
4 simple.

5 The other argument that you hear and
6 that's reflected in some of the written
7 statements for today is that anti-Israel
8 protests are just really severely offensive to
9 lots of Jewish people and make the environment
10 feel hostile to them. And I want to say
11 clearly, as I did in my written statement, I
12 have real sympathy for those feelings of
13 estrangement and alienation on all sides of this
14 conflict and I want universities to be
15 thoughtful about how to manage that. I'd be
16 happy to elaborate on what I think universities
17 could do, but again, not everything that's bad
18 is a violation of Title VI. And the version of
19 hostile environment liability that some people
20 are advancing in order to try to capture all of
21 that is just way beyond anything the law
22 supports.

23 One of the most remarkable examples of
24 that, I think, is in the administration's Title
25 VI finding against Harvard where they assert

1 that there was an illegal hostile environment
2 for Jewish students. In part, because some
3 students engaged in these study-in protests,
4 where they put slogans on the back of their
5 laptops, like justice for Palestine or Israel
6 bombs, Harvard pays, and then they went and
7 studied silently in the library on their
8 laptops. There are a lot of reasons why that is
9 not illegal harassment under Title VI, let alone
10 denying Jewish students access to the library,
11 which is how the administration described it.
12 The most fundamental issue with it, again, is it
13 just doesn't have the required connection to a
14 protected characteristic. Those slogans are not
15 about Jewish people or Israeli people. Even
16 somebody who says outright they don't think
17 Israel should exist as a Jewish state is not
18 necessarily saying, you know, because Jews are
19 inferior in some way, which is what, at a
20 minimum, you would need in order to have
21 harassment liability under the law.

22 Here, the protesters have their view
23 about how to carve up the Middle East in a fair
24 way. Some of my co-panelists might hate it, I
25 might or might not agree with it, but nobody

1 gets to just rule it out of bounds as expression
2 that demeans fellow students for having Jewish
3 ancestry. That's also, by the way, why a Hillel
4 chapter on a campus can fly an Israeli flag
5 without creating a hostile environment for
6 Palestinian students, who see that as a denial
7 of their claim to national self-determination in
8 the same territory. It might actually
9 communicate that, but it's not saying anything
10 profoundly racist or demeaning of the
11 Palestinian students or about what they are like
12 by virtue of their ancestry, so the same
13 principle applies and it's also not harassment.

14 I recognize there are harder cases too
15 that involve more ambiguous or provocative
16 rhetoric. I'd be happy to explain if you want
17 how the legal analysis works there as well, but
18 for the most part, the choice of what balance to
19 strike between free speech and avoiding offense
20 is one that a university is free to make based
21 on its own mission and academic values. And the
22 government and outside groups do not get to
23 dictate that based on their own political
24 agendas, at least that's how I understand the
25 law as it's been articulated by the Supreme

1 Court and actually lower courts.

2 I think there would be enormous risks
3 in changing it, especially in ways that give
4 even more leverage to the President, whether
5 it's this president or any other president, to
6 bend universities to their will. Thank you.

7 CHAIR GARZA: Thank you, Professor
8 Eidelson. We're going to go ahead and turn to
9 Ms. Gammill, if you can begin.

10 MS. GAMMILL: Thank you, Members of the
11 Commission, for the opportunity to address this
12 deeply consequential issue. My name is Carly
13 Gammill and I serve as Director of Legal Policy
14 and Litigation for StandWithUs, a nonprofit,
15 nonpartisan organization dedicated to educating
16 about Israel and combatting antisemitism.

17 For nearly 25 years, StandWithUs has
18 supported the Jewish community through education
19 and for over a decade now, through legal action.
20 As a constitutional and civil rights litigator,
21 much of my work focuses on helping Jewish
22 students who face antisemitic discrimination in
23 our nation's schools and universities.

24 Contrary to what some may claim, what
25 we are witnessing on American campuses today is

1 not a political disagreement, it is a civil
2 rights crisis. In the aftermath of the October
3 7th, 2023, Hamas terrorist attack against Israel,
4 antisemitism surged across the United States,
5 particularly in educational institutions.
6 Nearly two and a half years later, despite
7 increased efforts by the federal government,
8 Jewish and Israeli students and professors
9 continue to experience discriminatory hostility,
10 exclusion, intimidation, and threats. Even more
11 troubling, some students who have bravely turned
12 to the courts for relief have been told that no
13 protection is available to them under Title VI
14 of the Civil Rights Act.

15 Why is this happening? Well, for one,
16 because too many administrations, academics, and
17 even recent federal court decisions have decreed
18 that Zionism and anti-Zionism are purely
19 political viewpoints. As a result, rhetoric
20 widely understood as calling for violence and
21 even corresponding harassing conduct has been
22 deemed fully protected speech, incapable of
23 forming the basis for actionable discrimination.
24 Demonstrations with chants of from the river to
25 the sea and intifada revolution, staged directly

1 outside Jewish campus spaces like Hillel and
2 Chabad or the offices of Jewish faculty have
3 been treated as mere political expression.

4 Even when Jewish students and
5 professors have been blocked from entering
6 spaces or forced to relocate their activities
7 including religious observances like a Passover
8 seder out of legitimate fear for their safety.
9 That these events may be able to successfully
10 occur elsewhere is not the point. That this
11 kind of hostile conduct has been permitted to
12 have such an impact with impunity because it's
13 mischaracterized as protected political
14 expression is the point.

15 Courts have gone further.
16 Misconstruing Title VI, they have required
17 Jewish students not only to show that they
18 experience severe and pervasive harassment, but
19 also to prove that perpetrators subjectively
20 intended to be antisemitic. They have analyzed
21 incidents in isolation, rather than examining
22 the totality of the circumstances. They have
23 dismissed allegations of harmful administrative
24 delay and selective enforcement. In doing so,
25 they have narrowed Title VI and created new

1 thresholds to recovery in ways that leave Jewish
2 students uniquely vulnerable and unprotected.
3 This reflects a profound misunderstanding at the
4 heart of the issue, which others have already
5 addressed, and that is the mischaracterization
6 of Zionism as merely a political matter.

7 Zionism is not a partisan platform. It
8 is not a policy preference. For the vast
9 majority of Jews worldwide, Zionism reflects a
10 core component of their Jewish identity, an
11 ancestral connection to the land of Israel,
12 historically referred to as Zion, without regard
13 to political policies or actions. In fact,
14 those responsible for orchestrating anti-Zionist
15 campaigns on campuses know this full well, as
16 was already mentioned, often using the word
17 Zionists precisely because it has become a
18 socially and academically acceptable code word
19 for Jews.

20 To dismiss Zionism as purely political
21 is thus to disregard the lived identity of most
22 Jews, who incorporate manifestations of this
23 ancestral connection throughout their regular
24 customs and practices. So when students chant
25 Zionists are not welcome here, when they demand

1 the elimination of the world's only Jewish state
2 and exclude Jews who refuse to denounce their
3 ancestral identity in this way, when they target
4 Jewish spaces and visibly Jewish individuals,
5 they must not be excused or worse, justified and
6 even applauded as though they are merely
7 engaging in abstract policy debate. Their
8 choice of target clearly evidences that they are
9 attacking a core component of these individuals'
10 Jewish identity.

11 And when universities fail to act,
12 citing the First Amendment or internal policies
13 that ignore Title VI and related guidance, they
14 misunderstand their legal obligations. The
15 First Amendment protects speakers from
16 government punishment. Title VI governs
17 institutional responsibility, ensuring that
18 federal funds are not used to support
19 discriminatory environments. These principles
20 are not in conflict.

21 The Department of Education's Office
22 for Civil Rights has made clear that even when
23 harassment includes protected speech,
24 universities still have an obligation to address
25 hostile environments. They may be limited in

1 how they respond, but they are not relieved of
2 the duty to respond and in a manner reasonably
3 calculated to remedy the hostile environment and
4 prevent its recurrence.

5 Much focus has been placed on concerns
6 about punishing or silencing speech, as though
7 these are the only available options to address
8 the issue; they are not. Time, place, and
9 manner regulations, consistent enforcement of
10 campus policies, prompt investigation, equal
11 application of rules, training and oversight;
12 these are not speech restrictions, they are
13 compliance obligations. The problem is that
14 Title VI lacks the clarity and enforcement
15 mechanisms found in other civil rights statutes,
16 like Title VII and Title IX.

17 Title IX regulations require designated
18 coordinators, published grievance procedures,
19 regular training and clear definitions of
20 prohibited conduct. Title VI does not contain
21 comparable regulatory precision. As one newly
22 hired Title VI coordinator recently described
23 it, Title VI enforcement on campuses resembles
24 quote, the wild West. This is unacceptable for
25 a law that has existed since 1964.

1 And Congress should finally pass the
2 Antisemitism Awareness Act to codify the
3 longstanding practice of considering the
4 International Holocaust Remembrance Alliance
5 working definition of antisemitism when
6 assessing potential discriminatory intent. The
7 IHRA definition itself does not restrict speech
8 and it does not punish ideas. It provides
9 guidance so that investigators can properly
10 identify, based on the overall context of a
11 given scenario, contemporary manifestations of
12 antisemitism, including those that target Jewish
13 ancestral identity.

14 I am grateful that the Departments of
15 Justice, Education, and Health and Human
16 Services have taken meaningful steps since
17 October 7th, but these actions, while important,
18 are not enough. They bind only the institutions
19 actually under investigation, and with the short
20 staffing of OCR, that number is extremely low.
21 The vast majority of federally-funded
22 universities remain in a regulatory vacuum.
23 What is needed now is legislative action. This
24 is not about silencing the debate, but it is
25 about ensuring equal access to education.

1 It is about safeguarding taxpayer
2 dollars from subsidizing discrimination and
3 about recognizing that antisemitic
4 discrimination, including harassment, whether
5 expressed through crude slurs or masked as
6 political rhetoric, remains a form of bigotry
7 that civil rights law must address and in a
8 meaningful and productive manner.

9 Our nation's campuses should be places
10 of learning, inquiry, and respectful
11 disagreement, not intimidation, exclusion, and
12 fear, so I urge this Commission and Congress to
13 act swiftly, to clarify Title VI, codify
14 consistent standards, pass the Antisemitism
15 Awareness Act, and ensure accountability and
16 transparency. This is a civil rights
17 imperative. Thank you.

18 CHAIR GARZA: Thank you, Ms. Gammill.
19 We'll go ahead and proceed with Professor Dorf,
20 if you would begin.

21 MR. DORF: Thank you, Madam Chair.
22 With your indulgence, I'll offer a few personal
23 observations.

24 So I grew up as a Jewish-American in
25 New York. I was fortunate to have little direct

1 experience of antisemitism, but I learned about
2 it, of course, from older family members and
3 from our Jewish education. My late wife, to
4 whom I was married for 31 years before her death
5 in 2022, was the daughter of immigrant holocaust
6 survivors and I heard all about their stories,
7 so I take antisemitism very seriously.

8 Unfortunately, antisemitism is not
9 simply a memory. In recent years, there have
10 been genuine and genuinely disturbing incidents
11 of antisemitism including on American campuses.
12 That includes each of the universities that I
13 know best -- Harvard, from which I received both
14 undergraduate and law degrees; Columbia, where I
15 was a member of the law faculty for 13 years;
16 and Cornell, where I've been a faculty member
17 for over 17 years. I'm not here as a fact
18 witness, however, but I wanted to relate my own
19 background again to underscore that I think this
20 is a very serious issue and I applaud the
21 Commission for taking it seriously.

22 I want to offer some thoughts about the
23 government response so far. There are things
24 that this Commission can recommend and might
25 include changes to existing statutes, but I want

1 to focus on perhaps Congress' oversight
2 function, because I think that is where some
3 serious progress can be made. And I'm going to
4 say that I think both the Biden Administration
5 and especially the Trump Administration have not
6 been especially helpful on these grounds. There
7 are genuinely difficult issues here, but the
8 Biden Administration, I think, sort of punted
9 them a little bit and the Trump Administration's
10 response has been flatly illegal.

11 Okay. The difficult issues involve how
12 one balances the rights of free speech against
13 the rights of inclusivity, and both are
14 important. Colleges and universities must
15 navigate between the competing demands of
16 federal civil rights law and the First
17 Amendment, but even if there were no governing
18 law, campus administrators would face difficult
19 tradeoffs because they rightly value both
20 liberty and equality.

21 Often, there are no easy answers. For
22 example, some protesters, who use language such
23 as from the river to the sea in a general
24 protest not targeted at specific individuals or
25 Jewish members of the community, might mean only

1 that they object to Israeli policies in Gaza or
2 so forth. Many Jewish students understandably
3 hear in that slogan a call for genocide.

4 Whether campus administrators or the law should
5 adopt a speaker's perspective, a listener's
6 perspective, or an ostensibly neutral
7 perspective is an unsettled, contested, and
8 difficult question.

9 Meanwhile, there are accusations of
10 double standards in all directions. If campus
11 authorities fail to strictly enforce content-
12 neutral laws regarding such matters as the use
13 of outdoor space and amplified sound against
14 pro-Palestinian demonstrators, is that
15 favoritism towards their viewpoint, or is the
16 right comparison the response to similar tactics
17 and rule breaking that we saw in earlier mass
18 campus protests, such as during the Vietnam War,
19 against South African apartheid, and in response
20 to climate inaction.

21 What constraints does the Constitution
22 place on civil rights law? While I agree with
23 everything Professor Volokh said about those
24 constraints, the question is how do you
25 operationalize that. Congress has granted

1 primary responsibility for ensuring that
2 educational institutions that receive federal
3 funds comply with their civil rights obligations
4 to the Department of Education.

5 The Biden Administration took the view
6 that protests could simultaneously constitute
7 protected free speech and contribute to a
8 hostile environment for other students in
9 violation of Title VI. That is a conceptual
10 possibility that I'll recognize, but it left
11 campus administrators guessing whether they
12 would end up on the wrong side of Title VI or
13 the First Amendment. Still, at least during the
14 Biden Administration, campus administrators knew
15 what the rules were for adjudicating alleged
16 violations.

17 Last year, the Department of Justice
18 announced the creation of a multi-agency task
19 force to combat antisemitism during the Trump
20 Administration. That task force and others
21 within the Trump Administration have repeatedly
22 violated federal law that Congress has enacted
23 and the Constitution in pursuing their mission.
24 Actions targeting Columbia and Harvard
25 illustrate the pattern of lawlessness. Barely a

1 month after its creation, the task force
2 canceled 400 million dollars' worth of federal
3 grants to, and contracts with, Columbia. How
4 did the task force move with such alacrity? By
5 simply ignoring numerous detailed rules that
6 must be followed before the government may cut
7 funding for a civil rights violation.

8 Columbia nonetheless entered
9 negotiations, culminating in an unprecedented
10 settlement agreement that, among other things,
11 requires the university to pay 200 million
12 dollars to the federal government, even though
13 there is no basis in federal law for such a sum.
14 In this, as in its actions with respect to other
15 universities, the administration's goal was to
16 secure a big win, as reflected in dollars paid
17 as tribute.

18 The most dramatic example of the
19 administration's vision for higher education is
20 its April 11th, 2025, letter to Harvard
21 President, Alan Garber, which demanded federal
22 control of the private university's admissions,
23 hiring, governance, and more. As a federal
24 district court correctly ruled, the
25 administration's actions violated the First

1 Amendment in three respects. They retaliated
2 for Harvard's resistance to unlawful demands,
3 they impermissibly conditioned Harvard's
4 eligibility for federal funding on government
5 control of free expression by Harvard, and they
6 coerced Harvard to restrict the constitutionally
7 protected speech of its students and faculty.

8 What the judge wrote about Harvard is
9 broadly applicable to the administration's
10 overall campaign. Quote, although combatting
11 antisemitism is indisputably an important and
12 worthy objective, nothing supports the
13 administration's contention that they were
14 primarily or even substantially motivated by
15 that goal or that cutting funding to Harvard
16 bore any relationship to achieving that aim, end
17 quote.

18 I want to close with another quotation,
19 this one is from the Supreme Court's 1957
20 plurality opinion in *Sweezy* against New
21 Hampshire and in response to McCarthyite
22 censorship that finds disturbing echoes in our
23 current environment. Quote, the essentiality of
24 freedom in the community of American
25 universities is almost self-evident. No one

1 should underestimate the vital role in a
2 democracy that is played by those who guide and
3 train our youth. Scholarship cannot flourish in
4 an atmosphere of suspicion and distrust.
5 Teachers and students must always remain free to
6 inquire, to study, and to evaluate to gain new
7 maturity and understanding; otherwise, our
8 civilization will stagnate and die. I don't
9 know whether the stagnation and death of our
10 civilization are the goals of the Trump
11 Administration's ostensible response to
12 antisemitism on American college campuses, I can
13 say that if unchecked, they could well be its
14 consequences. Thank you.

15 CHAIR GARZA: Thank you so much,
16 Professor. We're going to go ahead and move on
17 to Professor Lakier, if you could proceed.

18 MS. LAKIER: Thank you, Chair Garza.
19 It's an honor to be here. My name is Genevieve
20 Lakier and I devoted my career to teaching and
21 researching and writing about the First
22 Amendment. And so I guess I would start by just
23 suggesting that concern for the First Amendment
24 is not an abstraction, nor is it a turn away
25 from a concern with civil rights.

1 So I thought I'd start by explaining
2 why it is that the First Amendment imposes very
3 significant constraints on the operation of
4 Title VI, including as it applies to antisemitic
5 expression, even if this makes it difficult, as
6 my co-panelists have suggested, to negotiate the
7 operation of Title VI. So as Professor Volokh
8 made clear, the First Amendment protects a huge
9 amount of speech on matters of public concern.
10 It protects our wise and thoughtful speech. It
11 protects crude and intemperate speech and it
12 protects offensive and hateful speech and it
13 clearly protects both Zionist and anti-Zionist
14 expression. The First Amendment protects all of
15 this speech because it recognizes that in a
16 Democratic society, it is up to the people, not
17 the government, to decide what views to adopt on
18 contested political matters and that if this
19 were not the case, elections would be, at least
20 in part, contests to see who could control the
21 coercive instruments of government that they
22 could then use to shut their opponents up. This
23 would not be a recipe for a stable or peaceful
24 society or a healthy democracy.

25 To prevent this, the First Amendment

1 protects speech, including controversial and
2 offensive speech, against not only direct
3 prohibition speech bans, but more subtle acts of
4 speech suppression also. So when the federal
5 government threatens a private speaker or an
6 institution that hosts speech with a loss of
7 federal funds if it doesn't refrain from
8 speaking or shut the speech of others down, it
9 violates the First Amendment, as indeed, the
10 Office of Civil Rights at the Department of
11 Education has recognized for many years now when
12 implementing Title VI.

13 And the same is true when the
14 government suggests more vaguely that funding
15 may be at risk, unless the regulated party stops
16 speaking or suppresses other speech. The First
17 Amendment prohibits these more subtle acts of
18 speech suppression as well as more overt speech
19 bans because courts have recognized that speech
20 can be easily chilled, particularly when the
21 institutions being targeted have very strong
22 incentives to maintain a good relationship,
23 including a good financial relationship with the
24 government, but fewer incentives to protect the
25 speech rights of their students, faculty, or

1 others. Threats of the loss of federal funds
2 and other sticks and carrots can be enormously
3 effective mechanisms of censorship, and the
4 First Amendment takes this into account.

5 These simple and clearly established
6 principles of First Amendment law call into
7 serious questions the actions of both the Biden
8 and the Trump Administrations took in response
9 to the campus protests that broke out after
10 October 2023. And this is because the federal
11 response to anti-discrimination on campus has
12 not targeted solely acts of violence, assault,
13 and vandalism, but have expanded far beyond that
14 to include many acts of protected protests and
15 other forms of protected expression.

16 Now, in the case of the Biden
17 Administration, by interpreting Title XI to
18 require that schools respond to protected
19 expression that created, on the administration's
20 view, a hostile environment for Jewish students,
21 the administration effectively placed very
22 significant pressure on institutions to suppress
23 that speech or to take other measures to ensure
24 that it did not occur. And again, the First
25 Amendment cares both about direct prohibitions

1 and about government actions that impose threats
2 or create pressure to chill speech or suppress
3 it.

4 Now, in principle it may be the case
5 that protected expression can contribute to a
6 hostile environment under Title VI, although I
7 will note that this is traditionally not how the
8 statute has been interpreted; this is a very
9 novel understanding. The Biden Administration
10 took no steps to ensure that its new approach to
11 the enforcement of Title XI did not in fact end
12 up coercing the suppression of protected speech
13 by the institutions effected and showed at best,
14 I think, a dangerous recklessness to the vital
15 First Amendment interests at stake. The
16 constitutional problems with the Trump
17 Administration's response to antisemitism on
18 campus are far graver and more overt because in
19 this case, the administration did not just fail
20 to take heed of the important free speech
21 interests, it did just what the First Amendment
22 says it may not do. It explicitly conditioned
23 the continuing receipt of federal funds on the
24 suppression of protected expression by, for
25 example, demanding a harsher punishment of

1 students who engaged in even purely protest
2 speech, like the library protest that Professor
3 Eidelson spoke about. And in some cases, by
4 requiring reform as to how universities engaged
5 in their research and teaching. The research
6 and teaching that is a core and heavily
7 protected part of their mission.

8 Now schools, of course, are free to
9 decide how they wish to deal with student
10 protesters and how they wish to research and
11 teach, but the First Amendment does not permit
12 the federal government to make this choice for
13 them. And this is true, I will note, even if
14 what student protesters said or what professors
15 wrote, could be considered antisemitic. As I
16 explained in my written testimony, because there
17 is often significant disagreement about what
18 counts as hate speech, granting the government
19 the power to shut down speech, merely because it
20 expresses hateful views, would significantly
21 impoverish Democratic and pedagogical discourse
22 and think simply here of the parallels to the
23 claims of antisemitism. Because arguments about
24 Israel's right to exist could easily be said to
25 erase and deny the existence of another people,

1 the Palestinian people.

2 Many of the same arguments that are
3 made now to justify the suppression of anti-
4 Israel speech, could easily be mobilized to
5 justify the suppression of pro-Israel speech.
6 Precisely the same arguments can be made. But
7 would we want a world in which no one on campus
8 can speak or teach or write about Israel? Nor,
9 I think, do we want a world in which the
10 standards are unequally applied.

11 Now, the same principles I spelled out
12 here to explain why both the Biden and
13 particularly the Trump Administrations to Title
14 VI raise very serious Constitutional questions,
15 also explain why I want to urge the Commission
16 not to adopt the reforms that have been
17 suggested by some of my co-panelists. In
18 particular, not to recommend that Congress embed
19 the IHRA definition of antisemitism into Title
20 VI because this too would create very grave
21 First Amendment problems by again conditioning
22 the continued receipt of federal funds on the
23 institutional suppression of anti-Zionist
24 speech.

25 Now, it is true that anti-Zionist

1 speech can contribute to discriminatory
2 harassment, but also because it is a political
3 point of view, it is fully protected and that
4 means that the First Amendment protects and
5 prevents any efforts by the federal government
6 to threaten or to condition funding on the
7 suppression of the speech. Now -- and fact,
8 what we have seen in universities that have
9 adopted the IHRA definition, either as a result
10 of government pressure or voluntarily, is a
11 broad chilling of protected expression. In
12 fact, I will just conclude by recommending that
13 if there is any reform that the Commission feels
14 free to suggest to Congress, it is to think more
15 seriously about how to embed First Amendment
16 safeguards into the operation of Title VI and
17 the other federal civil rights law because what
18 we've seen over the last two to three years is a
19 persistent indifference to the vital Democratic
20 First Amendment interests implicated. Thank
21 you.

22 CHAIR GARZA: Thank you, Professor
23 Lakier. Thank you to all of our panelists. At
24 this point, we're going to go ahead and open up
25 to questions from the commissioners. We can

1 start with Vice Chair Nourse.

2 VICE CHAIR NOURSE: Well, thank you all
3 for bringing a lot of light as opposed to heat
4 to this very difficult and important issue.

5 The crux of the matter at the
6 intersection of the First Amendment and civil
7 rights laws seems to hover around the notion of
8 hostile environment. And so, I'd like the
9 panelists, if they have knowledge of what the
10 case law says about hostile environment, to try
11 to clarify the record. My understanding just
12 from teaching statutory interpretation is that
13 Title XII's hostile environment grew up in that
14 context and the most law is probably around
15 that, but there are many differences between the
16 context of employment and campuses because I'm a
17 law professor, I mean I know the deep
18 differences. If you can all, any of you,
19 illuminate us on what you believe to be a
20 hostile environment under the case law, that
21 would be great.

22 CHAIR GARZA: Go ahead, Professor
23 Eidelson.

24 MR. EIDELSON: Sure, it's a really
25 important question. It's a confusing idea that

1 I think has traveled a long distance and people
2 have lost some grip on what it is about.

3 It originates as you were suggesting in
4 a body of sexual harassment into case law in the
5 employment context, where the idea was sometimes
6 a woman is not, let's say, denied a promotion or
7 fired for being a woman, but is subject to such
8 a campaign of harassment for being a woman that
9 in effect, she's being given a different job, a
10 less good job than somebody else is and that
11 campaign of harassment, which is because of her
12 sex, can stand in for a more typical adverse
13 employment action, according to the Supreme
14 Court.

15 So, the hostile environment consists of
16 the intentional harassment on the basis of the
17 characteristic. The Supreme Court extended that
18 from sex to race, which makes sense and also
19 from employment to Title IX, implicitly Title
20 VI, because Title VI has the same language
21 basically. They actually haven't had a Title VI
22 hostile environment case.

23 I think what is confusing about it is
24 that when the Supreme Court talks about it, they
25 clearly are still picturing intentional,

1 targeted harassment of a person on the basis of
2 a protected characteristic. There are some
3 lower courts that have extended it in the Title
4 VII context, not Title VI, to something that is
5 a little bit different than that, where it's not
6 intention harassment of this very person. They
7 give examples like if the workplace is just
8 permeated with, you know, obscene graffiti and
9 music is playing all the time that's profoundly
10 misogynistic and it's just very disrespectful of
11 women, but it's not like, you know harassing a
12 particular woman, the courts have said even in
13 the absence of some kind of individualized
14 intention, the environment can be hostile in
15 this more diffuse way. I take it that the best
16 argument, although as you know, I think it's
17 quite a weak argument, the best argument for the
18 broad conception of Title VI hostile environment
19 liability is by analogy to those cases. And
20 then, I think the really key thing to understand
21 about the difference is that those cases all
22 presuppose that the trait on the basis of which
23 people are being demeaned, like being a woman
24 let's say, aligns with the trait, like, that the
25 person bringing the claim has. It's not just

1 like women are disproportionately offended by
2 this, it's like what's being expressed is that
3 women are inferior or sexual objects or
4 something. Then, of course, that can be
5 profoundly exclusionary as a woman.

6 Okay. So, the analogy would be on a
7 campus, if there's a campaign of genuinely
8 antisemitic harassment about what Jews are like
9 and so on, you could draw that analogy. What
10 doesn't work is gosh, on this campus, people are
11 saying a lot of stuff about Israel that really
12 upsets me as a Jew. That is not remotely
13 analogous to even the kind of couple hops that
14 you need to get to the root of this in hostile
15 environment law.

16 CHAIR GARZA: Thank you. Go ahead,
17 Professor Goldfeder.

18 MR. GOLDFEDER: Thank you. I just want
19 to point out, if 100 students walked into a
20 library silently holding nooses and they sat
21 down, I think we would all immediately
22 understand this as a hostile environment for
23 Black students. I think we would all understand
24 why they felt excluded from participating in
25 that library.

1 I want to clarify when Jews on campus
2 see the inverted red triangle of Hamas, which is
3 an FTO, which has said that they want to kill
4 Jews everywhere in the world, that is what they
5 see and that is what they experience. We're not
6 talking about things like slogans, we're talking
7 about symbols that mean something to people in
8 the same way that other recognized symbols have
9 meant something to protected minorities.

10 CHAIR GARZA: Go ahead.

11 MS. GAMMILL: I know you asked about
12 case law. I just want to say I tried to focus
13 on this, I think that the Office for Civil
14 Rights has done a really good job of bringing
15 clarity to this very question about hostile
16 environment talking about severe and pervasive,
17 right? The thing that I think that gets missed
18 a lot of times, as I tried to highlight here is
19 that it's about the totality of the
20 circumstances. As my colleague just talked
21 about, it could be the totality of the
22 circumstances in the library at a given time.
23 It could also be the totality of the
24 circumstances on a campus at a given time.
25 Right. And it doesn't mean that I live in the

1 dorm on one side of the campus and I'm
2 completely oblivious to what's going on across
3 the rest of that campus. That entire campus can
4 become a hostile environment, where I, as a
5 Jewish student, if I were one, felt like this is
6 not for me. This is not a place that I belong
7 and that's the message that is intentionally
8 being sent to Jewish students. This is not a
9 place that you belong, right.

10 I think that, again, if we look at not
11 just case law because admittedly, yes, things
12 started with Title VII and then we developed
13 into Title IX and Title VI has lacked as was
14 mentioned. There has not yet been a hostile
15 environment case before the Supreme Court, that
16 may change in the near future because of the
17 landscape of things and I hope that they will
18 bring some clarity. But I do believe, as my
19 colleague said earlier, that because the
20 Department of Education has been given primary
21 responsibility over these issues by Congress,
22 looking to the guidance that the Office for
23 Civil Rights has established and it is pretty
24 clear guidance is where we should be looking.

25 CHAIR GARZA: Professor Dorf?

1 MR. DORF: Yeah so, first, I'd like to
2 encourage Professor Volokh to weigh in on this
3 because he's written extensively on the
4 conflicts between free speech and anti-
5 discrimination law in the Title VII context. He
6 actually maintains a very helpful website of
7 examples of circumstances in which there has
8 been Title VII liability for things that seem
9 like free speech. Professor Volokh's solution
10 is to say that one can only create a hostile
11 environment through otherwise protected speech
12 if it's targeted at specific individuals. I
13 think he would regard it as a friendly amendment
14 to say that could be if it's targeted at a
15 number of specific individuals. It doesn't have
16 to be a one on one, it could be ten on three or
17 something like that.

18 I would add to that a thought about the
19 reason why speech which is otherwise protected
20 can be the basis for Title VII liability in the
21 workplace, is that the workplace is in many
22 respects, a kind of captive audience scenario
23 for coworkers. And so, if people are displaying
24 non-obscene pornography in their cubicle, they
25 might have a right to do that in other spaces,

1 but if that is seen by the women in the office,
2 that can be experienced as an unwanted hostile
3 environment, because there's nowhere else they
4 can go in order to do their jobs.

5 When you translate that to a college
6 setting, I think it's important to distinguish
7 different kinds of spaces on campuses. In many
8 respects, campuses are different from the
9 ordinary environment. In some respects, they're
10 like the workplace. So, I think the standards
11 might be different in a classroom from how they
12 should be out on the quad.

13 A quad is the campus equivalent of a
14 public park, where it isn't a captive audience
15 in a public park and so it might be that speech
16 which is otherwise protected could be proscribed
17 in certain campus settings, but not in others,
18 on this captive audience theory that I think is
19 the best way of making sense of the Title VII
20 cases.

21 CHAIR GARZA: Professor Volokh?

22 MR. VOLOKH: Well, since I was
23 apparently subpoenaed, I wanted to mention a few
24 things. And actually, I think they may point in
25 somewhat different directions.

1 One is that whether speech that, for
2 example, sharply condemns Zionists and in
3 particular Israelis, is seen as antisemitic. I
4 do think it is anti-Israeli. It is telling
5 Israeli citizens that basically either sometimes
6 there have been condemnations, anybody who is an
7 Israeli citizen is responsible for the actions
8 of Israel or even if it's just anti-Zionist,
9 essentially telling Israeli citizens, you are
10 citizens of an illegitimate nation.

11 My sense is that national origin
12 discrimination, and Professor Eidelson can
13 correct me if I'm mistaken, but that it would
14 extend to discrimination against people who are
15 of at least Israeli extraction, which includes
16 of course the many dual citizens, many people
17 whose parents are Israeli citizens and such. I
18 do think that there may be, therefore, speech
19 that creates a hostile environment for people
20 because of their connection to Israel, national
21 connection to Israel.

22 A second thing that I would say is that
23 I do think that in many respects a lot of the
24 speech does reach someone who might be seen in
25 the loose sense as a captive audience, not

1 physically, literally the way you are in an
2 airplane. If some neighbors of yours are saying
3 things and you can't leave, but it could be
4 someone saying something, even in the quad,
5 there may be people who have to go and pass by
6 on the way to class. It could be someone
7 wearing a T-shirt to class which I think would
8 be constitutionally protected speech. It could
9 be someone talking in a dorm where both the
10 speaker and the audience are in a sense a
11 captive audience.

12 I think the deeper point is simply as
13 some cases, including *Gartenberg v. Cooper*
14 *Union*, I think, is a particularly good analysis
15 of this from the Southern District of New York,
16 I believe, just last year, say that hostile
17 environment harassment law, like other areas of
18 the law, like national security law, like
19 criminal law, a variety of other areas of the
20 law are subject to the First Amendment. And
21 even if speech, for example, really does -- is
22 understandably experienced by people of Israeli
23 extraction, of Jewish extraction, as creating a
24 hostile environment or people of Palestinian
25 extraction could be again speech, denying the

1 legitimacy of Palestinian statehood could be
2 seen as creating a hostile environment. That
3 can't trump the First Amendment.

4 Now, again threats of violence, maybe
5 the nooses, would qualify. Threats of violence
6 and maybe even in fact something associated with
7 violence in the U.S., as opposed to violence
8 overseas, which is again an unfortunate reality
9 of the world, the relations. Those would be
10 constitutionally unprotected whether or not
11 they're antisemitic or anti-Israeli or anti-
12 Palestinian. Likewise, I have long argued that
13 one on one targeted speech with the
14 modifications and I agree as Professor Dorf
15 suggests, would be generally restrictable.

16 If somebody has a political perspective
17 that is perceived as racist or anti-gay or anti-
18 trans or anti-White, well, I guess that it is a
19 form of racism of course, or antisemitic or
20 anti-Palestinian or anti-Muslim, that speech is
21 constitutionally protected when it is said
22 either in the quad or on a T-shirt or wherever
23 else, even when somebody can reasonably say this
24 is something that creates a hostile environment
25 for people.

1 CHAIR GARZA: I wanted to -- yes,
2 Professor Lakier and then we'll go to some more
3 questions, but go ahead, please.

4 MS. LAKIER: You asked the whole panel,
5 so I --

6 CHAIR GARZA: Yes.

7 MS. LAKIER: -- would be sad to not to
8 participate.

9 CHAIR GARZA: No, of course, in this
10 question, yes, please.

11 MS. LAKIER: I just wanted to add on to
12 Professor Volokh's useful comments because just
13 to note that because the First Amendment
14 constrains the application of Title VI, courts
15 are inevitably and regulators are inevitably in
16 this difficult bind of trying to reconcile both
17 equality and free speech interests. Both of
18 which, I guess I would say, are very important
19 to our democracy. We need to have both. It's
20 not like you have one or the other, you need
21 both. It's difficult particularly because on a
22 college campus there is so much important First
23 Amendment protected expression and also there
24 are contexts in which students will be captive
25 audiences, there's vulnerability. There are,

1 you know, a lot of young kids speaking
2 intemperately.

3 What the lower courts have tried to do
4 is develop clearer, bright line rules we're
5 seeing as now just emerge and what is or is not
6 a hostile environment on campus. For example,
7 there have been low -- district court findings
8 that protest speech, speech addressed to a
9 matter of public concern to a general public
10 audience is just not the kind of thing that
11 establishes on its own a hostile environment.

12 Another court has suggested that
13 classroom speech that takes the norms and forms
14 of ordinary academic discourse is not ordinarily
15 the kind of thing that creates a hostile
16 environment. This is all relatively new
17 because, as Ms. Gammill suggested, Title VI has
18 been relatively underspecified when it comes to
19 the regulations. I'll just note that OCR has
20 not provided a lot of clarity on what does or
21 does not constitute a hostile environment, so
22 the kinds of questions you have about what it is
23 are the kinds of the questions that schools are
24 grappling with all the time.

25 I will just note that this not just an

1 empirical puzzle, but this has serious First
2 Amendment implications of its own because of the
3 way in which Title VI is structured and I just
4 want to emphasize this. An institution that's
5 trying to figure out how to comply with federal
6 law won't know until after the investigation has
7 been conducted whether they have or have not
8 complied. Meanwhile, millions, if not more, of
9 federal dollars could be at stake and so when
10 they're presented with unclear guidance about
11 what counts as a hostile environment, that also
12 they're supposed to protect the First Amendment,
13 the likely response is to overcompensate, to
14 suppress speech just to avoid any risk. And so,
15 when we're thinking about how to devise these
16 rules, we have to really think about the
17 realities on the ground, about how universities
18 are going to respond. Perhaps in theory, there's
19 a wonderful rule out there that we're going to
20 develop in nine months about what counts as a
21 hostile environment, but the speech may have
22 been suppressed to begin with. Again, I just
23 urge if there are reforms to be made that
24 clarity would be very helpful, not only for
25 helping to enforce the statute, but because of

1 its own First Amendment implications.

2 CHAIR GARZA: Thank you so much. I'm
3 going to go to Commissioner Kirsanow and then
4 I'll go to Commissioner Jones.

5 COMMISSIONER KIRSANOW: Thanks very
6 much, Madam Chair, and thanks to the panel.
7 This has been very helpful. I have a fairly
8 narrow question. To what extent do you think
9 there is or should be any gradations in how free
10 speech rights are balanced with say anti-
11 discrimination law when it comes to elementary
12 schools, middle schools, high schools, colleges?
13 I mean we have different levels of
14 sophistication there, so should there be greater
15 protections, for example, for students who speak
16 at the graduate school level as opposed to
17 elementary school level?

18 MR. VOLOKH: The case law, I think,
19 from the Supreme Court does support that.
20 Again, in Healy v. James and Papish v. Board of
21 Curators, the Court said that Tinker v. Des
22 Moines Independent School District, which is a K
23 through 12 case, justifies universities in
24 restricting disruption, but in a content neutral
25 way. So, if the students are going to have a

1 disruptive protest in the sense that it blocks
2 access or creates noise or whatever, it can and
3 should be restricted, but only without regard to
4 content.

5 That is not the rule with regard to K
6 through 12 schools, where when disruption stems
7 from students/classmates being upset at
8 something, that is often sufficient to restrict
9 at least in school speech. One way of thinking
10 about it is the heckler's veto. We know that on
11 the street corner, the police can't enforce a
12 heckler's veto, can't suppress a speaker because
13 the speaker is drawing a hostile crowd.

14 In the K through 12 context, the way
15 that Tinker has been interpreted by lower courts
16 it essentially does authorize a heckler's veto.
17 If classmates are sufficiently upset at speech,
18 the school can say look, we just need to focus
19 on algebra. That means we're going to suppress
20 speech that people are getting upset about, but
21 that is not generally speaking allowed at the
22 university level and I think, correctly, not
23 allowed.

24 So, I do think there's an important
25 line to be drawn there. Not coincidentally, it is

1 very close to the line between children and
2 adults. We have higher expectations of adults,
3 even young adults, than we have of children,
4 even older children and we expect that when they
5 find things that are offensive that they can
6 respond through counter speech or can just try
7 to ignore them. Not threats to be sure, not
8 true threats of violence, but offensive speech
9 in a way that we may not expect as much.

10 I would say I don't think there's a
11 line between graduate school and college or
12 community college and universities and such, but
13 there is indeed a line between K through 12
14 education and higher education, at least
15 speaking descriptively of the case law.

16 CHAIR GARZA: Professor Eidelson?

17 MR. EIDELSON: Yeah, I just wanted to
18 add I agree with what Professor Volokh said.
19 It's also true internal to Title VI and the case
20 to look at on that is the Davis case, which is
21 the Supreme Court's Title IX case. It
22 emphasizes in line with these workplace cases,
23 the importance of social context and quite
24 granular contextual norms for understanding what
25 is harassment. And so, in a university context,

1 where there are norms of open expression, that's
2 actually a central value for universities,
3 including in ways that people might not like.
4 It's totally different from a harassment law
5 perspective than an elementary school, where
6 kids are mostly entitled to not be subjected to
7 things that they find really upsetting. I think
8 that's a crucial difference.

9 I also just, if I can, want to bring
10 out, I think, a submerged point of agreement.
11 I'm surrounded by people who I mostly disagree
12 with here on the immediate right and left, but I
13 think there's something that I don't want the
14 agreement to get lost. On this relationship
15 between antisemitism and anti-Zionism or anti-
16 Israel sentiment which seems quite central,
17 there are different arguments that are being
18 made for connecting the two.

19 One argument is somehow it's just
20 inherently antisemitic to be anti-Zionist
21 because it's something about what it is to be a
22 Jew or the connection to Mount Zion or something
23 and that argument, we just disagree about. I
24 think the law just forecloses it.

25 Okay, they have a second argument which

1 is kind of getting blurred together with that
2 one, which is sometimes people say Zionism, but
3 they mean Jew, okay? They say no Zionists are
4 welcome here but the reason they're saying it,
5 is they want to get the Jews out. That is
6 discrimination against Jews, so that's subject
7 to -- there's no disagreement, that that would
8 be a Title VI problem.

9 What I think they need to prevail on
10 that argument is an explanation of why there
11 should be a presumption that when somebody says
12 something about Zionism they're motivated
13 actually by hatred towards Jews. That's what
14 the courts have rejected, including in the First
15 Circuit case a couple of months ago rejecting
16 the claim by Ms. Gammill's organization where
17 the court says look, the fact that some people
18 say anti-Zionist stuff out of antisemitic
19 motives does not, as a matter of law, let you
20 presume that everybody who says anti-Israel or
21 anti-Zionist stuff is doing it because they hate
22 Jews. I think that's just right, I mean it's
23 right especially when you again look at the data
24 and see that in this age bracket, which is I
25 think younger than anyone here, the number of

1 Jews who are professed anti-Zionists is quite
2 high. A lot of the students involved in these
3 protests are Jewish, so the idea that we can
4 conclusively presume if they're saying anti-
5 Zionist stuff it's because they hate Jews, is
6 just factually implausible. It's not how we
7 would think about any other civil rights
8 question. For example, a lot of people, let's
9 suppose, are against affirmative action because
10 they're racists, okay. But a lot of people are
11 against affirmative action not because they're
12 racists and we don't get to say well, if you say
13 something critical about affirmative action, I'm
14 going to infer as a matter of law that you're a
15 racist until proven otherwise. That's not how
16 we do civil rights law and I don't see any
17 reason why we would do it differently here.

18 CHAIR GARZA: Just one quick note for
19 all of you. We have three minutes left in this
20 section. We do have follow up questions for
21 each of you, so you will receive those
22 separately and you will have more time to go
23 ahead and answer those. I did want to get to
24 his question. Commissioner Jones, go ahead.

25 COMMISSIONER JONES: Thank you, Madam

1 Chair. I've got a lot of questions, but I'll
2 limit that said to one in the three minutes
3 remaining and it has to do with the IHRA
4 definition of antisemitism, which you brought
5 up, Professor Lakier. From my reading of the
6 written testimony and from what I've been able
7 to discern from some of the oral testimony
8 today, at least half of you disagree with that
9 definition. Okay, Professor Volokh is nodding
10 his head, so a majority of you now disagree with
11 that definition, so.

12 I'm familiar with it, it is the basis
13 of the Antisemitism Awareness Act that's pending
14 in Congress and there is a lot of diversity of
15 view on this subject within the Jewish
16 community, I don't need to tell people here.
17 Would you please talk about, for the record,
18 that we are creating today, why in the situation
19 of the majority of you, you oppose the adoption
20 of that definition of antisemitism, starting
21 with you, Professor.

22 MS. LAKIER: Okay, thank you for that
23 question. I mean I guess there's at least two
24 separate dimensions. Now, just since we have
25 limited time, I'll just talk about the First

1 Amendment issues involved.

2 So, it is perfectly within --
3 reasonable for universities when they're
4 implementing their own anti-discrimination rules
5 to adopt whatever definitions they want. I'll
6 just say ordinarily traditionally we haven't
7 defined the various forms of racism that are
8 prohibited, but given uncertainty, perhaps it's
9 useful to have clearer guidance.

10 The federal government is bound by the
11 First Amendment, so the federal government
12 cannot put its thumb on the scales when it comes
13 to political argument. One of the things that
14 the IHRA does is it says, as we've just been
15 discussing, that political claims about the
16 existence of Israel as a Jewish state or about
17 the viability of Zionism can be construed and
18 maybe often are a pretext for antisemitism.
19 Now, that may be true as a factual matter, but
20 what the enactment of the IHRA as a requirement
21 that universities adopt and that regulators
22 adopt when enforcing Title VI does is it
23 threatens universities essentially with the loss
24 of federal funding unless they do more to
25 restrict anti-Zionist speech and anti-Zionist

1 speech is protected expression. So, as at least
2 one district court has found with the IHRA
3 embedded, in that case as Texas state law does,
4 is the viewpoint discriminates. Viewpoint
5 discrimination is the heart of what the First
6 Amendment prohibits.

7 And so, it is because of the very
8 serious First Amendment constitutional questions
9 that the IHRA raises when embedded in federal
10 law rather than as a matter of private choice,
11 that I think it would be a terrible idea for
12 Congress to enact it.

13 COMMISSIONER JONES: Professor Dorf?

14 MR. DORF: I'll try to be brief. In a
15 relatively recent case of the Supreme Court,
16 Counterman against Colorado, the Court said that
17 in order to establish liability for what are
18 true threats, which is one of the exceptions to
19 the First Amendment, the government must prove
20 that the defendant is at least reckless with
21 respect to the risk that the target of the
22 language will interpret as a true threat. The
23 difficulty I have with this definition is that
24 for speech that is more protected than a true
25 threat, it adopts a lower threshold, that is, it

1 kind of creates a presumption. This goes to the
2 point that Professor Eidelson was making, it
3 creates a presumption that certain kinds of
4 statements about Israel, Israeli policy, etc.,
5 are antisemitic. Now that might be true in any
6 particular case, but creating that presumption
7 seems to me inconsistent with the standard that
8 we have, even for true threats, which is much
9 less protected.

10 MR. EIDELSON: Could I?

11 CHAIR GARZA: Go ahead.

12 MR. EIDELSON: I think there are
13 profound problems with the IHRA definition on
14 its own terms, but I'll, you know, restrain
15 myself and leave that be and just say I think
16 that there's a threshold issue that gets lost in
17 this debate, which is the very choice to have a
18 bespoke definition of this particular flavor of
19 discrimination would be a profound choice with I
20 think very bad consequences.

21 It's not how we've done civil rights
22 law in the United States. We said there are
23 particular axis or dimensions of difference that
24 are off limits, like race or nationality or
25 religion. We don't say here's our definition of

1 anti-Black racism. Here's our definition of
2 anti-Asian racism and here's a list of the
3 things that are presumptively anti-Asian. It
4 would be a sea change and once you open the door
5 this way, I don't see how you avoid having
6 definitions of all of the various forms of bias
7 in the world. One reason that would be so -- I
8 mean, one, that might be unconstitutional
9 because under the Equal Protection Clause. I
10 don't think you can really single out a racial
11 group and say when it comes to this group, the
12 thing that we're prohibiting, like quad
13 discrimination, is this which is more than any
14 of those other groups, so that's a problem.

15 But even apart from that, it kind of
16 betrays this fundamental commitment of fairness
17 where right now, if you want more stuff to count
18 as prohibited antisemitism, what you can do is
19 water down the discriminatory intent standard in
20 general, so more stuff counts. But there's,
21 like, a check built into that because you're
22 then making more stuff count as anti-Muslim and
23 anti-Catholic and you might be uneasy about
24 that. That kind of forced neutrality is a
25 hugely beneficial thing. I think it's actually

1 kind of fundamental to the rule of law and so to
2 say no, we're going shelf that and just on this
3 one issue that some organizations really care
4 about, we're going to make up these bespoke
5 rules, even if they were the right rules, which
6 they aren't, would be a really big mistake.

7 MR. VOLOKH: So, one way of thinking
8 about it is let's imagine that there is a
9 statute that is enacted that has similar lists
10 of things that are presumed to be discriminatory
11 but it's with regard to anti-Palestinian or
12 anti-Arab or anti-Muslim discrimination all of
13 which is also prohibited. Anti-Muslim would be
14 prohibited by Title VII and similar rules.
15 Anti-Arab and anti-Palestinian by Title VI.

16 Imagine for example if we were to say
17 that there is a presumption that there is
18 discrimination or at least in figuring out if
19 there's discrimination, you should ask whether
20 people denied the Palestinian people the right
21 to self-determination, e.g., by claiming that
22 the existence of an independent state of
23 Palestine would be an inherent terrorist risk to
24 Israel. I think we'd all -- or at least I would
25 say, well, wait a minute, you know, this is

1 essentially singling out a particular
2 ideological viewpoint, which I think is a
3 legitimate viewpoint, and certainly one that
4 very many people hold, I think, for good
5 reasons, I'm not sure this is correct, but it is
6 a legitimate viewpoint. Singling it out by
7 essentially exposing it to higher risk of
8 liability. I think that's improper if, with
9 regard to viewpoints that say Palestinians
10 should not have an independent state. I think
11 it's improper with regard to the view that
12 Israel shouldn't be an independent state.

13 And relatedly, with regard to this
14 point about presumptions and First Amendment
15 exceptions, the Supreme Court has actually
16 confronted a similar issue in a case called
17 Virginia v. Black. It's mostly remembered for
18 the proposition that true threats can be
19 punished, but there was another holding there,
20 which is that even though true threats can be
21 punished, it upheld the punishment of someone
22 for cross burning, for a racist threat.

23 It struck down a statute that said
24 essentially that cross burning is presumed to be
25 a true threat. The Court said look, you can

1 punish true threats, but you can't put your
2 thumb on the scale legislatively by saying --
3 with regard to particular speech by saying this
4 speech shall be presumptively that. You've got
5 to prove it without this kind of presumption.
6 It seems to me that applies pretty closely to
7 the IHRA definition.

8 CHAIR GARZA: We'll go ahead and have
9 you answer and then we're going to have wrap
10 this up because we're six minutes over.

11 MR. GOLDFEDER: Sure, I'll try to be
12 quick. I think that a lot of the criticism
13 comes from a fundamental misreading of IHRA.
14 IHRA does not say that any of these things
15 automatically are antisemitic. It literally
16 says that these examples could, taking into
17 account the overall context, be considered
18 antisemitic.

19 Why is IHRA important? A recent survey
20 found that more than half of American adults do
21 not know what the word antisemitism means. All
22 the Awareness Act says is that the adjudicator
23 should take into consideration the world's most
24 well accepted definition of antisemitism. It's
25 not a part of the thing either. There are very

1 few things that the Trump, Biden, Obama and Bush
2 Administration agreed on, this might be the only
3 one that you should look at IRHA for deciding
4 these questions. It's incredibly important
5 because practically it's the lived experience.

6 By the way, my co-panelist mentioned
7 that a lot of Jews don't consider themselves
8 Zionists, IHRA doesn't use the word Zionism, but
9 the people discriminating against them call it a
10 Zionist definition. All right, so by
11 membership, for example, in the Conference of
12 Presidents, a major Jewish organization is an
13 umbrella organization representing American
14 Jewry, 96 percent of American Jews adopt this
15 definition and they would be labeled Zionists,
16 even if they don't call themselves that, by the
17 anti-Zionists, who are seeking to discriminate
18 against them. Thank you.

19 (Off record comments.)

20 COMMISSIONER JONES: Is it accurate
21 that the Biden Administration adopted this?

22 MR. GOLDFEDER: The Biden
23 Administration multiple times put out statements
24 saying that they were extending the Trump
25 adoption and executive order, yes.

1 COMMISSIONER JONES: I'm seeing some
2 disagreement from some of your co-panelists.

3 MR. GOLDFEDER: Well, I'm happy to see
4 that --

5 (Simultaneous speaking.)

6 COMMISSIONER JONES: I wasn't aware
7 that the Biden Administration had adopted the
8 IHRA definition.

9 MS. GAMMILL: Endorsed would be the
10 correct term. Endorsed.

11 COMMISSIONER JONES: Okay. I'm not
12 even sure that that's accurate, respectfully.

13 (Simultaneous speaking.)

14 CHAIR GARZA: We'll have to follow up
15 on that. I apologize. I do not -- we -- thank
16 you so much for this very robust conversation.
17 You've given us a lot to think about. We're
18 going to go ahead and reconvene. We're going to
19 take a 10-minute break. We will come back at
20 11:43.

21 (Whereupon, the above-entitled matter
22 went off the record at 11:33 a.m. and resumed at
23 11:43 a.m.)

24 CHAIR GARZA: All right, we are going
25 to come to order. It is 11:46 a.m. Eastern

1 Time. We will proceed with our second panel
2 where we will explore policy and practice,
3 implementing Title VI to address campus
4 antisemitism.

5 Before we begin, a reminder of our
6 format and expectations.

7 Each panelist will have seven minutes.
8 Commissioners will have an opportunity for
9 questions afterward. And I will strictly
10 enforce those time limits.

11 Please summarize key points, as written
12 testimony has been reviewed. There are serious
13 -- these, again, these are serious issues and
14 may invoke strong views, but that is absolutely
15 understandable.

16 At the same time, this briefing is
17 intended to provide a forum for respectful
18 dialogue and careful fact finding.

19 The first panel did that beautifully
20 and that is our expectation for the rest of the
21 day.

22 I ask all the participants,
23 Commissioners, and panelists alike to maintain
24 civility, refrain from personal attacks or
25 disparaging remarks, and allow one another the

1 space to fully share their perspectives.

2 As Chair, I do reserve the right to cut
3 short any statements, questions, or comments
4 that defame, degrade, or do not pertain to the
5 issue at hand.

6 Panelists, if you would notice the
7 system of warning lights that we have set up.

8 When the light turns from green to
9 yellow, that means that you have two minutes
10 remaining.

11 When the lights turn red, you should
12 conclude your statement or conclude your thought
13 so you don't risk me cutting you off.

14 And my fellow Commissioners and I will
15 do our part to keep our comments and questions
16 concise.

17 And finally, please unmute yourself
18 after -- to speak and then, mute yourself after
19 you finish your comments.

20 So, in order in which they will speak,
21 our panelists are Gregory Dolin, Senior Counsel,
22 Civil Rights Division, Department of Justice.

23 Alyssa Lareua, Senior Counsel,
24 Wardenski, PC, and former Federal Coordination
25 and Compliance at the Department of Justice.

1 Craig Tranior, Assistant Secretary for
2 Fair Housing and Equal Opportunity, Department
3 of Housing and Urban Development, and former
4 Acting Assistant Secretary, Office of Civil
5 Rights, Department of Education.

6 Mathew Nosanchuk, former Deputy
7 Assistant Secretary, Department of Education.

8 Linda Mangel, former Enforcement
9 Director, Office for Civil Rights, the
10 Department of Education.

11 Beth Gellman-Beer, partner at Evergreen
12 Education Solutions and former Regional
13 Director, Philadelphia Office, Office for Civil
14 Rights at the Department of Education.

15 So, I'm going to ask each of you now to
16 raise your right hand to be sworn in.

17 Will you swear and confirm that the
18 information you are about to provide us is true
19 and accurate to best of your knowledge and
20 belief?

21 (CHORUS OF AYES)

22 CHAIR GARZA: Affirmative from all.

23 We'll go ahead and begin with you, Mr.
24 Dolin.

25 You can go ahead and get started.

1 MR. DOLIN: Thank you.

2 Chairwoman Garza, members of the
3 committee, thank you for extending an invitation
4 to the United States Department of Justice to
5 provide testimony on this important topic.

6 My name is Gregory Dolin, and I serve
7 as Senior Counsel in the Civil Rights Division
8 of the Department of Justice.

9 As you all may know, the Civil Rights
10 Division is charged by statute with enforcing
11 this nation's civil rights laws, including Title
12 IV of the Civil Rights Act of 1964.

13 Provisions of Title VI prohibit
14 discrimination on the basis of race, color,
15 national origin in any program or activity
16 receiving federal financial assistance.

17 And because nearly all American
18 colleges and universities, whether public or
19 private, receive federal funds, the requirements
20 of Title VI apply to them.

21 This Department of Justice, under the
22 leadership of Attorney General Bondi and
23 Assistant Attorney General for Civil Rights
24 Dhillon has made it clear in both word and deed
25 that it will not tolerate the scourge of

1 antisemitism on American college campus and will
2 not permit our federal tax dollars to be used in
3 any way to support this hateful ideology.

4 We undertake our efforts with a clear
5 understanding that the First Amendment protects
6 speech, even hateful speech, on college campuses
7 and elsewhere.

8 Thus, in our investigations, law suits,
9 or settlement agreements, we never target speech
10 as such.

11 Rather, we focus on instances of
12 antisemitism that rise to the level of
13 harassment or those that show disparate
14 treatment of Jewish students by the
15 universities.

16 Sadly, incidents abound.

17 Antisemitism on our college campuses
18 manifests itself in a variety of ways, from
19 universities permitting thugs to block access to
20 buildings for Jewish students to the
21 administrators turning a blind eye to clear
22 violations of universities own rules whenever
23 such violations target Jewish students and
24 faculty.

25 To create an unwelcome educational and

1 research environment for Jewish students are all
2 instances that we have witnessed.

3 Over the course of the last 12 months,
4 the Department of Justice has opened
5 investigations in to, filed cases against, and
6 reached settlements with a number of
7 universities.

8 For example, Columbia University,
9 perhaps one of the most prominent violators of
10 Title VI requirements, acknowledged, following
11 DOJ investigation, that, quote, Jewish students
12 and faculty have experienced painful,
13 unacceptable incidents, and that reform was and
14 is needed, close quote.

15 As a result, Columbia has agreed to,
16 amongst other things, enhance campus safety,
17 appropriately enforce strict rules against
18 disruptive protests, strengthen oversight of
19 international students by review and admission
20 processes, and engage in a comprehensive review
21 of its programs and regional areas, starting
22 with those relating to the Middle East, with a
23 goal of promoting intellectual diversity.

24 This agreement will be overseen by an
25 independent monitor.

1 The Columbia agreement is a good
2 example of the Department's response to the
3 disturbing rise of antisemitism on our nation's
4 campuses.

5 However, our approach is more
6 comprehensive.

7 The Department of Justice works with
8 other federal agencies, including Department of
9 Education and its Office of Civil Rights, the
10 Department of Homeland Security, Department of
11 Health and Human Services, and the Department of
12 State, amongst others, to ensure that American
13 universities remain free of dangerous radicalism
14 and malign foreign influences that often fuels
15 campus antisemitism.

16 The Department has continued to pursue
17 investigations into other violations.

18 For example, the Civil Rights Division
19 has open and ongoing investigations into the
20 University of California system, and specific
21 universities within that system.

22 We're investigating George Mason
23 University.

24 Last year, we concluded a George
25 Washington University violated Title VI by being

1 deliberately indifferent to anti-Semitic
2 discrimination.

3 And these are just some examples of the
4 wide ranging work that the Department of Justice
5 has been engaged in.

6 In engaging in this work, the
7 Department has two goals.

8 First, we are seeking real world
9 consequences for past unlawful conduct.

10 Second, and perhaps more importantly,
11 we are working to correct and dismantle systems
12 that allow such conduct to occur in the first
13 place so that there's no repetition of the
14 violations going forward.

15 We are guided by a firm and what should
16 be uncontroversial principles. All students of
17 whatever race, color, ethnicity, or national
18 origin deserve equal access to educational
19 opportunities.

20 The same applies to professors,
21 academic researchers, and other members of the
22 university communities.

23 The Department will definitely continue
24 this work.

25 Thank you, again, for the opportunity

1 to address you.

