Approved: March 10, 2000
Date

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Senator Lana Oleen at 11:00 a.m. on March 8 , 2000 in Room 245-N of the Capitol.

All members were present except: Senator Vidricksen

Committee staff present: Mary Galligan, Legislative Research Department
Russell Mills, Legislative Research Department
Theresa Kiernan, Revisor of Statutes
Judy Glasgow, Committee Secretary

Conferees appearing before the committee: Senator Nancey Harrington
Cindy Patton, Attorney
Karyl Graves, Wee Life, Inc.,
Representative Phill Kline
Phyllis Walters, Individual
Gordon Risk, M.D.

Others attending: See Attached Sheet

Chairman Oleen recognized Ron Hein, who requested the introduction of a bill concerning the handling of hazardous waste. Senator Becker moved to introduce the bill. Senator Harrington seconded the motion. The motion carried.

Chairman Oleen opened the hearing on:

Sub HB 2581– Partial birth abortion

Chairman Oleen recognized Senator Harrington who appeared as a proponent to **Sub HB 2581.** Senator Harrington referenced sections of the Roe vs. Wade and the Casey court decision. (Attachment 1) She stated that the "partial birth" procedure is not recognized in medical textbooks and that intact D&X poses serious medical risks to the mother.

Chairman Oleen recognized Cindy Patton, a Topeka lawyer, as a proponent to **Sub HB 2581.** Ms. Patton addressed issues from the 7th Circuit case of Christensen v Doyle which upheld the constitutionality of the Wisconsin and Illinois partial birth abortion statutes. (Attachment 2). She encouraged the legislature to take seriously its responsibility to protect the life of the unborn child after viability and to eliminate partial birth abortions.

Chairman Oleen recognized Karyl Graves, Wee Life, Incorporated, as a proponent to **Sub HB 2581**. Wee Life, Incorporated, is a non-profit organization dedicated to restoring full legal protection to the pre-born under the United States Constitution. (Attachment 3). Ms. Graves stated that Wee Life, Incorporated, supports the spirit and intent of **Sub HB 2581** to stop the D & X procedure.

Chairman Oleen called on Phyllis Walters, a proponent to **Sub HB 2581.** Ms. Walters stated that the world of medicine has increased greatly over the years since Roe v Wade and today doctors are able to correct serious conditions before a baby is born. "Life Magazine, December 1999, Page 115 Born Twice" (Attachment 4).

Chairman Oleen recognized Representative Phill Kline, as a supporter and proponent of **Sub HB 2581.** Representative Kline responded to the request to explain his interpretation of the 1998 bill on abortion. He distributed information on a program to be aired on "20/20" March 8 concerning the selling of tissue and organs from aborted fetuses. (Attachment 5).

Chairman Oleen turned to Opponents and called on Gordon Risk. M.D. a psychiatrist with a practice in Wyandotte and Johnson Counties, to testify against **Sub HB 2581.** Dr. Risk stated that he was dismayed the proposed elimination of the mental health as a legitimate consideration in a woman's right to choose an abortion.(Attachment 6). He stated that mental option for abortion must exist in all trimesters.

Chairman Oleen announced that meeting would continue March 9 and that an adjustment of the time would be made at that time for the opponents' testimony.

Meeting adjourned at 12:00 p.m. The next meeting will be March 9, 2000 at 11:00 a.m.

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
GUEST LIST
DATE: MARCH - 8, 2000

NAME	REPRESENTING
Cleta Reneer	Right to Life of Ks
Karyl GRAVES	Wee Life, INC!
Darlene Fern Starns	
Norella Muñoz	
Lindsay Doll	
Courtney Wilson	
Jackson Cole	Sen. Tyson Office
Mary Jo Hansen	DK. Co. Leadership
Emily Hemmerich	DK Co Leadership Alumni
Emily Wickersham	DK County Leadership - Chapman KS
Anna Timm	DK Co Leadership - Enterprise
Cindy Patton	Kansans for Life
Barb Soldier	Kansans for Life
Phyllis J Walters	Kansans for life
Nina Bond	Kansas for life
Bruce Dimmitt	KFL
Don Rosenow	
Mary Kay Ceeh	Ks Catholic Conference
Beatrice Swoopes	Ks Catholic Conference

STATE OF KANSAS

NANCEY HARRINGTON
SENATOR TWENTY-SIXTH DISTRICT
P.O. BOX 697
GODDARD, KANSAS 67052
(316) 794-3775

STATE CAPITOL
ROOM 128-S
TOPEKA, KANSAS 66612-1504
(785) 296-7367

TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS
VICE CHAIR: FEDERAL AND STATE AFFAIRS
MEMBER: JUDICIARY
TRANSPORTATION AND TOURISM

March 8, 2000

Testimony before Senate Committee on Federal and State Affairs.

