No. 24-781

In the Supreme Court of the United States

FIRST CHOICE WOMEN'S RESOURCE CENTERS, INC.,
Petitioner,

v.

MATTHEW PLATKIN, in his official capacity as Attorney General of New Jersey,
Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

BRIEF OF FLORIDA, 18 OTHER STATES, AND THE ARIZONA LEGISLATURE AS *AMICI CURIAE* IN SUPPORT OF PETITIONER

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August 28, 2025

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INTEREST OF AMICI CURIAE

Pursuant to Supreme Court Rule 37, the State of Florida and 18 other States respectfully submit this brief as *amici curiae* in support of Petitioner. Amici States' citizens donate to pregnancy resource centers, and many wish to do so privately. Amici States have an interest in protecting their citizens' ability to continue associating with out-of-state pregnancy resource centers without fear of unconstitutional public disclosure and harassment from radical pro-abortion activists and state attorneys general.

The Amici States also have a responsibility to promote public health and welfare. Pregnancy resource centers are valuable partners in this effort. By providing millions of dollars of material assistance and free services to financially vulnerable women and families each year, pregnancy resource centers greatly alleviate the burden on Amici State agencies. Smear campaigns perpetrated by the abortion industry jeopardize pregnancy resource centers' ability to continue providing these crucial benefits. Amici States therefore have an interest in protecting pregnancy resource centers from reputational injury.

The opinion below undermines these interests. By concluding that Petitioner First Choice Women's Resource Centers has "not yet show[n] enough of an injury," Pet.App.4a., the opinion chills association between Amici States' citizens and out-of-state pregnancy resource centers; perpetuates a false view that donors' concerns about harassment and reprisals are unreasonable; and damages the reputation of pregnancy resource centers by denying Petitioner a forum to vindicate itself against insinuations of wrongdoing.

SUMMARY OF ARGUMENT

In response to *Dobbs*,[1] Planned Parenthood sponsored hundreds of rallies calling for a "summer of rage."[2] This call to arms placed pregnancy resource centers (PRCs)—who threaten both Planned Parenthood's radical pro-abortion agenda and its financial bottom line—directly in the line of fire. By the end of August, over 70 pro-life PRCs had been attacked.[3] The destruction included smashed windows, spraypainted threats, destroyed signs, glued locks, and scratched cars. At least four PRCs were set on fire.[4]

Attorneys general in Amici States responded to this wave of domestic terrorism by investigating and

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[1] *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215 (2022).

[2] Associated Press, *Hundreds of U.S. Rallies Planned in Show of Support for Abortion Rights*, PBS (May 14, 2022), https://tinyurl.com/3bd5csbu; *see also* Women's March, *Women's March Calls for a Summer of Rage after SCOTUS Decision to Overturn Roe v. Wade* (June 24, 2022), https://tinyurl.com/28wpzwd3.

[3] *See* Pet.App.182a; CatholicVote, *Tracking Attacks on Pregnancy Centers & Pro-Life Groups* (Jan. 21, 2025), https://tinyurl.com/shp4vc4e.

[4] Federal Bureau of Investigation, *FBI Buffalo Continues to Offer $25,000 Reward for Information in the CompassCare Arson Investigation* (Jan, 19, 2023), https://tinyurl.com/2ehz75ad; Lindsey Grewe, *Fire at Colorado Pregnancy Center Being Investigated as Arson in Wake of* Roe v. Wade *Reversal*, KKTV11 Alert (June 27, 2022), https://tinyurl.com/y86ctw2w; Caroline Downey, *Pro-Abortion Terrorists Firebomb Oregon Pregnancy Center*, Yahoo News (June 13, 2022), https://tinyurl.com/y5ed7mp7; WBTV, *Molotov cocktails thrown at Lincolnton clinic, FBI searches for suspects*, WBTV.com (Nov. 21, 2022), https://tinyurl.com/yc49dtya.

prosecuting the perpetrators.[5] New Jersey's Attorney General took the opposite approach, partnering with Planned Parenthood to frustrate PRCs' operations by seeking to make their donor lists public, thereby chilling those who would otherwise donate to PRCs. Petitioner First Choice Women's Resource Centers therefore challenged a subpoena for its donor lists on First Amendment grounds.

The Third Circuit ultimately concluded that First Choice had not established a reasonably objective chill of its First Amendment rights. Rather, the panel surmised that First Choice's affidavits "do not yet show enough of an injury." Pet.App.4a. The affidavits clearly alleged a chill to First Choice's association and speech.[6] Implicit in the opinion below, then, is that the alleged chill was not *reasonably objective*. *See Laird v.*

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[5] *See* Press release, Fla. Att'y Gen., Attorney General Moody Announces Victory in Case Against Members of Jane's Revenge, (Jul. 25, 2024), https://tinyurl.com/ycxkmud8.

[6] The three affidavits submitted by First Choice—two from its executive director and one from anonymous donors—detail the subpoena's deleterious effect on association and speech. Pet.App.174a–190a. The donors attest that they are less likely to donate to First Choice knowing that their information might be disclosed to officials like the New Jersey Attorney General. Pet.App.177a. The executive director echoes that the subpoena has made First Choice more reluctant to seek donations from donors who "desire for their donations and communications with First Choice to remain confidential." Pet.App.182a. First Choice fears that, because of the subpoena, continuing to associate with these donors could subject them to "potential violence and harassment." *Id.* The director also attests that First Choice has censored its speech by removing YouTube videos sharing client success stories because the videos contain identifying information about staff members. PetApp.181a. First Choice worries that, given the public investigation, the videos may subject staff to harassment. *Id.*

Tatum, 408 U.S. 1, 13–14 (1972) ("Allegations of a subjective 'chill' are not an adequate substitute for a claim of specific present objective harm[.]").

