Balancing Constitutional Rights: Free Speech vs. Access to Healthcare

Amanda Schaller
Tulane University, New Orleans, Louisiana, USA

Abstract: Violence against reproductive health clinics began in 1977 and continues to intensify with increasingly polarizing rhetoric surrounding the abortion debate and controversial legal decisions. Anti-abortion activists who target abortion clinics both increase the stress associated with receiving an abortion and threaten patients' access to essential medical services. Physicians at these clinics also endure harassment and hatred in the forms of hate mail, stalking, picketing at their homes, and even targeted shootings. The Freedom of Access to Clinic Entrances (FACE) Act and the addition of buffer zones and other subsequent laws aim to protect clinic employees and patients, yet opponents adamantly argue that these laws are unconstitutional by allegedly violating the First Amendment right to free speech. This case examines the constitutionality of FACE through legal decisions about free speech related to targeted attacks on abortion clinics—as well as the role of language in the strategic intimidation of clinics—and considers the dilemma of weighing the guaranteed rights of free speech and safe, legal abortions.

Introduction

> *Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press…*
>
> U.S. Const. amend. I

> *Everyone deserves access to health care without threats of violence, harassment, or shame …. Our doors stay open no matter what.*
>
> Dr. Jennifer Childs-Roshak, President and CEO (Chief Executor Officer)
> Planned Parenthood League of Massachusetts

On Thursday, January 3rd, 1985 at 12:31 pm, Diana Wheeling picked up the phone to a crackling male voice threatening to blow up the health clinic where she worked. Wheeling worked as a receptionist at the Commonwealth Women's Clinic in Falls Church, Virginia, and answered the threatening call in the middle of explaining the reality of working at an abortion clinic at the time (1985) to a visitor. Clinic administrator Nancy Dickinson requested "no sirens" in her call to the police dispatcher, because "the patients cannot take that" (Grove 1985, n.p.). Thankfully, the police found no explosives— similarly to a previous call—although the deputy police chief emphasized the importance of taking the threats seriously, given the recent spike in violence against abortion clinics, including 30 bombings and arson attacks since May 1982 (Grove 1985). The threat to the Commonwealth Women's Clinic came 56 hours after a real bomb caused

immense damage at the Hillcrest Women's Surgi-Center in Southeast Washington state on January 1st (Grove 1985). This event provides a glimpse into an ongoing history of the violence faced by patients and providers at abortion clinics, one which raises the important dilemma of carefully striking a balance between the freedom of speech and other rights, including a patient's right to safely receive an abortion without obstruction (such as the threatened bomb). Free speech itself does not directly translate into violence— a goal desired by neither side of the abortion debate —but critical speech may perpetuate violence among committed protestors seeking a motive to act.

Rights serve as an important element in a democracy by allowing individuals a significant degree of separation from the will of others, and thus a democratic government holds the responsibility of identifying the boundaries of each guaranteed right to prepare for situations in which the right becomes threatened (Simmonds 2019). A longstanding challenge of democratic governments remains balancing constitutional rights with each other, as it becomes difficult to discern the exact boundary of each right. While the United States Constitution does not set forth an explicit right to healthcare, the landmark decision of *Roe v. Wade* ensures women the right to a safe, legal abortion. In *Roe v. Wade* (1973), the Supreme Court also established a right of personal privacy that includes a woman's constitutional right to the personal decision of when and whether to bear children, based on the Fourteenth Amendment's concept of personal liberty. The First Amendment of the Constitution—commonly referenced in situations involving the expression of speech—clearly establishes that Congress "shall make no law …. abridging the freedom of speech, or of the press; or the right of people to peacefully assemble …." (U.S Const. amend. I). Both the First Amendment and the right to personal privacy grant U.S. citizens the right to an abortion, as well as the right to protest it.

While anti-abortion verbal advocacy and actions differ in their immediate consequences (psychological versus physical harm), inflammatory rhetoric often incites violence by committed individuals, and thus requires evaluation. The Freedom of Access to Clinic Entrances (FACE) Act was developed as an effort to protect women's constitutional right to safe and legal abortions, while allowing speech that does not directly interfere with an individual's ability to receive or provide reproductive health services (Mezey 2009). Yet, vocal opposition to the law continues, with critics finding its restriction of certain speech unconstitutional, allegedly violating the right to free speech guaranteed by the First Amendment.

A History of Clinic Violence

In 2018, violence against abortion clinics and providers reached a record high with 1,369 acts of violence reported that year, entailing 15 cases of assault and battery, 13 burglaries, 14 instances of stalking, and more than a thousand counts of illegal trespassing on clinic property (Smith 2019). Medical providers attribute the increase in violent acts to recently enacted state laws restricting abortion and the divisive language surrounding the abortion debate (Smith 2019). However, the current threat of violence toward abortion clinics and providers began more than four decades ago. Violence fueled by anti-abortion sentiment surged between 1977 and 1988 in the United States, during which 110 attacks occurred by arson, firebombing,[1] and bombing (Grimes et al. 1991). 1984 proved especially terrifying, with 18 bombings and 6 arson attacks against abortion providers in that year alone (Radford and Shaw 1993, 144).

[1] Firebombing refers to an attack using a bomb that destroys by starting a fire rather than exploding (Cambridge Dictionary 2021).

These acts specifically targeted clinics providing abortions, representing 98 percent of the sites attacked during this period (Grimes et al. 1991). Several anti-abortion groups—while supportive of the verbal demonstrations—voiced condemnation of the acts of physical violence and the real potential of death and injury from extremist activists (Grove 1985). Peter B. Gemma, the executive director of the National Pro-Life Political Action Committee, stated that "sooner or later, God forbid, [these fanatics] are going to kill somebody … we don't stand for violence" and expressed that the FBI should take over the federal investigation surrounding the series of bombings (Grove 1985, n.p.). He believed the bombings were "not sporadic attacks" but rather "a planned operation to bomb clinics" (Grove 1985, n.p.).

Attacks also took the form of clinic invasions, vandalism, assault and battery, and the stalking and harassment of providers, representing a transformation of incendiary rhetoric into acts of violence (Meuller 1998).[2] In 1982, anti-abortion activists decapitated an Alabama clinic employee's cat, and a group known as the "Army of God"[3] kidnapped a clinic owner and his wife (Grove 1985, n.p.). Anti-abortion advocates declared 1985 a "Year of Pain and Fear,"[4] following the peak of violence in 1984, during which 29 attacks occurred (Grimes et al. 1991; Planned Parenthood n.d.). While the violence arose from a broader movement, several individuals and groups initiated the destruction, with thirty-three individuals convicted of anti-abortion violence by 1991 (Grimes et al. 1991). In 1990, the violence broadened to include murders of doctors and clinic employees, and death threats multiplied (Lin 2001). Providers experienced physical harassment both at work and away from the clinic sites; abortion providers reported anti-abortion demonstrators following them home, following their children to school and spouses to work, and picketing in their neighborhoods (Meuller 1998). Mental and emotional harassment also prevailed, in the form of internet sites calling for the death of these providers and providing their photographs, social security numbers, and the names of their children (Meuller 1998).

