

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

The Center for Reproductive Rights  
199 Water Street,  
New York, N.Y. 10038;

National Women’s Law Center  
11 Dupont Circle, N.W.  
Suite 800  
Washington, D.C. 20036

Plaintiffs

v.

U.S. Department of Health and Human Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

Defendant.

Case No. 18-1688

**COMPLAINT**  
(Freedom of Information Act)

Plaintiffs, the Center for Reproductive Rights (“the Center”) and the National Women’s Law Center (“NWLC”), bring this action against Defendant, the U.S. Department of Health and Human Services (“HHS”) to compel compliance with the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552.

As further alleged below, Plaintiffs have sought certain information from HHS that is directly relevant to Plaintiffs’ shared mission to ensure patient access to the full range of care, including reproductive healthcare, and vigorous enforcement of federal civil rights laws. Plaintiffs are particularly concerned about how a new division within HHS’s Office of Civil Rights operates, how it is allocating resources, whether and how its decision making is influenced by outside groups, and why it was needed in the first place. Defendant has not

claimed that the requested information is subject to any FOIA exceptions or privilege and has not advanced any other reason why it should not be disclosed. Despite the clear statutory requirement that an agency respond to a FOIA request within 20 days, and despite Plaintiffs' repeated inquiries, Defendant has failed to provide a final determination or produce any documents in response to either of Plaintiffs' two related FOIA requests—the first made January 26, 2018, and the second made March 5, 2018. Plaintiffs seek to compel Defendant to comply with its obligations under FOIA and promptly produce the requested records.

Plaintiffs further allege as follows:

### **PARTIES**

1. Plaintiff, the Center for Reproductive Rights, is a 501(c)(3) non-profit corporation incorporated under the laws of the State of New York and headquartered at 199 Water Street, New York, NY 10038. The Center for Reproductive Rights is dedicated to using the power of law to advance reproductive rights as fundamental human rights around the world. It 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.

2. Plaintiff, the National Women's Law Center, is a nonpartisan, 501(c)(3) non-profit corporation incorporated under the laws of the District of Columbia and headquartered at 11 Dupont Circle, N.W., Suite 800, Washington, D.C. 20036. Since 1972, NWLC has worked to protect and advance the progress of women and their families in core aspects of their lives, including income security, employment, education, and reproductive rights and health, with an emphasis on the needs of low-income women and those who face multiple and intersecting forms of discrimination. NWLC uses the law in all of its forms—working to make sure laws and policies are in place to help women and families, enforce laws that already exist, advance legal

positions in courts, and conduct campaigns and public awareness efforts to educate and mobilize the public to press for policy changes to improve women's lives.

3. Defendant, U.S. Department of Health and Human Services, is an agency of the United States Government under 5 U.S.C. § 552(f)(1) and 5 U.S.C. § 551(1). HHS is headquartered at 200 Independence Avenue, S.W., Washington, D.C. 20201. HHS has possession, custody, and control of the documents that Plaintiffs seek in response to the FOIA requests.

### **JURISDICTION & VENUE**

4. This Court has jurisdiction over this claim pursuant to 28 U.S.C. § 1331 and 5 U.S.C. § 552(a)(4)(B).

5. Because Defendant failed to comply with the requirements to respond set forth in 5 U.S.C. § 552(a)(6)(A), Plaintiffs have constructively exhausted their administrative remedies and are entitled to proceed with this judicial action pursuant to 5 U.S.C. § 552(a)(6)(C)(i).

6. Venue is proper pursuant to 5 U.S.C. § 552(a)(4)(B).

### **STATEMENT OF FACTS**

7. As the United States Supreme Court has recognized, "the basic purpose of the FOIA is to open agency action to the light of public scrutiny." *Department of Air Force v. Rose*, 425 U.S. 352, 372 (1976).

8. Accordingly, Plaintiffs submitted two FOIA requests to HHS to obtain records that will be used to further Plaintiffs' shared mission of advancing reproductive rights.

**A. JANUARY 26, 2018 FOIA REQUEST**

9. On January 26, 2018, the Center and NWLC jointly filed a FOIA request (the “January 26 Request”) with HHS seeking records relating to certain complaints filed with the HHS Office for Civil Rights.

10. A true and correct copy of the January 26 Request is attached as Exhibit A.

11. After failing to receive a written response from HHS, the Center contacted HHS to inquire about the status of the January 26 Request and was provided tracking number 201800196. On February 21, the Center emailed HHS requesting written confirmation of receipt of the January 26 Request.

12. Government Information Specialist Garfield Daley responded to the Center’s email on February 22 confirming that Plaintiffs’ request “was logged-in and it was forwarded to the Office for Civil Rights (OCR) to perform a search for responsive records.”

13. In a letter from HHS to the Center dated February 22, HHS acknowledged that it received the January 26 Request on January 29 and assigned it Request Number 2018-00512-FOIA-OS.

14. The letter further stated “[w]e have initiated a search to locate records falling within the scope of your request” and “FOIA requires that we respond to your request within 20 working days of its receipt in this office.” HHS also stated that if it determined that the request required “extensive search and examination, [HHS] staff will contact you shortly to discuss your willingness to modify your request.” HHS further stated that it would “utilize a 10 working day extension to process your request” if the request required records from “components and/or field offices external to this office” and due to the “established policy of ‘first in, first out’ case processing.”

15. A true and correct copy of the February 22, 2018 letter from HHS is attached as Exhibit B.

16. On March 15, the Center emailed Garfield Daley at HHS requesting a status update on the January 26 Request. The email stated “from our count, the 20-day statutory period and the 10-day extension period has run as of March 14, 2018.”

17. On March 20, Daley and the Center spoke on the telephone regarding the status of the January 26 Request. Daley relayed that he requested a status update from HHS OCR. The Center followed up later that same day via email reiterating that “we would appreciate it if you could pass the update onto us as soon as possible, along with any information on who would be the contact within HHS OCR for follow-up.”

18. On April 11, the Center called Daley to inquire about the status of the January 26 Request. Daley responded by email on April 19 stating “I have reached out [to] the Office for Civil Rights (OCR) and I am waiting for that office to provide me with an update in regards to the office search for responsive records.”

**B. MARCH 5, 2018 FOIA REQUEST**

19. On March 5, 2018, the Center and the NWLC filed a related request (the “March 5 Request”), which was identical to the January 26 Request except that it sought records dated after January 29, 2018.

20. A true and correct copy of the March 5 Request is attached as Exhibit C.

21. The March 5 Request was filed as an addendum to the January 26 Request in order to obtain any responsive records created between the date of receipt of the January 26 Request, which HHS marked as January 29, and the March 5 Request.

22. The March 5 Request asked that “the release of records pursuant to the previous request (Request Number 2018-00512-FOIA-OS) not be contingent on or delayed due to the processing of this request, and vice versa. We ask that all records pursuant to each request be provided as soon as they are available.”

