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PLANNED PARENTHOOD EXPOSED: EXAMINING THE HORRIFIC ABORTION PRACTICES AT THE NATION'S LARGEST ABORTION PROVIDER

HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

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PLANNED PARENTHOOD EXPOSED: EXAMINING THE HORRIFIC ABORTION PRACTICES AT THE NATION'S LARGEST ABORTION PROVIDER

WEDNESDAY, SEPTEMBER 9, 2015

HOUSE OF REPRESENTATIVES
COMMITTEE ON THE JUDICIARY
Washington, DC.

The Committee met, pursuant to call, at 10:39 a.m., in room 2141, Rayburn Office Building, the Honorable Bob Goodlatte (Chairman of the Committee) presiding.

Present: Representatives Goodlatte, Sensenbrenner, Chabot, Issa, Forbes, King, Franks, Gohmert, Jordan, Poe, Gowdy, Labrador, Farenthold, Collins, DeSantis, Walters, Buck, Ratcliffe, Trott, Bishop, Conyers, Nadler, Lofgren, Jackson Lee, Cohen, Johnson, Chu, Deutch, Gutierrez, DelBene, Cicilline, and Peters.

Staff present: (Majority) Shelley Husband, Chief of Staff & General Counsel; Branden Ritchie, Depuyt Chief of Staff & Chief Counsel; Allison Halataei, Parliamentarian & General Counsel; Paul Taylor, Chief Counsel, Subcommittee on the Constitution and Civil Justice; John Coleman, Counsel, Subcommittee on the Constitution and Civil Justice; Kelsey Williams, Clerk; (Minority) Perry Apelbaum, Staff Director & Chief Counsel; Danielle Brown, Parliamentarian and Chief Legislative Counsel; James Park, Chief Counsel, Subcommittee on the Constitution and Civil Justice; and Veronica Eligan, Professional Staff Member.

Mr. GOODLATTE. Good morning. The Judiciary Committee will come to order, and without objection the Chair is authorized to declare recesses of the Committee at any time.

We welcome everyone to this morning's hearing on Planned Parenthood Exposed: Examining the Horrific Abortion Practices at the Nation's Largest Abortion Provider. And I will begin by recognizing myself for an opening statement.

Recently the Nation's attention has been drawn to a series of undercover videos recorded by members of a group called The Center for Medical Progress. These videos contained discussions with representatives of the abortion providing organization, Planned Parenthood, regarding the exchange of money for the body parts of unborn children to be used in research.

Any discussion of abortion is inherently difficult as it is unquestionably the taking of a human life. That discussion becomes even

more difficult when it turns to the monetary value of the body parts of more developed unborn children, and to the prospect of exposing them to potentially more painful abortions conducted in different ways without the mother's consent to preserve the added value of their more fully developed body parts. Yet these videos force us all to engage in that discussion, one that this Committee has been engaged in for some time now, and which now begins its phase of public hearings.

There are questions regarding whether there are gaps in the law that should be filled to prevent the types of horrors described in the videos. There are questions regarding whether or not existing Federal laws have been violated. The Committee is aggressively seeking answers to these questions, but there is no question that the videos are deeply disturbing at a human level.

The director of New York University's Division of Medical Ethics said in response to the videos that it is ethically very dangerous to change an abortion procedure for the purpose of collecting the organs of unborn children because then, "you're starting to put the mom's health secondary."

One of the unborn baby tissue procurement companies caught on tape has already claimed to have severed its business relationship with Planned Parenthood. The head of Planned Parenthood herself has referred to what her own senior director of medical services said on the videos as unacceptable, and personally apologized for it. And during a sit-down interview on the New Hampshire Union Leader, Democratic presidential candidate, Hillary Clinton, said of the undercover videos, "I have seen pictures of them and obviously find them disturbing." When the leading Democratic candidate for President says she finds the videos obviously disturbing, I think we can safely put to rest any allegations that the investigation of these acts is inappropriate.

Some Members have questioned why our investigation is focused on the conduct of Planned Parenthood and not on the conduct of those who obtained the undercover footage. Part of the answer is that Planned Parenthood, unlike the undercover reporters, is granted huge amounts of Federal funds, making it our business as Members of Congress, charged with controlling Federal purse strings, to do what we can to ensure Federal taxpayer dollars are not contributing to the sorts of horrors reflected in the undercover videos.

The conduct exposed by the undercover videos may help inform Congress on how to enact better laws, or to see to it that current laws are better enforced to help protect innocent life nationwide. To that end, the House has already passed The Pain Capable Unborn Child Protection Act, which would prohibit abortion with certain limited exceptions when women are entering the 6th month of pregnancy.

Today, America is one of only seven countries on earth, including North Korea and China, that allow elective abortion after 20 weeks post-fertilization, and an overwhelming majority of just about every demographic group opposes its continued practice here. The Senate should pass that bill immediately, and the President should sign it, and in doing so help ensure that the body parts of late aborted ba-

bies cannot be sold because late-term abortions would be generally prohibited.

In the meantime, the House Judiciary Committee today continues to examine additional ways of protecting human life and preserving the conscience of America. Today's hearing is the first part of a two-part hearing on this topic. I hope that this hearing helps to shed light on some of the Nation's darkest corners so the atrocities that some would very much like to dehumanize can be exposed for what they really are.

I look forward to hearing from our witnesses here today, and it is now my pleasure to recognize the Ranking Member of the Judiciary Committee, the gentleman from Michigan, Mr. Conyers, for his opening statement.

Mr. CONYERS. Thank you very much, Mr. Chairman. And to the Members of the Judiciary Committee and our friends that are here in the hearing room, as this one-sided hearing title suggests, and by the way I have a file on these unusual titles that come up from time to time, we will likely hear a series of allegations leveled against Planned Parenthood, one of the most popular organizations for almost 100 years, that it engaged in unlawful conduct based solely on a series of deceptively edited undercover videos.

Notably, the Center for Medical Progress, the entity that filmed these videos and which could answer significant and troubling questions of about their accuracy and veracity, is not here today. In addition, the majority chose not to invite Planned Parenthood, the target of today's attacks.

As we hear from our witnesses, we should keep in mind the following points. To begin with, there is no credible evidence that Planned Parenthood violated the law. The videos wrongly implied that Planned Parenthood sells fetal tissue and organs for profit. That is not the case. The law governing fetal tissue research, which passed with overwhelming bipartisan support back in 1993, provides in part that no one can "knowingly acquire, receive, or otherwise transfer any human fetal tissue for valuable consideration." In short, for-profit sales, and purchases of fetal tissue are illegal. Similarly, Federal law prohibits for-profit sales and purchases of human organs. In both cases, however, valuable consideration does not include reasonable payments to cover certain costs associated with either fetal tissue or organ donations.

The Center for Medical Progress' doctored videos do not support the allegation that Planned Parenthood sought profit from fetal tissue or organ donations. Rather, they show, among other things, discussions over payments for costs associated with fetal tissue or organ donation payments that the law clearly allows.

The videos also wrongly suggest that doctors at Planned Parenthood violated the law by altering the procedures used to perform abortion so as to preserve fetal tissue or organs. There is no evidence that Planned Parenthood has altered methods. Moreover, the statutory prohibition on changing the timing, method, or procedures of an abortion to preserve fetal tissues applies only to certain federally-funded research, and such research has not been funded since 2007. In other words, the legal prohibition did not apply to Planned Parenthood at the time the Center's undercover videos were filmed.

Finally, no evidence supports the suggestion that Planned Parenthood doctors may have violated the Partial Birth Abortion Ban Act. The fact that Planned Parenthood officials refer to intact fetuses and tissue specimens in many of the videos is immaterial. To violate the act, the physicians must partially deliver a living fetus and have the intent to terminate that fetus after its partial delivery. None of the videos shows any Planned Parenthood official engaging in or suggesting the use of such a procedure. In short, no reliable evidence demonstrates that Planned Parenthood violated Federal law.

What is troubling about the videos is the manner in which they were produced. The Center for Medical Progress created a false tissue procurement company to use as a front in order to infiltrate Planned Parenthood facilities and to create the undercover videos, and may have deceived any number of State and Federal authorities to do so. Additionally, the Center heavily edited the videos to present a misleading picture of the surreptitiously recorded conversations in order to suggest illegal conduct by Planned Parenthood and to maximize the videos' shock value.

A forensic analysis submitted to Congress has concluded that a thorough review of these videos in consultation with qualified experts found that they do not represent a complete or accurate record of the events they purport to depict. And even the alleged full footage released by the Center includes, and I quote, "cuts, skips, missing tape, and changes in camera angle," as well more than 30 minutes of missing video, and took out of context so as to substantively and significantly alter the meaning of the dialogue.

Finally, we must step back and look at the context in which this hearing itself is being held. The real purpose of the videos is to undermine one of the Nation's leading providers of high-quality healthcare for women. Planned Parenthood serves 2.7 million Americans a year, and 1 in 3 women have used Planned Parenthood services by the age of 45. The organization is nearly 100 years old, and some abortion opponents are attempting to use these videos as a pretext to end Federal funding for Planned Parenthood. If successful, this effort would hurt those who rely on Planned Parenthood's services, and doing so would not prevent abortions.

It is already the case that no Federal funds may be used to pay for abortions with certain limited exceptions. Instead, Federal funding pays for Planned Parenthood's many critical health services, such as annual wellness exams, cancer screenings, contraception, and to further the study of sexually transmitted diseases. Surely we in the Congress have better things to do than to spend our time helping to undermine an organization that provides such vital health services.

And I thank you, Chairman Goodlatte.

Mr. GOODLATTE. The Chair now recognizes the Chairman of the Constitution and Civil Justice Subcommittee, Mr. Franks of Arizona, for his opening statement.

Mr. FRANKS. Well, thank you, Mr. Chairman. Mr. Chairman, the United States of America is a unique Nation that is premised on the foundation that all of us in the human family were created equal, and that each of us is endowed by our Creator with this inalienable right to live. Yet this Committee is convened here today

in a hearing titled, "Planned Parenthood Exposed: Examining the Horrific Abortion Practices at the Nation's Largest Abortion Provider," because numerous video recordings have been recently released that incontrovertibly document corporate officers and employees of Planned Parenthood casually discussing their rampant practice of harvesting and selling the little body parts from many of the hundreds of thousands of innocent babies they are guilty of killing in their abortion clinics across this Nation every year.

These video recording irrefutably reveal officers of Planned Parenthood haggling over the price of these little organs and body parts, and casually describing ways of killing these little babies, often using much more painful methods, like partial birth abortion, to make sure the sellable organs of these babies remains undamaged.

One of these videos describes an incident where one of Planned Parenthood's employees calls one of the younger employees over to witness something that was "kind of cool," that one of the babies' hearts was still beating. The older employee then said, "Okay, this is a really good fetus, and it looks like we can procure a lot from it. We're going to procure a brain." And then using scissors, together the two employees, starting at the baby's chin, cut upward through the center of this child's face and pulled out the baby's little brain, and placed it in a container where it could later be sold.

Mr. Chairman, I find it so crushingly sad that the only time this little baby was ever held by anyone in its short life was by those who cut his face open and took his brain. Have we forgotten that it was not so long ago that authorities entered the clinic of Dr. Kermit Gosnell? They found a torture chamber for little babies that really defies description within the constraints of the English language.

The grand jury report at the time said, "Dr. Kermit Gosnell had a simple solution for unwanted babies: he killed them. He didn't call it that. He called it 'ensuring fetal demise.' The way he insured fetal demise was by sticking scissors in the back of the baby's neck and cutting the spinal cord. He called it 'snipping.' Over the years, there were hundreds of snippings."

Ashley Baldwin, one of Dr. Gosnell's employees, said she saw babies breathing, and she described one as 2 feet long that no longer had eyes or a mouth, but in her words was "making this screeching noise, and it sounded like a little alien." And yet the President of the United States of America and many Members of Congress have not uttered one single syllable against these gut-wrenching atrocities of Kermit Gosnell or Planned Parenthood. For God's sake, is this who we truly are?

The fact is, Mr. Chairman, that more than 18,000 late-term pain capable unborn babies were torturously killed without anesthesia in America in just the last year. Many of them cried and screamed as they died, but because it was amniotic fluid going over the vocal cords instead of air, we could not hear them. It is the worst human rights atrocity in the history of the United States of America.

Now, I know that many of you on this Committee will hold to the standard line and try to cloak all of this in the name of freedom of choice. But I beg you to open your own hearts and ask your-

selves what is so liberating about brutally and painfully dismembering living helpless little human babies?

In spite of all the political noise, protecting these little babies and their mothers is not a Republican issue, and it is not a Democrat issue. It is a basic test of our humanity and who we are as a human family.

Mr. Chairman, the sands of time should blow over this Capitol dome before we ever give Planned Parenthood another dime of taxpayer money. And in the name of humanity, Democrat senators should end their filibuster against the Pain-Capable Unborn Child Protection Act in the U.S. Senate, because passing it would prevent the vast majority of these evil acts by Planned Parenthood these videos have now so clearly shown to the entire world.

And with that, I yield back, Mr. Chairman.

Mr. GOODLATTE. The Chair thanks the gentleman, and now recognizes the Ranking Member of the Constitution and Civil Justice Subcommittee, the gentleman from Tennessee, Mr. Cohen, for his opening statement.

Mr. COHEN. Thank you, Mr. Goodlatte. First, I want to say that this is one of the issues that divides this country and has for 40-some-odd years. It divides this Committee. I respect my Republican colleagues, Mr. Franks in particular, who have a strong-held position. But it is not my position, and it is not the position of most of the women in this country, and that is the position that women should have a right to choose.

Roe v. Wade, a United States Supreme Court decision in the early 70's, made that point clear, and it is has been the law of the land for many years. This hearing is not about the videos. In fact, the videos have been doctored, and the videos are not what they are supposed to be, and it is show business. This hearing is about a woman's right to choose, and many people who for their honest beliefs feel should be a litmus test of a politician's life and support for "life" and human beings. They want to outlaw abortion, and they will not be happy until abortion is outlawed in the United States of America. That is what this hearing is about.

And if you will notice, the testimony has been about abortion, and that issue is raised again. Planned Parenthood is simply a group where 3 percent of its work is abortion. Ninety-seven percent of its work is about health for poor women, healthcare, screenings. And 2.7 million women a year get that healthcare. That is so important. My district is a poor district, and a lot of women in my district get their healthcare, primary female healthcare, from Planned Parenthood. And to cut off Federal funding would deny them that healthcare.

I know that will not make a big difference to many on the other side for none on the other side voted for the Affordable Care Act, even though it is a growth out of two of the great Presidents of the Republican side, Teddy Roosevelt and Richard Nixon, both of whom espoused it. But not a one voted for the Affordable Care Act. The Affordable Care Act helps women get healthcare, but because some on the extreme side, particularly in the South in legislatures and governors, have not expanded Medicaid to many women who need healthcare, which they can do at no cost and at great fiscal as well

as fiscal benefit to their States, have denied healthcare to women. This would further deny healthcare to women.

Planned Parenthood cannot use, because of law that has been on the books since the 70's, any Federal funds for abortion. That is outlawed, unless it is the life of the mother, incest exceptions. Rape, incest, life of the mother. With the exception of those three exceptions, you cannot use Federal funds for abortion anyway.

So we are talking about annullity. This is the government takeover of healthcare, the death panel in healthcare, the Benghazi of healthcare hearing. It is a way to get attention to an issue that these people want to highlight. I do not doubt their sincerity in wanting to highlight it, but it is just wrong in 2015. We should be going forward and not backwards in this country, and to a lot of people who say we want to take back our country, what they say is they want the country of Dwight Eisenhower, a fine many who operated at a time before civil rights, before women's rights, before gay rights, before people had opportunities independent of physical characteristics or sexual orientation.

America has moved forward, and it is not going to go backwards. It is a new America, and you are not going to get that America back. I loved Ricky Nelson and Ozzie, but they are history. It is gone. It is a new America. And this hearing is about eliminating and overruling *Roe v. Wade*. It is about partial birth abortion. It is about abortion, period.

There are 143, I believe it is, labor civil rights and civil liberties groups that say that this hearing should not necessarily be held, and they oppose these efforts to defund Planned Parenthood. And I would like to enter into the record a list of these groups, if that is okay, Mr. Chairman.

Mr. GOODLATTE. Without objection, they will be made a part of the record.

[The information referred to follows:]

Senate Majority Leader McConnell and Speaker Boehner:

As organizations committed to ensuring that quality health care is affordable and available in communities across the country, we are writing to strongly urge you to abandon ideologically-driven efforts focused on undermining women's access to Planned Parenthood health centers.

Planned Parenthood is the most trusted women's health care provider in this country, and has been for nearly 100 years. There are 2.7 million women, men and young people across the country each year who depend on Planned Parenthood for basic, preventive health care -- routine examinations, cancer screenings, contraceptive services, and HIV and STI testing and treatment. One in five women in America will rely on Planned Parenthood for health care in her lifetime. For many Americans, Planned Parenthood is their main health care provider.

This is just the latest political attack on women's health – and a clear cynical and coordinated effort designed to undermine this essential health care provider. The group behind this fraud has done 10 separate attack campaigns like this over the last eight years. The real agenda here is becoming clearer every day – they want to ban abortion and to defund Planned Parenthood.

Both political organizations and members of Congress have made defunding Planned Parenthood and other women's health care providers a top legislative priority. These false claims are being used to advance a political agenda that will cut 2.7 million people off of birth control, lifesaving cancer screenings, STD testing and treatment, and other preventive health care services.

We represent a broad range of organizations, but we are bound by a commitment to ensuring all people can access the care they need to lead healthy and productive lives. We strongly urge you to focus on issues people in America care about most, and reject these ideological attacks that aim to take health care away from millions.

Sincerely,

1. ACCESS Women's Health Justice
2. Advocates for Youth
3. AFSCME
4. Alliance for Citizenship
5. America Votes
6. American Civil Liberties Union
7. American Federation of Teachers
8. Americans United for Separation of Church and State
9. Astraea Lesbian Foundation For Justice
10. Ballot Initiative Strategy Center
11. BiNet USA
12. Bisexual Resource Center
13. Blueprint
14. Bonanza Oil Co., Dallas, TX
15. Br{ache the Silence

16. CAEAR Coalition
17. Casa de Esperanza
18. Catholics for Choice
19. CCC
20. Center for Popular Democracy
21. Center for Reproductive Rights
22. CenterLink: The Community of LGBT Centers
23. Communications Workers of America
24. Consortium of Higher Education LGBT Resource Professionals
25. CREDO
26. DCCC
27. Democracy Alliance
28. Demos
29. EMILY's List
30. Freedom to Marry
31. Gay & Lesbian Advocates & Defenders
32. GLAAD
33. GLMA: Health Professionals Advancing LGBT Equality
34. Human Rights Campaign
35. In Our Own Voice: National Black Women's Reproductive Justice Agenda
36. Institute for Science and Human Values, Inc
37. International Gay and Lesbian Human Rights Commission
38. Intimate Health Consulting
39. Jewish Women International
40. Lambda Legal
41. Latino Commission on AIDS
42. LatinoJustice PRLDEF
43. LPAC
44. Make It Work Campaign
45. MALDEF
46. Marriage Equality USA
47. Movement Advancement Project
48. MoveOn.org
49. NARAL Pro-Choice America
50. National Abortion Federation
51. National Action Network
52. National Asian Pacific American Women's Forum (NAPAWF)
53. National Black Gay Men's Advocacy Coalition
54. National Black Justice Coalition
55. National Center for Lesbian Rights
56. National Domestic Workers Alliance
57. National Latina Institute for Reproductive Health
58. National LGBTQ Task Force Action Fund
59. National Partnership for Women & Families
60. National Women's Law Center

61. NMAC
62. NOW
63. People For the American Way
64. Physicians for Reproductive Health
65. Population Connection Action Fund
66. Population Institute
67. Pride at Work
68. Reproductive Health Technologies Project
69. Roosevelt Institute | Campus Network
70. Service Employees International Union
71. Sexuality Information and Education Council of the U.S. (SIECUS)
72. Sierra Club
73. The Atlas Project
74. The Civil Liberties and Public Policy Program
75. Trans People of Color Coalition
76. Transgender Legal Defense & Education Fund
77. Unitarian Universalist Association
78. USAction
79. Voices for Progress
80. Voto Latino
81. We Belong Together
82. Women for Women
83. Women's Voices. Women Vote Action Fund
84. Working Families Party

85. ACCESS Women's Health Justice
86. AIDS Action Committee of Massachusetts
87. AIDS Alabama
88. Bonanza Oil Co., Dallas, TX
89. Cascade AIDS Project
90. Child and Family Resources, Inc.
91. Connecticut Women's Education and Legal Fund
92. Easter Seals Blake Foundation
93. Hyacinth AIDS Foundation
94. Indy Feminists
95. Lillians List of NC
96. MassEquality
97. Minnesota AIDS Project
98. NARAL Pro-Choice Montana
99. NARAL Pro-Choice Virginia

100. New York civil liberties union
101. North Carolina Women United
102. One Colorado
103. Pro-Choice Arizona
104. Progress Missouri
105. Progressive Leadership Alliance of Nevada
106. ProgressNow Arizona
107. ProgressNow New Mexico
108. ProgressVA
109. Southwest Women's Law Center
110. State Representative Sarah Roberts
111. The Health Initiative
112. Women for Women

113. AIDS Action Baltimore
114. Arizona Women's Care
115. Blue mt clinic
116. Callen-Lorde Community Health Center
117. Center for Community Solutions
118. Center on Policy Initiatives
119. Community Extension Programs, Inc.
120. DC Abortion Fund
121. Employee Rights Center
122. Hudson Pride Connections Center
123. Hyacinth AIDS Foundation
124. JJFOTOG
125. Kalamazoo Gay Lesbian Resource Center
126. Kara Kushaney
127. LGBT Network
128. Long Island Gay and Lesbian Youth
129. Memphis Gay and Lesbian Community Center
130. NET
131. New York City Gay and Lesbian Anti-Violence Project
132. NO/AIDS Task Force (d.b.a. CrescentCare)
133. Politica NC
134. Politica NC
135. PPPSW
136. PPSNJ
137. Pride Center of Staten Island
138. Pridelines Youth Services
139. Private citizen
140. Rainbow Center
141. San Francisco AIDS Foundation
142. The LOFT: LGBT Community Services Center
143. Triangle Community Center, Inc

Mr. COHEN. Great. I value the Republicans' opinions. They are strong felt, and I understand that, and there is a big difference in this country. But for me, Planned Parenthood is part of my DNA. It is one of the finest organizations in this country. It helps women, women of color, poor women, and it gives them choice as the Supreme Court gave them choice. It is about upholding the law of the land.

A lot of people here would not want the law of the land to be held up in that county in Kentucky where some woman refused to do what the Supreme Court told her, and they made her a hero. I say fund Planned Parenthood. It does not deliver abortions with Federal funds. This hearing is about abortion, and I support *Roe v. Wade*. And I yield back the balance of my time.

Mr. GOODLATTE. Without objection, all other Members' opening statements will be made a part of the record.

We welcome our distinguished witnesses today, and if you would all please rise, I will begin by swearing you in.

Do you and each of you solemnly swear that that testimony that you are about to give shall be the truth, the whole truth, and nothing but the truth, so help you God?

[A chorus of ayes.]

Mr. GOODLATTE. Thank you. You may all be seated, and let the record reflect that the witnesses responded in the affirmative.

Ms. Gianna Jessen survived a failed abortion when she was a baby. A pro-life advocate and speaker, Ms. Jessen currently lives in Franklin, Tennessee.

Mr. James Bopp, Jr. has served as National Right to Life's general counsel since 1978. In 1987, Mr. Bopp was appointed by the U.S. Congress to the Biomedical Ethics Advisory Committee, which advises Congress on the ethical issues arising from delivery of healthcare and from biomedical and behavioral research.

In 1988, Mr. Bopp served on the Human Fetal Tissue Transplantation Research Panel for the National Institutes of Health. Mr. Bopp has testified before numerous Federal and State legislative committees, hearings on pro-life issues, and has argued before the United States Supreme Court.

Ms. Priscilla J. Smith is director of the Program for the Study of Reproductive Justice at the Information Society Project at the Yale Law School. Prior to joining the ISP, Smith was an attorney with the Center for Reproductive Rights for 13 years serving as the U.S. legal program director from 2003 to 2007, and litigated cases nationwide. She conducts research and writes on privacy, reproductive rights and justice, and the information society.

Ms. Melissa Ohden also survived an abortion as a baby. She is the founder of the Abortion Survivors Network.

All of your written statements will be entered into the record in their entirety. I ask that each of you summarize your testimony in 5 minutes or less, and to help you stay within that time, there is a timing light on your table. When the light switches from green to yellow, you have 1 minute to conclude your testimony. When the light turns red, it signals that your 5 minutes have expired.

Ms. Jessen, welcome, and we are pleased to start with you. You want to push that button at the bottom and make sure it is on.

TESTIMONY OF GIANNA JESSEN, ABORTION SURVIVOR AND PRO-LIFE ADVOCATE AND SPEAKER, FRANKLIN, TN

Ms. JESSEN. Is it on?

Mr. GOODLATTE. Yes.

Ms. JESSEN. Sorry. Good morning. My name is Gianna Jessen, and I would like to thank you so much for the opportunity to testify here today. My biological mother was 7-and-a-half months pregnant when she went to a Planned Parenthood and they advised her to have a late-term saline abortion.

This method of abortion burns the baby inside and out, blinding and suffocating the child, who is then born dead usually within 24 hours. And there should be a photo there. Yes. This is what I survived.

Instead of dying, after 18 hours of being burned in my mother's womb, I was delivered alive in an abortion clinic in Los Angeles on April the 6th, 1977. You can see a photo as well of my medical records. My medical records state, "born alive during saline abortion, 6 a.m." Victory. Thankfully the abortionist was not at work yet. Had he been there, he would have ended my life with strangulation, suffocation, or leaving me there to die. Instead, a nurse called an ambulance, and I was rushed to a hospital. Doctors did not expect me to live. I did.

I was later diagnosed with cerebral palsy which was caused by a lack of oxygen to my brain while surviving an abortion. I was never supposed to hold up my head or walk. I do. And cerebral palsy, ladies and gentlemen, is a tremendous gift to me.

I was eventually placed in foster care and later adopted, and hear me clearly. I forgive my biological mother. Within the first year after my birth, I was used as an expert witness in a case where an abortionist had been caught strangling a child to death after being born alive.

Margaret Sanger, the founder of Planned Parenthood, said the following: "The most merciful thing that a large family does to one of its infant members is to kill it." Planned Parenthood is not ashamed of what they have done or continues to do, but we will have to give an account as a Nation before God for our apathy and for the murder of over 50 million children in the womb.

Every time we falter in courage as individuals and fail to confront this evil, I wonder how many lives have been lost in our silence while we make sure we are lauded among men and that we do not offend anyone. How many children have died and been dismembered and their parts sold for our ego, our convenience, and our promiscuity? How many Lamborghinis were purchased with the blood innocent children, the blood that cries to the Lord from the ground like that of the blood of Abel? Not one of them, ladies and gentlemen, is forgotten by Him.

I would ask Planned Parenthood the following questions 38 years later. I would ask them these questions. If abortion is about women's rights, then what were mine? You continuously use the argument if the baby is disabled we need to terminate the pregnancy as if you can determine the quality of someone's life. Is my life less valuable due to my cerebral palsy? You have failed in your arrogance and greed to see one thing. It is often from the weakest among us that we learn wisdom, something sorely lacking in our

Nation today, and it is both our folly and our shame that blinds us to the beauty of adversity.

Planned Parenthood uses deception, the manipulation of language, and slogans, such as "a woman's right to choose," to achieve their monetary aims. I will illustrate how well they employ this technique with the following quote: "The receptivity of the masses is very limited. Their intelligence is small, but their power of forgetting is enormous. In consequence of these facts, all effective propaganda must be limited to a very few points and must harp on these slogans until the last member of the public understands what you want him to understand by your slogan." Adolf Hitler.

We often hear that if Planned Parenthood were to be defunded there would be a health crisis among women without the services they provide. This is absolutely false. Pregnancy resource centers are located nationwide as an option for the woman in crisis. All of their services are free and confidential. They can be reached by texting helpline to 313131. There is access to vital exams for women other than Planned Parenthood. We are not a Nation without options.

Planned Parenthood receives $500 million of taxpayer money a year to primarily destroy and dismember babies. Do not tell me these are not children. A heartbeat proves that, so does 40 ultrasounds. So do I, and so does the fact that they are selling human organs for profit. Do not tell me this is only a woman's issue. It takes both a man and a woman to create a child.

And to that point I wish to speak to the men listening to me. You are made for greatness. You were born to defend women and children, not to use and abandon us, nor sit idly by while you know we are being harmed. And I am asking you to be brave.

In conclusion, let me say I am alive because of the power of Jesus Christ alone, in Whom I live, move, and have my being. Without Him, I would have nothing, and with Him I have all. Thank you.

[The prepared statement of Ms. Jessen follows:]

Gianna Jessen

September 9, 2015

Planned Parenthood Exposed: Examining the Horrific Abortion Practices at the Nation's Largest Abortion Provider

(Please see two attached photographs

to be projected onto the screen during testimony.)

Good morning,

My name is Gianna Jessen, and I would like to thank you for the opportunity to testify here today. My biological mother was seven and a half months pregnant when she went to Planned Parenthood, who advised her to have a late-term saline abortion.

This method of abortion burns the baby inside and out, blinding and suffocating the child, who is then born dead, usually within 24 hours. (See photo.)

Instead of dying, after 18 hours of being burned in my mother's womb, I was delivered alive in an abortion clinic in Los Angeles on April the 6th, 1977. (See photo of my medical records.) My medical records state: "Born alive during saline abortion" at 6 am.

Thankfully, the abortionist was not at work yet. Had he been there, he would have ended my life with strangulation, suffocation, or leaving me there to die. Instead, a nurse called an ambulance, and I was rushed to a hospital. Doctors did not expect me to live.

I did. I was later diagnosed with Cerebral Palsy, which was caused by a lack of oxygen to my brain while surviving the abortion. I was never supposed to hold my head up or walk. I do. And Cerebral Palsy is a great gift to me.

I was eventually placed in foster care and later adopted. I forgive my biological mother. Within the first year after my birth, I was used as an expert witness in a case where an abortionist had been caught strangling a child to death after being born alive.

Margaret Sanger, the founder of Planned Parenthood, said the following: "The most merciful thing that a large family does to one of its infant members is to kill it." – Margaret Sanger, "Woman and the New Race"

Planned Parenthood is not ashamed of what they have done or continue to do. But we will have to give an account as a nation, before God, for our apathy and for themurder of over 50 million children in the womb. Every time we falter in courage as individuals and fail to confront this evil, I wonder how many lives have been lost in our silence, while we make sure we are lauded among men and do not offend anyone? How many children have died, and been dismembered, and their parts sold, for our ego, our convenience, and our promiscuity? How many Lamborghini's were purchased with the blood of innocent children? The blood that cries to the Lord from the ground, like that of the blood of Abel. Not one of them is forgotten by Him.

I would ask Planned Parenthood the following questions:

If abortion is about women's rights, then what were mine? You continuously use the argument, "If the baby is disabled, we need to terminate the pregnancy," as if you can determine the quality of someone's life. Is my life less valuable due to my Cerebral Palsy?

You have failed, in your arrogance and greed, to see one thing: it is often from the weakest among us that we learn wisdom – something sorely lacking in our nation today. And it is both our folly and our shame that blinds us to the beauty of adversity.

Planned Parenthood uses deception, the manipulation of language and slogans, such as "a woman's right to choose," to achieve their monetary aims.

I will illustrate how well they employ this technique with the following quote:

"The receptivity of the masses is very limited, their intelligence is small, but their power of forgetting is enormous. In consequence of these facts, all effective propaganda must be limited to a very few points and must harp on these in slogans until the last member of the public understands what you want him to understand by your slogan." – Adolf Hitler

We often hear that if Planned Parenthood were to be defunded, there would be a health crisis among women without the services they provide. This is absolutely false. Pregnancy resource centers are located nationwide as an option for the woman in crisis. All of their services are free and confidential, and they can be reached by texting: "HELPLINE" to 313131. There is access to vital exams for women other than Planned Parenthood. We are not a nation without options.

Planned Parenthood receives $500 million dollars of taxpayer money a year, to primarily destroy and dismember babies. Do not tell me these are not children. A heartbeat proves that. So does 4-d ultrasound. So do I, and so does the fact that they are selling human organs for profit. Do not tell me this is only a woman's issue. It takes both a man and a woman to create a child. And to that point I wish to speak to the men listening to me: You are made for greatness, not passivity. You were born to defend women and children. Not use and abandon us, nor sit idly by while you know we are being harmed. I am asking you to be brave.

In conclusion, let me say, I am alive because of the Power of Jesus Christ alone. In Whom I live, move, and have my being. Without Him I would have nothing; with Him, I have all.

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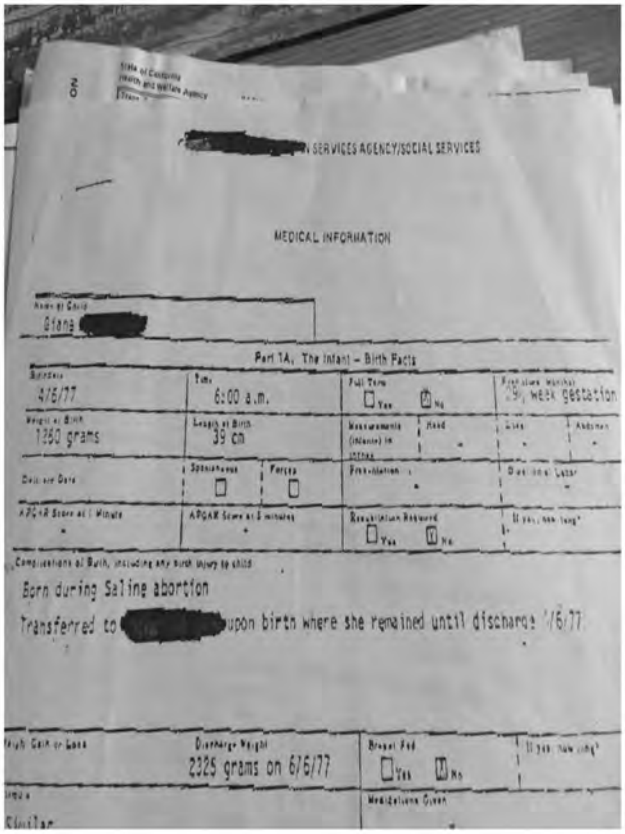

[redacted] SERVICES AGENCY/SOCIAL SERVICES

MEDICAL INFORMATION

Name of Child
Grant [redacted]

Part 1A. The Infant – Birth Facts

Birthdate 4/6/77	Time 6:00 a.m.	Full Term ☐ Yes ☒ No	Premature Weeks 29 week gestation
Weight at Birth 1360 grams	Length at Birth 39 cm	Measurements (inches) in centimeters: Head -	Chest - Abdomen -
Date of Death	Spontaneous ☐	Forceps ☐	Presentation - Duration of Labor -
APGAR Score at 1 Minute -	APGAR Score at 5 minutes -	Resuscitation Required ☐ Yes ☒ No	If yes, how long? -

Complications of Birth, including any birth injury to child

Born during Saline abortion

Transferred to [redacted] upon birth where she remained until discharge 4/6/77

Weight Gain or Loss	Discharge Weight 2325 grams on 6/6/77	Breast Fed ☐ Yes ☒ No	If yes, how long?
Signature Clinician		Medications Given -	

Part 1A. The Infant — Birth Facts

.m.	Full Term ☐ Yes ☒ No	Premature Wan 29 WEEK
	Measurements (Infants) in inches: Head -	Chest -
Forceps ☐	Presentation -	Dimensional L
5 minutes	Resuscitation Required ☐ Yes ☒ No	If yes, how

birth where she remained until discharge 1/6

Mr. GOODLATTE. Thank you, Ms. Jessen, for that compelling testimony.

Mr. Bopp, welcome.

TESTIMONY OF JAMES BOPP, JR., GENERAL COUNSEL, NATIONAL RIGHT TO LIFE, WASHINGTON, DC

Mr. BOPP. Thank you, Mr. Chairman, and I appreciate the opportunity to speak. I have substantial familiarity with this subject, and Mr. Chairman mentioned my participation in the Fetal Tissue Transplant Research Panel impaneled by NIH on the question of whether or not fetal tissue transplantation research should be funded.

The panel recommended that the moratorium that the Bush Administration had issued be lifted. Four of us dissented, and Father James Burtchaell and I published a lengthy dissent. Based upon some of the arguments in that dissent, the Bush Administration continued the moratorium on funding such research.

Based on the information that has come to light through the investigative reporting of CMP, it is apparent that Planned Parenthood fetal tissue procurement practices violate Federal and State laws when applicable, ethical and moral principles, and their own guidelines and promises to their patients. There are reasons why this happens, and it is, frankly, inevitable.

First, Planned Parenthood believes that the unborn has no human rights and can be killed at will at any time during pregnancy with the consent of the mother. History tells us that as soon as you strip human beings of all legal rights, people will be treated as commodities, and abuse is inevitable.

Second, Planned Parenthood receives substantial financial incentives for harvesting fetal tissue, and their love of money supersedes all other consideration. In the CMP videos, there are reported incidences of babies born intact and potentially alive after an induced abortion because he or she had a heartbeat. And the fetal brain was removed by taking scissors and cutting the face open to extract the brain. This barbaric practice, if true, and if the child were, in fact, alive, rivals any of the documented abuses of human persons in medical research throughout history.

But it goes beyond any individual instance. Planned Parenthood's lust for money from fetal tissue procurement, in some instances equal or even exceed the cost they charge for the abortion itself, has apparently caused Planned Parenthood to change all relevant aspects of the abortion procedure itself.

As a Planned Parenthood abortion physician explained, she would meet with tissue procurement people before the day's schedule of abortions and find out what tissue they wanted, and then she would target those particular abortions which might yield the fetal tissue that researchers wanted to purchase. In so doing, she made clear that she would change the abortion procedure to obtain the fetal tissue intact by only crushing those parts of the fetal body that contained tissue not being sought, or by trying to extract the baby feet first to encourage an intact delivery.

So the abortionist starts her day with a shopping list and spends the rest of the day trying to fill that list with fetal tissue. In other words, she said, "If I know what they're looking for, I'll just keep

it in the back of my mind, and try to at least keep that part intact." So rather than being on a search and destroy mission for the mother, the Planned Parenthood abortionist is now on a search and harvest mission for their own profit.

These practices potentially violate several Federal and State laws when applicable, various moral and ethical principles, and even Planned Parenthood's own guidelines. First, Federal and State law prohibits valuable consideration which has been mentioned. However, there is a gaping loophole which is allowing reasonable payments for the procurement costs that are associated with harvesting fetal tissue. However, even with this broad exception, the evidence now is clear that Planned Parenthood, even if they are complying with it, that it creates sufficient financial incentives for substantial abuse to occur. But the evidence also demonstrates that they go even beyond this broad exception to negotiate a per specimen market price with no regard to the associated cost.

Planned Parenthood also readily changes the abortion procedure to gain more fetal tissue to sell, which would certainly violate Federal law for funding of fetal tissue transplantation research, which admittedly has not occurred since 2007. But it certainly violates the promise Planned Parenthood made to their patients not to change the abortion procedure, and the Planned Parenthood president has admitted to Congress this is exactly what they do. And Planned Parenthood may not even get consent to obtain the donations as required by many Federal and State laws, and there is evidence that technicians simply grab whatever tissue is available regardless of consent.

But finally, there is substantial evidence that children are born intact and alive, and they are killed for their tissue. Federal law prohibits through the Partial Birth Abortion Ban Act and the Born Alive Infant Protection Act killing live-born infants after an induced abortion either during delivery or after delivery. This law passed in 2000 has an important, but limited, purpose, and that is a child born alive after an induced abortion has the same legal rights as the rest of us. It is not dependent upon the desires of the mother. There is no right to a dead baby as a result of the abortion. And finally that it is not viability, but being born alive, which is a critical legal point.

There is now, however, sufficient evidence both from CMP and otherwise that abortionists are not taking these legal protections seriously, and general criminal law is just too blunt an instrument to provide sufficient legal protection for live-born infants when abortion clinics have financial incentives to encourage delivery of intact and potentially live-born infants, who they could then kill to harvest their fetal tissue.

This law needs to be updated to ensure that live-born infants are not killed, but that they also receive appropriate care just like everyone else. Thank you.

[The prepared statement of Mr. Bopp follows:]

Testimony of James Bopp, Jr.[1]
Before the House Judiciary Committee Regarding
Planned Parenthood's Fetal Tissue Procurement and
Fetal Tissue Transplantation Practices.
September 9, 2015

Thank you for the opportunity to testify regarding Planned Parenthood's[2] fetal tissue procurement practices. My testimony today will focus on how Planned Parenthood's current practice of procuring and selling human fetal tissue from induced abortion violates various federal laws when applicable, how existing laws and regulations are not sufficient to prevent these abuses and protect the unborn, and how continuing to allow this procurement and sale of human fetal tissue from induced abortion could legitimize the abortion industry.

Abuse is inevitable in a system that (1) treats the unborn as not a human person but as a creature who can be killed at will,[3] and (2) permits the use of fetal tissue from an induced abortion to be used for the alleged benefit of another[4] through a purely utilitarian calculation.[5]

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[1]Principal, The Bopp Law Firm, Terre Haute, IN. General Counsel for the National Right to Life Committee. *See* Summary of Resume of James Bopp, Jr. attached. The author wishes to acknowledge with appreciation the research and writing assistance of Courtney Turner, J.D., of The Bopp Law Firm.

[2]"Planned Parenthood" refers to the corporate enterprise, its affiliates, or its personnel, as the context or reference thereto make clear.

[3]"One lawyer who had taken part in prosecuting Nazis for war crimes explained how the German nation could have acted so savagely. 'There is only one step to take. You may not think it possible to take it; but I assure you that men I thought decent men did take it. You have only to decide that one group of human beings have lost human rights.'" Dissent of Bopp and Burtchaell, Report of the Human Fetal Tissue Transplantation Research Panel, Volume 1, 64 (1988) (citation omitted) ("Panel Report").

[4]Fetal tissue research, while highly controversial both medically and ethically, has gone on for decades. Some say that "fetal tissue (is) essential for medical research." New York Times, Aug. 11, 2015. While others view the results as either "meager" or, when it produced benefits, "ethically-derived alternatives exist." As a result, "medical science has moved beyond any need for fetal tissue in useful medical research." Charlotte Lozier Institute, *History of Fetal Tissue Research and Transplants* (2015). Resolution of this debate is beyond the scope of this testimony.

[5]That the justification for use of fetal tissue from induced abortion for research is based solely on a "utilitarian calculation" was made abundantly clear by the National Institutes for

Additional regulations and oversight of the procurement of fetal tissue for research will only be marginally effective to prevent abuse because, once this utilitarian calculation is adopted, the ideological commitment to abortion, the eleemosynary impulse to gain some good from abortion, and the financial benefit to the abortion industry and researchers all create a powerful predisposition to overcome any obstacle to obtaining and using the tissue and to prevent the oversight needed to enforce any regulations. Only a ban on use of fetal tissue from induced abortion[6] in research, or a ban on abortion itself, will prevent the inevitable abuse.

Introduction

One of the great tragedies of human nature is that, what history later judges to be gravely immoral, seems perfectly moral to those engaged in the action at the time.[7] Human sacrifice, slavery, genocide, gladiatorial moral combat, and capital punishment for minor offenses are all examples of activities once thought to be moral, but are now considered gravely immoral.[8] That is the position we are in today.

Current practices employed by Planned Parenthood and various tissue procurement companies, not only violate federal law when applicable, but also many ethical and moral principles. Furthermore, continuing to allow procurement and sale of human fetal tissue makes one complicit in the act of aborting a child.

I. Conversations with Planned Parenthood's Employees and Various Tissue Procurement Companies Reveal Multiple Potential Violations of Federal Law.

Recorded conversations, released by the Center for Medical Progress (CMP), reveal many legal issues with Planned Parenthood's procedures and practices regarding fetal tissue procurement. These procedures and practices of Planned Parenthood, and their tissue

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Health's 1988 Fetal Tissue Transplantation Research Panel, on which I served, when it justified funding the research "in light of the fact that abortion is legal and that the research in question is intended to achieve significant medical goals," despite their recognition that "it is of moral relevance that human fetal tissue for research has been obtained from induce abortions." Panel Report at 1.

[6]Fetal tissue for sources other than induced abortion, such as spontaneous abortions or from fetal placenta, is not inherently morally compromised nor is abuse inherent in it. So fetal tissue research from such sources with proper consent and other safeguards should be allowed.

[7] *See generally*, James Bopp Jr., *Fetal Tissue Transplantation and Moral Complicity with Induced Abortion,* THE FETAL TISSUE ISSUE: MEDICAL AND ETHICAL ASPECTS 61, 68 (P. Cataldo & A. Moraczewski eds., 1994).

[8] *Id.*

procurement partners,[9] show that federal laws when applicable, have been and are continuing to be violated during the procurement and sale of human fetal tissue.

A. Planned Parenthood Receives Valuable Consideration for Providing Fetal Tissue.

Federal law prohibits any person "to knowingly acquire, receive, or otherwise transfer any human fetal tissue for valuable consideration if the transfer affects interstate commerce."[10] Human fetal tissue includes all "tissue or cells obtained from a dead human embryo or fetus after a spontaneous or induced abortion, or after a stillbirth."[11] However, "valuable consideration does not include reasonable payments associated with the transportation, implantation, processing, preservation, quality control or storage of human fetal tissue."[12]

In justifying use of fetal tissue in research, those supporting such research have emphasized the need for "safeguards" in a vain attempt to separate induced abortion from the procurement of fetal tissue for research. One such "safeguard" is to prohibit "payments and other forms of remuneration and compensation associated with the procurement of fetal tissue . . . except payments for reasonable expenses occasioned by the actual retrieval, storage, preparation, and transportation of the tissues."[13] The Fetal Tissue Transplantation Research Panel viewed it as "essential that there be no offer of financial incentives or personal gain to encourage abortion or donation of fetal tissue."[14]

However, the federal law authorizing the funding of such research went beyond the strict limits recommended by the Panel. The "reasonable payments" authorized by federal law are quite broad, going beyond Planned Parenthood's actual costs and clearly providing financial incentives

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[9] Tissue procurement partners include companies like StemExpress, LLC, Novogenix Laboratories LLC, and Advanced Bioscience Resources, Inc. (ABR).

[10] 42 U.S.C. § 289g-2(a) (2006). In 1993, Congress adopted the NIH Revitalization Act, which authorizes the National Institutes of Health ("NIH") to fund research on the transplantation of human fetal tissue. *Id.* at § 289g-1(a)(1). *See also* The National Organ Transplant Act, 42 U.S.C. § 274e(a) ("It shall be unlawful for any person to knowingly acquire, receive, or otherwise transfer any human organ for valuable consideration for use in human transplantation if the transfer affects interstate commerce.").

[11] 42 U.S.C. § 289g-1(g).

[12] *Id.* at § 289g-2(e)(3).

[13] Panel Report at 1.

[14] *Id.* at 2.

to abortion clinics. This promotes substantial abuse as evidenced by multiple conversations recorded by CMP. In fact, Planned Parenthood has chosen to accept prices that have no relationship to even the "reasonable payments" authorized by federal law, but are based on the market value per-specimen.

In a conversation with CMP, Dr. Mary Gatter, Planned Parenthood's Medical Directors' Council President and Medical Director of Planned Parenthood Pasadena & San Gabriel Valley, discussed compensation with a potential buyer. She treated the conversation like a negotiation and told the buyer, "Well, you know in negotiations the person who throws out the figure first is at a loss, right?"[15] When a number was finally given, she stated that she would like "to find out what other affiliates in California are getting, and if they're getting substantially more, then we can discuss it then."[16] She mentioned that while money was not the most important thing, "it has to be big enough that it's worthwhile."[17] Finally, she stated that it had been years since she had talked about compensation and wanted to find out what others were getting. She told the buyer that "if this is in the ballpark, it's fine, if it's still low then we can bump it up. I want a Lamborghini."[18]

These clips from the conversation show that Planned Parenthood affiliates are not checking their costs of procurement and setting a number based on these costs, but are instead trying to make money off of human fetal tissue. This was further affirmed by a conversation with Dr. Savita Ginde, Planned Parenthood of the Rocky Mountains Vice President and Medical Director, where she told the potential buyer that "a per-item thing works a little better, just because we can see how much we can get out of it."[19]

While it is clear from these conversations that Planned Parenthood is charging based on the market value per-specimen, there is also evidence that they report their numbers in such a way as to not attract attention. Dr. Deborah Nucatola, Planned Parenthood's Senior Medical Director of Medical Services, was recorded by CMP stating that the price range is "anywhere from $30 to $100," but that the question you have to be able to answer is, "How can you justify

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[15] Center for Medical Progress, *Second Planned Parenthood Senior Executive Haggles Over Baby Parts Prices, Changes Abortion Methods*, http://www.centerformedicalprogress.org/cmp/investigative-footage/ (last visited Sept. 6, 2015).

