



TODD ROKITA
ATTORNEY GENERAL

August 7, 2024

Jeremy W. Brown
112 S. Second Street
Decatur, IN 46733

Dear Jeremy W. Brown,

Along with fellow Hoosiers from across Indiana, let me convey my sincere gratitude for your leadership and the hard work of the men and women under your command. My team and I continue, as always, to be one hundred percent behind you and our shared execution of law and order in our state.

The purpose of this communication is to offer you specific policy guidance and a training opportunity on yet another dangerous scourge on our society. Many of us have little experience with antisemitism but are very aware of its recent resurgence.

As you know, on October 7, 2023, Hamas—a terrorist organization—launched a vicious terrorist attack against the State of Israel.¹ I have personally viewed about 45-minutes of terrorist body camera footage, security camera evidence, and police body cam footage, directly proving atrocities equal to or less humane than the procedures employed during the Holocaust. Unarmed civilians’ entire families, including children, were brutally murdered—heads were chopped off and others were mercilessly and randomly shot dead in their homes, on the street, and in their vehicles.² After committing these heinous acts, Hamas bragged about their savage actions, and some “Americans”—including our state university students—celebrated it. This celebration occurred before Israel even responded. Since then, we’ve seen a dramatic rise in antisemitic activity across the United States and in Indiana.³

We cannot let this behavior escalate and it must be put down. Attached to this communication is an invitation for you and anyone else on your team to participate in a training course on protecting your community against antisemitism. Additionally, I recommend that your agency: (1) adopts a zero-tolerance policy for antisemitism; (2) utilizes the International Holocaust Remembrance Alliance’s (“IHRA”) working definition of antisemitism and contemporary

¹ Foreign Terrorist Organizations, U.S. Dep’t of State, <https://www.state.gov/foreign-terrorist-organizations/> (last accessed April 19, 2024).

² *Id.* Video provided by the Israel embassy in France, viewed August 2, 2024, by the author.

³ Press Release, *Massive Spike post-Oct. 7 recorded; campus incidents tripled; bomb threats targeting Jewish institutions up 10 times* (April 16, 2024) <https://extremismterms.adl.org/resources/press-release/us-antisemitic-incidents-soared-140-percent-2023-breaking-all-previous>.

examples throughout the administration of justice; and (3) increases law enforcement presence at Jewish institutions.

I. Adopt a zero-tolerance policy for antisemitism in Indiana

Antisemitism regrettably occurs in our great Hoosier state.⁴ There must be a zero-tolerance policy for antisemitism here in Indiana. Without your enduring leadership and strength, Hamas and others bring their antisemitism into our backyards to prey on innocent Jewish Hoosiers. As we have seen recently during Israeli Prime Minister Benjamin Netanyahu's July 2024 visit and speech to Congress, antisemitism is alive and well in the United States. During the visit, protestors tore down and burned an American flag, replaced it with a Palestinian flag in Washington D.C.'s Union Station, and vandalized monuments in the area.⁵ Some of these protestors became violent and attempted to cross a U.S. Capitol Police line, but were met with retaliatory force by law enforcement and subdued with pepper spray.⁶ This behavior can occur here, in Indiana, and has already, albeit in less violent form ... so far. In Indiana, as one example, vile antisemitic behavior occurred at Indiana University, which boasts the sixth largest Jewish student population in the country.⁷ There, protestors formed encampments, disobeyed university official's orders, clashed with law enforcement, and expressed foul antisemitism towards Jewish students.⁸ As we have seen time and time again, antisemitism serves as an underlying precursor to violent extremism.⁹ Left unchecked, antisemitic acts turn criminal. Therefore, we must set a higher standard—for the benefit of all Hoosiers—by implementing a zero-tolerance policy for criminal antisemitism in your communities.

To effectively combat this hate, I invite you to attend a training my office is hosting for all law enforcement, attorneys, and community members on Friday, September 20, 2024, 1:00-5:00 PM at the Indiana Government Center South Auditorium, to ensure that all those who uphold the laws of the State of Indiana are prepared in the fight against antisemitism. For more information about the event and to register, please visit: <https://www.signupgenius.com/go/combating-antisemitism>. Please see the attached invitation and share with your colleagues. CLE and LE credit will be offered for this event.

⁴ Matt Christy, *Detailed Breakdown: High Tensions, Policy Confusion Led to Protester Clash at Indiana University* (July 25, 2024), <https://fox59.com/indiana-news/detailed-breakdown-high-tensions-policy-confusion-led-to-protestor-clash-at-indiana-university/>.

⁵ Kanishka Singh, *Protesters Hoist Palestinian flags in Washington during Netanyahu Speech*, Reuters (July 24, 2024), <https://www.reuters.com/world/us/thousands-protest-near-us-capitol-ahead-netanyahu-speech-2024-07-24/>.

⁶ *Id.*

⁷ Matt Christy, *Detailed Breakdown: High Tensions, Policy Confusion Led to Protester Clash at Indiana University* (July 25, 2024), <https://fox59.com/indiana-news/detailed-breakdown-high-tensions-policy-confusion-led-to-protestor-clash-at-indiana-university/>; Top 60 Public Universities by Jewish Population, Hillel International, <https://www.hillel.org/top-60-jewish-colleges/>.

⁸ *Id.*

⁹ Alexander Meleagrou-Hitchens, Bennett Clifford, & Lorenzo Vidino, *Antisemitism as an Underlying Precursor to Violent Extremism in American Far-Right and Islamist Contexts* (October 2020), https://extremism.gwu.edu/sites/g/files/zaxdzs5746/files/Antisemitism-as-an-Underlying-Precursors-to-Violent-Extremism_0.pdf.

