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SOCIETY

PETER BREEN, EXECUTIVE VICE PRESIDENT & HEAD OF LITIGATION
FEBRUARY 25, 2025 WRITTEN TESTIMONY TO THE
U.S. HOUSE SUBCOMMITTEE ON OVERSIGHT OF THE COMMITTEE ON THE JUDICIARY

My name is Peter Breen, and I am the Executive Vice President and Head of Litigation for the Thomas More Society, a public interest law firm dedicated to the defense of Life, Family, and Liberty. I am honored to lead the Society's national litigation team, whose dedicated professionals work in federal and state courts from coast to coast to defend those values. Relevant to today's hearing, the Thomas More Society led the defense of pro-life Americans against the unprecedented assault on them by the Biden Department of Justice in numerous criminal prosecutions and civil lawsuits across the country. The Biden DOJ engaged in a systematic campaign to abuse the power of the federal government against pro-life advocates, while that same DOJ ignored hundreds of acts of vandalism and violence against pro-life churches, pregnancy help centers, and advocates.

On behalf of our clients and the pro-life movement, I want to thank President Trump and his team for his recent pardons. Those pardons sent a powerful message to the country—and especially to the millions of Americans in the pro-life movement—that they need not fear the federal government under President Trump. We are grateful as well for the actions of the Trump DOJ, and the Chief of Staff, who issued the memorandum directing the dismissal of the criminal prosecutions and the civil lawsuits against our clients, principally on the grounds of selective prosecution. His memo highlighted the fact that the Biden DOJ selectively

prosecuted and enforced the law against our peaceable pro-life clients while ignoring hundreds of acts of pro-abortion violence and vandalism against pro-life churches, pregnancy help centers, and individuals.

You may have heard the stories of these brave pro-life advocates.

There is the story of Paul Vaughn, the Evangelical Christian father of 11, whose children were outside waiting to go to school when heavily armed federal agents rolled up and kept his kids at bay as other agents arrested their father. Paul didn't even block patients from accessing a clinic, he merely gave moral and spiritual support to those who did. Still, the DOJ charged Paul with engaging in a "conspiracy against rights," and he was convicted on a misdemeanor FACE Act count and a felony conspiracy count. While Paul escaped prison time, others did not, because the conspiracy against rights felony comes with a 10-year maximum sentence. We had numerous clients in our Washington DC case who received multiple-year prison sentences from the federal district judge there.

And there is Mark Houck, the Catholic father of 7 who faced 20 heavily armed federal agents on his lawn, at dawn, who directed their guns at him and his family, before taking him away in handcuffs. Mark's crime was defending his son against an aggressive and foul-mouthed abortion escort on a public sidewalk. The Biden DOJ tried to turn him into a felon for it. I was honored to serve as one of the trial counsel for Mark. Fortunately, after a lot of sleepless nights and hard work, we secured a unanimous not-guilty verdict from Philadelphia jury. That's against the federal DOJ, which almost never loses a prosecution it takes to trial.

Now, while you may have heard of Mark's plight, you likely did not hear about the Biden DOJ also investigating numerous other minor sidewalk scuffles at abortion facilities coast to coast. We had numerous clients contacted by the FBI in connection with these incidents while we were defending Mark. Had we not won for Mark—and won so definitively and publicly—there presumably would have been a wave of Houck-style prosecutions, federalizing minor sidewalk squabbles, across the country.

But now that the president has acted, and our clients are home and their criminal records are wiped clean, is the matter concluded? Absolutely not.

You see, despite the recent actions of President Trump and his DOJ, a Sword of Damocles hangs over pro-life advocates. Because of the long statutes of limitation on the relevant federal laws, pro-life Americans remain in fear that some future administration will twist the law and come after them. Many of the Biden prosecutions were for actions that occurred during the first Trump Administration. And the DOJ's recent dismissals were ordered on the basis of selective prosecution, not because *the underlying laws don't apply to the conduct*.

Of course, we urge Congress to repeal the FACE Act, which is selectively and illegally enforced by pro-abortion presidential administrations. But in the immediate term, Congress has several other concrete steps it can take, working with the new Administration to define the proper scope of the laws and to defend the rights of pro-life Americans:

First, continue to investigate and expose the misuse of the FBI and DOJ over the past 4 years against pro-life Americans. Sunlight is the best disinfectant.

Second, urge the Trump Administration to bring to justice those who committed violence and vandalism against pro-life ministries. If the FACE Act is to remain on the books, it should be enforced equally.

Third, urge the DOJ to properly define the scope of the FACE Act, 18 USC § 248, and the Conspiracy Against Rights statute, 18 USC § 241, and take formal, written positions on the application of those laws, that:

- a. Congress intended that the FACE Act not apply to sidewalk squabbles between pro-abortion “clinic escorts” or “clinic defenders” and pro-life sidewalk counselors. The Senate sponsor of FACE, the late Sen. Ted Kennedy (D-MA), agreed to an amendment with Sen. David Durenberger (R-MN) that clarified the relevant scope of the Act to solely patients and abortion providers in a clinic. As Sen. Durenberger put it, “The bill, as currently drafted before us, allows legal relief only to clinic patients and personnel. . . . We have recognized that Federal law should be extended narrowly to protect only those who were actually attempting to obtain or provide medical or counseling services. It does not protect the escorts.” 139 Cong. Rec. S15686. This is the Mark Houck case—a dispute between an escort and a sidewalk counselor that should have never been federally prosecuted.

- b. The FACE Act’s “physical obstruction” does not apply to peaceable counseling activity that does not intentionally obstruct a patient or abortion provider. The Biden DOJ advanced a contrary theory, as did the Obama DOJ before it. And the New York Attorney General, with the blessing of the Biden DOJ, pressed and continues to press that contrary theory today.
- c. The FACE Act cannot be applied to others who do not actually block without running afoul of the First Amendment. The Courts have recognized that pro-life sit-ins are First Amendment activity, and while those who actually block can be prosecuted under the Act, those who provide moral and spiritual support should not be prosecuted, consistent with the First Amendment.
- d. The “Conspiracy Against Rights” statute and its 10-year felony provisions cannot be applied to pro-life advocates at all. There is no federal right to abortion, and clinic access is not the sort of right intended to be protected by this statute from the 1800’s, which was intended to protect the voting rights of Black Americans against the KKK. The DOJ’s use this statute was a critical injustice in the recent prosecutions of peaceable pro-lifers, allowing them to be branded as convicted felons and subjecting them to years in a federal penitentiary.

These immediate actions will provide pro-life Americans with the comfort to know that their federal government will not target them unfairly and will evenhandedly apply the law. Thank you for your attention to this important topic.