

Congress of the United States

Washington, DC 20510

February 27, 2023

The Honorable Joseph R. Biden
President of the United States
White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

The Honorable Kamala D. Harris
Vice President of the United States
White House
1600 Pennsylvania Avenue NW
Washington DC 20500

Dear President Biden and Vice President Harris,

Thank you for your dedication to protecting reproductive health and rights. We are grateful for the Administration's actions since the Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization*, including to safeguard abortion access and sensitive health data. As members of Congress committed to protecting reproductive health privacy, we are concerned about reports that state and local law enforcement could use existing forms of federal assistance to surveil people who seek or assist in abortion care.¹ To ensure federal resources help rather than hinder access to reproductive care, we ask that the Administration take steps to prevent the use of federal assistance for state and local abortion surveillance.

As you know, since the Supreme Court overturned *Roe v. Wade*, 24 states have banned or are likely to ban abortion, restricting access to essential health care and criminalizing abortion assistance.² Even before *Dobbs*, people—especially those from marginalized communities—were subjected to surveillance of and prosecution based on pregnancy outcomes, and we have already seen high-profile cases of abortion surveillance post-*Roe*.³ These intrusions on personal health care decisions erode public trust, threaten the health and well-being of pregnant people, and create a chilling effect among health care providers.

It is imperative that federal resources safeguard access to reproductive health care, including abortion care. However, we are concerned that federal assistance administered through the Federal Bureau of Investigation (FBI) and the Department of Homeland Security (DHS) could undermine our shared goals, providing support to state and local law enforcement that could be used to surveil and prosecute abortion. As over 50 civil society and reproductive rights organizations noted in a recent letter to the Administration, this assistance includes digital forensic support, resources to facilitate communications records requests, and access to databases that aggregate and share sensitive personal data, including location information.⁴

¹ Jake Laperruque, Center for Democracy and Technology, "Blog Series: Cracking Down on Federal Aid for Reproductive Health Surveillance: The Computer Analysis Response Team," February 9, 2023. <https://cdt.org/insights/blog-series-cracking-down-on-federal-aid-for-reproductive-health-surveillance/>

² Elizabeth Nash and Isabel Guarnieri, Guttmacher Institute, "Six Months Post-Roe, 24 US States Have Banned Abortion or Are Likely to Do So: A Roundup," January 10, 2023. <https://www.guttmacher.org/2023/01/six-months-post-roe-24-us-states-have-banned-abortion-or-are-likely-do-so-roundup>

³ Runa Sanvik, TechCrunch, "How US police use digital data to prosecute abortions," January 27, 2023. <https://techcrunch.com/2023/01/27/digital-data-roe-wade-reproductive-privacy/>

⁴ Letter to President Biden, December 8, 2022. https://cdt.org/wp-content/uploads/2022/12/Fed-Aid-to-Abortion-Surveillance-Letter_12.7.pdf

As part of the Administration's efforts to protect access to abortion and other reproductive health care, we ask that you take all necessary steps to ensure federal resources in no way aid or supplement criminal investigations of reproductive health decisions. Specifically, we ask that the Administration examine ways existing forms of federal assistance could be used to support state and local abortion surveillance and investigations, including assistance administered through the FBI and DHS. Additionally, we ask that you consider approaches to restrict state and local law enforcement from using federal assistance for these purposes, including limiting the class of investigations for which agencies provide federal assistance, creating new rules or conditions to access resources, or instituting new prohibitions on the use of federal resources to support abortion-related investigations.

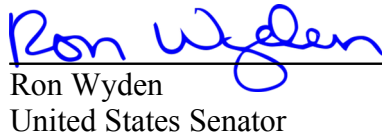
Thank you again for your leadership in defense of reproductive health care, including abortion care. We look forward to continuing to work together to advance essential health care and safeguard reproductive health privacy.

Sincerely,

Sincerely,



Sara Jacobs
Member of Congress



Ron Wyden
United States Senator



Mazie K. Hirono
United States Senator



Anna G. Eshoo
Member of Congress



Ted W. Lieu
Member of Congress



Tammy Duckworth
United States Senator




Eleanor Holmes Norton
Member of Congress





Veronica Escobar
Member of Congress





Katie Porter
Member of Congress


Suzanne Bonamici
Member of Congress



Gwen S. Moore
Member of Congress



Nikema Williams
Member of Congress


Mark Takano
Member of Congress



Sean Casten
Member of Congress



Josh Gottheimer
Member of Congress



Mikie Sherrill
Member of Congress



Jamaal Bowman, Ed.D.
Member of Congress



Doris Matsui
Member of Congress



Bonnie Watson Coleman
Member of Congress



Jahana Hayes
Member of Congress

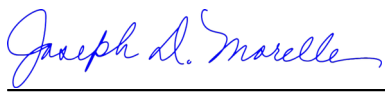

William R. Keating
Member of Congress

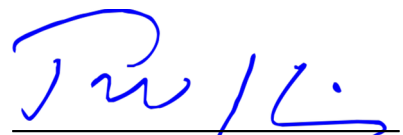

Tony Cárdenas
Member of Congress


Lois Frankel
Member of Congress


Betty McCollum
Member of Congress


Jason Crow
Member of Congress


Joseph D. Morelle
Member of Congress


Tim Kaine
United States Senator



Earl Blumenauer
Member of Congress



David J. Trone
Member of Congress



Jamie Raskin
Member of Congress

cc: Attorney General of the United States Merrick Garland
Secretary of the Department of Homeland Security Alejandro Mayorkas