Hearings on a Ban to Partial Birth Abortion.

Rationale for Banning Abortions (Late term) JAMA - August 26, 1998 - Vol. 280, No. 8 from North Western University Medical School and Evanston North Western Healthcare and the Division of Maternal - Fetal Medicine. Dr. LeRoy Sprang M.D., and Mark Neerhof.

Sen. Federal & State Affairs Comm
Date: 3-8-00
Attachment: # 1-1

Partial - Birth Abortion (INTACT D&X)

Intact D&X came to the forefront of public awareness in 1995 during congressional debate on a bill banning the procedure.

The opponents of the ban asserted that the procedure was rarely performed - approximately 450 - 500 per year, and only in extreme cases, when the woman's life was at risk or the fetus had a condition incompatible with life. After President Clinton's veto in 1996, conflicting information surfaced. Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, had stated in November 1995 that "women had these abortions only in the most extreme circumstances of life endangerment or fetal anomaly."

<u>However</u>, he later admitted that his own contacts with many physicians performing intact D&X procedures found that the vast majority were done not in response to extreme medical conditions <u>but</u> on <u>healthy</u> <u>mothers</u> and <u>healthy</u> <u>fetuses</u>.

One facility reported that physicians use intact D&X on at least half of the estimated 3000 abortions they perform each year on fetuses between 20 and 24 weeks gestation.

"In another report, Dayton Ohio physician Martin Haskell, who at that time had performed more than 700 partial birth abortions, stated that most of his abortions are <u>elective</u> in that 20 to 24 week range, and that probably 20 % are for genetic reasons, and

the other 80 % are purely elective."

In the U.S. Supreme Court 1989 Webster decision; the Court stated in the framework established by Roe V. Wade 20 weeks falls within the 2nd trimester and under Roe, regulation was permissible only to assure the health of the woman. (The Court later in the Casey Decision (1992) upheld the established health definition of "substantial and irreversible impairment of major bodily function.") Justice O'Connor, noted that there was roughly a 4 week margin of error in determining gestational age. "Thus when a doctor believes a fetus to be 20 weeks old, it might be 24 weeks old, which would place the pregnancy in its 3rd trimester. Under Roe, states can regulate 3rd trimester abortions to protect fetuses if they are viable.

Martin Haskell, M.D. in September 1992 before the National Abortion Federation Risk Management Seminar presented his new method for abortion at 20 - 32 weeks and later - the Dilation and Extraction or D&X (Partial birth abortion) procedure. 1. Extract baby intact except for the head; 2. force scissors into the base of skull of living fetus; 3. Vacuum brain through the hole.

The JAMA continues that the late James McMahon, M.D., detailed before Congress his experience with more than 2000 partial birth abortion procedures. He classified only 9 % of that total as involving maternal health indications (of which the most common was depression) and 56 % were for "fetal flaws" that included many non-lethal disorders some as minor as cleft lip.

In testimony before this Committee last April, Dr. Jared Pingleton, PHY. D testified that mental health concerns such as depression, or anyone experiencing even severe mental health disorders while pregnant can be successfully treated. That currently written legislation allows for women seeking late term abortions, functionally permits persons who are not trained, experienced or licensed in psychological disorders to make such psychological diagnosis, is unethical, and possibly dangerous. He also testified that no psychological or medical data exists which states the mothers mental health is improved by the death of a viable post 20 week baby.

The Journal (JAMA) further states there exist no credible studies on intact D&X (or partial birth abortion) that evaluate or attest to its safety. That the procedure is not recognized in medical textbooks nor is it taught in medical schools or in obstetrics and gynecology residencies, and that intact D&X poses serious medical risks to the mother.