The increase in violence appears related to political disheartenment and the influence of militant activism to achieve the goals of the anti-abortion movement in the 1980s. Sociologist Dallas Blanchard theorizes that dramatic surge resulted from desperation by the anti-abortion movement after the 1984 re-election of President Ronald Reagan (Radford and Shaw 1993, 145). President Reagan publicly supported the anti-abortion movement, yet this support did not translate into concrete political successes for the movement, such as a desired Supreme Court decision to overturn *Roe v. Wade* (Radford and Shaw 1993). Blanchard explains that anti-abortion activists witnessed a gap between the goals of the movement and their perceived success under the Reagan administration, leading to frustration and inspiring more extreme efforts toward enacting the goals themselves (Radford and Shaw 1993). Additionally, Blanchard believes that the "radical right" interpreted Reagan's lack of action to stop the continued violence against abortion providers as "an implicit endorsement of their tactics" (Radford and Shaw 1993, 145). Joseph Scheidler, a former Catholic seminarian, also served as a guiding force for unorganized anti-abortion extremists in the mid 1980s. Scheidler published a book titled *Closed: 99 Ways to Stop Abortion* in 1985, providing militant activism tactics to anti-abortion zealots (Radford and Shaw 1993). Additionally, Scheidler began the extremist organization Houston PLAN (Pro-Life Action

[2] Members of the National Abortion Federation (NAF) specifically reported "six murders,15 attempted murders, 39 bombings, 150 arsons, 355 clinic invasions, 710 acts of vandalism, 104 counts of assault and battery, 385 stalkings of providers and almost 5,000 pieces of hate mail and harassing phone calls" between 1977 and 1998 (see Meuller 1998).

[3] The Army of God (AOG) is an American Christian terrorist organization whose members perpetuate anti-abortion violence (National Abortion Federation 2004).

[4] Joseph Scheidler called for a Year of Pain and Fear, referencing a year of harsh militant effort dedicated to ending abortion. To accomplish this goal, Scheidler led local anti-abortion groups across the nation (Radford 1993)

Network), which led to the formation of Operation Rescue and Rescue America, from which further organizations began and grew (Radford and Shaw 1993).

Clinics struggled to survive in the face of such threats and harassment in addition to increased regulation, and the United States witnessed a decrease in the prevalence of abortion training. As of 1995, 90 percent of abortion services occurred in freestanding clinics in comparison to 7 percent in hospitals, positioning stand-alone abortion clinics as vulnerable targets to anti-abortion activism (Hodgson 1995). The training of abortion providers dropped drastically; the Guttmacher Institute[5] reported that as of 1995, 84 percent of counties in the United States did not have a doctor experienced in performing abortions, and the number of residency programs that required abortion training as part of obstetrics and gynecology dropped by half from 1985 to 1995 (Hodgson 1995).

Several factors contributed to the decline of physicians trained to provide abortions. After the Supreme Court voted to legalize abortion, abortion services shifted from hospitals to outpatient, free-standing clinics to help increase patient access to abortions (LoLordo 1994). This shift resulted in fewer opportunities for physicians completing their residency in hospitals to learn the procedure (LoLordo 1994). Additionally, the often violent and threatening activism against abortion providers provoked fear in doctors of all ages, discouraging some doctors from performing abortions in their practices. Furthermore, several of the physicians drawn to reproductive health services entered with a desire to help improve safety during the era of illegal abortions and began to approach retirement by the 1990s (LoLordo 1994).

In addition to healthcare providers, those seeking abortions also directly received inflammatory attacks and threats while attempting to enter and leave clinics. ChristyAnne Collins— a self-proclaimed "full time advocate for the unborn" and member of Christians Against Abortion— employed the techniques of sidewalk counseling[6] and direct intervention outside the Commonwealth Women's Clinic during the 1980s (Grove 1985, n.p.). Her efforts included shouting pleas such as "Please let your baby live. We'll help you in any way we can" at patients approaching the clinic and directing patients to anti-abortion gynecologists and shelters for unmarried mothers (Grove 1985, n.p.). The Saturday following the bomb threat to Commonwealth Women's Clinic in Falls Church, Virginia, patients arrived to witness a mass of about 40 protestors, some pushing baby strollers and others holding graphic signs, such as "HUMAN GARBAGE" above a fetus in a bucket and "ABORTION IS OUR HOLOCAUST," with others singing religious hymns (Grove 1985, n.p.). In response, many patients rushed past into the clinic, and a mother of a 14-year-old girl sobbed at the top of the stairs to the clinic, revealing fear and discomfort caused by the protestors (Grove 1985).

While some demonstrators used only verbal means, others became physically violent in their interactions with patients. Physical harassment included blocking patients' vehicles to prevent them from going into the clinic and pushing, grabbing, spitting on, and pinning down patients (Lin 2001). The Guttmacher Institute reported that some encounters with demonstrators required victims to visit the emergency room to seek additional care (Lin 2001).

While women surveyed in 1975 reported both positive and negative emotional responses to receiving an abortion, the added danger undoubtedly produces a unique stress response, despite potential feelings of relief (Zucker 1999). Zucker classifies abortion as an acute and planned stressor - thus, some women's ability to plan the event allows them to view their abortion as a

[5] The Allen Guttmacher Institute is a non-profit organization focused on researching reproductive issues.

[6] Sidewalk counseling includes providing information about alternatives to abortion and offering to help women pursue these options (McCullen v. Coakley 2014).

good decision, while others more acutely feel social and moral opposition to the procedure, resulting in guilt and shame (1999). The elements of "choice, danger, and stigma are all more salient" for persons receiving abortions versus unplanned, uncontrolled events such as miscarriage and infertility, increasing the likelihood that these individuals will experience a cognitive dilemma (Zucker 1999, 773). Thus, the psychological techniques intentionally employed by anti-abortion activists— such as sidewalk counseling and incendiary rhetoric— might further women's doubts about receiving an abortion when coupled with physical blockades.

A pivotal legal decision regarding the conduct of anti-abortion activists occurred in the 1993 case of *Bray* v. *Alexandria Women's Health Clinic*, in which the Supreme Court ruled that abortion protestors did not violate section 1985(3) of the 1871 Civil Rights Act[7] by blocking access to clinics (Oyez 2021). This ruling, overturning that of the District Courts, determined that women seeking an abortion did not classify as a protected group under the law. The majority decision, written by Justice Antonin Scalia, stated that the violence and harassment did not target women as a class of individuals, as opposition to abortion stems from "common and respectable" factors other than solely a demeaning view of women, such as religious beliefs (Oyez 2021, n.p.). As a result, federal court judges could not invoke the 1871 Ku Klux Klan Act to include the attacks on abortion clinics (Mezey 2009). The Ku Klux Klan Act, a civil rights act created during Reconstruction, criminalized conspiracies by individuals aiming to deprive others of equal rights. However, this ruling served as one driving factor in the introduction of the Freedom of Access to Clinic Entrances (FACE) Act in 1993, a law with continued significance in allowing clinics to operate with the reduced threat of danger (Mezey 2009).

