

Examining the Presence and/or Absence of Antisemitism on the Auraria Campus in Denver



A Report of the
Colorado Advisory Committee to the
U.S. Commission on Civil Rights

May 2026

Advisory Committees to the U.S. Commission on Civil Rights

By law, the U.S. Commission on Civil Rights (Commission) has established an advisory committee in each of the 50 states, the District of Columbia, and the U.S. Territories. The committees are composed of state citizens who serve without compensation. The committees advise the Commission of civil rights issues in their states that are within the Commission's jurisdiction. More specifically, they are authorized to advise the Commission in writing of any knowledge or information they have of any alleged deprivation of voting rights and alleged discrimination based on race, color, religion, sex, age, disability, national origin, or in the administration of justice; advise the Commission on matters of their state's concern in the preparation of Commission reports to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public officials, and representatives of public and private organizations to committee inquiries; forward advice and recommendations to the Commission, as requested; and observe any open hearing or conference conducted by the Commission in their states.

Letter of Transmittal

Colorado Advisory Committee to the U.S. Commission on Civil Rights

The Colorado Advisory Committee to the U.S. Commission on Civil Rights submits this report examining antisemitism at three higher education institutions on the Auraria campus in Denver as part of its responsibility to study and report on civil rights issues in the state. The contents of this report are primarily based on testimony the Committee heard during public meetings held via videoconference on July 16, 2025; August 20, 2025; and September 3, 2025. The Committee also reviewed public information, written testimony and other resources submitted during the relevant period of public comment.

This report was voted on unanimously by Committee members present at the April 1, 2026 meeting. It begins with a background of the issues to be considered by the Committee and presents findings as they emerged from this testimony, as well as recommendations for addressing areas of civil rights concerns.

Colorado Advisory Committee to the U.S. Commission on Civil Rights

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Joseph Peters, Denver (recused from
project)

Douglas Spencer, Superior

Table of Contents

Letter of Transmittal	2
Background	6
Glossary of Frequent Acronyms	8
Allegations of Antisemitism on the Auraria Campus	8
Timeline of the Golda Meir House Museum and Education Center	10
Encampment Timeline	16
Prosecutions	36
Cui bono (Who stands to gain)?	38
Jurisdiction	39
United State Constitution	39
Federal Legislation	40
Presidential Directives	41
Purpose and Scope	42
Methodology	42
Findings	43
Finding I: Some protesters’ conduct and speech was antisemitic.	43
International Holocaust Remembrance Alliance Definition	45
Dictionary Definitions of Antisemitism	51
“From the River to the Sea”	52
“Globalize the Intifada” and Other Speech Urging “Intifada”	56
Anti-Zionism and Antisemitism	59
Anti-Zionism at the Encampment	64
The View From Outside the Encampment	69
Finding II: Because of the actions of the protesters, Jewish students were excluded From participation in and denied the benefits of educational programs and activities receiving federal financial assistance. However, the evidence does not support a finding of “deliberate indifference” by Auraria administrators, and so there was no violation of Title VI.	72
“in the United States ... under any program or activity receiving Federal financial assistance”	73
Free speech, Title VI, and Jews	74
“be excluded from participation in, be denied the benefits of, or be subjected to discrimination”	76
Deliberate Indifference	78
First Steps Towards Recommendations	83
Auraria Atmosphere	87

Finding III: By giving the protesters special exemptions from law enforcement, the Denver government denied the Auraria community the equal protection of the laws, in contravention of the Fourteenth Amendment.....	90
Skip Spear Testimony.....	92
DCAO Provides Continuing Support.....	95
Denver District Attorney Refuses to Prosecute.....	96
Colorado State Patrol and Colorado Rangers Provide Mutual Aid.....	96
All Protesters are Allowed to Obstruct Traffic.....	97
Evidence of Motives.....	98
Influence of the City Council.....	100
Selective Nonenforcement.....	103
The Right to Performance of Contracts and to “the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship”.....	114
Dismantling Higher Education.....	118
Recommendations.....	121
Appendix A: Project Materials.....	125
Appendix B: Invited Speakers.....	126
Appendix C: Prosecutions from 2024 Encampment Submitted by the Denver City Attorney’s Office.....	127
Appendix D: Email to Denver Mayor’s Office Requesting Comment on Auraria Higher Education Center’s Testimony Before the Colorado Advisory Committee.....	134
Appendix E: Response From the Denver City Attorney’s Office Regarding Auraria Higher Education Center’s Testimony Before the Colorado Advisory Committee.....	137
Appendix F: Excerpt from January 2026 Report Draft Analyzing the DCAO 2025 Response Email.....	139
Appendix G: Denver City Attorney’s Office Submitted Exhibits. February 13, 2026 Email from the Denver City Attorney’s Office.....	142
Appendix H: March 17, 2026 Denver City Attorney’s Office Cease and Desist Letter Issued to the Colorado Advisory Committee.....	149
Appendix I: Colorado Advisory Committee Response to Denver City Attorney’s Office Cease and Desist Letter.....	152
Appendix J: Denver City Attorney Request for Committee to Delete Finding III.....	157
Appendix K: Colorado Advisory Committee Response to Denver City Attorney’s Office Request for Committee to Delete Finding III.....	161

Project Overview

On May 8, 2025, the Colorado Advisory Committee (Committee) to the U.S. Commission on Civil Rights (Commission) adopted a proposal to undertake a study examining the presence and/or absence of antisemitism at Colorado universities and colleges, specifically at the Auraria Campus in Denver that hosts the Community College of Denver, Metropolitan State University of Denver, and University of Colorado Denver. This study aims to contribute to more informed approaches to federal, state, and education policy in higher education.

As part of the inquiry the Committee received oral and written testimony during three public briefings via videoconference on July 16, 2025; August 20, 2025; and September 3, 2025.¹ The Committee invited stakeholders with a range of backgrounds and perspectives to provide testimony during their briefings. A list of these individuals can be found in Appendix B. Additionally, some members of the public presented their perspectives during the public comment period at the end of the public briefings or at the end of the Committee's regular monthly meetings. Many members of the public, as well as some panelists, submitted written testimony.

All public hearing panelists were sent drafts of this report once in February and twice in March 2026, and were invited to comment. In September 2025, the Committee reached out to the Denver City Attorney's Office (DCAO) for comment regarding public briefing testimony about possible misconduct by Denver government leadership. The Committee received comments from the DCAO in October 2025 and in February and March 2026.² In February and March 2026, the Committee also wrote to Auraria Higher Education Center chief administrative officer Skip Spear and to Golda Meir House and Education Center executive director Lena Fishman requesting additional information.

The following report results from a review of all the above sources, as well as public information period. The report begins with background and a timeline on the events to be considered by the Committee. It then identifies primary findings as they emerged from this testimony that align with the Committee's scope. Finally, it makes recommendations for addressing related civil rights concerns. This report and the recommendations included within it were adopted unanimously by Committee members present at the April 1, 2026 meeting.

The Committee appreciates the willingness of panelists, stakeholders, and members of the public to provide their perspectives during this project.

¹ Meeting records and transcripts are available here: <https://usccr.box.com/s/aq52obvbs8uhkx2a0198po94elwbf2vl>; Briefing before the Colorado Advisory Committee to the U.S. Commission on Civil Rights, July 16, 2025 (web-based), Transcript (hereinafter cited as "7/16/25 *Web Briefing*"); Briefing before the Colorado Advisory Committee to the U.S. Commission on Civil Rights, August 20, 2025 (web-based), Transcript (hereinafter cited as "8/20/25 *Web Briefing*"); Briefing before the Colorado Advisory Committee to the U.S. Commission on Civil Rights, September 3, 2025 (web-based), Transcript (hereinafter cited as "9/3/25 *Web Briefing*").

² The written communications between the Committee and the Denver City Attorney are contained in Appendices E through L.

Background

In recent years, colleges and universities across the United States have seen a rise in antisemitic incidents. These include violent crimes, such as assaults by individuals and mobs, violent invasions and takeovers of campus spaces, and forcible and illegal exclusions of Jews from campus spaces. At some colleges and universities, the administrative response to such crimes has been supine.³ The surge in violent and criminal antisemitic acts has sparked concern among citizens, scholars, civil rights advocates, and campus communities, in part because such actions gravely harm educational institutions' stated commitment to open discourse and inclusion.

Concerns regarding antisemitism on college campuses were raised in recent *Dear Colleague Letters* from Department of Education Secretary Cardona in 2024 and from Department of Education Assistant Secretary for Civil Rights, Catherine Lhamon in 2023.⁴ These letters remind federally-funded educational institutions of their legal obligations under Title VI of the Civil Rights Act⁵ to provide students, including Jewish students, a school environment free from discrimination based on race, color, or national origin, including shared ancestry or ethnic characteristics. Department of Education officials also reminded these institutions of a variety of resources to educate the public on the importance of maintaining educational environments free from discrimination.

³ For example, the U.S. District Court for the Central District of California issued a preliminary injunction against administrators at the University of California Los Angeles (UCLA) for allowing hate groups to use force to impose a Jew exclusion zone where mobs prevented Jewish students from entering the central campus unless they denounced Israel. See *Frankel v. Regents of the University of California*, 744 F.Supp.3d 1015 (C.D. Cal. 2024). Notably, the U.S. Department of Justice has filed a statement of interest in support of plaintiffs' claims under Title VI of the Civil Rights Act of 1964 and the Equal Protection Clause of the Fourteenth Amendment. Statement of Interest of the United States of America, Document 139, Mar. 17, 2025, in *id.*, <https://www.justice.gov/opa/media/1393616/dl?inline>.

⁴ Sec'y Miguel A. Cardona, U.S. Department of Educ., *Dear Colleague Letter regarding antisemitism on college campuses*, May 3, 2024, <https://www.ed.gov/laws-and-policy/education-policy/key-policy-letters-signed-by-the-education-secretary-or-deputy-secretary/050324-letter>; U.S. Department of Education, Office of Civil Rights, *Dear Colleague Letter: Addressing Discrimination Against Jewish Students*, May 25, 2023, <https://www.ed.gov/sites/ed/files/about/offices/list/ocr/docs/antisemitism-dcl.pdf>.

In September 2023, the Biden administration announced that eight federal departments—Agriculture, Health and Human Services, Homeland Security, Housing and Urban Development, Interior, Labor, Treasury, and Transportation—were issuing written clarifications about how, for their particular areas, “Title VI covers discrimination on the basis of shared ancestry or ethnic characteristics, including certain forms of antisemitism, Islamophobia, and related forms of bias and discrimination.” The White House, *Fact Sheet: Biden-Harris Administration Takes Landmark Step to Counter Antisemitism*, Sept. 28, 2023, <https://bidenwhitehouse.archives.gov/briefing-room/statements-releases/2023/09/28/fact-sheet-biden-harris-administration-takes-landmark-step-to-counter-antisemitism/>

A notable case applying Title VI to Jewish students is *T.E. v. Pine Bush Central School Dist.*, 58 F.Supp.3d 332 (S.D.N.Y. 2014) (antisemitic behavior covered by Title VI when based on “actual or shared ancestry or ethnic characteristics, rather than solely on its members’ religious practices”).

⁵ 42 U.S.C. 2000d et. seq. (2018).

The U.S. Commission on Civil Rights examined this topic in 2005–06.⁶ More recently, following a bipartisan request from twenty-three members of Congress,⁷ the U.S. Commission on Civil Rights in January 2025 unanimously decided to examine allegations of antisemitism on college campuses as part of its 2025 annual statutory enforcement report.⁸

The urgency of concerns intensified following the October 2023 attack on Israel by Hamas. The resulting humanitarian crisis in Gaza, including significant civilian casualties and the displacement of Palestinians, led to widespread protests and activism on campuses. Many students, individually and/or as a group, Jewish and non-Jewish, mobilized against Israel’s military actions, calling for ceasefires, divestment, and policy reform. Nonstudents have also used university campuses to stage protests.⁹ At the same time, some Jewish students, faculty, and others have reported being harassed, being or feeling unsafe, or being targeted by rhetoric or actions that they perceive as crossing the line from criticism of Israeli government policy into antisemitism.

Public discourse concerning antisemitism continues to be an important topic, given the proliferation of antisemitic incidents throughout the United States. For instance, in San Jose, California, three individuals were arrested in connection with a March 8, 2026, brutal assault on two individuals who were speaking Hebrew to one another.¹⁰ Only four days later, a Synagogue was attacked when an individual drove his truck through the doors of Temple Israel in West Bloomfield Township, Michigan.¹¹ And in 2025, two Israeli embassy staffers were murdered in Washington, D.C., with the suspect later criminally indicted for a hate crime.¹² Put simply, violent incidents continue to occur on a frequent basis against Jews and/or individuals associated with Israel.

⁶ U.S. Commission on Civil Rights, *Campus Antisemitism*, July 2006 (briefing held Nov. 18, 2025), <https://www.usccr.gov/pubs/docs/081506campusantibrief07.pdf>.

⁷ Rep. Jake Auchincloss, et al., letter to Hon. Rochelle Garza, Sept. 17, 2024, <https://d12t4t5x3vyizu.cloudfront.net/kiley.house.gov/uploads/2024/09/2024.09.17-Letter-to-USCCR-re-Campus-Antisemitism.pdf>.

⁸ U.S. Commission on Civil Rights, *Business Meeting*, Jan. 17, 2025, pp. 9–13, <https://www.usccr.gov/files/2025-01/usccr-jan-business-meeting-transcript-unedited.pdf>.

⁹ Spear Testimony, *8/20/25 Web Briefing*, p. 6.

¹⁰ Emma Goss, “New Footage Shows Moments Prior to Beating of Israeli Americans in San Jose,” *Jewish News of Northern California*, Mar. 20, 2026, <https://jweekly.com/2026/03/20/new-footage-shows-moments-prior-to-beating-of-israeli-americans-in-san-jose/>.

¹¹ George Hunter and Max Bryan, “Temple Israel Attack was Hezbollah-Inspired Act of Terror, FBI Says,” *Detroit News*, Mar. 30, 2026, <https://www.detroitnews.com/story/news/local/oakland-county/2026/03/30/live-updates-temple-israel-attack-fbi-probe-update-west-bloomfield-ayman-ghazali/89378264007/>.

¹² “Who Is Elias Rodriguez? What to Know About the Antisemitism that Fueled the D.C. Shooting,” *American Jewish Committee*, Aug. 7, 2025, <https://www.ajc.org/news/who-is-elias-rodriguez-what-to-know-about-the-antisemitism-that-fueled-the-dc-shooting>.

Glossary of Frequent Acronyms

ACPD. Auraria Campus Police Department.

AHEC. Auraria Higher Education Center (campus management).

CCD. Community College of Denver.

CU Denver. University of Colorado, Denver campus.

DCAO. Denver City Attorney's Office.

DPD. Denver Police Department.

DSD. Denver Sheriff Department.

JVP. Jewish Voice for Peace.

MSU. Metropolitan State University – Denver.

SDS. Students for a Democratic Society.

Allegations of Antisemitism on the Auraria Campus

The Auraria campus is located on State of Colorado land within the City and County of Denver. Three schools operate on one campus: Community College of Denver, Metropolitan State University of Denver, and University of Colorado Denver. The Auraria community comprises 45,000 students, faculty, and staff, making it the most populous college campus in Colorado. The campus itself, and shared services, are managed by a separate entity, the Auraria Higher Education Center (AHEC). Among AHEC's responsibilities is the Auraria Campus Police Department (ACPD). AHEC/ACPD has law enforcement powers on the Auraria campus, and the three schools do not; none of the schools have operational control over the ACPD. AHEC has no authority over student discipline, which is the responsibility of the respective schools.

On October 7–8, 2023, Hamas perpetrated mass murder, mass rape, mayhem, crimes against humanity, and war crimes against Jewish and non-Jewish Israelis, and against foreigners residing in Israel.¹³ On October 9, the National Students for a Democratic Society (SDS) declared its support for the attacks:

¹³ U.S. Department of State, *2023 Country Reports on Human Rights Practices: Israel, West Bank and Gaza* (" Hamas terrorists committed sexual assaults against women, girls, and men, including rape and gang rape, in private homes, at a music festival, on the side of the road, and in a military base. Eyewitnesses testified they saw rapes, mutilation, and sexual assaults taking place, some followed by killing." Unlawful killings of over 1,200, mainly civilians; abductions of 253 hostages), <https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/israel-west-bank-and-gaza>; U.S. Department of State, *2024 Country Reports on Human Rights Practices: Israel, West Bank and Gaza* (war crimes, crimes against humanity, sexual abuse of hostages), <https://www.state.gov/reports/2024-country-reports-on-human-rights-practices/israel-west-bank-and-gaza>.

ON OCTOBER 6TH [sic], THE PALESTINIAN RESISTANCE MOVEMENT LED COORDINATED ATTACKS FROM LAND, AIR, AND SEA UTTERLY HUMILIATING THE ISRAELI OCCUPATION FORCES (IOF), COMMONLY KNOWN BY THE MISNOMER “ISRAELI DEFENSE FORCE” (IDF). THROUGH THESE ATTACKS, THEY HAVE BEEN ABLE TO SEIZE THE LAND STOLEN FROM THEM AND ARE CONTINUING TO PUSH FURTHER INTO ZIONIST TERRITORY. IN LIGHT OF THIS RESISTANCE, ISRAELI PRIME MINISTER, BENJAMIN NETANYAHU, SAID ISRAEL WAS ‘AT WAR’ FOR THE FIRST TIME SINCE 1973. THE PALESTINIAN PEOPLE ARE ENGAGED IN A MASS RESISTANCE TO THE ZIONIST OCCUPATION ON A SCALE THAT HASN’T BEEN SEEN SINCE THE SECOND INTIFADA.¹⁴

SDS added a comment to its post: “From the river, to the sea, Palestine will be free!! Swipe to read our statement of solidarity with the Palestinian resistance! End US aid to Israel!!”¹⁵

On October 11, 2023, SDS opened a Denver front in the campaign against Zionists. Starting on that day and not ceasing until the Auraria campus was completely shut down on May 17, 2024, SDS harassed and intimidated the Jewish student center on the Auraria campus, the Golda Meir House Museum and Education Center. On October 26, 2023, the Jewish center had to be closed for safety. No more Sabbath meals, student groups, Jewish study, or Jewish socializing. Even the Museum’s director had to be relocated. Graffiti expressly warned “Zionists off our campus.” As will be detailed in Finding I, the protesters declared themselves not to be antisemitic, but merely anti-Zionist; in fact they did menace Jewish students in general.

On April 25, 2024, the SDS and allied groups began an occupation of the Auraria Campus to demand immediate action by the schools. On April 29, 2024, the occupation resulted in the Community College of Denver shutting down on-campus learning, and shifting to remote. The other two schools—Metropolitan State University and the University of Colorado at Denver—held on till the end of the semester. But on May 17, the campaign of cyberwarfare, building invasions, and blockades of public highways resulted in school officials shutting down the campus entirely.

In September 2024, the U.S. Department of Justice announced, “the unsealing of terrorism, murder conspiracy, and sanctions-evasion charges against six senior leaders of Hamas, a designated foreign terrorist organization.” U.S. Attorney Office, Southern District of New York, *U.S. Attorney Announces Terrorism Charges Against Senior Leaders of Hamas*, Sept. 3, 2024, <https://www.justice.gov/usao-sdny/pr/us-attorney-announces-terrorism-charges-against-senior-leaders-hamas>. “Hamas” is a shorthand for *Harakat al-Muqawama al-Islamiya*, Islamic Resistance Movement.

¹⁴ SDS, *Instagram*, Oct. 9, 2023, https://www.instagram.com/p/CyMKiVMAEa9/?img_index=2.

¹⁵ Ibid. In March 2024, National SDS adopted a political platform stating “On October 7th, the Palestinian resistance launched a brave assault on the Zionist government (Israel) entitled Operation Al-Aqsa flood. Operation Al-Aqsa flood is the most successful instance of Palestinian resistance since the 1973 Arab-Israeli War. Whereas: Zionism is a settler colonial project.... Whereas: SDS celebrates the Palestinian resistance and the al-Aqsa flood...” *2023 Resolution for National SDS to Reaffirm Membership in the Coalition to March on the RNC 2024*, Mar. 30, 2024, <https://new-students-for-a-democratic-society.ghost.io/2023-resolutions/>.

After the permanent shutdown had been announced, the campus occupiers declared an end to their occupation. Normal campus operations were able to resume five days later.

The first timeline below will describe the campaign against the Golda Meir House, beginning on October 11, 2023. Then a second timeline will describe the events that began with the campus occupation on April 25, 2024.

Much of the timeline quotes written and oral testimony verbatim; some testimony uses the past tense and some uses the present tense.

Timeline of the Golda Meir House Museum and Education Center

From 1913 to 1915, Golda Mabovitch lived in a tiny duplex on Julian Street with her sister's family while she attended Denver's North High School. Later, she became a schoolteacher, and later still she moved to Israel, helped found a socialist political party (Mapai), and was elected Israel's first female Prime Minister, serving from 1969 to 1974. Her house in Denver has been preserved as a symbol of Jewish heritage and Zionism.¹⁶

The historic house was moved to the Auraria Campus in 1988, where it became the center for Jewish life. The house hosted Shabbat services and meals, community events, Jewish learning classes, a Sinai Scholars Program on Jewish heritage and ethics, the Chabad-Lubavitch of Auraria Campus, and Hillel Colorado events. Mayor Wellington Webb designated it a Denver landmark in 1995. For Jewish students, it was "an active center for academic engagement and experiential learning," explained museum executive director Lena Fishman.¹⁷ Hillel was planning to open an office in the Golda building, and to "develop part of the space into a 'Hillel House'—style student area where students could gather, study, and participate in programming. Those plans were never able to take shape because of the protests."¹⁸

At one time, the Museum was thriving, Fishman recalls:

Faculty from several Auraria Campus institutions regularly brought classes to the museum, including courses in museum studies, history, and political science. Students interned at the museum, and art students helped create exhibits and murals while learning about Golda Meir's life and legacy and connecting historical themes to contemporary issues. The museum served as a living-history

¹⁶ Nell London, "'The Mother of Israel' Golda Meir's Denver Home Is Rededicated as a Museum," *Denverite*, Jan. 10, 2022, <https://denverite.com/2022/01/10/the-mother-of-israel-golda-meirs-denver-home-is-rededicated-as-a-museum/>; "Golda Meir - Jewish Museum Milwaukee," *Jewish Museum Milwaukee*, Dec. 13, 2023, <https://virtual.jewishmuseummilwaukee.org/golda-meir/>.

¹⁷ Lena Fishman Email Response to Colorado Advisory Committee on 3/4/26 (hereinafter cited as *Fishman Email 3/4/26*).

¹⁸ *Ibid.*

educational environment that was integrated into the academic life of the campus. All of this halted after October 7 and is only now slowly starting to rebuild.¹⁹

At the Colorado State Advisory Committee’s first public briefing, on July 16, 2025, Lena Fishman testified that weekly protests “targeting the Golda Museum” began after October 7.²⁰

These protests did not occur in isolation. They disrupted campus life. They interfered with classes. They deeply impacted student well-being, and they made it nearly impossible for me to perform my job. The protests were loud, frightening, and were explicitly hateful. Students use megaphones, drums, and shouted anti-Semitic slogans while I was inside the museum trying to work. On occasion, police had to escort visiting groups who wanted to see the museum away from the Golda Museum to other buildings for their safety.²¹

“I want to be very clear, the protests were not peaceful,” she testified. Once, a “protester entered the museum and was screaming in my face that I didn’t care about murdered babies.²² “On another occasion, the steps, the walls, the entryway, the courtyard in front of the museum were vandalized with anti-Semitic graffiti, including phrases such as ‘Zionists are not welcome here.’”²³

I want to also talk about the encampment, when there were tents just minutes from the Golda Museum. Tents were nearby. And often in the middle of the night, tents would wander over and be placed directly in front of the museum. Photos were taken of these tents in front of the museum, and threatening posts were put online. The signs in the encampment often included slogans like Global Intifada, which I experienced as a personal threat to my safety and to the safety of my children who attend Jewish school here in Denver.”²⁴

- *October 2023.* As recounted by AHEC’s chief administrative officer and general counsel, Skip Spear: “Rabbi Ort and Chabad of Auraria Campus held a prayer vigil in front of the Golda Meir House Museum. To provide security, the Auraria Campus Police Department (ACPD) posted one uniformed and two plain clothed officers at the gathering. Fortunately, there was no disruption to the vigil.”

“Also, on Oct. 9, AHEC learned that Students for a Democratic Society (SDS) was planning a ‘Solidarity with Palestine!’ rally at Golda on Wednesday, Oct. 11, and that pro-Israel groups were preparing a counter rally. Given this information and the rising tensions across the country, AHEC worked closely with several organizations to prepare, including the US Department of Justice, the Colorado Information Center, the Denver Police Department, JEWISHcolorado, the Anti-Defamation League, and Secure Community

¹⁹ Ibid.

²⁰ Fishman Testimony, 7/16/26 Web Briefing, p. 28.

²¹ Ibid., p. 28.

²² Ibid.

²³ Ibid.

²⁴ Ibid., p. 29.

Network. With the assistance of these organizations, we prepared a security plan and convinced most of the counter-rally groups not to attend due to safety concerns.”²⁵

- *October 11, 2023.* One hundred and thirty persons participated in the Students for a Democratic Society (SDS) “Solidarity with Palestine” protest at the Golda Meir House.²⁶ There were “only four counter-rally persons in attendance. Before the event, ACPD set up French barricades to separate the groups and prevent physical altercations. ACPD also had approximately ten officers (both in uniform and plain clothed) standing by at the event. The event was peaceful, and there were no incidents.”²⁷
- *October 13, 2023.* Rabbi Ort, the leader of campus Chabad, “held a regularly scheduled Shabbat meal at Golda. At the Rabbi’s request, two ACPD officers attended the event to increase the feeling of security among attendees; this was another peaceful event without incident.”²⁸
- *October 25, 2023.* One hundred and fifty persons participated in the SDS “Walkout for Palestine” protest at Golda Meir House Museum; this time, some protesters entered the museum without authorization.²⁹ “Both pro-Israel and pro-Palestine groups were at Golda, with more significant numbers than the protest two weeks prior on Oct. 11. ACPD called the Denver Police Department (DPD) to provide backup. Although the pro-Palestine group left Golda and marched to the Jordan Student Success Building for some time, they returned to Golda where there were two separate physical altercations. ACPD responded quickly to break up the altercations, and neither side pressed charges. The protest lasted for more than two hours. There were no injuries.”³⁰
- *October 26, 2023.* “Given the large protests on October 11 and 25, AHEC moves previously scheduled events at the Golda Meir House Museum (other than those directly related to the Museum, such as tours) to more secure locations on campus. This was done to preserve artifacts in the museum and to prevent any vandalism or other damage to the building itself, as well as to provide additional protection for persons using the Museum.

²⁵ Skip Spear Email Response to Colorado Advisory Committee on 2/27/2026 (hereinafter cited as *Spear Email 2/27/26*).

²⁶ AHEC Timeline Submitted by Skip Spear, p. 2 (hereinafter cited as *AHEC Timeline*).

²⁷ *Spear Email 2/27/26; AHEC Timeline*, p. 2. French barricades are interlocking steel crowd control barriers, designed for quick deployment or removal.

²⁸ *Spear Email 2/27/26; AHEC Timeline*, p. 2; Chris Perez, “Palestine Supporters Targeting Denver’s Golda Meir House with Anti-Israel Protests: Demonstrators have been Calling for an End to U.S. Aid to Israel, Urging Denver Colleges to Support Palestine and Bashing the Golda Meir house.” *Westword*, Oct. 27, 2023, <https://www.westword.com/news/golda-meir-house-in-denver-targeted-by-pro-palestine-protesters-18125037/>.

²⁹ *AHEC Timeline*, p. 2.

³⁰ *Spear Email 2/27/26; AHEC Timeline*, p. 2.

In addition, the office of the Director of the Museum was moved to a more populated location for security and to provide a supportive network.”³¹ In other words, every Jewish activity, starting with Friday evening Sabbaths, had to be moved to locations that were not visibly Jewish.

- Lev Horowitz, CU Denver, Class of 2027, later testified at a student government meeting: What I would like to say specifically is that I feel that the Jewish community here at CU Denver and Auraria are being very directly and very deliberately targeted by these protests as a means to intimidate the Jewish community. We have many meeting sites, we’ve been moved many times because these protests are always moving to where we meet. The quality of my education, the quality of my student life, has drastically fallen. ... I do not feel safe most days here.³²
- *November 2, 2023*. SDS holds another protest at the Museum. “ACPD adds security barriers to create a buffer around the Museum and prevent entry.”³³ The temporary security fencing was erected because of fears of break-ins and arson.³⁴
- *November 11, 2023*. AHEC “identified alternate locations for Rabbi Ort’s Shabbat Dinners in the Tivoli Student Union.”³⁵
- *December 2023*. From November 30 to December 3, 2023, the Jewish National Fund (JNF) held its annual Global Conference for Israel national meeting at the Denver Convention Center, which is across the street from the Auraria campus. SDS protesters broke windows at the Convention Center and were pursued onto the Auraria campus by the Denver Police Department and arrested.³⁶
- Jewish National Fund visitors “attempted to walk across the street to tour the Golda Meir House Museum. At that moment, large trucks with Palestinian flags circled the back entrance of the museum, honking and shouting. It was unsafe for the visitors to approach. The Auraria Police met the Golda visitors on the way and escorted them, not to the museum, but instead to the Catholic Church next door. I [Lena Fishman] was also escorted there by police, and I gave the tour inside the church, with officers standing nearby to protect us. My visitors felt harassed and fearful, and my ability to conduct the business of

³¹ *AHEC Timeline*, p. 2; Fishman Written Statement at 3–6.

³² Behm Written Statement at 2.

³³ *AHEC Timeline*, p. 2.

³⁴ Spear Testimony, *8/20/25 Web Briefing*, p. 35. It appears the temporary fencing was paid for by AHEC. As described below, the Museum is attempting to raise funds for more secure permanent fencing.

³⁵ *Spear Email 2/27/26; AHEC Timeline*, p. 2.

³⁶ *AHEC Timeline*, p. 3.

the museum was completely disrupted.”³⁷ Tour participants and Golda Meir House executive director Lena Fishman were evacuated in police squad cars.

- *December 23, 2023.* Hanukkah menorah lighting outside the Tivoli Student Union. No protesters.³⁸
- *January 2024.* According to written testimony from Lena Fishman: In January, the Golda Meir House Museum hosted an Israeli Arab peace activist to speak at Auraria. His entire talk, which focused on peace between Israelis and Palestinians, was disrupted by an angry mob of protesters. Attendees were harassed as they entered the student center. It was difficult to hear the speaker inside due to the shouting, and afterward, guests were again harassed as they returned to their cars. Even when we created space for dialogue and peace, it was met with intimidation and disruption.³⁹
- *January 29, 2024.* *The Atrocity Film* (or in Hebrew *The Film of Horrors*) is a 47-minute documentary of the October 7 atrocities, composed of self-recordings on GoPro and similar devices by the perpetrators, and cell phones of the victims and first responders. The film was compiled by the Israeli Defense Forces Spokesperson’s Unit. At Auraria’s Tivoli Student Union, there was a private screening sponsored by Denver’s Israeli American Council. “SDS formed a No Fascists on Campus protest in response to the screening. ACPD was present in force. There were physical altercations at this event, but the location was not moved.”⁴⁰
- *February 8, 2024.* SDS held another protest against the Jewish center. At the entrance to the Golda Meir House Museum, written in chalk, were many messages such as “Zionists off our campus” and “racist POS Zionists.”⁴¹ Other messages included, “Tear this down” (on the Golda Meir House) and “Zionists not welcome here.”⁴² AHEC removed the written hate speech.⁴³ Lena Fishman recalled: “[N]o campus leadership condemned the act,

³⁷ Fishman Written Statement at 4. “During the protest on the Quad, participants at the JNF conference attempted to tour the Golda Meir House Museum. Out of concern for their safety, ACPD escorted the participants to another building near the Museum, and the tour could not proceed until protesters left the area.” *AHEC Timeline*, p. 3.

³⁸ *Spear Email 2/27/26.*

³⁹ Fishman Written Statement at 4-5.

⁴⁰ *Spear Email 2/27/26.*

⁴¹ Rona Testimony, *7/16/25 Web Briefing*, p. 4; Behm Written Statement at 6–8. Photos of the hateful graffiti, extolled on social media by Denver Communists, are provided in the written testimony of Lauren Behm. <https://usccr.app.box.com/s/aq52obvbs8uhkx2a0198po94elwbf2vl/file/2056850013031>

⁴² Fishman Written Statement at 5.

⁴³ *AHEC Timeline*, p. 4.

investigated the perpetrators, or enforced campus rules that prohibit such conduct. The silence from leadership was deeply painful and isolating.”⁴⁴

- *March 2024.* While all student activities at the Golda Meir House have been stopped because of danger, “AHEC still allows tours of the museum, but if it’s a large group, Fishman must schedule a police escort. Many tours have canceled because people are afraid to come to the campus.”⁴⁵
- *April 10, 2024.* The San Diego Jewish Academy 9th grade class trip “had planned to tour Golda, but cancelled due to concerns over security and the mental health of their students.”⁴⁶
- *April 25, 2024.* “When the encampment began on the Tivoli quad, tents often migrated to the area directly in front of the Golda Meir House. Social media posts circulated showing these tents in front of the museum with threatening captions such as ‘Whose campus? Our campus’ and ‘Rest in peace Golda, you racist.’”⁴⁷

According to Fishman, the encampment created an atmosphere of “harassment that disrupted the operations of the museum, instilled fear in Jewish students, staff, and visitors, and made it impossible for me to do my job without constant anxiety and intimidation. Several tour groups canceled their scheduled tours of the Golda museum out of fear.”⁴⁸

A social media message from Denver-Boulder Jewish Voice for Peace (JVP) scorned the Jewish center Jews for having a security barrier. “As anti-Zionist Jews we reject the false claims of antisemitism at the Auraria Encampment. Our safety comes through solidarity, not borders like the one surrounding Hillel on campus.”⁴⁹ As will be described in Finding I, the JVP did feel safe, because it was in solidarity with the protesters who had driven all the Jews away from the campus Jewish center.

- *Present.* As of March 2026, the Golda Meir House was continuing to raise funds to build a permanent security fence.⁵⁰ Until the fencing and security cameras are installed, the Friday Shabbat dinners cannot resume. “One reason is that many Jewish students still feel

⁴⁴ Fishman Written Statement at 5.

⁴⁵ “Facing Protestors and Threats, Golda Meir House Seeks Security Enhancements,” *Jewishcolorado*, Apr. 22, 2024, <https://www.jewishcolorado.org/facing-protestors-and-threats-golda-meir-house-seeks-security-enhancements/>.

⁴⁶ *Spear Email 2/27/26.*

⁴⁷ Fishman Written Statement at 5.

⁴⁸ *Ibid.* at 6.

⁴⁹ Behm Written Statement at 6.

⁵⁰ *Fishman Email 3/4/26.*

unsafe participating in a very visible Jewish activity such as a Shabbat dinner at that location. A security fence would help create a greater sense of safety, though it would not fully resolve all concerns.”⁵¹

The Museum is open to scheduled tours by appointment only.⁵² It is still now too dangerous for Lena Fishman to work alone in the museum, so she has a cubicle with other administrators in the Tivoli Student Center. She explains, “We currently need to alert the police anytime anyone goes in or out of Golda house. And we hire the police and pay for security for all functions in Golda as well as Jewish student programming anywhere on the campus. ... It is difficult to fully convey the emotional toll that the previous two school years had on our community.”⁵³

Encampment Timeline

All three Auraria schools and their community of 45,000 share the Tivoli Student Union building and the adjacent Tivoli Quad, a 4-acre park. A green urban oasis, the Tivoli Quad is the main outdoor gathering space for students from all three schools. The Tivoli Quad encourages lingering, studying, collaborating, and socializing—making the campus more cohesive and less siloed. By design, the Tivoli Quad is the welcoming, inspiring space to energize campus life—a public space shared with the downtown Denver community. The Quad leads right into the Tivoli Student Union, the heart of the campus. The Quad and the Tivoli Student Union are open to the general public.

From April 25 to May 17, 2024, the Tivoli Quad was unilaterally appropriated by the SDS and allied organizations.⁵⁴ The occupation violated campus policies prohibiting camping.⁵⁵ Some encampment participants chanted slogans calling for the extermination of the State of Israel and for terrorist attacks on Jews globally.⁵⁶ The First Amendment generally protects antisemitic speech and also protects speech calling for murder, except in situations of imminent incitement.⁵⁷

⁵¹ Ibid.

⁵² “Schedule a Tour or Reserve Event Space,” Auraria Campus, September 11, 2025, <https://aurariacampus.edu/auraria/golda-meir-house/schedule-a-tour-or-reserve-event-space/>.

⁵³ *Fishman Email 3/4/26*.

⁵⁴ Sydney Isenberg, Landon Haaf, and Óscar Contreras, “Demonstrators Dismantle Auraria Campus Encampment After 3-Week Protest,” *Denver 7 Colorado News* (KMGH), May 21, 2024, <https://www.denver7.com/news/front-range/denver/demonstrators-dismantle-auraria-campus-encampment-after-3-week-protest>; Rebecca Tauber, “Antiwar Protesters at Auraria Campus Have Ended Their Encampment,” *Denverite*, May 18, 2024, <https://denverite.com/2024/05/18/antiwar-gaza-protesters-auraria-campus-ended-encampment/>.

⁵⁵ Auraria Campus Policy, *Camping*, effective May 18, 2004, <https://aurariacampus.edu/wp-content/uploads/Policy-Camping.pdf>.

⁵⁶ Detailed in Finding I.

⁵⁷ *Brandenburg v. Ohio*, 395 U.S. 444 (1969).

Other students and faculty reported a completely open and peaceful protest throughout this time period.⁵⁸

Below is a timeline of the April–May 2024 encampment and occupation, based on direct oral and written testimony delivered to the State Advisory Committee, as well as news reports and public statements.

As with the Golda Meir House Timeline, some of the encampment Timeline is quoted verbatim from written testimony of Skip Spear, the chief administrative officer of the Auraria Higher Education Center. Additionally, the Encampment Timeline includes many verbatim quotes from the Denver City Attorney’s Office (DCAO), which reports to Denver Mayor Mike Johnston. Some of these describe the substantial assistance that DCAO was providing to Auraria during and after the encampment. Other DCAO statements relate to decisions of the Denver government—such as forbidding the Denver police to arrest the protesters. To the extent that there are conflicts between the DCAO statements and other evidence, the conflicts are discussed in the Encampment Timeline and /or in Finding III. As with the Golda Meir House Timeline, some of the quoted material was written in the past tense, and some was written in the present tense.

- *April 25, 2024.* An encampment is established on Tivoli Quad at Auraria. Campers defy dispersal orders and remain overnight in violation of campus rules.⁵⁹ Demands from campers include termination of study abroad programs in Israel, formal denouncement of Israel by campus authorities, and divestment from businesses selling products for Israeli defense.⁶⁰ Some of the campers are armed with baseball bats.⁶¹ The Denver City Attorney’s Office (DCAO) contacts Auraria Campus Police Department Chief Jason Mollendor and stays in contact throughout the day to provide legal support and guidance.⁶²
 - On March 30, 2026, the DCAO sent the Colorado State Advisory Committee redlined comments on a draft of this report. The DCAO requested that in nine places in the report, discussion of DCAO assistance to Auraria be declared to have been

⁵⁸ See Finding I.

⁵⁹ Spear Testimony, *8/20/25 Web Briefing*, p. 4.

⁶⁰ East Testimony, *8/20/25 Web Briefing*, p. 35; Feast Testimony, *8/20/25 Web Briefing*, p. 38; Ellis Testimony, *8/20/25 Web Briefing*, p. 38; Willett Testimony, *9/3/25 Web Briefing*, pp. 9–10; Alec Berg, “12 Days in the Auraria Campus Gaza Solidarity Encampment,” *Rocky Mountain PBS*, May 9, 2024, <https://www.rmpbs.org/blogs/news/auraria-campus-protest> (hereinafter cited as “12 Days in the Auraria Campus Gaza Solidarity Encampment,” *Rocky Mountain PBS*).

⁶¹ Spear Testimony, *8/20/25 Web Briefing*, p. 4.

⁶² The DCAO attached to its memo images of text messages exchanged between the Director of the Prosecution Section at the DCAO, Marley Bordovsky, and ACPD Chief Mollendor. Those texts, labeled Exhibits A through K-2, are available at Appendix H; Denver City Attorney’s Office Submission of Exhibits to Colorado Advisory Committee, exhibit A (hereinafter cited as *DCAO Exhibits*).

“with Mayor Johnston’s full support” or a variation on the phrase.⁶³ Rather than keep repeating the phrase, we note the point here, for the record.

- *April 26, 2024.*
 - Sabbath services had been taking place in the Tivoli Student Union after protesters had made the Golda Meir House unsafe. Now, with the protesters taking over the Quad adjacent to the Student Union, sabbath services were moved miles away to the University of Denver.⁶⁴
 - The Denver Police Department (DPD) and the Auraria Campus Police Department (ACPD) have long had a mutual aid agreement, by which each agrees to come to the aid of the other. At 11:43 A.M., the ACPD, acting pursuant to the direction of the DPD and the Denver City Attorney’s Office, formally requested mutual aid from the DPD.⁶⁵ “In response, DPD prepared an operations plan to remove the encampment that was approved by the DPD Chief of Police.”⁶⁶ As Denver Chief Ron Thomas would tell the Denver Citizen Oversight Board a week later, “It wasn’t until Friday they determined that because of violations to their campus policy they wanted to declare that those individuals, if they didn’t stop, would be trespassing and thus subject to arrest. We put together a plan to go address that situation, and I approved that plan. In my mind, I thought it would result in a small number of arrests, but ultimately that didn’t turn out to be the case.”⁶⁷
 - “Via text message, DCAO contacted Chief Jason Mollendor of the Auraria Campus Police Department (ACPD) that day and stayed in contact throughout the day to provide legal support and guidance.”⁶⁸
 - Midday. After providing warnings that are ignored, Auraria Campus Police Department and Denver Police Department arrest 44 people for trespassing in violation of the campus “no camping” policy and failure to abide by law enforcement orders to disperse.⁶⁹ “Some protesters tried to push police officers out

⁶³ Denver City Attorney’s Office’s Comments to Committee Report Draft Submitted on 3/30/26 (hereinafter cited as *DCAO Comments 3/30/26*).

⁶⁴ *Fishman Email 3/4/26*; “Pro-Palestinian Protesters in Colorado Pepper Denver’s Mayor with Taunts,” *CBS Colorado*, Apr. 26, 2024, https://youtu.be/nY7jQmkTars?si=2_VMA_1tAY1CPaUk.

⁶⁵ *AHEC Timeline*, p. 5.

⁶⁶ *Spear Comments 3/23/26*.

⁶⁷ Denver Citizen Oversight Board, Meeting, May 3, 2024, at 46:50, <https://www.youtube.com/watch?v=0nxX41V7xOE>.

⁶⁸ Denver City Attorney’s Office Comments to Committee Report Draft 2/16/26 (hereinafter cited as *DCAO Comments 2/13/26*).

⁶⁹ Spear Testimony, *8/20/25 Web Briefing*, p. 4; AHEC Timeline pp. 5–6.

of the Tivoli Quad, and surrounded a cop car to try and stop it from leaving.”⁷⁰ The protesters disassembled the tents on the Quad and promised to remove them once DPD reopened the streets surrounding campus; however, after DPD and ACPD left campus to process the arrests, protesters begin rebuilding the encampment.⁷¹ “Due to ACPD’s smaller police force of approximately 30 officers total, with many assisting with booking the arrestees, they waited until DPD could return before taking further action.”⁷² At 3:10 P.M., “DPD informed AHEC that they were gathering resources and planned to return to campus and remove the encampment.”⁷³ The Denver City Attorney Office remained in communication with AHEC general counsel Skip Spear.⁷⁴

- Evening. According to AHEC, by 5:30 P.M., “all legal warnings had been given by ACPD, and both ACPD and DPD were in full formation to clear the quad a second time. DPD planned on taking the tents to a City storage facility.”⁷⁵ At 5:40 P.M., “protesters began voluntarily removing tents and DPD planned on confiscating the tents, but stated they were given orders to stand down by the Denver Mayor. When no action was taken by DPD, the protesters re-erected the tents.”⁷⁶
- Five Denver City Council members—Sarah Parady, Serena Gonzales-Gutierrez, Jamie Torres, Amanda Sandoval, and Shontel Lewis—summoned Colorado Department of Higher Education Executive Director Dr. Angie Paccione, AHEC Chief Administrative Officer and General Counsel Skip Spear, and Chief of Staff Shaneis Malouf to a 6 P.M. meeting.⁷⁷ “During that meeting, several Council members disclosed that they and their family members were participating in the protest during the arrests. AHEC was informed that ending the encampment did not align with City priorities and was directed to suspend the no-camping policy.”⁷⁸ Two of the five councilmembers, Sarah Parady and Shontel Lewis, had been endorsed

⁷⁰ Kevin Beaty, Lauren Antonoff Hart, and Rebecca Tauber, “Denver Law Enforcement Arrest Antiwar Protesters on Auraria Campus,” *Denverite*, Apr. 26, 2024, <https://denverite.com/2024/04/26/auraria-campus-israel-gaza-protest-update/>.

⁷¹ Spear Testimony, *8/20/25 Web Briefing*, p. 4; AHEC Timeline pp. 5-6; Skip Spear Comments to Committee Report Draft Submitted on 3/23/26 (hereinafter cited as *Spear Comments 3/23/26*).

⁷² *Spear Comments 3/23/26*.

⁷³ *AHEC Timeline*, p. 6.

⁷⁴ *DCAO Exhibits*, B-1 to B-3. See Appendix H.

⁷⁵ *AHEC Timeline*, p. 6.

⁷⁶ *Ibid.*

⁷⁷ Skip Spear Email Response to Colorado Advisory Committee on 2/20/26 (hereinafter cited as *Spear Email 2/20/26*); *AHEC Timeline*, p. 6.

⁷⁸ *AHEC Timeline*, p. 6; Spear Testimony, *8/20/25 Web Briefing*, p. 4.

for election by Denver Democratic Socialists of America (DSA).⁷⁹ On October 14, 2023, Denver DSA had issued a statement justifying the October 7 attacks.⁸⁰

⁷⁹ *Denver DSA's 2023 Municipal Ballot Guide*,

<https://docs.google.com/document/d/1Yoyixc9D1rUYkYRf85qeSPT-JXVCHUkj-87TGO0XeI0/edit?tab=t.0>

⁸⁰ Denver DSA, *Denver DSA stands with Palestine*, Oct. 14, 2023,

<https://pikapress.denverdsa.org/2023/10/14/denver-dsa-stands-with-palestine/>:

Denver DSA unequivocally stands in solidarity with the people of Palestine in their fight for liberation from the apartheid regime of Israel. Palestinians have endured 75 years of dispossession, colonization, desecration, torture, and confinement at the hands of the Israeli government, enabled financially, politically, and culturally by the United States. The path to liberation must include ceasing all U.S. aid to Israel, lifting the blockade of Gaza, ending Zionist settler-colonialism, and ensuring the right for Palestinians to return to their homeland.

