

October 1, 2024

The Honorable Richard J. Durbin
Chairman, Senate Judiciary Committee
711 Hart Senate Building
Washington, D.C. 20510
Via email

Dear Senator Durbin,

On behalf of the NAACP Legal Defense and Educational Fund, Inc. (LDF), we write to thank you for holding the hearing, “A Threat to Justice Everywhere: Stemming the Tide of Hate Crimes in America,” on September 17, 2024, and to share our strong concerns about the conduct of certain members of the Senate Judiciary Committee. As you rightly recognized, there has been a growing threat of hate-motivated violence in the United States in recent years, and this violence presents the greatest domestic threat for Americans today. In fact, white supremacist violence is frequently responsible for more homicides than any other category of domestic extremism.¹ In 2022, 21 of 25 total extremist-related murders were linked to white supremacists.² Additionally, Black people are the most frequent target of hate crimes in the United States. In 2022, race or ethnicity-based crimes were the largest category of hate crimes, with 3,421 hate incidents against Black people—three times higher than incidents against next the racial or ethnic category with the next highest number.³

Recently, Palestinian, Muslim, Arab, and Jewish people increasingly have been targeted. The 2023 murder of 6-year-old Wadea Al-Fayoume, the violent attack that seriously wounded his mother⁴, and the 2018 shooting at the Tree of Life synagogue⁵ are devastating examples of hate-motivated violence against those communities. Likewise, the 2022 targeted mass shooting at a Tops grocery store in a predominantly Black neighborhood in Buffalo⁶ is a recent example of the racial terror that has traumatized Black communities for generations. Even more recently, hateful and dehumanizing comments about immigrants of color have targeted Haitian immigrants in Springfield, Ohio, putting their personal safety at risk. This type of dangerous language creates an environment in which violence is condoned and implicitly

¹ ADL, *Murder and Extremism in the United States in 2022* (Feb. 2023), <https://www.adl.org/resources/report/murder-and-extremism-united-states-2022>.

² *Id.* at 4

³ U.S. Dep’t of Just., Cmty. Rel. Serv., *2022 FBI Hate Crime Statistics*, <https://www.justice.gov/crs/highlights/2022-hate-crime-statistics> (last visited Sept. 27, 2024).

⁴ Nouran Salahieh & Andy Rose, ‘I am not a threat’: Hundreds Gather for Vigil Mourning 6-Year-Old Palestinian-American Boy Who Was Stabbed to Death Near Chicago, CNN (Oct. 18, 2023), <https://www.cnn.com/2023/10/18/us/wadea-al-fayoume-death-wednesday/index.html>

⁵ Mike Darnay, *Commemorating the 11 lives Taken Five Years Ago in Pittsburgh Synagogue Shooting*, CBS NEWS (Oct. 27, 2023), <https://www.cbsnews.com/pittsburgh/news/commemorating-the-11-lives-taken-five-years-ago-in-pittsburgh-synagogue-shooting/>.

⁶ Hurubie Meko & Dan Higgins, *Buffalo Gunman Pleads Guilty in Racist Attack That Left 10 Dead*, NY TIMES (Nov. 28, 2022), <https://www.nytimes.com/2022/11/28/nyregion/buffalo-shooting-guilty-plea.html>.

encouraged. Hateful language and violence against any individual based on their identity can instill fear across entire communities.

It was thus shocking to observe members of the Senate Judiciary Committee making hateful and biased remarks against an Arab American civil rights leader testifying at the September 17 hearing. Ms. Maya Berry, Executive Director of the Arab American Institute, was singled out for questioning during the September 17th hearing about whether she supported Hamas, Hezbollah, and Iran.⁷ She clearly and repeatedly rejected those biased accusations and the biased stereotypes and presumptions behind them.⁸ Yet the accusations continued, escalating to an extreme and dehumanizing statement that Ms. Berry should “put [her] head in a bag.”⁹ As Ms. Berry eloquently stated at the hearing, having Senators “ask[] the Executive Director of the Arab American Institute that question very much puts the focus on the issue of hate in our country.”¹⁰ This line of questioning and personalized attack was beyond the pale—especially when directed at a witness who represents the Arab-American community with unimpeachable dignity and deserves respect. The accusations and verbal attacks against Ms. Berry warrant an immediate inquiry about whether censure is appropriate for the false and baseless accusations she withstood.