2 CHAIR GARZA: Thank you so much, Mr.
3 Dolin.

4 We're going to go ahead and move on to
5 Ms. Lareau.

6 MS. LAREAU: Thank you, Chairwoman Garza
7 and Commissioners, and thank you for the
8 opportunity to provide testimony today.

9 My name is Alyssa Lareau, and from 2009
10 to 2025, I worked as an attorney in the Civil
11 Rights Division of the U.S. Department of
12 Justice.

13 For the last 11 years of that time, I
14 worked for the section of the division that was
15 charged with implementing Title VI of the Civil
16 Rights Act of 1964.

17 Title VI's provisions encompass
18 antisemitism when the discrimination is based on
19 shared ancestry or ethnic characteristics.

20 My testimony, written and today, is
21 focused on what a DOJ Title VI investigation
22 should look like under the statute and DOJ's
23 existing Title VI regulations.

24 At the outset, I want to highlight that
25 the animating principle of DOJ's Title VI

1 regulations, taken directly from the statute, is
2 to work with recipients to achieve voluntary
3 compliance prior to taking any enforcement
4 action.

5 DOJ's Title VI regulations reiterate
6 that the Department shall seek the cooperation
7 of recipients in obtaining compliance to the
8 fullest extent practicable and shall provide
9 assistance and guidance to recipients to help
10 them comply voluntarily.

11 Under the regulations, a Title VI
12 investigation is initiated whenever a compliance
13 review, report, complaint, or any other
14 information indicates a possible failure to
15 comply with Title VI.

16 The regulations further require that a
17 Title VI investigation should include, as
18 appropriate, a review of the pertinent practices
19 and policies of the recipient, the circumstances
20 under which the possible noncompliance with
21 Title VI occurred, and other factors relevant to
22 a determination as to whether the recipient has
23 failed to comply.

24 For investigations that found no
25 violation, the regulations require that such

1 resolution must be communicated to the recipient
2 and the complainant, if any, in writing.

3 If the investigation indicated a
4 failure to comply with Title VI, the regulations
5 require that the Department inform the recipient
6 and to attempt to resolve the matter by informal
7 means, whenever possible.

8 If DOJ ultimately concluded that
9 compliance could not be achieved through
10 voluntary means, the regulations then empower
11 DOJ to either, one, undertake proceedings to
12 suspend, terminate, or refuse to grant or
13 continue federal financial assistance.

14 Or two, use any other means authorized
15 by law to induce compliance with Title VI.

16 Using other means authorized by law to
17 ensure compliance primarily involves bringing
18 proceedings in court.

19 Per the regulations, prior to pursuing
20 proceedings in court, the responsible Department
21 official must, again, determine that compliance
22 cannot be supered by voluntary means, must
23 obtain approval to file suit by the Attorney
24 General, and must notify the recipient of its
25 failure to comply and the action to be taken to

1 affect compliance.

2 Title VI has a detailed process for
3 terminating federal funding based on violations
4 of the statute.

5 During the passage of Title VI, funds
6 termination was hotly debated and the final
7 statutory language was the product of
8 negotiation.

9 Senator Humphrey, the senator manager
10 of the Civil Rights Act of 1964, stated that,
11 quote, the objective of Title VI is and should
12 be to end discrimination and not to cut off
13 federal funds.

14 He continued that, quote, cut off of
15 funds should be the last step, not the first, in
16 an effective program to end racial
17 discrimination.

18 Thus, when DOJ is at the point of
19 considering funds termination, it must complete
20 four steps mandated by the statute and
21 regulations.

22 One, DOJ must advise the recipient that
23 it is not in compliance with Title VI and that
24 compliance cannot be secured by voluntary means.

25 Two, after the opportunity for a

1 hearing on the record, the responsible
2 Department official or a hearing examiner must
3 make express written findings of failure to
4 comply with Title VI.

5 Three, the Attorney General must then
6 approve the decision to suspend or terminate
7 funds.

8 And four, the Attorney General must
9 then file a full written report with the House
10 and Senate legislative committees having
11 jurisdiction over the programs involved and wait
12 30 days before terminating funds.

13 The report to Congress must provide the
14 grounds for the decision to deny or terminate
15 the funds, the recipient, or applicant.

16 Finally, any funds termination must be
17 limited to the particular program or part
18 thereof that engaged in discrimination.

19 Before I conclude, I want to share
20 that, while I was not personally involved in any
21 Title VI investigations of colleges or
22 universities premised on antisemitism, I have
23 followed several legal challenges to DOJ's
24 actions taken as a result of those
25 investigations.

1 Several federal courts have rebuked
2 DOJ's efforts to suspend or terminate federal
3 funds as failing to adhere to the statutory and
4 regulatory requirements I just discussed.

5 For example, in a law suit challenging
6 the current Administration's effort to terminate
7 federal funds as part of a Title VI antisemitism
8 investigation of UCLA, the court described that
9 Administration's actions as following a three-
10 stage playbook.

11 Stage 1, according to the courts, stage
12 1 entails announcing investigations or planned
13 enforcement actions related to federal funding
14 recipients alleged civil rights violations.

15 Stage 2, entails federal funding
16 agencies cancelling all of the recipients
17 federal grants without following statutory
18 procedural requirements for termination and
19 without limiting the scope of the terminations
20 to noncompliant programs.

21 And three -- stage 3 entails the
22 federal government demanding a significant
23 monetary penalty that is not authorized by the
24 civil rights statutes and requiring a wide range
25 of policy changes as a condition for restoring

1 funding and avoiding further funding
2 disruptions.

3 The court concluded that the
4 Administration's actions violated the
5 Administrative Procedure Act for failing to
6 adhere to Title VI's procedural requirements.

7 Other judges examining this
8 Administration's fund termination actions have
9 similarly held that the federal government has
10 failed to adhere to Title VI's statutory and
11 regulatory requirements.

12 For example, a Massachusetts District
13 Court granted Harvard's Motion for Summary
14 Judgment on its Title VI claims because the
15 record, quote - the record contained, quote, no
16 evidence of a notice of noncompliance, an
17 assessment that compliance could not be achieved
18 by voluntary means, a hearing, a finding on the
19 record, or a report to Congress.

20 So, based on these courts findings and
21 other public information, DOJ appears to have
22 not adhered to the procedures mandated by Title
23 VI or its own Title VI regulations in at least
24 some recent investigations.

25 Thank you, again, for the opportunity

1 to provide testimony today.

2 CHAIR GARZA: Thank you, Ms. Lareau.

3 We're going to go ahead and hear from
4 Assistant Secretary Tranior.

5 You can begin.

6 MR. TRANIOR: Good afternoon,
7 Commissioners, thank you for inviting me to
8 testify today about the Trump Administration's
9 robust efforts to address anti-Semitic conduct
10 on American college and university campuses.

11 My name is Craig Tranior and I am the
12 Assistant Secretary of the Fair Housing and
13 Equal Opportunity at the United States
14 Department of Housing and Urban Development.

15 Prior to my current role, I served as
16 the Acting Assistant Secretary for Civil Rights
17 at the United States Department of Education.

18 And prior to that role, I served as
19 Senior Special Counsel with the U.S. House of
20 Representatives Committee on the Judiciary where
21 I investigated antisemitism on campus.

22 The bulk of my career has been spent as
23 a civil rights and criminal defense attorney.

24 The crisis of anti-Semitic harassment
25 and violence on campus began during the Biden

1 Administration, following Hamas's October 7,
2 2023 savage attack against the people of Israel.

3 The principle federal law enforcement
4 agency responsible for addressing these mobs is
5 the U.S. Department of Education's Office for
6 Civil Rights, what I will refer to as OCR.

7 While college campuses raged with
8 coordinated harassment and violence against
9 Jewish students, the Biden OCR's response to
10 these hateful hordes was equivocal, craven, and
11 pathetic.

12 Rather than tackle the then clear and
13 present danger on American university campuses,
14 that the outbreak of anti-Semitic violence
15 represented, the Biden OCR spent its time, among
16 other social experiments, manufacturing theories
17 that school administrators and districts could
18 be held liable under Title VI and Title IX for
19 removing smut and obscenity from elementary and
20 middle school libraries, weaponizing Title VI to
21 insert federal monitors into local districts to
22 upend school discipline decisions, and
23 stretching Title IX to its breaking point by
24 regulatory fiat, claiming that it is unlawful
25 discrimination to keep intimate facilities and

1 schools separate on the basis of biological sex.

2 In other words, the Biden Education
3 Department's Office for Civil Rights' policy
4 agenda was deeply unserious and
5 counterproductive, and its response to the anti-
6 Semitic harassment and violence consuming
7 America's college campuses was weak and
8 ineffective.

9 On January 20th, 2025, upon President
10 Trump's historic swearing in and return to the
11 Oval Office, I reported to the U.S. Department
12 of Education as the Acting Assistant Secretary
13 for Civil Rights.

14 And I made good on the President's
15 promise to crack down on the anti-Semitic mobs
16 running riot on American campuses.

17 On February 3rd, 2025, I opened five
18 directed investigations into institutions of
19 higher education across the country, including
20 Columbia University, where widespread anti-
21 Semitic harassment had transpired.

22 Columbia's indifference to the
23 wellbeing of the its Jewish students was so
24 legally egregious and morally outrageous, it
25 clamored for immediate federal intervention.

1 The Trump OCR, along with a partner
2 agency, found Columbia in violation of Title VI
3 for its deliberate indifference toward the
4 harassment and violence that its Jewish students
5 endured from October 7, 2023 to May 22nd, 2025
6 when I signed off on those findings.

7 These investigative actions
8 demonstrated to the university president's
9 administrators who failed to confront the thugs
10 terrorizing Jewish students, that as Acting
11 Assistant Secretary for Civil Rights, I would be
12 implementing a comprehensive regime change in
13 how OCR treats these cases.

14 This included prioritizing these cases
15 for enforcement, addressing the backlog of these
16 cases that the Biden OCR ignored, and opening
17 several more investigations in which anti-
18 Semitic conduct prevented Jewish students from
19 equal access to education and educational
20 opportunities.

21 During my tenure, we learned that the
22 Biden OCR's fecklessness was driven more by
23 politics than incompetence alone.

24 According to OCR data, from October 7,
25 2023 to January 19, 2025, the Biden OCR opened

1 111 Title VI anti-Semitic discrimination
2 investigations, resulting in only 37 resolution
3 agreements, despite the daily crisis that these
4 cases represented.

5 Worse, the resolution agreements were
6 the proverbial slap on the wrist. They
7 essentially required training on Title VI
8 compliance and statements on nondiscrimination
9 policies, toothless measures that shielded then
10 dens of anti-Semitic harassment from genuine
11 accountability.

12 In response, I assembled a team to
13 craft resolution agreements that provided for
14 meaningful consequences, where warranted by the
15 facts, some of the proposed conditions included
16 terminating faculty and administrators,
17 suspending or expelling students, and monitoring
18 academic departments that were complicit in
19 harassing and violence against Jewish students.

20 We also learned that the Biden OCR
21 would often require investigators to broaden
22 anti-Semitic discrimination investigations and
23 resolution agreements to include a Muslim shared
24 ancestry component, this despite OCR receiving
25 no allegations that the educational entity

1 tolerated or engaged in anti-Muslim
2 discrimination.

3 This moral equivocation prolonged the
4 anti-Semitic madness on campus because the Biden
5 OCR investigations were compromised by partisan
6 calculations, designed to appease a growing
7 political constituency rather than uncovering
8 the truth.

9 Under those circumstances, genuine
10 accountability could not be established. I
11 ended that practice on January 20th, 2025.

12 The Trump Administration's commitment
13 to accountability is illustrated by the July
14 23rd, 2025 resolution agreement that we entered
15 into with Columbia after I found the university
16 in violation of Title VI.

17 The agreement required Columbia to pay
18 the United States \$200 million to settle claims
19 for unlawful discrimination, strictly enforced
20 the rules against disruptive protests, prohibit
21 masked protesters on campus, and accept
22 continuing monitoring to ensure compliance with
23 Title VI, among other conditions.

24 And I am pleased to report to the
25 Commission that I continue this commitment of

1 accountability by pursuing aggressive enforcement
2 actions against alleged civil rights violators
3 as President Trump's Assistant Secretary for
4 Fair Housing and Equal Opportunity.

5 On that note, I will end by addressing
6 institutions of higher education directly.

7 Although I am no longer with the
8 Education Department, where I have the statutory
9 authority to address civil rights violations on
10 your campus, I will do so decisively.

11 That is not a threat, it is a promise.

12 CHAIR GARZA: All right, we are going to
13 go ahead and move on to Assistant Secretary
14 Nosanchuk.

15 Please begin.

16 MR. NOSANCHUK: Good morning, Chair
17 Garza and Vice Chair Nourse. Thank you for the
18 opportunity to testify at this important
19 briefing.

20 My name is Mathew Nosanchuk and
21 throughout my career, in the private, nonprofit,
22 and public sectors, acting against antisemitism
23 has been the central focus.

24 Most recently, as Deputy Assistant
25 Secretary at the Department of Education's

1 Office of Civil Rights, during the Biden
2 Administration, I had a firsthand view of the
3 deeply troubling spike in antisemitism on
4 college campuses after October 7th, 2023 and
5 helped mount the Administration's unprecedented
6 enforcement response.

7 I am now consulting with schools on
8 complying with Title VI and I'm here today in my
9 personal capacity to emphasize three key
10 messages.

11 First, responding to antisemitism on
12 campuses demands tailored actions that are
13 properly implemented and adequately resourced
14 and consistent with the First Amendment.

15 Second, the current Administration's
16 approach, cracking down on foreign students,
17 cutting funds without following Title VI's
18 established legal requirements, and gutting the
19 very office mandated to enforce Title VI is
20 contradictory, counterproductive, and unlawful.

21 Third, this Commission must look beyond
22 political expediency and provide meaningful
23 oversight and support of effective solutions
24 rather than indulging in political theater that
25 inflames an already volatile campus climate.

1 In 2024, anti-Jewish hate crimes
2 reached a record high. Jews make up about 2
3 percent of the population yet account for
4 approximately 70 percent of all religiously
5 motivated hate crimes.

6 Since October 7th, 2023, Hillel
7 International has documented thousands of anti-
8 Semitic incidents on college campuses.

9 The impact on Jewish students has been
10 devastating.

11 Students conceal their Star of David
12 necklaces to avoid being targeted, mezuzahs torn
13 from dorm room doors, swastikas on desks.

14 One student received messages that he
15 should be water boarded with gasoline and lit on
16 fire.

17 In the classroom, a Stanford lecturer
18 told Jewish students to stand in a corner,
19 saying, this is what Israel does to
20 Palestinians, then categorized those students as
21 colonizers or colonized based on ancestry.

22 At the University of Vermont, a
23 teaching assistant boasted online about
24 withholding grades from Jewish students and
25 celebrated bullying Zionists.

1 During the Biden Administration OCR
2 resolved the most antisemitism cases in its
3 history, five times more than the first Trump
4 Administration, securing agreements with many
5 major universities and colleges.

6 These agreements required concrete
7 measures, revising policies, training employees,
8 administering climate surveys, and multi-year
9 monitoring, and they worked.

10 Take Vermont, after our investigation
11 and resolution agreement, the campus Hillel
12 director reported that Jewish life at UVM has
13 improved remarkably.

14 Students now receive responses to bias
15 incidents within 24 hours.

16 The Hillel Center has seen a 40 percent
17 increase in daily usage.

18 Parents feel confident sending their
19 children there.

20 Kenneth Marcus, who headed OCR during
21 the first Trump Administration, and is
22 testifying today acknowledged our record. He
23 told the Chronicle of Higher Education that we
24 were, quote, treating discrimination complaints
25 from Jewish students as an urgent an important

1 issue, unquote, and applauded the, quote,
2 aggressive posture by the federal government,
3 unquote.

4 So, what has replaced this approach?

5 In the name of combatting antisemitism,
6 the current Administration has built a Trojan
7 horse to unleash a frontal ideological attack on
8 higher education.

9 One federal judge described the
10 playbook, first, announced investigations.

11 Second, cancel funds without following
12 Title VI's legal requirements.

13 Third, demand millions or billions of
14 dollars, a penalty Title VI does not in any way
15 authorize and require sweeping policy changes.

16 The head of the task force to combat
17 antisemitism was transparent, proclaiming,
18 quote, we're going to bankrupt these
19 universities, unquote.

20 Look at what actually has happened.

21 At Cornell, the Administration agreed
22 to close its antisemitism investigation and
23 unfreeze more than \$1 billion in federal funds
24 in exchange for \$60 million, half a fine, half
25 defund agricultural research to promote

1 efficiency among American farmers.

2 The DOJ press release about this
3 settlement omits any reference to antisemitism
4 or the civil rights of Jewish students.

5 Instead, DOJ described it as, quote,
6 another transformative commitment to end DEI
7 policies, unquote.

8 At Brown, to unfreeze more than \$500
9 million in research funding, the settlement
10 required adopting prescribed definitions of male
11 and female, refusing gender affirming care to
12 minors, prohibiting DEI initiatives, and paying
13 \$50 million towards workforce development in
14 Rhode Island.

15 President Trump posted on social media,
16 quote, woke is officially dead at Brown,
17 unquote.

18 Federal courts have seen through this.

19 One concluded the Administration,
20 quote, used antisemitism as a smoke screen for a
21 targeted ideological motivated assault on this
22 country's premier universities, unquote.

23 Meanwhile, the Department of Education
24 has laid off approximately half of OCR staff and
25 closed 7 of 12 regional offices, including those

1 with the greatest expertise in antisemitism,
2 work that my colleagues sitting to my left here
3 today helped to lead.

4 Since January 2025, OCR has signed just
5 two shared ancestry resolutions, two.

6 Having reduced OCR to a shell of its
7 former self, the office cannot possibly fulfill
8 its monitoring responsibilities.

9 Who does that hurt most?

10 The Jewish students promised federal
11 oversight.

12 Jewish students at targeted
13 universities wrote in the forward, quote, we are
14 Jewish students from universities Trump is
15 targeting. He's not protecting us, unquote.

16 Paying huge fines does not help Jewish
17 students.

18 Stripping research funds does not help
19 Jewish students.

20 What helps Jewish students is what OCR
21 was doing when I was there, investigating
22 complaints, securing enforceable agreements that
23 follow the law and monitoring compliance with
24 those agreements.

25 I urge the Commission to call for this

1 Administration to restore civil rights
2 enforcement, full funding to OCR, rehire
3 experienced investigators, reopen regional
4 offices, and resume monitoring existing
5 agreements.

6 Restore critical funding, the \$30
7 million in hate crime prevention grants and \$40
8 million for the Justice Department's community
9 relations service, continue implementing the
10 national strategy to counter antisemitism, a
11 bipartisan framework.

12 Condemn antisemitism across the
13 political spectrum, including the normalization
14 of anti-Semitic rhetoric.

15 And support bipartisan legislative
16 action like HR 6806, the Antisemitism Response
17 and Prevention Act, which will require Title VI
18 coordinators at colleges.

19 Leaders who respond to antisemitism
20 through punitive shakedowns that trample due
21 process and stripped billions from universities
22 are not making university Jewish students safer.

23 They are undermining the democratic
24 institutions under which Jews have thrived in
25 this country and making antisemitism worse by

1 justifying these measures in its name.

2 I urge this Commission to call for a
3 return to lawful, evidence-based Title VI
4 enforcement that protects all Jewish students
5 and all students and strengthens our nation's
6 universities.

7 Thank you, I look forward to your
8 questions.

9 CHAIR GARZA: Thank you, thank you,
10 Assistant Secretary Nosanchuk.

11 We're going to now hear from Ms.
12 Mangel.

13 MS. MANGEL: Good afternoon and thank
14 you for the opportunity to provide testimony
15 today.

16 My name is Linda Mangel. I am a civil
17 rights attorney with over 20 years of federal
18 service, including as a trial attorney at the
19 Department of Justice in the Civil Rights
20 Division, and most recently, as an Enforcement
21 Director at the U.S. Department of Education
22 Office for Civil Rights.

23 I served at OCR for 15 years as a staff
24 attorney, as Director of the Seattle Regional
25 Office, and ultimately, as a National

1 Enforcement Director overseeing the Boston,
2 Atlanta, and D.C. offices.

3 In 2024, I oversaw the resolution of
4 antisemitism complaints against Brown, Harvard,
5 and George Washington University.

6 In my career, I served under seven
7 presidents, four Republican, three Democrat.

8 In every Administration, my colleagues
9 and I enforce the law faithfully and without
10 regard to politics.

11 The oath we took as federal attorneys
12 guided our work and it guides my testimony
13 today.

14 I will make three points.

15 First, anti-Semitic harassment in
16 schools across - and across college campuses has
17 risen dramatically and this is reflected in the
18 surge of complaints filed with OCR.

19 Second, due to deep cuts to OCR offices
20 and staff, its ability to respond to this surge
21 of complaints is now severely impaired.

22 Third, the consequences of OCR's
23 diminished capacity should raise alarms for
24 those committed to combatting antisemitism.

25 OCR is the federal agency at the heart

1 of enforcing civil rights laws as applied to K
2 through 12 and post-secondary schools.

3 OCR does this primarily by responding
4 to discrimination complaints filed by parents
5 and students.

6 OCR's mandate is clear, it must
7 evaluate every complaint it receives,
8 investigate those raising potential violations,
9 make findings of fact and law, and where
10 violations are found, make every effort to
11 obtain voluntary corrective action from the
12 school.

13 That is how federal civil rights
14 enforcement in education is required by law to
15 function.

16 For complaints alleging antisemitism,
17 OCR acts pursuant to Title VI which covers
18 discrimination based on shared ancestry.

19 Between 2016 and 2020, OCR received 28
20 shared ancestry complaints.

21 In 2023, that number was 28.

22 In 2024, it received 500 such
23 complaints. The overwhelming majority of these
24 complaints involved Jewish students alleging
25 anti-Semitic harassment.

1 At the same time, overall
2 discrimination complaints to OCR had nearly
3 doubled over a decade, rising from roughly
4 10,000 to over 20,000 without a corresponding
5 increase in staff.

6 Even under these pressures, OCR
7 successfully secured relief for thousands of
8 students while adhering to its case processing
9 mandates.

10 In 2024, OCR staff resolved a record
11 number of complaints and secured the most
12 comprehensive resolution agreements in the
13 agency's history.

14 That same year, OCR opened 142 new
15 shared ancestry investigations.

16 And by the middle of January 2025, it
17 had secured over 20 antisemitism resolution
18 agreements on behalf of Jewish students.

19 In March 2025, OCR permanently closed 7
20 of its 12 offices and terminated over half of
21 the agency's attorneys and investigators. Those
22 7 closed offices accounted for 90 percent of the
23 antisemitism resolution agreements reached in
24 2024.

25 The staff who were terminated included

1 those with the most experience handling
2 antisemitism complaints.

3 The impact of these cuts was immediate.
4 Caseloads for remaining staff rose into the
5 hundreds and the prompt and effective resolution
6 of complaints became a near impossibility.

7 The issue now in the wake of these cuts
8 is whether sufficient resources remain to combat
9 the ongoing threat of antisemitism in our
10 nation's schools.

11 The data published by OCR provides that
12 answer.

13 Since mid-January 2025, OCR has not
14 resolved an antisemitism complaint using Title
15 VI authority in its legally required case
16 resolution process.

17 This stands in stark contrast to the
18 20-plus antisemitism agreements secured by OCR
19 staff the prior year.

20 OCR has participated in elements of
21 antisemitism cases this year, but not through
22 its own authority and mechanisms.

23 Objectively, this is not robust.

24 The decline in OCR's capacity is not
25 limited to antisemitism.

1 In 2025, it appears that OCR did not
2 resolve a single sexual harassment or sexual
3 assault case.

4 The prior year, it resolved 35.

5 Nor did it secure Title VI race
6 harassment resolution agreement after January
7 2025.

8 Equally concerning is the limited
9 capacity to monitor previously negotiated
10 agreements. Monitoring is not optional, without
11 required corrective actions may stall and the
12 antisemitism identified by OCR may go unabated.

13 OCR plays a unique and indispensable
14 role in safeguarding students' civil rights.

15 When properly staffed and supported, it
16 has demonstrated that it can respond
17 effectively, even when under significant strain.

18 Starving OCR of the resources needed to
19 meet its statutory obligation flies in the face
20 of assertions that combatting antisemitism on
21 college campuses is a priority.

22 When students fall victim to hate and
23 harassment, OCR historically has been the agency
24 to answer their call for help.

25 Unless immediate and significant steps

1 are taken now to rebuild the agency so it can
2 respond to complaints from students in harms
3 way, hate will win.

4 Thank you and I look forward to your
5 questions.

6 CHAIR GARZA: Thank you, thank you for
7 your testimony, Ms. Mangel.

8 We're going to go ahead and hear from
9 Ms. Gellman-Beer.

10 You can go ahead and get started.

11 MS. GELLMAN-BEER: Sure.

12 Good afternoon, my name is Beth
13 Gellman-Beer and I am the former Director of the
14 Philadelphia Office for Civil Rights at the U.S.
15 Department of Education.

16 In that role, I oversaw civil rights
17 enforcement across Pennsylvania, Maryland,
18 Delaware, West Virginia, and Kentucky, in one of
19 12 regional offices responsible for
20 investigating discrimination based on race,
21 color, national origin, sex, disability, and
22 age.

23 I joined OCR as a staff attorney in
24 2007 during the Bush Administration and I served
25 for more than 18 years in multiple legal and

1 leadership roles, ultimately leading the
2 Philadelphia office as the Director in my final
3 three years.

4 My career there was cut short on March
5 11th, 2025 when I received a reduction in force
6 notice informing me that the Philadelphia
7 Regional Office was being close.

8 At that time, my office carried a
9 docket of more than 1,000 civil rights
10 complaints, including dozens alleging
11 antisemitism.

12 Between January 2024 and January 2025,
13 my office, the Philadelphia office, resolved
14 nearly half of all the antisemitism resolution
15 cases nationwide.

16 And all but one case, I was directly
17 involved in the investigation and the
18 resolution.

19 I'm here today to explain how OCR
20 investigated antisemitism complaints and to also
21 convey why sustained federal enforcement is
22 essential to achieve meaningful, lasting change
23 for Jewish students.

24 Before I do that, I want to briefly
25 explain why this issue is so deeply personal to

1 me.

2 I am a Jewish woman. I'm a Jewish
3 mother. I have two children, one in high
4 school, one in college in New York City.

5 My husband, my children, and I have all
6 experienced antisemitism repeatedly, ranging
7 from dismissive slights to serious incidents,
8 including physical assault.

9 I also have family in Israel, including
10 relatives in Kfar Aza, which is a seven kibbutz,
11 that endured devastating brutality on October
12 7th. They survived, but they sustained
13 permanent injuries.

14 I share this not for sympathy, but to
15 make clear, this is my lived reality and it's
16 the lived reality for so many Jewish students in
17 the United States.

18 And that reality informed how I
19 approached my work at OCR after October 7th.

20 In the weeks following, antisemitism
21 surged on our college campuses and complaints
22 flooded into our offices.

23 And as Regional Director of one of
24 those offices, it was immediately clear that we
25 needed to pivot quickly and decisively to meet

1 that moment.

2 And the messaging from my senior
3 leadership was also equally clear that these
4 cases were urgent and needed to be prioritized.
5 And that's exactly what we did.

6 One of the first antisemitism cases
7 that I investigated involved a public school
8 district.

9 And advocacy organization alleged that
10 students had thrown a paper airplane at a Jewish
11 student bearing anti-Semitic slurs and graffiti.

12 When we open a complaint like that, we
13 begin with systemic questions.

14 Who is responsible for Title VI
15 compliance? What training have they received?
16 What policies and reporting systems are in
17 place? What steps has the school taken to
18 prevent and address antisemitism?

19 Then, we examine the specific incident.
20 We review documentation, witness statements,
21 investigative files, video evidence,
22 disciplinary records, and prior related
23 complaints involving the same students.

24 Next, we broaden the lens. We request
25 all reported incidents of antisemitism over a

1 multiyear period.

2 If an institution responds that they
3 don't have any, which often happened, we
4 independently review disciplinary records.

5 In this particular case, after
6 reviewing hundreds of disciplinary records, we
7 uncovered multiple anti-Semitic incidents that
8 had not been identified as such.

9 We then interview students, faculty,
10 administrators, investigators, and those
11 interviews often reveal additional concerns that
12 requires further document review.

13 In this case, those interviews revealed
14 that swastikas kept appearing on the Jewish
15 students' desks for the entire school year.

16 These are systemic investigations.
17 They require extensive document review, multiple
18 interviews, careful assessment of institutional
19 response to antisemitism over time.

20 They expose patterns, policy failures,
21 breakdowns in reporting, and accountability that
22 affect entire campus communities.

23 And all of this is carried out by one
24 or two investigators who are carrying a case
25 load over 50 cases.

1 The thoroughness of this work serves
2 two critical purposes.

3 First, it would allow us to craft
4 resolution agreements that were precisely
5 tailored to address the identified failures with
6 the intent to produce meaningful, lasting
7 change.

8 Second, it ensured that our findings
9 withstood legal scrutiny and maintained
10 credibility with institutions, the public, and
11 the courts.

12 When violations or serious concerns
13 were identified, we would negotiate a resolution
14 agreement that required concrete reforms, policy
15 revisions, training, development of reporting
16 mechanisms, climate assessments, corrective
17 action, and more.

18 But the work didn't end with a signed
19 agreement. OCR monitors compliance with that
20 agreement, often for years.

21 Schools submit regular reports, OCR
22 reviews the documentation, evaluated
23 implementation, and determines whether each term
24 in that agreement has been satisfied.

25 The process is labor intensive, but

1 it's where the real change happens.

2 I have seen sustained federal oversight
3 transform school environments.

4 Staff receive meaningful training,
5 reporting systems improve or they're rebuilt.

6 Students participate in regular
7 programming.

8 Climate surveys show improved awareness
9 and confidence in reporting systems.

10 In cases where institutions once
11 minimized or mishandled harassment, OCR's
12 oversight resulted in prompt, effective
13 responses, and safer learning environments.

14 This kind of change doesn't happen
15 overnight, nor does it come from headlines that
16 mask feckless or nonexistent enforcement.

17 It requires expertise, persistence, and
18 sustained enforcement.

19 I didn't have the opportunity to
20 complete the monitoring for all of the cases
21 that my office helped resolve. And that is
22 going to weigh heavily on me into my career in
23 the future.

24 Because I know from my 18 years of
25 experience at OCR that the power doesn't lie in

1 the terms of the agreement, but in rigorous
2 enforcement of that agreement.

3 Thank you for giving me the opportunity
4 to share my perspective today.

5 CHAIR GARZA: Thank you for your
6 testimony.

7 We're going to go ahead and open up to
8 Commissioners for questions.

9 I see Commissioner Jones has a
10 question, we'll start with you.

11 COMMISSIONER JONES: Thank you, Madam
12 Chair, and thanks, again, to the panelists today
13 for your important contributions.

14 Mr. Tranior, this is a bipartisan
15 investigation and I think I can speak for my co-
16 lead, Commissioner Kirsanow, in expressing our
17 appreciation that you're taking this seriously
18 by being here today.

19 When did you leave the Department of
20 Education and were you the Acting Assistant
21 Secretary over Civil Rights on September 9th
22 when this Commission sent discovery requests?

23 MR. TRANIOR: Thank you for the
24 question, Commissioner, I'm pleased to be here.

25 Yes, I was.

1 COMMISSIONER JONES: Okay.

2 Why have - okay - and did you receive
3 those discovery requests on September 9th in or
4 around September 2025?

5 MR. TRANIOR: It doesn't come to mind,
6 but I'd have to - I don't have access to my
7 emails anymore, so I couldn't tell you one way
8 or the other.

9 COMMISSIONER JONES: Okay.

10 So, your testimony is that you, in that
11 capacity, did not make a conscious decision not
12 to comply with our discovery requests,
13 specifically document requests and
14 interrogatories that we sent to the Office of
15 Civil Rights?

16 MR. TRANIOR: No, I wouldn't make a
17 conscious decision not to comply.

18 COMMISSIONER JONES: Okay.

19 MR. TRANIOR: I can't speak beyond this
20 because I don't know what you're speaking about
21 at this moment.

22 COMMISSIONER JONES: Okay.

23 What is the typical process for the
24 response by the Office for Civil Rights to
25 document requests, interrogatories, other forms

1 of discovery requests?

2 Is there - does it - do those, if
3 addressed to you, go directly to you or is
4 someone on your staff sort of doing the intake
5 when it comes to that?

6 MR. TRANIOR: I'm sorry, who is sending
7 me interrogatories?

8 COMMISSIONER JONES: So, this Commission
9 sent document requests and interrogatories
10 address to you specifically in your capacity as
11 the Acting Assistant Secretary for Civil Rights
12 at the Education Department dated September 9,
13 2025.

14 And so, if your testimony is that you
15 were not in receipt of these document requests
16 and interrogatories, who then on your staff
17 would have been handling something like that?

18 MR. TRANIOR: My testimony is that I -
19 my testimony is not that I'm not in receipt, I'm
20 saying that this request doesn't come to mind.

21 Typically, when we have requests from
22 other agencies, it goes through our
23 intergovernmental affairs office.

24 COMMISSIONER JONES: Okay.

25 And who heads that office or who was

1 heading that office at the time?

2 MR. TRANIOR: It's an office within the
3 Department of Education.

4 COMMISSIONER JONES: Yes.

5 Do you know the name of the person who
6 headed that office on September 9, 2025?

7 MR. TRANIOR: I believe we had a
8 principle Deputy Assistant Secretary, but I can
9 confirm with you post-hearing.

10 COMMISSIONER JONES: Okay.

11 MR. TRANIOR: And to be clear, I am not
12 - it may be that that has come to me, I don't
13 have a recollection of that right now. But
14 certainly, I'm always willing to cooperate with
15 any fellow government agency in any matter
16 that's important.

17 COMMISSIONER JONES: Okay.

18 MR. TRANIOR: I understand what you're
19 doing and so, I just want to be clear that I'm -
20 I don't have a recollection of this, but I am
21 happy to follow up if it's helpful, but I would
22 suggest that you submit whatever you need to the
23 Department of Education.

24 COMMISSIONER JONES: Yes, it's already
25 been submitted and we followed up, staff has

1 followed up repeatedly since September 9th.

2 MR. TRANIOR: Oh.

3 COMMISSIONER JONES: So, I just want to
4 be clear, so you're saying you don't recall, but
5 it's possible you did receive it, but you would
6 never have made a conscious decision not to
7 comply with those discovery requests? Is that
8 an accurate characterization of your testimony?

9 MR. TRANIOR: I don't recall receiving
10 it. It's possible I received it. I would have
11 been happy to comply with it. I just can't,
12 beyond that, I can't make an intelligent
13 assessment of something I don't know what you're
14 speaking about at this moment.

15 COMMISSIONER JONES: Okay, thank you.

16 CHAIR GARZA: Okay.

17 I can ask a question or Commissioner
18 Adams, would you like to ask a question?

19 COMMISSIONER ADAMS: Please.

20 CHAIR GARZA: Okay, you're recognized.

21 COMMISSIONER ADAMS: Thank you, Madam
22 Chair.

23 Madam Chair, when we started this
24 project, I thought there's no chance that this
25 could be anything other than bipartisan and free

1 from sniping about partisanship and who did a
2 better job.

3 But alas, like everything else around
4 here, that dream has died.

5 So, my question to you, Mr. Dolin, we
6 heard in the last panel lots of testimony about
7 the sensitivity to First Amendment issues in
8 this enforcement area.

9 Can we talk about UCLA? Because it
10 really wasn't a First Amendment issue there,
11 they had Jew exclusion zones, didn't they, on
12 campus?

13 MR. DOLIN: Thank you, Commissioner
14 Adams.

15 I'm happy to talk about UCLA, albeit, I
16 guess I'll have to caution that my response will
17 have to be somewhat limited because the
18 investigation is still ongoing.

19 And so, I can't speak beyond things
20 that are not in public record.

21 But to your specific -

22 COMMISSIONER ADAMS: Are Jew exclusion
23 zones in the public record?

24 MR. DOLIN: Yes, public -

25 But to your question, yes, those

1 instances, sadly, occurred on UCLA campus.

2 COMMISSIONER ADAMS: How about Zionist
3 checkpoints? Did that occur on campus?

4 MR. DOLIN: Also, yes.

5 COMMISSIONER ADAMS: Right.

6 Now, I want to give you a chance, if
7 you have a response, if - do you have a response
8 to the testimony of your colleague to the left,
9 a former federal employee at the Civil Rights
10 Division, and Mr. Tranior, I'm going to ask you
11 the same question, if you have a response to
12 those things that are said about the OCR while
13 you were there.

14 But if you mind, Mr. Dolin?

15 MR. DOLIN: I will just say that this
16 Department of Justice, together with OCR,
17 together with other federal agencies, is
18 pursuing a robust and comprehensive enforcement
19 action against all violations of Title VI,
20 including when it comes to antisemitism.

21 I will also just point out that, as a
22 general matter, we've heard some criticism about
23 the Administration seeking fines that are not
24 authorized by Title VI.

25 As a general matter, as most people or

1 all people here know, when parties enter into
2 settlement agreements, they sometimes can get
3 things that they may not necessarily get in
4 litigation.

5 And so -

6 COMMISSIONER ADAMS: And of course, the
7 Civil Rights Division has never done anything
8 like that before?

9 MR. DOLIN: Right.

10 So -

11 COMMISSIONER ADAMS: Right.

12 Until the Trump Administration.

13 MR. DOLIN: So, I guess I will take some
14 issue with this idea that what the Department is
15 doing is somehow unlawful, unauthorized, or
16 improper.

17 We are making a robust effort and we
18 are looking at opportunities to make sure that
19 there are real consequences for best behavior,
20 but also that are real changes for the future
21 behavior.

22 COMMISSIONER ADAMS: Mr. Tranior, do you
23 have any particular response to what you heard,
24 particularly from Ms. Mangel, about OCR
25 enforcement?

1 MR. TRANIOR: Yes, I want to be
2 respectful in what I say. But what I just hear
3 is just sort of desperate attempts to justify
4 being complicit in a failed OCR operation that
5 was politicized under the Biden Administration.

6 And the results and the efforts that
7 were taken by the Trump Administration speak for
8 themselves.

9 There's going to be a lot of grasping
10 and there's going to be a lot of sort of
11 defensive posture and there's going to be a lot
12 of rhetoric, which it's understandable if you
13 are doing this work and you show up every day,
14 and I don't doubt anyone's good faith.

15 But you're a part of what an
16 organization that was designed to protect all
17 American students' civil rights and you find
18 that it's been politicized beyond recognition.

19 You find that it's failing Jewish
20 students in one of the most egregious outbreaks
21 of anti-Semitic harassment and violence in the
22 United States, all under your tenure.

23 Well, I think after the fact, you're
24 going to be loaded for bear to make excuses for
25 that behavior. So, I'm not surprised by it.

1 COMMISSIONER ADAMS: Nothing else, Madam
2 Chair.

3 CHAIR GARZA: I did want to ask a
4 question here because I feel like what I'm
5 hearing from some of you all is a concern about
6 the resources of OCR being decimated.

7 And you know, what I'm hearing is a
8 real, valid concern of not having enough
9 resources to address this issue and address it
10 adequately.

11 So, I'd like to hear from, you know -

12 MS. MANGEL: If I may?

13 CHAIR GARZA: You can begin.

14 MS. MANGEL: If I may, as a nonpartisan
15 on this panel, I would just like to say that
16 this is not a fight about who did a better job.
17 This is about whether OCR can function following
18 being dismantled.

19 And now, it wasn't just that half the
20 staff was cut, there's just a steady stream on
21 an almost daily basis of people who are
22 resigning because they don't feel that they can
23 fulfill their obligation to enforce the federal
24 civil rights laws.

25 So, you know, whether somebody thinks I

1 did a good job or not is really not of concern
2 to me today.

3 My point is simply to draw attention to
4 the fact that the agency demonstrably is not
5 able to function at its current staffing levels.

6 And I would like to add, this has
7 nothing to do with the dedication and talent and
8 commitment of the staff that remain at OCR.

9 The people I worked with at OCR are the
10 hardest working, most dedicated people I've ever
11 served with in the federal government.

12 So, I would just like to say that, at
13 least from my perspective, this is about whether
14 OCR is adequately resourced, not who did a
15 better job.

16 MS. GELLMAN-BEER: I'd like to add, that
17 is my primary concern.

18 I am a Jewish mother. I have Jewish
19 students. This affects me personally.

20 And to see the agency that is
21 responsible for enforcing Title VI with regard
22 to shared ancestry decimated, and the expertise
23 that knows how to investigate and enforce these
24 cases has me deeply worried.

25 And it keeps me up at night.

1 The cases that I personally
2 investigated, where I saw some of the most
3 egregious conduct I have ever seen in my 18 year
4 career, those schools signed agreements, we made
5 a promise to those Jewish students and we're not
6 fulfilling the promise.

7 I see those schools on the front pages
8 of the newspaper every single week. Nobody is
9 following up on those agreements and it's not
10 the fault of the staff, it's because they're
11 under resourced and they don't have the means
12 that are necessary to do the work that is
13 necessary to protect Jewish students.

14 That's what this is about. It's about
15 protecting Jewish students.

16 CHAIR GARZA: I'm going to let Mr.
17 Nosanchuk respond.

18 I also wanted to add in there, I mean,
19 it's an issue of resources but also just in
20 terms of does that impact how people follow
21 procedure internally?

22 I mean, is - what is going on here?

23 MR. NOSANCHUK: Yes, thank you,
24 Commissioner.

25 It absolutely affects how the

1 investigators are carrying out their
2 responsibilities.

3 We repeatedly went to Congress and
4 implored them to please give us the resources to
5 respond to the rise in antisemitism on campus,
6 that they were pressuring us repeatedly to
7 explain to them.

8 And we were given the back of the hand.
9 I mean, there were members of Congress who
10 introduced legislation that would have provided
11 us with additional funding so that the case
12 loads of each individual investigator could be
13 reduced from, what, some 50 cases per
14 investigator to something that was more
15 manageable.

16 And even with the limited resources
17 that we had, we still resolved five times more
18 antisemitism investigations than the first Trump
19 Administration.

20 And as I said in my testimony, this OCR
21 has signed exactly two of them.

22 And finally, I just want to respond to
23 this notion that, you know, parties can enter
24 into a settlement agreement and can, you know,
25 agree to pay fines, even if it's not authorized

1 by law, I mean, that completely overlooks the
2 disparity and power here and the real incredible
3 pressure that these universities felt with the
4 prospect of having, you know, hundreds of
5 millions of dollars or billion dollars, in the
6 case of Cornell, frozen.

7 And so, the notion that, well, you
8 know, we're going to enter into a settlement
9 agreement, but you know, there's no legal
10 authority for the Administration to do what it
11 has done with respect to the way it's used
12 funds.

13 And I haven't heard today any argument
14 to the contrary.

15 CHAIR GARZA: Commissioner Gilchrist,
16 you're recognized.

17 COMMISSIONER GILCHRIST: Madam Chair,
18 thank you.

19 And to the panel, let me thank you for
20 your testimony here today.

21 Mr. Tranior, I want to - in our earlier
22 panel today, it was mentioned that the Office of
23 Civil Rights updated guidance was a lot clearer.

24 I would love for you to help expound
25 upon that a little bit.

1 Because I would agree, you certainly
2 spoke to some of that in your earlier testimony,
3 but can you expound upon that a little?

4 MR. TRANIOR: Yes, thank you,
5 Commissioner, for the question.

6 So, in my written testimony, which is a
7 little more in depth, I quote somewhat
8 extensively from a prior from a prior
9 organization memo that I released early in my
10 tenure that these Title VI anti-discrimination
11 investigations are to be prioritized.

12 Jewish students are suffering in real
13 time. They have been suffering egregiously
14 under the prior Administration.

15 We're not going to make the mistakes of
16 that Administration.

17 We're going to take our resources and
18 we're going to address the problem that we have
19 now. And that was the going guidance that we
20 had.

21 The President, when he was campaigning
22 to Make America Great Again in 2024 promised
23 that he would put an end to this. And he did in
24 large measure.

25 There's still more work to do,

1 obviously, in universities with respect to this
2 issue.

3 But the maelstrom, the sort of
4 existential dimensions of this problem were
5 under the prior Administration and we've got to
6 hold them to that.

7 I'm very proud of the work we've done.
8 So, we made it very clear that this
9 would be a priority.

10 We also made it clear every other case
11 that comes in is going to continue to be a very
12 important part of the work we do.

13 But the fact is, at that moment, when
14 we came in, these cases were being
15 unimpressively handled and, in my view, not
16 prioritized. So, we had to make that
17 determination with our resources.

18 It's very common for federal law
19 enforcement agencies to often look at what is
20 the current problem? How do we use our
21 resources more effectively to resolve that?

22 And we did that and I'm very proud of
23 the work that we did.

24 And I am glad to hear that the guidance
25 was clear.

1 You know, we work with dedicated
2 professionals in OCR. And they wanted to, you
3 know, by and large, they wanted to get it right,
4 too.

5 I always made it clear that this was a
6 failure of the political leadership of the Biden
7 Administration. That's undeniable.

8 The careers always had our support. We
9 knew that they were - their heart was in the
10 right place and we always supported them any way
11 we could.

12 And you know, I'm proud of all the work
13 that OCR did while I was there.

14 COMMISSIONER GILCHRIST: Absolutely,
15 thank you, sir.

16 That's all, Madam Chair.

17 CHAIR GARZA: Thank you.

18 We're going to go to Commissioner
19 Jones. You have a question?

20 COMMISSIONER JONES: Thank you, Madam
21 Chair.

22 This question is for Mr. Dolin, who is
23 here representing the Department of Justice,
24 specifically the Civil Rights Division.

25 This Commission sent discovery requests

1 to your department, specifically to the
2 Assistant Attorney General for Civil Rights on
3 September 9th of last year.

4 Why had the Civil Rights Division not
5 complied with our discovery request?

6 You can turn on your microphone.

7 MR. DOLIN: Thank you, Commissioner
8 Jones.

9 I joined the Department on September
10 8th, 2025. So, those requests were sent, they
11 were literally on my second day.

12 And then, of course, the government
13 went into shutdown.

14 But in either case, this would be not
15 something that I would have dealt with. I'm
16 more than happy to bring your concern to my - to
17 my boss, to Assistant Attorney General Dhillon,
18 and see where we stand on that and follow up
19 with you with some written responses.

20 But I simply don't have an - I don't
21 have a knowledge of those things and I don't
22 have - unfortunately, don't have an answer for
23 you.

24 COMMISSIONER JONES: So, your testimony
25 is that, in your preparation for today, you were

1 never made aware of the fact that we sent
2 discovery requests to the Civil Rights Division
3 dated September 9th, 2025?

4 MR. DOLIN: Correct.

5 COMMISSIONER JONES: That is remarkable.

6 Do you have any reason to conclude
7 that, with this newfound knowledge on your part,
8 we will not be receiving the documents that we
9 requested and the answers to our
10 interrogatories?

11 MR. DOLIN: Commissioner, unfortunately,
12 I can't speak to that at all because I, you
13 know, it is not within my power to, you know, to
14 evaluate those requests, et cetera.

15 If they are passed down to me, I'll be
16 happy to, of course, to look at them as
17 assigned.

18 But I just don't know the answer to
19 that. I wish I could provide you with an
20 answer, but I just don't know.

21 COMMISSIONER JONES: Okay.

22 Look, I would just remind anyone who is
23 still a member of this Administration that you
24 have a statutory obligation to comply with these
25 requests. That is very clear under federal law.

1 And we do have the ability to issue
2 subpoenas and other members of the public could
3 even sue because a number of parties would be
4 injured if we are unable to adequately conduct
5 this investigation.

6 I'll - I know we're running out of
7 time, Madam Chair, but I just wanted to put that
8 on the record.

9 CHAIR GARZA: I did have one question
10 specific for Ms. Lareau.

11 You know, the process by which these
12 investigations are done, I think that that's
13 something that the general public is unaware of.

14 And I found your testimony interesting
15 because it laid out the process, and actually,
16 so did yours, Ms. Gellman-Beer.

17 I think that the - it would be great if
18 you could explain to the public that are
19 watching right now what that process is supposed
20 to look like, if you wouldn't mind?

21 And also explain to us like what is the
22 issue with deviating from it?

23 MR. LAREAU: Thank you for the question.

24 As I outlined it earlier in my
25 testimony, the process is, of course, structured

1 based on the regulations that are still in
2 effect.

3 Of course, in between what the
4 regulations require, there's a lot of latitude,
5 as some of my colleagues have testified as to
6 how exactly to conduct an investigation, for
7 example.

8 So, generally, at least during my
9 tenure, we would open an investigation, issue a
10 data request, and then, in most cases, do an
11 onsite investigation as well, which involved
12 reaching out to community members and also
13 interviewing employees or - and other officials
14 from the organization that we were
15 investigating.

16 And then, after we concluded our data
17 collection and felt like we could make and
18 ascertain whether there was failure to comply or
19 not, we then, reached back out to the recipient
20 and attempted to work together to resolve the
21 alleged noncompliance that we found.

22 And that process really varied,
23 depending on the interest of the recipient and
24 engaging with us, obviously, in the voluntary
25 process.

1 But sometimes, that involved us
2 providing technical assistance to the
3 recipients.

4 Sometimes that involved conducting
5 training for the recipient, entering into
6 informal voluntary resolution agreements, for
7 example.

8 So, most cases were resolved during
9 that voluntary resolution period. And it was
10 only if that extended voluntary resolution
11 process failed, that we would, then, move on to
12 enforcement actions.

13 And for my personal experience, that
14 was always using the other means authorized by
15 law procedures outlined in the statute and
16 regulations.

17 And that meant we would file in federal
18 court, attempting to obtain injunctive relief.

19 At least in my experience, I was not
20 involved in any Title VI investigations that
21 entered into the funds termination phase.

22 CHAIR GARZA: So, it sounds like maybe
23 the - I mean, the process is designed to
24 actually address the harm, right?

25 And it's meant to address the concerns

1 and meant to really get to the root, but also
2 correct the behavior.

3 And I imagine that's where the ongoing
4 checking in and monitoring comes into play.

5 And you know, frankly, from what I'm
6 hearing, you're unable to do that if you don't
7 have the staff do it, right?

8 I don't know if you wanted to add
9 something, Mr. Nosanchuk?

10 MR. NOSANCHUK: I would - can I just add
11 a point, yes.

12 You can't do the monitoring if you
13 don't have the staff. And I was, you know,
14 interested to learn that this Administration
15 felt like they were supporting the career staff
16 and drawing distinction with the political staff
17 when they, you know, laid off half the office,
18 and closed 7 to 12 of the regional offices.

19 I'm not quite sure how that's
20 supporting the career staff.

21 But I also want to make just one quick
22 point about something that Mr. Tranior said
23 regarding our, you know, expanding
24 investigations to include allegations beyond
25 anti-Semitic discrimination.

1 The truth of the matter is that, you
2 know, OCR is an investigative - is an
3 administrative enforcement agency.

4 In other words, when we receive a
5 complaint and a compliant can be filed by
6 anyone, it doesn't have to be filed by the
7 aggrieved party, we will look at, the
8 discrimination has been alleged, but if we find
9 that there's other discrimination that's
10 occurring, then we are within our power to
11 expand the scope of our investigation to
12 encompass that additional discrimination.

13 There was a case involving a K through
14 12 school district where we opened an
15 investigation involving race discrimination, but
16 when we uncovered instances of anti-Semitic
17 discrimination, we expanded the investigation to
18 include those.

19 So, the idea that we were doing some
20 kind of political correctness by expanding our
21 investigation to encompass discrimination
22 against Muslim students is simply incorrect.

23 And the truth, finally, the truth is
24 that, you know, at a school that is failing to
25 fulfill its responsibilities to comply with

1 Title VI, often when there's discrimination
2 involving one particular group, there's
3 discrimination and a failure to fulfill legal
4 requirement with respect to other groups as
5 well.

6 MS. GELLMAN-BEER: I wanted to just add
7 very briefly, it's - obviously, it's resources.

8 If you don't have the staff to address
9 monitoring, they're not going to address
10 monitoring.

11 And quite frankly, monitoring often
12 falls to the bottom of the pile when you're
13 facing a fire hose of new complaints that you're
14 trying to manage.

15 But it's not just that, it's also that
16 the staff that were eliminated and the regional
17 offices that were eliminated had built
18 relationships with the schools in their region.

19 For me, it was 18 years of
20 relationships.

21 So, when I would do monitoring, it
22 required a lot of back and forth, technical
23 assistance, training.

24 The whole purpose and the whole point
25 of that monitoring is to effectuate a change

1 where there is a problem at a school.

2 It doesn't happen overnight. You need
3 to work collaboratively with the school so that
4 they can understand the terms of the agreement.

5 And my experience is, nine times out of
6 ten, it's not malfeasance, they don't not want
7 to do the right thing. They just don't know how
8 to do the right thing.

9 And that was the purpose that OCR
10 served in monitoring is to work collaboratively
11 with the schools to help them understand how to
12 effectuate that change and create an inclusive
13 environment for Jewish students and any other
14 student that had filed a complaint.

15 CHAIR GARZA: Last question,
16 Commissioner Jones, we have to - let's wrap it
17 up in a couple of minutes.

18 COMMISSIONER JONES: Absolutely.

19 So, this is for Mr. Nosanchuk.

20 What is your understanding of the Biden
21 Administration's approach to the IHRA definition
22 of antisemitism? Did that ever become the
23 official policy of the Administration as far as
24 you're aware?

25 MR. NOSANCHUK: Thanks for the question,

1 Commissioner Jones.

2 So, in December 2019, I believe, then
3 President Trump issued an Executive Order that
4 required that all Executive Branch agencies
5 would consider the IHRA definition in addressing
6 the issues around anti-Semitic discrimination.

7 And that's exactly what we did. It was
8 not adopted as the official policy of the Biden
9 Administration.

10 In fact, in the National Strategy to
11 Counter Antisemitism, which was released in May
12 of 2023, I wasn't working at the Administration
13 - in the Administration at the time, but I was
14 an outside stakeholder that had some input into
15 that strategy.

16 The strategy recognized that there were
17 multiple definitions to address - to define
18 antisemitism that could be and should be
19 considered, and the IHRA definition was one of
20 them.

21 But there was also the Nexus definition
22 and, you know, as a matter of, you know,
23 thinking about defining antisemitism, you know,
24 we don't have a single written definition for
25 whether something is racist or not.

1 And you know, we can recognize when,
2 you know, there's vile, anti-Semitic
3 discrimination without consulting a written
4 definition.

5 I mean, when swastikas are written on
6 to walls or when, you know, Jewish students are
7 called anti-Semitic names, we don't need to
8 resort to or review a definition.

9 But there are a box of tools that can
10 be consulted, including various definitions that
11 have been developed and the IRHA definition is
12 one of them.

13 CHAIR GARZA: All right.

14 COMMISSIONER MAGPANTY: Madam Chair, can
15 I just ask, and not a question for the panel,
16 but to Beth, to the witness, Beth Gellman-Beer.

17 I think the enforcement and what is
18 happening with consent decrees and agreements
19 with schools is important.

20 We have the statutory authority to
21 inquire with those entities, what is going on
22 with compliance, with the complaints, to ensure
23 that students of Jewish heritage are protected.

24 So, I would ask that, in our subsequent
25 investigation, if we could inquire as to the

1 status with those institutions and how they are
2 following those settlements and agreements to
3 make sure that they are being followed and put
4 them under at least our microscope if the
5 Department of Justice is unable or unwilling or
6 doesn't have the resources to do it.

7 We can add our resources to that.

8 So, I would ask if we could do that as
9 well?

10 CHAIR GARZA: Okay, thank you.

11 Thank you to our panelists for this
12 very informative information that you've
13 provided us.

14 We will follow up with you.

15 So, thank you.

16 We're going to go ahead and take a
17 break. We will reconvene promptly at 2:15 p.m.
18 Eastern Time.

19 (Whereupon, the above-entitled matter
20 went off the record at 12:54 p.m. and resumed at
21 2:18 p.m.)

22 CHAIR GARZA: All right, welcome back,
23 everyone, and thank you for your continued
24 attention to this discussion.

25 We will come back to order as it is now

1 2:19 p.m. Eastern Time.

2 Before we begin, a reminder on our
3 format and some of the expectations we have.

4 Each panelist will have seven minutes.

5 Commissioners will have an opportunity
6 for questions afterwards.

7 And I will strictly enforce the time
8 limits as best as possible. If you go a little
9 bit over, it's okay.

10 But please summarize your key points
11 because you can assume that we've already read
12 your written testimony.

13 Obviously, there are some serious
14 issues and these issues evoke really strong
15 emotions and strong views. It's understandable.

16 At the same time, this briefing is
17 intended to provide a forum for respectful
18 dialogue and for careful fact finding for the
19 Commission.

20 I ask all participants, Commissioners,
21 and panelists alike to maintain civility,
22 refrain from personal attacks, or any
23 disparaging remarks, and allow one another the
24 space to fully share their perspectives.

25 As Chair, I reserve the right to cut

1 short any statements, questions, or comments
2 that defame, degrade, or do not pertain to the
3 issue at hand.

4 So, panelists, please notice the system
5 of warning lights that we have in front of you.

6 When the light turns from green to
7 yellow, that means that you have two minutes
8 remaining.

9 And then, when the light turns red, you
10 should go ahead and conclude your thought and
11 your statement.

12 My fellow Commissioners and I are going
13 to do our part to keep our questions and
14 comments concise.

15 And we're going to go ahead and proceed
16 with our third panel.

17 We are going to be discussing campus
18 life and antisemitism from the student and
19 institutional perspectives.

20 And the order in which we have our
21 speakers, our panelists are Tova Kaplan, a
22 student at Harvard University.

23 Seth Oranburg, Professor of Law at the
24 University of New Hampshire Franklin Pierce
25 School of Law.

1 Sarah Silverman, student at Harvard
2 University.

3 Adira Fogelman, student at Cal Poly San
4 Luis Obispo.

5 Ellie Sweet, student at American
6 University.

7 Thank you all for being here.

8 Can you now each raise your hand to be
9 sworn in?

10 Will you swear and confirm that the
11 information that you are about to provide us is
12 true and accurate to the best of your knowledge
13 and belief?

14 (CHORUS OF AYES)

15 CHAIR GARZA: Affirmative from all of
16 our speakers.

17 All right, we're going to go ahead and
18 begin with you, Ms. Kaplan.

19 MS. KAPLAN: Good afternoon, my name is
20 Tova Kaplan and I'm a senior at Harvard College.

21 I want to thank the Commission for the
22 opportunity to be here.

23 As a Jewish college student, it really
24 does mean a lot to see you all putting so much
25 of your time and attention into campus

1 antisemitism.

2 And I'm really honored to be here today
3 to share my story.

4 So, I grew up attending Chicago Public
5 Schools where I was often the first, you know,
6 the only Jewish person in my class and sometimes
7 even the first Jewish person someone had ever
8 met.

9 So, coming to Harvard, I felt really
10 lucky to be embraced by a welcoming Jewish
11 community.

12 I sing a cappella in Harvard Hillel's
13 Jewish a cappella group.

14 I go to Shabbat at Hillel every week
15 and study religious texts with the Chabad rabbi
16 which brings intention and meaning to my week.

17 And broadly speaking, I found Harvard
18 to be a wonderful place to be Jewish with a
19 thriving Jewish community to explore and non-
20 Jewish classmates and professors who are curious
21 about and respectful of my faith.

22 But there have also been deeply
23 difficult moments.

24 I was a sophomore when Hamas launched
25 its October 7th attacks.

1 The weeks that followed felt like a
2 really fearful and confusing haze. I struggled
3 to focus in my classes. I worried day and night
4 about my family in Israel and their safety.