[16] *Id.*

[17] *Id.*

[18] *Id.*

[19] Center for Medical Progress, *Planned Parenthood VP Says Fetuses May Come Out Intact, Agrees Payment Specific to Specimen*, http://www.centerformedicalprogress.org/cmp/investigative-footage/ (last visited Sept. 6, 2015).

that . . . it just needs to be justifiable.[20]" She further went on to say that an affiliate just has to "come to a number that looks like it is a reasonable number for the effort that is allotted on their part."[21]

Cecile Richards, President of Planned Parenthood Federation of America, admits that affiliates receive varying reimbursement amounts for fetal tissue, but does not explain why.[22] The "Why?" would be an important question for an investigating committee to ask Cecile Richards and other PPFA executives, along with a request that they produce their fetal tissue donation contracts.

Even more troublesome than the per-specimen market value pricing scheme is the idea that Planned Parenthood may receive more – a percentage of sales. Holly O'Donnell, a former procurement technician with StemExpress, said "whatever we could procure, [Planned Parenthood] would get a certain percentage."[23] And StemExpress certainly believes that Planned Parenthood would financial benefit for doing business with them.

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[20] Center for Medical Progress, *Planned Parenthood Uses Partial-Birth Abortions to Sell Baby Parts*, http://www.centerformedicalprogress.org/cmp/investigative-footage/ (last visited Sept. 6, 2015).

[21] *Id.*

[22] Planned Parenthood, Letter to Congress (August 27, 2015).

[23] Center for Medical Progress, *Human Capital,* http://www.centerformedicalprogress.org/human-capital/documentary-web-series/ (last visited Sept. 6, 2015).

Advancing BioMedical Research Together

Join the StemExpress partner program that fiscally rewards clinics for contributing to the advancement of life-saving research – with a solution that is easy to incorporate into your clinic practices. StemExpress is a California-based biomedical company that provides human tissue products ranging from fetal to adult tissues and healthy to diseased samples to many of the leading research institutions in the world. Our IRB-approved protocols and consents protect you as well as donor's privacy in accordance with HIPAA guidelines.

Partnering with Obstetrical-Care Clinics

Cell-free fetal DNA circulates in maternal blood throughout pregnancy. Noninvasive, stem cell free methods to obtain fetal DNA are being used for earlier detection of genetic diseases as well as reproductive decision-making. Research pioneers who develop noninvasive diagnostic technologies rely on the blood samples that are collected from hospitals and clinics throughout the United States.

Easy to Implement Program + Financial Profits

StemExpress promotes global biomedical research while also providing a financial benefit to your clinic. By partnering with StemExpress, not only are you offering a way for your clients to participate in the unique opportunity to facilitate life-saving research, but you will also be contributing to the fiscal growth of your own clinic. The stem cell rich blood and raw materials that are usually discarded during obstetrical procedures can, instead, be expedited through StemExpress to research laboratories with complete professionalism and course confidentiality.

Human Capital - Episode 1: Planned Parenthood's Black Market in Baby Parts

The Center for Medical Progress

1,139,201

Published on Jul 28, 2015

While Planned Parenthood is allowed, under federal law, to charge for certain statutorily specified costs, a per-specimen price based on what the market will bear and how much they can get out of it without attracting attention suggests a clear violation of the spirit and letter of the law.

B. Planned Parenthood Alters Abortion Procedures to Obtain Suitable Fetal Tissue.

One of the concerns, if abortion clinics "could profit financially from procuring fetal tissue," was that they would change their practices to facilitate procurement.[24] This would include performing an abortion "by an alternate method entailing greater risk to the pregnant women."[25] As a result, when federal law was amended to allow federal funding of transplantation research, it prohibited a physician from altering the timing, method or procedures used to terminate a pregnancy solely for the purpose of obtaining tissue.[26]

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[24] Panel Report at 9.

[25] *Id.* at 14.

[26] 42 U.S.C. § 289g-1(b)(2)(A)(ii). This requirement applies only to NIH funded research on the transplantation of human fetal tissue which the NIH says it has not funded since 2007.

Regardless of whether this federal law applies to procurement of fetal tissue from Planned Parenthood, Planned Parenthood promises its patients that it will not alter the abortion procedure.[27] However, comments made by Planned Parenthood's employees suggest that Planned Parenthood affiliates are willing to alter their abortion procedures in order to get suitable fetal tissue.

Dr. Deborah Nucatola said that knowing what someone wants "makes a huge difference," because it make a physician aware of where they are putting their forceps.[28] She went on to say that she will not crush the part the tissue procurement company is looking for, she will "crush below, [I will] crush above, and I'm gonna see if I can get it all intact."[29]

But the change of a procedure is not just limited to where a doctor chooses to put his or her forceps, it goes as far as changing the position of the baby. Dr. Nucatola said that "with the calvarium, in general, some people will actually try to change the presentation so that it's not vertex."[30] She went on to say that "if you maintain enough of a dialogue with the person who's actually doing the procedure, so they understand what the end-game is, there are little things, changes they can make in their technique to increase your success."[31]

Another doctor, Dr. Gatter, requested a proposal with the buyer so that she could talk to the doctor performing the procedure to see if he would be willing to change to a "less crunchy technique to get more whole specimens."[32] Melissa Farrell, RN, BSN, CCRC, Director of Research for Planned Parenthood Gulf Coast, also discussed how some of her doctors that are also researchers, do abortions in such a way that "they can get the best specimens."

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[27]For instance, the form for "Donation of blood and/or aborted pregnancy tissue for medical research, education, or treatment" of Planned Parenthood of Mar Monte provides that "I understand there will be no changes to how or when my abortion is done in order to get my blood or the tissue." Center for Medical Progress, Letter to the Honorable John Boehner, Speaker, August 31, 2015, Attachment A.

[28] Center for Medical Progress, *Planned Parenthood Uses Partial-Birth Abortions to Sell Baby Parts*, http://www.centerformedicalprogress.org/cmp/investigative-footage/ (last visited Sept. 6, 2015).

[29] *Id.*

[30] *Id.*

[31] *Id.*

[32] Center for Medical Progress, *Second Planned Parenthood Senior Executive Haggles Over Baby Parts Prices, Changes Abortion Methods*, http://www.centerformedicalprogress.org/cmp/investigative-footage/ (last visited Sept. 6, 2015).

Finally, Cecile Richards admits that Planned Parenthood physicians alter abortion procedures in order to "facilitate fetal tissue donation,"[33] which may not only violate federal law, but also violates PPFA's own consent form. Planned Parenthood's consent form states "I understand that there will be no changes to how or when my abortion is done in order to get my blood or the tissue." Yet, despite the fact that this consent form comes from PPFA guidance policies, and Planned Parenthood clinic employees interviewed in the videos admit to using the form, Cecile Richards acknowledges that some physicians fail to consistently comply with this "no change" requirement.

The practice of altering the timing, method, or procedures used to terminate a pregnancy in order to get a better specimen potentially jeopardizes the health of the woman seeking the abortion. Abortion is an invasive medical procedure and the common protocols and methods are presumably chosen to reduce the risk to the woman's health and safety. If doctors are willing to change a procedure in order to secure a better fetal tissue sample, and support their bottom line, they are departing from those medical standards, methods, and/or the timing that have been established to reduce the risk to women's health and safety.

Not only is Planned Parenthood jeopardizing their patient's health, it is also violating a commitment made to them. This brings to light some ethical issues with the company as a whole. Is Planned Parenthood really protecting women or are they trying to protect their bottom line by ensuring they can get the most money they can out of each abortion? Dr. Gatter said the following to the buyers in their recorded conversation:

> [L]ittle bit of a problem, which may not be a big problem, if our usual technique is suction, at 10 to 12 weeks, and we switch to using an IPAS or something with less suction, and increase the odds that it will come out as an intact specimen, then we're kind of violating the protocol that says to the patient, 'We're not doing anything different in our care of you.' Now to me, that's kind of a specious little argument and I wouldn't object to asking Ian, who's our surgeon who does the cases, to use an IPAS at that gestational age in order to increase the odds that he's going to get an intact specimen, but I do need to throw it out there as a concern. Because the patient is signing something and we're signing something saying that we're not changing anything with the way we're managing you, just because we agree to give tissue.[34]

Despite the fact that Planned Parenthood has promised these patients that they will do nothing different if they donate their fetal tissue, they have no issue doing so.

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[33]Planned Parenthood, Letter to Congress 6 (August 27, 2015).

[34] Center for Medical Progress, *Second Planned Parenthood Senior Executive Haggles Over Baby Parts Prices, Changes Abortion Methods*, http://www.centerformedicalprogress.org/cmp/investigative-footage/ (last visited Sept. 6, 2015).

C. Planned Parenthood Creates an Environment of Manipulation by Letting Those Who Stand to Benefit From Tissue Donation Obtain Consent from Women.

Federal and state law requires informed consent of the donor.[35] In order to give her consent, under federal law, a woman must sign a statement that says 1) the tissue is being donated for research purposes, 2) the donation is made without restriction as to who can receive it and 3) the woman has not been made aware of the identity of such individuals.[36]

Even if Planned Parenthood consistently uses a consent form with all of the information required by federal law, there is still a substantial risk of manipulation of these women taking place. Throughout the CMP videos, it is clear that often times it is not Planned Parenthood getting these consents. Instead, it is the tissue procurement companies who stand to benefit from the sale of this tissue that talk women through the process of donating.

Coercion, manipulation, and deceit have been evidenced in CMP's interview with Holly O'Donnell, a former procurement technician with StemExpress. She states that there have been many times where consent was either not given or an individual was coerced to give their consent. She told CMP that "If there was a higher gestation, and the technicians needed it, they would just take what they needed. And these mothers don't know. And there's no way they would know."[37] She also told CMP that she was not comfortable telling a woman to kill her baby for money and that's what this company does."[38]

Dr. Nucatola also addressed tissue procurement companies obtaining the consent. She told buyers working for CMP that,

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[35] 42 U.S.C. § 289g-1(b). This requirement applies to NIH funded research on the transplantation of human fetal tissue. *See also* 45 C.F.R. § §46.208(b), 46.209(d) (requiring "mother and father" informed consent for NIH funded research involving "fetuses in utero" and "fetuses ex utero."). In addition, NIH funded research must comply with all applicable state laws. *See, i.e.,* 42 U.S.C. § 289g-1(e)(1); 45 C.F.R. § 46.210. All fifty states and the District of Columbia adopted the original Uniform Anatomical Gift Act which provides for consent to be given for any tissue donations from dead humans and fetuses. Furthermore, many states have enacted specific legislation regulating fetal research. *See generally* Congressional Research Service, *Federal and State Regulation of Research Involving Human Fetal Tissue* (October 9, 2001).

[36] 42 U.S.C. § 289g-1(b).

[37] Center for Medical Progress, *Human Capital,* http://www.centerformedicalprogress.org/human-capital/documentary-web-series/ (last visited Sept. 6, 2015).

[38] *Id.*

> It is a [Planned Parenthood] consent form for tissue donation. But the interesting thing, I'll tell you is, some people consent, some people don't. The funny thing is, the second day, when that patients actually comes back for their procedure, when they're waiting, what often happens is, Novogenix will talk to people who haven't consented, and they usually do, once someone has the time and energy to sit and have the conversation with them. So, she ends up picking up several more specimens, just from being there and speaking.[39]

Permitting StemExpress employees to procure donor consent is even more reckless when one considers that it paid its employees a bonus for procuring fetal tissue. The employee received larger bonuses for certain types of fetal tissue, such as baby brains, hearts and lungs.

[39] Center for Medical Progress, *Planned Parenthood Uses Partial-Birth Abortions to Sell Baby Parts*, http://www.centerformedicalprogress.org/cmp/investigative-footage/ (last visited Sept. 6, 2015).

Furthermore, StemExpress told their employees every morning, in advance of procuring consents, which specimens had been ordered by buyers, such as "liver, thymus and skin (same donor) 16-20 weeks." Thus, StemExpress employees know prior to trying to obtain the patient's consent that they would be paid more in bonuses for that patient's fetal body parts.

Liver, Thymus & Skin (Same donor)/16-20wks/RPMI /Wet Ice/ HIV,HBsAG,HCV/FedEx Priority Overnight/HARVARD (Cohen)
1 SPEC=
IMPORTANT: Use FedEx account #431793989. Note: THE LIVER AND THYMUS SHIP TO MICHAEL BREHM AT UMASS AND THE SKIN SHIPS TO DR. COHEN AT HARVARD. ALL TISSUE UNDER HARVARD'S FEDEX NUMBER.
**Dena E. Cohen, PhD, Research Specialist Melton Group, HHMI/Harvard Dept of Stem Cell and Regenerative Biology, 7 Divinity Avenue-Fairchild 360, Cambridge, MA 02138, email-dcohen@mcb.harvard.edu, Phone: (617) 495-8556.

PROCURE ON WEDNESDAY ONLY- Pancreas/14wks/HEPES with antibiotic/Gel Packs HBSAG, HCV/FedEx Priority Overnight/UMASS (Dilorio)
2 SPEC=
IMPORTANT: Use gel packs that are NOT frozen but just chilled.
IMPORTANT: Please document PO#0006147108 in the reference section.

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If those who stand to benefit from a woman donating her aborted child's fetal tissue are the ones convincing a woman and getting her consent, it is likely that at times coercion and manipulation are used in order to obtain that consent. Furthermore, it is likely that Planned Parenthood disclosed confidential medical information to the procurement employees, violating ethical standards.

Proponents of fetal tissue research consider it vital that "the decision to terminate a pregnancy and the procedures of abortion should be kept independent from the retrieval and use of fetal tissue."[40] They view it as an essential "safeguard" that the "abortion decisions and procedures be kept separate from the considerations of fetal tissue procurement and use in research and therapy."[41] However, it is apparent that, under the pressure to obtain suitable fetal tissue, the abortion procedure is not at the service of fetal tissue procurement, not the woman.

As Dr. Nucatola explained: "For example, so I had 8 cases yesterday. And I know exactly what we needed, and I kinda looked at the list and said okay, this 17-weeker has 8 lams, and this

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[40]Panel Report at 1.

[41]*Id.* at 2.

one – so I knew which were the cases that were probably more likely to yield what we needed, and I made my decisions according to that too, so it's worth having a huddle at the beginning of the day, and that's what I do." "If I know what they're looking for, I'll just keep it in the back of my mind, and try to at least keep that part intact."[42]

So rather than on a "search and destroy" mission for the mother, Planned Parenthood abortionist are on a "search and harvest" mission for their own profit.

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[42] Center for Medical Progress, *Planned Parenthood Uses Partial-Birth Abortions to Sell Baby Parts*, http://www.centerformedicalprogress.org/cmp/investigative-footage/ (last visited Sept. 6, 2015).

D. Planned Parenthood May Perform Partial-Birth Abortions.

Partial-birth abortions are prohibited by federal law.[43] A partial-birth abortion occurs when the person performing the abortion vaginally delivers a living fetus (with either the entire head or the entire trunk of the baby being out of the body of the mother) for the purpose of performing an overt act to kill the partially delivered child and then he or she performs the overt act.[44]

Planned Parenthood's doctors have tried to avoid any legal issues by claiming that it is their intent that matters: that when they begin an abortion procedure they do not intend to do a partial-birth abortion, so that if they then actually perform one, they are not liable. According to Dr. Nucatola:

> Federal Abortion Ban is a law, and laws are up to interpretation. So there are some people who interpret it as intent. So if I say on Day 1 I do not intend to do this, what ultimately happens doesn't matter. Because I didn't intend to do this on Day 1 so I'm complying with the law.[45]

While it is unclear from the recordings whether Planned Parenthood performs partial-birth abortions, the fact that their executives are trying to find ways to explain away the law is concerning. It is necessary to further investigate these claims to see if Planned Parenthood actually performs partial-birth abortions.

E. Planned Parenthood May Kill Infants Born Alive After an Induced Abortion to Harvest Fetal Tissue.

With the pressure to obtain suitable fetal tissue comes the pressure to deliver an intact and potentially alive child and there is already ample support among bioethicists for harvesting tissue from live born infants.[46] While it is not clear from the videos whether or not Planned Parenthood kills babies born alive after an induced abortion to harvest fetal tissue, this is an area that needs further investigation.

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[43] 18 U.S.C. § 1531(a) (2006).

[44] *Id.* at § 1531(b)(1).

[45] Center for Medical Progress, *Planned Parenthood Uses Partial-Birth Abortions to Sell Baby Parts*, http://www.centerformedicalprogress.org/cmp/investigative-footage/ (last visited Sept. 6, 2015).

[46] *See* Bopp and Burtchaell Dissent, Panel Report at 61-62.

The Born-Alive Infant Protection Act (BAIPA) defines an infant born alive after an induced abortion as "person" and "human being" for purposes of federal law.[47] BAIPA provides that "[T]he term 'born alive', with respect to a member of the species homo sapiens, means the complete expulsion or extraction from his or her mother of that member, at any stage of development, who after such expulsion or extraction breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, cesarean section, or induced abortion."[48]

Comments made by employees of Planned Parenthood and tissue procurement employees raise credible concerns that infants are born alive after an induced abortion at Planned Parenthood and then killed to harvest their tissue. Dr. Ginde stated, "Sometimes, [if] someone delivers before we get to see them for a procedure, then they are intact, but that's not what we go for."[49] Additionally, Parrin Larton, a Procurement Manager for ABR, said that she has had women only be in the operating room for three minutes.[50] When she questioned the doctor, he said "Oh yeah. The fetus was already in the vaginal canal whenever we put her in the stirrups it just fell out."[51]

Holly O'Donnell discussed a time where a doctor tapped the heart of a fetus and it started beating.[52] She admitted that she did not know whether the fetus was technically alive or dead but that because the fetus was so intact, the doctor said they could procure a lot from it, including the brain.[53]

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[47] 1 U.S.C. § 8 (2006).

[48] *Id.* at § 8(b).

[49] Center for Medical Progress, *Planned Parenthood VP Says Fetuses May Come Out Intact, Agrees Payment Specific to Specimen*, http://www.centerformedicalprogress.org/cmp/investigative-footage/ (last visited Sept. 6, 2015).

[50] Center for Medical Progress, *Planned Parenthood Baby Parts Vendor Advanced Bioscience Resources Pays Off Clinics, Intact Fetuses "Just Fell Out"*, http://www.centerformedicalprogress.org/cmp/investigative-footage/ (last visited Sept. 6, 2015).

[51] *Id.*

[52] Center for Medical Progress, *Human Capital*, http://www.centerformedicalprogress.org/human-capital/documentary-web-series/ (last visited Sept. 6, 2015).

[53] *Id.*

While it is evident from these recordings that children are born intact after an induced abortion, it is not clear if they were alive. Therefore, it is necessary to further investigate these instances where a child is born intact after an induced abortion.

II. Existing Laws and Regulations Are Not Sufficient to Protect the Unborn.

Even if induced abortion remains legal and fetal tissue transplantation proves effective, the act of using fetal tissue from an induced abortion is ethically compromised and should not be pursued.[54] Existing laws and regulations are not sufficient to protect the unborn for four reasons, using human fetal tissue 1) goes against the idea of bodily integrity, 2) is contrary to the principle that you should not kill one for the benefit of another, 3) may convince an already vulnerable woman to have an abortion, and 4) leads to pressure to harvest, and even create, more fetal tissue.

A. Protection of Bodily Integrity.

All human beings deserve respect for their bodily integrity. This is the idea of sanctity of life which says that every person is worthy of protection by society despite what value others in society deem that person to have[55] In the case of *Union Pacific Ry. Co. v. Botsford*, the Court proclaimed:

> No right is more sacred, or is more carefully guarded, by the common law, than the right of every individual to the possession and control of his own person, free from all restraint or interference of others, unless by clear and unquestionable authority of law.[56]

This principle protects individuals from unconsented-to violations of their bodily integrity.[57]

The issue at hand violates this principle of bodily integrity. The unborn child deserves the same level of societal protection as other human beings and should have the right to avoid un-consented to violations of his or her bodily integrity.

A person not only has the ability to consent or not consent to medical actions on their person, they also have the right to consent to or not consent to donation of their body tissue. It is clear that an unborn child has not consented to the donation of his or her tissue. Some argue that

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[54] *See generally* James Bopp, Jr. *Ethical Limitations on the Use of Human Fetus in Research*, ETHICAL ISSUES IN RESEARCH 199, 204 (D. Cheney ed. 1993).

[55] *Id.* at 203.

[56] 141 U.S. 250, 251 (1891).

[57] *See generally Ethical Limitations* at 199, 203.

the parent is able to consent for the child as the child's proxy. However, others assert that a mother "planning the death of her unborn child has abdicated her protective role and [she] cannot speak on the child's behalf."[58]

This is equivalent to the case of *Curran v. Bosze* in the Illinois Supreme Court.[59] In this case, a father of twins petitioned to court to order the twins to submit to bone marrow harvesting in order to help their half-brother who had leukemia.[60] The father offered the idea of consent in this case; however, the court ruled it inapplicable and said that "that a parent or guardian may give consent on behalf of a minor daughter or son for the child to donate bone marrow to a sibling, only when to do so would be in the minor's best interest."[61] It follows that in order for a mother to give consent to donate the tissue of her unborn child, it would need to be in the best interest's of the fetus to do so. Therefore, it is impossible for a mother to give valid consent because the donation is not in the best interest's of the fetus.

Abortion and using human fetal tissue violates the principle of respecting a human's bodily integrity. Therefore, it is objectionable under traditional ethical standards.[62] Furthermore, a mother cannot give consent to donation of fetal tissue due to the fact that she has abdicated her role and has instead become the agent of the child's death.

B. A Person May Not Kill One for the Benefit of Another.

Many advocates of fetal tissue research argue that the use of human fetal tissue is good for society as a whole and has the potential to help eliminate diseases; therefore, it is justified. However, this goes against an important principle of our society, that a person may not kill one for the benefit of another.[63]

An old English case dealt with an issue very close to the one at hand. In *Regina v.*

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[58] Fetal Tissue Transplant Research Fact Sheet, NCHLA 2 (1992).

[59] 566 N.E.2d 1319 (Ill. 1990).

[60] *Id.*

[61] *Id.* at 1331.

[62] *See generally Ethical Limitations* at 199, 205.

[63] "The history of the abuse of human research subjects, from Tuskegee to Dachau to Willowbrook to Helsinki, cries out unambiguously that neither the goodwill of the researcher nor the prospective yield in beneficial knowledge has the slightest finger hold on any moral right to relieve one human's affliction by exploiting another." Dissent of Bopp and Burtchaell, Panel Report at 51.

Dudley, there were two men and a seventeen-year-old boy stranded on the boat.[64] They had been on the boat for twenty days without food (with the exception of two tins of turnips and a turtle).[65] Due to the horrid conditions and the fact that the boy was already weak and likely would not have survived to be rescued, Dudley killed the boy.[66] While Dudley did the killing, the other man, Stevens, consented to the murder, in order to eat the boy's flesh and drink his blood.[67] The two men were rescued four days later and upon their return were tried for the murder of the boy.[68] The court found that the grave threat to their life did not justify the killing of another nor did starvation and dehydration constitute a necessity defense for taking the like of the young boy.[69] Both men were convicted of murder.[70]

This case leads to one of the foundations of our society, that killing someone or aiding in the killing of someone for the benefit of another is morally wrong and should be forbidden by law. No matter what progress could be made using human fetal tissue from induced abortions, it does not justify the killing of a child.[71]

C. The Use of Human Fetal Tissue for Research May Convince an Already Vulnerable Woman to Obtain an Abortion.

When Dr. Louis W. Sullivan, Secretary of Health and Human Services in 1989, was considering whether to implement the finding of the NIH Human Fetal Tissue Transplantation Panel, he decided to reject the Panel's suggestions and maintained the view that the moratorium against funding the research should be left in place.

He stated,

> [P]ermitting the human fetal research at issue will increase the incidence of abortion across the country. I am particularly convinced by those who point out that most women arrive at the abortion decision after much soul searching and

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[64] 15 Cox C.C. 624, 14 Q.B.D. 273 (1884).

[65] *Id.*

[66] *Id.*

[67] *Id.*

[68] *Id.*

[69] *Id.*

[70] *Id.*

[71] *See* Bopp and Burtchaell Dissent, Panel Report at 63-70

> uncertainty. Providing the additional rationalization of directly advancing the cause of human therapeutics cannot help but tilt some already vulnerable women toward a decision to have an abortion."[72]

The Human Tissue Transplantation Research Panel agreed that this was a legitimate danger: "knowledge of the possibility for using fetal tissue in research and transplantation might constitute motivation, reason, or incentive for a pregnant woman to have an abortion,"[73] but most of the Panel members were unconcerned.[74]

If a woman is conflicted about whether or not to have an abortion, knowledge of the potential utility of the dead fetus has to the potential to tip the balance. Further, studies have shown that women consider outside needs and desires when considered whether or not to abort their child.[75] This research would add another level of pressure to an already vulnerable woman. The only way to avoid encouragement of abortions is to eliminate research using human fetal tissue from induced abortions.

D. The Use of Human Fetal Tissue for Research Increases the Pressure to Harvest, and Even Create, More Fetal Tissue.

Dr. Sullivan also noted that "if the research proved successful, there would be a demand for more fetal tissue."[76] This would lead to pressure to harvest and even create more fetal tissue. The effect of this demand for more tissue could take on many forms. First, it would create pressure to harvest more fetal tissue from current abortions. Second, it could increase the occurrence of women getting pregnant in order to donate. Third, it would increase the likelihood of the implementation of a black-market of baby selling.

First, the evidence in the CMP videos already demonstrate that the current need for suitable fetal tissue from induced abortion is already putting substantial strain on existing regulations of the practice, cause violations of law and abuse. There is documented instances of failure to obtain or to coerce the woman's consent and of alteration of the abortion procedure to facilitate fetal tissue procurement. This has lead to delivery of intact children, some with beating hearts, as the ultimate means to extract suitable fetal tissue, raising concerns that Planned

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[72] BIOMEDICAL POLITICS 235 (Kathi E. Hanna, ed., 1991). *See generally* Bopp and Burtchaell Dissent, Panel Report at 53-59.

[73] Panel Report at 4.

[74] Concurrence of John A. Robertson, Panel Report at 34-35.

[75] *See* Kathleen Nolan, *Genug ist Genug: A Fetus is Not A Kidney,* 18 HASTINGS CENTER REPORT 13-19 (1988).

[76] *Id.* at 236.

Parenthood is committing partial birth abortions or terminating the lives on infants born alive after an induced abortion. Finally, the pressure to obtain suitable fetal tissue has created a seller's market where Planned Parenthood is demanding top dollar from procurement companies.

Second, many argue that women will not consent to an abortion in order to donate their fetal tissue. However, if fetal tissue research becomes successful then wide-spread knowledge of it will lead to more abortions. It could encourage a woman to get an abortion in order to help others or to help with negative thoughts surrounding abortion. Further, if demand increases and human fetal tissue procurement continues to be a profitable industry,[77] it follows that people will start encouraging women to have an abortion in order to donate.[78] Even if a fee is not paid directly to the woman, there are other financial inducements for women to donate. Since abortion clinics receive payment for harvesting tissue, they may then indirectly transfer their profit to their patients by lowering the costs associated with abortion in order to encourage more women to have abortions.[79]

Despite the many abortions in this country, few abortions actually yield usable human fetal tissue (whether from contamination or from the abortion procedure itself). The amount of usable tissue would not be able to fulfill the need if fetal tissue research proves successful. Then there would be millions of people that scientists would claim that fetal tissue research could help, but the supply would not meet demand and costs would skyrocket. This opens the door for a black-market of harvesting fetal tissue and baby-selling.

III. Legitimizing the Abortion Industry and the Powerful Bond it Creates.

The final issue with the use of aborted human fetal tissue is that if research proves to be successful, it will legitimize the abortion industry. This research would create a powerful bond between the abortion industry, the medical community, the recipients of transfers. This bond would occur due to the necessity of having fresh tissue. As a result, researchers will become an integral part in the abortion procedure (both in planning and in the act itself). This tie to research makes abortion seem compassionate and altruistic and has the potential to make more women choose an abortion. Furthermore, it could cause individuals, who currently oppose the practice,

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[77] *See* Bopp and Burtchaell Dissent, Panel Report at 59-61.

[78] Indeed ten of the 17 members of the Fetal Tissue Transplantation Research Panel, who endorsed federal funding of the research, agreed that "if the situation changes so that the supply of fetal tissue from family planning abortions proves inadequate, the ban on donor designation of recipients and aborting for transplant purposes should be re-examined," since "when another person's life or health depends on it, the argument in favor of abortions to obtain tissue is much stronger than has generally been thought." Concurrence of Professor John A. Robertson, Panel Report at 38, 38 n.31.

[79] *See generally Fetal Tissue Transplantation and Moral Complicity* at 61, 75.

to choose abortions as an acceptable form of birth control. This bond between abortion providers and medical researchers cannot be tolerated.

Another implication of using human fetal tissue from induced abortions is the bond it would create between the federal government and abortion providers. First, the acceptance of benefits from an immoral act gives approval and encouragement of the act.[80] This is the equivalent of buying stolen goods.[81] While an individual who ultimately receives the goods may not have committed the initial act of theft, they are complicit in the act when they choose to purchase a good they know was stolen.

With a question of legality or morality, the answer is still the same. If one accepts the benefits of the act, they are being complicit in the act itself. Second, "[o]nce the basic act of collaboration is accepted, attempts to regulate it to prevent the most egregious abuses may only involve the Administration more deeply and intricately into the system of collaboration."[82] In order to properly regulate the process and implement the amount of safeguards needed, as well as the investigation that will be needed to ensure providers are complying with the law, the government will become deeply entangled in the act itself. The only way to ensure this does not happen is to ban the use of human fetal tissue from induced abortions for research purposes or to ultimately outlaw abortion itself.

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[80] Fetal Tissue Transplant Research Fact Sheet, NCHLA 2 (1992).

[81] *Id.*

[82] *Id.* at 3.

Mr. GOODLATTE. Thank you, Mr. Bopp.

Ms. Smith, welcome.

TESTIMONY OF PRISCILLA J. SMITH, ASSOCIATE RESEARCH SCHOLAR IN LAW, SENIOR FELLOW AND DIRECTOR, PROGRAM FOR THE STUDY OF REPRODUCTIVE JUSTICE, INFORMATION SOCIETY PROJECT, YALE LAW SCHOOL, NEW HAVEN, CT

Ms. SMITH. I am an associate research scholar in law at Yale Law School where I direct the Program for the Study of Reproductive Justice. I am testifying today in my personal capacity and do not purport to represent the institutional views of Yale Law School, of course. Thank you for the opportunity to testify.

I will make a few points here, and obviously I am open for questioning. I do not repeat some of the important points that have already been made by the Members, but I do want to point out a few things. First of all, this attack is part of a long campaign to discredit Planned Parenthood and other abortion providers. It is an indeed an attack on the right to abortion.

But Planned Parenthood has been a specific target of many of these types of attacks, and just since the year 2000 they have been the target of nine similar smear campaigns using hidden videos or other recordings full of innuendo and false claims. Every single time these allegations have been thoroughly investigated and debunked.

Second, I will make a quick comment on the videos. I am very reluctant to rely on anything in these videos given the findings of a team of forensic experts that has been submitted to this Congress, to this Committee rather, which found that the tapes have been distorted and misleadingly edited, and as a result, have no evidentiary value. This has also been recognized in a report issued this morning by the House Committee on Energy and Commerce, which also found that there is no evidence that Planned Parenthood or its affiliates have violated any Federal or State laws, and this is after conducting a thorough investigation, questioning witnesses, and reviewing documents.

I can comment, however, on the statutes as issued. As has been pointed out, the Federal tissue statute does ban the sale of fetal tissue, but it specifically allows those who donate tissue to recoup reasonable reimbursement for costs, such as the cost of maintaining, storing, and transporting fetal tissue. These fetal tissue provisions were adopted with broad bipartisan support, passing by a vote of 93 to 4 in the Senate, for example.

And Planned Parenthood officials specifically state in the videos in numerous statements that were edited out of the short videos that were put on the Web that they are only seeking reimbursement costs, that they do not make profits from fetal tissue donation. And, in fact, they refused contracts that were offered that offered unreasonable costs. There is simply nothing in the tapes that indicate a violation of the fetal tissue law.

There are also these allegations that these misleadingly edited video tapes provide probable cause to believe that Planned Parenthood violates the Partial Birth Abortion Ban Act. Now, I am intimately familiar with that act. I was lead counsel in the case chal-

lenging the act. The Supreme Court upheld the law over my objections, and held that the law was narrowly interpreted to apply in situations to which intactness is completely irrelevant. So the allegations here are based mostly on repeated statements of the word "intact" in a sort of ominous manner, the word being repeated both by interviewees and interviewers, kind of Law and Order style in the videos.

But intactness has no relevance. It is neither sufficient nor is it perhaps even required to establish a violation of the act. Instead, all that matters under the statute is whether at the outset of the procedure, the physician had the intent to do two things: vaginally deliver a living fetus up to certain anatomical landmarks, and then, second, perform a step to cause fetal demise at that point.

Now, the reason it was so limited was because interpreting it more broadly would have applied to many abortion procedures. And I am not surprised that there is so much confusion about this partial birth abortion statute because it was deceptively campaigned for in this Congress and to this Congress, and people were convinced it had something to do with banning late-term post-viability abortions to which it does not apply whatsoever. So, again, there is no evidence that physicians at Planned Parenthood perform procedures in a way outlawed by the act.

Now, also there are a number of questions that have been raised generally about the ethics of fetal tissue donation. When similar issues were raised during the Reagan Administration, the National Institutes of Health convened a research panel of ethicists and scientists, those on both sides of the abortion issue. As Mr. Bopp stated, he, in fact, was on that panel. It was also chaired by a former judge who was himself anti-abortion. And a decisive majority of that panel found that fetal tissue research was morally desirable because it held great medical promise and could be accomplished without incentivizing abortion in any way. And, in fact, it has done so, and many medical advances have come from that research.

I see that my time is almost done, so I want to skip to what I think is the really horrifying thing about this hearing. The horrifying thing here is the mismatch between the allegations and concerns here about abortion, about fetal tissue research and what is being considered, which is defunding Planned Parenthood's non-abortion related services. As Judge Kavanaugh of the D.C. Circuit explained recently in his dissent from the denial of re-hearing en banc in Priests for Life, providing seamless access to contraceptives, which is a large portion of what Planned Parenthood does, "reduces the number of unintended pregnancies. It furthers women's health. It advances women's personal and professional opportunities, reduces the number of abortions, and helps break a cycle of poverty.

So the horrible irony here is that defunding Planned Parenthood would increase the number of unintended pregnancies and drastically, I fear, increase the number of abortions that are necessary in this country. Thank you.

[The prepared statement of Ms. Smith follows:]

TESTIMONY OF PRISCILLA J. SMITH, ASSOCIATE RESEARCH SCHOLAR IN LAW,
SENIOR FELLOW AND DIRECTOR, PROGRAM FOR THE STUDY OF
REPRODUCTIVE JUSTICE,
YALE LAW SCHOOL

BEFORE THE UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON THE JUDICIARY

WASHINGTON, D.C.
SEPTEMBER 9, 2015

Good morning Chairman Goodlatte and Ranking Member Conyers and Distinguished Members of the Committee:

I am an Associate Research Scholar in Law at Yale Law School where I direct the Program for the Study of Reproductive Justice. I am testifying today in my personal capacity and do not purport to represent any institutional views of Yale Law School. I received my law degree from Yale Law School in 1991; my B.A. from Yale College in 1984; and currently conduct research and writing on constitutional privacy concerns, First and Fourth Amendment issues, with a focus on reproductive rights and privacy law. Prior to joining the legal academy, I litigated numerous cases in federal and state courts and presented arguments in state supreme courts in Florida and Wisconsin and in the U.S. Supreme Court twice, in *Ferguson v. City of Charleston*, 531 U.S. 67 (2000), and in *Gonzales v. Carhart*, 550 U.S. 124 (2007).

Thank you for this opportunity to testify here today about this latest attack on Planned Parenthood and the reproductive health care it provides to women and men throughout this country.

The ostensible reason for this hearing is to investigate allegations that Planned Parenthood violated federal law concerning fetal tissue donation based on videos released by an organization of anti-abortion advocates. There also appear to be allegations that Planned Parenthood physicians may be violating the Partial Birth Abortion Ban Act of 2003, 18 U.S.C. § 1531, also based on statements in these same videos. I have reviewed the federal fetal tissue donation laws and have a thorough knowledge of the federal "partial-birth abortion" statute, as well as the United States Supreme Court's interpretation of that law adopted in *Gonzales v. Carhart*, 550 U.S. 124 (2007), as I was lead counsel for plaintiffs in that case.

It is my opinion based on a review of the federal laws at issue and these videos, that there is simply no evidence in these misleadingly edited videos of a violation of either of these laws. I will comment here on the tapes, the two federal laws at issue, the larger context in which this campaign against Planned Parenthood occurs, and then finally on the disastrous impact that defunding Planned Parenthood would have, including the likely result that it would significantly increase the number of abortions.

I. The Tapes Are Unreliable Because They Have Been Distorted and Misleadingly Edited

For three years, members of an anti-abortion group appear to have conducted an undercover operation that consisted of fabricating a company called Biomax Procurement Services and falsely representing the company as a legitimate tissue procurement organization in order to gain access to Planned Parenthood conferences and staff. PP Letter (August 27, 2015) at 7. They then surreptitiously taped interactions with staff members, apparently trying to entrap them, to induce them to say they would sell fetal tissue for a profit in violation of federal law. Ultimately though, despite three long years of undercover work, this group has failed to lure Planned Parenthood into the trap.

The failure of anti-abortion advocates to entrap Planned Parenthood officials is all the more remarkable given that the videos have been heavily edited to distort and misrepresent the conversations that occurred. A team of forensic experts have examined the tapes and found that *both* the short videos as well as the videos that were claimed to be "full footage" videos were edited "so as to misrepresent statements" made by Planned Parenthood officials. In their report provided to this Committee, the experts state, "[t]he short videos significantly distort and misrepresent the conversations depicted in the full footage videos." With 27th 11 page letter CMP analysis at 8 (August 25, 2015), submitted to Committee, (August 27, 2015). The short videos contain "edited conversations where some spoken words are eliminated and some spoken words are added out of context," from other parts of the tape. Id. at 8. Forensic Analysis of CMP Videos at 2 (August 25, 2015), submitted to Committee, (August 27, 2015).

The tapes in other words change the order in which statements were made, to alter the meaning of the dialogue. For example, when one Planned Parenthood official talks about "diversifying the revenue stream" for her clinic, the dialogue was edited to make it appear she was referring to the reimbursement costs for fetal tissue donation. The full video shows she was actually discussing expanding the services available to patients. Id. at 9. Another officials' discussion of the real costs involved in collecting tissue for donation is edited out of the video entirely.

The techniques used here are similar to those used to splice together statements and words uttered by world leaders that make it appear that they

are singing pop songs. *See, e.g.,* https://www.youtube.com/watch?v=hX1YVzdnpEc. It is not surprising then that the forensic experts found that the manipulation of these videos means "they have no evidentiary value in a legal context." In fact, it is impossible to draw any reliable conclusions from these videos.

Given the many misrepresentations made by those who manufactured these videos, a lawsuit has been filed against the group behind this scheme—which calls itself the Center for Medical Progress—as well as against the individuals involved, alleging violations of federal and state laws for activities similar to those at issue here but targeting members of the National Abortion Federation.[1] The Judge granted a Temporary Restraining Order in that case, preventing release of further videos or deceptively obtained information,[2] and the individual responsible for manufacturing the videos has indicated he will invoke his Fifth Amendment right to refrain from self-incrimination rather than respond to discovery requests in the case.[3] To my knowledge, the full unedited versions of the tapes recorded by members of this anti-abortion group have not yet been released or made available to this Committee, despite calls by PP and others to do so.

II. Fetal Tissue Research – Federal Statute and Ethical Concerns

While the federal fetal tissue statute at issue bans profit-making from the donation of fetal tissue, it specifically *allows* those who donate tissue to recoup "reasonable" reimbursements for costs. *Compare* 42 U.S.C.A. § 289g-2(a) ("[i]t shall be unlawful for any person to knowingly acquire, receive, or otherwise transfer any human fetal tissue for valuable consideration . . .") *with* 42 U.S.C.A. § 289g-2(e)(3)(defining "valuable consideration" to *exclude* "reasonable payments associated with the transportation, implantation, processing, preservation, quality control, or storage of human fetal tissue."). The fetal tissue provisions were adopted

[1] *See* Nat'l Abortion Federation v. Center for Medical Progress, et al., No. 15-cv-03522-WHO, Civil Minutes, (Aug. 21, 2015) (NAF v. CMP Civil Minutes"), *available at* http://5aa1b2xfmfh2e2mk03kk8rsx.wpengine.netdna-cdn.com/wp-content/uploads/2015-08-21-78-Civil-Minutes.pdf.

[2] Nat'l Abortion Federation v. Center for Medical Progress, et al., No. 15-cv-03522-WHO, Order Keeping TRO In Effect Until Resolution of Request for Preliminary Injunction (Aaug.3, 2015), *available at* http://prochoice.org/media/Order_Extending_TRO.pdf.

[3] NAF v. CMP Civil Minutes at 3.

with broad bipartisan support in 1993, passing by a vote of 93-4 in the Senate for example. *See* https://www.congress.gov/bill/103rd-congress/senate-bill/1/text.

The videos misrepresent the terms of the federal fetal tissue statute by citing the first portion of the statute outlawing the "transfer [of] any human fetal tissue for valuable consideration . . .," 42 U.S.C.A. § 289g-2(a), without including the statutory section providing that "valuable consideration" does not include "reasonable" payments reimbursing costs. It then leaves the misleading impression that Planned Parenthood is violating the law by juxtaposing the text of the ban on "valuable consideration" with a discussion of financial reimbursement for fetal tissue donation, without mentioning the allowance for reasonable reimbursements.[4] Planned Parenthood states that any "[a]ffiliates involved with fetal tissue research comply with the requirement that any reimbursement associated with fetal tissue donation must be reimbursement for actual expenses," and nothing in the videos contradicts that statement. Letter from Cecile Richards, President, Planned Parenthood Federation of America to The Honorable John Boehner, Speaker, U.S. House of Representatives, et al (August 27, 2015).[5] In fact, the longer versions of the videos include multiple explicit statements declining any payment beyond reimbursement for costs.

In addition to causing confusion over the statute's requirements, the videos have raised questions, though, about the ethics of the use of fetal tissue in medical research. Similar concerns were raised in the mid-late 1980s and early 1990s. In response, during the Administration of President Reagan, the National Institutes of Health convened a Research Panel to consider the ethics of fetal tissue donation. The panel was chaired by Arlin Adams, a retired federal judge opposed to abortion. The panel's decision approving fetal tissue research was near unanimous (19-2). All but two

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[4] Americans United for Life duplicates this misrepresentation in its fact sheet, *Legal Response to Planned Parenthood Abortion Profiteering* at 2, where it cites to 42 U.S.C. S 289g-2(a), fails to note that reimbursement for "reasonable payments associated with" tissue donation are specifically authorized under 42 U.S.C. S. 289g-2(e)(3), and then argues that the practice of receiving any "compensation" for fetal tissue violates federal law.

[5] Planned Parenthood has indicated that "only two of 50 Planned Parenthood affiliates are currently involved with fetal tissue research." Letter from Cecile Richards, President, Planned Parenthood Federation of America to The Honorable John Boehner, Speaker, U.S. House of Representatives, et al (August 27, 2015).

members of a Reagan appointed commission recommended separating moral views on abortion from moral views on tissue research because 1) the abortions were legal and would happen anyway; 2) fetal tissue was thus available; and 3) strong medical advances from fetal tissue research were possible and important and could save lives. They based their decision on the requirement that safeguards would be put in place to insure that none of the relevant actors would have incentives to change their behavior. The Panel reported its fundamental finding as follows:

> A decisive majority of the panel found that it was acceptable public policy to support transplant research with fetal tissue either because the source of the tissue posed no moral problem or because the immorality of its source could be ethically isolated from the morality of its use in research. Considerations supporting this decision were the fact that these abortions would occur regardless of their use in research, that neither the researcher nor the recipient would have any role in inducing or performing the abortion, and that a woman's abortion decision would be insulated from inducement to abort to provide tissue for transplant research and therapy. Accordingly, the panel found it essential that abortion decisions and procedures be kept separate from considerations of fetal tissue procurement and use in research and therapy. In keeping with that separation, it is essential that there be no offer of financial incentives or personal gain to encourage abortion or donation of fetal tissue.[6]

Of the 21 Research Panel members, one of the two dissenters, and none of the other 19 members of the panel, is testifying here today.[7]

Fetal tissue research has provided innumerable medical benefits and has saved lives. Indeed, scientists have been conducting research using fetal tissue and fetal cell lines since the 1930s; it was work with fetal cell lines that led to the development of the polio vaccine. Fetal tissue is obtained, only after fully informed consent of the pregnant woman, consent that is obtained only after the woman has separately come to the decision to

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[6] Report of the Human Fetal Tissue Transplantation Research Panel Volume I at 23 (December 1988).

[7] Mr. Bopp's dissenting statement joined by one other committee member, id. at 37, is linked inextricably to his opposition to the act of abortion itself and his apparent skepticism about the benefits of fetal tissue research itself. It did not hold sway in the Reagan or Ford Administration's and it should not hold sway today.

terminate her pregnancy. As the Assistant Secretary for Legislation at the Department of Health and Human Services (HHS) recently reported to the Senate:

> fetal tissue is an important resource for researchers studying retinal degeneration, pregnancy loss, human development disorders, and early brain development, with relevance to autism and schizophrenia. Research conducted with fetal tissue continues to be a critical resource for important efforts such as research on degerative eye disease, human developmental disorders such as Down syndrome, and infectious diseases, among a host of other diseases.[8]

Because this is a scientific and ethical issue, if it is to be reassessed, it should be addressed by leading scientists and ethicists, just as it was assessed by the bipartisan commission in 1988.

III. Partial-Birth Abortion Ban Act of 2003

Recently, claims have circulated that the video tapes provide probable cause to believe that Planned Parenthood has violated the Partial-Birth Abortion Ban Act of 2003, upheld by the Supreme Court in *Gonzales v. Carhart*, 550 U.S. 124 (2007). There is much discussion of the use of the term "intact," and indeed the word "intact" is repeated ominously in the videos, spliced together from a number of different uses by the interviewees and interviewers, and often in a context where it is unclear whether the speaker is referring to an intact tissue specimen or an intact fetus.

The problem here is that "intactness" of the fetus doesn't matter one way or the other under the Partial-Birth Abortion statute. Rather, as interpreted and explained by the U.S. Supreme Court, the relevant fact for determining if a physician has performed a so-called "partial-birth abortion"

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[8] Letter from Jim R. Esquea, Ass't Sec. for Legislation, HHS to Senators Ernst and Blunt (Aug. 14, 2015) at 1. *See also, e.g.,* AP, *What you need to know about how fetal tissue is used for research,* USA TODAY (July 29, 2015), http://www.usatoday.com/story/news/nation-now/2015/07/29/fetal-tissue-research-planned-parenthood/30839625/; Nathalia Holt, *The Case for Fetal-Cell Research,* New York Times (July 30, 2015), http://www.nytimes.com/2015/07/30/opinion/the-case-for-fetal-cell-research.html?_r=0.

under the statute is whether the physician had the intent "at the outset" of the procedure, *Gonzales,* 550 U.S. at 151, to undertake two distinct steps. First, the physician must "vaginally delive[r] a *living* fetus" up to certain "'anatomical 'landmarks' " specified in the statute. Id (emphasis added). As Justice Kennedy wrote, "[t] he Act does not restrict an abortion procedure involving the delivery of an expired fetus." *Gonzales*, 550 U.S. at 147 (quoting from § 1531(b)(1)(A)). Second, to fall within the Act, the physician must also have had the intent at the outset of the procedure to perform a separate step *at this point* that causes fetal demise. *Id.* at 148 (quoting § 1531(b)(1)(B)). As Justice Kennedy wrote, "[f]or purposes of criminal liability, the overt act causing the fetus' death must be separate from delivery. And the overt act must occur after the delivery to an anatomical landmark." *Id.* There is simply no evidence in these videos that the physicians at Planned Parenthood intend to perform these two distinct steps. Perhaps the confusion is understandable because a centerpiece of the advocacy for the Partial Birth Abortion Act of 2003 focused on procedures involving intact fetuses. And it is true that an intact D&E where the physician had the intent at the outset of the procedure to perform these two steps on a *living* fetus would violate the Act. But intactness itself is neither sufficient, nor perhaps even required, to establish a violation of the Act. *Id.* at 151.

