



**U.S. Department of Justice**

United States Marshals Service

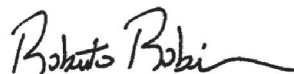
*Office of the Director*

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*Washington, DC 20530-0001*

February 14, 2023

MEMORANDUM TO: United States Marshals Service Employees

FROM: Roberto I. Robinson   
Deputy Director

SUBJECT: Interim Guidance on Reproductive Healthcare Services for United States Marshals Service Prisoners

This interim guidance relates to the United States Marshals Service's (USMS) statutory obligations under 18 U.S.C. §§ 4008 and 4086; President Biden's Executive Order 14076 of July 8, 2022, *Protecting Access to Reproductive Healthcare Services*; Federal Performance Based Detention Standards, B.5.7, B.5.8; and USMS Policy Directive 9.5, *Pregnant Prisoner Care* to continue to provide reproductive healthcare services for Marshals Service prisoners. This Interim Guidance will be followed by a policy directive incorporating this information and serves as reminder that pregnant and postpartum prisoners in the custody of the USMS must continue to receive timely and appropriate access to reproductive health care, services, and counseling. Reproductive health services include abortion services.

The Supreme Court's ruling in *Dobbs v. Jackson Women's Health Organization* (2022) does not change the USMS' commitment to providing access to reproductive health care services. Although *Dobbs* overruled *Roe v. Wade* (1973) and *Planned Parenthood of Southeastern Pennsylvania v. Casey* (1992), the USMS possesses the authority to facilitate access to reproductive-related services in a state where abortion services may legally be performed. A prisoner may elect to obtain abortion services and request that the USMS facilitate access to those services through transport and security, regardless of where that prisoner is housed. The USMS must facilitate (provide or pay for) timely and appropriate access at no cost to the prisoner, consistent with the law of the state in which the abortion is determined to be performed. If a federal prisoner seeks abortion services that are not permitted in the state in which she is in custody due to state limitations or restrictions, the USMS must facilitate transportation and security-related services to a state where the abortion services are permitted under that state law at no cost to the prisoner. USMS female prisoners who notify the USMS that they are pregnant upon coming into custody or are determined to be pregnant once in custody will be notified and advised of these rights.

The one important clarification to the above is that under the Hyde Amendment, federal funds for the payment of an abortion itself are permitted **only in cases where the prisoner becomes pregnant as a result of rape or incest, or where the prisoner's life is in danger as a result of the pregnancy**. Any prisoner requesting federal funds for the payment of an abortion

Subject: Interim Guidance on Reproductive Healthcare Services for United States Marshals Service Prisoners

itself must review and sign [Form USM-651](#), *Hyde Amendment Acknowledgement*, acknowledging their understanding of Hyde Amendment limitations and attesting to their eligibility for federal payment for abortion services prior to arrangement for such services. Completion of the Form USM-651 is no longer required if the abortion itself is not to be federally funded. Regardless of whether the Hyde Amendment allows the USMS to pay for the abortion itself, the USMS will facilitate transportation and other security-related services to a state where the abortion services are permitted under that state law at no cost to the prisoner. We maintain that USMS employees act within the scope of their federal duties and serve a federal function while providing USMS prisoners reproductive-related administrative, security, and transportation-related services.

In a statement issued June 24, 2022, following the *Dobbs* decision, the Attorney General noted that the Constitution continues to restrict states' authority to ban reproductive services provided outside their borders. The Attorney General further stated, "It is the Department's longstanding position that States generally may not impose criminal or civil liability on federal employees who perform their duties in a manner authorized by federal law." For the full statement, please visit the DOJ's Office of Public Affairs [website](#). Subject to the requirements and procedures set forth in 28 C.F.R. §§ 50.15 and 50.16, Department of Justice representation, or private counsel at government expense, may be available to USMS employees in civil, criminal, and professional licensure proceedings for actions performed within the scope of those federal duties. The Office of General Counsel (OGC) supports the representation of USMS officials who serve these federal functions in a manner consistent with USMS policy and federal law.

