

NLWJC - Kagan

DPC - Box 001 - Folder 008

**Abortion Partial Birth - Talking
Points**

Talking Points on Late-Term Abortion
5/21/97

- The President will veto the Santorum bill because it does not adequately protect women from grievous physical harm.
- The American College of Obstetricians and Gynecologists (ACOG), which is the organization of specialists who know the most about this issue, agrees with the President that the bill endangers women, because it prevents doctors from using a procedure that in a few cases best protects women from serious injury.
- The AMA's last-minute endorsement of the Act will not lead the President to change his position. The changes that the AMA bargained for in the bill protect doctors from criminal prosecution, but do not protect women from serious physical injury.
- The AMA insisted that a peer review process take place before any criminal prosecution so that doctors can obtain favorable testimony from others in the medical profession. The AMA also bargained for legislative language that defines more clearly the procedure that the bill prohibits.
- But these changes do not help the few women -- like the women who were with the President when he signed the bill -- who need the procedure that the bill prohibits in order to prevent grievous injury. The President vetoed the bill last year to protect these women, and he will veto the bill again to protect them.
- The AMA itself concedes that the procedure may be necessary to save a woman's life and that the bill must have a life exception to protect the few women faced with this danger. The President is saying only that this exception must extend to the few other cases in which the procedure is necessary to save a woman from serious physical harm, such as loss of the ability to have other children.

Q&A on Late-Term Abortion

Question: Does the AMA's endorsement of the Partial Birth Abortion Act -- and its statement that the partial-birth procedure is not good medicine -- change your view of this legislation?

Answer: No, because I am still not convinced that this bill adequately protects women from grievous injury. Let me remind you that the American College of Obstetricians and Gynecologists, which is the organization of doctors that knows the most about this issue, opposes this bill for the same reason I do -- because it prevents doctors from using a procedure that in a small group of cases best protects women from serious physical injury. The AMA endorsed this bill after bargaining for a change that protects doctors. I've implored Congress to make a narrow change in the bill to protect women -- to ensure that they don't suffer grievous injury because Congress has tied the hands of their doctors -- and I will not sign the bill until I get it.

Question: Senator Daschle has now said that he will vote for the Partial Birth Abortion Act. Does this mean that your veto will be overridden?

Answer: We'll have to see how the votes line up -- but that's not going to affect my decision. I will veto this bill because I think it doesn't adequately protect women from serious physical injury. I have said over and over that if Congress were to add a narrow exception covering these few cases, I would gladly sign the bill. But I will not sign the bill until it has that narrow exception for grievous injury, no matter how the votes stack up in Congress.

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Q&A on Late Term Abortion

Question: Do you remain committed to vetoing the partial birth abortion bill? Didn't you base your prior veto of the bill on false information -- i.e., that this procedure is performed on only a few hundred women in desperate circumstances?

Answer: I will veto the bill, for the same reason as before -- because it doesn't adequately protect women from serious harm. I based my veto on the fact that there are a small group of women in desperate circumstances who need this procedure in order to save their lives or prevent serious injury to their health. Let's be clear: I've never said that these are the only circumstances in which the procedure is used; I've just said that these few women need to be protected. If Congress does so, I will gladly sign the bill, because I think this kind of procedure should be banned except when necessary to save the life of a woman or prevent serious harm to her health.

Question: If Congress were to add a health exception to the partial birth bill you vetoed last year, that bill would prohibit all partial birth abortions -- even if done before viability -- that aren't done for life or serious health reasons. Would you really sign a bill of that kind?

Answer: I have made very clear my condition for signing the partial birth bill. I told Congress that I would sign the bill if it protected women who need the procedure to save their lives or avert serious harm to their health. I continue to take that position. If Congress adds a provision to the bill that protects women who need the procedure for life or serious health reasons, I will sign that bill.

Question: Would you sign Senator Daschle's bill prohibiting all post-viability abortions except when done to save the life of a woman or avert serious harm to her health?

Answer: I have not seen Senator Daschle's language, but I believe that I could sign his bill. I have long opposed elective late-term abortions, regardless what procedure is used: when I was Governor of Arkansas, I signed into law a bill that barred all third-trimester abortions, with an appropriate exception for life or health. And last year, I said I would sign such a bill at the federal level. Assuming Senator Daschle's bill adequately protects women who need late abortion to prevent serious harm to their health, I will make it the nation's law.

TALKING POINTS ON FITZSIMMONS STORY

- Nothing that Mr. Fitzsimmons now says contradicts or undermines the President's position, which is that so-called partial-birth abortions should be banned except when they are necessary to save the life of a woman or prevent serious harm to her health.
- The President has never claimed that partial-birth abortions are used only, or even primarily, to prevent death or serious harm. What he has said is that when (but only when) the procedure is necessary for these reasons, a doctor must be allowed to perform it.
- The President has recognized that some doctors may use the procedure for elective reasons and has called for an end to this practice. He has stated on several occasions: "The procedure may well be used in situations where a woman's serious health interests are not at issue. But I do not support such uses, I do not defend them, and I would sign appropriate legislation banning them."
- The President's position today remains what it has always been: that he will sign a bill banning partial-birth abortions, but only if it has an exception that will protect those women -- even if few in number -- who need this procedure to save their lives or prevent serious harm to their health.