Committee members also asked troubling questions about ongoing campus protests. Nonviolent protests are part of a longstanding tradition of student activism to express outrage for civil rights and human rights violations and to push university officials and government actors to adhere to the ideals and principles of our multiracial democracy. The current peaceful protests are similar, as students, faculty, and other stakeholders express their condemnation of the extreme and escalating violence in Gaza, as well all acts of anti-Arab, anti-Muslim, and antisemitic hate and bias. A recent review found that 97 percent of on-campus protests in support of Gaza and the Palestinian people have been peaceful.¹¹ Yet, Committee members condemned this constitutionally protected speech, which is part of the “marketplace of ideas” that the Supreme Court described as an important feature of college campuses.¹² Vilifying campus protesters, as Committee members did during the September 17th hearing, creates heightened risk for protesters on campuses, as well as for the free speech that undergirds our democratic principles.

LDF unequivocally condemns the dehumanization of—and biased actions against—any person or group based on any aspect of their identity and urges members of Congress to do the

⁷ *A Threat to Justice Everywhere: Stemming the Tide of Hate Crimes in America*, Hearing Before the S. Comm. on the Judiciary, 118th Cong. (Sept. 17, 2024), [A Threat to Justice Everywhere: Stemming... | United States Senate Committee on the Judiciary](#); “You support Hamas, do you not?”, Clip from Hearing on Hate Crimes Before S. Judiciary Comm. 118th Cong., C-SPAN (Sept. 17, 2024), <https://www.c-span.org/video/?c5132799/you-support-hamas-not>.

⁸ “You Support Hamas, Do You Not”, *supra* note 7.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Bianca Ho & Kieran Doyle, *US Student Pro-Palestine Demonstrations Remain Overwhelmingly Peaceful*, ACLED (May 10, 2024), <https://acleddata.com/2024/05/10/us-student-pro-palestine-demonstrations-remain-overwhelmingly-peaceful-acled-brief/>.

¹² *Healy v. James*, 408 U.S. 169, 180-81 (1972).

same. Hate-motivated incidents against Muslim and Jewish people have increased,¹³ and the type of biased and hateful rhetoric expressed by certain Committee members contributes to their prevalence. Dehumanizing language has no place in the public sphere, and yet public officials, who should be held to a higher standard, are resorting to this type of discourse, most recently against an Arab-American woman and Haitian migrants.¹⁴ Public figures, particularly those charged with representing constituencies made up of diverse communities, have a responsibility to use their public platforms with care to avoid exacerbating an environment of intolerance that condones or encourages violence against any group or community. We urge Committee members to use their platforms responsibly and to create an environment of tolerance that respects the dignity of all people. We also urge you to hold members who denigrate the office they hold with insults and other forms of verbal abuse against witnesses to account.

Sincerely,

Janai Nelson
President and Director-Counsel
NAACP Legal Defense Fund

¹³ Ava Sasani, *Jewish and Muslim Americans Fear Rise in Hate Crimes Amid Israel-Hamas War*, THE GUARDIAN, Oct. 14, 2023, <https://www.theguardian.com/us-news/2023/oct/14/jewish-muslim-israel-hamas-war-hate-crimes>; 2022 Hate Crime Statistics, *supra* note 3.

¹⁴ Michael Rubinkam, AP, *Ohio Sheriff Deletes Online Post About Harris Supporters and Their Yard Signs After Public Outcry*, WASH POST, Sept. 25, 2024, https://www.washingtonpost.com/politics/2024/09/24/ohio-sheriff-social-media-harris-yard-signs/91e93992-7aa2-11ef-980d-341a84fdff8f_story.html.