That conclusion cannot be justified. Properly situating this dispute within its broader social and political context makes that all the more clear. For decades, Planned Parenthood—concerned that PRCs cut into its bottom line by empowering woman to bring their pregnancies to term—has attempted to stymie PRCs' legitimate outreach efforts. In this brief, Amici States describe (1) Planned Parenthood's commitment to profit and politics above all else; (2) the threat Planned Parenthood perceives PRCs to pose to its profits; and (3) Planned Parenthood's escalating campaign against PRCs, maturing into a state-backed inquisition. Against that factual backdrop, First Choice's concerns about its association and speech rights being chilled were eminently reasonable.

ARGUMENT

First Choice has shown a reasonably objective chill of its First Amendment rights.

New Jersey's burdensome and harassing subpoenas for swaths of sensitive information should have been enough to establish a reasonably objective chill of First Choice's exercise of First Amendment rights. Because "First Amendment freedoms need breathing space to survive," *NAACP v. Button*, 371 U.S. 415, 433, (1963), "[e]very demand" for disclosure that even "*might* chill association" runs afoul of the First Amendment. *Ams. for Prosperity Found. v. Bonta*, 594 U.S. 595, 615 (2021) (emphasis added). The question

is therefore whether the subject of a disclosure request has shown that an "objective chill exists." Pet.33. This test will present some tough cases. But when the targeted organization and its supporters have been "subjected to bomb threats, protests, stalking, and physical violence," the deterrent effect is undeniably "real and pervasive." *Bonta*, 594 U.S. at 617.

That is regrettably the case here. The subpoena giving rise to this case was not issued in a vacuum. Planned Parenthood has long prioritized profits over the health of its patients and has ceaselessly promoted the abortion services that pad its coffers. It has therefore viewed PRCs—which offer expectant mothers a meaningful alternative to abortion—as a threat to those profits. But instead of improving its services or rising to the competition, Planned Parenthood has orchestrated a campaign of harassment and disinformation against PRCs, hoping to hinder their life-affirming mission. The New Jersey Attorney General's abusive disclosure request is the latest in a long line of attempts by Planned Parenthood to chill PRCs in the exercise of their First Amendment rights of association and speech. This Court should not sanction Planned Parenthood's effort to weaponize the subpoena power of its state allies.

A. In its pursuit of profits, Planned Parenthood has prioritized abortion services.

Planned Parenthood is a network of entities recognized under sections 501(c)(3) and 501(c)(4) of the Internal Revenue Code.[7] The 501(c)(3)s include Planned Parenthood Federation of America (PPFA), its independently incorporated affiliates, and Planned Parenthood Global.[8] The primary 501(c)(4), Planned Parenthood Action Fund, is an "advocacy arm" that directs the organization's lobbying and political activities, and many Planned Parenthood affiliates also have related 501(c)(4) organizations.[9]

Business is booming for Planned Parenthood. Its most recent annual report lists over $2 billion in revenue and $3.1 billion in assets.[10] The secret to Planned Parenthood's recent success is a top-down strategy of decreasing unprofitable health services and increasing profitable abortions.[11] From 2013 to

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[7] Planned Parenthood Federation of America, *Who We Are*, https://tinyurl.com/3mbde44c; Planned Parenthood Federation of America, *Frequently Asked Questions*, https://tinyurl.com/4yd7fddb.

[8] Planned Parenthood Federation of America, *Who We Are*, https://tinyurl.com/3mbde44c.

[9] Planned Parenthood Federation of America, *Frequently Asked Questions*, What is Planned Parenthood Federation of America? How is it different from Planned Parenthood Action Fund?, https://tinyurl.com/4yd7fddb; Planned Parenthood Action Fund, *Disclosure Statement*, https://tinyurl.com/cm7pa9nr.

[10] Planned Parenthood Federation of America, *Annual Report 2023-2024* at 24, 26, https://tinyurl.com/3sacwvxp.

[11] Andrea Trudden, *Planned Parenthood brings in billions. Pregnancy help saves lives for free* (June 2, 2025), https://tinyurl.com/mry4bypt.

2023, Planned Parenthood's cancer screening and prevention services dropped by 54%, including declines of 61% for breast exams and 54% for pap tests.[12] Prenatal services dropped by 63% over that time.[13] Meanwhile, the number of abortions performed by Planned Parenthood reached 402,230 in 2023—an all-time high.[14]

Planned Parenthood has also shifted its business model away from less profitable surgical abortions to more profitable chemical abortions. The Biden administration's elimination of the in-person dispensing requirement created a 50-state mail-order chemical abortion economy overnight.[15] Through "telehealth" and the mail, Planned Parenthood can sell more abortions with less overhead.[16] The profit margin is considerable. One chemical abortion regimen costs Planned Parenthood less than $100, yet it charges its customers an average of $580.[17]

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[12] Charlotte Lozier Institute, *Fact Sheet: Planned Parenthood's 2023-24 Annual Report* (May 12, 2025), https://tinyurl.com/3bch3xhz.

[13] *Id.*

[14] *Id.*; Planned Parenthood Federation of America, *Annual Report 2023-2024* at 23, *supra* n.10.