The journal expressed ethical concerns as well. Such as "what happens when, as must occasionally occur during the performance of an intact D&X (partial birth), the fetal head inadvertently slips out of the mother and a live infant is fully delivered?" "For this reason, many otherwise Pro-choice individuals have found intact D&X (partial birth) to close to infanticide to ethically justify its continued use."

That an extraordinary medical consensus has emerged that (Partial Birth) intact D&X is neither necessary nor the safest method for late-term abortion. In addition to American Medical Association and AGOG (American College of Obstetricians and

Gynecologists) policy statements.

Warren Hern, M.D., author of "Abortion Practice" has questioned the efficacy of intact D&X. "I have very serious reservations about this procedure...you really can't defend it...I would dispute any statement that this is the safest procedure to use." Hern states that turning the fetus to a breech position is "potentially dangerous."

At 21 weeks or more the risk of death from abortion is 1 in 6000 and exceeds the risk of maternal death from childbirth, 1 in 13,000.

Fetal Considerations: "The fetus is capable of experiencing pain to an increasing degree as gestation advances. Prohibiting elective terminations beyond 22 weeks would minimize the fetal pain and suffering associated with termination of pregnancy."

In 1997, the Royal College of Obstetricians and Gynecologists, Britains equivalent to a Panel of the National Academy of Sciences, suggests 3rd trimester termination , the fetus will feel the pain and may even in some sense, be aware that it is being killed. (The New Republic, January 2000)

The journal concluded the following: (1) Intact D&X (partial birth abortion) should not be performed because it is needlessly risky, inhumane, and ethically unacceptable. This procedure is closer to infanticide than it is to abortion.

Current Kansas law regarding Partial Birth abortion allows for a specific mental health exception. In the first 6 month reporting cycle (1998) the Kansas Department of Health and Environment reported 58 Partial Birth abortions performed on viable babies in Kansas due to the mental health exception. Of the 58, none were Kansas residents.

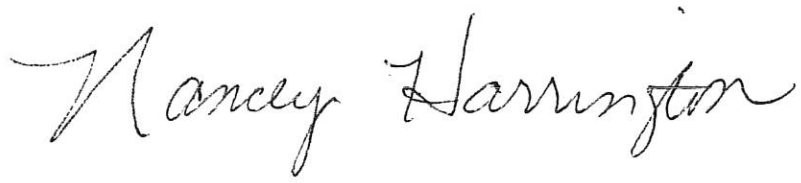
As I've established in my testimony Partial Birth abortion is not a safe or medically necessary procedure.

In 1997 the 6th Circuit Court of Appeals struck down the state of Ohio's ban on Partial Birth Abortions, noting the Ohio law excluded a mental health exception after fetal viability. The Harvard Law Review in January of 1999 issued that the 6th Circuit turned the Supreme Courts "cardinal principle" on its head: At each perceived ambiguity, instead of seeking a constitutional interpretation, the Court employed precisely the interpretive stance and reading that would invalidate the ban."

The Review also stated that "once again, the Court (6th Circuit) shifted techniques, adhering to or ignoring the definition as it suited the Courts purpose."

Dr. Kermit Hall editor of The Oxford Guide to United States Supreme Court Decisions, faxed to me the January Harvard Law Review, as well as the following from a New Republic article: In 1997 the U.S. Court of Appeals of the 6th Circuit struck down a Partial - birth abortion ban, noting a lack of a mental health exception. In a broad definition of maternal health, the 6th Circuit Court predicted that today's U.S. Supreme

Court would hold that a woman has a right to abortion whenever carrying the child to term would pose a serious threat to her mental health. If the Court agrees that the Constitution requires a mental - health exception to late term abortion restrictions, it will undermine the central holding of the Casey (1992) decision, which stressed that, after viability, the fetus's interest in life may trump the mother's potential distress.



Senator Nancey Harrington

Dear Senator Harrington:

Twenty seven years ago I gave birth to a baby boy that was premature. He lived three days, while the Dr's were working with him he felt pain. The ~~[illegible]~~ smallest butterfly needles that were inserted made him cry terribly. So you can imagine what it must feel like to have your entire brain sucked out while you are being held inside the mothers womb to muffle the cries. Do Something!