Yesterday, a wealthy and well-funded nuclear power with the financial, political, and cultural support of the United States began forcibly evacuating 1.1 million civilians from Gaza City during an ongoing indiscriminate carpet-bombing campaign which has already killed thousands of civilians, injured tens of thousands, and displaced hundreds of thousands. Israel has cut off food, water, fuel, electricity, and medical care from Gaza's 2.3 million citizens, half of whom are children. These civilians have been deemed "human animals" by the Israeli Defense Minister overseeing these attacks, who committed to "treat them accordingly" – an open declaration of genocide. Yet even now, the American war machine readies itself to ship more weapons and send more military funding to support Israel's extermination of the Palestinian people for daring to resist their brutal, unlivable conditions.

Border walls, military checkpoints, crippling sanctions, restricted water and electricity, food scarcity, impoverishment, denial of medical care, and routine bombings are the material conditions that Palestinians have been forced to live under for over 75 years. Backed by the US, the Israeli Occupation Forces (IOF) brutally murder Palestinians with impunity, over 8,000 since 2000 and thousands since October 7. The IOF detains 600 Palestinian children every year and keeps over 5,000 Palestinians imprisoned, a quarter of whom are held without charges or trial. For 16 years, Gaza has been transformed into an open-air prison, wherein the IOF concentrates 2.3 million people in an area smaller than Denver and bombs them in politically-motivated campaigns they sadistically term "mowing the grass."

Bloodshed is a universal tragedy. But under apartheid and occupation, some lives are deemed more precious than others. The negative blowback of apartheid should come as no shock; people who are oppressed will perpetually seek ways to free themselves from that oppression. The murder of Palestinians has been a systemically invisibilized occurrence for decades. When Palestinians quietly suffer the daily violence inflicted on them, the West calls that "peace". Denver DSA recognizes that the only true and lasting peace must be predicated on liberation from occupation, and it is towards that goal that we resolve ourselves today.

We call on all DSA members and endorsed DSA electeds to stand unequivocally in support of Palestinian people's right to resist. We encourage all DSA chapters to stand with the people of Palestine and organize turn-out to local demonstrations.

- On March 30, 2026, the DCAO’s third set of comments on a draft of this report raised a new fact not noted in the February 13 or March 17 comments: “the Mayor’s Office specifically told City Council members that if they participated in the protests, they’d be doing so in their personal capacities and would not receive assistance from the DCAO if they found themselves in need of legal representation.”⁸¹ Who from the Mayor’s Office said so, and when, was not specified. The advice was accurate; Colorado statute and the Denver City Charter plainly forbids providing legal representation to City Council members under such circumstances.⁸² The influence of the five councilmembers will be discussed in Finding III.
- At 7:38 P.M., Denver Mayor Mike Johnston addressed the protesters. “By this time, the group and encampment had grown, resulting in increased tensions between the protesters and police. Mayor Johnston told the group that they could stay as long as they took down their tents.”⁸³ “The group then shouted and cursed at the Mayor as he walked away with Police Chief Ron Thomas.”⁸⁴ “DPD determined that there were too many unfavorable conditions to sweep the encampment (lateness of the evening, weather, crowd size, and increasing aggressiveness of the group).”⁸⁵ At 10:22 P.M., “given safety concerns, AHEC informed Denver City Council that it could not permit the encampment to continue.”⁸⁶ Nine minutes later, “DPD informs AHEC that it will remove the encampment the following day, on April 27.”⁸⁷
- *April 27, 2024.* At noon, “Auraria Campus leadership met with the Denver Mayor and DPD to address the ongoing encampment. The Mayor ordered DPD not to assist in making arrests and the Denver Sheriff’s Office to not accept any arrests by ACPD. Without

May Palestine be free, from the river to the sea.

(bolding in original).

⁸¹ *DCAO Comments 3/30/26.*

⁸² Colo. Rev. Stats. § 24-10-110 (taxpayers pay defense costs of a public employee only if “occurring during the performance of his duties and within the scope of his employment); Denver City Charter § 1.1.7 (city plays defense only for employees acting within scope of employment, and never for criminal charges); Denver City Charter § 6.1.3 (Denver Department of Law provides civil defense, but not criminal, for employees or officers acting within their lawful scope). *id.* (City Attorney prosecutes violations of Denver Revised Municipal Code, rather than providing criminal defense to alleged violators).

⁸³ *AHEC Timeline*, p. 6.

⁸⁴ “Pro-Palestinian Protesters in Colorado Pepper Denver's Mayor with Taunts,” *CBS Colorado*, Apr. 26, 2024, https://youtu.be/nY7jOmkTars?si=2_VMA_1tAY1CPaUk (includes the Mayor’s full speech).

⁸⁵ *AHEC Timeline*, p. 6.

⁸⁶ *Ibid.*

⁸⁷ *Ibid.*

assistance from Denver, AHEC did not have sufficient police officers to clear the encampment and did not have a jail to bring arrestees to.”⁸⁸

- Awareness of the no-assistance order ushered in what the Auraria Higher Education Center’s Chief Administrative Officer later described as “phase 2” of the encampment.⁸⁹ “During phase two, ACPD received a bomb threat and protesters began occupying the surrounding streets, blocking traffic into and out of Denver.⁹⁰ “The DCAO remained in close communication with Chief Mollendor providing legal guidance as issues arise and the activity develops.”⁹¹
- DCAO later explained the decision not to clear the encampment as follows: “Because of AHEC and ACPD’s failure to secure the Quad after the arrests, DPD Chief Ron Thomas makes the decision that Denver police officers will not continue to assist them in removing tents from that area. Based upon the Chief’s decision, on a subsequent call with executives representing the three higher institutions on the Auraria campus, Denver Mayor Mike Johnston conveys that the Denver Police Department will not assist the ACPD in future efforts to remove tents from the Quad.”⁹²
- In March 2026, DCAO interviewed Chief Thomas about the decision not to clear the encampment: “According to an interview with Chief Thomas, Commander Mike O’Donnell was in charge of the DPD command post and there were conversations between Commander O’Donnell and Chief Mollendor about clearing the encampment again and storing the tents. Given what had happened previously, however, Chief Thomas stepped in and made the decision that DPD was not going to do that again. He conveyed that there was a growing awareness that ACPD was reluctant to take an aggressive role and remove tents for liability reasons, so he made the decision that DPD would not step into the middle of enforcing campus policies that were not uniformly enforced by the campus itself.”⁹³
- Additionally, in the March 2026 interview, “Chief Thomas noted that he had concerns about how AHEC was treating people who occupied or erected tents on the quad and that there seemed to be disparate treatment depending on political

⁸⁸ Ibid.

⁸⁹ Spear Testimony, *8/20/25 Web Briefing*, p. 5.

⁹⁰ Ibid. Traffic on public streets in Denver had previously been blocked by SDS on January 22, 2024. *AHEC Timeline*, p. 4.

⁹¹ Denver City Attorney’s Office Comments to Committee Report Draft Submitted on 3/17/26 (hereinafter cited as *DCAO Comments 3/17/26*).

⁹² *DCAO Comments 3/17/26*.

⁹³ Ibid.

views, rather than strict enforcement of campus policy. Some individuals and groups were more than welcome to occupy, sleep, or erect tents in the quad while others were not. Chief Thomas grew increasingly concerned that AHEC's decision-making in this instance was based on the content of the group's message rather than the conduct of occupying and setting up tents in the quad. Because of this concern, in conjunction with the unwillingness of ACPD to take a more active role to remove tents and secure the quad, Chief Thomas made the decision that DPD would not assist to remove the encampment after the April 26 arrests."⁹⁴

- AHEC's Skip Spear considers the above justifications unsupported: "What other groups were allowed to erect tents and sleep on campus? How would the DPD chief know that AHEC's decision was based on the content of the group's message as opposed to their actions? Notably, no arrests of the same group were made until tents were erected in April—despite the fact that the same group had been broadcasting the same message since October 8. With regard to the last sentence, and again, ACPD does not have a large enough force to contain hundreds of protesters on its own."⁹⁵
- *April 28, 2024.* The encampment had grown to 60 tents.⁹⁶ The Auraria campus leadership formally requested aid from the Colorado State Patrol (CSP).⁹⁷ Later, after a mutual aid agreement between the Colorado State Patrol and the ACPD had been signed, the State Patrol began providing an on-campus presence. However, the ability of CSP to aid in law enforcement against the protesters was limited, because CSP does not have authority to enforce the Denver Revised Municipal Code. The Colorado State Patrol does have the authority to enforce Colorado state law. However, such cases would have to be prosecuted by the Denver District Attorney, which stated it would not conduct state law prosecutions of the protesters.⁹⁸
 - A 5K race on Quad for cancer survivors is cancelled.⁹⁹

⁹⁴ *DCAO Comments 3/17/26.*

⁹⁵ *Spear Comments 3/23/26.*

⁹⁶ *AHEC Timeline*, p. 7.

⁹⁷ *Ibid.*

⁹⁸ *Encampment Timeline*, May 14, 2024.

⁹⁹ Molly Cruse, "Interview: The Editor-In-Chief At MSU Denver's Student Newspaper on the Opportunity and Challenge of Covering Antiwar Protests," *Colorado Public Radio*, May 2, 2024, <https://www.cpr.org/2024/05/02/interview-student-journalist-on-covering-college-auraria-campus-antiwar-protests>.

- Also being cancelled are watch parties on the Quad for Denver Nuggets and Colorado Avalanche playoff games, and “other events.”¹⁰⁰
- *April 29, 2024.* Community College of Denver announces that it will shift to remote classes and activities starting at 5 P.M., and until May 5, to ensure the safety of employees and students. Because of the conditions created by the protesters, CCD on-campus activities were eventually cancelled for the entire rest of the semester.¹⁰¹ CCD President Marielena DeSanctis explained that her “decision to move to remote, offcampus learning and support services was made to de-escalate risk and maintain continuity of instruction and services in a safe and stable environment. ‘Safe’ does not just mean free of danger. ‘Safe’ means learning in an environment where our community’s physical, emotional, and educational rights are protected, respected, and upheld.”¹⁰² “The DCAO continues to stay in contact with Chief Mollendor, supporting ACPD’s enforcement efforts.”¹⁰³
- *May 1, 2024.* “Protesters launch Distributed Denial of Service (DDoS) cyberattack against AHEC servers, flooding the IT system with over 100,000 data packets per second and crashing the system.”¹⁰⁴
 - The Denver City Attorney Office (DCAO) double-checks and verifies that the ACPD has been delegated power from the Denver Manager of Safety to enforce the Denver Revised Municipal Code. The DCAO and ACPD begin “conversations about evidence needed for criminal cases that stemmed from the protests.”¹⁰⁵

¹⁰⁰ Ibid.

¹⁰¹ DeSanctis Testimony, *8/20/25 Web Briefing*, p. 14; Brianna Clark, “CCD Cancels In-person Classes Because of Safety Concerns During Protest at Auraria Campus,” *KUSA.com*, Apr. 30, 2024, <https://www.9news.com/article/news/education/ccd-cancels-in-person-classes-auraria-campus/73-bde173d7-c372-4d12-b92d-3e5606902ce0>; Katie Langford, “Auraria Campus Closes, CU Denver Classes Move Online Amid Ongoing Pro-Palestine Encampment: All Events at Auraria are Canceled Through Next Week, Campus Officials Say,” *Denver Post*, May 17, 2024, <https://www.denverpost.com/2024/05/17/auraria-campus-closed-cu-denver-classes-online-palestine-encampment>.

¹⁰² Marielena DeSanctis, Comments to Committee Report Draft 2/16/26 (hereinafter cited as *DeSanctis Comments 2/26/26*).

¹⁰³ *DCAO Exhibits*, D1 - D2. See Appendix H. The DCAO was supporting enforcement efforts by preparing cases against the protesters who had been arrested on April 26, before the DPD stand-down order was issued.

¹⁰⁴ *AHEC Timeline*, p. 7.

¹⁰⁵ Denver City Attorney’s Office Comments to Committee Report Draft Submitted 2/13/26 (hereinafter cited as *DCAO Comments 2/13/26*).

- *May 2, 2024.* The encampment has grown to approximately 90 tents.¹⁰⁶ Auraria requests aid from the Colorado Rangers.¹⁰⁷
- The “Auraria Executives Council” proposes that private “donors will give \$15,000 in the SDS’s name to the international committee of the Red Cross, a nonpartisan humanitarian resource with locations in both Gaza and Tel Aviv.” Further, “Auraria leadership has also agreed to continue to have set meetings with SDS leadership.” In exchange, the encampment would have to be promptly dismantled. SDS spurned the proposed charity for “a corporation that operates in Israel.”¹⁰⁸
- *May 3, 2024.* According to AHEC, the first time they heard of Chief Thomas’s rationale for not resweeping the encampment was when he testified at the May 3, 2024, hearing of the Denver Citizen Oversight Board. It was then that he said that he decided not to act because the Auraria Police had not confiscated tents after the first sweep.¹⁰⁹ He did not mention any of the other rationales which would later be stated in the March 2026 interview, such as Auraria allegedly allowing other groups to camp, or discriminating against the protesters because of their point of view.
 - The Citizen Oversight Board was unanimously supportive of the Chief’s decision not to conduct a second sweep. He explained some of the difficulties of the first sweep: “there were some individuals who ran up and assault officers, or threw a water bottle, or some other object, at an officer. And so there were five arrests for

¹⁰⁶ *AHEC Timeline*, p. 7.

¹⁰⁷ *Ibid.* The Colorado Rangers are a volunteer organization that trains members to the certified standards of Colorado law enforcement, and provides assistance to many different law enforcement agencies when they are shorthanded. <https://coloradorangers.gov/>.

The Colorado State Patrol and Colorado Rangers were providing “additional coverage to assist the ACPD officers, i.e. guarding the Golda Meir House. They were stationed in buildings to ensure security. They are unable to arrest and file charges in the City and County of Denver.” Skip Spear Email Response to Colorado Advisory Committee on 2/26/26 (hereinafter cited as *Spear Email 2/26/26*). The Morrison Police Department also provided support. Marc Sallinger, “Auraria Police Call for Backup from Multiple Departments to Handle Pro-Palestinian Protestors,” *9 News*, May 8, 2024, <https://www.9news.com/article/news/local/next/next-with-kyle-clark/auraria-police-state-backup-pro-palestinian-protestors/73-403a4717-4127-4319-993a-ecd1e9b16e4d>

¹⁰⁸ Heather Willard, “Pro-Palestine Protesters Reject \$15K Offer to End Auraria Campus Encampment,” *Fox 31 Denver*, May 2, 2024, <https://kdvr.com/news/local/private-donor-offers-15k-to-red-cross-to-end-auraria-campus-pro-palestine-protest/>. The letter from the “Auraria Executives Council” was printed on the stationery of the Auraria Higher Education Center. Auraria Executives Council, letter to Students for the Democratic Society, May 2, 2024, <https://ewscripps.brightspotcdn.com/03/5c/227349f04e34aeebedd810ccc72f5-2024-letter-from-auraria-campus-leaders-to-student-protestors.pdf>.

¹⁰⁹ *Spear Comments 3/23/26*; Denver Citizen Oversight Board, Meeting, May 3, 2024, at 47:25, <https://www.youtube.com/watch?v=0nxX41V7xOE> (hereafter cited as *Citizen Oversight Board 5/3/24 Meeting*); Shelly Bradbury, “Denver Police Refused Auraria’s Request to Clear Encampment a 2nd Time; Chief Says ‘No Legal Way’ to Do So” *Denver Post*, May 4, 2024, <https://www.denverpost.com/2024/05/03/denver-pro-palestine-protest-police-auraria-campus/>.

that behavior.¹¹⁰ Additionally, “the crowd was trying to sort of unarrest people. They were trying to, you know, cut their flex ties off and trying to wrestle them from the control of officers.”¹¹¹

- The Chief told the Board that at the encampment, outsiders outnumbered students “probably three or four to one at this point. Because you know, we know that there are a lot of out of state plates that are showing up. You know, we know from social media, we’re able to identify that they are recruiting people from other parts of the state.”¹¹²
- The Chief recounted that the Mayor and he had decided that the encampment could stay, and there was nothing that Auraria could do about it, because the Auraria Campus Police Department was so small:
 - “I’ve been explaining to the leadership at AHEC that, that we absolutely aren’t going to, just, you know, go in and sweep out this peaceful protest just because they’re occupying a space on your campus that you’d like to use for something else right now. And because of your fears that maybe this could grow to the point where it interferes with other campus activities.”¹¹³
 - “[T]hey don’t have the resources themselves to deal with the problem. I think you know they’re they’re such a small police department they can’t do anything without the assistance of State Patrol and the Denver Police Department. And so they are really, I think, at our behest, whether they like it or not. And and so, you know, nothing’s going to happen on that campus, unless unless I and the mayor think it’s the right to thing to do on that campus, and I think the mayor and I again very much aligned in terms of what is illegal behavior and what is an appropriate response by the Denver Police Department. So I think that’s the posture we’re at. And I think for the most part AHEC leadership understands that and is okay with that.”¹¹⁴
- Surprisingly, Chief Thomas told the Board there is “no legal way” to remove the encampment. Supposedly, the encampment was completely lawful, and Auraria had no legal right to use the campus space the protesters had appropriated for themselves:

¹¹⁰ *Citizen Oversight Board 5/3/24 Meeting* at 53:25.

¹¹¹ *Ibid.*, at 55:42.

¹¹² *Ibid.*, at 57:41.

¹¹³ *Citizen Oversight Board 5/3/24 Meeting*, at 48:29.

¹¹⁴ *Ibid.*, at 50:20.

- “And to us I mean it [most protesters being outsiders] doesn’t really make any difference. I mean you’re still exercising your First Amendment right whether you’re a student on campus or whether you’re not and I think for all intents and purposes that’s sort of a public space that that quad is where they’re all gathered and so even though the campus does use that area you know they do rent that that space out and have people you know have approved permits in order to occupy that space for certain events, or you know whether it be job fairs or or other cultural or school-related events. Those have all been cancelled because of what’s going on over there right now. But at the end of the day while they would I think the school would prefer that the group leave the area I just don’t think that there is any legal way to do that, well I know that there’s no legal way to do that unless they truly do something that that creates an unlawful assembly and there’s no intelligence at this point to suggest that that’s that that’s imminent.”¹¹⁵
- He also implied that Denver could be sued for acting against the encampment: “I guess I would say that we’re very clear about about, you know about, you know, the extent of our legal authority, and we’re certainly cognizant of the fact that you know we certainly don’t want to engage in anything that we could be subsequently sued, and then and then that costs the taxpayers of Denver.”¹¹⁶
- The Chief’s assertion that there was “no legal way” to remove the encampment is so plainly wrong that it raises concerns about pretext. The Tivoli Quad is owned by the Auraria campus, and is generally open to the public. On behalf of the property owner, AHEC created a no-camping rule for the Quad in 2004.¹¹⁷ By camping on the Quad against the express wishes of AHEC, the protesters were committing trespass. That is why protesters who were arrested on April 26 were later convicted of trespass, as will be detailed below. That is why the DPD’s arrests on April 26 were proper, as the Chief himself had told the Citizen Oversight Board just minutes before.
- In phone text discussion about a flyer from Students for a Democratics Society encouraging people to speak at the May 6 Denver City Council meeting and to ask that all charges against the protesters be dropped, Assistant City Attorney Bordovsky states, “We’re still

¹¹⁵ *Citizen Oversight Board 5/3/24 Meeting*, at 57:14.

¹¹⁶ *Ibid.*, at 1:00:01.

¹¹⁷ Auraria Campus Policy, *Camping*, effective May 18, 2004. <https://aurariacampus.edu/wp-content/uploads/Policy-Camping.pdf>.

not dismissing.” ACPD Chief Mollender replies, “You have been so helpful. I just want to thank you again.”¹¹⁸

- *May 5, 2024.* The encampment has grown to over 200 individuals and 100 tents.¹¹⁹ “Protesters marched to Speer Blvd and Auraria Pkwy, outside of ACPD jurisdiction, blocking traffic for nearly two hours. DPD did not intervene.”¹²⁰ “ACPD received a bomb threat claiming that a pipe bomb was in the CU Denver dorms on the Tivoli Quad. A search was carried out, and no bomb was found.”¹²¹ The DPD assisted with the response to the bomb threat.¹²²
- *May 6, 2024.* Phase 3 of the encampment ushers in more aggressive and forcible activity.¹²³
 - At approximately 3:45 P.M., protestors “forcefully entered and occupied the private, locked Auraria Campus executive offices within the Tivoli Student Union. The protestors pushed past a student employee and then refused to leave after multiple requests.”¹²⁴ The protestors “occupied AHEC offices in the Tivoli Student Union, breaking the entryway, while others stayed outside chanting and banging on the windows. AHEC staff evacuated employees from the office and the group left after ACPD responded. Protesters begin releasing personal information of AHEC staff and ACPD members online.”¹²⁵ The tactic of releasing personal information online and thereby facilitating threats or attack against the victim or family is known as “doxxing.”
 - DCAO writes: “Doxxing is a crime under state law, which could have been enforced either by ACPD or CSP, and there is no evidence that DPD was notified of this ‘more aggressive and forcible activity.’”¹²⁶ Further, writes DCAO, “No criminal charges resulted from the May 6th action, because, as conveyed to DCAO on multiple phone calls with Chief Mollendor during the incident, the ACPD made the strategic decision not to arrest or charge anyone; however the DCAO stayed in contact with ACPD providing legal

¹¹⁸ DCAO Exhibits, F-1 to F-2. See Appendix H.

¹¹⁹ Spear Testimony, 8/20/25 Web Briefing, p. 5; AHEC Timeline, p. 7.

¹²⁰ AHEC Timeline, p. 7.

¹²¹ Ibid.

¹²² Spear Email 2/26/26.

¹²³ Spear Testimony, 8/20/25 Web Briefing, p. 5.

¹²⁴ Auraria Campus, *Auraria Campus Developments May 7*, <https://aurariacampus.edu/auraria/auraria-campus-protest-updates-april-2024/auraria-campus-developments-may-7-2024/>.

¹²⁵ AHEC Timeline, pp. 7–8.

¹²⁶ DCAO Comments 3/17/26. The source of the interior quote was not specified.

guidance as things developed.”¹²⁷ Skip Spear writes, “ACPD did not issue any citations to the protesters who entered the AHEC Executive Officers because they left when instructed to do so by ACPD.”¹²⁸ This would be true in the sense that the protesters finally did leave voluntarily, rather than having to be dragged out.

- *May 7, 2024.* On this day there were two building invasions.
 - The May 6 occupiers of the Auraria Campus Executive Office had demanded an immediate meeting with administration about divestment, and had threatened to disrupt graduations if their demands were not met. Hence, on May 7, an AHEC executive and Dr. Angie Paccione met in the Tivoli Student Union with protest organizers. Dr. Paccione was the executive director of the Colorado Department of Higher Education, which oversees the Auraria schools.¹²⁹
 - “While this meeting was ongoing, protesters entered the Tivoli Student Union. The Executive Director was eventually evacuated from the building by law enforcement.”¹³⁰ The building was subject to an “emergency alert” telling people to stay away; the alert was in effect from 11:46 A.M. to 12:45 P.M.¹³¹
 - After the meeting with Paccione, “Khalid Hamu, a senior at CU Denver and organizer with Students for a Democratic Society . . . and other student organizers encouraged dozens of students to flood administrators’ voicemail boxes. The students protesting Tuesday morning did so.” “Hamu said students will continue to call their school administrators and chant outside of their offices.”¹³² “When we escalate, we get our demands met,” Hamu told the encampment. “If they want to keep pushing us around acting like we’re going to just sit idly by, we will continue to escalate the situation.”¹³³
 - “Several dozen protestors on the Auraria Campus began marching from the Tivoli Quad through campus Tuesday afternoon. After unsuccessfully attempting to

¹²⁷ *DCAO Comments 2/13/26.*

¹²⁸ *Spear Comments 3/23/26.*

¹²⁹ Office of the President, “Protesters Escalate Tactics,” *MSU Denver*, May 7, 2024, <https://www.msudenver.edu/president/news/protesters-escalate-tactics-5-7-2024/>.

¹³⁰ *AHEC Timeline*, p. 8.

¹³¹ Heather Willard, “14 Auraria Protesters Face Charges After Occupying Building,” *Fox31/KDVR*, May 7, 2024, <https://kdvr.com/news/local/police-activity-at-tivoli-building-on-auraria-campus/>.

¹³² “12 Days in the Auraria Campus Gaza solidarity encampment,” *Rocky Mountain PBS*.

¹³³ *Ibid.*

access the MSU Denver Jordan Student Success Building, they made unauthorized entry into the MSU Denver Aerospace, Engineering, and Sciences (AES) Building at around 5:00 p.m.” They began “vandalizing the building,” which “was locked and closed to the public.”¹³⁴ “The protestors occupied the first floor of the building and impeded students’ access to classrooms for final exams. Additionally, they chanted, pounded drums, and used amplified sound in violation of campus event policies, and therefore, they violated MSU Denver’s Student Code of Conduct. Following three warnings, the Auraria Campus Police Department issued a summons for trespass and failure to obey lawful orders to each of the 14 protestors.”¹³⁵

- Auraria Campus Police Department Chief Jason Mollender summarized the situation to Denver Assistant City Attorney Marley Bordovsky: “We had a large group of people enter a MSU Denver Building. They placed stickers around the building and then began to loudly chant and disrupt the operations. MSU wanted them charged with trespass. They were advised to leave by an administrator. They refused. I then gave them the dispersal order and 14 chose to remain. We are trying to process them now. The Denver Sheriff’s will not take them on Trespassing charges.”¹³⁶
- According to AHEC’s Skip Spear, “While a large number of DPD officers were outside the building, they were unable to assist due to the Mayor’s orders and ACPD responded without support. After multiple warnings, 14 individuals were temporarily detained by ACPD and issued citations for trespassing and then released. AHEC made several requests during the occupation to the Mayor’s Office, begging for DPD support and to allow custodial arrests, however these requests were denied.”¹³⁷ The DPD did

¹³⁴ AHEC Timeline, p. 8.

¹³⁵ Auraria Campus, *Auraria Campus Update*, May 7, <https://aurariacampus.edu/auraria/auraria-campus-protest-updates-april-2024/auraria-campus-update-may-7/>.

¹³⁶ Jason Mollender text to Marley Bordovsky, May 7, 2024, 6:23 P.M., reproduced in *DCAO Comments 2/13/26*, exhibit C. See Appendix H). Ms. Bordovsky is now and was in 2024 the Director of Prosecution and Code Enforcement in the DCAO.

As the DCAO points out, the Committee “did not interview Sheriff Elias Diggins or anyone in the Denver Department of Safety to more fully understand the DSD policies about jailing and jail capacity for low-level offenses such as municipal trespassing.” *DCAO Comments 3/17/26*. The matter is discussed in Finding III. It seems questionable whether “jail capacity” was the driving reason for refusing to take protestors into temporary custody. According to DCAO, recent state legislative changes in bail laws meant that arrested protestors would have been out of jail in a matter of hours. *Ibid*.

¹³⁷ AHEC Timeline, p. 8.

assist “ACPD on the exterior east side of the building to maintain a clear pathway for arrestees to leave.”¹³⁸

- The Denver City Attorney’s Office states: “DPD did provide support during this incident and Chief Thomas recommended to ACPD that they wait until the building was actually closed before taking enforcement action for trespassing. This is a normal enforcement approach in these types of situations where no public safety issues are implicated by the protest activity. Chief Thomas pointed to a recent example of protest activity that occurred in the Webb Building where a group occupied a floor of the building to convey a message about city policy. DPD responded but did not enforce trespass until the building was actually closed and the public was no longer welcome in that space. Chief Thomas asserts that DPD was not made aware that this incident involved any vandalizing conduct.”¹³⁹
- Skip Spear replies: “Neither myself or the ACPD Chief of Police are aware of any communication from Chief Thomas regarding waiting until the AEC building was closed to take enforcement action. . . . Note, this is a private building—not a public one. As such, waiting for the building to close does not make sense, particularly given that this occurred while students were taking final exams in the building. Also, while this was occurring, myself and the AHEC CEO were on a call with the Mayor’s Chief of Staff . . . describing in detail what was happening, including the vandalizing conduct. Also note that during these incidents ACPD used the radio frequency Tac 6—this is a DPD radio frequenc[y], so DPD would have been aware of every radio transmission.”¹⁴⁰
- The Auraria Campus administration releases a letter about the May 6 and May 7 invasions. The letter notes the protesters’ threats to disrupt graduations. The letter warns, “There is no tolerance for those who break the law or willingly disrupt the safety and well-being of our community. Students violating their institution’s student code of conduct could be subject to consequences according to that Code. Over the past few days, we’ve seen evidence of trespassing, biohazard threats

¹³⁸ Spear Email 2/26/26.

¹³⁹ DCAO Comments 3/17/26. The Wellington E. Webb Municipal Office Building in downtown Denver hosts most of the city government’s offices, departments, and services. It is open to the public during weekday business hours.

¹⁴⁰ Spear Comments 3/23/26.

blocked city roads. There has also been vandalism on campus, including an increase [in] antisemitic language and messages appearing on campus property.”¹⁴¹

- *May 9, 2024.* Because of the express threats of disruption, the graduation ceremony for the Community College of Denver was held at the CCD’s Lowry Campus, in Aurora.¹⁴²
 - “That afternoon, protesters marched through Denver streets, blocking traffic for approximately an hour. DPD did not intervene. Protesters erected a tent outside of the Golda Meir House Museum but returned to the Tivoli Quad. The tent was removed by ACPD and, due to concerns of vandalism of the building, a fence was erected around the Museum, which remained in place for the summer.”¹⁴³
 - Auraria administrators “have refused to meet with Students for a Democratic Society as a representative body for the three schools,” and instead will meet only “with students from the schools they represent.”¹⁴⁴
- *May 10, 2024.*
 - “AHEC sent a formal Request for Mutual Aid to the Colorado Department of Public Safety to assist and reinforce the crisis response team, who had been working around the clock since April 25.”¹⁴⁵
 - The MSU Denver commencement ceremony had been moved off campus, but protesters disrupted it.¹⁴⁶

¹⁴¹ Office of the President, MSU Denver, *Protesters Escalate Tactics*, May 7, 2024, <https://www.msudenver.edu/president/news/protesters-escalate-tactics-5-7-2024/>.

¹⁴² Karen Morfitt, “Denver’s Auraria Campus Graduation Changes Amid Pro-Palestinian Protests,” *CBS Colorado*, May 7, 2024, <https://www.cbsnews.com/colorado/news/denvers-auraria-campus-graduation-changes-amid-pro-palestinian-protests>.

¹⁴³ *AHEC Timeline*, p. 8.

¹⁴⁴ “12 Days in the Auraria Campus Gaza solidarity encampment,” *Rocky Mountain PBS*.

¹⁴⁵ *AHEC Timeline*, p. 8.

¹⁴⁶ *AHEC Timeline*, p. 8. The disruptions of the morning and afternoon events lasted about five minutes each, with protesters chanting “Free Palestine” and raising hands dipped in red paint, to symbolize blood. Julianna O’Clair, “Pro-Palestine Encampment Set Up at DU; Protesters Make Themselves Heard at CU Denver, MSU Denver Graduations,” *Denver Post*, May 14, 2024. Red hands became a symbol of Palestinian resistance on October 12, 2000, during the Second Intifada. In Ramallah, two Israeli reservists who had gotten lost and entered a town controlled by the Palestinian Authority, were murdered by a lynch mob; one of the murderers, Aziz Salha, appeared at a window exultantly waving his blood-covered hands to a cheering crowd below. A copy of the instantly iconic photo is available at: Emanuel Fabian, “Palestinian Infamous for 2000 Lynching of Soldiers in Ramallah Killed in Gaza Strike,” *Times of Israel*, Oct. 3, 2024, <https://www.timesofisrael.com/man-infamous-for-2000-lynching-of-soldiers-in-ramallah-said-killed-in-gaza-strike/>. Some persons who use the red hands symbol at an anti-Israel expression may not know the symbol’s history.

- “Protesters began a bulk email attack against AHEC executives and ACPD from civiinput@newmode.org and noreply@adv.actionnetwork.org sending over 15,000 emails and rendering email communication impossible.”¹⁴⁷
- *May 11, 2024.* For reasons not related to the protests, the CU Denver commencement ceremony had long been scheduled to be off-campus. The protesters disrupted it.¹⁴⁸
- *May 13, 2024.* “Individuals from the encampment removed glass partitions to access and occupy the CU’s Bursar’s Office. Employees fled from the office. The group then vandalized the office. Because of this incident, the campus went under lockdown.”¹⁴⁹ A full Auraria Campus lockdown with an emergency alert was initiated at 4:44 P.M. All nonessential persons were evacuated while the threat was assessed. The campus lockdown was lifted at 5:48 P.M.¹⁵⁰ “After multiple warnings, 10 individuals were issued citations for trespassing and disturbing the peace by ACPD. Typically, these behaviors would result in support from DPD and custodial arrests, however City leadership blocked DPD from assisting and the Sheriff’s Department from booking the occupiers into jail.”¹⁵¹
 - DCAO writes: “Because of changes in state law in recent years, even if someone were arrested they would be released within an hour or two AHEC did not relay any information to DPD about destructive conduct or vandalizing of the premises.”¹⁵² AHEC writes: “DPD monitored ACPD and CSP patrol vehicles during this incident to ensure they were not vandalized. But, although being aware of the situation, DPD did not otherwise assist.”¹⁵³

¹⁴⁷ *AHEC Timeline*, p. 8.

¹⁴⁸ *Ibid.* As at the MSU graduation, there were about 50 disrupters in the morning and in the afternoon; they persisted for about five minutes until escorted out of the building by security. As at MSU, no arrests were made. Sage Kelley, “Protesters Briefly Disrupt CU Denver Commencement Ceremonies Saturday; 2,200 Students Receive Degrees,” *Denver Gazette*, May 11, 2024, <https://www.denvergazette.com/2024/05/11/protesters-briefly-disrupt-cu-denver-commencement-ceremonies-saturday-2200-students-receive-degrees-364d0522-0fbc-11ef-b393-07601db90fb4>.

¹⁴⁹ *AHEC Timeline*, p. 9.

¹⁵⁰ *Ibid.*; Auraria Higher Education Center (AHEC), *Official Protest Update*, May 13, 2024, <https://aurariacampus.edu/auraria/auraria-campus-protest-updates-april-2024/auraria-campus-protest-update-may-13>

¹⁵¹ *AHEC Timeline*, p. 9.

¹⁵² *DCAO Comments 3/17/26*.

¹⁵³ *Spear Comments 3/23/26*; Auraria Campus Police Department, *CAD Call Log*, C2024-005797, May 13, 2024. P. 3, 16:55 (“On 2024-05-13 16:55 ALVISIOE logged[:] dpd dist 1 helping to monitor patrol vehs”).

- *May 14, 2024.* Chanting and banging on trash cans,¹⁵⁴ “Protesters from the encampment occupied the Tivoli Student Union. Campus went under lockdown. Approximately 30 individuals were outside of the Tivoli and attempted to make entry while 14 individuals set up tents inside. The two groups pinned several ACPD officers between them, endangering the officers’ safety. After multiple warnings, 12 individuals were detained and issued citations for trespassing by ACPD. Again, these individuals would have typically been placed in custodial arrests, however due to the restrictions placed by City leadership, only citations were issued.”¹⁵⁵ As a result, a campuswide lockdown was issued at 4:50 P.M. The lockdown remained in effect until 6:20 P.M. The Tivoli Student Union was closed for the entire evening, with all events and study sessions cancelled.¹⁵⁶
 - In response to a question from AHEC, the Denver District Attorney’s Office states that it will not enforce “obscure” state laws against trespassing,¹⁵⁷ invasions and abuse of educational institutions¹⁵⁸ and camping on public property,¹⁵⁹ absent serious injury or property damage.¹⁶⁰
 - Auraria campus spokesperson Devra Ashby reports, “Parents of students, and staff, have submitted complaints to campus administrators with pictures of feces near and around their vehicles parked near the quad.”¹⁶¹
- *May 15, 2024.* The Denver City Attorney Office asks ACPD Chief Mollender to provide a list of cited persons who are not Auraria students, so that the City Attorney can ask a court for an Area Restriction Order, against them entering the Auraria Campus.¹⁶²

¹⁵⁴ Sydney Isenberg, “12 Pro-Palestinian Protesters Issued Summons After Setting Up Tents Inside Tivoli Student Union” *Denver7 ABC*, May 15, 2024, <https://www.denver7.com/news/local-news/12-pro-palestinian-protesters-issued-summons-after-setting-up-tents-inside-tivoli-student-union>.

¹⁵⁵ *AHEC Timeline*, p. 9; “Protesters Pitch Tents Inside Tivoli During Meeting With Trustees - MSU Denver,” *MSU Denver*, Mar. 27, 2025, <https://www.msudenver.edu/president/news/protesters-pitch-tents-inside-tivoli-during-meeting-with-trustees-5-14-2024/>; Auraria Campus, *Tivoli Student Union Tent Occupation on May 14, 2024*, <https://aurariacampus.edu/auraria/auraria-campus-protest-updates-april-2024/tivoli-student-union-tent-occupation-on-may-14-2024/>.

¹⁵⁶ Auraria Higher Education Center (AHEC), *Official Update*, May 14, 2024, <https://aurariacampus.edu/auraria/auraria-campus-protest-updates-april-2024/tivoli-student-union-tent-occupation-on-may-14-2024>

¹⁵⁷ Colo. Rev. Stats. § 18–9–110.

¹⁵⁸ Colo. Rev. Stats. § 18–9–109.

¹⁵⁹ Colo. Rev. Stats. § 18–9–117.

¹⁶⁰ *Spear Email 2/26/26*.

¹⁶¹ Lauren Scafidi, “12 More Protesters Cited for Trespassing on Auraria Campus Tuesday,” *9News*, May 15, 2024, <https://www.9news.com/article/news/local/auraria-campus-police-ticket-12-protesters/73-7388c861-0137-41c8-b92f-091c507dbb70>.

¹⁶² *DCAO Exhibit C*. See Appendix H.

- *May 16, 2024.* The University of Colorado of Board of Regents announces that “Consequences will be imposed as applicable for those who don’t comply with” campus “laws, policies and conduct codes.”¹⁶³ AHEC spokesperson Devra Ashley accuses the protesters of “chronic intimidation, campus chaos and business disruptions.”¹⁶⁴
- *May 17, 2024.* The entire Auraria Campus moves all operations online “until further notice.” All classes became online only, and all buildings are locked, except for critical personnel. All on-campus events are canceled.¹⁶⁵
 - “Moving to online classes impacts 23 of CU Denver’s ‘Maymester’ classes, which run from May 13 to 30.”¹⁶⁶ Not only were all CU Denver campus events canceled,¹⁶⁷ faculty were not allowed to access their offices.¹⁶⁸ Students who were working on projects that spanned more than one semester could not use the campus.
 - “Protesters marched across campus and blocked traffic at Speer Boulevard and Auraria Parkway for nearly an hour Friday night ahead of the Colorado Avalanche game at Ball Arena.”¹⁶⁹
 - In the evening, protesters announced the voluntary removal of the encampment.¹⁷⁰

¹⁶³ *Statement from University of Colorado Board of Regents on Auraria Campus Protests*, May 16, 2024, <https://regents.cu.edu/statements/statement-university-colorado-board-regents-auraria-campus-protests>.

¹⁶⁴ Landon Haaf, “Auraria officials: Pro-Palestinian Protests Have Cost Campus \$290k, Led To 80 Arrests,” *Denver 7 ABC*, May 21, 2024, <https://www.denver7.com/news/front-range/denver/auraria-officials-pro-palestinian-protests-have-cost-campus-290k-led-to-80-arrests>.

¹⁶⁵ Auraria Higher Education Center (AHEC), *Official Update*, May 17, 2024, <https://aurariacampus.edu/auraria/auraria-campus-protest-updates-april-2024/modified-building-access-friday-may-17>.

¹⁶⁶ Katie Langford, “Auraria Campus Closes, CU Denver Classes Move Online Amid Ongoing Pro-Palestine Encampment,” *Denver Post*, May 17, 2024, <https://www.denverpost.com/2024/05/17/auraria-campus-closed-cu-denver-classes-online-palestine-encampment>.

¹⁶⁷ University of Colorado at Denver, *Update* (“All on-campus events will be canceled over the weekend and next week. Please take your personal belongings and materials needed for remote learning and work.”), <https://web.archive.org/web/20250410113312/https://view.communications.cu.edu/?qs=ca75aa5b15631f06931c9c06d14d69b5136b8414a9861fc3ac403d4d2c1902996c5298fb1dd86cbc93fff9205ada514188b8255510f05ee71acdda46d2d9ab03515f14d8360c85a23a420b88d58de5522d77f0a10319739>

¹⁶⁸ Óscar Contreras, “All 3 Schools on Denver’s Auraria Campus Shifting to Remote Learning Due to Pro-Palestinian Protests,” *Denver7* (KMGH-TV), May 17, 2024, <https://www.denver7.com/news/front-range/denver/all-3-schools-on-denvers-auraria-campus-shifting-to-remote-learning-due-to-pro-palestinian-protests>.

¹⁶⁹ Langford, “Auraria Campus Closes,” *Denver Post*, May 17, 2024.

¹⁷⁰ *AHEC Timeline*, p. 9.

- *May 18, 2024.* AHEC fenced off the Tivoli Quad and began repairs, including damage to the lawn and for biohazards.¹⁷¹
- *May 22, 2024.* Auraria buildings were reopened, with ID access.¹⁷²

During the encampment period, “Anti-Israel protesters would come into classes, shout ‘Free Palestine’ or ‘from the river to the sea’ and ask people to walk out of class with them to protest. Protesters would put up protest ‘exhibits’ alongside real exhibits for school or class and they weren’t even part of the class.”¹⁷³

Prosecutions

The Denver City Attorney Office (DCAO) wrote to the Committee about its role in the prosecutions of the crimes of April 26, May 7, May 13, and May 14, 2024:

These cases involved a significant amount of motions work, discovery issues, proof issues, and witness preparation. DCAO attorneys met with ACPD officers multiple times throughout the pendency of these cases. Despite the fact that only one case ended up going to trial, these cases took an enormous amount of time and preparation from the prosecution team. Many of them involved heated and lengthy motions hearings addressing complicated constitutional issues, evidentiary issues, and discovery issues. ... The trial attorneys spent many hours meeting with APD multiple times, going to their office on the Auraria Campus, walking the Quad, and preparing witnesses for trial.¹⁷⁴

PACE [the prosecution unit in the DCAO] leadership met with the ACPD Chief, officers, and executive staff multiple times to provide guidance on putting together a provable criminal case and providing discovery. We went to their office to provide hands-on, in-person support. We met with their executive assistant who had been tasked with putting together hundreds of hours of video, personally picked up hard-drives, and basically PACE Director was on-call with the APD Chief on a daily basis to provide support and guidance as protest activities continued to occur on campus.¹⁷⁵

Because ACPD had little to zero experience handling these types of large-scale protests and putting together complex criminal cases, the first cases from April 26 reflected that lack of experience. Many of those initial cases had to be

¹⁷¹ Auraria Higher Education Center (AHEC), *Official Statement*, May 18, 2024, <https://aurariacampus.edu/auraria/auraria-campus-protest-updates-april-2024>.

¹⁷² Auraria Higher Education Center (AHEC), *Auraria Campus Protest Updates*, May 2024, <https://aurariacampus.edu/auraria/auraria-campus-protest-updates-april-2024>.

¹⁷³ Ort Testimony, *9/3/25 Web Briefing*, p. 6.

¹⁷⁴ *DCAO Comments 2/13/26*.

¹⁷⁵ *Ibid*.

dismissed because of discovery or proof issues. We worked closely with ACPD officers so that future cases were stronger and more provable¹⁷⁶

Some prosecutions could not proceed due to prosecutorial problems. On September 13, 2024, assistant city attorney associate David D. Clore wrote to Skip Spear and Chief Mollender to inform them, “Due to inadvertent late discovery of some of the HALO video (issue on our end), after staffing with supervisors, we made the very tough decision to dismiss the case as additional discovery sanctions being imposed by the Court were probable. We are working to address what led to the late discovery in this case and prevent recurrences in related cases.”¹⁷⁷ On September 20, 2024, the DCAO informed Auraria leadership that the DCAO had dismissed the case against the protest leader; no explanation was provided.¹⁷⁸ Then, the City dismissed 9 of the April 26 cases “in the interests of Justice.”¹⁷⁹ An assistant city attorney explained:

[W]e dismissed these cases due to having provided video footage from the wrong date. In order to avoid the court making a finding there has been a pattern of discovery violations and / or gross neglect that could cause the courts to dismiss all the remaining cases that just received the correct surveillance. Because these cases were set next week, we didn’t have any time left we could argue late disclosure wouldn’t impact defense. While I don’t believe the surveillance has great evidentiary value to the defense, the issue of us providing it was untimely.

Moses and I worked to find any other alternative and concluded this was the best bad choice we could make to be able to go forward in the remaining cases.¹⁸⁰

On January 31, 2025, a case involving one of the May 2024 building invasions was dismissed by the court. An assistant city attorney summarized the ruling:

Court says

-city has regularly violated [Colo. Rule of Criminal Procedure] R16 under the pendency of this case

-even if nothing is new on the recently discovered BWC [body-worn camera], that issue is up to the defense

-court finds discovery violation and due to the history of the case and that it was previously continued, and Speedy was previously waived to prepare for trial IAW [in accordance with] addl info

-due process would be violated by resetting the trial or asking the defendant to waive speedy trial again

¹⁷⁶ Ibid.

¹⁷⁷ David D. Clore, email to Jason Mollender and Skip Spear, Sept. 13, 2024. The emails cited about prosecutorial problems were provided to the Committee as attachments to Skip Spear’s email to the Committee of Mar. 24, 2026.

¹⁷⁸ Brandy Marie Dijétté-Pierce, assistant city attorney, email to Jason Mollender et al., Sept. 20, 2024.

¹⁷⁹ Assistant City Attorney Section Supervisor, email to Jason Mollender, Oct. 28, 2024 (date that Chief Mollender forwarded the email).

¹⁸⁰ Jason A. Kramer, assistant city attorney senior, email to Jason Mollender, Sept. 21, 2024.

Court Dismisses the matter.¹⁸¹

The DCAO provided the following table of prosecution outcomes from the Auraria encampment (April 26) and building invasions (three dates in May):¹⁸²

	Total Cases	Dismissal for Discovery Issues	Dismissal for Proof Issues	Guilty/Plea Bargain	Guilty at Trial
April 26, 2024	44	20	6	18	0
May 7, 2024	14	4	0	10	0
May 13, 2024	10	0	0	9	1
May 14, 2024	11	2	0	9	0

The Denver City Attorney’s Office also provided the Committee with a table on the individual prosecutions. The table is Appendix D of this report. According to the table, of persons who were arrested, 23 were students, 2 were faculty, and 40 were outsiders. This suggests that the encampment was more of an invasion of Auraria by outsiders than a student protest. The convictions, by plea and by trial, for trespass and other crimes confirm that the encampment and building invasions were criminal.