[15] Pam Belluck, *F.D.A. Will Permanently Allow Abortion Pills by Mail*, New York Times (Dec. 16, 2021), https://tinyurl.com/ymk64f57.

[16] Andrea Trudden, *Planned Parenthood brings in billions. Pregnancy help saves lives for free*, *supra* n.11; Bradely Mattes, *Planned Parenthoods Close, Abortion Pills Rise*, Life Issues Institute (June 19, 2025), https://tinyurl.com/ypxv8c7n.

[17] Rita Diller, *Abortion Pills Provide Hefty Profit Margin for Planned Parenthood*, American Life League (Dec. 15, 2022), https://tinyurl.com/bdvhemkv ("Though Planned Parenthood pays very little for the pills, the average cost of a pill abortion initiated by Planned Parenthood is $580, though it can be $800

Because chemical abortions are far more dangerous than surgical abortions, this strategy carries a degree of liability. Chemical abortions are four times more likely to result in an adverse event, and much more likely to require emergency medical care.[18] For instance, Planned Parenthood was sued in 2022 by a young woman who did not receive an ultrasound or physical examination to determine her baby's gestational age prior to receiving abortion drugs from Planned Parenthood.[19] The abortionist misdated the baby's age as six weeks, resulting in the at-home delivery of a "lifeless, fully-formed baby in the toilet," later determined to be between 30 and 36 weeks old.[20] The woman alleges that the experience caused her "significant stress, trauma, emotional anguish, physical pain, including laceration and an accelerated labor and delivery unaided by medication, lactation, soreness, and bleeding."[21]

The risks do not end with hospitalization. On average, chemical abortion claims the life of at least one

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or higher."); *see also* Anna North, *America's First Generic Abortion Pill, Explained*, Vox (Aug. 20, 2019), https://tinyurl.com/mry9xna4.

[18] Maarit Niinimaki et al., *Immediate complications after medical compared with surgical termination of pregnancy*, 114 Obstetrics & Gynecology 795 (2009) ("The overall incidence of adverse events was fourfold higher in the medical [abortion cohort] compared with surgical abortion cohort[,] . . . Hemorrhage[,] . . . and incomplete abortion[.]").

[19] Complaint, *Doe v. Shah*, No. 501531/2021 ¶19 (Sup. Ct. of N.Y., Cnty. of Kings Jan. 20, 2021).

[20] *Id.* ¶¶58, 62.

[21] *Id.* ¶73.

woman in the United States each year.[22] But the cost-benefit-analysis apparently still favors pushing abortion pills, so much so that Planned Parenthood peddles the falsehood that chemical abortion is safer than over-the-counter medications like Tylenol.[23]

This is not the only lie Planned Parenthood tells to boost profits. The organization also has a well-documented history of engaging in inadequate and illegal billing practices "designed to maximize their bottom-line revenues."[24] One analysis examined 51 state and federal audits of Planned Parenthood affiliates' financial data. Nearly all found evidence of overbilling. Altogether, affiliates were identified as the source of at least $12.8 million in waste, abuse, and potentially fraudulent overbilling. Former Planned Parenthood employees and others allege many millions more.[25]

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[22] United States Food & Drug Administration, *Questions and Answers on Mifepristone for Medical Termination of Pregnancy Through Ten Weeks Gestation*, https://tinyurl.com/ys7khzmp.

[23] *See* Planned Parenthood, *How Safe is the Abortion Pill?*, (May 22, 2025), https://tinyurl.com/3xx5v3fn; Cameron Louttit, *The Origins and Proliferation of Unfounded Comparisons Regarding the Safety of Mifepristone*, BioTech 2, 12 (2025), available at https://tinyurl.com/ydem6xxp ("[C]laim[s] that 'mifepristone is safer than Tylenol'" are entirely inappropriate comparisons that have never been, and indeed cannot be, investigated in the rigorous, scientific manner rightfully demanded of medical information. . . . Put simply, it is not possible to draw any conclusion from the comparison of drugs with different uses, administered in different manners, and used by individuals with different risk factors.").

[24] Catherine Glenn Foster, *Profit. No Matter What.* at 4, Charlotte Lozier Institute & Alliance Defending Freedom (Jan. 2017), https://tinyurl.com/3smtxhru.

[25] *Id.*

In 2015, a series of investigative videos suggested that Planned Parenthood was also profiting from the sale of fetal remains. In one video, a woman posing as a buyer of fetal tissue asks an affiliate executive how much Planned Parenthood charges for the remains of aborted babies.[26] The executive answers that, "in negotiations, the person who throws out the figure first is at a loss."[27] Nevertheless, the executive suggests $75 per "specimen."[28] The undercover investigator suggests $100, to "keep [the executive] happy."[29] The executive expresses approval but reserves judgment until she finds out "what other affiliates are getting."[30] "I want a Lamborghini," she jokes.[31] At the end of the meeting, the executive promises to talk to her "surgeon" about using a "less crunchy technique" to maximize the odds of procuring fully intact specimens.[32]

An investigation launched by the Senate Judiciary Committee found that PPFA "initially had a policy in place to ensure its affiliates were complying with [federal law prohibiting the sale of fetal remains for profit], but the affiliates failed to follow its fetal tissue

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[26] The Center for Medical Progress, *Second Planned Parenthood Senior Executive Haggles Over Baby Parts Prices, Changes Abortion Methods*, YouTube at 2:21 (July 21, 2015), https://tinyurl.com/3byvs7m9.