This memorandum supersedes the [memorandum](#) from Acting Assistant Director Aaron Sawyer, dated April 27, 2022. For legal questions or concerns regarding the provision of these federal services, please contact Senior Associate General Counsel Amanda Choi, OGC, at (b) (6) or Associate General Counsel Charles Miracle, OGC, at (b) (6). For operational questions, please contact Acting Chief Jose Figueroa, Prisoner Operations Division, at (b) (6). An amended policy directive shall follow this Interim Guidance.



**From:** (b)(6) (OLA)" (b) (6)  
**To:** "Morse, Jodie (OASG)" (b) (6), "Mizer, Benjamin (OASG)" (b) (6), "Wolfson, Paul (OASG)" (b) (6), "Walker, Burden (OAG)" (b) (6), "Maltby, Jeremy (ODAG)" (b) (6), "Forbes, Carlton (ODAG)" (b) (6), "Reich, Mitchell (OAG)" (b) (6)  
**Cc:** "Bond, Slade (OLA)" (b) (6)  
**Subject:** RE: [EXTERNAL] HEARING ADVISORY: Revisiting the Implications of the FACE Act  
**Date:** Wed, 17 May 2023 14:53:32 +0000  
**Importance:** Normal  
**Attachments:** 5.16.2023 House FACE Act Hearing Bullets.docx

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Hi all,

Attaching some key takeaways for this hearing that took place yesterday.

(b)(6)

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**From:** (b)(6) (OLA)  
**Sent:** Monday, May 15, 2023 11:29 AM  
**To:** Morse, Jodie (OASG) (b) (6); Mizer, Benjamin (OASG) (b) (6); Wolfson, Paul (OASG) (b) (6); Walker, Burden (OAG) (b) (6); Maltby, Jeremy (ODAG) (b) (6); Forbes, Carlton (ODAG) (b) (6); Reich, Mitchell (OAG) (b) (6)  
**Subject:** RE: [EXTERNAL] HEARING ADVISORY: Revisiting the Implications of the FACE Act

Hi all,

Flagging that the minority witness for tomorrow's hearing is:

**Talcott Camp, Chief Legal & Strategy Officer for the National Abortion Federation**

Talcott Camp (she/her) joined NAF in 2020, in the new role of Chief Legal & Strategy Officer. She oversees NAF's legal work, and plays a major role in all NAF's strategic decision making. She brings her long-game perspective to both NAF's leadership team and NAF members.

Before joining NAF, Talcott was Deputy Director of the ACLU Reproductive Freedom Project, where she represented NAF and NAF members across the country for over 20 years. In that capacity, she conducted and supervised litigation, advocacy, and communications work; advised ACLU affiliates nationwide; and was a frequent invited speaker at medical conferences, making legal issues clear for clinicians and others.

Talcott earned a B.A. in French and Theater Studies from Yale College and a J.D. from Columbia Law School. She served as a law clerk to Justice Marie L. Garibaldi, the first woman on the New Jersey Supreme Court. She is a former Swahili instructor at Yale and a Knight of the French Republic (Chevalier de l'Ordre des Palmes Académiques). Talcott lives in her hometown, New York City, where she awaits the return of live music, and loves the food, the folks, and the feisty.

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**From:** Bond, Slade (OLA) (b) (6)  
**Sent:** Friday, May 12, 2023 2:59 PM  
**To:** Morse, Jodie (OASG) (b) (6)

Cc: (b)(6) (OLA) (b) (6)

Subject: FW: [EXTERNAL] HEARING ADVISORY: Revisiting the Implications of the FACE Act

FYI

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**SLADE BOND**

Deputy Assistant Attorney General

Office of Legislative Affairs

U.S. Department of Justice

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**From:** House Judiciary Republicans (b) (6)

**Sent:** Friday, May 12, 2023 2:02 PM

**To:** Bond, Slade (OLA) (b) (6)

**Subject:** [EXTERNAL] HEARING ADVISORY: Revisiting the Implications of the FACE Act

**FOR IMMEDIATE RELEASE** | House Judiciary Committee Republicans



**WASHINGTON, D.C.** The House Judiciary Subcommittee on the Constitution and Limited Government will hold a [hearing](#) on Tuesday, May 16, 2023, at 10:00 a.m. ET. The hearing, "Revisiting the Implications of the FACE Act," will examine recent attacks on pregnancy centers, pro-life facilities, and the Biden Administration's use of the Freedom of Access to Clinic Entrances (FACE) Act.