II. Utilize the IHRA definition for antisemitism throughout the administration of justice

I strongly recommend that you use the IHRA working definition of antisemitism, including its examples of antisemitism, as a formal guide to determine when a crime motivated by antisemitism occurs. See *Working Definition of Antisemitism*, Holocaust Remembrance, <https://holocaustremembrance.com/resources/working-definition-antisemitism> (last accessed June 4, 2024). This definition has been accepted internationally by numerous countries and bodies,¹⁰ including the United States Federal Government through President Trump’s Executive Order (“EO”) 13899, which remains in full effect.¹¹ Hopefully this definition will aid you in identifying antisemitic behavior.

In the administration of justice, judges are freely able to consider aggravating circumstances, including whether a person committed an offense with bias toward a victim or group’s “real or perceived characteristic, trait, belief, practice, association, or other attribute the court chooses to consider, including but not limited to an attribute described in IC 10-13-3-1.” See Ind. Code § 35-38-1-7.1(a)(12). Indiana law defines a bias crime as:

an offense in which the person who commits the offense knowingly or intentionally: (1) selected the person who was injured; or (2) damaged or otherwise affected property; by the offense because of the color, creed, disability, *national origin*, race, *religion*, or sexual orientation of the injured person or of the owner or occupant of the affected property or because the injured person or owner or occupant of the affected property was associated with any other recognizable group or affiliation.

Ind. Code § 10-13-3-1 (emphasis added). Any person who engages in antisemitic harassment, discrimination, intimidation, threats, physical violence, blocking roadways, or disturbing the public peace should be arrested and punished. In this era of reform, we should not let any crime go unpunished, and serious, violent individuals should be charged and prosecuted to the fullest extent of the law. Further, under Indiana law, a prosecutor may be allowed to introduce evidence of racial animus under Rule of Evidence 404(b), which deals with “other crimes, wrongs, or acts,” to help demonstrate motive. See *Kimble v. State*, 659 N.E.2d 182, 184-85 (1995). Prosecuting attorneys may use a defendant’s antisemitic, anti-Zionist, or anti-Israel statements or activities to help establish a motive in a case involving a crime against a Jewish victim because they were Jewish.

And, while the First Amendment broadly protects speech, speech followed by unlawful conduct is not protected. See U.S. CONST. amend. I. The First Amendment does not shield individuals who commit crimes from criminal prosecution. See *Mozzochi v. Borden*, 959 F.2d 1174, 1180 (2d Cir. 1992). For example, protesting the Israel-Hamas war is protected, but blocking a major road to do so, vandalizing property, or hurling objects at individual persons or crowds, in

¹⁰ *Id.*

¹¹ Exec. Order No. 13899, <http://www.govinfo.gov/content/pkg/DCPD-201900859/pdf/DCPD-201900859.pdf>.

violation of the law, is not.¹² Moreover, the First Amendment does not protect speech directed toward inciting or producing imminent lawless action, and speech likely to produce such action. *See Brandenburg v. Ohio*, 395 U.S. 444, 447 (1969).

III. Increase your police presence at Jewish institutions

Lastly, I'm advising that law enforcement continue to patrol Jewish institutions, including synagogues and schools, across Indiana.¹³ This way, law enforcement can make their presence physically known in order to deter those who wish to do harm. For their part, Jewish schools and places of worship should work to develop safety plans in conjunction with local law enforcement so that Jewish students and worshippers can freely exercise their religious beliefs.¹⁴ By bringing local law enforcement and Jewish community leaders together, we are not only strengthening our civic ties, but we are also letting every Jewish Hoosier know that Indiana has their back. At our training, there will be an opportunity to make those meaningful connections.

Conclusion

Now is not the time for complacency, but rather action. I hope my recommendations are useful for you in the execution of your office, and that you consider attending our training. I will continue to keep you all in my prayers as you uphold your oaths, as I hope you keep me in yours. Together, we can root out the evils of antisemitism across Indiana.

Sincerely,



Todd Rokita
Attorney General

¹² See Ind. Code § 35-44.1-2-13(a); see also Ashley Fowler, *Protest Over Israel-Hamas War Ends with Arrests Outside Governor's Mansion*, WISH TV (April 25, 2024), <https://www.wishtv.com/news/local-news/protest-over-israel-hamas-war-shuts-down-traffic-on-meridian-street/>.

¹³ Julia Ainsley, Tom Winter, Jonathan Dienst and Andrew Blankstein, *Law Enforcement Steps up Patrols of Jewish Houses of Worship, Businesses as Calls for Attacks in the U.S. Intensify Online*, NBC News (October 12, 2023), <https://www.nbcnews.com/news/us-news/law-enforcement-patrols-jewish-synagogues-temples-businesses-rcna120055>; Jay Adkins, IMPD increasing patrols at Jewish synagogues and facilities, WISH TV (October 13, 2023), <https://www.wishtv.com/news/local-news/impd-increasing-patrols-at-jewish-synagogues-and-facilities/>.

¹⁴ David Crary, *Experts Advise Synagogues on Use of Armed Security Personnel*, Associated Press (January 15, 2020), <https://apnews.com/article/47342f278c26f83fbefa8aab221e4183>; see also *Steps Congregations Can Take to Improve Safety and Security for All Their Members, Visitors, and Staff*, Reconstructing Judaism, <https://www.reconstructingjudaism.org/article/steps-congregations-can-take-to-improve-safety-and-security-for-all-their-members-visitors-and-staff/> (last accessed June 4, 2024).