Joy

SENATOR NANCEY HARRINGTON

☞ To assure a response, be sure to include your address and phone number on the opposite side.

Name Joy Youngers
Address 4790 S. 135th W.
Clearwater KS 67026
Phone 316 545 7671

SENATOR NANCEY HARRINGTON
KANSAS STATE SENATE
Room 128-S, State Capitol
Topeka, KS 66612-1504

66612-1504

1-8

LAW OFFICES

Patton and Patton

CHARTERED
SOUTHWEST PLAZA BUILDING
3601 SW 29th ST. STE 118
TOPEKA, KANSAS 66614

Joe Patton
Cynthia Patton

(785) 273-4330
Fax (785) 273-3398

March 8, 2000

TESTIMONY RE SUBSTITUTE HB 2581

Substitute HB 25821 would amend the existing partial birth abortion law to restrict all partial birth abortions except those necessary to preserve the life of the mother.

Since the passage of the earlier partial birth abortion law in Kansas, KSA 1999 Supp 65-6721, abortion statistics reveal abortionist George Tiller performed 58 partial birth abortions for mental health reasons. We can infer from those statistics that he is using the mental health exception under the partial birth procedure to get around the restrictions on late-term abortions found in that same statute. The amendments to the law are intended to close that loophole.

Partial birth abortion statutes have met with constitutional challenges in several states. The 7th Circuit has recently upheld the constitutionality of the Wisconsin and Illinois partial birth abortion statutes in the case of Christensen v Doyle,

The 8th Circuit case of Stenberg v Carhart has been accepted for review by the U.S. Supreme Court. The case will be argued in April and presumably decided by late June.

At issue is the interpretation of language in Planned Parenthood v Casey in Justice Sandra Day O'Connor's opinion that, "subsequent to viability, the State in promoting its interest in the potentiality of human life may, if it chooses, regulate and even proscribe, abortion except where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother." Justice O'Connor also asserted the standard that a statute must be looked at in terms of whether it places an undue burden on her right to have an abortion.

In the 7th Circuit case, the Wisconsin statute was held not to be an undue burden or overbroad. The court held that the partial birth abortion statute language was not unconstitutional on its face.

One of the objections to the constitutionality of the statute is that it could be interpreted to encompass D and E abortions as well as D and X abortions (commonly known as partial birth abortion).

To perform a D and E, the physician dilates the cervix and dismembers the fetus inside the uterus using forceps. Fetal parts are removed with forceps or by suction. A D and X or partial birth abortion is a variant of a D and E in which the fetus is removed without dismemberment. The American College of Obstetricians and Gynecologists (ACOG) defines D and X as follows: "1. The deliberate dilatation of the cervix, usually over a sequence of days; 2. the instrumental conversion of the fetus to a footling breech; 3. Breech extraction of the body excepting the head; and 4. Partial evacuation of the intracranial contents of a living fetus to effect vaginal delivery of a dead but otherwise intact fetus."

The 7th Circuit stated, "It is this combination of coming so close to delivering a live child with the death of the fetus by reducing the size of the skull that not only distinguishes D and X from D and E medically but also causes the adverse public and legislative reaction. Opponents deem the D and X procedure needlessly cruel and bordering on infanticide. "

Those who oppose the legislation outlawing partial birth abortion have argued that the definition of partial birth abortion is overbroad and would encompass the D and E as well as the D and X abortion. The 7th Circuit concluded that physicians who perform abortions recoginize that the statutory formula refers to the D and X procedure alone and further that the statute should be enjoined from being interpreted to apply to any other procedure than partial birth abortion.

I think it is important in passing a constitutional statute that the legislative history be clear that the procedure intended to be proscribed is the D and X procedure and not the D and E or any other abortion procedure. The case that is going before the U.S. Supreme Court, Carhart v Stenberg, concluded that the language forbid the D and E procedure as well and, therefore, was overbroad and unconstitutional.

The 7th Circuit case also looked at Casey's requirement that any regulation of abortion must make an exception for procedures that protect the woman's life or health. It held that when a state law offers many safe options before the fetus reaches viability, the regulation of an additional option does not produce an undue burden.