**WHAT:** House Judiciary Subcommittee on the Constitution and Limited Government hearing on "Revisiting the Implications of the FACE Act"

**WHEN:** Tuesday, May 16, 2023, at 10:00 a.m. ET in 2141 Rayburn House Office Building

**WITNESSES:**

- Mark Houck, Pro-life Advocate
- Jeremy Dys, Senior Counsel, First Liberty Institute
- Tammy Kocher, Executive Director, New Life Family Services

- More witnesses may be announced

**WATCH:** The hearing will be live streamed [here](#).

**NOTE:** A press conference at the House Triangle located on the East Front of the U.S. Capitol Building will follow the hearing 1:00 p.m. ET. Outlets may RSVP to [judiciarypress@mail.house.gov](mailto:judiciarypress@mail.house.gov).

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**Our mailing address:**

2138 Rayburn House Office Building  
[Update your preferences](#) or [unsubscribe](#)



**From:** "Maltby, Jeremy (ODAG)" (b) (6)  
**To:** "Morse, Jodie (OASG)" (b) (6), "Forbes, Carlton (ODAG)"  
(b) (6), "Hanson, Matthew B. (OLA)"  
(b) (6), "Zdeb, Sara (OLA)" (b) (6)  
"Ndumele, Nicole (OASG)" (b) (6)

**Subject:** RE: SJC Hearing Transcript

**Date:** Wed, 03 May 2023 21:52:55 -0000

**Importance:** Normal

**Attachments:** Fed Aid to Abortion Surveillance Letter 12.7.pdf; MOU with GHRCFL.pdf

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**From:** Maltby, Jeremy (ODAG)  
**Sent:** Wednesday, May 3, 2023 5:48 PM  
**To:** Morse, Jodie (OASG) <(b) (6)>; Forbes, Carlton (ODAG) (b) (6); Hanson, Matthew B. (OLA) (b) (6); Zdeb, Sara (OLA) <(b) (6)>; Ndumele, Nicole (OASG) (b) (6)  
**Subject:** FW: SJC Hearing Transcript

HIRONO: Well, Mr. Attorney General, there are people who are trying to make it ever harder for persons who get pregnant in this country to be able to access abortion services and other reproductive services. And, in fact, we are awaiting a decision by a federal judge in Texas, whether or not he should impose a national injunction on the use of mifepristone, which is the -- the drug that is most often used for early-stage abortion, and is also a drug that is -- that is used to treat miscarriages in the early stages.

So, you have a federal judge that is about to impose a -- this kind of an injunction it would affect every state in the country, including all those states like Hawaii, which was among the first to decriminalize abortion. So, I would say that they efforts do not stop there. So, whatever you can do to make sure that women in this country know that they can travel to -- to other states to get whatever services that they seek.

The department awards billions of dollars in grants to state, local, and tribal law enforcement each year. The department also operates joint task forces, and provides access to forensic and surveillance resources. This sort of collaboration can be good when put to good use fighting criminals who prey on our communities. But these resources could also be used against women seeking reproductive care. How -- I have just sent a letter to the President expressing my concerns about the use of these federal - federal funds by local law enforcement to basically hunt down women who are seeking abortion. So, how is the department working to ensure that states and local partners do not use federal resources to enforce state laws restricting women's access to reproductive care?

GARLAND: On your first question, just to be clear, we have filed in support of the FDA in the mifepristone lawsuit that you're talking about, and we are hopeful that the result will not be the one that you're concerned -- that -- that you've described.

HIRONO: I was just shopping to make sure that is this particular Texas judge who would get this case.

GARLAND: We have filed the appropriate briefs in that.

HIRONO: Thank you.

GARLAND: On the second question, I personally haven't looked into it. I don't know the answer to that. So, if we could have some people in the department get back to your staff on that, I'd be happy to do that.

HIRONO: Thank you very much, with a perspective that these kinds of federal resources should not be used by states to go after women who are seeking reproductive services. I hope that is the perspective that you bring to the issue.