5 And campus also felt deeply divided.
6 Some classmates and friends said or posted
7 things that made me uncomfortable, using
8 rhetoric that sometimes dehumanized Israeli
9 civilians or used anti-Semitic undertones.

10 It tore at my heart to pass disfigured
11 hostage posters on the way to class; the
12 kidnapped victims' eyes had been scratched out.

13 And I felt disturbed when I heard peers
14 chanting globalize the intifada outside of my
15 classroom.

16 It became clear that our campus had
17 difficult and necessary work ahead of us to
18 restore trust and repair the damage.

19 But then, our campus was pulled into a
20 national political fight.

21 Last spring, the federal government
22 began targeting universities, including Harvard,
23 in the name of fighting campus antisemitism.

24 On April 11th, the Trump Administration
25 sent a letter threatening to freeze over \$8

1 billion in Harvard's federal funding if Harvard
2 did not comply with the government's demands,
3 many of which didn't seem to have much to do
4 with antisemitism and seemed more related to
5 imposing the federal government's broader
6 political stances.

7 It felt like, rather than working with
8 Jewish students and faculty to identify the
9 specific changes needed to ensure our safety,
10 the federal government was coming in from the
11 outside to demand sweeping changes to Harvard's
12 culture and governance while using threats that
13 put students, research, and campus stability at
14 risk.

15 That didn't feel like a strategy
16 focused on combatting antisemitism, but it felt
17 like leverage for broader ideological goals.

18 Campus life felt stable and unscary.
19 Friends who had never been politically active
20 before felt that saying the wrong thing might
21 jeopardize their student visas.

22 Other friends worried that their
23 research funding could disappear.

24 At the same time, I'd see federal
25 officials all over the news justifying these

1 measures as a response to campus antisemitism.

2 But as a Jewish student, I knew that
3 this was not what most of us had asked for. And
4 it was painful to see officials invoke our
5 safety to justify actions that harmed our campus
6 community.

7 My best friend and I felt moved to act,
8 so we led a diverse group of Harvard Jewish
9 students to draft an open letter stating that,
10 while we know campus antisemitism is a serious
11 issue that must be confronted, using it to
12 justify sweeping destructive actions against our
13 university doesn't reflect what Harvard Jewish
14 students actually want or need.

15 We spent countless hours with --
16 speaking with Jewish classmates, gathering
17 signatures in between classes, at Shabbat at one
18 point.

19 My best friend and I even spent two
20 hours braiding challah and just talking to
21 anyone who passed by.

22 And in the end, over 115 Harvard Jewish
23 students publicly signed the statement,
24 including more than 80 undergraduates which
25 represented a large share of active Jewish life

1 on campus.

2 The signatories spanned political
3 views, religious backgrounds, and hailed from
4 across the U.S.

5 Many Jewish classmates that I spoke
6 with wanted to sign the statement, but were
7 afraid to put their names down publicly.

8 I'll never forget a Jewish classmate of
9 mine who initially enthusiastically signed the
10 letter, but later that week, at Shabbat dinner,
11 she actually came up to me with tears in her
12 eyes and asked me to remove her name from the
13 statement, not because she changed her mind
14 about the content of the statement, but because
15 she was an international student and had become
16 fearful that, if she had her name publicly
17 listed on the letter, it could jeopardize her
18 status here.

19 And that's something I never thought I
20 would hear in my own country, that someone was
21 afraid to put their name on something they
22 believe in because the government could target
23 them.

24 And so, I just want to emphasize that,
25 even Jewish students now are starting to feel

1 afraid to speak openly, even though these
2 actions are justified in the name of our safety.

3 Jewish students are part of our campus
4 communities, not separate from them.

5 Some of my closest friends at Harvard
6 hail from Oklahoma, Washington, D.C.,
7 Massachusetts, and Nebraska, but also Austria,
8 Greece, Sweden, and Pakistan.

9 When our international friends suffer,
10 so do we.

11 And of course, there are Jewish
12 international students at Harvard from Israel
13 and from around the world.

14 When the Department of Homeland
15 Security revoked Harvard's authorization to host
16 international students on May 22nd, I watched my
17 Jewish international friends feel alienated and
18 afraid, unsure whether they would be able to
19 continue their education or even return to their
20 homes on campus.

21 Tying drastic and often unlawful
22 actions against universities to the stated goal
23 of protecting Jews risks further polarizing the
24 issue of campus antisemitism.

25 When people see their school suffer and

1 are told that it is because of antisemitism,
2 even if us Jewish students don't actually have a
3 say in what's happening, it can breed resentment
4 and misunderstanding towards us.

5 And when others are speaking for us, it
6 makes it harder for our own voices to be heard
7 about what needs to be done on campus.

8 Using Jewish students as a pretext to
9 gut federal support for universities, limit
10 students' speech, or target international
11 students doesn't make us feel safe. It makes us
12 feel instrumentalized.

13 It turns us into symbols in someone
14 else's political fight and it undermines our
15 ability to confront antisemitism in serious,
16 principled, and effective ways.

17 I want to end by thanking the
18 Commission, again, for your efforts. By
19 conducting a thorough, honest, and bipartisan
20 investigation into antisemitism that centers the
21 experiences of real Jewish students, you all are
22 part of the solution.

23 And as you continue your important
24 work, I just urge you not to let others define
25 what is best for Jewish students. Let us Jewish

1 students define it ourselves.

2 Thank you so much for this opportunity.

3 CHAIR GARZA: Thank you, Ms. Kaplan, for
4 your testimony.

5 We're going to now hear from Professor
6 Oranburg.

7 Please proceed.

8 MR. ORANBURG: Chair Garza, members of
9 this Commission on civil rights, thank you for
10 the opportunity to testify before you today
11 about campus life and antisemitism.

12 My experience shows that Jews are
13 systematically excluded from the campus
14 inclusion apparatus.

15 University officials, which used to sit
16 in DEI offices, now they're called civil rights
17 and equity offices or affirmative action and
18 equity offices, but are still staffed by the
19 same people, won't make Jews feel safe and
20 welcome unless and until this Commission makes
21 clear that Jewish is a protected class and not a
22 political activity.

23 The problem of selective application of
24 seemingly neutral rules requires a solution of
25 investigating administrative omissions and

1 requiring the equal enforcement of neutral rules
2 as well as dealing with overt hostility.

3 My name is Seth C. Oranburg and I'm a
4 professor of law at the University of New
5 Hampshire Franklin Pierce School of Law,
6 although I am reminded that I - was reminded
7 that I appear today solely in my individual
8 capacity.

9 Indeed, when I requested funding to
10 appear today before this independent,
11 bipartisan, fact finding body, my dean denied my
12 request. Didn't just deny the request, but
13 actually admonished me that, remember, UNH
14 employees cannot use UNH resources for any
15 political activity.

16 Setting aside for a moment that this
17 fact finding Commission is bipartisan, not
18 political, the statement is not just absurd on
19 its face, but in the context of its selective
20 application.

21 And I think it illustrates the story.

22 When my esteemed colleague testified
23 before the U.S. Senate regarding the NCAA name,
24 image, and likeness regulations, he advocated to
25 change federal law in a way that was

1 contentious. Different sides took different
2 opinions.

3 He literally advocated for politicians
4 to adopt a new law.

5 But the University of New Hampshire
6 didn't label his testimony political activity
7 and didn't deny him support.

8 Rather, they celebrated his
9 contribution and set him up as a role model for
10 high-impact legal scholarship.

11 Pretending that the University of New
12 Hampshire never supports political work is an
13 obvious farce.

14 The University of New Hampshire
15 maintains the Kidder Fund, which grants awards,
16 monetary awards, for advocacy and activism
17 related to LGBTQ inclusion.

18 UNH Law hosts the Warren B. Rugman
19 Center, specifically to support justice,
20 leadership, and public service. They host
21 events on legislation and debate them, and
22 advocate for public policy.

23 These are some isolated incidents, but
24 they represent a system where some overt
25 activism gets celebrated, but Jewish voices get

1 scrutinized.

2 Facially neutral rules selectively
3 applied result in this selective inclusion, this
4 exclusive inclusion that's being weaponized
5 against Jews.

6 University bureaucracy can perform
7 somersaults to champion some causes, while
8 making it hard for Jews to participate in
9 community life.

10 And administrators who have talked
11 about diversity, equity, and inclusion often
12 hide behind a façade of neutrality when called
13 upon to protect Jews like me and other religious
14 faculty, students, and staff.

15 This is how selective inclusion works.

16 Universities pretend to be neutral, yet
17 they enforce policies selectively.

18 Campus administrators selectively
19 enforce civil rights because, to them, some
20 rights are more equal than others.

21 To be clear, this pattern began well
22 before the Hamas massacre of October 7th. That
23 atrocity exposed pre-existing fault lines in the
24 university's façade.

25 Please let me tell you about how my

1 university's equity office disowned me in my
2 time of need, because this story illuminates the
3 unseen disenfranchisement that many Jewish
4 students, faculty, and staff face on campus
5 daily.

6 When I moved to UNH, I did it to teach
7 in their mostly online hybrid JD program. It
8 markets itself as the most flexible in the
9 country.

10 It specifically says that it increases
11 accessibility to nontraditional students.

12 I was inspired by this mission and
13 changed my life to participate in it. But after
14 I resigned my tenure, sold my house, gave up my
15 life, I was told of these mandatory immersion
16 weekends that required teaching and learning on
17 Saturdays.

18 I immediately flagged the conflict that
19 my religious practice prohibits working on the
20 Jewish Sabbath and proposed what I saw as a zero
21 cost solution, a logistical swap. I'd do a
22 double shift on Sunday to cover my Saturday
23 hours.

24 And I was used to accommodation being a
25 collegial conversation.

1 When I was at Duquesne University, a
2 Catholic school, this wasn't going to be an
3 issue. It was simply a request.

4 And I think for others, accommodation
5 is that conversation.

6 But for a Jew, it became a tribunal.
7 Instead of engaging in a standard interactive
8 product - process, the administration trapped me
9 in a six-week rope-a-dope. No one took
10 responsibility for my case.

11 And to justify the eventual denial, the
12 administration even invoked the Affirmative
13 Action Equity Office.

14 Invoking the Equity Office to deny a
15 religious accommodation is a bitter irony.

16 When I appealed to AEO, the shell game
17 was revealed. The Equity Office disclaimed
18 responsibility, pushing me back to
19 administration, saying the decision rested
20 solely with the law school.

21 But no one offered me any resources.
22 There was simply no office that supports people
23 of faith on my campus.

24 So, I appealed again to senior
25 leadership when my associate dean asked me point

1 blank, why I had failed to disclose my Jewish
2 practice during my hiring interviews.

3 This left me to wonder whether UNH
4 would not have hired me had they realized that I
5 was a practicing Jew.

6 And the message was more than clear, my
7 Jewish identity was not a diverse asset to be
8 celebrated, but a liability to be managed.

9 Again, this stands in stark contrast to
10 prior experiences, including at Duquesne
11 University, a Catholic institution that wasn't
12 required to accommodate my Jewish practices, but
13 they did so as a matter of collegiality and
14 kinship.

15 At UNH, a public flagship university,
16 bound by civil law to protect civil rights,
17 their bureaucracy was weaponized to say no.

18 And this is my lesson in selective
19 inclusion, all before October 7th politicized my
20 very existence.

21 A few months after October 7th, we have
22 examples that now impact everyone.

23 We have a professor who commandeered
24 the Association of American Law Schools listserv
25 to promote his anti-Zionist legal studies

1 initiative.

2 The professional response revealed
3 another double standard, the Middle East Studies
4 Association vigorously defended his academic
5 freedom to make these statements, even though
6 the same exact organization had written open
7 letters opposing administrative efforts to
8 protect pro-Israel students from harassment.

9 And when members complained to the ALS
10 listserv about being hijacked for eliminationist
11 rhetoric, the ALS said they don't moderate the
12 listservs, but they maintain detailed statements
13 on racial justice and other inclusion
14 initiatives.

15 The inclusion asymmetry is stark. Some
16 forms of hate flow freely, while others trigger
17 immediate institutional response.

18 I stayed and fought and won tenure for
19 a second time. But I'll never know whether UNH
20 denied me other promotions and raises because
21 I'm Jewish or because I don't just go along to
22 get along.

23 And this motivates me to speak up on
24 the behalf of many voices silenced by this
25 bureaucratic violence.

1 And so, in closing, I implore this
2 Commission to consider whether the solution to
3 the horrifying problem of antisemitism on campus
4 is merely financial or more deeply structural.

5 In my experience, the problem was not
6 underfunded offices, it was equity officers who
7 believe Jews had enough privilege as to not
8 merit further protection.

9 On behalf of the thousands who are
10 silenced, I express deep gratitude for your time
11 and willingness to hear our voice.

12 Thank you.

13 CHAIR GARZA: All right, thank you,
14 Professor Oranburg.

15 We're going to now hear from Ms.
16 Silverman.

17 Please proceed.

18 MS. SILVERMAN: Hello, everyone here
19 today.

20 My name is Sarah Philamina Silverman.
21 I am a proud Modern Orthodox Jew, an aspiring
22 veterinary scientist, and a current sophomore at
23 Harvard College.

24 On my very first day of freshman year,
25 I was a victim of a hate crime. That is what

1 led me to being here today.

2 Before sharing my story, I want to be
3 clear, I speak only for my own experiences, I am
4 not here to start a career in politics or to
5 become a headline.

6 Over the last year, I have watched
7 antisemitism at Harvard and universities like
8 mine be debated by administrators, politicians,
9 and spectators, while the voice of students who
10 have actually experienced it have too often been
11 left out.

12 If you had told me the summer before
13 college that I would be sitting in Washington,
14 D.C. testifying before the Civil Rights
15 Commission, I would have thought you were out of
16 your mind.

17 I came to Harvard to pursue science.

18 I grew up attending yeshiva and I have
19 been active in the Modern Orthodox Jewish
20 community in New York City my entire life.

21 My parents are first generation college
22 students, my dad and brother both attending
23 religious college.

24 And I'm the first person in my extended
25 family to attend a school remotely like Harvard.

1 People from back home expressed concern
2 about my safety when I decided to enroll at
3 Harvard given what had happened on campus during
4 the period of the encampments.

5 I reassured them, I believed I could
6 bring my full of Jewish identity into this space
7 and still feel welcomed.

8 And on my very first day of classes,
9 that belief was shattered.

10 That morning, I woke up and found that
11 my mezuzah had been ripped off my door post. A
12 mezuzah is a small case containing a Biblical
13 scroll that Jews place on the entrances to their
14 homes.

15 It anchors who I am and where I come
16 from.

17 Seeing it gone wasn't just unsettling,
18 it was absolutely terrifying.

19 I contacted campus rabbis and police.

20 During my very first Harvard lecture, I
21 was responding to emails from administrators and
22 law enforcement.

23 Hours later, police found it inserted
24 into the cracks of the wall two doors down. And
25 I was left with the realization that someone

1 hated my identity enough to walk up five flights
2 of stairs and deliberately remove a religious
3 symbol from my door.

4 In the weeks that followed, professors
5 and classmates reached out in overwhelming
6 support.

7 Faculty across the university told me I
8 belonged here.

9 Harvard business school professors even
10 placed mezuzahs openly on their office doors in
11 solidarity.

12 However, I was left with a lingering
13 fear and otherness that in many ways will remain
14 with me the rest of my life.

15 Late at night when I needed to walk
16 down the hallway to the bathroom, I would call
17 my dad so I would not feel alone.

18 I worry the person who did this would
19 come back.

20 Administrators were kind, but I felt
21 lost. I was not offered the option to move
22 rooms. I could not file a formal administrative
23 report because the perpetrator was not
24 identified.

25 Police officially classified the

1 incident as a hate crime, but there was no real
2 follow up after that.

3 Eventually, I began to adjust to
4 Harvard's transformational academic environment.

5 I joined a research lab, became active
6 in the Modern Orthodox community on campus, and
7 took Jewish studies courses.

8 I felt supported by faculty who
9 respected my observance of Shabbos and holidays,
10 and my non-Jewish friends who shared their
11 cultures with me as I shared mine with them. I
12 believed the incident was behind me.

13 And then, something even stranger
14 happened, a national political battle emerged
15 about how to address past mistakes in handling
16 antisemitism at Harvard.

17 I read headlines about my school being
18 discussed in sweeping terms with little outreach
19 to students like me.

20 I did not appreciate people speaking
21 for me and not to me, commenting on my
22 institution and whether Jewish students should
23 continue to attend when they did not know what
24 it was like to be a Jewish student today at
25 Harvard.

1 When the government abruptly withdrew
2 funding, I witnessed and experienced the
3 immediate consequences.

4 Young scientists, many of them Jewish,
5 were left feeling unprotected and uncertain
6 about their futures.

7 Policy described as protecting Jewish
8 students did not make me feel protected.

9 Instead, in a deeply troubling way, I
10 felt blamed. I knew I had done nothing wrong.

11 But when decisions are made in your
12 name, without ever speaking to you, but are
13 affecting your academic community in extremely
14 negative ways, you begin to worry that others
15 believe you asked for these actions, that you
16 wanted this withdrawal of science funding.

17 I did not.

18 All I could do was watch as everything
19 unfolded last spring feeling helpless.

20 I finally decided to speak publicly,
21 but in July, the federal government cited my
22 experience in a Title VI investigation by the
23 U.S. Department of Health and Human Services as
24 evidence of Harvard's deliberate indifference
25 towards antisemitism, seeking to revoke

1 accreditation or to take students' federal
2 financial aid, which students like myself rely
3 on, away, cut billions in research funding, and
4 restrict student visas, including to Jewish and
5 Israeli international students.

6 I know many friends who did not leave
7 the U.S. last summer, worried that they would
8 not be allowed to return.

9 I was never contacted during the
10 writing of that report. I wrote an op-ed
11 because I did not want my story again framed
12 without my voice being part of the conversation.

13 I am grateful this Commission reached
14 out afterwards, but I wish there had been
15 outreach from the beginning.

16 Harvard did not handle my case as well
17 as they should have, more efforts should have
18 been done into identifying the perpetrator, and
19 policy should have evolved sooner.

20 Those shortcomings should be
21 acknowledged.

22 At the same time, Harvard has taken and
23 continues to take meaningful steps to improve,
24 including the creation of the Office for
25 Community Support, Non-Discrimination, Rights

1 and Responsibilities.

2 If a student came forward today, there
3 would be a clearer process than the one
4 available to me.

5 I have met with administrators recently
6 and believe reforms are on the up and up.

7 Federal oversight is necessary to
8 ensure change. I am not naïve or stupid enough
9 to think universities would have implemented
10 such structural reforms on their own.

11 But the manner in which pressure was
12 applied and continues to be applied harms
13 students and researchers who are not responsible
14 for these past failures.

15 I ask respectfully, how does destroying
16 and discrediting educational institutions fight
17 antisemitism?

18 How does cutting crucial scientific
19 research grants make students feel safer or like
20 we belong?

21 Why was I not interviewed before my
22 experience was used in a federal civil rights
23 report?

24 It is my understanding that agencies
25 that investigate these concerns ordinarily

1 interview the students involved to understand
2 their experience, with government officials not
3 simply relying on student newspaper articles,
4 which, in my opinion, do not have the same rigor
5 needed when accumulating facts for a proper
6 civil rights report.

7 And I also want to take a moment and
8 speak directly to Jewish students across the
9 country, you should not feel afraid to attend
10 universities like Harvard.

11 We should not withdraw from spaces of
12 education and dialogue because of hate.

13 We deserve to show who we are openly
14 and to attend these institutions.

15 I stress that policy makers listen to
16 students and address their real experiences in
17 order to go about collaborating with
18 universities to update their hate crime policies
19 in concrete ways.

20 Thank you.

21 CHAIR GARZA: Thank you, Ms. Silverman.

22 We're going to turn to Ms. Fogelman.

23 MS. FOGELMAN: Commissioner Kirsanow,
24 Commissioner Jones, and members of this
25 Commission, thank you for the opportunity to

1 testify today about the increase in antisemitism
2 on university campuses across America, including
3 my own.

4 My name is Adira Fogelman and I am a
5 junior at California Polytechnic and State
6 University, San Luis Obispo studying business
7 administration and law.

8 This issue is extremely important to
9 me.

10 Both of my parents and all of my
11 grandparents are Jewish and I grew up hearing
12 stories of how my ancestors were driven from
13 their homes in Eastern Europe for simply being
14 Jewish.

15 For many Jews, this history does not
16 stifle the expression of our heritage, but
17 rather deepens our commitment to it.

18 Naturally, when I arrived at Cal Poly,
19 I was eager to join what I believed to be a
20 vibrant Jewish community on campus.

21 Just three weeks into my first quarter
22 at Cal Poly, horror struck the Jewish people
23 when Hamas murdered over a thousand Israelis,
24 kidnapping approximately 250 more.

25 Rather than shrinking away from the

1 identity that made Jews targets in Israel, my
2 commitment to Jewish life on campus was
3 reinforced.

4 One event where the Jewish community
5 joined together occurred on April 4th, 2024,
6 titled, Heroes of the IDF, Finding Meaning
7 Amongst Tragedy.

8 Prior to the start of the lecture, a
9 group of masked agitators gathered outside,
10 apparently led by a Cal Poly faculty member.

11 During the next two hours, this group
12 chanted calls for violence against Jews,
13 including SLO to Gaza, globalize the intifada,
14 calling for an intifada not just overseas, but
15 specifically at SLO, our campus.

16 Intifada is a term that is strongly
17 associated with the intifadas in Israel, which
18 were characterized by violent terrorist attacks
19 against civilians, including shootings,
20 stabbings, bus bombings, and even a suicide
21 bombing at a hotel where Jews were celebrating
22 the Passover seder.

23 Chanted outside of a room filled with
24 Jews, organized by Jewish organizations on
25 campus, and featuring a Jewish-Israeli speaker,

1 the threatening messages for Jews like me was
2 unmistakable.

3 In case the violent, intimidating
4 nature of their message to us wasn't
5 sufficiently clear, some of these masked
6 agitators also held up a large banner that read,
7 in part, Zionists will be defeated, with a red
8 inverted triangle above the word Zionist, and
9 the word defeated in blood red font.

10 The red inverted triangle is a symbol
11 used by Hamas and its supporters to celebrate
12 the use of violence against Jews and Israelis
13 and as a target designator to identify Jews and
14 Jewish targets for extermination.

15 Numerous Cal Poly administrators saw
16 this unfold, both inside and outside the Cal
17 Poly building, yet they sat idly by and did
18 exactly nothing to stop the intimidation and
19 threats against Jews, or even to identify the
20 individual students involved.

21 This inaction was compounded by the
22 fact that, despite filing a formal complaint
23 asking for accountability of those students, to
24 this day, I received no response from the office
25 at Cal Poly tasked with investigating such

1 complaints.

2 As I stood in the building where the
3 event was scheduled to take place, the Cal Poly
4 professor who had been leading the group
5 approached me and my Jewish friends and said,
6 you're a Zionist, you're part of the KKK,
7 proceeding to wave his Palestinian flag in our
8 faces.

9 This professor did not only target me,
10 he directed questions such as, how many children
11 did you kill today, at Jewish students.

12 He even told one female exiting the
13 speech that she was not, in fact, from America
14 but from Germany and that's where she should go
15 back.

16 To my knowledge, Cal Poly has done
17 nothing to redress the faculty member's conduct
18 that day or the impact it has had on the general
19 hostile environment for Jews.

20 Perhaps that is in part because of
21 adopting - because instead of adopting Title
22 VI's effects-based hostile environment standard,
23 the CSU's nondiscrimination policy applies a
24 narrower framework that enables discriminatory
25 conduct to evade accountability when framed as

1 political expression, granting university
2 administrators a significant level of discretion
3 when evaluating allegations of anti-Semitic
4 harassment.

5 As it stands, CSU appears to rely on
6 broad free expression policies in ways that
7 conflict with its obligations under Title VI to
8 address severe, pervasive, and objectively
9 offensive conduct.

10 What has become abundantly clear is
11 that the civil rights and compliance offices
12 need clear guidance on what antisemitism is and
13 how to respond to it.

14 It should not be my responsibility as a
15 full-time student to explain to a civil rights
16 officer why telling an American Jew to go back
17 to Germany is anti-Semitic.

18 Nor should it be my responsibility to
19 do the job that Cal Poly itself is supposed to
20 do, to hold those violating its rules
21 accountable.

22 Complaints should be addressed in a
23 timely way, not ignored or delayed until
24 evidence is stale.

25 Among other things that need to be

1 addressed is the procedural structure for
2 investigations into complaints like mine, which
3 raised serious questions about independence and
4 fairness.

5 There is no reason why, on top of my
6 responsibilities as a student, I should have had
7 to fight for over a year for the release of the
8 videos taken that day by campus police officers,
9 videos that show anti-Semitic conduct and
10 rhetoric from a Cal Poly employee.

11 While I unfortunately cannot share
12 details about the investigation itself due to
13 confidentiality considerations, I will say that
14 I found the process itself demoralizing and
15 ultimately futile.

16 And I cannot in good conscience
17 encourage another Jewish student who experiences
18 anti-Semitic harassment to waste their time
19 going through it unless and until there's
20 meaningful reform.

21 This is only one instance amongst many.
22 The campus climate has been hostile for Jewish
23 students in many ways, from the acceptability of
24 fliers calling for intifada on campus, to
25 faculty and administrators permitting biased and

1 hostile views about Israelis and Jews, to the
2 calculated exclusion of other viewpoints within
3 their classroom and department.

4 This situation is so troubling, the
5 administration's response is so inadequate, the
6 Jewish community itself has been known to create
7 its own internal warning system to try and help
8 ourselves navigate around the problem as best we
9 can.

10 For this to change, I urge a
11 comprehensive review of university
12 nondiscrimination policies, adherence to federal
13 Title VI standards, and independent Title VI
14 office properly equipped and trained to
15 understand and identify antisemitism.

16 I thank you for your time and
17 consideration of this issue of vital importance.

18 CHAIR GARZA: Thank you, Ms. Fogelman.

19 We are going to go ahead and turn to
20 Ms. Sweet.

21 You can begin.

22 MS. SWEET: Members of the Commission,
23 thank you for this opportunity. My name is
24 Ellie Sweet, and I am currently in my final
25 undergraduate year at American University,

1 studying political science and psychology.

2 In conjunction with my B.A., I am
3 pursuing my master's of public policy.

4 As the granddaughter of Holocaust
5 survivors, I understand the evil that unchecked
6 anti-Semitism can cause.

7 The worst started when my great
8 grandma, who is also my namesake, was 15. She
9 never got the chance to finish high school, let
10 alone go to college.

11 Hence, my family has instilled in me
12 the importance and privilege of receiving an
13 education.

14 They have also taught me that education
15 is the best solution to sustain democracy, and
16 ward off tyranny.

17 But to truly take advantage of an
18 education, one must be encouraged to ask real,
19 genuine, and meaningful questions. One must
20 feel safe.

21 On November 18, 2023, I got a text from
22 my brother, a law student at the University of
23 Wisconsin-Madison, that he just saw a neo-Nazi
24 march on Madison's main street.

25 My cousin, who also went to the

1 University of Wisconsin, sent a similarly
2 terrifying text.

3 It was a game day. Both my cousin and
4 brother had plans to watch the Badgers football
5 team beat Nebraska.

6 But instead of spending time with their
7 friends, they spent the rest of the day in fear.
8 They definitely did not feel safe.

9 After hearing this news, I also spent
10 the rest of my Saturday extremely on edge
11 worried about my family's safety, and my
12 country's future.

13 A few weeks after October 7, 2023,
14 vandals drew swastikas and SS symbols on the
15 ceiling of American University's freshman dorms.

16 This marked the third year in a row
17 that they had been covered in anti-Semitic
18 symbols. Anti-Semitism in America is real.

19 Vandalizing freshmen dorms with
20 swastikas, Nazi marches in Madison, and the
21 atrocities my family survived, must be
22 condemned.

23 Yet instead of denouncing this hatred,
24 President Trump is using this very real problem
25 as a pretext to platform and participate in

1 anti-Semitism.

2 The Trump Administration has cut grants
3 for organizations working to avert hate crimes
4 against Arab, Jewish, and Asian Americans.

5 They have cut DOJ funding that enforces
6 Title VI complaints about anti-Semitism on
7 campus.

8 Without a rigorous, accessible and
9 productive system that takes anti-semitic
10 incidents seriously, Jewish students on college
11 campuses like me, are not being thoroughly
12 protected.

13 Instead, I am being reminded of the
14 horrors my family has always warned me of.

15 As the Trump Administration continues
16 with their disingenuous and unproductive
17 approach to combating anti-Semitism, my first
18 reaction to a claim of anti-Semitism has become,
19 what are the details?

20 I now ask myself, is this anti-Jewish
21 people or is it anti-Israeli policies? Does
22 this express hatred towards Jews, or does it
23 express disappointment and disdain towards the
24 Israeli government and its policies?

25 I think about my friend who got sent to

1 the dean's office after writing a paper
2 criticizing Israeli policy.

3 I think about my very rational fear of
4 this same thing happening to me when writing my
5 senior capstone about the historical
6 mistreatment of Palestinian citizens in Israel.

7 I think about international students
8 who purposely steer clear of any conversation
9 mentioning Israel or Palestine, because of
10 President Trump's threat to revoke their student
11 visas.

12 I want to be able to take the claim of
13 anti-Semitism at face value. But because of
14 continuous conflations between criticism of the
15 Israel government and its policies with anti-
16 Semitism, the term no longer holds the weight
17 that it should. Especially on college campuses.

18 It's no secret that the attacks of
19 October 7 and the continued atrocities since
20 then, have heightened the temperature on
21 campuses.

22 Yet the reality of the conflict is that
23 Israelis and Palestinians are not that
24 different. They both have a longstanding
25 history of inter-generational trauma and a deep

1 attachment to the same land.

2 It's the different narratives and
3 stories that cause divisions.

4 The way to get over this estrangement
5 is to have open and honest dialogue, and
6 conversations. At a time when campuses need
7 genuine and respectful disagreement, this
8 administration has imposed fear, censorship, and
9 silence.

10 Education, dialogue, and appropriate
11 enforcement will protect Jews, Muslims, and
12 students of all backgrounds.

13 Slashing research grants and
14 intimidating students helps none of us.

15 President Trump claims to fight anti-
16 Semitism on campus, but what he's really doing
17 is attacking our freedom of education and
18 inquiry.

19 By purposefully conflating attacks on
20 Israeli policy as attacks on Jewish people, this
21 administration is discouraging people from
22 learning about the complexities of the
23 Israeli/Palestinian conflict in a safe, academic
24 environment.

25 Instead, young people are getting their

1 information from the under regulated algorithms
2 on social media, carefully crafted to maximize
3 profits, not the democratic exchange of ideas.

4 Since the Gaza War, I have felt more
5 hesitant to tell people I'm Jewish. Not because
6 I'm scared of being the victim of a hate crime,
7 but because I'm scared someone will assume I'm
8 against Palestinian people and associate me with
9 the Trump Administration's anti-Palestinian
10 rhetoric.

11 I have spent a lot of time having
12 discussions with people across the political
13 spectrum about the conflict. People, especially
14 students, want to have these conversations.

15 I came to college to have tough
16 conversations and to learn, not to be shielded
17 from any opinion that differs from my own.

18 Heavy-handed attacks on my university
19 do not make me feel safer. In fact, they
20 further isolate me from my peers and create the
21 misguided perception that my classmates and I
22 asked for this crackdown.

23 They prohibit me from having the
24 college experience I always imagined. A place
25 where I'm constantly exposed to new ideas and

1 beliefs.

2 Instead of an academic space shaped by
3 academic freedom, the Trump Administration is
4 continuously pitting students against each
5 other, stopping the full story from being
6 taught, and furthering divisions on college
7 campuses.

8 American democracy is under attack.
9 Freedom of education, which includes my right to
10 express and be exposed to a wide range of
11 opinions, is under attack.

12 I ask that the Commission works to
13 combat all of the inequity, discrimination, and
14 anti-democratic measures that Jewish students
15 and all Americans have been subjected to.

16 Thank you for your important work. I
17 look forward to your questions.

18 CHAIR GARZA: Thank you for your
19 testimony, Ms. Sweet. Thank you to all of the
20 students here today. I know this is something
21 you probably never imagined doing, but we're so
22 grateful to have you here, and to have your
23 voices at the table.

24 So I'm going to go ahead at this time,
25 open it up to questions from Commissioners.

1 Commissioner Adams, you're recognized.

2 COMMISSIONER ADAMS: Thank you, Madam
3 Chair. My question, I have two questions.
4 First I'll direct to Ms. Kaplan, and Ms.
5 Silverman.

6 Ms. Silverman, I read your testimony.
7 It actually was very upsetting to have somebody
8 take a religious symbol, rip it off your door.
9 Shouldn't happen, it was terrible.

10 I'm looking at a New York Post article,
11 and I want to get your perspective on this.
12 Maybe you've thought about what I'm about to
13 ask; maybe you haven't.

14 And if you haven't, just say so and
15 we'll get more questions in.

16 New York Post, April 24, '24, headline
17 reads, Students Opting for Southern Schools Like
18 Clemson Over Rising Anti-Semitism at Ivy League
19 Institutions.

20 I'm not hearing about this at Auburn,
21 which by the way, has a very good vet science
22 program if you want to transfer.

23 Virginia Tech, South Carolina, Alabama,
24 UGA, Clemson. Why is this happening at Ivy
25 League schools, and not at these southern SEC

1 and ACC schools?

2 MS. SILVERMAN: So funny enough that
3 you -- thank you for the question.

4 COMMISSIONER ADAMS: Yes.

5 MS. SILVERMAN: Funny enough you
6 mention the New York Post. My grandpa lives in
7 Brooklyn; I'm from Brooklyn. He reads the New
8 York Post every single morning, goes to bodega,
9 gets his coffee, and gets the New York Post.

10 It's the only newspaper he reads, so he
11 has probably read that article that you're
12 talking about.

13 I --

14 (Simultaneous speaking.)

15 COMMISSIONER ADAMS: You mentioned
16 Alabama in your testimony, that's the other
17 reason I wanted to ask you.

18 MS. SILVERMAN: Yes.

19 COMMISSIONER ADAMS: Do you have a
20 friend from Alabama?

21 MS. SILVERMAN: My roommate freshman
22 year.

23 COMMISSIONER ADAMS: Right.

24 MS. SILVERMAN: Really wonderful,
25 really wonderful friend I currently have, she is

1 from rural Alabama and when we were going to be
2 roommates, she did not know what a Mezuzah was.

3 I was not under the assumption she knew
4 what a Mezuzah was, and so we actually connected
5 on Instagram and I DM'd her the Wikipedia link
6 to what a Mezuzah was. And I said hey, by the
7 way, I am going to be putting this up.

8 About Southern schools, I am not aware
9 of why students would want to go to southern
10 schools.

11 I also think like for me when I was
12 deciding what universities to go to, as you
13 mentioned a lot of the southern schools have
14 very good animal science programs.

15 For instance, I was actually really
16 considering going to the, to one of the
17 universities in Mississippi, Mississippi State.

18 I had gotten a full ride for undergrad,
19 and I had gotten early admitted to their
20 veterinary school.

21 So it was a really wonderful deal, and
22 the professors, they were very nice. But then I
23 asked so, what is the Hillel look like? What do
24 the kosher food options look like? How would I
25 spend Shabbat?

1 And there was just, there was no Jewish
2 life at this school. And so, maybe one of the
3 reasons that these are happening at schools like
4 Harvard, is because there are Jewish populations
5 at Harvard.

6 I don't, like at Mississippi State,
7 that's a school example. There are not many
8 Jews who go there, yes.

9 COMMISSIONER ADAMS: So and my question
10 is, why is it not happening at the southern
11 schools that the New York Post talks about?

12 MS. KAPLAN: Well, I'm not familiar
13 with -- thank you for your question. I'm not
14 familiar with southern schools as much, but I
15 think to Sarah's point, maybe another factor on
16 top of that, is that Ivy League schools and
17 especially Harvard, are just naturally very in
18 the public spotlight.

19 So when incidents do happen, they get a
20 lot of attention and press. Rightly so, because
21 Ivy League schools are a symbol of the U.S., and
22 they're a symbol of scholarship.

23 And so, people take a lot of concern
24 when issues happen there, as they should. But
25 as a result, I think when incidents happen, they

1 get a lot of attention at Ivy League schools,
2 and maybe not as much at southern schools.

3 MS. SILVERMAN: Yes, I can also just
4 say for my friends, because I'm very connected
5 to the Modern Orthodox.

6 I do have friends who go to, who are
7 Modern Orthodox and go to southern universities.
8 I just think that Harvard gets a lot of news
9 because it's Harvard.

10 I remember my freshmen dorm, I lived in
11 Thayer, and I was coming out of Thayer one day
12 and the New York Times was taking a photo of my
13 building.

14 So I think that just being at Harvard,
15 things get a lot of publicity that they wouldn't
16 necessarily get at other universities.

17 COMMISSIONER ADAMS: Question for Ms.
18 Fogelman, and maybe Ms. Silverman if you have a
19 follow up. We heard a lot of testimony and one
20 of the issues in front of this Commission, is
21 what is free speech, what is a threat?

22 And, some cited a variety of familiar
23 rhetoric as well, that's just political talk.

24 I want to ask you, when you hear the
25 term oppose Israel's right to exist, is that

1 benign to you, or does it mean something, is
2 there some code in there?

3 MS. FOGELMAN: I think oftentimes, when
4 those types of terms are said, they're said in
5 front of maybe an Israeli speaker coming in, in
6 an event.

7 And they're not, you're not having them
8 in conversations about politics. You're not
9 having them in reasonable dialogue.

10 And we can't, Israel is so commonly
11 now, especially at college campuses, denied its
12 right to exist when other countries are not.

13 Other countries where there's war,
14 other countries where there's people who are
15 being oppressed.

16 And some of the times when people are
17 saying that, it definitely comes across as anti-
18 Semitic when it's the one Jewish state.

19 COMMISSIONER ADAMS: Ms. Silverman, do
20 you think there's a purely been an impact to
21 Israel's right to -- to oppose Israel's right to
22 exist?

23 Or is there a historical context and
24 maybe some bloodthirsty neighbors that might
25 inform what that means?

1 MS. SILVERMAN: Thank you for the
2 question. I would just like to mention that
3 that was not why I specifically came here today.

4 I came to speak, I will answer the
5 question, but I came to speak about how I felt.
6 I had a hate crime incident my first day at
7 Harvard.

8 And I have felt since then, that on
9 both sides of the political spectrum, my story
10 has been used to support different means.

11 And I would just like to say that I
12 stand here today as a person who does not do
13 politics at school.

14 I, my dad is from Israel. I do have
15 connections to Israel. I think, I have Israeli
16 friends at Harvard during the encampment period.
17 It was very uncomfortable for them.

18 I do really resonate with that. I do
19 think that Harvard did not handle what was
20 happening during the encampments properly.

21 I think that the way that you should
22 address, critiques, academic critiques of Israel
23 are allowed and valid.

24 When you're critiquing Israel from a
25 stance of using a double standard on the

1 country, that is not fair.

2 And that should not be allowed. And
3 when people use Israel as a cover to attack
4 Jewish students, that should also not be
5 allowed.

6 And, I will also admit that that has
7 happened on our campus, and that is not great,
8 and that is not good, and that should not be
9 allowed because it makes students like me and
10 other students feel uncomfortable.

11 But the reason I am here today is
12 because I am a student of science. I am not a
13 student of politics. I am not a student of the
14 Middle East.

15 And I am here because I want to go into
16 academic research in the United States. And I
17 have felt that the administration's response to
18 trying to combat anti-Semitism, has not taken
19 Jewish students into account.

20 I have not been contacted. I have seen
21 research proposals, research grants get
22 cancelled.

23 I was planning to, I joined a research
24 lab over the summer at the School of Public
25 Health. I had a very difficult time trying to

1 find a lab that would take me because all of,
2 basically all of the School of Public Health's
3 grants were cancelled in May.

4 And so, I come here as a student of
5 science. Also as a Jewish student. Also as an
6 Israeli-American student.

7 But that is I'm not here to comment on
8 Israel on campus.

9 CHAIR GARZA: Ok, thank you. I'll just
10 make this comment before I pass it over to my
11 colleague, Commissioner Jones.

12 We had two really robust panels earlier
13 this morning, and the conversation was really,
14 the previous panel was centered around the
15 gutting of the Department of Ed, and that could
16 engage in these kind of interactive processes.

17 And ensuring compliance and getting
18 people up to, up to compliance and making sure
19 that they actually are addressing anti-Semitic,
20 anti-Semitism on the campus.

21 And, yes, as a practical matter, it
22 just appears that it's not, because it was
23 gutted, it's not happening, right?

24 And, what I hear from your testimony is
25 this fear because not only are you not getting

1 that kind of support, but you are being, you
2 could be blamed by others, right? Scapegoated.

3 And I find that very concerning. So,
4 I'll pass it off to my colleague, Commissioner
5 Jones, for a question.

6 COMMISSIONER JONES: Well, Madam Chair,
7 you sort of anticipated what my inquiry was
8 going to be, because well, before I pose that,
9 let me just say thank you to all of the students
10 and the professor for being vulnerable with us
11 today, and sharing experiences that in a
12 civilized society, should not be occurring.

13 Whether it's on America's college or
14 university campuses, or anywhere else.

15 And so, my heart breaks when I hear
16 your testimonies, and know that we are committed
17 in a bipartisan fashion, to making sure that
18 these incidents never happen again.

19 That is our purpose. It is our goal.

20 At least one panelist earlier today
21 mentioned that when this administration cancels
22 research funding, and calls for the elimination
23 of departments on campus.

24 And does other things in the vein of
25 imposing consequences on colleges and

1 universities that have no relation to combating
2 anti-Semitism, that there is a risk of anti-
3 Semitism being exacerbated.

4 I think the theory is that folks will
5 blame Jewish people for these things that the
6 Trump Administration is doing that to an
7 objective observer, has no actual relation to
8 combating anti-Semitism.

9 And I'm just curious to know if anyone
10 here today agrees with that sentiment, and if
11 you'd like to talk about that. Thank you.

12 MS. SWEET: I can talk about that.
13 Thank you so much for your question. I think
14 that there's a lot of fear that Jewish people
15 are becoming isolated because of the Trump
16 Administration's attacks, and because of the
17 scapegoating that is happening.

18 I also think that you can look
19 throughout history of when Jewish people are the
20 safest, and they are never safe in undemocratic
21 nations, in nations that do not like uplift
22 education as the number one priority, or freedom
23 -- and freedom of speech and freedom of
24 education.

25 Just from the basic tenements of like a

1 historical standpoint, Jewish people are safe
2 when we live in a democratic society. And, a
3 society that uplifts all of the First Amendment
4 rights. And yes, thank you.

5 MS. KAPLAN: And also to add on to
6 that, speaking as a Jewish student on campus, it
7 often feels very isolating when there's this
8 very polarizing national debate, and these
9 measures that are being taken in the name of
10 Jewish students.

11 But we don't feel meaningfully
12 consulted. It can seem like because so much of
13 the media space is being taken up by people who
14 are not students, when our fellow non-Jewish
15 students see what's happening to the campus and
16 see the pain that's happening on campus, it does
17 feel like we are as Jewish students, isolated
18 and could be blamed for that.

19 I actually was just getting coffee with
20 a friend of mine who is Jewish, and she was
21 telling me how recently she was with other
22 students who are not Jewish, and one of them
23 made a comment to her about how oh since you're
24 Jewish, you probably agree with all this
25 terrible stuff that's happening.

1 And didn't really take the time to
2 understand her unique perspective. Obviously,
3 that is completely unacceptable in its own
4 right, but I think it just shows the environment
5 of blame that's created when you have all these
6 very harsh measures taken without student
7 consultation; without transparency.

8 Also, I think you've heard from all of
9 us Jewish students that we're not a monolith and
10 many of us myself included, have real criticisms
11 of our campus and what's, things that have
12 occurred on our campus.

13 And we want to see changes. But when
14 there are very drastic measures being pushed,
15 many of which don't have to do with anti-
16 Semitism, it sort of crowds out our ability to
17 articulate those changes that need to be made.

18 How that might be different campus-by-
19 campus, and how it can be responsive to the
20 actual incidents that have happened on campus.

21 So, I definitely share that concern.

22 MS. SILVERMAN: Just to add on Tova's
23 point, I have felt very ignored. I found out
24 about this Title VI report because my dad had
25 read a news article on Harvard and anti-

1 Semitism, and it had been attached.

2 And I pressed the link in the article
3 and I command F Mezuzah, and there is my story.
4 And I thought well, this is so funny that here
5 it is. Like there is my Mezuzah talked about in
6 a Civil Rights report, and no one told me.

7 And during that time, I had been, I am
8 on a lot of federal financial aid at Harvard.
9 And I don't want that taken away, and I have
10 international students who are my roommates, and
11 I don't want them gone.

12 And for me, it was looking at like wow,
13 I experienced this traumatic thing that will
14 stay with me probably the rest of my life. And
15 here it is being told about and talked about in
16 ways that people never reached out to me.

17 I have heard of speakers talking about
18 my story without, and they never consulted me
19 about my story.

20 I have had, I have heard from
21 experiences where people had used my story as a
22 reason for students not to attend Harvard.

23 I am very proud to be a Harvard
24 student. I am getting academic experiences that
25 my parents can never have dreamed of.

1 And I just don't like how the
2 government is going about approaching issues of
3 anti-Semitism on my campus, without speaking to
4 students who have directly experienced it.
5 Thank you.

6 CHAIR GARZA: Thank you. I'm going to
7 go, we're going to go back and forth.
8 Commissioner, go ahead.

9 COMMISSIONER GILCHRIST: Thank you,
10 Madam Chair. And let me thank all of you for
11 being here today.
12 Ms. Kaplan, I think you were getting at the
13 question that I've wanted to ask regarding with
14 the rise of anti-Semitism on campuses, how do
15 you guys actively seek to create and maintain
16 community, and supportive environments there on
17 the campus?

18 I'm just curious to know how you seek
19 to do that. Anybody can start.

20 MS. SWEET: I have an answer.

21 COMMISSIONER GILCHRIST: Sure.

22 MS. SWEET: Thank you for this
23 question, this makes me excited to answer this
24 one.

25 COMMISSIONER GILCHRIST: Ok, great.

1 MS. SWEET: My community on campus has
2 always been surrounded by people who going back
3 to what I was talking about in my testimony.

4 People who want to have these
5 conversations, and who want to talk about these
6 hard things, and dive deep into them.

7 That's who my community is. That's
8 when I feel safest when I'm discussing this,
9 when I'm talking about Israel's right to exist
10 and how different people interpret that.

11 That's when I feel like I can say my
12 truth the most, and that's when I think people
13 feel like they can say their truth the most.

14 And, my Jewish community on campus is
15 with other students that feel like they can
16 criticize Israel safely.

17 And, to its full extent while also
18 celebrating their Judaism and celebrating their
19 ancestry, and their heritage.

20 MS. KAPLAN: And yes, thank you for
21 that question. I love it because I think we're
22 rightly focusing on negative incidents that
23 happen on campus but you're right that there's
24 so, there's often a very thriving Jewish
25 community.

1 And I think as students, we come
2 together to live and practice our faith, even
3 when there are negative incidents that happen.

4 And I found at Harvard, it's just been
5 such a wonderful community. The Jewish
6 community is really thriving.

7 There are so many resources for Jewish
8 students. I know I have really gotten to
9 explore my faith and meet Jewish friends from
10 all over the world who have such different
11 experiences than I do.

12 But share so much of what makes us
13 proud to be Jewish. I think too, one of my
14 favorite traditions at Harvard that my best
15 friends and I instituted, was a weekly, a yearly
16 Passover Seder, which is this religious dinner
17 for the Jewish holiday of Passover.

18 And my friends will get together.
19 We'll cook a full course meal, which is really
20 rare for us as college students. We usually
21 have to eat the dining hall food, which if we
22 can do anything about that, I would support
23 that.

24 (Laughter.)

25 But we all sit together around the

1 table. Each year we have lots of Jewish friends
2 who've never been to a Seder before.

3 And then, we also have friends who I
4 call my personal rabbis who are much more
5 knowledgeable about the faith than I am, then
6 get to contribute their knowledge to our Seder.

7 And we have lots of non-Jewish friends,
8 too. We also do a Passover play where we
9 unilaterally cast people around the table in
10 different roles.

11 And I think it's really beautiful to
12 see these ancient traditions being acted out
13 with people of all different religions, from all
14 over the world, around the Seder.

15 And I think that really epitomizes what
16 the meaning of the Jewish community at Harvard
17 has been for me.

18 MS. SILVERMAN: I'd also --

19 COMMISSIONER GILCHRIST: Please go
20 ahead.

21 MS. SILVERMAN: I'd also like to stress
22 that I have found a lot of community with other
23 people of faiths, religious people of faiths, on
24 campus.

25 As someone who is Modern Orthodox,

1 being Jewish is always attached to everting I
2 have to do.

3 At the beginning of every semester, I
4 have to email professors and say I am not going
5 to be able to come in on these days, can your
6 work with me, can you accommodate?

7 I'm involved in a Jewish Christian
8 Bible study on campus and so, when my incident
9 happened last year, I had so much support from
10 other religious students on campus who if
11 someone had taken down a cross, if someone had
12 taken down another religious object, they, they
13 also would have been very, very upset for
14 themselves.

15 And so, I have felt a lot of support
16 and community. Speaking on the Modern Orthodox
17 community on campus, it is relatively small, but
18 we're a mighty, I would consider us a mighty
19 group.

20 And I have, I felt during my traumatic
21 experience last fall, a lot of support from the
22 Harvard Modern Orthodox rabbi, who went with me
23 to meetings with Harvard administrators.

24 MR. ORANBURG: Commissioner, first I
25 want to actually second that interfaith

1 community has been one of the strongest sources
2 of support.

3 And people of faith agree on faith.
4 And that is something that binds us together and
5 has been incredibly powerful.

6 But my experience of, well first I
7 guess I wanted to mention that part of why I
8 came here to give my testimony is to say that
9 this, this existed before October 7.

10 This anti-Semitism was latent. What
11 became possible after October 7, was the ability
12 to express this quiet hatred out loud, and for
13 it to be acceptable in a wide variety of rooms
14 where it was formerly objectionable or
15 unacceptable, to say such baseless hatreds, and
16 to raise blood libels and things like that.

17 Suddenly, on October 8 people were
18 championing these messages, which were really
19 quite, quite hateful.

20 So, that's why I wanted to give this
21 testimony today. But in terms of what's
22 happened to Jewish communities on campus,
23 actually what I've seen is that on smaller
24 communities, things have really disbanded.

25 Because students are afraid that if

1 they express a Jewish identity, they will get
2 lumped into the political association with
3 Zionism, or whatever.

4 Just name your political identity and a
5 student who doesn't want that because they want
6 a clerkship and don't want to appear political
7 because they want a career, they're deeply
8 afraid that simply expressing their willingness
9 to engage in Jewish traditional practice, is
10 going to be a kind of black mark that results in
11 their doxing, and the elimination of their
12 career.

13 And, we've seen our membership
14 drastically shrink in terms of students who are
15 willing to be publicly Jewish.

16 And I'm not talking about Israel. I'm
17 talking about just, just existing as a human
18 being with this identity.

19 That's become more difficult on campus
20 since October 7. For many students and faculty.

21 CHAIR GARZA: Ms. Fogelman, did you
22 want to say anything?

23 MS. FOGELMAN: Just along those same
24 lines, it was my first year at Cal Poly when the
25 attacks of October 7 occurred.

1 And, I was already engaging in the
2 Jewish community just because it's so important
3 to me. But I feel so lucky that the Jewish
4 community joined together and when incidents
5 occur on my campus, we talk about it as a
6 community.

7 And we figure out what to do about it.
8 Sometimes the administration responds; often
9 times they don't. But at least we have that
10 knowledge together.

11 We know which professors to avoid,
12 sometimes which faculty to avoid. But by having
13 that communication there, it really keeps us
14 safe.

15 CHAIR GARZA: Thank you. I believe we
16 are close to time but so we're going to make
17 this question last question.

18 COMMISSIONER MAGPANTAY: Sure.

19 CHAIR GARZA: Great, alright,
20 Commissioner Magpantay, you're recognized.

21 COMMISSIONER MAGPANTAY: I appreciate
22 the testimony, Ms. Silverman. We ask, we are
23 asking you for your opinions now.

24 And, I want to make it clear that we
25 are always asking affected communities in all of

1 our investigations, their perspectives.

2 Not only academics and governmental
3 officials, but we think those who are most
4 directly affected by the incidents that affect
5 the community, should be raised.

6 We had an earlier panel that talked
7 about the conflation between anti-Semitism, and
8 anti-Zionism. And I just wanted to get your
9 perspectives on this.

10 And, the challenges with conflating
11 both anti-Semitism with anti-Zionism, and the
12 actions of a foreign government and their
13 actions, which I think is different from the
14 state of Israel.

15 Could you just speak to sort of the
16 differences that are there, that is it possible
17 to have reasoning conversations on disagreements
18 with what's happening in foreign policy and with
19 other governments, with the protection of Jewish
20 people, and combating anti-Semitism in America?

21 Can we not have a reasonable
22 conversation about, and recognize the state of
23 Israel, but also fight anti-Semitism and have a
24 disagreement with what is happening in
25 Palestine, and in the Middle East?

1 Ms. Sweet?

2 MS. SWEET: I think that --

3 (Simultaneous speaking.)

4 CHAIR GARZA: I think this is part of
5 your testimony so I was asking, thinking of you.

6 MS. SWEET: I think that we have to
7 have those conversations to be in college, to
8 take advantage of our higher education of our
9 experience.

10 That's why I know I'm here. I think
11 that's why most people are here is to learn, and
12 to learn different perspectives.

13 But critiquing is a big part of
14 college. That's the time when you critique
15 everything. But critiquing people in power, and
16 critiquing governments is something that always
17 happens, and that should always happen.

18 Because that's how you learn. You
19 critique and you also compliment when it's
20 necessary, as just like critiquing when
21 necessary.

22 I think that the confluences between
23 anti-Zionism and anti-Israeli government need to
24 be, are very complicated and also can be defined
25 pretty clearly in my opinion, although I think

1 that it gets very complicated.

2 Anti-Zionism is the, I wrote it down.
3 The belief that the Jewish state should not
4 exist as a Jewish state.

5 So, saying that not that the people in
6 the Jewish state should not be there, or that
7 they should leave. Not anything against the
8 Jewish people, but that the state itself as an
9 entity, should not exist.

10 And then, anti-Semitism is being anti-
11 Jewish people as Jews, discriminating against
12 Jewish people as Jews in a harassment, violent
13 way.

14 Or against Jewish institutions because
15 they're Jewish.

16 And, anti-Israeli government is being
17 anti- the government in charge of Israel right
18 now. So, anti-Benjamin Netanyahu and his
19 government, and their policies and their
20 actions.

21 COMMISSIONER MAGPANTAY: Thank you.

22 CHAIR GARZA: Okay, Vice Chair Nourse,
23 you're recognized and then we're going to have
24 to close up.

25 VICE CHAIR NOURSE: Hi, I would have

1 expected this from professor or fellow law
2 professor, Professor Oranburg, but I just want
3 to say to the students since I've been in
4 academic teaching students for 30 years, that
5 this is fabulous testimony.

6 Your maturity, your poise, your
7 passion, it is extraordinary. So, thank you for
8 having the guts to come here and talk to us.

9 CHAIR GARZA: I have to echo that as
10 well. I think everyone on this dais, feels
11 grateful for your testimony and your bravery in
12 coming here today.

13 And really giving us as well as our
14 audience that are watching, a true picture of
15 what it is like as a student. What it is like
16 as a professor.

17 And I really genuinely appreciate your
18 time here. So, excited to see what the future
19 holds for each of you.

20 Alright, thank you. We're going to
21 take a brief break and we will reconvene at
22 3:32.

23 (Whereupon, the above-entitled matter
24 went off the record at 3:22 p.m. and resumed at
25 3:37 p.m.)

1 CHAIR GARZA: It is 3:37 p.m., Eastern
2 Time. We're going to proceed with our last
3 panel, which will discuss building inclusive and
4 secure campuses policy, advocacy, and practice.

5 Before we begin, just a reminder of the
6 format and expectations that I've given to other
7 panels.

8 Each panelist, you're going to have 7
9 minutes. Commissioners have, will have an
10 opportunity for questions after everyone has
11 testified.

12 I will enforce time limits, so please
13 summarize your key points from your testimony
14 and you can assume that we've had the
15 opportunity to review your testimony if you
16 provided it before today.

17 As I've said previously, I know that
18 these are serious issues and they may evoke
19 strong views.

20 That is absolutely understandable and
21 at the same time, this briefing is intended to
22 provide a forum for respectful dialogue and
23 careful fact finding for the Commission so that
24 we can do our job.

25 I ask all participants, commissioners

1 and panelists alike to maintain civility,
2 refrain from any personal attacks or disparaging
3 remarks, and allow one another the space to
4 fully share their perspectives.

5 As Chair, I reserve the right to cut
6 short any statements, questions, or comments,
7 that defame, degrade, or do not pertain to the
8 issue at hand.

9 Panelists, please notice the system of
10 warning lights that you have in front of you.
11 When the light turns from green to yellow, that
12 means that you have 2 minutes remaining.

13 When the light turns red, you should
14 conclude your statements so you don't risk me
15 cutting you off.

16 And, my fellow Commissioners and I will
17 do our part and keep our questions and comments
18 concise.

19 So in the order in which our speakers,
20 our panelists are here in front of us, we have
21 Amy Spitalnick, CEO of the Jewish Council for
22 Public Affairs.

23 Kenneth Marcus, the founder and
24 Chairman and CEO of the Louis D. Brandeis
25 Center. Erin Beiner, J Street U Director.

1 Yasmeen Ohebsion, founder and CEO of
2 Our Campus United. Kevin Rachlin, Vice
3 President for Government Relations and
4 Washington Director of the Nexus Project.

5 So I'm now going to ask each of our
6 speakers to raise your right hand to be sworn
7 in.

8 Will you swear and confirm that the
9 information you are about to provide us, is true
10 and accurate to the best of your knowledge and
11 belief?

12 (Chorus of yes.)

13 CHAIR GARZA: Wonderful, affirmative
14 from all for the record.

15 We're going to go ahead and start with
16 Ms. Spitalnik. Please begin.

17 MS. SPITALNICK: Commissioners, thank
18 you so much for inviting me to testify today at
19 this important hearing.

20 I want to be clear that anti-Semitism
21 is real, and it's rising across the ideological
22 spectrum, and in a variety of ways.

23 It's hard not to feel like it's coming
24 from all directions from deadly anti-Semitic
25 violence to how Jewish students, educators and

1 others, have been targeted, ostracized, and
2 marginalized on certain campuses and spaces.

3 And to confront anti-Semitism, we need
4 to truly understand how it works. It certainly
5 works like many other forms of prejudice, hating
6 Jews simply because of who we are.

7 But what's unique about anti-Semitism
8 is that it also works as this insidious,
9 pernicious conspiracy theory rooted in tropes
10 and lies about Jewish control and power.

11 And so, it fuels hate not just against
12 Jews, but also seeks to sow division and
13 distress, pitting communities against one
14 another, undermining trust in or democratic
15 institutions because there needs to be some
16 entity controlling everything.

17 From quote/unquote, replacement and
18 invasion rhetoric to false claims of stolen
19 elections, to lies that quote Jews or Zionists,
20 control our economy and our government.

21 And so, we're in this feedback loop in
22 which increasingly normalized anti-Semitic
23 conspiracy theories continue to undermine our
24 democracy and as democratic norms and
25 institutions are eroded, it only allows anti-

1 Semitism to further thrive because someone must
2 be blamed.

3 And breaking this feedback loop
4 requires serious urgent action, whole-of-
5 government and whole-of-society approaches, that
6 recognizes Jewish safety as inextricably linked
7 with the rights and safety of all communities in
8 our democracy.

