

Senator Lindsey O. Graham
Questions for the Record
**“Chaos and Confusion: Examining the Patchwork of Abortion Restrictions Across
America Since Dobbs”**
June 25, 2024

Questions for Eloisa Lopez

- 1. The best social science evidence suggests that there are 10,000 abortions annually performed at the stage where the baby could live outside his or her mother’s body.¹ Do you support any restrictions on purely elective abortions after viability that are not performed due to rape, incest, or to protect the life or safety of the mother?**

First, your use of “elective” here seems misapplied. In a clinical setting, “elective” refers to procedures that are scheduled, rather than performed during an emergency. As such, the vast majority of abortions, for any reason, at any point in pregnancy, are “elective,” as are most medical procedures. But I suspect you intend to refer to the reasons someone may seek abortion care and to imply a value judgment on someone’s reasons for obtaining an abortion. The premise of your question is that some people deserve abortions and some do not and that the government is in a position to turn that value judgment into policy. I fundamentally disagree.

We do not ask our callers their reasons for seeking abortion care. People seek abortions throughout pregnancy for a host of reasons, and rarely would someone’s motivations fit into neat categories that would satisfy your question or laws based on them. But I fundamentally do not believe that people need to have experienced a sexual assault or an emergent medical threat to deserve an abortion. I have had four abortions; neither of them was due to sexual assault or an emergent medical threat. I simply did not want to be pregnant in that moment and time. Each person’s decision is informed by their weighing of complex and sometimes conflicting factors, their lives as they are, the people they care for, their own ambitions for their lives and their family, their deeply-held religious beliefs, their faith in a social safety net that is being dismantled, etc.

I do not support government interference in abortion care or an individual’s personal medical decisions. There is never a point in a person’s pregnancy when politicians are better positioned to decide these clinical or ethical questions. Whether you, I, or the federal government agree with these personal decisions is irrelevant. You are asking when and under what circumstances abortion should be prohibited by law—when a

¹ According to the Guttmacher Institute, approximately 1,037,000 abortions occurred in the formal healthcare system in 2023. *Despite Bans, Number of Abortions in the United States Increased in 2023*, GUTTMACHER INSTITUTE (May 10, 2024), <https://www.guttmacher.org/2024/03/despite-bans-number-abortions-united-states-increased-2023>. The CDC estimates that, as of 2019, roughly 1% of abortions are performed after viability (i.e., when a child can often survive if separated from his or her mother). *Abortion Surveillance – United States, 2019*, CENTERS FOR DISEASE CONTROL AND PREVENTION (Nov. 26, 2021), https://www.cdc.gov/mmwr/volumes/70/ss/ss7009a1.htm#T11_down. This suggests that roughly 10,000 late-term abortions are occurring each year.

state's policing powers may be deployed to stop people from accessing abortion. You are asking when clinicians and abortion seekers should be subject to investigation, prosecution, and punishment. And again, I do not think there is any point in which it is appropriate to criminalize abortion care.

a. What about after 28 weeks? Do you support any restrictions on purely elective abortions after 28 weeks?

I do not support government interference in abortion care or an individual's personal medical decisions. There is never a point in a person's pregnancy when politicians are better positioned to decide these clinical or ethical questions. Whether you, I, or the federal government agree with these personal decisions is irrelevant. You are asking when and under what circumstances abortion should be prohibited by law—when a state's policing powers may be deployed to stop people from accessing abortion. You are asking when clinicians and abortion seekers should be subject to investigation, prosecution, and punishment. And again, I do not think there is any point in which it is appropriate to criminalize abortion care.

b. What about after 32 weeks? Do you support any restrictions on purely elective abortions after 32 weeks?

I do not support government interference in abortion care or an individual's personal medical decisions. There is never a point in a person's pregnancy when politicians are better positioned to decide these clinical or ethical questions. Whether you, I, or the federal government agree with these personal decisions is irrelevant. You are asking when and under what circumstances abortion should be prohibited by law—when a state's policing powers may be deployed to stop people from accessing abortion. You are asking when clinicians and abortion seekers should be subject to investigation, prosecution, and punishment. And again, I do not think there is any point in which it is appropriate to criminalize abortion care.

c. What about after 35 weeks? Do you support any restrictions on purely elective abortions after 35 weeks?

I do not support government interference in abortion care or an individual's personal medical decisions. There is never a point in a person's pregnancy when politicians are better positioned to decide these clinical or ethical questions. Whether you, I, or the federal government agree with these personal decisions is irrelevant. You are asking when and under what circumstances abortion should be prohibited by law—when a state's policing powers may be deployed to stop people from accessing abortion. You are asking when clinicians and abortion seekers should be subject to investigation, prosecution, and punishment. And again, I do not think there is any point in which it is appropriate to criminalize abortion care.

d. Do you support any limitations on purely elective abortion at any stage of gestation?