On March 27, 2025, ACPD Chief of Police Jason Mollendor arranged an appreciation lunch “with the DCAO Director of Prosecution and the CEO of AHEC, Colleen Walker, and their General Counsel, Skip Spear to talk through the challenges presented by these cases.” In appreciation, the Denver Director of Prosecution was gifted an ACPD challenge coin.¹⁸³

DCAO writes: “In appreciating the DCAO, Mr. Mollendor was also appreciating Mayor Johnston who empowered the DCAO to do this important work. The DCAO reports to and represents Mayor Johnston.”¹⁸⁴

Cui bono (Who stands to gain)?

In July 2024, President Biden’s Director of National Intelligence, Avril Haines, made a disclosure regarding then-recent anti-Israel protests: “We have observed actors tied to Iran’s government posing as activists online, seeking to encourage protests, and even providing financial support to

¹⁸¹ Adam J. Hepp, assistant city attorney senior, email to Andrew W. Swartzmiller, assistant city attorney associate, Jan. 31, 2025 (forwarded Feb. 3, 2025 to Jason Mollendor).

¹⁸² *DCAO Comments 2/13/26*.

¹⁸³ *Ibid.*

¹⁸⁴ *DCAO Comments 3/30/26*. Appendix H, which contains text messages between the DCAO and Chief Mollendor contains repeated expressions of gratitude to DCAO.

protesters.... Americans who are being targeted by this Iranian campaign may not be aware that they are interacting with or receiving support from a foreign government.”¹⁸⁵

According to AHEC general counsel Skip Spear, there were “numerous conversations with federal law enforcement agencies who disclosed to us that there was money being put into these protests, as well as professional protesters who were appearing on the campus. One of the groups or terms that was used frequently was black bloc as well as antifa.”¹⁸⁶

Similarly, MSU general counsel David Fine noted that the SDS (National Students for a Democratic Society) appeared to be directed from outside the school community: “We don’t know exactly where their orders were coming from. It seemed to be coming from outside of the campus, because a lot of their talking points had nothing to do with what was occurring on campus but were sounding more like national talking points. That was the organization that seemed to be involved that was represented on the encampment. We had an SDS student organization on campus. They were suspended as a result of violations of our campus policies during the protests.”¹⁸⁷

Jurisdiction

The following are relevant federal legislation and directives related to the topic of antisemitism.

United State Constitution

- *First Amendment* – “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press;

¹⁸⁵ *Statement from Director of National Intelligence Avril Haines on Recent Iranian Influence Efforts*, ODNI News Release No. 17-24, July 9, 2024, <https://www.dni.gov/index.php/newsroom/press-releases/press-releases-2024/3842-statement-from-director-of-national-intelligence-avril-haines-on-recent-iranian-influence-efforts>.

¹⁸⁶ Spear Testimony, *8/20/25 Web Briefing*, p. 20. “Black Bloc” refers to the protest tactic of dressing in all-black clothing, and often using masks for disguise. The Black Bloc tactic is frequently used by groups that call themselves “Antifa,” a shorthand for “anti-fascist,” and an ironic name, because they copy fascist tactics of using violence to suppress speech. On Sept. 22, 2025, President Trump designated Antifa as a domestic terrorist organization. 90 Fed. Reg. 46317, <https://www.whitehouse.gov/presidential-actions/2025/09/designating-antifa-as-a-domestic-terrorist-organization/>. Whatever the accuracy of the designation, it has no legal effect. Federal law provides for the designation of entities as a “foreign terrorist organization” (FTO) and the designation has severe legal consequences. Under federal law, there is no parallel system for an alleged “domestic terrorist organization.”

¹⁸⁷ Fine Testimony, *8/20/25 Web Briefing*, p. 20.

Suspended or not, SDS continued to rally at Auraria, “SDS Held Rallies at Auraria on Divestment from Israel,” *Fight Back! News*, Aug. 27, 2024 (“The organization has been put on interim probation and has been instructed to not meet or have events on campus. A number of students have been put on probation, with three students suspended.”), <https://fightbacknews.org/articles/denver-sds-starts-fall-semester-with-march-demanding-divestment-from-israel>; SDS_Denver, *Instagram*, Nov. 6, 2024 (“All out against Trump! Join us for a rally and march on the Auraria campus to we demand an end to US aid to Israel, Stand with Immigrants, Protecting trans youth, and defending DEI programs! Location: Lawrence Plaza (In between Auraria Library and the Plaza Building) Time/Date: Thursday, November 7th, 3PM”).

or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”¹⁸⁸

- *Fourteenth Amendment, Section 1*

Federal Legislation

- *Civil Rights Act of 1866* – “(a) All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, ... to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, (b) ‘Make and enforce contracts’ defined. For purposes of this section, the term ‘make and enforce contracts’ includes the making, performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship (c) Protection against impairment. The rights protected by this section are protected against impairment by nongovernmental discrimination and impairment under color of State law.”¹⁸⁹
- *Title VI of the Civil Rights Act of 1964* – “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”¹⁹⁰
- *Ku Klux Klan Act of 1871 (a/k/a Enforcement Act)* – “If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws ...; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.”¹⁹¹

¹⁸⁸ U.S. Const. amend. I.

¹⁸⁹ 42 U.S.C. § 1981.

¹⁹⁰ 42 U.S.C. § 2000d et seq. (2018).

¹⁹¹ As currently codified and revised, 42 U.S.C. § 1985(3); based on 17 Stat. 13 § 2, Apr. 20, 1871.

- *Insurrection Act* – “The President, by using the militia or the armed forces, or both, or by any other means, shall take such measures as he considers necessary to suppress, in a State, any insurrection, domestic violence, unlawful combination, or conspiracy, if it--
 - (1) so hinders the execution of the laws of that State, and of the United States within the State, that any part or class of its people is deprived of a right, privilege, immunity, or protection named in the Constitution and secured by law, and the constituted authorities of that State are unable, fail, or refuse to protect that right, privilege, or immunity, or to give that protection; or
 - (2) opposes or obstructs the execution of the laws of the United States or impedes the course of justice under those laws.

In any situation covered by clause (1), the State shall be considered to have denied the equal protection of the laws secured by the Constitution.”¹⁹²

Presidential Directives

- *Executive Order 13899, “Combating Anti-Semitism”*¹⁹³ – The EO directs federal agencies to “consider” the International Holocaust Remembrance Alliance’s working definition and contemporary examples of antisemitism when investigating civil rights complaints. Under the executive order, all executive departments and agencies—including the Department of Education, Department of Justice, State Advisory Committees to the U.S. Commission on Civil Rights, and others—are required to consider the International Holocaust Remembrance Alliance definition of antisemitism when enforcing Title VI of the Civil Rights Act of 1964.
- *Executive Order 14188, “Additional Measures to Combat Anti-Semitism”*¹⁹⁴ – The Order reaffirms EO 13899 and adds a requirement that federal agencies examine and report on their existing criminal and civil authority to combat antisemitism, and also inventory all pending administrative complaints and court cases alleging civil rights violations involving colleges and universities arising from campus protests related to the post-Oct. 7, 2023, Israel-Hamas conflict. Pursuant to the Executive Order, the Department of Justice established a federal taskforce to combat antisemitism on college campuses and announced that it would visit ten university campuses where allegations of antisemitic incidents occurred since October 2023.¹⁹⁵

¹⁹² 10 U.S.C. § 253, based on 17 Stat. 13 § 3 (1871)..

¹⁹³ Combating Anti-Semitism, 84 FR 68779 (Dec. 11, 2019), <https://www.federalregister.gov/documents/2019/12/16/2019-27217/combating-anti-semitism> (hereinafter cited as *Executive Order 13899*).

¹⁹⁴ Additional Measures To Combat Anti-Semitism, 90 FR 8847 (Jan. 29, 2025), <https://www.federalregister.gov/documents/2025/02/03/2025-02230/additional-measures-to-combat-anti-semitism>.

¹⁹⁵ U.S. Department of Justice, Office of Public Affairs, *Federal Task Force to Combat Antisemitism Announces Visits to 10 College Campuses that Experienced Incidents of Antisemitism*, Feb. 28, 2025,

Purpose and Scope

The Colorado Advisory Committee intends to contribute to the discourse around the presence or absence of antisemitism on university and college campuses and identify approaches to federal, state, and education policy in higher education.

The scope of this project is limited to an examination of three Colorado government universities and colleges that share a common Auraria campus in Denver.

Guiding Questions

The initial questions below guided the Committee's inquiry at the beginning.

1. What are university and college campus policies around antisemitic discrimination?
2. How did university and college administrators address recent incidents of antisemitism?
3. How are antisemitic incidents documented and/or reported?

Methodology

As a matter of historical precedent, and in order to achieve transparency, Committee studies involve a collection of public, testimonial evidence and written comments from individuals directly impacted by the civil rights topic at hand; researchers and experts who have rigorously studied and reported on the topic; community organizations and advocates representing a broad range of backgrounds and perspectives related to the topic; and government officials tasked with related policy decisions and the administration of those policies.

Committee studies require Committee members to use their expertise in selecting a sample of panelists that is the most useful for the purposes of the study and will result in a broad and diverse understanding of the issue. This method of (nonprobability) judgment sampling requires Committee members to draw from their own experiences, knowledge, opinions, and views to gain understanding of the issue and possible policy solutions. Committees are composed of volunteers who are familiar with civil rights issues in their state or territory. Members represent diverse political viewpoints, identities, occupations, races, ages, and gender identities, and bring a variety of backgrounds, skills, and experiences. The intentional diversity of each Committee promotes vigorous debate and full exploration of the issues. Diversity also assists in offsetting biases that can result in oversight of nuances in the testimony.

In fulfillment of the Committees' responsibility to advise the Commission on civil rights matters in their locales, Committees conduct an in-depth review and thematic analysis of the testimony received and other data gathered throughout the course of their inquiry. Committee members use

<https://www.justice.gov/opa/pr/federal-task-force-combat-antisemitism-announces-visits-10-college-campuses-experienced>; Alice Speri, "Surge in Antisemitism Investigations at US Universities After October 7 Attacks, Data Shows," *The Guardian*, Nov. 5, 2025, <https://www.theguardian.com/us-news/2025/nov/05/university-antisemitism-investigations>. The 10 campuses identified do not include any in Colorado.

this publicly collected information, often from those directly impacted by the civil rights topic of study, or others with direct expert knowledge of such matters,¹⁹⁶ to identify findings and recommendations to report to the Commission. Drafts of the Committee’s report are publicly available and shared with panelists and other contributors to ensure that their testimony was accurately captured. Reports are also shared with affected agencies to request clarification regarding allegations noted in testimony.

For this study, **Findings** are defined as what the testimony, evidence, and other data *suggested, revealed, or indicated* based upon the data collected by the Committee. Findings reflect a synthesis of observations confirmed by majority vote of members, rather than conclusions drawn by any one member. **Recommendations** are specific actions or proposed policy interventions intended to address or alleviate the civil rights concerns raised in the related finding(s). Where findings indicate a lack of sufficient knowledge or available data to fully understand the civil rights issues at hand, recommendations may also target specific directed areas in need of further, more rigorous study. Recommendations are directed to the Commission; they request that the Commission itself take specific action, or that the Commission forward recommendations to other federal or state agencies, policy makers, or stakeholders.

Findings

In keeping with the Committee’s duty to inform the Commission of (1) matters related to discrimination or a denial of equal protection of the laws; and (2) matters of mutual concern in the preparation of reports of the Commission to the President and the Congress,¹⁹⁷ the Colorado Advisory Committee submits the following findings to the Commission:

Finding I: Some protesters’ conduct and speech was antisemitic.

Under the First Amendment of the United States Constitution, governments lack power to punish antisemitic speech or other expressions of hatred.¹⁹⁸ The absence of a power to punish is not the absence of an ability to examine and evaluate. The title and project description of the Committee’s investigation require a determination of whether or not the protesters engaged in antisemitic speech and conduct. We find that they did.

This finding proceeds in three sections. First, as required by Executive Order 13899, we “consider” the International Holocaust Remembrance Alliance (IHRA) definition and examples of antisemitism.¹⁹⁹ There is no doubt that the protesters’ speech was antisemitic by this standard: the

¹⁹⁶ The titles of invited speakers referenced in the report reflect the position held during the Committee’s inquiry period.

¹⁹⁷ 45 C.F.R. § 703.2 (2018).

¹⁹⁸ See, e.g., *National Socialist Party of America v. Village of Skokie*, 432 U.S. 43 (1977) (lifting injunction against Nazi parade in village of Holocaust survivors).

¹⁹⁹ *Executive Order 13899*, Sec. 2(a)(i).

protesters deny Israel's right to exist. Accordingly, many protesters and their supporters urged the Committee not to use the IHRA standard.

While the Committee is legally bound to "consider" the IHRA, we have not used it as the only standard. None of the Findings or Recommendations in this Report depend on the IHRA definition.

The second section of this Finding examines some of the protesters' chants based on dictionary definitions of antisemitism. In particular, we study two classes of slogans: "river to the sea," and "intifada." Both are widely understood as calls for murder and other attacks on Jews.

It is possible that some persons who use these slogans may have personal, nonviolent interpretations of the slogans. To the extent that some of the protesters did, their actions communicated the opposite. While choosing to use slogans that have been relentlessly used by persons engaged in violent crimes against Jews, the protesters themselves articulated these menacing slogans while engaging in menacing behavior, including forcible invasion of the spaces of other persons, and using sound amplification as a weapon to make common campus spaces unusable by others. If some protesters had private innocent meanings, that message was drowned out by the 23-day enterprise that created two lockdowns and campus evacuations; frightened away campus visitors, including 1,500 middle school science students at an event organized by the Society of Women Engineers; inflicted \$670,000 in costs on the schools, including from vandalism; and ultimately forced the entire campus to shut down. Previously, the protesters had forced all the Jews out of the campus Jewish center, for fear of their safety.

The third section of this Finding considers the arguments of the protesters that their conduct and speech, while proudly "anti-Zionist," were not "antisemitic." The Committee recognizes the sincerity of witnesses' distinction, and the Committee makes no decision about whether, in the abstract, anti-Zionism is always a modern species of antisemitism.²⁰⁰ Reasonable people ought to be able to debate and discuss the issue. Rather, the Committee finds that in the particular context of Auraria, the protesters used physical force and menacing words to intimidate Zionists and their supporters into silence, submission, or flight. Given that "Zionists," broadly defined, are the vast majority of Jews, and anti-Zionists a tiny minority, the protesters' actions and words in context were attacks on the great majority of Jews and were objectively antisemitic. When dangerous mobs drive the Jews away from the campus Jewish center, that is antisemitism.

²⁰⁰ This report uses the spelling "anti-Zionism" because the U.S. Civil Rights Commission's *Style Manual* requires use of a hyphen when "anti" is joined with a proper noun. We use the spelling "antisemitism" because "Semitism" is rarely used as a word. The "Semitic" language group includes Amharic, Arabic, Aramaic, Hebrew, and Tigrinya, and is therefore irrelevant to anti-Jewish issues studied in this report. When words appear in quoted text, this report uses the same spelling as the original quote.

International Holocaust Remembrance Alliance Definition

Starting under the Obama administration on May 26, 2016, the U.S. Department of State has adopted and used the IHRA definition, as do the other 30 member states of the IHRA.²⁰¹ According to the State Department: “As a member of IHRA, the United States now uses this working definition and has encouraged other governments and international organizations to use it as well.”²⁰²

While President Biden rescinded many Executive Orders that had been issued by President Trump, he chose to leave Executive Order 13889 in place, with no changes. Section 2 of the Order provides:

(2) (a) In enforcing Title VI, and identifying evidence of discrimination based on race, color, or national origin, all executive departments and agencies (agencies) charged with enforcing Title VI shall consider the following:

(i) the non-legally binding working definition of anti-Semitism adopted on May 26, 2016, by the International Holocaust Remembrance Alliance (IHRA), which states, “Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities”; and

(ii) the “Contemporary Examples of Anti-Semitism” identified by the IHRA, to the extent that any examples might be useful as evidence of discriminatory intent.

(b) In considering the materials described in subsections (a)(i) and (a)(ii) of this section, agencies shall not diminish or infringe upon any right protected under Federal law or under the First Amendment. As with all other Title VI complaints, the inquiry into whether a particular act constitutes discrimination prohibited by Title VI will require a detailed analysis of the allegations.²⁰³

According to the IHRA:

Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.²⁰⁴

The above definition, by itself, would hardly seem controversial. Compared to dictionary definitions, which will be discussed below, IHRA simply adds detail, and, importantly, observes

²⁰¹ U.S. Department of State, *Defining Antisemitism*, <https://www.state.gov/defining-antisemitism/>.

²⁰² Ibid.

²⁰³ *Executive Order 13899*, Sec. 2(a)(i)-2(b).

²⁰⁴ International Holocaust Remembrance Alliance, *Working definition of antisemitism*, <https://holocaustremembrance.com/resources/working-definition-antisemitism> (hereinafter cited as IHRA, *Working Definition*).

that antisemitic behavior can sometimes be directed at “non-Jewish individuals”—for example, against Gentiles who are perceived as pro-Jewish.

Separately from the definition, the IHRA has provided a document “[t]o guide IHRA in its work.” The document includes a nonexhaustive list of “examples” of antisemitism.²⁰⁵ Executive Order 13899 requires executive branch agencies to “consider” those examples.

In testimony before the Committee, many protesters and supporters of the protesters spoke against the IHRA definition. Some said that it weaponized antisemitism by equating it with criticism of Israel.²⁰⁶

According to IHRA, antisemitic “[m]anifestations might include the targeting of the state of Israel, conceived as a Jewish collectivity. However, criticism of Israel similar to that leveled against any other country cannot be regarded as antisemitic.”²⁰⁷

One IHRA example of speech that *is* antisemitic certainly includes the protesters: “Denying the Jewish people their right to self-determination, e.g., by claiming that the existence of a State of Israel is a racist endeavor.”²⁰⁸

²⁰⁵ Ibid.

²⁰⁶ The most detailed argument came from Auraria teacher Alex Boodrookas:

Finally, this investigation relied on an expert panel that was comprised largely of right-wing, or at least half of right-wing political activists and rests on a definition of anti-Semitism that is rejected by most scholarly experts, including experts in the field of Jewish studies.

The IHRA definition of anti-Semitism conflates hate speech with legitimate criticism of the Israeli state. And in fact, one of its authors, Kenneth Stern has himself acknowledged that it was never supposed to serve as a hate speech code. It seems to me that the object and scope of this inquiry, as well as the evidence that it is chosen to consider or ignore, are designed to lead towards a predetermined outcome. As a result, this committee is almost certain to make our Jewish and Muslim students less safe.

By adopting a politicized and inaccurate definition of anti-Semitism, it makes it harder to identify and therefore to combat the threat of actual anti-Semitism. By ignoring anti-Muslim and anti-Palestinian racism, the committee endangers our many Muslim and Palestinian students. And by conflating anti-Zionism and anti-Semitism, it suggests that members of our community, including Jewish members of our community, are only welcome on campus if they have certain political views. So I ask this committee to ensure that it does not become a threat to the values that it is supposed to uphold.

Boodrookas Testimony, *8/20/25 Web Briefing*, p. 40.

²⁰⁷ IHRA, *Working Definition*.

²⁰⁸ Ibid.

The above was a core theme of the protesters. Self-described as “anti-Zionists,” the protesters denied Israel’s right to exist as a Jewish state. This is also the official position of the lead protest organizer, Students for a Democratic Society.²⁰⁹

Another IHRA example is “Applying double standards by requiring of it [Israel] a behavior not expected or demanded of any other democratic nation.”²¹⁰ This example would apply if someone held Israel to a double standard not applied to other democracies, such as France, Japan, or Argentina. The Auraria protesters did not do so. Instead, they went further, and condemned Israel while remaining essentially silent about the behavior of Israel’s adversaries, including Hamas, a totalitarian entity. It is indisputable that Hamas perpetrated war crimes and crimes against humanity by holding hostages, including children; and that Hamas initiated the escalation in violence on October 7–8, 2023, by murdering over 1,200 Israelis and other persons living in Israel, including many children—by mass murder at the Nova Music Festival, by mass rape, and by many other atrocities, war crimes, and crimes against humanity. Further, the criminals filmed themselves perpetrating the crimes and publicly distributed the videos.²¹¹

Hamas has been listed by the U.S. Department of State as a Foreign Terrorist Organization (FTO) since 1997.²¹² Since 2001 Hamas has been a Specially Designated Global Terrorist (SDGT).²¹³

Lest there be any doubt, during and after the October 7–8 attacks, official spokesmen for Hamas publicly bragged about them, and affirmed the genocidal purpose of the October crimes.²¹⁴

²⁰⁹ National SDS, *2023 Resolution for National SDS to Reaffirm Membership in the Coalition to March on the RNC 2024*, Mar. 30, 2024, <https://new-students-for-a-democratic-society.ghost.io/2023-resolutions/> (Replace “the Zionist formation known as Israel” with “a unified Palestinian State that secures the rights and freedoms for all Palestinians.”).

²¹⁰ IHRA, *Working Definition*.

²¹¹ U.S. Department of State, *2024 Country Reports on Human Rights Practices: Israel, West Bank and Gaza—West Bank and Gaza*, <https://www.state.gov/reports/2024-country-reports-on-human-rights-practices/israel-west-bank-and-gaza-west-bank-and-gaza/>; Antony J. Blinken, Secretary of State, *Anniversary of October 7th Attack, Press Statement*, Oct. 7, 2024, <https://2021-2025.state.gov/anniversary-of-october-7th-attack/>; U.S. Congress, House, H.Res. 966, 118th Cong., 2024, <https://www.congress.gov/bill/118th-congress/house-resolution/966/text>.

²¹² Designated by the U.S. Department of State on October 8, 1997, under Section 219 of the Immigration and Nationality Act. This designation prohibits material support to Hamas, imposes immigration restrictions on its members, and allows for asset freezes. It is periodically reviewed and has been maintained without revocation.

²¹³ Designated by the U.S. Department of the Treasury’s Office of Foreign Assets Control (OFAC) in October 2001 under Executive Order 13224 (as amended). This imposes sanctions blocking assets and prohibiting transactions with Hamas or its supporters, targeting its financial networks and those who provide support.

²¹⁴ On Oct. 24, 2023, a senior Hamas politburo member and former deputy foreign minister was interviewed on Lebanese Broadcasting Corporation TV. He stated: “We must teach Israel a lesson, and we will do this again and again. The Al-Aqsa Flood is just the first time, and there will be a second, a third, a fourth.” “Nobody should blame us for the things we do. On October 7, on October 10, on October one-millionth, everything we do is justified.” “Israel is a country that has no place on our land. We must remove that country because it constitutes a security, military and political catastrophe to the Arab and Islamic nation.” See “Hamas Official Ghazi Hamad: We Will Repeat the October 7 Attack, Time and Again, Until Israel Is Annihilated; We Are Victims – Everything We Do Is Justified,” *Middle East Media Research Institute (MEMRI)*, Special Dispatch No. 10928 (includes video clip and

Further, an official Hamas spokesman publicly touted the organization’s strategy of using Gaza civilians as human shields by denying civilians access to Hamas’ massive underground tunnel and shelter network, thus maximizing the suffering and death of Gaza civilians for political purposes.²¹⁵

In the above context, the Auraria protesters singling out Israel as the sole cause of suffering of Gazans was antisemitic according to the above-quoted IHRA example. As noted above, SDS on October 9 enthusiastically endorsed the Hamas attacks, and on October 11 began its campaign against the Jewish center at Auraria.

Another example of the protesters’ antisemitic singling out of the State of Israel was their demand that the Auraria schools terminate all study abroad programs with Israel.²¹⁶

transcript), <https://www.memri.org/reports/hamas-official-ghazi-hamad-we-will-repeat-october-7-attack-time-and-again-until-israel>. As for the murder of civilians, the Hamas spokesman asserted, “Hamas did not want to harm civilians, but there were complications on the ground.” Ibid. This was a flagrant lie. The October 7 attacks were meticulously planned to murder children and other civilians. Anna Schechter, “‘Top Secret’ Hamas Documents Show that Terrorists Intentionally Targeted Elementary Schools and a Youth Center,” *NBC News*, Oct. 13, 2023, <https://www.nbcnews.com/news/investigations/top-secret-hamas-documents-show-terrorists-intentionally-targeted-elem-rcna120310>; “The Secrets Hamas Knew About Israel’s Military: Hamas Gunmen Surged into Israel in a Highly Organized and Meticulously Planned Operation that Suggested a Deep Understanding of Israel’s Weaknesses,” *N.Y. Times*, Oct. 13, 2023, <https://www.nytimes.com/2023/10/13/world/middleeast/hamas-israel-attack-gaza.html>.

In a public statement about the ongoing attacks on Oct. 7, 2023, Mohammed Deif (the head of the Hamas military, the Al-Qassam Brigades), urged listeners to “kill them wherever you may find them.” This was a direct reference to a Quranic passage predicting that in the final days, all Jews will be killed by Muslims. “Hamas Military Commander Mohammed Deif Announces Launch of Operation Al-Aqsa Deluge, Calls on Palestinians in West Bank, Jerusalem, and Israel Proper to Attacks with Guns, Knives, Vehicles,” *MEMRI: Middle East Media Research Institute*, Oct. 7, 2023, <https://www.memri.org/tv/hamas-military-commander-deif-operation-aqsa-deluge-calls-palestinian-carry-out-attacks>.

Indeed, the Hamas Covenant expressly calls for the murder of Jews: “The Prophet, Allah bless him and grant him salvation, has said: ‘The Day of Judgement will not come about until Moslems fight the Jews, when the Jew will hide behind stones and trees. The stones and trees will say O Moslems, O Abdulla, there is a Jew behind me, come and kill him.’” “Covenant of the Islamic Resistance Movement,” Aug. 18, 1988, *The Avalon Project*, https://avalon.law.yale.edu/21st_century/hamas.asp (Hamas Covenant).

For analysis of the genocidal intentions and actions of Hamas, see Avraham Russell Shalev, *Hamas’ October 7th Genocide: Legal Analysis and the Weaponisation of Reverse Accusations – A Study in Modern Genocide Recognition and Denial*, 58 *Israel Law Review* 343 (2025), <https://www.cambridge.org/core/journals/israel-law-review/article/hamas-october-7th-genocide-legal-analysis-and-the-weaponisation-of-reverse-accusations-a-study-in-modern-genocide-recognition-and-denial/322198E636341BE82F37ED7147FEB0F5>.

²¹⁵ “Hamas Official Mousa Abu Marzouk: The Tunnels in Gaza Were Built to Protect Hamas Fighters, Not Civilians; Protecting Gaza Civilians Is the Responsibility of the U.N. and Israel,” *Middle East Media Research Institute*, Clip #10585, Oct. 27, 2023, <https://www.memri.org/tv/hamas-official-mousa-abu-marzouk-tunnels-gaza-protect-fighters-not-civilians>

²¹⁶ Nico Brambila, “Pro-Palestinian Protesters Occupy Auraria Campus in Denver, Demand Divestment,” *Colorado Politics*, Apr. 26, 2024 (“end its study abroad programs to Israel”), <https://www.coloradopolitics.com/?p=158257>; Paolo Zialeita and Rebecca Tauber, “Hundreds of Auraria Campus Students and Faculty Stage Protest Walkout, Community College of Denver Goes Remote,” *Denverite*, Apr. 29, 2024 (“cutting study abroad trips to the country”), <https://denverite.com/2024/04/29/auraria-antiwar-camp-prepares-for-further-gaza-action>; Heather

To single out Israel as uniquely unsuited for study abroad was quite a stretch, in light of some other study abroad offered by Auraria.

The Community College of Denver has no study abroad programs. The CU-Denver Global Study and Semester Programs for the 2023–24 Academic Year offered study abroad experiences in 12 nations (but not Israel).²¹⁷ Two of those nations, China and Cuba, are totalitarian communist dictatorships. China is currently perpetrating genocide against Muslims in East Turkmenistan (which the Chinese regime calls “Xinjiang”). Cuba is an imperialist regime that has supplied the secret police to enforce totalitarian dictatorships that have immiserated the people of Venezuela and Nicaragua. Domestically, the totalitarian Cuban communists are a kleptocracy, which for many decades has made the Cuban people poor while the inner party and ruling families enjoy fabulous wealth.²¹⁸

The Metropolitan State University of Denver Office of International Studies (OIS) has offered study abroad programs over the years in dozens of nations, although not in Israel. Among the nations with current programs is China.

Besides the above study abroad programs operated by the universities themselves, CU-Denver and MSU-Denver also allow students to arrange study abroad through approved third-party providers. One of those providers approved by MSU is USAC (University Studies Abroad Consortium), which offers semester or year-long programs in Israel, such as at the University of Haifa or Tel Aviv University.²¹⁹ Among the more than two dozen countries in the USAC system are notorious human rights violators China and Vietnam.²²⁰

Willard, “Auraria Protesters Clarify Demands, Seek Transparency On Schools’ Investments,” *KDVR* (Fox 31 Denver), May 1, 2024 (“Terminate study abroad programs to Israel.”), <https://kdvr.com/news/local/auraria-protestors-clarify-demands-seek-transparency-on-schools-investments>; Sam Peña, “Pro-Palestinian Activists Reveal New Demands as Auraria Campus Encampment Expands,” *Denver7* (KMGH), May 2, 2024 (shut down study abroad programs in Israel), <https://www.denver7.com/news/front-range/denver/pro-palestinian-activists-reveal-new-demands-as-auraria-campus-encampment-expands>; Henry Larson, “Protest Encampment Triples in Size as Organizers Call Meeting with Officials a ‘Waste of Time’,” *CU Independent*, May 1, 2024 (“ending study abroad programs in Israel”), <https://www.cuindependent.com/2024/05/01/protest-encampment-triples-in-size-as-organizers-call-meeting-with-officials-a-waste>.

²¹⁷ Argentina, China, Costa Rica, Cuba (Business School Winterim program, with the title “Cuba Libre”), Czech Republic, Finland, Germany, Ireland, Japan, Mexico, Nepal, Singapore, Spain.

²¹⁸ Congressional Research Service, *Human Rights in China and U.S. Policy*, R48288, Dec. 2, 2024; U.S. State Department, *2024 Country Reports on Human Rights Practices: China (Includes Hong Kong, Macau, and Tibet)* (“genocide and crimes against humanity occurred during the year”); U.S. Department of State, *2021 Country Reports on Human Rights Practices: Cuba* (2022); Juan Antonio Blanco, *Cuba’s Mafia State*, 36 *Journal of Democracy* 51 (no. 4, Oct. 2025), <https://www.journalofdemocracy.org/articles/cubas-mafia-state/>.

²¹⁹ MSU, Academic Programs, <https://www.msudenver.edu/international-studies/go-abroad/programs/>.

²²⁰ *Id.*; U.S. Department of State, *2024 Country Reports on Human Rights Practices: Vietnam*.

The Committee takes no position on study abroad in dictatorships. We are simply noting how Israel was being singled out.

The Auraria protesters went to extraordinary lengths to single out Israel for discrimination. Precisely speaking, the IHRA example of holding Israel to a double standard compared to other democracies does not apply. The Auraria protesters held Israel to a double standard compared to some of the world's most anti-democratic regimes.

Other speech by the protesters fit the IHRA example of “Calling for, aiding, or justifying the killing or harming of Jews in the name of a radical ideology or an extremist view of religion.”²²¹ That content, which is antisemitic under any possible definition, is discussed in the next section.

Pursuant to section (2)(b) Executive Order 13899:

In considering the materials described in subsections (a)(i) and (a)(ii) of this section, agencies shall not diminish or infringe upon any right protected under Federal law or under the First Amendment. As with all other Title VI complaints, the inquiry into whether a particular act constitutes discrimination prohibited by Title VI will require a detailed analysis of the allegations.

As required by the Executive Order, the Committee has considered the IHRA definition and examples and has conducted a detailed analysis of the relevant allegations.

According to the Executive Order, “agencies shall not diminish or infringe upon any right protected under Federal law or under the First Amendment.” The Committee affirms that antisemitic speech, like hateful speech directed at people based on race, religion, ethnicity, sex, or sexual orientation, is protected by the First Amendment from punishment by government under most circumstances.

In Colorado and under federal law, when hate speech is accompanied by criminal conduct, the criminal is not excused by the First Amendment.²²² According to IHRA:

Criminal acts are antisemitic when the targets of attacks, whether they are people or property – such as buildings, schools, places of worship and cemeteries – are selected because they are, or are perceived to be, Jewish or linked to Jews.²²³

The Golda Meir House was selected as a target because it is a Jewish institution. All the other Auraria attacks against “people or property . . . , buildings, schools,” were “selected because they are, or are perceived to be . . . linked to Jews”—namely to Israel, the world's only Jewish state.

As previously stated, the final subsection of this finding will address the protesters' claims that their acts were targeted at “Zionists” and not at “Jews.”

²²¹ IHRA, *Working Definition*.

²²² 18 U.S.C. § 249 (causing bodily injury when motivated by bias); Colorado Revised Statutes § 18-9-121 (enhanced penalties for various crimes when motivated by bias).

²²³ IHRA, *Working Definition*.

As will be described below, the protesters' speech was antisemitic because it repeated slogans used to foster violence against Jews in general and was uttered while the protesters themselves were engaging in forcible and menacing activity, including activity that violated the rights of the rest of Auraria, such as students' right to use their campus.

Dictionary Definitions of Antisemitism

The word "antisemitism" was invented in 1879 by Wilhelm Marr, who wanted to coin a euphemism for his hatred of Jews.²²⁴ However, hatred of Jews long preceded 1879. One book calls it "The Oldest Hatred."²²⁵

The Oxford English Dictionary's first definition of "antisemitism" is "Prejudice, hostility, or discrimination against Jewish people."²²⁶ The Merriam-Webster Dictionary, which is often used by Colorado courts, defines "anti-Semitism" as "hostility toward or discrimination against Jews as a religious, ethnic, or racial group."²²⁷

Like most forms of evil, hatred of Jews is dynamic and adapts to circumstances. For example, both Christianity and Islam claim to be continuations of prior revelations to the Jews. (What Christians call "the Old Testament.") Christians believe that Jesus is the Messiah foretold by the Jewish scriptures.²²⁸ Muslims believe that Muhammad was the final, culminating prophet of the sequence of prophets that begins with Jewish scripture.²²⁹ The vast majority of Jews reject both claims.²³⁰

Thus, antisemitic persecution by Christians and Muslims was sometimes justified as revenge for the Jews' refusal to follow the teachings of the founders of Christianity or Islam. Persecution could be avoided by converting to the persecutors' religion; over the centuries some Jews chose to convert, and others were forced to under threat of death.²³¹

²²⁴ "Antisemitismus ist eine Sache des Verstandes, nicht des Herzens" ("Antisemitism is a matter of the head, not the heart"). Wilhelm Marr, *Der Weg zum Siege des Germanenthums über das Judenthum* ("The Way to Victory of Germanism over Judaism") (pamphlet, 1879).

²²⁵ John Mann, Saul Reichlin, et al., *Antisemitism: The Oldest Hatred* (Bloomsbury Continuum 2015).

²²⁶ "Antisemitism," Oxford English Dictionary," n.d., <https://www.oed.com/search/dictionary/?scope=Entries&q=antisemitism&tl=true>.

²²⁷ "anti-Semitism," in Merriam-Webster Dictionary, March 16, 2026, <https://www.merriam-webster.com/dictionary/anti-Semitism>.

²²⁸ *E.g.*, Luke 24:25-27 ("And beginning with Moses and all the Prophets, he [Jesus] explained to them what was said in all the Scriptures concerning himself.").

²²⁹ *E.g.*, Quran 33:40 ("Seal of the Prophets").

²³⁰ Some groups, popularly called "Jewish Christians" or "Jews for Jesus," consider Jesus to be the foretold messiah and also believe that the entire Jewish Law of the Hebrew Scriptures remains binding on Christians. Many mainstream Jews do not consider these groups to be Jewish.

²³¹ United States Holocaust Memorial Museum (USHMM), *Antisemitism* entry, <https://encyclopedia.ushmm.org/content/en/article/antisemitism>; Bernard Lewis, *The Jews of Islam* (Princeton University Press, 1984; updated Princeton Classics edition 2014); Maribel Fierro, *Conversion, ancestry and*

Alternatively, some antisemites were less concerned with Jews' religious beliefs than with their race or ethnicity. Taken to the extremes, as under the 1933–45 regime of the National Socialist German Workers Party (Nazi), the Jewish "race" was considered a menace that had to be eradicated.²³²

Another type of antisemitism is based on perceived social characteristics. Jews are derided as aggressive, dishonest, greedy, conspiratorial, behind-the-scenes manipulators, low-class, dirty, diseased, predatory on Gentiles, child killers, and so on. Many contemporary antisemites combine elements of the above strains. Antisemitism keeps up with the anxieties and hatred of diverse places and times.²³³ We would not expect antisemitism in 2024 to be expressed as it was in 1924 by the then-powerful Ku Klux Klan. Today's antisemitism is framed in modern jargon and exploits modern pathologies. Antisemitism opposes the right of Jews to equality—to civil equality in states where Jews are a minority, or to international equality as a nation with a Jewish majority.

"From the River to the Sea"

We next consider one of the slogans uttered by the protesters: "From the River to the Sea" and variations thereof.

Just a few days before the Auraria Campus was occupied under this slogan, the U.S. House of Representatives adopted House Resolution 883, regarding the slogan. On April 16, 2024, by a vote of 377 aye, 44 nay, and 1 present, the U.S. House of Representatives resolved:

Whereas the slogan "from the river to the sea, Palestine will be free" is an antisemitic call to arms with the goal of the eradication of the State of Israel, which is located between the Jordan River and the Mediterranean Sea;

Whereas the slogan seeks to deny Jewish people the right to self-determination and calls for the removal of the Jewish people from their ancestral homeland;

Whereas Hamas, the Palestinian Islamic Jihad, Hezbollah, and other terrorist organizations and their sympathizers have used and continue to use this slogan as a rallying cry for action to destroy Israel and exterminate the Jewish people;

Whereas this rallying cry can promote violence against the State of Israel and the Jewish community globally;

Whereas, on October 7, 2023, Hamas committed a barbaric and uncivilized slaughter against the Jewish people, killing 1,200 people,

universal religion: the case of the Almohads in the Islamic West (sixth/twelfth–seventh/thirteenth centuries), 2
Journal of Medieval Iberian Studies 155 (2010),
<https://www.tandfonline.com/doi/abs/10.1080/17546559.2010.495289>.

²³² United States Holocaust Memorial Museum (USHMM), *Nuremberg Laws*,
<https://encyclopedia.ushmm.org/content/en/article/nuremberg-laws>.

²³³ Mark Weitzman, Robert J. Williams, and James Wald, eds., *The Routledge History of Antisemitism* (2024).

Whereas victims of this massacre included children, the elderly, Holocaust survivors, and women, who were murdered indiscriminately in their homes, communities, public spaces, and at a music festival;

Whereas, on October 7, 2023, Hamas reportedly beheaded dozens of babies, committed countless atrocities, and violently raped women;

Whereas, on October 7, 2023, Hamas recorded and broadcasted to the world mutilation, desecration, and public parading of bodies;

Whereas, on October 7, 2023, Hamas took over 240 hostages, including children, women, elderly Israelis, Americans, and other foreign nationals;

Whereas, on October 7, 2023, Hamas murdered the highest number of Jewish people since the Holocaust;

Whereas Hamas' 2017 Charter states, "Hamas rejects any alternative to the full and complete liberation of Palestine, from the river to the sea.";

Whereas Hamas' 2017 Charter states, "There shall be no recognition of the legitimacy of the Zionist entity.";

Whereas Hamas' 2017 Charter states, "Resistance and jihad for the liberation of Palestine will remain a legitimate right.";

Whereas this slogan is used by the same people who utter "death to America" and "death to Israel";

Whereas former Hamas Chief Khaled Meshaal called for the "day of rage", a global mobilization against the State of Israel, which had profound consequences for Jewish communities around the world;

Whereas a member of the Hamas political bureau, Ghazi Hamad, in an interview about the October 7 massacres, vowed, "We must teach Israel a lesson, and we will do it twice and three times. The Al-Aqsa Deluge is just the first time, and there will be a second, a third, a fourth.";

Whereas Ghazi Hamad, in the same interview, responded, "Yes, of course", when asked if he believed in the annihilation of Israel;

Whereas the Secretary General of Hezbollah Hassan Nasrallah stated, "Palestine, from the sea to the river is the property of Arabs and Palestinians and no one has the right to give up even a single grain of earth or one stone.";

Whereas Iranian President Ebrahim Raisi, on November 11, 2023, stated that the only solution to this war is "The establishment of the Palestinian State from the river to the sea.";

Whereas the founder of al-Qaeda and the perpetrator of the 9/11 terrorist attacks, Osama bin Laden, stated, "Borders must be opened by force so as to obtain all the necessary requirements to liberate the entire Palestine from the river to the sea, God willing.";

Whereas the former Dictator of Iraq, Saddam Hussein, stated, "Glorious and sublime are our martyrs in Palestine, Iraq, and the nation as a whole. Long live Palestine, free and Arab, from the sea to the river", and "Palestine is Arab and must be liberated from the river to the sea";

Whereas this slogan neglects the fact that innocent civilians are used as human shields by Hamas;

Whereas Hamas intentionally locates its military weapons supply depots and intelligence outposts directly under and within civilian populated sites such as schools, mosques, residential buildings, and hospitals such as the Al Shifa Hospital, the largest hospital in Gaza;

Whereas using civilians as human shields for protecting weapons and fighters from a lawful attack is considered a war crime;

Whereas hateful rhetoric obstructs peace efforts;

...

Whereas this slogan incites fear within the Jewish community in the United States and around the world;

Whereas students attending institutions of higher education have chanted and continue to chant this slogan since the barbarous October 7 massacres, yet all the while, their fellow Jewish students are being harassed and intimidated; and

Whereas this slogan has been used recently by violent protestors throughout the United States and the world: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

- (1) the slogan, “from the river to the sea, Palestine will be free”, is outrightly antisemitic and must be strongly condemned;
- (2) this slogan is divisive and does a disservice to Israelis, Palestinians, and all those in the region who seek peace;
- (3) this slogan rejects calls for peace, stability, and safety in the region;
- (4) this slogan perpetuates hatred against the State of Israel and the Jewish people; and
- (5) anyone who calls for the eradication of Israel and the Jewish people are antisemitic and must always be condemned.

During the U.S. House debates, Rep. Rashida Tlaib asserted that the phrase was an “aspirational call for freedom, human rights, and peaceful coexistence.” Perhaps some of the Auraria protesters felt the same way, even though the protest leader, National SDS, uses the slogan to endorse war and not peace.²³⁴

At the time of the Auraria occupation, Israel and Hamas were at war, and Hamas has always made it clear that the slogan means violent eradication, not “peaceful coexistence.” The 2017 revised Hamas charter, which expressly calls for the eradication of Israel, states: “Palestine is ours, from the river to the sea and from the south to the north.” The same words were uttered by Hamas head

²³⁴ Golda Meir House Timeline, Oct. 9, 2023.

Khaled Mashal in a 2012 speech celebrating Hamas’s 25th anniversary.²³⁵ The same slogan appears in 2022 Hamas propaganda that include a regional map in which Israel has been erased and replaced with a Hamas state.²³⁶

Or as Hamas leader Ismael Haniyeh put it over a decade ago:

Palestine is from the sea to the river, from Rosh HaNikra to Rafah. The siege will not change our belief, wars don’t cause people give up resistance and resistance leaders. We will not recognize! We will not recognize! We will not recognize Israel!²³⁷

“All of Palestine, from the river to the sea, and from Ras al-Naquora [on the Israel-Lebanon border] to Umm al-Rashrash [Eilat, Israel’s southernmost city], is one land that is indivisible and cannot be sold or bargained.”²³⁸

Husam Badran, former leader of Hamas’s military wing in the northern West Bank (a/k/a Samaria), also affirmed his group’s endorsement of eliminating Israel: “The Palestine we know is from the river to the sea—not missing an inch.”²³⁹

Quite significantly, Students for a Democratic Society—the organization that led the campaign against the Golda Meir House and then the encampment—used “river to the sea” in express endorsement and glorification of the Hamas attacks on October 7–8, 2003.²⁴⁰

Perhaps some of the Auraria protesters had their own idiosyncratic and less bloodthirsty interpretations of the phrase. For persons at Auraria who were forced to listen to the chant, it was impossible to distinguish the speakers who meant the chant in the standard SDS/Hamas way from chanters who felt some other meaning. The protesters’ choice to copy the words incessantly used by terrorists and others calling for mass murders necessarily helped create an atmosphere of menace and fear at Auraria.²⁴¹

²³⁵ “Khaled Meshal, Hamas Leader, Delivers Defiant Speech at Anniversary Celebration,” *N.Y. Times*, Dec. 8, 2012.

²³⁶ Thomas Latschan, “Why ‘River To Sea’ Pro-Palestinian Slogan is Controversial,” *DW* (Deutsche Welle), Nov. 19, 2023 (“In December 2022, Hamas published the slogan again — along with a map of the region depicting a Palestinian state and no Israel.”), <https://www.dw.com/en/from-the-river-to-the-sea-controversy-over-pro-palestinian-slogan/a-67465637>.

²³⁷ “8 Years: 8 Quotes by Hamas Leader Ismail Haniyeh,” *IsraelAA*, Feb. 19, 2014, <https://israelaa.ca/8-years-8-quotes-by-hamas-leader-ismail-haniyeh/>.

²³⁸ *Ibid.*

²³⁹ Grace Amiran, “The Real Meaning of ‘From the River to the Sea, Palestine Will Be Free’,” *Jewish News Syndicate*, Nov. 9, 2023, <https://www.jns.org/the-real-meaning-of-from-the-river-to-the-sea-palestine-will-be-free/>.

²⁴⁰ SDS, Instagram, Oct. 9, 2023, https://www.instagram.com/p/CyMKiVMAEa9/?img_index=2.

²⁴¹ Starting in the 1920s, Nazis adopted and globally disseminated an older phrase, “Sieg Heil” (Hail victory). If an anti-Israel group marched around campus chanting “Sieg Heil,” the group would bear responsibility for the predictable consequences of its actions in terrifying the public, even if the group claimed to be using “Sieg Heil” to mean victory in greater friendship among all people.