9 Yet rather than taking meaningful
10 action to confront the real threat of anti-
11 Semitism and broader hate and extremism, we're
12 too often offered false choices.

13 On one hand, we have the federal
14 administration exploiting our community's
15 legitimate fears to attack our democratic norms
16 and institutions.

17 We should make no mistake, that
18 exploiting the Jewish community's real concerns
19 about anti-Semitism to undermine academic
20 freedom, gut research funding, attack the rights
21 and safety of others, and undercut our
22 democracy, will make Jews and all of us less
23 safe.

24 Our safety as Jews has always been tied
25 to the rule of law, and to the strength of civil

1 society and the protection of rights and
2 liberties of all.

3 And on the other hand, we have some
4 particularly loud voices seeking to create a
5 false choice between our ability to show up
6 proudly as Jews, or to have a connection to the
7 Jewish homeland, with our humanitarian and small
8 d democratic values.

9 Recent polling underscores that the
10 majority of Jewish Americans reject all of these
11 false choices.

12 The September 2025 Ipsos poll found
13 that 72 percent of Jewish Americans are
14 concerned about campus anti-Semitism, but the
15 same percentage also believe that the Trump
16 Administration was using it to unfairly target
17 universities.

18 And, this aligns with a communal
19 statement that JCPA led in April of 2025, from
20 10 main stream Jewish legacy organizations,
21 including three of the four major denominations,
22 rejecting the false choice between Jewish safety
23 and democracy.

24 We know that a number of actions taken
25 by this administration such as extra judicial

1 deportations and gutting university funding, not
2 only don't address anti-Semitism, but in fact,
3 make Jews less safe by invariably increasing
4 scapegoating and hate, and undermining the
5 democratic norms and institutions that have been
6 inherent to our safety and advancement in this
7 country.

8 So what is actually helpful to
9 countering anti-Semitism on campus and beyond?
10 It's policies that both ensure accountability
11 and build real resilience to this hate.

12 Protecting core democratic norms and
13 pluralism, education not only about the history
14 of anti-Semitism, but about who Jews are today.

15 Teaching media and digital literacy to
16 help inoculate students and all of us, investing
17 in hate crimes and extremism prevention and
18 civil rights enforcement, and more.

19 But unfortunately, we've seen a
20 disinvestment in these programs over the last
21 year.

22 A meaningful approach to protecting
23 Jewish students and holding institutions
24 accountable when they don't, would mean a
25 significant increase in funding for OCR.

1 OCR investigations into discrimination
2 against students have been incredibly successful
3 over the years, in helping schools address and
4 respond to complaints from Jewish and other
5 students, even as the office has long been under
6 staffed.

7 And yet we've seen the steady
8 destruction of OCR, starting with an attempt in
9 March to fire more than half of its staff.

10 The closing of numerous offices, and
11 students are now experiencing, students who are
12 experiencing discrimination are left without
13 resources because of these massive backlogs and
14 staff shortages, which do nothing to advance the
15 safety of Jewish, or any other students.

16 Jewish safety also requires investing
17 in broader societal resiliency to hate and
18 extremism. In addition to hate crimes
19 prevention, extremism prevention, non-profit
20 security grants and much more, all of which have
21 been dramatically cut over the past year, this
22 also must include protecting access to higher
23 education, which has been so vital to Jewish
24 success in this country.

25 Access to universities and higher ed

1 has been one of the greatest contributors to
2 Jewish success and achievement in America,
3 creating upward mobility for generations of
4 Jewish immigrants and their descendants.

5 And it remains one of the best pathways
6 out of poverty.

7 The attacks on these schools risk
8 undermining that opportunity for Jewish, and so
9 many other communities.

10 Colleges and universities are also
11 integral to preserving Jewish history, and
12 advancing thriving contemporary Jewish life.

13 Religiously, culturally, socially, and
14 beyond. I say this as a former Hillel
15 president.

16 Undermining universities undermines
17 their ability to support their students, and
18 that undermines Jewish life on campus.

19 And so too, does it undermine the
20 critical work of Jewish studies and many other
21 departments that are key to preserving Jewish
22 history and culture, and advancing research into
23 countering hate and extremism.

24 Protecting Jewish students also
25 requires new approaches to education and

1 engagement, including and especially when it's
2 hard.

3 That's why JCPA recently launched
4 partnerships with both national teachers'
5 unions, who work on both campuses and in K-12
6 schools, aimed at empowering leaders and members
7 with nuanced, constructive understanding of
8 anti-Semitism in this moment.

9 These unions of course, have an
10 obligation to confront anti-Semitism and all
11 hate in their ranks.

12 And the solution is to bring the Jewish
13 community and labor together to confront hate
14 and protect democracy, rather than attack the
15 right to organize, or the right to association
16 for educators or others, because it's been so
17 integral to Jewish and so many other
18 communities' advancement in this country.

19 This is personal for me. My
20 grandparents survived the Holocaust, but the
21 rest of their families weren't so fortunate.

22 And it was only thanks to my
23 grandparents' ability to be welcomed into this
24 country as refugees after the war, to put their
25 children through college and graduate school, to

1 join unions.

2 My grandmother is a seamstress and my parents as
3 New York City public school teachers, that my
4 family's safety and success was possible.

5 We now have an obligation both to take
6 on the same scourge of anti-Semitism that took
7 too many of their family members, and to ensure
8 our real and legitimate fears are not exploited
9 to undermine opportunity and safety for Jews,
10 and anyone else.

11 We know that there's no inclusive
12 democracy without Jewish safety, and that there
13 is no Jewish safety without inclusive democracy.

14 Our leaders simply cannot protect one
15 without protecting both. Thank you so much for
16 the opportunity to testify.

17 CHAIR GARZA: Thank you, Ms.
18 Spitalnick. We're going to go ahead and hear
19 from Mr. Marcus. Please proceed.

20 MR. MARCUS: Chair Garza,
21 Commissioners, I'm Kenneth Marcus, Chairman and
22 CEO of the Louis D. Brandeis Center for Human
23 Rights Under Law, former Assistant Secretary of
24 Education for Civil Rights, and former staff
25 director of the U.S. Commission on Civil Rights.

1 It is good to be back. If you have
2 been to the coat closet around the corner, you
3 have seen my picture in the same suit, but
4 looking thinner.

5 (Laughter.)

6 MR. MARCUS: I mentioned history
7 because I think you should be proud of it. It
8 seems that few people here remember this.

9 Now, one or two folks are here from my
10 tenure, and hi to Michelle sitting in the back.
11 Twenty years ago, this Commission issued a
12 report on campus anti-Semitism.

13 It was a visionary report at the time
14 for which you should be proud. It spoke with
15 firmness, with courage, with unity, and with
16 moral clarity.

17 If you can do nothing more than to meet
18 the same standard, I think that will be an
19 achievement. And I hope that we won't
20 collectively fall short of it.

21 Let me share with you a few things
22 about this history, from those of us who
23 remember it.

24 So first, the Commission pointed out 20
25 years ago that Title VI covers Jewish Americans

1 at a time then few people had remembered it.

2 I had actually written the policy
3 guidance only 2 years before that in 2004,
4 during which the George W. Bush Administration
5 established for the first time, that Jews are
6 covered under a civil rights statute that as you
7 heard this morning, bars discrimination based on
8 race, color, or national origin, but does not
9 mention religion.

10 That was important at that time. It
11 wasn't widely embraced as it is today, but this
12 Commission played an important part in raising
13 public awareness of the issue both through this
14 report, and its subsequent public education
15 campaign.

16 The Commission, which heard a wide
17 variety of views but I think was clear on some
18 fundamental truths, made some statements there
19 that are worth remembering.

20 One of them from the 20 year old
21 report, is that anti-Semitic bigotry is no less
22 morally deplorable when camouflaged as anti-
23 Israelism, or anti-Zionism.

24 This was an important statement for its
25 time. I think that it commands agreement, even

1 among the various views that we heard earlier
2 today. But it is important because anti-
3 Semitism does have various disguises.

4 And anti-Zionism in that sense, brings
5 forward to the present, all of the same tropes,
6 the same stereotypes, the same defamations, that
7 historically have befallen the Jewish people,
8 viewing Israel as the collective Jew, or Jew
9 among nations.

10 That is the form of the anti-Semitism
11 that we see most commonly on college campuses,
12 and that we need to address.

13 This report was then followed by in
14 retrospect, a somewhat remarkable public
15 education campaign on anti-Semitism which in
16 retrospect, is notable in part because it
17 embraced the international working definition of
18 anti-Semitism.

19 Which would later be known as the IHRA
20 working definition of anti-Semitism. Meaning
21 that this agency became the first U.S. federal
22 agency to adopt what is now known as IHRA during
23 the George W. Bush Administration.

24 Even before the George W. Bush State
25 Department would then start using it as well.

1 It was more formally adopted, and I mention this
2 because I think there was a little confusion
3 earlier today.

4 It was more formally adopted at the
5 State Department under then Secretary Hillary
6 Rodham Clinton, as a really strong move by the
7 then Obama Administration.

8 Which used the working definition of anti-
9 Semitism in concert with democratic colleagues
10 around the world, in order to identify those
11 forms of anti-Semitism that are sometimes hard
12 to recognize because they can be coated as if
13 they were political argument when in fact,
14 they're something different.

15 This was an accomplishment I believe,
16 of the Obama Administration.

17 Later on, the Trump 1 Administration,
18 which I was proud to serve, used that same
19 definition in various enforcement activities at
20 colleges and universities, and then elevated it
21 to the level of the executive order on combating
22 anti-Semitism that was mentioned earlier today.

23 It was also mentioned earlier today
24 that that executive order adopting IHRA,
25 remained in effect throughout the last

1 administration, and to this day.

2 Lest there be any misunderstanding, the
3 Biden Administration never rescinded executive
4 order 13899, although it did rescind many other
5 Trump Administration executive orders, which
6 means that the policy approach to using IHRA in
7 civil rights enforcement, has remained in place
8 through Trump 1, throughout Biden, and into
9 Trump 2 where it was then reinforced by a more
10 recent executive order.

11 The national strategy on combating
12 anti-Semitism, which was an achievement of the
13 Biden Administration, might not be what I would
14 have done, but it did indicate that IHRA is
15 embraced by the United States government.

16 It acknowledged that the Nexus document
17 also exists, and did so with praise.
18 Nevertheless, there was no other definition of
19 anti-Semitism that was adopted in any
20 enforcement guidance, by any other agency during
21 Biden or Trump.

22 Which is to say that the IHRA working
23 definition remains the one document which is a
24 part of our guidance in the federal government,
25 and not just in the federal government, but also

1 in a super majority of states throughout the
2 country.

3 About two-thirds not even counting
4 Wisconsin where the Assembly just voted on it
5 early, earlier this week.

6 So, it is not just a definition, one
7 definition among many, it's the only one that is
8 currently and for several years, part of our
9 guidance in the federal government.

10 And no small part, with influence from
11 this Commission from 20 years ago. Why?
12 Because anti-Semitism is sometimes hard to
13 recognize in the way others aren't.

14 We heard earlier today that other kinds
15 of racism might not be defined in guidance.
16 However, we know that sexual harassment is very
17 commonly defined, and debated, and
18 controversial.

19 In federal law, federal guidance,
20 federal policies, and in the policies of
21 universities and colleges around the country.

22 Same with reasonable accommodations for
23 disability. It is common to define those
24 aspects of either identity or discrimination
25 that need to be defined for practical purposes,

1 in order to identify forms of discrimination
2 that would otherwise avoid notice.

3 That's why we need to do it.

4 During the Biden Administration, we saw
5 an explosion of the anti-Semitism incidents.
6 Not just after October 7.

7 I would say on October 6, 2023, as a civil
8 rights organization, we were overwhelmed with
9 the amount of complaints that we had received
10 during the record breaking prior years leading
11 up to October 6.

12 It wasn't as if anti-Semitism just came
13 about for the first time in October 7 and yet
14 over the following weeks, we saw an explosion
15 multiple times, even 10-fold, the number of
16 incidents that we had seen before.

17 Earlier today I was very pleased that
18 my friends in the prior administration, remember
19 that I had praised some of the things that they
20 had done.

21 And I was even more pleased that they
22 have forgotten that I also criticized some of
23 the things that they had done.

24 But pleased that the prior
25 administration, the Biden Administration,

1 continued the executive order on combating anti-
2 Semitism.

3 And used Title VI in a forceful way as
4 I had recommended previously. Including in the
5 University of Vermont resolution agreement that
6 you heard about just a few hours ago.

7 The problem is that this approach,
8 which was so important on October 6, wasn't in
9 my view, up to the moment with October 7, when
10 we had a crisis of historic proportions.

11 I think that there has been general
12 agreement that when one has a crisis, which is
13 extraordinary and unprecedented, we need a
14 response that's unprecedented and extraordinary.

15 If there is a challenge from prior
16 administrations, it is that there wasn't that
17 sort of thing.

18 If we need to understand what's
19 happening with the Trump Administration, we're
20 seeing a whole-of-government approach using not
21 just the Education Department, but also HHS,
22 Justice, the Federal Acquisition Commission, and
23 other agencies, in an extraordinary way.

24 CHAIR GARZA: Thank you, Mr. Marcus.
25 I'm so sorry. We're going to have to wrap up.

1 I look forward to the question and answer
2 portion with you.

3 Ms. Beiner, if you could, proceed.

4 MS. BEINER: Members of the Commission,
5 thank you for the opportunity to testify. My
6 name is Erin Beiner, and I am the Director of J
7 Street U, the student arm of J Street. We are
8 the largest progressive pro-Israel student
9 movement in the country and are present on over
10 50 campuses, engaging thousands of students on
11 the Israeli/Palestinian conflict.

12 Given the complex connection between
13 debates on Israel/Palestine and rising
14 antisemitism in America, combatting antisemitism
15 has become central to our mission. Our student
16 leaders receive structured training to approach
17 difficult conversations with nuance and empathy.
18 This equips them to help classmates understand
19 what antisemitism is, how it manifests, and how
20 to engage with the Israeli/Palestinian conflict
21 in ways that reflect their values and ensure the
22 safety of their peers.

23 Antisemitism on campus constitutes a
24 real threat to Jewish students and to civil
25 rights broadly. Many students today face

1 antisemitism directly related to October 7th and
2 the war in Gaza. Campus groups have adopted
3 litmus tests, excluding Zionists from
4 membership, which effectively bars many Jewish
5 students.

6 At one university, student government
7 members refused to let J Street U register as a
8 club, explicitly stating that our support for
9 Israel was equivalent to supporting genocide.
10 Yet much campus antisemitism has nothing to do
11 with Israel, and Jewish students deserve a
12 comprehensive response to antisemitism that
13 prioritizes their well-being, not political
14 convenience.

15 College is when most people encounter
16 the greatest diversity of perspectives that they
17 ever will. Students should experience different
18 viewpoints, discover new ways of thinking, and
19 be challenged. But this administration has
20 pursued an extremist agenda, weaponizing genuine
21 concerns about antisemitism to dismantle
22 universities.

23 These institutions have faced an
24 impossible choice: suppress free expression,
25 shutter inclusion programs, and sanitize

1 curricula, or face cuts to federal grants for
2 research for critical research like cancer
3 studies.

4 Last month, I talked with a student
5 who, with his professor, founded a project
6 collecting and exhibiting drawings by Israeli
7 and Palestinian children. Both of them are
8 Jewish. Last spring, under pressure from the
9 university, they nearly halted the project,
10 fearing it would be portrayed as anti-Semitic.
11 Even when they moved forward, seven out of nine
12 of the contributors chose to keep their
13 identities anonymous.

14 These students should be proud of their
15 work lifting up children's voices in a war zone.
16 Instead, their rights to free speech and open
17 inquiry have been so compromised that they feel
18 that they must hide their involvement.

19 International students are constantly
20 looking over their shoulders. Students are
21 censoring themselves in class, stepping away
22 from activities, and rushing to complete courses
23 before they are cut.

24 By making Jewish students the reluctant
25 faces of attacks on higher education, this

1 administration has fostered an environment where
2 antisemitism thrives. Turning real antisemitism
3 into a culture war issue also makes students
4 less likely to report it.

5 At one university, a Jewish student in
6 cooperative housing faced bullying and
7 harassment because of her faith, which peers
8 wrongfully conflated with her support for the
9 war in Gaza. She decided to leave her home in
10 the co-op and confided that while she was
11 clearly the victim of antisemitism, she didn't
12 want to escalate her case, fearing right-wing
13 groups would use it to target her school.

14 In the past, students could count on
15 the Department of Education's Office for Civil
16 Rights, but the Trump administration has gutted
17 OCR, dismissing thousands of cases, and limiting
18 individual students' ability to initiate
19 investigations.

20 This administration's approach is also
21 poorly suited to Jewish students' varied
22 experiences. One student found a pro-
23 Palestinian flyer on his door and thought
24 nothing of it until he realized that his door
25 was the only one, presumably, because he's

1 visibly Jewish. He was offended not by the
2 flyer itself, but by the assumption that his
3 politics stemmed from his religion.

4 I've also spoken with students who
5 report facing no antisemitism on campus and are
6 uncomfortable with the assumption that every
7 Jewish student has. One student wearing a Magen
8 David necklace told me that a customer saw it
9 and apologized for the hate she assumed she was
10 experiencing. The student told me it was the
11 only time she ever wanted to take her necklace
12 off. It is inaccurate and cynical to assume
13 that all Jewish students have identical
14 experiences.

15 The First Amendment permits impassioned
16 criticism of our government and Israel's
17 government. So does the ethos of free
18 expression that has made our universities some
19 of the greatest in the world. Students deserve
20 an approach that doesn't conflate opposition to
21 Israel's policies with antisemitism.

22 To address these challenges,
23 universities must prioritize staff and student
24 training, rigorous Title VI compliance, and
25 transparent cooperation with federal

1 authorities. Existing policies should be
2 enforced and new ones implemented where needed.
3 The federal government should offer resources,
4 partnership, and support through good faith
5 oversight, not adversarial attacks.

6 Congress should pass HR-6806, the
7 Antisemitism Response and Prevention Act. This
8 legislation would fully fund and reopen vital
9 OCR regional offices, require universities to
10 designate Title VI coordinators, and expand the
11 non-profit security grant program to protect
12 Jewish institutions. APRA provides the legal
13 protections and security infrastructure Jewish
14 students deserve.

15 Finally, protecting Jewish students'
16 civil rights means protecting everyone's rights.
17 It is impossible to ensure Jewish students'
18 safety while trampling on the rights of
19 immigrants, protesters, and the free press.
20 Jewish students aren't asking for special
21 treatment, censorship, or attacks on their
22 schools. They need a sincere, targeted, and
23 thorough response to campus antisemitism. Thank
24 you.

25 CHAIR GARZA: Thank you, Ms. Beiner.

1 We're going to now hear from Ms.
2 Ohebsion. You can proceed.

3 MS. OHEBSION: Chairs and members of
4 the Commission, I am truly honored to testify
5 before you today, especially as the only
6 recently graduated student on this panel, to
7 share my lived experience.

8 Two years ago, I testified before the
9 House Committee on Education and the Work Force,
10 with the hope that these violations of our civil
11 rights would cease. I wish I could say they
12 did. I am here to take this conversation out of
13 abstract theory and into the realities Jewish
14 students continue to face on American campuses,
15 experiences that completely reshaped my academic
16 experience and altered my career.

17 My name is Yasmeen Ohebsion, and I'm a
18 first-generation Iranian American Jew and the
19 product of the American dream. My family
20 flourished in Iran for centuries, until 1979,
21 when they were chased out of their homeland
22 simply for being Jewish. My family came to the
23 United States with nothing but a hope to restart
24 their lives and a gratitude for our sacred
25 American values.

1 I graduated from Tulane University in
2 2024 with a degree in finance. I enrolled at an
3 American university, believing I was stepping
4 into the American promise my parents had
5 sacrificed everything to give me. Instead, I
6 was harassed, bullied, mocked, and physically
7 chased across my college campus for being
8 Jewish.

9 I was actually in college on October
10 7th, 2023, which is now enshrined as the
11 deadliest day for Jews since the Holocaust.
12 While Israel was still counting its dead and
13 searching for its hostages, my own peers were
14 organizing demonstrations that rationalized the
15 attack. Within hours, I, along with Jewish
16 students across this country, became targets,
17 not because of anything we had said or done but
18 because we are Jewish.

19 To be clear, we are not here today to
20 litigate a foreign policy issue. This is not a
21 discussion about free speech. It's about
22 conduct. We are here because the civil rights
23 of Jewish students in the United States are not
24 being upheld.

25 To give you one of my examples, I was

1 physically chased across Tulane's campus by a
2 student screaming, Fuck you, Jew. Please take a
3 moment to imagine that. I can assure you that
4 student did not ask me my position on Middle
5 East policy before deciding that I was worth
6 being chased down.

7 I did not attend the rest of my classes
8 that day, my study group, or social events. I
9 sat and wrote a detailed report to Tulane's
10 official discrimination reporting forum, hoping
11 that the student that attacked me would face
12 consequences. Instead, the student conduct
13 office labeled, Fuck you, Jew, as political
14 speech and offered me mental health resources.

15 It was only after I testified before
16 Congress, months later, that my university's
17 student conduct office apologized to me for,
18 quote, dropping the ball on that one. And
19 still, there was no investigation, no
20 discipline, and no action taken. Civil rights
21 enforcement should not depend on whether a
22 student has access to a federal microphone.

23 At a Tulane for Palestine protest, my
24 friends were beaten so severely by protesters
25 that they required hospitalization. They were

1 not asked about a two-state solution before they
2 were struck in the face with a microphone and
3 whipped with a belt. They were attacked because
4 they are Jewish.

5 Anyone with the audacity to label this
6 as a free speech issue possesses the same moral
7 rot that has infected our university
8 administrations across this country who refuse
9 to protect us as Jews.

10 Now, let me be clear. I met with
11 Tulane administrators over three dozen times and
12 exhausted all possible solutions they had to
13 offer. I accepted a position on the
14 university's diversity, equity, and inclusion
15 student committee. Much of the committee's work
16 centered around mandatory trainings, where
17 students are told that it is against university
18 policy to engage in sizeism, ableism, racism,
19 homophobia, and other forms of discrimination.

20 So I ask, why don't those rules apply
21 when Jewish students are verbally harassed and
22 physically assaulted, when our campuses are
23 vandalized with anti-Semitic graffiti, and when
24 the classes we pay tuition dollars to attend are
25 disrupted by protesters? Free speech does not

1 include the freedom to harass, intimidate,
2 vandalize, threaten, or assault. So, no, this
3 is not a free speech issue. This is a brazen
4 double standard and glaring hypocrisy.

5 Today, I appear before you at the ripe
6 age of 24 as the founder and CEO of Our Campus
7 United, a national student-led movement, built
8 because Jewish students across this country are
9 facing coordinated harassment, intimidation,
10 exclusion, and in some cases, violence. And too
11 many university leaders have failed to respond
12 with moral clarity or legal consistency. What a
13 shame that such an organization must exist.

14 I testify before you today because my
15 hope remains, but honestly, I am horrified by
16 our reality. Hundreds of students involved in
17 my organization are experiencing what I did as a
18 college student.

19 I've seen this hypocrisy not only as a
20 Jew but also as an Iranian. As I stand before
21 you, innocent Iranians are being slaughtered in
22 the tens of thousands for protesting a regime
23 that opposes every value our sacred democracy is
24 built on.

25 Students on American campuses who claim

1 to be human rights activists have demonstrated
2 extraordinary mobilization capacity. They've
3 organized encampments, resolutions, boycotts,
4 and the list goes on. Yet they have been
5 completely silent in the face of a genocide that
6 is occurring in Iran right now. So I say, if
7 your outrage only serves to demonize Jews, you
8 are quite the opposite of a human rights
9 activist.

10 I have made it my mission to ensure our
11 American values are upheld in this country.
12 Based on my work, I'll share two concrete
13 recommendations to begin addressing these
14 failures.

15 First, adopt the IHRA definition of
16 antisemitism. It is impossible to fight
17 something you cannot define. IHRA has been
18 adopted or endorsed by dozens of democratic
19 governments and institutions, but more
20 importantly, it has been adopted by the
21 overwhelming majority of Jewish organizations.

22 While there are other fringe
23 definitions, IHRA and its examples provide
24 administrators, investigators, and courts a
25 workable framework to understand the ways

1 antisemitism actually manifests. If your
2 definition of antisemitism would not have
3 protected me and the thousands of Jewish
4 students like me, it's a bad definition.

5 Secondly, mandate that universities
6 establish designated Title VI Civil Rights
7 Coordinators. For nearly 50 years, federal law
8 has required every federally funded university
9 to designate a Title IX Coordinator to ensure
10 consistent enforcement of sex discrimination
11 protections. There is no comparable structural
12 mandate for Title VI enforcement, and that gap
13 is part of the problem.

14 Before I close, I have a message for
15 those who seek to redefine harassment as
16 politics or violence as activism. Whether you
17 are thousands of miles away, on a college
18 campus, or in this room, you will not intimidate
19 us into hiding. You will not chase us out of
20 the institutions our families sacrificed to
21 access. As Jews, our wounds are centuries old,
22 but so too are our resilience and strength.
23 Thank you. Am Yisrael Chai.

24 CHAIR GARZA: Thank you, Ms. Ohebsion.

25 We're going to now hear from Mr.

1 Rachlin.

2 MR. RACHLIN: Thank you so much,
3 Members of the Commission. Thank you so much
4 for giving me the opportunity to speak here
5 today. My name is Kevin Racklin. I'm the --
6 I'm the Vice President of Government Relations
7 for the Nexus Project, an organization that
8 combats antisemitism, upholds democratic values,
9 and protects free speech.

10 I want to be direct with everyone here.
11 Antisemitism on America's campuses is real; it's
12 serious, and it also demands an effective
13 response. At the same time, the fight against
14 antisemitism is inseparable from the fight
15 against all forms of hatred. And both are
16 inseparable from the health of American
17 democracy.

18 When we get the response right, we
19 strengthen the institutions that protect every
20 American. When we get it wrong and we weaponize
21 Jewish pain while failing to invest in what
22 actually works, we make the problem worse for
23 Jews and for everyone else.

24 As you've heard today, the data on
25 college campuses and around the country on

1 antisemitism is alarming. I'm not going to dive
2 into it because you've heard it all day. I have
3 more written in my testimony that details the
4 full picture.

5 But I do want to underscore what is too
6 often missing from the conversation, that this
7 crisis is not happening in isolation. The same
8 forces driving antisemitism drive hatred against
9 all communities. Any serious federal response
10 must confront that reality.

11 This brings me to a really important
12 point I can make to this Commission. The lesson
13 of Jewish history, across continents and across
14 the centuries, is that Jews thrive in societies
15 with strong democratic institutions and robust
16 civil rights protections. They are endangered
17 in societies when those institutions are under
18 attack, even when Jewish safety is offered as a
19 justification.

20 That correlation is not coincidental.
21 It is a repeating historical pattern. The same
22 civil rights infrastructure that protects Jewish
23 students under Title VI also protects Black
24 students, Muslim students, and every other
25 community. Weaken any of it, and you weaken the

1 guardrails that have made this country the
2 safest home for Jews have ever known.

3 Many universities, including your own,
4 failed their Jewish students after October 7th.
5 It's important to recognize that. Some were
6 slow to respond to harassment. Others were
7 inconsistent in how they applied their code of
8 conduct. And sometimes, as Yasmeen just told
9 you, some of them were even indifferent to
10 Jewish students' legitimate fears.

11 The impulse to hold them accountable is
12 not only justified, it is what's required by
13 law. But how the government responds matters
14 just as much as the problem it claims to
15 address.

16 When enforcement is built on a
17 blueprint drafted without the participation of
18 any major Jewish organization, that blatantly
19 ignores deadly antisemitism coming from the far
20 right, and calls for foreign students and
21 others, who may have done little more than
22 protest Israeli policy, to be deported,
23 expelled, or defunded, we should ask ourselves
24 whether the goal is actually about protecting
25 American Jews or advancing a political agenda.

1 This concern should -- this should
2 concern this Commission and all those in power
3 to protect ours and all minority communities.
4 Federal -- when federal courts, including the
5 First District, the Western District of Texas,
6 and the Eastern District of Pennsylvania, are
7 finding that codifying a single definition as an
8 enforcement tool constitutes viewpoint
9 discrimination and a violation of the First
10 Amendment, we should listen.

11 This brings me to what we can do and
12 how the Nexus Project has been developing
13 resources around that.

14 First, the Nexus Campus Guide to
15 Identifying Antisemitism, developed with leading
16 scholars at universities where campus protests
17 have taken place, provides a framework for
18 recognizing antisemitism while also safeguarding
19 freedom of speech.

20 Its core insight is that both under-
21 and overidentification can cause serious harm.
22 When antisemitism goes unaddressed, Jewish
23 students suffer. When the label is applied too
24 broadly, it discredits the efforts, chills
25 protected speech, and alienates the allies Jews

1 need most.

2 The campus guide gives administrators
3 and educators the tools to make those
4 distinctions and urges universities to
5 prioritize education and protection over
6 punishment. You simply cannot punish your way
7 to a more civilized society. And institutions
8 we've already seen are moving in this positive
9 direction.

10 University task force have recommended
11 practical action, including investing in
12 education, building inclusive campus cultures,
13 and have created resource lists that include
14 multiple definitions as educational resource.
15 Even the NEA's resource page for educators and
16 administrators on teaching about antisemitism
17 includes the campus guide, among other critical
18 training materials, to help guide educators.

19 Last year, we also released the Shofar
20 Report, which we actually developed with Ms.
21 Spitalnick as well, as well as leading expert on
22 white nationalism, Eric Ward; extremism expert
23 Rabbi Limmer; and scholars from UCLA and New
24 York University.

25 It provides a comprehensive policy

1 framework grounded in the same principle.
2 Jewish safety and democratic health are mutually
3 reinforcing. Effective strategies must address
4 antisemitism from all sources while
5 strengthening, not dismantling, the institutions
6 that protect everyone.

7 This Commission has also heard
8 concerning testimony today about the state of
9 our civil rights infrastructure. Our very own
10 witness, Beth Gellman-Beer, an 18-year veteran
11 of OCR, who was promoted by another witness, and
12 then goes by another witness, saw her
13 Philadelphia office closed. That office was
14 directly responsible for antisemitism
15 investigations at Temple, Penn, Haverford, and
16 Swarthmore.

17 These cases have effectively been
18 transferred to an overloaded Atlanta office that
19 cannot possibly give them the attention that
20 everyone here claims they need. You can't
21 credibly claim to keep fighting antisemitism
22 while dismantling the very office that's there
23 to enforce it.

24 I have a lot of recommendations, and I
25 can go through the whole list, but I'm not going

1 to. So what I'm going to do is give you kind of
2 a breakdown.

3 First and foremost, fully fund the
4 Office of Civil Rights at the Department of
5 Education and reopen the offices that were
6 closed. That's absolutely vital.

7 Two, replace punitive enforcement-only
8 approaches with the kind of prevention,
9 education, and other practical action outlined
10 in the bipartisan 2023 U.S. National Strategy to
11 Combat Antisemitism. This approach underwrites
12 critical legislation pending in Congress now:
13 the Antisemitism Response and Prevention Act.

14 There are those who are still trying to
15 advance policy that would institutionalize or
16 codify any one specific definition. Objections
17 to that approach span both sides of the aisle
18 and across Jewish and civil rights communities
19 because there's now a widespread understanding
20 that political pressure campaigns to codify any
21 single definition creates ruptures in the Jewish
22 and civil rights community and detract from more
23 practical action.

24 After years of this fight on
25 definitions, it's time to put our energy behind

1 real action that can, like the National
2 Strategy, recognize the reality that the best
3 prevention and education can draw on multiple
4 resources, including multiple definitions. Not
5 just Nexus, but also IHRA and others, have
6 strictly non-legally binding educational tools
7 that can't -- that shouldn't be applied in
8 punitive legal context.

9 ARPA would create a non-political
10 national coordinator to combat antisemitism,
11 require college campuses to have a Title VI
12 coordinator, enhance hate crime monitoring, and
13 ensure non-profit security grants are free from
14 political litmus tests.

15 We also are urging universities to
16 adopt educational responses as a first line of
17 defense, teaching recognition of antisemitism
18 within frameworks that also addresses racism,
19 Islamophobia, and all forms of bigotry.

20 And finally, we want to ensure that any
21 federal strategy that addresses antisemitism
22 addresses it from all sources, in genuine
23 partnership with the Jewish community, and in
24 coalition with other targeted communities. Only
25 a society that is safe for all of its people can

1 be safe for its Jewish citizen.

2 The Jewish community deserves more than
3 performative outreach from those who want to
4 weaponize our pain while dismantling the very
5 institutions that protect us, or worse, do the
6 bare minimum and claim it as a victory. We need
7 a genuine national response to address the rise
8 in antisemitism in this country, and we need to
9 invest in practical measures. This Commission,
10 this bipartisan Commission, has an opportunity
11 to show us what that looks like, and I urge you
12 to seize it.

13 Thank you so much for giving me this
14 opportunity.

15 CHAIR GARZA: Thank you very much.
16 Thank you to all of our panelists for your
17 comments. I'm going to go ahead and open up the
18 floor to Commissioners for questions.

19 Commissioner Kirsanow, you're
20 recognized.

21 COMMISSIONER KIRSANOW: Thanks, Madam
22 Chair, and thanks to all the panelists.

23 This is for anyone who wants to answer
24 it, although I'll first direct it to Mr. Marcus.
25 It's a little because of your experience at OCR,

1 and also in the Civil Rights Commission.

2 In addressing instances of antisemitism
3 that may be actionable, legally actionable, is
4 it more effective, less effective, no
5 consequence whatsoever if it's addressed as
6 racial discrimination, religious discrimination,
7 or either inadequate to address antisemitism?

8 MR. MARCUS: Commissioner, personnel,
9 under Title VI, discrimination based on race,
10 color, or national origin in federally assisted
11 programs are unlawful, but not discrimination on
12 the basis of religion.

13 Now, there are some contexts in which
14 religious discrimination is unlawful, and there
15 may be, in court, certain claims that would be
16 available to a plaintiff.

17 However, given that religious
18 discrimination is not currently barred by
19 federal statutory civil rights laws applying to
20 educational institutions, if one faces a purely
21 religious form of discrimination, one doesn't
22 have available the same set of rights and
23 remedies within the federal civil rights system.

24 COMMISSIONER KIRSANOW: Would you
25 advise Congress to come up with another

1 component to discrimination law to take
2 advantage or -- not take advantage -- to address
3 that vacuum?

4 MR. MARCUS: I think it would be a
5 smart idea for Congress to address this
6 loophole. I wrote about it 20 years ago in a
7 law review article on the most important right
8 we think we have but don't, which is to say
9 there is a general misimpression among Americans
10 that religious discrimination is illegal in
11 federal educational institutions, and many
12 instances in which members of Congress have made
13 the mistake about it.

14 Now, that legislation would have to be
15 carefully drafted in such a way as to preserve
16 the free exercise rights of religious
17 institutions, but that can be done and has been
18 done in the workplace context. It would also
19 have to be carefully drafted with respect, for
20 instance, to whether harassment is included, and
21 if so, what are the harassment standards.

22 But I see no reason why it should be an
23 excuse to be able to say, sure, I discriminated
24 against that child or that student, but it was
25 only based on their religion, not their race,

1 color, or national origin. That shouldn't be
2 appropriate in this country.

3 COMMISSIONER KIRSANOW: One follow-up
4 question. The last time we addressed this, I
5 think you and I are the only ones in this room.
6 They addressed this issue 20 years ago. Do you
7 think there's been much material progress in
8 combating antidiscrimination between the 2005
9 hearing and today?

10 MR. MARCUS: Commissioner Kirsanow, are
11 you referring specifically to antisemitism?

12 COMMISSIONER KIRSANOW: Yes,
13 antisemitism.

14 MR. MARCUS: Ah. So, I would say that
15 the problem has grown exponentially over the
16 last 20 years, and increasingly so, especially
17 since October 7. We have, at the same time,
18 developed a stronger pushback. During the last
19 two administrations, Democratic and Republican,
20 there was a much more forceful response than in
21 the past, and there are now more organizations
22 like the Louis D. Brandeis Center that are
23 involved in addressing it.

24 So there is more of an infrastructure
25 and more of an awareness in the federal

1 government, but the problem has gotten stronger,
2 and we haven't kept up with it.

3 CHAIR GARZA: I have a question from
4 Commissioner Magpantay.

5 COMMISSIONER MAGPANTAY: Yeah. I
6 thought that was great, Mr. Rachlin. Thank you
7 for your testimony, and I appreciated the
8 citation to the American Jewish Committee's
9 report on the state of antisemitism in America.
10 I had the pleasure of working with AJC, and
11 their findings I actually used to prepare for
12 this hearing.

13 And I also appreciated how you had
14 mentioned that instances of hate against Jews,
15 but also Muslims and other minorities, must be
16 forcefully addressed.

17 Can I just ask, and you said more about
18 how do we address the -- how do we address
19 antisemitism and forms of hate in this country,
20 and Islamophobia, with the decimation of the
21 Office of Civil Rights?

22 Would you suggest that we encourage the
23 United States Congress to fully fund the Office
24 of Civil Rights, to restore that funding, to
25 restore those positions, and also provide

1 caveats within the budgetary legislation to make
2 sure that they those offices are not
3 defunded? Because I think that that is what's
4 needed to ensure that the forceful enforcement
5 of civil rights laws and protections for all
6 Americans can apply. Your opinions?

7 MR. RACHLIN: I really appreciate the
8 question, so thank you, first off.

9 And I think we, you know, two panels
10 ago, we had the opportunity to hear from many
11 current and former OCR members. Some are still
12 in the room. And I think they all were
13 unanimous in the understanding that by closing
14 those offices, by removing those personnel, by
15 reducing those resources, you've effectively
16 hobbled the very organization that is dedicated
17 to protecting not just Jewish students but all
18 students there.

19 So what I would recommend, you know,
20 beyond restoring funding, I would also -- you
21 know, there's a lot of talk in Congress right
22 now about eliminating OCR. This has been going
23 on for several years, and it's just not a
24 productive conversation. It doesn't we've
25 seen it doesn't work. Even in Mr. Marcus's

1 testimony, these -- it's -- antisemitism is
2 rising. It's rising on college campuses.

3 So it's not just about increasing
4 resources to OCR, but it's also about reopening
5 the offices. And it's also ensuring that OCR is
6 unable to be politicized or be put into a
7 specific direction. I think that's absolutely
8 critical.

9 The career staff that have been there
10 for years and years, they are dedicated people
11 who are really out there to protect students and
12 to investigate. Without the appropriate number
13 of investigators, without the resources
14 necessary, they can't do their jobs to
15 effectively enforce Title VI.

16 COMMISSIONER MAGPANTAY: Thank you.

17 CHAIR GARZA: You're recognized.

18 MS. SPITALNICK: If I may add, yeah, I
19 echo everything that Kevin said. And I would
20 say, specifically, there has been this use of
21 OCR as this political football, seeking to move
22 it around the federal government, to politicize
23 it in the way that Kevin described, and it needs
24 to stay within the Department of Education.

25 There has been an effort to, of course,

1 decimate the Department of Education more
2 broadly, which would be a disaster for so many
3 reasons, including and especially when it comes
4 to the safety of Jewish students and all
5 students. And the Department of Ed is the right
6 agency for OCR because of the deep expertise and
7 credibility it has in looking in and
8 investigating and holding accountable Title VI
9 complaints.

10 MS. BEINER: And I just want to add,
11 too. I mentioned that a lot of Jewish students
12 have a fear of reporting problem. And having a
13 neutral, hypothetically non-partisan, apolitical
14 person on campus for them to seek resources from
15 -- and this is in regard to reopening OCR -- and
16 also Title VI compliance officers on campus is
17 incredibly important to being able to give
18 students resources and information on campus
19 directly.

20 CHAIR GARZA: Commissioner Gilchrist,
21 you're recognized.

22 COMMISSIONER GILCHRIST: Thank you,
23 Madam Chair.

24 Thank all of you for your comments here
25 today. This has been a very informative

1 hearing.

2 Mr. Marcus, I wanted to ask you, right
3 before your time ended, you were beginning --
4 you indicated that antisemitism requires an
5 extraordinary and unprecedented response. And
6 you were beginning to identify various agencies
7 within the government that, I'm assuming, were
8 preparing to provide that response. Can you
9 kind of elaborate a little more on that, as you
10 were --

11 MR. MARCUS: Thank you, Commissioner
12 Gilchrist.

13 In prior years, it was primarily the
14 Education Department's Office for Civil Rights,
15 or no one. Even the Department of Justice
16 seldom engaged. Now we're seeing active
17 engagement from the Department of Justice.
18 We're seeing Health and Human Services become a
19 very powerful player dealing with antisemitism.
20 We're seeing the Equal Employment Opportunity
21 Commission with unprecedented investigations in
22 this field.

23 And we're seeing even the Federal
24 Acquisition Commission, engaging in an utterly
25 unprecedented way, showing that there are

1 contract, as well as grants, notions here and
2 using different sets of regulations altogether,
3 and that's together with other agencies, ranging
4 from State and Homeland Security to Commerce,
5 that have worked in this.

6 So what we're seeing, at a time when
7 the Department of Education may be at the verge
8 of closure, is innovative approaches involving
9 lots of different parts of the federal
10 government.

11 COMMISSIONER GILCHRIST: So I would --
12 I'm sorry. I would characterize that as a
13 comprehensive approach to trying to address. Is
14 that -- would you agree with that?

15 MR. MARCUS: It's far more
16 comprehensive than anything we've seen before.

17 COMMISSIONER GILCHRIST: Thank you.

18 CHAIR GARZA: Can I -- I was going to
19 ask you a specific question on that just to kind
20 of follow up on this thought. Why is it
21 important for this to be housed within the
22 Department of Education because you alluded to
23 that earlier?

24 MS. SPITALNICK: Well, I'll say a few
25 things. I think, one, Ken and I probably both

1 agree on the fact that we need this whole of
2 government, whole of society approach, including
3 every possible agency and office engaged in the
4 fight against antisemitism.

5 For me, and I suspect for many, the
6 question is how they are engaged and the tactics
7 that are being used. As I, and many others,
8 described in my testimony, it's we need each and
9 every agency engaged here. Antisemitism is a
10 problem that pervades society and undermines our
11 democratic institutions, and all of these
12 agencies and offices uphold our democracy and
13 need to be engaged in that fight.

14 And so, the Biden strategy, for
15 example, specifically did engage the -- outline
16 a whole of government, whole of society approach
17 to doing just that, and it was widely supported
18 and endorsed by a broad array of the Jewish
19 community for that reason.

20 So, again, it's more of a question of
21 tactic than rather we should have a whole of
22 government approach or not.

23 On the question of the Department of Ed
24 and Title VI and OCR, that is where the
25 expertise lives, right? The Department of Ed is

1 responsible for holding accountable, regulating
2 our education system. That expertise does not
3 simply exist in the Department of Justice when
4 it comes to how these universities work, the
5 funding mechanisms, and the other tools of
6 accountability that exist. And that's why it
7 has been, at least historically, successful as a
8 tool under the Department of Ed.

9 That doesn't mean that it has been
10 sufficiently resourced. Under the Biden
11 administration, we know that there were, for
12 example, 50 cases per caseworker, which was
13 unacceptable. And now, with the decimation of
14 the offices and OCR more broadly, I don't even
15 want to know what that number is, given the
16 backlog that many of us have cited.

17 But the expertise, the history tells us
18 that it needs to live in the Department of Ed.
19 And that, again, the Department of Ed, more
20 broadly, is existential to the safety and rights
21 of Jewish and all students.

22 CHAIR GARZA: I was -- I'll go to --
23 because I want to make sure everybody gets to
24 ask a question, Commissioner Adams, you go, and
25 then we'll have Commissioner Jones.

1 COMMISSIONER ADAMS: Thank you.

2 Mr. Marcus, you, just for everybody who
3 is watching who might not know, you were the
4 staff director here.

5 MR. MARCUS: Yes, sir.

6 COMMISSIONER ADAMS: You got -- the
7 letter came, and you got approved by the
8 commissioners, right?

9 MR. MARCUS: Unanimously, but that
10 might have just been politeness.

11 (Laughter.)

12 COMMISSIONER ADAMS: Right. That's
13 because you're such a nice guy, or maybe it was
14 a different commission.

15 MR. MARCUS: Not my politeness, yours.

16 COMMISSIONER ADAMS: Which gets me to
17 my question about the report you cited. 2006,
18 is that about right?

19 MR. MARCUS: Yes.

20 COMMISSIONER ADAMS: Okay. 2005?
21 Five. Is '05 a four-four commission?

22 MR. MARCUS: It might have been the --
23 well, the -- it's dated July 2006.

24 COMMISSIONER ADAMS: Okay.

25 MR. MARCUS: But there might be a

1 difference between when the hearing was held.

2 COMMISSIONER ADAMS: Right.

3 MR. MARCUS: When the findings were
4 issued, and then when the report was published.

5 COMMISSIONER ADAMS: So, next week, we
6 ought to become a four-four commission again.
7 We'll have a seat nominated probably Monday.

8 MR. MARCUS: Congratulations.

9 COMMISSIONER ADAMS: What was it on
10 that commission? I'm just curious. Do you
11 remember? Six-two? Four-four? Do you remember
12 the partisan makeup on that commission? If you
13 don't, we can move on.

14 MR. MARCUS: At that time, I don't want
15 to

16 (Simultaneous speaking.)

17 MR. MARCUS: I mean, it's a matter of
18 record, so I don't --

19 COMMISSIONER ADAMS: Right. So my
20 question, though, that I really want to get to
21 is, there seemed to be a lot of wise advice in
22 that report that you cited.

23 MR. MARCUS: Yes.

24 COMMISSIONER ADAMS: Assuming the
25 commission worked in a bipartisan way.

1 MR. MARCUS: Yes, sir.

2 COMMISSIONER ADAMS: Would it have been
3 helpful if this study and the hearings had all
4 been aimed at George Bush and the failures of
5 George Bush? Would that report have come out if
6 there had been that partisan approach to, and a
7 political approach toward these questions, as
8 opposed to getting to the root of the matter?

9 MR. MARCUS: I suspect that it would
10 not have yielded either the same amount of
11 consensus or the same amount of constructive
12 input.

13 COMMISSIONER ADAMS: Right. And I want
14 to disagree, respectfully, strongly, with a
15 quote from the last witness: how the government
16 responds is just as important as the problem it
17 aims to address. I fundamentally disagree with
18 that.

19 I think the problem that is sought to
20 be addressed here is so wicked and evil that
21 bickering about federal bureaucrats losing their
22 jobs is not serving any purpose. I think
23 complaining about Donald Trump is not going to
24 get a report passed by this Commission, because
25 you won't get the votes.

1 So, the more we go down this road, the
2 less I think we're going to produce something as
3 wise as what you did. It's not a question, but
4 if you want to say something.

5 MR. MARCUS: I guess I'll just comment
6 on the last couple of words and say thank you
7 for saying it was what I did, but it was what
8 the Commission did. And I think that it was an
9 excellent example of cooperation on a bipartisan
10 basis, with both Republicans and Democrats
11 working together.

12 COMMISSIONER ADAMS: Thank you.

13 MR. MARCUS: Sure.

14 CHAIR GARZA: Okay. We're going to go
15 to Commissioner Jones.

16 COMMISSIONER JONES: Thank you, Madam
17 Chair.

18 And thanks again to all of the
19 panelists who have contributed significantly in
20 your own respective ways.

21 And I am excited about the forthcoming
22 report. And one of the things that has excited
23 me from the sort of inception of it, of this
24 investigation, is my strong perspective, having
25 read through that report that is dated 2026, and

1 whose briefing was in 2025, and so, hence, lies,
2 I think the --

3 COMMISSIONER ADAMS: '05. '05.

4 COMMISSIONER JONES: -- the confusion,
5 right.

6 COMMISSIONER ADAMS: '05.

7 COMMISSIONER JONES: '05, 2005. Thank
8 you so much, Commissioner. See?
9 Bipartisanship.

10 Is -- I don't think this report is
11 anywhere approaching analytically rigorous. And
12 so, what we are doing in this investigation is
13 really digging into the data, aided, hopefully,
14 by cooperation from the various federal
15 departments to which we have sent discovery
16 requests, and having really substantive panels,
17 like what we've had today, across four different
18 panels.

19 And we're going to have a listening
20 session tomorrow, which I'm really excited
21 about. We're going to hear from more students
22 and other members of the public. And obviously,
23 we benefit from the past 20 years of additional
24 experience.

25 So, with great respect for the history

1 of this Commission, which is a storied history,
2 that the report from 2006 was nothing like what
3 it could have been. And so, you know, to anyone
4 who is confused on that point, I recommend you
5 go and take a look at it, but I'm really excited
6 about what we're going to do in a bipartisan
7 fashion.

8 CHAIR GARZA: Let me go to Commissioner
9 Kirsanow, and then I'll go to Commissioner
10 Magpantay.

11 COMMISSIONER KIRSANOW: Commissioner
12 Magpantay is always so generous.

13 Question, I think, to Mr. Marcus again,
14 we're talking about addressing antisemitism. Is
15 it, from an enforcement perspective, do you
16 think it wouldn't really have a mechanism? It's
17 we've got religious discrimination. We've got
18 national origin discrimination. Under which
19 category is it best defined or prosecuted?

20 MR. MARCUS: Commissioner Kirsanow, I
21 would say that it's best to be able to prosecute
22 it under all of the categories because Jewish
23 identity is complicated. Some Jews identify
24 primarily as religiously Jewish, others as
25 culturally or ethnically Jewish, and so on, and

1 so forth.

2 There are some statutes and
3 constitutional provisions that relate to
4 religion, others to race or national origin.
5 Under Shaare Tefila v. Cobb, it was race. Under
6 other authorities, it's national origin. I
7 think the best is to provide the wide range, so
8 that there isn't going to be a loophole or a
9 gap.

10 COMMISSIONER KIRSANOW: Second
11 question, antisemitism is frequently referred to
12 as the oldest hatred. Given the fact that
13 antisemitism has been around for thousands of
14 years, why do we continue to have it? What's
15 the provenance? I mean, we're always addressing
16 -- it seems we come in after the fact instead of
17 eliminating before it even arises.

18 MR. MARCUS: Well, that's an old
19 question and maybe not one for which we have a
20 clear answer, but I will say that antisemitism
21 has become so rooted in various Western cultures
22 that it becomes an available set of stereotypes
23 and defamations any time a scapegoat is needed
24 for whatever specific historical reasons or
25 psychological reasons in a particular time or

1 place.

2 There are lots of explanations for
3 different historical settings, but the fact is
4 that if one is looking for a scapegoat, if one
5 is looking for an other to blame, if one is
6 dissatisfied with one's own circumstances and
7 wants to blame someone else, there is an
8 enormous literature of hate aimed towards Jews
9 that can provide a conspiratorial way of
10 thinking about the world, not just the Jewish
11 people, but the whole world, that gives oneself
12 an out for why one ended up in one's own
13 circumstances.

14 COMMISSIONER KIRSANOW: Thanks. That's
15 well put.

16 MS. SPITALNICK: If I may add, I want
17 to underscore the -- I truly believe that the
18 conspiratorial nature of antisemitism is what
19 makes it so salient as a wedge across the
20 ideological spectrum, as I think many of us
21 spoke about.

22 This is not a partisan issue,
23 antisemitism. It's not an ideological issue.
24 It exists across the spectrum because it serves
25 as this conspiracy theory. And it's also why,

1 as a number of us have spoken about, it's
2 inextricably linked with other forms of hate.

3 Before I became CEO of JCPA, I led a
4 non-profit where we brought a, thankfully,
5 successful lawsuit against the neo-Nazis that
6 attacked Charlottesville and the University of
7 Virginia in 2017.

8 And as we saw there, and in so many
9 other acts of antisemitism, it was inextricable
10 from other forms of hate. When they chanted,
11 Jews will not replace us, it was targeting not
12 just Jews as the conspiratorial other that was
13 manipulating our society, but the Black and
14 Brown people, immigrants, and refugees that they
15 thought the Jewish community was specifically
16 seeking to replace the White race, the White
17 electorate with.

18 We saw this in the cycle of violence in
19 Pittsburgh, the deadliest attack on a Jewish
20 community in U.S. history, the El Paso attack
21 targeting the Latino community, the Buffalo
22 community targeting the Black community, the
23 Christchurch attack targeting the Muslim
24 community.

25 And so, while we'll never know the

1 answer as to why antisemitism has existed in all
2 of the ways it has and for as long as it has,
3 this conspiratorial nature makes it so salient
4 and makes it inextricably linked with these
5 other forms of hate that it's hard to eliminate
6 because it's inextricable.

7 CHAIR GARZA: Thank you. We're going
8 to go Commissioner Jones.

9 COMMISSIONER JONES: Yep, at least
10 answer back to like -- Mr. Marcus, this is a yes
11 or no question. In an investigation that aims
12 largely to evaluate the federal response to
13 antisemitism on America's college and university
14 campuses, is it an inherently partisan exercise
15 to look at how the decimation of the Office of
16 Civil Rights at the Department of Education has
17 impacted federal efforts to respond? Again, yes
18 or no.

19 MR. MARCUS: That sounds like a
20 partisan framing, yes.

21 COMMISSIONER JONES: Sir, if that is a
22 partisan framing, then, respectfully, I think
23 that's not a credible response from you.

24 MR. MARCUS: You asked me for a yes or
25 no question, right?

1 COMMISSIONER JONES: That it -- yeah,
2 yeah.

3 MR. MARCUS: You'd like a longer
4 answer?

5 COMMISSIONER JONES: You did not give a
6 yes or no answer to that, and I think it's
7 telling that you didn't, but then you wanted to
8 give a particular response.

9 MR. MARCUS: My answer is that yes,
10 when you frame the question in that way, you are
11 signaling an intent to have a partisan approach.
12 Now, maybe you don't intend to frame it in that
13 way, but if that is the way you're going to
14 frame it, you might be right; you might be
15 wrong, but you're certainly partisan.

16 COMMISSIONER JONES: All right. So
17 we're going to now expand this to other members
18 of the panel, because I thought -- I thought
19 that I could get a credible answer on that.

20 MR. MARCUS: And you did.

21 COMMISSIONER JONES: So, Ms.
22 Spitalnick, in evaluating the federal
23 government's response to antisemitism on
24 America's college and university's campuses, is
25 it an inherently partisan exercise to look at

1 how cuts to the Office of Civil Rights at the
2 Department of Education, which has primary
3 enforcement authority when it comes to Title VI
4 of the 1964 Civil Rights Act, is that an
5 inherently partisan exercise to evaluate those
6 consequences?

7 MS. SPITALNICK: No.

8 COMMISSIONER ADAMS: Mr. Jones, just
9 one quick point --

10 COMMISSIONER JONES: Okay. Ms. --

11 COMMISSIONER ADAMS: You changed your
12 question, Commissioner.

13 (Simultaneous speaking.)

14 COMMISSIONER JONES: You're right. I
15 did. You're right.

16 COMMISSIONER ADAMS: Thank you.

17 COMMISSIONER JONES: You know what?
18 Because I used the word decimation instead of
19 cuts. Okay.

20 Ms. Spitalnick, significant cuts,
21 decimation of the Office of Civil Rights, is any
22 of that a partisan exercise?

23 MS. SPITALNICK: No. It shouldn't be.

24 COMMISSIONER JONES: Ms. Beiner?

25 MS. BEINER: No. It shouldn't be.

1 COMMISSIONER JONES: Ms. Ohebsion?

2 MS. OHEBSION: No. I believe it should
3 not be.

4 COMMISSIONER JONES: Okay. Mr.
5 Rachlin?

6 MR. RACHLIN: No. I don't believe it
7 should be.

8 COMMISSIONER JONES: All right. Thank
9 you so much, everyone.

10 CHAIR GARZA: Well, I was going to ask
11 did you have a question, Commissioner?

12 COMMISSIONER MAGPANTAY: No, go ahead.
13 Go ahead.

14 CHAIR GARZA: I'll recognize you. Go
15 ahead.

16 COMMISSIONER MAGPANTAY: No, go ahead.
17 Go ahead.

18 CHAIR GARZA: I was going to get close
19 to closing us out, so if you want to ask a
20 question, you should ask now.

21 COMMISSIONER MAGPANTAY: No, I'm good
22 for now. Thank you.

23 Thank you for your testimonies.

24 PARTICIPANT: Thank you very much, all
25 of you.

1 CHAIR GARZA: Okay. I was just going
2 to say thank you very much for your time here
3 with us today. You know, I really just
4 appreciate not only talking about the issue, but
5 the recommendations that you all are putting
6 before us so that we can take a good look at
7 that.

8 And I do look forward to the
9 forthcoming report. I think that this briefing
10 has provided us with just a breadth of
11 information, of perspectives, of experiences,
12 and again, just very grateful for you coming
13 here today to share that.

14 So this concludes our briefing, and I
15 want to thank our panelists again. Thank you
16 for those who attended in person, the audience
17 that is here with us in person, as well as the
18 folks that have been viewing online. Today has
19 just been absolutely, tremendously informative.
20 And on behalf of the entire Commission, I want
21 to thank all of -- all of you, all of our
22 panelists for being here, for sharing your time,
23 expertise, experiences.

24 And as a reminder for those that would
25 like to submit additional information, the

1 record for this briefing is going to remain open
2 through March 20th of 2026. So, panelists or
3 members of the public, if you would like to
4 submit materials for Commission consideration,
5 which we welcome, please mail them to the U.S.
6 Commission on Civil Rights, Office of Civil
7 Rights Evaluation, 1331 Pennsylvania Avenue
8 Northwest, Suite 1150, Washington, D.C. 20425,
9 or you can email them to asbriefing@usccr.gov.

10 I ask all of our attendees to move any
11 conversations you may have outside of the
12 hearing room so that our staff can close out the
13 room and finish up any logistics that need to be
14 done.

15 And having concluded this public
16 briefing on antisemitism on America's college
17 and university campus conditions and federal
18 response, I hereby adjourn this briefing at 4:42
19 p.m. Eastern time. Thank you all.

20 (Whereupon, the above-entitled matter
21 went off the record at 4:42 p.m.)
22
23
24
25

1 C E R T I F I C A T E

2 This is to certify that the foregoing transcript
3 was duly recorded and accurately transcribed
4 under my direction; further, that said
5 transcript is a true and accurate record of the
6 proceedings; and that I am neither counsel for,
7 related to, nor employed by any of the parties
8 to this action in which this matter was taken;
9 and further that I am not a relative nor an
10 employee of any of the parties nor counsel
11 employed by the parties, and I am not
12 financially or otherwise interested in the
13 outcome of the action.