23. In a letter from HHS to the Center dated March 6, HHS acknowledged that it had received the March 5 Request on March 5 and had assigned it Request Number 2018-00678-FOIA-OS.

24. Despite assigning the March 5 Request this separate Request Number from the January 26 Request, the March 6 HHS letter also stated that “[t]his is a second request with Transaction #2018-00512-FOIA-OS.”

25. A true and correct copy of the March 6 letter from HHS is attached as Exhibit D.

26. On May 17, the Center left a voicemail for Daley requesting an update on the FOIA requests. On May 23, the Center emailed Daley to follow up on the voicemail, again requesting “any updates on our FOIA request since our last communication in April.”

27. On May 30, Daley responded via email “I have reached out to OCR and I am awaiting [sic] for them to get back to me with an [sic] status.”

### **C. HHS’ FAILURE TO RESPOND**

28. Pursuant to FOIA, within 20 business days of receipt of Plaintiffs’ January 26 Request—that is, no later than February 27—HHS was required to “determine . . . whether to comply with such request” and to “immediately notify” Plaintiffs of “such determination and the reasons therefor,” and, in the case of an adverse determination, Plaintiffs’ appeal rights.

5 U.S.C. § 552(a)(6)(A)(i).

29. Pursuant to FOIA, within 20 business days of receipt of Plaintiffs' March 5 Request—that is, no later than April 2—HHS was required to “determine . . . whether to comply with such request” and to “immediately notify” Plaintiffs of “such determination and the reasons therefor,” and, in the case of an adverse determination, Plaintiffs' appeal rights.

5 U.S.C. § 552(a)(6)(A)(i).

30. To date, Plaintiffs have received no further response from HHS related to either the January 26 Request or March 5 Request.

31. HHS has not made a final determination on the January 26 Request or March 5 Request within the time limits prescribed by FOIA, 5 U.S.C. § 552(a)(6)(A)(i).

**COUNT I - FAILURE TO COMPLY WITH FOIA - JANUARY 26 REQUEST**

32. Plaintiffs incorporate each of the foregoing paragraphs of this Complaint.

33. Pursuant to FOIA, 5 U.S.C. § 552(a), Plaintiffs have a statutory right to access requested agency records.

34. HHS has failed to comply with the time limits prescribed by FOIA, 5 U.S.C. §§ 552(a)(6)(A)(i) for the January 26 Request.

**COUNT II - FAILURE TO COMPLY WITH FOIA - MARCH 5 REQUEST**

35. Plaintiffs incorporate each of the foregoing paragraphs of this Complaint.

36. Pursuant to FOIA, 5 U.S.C. § 552(a), Plaintiffs have a statutory right to access requested agency records.

37. HHS has failed to comply with the time limits prescribed by FOIA, 5 U.S.C. §§ 552(a)(6)(A)(i) for the March 5 Request.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs respectfully request that this Court enter a judgment for Plaintiffs and award the following relief:

- a. Order Defendant, by a date certain, to conduct a search that is reasonably likely to lead to the discovery of any and all records responsive to Plaintiffs' January 26 and March 5 Requests;
- b. Order Defendant, by a date certain, to demonstrate that it has conducted an adequate search;
- c. Order Defendant, by a date certain, to produce to Plaintiffs any and all non-exempt records or portions of records responsive to Plaintiffs' January 26 and March 5 Requests, as well as a *Vaughn* index of any records or portions of records withheld due to a claim of exemption;
- d. Enjoin Defendant from withholding the requested records;
- e. Award Plaintiffs its costs and attorney's fees reasonably incurred in this action, pursuant to 5 U.S.C. § 552(a)(4)(E); and
- f. Grant Plaintiffs such other and further relief as the Court may deem just and proper.

July 19, 2018

Respectfully submitted,

/s/ William R. McAuliffe  
William McAuliffe (D.C. Bar No. 1024136)  
Covington & Burling LLP  
One CityCenter  
850 Tenth Street NW  
Washington, DC 20001  
(202) 662-5717  
wmcauliffe@cov.com

ATTORNEY FOR PLAINTIFFS

# **Exhibit A**



January 26, 2018

Sent by electronic mail

Mr. Michael Marquis  
Freedom of Information Officer  
U.S. Department of Health and Human Services  
Hubert H. Humphrey Building, Room 729H  
200 Independence Avenue, SW  
Washington, D.C. 20201

Re: Request under the Freedom of Information Act

Dear Mr. Marquis,

The Center for Reproductive Rights and the National Women's Law Center submit this request pursuant to the Freedom of Information Act, 5 U.S.C. §§ 552 et seq. (FOIA), and the U.S. Department of Health and Human Services' implementing regulations, 45 C.F.R. Part 5.

**Records Requested**

As used herein, the word "records" means all records as defined in 45 C.F.R. § 5.3. Additionally, as used herein, any reference to the U.S. Department of Health and Human Services Office of Civil Rights (HHS OCR) encompasses all regional offices as well as the central office located in Washington, D.C.

We request the following within twenty business days:

1. Trackers, charts, catalogues, Excel spreadsheets, internal databases, and similar records created or obtained by HHS on or after January 1, 2004, regarding or relating to complaints filed with HHS OCR alleging a violation of civil rights on the basis of religion, or categorized by agency personnel as alleging a violation of civil rights on the basis of religion, including:
  - a. The weekly, monthly or annual volume of complaints received alleging a violation on the basis of religion;
  - b. The geographic origin of complaints alleging a violation on the basis of religion;
  - c. The geographic location of the agency or organization against which complaints have been filed alleging a violation on the basis of religion;
  - d. The total length of investigation for each complaint alleging a violation on the basis of religion;
  - e. The nature of the resolution of each complaint alleging a violation on the basis of religion, such as closure after investigation or closure on administrative grounds;