Freedom of Access to Clinic Entrances (FACE) Act of 1994

Representatives Charles Schumer (D-N.Y.) and Constance Morella (R-M.D.) first brought the FACE Act before the House of Representatives in February 1993 in response to the recent *Bray v. Alexandria* decision and increasing violence by anti-abortion protesters, paired with the failure of local law enforcement officials to sufficiently protect clinics from intimidation and violence (Mezey 2009). Ronald Reagan's 1985 FBI Director William Webster did not categorize bombings and arson attacks on abortion facilities as acts of terrorism, which prevented the FBI from participating in those investigations (Radford and Shaw 1993). Instead, the investigations entered the management of local police officers and the small, overworked Bureau of Alcohol, Tobacco, and Firearms (Radford and Shaw 1993). Additionally, even in states with specific legislation protecting clinics, not all local police enforced protective laws consistently, reducing the effectiveness of such laws (Pridemore and Freilich, 2007). The fatal shooting of a Florida physician in March 1993 and attack on another doctor inspired Congressional support of the act (Mezey 2009). President Clinton signed the FACE Act into law on May 26, 1994, which criminalized using physical means to block the entrance to a clinic or using force, threat of force, or physical measures to injure or interfere with clinic workers or female patients of abortion clinics (Mezey 2009).

Vocal support and opposition emerged in response to the implementation of this law. Proponents of the act view it as a method to increase the safety of women seeking abortions, but opponents claim it violates their rights to free speech granted by the First Amendment (Mezey 2009). Several district courts and the Fourth Circuit maintained that the FACE Act does not violate

[7] 42 U.S.C. 1985(3) outlaws conspiracies to rob "any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws."

the guaranteed freedom of speech by the First Amendment, yet the debate continues (Rose and Osborn 1995). The Supreme Court only heard one case regarding the FACE Act itself,[8] as appellate courts have upheld it as constitutional in prior cases (Vile 2009). For anti-abortion advocates, the inability to bring the FACE Act before the Supreme Court presents the challenge of employing alternative strategies to ensure the right to free speech. The creation of the FACE Act, its role in subsequent rulings, and the controversy surrounding it raises the question: to what extent should legislature regulate the speech of protestors, and does controversial speech contribute to violence, justifying further regulation? Are there limits to the right to freedom of speech? How far should the law extend to protect healthcare services, especially those opposed with the intensity of abortion?

Inflammatory Rhetoric and the First Amendment

Experts studying the abortion debate usually cite provocative language used by anti-abortion activists as one of the factors that perpetuate the intense division over reproductive choice in the U.S., sparking an examination of the First Amendment's definition and protection of free speech. Members of the anti-abortion movement attempt to "personify" the fetus through language using words like "infanticide" to describe abortion and "unborn child" to describe the fetus at all stages— aimed at overturning *Roe* v. *Wade* (Boonstra 1999, 3). In the years following the *Roe* v. *Wade* decision in 1973, anti-abortion activists worked to compel Congress to add a "human life amendment" to the Constitution to classify the fetus as a legal "person" from the moment of conception (Boonstra 1999, 3).[9]

The Partial-Birth Abortion Ban Act (initially introduced in 1995) uses nonmedical and inciting language to demand the criminalization of procedures in which a physician partially "delivers" a fetus before "killing" it to terminate the "delivery" (Boonstra 1999, 3). This act prohibits any individual from performing a partial-birth abortion,[10] unless the procedure is needed to save the life of a mother experiencing life-threatening illness, injury, or a physical disorder (Partial-Birth Abortion Ban Act of 2003). Congress passed the bill twice and President Bill Clinton vetoed it but by 1991, 30 states had enacted the ban in a similar form. Portraying the fetus as a "baby in the process of being born" proved an effective strategy for persuading several members of Congress that "partial-birth" abortion is the murder of infants, with some states even incorporating this language into legislature (Boonstra 1999, 4). The term "partial-birth abortion" was first introduced in 1995 by the National Right to Life Committee (NRLC) to describe a medical procedure known as "dilation and extraction," "D&X," and "intact D&E" in which the fetus is removed intact from the uterus, usually in the second trimester of pregnancy (Rovner 2006). In 2000, about 15,000 abortions were performed on women 20 weeks or more pregnant, and 2,200 of those procedures were D&X abortions (Rovner 2006). Out of about 1.3 million abortions performed in 2000, only 0.2 percent were D&X abortions (Rovner 2006). The procedure is performed when the fetus shows serious abnormalities or when the mother's health is at risk but is also performed in cases of a healthy mother and fetus that is more than 20 weeks developed

[8] The Supreme Court heard the case of *American Coalition of Life Activists* v. *Planned Parenthood* in both 2003 and 2006 and upheld the decision of the Ninth Circuit each time (Vile 2009).

[9] In the *Roe v. Wade* decision, the Court determined that it did not need to address the philosophical question of when life begins to rule that a fetus did not legally fit the definition of a "person" provided by the Fourteenth Amendment (see Boonstra 1999). The Fourteenth Amendment states that legal personhood in the United States belongs to "all persons born and naturalized in the United States and of the state wherein they reside."

[10] The law defines a partial-birth abortion as an abortion in which the individual performing the procedure "(1) deliberately and intentionally vaginally delivers a living fetus … and (2) performs the overt act, other than completion of delivery, that kills the partially delivered living fetus" (Partial-Birth Abortion Ban Act of 2003).

(Rovner 2006).[11] Thus, this act prevents mothers from terminating their pregnancy for non-medical reasons (such as changing or undesirable life circumstances) when they are 20 or more weeks along in their pregnancy.

The Unborn Victims of Violence Act of 2004 views a fetus as a person separable from the woman who carries it at all stages of development (and even those before development) and in most states, treats the fetus as a separate victim of violence at some stages of fetal development (Boonstra 1999, 4). While both supporters and opponents of the law agree in the legal punishment of violence against pregnant women that results in a miscarriage, opponents emphasize that the legislation serves more to regulate abortion than crimes against pregnant women (Boonstra 1999). By emphasizing the status of the fetus as a separate unit from the woman with equal rights and protection under the law, opponents argue that this Act removes the pregnant woman's right to reproductive choice (Boonstra 1999, 4).