Background

Ron Fitzsimmons, the executive director of the National Coalition of Abortion Providers, said this week that partial birth abortions are (1) performed more frequently than pro-choice groups have acknowledged and (2) often performed on healthy women with healthy fetuses.

There are no good statistics on these questions, and it would be a great mistake to challenge Fitzsimmons on the facts. The important point is that even if true, Fitzsimmons's claims do not undermine the President's position, as explained above.

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Question: Ron Fitzsimmons, the executive director of the National Coalition of Abortion Providers, said this week that he lied about partial birth abortions -- that they're performed more frequently than pro-choice groups have acknowledged and that they're often performed on healthy women with healthy fetuses. In light of his statements, are you going to change your position?

Answer: No. My position remains what it has always been -- that so-called partial-birth abortions should be banned except when they are necessary to save the life of a woman or prevent serious harm to her health.

Nothing Mr. Fitzsimmons has said conflicts with that position. I've never claimed that partial-birth abortions are used only to prevent death or serious harm. What I've said is that when the procedure is necessary for these reasons -- in those few cases when there are tragic circumstances involving serious harm to the woman -- a doctor must be allowed to perform it. But when the procedure isn't necessary for these reasons, a doctor should not be allowed to perform it.

So I will say again what I've said before: that I will sign a bill banning partial-birth abortions, but only if it has an exception that will protect those women -- even if few in number -- who need this procedure to save their lives or prevent serious harm to their health.

Question: Didn't you base your veto of the partial-birth abortion bill on false information -- i.e., that this procedure is performed only on a few hundred women in desperate circumstances?

Answer: No. I based my veto on the fact that there are a small group of women in desperate circumstances who need this procedure in order to save their lives or prevent serious injury to their health. I've never said that these are the only circumstances in which the procedure is used. Indeed, I've acknowledged that there are cases where the procedure is not necessary for life or serious health reasons -- and I've made very clear that I would sign legislation banning the procedure in those cases.

Question: If Congress were to add a health exception to the partial birth bill you vetoed last year, that bill would prohibit all partial birth abortions -- including pre-viability partial birth abortions -- that aren't done for life or serious health reasons. Are you really saying that you would sign a bill of that kind -- a bill that prohibited a particular procedure (except if done for life or serious health reasons) in the pre-viability period?

Answer: I have made very clear my condition for signing the partial birth bill. I told Congress that I would sign the bill if it protected women who needed the procedure to save their lives or avert serious harm to their health. I implored Congress to send me such a bill. I continue to take that position. If Congress adds a provision to the bill that protects women who need the procedure for life or serious health reasons, I will sign that bill.

THE WHITE HOUSE
WASHINGTON

*Abortion -
Partial birth -
talking points*

February 27, 1997

NOTE FOR ERSKINE BOWLES
SYLVIA MATTHEWS
MELANNE VERVEER
DON BAER
MIKE MCCURRY
CHUCK RUFF
BETSY MYERS
ANN LEWIS

FROM: ELENA KAGAN

Attached talking points on
Fitzsimmons story for your
information.

TALKING POINTS ON FITZSIMMONS STORY

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- The President has recognized that some doctors may use the procedure for elective reasons and has called for an end to this practice. He has stated on several occasions: "The procedure may well be used in situations where a woman's serious health interests are not at issue. But I do not support such uses, I do not defend them, and I would sign appropriate legislation banning them."
- The President's position today remains what it has always been: that he will sign a bill banning partial-birth abortions, but only if it has an exception that will protect those women -- even if few in number -- who need this procedure to save their lives or prevent serious harm to their health.

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TALKING POINTS ON FITZSIMMONS STORY

- Nothing that Mr. Fitzsimmons now says contradicts or undermines the President's position, which is that so-called partial-birth abortions should be banned except when they are necessary to save the life of a woman or prevent serious harm to her health.
- The President has never claimed that partial-birth abortions are used only to prevent death or serious harm.
- Indeed, the President has said, in several written statements on the subject: "Let me be clear. I do not contend that this procedure, today, is always used in circumstances that meet my standard -- namely, that the procedure must be necessary to prevent death or serious adverse health consequences. The procedure may well be used in situations where a woman's serious health interests are not at issue. But I do not support such uses, I do not defend them, and I would sign appropriate legislation banning them."
- The President's position today remains what it has always been: that he will sign a bill banning partial-birth abortions, but only if it has an exception that will protect those women -- even if few in number -- who need this procedure to save their lives or prevent serious harm to their health.