“Globalize the Intifada” and Other Speech Urging “Intifada”

In Arabic, the word *intifada* literally means “shaking off.” As applied in modern times, the context is a call for violence. In the words of Hamas leader Ismail Haniyeh, “The Hamas movement will lead Intifada after Intifada until we liberate Palestine – all of Palestine, Allah willing ... The gun is our only response to [the] Zionist regime.”²⁴²

The term “intifada” in the context of anti-Israel activity was popularized by Yasser Arafat, an Egyptian who was trained as an agent of the Soviet Union and who became head of the “Palestine Liberation Organization” (PLO).²⁴³ As of 1964 when the PLO was founded by the Arab League, Gaza was ruled by Egypt, and the West Bank by Jordan. Both Arafat and the PLO expressly disclaimed any interest in these territories, and there was no interest in advancing self-government or improving the conditions of the people there. Rather, the Palestine Liberation Organization and Arafat aimed at the eradication of the State of Israel. The First Intifada took place in 1987–1993, and ended when Arafat signed the Oslo Accords, a peace treaty that he immediately stated (in Arabic) he had no intention of keeping.²⁴⁴ Arafat initiated the Second Intifada in 2000 after he turned down a peace plan brokered by President Clinton. According to President Clinton, the plan would have given Arafat almost everything Arafat said he wanted, and the rejection was plain evidence that Arafat’s true objective remained as always: extirpation of the State of Israel.²⁴⁵

²⁴² “8 Years: 8 Quotes by Hamas Leader Ismail Haniyeh,” *IsraelAA*.

²⁴³ Ion Mihai Pacepa, “The KGB’s Man,” *Wall Street Journal*, Sept. 22, 2003:

Before I defected to America from Romania, leaving my post as chief of Romanian intelligence, I was responsible for giving Arafat about \$200,000 in laundered cash every month throughout the 1970s....The KGB had trained him at its Balashikha special-ops school east of Moscow and in the mid-1960s decided to groom him as the future PLO leader....Arafat was an important undercover operative for the KGB. Right after the 1967 Six Day Arab-Israeli war, Moscow got him appointed to chairman of the PLO career terrorist, trained, armed and bankrolled by the Soviet Union and its satellites for decades.

²⁴⁴ Speaking at a mosque in Johannesburg, South Africa, on May 10, 1994, Arafat compared the Oslo Accords to a treaty that had been signed by Muhammad with the Quraysh tribe, and later broken when his followers were strong enough to conquer.

This agreement, I am not considering it more than the agreement which had been signed between our Prophet Muhammad and Quraish, and you remember the Caliph Omar had refused this agreement and considered it “Sulha Dania” [a despicable truce]. But Muhammad had accepted it and we are accepting now this [Oslo] peace accord.

“Arafat compares Oslo Accords to Muhammad’s Hudaibiyyah Peace Treaty, Which Led to Defeat of the Peace Partners,” *Palestinian Media Watch* (PMW), May 10, 1994, <https://palwatch.org/page/8>.

²⁴⁵ In a December 2024 interview at the *New York Times* DealBook Summit, Clinton stated: “I tell them what Arafat walked away from . . . he walked away from a Palestinian state with a capital in East Jerusalem, 96 percent of the West Bank, 4 percent of Israel to make up for the 4 percent” annexed for settlements. “Bill Clinton: Young Americans Shocked to Learn Arafat Turned Down Palestinian State,” *Times of Israel*, Dec. 5, 2024, <https://www.timesofisrael.com/bill-clinton-young-americans-shocked-to-learn-arafat-turned-down-palestinian-state/>;

The intifada was characterized by mass murders of Jews and of other Israelis. The worst atrocities included:

- Dolphinarium Discotheque Bombing (June 1, 2001, Tel Aviv). A Palestinian suicide bomber detonated explosives packed with nails and metal shards outside the Dolphinarium nightclub in Tel Aviv, killing 21 people, 16 of whom were teenagers, and injuring over 120. The bombing occurred during a weekly teen dance night. Most victims were young Jewish immigrants from the former Soviet Union.²⁴⁶
- Sbarro Restaurant Bombing (August 9, 2001, Jerusalem). A suicide bomber blew himself up inside the Sbarro pizza restaurant during lunch hour. The location and time of the attack were deliberately chosen to maximize civilian casualties. The bomber was a Hamas operative under the direction of Hamas terrorist Ahlam Al-Tamimi. She was arrested and sentenced to 16 life sentences in Israel but was released in the 2011 Israel-Hamas prisoner exchange. Since then, she has lived freely in Jordan. Sixteen civilians were killed, including 8 children, and 130 were wounded.²⁴⁷
- Hebrew University Bombing (July 31, 2002, Jerusalem). A bomb placed in a crowded cafeteria killed 9 people, including 5 American students, and wounded about 100 others. Hamas claimed responsibility. It was timed to coincide with the start of the academic year to inflict mass civilian casualties and international attention.²⁴⁸
- Passover Massacre (March 27, 2002, Netanya). A suicide bomber entered the Park Hotel during a Passover seder and detonated his explosives. Thirty civilians were killed and 140 wounded.²⁴⁹
- Additionally, there were many incidents of violent demonstrations, random shootings of Israeli civilians and soldiers, and use of Molotov cocktails.²⁵⁰

Seth Mandel, "Clinton, Arafat, and a Century of Rejection," *Commentary*, Dec. 6, 2024, <https://www.commentary.org/seth-mandel/clinton-arafat-and-a-century-of-rejectio>

²⁴⁶ Washington Institute for Near East Policy, *Hamas's Tactics: Lessons from Recent Attacks*, Oct. 19, 2005 ("the terror group's most devastating attack since the outbreak of the second intifada"), <https://www.washingtoninstitute.org/policy-analysis/hamass-tactics-lessons-recent-attacks>.

²⁴⁷ Ibid.

²⁴⁸ Ibid.

²⁴⁹ Ibid.

²⁵⁰ U.S. Department of State, Bureau of Democracy, *Human Rights, and Labor, 2001 Country Reports on Human Rights Practices: Israel and the Occupied Territories*, Feb. 25, 2002, <https://2009-2017.state.gov/j/drl/rls/hrrpt/2001/nea/8262.html>.

Having observed Auraria occupation, the University of Colorado Board of Regents in June 2024 unanimously resolved: “Calls for ‘Intifada’ are calls for violence and murder against the Jewish people, are antisemitic, and are racist in nature.”²⁵¹

Some persons who use the term *intifada* may have their own sincere; alternative meanings. For example, they might be thinking solely of nonviolent, noncriminal activities, such as boycotts or peaceful demonstrations.²⁵² The same can be said of “river to the sea” slogans, which for a hypothetical speaker might not include a belief in driving all the Israelis into the sea, or forcing them to submission as *dhimmi* subjects of Islamist rulers.

However, the standard, violent, menacing meaning of the above slogans was amplified by the context of other speech from the encampment. Some protesters displayed inverted red triangles, a sign used by Hamas to mark targets for murder.²⁵³ Also on encampment display was a sign picturing Leila Khaled; she perpetrated airplane hijackings and led the terrorist Popular Front for the Liberation of Palestine, which murdered dozens of Americans and Israelis.²⁵⁴ Absent from the encampment were any signs about releasing the hostages held by Hamas.²⁵⁵

Nobody forced the Auraria protesters to copy death chants often used for mass murder of Israelis (of all religions) and of Jews globally. Nobody can be surprised that these incantations were particularly frightening at Auraria when bull horned by a group engaging in physically aggressive unlawful behavior—a forcible occupation of the Quad, from which were dispatched forcible occupiers of the public streets and of campus buildings.

²⁵¹ University of Colorado Board of Regents, *Resolution*, June 21, 2024, <https://go.boarddocs.com/co/cu/Board.nsf/goto?open&id=D6DRA86D034C>.

²⁵² Asa Willett, an encampment leader, testified “for those of us who are involved in the encampment, when those words are often said, people aren’t thinking of pushing Jewish people into the sea, or these sorts of claims have made in the media. What they are saying is they’re calling for a shift in civil society and civil institutions more aligned with ethics and equal rights in society for all.” Willett Testimony, 7/16/25 *Web Briefing*, p. 30.

²⁵³ Rona Testimony, 7/16/25, *Web Briefing*, p. 4.

²⁵⁴ *Ibid.*, p. 4. U.S. Department of State, Bureau of Counterterrorism, *Designated Foreign Terrorist Organizations* (PFLP designated Oct. 8, 1997), <https://www.state.gov/foreign-terrorist-organizations>; Jewish Virtual Library, *American Victims of Terrorist Attacks (1970 - Present)* (search page for “PFLP”), <https://jewishvirtuallibrary.org/american-victims-of-terrorist-attacks>.

MSU General Counsel David Fine writes, “Even assuming arguendo that some protest speech was antisemitic, there was no evidence that any MSU Denver community member made such statements.” David Fine, Comments to Committee Report Draft 2/16/26. As Mr. Fine similarly stated at the public briefing, “whether ‘globalize the intifada’ is anti-Semitic or not, ‘river to the sea,’ et cetera there was no evidence of an MSU student engaging in that conduct.” Fine Testimony, 8/20/25 *Web Briefing*, p. 27. It is true that the Committee did not develop any evidence about which protesters said what. Nor did on-campus law enforcement, which was necessarily focused on documenting crimes such as trespassing and vandalism, rather than on documenting speech which, however hateful, is lawful.

²⁵⁵ Molly Cruse “Interview: The Editor-In-Chief at MSU Denver’s Student Newspaper on the Opportunity and Challenge of Covering Antiwar Protests,” *Colorado Public Radio* (CPR), May 2, 2024, <https://www.cpr.org/2024/05/02/interview-student-journalist-on-covering-college-auraria-campus-antiwar-protests>;

Particularly in the context of continuing and escalating use of physical force to invade and violate the rights of others, the public chanting of the global slogans of antisemitic mass murder was antisemitic.

Anti-Zionism and Antisemitism

During the Colorado Advisory Committee’s 2025 public briefings, the protesters testified that they were anti-Zionist but not antisemitic, and they urged the Committee to recognize the difference.²⁵⁶ To understand the claim, a brief history of Zionism will be helpful.

In the Jewish scriptures, “Zion” refers most narrowly to Mount Zion near Jerusalem, or more broadly to the ancient Hebrew capital of Jerusalem, to the Hebrew Kingdom as a whole, or, most broadly, to the Kingdom of God. The word first appears in the *Second Book of Samuel*, which depicts events about 900 B.C., and which may have been written about 600 B.C. The word has been persistent in Jewish writing ever since.²⁵⁷

Psalms 137 describes the Jewish longing for Zion after many but not all Jews had been forcibly removed from their homeland to Babylon following the Babylonian conquest of the Kingdom of Judea in 586 B.C. The yearning for Zion—whether defined as one’s original homeland or as the heavenly kingdom—has inspired many non-Jewish people. In the United States, both enslaved and free black people sang songs such as “‘Tis the Old Ship of Zion” or “March On (O Zion).”²⁵⁸

More recently, the 1972 movie *The Harder They Come*, which introduced reggae music and the Rastafari religion to a global audience, included the Melodians’ 1970 “Rivers of Babylon,” closely following the Biblical text:

By the rivers of Babylon, there we sat down, yea, we wept, when we remembered
Zion They carried us away in captivity requiring of us a song Now how
shall we sing the Lord’s song in a strange land?²⁵⁹

As Auraria campus Rabbi Yisrael Ort points out, the name of the Jewish homeland, “Israel,” has even deeper roots:

²⁵⁶ Although we have no comprehensive database of everything that was chanted during the Auraria occupation, it should be noted that a representative of Students for a Democratic Society (SDS), which led the Auraria occupation, stated, “SDS has nothing but love for the Jewish community. You know, we always like to chant, ‘Judaism yes. Zionism no.’” The statement was made while the SDS was picketing the home of University of Colorado Regent Ilana Spiegel, who is Jewish. Quentin Young, “CU Leaders Adopt Resolution Condemning Student Group that Targeted Jewish Regent,” *Colorado Newslines*, June 24, 2024, <https://coloradonewslines.com/2024/06/20/cu-resolution-condemning-student-group-jewish-regent/>.

²⁵⁷ II Samuel 5:7 (“Nevertheless, David captured the fortress of Zion—which is the City of David.”) (NIV).

²⁵⁸ E.g., William Francis Allen, *Slave Songs of the United States* (photo reprint, Pantianos Classics) (1st pub. 1867).

²⁵⁹ Lyrics and recording at <https://open.spotify.com/track/5b7bnzBT8F7SMg5nwOolbk>. In the Biblical original: “By the rivers of Babylon, there we sat down, yea, we wept, when we remembered Zion. . . . they that carried us away captive required of us a song; and they that wasted us required of us mirth, saying, Sing us one of the songs of Zion. How shall we sing the Lord’s song in a strange land?” Psalms 137:1, 3–4 (KJV).

[T]he Land of Israel is mentioned throughout the Torah. The 3rd of the Patriarch progenitors of the Jewish people is called “Israel” throughout the Torah. The Jewish people are called by the name “B’nei Yisrael” (The Children of Israel) throughout the Torah with the Jews taking original possession of the Land of Israel 3300 years ago as recorded in the Torah. Many mitzvos (commandments) of the Torah can only be done in Israel (even today). The Torah is the definitive definition of Judaism. As such, the Land of Israel is not only a country that Jews (and others) live in but a core part of Judaism and Jewish observance.²⁶⁰

In his view, “One cannot simultaneously go against the Torah and claim to be observing Judaism.”²⁶¹

After an unsuccessful Jewish war of independence in 132 A.D., the Roman Empire forced many but not all Jews out of Israel, creating what became known as the *diaspora*.

In the Russian Empire in the early 1880s, persecution of Jews, including in state-sponsored pogroms, began intensifying. As a result, organizations were founded in Eastern Europe to encourage Jewish emigration to the Holy Land, which at the time was controlled by the Ottoman Empire. Collectively, these groups were called Lovers of Zion (*Hovevei Zion*) or Love of Zion (*Hibbat Zion*).²⁶²

Theodor Herzl founded modern political Zionism, in that he set a goal for Jews not only to move from the diaspora back to Israel, but also to re-establish Jewish self-governance there. In 1896 Herzl published his seminal pamphlet *Der Judenstaat* (The Jewish State) in Vienna and Leipzig, outlining his vision for a sovereign Jewish state in response to antisemitism. In August 1897, Herzl convened and chaired the First Zionist Congress in Basel, Switzerland. There, the Zionist Organization (later, World Zionist Organization) was established to secure a publicly recognized home for the Jewish people in Israel.²⁶³

In the Zionists’ view, life in the Diaspora was becoming too dangerous. The first half of the twentieth century in Europe and the Middle East would confirm this dire vision.

Zionism has always embraced Jews of all types: religious, atheists, agnostics, socialists, progressives, conservatives, and everyone else.²⁶⁴

The Zionist movement achieved success on May 14, 1948, when Israel declared its independence from the United Kingdom’s colonial mandate from the defunct League of Nations. Eleven minutes

²⁶⁰ Rabbi Yisrael Ort, Comments to Committee Report Draft 2/16/26 (hereinafter *Ort Comments 2/16/26*).

²⁶¹ *Ibid.*

²⁶² Jewish Virtual Library, *Zionism: Hovevei Zion*, <https://jewishvirtuallibrary.org/hovevei-zion>.

²⁶³ Jewish Virtual Library, *First Zionist Congress and Basel Program (August 1897)*, <https://jewishvirtuallibrary.org/first-zionist-congress-and-basel-program-1897>.

²⁶⁴ One scholar identifies seven varieties of Zionism: diaspora, political, labor, religious, cultural, revisionist, and identity. Gily Tory, “Zionism: A Response to Antisemitism?” in *The Routledge History of Antisemitism*, pp. 390–97.

after independence, President Harry S. Truman granted U.S. diplomatic recognition. Ever since, Israel has been a democratic state with protections of civil rights for Jewish and non-Jewish inhabitants. The latter group constitutes about 22 percent of Israel's population, and includes Muslims, Druze, and Christians.²⁶⁵

While Zionism is the fulfillment of the aspiration to self-governance of the Jewish people, it is not necessary to be Jewish to be a Zionist. As President Biden (a Roman Catholic) stated, "I don't believe you have to be a Jew to be a Zionist, and I am a Zionist."²⁶⁶

Not all Jews have been Zionists. As of 1900, it undoubtedly seemed crazy to many Jews living in cosmopolitan and fairly tolerant cities such as Vienna to move to an Ottoman Empire backwater and buy barren sand dunes or malarial marshes at exorbitant prices from absentee Turkish owners. However, as things turned out in the long run, Vienna eventually became a deadly city for Jews, and the former wastelands that became Israel better for survival.

Even so, some Jews still opposed the reestablishment of the State of Israel. Some believed it to be premature, the messiah having not yet come. Most prominent numerically of the Jewish non-Zionists have been the Satmar sect of Hasidim, who number over 100,000. Living in Israel itself are the small (under 5,000) Neturei Karta, a Haredi branch.²⁶⁷

²⁶⁵ United States Department of State, Office of International Religious Freedom, *Israel International Religious Freedom Report for 2022*, pp. 3–4, <https://www.state.gov/wp-content/uploads/2023/05/441219-ISRAEL-2022-INTERNATIONAL-RELIGIOUS-FREEDOM-REPORT.pdf>

The U.S. government estimates the total population at 8.9 million (midyear 2022). According to the country's Central Bureau of Statistics (CBS) classification system (2021 data), approximately 73.8 percent of the population is Jewish, 18 percent Muslim, 1.9 percent Christian, and 1.6 percent Druze. The remaining 5 percent consists of those the CBS classifies as "other." This category includes those who identify as Jewish but do not satisfy the Orthodox Jewish definition of "Jewish" that the government uses for civil procedures and applies to many immigrants from the former Soviet Union. The country is also home to relatively small communities of Samaritans, Karaite Jews, Messianic Jews, Seventh-day Adventists, Jehovah's Witnesses, and Baha'is. The majority of non-Jewish citizens are of Arab/Palestinian origin. This includes approximately 75.8 percent of the country's 185,000 Christians, according to the CBS as of December. Non-Arab/Palestinian Christians are mainly those who emigrated from the former Soviet Union in the 1990s as descendants of Jews or alongside Jewish family members and their descendants.

²⁶⁶ Matt Spetalnick, Jeff Mason, Steve Holland & Patricia Zengerle, "I am a Zionist": How Joe Biden's Lifelong Bond with Israel Shapes War Policy," *Reuters*, Oct. 21, 2023; "I am a Zionist," says Biden at Hanukkah Event, Promises Continued Military Assistance to Israel," *Times of Israel*, Dec. 12, 2023, https://www.timesofisrael.com/liveblog_entry/biden-were-there-no-israel-there-wouldnt-be-a-jew-in-the-world-who-is-safe/.

²⁶⁷ Rabbi Ort counters, "but one can also say that being Jewish doesn't necessarily equate to (fully) observing the Torah and thus, Judaism." *Ort Comments* 2/16/26.

However, the vast majority of Jews are Zionists, and the percentage is even higher among Jews who practice their faith. A June 2024 poll (closest in time to the Auraria events), found that 5% of American Jews agreed with “I am not a Zionist” and a separate 2% with “I am an anti-Zionist,” plus 2% “Don’t know.” This left 91% as “Zionist” or “Somewhat Zionist.” The same question asked a year later, in June 2025, reported 3% more “Not a Zionist,” 1% more “Don’t know,” and no increase in “anti-Zionist.” This left 86% as some sort of Zionist.²⁶⁸

Thus, as a practical matter, the difference between “being against Zionists” and being “against Jews” can be slight. “Anti-Zionist” phraseology is often employed by people who hate Jews in general.

For example, Nazi and Klansman David Duke served two terms in the Louisiana state house and achieved national political notoriety. He rephrased traditional antisemitic tropes about “Jews” (e.g., control of media, finance, government) as about “Zionists.” He promoted “Zio” as an epithet, plus compounds such as “Zio-supremacism,” or “Zio-occupied America.”²⁶⁹

Since Israel won its independence in 1948, approximately 140 more nations have done the same, usually, like Israel, by shaking off colonial or imperialist rulers. It is notable that the many antisemitic anti-Zionists find intolerable the 78 years of Israeli independence, and not the more recent independence of so many other nations.²⁷⁰

The modern political form of anti-Zionism that charges Israelis with “settler colonialism” and asserts “Zionism is racism” was invented by Syrian fascists who were inspired by Nazism.²⁷¹ The United States government has always taken the position that this modern, libelous form of anti-Zionism is obvious antisemitism. On November 10, 1975, the United National General Assembly

²⁶⁸ Jewish People Policy Institute, *Voice of the Jewish People Survey – June 2025*, July 14, 2025, <https://jppi.org.il/en/voice-of-the-jewish-people-survey-june-2025-u-s-jews-on-the-war-with-iran-the-fighting-in-gaza-and-jewish-israeli-ties/>.

Similarly, Brandon Rattiner, senior director of the Jewish Community Relations Council of Colorado, told the Committee that “88% believe Israel has the right to exist as a Jewish democratic state,” according to a poll for Jewish Federations of North America (JFNA). *Business meeting 5/8/2025*, units 173–74. By the standard historic definition, and the definitions used by the SDS and Jewish Voice for Peace, “Zionists” are the 88% of Jews who favors the existence of a Jewish state, namely Israel. However, according to the JFNA poll, many Jews who support Israel’s existence did not identify with the term “Zionist” because they interpret it to mean (at least in contemporary politics), always supporting the actions of the Israeli government. Andrew Lapin, “Even Most Israel-Supporting US Jews Don’t Identify as ‘Zionists,’ JFNA Survey Finds,” *Times of Israel*, Feb. 2, 2026, <https://www.timesofisrael.com/even-most-israel-supporting-us-jews-dont-identify-as-zionists-jfna-survey-finds/>

²⁶⁹ E.g., David Duke, *Jewish Supremacism: My Awakening to the Jewish Question* (Free Speech Press, Mandeville, LA, 2003).

²⁷⁰ According to one witness, “Let me be clear, antisemitism to single out Jews as the only peoples among the 193 nations of the earth to be denied a country in their historical ancestral homeland. That’s antisemitism, no matter who says it isn’t.” Bennett Testimony, *9/3/25 Web Briefing*, p. 15.

²⁷¹ See Hussein Aboubakr Mansour, “The Man Who Made Zionism Into Settler Colonialism: Antoun Sa’adeh, Fayeze Sayegh, and the Intellectual Genealogy of Anti-Zionism,” *Middle East Forum*, Nov. 9, 2025, <https://www.meforum.org/mef-online/the-man-who-made-zionism-into-settler-colonialism>.

adopted Resolution 3379 declaring “Zionism is a form of racism and racial discrimination.” The American Ambassador to the United Nations, Daniel Patrick Moynihan, stated:

The United States rises to declare before the General Assembly of the United Nations and before the world that it does not acknowledge, it will not abide by, it will never acquiesce in this infamous act. . . . [A] great evil has been loosed upon the world. The abomination of anti-Semitism . . . has been given the appearance of international sanction. The General Assembly today grants symbolic amnesty—and more—to the murderers of the six million European Jews. . . . [T]his day will live in infamy. . . . The lie is that Zionism is a form of racism. The overwhelmingly clear truth is that it is not. . . . The State of Israel, which in time was the creation of the Zionist Movement, has been extraordinary in nothing so much as the range of “racial stocks” from which it has drawn its citizenry. There are black Jews, brown Jews, white Jews, Jews from the Orient and Jews from the West. Most such persons could be said to have been “born” Jews, just as most Presbyterians and most Hindus are “born” to their faith, but there are many Jews who are converts. . . . The United States of America declares that it does not acknowledge, it will not abide by, it will never acquiesce in this infamous act.²⁷²

Sixteen years later, on December 16, 1991, the United Nations, thanks in part to U.S. leadership, did repeal the “infamous act.”²⁷³

In December 2023, the U.S. House of Representatives reiterated the longstanding U.S. position. House Resolution 894 listed some of the many antisemitic acts perpetrated between Oct. 8 and Nov. 15, 2023. Per the resolution, the U.S. House “clearly and firmly states that anti-Zionism is antisemitism.”²⁷⁴

Most people whose “anti-Zionism” inspires them to attack Jews do not inquire as to whether their victims are Zionists or not.²⁷⁵ At Auraria, “students having traditional head-coverings called

²⁷² Cong. Rec. Senate 35777, Nov. 11, 1975 (reprinting Moynihan’s prepared remarks); “Daniel Patrick Moynihan’s Response to U.N. General Assembly Resolution 3379,” *YouTube*, Nov. 10, 1975, <https://youtu.be/B2Hlg1-blE4?si=t1h7JpYMSKkTQ330>.

²⁷³ U.N. General Assembly Resolution 46/86, repealing Resolution 3379. Not by coincidence, the Soviet Union was formally dissolved on December 26, 1991. Since the 1960s, the U.S.S.R. had been the global fountain of anti-Israel libels. The totalitarian regime had promoted antisemitic anti-Zionism to attack on democracy and Western civilization, and to warn other minority groups in the U.S.S.R. not to stand up for their own rights,

²⁷⁴ H.Res. 894, Cong. Rec. 6131–32, Dec. 5, 2023.

²⁷⁵ As the New York City Mayor’s report on antisemitism observed:

The practical consequence of anti-Zionist rhetoric is the dehumanization of Zionists (the vast majority of Jewish people) and the dehumanization of all Jewish people. When Zionism itself is characterized as racist or illegitimate, Jewish people become targets for hostility and violence. This dynamic helps explain why attacks on Israel’s legitimacy correlate with increased antisemitic incidents in the diaspora, targeting all Jewish people regardless of their politics.

The post-October 7, 2023, period starkly illustrates this pattern. Following the terrorist attacks in Israel and the ensuing conflict in Gaza, hate crimes against Jewish people in New York City rose dramatically. Perpetrators did not attempt

kippahs but no indications of support for Israel or being Zionist were shouted at with slogans such as ‘Free Palestine’ demonstrating a lack of distinction between the two.”²⁷⁶

Anti-Zionism at the Encampment

The Auraria protesters strongly disagree. Their testimony to this Committee sharply distinguished their anti-Zionism from antisemitism. This report cites and quotes every witness who personally made the point.²⁷⁷

At the May 8, 2024, online meeting when the Committee voted to study the presence or absence of Auraria campus antisemitism, three individuals spoke during the public comment period to state that the encampment was not antisemitic. One person said, “Judaism was not just tolerated, it was respected, honored, and celebrated. They all understood that Judaism is not Zionism. We were thanked for showing up. We were given space for ritual and education.”²⁷⁸ “We were told over and over how much our presence was appreciated, how wonderful it felt for non-Jews to participate in our rituals and witness what Judaism really means.”²⁷⁹

According to Alex Borenstein, of Jewish Voice for Peace, “not once did my safety as a Jewish person ever feel threatened by the encampment,” except when “the University allowed counter protesters who are pro-genocide and pro-Israel to attack us.”²⁸⁰ Another participant recounted, “my Jewish perspective was celebrated, my Jewish perspective was taken into account in terms of our organizing of demonstrations in terms of our chants and in terms of our speeches.”²⁸¹

According to Aditi Bhaskar, a faculty member at CU Boulder who attended the encampment, “There were many Jewish participants, and in fact, I attended a workshop led by Jewish Voices for Peace members about resilience and self-care. My overall experience was one of peaceful, free expression and care.”²⁸²

to identify victims’ political views regarding Israeli policies. They targeted individuals based solely on Jewish identity.

Mayor’s Office to Combat Antisemitism, *2025 Report*, Dec. 30, 2025, p. 5, <https://www.nyc.gov/content/dam/nycgov/mayors-office/downloads/pdf/press-releases/2025/MOCA-Report-2025.pdf>. The report was withdrawn after new Mayor Mamdani took office on January 1, 2026.

²⁷⁶ *Ort Comments 2/16/26*.

²⁷⁷ We do not list the names of a few people who sent form letters stating themselves to be “outraged and appalled” by the Committee’s inquiry.

²⁷⁸ Meeting of the Colorado Advisory Committee to the U.S. Commission on Civil Rights, May 8, 2025, (web-based), Transcript (hereinafter cited as “5/8/25 Committee Meeting”); Amy’s Testimony, *5/8/25 Committee Meeting*, p. 11.

²⁷⁹ *Ibid.*

²⁸⁰ Borenstein Testimony, *5/8/25 Committee Meeting*, pp. 13-4.

²⁸¹ Willett Testimony, *5/8/25 Committee Meeting*, p. 16.

²⁸² Bhaskar Written Statement at 1.

Elliote Enochs “was involved in the Auraria Encampment during its duration.” A graduate of MSU Denver with a degree in Gender, Women, and Sexuality Studies, Enochs wrote, “I never witnessed any antisemitism at the encampment and know that if any were to emerge, that person would be asked to leave immediately. In addition to the marshals that Asa [Willett] mentioned giving out our rules, we had large signs around the encampment and in all common spaces of the encampment with our rules against discrimination clearly written out. I believe that equating a religion that has been around for thousands of years with a militaristic ethnostate, is more antisemitic than criticizing violence against a specific population of people that has been occurring since the original Nakba.”²⁸³

One written testimonial came from a Jewish descendant of Holocaust survivors:

As someone who grew up Jewish, I have experienced antisemitism firsthand many times...[T]here was no antisemitism coming from the organizers of the encampment on the Auraria campus.

Opponents of this statement may argue that because we condemned Israel—the so-called Jewish state—or opposed Zionism, which some consider a Jewish ideology, our actions were inherently antisemitic. But that argument is fundamentally flawed. Zionism is a political ideology. It has never represented all Jews. Since its inception, there have always been anti-Zionist Jews. Many Jews, including myself, reject Zionism on moral, ethical, or religious grounds.

. . . Not only was our community welcoming and supportive to all, but we were honored with a visit from iconic activist Angela Davis.²⁸⁴ She spoke to us about how our movement stands at the forefront of the global push for freedom and justice for all people—something rarely acknowledged by critics of university encampments.

In fact, the claim that anti-Zionism is inherently antisemitic is itself antisemitic under Part 6 of the Jerusalem Declaration, which cites as an example: “Assuming that non-Israeli Jews, simply because they are Jews, are necessarily more loyal to Israel than to their own countries.”

. . . The Jewish community is richly diverse, and many of us firmly oppose the use of our tuition dollars, taxes, or institutional investments to support war crimes or crimes against humanity—regardless of which state commits them.²⁸⁵

Similarly, Michael Kengmana, “a Jewish resident of Denver,” wrote,

Last year during the time of the Auraria encampment I was able to come not just as a person who supported, but very much as someone who is Jewish. At no point

²⁸³ Enochs Written Statement.

²⁸⁴ A recipient of the Soviet Union’s Lenin Peace Prize, Davis endorsed the Soviet Union’s 1968 invasion of Czechoslovakia to crush the human rights openings of that nation’s “Prague Spring.” She denounced Jewish prisoners of conscience in the Soviet Union as “Zionist fascists and opponents of socialism.” Mike Brake, “OU Hosts Former Communist Party Candidate and Accused Terrorist,” *Oklahoma Center for Policy Analysis*, Feb. 21, 2020, <https://ocpathink.org/post/analysis/ou-hosts-former-communist-party-candidate-and-accused-terrorist>

²⁸⁵ Mühlrad Written Statement at 1-4.

did I ever feel targeted or threatened because of me being Jewish. In fact, I felt my Judaism was celebrated.

This was most evident when I was a part of leading a Shabbat at the encampment. Shabbat is a weekly sacred time in the Jewish tradition where community is able to gather, rest, heal, and take stock. The Shabbat at the encampment was a mix of people who identified as Jewish along with people who wanted to be a part of the communal gathering and learn about Jewish ritual. Together we sang songs, did ritual Shabbat blessings, talked about the issues we see in the world from Palestine to right here in Colorado, and were able to connect across faith and personal backgrounds.

At the encampment Judaism was anything but targeted or vilified. It was celebrated. It was distinguished from Zionism, a nationalist and evermore fascist ideology founded on Jewish supremacy that distorts Judaism to justify the oppression of those who it does not see as worthy of human dignity. Instead, it was seen for what it truly is, or at least is truly capable of being: A way of living that values and finds meaning in all life.

I would feel very confident in saying, regardless of their politics, it is the latter that most Jews would identify as being part of the foundation of what Judaism means to them. There is nothing antisemitic about standing up and speaking out to value all life. In fact, that is one of the most foundational principles of Judaism. The encampment was a place where I and other Jews were able to embody this Jewish principle and feel proud of being Jewish. I am grateful to have had the opportunity to have in my own small way been a part of it.²⁸⁶

CU Denver economics professor Chloe East “went to the encampment on the Auraria campus many days that it was up.” She stated, “Many people of Jewish faith participated in the encampment directly and Jewish religious services took place at the encampment.”²⁸⁷

Terry Burnside, who has been adjunct faculty at all three Auraria schools, and was teaching there in the Spring of 2024, participated in the encampment. Burnside commended “the courageous Jewish participation in our stand against mass murder, starvation, infanticide, and epistemicide in Palestine.” “We are not attacking Judaism, Jews, or Jewishness. We are standing with a people under two years of onslaught by a nation-state and a political movement that has bombed every university in Gaza to rubble.” According to Burnside, the Colorado State Advisory Committee is part of Trumpian Zionist plot: “The current administration of which this committee is effectively a tool has . . . joined in Zionism’s Siren song that Jewish people are only safe in land appropriated South of Lebanon and only then if that land’s indigenous peoples are slaughtered. So where really is the threat of anti-Semitism amongst our present emergencies? I submit its most dangerous source is Zionism itself, which piles atrocity upon atrocity, racks up a body count that reputable medical journals reckon in the hundreds of thousands and says it is doing so in the name of Jews everywhere.”²⁸⁸

²⁸⁶ Kengmana Written Statement.

²⁸⁷ East Testimony, 8/20/25 *Web Briefing*, p. 35.

²⁸⁸ *Ibid.*, pp. 36–7.

Jessica Ellis works “in research at the CU Medical Campus” and is president of United Campus Workers of Colorado. She assisted the encampment by providing medical and camping supplies. Ms. Ellis testified: “Specifically Jewish students and organizers played a big role in both attending and organizing as students, staff, faculty and community members linked arms in a circle to protect their property from destruction by police. We also made way for Jewish students to gather for Passover. Our group, which was diverse by every measure physically stood in between the ARN police and our Jewish neighbors while they held Seder.” Further, “I emphatically disagree with the allegations of widespread anti-Semitism during this encampment. These hearings are grounded in bad faith interpretations of the student activist movement and led by people who largely did not attend the encampment. . . . The accusations of anti-Semitism are just the latest method used to stifle students who speak out against genocide and apartheid.”²⁸⁹

Lucia Feast, an MSU student who said she was “one of the organizers” of the encampment testified “that antisemitism was not tolerated as previous people have said at the encampment, and that was not enforced by people, by the university or by police that showed up. That was enforced by the people that were participating in these protests, that antisemitism was not tolerated or accepted in that space because we were there fighting genocide. And then the last thing I wanted to say is that as others have said as well, that Jewish community members were deeply involved in the encampment and at every level and their voices were incredibly valued in our organizing.”²⁹⁰

MSU professor Alex Boodrookas testified that the encampment was adjacent to his office, so he walked past it several times daily. “Rarely did I fail to see people who explicitly identified themselves as Jewish by wearing things like Star of David necklaces or . . . ‘Jews for Ceasefire’ T-shirts . . . Moreover, I met several encampment organizers who openly and proudly identified as Jewish. I never encountered any behavior that I would characterize as anti-Semitic.”²⁹¹

All present members of the Colorado State Advisory Committee were appointed by President Biden on May 12, 2022. All members in their second term were originally appointed by President Obama in November 2016.

²⁸⁹ Ellis Testimony, *8/20/25 Web Briefing*, pp. 37–8.

²⁹⁰ Feast Testimony, *8/20/25 Web Briefing*, pp. 38–9. *See also* Maloney Testimony, *9/3/25 Web Briefing*, p. 33 (“It was beautiful to see Muslim and Jewish and Christian and Pagan and native students all get together to celebrate their respective faiths.”); Bailey West, *9/3/25 Web Briefing*, p. 34 (“The encampment was an inclusive, multi-faith space where anti-Semitism would not have been tolerated.”); Tashi Mckellop, *9/3/25 Web Briefing*, p. 35 (“As a Jewish student, . . . Anti-Semitism and anti-Zionism are not the same thing, and to conflate the two to me is anti-Semitic, to conflate those things. I personally feel as though I felt very accepted into that community, I felt very safe.”).

²⁹¹ Boodrookas Testimony, *8/20/25 Web Briefing*, pp. 39–40.

Rabbi Ort responds that “such things do not qualify them as being Jewish nor could one who is not Jewish be prevented from wearing them and therefore that does not show Jewish support for such ideas. Similarly, identifying oneself as Jewish while calling for or justifying the harm of Jews neither proves one is Jewish nor exemplifies Jewish behavior as such conduct is prohibited according to the Torah which defines Jewish observance.” Rabbi Yisrael Ort, Comments to Committee Report Draft 3/27/2026. (hereinafter *Ort Comments 3/27/2026*).

Lindsay Nelson, “a three-year member of the staff at CU Boulder and a member of United Campus Workers” and “ally of the Jewish people” argued, “The rise of anti-Semitism can be in part explained by the forcing of an inextricable tie between Judaism and the state of Israel. . . . Do not further the flames of anti-Semitism by equating Judaism to a reckless bloodthirsty white supremacist nature.”²⁹²

Ahmed Alasmar, a Palestinian American who works at the University of Colorado’s Anschutz Medical Center, “attended the encampments multiple times. At each of those times, I witnessed exactly what others have shared here, solidarity with many of the Jewish activists who were present. And no even sliver of anything that could be considered remotely anti-Semitic was tolerated. I think that it’s clear and transparent to everyone that this investigation does not actually care about anti-Semitism.”²⁹³

At the third public briefing, involving Jewish members of the Auraria community, Asa Willett testified at the invitation of the Committee. She described herself as “a microbiology student at MSU Denver. I’m also Jewish. I’m of Ashkenazi and Sephardi descent, Shomer Shabbos. I keep Kashrut and I say the Shema three times a day. And I was also a lead negotiator for the Auraria encampment for Palestine.”²⁹⁴ She played a video of a Passover Seder held inside the encampment, advocating for “equal rights for all who live between the Jordan River and the Mediterranean Sea.” The slogan was “Judaism, yes. Zionism, no.”²⁹⁵

“Since I’m short on time, I really want to stress this, which is that if and when, which I can only say happened under three times, I interacted with students who identified as Zionists, they said some pretty reprehensible things to me and other participants of the encampment, including one who had once been a reservist who came to the encampment to say that he had proudly cracked Palestinian skulls, his words, not mine, while he had been in service. And I said to him, ‘I think what you said there is pretty sick, but if you are here and if you are near our encampment, you have the right not to be harassed or threatened. You have the right not to face physical violence. You have the right to express and be yourself, but you do not have the right to feel comfortable all the time. You do not have the right to impunity. Your beliefs and actions, particularly the ones he just mentioned may be criticized and even condemned. And you do not have the right to silence

²⁹² Nelson Testimony, *8/20/25 Web Briefing*, pp. 40–1.

²⁹³ Alasmar Testimony, *8/20/25 Web Briefing*, p. 42.

²⁹⁴ Willett Testimony, *9/3/25 Web Briefing*, p. 7. “Shomer Shabbat” is someone who keeps the Jewish Sabbath. “Kashrut” is the Jewish religious law about the suitability of various foods (“kosher”). The “Shema” is prayer composed of several verses from the Hebrew Bible (what Christians call the “Old Testament”). In English, the prayer begins, “Hear, O Israel, the L-rd is our G-d, the L-rd is One.” “Text of the Shema Prayer in Hebrew and English,” *Chabad.org*, https://www.chabad.org/library/article_cdo/aid/706163/jewish/Text-of-the-Shema-Prayer-in-Hebrew-and-English.htm.

²⁹⁵ *Ibid.*, p.8

beliefs that you find offensive.’ These guidelines come from Naomi Klein, she’s a professor at McGill University, another anti-Zionist Jew.”²⁹⁶

Ms. Willet concluded, “I think it’s really important to acknowledge that as I said before, the difficulties of this conversation are not lost on me. There are people I love deeply who are Zionists, and I think the solution is not for a fiat ending of the conversation on the basis of a civil rights violation, but I think the solution is counter-speech. And here this is important to me. This draws into a principle of *Machloket l’shem shamayim*, which is arguments for the sake of heaven. This is a proud tradition in the Jewish culture of robust debate and argumentation that I think is deeply important.”²⁹⁷

The View From Outside the Encampment

According to overwhelming and undisputed testimony, the encampment was a very safe space for anti-Zionist Jews. Therefore, claim the protesters, the protests could not possibly have been antisemitic. However, some persons in the encampment did direct antisemitic hatred outward, at Jews who did not join the encampment. Daniel Bennett, executive director of Hillel of Colorado, testified, “Auraria Hillel students told me individuals from the encampment called openly to them for globalizing the intifada and death to the infidel.”²⁹⁸ “One sign read, ‘What Hitler did was right.’ A UCD Jewish student was called a dirty Jew by an individual in the encampment, somebody they described as an older man. Nobody in the tent city tried to stop or silence that voice.”²⁹⁹ Further, testified Mr. Bennett, “I tried to ask if I could come into the encampment at Auraria and they had no interest in letting me come in and talk.”³⁰⁰

²⁹⁶ Willett Testimony, 9/3/25 *Web Briefing*, p. 11.

²⁹⁷ Ibid. (spelling corrected from transcript).

²⁹⁸ Bennett Testimony, 9/3/25 *Web Briefing*, p. 15.

²⁹⁹ Ibid.

³⁰⁰ Ibid., p. 19. Mr. Bennett also described Auraria antisemitism that preceded the encampment and was contemporaneous with the persecution of the Golda Meir House Museum and Education Center:

A special screening of the October 7th atrocities was held on campus at the Tivoli for the press and local officials to see actual footage released by Hamas of the atrocities they committed. There were very loud protesters outside the Tivoli. Rebbetzin [wife of Rabbi] Ort took a student to attend and when asked by the protesters to join them, he responded that he was Jewish and they spat on the ground in his direction in disgust. When he came back to his dorm room, he had a flyer of the protest put under his door while no one else on the floor received one. His door was the only door with a Jewish symbol (mezuzah) on the floor.

A Jewish student told us that, while on campus, another student wearing a keffiyeh spat on her and threatened her because they saw her “star of David” necklace. I do not know if she reported it.

A Jewish student had anti-Israel flyers placed in their backpack without their permission.

According to the Bennett testimony, students did not report that the encampment had physically barred them from movement. Rather, Jewish students avoided the encampment area because the hatred directed towards them made them afraid.³⁰¹

Mr. Bennett testified that he was physically obstructed on one occasion:

I do know that walking with my cane that day, they would not let me cross the pathway to the door of the administration building where my meeting was held and I needed to walk far out of my way to access the door from the side. I'm a formidable man. I'm not easily shaken, but I was shaken. That's not just my experience. As one student after another told our Hillel staff, "It was intimidating to be Jewish on campus. I hid my mezuzah, my hamsa [a hand-shaped symbol of protection], my Jewish star, all of my Jewish jewelry and I walked way out of my way to avoid the encampment. The encampment whose First Amendment rights we as Jews fight for, they were doing nothing but showing hatred to me."³⁰²

Also, Rabbi Ort stated:

Jewish students felt even less safe on campus during this time (even though the Campus police have been amazing) and they had to go the long way around to get to their dorms from the Tivoli since they did not feel safe going directly across the field as they used to.³⁰³

For one of our female students, the fact that she was threatened. And another female student, the fact that she was threatened on the campus chat, those are very real fears and not some irrational fears. In light of that, I think that that is a real prevention of them being able to have direct access. And also, I'll also point out in my presentation, when you have people making a gun kind of gesture with their hands and there's a person with an orange vest right next to them and they're doing this stuff like this, it creates a certain uncomfortability.³⁰⁴

Lena Fishman, executive director of the Golda Meir House, recalled that Jewish student programs were "moved between locations in an effort to find spaces where students felt comfortable gathering. My understanding is that these moves were not necessarily because the specific locations were directly targeted, but rather because the broader protest environment made it very difficult to identify spaces where Jewish students felt secure and supported."³⁰⁵ As the MSU administration wrote to this Committee, "Many in our Jewish community were uncomfortable during the protests."³⁰⁶

Bennett Testimony, *9/3/25 Web Briefing*, p. 16. See also Rabbi Ort Testimony, *9/3/25 Web Briefing*, slide 6 (attempted preencampment intimidation of Jews).

³⁰¹ Bennett Testimony, *9/3/25 Web Briefing*, p. 23.

³⁰² *Ibid.*, p. 16.

³⁰³ Ort Testimony, *9/3/25 Web Briefing*, p. 6.

³⁰⁴ *Ibid.*, p. 23.

³⁰⁵ *Fishman Email 3/4/26*.

³⁰⁶ Post-Briefing Statement of MSU Denver, Sept. 8, 2025.

Some of the problems detailed above might be ascribed to stray individuals within the encampment, rather than the encampment leadership. More troubling is the disconnect between the words of Ms. Willett's testimony and the behavior of the protesters. She spoke eloquently about "the difficulties of this conversation," that "There are people I love deeply who are Zionists," and the way forward is "counter-speech" in the "proud tradition in the Jewish culture of robust debate and argumentation."³⁰⁷ Some other protesters who testified also mentioned the importance of freedom of speech, especially on campus, and some accused this Committee of attacking it.

Ms. Willett pointed to the necklace she was wearing, with the Yiddish word *doikayt*. "It means 'hereness', this is the opposite of Zionism," she said.³⁰⁸ *Doikayt* (hereness) was used the Jewish Labor Bund, a Russian-Polish international socialist organization in the early twentieth century. The group argued that rather than moving to Israel, Jews should improve the conditions in the countries where they currently lived. In retrospect, that policy could be said to have worked out for Jews who lived in the Western hemisphere, but it was fatal for most Jews who lived in Europe.

What of the "hereness" of the Auraria Campus? Here, the Jews were driven out of their Jewish space. Persons who believe that Israel must be driven out of existence drove Auraria Jews out of the Auraria Jewish center. Next, the campus common outdoor space, the Tivoli Quad was occupied and turned into threatening territory. With the Tivoli Quad occupied, Jewish groups moved their meetings out of the heart of the campus, the adjacent Tivoli Student Union.³⁰⁹

The Committee finds that denying Jews on campus the ability to use their own spaces is antisemitic. At Auraria, the anti-Zionism directed at the Jews who once gathered in the Golda Meir House was objectively antisemitic.

If *speech* had been all that went on at Auraria, the Committee would not have opened an investigation in the first place. The pros and cons of Zionism and anti-Zionism ought to be discussed and debated on campus like other topics.

Persons who participated in encampment and persons who threatened the Golda Meir House *could* have chosen to make their case by what Ms. Willett called "counter-speech" in the form of a "conversation." People could have obeyed all the campus rules and still could have given public speeches, distributed flyers and other written materials, and done everything else the First Amendment freedom of speech protects. They could have encouraged and invited "conversation" with people who disagreed.

³⁰⁷Willett Testimony, 9/3/25 *Web Briefing*, p. 11.

³⁰⁸ *Ibid.*, p. 10.