Importance of Protecting Free Speech

Proponents of free speech argue that FACE allows the government to restrict the expression rights of the pro-life movement in a way that suppresses only the pro-life voice of the abortion debate. Rose and Osborne— two legal experts published in the August 1995 edition of the Virginia Law Review[12]— point to the Supreme Court's statement that "the right to speak freely and promote diversity of ideas and programs" maintains the distinction between the democracy upheld by the United States government and totalitarian regimes (1510).[13] FACE does not limit the volume or location of speech but prohibits threat of force which "intimidates or interferes with" any person seeking or providing reproductive health care (18 U.S. Code § 248). The FACE Act regulates the speech of anti-abortion protestors, which contains a specific message, and Rose and Osborne argue this restriction violates the principle that the government cannot regulate speech based on "favoritism or hostility," as pro-choice advocates do not receive the same limitations on speech, indicating unjust regulation of the other side of the debate (1995, 1525).

Similar one-sided regulation of speech occurred during the 1999 World Trade Organization (WTO) protests in Seattle. Protestors stood firmly against police, who used tear gas and rubber bullets to attempt to disperse demonstrators. Social justice scholars Gillham and Marx argue that law enforcement focused on permitting global business to occur by controlling protests, rather than investigating the concerns raised by demonstrators about "legal and moral crimes" or "questionable alliances'' in the global business sphere, thus restricting the voice of protestors (2000, 213). City officials established a 50-block "no-protest zone" surrounding the WTO meetings as demonstrations continued despite police efforts (Gillham and Marx 2000, 220). While buffer zones often serve as a means of "partially satisfying potentially conflicting goals," the failure to establish the zone before protests began limited protest activities (including free speech) as police attempted aggressive forms of control and ultimately proved ineffective, as protestors had already established themselves in the later declared no-protest zone (227).

The case of *McCullen v. Coakley* represents a ruling in which the Supreme Court limited speech that is fully protected by the First Amendment and illustrates different responses by those concerned with First Amendment rights, including the changing standpoint of the American Civil Liberties Union (ACLU). McCullen and others sued Massachusetts Attorney General Coakley

[11] Dilation and extraction abortion remains a controversial procedure from its introduction in the 1990s, and there is currently not statistical information available on why such abortions are performed (Rovner 2006).
[12] The *Virginia Law Review* accepts article submissions from judges, professors, practitioners, and law clerks.
[13] Terminiello v. Chicago, 337 U.S. 1,4 (1949)

after the state of Massachusetts amended its Reproductive Health Care Facilities Act in 2007 (*McMullen v. Coakley* 2014). The amended Act creates exclusion zones around clinics by prohibiting intentionally standing on "public way or sidewalk" within 35 feet of an entrance or driveway to any "reproductive health care facility,"[14] exempting patients and "employees or agents" of the clinic (*McMullen v. Coakley* 2014, n.p.). McCullen and the other petitioners engaged in sidewalk counseling outside Massachusetts abortion clinics and argued that the Act violates the First and Fourteenth Amendments (*McMullen v. Coakley* 2014, n.p.). Floyd Abrams, a renowned private First Amendment lawyer,[15] argues that *McMullen v. Coakley* represents one of many cases in which the First Amendment should protect speech which some disagree with (Abrams 2014). Abrams provides background on state and federal statutes implemented to prevent anti-abortion protestors from obstructing women's access to abortion—which are narrowly drafted and do not raise legitimate First Amendment objections—before examining the law at the center of the case: a 2007 Massachusetts law, which establishes a 35-foot exclusion zone around clinics. The broad impact of this statute prevents protestors from engaging in any "peaceful, nondisruptive anti-abortion advocacy via distribution of leaflets and oral advocacy" outside abortion clinics, representing overbreadth, which is described in the First Amendment as a law which limits or impairs fully protected speech in the process of criminalizing constitutionally unprotected speech or activities (Abrams 2014, A.13). While Abrams argues that nondisruptive anti-abortion advocacy should receive protection under the First Amendment, he notes the ACLU's changing perspective on free speech.

Devoted to protecting the rights guaranteed by the U.S. Constitution and national laws, the ACLU plays a prominent role in the defense of free speech and free assembly, leading to a history of defending especially controversial and unpopular entities, including the Ku Klux Klan and Nation of Islam. Yet, the ACLU's support of these organizations contrasts several of the issues it defends—including human rights, racial justice, and national security— and it is overall perceived as a left-leaning organization. In *Hill v. Colorado*, the ACLU produced a brief emphasizing the unconstitutionality of the Colorado statue, which the ACLU argued restricted more speech than necessary to achieve the state's goal. The buffer zone implemented by the Colorado law and the exclusion zone of the Massachusetts law hold similarities in their indirect restriction of peaceful speech near the clinic. The Massachusetts chapter of the ACLU also argued against the 2007 Massachusetts statue, arguing that when faced with "unwelcome speech" in a public setting, the "constitutionally appropriate response… is for the listener to walk away" (Abrams 2014, A.13).[16] However, when *McCullen v. Coakley* reached the Supreme Court, both ACLU groups argued that the Massachusetts exclusion zone is constitutional, representing a shift from their original perspective on the importance of permitting free speech near abortion clinics. Abrams supports the former viewpoint of the ACLU, holding firmly to the argument that both the Colorado (of *Hill v. Colorado*) and Massachusetts statutes excessively restrict speech beyond that necessary to ensure safety and access to the clinics.

The ACLU also fights for women's safety and choice in access to reproductive care, reflected in their arguments during *McCullen v. Coakley* (ACLU 2021). According to their official

[14] A reproductive healthcare facility is defined within the Reproductive Health Care Facilities Act as "a place, other than within or upon the grounds of a hospital, where abortions are offered or performed" (Mass. Gen. Laws, ch 266 §120E½(a), (b)).

[15] Abrams is a widely known and respected First Amendment lawyer who has been involved in high profile cases, including the Pentagon Papers case: New York Times Co. v. United States (May 2009).

[16] The 2007 Massachusetts law prevented anyone — except clinic employees, patients entering or exiting the clinic, and law enforcement —from entering a 35-foot radius of the entrance or exit to an abortion clinic. Protestors argue that the law violates the First Amendment by blocking them from speaking with women approaching abortion clinics (Abrams 2014).

website, the ACLU "works every day to stop [the] attack on reproductive freedom," as regardless of individual views on abortion, the ACLU agrees that reproductive choice is "one of the most private and important decisions a person can make" (ACLU 2021, n.p.). Between 2011 and 2015, ACLU advocates worked to block over 300 laws designed to restrict access to reproductive care (ACLU 2021). Thus, while the ACLU and legal experts recognize the guaranteed right of women to safely access abortions and other reproductive health services, they also work to ensure the legally protected right to free speech for both sides of the abortion debate.