- f. Any other document utilized by HHS OCR to organize or otherwise track complaints alleging violations on the basis of religion.
2. All complaints received by HHS OCR alleging a violation of civil rights on the basis of religion, dated on or after January 20, 2017;
3. All records, dated on or after January 20, 2017, referring or relating to HHS review and investigations of complaints alleging a violation of civil rights on the basis of religion, including but not limited to:
  - a. All records regarding or relating to the process and timeline by which each complaint was closed or resolved, including any trackers, charts, memos, catalogues, spreadsheets, or internal databases, indicating the number of complaints closed without investigation, the number of complaints investigated but where no violation was found, the total length of investigation for each complaint, and the number of complaints investigated for which a violation was found;
  - b. All records relating to final agency determination of each complaint, including letters, recommendations, initiation of enforcement proceedings, and final decisions upholding a finding of violation on each complaint;
  - c. All records, including any communications, sent between HHS OCR and complainants regarding a complaint filed alleging a violation of civil rights on the basis of religion;
  - d. All records, including any communications, sent between HHS OCR and an agency or organization against which a complaint was filed alleging a violation on the basis of religion.
4. Trackers, charts, catalogues, Excel spreadsheets, internal databases, and similar records created or obtained by HHS on or after January 1, 2004, regarding or relating to complaints filed with HHS OCR alleging a violation of federal conscience protections, or categorized by agency personnel as alleging a violation of federal conscience protections, including:
  - a. The weekly, monthly or annual volume of complaints received alleging a violation of federal conscience protections;
  - b. The geographic origin of complaints alleging a violation of federal conscience protections;
  - c. The geographic location of the agency or organization against which complaints have been filed alleging a violation of federal conscience protections;
  - d. The total length of investigation for each complaint alleging a violation of federal conscience protections;
  - e. The nature of the resolution of each complaint alleging a violation of federal conscience protections, such as closure after investigation or closure on administrative grounds;
  - f. Any other document utilized by HHS OCR to organize or otherwise track complaints alleging a violation of federal conscience protections.
5. All complaints received by HHS OCR alleging a violation of federal conscience protections, dated on or after January 20, 2017;

6. All records, dated on or after January 20, 2017, referring or relating to HHS review and investigations of complaints alleging a violation of federal conscience protections, including but not limited to:
  - a. All records regarding or relating to the process and timeline by which each complaint was closed or resolved, including any trackers, charts, memos, catalogues, spreadsheets, or internal databases, indicating the number of complaints closed without investigation, the number of complaints investigated but where no violation was found, the total length of investigation for each complaint, and the number of complaints investigated for which a violation was found
  - b. All records relating to final agency determination of each complaint, including letters, recommendations, initiation of enforcement proceedings, and final decisions upholding a finding of violation on each complaint;
  - c. All records, including any communications, sent between HHS OCR and complainants regarding a complaint filed alleging a violation of federal conscience protections;
  - d. All records, including any communications, sent between HHS OCR and an agency or organization against which a complaint was filed alleging a violation of federal conscience protections.
  
7. All records regarding the submission of complaints alleging violations of religious freedom or federal conscience protections, not otherwise captured above, including those records received after January 15, 2018, under the new unified category of violations of conscience and religious freedom.
  
8. Trackers, charts, catalogues, Excel spreadsheets, internal databases, and similar records created or obtained by HHS on or after January 1, 2004, regarding or relating to complaints filed with HHS OCR alleging a violation of civil rights on the basis of race, color, national origin, age, sex (including gender identity), or disability, or categorized by agency personnel as alleging a violation of civil rights on the basis of race, color, national origin, age, sex, or disability, including:
  - a. The weekly, monthly or annual volume of complaints received alleging a violation of civil rights on the basis of race, color, national origin, age, sex, or disability;
  - b. The geographic origin of complaints alleging a violation of civil rights on the basis of race, color, national origin, age, sex, or disability;
  - c. The geographic location of the agency or organization against which complaints have been filed alleging a violation of civil rights on the basis of race, color, national origin, age, sex, or disability;
  - d. The total length of investigation for each complaint alleging a violation of civil rights on the basis of race, color, national origin, age, sex, or disability;
  - e. The nature of the resolution of each complaint alleging a violation of civil rights on the basis of race, color, national origin, age, sex, or disability, such as closure after investigation or closure on administrative grounds;
  - f. Any other document utilized by HHS OCR to organize or otherwise track complaints alleging a violation of civil rights on the basis of race, color, national origin, age, sex, or disability.

9. All records, including any communications, calendar entries (including invitations) and all attachment to calendar entries, sent between HHS, including any of its operating divisions and agencies, any individual employees, agents or contractors acting on behalf of HHS, and:
  - a. The Family Research Council, (including but not limited to any individual members of staff) that refer or relate to civil rights violations, federal conscience protections, religious refusals, or any aspect of the Office of Civil Rights complaint or investigation process, dated on or after January 1, 2017;
  - b. The Heritage Foundation, (including but not limited to any individual members of staff) that refer or relate to civil rights violations, federal conscience protections, religious refusals, or any aspect of the Office of Civil Rights complaint or investigation process, dated on or after January 1, 2017;
  - c. Alliance Defending Freedom, (including but not limited to any individual members of staff) that refer or relate to civil rights violations, federal conscience protections, religious refusals, or any aspect of the Office of Civil Rights complaint or investigation process, dated on or after January 1, 2017;
  - d. Americans United for Life, (including but not limited to any individual members of staff) that refer or relate to civil rights violations, federal conscience protections, religious refusals, or any aspect of the Office of Civil Rights complaint or investigation process, dated on or after January 1, 2017;
  - e. National Right to Life, (including but not limited to any individual members of staff) that refer or relate to civil rights violations, federal conscience protections, religious refusals, or any aspect of the Office of Civil Rights complaint or investigation process, dated on or after January 1, 2017.

In addition to the records requested above, the Center for Reproductive Rights and the National Women's Law Center also request records describing the processing of this request, including records sufficient to identify search terms used and 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.

The Center for Reproductive Rights and the National Women's Law Center seek 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.

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. Records of official business conducted using unofficial systems or stored outside of official files is 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 for Reproductive Rights and the National Women's Law Center have 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.

In addition, 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 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 for Reproductive Rights and the National Women's Law Center request that your agency 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 for Reproductive Rights and the National Women's Law Center are 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.

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 for Reproductive Rights and the National Women's Law Center request 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>1</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

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<sup>1</sup> *Founding Church of Scientology v. Bell*, 603 F. 2d 945, 949 (D. C. Cir. 1979).

claims with the particular part of a withheld document to which they apply.”<sup>2</sup>

In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. Claims of nonsegregability must be made with the same degree of detail as required for claims of exemptions in a *Vaughn* index. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

You should institute a preservation hold on information responsive to this request. 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 for Reproductive Rights and the National Women’s Law Center welcome an opportunity to discuss their request with you before you undertake your search or incur search or duplication costs.

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

We request a waiver (or, in the alternative, a reduction) of all fees under 5 U.S.C. § 552(a)(4)(A)(iii) and 45 C.F.R. § 5.54 because disclosure of the information would be in the public interest. The subject of this request concerns the operations of the federal government and HHS OCR, and the disclosures will likely contribute to public understanding of those operations in a significant way. These records will provide important information about the types of civil rights complaints that are filed at the HHS OCR and how the HHS OCR processes such complaints. They will also shed light on the prevalence of specific types of complaints filed at the HHS OCR, how the complaints are addressed or dismissed, etc. The information from this request may also shed more light on how the agency is approaching the interpretation of federal conscience and religious freedom protections. The Center for Reproductive Rights and the National Women’s Law Center do not make this request for commercial use.