IV. Another Attack on Access to Abortion

These tapes are part of an ongoing decades-long campaign to attack Planned Parenthood and other providers of abortion, to deprive women of their fundamental constitutional right access abortion and other essential reproductive health care, and ultimately to reverse *Roe v. Wade* and *Planned Parenthood v. Casey*. In those cases, the Supreme Court recognized that the right to abortion not only to protects women's health and lives, but also protects their equal status in society. As the Court has recognized, having control over the timing and spacing of childbearing and childrearing enables and affirms forms of social participation, most fundamentally, "the ability of women to participate equally in the economic and social life of the Nation." Casey, 505 U.S. 833, 856 (1992). As Justice Ginsburg put it, the right to abortion preserves "a woman's autonomy to determine her life's course, and thus to enjoy equal citizenship stature." Gonzales v. Carhart, 550 U.S. 124, 172 (Ginsburg, J., dissenting).

We are currently experience a resurgence in the campaign to restrict access to abortions. An unprecedented number of state-level abortion restrictions were enacted from 2010-2015, a total of 282 new abortion restrictions, with devastating results. *See also* Guttmacher Institute, *News in Context: Law Affecting Reproductive Health and Rights: State Trends at Midyear, 2015* (July 1, 2015); Guttmacher Institute, *News in Context: In Just the Last Four Years, States Have Enacted 231 Abortion Restrictions* (Jan. 5, 2015); Heather D. Boonstra and Elizabeth Nash, *A Surge of State Abortion Restrictions Puts Providers And the Women They Serve in the Crosshairs,* 17 GUTTMACHER POLICY REVIEW 9 (Winter 2014). Mississippi and North Dakota have one abortion provider each, and the number of clinics in Texas has decreased approximately one-half as a result of new restrictions, leaving large swaths of the state unserved. The result of these new restrictions, and it appears their purpose as well, is to close clinics, and put women's ability to choose safe abortions in greater peril than at any time since the Roe decision; for many women, abortions are realistically unattainable.

The anti-abortion advocates involved in manufacturing these videos are, like others before them, going further than these state legislators, turning their backs on legal advocacy efforts. When they can't convince the polity, some advocates have resorted to violence, illegal clinic blockades, harassment of patients, and now the creation of falsified videos. They are fighting abortion by any means necessary, including by deceiving the public and outright lawbreaking.

V. Impact on Non-Abortion services.

Finally, there is an extreme mismatch between the concerns expressed over fetal tissue donation procedures and defunding the critical, *non-abortion related* health care services provided by Planned Parenthood. As HHS officials have emphasized recently, no federal funding supports abortions or health benefits coverage that includes abortions, except for abortions in cases of rape, incest, or when the life of the woman is endangered.[9] Instead, the only federal funds provided to Planned Parenthood cover "services such as annual wellness exams, cancer

[9] Letter from Jim R. Esquea, Ass't Sec. for Legislation, HHS to Senators Ernst and Blunt (Aug. 14, 2015) at 2-3.

screenings, contraception," and the testing and treatment of sexually-transmitted diseases.[10]

Opponents of Planned Parenthood attempt to keep the focus here on abortion by arguing that defunding contraception and other vital women's health care services, like pap smears and annual pelvic and breast cancer screenings, is necessary because money is "fungible." They argue that any support for Planned Parenthood that supports these non-abortion services also supports the abortion services Planned Parenthood provides. But this claim is inconsistent with federal law. For example, in the Establishment Clause area, federal money is not considered fungible in the way suggested. Indeed, if it were, it would be unconstitutional to fund the secular activities of religious non-profits because funding *secular* activities would be seen as supporting the non-profits' *religious* activities. *See Hunt v. McNair*, 413 U.S. 734, 743, 93 S.Ct. 2868, 2874, 37 L.Ed.2d 923 (1973) (rejecting argument that funding secular services results in support for religious services).

For nearly 100 years, beginning long before *Roe v. Wade*, Planned Parenthood has been a provider of essential health care for millions of people. One in five women in the U.S. has visited a Planned Parenthood health center; these centers provide care that helps women prevent an estimated 516,000 unintended pregnancies and 217,000 abortions every year.[11] Overall, last year, Planned Parenthood provided birth control, lifesaving cancer screenings, STD testing and treatment, and other services to 2.7 million patients, and sex education to 1.5 million people.[12] Because of the compassionate and high quality health care provided by Planned Parenthood clinics, they are held in high esteem in every state in the nation. An NBC-WSJ poll found that Planned Parenthood has a significantly higher favorability rating than any other group or individual tested. A poll from Hart research found that 64% of voters, including 72% of Independents, disagree with attempts to defund Planned Parenthood.[13] Part of the assault on abortion and women's ability to continue pregnancy has turned against one of the most important and beloved providers of health care in the nation

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[10] Id. at 3.

[11] Planned Parenthood Federation of America, *This is Who We Are* (updated July 2015)

[12] Id.

[13] Cites for Hart; Reuters/Ipsos (54% support federal funding for PP and only 26% oppose;

that serves a significant number of low-income people without access to other quality care.

These attacks on abortion, and Planned Parenthood and the contraceptive services and other vital women's health care services it provides, has led some to ask whether this is the 1950s or the 1890s, a reference to times when birth control was unavailable. Sen. Elizabeth Warren (D-MA), Floor Speech (Aug. 3, 2105). Despite much evidence to the contrary, I say no; we are living in a *somewhat* more enlightened age. For example, in Burwell v. Hobby Lobby Stores,[14] five Justices concluded that the government has a compelling interest in ensuring access to affordable contraception.[15] Most recently, in his dissent from the denial for rehearing en banc in *Priests for Life, et al., v. United States Dep't of Health and Human Srvcs.*, Judge Kavanaugh of the United States Court of Appeals for the DC Circuit recently wrote, "[i]t is not difficult to comprehend why a majority of the Justices in *Hobby Lobby* (Justice Kennedy plus the four dissenters) would suggest that the Government has a compelling interest in facilitating women's access to contraception." *Priests for Life, et al., v. United States Dep't of Health and Human Srvcs.*, No. 13-5368, slip op. at 18 (May 20, 2015) (denying petition for rehearing *en banc*) (J. Kavanaugh dissenting). After all, as Judge Kavanaugh explained:

> About 50% of all pregnancies in the United States are unintended. The large number of unintended pregnancies causes significant social and economic costs. To alleviate those costs, the Federal Government has long sought to reduce the number of unintended pregnancies, including through the Affordable Care Act by making contraceptives more cheaply and widely

[14] 134 S. Ct. 2751 (2014) (holding application of federal regulations requiring certain employers to include contraceptive coverage as part of the insurance they provide to their female employees violated the Religious Freedom Restoration Act because they were not narrowly tailored).

[15] *Hobby Lobby*, 134 S. Ct. at 2785-86, slip op. at 2 (Kennedy, J., concurring); *id.* at 2799-2801, slip op. at 23-27 (Ginsburg, J., dissenting)); *see also id.* at 2779-80, slip op. at 39-40 (majority opinion). *See also* Priests for Life DC Cir Kavanaugh slip op. at 17-18 ("Justice Kennedy strongly suggested in his *Hobby Lobby* concurring opinion – which appears to be controlling de facto if not also de jure on this particular issue – that the Government generally has a compelling interest in facilitating access to contraception for women employees") (citing *Hobby Lobby*, 134 S. Ct. at 2785-86, slip op. at 2 (Kennedy, J., concurring); *see also id.* at 2779-80, slip op. at 39-40 (majority opinion); *id.* at 2799-2801, slip op. at 23-27 (Ginsburg, J., dissenting)).

> available. It is commonly accepted that reducing the number of unintended pregnancies would further women's health, advance women's personal and professional opportunities, reduce the number of abortions, and help break a cycle of poverty that persists when women who cannot afford or obtain contraception become pregnant unintentionally at a young age. In light of the numerous benefits that would follow from reducing the number of unintended pregnancies, *it comes as no surprise* that Justice Kennedy's opinion expressly referred to a "compelling" governmental interest in facilitating women's access to contraception.

Id. Judge Kavanaugh went on to stress "When Congress takes away this funding they enhance this cycle and increase the number of abortions." Id., slip op. at 18. The "horrible" irony of defunding Planned Parenthood because of opposition to abortion is that defunding will result in a significant increase in unintended pregnancies and thus an increase in abortions.

Mr. GOODLATTE. Ms. Ohden, welcome.

TESTIMONY OF MELISSA OHDEN, ABORTION SURVIVOR, AND FOUNDER, ABORTION SURVIVORS NETWORK, GLADSTONE, MO

Ms. OHDEN. Thank you so much for your time this morning, Mr. Chairman and representatives.

Three hundred twenty-seven thousand, six hundred and fifty-three. This is the number of abortions that Planned Parenthood's 2014 fiscal report lists as being completed that year. Based on these numbers, 897 children will lose their lives to an abortion completed by Planned Parenthood each and every day.

Why do I find this horrific? Because I actually have a lot in common with them. I was meant to be one of them. I should have been just another statistic, but by the grace of God I am more than a statistic. I come here to you today as a wife, a mother, a daughter, a sister, a master's level prepared social worker, and, yes, as an abortion survivor, from a botched abortion to the dreaded complication, a child who lives.

I have been called just about everything that you can imagine, but if you want to turn your attention up to the screen, as you can see in my medical records from 1977, kind of right there in the middle, saline infusion for an abortion was done, but was unsuccessful. And at other times throughout my medical records you will read statements like the complication of my birth mother's pregnancy was a saline infusion abortion.

You could certainly say that saline infusion complicated the pregnancy. It has taken years to unravel the secrets surrounding my survival, to have contact with my biological family, and even medical professionals that cared for me. And although there are still unanswered questions, what I do know is that my life was intended to be ended by that abortion. And even after I survived, my life was in jeopardy.

You would not know it by looking at me today, but in August 1977, I also survived a saline infusion abortion. And as Gianna shared, that saline infusion abortion involves injecting a toxic salt solution into the amniotic fluid surrounding the pre-born child. The intent of that toxic salt solution is to scald the child to death from the outside in. For days I soaked in that toxic salt solution, and on the 5th day of the procedure, my biological mother, who was a 19-year-old college student, delivered me after her labor was induced. I should have been delivered dead that day as a successful abortion.

In 2013, I learned through contact with my biological mother's family that not only was this abortion forced upon her against her will at the age of 19, but also that it was my grandmother, my maternal grandmother, a nurse, who delivered me in this final step of the abortion procedure at St. Luke's Hospital in Sioux City, Iowa. Unfortunately I also learned that when my grandmother realized that the abortion had not succeeded in ending my life, she demanded that I be left to die.

I may never know how exactly the two nurses who were on staff that day found about me, but what I do know is that their willingness to fight for medical care to be provided to me ultimately sustained my life.

And I know there were children like me who were left to die at St. Luke's Hospital. I met a nurse there who delivered a child much like me in 1976. She delivered a little boy after a failed saline infusion abortion, but she followed her superiors' orders, and she placed him there in a utility closet in a bucket of formaldehyde to be picked up later as medical waste after he was left there to die alone. A bucket of formaldehyde in a utility closet was meant to be my fate after I survived that abortion attempt.

I weighed a little less than 3 pounds when I survived. I suffered from jaundice, severe respiratory problems and seizures for an extended period of time. And one of the first notations in my medical records by a doctor after I survived is that I looked like I was about 31 weeks gestational age when I was delivered.

Despite the miracle of my survival, the doctor's prognosis for my life was very poor initially. My adoptive parents were told that I would suffer from multiple disabilities throughout my life, yet here I am today perfectly healthy. Yet I know it is not just how abortion ends the life of children like me that is not talked about in today's world. It is also not discussed what happens to children like me who live. I can tell you we are your friend, your neighbor, your coworker, and you would likely never guess by passing us on the street that we survived what we did.

In my work as the founder of the Abortion Survivors Network, I have had contact with 203 of these other survivors. Letters from some of those survivors have been submitted to this Committee. I am here today to share my story to not only highlight the horror of abortion taking place at Planned Parenthood, but to give a voice to other survivors like me, and, most importantly, to give a name, a face, and a voice to the hundreds of thousands of children who will have their lives ended by Planned Parenthood this year alone.

As you consider the horrors of what happens at Planned Parenthood each day, I would urge you to remember my story and Gianna's, too. We may not have survived abortions at Planned Parenthood, but the expectation for our lives to be ended by abortion are the very same as those who do lose their lives there. And I have long believed that if my birth mother's abortion would have taken place at a Planned Parenthood, I would not be here today. Completing over 300,000 abortions a year provides them with the experience to make sure that failures like me do not exist.

As a fellow American and as a fellow human being, I deserve the same right to life, the same equal protection under the law as each and every one of you. Yet we live in a time where not only do such protections not exist, but my own tax dollars and yours go to fund an organization that has perfected the very thing that was meant to end my life, and this must end.

[The prepared statement of Ms. Ohden follows:]

Melissa Ohden, LISW

Abortion Survivor, Founder of The Abortion Survivors Network

Planned Parenthood Exposed....Hearing

September 9, 2015

Thank you so much for your time today, Representatives, as we expose the horrors of Planned Parenthood.

327,653.

This is the number of abortions that Planned Parenthood's 2014 fiscal report lists as being completed that year. Based on these numbers, 897 children will lose their lives to an abortion completed by Planned Parenthood each and every day.

Why do I find this horrific? Because I have a lot in common with these children. I was meant to be one of them. I should have been just another statistic. But by the grace of God, I am more than a statistic. I come here today as a wife, a mother, a daughter, a sister, a Master's level prepared social worker, and yes, as an abortion survivor.

From "botched abortion" to "the dreaded complication of abortion" (a child who lives), I've been called just about everything you can imagine. But as you can see here in my medical records from 1977 (show record), I am the survivor of a failed saline infusion abortion (the exact wording in my records reads--"a saline infusion for an abortion was done but was unsuccessful." Other parts of my records identify "saline infusion" as a complication of my biological mother's pregnancy. You could certainly say that saline infusion abortion complicated things).

It has taken years to unravel the secrets surrounding my survival, to have contact with my biological family and medical professionals that cared for me, and although there are still unanswered questions, what I do know is that my life was intended to be ended by an abortion, and even after I survived, my life was in jeopardy.

You wouldn't know it by looking at me today, but in August of 1977, I survived a failed saline infusion abortion. A saline infusion abortion involves injecting a toxic salt solution into the amniotic fluid surrounding the preborn child. The intent of that salt solution is to scald the child to death, from the outside in.

For days, I soaked in that toxic salt solution, and on the fifth day of the procedure, my biological mother, a 19-year-old college student, delivered me, after her labor was induced . I should have been delivered dead, as a successful abortion.

In 2013, I learned through contact with my biological mother's family that not only was this abortion forced upon her against her will, but also that it was my maternal grandmother, a nurse, who delivered me in this final step of the abortion procedure at St. Luke's Hospital in Sioux City, Iowa.

Unfortunately, I also learned that when my grandmother realized that the abortion had not succeeded in ending my life, she demanded that I be left to die.

I may never know how, exactly, two nurses who were on staff that day (one of whom has had part of her story passed down to my adoptive family) found out about me, but what I do know is that their willingness to fight for medical care to be provided to me saved my life.

I know where children like me were left to die at St. Luke's Hospital—a utility closet. In 2014, I met a nurse who assisted in a saline infusion abortion there in 1976, and delivered a living baby boy. After he was delivered alive, she followed her superior's orders and placed him in the utility closet in a bucket of formaldehyde to be picked up later as medical waste after he died there, alone.

A bucket of formaldehyde in a utility closet was meant to be my fate after I wasn't scalded to death through the abortion. Yet here I am today.

I weighed a little less than 3 pounds (2 pounds, 14 ounces), I suffered from jaundice, severe respiratory problems and seizures (show picture). One of the first notations in my medical records states that I looked like I was about 31 weeks gestational age when I survived.

Despite the miracle of my survival, the doctor's prognosis for my life was initially very poor. My adoptive parents were told that I would suffer from multiple disabilities throughout my life. However, here I am today, perfectly healthy.

Yet it isn't just how abortion ends the life of children like me that isn't talked about in today's world. It's also not discussed what happens to children like me who live.

We are your friend, your co-worker, your neighbor, and you would likely never guess just by looking at us that we survived what we did. In my work as the Founder of The Abortion Survivor's Network, I have had contact with 203 other abortion survivors. Letters from some of these survivors have been submitted to this committee.

I'm here today to share my story to not only highlight the horror of abortion taking place at Planned Parenthood, but to give a voice to other survivors like me, and most importantly, to give a name, a face, and a voice to the hundreds of thousands of children who will have their lives ended by Planned Parenthood this year alone.

As you consider the horrors of what happens at Planned Parenthood each day, I would urge you to remember my story, and Gianna's, too. We may not have survived abortions at Planned Parenthood, but the expectation for our lives to be ended by abortion are the very same as those who do lose their lives there.

And I have long believed that if my birthmother's abortion would have taken place at a Planned Parenthood, I would not be here today. Completing over 300,000 abortions a year provides them with the experience to make sure that "failures" like me don't happen.

As a fellow American, as a fellow human being, I deserved the same right to life, the same equal protection under the law as each and every one of you. Yet we live in a time where not only do such protections not exist, but my own tax dollars and yours go to fund an organization that has perfected the very thing that was meant to end my life.

This must end.

Mr. GOODLATTE. Thank you very much, Ms. Ohden. We will begin the questioning of the witnesses under the 5-minute rule, and I will begin by recognizing myself.

We will hear a lot today about efforts to sanitize the discussion of what takes place with regard to late-term abortions, which were the subject of the videos that have been made public. But, Ms. Jessen, I would like to read you a statement from the video and then another statement offered by the Center for Reproductive Rights and get your reaction to that, what I would call, sanitization.

In the first video, Dr. Deborah Nucatola describes a D&E abortion saying, "So I am not going to crush that part. I'm going to crush basically below. I'm going to crush above." Planned Parenthood issued an apology for Nucatola's tone, but a markedly more clinical tone is used in a lawsuit brought by the Center for Reproductive Rights, a leading abortion advocacy group, against a Kansas law prohibiting dismemberment abortion.

In the suit, CRR states, "starting around 15 weeks LMP, physicians performing abortions may use forceps or other instruments to remove the products of conception from the uterus often in combination with suction. Usually disarticulation of the fetus occurs as the physician brings fetal parts through the cervix. This procedure is known as dilation and evacuation, or D&E procedure." As someone who has survived an abortion, can you please tell us how these two descriptions of an abortion procedure make you feel?

Ms. JESSEN. My face. You can probably just see my face. It is horrifying to me, absolutely horrifying to hear such things. But I also will never ever forget for as long as I live watching Dr. Nucatola eat a salad and drink wine discussing so casually the dismemberment of children, and I will never ever forget that. I find it absolutely appalling that we are even having to conduct such a hearing in the United States of America. I hope that sufficiently answers your question.

Mr. GOODLATTE. It does. Thank you. Mr. Bopp, several years ago, there was a news story that came out of Florida about an abortion survivor who was not rescued. Instead, according to World Magazine, the child was born alive in a toilet while the mother sought anxiously for someone at the abortion clinic to help her baby, but no one would help, and the baby died. Mr. Bopp, are you aware of other evidence that some abortion survivors are not rescued?

Mr. BOPP. Yes, and the example that you gave was from Hialeah, Florida in 2006 when a live-born infant was born in an abortion clinic, and what happened to the live-born infant was the baby was put in a medical waste bag to die rather than provided any care or treatment. There have been a number of criminal and civil actions taken in that instance. But the people involved at the clinic were not charged, however, with the specific death of the child that they clearly caused.

There have been other instances in the Kermit Gosnell case when, of course, he was killing born infants or partially-born infants using scissors by thrusting them into the back of the neck of the child. You do not do that if the baby is dead. You only do that if the baby is alive. And, of course, we do not know for sure wheth-

er that was while the baby was still in the womb partially or was, in fact, outside of the womb.

Mr. GOODLATTE. Thank you, Mr. Bopp. Ms. Smith——

Ms. SMITH. Yes?

Mr. GOODLATTE [continuing]. In the precursor to the Gonzales case, the case of *Stenberg v. Carhart*, Justice Kennedy dissented from the decision to strike down the partial birth abortion ban, which was later upheld in the Gonzales case in a different ban.

Ms. SMITH. A different version, yes.

Mr. GOODLATTE. That is right. He described at length the testimony provided by abortionist Leroy Carhart about the alternative D&E method or dismemberment procedure. The fetus can be alive at the beginning of the dismemberment process and can survive for at time while its limbs are being torn off.

Dr. Carhart agreed that when you pull out a piece of the fetus, let us say, an arm or a leg, and remove that at the time just prior to removal of the portion of the fetus, the fetus is alive. Dr. Carhart also has observed a fetal heartbeat via ultrasound with extensive parts of the fetus removed, and testified that mere dismemberment of a limb does not always cause death because he knows a physician who removed the arm of a fetus only to have the fetus go on to be born as a living child with one arm. At the conclusion of a D&E abortion, no intact fetus remains. In Dr. Carhart's words, the abortionist is left with a tray full of pieces.

Justice Kennedy said, "The fetus in many cases dies just as a human adult or child would. It bleeds to death as it is torn from limb from limb." Ms. Smith, do you believe this practice represents a humane way to die?

Ms. SMITH. Let me separate, which I think something that is getting confused here in this hearing again and again, which is procedures performed on pre-viable fetuses and procedures that are performed on viable fetuses. Both of the women here on this panel are here today because they were viable at the time the procedures were performed.

What you are talking about is pre-viability procedures performed on a fetus that cannot survive outside the womb.

Mr. GOODLATTE. Maybe, maybe not. Justice Kennedy was talking about a child that was born alive with only one arm because the other had been pulled off already in the abortion procedure. My question to you is—are you going to answer it—is this a humane way to die?

Ms. SMITH. I believe for a fetus, pre-viable fetus, yes, a D&E procedure is a very humane procedure, and it protects the woman and her health and safety more than any other procedure. And, in fact, it was substituted for the saline infusion procedure.

Mr. GOODLATTE. Ms. Smith, I am going to reclaim my time and just say that I have to say that your view of humanity and mine are different.

Ms. SMITH. I think——

Mr. GOODLATTE. And I will ask Ms. Jessen, and Mr. Bopp, and Ms. Ohden very quickly if you support, because you have already answered this question, if you support the Pain Capable Abortion Act that has passed the House of Representatives and is awaiting action in the United States Senate. Mr. Bopp?

Mr. BOPP. Yes. It is necessary for a number of reasons and pertinent to——

Mr. GOODLATTE. It would prevent many of the instances I just described to the three of you, would it not?

Mr. BOPP. It would and could also prevent some of the instances, because we do not know for sure the gestational age of the child in some of the instances in the videos. But I could have also prevented some of them.

Mr. GOODLATTE. Correct. Ms. Jessen?

Ms. JESSEN. I am speechless with Ms. Smith's reply that she thinks that is a humane way to die. I support.

Mr. GOODLATTE. Ms. Ohden?

Ms. OHDEN. Yes, I, too, support the Pain Capable Act, and I want to make it clear that I want abortion to be unthinkable in our country.

Ms. JESSEN. Yes.

Ms. OHDEN. I want us to not even have to have a conversation about another act.

Mr. GOODLATTE. Thank you. I agree. Mr. Conyers? The gentleman from Michigan is recognized for his questions.

Mr. CONYERS. Thank you, Mr. Chairman. I thank all the witnesses for being here today, but I want to direct my discussion with Ms. Smith. You note in your written testimony that Section 289(g)(2)(A) prohibits the transfer of any human fetal tissue for valuable consideration. But the videos do not explain that the law specifies that valuable consideration does not include reasonable payment reimbursing costs.

Would an individual watching these videos have any idea that the law excludes the reimbursement of reasonable costs?

Ms. SMITH. No, I think they would not, and I think they are very deceptive in that regard so that they juxtapose discussions of money with the text of the ban on valuable consideration. It makes it appear that the money that is being discussed is the "valuable consideration" that is banned. There is no mention of the reasonable payments provision in the act and the allowance for reimbursement of reasonable expenses, and I think that is terribly deceptive in the video, yes.

Well, I think that is a very perceptive response on your part. What are some of the examples of reasonable reimbursement costs, Ms. Smith?

Ms. SMITH. Transportation costs, processing, preservation, quality control, storage. Those are all examples in the statute itself, and those are the things that would be appropriate.

Mr. CONYERS. Thank you. You note that fetal tissue research has provided innumerable medical benefits and has saved lives. Could you please explain what these medical benefits have been?

Ms. SMITH. Yes. In fact, in addition to the early polio vaccine in the 1930's, that was actually a result of fetal tissue research. There are more recent examples, and the Department of Health and Human Services has called fetal tissue research vital to the improvements that are being made in some very important areas, such as retinal degeneration, Parkinson's, ALS, infectious diseases, developmental disorders, autism, schizophrenia, diabetes. So there are many, many areas in which fetal tissue research has proved

important, and we are actually seeing lives being saved because of it and lives improved because of new treatments.

Mr. CONYERS. Thank you. Could you explain, please, Ms. Smith, the ramifications for women if their access to abortion services is further restricted or ultimately denied?

Ms. SMITH. Yes. I think one of the things we are seeing recently is a new wave of attack on abortion access in particular. So an unprecedented number of restrictions have been enacted in the last 4 years by state legislatures, which have been designed really and have resulted in the closure of many clinics throughout the country.

So Texas, in particular, as has been in the news quite often, has seen the number of clinics that are closed by half. There are States that have only one abortion provider for all residents in the State, like Mississippi and North Dakota. And in those States, many women are unable to get abortions. They cannot travel the distance required to obtain abortions.

And the result of that is women with pregnancies that they do not wish to carry to term. Some of them will suffer health impacts, and some of them their lives will be endangered, and they will get sick. But also abortion is also equally important because as the Supreme Court has recognized, it protects the ability of women to participate equally in the economic and social life of the Nation. As Justice Ginsberg put it, "Abortion preserves a woman's autonomy to determine her life's course and, thus, to enjoy equal citizenship stature."

And that is why I believe the Supreme Court got it right when it balanced the issues here involved and the interest in potential fetal life, and the interests of the woman in her life, and her health, and her autonomy, and decided that abortion up to viability must be preserved. After viability it can be, in fact, banned, but with exceptions for women's life and health.

Mr. CONYERS. Well, would it——

Ms. SMITH. One interesting note. In Germany, for example, the courts there recognized a right of the fetus to life, but at the same time they recognized that the woman who carries that life in her uterus and carries it through, gestates it until it is fully developed, the woman has a greater right, and, thus, abortions are legal in Germany.

Mr. CONYERS. I want to thank you very much for your response to my questions, and thank you, Mr. Chairman.

Mr. GOODLATTE. The Chair thanks the gentleman. And before going to our next Member, I want to make available for the record the following letters from other abortion survivors and a letter submitted to the written record by Americans United for Life. Without objection, these will be made a part of the record.

[The information referred to follows:]

Constitution and Civil Justice Subcommittee U.S. House Committee on the Judiciary

My name is Jennifer Callender.

I would like to tell you about someone very special to me, my twin brother.

He cannot be here to tell you his feelings, because his life was cut short.

He would not get to experience life as we know it.

He would never get the chance to smell fresh spring air.

He would never get to see the beauty of a rainbow, or feel the crunch of autumn leaves under his feet.

He would never get to choose his favorite meal.

He would never get to laugh at home videos of his family playing in the snow.

My brother would never feel the warmth of his mother's hug.

There are many things he would never get to experience, I think you understand the point I am trying to make.

He cannot be here because 35 years ago he was murdered at an abortion clinic.

All of his freedoms were taken at that moment.

35 years ago my mother would have this procedure and the doctor ripped my brother away from me and my mother, while I would go unnoticed in the womb.

Every day of my life I feel the void of my twin brother missing.
I wonder often what his laugh would be like, what his smile would look like, what color eyes he would have, and what it would be like to experience life with him.

My mother found out a short time after that she was still pregnant and another choice had to be made, the doctor informed her.
This doctor persuaded her to have another abortion, but she insisted "NO".

My mother realized what she had done before was wrong.

I was born a short time later, premature and weighing only 2lbs. 1oz.
"The miracle baby", they called me, but I am here today to stand up for what is right...the sanctity of life, the respect for life and the law.

The thought that my brother's body was harvested and sold for profit makes me sick to my stomach and hurts deep in my soul and my heart of hearts.

There are federal laws that prohibit this action anyway.

The law has been broken.

We as american taxpayers are making a statement and asking to defund Planned Parenthood.

We as a country should not support this immoral, law breaking company anymore.

This government is by the people, and for the people, and this must stop.

Please defund Planned Parenthood now.

Thank you for hearing my voice,

Jennifer Katherine-Leigh Callender and family

Dear Members of The Judiciary Committee, House of Representatives,

My name is Carrie Fischer, and I am an abortion survivor. I survived my mother's attempted abortion on my life nearly 47 years ago, which occurred late in her first trimester. I learned of this abortion attempt after finally sharing with my mother recurring dreams I'd been having since the age of five. In these dreams, I saw a baby fighting for its life inside its mother's womb, and I could literally feel the excruciating pain the baby was experiencing. When I finally told my mother about these dreams, she broke down crying and confessed the abortion attempt to me.

While I did miraculously survive the abortion, I was born with multiple birth defects, which my mother's doctor attributed to complications from the failed abortion. My face is partially paralyzed. I am totally deaf in one ear, and have major hearing loss in the other ear. I was born with a clubfoot, and had to wear a cast for two years, leaving my left leg smaller than the right one. When I was born, the doctors told my mother that I would be mentally retarded. Thankfully, they were wrong in that regard, and I eventually graduated college with a degree in management with a marketing specialization. Besides the obvious physical effects, I have also lived with the emotional scars of the abortion. I was rejected and made fun of most all my life because of my looks, and due to this horrible treatment directed at me from people of all ages, I attempted suicide when I was in my early thirties. I am alive today only by the grace of God.

Today, I am a pro-life speaker, and I have devoted my life to being an advocate for the unborn. Part of my story includes the fact that I regrettably lost two of my own children to miscarriage, one of which I was thankfully able to at least see very much alive with a beating heart at my 6 week ultrasound, a testament to the fact that though very small, these are not just "blobs of tissue" as most pro-abortion advocates will try to convince us of, but these are living human beings worthy of Love, Protection, and Nurture, and should be granted the "Right to Life" guaranteed to them by our Constitution!

I implore you to defund Planned Parenthood, and hold them accountable for the evil atrocities they have inflicted upon women and their unborn babies. Not only are they aborting babies, but they are harvesting and selling baby body parts. This is not only illegal, it is barbaric and evil, and it must be stopped! I demand that Planned Parenthood be stripped of any and all funding, and be prosecuted to the fullest extent for breaking the law for selling baby body parts.

The unborn are not "blobs of tissue", but they are human beings, alive and deserving of life! Planned Parenthood is not about parenthood. It is all about the killing and ultimate destruction of families.

Sincerely,

Carrie Y. Fischer
Abortion Survivor
http://zionbenjamin.org

To the Honorable Members of the House Judiciary Committee of the De-Fund Planned Parenthood Hearing;

I'm grateful for this opportunity to share my testimony with you all as an abortion attempt survivor and submit my petitions for your consideration regarding de-funding Planned Parenthood.

You are the experts regarding the policies, procedures and laws of Capitol Hill. With honesty and transparency I admit to you my ignorance regarding the practices of Capitol Hill, so thank you in advance for your patience and the grace of your time.

I was born prematurely on December 6, 1967 to a young woman, who because of years of guilt, shame and self-torment confessed directly to me her and my birthfathers continuous actions to end my life in the womb upon our first meeting in 1986. Even though their attempts to end my life transpired before Roe V. Wade of 1973, when it would have been legal to kill to me; they continued with their horrendous efforts to silence me in secret which they later suffered great conviction of self-torment because of their conscious.

I was an orphan for 3 days shy of a month; I was adopted into a loving home in January 1968. I was born with physical issues that confused doctors, whom were unsure of the specifics and source. My birthmother did not confess the actions taken out on my life to the medical professionals trying to help me, fearing legal ramifications.

I was immensely blessed in this life to be adopted. I got a mom, a dad, and a big brother who was also adopted. Being adopted by a daddy whom himself was orphaned and raised at Father Flanagan's Boys Town in Omaha, Nebraska; my brother and I were taught that the beauty of family is not defined by the science of genetics nor flesh and blood but the enlarging of your heart to allow people to dwell within and call them your own. We were raised that the only blood that really matters was the blood that was shed at the cross for all humanity.

I was ordained for a specific forever family at a specific time in history that knew the sacrifice of our birthmothers. I got a family that encouraged my brother and me to pray and uphold our birthmothers with high regard for their call to carry us in this life to get us to this world. We were taught that some women are blessed vessels, some women are mommies, some are both and some are neither. Our birthmothers, regardless of whether they intended on our placement in their wombs or not, were chosen by our Creator to be our blessed vessels to grow us and get us here for our intended purpose in this life.

I was gifted with an incredible grandmother that was the epitome of grandmothers, aunts, uncles and countless accepting cousins. I got a home with my own room and my own bed. I got 4 horses, two peacocks, two cats and a DOG! I got a swing set, I got to wiggle my toes in

the sand at the beach, to go on picnics and roll down grassy hills with my big brother, and ride in a big yellow school bus. I got to learn how to tie my own shoes and ride my bike without training wheels. I got to lick one of the beaters when our mom would bake as I had to learn to share the other beater with my brother. I learned how to saddle and ride a horse, clean and file their hooves and drive a tractor. I got to host sleep overs with my friends, attend youth camps and lock-ins at my church, accept Christ as my Savior and King and then be baptized. I got to hear my momma, who sacrificed her career to stay home with us sing the old hymns while she cooked and cleaned as to teach us the important songs of the past. I got my driver's license and to the chagrin of my daddy, my first boyfriend while secretly dealing with a crush on Donny Osmond. I got to learn how to change the oil, filter and flat tires in my old Chevy truck. I got to wear a big beautiful dress for prom and a college education. I got to see memory filled tears shedding down my momma's proud face as I was escorted down the aisle on the strong arm of my Daddy, who in not so many years past carried me on his shoulders as we walked around our neighborhood block. Members of the House Judiciary Committee, when I got adopted, I got a name, a heritage, and a legacy. I got a life of time with people whose hearts grew to accept me as theirs and I accepted them as mine, we are family....my family.

As adoption was discussed positively and beautifully within our forever family, I still had questions. My parents knew what happened in the beginning of their lives; I wanted to know what took place in the beginning of mine. With wisdom and grace our parents told us, "We couldn't imagine not knowing what happened in the beginning of our lives so we would not want to withhold that from you, you both have our blessing to search out your birth families whenever you are ready." I did.

During the first meeting with my birthparents, I was nervous, excited, and overjoyed; a joy that soon turned to shock. My birthmother immediately said to me, "I need to ask for your forgiveness because I tried to get rid of you.....twice." My birthmother confessed that when she realized that she was pregnant with me that she had a friend, a nurse, come to her house in the evenings to give her injections on two separate occasions, of a strong substance that I am still unaware of to this day, in an attempt to induce miscarriage. She then proceeded to tell me that in addition to the chemicals injected to end my life, she was determined to not look pregnant so she starved herself, squeezing us into her same size jeans worn during her short lived pregnancy. She confessed that she chose cigarettes over food hoping that would aid the chemicals to end my life. She confessed that she weighed 135 when she got pregnant, 146 when I was born and 135 when she left the hospital. Still whirling from this outburst of information, my birthfather began to speak. He said, "I need to ask for your forgiveness as well for I tried to end your life too." He then continued with, "I purposefully used your birthmother's pregnant stomach as a punching bag as you grew, beating you up from the outside in for you to miscarry and I gave her rough piggy back rides to make you drop. I

pressed, pushed, shook and jostled but you weren't going anywhere, we did everything shy of a coat hanger because we didn't want your birthmother to get hurt. You see, when I found out you existed, I already had a wife and two other children. You were proof of our choices in secret."

My growing life in my birthmother's womb was perceived as shame, judgment and condemnation influenced by their choices and decisions they made before I was conceived. Our Creator and my forever family's perceptions were and are completely opposite. This was all so shocking but life altering as well, revealing to me a calling of redirection for my journey and intended purpose in this life.

Moved by my birthparents confessions and heartbroken for them for their years of torment, I decided to partner with the now deceased but very brave Sandra Cano ("Mary" of Doe V. Bolton) and our Attorney Allan Parker, President of the Justice Foundation who at the beginning of this year submitted an Amicus Brief to the US Fifth Circuit Court of Appeals in support of Texas prolife law, HB 2. As one lone abortion attempt survivor standing with 3,000 courageous blessed vessels of aborted children, I'm honored to be included on their behalf being named in this Brief declaring that they have suffered horrific trauma from their choice of abortion. The Lord has allowed me to be an Amicus Curiae party represented by The Justice Foundation supporting the Arkansas Heartbeat bill which bans abortion after six weeks and the North Dakota Heartbeat bill which bans abortion after 12 weeks. I promised Sandra on her death bed through our Attorney, that I would do all I possibly could to carry her torch and finish the job she started as our Creator allows.

In addition, as an advocate and proactive proponent of grace, mercy and truth within the prolife genre, I'm called to honor the miracle of surviving multiple abortion attempts that tried to silence my voice by representing and speaking for the over 57 million American children whose voices were legally forever silenced in this nation since 1973, that's why I agreed to submit my testimony and petition to you today.

Planned Parenthood has been recorded treating dead and dismembered American children with chilling, heinous and barbaric practices. If this was an issue of Planned Parenthood solely doing pregnancy tests, STD tests, ultrasounds, and instructions on self-breast examinations, prenatal vitamins and preventive birth control this would literally be a moot point and we wouldn't be here today. I and probably most Americans wouldn't mind some of our tax dollars going to an organization that practices honest preventive healthcare for American women who need financial help; we all have been there at times.

Our tax dollars should not nor should they have ever been appropriated and assigned for the murder of other Americans who were merely not expected like me! THIS SHOULD NOT BE HAPPENING ON AMERICAN SOIL TO OTHER AMERICANS PAID FOR BY AMERICANS!

The leaders and current laws of this incredible nation have more respect and dignified humane practices for those who illegally break into our country and commit murder than those in the womb who have seeds of generations that built and fought for this nation. Funding Planned Parenthood with American tax dollars is wrong...it's wrong....and you know it!

This organization is committing barbaric acts on deceased children and it's all under the guise of healthcare and science, which is an absolute absurd excuse that nobody is fooled by, not even you. The truth is, it's all about the money. Money talks but apparently in America it also kills; it kills American children so in turn their organs can be sold.

Greed in America is feeding off scared and confused American women who find themselves with unexpected children in their wombs by the lies spewing from Planned Parenthood. Greed and selfishness is killing off the next generation of Americans one abortion at a time through Planned Parenthood.

The next generation of Americans that were gifted to this nation to make a difference with their intended purpose like mine and yours are being annihilated; an annihilation funded by the blood sweat and tears of hardworking Americans through our own government's decision to fund Planned Parenthood. The American people **should not** be paying to assonate other Americans with their hard working tax dollars. How in the world did we get to this point?

Moreover, my forever family that adopted me and taught me to respect all life, ended up paying taxes that went to kill other American children that didn't have a chance to be adopted and their organs eventually harvested and sold!

As an abortion attempt survivor, I'm paying taxes to finance the murder of those who are in the exact same position as I was! What would one say to a Jewish survivor of the Holocaust whether they wanted their tax dollars to go to the same barbaric practices to the end the life of their Jewish brothers and sisters that they themselves survived? It's an atrocity and it's happening now and it needs to stop!!!

Abortion and trafficking body parts of dead American children is the American Holocaust, it's insane and inhumane to allow this to continue. You have a choice to stop it! Stop the child sacrifice in this nation on the altars of greed and selfishness!

To the Honorable Members of the House Judiciary Committee, I implore you to annihilate and dismember the organization of Planned Parenthood by choosing to defund Planned Parenthood

and put our tax dollars to the betterment of this nation and its future; not murder for hire. When you choose to do so, I genuinely believe America can then begin to heal and be restored back to what our founding fathers based this nation on....life, liberty and the pursuit of happiness for **ALL** Americans.

Thank you for this opportunity and your graciouness.

God bless America and her children,

Mrs. Dawn Milberger

September 8, 2015

The Honorable Bob Goodlatte, Chairman
United States House of Representatives Committee on the Judiciary
2138 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Goodlatte and Members of the House Judiciary Committee:

Americans United for Life (AUL) applauds the House Committee on the Judiciary for holding a timely hearing exploring the barbaric practice of late-term abortions. The abortion industry tries to support its abhorrent practice — both in the legal arena and in terms of public perception — with the myth that later-term abortions are necessary to protect women's health. In essence, they falsely assert that the abortion issue is one of choosing sides between mothers and their babies. The death of the unborn is viewed as a necessary cost to women's advancement.

The falsehood of the abortion industry's lie is particularly apparent when examining the evidence regarding physical and emotional harms caused by later-term abortions. It is undisputed and universally accepted that risk to maternal health from abortion increases as gestation increases. There is no debate on that fact. Scientific data from well-respected, peer-reviewed journals demonstrate the dangers inherent in abortion are increased in later-term abortions.

In order to buttress the evidence that will be heard by the Committee, AUL submits the attached memo which explains:

1. Abortion fundamentally differs from necessary medical treatments that are carried out to save the life of the mother, even if such treatments result in the loss of life of her unborn child.

2. Abortion poses significant risks to maternal health that increase with gestational age.

3. U.S. Supreme Court precedent recognizes maternal health risks as legally significant.

Importantly, the women at risk for harm or even death from later-term abortions are more than data points or potential case studies. They are real women. Legislation prohibiting later-term abortions both respects the right to life of the unborn child *and* protects women who could die or otherwise be harmed from abortions. Expressly acknowledging the harms to women provides a sound basis for enacting legislation that regulates and restricts the abortion industry and provides a path forward for overturning the current U.S. Supreme Court doctrine that wrongly holds that the death of the unborn is a necessary cost of women's betterment and status in society.

655 15th Street NW | Suite 410 | Washington, D.C. 20005 | 202.289.1478

Please let me know if you have any questions or would like additional information regarding the harms to women from late term abortion. I hope you and members of the House Committee on the Judiciary will find the information below helpful in your work and deliberations.

Sincerely,

Dr. Charmaine Yoest, Ph.D.
President and CEO
Americans United for Life

I. ABORTION FUNDAMENTALLY DIFFERS FROM NECESSARY MEDICAL TREATMENTS THAT ARE CARRIED OUT TO SAVE THE LIFE OF THE MOTHER, EVEN IF SUCH TREATMENTS RESULT IN THE LOSS OF LIFE OF HER UNBORN CHILD.

The American Association of Pro-Life Obstetricians and Gynecologists (AAPLOG) affirms the Dublin Declaration which states:

> As experienced practitioners and researchers in Obstetrics and Gynecology, we affirm that direct abortion is not medically necessary to save the life of a woman. We uphold that there is a fundamental difference between abortion and necessary medical treatments that are carried out to save the life of the mother, even if such treatments results in the loss of life of her unborn child. We confirm that the prohibition of abortion does not affect, in any way, the availability of optimal care to pregnant women.[1]

There is a distinct difference between preterm parturition (separating a mother and her unborn child for the purposes of saving a mother's life) and direct abortion. There are times when separating the mother and her unborn child may be necessary to save the life of the mother, even if the unborn child is too premature to survive. However, as AAPLOG explains, "In those tragic cases, if possible the life of the baby will be attempted to be preserved, and if not possible, the body of the unborn child is treated with respect, recognizing the humanity of the life which is lost in the separation."[2]

In contrast, induced abortion, where "the focus of the abortion procedure is on killing the unborn child, and the purpose of the abortion is to produce a dead baby," is never necessary to save the life or preserve the health of any woman.[3]

II. ABORTION POSES SIGNIFICANT RISKS TO MATERNAL HEALTH THAT INCREASE WITH GESTATIONAL AGE.

A well-respected peer-reviewed journal—one which is also frequently cited by abortion advocates—notes that, "Abortion has a higher medical risk when the procedure is performed later in pregnancy. Compared to abortion at eight weeks of gestation or earlier, the relative risk increases exponentially at higher gestations." (L.A. Bartlett et al., *Risk factors for legal induced abortion-related mortality in the United States*, OBSTETRICS & GYNECOLOGY 103(4):729-37 (2004)).[4] From the Bartlett study:

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[1] *Premature Delivery is Not Induced Abortion*, American Association of Pro-Life Obstetricians and Gynecologists, *available at* http://www.aaplog.org/position-and-papers/premature-delivery-not-induced-abortion/ (last visited Sept. 7, 2015).
[2] *Id.*
[3] *Id.*
[4] The Bartlett study is not alone in its conclusion. *See, e.g.*, J. Pregler & A. DeCherney, WOMEN'S HEALTH: PRINCIPLES AND CLINICAL PRACTICE 232 (2002) ("The incidence of major complications is highest after twenty weeks of gestation.").

> The risk of death associated with abortion increases with the length of pregnancy, from one death for every one million abortions at or before eight weeks gestation to one per 29,000 abortions at sixteen to twenty weeks and one per 11,000 abortions at twenty-one or more weeks.

As noted in the Bartlett study, gestational age is the strongest risk factor for abortion-related mortality.[5] Compared to abortion at eight weeks gestation, the relative risk of mortality increases significantly (by 38 percent for each additional week) at higher gestations.[6]

In other words, a woman seeking an abortion ***at 20 weeks is 35 times more likely to die from abortion*** than she was in the first trimester. ***At 21 weeks or more, she is 91 times more likely to die*** from abortion than she was in the first trimester.

Moreover, the researchers in the Bartlett study concluded that it may not be possible to reduce the risk of death in later-term abortions because of the "inherently greater technical complexity of later abortions."[7] This is because later-term abortions require a greater degree of cervical dilation, with an increased blood flow in a later-term abortion which predisposes the woman to hemorrhage, and because the myometrium is relaxed and more subject to perforation.[8]

The same exact study is relied upon by the pro-abortion Guttmacher Institute in its *Facts on Induced Abortion in the United States*.[9] In fact, Guttmacher *emphasizes* the increased risk by setting it apart in the text:

> The risk of death associated with abortion increases with the length of pregnancy, from one death for every one million abortions at or before eight weeks to one per 29,000 at 16–20 weeks—and one per 11,000 at 21 or more weeks.[10]

At least two studies have now concluded that second-trimester abortions (13-24 weeks) and third-trimester abortions (25-26 weeks) pose more serious risks to women's physical health than first-trimester abortions.[11] Other researchers confirm a substantially increased risk of death from abortions performed later in gestation, equaling or surpassing the risk of death from live birth.[12] Researchers have also found that women who undergo abortions at 13 weeks or beyond

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[5] L.A. Bartlett et al., at 731.
[6] *See id.* at 729, 731.
[7] *Id.* at 735.
[8] *Id.*
[9] Guttmacher Institute, *Facts on Induced Abortion in the United States* (Aug. 2011), available at http://www.guttmacher.org/pubs/fb_induced_abortion.html/#14a (last visited May 20, 2013).
[10] *Id.*
[11] P.K. Coleman et al., *Late-Term Elective Abortion and Susceptibility to Posttraumatic Stress Symptoms*, J. PREGNANCY 2010:1, 7 (2010) (citing S.V. Gaufberg & P.L Dyne, ABORTION COMPLICATIONS (2012), available at http://emedicine.medscape.com/article/795001-overview (last visited May 20, 2013); L.A. Bartlett et al., *supra*).
[12] For example, one study found that the mortality ratio at 21 weeks is 8.9 deaths per 100,000 abortions. D. Grossman et al., *Complications after second trimester surgical and medical abortion*, REPROD. HEALTH MATTERS 16:173-82 (May 2008). Another study found that the mortality ratio at the same gestation is 10.4 deaths per 100,000 abortions. M. Paul et al., A CLINICIAN'S GUIDE TO MEDICAL AND SURGICAL ABORTION Chap. 15 (1999). *See also* H.W. Lawson et al., *Abortion mortality, United States, 1972 through 1987*, AM.

report "more disturbing dreams, more frequent reliving of the abortion, and more trouble falling asleep."[13]

Further, even Planned Parenthood, the largest abortion provider in the United States, agrees that abortion becomes riskier later in pregnancy. Planned Parenthood states on its national website, "The risks [of surgical abortion] increase the longer you are pregnant. They also increase if you have sedation or general anesthesia [which would be necessary at or after 20 weeks gestation]."[14]

When the Supreme Court decided *Roe v. Wade* in 1973, there was no evidence in the record related to medical data. The "abortion is safer than childbirth" mantra of 1973 has been undermined by the plethora of peer-reviewed studies published in the last 40 years. Specifically, recent studies demonstrate that childbirth is safer than abortion especially at later gestations.[15]

J. OBSTET. GYNECOL. 171(5):1365 (1994) (demonstrating through Table 15-1 that the combined mortality for abortions at or after 21 weeks was 10.4 per 100,000 procedures). On the other hand, the mortality ratio for women who give birth is just 8.8 per 100,000 live births—clearly demonstrating that the risk of death from abortion is at least equal to, if not greater than, the risk of death from live birth. Again, such medical data places the determination of how to best protect maternal health into the hands of a state or federallegislature.

[13] P.K. Coleman et al., *Late-Term Elective Abortion and Susceptibility to Posttraumatic Stress Symptoms*, *supra*, at 7.