Early Restrictions of Anti-Abortion Protesters

Several instances of violence and harassment of clinics and abortion providers reached the Supreme Court, leading to the passage of the FACE Act and other restrictions on anti-abortion advocates. The case of *Bray v. Alexandria* reached the Supreme Court after decisions by the United States Court of Appeals for the Fourth Circuit in 1991 and 1992 (*Bray* v. *Alexandria* 1993).[17] Multiple abortion clinics filed a lawsuit against anti-abortion protestors (including Jayne Bray) to inhibit them from demonstrating at abortion clinics in Washington, D.C. The clinics argued that the demonstrators conspired to deny women their right to an abortion and their right to interstate travel by physically obstructing clinics, and thus violated Code 42, Section 1985(3)[18] of the Constitution of the United States (*Bray* v. *Alexandria* 1993). Operation Rescue emerged as a prominent anti-abortion organization, involved in physically blocking abortion clinics that provided other medical services as well, with the goal of "rescuing" unborn children by preventing mothers from accessing abortion services. Feminists for Life of America joined with other organizations to file an amicus curia brief in support of Operation Rescue when the case first appeared before the District Court, to provide "evidence" that Operation Rescue and similar groups acted on motives other than animus against women (McClain 1994, 159). According to its Bylaws, Feminists for Life of America views abortion as "an oppression of women and discrimination against unborn children" and the brief allowed Operation Rescue to justify the blockades as acts of "rescue" rather than animus (McClain 1994, 159).

In opposition, the National Organization of Women (NOW) and other pro-choice organizations argued that the blockades represented a broader scheme to deny women seeking abortions and other reproductive services equal protection under the law. The District Court ruled in favor of the abortion clinics, determining that Bray and other protestors worked to deny women of their right to interstate travel by blockading the clinics and agreed protestors had violated state trespassing and public nuisance laws (*Bray* v. *Alexandria* 1993). Additionally, the Courts ordered protestors to stop trespassing on clinic property and obstructing access to clinic services (*Bray v. Alexandria* 1993).

However, the Supreme Court reversed the ruling of the District Court, determining that the protestors did not violate section 1985(3), as the demonstrations targeted women seeking abortions, which does not necessarily reflect a gender-based intention, as opposition to abortion does not result solely from a derogatory view of women as a group (*Bray* v. *Alexandria* 1993).[19] Justice Antonin Scalia announced the 6-3 decision, writing that the protestors did not deny patients the right of interstate travel, as the demonstrations occurred entirely within the District of

[17] The case was first argued on October 16, 1991, then reargued on October 6, 1992, before the Supreme Court decision on January 13, 1993.

[18] 42 U.S.C 1985(3) prohibits conspiracies by "two or more persons in any State or Territory [to deprive] any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws"

[19] The Supreme Court's decisions before *Bray* v. *Alexandria* did not classify the disfavoring of abortion as *ipso facto* discrimination against women as a class, although only individuals who identified as women received abortions (see Justia 2021).

Columbia and did not specifically target patients traveling between states (*Bray* v. *Alexandria* 1993). Furthermore, the right to abortion refers to freedom from government interference in a woman's decision, and thus the protestors—private individuals—did not violate this right (*Bray* v. *Alexandria* 1993). Thus, the Court determined that women seeking an abortion did not classify as a protected group under law. The negative implications of this ruling on abortion providers and patients contributed to the passage of the FACE Act by Congress.

Understanding the FACE Act

The Freedom of Access to Clinic Entrances Act details prohibited activities related to those obtaining and providing reproductive health services and those exercising their right of religious freedom. Prohibited activities include physical obstruction, intentional injury, intimidation, or interferences of any person or class of people "obtaining or providing reproductive health services" (18 U.S. Code § 248). The Act also prohibits attempts at or actual damage or destruction of facility property if the facility provides reproductive health services or serves as a place of religious worship (18 U.S. Code § 248). Demonstrators who engage in the aforementioned behaviors face heavy fines and prison sentences, depending on the severity and frequency of their actions. Violent offenders may face up to $100,000 in fines and a prison sentence of a year, and repeated violent offenders may face a three-year prison sentence and up to $250,000 in fines (Mezey 2009). Protestors who injured a clinic employee or patient face prison sentences up to 10 years, and individuals injured by the protest events can sue protestors for civil damages (Mezey 2009). Nonviolent offenders face less severe consequences; protestors convicted of nonviolent physical obstruction (i.e., sit-ins and blockades) may receive fines of up to $10,000 and six months in prison for first-time offenses and fines up to $25,000 and 18 months in jail for second offenses (Mezey 2009).

Section (d) Rules of Construction clarifies that no part of the section intends to limit "expressive conduct (including peaceful picketing or other peaceful demonstration) protected … by the First Amendment to the Constitution" (18 U.S. Code § 248, n.p.). Additionally, FACE shall not interrupt the power of State or local laws controlling the performance of reproductive health services, including abortions. The protection of the First Amendment right of religious freedom "at a place of religious worship" addresses the arguments of some anti-abortion protestors that legal restrictions on the nature of their demonstrations violates their right to freedom of religion; the law protects this right at places of religious worship, but not at clinics providing reproductive health services (18 U.S. Code § 248). The Supreme Court has only heard one case involving the FACE Act— that of *Planned Parenthood v. American Coalition of Life Activists*— as appellate courts continue to uphold FACE as constitutional when challenged in the lower courts. In a narrow 6-5 decision, the court ruled that the American Coalition of Life Activists' anti-abortion materials represented true threats, and thus did not serve as speech protected by the First Amendment (*Planned Parenthood v. American Coalition of Life Activists* 2002*)*. The Court referenced the FACE Act's definition of the "threat of force" to represent a "statement that … would be interpreted … as a serious expression of intent to inflict bodily harm upon…" the person or people to whom it was communicated (*Planned Parenthood v. American Coalition of Life Activists* 2002*)*. Based on the prior killings of doctors identified by anti-abortion posters and websites, the majority of jurors identified these materials as true threats rather than "political hyperbole, which is protected" by the First Amendment (*Planned Parenthood v. American Coalition of Life Activists* 2002*)*.

Impact of the FACE Act and Buffer Zones

Bray v. Alexandria does not represent the only legal case concerning protestors' right to free speech and the protection of clinics and patients seeking clinic services. Understanding the outcomes and logic behind related cases allows for a more complete understanding of the impact of FACE, and the use of additional restrictions of protest via court-mandated buffer zones.

The case of *Hill* v. *Colorado* began in 1993, when Colorado Legislature implemented a law requiring protestors to maintain an eight-foot distance from anyone entering or exiting an abortion clinic within 100 feet of the entrance. After the implementation of the FACE Act in May 1994, three abortion protestors challenged the state law in 1995, arguing that it violated their right to free speech guaranteed by the First Amendment (Hudson 2011). In response, a trial court and state appeals court ruled in favor of the Colorado-implemented law, which remained (*Hill* v. *Colorado* 2000). The case traveled to the Supreme Court in 1997 after the Colorado Supreme Court refused to hear the case brought by the protestors (Hudson 2011). In the case of *Schneck* v. *Pro-Choice Network,* the Court struck down floating buffer zones after determining issues in defining and enforcing them, with concern of unintentionally restricting the speech of peaceful protestors who lined the sidewalk within the zone of patients as they approached. Yet, the Supreme Court instructed the Colorado Court of Appeals to re-examine the case, and the Court again ruled in favor of the eight-foot law. The Colorado Supreme Court supported the ruling, arguing that the law limited the "time, place, and manner of speech by anti-abortion demonstrators" (Hudson 2011, n.p.).

