

December 3, 2025

Arianne Perkins
Freedom of Information Act Officer
U.S. Department of Health and Human Services FOIA
Officer/Director, Freedom of Information and Privacy Acts
Division, Hubert H. Humphrey Bldg., Suite 729H
200 Independence Avenue, SW
Washington, DC 20201

Re: Request under the Freedom of Information Act

Dear Ms. Perkins:

This letter constitutes a request made pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and the implementing regulations of the U.S. Department of Health and Human Services (“HHS”), 45 C.F.R. Part 5, through which the Centers for Disease Control and Prevention (“CDC”) implements FOIA.

As of the date of this request, the CDC has not published the 2023 Abortion Surveillance Report, an annual report which documents the number and characteristics of women obtaining legal, induced abortions across the country. Traditionally, the annual report is issued between June and November. This is the first time that the report has not been published in that timeframe since CDC began publishing the report in 1969. While this information is voluntarily reported as aggregate data to the CDC, historically, this report has been used for many purposes in the field of public health, including for program evaluation, clinical practice assessment, and pregnancy estimates.¹ It is unclear why the 2023 report has not yet been published.

There are concerns that the Trump administration may be delaying, manipulating, or removing the data to further its political perspectives and goals. In general, nonpartisan research organizations are concerned that statistics and reports currently coming out of federal agencies are, at minimum, lacking in accuracy and availability and, at maximum, overtly politicized.² This concern extends to abortion-related data, which the Trump administration has targeted. For example, within hours of taking office, the Trump administration took down the website “ReproductiveRights.gov,” a vital resource that provided information about patient rights and how to access reproductive health care, including abortion.³ Additionally, the administration has censored other federal government resources, including by scrubbing the HHS website of any mention of policies that protect abortion care and by removing critical information for patients

¹ *CDC's Abortion Surveillance System FAQs*, CTR. DISEASE CTRL. & PREVENT., Nov. 27, 2024, available at <https://www.cdc.gov/reproductive-health/data-statistics/abortion-surveillance-system.html>.

² Victoria Hunter Gibney and Cara Brumfield, *Federal Data Are Disappearing as Statistical Agencies Face Budget Cuts and Political Pressure*, CTR. ON BUDGET & POLICY PRIORITIES, Sept. 29, 2025, available at <https://www.cbpp.org/research/poverty-and-inequality/federal-data-are-disappearing-as-statistical-agencies-face-budget>.

³ Lauren Fichten, *Government website offering reproductive health information goes offline*, CBS NEWS, Jan. 20, 2025, available at <https://www.cbsnews.com/news/government-website-offering-reproductive-health-information-goes-offline/>.

and providers about federal privacy and nondiscrimination protections related to reproductive health care.⁴ In the case of the abortion surveillance report, there is concern that this data may be used or misused to facilitate surveillance and criminalization of abortion patients and providers.⁵

The Center for Reproductive Rights (“Center”) seeks to better understand HHS and/or CDC’s process for gathering relevant abortion data and information, as well as analyzing and producing the 2023 Abortion Surveillance Report.

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 22 C.F.R. § 171.1(b). Additionally, as used herein, any reference to HHS encompasses all regional offices (both current and past) as well as the central offices located in Washington, D.C. Please note that “communications” requested include, but are not limited to, e-mails, 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), and communications and relevant materials that may have been distributed via personal phones or devices.

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

1. All communications, meeting notices, meeting agendas, meeting notes, informational materials, draft legislation, draft rules, talking points, reports, disclosures, or other documents sent to, received by, or exchanged with any HHS and/or CDC employee (temporary or permanent), official, appointee, or contractor regarding the 2023 Abortion Surveillance Report.
2. All communications, meeting notices, meeting agendas, meeting notes, informational materials, draft legislation, draft rules, talking points, reports, disclosures, or other documents sent to, received by, or exchanged with any HHS and/or CDC employee (temporary or permanent), official, appointee, or contractor and any employee (temporary or permanent) or contractor working for or representing any U.S. state or territory regarding the 2023 Abortion Surveillance Report, including but not limited to instructions on how to collect and transmit relevant data and information to HHS and/or CDC.
3. 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 HHS and/or CDC employee (temporary or permanent), official, appointee, or contractor and any employee (temporary or permanent) or contractor working for or representing Live Action regarding the 2023

⁴ Selena Simmons-Duffin, *Trump’s federal health website scrubs ‘abortion’ search results*, NPR, Jan. 21, 2025, available at <https://www.npr.org/sections/shots-health-news/2025/01/21/nx-s1-5269875/trump-abortion-hhs-reproductive-rights>.

⁵ See e.g., *Abortion Reporting Requirements*, GUTTMACHER INST., Dec. 1, 2025, available at <https://www.guttmacher.org/state-policy/explore/abortion-reporting-requirements>.

Abortion Surveillance Report. This request includes, but is not limited to, communications with individuals using the @liveaction.org email domain, as well as current or former Live Action employees including, but not limited to, Carole Novielli.

4. 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 HHS and/or CDC employee (temporary or permanent), official, appointee, or contractor and any employee (temporary or permanent) or contractor working for or representing The Heritage Foundation regarding the 2023 Abortion Surveillance Report. This request includes, but is not limited to, communications with individuals using the @heritage.org email domain.
5. All guidance, memoranda, directives, communications, meeting notices, meeting agendas, meeting notes, informational materials, draft legislation, draft rules, talking points, reports, disclosures, or other documents sent to, received by, or exchanged with any HHS and/or CDC employee (temporary or permanent), official, appointee, or contractor with any Member of Congress, regarding the 2023 Abortion Surveillance Report.

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, agencies, including the HHS Office of the Assistant Secretary for Health, which 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 HHS 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.”⁶ 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.”⁷ 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.’”⁸

⁶ *Founding Church of Scientology v. Bell*, 603 F. 2d 945, 949 (D.C. Cir. 1979).

⁷ *King v. U.S. Dep’t of Just.*, 830 F.2d 210, 223-24 (D.C. Cir. 1987).

⁸ *Id.* at 224.

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 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 decisions being made within HHS and/or CDC regarding abortion surveillance data.

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
Washington, DC 20006
Phone: (202) 524-5536
Email: MRaveendran@reprorights.org

If it will accelerate release of responsive records, please also provide responsive material 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