14

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20 Michael Morris

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	\$	13899 243:4	2024 13:14 113:1 120:3 121:22 122:10,24 126:12 146:22 189:5 254:2
		142 122:14	2025 50:20 98:10 107:9,17 108:5, 25 110:11,14 117:4 122:16,19 123:13 124:1,7 126:5,12 133:4 134:13 135:6 149:10 150:3 233:12,19 284:1
\$1	115:23	15 119:23 195:8	2026 4:6 5:19 8:6 283:25 294:2
\$200	110:18	17 46:17	20425 4:9 14:15 294:8
\$30	118:6	18 34:16 125:25 131:24 143:3 156:19 195:21	20th 8:6 14:10 107:9 110:11 294:2
\$40	118:7	18-year 265:10	22nd 108:5 169:16
\$50	116:13	19 108:25	23rd 110:14
\$500	116:8	1920s 33:17	24 114:15 202:16 257:6
\$60	115:24	1957 51:19	25 9:1,2 38:17
\$8	165:25	1964 6:11 43:25 93:12 98:16 101:10 291:4	250 188:24
	0	1975(b) 13:4	28 121:19,21
05	280:21 284:3,6,7	1979 253:20	29 34:17
	1	19th 4:6	2:15 160:17
1	103:11,12 242:17 243:8		2:18 160:21
1,000	126:9		2:19 161:1
10	233:20	2	
10,000	122:4	2 103:15 113:2 229:12 240:3 243:9	3
10-fold	245:15	20 11:3 119:17 122:17 239:24 240:20 244:11 270:6 271:6,16 284:23	3 103:21
10-minute	89:19	20,000 122:4	30 102:12 227:4
100	63:19	20-plus 123:18	31 46:4
10:02	4:2,5	200 50:11	35 124:4
11	50:20 98:13	2004 240:3	37 109:2
111	109:1	2005 271:8 280:20 284:7	3:22 227:24
115	167:22	2006 280:17,23 285:2	3:32 227:22
1150	4:8 14:14 294:8	2007 125:24	3:37 227:25 228:1
11:33	89:22	2009 98:9	3rd 107:17
11:43	89:20,23	2016 121:19	
11:46	89:25	2017 288:7	4
11th	126:5 165:24	2019 158:2	40 114:16
12	18:17 74:23 75:6,14 76:13 95:3 116:25 121:2 122:20 125:19 154:18 155:14	2020 121:19	400 50:2
12:54	160:20	2022 46:5	42 13:4
13	46:15	2023 12:2 39:3 55:10 106:2 108:5,25 112:4 113:6 121:21 158:12 195:21 196:13 245:7 254:10 266:10	4:42 294:18,21
1331	4:8 14:13 294:7		

4th 189:5

5

50 129:25 144:13 247:10 259:7
279:12

500 121:22

6

6 245:7,11 246:8

6806 118:16

7

7 12:2 39:3 44:17 106:1 108:5,24
116:25 122:19,22 154:18 196:13
198:19 221:9,11 222:20,25 228:8
245:6,13 246:9 271:17

70 113:4

72 233:13

772 10:2

7th 9:10 10:2 112:4 113:6 127:12,
19 164:25 174:22 177:19,21
248:1 254:10 262:4

8

8 221:17

80 167:24

8th 149:10

9

9 134:12 135:6

90 122:22

96 88:14

9th 132:21 133:3 136:1 149:3
150:3

A

a.m. 4:2,5 89:22,23,25

ability 6:23 120:20 151:1 170:15
214:16 221:11 233:5 236:17

237:23 250:18

ableism 256:18

abortion 21:20

abound 94:16

above-entitled 89:21 160:19
227:23 294:20

abruptly 184:1

absence 62:13

absolutely 15:4 90:14 143:25
148:14 157:18 181:18 228:20
266:6 274:7 293:19

abstract 42:7 253:13

abstraction 24:11 52:24

absurd 172:18

abundantly 192:10

academic 24:7 25:25 26:8,13,14
31:7 37:21 72:14 97:21 109:18
178:4 183:4 184:13 199:23 201:2,
3 208:22 209:16 215:24 227:4
232:19 253:15

academically 41:18

academics 17:18 24:4,10,12
25:8 39:16 224:2

ACC 203:1

accept 8:5 110:21

acceptability 193:23

acceptable 41:18 221:13

accepted 87:24 256:13

access 25:1,13 36:10 44:25 75:2
94:19 97:18 108:19 133:6 235:22,
25 255:22 259:21

accessibility 175:11

accessible 197:8

accommodate 177:12 220:6

accommodation 175:24 176:4,
15

accommodations 244:22

accomplishment 242:15

account 55:4 87:17 113:3 209:19

accountability 45:15 109:11
110:10,13 111:1 129:21 190:23

191:25 234:10 279:6

accountable 25:24 192:21
234:24 262:11 275:8 279:1

accounted 122:22

accreditation 185:1

accumulating 187:5

accurate 17:7 88:20 89:12 92:19
136:8 163:12 230:10

accurately 32:15,16

accusations 48:9

achieve 99:2 126:22

achieved 100:9 104:17

achievement 236:2 239:19
243:12

achieving 51:16

acknowledge 15:2

acknowledged 95:10 114:22
185:21 243:16

Acquisition 246:22 276:24

act 6:11 39:14 42:11 44:2 45:13,
15 80:13 87:22 93:12 98:16
101:10 104:5 118:17 167:7 252:7
266:13 291:4

acted 219:12

acting 4:21 92:4 105:16 107:12
108:10 111:22 132:20 134:11

action 38:19 44:23 61:13 79:9,
11,13 99:4 100:25 118:16 121:11
130:17 138:19 171:17 176:13
232:4,10 255:20 264:11 266:9,23
267:1

actionable 39:23 269:3

actions 26:5 34:1 41:13 44:17
49:24 50:14,25 55:7 56:1 68:7
102:24 103:9,13 104:4,8 108:7
111:2 112:12 124:11 153:12
167:5,12 169:2,22 184:15 224:12,
13 226:20 233:24

active 166:19 167:25 180:19
183:5 276:16

actively 216:15

activism 173:16,25 259:16

activist 258:9

- activists** 258:1
- activities** 40:6 242:19 249:22
- activity** 93:15 171:22 172:15
173:6
- acts** 25:17 30:19 54:3,17 55:12,
14 121:17 288:9
- actual** 27:10 212:7 214:20
- Adams** 4:14 136:18,19,21
137:14,22 138:2,5 139:6,11,22
141:1 202:1,2 203:4,15,19,23
205:9 206:17 207:19 279:24
280:1,6,12,16,20,24 281:2,5,9,19,
24 282:2,13 283:12 284:3,6
291:8,11,16
- add** 31:14 66:18 71:11 76:18
142:6,16 143:18 154:8,10 156:6
160:7 213:5 214:22 274:18
275:10 287:16
- addition** 12:16 235:18
- additional** 129:11 144:11 155:12
284:23 293:25
- address** 7:23 14:15 38:11 42:24
43:7 45:7 90:3 98:1 105:9 111:9
128:18 130:5 134:10 141:9
146:18 153:24,25 156:8,9 158:17
183:15 187:16 192:8 208:22
234:2 235:3 241:12 251:22
262:15 265:3 268:7 269:7 270:2,5
272:18 277:13 282:17
- addressed** 9:24 10:18 41:5 72:8
134:3 192:22 193:1 269:5 271:4,6
272:16 282:20
- addresses** 267:18,21,22
- addressing** 106:4 108:15 111:5
158:5 210:19 258:13 269:2
271:23 285:14 286:15
- adequately** 112:13 141:10
142:14 151:4
- adhere** 103:3 104:6,10
- adhered** 104:22
- adherence** 194:12
- adhering** 122:8
- Adira** 163:3 188:4
- adjourn** 294:18
- adjudicate** 7:6
- adjudicating** 49:15
- adjudicator** 87:22
- adjust** 183:3
- ADL** 10:2
- administering** 114:8
- administration** 6:13 36:11 47:4,
5,8 49:5,14,20,21 55:17,21 56:9,
19 88:2,21,23 89:7 106:1 112:2
114:1,4,21 115:6,21 116:19 118:1
120:8 125:24 138:23 139:12
140:5,7 144:19 145:10 146:14,16
147:5 148:7 150:23 154:14
157:23 158:9,12,13 165:24 176:8,
12,19 188:7 197:2,15 199:8,21
201:3 211:21 212:6 223:8 232:14
233:16,25 240:4 241:23 242:7,16,
17 243:1,3,5,13 245:4,18,25
246:19 248:19 250:1,16 279:11
- administration's** 250:20
- administrations** 39:16 55:8
58:13 246:16 256:8 271:19
- administration's** 35:24 47:9
50:15,19,25 51:9,13 52:11 55:19
56:17 103:6,9 104:4,8 105:8
110:12 112:5,15 157:21 194:5
200:9 209:17 212:16
- administrative** 40:23 104:5
155:3 171:25 178:7 182:22
- administrators** 12:7 47:18 48:4
49:11,14 94:21 106:17 108:9
109:16 129:10 174:10,18 180:8
181:21 182:20 186:5 190:15
192:2 193:25 220:23 256:11
258:24 264:2,16
- admission** 95:19
- admissions** 50:22
- admit** 209:6
- admitted** 204:19
- admittedly** 65:11
- admonished** 172:13
- adopt** 48:5 53:17 58:16 81:5,21,
22 88:14 173:4 241:22 258:15
267:16
- adopted** 59:9 88:21 89:7 158:8
242:1,4 243:19 248:2 258:18,20
- adopting** 116:10 191:21 242:24
- adoption** 80:19 88:25
- adopts** 82:25
- adults** 76:2,3 87:20
- advance** 235:14 266:15
- advancement** 234:6 237:18
- advancing** 35:20 236:12,22
262:25
- advantage** 195:17 225:8 270:2
- adversarial** 252:5
- adversary** 29:10
- adverse** 32:20 61:12
- advice** 281:21
- advise** 101:22 269:25
- advocacy** 8:3 16:19 18:5 20:10
128:9 173:16 228:4
- advocate** 173:22
- advocated** 172:24 173:3
- AEO** 176:16
- affairs** 134:23 229:22
- affect** 101:1 129:22 224:4
- affected** 223:25 224:4
- affecting** 184:13
- affects** 142:19 143:25
- affirmative** 17:8 79:9,11,13
92:22 163:15 171:17 176:12
230:13
- affirming** 116:11
- afraid** 168:7,21 169:1,18 187:9
221:25 222:8
- African** 48:19
- aftermath** 39:2
- afternoon** 105:6 119:13 125:12
163:19
- afterward** 90:9
- age** 34:17 78:24 125:22 257:6
- agencies** 6:20 13:5 96:8 103:16
134:22 138:17 147:19 158:4
186:24 246:23 276:6 277:3
278:12

- agency** 12:11 106:4 108:2
120:25 124:23 125:1 135:15
142:4,20 155:3 241:21,22 243:20
275:6 278:3,9
- agency's** 122:13,21
- agenda** 7:17 107:4 248:20
262:25
- agendas** 37:24
- aggressive** 111:1 115:2
- aggrieved** 155:7
- agitators** 189:9 190:6
- agree** 17:22 24:17 32:10 36:25
48:22 70:14 76:18 144:25 146:1
213:24 221:3 277:14 278:1
- agreed** 88:2 95:15 115:21
- agreement** 50:10 77:10,14 95:24
96:1 110:14,17 114:11 124:6
130:14,19,20,24 132:1,2 144:24
145:9 157:4 240:25 246:5,12
- agreements** 94:9 109:3,5,13,23
114:4,6 117:22,24 118:5 122:12,
18,23 123:18 124:10 130:4 139:2
143:4,9 153:6 159:18 160:2
- agrees** 212:10
- agricultural** 115:25
- ahead** 8:20 13:21 17:10 23:23
32:1 38:8 45:19 52:16 59:24
60:22 63:16 64:10 71:3 79:23,24
83:11 87:8 89:18 92:23,25 98:4
105:3 111:13 125:8,10 132:7
160:16 162:10,15 163:17 165:17
194:19 201:24 216:8 219:20
230:15 238:18 268:17 292:12,13,
15,16,17
- aid** 185:2 215:8
- aided** 284:13
- aim** 51:16
- aimed** 237:6 282:4 287:8
- aims** 282:17 289:11
- airplane** 69:2 128:10
- aisle** 266:17
- AJC** 272:10
- Alabama** 202:23 203:16,20
204:1
- alacrity** 50:4
- Alan** 50:21
- alarming** 261:1
- alarms** 120:23
- alas** 137:3
- albeit** 137:15
- algebra** 75:19
- algorithms** 200:1
- alienated** 169:17
- alienates** 263:25
- alienation** 35:13
- aligns** 62:24 233:18
- alike** 15:8 90:23 161:21 229:1
- allegations** 40:23 109:25 154:24
192:3
- alleged** 49:15 103:14 111:2
128:9 152:21 155:8
- alleging** 121:16,24 126:10
- Alliance** 44:4
- allies** 263:25
- allotted** 14:20
- allowed** 26:5 75:21,23 185:8
208:23 209:2,5,9
- alluded** 277:22
- alma** 9:17
- alright** 223:19 227:20
- ALS** 178:9,11
- altered** 253:16
- altogether** 277:2
- Alyssa** 91:23 98:9
- ambiguous** 37:15
- amendment** 6:23 10:8,14 17:15,
25 18:12 19:5,23,25 20:24 22:17
23:7,8 24:19,21 32:11 42:12,15
47:17 49:13 51:1 52:22,23 53:2,8,
14,25 54:9,17 55:4,6,25 56:15,21
57:11 58:21 59:4,15,20 60:6
66:13 69:20 70:3 71:13,23 73:2,
12 74:1 81:1,11 82:6,8,19 86:14
94:5 112:14 137:7,10 213:3
251:15 263:10
- America** 12:3 146:22 188:2
191:13 196:18 224:20 236:2
247:14 272:9
- America's** 260:11 289:13 290:24
294:16
- American** 5:21 38:25 46:11
51:24 52:12 87:20 88:13,14 93:17
94:1 96:12 105:10 106:13 107:16
116:1 140:17 163:5 177:24
192:16 194:25 196:15 201:8
253:14,18,19,25 254:3,4 257:25
258:11 260:16,20 262:25 272:8
- American-jewish** 30:25
- Americans** 26:4 197:4 201:15
233:10,13 239:25 270:9 273:6
- America's** 5:2 7:12 11:16 12:4
107:7 211:13
- amount** 53:9 245:9 282:10,11
- amplified** 48:13
- Amy** 229:21
- analogous** 63:13
- analogy** 62:19 63:6,9
- analysis** 6:17 37:17 69:14
- analytically** 284:11
- analyzed** 40:20
- ancestors** 28:1 188:12
- ancestral** 27:6,7 41:11,23 42:3
44:13
- ancestry** 28:15 33:9,14 34:4,8
37:3,12 98:19 109:24 113:21
117:5 121:18,20 122:15 142:22
217:19
- anchors** 181:15
- ancient** 219:12
- animal** 204:14
- animating** 98:25
- announced** 28:11 49:18 115:10
- announcing** 103:12
- anonymous** 249:13
- answers** 13:11 47:21 150:9
- anti** 30:2
- anti-** 22:13 30:8 32:17 58:3 66:4

- 70:11,17 74:10 77:15 79:4 107:5,
20 108:17 113:7 198:15 199:15
207:17 212:2 214:15,25 226:10,
17 231:25 232:10 240:22 241:2
242:8 246:1
- anti-arab** 85:12,15
- anti-asian** 84:2,3
- anti-benjamin** 226:18
- anti-black** 84:1
- anti-catholic** 84:23
- anti-democratic** 201:14
- anti-discrimination** 32:6 55:11
81:4 146:10
- anti-gay** 70:17
- anti-hostility** 32:19
- anti-israel** 21:25 35:7 78:20
- anti-israeli** 18:1 22:17,20 68:4
70:11 197:21 225:23 226:16
- anti-jewish** 19:10 113:1 197:20
- anti-mexico** 30:1
- anti-muslim** 19:11 70:20 84:22
85:12,13 110:1
- anti-palestinian** 18:25 19:11
70:20 85:11,15 200:9
- anti-semitic** 97:1 105:9,24
106:14 107:15 109:1,10,22 110:4
118:14 120:15 121:25 128:11
129:7 140:21 154:25 155:16
158:6 159:2,7 165:9 192:3,17
193:9,18 196:17 197:9 210:19
230:24 231:22 240:21 249:10
256:23
- anti-semitism** 195:6 196:18
197:1,6,17,18 198:13 202:18
209:18 210:20 212:2,8 216:3,14
221:10 224:7,11,20,23 226:10
230:20 231:3,7 232:19 233:14
234:2,9,14 237:8,10 238:6 239:12
241:10,15,18,20 242:11,22
243:12,19 244:12 245:5,12
- anti-white** 70:18
- anti-zionism** 30:21 39:18 77:15
224:8,11 225:23 226:2 240:23
241:4
- anti-zionist** 34:18 41:14 53:13
- 58:23,25 68:8 77:20 78:18,21
81:25 177:25
- anti-zionists** 79:1 88:17
- anticipated** 211:7
- antidiscrimination** 271:8
- antisemite** 31:1
- antisemites** 30:16
- antisemitic** 17:25 18:24 19:10
22:13,16,18,19 38:22 40:20 45:3
53:4 57:15 63:8 68:3 70:11,19
77:20 78:18 83:5 87:15,18
- antisemitism** 5:2,8,21 6:9 7:20,
23,25 9:4,12,14 10:3,7,18 11:16,
24 12:8 16:10 24:11 29:8 30:19
32:9 33:21 38:16 39:4 44:2,5,12
45:14 46:1,7,8,11 49:19 51:11
52:12 56:17 57:23 58:19 77:15
80:4,13,20 81:18 84:18 87:21,24
90:4 94:1,12,17 96:3,15 98:18
102:22 103:7 105:21 111:22
112:3,11 114:2 115:5,17,22
116:3,20 117:1 118:10,12,16,19,
25 120:4,24 121:16 122:17,23
123:2,9,14,18,21,25 124:12,20
126:11,14,20 127:6,20 128:6,18,
25 129:19 138:20 144:5,18
157:22 158:11,18,23 162:18
164:1 165:23 166:4,16 167:1,10
169:24 170:1,15,20 171:11 179:3
180:7 183:16 184:25 186:17
188:1 192:12 194:15 247:14,19,
23 248:1,10,12,21 250:2,11
251:5,21 252:7,23 258:16 259:1,2
260:8,11,14 261:1,8 262:19
263:15,18,22 264:16 265:4,14,21
266:11,13 267:10,17,21 268:8
269:2,7 271:11,13 272:9,19 274:1
276:4,19 278:4,9 285:14 286:11,
13,20 287:18,23 288:9 289:1,13
290:23 294:16
- anymore** 133:7
- anyone's** 30:10 34:8 140:14
- apartheid** 48:19
- apolitical** 275:13
- apologize** 89:15
- apologized** 251:9 255:17
- apparatus** 171:14
- apparently** 67:23 189:10
- appealed** 176:16,24
- appeared** 9:15
- appearing** 10:19 129:14
- appears** 104:21 124:1 192:5
210:22
- appease** 110:6
- applaud** 46:20
- applauded** 42:6 115:1
- applicable** 51:9
- applicant** 102:15
- application** 43:11 71:14 171:23
172:20
- applications** 33:18
- applied** 32:8 58:10 121:1 174:3
186:12 262:7 263:23 267:7
- applies** 37:13 53:4 87:6 97:20
191:23
- apply** 93:20 256:20 273:6
- applying** 269:19
- appreciated** 272:7,13
- appreciation** 132:17
- approach** 23:16 56:10 96:5
112:16 115:4 157:21 197:17
234:22 243:6 246:7,20 247:16
250:20 251:20 266:11,17 277:13
278:2,16,22 282:6,7 290:11
- approached** 127:19 191:5
- approaches** 232:5 236:25 266:8
277:8
- approaching** 216:2 284:11
- appropriately** 95:17
- approval** 100:23
- approve** 102:6
- approved** 280:7
- approximately** 113:4 116:24
188:24
- APRA** 252:12
- April** 50:20 165:24 189:5 202:16
233:19

Arab 197:4
area 34:16 137:8
areas 32:5 69:17,19 95:21
aren't 25:16 85:6 244:13
argue 30:24
argued 70:12
argument 31:3,7 35:5 62:16,17
77:19,23,25 78:10 81:13 145:13
242:13
arguments 57:23 58:2,6 77:17
arises 286:17
arm 247:7
ARPA 267:9
array 278:18
arrived 188:18
article 202:10 203:11 214:25
215:2 270:7
articles 187:3
articulate 214:17
articulated 37:25
Arts 9:22
asbriefing@usccr.gov. 14:16
294:9
ascertain 152:18
Asian 197:4
aspect 26:20 29:6
aspects 244:24
aspiring 179:21
assault 30:24 55:12 116:21
124:3 127:8 257:2
assaulted 256:22
assembled 109:12
Assembly 244:4
assert 13:9 35:25
assertions 20:22 124:20
assess 6:9
assessing 44:6
assessment 104:17 129:18
136:13
assessments 130:16
asset 177:7
assigned 150:17
assistance 93:16 99:9 100:13
153:2 156:23
assistant 11:8,10 16:20 92:1,4,7
93:23 105:4,12,16 107:12 108:11
111:3,13,24 113:23 119:10
132:20 134:11 135:8 149:2,17
238:23
assistants 8:14
assisted 269:10
associate 176:25 200:8
association 177:24 178:4 222:2
237:15
assume 14:24 161:11 200:7
228:14 251:12
assumed 251:9
assuming 276:7 281:24
assumption 204:3 251:2,6
assure 255:3
Astonishing 10:5
asymmetry 178:15
Atlanta 120:2 265:18
atmosphere 52:4
atrocities 22:25 196:21 198:19
atrocious 174:23
attached 215:1 220:1
attachment 199:1
attack 39:3 106:2 115:7 201:8,11
209:3 232:15,20 237:14 254:15
261:18 288:19,20,23
attacked 255:11 256:3 288:6
attacking 42:9 199:17
attacks 12:2 15:9 90:24 161:22
164:25 189:18 198:18 199:19,20
200:18 212:16 222:25 229:2
236:7 249:25 252:5,21
attempt 100:6 235:8
attempted 152:20
attempting 153:18
attempts 140:3
attend 180:25 183:23 187:9,14
215:22 255:7 256:24
attended 293:16
attendees 294:10
attending 164:4 180:18,22
attention 142:3 160:24 163:25
205:20 206:1 265:19
attitudes 23:15
attorney 28:16,20 93:22,23
98:10 100:23 102:5,8 105:23
119:17,18,24 125:23 149:2,17
attorneys 30:23 120:11 122:21
Auburn 202:20
Auchincloss 6:7
audacity 30:23 256:5
audible 4:19,23
audience 66:22 67:14,18 68:25
69:10,11 72:10 227:14 293:16
audiences 71:25
Austria 169:7
authorities 48:11 252:1 286:6
authority 13:16 111:9 123:15,22
145:10 159:20 291:3
authorization 169:15
authorize 75:16 115:15
authorized 100:14,16 103:23
138:24 144:25 153:14
automatically 87:15
Avenue 4:8 14:14 294:7
avert 197:3
avoid 73:14 84:5 113:12 223:11,
12 245:2
avoiding 37:19 104:1
awards 173:15,16
aware 89:6 150:1 157:24 204:8
awareness 44:2 45:15 80:13
87:22 131:8 240:13 271:25
axis 83:23

AYES 92:21 163:14**Aza** 127:10

B

B.A. 195:2**back** 36:4 89:19 144:8 152:19
156:22 160:22,25 176:18 181:1
182:19 191:15 192:16 216:7
217:2 239:1,10 289:10**background** 46:19**backgrounds** 168:3 199:12**backlog** 108:15 279:16**backlogs** 235:13**bad** 23:2 35:17 83:20 259:4**Badgers** 196:4**balance** 10:10 37:18**balanced** 74:10**balances** 47:12**Balderrama** 11:9**ball** 255:18**ban** 19:9**bankrupt** 115:18**banner** 190:6**bans** 54:3,19**bare** 268:6**Barely** 49:25**barred** 269:18**bars** 240:7 248:4**based** 6:17 18:16 19:3 21:7 34:3
37:20,23 44:10 98:18 101:3
104:20 113:21 121:18 125:20
152:1 240:7 258:12 269:9 270:25**baseless** 221:15**basic** 212:25**basically** 33:9 61:21 68:5 210:2**basis** 6:3 29:24 39:23 50:13
61:16 62:1,22 66:20 80:12 93:14
107:1 141:21 269:12 283:10**bathroom** 182:16**battle** 183:14**bear** 140:24**bearing** 128:11**beat** 20:6,15 196:5**beaten** 255:24**beautiful** 219:11**beautifully** 90:19**befallen** 241:7**began** 105:25 165:22 174:21
183:3**begin** 7:2 13:22 17:10 38:9 45:20
73:22 90:5 92:23 105:5 111:15
128:13 141:13 161:2 163:18
184:14 194:21 228:5 230:16
258:13**beginning** 185:15 220:3 276:3,6**behalf** 122:18 178:24 179:9
293:20**behavior** 18:12 23:15 25:19
139:19,21 140:25 154:2**Beiner** 229:25 247:3,4,6 252:25
275:10 291:24,25**belief** 17:8 27:4 92:20 163:13
181:9 226:3 230:11**beliefs** 201:1**believed** 181:5 183:12 188:19**believing** 254:3**belong** 30:12 65:6,9 186:20**belonged** 182:8**belt** 256:3**Ben** 32:4**bend** 38:6**beneficial** 84:25**benefit** 284:23**benign** 207:1**Benjamin** 16:21**Berkeley** 28:10 29:16**bespoke** 83:18 85:4**Beth** 92:11 125:12 159:16 265:10**betrays** 84:16**bias** 84:6 114:14**biased** 193:25**Bible** 220:8**Biblical** 181:12**bickering** 282:21**Biden** 47:4,8 49:5,14 55:7,16
56:9 58:12 88:1,21,22 89:7
105:25 106:9,15 107:2 108:16,22,
25 109:20 110:4 112:1 114:1
140:5 148:6 157:20 158:8 243:3,
8,13,21 245:4,25 278:14 279:10**big** 50:16 85:6 225:13**bigotry** 11:24 45:6 240:21
267:19**billion** 115:23 145:5 166:1**billions** 115:13 118:21 185:3**bind** 44:18 71:16**binding** 267:6**binds** 221:4**biological** 107:1**bipartisan** 6:3,5 8:23 10:24
11:15 118:11,15 132:14 136:25
170:19 172:11,17 211:17 266:10
268:10 281:25 283:9 285:6**Bipartisanship** 284:9**birth** 34:25**bit** 47:9 62:5 145:25 161:9**bitter** 176:15**black** 35:1 63:23 86:17 222:10
261:23 288:13,22**blame** 212:5 214:5 287:5,7**blamed** 184:10 211:2 213:18
232:2**blank** 177:1**blatantly** 262:18**blind** 94:21**block** 94:19**blocked** 40:5**Blocking** 25:13

blocks 75:1
blood 190:9 221:16
bloodthirsty 207:24
blueprint 262:17
blurred 78:1
Board 18:20 74:20
boarded 113:15
boasted 113:23
bodega 203:8
body 61:4 172:11
bombing 189:21
bombings 189:20
bombs 36:6
Bondi 93:22
bore 51:16
born 23:1
boss 149:17
Boston 34:16 120:1
bottom 156:12
bound 19:5 81:10 177:16
bounds 37:1
box 159:9
boycotts 258:3
bracket 34:17 78:24
braiding 167:20
branch 13:17 158:4
Brandeis 229:24 238:22 271:22
bravely 39:11
bravery 227:11
brazen 257:3
breadth 293:10
break 89:19 160:17 227:21
breakdown 266:2
breakdowns 129:21
breaking 48:17 106:23 232:3
 245:10
breaks 211:15

breed 170:3
briefing 4:4,13 5:1,18 8:17 11:13
 12:19 13:19,22 15:1,5 90:16
 111:19 161:16 228:21 284:1
 293:9,14 294:1,16,18
briefly 126:24 156:7
bright 72:4
bring 19:7 65:18 77:9 149:16
 181:6 237:12
bringing 60:3 62:25 64:14
 100:17
brings 26:17 164:16 241:4
 261:11 263:11
broad 59:11 62:18 192:6 278:18
broaden 109:21 128:24
broader 166:5,17 232:11 235:17
broadly 51:9 164:17 247:25
 263:24 275:2 279:14,20
broke 55:9
Brooklyn 203:7
brother 180:22 195:22 196:4
brought 80:4 288:4
Brown 116:8,16 120:4 288:14
brutal 18:9
brutality 18:10 127:11
budgetary 273:1
Buffalo 288:21
build 234:11
building 8:2 190:17 191:2
 206:13 228:3 264:12
buildings 94:20
built 84:21 115:6 156:17 257:7,24
 262:16
bulk 105:22
bullied 254:6
bullying 113:25 250:6
bunch 20:5
bureaucracy 174:6 177:17
bureaucratic 178:25

bureaucrats 282:21
burning 86:22,24
bus 189:20
Bush 88:1 125:24 240:4 241:23,
 24 282:4,5

business 182:9 188:6

C

Cal 163:3 188:18,22 189:10
 190:15,16,25 191:3,16 192:19
 193:10 222:24
calculated 43:3 194:2
calculations 110:6
California 96:20 188:5
call 48:3 55:6 88:9,16 117:25
 119:2 124:24 182:16 219:4
called 27:11 86:16 159:7 171:16
 174:12
calling 39:20 189:14 193:24
calls 26:2 189:12 211:22 262:20
camouflaged 240:22
campaign 51:10 61:8,11 63:7
 240:15 241:15
campaigning 146:21
campaigns 41:15 266:20
camping 21:11
campus 5:7 6:9 7:23,24 20:3
 22:13 25:7 31:22 32:25 37:4 40:1
 43:10 47:18 48:4,10,18 49:11,14
 55:9,11 56:18 58:7 63:7,10 64:1,
 24 65:1,3 67:13,17 71:22 72:6
 90:3 94:1 95:16 96:15 105:21,25
 110:4,21 111:10 112:25 114:11
 129:22 137:12 138:1,3 144:5
 162:17 163:25 165:5,16,19,23
 166:13,18 167:1,5,10 168:1
 169:3,20,24 170:7 171:11,13
 174:18 175:4 176:23 179:3 181:3,
 19 183:6 188:20 189:2,15,25
 193:8,22,24 197:7 199:16 209:7
 210:8,20 211:23 213:6,15,16
 214:11,12,19,20 216:3,17 217:1,
 14,23 219:24 220:8,10,17 221:22
 222:19 223:5 230:2 233:14 234:9
 236:18 239:12 247:23 248:2,10

- 251:5 252:23 254:7 255:1 257:6
259:18 263:14,16 264:2,12,17
275:14,16,18 294:17
- campus-by-** 214:18
- campuses** 5:3,22 7:4,12 8:3
10:9 11:17 12:5,9 38:25 41:15
43:23 45:9 46:11 52:12 60:16
67:7,8 94:6,17 96:4 105:10 106:7,
13 107:7,16 112:4,12 113:8
120:16 124:21 127:21 188:2
197:11 198:17,21 199:6 201:7
207:11 211:14 216:14 228:4
231:2 237:5 241:11 247:10
253:14 256:22 257:25 260:11,25
267:11 274:2 289:14 290:24
- cancel** 115:11
- canceled** 50:2
- cancelled** 209:22 210:3
- cancelling** 103:16
- cancels** 211:21
- cancer** 249:2
- can't** 9:1 25:4 28:7 29:8,9,21
69:3 70:3 75:11,12 87:1 133:19
136:11,12 137:19 150:12 154:12
207:10
- capacity** 112:9 120:23 123:24
124:9 133:11 134:10 172:8 258:2
- capitol** 27:17
- cappella** 164:12,13
- capstone** 198:5
- captive** 66:22 67:14,18 68:25
69:11 71:24
- capture** 35:20
- care** 28:18 85:3 116:11
- career** 52:20 105:22 111:21
120:6 126:4 131:22 143:4 154:15,
20 180:4 222:7,12 253:16 274:9
- careers** 148:8
- careful** 7:8 15:6 90:18 129:18
161:18 228:23
- carefully** 200:2 270:15,19
- cares** 55:25
- Carissa** 11:10
- Carly** 16:22 38:12
- Carolina** 202:23
- carried** 126:8 129:23
- carrots** 55:2
- carry** 13:7
- carrying** 129:24 144:1
- carve** 36:23
- case** 18:19 19:18 25:21 53:19
55:16 56:4,19 60:10,20 61:4,22
64:12 65:11,15 74:18,23 76:15,
19,20,21 78:15 82:3,15 83:6
86:16 122:8 123:15 124:3 126:16
129:5,13,24 144:11 145:6 147:10
149:14 155:13 176:10 181:12
185:16 190:3 250:12
- Caseloads** 123:4
- cases** 37:14 57:3 62:19,21 67:20
69:13 76:22 95:5 108:13,14,16
109:4 114:2 123:21 126:15 128:4,
6 129:25 131:10,20 142:24 143:1
144:13 147:14 152:10 153:8
250:17 257:10 265:17 279:12
- caseworker** 279:12
- cast** 219:9
- casual** 9:15,16
- categories** 285:22
- categorized** 113:20
- category** 285:19
- Catholic** 176:2 177:11
- caution** 13:25 137:16
- caveats** 273:1
- cease** 253:11
- ceiling** 196:15
- celebrate** 190:11
- celebrated** 113:25 173:8,25
177:8
- celebrating** 189:21 217:18
- censoring** 249:21
- ensorship** 51:22 55:3 199:8
252:21
- center** 16:19 17:20,21 114:16
173:19 229:25 238:22 271:22
- centered** 210:14 256:16
- centers** 170:20
- central** 77:2,16 111:23 247:15
- centuries** 253:20 259:21 261:14
- CEO** 16:19 229:21,24 230:1
238:22 257:6 288:3
- cetera** 150:14
- Chabad** 40:2 164:15
- Chai** 259:23
- Chair** 4:3,11,13,20,25 8:25 10:21
11:2 13:20 15:12 16:9 23:22
31:25 32:3 38:7 45:18,21 52:15,
18 59:22 60:1,2,22 63:16 64:10
65:25 67:21 71:1,6,9 74:2,6 76:16
79:18 80:1 83:11 87:8 89:14,24
91:2 92:22 98:2 105:2 111:12,16,
17 119:9 125:6 132:5,12 136:16,
20,22,23 141:2,3,13 143:16
145:15,17 148:16,17,21 151:7,9
153:22 157:15 159:13,14 160:10,
22 161:25 163:15 171:3,8 179:13
187:21 194:18 201:18 202:3
210:9 211:6 216:6,10 222:21
223:15,19 225:4 226:22,25 227:9
228:1 229:5 230:13 238:17,20
246:24 252:25 259:24 268:15,22
272:3 274:17 275:20,23 277:18
279:22 283:14,17 285:8 289:7
292:10,14,18 293:1
- Chairman** 229:24 238:21
- Chairs** 253:3
- Chairwoman** 93:2 98:6
- challah** 167:20
- challenge** 246:15
- challenged** 248:19
- challenges** 102:23 224:10
251:22
- challenging** 103:5
- champion** 174:7
- championing** 221:18
- chance** 136:24 138:6 195:9
- change** 29:20 65:16 84:4 108:12
126:22 130:7 131:1,14 156:25
157:12 172:25 186:8 194:10

- changed** 168:13 175:13 291:11
changing 38:3
chant 41:24
chanted 189:12,23 288:10
chanting 165:14
chants 39:24
Chapman 25:21 29:17
chapter 37:4
characteristic 32:21,24 33:5
 36:14 61:17 62:2
characteristics 33:6,11 98:19
characterization 136:8
characterize 32:15 277:12
characterized 25:7 189:18
charge 7:7 226:17
charged 6:20 93:10 98:15
Charlottesville 288:6
chase 259:19
chased 253:21 254:7 255:1,6
chats 31:5
check 84:21
checking 154:4
checkpoints 138:3
Chicago 17:2 164:4
child 270:24
children 76:1,3,4 114:19 127:3,5
 191:10 237:25 249:7
children's 249:15
chill 56:2
chilled 54:20
chilling 59:11
chills 263:24
choice 28:24 37:18 42:8 57:12
 82:10 83:17,19 233:5,22 248:24
choices 232:12 233:11
chorus 92:21 163:14 230:12
chose 249:12
- Christchurch** 288:23
Christian 220:7
Chronicle 114:23
Circuit 78:15
circumstances 24:10 40:22
 64:20,22,24 66:7 99:19 110:9
 287:6,13
citation 272:8
cited 184:21 206:22 279:16
 280:17 281:22
citing 26:13 42:12
citizen 68:7 268:1
citizens 18:22 68:5,9,10,16,17
 198:6
City 127:4 180:20 238:3
civil 4:5 5:11 6:19 7:9,20 8:11,14
 12:11,18 14:12,13 16:11 24:6,15
 28:4 29:9 33:2 38:20 39:1,14
 42:22 43:15 45:7,16 47:16 48:22
 49:3 50:7 52:25 54:10 59:17 60:6
 64:13 65:23 79:7,16 83:21 91:22
 92:4,9,13 93:7,9,11,12,23 96:9,18
 98:10,15 101:10 103:14,24
 105:16,23 106:6 107:3,13 108:11
 111:2,9 112:1 116:4 118:1
 119:16,19,22 121:1,13 124:14
 125:14,16 126:9 132:21 133:15,
 24 134:11 138:9 139:7 140:17
 141:24 145:23 148:24 149:2,4
 150:2 171:9,16 174:19 177:16
 180:14 186:22 187:6 192:11,15
 215:6 232:25 234:18 238:24,25
 240:6 243:7 245:7 247:24 250:15
 252:16 253:10 254:22 255:20
 259:6 261:16,22 265:9 266:4,18,
 22 269:1,19,23 272:21,24 273:5
 276:14 289:16 291:1,4,21 294:6
civilians 165:9 189:19
civility 15:9 90:24 161:21 229:1
civilization 52:8,10
civilized 211:12 264:7
Civils 6:11
claim 26:24 37:7 38:24 62:25
 78:16 197:18 198:12 257:25
 265:21 268:6
claiming 85:21 106:24
- claims** 32:8,24 57:23 81:15
 104:14 110:18 199:15 231:18
 262:14 265:20 269:15
clamored 107:25
clarify 32:7 45:13 60:11 64:1
clarifying 28:14
clarity 43:14 64:15 65:18 72:20
 73:24 239:16 257:12
class 23:13 26:11 69:6,7 164:6
 165:11 171:21 249:21
classes 21:15 165:3 167:17
 181:8 255:7 256:24
classified 182:25
classmate 168:8
classmates 75:17 164:20 165:6
 167:16 168:5 182:5 200:21
 247:18
classroom 67:11 72:13 113:17
 165:15 194:3
Clause 84:9
clear 18:19 21:10 31:12 42:22
 43:19 53:8 65:24 93:24 94:4,21
 106:12 121:6 127:15,24 128:3
 135:11,19 136:4 147:8,10,25
 148:5 150:25 165:16 171:21
 174:21 177:6 180:3 190:5 192:10,
 12 198:8 223:24 230:20 240:17
 254:19 256:10 286:20
clear-cut 26:3
clearer 29:20 72:4 81:9 145:23
 186:3
Clemson 202:18,24
clerkship 222:6
click 16:7
climate 48:20 112:25 114:8
 130:16 131:8 193:22
Clinical 16:20
Clinton 242:6
close 23:9,21 26:2 51:18 76:1
 95:14 115:22 126:7 223:16
 226:24 259:14 292:18 294:12
closed 116:25 122:19,22 154:18
 265:13 266:6

- closely** 87:6
- closest** 14:6 169:5
- closet** 239:2
- closing** 179:1 235:10 273:13
292:19
- closure** 277:8
- club** 248:8
- co-** 132:15
- co-conspirators** 31:5
- co-equal** 13:16
- co-lead** 8:22 10:23
- co-led** 11:17
- co-op** 250:10
- co-panelist** 88:6
- co-panelists** 26:23 36:24 53:6
58:17 89:2
- coalition** 28:11 267:24
- coat** 239:2
- coated** 242:12
- Cobb** 286:5
- code** 41:18 207:2 262:7
- codify** 44:2 45:13 266:16,20
- codifying** 263:7
- coerced** 51:6
- coercing** 56:12
- coercive** 53:21
- coffee** 203:9 213:19
- cognizant** 15:16
- coincidental** 261:20
- coincidentally** 75:25
- collaborating** 187:17
- collaboratively** 157:3,10
- colleague** 64:20 65:19 138:8
172:22 210:11 211:4
- colleagues** 117:2 120:8 152:5
242:9
- collecting** 249:6
- collection** 152:17
- collective** 241:8
- collectively** 239:20
- college** 5:2,21 7:12 10:9 11:16
12:5 26:9 52:12 67:5 71:22 76:11,
12 94:1,6,17 105:10 106:7 107:7
112:4 113:8 120:16 124:21 127:4,
21 163:20,23 179:23 180:13,21,
23 195:10 197:10 198:17 200:15,
24 201:6 207:11 211:13 218:20
225:7,14 237:25 241:11 248:15
254:7,9 257:18 259:17 260:25
267:11 274:2 289:13 290:24
294:16
- colleges** 47:14 74:12 93:18
102:21 114:5 118:18 211:25
236:10 242:20 244:21
- collegial** 175:25
- collegiality** 177:13
- colonized** 113:21
- colonizers** 113:21
- color** 33:7,11 93:14 97:17 125:21
240:8 269:10 271:1
- Colorado** 82:16
- Columbia** 25:20 46:14 49:24
50:3,8 95:8,15 96:1 107:20 108:2
110:15,17
- Columbia's** 107:22
- combat** 49:19 115:16 123:8
201:13 209:18 266:11 267:10
- combating** 197:17 212:1,8
224:20 242:21 243:11 246:1
271:8
- combats** 260:8
- combatting** 38:16 51:10 115:5
120:24 124:20 166:16 247:14
- comfortably** 17:17
- command** 215:3
- commandeered** 177:23
- commands** 240:25
- comment** 210:7,10 213:23 283:5
- commenting** 183:21
- comments** 8:6 15:13 16:4 71:12
88:19 91:3,15,19 162:1,14 229:6,
17 268:17 275:24
- Commerce** 277:4
- commission** 4:4,7,12 5:14,24
6:14 7:11 8:5,13,21,25 11:11,14
13:6,8 14:12 32:14 38:11 45:12
46:21,24 58:15 59:13 110:25
112:21 117:25 119:2 132:22
134:8 148:25 161:19 163:21
170:18 171:9,20 172:17 179:2
180:15 185:13 187:25 194:22
201:12 206:20 228:23 238:25
239:11,24 240:12,16 244:11
246:22 247:4 253:4 260:3 261:12
263:2 265:7 268:9,10 269:1
276:21,24 280:14,21 281:6,10,12,
25 282:24 283:8 285:1 293:20
294:4,6
- commissioner** 4:13,14,15 6:4
8:22,24 10:22,24 11:1,2,9,17
13:21 15:16 74:3,4,5 79:24,25
82:13 88:20 89:1,6,11 132:9,11,
16,24 133:1,9,18,22 134:8,24
135:4,10,17,24 136:3,15,17,19,21
137:13,22 138:2,5 139:6,11,22
141:1 143:24 145:15,17 146:5
148:14,18,20 149:7,24 150:5,11,
21 157:16,18 158:1 159:14
187:23,24 202:1,2 203:4,15,19,23
205:9 206:17 207:19 210:11
211:4,6 216:8,9,21,25 219:19
220:24 223:18,20,21 226:21
268:19,21 269:8,24 271:3,10,12
272:4,5 274:16 275:20,22 276:11
277:11,17 279:24,25 280:1,6,12,
16,20,24 281:2,5,9,19,24 282:2,
13 283:12,15,16 284:3,4,6,7,8
285:8,9,11,20 286:10 287:14
289:8,9,21 290:1,5,16,21 291:8,
10,11,12,14,16,17,24 292:1,4,8,
11,12,16,21
- commissioners** 6:3 9:8 14:1,19,
21 15:8,15 16:2 24:1 27:14 59:25
90:8,23 91:14 98:7 105:7 132:8
161:5,20 162:12 201:25 228:9,25
229:16 230:17 238:21 268:18
280:8
- Commission's** 5:13,19 7:5
12:12
- commitment** 84:16 110:12,25
116:6 142:8 188:17 189:2
- commitments** 34:22
- committed** 5:14 7:11 120:24
211:16

- committee** 93:3 105:20 253:9 256:15
- committee's** 256:15 272:8
- committees** 102:10
- common** 18:10 147:18 244:23
- commonly** 207:10 241:11 244:17
- communal** 233:18
- communicate** 37:9
- communicated** 100:1
- communication** 223:13
- communities** 97:22 129:22 169:4 221:22,24 223:25 231:13 232:7 236:9 237:18 261:9 263:3 266:18 267:24
- community** 34:15 38:18 47:25 51:24 76:12 80:16 118:8 152:12 164:11,19 167:6 174:9 180:20 183:6 184:13 185:25 188:20 189:4 194:6 216:16 217:1,7,14,25 218:5,6 219:16,22 220:16,17 221:1 223:2,4,6 224:5 237:13 261:25 266:22 267:23 268:2 278:19 288:15,20,21,22,24
- community's** 232:14,18
- comparable** 43:21 259:11
- comparison** 48:16
- compelled** 34:10
- competing** 47:15
- complainant** 100:2
- complained** 178:9
- complaining** 282:23
- complaint** 99:13 121:7 123:14 128:12 155:5 157:14 190:22
- complaints** 114:24 117:22 120:4,18,21 121:4,16,20,23,24 122:2,11 123:2,6 125:2 126:10,20 127:21 128:23 156:13 159:22 191:1 192:22 193:2 197:6 235:4 245:9 275:9
- complete** 101:19 131:20 249:22
- completely** 65:2 145:1 214:3 253:15 258:5
- complex** 247:12
- complexities** 199:22
- compliance** 43:13 91:25 99:3,7, 12 100:9,15,17,21 101:1,23,24 104:17 109:8 110:22 117:23 128:15 130:19 159:22 192:11 210:17,18 251:24 275:16
- compliant** 155:5
- complicated** 20:21 225:24 226:1 285:23
- complicit** 109:18 140:4
- complied** 73:8 149:5
- compliment** 225:19
- comply** 13:1 49:3 73:5 99:10,15, 23 100:4,25 102:4 133:12,17 136:7,11 150:24 152:18 155:25 166:2
- complying** 112:8
- component** 20:13 41:10 42:9 109:24 270:1
- compounded** 190:21
- comprehensive** 95:20 96:6 108:12 122:12 138:18 194:11 248:12 264:25 277:13,16
- compromised** 5:17 110:5 249:17
- conceal** 113:11
- conception** 62:18
- conceptual** 49:9
- concern** 9:12 52:23,25 53:9 72:9 141:5,8 142:1,17 149:16 181:1 205:23 214:21 263:1,2
- concerned** 233:14
- concerns** 6:13 43:5 129:11 130:12 153:25 186:25 232:18 248:21
- concert** 242:9
- concise** 16:4 91:16 162:14 229:18
- conclude** 15:25 59:12 91:12 102:19 150:6 162:10 229:14
- concluded** 26:12 96:24 100:8 104:3 116:19 152:16 294:15
- concludes** 293:14
- conclusion** 8:4
- conclusively** 79:4
- concrete** 24:8 27:9 114:6 130:14 187:19 258:12
- Condemn** 118:12
- condemnations** 68:6
- condemned** 196:22
- condemns** 68:2
- condition** 29:23 59:6 103:25
- conditioned** 51:3 56:22
- conditioning** 58:21
- conditions** 5:3 7:4 12:8 109:15 110:23 294:17
- conduct** 7:8 11:15 19:24 20:4,11 21:4 22:20 24:22 25:10,11 26:4 31:19 39:21 40:11 43:20 97:9,12 105:9 108:18 143:3 151:4 152:6 191:17,25 192:9 193:9 254:22 255:12,17 262:8
- conducted** 73:7
- conducting** 5:24 153:4 170:19
- Conference** 88:11
- confided** 250:10
- confidence** 131:9
- confident** 114:18
- confidentiality** 193:13
- confirm** 4:17,21 17:5 92:17 135:9 163:10 230:8
- confirmation** 4:20
- confirmed** 4:25
- conflate** 251:20
- conflated** 250:8
- conflating** 199:19 224:10
- conflation** 224:7
- conflations** 198:14 225:22
- conflict** 35:14 42:20 175:18 192:7 198:22 199:23 200:13 247:11,20
- conflicts** 22:25 66:4

- confront** 108:9 170:15 231:3
232:10 237:10,13 261:10
- confronted** 86:16 167:11
- confused** 285:4
- confusing** 60:25 61:23 165:2
- confusion** 32:12 242:2 284:4
- Congratulations** 281:8
- Congress** 6:6,12 13:13 44:1
45:12 47:1 48:25 49:22 58:18
59:14 65:21 80:14 82:12 102:13
104:19 144:3,9 252:6 255:16
266:12 269:25 270:5,12 272:23
273:21
- Congressional** 6:16
- conjunction** 195:2
- connected** 204:4 206:4
- connecting** 77:18
- connection** 27:10 32:23 36:13
41:11,23 68:20,21 77:22 233:6
247:12
- connections** 208:15
- conscience** 193:16
- conscious** 133:11,17 136:6
- consensus** 282:11
- consent** 159:18
- consequence** 269:5
- consequences** 52:14 83:20
97:9 109:14 120:22 139:19 184:3
211:25 255:12 291:6
- consequential** 38:12
- consideration** 87:23 194:17
294:4
- considerations** 193:13
- considered** 29:8 57:15 87:17
158:19
- consistency** 257:12
- consistent** 43:9 45:14 112:14
259:10
- consists** 61:15
- conspiracy** 231:9,23 287:25
- conspiratorial** 287:9,18 288:12
289:3
- constantly** 200:25 249:19
- constituency** 110:7
- constitute** 49:6 72:21
- constitutes** 247:23 263:8
- Constitution** 48:21 49:23
- constitutional** 13:16 19:8 38:20
56:16 58:14 82:8 286:3
- constitutionally** 20:7,16 21:8
51:6 69:8 70:10,21
- constrains** 71:14
- constraints** 48:21,24 53:3
- constructive** 237:7 282:11
- construed** 81:17
- consultation** 214:7
- consulted** 159:10 213:12 215:18
- consulting** 112:7 159:3
- consuming** 107:6
- contacted** 181:19 185:9 209:20
- contained** 104:15
- contemporary** 44:11 236:12
- content** 74:24 75:4 168:14
- content-** 21:1 48:11
- content-neutral** 21:17,23
- contention** 51:13
- contentious** 173:1
- contested** 48:7 53:18
- contests** 53:20
- context** 18:8 19:16 20:22 44:10
60:14,16 61:5 62:4 66:5 75:14
76:23,25 87:17 172:19 207:23
267:8 270:18
- contexts** 71:24 269:13
- contextual** 76:24
- continents** 261:13
- continue** 39:9 97:23 100:13
110:25 118:9 147:11 169:19
170:23 183:23 231:23 253:14
286:14
- continued** 58:22 96:16 101:14
160:23 198:19 246:1
- continues** 185:23 186:12 197:15
- continuing** 56:23 110:22
- continuous** 198:14
- continuously** 201:4
- contract** 277:1
- contracts** 50:3
- contradictory** 112:20
- contrary** 38:24 145:14
- contrast** 123:17 177:9
- contribute** 49:7 56:5 59:1 219:6
- contributed** 283:19
- contributing** 7:15
- contribution** 173:9
- contributions** 132:13
- contributors** 236:1 249:12
- control** 50:22 51:5 53:20 231:10,
20
- controlling** 231:16
- controversial** 21:20 54:1 244:18
- convenience** 248:14
- conversation** 24:2 89:16 175:25
176:5 185:12 198:8 210:13
224:22 253:12 261:6 273:24
- conversations** 199:6 200:14,16
207:8 217:5 224:17 225:7 247:17
294:11
- convey** 126:21
- cook** 218:19
- Cooper** 25:21 69:13
- cooperate** 13:6 135:14
- cooperation** 99:6 251:25 283:9
284:14
- cooperative** 250:6
- coordinated** 106:8 257:9
- Coordination** 91:24
- coordinator** 43:22 259:9 267:10,
12
- coordinators** 43:18 118:18
252:10 259:7

- core** 27:8 41:10 42:9 57:6 234:12 263:20
- Cornell** 9:17,25 16:25 46:16 115:21 145:6
- corner** 75:11 113:18 239:2
- correct** 68:13 86:5 89:10 97:11 150:4 154:2
- corrective** 121:11 124:11 130:16
- correctly** 50:24 75:22
- correctness** 155:20
- correlation** 261:20
- cost** 175:21
- couldn't** 133:7
- Council** 229:21
- Counsel** 8:15 91:21,23 93:7 105:19
- count** 84:17,22 250:14
- counter** 76:6 118:10 158:11
- countering** 234:9 236:23
- Counterman** 82:16
- counterproductive** 107:5 112:20
- counting** 244:3 254:12
- countless** 167:15
- countries** 207:12,13,14
- country** 107:19 118:25 168:20 175:9 187:9 209:1 234:7 235:24 237:18,24 244:2,21 247:9 254:16 256:8 257:8 258:11 260:25 262:1 268:8 271:2 272:19
- country's** 116:22 196:12
- counts** 57:18 73:11,20 84:20
- couple** 19:18 29:21 34:14 63:13 78:15 157:17 283:6
- courage** 239:15
- courses** 183:7 249:22
- court** 4:17,19 18:18 19:19 21:10 33:8 38:1 39:17 50:24 61:14,17, 24 65:15 72:7,12 74:19,21 78:17 82:2,15,16 86:15,25 100:18,20 103:8 104:3,13 153:18 269:15
- courts** 19:15 38:1 39:12 40:15 54:19 62:3,12 71:14 72:3 75:15 78:14 103:1,11 104:20 116:18 130:11 258:24 263:4
- Court's** 51:19 76:21
- cousin** 195:25 196:3
- cover** 30:18 175:22 209:3
- covered** 196:17 240:6
- covers** 34:2 121:17 239:25
- coworkers** 66:23
- crack** 107:15
- crackdown** 200:22
- cracking** 112:16
- cracks** 181:24
- craft** 109:13 130:3
- crafted** 200:2
- Craig** 92:1 105:11
- craven** 106:10
- create** 56:2 58:20 66:10 94:25 157:12 194:6 200:20 216:15 233:4 267:9
- created** 40:25 55:19 214:5 264:13
- creates** 68:19 70:24 72:15 75:2 83:1,3 266:21
- creating** 37:5 69:23 70:2 80:18 83:6 236:3
- creation** 49:18 50:1 185:24
- credibility** 130:10 275:7
- credible** 289:23 290:19
- credibly** 265:21
- crime** 30:23 118:7 179:25 183:1 187:18 200:6 208:6 267:12
- crimes** 113:1,5 197:3 234:17 235:18
- criminal** 69:19 105:23
- criminally** 20:1
- crisis** 39:2 105:24 109:3 246:10, 12 261:7
- critical** 8:9 10:11 12:6 32:11,17 79:13 118:6 130:2 236:20 249:2 264:17 266:12 274:8
- criticism** 22:15 24:12 87:12 138:22 198:14 251:16
- criticisms** 214:10
- criticize** 217:16
- criticized** 245:22
- criticizing** 198:2
- critique** 225:14,19
- critiques** 208:22
- critiquing** 208:24 225:13,15,16, 20
- cross** 86:22,24 220:11
- crosses** 24:23
- crowd** 75:13
- crowds** 214:16
- crucial** 27:6 77:8 186:18
- crude** 45:5 53:11
- crux** 60:5
- CSU** 192:5
- CSU'S** 191:23
- cubicle** 66:24
- culminating** 50:9
- cultural** 30:12 34:22
- culturally** 236:13 285:25
- culture** 166:12 236:22 250:3
- cultures** 183:11 264:12 286:21
- Curators** 18:20 74:21
- curious** 164:20 212:9 216:18 281:10
- current** 5:3 7:4 51:23 103:6 105:15 112:15 115:6 142:5 147:20 179:22 273:11
- curricula** 249:1
- customer** 251:8
- customs** 41:24
- cut** 15:12 50:6 91:2 101:12,14 126:4 141:20 161:25 185:3 197:2, 5 229:5 235:21 249:23
- cuts** 120:19 123:3,7 249:1 291:1,

- 19,20
- cutting** 16:1 51:15 91:13 112:17
186:18 229:15
- cycle** 288:18
- cynical** 251:12
-
- D**
-
- D.C.** 4:9 14:15 120:2 169:6
180:14 294:8
- dad** 180:22 182:17 208:14 214:24
- daily** 109:3 114:17 141:21 175:5
- dais** 227:10
- damage** 165:18
- danger** 31:8 106:13
- dangerous** 56:14 96:13
- data** 34:14 78:23 108:24 123:11
152:10,16 260:24 284:13
- dated** 134:12 150:3 280:23
283:25
- daughter** 46:5
- David** 27:16 113:11 251:8
- Davis** 24:23 76:20
- day** 24:14 90:21 140:13 149:11
165:3 179:24 181:8 190:24
191:18 193:8 196:3,7 206:11
208:6 243:1 254:11 255:8 261:2
- days** 11:25 102:12 220:5
- dead** 116:16 254:12
- deadliest** 254:11 288:19
- deadly** 12:1 230:24 262:19
- deal** 19:6 57:9 204:21
- dealing** 172:2 276:19
- dealt** 149:15
- dean** 172:11 176:25
- dean's** 198:1
- death** 46:4 52:9
- debate** 7:13 23:11,18 42:7 44:24
83:17 173:21 213:8
- debated** 101:6 180:8 244:17
- debates** 18:8 25:16 247:13
- Debbie** 6:7
- decade** 38:19 122:3
- December** 158:2
- decide** 53:17 57:9
- decided** 19:18 181:2 184:20
250:9
- deciding** 88:3 204:12 255:5
- decimate** 275:1
- decimated** 141:6 142:22
- decimation** 272:20 279:13
289:15 291:18,21
- decision** 102:6,14 133:11,17
136:6 176:19
- decisions** 39:17 106:22 184:11
- decisively** 111:10 127:25
- decline** 123:24
- decreed** 39:17
- decrees** 159:18
- dedicated** 38:15 142:10 148:1
273:16 274:10
- dedication** 142:7
- deed** 93:24
- deemed** 39:22
- deep** 60:17 120:19 179:10 198:25
217:6 275:6
- deepens** 188:17
- deeper** 69:12
- deeply** 28:22 38:12 107:4 112:3
126:25 142:24 164:22 165:5
179:4 184:9 222:7
- defamations** 241:6 286:23
- defamatory** 20:20,23
- defame** 15:14 91:4 162:2 229:7
- defeated** 190:7,9
- defend** 18:12
- defendant** 82:20
- defended** 178:4
- defense** 105:23 267:17
- defensive** 140:11
- define** 29:4 158:17 170:24 171:1
244:23 258:17
- defined** 81:7 225:24 244:15,17,
25 285:19
- defining** 158:23
- definition** 44:5,7 58:19 59:9
80:4,9,11,20 82:23 83:13,18,25
84:1 87:7,24 88:10,15 89:8
157:21 158:5,19,21,24 159:4,8,11
241:17,20 242:8,19 243:18,23
244:6,7 258:15 259:2,4 263:7
266:16,21
- definitions** 43:19 81:5 84:6
116:10 158:17 159:10 258:23
264:14 266:25 267:4
- defund** 115:25
- defunded** 262:23 273:3
- degrade** 15:14 91:4 162:2 229:7
- degree** 254:2
- degrees** 46:14
- dehumanized** 165:8
- DEI** 116:6,12 171:16
- Delaware** 125:18
- delay** 40:24
- delayed** 192:23
- deliberate** 108:3 184:24
- deliberately** 97:1 182:2
- demand** 41:25 115:13 166:11
- demanded** 50:21
- demanding** 56:25 103:22
- demands** 47:15 51:2 112:12
166:2 260:12
- demeaned** 62:23
- demeaning** 37:10
- demeans** 37:2
- democracy** 52:2 53:24 71:19
195:15 201:8 231:24 232:8,22
233:23 237:14 238:12,13 257:23
260:17 278:12
- Democrat** 120:7