I do not support government interference in abortion care or an individual's personal medical decisions. There is never a point in a person's pregnancy when politicians are better positioned to decide these clinical or ethical questions. Whether you, I, or the federal government agree with these personal decisions is irrelevant. You are asking when and under what circumstances abortion should be prohibited by law—when a state's policing powers may be deployed to stop people from accessing abortion. You are asking when clinicians and abortion seekers should be subject to investigation, prosecution, and punishment. And again, I do not think there is any point in which it is appropriate to criminalize abortion care.

e. Even assuming that the figures cited above are incorrect, would you support any limitation on a woman's right to receive an abortion after 35 weeks?

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According to the Guttmacher Institute, approximately 1,037,000 abortions occurred in the formal healthcare system in 2023. Despite Bans, Number of Abortions in the United States Increased in 2023, GUTTMACHER INSTITUTE (May 10, 2024), <https://www.guttmacher.org/2024/03/despite-bans-number-abortions-united-states-increased-2023>. The CDC estimates that, as of 2019, roughly 1% of abortions are performed after viability (i.e., when a child can often survive if separated from his or her mother). Abortion Surveillance – United States, 2019, CENTERS FOR DISEASE CONTROL AND PREVENTION (Nov. 26, 2021), https://www.cdc.gov/mmwr/volumes/70/ss/ss7009a1.htm#T11_down. This suggests that roughly 10,000 late-term abortions are occurring each year.

2. In your opinion, what if any restrictions should a federal or state government be allowed to impose on abortions after the beginning of fetal viability?

According to the [American College of Obstetricians and Gynecologists \(ACOG\)](#) the physician's organization representing doctors that would, I suspect, be legally in a position to make determinations of potential fetal viability, "there is no single formally recognized clinical definition of 'viability.'" I am unclear how restrictions could rely on a term without clinical definition.

When people need care, and such a ban is in place, they are denied critical abortion care close to home and the people they may depend on for support. The effects of being denied a wanted abortion have been [exhaustively studied](#), and it is very clear that it leads to bad outcomes for the individual and their family. Others may leave their state for

care, which involves overcoming a host of logistical and financial barriers, and this is why abortion funds exist. Community-based organizations must help people access healthcare because the government and court systems refuse to support them. Banning abortion, at any point, is harmful.

As stated previously, there is no point when I would support a legal “restriction,” which means the government interfering in health care and imposing civil and criminal penalties on abortion care.

3. In your opinion, should federal or state governments be permitted to restrict abortions that are conducted because the baby is a particular sex?

I do not believe this question is being asked in good faith. I believe it is meant to be inflammatory. It is intended to erroneously suggest that some people are seeking abortion care for the “wrong reasons” and that the government must be empowered to step in and intervene. This also suggests that the government’s role is to make things we don’t like or agree with never happen, and to eliminate sexism or other types of discrimination. I do not believe the government can eliminate bias without severely curtailing people’s civil and human rights. I do not agree with the premise of this question and do not support government interference in abortion care.

4. In your opinion, should federal or state governments be permitted to place restrictions on abortions that are conducted because the baby is a particular race?

I do not believe this question is being asked in good faith. I believe it is meant to be inflammatory. It is intended to erroneously suggest that some people are seeking abortion care for the “wrong reasons” and that the government must be empowered to step in and intervene. This also suggests that the government’s role is to make things we don’t like or agree with never happen, and to eliminate racism or other types of discrimination. I do not believe the government can eliminate bias without severely curtailing people’s civil and human rights. I do not agree with the premise of this question and do not support government interference in abortion care.

5. Dr. Warren Hern’s research shows that of second- and third-trimester abortions performed because the baby had an abnormality, abortions because the baby had Down Syndrome composed the largest group. In your opinion, should federal or state governments be permitted to place any restrictions on abortions that are conducted because the baby has a non-life threatening disability, such as Down’s Syndrome?

I do not believe this question is being asked in good faith. I believe it is meant to be inflammatory. It is intended to erroneously suggest that some people are seeking abortion care for the “wrong reasons” and that the government must be empowered to step in and intervene. This also suggests that the government’s role is to make things we

don't like or agree with never happen and to eliminate ableism or other types of discrimination. I do not believe the government can eliminate bias without severely curtailing people's civil and human rights. I do not agree with the premise of this question and do not support government interference in abortion care.

6. In your opinion, should doctors with conscientious objections to abortion be permitted to refuse to provide abortion procedures to patients?