[27] *Id.* at 2:50.

[28] *Id.* at 3:17.

[29] *Id.* at 3:55.

[30] *Id.* at 6:45.

[31] *Id.* at 7:55.

[32] *Id.* at 4:38, 6:05; *see also* Lauren Gambino, *Second Planned Parenthood video shows official discussing fetal tissue*, The Guardian (Jul. 21, 2015), https://tinyurl.com/445tf9ft.

reimbursement policy."[33] When PPFA learned of this situation in 2011, it cancelled the policy. "Thus, PPFA not only turned a blind eye to the affiliates' violations of its fetal tissue policy, but also altered its own oversight procedures enabling those affiliates' practices to continue unimpeded."[34] The Committee further determined that "[t]he cost analyses provided by affiliates of Planned Parenthood Federation of America lack[ed] sufficient documentation and rely on unreasonably broad and vague claims of costs for 'the transportation, implantation, processing, preservation, quality control or storage of' fetal tissue.'"[35] The Committee referred the matter to the FBI and the Department of Justice.[36] In response to this and other investigations, Planned Parenthood announced it would no longer accept payment for fetal remains.[37]

The scandal was a minor setback for Planned Parenthood. Over the next decade, the organization steadily increased its revenues from $1.4 billion in 2015 to over $2 billion in the most recent report.[38]

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[33] Senator Chuck Grassley, *Grassley Refers Planned Parenthood, Fetal Tissue Procurement Organizations to FBI, Justice Dept. for Investigation* (Dec. 13, 2016), https://tinyurl.com/3bmzk9tf.

[34] *Id.*

[35] *Id.*

[36] *Id.*

[37] Jessica Glenza, *Planned Parenthood ends fetal tissue payments: how did we get here?*, The Guardian (Oct. 15, 2015), https://tinyurl.com/2uxrt6fb.

[38] Planned Parenthood Federation of America, *2015-2016 Annual Report*, https://tinyurl.com/ynm5j8az; Planned Parenthood Federation of America, *Annual Report 2023-2024*, *supra* n.10.

With all this revenue, one would expect Planned Parenthood's clients to encounter top-of-the-line facilities, equipment, and medical professionals. Not so. Conditions at clinics are so poor that even the *New York Times* has noticed. An article published in February reviewed "scores of allegations reviewed by The Times that accuse Planned Parenthood of poor care."[39] In one example, an affiliate continued to bill a client after a botched IUD caused "months of sharp pain and bleeding."[40] Broken air conditioning at another affiliate "kept temperatures in the 90s for several weeks."[41] Multiple affiliates' workers performed blood draws without training. Another continued to perform abortions despite sewage from a backed-up toilet seeping into its recovery room. "Employees shoved exam table pads under the bathroom door to block the leak. Patients vomited from the stench."[42]

PPFA has responded by demanding that affiliates up their numbers. Employees interviewed by the Times "said there has been constant pressure to more than double the number of patients seen from the present 2.1 million, to help bring in more revenues." Corporate's suggestions include limiting primary care visits to 15 minutes and turning away those who cannot afford to pay for services.[43] According to one former

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[39] Katie Benner, *Botched Care and Tired Staff: Planned Parenthood in Crisis*, New York Times (Feb. 12, 2024), https://tinyurl.com/4xtsmuv6.

[40] *Id.*

[41] *Id.*

[42] *Id.*

[43] *Id.*

nurse, Planned Parenthood clinics have become abortion "conveyor belt[s]."[44]

Rather than improve the abysmal conditions at its clinics, Planned Parenthood devotes much of its vast resources—the "majority" of its expenditures, in fact—"on the legal and political fight to maintain abortion rights."[45] Much of what is left after paying the lobbyists, lawyers, and political consultants goes to its executive suite. While the earnings of 501(c)s may not inure to a private shareholder or individual, Planned Parenthood has managed to convert its immense revenues into exorbitant executive salaries without losing its tax-exempt status. Form 990s submitted by Planned Parenthood affiliates show that nine executives made $500,000 or more in fiscal year 2022-2023, with the highest paid executive earning over $875,000.[46] The average affiliate executive earned $352,661, which ranks in the 98th percentile of U.S. wage earners.[47] Federation officer salaries are even higher, averaging $502,896. The salary of PPFA President Alexis McGill Johnson was $904,014—a 74% increase from 2015.[48]

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[44] *Id.*

[45] *Id.*

[46] Judie Brown et al., *2025 Report on Planned Parenthood CEO Compensation* at 2, *American Life League* (2025), https://tinyurl.com/5dhfft4w.

[47] *Id.*

[48] *Id.* at 4.

B. PRCs offer free help to financially vulnerable women and families, and in the process threaten Planned Parenthood's bottom line.

Pregnancy resource centers are not in it for the Lamborghinis. These community-based not-for-profit organizations primarily exist to *give away* money in the form of material assistance and free services, with the aim of reducing the number of expectant mothers who feel financial pressure to undergo an abortion.[49] Material assistance may include clothing, diapers, baby formula, wipes, car seats, strollers, and referrals for housing, childcare, and legal aid.[50] Free services may include pregnancy testing, prenatal and parenting education, breastfeeding consultations, sexual risk avoidance education, and after-abortion recovery support.[51]

Since the early 2000s, many PRCs have also provided medical services such as early obstetrical ultrasounds, mammogram exams, and testing and treatment for sexually transmitted disease.[52] PRCs now

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[49] Charlotte Lozier Institute, *Fact Sheet: Pregnancy Centers – Serving Women and Saving Lives (2020 Study)* (July 19, 2021), https://tinyurl.com/3t2hxbws.