- democratic** 10:23 53:16 57:21
59:19 118:23 200:3 213:2 231:14,
24 232:15 233:8 234:5,12 242:9
258:18 260:8 261:15 265:2
271:19 278:11
- Democrats** 283:10
- demonize** 258:7
- demonstrably** 142:4
- demonstrated** 108:8 124:16
258:1
- demonstrations** 39:24 254:14
- demonstrators** 48:14
- demoralizing** 193:14
- denial** 37:6 176:11
- denied** 61:6 85:20 172:11 178:20
207:11
- denies** 24:25
- denominations** 233:21
- denounce** 29:22 42:2
- denouncing** 196:23
- dens** 109:10
- deny** 57:25 102:14 172:12 173:7
176:14
- denying** 36:10 69:25
- department** 42:21 49:4,17 54:10
65:20 91:22,25 92:2,5,7,10,14
93:4,8,21 95:4 96:7,8,10,11,16
97:4,7,23 98:11 99:6 100:5,20
102:2 105:14,17 106:5 107:11
111:8,25 116:23 119:19,21
125:15 132:19 134:12 135:3,23
138:16 139:14 148:23 149:1,9
160:5 169:14 184:23 194:3
210:15 241:25 242:5 246:21
250:15 266:4 274:24 275:1,5
276:15,17 277:7,22 278:23,25
279:3,8,18,19 289:16 291:2
- Department's** 276:14
- departments** 12:24,25 44:14
109:18 211:23 236:21 284:15
- Department's** 96:2 107:3 118:8
- depend** 7:1 255:21
- depending** 152:23
- deplorable** 240:22
- deportations** 234:1
- deported** 262:22
- depth** 146:7
- Deputy** 4:21 92:6 111:24 135:8
- Des** 74:21
- descendants** 236:4
- descent** 29:22,25
- descriptively** 76:15
- deserve** 97:18 187:13 248:11
251:19 252:14
- deserves** 5:5 268:2
- designate** 252:10 259:9
- designated** 43:17 259:6
- designator** 190:13
- designed** 110:6 140:16 153:23
- desks** 113:13 129:15
- desperate** 140:3
- destroying** 186:15
- destruction** 18:6 235:8
- destructive** 167:12
- detailed** 50:5 101:2 178:12 255:9
- details** 193:12 197:19 261:3
- determination** 99:22 147:17
- determine** 7:9 20:21 100:21
- determines** 130:23
- detract** 266:22
- devastating** 113:10 127:11
- develop** 72:4 73:20
- developed** 65:12 159:11 263:15
264:20 271:18
- developing** 263:12
- development** 92:3 105:14
116:13 130:15
- deviating** 151:22
- devise** 73:15
- devoted** 52:20
- Dhillon** 93:24 149:17
- dialogue** 15:6 90:18 161:18
187:12 199:5,10 207:9 228:22
- dictate** 37:23
- didn't** 30:24 130:18 131:19
137:11 166:3,15 172:12 173:6,7
214:1
- die** 52:8
- died** 137:4
- difference** 62:21 77:8 83:23
281:1
- differences** 60:15,18 224:16
- differently** 79:17
- differs** 200:17
- difficult** 47:7,11,18 48:8 53:5
60:4 71:16,21 164:23 165:17
209:25 222:19 247:17
- difficulty** 82:23
- diffuse** 62:15
- digging** 284:13
- digital** 234:15
- dimensions** 80:24 83:23 147:4
- diminished** 120:23
- dining** 218:21
- dinner** 168:10 218:16
- direct** 45:25 54:2 55:25 202:4
260:10 268:24
- directed** 107:18 191:10
- direction** 264:9 274:7
- directions** 48:10 67:25 230:24
- directly** 7:3 39:25 99:1 111:6
126:16 134:3 187:8 216:4 224:4
248:1 265:14 275:19
- director** 4:21 16:22 38:13 92:9,
13 114:12 119:21,24 120:1
125:13 126:2 127:23 229:25
230:4 238:25 247:6 280:4
- disability** 125:21 244:23
- disagree** 77:11,23 80:8,10
282:14,17
- disagreement** 39:1 45:11 57:17
78:7 89:2 199:7 224:24

disagreements 224:17
disagrees 29:1
disappear 166:23
disappointment 197:23
disapprove 22:9
disaster 275:2
disbanded 221:24
discern 80:7
disciplinary 128:22 129:4,6
discipline 106:22 255:20
disclaimed 176:17
disclose 177:1
discouraging 199:21
discourse 57:21 72:14
discover 248:18
discovery 12:23 13:1 132:22
 133:3,12 134:1 136:7 148:25
 149:5 150:2 284:15
discrediting 186:16
discredits 263:24
discretion 192:2
discriminate 28:7,18,23 29:7
 30:3 88:17
discriminated 26:19 270:23
discriminates 82:4
discriminating 27:3 29:24 88:9
 226:11
discrimination 5:10 6:22 21:4
 22:20 24:9 28:4 30:13 31:20
 32:18,20 33:16 34:2 38:22 39:23
 45:2,4 66:5 68:12,14 74:11 78:6
 82:5 83:19 84:13 85:12,18,19
 93:14 97:2 98:18 101:12,17
 102:18 106:25 109:1,22 110:2,19
 114:24 121:4,18 122:2 125:20
 154:25 155:8,9,12,15,17,21
 156:1,3 158:6 159:3 201:13
 235:1,12 240:7 244:24 245:1
 255:10 256:19 259:10 263:9
 269:6,9,11,14,18,21 270:1,10
 285:17,18
discriminatory 24:22 39:9
 42:19 44:6 59:1 84:19 85:10
 191:24
discuss 7:18 8:2 24:11 228:3
discussed 103:4 183:18
discussing 81:15 162:17 217:8
discussion 5:25 160:24 254:21
discussions 200:12
disdain 197:23
disenfranchisement 175:3
disfigured 165:10
disguises 241:3
disingenuous 197:16
disinvestment 234:20
dismantle 97:11 248:21
dismantled 141:18
dismantling 265:5,22 268:4
dismiss 41:20
dismissed 40:23
dismissing 250:17
dismissive 127:7
disowned 175:1
disparaging 15:10 90:25 161:23
 229:2
disparate 94:13
disparity 145:2
displaying 66:23
disproportionately 63:1
disputes 7:6 22:15
disregard 41:21
disrespectful 62:10
disrupted 256:25
disruption 21:17 22:8 74:24
 75:6
disruptions 104:2
disruptive 75:1 95:18 110:20
disrupts 21:14,15
dissatisfied 287:6
distance 61:1
distinction 154:16
distinctions 264:4
distinguish 67:6
distinguished 11:3 16:16,17
 24:4
distraction 24:12
distress 231:13
district 50:24 69:15 72:7 74:22
 82:2 104:12 128:8 155:14 263:5,6
districts 106:17,21
distrust 52:4
disturbed 165:13
disturbing 46:10 51:22 96:3
dive 217:6 261:1
diverse 167:8 177:7
diversity 80:14 95:23 174:11
 248:16 256:14
divided 165:5
division 91:22 93:7,10 96:18
 98:11,14 119:20 138:10 139:7
 148:24 149:4 150:2 231:12
divisions 199:3 201:6
divorced 27:21
DM'D 204:5
docket 126:9
document 13:2 129:12,17
 133:13,25 134:9,15 243:16,23
documentation 128:20 130:22
documented 113:7
documents 13:11 150:8
doesn't 30:2 33:24 36:13 54:7
 63:10 64:25 66:15 88:8 131:14,25
 133:5 134:20 155:6 157:2 160:6
 167:13 170:11 222:5
DOJ 95:11 98:21 100:8,11
 101:18,22 104:21 116:2,5 197:5
DOJ'S 98:22,25 99:5 102:23
 103:2
Dolin 91:21 92:24 93:1,6 98:3
 137:5,13,24 138:4,14,15 139:9,13
 148:22 149:7 150:4,11

dollars 45:2 50:2,12,16 73:9 94:2
115:14 145:5 256:24

domain 32:25

Donald 282:23

don't 9:2,4 16:1 22:10,23 23:3
28:17 29:13 30:10 31:6,16,19
36:16 52:8 76:10 77:13 79:12,16
80:16 83:25 84:5,10 88:7,16
91:13 129:3 133:6,20 135:12,20
136:4,9,13 140:14 141:22 143:11
149:20,21,22 150:18,20 154:6,8,
13 156:8 157:6,7 158:24 159:7
170:2 178:11,21 205:6 213:11
214:15 215:9,11 216:1 222:6
223:9 229:14 234:2,24

door 84:4 181:11 182:3 202:8
250:23,24

doors 113:13 181:24 182:10

Dorf 16:24 45:19,21 65:25 66:1
70:14 82:13,14

dorm 65:1 69:9 113:13 206:10

dorms 196:15,19

double 18:21 48:10 175:22 178:3
208:25 257:4

doubled 122:3

doubt 140:14

doxing 222:11

dozen 6:5 24:13 256:11

dozens 126:10 258:18

draft 167:9

drafted 262:17 270:15,19

dramatic 50:18

dramatically 120:17 235:21

drastic 169:21 214:14

drastically 222:14

draw 63:9 142:3 267:3

drawing 75:13 154:16

drawings 249:6

drawn 75:25

dream 137:4 253:19

dreamed 215:25

drew 196:14

drive 261:8

driven 108:22 188:12

driving 261:8

dropping 255:18

dual 68:16

due 118:20 120:19 193:12

Duquesne 176:1 177:10

duties 13:8

duty 6:21 43:2

E

e.g. 85:21

eager 188:19

earlier 48:17 65:19 145:21 146:2
151:24 210:12 211:20 224:6
241:1 242:3,22,23 244:5,14
245:17 277:23

early 146:9 204:19 244:5

ears 8:11

ease 14:2

easily 54:20 57:24 58:4

East 26:25 36:23 95:22 178:3
209:14 224:25 255:5

Eastern 4:6 89:25 160:18 161:1
188:13 228:1 263:6 294:19

easy 47:21

eat 218:21

echo 227:9 274:19

echoes 51:22

economy 231:20

ed 210:15 235:25 275:5 278:23,
25 279:8,18,19

edge 196:10

edit 29:11

educate 23:12

educating 38:15

education 7:21 12:24 16:11
38:18 44:15,25 46:3 49:4 50:19

54:11 65:20 76:14 92:5,7,10,12,
14 96:9 105:17 107:2,12,19
108:19 111:6,8 114:23 115:8
116:23 119:21 121:14 125:15
132:20 134:12 135:3,23 169:19
187:12 195:13,14,18 199:10,17
201:9 212:22,24 225:8 234:13
235:23 236:25 238:24 240:14
241:15 246:21 249:25 253:9
264:5,12 266:5,9 267:3 274:24
275:1 276:14 277:7,22 279:2
289:16 291:2

Education's 250:15

educational 22:7 25:1 39:5 49:2
94:25 97:18 108:19 109:25
186:16 264:14 267:6,16 269:20
270:11

Education's 42:21 106:5
111:25

educators 230:25 237:16 264:3,
15,18

effect 61:9 152:2 242:25

effected 56:13

effective 55:3 101:16 112:23
123:5 131:12 170:16 260:12
265:3 269:4

effectively 7:10 13:7 24:25
28:23 55:21 124:17 147:21 248:4
265:17 273:15 274:15

effects-based 191:22

effectuate 156:25 157:12

efficiency 116:1

efficiently 15:19

effort 6:2 31:7 103:6 121:10
139:17 274:25

efforts 6:18 39:7 59:5 94:4 103:2
105:9 140:6 170:18 178:7 185:17
263:24 289:17

egregious 107:24 140:20 143:3

egregiously 146:13

Eidelson 16:21 32:2,3,4 38:8
57:3 60:23,24 68:12 76:16,17
83:2,10,12

EI 288:20

elaborate 35:16 276:9

- elections** 53:19 231:19
- electorate** 288:17
- elementary** 74:11,17 77:5
106:19
- elements** 123:20
- elevated** 242:20
- elicit** 10:6
- eligibility** 51:4
- eliminate** 289:5
- eliminated** 156:16,17
- eliminating** 273:22 286:17
- elimination** 42:1 211:22 222:11
- eliminationist** 178:10
- Ellie** 163:5 194:24
- else's** 170:14
- email** 14:15 220:4 294:9
- emails** 133:7 181:21
- embed** 58:18 59:15
- embedded** 82:3,9
- embrace** 34:22,23
- embraced** 164:10 240:11 241:17
243:15
- emerge** 72:5
- emerged** 183:14
- Emeritus** 16:17
- emotions** 161:15
- empathy** 247:17
- emphasize** 73:4 112:9 168:24
- emphasizes** 76:22
- empirical** 73:1
- employee** 138:9 193:10
- employees** 114:7 152:13 172:14
- employment** 60:16 61:5,13,19
276:20
- empower** 100:10
- empowering** 237:6
- enables** 191:24
- enact** 82:12
- enacted** 49:22 85:9
- enactment** 81:20
- encampment** 208:16
- encampments** 181:4 208:20
258:3
- encompass** 98:17 155:12,21
- encounter** 248:15
- encourage** 23:10 66:2 193:17
272:22
- encouraged** 195:18
- end** 13:6 49:12 51:16 56:11
101:12,16 111:5 116:6 130:18
146:23 167:22 170:17
- endangered** 261:16
- ended** 110:11 276:3 287:12
- endorsed** 89:9,10 258:18 278:18
- endured** 108:5 127:11
- energy** 266:25
- enforce** 14:22 20:2 31:16 48:11
73:25 75:11 90:10 95:17 112:19
120:9 141:23 142:23 161:7
174:17,19 228:12 265:23 274:15
- enforceable** 24:8 117:22
- enforced** 7:10 110:19 252:2
- enforcement** 5:20 6:10,19,25
33:25 40:24 43:9,14,23 56:11
92:8 99:3 103:13 106:3 108:15
111:1 112:6 118:2 119:4,20 120:1
121:14 125:17 126:21 131:16,18
132:2 137:8 138:18 139:25
147:19 153:12 155:3 159:17
172:1 181:22 199:11 234:18
242:19 243:7,20 255:21 259:10,
12 262:16 263:8 273:4 285:15
291:3
- enforcement-only** 266:7
- enforces** 197:5
- enforcing** 6:21 81:22 93:10
121:1 142:21
- engage** 95:20 210:16 222:9
247:20 256:18 278:15
- engaged** 36:3 57:1,4 97:5 102:18
110:1 276:16 278:3,6,9,13
- engagement** 237:1 276:17
- engaging** 42:7 97:6 152:24
176:7 223:1 247:10 276:24
- enhance** 95:16 267:12
- enormous** 38:2 287:8
- enormously** 55:2
- enroll** 181:2
- enrolled** 254:2
- enshrined** 254:10
- ensure** 45:15 55:23 56:10 96:12
100:17 110:22 159:22 166:9
186:8 234:10 238:7 247:21
252:17 258:10 259:9 267:13,20
273:4
- ensured** 130:8
- ensuring** 7:12 42:17 44:25 49:1
210:17 274:5
- entails** 103:12,15,21
- enter** 139:1 144:23 145:8
- entered** 50:8 110:14 153:21
- entering** 40:5 153:5
- enthusiastically** 168:9
- entire** 65:3 129:15,22 180:20
293:20
- entities** 159:21
- entitled** 5:1 77:6
- entity** 109:25 226:9 231:16
- entrances** 181:13
- environment** 26:16 35:9,19 36:1
37:5 43:3 49:8 51:23 55:20 56:6
60:8,10,13,20 61:15,22 62:14,18
63:15,22 64:16 65:4,15 66:11
67:3,9 68:19 69:17,24 70:2,24
72:6,11,16,21 73:11,21 95:1
157:13 183:4 191:19,22 199:24
214:4 250:1
- environments** 42:19,25 131:3,
13 216:16
- epitomizes** 219:15
- equal** 25:1 43:10 44:25 84:9 92:2
97:18 105:13 108:19 111:4 172:1
174:20 276:20

equality 47:20 71:17
equally 21:12 124:8 128:3
equipped 194:14
equips 247:18
equity 171:17,18 174:11 175:1
 176:13,14,17 179:6 256:14
equivalent 67:13 248:9
equivocal 106:10
equivocation 110:3
erase 57:25
Eric 264:22
Erin 229:25 247:6
eroded 231:25
escalate 250:12
essence 32:19
essential 126:22
essentiality 51:23
essentially 68:9 75:16 81:23
 86:1,7,24 109:7
establish 82:17 259:6
established 27:16 55:5 65:23
 110:10 112:18 240:5
establishes 72:11
esteemed 172:22
estimation 10:17
estrangement 35:13 199:4
ethnic 10:16 98:19
ethnically 285:25
ethnicity 97:17
ethos 251:17
Eugene 16:14
Europe 188:13
evade 191:25
evaluate 12:9 52:6 121:7 150:14
 289:12 291:5
evaluated 130:22
evaluating 192:3 290:22
Evaluation 8:15 12:18 14:13
 294:7
event 30:1 189:4 191:3 207:6
events 40:9 173:21 255:8
eventual 176:11
Eventually 183:3
Evergreen 92:11
everting 220:1
everyday 26:4
everyone's 252:16
evidence 10:5,6 21:5 104:16
 128:21 184:24 192:24
evidence-based 119:3
evidences 42:8
evil 9:23 195:5 282:20
evoke 161:14 228:18
evolved 185:19
exacerbated 212:3
exact 28:19 178:6
examine 6:8 128:19
examiner 102:2
examining 5:15 40:21 104:7
examples 35:23 62:7 66:7 87:16
 97:3 177:22 254:25 258:23
excellent 283:9
exception 17:25 18:1,2,4 19:25
 20:3,9,12,18
exceptions 19:23 24:22 82:18
 86:15
exchange 115:24 200:3
excited 216:23 227:18 283:21,22
 284:20 285:5
exclude 30:11 42:2
excluded 26:17 28:13 29:19
 63:24 171:13
excluding 27:25 29:18 248:3
exclusion 39:10 45:11 137:11,22
 194:2 257:10
exclusionary 63:5
exclusive 174:4
excuse 30:17 270:23
excused 42:5
excuses 140:24
executing 11:12
executive 88:25 158:3,4 242:21,
 24 243:3,5,10 246:1
exercise 6:23 24:7 25:25 270:16
 289:14 290:25 291:5,22
exercising 13:15
exhausted 256:12
exhibiting 249:6
exhilarated 9:22
exist 36:17 57:24 206:25 207:12,
 22 217:9 226:4,9 257:13 279:3,6
existed 43:25 221:9 289:1
existence 57:25 81:16 85:22
 177:20
existential 147:4 279:20
existing 46:25 98:23 118:4
 222:17 252:1
exists 24:7 243:17 287:24
exiting 191:12
expand 155:11 252:10 290:17
expanded 55:13 155:17
expanding 154:23 155:20
expect 10:5 15:7 76:4,9
expectation 90:20
expectations 76:2 90:6 161:3
 228:6
expected 9:10 227:1
expediency 112:22
expelled 262:23
expelling 109:17
experience 39:9 40:18 46:1 64:5
 88:5 123:1 131:25 153:13,19
 157:5 171:12 179:5 184:22
 186:22 187:2 200:24 220:21
 221:6 225:9 248:17 253:7,16
 268:25 284:24
experienced 67:2 69:22 95:12
 118:3 127:6 180:10 184:2 215:13

216:4
experiences 170:21 177:10
 180:3 187:16 193:17 211:11
 215:21,24 218:11 250:22 251:14
 253:15 293:11,23
experiencing 235:11,12 251:10
 257:17
experiments 106:16
expert 264:21,22
expertise 7:15 32:6 117:1
 131:17 142:22 275:6 278:25
 279:2,17 293:23
explain 37:16 58:12,15 126:19,
 25 144:7 151:18,21 192:15
explained 57:16
explaining 53:1
explanation 78:10
explanations 287:2
explicitly 56:22 248:8
exploited 238:8
exploiting 232:14,18
explore 7:22 90:2 164:19 218:9
explosion 245:5,14
exponentially 271:15
expose 129:20
exposed 174:23 200:25 201:10
exposing 86:7
expound 145:24 146:3
express 102:3 179:10 197:22,23
 201:10 221:12 222:1
expressed 13:13 45:5 63:2
 181:1
expresses 57:20
expressing 132:16 222:8
expression 5:12 7:7 24:23 37:1
 40:3,14 51:5 53:5,14 55:15,19
 56:5,24 59:11 71:23 77:1 82:1
 188:16 192:1,6 248:24 251:18
extend 68:14
extended 61:17 62:3 153:10
 180:24

extending 88:24 93:3
extensive 129:17
extensively 66:3 146:8
extent 10:6 74:8 99:8 217:17
extermination 190:14
extra 233:25
extraction 68:15 69:23,25
extraordinary 227:7 246:13,14,
 23 258:2 276:5
extremely 13:18 44:20 184:13
 188:8 196:10
extremism 232:11 234:17
 235:18,19 236:23 264:22
extremist 248:20
eye 94:21
eyes 8:10 31:16 165:12 168:12

F

fabulous 227:5
face 38:22 47:18 124:19 172:19
 175:4 198:13 247:25 249:1
 253:14 255:11 256:2 258:5
faced 248:23 250:6
faces 191:8 249:25 269:20
facets 12:15
facial 33:12
Facially 174:2
facilities 106:25
facing 24:9 156:13 251:5 257:9
fact 7:8 9:14 12:12,15 15:6 27:20
 34:24 41:13 46:17 56:11 59:7,12
 70:6 78:17 90:18 121:9 140:23
 142:4 147:13 150:1 158:10
 161:18 172:11,17 190:22 191:13
 200:19 228:23 234:2 242:13
 278:1 286:12,16 287:3
fact- 6:16
factor 205:15
factors 99:21
facts 109:15 187:5

factual 81:19
factually 79:6
faculty 10:8 12:7 21:4,5 22:21
 40:2 46:15,16 51:7 54:25 94:24
 95:12 109:16 129:9 166:8 174:14
 175:4 182:7 183:8 189:10 191:17
 193:25 222:20 223:12
fail 42:11 48:11 56:19
failed 25:22,23 99:23 104:10
 108:9 140:4 153:11 177:1 257:11
 262:4
failing 103:3 104:5 140:19
 155:24 260:21
failure 99:14 100:4,25 102:3
 148:6 152:18 156:3
failures 129:20 130:5 186:14
 258:14 282:4
fair 36:23 92:2 105:12 111:4
 209:1
fairly 74:7
fairness 84:16 193:4
faith 140:14 164:21 176:23 218:2,
 9 219:5 221:3 250:7 252:4
faithfully 120:9
faiths 219:23
fall 24:21 124:22 220:21 239:20
falls 19:22 156:12
false 20:22 231:18 232:12 233:5,
 11,22
familiar 80:12 205:12,14 206:22
families 237:21 259:20
family 46:2 127:9 165:4 180:25
 195:11 196:21 197:14 238:7
 253:19,22
family's 196:11 238:4
farce 173:13
farmers 116:1
fashion 211:17 285:7
fault 143:10 174:23
favorite 218:14
favoritism 48:15

- façade** 174:12,24
- fear** 5:7 6:24 7:14 40:8 45:12
182:13 196:7 198:3 199:8 210:25
212:14 275:12
- fearful** 165:2 168:16
- fearing** 249:10 250:12
- fears** 232:15 238:8 262:10
- features** 33:12
- featuring** 189:25
- February** 4:6 107:17
- feckless** 131:16
- fecklessness** 108:22
- federal** 5:3,20 6:9,20 7:5,9 12:9,
23 13:5 19:1,12 30:22 33:2 39:7,
17 42:18 47:16 49:2,22 50:2,12,
13,21,23 51:4 54:4,7 55:1,10
56:23 57:12 58:22 59:5,17 73:5,9
81:10,11,24 82:9 91:24 93:16,19
94:2 96:8 100:13 101:3,13 103:1,
2,7,13,15,17,22 104:9 106:3,21
107:25 115:2,9,23 116:18 117:10
119:17 120:11,25 121:13 126:21
131:2 138:9,17 141:23 142:11
147:18 150:25 153:17 165:21
166:1,5,10,24 170:9 172:25
184:21 185:1 186:7,22 194:12
215:8 232:13 241:21 243:24,25
244:9,19,20 246:22 249:1 251:25
252:3 255:22 259:7 261:9 263:4
267:21 269:19,23 270:11 271:25
274:22 276:23 277:9 282:21
284:14 289:12,17 290:22 294:17
- federally** 259:8 269:10
- federally-funded** 44:21
- feedback** 231:21 232:3
- feel** 29:5 35:10 114:18 141:4,22
166:15 168:25 169:17 170:11,12
171:19 181:7 182:17 184:8
186:19 187:9 195:20 196:8
200:19 209:10 213:11,17 217:8,
11,13,15 223:3 230:23 249:17
- feeling** 184:5,19
- feelings** 35:12
- feels** 59:13 213:7 227:10
- fell** 31:4
- fellow** 15:15 16:2,15 37:2 91:14
135:15 162:12 213:14 227:1
229:16
- felt** 63:24 65:5 145:3 152:17
154:15 164:9 165:1,5,13 166:7,
16,18,20 167:7 182:20 183:8
184:10 200:4 208:5,8 209:17
214:23 220:15,20
- female** 116:11 191:12
- fever** 12:3
- fewer** 54:24
- fiat** 106:24
- field** 276:22
- fight** 141:16 165:20 170:14
186:16 193:7 199:15 224:23
258:16 260:13,14 266:24 278:4,
13
- fighting** 165:23 265:21
- figure** 73:5 223:7
- figuring** 85:18
- file** 100:23 102:9 153:17 182:22
- filed** 95:5 120:18 121:4 155:5,6
157:14
- files** 128:21
- filing** 190:22
- filled** 189:23
- final** 26:18 101:6 126:2 194:24
- finally** 8:1,12 11:7 15:2 44:1
91:17 102:16 144:22 155:23
184:20 252:15 267:20
- finance** 254:2
- financial** 54:23 93:16 100:13
179:4 185:2 215:8
- find** 76:5 77:7 140:17,19 155:8
210:1 211:3
- finding** 7:8 12:16 15:7 23:17
34:15 35:25 90:18 104:18 161:18
172:11,17 189:6 228:23 263:7
- findings** 11:19 72:7 102:3
104:20 108:6 121:9 130:8 272:11
281:3
- finds** 51:22
- fine** 115:24
- fines** 117:16 138:23 144:25
- finish** 16:6 91:19 195:9 294:13
- fire** 113:16 156:13 235:9
- fired** 61:7
- firm** 97:15
- firmness** 239:15
- first-generation** 253:18
- firsthand** 112:2
- Fiscal** 5:19
- flag** 37:4 191:7
- flagged** 175:18
- flagship** 177:15
- flatly** 47:10
- flavor** 83:18
- flexible** 175:8
- fliers** 193:24
- flies** 124:19
- flights** 182:1
- flooded** 127:22
- floor** 8:21 268:18
- flourish** 52:3
- flourished** 253:20
- flourishing** 9:12
- flow** 178:16
- flows** 27:18 28:2
- fly** 37:4
- flyer** 250:23 251:2
- focus** 8:8 14:25 20:14 24:15 32:7
43:5 47:1 64:12 75:18 94:11
111:23 165:3
- focused** 7:19 98:21 166:16
- focuses** 38:21
- focusing** 217:22
- Fogelman** 163:3 187:22,23
188:4 194:18 206:18 207:3
222:21,23
- folks** 212:4 239:9 293:18
- follow** 6:1 79:20 89:14 117:23

135:21 143:20 149:18 160:14
183:2 206:19 277:20

follow-up 271:3

font 190:9

food 204:24 218:21

football 196:4 274:21

forbids 28:4

force 49:19,20 50:1,4 115:16
126:5 253:9 264:10

forced 40:6 84:24

forceful 246:3 271:20 273:4

forcefully 272:16

forces 261:8

forecloses 77:24

foreign 18:6,11 22:24 96:14
112:16 224:12,18 254:20 262:20

foremost 266:3

forget 26:2 168:8

forgotten 245:22

form 5:9 9:23 10:4,12 33:15 45:6
70:19 241:10 269:21

formal 182:22 190:22

formally 242:1,4

format 90:6 161:3 228:6

forming 39:23

forms 25:16 55:15 72:13 81:7
84:6 133:25 178:16 231:5 242:11
245:1 256:19 260:15 267:19
272:19 288:2,10 289:5

forthcoming 283:21 293:9

fortunate 45:25 237:21

forum 15:6 90:17 161:17 228:22
255:10

forward 13:18 31:23 97:14
117:13 119:7 125:4 186:2 201:17
241:5 247:1 249:11 293:8

fostered 250:1

fought 178:18

found 43:15 82:2 87:20 99:24
108:2 110:15 121:10 151:14
152:21 164:17 181:10,23 193:14

214:23 218:4 219:22 233:12
250:22

founded 249:5

founder 229:23 230:1 257:6

four-four 280:21 281:6,11

frame 290:10,12,14

framed 185:11 191:25

framework 118:11 191:24
258:25 263:17 265:1

frameworks 267:18

framing 31:18 289:20,22

Franklin 162:24 172:5

frankly 154:5 156:11

free 5:10 7:20 16:10 19:12 22:10
37:19,20 47:12 49:7 51:5 52:5
56:20 57:8 59:14 66:4,9 71:17
74:9 96:13 136:25 192:6 206:21
248:24 249:16 251:17 252:19
254:21 256:6,25 257:3 260:9
267:13 270:16

freedom 5:6 26:8,13,14 51:24
178:5 199:17 201:3,9 212:22,23
232:20 257:1 263:19

freely 29:7 178:16

freeze 165:25

frequently 286:11

freshman 179:24 196:15 203:21

freshmen 196:19 206:10

friend 167:7,19 197:25 203:20,25
213:20

friendly 66:13

friends 165:6 166:19,22 169:5,9,
17 183:10 185:6 191:5 196:7
206:4,6 208:16 218:9,15,18
219:1,3,7 245:18 255:24

fringe 258:22

front 143:7 162:5 206:20 207:5
229:10,20

frontal 115:7

frozen 145:6

FTO 64:3

Fuck 255:2,13

fuels 96:14 231:11

fulfill 8:10 117:7 141:23 155:25
156:3

fulfilling 143:6

full 7:17 41:15 102:9 118:2 181:6
201:5 204:18 217:17 218:19
261:4

full-time 192:15

fullest 99:8

fully 5:7 13:6 15:11 29:12 39:22
59:3 91:1 161:24 229:4 252:8
266:3 272:23

function 31:12,18 47:2 121:15
141:17 142:5

functions 13:7

fund 104:8 173:15 252:8 266:3
272:23

fundamental 27:1 36:12 84:16
85:1 87:13 240:18

fundamentally 282:17

funded 259:8

funding 19:7 50:7 51:4,15 54:14
59:6 81:24 101:3 103:13,15 104:1
116:9 118:2,6 144:11 166:1,23
172:9 184:2,16 185:3 197:5
211:22 232:20 234:1,25 272:24
273:20 279:5

funds 19:14 42:18 49:3 54:7 55:1
56:23 58:22 93:19 101:5,13,15,19
102:7,12,15,16 103:3,7 112:17
115:11,23 117:18 145:12 153:21

funny 203:2,5 215:4

furthering 201:6

futile 193:15

future 20:16 65:16 131:23 139:20
196:12 227:18

futures 184:6

G

gain 52:6

game 176:16 196:3

Gammill 16:22 38:9,10,13 45:18
64:11 72:17 89:9

- Gammill's** 78:16
- gap** 24:16 259:12 286:9
- Garber** 50:21
- Gartenberg** 69:13
- Gary** 16:16
- Garza** 4:3,11,20,25 8:25 10:21
13:20 16:9 23:22 31:25 32:3 38:7
45:18 52:15,18 59:22 60:22 63:16
64:10 65:25 67:21 71:1,6,9 74:2
76:16 79:18 83:11 87:8 89:14,24
92:22 93:2 98:2,6 105:2 111:12,
17 119:9 125:6 132:5 136:16,20
141:3,13 143:16 145:15 148:17
151:9 153:22 157:15 159:13
160:10,22 163:15 171:3,8 179:13
187:21 194:18 201:18 210:9
216:6 222:21 223:15,19 225:4
226:22 227:9 228:1 230:13
238:17,20 246:24 252:25 259:24
268:15 272:3 274:17 275:20
277:18 279:22 283:14 285:8
289:7 292:10,14,18 293:1
- gasoline** 113:15
- gathered** 12:19 189:9
- gathering** 167:16
- gave** 175:14
- Gaza** 48:1 189:13 200:4 248:2
250:9
- Gellman-beer** 92:11 125:9,11,
13 142:16 151:16 156:6 159:16
265:10
- gender** 116:11
- gene** 27:12 34:9
- general** 8:15 32:18 47:23 72:9
84:20 93:22,23 100:24 102:5,8
138:22,25 149:2,17 151:13
191:18 246:11 270:9
- generally** 18:3,23 70:15 75:21
152:8
- generation** 180:21
- generations** 236:3
- generous** 285:12
- Genevieve** 17:1 52:19
- genocide** 18:5 48:3 248:9 258:5
- genuine** 46:10 109:10 110:9
195:19 199:7 248:20 267:22
268:7
- genuinely** 46:10 47:7 63:7
227:17
- George** 96:22,24 120:5 240:4
241:23,24 282:4,5
- Germany** 191:14 192:17
- get along** 178:22
- Gilchrist** 4:14 145:15,17 148:14
216:9,21,25 219:19 275:20,22
276:12 277:11,17
- give** 21:19 24:20 30:3,16 38:3
62:7 138:6 144:4 221:8,20 254:5,
25 265:19 266:1 275:17 290:5,8
- giving** 30:18 132:3 227:13 260:4
268:13
- glad** 147:24
- glaring** 257:4
- globalize** 165:14 189:13
- goal** 50:15 51:15 95:23 169:22
211:19 262:24
- goals** 31:3 52:10 97:7 166:17
- God** 31:3
- Goldfeder** 16:18 23:24 24:1
63:17,18 87:11 88:22 89:3
- good** 4:3,10 54:22,23 61:10
64:14 69:14 86:4 96:1 105:6
107:14 111:16 119:13 125:12
140:14 142:1 163:19 193:16
202:21 204:14 209:8 239:1 252:4
292:21 293:6
- gosh** 63:10
- governance** 50:23 166:12
- governed** 26:25
- governing** 47:17
- government** 13:17 19:1,6,7,12,
14 21:11,12 25:23 30:2 37:22
39:7 42:16 46:23 50:6,12 51:4
53:17,21 54:5,14,24 56:1 57:12,
18 59:5,10 81:10,11 82:19 103:22
104:9 115:2 135:15 142:11
149:12 165:21 166:10 168:22
184:1,21 187:2 197:24 198:15
216:2 224:12 225:23 226:16,17,
19 230:3 231:20 232:5 243:15,24,
25 244:9 248:6 251:16,17 252:3
260:6 262:13 272:1 274:22 276:7
277:10 278:2,16,22 282:15
- government's** 290:23
- governmental** 224:2
- governments** 224:19 225:16
258:19
- government's** 6:10 33:25
166:2,5
- governs** 42:16
- gradations** 74:9
- grades** 113:24
- grading** 21:9
- graduate** 74:16 76:11 237:25
- graduated** 253:6 254:1
- graffiti** 62:8 128:11 256:23
- granddaughter** 195:4
- grandma** 195:8
- grandmother** 238:2
- grandpa** 203:6
- grandparents** 188:11 237:20,23
- grant** 100:12 252:11
- granted** 48:25 104:13
- granting** 57:18 192:1
- grants** 50:3 103:17 118:7 173:15
186:19 197:2 199:13 209:21
210:3 235:20 249:1 267:13 277:1
- granular** 76:24
- grappling** 72:24
- grasping** 140:9
- grateful** 44:14 185:13 201:22
227:11 293:12
- gratitude** 179:10 253:24
- grave** 58:20
- graver** 56:18
- great** 19:6 24:4 60:21 146:22
151:17 195:7 209:7 216:25
223:19 272:6 284:25
- greater** 34:16 74:14

greatest 117:1 236:1 248:16
251:19
Greece 169:8
green 15:23 91:8 162:6 229:11
Gregory 91:21 93:6
grew 45:24 60:13 164:4 180:18
188:11
grievance 43:18
grip 61:2
ground 73:17
grounded 27:18 265:1
grounds 47:6 102:14
group 30:7 84:11 156:2 164:13
167:8 189:9,11 191:4 220:19
255:8
groups 28:12 29:11 30:12 37:22
84:14 156:4 248:2 250:13
growing 110:6
grown 271:15
guardrails 262:1
guess 52:22 70:18 71:18 80:23
137:16 139:13 221:7 283:5
guessing 49:11
guidance 42:13 44:9 65:22,24
73:10 81:9 99:9 145:23 146:19
147:24 192:12 240:3 243:20,24
244:9,15,19
guide 5:13 52:2 263:14 264:2,17,
18
guided 97:15 120:12
guides 120:12
gut 170:9 232:20
guts 227:8
gutted 210:23 250:16
gutting 112:18 210:15 234:1
guy 280:13
guys 216:15

H

hail 169:6

hailed 168:3
half 24:13 39:6 80:8 87:20 115:24
116:24 122:20 126:14 141:19
154:17 235:9
hall 218:21
hallway 182:16
halted 249:9
Hamas 12:2 39:3 64:2 164:24
174:22 188:23 190:11
Hamas's 106:1
Hampshire 51:21 162:24 172:5
173:5,12,14
hand 15:15 17:4 91:5 92:16
144:8 162:3 163:8 229:8 230:6
232:13 233:3
handedly 22:4
handle 185:16 208:19
handled 147:15
handling 123:1 134:17 183:15
happen 20:12 131:14 157:2
202:9 205:19,24,25 211:18
217:23 218:3 225:17
happened 9:23 115:20 129:3
181:3 183:14 209:7 214:20 220:9
221:22
happening 23:3,18 28:9 30:14
31:9,17,22 39:15 159:18 170:3
198:4 202:24 205:3,10 208:20
210:23 212:17 213:15,16,25
224:18,24 246:19 261:7
happy 35:16 37:16 89:3 135:21
136:11 137:15 149:16 150:16
harass 257:1
harassed 254:6 256:21
harassing 39:21 62:11 109:19
harassment 5:7 9:19 10:13,14,
15,16 33:22 36:9,21 37:13 40:18
42:23 45:4 59:2 61:4,8,11,16
62:1,6 63:8 69:17 76:25 77:4
94:13 105:24 106:8 107:6,21
108:4 109:10 120:15 121:25
124:2,6,23 131:11 140:21 178:8
192:4 193:18 226:12 244:16
250:7 257:9 259:15 262:6 270:20,
21

hard 8:19 11:12 174:8 217:6
230:23 237:2 242:11 244:12
289:5
harder 37:14 170:6
hardest 142:10
harm 153:24 263:21
harmed 167:5
harmful 40:23
harms 125:2 186:12
harsh 214:6
harsher 56:25
Harvard 16:22 25:20 32:5 33:17
35:25 36:6 46:13 49:24 50:20
51:5,6,8,15 120:4 162:22 163:1,
20 164:9,12,17 165:22 166:1
167:8,13,22 169:5,12 179:23
180:7,17,25 181:3,20 182:9
183:16,25 185:16,22 187:10
205:4,5,17 206:8,9,14 208:7,16,
19 214:25 215:8,22,23 218:4,14
219:16 220:22,23
Harvard's 51:2,3 104:13 166:1,
11 169:15 183:4 184:24
hate 5:11 18:2 24:18 30:23 36:24
57:18 78:21 79:5 113:1,5 118:7
124:22 125:3 178:16 179:25
183:1 187:12,18 197:3 200:6
208:6 231:11 232:11 234:4,11,17
235:17,18 236:23 237:11,13
251:9 267:12 272:14,19 287:8
288:2,10 289:5
hated 182:1
hateful 53:12 57:20 94:3,6
106:10 221:19
hating 231:5
hatred 78:13 196:23 197:22
221:12 260:15 261:8 286:12
hatreds 221:15
haven't 61:21 81:6 145:13
202:13,14
Haverford 265:15
haze 165:2
head 80:10 115:16
headed 114:20 135:6

- heading** 135:1
- headline** 180:5 202:16
- headlines** 131:15 183:17
- Headquarters** 4:7
- heads** 134:25
- health** 12:24 44:15 96:11 184:23
209:25 255:14 260:16 265:2
276:18
- healthy** 53:24
- Health's** 210:2
- Healy** 18:19 74:20
- hear** 7:24 10:5 12:20 23:24 35:5
48:3 105:3 119:11 125:8 140:2
141:11 147:24 168:20 171:5
179:11,15 206:24 210:24 211:15
238:18 253:1 259:25 273:10
284:21
- heard** 46:6 137:6 138:22 139:23
145:13 165:13 170:6 206:19
214:8 215:17,20 240:7,16 241:1
244:14 246:6 260:24 261:2 265:7
- hearing** 7:3 8:5 17:13 102:1,2
104:18 141:5,7 154:6 188:11
196:9 202:20 230:19 271:9
272:12 276:1 281:1 294:12
- hearings** 9:3 282:3
- heart** 41:4 82:5 120:25 148:9
165:10 211:15
- heat** 60:3
- heavily** 57:6 131:22
- Heavy-handed** 200:18
- heckler's** 75:10,12,16
- heed** 56:20
- heightened** 198:20
- held** 104:9 106:18 190:6 281:1
- helped** 112:5 117:3 131:21
- helpful** 47:6 66:6 73:24 74:7
135:21 234:8 282:3
- helping** 38:21 73:25 235:3
- helpless** 184:19
- helps** 117:20 199:14
- here's** 20:5 28:19 83:25 84:1,2
- heritable** 33:10
- heritage** 30:5 159:23 188:16
217:19
- Heroes** 189:6
- hesitant** 200:5
- hey** 204:6
- he's** 30:25 66:3 117:15 199:16
- HHS** 246:21
- hidden** 30:20
- hide** 30:6 174:12 249:18
- hiding** 259:19
- high** 74:12 79:2 113:2 127:3
195:9
- high-impact** 173:10
- higher** 7:21 16:11 50:19 76:2,14
86:7 107:19 111:6 114:23 115:8
225:8 235:22,25 249:25
- highlight** 64:18 98:24
- hijacked** 178:10
- Hillary** 242:5
- Hillel** 37:3 40:1 113:6 114:11,16
164:14 204:23 236:14
- Hillel's** 164:12
- hired** 43:22 177:4
- hiring** 50:23 177:2
- Hispanic-sounding** 30:11
- historic** 107:10 246:10
- historical** 27:10,22 198:5 207:23
213:1 261:21 286:24 287:3
- historically** 41:12 124:23 241:7
279:7
- history** 114:3 122:13 188:15
198:25 212:19 234:13 236:11,22
239:6,22 261:13 279:17 284:25
285:1 288:20
- hobbled** 273:16
- hold** 25:23 86:4 147:6 192:20
262:11
- holding** 17:13 19:17 63:20 86:19
234:23 275:8 279:1
- holds** 198:16 227:19
- holiday** 218:17
- holidays** 183:9
- holocaust** 44:4 46:5 195:4
237:20 254:11
- home** 181:1 250:9 262:2
- homeland** 27:6,7 96:10 169:14
233:7 253:21 277:4
- homes** 169:20 181:14 188:13
- homophobia** 256:19
- honest** 170:19 199:5
- honestly** 257:15
- honor** 24:3 52:19
- honored** 164:2 253:4
- Hoover** 16:15
- hope** 10:6 11:19 13:8,12 65:17
239:19 253:10,23 257:15
- hoping** 255:10
- hops** 63:13
- hordes** 106:10
- horrified** 257:15
- horrifying** 179:3
- horror** 188:22
- horrors** 197:14
- horse** 115:7
- hose** 156:13
- hospitalization** 255:25
- host** 169:15 173:20
- hostage** 165:11
- hostages** 254:13
- hostile** 35:10,19 36:1 37:5 40:11
42:25 43:3 49:8 55:20 56:6 60:8,
10,13,20 61:15,22 62:14,18
63:14,22 64:15 65:4,14 66:10
67:2 68:19 69:16,24 70:2,24 72:6,
11,15,21 73:11,21 75:13 191:19,
22 193:22 194:1
- hostility** 34:3 39:9 172:2
- hosting** 24:2
- hosts** 54:6 173:18

- hotel** 189:21
- hotly** 101:6
- hours** 114:15 167:15,20 175:23
181:23 189:11 246:6 254:15
- house** 102:9 105:19 175:14
253:9
- housed** 277:21
- housekeeping** 13:23
- housing** 92:2,3 105:12,14 111:4
250:6
- hover** 60:7
- HR** 118:16
- HR-6806** 252:6
- huge** 53:8 117:16
- hugely** 84:25
- human** 12:24 44:15 96:11 184:23
222:17 238:22 258:1,8 276:18
- humanitarian** 233:7
- Humphrey** 101:9
- hundreds** 123:5 129:6 145:4
257:16
- hurt** 117:9
- husband** 127:5
- hybrid** 175:7
- hypocrisy** 257:4,19
- hypothetically** 275:13
- hypotheticals** 25:19
-
- I**
-
- idea** 27:11 60:25 61:5 79:3 82:11
139:14 155:19 270:5
- ideas** 44:8 200:3,25
- identical** 251:13
- identified** 28:22 124:12 129:8
130:5,13 182:24
- identify** 30:1,4 34:17,18 44:10
166:8 190:13,19 194:15 242:10
245:1 276:6 285:23
- identifying** 185:18 263:15
- identities** 21:8 249:13
- identity** 26:21 27:24 28:1,9,21,25
29:4,10 30:4 41:10,21 42:3,10
44:13 177:7 181:6 182:1 189:1
222:1,4,18 244:24 285:23
- ideological** 86:2 115:7 116:21
166:17 230:21 287:20,23
- ideologically** 17:19
- ideology** 94:3
- IDF** 189:6
- idly** 190:17
- ignore** 31:16 42:13 76:7
- ignores** 262:19
- ignoring** 50:5
- IHRA** 44:7 58:19 59:9 80:3 81:14,
20 82:2,9 83:13 87:7,13,14,19
88:8 89:8 157:21 158:5,19
241:19,22 242:24 243:6,14,22
258:15,17,23 267:5
- illegal** 19:24 20:4,11 30:9 36:1,9
47:10 270:10
- illegitimate** 68:10
- illuminate** 60:19
- illuminates** 175:2
- illustrate** 49:25
- illustrated** 110:13
- illustrates** 172:21
- image** 172:24
- imagine** 30:7 85:8,16 154:3
255:3
- imagined** 200:24 201:21
- immediately** 9:24 63:21 127:24
175:18
- immersion** 175:15
- immigrant** 46:5
- immigrants** 236:4 252:19
288:14
- immigration** 30:9,10
- imminence** 20:13
- imminent** 20:11
- immutable** 33:10
- impact** 40:12 113:9 123:3 143:20
177:22 191:18 207:20
- impacted** 289:17
- impaired** 120:21
- impassioned** 251:15
- imperative** 45:17
- impermissibly** 51:3
- implausible** 79:6
- implementation** 130:23
- implemented** 112:13 186:9
252:2
- implementing** 7:22 54:12 81:4
90:3 98:15 108:12 118:9
- implicated** 26:15 59:20
- implications** 73:2 74:1
- implicitly** 61:19
- implore** 179:1
- implored** 144:4
- importance** 76:23 194:17
195:12
- important** 7:16 11:22 13:19 18:7
24:2 30:15 31:15 32:14 44:17
47:14 51:11 56:20 60:4,25 67:6
71:18,22 75:24 87:19 88:4 93:5
111:18 114:25 132:13 135:16
147:12 159:19 170:23 188:8
201:16 223:2 230:19 240:10,12,
24 241:2 246:8 261:11 262:5
270:7 275:17 277:21 282:16
- importantly** 97:10 258:20
- impose** 21:1,3 56:1
- imposed** 199:8
- imposes** 53:2
- imposing** 166:5 211:25
- impossibility** 123:6
- impossible** 248:24 252:17
258:16
- impoverish** 57:21
- impression** 32:12
- improper** 86:8,11 139:16
- improve** 131:5 185:23

- improved** 114:13 131:8
- impulse** 262:11
- impunity** 40:12
- inaccurate** 251:12
- inaction** 48:20 190:21
- inadequate** 194:5 269:7
- incapable** 39:22
- incentives** 54:22,24
- inception** 283:23
- incident** 128:19 183:1,12 208:6 220:8
- incidents** 40:21 46:10 94:16 95:13 113:8 114:15 127:7 128:25 129:7 173:23 197:10 205:19,25 211:18 214:20 217:22 218:3 223:4 224:4 245:5,16
- incitement** 20:10
- include** 24:22 29:5 46:25 55:14 99:17 109:23 154:24 155:18 235:22 257:1 264:13
- included** 9:16 10:4 29:6 108:14 109:15 122:25 214:10 270:20
- includes** 27:4 42:23 46:12 68:15 201:9 264:17
- including** 8:13 9:9 14:1 40:7 44:12 45:4 46:11 53:4 54:1,23 69:13 77:3 78:14 93:11 96:8 107:19 116:25 118:13 119:18 126:10 127:8,9 138:20 159:10 165:22 167:24 177:10 185:4,24 188:2 189:13,19 233:21 237:1 246:4 262:3 263:4 264:11 267:4 275:3 278:2
- inclusion** 7:13 29:23 171:14 173:17 174:3,4,11,15 177:19 178:13,15 248:25 256:14
- inclusive** 8:2 157:12 228:3 238:11,13 264:12
- inclusivity** 47:13
- incompetence** 108:23
- inconsistent** 83:7 262:7
- incorporate** 41:22
- incorrect** 155:22
- increase** 114:17 122:5 188:1 234:25
- increased** 39:7
- increases** 175:10
- increasing** 234:3 274:3
- increasingly** 231:22 271:16
- incredible** 145:2
- incredibly** 88:4 221:5 235:2 275:17
- independence** 193:3
- independent** 6:16 7:8 12:17 74:22 85:22 86:10,12 95:25 172:10 194:13
- independently** 129:4
- indifference** 59:19 107:22 108:3 184:24
- indifferent** 97:1 262:9
- indispensable** 124:13
- indisputably** 51:11
- individual** 7:6 144:12 172:7 190:20 250:18
- individualized** 62:13
- individuals** 8:7,16 14:5 42:4,9 47:24 66:12,15
- induce** 100:15
- indulgence** 45:22
- indulging** 112:24
- ineffective** 107:8
- inequity** 201:13
- inevitably** 71:15
- inextricable** 288:9 289:6
- inextricably** 232:6 288:2 289:4
- infected** 256:7
- infer** 79:14
- inferior** 36:19 63:3
- inflames** 112:25
- influence** 244:10
- influences** 96:14
- inform** 6:17 100:5 207:25
- informal** 100:6 153:6
- information** 12:18 17:6 92:18 99:14 104:21 160:12 163:11 200:1 230:9 275:18 293:11,25
- informative** 160:12 275:25 293:19
- informed** 127:18
- informing** 126:6
- infrastructure** 252:13 261:22 265:9 271:24
- inherent** 34:7 85:23 234:6
- inherently** 77:20 289:14 290:25 291:5
- initially** 33:4 168:9
- initiate** 250:18
- initiated** 99:12
- initiative** 178:1
- initiatives** 116:12 178:14
- injunctive** 153:18
- injured** 151:4
- injuries** 127:13
- innocent** 30:25 257:21
- innovative** 277:8
- inoculate** 234:16
- input** 158:14 282:12
- inquire** 52:6 159:21,25
- inquiries** 6:16
- inquiry** 45:10 199:18 211:7 249:17
- inseparable** 260:14,16
- insert** 106:21
- inserted** 181:23
- inside** 190:16
- insidious** 231:8
- insight** 263:20
- insist** 29:23
- inspired** 175:12
- Instagram** 204:5

- instance** 29:17 193:21 204:15
270:20
- instances** 10:2,4 94:11 95:2
138:1 155:16 269:2 270:12
272:14
- instilled** 195:11
- instituted** 218:15
- institution** 16:15 54:6 73:4 129:2
177:11 183:22
- institutional** 7:25 42:17 58:23
129:18 162:19 178:17
- institutionalize** 266:15
- institutions** 5:15 22:7 39:5
44:18 49:2 54:21 55:22 56:13
107:18 111:6 118:24 130:10
131:10 160:1 186:16 187:14
202:19 226:14 231:15,25 232:16
234:5,23 248:23 252:12 258:19
259:20 260:19 261:15,17 264:7
265:5 268:5 269:20 270:11,17
278:11
- instrumentalized** 170:12
- instruments** 53:21
- intake** 134:4
- integral** 236:11 237:17
- intellectual** 95:23
- intelligent** 136:12
- intemperate** 53:11
- intemperately** 72:2
- intend** 290:12
- intended** 15:5 40:20 90:17
161:17 228:21
- intensive** 130:25
- intent** 44:6 84:19 130:6 290:11
- intention** 62:6,14 164:16
- intentional** 20:10 61:16,25
- intentionally** 65:7
- inter-generational** 198:25
- interactive** 176:7 210:16
- interest** 13:13 15:16 152:23
- interested** 13:15 154:14
- interesting** 151:14
- interests** 56:15,21 59:20 71:17
- interfaith** 220:25
- intergovernmental** 134:23
- intermediate** 31:14
- intern** 11:8
- internal** 42:12 76:19 194:7
- internally** 143:21
- international** 18:8 44:4 95:19
113:7 168:15 169:9,12,16,17
170:10 185:5 198:7 215:10
241:17 249:19
- interpret** 82:22 217:10
- interpretation** 60:12
- interpreted** 56:8 75:15
- interpreting** 55:17
- interrogatories** 13:3 133:14,25
134:7,9,16 150:10
- intersection** 60:6
- intervention** 107:25
- interview** 129:9 187:1
- interviewed** 186:21
- interviewing** 152:13
- interviews** 129:11,13,18 177:2
- intifada** 39:25 165:14 189:13,14,
16 193:24
- intifadas** 189:17
- intimate** 106:25
- intimidate** 257:1 259:18
- intimidating** 190:3 199:14
- intimidation** 5:8 7:14 25:17
39:10 45:11 190:18 257:9
- introduce** 16:12
- introduced** 31:4 144:10
- invading** 25:14
- invariably** 234:3
- invasion** 231:18
- inverted** 64:2 190:8,10
- invest** 260:21 268:9
- investigate** 121:8 142:23 186:25
274:12
- investigated** 105:21 126:20
128:7 143:2
- investigating** 96:22 117:21
125:20 152:15 171:25 190:25
275:8
- investigation** 5:23 7:3 8:23
10:24 11:15,18,22 12:14,16 43:10
44:19 73:6 95:11 98:21 99:12,17
100:3 103:8 114:10 115:22
126:17 132:15 137:18 151:5
152:6,9,11 155:11,15,17,21
159:25 170:20 184:22 193:12
255:19 283:24 284:12 289:11
- investigations** 31:13 94:8 95:5
96:17,19 99:24 102:21,25 103:12
104:24 107:18 108:17 109:2,22
110:5 115:10 122:15 129:16
144:18 146:11 151:12 153:20
154:24 193:2 224:1 235:1 250:19
265:15 276:21
- investigative** 108:7 128:21
155:2
- investigator** 144:12,14
- investigators** 44:9 109:21 118:3
122:21 129:10,24 144:1 258:24
274:13
- investing** 234:16 235:16 264:11
- invitation** 17:14 93:3
- inviting** 105:7 230:18
- invoke** 90:14 167:4
- invoked** 176:12
- Invoking** 176:14
- involve** 37:15 47:11
- involved** 79:2 81:1 102:11,20
121:24 126:17 128:7 152:11
153:1,4,20 187:1 190:20 220:7
257:16 271:23
- involvement** 249:18
- involves** 100:17
- involving** 128:23 155:13,15
156:2 277:8
- lpsos** 233:12

Iran 253:20 258:6
Iranian 253:18 257:20
Iranians 257:21
IRHA 88:3 159:11
Irina 11:8
Irish 35:1
irony 176:15
Islamophobia 267:19 272:20
Island 116:14
ism 34:24
isn't 29:10 67:14
isolate 200:20
isolated 173:23 212:15 213:17
isolating 213:7
isolation 40:21 261:7
Israel 22:14,16,25 23:18 27:13
 34:3,7 36:5,17 38:16 39:3 41:11
 58:4,8 63:11 68:8,20,21 77:16
 81:16 83:4 85:24 86:12 106:2
 113:19 127:9 165:4 169:12 189:1,
 17 198:6,9,15 207:10 208:14,15,
 22,24 209:3 210:8 217:16 222:16
 224:14,23 226:17 241:8 248:9,11
 254:12
Israel's 251:16,21
Israel/palestine 247:13
Israeli 22:22 36:15 37:4 39:8
 48:1 68:5,7,9,15,17 69:22 83:4
 165:8 185:5 197:24 198:2 199:20
 207:5 208:15 249:6 262:22
Israeli-american 210:6
Israeli/palestinian 199:23
 247:11,20
Israelis 68:3 188:23 190:12
 194:1 198:23
Israelism 240:23
Israel's 206:25 207:21 217:9
Isreal's 57:24
issue 13:15 15:14 36:12 38:12
 41:4 43:8 46:20 60:4 83:16 85:3
 86:16 91:5 115:1 123:7 126:25
 137:10 139:14 141:9 143:19
 147:2 151:1,22 152:9 162:3

167:11 169:24 176:3 188:8
 194:17 229:8 240:13 250:3
 254:20 256:6 257:3 271:6 287:22,
 23 293:4
issued 11:21 158:3 239:11 281:4
issues 10:13 15:3 17:15 26:13
 47:7,11 65:21 81:1 90:13 137:7
 158:6 161:14 205:24 206:20
 216:2 228:18
Italian 34:25
it's 9:5,7 11:19 19:4 20:20 23:5
 24:3,12,24 25:2 27:15,21 28:3
 32:14,20 34:13,24 37:9,13,25
 38:5 40:12 52:19 60:24,25 62:5,
 10,11,16 63:2 64:19 66:12,14
 67:6 68:8 71:19,21 76:19 77:19,
 21 78:22 79:5,6 81:8 83:21 84:25
 85:11 86:11,17 87:24 88:4,5
 127:15 131:1 135:2,21,24 136:5,
 10 140:12,18,19 143:9,10,14,19
 144:25 145:11 147:18 153:25
 156:7,15 157:6 161:9,15 198:18
 199:2 203:10 206:9 207:18
 210:22,23 211:13 218:4 219:11
 223:2 225:19 230:21,23 234:10
 237:1,16 244:7
IV 93:12
Ivy 202:18,24 205:16,21 206:1
IX 43:16,17 61:19 65:13 76:21
 106:18,23 259:9
I'd 8:12 14:4 17:19 35:15 37:16
 53:1 60:8 66:1 133:6 141:11
 142:16 166:24 175:21 219:18,21
I'll 16:11 45:22 49:10 72:19 74:4
 80:1,25 81:5 82:14 83:14 87:11
 137:16 150:15 151:6 168:8
 178:19 202:4 210:9 211:4
I'm 4:10,11 8:20 13:21 17:3,14,
 19 20:19 32:4,6 34:10 46:17 47:3
 60:16 65:1 68:13 74:2 77:11
 79:13 80:12 86:5 89:1,3,11 92:15
 112:8 126:19 127:2 132:24 134:6,
 19 135:14,19 137:15 138:10
 140:25 141:4,7 143:16 147:7,22
 148:12 149:15 154:5,19 163:20
 164:2 172:3 178:21 180:24 200:5,
 6,7,25 201:24 202:10,12,20 203:7
 205:12,13 206:4 210:7 212:9
 216:6,18 217:8,9 220:7 222:16
 225:10 230:5 238:21

I've 8:25 24:13 46:16 80:1,6
 142:10 216:13 221:23 227:3
 228:6,17

J

Jackson 28:20

Jake 6:6

James 18:19 74:20

January 107:9 108:25 110:11
 117:4 122:16 124:6 126:12

JCPA 233:19 237:3 288:3

JD 175:7

jeopardize 166:21 168:17

jeopardizes 6:25

Jerusalem 27:13

Jew 29:14 63:12 77:22 78:3
 137:11,22 176:6 177:5 179:21
 192:16 241:8 253:18 255:2,13
 257:20