In 2000, the protestors brought the case before the U.S. Supreme Court again, questioning whether the law requiring an eight-foot space between protestors and those entering and exiting abortion clinics violated the First Amendment. The Supreme Court ruled to uphold the law in a 6-3 decision, determining that the law did not regulate speech, but instead regulated "the places speech may occur" (*Hill* v *Colorado* 2000). As of 1996, quiet zones existed around hospitals, and the Supreme Court had upheld zones surrounding polling locations which prohibited electioneering (Greenhouse 1996). Additionally, the decision emphasized that the law includes all demonstrators "regardless of viewpoint" and does not mention "the content of speech," and thus does not violate the First Amendment right to free speech.

In June 1994, a state court in Florida restricted anti-abortion activists from protesting within 36 feet of an abortion clinic and engaging in certain disruptive activities, including: producing loud noises within audible range of the clinic, displaying images visible from the clinic, approaching patients within a 300-foot radius of the clinic, or engaging in a demonstration within 300 feet of the residence of a clinic employee (Hudson 2011). In the 1994 case of *Madsen* v. *Women's Health Center*, the Supreme Court ruled to maintain restrictions against demonstrations within 36 feet of the clinic, and against the use of loud noises within 300 feet of an employee's home or audible from the clinic *(Madsen* v. *Women's Health Center*). However, the Court did not approve the restrictions on displaying images, interacting with patients within a 300-foot radius of the clinic, and peacefully demonstrating within 300 feet of an employee's home. The Supreme Court declared a new assessment for cases involving prohibition of speech – the Court will not uphold a law that restricts more speech than that "necessary to serve a significant government interest" (Hudson 2011, n.p.). The language of the FACE Act visibly influenced the Supreme Court's decision in the specific activities allowed and those prohibited; demonstrations within 36 feet and the use of loud noises near an employee's residence or the clinic could classify as intimidation, potential physical obstruction (in the case of demonstrations), and interferences of both patients and providers.

In the 1997 case of *Schneck* v. *Pro-Choice Network of Western New York*, the Supreme Court once again considered the constitutionality of buffer zones outside abortion clinics. Three doctors and four medical clinics in New York filed a lawsuit against three anti-abortion organizations—Operation Rescue, Project Rescue Western New York, and Project Life of Rochester—and 50 individuals who participated in non-peaceful anti-abortion demonstrations by lying or kneeling in driveways leading to abortion clinics and other similar behavior (Mezey 2009). In response, the federal district court established fixed and floating buffer zones of 15 feet, with the fixed buffer zone prohibiting protestors from coming within 15 feet of the clinics, and the floating buffer zone preventing protestors from coming within 15 feet of mobile objects, such as cars or people (Mezey 2009). To determine the constitutionality of these buffer zones, the Court used the assessment developed during *Madsen* v. *Women's Health Center* and decided that fixed buffer zones did not restrict more speech than that needed to serve the government interests of promoting public safety and order but ruled to eliminate the floating buffer zone (Mezey 2009).

In 2001, a case involving the FACE Act appeared before the Ninth Circuit Court of Appeals (but not the Supreme Court itself). In *Planned Parenthood* v. *American Coalition of Life Activists*, the Ninth Circuit revisited an earlier ruling, in which a three-judge panel from the Circuit overturned a jury's ruling that the "wanted posters" and "hit lists" of abortion providers created by the American Coalition of Life Activists (ACLA) did not constitute a threat as defined by FACE (Saporta 2002, 26). Planned Parenthood applied for the Ninth Circuit to rehear the case in 2002, and the second decision upheld the original district court ruling that the anti-abortion rhetoric demonstrated by the ACLA constituted a true threat and thus did not receive protection by the First Amendment (Vile 2009).

The ACLA had produced a "Deadly Dozen List" including the names, home addresses, and several telephone numbers of thirteen physicians who perform abortions, and three physicians were shot to death shortly after the release of their "wanted poster" (*Planned Parenthood* v. *American Coalition of Life Activists* 2001*).* The defendants openly praised the shooting and murders of abortion physicians, with one selling bumper stickers with the words "Execute Murderers – Abortionists" and another stating that "more violence [was] inevitable, and it [was] righteous" (*Planned Parenthood* v. *American Coalition of Life Activists* 2001, n.p.). Following the release of the wanted posters, one physician experienced an attack by a sniper, another received a threat via shots fired into his children's playroom, and a shooter murdered two clinic workers at a Planned Parenthood clinic in Massachusetts. The majority decision determined that "advocating violence is protected, threatening a person with violence is not," and clarified that the ACLA's acts represented true threats,[20] which are not protected, rather than political hyperbole, which is protected (*Planned Parenthood* v. *American Coalition of Life Activists* 2001). The U.S. Supreme Court ruled to uphold the Ninth Circuit decision after hearing the case in both 2003 and 2006 (Vile 2009).

The 2006 case of *Scheidler* v. *National Organization for Women (NOW)* represented a defeat for abortion clinics after a two-decade legal fight against anti-abortion demonstrations. The majority decision referenced past legal action taken by abortion clinics based on the Hobbs Act,[21] specific laws forbidding extortion, and the Racketeer Influenced and Corrupt Organizations Act (RICO). After disagreement between the District Court and Court of Appeals for the Seventh

[20] The Ninth Circuit court defined a true threat as a threat "where a reasonable person would foresee that the listener will believe he will be subjected to physical violence upon his person"

[21] The Hobbs Act is a section of Title 18 of the United States Code and states that an individual who "obstructs, delays, or affects commerce" by "(1) robbery," (2) "extortion" or (3) "commit[ing] or threaten[ing] *physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of this section" (*§1951(a), n.p.)

Circuit, the District Court found Operation Rescue and the Pro-Life Action League guilty of behaviors related to extortion and awarded damages to clinics who could prove extortion-based acts from those two organizations, and the Court of Appeals affirmed (*Scheidler v. National Organization for Women* 2006). This decision held the potential to prevent further violence and harassment against abortion providers by determining that illegal and obstructive activity does not represent protected speech and consequently expressing to law enforcement officials that such treatment of reproductive health service providers is not tolerated (Meuller 1998). However, an 8-0 majority decision in 2006 reversed the decision, when the Supreme Court ruled federal laws on extortion and racketeering did not extend to ban demonstrations by anti-abortion protestors, a setback for abortion clinics working to combat violence and harassment (Hudson 2011). Section IV of the decision states the Court's ruling that Congress intended the Hobbs Act to prohibit threatened or actual physical violence "in furtherance of a plan or purpose to engage in what the statute refers to as robbery or extortion," which did not occur (*Scheidler v. National Organization for Women* 2006, n.p.).[22]

The Issue of Safety and Speech

With these court rulings related to constitutionality in mind, are there justifiable limits to the right to freedom of speech guaranteed by the First Amendment? Does the FACE Act guarantee greater safety for patients and providers at reproductive healthcare clinics, or does it unconstitutionally restrict free speech? Proponents and opponents of FACE grapple with these questions, resulting in heated divisions and furthering inflammatory rhetoric.