Further, the Center for Reproductive Rights and the National Women’s Law Center will disseminate the information to “a reasonably broad audience of persons” through our social media accounts and our websites. If a waiver or reductions in fees is not granted on the basis of the disclosure being in the public interest, we request a waiver (or, in the alternative, a reduction) of all fees under the “representative of the news media” exception in 5 U.S.C. § 552(a)(4)(A)(ii)(II). The term, “representative of the news media,” as used in the Freedom of Information Act, is defined as any person or entity “that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.” 5 U.S.C. § 552(a)(4)(A)(ii); 45 C.F.R. § 5.3. “Examples of news media entities include ... publishers of periodicals, including print and online publications that disseminate news and make their products available through a variety of means to the general public.” 45 C.F.R. § 5.3.

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<sup>2</sup> *King v. United States Dep’t of Justice*, 830 F.2d 210, 224 (D.C. Cir. 1987).

The Center for Reproductive Rights publishes a regular newsletter that currently has approximately 250,000 subscribers. Additionally, the Center for Reproductive Rights routinely gathers information from government and other sources and use that information to publish reports, briefing papers, fact sheets, periodicals, articles, blog posts, and other educational materials, which are readily available to the public through the Center for Reproductive Rights' website ([www.reproductiverights.org](http://www.reproductiverights.org)) and social media accounts (for example, on the Center's Twitter stream @reprorights). Over the past month, the Center for Reproductive Rights has had over 69,000 visits leading to 124,000 page views – of which over 58,600 were unique visitors. Additionally, the Center has well over 80,000 followers on Twitter.

The National Women's Law Center has a supporter base of over 800,000 followers across our email lists, Facebook page (<http://www.facebook.com/nwlc>, 477,000 page likes), and Twitter account (@nwlc, 60,000 followers). In the last month, the Law Center website, [www.nwlc.org](http://www.nwlc.org), had nearly 125,000 visits leading to 186,000 page views – of which over 100,000 were unique visitors.

Accordingly, the Center for Reproductive Rights and the National Women's Law Center request that we be accorded "representative of news media" status and that any fees accrued for this request be waived, or alternatively, reduced.

This request is primarily and fundamentally for non-commercial purposes. As 501(c)(3) nonprofit organizations, the Center for Reproductive Rights and the National Women's Law Center do not have a commercial purpose and the release of the information requested is not in the organization's financial interest.

Founded in 1992, the Center for Reproductive Rights 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 for Reproductive Rights uses information gathered, and its analysis of information gathered, to educate the public through reports, press releases, or other media, as discussed above. Likewise, the Center for Reproductive Rights also makes the materials gathered available on its public website and promote their availability on social media platforms, such as Facebook and Twitter. The Center for Reproductive Rights has demonstrated commitment to the public disclosure of documents and creation of editorial content.

Founded in 1972, the National Women's Law Center champions policies and laws that help women and girls achieve their potential throughout their lives — at school, at work, at home, and in their communities. We're committed advocates who take on the toughest challenges, especially for women who are low-income and those who face multiple forms of discrimination — and we make change happen. We're proud to have been on the frontlines of virtually every advance for women for more than 45 years, benefiting women, their families, their communities, and the nation.

Accordingly, the Center for Reproductive Rights and the National Women's Law Center qualify 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 for Reproductive Rights and the National Women's Law Center look 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 for Reproductive Rights and the National Women's Law Center request that responsive materials be provided electronically by email or in PDF or TIF format on a USB drive. Please send any responsive material being sent by mail to:

Susan D. Inman  
Center for Reproductive Rights,  
1634 Eye Street NW, Suite 600  
Washington, D.C. 20006.  
Email: [sdinman@reprorights.org](mailto:sdinman@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 us at (202) 524-5526 if you have any questions. Thank you for your assistance.

Sincerely,

Susan D. Inman  
Chief Counsel, Federal Policy and  
Advocacy, Center for Reproductive Rights

Gretchen Borchelt  
Vice President for Reproductive Rights and  
Health, National Women's Law Center

# **Exhibit B**



**DEPARTMENT OF HEALTH & HUMAN SERVICES**  
Secretary

Office of the

Assistant Secretary for Public Affairs  
Washington, D.C. 20201

Refer to: Request Number **2018-00512-FOIA-OS**

**February 22, 2018**

Susan D. Inman  
Senior Federal Policy Counsel  
Center for Reproductive Rights, NHeLP  
1634 Eye Street, N.W., Suite 600  
Washington, DC 20006

Dear Susan D. Inman:

This acknowledges receipt of your January 26, 2018, Freedom of Information Act (FOIA) request, submitted to the Department of Health and Human Services (HHS), FOI/Privacy Acts Division concerning: **This is an OCR Transaction #180126 requesting trackers, charts, catalogues, Excel spreadsheets, internal databases and similar records created or obtained by HHS on or after January 1, 2004, regarding or relating to complaints filed with HHS OCR alleging a violation of civil rights on the basis of religion or categorized by agency personnel as alleging a violation of civil rights on the basis of religion, including:**

- \*\* The weekly, monthly or annual volume of complaints received alleging a violation on the basis of religion;**
- \*\* The geographic origin of complaints alleging a violation on the basis of religion.**

We received your request on **January 29, 2018**.

We have initiated a search to locate records falling within the scope of your request. If our searching units advise us that you have requested a voluminous amount of records that require extensive search and examination, my staff will contact you shortly to discuss your willingness to modify your request.

The FOIA requires that we respond to your request within 20 working days of its receipt in this office. Please note the following unusual and exceptional circumstances that will impact our response time: (1) we will need to search for and collect records from components and/or field offices external to this office; and (2) because we receive a very heavy volume of FOIA requests, we will process your request in line with our established policy of "first in, first out" case processing. If either of these circumstances prevents our office from responding within the 20 working day timeframe, we will utilize a 10 working day extension to process your request, as permitted pursuant to the FOIA. This policy is consistent with court decisions regarding FOIA's time limits.

The law authorizes us to collect fees for responding to FOIA requests and assume that you are willing to pay any applicable fees for processing this request unless you have stated otherwise. If at any time the fee for processing your request is estimated to exceed \$250.00, we will send you an invoice for the estimated fee and suspend further processing until payment of the invoiced amount is received. If the estimated processing fee does not exceed \$250.00, we will send you an invoice for the actual fee with our response.

Please note the following:

If you believe that we should expedite the processing of your request because the requested records are needed in light of a compelling need; i.e., an imminent threat to the life and safety of an individual; an urgency to inform the public concerning government activity (provided you are a member of the media); a deadline in litigation; a deadline for commenting on proposed regulations; or other urgent matters, you must ask for expedited processing in writing and provide to this office as much relevant information as possible. In line with 5 U.S.C. § 552(a)(6)(E)(vi), you must demonstrate the compelling need in a

statement certified to be true and correct to the best of your knowledge and belief. Attach any supporting documentation to your statement, including a court scheduling order if your request is based upon a litigation deadline. (Fax supporting documentation to the FOIA/PA Division at (202) 690-8320).