Medical providers take an oath of commitment to provide the best and most appropriate care to each of their patients. No one should be compelled to provide any sort of health services they are not trained or willing to do. Just as abortion providers and abortion seekers should be empowered to use their best judgment, so should all healthcare providers. However, anti-abortion healthcare providers should not be empowered to withhold information, lie, or mislead people from having options, access to accurate medical information, or referrals to providers who will provide the abortion care they are seeking.

7. In your opinion, should federal tax dollars be permitted to be used to fund abortions or abortion providers, for instance, through the Medicaid program?

Abortion is healthcare. As such, abortion should not be discriminated against in any policy or law that regulates Medicaid reimbursement for healthcare services.

Eloisa Lopez

A handwritten signature in black ink, appearing to be 'Eloisa Lopez', written in a cursive style.

Senator Peter Welch
Senate Judiciary Committee
Subcommittee on The Constitution
Written Questions for Eloisa Lopez
Hearing on “Chaos and Confusion: Examining the Patchwork of Abortion Restrictions
Across America Since *Dobbs* “
Tuesday, June 25, 2024

As of June 27, 14 states have enacted total abortion bans. The majority of these states are considered among the most rural in the United States. Roughly 40% of American households do not have access to high-speed broadband. Without broadband, many rural Americans cannot access the internet and familiarize themselves with the abortion laws in their states.

1. What steps can Congress take to ensure that women in rural communities with limited internet and broadband resources have adequate access to information regarding their states’ abortion care laws?

Congress can explore how to allocate federal dollars to states specifically to offer grants to community-based organizations that conduct educational outreach on reproductive rights and other issues impacting pregnant people. This outreach can include sharing about new abortion laws, bans, and restrictions.

Our organization focuses on rural outreach, as do other community organizations. Funding is always key, as we know that building relationships in rural communities requires in-person travel, including hosting town hall meetings to share updates. For our organization, we have found that in-person connection is really the best way to share information. Radio, newspaper, and billboard ads are another way to reach rural demographics.

In 2021, the last year for which full data is available, there were 23.2 million immigrant women living in the United States.

1. What protections, if any, are there for immigrant or noncitizen women traveling between states to seek abortion care?

If we know that accessing abortion care is high-risk and challenging for women with citizenship in the U.S., then we know to be true that it is even more difficult for immigrant women to access abortion care, specifically undocumented women.

Many immigrant or undocumented women may not have an acceptable form of ID to use at an abortion clinic. This is crucial to access healthcare.

Another barrier immigrant and undocumented women encounter is language access. Interpretation services may be complex to find to simply begin understanding the laws and restrictions on abortion care in the state they live in. Ensuring abortion clinics and healthcare providers have access to funding and interpretation resources is one solution to aid immigrant and undocumented women.

2. Please explain the unique risks that immigrant or noncitizen women face when traveling between states to seek abortion care.

If you live in a border state, you have ICE and border patrol operating checkpoints that put the safety of immigrant and undocumented women at risk, especially if they have children. Undocumented people are more likely to seek alternative methods of abortion care, such as ordering pills by mail if they know that checkpoints are along the routes to the nearest abortion clinic. People should be allowed to access healthcare safely without the fear of deportation.

The Supreme Court's decision to overturn *Dobbs* in 2022, not only unleashed a reproductive health crisis, but also a data privacy crisis.

1. Please explain how data from patients' phones and other electronic devices, such as computer and tablets, can be weaponized against those seeking abortion care.

We have witnessed the criminalization of individuals seeking abortion care or experiencing a natural miscarriage via digital surveillance in this country. In Nebraska, a mother and teenage daughter were sentenced to jail for ordering pills by mail and having [a conversation over Facebook messenger](#) about the daughter's abortion. Most people do not realize that social media platforms are not secure and chat conversations are not encrypted, therefore allowing law enforcement to send investigative warrants to tech companies.

[Data brokers are already selling location information](#) of people who travel and visit abortion clinics. Internet search history can be weaponized against an individual who is caught trying to access abortion care in a restricted state with abortion bans.

In 2024, the Duke Journal of Constitutional Law and Public Policy [published an in-depth report on digital surveillance in a post-Dobbs landscape](#).

2. Please explain the steps Congress can take to further safeguard electronic health records, especially for clinics and hospitals that transmit data over state lines.

Pass legislation prohibiting the sale of patient location data, including geofenced data, when visiting healthcare clinics and hospitals, including abortion clinics.

Pass legislation prohibiting search warrants of clinic and hospital records for the specific purpose of identifying when a patient may have accessed abortion care, including menstrual history records.

Pass legislation to limit law-enforcement agencies from accessing patient data that is collected by big Tech companies for the sole purpose of attempting to determine when someone was pregnant and may have accessed abortion care.

Pass legislation to protect abortion patients traveling to safe haven states from being tracked by out-of-state police using data from license plate readers.

-Eloisa Lopez

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