



# Dobbs Supreme Court Case Messaging Guide

## Four Top Messages

SBA List has conducted extensive polling, message testing, and focus groups. From this research, we've developed four key messages:

**Focus on the humanity of the unborn child at 15 weeks, especially the child's developmental features and ability to feel excruciating pain – all proven by modern medicine and science.<sup>1</sup>**

- Thanks to advances in modern medicine and science, the humanity of a 15-week-old child in the womb is undeniable.
- Children at this stage have fully formed noses and lips, eyelids and eyebrows; they can suck their thumbs, and can even feel pain.<sup>2</sup>
- Roe is based on outdated science. It's time for the courts to allow the law to catch up.

**Emphasize that the likely outcome in Dobbs will be to allow the American people to debate this issue through their elected representatives – NOT a complete nationwide ban on abortion. Elected officials rather than unelected judges will set abortion policy based on where consensus is found.**

- Roe puts unelected judges in charge of abortion policy. Abortion laws should be debated and decided by the American people, not dictated by judges. Roe imposes a one-size-fits-all legal system that leaves Americans without a voice.
- Overturning Roe gets the courts out of the abortion business and allows Americans to have a discussion and come to consensus through their elected officials. Consensus will look different in different places.

**Hammer Democrats for their extremist position in favor of abortion on demand, even painful late-term abortions when the child can feel excruciating pain.**

- Politicians who support Roe support court-imposed abortion on demand up until the moment of birth.<sup>3</sup> They oppose allowing Americans to even debate the issue through their

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<sup>1</sup> <https://lozierinstitute.org/15-facts-at-15-weeks/>

<sup>2</sup> [voyageoflife.com](https://voyageoflife.com)

<sup>3</sup> <https://www.nationalreview.com/corner/supporting-roe-means-supporting-abortion-until-birth/>

<sup>4</sup> <https://www.sba-list.org/hyde>

<sup>5</sup> <https://www.nationalreview.com/corner/virginia-governor-defends-letting-infants-die/>

<sup>6</sup> <https://www.sba-list.org/newsroom/press-releases/pro-life-leaders-launch-discharge-petition-to-push-for-a-vote-on-born-alive-protections-for-babies>

<sup>7</sup> <https://www.kofc.org/en/news-room/polls/americans-support-legal-limits-on-abortion.html>

elected representatives. These same politicians support taxpayer funding of abortion<sup>4</sup> and even infanticide.<sup>5,6</sup> They are way out of step with the American people.

- 71% of Americans support significant limits on abortion<sup>7</sup> and most Americans would prefer that the people set abortion policy through their elected officials, not unelected judges.<sup>8</sup>
- Because of *Roe* and *Casey*, the United States is more in line with China and North Korea when it comes to abortion policy.<sup>9</sup> Even in progressive Europe, 47 out of 50 countries have limits on abortion prior to 15 weeks.<sup>10</sup>

**Demonstrate that the pro-life movement cares not only about the unborn child, but about the mother as well, and providing the resources necessary for her to choose life.**

- The pro-life movement cares not only about the unborn child, but also for vulnerable mothers.
- This is demonstrated by the more than 2,700 pregnancy care centers nationwide that serve millions of people annually.<sup>11</sup>
- It is also demonstrated by government-funded programs like the Texas Alternatives to Abortion program<sup>12</sup> – with a \$100 million annual budget<sup>13</sup> – that provide counseling, material assistance, care coordination, and housing support.

## **Q&A – Answering Tough Questions**

**Q: If *Roe* is overturned, do you want to see all abortions made illegal?**

**A:** Unborn children and mothers should be protected under the law. If *Roe* is overturned, the issue is returned to the people to decide it through their elected representatives in Congress and in the states. We should save as many children as we can under the law based on where consensus is found, and work toward the day when all children and mothers are protected. That won't happen overnight, but reversing *Roe* begins the process of the people being able to act to protect life.

**Q: If *Roe* is overturned and abortion is criminalized, how would you enforce it? Who should be punished under the law? The doctor? The mother? Both?**

**A:** The pro-life movement believes that in every abortion there are two victims: the mother and the child. The mother should always be held harmless under the law. The abortionist who performed the illegal abortion should be punished, not the mother.