[50] Charlotte Lozier Institute, *A Half Century of Hope* at 31–32 (Sept. 5, 2018), https://tinyurl.com/57ychscn.

[51] Charlotte Lozier Institute, *Lives Saved Impact at U.S. Pregnancy Help Centers* (June 23, 2022), https://tinyurl.com/3t45zz9s.

[52] Charlotte Lozier Institute, *Pregnancy Centers Stand the Test of Time* at 25 (Oct. 21, 2020), https://tinyurl.com/39m5c9jv.

enjoy the services of over 10,000 on-staff or volunteer medical professionals.[53]

The earliest PRCs opened in the 1960s, as States began to legalize abortion.[54] Despite their reliance on donations, volunteers, and modestly compensated staff, the number of PRCs in the United States has grown to approximately 3,000 locations across all 50 States and the District of Columbia.[55] Data from 2022 shows that PRCs rendered over $358 million in services and material assistance.[56]

Federal and state governments recognize PRCs as a major asset to their social services programs. State health departments actively refer to PRCs in many States, and several States award PRCs block grants to support their efforts to keep financially vulnerable populations healthy, clothed, fed, housed, and off government assistance.[57] For instance, in 2024–25, the Florida Legislature appropriated nearly $30 million to the Florida Pregnancy Support Services program,

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[53] Charlotte Lozier Institute, *Fact Sheet: Pro-Life Pregnancy Centers Deliver Real-World Results* (Jan. 6, 2023), https://tinyurl.com/bd7rtj5v.

[54] Charlotte Lozier Institute, *A Half Century of Hope* at 4, *supra* n.50.

[55] Charlotte Lozier Institute, *Fact Sheet: Pregnancy Centers – Serving Women and Saving Lives (2020 Study)*, *supra* n.49.

[56] Charlotte Lozier Institute, *Pregnancy Centers Provided Over $350M of Services & Goods* (Dec. 15, 2023), https://tinyurl.com/4c5eht6e.

[57] *Id.*

which provides education, care coordination, and support for pregnant women and new families through a network of licensed PRCs.[58]

Pregnancy resource centers are accredited and abide by written codes of conduct. One accreditor, for instance, requires PRCs to sign its Principles and Commitment of Care and Competence, which include promises that "[a]ll advertising and communications are truthful and honest, and accurately describe the services [the PRC] offer[s]" and that "[c]lients receive accurate information" about pregnancy and abortion.[59] PRCs participating in the Florida Pregnancy Support Services program must affirm that they will "provide services that are confidential, non-judgmental, and free-of-charge" "in a manner that is non-coercive."[60]

Like Planned Parenthood, PRCs provide options consultation to women facing unplanned pregnancies. And like Planned Parenthood, PRCs acknowledge three options: parenting, adoption, and abortion.[61]

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[58] Laws of Fla. ch. 2024-231 § 3.453; *see also* Charlotte Lozier Institute, *Fact Sheet: State Alternatives to Abortion Funding* (Feb. 25, 2025), https://tinyurl.com/mhr93c7m.

[59] Heartbeat International, *Our Commitment of Care and Competence*, https://tinyurl.com/mu6n5vfu.

[60] Florida Pregnancy Care Network, Inc., *Florida Pregnancy Support Services Program (FPSSP) Compliance Manual* 8 (2014).

[61] Heartbeat International, *A Passion to Serve: How Pregnancy Resource Centers Empower Women, Help Families, and Strengthen Communities* 17 (2010), https://tinyurl.com/ycx9uzxx ("[A] woman has essentially three options: parent the child, place the baby for adoption, or abort the baby. Pregnancy centers strive to provide the most up-to-date information on each of these three

But unlike Planned Parenthood, PRCs do not perform abortions and therefore have no financial incentive to steer women toward a particular pregnancy option.

As it turns out, many women considering abortion will choose life when provided with support and disinterested options counseling. A longitudinal study conducted by the Charlotte Lozier Institute evaluates the decisions of women who are "abortion-minded" (defined as women who are seeking information on how to obtain an abortion or have an abortion scheduled) or "abortion-vulnerable" (defined as women who have not eliminated the possibility of abortion and lack support).[62] The Institute's most recent report found that 42% of abortion-minded women who visited a PRC and received an ultrasound chose to parent their children or place them for adoption.[63] This number increased to 52% when the father attended the visit.[64] Abortion-vulnerable women who visited a PRC and received an ultrasound chose life in 87% of cases—94% when the father attended the visit.[65]

In sharp contrast to the traumatic experiences summarized by the New York Times exposé, an audit

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options enabling women to make the best choices both for their own health and that of their unborn children."); Planned Parenthood Federation of America, *Considering Parenthood*, https://tinyurl.com/4378nk6t ("People who are pregnant have three options: parenting, having an abortion, or placing their baby for adoption.").

[62] Charlotte Lozier Institute, *Lives Saved Impact at U.S. Pregnancy Help Centers*, *supra* n.51.

[63] *Id.*

[64] *Id.*

[65] *Id.*

of PRC exit interviews reveals 97.4% client satisfaction, with "countless stories . . . about the high quality of services, as well as the love and support of people who came alongside them at pregnancy centers, continue to reflect the gratitude of clients for the care they received and the choice they made even through very difficult circumstances."[66]

C. Planned Parenthood's escalating campaign against PRCs.

For Planned Parenthood, PRCs are bad for business. Planned Parenthood has therefore consistently attempted to discredit them.