[14] Planned Parenthood Federation of America, *In-Clinic Abortion Procedures* (2012), available at http://www.plannedparenthood.org/health-topics/abortion/in-clinic-abortion-procedures-4359.asp (last visited May 20, 2013).

[15] *See e.g.* D.C. Reardon & P.K. Coleman, *Short and long term mortality rates associated with first pregnancy outcome: Population register based study for Denmark 1980-2004*, MED. SCI. MONIT. 18(9):71-76 (Aug. 2012). "Compared to women who delivered, women who had an early or late abortion had significantly higher mortality rates within 1 through 10 years." This study is particularly striking in the range studied—even up to 10 years after birth or abortion, more women die after abortion than after childbirth. *See also* E. Koch et al., *Women's Education Level, Maternal Health Facilities, Abortion Legislation and Maternal Deaths: A Natural Experiment in Chile from 1957 to 2007*, PLoS ONE 7(5):e36613 (May 4, 2012), available at http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3344918/ (last visited May 20, 2013). The May 2012 study out of Chile is particularly significant because it examined trends in maternal death both when abortion was legal in Chile and after abortion was prohibited. The study found that death rates did not increase after abortion was made illegal. In fact, the maternal mortality ratio decreased from 41.3 deaths per 100,000 live births when abortion was legal, to just 12.7 maternal deaths per 100,000 live births after abortion was made illegal. Today, Chile has a lower maternal mortality ratio than the United States and it has the lowest maternal mortality ratio in all of Latin America. Moreover, the leading cause of death for a pregnant woman between 1957 and 1989 (the time in which abortion was legal) was abortion. This data convincingly demonstrates that the 1989 law prohibiting abortion has not put women's lives at risk, effectively refuting the claims that abortion advocates routinely employ against most abortion restrictions. *See also* . Carroll, *Ireland's Gain: The Demographic Impact and Consequences for the Health of Women of the Abortion Laws in Ireland and Northern Ireland since 1968*, at Figure 8 (Dec. 2011), available at http://paprirescarch.org/ESW/Files/Irelands_Gain.pdf (last visited May 20, 2013). The study compared maternal mortality rates in Ireland (where abortion is illegal) to England and Scotland (where abortion is legal). Researchers found that maternal mortality rates were much lower in Ireland than in England or Scotland. Specifically, in Ireland, there are 1-2 maternal deaths per 100,000 live births, whereas in England/Wales there are 10 deaths per 100,000 live births, and in Scotland there are 10-12 deaths per 100,000 live births. If abortion is safer than childbirth, then the data should confirm that assumption in countries where abortion is illegal. But studies prove exactly the opposite: where abortion is restricted, maternal mortality rates decrease.

Moreover, studies reveal that abortion carries serious long-term risks other than the risk of death. These studies reveal significant long-term physical and psychological risks inherent in abortion—risks that, as agreed by both pro-life and pro-abortion advocates, increase with advancing gestational age.[16]

In sum, it is undisputed that the later in pregnancy an abortion occurs, the riskier it is and the greater the chance for significant complications.

III. U.S. SUPREME COURT PRECEDENT RECOGNIZES MATERNAL HEALTH RISKS AS LEGALLY SIGNIFICANT.

In *Gonzales v. Carhart*, the U.S. Supreme Court explicitly held that state and federal legislatures are given "wide discretion to pass legislation in areas where there is medical and scientific uncertainty."[17] The context in which the Court enunciated this standard is significant here. The Court was considering the constitutionality of a *pre-viability* prohibition (as is the case with the *Pain-Capable Unborn Child Protection Act*).[18] The plaintiffs in *Gonzales* posited that the partial-birth abortion ban created certain health risks to women, which in turn created an undue burden—but the Court unequivocally rejected this claim.

Noting that there were documented medical disagreements over whether the partial-birth abortion ban would impose significant health risks to women, the Court stated that the question became whether the ban could stand when such medical uncertainty persists.[19] Citing numerous cases, the Court held that state legislatures are given wide discretion in areas where there is medical and scientific uncertainty.[20]

Then the Court concluded that the "law need not give abortion doctors unfettered choice in the course of their medical practice, nor should it elevate their status above other physicians in the medical community."[21] The Court stated it yet another way when it said "[m]edical uncertainty does not foreclose the exercise of legislative power in the abortion context any more than it does in other contexts."[22] In *Gonzales*, the medical uncertainty over whether the ban's prohibition created a significant health risk provided sufficient basis to conclude that the ban did not impose an undue burden.[23] These statements by the Court indicate that the wide discretion

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[16] Detailed information documenting these risks is available at http://www.aul.org/womens-health-defense-actlate-term-abortion-ban/ (last visited May 20, 2013).
[17] 550 U.S. 124, 163 (2007). Recently, this standard was followed by the Eighth Circuit Court of Appeals, upholding *en banc* South Dakota's informed consent law requiring that women be informed of the risk of suicide and suicide ideation following abortion. *Rounds*, 686 F.3d at 900.
[18] Id. at 147, 156 (noting that the partial-birth abortion ban applies both pre-viability and post-viability).
[19] *Id.* at 162-63.
[20] *Id.* at 163 (citing *Kansas v. Hendricks*, 521 U.S. 346, 360 n. 3 (1997); *Jones v. United States*, 463 U.S. 354, 364-65 n. 13, 370 (1983); *Marshall v. United States*, 414 U.S. 417, 427 (1974) ("When Congress undertakes to act in areas fraught with medical and scientific uncertainties, legislative options must be especially broad"); *Lambert v. Yellowley*, 272 U.S. 581, 597 (1926); *Collins v. Texas*, 223 U.S. 288, 297-98 (1912); *Jacobson v. Massachusetts*, 197 U.S. 11, 30-31 (1905)).
[21] *Gonzales*, 550 U.S. at 163.
[22] *Id.* at 164.
[23] *Id.*

given to legislatures is not just limited to abortion regulations, but also to limitations on the procedure.

Moreover, the Court has repeatedly affirmed the states' interest in protecting women from the harms of abortion. In *Planned Parenthood v. Casey*, the Court began by reaffirming an "essential holding" in *Roe v. Wade* that "the State has legitimate interests from the outset of the pregnancy in protecting the health of the woman…."[24] The Court then repeated this premise, stating that "*Roe v. Wade* was express in its recognition of the State's 'important and legitimate interests in preserving and protecting the health of the pregnant woman….'"[25]

Taken together, U.S. Supreme Court precedent suggests that in order to sustain an "undue burden" claim against legislation restricting abortion that is based on a maternal health rationale, plaintiffs challenging the law must demonstrate that the government has no medical evidence that abortion after 20 weeks poses serious risks to maternal health. However, the undisputed medical data demonstrating that abortion at and after 20 weeks can be significantly harmful to women.

[24] *Casey*, 505 U.S. 833, 846 (1992); *see also Gonzales*, 550 U.S. at 145 (quoting this central holding of *Roe* and *Casey*).
[25] *Casey*, 505 U.S. at 875-76.

Mr. GOODLATTE. And I also want to clarify something that Ms. Smith said about the Energy and Commerce Committee. The report you referred to is a report of the minority of that Committee and is by no means reflective of the work of the majority of the Energy and Commerce Committee.

Ms. SMITH. Thank you for clarifying that.

Mr. CONYERS. Mr. Chairman——

Ms. SMITH. I just received it this morning, so.

Mr. CONYERS [continuing]. May I please introduce into the record the Planned Parenthood statement as well as the Leadership Conference on Civil Rights and Human Rights statement?

Mr. GOODLATTE. Without objection, those will be made a part of the record as well.

[The information referred to follows:]

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Planned Parenthood Federation of America

August 27, 2015

The Honorable John A. Boehner
Speaker
U.S. House of Representatives
Washington, DC 20515

The Honorable Mitch McConnell
Majority Leader
U.S. Senate
Washington, DC 20510

The Honorable Nancy Pelosi
Minority Leader
U.S. House of Representatives
Washington, DC 20515

The Honorable Harry Reid
Minority Leader
U.S. Senate
Washington, DC 20510

Dear Speaker Boehner, Leader McConnell, Leader Pelosi, and Leader Reid.

In the last month, Planned Parenthood has been the focus of extensive discussion and scrutiny for our role in fetal tissue research.

Four committees in the Senate and House are currently investigating allegations against Planned Parenthood. The Senate has already held a vote on an effort to strip federal funding from Planned Parenthood, and the House of Representatives may hold a similar vote in September. Several Senators and House members, as well as some Republican Presidential candidates, are advocating shutting down the federal government unless Planned Parenthood is defunded.

We obviously take this matter very seriously. We also agree with Speaker Boehner's view that Congress should get the "facts first" because "the more we learn, the more it will educate our decisions."[1]

I am writing today because we are doing as much as we can to collect the facts and share them with you. We are also cooperating with the House and Senate committees that have requested relevant information from us.

In this letter, I will provide background on the bipartisan 1993 law on fetal tissue research, Planned Parenthood's role in this research, and what we are doing in response to questions that have been raised over the last month. I will also share what we know about anti-abortion extremist David Daleiden and the organizations that spent nearly three years infiltrating our affiliates and trying to entrap our staff into potentially illegal conduct, including the results of a forensic analysis of the doctored videos.

[1] "Boehner Wants 'Facts First' Before Defunding Planned Parenthood," The Hill (July 23, 2015).

While I am providing a lot of information in this letter, it is especially important to highlight three points.

First, Planned Parenthood adheres to the highest standards and follows all laws.

Second, Planned Parenthood is proud to have a role in fetal tissue research. Overwhelming bipartisan majorities in both the House and Senate recognized the value of this medical research when Congress passed the NIH Revitalization Act of 1993, and it has led to life-saving discoveries that are helping millions of Americans.

Third, our affiliates' involvement in fetal tissue research is a miniscule part of the work of Planned Parenthood. Despite a deliberate and systematic effort to distort our role, only two of 59 Planned Parenthood affiliates are currently involved with fetal tissue research.

Our affiliates operate health centers, which is where we provide health services to millions of women and men every year. Of the hundreds of health centers that are part of the Planned Parenthood network, just 1% are involved with fetal tissue research.

The attacks on us have the intended purpose of making it appear that fetal tissue research is an enormous focus of Planned Parenthood. But the simple fact is that 99% of our health centers have no involvement in this work. Women who visit our affiliates regularly express a desire to donate tissue from their abortion. But whether because researchers have not requested tissue from the local affiliate or because the local affiliate has chosen not to participate, very few of our health centers offer women this opportunity.

For the few centers that are involved with fetal tissue research, there is absolutely no indication they have deviated from the law or done anything inappropriate. In fact, despite Mr. Daleiden's three-year effort to entrap Planned Parenthood, he failed to succeed in convincing even a single affiliate to enter into a procurement contract with his fake company.

Even though our work involving fetal tissue research is a small part of what Planned Parenthood does, we are committed to continual improvement and meeting the highest medical and ethical standards in all we do, including facilitating tissue donations. I have asked our senior medical leadership to conduct a review of the policies and practices that guide the affiliates that offer tissue donation services and our oversight of these activities. If this review identifies ways we can improve our practices while staying true to our core mission, we will promptly implement them. Furthermore, because the current debate has been marked by considerable confusion over what fetal tissue research is and what rules apply or should apply, I have written to the Director of the National Institutes of Health to suggest that he consider convening an expert panel on fetal tissue research.[2]

[2] Letter from Cecile Richards, President of Planned Parenthood Federation of America, to Francis Collins, Director of the National Institutes of Health (July 29, 2015).

Federal Law on Fetal Tissue Research

The federal law on fetal tissue research was shaped by a blue-ribbon panel created in 1988 under the Reagan Administration. Arlin Adams, a retired federal judge opposed to abortion, chaired the panel, which was called the Human Fetal Tissue Transplantation Research Panel. Although the panel's charge – to evaluate the ethics of research involving fetal tissue – was controversial, Judge Adams led the panel to a broad consensus. Its final report stated: "a decisive majority of the panel found that it was acceptable public policy to support transplant research with fetal tissue."[3]

The panel separated the question of the ethics of abortion, about which the panel members had differing views, from the question of the ethics of using fetal tissue from legal elective abortions for medical research. The panel supported fetal tissue research for two primary reasons: (1) "abortion is legal" and "would occur regardless" of the use of fetal tissue in research and (2) "the research in question is intended to achieve significant medical goals."[4] The panel then made a series of recommendations to ensure that any research followed appropriate guidelines.

The panel recommended that "the decision and consent to abort must precede discussion of the possible use of fetal tissue" so that "a woman's abortion decision would be insulated from inducements to abort to provide tissue for transplant research and therapy."[5] The panel recommended prohibiting "payments ... associated with the procurement of fetal tissue ... except payment for reasonable expenses" so that there would be "no offer of financial incentives or personal gain to encourage abortion or donation of fetal tissue."[6] And the panel recommended that "no abortion should be put off to a later date nor should any abortion be performed by an alternate method entailing greater risk to the pregnant woman in order to supply more useful fetal materials for research."[7]

The panel's work won broad bipartisan support. In 1993, Congress overwhelmingly passed the NIH Health Revitalization Act, which codified the key recommendations of the panel into law. As you know, three of you – Senate Majority Leader McConnell, Senate Minority Leader Reid, and House Minority Leader Pelosi – all voted for the legislation. The final vote was 93 to 4 in the Senate and 290 to 130 in the House.

The law has two main provisions. One section (42 U.S.C. 289g-1) addresses federally funded research on "the transplantation of human fetal tissue for therapeutic purposes." Under this section, the medical researcher must obtain a statement from the attending physician declaring that the consent of the woman for the abortion was obtained prior to the consent for the fetal tissue donation and that there was no alteration of the timing, method, or abortion procedure solely for purposes of obtaining the tissue.

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[3] Report of the Human Fetal Tissue Research Panel, p. 2 (December 1988).
[4] Report of the Human Fetal Tissue Research Panel, pp. 1-2 (December 1988).
[5] Report of the Human Fetal Tissue Research Panel, pp. 2-3 (December 1988).
[6] Report of the Human Fetal Tissue Research Panel, p. 2 (December 1988).
[7] Report of the Human Fetal Tissue Research Panel, p. 14 (December 1988).

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The other provision (42 U.S.C. 289g-2) prohibits the acceptance of any payment for a fetal tissue donation other than "reasonable payments associated with the transportation, implantation, processing, preservation, quality control, or storage of human fetal tissue."

Under both laws, "human fetal tissue" is defined narrowly to mean "tissue or cells obtained from a dead human embryo or fetus" after an abortion or stillbirth.

Planned Parenthood's Limited Involvement in Fetal Tissue Research

Planned Parenthood is the nation's leading provider of reproductive health care services for women. We are also an important provider of primary and preventive health care for men and young people. Each year, our health centers provide high quality, affordable birth control, lifesaving cancer screenings, testing and treatment for sexually transmitted infections, and other essential care to 2.7 million patients. One in five women in the United States has visited a Planned Parenthood health center at least once in her life.

We are also a trusted provider of education and information on reproductive health. Every year, 1.5 million youth and adults participate in our educational programs. We currently average 6 million visits a month on our web sites where health care information is readily available in English and Spanish.

Planned Parenthood uses an affiliate structure. The national organization, Planned Parenthood Federation of America, establishes policies and accreditation standards for our 59 legally independent affiliates. The affiliates operate nearly 700 health centers across the country, which provide our health care services.

Planned Parenthood distinguishes between two types of services. Core services are those that every affiliate is required to provide. They include birth control, breast exams, pregnancy testing, abortions, identifying and treating sexually transmitted infections, and other essential health services. Optional services are those that affiliates can elect to provide. Offering women the opportunity to donate post-abortion tissue for research is an optional service.

In fact, not only are affiliates not required to be involved with tissue research, very few are. Our doctors report that women regularly ask whether they can donate their tissue for medical research. But the vast majority of our affiliates do not offer this service. In some instances, this may reflect the affiliate's considered decision. In many others, local research institutions simply have not requested tissue donations.

Our few participating affiliates can offer tissue donation services in two ways: through tissue procurement organizations (TPOs) which have been the focus of the recent public debate, or as partners or participants in research studies being conducted by major research programs connected to some of our nation's most prestigious universities, medical schools, and research laboratories.

Today, only one affiliate (in California) is involved with fetal tissue research working through a TPO. That affiliate also has a separate relationship with the University of California.

A second affiliate is involved with fetal tissue research working with the University of Washington. Altogether, the health centers at the affiliates involved with fetal tissue research represent 1% of our centers. Stated the other way, 99% of our health centers do not offer women the opportunity to be involved with fetal tissue research.[8]

When Mr. Daleiden released the first doctored video on July 14, four additional affiliates in California were involved with fetal tissue research. For varying reasons, these affiliates are not doing so presently. One affiliate suspended its program after receiving security threats prompted by Mr. Daleiden's video. Two others had their contracts with a TPO featured in Mr. Daleiden's videos cancelled because of the controversy. The fourth affiliate was working with a research laboratory that had been undergoing renovations and has postponed restarting until the renovations are complete.

At this point, we are aware of no additional affiliates beyond those described above that are involved with fetal tissue research over the last five years.[9] We will continue to make our best efforts to make sure our current understanding is comprehensive.

Compliance with Federal Requirements

As mentioned above, federal law restricts the reimbursement that Planned Parenthood can receive when it facilitates a fetal tissue donation. Our guidance to our affiliates reflects this requirement, stating:

> Federal law prohibits the payment or receipt of money or any other form of valuable consideration for fetal tissue, regardless of whether the program to which the tissue is being provided is federally funded or not. There are limited exceptions that allow reimbursement for actual expenses (e.g. storage, processing, transportation, etc.) of the tissue. If an affiliate chooses to accept reimbursement for allowable expenses, it <u>must</u> be able to demonstrate the reimbursement represents its actual costs.[10]

Our affiliates involved with fetal tissue research comply with this requirement. The California affiliate receives a modest reimbursement of $60 per tissue specimen from the TPO, and the Washington affiliate receives no reimbursement. The four other affiliates whose programs ended after the release of the videos received lesser but comparable amounts. The affiliate working with the research laboratory received no reimbursement. The others received reimbursements from TPOs ranging from $45 to $55 per tissue specimen. In every case, the

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[8] We have one affiliate, located in Oregon, that has a relationship with researchers at the Oregon Health & Sciences University who are studying placental tissue, not fetal tissue. The affiliate provides OHSU with post-abortion tissue from which the researchers extract the placental tissue they are studying. We did not count this affiliate as one that is involved with fetal tissue research because the OHSU researchers are not engaged in fetal tissue research. If we count this affiliate, that does not change the fact that just 1% of our centers are currently involved with this research.

[9] We are aware of four additional affiliates that at some time over the past five years provided donations of post-abortion tissue to support medical research. These include an affiliate in Texas and the affiliate in Colorado that have been included in videos released by Mr. Daleiden. All of these affiliates had arrangements with research universities, not with TPOs, where the research focused on placental or decidual tissue, not fetal tissue.

[10] Planned Parenthood, Programs for Donation of Blood and/or Aborted Pregnancy Tissue for Medical Research (May 2015).

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affiliates report that these amounts were intended to recover only their costs, as allowed under the federal law and our guidance.

The other provision of federal law applicable to fetal tissue research has a narrow scope: it applies only to research funded by the Department of Health and Human Services into "the transplantation of human fetal tissue for therapeutic purposes."[11] This month, the Department stated in a letter to Congress that the Department "has not funded or conducted this specific type of research involving fetal tissue in recent years."[12] The federal rules relating to consent and timing and method of abortion when the donated tissue is used for federally funded fetal transplantation research are therefore not applicable to any recent fetal tissue donations in the United States.

While the federal consent, timing, and method requirements apply only to federally funded fetal transplantation research, which no longer occurs, Planned Parenthood has voluntarily included the substance of the federal requirements in our guidance. Specifically, our guidance provides that there be "no substantive alteration in the timing of terminating the pregnancy or of the method used was made for the purpose of obtaining the blood and/or tissue."[13] Moreover, we apply this guidance not only to fetal tissue donations, but to donations of any post-abortion tissue, including placental and decidual tissue. We have taken these steps because we are committed to following the highest medical and ethical standards.

It is important to clarify our guidance on this point. There are only a few methods of abortion: (1) for early abortions, generally, the methods are medication abortion or surgical abortion involving mechanical or manual aspiration and (2) for abortions occurring from approximately 13 weeks gestation, the methods are dilation and extraction (D&E), induction of labor, or in very rare instances hysterotomy. At Planned Parenthood health centers, neither inductions nor hysterotomies are available. A decision about the method to be used is made by the physician in consultation with the woman, taking into account the relevant variables that would bear on that decision.

In performing the selected method, a physician may need to make multiple adjustments to the method as the surgery proceeds. These adjustments are clinical judgments – not a change of method – made by the physician as the abortion proceeds and are always intended to achieve the woman's desired result as safely as possible. The key point, as the 1988 blue-ribbon commission recognized, is that there be no change that would impact the safety or well-being of the patient. The same principle applies in deliveries, where physicians will often make adjustments to facilitate the collection of cord blood if the patient wants to retain or donate this blood. Our understanding, however, is that even adjustments that facilitate fetal tissue donations rarely occur at our few clinics that offer women this service.

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[11] 42 U.S.C. 289g-1.

[12] Letter from Jim Esquea, Assistant Secretary for Legislation at the Department of Health and Human Services, to Senators Joni Ernst and Roy Blunt (August 14, 2015).

[13] Planned Parenthood, Programs for Donation of Blood and/or Aborted Pregnancy Tissue for Medical Research (May 2015).

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What is essential is that in every instance, the physician's focus is on the woman's health because our patients' health is our paramount concern.

The Activities of David Daleiden

Finally, I want to share information with you about the outrageous activities of anti-abortion activist David Daleiden. Mr. Daleiden and his associates have sought to infiltrate Planned Parenthood affiliates and unsuccessfully to entrap Planned Parenthood physicians and staff for nearly three years. It is clear they acted fraudulently and unethically – and perhaps illegally. Yet it is Planned Parenthood, not Mr. Daleiden, that is currently subject to four separate congressional investigations.

Mr. Daleiden's efforts began nearly three years ago with the creation of a fictitious tissue procurement company called Biomax Procurement Services and subsequently a nonprofit called the Center for Medical Progress. According to media reports and analyses by nonprofit organizations, Mr. Daleiden and his associates may have violated many laws, including federal tax laws by misrepresenting the Center for Medical Progress as a biomedicine or bioengineering organization in its application for nonprofit status;[14] California criminal laws that prohibit forgery, fraud, and perjury by creating fake driver licenses or obtaining official licenses fraudulently;[15] California's Invasion of Privacy Act by recording individuals without consent;[16] and California's penal code by making false charitable solicitations.[17] One group says there is also evidence that they may have violated California's law against impersonation and federal and California laws against credit card fraud by stealing the identity of the president of the feminist club at Mr. Daleiden's high school.[18] Indeed, just last week, Mr. Daleiden's attorneys advised a federal district court that he intends to invoke his Fifth Amendment right to refrain from self-incrimination in response to discovery sought by the National Abortion Federation in its lawsuit alleging that Mr. Daleiden and his co-conspirators violated federal and state laws.[19]

We know that the videos Mr. Daleiden has released were deceptively edited to smear Planned Parenthood. They omit exculpatory passages and splice excerpts together to create false impressions. The videos have been denounced as "a total crock,"[20] "distorted … and unfair,"[21] "dishonest,"[22] "grossly misleading and politically irresponsible,"[23] and "swift boating"[24] in editorials across the country.

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[14] "Group Behind Planned Parenthood Sting Video May Have Tricked IRS, Donors," Huffington Post (July 17, 2015).
[15] "The Faces and Fake Names of People Behind Planned Parenthood Attack Videos," RH Reality Check (July 28, 2015).
[16] "Does the Planned Parenthood Video Violate State Recording Laws," MSNBC (July 16, 2015).
[17] Letter from Brad Woodhouse, President of American Democracy Legal Fund, to Kamala Harris, California Attorney General (July 21, 2015).
[18] "The Faces and Fake Names of People Behind Planned Parenthood Attack Videos," RH Reality Check (July 28, 2015).
[19] Civil Minutes, National Abortion Federation v. Center for Medical Progress (case no. 15-cv-03522-WHO) (August 21, 2015) (available online at http://prochoice.org/wp-content/uploads/2015-08-21-78-Civil-Minutes.pdf).
[20] "Undercover Sting of Planned Parenthood is Off Base, As Usual," Los Angeles Times (July 16, 2015).
[21] "Stop the Vendetta Against Planned Parenthood," Washington Post (July 31, 2015).
[22] "The Campaign of Deception Against Planned Parenthood," New York Times (July 22, 2015).

Planned Parenthood

Our analysis of the videos released by Mr. Daledien documents numerous instances where the videos have been heavily edited to change the meaning of what Planned Parenthood staff said and deceive the public. The first five short videos he released have at least 47 splices where content is edited out but the conversation appears seamless. Critical context is omitted, including Planned Parenthood staff members repeatedly saying that there is no "profit" from tissue donation and should not be, that tissue donation programs must follow the law, and that substantial changes to medical procedures would not occur. Quotes are attributed to Planned Parenthood staff members with no audio evidence that the quote was actually made at the time it appears in the video. Among these is one discredited, provocative quote that the Washington Post used in an editorial and about which it later issued a correction.

The first video received the most attention. We know from the longer version of the video that Dr. Deborah Nucatola at least ten times explained that Planned Parenthood affiliates do not profit from fetal tissue donation, making statements such as: "affiliates are not looking to make money by doing this. They're looking to serve their patients and just make it not impact their bottom line." Yet none of the highly relevant and exculpatory passages were included in the edited video excerpt that Mr. Daleiden initially released to national media.

The other videos are similarly distorted. Dr. Savita Ginde of our Colorado affiliate repeatedly told the Biomax representative that legal counsel would have to review any contract with Biomax. These references were consistently deleted from the video excerpt Mr. Daleiden released. Indeed, legal counsel did in fact review the proposed Biomax contract and objected to its terms because they did not comply with federal law.

Because of these significant distortions and omissions, we contracted with a research firm which engaged the services of a video forensics expert, a television producer, and an independent transcription agency. These experts concluded that the videos – even the alleged "full footage" videos – do not present a complete or accurate record of the events they purport to depict.[25] Their review revealed that Mr. Daleiden edited content out of the alleged "full footage" videos, heavily edited the short videos so as to misrepresent statements made by Planned Parenthood representatives, and produced transcripts with substantive omissions or edits.

Forensic video analysis revealed that each of the four "full footage" videos contained intentional edits that removed content from the middle of the videos, including approximately 30 minutes of missing footage from the recordings featuring staff at our Colorado and Texas affiliates. Analysis of the transcripts released by Mr. Daleiden revealed that one transcript includes over 4,000 words that do not appear in the video or the independent transcript.

With respect to the short videos, the forensic review confirmed dozens of misleading edits, cuts, and splices designed to alter the meaning of the underlying dialogue.

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[23] "Videos About Planned Parenthood are Grossly Misleading," San Jose Mercury News (July 27, 2015).
[24] "The Truth About Planned Parenthood," Michigan Public Radio (July 28, 2015).
[25] Fusion GPS CMP Analysis (August 25, 2015).

Planned Parenthood

This review ultimately concluded that the manipulation of the videos and the transcripts means they have no evidentiary value in a legal context and cannot be relied upon for any official inquiries unless supplemented by the original video in unaltered form. I have enclosed the report of the forensic analysis with this letter.

While the edited videos are replete with distortions and selective editing, it is what is missing from the videos that is most important: any credible evidence that Planned Parenthood has done anything wrong. All of Mr. Daleiden's efforts to entrap our affiliates into potentially illegal contracts failed. In fact, there is no evidence in any of the videos that our affiliates have ever received anything more than reimbursement for their reasonable costs, as the law permits.

Fifteen years ago, a congressional committee launched a similar investigation into allegations that Planned Parenthood centers sold fetal tissue. Like the current investigations, this investigation was prompted by video from a hidden camera and statements from an anti-abortion extremist claiming to have witnessed large-scale violations of federal law. At the congressional hearing, questioning revealed multiple contradictions in the testimony of the star witness. When the witness recanted his most inflammatory claims, a Republican committee member stated, "I found there to be so many inconsistencies in your testimony ... your credibility, as far as this member is concerned, is shot."[26] Roll Call reported in an article entitled "Fetal Tissue Hearing Thrown into Chaos" that the members were "left pointing fingers over who was to blame for [the] botched hearing ... after the panel's star witness left with his credibility in tatters."[27]

Already five states – South Dakota, Georgia, Indiana, Massachusetts, and Pennsylvania – have conducted investigations and cleared Planned Parenthood of any wrongdoing.[28] We are confident that as additional states complete their investigations and as the congressional committees carry out their oversight activities, the facts will once again fully vindicate Planned Parenthood and indict those who are seeking to distort the facts and smear our reputation.

Conclusion

I respectfully ask that you put yourselves in our place. Imagine if a group of individuals tried for several years to secretly film your offices, obtaining fraudulent identification to gain access to restricted areas, creating a fictitious company to deceive your staff, and misleading the IRS in an application for nonprofit status. Imagine if they released selectively edited videos of excerpted and manipulated conversations involving your staff aimed at creating the worst impression possible. And imagine if they edited the videos so context was lost, exculpatory statements were omitted, and statements were stitched together out of sequence to create a fraudulent impression.

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[26] Hearing before the Subcommittee on Health and Environment, Committee on Commerce, U.S. House of Representatives, "Fetal Tissue: Is it Being Sold In Violation of Federal Law?" 106th Congress (March 9, 2000).
[27] "Fetal Tissue Hearing Thrown into Chaos," Roll Call (March 13, 2000).
[28] "Indiana Clears Planned Parenthood of Wrongdoing After Videos," Associated Press (July 30, 2015); "Health Department: No Evidence of Fetal Tissue Sale in State," KDLT News (August. 12, 2015); "Planned Parenthood 'fully compliant with law, Healy says,'" The Boston Globe (July 29, 2015);); "Georgia Abortion Clinics Follow Law on Fetal Remains, State Says," Atlanta Journal Constitution (August. 12, 2015); "PA Inquiry Clears Planned Parenthood," Philadelphia Inquirer (August. 22, 2015).

Planned Parenthood
Care, no matter what.

That's exactly what has happened to Planned Parenthood. And in our case, four congressional committees have launched investigations into our conduct – and none are investigating the person behind this fraud.

We are also facing votes to defund our entire organization even though 99% of our health centers do not participate in tissue donations and all of them comply with all laws and provide essential health services to women and men.

While our involvement with fetal tissue research is a small component of Planned Parenthood, it offers the potential of life-saving research. Earlier this month, the Department of Health and Human Services wrote Congress that "fetal tissue continues to be a critical resource for important efforts such as research on degenerative eye disease, human development disorders such as Down syndrome, and infectious diseases, among a host of other diseases."[29] We stand behind our affiliates that contribute to these efforts to discover medical breakthroughs.

As I wrote to NIH Director Collins, if changes to the nation's fetal tissue laws are to be considered, they should be guided by the deliberations of a new blue ribbon panel. The sensationalistic atmosphere the doctored videos seek to create is exactly the opposite of the reasoned and deliberate process President Reagan set in motion with the Human Fetal Tissue Transplantation Research Panel. The videos mislead rather than inform the public debate.

I hope this letter will help put us on a different path by clarifying the facts and demonstrating our commitment to providing the highest level of compassionate care to the millions of women and men we serve.

Sincerely,

Cecile Richards

Cecile Richards
President
Planned Parenthood Federation of America

CC:
The Honorable Charles E. Grassley, Chairman
Senate Judiciary Committee

The Honorable Patrick J. Leahy, Ranking Member
Senate Judiciary Committee

[29] Letter from Jim Esquea, Assistant Secretary for Legislation at the Department of Health and Human Services, to Senators Joni Ernst and Roy Blunt (August 14, 2015)

The Honorable Robert W. Goodlatte, Chairman
House Judiciary Committee

The Honorable John Conyers Jr., Ranking Member
House Judiciary Committee

The Honorable Fred Upton, Chairman
House Energy and Commerce Committee

The Honorable Frank Pallone, Jr., Ranking Member
House Energy and Commerce Committee

The Honorable Tim Murphy, Chairman
Subcommittee on Oversight and Investigations

The Honorable Diana DeGette, Ranking Member
Subcommittee on Oversight and Investigations

The Honorable Jason Chaffetz, Chairman
House Oversight and Government Reform Committee

The Honorable Elijah E. Cummings, Ranking Member
House Oversight and Government Reform Committee

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Care, no matter what.

The Leadership Conference
on Civil and Human Rights

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Derek E. Hoff, Esq.
Women's Aloft
Anti-Defamation Committee
Elizabeth Hu Nyanza
League of Women Voters of the
United States
Marc Morial
National Urban League
Mee Moua
Asian American Justice Center
AAJC
Janet Murguia
National Council of La Raza
Debra Ness
National Partnership for
Women & Families
Terry O'Neill
National Organization for Women
Priscilla Ouchida
Japanese American Citizens League
Rabbi Jonah Pesner
Religious Action Center
Of Reform Judaism
Anthony Romero
American Civil Liberties Union
Susanne Smith
National Fair Housing Alliance
Richard L. Trumka
AFL-CIO
Randi Weingarten
American Federation of Teachers
Dennis Williams
International Union, UAW

July 31, 2015

The Leadership Conference

Stand Up for Women's Access to Healthcare Services:
Oppose all Efforts to Defund Planned Parenthood

Dear Senator,

On behalf of The Leadership Conference on Civil and Human Rights and the 95 undersigned civil and human rights and labor organizations, we urge you to oppose all efforts to defund Planned Parenthood Federation of America (PPFA). We strongly condemn the distorted and fraudulent campaign against PPFA, a critical provider of vital health services to low-income women and women of color.

As a result of the false claims based on selectively edited videos by the so-called "Center for Medical Progress" infiltration of PPFA, we expect a number of Senate proposals will be offered on this Monday at 5:30pm to defund the organization. The group behind this fraud has undertaken 10 separate attack campaigns like this over the last eight years. Their real agenda is now clear—they want to defund PPFA and block access to basic health services, particularly for low-income women, women of color, women with disabilities, and young women. This is also an attack on all women and their basic civil and human right to health care.

PPFA provides affordable, and critically needed quality preventive health care and treatment to 2.7 million women, men, and young people across the country. Their clinics provide routine examinations, cancer screenings, contraceptive services, HIV and STI (sexually transmitted infections) testing. Approximately one in five women in America will rely on PPFA for health care in her lifetime.

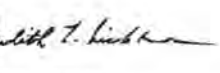
For many low-income women and women of color, PPFA is their main health care provider. In 2013, PPFA's clinics served 370,000 African American patients, which was 14 percent of their overall patients; 575,000 Latinos, which was 22 percent of their overall patients; and 11,500 Native Americans. PPFA services are particularly critical for African American and Latina women who experience the highest mortality rates among women diagnosed with breast cancer and cervical cancer. Access to PPFA for early diagnosis is critical to these women's health and lives. In addition, over the last ten years, PPFA has significantly increased the numbers of male patients they serve, including from communities of color.

We strongly urge you to oppose all proposals to defund PPFA and stand with the undersigned organizations to protect the right to health care for low income women and women of color. If you have any questions, please do not hesitate to contact Nancy Zirkin,

Leadership Conference Executive Vice President, at zirkin@civilrights.org, or June Zeitlin, Leadership Conference Director of Human Rights Policy at zeitlin@civilrights.org

Sincerely,

Wade Henderson
President & CEO



Judith Lichtman
Chair, Leadership Conference Board of Directors
Senior Advisor, National Partnership for Women & Families

Nancy Zirkin
Executive Vice President

List of Organizations:

Alliance for Justice
Amalgamated Transit Union
American Association of University Women (AAUW)
American Civil Liberties Union
American Family Voices
American Federation of Government Employees, AFL-CIO
American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)
American Federation of State, County, and Municipal Employees (AFSCME)
American Federation of Teachers
American-Arab Anti-Discrimination Committee (ADC)
Americans for Democratic Action (ADA)
Americans United for Separation of Church and State
Andrew Goodman Foundation
Anti-Defamation League
Asian & Pacific Islander American Health Forum
Asian Americans Advancing Justice-AAJC

BCTGM International Union
BiNet USA
Bisexual Resource Center
CAEAR Coalition
Campaign for America's Future
Catholics for Choice
Center for Health and Gender Equity (CHANGE)
Center for Reproductive Rights
Center for Women's Global Leadership, Rutgers University
CenterLink: The Community of LGBT Centers
Central Conference of American Rabbis
Coalition of Labor Union Women
Communications Workers of America
Consortium of Higher Education LGBT Resource Professionals
DC Vote
Disability Rights Education & Defense Fund
Equality Federation
Family Equality Council
Federation of American Women's Clubs Overseas
Feminist Majority
Freedom to Marry
Gender Action
GLAAD
Global Justice Institute
GLSEN
Human Rights Campaign
Institute for Science and Human Values, Inc.
International Brotherhood of Boilermakers
Jacob Blaustein Institute for the Advancement of Human Rights
Jewish Council for Public Affairs
Jewish Women International
Lambda Legal
Latino Justice PRLDEF
The Leadership Conference on Civil and Human Rights
League of United Latin American Citizens
Legal Momentum
Marriage Equality USA
Metropolitan Community Churches
Movement Advancement Project
NAACP
NAACP Legal Defense & Educational Fund, Inc.

National Center for Lesbian Rights
National Center for Transgender Equality
National Council of Jewish Women
National Council of La Raza
National Education Association
National Fair Housing Alliance
National Health Law Program
National Immigration Law Center
National Latina Institute for Reproductive Health Salud
National LGBTQ Task Force Action Fund
National Network to End Domestic Violence
National Organization for Women
National Partnership for Women & Families
National Resource Center on Domestic Violence
National Urban League
National Women's Law Center
New York City Gay and Lesbian Anti-Violence Project
NMAC
People for the American Way
PFLAG National
PolicyLink
Project Vote
Religious Action Center of Reform Judaism
Retail, Wholesale and Department Store Union (RWDSU)
Secular Coalition for America
SEIU
Southern Poverty Law Center
Transgender Legal Defense & Education Fund
USAction
Voices for Progress
Women Enabled International
Women Graduates-USA
Women of Reform Judaism
Women's Research & Education Institute (WREI)
Women's Intercultural Network (WIN)
Women's Media Center
The Workmen's Circle

Mr. GOODLATTE. And the Chair now recognizes the gentleman from Wisconsin, Mr. Sensenbrenner, for his questions.

Mr. SENSENBRENNER. Thank you very much. Ms. Smith, you have had a great deal of experience in litigating these questions, and could you please give the Committee your definition of what constitutes "infanticide?"

Ms. SMITH. What constitutes, I am sorry? I did not hear you.

Mr. SENSENBRENNER. "Infanticide."

Ms. SMITH. "Infanticide?" I think infanticide is when a baby is killed, an infant.

Mr. SENSENBRENNER. Okay. Now, assuming that the baby is born following a botched abortion and is alive, do you think that either killing the baby by commission or killing the baby by omission is infanticide?

Ms. SMITH. I think I would have to do more research on the State laws and what——

Mr. SENSENBRENNER. Well, we have a Federal Born Alive Act, yeah.

Ms. SMITH. Yeah, there is a Federal Born Alive Act that requires, so I would say it was a violation of the Born Alive Infant Protection Act not to take actions to preserve the life of a viable child. But when you are talking about a pre-viable fetus, and let us remember that the——

Mr. SENSENBRENNER. No, I am talking about born alive. A pre-viable fetus is not born alive, and does not fall——

Ms. SMITH. Well, a pre-viable——

Mr. SENSENBRENNER [continuing]. Does not fall under this definition. Now, I guess what you are saying that both Ms. Jessen and Ms. Ohden, if there were not sufficiently concerned nurses that found them after the abortionists have not killed them during the delivery, the partial birth abortion delivery, then there would have a crime of infanticide simply by abandoning an alive baby, and not taking care of it. Am I correct in that?

Ms. SMITH. Well, that certainly would be a violation of the current Born Alive Infant Protection Act.

Mr. SENSENBRENNER. Okay. Well, that is what the law is now.

Ms. SMITH. Yes.

Mr. SENSENBRENNER. So I guess you are admitting that I am correct in this.

Ms. SMITH. I am saying that it would be a violation of the Born Alive Protection Act.

Mr. SENSENBRENNER. Okay, fine. I think you are right on that.

Ms. SMITH. Yes.

Mr. SENSENBRENNER. You and I agree on that.

Ms. SMITH. That that is the Federal law, yes.

Mr. SENSENBRENNER. Yes, that is the Federal law. Well then, how come abortionists do not follow the Federal law when they make a mistake and the baby is not killed prior to being born?

Ms. SMITH. To my knowledge, they do follow the Federal law.

Mr. SENSENBRENNER. Well, we have two examples sitting to your right and left of people where the law was not followed, and even——

Ms. SMITH. Well, the Born Alive Infant Protection Act was not in place when they were born, so.

Mr. SENSENBRENNER. I know it was not, but I started out by asking you to define "infanticide," and there were murder laws that were on the books even before Born Alive.

Ms. SMITH. Yes. Most murder laws in the country require if a fetus is born alive, then it becomes a person. So then an act taken to, in fact, cause demise at that point would be murder in most States.

Mr. SENSENBRENNER. And if they did not do anything to save the child's life——

Ms. SMITH. An act of omission——

Mr. SENSENBRENNER [continuing]. Would it be manslaughter?

Ms. SMITH. I do not know if an act of omission would have qualified in those cases. I am not familiar with the old cases on that.

Mr. SENSENBRENNER. Okay.

Ms. SMITH. And I do not think that they were very common, so I think we would have heard a lot more about it if they were.

Mr. SENSENBRENNER. Okay.

Ms. SMITH. And certainly now——

Mr. SENSENBRENNER. Well, we would be hearing a lot about it when it happens now, and we have two witnesses who were born alive, you know——

Ms. SMITH. In the 1970's.

Mr. SENSENBRENNER. Infanticide laws were on the books in most States without the Born Alive Protection Act, and they are here. Now, I guess my question is, you are a lawyer. You have been advising Planned Parenthood.

Ms. SMITH. No, I have never actually advised them. I have never——

Mr. SENSENBRENNER. Well, you represented their interests before the Supreme Court of the United States.

Ms. SMITH. I actually did not. I was counsel for different plaintiffs in that case, but Planned Parenthood, they were a separate case, so.

Mr. SENSENBRENNER. Well, I am sure Planned Parenthood did not disagree with anything you said to the Court, right?

Ms. SMITH. Probably not.

Mr. SENSENBRENNER. Okay. Well, good, we will assume that.

Ms. SMITH. I hope not.

Mr. SENSENBRENNER. We will assume that for the sake of argument. Now, whether or not Planned Parenthood broke the law, when Congress sets budgeting priorities we have to decide what is important and what is not, and which has a higher priority and should be funded, and which has a lower priority and should not be funded in the age of a $19 trillion deficit.

Ms. SMITH. Right.

Mr. SENSENBRENNER. Now, could you please tell us why Planned Parenthood needs to get over a half a billion dollars of Federal funding every year when there are other pressing needs, such as feeding hungry children that maybe we should put that money into?

Ms. SMITH. Let us be clear that Planned Parenthood is not getting any Federal funding for abortion. What Planned Parenthood is——

Mr. SENSENBRENNER. Well, money is fungible, Ms. Smith. You and I know that money is fungible——

Ms. SMITH. I do not believe that——

Mr. SENSENBRENNER. So the question is whether Congress should appropriate another half billion dollars plus to Planned Parenthood when we could be spending that money on feeding hungry children. This is a question of priorities. I would like to know what your priority is——

Ms. SMITH. My priority——

Mr. SENSENBRENNER.—Planned Parenthood or feeding hungry children.

Ms. SMITH. My priority, I think funding Planned Parenthood and the services it provides is equal to feeding children because what Planned Parenthood does is preserve women's lives that are the mothers of those children. It provides contraception——

Mr. SENSENBRENNER. How can they be the mothers of the children when children are aborted through Planned Parenthood?

Ms. SMITH. Because many women go to Planned Parenthood who have children and have families. In fact, even women who are obtaining abortion, 60 percent of women obtaining abortions in this country already have at least one, if not more, children.

Mr. SENSENBRENNER. Okay.

Ms. SMITH. So women are often mothers——

Mr. SENSENBRENNER. I guess your priorities are different than mine.

Ms. SMITH. My priorities are funding Planned Parenthood's excellent high-quality, comprehensive healthcare services that go to low-income women throughout this country, women who otherwise would become pregnant unintendedly, and who would then need abortions. So I would think as somebody who opposes abortion, you would, in fact, support, as does Judge Kavanaugh of the D.C. Circuit, the funding of contraceptive services to reduce unintended pregnancies and to reduce the number of abortions. It is really a no-brainer. It makes no sense not to fund those services if you want to reduce the number of abortions.

Mr. SENSENBRENNER. Well, I do not think there is statistics that indicate that that is the case.

Ms. SMITH. There absolutely are.

Mr. SENSENBRENNER. I am way out of time, so I will yield back.

Mr. GOODLATTE. The Chair thanks the gentleman, and recognizes the gentleman from New York, Mr. Nadler.

Mr. NADLER. Mr. Chairman, first of all, before I begin my 5 minutes, I ask unanimous consent to insert into the record a letter from 56 national faith-based and religious groups supporting Planned Parenthood.

Mr. GOODLATTE. Without objection, it will be made a part of the record.

[The information referred to follows:]

August 3, 2015

United States Senate
Washington, DC 20510

Dear Senator,

We, the 56 undersigned national faith-based and religious groups, state and local affiliates stand with Planned Parenthood, with its millions of patients and with its health centers that have served families in the US for nearly a century. Planned Parenthood touches the lives of millions of young people with education programs and online information that helps foster health and safety; it provides women with quality medical services, including abortion; and it embodies the highest of standards of medical and ethical care.

We represent millions of people of faith committed to ensuring women's health and moral autonomy. We are deeply troubled by the latest deplorable attacks on Planned Parenthood by faux groups, which demonstrate the lengths to which antiabortion extremists will go to curtail women's right to obtain a legal medical procedure.

Our organizations share a faith-centered commitment to the most marginalized and the most vulnerable of our society, including those with limited financial means or those who live in areas with limited access to healthcare and related services. For many, Planned Parenthood is their only source of medical care. Many Planned Parenthood patients are struggling to make ends meet. In times of economic hardship, the need for Planned Parenthood is greater than ever.

A world without Planned Parenthood would be disastrous for many women and their families—particularly young women, women of color and women in rural areas. Planned Parenthood health centers are on the front lines helping women and men, especially those of limited means, to prevent unintended pregnancies. They support prevention and treatment efforts for HIV and other STDs; offer life-saving cancer screenings; and provide crucial medically accurate information about sexual health.

As people of diverse faith traditions, we understand the myriad beliefs and moral complexity that exist on issues of reproductive health—abortion in particular. The duplicity of the so-called Center for Medical Progress shows a disturbing lack of concern for women's health and safety. Such behavior does nothing to further the discourse on such a complex issue.

It is shameful that desperate antichoice extremists would resort to methods of deceit to try to dupe the public and policymakers. The smear campaign videos are heavily edited and misleading in order to make it appear that Planned Parenthood profits from donations of fetal tissue for medical research. The truth is: some Planned Parenthood health centers do participate in programs where fetal tissue is donated, at the client's request, for use in critical biomedical research to help find cures for diseases like Parkinson's and Alzheimer's. Patients make the decision to donate tissue for such research. Planned Parenthood does not profit from such voluntary, legal donations.

The recent efforts of the so-called Center for Medical Progress were undertaken with a singular goal in mind: to limit access to the critical reproductive health services that Planned Parenthood provides. This goal is deeply political and will harm women and families' health and economic security.

We urge you to reject attacks that would reduce federal funding or otherwise undermine the provision of critical services by Planned Parenthood.

Our organizations respect women's moral agency and are committed to the social good. We value compassion and feel obligated to protect women's health and well-being. We value real religious liberty, which upholds the right of each person to make their own faith-informed or conscience-based healthcare decisions. As groups representing millions of people of faith, including those who access healthcare at local Planned Parenthood centers, we affirm our support for the incredible and necessary work of this organization. We call on you to reject the underhanded, dishonest attempts to discredit Planned Parenthood and to consider who will be harmed if federal funding to this important organization is blocked or eliminated.

As organizations of faith, we stand with Planned Parenthood. As members of Congress committed to supporting the health and well-being of your constituents, we urge you to do the same.

Sincerely,

National

A Critical Mass: Women Celebrating Eucharist
Anti-Defamation League
Bend the Arc: A Jewish Partnership for Justice
Catholics for Choice
Concerned Clergy for Choice
DignityUSA
Episcopal Women's Caucus
Hadassah, The Women's Zionist Organization of America, Inc.
Hindu American Foundation
International Rabbinical Assembly
Jewish Alliance for Law and Social Action
Jewish Council for Public Affairs
Jewish Women International
Keshet
Methodist Federation for Social Action
Muslims for Progressive Values
National Coalition of American Nuns (NCAN)
National Council of Jewish Women
New Ways Ministry
Reconstructionist Rabbinical College and Jewish Reconstructionist Communities
Religious Coalition for Reproductive Choice
Religious Institute, Inc.
Unitarian Universalist Association
Unitarian Universalist Women's Federation
Women's Alliance for Theology, Ethics, and Ritual (WATER)
Women's League for Conservative Judaism

For more information please contact Sara Hutchinson Ratcliffe, Catholic for Choice Domestic Program Director, shratcliffe@catholicsforchoice.org or 202-986-6093 or Amy Cotton, National Council of Jewish Women Senior Policy Manager, amy@ncjwdc.org or 202 375 5067.