Supporters of FACE tend to prioritize the safety of clinic personnel and emphasize several aspects of the Act which do not challenge First Amendment rights. The federal FACE Act does not infringe on the right to use "pure" speech; it simply prohibits the use of force, threat of force, and physical obstruction of those seeking or providing reproductive care (Hodgson 1995). Pure speech not posing a physical threat or obstruction to clinic entrances or to patients' ability to access the facility is allowed under the law, including signs, peaceful protests, and prayer (Hodgson 1995). In some cases, the government may prohibit speech when it directly threatens the wellbeing and safety of patients and employees, such as demonstrations at employee's residences, threatening letters and wanted posters, aggressive harassment on the sidewalks near clinics, and economic coercion (Hodgson 1995). Jane E. Hodgson, a clinical associate professor of obstetrics and gynecology, acknowledges the difficulty of distinguishing between peaceful protesting and intimidating patients in her 1995 editorial for the British Medical Journal (BMJ). Hodgson points to the existence of quiet zones around hospitals and questions why no similar protective fields exist for abortion clinics, which also provide necessary medical care and services to patients (1995).

Many supporters agree that while the FACE Act helps local law enforcement work to maintain the safety of clinics, further action is needed. Currently, the burden falls largely on clinics to protect themselves, as the Justice Department—responsible for enforcing FACE—claims the number of available federal marshals is insufficient to protect the nation's 900 plus abortion clinics (Hodgson 1995). Clinics must invest in expensive surveillance systems and other protective measures, including bulletproof glass and vests, metal detectors, and security guards, which may intimidate patients already anxious about visiting the clinic (Hodgson 1995). Thus, the FACE Act represents a means of legally prohibiting and penalizing physical obstruction, intentional injury, intimidation, or interferences, yet it does not fully protect against violence. Despite the existence

[22] The U.S. Supreme Court upheld that "physical violence unrelated to robbery or extortion falls outside the Hobbs Act's Scope."

of FACE, abortion providers and patients still face danger when administering or seeking abortion services, raising the question of how to protect women's access without placing the burden on clinics.

Opponents view the 1994 FACE Act as "dangerous and unconstitutional" rather than a means of preventing danger for abortion clinics and associated personnel (Rose and Osborne 1995, 1505). Legal experts Rose and Osborne firmly state that the FACE Act is unconstitutional, as the law regulates the expressive conduct of anti-abortion protestors and thus suppresses the voice of the "prolife movement of the abortion debate" (1505). Additionally, Rose and Osborne question the content neutrality of FACE; rather than creating a federal law that addresses *any* individual who uses the threat of force, actual force, or physical obstruction to prevent another individual from engaging in *any* activity protected by the Constitution, Congress focused on scenarios involving reproductive health services, suggesting "unconstitutional viewpoint discrimination" (1510).

Abortion clinics face violence and harassment in providing care incomparable to those experienced by other institutions providing essential medical services, such as hospitals. The consequences of such attacks by anti-abortion activists and groups directly affect both physicians and patients in profound ways. Designed to promote the safety of facilities providing reproductive healthcare services or serving as places of worship, the FACE Act of 1994 receives varying levels of criticism from both supporters and opponents. The debate on balancing the safety of physicians and patients seeking care and the right to free speech will likely continue for as long as the FACE Act remains.

References

Abrams, Floyd. 2014. "Abortion Rights as a Free-Speech Flashpoint," *Wall Street Journal,* 4 January 2014, http://libproxy.tulane.edu:2048/login?url=https://www-proquest-com.libproxy.tulane.edu/newspapers/abortion-rights-as-free-speech-flashpoint/docview/1474168104/se-2?accountid=14437 (Accessed August 14, 2021).

American Civil Liberties Union. 2021. "Abortion." https://www.aclu.org/issues/reproductive-freedom/abortion (Accessed August 14, 2021).

Boonstra, Heather D. 1999. "The Antiabortion Campaign to Personify the Fetus: Looking Back to the Future." *Guttmacher Policy Review* 4 (6). https://www.guttmacher.org/gpr/1999/10/antiabortion-campaign-personify-fetus-looking-back-future# (Accessed August 14, 2021).

Bray v. Alexandria Women's Health Clinic. 1993. 506 U.S. 263.

Cornell Law School. n.d. "18 U.S. Code § 248 - Freedom of Access to Clinic Entrances." Legal Information Institute. https://www.law.cornell.edu/uscode/text/18/248 (Accessed August 17, 2021).

Cornell Law School. n.d. "Abortion." Legal Information Institute. https://www.law.cornell.edu/constitution-conan/amendment-14/section-1/abortion (Accessed August 14, 2021).

Gillham, Patrick F., and Marx, Gary T. 2000. "Complexity and Irony in Policing and Protesting." *Social Justice; San Francisco* 27 (2): 212-236. http://libproxy.tulane.edu:2048/login?url=https://www.proquest.com/scholarly-journals/complexity-irony-policing-protesting-world-trade/docview/231911491/se-2?accountid=14437 (Accessed August 14, 2021).

Greenhouse, Linda. 1996. "Court Hears Challenge to Anti-Abortion Curb: Protestors Argue for Free Speech Rights," *New York Times,* 17 October 1996, http://libproxy.tulane.edu:2048/login?url=https://www.proquest.com/historical-newspapers/court-hears-challenge-anti-abortion-curb/docview/109603633/se-2?accountid=14437 (Accessed August 14, 2021).

Grimes, D. A., J. D. Forrest, Kirkman, A. L. Kirkman, and B. Radford. 1991. "An Epidemic of Antiabortion Violence in the United States." *American Journal of Obstetrics and Gynecology,* 165 (5 Pt 1): 1263–1268. https://doi.org/10.1016/0002-9378(91)90346-s (Accessed August 14, 2021).

Grove, Lloyd. 1985. "Abortion Clinics: Inside & on the Picket Line, The Resolve to Carry On: After the Bombings, the Fear" *Washington Post,* 11 January 1985, http://libproxy.tulane.edu:2048/login?url=https://www-proquest-

com.libproxy.tulane.edu/historical-newspapers/abortion-clinics-inside-on-picket-line-resolve/docview/138740819/se-2?accountid=14437 (Accessed August 14, 2021).

Hill v. Colorado. 2000. 530 U.S. 703.

Hodgson, Jane E. 1995. "Violence Versus Reproductive Health Care." *British Medical Journal*, 310 (6979): 547. doi:http://dx.doi.org/10.1136/bmj.310.6979.547 (Accessed August 14, 2021).

