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June 22, 2016

U.S. Department of Justice
Office of the Inspector General
Civil Rights & Civil Liberties Complaints
950 Pennsylvania Avenue, N.W.
Room 4706
Washington, D.C. 20530

Re: **Federal Agents harassing Israeli Reporters
on behalf of the Israel Government**

Dear Inspector General,

This is a complaint about the conduct of federal agents¹ at the DOJ- Israel Desk who are harassing Israeli reporters and journalists on behalf of the Israeli Government.

I am a news reporter and I write on behalf of fellow news reporter. We ask that the US Government cease cooperating with the Israeli Governments efforts to limit the freedom of speech and the criticism of the Israeli Judiciary. Criticizing the Judiciary is a protected right, and the US Government should not enforce for Israel, what it does not enforce in its own home.

The Israeli Government has established a “Judicial Reputation Committee”, and is actively monitoring the internet to remove any criticism of Judges. Using Cooperation agreements with the USA, the Judicial Reputation Committee is issuing to US-DOJ and to Interpol demands to investigate as felonies, the identities of persons who criticize Israeli judges, especially in the area of divorce, family law, juvenile courts, and false convictions.

¹ See Letter of Richard Preston, Trial attorney, Us-DOJ- Criminal Division in DC, addressed to automatic, Inc., dated April 18, 2016, Richard.Preston@usdoj.gov, (202) 353-7540. Letter was cites International Affairs Specialist Mindy Gee as also handling these matters. Mindy.Gee@usdoj.gov, (202) 514-0013.

See also letters of J. Robert Klotz, US Immigration and Customs Enforcement, Special agent, Homeland security, Investigations C3, addressed to automatic, Inc., dated April 8, 2016, Robert.Klotz@ice.dhs.gov, 9703) 344-0123.

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A “Judicial Reputation Committee” does not exist in any democratic society, and persecuting people for criticizing judges, as felonies, is unheard of, and definitely not compatible with US standards on the freedom of speech.

These federal agents receive from the Government of Israel false and unsubstantiated requests to issue “Preservation Orders” and/or search warrants to obtain electronic data from US website operators such as Automattic, Inc. (“Wordpress”). The entire purpose of the Israeli Government and the US federal agents who cooperate with them, is to harass reporters and silence criticism against conduct of the Israeli Judiciary, Israeli judges and social workers.

The federal agents target web sites used by Israeli reporters, who expose corruption, abuse of power, violations of human rights by the Israeli Judiciary, and Israel police, violations of fundamental freedoms and UN Conventions for the protection of human rights.

The web sites contain information to the public, opinions and other proof of corruption, capricious treatment of citizens and cover up of foul behavior. These reports are at par with the US first amendment, and US freedom of speech, freedom of opinion, and freedom of the press, the Israeli government treats these reports as an insult felony of “Judge scandalizing” (a/k/a “Judge Bashing”), and the Government of Israel is usurping the trust that the American officials bestow on Israel, to seek the exposure of identities, contents and IPs of reporters, who simply do their job.

The offense of Judge scandalizing has been abolished a long time ago in the US. United States law traditionally regards freedom of speech, as enshrined in the First Amendment, as the paramount right that prevails over all others in case of conflict, unless there is a “clear and present danger that [the words] will bring about the substantive evils that Congress has a right to prevent. See, **Schenck v United States** (1919) 249 US 47, 51 to 52.

on a North American approach, the entire offence of scandalizing may well be both unconstitutional and contrary to human rights, as it was held to be in *Garrison v Louisiana*, (1964) 379 US 64,

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To constitute contempt in the US, the conduct complained of must relate to pending proceedings and even then there must be a clear and imminent danger of prejudicing the proceedings. See *Bridges v. California*, where Justice Black dismissed the argument that the evil of endangering disrespect for the judiciary could justify convictions for contempt of court in these words: (L.Ed p. 207)

"The assumption that respect for the judiciary can be won by shielding Judges from published criticism wrongly appraises the character of American public opinion. For it is a prized American privilege to speak one's mind, although not always with perfect good taste, on all public institutions. And an enforced silence, however, limited, solely in the name of preserving the dignity of the Bench, would probably engender resentment, suspicion, and contempt much more than it would enhance respect."

Justice Frankfurter in the same case in tracing the history of the contempt power said: (L Ed p. 216)

"As in the exercise of all power, it was abused. Some English Judges extended their authority for checking interferences with judicial business actually in hand, to 'lay by the heel' those responsible for 'scandalizing the court', that is, bringing it into general disrepute. **Such foolishness has long since been disavowed in England and has never found lodgment here.**"

In the UK, there has not been a conviction since 1931, and on December 10, 2012 the House of Lords abolished the offense. One of the main reasons cited was that it is counter-productive in that it conveys the impression that the judges are protecting their own, and that it infringes on the freedom of expression and criticism.