Jewish 9:18 12:7 16:19 21:6
 24:15 25:13,14 26:18,20 27:9
 28:8,12,21,25 29:4,5 33:14 34:15
 35:1,9 36:2,10,15,17 37:2 38:18,
 21 39:8 40:1,2,4,17 41:1,10 42:1,
 4,10 44:12 46:3 47:25 48:2 55:20
 65:5,8 69:23 79:3 80:15 81:16
 88:12 94:14,20,23 95:1,11 106:9
 107:23 108:4,10,18 109:19 113:9,
 18,24 114:12,25 116:4 117:10,12,
 14,16,19,20 118:22 119:4 121:24
 122:18 126:23 127:2,16 128:10
 129:14 140:19 142:18 143:5,13,
 15 146:12 157:13 159:6,23
 163:23 164:6,7,10,13,18,19,20
 166:8 167:2,8,13,16,22,25 168:5,
 8,25 169:3,11,17 170:2,8,21,25
 171:21 173:25 175:3,20 177:1,7,
 12 178:21 180:19 181:6 183:7,22,
 24 184:4,7 185:4 187:8 188:11,
 14,20,22 189:2,4,24 190:14
 191:5,11 193:17,22 194:6 197:4,
 10 199:20 200:5 201:14 205:1,4
 207:18 209:4,19 210:5 212:5,14,
 19 213:1,6,10,17,20,22,24 214:9
 217:14,24 218:5,7,9,13,17 219:1,
 16 220:1,7 221:22 222:1,9,15
 223:2,3 224:19 226:3,4,6,8,11,12,
 14,15 229:21 230:25 231:10
 232:6,18 233:7,10,13,20,22

- 234:23 235:4,15,16,23 236:2,4,8, 11,12,18,20,21,24 237:12,17 238:12,13 239:25 241:7 247:24 248:4,11 249:8,24 250:5,21 251:1,7,13 252:12,13,15,17,20 253:13,22 254:8,15,18,23 256:4, 21 257:8 258:21 259:3 260:21 261:13,18,22 262:4,10,18 263:22 265:2 266:18,21 267:23 268:1,2 272:8 273:17 275:4,11 278:18 279:21 285:22,24,25 287:10 288:15,19
- Jewish-american** 45:24
- Jewish-israeli** 189:25
- Jewish-sounding** 29:19
- Jewry** 88:14
- Jews** 27:3,5,13,20 28:5,6 29:14 31:6 33:19 34:10,17,19 36:18 41:9,19,22 42:2 63:8 64:1,4 78:5, 6,13,22 79:1,5 88:7,14 113:2 118:24 169:23 171:12,19 174:5,8, 13 179:7 181:13 188:15 189:1,12, 21,24 190:1,12,13,19 191:19 194:1 197:22 199:11 205:8 226:11,12 231:6,12,19 232:22,24 233:6 234:3,14 238:9 240:5 254:11 256:9 258:7 259:21 260:23 261:14 262:2,25 263:25 272:14 285:23 287:8 288:11,12
- job** 22:6 24:14 61:9,10 64:14 137:2 141:16 142:1,15 192:19 228:24
- jobs** 67:4 274:14 282:22
- join** 188:19 238:1
- joined** 125:23 149:9 183:5 189:5 209:23 223:4
- joining** 8:8
- Jones** 4:15 6:4 9:9 10:25 11:1 13:21 74:4 79:24,25 82:13 88:20 89:1,6,11 132:9,11 133:1,9,18,22 134:8,24 135:4,10,17,24 136:3,15 148:19,20 149:8,24 150:5,21 157:16,18 158:1 187:24 210:11 211:5,6 279:25 283:15,16 284:4,7 289:8,9,21 290:1,5,16,21 291:8, 10,14,17,24 292:1,4,8
- Judaism** 217:18
- judge** 51:8 115:9
- judges** 104:7
- Judgment** 104:14
- judicial** 233:25
- Judiciary** 105:20
- July** 110:13 184:21 280:23
- junior** 188:5
- jurisdiction** 102:11
- justice** 12:25 36:5 44:15 49:17 91:22,25 93:4,8,21 95:4 96:7 97:4 98:12 118:8 119:19 138:16 148:23 160:5 173:19 178:13 246:22 276:15,17 279:3
- justification** 261:19
- justified** 42:5 169:2 262:12
- justifies** 74:23
- justify** 58:3,5 140:3 167:5,12 176:11
- justifying** 119:1 166:25
-
- K**
-
- K-12** 237:5
- Kaplan** 162:21 163:18,19,20 171:3 202:4 205:12 213:5 216:12 217:20
- Ken** 277:25
- Kenneth** 114:20 229:23 238:21
- Kentucky** 125:18
- Kevin** 6:7 230:2 260:5 274:19,23
- key** 14:25 62:20 90:11 112:9 161:10 228:13 236:21
- Kfar** 127:10
- kibbutz** 127:10
- Kidder** 173:15
- kidnapped** 165:12
- kidnapping** 188:24
- kids** 72:1 77:6
- Kiley** 6:7
- kill** 64:3 191:11
- kind** 17:16 22:5 33:21 40:11 62:13 63:13 66:22 72:10,15 78:1 83:1 84:15,24 85:1 87:5 131:14 155:20 182:20 210:16 211:1 222:10 266:1,8 276:9 277:19
- kinds** 24:20 32:22 67:7 72:22,23 83:3 244:14
- King** 27:16
- kingdom** 27:16
- kinship** 177:14
- Kirsanow** 4:15 6:3 8:22,24 10:22 11:2,17 74:3,5 132:16 187:23 268:19,21 269:24 271:3,10,12 285:9,11,20 286:10 287:14
- Kirsanow's** 11:10
- KKK** 191:6
- knew** 49:14 148:9 167:2 184:10 204:3
- knowledge** 17:7 60:9 92:19 149:21 150:7 163:12 191:16 219:6 223:10 230:10
- knowledgeable** 219:5
- kosher** 28:6,8 204:24
-
- L**
-
- lab** 183:5 209:24 210:1
- label** 34:20 173:6 256:5 263:23
- labeled** 88:15 255:13
- labels** 31:21
- labor** 130:25 237:13
- lacked** 65:13
- lacks** 43:14
- laid** 116:24 151:15 154:17
- Lakier** 17:1 52:17,18,20 59:23 71:2,4,7,11 80:5,22
- land** 41:11 199:1
- landscape** 65:17
- language** 14:3,6 47:22 61:20 82:22 101:7
- laptops** 36:5,8
- Lareau** 98:5,6,9 105:2 151:10,23
- Lareua** 91:23

- large** 146:24 148:3 167:25 190:6
- largely** 289:12
- largest** 247:8
- lasting** 126:22 130:6
- late** 46:3 182:15
- latent** 221:10
- Latino** 288:21
- latitude** 18:17 152:4
- Laughter** 218:24 239:5 280:11
- launched** 164:24 237:3
- launder** 31:20
- law** 7:20 10:15,16 16:11,17,18,20, 21,24,25 17:1,2 24:6,13,17 28:4 29:9 32:5,6 33:2 34:6 35:21 36:21 37:25 43:25 45:7 46:14,15 47:16, 18 48:4,22 49:22 50:13 55:6 59:17 60:10,14,17,20 61:4 63:15 64:12 65:11 66:5 69:17,18,19,20 73:6 74:11,18 76:15 77:4,24 78:19 79:14,16 82:3,10 83:22 85:1 94:8 100:15,16 103:5 106:3 117:23 120:9 121:9,14 145:1 147:18 150:25 153:15 162:23,25 172:4,5,25 173:4,18 176:20 177:16,24 181:22 188:7 195:22 227:1 232:25 238:23 244:19 259:7 262:13 270:1,7
- lawful** 5:12 7:7 119:3
- lawlessness** 49:25
- laws** 33:1 48:12 60:7 93:11 121:1 141:24 269:19 273:5
- lawsuit** 288:5
- lead** 117:3 132:16
- leaders** 28:12 118:19 237:6 238:14 247:16 257:11
- leadership** 93:22 126:1 128:3 148:6 173:20 176:25
- leading** 126:1 191:4 245:10 263:15 264:21
- League** 202:18,25 205:16,21 206:1
- learn** 5:6 26:16 154:14 200:16 225:11,12,18
- learned** 46:1 108:21 109:20
- learning** 7:13 23:16 45:10 131:13 175:16 199:22
- leave** 41:1 69:3 83:15 132:19 185:6 226:7 250:9
- lecture** 181:20 189:8
- lecturer** 113:17
- led** 6:2,6 28:11 167:8 180:1 189:10 233:19 288:3
- left** 17:21 49:10 77:12 79:19 117:2 138:8 177:3 180:11 181:25 182:12 184:5 235:12
- legacy** 233:20
- legal** 13:10 16:23 17:22,23 28:16 29:3 37:17 38:13,19 42:14 102:23 112:18 115:12 125:25 130:9 145:9 156:3 173:10 177:25 252:12 257:12 267:8
- legally** 107:24 123:15 269:3
- legislation** 144:10 173:21 252:8 266:12 270:14 273:1
- legislative** 6:17 44:23 102:10 118:15
- legislatively** 87:2
- legitimacy** 70:1
- legitimate** 40:8 86:3,6 232:15 238:8 262:10
- lens** 128:24
- lesson** 177:18 261:12
- let alone** 36:9
- letter** 50:20 165:25 167:9 168:10, 17 280:7
- letters** 178:7
- let's** 21:9 61:6 62:24 79:8 85:8 157:16
- level** 74:16,17 75:22 94:12 192:2 242:21
- levels** 7:5 74:13 142:5
- leverage** 38:4 166:17
- LGBTQ** 173:17
- liability** 35:19 36:21 62:19 66:8, 20 82:17 86:8 177:8
- liable** 106:18
- libel** 20:18
- libels** 221:16
- liberties** 233:2
- liberty** 47:20
- libraries** 106:20
- library** 36:7,10 57:2 63:20,25 64:22
- license** 30:3
- lie** 131:25
- lies** 231:10,19 284:1
- life** 5:7 7:24 114:12 162:18 166:18 167:25 171:11 174:9 175:13,15 180:20 182:14 189:2 205:2 215:14 236:12,18
- lifting** 249:15
- light** 15:23,24 60:3 91:8 162:6,9 229:11,13
- lights** 15:22 91:7,11 162:5 229:10
- likeness** 172:24
- Likewise** 21:10,13,24 70:12
- limit** 80:2 170:9
- limited** 33:7 42:25 80:25 102:17 123:25 124:8 137:17 144:16
- limiting** 103:19 250:17
- limits** 14:22 26:8 83:24 90:10 161:8 228:12
- Limmer** 264:23
- Linda** 92:8 119:16
- lines** 174:23 222:24
- lingering** 182:12
- link** 204:5 215:2
- linked** 232:6 288:2 289:4
- list** 20:5 25:21 84:2 258:4 265:25
- listed** 168:17
- listen** 187:15 263:10
- listener's** 48:5
- listening** 11:13 12:20 284:19
- lists** 85:9 264:13

- listserv** 177:24 178:10
listserve 178:12
lit 113:15
literacy 234:15
literally 69:1 87:15 149:11 173:3
literature 287:8
litigate 254:20
litigation 16:23 38:14 139:4
litigator 38:20
litmus 248:3 267:14
live 11:6 18:9 34:16 64:25 213:2
 218:2 279:18
lived 41:21 88:5 127:15,16
 206:10 253:7
lives 203:6 253:24 278:25
Liz 28:20
load 129:25
loaded 140:24
loads 144:12
local 106:21
logistical 175:21
logistically 8:18
logistics 294:13
long 30:19 61:1 70:12 235:5
 289:2
longer 111:7 198:16 290:3
longstanding 44:3 198:24
loop 231:21 232:3
loophole 270:6 286:8
loose 68:25
losing 282:21
loss 54:6 55:1 81:23
lost 25:24 61:2 77:14 83:16
 182:21
lot 9:5,25 36:8 60:3 63:11 64:18
 68:23 72:1,20 79:2,8,10 80:1,14
 87:12 88:7 89:17 140:9,10,11
 145:23 152:4 156:22 163:24
 200:11 204:13 205:20,23 206:1,8,
 15,19 212:14 215:8 219:22
 220:15,21 265:24 273:21 275:11
 281:21
lots 35:9 137:6 219:1,7 277:9
 287:2
loud 21:14 221:12 233:4
Louis 229:24 238:22 271:22
love 145:24 217:21
low 44:20 72:7
lower 19:15 38:1 62:3 72:3 75:15
 82:25
lucky 164:10 223:3
Luis 163:4 188:6
lumped 222:2
-
- M**
-
- Madam** 11:2 45:21 74:6 79:25
 132:11 136:21,23 141:1 145:17
 148:16,20 151:7 159:14 202:2
 211:6 216:10 268:21 275:23
 283:16
made 8:16 18:18 21:10 42:22
 47:3 53:8 58:3,6 73:23 77:18
 93:24 107:14 136:6 143:4 147:8,
 10 148:5 150:1 165:7 184:11
 189:1 213:23 214:17 240:18
 251:18 258:10 262:1 270:12
Madison 196:20
Madison's 195:24
madness 110:4
maelstrom 147:3
Magen 251:7
Magpantay 4:16 223:18,20,21
 226:21 272:4,5 274:16 285:10,12
 292:12,16,21
MAGPANTY 159:14
mail 14:12 294:5
main 195:24 233:20
maintain 15:8 54:22 90:23
 161:21 178:12 216:15 229:1
maintained 130:9
maintains 66:6 173:15
major 88:12 114:5 233:21 262:18
majority 27:2 41:9 44:21 80:10,
 19 121:23 233:10 244:1 258:21
make 10:11 26:3 31:11 35:9
 37:20 57:12 85:4 102:3 113:2
 120:14 121:9,10 127:15 133:11,
 16 136:12 139:18 140:24 146:15,
 22 147:16 152:17 154:21 160:3
 170:11 171:19 178:5 184:8
 186:19 200:19 210:10 223:16,24
 232:17,22 234:3 260:22 261:12
 264:3 273:1 279:23
makers 187:15
makes 53:5 61:18 170:6,11
 171:20 209:9 216:23 218:12
 250:3 287:19 289:3,4
makeup 281:12
making 67:19 83:2 84:22 118:22,
 25 139:17 174:8 210:18 211:17
 249:24
male 116:10
malfeasance 157:6
malign 96:14
man 17:19
manage 35:15 156:14
manageable 144:15
managed 177:8
manager 101:9
mandate 31:12 121:6 259:5,12
mandated 101:20 104:22 112:19
mandates 122:9
mandatory 175:15 256:16
Mangel 92:8 119:12,13,16 125:7
 139:24 141:12,14
manifestations 41:22 44:11
manifests 94:18 247:19 259:1
manipulating 288:13
manner 21:2 43:2,9 45:8 186:11
manufacturing 106:16
march 8:6 14:10 122:19 126:4
 195:24 235:9 294:2
marches 196:20

- Marcus** 114:20 229:23 238:19, 20,21 239:6 246:24 268:24 269:8 270:4 271:10,14 276:2,11 277:15 280:2,5,9,15,19,22,25 281:3,8,14, 17,23 282:1,9 283:5,13 285:13,20 286:18 289:10,19,24 290:3,9,20
- Marcus's** 273:25
- marginalized** 231:2
- mark** 16:18 222:10
- marked** 196:16
- markets** 175:8
- married** 46:4
- Maryland** 125:17
- mask** 131:16
- masked** 45:5 110:21 189:9 190:5
- Mason** 96:22
- Masoud** 30:22
- mass** 48:17
- Massachusetts** 104:12 169:7
- massacre** 174:22
- massive** 235:13
- master's** 195:3
- mater** 9:17
- material** 271:7
- materials** 14:9,11 264:18 294:4
- Mathew** 92:6 111:20
- matter** 20:24 28:5 41:6 60:5 72:9 78:19 79:14 81:19 82:10 89:21 100:6 135:15 138:22,25 155:1 158:22 160:19 177:13 210:21 227:23 281:17 282:8 294:20
- matters** 13:23 18:9 48:12 53:9,18 262:13
- maturity** 52:7 227:6
- maximize** 200:2
- Mccarthyite** 51:21
- meal** 218:19
- meaning** 33:9 164:16 189:6 219:16 241:20
- meaningful** 25:3 31:14 44:16 45:8 109:14 112:22 126:22 130:6 131:4 185:23 193:20 195:19 232:9 234:22
- meaningfully** 213:11
- means** 15:23 27:2 32:8 59:4 75:19 87:21 91:9 100:7,10,14,16, 22 101:24 104:18 143:11 153:14 162:7 207:25 208:10 229:12 243:6 252:16
- meant** 64:9 153:17,25 154:1
- meantime** 13:17
- measure** 146:24
- measures** 55:23 109:9 114:7 119:1 167:1 201:14 213:9 214:6, 14 268:9
- mechanism** 285:16
- mechanisms** 6:25 43:15 55:3 123:22 130:16 279:5
- media** 116:15 200:2 213:13 234:15
- mediated** 10:17
- meet** 5:15 124:19 127:25 218:9 239:17
- meetings** 220:23
- member** 14:8 46:15,16 150:23 189:10
- members** 6:6 11:5 12:21 13:12 38:10 46:2 47:25 93:2 97:21 144:9 151:2 152:12 171:8 178:9 187:24 194:22 237:6 238:7 247:4 248:7 253:3 260:3 270:12 273:11 284:22 290:17 294:3
- membership** 88:11 222:13 248:4
- member's** 191:17
- memo** 146:9
- memory** 46:9
- mens** 20:23
- mental** 255:14
- mention** 22:14 67:23 203:6 208:2 221:7 240:9 242:1
- mentioned** 41:16 65:14 88:6 145:22 203:15 204:13 211:21 239:6 242:22,23 272:14 275:11
- mentioning** 198:9
- mere** 40:3
- merit** 179:8
- message** 65:7 177:6 190:4 259:14
- messages** 112:10 113:14 190:1 221:18
- messaging** 128:2
- met** 164:8 186:5 256:10
- metaphor** 27:12
- Mexican** 29:22,25 30:1,2,12
- Mexicans** 30:8
- Mexico** 29:22
- mezuzah** 181:11,12 204:2,4,6 215:3,5
- mezuzahs** 113:12 182:10
- Michael** 16:24
- Michelle** 11:9 239:10
- microphone** 149:6 255:22 256:2
- microphones** 16:6
- microscope** 160:4
- mid-january** 123:13
- middle** 26:25 36:23 74:12 95:22 106:20 122:16 178:3 209:14 224:25 255:4
- mighty** 220:18
- miles** 259:17
- militantly** 21:25
- million** 50:2,11 110:18 115:24 116:9,13 118:7,8
- millions** 73:8 115:13 145:5
- mind** 9:7 133:5 134:20 138:14 151:20 168:13 180:16
- minds** 9:6,8
- mine** 168:9 180:8 183:11 193:2 213:20
- minimized** 131:11
- minimum** 36:20 268:6
- minorities** 64:9 272:15

minority 263:3
minors 116:12
minute 85:25
minutes 14:17 15:24 79:19 80:2
 87:10 90:7 91:9 157:17 161:4
 162:7 228:9 229:12
misapplying 6:25
mischaracterization 41:5
mischaracterized 40:13
misconduct 32:24
Misconstruing 40:16
misguided 200:21
mishandled 131:11
misimpression 270:9
misogynistic 62:10
misreading 87:13
missed 64:17
misses 27:1
missing 261:6
mission 8:10 23:12 37:21 49:23
 57:7 175:12 247:15 258:10
Mississippi 204:17 205:6
mistake 85:6 232:17 270:13
mistaken 68:13
mistakes 146:15 183:15
mistreat 32:22
mistreatment 198:6
misunderstand 42:14
misunderstanding 41:3 170:4
 243:2
MIT 25:20
mixed 17:19
mobility 236:3
mobilization 258:2
mobilized 58:4
mobs 106:4 107:15
mocked 254:6
model 173:9

models 23:14
moderate 178:11
Modern 179:21 180:19 183:6
 206:5,7 219:25 220:16,22
modifications 70:14
Moines 74:22
moment 8:21 128:1 133:21
 136:14 147:13 172:16 187:7
 237:8 246:9 255:3
moments 164:23
Mondaire 6:4 9:9
Monday 281:7
monetary 103:23 173:16
monitor 95:25 124:9
monitoring 109:17 110:22 114:9
 117:8,23 118:4 124:10 131:20
 154:4,12 156:9,10,11,21,25
 157:10 267:12
monitors 106:21 130:19
monolith 214:9
Monroe 24:24
monstrous 18:13
month 50:1 249:4
months 10:1,3 12:1 73:20 78:15
 95:3 177:21 255:16
moral 110:3 239:16 256:6 257:12
morally 107:24 240:22
morning 4:3,10 111:16 181:10
 203:8 210:13 240:7
mother 127:3 142:18
Motion 104:13
motivated 51:14 78:12 113:5
 116:21
motivates 178:23
motives 78:19
mount 27:15 77:22 112:5
mountain 27:12
move 15:18,20 50:4 52:16 98:4
 111:13 153:11 182:21 242:6
 274:21 281:13 294:10

moved 167:7 175:6 249:11
movement 247:9 257:7
moving 264:8
Muhlenburg 26:9
Mulder 11:10
multi-agency 49:18
multi-year 114:8
multiple 88:23 125:25 129:7,17
 158:17 245:15 264:14 267:3,4
multiyear 129:1
murdered 188:23
music 62:9
Muslim 21:6 109:23 155:22
 261:24 288:23
Muslims 199:11 272:15
mute 91:18
mutually 265:2

N

names 29:20,21 30:11 159:7
 168:7
namesake 195:8
narratives 199:2
narrow 74:8
narrowed 40:25
narrower 191:24
nation 68:10
national 16:19 22:22 27:23 28:3,
 15 29:24 33:8 37:7 68:11,20
 69:18 93:15 97:17 118:10 119:25
 125:21 158:10 165:20 183:14
 213:8 237:4 240:8 243:11 257:7
 266:10 267:1,10 268:7 269:10
 271:1 285:18 286:4,6
nationalism 264:22
nationality 83:24
nations 212:21 241:9
nationwide 126:15
nation's 8:10 38:23 45:9 93:11
 96:3 119:5 123:10

naturally 188:18 205:17
nature 190:4 287:18 289:3
navigate 47:15 194:8
Nazi 196:20
naïve 186:8
NCAA 172:23
NEA's 264:15
Nebraska 169:7 196:5
necessarily 36:18 139:3 206:16
necklace 251:8,11
necklaces 113:12
needed 44:23 95:14 124:18
 127:25 128:4 166:9 182:15 187:5
 252:2 273:4 286:23
negative 184:14 217:22 218:3
negotiate 53:6 130:13
negotiated 124:9
negotiation 101:8
negotiations 50:9
neighbors 69:2 207:24
neo-nazi 195:23
neo-nazis 288:5
Netanyahu 29:13 226:18
neutral 21:2 48:6,12 74:24
 171:24 172:1 174:2,16 275:13
neutrality 84:24 174:12
newfound 150:7
newly 43:21
news 166:25 196:9 206:8 214:25
newspaper 143:8 187:3 203:10
Nexus 158:21 230:4 243:16
 260:7 263:12,14 267:5
nice 204:22 280:13
night 142:25 165:3 182:15
no-zionist 28:11
nodding 80:9
noise 75:2
nominated 281:7

non- 164:19
Non-discrimination 185:25
non-jewish 183:10 213:14 219:7
non-legally 267:6
non-obscene 66:24
non-partisan 275:13
non-political 267:9
non-profit 235:19 252:11 267:13
 288:4
noncompliance 99:20 104:16
 152:21
noncompliant 103:20
nondiscrimination 109:8
 191:23 194:12
nonetheless 50:8
nonexistent 131:16
nonpartisan 38:15 141:14
nonprofit 38:14 111:21
nontraditional 175:11
nooses 63:20 70:5
normalization 118:13
normalized 26:10 231:22
norms 72:13 76:24 77:1 231:24
 232:15 234:5,12
Northwest 294:8
Nosanchuk 92:6 111:14,16,20
 119:10 143:17,23 154:9,10
 157:19,25
notable 241:16
note 16:5 56:7 57:13 71:13 72:19,
 25 79:18 111:5
notice 15:21 91:6 104:16 126:6
 162:4 229:9 245:2
notify 100:24
notion 60:7 144:23 145:7
notions 277:1
Nurse 4:13 60:1,2 111:17
 226:22,25
November 195:21

NRA 19:17
nuance 247:17
nuanced 237:7
nuclear 31:15
number 33:19 44:20 66:15 78:25
 95:6 121:21 122:11 151:3 212:22
 233:24 245:15 274:12 279:15
 288:1
numerous 50:5 190:15 235:10
NW 4:8 14:14

O

oath 120:11
Obama 88:1 242:7,16
Obispo 163:4 188:6
object 48:1 220:12
objectionable 221:14
Objections 266:16
objective 51:12 101:11 212:7
objectively 24:25 123:23 192:8
objects 63:3
obligation 22:3,6,24 23:4 42:24
 124:19 141:23 150:24 237:10
 238:5
obligations 5:16 19:8 42:14
 43:13 49:3 192:7
oblivious 65:2
obscene 62:8
obscenity 106:19
observance 183:9
observances 40:7
observation 9:16
observations 45:23
observer 212:7
obtain 13:10 100:23 121:11
 153:18
obtaining 99:7
obvious 12:4 34:8 173:13
occasion 13:9

- occasionally** 22:14
- occur** 40:10 55:24 97:12 138:3 223:5
- occurred** 9:13 99:21 138:1 189:5 214:12 222:25
- occurring** 155:10 211:12 258:6
- OCR** 44:20 72:19 106:6,15 108:1, 13,16,24,25 109:20,24 110:5 114:1,20 116:24 117:4,6,20 118:2 119:23 120:18,19,25 121:3,17,19 122:2,6,10,14,19 123:11,13,18,20 124:1,12,13,18,23 125:23 126:19 127:19 130:19,21 131:25 138:12, 16 139:24 140:4 141:6,17 142:8, 9,14 144:20 148:2,13 155:2 157:9 234:25 235:1,8 250:17 252:9 265:11 268:25 273:11,22 274:4,5, 21 275:6,15 278:24 279:14
- OCR'S** 106:9 108:22 120:22 121:6 123:24 131:11
- October** 9:10 10:2 12:2 39:2 44:17 55:10 106:1 108:5,24 112:4 113:6 127:11,19 164:25 174:22 177:19,21 196:13 198:19 221:9, 11,17 222:20,25 245:6,7,11,13 246:8,9 248:1 254:9 262:4 271:17
- offended** 63:1 251:1
- offense** 37:19
- offensive** 24:25 35:8 53:12 54:2 76:5,8 192:9
- offer** 45:22 46:22 252:3 256:13
- offered** 176:21 182:21 232:12 255:14 261:18
- office** 8:14 12:17 14:13 25:14 42:21 54:10 64:13 65:22 67:1 92:4,9,13 96:9 106:5 107:3,11 112:1,19 117:7 119:22,25 125:14 126:2,7,8,13 131:21 133:14,24 134:23,25 135:1,2,6 145:22 154:17 175:1 176:13,14,17,22 182:10 185:24 190:24 194:14 198:1 235:5 250:15 255:13,17 265:13,18,22 266:4 272:21,23 276:14 278:3 289:15 291:1,21 294:6
- officer** 192:16
- officers** 179:6 193:8 275:16
- offices** 40:2 116:25 118:4 120:2, 19 122:20,22 125:19 127:22,24 154:18 156:17 171:16,17,18 179:6 192:11 235:10 252:9 266:5 273:2,14 274:5 278:12 279:14
- official** 100:21 102:2 157:23 158:8 255:10
- officially** 116:16 182:25
- officials** 152:13 166:25 167:4 171:15 187:2 224:3
- oftentimes** 207:3
- Ohebsion** 230:1 253:2,3,17 259:24 292:1,2
- Oklahoma** 169:6
- older** 46:2 76:4
- oldest** 11:24 286:12
- omissions** 171:25
- omits** 116:3
- on-the-** 29:2
- one's** 287:6,12
- oneself** 287:11
- one's** 5:16
- ongoing** 96:19 123:9 137:18 154:3
- online** 113:23 175:7 293:18
- onsite** 152:11
- op-ed** 185:10
- open** 14:10 59:24 77:1 84:4 96:19 128:12 132:7 152:9 167:9 178:6 199:5 201:25 249:16 268:17 294:1
- opened** 95:4 107:17 108:25 122:14 155:14
- opening** 108:16
- openly** 29:2 169:1 182:10 187:13
- operation** 53:3,7 59:16 140:4
- operationalize** 48:25
- opinion** 51:20 187:4 200:17 225:25
- opinions** 173:2 201:11 223:23 273:6
- opponents** 53:22
- opportunities** 25:2 97:19 108:20 139:18
- opportunity** 14:19 38:11 90:8 92:2 97:25 98:8 101:25 104:25 105:13 111:4,18 119:14 131:19 132:3 161:5 163:22 171:2,10 187:25 194:23 228:10,15 236:8 238:9,16 247:5 260:4 268:10,14 273:10 276:20
- oppose** 80:19 206:25 207:21
- opposed** 34:4 60:3 70:7 74:16 282:8
- opposes** 257:23
- opposing** 178:7
- opposite** 9:13 25:11 258:8
- opposition** 251:20
- oppressed** 207:15
- Opting** 202:17
- option** 31:15 182:21
- optional** 6:20 124:10
- options** 43:7 204:24
- oral** 80:7
- Oranburg** 162:23 171:6,8 172:3 179:14 220:24 227:2
- orchestrating** 41:14
- order** 4:5 16:13 35:20 36:20 67:4 82:17 88:25 89:25 91:20 158:3 160:25 162:20 187:17 229:19 242:10,21,24 243:4,10 245:1 246:1
- orders** 243:5
- ordinarily** 72:14 81:6 186:25
- ordinary** 67:9 72:14
- organization** 38:15 78:16 88:12, 13 128:9 140:16 146:9 152:14 178:6 245:8 257:13,17 260:7 262:18 273:16
- organizations** 85:3 189:24 197:3 233:20 258:21 271:21
- organize** 23:20 237:15
- organized** 189:24 258:3

organizing 254:14
origin 22:22 27:10,23 28:3,15
 29:24 30:5 33:8 68:11 93:15
 97:18 125:21 240:8 269:10 271:1
 285:18 286:4,6
originates 61:3
Orthodox 179:21 180:19 183:6
 206:5,7 219:25 220:16,22
ostensible 52:11
ostensibly 48:6
ostracized 231:1
otherness 182:13
outbreak 106:14
outbreaks 140:20
outcome 12:14
outdoor 21:11 48:13
outline 278:15
outlined 6:13 151:24 153:15
 266:9
outrage 258:7
outrageous 107:24
outreach 183:18 185:15 268:3
outright 36:16
outset 98:24
Oval 107:11
overbroad 25:9,12
overcompensate 73:13
overidentification 263:21
overloaded 265:18
overlooks 145:1
overnight 131:15 157:2
override 24:19
oversaw 120:3 125:16
overseas 70:8 189:14
overseeing 120:1
overseen 95:24
oversight 6:18 13:16 43:11 47:1
 95:18 112:23 117:11 131:2,12
 186:7 252:5

overt 54:18 56:18 172:2 173:24
overwhelmed 245:8
overwhelming 121:23 182:5
 258:21

P

P-R-O-C-E-E-D-I-N-G-S 4:1

p.m. 160:17,20,21 161:1 227:24,
 25 228:1 294:19,21
pages 143:7
paid 50:16
pain 213:16 260:21 268:4
painful 95:12 167:4
Pakistan 169:8
Palestine 28:16 29:3 31:3 36:5
 85:23 198:9 224:25 255:23
Palestinian 37:6,11 58:1 69:24
 70:1,12 85:20 191:7 198:6 200:8
 249:7 250:23
Palestinians 86:9 113:20 198:23
panel 7:19,21,24 8:1 11:5 14:18
 16:10,12 17:18 24:3 71:4 74:6
 90:1,19 137:6 141:15 145:19,22
 159:15 162:16 210:14 224:6
 228:3 253:6 290:18
panelist 14:17 90:7 161:4 211:20
 228:8
panelists 7:14 10:19 11:3 15:8,
 21 59:23 60:9 90:23 91:6,21
 132:12 160:11 161:21 162:4,21
 229:1,9,20 268:16,22 283:19
 293:15,22 294:2
panels 7:18 210:12 228:7 273:9
 284:16,18
paper 128:10 198:1
Papish 18:19,20 74:20
parallels 57:22
parents 33:13 34:11,12 68:17
 114:18 121:4 180:21 188:10
 215:25 238:2 254:4
park 67:14,15
part 5:18 16:3 17:23 22:6 23:12
 27:1 28:8 35:3 36:2 37:18 53:20

57:7 87:25 91:15 102:17 103:7
 140:15 147:12 150:7 162:13
 169:3 170:22 185:12 190:7 191:6,
 20 221:7 225:4,13 229:17 240:12
 241:16 243:24 244:8,10 259:13

PARTICIPANT 292:24

participants 15:7 90:22 161:20
 228:25
participate 5:6 71:8 131:6 174:8
 175:13 196:25
participated 123:20
participating 4:12 63:24
participation 262:17
parties 139:1 144:23 151:3
partisan 41:7 110:5 281:12
 282:6 287:22 289:14,20,22
 290:11,15,25 291:5,22
partisanship 137:1
partly 23:11,14
partner 92:11 108:1
partnership 252:4 267:23
partnerships 237:4
parts 277:9
party 54:15 155:7
Paso 288:20
pass 44:1 45:14 69:5 165:10
 210:10 211:4 252:6
passage 101:5
passed 150:15 167:21 282:24
passion 227:7
Passover 40:7 189:22 218:16,17
 219:8
past 97:9 183:15 186:14 235:21
 250:14 271:21 284:23
pathetic 106:11
pathways 236:5
pattern 49:25 174:21 261:21
patterns 129:20
pay 50:11 110:17 144:25 256:24
paying 116:12 117:16

- pays** 36:6
- PC** 91:24
- peaceful** 53:23
- pedagogical** 57:21
- pedagogy** 32:25
- peer** 33:22
- peers** 165:13 200:20 247:22
250:7 254:13
- penalty** 103:23 115:14
- pending** 80:13 266:12
- Penn** 265:15
- Pennsylvania** 4:8 14:14 125:17
263:6 294:7
- people** 9:7 17:21 19:25 21:21
22:9 23:12 24:9 27:3 29:5,19,25
30:11,12,25 32:21 33:14 34:20
35:9,19 36:15 53:16 57:25 58:1
61:1 62:23 63:10 64:7 66:23
68:14,16,19 69:5,22,24 70:25
75:20 77:3,11 78:2,17 79:8,10
80:16 85:20 86:4 88:9 106:2
138:25 139:1 141:21 142:9,10
143:20 169:25 171:19 176:22
181:1 183:20 188:22 197:21
199:20,21,25 200:5,8,12,13
205:23 207:14,16 209:3 210:18
212:5,14,19 213:1,13 215:16,21
217:2,4,10,12 219:9,13,23 221:3,
17 224:20 225:11,15 226:5,8,11,
12 239:8 240:1 241:7 248:15
267:25 274:10 287:11 288:14
- peoplehood** 27:9
- perceive** 18:24
- perceived** 70:17
- percent** 88:14 113:3,4 114:16
122:22 233:13
- percentage** 233:15
- perception** 200:21
- perfectly** 81:2
- perform** 174:6
- performative** 268:3
- period** 13:25 14:20 129:1 153:9
181:4 208:16
- permanent** 127:13
- permanently** 122:19
- permeated** 62:8
- permissible** 26:22
- permit** 57:11 94:2
- permits** 251:15
- permitted** 40:11
- permitting** 94:19 193:25
- pernicious** 231:9
- perpetrator** 182:23 185:18
- perpetrators** 40:19
- persistence** 131:17
- persistent** 59:19
- person** 4:12 16:7 62:1,6,25 135:5
164:6,7 180:24 182:18 208:12
275:14 293:16,17
- personal** 15:9 45:22 90:24 112:9
126:25 153:13 161:22 219:4
229:2 237:19
- personally** 102:20 142:19 143:1
- personnel** 269:8 273:14
- person's** 25:3,4
- perspective** 22:17,19 48:5,6,7
70:16 77:5 132:4 142:13 202:11
214:2 283:24 285:15
- perspectives** 8:1 15:11 91:1
161:24 162:19 224:1,9 225:12
229:4 248:16 293:11
- pertain** 15:14 91:4 162:2 229:7
- pertinent** 99:18
- pervades** 278:10
- pervasive** 24:24 40:18 64:16
192:8
- Peter** 6:3
- phase** 7:2 12:16 153:21
- Philadelphia** 92:13 125:14
126:2,6,13 265:13
- Philamina** 179:20
- photo** 206:12
- photos** 33:19
- physical** 27:21 127:8
- physically** 69:1 254:6 255:1
256:22
- picture** 227:14 239:3 261:4
- picturing** 61:25
- Pierce** 162:24 172:5
- pile** 156:12
- pitch** 12:3
- pitting** 201:4 231:13
- Pittsburgh** 288:19
- pivot** 127:25
- place** 4:7 5:8 21:2 23:1 27:11,15,
18 32:13 43:8 48:22 65:6,9 97:13
128:17 148:10 164:18 181:13
191:3 200:24 243:7 263:17 287:1
- places** 7:13 10:1 45:9
- plaintiff** 269:16
- planned** 103:12
- planning** 11:12 209:23
- plans** 196:4
- platform** 41:7 196:25
- plausibly** 25:7
- play** 154:4 219:8
- playbook** 103:10 115:10
- played** 52:2 240:12
- player** 276:19
- playing** 62:9
- plays** 33:22 124:13
- pleased** 110:24 132:24 245:17,
21,24
- pleasure** 272:10
- pluralism** 234:13
- plurality** 51:20
- point** 17:24 20:15 25:2 26:18
27:8 32:17 40:10,14 59:3,24
63:19 67:24 69:12 77:10 83:2
86:14 101:18 106:23 138:21
142:3 154:11,22 156:24 167:18
176:25 205:15 214:23 261:12
285:4 291:9
- pointed** 239:24

- points** 14:25 90:11 120:14
161:10 228:13
- poise** 227:6
- polarizing** 169:23 213:8
- police** 75:11 181:19,23 182:25
193:8
- policies** 41:13 42:12 43:10 48:1
99:19 109:9 114:7 116:7 128:16
174:17 187:18 192:6 194:12
197:21,24 198:15 226:19 234:10
244:20 251:21 252:1
- policing** 26:2
- policy** 7:22 8:3 16:23 25:16
28:12 38:13 41:8 42:7 83:4 90:2
103:25 107:3 115:15 129:20
130:14 157:23 158:8 173:22
184:7 185:19 187:15 191:23
195:3 198:2 199:20 224:18 228:4
240:2 243:6 254:20 255:5 256:18
262:22 264:25 266:15
- politeness** 280:10,15
- political** 27:22 30:7 31:2,21
34:21 37:23 39:1,19 40:3,13 41:6,
13,20 45:6 53:18 59:2 70:16
81:13,15 110:7 112:22,24 118:13
148:6 154:16 155:20 165:20
166:6 168:2 170:14 171:22
172:15,18 173:6,12 183:14 192:1
195:1 200:12 206:23 208:9 222:2,
4,6 242:13 248:13 255:13 262:25
266:20 267:14 274:21 282:7
- politically** 166:19
- politicians** 173:3 180:8
- politicize** 274:22
- politicized** 140:5,18 177:19
274:6
- politics** 28:15 108:23 120:10
180:4 207:8 208:13 209:13 251:3
259:16
- poll** 233:12
- polling** 233:9
- Poly** 163:3 188:18,22 189:10
190:15,17,25 191:3,16 192:19
193:10 222:24
- Polytechnic** 188:5
- poorly** 250:21
- population** 9:19 113:3
- populations** 205:4
- pornography** 66:24
- portion** 247:2
- portrayed** 249:10
- pose** 211:8
- position** 255:4 256:13
- positions** 272:25
- positive** 264:8
- possesses** 256:6
- possibility** 49:10
- possibly** 117:7 265:19
- post** 181:11 202:10,16 203:6,8,9
205:11
- post-hearing** 135:9
- post-secondary** 121:2
- posted** 116:15 165:6
- posters** 165:11
- posture** 115:2 140:11
- potential** 44:6 121:8
- potentially** 33:1
- poverty** 236:6
- power** 57:19 131:25 145:2
150:13 155:10 225:15 231:10
263:2
- powerful** 221:5 276:19
- practicable** 99:8
- practical** 210:21 244:25 264:11
266:9,23 268:9
- practically** 31:10 88:5
- practice** 7:22 8:3 24:16 25:5,13
29:18 30:9 44:3 90:2 110:11
175:19 177:2 218:2 222:9 228:4
- practices** 41:24 99:18 177:12
- practicing** 177:5
- praise** 243:17
- praised** 245:19
- pre-existing** 174:23
- precisely** 41:17 58:6 130:4
- precision** 43:21
- preference** 27:22 41:8
- prejudged** 12:13
- prejudice** 231:5
- premier** 116:22
- premise** 34:1,5
- premised** 102:22
- preparation** 5:25 149:25
- prepare** 272:11
- preparing** 276:8
- prescribed** 116:10
- present** 4:18,22 11:6 14:18
106:13 241:5 247:9
- presented** 73:10
- preserve** 31:7 270:15
- preserving** 236:11,21
- president** 38:4,5 50:21 107:9
111:3 116:15 146:21 158:3
196:24 198:10 199:15 230:3
236:15 260:6
- presidents** 88:12 120:7
- president's** 107:14 108:8
- press** 116:2 205:20 252:19
- pressed** 215:2
- pressure** 19:2,13 55:22 56:2
59:10 145:3 186:11 249:8 266:20
- pressures** 122:6
- pressuring** 144:6
- presume** 78:20 79:4
- presumed** 85:10 86:24
- presumption** 78:11 83:1,3,6
85:17 87:5
- presumptions** 86:14
- presumptively** 84:3 87:4
- presuppose** 62:22
- pretend** 174:16
- pretending** 25:15 26:7 27:20
173:11

- pretext** 81:18 170:8 196:25
- pretty** 17:17 18:10 19:19 35:3
65:23 87:6 225:25
- prevail** 78:9
- prevent** 43:4 53:25 128:18
- prevented** 108:18
- prevention** 118:7,17 234:17
235:19 252:7 266:8,13 267:3
- prevents** 59:5
- previous** 210:14
- previously** 124:9 228:17 246:4
- primarily** 51:14 100:17 121:3
276:13 285:24
- primary** 49:1 65:20 142:17 291:2
- principle** 37:13 56:4 98:25 106:3
135:8 265:1
- principled** 170:16
- principles** 5:13 19:20 42:19 55:6
58:11 97:16
- prior** 99:3 100:19 105:15,18
123:19 124:4 128:22 146:8,14
147:5 177:10 189:8 245:10,18,24
246:15 276:13
- prioritize** 251:23 264:5
- prioritized** 128:4 146:11 147:16
- prioritizes** 248:13
- prioritizing** 108:14
- priority** 124:21 147:9 212:22
- private** 19:2,4 50:22 54:5 82:10
93:19 111:21
- privilege** 179:7 195:12
- pro-** 250:22
- pro-israel** 21:25 58:5 178:8
247:8
- pro-palestinian** 48:14
- problem** 43:13 78:8 84:14
146:18 147:4,20 157:1 171:23
179:3,5 194:8 196:24 246:7
259:13 260:22 262:14 271:15
272:1 275:12 278:10 282:16,19
- problems** 56:16 58:21 83:13
- procedural** 103:18 104:6 193:1
- procedure** 104:5 143:21
- procedures** 43:18 104:22
153:15
- proceed** 23:25 32:2 45:19 52:17
90:1 162:15 171:7 179:17 228:2
238:19 247:3 253:2
- proceeding** 191:7
- proceedings** 11:7 100:11,18,20
- process** 5:17 101:2 118:21
123:16 130:25 133:23 151:11,15,
19,25 152:22,25 153:11,23 176:8
186:3 193:14
- processes** 95:20 210:16
- processing** 122:8
- proclaiming** 115:17
- produce** 130:6 283:2
- product** 101:7 176:8 253:19
- productive** 45:8 197:9 273:24
- professed** 79:1
- professional** 178:2
- professionals** 148:2
- professor** 9:21 16:16,18,20,21,
25 17:1,11 23:23,24 25:15 26:9
32:2,4,10 38:7 45:19 48:23 52:16,
17 53:7 57:2 59:22 60:17,22
63:17 65:25 66:2,9 67:21 68:12
70:14 71:2,12 76:16,18 80:5,9,21
82:13 83:2 162:23 171:5 172:4
177:23 179:14 191:4,9 211:10
227:1,2,16 249:5
- professors** 39:8 40:5 57:14
97:20 164:20 182:4,9 204:22
220:4 223:11
- profits** 200:3
- profound** 41:3 83:13,19
- profoundly** 37:10 62:9 63:5
- program** 93:15 101:16 102:17
175:7 202:22 252:11
- programming** 131:7
- programs** 95:21 102:11 103:20
204:14 234:20 248:25 269:11
- progress** 47:3 271:7
- progressive** 247:8
- prohibit** 93:13 110:20 200:23
- prohibited** 43:20 81:8 84:18
85:13,14
- prohibiting** 21:23 84:12 116:12
- prohibition** 54:3
- prohibitions** 55:25
- prohibits** 54:17 82:6 175:19
- project** 136:24 230:4 249:5,9
260:7 263:12
- prolonged** 110:3
- prominent** 95:9
- promise** 107:15 111:11 143:5,6
254:4
- promised** 117:10 146:22
- promote** 31:2 115:25 177:25
- promoted** 265:11
- promoting** 95:23
- promotion** 61:6
- promotions** 178:20
- prompt** 15:3 43:10 123:5 131:12
- promptly** 160:17
- proper** 23:15 187:5
- properly** 44:9 112:13 124:15
194:14 208:20
- property** 21:12
- proportions** 246:10
- proposals** 209:21
- proposed** 109:15 175:20
- proposition** 86:18
- proscribed** 67:16
- prosecute** 285:21
- prosecuted** 285:19
- prosecutors** 31:4
- prospect** 145:4
- protect** 21:16 22:4,8 54:24 73:12
140:16 143:13 174:13 177:16
178:8 199:11 237:14 238:14
252:11 256:9 260:19 263:3 265:6

- 268:5 274:11
- protected** 18:11 21:9 22:18
24:18 25:9 26:6 29:9 32:21,23
33:5,6,15 35:2 36:14 39:22 40:13
42:23 49:7 51:7 55:14,15,18 56:5,
12,24 57:7 59:3,11 62:2 64:9
66:11,19 67:16 69:8 70:21 71:23
82:1,24 83:9 159:23 171:21 184:8
197:12 259:3 263:25
- protecting** 5:11 6:22 10:7 24:14
117:15 143:15 169:23 184:7
234:12,22 235:22 236:24 238:15
252:15,16 262:24 273:17
- protection** 39:13 84:9 179:8
224:19 233:1 264:5
- protections** 7:1,10 24:8 25:12
74:15 252:13 259:11 261:16
273:5
- protects** 42:15 53:8,10,11,12,13,
14 54:1 59:4 94:5 119:4 260:9
261:22,23
- protest** 47:24 57:1,2 72:8 75:1
255:23 262:22
- protesters** 36:22 47:22 57:10,14
110:21 252:19 255:24 256:25
- protesting** 257:22
- protests** 35:8 36:3 48:18 49:6
55:9,14 79:3 95:18 110:20 263:16
- proud** 147:7,22 148:12 179:21
215:23 218:13 239:7,14 242:18
249:14
- proudly** 233:6
- prove** 40:19 82:19 87:5
- proven** 79:15
- provenance** 286:15
- proverbial** 109:6
- provide** 6:11 10:20 17:6 24:7
90:17 92:18 93:5 98:8 99:8
102:13 105:1 112:22 119:14
150:19 161:17 163:11 228:22
230:9 258:23 272:25 276:8 286:7
287:9
- provided** 72:20 109:13 144:10
160:13 228:16 293:10
- providing** 153:2
- provisions** 93:13 98:17 286:3
- provocative** 37:15
- proxy** 30:13
- psychological** 286:25
- psychology** 195:1
- public** 5:1 8:6 11:5 12:21 14:8,10
18:15,21 19:2 32:16 53:9 67:14,
15 72:9 93:18 104:21 111:22
128:7 130:10 137:20,23,24 151:2,
13,18 164:4 173:20,22 177:15
195:3 205:18 209:24 210:2
229:22 238:3 240:13,14 241:14
284:22 294:3,15
- publicity** 206:15
- publicly** 167:23 168:7,16 184:20
222:15
- published** 43:18 123:11 281:4
- pulled** 165:19
- punish** 44:8 87:1 264:6
- punished** 20:1 86:19,21
- punishing** 43:6
- punishment** 42:16 56:25 86:21
264:6
- punitive** 118:20 266:7 267:8
- punted** 47:8
- purely** 39:18 41:20 57:1 207:20
269:20
- purpose** 156:24 157:9 211:19
282:22
- purposefully** 199:19
- purposely** 198:8
- purposes** 130:2 244:25
- pursing** 111:1
- pursuant** 121:17
- pursue** 96:16 180:17
- pursued** 248:20
- pursuing** 49:23 100:19 138:18
195:3
- pushback** 271:18
- pushed** 214:14
- pushing** 176:18
- put** 26:23 28:13 36:4 81:12 87:1
88:23 146:23 151:7 160:3 166:13
168:7,21 237:24 266:25 274:6
287:15
- puts** 20:5
- putting** 163:24 204:7 293:5
- puzzle** 73:1
-
- Q**
-
- quad** 9:22 21:13 67:12,13 69:4
70:22 84:12
- qualify** 70:5
- quarter** 188:21
- question** 13:25 33:5 48:8,24
60:25 64:15 71:10 74:8 79:8,24
80:23 132:10,24 136:17,18 137:5,
25 138:11 141:4 146:5 148:19,22
151:9,23 157:15,25 159:15 202:3
203:3 205:9,13 206:17 208:2,5
211:5 212:13 216:13,23 217:21
223:17 247:1 271:4 272:3 273:8
277:19 278:6,20,23 279:24
280:17 281:20 283:3 285:13
286:11,19 289:11,25 290:10
291:12 292:11,20
- questions** 14:20 15:13,17,18
16:3 31:24 55:7 58:14 59:25 71:3
72:22,23 79:20 80:1 82:8 88:4
90:9 91:3,15 119:8 125:5 128:13
132:8 161:6 162:1,13 191:10
193:3 195:19 201:17,25 202:3,15
228:10 229:6,17 268:18 282:7
- quick** 79:18 87:12 154:21 291:9
- quickly** 15:18 127:25
- quiet** 221:12
- quotation** 51:18
- quote** 26:13 28:19,21 31:2 43:24
51:10,17,23 95:11,14 101:11,14
104:15 114:24 115:1,18 116:5,16,
20 117:13 146:7 231:19 255:18
282:15
- quote/unquote** 231:17
-
- R**
-
- rabbi** 164:15 220:22 264:23

- rabbis** 181:19 219:4
- race** 33:7 34:4 61:18 83:24 93:14
97:17 124:5 125:20 155:15 240:8
269:9 270:25 286:4,5 288:16
- Rachlin** 230:2 260:1,2 272:6
273:7 292:5,6
- racial** 10:15 33:21 84:10 101:16
178:13 269:6
- racism** 70:19 81:7 84:1,2 244:15
256:18 267:18
- racist** 18:3 37:10 70:17 79:15
86:22 158:25
- racists** 79:10,12
- Racklin** 260:5
- radicalism** 96:13
- raged** 106:7
- raise** 17:4 58:14 92:16 120:23
163:8 221:16 230:6
- raised** 17:15 193:3 224:5
- raises** 82:9 178:20
- raising** 121:8 240:12
- range** 103:24 201:10 286:7
- ranging** 97:4 127:6 277:3
- ranks** 237:11
- rare** 218:20
- rational** 198:3
- rationalized** 254:14
- rea** 20:23
- reach** 68:24
- reached** 12:2 95:6 113:2 122:23
152:19 182:5 185:13 215:16
- reaching** 152:12
- reaction** 197:18
- reactions** 15:4
- read** 161:11 183:17 190:6 202:6
203:11 214:25 283:25
- reading** 80:5
- reads** 202:17 203:7,10
- reaffirming** 19:19
- real** 24:8,9 27:15 32:12 35:12
97:8 131:1 139:19,20 141:8 145:2
146:12 170:21 183:1 187:16
195:18 196:18,24 214:10 230:21
232:10,18 234:11 238:8 247:24
250:2 260:11 267:1
- real-world** 24:9
- realities** 73:17 253:13
- reality** 25:6 27:19,22 70:8
127:15,16,18 198:22 257:16
261:10 267:2
- realization** 181:25
- realized** 177:4 250:24
- reason** 9:4 34:6 66:19 78:4 79:17
84:7 150:6 193:5 203:17 209:11
215:22 270:22 278:19
- reasonable** 81:3 207:9 224:21
244:22
- reasoned** 23:10
- reasoning** 224:17
- reasons** 36:8 86:5 205:3 275:3
286:24,25
- reassured** 181:5
- rebuild** 125:1
- rebuilt** 131:5
- rebuked** 103:1
- recall** 9:2 136:4,9
- recast** 26:5
- receipt** 56:23 58:22 134:15,19
- receive** 49:2 79:21 93:19 114:14
131:4 133:2 136:5 155:4 247:16
- received** 14:23 46:13 113:14
121:19,22 126:5 128:15 136:10
190:24 245:9
- receives** 121:7
- receiving** 93:16 109:24 136:9
150:8 195:12
- recent** 33:25 39:17 46:9 82:15
87:19 104:24 233:9 243:10
- recently** 43:22 111:24 119:20
186:5 213:21 237:3 253:6
- recipe** 53:23
- recipient** 99:19,22 100:1,5,24
101:22 102:15 152:19,23 153:5
- recipients** 99:2,7,9 103:14,16
153:3
- reckless** 82:20
- recklessness** 56:14
- recognition** 140:18 267:17
- recognize** 14:21 26:4 37:14
49:10 159:1 224:22 242:12
244:13 262:5 267:2 292:14
- recognized** 19:15 54:11,19 64:8
136:20 145:16 158:16 202:1
223:20 226:23 268:20 274:17
275:21
- recognizes** 53:15 232:6
- recognizing** 45:3 263:18
- recollection** 135:13,20
- recommend** 46:24 58:18 273:19
285:4
- recommendations** 6:12 11:20
258:13 265:24 293:5
- recommended** 246:4 264:10
- recommending** 59:12
- reconcile** 71:16
- reconvene** 89:18 160:17 227:21
- record** 4:18,22 14:10 29:3 60:11
80:17 88:19 89:22 102:1 104:15,
19 113:2 114:22 122:10 137:20,
23 151:8 160:20 227:24 230:14
245:10 281:18 294:1,21
- recorded** 10:2
- records** 128:22 129:4,6
- recovery** 41:1
- recurrence** 43:4
- red** 15:25 64:2 91:11 162:9 190:7,
9,10 229:13
- redefine** 259:15
- redress** 191:17
- reduce** 33:19
- reduced** 117:6 144:13
- reducing** 273:15

reduction 126:5
refer 106:6
reference 116:3
referred 41:12 286:11
referring 271:11
reflect 167:13 247:21
reflected 35:6 50:16 120:17
reflects 34:19 41:3,9
reform 57:4 59:13 95:13 193:20
reforms 58:16 73:23 130:14
 186:6,10
refrain 14:1 15:9 23:8 54:7 90:24
 161:22 229:2
refugees 237:24 288:14
refuse 42:2 100:12 256:8
refused 13:1 248:7
refusing 116:11
regard 41:12 66:13 75:3,5 85:11
 86:9,11,13 87:3 120:10 142:21
 275:15
regime 108:12 257:22
region 156:18
regional 92:12 95:21 116:25
 118:3 119:24 125:19 126:7
 127:23 154:18 156:16 252:9
register 248:7
regular 41:23 43:19 130:21
 131:6
regulated 54:15 200:1
regulating 279:1
regulations 25:10 43:9,17 72:19
 98:23 99:1,5,11,16,25 100:4,10,
 19 101:21 104:23 152:1,4 153:16
 172:24 277:2
regulators 71:15 81:21
regulatory 43:21 44:22 103:4
 104:11 106:24
rehire 118:2
reinforced 189:3 243:9
reinforcing 265:3
reiterate 99:5
reject 233:10
rejected 78:14
rejecting 78:15 233:22
relate 46:18 286:3
related 9:12 42:13 103:13 128:22
 166:4 173:17 248:1
relatedly 18:15 19:1 86:13
relating 95:22
relation 212:1,7
relations 70:9 118:9 230:3 260:6
relationship 51:16 54:22,23
 77:14
relationships 156:18,20
relatives 127:10
release 116:2 193:7
released 146:9 158:11 264:19
relevant 99:21
relief 39:12 122:7 153:18
relieved 43:1
religion 83:25 240:9 251:3
 269:12 270:25 286:4
religions 219:13
religious 34:21 40:7 164:15
 168:3 174:13 175:19 176:15
 180:23 182:2 202:8 218:16
 219:23 220:10,12 269:6,14,17,21
 270:10,16 285:17
religiously 113:4 236:13 285:24
relocate 40:6
reluctant 249:24
rely 185:2 192:5
relying 187:3
remain 13:14 14:10 44:22 52:5
 96:13 123:8 142:8 182:13 294:1
remained 242:25 243:7
remaining 15:24 80:3 91:10
 123:4 162:8 229:12
remains 7:11 45:6 236:5 243:23
 257:15
remarkable 35:23 150:5 241:14
remarkably 114:13
remarks 10:23 14:18 15:1,10
 90:25 161:23 229:3
remedies 31:13 269:23
remedy 43:3
remember 31:6 172:13 206:10
 239:8,23 245:18 281:11
remembered 86:17 240:1
remembering 240:19
Remembrance 44:4
remind 150:22
reminded 172:6 197:13
reminder 90:5 161:2 228:5
 293:24
remotely 63:12 180:25
remove 168:12 182:2
removing 106:19 273:14
renounce 29:14
reopen 118:3 252:8 266:5
reopening 274:4 275:15
repair 165:18
repeatedly 25:6 49:21 127:6
 136:1 144:3,6
repeating 261:21
repetition 97:13
replace 266:7 288:11,16
replaced 115:4
replacement 231:17
report 5:20,25 11:19 99:13
 102:9,13 104:19 110:24 182:23
 185:10 186:23 187:6 214:24
 215:6 239:12,13 240:14,21
 241:13 250:4 251:5 255:9 264:20
 272:9 280:17 281:4,22 282:5,24
 283:22,25 284:10 285:2 293:9
reported 25:20 107:11 114:12
 128:25
reporter 4:17,19
reporting 128:16 129:21 130:15
 131:5,9 255:10 275:12