State and Local

California Religious Coalition for Reproductive Choice
National Council of Jewish Women California State Policy Advocacy Chair
National Council of Jewish Women, Los Angeles Section
National Council of Jewish Women, Long Beach Section
National Council of Jewish Women, San Francisco Section
San Francisco Bay Area Women-Church

Colorado Religious Coalition for Reproductive Choice

Religious Coalition for Reproductive Choice Connecticut

National Council of Jewish Women, Greater Miami Section
National Council of Jewish Women, Palm Beach Section
National Council of Jewish Women, Sarasota-Manatee Section

National Council of Jewish Women Illinois State Policy Advocate
Chicago Women-Church
National Council of Jewish Women, Chicago North Shore Section
National Council of Jewish Women, South Cook Section (IL)

Kentucky Religious Coalition for Reproductive Choice

National Council of Jewish Women Maine State Policy Advocate
National Council of Jewish Women, Southern Maine Section

National Council of Jewish Women Michigan State Policy Advocates

National Council of Jewish Women, Greater Minneapolis Section

National Council of Jewish Women, St. Louis Section

National Council of Jewish Women, Bergen County Section (NJ)
National Council of Jewish Women, Essex County Section (NJ)

National Council of Jewish Women, Peninsula Section (NY)

Ohio Religious Coalition for Reproductive Choice
National Council of Jewish Women, Columbus Section (OH)

National Council of Jewish Women, Greater Dallas Section

National Council of Jewish Women, Utah Section

National Council of Jewish Women Washington State Policy Advocate
National Council of Jewish Women, Seattle Section

For more information please contact Sara Hutchinson Ratcliffe, Catholic for Choice Domestic Program Director, shratcliffe@catholicsforchoice.org or 202-986-6093 or Amy Cotton, National Council of Jewish Women Senior Policy Manager, amy@ncjwdc.org or 202 375 5067.

Mr. NADLER. Thank you, Mr. Chairman. Also before I start my statement, I simply want to say, I want to clarify, when the Born Alive Infant Protection Act, whatever we called it, was brought before this Committee, I surprised people by saying that I saw no point to opposing it, that it was a deliberate trap designed to entice pro-abortion groups into opposing it.

It is already the law of the land against murder. Anyone who kills a child that has been born outside the womb, anyone who stands idly by and does not help it survive is guilty of murder or manslaughter, period, no questions asked, with or without the Born Alive Protection Act. And it was introduced simply to slander the abortion groups to say that pro-abortion people support infanticide. We do not obviously.

Mr. Chairman, before I begin my questions, I would like to express my dismay at the title given to this hearing: "Planned Parenthood Exposed: Examining the Horrific Abortion Practices of the Nation's Largest Abortion Provider." The title alone is enough to call this hearing a farce. It is wrong and should be beneath this Committee to state its conclusion without a shred of evidence and before we receive even a word of testimony.

Perhaps the majority's conclusion explains why not a single representative from Planned Parenthood is here to testify about its practices. It may also explain why the Chairman has chosen to ignore the request from Ranking Members Conyers and Cummings to suspend these one-sided investigations until they include the so-called Center for Medical Progress, which made the videos about which we have heard today.

Of course, if we really wanted to hear about the practices of Planned Parenthood, we could have hours of testimony on the compassionate, comprehensive, and affordable healthcare services they provide women and families, but the majority is not interested in hearing that testimony. If you clear away the partisan rhetoric, it appears the Chairman has called this hearing to examine how Planned Parenthood participates in fetal tissue donation, which Congress made illegal with almost unanimous bipartisan support in 1993.

In the years since, fetal tissue and cells have been used to make groundbreaking medical discoveries. If you want to find a cure for diabetes, for stroke, or for hundreds of other life-threatening illnesses, fetal tissues and cells are a necessary part of the research toolkit, and a moral part.

The law surrounding fetal tissue donation are simple and clear. Planned Parenthood has consistently and clearly demonstrated that the affiliates who participate in fetal tissue research, which represent about 1 percent of all 700 Planned Parenthood health centers in just two States, comply with these laws, just as they comply with thousands of other Federal, State, and local laws and regulations every single day.

That should be the conclusion of this hearing, but instead before any inquiry, this Committee has already declared Planned Parenthood guilty and chosen to capitalize on the sensational, unsubstantiated smears made in a series of unethical, possibly illegal, videos. The goal here is clear: to smear Planned Parenthood. Senator Joseph McCarthy would be proud of this Committee today.

Sadly, this is not the first time Congress has been drawn into this charade. Every time it follows the same pattern. Extremists try to entrap Planned Parenthood into unethical or illegal conduct, and then make sensationalist accusations. But in no time at all, the claims are debunked and the investigations find no wrongdoing. This pattern is being repeated here today.

Mr. Bopp, I would like to walk through some of that history with you. Were you aware, Mr. Bopp, that in 2012, anti-abortion groups released videos claiming to show Planned Parenthood was conducting sex-elective abortions?

Mr. BOPP. No.

Mr. NADLER. You are under oath, Mr. Bopp.

Mr. BOPP. I know what is in my mind, Congressman.

Mr. NADLER. So you are not aware of that.

Mr. BOPP. I was not aware of that.

Mr. NADLER. Then you remarkably ignorant for someone in the field, and it was not true. Mr. Bopp, are you aware in 2011 that anti-abortion groups released videos claiming to show Planned Parenthood condoned sex trafficking and statutory rape?

Mr. BOPP. No.

Mr. NADLER. You are still under oath. And following the release of those videos, Republicans in Congress tried to cut off funding for Planned Parenthood and nearly shut down the government. Are you aware of that?

Mr. BOPP. I do not remember that they were connected in that way.

Mr. NADLER. Okay. But you remember that the two things occurred.

Mr. BOPP. You know, the older I get, the harder my memory——

Mr. NADLER. I asked you a question. Do you remember——

Mr. BOPP. I am trying to answer your question, Congressman.

Mr. NADLER. Yes or no, do you remember or not?

Mr. BOPP. I do not know what your question is.

Mr. NADLER. Do you remember that following the release of those videos, Republicans in Congress tried to cut off funding for Planned Parenthood and nearly shut down the government?

Mr. BOPP. I have answered that question.

Mr. NADLER. Okay. And your answer was that the two things, that Congress tried to cut of funding for Planned Parenthood and that government was nearly shut down, and you do not remember if they were connected. Is that correct?

Mr. BOPP. In that way, yes.

Mr. NADLER. Thank you. But, of course, Planned Parenthood already reported the actors claiming to be sex traffickers to the FBI, so once again not true. The list goes on. In 2010, videos falsely claimed women were pressured into abortion, not true. In 2009, false claims about clinics avoiding parental consent, not true. In 2002, false claims about statutory rape, not true. And for a real sense of déjà vu, in 2000 videos were released claiming Planned Parenthood was participating in illegal tissue sales. But, of course, when the man who made those videos came before Congress, he totally recanted his testimony, and an FBI investigation did not lead to any charges against Planned Parenthood. Again, not true.

Mr. Bopp, were you aware of that hearing?

Mr. BOPP. I do not recall it.

Mr. NADLER. Okay. What is true is that the people who made these videos are liars in a long line of liars. It is true that if you had a shred of real evidence that Planned Parenthood is breaking the law, you would have taken it to a State or a Federal prosecutor right away, but you did not. Mr. Chairman, if you had even a bit of real confidence in the man who made these videos, you would have brought him here to testify before this Committee, but you did not, and you do not have that confidence.

The fact is, this is all a farce designed to shame women for exercising their constitutional right to an abortion, to scare abortion providers into ending their services, and to eliminate options for women to access health services. This is all based on lies, knowingly based on lies. I hope the majority comes to its senses and realizes they have fallen into the same sad pattern of lies and lies that we have seen for more than a decade.

I yield back my time.

Mr. FRANKS [presiding]. The Chair recognizes Mr. Forbes from Virginia for 5 minutes.

Mr. FORBES. I want to start, Mr. Bopp, by apologizing for anybody on this Committee calling any witness that comes before this Committee "remarkably ignorant," and I apologize for that statement even though it was not made by us.

I can understand the voices on the other side of this Committee who would say please do not look at the video. This not about the video. We do not want to talk about the acts in the video, kind of like the Wizard of Oz. Pay no attention to the man moving those levers behind there.

What I cannot understand is that those same voices cannot say that there is no act that is too far, there is no act that is too brutal, there is no act that is not acceptable even for Planned Parenthood. And they want to talk about dollars. Ms. Ohden, if you are correct on the number of abortions, even though they do not report these numbers, based on the best evidence we have, you are talking about $147 million for abortions last year that are big dollars.

And what just startles me is when I hear Mrs. Smith say, and I want to read this again. This is what the Chairman stated, this is Justice Kennedy's statements, not mine. He says this. He described at length the testimony provided by abortionist Leroy Carhart about the alternate D&E method or dismemberment procedure. This is what he said in Court.

And Mrs. Smith does not say that is wrong. She does not say that is inaccurate. Here is what it says. "The fetus can be alive at the beginning of the dismemberment process, and can survive for a time while its limbs are being torn off."

Dr. Carhart agreed that when you pull out a piece of the fetus, let us say an arm or a leg, and remove that at the time just prior to the removal of the portion of the fetus, the fetus is alive. Dr. Carhart has observed fetal heartbeat via ultrasound with extensive parts of the fetus removed, and testified that near dismemberment of a limb does not always cause death because he knows of a physician who removed the arm of a fetus, only to have the fetus go on to be born as a living child with one arm.

At the conclusion of the D&E abortion, no intact fetus remains. In Dr. Carhart's words, "The abortionist is left with a tray full of pieces." And then Justice Kennedy goes on in a Supreme Court case: "The fetus in many cases dies just as a human adult or child would. It bleeds to death as it torn limb from limb."

And to say that you support a woman's right to choose is one thing. To say that you might want to give healthcare to people is another thing. But for anybody to say that procedure and what you just described is humane, that that does not go too far, that is not too brutal, that is humane and acceptable just defies my imagination. I could not imagine that happening to one of my pets, much less an unborn child.

And then when I look, Ms. Smith, I know you state that you are an associate research scholar in law and senior fellow and director for Program for the Study of Reproductive Justice at Yale Law School. And I know you are here in your personal capacity today. But I just wondered, does Yale have any study for the rights of individuals like Ms. Jessen or Ms. Ohden to be born without cerebral palsy, because there was a lot of questions when Mr. Sensenbrenner was raising about those issues a while ago that are apparently unanswered. Are there any such studies up there that would dare suggest the right of one of these children not to be born with one arm?

And, Mr. Chairman, and that is what just baffles me about this, not that we have disagreements, but that none of those voices in the crowd do not look at this act, do not look at this act, can find no point that is too far, no point that is too brutal, no point that is inhumane. And then they dare suggest that we are extreme.

And with that, Mr. Chairman, I just thank you for this hearing and for our witnesses coming here today. Thank you for being here, and I yield back.

Mr. FRANKS. Thank you, Mr. Forbes. The Chair recognizes Ms. Jackson Lee for 5 minutes.

Ms. JACKSON LEE. Let me thank the Chairman for yielding and for allowing those with a great deal of emotion on this question to be able to project and present their views. I have lived through this Judiciary Committee for a period of years, to the witnesses, that I have been through eons of these hearings starting back in the 1990's on a medical procedure that saved the lives of women that were called the partial birth abortion.

Let me say to the witnesses, I have the greatest respect for your viewpoint, and I am grateful for you being here, grateful for your life, and grateful for your passion. As an aside let me say that as a graduate of Yale, undergraduate, and being very familiar with Yale Law School, I know that the law school is one of the premiere teachers of the Constitution, and well recognizes the rights of all people. And I would venture to say that there are individuals with different thought from you, I would imagine, Professor Smith.

Ms. SMITH. Absolutely.

Ms. JACKSON LEE. And, therefore, to my colleague, yes, Yale Law School and Yale undergraduate schools produce individuals that have a great concern for the Constitution of this Nation.

So let me begin my questioning and to ask Mr. Bopp, would you join in a request to the director of the National Institutes of Health

to suggest convening an expert panel to re-look at, the expert panel, on fetal tissue research. Would you join in that request?

Mr. BOPP. I have not considered that question.

Ms. JACKSON LEE. Well, would you? I am giving it to you now.

Mr. BOPP. I am not prepared to testify under oath whether I agree with that or not.

Ms. JACKSON LEE. I am sorry. Pardon me? Do you think it is a good idea? If we have such a dispute here about fetal tissue research, would it be a good idea?

Mr. BOPP. Well, I served on a panel that I thought fairly explored the issues that came to conclusions that I believe were not warranted, and that history has proven were fallacious.

Ms. JACKSON LEE. So you would not be interested in having a review.

Mr. BOPP. I do not know what——

Ms. JACKSON LEE. I thank you for your answer.

Mr. BOPP. I do not know what benefit it would be.

Ms. JACKSON LEE. I thank you for your answer. Let me say that Planned Parenthood complying with the Fetal Research Commission under President Reagan, you may have been one of those did not agree. But I would argue that the consensus came out and the panel found that it was an acceptable public policy to support transplant research with fetal tissue, and as well developed a guideline that said the research in question is intended to achieve significant medical goals.

Professor Smith, is it not true, and this question has been asked again, but I think it should be asked over again, that out of this long journey of fetal tissue research, the impact in medicine has been overwhelming dealing with issues of polio, measles, rubella, or Rh disease. The use of fetal tissue cell lines has helped in vaccinations, normal human development in order to gain insight into birth defects and other developmental diseases. Has this come to your attention, Professor Smith, that fetal tissue research in the medical science has generated this kind of productivity?

Ms. SMITH. Absolutely.

Ms. JACKSON LEE. And in actuality, the proponent of these videos was actually trying to highlight the ugliness of what is misdirected, which is the harvesting of organs, which that was not the case.

Let me ask you this question, Mr. Bopp. Are you aware of how Mr. Daleiden was able to engage in these false and misdirected, distorted, and maybe criminal videos? Do you know how he was able to do that?

Mr. BOPP. I have been advised by the Committee staff that this hearing is not on that subject and I should not comment.

Ms. JACKSON LEE. Well, I am not sure how the Committee could staff could tell you it is not on that subject because the videos are all in the letters that have been sent by the three Republican chairs of the Committees that are engaged in it.

So let me just say to you what he actually did. He stole—stole—stole the identity of the president of the Feminist Club at Mr. Daleiden's high school. When he was asked to participate in a lawsuit, Mr. Daleiden invoked his Fifth Amendment right to refrain

from self-incrimination in response to this lawsuit. That does not sound like a man who has any truth to stand on.

Might I ask you, Professor Smith, if you would, the question was asked to you about whether or not Planned Parenthood does anything good with respect to women's health. Would you recite that again for me, that separate from the limited right to abortion under *Roe v. Wade*, do they not engage in women's health?

Ms. SMITH. Absolutely. The services that are supported by the Federal Government include contraceptive services, wellness exams, cancer screenings, STI testing, and STD treatment. And Planned Parenthood services millions of women. 1 in 5 women in this country has visited a Planned Parenthood clinic.

It is a beloved institution not just by me, but by most Americans because it is one of the few accessible providers of excellent high-quality care outside of the abortion area in addition to the limited number of abortions they do.

Ms. JACKSON LEE. I would like——

Mr. ISSA. Regular order, please.

Ms. JACKSON LEE. I would like to put into the record, and I would ask that we not engage in this kind of Member attack. I am putting into the record state-by-state data that indicates that through the Planned Parenthood with respect to health and 2 million patients, 371,000 pap tests and 451,000 breast exams. This is cervical and breast cancer screenings by Planned Parenthood to young women. Not young women, to women who otherwise would not be able to afford it. I ask unanimous consent for that to be submitted, and every Member's State is recorded here of helping these women get healthcare.

Another I would like to put into the record from the Young Women From URGE, Unite for Reproductive Gender Equity, who have indicated that young people are less likely to have insurance and have low-paying jobs. I would like to submit this into the record.

And finally, I would like to submit into the record from the Congressional Research Service the definition of "fetal tissue," what is fetal tissue research, and the amazing miracles that have come about through fetal tissue research.

[The information referred to follows:]

Planned Parenthood®
Care. No matter what.

Planned Parenthood Federation of America

This is where we are.
Working for a Healthy America in Communities Across the Nation

State	Number of Centers	Total Patients	Total Contraception Patients	Total STI Tests	Total Pap Tests	Total Breast Exams	Sex Education and Outreach
Alabama	2	3,341	306	300	42	23	0
Alaska	4	7,872	6,052	9,911	1,369	1,455	2,500
Arizona	10	41,231	30,363	28,622	9,847	6,299	1,513
Arkansas	2	4,434	4,101	3,880	598	740	6,269
California	117	809,538	665,505	1,613,280	93,433	97,118	402,606
Colorado	21	70,512	57,204	59,060	8,431	10,879	18,906
Connecticut	17	64,001	51,218	81,282	8,806	3,087	27,191
Delaware	3	8,483	5,365	11,044	1,142	0	3,567
District of Columbia	0	7,585	4,833	7,451	883	1,065	35,150
Florida	23	70,438	46,698	61,051	9,394	16,583	67,532
Georgia	5	14,780	8,533	8,544	2,216	1,971	6,826
Hawaii	2	7,079	4,429	6,676	1,000	1,204	10,603
Idaho	3	7,011	5,189	6,596	913	819	2,500
Illinois	18	64,273	47,487	71,629	6,800	10,806	12,512
Indiana	23	62,883	49,760	55,089	6,576	4,927	9,155
Iowa	13	37,223	32,378	51,782	7,544	13,664	58,234
Kansas	2	10,096	6,999	8,756	1,137	1,677	11,782
Kentucky	2	5,358	4,904	5,718	1,792	1,846	11,827
Louisiana	2	10,147	9,316	11,467	2,048	4,228	8,603
Maine	4	10,382	8,230	10,782	1,132	2,324	219
Maryland	9	33,113	26,003	34,276	4,102	4,772	5,806
Massachusetts	7	32,267	18,470	45,833	1,303	1,829	4,681

State	Number of Centers	Total Patients	Total Contraception Patients	Total STI Tests	Total Pap Tests	Total Breast Exams	Sex Education and Outreach
Michigan	21	68,196	41,237	65,782	10,891	14,532	17,441
Minnesota	18	54,273	43,957	77,180	9,933	13,758	34,907
Mississippi	1	307	195	102	13	25	0
Missouri	14	45,766	35,041	50,318	6,596	8,176	7,063
Montana	5	15,057	9,528	19,436	4,251	4,160	5,333
Nebraska	2	8,585	7,146	13,311	1,989	3,247	24,361
Nevada	3	21,910	11,640	12,524	2,172	2,272	26,938
New Hampshire	5	14,097	11,449	13,487	1,856	3,643	1,143
New Jersey	26	71,505	60,696	88,353	15,731	33,553	45,845
New Mexico	6	21,405	13,376	15,542	1,988	1,853	4,642
New York	59	179,026	140,774	302,187	36,935	49,099	178,237
North Carolina	9	31,182	21,420	18,040	3,564	2,568	14,791
North Dakota	0	0	0	0	0	0	1,815
Ohio	28	80,954	66,786	105,460	9,743	10,491	47,354
Oklahoma	5	20,995	17,558	15,680	2,862	4,221	29,842
Oregon	11	72,145	65,347	78,791	11,635	13,839	22,815
Pennsylvania	37	108,325	82,246	147,089	16,267	17,965	35,051
Rhode Island	1	9,001	5,076	9,729	625	45	4,799
South Carolina	2	4,672	2,992	6,011	438	438	2,124
South Dakota	1	1,698	913	791	155	172	0
Tennessee	4	13,580	6,408	12,122	1,330	1,477	10,131
Texas	38	150,710	108,533	114,967	27,146	35,956	23,678
Utah	9	43,259	31,720	35,867	5,033	8,646	9,483
Vermont	12	16,084	13,061	22,849	2,413	4,144	2,489
Virginia	7	25,784	17,954	13,016	3,128	3,105	35,996
Washington	32	119,208	100,599	179,218	17,520	17,124	51,002
West Virginia	1	1,071	894	260	69	69	0
Wisconsin	22	65,103	54,865	79,782	6,217	9,598	10,330
Wyoming	1	1,153	1,047	724	108	93	0
TOTAL	669	2,653,041	2,065,801	3,691,647	371,116	451,585	1,355,592

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The Honorable Sheila Jackson Lee
United States House of Representatives
2252 Rayburn HOB
Washington, DC 20515

September 8th, 2015

Dear Representative Sheila Jackson Lee,

The undersigned young people represent the hundreds of thousands of millennials who rely on Planned Parenthood for their comprehensive and affordable healthcare. Planned Parenthood has provided critical healthcare services to many of us when the care we needed was either inaccessible or unaffordable. We are writing today to say that we stand with Planned Parenthood and a vote to defund Planned Parenthood ultimately is a vote to deprive your constituents of their needed health services.

For so many of us, Planned Parenthood has been a lifeline. Young people are less likely to have health insurance and more likely to have low-paying jobs, so the affordable healthcare available at Planned Parenthood means we do not have to go without the healthcare we need. When we don't have health insurance, Planned Parenthood is there to make sure we don't have to forgo a pap smear. For students without reproductive health care available on campus, Planned Parenthood is there. For young people too scared to ask their parents about preventing pregnancy, Planned Parenthood is there to discuss their options. And for so many who experience an unintended pregnancy, Planned Parenthood provides abortion care for those of us who need it. Quite simply, if Planned Parenthood is defunded, many young people will have no access to comprehensive healthcare, including family planning, pap smears, breast screenings, STI testing, and abortion care.

The group behind these attacks has one agenda - to end all legal abortion care. Their concern is not with the legality of Planned Parenthood's practices, but rather to discredit Planned Parenthood in an attempt to force them to close their doors. The Center for Medical Progress heavily edited their secretly recorded videos, used false identities, and have allegedly filmed confidential medical procedures. We know these attacks will not stop with Planned Parenthood. The videos will be used as a platform to pass even more restrictions on reproductive healthcare, restrictions that fall hardest on young people, people of color, and low income people.

We should put the health needs of young people ahead of political agendas. Planned Parenthood provides affordable healthcare to hundreds of thousands of people who would have none without their clinics. Politicians should focus on passing laws that help young people start healthy families when they are ready to parent.

Young people support Planned Parenthood and we hope that you will consider our healthcare needs before your vote to defund. Young voters are a growing political force in this country and we will not soon forget an attack on a trusted healthcare provider that we rely on.

Sincerely,

Joy Welan
Washington, DC

Clare Lemke
Ames, IA

Deirdra Harris Glover
Jackson, MS

Ar;eme Markman
Indian Wells, CA

Susan Yanow
Cambridge, MA

Marilyn Helton
eugene, OR

Christie Lum
Lorton, VA

Maggie Davidson
Pompano Beach, FL

Sandra Joos
Portland, OR

Trisha Park
Los Angeles, CA

Michael and Lisa Andrea
Blauvelt, NY

Randy Harrison
Eugene, OR

Kate Skolnick
Brooklyn, NY

Julia Meyer
New York, NY

April Greene
Athens, GA

Jacinta Montoya Price
Denver, CO

Caryn Graves
Berkeley, CA

Melissa Morales
Philadelphia, PA

Jess Gold
Pittsburgh, PA

kathryn sabbeth
chapel hill, nc

Raquel Ortega
Tucson, AZ

Jennifer Huber
Phoenix, AZ

Jeffrey Hammons
New York, NY

Alexa Nelen
Orlando, FL

Kate Londen
Washington, DC

Kai Gurley
Takoma Park, MD

Monica Kriete
Washington, DC

Bess Neumeister

Atlanta, GA

Lin Wang
Owens Cross Roads, AL

Paul Brink
Wichita, KS

Maressa Simmons
Satellite Beach, FL

Samaria Johnson
salt lake city, UT

Robin Lancaster
Fortuna, CA

Anthony James
Columbus, GA

Katerina Virostko
Bowling Green, OH

Sarah Mack
San Diego, CA

Caroline O'Shea
Washington, DC

Dina Steward
Vacaville, CA

AimÃ©e Launderville
manchester, CT

Kathleen Manderfield
Plantation, FL

Katherine Gulick
Philadelphia, PA

Laura Hague
Austin, TX

Rebekah Smith
Carmichael, CA

Julia Kahrl
Arrowsic, ME

Liesel Vanderlinden
Henrico, VA

Rae Head
emporia, KS

Jessica Hauger
Martinez, GA

Rosalind McDermott
Huntsville, AL

Sherry Anderson
Huntsville, AL

Rachel (Renleigh) Donat
Union, NJ

Mariah Butts
Perrysburg, OH

Drew Bonnet
Emporia, KS

Alexandria Johnson-Logue
Hemet, CA

Cassidy Ellis
Northport, AL

Christy Medrano

Denton, TX

Stephanie Mascorro
Denton, TX

Edward Vaughn
Cleveland, OH

Shannon Keigley
Galloway, OH

Matthew Evans
Toledo, OH

Elana Margosis
Arlington, VA

Cassandra Tenorio
Avon Lake, OH

Caitlyn Martin
Auburn, AL

Tiffani Bryant
Auburn, AL

Merl Newland
Dayton, OH

Isabel Boratav
Oberlin, OH

Kailey Gabriel
Akron, OH

Taylor Burtch
Dundee, MI

Marissa-Ann Pappas
Cleveland, OH

Natasha Bailey
Manhattan, KS

Zulema Aleman
San Luis Obispo, CA

Sophie richman
Los Angeles, CA

Iyari Arteaga
San Diego, CA

Kelsey Zazanis
Germantown, MD

Hillary Gyuras
Toledo, OH

Kali Heim
Ravenna, OH

Haley Miller
Washington, DC

Alexandra Lahey
Bowling Green, OH

Priscilla Moreno
Irvine, CA

Steven Hernandez
Round Rock, TX

Carly Grimes
Venice, FL

Britt Dorfman
Silver Spring, MD

Mary Flaim
Bowling Green, OH

Cassidy Neal
Grand Island, NY

Leslie Potts
Brooklyn, NY

Makayla Knott
Columbus, OH

Brandi Maye
New Haven, OH

Alainna Marincic
Brecksville, OH

Sarah Chole
Columbus, OH

Heather Hollo
Parma, OH

Stephanie Cluck
Chicago, IL

Carly Preston
Athens, OH

Jim Howes
Bowling Green, OH

Jessica Brodersen
Medina, OH

Ang Kramer
Findlay, OH

Carly Toepfer
Bowling Green, OH

Shawnee Zahard
grove city, OH

Kristin Hady
Perrysburg, OH

Lana Pochiro
Newton Falls, OH

Augusta Reisling
Grove City, OH

Bridgett Melendez
Santa Fe Springs, CA

Andi Duncan
Tuscaloosa, AL

Blade Stevens
Tuscaloosa, AL

Alexis Scranton
Pataskala, OH

Danielle Sell
Menifee, CA

Monica Marie Roque
Los Angeles, CA

Angelo Andersky
Euclid, OH

Ryan Pasquino
Shadyside, OH

Kaitlin Nance
Wichita, KS

Jessie Lopez
Costa Mesa, CA

Danielle London
Leawood, KS

Pooja Varman
Omaha, NE

Erik Hyska
Madison, AL

Jessie Lynch
Toledo, OH

Mollie Beth Wallace
Tuscaloosa, AL

Erendira Jimenez
Garden City, KS

Jackie Mostow
COLUMBUS, OH

Michael NELSON
Fayetteville, GA

Hannah Karpel
Louisville, CO

Mckinley Bruckner
San Anselmo, CA

Gina Lawrence
El Paso, TX

Abigail Stahl
Washington, DC

Rebecca Gorena
Austin, TX

Gaby Wilson
Washington, DC

Justina Trim
Atlanta, GA

Madeline Meininger
Washington, DC

Caitlin Lowell
Portland, ME

Eleanor Sarkodie
Woodbridge, VA

Caitlin Grumbling
DC, DC

Cydney Brown
Bowie, MD

Dee Srivastava
Washington, DC

Ashley Qiang
Englewood, CO

Gary Strain
Brighton, MA

Barbara Kaates
Alexandria, VA

Madison Schindele
Sparkill, NY, NY

Laura Jensen
Waterville, ME

Kelley Freeman
Columbus, OH

Gen Granados
Houston, TX

Cieara Swainston
Boise, ID

Tenaya Drapkin
St. Louis, MO

Pedro Pedro Trujillo
Lacey, WA

Sugarman Sugarman
Los Angeles, CA

Blickstein Blickstein
Wilmette, IL

Kachkou Kachkou
Houston, TX

Kate Gifford
Washington, DC

Morgan Keigley
Columbus, OH

stephanie castro
Washington, DC

Rita Usher
Montgomery, AL

Shayla Lawrence
Memphis, TN

myriah culp
Niagara falls, ON

Stephanie Park
Davis, CA

Skyler Lloyd
Portland, OR

Danielle Hurd
Birmingham, AL

Menyon Goodou
Montgomery, AL

Kaity Chewning
crystal river, FL

Cassatta Hayes
Birmingham, AL

Misty Opat
Saint George, KS

caitlin kenney
Oklahoma city, OK

John Wright
Montgomery, AL

Robyn Hyden
McCalla, AL

Asher Elbein
Austin, TX

Sallia Wilkins
Los Angeles, CA

Beth Carter
Baton Rouge, LA

Anna Bauman
Hastings-On-Hudson, NY

Emily Dotson

BUCYRUS, OH

Shelby Helms
Parma, OH

Vincent Barone
Ravenna, OH

Jory Ryland
Sacramento, CA

Jessica Miller
Dallas, TX

Kathleen D. Corliss
Milton, MA

Sara Blumenthal
Philadelphia, PA

Kadet Jnocharles
Los Angeles, CA

Tarah Demant
Washington, DC

Quinn Nelson
Williston, ND

Michele Mathis
Bowling Green, OH

Megan McLellan
Columbus, GA

adriana kohler
washington, DC

Drew Ghazi
Magnolia, TX

Samantha Mera
Philadelphia, PA

Clarissa Karpen
Washington, DC

Kalla McLaughlin
JUNCTION CITY, KS

Rachel Hudacek
Athens, OH

Yvette DeChavez
Austin, TX

Emily Nelsen
Manhattan, KS

Alexandra Kory
Seattle, WA

Brittney Thornbury
Atlanta, GA

Christina Garrity
Olympia, WA

Ashlyn Jaeger
Davis, CA

Megan Carter
Longmont, CO

Yasmin Andre
Orlando, FL

Angel-Gabrielle Patterson
Tuscaloosa, AL

Sara Murphy
Chicago, IL

Margaret Carnegie
Westminster, MD

Nicole Zollos
Avon, OH

Amanda Cooper
Austin, TX

Caley Burton
Austin, TX

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This report provides answers to frequently asked questions concerning the regulation and use of fetal tissue in research, including a description of what constitutes fetal tissue research, uses of fetal tissue for medical purposes, and how such tissue is acquired, along with rules and regulations governing the use and acquisition of fetal tissue.

What is fetal tissue?

Fetal tissue is any tissue or organ obtained from a fetus, which is the product of conception (egg and sperm) from the end of the eighth week of pregnancy onward. Prior to the ninth week, the product of conception is called an embryo.

What is fetal tissue research?

Researchers use fetal tissue to produce cell cultures, also called cell lines, which can be maintained in a laboratory environment for very long periods of time, in some cases indefinitely. Cultured cells mimic many of the properties that they have in a living body, and therefore can be used as a model for researchers studying basic biological processes. Research involving fetuses and fetal tissue has been conducted in the United States since the 1930s, and the National Institutes of Health (NIH) has been supporting research using fetal tissue since the 1950s.[1] NIH spent $76 million on human fetal tissue research in FY2014, and will spend an estimated $76 million in FY2015 and $77 million in FY2016.[2]

What are the uses of fetal tissue in medicine and medical research?

Fetal tissue has been used "to identify and test the efficacy of vaccines and to examine the toxicity of drugs used by pregnant women. Vaccines for polio, measles, rubella and Rh disease were developed through the use of fetal tissue or cell lines derived from fetal tissue."[3] Human fetal tissue is used to study normal human development in order to gain insight into birth defects and other developmental diseases. Fetal tissue has been used in studies of genetic disease in the early stages of development, including organ formation.

[1] Patricia Donovan, "Funding Restrictions on Fetal Research: The Implications for Science and Health," *Family Planning Perspectives*, vol. 22, no. 5 (September/October 1990), pp. 224-231; and, Dorothy E. Vawter and Arthur Caplan, "Strange Brew: The Politics and Ethics of Fetal Tissue Transplantation Research in the United States," *Journal of Laboratory Clinical Medicine*, vol. 120, no. 1 (July 1992), pp. 30-34.

[2] At http://report.nih.gov/categorical_spending.aspx, putting "human fetal tissue" in the search box reveals the dollar amount spent or estimated by NIH for FY2011- FY2016. Clicking on the dollar amount for FY2011-FY2014 reveals the number of projects as well as details on each research project using human fetal tissue.

[3] Donovan, "Funding Restrictions on Fetal Research," p. 227.

What is human fetal tissue transplantation research?

Since the late 1920s, researchers in several countries, including the United States, "have grafted fetal liver, nerve, thymus and pancreas tissue into children and adults in efforts to reverse various neurological disorders, spinal cord injuries, diabetes, immune deficiencies, cancers and life-threatening blood diseases."[4] Perhaps the most widely known application in the field of human fetal tissue transplantation has been the treatment of Parkinson's disease. The first such attempt, using the transplantation of human fetal brain cells, "took place in 1987 at Lund University in Sweden where the technique was pioneered."[5] Although controversial at the time, the approach "produced such striking results in some cases that by 1997 about 200 patients around the world had received the treatment."[6] However, because many patients did not benefit from the treatment, and it was unclear why this was the case, an international moratorium was imposed in 2003 on such replacement-therapy trials.[7]

In 2006, a retrospective analysis conducted by the original seven teams that had performed the transplant experiments "worked out that the procedure tended to be most effective in patients who were relatively young and whose disease was at an early stage."[8] In addition, "those who benefited the most had at least 100,000 dopamine-producing cells of fetal origin integrated into their brains. Cells from at least three fetuses are needed to achieve these numbers."[9] As a result, a new trial—called TRANSEURO, funded by the European Union—is being launched using dopamine-producing cells from fetal brains.[10] The trial was scheduled to begin in July 2014 and expects to enroll 150 patients in the United Kingdom, Sweden, France, and Germany.[11]

Similar trials involving the implementation of various types of stem cells into individuals with Parkinson's disease are scheduled to begin in 2016 in Kyoto, Japan (using induced pluripotent stem cells); 2017 in New York; and 2018/2019 in Europe (both using human embryonic stem cells).[12] According to one source, many such human embryonic stem cell (ESC) lines "have now been generated that are well characterized and quality controlled and this includes two human ESC-based sources that have already been approved by the U.S. FDA for early stage clinical trials in humans."[13]

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[4] Donovan, "Funding Restrictions on Fetal Research," p. 227; and, Vawter and Caplan, "Strange Brew," p. 30.

[5] Allison Abbott, "Fetal-cell revival for Parkinson's," *Nature*, vol. 510 (June 12, 2014), pp. 195-196.

[6] Constance Holden, "Fetal cells again?," *Science*, vol. 326 (October 16, 2009), pp. 358-359.

[7] Abbott, "Fetal-cell revival for Parkinson's," p. 195.

[8] Ibid.

[9] Ibid.

[10] Ibid., p. 196.

[11] Ibid. For further information about the trial, see http://www.transeuro.org.uk/.

[12] Abbott, "Fetal-cell revival for Parkinson's," p. 196.

[13] Janelle Drouin-Ouellet and Roger A. Barker, "Stem cell therapies for Parkinson's disease: are trials just around the corner?," *Regenerative Medicine*, vol. 9, no. 5 (2014), pp. 553-555.

How is fetal tissue acquired for research?

Fetal tissue used in research is obtained from elective abortions. Under certain rare circumstances, fetal tissue may also be obtained from a miscarriage, also called a spontaneous abortion, or following the removal of an ectopic pregnancy, which occurs when an embryo has implanted outside the uterus. Because the timing or recognition of a spontaneous abortion or ectopic pregnancy is unpredictable, and both conditions may result in a serious health emergency for the woman, the fetal tissue collected under these circumstances is often not suitable for research purposes.

According to a Government Accountability Office (GAO) report published in October 2000, most biomedical researchers at that time obtained human fetal tissue from a "central tissue supplier"; three identified as receiving NIH funding included the Birth Defects Laboratory at the University of Washington, the Brain and Tissue Banks for Developmental Disorders at the University of Maryland, and the University of Miami School of Medicine/Children's Hospital of Orange County.[14] According to a 1992 journal article, NIH had funded such a center for collecting fetal tissue for many years.[15] Another source of human fetal tissue mentioned in the GAO report was "private, nonprofit central tissue supply organizations that did not directly receive federal funds."[16] Those identified by GAO in 2000 were Advanced Bioscience Resources, Inc. (Alameda, CA), and the Albert Einstein College of Medicine Human Tissue Repository (New York, NY). Alternatively, some researchers obtained fetal tissue directly from an academic medical center hospital or a health clinic.[17]

A recent media article states that "many researchers buy tissue from two small California companies," StemExpress, in Placerville, and Advanced Bioscience Resources Inc. (ABR), in Alameda, "a nonprofit that has 12 employees and recent sales of about $1.4 million."[18] According to the article, fetal tissue accounted for about 10% of StemExpress's business and the tissue "has been used in studies of leukemia, Hodgkin's lymphoma and Parkinson's disease."[19]

Can fetal tissue be sold for research purposes?

Under the NIH Revitalization Act of 1993, it is "unlawful for any person to knowingly acquire, receive, or otherwise transfer any human fetal tissue for valuable consideration if the transfer affects interstate commerce."[20] While this provision prohibits the sale or purchase of fetal tissue itself, the term *valuable consideration* "does not include reasonable payments associated with the

[14] U.S. General Accounting Office, *Human Fetal Tissue: Acquisition for Federally Funded Biomedical Research*, GAO-01-65R, October 4, 2000, p. 4.

[15] Vawter and Caplan, "Strange Brew," p. 30.

[16] U.S. General Accounting Office, *Human Fetal Tissue: Acquisition for Federally Funded Biomedical Research*, GAO-01-65R, October 4, 2000, p. 5.

[17] U.S. General Accounting Office, *Human Fetal Tissue: Acquisition for Federally Funded Biomedical Research*, GAO-01-65R, October 4, 2000, pp. 4-5.

[18] Denise Grady and Nicholas St. Fleur, "Shadowy Trade in Fetal Tissue," *The New York Times*, July 28, 2015, pp. D1, D3.

[19] Ibid.

[20] PHS Act §498B; 42 U.S.C. §289g-2(a).

transportation, implantation, processing, preservation, quality control, or storage of human fetal tissue."[21] Thus, tissue companies may charge researchers to recover the costs associated with these types of activities.

Persons violating these provisions shall be subject to fines, imprisonment for not more than 10 years, or both.[22] Violations involving the payment of valuable consideration shall result in fines reflecting not less than twice the amount of the valuable consideration received.[23]

According to the founder of StemExpress, the fetal cells are difficult to isolate and involve "expensive processes that take millions of dollars of equipment. Just to attempt to do some of these isolations can cost us thousands of dollars, and it may not even work."[24] As an illustration of just how expensive, "a vial containing five million frozen fetal liver CD133+ stem cells can cost more than $24,000 ... and an overnight shipment to Germany, for example, can cost thousands of dollars."[25] Another supplier of fetal tissue, ABR, charged "$300 a specimen for tissue from a second-trimester fetus, and $515 if the fetus was first-trimester," according to a 2013 price sheet.[26]

Who investigates the illegal sale of fetal tissue?

On the federal level, the Department of Justice, and more specifically the Federal Bureau of Investigation (FBI), would open investigations into individuals and entities suspected of violating federal law with respect to the illegal sale, or trafficking, of human fetal tissue and other organs. As noted earlier, federal law prohibits the sale or purchase of human fetal tissue in interstate commerce.[27] In 2000, the FBI reportedly investigated a Kansas clinic affiliated with Planned Parenthood for allegedly selling—and profiting from the sale of—fetal tissue; ultimately, no laws were found to have been broken.[28]

What federal regulations govern the collection and use of fetal tissue for research?

Federal law permits the Department of Health and Human Services (HHS) to fund *research on new therapies that involve the transplantation of human fetal tissue* using tissue derived from an elective or spontaneous abortion, or from a stillbirth.[29] However, human fetal tissue may be used for such purposes only if the following conditions are met:

[21] PHS Act §498B; 42 U.S.C. §289g-2(e)(3).

[22] 42 U.S.C. §289g-2(c)(1).

[23] 42 U.S.C. §289g-2(c)(2).

[24] Grady and St. Fleur, "Shadowy Trade in Fetal Tissue," p. D3.

[25] Ibid. See also a StemExpress price list at http://stemexpress.com/product-category/fetal-liver/.

[26] Ibid.

[27] PHS Act §498B; 42 U.S.C. §289g-2(a).

[28] Sandhya Somashekhar and Danielle Paquette, "Undercover video shows Planned Parenthood Official Discussing Fetal Organs Used for Research," *The Washington Post*, July 14, 2015.

[29] PHS Act §498A(a); 42 U.S.C. §289g–1(a).

- The woman must provide her written consent that she is donating the fetal tissue for research, that the donation is being made without any restrictions on who may receive the tissue, and that she has not been informed of the identity of any such recipients.[30]
- The attending physician must declare in writing that, in the case of an induced abortion (1) the woman's consent for the abortion was obtained prior to requesting or obtaining consent to donate the fetal tissue for research; (2) the timing, method, or procedures used to terminate the pregnancy were not altered in order to obtain the tissue; and (3) the abortion was performed in accordance with applicable state law. In addition, the attending physician must declare that the tissue has been donated with the woman's consent and that the woman has been fully informed of the physician's interest, if any, in the research, and of any medical or privacy risks associated with the tissue donation.[31]
- The principal researcher must declare in writing that (1) he or she is aware that the tissue is human fetal tissue that may have been obtained from an elective or spontaneous abortion, or a stillbirth, and that it was donated for the purposes of research; and (2) prior to obtaining the informed consent of a research subject to be a recipient of the transplanted tissue (see discussion of Common Rule, below), he or she will provide the same information about the fetal tissue to the research subject and get written acknowledgement of receipt of such information.[32]

In addition to the above statutory requirements, fetal tissue research that involves human subjects is subject to the Common Rule.[33] Under the Common Rule, research protocols must be approved by an Institutional Review Board (IRB) to ensure that the rights and welfare of the research subjects are protected.[34]

The Common Rule lists several criteria for IRB approval, including the requirement that researchers obtain the informed consent of their research subjects.[35] In addition, it sets out the types of information that must be provided to prospective research subjects during the informed consent process, including an explanation of the purpose of the research, a description of the research procedures, and a description of the risks and benefits of the research.[36] An IRB may decide to waive the informed consent requirement if it determines that (1) the research poses no more than minimal risk to the subjects, (2) the waiver will not adversely affect the rights and welfare of the subjects, and (3) the research is not practicable without a waiver.[37]

If the human fetal tissue to be used in the research is identifiable, such that information associated with the material links it to one or more living individuals (which often may be the case), then

[30] PHS Act §498A(b)(1); 42 U.S.C. §289g-1(b)(1).

[31] PHS Act §498A(b)(2); 42 U.S.C. §289g-1(b)(2).

[32] PHS Act §498A(c); 42 U.S.C. §289g-1(c).

[33] The Common Rule is the informal name given to core federal regulations governing the protection of human subjects in research supported or conducted by the federal government. The regulations were first promulgated by HHS at 45 C.F.R. Part 46, Subpart A.

[34] 45 C.F.R. §46.109.

[35] 45 C.F.R. §46.111(a)(4).

[36] 45 C.F.R. §46.116(a).

[37] 45 C.F.R. §46.116(d).

those individuals also become research subjects under the Common Rule.[38] Thus, an IRB may have to review the protocol for collecting and testing the human fetal tissue, and the woman who is donating the tissue may have to provide informed consent (unless waived by the IRB).

The researchers must also obtain prior approval from the Food and Drug Administration (FDA) by filing an Investigational New Drug (IND) application if the research is testing a new diagnostic or therapeutic intervention that the researchers hope will receive FDA marketing approval. One of the IND requirements is that the researchers obtain IRB approval.

Importantly, if the purpose of the human fetal tissue research is simply to acquire new biomedical knowledge, and it is not being conducted under an IND or involving human research subjects, then the research is not subject to the Common Rule or FDA regulation.

Finally, the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule applies if the researchers want access to medical information about the woman from whose fetus the fetal tissue was obtained. Under the Privacy Rule, an individual's medical information may not be used or disclosed for research without the individual's written authorization unless an IRB (or equivalent Privacy Board) waives the authorization based on certain specified criteria.[39]

What federal regulations govern the clinical use of fetal tissue?

Currently, fetal tissue is not being used in any clinical applications involving transplantation. Any such therapeutic use of human fetal tissue that received approval from the FDA would be regulated under the agency's Human Cells, Tissues, and Cellular and Tissue-Based Products (HCT/Ps) regulations.[40] An HCT/P is an article "containing or consisting of human cells and tissues that are intended for implantation, transplantation, infusion, or transfer into a human recipient."[41] HCT/Ps include bone, ligament, skin, dura mater, heart valves, cornea, hematopoietic stem/progenitor cells derived from peripheral and cord blood, and semen or other reproductive tissue.[42]

FDA regulates HCT/Ps primarily under its general authority to control the spread of communicable diseases.[43] The HCT/P regulations are focused on (1) preventing the use of contaminated cells and tissues with the potential for transmitting infectious diseases, (2) preventing the improper handling or processing of cells and tissues that might contaminate or damage them, and (3) ensuring the clinical safety and effectiveness of cells and tissues.

[38] 45 C.F.R. §46.206.

[39] 45 C.F.R. §164.512(i).

[40] 21 C.F.R. Part 1271.

[41] 21 C.F.R. §1271.3.

[42] Ibid. HCT/Ps do not include vascularized human organs for transplantation, which are regulated by the Health Resources and Services Administration (HRSA). Nor do they include plasma and blood or derivative products regulated by FDA under 21 C.F.R. Parts 606, 607, 630, and 640.

[43] PHS Act §361, 42 U.S.C. §264.

The regulations require establishments that recover, handle, store, and distribute HCT/Ps for clinical purposes to register with FDA and submit a list of their products.[44] The regulations also establish eligibility criteria for donors of HCT/Ps, including donor screening and testing.[45] Finally, the regulations include a set of good tissue practices (GTPs) that govern the methods, facilities, and controls used to deal with HCT/Ps.[46] The GTPs address personnel, procedures, environmental control and monitoring, equipment, supplies and reagents, recovery, processing and process controls, storage, shipment and distribution, records, tracking, and complaints.

Is the system for collecting non-fetal organs and tissue different from that for fetal tissue?

The federal government has established policies and a system for procuring organs that are separate from policies for the acquisition of fetal tissue. Organs are procured (or acquired) from living persons or cadavers. An organ is "[a] human kidney, liver, heart, lung, pancreas, or intestine (including the esophagus, stomach, small or large intestine, or any portion of the gastrointestinal tract), or vascularized composite allograft." The National Organ Transplant Act (NOTA of 1984; P.L. 98-507) created the Organ Procurement and Transplantation Network (OPTN), which is the federally supported system for organ sharing in the United States. The Health Resources and Services Administration (HRSA) oversees organ procurement by way of the OPTN's operations.

Does the Department of Veterans Affairs (VA) allow the use of human fetal tissue in research conducted by VA researchers?

No. The Veterans Health Administration (VHA) states that "research in which the focus is either a fetus, or human fetal tissue, in-utero or ex-utero (or uses human fetal tissue), cannot be conducted by VA [researchers] while on official duty, at VA facilities, or at VA-approved off-site facilities."[47] Additionally, the use of stem cells are governed by the policy set by NIH for recipients of NIH research funding.

Does the Department of Defense use fetal tissue in medical research?

No. The Department of Defense medical research programs are not using fetal tissue in medical research at this time. However, there is not a blanket ban on the use of such tissue. Under

[44] 21 C.F.R. Part 1271, Subpart B.

[45] 21 C.F.R. Part 1271, Subpart C.

[46] 21 C.F.R. Part 1271, Subpart D.

[47] Department of Veterans Affairs, Veterans Health Administration, "Requirements for the Protection of Human Subjects in Research," VHA Handbook 1200.05, November 12, 2014.

Department of Defense Instruction 3216.02, entitled Protection of Human Subjects and Adherence to Ethical Standards in DOD-Supported Research, any "research involving human subjects using fetal tissue shall comply with sections 289g–289g-2" of title 42, United States Code.[48]

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[48] http://www.dtic.mil/whs/directives/corres/pdf/32160 2p.pdf.