If your request seeks a waiver or reduction of the fees that we would customarily charge for furnishing agency records and your request does not contain sufficient information to enable us to determine whether a waiver or reduction of fees is warranted, you should provide such information to this office within 10 working days of receipt of this letter. In line with 45 C.F.R. § 5.45, such information must include a detailed explanation of how disclosure to you: (1) is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, and (2) is not primarily in the commercial interest of the requester. I especially need to know how you intend to disseminate the information to the public.

When submitting this additional information, please refer to the case number listed at the top left-hand corner of this letter, and send it to:

FOI/Privacy Acts Division  
U.S. Department of Health and Human Services  
200 Independence Avenue S.W.  
Room 729H  
Washington, DC 20201

If you are not satisfied with any aspect of the processing and handling of this request, you have the right to seek dispute resolution services from:

Michael Bell  
HHS FOIA Public Liaison  
U.S. Department of Health and Human Services  
Office of the Assistant Secretary for Public Affairs  
Room 729H  
200 Independence Avenue, S.W.  
Washington, DC 20201

Telephone: (202) 260-0793  
E-mail: [HHS FOIA Public Liaison@hhs.gov](mailto:HHS_FOIA_Public_Liaison@hhs.gov)

and/or:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road – OGIS  
College Park, MD 20740-6001

Telephone: 202-741-5770  
Toll-Free: 1-877-684-6448  
E-mail: [ogis@nara.gov](mailto:ogis@nara.gov)  
Fax: 202-741-5769

Any questions regarding the status of this request should be directed to our office at 202-690-7453.

Sincerely yours,

*Michael Bell*  
For

Michael S. Marquis  
Director  
FOI/Privacy Acts Division

# **Exhibit C**



March 5, 2018

Sent by electronic mail

Mr. Michael Marquis  
Freedom of Information Officer  
U.S. Department of Health and Human Services  
Hubert H. Humphrey Building, Room 729H  
200 Independence Avenue, SW  
Washington, D.C. 20201

Re: Request under the Freedom of Information Act

Dear Mr. Marquis,

The Center for Reproductive Rights and the National Women's Law Center submit this request pursuant to the Freedom of Information Act, 5 U.S.C. §§ 552 et seq. (FOIA), and the U.S. Department of Health and Human Services' implementing regulations, 45 C.F.R. Part 5.

This request is meant to serve as an addendum to the request previously filed by the Center for Reproductive Rights and the National Women's Law Center on January 29, 2018. The previous request, with Request Number **2018-00512-FOIA-OS**, requested certain records up to the time of its processing. We have reason to believe there are relevant, more recent records that may not be captured under the previous request.<sup>1</sup> Thus, we submit this new request in order to capture more recent records created on or after January 29, 2018.

We ask that the release of records pursuant to the previous request (Request Number 2018-00512-FOIA-OS) not be contingent on or delayed due to the processing of this request, and vice versa. We ask that all records pursuant to each request be provided as soon as they are available.

### **Records Requested**

As used herein, the word "records" means all records as defined in 45 C.F.R. § 5.3. Additionally, as used herein, any reference to the U.S. Department of Health and Human Services Office of Civil Rights (HHS OCR) encompasses all regional offices as well as the central office located in Washington, D.C.

We request the following within twenty business days:

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<sup>1</sup> Jessie Hellmann, *New HHS office that enforces health workers' religious rights received 300 complaints in a month*, THE HILL (Feb. 20, 2018), <http://thehill.com/policy/healthcare/374725-hhs-new-office-that-enforces-religious-moral-rights-of-health-workers>.

1. Trackers, charts, catalogues, spreadsheets, internal databases, and similar records created or obtained by HHS on or after January 29, 2018, regarding or relating to complaints filed with HHS OCR alleging a violation of civil rights on the basis of religion, or categorized by agency personnel as alleging a violation of civil rights on the basis of religion, including:
  - a. The weekly, monthly or annual volume of complaints received alleging a violation on the basis of religion;
  - b. The geographic origin of complaints alleging a violation on the basis of religion;
  - c. The geographic location of the agency or organization against which complaints have been filed alleging a violation on the basis of religion;
  - d. The total length of investigation for each complaint alleging a violation on the basis of religion;
  - e. The nature of the resolution of each complaint alleging a violation on the basis of religion, such as closure after investigation or closure on administrative grounds;
  - f. Any other document utilized by HHS OCR to organize or otherwise track complaints alleging violations on the basis of religion.
2. All complaints received by HHS OCR alleging a violation of civil rights on the basis of religion, dated on or after January 29, 2018;
3. All records, dated on or after January 29, 2018, referring or relating to HHS review and investigations of complaints alleging a violation of civil rights on the basis of religion, including but not limited to:
  - a. All records regarding or relating to the process and timeline by which each complaint was closed or resolved, including any trackers, charts, memos, catalogues, spreadsheets, or internal databases, indicating the number of complaints closed without investigation, the number of complaints investigated but where no violation was found, the total length of investigation for each complaint, and the number of complaints investigated for which a violation was found;
  - b. All records relating to final agency determination of each complaint, including letters, recommendations, initiation of enforcement proceedings, and final decisions upholding a finding of violation on each complaint;
  - c. All records, including any communications, sent between HHS OCR and complainants regarding a complaint filed alleging a violation of civil rights on the basis of religion;
  - d. All records, including any communications, sent between HHS OCR and an agency or organization against which a complaint was filed alleging a violation on the basis of religion.
4. Trackers, charts, catalogues, spreadsheets, internal databases, and similar records created or obtained by HHS on or after January 29, 2018, regarding or relating to complaints filed with HHS OCR alleging a violation of federal “conscience protections,” or categorized by agency personnel as alleging a violation of federal “conscience protections,” including:
  - a. The weekly, monthly or annual volume of complaints received alleging a violation of federal “conscience protections”;