**Q: Poll after poll shows the majority of Americans do not want to see *Roe* overturned. You talk a lot about letting the people have a say, but isn't it clear most Americans prefer the status quo of the *Roe* decision?**

**A:** Any poll asking just about *Roe* is superficial. Polling conducted for SBA List shows a third of American voters believe *Roe* only allows for abortions during the first trimester, and another third

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<sup>8</sup> <https://www.sba-list.org/polling#scotus>

<sup>9</sup> <https://www.washingtonpost.com/news/fact-checker/wp/2017/10/09/is-the-united-states-one-of-seven-countries-that-allow-elective-abortion-after-20-weeks-of-pregnancy/>

<sup>10</sup> <https://lozierinstitute.org/comparing-mississippi-limit-with-european-laws/>

<sup>11</sup> <https://lozierinstitute.org/pregnancy-center-reports/>

<sup>12</sup> <https://www.hhs.texas.gov/services/health/women-children/alternatives-abortion>

<sup>13</sup> <https://lozierinstitute.org/alternatives-to-abortion-programs-support-for-mothers-and-families/>

of voters say they don't know when *Roe* limits abortions, if at all. Only 20% of voters correctly identified *Roe* as allowing for abortions up until birth. There are plenty of polls that demonstrate the American people, even many who identify as pro-choice, reject abortion on demand until birth<sup>14</sup> and support limits.<sup>15</sup> Further, polling also demonstrates that most Americans prefer that their elected representatives, not unelected judges, determine abortion policy.<sup>16</sup>

**Q: If *Roe* is overturned and pro-life states ban abortion, the impact is going to be hardest on poor women, especially poor women of color who cannot afford to travel out of state to get an abortion. Why are you advocating for laws that will hurt poor people of color?**

It is a travesty that abortion disproportionately impacts people of color and has done so for decades.<sup>17</sup> America is better than that. The pro-life movement believes in the dignity of all people, regardless of race or income. If *Roe* is overturned and unborn children can be protected, we will be able to save these vulnerable children. That should be celebrated. The pro-life movement stands ready to support these moms who no longer have access to abortion. The pro-life movement has been serving women and families for the past 50 years through existing networks like America's 2,700 pregnancy centers that provide vital services to millions of people each year at virtually no cost.<sup>18</sup> Programs like Her PLAN (Pregnancy and Life Assistance Network)<sup>19</sup> have launched to identify and fill gaps in the safety net across states so that the needs of mothers and babies are met.

**Q: Why is your side insistent on telling a woman what to do with her body, yet when it comes to COVID-19 which has killed millions of people, your side resists vaccine mandates that can save lives under the same premise of individual liberty? Your side is effectively saying "my body, my choice" when it comes to vaccines. Isn't that hypocritical and inconsistent with being "pro-life?"**

**A:** You're comparing apples and oranges. With the COVID-19 vaccine, you're talking about a vaccine meant to protect against illness. When you're talking about abortion, you're talking about a procedure that is considered successful when it results in the death of an unborn child. The goal of an abortion is to deliver a dead baby. When refusing a vaccine, death is not the goal, and it doesn't mean precautions aren't being taken elsewhere to protect oneself and others from serious illness. There are many reasons for vaccine reluctance, but none of those reasons involves intentionally causing the death of another human being.

**Q: Won't the overturning of *Roe* cause women turn to "back alley" abortions that could kill them?**

**A:** The pro-life movement cares deeply about the health, safety and well-being of women. The reality is that currently under *Roe*, abortion is not safe for either unborn children or their mothers.

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<sup>14</sup> <https://www.sba-list.org/polling>

<sup>15</sup> <https://www.kofc.org/en/news-room/polls/americans-support-legal-limits-on-abortion.html>

<sup>16</sup> SBA List/MacLaughlin & Associates, July 2018

<sup>17</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7436774/>

<sup>18</sup> <https://lozierinstitute.org/pro-life-pregnancy-centers-served-2-million-people-with-essential-medical-education-and-support-services-in-2019/>

<sup>19</sup> <https://herplan.org/>

Abortion in many states is vastly unregulated, leading to horrific conditions in facilities like those of Kermit Gosnell and severe injury or even death at the hands of incompetent so-called doctors like Steven Chase Brigham, Leroy Carhart, and many others.<sup>20</sup> Further, a recent study reviewing abortions that were paid for by state Medicaid funds found that for every 100 abortions performed, there were 35 ER visits for abortion complications.<sup>21</sup> We must do everything we can as a society – both the public and private sector – so that mothers never reach a point of desperation where they feel the need to seek an illegal abortion. There should be bipartisan consensus on that point, regardless of how one feels about abortion.