The fact that federal agents are issuing preservation orders on behalf of the Government of Israel on grounds that would never merit a criminal investigations in the US itself, may have a chilling effect, which will deter people from making complaints which are possibly justified. Regarding the "chilling effect" in connection with libel law, See *City of Chicago v. Tribune Co.*, (1923) 139 N.E. 87 (1923), and *New York Times Co. v. Sullivan*, 376 US 254 (1964). In Canada,

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see **Iorfida v MacIntyre** (1994) 21 OR (3d) 186, 93 CCC (3d) 395 at [20] (Canada); and also, F. Schauer, "**Fear, Risk and the First Amendment: Unravelling the 'Chilling Effect'**", (1978) 58 Boston University Law Review 685 (United States).

A society in which the expression of opinion is inhibited by fear is unpleasant to live in and will experience an accumulation of resentment, leading to instability in the long term. See, J. Spigelman, "**The Forgotten Freedom: Freedom from Fear**", 59 International and Comparative Law Quarterly 543 (2010).

It is therefore clear that the federal agents issuing Preservation orders and warrants, are enforcing on behalf of the Government of Israel, what they will never enforce on behalf of the Government of the USA.

The fact that the Government of Israel and its Judiciary liberally issue gag orders on anything which the Government wants to keep secret from the public' does not mean that US federal agents have to respect Israel's gag orders, and hunt the violators as potential felons. In all the stories which the federal agents seek to expose on behalf of Israel, no USA Court would ever issue a gag order, as the USA adheres to the axiom that the people have a right to know how the Government is working for them.

For example, in the USA proceedings in family courts are widely published in full names, cameras are sometimes placed in some of the courts, and news channels report directly from the inside of family courts. The USA treats this as an inherent right of the public to know what goes on in the Courts. By contrast, in Israel, all Family Court and Juvenile Court cases are subject to an automatic gag order, and parents are not even allowed to post pictures of their own children, or write about their feelings, or even tell their experiences before a particular Judge. Once a parent in Israel writes about a Judge on Facebook, he is very likely to be called to the police and be interrogated, let alone intimidated.

Another example is the fact that in the USA a woman who makes false complaints in the Courts, (especially of rapes and sexual offense or violence that never happened), are exposed and reported to the public in full name. In Israel, these woman remain anonymous, and are immune from prosecution for false complaints,

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or damages. Exposing such liars is not considered a felony in the USA, and therefore federal agents should not work for the Government of Israel seeking to expose those who write about the false claimants.

One more example is corruption that involves Judges themselves. Any time a judge is involved in a scandal, the case is immediately placed under a gag order to prevent the public to know. This is unacceptable in the USA, where these judges become front headline news.

If the Israeli Judges involves in actual scandals were ordinary citizens, their scandal would have made front-page news. However, in Israel Judges cover up for their fellow judges and issue gag orders. Reports exposing these gag orders appear in the Automattic blogs which the USA now seek to expose.

There are at least 6 male judges who were accused by their wives during divorce of sexually molesting their own children. These stories and their names are under gag orders. Reporter Richard Silverstein who resides in the USA routinely covers these stories and breaks the gag orders.

Judge Eyal Baumgart was accused by his wife and her mother, another Judge, Edna Arbel. Judge Shamai Becker was accused of his wife and her mother, another Judge Riva Niv of molesting his daughter. Traffic Judge Eli Enoshi was accused by his wife of molesting her. A district Court Judger from Nazareth Ytzhak Cohen fondled 14 year old girls in his family, wrote erotic poetry for underage girls, and committed tax evasion. Another Judge, Rafi Aranya was accused by his wife of slapping his children. Finally, family court Judge Yehuda Granit was sued by his own paramour.

All these cases are under gag orders and the Government of Israel does not allow publishing the names of these judges and their scandals. All these cases do not qualify for a gag order in the USA, yet the Government of Israel insists that the gag order be enforced by USA federal agents, and that search warrants be issued to reveal the identity of the gag order “violators”.

Needless to say that reporters within the USA report same stories in English, and are beyond the reach of the Israeli Government. However, reporters and activists

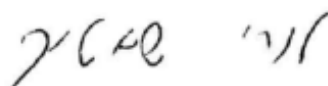
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in Israel are subject to daily harassment, which includes search warrants, and criminal indictments related to the exercise of free speech.

Freedom of speech in the US Constitution guaranteed by the First Amendment is absolute, subject only to judicially evolved limited and necessary restraints on free speech "whether the words used are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils".

There are no reasons for US federal agents to reciprocate to the requests of the Government of Israel and launch proceedings that do not comply with US constitutional standards for freedom of speech.

We ask you to direct the DOJ to withdraw all preservation orders and stop harassing Israeli journalists.



Lory Shem Tov, News reporter

cc: Liat Yousim
Director of the Israeli Judicial Reputation Committee
Administration of the Courts
22 Kanfei Nesharim St, Jerusalem