Hudson, David L. 2011. *Abortion Protest & Buffer Zones.* Freedom Forum Institute. https://www.freedomforuminstitute.org/first-amendment-center/topics/freedom-of-assembly/abortion-protests-buffer-zones/ (Accessed August 14, 2021).

Justia U.S. Supreme Court. 2021. "Bray v. Alexandria Women's Health Clinic, 506 U.S. 263 (1993)" *Justia*, 28 March, 2021. https://supreme.justia.com/cases/federal/us/506/263/#tab-opinion-1959131(Accessed August 17, 2021)

Lin, Victoria. 2001. "Anthrax Threats, Continued. Violence Prompt Renewed Attention to Clinic, Client Protection." *Guttmacher Policy Review* 4 (6). https://www.guttmacher.org/gpr/2001/12/anthrax-threats-continued-violence-prompt-renewed-attention-clinic-client-protection# (Accessed August 14, 2021).

LoLordo, Ann. 1994. "Who will do abortions? Skills dwindle amid debate: Students urge wider training," *The Sun*, 4 December 1994, http://libproxy.tulane.edu:2048/login?url=https://www-proquest-com.libproxy.tulane.edu/historical-newspapers/who-will-do-abortions-skills-dwindle-amid-debate/docview/2289368897/se-2?accountid=14437 (Accessed August 14, 2021).

Madsen v. Women's Health Center, Inc. 1994. 512 U.S. 753.

May, David A. 2009. "Floyd Abrams." https://mtsu.edu/first-amendment/article/1384/floyd-abrams (Accessed August 17, 2021).

McClain, Linda C. 1994. *"*Equality, Oppression, and Abortion: Women Who Oppose Abortion Rights in the Name of Feminism." In *Feminist Nightmares.* New York: New York University Press. http://libproxy.tulane.edu:2048/login?url=https://www.proquest.com/books/equality-oppression-abortion-women-who-oppose/docview/217455161/se-2?accountid=14437 (Accessed August 14, 2021).

McMullen v. Coakley. 2014. 573 U.S. 464.

Meuller, Stephanie. 1998. "Abortion Violence." *NCJW Journal* 21:2. http://libproxy.tulane.edu:2048/login?url=https://www.proquest.com/scholarly-

journals/abortion-violence/docview/229503459/se-2?accountid=14437 (Accessed August 14, 2021).

Mezey, Susan Gluck. 2009. "Freedom of Access to Clinic Entrances Act of 1994 (1994). In-Laws and Proposed Laws, 1951-2007." https://mtsu.edu/first-amendment/article/1080/freedom-of-access-to-clinic-entrances- (Accessed August 14, 2021).

National Abortion Federation. 2004. "Anti-Abortion Extremists – The Army of God and Justifiable Homicide." https://web.archive.org/web/20060116215628/http://www.prochoice.org/about_abortion/violence/army_god.html (Accessed June 27, 2021).

Partial-Birth Abortion Ban Act of 2003, H.R. 108-288, 108th Congress (2003-2004). https://www.congress.gov/bill/108th-congress/senate-bill/3 (Accessed August 14, 2021).

Planned Parenthood League of Massachusetts. n.d. "Creating Healthy Responses to Hatred and Violence." https://www.plannedparenthood.org/planned-parenthood-massachusetts/who-we-are/our-history/creating-healthy-responses-hatred-violence (Accessed August 14, 2021).

Planned Parenthood v. American Coalition of Life Activists. 1996. 945 F. Supp. 1355 (D. Or.)

Pridemore, William A., and Joshua D Freilich. 2007. "The Impact of State Laws Protecting Abortion Clinics and Reproductive Rights on Crimes Against Abortion Providers: Deterrence, Backlash, or Neither?" *Law and Human Behavior* 31 (6): 611-627. http://dx.doi.org/10.1007/s10979-006-9078-0 (Accessed August 14, 2021).

Radford, B., and G. Shaw 1993. "Antiabortion Violence: Causes and Effects." *Women's Health Issues: Official Publication of the Jacobs Institute of Women's Health* 3 (3): 144–151. https://doi.org/10.1016/s1049-3867(05)80248-8 (Accessed August 14, 2021).

Roe v. Wade. 410 U.S. 113.

Rovner, Julie. 2006. "'Partial-Birth Abortion': Separating Fact from Spin." https://www.npr.org/2006/02/21/5168163/partial-birth-abortion-separating-fact-from-spin (Accessed August 17, 2021).

Rose, J., and C. Osborn 1995. "FACE-Ial Neutrality: A Free Speech Challenge to the Freedom of Access to Clinic Entrances Act." *Virginia Law Review* 81 (5): 1505-1560. doi:10.2307/1073509 (Accessed August 14, 2021).

Saporta, Vicki. 2002. "Keeping Abortion Legal and Accessible: Why Nominations to the Court of Appeals Matter." *NCJW Journal* 25 (1): 26. http://libproxy.tulane.edu:2048/login?url=https://www.proquest.com/scholarly-

journals/keeping-abortion-legal-accessible-why-nominations/docview/229539721/se-2?accountid=14437 (Accessed August 14, 2021).

Scheidler v. National Organization for Women. 2003. 537 U.S. 393.

Schneck v. Pro-Choice Network of Western New York. 1997. 519 U.S. 357.

Simmonds, N E. "Constitutional Rights, Civility and Artifice." *The Cambridge Law Journal* 78 (1): 175-199. http://libproxy.tulane.edu:2048/login?url=https://www.proquest.com/scholarly-journals/constitutional-rights-civility-artifice/docview/2212682397/se-2?accountid=14437 (Accessed August 14, 2021).

Smith, Kate. 2019. "Violence Against Abortion Clinics Hit a Record High Last Year. Doctors Say It's Getting Worse," *CBS News*, 17 September, 2019, https://www.cbsnews.com/news/violence-against-abortion-clinics-like-planned-parenthood-hit-a-record-high-last-year-doctors-say-its-getting-worse/ (Accessed August 14, 2021).

U.S. Const. amend. I. Retrieved from https://constitution.congress.gov/constitution/amendment-1/ (Accessed August 14, 2021).

Vile, John R. 2009. "Planned Parenthood of the Columbia/Willamette, Inc. v. American Coalition of Life Activists (9th Cir.) 2002." https://mtsu.edu/first-amendment/article/706/planned-parenthood-of-the-columbia-willamette-inc-v-american-coalition-of-life-activists-9th-cir (Accessed August 14, 2021).

Zucker, Alyssa N. 1999. "The Psychological Impact of Reproductive Difficulties on Women's Lives." *Sex Roles* 9/10 (40): 767-786. http://libproxy.tulane.edu:2048/login?url=https://www.proquest.com/scholarly-journals/psychological-impact-reproductive-difficulties-on/docview/225382178/se-2?accountid=14437 (Accessed August 14, 2021).