Ms. JACKSON LEE. I am not here to push abortion. I am here to push life, and the respect for women, and the *Roe v. Wade* legality of what we do under the Hyde amendment. And I am not here to defund Planned Parenthood that has now been presented by Members of Congress——

Mr. ISSA. Regular order.

Ms. JACKSON LEE [continuing]. Members of Congress who really should be getting rid of sequester and not be stopping women from getting good healthcare. Please do not stop women from getting good healthcare. I am thankful for the Chairman's generosity, and I thank him so very much. And I yield back my time.

Mr. FRANKS. I thank the gentlelady, and I now recognize Mr. Issa for 5 minutes.

Mr. ISSA. Wow, I would sure like to have the time she yielded back. Thank you, Mr. Chairman.

The gentlelady from Texas cited the Hyde amendment, so I would like to take a moment. I served on this Committee and on Foreign Affairs with the late Henry Hyde, and I would like to take a moment to create a perspective for just a moment for this hearing because I think the hearing with Chairman Henry Hyde's portrait to your right looking down needs to be focused a little bit more on his legacy and a little bit less on what I hear perhaps on both sides of the aisle where we are having a discussion perhaps beyond the scope of our jurisdiction and beyond the scope of what I think the Chairman asked for.

Many years ago Henry Hyde came to California, and no surprise, he was well known for his pro-life position, and the California Right to Life group asked if they could meet with him. We were together for another reason, and he said, sure.

So we got together in a room of very strident, pro-life advocates in California, and they asked him about overturning *Roe*, and they asked him about every issue that you might expect. And Henry, more eloquently than I ever could, redirected the conversation to why he was pro-life and why it was so essential that Congress take a position.

And what he said in my poor interpretation of Henry Hyde was that a Nation that does not provide respect for life is not a Nation that he or anyone else could be proud of; that the life of the unborn and the concern for their welfare, the life of the newborn, the life of the infirmed, and the life of the elderly all were issues which a civilized society had to promote. They had to promote it both publicly and privately.

He never, as far as I know, supported broadly trying to reverse everything that was done, but he did stand for a question of will we treat people with respect. And I bring that up before asking questions because the questions from what I have seen in these videos, however obtained, seems to have a question of are these individuals, not the organization for a moment, these individuals. Do they have a respect for the sanctity of life?

These are more than organs. These were the unborn who now are hopefully providing life to others so they may live or research. It is legal. It is part of the process. But there is a question about whether an organization and its employees are as efficient as they should be, effective as they should be, as good stewards of half a

billion dollars of our money, and whether or not their conduct is conduct that is inappropriate for this organization to further allow.

And I would like to leave it at that because I think the important thing for us to consider here today is with our half billion dollars every year under any President, including President Bush for all 8 years of his. Planned Parenthood receives a large block of money, more than any other organization of its type. Other organizations including clinics in my district receive similar money for similar outreach to help women and families. These are funds that the Congress has decided with your taxpayer dollars that we will appropriate and deliver for this purpose.

So, Mr. Bopp, I know your long history in the pro-life movement, but I am going to ask you just one question. Assuming that this half billion dollars and other monies are going to be spent, should we not make sure that they are spent to the best steward of that money for the most effective support of women's health, and should we not take an interest in whether or not that organization and its employees are respectful and supportive of women's health and the quality of life for they and, in many cases, their children to be born, not just children not to be born. Thank you.

Mr. BOPP. Yes, I think that is a proper role of Congress. I mean, after all, there are hundreds, maybe thousands of providers out there who, if the half billion was not given to Planned Parenthood, could receive those funds for these beneficial services that are not tainted by association with abortion, not tainted by their reckless practices in terms of procurement of fetal tissue.

And, I think everybody would be a lot more comfortable with that, that resources would not be inadvertently diverted to support those activities, and its association would be terminated.

Mr. ISSA. Thank you. Thank you, Mr. Chairman.

Mr. FRANKS. And I thank the gentleman, and would now recognize the gentleman from Tennessee, Mr. Cohen, for 5 minutes.

Mr. COHEN. Thank you. Ms. Smith, can you tell us what you think was incorrect in the portrayal in the videos of Planned Parenthood's activities and the use of fetal tissue and the price thereof?

Mr. BOPP. Well, if I understand your question——

Mr. COHEN. I said "Ms. Smith." Thank you, Mr. Bopp.

Mr. BOPP. Oh, I am sorry.

Mr. COHEN. Yeah, I know you are getting older, and you do not hear, and you do not remember.

Mr. BOPP. You are right.

Mr. COHEN. Ms. Smith, thank you.

Ms. SMITH. It is hard for me to tell from the videos what is correct or incorrect because I am not familiar with Planned Parenthood's actual practices. I am not a lawyer for Planned Parenthood. What I believe happened according to the team of forensic experts and their report is that the video, things were edited out of context and made to look like they were actually negotiating, haggling, one of the Members put it, about the price as if they were selling body parts. And I do not think that is true. I do not think they were selling fetal tissue, so.

Mr. COHEN. Does the law allow them to get reimbursed for the cost?

Ms. SMITH. Absolutely, the law allows them to get reimbursed. So the discussion of money was about reimbursement costs, and, in fact, even in the edited version, the official does say we are not in this for the profit, and I have to check and see what the reasonable costs are. I understand there were other statements that were edited out of that version that I have not seen.

Mr. COHEN. Mr. Bopp, his comments made on some of the videos, he said that they raise considerable concerns that infants are born alive after an induced abortion at Planned Parenthood and then killed to harvest their tissue. This would be a violation of Federal law, I believe. What is your response to that, Ms. Smith?

Ms. SMITH. I did not see any evidence or hear anything about a violation of the Born Alive statute. If we are talking about pre-viable fetuses, I do not see any violation at all.

Mr. COHEN. And Mr. Bopp has raised concerns that fetal tissue research may be an incentive for women to obtain an abortion, which she might otherwise might be conflicted and not do so. Can you even make a comment on such a convoluted statement?

Ms. SMITH. Well, I know a number of women who have gone through the process of deciding whether to have an abortion, and fetal tissue donation does not seem to me to be something that would enter into their decision making on that issue itself. So I cannot imagine that that is happening.

Also I understand consent and the decision to make the abortion to be happening at a time separate from a discussion about whether given the fact that one has decided to have an abortion, would one like to contribute to the enormous health and lifesaving benefits that can come from fetal tissue, those two decisions are being made separately. And I think the 1988 report recommends that, and I think that is appropriate. And it seems to me that that is happening.

Mr. COHEN. You have already commented, but I would like to hear it again about some of the research being done with the use of fetal tissue to protect people and save people's lives in the future, and maybe find cures and treatments.

Ms. SMITH. Yes, it is contributing, and there was a recent indication from the NIH about this, about the importance of fetal tissue research to many new treatment areas, including diabetes, common diseases like diabetes, and uncommon ones like ALS or Lou Gehrig's disease, and other diseases that we know little about—Alzheimer's, Parkinson's. And there are some promising new treatments in those areas.

Mr. COHEN. As an individual who had polio, and you mentioned that polio was——

Ms. SMITH. Yes, the early polio vaccines came from fetal cell line research, I believe.

Mr. COHEN. I appreciate what fetal tissue can do. Alzheimer's is an issue that is very important to many in America because so many Americans are going to suffer from it, and it costs us so much at our budget, let alone losing our loved ones, and this is research.

Ms. SMITH. Let me say I do think it is important that we are concerned about consent, and that consent is properly obtained from the woman, and that as the Committee represented in 1988 or rec-

ommended in 1988, that the decision to donate be made at a time after one has already decided whether or not to have an abortion. I think that is a very appropriate safeguard against incentivizing abortion somehow.

I find it difficult to think that this would change a woman's mind about having an abortion. Women make decisions to have an abortion for all kinds of reasons. This does not seem to me to be one of them. It would be something that one would decide only after one had made the actual decision.

Mr. COHEN. Thank you, Ms. Smith. I yield back the balance.

Mr. FRANKS. I thank the gentleman. I will now recognize myself for 5 minutes for questions.

There is a lot of focus here by certain Committee Members related to just the fetal tissue portions of it as to the legality or is it for sale, a lot of that. But one thing that is pretty clear. If you look at the videos, you do see that these little body parts represented what once was a living, feeling human child, and that when they came into Planned Parenthood, they were living, human little children, and they died a brutal death while they were there. And we cannot avoid that reality.

With all of the subterfuge, and the distortion, and trying to do the bait and switch tactic, do not forget that these were once little babies that were killed at the hands of Planned Parenthood.

In the first video released by Center for Medical Progress, Mr. Bopp, Dr. Nucatola, senior director of Medical Services at Planned Parenthood, described the factor of intent as playing an important role in an abortionist use of the abortion method. She said, "The Federal abortion ban is a law, and laws are up to interpretation." So there are some people who interpret it as intent. So if I say on day one I do not intend to do this, what ultimately happens does not matter because I did not intend to do this on day one, so I am complying with the law.

So I ask you two questions. First of all, do you believe Dr. Nucatola's reliance on intent as she described it represents a valid legal approach? And secondly, what would change if we had the Pain Capable Unborn Child Protection Act on the books here at the moment?

Mr. BOPP. Well, I think she was referring to the issue of partial birth abortion, and it has been the dodge by the pro-abortion side that that law is only violated if you intend at the very beginning to have a birth partially delivered of a live child, and then killing the child, and then completing the delivery, that that is the process that you intended at the beginning.

However, the law does not work like that. The intent applies to each of those actions; that is, for instance, the intent to kill the child once the child is partially delivered, not whether this complete process was intended in the first instance. Secondly, the Pain Capable Unborn Child Protection Act that was passed by this House of Representatives, there is certainly a potential that some of the children who are born intact and potentially alive are produced at that period of time in which that act would prevent that sort of activity. As a result it could have an impact on obtaining fetal tissue in those instances.

Mr. FRANKS. Well, thank you, sir. Ms. Smith, I will turn to you. When you were asked to define "infanticide," your own words were, "It is when a baby or infant is killed." The Born Alive Infants Protection Act of 2002 clarifies that infants who were born alive during abortion or attempted abortion are afforded all legal protections enjoyed by other persons in the United States.

Ms. SMITH. Yes.

Mr. FRANKS. Please tell me if you would support amendments to the Federal Born Alive Infants Protection Act to protect infants born alive infants into these incredibly vulnerable circumstances by providing a requirement that abortion providers or their staff immediately call 9-1-1 for an emergency transfer to a hospital of these infants born alive at the clinic, and to also provide criminal penalties, including prison time and fines for physicians and medical professionals who do not provide medically-appropriate and reasonable care to a born alive infant.

Ms. SMITH. If you are talking about a viable fetus that is born alive——

Mr. FRANKS. I am talking about born alive.

Ms. SMITH. A viable fetus.

Mr. FRANKS. I am talking about born alive.

Ms. SMITH. Okay. So you are saying pre-viable.

Mr. FRANKS. I am talking about born alive.

Ms. SMITH. Pre-viable.

Mr. FRANKS. I am talking born alive. I do not know what you do not understand.

Ms. SMITH. We are talking about cross-purposes.

Mr. FRANKS. We are talking about a child who is born and is alive. Is that hard to understand?

Ms. SMITH. That is not hard to understand, but the question is it a viable fetus. If it is not viable, nothing will save it.

Mr. FRANKS. So viability transcends being born alive?

Ms. SMITH. Like the Supreme Court, I believe that the proper line we draw is at viability, yes, because if you call 9-1-1——

Mr. FRANKS. So whatever that legal term "viability" is, if the child can do ballet, if they have not achieved that viability thing, then even though they are born alive, then all of a sudden that transcends the whole question?

Let me ask it again. For a child born alive—born alive—a child born alive—that means breathing, moving around, born alive child—do you think that we should have some amendments to our Infants Born Alive Child Protection Act to require that 9-1-1 be called to provide a transfer to a hospital, this infant born alive, and provide criminal penalties, including prison time and fines, for those physicians or medical professionals who do not provide medically-appropriate and reasonable care to a born alive infant?

Ms. SMITH. I think our law already protects born alive infants.

Mr. FRANKS. So you are not going to answer the question.

Ms. SMITH. I am answering your question. Calling 9-1-1 for a 13-week——

Mr. FRANKS. All right. Let me get more specific here then. If a child is born, let us say, at 5 months. We will be specific, 5 months.

Ms. SMITH. Five months, okay.

Mr. FRANKS. Five months, and the child is born alive, should that child then be afforded protection after they are born alive?

Ms. SMITH. Yes, because I think——

Mr. FRANKS. Okay, but not if it is 5 minutes earlier before they move——

Ms. SMITH. [continuing]. I think you are getting close to viability.

Mr. FRANKS [continuing]. Down the birth canal, they are not afforded protection, correct?

Ms. SMITH. Sorry?

Mr. FRANKS. In other words, if they are born alive at 5 months, they deserve the protection, correct? That is what you just said.

Ms. SMITH. If they are a viable fetus, yes, absolutely.

Mr. FRANKS. No, you did not say that. You said that they should be protected if they are born alive. Now, if you have changed your mind, that is fine. You can tell us.

Ms. SMITH. No, I did not change my mind. I think you are confusing me. So if it is born alive and you have a viable fetus, they deserve protection. Yes, they are protected under the——

Mr. FRANKS. But if they are born alive and somebody says——

Ms. SMITH. [continuing]. Born Alive Infant Protection Act. They are already protected.

Mr. FRANKS [continuing]. Somebody arbitrarily says they are not viable, then they are not protectable.

Ms. SMITH. If they are not viable, they will not survive, and so whether you have a Federal law to call 9-1-1 or not, I do not think will protect them.

Mr. FRANKS. Well, how do you know if it is viable without medical professionals? I mean, how do you know? What is——

Ms. SMITH. Well, I am a doctor, but doctors know how to evaluate viability.

Mr. FRANKS. So, but what you are saying is that the child that is born alive then is subject to whatever the doctor says, well, this child is viable, this child is not, so we will decide to let this one live, or we will transfer this one for medical care, but not this one.

Ms. SMITH. Well, some fetuses are viable and some fetuses are not.

Mr. FRANKS. See, that is the schizophrenia of all of this, Mrs. Smith, is that—Ms. Smith, I am sorry.

Ms. SMITH. You should be asking a doctor the questions about how to determine viability protocol.

Mr. FRANKS. Well, but my question to you——

Ms. SMITH. I am giving you the legal defense definition.

Mr. FRANKS. My question to you——

Ms. SMITH. Yes?

Mr. FRANKS. My question to you was if the child is born alive at 5 months, should they be protected, and you are having difficulty answering that question, and I understand. I would have difficulty in your position, too.

Ms. SMITH. Well, because 5 months, I am not sure how many weeks that is, and also it depends on whether the fetus is viable. Some fetuses are never viable.

Mr. FRANKS. Right, whether they are alive or not is the issue. It is whether they are viable. I understand. I would like to understand.

Ms. SMITH. Some fetuses never are viable. At 30 weeks they cannot have a brain, they are not viable, they are not going to live. Would you provide aid and comfort? Yes, I think you do.

Mr. FRANKS. Yes, providing——

Ms. SMITH. But that fetus is going to die.

Mr. FRANKS. Provide appropriate and reasonable care.

Ms. SMITH. Yes.

Mr. FRANKS. That is what we should do.

Ms. SMITH. Yes.

Mr. FRANKS. All right. With that, I will now yield to Mr. King for 5 minutes. I apologize. I will recognize Mr. Johnson for 5 minutes.

Mr. JOHNSON. Well, thank you, Mr. Chairman. This hearing has all of the hallmarks of a Third World 4th rate Nation show trial. The objective of the hearing is to highlight for my friends on the other side of the aisle or to make the case for defunding Planned Parenthood. The reason being or the stated reason that they give it is an abortion provider, and it has got horrific things that it does to effectuate abortion. And so, therefore, we should have a defunding of Planned Parenthood. That is what this hearing is all about.

I call it a "show trial" kind of hearing because the accuser is not present, the Center for Medical Progress. They are not present, neither is the accused, Planned Parenthood. And so, what we have at a crucial moment in the affairs of the Nation, we are coming up on September the 30th, which is the end of the Fiscal Year. We are not talking about funding government operations past September 30th. We are talking about abortion and defunding Planned Parenthood instead.

And we have got only 7 legislative days left in this month to put together a budget so that this country can continue to operate past September 30. And indeed we are careening toward a government shutdown on the issue that is being addressed here today, and it is a show trial. A lot of people are scoring political points.

I will note that on this Committee, only one female on the other side of the aisle. That is pathetic. The voices that are being heard are male voices from the other side of the aisle that want to continue the attack on women's reproductive health. That is what this is all about. It is nothing new. It is a continuation of a mission that the other side has been on since it has been in power here in Congress, and it is a shame that it is engaging in show trials.

Let me ask this question, Mr. Bopp. Outside forensic investigators have determined that the released Center for Medical Progress videos have been heavily edited. Transcripts released from the Center for Medical Progress videos also include words and phrases omitted from the released videos. Mr. Bopp, were you involved in the production of these videos?

Mr. BOPP. I am advised by the Committee staff that this is not the subject of this hearing.

Mr. JOHNSON. Well, no, I am asking the question. Were you involved in the production of the CMP videos, yes or no?

Mr. BOPP. If the Chairman permits me, I will answer the question.

Mr. FRANKS. If the gentleman would like to answer the question he can, but he is not obligated.

Mr. BOPP. No.

Mr. JOHNSON. You were not involved, and you were not present at the time these videos were being shot, were you?

Mr. FRANKS. The gentleman is not obligated, but he is certainly welcome to answer the question.

Mr. BOPP. No.

Mr. JOHNSON. And you have not seen these videos in their unedited entirety, have you?

Mr. BOPP. No.

Mr. JOHNSON. And so, based on your answers, you are telling us that you are here to testify about a series of videos that you cannot confirm whether or not they were accurate or not.

Mr. BOPP. Yes, and this is the old——

Mr. JOHNSON. Yes or no?

Mr. BOPP. No, I am not answering "yes" or "no."

Mr. JOHNSON. You are not? Okay.

Mr. BOPP. No, because I——

Mr. JOHNSON. Well, I will tell you what then——

Mr. BOPP. This is the old——

Mr. JOHNSON [continuing]. If you do not want to answer the question, I have got questions for other——

Mr. BOPP. I said not "yes" or "no."

Mr. JOHNSON. I have got questions for other witnesses, so I am not going to argue with you.

Mr. FRANKS. Let the witness answer the question——

Mr. BOPP. Do not trust your lying eyes, right, Congressman?

Mr. JOHNSON. Well, I mean, you are testifying, sir, to videos that you do not know whether or not they are accurate.

Mr. BOPP. I have seen the videos.

Mr. JOHNSON. You have seen the videos, but you have not seen the unedited videos, correct?

Mr. BOPP. That is correct.

Mr. JOHNSON. And so, therefore, you want this——

Mr. BOPP. And many of the statements——

Mr. JOHNSON. You want this Committee to accept your opinions about some edited videos that you—this is a show trial, Mr. Chairman.

Mr. BOPP. I am testifying based upon the video.

Mr. JOHNSON. You are not testifying on unedited videos. You are testifying based on edited videos.

Mr. FRANKS. Just for my clarity, has the gentleman seen all the unedited videos himself?

Mr. JOHNSON. No, I have not. [Laughter.]

Mr. BOPP. But, of course, he still tries——

Mr. JOHNSON. I have not even seen the edited videos, but my question to this witness is about his ability to come up here and testify in a way that people can accept his testimony with any credibility or not. And I would venture to conclude that your testimony is pretty worthless here.

But let me ask you this question, Mr. Bopp. You are a strong proponent of the death penalty, are you not?

Mr. BOPP. I am a supporter of the death penalty in certain circumstances.

Mr. JOHNSON. And what about you, Ms. Jessen? Do you support the death penalty also?

Ms. Jessen: In certain circumstances.

Mr. JOHNSON. Okay. And, Ms. Ohden, do you——

Ms. OHDEN. No, I am not.

Mr. JOHNSON. You do not support the death penalty?

Ms. OHDEN. No, I do not.

Mr. JOHNSON. Well, I gave you an A for consistency.

Ms. OHDEN. Thank you.

Mr. JOHNSON. You are welcome. And with that, I will yield back the balance of my time.

Mr. FRANKS. I will now recognize the gentleman from Ohio—I am sorry—Iowa. Boy, I have got to get that right. Iowa, Mr. King.

Mr. KING. Thank you, Mr. Chairman, and I thank the witnesses for coming forward here today and delivering your testimony. And I know that sometimes reliving these things is a heavy burden, and I am always impressed when we have witnesses that can deliver that message from the head and the heart from direct experience.

I was listening to the gentleman from Georgia, and some of this does not quite fit up with my world view you might not be surprised to learn. But I notice that, Ms. Smith, he did not ask you your position on the death penalty, so I would give you an opportunity to tell us.

Ms. SMITH. I am against the death penalty.

Mr. KING. You are opposed to the death.

Ms. SMITH. Yes, I am.

Mr. KING. Was it your earlier testimony, though, that dismemberment of babies is not necessarily an inhumane way for those babies to die?

Ms. SMITH. You are using the word "baby." My definition of "baby" is a baby that is born. So if you are talking about fetuses, if you are talking about——

Mr. KING. But you acknowledge that testimony even though——

Ms. SMITH. I support D&E abortion——

Mr. KING. And you would not assert it is inhumane——

Ms. SMITH [continuing]. The safest procedure.

Mr. KING [continuing]. To dismember this unborn baby.

Ms. SMITH. I am sorry, say it again.

Mr. KING. You would not assert that it is inhumane to dismember an unborn baby.

Ms. SMITH. I would not say it that way. I would say it is not inhumane to perform a D&E abortion on a pre-viable fetus, absolutely.

Mr. KING. A pre-viable fetus would be an unborn baby, would they not? We are back to that.

Ms. SMITH. Well, I do not think——

Mr. KING. Excuse me. I will just stop this exchange because you went through this with Chairman Franks——

Ms. SMITH [continuing]. The disagreement we have, yeah.

Mr. KING [continuing]. And I think we have resolved that.

Ms. SMITH. That is a disagreement we have.

Mr. KING. You have your language, and you are sticking to it.

Ms. SMITH. Yes.

Mr. KING. And if anybody uses any other kind of term that describes it any differently, you would object to that.

Ms. SMITH. No, I just want to know what you mean by it. If you tell me what you mean by it, I will answer it.

Mr. KING. So let me ask you another question then since we have established where you are on this with many years of practice, and it is do you recall when it hit the news a few years ago that Red China, the Chinese, would bring criminals up on capital charges, and through due process, the Red Chinese due process, convict them of a capital crime, sentence them to execution, and on their way to execution, harvest their organs and use those organs in medical practices in China. Do you recall that?

Ms. SMITH. No.

Mr. KING. Well, it happened.

Ms. SMITH. I believe you, but I was not——

Mr. KING. Okay. It does happen, and I recall that America was appalled by the idea that a heartless, barbaric civilization like the Red Chinese would sentence someone to death under their version of due process roll them through the operating room on the gurney and harvest their organs: their kidneys, their hearts, their livers, their pancreas, whatever it is that they thought they could utilize at the time. And that was, I will say, the harvest of the execution.

We were appalled at the immorality of executing someone and harvesting their organs. Does that appall you, Ms. Smith?

Ms. SMITH. Yes, absolutely.

Mr. KING. Yeah, I thought it might, and it appalls me.

Ms. SMITH. I am glad we agree.

Mr. KING. But I wonder what the Chinese might think of the United States of America to be borrowing a half a billion dollars from the Chinese, send that money over to Planned Parenthood. That money that gets flowed through their system, ends up being utilized however Planned Parenthood decides, but we are helping to fund an organization that is dismembering babies, harvesting their organs, and selling those organs on the market. And we heard them negotiating for the price on the market, along with the methodologies that would be used in order to harvest more organs.

Now, I wonder, and I would ask you, what do you think the Chinese think of us if we are critical of them for harvesting organs from someone who has gone through due process and sentenced to death?

Ms. SMITH. I have no idea what the Chinese think of us, but I do think that the Supreme Court got it right when it recognized that the State has an interest in the developing and potential life of the fetus and growth with time.

Mr. KING. I would agree with that, and my clock is running, so I appreciate you saying so. And I turn to Mr. Bopp and ask you that same question, Mr. Bopp. Have you heard of the practice in China of harvesting organs? Have you philosophically compared the two methodologies and what the Chinese might think of us?

Mr. BOPP. Yes, I am familiar with those allegations, and, of course, the Chinese are using the same utilitarian calculation that the abortion advocates here are using to justify the abuses that have been documented regarding collection of fetal tissue such as

Professor Smith. Well, the person is not viable, so, therefore, you can kill it at will. Well, the prisoner convicted of a capital punishment on the way to being executed is clearly not viable. "Viable" means the ability for long-term survival.

So in their calculation, the way they treat human beings or do not respect human beings, then it would be perfectly appropriate to do what the Chinese are doing.

Mr. KING. If I could just tie this loop together, Mr. Chairman, is that the United States, at least virtually, the United States is virtually borrowing a half a billion dollars from China and funneling that money through to Planned Parenthood. The fungible budget of Planned Parenthood I will say is being used to commit abortion that are dismembering babies and selling their organs on the open market by the evidence we have seen before our very eyes.

I do not need an investigation to understand what is going here. I hold those truths to be self-evident when I saw the video. And so, this Congress really, we are informing the public by this hearing, but the Justice Department needs to investigate and act, and if they see what I have seen by watching the videos, I believe that brings about prosecutions and eventually convictions. And I call upon the Justice Department, do your job.

You have testified here before this Committee that you are independent branch of the government that is not directed by the President. The President stood on the floor of the Illinois State Senate and said a woman who wants an abortion has a right to a dead baby. I am saying there is nobody in this United States of America that should be compelled to pay taxes that are going to pay the interest on the debt to China so that something like this can happen.

Thank you, Mr. Chairman, and I yield back.

Mr. FRANKS. And I thank the gentleman, and I would now recognize Ms. Chu for 5 minutes.

Ms. CHU. Mr. Chair, I am outraged by the sensational nature of this hearing that makes no pretense of being fair or impartial. And I am outraged by the accusations made against an organization that serves millions of women in our country. In fact, 1 in 5 American women visit Planned Parenthood center for healthcare at some point in their lives. For some it is the only place that they can turn to for even the most basic of care.

When our economy fell into tough times a few years ago, women, especially low-income women, turned to Planned Parenthood for affordable and dependable primary care services. They fill a vital gap that community health centers cannot fill by themselves. The local affiliate in my district, Planned Parenthood Pasadena in San Gabriel Valley, was one of the targets of these videos. The Center for Medical Progress tried to discredit them with their heavily edited videos.

These five short videos, the ones that have been released by CMP, have at least 47 splices where content is edited out, but the conversation appears to be seamless. Critical context is omitted, including Planned Parenthood staff members repeatedly saying that there is no profit from tissue donation and should not be, that tissue donation programs must follow the law, and that substantial changes to medical procedures would not occur.

And we know from the longer version of the first video that Dr. Nucatola said at least 10 times that Planned Parenthood affiliates do not profit from fetal tissue donation, making statements such as, "Affiliates are not looking to make money by doing this. They're looking to serve their patients and just make it not impact their bottom line." Yet none of the highly relevant and exculpatory passages were included in the edited versions' excerpts that CMP initially released to the national media.

And yet, my four affiliates in my local area served over 27,000 women last year alone and saw over 51,500 patients. They did thousands of well women exams, breast exams, tests to determine sexually transmitted diseases, and cervical cancer screenings. By doing this, they saved lives. The leading questions in these videos do not lead to these numbers. Instead, the questions lead to a discussion about a legal fetal tissue donation program that affiliates do not even participate in for the most part. And so, along with my constituents, I am calling out these videos for what they are, the latest attacks on women's access to reproductive healthcare.

Now, Republicans are saying that we do not want to see the videos, but the truth is the opposite. We want to see the whole video, not a selectively edited version. And, in fact, that is why I along with 11 of my colleagues sent a letter to Chairman Goodlatte today saying that the full footage must be made available to us and the public. Only then can there be a fair and complete investigation. And, in fact, without the full unedited source footage, it is impossible for there to be a thorough and transparent congressional investigation.

And so, Professor Smith.

Ms. SMITH. Yes?

Ms. CHU. Would videos like these have any evidentiary value? In other words, should we rely on these videos in our own investigations? And do you believe that the public would benefit from CMP releasing the full footage?

Ms. SMITH. Absolutely. I think CMP should be required to release the full footage. The edited versions would not have evidentiary value precisely for the reasons you have stated because words are taken out of context and placed over each other, out of time, the way sometimes world leaders are made to appear to be singing pop songs. It is that kind of technique that is used on the internet quite often, and it is used here in these videos. And it is just as unreliable.

Ms. CHU. And, Professor Smith, you talked about that research panel that determined the ethics of fetal tissue donation, that 21 people were appointed to this commission and support the idea of fetal research. Can you speak about some of the safeguards that the commission and what lawmakers put in place to ensure no wrongdoing, and do you believe these safeguards are working?

Ms. SMITH. Yes, I do. As far as I can tell, the safeguards appear to be working. The fetal tissue is not allowed to be sold. Women have consented to the abortion separately from the consent to donate tissue, so the incentive for the main actors in these situations, it is not pushing abortion in any way. It is not manipulating people or coercing their choice. And those are all the things and factors that I would hope would be in place.

To the extent the Committee continues to have concerns about that and the public continues to have concerns about whether this is being implemented properly, I think the appropriate response is another commission to address the issues and to investigate the issue.

Ms. CHU. Thank you. Mr. Chair, I would like to enter into the record two letters. The first is a letter from 11 Latino organizations in support of Planned Parenthood of America. The second is a letter from Planned Parenthood to the National Institutes of Health on fetal tissue donation and medical research.

Mr. FRANKS. Without objection.

[The information referred to follows:]

United States Senate
Washington, DC 20510

U.S. House of Representatives
Washington, DC 20515

August 3, 2015

Dear Members of Congress,

As organizations committed to the civil and human rights, health equity, and well-being of Latino/as, our families, and our communities, we the eleven undersigned organizations urge you to oppose all efforts to defund Planned Parenthood Federation of America (PPFA) or other healthcare providers that Latinos/as rely on for high quality care.

The recent manipulated and misleading attacks on PPFA are yet another political attempt to target providers of reproductive health services. The real agenda behind these attacks is to block access to basic health services, particularly for low-income communities, women of color, and young people. These tactics also create an atmosphere of fear and shame intended to intimidate women who seek abortion and those who provide the much needed care.

Such attacks on PPFA, a critical provider of vital health services to low-income women and women of color, threatens to unravel the reproductive health safety net that our Latino/a community relies on. We have already seen such efforts as in Texas when the state legislature authorized the "affiliate rule" that barred all Planned Parenthood health centers from receiving state funds. In 2012, the first full year following the devastating cuts to family planning funding and implementation of the "affiliate rule," Texas met only 13 percent of the need for publicly funded contraception—less than half of national totals for the same year.[i]

Furthermore, defunding PPFA would have a devastating impact on the Latino/a community which experiences higher rates of reproductive cancers, unintended pregnancy, and sexually transmitted infections than most other groups of people in the U.S. In fact, according to the latest statistics from the Centers for Disease Control and Prevention, Latinas have the highest cervical cancer incidence rates.[ii] Latinos/as, including LGBTQ Latinos/as, immigrant women, and women of color experience system barriers such as cost, lack of available clinics, insufficient culturally and linguistically competent health systems, and discriminatory immigration policies that make it difficult for individuals and communities to access routine healthcare. For decades, Latinos have been the most uninsured racial and ethnic group.

That is why our communities rely on Planned Parenthood for quality healthcare. In 2013, PPFA's clinics served 575,000 Latinos, which was 22 percent of their overall patients. We will not tolerate any attempts to cut Latinos/as off from this care.

We strongly urge you to oppose all proposals to defund PPFA and stand with the undersigned organizations to protect the right to health care for Latinos/as and other persons of color. If you have any questions, please do not hesitate to contact Ann Marie Benitez, Senior Director of Government Relations, at National Latina Institute for Reproductive Health at annmarie@latinainstitute.org.

Signed,

Casa de Esperanza

Farmworker Justice

Hispanic Federation

Labor Council for Latin American Advancement

LatinoJustice PRLDEF

League of United Latin American Citizens

National Alliance of Latin American and Caribbean Communities

National Hispanic Media Coalition

National Latina Institute for Reproductive Health

U.S.-Mexico Foundation

VotoLatino

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[i] Jennifer Frost et al., Contraceptive Needs and Services, 2012 Update, GUTTMACHER INST. 19-20 (2014), http://www.guttmacher.org/pubs/win/contraceptive-needs-2012.pdf (showing that Texas met only 13 percent of the demand compared to a national total of 31 percent)

[ii] Centers for Disease Control and Prevention. Cervical Cancer Rates by Race and Ethnicity. http://www.cdc.gov/cancer/cervical/statistics/race.htm. Accessed on July 31, 2015.

Planned Parenthood Federation of America, Inc.

July 29, 2015

Director Francis Collins, M.D., Ph.D.
National Institutes of Health
9000 Rockville Pike
Bethesda, MD 20892

Dear Director Collins:

In the last two weeks, Planned Parenthood has been attacked through a series of doctored videos for our role in helping women who want to donate fetal tissue for medical research.

By design, these attacks completely misrepresent our work and fail to acknowledge that our policies exceed the applicable legal standards. But they won't deter us in any way from providing essential medical care to people around our nation and safeguarding a woman's ability to make her own deeply personal decisions about pregnancy.

It has become clear in the ensuing public debate, however, that there is widespread confusion about fetal tissue research and that government officials, medical researchers, health care providers, and the public could benefit from a review of the research and the procedures surrounding it by an independent expert panel. The last time such a review occurred was in 1988 during the Reagan Administration. We believe it may be time for another expert panel to examine these issues in light of the advancements achieved in medicine over the past 27 years.

While Planned Parenthood has been targeted to make our organization stand in for the field of fetal tissue research, in fact our role is limited. Planned Parenthood affiliates operate in all 50 states, but at this time affiliates in fewer than five states help women donate tissue. We participate in fetal tissue donation and occasionally partner in research not because this research is a core part of our mission, but because we are supporters of medical research and serve women who chose to make donations. The primary entities engaged in fetal tissue research are the researchers themselves, who are often the nation's leading medical institutions. The National Institutes of Health also plays an important role because it provides funding for this research, which is why we are sharing our views with you.

The panel appointed by the Reagan Administration in 1988 provided a tremendous public service when it considered the medical ethics of using fetal tissue for transplantation research. The panel was chaired by Arlin Adams, a retired federal judge

opposed to abortion. Its final report stated: "a decisive majority of the panel found that it was acceptable public policy to support transplant research with fetal tissue."

The panel separated the question of the ethics of abortion, about which the panel members had differing views, from the question of the ethics of using fetal tissue from legal elective abortions for medical research. The panel supported fetal tissue research for two primary reasons: (1) "abortion is legal" and "would occur regardless of their use in research" and (2) "the research in question is intended to achieve significant medical goals." The panel made a series of recommendations to ensure that any research followed appropriate guidelines.

The panel recommended that "the decision to terminate a pregnancy … should be kept independent from the retrieval and use of fetal tissue" so that "a woman's abortion decision would be insulated from inducements to abort to provide tissue for transplant research and therapy." The panel recommended that "payments … associated with the procurement of fetal tissue should be prohibited, except payment for reasonable expenses" so that there would be "no offer of financial incentives or personal gain to encourage abortion or donation of fetal tissue." And the panel recommended that "no abortion should be put off to a later date nor should any abortion be performed by an alternate method entailing greater risk to the pregnant woman in order to supply more useful fetal materials for research." The panel's recommendations were limited in scope to fetal tissue used in transplantation research.

The work of the panel won broad bipartisan support. In 1993, Congress overwhelmingly passed legislation codifying the key recommendations of the panel into law. Prominent Republicans in Congress were among the leaders in the effort to pass the law, including Senator Strom Thurmond and Senator Alan Simpson. Senate Majority Leader Mitch McConnell voted for the legislation.

An important provision of the 1993 law (42 U.S.C. 289g-2) prohibits the acceptance of any payment for a fetal tissue donation other than "reasonable payments associated with the transportation, implantation, processing, preservation, quality control, or storage of human fetal tissue." We require Planned Parenthood affiliates to follow all state and federal laws and have given them specific guidance for complying with this requirement.

Another section of the law (42 U.S.C. 289g-1) imposed additional provisions – such as informed consent requirements and limitations on alterations in timing or method – to federally funded "research on the transplantation of human fetal tissue for therapeutic purposes." A common assumption is that these provisions apply to the tissue donations made by Planned Parenthood affiliates. In fact, they do not apply to any tissue donations made in the United States because NIH is no longer funding transplantation research and has not done so for many years.

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Instead, research has moved into other areas that do not involve transplantation. Currently, fetal tissue research receives around $76 million from the National Institutes of Health each year. We understand this research is being done to advance vaccine development and clinical knowledge and treatment options for life-threatening diseases, chronic conditions, and genetic disorders, such as Parkinson's, Alzheimer's, Down syndrome, ALS, immunologic disorders, spinal cord injuries, hemophilia, leukemia, sickle cell anemia, and diabetes, as well as specific maternal and infant health conditions. Our affiliates in a small number of states have chosen to support women who want to make donations to further this important research.

Although we are not legally required to follow the provisions in the 1993 law applicable to fetal tissue transplantation, we are doing so voluntarily. Our internal policies and procedures incorporate guidelines based on the substance of the federal requirements. We have taken this step because whether we are under a legal obligation or not, we want to make sure we meet the highest medical and ethical standards.

This has led to an unusual situation: Planned Parenthood is currently under attack for violating the 1993 law on fetal tissue research, when in fact we go above and beyond its requirements. As a result of a few doctored videos, Planned Parenthood is seemingly on trial for not complying with a law that does not apply to us, ignoring that our standards voluntarily adopt the substance and spirit of that law. The videos – and the three-year smear campaign behind them – clearly aim both to create revulsion at the process of collecting fetal tissue and to foment opposition to legal abortion and Planned Parenthood. The fact that Planned Parenthood participates in tissue donation in just a few states – and that we have always been committed to following all legal requirements – seems secondary to a group obsessed with inventing a problem, not uncovering one.

Unfortunately, the videos being released are just the most recent in an unending series of attacks on Planned Parenthood. We strongly denounce this latest attempt to strip federal funding from Planned Parenthood and deny essential health care to millions of women.

At the same time, we are first and foremost a health care provider – one that strives to meet the highest medical and ethical standards of compassionate care. We are constantly working to make sure that everything we do meets these standards. Tissue donation may not be part of our core mission, but we do offer this service in a few states to support the women who want to donate to research as a part of finding treatments and cures for devastating diseases and conditions. We want to ensure how we do so continues to meet our demanding standards.

As a result of a scurrilous campaign against Planned Parenthood, there is a renewed debate about the standards for fetal tissue research. A new review by a blue ribbon panel could help ensure the entire medical community is meeting the highest possible standards for this practice. In addition to Planned Parenthood, other health care

providers that make tissue donations could benefit from updated guidance. We are not in a position to speak for the medical researchers, who are the individuals most directly involved in fetal tissue research, but we suspect that they might also welcome a reexamination of the recommendations of the Reagan-era panel, which are now 27 years old.

It may be too much to hope that a new panel could reproduce the broad bipartisan consensus that the 1988 panel achieved. Politics today has become increasingly partisan and respect for science has seemingly diminished. But the inflammatory and misleading videos have pushed this issue into the national spotlight, and a thoughtful, careful review by leading medical and ethical experts could do a lot to help the public and policymakers think through this issue and reach informed conclusions.

It is essential that such a review protect the right of a woman to make her own decision about donation. In the midst of this politically saturated debate, women's voices need to be heard. Said one woman, Kate, about her decision to donate after ending her second, wanted pregnancy because of a fatal condition, "it gave me a little bit of closure to know I'm making a difference. I gave back a little. I did a little bit of good here. This shouldn't have to stop happening. People should always have this option."[1]

We are mindful of our limited role in fetal tissue research and respectful of the other voices that should be heard. We know you and federal medical researchers have valuable expertise and insights to share on this issue. We hope to contribute to a deliberative process rooted in medical facts and science that benefits our nation.

Sincerely,

Cecile Richards

Cecile Richards
President
Planned Parenthood Federation of America

cc: Secretary Sylvia Mathews Burwell

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[1] Jennifer Gerson Uffalussy, "Why Women Do (and Don't) Choose Fetal Tissue Donation After Abortion," *Yahoo*, July 29, 2015, https://www.yahoo.com/health/why-women-do-and-dont-choose-fetal-tissue-125341176512.html.

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Mr. CICILLINE. Mr. Chairman, a parliamentary inquiry?

Mr. FRANKS. The gentleman will state his inquiry.

Mr. CICILLINE. Mr. Chairman, I would like to know whether or not the majority is currently in possession of the unedited videos that are at issue in this hearing.

Mr. FRANKS. I was going to address that. The unedited full footage of these videos is online, and all you have to do—is that incorrect? The CMP has stated that they released it online weeks ago.

Mr. CICILLINE. Mr. Chairman——

Mr. FRANKS. And so, the point is I would only hope that my friends on the minority would actually look at them.

Mr. CICILLINE. No, Mr. Chairman, I believe those are the edited versions of these videos.

Ms. SMITH. There are two things. There are short videos that are heavily edited, and then there are what the CMP has called full footage videos which themselves have also been edited. This is in the forensic analysis report that was submitted to the Committee. So nobody that we know of has seen the actual full footage videos. There is a short version and a long version.

Mr. CICILLINE. That is my point of parliamentary inquiry, Mr. Chairman, that the majority on this Committee is, in fact, in possession of the full unedited videos that are at issue in this hearing.

Mr. FRANKS. The answer is, no, that we are not. But I would suggest to you that we are in possession of enough of it to indicate that living human viable babies are being murdered at Planned Parenthood, and their body parts are being harvested.

Mr. CICILLINE. Point of parliamentary inquiry, Mr. Chairman? Point of parliamentary inquiry?

Mr. FRANKS. One more.

Mr. CICILLINE. Has the majority received videos from this organization?

Mr. FRANKS. We have looked at the ones available to everyone else online. We have not received anything directly from the organization.

Mr. CICILLINE. Point of parliamentary inquiry. Has the majority——

Mr. FRANKS. I am going to move on, sir.

Mr. CICILLINE. Has the majority communicated with this organization and sought copies of unedited versions of these videos?

Mr. FRANKS. The answer is that we have not received any additional footage from CMP, and with that I am going to move on.

Mr. CICILLINE. Mr. Chairman, that was not my inquiry. My parliamentary inquiry is whether or not the majority——

Mr. FRANKS. I recognize the gentleman from Texas for 5 minutes.

Mr. CICILLINE. Point of parliamentary inquiry. Mr. Chairman, my inquiry is has the majority communicated with CMP in an effort to obtain copies of unedited videos or in connection with the ongoing investigation of CMP with respect to these videos.

Mr. FRANKS. They are not in Committee records at this time, and we have made no formal request for that.

Mr. CICILLINE. Thank you, Mr. Chairman.

Mr. FRANKS. And with that, I will recognize the gentleman from Texas for 5 minutes for his questions.

Mr. POE. I thank the Chairman. It seems to me this hearing is not whether there is a crime that has been committed or not. That is a, I think, a decision for the Department of Justice to determine later, even though my friend from Georgia acted as a defense lawyer defending someone that has not been charged in his entire questioning. The issue is whether or not taxpayers should fund Planned Parenthood. That is the issue that is before this Committee today. This is just my opinion, the name is sort of interesting, "Planned Parenthood." Maybe it should be "planned nonparenthood" as opposed to "Planned Parenthood," but that is just my personal opinion.

We talk about women and all of this. I am going to ask the ladies on the far left and the far right at the table, and maybe Ms. Smith in the middle, some questions. Ms. Ohden, just your opinion, is there any reason taxpayers should fund Planned Parenthood? Are there other options where women can receive women's healthcare?

Ms. OHDEN. Correct. I do not have the statistics right in front of me, but your own State is funding women's health at a higher level at the State level. I was reading something yesterday that there is more funding than there had been in the past. Despite the restrictions that have been placed on abortion facilities through different measures.

So I think that is a great example that we know that the State of Texas is still funding women's health services at an all-time high level. I apologize that I do not have that specific information, but I was just reading it on the plane last night.

And I have to just say as a woman who survived an abortion, there is something wrong when healthcare, and women's needs, and women's empowerment is based on someone's life ending.

Ms. JESSEN. Absolutely.

Mr. POE. Thank you. My understanding is there is 732 federally-qualified health centers in Texas, and there are 38 Planned Parenthood centers in Texas. The issue about the videos and was it edited, and was it not edited, that seems to be the discussion in Congress on multiple things. Do we have the full video? Do we have all of the emails? Do we have the side deals with the Iranian nuclear agreement? We always seem to be missing something when we want to make a decision. And here we are wanting the full videos. I think that will all play out.

But the issue is whether or not there should be Federal funds for Planned Non-Parenthood. Ms. Jessen. Is it Jessen?

Ms. JESSEN. Yes.

Mr. POE. Tell me a little bit about your knowledge of Planned Parenthood, I mean, based on your background and your life experiences. You do not have to go into those, but Margaret Sanger, or Planned Parenthood, what do you know about them?

Ms. JESSEN. Well, my biological mother went to a Planned Parenthood, and they advised her to have a saline abortion. So Planned Parenthood has had an enormous impact on my life. I have the gift of cerebral palsy as the direct result of a lack of oxygen to my brain from that procedure.

Margaret Sanger was quite an individual. She said, if I may——

Mr. POE. You may.

Ms. JESSEN [continuing]. Reread this quote that I quoted her earlier. She said, "The most merciful thing that a large family does to one of its infant members is to kill it," and that is the woman that began this organization.

Mr. POE. Do you have a problem with statues of her in different prominent places in America?

Ms. JESSEN. A little bit, yeah.

Mr. POE. I mean, do you or not?

Ms. JESSEN. Yes.

Mr. POE. Do you think that, just your opinion based on your life experiences, and I value you a great deal.

Ms. JESSEN. Thank you.

Mr. POE. Do you think that the taxpayers should fund Planned Parenthood, an organization that does harvest, if we can use the term, body parts of the unborn?

Ms. JESSEN. Absolutely not.

Mr. POE. Okay. Well, my time has expired, and I will yield back the balance of my time.

Mr. FRANKS. And I thank the gentleman. I now recognize Ms. Lofgren for 5 minutes.

Ms. LOFGREN. Thank you, Mr. Chairman. My apologies for having to step out. I chair the California Democratic delegation, and we had the Secretary of Labor meeting with us, and I had to go over for 50 minutes to deal with that. However, I had the benefit of reading all the testimony and, of course, hearing the testimony this morning.

And really it seems to me that there are a lot of distortions in terms of how we are approaching this issue. The real agenda here is pretty obvious, which is to try and outlaw or eliminate abortion in the United States. That is a right that women have under the Constitution, at least in the first trimester. And I think this is a thinly-veiled attack on that right that women have.

Now, Ms. Smith, you are at the law school. You have analyzed all of this stuff. I have got a list of the services that are provided by Planned Parenthood in my State in California, 117 centers, just over 800,000 patients that could not be absorbed by the other clinics at all. None of the abortion services are funded by the Federal Government. It is only these other services—contraception, sexually transmitted disease treatment, pap smears, breast exams, and even sex education and outreach.

I am just wondering what the impact would be, if you have had a chance to look at California's impact. If these centers were defunded, what would happen to their patients?

Ms. SMITH. Thank you for the question. Yeah, I do not have the exact numbers, but what I know is that, and I think this is the terrible irony of this hearing and this idea of defunding Planned Parenthood is that if you defund the important non-abortion related services that the government funds around this country, and particularly in California, what would end up happening is there would be a significant increase in the number of unintended pregnancies, and, therefore, also an increase in the number of abortions that would occur. Now, that is just the impact on abortion rates alone.

We are also talking the ability of women, particularly low-income women, to obtain high quality services, services that simply cannot be absorbed by State community health centers, as has been suggested. We are talking about wellness exams, cancer screenings, pap smears, STD testing, all kinds of services.

So Planned Parenthood has become so popular not because it provides abortions, but because it provides a wide range of services that women and men need to stay healthy. And it does so at reasonable costs, and with very high quality. And that is why I support Planned Parenthood, and that is why a vast majority of the American people do as well.

Ms. LOFGREN. Well, in my community, Planned Parenthood not only provides birth control and cancer screening and the like, but they provide pediatric care. It is a whole family. It is not just women coming in. It is women and their children——

Ms. SMITH. And their children.

Ms. LOFGREN [continuing]. That are getting immunizations and getting, you know——

Ms. SMITH. Yes. And, in fact, that is——

Ms. LOFGREN [continuing]. Pediatric care.

Ms. SMITH [continuing]. An important point, which is that the name "Planned Parenthood" I would disagree with the Member before. The name "Planned Parenthood" is indeed very apt because Planned Parenthood is about helping people plan their families, plan when they are going to have their families, and take care of their families to the best of their ability.