- b. The geographic origin of complaints alleging a violation of federal “conscience protections”;
  - c. The geographic location of the agency or organization against which complaints have been filed alleging a violation of federal “conscience protections”;
  - d. The total length of investigation for each complaint alleging a violation of federal “conscience protections”;
  - e. The nature of the resolution of each complaint alleging a violation of federal “conscience protections,” such as closure after investigation or closure on administrative grounds;
  - f. Any other document utilized by HHS OCR to organize or otherwise track complaints alleging a violation of federal “conscience protections.”
5. All complaints received by HHS OCR alleging a violation of federal “conscience protections,” dated on or after January 29, 2018;
6. All records, dated on or after January 29, 2018, referring or relating to HHS review and investigations of complaints alleging a violation of federal “conscience protections,” including but not limited to:
  - a. All records regarding or relating to the process and timeline by which each complaint was closed or resolved, including any trackers, charts, memos, catalogues, spreadsheets, or internal databases, indicating the number of complaints closed without investigation, the number of complaints investigated but where no violation was found, the total length of investigation for each complaint, and the number of complaints investigated for which a violation was found;
  - b. All records relating to final agency determination of each complaint, including letters, recommendations, initiation of enforcement proceedings, and final decisions upholding a finding of violation on each complaint;
  - c. All records, including any communications, sent between HHS OCR and complainants regarding a complaint filed alleging a violation of federal “conscience protections;”
  - d. All records, including any communications, sent between HHS OCR and an agency or organization against which a complaint was filed alleging a violation of federal “conscience protections.”
7. All records regarding the submission of complaints alleging violations of religious freedom or federal “conscience protections,” not otherwise captured above, including those records received after January 29, 2018, under the new unified category of violations of conscience and religious freedom.
8. All records, including any communications, calendar entries (including invitations) and all attachment to calendar entries, sent between HHS, including any of its operating divisions and agencies, any individual employees, agents or contractors acting on behalf of HHS, and:
  - a. The Family Research Council, (including but not limited to any individual members of staff) that refer or relate to civil rights violations, federal “conscience protections,” or any aspect of the Office of Civil Rights complaint or investigation process, dated on or after January 29, 2018;

- b. The Heritage Foundation, (including but not limited to any individual members of staff) that refer or relate to civil rights violations, federal “conscience protections,” or any aspect of the Office of Civil Rights complaint or investigation process, dated on or after January 29, 2018;
- c. Alliance Defending Freedom, (including but not limited to any individual members of staff) that refer or relate to civil rights violations, federal “conscience protections,” or any aspect of the Office of Civil Rights complaint or investigation process, dated on or after January 29, 2018;
- d. Americans United for Life, (including but not limited to any individual members of staff) that refer or relate to civil rights violations, federal “conscience protections,” or any aspect of the Office of Civil Rights complaint or investigation process, dated on or after January 29, 2018;
- e. National Right to Life, (including but not limited to any individual members of staff) that refer or relate to civil rights violations, federal “conscience protections,” or any aspect of the Office of Civil Rights complaint or investigation process, dated on or after January 29, 2018.

In addition to the records requested above, the Center for Reproductive Rights and the National Women’s Law Center also request records describing the processing of this request, including records sufficient to identify search terms used and 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.

The Center for Reproductive Rights and the National Women’s Law Center seek 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.

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. Records of official business conducted using unofficial systems or stored outside of official files is 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 for Reproductive Rights and the National Women’s Law Center have 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.

In addition, 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 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 for Reproductive Rights and the National Women’s Law Center request that your agency 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 for Reproductive Rights and the National Women’s Law Center are 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.

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 for Reproductive Rights and the National Women’s Law Center request 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>2</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>3</sup>

In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. Claims of nonsegregability must be made with the same degree of detail as required for claims of exemptions in a *Vaughn* index. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

You should institute a preservation hold on information responsive to this request. To ensure that this request is properly construed, that searches are conducted in an adequate but efficient

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

<sup>3</sup> *King v. United States Dep’t of Justice*, 830 F.2d 210, 224 (D.C. Cir. 1987).

manner, and that extraneous costs are not incurred, the Center for Reproductive Rights and the National Women's Law Center welcome an opportunity to discuss their request with you before you undertake your search or incur search or duplication costs.

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

We request a waiver (or, in the alternative, a reduction) of all fees under 5 U.S.C. § 552(a)(4)(A)(iii) and 45 C.F.R. § 5.54 because disclosure of the information would be in the public interest. The subject of this request concerns the operations of the federal government and HHS OCR, and the disclosures will likely contribute to public understanding of those operations in a significant way. These records will provide important information about the types of civil rights complaints that are filed at the HHS OCR and how the HHS OCR processes such complaints. They will also shed light on the prevalence of specific types of complaints filed at the HHS OCR, how the complaints are addressed or dismissed, etc. The information from this request may also shed more light on how the agency is approaching the interpretation of federal conscience and religious freedom protections. The Center for Reproductive Rights and the National Women's Law Center do not make this request for commercial use.

Further, the Center for Reproductive Rights and the National Women's Law Center will disseminate the information to "a reasonably broad audience of persons" through our social media accounts and our websites. If a waiver or reductions in fees is not granted on the basis of the disclosure being in the public interest, we request a waiver (or, in the alternative, a reduction) of all fees under the "representative of the news media" exception in 5 U.S.C. § 552(a)(4)(A)(ii)(II). The term, "representative of the news media," as used in the Freedom of Information Act, is defined as any person or entity "that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience." 5 U.S.C. § 552(a)(4)(A)(ii); 45 C.F.R. § 5.3. "Examples of news media entities include ... publishers of periodicals, including print and online publications that disseminate news and make their products available through a variety of means to the general public." 45 C.F.R. § 5.3.

The Center for Reproductive Rights publishes a regular newsletter that currently has approximately 250,000 subscribers. Additionally, the Center for Reproductive Rights routinely gathers information from government and other sources and use that information to publish reports, briefing papers, fact sheets, periodicals, articles, blog posts, and other educational materials, which are readily available to the public through the Center for Reproductive Rights' website ([www.reproductiverights.org](http://www.reproductiverights.org)) and social media accounts (for example, on the Center's Twitter stream @reprorights). Over the past month, the Center for Reproductive Rights has had over 69,000 visits leading to 124,000 page views – of which over 58,600 were unique visitors. Additionally, the Center has well over 80,000 followers on Twitter.

The National Women's Law Center has a supporter base of over 800,000 followers across our email lists, Facebook page (<http://www.facebook.com/nwlc>, 477,000 page likes), and Twitter account (@nwlc, 60,000 followers). In the last month, the Law Center website, [www.nwlc.org](http://www.nwlc.org), had nearly 125,000 visits leading to 186,000 page views – of which over 100,000 were unique visitors.

Accordingly, the Center for Reproductive Rights and the National Women's Law Center request that we be accorded "representative of news media" status and that any fees accrued for this request be waived, or alternatively, reduced.

This request is primarily and fundamentally for non-commercial purposes. As 501(c)(3) nonprofit organizations, the Center for Reproductive Rights and the National Women's Law Center do not have a commercial purpose and the release of the information requested is not in the organization's financial interest.

Founded in 1992, the Center for Reproductive Rights 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 for Reproductive Rights uses information gathered, and its analysis of information gathered, to educate the public through reports, press releases, or other media, as discussed above. Likewise, the Center for Reproductive Rights also makes the materials gathered available on its public website and promote their availability on social media platforms, such as Facebook and Twitter. The Center for Reproductive Rights has demonstrated commitment to the public disclosure of documents and creation of editorial content.

Founded in 1972, the National Women's Law Center has worked for more than forty-five years to protect and promote equality and opportunity for women and families. The National Women's Law Center champions policies and laws that help women and girls achieve their potential at every stage of their lives — at school, at work, at home, and in their communities. The National Women's Law Center uses information gathered, and its analysis of information gathered, to educate the public through reports, press releases, or other media. The National Women's Law Center has demonstrated commitment to the public disclosure of documents and creation of editorial content.