³⁰⁹ *Fishman Email 3/4/26*.

From the outset, this Committee has affirmed the First Amendment's broad protection of speech, including antisemitic speech. Whether or not anti-Zionist speech is considered a form of antisemitism, it is still fully protected by the First Amendment.

Rather than First Amendment conversation, the protesters proceeded by physical force, intimidation, and silencing of others. They repeatedly took over public streets, blocked traffic, and demanded that "Zionists" vacate the campus and the streets. They carried out cyberwarfare against Auraria. They broke into private offices. They repeatedly invaded campus buildings, thereby causing campuswide evacuations that ruined classes, studying, and group events. Instead of dialogue, they banged garbage cans.

All the while, they copied the death chants of Jew-hating mass murderers. They cast fear upon the vast majority of the Auraria Jewish community. They frightened away 1,500 middle school students from a science field trip. They obstructed graduations by screaming.

The unsafe atmosphere created by the protesters drove the Community College of Denver off its own campus after just four days. MSU and CU-Denver held out until the end of the semester, and then completely closed the campus for an indefinite time.

Menacing, vandalizing, and shutting down a campus while chanting the slogans of people who murder Jews is antisemitic. That finding is not altered by the fact that the perpetrators chose to exempt, and in fact welcomed, cooperative Jews.

Finding II: Because of the actions of the protesters, Jewish students were excluded From participation in and denied the benefits of educational programs and activities receiving federal financial assistance. However, the evidence does not support a finding of "deliberate indifference" by Auraria administrators, and so there was no violation of Title VI.

Title VI of the Civil Rights Act of 1964 provides:

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.³¹⁰

This Finding applies the Title VI text phrase by phrase. Because the deprivation of participation in education was caused by the protesters, and not the by Auraria schools, the schools would be culpable of a Title VI violation only if the schools acted with "deliberate indifference" to the deprivations caused by the protesters. Deliberate indifference is proven only if the schools' actions were "clearly unreasonable." The testimony received by the Committee strongly contradicts a finding of deliberate indifference. This does not mean that the campus administrators always acted wisely, in retrospect.

³¹⁰ 42 U.S.C. § 2000d.

Finding II also addresses some other Title VI issues. A controversial topic in Title VI, and in closely related Title IX (which covers sex discrimination),³¹¹ is whether speech alone can be so pervasively harmful as to create “a hostile environment.” Experts on our first briefing took a variety of positions on the question as applied to campus antisemitism. A section of this Finding summarizes their testimony. Ultimately, the Committee did not make any decision on this topic. In the Auraria context, the deprivations of educational opportunities were mainly inflicted by actions, rather than by words alone.

As detailed in a section below, the University of Colorado at Denver provided extensive written testimony about its policies and practices to counter antisemitism and asked for further guidance from the Committee. This report discusses the CU approach, and also some suggestions from the ADL, to provide context for our campus safety recommendations that appear at the end of this Report. In general, the report confines its analysis to the type of problem the Committee studied—a sustained invasion and takeover of a campus; the report does not opine about antisemitism policies under more ordinary, peaceful campus circumstances.

Finally, the Committee received oral and written testimony about antisemitic atmosphere at Auraria that was not part of the Committee’s investigation of the encampment and the Golda Meir House persecution. The Committee lacks the resources to investigate these other issues, but has preserved the testimony for future investigation or reference.

“in the United States ... under any program or activity receiving Federal financial assistance”

The University of Colorado at Denver, Metropolitan State University of Denver, and the Community College of Denver all operate “in the United States.” Each of them are “receiving Federal financial assistance.” Some of the assistance is in the form of federal loans or grants to students for tuition. Other assistance comes as grants to professors for particular research projects. Additionally, each of the schools receives federal grants, sometimes directly, and sometimes passed through the Colorado Department of Education.³¹² Hence, Title VI applies to them. *See* 34 C.F.R. 106.13(e) (definition of federal financial assistance under Title VI).

³¹¹ 20 U.S.C. § 1681.

³¹² Some grants that were in effect during 2023–24:

Community College of Denver: Integrated English Literacy and Civics Education (IELCE) Services (U.S. Dept. of Ed., via Colo. Dept. of Ed.); Adult Education and Family Literacy Act (AEFLA) - Basic Skills/Integrated Education and Training (U.S. Dept. of Ed., via Colo. Dept. of Ed.); AEFLA - Integrated Student Supports (U.S. Dept. of Ed., via Colo. Dept. of Ed.); Engineering Momentum (HSI-STEM and Articulation Program, Title III Part F) (U.S. Dept. of Ed.); Learning Assistant Transfer Pathway: Fostering STEM Connections (HSI-STEM Collaboration) (U.S. Dept. of Ed.) (Title III Part F) (shared with MSU Denver).

MSU-Denver. Besides the above grant shared with CCD, Promoting Opportunities for Hispanic Americans (POHA) - Denver Diversity Nutrition Scholarship and Stipend Program (Title V HSI) (U.S. Dept. of Ed.).

Free speech, Title VI, and Jews

Professor Eugene Volokh, a Senior Fellow at the Hoover Institution, summarized American constitutional law regarding freedom of speech. The First Amendment protects “pretty much all viewpoints, including ones that are offensive, that are evil, that are controversial” and including “antisemitic viewpoints in the sense of viewpoints opposing Jews as an ethnic group or as a religion.”³¹³ Likewise, speech supporting violence is protected, as long as it does not constitute “a threat of illegal conduct” or “incitement,” defined as “speech that is intended to and likely to cause imminent illegal conduct.”³¹⁴ At the same time, content-neutral restrictions on the manner of speech are permissible, such as against use of bullhorns on campus during exams and the study period before exams, or outside the library.³¹⁵ The same is true for rules against sleeping in public places and taking over shared university space for an encampment.³¹⁶

The Committee finds that the Auraria administrations scrupulously respected the free speech rights of the protesters, and never took action against them based on the content of their speech. Auraria sometimes attempted to enforce content-neutral rules against the many abuses perpetrated by the protesters. As will be discussed below, the Auraria schools’ enforcement of existing content neutral rules was sometimes feeble, so that protesters continued violating the rights of most persons in the Auraria community.

As for Title VI, Professor Volokh agreed with the recent federal district court decision in *Gartenberg v. Cooper Union*; in compliance with the First Amendment, Title VI could be applied to targeted harassment, such as following a student around. But it could not be applied to “restricting pro-Intifada speech, or anti-Israel speech, or even pro-Hamas, or pro-terrorism, or pro-murder speech.”³¹⁷

Professor Volokh explained that public universities are directly bound by the First Amendment; any government effort to coerce private or public universities to restrict speech would violate the First Amendment.³¹⁸

CU-Denver: Smart Cities Incubator and Accelerator (Economic Development Administration Build Back Better Regional Challenge) (U.S. Dept. Commerce, Economic Development Admin.); NxtGen Colorado: Grow Your Own Approach to Preparing Teachers for Rural Colorado (U.S. Dept. Ed.).

³¹³ Volokh Testimony, 7/26/25 *Web Briefing*, p. 6.

³¹⁴ *Ibid.*, pp. 6–7.

³¹⁵ *Ibid.*, p. 8.

³¹⁶ *Ibid.*

³¹⁷ *Ibid.*, pp. 8–9; *Gartenberg v. Cooper Union for the Advancement of Science and Art*, 765 F.Supp.3d 245 (S.D.N.Y. 2025).

³¹⁸ Volokh, pp. 16–7.

University of Virginia law professor Deborah Hellman focused on Title VI. As she explicated, Title VI covers discrimination against Jews when based on race, color, or national origin, but not based on religion. In her view, “discrimination against Zionists from a Title VI perspective is not an instance of discrimination against Jews.”³¹⁹ In response to a question about UCLA, where anti-Israel demonstrators took over campus areas and created checkpoints to prevent “Zionists” from passing through, she said that the exclusion of Zionists would not violate Title VI, unless the exclusion were being used pretextually to exclude Jews.³²⁰

Another panelist was Ken Marcus, founder and chairman of the Louis Brandeis Center for Human Rights Under the Law, and formerly staff director of the U.S. Commission on Civil Rights. He argued for the utility of the IHRA definition of antisemitism and pointed out its widespread adoption, including by Colorado Governor Jared Polis.³²¹ In his view, discrimination against Zionists does violate Title VI, because “that’s not about their beliefs, it’s about who they are. It’s about Jewish identity.”³²²

The final panelist was Susan Rona, Regional Director of the Anti-Defamation League, Mountain States Chapter. She described hateful speech and activities she had documented on the Auraria campus, some of which are cited in this Report.

Regarding the Title VI issue, she sent a written response to Committee questions. Ms. Rona pointed out a 2023 resolution letter from the U.S. Department of Education, Office of Civil Rights (OCR).³²³ That case, involving the University of Vermont, had found Title VI problems with the University’s failure to address a teaching assistant bragging about denying “Zionists credit for participation,” and student Instagram posts such as “zionists make me sick.”³²⁴ Ms. Rona’s written statement also cited OCR guidance documents from 2024 and 2017 which she summarized as showing “that anti-Zionist harassment and discrimination could violate Title VI when directed at students who are or are perceived to be Jewish based on their shared ancestry and/or ethnic characteristics.”³²⁵

The Committee finds it unnecessary to decide between Professor Hellman’s position and that of Mr. Marcus and Ms. Rona. As has been described in the Timelines and in Finding I, protesters

³¹⁹ Hellman Testimony, 7/26/25 *Web Briefing*, pp. 10–1.

³²⁰ *Ibid.*, pp. 21–2.

³²¹ Marcus Testimony, 8/20/25 *Web Briefing*, p. 15.

³²² *Ibid.*, p. 26.

³²³ Resolution letter, Apr. 3, 2023, to U.S. Department of Education Office for Civil Rights, Complaint No. 01–22–2002.

³²⁴ OCR Complaint No. 01–22–2002, p. 7.

³²⁵ Rona Written Statement at 5.

targeted all Jews at the Jewish center and elsewhere outside the encampment. The protesters did not limit their aggression only to “Zionists.”³²⁶

“be excluded from participation in, be denied the benefits of, or be subjected to discrimination”

As Applied to Jewish Students

Because of the misconduct of the anti-Israel protesters, many persons, indeed most of the Auraria Campus community, were “excluded from participation in” and/or “denied the benefits” of higher education at Auraria. For most students, the exclusions from participation and denials of the benefits of Auraria education were only partial and only occurred during the final three weeks of the Spring semester.

For Jewish students, exclusions, denials, and overt discrimination were severe. Starting on October 11, 2023, the SDS and its allies ruined Jewish life on campus.³²⁷ Mobs operating under SDS direction forced all the Jews, all Jewish organizations, and all Jewish activities out of the Jewish center on campus.³²⁸ The victims of the mobs included every student or faculty member who participated in Jewish life at the Golda Meir House Museum and Education Center.³²⁹ It did not matter what a particular student thought about Israel or Zionism; all Jewish students had to stay away for safety.³³⁰

The three-week encampment aggravated the antisemitic persecution and discrimination that had begun in October.³³¹ As described in Finding I, while politically cooperative Jews who chose to enter the encampment were welcome and celebrated in the encampment, persons in the encampment menaced and harassed noncompliant Jews.³³² The menacing and harassment were triggered by a passing student being visibly Jewish, and not by whether that student had been identified as a Zionist.³³³

³²⁶ “Although none of the laws enforced by OCR expressly addresses religious discrimination, Title VI protects students from discrimination on the basis of real or perceived shared ethnic or ancestral characteristics, regardless of religion.” U.S. Dept. of Education, *Questions and Answers on Executive Order 13899 (Combating Anti-Semitism) and OCR’s Enforcement of Title VI of the Civil Rights Act of 1964*, Jan. 19, 2021, <https://www.ed.gov/sites/ed/files/about/offices/list/ocr/docs/qa-titleix-anti-semitism-20210119.pdf>.

³²⁷ *Fishman Email 3/4/26*; Fishman Testimony, *7/16/26 Web Briefing*, pp. 28–9

³²⁸ *Spear Email 2/27/26*; *AHEC Timeline*, p. 2; Golda Meir House Timeline, Oct. 25, Oct. 26, Nov. 11, Dec. 2023; Jan., Feb. 8, Mar., Apr. 10, 2024.

³²⁹ *Ibid.*

³³⁰ *Ibid.*

³³¹ Fishman Testimony, *7/16/26 Web Briefing*, p. 29.

³³² Section “The View From Outside the Encampment,” in Finding I.

³³³ *Ibid.*

Among adolescents, bully groups dominate shared spaces to rally peers, exclude victims, and create perceptions of lived spaces as threatening to the victims.³³⁴ The forcible occupation of the Tivoli Quad by SDS and allied groups excluded everyone else, forced the cancellation of a charitable 5K run for cancer victims,³³⁵ thwarted watch parties for sports playoff games,³³⁶ and forced the Tivoli Quad into submission for the bullies' fixated agenda.³³⁷ Building on the success of the SDS driving Jews out of the Golda Meir House, the occupation marked a danger zone for Jews who did not declare themselves to be anti-Zionists.³³⁸

The Tivoli Quad lawn occupation cast fear into the adjacent Tivoli Student Center.³³⁹ Shabbat dinners had been moved from the Golda Meir House for safety,³⁴⁰ but Student Union was not safe either. It "was frequently under lockdown during the protest period and was located near the protest encampment." Shabbat dinners were moved miles away, to the University of Denver.³⁴¹

The Committee finds that at the Auraria campus from October 2023 through May 2024, the antisemitic denials, exclusion, and discrimination against Jewish students were so severe as to constitute an element of a Title VI violation.

As Applied to Other Members of the Auraria Community

Many non-Jewish students, faculty members, and other persons ("Gentiles") enjoy interacting with Jews in the variety of ways that a diverse campus community should foster. Some Gentile and Jewish students might not have enrolled at Auraria for academic year 2023-24 if they had known that the campus would be the site of sustained antisemitism from October onward. These students were denied some of the benefits of the higher education experience they had reasonably expected when they enrolled and paid tuition.

By depriving all persons in the Auraria community of the campus outdoor space, the encampment excluded students from participation in and denied them some of the benefits of Auraria higher education. The building invasions, lockdowns, and evacuations aggravated the deprivations.

³³⁴ Jacky Cheuk Lap Siu, *No Safe Space at School: Exploring Power Dynamics, Bullying Locations, and Maladaptive Behaviors Among US Adolescents*, 54 *Journal of Youth and Adolescence* 2288 (2025), <https://pmc.ncbi.nlm.nih.gov/articles/PMC12420755/>.

³³⁵ Molly Cruse, "Interview: The Editor-In-Chief At MSU Denver's Student Newspaper on the Opportunity and Challenge of Covering Antiwar Protests," *Colorado Public Radio*, May 2, 2024, <https://www.cpr.org/2024/05/02/interview-student-journalist-on-covering-college-auraria-campus-antiwar-protests>.

³³⁶ *Ibid.*

³³⁷ *Ibid.*

³³⁸ Section "The View From Outside the Encampment," in Finding I.

³³⁹ Golda Meir House Timeline, Jan. 29, 2024; Encampment Timeline, May 6, May 14, 2024.

³⁴⁰ *Spear Email 2/27/26; AHEC Timeline*, p. 2.

³⁴¹ *Fishman Email 3/4/26*.

However, the First Circuit Court of Appeals writes that general harms to the community are not covered by Title VI:

Certainly, the protests may have interfered with campus life and the university’s educational mission in a way that could have disappointed many students (and their parents). But our Title VI focus is not on how the protests affected students generally. Rather, we train our focus only on the extent to which the protests might have harassed Jewish students as such. *See [Davis, as Next Friend of LaShonda D. v. Monroe County Board of Education, 526 U.S. 629, 651 (1999)]* (explaining that to plead deliberate indifference, a plaintiff must plausibly allege that she was “deprived . . . of an educational opportunity on the basis of” her protected characteristic).³⁴²

The encampment aimed to coerce the administrators of the Auraria schools because of their indirect relations with Israel. The general harms to the non-Jewish Auraria community will be examined in Finding III, which discusses remedies for interference with contact rights. As Finding III will detail, there is presently no federal civil rights remedy for the injuries suffered by the Gentile Auraria community as a result of anti-Jewish discrimination.

Deliberate Indifference

This report showed that key terms of Title VI³⁴³ are satisfied:

- “No person in the United States.” Auraria Jewish students are such persons.
- “shall, on the ground of race, color, or national origin”. This has long been understood to include antisemitism, which was found in abundance at Auraria, as described in Finding I.
- “be excluded from participation in, be denied the benefits of, or be subjected to discrimination.” Jews were driven out of the Jewish campus center. Throughout the year and even more so once the encampment began, they were subjected to discrimination, regardless of whether they happened to be Zionists.
- “under any program or activity receiving Federal financial assistance.” Such programs in 2023–24 were listed above.

However, there is another requirement in Title VI: the perpetrator of the violation must be the educational institution that receives federal funding.³⁴⁴ In general, an educational institution is responsible for its own conduct and not for (as at Auraria) the misconduct of troublemakers from off-campus plus misbehaving students and a few misbehaving faculty.³⁴⁵

³⁴² *Stand With US Ctr. for Legal Just. v. Massachusetts Inst. of Tech.*, 158 F.4th 1, 19 (1st Cir. 2025).

³⁴³ 42 U.S.C. § 2000d et seq. (2018).

³⁴⁴ *Id.*

³⁴⁵ Of the 79 cases arising from crimes perpetrated at Auraria, 24 involved students and 2 involved faculty. Appendix D. On May 3, 2024, Denver Police Chief Thomas told the Denver Citizen Oversight Board that outsiders

School administrators would only be liable for third party misconduct if the administrators acted with “deliberate indifference” to that misconduct. While the Supreme Court has adopted the “deliberate indifference” standard in Title IX cases (sex discrimination), the Court has not done so in Title VI.³⁴⁶ However, many lower federal courts have, and have done so by adopting standards from Title IX cases. In the Tenth Circuit, the test is:

- (1) The school “had actual knowledge of, and
- (2) was deliberately indifferent to
- (3) harassment that was so severe, pervasive and objectively offensive that it
- (4) deprived the victim of access to the educational benefits or opportunities provided by the school.”³⁴⁷

The Congressional Research Service summarized the Circuit Court of Appeals cases on Title VI deliberate indifference:

This is a “high bar” that will not be met simply by showing that a school was negligent. . . . A school is deliberately indifferent only when its response is “clearly unreasonable in light of the known circumstances.” The clearest case of deliberate indifference is a complete failure to act or respond to known harassment.³⁴⁸

Regarding Auraria, the Committee finds that the administrative response to the antisemitic discrimination that pervaded the 2023–24 academic year did not meet the high bar of “deliberate indifference.” Accordingly, there was no violation of Title VI.³⁴⁹

This does not mean that the administrative decisions were always wise, successful, or appropriate. At times, the responses were deficient. But “deficient” is a far cry from “deliberate indifference.” This section will describe the administrative responses, with an eye towards Recommendations for improvement, which will be presented in the final part of this Report.

outnumbered students “probably three or four to one at this point. Because you know, we know that there are a lot of out of state plates that are showing up.” *Citizen Oversight Board 5/3/24 Meeting* at 57:41.

³⁴⁶ 42 U.S.C. § 2000d et seq. (2018).

³⁴⁷ *Bryant v. Indep. Sch. Dist. No. I-38 of Garvin Cnty., Okla.*, 334 F.3d 928, 934 (10th Cir. 2003) (quoting *Murrell v. School Dist. No. 1, Denver, Colo.*, 186 F.3d 1238, 1246 (10th Cir.1999)). For a slightly different formulation, see *Hayut v. State University of New York*, 352 F.3d 733, 750 (2d Cir. 2003).

³⁴⁸ Congressional Research Service, *Title VI and Peer-to-Peer Racial Harassment at School: Federal Appellate Decisions*, LSB11087, Jan. 27, 2026, https://www.congress.gov/crs_external_products/LSB/PDF/LSB11087/LSB11087.3.pdf.

³⁴⁹ The “plaintiff must allege that the district (1) had *actual knowledge of*, and (2) was *deliberately indifferent to*” the harassment. *Bryant v. Independent School District No. I-38 of Garvin County, Oklahoma*, 334 F.3d 928, 934 (10th Cir. 2003) (quoting *Murrell v. School Dist. No. 1, Denver, Colo.*, 186 F.3d 1238 (10th Cir.1999)).

First, the Auraria administration worked with the Denver Police Department to clear the encampment on April 26, the day after it arose.³⁵⁰ The administration prepared to work with the DPD to clear the encampment again on April 27.³⁵¹ It was the Denver government, ultimately Mayor Johnston, that made the fateful decision to allow the encampment to remain as long as it wanted.³⁵²

Afterwards, as will be detailed in Finding III, the Denver Police Department and the Denver Sheriff Department refused to arrest the protesters for criminal law violations, and refused to process custodial arrests of protesters.³⁵³ Likewise, the Denver District Attorney refused to help.³⁵⁴

In the face of these obstacles, Auraria worked diligently with the Denver City Attorney's Office,³⁵⁵ which was very helpful, as will be detailed in Finding III. Auraria also sought and obtained mutual aid from Colorado State Patrol and Colorado Rangers.³⁵⁶ The limitations on the effectiveness of what these two law enforcement entities would accomplish were not created by Auraria.³⁵⁷

For student safety (broadly defined), the Community College of Denver shifted to remote education on April 29.³⁵⁸ MSU Denver and CU-Denver followed suit on May 17, after the semester had ended.³⁵⁹ The May 17 closing might have contributed to the decision of the occupiers to abandon the occupation later that day, perhaps because there was no one left to demonstrate against on the now-empty campus.³⁶⁰

Regarding the Golda Meir House, it appears that every time a mob appeared, the Auraria Campus Police Department (ACPD) provided on-site protection.³⁶¹ Further, AHEC paid for a protective fence around the building.³⁶² Given that the small ACPD could not provide around-the-clock

³⁵⁰ *AHEC Timeline*, p. 6.

³⁵¹ *Ibid.*

³⁵² Encampment Timeline, Apr. 27, 2024.

³⁵³ Encampment Timeline, Apr. 27, May 3, May 7, May 13, 2024,

³⁵⁴ Encampment Timeline, May 14, 2024.

³⁵⁵ Encampment Timeline, Apr. 25, Apr. 26, May 3, May 15, 2024; section on "Prosecutions."

³⁵⁶ *AHEC Timeline*, p. 5; Encampment Timeline, May 2, 2024.

³⁵⁷ Encampment Timeline, Apr. 28, 2024.

³⁵⁸ DeSanctis Testimony, 8/20/25 *Web Briefing*, p. 14.

³⁵⁹ Auraria Higher Education Center (AHEC), *Official Update*, May 17, 2024, <https://aurariacampus.edu/auraria/auraria-campus-protest-updates-april-2024/modified-building-access-friday-may-17>.

³⁶⁰ Encampment Timeline, May 17, 2024.

³⁶¹ Golda Meir House Timeline, Oct., Oct. 11, Oct. 25, Nov. 2, Dec. 2023; Jan. 29, 2024.

³⁶² *AHEC Timeline*, p. 8; Encampment Timeline, May 9.

protection, AHEC found alternative campus spaces for the staff and activities formerly hosted at the Golda Meir House.³⁶³

When misconduct is rewarded, future misconduct is encouraged. Therefore, the three educational institutions all deserve credit for refusing to bow to the protesters' demands. In this regard, the schools were superior to some more supine institutions in other states, and the Colorado schools' fortitude in this regard strengthens the Committee's finding that the schools did not act with deliberate indifference.

As CU stated to this Committee, "CU Denver and the CU System Board of Regents did not acquiesce or agree to any of the demands made by protestors during the encampment. During the encampment, the Board made clear that they were not going to accede to the demands of protestors."³⁶⁴ Similarly, there was no evidence that the Community College of Denver made any concession to the protesters. MSU-Denver did make a small change to increase transparency of its investments, but did not make any changes in those investments.³⁶⁵ As described in the Encampment Timeline above, the Auraria Executives Council did engage in a futile effort to stop the protests by arranging for a private donor to offer a \$15,000 humanitarian donation in the name of the SDS.³⁶⁶

After order had been restored and the Auraria campus re-opened, the schools imposed discipline on some of the perpetrators.³⁶⁷ Eventually, MSU gave 6 students a "Disciplinary Warning" for "Participation in campus demonstration/disruption" in violation of the code of conduct.³⁶⁸

As for CU Denver, 15 students were sanctioned for student conduct code violations. "Sanctions included; disciplinary probation, educational resolutions, and campus access restrictions. Of these 15: 10 students have completed their required sanctions. The remaining 5 students have not completed their sanctions, refused to participate in the conduct process, and/or are subject to ongoing discipline."³⁶⁹ Two CU employees were subject to discipline, and due to ongoing litigation, additional details were not provided.³⁷⁰

³⁶³ *AHEC Timeline*, p. 2; Fishman Written Statement, pp. 3–6.

³⁶⁴ Chris Puckett, Letter Summarizing Comments to Committee Report Draft 2/13/26 (hereinafter cited as *Puckett Comments 2/13/26*), p. 7.

³⁶⁵ Sarah Atwood, "MSU to Appoint Students to Committee Studying Investments," Lansing State Journal, Dec. 13, 2024, <https://www.lansingstatejournal.com/story/news/local/campus/2024/12/13/michigan-state-board-investment-policy-israel-divest/76958091007/>.

³⁶⁶ Encampment Timeline, May 2, 2024.

³⁶⁷ MSU Submission on Student Discipline; CU Email Response on 10/6/25.

³⁶⁸ MSU Submission on Student Discipline.

³⁶⁹ CU Email Response on 10/6/25.

³⁷⁰ *Ibid.*

On the above record, the Committee finds it impossible that the Auraria administration could be proven to have behaved with “deliberate indifference.”

However, the Auraria administration response did, for an extended period, fall far short of what would have been appropriate. In part, the deficiencies of the some of the Auraria response could be ascribed to the severe political pressure that the school administrators faced. The encampment perpetrators included Denver City Council members and/or their families. At the April 26 meeting with higher education staff at the group of five Council members had made it clear that they considered themselves and their allies to be entitled to impunity. From April 27 onward, no crime committed by the protesters led to a custodial arrest. No wonder the school administrators were so timid.

While AHEC and its police department did what they could under the circumstances after April 27, the university administrators dithered. One element in a finding of deliberate indifference is whether the institution had the ability to exercise “substantial control” over the harassers.³⁷¹ Throughout the encampment, it appears that university administrators failed to impose campus discipline on the protesters. The violations of school rules were obvious and flagrant, starting with the rule against overnight camping, not to mention rules against vandalism, occupying buildings, invading private offices, or stealing private information about employees.

Based on the testimony the Committee received, as well as Internet research, the first instance of anyone threatening to enforce the student code of conduct against students who were in daily violation of the code came in a May 7, 2024, web post from the Auraria Campus: “Students violating their institution’s student code of conduct could be subject to consequences according to that Code.”³⁷² However, the Auraria Campus (operated by AHEC) has no authority to discipline students. On that same day, the President of MSU sent an email warning: “Students who violate our code of conduct could face penalties, including suspension or expulsion.”³⁷³ Two days later, the MSU campus newspaper reported the President stating, “If students are breaking the code of conduct, they will be subject to the code of conduct. For sure. If they’re peacefully protesting that’s one thing, if they’re being disruptive and breaking our code of conduct, then that’s the code of

³⁷¹ *Zeno v. Pine Plains Cent. School Dist.*, 702 F.3d 655, 665 (2d Cir, 2012).

³⁷² Auraria Campus, *Auraria Campus Developments May 7*, <https://aurariacampus.edu/auraria/auraria-campus-protest-updates-april-2024/auraria-campus-developments-may-7-2024/>.

³⁷³ MSU Denver, Office of the President, *Protesters Escalate Tactics*, May 7, 2024, <https://www.msudenver.edu/president/news/protesters-escalate-tactics-5-7-2024/>.

conduct.”³⁷⁴ Over a week later, the University of Colorado Board of Regents adopted a resolution warning that school rules would be enforced; the next day the encampment ended.³⁷⁵

In an investigation of other universities, the U.S. House of Representatives found that the “postsecondary institutions failed to enforce rules and impose meaningful discipline in response to antisemitic conduct violations, an abdication of their Title VI responsibility to prevent a hostile environment. To comply with their Title VI obligations, universities must enforce their conduct rules and enact meaningful disciplinary sanctions, including suspension, expulsion, and termination of employment where appropriate.”³⁷⁶

It can be argued that the Auraria school administrators acted too slowly in publicly stating that encampment participants might be subject to sanctions. Administrators at times provided a false legitimacy to the encampment by referring to a “balance” involving free speech rights. To the contrary, uttering words while perpetrating a physical crime or a school rules violations does not convert the physical misdeeds into acts of free speech. This is the same problem identified in Finding III, noting the Denver Police Department’s policy of allowing political protesters to obstruct streets.³⁷⁷ The school administrators who partially excused bullying as somehow involving free speech worsened the problem.

Perhaps if suspensions had begun on April 28, followed by expulsions for repeat offenders, the protesters would not have enjoyed three weeks of de facto impunity to keep escalating. The Recommendations section of this report will offer suggestions about how campuses in the future can respond to events similar to the 2023–24 offensive, particularly when a campus has been fully or partially abandoned by law enforcement agencies.

First Steps Towards Recommendations

CU panelist Chris Puckett summarized the complexity the campus administrators faced:

CU Denver recognizes, however, the difficult position of law enforcement in trying to address the complexity of disruptive activity and demonstrations on a college campus. This complexity was amplified given the AHEC structure which made it difficult for law enforcement to get clear and decisive direction. Additionally, issues of free speech, constitutional protections, risk of liability, existing laws, and the tactical realities of controlling large crowds impacted how law enforcement engaged in response to the Auraria encampment. CU Denver is

³⁷⁴ Brenden Pachniak, “President Davison Shares how Administration has Been Handling The Encampment on the Tivoli Quad,” *Met Media*, May 9, 2024, <https://www.mymetmedia.com/tensions-continue-as-protesters-are-detained-at-the-aerospace-building-at-msu-denver/>

³⁷⁵ As stated above, it is possible that a contributing cause for the encampment being taken down was that all schools had transitioned to remote learning and the campus was almost entirely abandoned, leaving the protesters no one whom they could protest to or harass.

³⁷⁶ U.S. House of Representatives, *Staff Report on Antisemitism*, Dec. 18, 2024, p. 15, <https://www.speaker.gov/wp-content/uploads/2024/12/House-Antisemitism-Report.pdf>.

³⁷⁷ *DCAO Comments 3/17/26*.

appreciative of the partnership shown by police departments across the state of Colorado and is committed to continuing its work to broaden and strengthen those partnerships to ensure a safe environment for students and employees of the three higher education institutions who share the Auraria Campus.³⁷⁸

CU Denver is actively assessing whether the structure of AHEC impedes its ability to act quickly and decisively in the face of campus unrest or other safety issues that affect students' access to campus while acknowledging that it does not control access and policy enforcement on AHEC property.³⁷⁹

In written comments, “CU Denver asks that the Committee consider making recommendations about policy changes that could help colleges and universities in Colorado address antisemitism on campus and improve the climate for Jewish students and employees.”³⁸⁰ Among the specific recommendations requested: “The Committee could similarly advise the U.S. Commission on Civil Rights about potential campus reforms that promote lasting civil rights protections for campus communities that experienced unprecedented protests and disruptions in the spring of 2024.”³⁸¹

The Committee’s Recommendation will do so. Recommendation 4 focuses on how schools can prepare themselves for swift defensive action against antisemitic mobs.

That is as far as this report goes on policy recommendations, because Auraria in 2023–24 was the only campus studied. The Committee’s focus was on flagrant violations of school rules and of the rights of others. The Colorado State Advisory Committee, like every such Committee that serves the U.S. Commission on Civil Rights, is composed of part-time volunteers, has no power to issue subpoenas or demand production of documents, and lacks any budget to hire an investigator. The Committee did not have the capacity to delve into other potential issues of antisemitism at Auraria, such as classroom issues or disputes involving Jewish faculty members.

Those issues are important, and the evidence received about them at Auraria is summarized in the next section; however, the report reaches no conclusions from them about general campus governance.

The ADL submitted a list of recommended policies for institutions of higher education, discussed below. Three of the recommendations were for other schools to copy CU: “All Colorado universities should explicitly include antisemitism in their codes of conduct and nondiscrimination

³⁷⁸ Puckett Comments 2/13/26, p. 1.

³⁷⁹ Ibid., p. 4.

³⁸⁰ Chris Puckett, Comments to Committee Report Draft 2/16/26. Similarly, CU asked that “the Committee consider providing recommendations about the action steps that colleges and universities can take to ensure that programs and activities are open to all students regardless of race, national origin, religion, and shared ethnic ancestry; we would welcome that guidance.” Ibid.

³⁸¹ Puckett Comments 2/13/26, p. 7.

policies, following the University of Colorado system’s successful model.”³⁸² Like CU, “Use the International Holocaust Remembrance Alliance (IHRA) Working Definition of Antisemitism and its many contemporary examples of antisemitism as a tool to help define antisemitism, inform anti-discrimination programming and guide responses to incidents on campus.”³⁸³ And “Mandatory Training Programs. Comprehensive antisemitism education should be provided for all students, faculty, and staff, building on successful implementations at University of Colorado Boulder.”³⁸⁴

At the level of depth that the Committee was able to study Auraria events, the Committee was unable to discern whether CU’s particular policies were helpful. The Committee did not attempt to pierce the veil of intra-institutional decision-making, or how the three schools plus AHEC made joint decisions.

Below are details that CU provided about its institutional efforts against antisemitism. These details buttress the Finding that CU Denver did not act with “deliberate indifference” regarding antisemitism at Auraria. CU’s Chris Puckett, special assistant to the chancellor for government relations & managing associate university counsel, wrote:

CU Denver does not dispute the Committee’s finding that some of the protesters’ speech was antisemitic. Indeed, under our own robust policies prohibiting antisemitic discrimination, and consistent with the Advisory Committee’s definition of antisemitism, the University of Colorado defines antisemitism as:

[A] is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals or their property or toward Jewish community institutions and religious facilities. Antisemitism irrationally charges Jews with conspiring to harm humanity and employs sinister stereotypes and negative character traits.

CU Denver’s antidiscrimination policies explicitly prohibit antisemitic harassment and, following the events of spring 2024, the CU system issued additional policy guidance on antisemitism consistent with feedback from the Anti-Defamation League. Pursuant to these policies, CU Denver then responded to all allegations of antisemitism it received surrounding the protests, conducted investigations into complaints and, where appropriate, initiated conduct processes and barred individuals from returning to campus. CU Denver engaged the conduct process for 18 campus members and 1 student organization. Consequences included suspension, probation, restriction from enrollment, exclusion from campus, and other educational resolutions.

Since Spring 2024, CU Denver has continued to take steps to improve campus climate for Jewish students and address discrimination based on race, religion, and national origin. As described in CU Denver’s submission to the Committee,

³⁸² Rona Written Statement at 7.

³⁸³ Ibid.

³⁸⁴ Ibid. CU’s policies regarding antisemitism, including the adoption of the IHRA definition, are detailed in testimony of Valerie Simons, vice president of compliance and equity at the University of Colorado. Simons Tetimony, 8/20/25 *Web Briefing*, pp. 8–9.

starting in fall 2024, CU Denver instituted a quarterly meeting of members of CU Denver’s Office of Equity, Students Affairs, legal office, and the Office of Campus Engagement. These regular meetings, which continue, are an opportunity to discuss any pending or potential allegations of antisemitism or other religious discrimination/harassment and incidents to ensure they are fully and appropriately addressed. CU Denver has also used this interdisciplinary team to collaborate on interventions, such as targeted outreach and education initiatives for individuals and communities and additional training opportunities for employees. Notably, while the number of antisemitism complaints to CU Denver peaked during year of the protests, it has since returned to and remained at low levels since that time.³⁸⁵

CU Denver invited the Committee to “consider issuing recommendations directed to CU Denver, and to the other Auraria campus institutions as appropriate, that articulate clear expectations for long-term institutional improvement.” The school expressed its openness “to additional feedback and recommendations” that “could include, among other reforms, increasing transparency about the complaint process; providing educational resources related to antisemitism; crosscampus and campus-community collaborations on nondiscrimination programming; retaining consultants or experts to ensure free expression policies and procedures reflect best practices; retaining consultants or experts to ensure campus safety protocols reflect best practices for managing protests and breaches of campus facilities; and user-friendly information for students about how they can file reports with state and federal civil rights offices when they are dissatisfied with their campus’ response to incidents of discrimination based on race, national origin, or other protected classification.”³⁸⁶

Because the Committee did not study how schools address antisemitism under normal (noninvasion) conditions, the Committee’s Recommendations will address “best practices for managing protests and breaches of campus facilities.” These recommendations will also assist “crosscampus and campus-community collaborations on non-discrimination programming” (a topic that ADL also encouraged).³⁸⁷

³⁸⁵ *Pocket Comments 2/13/26*, pp. 4-5.

³⁸⁶ *Ibid.*

³⁸⁷ Rona Written Statement at 8. “Universities should also pursue civil discourse programming, including on topics like the Israel-Hamas war, to foster respectful dialogue across political, cultural, and religious differences.” *Ibid.*

Regarding the other ADL recommendations:

“Ensure that policies adequately address antisemitic harassment—including anti-Zionist harassment or discrimination based on shared ancestry or ethnic characteristics—that occurs both in-person and online.”

-We found that the way anti-Zionism was often practiced at Auraria in 2023–24 was as harassment of Jews in general. Hopefully all schools already prohibit that. We also noted that some Jewish non-Zionist groups, such as Satmar today or the historic Jewish Bund, could not plausibly be claimed to be antisemitic.

“Make clear to all campus community members—faculty, staff and students—the rules that govern the academic sphere, how those rules will be enforced, and the consequences for violation and ensure that faculty codes of conduct are also vigorously and consistently enforced.”

To pursue civil discourse, universities must first make it physically possible. Therefore, universities must stop mobs who suppress a speaker. As Lena Fishman testified, in January 2024 the Golda Meir House attempted to present a pro-peace speech by an Arab Israeli, but the mob outside the building drowned out his words, and harassed people in the audience coming and going.³⁸⁸

The Committee agrees that institutions of higher education should act rapidly and decisively against mobs that attempt to suppress speech. Perpetrators ought to be swiftly removed from campus. Our Recommendations will elaborate. The most important responsibility of colleges and universities in encouraging civil discourse and in defending students and faculty from antisemitic discrimination and other unlawful acts is to maintain physical control of campus at all times, and never acquiesce in takeovers by mobs.

Auraria Atmosphere

The Committee received oral and written testimony about antisemitism at Auraria beyond the encampment/Golda Meir House issues on which this Report has focused. Below, are summaries of the testimony, some of which might be appropriate for further examination by school officials.

Daniel Bennett, Executive Director of Hillel of Colorado, testified: “We have stories every day of students coming back with being afraid to speak out in class. We call upon our universities to ask

-School rules for faculty, staff, and students involve many diverse subjects. Saying that everything should always be enforced strictly goes too far. The Committee simply recommends vigorous enforcement of school rules against the kinds of aggressive acts that characterized Auraria in 2023–24.

“Establishing a Title VI Office or Appointing a Title VI Coordinator.”

-We did not study campus operations sufficiently to have any opinion on establishing another campus administrative office.

“Universities should develop and consistently enforce clear policies governing protests and demonstrations to prevent harassment and ensure campus access. Requirements should include:

- a. Prohibition of activities that block access to buildings, events, or educational activities
- b. Prohibition of masked harassment and intimidation
- c. Prohibition of unauthorized encampments
- d. Clear guidelines on permitted locations, times, and duration of demonstrations
- e. Advance registration requirements for large gatherings when possible
- f. Swift enforcement mechanisms with predetermined consequences for violations”

The three Auraria schools all had the above policies for a. through d. To the extent that advance registration was required for large gatherings, the protesters paid no heed. Swift enforcement mechanisms against wrongful occupations and blockages might be helpful, and will be discussed in Recommendation 4. The problem at Auraria appears to have been about unwillingness to enforce sanctions when misconduct was ongoing, rather than about the speed of the sanctions process.

³⁸⁸ Fishman Written Statement at 4.

their departments to engage in rigorous and open discussions about the true limits of academic freedom to spread ignorance and hatred.”³⁸⁹

David Ronés, a Jewish student at MSU Denver, wrote:

Being visibly Jewish at Auraria can cause a reaction—sometimes curiosity, sometimes glares and comments. These include comments about “who the real Jews are.” I believe the Auraria Campus is a less safe place for Jews because of . . . what has transpired on campus since October 7th.³⁹⁰

. . .

I was taking a class on World War II History with Professor Melbach . . . He also once was talking about how little Nazis knew about Jews. I raised my hand and after being able to talk responded that wasn’t true. It was true for most but not all. He wanted an example—Julius Streicher who screamed out “Purimfest 1946” when he was hanged as a result of the Nuremberg trial. This echoed the death of Haman and his sons, which is taken from the Megillah, the Jewish text read during the holiday of Purim. Professor Melbach responded that that was total rubbish and I was completely wrong, embarrassing me in the entire class.³⁹¹

(Professor Melbach was incorrect.)³⁹²

Elizabeth Renee Fajardo has “been employed at MSU Denver for 15 years in the Chicana/o Studies Department (CHS) with the Journey Through Our Heritage (JTOH) program. I am of Hispanic /Jewish/ Native American descent. I am a medicine woman and hold my Catholic and Jewish traditions in a place of honor.”³⁹³

“I am also very active in the community and sit on many boards including the Chicano Humanities Arts Council (Board Chair), the Colorado Folk Arts Council, Azteca Grupo Huitzilopochtli and the Denver American Indian Festival. I am well aware of the difference between free speech and hate speech.”³⁹⁴

“I have filed a complaint with the Colorado Civil Rights Division for various reasons. This complaint is pending (E2500027783). I was exposed to anti-Semitic rhetoric for an entire academic

³⁸⁹ Bennett Testimony, *9/3/25 Web Briefing*, p. 16.

³⁹⁰ Ronés Written Statement at 1.

³⁹¹ *Ibid.* at 2.

³⁹² Streicher’s words were reported contemporaneously by a journalist who witnessed the execution. Joseph Kingsbury-Smith, “The Execution of Nazi War Criminals,” *International News Service*, Oct. 16, 1946 (dateline Nuremberg Gaol, Germany), *reprinted at* UMKC School of Law, Famous Trials, http://law2.umkc.edu/faculty/projects/ftrials/nuremberg/nurembergnews10_16_46.html.

³⁹³ Fajardo Written Statement at 1.

³⁹⁴ *Ibid.*

school year and had to endure what I felt was intimidating behaviors condoned by our CHS Chairs.”³⁹⁵

Among the items that Prof. Fajardo mentioned in her summary of complaints was administrative noninterest “in addressing the issues I raised about anti-Semitism statements by our own students. Remarks I said heard were what I considered hate speech: i.e., Jews should be wiped out, Pizza Oven jokes, Jews were only privileged whites and deserved what they got; all Jews were vermin, death to Israel, and mocking of vandalism on the Golda Meir building.”³⁹⁶

A Department Chair “had made anti-white comments in front of certain students who ‘adopted’ an attitude that was extreme in nature. . . . My complaints of Anti-Semitism behaviors and comments were dismissed, I was laughed at, and my credibility was questioned even though I had voiced the same concerns over and over again. *I was told my claim of being ‘mobbed’ were ridicule[ous] as the students were brown.* I was adamant that change needs to be made from within by the adults in charge if we are to set the example for those who are still young and impressionable.”³⁹⁷

“My allegations of anti-Semitism, bigotry, and anti-white have been ongoing. I was not listened to. All I asked for was for our department to get training to set a good example for the students who were working for us.”³⁹⁸

Lauren Behm is director of Jewish student life for Hillel of Colorado at the Auraria Campus. She wrote that “Many students are still too scared to share their stories publicly, for fear of doxxing, retribution, or alienation.”³⁹⁹

Ms. Behm reported a story from November 2023 about a Jewish student who was afraid to meet with her in public, such as at a coffee shop. “This student told me that she didn’t feel comfortable meeting in public and would only meet with me if we met in a private space. . . . [S]he felt so uncomfortable talking about being Jewish in public on campus, that she felt the only way to connect was sitting on the floor hidden away.”⁴⁰⁰

That same month, a professor told students to stop buying Starbucks because Starbucks supports Israel.⁴⁰¹ “This student likes the professor but felt extremely uncomfortable hearing her make this

³⁹⁵ Ibid.

³⁹⁶ Ibid.

³⁹⁷ Ibid at 2-3.

³⁹⁸ Ibid at 3.

³⁹⁹ Behm Written Statement at 1.

⁴⁰⁰ Ibid.

⁴⁰¹ The professor was ill-informed. Starbuck closed its last shop in Israel in 2003. Starbucks does not and never has contributed to the Israeli government or military. Starbucks, *What has Starbucks Said About the Conflict in Israel*

statement. This student has had previous classes with this professor and has classes with the professor next semester, so only to speak anonymously.”⁴⁰²

As reported by Ms. Behm, Morgan Shepard, MSU Class of 2025, spoke at a Student Government meeting: “[T]here’s a lot of people who have almost Nazi-like propaganda, saying things like Hitler was right or Hamas was right, things like that which I would assume Student Government wouldn’t be in favor of but that they do nothing about.”⁴⁰³

Finding III: By giving the protesters special exemptions from law enforcement, the Denver government denied the Auraria community the equal protection of the laws, in contravention of the Fourteenth Amendment.

Finding III came as a surprise to the Committee. Every member knew to study campus antisemitism; that issue became Finding I. It was obvious there would be questions about Title VI, which became Finding II.

The conduct of the Denver municipal government became an issue at the August 20, 2025, public briefing. Skip Spear, the Chief of Administration at the Auraria Higher Education Center (AHEC), testified about what seemed to be shocking conduct. On the second night of the encampment, April 26, five members of the Denver City Council summoned him and other AHEC leaders.⁴⁰⁴ According to Mr. Spear, the council members directed AHEC to obey what they said was city policy, which was that trespass laws would not be enforced against the encampment.⁴⁰⁵ Several councilmembers stated that they and/or their families were participants in the encampment.⁴⁰⁶

That afternoon, the Denver Police Department had honored its mutual aid agreement with Auraria. The small Auraria Campus Police Department (ACPD), with only 33 officers, was bolstered by many more Denver officers.⁴⁰⁷ Together, they had arrested 44 persons for criminal trespass, and also for failure to obey a lawful order of a law enforcement officer.⁴⁰⁸ But the encampment quickly resprung.⁴⁰⁹

and Gaza?, Dec. 29, 2023, <https://about.starbucks.com/press/2023/what-has-starbucks-said-about-the-conflict-in-israel-and-gaza/>

⁴⁰² Behm Written Statement at 1.

⁴⁰³ *Ibid.* at 2.

⁴⁰⁴ Spear Testimony, *8/20/25 Web Briefing*; Encampment Timeline Apr. 26, 2024.