The district court had concluded that a D and X procedure is never necessary from the perspective of the patient's health. They relied on testimony of Dr. Haskell, the physician who invented the procedure, who testified that the procedure is never medically necessary to save the life or preserve the health of

the mother. They also relied on the AMA policy that concludes that there does not appear to be any identified situation in which an intact D and X is the only appropriate procedure to induce abortion. Some authors believe that the D and X procedure is more hazardous. See Sprang & Neerhof, 280 J. Am. Medical Ass'n at 746 ("Intact D and X should not be performed because it is needlessly risky, inhumane, and ethically unacceptable." Nancy G. Romer, The Medical Facts of Partial-Birth Abortions, 3 Nexus 57 (1998).

The7th circuit also indicated that, " a constitutionally based health exception for every procedure, coupled with a prohibition against review of physicians' beliefs about which procedures are safest, would amount to a rule that anything goes. "

The continued presence of the mental health exception in the Kansas partial birth abortion statute will amount to a rule that anything goes with regard to late term abortions. The public is understandably concerned with the barbaric nature of the partial birth abortion procedure and its close connection to infanticide. Abortions performed late in pregnancy should be limited as is the case of KSA 65-6721, to only those cases necessary to preserve the life of the pregnant woman or that a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function.

I would encourage the legislature to take seriously its responsibility to protect the life of the unborn child after viability and to eliminate partial birth abortions because of the close connection to infanticide that it represents.

Respectfully submitted,

Cynthia J. Patton,
Attorney at Law

WEE LIFE, INCORPORATED

Madam Chairperson, distinguished members of the committee, my name is Karyl Graves, lobbyist for Wee Life, Incorporated, a non-profit organization founded in 1998, dedicated to restoring full legal protection to the pre-born under the United States Constitution.

Wee Life, Incorporated fervently supports the spirit and intent of House Bill 2581 and its sponsors whose aim it is to stop D & X partial-birth abortion. Wee Life views D & X partial-birth abortion as infanticide, the murder of an innocent human child capable of surviving outside the womb.

With the bio-technology that is available today, life in the uterus can be examined from the exact moment of conception to the final stage at birth. It is medically agreed upon fact that the unborn human child, at six to nine months after conception when D & X partial-birth abortions are normally performed, has a beating heart that pumps 300 gallons of blood through the circulatory system each day, has an established nervous system, has a stomach that produces digestive juices and kidneys that are functioning, can sleep, awaken, swallow, yawn, stretch, suck their thumbs, use the four senses of vision, hearing, taste, and touch, and will recoil from painful stimuli.

Wee Life asserts that as soon as the pain mechanism is present in the unborn human child, possibly as early as eight weeks after conception, that all known abortion procedures used will cause substantial pain. Certainly, the barbaric D & X partial-birth abortion has got to cause agonizing suffering to the baby being aborted, as scissors are plunged into the base of the skull and a catheter is inserted to suction out the child's brain, all without benefit of anesthesia.

It defies understanding that there are no laws in place that regulate the suffering of the aborted like those laws sparing pain to dying animals. What society will do for animals, it fails to do for its own offspring!

It is ludicrous to this organization that sophisticated neo-natal units in hospitals across the nation try to save the lives of premature babies, while an infant approximately the same age and size is having his or her life legally terminated at George Tiller's abortion clinic in Wichita! Where is the logic behind permissive abortion?!

The pre-born, by their inherent nature, especially in the last trimester, should have the status of that of a human child and be entitled to protection under the law. What difference is there in a baby's status seconds before she emerges from the womb and seconds after she has emerged except that which the courts and society assign to her? Nothing in law or policy or public rhetoric should be tolerated that suggests that a third trimester unborn infant is no more complex than an appendix!

Wee Life, Incorporated believes that the intrinsic worth and equal value of every human being, regardless of stage or condition, should be accorded the fundamental right to life which is guaranteed to every person under the United States Constitution.