1. Planned Parenthood begins a smear campaign against PRCs.

By the mid-1980s, PRCs were becoming more numerous, better organized, and a bigger problem for the abortion industry. Planned Parenthood struck back with a series of efforts. In 1987, Planned Parenthood Federation of America published a "consumer's alert" accusing PRCs of "deception, harassment and medical Malpractice."[67] Planned Parenthood published a second report in 1991, which then-Representative Ron

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[66] Charlotte Lozier Institute, *Hope for a New Generation* at 7 (2022), https://tinyurl.com/ycxp4jn9.

[67] Planned Parenthood Federation of America, *A Consumer's Alert to Deception, Harassment and Medical Malpractice* (1987); *see also* Planned Parenthood, *Anti-Abortion Counseling Centers: A Consumer's Alert to Deception, Harassment, and Medical Malpractice* (2002) (cited by Carol Sanger, *Infant Safe Haven Laws: Legislating in the Culture of Life*, 106 Colum. L. Rev. 753, 770 n.91 (2006)).

Wyden of Oregon repackaged as a subcommittee report on "Bogus Abortion Clinics."[68] The New York Times reported that no PRCs were invited to Wyden's "kangaroo court" subcommittee hearings, which were likely "prompted by abortion clinic operators who feared the counseling centers were hurting their business."[69]

These days, Planned Parenthood defames PRCs through a steady stream of online articles. PPFA and its affiliates websites' are replete with entries impugning the motives and practices of *all* PRCs. One informs readers that PRCs have a "shady, harmful agenda" and "won't give you honest facts about sexual health and your pregnancy options—their goal is to spread misinformation and propaganda."[70] Another

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[68] Consumer Protection & Patient Safety Issues Involving Bogus Abortion Clinics: Hearing Before the Subcomm. on Regulation, Bus. Opportunities & Energy of the H. Comm. on Small Bus., 102d Cong. 11 (1991), available at https://tinyurl.com/yexzbuc6.

[69] New York Times, *Congressional Inquiry Examines Reports of Bogus Abortion Clinics* (Sept. 21, 1991), https://tinyurl.com/4yt969zf.

[70] Planned Parenthood Federation of America, *What are Crisis Pregnancy Centers?* (Nov. 4, 2021), https://tinyurl.com/3u4xb3wa.

calls PRCs "scams" that employ "predatory practices."[71] Others describe PRCs as "not legitimate medical facilities"[72] whose "goal is not to educate and inform, but to stall, deceive, evade, lecture, and manipulate—everything but share honest information."[73]

Planned Parenthood further urges readers to "Help Us Expose Anti-Abortion Clinics"[74] by directing readers to organizations like CrisisPregnancyCenterMap.com, The Fake Clinic Database, and ExposeFakeClinics.com that facilitate activism against PRCs *and their supporters*.[75] For example, ExposeFakeClinics.com's "toolkit" page directs activists to learn "[w]ho is funding the fake clinics in your state?"[76] With this information, activists can "create a clear demand or set of demands (and targets!) to be at the center of [their] action."[77] "[F]un" ways to harass these donors, the website suggests, include "set[ting]

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[71] Planned Parenthood of Orange & San Bernardino Counties, *Health Care Scams: How to Spot Fake Health Clinics* (Feb. 26, 2024), https://tinyurl.com/3mnh8rh6.

[72] Planned Parenthood Hudson Peconic, *What Is a Crisis Pregnancy Center?*, https://tinyurl.com/56z3bnpz.

[73] Planned Parenthood of N.C., *Crisis Pregnancy Centers are Anti-Choice Anti-Abortion Faith-Based Fake Clinics*, https://tinyurl.com/4wddj6z8.

[74] *See* Planned Parenthood Advocates of Iowa, *Why are Crisis Pregnancy Centers Dangerous?* (Mar. 25, 2022), https://tinyurl.com/yhj969zp; Planned Parenthood Advocates of Nebraska, *Why are Crisis Pregnancy Centers Dangerous?* (Mar. 18, 2024), https://tinyurl.com/mvp56tbt.

[75] Planned Parenthood Federation of America, *What are Crisis Pregnancy Centers?*, *supra* n.70.

[76] ExposeFakeClinics.com, *Start or Join an Action IRL!*, https://tinyurl.com/em9h6an7.

[77] *Id.*

up a sidewalk protest in front of their offices!" or leaving negative Google reviews.[78] If the PRC is affiliated "with a local church," exposefakeclinics.com encourages activists to "hold an action before a service and ask parishioners heading in if they know that their church promotes deceiving pregnant women."[79]

Many of Planned Parenthood's own materials disparage PRCs for their religiosity. A brochure circulated by one affiliate equates "faith-based" with "fake."[80] An article published by another affiliate warns that "[a]lthough CPCs brand themselves like health clinics, most CPCs are religiously affiliated non-profit organizations that are part of a well-connected and well-resourced religious network."[81] It laments that PRCs' "designation as religious" makes regulation difficult.[82]

2. After *Dobbs*, Planned Parenthood pairs these criticisms with calls for a "summer of rage."

On May 2, 2022, a draft of the Court's opinion in *Dobbs v. Jackson Women's Health Organization* was

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[78] *Id.*

[79] *Id.*

[80] Planned Parenthood of N.C., *Crisis Pregnancy Centers are Anti-Choice Anti-Abortion Faith-Based Fake Clinics*, *supra* n.73.