⁴⁰⁵ *Ibid.*

⁴⁰⁶ *Ibid.*

⁴⁰⁷ *Ibid.*

⁴⁰⁸ Encampment Timeline, Apr. 26, 2024.

⁴⁰⁹ *Ibid.*

As the Denver City Attorney’s Office (DCAO) explains, what came next was a decision made by Denver’s collective leadership, relying on the law enforcement expertise and experience of the police chief.⁴¹⁰ From April 27 onward, the Denver Police Department would not arrest a protester.⁴¹¹ If an Auraria officer arrested a protester, the Denver Sheriff Department would not process the arrest.⁴¹²

Finding III explains why the Committee concludes the Denver government actions violated the Fourteenth Amendment, which forbids government to “deny to any person within its jurisdiction the equal protection of the laws.”⁴¹³

The Committee reached out to Mayor Johnston directly in September 2025 regarding Mr. Spear’s testimony. In October, the DCAO sent the Committee a terse reply. Then in late January 2026, a preliminary draft of this report was shared with all panelists; in February, the City Attorney sent the Committee many comments and much information, which was very helpful. The information is cited and quoted extensively in the Encampment Timeline.⁴¹⁴

In March 2026, another draft was circulated to panelists and the City Attorney. The City Attorney responded with some additional factual information and arguments, which appear in this report, including in this Finding. The City Attorney also sent the Committee a Cease and Desist letter, with the “demand” that the Committee not publish Finding III. The Cease and Desist letter is Appendix I. A Committee response to the arguments in the Cease and Desist letter is Appendix J.

A new draft of the report was distributed to panelists and DCAO on March 21, 2026. The deadline for final comments was March 27, 2026. DCAO sent comments three days later, in the evening of March 30. DCAO also sent another letter, this one asking the Committee to “carefully consider this request to withdraw your allegations that Denver leadership violated the equal protection clause of the Fourteenth Amendment.” The letter is reproduced in Appendix K. An answer from the Committee is provided in Appendix L.

Section of this Finding are:

- Testimony of Skip Spear.
- The extensive role of the Denver City Attorney’s Office, which reports to Mayor Johnston, in coming to Auraria’s aid.
- Brief sections on roles of the Denver District Attorney, Colorado State Patrol, and Colorado Rangers.

⁴¹⁰ *DCAO Comments 3/17/26.*

⁴¹¹ Encampment Timeline, Apr. 26, 2024.

⁴¹² *Ibid.*

⁴¹³ U.S. Const., amend. XIV, § 1.

⁴¹⁴ Like all documents, the letters are available on the public web folder for this Report.

- Nonenforcement of laws against obstructing traffic. The Denver Police Department has a general policy of allowing any group to block traffic. So the Auraria protesters were not shown special favoritism on traffic obstruction.
- Evidence of Motives.
- Influence of the City Council.
- Selective Nonenforcement.
- The Right to Performance of Contracts and to “the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship” Prior drafts of this report had suggested that there had been a violation of 42 U.S.C. § 1981, which protects the students’ right to the full benefit of the educational contracts. While most elements of a violation are present, one is absent: there is not proof that the discriminatory intent was the “but for” cause of government actions.
- Dismantling higher education. When a mob of dismantlers takes over a campus, local law enforcement may not be willing or able to help. Higher education institutions should prepare to protect themselves, and the federal government should prepare to help when local law enforcement does not.

Skip Spear Testimony

My name is Skip Spear. I’m the chief administrative officer and general counsel for the Auraria Higher Education Center or AHEC as I’ll refer to it. In my role at AHEC, I was involved with monitoring and responding to the protests on campus after the October 7 massacre in Israel.⁴¹⁵

As we’ll demonstrate AHEC did everything in its power to maintain campus safety through eight months of protests on our campus. To give you a little background information about us, the Auraria campus is 150 acres in size and hosts 45,000 students, faculty and staff making it the largest campus in Colorado. Three schools are located on the campus, Community College of Denver, Metropolitan State University of Denver, and University of Colorado, Denver. A fourth state entity, AHEC, owns and operates the campus and is responsible [for] providing non-academic services such as police.

AHEC is not a school itself. It does not have students or faculty and has no authority to discipline them. One of the departments that I oversee in my role at AHEC is the Auraria Campus Police Department or ACPD. ACPD has 33 sworn officers with jurisdiction over the campus, but ACPD does not handle disciplinary matters, only criminal matters such as trespassing, disturbing the peace, vandalism. Given the size of ACPD, arrests on campus are processed through the Denver Sheriff’s Office in jail.

During campus protests, ACPD is present to ensure safety, preserve the peace, and enforce the law. ACPD treats everyone equally irrespective of their beliefs.

Between October 11th, 2023, and April 11th, 2024, there are 24 protests on our campus. A focal point of the protests was the Golda Meir Museum, the childhood home with the fourth Prime Minister of Israel. Prior to the protests, the museum

⁴¹⁵ Mr. Spear presented a PowerPoint slide show during his testimony. This report elides words such as “Next slide, please.”

was used by the Jewish community for gatherings such as Shabbat and Hanukkah, but these protests were heated and resulted in physical altercations. Due to safety concerns, AHEC was forced to close the museum for gatherings.

Here's a short video of one of the protests in front of the Golda [Meir House]

(Protestors:) “Fucking colonizers. A bunch of colonizers. You’re a colonizer. You and your people are colonizers. You’re a fucking asshole. You’re an asshole. You’re an asshole.”

On April 25, protesters erected tents on the Tivoli Quad beginning phase one, the encampment. Some of these protesters were armed with baseball bats and others were in body armor.

Throughout the day on April 25 and 26, administrators including myself told the protesters that if they did not remove the tents, they would be trespassing and subject to arrest. The tents were not removed.

ACPD worked directly with DPD, the Denver Police Department, to address the encampment quickly so that it would not grow and remain on the campus. DPD prepared in operations plan to remove the tents from the Quad and coordinated the response. On April 26, ACPD officers informed the protesters that they were trespassing and subject to arrest, providing three warnings before taking any action.

Protesters blocked the removal of the tents and 44 arrests were made. These arrestees were transported to the Denver Jail and processed by the Denver Sheriff's office in accordance with our normal procedures.

While ACPD and DPD officers were off campus booking the arrests, the remaining protesters reestablished the encampment.

That night, state employees were called before several Denver City Councilmembers. We learned during that meeting that **some councilmembers or their families had taken part in the encampment.**⁴¹⁶ During that meeting, councilmembers asked us to allow the protesters to camp on the quad and asked us to also provide them with our other amenities.

Given safety concerns, we could not agree to the councilmembers requests. And in response, Denver leadership instructed DPD and the Denver Sheriff's office to not assist with the protests further.

The committee has heard various statements the encampment was peaceful, but I'd ask you to consider the following. On the screen, you can see protesters seizing a Denver Police Department vehicle and DPD officers responding and attempting to regain control. If you go to the next slide, there's a short video of what police encountered when they attempted to remove the tents from the quad.

Protestors: “Freedom of speech, no fascist police, freedom of speech, no fascist police, freedom of speech, no fascist police, freedom of speech, no fascist police. Get the fuck out of here. Get the fuck out here.”

Skip Spear: We can continue to play the video.

⁴¹⁶ Emphasis added. The five Denver City Council members were Sarah Parady, Serena Gonzales-Gutierrez, Jamie Torres, Amanda Sandoval, and Shontel Lewis, *Spear Email 2/20/26*.

Police: "Quit kicking me."

Protestors: "Get out of here."

Protestors: "[inaudible] campus."

Protestors: "Are you fucking scared you little bitch? You fucking scared? Yeah, I know, because you've got fucking armor, idiot."

[inaudible 00:14:28].

Protestors: "Piggies go home, piggies go home."

Skip Spear: Thank you. As you can see, very few of the police officers that are actually there that day are ACPD police officers. That's because we only have 33 officers and there were approximately 200 protesters, so all the other officers were from Denver Police Department.

The denial of support from Denver leadership emboldened the protesters and we entered into phase two of the encampment. By May 5, there were over a hundred tents on the quad as shown on the slide.

During phase two, ACPD received a bomb threat and protesters began occupying the surrounding streets, blocking traffic into and out of Denver.

Without the assistance of Denver, we had no physical jail to bring arrestees to and had no way to remove the encampment. This put the 45,000 people on our campus in danger.

I want [to] be clear, however, that the actions of Denver leadership should not reflect on the officers with the Denver Police Department and the Denver Sheriff's office, who are excellent to work with and who we work with on a daily basis.

Protesters escalated the situation significantly after May 6 and we entered phase three of the encampment. Protesters launched an information technology campaign and one of their posts is shown on the screen. They then launched a distributed denial of service attack and flooded AHEC's network with over a hundred thousand data packets per second crashing our system. In addition, they sent over 15,000 emails from a bot to our email system rendering that system unusable for a short period.

Between May 6th and May 15, protesters occupied campus buildings on five separate occasions. The AHEC executive offices, which you can see in the middle picture there, the protestors outside who were banging on our windows and actually forced their way through our door.

The Tivoli Student Union was occupied on two occasions and police had to evacuate non-protesters on one of those occasions.

The MSU Denver Aerospace and Engineering building was occupied during finals.

In the CU Denver Bursar's office, which is the bottom picture shown there was occupied. The picture shows it after the protesters were cleared out. Because Denver leadership directed the sheriff's office to not accept protestor arrests, these building occupations only resulted in citations that had zero deterrent effect.

There's a short video of the building protests and occupations.

Protestors: “Free, free Palestine.”

Skip Spear: There are actually students behind the glass doors. They’re painted red trying to

[inaudible 00:17:42].

Protestors: “From the sea to the river, from the sea to the river, Palestine will live forever, Palestine will live forever.”

Skip Spear: And this is the CU Bursar’s office. You can see the protesters removing glass walls to enter the building and unlock the door and let other protesters into the office.

On May 17th, after more than three weeks, protesters removed the encampment and left campus. In total, 81 arrests or citations occurred, however, only 33 of these protesters were students or faculty. We estimate that the encampment was more than 50% comprised of people who are not affiliated with the campus.

As a result of the protests and encampment, the campus incurred \$670,000 in damages, additional staffing costs, and lost revenue. The slide shows some of the damage that was done to the campus.

New campus events were also canceled. As an example, the Society of Women Engineers canceled a scheduled event for 1,500 middle schoolers out of fear for their safety.

AHEC did everything in its power to keep our campus safe through our limited police department, but we do not have the resources to respond to a disturbance this large without assistance. When Denver City leadership withheld any support, we could not effectively respond.⁴¹⁷

DCAO Provides Continuing Support

At the same time the Denver Police and Denver Sheriff were forbidden to act against the protesters, another Denver entity, the Denver City Attorney’s Office (DCAO) was actively providing substantial assistance to Auraria, throughout the occupation and afterwards, communicating frequently with the Auraria Campus Police Department. The DCAO petitioned courts to issue Area Restriction Orders, to forbid cited persons who were not Auraria students from entering the Auraria Campus.⁴¹⁸

⁴¹⁷ Spear Testimony, *8/20/25 Web Briefing*, pp. 4–6; In response to a question from the Committee about who the “leadership” was, Mr. Spear wrote, “Other than the meeting with City Council members, our meetings were with the Mayor and his advisors. Who we met with depended on the date, but generally present were the City Attorney (Kerry Tipper, who is now the CU Vice President for University Counsel, and has since been replaced by Michiko Brown) and the Mayor’s Chief of Staff. . . . Several DPD representatives, including the DPD Chief, were present at our April 27 meeting with the Mayor, but they did not speak much.” *Spear Comments 3/23/26*.

⁴¹⁸ *DCAO Comments 2/13/26*, exhibit C, pp. 17–18. See Appendix H.

Afterwards, the DCAO prosecuted the crimes of April 26, May 7, May 13, and May 14, 2024. The next year, Denver City Attorney’s lead prosecutor was gifted an ACPD challenge coin in gratitude.⁴¹⁹

The DCAO insists that since DCAO, with the Mayor’s “full support,” assisted law enforcement at Auraria, it is impossible that the Denver government could be culpable of selective nonenforcement.⁴²⁰ The Committee disagrees. All people of Denver, including those at Auraria, have a Fourteenth Amendment right to non-discrimination in law enforcement support from the Denver Police Department, Denver Sheriff Department, and Denver City Attorney’s Office.⁴²¹ Removing the first two while leaving the third in place is still an Equal Protection violation.⁴²²

Denver District Attorney Refuses to Prosecute

The Denver District Attorney is directly elected by the people.⁴²³ The Denver District Attorney said that it would refuse to prosecute protesters for violation of Colorado state laws, unless there were serious injury or property damage.⁴²⁴

Colorado State Patrol and Colorado Rangers Provide Mutual Aid

The Colorado State Patrol (CSP) is a statewide law enforcement agency, responsible to the Governor.⁴²⁵ During the occupation, the Auraria Campus Police Department reached out to the CSP, and a mutual aid agreement was signed. Thereafter, the CSP provided on-campus personnel to assist the ACPD.⁴²⁶ The CSP does not have the authority to enforce the Denver Revised Municipal Code. The CSP does have authority to enforce Colorado state law, so in theory the CSP could have made arrests or issued citations for state crimes, such as Colorado’s general law against trespass and specific separate law about trespass against schools.⁴²⁷ However, such state law cases

⁴¹⁹ Ibid.

⁴²⁰ *DCAO Comments 3/30/26*.

⁴²¹ Police discrimination in arrests is “selective enforcement,” and is a distinct issue, with a different standard of proof, than “selective prosecution” by prosecutors. See *Conley v. United States*, 5 F4th 781, 789 (7th Cir. 2021) (citing *United States v. Davis*, 793 F.3d 712, 720 (7th Cir. 2015)).

⁴²² *Id.* That a prosecutor did not discriminate does not absolve discrimination by the police. The issues are discussed in more detail in the section on “Selective Nonenforcement,” below.

⁴²³ Colo. Const., art. VI § 13.

⁴²⁴ Encampment Timeline, May 14, 2024.

⁴²⁵ Colo. Rev. Stats., §§ 24–33.5–201 et seq.

⁴²⁶ Encampment Timeline, Apr. 28, 2024.

⁴²⁷ Colo. Rev. Stats., § 24–33.5–212(1). “All officers of the Colorado state patrol have all the powers of any peace officer to: Make arrest upon view and with or without warrant for any violation of . . . any criminal law of this state if, during an officer’s exercise of powers or performance of duties under this section, probable cause is established that a violation of said criminal law has occurred”.

would have to be prosecuted by the Denver District Attorney, and, as noted above, the Denver District Attorney refused.⁴²⁸

The Colorado Rangers are a volunteer organization of citizens who have been trained to and passed the same certification tests as full-time professional law enforcement officers.⁴²⁹ They have agreements with many law enforcement agencies in Colorado to provide extra manpower when needed.⁴³⁰ The Colorado Rangers also assisted on campus at Auraria. Like the CSP, they did not have authority to enforce the Denver Code.⁴³¹

All Protesters are Allowed to Obstruct Traffic

The DCAO's February 2026 letter to the Committee stated that, even after the April 27, 2024, no-arrest order, the DPD would still engage against the protesters if they blocked traffic.⁴³² However, as the Committee pointed out in our next draft, Skip Spear testified and wrote that the protesters repeatedly blocked traffic on busy Denver thoroughfares and the DPD did nothing.⁴³³

In a new set of comments in March, DCAO acknowledged that there was no enforcement against traffic blockage, and stated that this was standard Denver police policy, not unique to the Auraria protests:

When protests involve participants marching in the streets and blocking traffic, DPD's normal operational approach is to ensure safety of all involved by providing traffic control at intersections and not by barging in to try to "break up" a massive crowd that is creating "traffic obstructions." This is true for all similar operations, not just this one. This approach ensures that members of the public and drivers, along with the officers themselves, remain safe, while also ensuring that individuals can exercise their rights under the First Amendment. If the protest activity presents public safety concerns beyond blocking streets, DPD's protocol would support an immediate intervention; however, in this case, the conduct did not rise to that level.⁴³⁴

⁴²⁸ Encampment Timeline, May 14, 2024.

⁴²⁹ Colo. Rev. Stats., §§ 16-2.5-102 (Rangers as certified peace officers), 16-2.5-153 (Rangers are reserve police officers), 24-33.5-802(3.) & (3.5) (providing for Rangers to operate as a shared reserve), 24-33.5-822 (use of Rangers by Sheriffs), 24-33.5-822.5 (authority of Rangers board).

⁴³⁰ "Our Partner Agencies," *Colorado Rangers*, <https://coloradorangers.gov/>. Among the partners listed are "Auraria AHEC PD, University of Colorado, Metropolitan State, CC Denver." Ibid.

⁴³¹ Encampment Timeline, May 2, 2024.

⁴³² *DCAO Comments 2/13/26*. The letter proposed the following insert on the April 27, 2024, Encampment Timeline, "DPD remains available to support ACPD for other criminal conduct, including blocking of traffic or violence that might occur on or around the campus."

⁴³³ Spear Testimony, 8/20/25 Web Briefing, p. 5. According to the timeline provided by AHEC, protesters obstructed traffic on May 5, 9, and 17. Encampment Timeline, May 5, 9, 17, 2024.

⁴³⁴ *DCAO Comments 3/17/26*.

Thus, the Auraria protesters were not, in regard to traffic blockages, singled out for specially favorable treatment.

It should be noted that blocking traffic while expressing a message *is not* an “exercise” of the blockers’ “rights under the First Amendment.”⁴³⁵ Conversely, “Every citizen has an inalienable right to make use of the public highways of the state; every citizen has full freedom to travel from place to place in the enjoyment of life and liberty.”⁴³⁶

Evidence of Motives

The DCAO insists that police and sheriff inaction at Auraria were motivated by “legitimate, safety, operational, and logistical concerns.”⁴³⁷ Yet even on the *fourth* round of DCAO statements to the Committee (three of them based on a working draft of the report), the DCAO still has done little to specify the “legitimate, safety, operational, and logistical concerns.”⁴³⁸ What does exist in that vein is Chief Thomas saying that he chose not to sweep the encampment a second time because the Auraria Police had not confiscated tents after the first sweep. (Because much of the small Auraria force was off-campus for processing of arrests at the Sheriff Department.)⁴³⁹

Additionally, the DCAO’s March 17, 2026, comments said that Chief Thomas had forbidden the DPD to arrest trespassers inside the MSU Aerospace Building because he prefers that trespassers be arrested only after a public building has been closed to the public for the day.⁴⁴⁰ When protesters occupied and began vandalizing the MSU Denver Aerospace, Engineering, and Sciences (AES) Building on May 7, 2024, the Denver Police Department mobilized outside the building, but would

⁴³⁵ See, e.g., *Cox v. State of La.*, 379 U.S. 536, 554 (1965) (regulations on use of the streets “cannot be disregarded by the attempted exercise of some civil right which, in other circumstances, would be entitled to protection.”); *Utley v. City of Houston*, No. 21-20623, 2022 WL 2188529, at *1 (5th Cir. June 17, 2022) (Plaintiff “was not engaged in constitutionally protected activity when he was arrested—he was obstructing a roadway in violation of Tex. Penal Code § 42.03—so his First Amendment retaliation claim fails.”); *Singleton v. Darby*, 609 Fed. Appx. 190, 193 (5th Cir. 2015) (“The First Amendment does not entitle a citizen to obstruct traffic or create hazards for others,” “a State may therefore enforce its traffic obstruction laws without violating the First Amendment, even when the suspect is blocking traffic as an act of political protest.”); *Imani v. City of Baton Rouge*, 614 F.Supp.3d 306 (M.D. La. 2022) (quoting *Singleton*); *Alexander v. City of Dallas, Texas*, 2024 WL 1260584 (N.D. Tex. Mar. 25, 2024) (protesters blocking a bridge were not engaged in constitutionally protected activity); *Frye v. Police Dept. of Kansas City, Missouri*, 260 F.Supp.2d 796, 799 (W.D. Mo. 2003) (“the First Amendment does not entitle a citizen to trespass, block traffic, or create hazards for others.”).

⁴³⁶ *People v. Nothaus*, 147 Colo. 210, 214 (1961) (applying Colorado Constitution, art. II, § 3). Cf. *Williams v. Fears*, 179 U.S. 270, 274 (1900) (“Undoubtedly the right of locomotion, the right to remove from one place to another according to inclination, is an attribute of personal liberty” protected by the Fourteenth Amendment). Of course the right is not unlimited, and may be subject to police power regulations, such as a driver’s insurance requirement.

⁴³⁷ *DCAO Comments 3/30/26* (variants of the phrase seven times).

⁴³⁸ *Ibid.*

⁴³⁹ Encampment Timeline, April 26, April 27, May 3, 2024.

⁴⁴⁰ *DCAO Comments 3/17/26*.

not come inside and would not perform custodial arrests.⁴⁴¹ DCAO says that Chief Thomas's general (not Auraria-specific) preference was to leave trespassers in place until a building was officially closed for the day.⁴⁴² However, the building was never open to the public in the first place, the students inside were being disrupted while taking their final exams.⁴⁴³ DCAO also stated that "DPD was not made aware that this incident involved any vandalizing conduct" although information was being communicated on a Denver Police Department radio frequency, and although AHEC was on the telephone with the Mayor's Office and was informing the Office about the vandalism while it was taking place.

Regarding the Denver Sheriff Department (DSD) and Mayor Johnston's order that the Department not process custodial arrests of the protesters, DCAO states that Sheriff Elias Diggins has "policies about jailing and jail capacity for low-level offenses such as municipal trespassing."⁴⁴⁴ But DCAO never specifies what those "policies" are.⁴⁴⁵

There has been no evidence presented of a neutral jail management policy that would make the Sheriff Department willing to accept 44 arrestees for outdoor trespass on April 26, but then unwilling to accept even a dozen for a May building invasion.

Likewise, some of the Denver government's post-hoc justifications for Denver Police Department inaction are so implausible as to constitute evidence of pretext⁴⁴⁶ On May 3, 2024, Police Chief Thomas told the Citizen Oversight Board that encampment could not be removed because of the

⁴⁴¹ Encampment Timeline, May 7, 2024.

⁴⁴² *DCAO Comments 3/17/26*.

⁴⁴³ Encampment Timeline, May 7, 2024.

⁴⁴⁴ *DCAO Comments 3/17/26*.

⁴⁴⁵ *DCAO Comments 3/17/26*; *DCAO Comments 3/30/26*. DCAO says the Committee should have directly asked Sheriff Diggins about his policies. *DCAO Comments 3/17/26*; *DCAO Comments 3/30/26*. If the Committee had, the sensible response of a sheriff to a federal fact-finding inquiry would be to ask the City Attorney to write the response.

⁴⁴⁶ *Reeves v. Sanderson Plumbing Products, Inc.*, 530 U.S. 133, 147 (2000) ("Proof that the defendant's explanation is unworthy of credence is simply one form of circumstantial evidence that is probative of intentional discrimination, and it may be quite persuasive."); *St. Mary's Honor Center v. Hicks*, 509 U.S. 502, 511 (1993) ("The factfinder's disbelief of the reasons put forward by the defendant (particularly if disbelief is accompanied by a suspicion of mendacity) may, together with the elements of the prima facie case, suffice to show intentional discrimination. Thus, rejection of the defendant's proffered reasons will permit the trier of fact to infer the ultimate fact of intentional discrimination."); *Texas Dep't of Community Affairs v. Burdine*, 450 U.S. 248, 256 (1981) (A plaintiff "may succeed . . . indirectly by showing that the employer's proffered explanation is unworthy of credence.").

First Amendment.⁴⁴⁷ This was plainly not true as a matter of law, and the Chief himself stated that April 26 the arrests for trespassing had been proper.⁴⁴⁸

In March 2026, the Police Chief told the Denver City Attorney’s Office that he had decided not to resweep the encampment because Auraria was discriminating against the protesters based on the content of their speech.⁴⁴⁹ But this claim is hard to square with the undisputed facts in the Golda Meir House Timeline, which show that from October 2023 onward, the same group that was leading the encampment, namely SDS, had been repeatedly demonstrating on campus without hindrance. Indeed, from October 9 until the beginning of the encampment, there had been 24 anti-Israel protests on campus.⁴⁵⁰

The evidence before the Committee shows that the Denver government gave preferential treatment to the protesters, with grants of immunity from DPD arrest, immunity from custodial arrest processing by the Denver Sheriff Department, and being allowed to trespass on the Tivoli Quad for as long as they wanted to remain. Further, the Denver government’s proffered justifications lack credibility, and therefore heighten concerns about illicit motive.

Influence of the City Council

On April 26, 2024, after the Denver Police Department had swept the Auraria encampment, five Denver City Council members—Sarah Parady, Serena Gonzales-Gutierrez, Jamie Torres, Amanda Sandoval, and Shontel Lewis—summoned Auraria leadership to a meeting. “During that meeting, several Council members disclosed that they and their family members were participating in the protest during the arrests. AHEC was informed that ending the encampment did not align with City priorities and was directed to suspend the no-camping policy.”⁴⁵¹

⁴⁴⁷ Denver Citizen Oversight Board, Meeting, May 3, 2024, at 57:14, <https://www.youtube.com/watch?v=0nxX41V7xOE>

⁴⁴⁸ As Chief Thomas would tell the Denver Citizen Oversight Board a week later, “It wasn’t until Friday they determined that because of violations to their campus policy they wanted to declare that those individuals, if they didn’t stop, would be trespassing and thus subject to arrest. We put together a plan to go address that situation, and I approved that plan. In my mind, I thought it would result in a small number of arrests, but ultimately that didn’t turn out to be the case.” Denver Citizen Oversight Board, Meeting, May 3, 2024, at 46:50, <https://www.youtube.com/watch?v=0nxX41V7xOE>. The willingness to sweep on April 26 but not on May 3 could, perhaps, have been justified by a neutral law enforcement reason, such as the size of the encampment having grown. However, the Chief did not offer such a reason. Instead, he made the legally indefensible claim that the encampment had a legal right to occupy property that belonged to another.

⁴⁴⁹ Encampment Timeline, Apr. 27, 2024.

⁴⁵⁰ Spear Testimony, 8/20/25 *Web Briefing*, p. 3.

⁴⁵¹ Encampment Timeline, April 26, 2024. DCAO states that Amanda Sandoval did not participate in the protests. *DCAO Comments 3/30/26*. Whether one of her relatives did is not in the record. Whether or not she was among the “several Council members” participating personally or via family, she did lend her support to the demand for impunity for the protesters.

The five councilmembers' actions on April 26, 2024, might have put Denver leadership in a tough position. The council had declared that they and/or their families were at the encampment.⁴⁵² Just a few days before, the City Council had voted to cut the police budget by 8.2 million dollars, wiping out the Department's plan to hire 167 new recruits.⁴⁵³

As DCAO points out, the group of five council members had no formal command power over Denver law enforcement, and their claims to have the authority to declare city policy were patently false.⁴⁵⁴ It is common knowledge that a bloc of legislators can often influence executive action, particularly so when the legislators hold the purse strings—such as during the 2020 riots in Minneapolis, when political pressure from some City Council members sharply constrained police protection of the community.⁴⁵⁵

The actions of the City Council group of five were discussed in prior drafts of this report, for which the DCAO provided comments on February 13 and March 17, 2026. Then, on March 30, 2026, the DCAO's third set of comments on a draft of this report raised a new fact: "the Mayor's Office specifically told City Council members that if they participated in the protests, they'd be doing so in their personal capacities and would not receive assistance from the DCAO if they found themselves in need of legal representation."⁴⁵⁶ The statement did not provide a date for when the conversation(s) took place, or who from the Mayor's Office conveyed the information.

Whoever told the Council group of five that the Denver City Attorney's Office would not represent them was legally correct: if a council member is prosecuted for a crime (such as trespass), the council member cannot be defended at public expense by the DCAO. First, Colorado statute provides that "a public entity shall be liable for the cost of the defense of any of its public employees... where the claim against the public employee arises out of injuries sustained from an act or omission of such employee occurring during the performance of his duties and within the scope of his employment. except where such act or omission is willful and wanton."⁴⁵⁷ Likewise, the Denver City Charter provides for civil defense of "officers, employees or members of a board

⁴⁵² Spear Testimony, 8/20/25 *Web Briefing*.

⁴⁵³ Brandon Richard, "Denver 7 Colorado News (KMGH)," Denver 7 Colorado News (KMGH), Nov. 7, 2023, https://www.denver7.com/news/local-news/denver-city-council-defeats-effort-to-remove-police-recruitment-funding?fbclid=IwY2xjawRcx59leHRuA2FlbQIxMQBiemkETFUdzRMbWVsYkE3WmlrdThic3J0YwZhcHBfaWQQMjIyMDM5MTc4ODIwMDg5MgABHhzJWP5eqRcrmpRFcStc_S-DCrToCrXImS0VKlgyPZnp5DtN5g9SPVjsLLv_aem_PjTNATY_M6qjTNRQS-VutA.

⁴⁵⁴ *DCAO Comments 3/17/26; DCAO Comments 3/30/26*.

⁴⁵⁵ Minnesota Senate Joint Transportation and Judiciary and Public Safety Committee, Oct. 2020, <https://www.lrl.mn.gov/docs/2020/other/200998.pdf>.

⁴⁵⁶ *DCAO Comments 3/30/26*.

⁴⁵⁷ Colo. Rev. Stats. § 24-10-110(a).

or commission” when “occurring during the performance of his or her duties and within the scope of his or her employment.”⁴⁵⁸

The scope of duties and employment of a public servant and the accompanying immunity could never include perpetrating crimes.⁴⁵⁹

The Charter section on “Functions of the Department of Law” authorizes the DCAO to represent a Denver “officer” or employee “acting within the scope of his or her duties, in all civil litigation.”⁴⁶⁰ Thus, there is no representation in criminal matters, and of course no civil representation for committing crimes. Moreover, the DCAO prosecutes criminal violations of the Denver Revised Municipal Code, such as the prosecutions of Auraria trespassers.⁴⁶¹ The DCAO does not provide criminal *defense* for accused violators.⁴⁶²

The DCAO’s March 30, 2026, comments to the Committee do not say if the councilmembers had actually thought that they were entitled to criminal defense provided by the Denver City Attorney if they got arrested at Auraria.

If the council members’ demands for personal and family impunity did play some role in the Denver executive branch’s decisions, the council members would be partially culpable for those decisions.⁴⁶³ If the executive branch paid no attention to the group of five city council members, the group would have the good fortune of being granted some of the impunity they demanded, even though their demands played no role in the grant.⁴⁶⁴

That the Mayor’s Office accurately informed the group of five that DCAO could not represent them in a criminal case, is some evidence that the Mayor’s decisions were not made mainly out of deference to the five council members. The behavior of the City Council five does remain an indication of the breadth and intensity of support for the protesters among the left wing of Denver Democrats in the Spring of 2024.

⁴⁵⁸ Denver City Charter § 1.1.7.

⁴⁵⁹ “[G]overnmental immunity only extends to those government officers who are acting consistently with the law . . .” *Houston Belt & Terminal Railway Co. v. City of Houston*, 487 S.W.3d 154, 164 (Tex. 2016).

⁴⁶⁰ Denver City Charter § 6.1.3(A).

⁴⁶¹ See Appendix D, listing Auraria criminal prosecutions by the DCAO.

⁴⁶² Denver City Charter § 6.1.3 (“Functions of the Department of Law”, no provision for criminal defense).

⁴⁶³ “[I]t is when execution of a government’s policy or custom, whether made by its lawmakers or by those whose edicts or acts may fairly be said to represent official policy, inflicts the injury that the government as an entity is responsible under § 1983.” *Monell v. Department of Social Services of City of New York*, 436 U.S. 658, 694 (1978)

⁴⁶⁴ The issue of liability (or not) for failed attempts is discussed in Richard L. Lippke, *Harm Matters: Punishing Failed Attempts*, 14 Ohio State Journal of Criminal Law 629 (2017).

Selective Nonenforcement

This section explains why the above actions of the Denver government violated the Equal Protection Clause of the Fourteenth Amendment: “No State shall . . . deny to any person within its jurisdiction the equal protection of the laws.”⁴⁶⁵

The first reason for the conclusion is a federal statute, 10 U.S.C. § 253. That statute specifically declares that when local officials “refuse” to enforce the law against persons who are interfering with the exercise of constitutional rights, the local government “shall be considered to have denied the equal protection of the laws secured by the Constitution.”⁴⁶⁶ The modern statute was first enacted in 1871 as part of the Ku Klux Klan Act; coming only three years after the Fourteenth Amendment was ratified, the 1871 Act demonstrates original meaning of the Fourteenth Amendment.⁴⁶⁷

The second reason for the conclusion that the Denver government violated the Equal Protection Clause is modern federal court precedent, as will be explained below.

Rights can be violated by government action or inaction, as U.S. Rep. William Lawrence (R-Ohio), explained in 1866 when Congress was considering the Fourteenth Amendment: “There are two ways in which a State may undertake to deprive citizens of their absolute, inherent, and inalienable rights: either by prohibitory laws, or by a failure to protect any one of them.”⁴⁶⁸

Congress proposed the Fourteenth Amendment to the States in 1866, and the Amendment was ratified in 1868.⁴⁶⁹ Section 5 of the Amendment granted Congress power to enforce the Amendment.⁴⁷⁰ In 1871, to address the problem of selective nonenforcement of the law, Congress enacted the Ku Klux Klan Act.⁴⁷¹ In section 3, Congress stated that when governments “fail in or refuse in protection of the people in such [constitutional] rights, such facts shall be deemed a denial by such State of the equal protection of the laws to which they are entitled under the Constitution of the United States.”⁴⁷²

⁴⁶⁵ U.S. Const. amend. XIV, § 1 (1868).

⁴⁶⁶ 10 U.S.C. § 253.

⁴⁶⁷ 17 Stat. 13, Apr. 20, 1871. In 1874, Congress enacted a comprehensive consolidation of all federal statutes. Section 3 became what is now 10 U.S.C. § 253, authorizing the President to call forth the militia or the army when local authorities cannot or will not enforce the law.

⁴⁶⁸ Cong. Globe, 39th Cong., 1st Sess. 1833, Apr. 7, 1866, <https://www.congress.gov/congressional-globe/page-headings/39th-congress/n-a/51433>.

⁴⁶⁹ “14th Amendment to the U.S. Constitution: Civil Rights (1868),” *National Archives: Milestone Documents*, <https://www.archives.gov/milestone-documents/14th-amendment>.

⁴⁷⁰ “The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.” U.S. Const., amend. XIV, § 5.

⁴⁷¹ 17 Stat. 13, Apr. 20, 1871.

⁴⁷² *Id.* § 3. The Fourteenth Amendment expressly applies to every “State,” and applies to local governments by implication, because local governments are political subdivisions of states. See, e.g., *Avery v. Midland County*,

As the Supreme Court stated, the KKK Act was “directed at the organized terrorism in the Reconstruction South led by the Klan, and the unwillingness or inability of state officials to control the widespread violence.”⁴⁷³ The 1871 KKK Act arose from a congressional investigation collecting 13 volumes of testimony from over 500 witnesses about the facts and causes of the Klan’s impunity in the unreconstructed South.⁴⁷⁴ The joint congressional committee explained that one reason that laws were not enforced against the Klan was political support: “the public sentiment in their favor in many localities, paralyzes the arm of civil power.”⁴⁷⁵

Included in the Joint Committee’s report was an 1868 report from Freedmen’s Bureau head General O.O. Howard stating that in Louisiana, “the character of the local magistracy is not as high as could be desired, and many of them have connived at the escape of offenders, while some have even participated in the outrages. In other sections lawless ruffians have overawed the civil authorities.”⁴⁷⁶ Similarly, former Alabama Governor Parson explained, “there is a state of public opinion which completely overrides the law, which refuses to enforce it with respect to a certain class of offenders and a certain description of offenses.”⁴⁷⁷

The concerns about nonenforcement of the law that prompted the 1871 KKK Act were raised when Congress was debating the Fourteenth Amendment itself in 1866. Introducing the Fourteenth Amendment in the Senate, Senator Jacob Howard (R-Mich.), the Senate sponsor and floor manager, explained that the Equal Protection clause

abolishes all class legislation in the States and does away with the injustice of subjecting one caste of persons to a code not applicable to another. It prohibits the hanging of a black man for a crime for which the white man is not to be hanged. It protects the black man in his fundamental rights as a citizen with the same shield which it throws over the white man. . . . Without this principle of equal justice to all men and equal protection under the shield of the law, there is no republican government and none that is really worth maintaining.⁴⁷⁸

Texas, 390 U.S. 474, 480 (1968) (“it is now beyond question that a State’s political subdivisions must comply with the Fourteenth Amendment.”).

⁴⁷³ *Chapman v. Houston Welfare Rights Organization*, 441 U.S. 600, 610 n.25 (1979).

⁴⁷⁴ The Joint Select Committee issued a report in 1871, and then a longer version of that same report in 1872. The 1872 report will be cited herein, because it includes the most material. U.S. Congress, *Report of the Joint Select Committee to Inquire into the Condition of Affairs in the Late Insurrectionary States*, 42nd Cong., 2nd sess., House Report 22, U.S. Cong. serial set no. 1529, Feb. 19, 1872, [https://babel.hathitrust.org/cgi/pt?id=uc1.\\$b655882&seq=7](https://babel.hathitrust.org/cgi/pt?id=uc1.$b655882&seq=7).

⁴⁷⁵ *Ibid.*, p. 3. Another problem was “that redress cannot be obtained against those who commit crimes in disguise.” *Ibid.*, p. 2.

⁴⁷⁶ *Ibid.*, p. 21, [https://babel.hathitrust.org/cgi/pt?id=uc1.\\$b655882&seq=29](https://babel.hathitrust.org/cgi/pt?id=uc1.$b655882&seq=29).

⁴⁷⁷ *Ibid.*, p. 4. The Klan was composed of Democratic White Protestants and was violently hostile to Blacks, Republicans, and also to Democrats who did not support the Klan agenda. Allen W. Trelease, *White Terror: The Ku Klux Klan Conspiracy and Southern Reconstruction* (Baton Rouge: Louisiana State University Press, 1971).

⁴⁷⁸ Cong. Globe, 39th Cong., 1st Sess. 2766, May 23, 1866, <https://www.congress.gov/congressional-globe/page-headings/39th-congress/n-a/52430>.

In other words, when the victims of a favored group are deprived of the “shield” of equally enforced criminal law, the favored group is in effect a higher “caste.”

Today, section 3 of the KKK Act is codified at 10 U.S.C. § 253. The act applies “in a State” to “any insurrection, domestic violence, unlawful combination, or conspiracy, if it—”

(1) so hinders the execution of the laws of that State, and of the United States within the State, that any part or class of its people is deprived of a right, privilege, immunity, or protection named in the Constitution and secured by law, and the constituted authorities of that State are unable, fail, or refuse to protect that right, privilege, or immunity, or to give that protection; or

(2) opposes or obstructs the execution of the laws of the United States or impedes the course of justice under those laws.

In any situation covered by clause (1), the State shall be considered to have denied the equal protection of the laws secured by the Constitution.⁴⁷⁹

Thus, proof that the Denver government “denied the equal protection of the laws” is made by showing three facts:

- Existence of “domestic violence, unlawful combination, or conspiracy”;
- That “hinders the execution of the laws” so that people are “deprived” of constitutional rights; and
- The “constituted authorities” “refuse to protect” the exercise of the constitutional right.⁴⁸⁰

⁴⁷⁹ 10 U.S.C. § 253. When the above conditions of lawlessness are met, the statute gives the President authority to call forth the militia and/or the armed forces to remedy the lawlessness. *Id.*

Section (1) applies when States fail or refuse to enforce the law. Section (2) is about federal laws. According to the statute, “In any situation covered by subsection (1),” such as when local “authorities . . . are unable, fail, or refuse to protect” rights, then “the State shall be considered to have denied the equal protection of the laws secured by the Constitution.” By the text, the existence of a denial of equal protection occurs *before* the President decides whether to act with force. The presidential power under subsection (1) arises *only* upon the occurrence of the subsection (1) condition—namely, because the laws are not being enforced, people are being deprived of exercise of constitutional rights. The denial of equal protection is a condition precedent for the arising of presidential power under subsection (1). When the subsection (1) condition arises, a President might choose to call forth the militia or summon the armed forces. Or the President might choose not to. Whether or not the President chooses to act, the local authorities “shall be considered to have denied the equal protection of the laws secured by the Constitution.”

The original language from the 1871 KKK Act was:

That in all cases where insurrection, domestic violence, unlawful combinations, or conspiracies in any State shall so obstruct or hinder the execution of the laws thereof, and of the United States, as to deprive any portion or class of the people of such State of any of the rights, privileges, or immunities, or protection, named in the Constitution and secured by this act, and the constituted authorities of such State shall either be unable to protect, or shall, from any cause, fail in or refuse protection of the people in such rights, such facts shall be deemed a denial by such State of the equal protection of the laws to which they are entitled under the Constitution of the United States;

17 Stat. 13, § 3.

⁴⁸⁰ 10 U.S.C. § 253.

To begin with, the Auraria protests constituted “domestic violence, unlawful combination, or conspiracy.” As detailed in Appendix D, there were 47 convictions for trespass and other crimes for the occupation of the Tivoli Quad and the building invasions.⁴⁸¹ The protesters obviously worked in concert, such when deciding which building to invade next and when to carry out the invasion as a group.⁴⁸² A joint agreement to commit a crime, such as trespass, is a “conspiracy” if the conspirators then commit “an overt act,” such as breaking into an office.⁴⁸³

The phrase “domestic violence, unlawful combination, or conspiracy” is disjunctive, so “domestic violence” need not be proven. However, “domestic violence” did occur.⁴⁸⁴

When the Jewish National Fund held a meeting at the Denver Convention Center, across the street from the Golda Meir House, protesters broke windows at the Convention Center and fled onto the Auraria campus.⁴⁸⁵ When the convention attendees attempted to visit the Golda Meir House, “large trucks with Palestinian flags circled the back entrance of the museum, honking and shouting. It was unsafe for the visitors to approach”; under police escort, the visitors fled into a nearby Catholic Church.⁴⁸⁶

⁴⁸¹ Appendix D.

⁴⁸² Encampment Timeline, May 7, May 13, May 1, 2024.

⁴⁸³ Colo. Rev. Stats. § 18-2-201:

(1) “A person commits conspiracy to commit a crime if, with the intent to promote or facilitate its commission, he agrees with another person or persons that they, or one or more of them, will engage in conduct which constitutes a crime or an attempt to commit a crime, or he agrees to aid the other person or persons in the planning or commission of a crime or of an attempt to commit such crime.”

(2) [There must be] “an overt act in pursuance of that conspiracy”

The term “unlawful combination” as used in section 253 is not defined in statute nor by case law. It could perhaps be read to refer to group crimes that not as formally organized as a conspiracy.

⁴⁸⁴ “Domestic” in this context means “not foreign.” For example, in Federalist 43, James Madison described “domestic violence” as when “illicit combinations, for purposes of violence, be formed . . . by a majority of a county.” The Federalist no. 43 (James Madison). It is possible that the Auraria protests and violence were funded by the government of Iran, as described in the section “Cui Bono? (For Whose Benefit?).” Even so, the perpetrators were Americans in America, and hence “domestic.”

⁴⁸⁵ *AHEC Timeline*, p. 3.

⁴⁸⁶ Fishman Written Statement, p. 4. “During the protest on the Quad, participants at the JNF conference attempted to tour the Golda Meir House Museum. Out of concern for their safety, ACPD escorted the participants to another building near the Museum, and the tour could not proceed until protesters left the area.” *AHEC Timeline*, p. 3.

Because the protesters acted so menacingly, “the office of the Director of the Museum was moved to a more populated location for security and to provide a supportive network.”⁴⁸⁷ Large group tours of the museum needed a police escort, and many tours were cancelled due to fear.⁴⁸⁸

When the police attempted to arrest encampment participants for trespass on April 26, 2024, “Some protesters tried to push police officers out of the Tivoli Quad, and surrounded a cop car to try and stop it from leaving.”⁴⁸⁹

On May 6, 2024, protestors “forcefully entered and occupied the private, locked Auraria Campus executive offices within the Tivoli Student Union. The protestors pushed past a student employee and then refused to leave after multiple requests.”⁴⁹⁰ The protestors “occupied AHEC offices in the Tivoli Student Union, breaking the entryway, while others stayed outside chanting and banging on the windows.”⁴⁹¹

On May 7, 2024, when Dr. Angie Paccione, the executive director of the Colorado Department of Higher Education, was meeting with protesters at the Tivoli Student Union, other protesters entered the building, forcing Dr. Paccione be evacuated by police.⁴⁹² The building was subject to an “emergency alert” telling people to stay away; the alert was in effect from 11:46 A.M. to 12:45 P.M.⁴⁹³

That same day, several dozen protestors invaded the MSU Denver Aerospace, Engineering, and Sciences (AES) Building at around 5:00 p.m. They began “vandalizing the building,” which “was locked and closed to the public.”⁴⁹⁴ “The protestors occupied the first floor of the building and impeded students’ access to classrooms for final exams. Additionally, they chanted, pounded drums, and used amplified sound in violation of campus event policies, . . .”⁴⁹⁵

⁴⁸⁷ *AHEC Timeline*, p. 2; Fishman Written Statement at 3–6.

⁴⁸⁸ “Facing Protestors and Threats, Golda Meir House Seeks Security Enhancements,” *Jewishcolorado*, Apr. 22, 2024, <https://www.jewishcolorado.org/facing-protestors-and-threats-golda-meir-house-seeks-security-enhancements/>.

⁴⁸⁹ Kevin Beaty, Lauren Antonoff Hart, and Rebecca Tauber, “Denver Law Enforcement Arrest Antiwar Protesters on Auraria Campus,” *Denverite*, Apr. 26, 2024, <https://denverite.com/2024/04/26/auraria-campus-israel-gaza-protest-update/>.

⁴⁹⁰ Auraria Campus, *Auraria Campus Developments May 7*, <https://aurariacampus.edu/auraria/auraria-campus-protest-updates-april-2024/auraria-campus-developments-may-7-2024/>.

⁴⁹¹ *AHEC Timeline*, pp. 7–8.

⁴⁹² *Ibid.*, p. 8.

⁴⁹³ Heather Willard, “14 Auraria Protesters Face Charges After Occupying Building,” *Fox31/KDVR*, May 7, 2024, <https://kdvr.com/news/local/police-activity-at-tivoli-building-on-auraria-campus/>.

⁴⁹⁴ *AHEC Timeline*, p. 8.

⁴⁹⁵ Auraria Campus, *Auraria Campus Update, May 7*, <https://aurariacampus.edu/auraria/auraria-campus-protest-updates-april-2024/auraria-campus-update-may-7/>.