**Q: Won't overturning *Roe* set back women's rights and equality to men? Women have come to rely on reproductive freedom to advance economically and achieve their dreams.**

The pro-life movement rejects the false and paternalistic argument that women have meaningful lives only because seven male justices in *Roe* invented a “right” to abortion in 1973. As a legal brief filed in *Dobbs* authored by 240 female scholars and professionals<sup>22</sup> argues, *Roe* has had no impact on women's equality in American society: “Even a cursory review of history reveals that the expansion of opportunities for women – as well as their increased participation in political, social, and economic spheres – predated *Roe*.” Further, another brief filed by pro-life women legislators representing nearly every state in the country<sup>23</sup> demonstrated how women's representation in public office has soared since 1973. It also demonstrated that women in public office are representing both sides of the abortion debate. If *Roe* is overturned and the issue is handed back to the people to decide, women's voices on both sides of the debate will be strongly represented. The brief states: “Because of the substantial changes that even a minority of women bring to a legislative body, there is no longer a need — if there ever was — for this Court to assume that women cannot adequately protect their own interests through state political processes... Because women can now advance their own policy preferences in legislatures throughout the Nation, the Court can and should give greater deference to state legislators' judgments about how to regulate abortion within their states' borders.”

**Q: If *Roe* is overturned and you can pass laws to criminalize abortion, why do you think it's OK to impose your own religious beliefs on everyone else?**

**A:** You do not have to be a religious person to believe that the unborn child developing in the womb is a person who is entitled to legal protection. It is a scientific and biological fact that life begins at conception. Sure, people's religious views can also come into play, believing that this life was created by God. But it's fundamentally a matter of science and biology. Show an ultrasound of an unborn child to a five-year-old and they'll tell you it's a child. And it's very doubtful they'd bring up a religious view in explaining why.

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<sup>20</sup> <https://www.sba-list.org/negligence>

<sup>21</sup> <https://journals.sagepub.com/doi/full/10.1177/23333928211053965>

<sup>22</sup> [https://www.supremecourt.gov/DocketPDF/19/19-1392/185586/20210803111413494\\_19-1392%20Brief%20of%20240%20Women%20Scholars%20et%20al%20In%20Support%20of%20Petitioners%20REPLACEMENT%20COPIES.pdf](https://www.supremecourt.gov/DocketPDF/19/19-1392/185586/20210803111413494_19-1392%20Brief%20of%20240%20Women%20Scholars%20et%20al%20In%20Support%20of%20Petitioners%20REPLACEMENT%20COPIES.pdf)

<sup>23</sup> <https://s27319.pcdn.co/wp-content/uploads/2021/07/SBA-List-Final.pdf>

**Q: Justice cannot be achieved until every person can make their own decisions about their bodies, their lives, and their futures. Why do you want to take a huge step backwards for women by taking away their autonomy?**

**A:** The premise of the question only makes sense if the unborn child isn't a distinct, living human being. Basic biology tells us that the unborn child is a distinct person who should be entitled to the same freedom and future that you talked about. There are two lives at stake here, not one.

**Q. It seems cruel to force a victim of rape or incest to carry her abuser's baby to term. Mississippi's 15-week limit does not have exceptions in these cases.**

**A:** Rape and incest are horrific crimes and the perpetrators of these violent acts should be prosecuted to the fullest extent of the law. The value of human life is not determined by the circumstances of his or her conception and abortions carried out following these horrific crimes only compound the crisis that the mother is enduring. Abortion advances a cycle of violence forward on yet another innocent victim. For what other crime do we punish the child, let alone a vulnerable unborn baby, for the sin of one of his or her parents? We should also not assume that abortion is what survivors want. Estimates show that as many as 64% of women who become pregnant from rape already choose to keep and raise their babies (Shauna Prewitt, Georgetown Law Journal<sup>24,25</sup>). They are courageous and deserve support, not stigma. Further, "Hard cases" constitute a tiny minority of U.S. abortions – over 98% are elective/for socioeconomic reasons (Wm. Robert Johnston, 2016<sup>26</sup>).