Ms. LOFGREN. Just a final question. There has been talk of shutting the government down and that then would somehow stop Planned Parenthood. What would happen to funding for Planned Parenthood if we had a government shutdown at the end of this month?

Ms. SMITH. Well, because I am not an official at Planned Parenthood, I do know what would happen exactly with their funding stream when they get Federal funding——

Ms. LOFGREN. It is mainly Medicaid funding.

Ms. SMITH [continuing]. And when it would come in. So Medicaid recipients would not be covered, I assume, for their services and for their healthcare needs, and would be unable to go to Planned Parenthood clinics. And women would go without necessary, and their children, would go without necessary healthcare.

Ms. LOFGREN. But it would not defund abortion because there is no Federal money going into abortion.

Ms. SMITH. No. No, it would not defund abortion. This question about fungibility of money I think is quite ironic also. Under Federal law, we do not consider money fungible in this way because it really does not apply. It does not move from one sphere to another.

For example, in our religious freedom cases, we allow the funding of secular services at faith-based organizations, and we do that, and we say it is not an establishment clause violation because the money that goes to religious activities at those same organizations is separately funded. So we recognize the ability, and we can keep those things separate in our head in that context. I think we

should be able to keep those separate here as well because they are separate in reality.

Ms. LOFGREN. My time has expired. Thank you, Mr. Chairman.

Mr. FRANKS. And I thank the gentlelady, and I will now recognize Mr. Gowdy for 5 minutes.

Mr. GOWDY. Thank you, Mr. Chairman. Mr. Bopp, can you describe the process of a partial birth abortion so people will have a better understanding of why it might have been banned, and they may actually have a better understanding of why Professor Smith would have argued against that ban.

Mr. BOPP. Yes. A partial birth abortion, as defined under Federal law, is where a physician partially delivers, usually the trunk and legs, of the baby, leaving only the head in the birth canal, and the baby is alive. And then takes an act to kill the baby at that point, usually thrusting scissors into the back of the skull in order to kill the baby, and then completes the delivery.

So it is a way of killing the baby when most of the baby is already outside of the womb.

Mr. GOWDY. And there are actually people who argued against banning that barbaric practice?

Mr. BOPP. Oh, yes. I mean, many of the people we have been hearing from today were big advocates for a continuation of partial birth abortions. They have no respect for human life if they consider it to be unborn, or they want to label it as a "fetus." And literally anything is all right as far as they seem to be concerned.

Mr. GOWDY. Well, let us go to that point because Professor Smith seems to draw a line, artificial as it may be, between the humanity owed to a viable fetus and the lack of humanity owed to what she considers to be a non-viable fetus. Who gets to draw that line of demarcation between viability and non-viability?

Mr. BOPP. Well, that is a complex question. Number one, it is a medical determination on whether or not a child is viable, but it is a difficult one, and there are many gray areas. For instance, the statistics are after 20 weeks, 1 in 4 can survive. And we would consider that to mean, therefore, that anyone born at that point in time ought to be considered viable.

But many times you just simply do not know until later. And I have not heard any people that work at abortion clinics who are able to make that kind of complex medical decision.

Mr. GOWDY. No, I think Professor Smith, if I heard her correctly, said that she was not a doctor, and it should be up to the doctors to make that determination, although I did note the irony it was 9 damn lawyers who came up with that plan, not a one of whom was a doctor. And I also noted the irony of Hank Johnson wondering why there were not more women on our side of the aisle when they tend to target to seek office as Republican women. And there was not a single woman on the Court when *Roe v. Wade* was decided, but that does not seem to trouble him much either.

For those watching at home or here, does civil law not recognize the viability of even a pre-viable fetus when it comes time for the plaintiff's attorney to get paid?

Mr. BOPP. There are many instances of cases in various states of wrongful death of the unborn, of criminal laws to punish——

Mr. GOWDY. Well, we are going to get to criminal law in a second. Let us just stick civil right now.

Mr. BOPP. Okay.

Mr. GOWDY. Now, when it comes time for the trial attorney to get paid, we have a different definition of "viability," right?

Mr. BOPP. Well, viability is simply not relevant.

Mr. GOWDY. Exactly. You can be 2 weeks pregnant and you have a cause of action on behalf of that unborn child.

Mr. BOPP. That is correct.

Mr. GOWDY. And our friends on the other side of the aisle, some of whom were plaintiffs' attorneys, have no trouble being paid for the life of that 2-week-old.

Mr. BOPP. Right. The idea of using viability as a standard is really antiquated, and most courts have gone away from that to just simply the point that if the child is alive.

Mr. GOWDY. But it is hard to go away from viability when Professor Smith said there is not any humanity owed a pre-viable, she will not say, baby, pre-viable fetus.

Mr. BOPP. That is exactly——

Mr. GOWDY. Did I misunderstand her? Is there any degree of humanity owed?

Mr. BOPP. Well——

Mr. GOWDY. You have been sitting beside her all morning. Did I miss something? Is there something outside the bounds of decency that we really will not allow as long as the fetus is pre-viable?

Mr. BOPP. Well, as I understand her testimony, if the born alive infant is considered to be not viable, then we have a free fire zone. We can do whatever we want. We can kill the baby at will, harvest their tissues, whatever the case may be. And, of course, the concern about producing intact infants, which has been demonstrated in the videos, is, of course, the possibility that these unborn children are alive. And there is even evidence that one of the intact babies born alive had a beating heart, which is a definition of being alive.

Mr. GOWDY. Which is why the videos are relevant to our conversation about partial birth abortions. Mr. Chairman, I am out of time. I just have two really quick questions for Ms. Smith, which she can answer with a "yes" or "no."

Ms. Smith, if we were to double the amount of money available to the providers, but give it to someone not named "Planned Parenthood," would you be okay with that?

Ms. SMITH. I would have to know who it was going to and whether they were qualified——

Mr. GOWDY. Anyone not named "Planned Parenthood."

Ms. SMITH. Not "anyone," no.

Mr. GOWDY. Anyone who is qualified to provide services.

Ms. SMITH. If they provide high quality services to low-income people in the same way that Planned Parenthood does, frankly, yes, I do not have any——

Mr. GOWDY. So you are okay with us defunding Planned Parenthood as long as the money goes somewhere where it can do the most amount of good for the same group of people. You are okay with Congress defunding Planned Parenthood.

Ms. SMITH. Not in the current environment where there is no one——

Mr. GOWDY. And if there were, would you be okay with it?

Ms. SMITH. If there were, yeah, it would be a different world, then, yes, then you could fund that organization——

Mr. GOWDY. So if we can identify——

Ms. SMITH [continuing]. To do those services.

Mr. GOWDY [continuing]. Service providers that meet that same quality of care not named Planned Parenthood, you will support the Republicans in defunding Planned Parenthood.

Ms. SMITH. I do not know that you and I will agree on who those people are, and I would have to know who they are.

Mr. GOWDY. How about we just try?

Ms. SMITH. Theoretically——

Mr. GOWDY. Why do we not do that?

Ms. SMITH. If you are asking me a hypothetical question there was——

Mr. GOWDY. Yeah, I will double the money as long as it does not go to the folks who donate money to Democrats, Planned Parenthood. We will double the amount of money available as long as it does not go to Planned Parenthood. How is that?

Ms. SMITH. "As long as it does not go to Planned Parenthood?" Planned Parenthood today is the institution that provides the best, highest quality care to women in this country across this Nation, in cities, in low-income areas where these services are unavailable to them otherwise.

Mr. GOWDY. They are also the target of videos that are barbaric, and heinous, and subhuman.

Ms. SMITH. They are——

Mr. GOWDY. So as long as we can get that same level of care and do it through an entity not named Planned Parenthood——

Ms. SMITH. They abortions at a very small part of their services, and this is why you oppose them, and that is the only reason you oppose them.

Mr. GOWDY. You have no idea why. I was voting to defund Planned Parenthood, with all due respect, Professor, before the videos ever showed up.

Ms. SMITH. I was not talking about the videos.

Mr. GOWDY. Well, I do not think we know each other well enough for you to assign a motive to what I am doing——

Ms. SMITH. Probably not.

Mr. GOWDY [continuing]. I do not think.

Ms. SMITH. Vice versa. And vice versa.

Mr. GOWDY. I yield back.

Mr. FRANKS. I thank the gentleman. I thank the gentleman. Just to clarify, Ms. Smith, you said earlier that in order to determine whether an unborn child is viable, one would need to ask a doctor. And so, consequently, would you support a requirement that when an unborn child is born alive, that the child be transported to a hospital so that it can survive if it is viable.

Ms. SMITH. If it is viable, if it is born alive?

Mr. FRANKS. No, I am saying so that it can be transported to a hospital where medical——

Ms. LOFGREN. Mr. Chairman?

Mr. FRANKS [continuing]. Where medical doctors can ascertain if it is viable.

Ms. LOFGREN. Mr. Chairman, is there an intent to have a second round of questions since you are engaging in a second round?

Mr. FRANKS. I will move on. Can you answer the question?

Ms. SMITH. I would have to see the bill, so I am not prepared to support or not support.

Mr. FRANKS. I will recognize, Mr. Gutierrez, I believe you are next in line.

Mr. GUTIERREZ. Thank you, Mr. Chairman. Let me just first say I thank all of the men and women that work at Planned Parenthood. I thank them for the incredible service that they offer millions of women who would otherwise go without the kind of kind, considerate, compassionate, understanding service that I believe that women in this country need, and that is not being offered in other venues.

I thank them because just this last year, there are 500,000 fewer pregnancies. That is a way to stop abortion. This should not be a question of who is for abortion, who is against. Everybody is against abortion, but how do you stop abortions? How do you allow everyone to live in the 21st century? How do you allow women to live freely in the 21st century if they are not charge of their reproductive system? I think that is key.

And I think part of what is going on here is that Planned Parenthood has a direct association with the pill, with contraception, and that fight continues to go on. We should not have that fight. The vast majority of women in America and across the world that have access take birth control. I am certainly not going to judge my wife.

We have two beautiful daughters. They are 8 years apart. Why? Because we had access to birth control. We had access to birth control so that we could determine when it was we were going to have children and we could raise those children. We could raise those children to be productive citizens of our society.

When you show me that Planned Parenthood actually was selling body parts, then we are going to have a conversation about the future of Planned Parenthood. Nobody is showing that. And let us make it very, very clear. Medical advances, and vaccines for polio, measles, rubella, vaccines against drugs and neurological disorders, immune deficiencies, cancer, Parkinson's. We need to continue to have medical research, and part of that medical research is because there is the ability to access the fetal tissues, and that there is not profitability in it, and nobody has shown there is profitability in it. But there needs to be a way that we have medical research in this country.

And so, I just want to say thank you to all of the women, and the men, and all of those that labor in our healthcare delivery system across this country, and especially those who would provide that to women.

80 percent of the clients who receive birth control services, that is 516,000 unintended pregnancies annually. I want you to think about that, and I want you to think about the estimated 1 out of 5 women in the United States has visited a Planned Parenthood health center at least once in her life. 20 percent of the women in

this country. Of course, some people do not want them to visit there anymore.

And I also want to talk just a little bit about the fact that as much as we try to have universal healthcare, we still do not have universal healthcare unfortunately in this country. And so, I just want to talk just a little bit, I am not for abortion. Do I honk if I see a sign that says "honk if you are for choice?" Yeah, I do honk. We have been very lucky and very fortunate in my family and in my own personal experience, even when we were pretty poor, to have access to healthcare for my wife, because there were people out there that were giving that kind of access.

And I want to end not by trying to have, I mean, to kind of say that we are for Planned Parenthood because we receive money, I think it is a little just under the belt. This is really about women and about what is the law. So just two last points.

There seems to be a question here of morality, and I just want to say that, look, when you have Members of the House of Representatives proposing DOMA that have been divorced four times, I think we might want to question their knowledge or their sincerity about marriage. Of course, that was overturned by the Supreme Court. When we have clerks that are married once, twice, three, and then all of a sudden get religious and say, well, I am not going to give a marriage certificate to those two men or those two women because it is a case of morality, maybe I might want to question people's morality.

But in the end, what you cannot question is this Congressman's right to defend his two daughters' rights. I raised them. I gave them the best I could, and I trust them. And I am going to protect their right and the right of every other woman to make decisions about their reproductive systems with their conscience. I raised them. I gave them the best values and the best I could do, and I need to respect them now.

And I just wish that in this society we would have a system that respected all women and the kinds of decisions that they have to make every day. Every day they have to make decisions. And I do not think we are in a position to judge them, and I am certainly not going to allow others to promote legislation or to promote situations that put that in jeopardy.

Thank you so much, Mr. Chairman.

Mr. FRANKS. I now recognize Mr. Labrador for 5 minutes.

Mr. LABRADOR. Thank you, Mr. Chairman, and, in fact, I am really grateful for the words of morality that we just heard from my good friend, Luis Gutierrez because this is an issue of morality. This is why we are here today.

I want to begin by making it clear that to me it is not an issue simply of whether Planned Parenthood broke the law by selling fetal body parts obtained through abortion. In fact, I do not know if we are ever going to be able to answer that question whether it was illegal for them to do what they were doing. The real tragedy is that we are confronted today with is that human beings have been reduced to mere commodities in this practice, and Federal dollars are contributing to it. And I think that is immoral.

I do not want to contribute to a system that profits from someone's fate, nor do I want to subject millions of taxpayers to sup-

porting this violation of life. It is often a temptation to boil this argument down to medical terms and ignore the real losses our Nation faces when we choose to reject someone before he or she has been given a chance to live, like these two beautiful women who are here today with us and who have testified so eloquently.

I commend both Ms. Jessen and Ms. Ohden for their courage to come before this Committee as living expressions of life's potential. I am certain that life has not always been easy for them, but I am incredibly grateful that you were given the opportunity to live, and that you are choosing to spend time with us today.

I, too, could be said to be a survivor of abortion. My mother, God rest her soul, passed away 10 years ago this month. I love her, and I love her most of all because at the time of her pregnancy when she was a single mom, she was encouraged by people like Ms. Smith and others to abort me. She was told that the only way she was going to have a life, a good life, was making sure that she did not have this child.

And she did a make personal choice, a choice that should be respected. She made the choice to give me life, but not to just give me life, but to give me a good life; to raise me to the best of my ability to become the best that I could do. She made a deal with her God that if she was going to have this child, she was going to do everything in her power to make sure that this child had a good life. Even though she was a single mom, she did not have any money, she did not have much in her life, she was going to give me the best opportunities and everything else available to me.

And when we talk about this in scientific terms, we forget that we are talking about children. We are talking about human life. We are talking about people who have a God-given potential to be the best that they can be and to be everything that they can be. So I hope we do not forget that.

And when I watched those videos, I have to admit that I could only watch two of them. I think there are seven or eight of them. I could not watch after the second one because I was sickened to my core. To me it was immoral. I do not know if it is illegal, Ms. Smith, but it was immoral what I was seeing on that video.

We can have a discussion whether at some point there should be abortions. You and I will disagree on that discussion. But I can tell you that at that point when those videos were showing that abortion, this Nation should really step back and decide whether we are a moral Nation or an immoral Nation; whether we are willing to allow that to happen or not.

So I have a few questions for you, Ms. Smith. You emphasized that Federal funding for Planned Parenthood is not used for abortion, yet you go on to say that defunding Planned Parenthood would ultimate lead to an increase in abortions. Explain to me why you only associate abortion with Planned Parenthood in the case of defunding Planned Parenthood, but fail to recognize the connection the Federal Government actively contributes money to Planned Parenthood.

Ms. SMITH. What I was saying was that if you defund Planned Parenthood, you defund their contraceptive services and the care that they provide to women who are——

Mr. LABRADOR. So as Mr. Gowdy said, if we gave that money to other community health organizations, would that be okay?

Ms. SMITH. If there were community health organizations that provided as high quality care as Planned Parenthood——

Mr. LABRADOR. Do you think the only community health organization in America that can provide this high-quality care is Planned Parenthood?

Ms. SMITH. Currently, it is definitely the highest quality care available, yes.

Mr. LABRADOR. Well, you are saying "the highest," but are they the only? There are other community health organizations that can do that.

Ms. SMITH. There are definitely community health centers. There is a reason people do not go to them and people go to Planned Parenthood. It is because the care is better.

Mr. LABRADOR. Mr. Bopp, you have elaborated about the potential legal violations that Planned Parenthood may face. However, even it is found that Planned Parenthood did not violate any laws, what justification remains for using taxpayer dollars to fund their practices?

Mr. BOPP. I am sorry, the question again, sir?

Mr. LABRADOR. You have elaborated on whether Planned Parenthood potentially violated the law. Even if they did not violate the law, is there any justification to continue to fund their practices?

Mr. BOPP. Is there any justification to continue to fund Planned Parenthood? No. The reason there is no justification is that even if the current laws are not violated, they clearly are committing abuses and violating moral and ethical principles, and violating the safeguards. As wrong as the NIH panel was about recommending this research, at least they talked about and proposed safeguards, like no financial incentives.

When the laws got passed, it was passed by people that wanted to facilitate. The law was written by people who wanted to facilitate fetal tissue procurement from aborted fetuses, and, frankly, went beyond what the panel would have limited it to.

So it could very well be that the current laws need to be adjusted in order to provide, one, effective protection against these financial incentives, and, two, by providing the necessary protection for infants born alive, which we have a witness right here before this Committee speaking for the abortion industry that says they are in a free fire zone if they are not viable.

Mr. LABRADOR. Thank you. I yield back my time.

Mr. FRANKS. I thank the gentleman, and I will recognize Mr. Deutch for 5 minutes.

Mr. DEUTCH. Thank you, Mr. Chairman. Today marks the first hearing of the full House Judiciary Committee after a lengthy August recess. How fitting it is that it be devoted to a bogus and politically-motivated attack on women's healthcare and on those who provide it.

Let us be clear. The entire premise of today's hearing is based on viral videos that have been dissected, debunked, and discredited. For 3 years, anti-abortion activist fraudulently cast themselves as biomedical researchers. Their goal: to find a gotcha moment that catches staff affiliated with Planned Parenthood break-

ing the law, and after 3 years of deception they have failed to find it.

So what do these extremists do? They heavily edited footage to smear Planned Parenthood, a non-profit healthcare provider that serves over 2.7 million Americans every year as some sort of for-profit enterprise engaged in a preposterous black market of fetal tissue. Conveniently scrubbed out of the parts where staff says that no one should sell fetal tissue, and their goal is to cover the costs of the donation process. In short, these videos are heavily edited and intended to deceive.

So why are we here? We have already learned that Planned Parenthood did not engage in any wrongdoing. They only do fetal tissue donation in a handful of states; that fetal tissue research was consensually obtained through legal abortion, was legalized by Congress in 1993 with bipartisan support; that Planned Parenthood's goal is to fulfill the wishes of those patients who decide to donate fetal tissue to science, and perhaps—perhaps—contribute to research that may someday yield cures to Alzheimer's, and blindness, muscular dystrophy, and so many other ills.

So fetal tissue research is legal. Family planning is legal. And as much as some of our witnesses today like to pretend otherwise, abortion is legal. Yet here we are. This deception has led Congress to hold the first of apparently several hearings. This deception has led presidential candidates to pledge to defund Planned Parenthood, a provider that 1 in 5 American women relies on in their lifetime.

Well, guess what? No Federal funding goes to abortion, so when you defund Planned Parenthood, you are just defunding the over 97 percent of what they do that is not abortion, meaning you defund pregnancy tests. You defund birth control. You defund screenings for breast cancer, and cervical cancer, and ovarian cancer. You defund vaccinations, you defund access to referrals to other hospital and specialists, and you deny prenatal care.

So what happens when you defund Planned Parenthood, a provider that serves over 2.7 million Americans? You defund access to healthcare that has nothing—nothing—to do with abortion.

Now, let me correct the record here. Planned Parenthood does spend Federal funding on birth control that prevents unwanted pregnancies that may lead to abortion. Indeed, in 2013 alone, Title 10 sites like Planned Parenthood helped prevent 1 million unintended pregnancies, which statistically would have likely led to over 300,000 more abortions that year.

I honestly do not know why we are here today, but here is what I do know. I know that not a single one of the men sitting on this dais today ever had to cap a sentence about their educational goals, or their career plans, or their financial aspirations with the phrase, "unless I get pregnant."

I know that Federal law already prohibits Planned Parenthood from using any tax dollars on abortion-related care. Frankly, I think all women should have access to legal abortion regardless of their financial means. And I know that this movement to defund Planned Parenthood is not just an attack on the constitutional right to a safe legal abortion. It is an attack on the entire concept of reproductive justice, which is the idea that all women, regardless

of their race, or sexual orientation, or economic background, have the right to education about sexual health and the right to manage their reproductive health; that they have the right to delay childbearing until they are ready to become mothers, that this right to control their fertility gives them a better shot at controlling their own destinies.

Today's hearing, Mr. Chairman, is an attack on the autonomy and, therefore, on the dignity of women. I, therefore, will not dignify it with any questions, and I yield back the balance of my time.

Mr. FRANKS. And I am grateful. We now recognize Mr. Ratcliffe for 5 minutes.

Mr. RATCLIFFE. I thank the Chair for convening this hearing, although I certainly wish it was not necessary, and that the horrifying events that have prompted it had not occurred in our country. I am grateful for pro-life leaders like Chairman Goodlatte, who are spearheading this critical investigation. And I think it is worth pointing out that that is what this is, it is an investigation, and it is the beginning of an investigation, not the end of one.

I did not come here to make conclusions unlike some of the Democratic colleagues of mine who have been making conclusions from the beginning of this hearing. In fact, in the Ranking Member's opening remarks, he stated that there was no credible evidence that Planned Parenthood had violated the law. He said that before he heard a single word of testimony here.

The Democrats in this room, my colleagues across the aisle, can feign outrage, but this is the obligation of Congress. If Federal tax dollars are going to Planned Parenthood, we have an obligation as duly elected representatives of the people to determine whether or not they are using those Federal tax dollars to violate the law. So my colleagues across the aisle can be upset, but Congress is doing exactly what it should here today.

The gentleman before me just commented on the fact that Congress has returned after a month of recess. Well, I can tell you what the 700,000 people in East Texas that I am privileged to represent wanted to talk about. They wanted to talk about what they saw on these Planned Parenthood videos. Now, again, my colleagues across the aisle can say that the videos are not real, but they are very real to the 700,000 Texans that I represent. And I came here today to ask some questions about that, and I think that the Texans that I represent and Americans generally have been sickened by what they have seen on those videos.

Professor Smith, earlier today you referred to Planned Parenthood as a beloved institution. I do not know Planned Parenthood. All I know is what I have seen on the videos and what their representatives have said. And in examining that footage, I do not see a beloved institution. I see an organization that appears to have a blatant disregard for human life. At least that is what appears on the video.

Now, I know that you have talked about how those videos are not reliable, but that is not the same thing as saying that they are not true. You are not here today under oath to say that none of those statements made by Planned Parenthood employees were not true, are you?

Ms. SMITH. Certainly some of the words they uttered and many of the statements they said, they did say absolutely. But I think the videos were edited to make it seem that they said things they did not say.

Mr. RATCLIFFE. Well, again, I am not asking you to say that they are true. What I am saying is would you at least agree with me that if the words as you heard them on the video are true, that there were some outrageous statements made.

Ms. SMITH. Well, we would have to talk about which statements I think, so.

Mr. RATCLIFFE. Okay. Well, let us talk about some of those statements.

Ms. SMITH. Okay.

Mr. RATCLIFFE. Ms. O'Donnell said, and I will quote it exactly, "This is the most gestated fetus and the closest thing to a baby that I have ever seen," and she taps the heart and it starts beating. "I knew why that was happening. The nodes were still firing, and I do not know if that means it is technically dead or it is alive. It had a face. It was not completely torn up. Its nose was pronounced. It had eyelids. Since the fetus was so intact," she said, "Okay, well, this is a really good fetus, and it looks like we can procure a lot from it. We are going to procure a brain."

I am not asking you if that statement is true. I am saying if it is true, would you agree with me that that is outrageous, and it raises questions about the legality of actions being taken at Planned Parenthood?

Ms. SMITH. I do not think it raises questions about the legality of the actions. I think what she is talking about is an abortion of a pre-viable fetus in ways that are distasteful to many of us. And I think the language perhaps is not sensitive to people in how they want to think about a fetus.

We often equate fetus with baby. In fact, Members of this Committee have done so repeatedly today, and that makes us think about full-term gestated babies rather than fetuses in a very early stage of gestation, which is what she is talking about. So when you juxtapose those images in your mind, it becomes very distasteful. But when you are talking about a very early undeveloped——

Mr. RATCLIFFE. Well, reclaiming my time, I understand we are going to——

Ms. SMITH [continuing]. Situation.

Mr. RATCLIFFE [continuing]. We are going to disagree about, you used the term "fetus," I will use the term "baby." But that statement as I read does not give you reason to think that Congress should investigate whether or not that statement, if true, perhaps violated the partial birth ban or the born alive law?

Ms. SMITH. There is nothing in that statement. Let me talk briefly about——

Mr. RATCLIFFE. Well, let me move on. You have told me that you do not agree with me.

Ms. SMITH. Okay.

Mr. RATCLIFFE. We are just going to have to agree to disagree. But something earlier that you said with Congressman Gowdy was that you would be okay with Congress defunding Planned Parenthood if it made those same Federal tax dollars available to other

providers that were qualified to give healthcare to women in this country.

Ms. SMITH. If there was an institution that provided as high quality care as Planned Parenthood does on a consistent basis——

Mr. RATCLIFFE. Well, that is not what you said earlier.

Ms. SMITH. Well, let me correct the record and be more clear about it. Yes, that is what I am talking about is——

Mr. RATCLIFFE. Okay. Well, so did you know that there are 20 federally-funded comprehensive care clinics for every one Planned Parenthood in this country?

Ms. SMITH. There are many community health centers——

Mr. RATCLIFFE. And are you aware that there are actually 13,000 federally-qualified healthcare centers for women in this country?

Ms. SMITH. Yes, and many of them provide much lower quality healthcare unfortunately than Planned Parenthood does. There was an investigation recently and an article, I think it was in Salon.com about the difference between community health centers and Planned Parenthood clinics and comparing——

Mr. RATCLIFFE. Well, with all due respect, Professor Smith, you keep saying that you do not——

Ms. SMITH. There is a reason people go to Planned Parenthood, which is that the care is very good, very compassionate, and——

Mr. RATCLIFFE. As compassionate as what we saw in those videos?

Ms. SMITH. People trust them.

Mr. RATCLIFFE. Well, we are just going to have to agree to disagree on that. I do want to reserve some of my time to——

Mr. GOODLATTE [presiding]. Unfortunately, the gentleman's time has expired.

Mr. RATCLIFFE. Then I will yield back.

Mr. GOODLATTE. And the Chair thanks the gentleman, and recognizes the gentlewoman from Washington, Ms. DelBene.

Ms. DELBENE. Thank you, Mr. Chair. I wish I could say I am surprised that this Committee's first order of business after this August break is to launch yet another attack on women's health, but I am not. Already this year the House has voted to restrict reproductive healthcare in private insurance, to enact a sweeping 20-week abortion ban, and to allow employers to discriminate against their workers for using birth control. And now, we are conducting a so-called investigation that is rooted in extreme anti-choice ideology rather than evidence and facts.

It is shameful that this Committee is legitimizing the extremists, whose only real intent is to intimidate women and their healthcare providers, and to shutter Planned Parenthood clinics in communities across the country. In my State of Washington, we are already seeing the consequences of these irresponsible, baseless attacks. Last Friday, one of our Planned Parenthood clinics was the victim of arson, a senseless act of violence.

It is past time for Congress to stop focusing on ideology and start focusing on the fats. And the fact is that defunding Planned Parenthood would have a devastating impact on women's access to care. That care includes well women visits, cancer screenings, immunizations, birth control. In fact, more than 90 percent of the services provided by Planned Parenthood are preventative.

We cannot allow the reckless actions of a few extremists to jeopardize the critical safety net provided by Planned Parenthood. And with that, Mr. Chair, I would like to submit for the record a letter from 92 organizations, including the National Women's Law Center, expressing their support for Planned Parenthood.

Mr. GOODLATTE. Without objection, it will be made part of the record.

Ms. DELBENE. Thank you.

[The information referred to follows:]

The Honorable Mitch McConnell
Senate Majority Leader
317 Russell Senate Office Building
Washington, D.C. 20510

The Honorable John Boehner
Speaker of the House
1011 Longworth House Office Building.
Washington, D.C. 20515

The Honorable Harry Reid
Senate Minority Leader
522 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Nancy Pelosi
House Minority Leader
233 Cannon House Office Building
Washington, D.C. 20515

July 27, 2015

Dear Senate Majority Leader McConnell, Senate Minority Leader Reid, Speaker Boehner, and House Minority Leader Pelosi,

The undersigned 92 organizations stand with Planned Parenthood Federation of America during this time of vicious political attack. And we stand with the millions who rely on Planned Parenthood for health care. Planned Parenthood has provided compassionate and critical health care to women, men, and young people for over 100 years and is an integral and necessary part of our health care system.

The organization that released heavily edited video did so as part of an extreme and entrenched campaign to end the availability of lawful and safe abortion in this country. This is not the first time that Planned Parenthood has been targeted in an underhanded manner by those who want to take away the right to abortion and the full range of reproductive health services. There have been other heavily edited videos, attempts at both the federal and state levels to take away Planned Parenthood's funding, and attacks targeting organizations that work with Planned Parenthood (such as the recent outrageous decision to delay a bill establishing a commemorative coin that would raise funds for breast cancer research because one of the beneficiaries would have been Susan G. Komen For the Cure, which funds Planned Parenthood to provide breast cancer screening).

Through it all, Planned Parenthood has continued to provide 2.7 million women and men annually with high quality affordable health care. Planned Parenthood provides a wide range of health services, including abortion, birth control, breast and cervical cancer screenings, and STD and HIV screenings. For many uninsured and under-insured people, Planned Parenthood is the only source they have for these services.

The organizations signing this letter work closely with Planned Parenthood and know of its employees' dedication to assisting their patients and advocating for women throughout the country. Many of us work on behalf of those who rely on Planned Parenthood's compassionate,

high quality care and know how important it is that it continues to be available to those who need it.

Planned Parenthood clinics that participate in fetal donation programs assist those who choose to donate fetal tissue for research – research that has led to important advances in health care, such as vaccines for rubella, and has the potential to lead to breakthroughs in fighting Parkinson's Disease, Alzheimer's, and heart disease. Planned Parenthood and other providers are an important source of tissue for this potentially life-saving research. We should honor and respect women and families who make the decision to donate tissue for scientific and medical research, not demean them and the providers who carry out their wishes.

We support Planned Parenthood and ask that you see these politically-motivated attacks for what they are – an attempt to manipulate public opinion, to vilify trusted health care providers, and to advance efforts to take away women's access to abortion and other important health services.

Sincerely,

A Fund, Inc. (Kentucky)
Abortion Care Network
AccessMatters
Access Reproductive Care-Southeast
ACCESS Women's Health Justice (California)
Advocates for Youth
Alabama Reproductive Rights Advocates
American Association of University Women (AAUW)
American Civil Liberties Union
American Federation of State, County & Municipal Employees (AFSCME)
American Medical Student Association
American Public Health Association
Americans United for Separation of Church and State
Association of Reproductive Health Professionals
Atlanta Pro Choice Action Committee
Backline
Black Women's Health Imperative
California Women's Law Center
Catholics for Choice
Center for Reproductive Rights
Center on Reproductive Rights and Justice at UC Berkeley School of Law signs
Civil Liberties and Public Policy
CHOICES. Memphis Center for Reproductive Health
Colorado Organization for Latina Opportunity and Reproductive Rights (COLOR)
Emergency Medical Assistance, Inc. (Florida)
Feminist Majority
Freedom From Religion Foundation, Inc.
Healthy and Free Tennessee
Innovation Ohio

Institute for Science and Human Values, Inc.
Ibis Reproductive Health
Iowa Abortion Access Fund
Ipas
Jane's Due Process, Inc.
Jane Fund of Central Massachusetts
Jewish Women International
Kentucky Health Justice Network
Legal Voice
Lilith Fund (Texas)
Mabel Wadsworth Women's Health Center
Maine Family Planning
Maine Women's Lobby
Maryland Women's Coalition for Health Care Reform
Medical Students for Choice
Metropolitan Community Church
Montana Coalition Against Domestic and Sexual Violence
NARAL Pro-Choice America
National Abortion Federation
National Asian Pacific American Women's Forum
National Center for Lesbian Rights
National Council of Jewish Women
National Family Planning & Reproductive Health Association
National Health Law Program
National Latina Institute for Reproductive Health
National LGBTQ Task Force Action Fund
National Network of Abortion Funds
National Organization for Women
National Partnership for Women & Families
National Women's Health Network
National Women's Law Center
Network for Reproductive Options (Oregon)
New Jersey Abortion Access Fund
New York Abortion Access Fund
Northwest Health Law Advocates
Options Fund (Wisconsin)
Oregon Foundation for Reproductive Health
People For the American Way
Physicians for Reproductive Health
Population Connection Action Fund
Religious Coalition for Reproductive Choice
Religious Institute
Reproductive Health Technologies Project
Secular Coalition for America
Service Employees International Union
Sexuality Information and Education Council of the U.S. (SIECUS)

Society of Family Planning
South Carolina Coalition for Healthy Families
Southwest Women's Law Center
Texas Equal Access Fund
The Freedom Fund (Colorado)
The National Crittenton Foundation
UltraViolet
Unitarian Universalist Association
URGE: Unite for Reproductive & Gender Equity
Vermont Access to Reproductive Freedom Fund
Wisconsin Alliance for Women's Health
Women for Women (Wyoming)
Women's Health & Education Fund of Rhode Island
Women's Law Project
Women's Medical Fund, Inc. (Wisconsin)
Women's Reproductive Rights Assistance Project (California)
Women's Media Center

Ms. DELBENE. Professor Smith, we were just talking about comments that some of my colleagues have made that community health centers would be able to fill the void if Planned Parenthood was defunded. I would love to get your opinion on that. Is it your understanding that some Americans would be left without access to preventative health services if they were no longer funded and those services were no longer available?

Ms. SMITH. That is right. I do not know the details. I have not studied all the areas that are without community health centers, but I know that there are many places that simply do not have access to them. I also question the level of services that are provided in some of those centers as well. And Planned Parenthood remains the only option for many people to obtain these services. That is definitely true.

Can I correct the record with one point also while——

Ms. DELBENE. Certainly.

Ms. SMITH [continuing]. Which is something that Mr. Labrador said that people like Ms. Smith encourage people to have abortions. And I just want to correct the record and say I have never encouraged someone to have an abortion. I have talked to some women who are friends who have been considering abortion, and they have discussed their options with me. But I would never encourage someone or push anyone to have an abortion, and I wanted to just make that clear on the record.

Ms. DELBENE. I understand. I just want to highlight in my State of Washington, Planned Parenthood has—this is actually 2013 numbers—almost 120,000 patients, over 17,000 folks who have gone in for a pap test, over 17,000 who have gone in for breast exams. So we are talking about preventative services that are so critical.

Ms. SMITH. A huge number, yes.

Ms. DELBENE. And in your opinion, are there particular groups that would be impacted more significantly if Planned Parenthood preventative services were no longer available?

Ms. SMITH. Absolutely. Women who do not have insurance, low-income women in particular, women of color in communities which do not have access to high-quality services and do not have health insurance despite the Affordable Care Act and all the gains that we have made there.

Ms. DELBENE. And as we talk about some of the attacks that we have seen against Planned Parenthood, you talked about this in your testimony. There is a history of this. Can you elaborate a little bit more on that?

Ms. SMITH. Yes. There have been 9 different similar kinds of smear campaigns just since 2000 using these kinds of videos, accusing Planned Parenthood of everything from hiding statutory rape, to I forget all the different ones. There have been a number of them, and Mr. Bopp was asked about them previously as well, and that certainly has gone on. Every time there has been a full investigation. There is a huge hue and cry about it. It gets in the press. Everyone goes crazy. Congressional hearings are held. Things are investigated, and the claims are debunked. It has happened again and again and again, and I will predict that that will happen again this time.

Ms. DELBENE. Thank you. It is unfortunate that it is happening right now. Thank you and I yield back the remainder of my time, Mr. Chair.

Mr. GOODLATTE. The Chair recognizes the gentleman from Michigan, Mr. Bishop, for 5 minutes.

Mr. BISHOP. Thank you, Mr. Chair, and thank you to those of you who have showed up to testify today. Thank you for the fact that you have had to sit through this long bit of questioning. It is very important to all of us.

I take exception with the last exchange that I heard, terms like "smear tactics," or "smear campaign," "attack on women's health." What would you have us do? I do not understand. All of us had to witness what we saw in these videos. Planned Parenthood is funded by the United States government, by taxpayers. It is our responsibility as Members, Republicans and Democrats, to address issues like this in this format.

I think it would be easy just to walk away from this and to just pretend like it did not happen, put our head in the sand. It seems like Congress does that a lot. But in this case, the videos were so abhorrent and so unconscionable that it is our responsibility to step up and to have these hearings to get to the bottom of it before we go forward with the same old same old of funding and funding for the sake of having done it before.

This is our responsibility, and I just want to make that point clear that I am not here on any witch hunt. I am a newer Member. I have not been a part of anything that has happened in the past. I am not here as Republican or Democrat. I am here because I am an American citizen, and I am also a taxpayer, and I believe it is our responsibility to marshal our resources and do it in a way that is consistent with our fiduciary duty. That said, when I see this video I am outraged, and as a citizen I want to be here and talk to all of you. I am sorry about the diatribe, but I think it is very important that you see the emotion in all of us.

I want to get back to a question that we began with, and that was the discussion that we had about valuable consideration, and whether or not any of this testimony, everything that we have heard, the video, is, in fact, illegal. What is "valuable consideration?" I offer that as a question to my legal counsel, both of you. Mr. Bopp, you suggested there is a gaping hole, and it is for reasonable payments for reimbursable costs, whatever that might mean.

I want to read you a portion of this transcript, if I might. And this is between one of the folks that set up the undercover video and two individuals in Planned Parenthood. The actor that was there for the undercover video said, "And we agree that $100 will keep you happy, correct?" Lauren Felzer replies—she is also the senior director of Planned Parenthood—"I think so." Dr. Gatter, also there, M.D. with Planned Parenthood, said, "Well, let me find out what other affiliates in California are getting, and if they are getting substantially more, then we can discuss it then." The actor says, "Yes." Dr. Gatter says, "I mean, the money isn't the important thing, but it has to be big enough that it is worthwhile." The undercover person says, "No, no, but it is something to talk about.

I mean, it was one of the first things that you brought up, right?" Dr. Gatter, "Hmm."

The undercover person says, "Now, here's another thought. If we could talk about a specimen, per specimen per case, or procured tissue sample." Dr. Gatter, "Hmm." Buyer, "So if we are able to get a liver thymus pair, maybe that's $75 per specimen. So that is a liver thymus pair, and that's $150." Dr. Gatter, "Hmm." Maybe that is "mm hmm." I cannot tell from this transcript.

Buyer, "Versus if we get a liver thymus brain hemisphere, and all of that is," and Dr. Gatter says, "Okay." Buyer, "So that protects us so that we're not paying for stuff we cannot use, and I think it also maybe illustrates things." Dr. Gatter, "It's been years since I have talked about compensation, so let me just figure out what others are getting. If this is in the ballpark, it is fine. If it's still too low, then we can bump it up. I want a Lamborghini." And the undercover person says, "What did you say?" And Dr. Gatter says, "I said I want a Lamborghini."

Now, I just read you a portion of that transcript of that video, and this appears to be a flat fee exchange. It is almost as though they are at a restaurant picking from a menu. Is that not valuable consideration that they are talking about, and have we had any discussion about reasonable payment for reimbursable costs?

Mr. BOPP. Well, your last point is what is noteworthy because paying anything is a valuable consideration. And the exception, which they are trying to exploit, is for reasonable reimbursement of costs, reasonable payments for various costs associated with the procurement of the tissue. Well, the costs do not vary based upon how many specimens you get out of a particular fetus. What varies is how much money you are going to get out of it.

And what is noteworthy about that exchange is where was the discussion or reference to, well, what does it cost us when they are talking about how much. What she was interested in is what is the market price. In other words, what is everybody getting for this, not because of our costs, but because of what they are getting. That discussion is 100 percent about maximizing the amount of money that is obtained based upon market considerations and based on per specimen. The costs are not going to change by how many specimens you get, and a per specimen price is not based on any idea of what are the costs related to the procurement.

Mr. BISHOP. Thank you. I know that my time has expired, Mr. Chair, but if I might, the video to which I just referred to and what this Committee has repeatedly referred to throughout this hearing is a material part of this discussion. And at this time, I would ask unanimous consent to enter into the record the entire transcripts, all the transcripts, from these abhorrent tapes that we have been discussing today.*

Mr. GOODLATTE. Without objection.

Mr. CICILLINE. A point of parliamentary inquiry, Mr. Chairman.

Mr. GOODLATTE. I am sorry.

Mr. CICILLINE. A point of parliamentary inquiry.

Mr. GOODLATTE. Sure.

***Note:** The material referred to is not printed in this hearing record but is on file with the Subcommittee. Also, see *Rep. Mike Bishop Submissions* at:

http://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=103920.

Mr. CICILLINE. Are those transcripts complete and full and unedited? Do they contain all of the statements made because I think a review was done that demonstrated the transcripts were inaccurate, and I think it is important if the Committee is going to admit them and rely on them, that we should have some affidavit ensuring that they are, in fact, complete, fair, and accurate recordings of what was actually said in the complete, unedited recordings.

Mr. BISHOP. Mr. Chair, if I might respond.

Mr. GOODLATTE. Absolutely.

Mr. CICILLINE. Because we are just compounding injury upon injury if we are going to admit to this Committee a set of transcripts that are inaccurate, that distort exactly what happened, and rely on them. We have a responsibility to be sure that they are complete and accurate.

Mr. GOODLATTE. Is the gentleman requesting that the transcript of the public video be made a part of the record?

Mr. BISHOP. Yes. These are the public videos that appear that on the——

Ms. LOFGREN. Reserving the right——

Mr. GOODLATTE. So much like of a transcript of any other program——

Mr. CICILLINE. No, quite unlike——

Mr. GOODLATTE [continuing]. That is made available through a news organization or anything else, that is what the gentleman is requesting.

Mr. BISHOP. Exactly.

Ms. LOFGREN. Reserving the right to object.

Mr. BISHOP. And Members can assign credibility to whatever part of it is——

Mr. GOODLATTE. You are not characterizing it. You are just putting into the——

Mr. BISHOP. Exactly.

Mr. GOODLATTE. A transcript of the public record.

Mr. BISHOP. What has appeared to everybody.

Ms. LOFGREN. Reserving the right to object.

Mr. GOODLATTE. For what purpose does the gentlewoman——

Ms. LOFGREN. I would like to comment, it has been the policy of the Committee to not object to putting anything in the record of whatever evidentiary value, so I do understand that tradition, and it is not my intention in the end to object. But I would like to note that if we are going to agree with this, we must also include the forensic report by the Fusion Group that analyzed the video showing that it has no evidentiary value.

Mr. GOODLATTE. If the gentlewoman wishes to offer that, I would be happy to put that in the record if there is no objection to that as well.

Ms. LOFGREN. That would be my request, Mr. Chairman.

Mr. GOODLATTE. All right. Without objection, both of those documents will be made part of the record.

[The information referred to follows:]

Analysis of Center for Medical Progress Videos

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CMP Analysis
August 25, 2015

Executive Summary

At direction of counsel to Planned Parenthood, Fusion GPS analyzed a series of videos recently released by the **Center for Medical Progress (CMP)** purporting to represent undercover sting operations against **Planned Parenthood**. Fusion GPS also commissioned experts to review the videos and conducted preliminary research into the CMP organization and its personnel.

Between July 14th and August 4th, 2015, CMP released a series of videos depicting Planned Parenthood staffers in conversation with CMP operatives posing as employees of a biomedical firm that procures fetal tissue for sale to stem cell researchers. The videos attempt to show that Planned Parenthood profits from the sale of fetal tissue, and, secondarily, that its doctors follow an abortion procedure that violates the so-called "partial birth" abortion ban. A thorough review of these videos in consultation with qualified experts found that they do not present a complete or accurate record of the events they purport to depict.

Each release by CMP contained a short edited video, between eight and fifteen minutes in length, that intercuts clips from the undercover recordings with other content, and a "full footage" video that claims to provide the raw, unedited footage of each interview. A video forensics expert, a television producer, an independent transcription agency, and Fusion GPS staff reviewed this material. While these analysts found no evidence that CMP inserted dialogue not spoken by Planned Parenthood staff, their review did conclude that CMP edited content out of the alleged "full footage" videos, and heavily edited the short videos so as to misrepresent statements made by Planned Parenthood representatives. In addition, the CMP transcript for the "full footage" video shot at Planned Parenthood's Gulf Coast facility in Texas differs substantially from the content of the tape.

At this point, it is impossible to characterize the extent to which CMP's undisclosed edits and cuts distort the meaning of the encounters the videos purport to document. However, the manipulation of the videos does mean they have no evidentiary value in a legal context and cannot be relied upon for any official inquiries unless supplemented by CMP's original material and forensic authentication that this material is supplied in unaltered form. The videos also lack credibility as journalistic products.

CMP Video Analysis
August 25, 2015

Video Analysis

Full Footage Video Analysis

Fusion GPS analysts reviewed all four of the "full footage" videos released by the Center for Medical Progress, totaling more than 12 hours of tape. This analysis did not reveal widespread evidence of substantive video manipulation, but we did identify cuts, skips, missing tape, and changes in camera angle. A forensic video expert, Grant Fredericks, reviewed segments of tape identified as suspicious during this preliminary review. This professional analysis revealed that the full footage videos contained numerous intentional post-production edits.

All four videos feature a younger man posing as "Robert"[1] and a middle-aged woman posing as "Susan," both of Biomax, a biological sample procurement company specializing in tissue for stem cell research. "Robert" displays detailed technical knowledge of abortion procedure, sample collection, and stem cell research. "Susan" claims to be the CEO of Biomax and appears to be focused on the financial aspects of tissue collection.

All four videos contain a frame counter and date and timestamp. Mr. Fredericks notes that the type of hidden cameras likely used to create these recordings typically allow users to encode the date and time prior to recording. Removal or manipulation of encoded timestamps and frame counters leaves evidence behind in the final video. Mr. Fredericks identifies "loss of significant time and image continuity" attributable to post-production edits. While many of these edits removed likely irrelevant content from the beginning and end of the interviews, all four videos also contained intentional edits that removed content from the middle of the videos.

[1] In some videos, "Robert" uses the last name "Sarkis."

"Intact Fetuses 'Just a Matter of Line Items' for Planend (sic) **Parenthood TX Mega- Center" (hereinafter "Texas")**

This video depicts nearly six hours of conversation between Melissa "Missy" Farrell of Planned Parenthood Gulf Coast and "Robert Sarkis" and "Susan" of Biomax. The video also depicts Planned Parenthood lab facilities and shows tissue collected from aborted fetuses at various gestational stages.

The Texas video is likely the most substantially manipulated of the four full footage videos reviewed in this report. Mr. Fredericks' analysis reveals that "approximately 30 minutes" of the meeting are missing from the video shortly after the eighth minute of recording. The clock superimposed on the video skips from 07:46:47 to 08:15:15 from one frame to the next.

Lighting levels and the Planned Parenthood staffer's ID badge at 08:15:15 match the content in the short video that is missing from the full video, suggesting that the content comes from the missing excerpt. This gap also coincides with approximately 4000 words of dialog in the CMP transcript that does not appear in the video. We discuss the short videos and transcripts in detail below.

Left: Texas 'full footage' video at running time 00:08:59:03. Right: Texas 'full footage' video at running time 00:08:59:04 (note that running times are continuous and differ from timestamps).

About 30 minutes later, the camera's frame counter skips ahead 7,583 frames and the timestamp skips from 08:44:26 to 08:44:39. Mr. Fredericks concludes that "this is an edit caused by human intervention in a post-production environment." Mr. Fredericks finds a similar edit at 12:58:43 by the camera's timestamp, in which the timestamp on the following frame reads 13:50:18. He concludes that this too is a post-production edit resulting in the omission of nearly an hour of recording.

Mr. Fredericks also notes that audio is out of sync at various points within this recording, a common feature in edited video. Many segments of the video contain dialog spoken off- camera, but neither Mr. Fredericks nor Fusion GPS staff identified any evidence of audio manipulation within the video segments provided.

CMP's video editors overlooked identifying information contained within the Texas video. At 13:11:59 on the video's timestamp, CMP operatives can be seen handling a credit card that appears to bear the name "Brianna Allen." At 13:59:36, facial blurring introduced in postproduction to obscure interviewers and other individuals' identities briefly moves off of "Susan's" face.

Planned Parenthood VP Says Fetuses May Come Out Intact, Agrees Payments (hereinafter "Colorado")

Like the Texas video, the Colorado tape depicts "Robert" and "Susan" in conversation with Planned Parenthood staff, and shows footage of a lab facility and the fetal tissue contained therein. Mr. Fredericks identified numerous stops and starts in this tape.

