

United States Senate

April 8, 2022

Mayor Muriel Bowser
Executive Office of the Mayor
John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Chief Robert J. Contee III
Metropolitan Police Department
Henry J. Daly Building
300 Indiana Avenue, N.W.
Washington, D.C. 20001

Re: Evidence Preservation Notice for Congressional Oversight

Dear Mayor Bowser and Chief Contee:

I write today in my capacity as Ranking Member of the Subcommittee on the Constitution, United States Senate Committee on the Judiciary, to provide notice of your obligations to preserve evidence for future Congressional oversight hearings. As you are aware, the United States Congress holds unique jurisdiction and constitutional authority to oversee the District of Columbia under Article 1, Section 8, Clause 17 of the United States Constitution. This oversight role is especially critical where it appears that the executive leadership of Washington, D.C. may destroy evidence of serious alleged violations of federal law involving constitutional issues.

In this instance, D.C. Metropolitan Police recently discovered evidence suggesting that local abortionists violated Congressional prohibitions on partial-birth abortion. These officers recovered the remains of five preborn children—babies whose bodies appear to have been gruesomely mutilated during partial-birth abortions or even killed after botched abortion attempts. These bodies appear to have been recovered from the Washington Surgi-Clinic in Washington, D.C., operated by Dr. Cesare Santangelo, an abortionist who conducts late-term abortions.

Under the Partial-Birth Abortion Ban Act of 2003, Pub. L. 108-105, 18 U.S.C. § 1531, a partial-birth abortion occurs when a physician partially delivers a living child for the purpose of performing an overt act that intentionally takes the life of the child. The U.S. Supreme Court upheld the federal ban on partial-birth abortions in *Gonzales v. Carhart*, 550 U.S. 124 (2007). The Supreme Court made clear in that opinion that Congress's ban on partial-birth abortion does not impose an undue burden on abortion. Additionally, Congress passed the Born Alive Infants Protection Act of 2002, Pub. Law 107-207, 1 U.S.C. § 8, to provide equal protections for children who are born alive during an abortion. As you are also no doubt aware, the legality of democratically instituted limitations on the contested right to abortion is actively being considered by the Supreme Court this term in the case *Dobbs v. Jackson Women's Health Organization*.

It is a clear injustice that these children may have been murdered or aborted in violation of federal law, and that the D.C. government entities that this Congress oversees are unwilling to investigate the circumstance and may instead destroy all evidence. It appears that the Metropolitan Police Department has assumed the cause and nature of these children's deaths without an investigation. It has recently been brought to my attention that the D.C. government may incinerate the bodies of these five children without conducting an investigation, without performing any autopsies, and without affording these children a proper, respectful burial.

In recent days, I have joined letters demanding that you, the Department of Justice, and the Federal Bureau of Investigation ("FBI") open investigations to determine whether these children were aborted in violation of federal law, specifically the Partial-Birth Abortion Ban Act of 2003. The letter led by Senator Lee, which was sent earlier today to the Department of Justice and the FBI, reiterated similar requests to ensure preservation of each of the five bodies as evidence for future investigations.

I write separately now to speak specifically to some of the oversight actions that justify these preservation demands. Specifically, I ask that you direct the D.C. Medical Examiner to conduct an autopsy of each of these five children's bodies consistent with the type of method and detail that would be conducted in a murder investigation. At a minimum, as an alternative, I ask that you ensure the preservation of each of these bodies as evidence for future investigations and Congressional oversight, consistent with the request made in the Lee letter to the Department of Justice and the FBI.

It is likely that after the upcoming election in November 2022, control of the Senate will shift to the Republican Party. At that time, when I am Chairman of the Subcommittee on the Constitution, I will schedule hearings on likely violations, like those at issue with these five children, of the Partial-Birth Abortion Ban Act of 2003 and the Born Alive Infants Protection Act. I also intend to convene hearings on Big Abortion and the abortion industry writ large, including how this industry has directed faulty, one-sided research; promoted statements suggesting that women cannot be equal under the law or succeed in the workplace without the ability to kill their children in the womb; advertised dangerous abortion on-demand pills that create grave risks of medical complications to both mother and child; and profited from the killing of millions of children.

To be clear, the remains of these five children are critical evidence in the Congressional oversight that the Subcommittee on the Constitution will conduct in the imminent future. Should the Executive Office of the Mayor and the Metropolitan Police Department decide not to conduct timely autopsies, this letter provides notice that these remains should not be destroyed, incinerated, or discarded, but instead should be respectfully preserved so that Congress can conduct necessary and vital oversight.¹

¹ Nothing in this evidence preservation directive should be construed to prohibit an autopsy or investigative actions to determine whether the five children were aborted or killed in violation of federal law.

Please confirm proof of your compliance with these evidence preservation demands no later than April 11, 2022.

Sincerely,

Ted Cruz
Ranking Member, Subcommittee on the Constitution
Senate Judiciary Committee

CC: Washington D.C. Office of the Medical Examiner
Dr. Francisco J. Diaz, Chief Medical Examiner
Rodney Adams, General Counsel