Sen. Federal & State Affairs Com
Date: 3-8-00
Attachment: # 3-1

WEE LIFE IN THE WOMB

Conception:	One cell, the new life has inherited 46 chromosomes, 23 from each parent. This one cell contains the genetic blueprint for the child's sex, hair, eye color, height, and skin tone.
Day 20:	Brain, spinal cord and nervous system are already established.
Day 21:	The heart begins to beat.
One month:	The heart is pumping quantities of blood through the circulatory system.
Week 5:	Brain waves can be detected and recorded. Fingers can be discerned in the hand.
Week 6:	The liver is producing blood cells. The brain begins to control movement of muscles and organs.
Week 7:	The jaws form, including teeth buds in the gums.
Week 8:	Everything is now present that will be found in a fully developed adult. The stomach produces digestive juices and the kidneys begin to function. Muscles start to operate in conjunction with the nervous system. The wee life responds to touch.
	This is the most common time for a mother to confirm that she is pregnant.
Week 9:	Fingerprints are evident. The wee life will curve its fingers around an object placed in the palm of its hand.
Week 10:	Wee life can now squint, swallow, wrinkle its forehead.
Week 11:	Urination occurs.
Week 12:	The wee life now sleeps, awakens and exercises its muscles by turning its head, curling its toes, and opening and closing its mouth. The palm will make a tight fist when stroked.
	The majority of abortions are performed at this stage.
Week 13:	Fine hair begins to grow on the head. Sexual differentiation becomes apparent.
Month 4:	The wee life weighs a half a pound or more. The ears are functioning and there is evidence that it can hear outside the womb.
Month 5:	One half of the pregnancy has now passed. The mother has definitely begun to feel her baby's movements. The wee life may jump in the womb if startled by a loud sound.
	Partial-birth abortions are normally performed at this stage or after.
Month 6:	Oil and sweat glands are functioning. If a wee life

were born in this month, it could survive outside the womb with the proper care.

Month 7: Wee life now uses the four senses of vision, hearing, taste, and touch. They can recognize their mother's voice.

Month 8: Antibodies build up.

Month 9: Weight is usually six to nine pounds. The heart is pumping 300 gallons of blood per day. The unborn child is fully capable of living outside the womb.

Every unborn child is a complete, living human, a unique individual, never to be repeated in all of history.

Testimony of
Phyllis Walters
KANSAS STATE SENATE
March 8, 2000

Madam Chair and Federal and State Affairs Committee:

My name is Phyllis Walters. I would like to begin by saying that I am very much in favor of a woman's right to choose. But I do not think she has the right to decide that another human being must die. No one has the right to inflict pain and suffering on someone else, in the name of choice.

In the "30's" and "40's" the people of America were horrified when the German government decided that they had the right to choose which Jewish citizens should live and which should die. Now we have something even worse happening in America and right here in Kansas.

There is some difference between the extermination of the Jews and the extermination of the unborn babies due to partial-birth abortion. Most of the Jews understood what was happening and did have a slim chance to escape the executioners.

These babies are trapped in their mother's wombs with no chance to escape the abortionist. There is no way they can understand what is happening to them.

Let's think about the tiny infants curled up in their mother's womb; comfortable and safe. By the third trimester their little brain is mostly developed so they must be having thoughts and feelings much like the ones they will have for the first few months after they are born.

Then suddenly they feel something is twisting and turning them out of their comfortable position. How painful this must be to their very tender skin. They are jerked and pulled on until only the top of their head remains inside their mother.

What thoughts do you think these helpless babies are having now? I say that they must be feeling terror, confusion and pain.

Then comes the sharp abortionist's tool that is shoved into their tiny brain at the base of their skull. At this point some of them scream out with pain. Some feel the pain but never get a chance to make a sound.

Another tool is inserted into their heads and this one sucks their brains out. Now the small body is discarded or sold for profit to someone to use for body parts.

Partial-birth abortion is a horrible inhumane crime against humanity that has been made legal in the name of choice. A woman having her baby naturally and letting it be adopted could not possibly be more of a mental strain than going through a partial-birth abortion and having to live with the memory of it for the rest of her life.

The clause in the ban about preserving a woman's mental health is just a loophole for a person like Mr. Tiller in Wichita and a loophole for our Governor to use so he can let Mr. Tiller continue this hideous procedure for profit.