Accordingly, the Center for Reproductive Rights and the National Women's Law Center qualify 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 for Reproductive Rights and the National Women's Law Center look 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 for Reproductive Rights and the National Women's Law Center request that responsive materials be provided electronically by email or in PDF or TIF format on a USB drive. Please send any responsive material being sent by mail to:

Susan D. Inman  
Center for Reproductive Rights,  
1634 Eye Street NW, Suite 600  
Washington, D.C. 20006  
Email: [sdinman@reprorights.org](mailto:sdinman@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 us at (202) 524-5526 if you have any questions. Thank you for your assistance.

Sincerely,

Susan D. Inman  
Chief Counsel, Federal Policy and  
Advocacy, Center for Reproductive Rights

Gretchen Borchelt  
Vice President for Reproductive Rights and  
Health, National Women's Law Center

# **Exhibit D**



**DEPARTMENT OF HEALTH & HUMAN SERVICES**  
Secretary

Office of the

Assistant Secretary for Public Affairs  
Washington, D.C. 20201

Refer to: Request Number **2018-00678-FOIA-OS**

**March 06, 2018**

Susan D. Inman  
Senior Federal Policy Counsel  
Center for Reproductive Rights, NHeLP  
1634 Eye Street, N.W., Suite 600  
Washington, DC 20006

Dear Susan D. Inman:

This acknowledges receipt of your March 05, 2018, Freedom of Information Act (FOIA) request, submitted to the Department of Health and Human Services (HHS), FOI/Privacy Acts Division concerning: **This is a second request with Transaction #2018-00512-FOIA-OS**

**1. Trackers, charts, catalogues, spreadsheets, internal databases, and similar records created or obtained by HHS on or after January 29, 2018, regarding or relating to complaints filed with HHS OCR alleging a violation of civil rights on the basis of religion, or categorized by agency personnel as alleging a violation of civil rights on the basis of religion, including:**

- a. The weekly, monthly or annual volume of complaints received alleging a violation on the basis of religion;**
  - b. The geographic origin of complaints alleging a violation on the basis of religion;**
  - c. The geographic location of the agency or organization against which complaints have been filed alleging a violation on the basis of religion;**
  - d. The total length of investigation for each complaint alleging a violation on the basis of religion;**
  - e. The nature of the resolution of each complaint alleging a violation on the basis of religion, such as closure after investigation or closure on administrative grounds;**
  - f. Any other document utilized by HHS OCR to organize or otherwise track complaints alleging violations on the basis of religion.**
- 2. All complaints received by HHS OCR alleging a violation of civil rights on.**

We received your request on **March 05, 2018**.

We have initiated a search to locate records falling within the scope of your request. If our searching units advise us that you have requested a voluminous amount of records that require extensive search and examination, my staff will contact you shortly to discuss your willingness to modify your request.

The FOIA requires that we respond to your request within 20 working days of its receipt in this office. Please note the following unusual and exceptional circumstances that will impact our response time: (1) we will need to search for and collect records from components and/or field offices external to this office; and (2) because we receive a very heavy volume of FOIA requests, we will process your request in line with our established policy of "first in, first out" case processing. If either of these circumstances prevents our office from responding within the 20 working day timeframe, we will utilize a 10 working day extension to process your request, as permitted pursuant to the FOIA. This policy is consistent with court decisions regarding FOIA's time limits.

The law authorizes us to collect fees for responding to FOIA requests and assume that you are willing to pay any applicable fees for processing this request unless you have stated otherwise. If at any time the fee for processing your request is estimated to exceed \$250.00, we will send you an invoice for the estimated fee and suspend further processing until payment of the invoiced amount is received. If the estimated processing fee does not exceed \$250.00, we will send you an invoice for the actual fee with our response.

Please note the following:

If you believe that we should expedite the processing of your request because the requested records are needed in light of a compelling need; i.e., an imminent threat to the life and safety of an individual; an urgency to inform the public concerning government activity (provided you are a member of the media); a deadline in litigation; a deadline for commenting on proposed regulations; or other urgent matters, you must ask for expedited processing in writing and provide to this office as much relevant information as possible. In line with 5 U.S.C. § 552(a)(6)(E)(vi), you must demonstrate the compelling need in a statement certified to be true and correct to the best of your knowledge and belief. Attach any supporting documentation to your statement, including a court scheduling order if your request is based upon a litigation deadline. (Fax supporting documentation to the FOIA/PA Division at (202) 690-8320).

If your request seeks a waiver or reduction of the fees that we would customarily charge for furnishing agency records and your request does not contain sufficient information to enable us to determine whether a waiver or reduction of fees is warranted, you should provide such information to this office within 10 working days of receipt of this letter. In line with 45 C.F.R. § 5.45, such information must include a detailed explanation of how disclosure to you: (1) is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, and (2) is not primarily in the commercial interest of the requester. I especially need to know how you intend to disseminate the information to the public.

When submitting this additional information, please refer to the case number listed at the top left-hand corner of this letter, and send it to:

FOI/Privacy Acts Division  
U.S. Department of Health and Human Services  
200 Independence Avenue S.W.  
Room 729H  
Washington, DC 20201

If you are not satisfied with any aspect of the processing and handling of this request, you have the right to seek dispute resolution services from:

Michael Bell  
HHS FOIA Public Liaison  
U.S. Department of Health and Human Services  
Office of the Assistant Secretary for Public Affairs  
Room 729H  
200 Independence Avenue, S.W.  
Washington, DC 20201

Telephone: (202) 260-0793  
E-mail: [HHS FOIA Public Liaison@hhs.gov](mailto:HHS_FOIA_Public_Liaison@hhs.gov)

and/or:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road – OGIS  
College Park, MD 20740-6001

Telephone: 202-741-5770  
Toll-Free: 1-877-684-6448  
E-mail: [ogis@nara.gov](mailto:ogis@nara.gov)  
Fax: 202-741-5769

Any questions regarding the status of this request should be directed to our office at 202-690-7453.