On May 9, 2024, the protesters physically obstructed traffic on public streets for approximately an hour.⁴⁹⁶

On May 13, 2024, protesters “removed glass partitions to access and occupy the CU’s Bursar’s Office. Employees fled from the office. The group then vandalized the office. Because of this incident, the campus went under lockdown.”⁴⁹⁷

On May 14, 2024, chanting and banging on trash cans,⁴⁹⁸ protesters occupied the Tivoli Student Union and “pinned several ACPD officers between them, endangering the officers’ safety.”⁴⁹⁹ A campuswide lockdown was issued at 4:50 P.M., remaining in effect until 6:20 P.M. The Tivoli Student Union was closed for the entire evening, with all events and study sessions cancelled.⁵⁰⁰

Daniel Bennett, executive director of Hillel of Colorado, testified about being physically obstructed at the encampment:

I do know that walking with my cane that day, they would not let me cross the pathway to the door of the administration building where my meeting was held and I needed to walk far out of my way to access the door from the side. I’m a formidable man. I’m not easily shaken, but I was shaken. That’s not just my experience. As one student after another told our Hillel staff, “It was intimidating to be Jewish on campus. I hid my mezuzah, my hamsa [a hand-shaped symbol of protection], my Jewish star, all of my Jewish jewelry and I walked way out of my way to avoid the encampment. The encampment whose First Amendment rights we as Jews fight for, they were doing nothing but showing hatred to me.”⁵⁰¹

Another element of equal protection denial according to 10 U.S.C. § 253 is “that any part or class of its [a State’s] people is deprived of a right, privilege, immunity, or protection named in the Constitution and secured by law.”⁵⁰²

⁴⁹⁶ *AHEC Timeline*, p. 8.

⁴⁹⁷ *AHEC Timeline*, p. 9.

⁴⁹⁸ Sydney Isenberg, “12 Pro-Palestinian Protesters Issued Summons After Setting Up Tents Inside Tivoli Student Union” *Denver7 ABC*, May 15, 2024, <https://www.denver7.com/news/local-news/12-pro-palestinian-protesters-issued-summons-after-setting-up-tents-inside-tivoli-student-union>.

⁴⁹⁹ *AHEC Timeline*, p. 9; “Protesters Pitch Tents Inside Tivoli During Meeting With Trustees - MSU Denver,” *MSU Denver*, Mar. 27, 2025, <https://www.msudenver.edu/president/news/protesters-pitch-tents-inside-tivoli-during-meeting-with-trustees-5-14-2024/>; Auraria Campus, *Tivoli Student Union Tent Occupation on May 14, 2024*, <https://aurariacampus.edu/auraria/auraria-campus-protest-updates-april-2024/tivoli-student-union-tent-occupation-on-may-14-2024/>.

⁵⁰⁰ Auraria Higher Education Center (AHEC), *Official Update*, May 14, 2024, <https://aurariacampus.edu/auraria/auraria-campus-protest-updates-april-2024/tivoli-student-union-tent-occupation-on-may-14-2024>

⁵⁰¹ Bennett Testimony, *9/3/25 Web Briefing*, p. 16.

⁵⁰² 10 U.S.C. § 253(1).

College campuses are quintessential locations for students to exercise their First Amendment rights of freedom of speech, free exercise of religion, and peaceable assembly.⁵⁰³ At Auraria, everyone except the protesters was denied use of the Tivoli Quad for three weeks, and the use of campus buildings on multiple occasions.⁵⁰⁴ Jews were hounded out of the Jewish center by the protesters, and repeatedly menaced thereafter.⁵⁰⁵ Thus, Jews and other students were partially deprived of their First Amendment rights to fully participate in college.⁵⁰⁶ So were the 1,500 middle school science students whose Society of Women Engineers field trip to Auraria was cancelled because the protesters had made the campus so dangerous.⁵⁰⁷

The final element of proof for an equal protection denial is: “the constituted authorities of that State are unable, fail, or refuse to protect that right, privilege, or immunity, or to give that protection”.⁵⁰⁸

Regarding Auraria, the Denver government’s decision to “refuse” is undisputed, and is not denied by the Denver City Attorney’s Office.⁵⁰⁹ On April 27, 2024, Mayor Johnston gave a no-arrest order to the Denver Police Department and a no-custody order to the Sheriff’s Department.⁵¹⁰ As a result, the protesters were given continuing impunity to violate the First Amendment rights of the rest of the Auraria community, as described above.

Therefore, the relevant facts involving 10 U.S.C. § 253(1) have been shown. According to that statute: “In any situation covered by clause (1), the State shall be considered to have denied the equal protection of the laws secured by the Constitution.”

Finding III is separately and additionally supported by modern case law on the Equal Protection Clause. As the Supreme Court explained in 1962, “conscious exercise of some selectivity in enforcement” is normal, but selectivity violates the Equal Protection Clause when “deliberately based upon an unjustifiable standard such as race, religion, or other arbitrary classification.”⁵¹¹

⁵⁰³ See, e.g., *Widmar v. Vincent*, 454 U.S. 263, 267 n.5 (1981) (striking ban on religious worship and speech; “the campus of a public university, at least for its students, possesses many of the characteristics of a public forum”); *Healy v. James*, 408 U.S. 169, 180 (1972) (quoting *Keyishian v. Board of Regents of University of State of N.Y.*, 385 U.S. 589, 603 (1967) (“The college classroom with its surrounding environs is peculiarly the ‘marketplace of ideas’ . . .”).

⁵⁰⁴ Encampment Timeline May 7, May 13, May 14, 2024 (campus and building lockdowns and evacuations); May 17, 2024 (entire campus locked down indefinitely).

⁵⁰⁵ Finding II.

⁵⁰⁶ *Ibid.*

⁵⁰⁷ Spear Testimony, 8/20/25 *Web Briefing*, p. 6.

⁵⁰⁸ 10 U.S.C. § 253.

⁵⁰⁹ *DCAO Comments 3/17/26*; Appendix I.

⁵¹⁰ Encampment Timeline, Apr. 27, 2024.

⁵¹¹ *Oyler v. Boles*, 368 U.S. 448, 456 (1962); See also *United States v. Batchelder*, 442 U.S. 114, 125 n.9 (1979) (“The Equal Protection Clause prohibits selective enforcement ‘based upon an unjustifiable standard such as race, religion, or other arbitrary classification.’”).

The principle against discrimination applies to government denials of law enforcement protection. As the First Circuit wrote, “although there is no constitutional right to police protection, State executive and law enforcement officials may not ‘selectively deny . . . protective services to certain disfavored minorities.’”⁵¹² Likewise, as the Ninth Circuit puts it, “There is a constitutional right . . . to have police services administered in a nondiscriminatory manner—a right that is violated when a state actor denies such protection to disfavored persons.”⁵¹³

According to the Supreme Court in *Oyler*, “selectivity in law enforcement” violates the Equal Protection Clause when based on “religion” or on another “unjustifiable standard” and “arbitrary classification.”⁵¹⁴

Regarding religion, the Denver City Attorney’s March 17 cease and desist letter to this Committee repeatedly characterized the Auraria protesters as “pro-Islam.”⁵¹⁵ The Denver government gave those “pro-Islam” protesters special exemptions from law enforcement.⁵¹⁶ Leading those “pro-Islam” protesters was an organization that had endorsed the Hamas mass murders and other atrocities of October 7–8, 2023.⁵¹⁷ Shielded by impunity, the group broke into buildings and private offices and chanted slogans for the murder of Jews.⁵¹⁸

A second form of discrimination at Auraria—based on political viewpoint—also violates the Equal Protection Clause. For example, the D.C. Circuit held that “disparate enforcement of a neutral ordinance based on viewpoint is unlawful” only when “‘unlawful favoritism’ remains the predominant explanation for the government’s targets.”⁵¹⁹

⁵¹² *Hayden v. Grayson*, 134 F.3d 449, 452 (1st Cir. 1998) (quoting *DeShaney v. Winnebago County Department of Social Services*, 489 U.S. 189, 197 n.3 (1989)).

⁵¹³ *Estate of Macias v. Ihde*, 219 F.3d 1018, 1028 (9th Cir. 2000).

⁵¹⁴ *Oyler* at 456.

⁵¹⁵ Appendix I.

⁵¹⁶ Encampment Timeline, Apr. 27, May 3, May 7, May 13, May 14, 2024.

⁵¹⁷ Section on “Allegations of Antisemitism on the Auraria Campus.”

⁵¹⁸ Encampment Timeline, May 6, May 7, May 13, May 14, 2024; Finding I.

⁵¹⁹ *Frederick Douglass Foundation, Inc. v. District of Columbia*, 82 F.4th 1122, 1140 (2023) (quoting *Thomas v. Chi. Park Dist.*, 534 U.S. 316, 325 (2002)); See also *United States v. Navarro*, 627 F.Supp.3d 1, *4 (D.D.C.2022) (citing *Branch Ministries v. Rossotti*, 40 F.Supp.2d 15, 21 (1999) (“a forbidden reason can include prosecution of a defendant based on his ‘political beliefs.’”)).

The Supreme Court has never suggested that equal protection standards about selective law enforcement are different for selective action versus selective inaction. Thus, in analyzing the possibility of selective enforcement/nonenforcement, the accuser bears a “heavy burden.” *United States v. Berrios*, 501 F.2d 1207, 1211 (2d Cir. 1974). In a case involving discriminatory action, the Second Circuit explained:

To support a defense of selective or discriminatory prosecution, a defendant bears the heavy burden of establishing, at least prima facie,

(1) that, while others similarly situated have not generally been proceeded against because of conduct of the type forming the basis of the charge against him, he has been singled out for prosecution, and

The Ninth Circuit case *Hoye v. City of Oakland* addressed a case of selective law enforcement because of a speaker’s message.⁵²⁰ Under a municipal ordinance, persons entering abortion clinics could not be approached for conversation, protest, counseling, or other forms of speech.⁵²¹ Hoye was prosecuted for approaching women entering clinics to attempt to convince them not to abort.⁵²² He claimed “that Oakland does not enforce the Ordinance evenhandedly, as it has a policy of not enforcing the Ordinance against volunteers who engage in pro-abortion speech outside reproductive health clinics.”⁵²³ In fact, Oakland admitted “that it understands and enforces the Ordinance in a content-discriminatory manner.”⁵²⁴

Noting that some courts address these types of issues as First Amendment “as applied” challenges, while others treat them as involving Fourteenth Amendment Equal Protection, the Ninth Circuit wrote, “Any difference between these two approaches is, at least in this case, semantic rather than substantive.”⁵²⁵ The Court held that “Oakland’s enforcement policy is a constitutionally invalid, content-based regulation of speech.”⁵²⁶ By adopting that policy, Oakland has taken sides in a public debate in a manner that . . . the Constitution does not permit.”⁵²⁷

(2) that the government's discriminatory selection of him for prosecution has been invidious or in bad faith, i.e., based upon such impermissible considerations as race, religion, or the desire to prevent his exercise of constitutional rights.

These two essential elements are sometimes referred to as “intentional and purposeful discrimination.”

Id. The Second Circuit’s rule equally addresses non-enforcement: “[W]hile others similarly situated have . . . generally been proceeded against because of conduct of the type forming the basis of the charge against him, he has been singled out for [non]prosecution,” *Id.* The Equal Protection Clause prohibits discrimination based on race, religion, or other arbitrary categories. See, e.g., *Snowden v. Hughes*, 321 U.S. 1, 8 (1943). “And, just as discrimination on the basis of religion or race is forbidden by the Constitution, so is discrimination on the basis of the exercise of protected First Amendment activities, whether done as an individual or, as in this case, as a member of a group []popular with the government.” *United States v. Falk*, 479 F.2d 616 (7th Cir. 1973) (en banc). In a public forum, the government may not give special privileges to a group based on its political viewpoint. See *United States v. Crowthers*, 456 F.2d 1074 (4th Cir. 1972) (discrimination in favor of support for the war in Vietnam). The “equal protection of the law is denied when state officials enforce a valid statute in a discriminatory fashion” *United States v. Steele*, 461 F.2d 1148, 1151 (9th Cir. 1972) (citing *Yick Wo v. Hopkins*, 118 U.S. 356 (1886)).

⁵²⁰ 653 F.3d 835 (9th Cir. 2011).

⁵²¹ *Id.* at 839–40.

⁵²² *Id.* at 840.

⁵²³ *Id.*

⁵²⁴ *Id.* at 850.

⁵²⁵ *Id.* at 855. The court described *Rosenbaum v. City and Cnty. of San Francisco*, 484 F.3d 1142, 1152–57 (9th Cir. 2007) as “considering a viewpoint discrimination claim as a selective enforcement claim under the Equal Protection Clause.” *Id.*

⁵²⁶ *Id.* at 859.

⁵²⁷ *Id.* As the Ninth Circuit noted, the text of the Oakland ordinance was modeled after a content-neutral Colorado statute that the Supreme Court had upheld in *Hill v. Colorado*, 530 U.S. 703 (2000). *Hoye* at 389–40. *Hoye* had also

Proof of unlawful selectivity in law enforcement is sometimes based on comparators. For example, in *Yick Wo*, the evidence showed that laundry businesses lacking a certain type of license were always criminally prosecuted when owned by Chinese subjects and never prosecuted when owned by anyone else.⁵²⁸ As discussed above, the DCAO showed a comparator proving that the protesters who blocked traffic were *not* given special treatment.⁵²⁹ By Denver Police Department policy, *any* group of protesters is allowed to obstruct traffic.⁵³⁰

As for the other impunities that the protesters enjoyed, the comparator is the long record of the Denver Police Department and Denver Sheriff Department assisting with law enforcement at Auraria. The Denver Police Department and the Auraria Campus Police Department had a longstanding mutual aid agreement.⁵³¹ We have seen no evidence that before April 26, 2024, the DPD refused to help Auraria when needed. Nor that DPD had ever refused to enforce the laws against particular classes of persons committing crimes at Auraria. Suddenly—and for the benefit of a single group only—that assistance was withdrawn.⁵³² Of all the trespassers in the history of the Auraria campus, the protesters were the only group, as far as the Committee is aware, that has ever been granted impunity from arrest by the Denver government, the only group whom the Denver Police Chief declared could (illegally) occupy the Quad as long as they wished.⁵³³

Regarding Auraria, the political pressure for selective nonenforcement and viewpoint discrimination was open and obvious. Five members of the Denver City Council were the tip of well-known and very intense anti-Israel sentiment in the Spring of 2024, particularly in Democratic cities, such as Denver.⁵³⁴

“advanced state and federal equal protection challenges to the Ordinance and its enforcement, in addition to his First Amendment claims.” *Id.* at 856 n.15.

⁵²⁸ *Yick Wo v. Hopkins*, 118 U.S. 356 (1886). *Yick Wo*, 118 U.S. at 374.

⁵²⁹ Section, “All Protesters are Allowed to Obstruct Traffic.”

⁵³⁰ *Ibid.*

⁵³¹ Encampment Timeline, Apr. 26, 2024.

⁵³² Encampment Timeline, Apr. 27, 2024

⁵³³ Encampment Timeline, May 3, 2024.

⁵³⁴ For example, a March 2024 Pew Research found that only 25% of Democrats favored U.S. military aid to Israel. Laura Silver et al., “Majority in U.S. Say Israel Has Valid Reasons for Fighting; Fewer Say the Same About Hamas,” *Pew Research Center*, Mar. 21, 2024, p. 14, https://www.pewresearch.org/wp-content/uploads/sites/20/2024/03/PRC_2024.3.21_Israel-Hamas_REPORT.pdf. Thirty-four percent of Democrats and Democrat leaning independents said that Hamas’s reasons for fighting Israel are somewhat valid, and 44% of Democrats ages 18 to 29 thought so. *Ibid.*, p. 21. Thirty-two percent of Democrats considered Israel’s response to the Hamas attacks completely unacceptable. *Ibid.*, p. 23. “Democrats under 30 are especially skeptical about Israel’s reasons for fighting. More say Hamas has valid reasons for fighting than say the same about Israel (44% vs. 35%).” *Ibid.*, p. 29. Similarly, a Gallup Poll found that only 18% of Democrats approved of Israeli military actions in Gaza. Jeffrey M. Jones, “Majority in U.S. Now Disapprove of Israeli Action in Gaza,” *Gallup Poll*, Mar. 27, 2024, <https://news.gallup.com/poll/642695/majority-disapprove-israeli-action-gaza.aspx>.

According to the Supreme Court in *Wayte v. U.S.*, “It is appropriate to judge selective prosecution claims according to ordinary equal protection standards.⁵³⁵ As *Wayte* detailed, American citizen males are required to register for Selective Service when they turn 18.⁵³⁶ The Selective Service and Department of Justice were passive about nonregistrants.⁵³⁷ They did not conduct investigations to find persons who had failed to register.⁵³⁸ However, some persons, such as *Wayte*, not only refused to register, they wrote letters to Selective Service, and announced that they had chosen not to register.⁵³⁹ After warnings, such men were prosecuted.⁵⁴⁰ The Court held that *Wayte* and similarly situated people had not proven a case of selective enforcement based on political viewpoint.⁵⁴¹ The Department of Justice was simply prosecuting the easy cases of persons who had contacted the federal government to identify themselves as lawbreakers.⁵⁴²

Wayte explained how to prove a case on selective prosecution: “Discriminatory purpose . . . implies that the decisionmaker . . . selected or reaffirmed a particular course of action at least in part ‘because of,’ not merely ‘in spite of,’ its adverse effects upon an identifiable group.”⁵⁴³

At *Auraria*, the issue was not selective enforcement (as in *Wayte*) but rather selective nonenforcement (as with the KKK). Adhering to the principle established by the KKK Act of 1871, the Supreme Court continues to rule against discriminatory exceptions from the law. For example, a Chicago ordinance forbade all picketing within 150 feet of a school during school hours, *except* peaceful labor picketing.⁵⁴⁴ According to the Court, “under the Equal Protection Clause, not to mention the First Amendment itself, government may not grant the use of a forum to people whose views it finds acceptable, but deny use to those wishing to express less favored or more controversial views.”⁵⁴⁵ In the Court’s analysis, the same rule applies when the government singles out one type of speaker for special favor (the Chicago teachers’ union) as when the government singles out a group for special disfavor (prior cases where Jehovah’s Witnesses had been denied use of a public park).⁵⁴⁶

⁵³⁵ *Wayte v. United States*, 470 U.S. 598, 608 (1985).

⁵³⁶ *Id.* at 600–01.

⁵³⁷ *Id.* at 601.

⁵³⁸ *Id.*

⁵³⁹ *Id.*

⁵⁴⁰ *Id.*

⁵⁴¹ *Id.* at 609–10.

⁵⁴² *Id.* at 610.

⁵⁴³ *Wayte* at 610 (citing *Personnel Administrator of Massachusetts v. Feeney*, 442 U.S. 256, 279 (1979)).

⁵⁴⁴ *Police Department of Chicago v. Mosley*, 408 U.S. 92 (1972).

⁵⁴⁵ *Id.* at 96.

⁵⁴⁶ *Id.* at 96–97 (discussing *Niemotko v. Maryland*, 340 U.S. 268 (1951) and *Fowler v. Rhode Island*, 345 U.S. 67 (1953)).

The Auraria problem was the same as Chicago: the favored “identifiable group”—the “pro-Islam” anti-Israel protesters—were allowed to take over the public forum of the Tivoli Quad, to the exclusion of everyone else. This was “a discriminatory effect” and “was motivated by a discriminatory purpose.”⁵⁴⁷ Under *Wayte*, the level of intent that must be proven is that the government acted “at least in part ‘because of’” a discriminatory motive.⁵⁴⁸ As described in a previous section of this Finding, the evidence strongly shows political and/or religious viewpoint discrimination as the Denver government motive.⁵⁴⁹ Indeed, in four written responses to this Committee spanning half a year, the Denver government has failed to proffer a credible alternative explanations for its actions.⁵⁵⁰

The DCAO argues that Equal Protection was denied only if Mayor Johnston and the rest of the government acted for the specific purpose of harming Jews at Auraria.⁵⁵¹ This is incorrect. Conferring a special exemption from the law on a favored group—such as the teachers’ union in Chicago—is an Equal Protection violation.⁵⁵² That the Jews at Auraria were harmed because the Denver government politically favored their persecutors, and not because the Denver government actively intended to harm Jews, was still a denial of the equal protection of the laws.

The Right to Performance of Contracts and to “the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship”

Section 5 of the Fourteenth Amendment grants Congress the power to enact legislation to enforce Fourteenth Amendment rights, including the Equal Protection Clause.⁵⁵³ One enforcement statute, enacted in 1866, authorizes civil lawsuits by private individuals and by the U.S. Attorney General to protect the right of contract.

- (a) All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens
- (b) For purposes of this section, the term “make and enforce contracts” includes the making, performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.

⁵⁴⁷ *Wayte*, 470 U.S. at 608.

⁵⁴⁸ *Id.* at 610

⁵⁴⁹ Section, “Evidence of Motives.”

⁵⁵⁰ *Ibid.*

⁵⁵¹ Appendix I (Denver City Attorney’s Office Cease and Desist Letter Issued to the Colorado Advisory Committee); Appendix K (Denver City Attorney Request for Committee to Delete Finding III).

⁵⁵² *Police Department of Chicago v. Mosley*, 408 U.S. 92 (1972).

⁵⁵³ “The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.” U.S. Const., amend. XIV, § 5.

- (c) The rights protected by this section are protected against impairment by nongovernmental discrimination and impairment under color of State law.⁵⁵⁴

Because of the statutory language for the same contract right “as is enjoyed by white citizens,” section 1981 applies only to discrimination based on race.⁵⁵⁵ As the Supreme Court has explained, “Congress intended to protect from discrimination identifiable classes of persons who are subjected to intentional discrimination solely because of their ancestry or ethnic characteristics.”⁵⁵⁶ The statute protects against “racial discrimination that Congress intended § 1981 to forbid, whether or not it would be classified as racial in terms of modern scientific theory.”⁵⁵⁷ For example, dictionaries and encyclopedias relevant to 1866 used “race” to mean groups such as “Finns, gypsies, Basques, and Hebrews” and also “Swedes, Norwegians, Germans, Greeks, Finns, Italians, Spanish, Mongolians, Russians.”⁵⁵⁸ When section 1981 was being debated in Congress, legislators spoke of “Scandinavian races, as well as the Chinese, Latin, Spanish, and Anglo-Saxon races,” and also identified “Jews, Mexicans, blacks, and Mongolians.”⁵⁵⁹ Thus, 42 U.S.C. § 1981 applies to discrimination against Jews.⁵⁶⁰

Educational services are contracts covered by section 1981.⁵⁶¹ Section 1981 “can be violated only by purposeful discrimination,” which may be proven inferentially.⁵⁶² The standard of proof is not merely that discrimination was a motivating factor. Rather, a plaintiff must “prove that, but for race, it would not have suffered the loss of a legally protected right.”⁵⁶³

The evidence has not demonstrated that “but for” motivation existed among the decision-makers in Denver government. To win a section 1981 case based on the situation at Auraria, the plaintiffs would have to prove, the mayor, the police chief, the city council members, and so on would only have acted the way they did if Jews would be harmed. It is true that if *protecting* Jews from harm had been a priority of Denver government officials, then the officials would have acted very differently than they did. However, we have seen no evidence that inflicting harm was the “but for” cause of the actions of Denver government officials.

⁵⁵⁴ 42 U.S.C. § 1981.

⁵⁵⁵ *Saint Francis College v. Al-Khazraji*, 481 U.S. 604, 609 (1987).

⁵⁵⁶ *Id.* at 613.

⁵⁵⁷ *Id.*

⁵⁵⁸ *Id.* at 611–12.

⁵⁵⁹ *Id.* at 612.

⁵⁶⁰ *Lubavitch-Chabad of Illinois, Inc. v. Northwestern University*, 772 F.3d 443 (2014).

⁵⁶¹ *Runyon v. McCrary*, 427 U.S. 160, 172–73 (1976); *Gratz v. Bollinger*, 539 U.S. 244, 276 n.23 (2003) (citing *Runyon*).

⁵⁶² *General Bldg. Contractors Ass’n v. Pennsylvania*, 458 U.S. 375, 391 (1982).

⁵⁶³ *Comcast Corp. v. National Ass’n of African Am.-Owned Media*, 589 U.S. 327, 341 (2020).

Subsection (c) of section 1981 was added in 1991, and it provides: “The rights protected by this section are protected against impairment by nongovernmental discrimination” Thus, Jewish students at Auraria might have a plausible civil suit against the encampment organizers and funders. The interferences with the Jewish students’ educational contract rights are described in Findings I and II.

A harder question involves the non-Jewish students at Auraria. The encampment was taking aim at “Zionists,” which as applied at Auraria meant most Jews, as detailed in Finding I. The non-Jewish students were, in a sense, collateral damage. As explained in Finding II, collateral damage victims have no cause of action under Title VI. The Committee is not aware of any cases under section 1981 providing a remedy to collateral damage victims. Thus, current federal civil rights statutes provide no civil remedy for a large class of victims who are injured because of discriminatory, racist behavior.

It might be helpful for civil rights scholars to explore whether federal statutes could be revised to provide remedies for collateral damage. If Gentile students cannot attend classes because the campus has been taken over by an antisemitic mob, should there be a federal civil rights remedy? Or perhaps scholars will conclude that state law remedies, such as tortious interference with contract, are adequate.

Compared to the damage inflicted by antisemitic mobs at some other college and universities in 2024, the collateral damage at Auraria was much milder. But the damage was still substantial. For three weeks, the entire Auraria community was denied the benefit of the Tivoli Quad, the most important outdoor common spaces on campus.

The occupation began on April 25, 2024. On April 29, 2024, the Community College of Denver changed to remote-only operations. CCD President Marielena DeSanctis stated that the shuttering of in-person activity was necessary so that “our college community remains safe.”⁵⁶⁴ In her view:

Remote operations do not deny students the benefits of CCD’s educational programs and activities. As a matter of fact, in this case, in-person educational services were still available at CCD’s Lowry Campus less than nine miles away. Physical space at Lowry Campus was available and used for educational experiences that could not be offered online, such as tutoring services, proctoring services, and inperson class presentations. Furthermore, CCD and educational institutions around the country routinely move to remote operations for other disruptions, such as those caused by weather or infrastructure issues. In Spring 2024, CCD’s remote operations attributable to the encampment was a single week of classes. For most classes that meet two days a week, this meant than no more than two class sessions were held remotely.⁵⁶⁵

⁵⁶⁴ DeSanctis Testimony, 8/20/25 *Web Briefing*, pp. 13-4.

⁵⁶⁵ *DeSanctis Comments 2/26/26*.

On-campus and remote learning each have advantages and disadvantages. Presumably the reason that CCD normally holds classes on campus rather than all-remote is that it considers in-person learning to be generally superior.

While Metropolitan State University and CU-Denver both attempted to continue in-person operations, the protesters declared that they would escalate, and they did.⁵⁶⁶ The protesters perpetrated multiple building invasions, including the MSU Denver Aerospace, Engineering, and Sciences (AES) Building; the Bursar's Office; the AHEC Executive Office; and multiple invasions and occupations of the most important building for students, the Tivoli Student Union.⁵⁶⁷ Those invasions led to multiple lockdowns of individual buildings, students having to be evacuated by campus police, and to two campuswide lockdowns.⁵⁶⁸

Normally, graduating seniors could have spent their final weeks enjoying the campus, but the protesters seized the campus open space, and then began forcing building evacuations and lockdowns. Graduation ceremonies could not be held on the campus green, because the occupiers had taken for themselves.⁵⁶⁹ The protesters even disrupted off-campus graduation ceremonies.⁵⁷⁰

Ultimately, the protesters triumphed completely, with all three schools forced into remote-only education.⁵⁷¹ The protesters had eliminated in-person education and all other student activities at all three Auraria schools.⁵⁷²

It could be argued that the MSU Denver and CU Denver shutdowns did not matter, because the semester had ended.⁵⁷³ But the shutdowns affected CU students in "Maymester"; they affected all faculty (who lost access to their offices) and they affected anyone, student or faculty, working on projects that continued after the end of the Spring semester.⁵⁷⁴

Hours after the complete closure of the Auraria campus was announced, the protesters announced the end of their encampment.⁵⁷⁵ That is, the repeated attacks ended only after all the victims were

⁵⁶⁶ Encampment Timeline, May 7, 2024.

⁵⁶⁷ Encampment Timeline, May 6, 7, 13, 14, 2024.

⁵⁶⁸ Encampment Timeline, May 6–13, 2024.

⁵⁶⁹ Encampment Timeline, April 25, 2024.

⁵⁷⁰ Encampment Timeline, May 7, 9, 10, 11, 2024.

⁵⁷¹ Encampment Timeline, May 17, 2024

⁵⁷² Encampment Timeline, May 6–17, 2024.

⁵⁷³ *Ibid.*

⁵⁷⁴ *Ibid.*

⁵⁷⁵ *Ibid.*

gone and all the buildings were locked.⁵⁷⁶ As with similar occupations in other states, the occupiers did not choose to persist into the summer semester.

However, the protesters have demonstrated their power over Auraria. Because Denver government gifted the protesters immunity from arrest, they were able to cause so much danger and damage that the entire campus had to be shuttered. That lesson may not be lost on the next group pondering a campus occupation, especially in Denver, or perhaps in other cities where the political establishment will join or align with the campus invaders.

Were students on the Auraria campuses still able to receive an education? Yes.⁵⁷⁷ Did they receive “all benefits” of the Auraria experience that were standard and normal to expect when they had enrolled and paid tuition? No.⁵⁷⁸ Not the Jewish students who had expected a safe campus.⁵⁷⁹ Nor the general student body, who in the final three weeks of school began to be deprived of more and more of their normal access and use of Auraria campus spaces.

There was a but for” cause for the deprivations that affected a community of 45,000.⁵⁸⁰ On July 17, 2023, Michael Johnston took the oath of office. If he had refused the oath, he could not have become the 46th Mayor of Denver.⁵⁸¹ He placed his left hand on a Bible, raised his right hand, and swore:

I, Mike Johnston, do solemnly swear that I will support the Constitution and laws of the United States, and of the State of Colorado, and the Charter and Ordinances of the City and County of Denver, and that I will faithfully perform the duties of the office of Mayor of the City and County of Denver, to which I have been elected, and upon which I am about to enter.⁵⁸²

In regards to Auraria, the laws listed in the oath were not supported.⁵⁸³

Dismantling Higher Education

During this Committee’s hearings, some protesters who testified declared that the Committee’s investigation into their conduct was a violation of freedom of speech or of intellectual freedom in

⁵⁷⁶ Ibid.

⁵⁷⁷ Finding II.

⁵⁷⁸ Ibid.

⁵⁷⁹ Ibid.

⁵⁸⁰ “[A] but-for test directs us to change one thing at a time and see if the outcome changes. If it does, we have found a but-for cause.” *Bostock v. Clayton County, Georgia*, 590 U.S. 644, 656 (2020). “[T]hat form of causation is established whenever a particular outcome would not have happened 'but for' the purported cause.” *Id.*

⁵⁸¹ “Mayoral Inauguration 2023,” City and County of Denver, Jul. 17, 2023, <https://denvergov.org/Government/Elected-Officials/Mayor/Inauguration>. Beginning at 46:09.

⁵⁸² Ibid.

⁵⁸³ Per DCAO, “based on the Committee’s unsupported factual assumptions and misapplication of Fourteenth Amendment case law.” *DCAO Comments 3/30/26*.

higher education.⁵⁸⁴ During public comments at a Committee meeting, one person accused the Committee’s investigation of having “little to do with Jews, and everything to do with dismantling higher education.”⁵⁸⁵

It was the protesters who dismantled higher education at Auraria.⁵⁸⁶ During the 2023–24 academic year, students and faculty who had opinions on the political controversies of the day expressed their opinions, debated, and participated in the vibrant intellectual life of the most populous college campus in Colorado.⁵⁸⁷ One group attacked the free intellectual life of the university. Outsiders from campus, joined by some students and faculty, initiated a forcible assault on freedom at Auraria.

⁵⁸⁴ Business Meeting 5/8/2025, units 189–90 (Daranee Teng, “And what’s happening is clearly just a violation of 1st amendment rights of students rights and is perpetuating dominant narratives that are that are being swept under the rug and and weaponizing, weaponizing the term anti-semitism in order to to repress what?”); Business Meeting 5/21/2025, unit 444 (Khalid Hamu, “this investigation takes aim at those students who are simply using their 1st amendment rights. One of the most fundamental rights we have. And I want to impress the importance of that. If we’re not allowed to use our 1st amendment rights, you know how damaging that could be to our ability to push forward change.”); units 527–34 (Dennis Rudnick, “This investigation is not a good faith, effort to protect Jewish students. . . . I am deeply troubled by several members of this advisory committee, including those with histories of Islamophobia, hostility to racial justice and disdain for academic freedom. . . . I urge this committee to see this investigation for what it is not a defense of Jewish safety, but an assault on academic freedom and the right to protest protest.”); Terry Burnside, *8/20/25 Web Briefing*, p. 37 (“I want to invite the committee and all today’s attendees as well as future students of these proceedings to see their whole premise in the context of an attack on education, evidence, learning, veracity and simple honesty. The same forces guiding the inquisition such as these are censoring museums, erasing peoples of color from curricula, shouting down science, defunding research, introducing our queer family and changing its story about all this pretty much daily.”); Jessica Ellis, *ibid.*, p. 38 (“They have every right to exercise their first amendment rights while opposing genocide in Gaza and demanding that their university divest from the war machine in the United States that carries out this genocide.”); Alex Boodrookas, *ibid.* p. 40 (“And by conflating anti-Zionism and anti-Semitism, it [the Committee] suggests that members of our community, including including Jewish members of our community, are only welcome on campus if they have certain political views.”); Lindsay Nelson, *ibid.* p. 41 (“I urge the committee not to place restrictions on our freedom of speech throughout the CU campuses.”); Ahmed Alasmar, *ibid.* p. 42 (“Anti-Semitism is a problem and affects a lot of American life that no one seems to care about when it’s not used as a scapegoat to alternative ends, in this case, an attack on our educational institutions.”); Asa Willett, *9/3/25 Web Briefing*, p. 26 (“part of the nature of what Title VI delineates for college campuses is that college campuses are places of rigorous ideological debate.”); Saoirse Maloney, *ibid.*, p. 33 (“I think that it’s saddening for me to see the protest disparaged and that so many panelists are eager to restrict freedom of speech and to play in the Trumpian hands ultimately.”).

⁵⁸⁵ Willett Testimony, *5/8/25 Committee Meeting*, p. 16.

⁵⁸⁶ Finding II.

⁵⁸⁷ Student organizations are listed at: “Spring 2023 Active Student Organizations,” *University of Colorado Denver*, [https://www.ucdenver.edu/docs/librariesprovider129/student-organizations/22-23-student-organizations-\(2\).pdf?sfvrsn=386e59bb_4](https://www.ucdenver.edu/docs/librariesprovider129/student-organizations/22-23-student-organizations-(2).pdf?sfvrsn=386e59bb_4); “Student Clubs & Organizations,” *Community College of Denver*, <https://www.ccd.edu/resources/student-clubs-organizations>; “Organizations,” *MSU Denver*, <https://roadrunnerlink.msudenver.edu/organizations>.

First, they drove all the Jews out of the campus Jewish space.⁵⁸⁸ Then they began using force to demand that the entire Auraria community submit to their political agenda.⁵⁸⁹ The occupiers did not proceed solely by peaceful discussion and persuasion, but by force and intimidation.⁵⁹⁰

The Committee agrees with the testimony of Jewish Voice for Peace spokesperson Asa Willet: “I think the solution is not for a fiat ending of the conversation on the basis of a civil rights violation, but I think the solution is counter-speech. And here this is important to me. This draws into a principle of *Machloket l’shem shamayim*, which is arguments for the sake of heaven. This is a proud tradition in the Jewish culture of robust debate and argumentation that I think is deeply important.”⁵⁹¹

Unfortunately, the conduct of the encampment and of the campaign against the Golda Meir House, were the opposite of robust “debate and argumentation.”⁵⁹² When Jews can no longer safely assemble in a Jewish center, when a mob drowns out a speaker at the Jewish center, when Jews all over campus feel the need to hide their identities for safety, the persons who caused that condition are opponents of campus free speech and religion, and they are also functional antisemites.⁵⁹³

The problem of mayoral thwarting of law enforcement support for a campus that has been invaded was not unique to Denver. Northwestern University, in Evanston, Illinois, was the site of an April 2024 anti-Israel encampment similar to the Auraria one. The U.S. House Committee on Education and Workforce has opened an investigation on allegations that Evanston Mayor Daniel Biss refused the university’s request for Evanston police to help remove the encampment. Allegedly, the mayor told the University President, “You know, you can sue me if you want.”⁵⁹⁴

Whether the actions of the Denver government during the Auraria encampment were wise or unwise, lawful or unlawful, one fact that is clear: When a college or university needs local law enforcement protection from a mob, there is no guarantee that protection will be provided. Institutions of higher education should proactively prepare for such an eventuality. Further, federal law enforcement should prepare to protect universities and colleges when local law enforcement will not or cannot. Our Recommendations will suggest some specific steps.

⁵⁸⁸ Golda Meir House Timeline, Oct. 26, 2023.

⁵⁸⁹ Finding I and II.

⁵⁹⁰ Ibid.

⁵⁹¹ Ibid.

⁵⁹² Finding I.

⁵⁹³ Ibid.

⁵⁹⁴ Leore Tal, “House Ed Committee Questions Mayor Who Didn’t Send Police to Northwestern encampment,” *College Fix*, Feb. 20, 2026, <https://www.thecollegefix.com/house-ed-committee-questions-mayor-who-didnt-send-police-to-northwestern-encampment/>

Recommendations

Among their duties, advisory committees of the Commission are authorized to advise the Agency (1) concerning matters related to discrimination or a denial of equal protection of the laws under the Constitution and the effect of the laws and policies of the Federal Government with respect to equal protection of the laws, and (2) upon matters of mutual concern in the preparation of reports of the Commission to the President and the Congress.⁵⁹⁵

In keeping with these responsibilities, and given the testimony heard on this topic, the Committee submits the following recommendations to the Commission:

1. The U.S. Commission on Civil Rights should issue this report and its recommendations to the U.S. Department of Justice to:

a. Instruct U.S. Attorneys to be ready to use federal criminal law powers when colleges and universities—or portions of their campuses—are taken over by mobs, and local law enforcement sits idle. One on the foundational civil rights criminal statutes is 18 U.S.C. § 241, entitled Conspiracy Against Rights. This statute has the general federal 5-year statute of limitations. *See* 18 U.S.C. § 3282(a). It is well suited for use against mobs that aim to prevent the exercise of constitutional rights. It is particularly well-suited for perpetrators who go masked, because it references individuals who “go in disguise.”

If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured—They shall be fined under this title or imprisoned not more than ten years, or both...

b. Also available is 18 U.S.C. § 245, entitled Interference with Federally Protected Activities. That statute, with its own specific 7-year statute of limitations, applies in relevant part to:

(b) Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with—

(1) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from—

(E) participating in or enjoying the benefits of any program or activity receiving Federal financial assistance.

⁵⁹⁵ 45 C.F.R. § 703.2 (2018).

2. The U.S. Commission on Civil Rights should issue the following recommendations to the U.S. Attorney General to:

Prepare to bring civil suits under 42 U.S.C. § 1981, Equal rights under the law, against local officials who deny Equal Protection by denying persons law enforcement protection against mobs, including on campus. While courts often defer to executive judgements in volatile situations—such as encampments—local officials will be hard-pressed to justify refusing normal services, such as processing custodial arrests.⁵⁹⁶

3. The U.S. Commission on Civil Rights should recommend that educational institutions, and also student or faculty groups, consider defending their campus against mobs by bringing civil lawsuits under 42 U.S.C. § 1985(3), entitled the Enforcement Act of 1871:

If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws ...; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.

This cause of action applies to the masked protesters who obstruct traffic “on the highway”—such as the high-traffic public streets near Auraria. The cause of action also applies to masked protesters on a college campus, which is “the premises of another.” In Denver, the protesters, communicated their determination to prevent “Zionists” from using the “streets” or from being present on the Auraria campus. Under the statute, Zionists are a “class of persons” and Zionists also constitute the vast majority of Jews, who are also a class of persons. An injunction issued under section 1985 would be enforceable by U.S. Marshals.

⁵⁹⁶ An important report issued by the U.S. Commission on Civil Rights examined selective refusal to enforce the law against politically favored individuals who violate the rights of others. See U.S. Commission on Civil Rights, *Law Enforcement: A Report on Equal Protection in the South* (1965), <https://www2.law.umaryland.edu/marshall/usccr/documents/cr12141.pdf>.

In one respect, the Denver government misconduct goes even further than what was described in the 1965 report: then, local law enforcement officials refused to conduct investigations of crimes; here, local government officials were themselves among the perpetrators.

4. The U.S. Commission on Civil Rights should request that the U.S. Department of Education develop resources to advise institutions of higher education about self-defense against mobs that violate school rules and civil rights.

As events at Auraria demonstrated, schools may sometimes be fully or partially abandoned by local law enforcement. Schools cannot predict in advance the political calculus of government officials who may prioritize support for a criminal faction over civil rights and campus safety. Hence institutions of higher education, including those in Colorado, should proactively prepare to defend their programs and activities before the next, unpredictable waves of attacks on students in higher education, particularly as antisemitism continues to rise.

Based on study of the 2023–24 events at Auraria, the Committee recommends the following for consideration with respect to the U.S. Department of Education’s ability to provide informal guidance to institutions of higher education:

Campus police departments should prepare for the possibility of nonsupport by local law enforcement in their city, should therefore examine potential partners for mutual aid agreements, and should finalize those agreements before a crisis erupts.

Campus police departments should be trained in how to deal with hostile mobs, including in order to protect students and other campus community members when outnumbered.

Schools should develop streamlined procedures to enforce campus rules against mobs. There should be prompt suspensions or expulsions of persons who perpetrate break-ins, disruptions of learning, protracted trespassing, and the like.⁵⁹⁷ Robust academic freedom requires robust and immediate action against those who attempt to disrupt school operations.

The same expedited procedures should apply to mobs who quash free speech on campus.⁵⁹⁸ Student organizations that perpetrate speech suppression should be removed, and students who defy the removal order should be suspended or expelled.

⁵⁹⁷ If the Auraria schools had acted promptly on April 27—rather than waiting two weeks even to mention the possibility of school sanctions—the occupation and attendant building invasions might have ended sooner.

⁵⁹⁸ Such as the mob that prevented the January 2024 speech of an Israeli Arab peace advocate at the Golda Meir House.

Before a crisis arises, schools should develop relations with attorneys ready to bring lawsuits under 42 U.S.C. §§ 1981 and 1985 against persons who unlawfully attempt to disrupt campus operations.

Schools should always be open to peaceful discussion, through lawful means, of school policies on any topic. Schools should announce in advance that they will never make any policy concessions to people whose protests involve violating the rights of others. Civil rights and constitutional rights are not for compromising.

The Committee recommends that the U.S. Department of Education, with its expertise on many aspects of school safety, make additional suggestions for higher education self-defense against mobs.