**From:** (b)(6) (OLA)" (b) (6)

**To:** "Morse, Jodie (OASG)" (b) (6)

**Cc:** "Bond, Slade (OLA)" (b) (6)

**Subject:** Senate Judiciary Hearing Tomorrow

**Date:** Tue, 25 Apr 2023 21:24:12 +0000

**Importance:** Normal

**Inline-Images:** image001.png

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Hi Jodie,

Wanted to share the below with you.

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(b)(6) (she/her)  
Office of Legislative Affairs  
U.S. Department of Justice  
C: (b) (6)  
O: (b) (6)



**For Immediate Release**

April 25, 2023

Contact: Josh Sorbe

202-819-3335

**SENATE JUDICIARY COMMITTEE TO HOLD HEARING ON THE  
DEVASTATING FALLOUT SINCE THE SUPREME COURT OVERRULED  
*ROE V. WADE***

*This is the first House or Senate hearing of the 118<sup>th</sup> Congress on reproductive rights*

WASHINGTON **Tomorrow, Wednesday, April 26 at 10:00 AM ET**, the Senate Judiciary Committee will hold a full committee hearing to examine the devastating fallout since the U.S. Supreme Court overruled *Roe v. Wade* in June 2022. “The Assault on Reproductive Rights in a Post-*Dobbs* America” is the first hearing focused on reproductive rights in the House or the Senate this Congress.

Chair Durbin offers the following preview: **“In the nine months since the Court overruled *Roe*, women across the country have lost the ability to make their own reproductive health care decisions. Republican-**



led legislatures have passed abortion bans in more than a dozen states, and a single federal judge in Texas sought to upend our federal drug approval process by attempting to block access to mifepristone, a drug approved more than twenty years ago as safe and effective by the Food and Drug Administration. Although the Supreme Court has intervened, allowing this medication to temporarily remain on the market while this case makes its way through the courts, make no mistake: the battle over women’s reproductive freedom continues. As Chair of the Senate Judiciary Committee, I will keep fighting to enshrine into law a woman’s right to make her own reproductive choices.”

**WHO:** Senate Judiciary Committee

Michele Goodwin  
Chancellor’s Professor of Law, University of California, Irvine School of Law  
Abraham Pinanski Visiting Professor of Law, Harvard Law School  
Cambridge, MA

Nisha Verma, M.D., M.P.H., F.A.C.O.G.  
Fellow  
Physicians for Reproductive Health  
Atlanta, GA

Amanda Zurawski  
Austin, TX

Ingrid Skop, M.D.  
Board-certified Obstetrician/Gynecologist, Texas  
Vice President and Director of Medical Affairs, Charlotte Lozier Institute  
San Antonio, TX

Monique C. Wubbenhorst, M.D., M.P.H., F.A.C.O.G., F.A.H.A.  
Senior Research Associate, de Nicola Center for Ethics and Culture  
University of Notre Dame  
South Bend, IN

**DATE:** Wednesday, April 26, 2023

**TIME:** 10:00 AM ET

**LOCATION:** Room 216 of the Hart Senate Office Building

**LIVESTREAM:** The hearing will stream live on the Judiciary Committee website [here](#), Twitter [here](#), and Facebook [here](#)

This hearing follows the full committee hearing Durbin held in July 2022 entitled, “[A Post-Roe America: The Legal Consequences of the \*Dobbs\* Decision](#).”

**From:** "Reich, Mitchell (OAG)" (b) (6) >  
**To:** "Bond, Slade (OLA)" (b) (6) >, "Walker, Burden (OAG)" (b) (6) >, "Morse, Jodie (OASG)" (b) (6) >, (b)(6) (OLA)" (b) (6) >  
**Cc:** "Kohlman, Abby K. (OLA)" (b) (6) >

**Subject:** RE: Urgent Memo For Attorney General Call with Sen. Warren at 4:15

**Date:** Wed, 12 Apr 2023 18:01:20 +0000

**Importance:** Normal

**Attachments:** Warren\_Backgrounder\_for\_Alliance\_-\_04122023\_-\_130PM+\_mpr.docx

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A few small tweaks from me on the EMTALA portion of the document. I haven't reviewed the Alliance section.