[81] Planned Parenthood Advocacy Fund of Massachusetts, Inc., *What Reproductive Rights Advocates Need to Know About Anti-Abortion Crisis Pregnancy Centers*, https://tinyurl.com/yh76f545.

[82] *Id.*

published by Politico.[83] Planned Parenthood immediately organized a series of demonstrations to be held across the country.[84] The largest was a rally in Washington D.C., which called for "a summer of rage" and urged pro-abortion activists to be "ungovernable" until the right to an abortion is codified into law.[85]

Primed by decades of smears against PRCs, radicals heard this dog whistle. By the end of the summer, over 70 PRCs had been attacked.[86] Two PRCs in Florida were graffitied with the message, "[i]f abortions aren't safe, then neither are you."[87]

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[83] Josh Gerstein & Alexander Ward, *Supreme Court Has Voted to Overturn Abortion Rights, Draft Opinion Shows*, Politico (last updated May 3, 2022), https://tinyurl.com/2a9aj7uw.

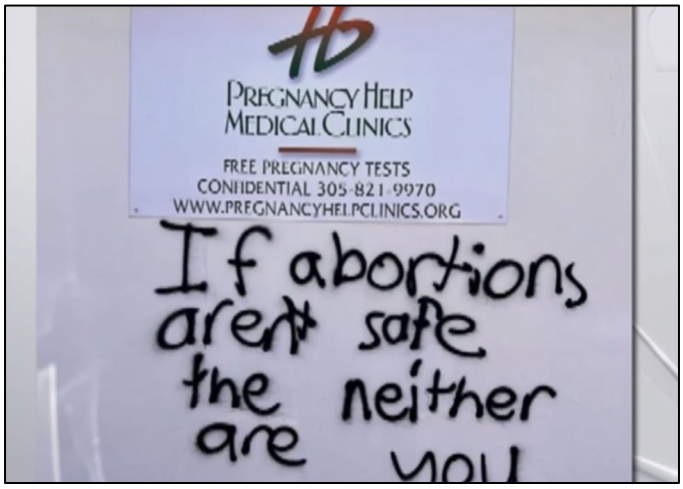
[84] Associated Press, *Hundreds of U.S. Rallies Planned in Show of Support for Abortion Rights*, *supra* n.2; Meredith Deliso, *Hundreds of Pro-abortion Rights Protests Planned Saturday in Response to SCOTUS Leak*, ABC News (May 16, 2022) https://tinyurl.com/muvx95rt; Nicole Acevedo, *Nationwide protests draw thousands in support of abortion rights*, NBC News (May 14, 2022), https://tinyurl.com/8bp5xd7p.

[85] Kyle Morris, *Pro-choice activists descend on DC, vow to be 'ungovernable' as they protest draft Supreme Court opinion*, Fox News (May 14, 2022), https://tinyurl.com/2nbfz9ch.

[86] CatholicVote, *supra* n.3.

[87] NBC 6 South Florida, *'If Abortions Aren't Safe, Neither Are You': Hialeah Pregnancy Clinic Vandalized* (last updated July 6, 2022), https://tinyurl.com/42fm6xft; Joe Bukuras, *Florida pro-life pregnancy center hit with 'Jane's revenge' abortion vandalism*, Catholic News Agency (June 8, 2022), https://tinyurl.com/h5rjh4e3.

PRC in Hollywood, FL (May 28, 2022)



PRC in Winter Haven, FL (June 26, 2022)

Graffiti on a third PRC bore an anarchy symbol and threats of additional violence: "YOUR TIME IS

UP!!," "WE'RE COMING for U," "We are everywhere."[88]

PRC in Hialeah, FL (July 3, 2022)

These PRCs were the lucky ones. Activists in other States answered Planned Parenthood's call by damaging PRC staff members' vehicles,[89] breaking PRCs' windows,[90] and setting PRCs on fire.[91]

Acts of rage against PRCs did not end with the summer of 2022. In 2023, the decapitated carcasses of a chicken, pheasant, and lamb were left outside the entrance of a PRC in Orlando.[92] And in 2024, vandals

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[88] Gary White, *'We're coming for U': Winter Haven pregnancy center vandalized with graffiti*, The Ledger (June 27, 2022), https://tinyurl.com/47k3uwu6.

[89] Ansley Franco, *'The thing you can't compromise on as a Catholic': Vicar, parishioners respond to vandalism at women's clinic in Auburn*, Opelika-Auburn News (last updated May 25, 2023), https://tinyurl.com/4e4hwv8x.

[90] House Committee on Energy and Commerce, *Pro-life Pregnancy Centers Are Under Attack* (July 11, 2022), https://tinyurl.com/yuk697mr.

[91] *Supra* n.4.

[92] Houston Keene, *Florida pro-life pregnancy center targeted with decapitated chicken, mutilated lamb in 'ritualistic attack'*, Fox News (May 12, 2023), https://tinyurl.com/yt5bxtue.

sprayed red paint on the entrance of a PRC in Chicago, producing the appearance of blood splatter.[93]

PRC in Chicago, IL (August 22, 2024)

Worse yet, activists in Michigan vandalized the *home* of a PRC board member, graffitiing her garage door with "if abortions aren't safe, neither are you!"[94]

3. Planned Parenthood turns to States to muzzle PRCs.

When the "summer of rage" failed to intimidate PRCs, Planned Parenthood Action Fund activated an army of lobbyists to press for legislation targeting PRC speech. In May 2023, for example, Vermont en-

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[93] Michael J. New, *A Pro-Life Pregnancy Help Center in Chicago Is Vandalized*, National Review (Aug. 24, 2024), https://tinyurl.com/29pxaw7d.