- reports** 130:21
- represent** 173:24
- Representatives** 6:6 105:20
- represented** 106:15 109:4
167:25
- representing** 88:13 148:23
- Republic** 8:22
- Republican** 120:7 271:19
- Republicans** 283:10
- request** 6:5,14 128:24 134:20
149:5 152:10 172:12 176:3
- requested** 13:11 150:9 172:9
- requests** 12:23 13:2 132:22
133:3,12,13,25 134:1,9,15,21
136:7 148:25 149:10 150:2,14,25
284:16
- require** 5:12 29:21 43:17 55:18
99:16,25 100:5 109:21 115:15
118:17 129:17 152:4 252:9
267:11
- required** 36:13 40:16 109:7
110:17 114:6 116:10 121:14
123:15 124:11 130:14 156:22
158:4 175:16 177:12 255:25
259:8 262:12
- requirement** 81:20 156:4
- requirements** 93:19 95:10
103:4,18 104:6,11 112:18 115:12
- requires** 32:13 50:11 129:12
131:17 171:24 232:4 235:16
236:25 276:4
- requiring** 57:4 103:24 172:1
- requisite** 20:23
- rescind** 243:4
- rescinded** 243:3
- research** 5:24 12:17 16:17 57:5,
10 95:1 115:25 116:9 117:18
166:13,23 183:5 185:3 186:19
199:13 209:16,21,23 211:22
232:20 236:22 249:2
- researchers** 97:21 186:13
- researching** 52:21
- resembles** 43:23
- resentment** 170:3
- reserve** 15:12 91:2 161:25 229:5
- reshaped** 253:15
- resigned** 175:14
- resigning** 141:22
- resilience** 234:11 259:22
- resiliency** 235:17
- resistance** 51:2
- resolution** 100:1 109:2,5,13,23
110:14 114:11 120:3 122:12,17,
23 123:5,16 124:6 126:14,18
130:4,13 153:6,9,10 246:5
- resolutions** 117:5 258:3
- resolve** 100:6 124:2 131:21
147:21 152:20
- resolved** 114:2 122:10 123:14
124:4 126:13 144:17 153:8
- resonate** 208:18
- resort** 159:8
- resource** 264:13,14,15
- resourced** 112:13 142:14 143:11
279:10
- resources** 123:8 124:18 141:6,9
143:19 144:4,16 146:17 147:17,
21 156:7 160:6,7 172:14 176:21
218:7 235:13 252:3 255:14
263:13 267:4 273:15 274:4,13
275:14,18
- respect** 9:3 10:14 24:5 27:1
50:14 82:21 145:11 147:1 156:4
270:19 284:25
- respected** 183:9
- respectful** 15:6 45:10 90:17
140:2 161:17 164:21 199:7
228:22
- respectfully** 34:5 89:12 186:15
282:14 289:22
- respective** 283:20
- respects** 51:1 66:22 67:8,9 68:23
- respond** 6:15 25:18,22 43:1,2
55:18 73:18 76:6 118:19 120:20
124:16 125:2 143:17 144:5,22
192:13 235:4 257:11 262:6
289:17
- responded** 28:17
- responding** 112:11 121:3
181:21
- responds** 129:2 223:8 262:13
282:16
- response** 4:19,24 5:4,20 6:4 7:5
12:10 46:23 47:10 48:16,19 51:21
52:11 55:8,11 56:17 73:13 96:2
106:9 107:5 109:12 112:6 118:16
129:19 133:24 137:16 138:7,11
139:23 167:1 178:2,17 190:24
194:5 209:17 246:14 248:12
252:7,23 260:13,18 261:9 266:13
268:7 271:20 276:5,8 289:12,23
290:8,23 294:18
- responses** 114:14 131:13
149:19 267:16
- responsibilities** 117:8 144:2
155:25 186:1 193:6
- responsibility** 6:15 12:12 42:17
49:1 65:21 176:10,18 192:14,18
- responsible** 41:14 68:7 100:20
102:1 106:4 125:19 128:14
142:21 186:13 265:14 279:1
- responsive** 214:19
- rest** 11:11 34:1 65:3 90:20 182:14
196:7,10 215:14 237:21 255:7
- restart** 253:23
- rested** 176:19
- restore** 118:1,6 165:18 272:24,
25
- restoring** 103:25 273:20
- restrain** 83:14
- restrict** 18:16,23 19:3,21,22
20:20 21:11 44:7 51:6 75:8 81:25
185:4
- restrictable** 70:15
- restricted** 75:3
- restricting** 74:24
- restriction** 22:5
- restrictions** 17:16 21:2 43:12
- result** 39:19 59:9 95:15 102:24
174:3 205:25
- resulted** 131:12

- resulting** 109:2
- results** 140:6 222:10
- resume** 118:4
- resumed** 89:22 160:20 227:24
- retaliated** 51:1
- retrospect** 241:14,16
- return** 107:10 119:3 169:19
185:8
- reveal** 129:11
- revealed** 129:13 176:17 178:2
- review** 14:9 95:19,20 99:13,18
128:20 129:4,12,17 159:8 194:11
228:15 270:7
- reviewed** 14:24 90:12
- reviewing** 129:6
- reviews** 130:22
- revising** 114:7
- revisions** 130:15
- revoke** 184:25 198:10
- revoked** 169:15
- revolution** 39:25
- rhetoric** 37:16 39:19 45:6 118:14
140:12 165:8 178:11 193:10
200:10 206:23 231:18
- Rhode** 116:14
- ride** 204:18
- right-wing** 250:12
- rightly** 47:19 205:20 217:22
- rights** 4:5 5:11,16 6:11,19,23 7:9,
20 8:11,14 10:8 12:11,18 14:12,
13 16:11 21:20 22:10 24:6,15
25:4 28:4 29:9 33:2 38:20 39:2,14
42:22 43:15 45:7,16 47:12,13,16
48:22 49:3 50:7 52:25 54:10,25
59:17 60:7 64:14 65:23 74:10
79:7,16 83:21 91:22 92:5,9,14
93:7,9,11,12,23 96:9,18 98:11,16
101:10 103:14,24 105:16,23
106:6 107:3,13 108:11 111:2,9
112:1 116:4 118:1 119:17,19,22
121:1,13 124:14 125:14,16 126:9
132:21 133:15,24 134:11 138:9
139:7 140:17 141:24 145:23
148:24 149:2,4 150:2 171:9,16
174:19,20 177:16 180:14 185:25
186:22 187:6 192:11,15 213:4
215:6 232:7,20 233:1 234:18
238:23,24,25 240:6 243:7 245:8
247:25 249:16 250:16 252:16,18
253:11 254:22 255:20 258:1,8
259:6 261:16,22 265:9 266:4,18,
22 269:1,19,22,23 270:16 272:21,
24 273:5 276:14 279:20 289:16
291:1,4,21 294:6,7
- rigor** 187:4
- rigorous** 132:1 197:8 251:24
284:11
- riot** 107:16
- rip** 202:8
- ripe** 257:5
- ripped** 181:11
- rise** 5:21 6:8 13:9 24:20 94:12
96:3 144:5 216:14 268:7
- risen** 120:17
- rising** 122:3 202:18 230:21
247:13 274:2
- risk** 16:1 24:5 54:15 73:14 82:21
85:23 86:7 91:13 166:14 212:2
229:14 236:7
- risks** 38:2 169:23
- river** 39:24 47:23
- road** 283:1
- Robert** 16:24
- robust** 11:22 89:16 105:9 123:23
138:18 139:17 210:12 261:15
- Rochelle** 4:11
- rock** 27:14,19
- Rodham** 242:6
- role** 7:6 52:1 105:15,18 124:14
125:16 173:9
- roles** 126:1 219:10
- room** 18:21 113:13 189:23
259:18 271:5 273:12 294:12,13
- roommate** 203:21
- roommates** 204:2 215:10
- rooms** 182:22 221:13
- root** 27:19 63:14 154:1 282:8
- rooted** 28:2,14 231:9 286:21
- rope-a-dope** 176:9
- rose** 123:4
- rot** 256:7
- roughly** 122:3
- row** 196:16
- Rugman** 173:18
- rule** 37:1 48:17 73:19 75:5 85:1
232:25
- ruled** 50:24
- rules** 17:22,23 20:2 21:18,23
32:25 43:11 49:15 50:5 72:4
73:16 81:4 85:5,14 94:22 95:17
110:20 171:24 172:1 174:2
192:20 256:20
- running** 107:16 151:6
- ruptures** 266:21
- rural** 204:1
- rushing** 249:22
-
- S**
-
- Saadah** 30:22
- Sabbath** 175:20
- sacred** 253:24 257:23
- sacrificed** 254:5 259:20
- sad** 25:5 71:7
- sadly** 94:16 138:1
- safe** 170:11 171:19 195:20 196:8
199:23 212:20 213:1 223:14
232:23 234:3 267:25 268:1
- safeguard** 6:21
- safeguarding** 45:1 124:14
263:18
- safeguards** 59:16
- safely** 217:16
- safer** 118:22 131:13 186:19
200:19
- safest** 212:20 217:8 262:2

- safety** 12:6 40:8 95:16 165:4
166:9 167:5 169:2 181:2 196:11
232:6,7,21,24 233:22 234:6
235:15,16 238:4,9,12,13 247:22
252:18 261:18 265:2 275:4
279:20
- Saidoff** 16:23
- salient** 287:19 289:3
- San** 163:3 188:6
- sanctions** 31:14
- sanitize** 31:8 248:25
- Sarah** 163:1 179:20
- Sarah's** 205:15
- sat** 63:20 190:17 255:9
- satisfied** 130:24
- Saturday** 175:22 196:10
- Saturdays** 175:17
- savage** 106:2
- scale** 87:2
- scales** 81:12
- scapegoat** 286:23 287:4
- Scapegoated** 211:2
- scapegoating** 212:17 234:4
- scared** 200:6,7
- scenario** 44:11 66:22
- schedule** 15:19
- scheduled** 191:3
- scholars** 263:16 264:23
- scholarship** 52:3 173:10 205:22
- school** 16:18,21,25 17:2 26:11
32:5 74:16,17,22 75:9,18 76:11
77:5 106:17,20,22 121:12 127:4
128:7,17 129:15 131:3 155:14,24
157:1,3 162:25 169:25 172:5
176:2,20 180:25 182:9 183:17
195:9 204:20 205:2,7 208:13
209:24 210:2 237:25 238:3
250:13
- schools** 18:17 24:13 25:18,22
38:23 55:18 57:8 72:23 74:12
75:6 107:1 112:7 120:16 121:2
123:10 130:21 143:4,7 156:18
157:11 159:19 164:5 177:24
202:17,25 203:1 204:8,10,13
205:3,11,14,16,21 206:1,2 235:3
236:7 237:6 252:22
- Schultz** 6:8
- Schwartz** 16:16
- science** 180:17 184:16 195:1
202:21 204:14 209:12 210:5
- scientific** 186:18
- scientist** 179:22
- scientists** 184:4
- scope** 103:19 155:11
- scourge** 10:17 93:25 238:6
- scratched** 165:12
- screaming** 255:2
- screen** 116:20
- scroll** 181:13
- scrutinized** 174:1
- scrutinizing** 33:18
- scrutiny** 130:9
- sea** 39:25 47:23 84:4
- seamstress** 238:2
- searching** 254:13
- seat** 281:7
- Seattle** 119:24
- SEC** 202:25
- secret** 198:18
- Secretary** 92:1,4,7 105:4,12,16
107:12 108:11 111:3,13,25
119:10 132:21 134:11 135:8
238:23 242:5
- section** 79:20 98:14
- sectors** 111:22
- secure** 8:2 50:16 124:5 228:4
- secured** 101:24 122:7,11,17
123:18
- securing** 114:4 117:22
- security** 69:18 96:10 169:15
235:20 252:11,13 267:13 277:4
- seder** 40:8 189:22 218:16 219:2,
6,14
- seek** 99:6 216:15,18 259:15
275:14
- seeking** 31:1 88:17 97:8 138:23
184:25 233:4 274:21 288:16
- seeks** 231:12
- seemingly** 171:24
- seize** 268:12
- seldom** 276:16
- selective** 40:24 171:23 172:19
174:3,15 177:18
- selectively** 174:2,17,18
- self-determination** 27:5,17
37:7 85:21
- self-evident** 51:25
- semester** 220:3
- Semitic** 107:6,21 108:18 113:8
207:18
- Semitism** 198:16 199:16 212:3
214:16 215:1 232:1,11 241:3
242:9 246:2
- Senate** 102:10 172:23
- senator** 101:9
- sending** 114:18 134:6
- senior** 16:15 91:21,23 93:7
105:19 128:2 163:20 176:24
198:5
- sense** 35:2 61:18 67:19 68:11,25
69:10 75:1 241:4
- sensitivity** 137:7
- sentence** 25:3 27:7
- sentiment** 77:16 212:10
- separate** 20:9 80:24 107:1 169:4
- separately** 79:22
- September** 11:21 12:22 13:14
132:21 133:3,4 134:12 135:6
136:1 149:3,9 150:3 233:12
- serve** 15:5 38:13 93:6 242:18
- served** 105:15,18 119:23 120:6
125:24 142:11 157:10
- serves** 130:1 258:7 287:24
- service** 118:9 119:18 173:20

- Services** 12:25 44:16 96:11
184:23 276:18
- servicing** 282:22
- session** 11:13 12:20 284:20
- set** 15:22 34:21 91:7 173:9
269:22 286:22
- Seth** 162:23 172:3
- sets** 277:2
- setting** 24:5 67:6 172:16
- settings** 67:17 287:3
- settle** 110:18
- settled** 18:14
- settlement** 50:10 94:9 116:3,9
139:2 144:24 145:8
- settlements** 95:6 160:2
- severe** 24:24 40:18 64:16 192:8
- severely** 35:8 120:21 255:24
- sex** 61:12,18 107:1 125:21
259:10
- sexist** 18:3
- sexual** 10:15 61:4 63:3 124:2
244:16
- Shaare** 286:5
- Shabbat** 164:14 167:17 168:10
204:25
- Shabbos** 183:9
- shakedowns** 118:20
- shame** 257:13
- shape** 33:12
- shaped** 201:2
- share** 15:11 24:3 91:1 102:19
127:14 132:4 161:24 164:3
167:25 193:11 214:21 218:12
229:4 239:21 253:7 258:12
293:13
- shared** 98:19 109:23 117:5
121:18,20 122:15 142:22 183:10,
11
- sharing** 180:2 211:11 293:22
- sharply** 68:2
- shattered** 181:9
- shelf** 85:2
- shell** 117:6 176:16
- she's** 61:9
- shielded** 109:9 200:16
- shift** 175:22
- Shofar** 264:19
- shootings** 189:19
- short** 15:13 44:19 91:3 126:4
162:1 229:6 239:20
- shortages** 235:14
- shortcomings** 185:20
- shoulders** 249:20
- shouldn't** 21:21 86:12 202:9
- shout** 21:21
- show** 40:17 94:13 131:8 140:13
187:13 193:9 233:5 268:11
- showed** 56:13
- showing** 276:25
- shows** 171:12 214:4
- shrink** 222:14
- shrinking** 188:25
- shut** 53:22 54:8 57:19
- shutdown** 149:13
- shutter** 248:25
- side** 49:12 65:1
- sides** 35:13 173:1 208:9 266:17
- Siebel** 16:15
- sign** 14:3,5 168:6
- signaling** 290:11
- signatories** 168:2
- signatures** 167:17
- signed** 108:6 117:4 130:18 143:4
144:21 167:23 168:9
- significant** 6:14 9:18 53:3 55:22
57:17 103:22 124:17,25 192:2
234:25 291:20
- significantly** 57:20 283:19
- silence** 199:9
- silenced** 178:24 179:10
- silencing** 5:12 43:6 44:24
- silent** 258:5
- silently** 36:7 63:20
- Silverman** 163:1 179:16,18,20
187:21 202:5,6 203:2,5,18,21,24
206:3,18 207:19 208:1 214:22
219:18,21 223:22
- similar** 20:2 48:16 85:9,14 86:16
- similarly** 33:21 104:9 196:1
- simple** 34:6 35:4 55:5
- simply** 46:9 50:5 57:22 69:12
142:3 149:20 155:22 176:3,22
187:3 188:13 222:8 231:6 238:14
253:22 264:6 279:3
- simultaneous** 89:5,13 203:14
225:3 281:16 291:13
- simultaneously** 49:6
- sincere** 252:22
- sing** 164:12
- single** 84:10 124:2 143:8 158:24
203:8 263:7 266:21
- singled** 26:19
- singling** 86:1,6
- sir** 148:15 280:5 282:1 289:21
- sit** 14:6 171:15 218:25
- sitting** 117:2 180:13 239:10
- situation** 80:18 194:4
- Six-two** 281:11
- six-week** 176:9
- sizeism** 256:18
- SJP** 28:11,16 29:3,17
- skin** 33:12
- slap** 109:6
- Slashing** 199:13
- slated** 11:20
- slaughtered** 257:21
- slights** 127:7
- SLO** 189:13,15

- slogan** 48:3
- slogans** 26:3 36:4,14 64:6
- slow** 262:6
- slurs** 45:5 128:11
- small** 181:12 220:17 233:7 244:10
- smaller** 221:23
- smart** 270:5
- smoke** 116:20
- smut** 106:19
- sniping** 137:1
- social** 31:2 76:23 106:16 116:15 200:2 255:8
- socially** 41:18 236:13
- societal** 235:17
- societies** 261:14,17
- society** 5:9 53:16,24 211:12 213:2,3 233:1 264:7 267:25 278:2,10,16 288:13
- sold** 175:14
- solely** 55:12 172:7 176:20
- solemn** 12:12
- solicitation** 20:4,12
- solid** 27:19
- solidarity** 182:11
- solution** 66:9 170:22 171:24 175:21 179:2 195:15 237:12 256:1
- solutions** 92:12 112:23 256:12
- somersaults** 174:7
- sooner** 185:19
- sophistication** 74:14
- sophomore** 164:24 179:22
- sort** 47:8 134:4 140:3,10 147:3 211:7 214:16 224:15 246:17 283:23
- sorts** 33:1
- sought** 282:19
- sound** 48:13
- sounds** 153:22 289:19
- sources** 221:1 265:4 267:22
- South** 48:19 202:23
- southern** 69:15 202:17,25 204:8, 9,13 205:10,14 206:2,7
- sow** 231:12
- space** 48:13 91:1 161:24 181:6 201:2 213:13 229:3
- spaces** 40:1,6 42:4 66:25 67:7 187:11 231:2
- span** 266:17
- spanned** 168:2
- speak** 5:6 14:21 16:8,14 17:14 22:11,12,23,24 23:4 58:8 74:15 91:18,20 132:15 133:19 137:19 140:7 150:12 169:1 178:23 180:3 184:20 187:8 208:4,5 224:15 260:4
- speaker** 22:11 54:5 69:10 75:12, 13 189:25 207:5
- speakers** 14:1 16:12 17:4 21:17 22:5,9 42:15 162:21 163:16 215:17 229:19 230:6
- speaker's** 48:5
- speaking** 14:2 31:10 54:8,16 72:1 75:21 76:15 89:5,13 133:20 136:14 164:17 167:16 170:5 183:20 184:12 203:14 213:6 216:3 220:16 225:3 281:16 291:13
- special** 8:13 11:7,10 32:23 105:19 252:20
- specific** 20:4,14 27:18 47:24 66:12,15 96:20 128:19 137:21 151:10 166:9 266:16 274:7 277:19 286:24
- specifically** 13:2 19:16 133:13 134:10 148:24 149:1 173:19 175:10 189:15 208:3 271:11 274:20 278:15 288:15
- spectators** 180:9
- spectrum** 118:13 200:13 208:9 230:22 287:20,24
- speech** 5:10 7:20 16:10 17:16 18:1,2,3,16,22,24 19:3,10,11,22 20:8,20 21:3,14,25 22:1,7,8,10, 13,14,18 24:18,20 25:3,8,9,12,17 26:6 31:18,19 37:19 39:22 42:23 43:6,12 44:7 47:12 49:7 51:7 53:9,10,11,12,15 54:1,2,3,4,6,8, 16,18,19,25 55:23 56:2,12,20 57:2,18,19 58:4,5,24 59:1,7 66:4, 9,11,19 67:15 68:1,18,24 69:8,21, 25 70:13,20 71:17 72:8,13 73:14, 21 74:10 75:9,17,20 76:6,8 81:25 82:1,24 87:3,4 94:6,9 170:10 191:13 206:21 212:23 249:16 254:21 255:14 256:6,25 257:3 260:9 263:19,25
- spelled** 58:11
- spend** 204:25
- spending** 196:6
- spent** 105:22 106:15 167:15,19 196:7,9 200:11
- spike** 112:3
- Spitalnick** 229:21 230:17 238:18 264:21 274:18 277:24 287:16 290:22 291:7,20,23
- Spitalnik** 230:16
- spoke** 57:3 146:2 168:5 239:14 287:21
- spoken** 251:4 288:1
- spotlight** 205:18
- spring** 165:21 184:19 249:8
- SS** 196:14
- stabbings** 189:20
- stability** 166:13
- stable** 53:23 166:18
- staff** 4:21 8:13 11:11 12:8 116:24 119:23 120:20 122:5,10,25 123:4, 19 125:23 131:4 134:4,16 135:25 141:20 142:8 143:10 154:7,13,15, 16,20 156:8,16 174:14 175:4 235:9,14 238:24 251:23 274:9 280:4 294:12
- staffed** 124:15 171:18 235:6
- staffing** 44:20 142:5
- stage** 103:10,11,15,21
- staged** 39:25
- stagnate** 52:8

- stagnation** 52:9
- stairs** 182:2
- stake** 56:15 73:9
- stakeholder** 158:14
- stale** 192:24
- stall** 124:11
- stance** 208:25
- stances** 166:6
- stand** 61:12 113:18 149:18
208:12 257:20
- standard** 18:21 83:7 84:19 176:7
178:3 191:22 208:25 239:18
257:4
- standards** 45:14 48:10 58:10
67:10 194:13 270:21
- standpoint** 213:1
- stands** 123:17 177:9 192:5
- Standwithus** 16:23 38:14,17
- Stanford** 113:17
- Star** 113:11
- stark** 123:17 177:9 178:15
- start** 52:22 53:1 60:1 132:10
180:4 189:8 216:19 230:15
241:25
- started** 33:17 65:12 92:25 125:10
136:23 195:7
- starting** 11:4 27:8 80:20 95:21
168:25 235:8
- Starving** 124:18
- state** 18:6 34:8 36:17 42:1 81:16
82:3 85:22 86:10,12 96:12 188:5
204:17 205:6 207:18 224:14,22
226:3,4,6,8 241:24 242:5 265:8
272:9 277:4
- stated** 29:2 101:10 169:22
- statehood** 70:1
- statement** 27:9 28:13 35:11
91:12 162:11 167:23 168:6,13,14
172:18 233:19 240:24
- statements** 10:11,12 15:13,25
35:7 83:4 88:23 91:3 109:8
128:20 162:1 178:5,12 229:6,14
240:18
- states** 4:4 39:4 83:22 93:4
105:13,17 110:18 127:17 140:22
209:16 243:15 244:1 253:23
254:23 272:23
- stating** 167:9 248:8
- status** 160:1 168:18
- statute** 32:18,19 34:2 56:8 73:25
85:9 86:23 93:10 98:22 99:1
101:4,20 153:15 240:6
- statutes** 43:15 46:25 103:24
286:2
- statutory** 5:19 60:12 101:7
103:3,17 104:10 111:8 124:19
150:24 159:20 269:19
- stay** 215:14 274:24
- stayed** 178:18
- steady** 141:20 235:7
- steer** 198:8
- stemmed** 251:3
- stems** 75:6
- step** 15:20 23:19 26:1 101:15
- stepping** 249:21 254:3
- steps** 44:16 56:10 101:20 124:25
128:17 185:23
- stereotypes** 241:6 286:22
- Stevens** 16:24
- sticks** 55:2
- stifle** 188:16
- stolen** 231:18
- stood** 191:2
- stop** 26:7 31:22 190:18
- stopping** 201:5
- stops** 54:15
- storied** 285:1
- stories** 46:6 188:12 199:3
- story** 164:3 172:21 175:2 180:2
185:11 201:5 208:9 215:3,18,19,
21
- strain** 124:17
- stranger** 183:13
- strategies** 265:3
- strategy** 118:10 158:10,15,16
166:15 243:11 266:10 267:2,21
278:14
- stream** 141:20 233:20
- streaming** 11:6
- street** 75:11 195:24 229:25 247:7
248:7
- strength** 232:25 259:22
- strengthen** 95:18 260:19
- strengthening** 265:5
- strengthens** 119:5
- stress** 187:15 219:21
- stretching** 106:23
- strict** 95:17
- strictly** 14:22 48:11 90:9 110:19
161:7 267:6
- strike** 37:19
- stripped** 118:21
- Stripping** 117:18
- strong** 15:3 54:21 90:14 161:14,
15 228:19 242:6 261:15 283:24
- stronger** 271:18 272:1
- strongest** 221:1
- strongly** 189:16 282:14
- struck** 9:20 86:23 188:22 256:2
- structural** 179:4 186:10 259:11
- structure** 193:1
- structured** 73:3 151:25 247:16
- struggled** 165:2
- student** 5:5 7:25 17:16 28:12
29:22 57:9,14 65:5 113:14 128:11
157:14 162:18,22 163:1,3,5,23
166:21 167:2 168:15 183:24
185:4 186:2 187:3 192:15 193:6,
17 195:22 198:10 209:12,13
210:4,5,6 213:6 214:6 215:24
222:5 227:15 247:7,8,15 248:6
249:4 250:5,22 251:7,10,23 253:6
255:2,4,11,12,17,22 256:15
257:18 270:24
- student-led** 257:7

- students** 6:22 7:1 10:8 12:7
18:22 19:3 20:6 21:6,7 23:16
25:14 26:10,15,19 28:21 36:2,3,
10 37:2,6,11 38:22 39:8,11 40:4,
17 41:2,24 48:2 49:8 51:7 52:5
54:25 55:20 57:1 63:19,23 65:8
71:24 74:15,25 79:2 94:14,20,23
95:1,11,19 97:16 106:9 107:23
108:4,10,18 109:17,19 112:16
113:9,11,18,20,24 114:14,25
116:4 117:10,12,14,17,19,20
118:22 119:4,5 121:5,24 122:8,18
124:14,22 125:2 126:23 127:16
128:10,23 129:9,15 131:6 140:17,
20 142:19 143:5,13,15 146:12
155:22 157:13 159:6,23 166:8,13
167:9,14,23 168:25 169:3,12,16
170:2,8,10,11,21,25 171:1 174:14
175:4,11 178:8 180:9,22 183:19,
22 184:8 185:2,5 186:13,19
187:1,8,16 190:20,23 191:11
193:23 197:10 198:7 199:12,14
200:14 201:4,14,20 202:17 204:9
209:4,9,10,19 211:9 213:10,14,
15,17,22 214:9 215:10,22 216:4
217:15 218:1,8,20 220:10 221:25
222:14,20 227:3,4 230:25 234:16,
23 235:2,5,11,15 236:17,24
247:10,24,25 248:5,11,17 249:14,
19,20,24 250:3,14 251:4,13,19
252:14,20 253:14 254:16,23
256:17,21 257:8,16,25 259:4
261:23,24 262:4,20 263:23
273:17,18 274:11 275:4,5,11,18
279:21 284:21
- students'** 185:1 250:18,21
252:15,17 262:10
- students/classmates** 75:7
- studied** 36:7
- studies** 177:25 178:3 183:7
236:20 249:3
- study** 12:8 34:15 52:6 164:15
220:8 255:8 282:3
- study-in** 36:3
- studying** 21:14 188:6 195:1
- stuff** 63:11 78:18,21 79:5 84:17,
20,22 213:25
- stunned** 9:13,17,19
- stupid** 186:8
- subject** 13:14 15:1 61:7 69:20
78:6 80:15
- subjected** 77:6 201:15
- subjective** 28:24
- subjectively** 40:19
- submerged** 77:10
- submit** 14:9 130:21 135:22
293:25 294:4
- submitted** 12:23 14:11 135:25
- subpoenaed** 67:23
- subpoenas** 151:2
- subsection** 13:4
- subsequent** 159:24 240:14
- subsidizing** 45:2
- substantially** 51:14
- substantive** 284:16
- substantively** 8:17
- subtle** 54:3,17
- succeeding** 10:1
- success** 235:24 236:2 238:4
- successful** 235:2 279:7 288:5
- successfully** 40:9 122:7
- Suddenly** 221:17
- sue** 151:3
- suffer** 169:9,25 263:23
- suffering** 146:12,13
- sufficient** 75:8 123:8
- sufficiently** 75:17 190:5 279:10
- suggest** 59:14 135:22 272:22
- suggested** 53:6 58:17 72:12,17
- suggesting** 52:23 61:3
- suggests** 54:14 70:15
- suicide** 189:20
- suit** 100:23 103:5 239:3
- Suite** 4:8 14:14 294:8
- suited** 250:21
- suits** 94:8
- sum** 50:13
- summarize** 14:25 90:11 161:10
228:13
- Summary** 104:13
- summer** 180:12 185:7 209:24
- Sunday** 175:22
- super** 244:1
- supered** 100:22
- support** 34:3 42:18 74:19 94:3
112:23 118:15 148:8 170:9 173:7,
19 182:6 185:25 208:10 211:1
218:22 220:9,15,21 221:2 236:17
248:8 250:8 252:4
- supported** 34:5 38:18 124:15
148:10 183:8 278:17
- supporters** 190:11
- supporting** 154:15,20 248:9
- supportive** 216:16
- supports** 35:22 51:12 173:12
176:22
- suppose** 79:9
- supposed** 73:12 151:19 192:19
- suppress** 7:7 55:22 56:2 73:14
75:12,19 248:24
- suppressed** 73:22
- suppresses** 54:16
- suppression** 54:4,18 56:12,24
58:3,5,23 59:7
- Supreme** 18:18 19:19 21:10 33:8
37:25 51:19 61:13,17,24 65:15
74:19 76:21 82:15 86:15
- surely** 21:12
- surge** 120:18,20
- surged** 39:4 127:21
- surprised** 140:25
- surrounded** 77:11 217:2
- survey** 87:19
- surveys** 114:8 131:8
- survived** 127:12 196:21 237:20
- survivors** 46:6 195:5

suspect 278:5 282:9
suspend 100:12 102:6 103:2
suspending 109:17
suspicion 52:4
sustain 195:15
sustained 126:21 127:12 131:2, 18
swap 175:21
Swarthmore 265:16
swastikas 113:13 129:14 159:5 196:14,20
swear 17:5 92:17 163:10 230:8
swearing 107:10
Sweden 169:8
sweeping 115:15 166:11 167:12 183:18
Sweet 163:5 194:20,22,24 201:19 212:12 216:20,22 217:1 225:1,2,6
Sweezy 51:20
swept 25:9,11
swiftly 45:13
sworn 17:4 92:16 163:9 230:6
symbol 182:3 190:10 202:8 205:21,22
symbols 64:7,8 170:13 196:14, 18
sympathy 35:12 127:14
system 15:21 91:7 96:20,21 162:4 173:24 194:7 197:9 229:9 269:23 279:2
systematically 171:13
systemic 128:13 129:16
systems 97:11 128:16 131:5,9

T

T-SHIRT 69:7 70:22
table 201:23 219:1,9
tackle 106:12

tactic 278:21
tactics 48:16 278:6
tailored 112:12 130:5
takeaway 29:11
takes 4:7 6:14 55:4 72:13 197:9
taking 46:21 87:16 99:3 132:17 206:12 232:9
talent 142:7
talk 21:19 80:17,25 137:9,15 206:23 212:11,12 217:5 223:5 227:8 273:21
talked 64:20 174:10 215:5,15 224:6 249:4
talking 33:10 64:6,16 69:9 167:20 203:12 215:17 217:3,9 222:16,17 285:14 293:4
talks 61:24 205:11
tangible 31:11
target 30:24 42:3,8 44:12 82:21 94:9,23 168:22 170:10 190:13 191:9 233:16 250:13
targeted 47:24 54:21 55:12 62:1 66:12,14 70:13 113:12 116:21 117:12 231:1 252:22 267:24
targeting 49:24 117:15 165:22 288:11,21,22,23
targets 20:14 189:1 190:14 254:16
task 49:18,20 50:1,4 115:16 264:10
tasked 190:25
taught 24:13 195:14 201:6
tax 94:2
taxpayer 45:1
teach 57:11 58:8 175:6
teachers 52:5 237:4 238:3
teaching 52:20 57:5,6 60:12 113:23 175:16 227:4 234:15 264:16 267:17
team 8:16 109:12 196:5
tears 168:11
Tech 202:23

technical 153:2 156:22
Technology 8:15
Tefila 286:5
telling 68:4,9 192:16 213:21 290:7
tells 279:17
temperature 198:20
Temple 265:15
ten 66:16 157:6
tenements 212:25
tens 257:22
tenure 108:21 140:22 146:10 152:9 175:14 178:18 239:10
term 30:7 89:10 130:23 189:16 198:16 206:25
terminate 100:12 102:6,14 103:2,6
terminated 122:20,25
terminating 101:3 102:12 109:16
termination 101:6,19 102:16 103:18 104:8 153:21
terminations 103:19
terms 83:14 132:1 143:20 157:4 183:18 207:4 221:21 222:14
terrible 82:11 202:9 213:25
terrifying 181:18 196:2
territory 26:25 37:8
terrorist 12:1 39:3 85:23 189:18
terrorizing 108:10
test 18:18
testified 152:5 172:22 228:11 253:8 255:15
testify 105:8 111:18 171:10 188:1 230:18 238:16 247:5 253:4 257:14
testifying 11:4 114:22 180:14
testimonies 211:16 292:23
testimony 8:9 10:20 13:24 14:23 16:6 24:15 57:16 80:6,7 90:12 93:5 98:8,20 105:1 119:14 120:12

- 125:7 132:6 133:10 134:14,18,19
136:8 137:6 138:8 144:20 145:20
146:2,6 149:24 151:14,25 161:12
171:4 173:6 201:19 202:6 203:16
206:19 210:24 217:3 221:8,21
223:22 225:5 227:5,11 228:13,15
261:3 265:8 272:7 274:1 278:8
- tests** 248:3 267:14
- Texas** 82:3 263:5
- text** 195:21 196:2
- texts** 164:15
- thankfully** 288:4
- thanking** 170:17
- that's** 10:10 18:6 19:5 23:21
27:7,23 28:2,9,24 30:13 31:8
34:23 35:2,6,17 37:3,24 62:9 65:7
73:4 77:1,8 78:6,13,22 79:15
80:13 84:14 86:8 89:12 128:5
135:16 143:14 148:7,16 151:12
154:3,19 155:9 158:7 168:19
174:4 191:14 203:16 205:7
206:23 213:16,25 214:5 217:7,11,
12 221:20 222:19 225:10,11,14,
18 237:3 245:3 246:14
- Thayer** 206:11
- theater** 112:24
- theories** 31:8 106:16 231:23
- theory** 24:16,18 67:18 73:18
212:4 231:9 253:13 287:25
- thereof** 102:18
- there's** 20:9,18 21:5 23:17 24:5
33:7 34:13 63:7 67:3 71:25 73:18
75:24 76:10 77:13 78:7 80:23
83:16 84:20 85:19 97:13 136:24
140:9,10,11 141:20 145:9 146:25
152:4 155:9 156:1,2 159:2 193:19
207:13,14,20 212:14 213:7
217:23,24 238:11
- they're** 25:17 26:16 28:18 29:12
67:9 70:11 73:10,12 78:4,12 79:4,
10,11 81:3 131:5 143:10 156:9
171:16 205:22 207:4,7 222:7
226:15 242:14
- thing** 23:9 25:5 62:20 64:17
68:22 72:10,15 84:12,25 87:25
157:7,8 166:20 198:4 215:13
246:17
- things** 10:16 15:20 23:2,20 25:15
33:2,11 46:23 50:10 64:6 65:11,
17 66:8 67:24 69:3 76:5 77:7
81:13 84:3 85:10 87:14 88:1
95:16 137:19 138:12 139:3
149:21 165:7 192:25 206:15
211:24 212:5 214:11 217:6
221:16,24 239:21 245:19,23
277:25 283:22
- thinking** 73:15 75:9 85:7 158:23
225:5 248:18 287:10
- thinks** 141:25
- thinner** 239:4
- thinnest** 30:20
- Thomas** 16:14
- thoroughness** 130:1
- thought** 9:23 53:1 66:18 91:12
136:24 162:10 168:19 180:15
202:12 215:4 250:23 272:6
277:20 288:15 290:18
- thoughtful** 23:11 35:15 53:10
- thoughts** 46:22
- thousand** 188:23
- thousands** 113:7 122:7 179:9
247:10 250:17 257:22 259:3,17
286:13
- threat** 19:14 82:22,25 86:22,25
111:11 123:9 198:10 206:21
232:10 247:24
- threaten** 59:6 257:2
- threatening** 20:1 165:25 190:1
- threatens** 54:5 81:23
- threats** 9:20 19:24 39:10 55:1
56:1 70:4,5 76:7,8 82:18 83:8
86:18,20 87:1 166:12 190:19
- three-** 103:9
- threshold** 82:25 83:16
- thresholds** 41:1
- thrive** 232:1 261:14
- thrived** 118:24
- thrives** 250:2
- thriving** 164:19 217:24 218:6
236:12
- thrown** 128:10
- thugs** 94:19 108:9
- thumb** 81:12 87:2
- tied** 232:24
- time** 4:6 14:20,22 20:6 21:2 32:7
43:8 62:9 64:22,24 72:24 79:22
80:25 90:1,10,16 98:13 106:15
122:1 126:8 129:19 135:1 146:13
151:7 158:13 160:18 161:1,7,16
163:25 166:24 175:2 178:19
179:10 185:22 193:18 194:16
196:6 199:6 200:11 201:24
209:25 214:1 215:7 223:16
225:14 227:18 228:2,12,21
239:13 240:1,5,10,25 245:13
251:11 260:13 266:25 271:4,17
276:3 277:6 281:14 286:23,25
293:2,22 294:19
- timelines** 31:12
- timely** 192:23
- times** 9:5 64:18 88:23 114:3
144:17 157:5 206:12 207:16
223:9 245:15 256:11
- Tinker** 18:18 74:21 75:15
- title** 6:10,21 7:23 19:16 22:19
24:18,20 26:12 31:11,13 32:8,13,
17 33:3,6,15,20,23 35:2,18,24
36:9 39:13 40:16,25 42:13,16
43:14,16,17,20,22,23 45:13 49:9,
12 53:4,7 54:12 55:17 56:6,11
58:13,19 59:16 60:13 61:19,20,21
62:3,4,18 65:12,13 66:5,8,20
67:19 71:14 72:17 73:3 76:19,21
78:8 81:22 85:14,15 90:3 93:11,
13,20 95:10 96:25 98:15,17,21,
23,25 99:5,11,15,17,21 100:4,15
101:2,5,11,23 102:4,21 103:7
104:6,10,14,22,23 106:18,20,23
108:2 109:1,7 110:16,23 112:8,
17,19 115:12,14 118:17 119:3
121:17 123:14 124:5 128:14
138:19,24 142:21 146:10 153:20
156:1 184:22 191:21 192:7
194:13 197:6 214:24 239:25
246:3 251:24 252:10 259:6,9,12
261:23 267:11 269:9 274:15
275:8,16 278:24 291:3
- titled** 189:6
- today** 7:2 8:8 11:4 14:23 35:7
38:25 80:8,18 98:8,20 105:1,8

- 112:8 114:22 117:3 119:15
120:13 126:19 132:4,12,18 142:2
145:13,20,22 149:25 164:2
171:10 172:7,10 179:19 180:1
183:24 186:2 188:1 191:11
201:20 208:3,12 209:11 211:11,
20 212:10 216:11 221:21 227:12
228:16 230:18 234:14 240:11
241:2 242:3,22,23 244:14 245:17
247:25 253:5 254:19 257:5,14
260:5,24 265:8 271:9 275:25
284:17 293:3,13,18
- today's** 5:18 11:12 12:19 15:19
- told** 26:9,21 31:5 39:12 113:18
114:23 170:1 175:15 180:12
182:7 191:12 215:6,15 251:8,10
256:17 262:8
- tolerate** 93:25
- tolerated** 110:1
- tolerating** 5:11
- tomorrow** 284:20
- tomorrow's** 11:13 12:19
- tool** 13:10 263:8 279:8
- tools** 159:9 264:3 267:6 279:5
- toothless** 109:9
- top** 193:5 205:16
- topic** 8:9 21:20 93:5
- tore** 165:10
- torn** 113:12
- totality** 40:22 64:19,21,23
- totally** 77:4
- tough** 10:10 200:15
- Touro** 16:20
- Tova** 162:21 163:20
- Tova's** 214:22
- tradeoffs** 47:19
- traditional** 222:9
- traditionally** 56:7 81:6
- traditions** 218:14 219:12
- Tragedy** 189:7
- train** 52:3
- trained** 194:14
- training** 43:11,19 109:7 114:7
128:15 130:15 131:4 153:5
156:23 247:16 251:24 264:18
- trainings** 256:16
- trait** 62:22,24
- trajectory** 10:7
- trample** 25:4 118:20
- trampling** 252:18
- Tranior** 92:1 105:4,6,11 132:14,
23 133:5,16,19 134:6,18 135:2,7,
11,18 136:2,9 138:10 139:22
140:1 145:21 146:4 154:22
- trans** 70:18
- transcription** 14:3
- transfer** 202:22
- transferred** 265:18
- transform** 131:3
- transformational** 183:4
- transformational** 116:6
- translate** 67:5
- translation** 14:4,6
- transparency** 45:16 214:7
- transparent** 115:17 251:25
- transpired** 107:21
- trapped** 176:8
- trauma** 198:25
- traumatic** 215:13 220:20
- traveled** 61:1
- Treat** 31:18
- treated** 40:3
- treating** 21:6 114:24
- treatment** 32:20 94:14 252:21
- treats** 108:13
- tremendously** 293:19
- trial** 30:23 119:18
- triangle** 64:2 190:8,10
- tribunal** 176:6
- tribute** 50:17
- trigger** 178:16
- Trojan** 115:6
- tropes** 231:9 241:5
- troubling** 39:11 112:3 184:9
194:4
- true** 17:6 19:4,5,24 21:13 54:13
57:13 58:25 76:8,19 81:19 82:18,
22,24 83:5,8 86:18,20,25 87:1
92:18 163:12 227:14 230:9
- trump** 47:5,9 49:19,21 52:10 55:8
56:16 58:13 70:3 88:1,24 105:8
108:1 110:12 114:3,21 116:15
117:14 139:12 140:7 144:18
158:3 165:24 196:24 197:2,15
199:15 200:9 201:3 212:6,15
233:15 242:17 243:5,8,9,21
246:19 250:16 282:23
- Trump's** 107:10 111:3 198:10
- trust** 165:18 231:14
- truth** 110:8 155:1,23 217:12,13
- truths** 240:18
- tuition** 256:24
- Tulane** 254:1 255:23 256:11
- Tulane's** 255:1,9
- turn** 8:20 10:22 13:22 16:9 32:1
38:8 52:24 91:11 149:6 187:22
194:19
- turned** 39:11
- turning** 94:21 250:2
- turns** 15:23,25 33:4 91:8 162:6,9
170:13 229:11,13
- Twenty** 239:11
- two-state** 256:1
- two-thirds** 244:3
- Tying** 169:21
- types** 207:4
- typical** 61:12 133:23
- Typically** 134:21
- tyranny** 195:16

U

- U.S.** 14:12 19:19 70:7 98:11
105:19 106:5 107:11 119:21
125:14 168:4 172:23 184:23
185:7 205:21 238:25 241:21
266:10 288:20 294:5
- UCLA** 16:18 25:20 103:8 137:9,
15 138:1 264:23
- UGA** 202:24
- Ukraine** 23:2
- ultimate** 11:18
- ultimately** 100:8 119:25 126:1
193:15
- umbrella** 88:13
- unabated** 124:12
- unable** 151:4 154:6 160:5 274:6
- unacceptable** 43:24 95:13
214:3 221:15 279:13
- unaddressed** 263:22
- unanimous** 5:22 273:13
- unanimously** 11:14 280:9
- unauthorized** 139:15
- unaware** 151:13
- uncertain** 184:5
- uncertainty** 81:8
- unchecked** 52:13 195:5
- unclear** 73:10
- uncomfortable** 165:7 208:17
209:10 251:6
- unconstitutional** 84:8
- uncontroversial** 97:16
- uncovered** 129:7 155:16
- uncovering** 110:7
- undemocratic** 212:20
- undeniable** 148:7
- under-** 263:20
- undercut** 232:21
- underestimate** 52:1
- underfunded** 179:6
- undergrad** 204:18
- undergraduate** 46:14 194:25
- undergraduates** 167:24
- undermine** 231:23 232:19
236:19 238:9
- undermines** 170:14 236:16,18
278:10
- undermining** 6:24 118:23
231:14 234:4 236:8,16
- underscore** 46:19 261:5 287:17
- underscores** 233:9
- underspecified** 72:18
- understand** 10:10 18:7 28:25
29:12 32:16 34:20 37:24 62:20
63:22,23 135:18 157:4,11 187:1
194:15 195:5 214:2 231:4 246:18
247:18 258:25
- understandable** 15:4 90:15
140:12 161:15 228:20
- understandably** 48:2 69:22
- understanding** 52:7 56:9 60:11
76:24 94:5 157:20 186:24 237:7
266:19 273:13
- understood** 39:20
- undertake** 5:23 94:4 100:11
- undertones** 165:9
- underwrites** 266:11
- uneasy** 84:23
- unequally** 58:10
- unfairly** 233:16
- unfold** 190:16
- unfolded** 184:19
- unfortunate** 70:8
- unfreeze** 115:23 116:8
- unilaterally** 219:9
- unimpressively** 147:15
- unintentionally** 30:18
- Union** 25:21 69:14
- unions** 237:5,9 238:1
- unique** 124:13 214:2 231:7
- uniquely** 41:2
- United** 4:4 39:4 83:22 93:4
105:13,17 110:18 127:17 140:22
209:16 230:2 243:15 253:23
254:23 257:7 272:23
- unity** 239:15
- universities** 18:15,23 19:2,4,21
20:2,19,25 21:1,16,22 22:12,22
23:4,6,10,17 35:14,16 38:6,23
42:11,24 44:22 46:12 47:14 50:15
51:25 57:4 59:8 73:17 74:23
76:12 77:2 81:3,21,23 93:18
94:15,19,22 95:7 96:13,21 102:22
114:5 115:19 116:22 117:13,14
118:21 119:6 145:3 147:1 165:22
169:22 170:9 174:16 180:7 186:9
187:10,18 204:12,17 206:7,16
212:1 233:17 235:25 236:10,16
242:20 244:21 248:22 251:18,23
252:9 259:5 262:3 263:16 264:4
267:15 279:4
- university** 5:2,22 11:16 12:5
16:22 17:1 18:22 19:9 21:13
33:23 37:20 50:11 75:22 76:25
95:8 96:20,23,25 97:22 105:10
106:13 107:20 108:8 110:15
113:22 118:22 120:5 162:22,24
163:2,6 167:13 171:15 172:4
173:5,11,14 174:6 176:1 177:11,
15 182:7 188:2,6 192:1 194:11,25
195:22 196:1 200:18 211:14
234:1 246:5 248:6 249:9 250:5
254:1,3 256:7,17 257:11 259:8
264:10,24 288:6 289:13 294:17
- university's** 255:16 256:14
290:24
- university's** 50:22 174:24
175:1 196:15
- unlawful** 51:2 97:9 106:24
110:19 112:20 139:15 169:21
269:11,14
- unleash** 115:7
- unmistakable** 190:2
- unmute** 91:17
- unprecedented** 50:9 112:5
246:13,14 276:5,21,25
- unproductive** 197:16

- unprotected** 20:7,17 22:21 41:2
70:10 184:5
- unquote** 115:1,3,19 116:7,17,22
117:15
- unscary** 166:18
- unseen** 175:3
- unserious** 107:4
- unsettled** 48:7
- unsettling** 181:17
- unsure** 169:18
- untethered** 27:23
- unwanted** 67:2
- unwelcome** 94:25
- unwilling** 160:5
- update** 187:18
- updated** 145:23
- upend** 106:22
- upheld** 86:21 254:24 258:11
- uphold** 278:12
- Upholding** 5:10
- upholds** 260:8
- uplift** 212:21
- uplifts** 213:3
- uproar** 9:11
- upset** 75:7,17,20 220:13
- upsets** 63:12
- upsetting** 77:7 202:7
- upward** 236:3
- Urban** 92:3 105:14
- urge** 45:12 58:15 73:23 117:25
119:2 170:24 194:10 268:11
- urgent** 114:25 128:4 232:4
- urges** 264:4
- urging** 6:8 267:15
- usage** 114:17
- USC** 13:4
- utterly** 276:24
- UVM** 114:12
-
- V**
-
- vacuum** 44:22 270:3
- vaguely** 54:14
- valid** 141:8 208:23
- values** 37:21 233:8 247:21
253:25 258:11 260:8
- vandalism** 55:13
- vandalize** 257:2
- vandalized** 256:23
- Vandalizing** 196:19
- vandals** 196:14
- Variations** 25:19
- varied** 152:22 250:21
- variety** 69:19 94:18 206:22
221:13 230:22 240:17
- vast** 27:2 41:8 44:21
- veil** 30:20 31:20
- vein** 211:24
- verbally** 256:21
- verge** 277:7
- Vermont** 113:22 114:10 246:5
- version** 35:18
- versus** 24:23
- vet** 202:21
- veteran** 265:10
- veterinary** 179:22 204:20
- veto** 75:10,12,16
- VI** 6:10,21 7:23 19:16 22:19
24:19,21 26:12 31:11 32:8,13,17
33:3,6,15,20,23 35:2,18,25 36:9
39:13 40:16,25 42:13,16 43:14,
20,22,23 45:13 49:9,12 53:4,7
54:12 56:6 58:14,20 59:16 61:20,
21 62:4,18 65:13 71:14 72:17
73:3 76:19 78:8 81:22 85:15 90:3
93:13,20 95:10 96:25 98:15,21,
23,25 99:5,11,15,17,21 100:4,15
101:2,5,11,23 102:4,21 103:7
104:14,23 106:18,20 108:2 109:1,
7 110:16,23 112:8,19 115:14
118:17 119:3 121:17 123:15
124:5 128:14 138:19,24 142:21
146:10 153:20 156:1 184:22
192:7 194:13 197:6 214:24
239:25 246:3 251:24 252:10
259:6,12 261:23 267:11 269:9
274:15 275:8,16 278:24 291:3
- viability** 81:17
- vibrant** 188:20
- Vice** 4:13 60:1,2 111:17 226:22,
25 230:2 260:6
- victim** 25:1 124:22 179:25 200:6
250:11
- victims'** 165:12
- victory** 268:6
- video** 128:21
- videos** 193:8,9
- Vietnam** 48:18
- view** 14:5,7 28:24 29:3 36:22
49:5 55:20 59:3 80:15 86:11
112:2 147:15 246:9
- viewed** 10:12
- viewing** 241:8 293:18
- viewpoint** 19:3 48:15 82:4 86:2,
3,6 263:8
- viewpoints** 18:16 39:19 86:9
194:2 248:18
- views** 30:10 34:7 53:17 57:20
90:14 161:15 168:3 194:1 228:19
240:17 241:1
- vigorously** 178:4
- VII** 31:14 43:16 62:4 65:12 66:5,8,
20 67:19 85:14
- vile** 30:19 159:2
- violated** 33:20 49:22 50:25 96:25
104:4
- violates** 54:9
- violating** 192:20
- violation** 13:4 24:21 26:12 33:23
35:18 49:9 50:7 99:25 108:2
110:16 263:9
- violations** 49:16 94:22,23 96:17
97:14 101:3 103:14 111:9 121:8,

10 130:12 138:19 253:10

violators 95:9 111:2

violence 9:20 10:4 20:1 22:21
39:20 55:12 70:4,5,7 76:8 105:25
106:8,14 107:6 108:4 109:19
140:21 178:25 189:12 190:12
230:25 257:10 259:16 288:18

violent 189:18 190:3 226:12

Virginia 86:17 125:18 202:23
288:7

virtue 37:12

visas 166:21 185:4 198:11

visibly 42:4 251:1

vision 50:19

visionary 239:13

vital 52:1 56:14 59:19 194:17
235:23 252:8 266:6

Vitalovich 11:8

VI'S 98:17 104:6,10 112:17
115:12 191:22

voice 179:11 180:9 185:12

voices 170:6 173:25 178:24
201:23 233:4 249:15

volatile 112:25

Volokh 16:14 17:11,12 23:23
32:10 48:23 53:7 66:2 67:21,22
74:18 76:18 80:9 85:7

Volokh's 66:9 71:12

voluntarily 59:10 99:10

voluntary 99:2 100:10,22 101:24
104:18 121:11 152:24 153:6,9,10

vote 5:23

voted 11:14 244:4

voter 29:13

votes 282:25

Vullo 19:18

vulnerability 71:25

vulnerable 41:2 211:10

W

wait 85:25 102:11

wake 123:7

walk 182:1,15

walked 63:19

wall 181:24

walls 159:6

wanted 46:18 67:23 71:1,11
76:17 143:18 148:2,3 151:7 154:8
156:6 168:6 184:16 203:17
216:13 221:7,20 224:8 251:11
276:2 290:7

war 48:18 200:4 207:13 237:24
248:2 249:15 250:3,9

ward 195:16 264:22

Wardenski 91:24

warned 197:14

warning 15:22 91:7 162:5 194:7
229:10

warranted 109:14

Warren 173:18

wars 18:11

Washington 4:9 14:14 96:25
120:5 169:6 180:13 230:4 294:8

wasn't 9:25 29:16 89:6 137:10
141:19 158:12 176:2 177:11
181:17 190:4 240:11 245:12
246:8,16

Wasserman 6:7

waste 193:18

watch 184:18 196:4

watched 169:16 180:6

watching 151:19 227:14 280:3

water 84:19 113:15

wave 191:7

ways 20:21 31:11 32:22 38:3
41:1 77:3 94:18 170:16 182:13
184:14 187:19 192:6 193:23
215:16 230:22 247:21 248:18
258:25 283:20 289:2

weak 62:17 107:7

weaken 261:25

weakening 6:24

weaponize 260:20 268:4

weaponized 174:4 177:17

weaponizing 106:20 248:20

wearing 69:7 251:7

website 66:6

wedge 287:19

week 143:8 164:14,16 168:10
244:5 281:5

weekends 175:16

weekly 218:15

weeks 34:14 127:20 165:1 182:4
188:21 196:13 245:14

weigh 66:2 131:22

weight 198:16

welcomed 181:7 237:23

welcoming 164:10

well-being 12:6 248:13

well-established 19:20

wellbeing 107:23

weren't 237:21

West 43:24 125:18

Western 25:21 263:5 286:21

we'd 85:24

we'll 17:22 45:19 71:2 87:8
89:14 92:23 132:10 202:15
218:19

we're 10:22 16:9 17:10 19:9
23:23 30:8 32:1 33:10 38:8 52:16
59:24 64:5,6 72:4 73:15,19 75:19
84:12 85:2,4 87:9,10 89:17,18
96:22 98:4 105:3 115:18 119:11
125:8 132:7 143:5 145:8 146:15,
17,18 148:18 151:6 160:16
162:15 163:17 171:5 179:15
187:22 201:21 214:9 216:7
217:21 220:18 223:16 226:23
227:20 228:2 230:15 231:21
232:11 238:18 246:19

we've 10:13 59:18 81:14 83:21

138:22 147:5,7 161:11 222:13
228:14 234:19 235:7

whatsoever 269:5

what's 23:13,18 28:9 30:13 63:2
65:2 170:3 213:15 214:11 221:21
224:18 231:7 246:18

whipped 256:3

white 264:22 288:16

whole-of- 232:4

whole-of-government 246:20

whole-of-society 232:5

who've 219:2

wicked 282:20

wide 97:4 103:24 201:10 221:13
240:16 286:7

widely 39:20 240:11 278:17

widespread 107:20 266:19

wife 46:3

Wikipedia 204:5

wild 43:24

willingness 179:11 222:8

win 50:16 125:3

Wisconsin 196:1 244:4

Wisconsin-madison 195:23

wise 53:10 281:21 283:3

withdraw 187:11

withdrawal 19:14 184:16

withdrew 184:1

withholding 113:24

withstood 130:9

witnessed 95:2 184:2

witnesses 7:3

witnessing 38:25

woke 116:16 181:10

woman 61:6,7,8 62:12,23 63:5
127:2

women 62:11 63:1,3 67:1

won 178:18

wonderful 73:19 164:18 203:24,
25 204:21 218:5 230:13

won't 29:14 73:6 171:19 239:19

word 41:16,18 87:21 88:8 93:24
190:8,9 291:18

words 8:23 27:6 107:2 155:4
283:6

work 5:13 7:16 8:19 11:12 29:9
38:21 63:10 97:4,6,24 99:2 117:2
120:12 127:19 130:1,18 140:13
143:12 146:25 147:7,12,23 148:1,
12 152:20 157:3,10 165:17
170:24 173:12 201:16 220:6
236:20 237:5 249:15 253:9
256:15 258:12 273:25 279:4

workable 258:25

worked 98:10,14 114:9 142:9
277:5 281:25

workforce 116:13

working 44:5 97:11 142:10
158:12 166:7 175:19 197:3
241:17,20 242:8 243:22 272:10
283:11

workplace 62:7 66:21 67:10
76:22 270:18

works 37:17 96:7 174:15 201:12
231:4,5,8 260:22

world 11:25 12:4 18:9 23:3 24:14
58:7,9 64:4 70:9 84:7 97:8 169:13
218:10 219:14 242:10 251:19
287:10,11

worldwide 41:9

world's 42:1 87:23

worried 25:8 142:24 165:3
166:22 185:7 196:11

worry 182:18 184:14

worse 21:7 42:5 109:5 118:25
260:22 268:5

worst 195:7

worth 34:13 50:2 240:19 255:5

worthy 51:12

wouldn't 133:16 151:20 206:15

wounds 259:21

wow 215:12

wrap 87:9 157:16 246:25

wrist 109:6

write 58:8

writing 52:21 100:2 185:10
198:1,4

written 8:5 35:6,11 57:16 66:3
80:6 90:11 98:20 102:3,9 146:6
149:19 158:24 159:3,5 161:12
178:6 240:2 261:3

wrong 27:24 28:3 49:12 166:20
184:10 260:20 290:15

wrongfully 250:8

wrote 51:8 57:15 117:13 185:10
226:2 255:9 270:6

X

XAVIER-BRIER 4:23

XI 55:17 56:11

XII'S 60:13

Y

Yasmeen 230:1 253:17 262:8

year 5:19 11:21 12:22 14:11
49:17 69:16 96:24 122:14 123:19,
21 124:4 129:15 143:3 149:3
179:24 180:6 193:7 194:25
196:16 203:22 219:1 220:9
222:24 234:21 235:21 240:20
264:19

yearly 218:15

years 9:1,2 19:18 38:17 39:6
46:4,9,15,17 54:11 59:18 98:13
119:17,23 125:25 126:3 130:20
131:24 156:19 227:4 235:3
239:11,25 240:3 244:8,11 245:10
253:8 259:7 266:24 270:6 271:6,
16 273:23 274:10 276:13 284:23
286:14

yellow 15:23 91:9 162:7 229:11

yeshiva 180:18

yielded 282:10

Yisrael 259:23

York 45:25 69:15 127:4 180:20

202:10,16 203:6,8,9 205:11
206:12 238:3 264:24

young 72:1 76:3 184:4 199:25

younger 78:25

youth 52:3

you'd 212:11

you're 29:23 33:13 79:14 84:21
132:17 133:20 135:18 136:4,13,
20 140:15,23 145:16 154:6
156:12,13 157:24 191:6 202:1
203:11 207:7,8 208:24 213:23
217:23 223:20 226:23 228:8

you've 87:4 89:17 160:12
202:12 214:8

Z

Zion 27:11,12,15,20 29:15 41:12
77:22

Zionism 26:21,22 27:2,4,8,19
28:14,22 34:3,7,11,20,24 39:18
41:6,7,9,20 78:2,12 81:17 88:8
222:3

Zionist 34:9,19 53:13 79:5 88:10
138:2 190:8 191:6

Zionists 26:10 28:6 29:13,18
31:6 41:17,25 68:2 78:3 88:8,15
113:25 190:7 231:19 248:3

zone 249:15

zones 137:11,23