**Q: The American College of Obstetricians and Gynecologists says a fetus isn't able to feel pain until 24 weeks gestation. Justice Sotomayor said fetal pain is only accepted by fringe scientists. Why do you want to take away a woman's right to health care based on fringe science?**

ACOG is using outdated research. They ought to catch up with modern science that shows unborn children do feel pain at least by 15 weeks, if not earlier.<sup>27</sup> One of the world's top neuroscientists, Dr. Stuart Derbyshire, was for many years considered a "leading voice against the likelihood of fetal pain"<sup>28</sup> and was on record rejecting the possibility of fetal pain prior to 24 weeks. Not only is he not "fringe," he co-wrote one of the studies ACOG relies on to deny the science of fetal pain and his decade-old work is even cited in the abortion industry's *Dobbs* response brief.<sup>29</sup> What the abortion lobby won't tell you is that, in response to growing evidence, he changed his mind and now he writes that fetal pain is possible "from as early as 12 weeks." Following the evidence is what science is all about.

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<sup>24</sup> <https://cga.ct.gov/2016/JUDdata/Tmy/2016HB-05605-R000314-Stacy,%20Nicole%20%20-%20Public%20Policy%20Assistant,%20Family%20Institute%20of%20Connecticut-TMY.PDF>

<sup>25</sup> <https://thoughtcatalog.com/gaby-dunn/2012/08/giving-birth-to-a-rapists-child-one-womans-story/>

<sup>26</sup> <http://www.johnstonsarchive.net/policy/abortion/abreasons.html>

<sup>27</sup> <https://lozierinstitute.org/the-acog-should-reconsider-fetal-pain/#:~:text=%20The%20ACOG%20Should%20Reconsider%20Fetal%20Pain%20,and%20psychological%20expe%20rience%20that%20requires%20conscious...%20More%20>

<sup>28</sup> <https://www.nytimes.com/2013/09/17/health/complex-science-at-issue-in-politics-of-fetal-pain.html>

<sup>29</sup> [https://www.supremecourt.gov/DocketPDF/19/19-1392/192267/20210913143126849\\_19-1392bs.pdf](https://www.supremecourt.gov/DocketPDF/19/19-1392/192267/20210913143126849_19-1392bs.pdf)

**Q: You are trying to take us backwards and make decisions that should be made between a woman and her doctor. Roe has been the law for 50 years to protect women. Justice Kagan made the point that nothing has changed since then. Give me one reason we should take these rights away from women now.**

**A:** The reality is that science and medicine have made tremendous advancements since 1973. Back then, sonogram images were made up of grainy, black and white dots – it was hard even to see major body parts clearly. Now, we have 4D ultrasound that makes it possible to see the baby smile, yawn, hiccup, suck his or her thumb, and even cry in response to a painful injection.<sup>30</sup> We can know if the baby will be right-handed or left-handed. Through advances in surgery, doctors can treat conditions like spina bifida right in the womb<sup>31</sup> – and the babies are treated as patients in their own right and given anesthesia for their pain. Justice Kagan was right about one thing: the baby hasn't changed. We know he or she is a living human being. Thanks to modern technology, we simply know so much more about life and development before birth,<sup>32</sup> and it's time our laws reflected this.



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<sup>30</sup> 4D ultrasound video of a baby (third trimester) reacting to an injection of anesthetic prior to surgery in utero: [https://cdn-links.lww.com/permalink/pr9/a/pr9\\_2020\\_11\\_25\\_diandrade\\_painreports-d-20-0059\\_sdc1.mp4](https://cdn-links.lww.com/permalink/pr9/a/pr9_2020_11_25_diandrade_painreports-d-20-0059_sdc1.mp4)

<sup>31</sup> <https://lozierinstitute.org/dive-deeper/fetal-surgery-treating-babies-before-they-are-born/>

<sup>32</sup> <https://lozierinstitute.org/wp-content/uploads/2021/07/CLI-Dobbs-Amicus-Brief.pdf>