-----Original Message-----

**From:** Bond, Slade (OLA) (b) (6) >  
**Sent:** Wednesday, April 12, 2023 1:52 PM  
**To:** Reich, Mitchell (OAG) (b) (6) >; Walker, Burden (OAG) (b) (6) >; Morse, Jodie (OASG) (b) (6) >; (b)(6) (OLA) (b) (6) >  
**Cc:** Kohlman, Abby K. (OLA) (b) (6) >  
**Subject:** RE: Urgent Memo For Attorney General Call with Sen. Warren at 4:15

Here's the updated backgrounder for review. I will be in a SCIF from 2:00-2:30, but (b)(6) is available if you have any questions.

--  
SLADE BOND  
Deputy Assistant Attorney General  
Office of Legislative Affairs  
U.S. Department of Justice

-----Original Message-----

**From:** Reich, Mitchell (OAG) (b) (6) >  
**Sent:** Wednesday, April 12, 2023 1:50 PM  
**To:** Bond, Slade (OLA) (b) (6) >; Walker, Burden (OAG) (b) (6) >; Morse, Jodie (OASG) (b) (6) >; (b)(6) (OLA) (b) (6) >  
**Cc:** Kohlman, Abby K. (OLA) (b) (6) >  
**Subject:** RE: Urgent Memo For Attorney General Call with Sen. Warren at 4:15

Yes, will do.

-----Original Message-----

**From:** Bond, Slade (OLA) (b) (6) >  
**Sent:** Wednesday, April 12, 2023 1:46 PM  
**To:** Walker, Burden (OAG) (b) (6) >; Morse, Jodie (OASG) (b) (6) >; (b)(6) (OLA) (b) (6) >  
**Cc:** Kohlman, Abby K. (OLA) (b) (6) >; Reich, Mitchell (OAG) (b) (6) >  
**Subject:** RE: Urgent Memo For Attorney General Call with Sen. Warren at 4:15

Yes, we have, thank you very much for providing this, it is very helpful.

Mitch, can you flag for Chris that this is in the AG's binder? We are including relevant talking points in the backgrounder as well.

--

SLADE BOND

Deputy Assistant Attorney General  
Office of Legislative Affairs  
U.S. Department of Justice

-----Original Message-----

From: Walker, Burden (OAG) (b) (6)  
Sent: Wednesday, April 12, 2023 1:44 PM  
To: Morse, Jodie (OASG) (b) (6); (b)(6) (OLA) (b) (6)  
Cc: Bond, Slade (OLA) (b) (6); Kohlman, Abby K. (OLA) (b) (6); Reich,  
Mitchell (OAG) (b) (6)  
Subject: RE: Urgent Memo For Attorney General Call with Sen. Warren at 4:15

Slade - have you reviewed this version? Just want to make sure I'm reviewing the right one. Thank you!

-----Original Message-----

From: Morse, Jodie (OASG) (b) (6)  
Sent: Wednesday, April 12, 2023 12:44 PM  
To: (b)(6) (OLA) (b) (6)  
Cc: Bond, Slade (OLA) (b) (6); Kohlman, Abby K. (OLA) (b) (6); Walker,  
Burden (OAG) (b) (6); Reich, Mitchell (OAG) (b) (6)  
Subject: RE: Urgent Memo For Attorney General Call with Sen. Warren at 4:15

Adding Burden and Mitch to this. I am attaching a doc that the AG already has in his binder that we prepared for the AG and ASG. This has all of the most current background info.

From: (b)(6) (OLA) (b) (6)  
Sent: Wednesday, April 12, 2023 12:38 PM  
To: Morse, Jodie (OASG) (b) (6)  
Cc: Bond, Slade (OLA) (b) (6); Kohlman, Abby K. (OLA) (b) (6)  
Subject: Urgent Memo For Attorney General Call with Sen. Warren at 4:15

Hi Jodie,

The Attorney General is set to have a call Senator Warren at 4:15. We believe she is interested in discussing the Department's responses to state laws. Do you have any additional information we could include in a background memo as it relates to (1) (b) (5) or (2) (b) (5)? We currently include a discussion of Alliance and EMTALA cases.

(b)(6)

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(b)(6) (she/her)

Office of Legislative Affairs

U.S. Department of Justice

C: (b) (6)

O: (b) (6)