Appendix A: Project Materials

All project materials can be found here:

<https://usccr.box.com/s/aq52obvbs8uhkx2a0198po94elwbf2vl>

Appendix B: Invited Speakers

July 16, 2025 Web Briefing – First Amendment Rights, Campus Protests, and Enforcing Title VI

- Susan Rona, Regional Director, Anti-Defamation League (Mountain States)
- Eugene Volokh, Thomas M. Siebel Senior Fellow, Hoover Institution
- Deborah Hellman, Robert E. Scott Distinguished Professor of Law, University of Virginia
- Ken Marcus, Founder and Chairman, Louis D. Brandeis Center for Human Rights Under the Law

August 20, 2025 Web Briefing – Auraria Campus Administrators

- Skip Spear, Chief Administrative Officer and General Counsel, Auraria Campus
- Chris Puckett, Special Assistant to the Chancellor for Government Relations & Managing Associate University Counsel, University of Colorado Denver, co-presented with Valerie Simons, Vice President of Compliance and Equity for the University of Colorado and CU System Title IX Coordinator
- David Fine, General Counsel and Secretary to the Board of Trustees, Metropolitan State University
- Dr. Marielena DeSanctis, President, Community College of Denver

September 3, 2025 Web Briefing – Student Organizations and Impacted Individuals

- Rabbi Yisrael Ort, Director, Chabad of Auraria Campus
- Daniel Bennett, Executive Director, Hillel of Colorado
- Asa Willett, Auraria Campus Student and Member of Jewish Voice for Peace
- Brandon Rattiner, Senior Director, Jewish Community Relations Council

Appendix C: Prosecutions from 2024 Encampment Submitted by the Denver City Attorney's Office

Case #	Date of Offense	Charges	Resolution of Case	Student?
24GS004873	5/14/24	Trespass/Fail to Obey	Dismissed by court due to discovery issues	Yes
24GS004104	4/26/24	Trespass, Fail to Obey	Dismissed by CAO	No
24GS004088	4/26/24	Trespass, Fail to Obey, Asslt	Deferred Prosecution + successful	No
24GS004113	4/26/24	Trespass, Interference	Deferred Prosecution + successful	Yes
24GS004089	4/26/24	Trespass, Fail to Obey	Deferred Prosecution + successful	Yes
24GS004835	5/13/24	Interference/Trespass/DTP	Sentenced (all charges); DJS + successful + dismissed	Yes
24GS004125	4/26/24	Trespass	Dismissed by CAO	No
24GS004074	4/26/24	Trespass	Dismissed by CAO	No
24GS004080	4/26/24	Trespass, Fail to Obey, Asslt	Deferred Prosecution + successful	No
24GS004097	4/26/24	Trespass	Deferred Prosecution + successful	Yes

24GS004871	5/14/24	Trespass/Fail to Obey	Sentenced (all charges); DJS + successful + dismissed	Yes
24GS004079	4/26/24	Trespass, Fail to Obey	Dismissed by CAO	No
24GS004639	5/7/24	Trespass, Interference	Deferred Prosecution + successful	No
24GS004083	4/26/24	Interference	Deferred Prosecution + successful	No
24GS004082	4/26/24	Trespass, Fail to Obey	Dismissed by CAO	No
24GS004121	4/26/24	Trespass, Interference	Dismissed by CAO	Yes
24GS004115	4/26/24	Trespass, Resistance	Dismissed by CAO	Yes
24GS004872	5/14/24	Trespass/Fail to Obey	Dismissed as part of plea	No
24GS004834	5/13/24	Interference/Trespass/DTP	Sentenced (all charges); DJS + successful + dismissed	No
24GS004126	4/26/24	Trespass, Fail to Obey	Deferred Prosecution + successful	No
24GS004116	4/26/24	Trespass, Interference	Dismissed by CAO	Yes
24GS004077	4/26/24	Trespass	Dismissed by CAO	Yes
24GS004875	5/14/24	Trespass/Fail to Obey	Sentenced (all charges); DJS +	No

			successful + dismissed	
24GS004636	5/7/24	Trespass, Interference	Sentenced (all charges); DJS + successful + dismissed	No
24GS004833	5/13/24	Interference/Trespass/DTP	Sentenced (all charges); DJS + successful + dismissed	No
24GS004112	4/26/24	Interference	Deferred Prosecution + successful	No
24GS004064	4/26/24	Trespass	Deferred Prosecution + successful	No
24GS004070	4/26/24	Trespass, Fail to Obey	Dismissed by CAO	No
24GS004124	4/26/24	Trespass, Fail to Obey	Dismissed by CAO	No
24GS004100	4/26/24	Trespass, Fail to Obey	Deferred Prosecution + successful	No
24GS004633	5/7/24	Trespass, Interference	Dismissed by CAO	No
24GS004111	4/26/24	Trespass, Fail to Obey	Deferred Prosecution + successful	No
24GS004066	4/26/24	Trespass	Dismissed by CAO	Yes
24GS004869	5/14/24	Trespass/Fail to Obey	Sentenced (all charges); DJS + successful + dismissed	Yes

24GS004096	4/26/24	Trespass	Dismissed by CAO	No
24GS004093	4/26/24	Trespass, Fail to Obey	Deferred Prosecution + successful	Unknown
24GS004123	4/26/24	Trespass	Deferred Prosecution + successful	No
24GS004634	5/7/24	Trespass, Interference	Deferred Prosecution + successful	Yes
24GS004881	5/14/24	Trespass/Fail to Obey	Deferred Prosecution + successful	No
24GS004641	5/7/24	Trespass, Interference	Deferred Prosecution + successful	No
24GS004847	5/13/24	Interference/Trespass/DTP	Guilty of Trespass at trial	Yes
24GS004631	5/7/24	Trespass, Interference	dismissed by court due to discovery issues	Yes
24GS004635	5/7/24	Trespass, Interference	dismissed by court due to discovery issues	Yes
24GS004874	5/14/24	Trespass, Fail to Obey	Dismissed as part of plea	Yes
24GS004637	5/7/24	Trespass, Interference	Sentenced (all charges); DJS + successful + dismissed	Yes
24GS004073	4/26/24	Trespass, Fail to Obey	Dismissed by CAO	Yes

24GS004105	4/26/24	Trespass, Fail to Obey	Dismissed by CAO	Yes
24GS004119	4/26/24	Trespass, Fail to Obey	Dismissed by CAO	Faculty
24GS004090	4/26/24	Trespass, Fail to Obey	Deferred Prosecution + successful	No
24GS004076	4/26/24	Trespass, Fail to Obey	Dismissed by CAO	Faculty
24GS004114	4/26/24	Trespass, Fail to Obey	Deferred Prosecution + successful	Yes
24GS004068	4/26/24	Trespass, Fail to Obey	Dismissed by CAO	No
24GS004071	4/26/24	Trespass, Fail to Obey	Dismissed by CAO	No
24GS004108	4/26/24	Trespass	Dismissed by CAO	No
24GS004127	4/26/24	Trespass, Fail to Obey	Dismissed by CAO	Yes
24GS004118	4/26/24	Trespass	Dismissed by CAO	Yes
24GS004063	4/26/24	Trespass, Fail to Obey	Deferred Prosecution + successful	Yes
24GS004084	4/26/24	Trespass, Fail to Obey	Deferred Prosecution + successful	No
24GS004086	4/26/24	Trespass, Fail to Obey	Dismissed by CAO	No
24GS004846	5/13/24	DTP-sound amplifying/Trespass	Sentenced (all charges); DJS + successful + dismissed	No

24GS004640	5/7/24	Trespass, Interference	Dismissed by CAO due to Discovery issues	No
24GS004845	5/13/24	Interference/Trespass/DTP	Sentenced (all charges); DJS + successful + dismissed	No
24GS004072	4/26/24	Trespass, Fail to Obey	Dismissed by CAO	No
24GS004870	5/14/24	Trespass/Fail to Obey	Sentenced (all charges); DJS + successful + dismissed	No
24GS004075	4/26/24	Trespass	Dismissed by CAO	No
24GS004117	4/26/24	Trespass, Fail to Obey	Deferred Prosecution + successful	No
24GS004851	5/13/24	Interference/Trespass/DTP	Sentenced (all charges); DJS + successful + dismissed	No
24GS004836	5/14/24	Trespass/Fail to Obey	Dismissed as part of plea	No
24GS004632	5/13/24	Interference/Trespass/DTP	PG to all charges + part of global plea offer	No
24GS004632	5/7/24	Trespass, Interference	Guilty plea to Trespass	No
24GS004629	5/7/24	Trespass, Interference	Sentenced (all charges); DJS +	No

			successful + dismissed	
24GS004630	5/7/24	Trespass, Interference	Sentenced (all charges); DJS + successful + dismissed	No
24GS004628	5/7/24	Trespass, Interference	Sentenced (all charges); DJS + successful + dismissed	No
24GS004109	4/26/24	Trespass	Dismissed by CAO	Yes
24GS004850	5/13/24	Trespass	Deferred Prosecution + successful	Yes
24GS004877	5/14/24	Trespass/Fail to Obey	Dismissed	No
24GS004868	5/14/24	Trespass/Fail to Obey	Dismissed as part of plea	Yes
24GS004849	5/13/24	DTP/Trespass	Dismissed as part of plea	Yes
24GS004627	5/7/24	Trespass, Interference	Guilty plea to all charges (global)	Yes

Appendix D: Email to Denver Mayor's Office Requesting Comment on Auraria Higher Education Center's Testimony Before the Colorado Advisory Committee

From: [Ana V. Fortes](#)
To: MOComms@denvergov.org
Cc: [Evelyn Bohor](#)
Subject: Response Requested: Colorado Advisory Committee Examines Presence and/or Absence of Antisemitism at Colorado Universities and Colleges (Emphasis on Campus Protests)
Date: Wednesday, September 17, 2025 4:16:00 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
Importance: High

To whom it may concern:

Please share the email below with Mayor Johnson. Thank you for your assistance.

Ana Victoria Fortes
U.S. Commission on Civil Rights

Dear Mayor Johnston,

The Colorado Advisory Committee to the U.S. Commission on Civil Rights is currently [examining](#) the presence and/or absence of antisemitism at Colorado universities and colleges, specifically at the Auraria Campus in Denver that hosts the Community College of Denver, Metropolitan State University of Denver, and University of Colorado Denver. In addition, the Committee is examining these occurrences during the 2023-2024 campus protests.

Panelists who have testified before the Committee at their three briefings held between July and September included experts examining [First Amendment Rights and the application of Title VI as it relates to campus protests: advocacy organizations, students, and administrators representing the universities and colleges at the center of the Committee's inquiry.](#)

During the second briefing featuring campus administrators, your office was named in testimony discussing the interactions between the Auraria Higher Education Center and your staff regarding protestors who were occupying campus buildings and the decision to not be provided support. The transcript and recording of the Committee's August 20, 2025 briefing can be found here:

<https://usccr.app.box.com/s/7x0tjl8ldbqw8tyfe4w5n6b2yk6stfwy>. In particular, please review pages 3-6 and 18-19 of the transcript and the briefing recording between 7 mins – 20; 1:03 – 1:04:15 to understand the testimony.

The Committee requests for your feedback regarding this interaction and additional details that might add more context to the decision to not provide support to the Auraria Higher Education Center. If you are able, **please provide a response by October 6, 2025 to me with a cc to Evelyn Bohor at ebohor@usccr.gov.**

Please let me know if you will need an extension or need further clarification regarding this request.

Thank you for your time.

Ana Victoria Fortes

Civil Rights Analyst

[U.S. Commission on Civil Rights](#)

Email: afortes@usccr.gov | Direct: (202) 681-0857

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Established in 1957, the U.S. Commission on Civil Rights is an independent, bipartisan federal agency charged with advising the President and Congress on civil rights matters and issuing an annual federal civil rights enforcement report.

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**Appendix E: Response From the Denver City Attorney's Office Regarding
Auraria Higher Education Center's Testimony Before the Colorado Advisory
Committee**

From: [Brown, Michiko A. - CAO HL1411 City Attorney](#)
To: [Ana V. Fortes](#)
Cc: [Evelyn Bohor](#)
Subject: [EXTERNAL] Fw: Response Requested: Colorado Advisory Committee Examines Presence and/or Absence of Antisemitism at Colorado Universities and Colleges (Emphasis on Campus Protests)
Date: Monday, October 6, 2025 1:50:04 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[Outlook-Denver.The.png](#)
[inky-injection-inliner-03755809cc10337ec572b1f12a6beedf.png](#)
[inky-injection-inliner-209b06d63f3139b7bbda7129634c80da.png](#)

STOP! This message has been delivered from an external sender outside of USCCR.GOV. Please use caution.



Caution: External (michiko.brown@denvergov.org)
First-Time Sender



Ms. Fortes,

I received your email below. The assertion that the City decided "to not provide support to the Auraria Higher Education Center" is incorrect. The City provided extensive support, including, but not limited to, citing, arresting, and prosecuting protestors, working closely with the Auraria Police department throughout 2024 as those cases worked their way through the criminal justice system, securing and transmitting evidence, participating in phone calls with members of the Auraria Higher Education Center's leadership team, and providing training to the Auraria police department to assist with ordinance enforcement.

I hope you find this information helpful and that it corrects any misperceptions that may exist.

Best regards,

Miko



DENVER
THE MILE HIGH CITY

Miko Brown | City Attorney
 Mayoral Appointee | City and County of Denver
[Pronouns](#) | She/Her/Hers
 phone: (303) 912-5813

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**Appendix F: Excerpt from January 2026 Report Draft Analyzing the DCAO
2025 Response Email**

Committee analysis of City Attorney response

The Committee's letter specifically called attention to the portions of Mr. Spear's testimony in which he explained that

- 1: The Denver Police Department assisted with removal of trespassers on April 26.
- 2: Thereafter, Mayor Johnston ordered the Denver Police Department to refuse to enforce the law against the criminal protesters at Auraria. The Mayor further ordered the Denver Sheriff's Office not to process arrests of the protesters, and as a result the Auraria Campus Police could only issue citations, which had no deterrent effect.
3. The Mayor did so after receiving pressure from City Councilpersons who were themselves participants in the criminal encampment, or whose children were.

The City Attorney's letter denies none of the above. The City Attorney's does not challenge an iota of Mr. Spear's testimony.

Instead, the City Attorney deflects by taking issue with one phrase in the Committee's letter to the Mayor, that the City decided "to not provide support to the Auraria Higher Education Center."

The City Attorney says that the police did engage in "citing, arresting" protesters. The City Attorney omits that the arrests were only on April 26, and were thereafter forbidden by the Mayor. As noted in the Timeline of this report, on May 13 the protesters attacked the CU Denver Bursar's Office, and on this occasion, the Denver Police came to the aid of the Auraria Campus Police. But again, the Denver authorities would not allow arrests, so the felons invaders were merely given citations.

As Mr. Spear testified, because of the Mayor's decision to withhold Denver Police Department support, from April 27 onward it was impossible for the Auraria Campus Police Department to take any criminals into custody. Hence, the felons who illegally occupied buildings and perpetrated other crimes therein were merely issued citations. According to the Denver City Attorney, the DPD provided the Auraria police with training in how to issue citations. That is, training in a tactic that was completely ineffectual.

According to the Denver City Attorney, the City engaged in "prosecuting" the protesters. Presumably the prosecutions included the persons who were arrested on April 26, and the persons who were issued citations thereafter. As part of normal prosecutions, the City was involved with "securing and transmitting evidence."

Additionally, says the City Attorney, city officials talked on the telephone with the Auraria leadership team.

Thus, the City Attorney letter shows that the City provided *some* support to Auraria during calendar year 2024.

The City Attorney does not deny, and the Committee formally finds, that the City, at the order of Mayor Johnston abandoned Auraria in its time of greatest need. By refusing to allow the Denver Police Department and Denver Sheriff's Department to assist the outnumbered Auraria Campus Police Department against the mobs, Mayor Johnston and the City of Denver knowingly abetted the illegal encampment. Even the invasions of buildings and attacks on campus offices did not change the City's decision to allow the criminals to have their way at Auraria. The City's withholding of police support was motivated in part by the fact that City Council members and/or members of their families were among the active criminals at Auraria.

Appendix G: Denver City Attorney's Office Submitted Exhibits. February 13, 2026 Email from the Denver City Attorney's Office.

Jason Mol...
 Thursday, Apr 25, 2024 • 7:20 PM
 Texting with (SMS/MMS)
 Hey Chief. It's Marley from the City Attorney's Office. How's it going out there?
 The crowd has grown. It is no longer safe to address it with our current resources. We are going to reassess tomorrow. Thank you so much for talking to me. I appreciate your help. I am sure I will be calling you soon.
 7:25 PM
 Sound good. Stay safe!

EXHIBIT A

Jason Mol...
 Friday, Apr 26, 2024 • 11:33 AM
 Hello. This operation will happen this afternoon.
 Sounds good. Reach out if you need anything.
 Thank you.
 Friday, Apr 26, 2024 • 1:18 PM
 Clear for a call, Chief?
 A little busy at the moment.
 1:22 PM
 Is it urgent?
 Nope. Just talked to Skip.

EXHIBIT B-1

Jason Mol...
 Nope. Just talked to Skip. Disregard.
 Hang in there.
 Friday, Apr 26, 2024 • 3:47 PM
 How is it going out there?
 40 arrests. The crowd became very aggressive. We withdrew and the put the tents back up.
 So tents are all back up then?

EXHIBIT B-2

Jason Mol...
 How is it going out there?
 40 arrests. The crowd became very aggressive. We withdrew and the put the tents back up.
 So tents are all back up then?
 3:59 PM SMS
 Yes. We are going to go collect them as evidence. There was no safe way to get them the first round.
 Tents are up but no one is in them? How many tents now?
 Now

EXHIBIT B-3

Jason Mol...
 Saturday, Apr 27, 2024 • 12:14 PM
 Do you have time for a quick call?
 Monday, Apr 29, 2024 • 12:02 PM
 Hey Chief. Do you have a copy of your delegation of authority from the Denver Manager of Safety? I don't seem to have a copy of it. Thanks!
 Yes. It will be just a little bit. I am sorry if this has been causing you trouble. You have been so helpful.

EXHIBIT C

Jason Mol...
 Monday, Apr 29, 2024 • 12:02 PM
 Hey Chief. Do you have a copy of your delegation of authority from the Denver Manager of Safety? I don't seem to have a copy of it. Thanks!
 Yes. It will be just a little bit. I am sorry if this has been causing you trouble. You have been so helpful.
 No worries at all!
 Monday, Apr 29, 2024 • 5:58 PM
 Well said.

EXHIBIT D-1

Jason Mol...
 been so helpful.
 No worries at all!
 Monday, Apr 29, 2024 • 5:58 PM
 Well said.
 Did they drop all of the charges?
 Hell no!
 And we're not going to
 Thank you! I can't thank you enough. I am so worried about us acting in bad faith.

EXHIBIT D-2

Jason Mol...
 Wednesday, May 1, 2024 • 7:15 AM
 I haven't made it back to my office in two days. Would you send me your email and I will get you out IGA.
 Sure thing. We should probably touch base on some stuff that we'll need for the cases from last week.
 Email is marley.bordovsky@denvergov.org
 Absolutely. I want to make sure you are all set. I wrote a statement about the orders

EXHIBIT E-1

Jason Mol...
 Email is marley.bordovsky@denvergov.org
 Absolutely. I want to make sure you are all set. I wrote a statement about the orders to disperse. Each officer wrote a statement. I also included our camping policy and photos of the quad before and after the orders.
 That's great! Was your team wearing BWC?
 Yes

EXHIBIT E-2

Jason Mol...
 Can we get access to wherever that footage is stored?

The whole time. We use [evidence.com](#). I will connect you with my records manager. We also have decent surveillance cameras. I already saved all of that footage, and I think it was also placed in [evidence.com](#).

I only have one records custodian. She has been doing nothing but watching video since Monday. It will take her a little to get everything tagged and in the system.


RCS message

EXHIBIT E-3

Jason Mol...
 also placed in [evidence.com](#).

I only have one records custodian. She has been doing nothing but watching video since Monday. It will take her a little to get everything tagged and in the system.

Friday, May 3, 2024 - 5:37 PM



RCS message

EXHIBIT E-4

Jason Mol...
 Friday, May 3, 2024 - 5:37 PM



<https://www.denverpost.com>

RCS message

EXHIBIT F-1

Jason Mol...
 -palestine-protest-police-auraria-campus/

You might have some challenges coming.

Yep, this is not helpful. At all.

Sorry Chief.

We're still not dismissing.

It is what it is. You have been so helpful. I just want to thank you again. All of our reports were hand carried over. I will make sure you get anything else you need.

RCS message

EXHIBIT F-2

Jason Mol...
 Tuesday, May 7, 2024 - 6:23 PM

Hello. I don't know if you are still my contact. We had a large group of people enter a MSU Denver Building. They placed stickers around the building and then began to loudly chant and disrupt the operations. MSU wanted them charged with trespass. There were advised to leave by an administrator. They refused. I then gave them the dispersal order and 14 chose to remain. We are trying to process them now. The Denver Sheriff's will not take them on Trespass charges.

RCS message

EXHIBIT G-1

Jason Mol...
 Denver Sheriff's will not take them on Trespass charges. We are struggling to get id's. This is just a heads up.

NCOC still down. The people are proving their actual names.

All okay?

Yep. All done. I will send you the face sheets in a little bit.

14 tickets in all!

RCS message

EXHIBIT G-2

Jason Mol...
 Monday, May 13, 2024 - 4:27 PM

I'll call you back.

Monday, May 13, 2024 - 7:50 PM

I am sorry. I didn't know you are on vacation. Is there someone else you want me to call?

Me!

All good.

RCS message

EXHIBIT H

Jason Mol...
 Wednesday, May 15, 2024 - 10:32 AM

Hey Chief. Can you give me a list of all the people cited/arrested who were students and which ones were not? We're getting area restrictions so for the nonstudents

Thank you!

We are putting together one list to make it easier

Thursday, May 16, 2024 - 3:27 PM

RCS message

EXHIBIT I

COBERTY COLLECT CITY AND COUNTY OF DENVER, CO 80240 Court Address 550 W. Colfax Avenue Denver, Colorado 80202 Plaintiff: THE CITY AND COUNTY OF DENVER Defendant(s): [REDACTED]		COURT USE ONLY Case Number: [REDACTED] Division: General Sessions Courtroom: 4F
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	------------------------------------------------------------------------------------------

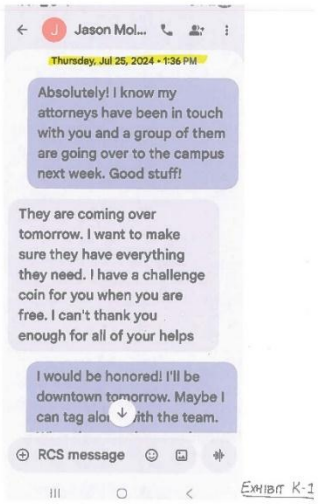
AREA RESTRICTION ORDER

The Defendant is hereby ORDERED to stay out of the following geographic areas, within the City and County of Denver, Colorado:

The same areas, including the Auraria Campus, between 12th and Speer Blvd and from Arapahoe Parkway to Colfax Ave.

ISSUED AFTER DEPOSIT OF BOND AND MAY BE REVOKED AT ANY TIME UPON A PROOF OF VIOLATION. ANY VIOLATION WILL BE PUNISHED AS A VIOLATION OF THE PROTECTIVE ORDER. THIS ORDER IS NOT VALID UNLESS SIGNED BY THE COURT.

EXHIBIT J



From: [Brown, Michiko A. - CAO City Attorney](#)
To: [Ana V. Fortes](#)
Subject: [EXTERNAL] Re: Invitation to Review: Colorado Advisory Committee's Draft Report on Antisemitism
Date: Friday, February 13, 2026 4:32:19 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[Outlook-Denver The .png](#)
[Outlook-Denver The .png](#)
[inkv-injection-inliner-6f42d488d348cfad86bff9497ca9f6a.png](#)
[inkv-injection-inliner-209b06d63f3139b7bbda7129634c80da.png](#)
[City of Denver Exhibits .pdf](#)
[MB Shared CO SAC Draft Report V3 .pdf](#)

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External (michiko.brown@denvergov.org)



Ms. Fortes,

I've added the City's additions/revisions to the draft you circulated. I'm also including a PDF version of our additions/comments and referenced exhibits in this email. If you have any questions or would like to discuss further, please let me know.

I look forward to attending the February 18 meeting.

Miko



DENVER
THE MILE HIGH CITY

Miko Brown | City Attorney
 Mayoral Appointee | City and County of Denver
 Pronouns | She/Her/Hers
 phone: (303) 912-5813

[311](#) | [pocketgov.com](#) | [denvergov.org](#) | [Denver 8 TV](#) | [Facebook](#) | [Twitter](#) | [Instagram](#)

From: Brown, Michiko A. - CAO City Attorney <Michiko.Brown@denvergov.org>
Sent: Friday, January 30, 2026 3:26 PM
To: afortes@usccr.gov <afortes@usccr.gov>
Subject: Fw: Invitation to Review: Colorado Advisory Committee's Draft Report on Antisemitism

Ms. Fortes,

Yesterday I was forwarded a copy of the Colorado Advisory Committee's report with your cover email. I was surprised that I didn't receive the report directly from you or an

invitation "to offer comments and/or corrections" like you extended to other Stakeholders, of which I'm certainly one. I hope this was an inadvertent error, not an intentional strategy to prevent me from correcting the record and pointing out the gross misstatements in the report. For instance, the comment that I did not deny the allegations against Mayor Johnston, or "challenge an iota of Mr. Spear's testimony" is patently false. I specifically stated that any assertion, which includes Mr. Spear's testimony, that the City failed to provide support "is incorrect" and a "misperception[]". I also provided a few examples highlighting the absurdity of Mr. Spear's testimony.

As I explicitly stated in my correspondence, the examples I gave were only a snapshot of the City's actions, not an exhaustive list. Had the Committee wanted additional examples so it could provide a complete and factually accurate account of the Auraria events, it could have followed up with me at any time. It did not. Although I was not invited to add my feedback to the report or attend the upcoming meeting, I'm compelled to do both. Please be advised that I'll be adding comments and corrections to the report and that I intend to participate in the February 18 meeting.

Miko Brown



DENVER
THE MILE HIGH CITY

Miko Brown | City Attorney
Mayoral Appointee | City and County of Denver
[Pronouns](#) | She/Her/Hers
phone: (303) 912-5813

[311](#) | [pocketgov.com](#) | [denvergov.org](#) | [Denver 8 TV](#) | [Facebook](#) | [Twitter](#) | [Instagram](#)

From: Ana V. Fortes <afortes@usccr.gov>

Sent: Wednesday, January 28, 2026 7:38 PM

Cc: Evelyn Bohor <ebohor@usccr.gov>

Subject: [EXTERNAL] Invitation to Review: Colorado Advisory Committee's Draft Report on Antisemitism

Importance: High

Stakeholders:

Thank you, again for presenting before the [Colorado Advisory Committee](#) at one of their web briefings held between July 2025 and September 2025. They are now in the process of drafting their report and encourage you to stay engaged if your schedule permits. Attached is a very rough draft of the Colorado Advisory Committee's report examining the

antisemitism on the Auraria Campus in Denver. This report is not to be cited as it is in draft form, but may be circulated for review by the public. As you go through it, you'll notice that your testimony may be cited. **You are welcome to offer comments and/or corrections to the Committee via track changes and/or by joining their upcoming meeting on February 18, 2026 at 3:00 – 4:30 pm** (see meeting info below). Here is a [tutorial](#) on how to use track changes on Microsoft Word if needed. **Please consider submitting your substantive comments, questions, and edits by Friday, February 13, 2026 EOD.** If you are unable to submit comments by then, you will have an opportunity to do so during the meeting and future meetings. Given the 75 minute time limit of their meeting, the Chair may focus on only a few sections at a time. Generally, the focus of the first few meetings to review drafts is to review substantive edits and comments rather than focusing on copy edits, formatting, and style of citations. As the Committee works toward finishing the report before the end of their term (set to expire on May 12), they will spend 1 or 2 meetings on report recommendations. We hope you can stay engaged until then.

Meeting info:

Wednesday, February 18, 2026 | 3:00 – 4:30 pm

https://www.zoomgov.com/webinar/register/WN_1MKV-XrYRXy-SwjqZPM1qQ

Telephone (Audio Only) Dial: 1-833-435-1820 (US Toll-free); Webinar ID: 161 262 7062

Future meeting dates:

- Wednesday, March 18, 2026 | 3:00 – 4:30 pm
 - Wednesday, April 15, 2026 | 3:00 – 4:30 pm
- (same registration link as above for both meetings)

Additionally, future meeting dates may be added to ensure the Committee has enough time to thoroughly review the report.

Project materials (presentation slides, transcripts, video recording, audio, and written testimonies):

<https://usccr.app.box.com/s/aq52obvbs8uhkx2a0198po94elwbf2vl/folder/316081554716>

If you would like to be left off the distribution list for future meetings, please let me know.

Thank you.

Ana Victoria Fortes

Civil Rights Analyst

[U.S. Commission on Civil Rights](#)

Email: afortes@usccr.gov | Direct: (202) 681-0857

Follow us:

Appendix H: March 17, 2026 Denver City Attorney's Office Cease and Desist Letter Issued to the Colorado Advisory Committee.



Department of Law
Mike Brown, City Attorney

1437 Bannock St. Room 353
 Denver, CO 80202-5375
 p: 720.865.8600
 f: 720.865.8796
www.denvergov.org/city_attorney

Ana Victoria Fortes
Civil Rights Analyst
U.S. Commission on Civil Rights
 March 17, 2026

VIA ELECTRONIC MAIL (afortes@usccr.gov)
Re: Colorado Advisory Committee's Draft Report on Antisemitism

Dear Ms. Fortes,

This letter serves as a demand that the Committee cease and desist its defamatory statements concerning Mayor Mike Johnston and stop perpetuating the reckless and demonstrably false narrative found in its report titled "Examining the Presence and/or Absence of Antisemitism on the Auraria Campus in Denver" (the "Report"). If the Committee persists in its politically motivated actions, Mayor Johnston and the City & County of Denver (the "City") will pursue every avenue necessary to correct its intentional and reckless misstatements.

Preliminarily, the Report was created without seeking meaningful input from Mayor Johnston or any City representatives whose conduct is criticized. Rather than interviewing people with different perspectives, the Committee only interviewed people who aligned with its objectives and made no effort to speak with people who would disprove its allegations. The Committee's sole outreach to the Mayor was a short letter asking him to comment and provide feedback on five pages of Skip Spear's testimony. When the City Attorney's Office ("CAO") responded to your letter, the Committee misrepresented my response and falsely stated that I admitted its allegations, which I did not. The Committee then tried to hide its Report from the CAO and Mayor and deprive us of an opportunity to correct its blatant misrepresentations. Rather than share the Report and solicit our feedback like the Committee did with other stakeholders, it tried to bypass the City entirely. Luckily, the CAO discovered the Report's existence and called out its multiple errors and misstatements in the redline we sent you. While the Committee incorporated some of our edits into this latest draft of its Report (the "New Report"), it omitted significant portions of key evidence that disprove the allegations.

In addition to being factually inaccurate, the New Report's legal conclusions are meritless and lack support. There is no basis to assert a claim against the Mayor or City under 42 U.S.C. § 1981 ("Section 1981") and the Committee's effort to do so is harassment. Even if the incorrect facts alleged were true (which they are not), the New Report fails to state a cognizable legal claim. There is no evidence that the City or the Mayor denied or interfered with the rights of persons in the Auraria community to make or enforce contracts pursuant to Section 1981. To prove such a claim, the Committee must show that the City or Mayor intended to discriminate based on race. The Committee's false assertion that the Mayor gave a blanket refusal to assist ACPD in arresting protesters, even if true, is insufficient as a matter of law to satisfy the disparate treatment requirement. The record is devoid of evidence that the City chose not to arrest pro-Islam protesters or remove tents from the Tivoli due to racial preferences or considerations.

The assertion that the Mayor violated the Fourteenth Amendment's equal protection clause is also flawed and fails as a matter of law. An equal protection claim based on selective enforcement requires that a facially neutral policy be applied unequally, with discriminatory intent, and that a particular group be

singled out. Here, there is no evidence that the City or Mayor singled out pro-BLM protesters for nonenforcement while targeting a different group for enforcement. Without a comparator group to assess enforcement vs. nonenforcement, there can be no Fourteenth Amendment violation. Further, there is zero evidence of discriminatory intent by the City or Mayor, which is fatal to a Fourteenth Amendment claim. To survive constitutional scrutiny in this context, race or religion must be the but-for causal factor for the different treatment. The City Council members referenced in the New Report do not speak for the Mayor or the City, are not the City's final policymakers, nor were their alleged statements discriminatory. Accordingly, because the record is devoid of discriminatory intent by the Mayor or the City's final policymakers, the Committee's Fourteenth Amendment claim cannot stand and must be withdrawn.

In sum, the Committee's inaccurate reporting of the Mayor's conduct is disappointing and harmful. Denver remains a welcoming city to all races and religions. The Committee's legally unsound and unsupported characterization of the Mayor's and the City's response to the Auraria protests is politically motivated and actionable. Failure by the Committee to cease and desist its intentional and reckless mischaracterizations may result in the City pursuing legal remedies.

Please provide written confirmation by March 31, 2026, that the Committee will withdraw its allegations of Fourteenth Amendment and Section 1981 violations against the Mayor and City, and, at the very least, that it will incorporate all the information provided by the City in the attached redline document into its next report.

Thank you for your attention to this matter. I look forward to a response.

Respectfully,



Mika Anda Brawn | Denver City Attorney,
City Attorney's Office | City and County of Denver

Appendix I: Colorado Advisory Committee Response to Denver City Attorney's Office Cease and Desist Letter.

United States Commission on Civil Rights, Colorado State Advisory Committee
Statement Regarding Cease and Desist Letter from Denver City Attorney
March 31, 2026

A cease and desist letter sent by the Denver City Attorney’s Office (DCAO) on March 17, 2026, carried a “demand” that Colorado State Advisory Committee not publish Finding III in our report on antisemitism at the Auraria campus and that the Committee announce its submission by March 31, 2026. The Committee will explain in this memorandum why it will not heed the City Attorney’s cease and desist” demand.

Local Officials Cannot Shut Down Federal Civil Rights Reports

The United States Commission on Civil Rights was created by Congress in 1957 at part of the first civil rights bill enacted by Congress since Reconstruction. 42 U.S.C. § 1975. The congressional report accompanying the bill explained: “In the field of civil rights, the Federal Government must assume the ultimate responsibility for the protection of individuals when state and local enforcement and protection of such rights fail.” H.R. Rep. No 85-291 (1957), *reprinted* in 1957 U.S.C.C.A.N. 1966, 1969–1970 (for bill H.R. 6127).

The Equal Protection Clause is Not Limited Only to Race or Religion

Finding III of the State Advisory Committee’s report finds that the Denver government violated the Equal Protection clause of the Fourteenth Amendment.

Although the City Attorney states that the Equal Protection clause and its enforcement statutes can only be violated by discrimination “based on race” or “race or religion,” the U.S. Supreme Court has repeatedly enforced the Equal Protection clause in situations having nothing to do with race or religion. For example:

- *Craig v. Boren*, 429 U.S. 190, 197 (1976) (“classifications by gender” subject to intermediate scrutiny).
- *Nyquist v. Mauclet*, 432 U.S. 1, 7 (1977) (“classifications by a State that are based on alienage are inherently suspect and subject to close judicial scrutiny.”).
- *City of Cleburne, Tex. v. Cleburne Living Center*, 473 U.S. 432, 450 (1985) (“requiring the permit in this case appears to us to rest on an irrational prejudice against the mentally retarded.”).
- *Clark v. Jeter*, 486 U.S. 456, 461 (1988) (“we have invalidated classifications that burden illegitimate children for the sake of punishing the illicit relations of their parents, because visiting this condemnation on the head of an infant is illogical and unjust.”).

- *Romer v. Evans*, 517 U.S. 620, 632 (1996) (Colorado enactment about homosexuals violated Equal Protection clause because it “seems inexplicable by anything but animus toward the class it affects.”).

As explained in Finding III, giving a favored political or religious groups a special exemption from generally applicable criminal law violates the Equal Protection Clause.

The Committee Agrees with a Key Point Made by DCAO about 42 U.S.C. § 1981

As of March 17, 2026, when the DCAO submitted comments on the then-current draft, that draft included a finding that the Denver executive branch violated 42 U.S.C. § 1981, a federal civil rights statute against interference with contracts. In comments on that draft, which were reiterated in the cease and desist letter, the DCAO argued that section 1981 only applies to racial discrimination; this is true, but “race” in this context has been interpreted expansively by the Supreme Court and by lower courts so that it includes ethnic groups, including Jews.

However, as DCAO accurately states, for section 1981 liability to exist, the (racial or ethnic) discrimination must be a “but for” cause of the government actions. The DCAO’s point is well taken: The new draft of the report has been revised to find that there was not a section 1981 violation by the Denver executive branch. Harming Jews at Auraria was a foreseeable and inevitable result of the Denver government’s actions, but the Committee has not seen evidence that a desire to inflict such harm was a “but for” cause of Denver government actions.

Denver’s Evidence about Comparators

According to the City Attorney:

An equal protection claim based on selective enforcement requires that a facially neutral policy be applied unequally, with discriminatory intent, and that a particular group be singled out. Here, there is no evidence that the City or Mayor singled out pro-Islam protesters for nonenforcement while targeting a different group for enforcement. Without a comparator group to assess enforcement vs. nonenforcement, there can be no Fourteenth Amendment violation.

First, as described in Finding III, one comparator is the Denver Police Department and the Denver Sheriff Department having an unbroken record of enforcing the laws at Auraria, and then abruptly stopping solely for the benefit of one politically influential group.

Additionally, the Denver municipal government is the entity that possesses the records about its own enforcement and nonenforcement in other contexts. On March 17, the Denver City Attorney supplied information “to assess enforcement vs. nonenforcement.” First, the City Attorney stated that the official policy of Denver is to allow any group of protesters to obstruct traffic. Second, the March 17 letter reported that the Denver Chief of Police believes that protesters who invade and occupy a building—apparently even including private offices—should be allowed to remain there until the building officially closes for the day. Both of these statements are included in the

report. As stated in Finding III, the Committee finds that the Auraria protesters were *not* given special treatments by being allowed to obstruct traffic whenever they wanted; apparently everyone in Denver is allowed to do the same. The City's justifications for other nonenforcement at Auraria are quoted and analyzed in the report, including in Finding III.

Process Complaints

The City Attorney's cease and desist letter also complains about the process of the Committee's fact-finding. On August 20, 2025, the Committee held public briefing with invited testimony for representatives of each of the three higher education institutions at the Auraria campus. The Committee also invited a representative of the Auraria Higher Education Center (AHEC), which administers the Auraria campus. AHEC's testimony was provided by its chief administrative officer and general counsel Skip Spear.

To the astonishment of some listeners, Mr. Spear detailed how the Denver Police Department and Denver Sheriff Department were ordered neither to arrest nor to process arrests of the Auraria protesters. According to Mr. Spear, those stand-down orders emboldened the protesters and thereby aggravated vandalism and other harms at Auraria.

In September, the Committee instructed the U.S. Commission's D.C. staff to write to Mayor Johnston and ask him about Mr. Spear's statements, which were included in full along with the letter.

In response, the Denver City Attorney's Office sent the Committee a short letter. The letter pointed out that the DCAO had provided support to Auraria during and after the encampment. The letter did not dispute any of Mr. Spear's statements about the Denver Police Department and Denver Sheriff Department having been ordered not to arrest any protesters. Nor did the letter dispute Mr. Spear's descriptions of how the nonenforcement orders had made the situation at Auraria much worse.

Accordingly, the Committee's first draft of its report included factual findings and legal conclusions about Denver's nonenforcement orders.

The policy of the U.S. Commission on Civil Rights is to circulate to panelists who testified at public briefings rough drafts of State Advisory Committee reports. In late January 2026, Commission staff circulated a rough draft of the Colorado Committee's report to all panelists. The draft report should have been sent to the Denver City Attorney's Office, because the draft report included a finding that the Denver government violated the Fourteenth Amendment.

The Committee apologizes for the oversight. It was a serious error. It was not, however, a political conspiracy against the Mayor, as the DCAO contends.

Fortunately, someone promptly forwarded the January draft report to the DCAO. In February, the DCAO sent the Committee a lengthy letter that included new factual information, especially,

much more detail about how the DCAO assisted Auraria during and after the encampment. That information was included, much of it verbatim, in the next rough draft of the report, produced in late February. The February draft was emailed to all panelists and to the DCAO.

On March 17, the DCAO sent another set of comments and proposed changes. The new factual information or claims in the March 17 letter have been integrated—usually verbatim—into the current version of the report.

Importantly, the March 17 DCAO letter does not contest the following: After planning for a second sweep of the encampment, DPD did not conduct a sweep. DPD was ordered not to arrest the protesters. DPD was ordered not to arrest the protesters even when they blocked traffic on public highways. The Denver Sheriff Department was ordered not to process arrests of protesters.

The March 17 DCAO letter attempts to justify the above nonenforcement decisions. The DCAO justifications are printed verbatim in the report, along the Committee’s analysis, which finds some of the justifications more plausible than others.

The DCAO’s cease and desist letter demands, “and, at the very least, that it [the Committee] will incorporate all the information provided by the City in the attached redline document into its next report.” The new draft of the report does incorporate all “information” supplied by the DCAO; the report does not include the DCAO’s proposed redlines for the Committee to denounce itself for lack of expertise or for other reasons.

Conclusion

The cease and desist letter asserts that “Denver remains a welcoming city to all races and religions.” The statement is untrue for the only part of Denver that the Committee studied: the Auraria campus. The actions and inactions of the Denver government in April and May 2024 bear some of the responsibility for the problem.

The Colorado State Advisory Committee will neither cease and nor desist from its duty to report findings about civil rights violations in Colorado to the United States Commission on Civil Rights.

Appendix J: Denver City Attorney Request for Committee to Delete Finding III.

From: Brown, Michiko A. - CAO City Attorney <Michiko.Brown@denvergov.org>

Sent: Monday, March 30, 2026 7:49 PM

To: Ana V. Fortes <afortes@usccr.gov>

Cc: Evelyn Bohor <ebohor@usccr.gov>

Subject: [EXTERNAL] Re: Comments and Edits Due Today, EOD to Colorado Advisory Committee's V5 Draft Report on Antisemitism

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External (michiko.brown@denvergov.org)



Ms. Fortes,

Please carefully consider this request to withdraw your allegations that Denver leadership violated the equal protection clause of the Fourteenth Amendment. As outlined herein, your allegations do not satisfy the essential elements of an equal protection claim, including the Committee's inability to demonstrate a proper comparator necessary to state a claim for an equal protection violation.

Claims asserting selective enforcement of a neutral law against a certain class of citizens are properly brought under the Equal Protection Clause. *Marshall v. Columbia Lea Reg'l Hosp.*, 345 F.3d 1157, 1166 (10th Cir. 2003) (addressing claims of race-based selective enforcement). When asserting this type of claim, the plaintiff must demonstrate the defendant's actions were motivated by a discriminatory purpose and had a discriminatory effect. *Id.* at 1168. Conclusory statements of discrimination with no factual support do not suffice to state a cause of action. *Abdulhaseeb v. Calbone*, 600 F.3d 1301, 1323 (10th Cir. 2010). Here, Mr. Kopel admitted in his March 25, 2026 email to Marley Bordovsky that "[n]o evidence in the record indicates specific intent on the part of the Mayor or other executive branch leaders to harm Auraria's Jewish community." This admission alone defeats a Fourteenth Amendment claim.

Further, throughout your report, the Committee acknowledges and praises the significant assistance that the Denver City Attorney's Office ("DCAO") provided to AHEC. The DCAO provided this assistance with the Mayor's full support. The DCAO reports to

the Mayor. We're the Mayor's legal team and the assistance we provided stemmed from his direct encouragement and commitment to the Constitution and rule of law.

Additionally, you allege the Mayor, in response to political pressure from five City Council members, withdrew Denver police presence with antisemitic intent to aid pro-Islam protesters in vandalizing the Auraria campus. This couldn't be further from the truth. First, there is no evidence that any City Council members pressured the Mayor into action or inaction. In fact, the evidence shows the exact opposite is true. Rather than bowing to the Council Member's alleged political pressure, the Mayor's Office specifically told them that if they participated in the protests, they'd be doing so in their personal capacities and without the DCAO's support if they later needed legal representation.

You also ignore that the Mayor came to Auraria and publicly encouraged protesters to engage peacefully. City Council members voiced their request for the campus to foster an environment of free speech by waiving Auraria's ban on camping, which was first enacted shortly after a similar anti-war camp formed during the Iraq War. No Denver official voiced discriminatory intent, or acted in a discriminatory manner. There is no evidence Denver officials were even aware of the vandalism you claim occurred after protesters were initially arrested. Even if Denver officials were aware, you cannot show Denver police refrained from arrests because Denver officials were motivated by a discriminatory purpose. *See People v. Mitchell*, 547 P.3d 412, 418 (Colo. App. 2024) ("Discriminatory purpose implies more than intent as volition or intent as awareness of consequences. It implies that the decisionmaker selected or reaffirmed a particular course of action at least in part 'because of,' not merely 'in spite of,' its adverse effects upon an identifiable group.").

Lastly, equal protection claims against the Mayor and other Denver officials in their individual capacity are barred by qualified immunity. Qualified immunity protects government officials "from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known." *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982). The doctrine "balances two important interests – the need to hold public officials accountable when they exercise power irresponsibly and the need to shield officials from harassment, distraction, and liability when they perform their duties reasonably." *Pearson v. Callahan*, 555 U.S. 223, 231 (2009). As described above, there is no constitutional violation or evidence that Denver officials favored one protected class over another. Denver officials called for peace and the free exercise of speech protected by the First Amendment, not violence, destruction of antisemitic rhetoric. There is no Tenth Circuit or U.S. Supreme court case on point, nor does the weight of other legal authority support an argument that City officials violated the Jewish community's clearly established equal protection rights.

If you cause legal action to be brought against Denver and its officials related to the false allegations contained in your report, Denver will seek all legal remedies available. There is no evidence Denver officials violated the Equal Protection Clause. Please correct the record with respect to this claim like you did concerning Section 1981.

I entered my redline comments to the report you circulated and am also including a word version here for your reference.

Best,

Miko



Miko Brown | City Attorney
Mayoral Appointee | City and County of Denver
[Pronouns](#) | She/Her/Hers
phone: (303) 912-5813

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From: Ana V. Fortes <afortes@usccr.gov>

Sent: Friday, March 27, 2026 11:36 AM

Cc: Evelyn Bohor <ebohor@usccr.gov>

Subject: [EXTERNAL] Comments and Edits Due Today, EOD to Colorado Advisory Committee's V5 Draft Report on Antisemitism

Good morning,

This is a reminder that edits and comments to the Colorado Advisory Committee's report are due today, EOD. If you cannot meet this deadline, please let me know if you need an extension. At most, I will be able to accommodate a day as I am reviewing multiple submissions and will need to collate comments and other tracked changes onto one document.

As a reminder, the Committee expects to vote on a final draft at their April 1, 2026 meeting.

Thank you for your continued engagement and interest in the Committee's work.

Ana Victoria Fortes

Civil Rights Analyst

[U.S. Commission on Civil Rights](#)

Email: afortes@usccr.gov | **Direct:** (202) 681-0857

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Appendix K: Colorado Advisory Committee Response to Denver City Attorney's Office Request for Committee to Delete Finding III.

United States Commission on Civil Rights, Colorado State Advisory Committee

Statement Regarding March 30, 2026, Letter from Denver City Attorney

March 31, 2026

In contrast to the March 17, 2026, “cease and desist” letter from the Denver City Attorney’s Office (DCAO), the newest DCAO letter, of March 30, 2026, is phrased less insistently. This one begins, “Please consider this request” The Committee appreciates the different tone. However, the letter appears to be based on a variety of misunderstandings.

DCAO points out that “equal protection claims against the Mayor and other Denver officials in their individual capacity are barred by qualified immunity.” DCAO warns about what will happen “If you cause legal action to be brought against Denver and its officials”

The DCAO’s fears are misplaced. Neither the U.S. Commission on Civil Rights nor its State Advisory Committees have the authority to bring civil rights lawsuits. The Colorado report recommends that the U.S. Commission on Civil Rights offer a variety of suggestions to the U.S. Department of Justice, the U.S. Department of Education, higher education, and the general public. None of those recommendations are for anyone to sue Denver officials over what they did at Auraria in 2023–24.

We agree with the letter that the correct standard for an Equal Protection violation is that the government action was “at least in part ‘because of’” a discriminatory motive. For reasons detailed in Finding III, the Committee believe that the evidence so suggests. The evidence is strengthened by the what appear to be pretextual and implausible alternatives explanations for Denver government actions.

While the harms that the Mayor’s choices inflicted on the Auraria Jewish community were foreseeable and inevitable, the Committee does not believe his actions would have changed if (hypothetically), those actions would have inflicted no harm on the Auraria Jewish community. That is why a section 1981 violation cannot be proven. The standard of proof for intent is different for section 1981 than for Equal Protection.

As the letter points out, and the report acknowledges repeatedly, the DCAO provided substantial assistance to Auraria during and after the encampment. That does not change the fact that the Denver government ordered the Denver Police Department and Denver Sheriff Department to stop providing standard support to Auraria. The people of Denver, including those at Auraria,

have a Fourteenth Amendment right to non-discrimination in law enforcement support from the Denver Police Department, Denver Sheriff Department, and Denver City Attorney's Office. Removing the first two while leaving the third in place is still an Equal Protection violation.

The letter alleges that Denver officials had no awareness of the vandalism going on when Auraria buildings were invaded and occupied by the protesters. Finding III sets forth the evidence regarding this matter, including that some of the vandalism was described in real time on a Denver Police Department radio frequency. Regardless, Finding III is not dependent on whether the Denver Police Chief willfully chose not to act despite actual knowledge of vandalism.

The March 30, 2026, comments from the DCAO are the fourth in a series that began in October 2025. For the first time, this latest round provides a new fact: "Rather than bowing to the Council Member's alleged political pressure, the Mayor's Office specifically told them that if they participated in the protests, they'd be doing so in their personal capacities and without the DCAO's support if they later needed legal representation." Neither the March 30 DCAO letter nor the March 30 DCAO comments on the latest draft report specify when this conversation took place.

The Mayor's Office was certainly correct. The law regarding the Denver City Attorney's Office plainly forbids the DCAO from providing legal defense to City Councilmembers who are charged with crimes. All the more so for crimes that DCAO itself is supposed to prosecute. The Committee updated Finding III to include a discussion of Mayor's accurate statement about the law. Finding III is not dependent on the Committee calculating how the Mayor and Denver leadership weighed City Council pressure in particular compared to the other political pressure that existed in support of the "Pro-Islam" cause in April and May 2024.

The DCAO March 30 response was delivered in the evening three days after the comment deadline had passed. USCCR Staff provided an extension to allow the DCAO to provide comments. Nevertheless, to the extent that this missive provided new facts or legal arguments, those have been included and addressed in the final version of the Committee's report.

**Colorado Advisory Committee to the
United States Commission on Civil Rights**



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