Sincerely yours,

*For*  
*Michael S. Marquis*

Michael S. Marquis  
Director  
FOI/Privacy Acts Division

**CIVIL COVER SHEET**

JS-44 (Rev. 6/17 DC)

<p><b>I. (a) PLAINTIFFS</b> Center for Reproductive Rights National Women's Law Center</p> <p>(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF <u>88888</u> (EXCEPT IN U.S. PLAINTIFF CASES)</p>	<p><b>DEFENDANTS</b> U.S. Department of Health and Human Services</p> <p>COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____ (IN U.S. PLAINTIFF CASES ONLY) <small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small></p>																								
<p>(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) Covington &amp; Burling LLP 850 Tenth Street NW, Washington, DC 20001 202-662-6000</p>	<p>ATTORNEYS (IF KNOWN)</p>																								
<p><b>II. BASIS OF JURISDICTION</b> (PLACE AN X IN ONE BOX ONLY)</p> <p><input type="radio"/> 1 U.S. Government Plaintiff      <input type="radio"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input checked="" type="radio"/> 2 U.S. Government Defendant      <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)</p>	<p><b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) <b>FOR DIVERSITY CASES ONLY!</b></p> <table style="width:100%; border: none;"> <thead> <tr> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td style="text-align: center;"><input type="radio"/> 4</td> <td style="text-align: center;"><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="radio"/> 5</td> <td style="text-align: center;"><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="radio"/> 6</td> <td style="text-align: center;"><input type="radio"/> 6</td> </tr> </tbody> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
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Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6																				

**IV. CASE ASSIGNMENT AND NATURE OF SUIT**

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

<p><input type="radio"/> <b>A. Antitrust</b></p> <p><input type="checkbox"/> 410 Antitrust</p>	<p><input type="radio"/> <b>B. Personal Injury/Malpractice</b></p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel &amp; Slander</p> <p><input type="checkbox"/> 330 Federal Employers Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p><input type="checkbox"/> 362 Medical Malpractice</p> <p><input type="checkbox"/> 365 Product Liability</p> <p><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Product Liability</p>	<p><input type="radio"/> <b>C. Administrative Agency Review</b></p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><u>Social Security</u></p> <p><input type="checkbox"/> 861 HIA (1395ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p> <p><u>Other Statutes</u></p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)</p>	<p><input type="radio"/> <b>D. Temporary Restraining Order/Preliminary Injunction</b></p> <p>Any nature of suit from any category may be selected for this category of case assignment.</p> <p><b>*(If Antitrust, then A governs)*</b></p>
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<p><input type="radio"/> <b>E. General Civil (Other)</b>      OR      <input type="radio"/> <b>F. Pro Se General Civil</b></p>			
<p><u>Real Property</u></p> <p><input type="checkbox"/> 210 Land Condemnation</p> <p><input type="checkbox"/> 220 Foreclosure</p> <p><input type="checkbox"/> 230 Rent, Lease &amp; Ejectment</p> <p><input type="checkbox"/> 240 Torts to Land</p> <p><input type="checkbox"/> 245 Tort Product Liability</p> <p><input type="checkbox"/> 290 All Other Real Property</p> <p><u>Personal Property</u></p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p>	<p><u>Bankruptcy</u></p> <p><input type="checkbox"/> 422 Appeal 27 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p><u>Prisoner Petitions</u></p> <p><input type="checkbox"/> 535 Death Penalty</p> <p><input type="checkbox"/> 540 Mandamus &amp; Other</p> <p><input type="checkbox"/> 550 Civil Rights</p> <p><input type="checkbox"/> 555 Prison Conditions</p> <p><input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement</p> <p><u>Property Rights</u></p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 835 Patent - Abbreviated New Drug Application</p> <p><input type="checkbox"/> 840 Trademark</p>	<p><u>Federal Tax Suits</u></p> <p><input type="checkbox"/> 870 Taxes (US plaintiff or defendant)</p> <p><input type="checkbox"/> 871 IRS-Third Party 26 USC 7609</p> <p><u>Forfeiture/Penalty</u></p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 690 Other</p> <p><u>Other Statutes</u></p> <p><input type="checkbox"/> 375 False Claims Act</p> <p><input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 430 Banks &amp; Banking</p> <p><input type="checkbox"/> 450 Commerce/ICC Rates/etc.</p> <p><input type="checkbox"/> 460 Deportation</p>	<p><input type="checkbox"/> 462 Naturalization Application</p> <p><input type="checkbox"/> 465 Other Immigration Actions</p> <p><input type="checkbox"/> 470 Racketeer Influenced &amp; Corrupt Organization</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 490 Cable/Satellite TV</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input type="checkbox"/> 896 Arbitration</p> <p><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p> <p><input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)</p>

<input type="radio"/> <b>G. Habeas Corpus/ 2255</b>  <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> <b>H. Employment Discrimination</b>  <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation)  *(If pro se, select this deck)*	<input checked="" type="radio"/> <b>I. FOIA/Privacy Act</b>  <input checked="" type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act)  *(If pro se, select this deck)*	<input type="radio"/> <b>J. Student Loan</b>  <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> <b>K. Labor/ERISA (non-employment)</b>  <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> <b>L. Other Civil Rights (non-employment)</b>  <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> <b>M. Contract</b>  <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholder's Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> <b>N. Three-Judge Court</b>  <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

**V. ORIGIN**  
 1 Original Proceeding  
  2 Removed from State Court  
  3 Remanded from Appellate Court  
  4 Reinstated or Reopened  
  5 Transferred from another district (specify)  
  6 Multi-district Litigation  
  7 Appeal to District Judge from Mag. Judge  
  8 Multi-district Litigation – Direct File

**VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)**  
 5 U.S.C. § 552. Defendant has failed to comply with statutory requirement to produce records.

<b>VII. REQUESTED IN COMPLAINT</b>	CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 <input type="checkbox"/>	DEMAND \$ _____	JURY DEMAND: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<b>VIII. RELATED CASE(S) IF ANY</b>	(See instruction)	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	If yes, please complete related case form

DATE: 7/19/18      SIGNATURE OF ATTORNEY OF RECORD:

**INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44**  
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the cover sheet.

- I. COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III. CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV. CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI. CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII. RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk's Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.



Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify):* \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

Center for Reproductive Rights; and  
National Women's Law Center

\_\_\_\_\_  
*Plaintiff*

v.

U.S. Department of Health and Human Services

\_\_\_\_\_  
*Defendant*

)  
)  
)  
)  
)  
)  
)

Civil Action No. 18-1688

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

Jessie K. Liu  
United States Attorney for the District of Columbia  
555 4th Street, NW  
Washington, DC 20530

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

William R. McAuliffe  
Covington & Burling LLP  
One CityCenter  
850 Tenth Street NW  
Washington, DC 20001

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*ANGELA D. CAESAR, CLERK OF COURT*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify):* \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

Center for Reproductive Rights; and  
National Women's Law Center

\_\_\_\_\_  
*Plaintiff*

v.

U.S. Department of Health and Human Services

\_\_\_\_\_  
*Defendant*

)  
)  
)  
)  
)  
)  
)

Civil Action No. 18-1688

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

Jefferson B. Sessions  
Attorney General of the United States  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

William R. McAuliffe  
Covington & Burling LLP  
One CityCenter  
850 Tenth Street NW  
Washington, DC 20001

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*ANGELA D. CAESAR, CLERK OF COURT*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

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\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

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designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
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I returned the summons unexecuted because \_\_\_\_\_; or

Other *(specify):* \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: