

August 29, 2025

Brian Flannigan  
Chief, FOIA and Privacy Office  
Civil Division, Department of Justice  
Room 8314  
1100 L Street, NW  
Washington, DC 20530-0001  
Email: [Civil.routing.FOIA@usdoj.gov](mailto:Civil.routing.FOIA@usdoj.gov)

Re: Request under the Freedom of Information Act

Dear Mr. Flannigan:

This letter constitutes a request made pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and implementing regulations of the United States Department of Justice (DOJ), 28 C.F.R. Part 16.

Since his inauguration, President Trump has prioritized upending<sup>1</sup> the statutory protections of the Freedom of Access to Clinic Entrances Act (FACE Act), which has been in effect since it was passed with bipartisan support in 1993.<sup>2</sup> In fact, as one of his first acts as President, he issued an executive grant of clemency, directing the DOJ to pardon 23 people convicted<sup>3</sup> of violating the FACE Act.<sup>4</sup> Furthermore, acting under the direction of the President, on January 24, 2024, the Acting Associate Attorney General of the DOJ (AAG) instructed DOJ's Civil Rights Division to dismiss, with prejudice, pending abortion-related FACE Act prosecutions.<sup>5</sup>

After the U.S. Supreme Court overturned *Roe v. Wade* in 2022, there has been a sharp increase in violence against abortion clinics, staff, and patients.<sup>6</sup> Since the decision, the number of reports of clinic obstructions rose from 45 in 2021 to 777 in 2023 and 2024 combined.<sup>7</sup> In addition to reports of obstruction, there were 621 instances of trespassing and 296 death threats or threats of other harms.<sup>8</sup> In 2023 and 2024, there were also three instances of arson and thirteen

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<sup>1</sup> *FACE Act Charging Policy*, U.S. DEP'T OF JUSTICE, (Jan. 24, 2025), available at <https://www.justice.gov/media/1386461/dl>.

<sup>2</sup> Freedom of Access to Clinic Entrances Act of 1993, H.R. 796, 103<sup>rd</sup> Cong., (1993); Freedom of Access to Clinic Entrances Act of 1994, S. 636, 103<sup>rd</sup> Cong., (1993).

<sup>3</sup> See Press Release, DOJ, *Seven Defendants Convicted of Federal Civil Rights Conspiracy and Freedom of Access to Clinic Entrances (FACE) Act Offenses for Obstructing Access to Reproductive Health Services in Michigan* (Aug. 20, 2024), available at <https://www.justice.gov/archives/opa/pr/seven-defendants-convicted-federal-civil-rights-conspiracy-and-freedom-access-clinic#:~:text=The%20defendants%20were%20each%20convicted,care%20clinic%20in%20Saginaw%2C%20Michigan>.

<sup>4</sup> *Executive Grant of Clemency*, U.S. DEP'T OF JUSTICE, (Jan. 23, 2025), available at <https://www.justice.gov/pardon/media/1386366/dl>.

<sup>5</sup> *Id.*

<sup>6</sup> *NAF 2024 Violence & Disruption Report*, NAT'L ABORTION FED., available at <https://prochoice.org/our-work/provider-security/2024-naf-violence-disruption/> (last visited Aug. 27, 2025).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

clinic invasions.<sup>9</sup> With the AAG’s directive, DOJ will no longer be authorized to investigate incidents of violence against abortion clinics, staff, and patients.

The Center for Reproductive Rights (“Center”) seeks to better understand the decision to limit FACE Act enforcement, information regarding the January 24, 2025, directive from the AAG, how FACE Act violations have been and will be investigated and enforced since the AAG’s directive, and the factors and process used to decide what is considered “severe enough” to warrant FACE Act enforcement. Releasing this information is vital to the public interest as violence against abortion clinics, staff, and patients is rapidly increasing and peoples’ lives are at serious risk. Limiting FACE Act enforcement will result in egregious harm to people providing and receiving essential health care.

## **Records Requested**

Please provide all responsive records from January 20, 2025, through the date the search is conducted. As used herein, “records” means all records as defined in 5 U.S.C. § 552(f)(2)(A) (2018). Additionally, as used herein, any reference to DOJ encompasses all regional and district offices (both current and past).

We request the following to be produced within twenty business days:

1. All communications, meeting notices, meeting agendas, informational materials, draft legislation, draft rules, talking points, reports, disclosures, or other documents sent to, received by, or exchanged with any DOJ employee (temporary or permanent), official, appointee, or contractor regarding FACE Act enforcement discretion.
2. All communications, meeting notices, meeting agendas, informational materials, draft legislation, draft rules, talking points, reports, disclosures, or other documents sent to, received by, or exchanged with any DOJ employee (temporary or permanent), official, appointee, or contractor regarding updated and/or new policies and procedures to determine what circumstances rise to a FACE Act violation.
3. All communications, meeting notices, meeting agendas, informational materials, draft legislation, talking points, reports, disclosures, or other documents sent to, received by, or exchanged with any DOJ employee (temporary or permanent), official, appointee, or contractor regarding active and pending litigation related to FACE Act enforcement and the decision to dismiss or maintain such litigation.
4. All records, documents, memoranda, and communications related to the review criteria used by DOJ to determine whether a circumstance rises to a FACE Act violation.
5. All records, documents, memoranda, and communications related to the consideration process of FACE Act violations, specifically regarding consideration of whether the harmed party is an abortion clinic, health care provider, or an anti-abortion center, also known as a crisis pregnancy center. If the harmed party does not define itself in those terms, please indicate the closest category of the party’s work.

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<sup>9</sup> *Id.*

6. All electronic communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachment), or messages on messaging platforms (including but not limited to Signal, Slack, GChat or Google Hangouts, Lync, Skype, X (formerly Twitter) direct messages, Facebook messages, Truth Social messages, WhatsApp, Telegram or Parler) regarding the AAG's directive on FACE Act enforcement, sent or received by any DOJ officials.
7. Records sufficient to identify all persons, whether or not employed directly by DOJ, tasked with conducting reviews of existing and pending FACE Act claims and investigations, including, but not limited to, resumés and records to show the title and classification for each individual.
8. Records sufficient to identify all persons, whether or not employed directly by DOJ, tasked with investigating FACE Act violations, including but not limited to those interviewing involved parties, and reviewing sensitive clinic information. These records include, but are not limited to, resumés and records to show the title and classification for each individual.
9. Any records, documents, memoranda, and communications related to complaints received by DOJ about FACE Act violations since January 1, 2014.

The Center seeks all responsive records regardless of format, medium, or physical characteristics. In conducting your search, please understand the terms "record," "document," and "information" in their broadest sense, to include any written, typed, recorded, graphic, printed, or audio material of any kind. We seek records of any kind, including electronic records, audiotapes, videotapes, and photographs, as well as letters, emails, facsimiles, telephone messages, voice mail messages and transcripts, notes, or minutes of any meetings, telephone conversations or discussions. Our request includes any attachments to these records. No category of material should be omitted from search, collection, and production.

In addition to the records requested above, the Center also requests records describing the processing of this request, including records sufficient to identify search terms used, locations and custodians searched, and any tracking sheets used to track the processing of this request. If your agency uses FOIA questionnaires or certifications completed by individual custodians or components to determine whether they possess responsive materials or to describe how they conducted searches, we also request any such records prepared in connection with the processing of this request.

Please search all records regarding agency business. You may not exclude searches of files or emails in the personal custody of your officials, such as personal email accounts or text messages. Records of official business conducted using unofficial systems or stored outside of official files are subject to the Federal Records Act and FOIA. It is not adequate to rely on policies and procedures that require officials to move such information to official systems within a certain period of time; the Center has a right to records contained in those files even if material has not yet been moved to official systems or if officials have, through negligence or willfulness, failed to meet their obligations.

Please note that in conducting a “reasonable search” as required by law, you must employ the most up-to-date technologies and tools available, in addition to searches by individual custodians likely to have responsive information. Recent technology may have rendered your agency’s prior FOIA practices unreasonable. In light of the government-wide requirements to manage information electronically by the end of 2016, it is no longer reasonable to rely exclusively on custodian-driven searches. Furthermore, many agencies have adopted the National Archives and Records Agency Capstone program, or similar policies, now maintain emails in a form that is reasonably likely to be more complete than individual custodians’ files. For example, a custodian may have deleted a responsive email from his or her email program, but your agency’s archiving tools would capture that email under Capstone.

Accordingly, the Center requests that DOJ use the most up-to-date technologies to search for responsive information and take steps to ensure that the most complete repositories of information are searched. The Center is available to work with you to craft appropriate search terms. However, custodian searches are still required; agencies may not have direct access to files stored in .PST files, outside of network drives, in paper format, or in personal email accounts.

We request that you produce all responsive materials in their entirety; however, should you determine the materials contain information which falls within the statutory exemptions provided in 5 U.S.C. § 552 or 22 C.F.R. § 171.11, we request the information be reviewed for possible discretionary disclosure. We furthermore request that all reasonably segregable portions of the exempt material be provided. We request that any deleted material be described in detail, and that you specify the statutory basis for the denial as well as your reasons for believing that the alleged statutory justification applies in this instance. Please separately state your reasons for not invoking your discretionary powers to release the requested documents in the public interest. Such statements will be helpful in deciding whether to appeal an adverse determination.

Under the FOIA Improvement Act of 2016, agencies must adopt a presumption of disclosure, withholding information “only if . . . disclosure would harm an interest protected by an exemption” or “disclosure is prohibited by law.” If it is your position that any portion of the requested records is exempt from disclosure, the Center requests that you provide an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), *cert. denied*, 415 U.S. 977 (1974). As you are aware, a *Vaughn* index must describe each document claimed as exempt with sufficient specificity “to permit a reasoned judgment as to whether the material is actually exempt under FOIA.”<sup>10</sup> Moreover, the *Vaughn* index “must describe each document or portion thereof withheld, and for each withholding it must discuss the consequences of disclosing the sought-after information.”<sup>11</sup> Further, “the withholding agency must supply ‘a relatively detailed justification, specifically identifying the reasons why a particular exemption is relevant and correlating those claims with the particular part of a withheld document to which they apply.’”<sup>12</sup>

You should institute a preservation hold on information responsive to this request. The Center intends to pursue all legal avenues to enforce its right of access under FOIA, including

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<sup>10</sup> *Founding Church of Scientology v. Bell*, 603 F. 2d 945, 949 (D.C. Cir. 1979).

<sup>11</sup> *King v. U.S. Dep’t of Just.*, 830 F.2d 210, 223-24 (D.C. Cir. 1987).

<sup>12</sup> *Id.* at 224.

litigation if necessary. Accordingly, your agency is on notice that litigation is reasonably foreseeable.

To ensure that this request is properly construed, that searches are conducted in an adequate but efficient manner, and that extraneous costs are not incurred, the Center welcomes an opportunity to discuss its request with you before you undertake your search or incur search or duplication costs. By working together at the outset, the Center and your agency can decrease the likelihood of costly and time-consuming litigation in the future.

### **Waiver or Limitation of Fees**

Pursuant to 5 U.S.C. § 552(a)(4)(A)(iii), documents are required to be provided to requesters without any charge or at reduced fees “if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” We request a waiver (or, in the alternative, a reduction) of all fees because disclosure of the information would be in the public interest by contributing significantly to the public understanding of FACE Act enforcement and whether or not DOJ will continue to ensure that all victims of violence, including abortion clinics, staff, and patients will be protected under the law.

Founded in 1992, the Center is the only global legal advocacy organization dedicated to reproductive rights, and its litigation and advocacy has played a key role in expanding access to reproductive health care around the world. The Center uses information gathered, and its analysis of information gathered, to educate the public through reports, briefing papers, fact sheets, periodicals, articles, blog posts, and other educational materials. Likewise, the Center also makes the materials gathered available on its public website and promotes their availability on social media platforms, such as Facebook, X (formerly known as Twitter), and Instagram. The Center receives hundreds of thousands of website page views, monthly, and publishes newsletters for public dissemination. Thus, the Center has demonstrated commitment to the public disclosure of documents and creation of editorial content.

The Center does not make this request for commercial use. 45 C.F.R. § 5.54(b)(3). As a 501(c)(3) nonprofit organization, the Center does not have a commercial purpose, and the release of the information requested is not in the organization’s financial interest. Accordingly, the Center qualifies for a fee waiver.

In the event that you determine you are unable to waive the fees, please provide us with prior notice if the total fees authorized will exceed \$200 so that we can discuss arrangements.

### **Conclusion**

The Center looks forward to working with your agency on this request. Thank you for your prompt attention to this matter.

With respect to the form of production, *see* 5 U.S.C. § 552(a)(3)(B), the Center requests that responsive materials be provided electronically by email or in PDF or TIF format on a USB drive. Please send any responsive material being provided and acknowledgement of receipt of this request to:

Manasi Raveendran  
c/o Julia Long  
Center for Reproductive Rights  
1600 K Street, NW, 7<sup>th</sup> Floor  
Washington, DC 20006  
Phone: (202) 524-5536  
Email: MRaveendran@reprorights.org

If it will accelerate release of records responsive to this request, please also provide responses on a rolling basis.

If you do not understand any part of this request, have any questions, or foresee any problems in fully releasing the requested records, please contact Manasi Raveendran at (202) 524-5536 if you have any questions. Thank you for your assistance.

Sincerely,

Manasi Raveendran