The Colorado video's timestamp skips from 10:27:07 to 11:01:40, and the frame counter skips from 030742 to 041744. This edit, which Mr. Fredericks identifies as the result of human intervention post-production, results in more than 30 minutes of missing video. Similar edits omit two to three minutes of audio and video each at approximately 11:24:49, 11:36:47, and 11:41:44 by the encoded timestamp. Another edit at 12:35:50 omits 10 minutes of audio and video information.

At 11:45:46 on the video's timestamp, Mr. Fredericks identifies an edit that may reflect manual stoppage of the camera during recording. Oversaturation, blurring, and a change in camera angle prior to stoppage indicate the movement of a hand toward the camera lens. These effects also are consistent with the operator pushing a button to stop recording. The next image starts in the middle of a recording "packet" at 12:21:55, indicating removal of material recorded immediately after the operator resumed recording. CMP omitted the video immediately following camera stoppage from its "full footage" tape, which means the video does not constitute the full footage of this encounter.

Planned Parenthood representatives asked Fusion GPS to analyze two segments of dialog in this video that were deemed to be suspicious.

The first segment, approximately an hour and 20 minutes into the video's running time, depicts Planned Parenthood staff off-camera saying a phrase that CMP claims was, "It's a baby." Fusion GPS analysts and independently contracted transcriptionists found this dialog to be unintelligible. Because of the poor quality of the recording, the compression of the file by Youtube, and the lack of access to the original file, it is not possible to enhance the sound sufficiently to determine what is being said.

Neither internal nor expert analysis found any artifacts of editing in or around this segment that would suggest the audio was inserted or manipulated using technical tools. Rather, Fusion GPS analysts conclude that this segment simply consists of incomprehensible background chatter picked up by the CMP operative's hidden camera. In our view, CMP created the purported statement, "it's a baby," either through transcription error or intentional fabrication.

Careful review by a number of analysts leads Fusion GPS to conclude that "it's a baby" would be an incongruent statement for the lab tech to make in the context of a lengthy and technical examination of human fetus specimens. In the period prior to this discussion, the CMP operatives and the Planned Parenthood personnel are inspecting a pair of human fetus specimens and engage in a relatively technical discussion of how to identify specific internal organs such as the liver and thymus. Suddenly declaring in the midst of this examination that the subject specimen is "a baby" simply makes no sense.

A second segment of dialog depicts a Planned Parenthood staffer allegedly saying "another boy" approximately two hours and 30 minutes into the video's running time. Again, neither internal nor external analysis found evidence that CMP inserted or manipulated this dialog post hoc. Mr. Fredericks found the audio spectrum to be consistent and continuous before, during, and after this dialog.

Audio spectrum showing a Planned Parenthood representative saying, "It's a boy" approximately two and a half hours into the Colorado tape's running time. This image shows no evidence of audio manipulation.

Although it is unlikely that this dialog was edited in, Fusion GPS finds that the statement lacks context and may have been elicited by CMP's own operatives, who engaged in elaborate efforts to bait Planned Parenthood personnel into using language that could be portrayed as incriminating or otherwise inappropriate.

The analyst says "*another* boy" despite the fact that there is no prior mention of the gender of fetal specimens at any other point in the videos or transcripts. Given that expert analysis found that more than 30 minutes are missing from the Colorado tape prior to this point we deem it likely that CMP deleted initial discussions of fetal gender, most likely by its own personnel.

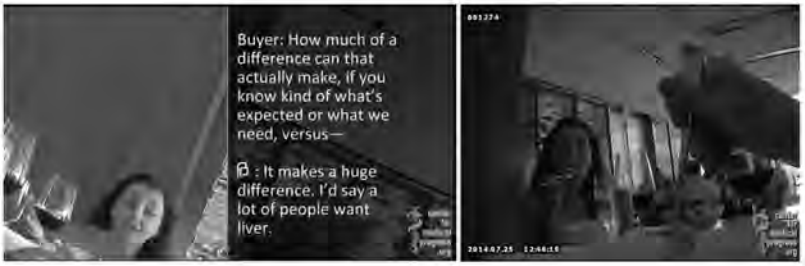
While CMP's undisclosed edits in the earlier portion of the Colorado tape make it impossible to know the broader context of the conversation that led the Planned Parenthood technician to say "another boy," the available tape shows that CMP operatives repeatedly attempted to bait Planned Parenthood staff into discussing the physiology of fetal specimens in lay terms. "Robert" asks, "Was that just the little bits of the skull?" "This is rib cage right here, right?" "This could be neural tissue, could it?" This is part of the pelvis right here, is it not? and many other questions that seem designed to elicit "soundbites" pertaining to fetal viscera. It is thus likely that the removed video contains dialog in which CMP operatives ask about the gender of a specimen.

"Planned Parenthood Uses Partial-Birth Abortions to Sell Baby Parts" (hereinafter "California 2014")

According to encoded timestamps on the CMP video displaying July 25, 2014 (and, in one segment, July 25, 2013), the California 2014 video takes place more than six months prior to the other recordings. This video portrays Deborah Nucatola, Senior Director of Medical Services for PPFA, at a lunch meeting with "Robert" and "Susan."

Mr. Fredericks concludes that "this video has been edited significantly." He identifies a change to the superimposed Center for Medical Progress logo left behind as an artifact of editing system error.

At 14:32:07 on the video's timestamp, the timestamp skips ahead four minutes and the date changes from July 25, 2014 to July 25, 2013. Mr. Fredericks identifies this as a change from footage recorded on one camera to footage recorded on a second device. One minute later, the time stamp jumps ahead by five minutes and the date stamp reverts to 2014, representing a shift back to the original recording device. Visual review of the short and long videos from both California interviews shows clear shifts in perspective from one camera to another.



Left: California 2014 short video at running time 00:03:02. Right: Same dialog in California 2015 "full footage" video (at 00:29:05)

The California 2014 video also contains in-segment edits. The encoded timestamp skips from 4:38:06 to 14:41:08, representing at least three minutes of missing video.

It is not possible to estimate the extent to which CMP's undisclosed edits and cuts distort the meaning of the first California video. However, the blatant manipulation of this video renders it useless as "evidence" and means it cannot be relied upon in official inquiries as a credible record of events unless the record is supplemented by CMP's original unedited material.

Second Planned Parenthood Senior Executive Haggles Over Baby Parts Prices (hereinafter "California 2015")

This video, apparently recorded on February 6, 2015, depicts a lunch meeting between "Robert" and "Susan" of Biomax and Planned Parenthood representatives Mary Gatter (President of Medical Directors' Council for PPFA) and Laurel Felczer (Senior Director of Medical Services for Pasadena and San Gabriel Valley).

Like the California 2014 video, this video clearly shows that CMP edited together footage from two different cameras. The video's time stamp jumps backwards from 12:04:53 to 12:04:24 due to what Mr. Fredericks identifies as post-production insertion of tape from a second camera. The second camera used in the California 2015 recording takes longer segments of video, but is otherwise similar to the cameras used in other recordings.

At the point of this edit, the video briefly shows the male interviewer walking away from the camera. The interviewer physically resembles CMP founder David Daledin, though video evidence is insufficient to conclusively determine the interviewer's identity.

Footage of the male interviewer visible in the "California 2014" tape.

Short Video Analysis

Fusion GPS analysts and Mr. Fredericks reviewed CMP's short videos in conjunction with the "full footage" tapes and conclude that the short videos significantly distort and misrepresent the conversations depicted in the full footage videos. Mr. Fredericks notes that the short videos contain "edited conversations where some spoken words are eliminated and some spoken words are added out of context." The short videos of both the California 2014 and California 2015 interviews contain camera angles not visible in the corresponding "full footage" videos. The short video of the Texas interview contains video and audio that do not appear in the Texas "full footage" video.

Fusion GPS consulted with an experienced reality and documentary television producer, Scott Goldie, for an expert opinion of the editing techniques used in the short videos. Mr. Goldie identifies the use of ominous music, replays, color manipulation, "scratch" effects, strategic display of frame counters and timestamps, all chosen to create "gotcha" moments.

Mr. Goldie points out that in all four short videos, most of the dialog about compensation comes not from Planned Parenthood representatives but instead from CMP operatives posing as buyers:

[I]t's the "buyer" who is doing all the talking. The "buyer" states: "It's gold out there", "So beneficial", "change the procedure a bit", "financial gain", "I want you to be paid", "compensates", "financially helping you", "financial benefits", "grow the clinic", these are all leading statements voiced by the "buyer". But Farrell simply agreeing to these statements is enough to paint her in a bad light.

This is consistent with Fusion GPS analysts' assessment of the "full footage" videos. In all four interviews, CMP operatives repeatedly bring up compensation, often trying to bait Planned Parenthood representatives into making mercenary statements or naming a higher price for donated tissue. In the California 2015 video, the female interviewer explicitly tells Planned Parenthood representatives that the compensation that they requested for fetal tissue donation is "way too low." In the Colorado video, she tells Planned Parenthood representatives that she wants to pay "top dollar."

The short videos take a great deal of dialog out of context so as to substantively and significantly alter the meaning of the dialog contained in the long videos. For example, Melissa Farrell's statement about "diversifying the revenue stream" for her clinic in the Texas video occurs in the context of a conversation about expanding the services available to patients. In the California 2014 video, Dr. Nucatola's statement that Planned Parenthood wants to donate tissue "in a way that is not perceived as 'This clinic is selling tissue. This clinic is making money off of this'" precedes a discussion of the costs involved in collecting tissue.

Transcript Analysis

Fusion GPS contracted the services of an independent transcription agency, TranscriptionWing[2], to transcribe all four "full footage" videos and the corresponding short videos. This was an ordinary arms-length commercial engagement, and TransciptionWing was not informed of the purpose of the request nor of the ultimate client. Fusion GPS analysts then compared these transcripts to transcripts provided by CMP, and, in the case of significant discrepancies, to the videos themselves. All four transcripts by CMP contain substantive omissions, and the Texas transcript appears to be grossly edited.

The style, errors, and patterns of omission in the CMP transcripts lead Fusion GPS to conclude that CMP most likely transcribed the videos "in-house," rather than contracting transcription to an independent agency. This would also explain the significant discrepancies between the CMP transcript of the Texas footage and what appears on the tape. It appears that CMP transcriptionists reviewed an

[2] http://www.transcriptionwing.com/

earlier version of the Texas tape, or possibly that they transcribed recorded "packets" from the raw tape individually before CMP cut the "full-length" video together.

In all four transcripts, CMP omits the names used by its operatives, the company name Biomax, and dialog in which the CMP operatives offer their (presumably fictionalized) back stories. In the California 2014 transcript, CMP's version omits more than 670 words of dialog mostly pertaining to "Susan's" backstory. In the California 2015 video, "Susan" alludes to accidentally calling the male interviewer "David, which is his middle name." In the Colorado video, the male interviewer introduces himself as "David" before correcting himself to say that David is his middle name and that he goes by Robert. These apparent errors provide further evidence to bolster the suspicion that the male interviewer is, in fact, CMP leader David Daleidin. CMP omits all mention of the name "David" in its transcripts.

Many CMP transcripts also alter their operatives' dialog so as to make it seem less like they are baiting Planned Parenthood staff into making unethical statements. For example, in the Colorado transcript, CMP portrays its staff as consistently asking about specimens of a different gestational age than they actually request in the videos.

The Texas video transcript contains the most significant discrepancies. CMP's version of the transcript contains over 4,000 words of dialog that does not appear in the independent transcript or the video.[3] In this dialog, Melissa Farrell allegedly discusses her "a la carte" budget (a phrase she also uses elsewhere in the video) and she and "Robert" engage in a detailed discussion of intact fetuses and the use of medically-induced abortions. Some of this dialog appears to correspond with video used in the short, edited version of the Texas video.

At other points, the CMP transcript of the Texas video appears to omit dialog totaling over 4,000 words.[4] In this segment, apparent in the independent transcript and the video, Farrell asserts that Planned Parenthood will not collect tissue from minors or incarcerated people. Also in this segment, "Susan" asks if Biomax can offer participation bonuses to doctors, and Ferrell responds, "no way." Whereas the content that CMP inserts into its transcript serves to portray Ferrell as flexible regarding Planned Parenthood policies and regulations, the content it omits portrays her as committed to following ethical and legal guidelines.

The numerous errors, discrepancies, and omissions in the CMP transcripts render them useless as "evidence." They also cannot be relied upon in official inquiries as a credible text record of what is said in the videos.

[3] CMP transcript of Texas "full footage: video, pp. 5-15
[4] TranscriptionWing transcript of Texas "full footage" video, pp. 46-56 and pp. 113-115.

Mr. GOODLATTE. And the Chair thanks the gentleman, and now recognizes the gentleman from Rhode Island, Mr. Cicilline.

Mr. CICILLINE. Thank you, Mr. Chairman. Thank you to the witnesses for being here today and for offering your differing viewpoints on this very difficult issue. And I know the passion that accompanies both sides as well as passion from my colleagues.

I am still kind of struggling with what exactly this hearing is about. Issues have been raised with respect to the fetal tissue research. It is clear that there are established scientific protocols that were followed. There is a correspondence in the record from August 27th that confirms that. There has been a lot of discussion about late term abortion, which, of course, is prohibited under Federal law. And then a lot of discussion about the central question of whether women have a constitutional right to make decisions regarding their own reproductive healthcare. That is also a settled question of law.

You said, Mr. Bopp, that you in your written testimony reviewed these recorded conversations released by the Center for Medical Progress, and they reveal many legal issues with Planned Parenthood's procedures and practices regarding fetal tissue procurement. And you base that on your review of these video recordings, and then you were asked about a series of allegations that laws may have been broken in the generation of these videos, Federal tax laws, criminal laws in California that prohibit fraud and forgery, making false charitable solicitations and the like. And Mr. Dahlia's lawyer recently advised a Federal court that he intends to invoke his Fifth Amendment right against self-incrimination in response to a lawsuit alleging he violated Federal and State laws.

You said further that you were advised by this Committee not to discuss the circumstances that occurred in the production, and editing, and alteration, and securing of these videos. Is that correct?

Mr. BOPP. As you are aware, the purpose of this hearing, that is not part of purposes of this hearing.

Mr. CICILLINE. That is not my question, Mr. Bopp. Were you advised by the Committee counsel not to discuss the allegations of criminal behavior in the generation of these videos? That is a "yes" or "no."

Mr. BOPP. I am not answering "yes" or "no" to that question.

Mr. CICILLINE. But were you advised? You said you were advised not discuss it.

Mr. BOPP. You misstated what I said I was advised about, so how can I say "yes" or "no?"

Mr. CICILLINE. Were you advised not to discuss how these videos were produced, whether it was done in violation of law?

Mr. BOPP. I was advised that that is not the purpose of the hearing, and I should not comment.

Mr. CICILLINE. Okay. What this really is, Mr. Chairman and Members of the Committee, is creating an opportunity to defund Planned Parenthood, and to make it more difficult for women to have access to full reproductive healthcare. We know the value of Planned Parenthood each year provides essential care to 2.7 million patients, men and women; that 1 in 5 women in the United States has visited Planned Parenthood once in her lifetime; that a million and a half young people and adults participate in edu-

cational programs on reproductive health; that 6 million visits a month to the Planned Parenthood website where healthcare information is readily available in English and in Spanish.

700 clinics throughout the country that provide 900,000 cancer screenings to help women detect cervical and breast cancer early. 400,000 pap tests, 500,000 breast exams, and 80,000 of those cancer screenings detected early so that hundreds of thousands of children, siblings, and parents are still able to be with their loved ones because Planned Parenthood saved their lives.

I want to associate myself with the remarks of Congressman Deutch and Congressman Gutierrez. I think as you said, Ms. Smith, the cruel irony is that an effort to defund Planned Parenthood, which is already prohibited from using any Federal funds to provide abortion services, means the other 97 percent of their services that I just outlined would be compromised. And, in fact, the incidence of unwanted pregnancies and abortion would increase.

So defunding Planned Parenthood is very likely to cause exactly the thing that the opponents of Planned Parenthood claim they do not want, and that is more abortion. Could you speak more about that?

Ms. SMITH. Yes, I think that is right, and I think one of the things that this makes clear is that the campaign against abortion goes beyond abortion, and that it is also a campaign against contraceptives. We have seen that campaign heat up recently. I just wrote a paper about this, not to promote my own research, but called "Contraceptive Comstockery," which is about the recent campaign, which revives some of the tactics of anti-abortion and anti-contraceptive advocates in the late 1800's and into the 1950's. So that continues today.

Mr. CICILLINE. Yeah, it is very disappointing since many of us had hoped that this issue has been settled, that women have the right to full reproductive healthcare, that they have a right to make decisions about their own bodies in consultations with their own physicians and their own conscience, and that to have our first hearing in the Judiciary Committee, another effort to make it more difficult for women in America to access high-quality healthcare is incredibly disappointing.

I thank you for your testimony, and I yield back.

Mr. GOODLATTE. The Chair recognizes the gentleman from Georgia, Mr. Collins, for 5 minutes.

Mr. COLLINS. Thank you, Mr. Chairman. I ask unanimous consent to enter into the record my opening statement.

Mr. GOODLATTE. Without objection, it will be made a part of the record.

[The prepared statement of Mr. Collins follows:]

Prepared Statement of the Honorable Doug Collins, a Representative in Congress from the State of Georgia, and Member, Committee on the Judiciary

Mr. Chairman, thank you for holding today's hearing on the abortion practices at Planned Parenthood. I'm grateful for your commitment to examining the horrific practices that have been uncovered through a series of undercover videos and to investigating the allegations against Planned Parenthood.

As the father of three children, I believe we have no greater responsibility than protecting human life. I believe abortion is wrong and I think we have a responsibility as human beings to be a voice for those who do not yet have a voice—the inno-

cent unborn. These unborn children are human beings, gifts from God that are brimming with potential. We need to look no further than two of the witnesses sitting before us today. These women, Gianna Jessen and Melissa Ohden, are survivors. They are also proof that there was and is a plan and purpose for their life and that babies unborn and born deserve protection.

But we are here today to talk specifically about Planned Parenthood and their abortion practices. For years Planned Parenthood has engaged in morally questionable activities, but the videos released by the Center for Medical Progress have raised serious questions about immoral, inhumane, and quite possibly illegal practices at Planned Parenthood.

The videos seem to indicate clear intent to alter abortions to harvest fetal organs. This is despicable in and of itself, but it becomes even more morally reprehensible when shown that Planned Parenthood could even be profiting from the sale of babies' body parts.

Planned Parenthood officials in the videos seem to have no qualms discussing the dissection and sale of fetal organs. They casually discuss the commercial exploitation of aborted fetal tissue over lunch, as if babies are a commodity for trade and profit rather than precious lives to be protected.

Abortion proponents and Planned Parenthood apologists try to distort the issue by painting the justifiable outrage and upset over the videos as attacks on women's health. In fact, the Democratic witness present today has claimed this hearing is an attack on Planned Parenthood and the reproductive care it provides. This could not be more false.

First of all, just looking at Georgia as an example, there are 5 Planned Parenthood facilities in my home state. Compare that to the 274 clinics in Georgia providing comprehensive health care services for women. This issue is not about access to care.

This hearing is about ensuring the nation's largest abortion provider—which receives hundreds of millions of dollars in federal funding—is not illegally harvesting fetal organs.

The Committee's investigation is not a jump to conclusions but rather a fact-finding mission to gather the full truth surrounding the horrific allegations in the Center for Medical Progress' videos.

I hope that this will be just the first among many hearings to investigate these abortion practices and to shed light on Planned Parenthood's actions. The American people have a right to know what is happening, and we have a moral obligation to be a voice for the unborn.

Thank you, Mr. Chairman, and I yield back.

Mr. COLLINS. Thank you, Mr. Chairman. As I have said many times as being a Member the last Congress and now this Congress, I am sort of down here toward the end. And after hearing everything, there are many times that you come to points of really wondering, the points of why we are here. And I am able to talk about a lot of different things.

Ms. Smith, I am not even sure, and I may get to you on questions. But what I have heard a lot today from you is context. I am not sure how any of these you could ever put into proper context. I do not care how many ways you want to spin it, what was on those videos and what was said. There is no way you put some of these in context that they are not abhorrent to anyone who would watch those videos.

But I think there is a bigger issue here that really for me it carries out something, and Ms. Ohden and Ms. Jessen. You made a statement in your opening statement about, you talked about, and I have heard this, and I have counseled many who have either had abortions or were thinking about abortion in my life and what I have done as a chaplain, as a pastor, but also as an attorney. And you made a statement, because I have heard this before, if a baby is disabled, we need to terminate the pregnancy as if someone on the outside can determine a quality of life.

And that, frankly, from my position, and was mentioned by even a friend of mine. He is a friend. We disagree greatly on this issue. It is many times a mom and a dad who are facing a tough decision just like we did 23 years ago when my daughter, we found out she had spina bifida. My wife went back to work, and in a time of much emotional turmoil, a colleague of hers said in very interesting ways, I am being helpful. You have choices. You do not have to go through this. We were a young couple back then. She was just starting teaching, and I was working.

Yes, there are life choices made, Ms. Smith. But as you go along and as you look at this, my wife finally figured out what she was trying to tell her. She said you can go kill your child, and you will not have to worry about it anymore. When my wife understood that, she said you are talking about my baby. Not a fetus, a baby.

Today I think we miss this, and this is what gets lost in this debate about quality of life and other issues of when they are born and how they are not born. But the two of you have lives that are so productive. You are not a failure. You are a failure of a misguided person who would want to kill you before you could say you are killing me, but you are not a failure. Cerebral palsy, I love you how you said that, "my blessing." I never thought that I would have a chance to think that the first steps my daughter would ever take was rolling in a wheelchair.

She texted me earlier today, and she was just asking how your day was going. I said it is a pretty hard day. I did not tell her what I was doing. She is at a place getting job skills and life training to be independent. And she said, well, Dad, whatever you are going through, I am praying for you.

My child has a life, and there are many in the abortion industry that are willingly telling people that if you have a child that has the most debilitating condition or even up to spina bifida or other issues, you do not have to go through with this. We forget in this argument today, and I am so over context, I am so over clinics, and we like our clinic better than the other clinic, Ms. Smith. There are other clinics that are out there that can help women and help meet issues. You know that. You may not like them. That is your choice.

But I am so over the fact that we miss a fundamental issue here, and that is life. For me, I commend the hearing. I think it is something because I just do not see a context it can be actually explained away. We want to, and if I was you, Ms. Smith, I would want to as well. But at the end of the day, let us stand up and ask the hard questions, and remember that life, and remember those, as you said, Ms. Jessen, even those who do not really have a voice. If we do not let them have a voice, then they are silent. And for many of us, we will never be silent because life is precious, and for me, they deserve a birthday.

And with that, Mr. Chairman, I yield back.

Mr. GOODLATTE. The Chair thanks the gentleman, and recognizes the gentleman from California, Mr. Peters, for 5 minutes.

Mr. PETERS. Thank you, Mr. Chairman. It has been a long day for the witnesses in particular. I want to thank you all for being here and spending the time.

I do observe that there is a sad and a cruel irony in those who say they are against abortion and trying to defund an organization

that works so hard to prevent them. And one of the core missions of Planned Parenthood is to prevent unwanted pregnancies, and my colleagues apparently want to shut it down.

We are late in the day, and a lot of people have said a number of things, but I would emphasize a couple. We were called out as taxpayers here, and I am a taxpayer, too. And I want you to know that I appreciate what Planned Parenthood has done to prevent STDs, to give cancer screenings to low-income women, and to provide contraceptive care. All those things save us money as taxpayers, and I think that should be not lost on us.

People have commented that the person who made the video is not here, and in my experience in law, that would be an important witness, but that has been covered.

And I would say, too, that I acknowledge and I agree that the discussion of these issues on these videos was somewhat disturbing, and at least insensitive. The issue for us, though, in the Judiciary Committee is to look at what is legal, and just on that point, I do not think anything today has shown that there has been something illegal here.

And if you wanted to test that, you could ask the opponents if they would agree that there was a schedule of the amounts that they would agree was reimbursement as opposed to profit. And they would never agree that $30 was the right number or $50 was the right number because that is really not what is at issue here. The legality of this is not at issue. This is an issue about abortion, choice, contraception, and everything but legality.

I would also observe that Planned Parenthood has not been accused of committing fraud, violating licensing laws, violating the Medicaid statutes, so there is a legal issue with respect to carving them out for Medicaid. And that has been litigated in a number of States because any provider may provide these kinds of care unless they are found to have violated these laws. Planned Parenthood has not been, and attempts to cut them off in Tennessee, Indiana, Arizona, and North Carolina have all been fruitless for those reasons.

So I think it is illuminating in many ways to have this hearing. I think it has not really been about legality. It has been about a much broader issue, an issue I think we all thought would have been settled 40 years ago, that these are decisions that are very, very difficult for families.

And my colleague just shared his, and, gosh, what a thing to have go through. But they are not decisions ultimately that should be made by our government. They are decisions that should be made by a woman in consultation with her doctor and in consultation with her family. And it is not for the Judiciary Committee or the United States government or any government to say how families should handle that very tough issue.

So with respect to the issue of legality, I hope we have run our course. We have certainly had enough time to discuss it. I do not think we found legality would justify any further discussion on this, and I hope we can move forward. And I yield back.

Mr. GOODLATTE. The Chair recognizes the gentleman from Texas, Mr. Gohmert, for 5 minutes.

Mr. GOHMERT. Thank you. And, Mr. Chairman, you did not deserve to be called ignorant by Mr. Nadler. I think you made a very informed decision when you called this hearing, and I appreciate your doing so. And falling last or near the end as I apparently have, I get a chance to address some of the things that have been raised.

First of all, my friend from New York, Mr. Nadler, said these people who did the videos were liars because if they were otherwise, the videos were legitimate, they would have gone to the prosecutor to get these matters prosecuted. But I can answer that because I have advised people that came in as whistleblowers about things that this Administration cared about as they do Planned Parenthood, where they defend them at all cost, as they have even after the videos were made public.

Unfortunately, if you go to a prosecutor as a whistleblower on an organization or a group that this Administration protects, they prosecute you. I have seen that over and over, and that is why at times I have advised people you get a lawyer, and we go a different route. But if you go to the Justice Department, you will find it is a Department of injustice because we have seen it over and over with this Administration.

And as far as cutting and being selective, they did take excerpts and put them online, but also put the long video just so that people would not be able to come in here and honestly say what has been dishonestly said, that they were only trying to show a portion. They cut straight to what they felt was important, but they put the whole thing up there.

And then as far as the continued statement that the first hearing this Chairman called after the August recess was to launch an attack on women's health, I see this as a hearing to protect the health of females. I see this Fox News show, Outnumbered. That has been my life for many years now. I have a wife for 37 years, thanks to her, and I have three wonderful daughters. And our first was born 8 to 10 weeks prematurely. She got down to three pounds before she started gaining weight again. I know what it is to hold a 3-pound child in my hand.

And I did not know whether to stay with my wife in Tyler or to follow the ambulance. My wife said, go do anything you can for our child. I followed the ambulance. The doctor said she cannot see you. Her eyes are not good enough, but she hears you, she knows your voice. You talk to her. You caress her. She grabbed the end of my finger. She held it. They said I could stay for 2 hours at a time. After 8 hours after they had noted, she is pulling strength and life from you. I could not leave. I stayed for hour after hour.

But the thought that somebody could take that little 3-pound child and rip her leg off, or rip her arm off, and not consider that inhumane, or the thought that if we take this little child's heart, or liver, or organs and use it for a productive purpose for somebody else's life, then it is okay. And what really came home was a couple of nights ago, I am in the Old Testament right now, and was reading about a woman that came complaining to the prophet. And she was in a city that was under siege, and she complained that another woman had talked her into a deal where the first time they

would boil her little baby and eat the child, and then after that they would boil the second woman's child and eat that child.

Well, let us face it, come on. This hearing we have heard over and over if it is to save lives it is okay. I could not believe how reprehensible that was, how immoral, and that seems to be happening. But I can tell you I want my girls to have mammograms, and whether they have money or not, I want them to have mammograms. So does it not make more sense to give that money for those of us who deeply care about women's health, give it to facilities that actually do the mammograms so Planned Parenthood does not take their cut?

And when anyone says, oh, but it does not go to fund abortion, listen, I have been a judge, I have been a prosecutor, I have been a chief justice. And if somebody says, well, look, we paid all the rent and all the utilities for this facility, knowing that a crime was being committed in there, you have aided and abetted, and you are as guilty as the principle for what happens in that facility.

And I see my time is up, and I thank you, Mr. Chairman, for your indulgence.

Ms. LOFGREN. Mr. Chairman?

Mr. GOODLATTE. The Chair thanks the gentleman. For what purpose does the gentlewoman from California seek recognition?

Ms. LOFGREN. I would like to ask unanimous consent to put in the record a letter from the California Primary Care Association indicating they do not have the capacity to pick up the Planned Parenthood casework.

Mr. GOODLATTE. Without objection, it will be made a part of the record.

July 30, 2015

The Honorable Dianne Feinstein
United States Senate
331 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Feinstein:

The California Primary Care Association has recently become aware of new legislation by Senator Joni Ernst that would redirect federal funding from Planned Parenthood to community clinics and health centers. The purported goal of such legislation is to prevent a decrease in federal funding for women's health services, while eliminating Planned Parenthood as a healthcare provider.

As the state-wide representatives of community clinics and health centers in California, who serve 5.6 million patients annually, we believe this action would negatively impact the health of our community.

Planned Parenthood currently operates 115 health centers in California and serves nearly 800,000 patients through 1.5 million encounters annually. Eliminating Planned Parenthood from our state's comprehensive network of care would put untenable stress on remaining health centers. We do not have the capacity for such an increase in care and building such capacity would require significant capital investment on par with the Patient Protection and Affordable Care Act expansion.

Even then, the legislation would still eliminate patient's ability to choose the provider with which they feel most comfortable. Planned Parenthood is seen by many as women's health centric, which provides their patients with a level of comfort that cannot be easily duplicated. The women's health focus allows them to be a provider of choice to hundreds of thousands of women who seek out a variety of services that include well woman exams, breast exams, birth control and sexually transmitted disease testing.

In 2013 alone, Planned Parenthood conducted 733,641 tests for Chlamydia - the leading cause of preventable infertility - that resulted in 37,014 positive results and follow-up treatment.

Planned Parenthood is a vital component of the health care system in California and for that reason, we are opposed to legislation that will diminish their capacity to provide care in our state. We respectfully request that you oppose this legislation.

Sincerely,

Andie Martinez Patterson, MPP
Director of Government Affairs

1231 I Street, Ste. 400, Sacramento, CA 95814
www.cpca.org / (916) 440-8170

Mr. GOODLATTE. This concludes today's first hearing as part of this investigation. I want to thank all of our distinguished witnesses for attending. We will soon announce the date of the next hearing.

And without objection, all Members will have 5 legislative days to submit written questions for the witnesses or additional materials for the record.

This hearing is adjourned.

[Whereupon, at 2:16 p.m., the Committee was adjourned.]

APPENDIX

Material Submitted for the Hearing Record

Testimony of Anne R. Davis, MD, MPH
Consulting Medical Director
Physicians for Reproductive Health
House Judiciary Committee
September 9, 2015

Physicians for Reproductive Health (Physicians) is a doctor-led national advocacy organization that uses evidence-based medicine to promote sound reproductive health policies. Our members include physicians of all specialties from across the country. Physicians unites the medical community and concerned supporters. Together, we work to improve access to comprehensive reproductive health care, including contraception and abortion, especially to meet the health care needs of economically disadvantaged patients.

As an organization of doctors, we are appalled by the ongoing disparagement of Planned Parenthood and its dedicated physicians. We stand in support of safe and legal abortion and recognize the incredible value and importance of fetal tissue research. Research has moved forward because of Planned Parenthood's compassionate tissue donation program.

Today's hearing, the first in a series, is entitled "Planned Parenthood Exposed: Examining the Horrific Abortion Practices at the Nation's Largest Abortion Provider" and is prompted by the release of several fraudulent videos by the misleadingly named Center for Medical Progress (CMP). These heavily edited videos aim to discredit, harass, and stigmatize women and their doctors and paint a distorted picture bearing no resemblance to the excellent care provided by Planned Parenthood and its doctors.

The extremist groups supporting and producing these videos oppose legal abortion. As doctors, we know abortion is critical to the health and well-being of our patients. Without question, legal abortion in the United States has improved women's health. From 1958-1967, prior to the *Roe v. Wade* decision, at least 3,400 women died from abortion procedures, almost all of which were illegal.[i] For each death suffered from unsafe abortion, many others endured illegal abortions in circumstances that were degrading and led to dangerous complications. The number of deaths dropped to nearly zero after abortion was legalized, as the medical community had predicted. We have long known that legal, accessible abortion means safe abortion. Indeed, legal abortion is one of the safest medical procedures doctors provide in the United States.[ii]

One in three U.S. women has an abortion by 45 years of age.[iii] Very rarely does a woman regret her decision.[iv] In fact, the vast majority of women report feelings of satisfaction and relief.[v] Abortion is safe and essential medical care for women and families, but political attacks on abortion, abortion providers, and women who have abortions continue. Physicians for Reproductive Health deplores the ongoing efforts to discredit and defund Planned Parenthood and stigmatize abortion providers and women who have abortions. These actions do nothing to advance women's health. It is shameful that there are politicians that discount the dedication and compassion of physicians who devote their lives to helping women.

Ninety-seven percent of obstetrician-gynecologists report having seen a patient that was in need of abortion care.[vi] However, due to a variety of complicated issues, only fourteen percent are able to offer abortion services.[vii] A majority of Americans support legal abortion and anti-choice organizations have failed in their attempts to ban abortion outright. These deceptive videos aim to intimidate abortion providers, a familiar tactic of anti-choice extremists. The baseless vilification of doctors who work at Planned Parenthood will not succeed in discouraging these physicians from providing care that women need.

It is very disturbing that politicians in Congress validate these tactics by holding this hearing. It is no coincidence that the reproductive health care community has witnessed coordinated harassment of reproductive health care providers across the country in the weeks since the release of the first videos.[viii] Since then, Planned Parenthood and other abortion care providers across the country have faced relentless attacks, both political and criminal. Some clinics have been targets of harassment and arson. Individual doctors and their families have received violent threats. We call on members of this committee to condemn these acts of domestic terrorism.

The widely discredited videos not only smear the reputations of abortion providers, but are being used to close the doors of Planned Parenthood, one of the largest and well-established providers of women's health care in the United States. In 2013, the most recent year for which data are available, Planned Parenthood provided services to 2.7 people during 4.6 million health center visits. At least 60% of these patients benefited from public health coverage programs such as the nation's family-planning program (Title X) and Medicaid. At least 78% of these patients lived with incomes at or below 150% of the federal poverty level.[ix] This is why the American Congress of Obstetricians and Gynecologists and the *New England Journal of Medicine* stand with Planned Parenthood and against defunding efforts.

Planned Parenthood places enormous emphasis on preventive care like STI testing, which prevents infertility, and contraception, which prevents abortion. Recent analysis by the Guttmacher Institute shows unequivocally that Planned Parenthood plays a major role in delivering publicly supported contraceptive services and supplies to women who are in need of such care nationwide.[x] In two-thirds of the 491 counties in

which they are located, Planned Parenthood health centers serve at least half of all women obtaining contraceptive care from safety-net health centers.[xi] In one-fifth of the counties in which they are located, Planned Parenthood sites are the sole safety-net family planning center.[xii] Anti-abortion zealots claim that other health care providers would fill the void if Planned Parenthood can no longer serve these patients, but this is simply not true. Community health centers lack the capacity to replace the high quality comprehensive care that Planned Parenthood provides for millions of Americans.[xiii] It is unconscionable that members of Congress would vote to further limit access to vital preventive care for so many low-income people in our country.

Physicians for Reproductive Health strongly denounces CMP's attempt to taint the integrity of high quality health care professionals in reproductive health care. Women who have abortions often wish to donate tissue for research that can lead to lifesaving medical and scientific breakthroughs. This is done in a generous and altruistic frame of mind with the hope that they can help support advancements in medicine, and help other women and families who would benefit from fetal tissue research. Established legal and ethical standards guide these donations. Fetal tissue research underlies vaccine development and advancements in understanding conditions such as Parkinson's, Alzheimer's, Down syndrome, ALS, spinal cord injuries, hemophilia, leukemia, and diabetes. As physicians, we honor and respect women's decisions to donate fetal tissue in order to improve health outcomes for others. We understand the value of medical research and the essential role of fetal tissue research in particular. The same cannot be said of the people behind these videos.

Physicians for Reproductive Health stands in solidarity with all the providers and clinicians who have been unfairly and inappropriately depicted in a smear campaign intent on destroying their integrity. We urge members of Congress to support doctors and their patients and reject the tactics of fringe groups that ignore medicine and science. We implore Congress to focus on the importance of Planned Parenthood to women across our country, and to cease all efforts to defund this nationally important health care provider. To defund Planned Parenthood is to condemn low-income women and families to poor health. That is unacceptable.

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[i] Henshaw, S, Unintended pregnancy and abortion in the USA: Epidemiology and public health impact, *Management of Unintended and Abnormal Pregnancy* at 33 (2009).
[ii] Raymond EG and Grimes DA, The comparative safety of legal induced abortion and childbirth in the United States, *Obstetrics & Gynecology*, 2012, 119(2): 215–219.
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[iv] Rocca CH, Kimport K, Roberts SCM, Gould H, Neuhaus J, and Foster DG, Decision Rightness and Emotional Responses to Abortion in the United States: A Longitudinal Study, 2015, PLoS ONE 10(7): e0128832. doi:10.1371/journal.pone.0128832.
[v] Id.
[vi] Stulberg, DB, Dude, AM, Dahlquist, I, and Curlin, FA. Abortion provision among practicing obstetrician-gynecologists, *Obstetrics & Gynecology,* 2011, 118(3), 609-614.
[vii] Id.

[viii] See, e.g. Basset L, Death Threats on Abortion Providers Spike in Wake of Planned Parenthood Videos, *Huffington Post*, September 3, 2015.
[ix] Topulos GP, Greene, MF, Drazen JM, Planned Parenthood at Risk, *New England Journal of Medicine* 373;10, September 3, 2015.
[x] Frost J and Hasstedt K, Quantifying Planned Parenthood's Critical Role in Meeting the Need for Publicly Supported Contraceptive Care, *Health Affairs* Blog, September 8, 2015.
[xi] Id.
[xii] Id.
[xiii] Rosenbaum S, Planned Parenthood, Community Health Centers, And Women's Health: Getting The Facts Right, *Health Affairs* Blog, September 2, 2015.

BRUCE POLIQUIN
[illegible]

[illegible]
Washington, DC 20515
(202) [illegible]

Congress of the United States
House of Representatives
Washington, DC 20515–1902

September 9, 2015

Chairman Bob Goodlatte
House Committee on the Judiciary
United States House of Representatives
2138 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Goodlatte,

I commend your leadership on the House Judiciary Committee as it investigates Planned Parenthood's practices. Serious moral, ethical, and legal questions have been raised from the videos showing senior officials from Planned Parenthood discussing the horrific ways they alter abortion procedures to harvest organs of the unborn for profit. Like many Americans, I was extremely appalled when I learned of these practices and applaud your efforts to thoroughly investigate this matter.

In early August, I wrote to Secretary of Health and Human Services Sylvia Burwell, asking very specific questions to learn if proper procedures are in place to ensure that federal dollars are not being used for any elective abortion, as well as to inquire if HHS is aware of Planned Parenthood altering abortion procedures for harvesting organs. As you know, doing so is illegal. I was extremely dismayed when I received her response as it did not answer any of the questions my letter posed. In fact, I recently discovered that Secretary Burwell sent the very same letter that she sent me to over forty members of the United States Senate in response to a letter they wrote that asked very different questions.

Whether one is pro-life or pro-choice, we are a society that relies on the rule of law. It is imperative that our laws are followed, not discarded. When the most senior official from the Department of Health and Human Services responds to members of Congress by merely sending a form letter, it is wrong, and is a sign of complete disregard for any accountability.

Because of this, I am including a copy of my letter to Secretary Burwell and respectfully request that you will add my questions to the list of items the Judiciary Committee examines as it continues the important work of investigating Planned Parenthood.

Thank you very much.

Sincerely,

Bruce Poliquin

Bruce Poliquin
Member of Congress

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BRUCE POLIQUIN
2nd District, Maine

COMMITTEE ON
FINANCIAL SERVICES

426 Cannon House Office Building
Washington, DC 20515
(202) 225-6306

Congress of the United States
House of Representatives
Washington, DC 20515–1902

August 5, 2015

The Honorable Sylvia Matthews Burwell
Office of the Secretary
United States Department of Health and Human Services
200 Independence Avenue, SW
Washington, D.C. 20201

Dear Secretary Burwell:

I am extremely concerned about the serious allegations that Planned Parenthood Federation of America is altering abortion procedures, including performing partial birth abortions, in order to harvest and sell body parts for profit. If proven true, these horrific acts violate federal law and must be stopped. Beyond the clear intent, spirit and content of the law, the unthinkable act of merchandising body parts from almost fully developed babies neither reflects my values as a parent, nor those of most Maine 2nd District families, who I represent, let alone millions of other compassionate Americans.

Our Constitution gives the U.S. House of Representatives the authority to appropriate federal funds to all federal government departments and agencies, including the Department of Health and Human Services (HHS) which you head. Under HHS' purview, $528 million was distributed to Planned Parenthood during 2014. As such, American taxpayers have a vested interest in how Planned Parenthood operates.

I realize that the organization provides important health care services to women in Maine and across the country, including cervical and breast cancer screenings, laboratory and radiology services, prenatal and postpartum care, immunization, and sexually transmitted disease testing. I also understand that Planned Parenthood performs more than 30% of all abortions in the United States - 327,000 last year, or nearly 900 every day. It is illegal for Planned Parenthood to perform elective partial birth abortions, alter abortion procedures to harvest organs, or use federal tax dollars to pay for any elective abortion procedure.

We should always extend compassion and care to every woman who faces an unwanted pregnancy. We should offer her help and empathy, never condemnation. We should also extend this same compassion and care to unborn children.

Research confirms that unborn babies feel pain at 20 weeks of pregnancy, halfway through full-term development. At 19 weeks, an unborn child can be startled by loud noises outside the womb. It is unimaginable that Planned Parenthood's medical professionals have discussed, on camera, inhumanely crushing babies' heads to start the dismemberment process to preserve organs for harvest and sale. This is immoral; this is cruel; this is wrong; this is illegal. When asked about the legality of altering abortion procedures to harvest organs, a senior Planned Parenthood official stated on camera that "the federal partial birth abortion ban is a law and laws are up to interpretation." Whether one is pro-life or pro-choice, we are a society that relies on the rule of law. It is imperative that our laws are followed, not discarded.

The continued public release of chilling videos where Planned Parenthood officials cheerfully boast about their seemingly illegal activities raises a number of common sense questions.

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Has Planned Parenthood performed elective partial birth abortions? Has it harvested body parts from any abortion and sold them for profit? Has the organization altered its abortion procedures in order to harvest organs? Has Planned Parenthood used taxpayer dollars to pay for elective abortions?

When hard-earned taxpayer dollars are used to help fund any organization, a bond of trust is expected among our taxpayers, the receiving entity, and our government. In this case, your Department is responsible for ensuring that trust is not broken, the law is not breached, and sensible human care is extended to almost fully-developed babies. Given the evidence thus far, I question whether that has happened.

As such, in the strongest and most direct language possible, as a Member of Congress and parent, I request the U.S. Department of Health and Human Services provide my Office with a report detailing how federal tax dollars are distributed to Planned Parenthood Federation of America, and what management safeguards are in place to ensure their lawful and proper use.

My 650,000 constituents from Maine's 2nd District deserve to hear from you promptly. I will personally call you on Monday, August 10 if your Office hasn't responded to this request by then.

Sincerely,

Bruce Poliquin

Bruce Poliquin
Member of Congress

DEPARTMENT OF HEALTH & HUMAN SERVICES

OFFICE OF THE SECRETARY

Assistant Secretary for Legislation
Washington, DC 20201

The Honorable Bruce Poliquin
U.S. House of Representatives
Washington, DC 20515

AUG 14 2015

Dear Congressman Poliquin,

Thank you for your recent letter regarding medical research using human fetal tissue. The use of fetal tissue in medical research has been an instrumental component of our attempts to understand, treat, and cure a number of conditions and diseases that affect millions of Americans. Scientists have been working with fetal tissue since the 1930s. For example, fetal tissue is an important resource for researchers studying retinal degeneration, pregnancy loss, human development disorders, and early brain development, with relevance to autism and schizophrenia[1]. Research conducted with fetal tissue continues to be a critical resource for important efforts such as research on degenerative eye disease, human development disorders such as Down syndrome, and infectious diseases, among a host of other diseases.

Within the Department of Health and Human Services (HHS), the National Institutes of Health (NIH) and the Food and Drug Administration (FDA) currently fund or conduct research involving fetal tissue samples. This research constitutes only a tiny fraction of the total research budgets of these institutions.

The majority of this research is conducted by third-party institutions using NIH funding. In FY 2014, research involving fetal tissue samples accounted for less than 0.3 % of NIH's total research budget. Like all HHS funding recipients, NIH employees, grantees, and contractors are required to comply with applicable legal requirements, including relevant provisions relating to research involving fetal tissue. When submitting an application and accepting an award, the designated representative of the organization receiving the funding certifies that researchers using these samples are in compliance with applicable legal requirements such as the Public Health Service Act, 42 U.S.C. § 289g-2, which governs the use of human fetal tissue. In addition, by accepting an award, funding recipients agree that they will follow all applicable legal requirements and the applicable agency's grants policy statement, and must be able to demonstrate their compliance with applicable legal requirements. HHS also requires funding

[1] In addition, research using cell lines derived from fetal tissue has also played an essential role in the field of vaccine development. The 1954 Nobel Prize in Medicine was awarded for work with fetal cell lines that led to developing a vaccine against polio. Fetal cell lines were also instrumental in the development of vaccines against hepatitis A, rabies, measles, mumps, and rubella and remain valuable in important efforts such as the pursuit of a vaccine for Ebola and new therapeutics for HIV/AIDS.

recipients to certify no less than annually that they are in compliance with applicable legal requirements.

NIH has confirmed that third-party institutions receiving NIH funding for research involving fetal tissue samples have confirmed that their activities are in accordance with applicable legal requirements. That assurance includes a specific reference to relevant provisions relating to research involving fetal tissue. As a reminder to all NIH funding recipients, as well as researchers who may apply for funding in the future, NIH has released a guide notice reminding researchers of their obligations to follow applicable legal requirements pertaining to research involving fetal tissue. This guide notice has been published in the NIH Guide to Grants and Contracts, which is the official publication for NIH medical and behavioral research grant policies, guidelines and funding opportunities, and is an effective way to communicate with the entire research community.

In addition, a small amount of research involving fetal tissue samples is conducted by researchers at NIH and FDA. This research involving fetal tissue conducted by NIH researchers accounts for less than 0.01% of its total research budget and is principally related to the study of eye disease, infectious diseases, and human development. The amount of funding involving fetal tissue samples accounts for a tiny fraction of FDA's total research budget and is principally conducted in connection with testing potential new drugs and biologics.

NIH and FDA researchers obtain tissue from non-profit organizations that have provided assurances to us that they are in compliance with applicable legal requirements. In addition, NIH and FDA have obtained assurances verifying that the research they support is in compliance with applicable legal requirements, including relevant provisions relating to research involving fetal tissue. NIH and FDA have also sent a reminder notice to their intramural research communities that all research must be in compliance with all applicable legal requirements.

The Public Health Service Act (42 U.S.C. § 289g-2), prohibits knowingly acquiring, receiving, or otherwise transferring any human fetal tissue for valuable consideration if the transfer affects interstate commerce. Violation of this statute carries criminal penalties that apply to both those who supply and those who acquire human fetal tissue. 42 U.S.C. § 289g-1 sets forth additional requirements for HHS-conducted or HHS-supported research on the transplantation of human fetal tissue for therapeutic purposes. However, HHS has not funded or conducted this specific type of research involving fetal tissue in recent years. Currently, we know of no violation of these laws in connection with the research done at our agencies. Furthermore, as noted above, we have confirmed that HHS researchers working with fetal tissue obtained the tissue from non-profit organizations that provided assurances to us that they are in compliance with all applicable legal requirements.

While HHS provides funding to Planned Parenthood Federation of America through competitively-awarded grants and contracts, the funding does not support research involving fetal tissue. Instead, the funds are used to provide critical health services, including annual wellness exams, cancer screenings, contraception, and to further the study of sexually-transmitted diseases. Further, no federal funds can be used to cover abortions or health benefits coverage that includes abortions, except in the case of rape, incest, or when the life of the woman

is endangered. This has been federal law, enacted in annual appropriations legislation, since the 1980s.

We hope you find this information helpful. Please let us know if we can be of further assistance.

Sincerely,

Jim R. Esquea

Jim R. Esquea
Assistant Secretary
for Legislation

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