

October 20, 2025

Manager Records Office  
US Postal Service  
475 L'Enfant Plaza SW Rm 1P830  
Washington DC 20260-1101  
Cc: Nancy Chavannes-Battle, FOIA Public Liaison

Re: Request Under the Freedom of Information Act

To Whom It May Concern:

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 Postal Service (“USPS”), 39 C.F.R. Part 265.

The Comstock Act, initially passed in 1873, prohibits the use of the mail and common carriers to transport all medications and obstetrical supplies used in unlawful abortion care. Drawing upon decades of court decisions, as well as congressional and USPS action regarding the scope of the Comstock Act, in December 2022, the Department of Justice (“DOJ”) Office of Legal Counsel (“OLC”) released a legal memo making clear that the Act does not prohibit mailing of mifepristone intended for use in lawful abortion care.<sup>1</sup> Even following the Supreme Court’s 2022 ruling that eliminated the federal constitutional right to abortion, according to the DOJ memo, Comstock does not prohibit the mailing or delivery of abortion medications unless the sender intends that the drugs will be used unlawfully.<sup>2</sup>

The Heritage Foundation’s Project 2025 document recommends a policy change related to the Comstock Act that is relevant to USPS and related OLC actions. Specifically, Project 2025 in the section titled “Announcing a Campaign to Enforce the Criminal Prohibitions in 18 U.S. Code §§ 1461 and 1462 Against Providers and Distributors of Abortion Pills That Use the Mail” states the following:

Federal law prohibits mailing ‘[e]very article, instrument, substance, drug, medicine, or thing which is advertised or described in a manner calculated to lead another to use or apply it for producing abortion.’ Following the Supreme Court’s decision in *Dobbs*, there is now no federal prohibition on the enforcement of this statute. The DOJ in the next conservative Administration should therefore announce its intent to enforce federal law against providers and distributors of such pills.<sup>3</sup>

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<sup>1</sup> Application of the Comstock Act to the Mailing of Prescription Drugs that can be Used for Abortions, 46 Op. O.L.C. \_\_\_ (Dec. 23, 2022).

<sup>2</sup> *Id.*

<sup>3</sup> Paul Dans & Steven Groves, eds., *Mandate for Leadership: The Conservative Promise*, THE HERITAGE FOUND., 2023, pg. 562, [https://static.heritage.org/project2025/2025\\_MandateForLeadership\\_FULLL.pdf](https://static.heritage.org/project2025/2025_MandateForLeadership_FULLL.pdf) (hereinafter “Project 2025”).

Despite the Trump campaign's insistence that it had no affiliation with the Heritage Foundation or Project 2025, many of the recommendations from this document have been implemented by the second Trump Administration.<sup>4</sup> For example, on July 11, 2025, OLC issued "Reconsidering the Application of the Hyde Amendment to the Provision of Transportation for Women Seeking Abortions," which withdraws the previous 2022 OLC opinion on this topic and follows the Project 2025 recommendation to prevent agencies from using funds to facilitate abortions.<sup>5</sup> Additionally, while the public is not yet aware of a new OLC opinion on the Comstock Act, proponents of misusing the Comstock Act to effect a de facto abortion ban have recently been appointed to OLC.<sup>6</sup> As such, the possibility that OLC might similarly withdraw the previous interpretation of the Comstock Act in order to further an ideological, anti-abortion policy goal may be imminent.

The Center for Reproductive Rights ("Center") seeks to better understand whether USPS has requested OLC's analysis about the enforcement of the Comstock Act and the influence of third parties on the selective enforcement of the Comstock Act. This information is vital to the public interest in understanding the interpretation of a law which might be used to implement what is essentially tantamount to a back-door nationwide abortion ban.

## 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). 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. For ease of search, we have included e-mail addresses for individuals whose e-mail addresses are publicly available—lack of e-mail address availability should not hinder the agency's ability to conduct searches based on individual names or keywords.

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

1. All guidance, memoranda, directives, communications, meeting notices, meeting agendas, meeting notes, informational materials, draft legislation, draft rules, talking

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<sup>4</sup> See e.g., *Project 2025 Tracker*, <https://www.project2025.observer/en>, Franco Ordoñez & A Martínez, *Trump enacts Project 2025 policies, which he distanced himself from while campaigning*, NAT'L PUB. RADIO, Jan. 31, 2025, <https://www.npr.org/2025/01/31/nx-s1-5280364/trump-enacts-project-2025-policies-which-he-distanced-himself-from-while-campaigning>; Nicholas Beauchamp, *Donald Trump shunned Project 2025 as a candidate, but is adopting its ideas in office*, Feb. 7, 2025, NORTHEAST. UNIV., <https://cssh.northeastern.edu/donald-trump-shunned-project-2025-as-a-candidate-but-is-adopting-its-ideas-in-office/>; Elana Shao & Ashley Wu, *The Many Links Between Project 2025 and Trump's World*, NY TIMES, Oct. 22, 2024, <https://www.nytimes.com/interactive/2024/10/22/us/politics/project-2025-trump-heritage-foundation.html#table>.

<sup>5</sup> *Reconsidering the Application of the Hyde Amendment to the Provision of Transportation for Women Seeking Abortions*, 49 Op. O.L.C. \_\_\_, available at <https://www.justice.gov/olc/media/1408241/dl>.

<sup>6</sup> See e.g., *T. Elliot Gaiser*, CTR. FOR REPRO. RTS., <https://reproductiverights.org/t-elliott-gaiser/>; *Josh Craddock*, CTR. FOR REPRO. RTS., <https://reproductiverights.org/josh-craddock/>.

points, reports, disclosures, or other documents sent to, received by, or exchanged with any USPS employee (temporary or permanent), official, appointee, or contractor with any employee (temporary or permanent) of or contractor with the Heritage Foundation (@heritage.org), regarding the Comstock Act or Comstock Act enforcement.

2. 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 USPS employee (temporary or permanent), official, appointee, or contractor with any employee (temporary or permanent) of or contractor with the Alliance Defending Freedom (@ADFLegal.org), regarding the Comstock Act or Comstock Act enforcement.
3. 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 USPS employee (temporary or permanent), official, appointee, or contractor with any Member of Congress, regarding the Comstock Act or Comstock Act enforcement.
4. 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 USPS employee (temporary or permanent), official, appointee, or contractor with any employee (temporary or permanent) or contractor in the office of a Member of Congress, regarding the Comstock Act or Comstock Act enforcement.
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 USPS employee (temporary or permanent), official, appointee, or contractor with any employee (temporary or permanent), official, appointee, or contractor with DOJ, regarding the Comstock Act or Comstock Act enforcement.
6. 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 USPS employee (temporary or permanent), official, appointee, or contractor with any third party, including but not limited those individuals employed by or associated with Attorneys General of States, State Officials, and any other external organizations, regarding the Comstock Act or Comstock Act enforcement.

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 the USPS 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 USPS, that have adopted the National Archives and Records Agency (“NARA”) 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 the USPS 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>7</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.” 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>8</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 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 about the misuse of the Comstock Act and the influence of third parties to further an ideological anti-abortion policy goal.

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

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<sup>7</sup> *Founding Church of Scientology v. Bell*, 603 F. 2d 945, 949 (D.C. Cir. 1979).

<sup>8</sup> *Id.* at 224.

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](mailto: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) 524-5534 if you have any questions. Thank you for your assistance.

Sincerely,

Manasi Raveendran