Attached to my testimony is an article from Life magazine, December 1999, concerning an operation on a 24-week-old fetus that had spina bifida. This little girl was fortunate in receiving medical help instead of being killed. The world of medicine has increased greatly over the years since Roe V Wade. We should look toward life not death. Toward healing not killing.

Ladies and gentlemen of the Senate you have the power to put a stop to the pain and suffering of these helpless babies. Please, please don't let it continue any longer. It is in your hands.

Thank you,

Phyllis Walters

NEWS

March 6, 2000

ABC NEWS "20/20" INVESTIGATION INTO ALLEGED TRAFFICKING IN FETAL TISSUE FINDS COMPANIES THAT APPEAR TO BE PROFITING FROM SELLING HUMAN TISSUE FOR MEDICAL RESEARCH

Horrifying Conditions Inside Mexican Institutions for Mentally Ill; Cynthia McFadden Reports From Mexico

A three-month "20/20" hidden-camera investigation has uncovered an industry in which tissue and organs from aborted fetuses, donated to help medical research, are being marketed for hundreds, sometimes thousands, of dollars. "20/20" has investigated one businessman whose company issued a price list charging what many call exorbitant prices for fetal tissue. In addition, ABC News "20/20" chief correspondent Chris Wallace has an exclusive interview with a whistle-blower who says two tissue retrieval companies he worked for went so far as to, on some occasions, encourage him to take fetal tissue obtained from women who had not consented to donate their fetuses to medical research. The report will air on "20/20 Wednesday," **MARCH 8** (10:00–11:00 p.m., ET), on the ABC Television Network.

Many say that fetal tissue is vital in scientific research that may provide dramatic medical breakthroughs, and federal law permits the donation of tissue from aborted fetuses for that purpose. But the law says companies that transport fetal tissue to medical research labs may only charge a reasonable fee to recover costs of collecting and shipping human tissue. "20/20's" investigation found some companies are charging high fees – fees that critics say are not based on recovering costs; for example, the price list for one company, Opening Lines, includes listings of $325 for a spinal cord, $550 for a reproductive organ, $999 for a brain.

How are these prices determined? One "20/20" producer went undercover as a potential investor to meet Dr. Miles Jones, a Missouri pathologist whose company, Opening Lines, obtains fetal tissue from clinics and ships it to research labs. "It's market force," Dr. Jones told the producer about how he sets his prices. "It's what you can sell it for." He says he hopes to run his own abortion clinic in Mexico where he says he could get a greater supply of fetal tissue by offering cheaper abortions: "If you control the flow – it's probably the equivalent of the invention of the assembly line."

"That's trading in body parts. There's no doubt about it," said Arthur Caplan, director of the University of Pennsylvania's Center for Bioethics.

Representative Thomas Bliley (R-VA), who chairs the United States House Commerce Committee, says his committee is now investigating four companies after finding evidence they may be selling tissue for a profit. He says the committee is interested in ensuring that people transporting fetal tissue only recover their legitimate costs. "It appears that it's more than that. That it comes down to trafficking in tissue parts," he tells Mr. Wallace. Rep. Bliley's committee expects to hold hearings on this issue later this week.

Sen. Federal & State Affairs Comn
Date: 3-8-00
Attachment: # 5-1

The issue has outraged both pro-life and pro-choice advocates. "Where there is wrongdoing, it should be prosecuted and the people who are doing that kind of thing should be brought to justice," said Gloria Feldt, president of Planned Parenthood.

Also: ABC News' Cynthia McFadden travels to Mexico to report on the horrifying and dehumanizing conditions inside two government institutions for the mentally ill and retarded – conditions that may soon capture international attention for possible human rights violations. "20/20's" camera captures the scenes of some of society's most vulnerable adults and children, sentenced to live in dangerously unsanitary conditions – without adequate medical care, and with little treatment, rehabilitation, or therapy of any kind. Shockingly, one expert tells us that nearly 80 percent of the people do not need to be there.

Dr. Robert Okin, a psychiatrist who travels the world investigating conditions inside mental hospitals, says it is time to hold Mexico accountable under international law for horrendous human rights violations. ". . .The conditions in Mexico are among the worst that I've ever seen," he tells Ms. McFadden. He says the conditions inside one institution, the Ocaranza institution, was so bad it reminded him of "a concentration camp."