[94] Francis X. Donnelly, *Pro-Life Pregnancy Center in Eastpointe, Board Member's House Spray-Painted with Graffiti*, Detroit News (Dec. 17, 2022), https://tinyurl.com/5n6euet7.

acted a law prohibiting PRCs from offering non-medical services, information, and counseling.[95] One by one, these laws have been enjoined under state and federal constitutions.[96]

This marked an escalation from the past, when Planned Parenthood acknowledged that consumer protection laws could not be used to target PRCs because, unlike Planned Parenthood, their services are free: "free services typically aren't legally considered trade and commerce."[97]

In 2022, Planned Parenthood Action Fund of New Jersey (PPAFNJ) nevertheless helped the New Jersey Attorney General's Office draft a "consumer alert" about PRCs that directed readers to Planned Parenthood's website.[98] Email correspondence between the two entities indicate a cozy relationship. Indeed, the Attorney General is a PPAFNJ event speaker,[99] and PPAFNJ contributed to the political campaigns of the governor who appointed him.[100] The

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[95] Lauren Canterberry, *Vermont lawmakers amend law targeting pro-life pregnancy centers*, World (May 30, 2025), https://tinyurl.com/4mv9jte2.

[96] *See* Amici Brief of the Pennsylvania Pregnancy Collaborative, New Jersey Right to Life, and National Institutes of Family and Life Advocates in Support of Petitioner at 11–25.

[97] Planned Parenthood Advoc. Fund of Mass., Inc., *What Reproductive Rights Advocates Need to Know About Anti-Abortion Crisis Pregnancy Centers*, *supra* n.81.

[98] Pet.App.191a–96a.

[99] Taylor Jung, *Harris calls New Jersey a leader in reproductive rights*, NJ Spotlight News (July 19, 2022), https://tinyurl.com/mt6rrxh4.

[100] State of New Jersey, ELEC Reports and Data Search System Advanced Search, https://tinyurl.com/2tw58nnb (searching

alert baselessly warned that PRCs "provid[e] false or misleading information about the safety and legality of abortion care" while offering "limited 'counseling' services without providing complete or accurate information regarding all options for reproductive health care, including abortion."[101] Then, in 2023, PPAFNJ shared a "preliminary report" leveling additional unfounded allegations at New Jersey PRCs, including that their STD testing may be inadequate.[102]

None of that stuck, so the New Jersey Attorney General concocted a new theory: that PRCs are deceiving their *donors* into believing that they provide abortions. Without a single complaint to that effect, and despite a clear disclaimer on Petitioner's website that it does not provide abortions,[103] the Attorney General issued the subpoena that gave rise to this action.

While the enforcement discretion possessed by state attorneys general is considerable, it is not without bounds. One limitation, recognized by this Court in *Oyler v. Boles*, is that "the decision whether to prosecute may not be based on 'an unjustifiable standard such as race, religion, or other arbitrary classification.'" *United States v. Armstrong*, 517 U.S. 456, 464 (1996) (quoting *Oyler v. Boles*, 368 U.S. 448, 456

"Murphy, Phil" in the Recipient field and "Planned Parenthood" in the Non Individual / Committee Name field).

[101] J.A.359; N.J. Att'y Gen., *Consumer Alert: Crisis Pregnancy Centers* (Dec. 7, 2022), https://tinyurl.com/4f8ate2h.

[102] Jaanhavi Ganesh, Planned Parenthood Action Fund of N.J., *Understanding Anti-Abortion Centers: Purpose, Activities, and Implications* at 2 (Dec. 7, 2023), https://tinyurl.com/3c5wyc5b.

[103] Pet.App.116a; First Choice Women's Res. Ctrs, https://1stchoice.org, perma.cc/678D-RPVS.

(1962)). To apply this standard, the Court evaluates the enforcement authority's treatment of similarly situated individuals. *Id.* at 465.

PRCs and Planned Parenthood are similarly situated in that they engage the same clientele: women facing unplanned pregnancies. Yet only Planned Parenthood generates revenue from the information and advice it chooses to give those women. And only Planned Parenthood has a demonstrated history of misbilling Medicaid, subjecting clinic patients to unsafe conditions, making false representations about the safety of chemical abortion, calling for acts of "rage," and paying exorbitant salaries to its executives. On the other hand, there is no evidence that Petitioner—or any other PRC—has ever misled a donor into believing that it performs abortions. In other words, while arbitrary prosecution is unconstitutional under the Fourteenth Amendment, what the New Jersey Attorney General is doing is even worse: he is attempting to prosecute pregnancy centers that are *not* violating consumer protection laws at the behest and in aid of abortion clinics that *are* violating consumer protection laws.

The New Jersey Attorney General's subpoena violates the First Amendment. He has handed the keys to his office over to Planned Parenthood, an organization that has waged a relentless campaign to intimidate and silence PRCs for nearly 40 years. Petitioner and its donors have every reason to fear the consequences of disclosure.

CONCLUSION

The Court should hold that Petitioner has established a reasonably objective chill of its First Amendment rights.

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August 28, 2025

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