Ms. McFadden also speaks with the Mexican Minister of Health, Jose Antonio Gonzales Fernandez. After showing Mr. Fernandez the conditions "20/20" uncovered, he promises to inspect one children's facility and invites "20/20" to return in three months to witness the changes he will order. Then, Mr. Fernandez appropriates the equivalent of $1.2 million for the men and women of the Ocaranza institution.

"We have to tell the world what is happening because we need the support from the world. That's why we don't want to hide this horrible reality. We need to show it," says advocate Virginia Gonzalez-Torres, who has spent most of her life fighting for the rights of the mentally ill and mentally retarded in Mexico.

"20/20 Wednesday" is co-anchored by Charles Gibson and Diane Sawyer. Victor Neufeld is executive producer. (CLOSED-CAPTIONED)

ABC News Media Relations: Jenny Parker (212) 456-1624

-- ABC --

But along with the promise of fetal-tissue research, there are uncomfortable realities. Medical researchers don't just order "fetal tissue" from providers—they order arm bones, leg bones, livers, spleens, whole eyes, and other organs. And, despite a congressional prohibition against a money-making marketplace for fetal tissue, there are indications that just such a marketplace has developed—that companies are selling fetal parts for a profit.

Anti-abortion groups have gathered price lists and detailed order forms for fetal body parts that they say show extensive lawbreaking and unethical behavior. The documents have attracted notice in Congress. The House Commerce Committee, chaired by Rep. Tom Bliley, R-Va., a longtime opponent of fetal-tissue research, is expected to hold hearings on the subject in March. Sen. Bob Smith, R-N.H., another staunch anti-abortion legislator, also plans to hold hearings soon.

Kidney-with/		
Kidney-with/without		
Limbs(at least 2)		$130
Brain(≤ 8weeks)	*30% discount if significantly fragmented*	$999
Brain(> 8 weeks)	*30% discount if significantly fragmented*	$150
Pitutary Gland(> 8 weeks)		$300
Bone Marrow(≤ 8weeks)		$350
Bone Marrow(> 8 weeks)		$250
Ears(≤ 8weeks)		$75
Ears(> 8 weeks)		$50
Eyes(≤ 8 weeks)	*40% discount for single eye*	$75
Eyes(> 8 weeks)	*40% discount for single eye*	$50
Skin(> 12 weeks)		$100
Lungs & Heart Block		$150
Intact Embryonic Cadaver(≤ 8weeks)		$400
Intact Embryonic Cadaver(> 8 weeks)		$600
Intact Calvarium		$125
Intact Trunck(with/without limbs)		
Gonads		

FETAL PARTS FOR SALE: Price lists such as this one from Opening Lines, a tissue reseller, have become flash points in the debate.

Republicans are torn between two constituencies—the high-tech research companies that oppose research restrictions, and the social conservatives who are keen to stigmatize abortion and abortion-related research. Abortion-rights groups oppose any new restrictions. Given this incendiary mix, it is not surprising that many legislators won't want to deal with fetal-tissue research, said Adams, who championed the 1993 law. Many legislators, he said, "are going to be in the middle of a debate that they don't want to be in the middle of."

According to Suzanne Rini, the author of a 1988 book, *Beyond Abortion: A Chronicle of Fetal Experimentation*, the 1993 law is riddled with loopholes and ambiguities that reflect deep national divisions over abortion and abortion-facilitated research: Lawmakers remain deeply divided over the politics of abortion; academic scientists, for-profit companies, and government health-research agencies oppose any restrictions; and patients suffering from incurable diseases desperately want near-miraculous cures as soon as possible.

Little information is available about how much tissue is collected and exchanged, partly because there are so many collectors and researchers. In November 1993, however, James Bardsley of the Anatomic Gift Foundation, a tissue reseller, told *The New York Times* that the firm shipped 300 to 600 specimens a month. Opening Lines, another tissue reseller, says in its 1999 sales catalog that its "daily average case volume exceeds 1,500."

No government data are available on the number of tissue brokers, or their practices, revenues, prices, or customers. Moreover, many researchers contract directly with abortion clinics for tissue. Since 1991, the National Institutes of Health has spent more than $150 million on hundreds of fetal-tissue-research programs. The money has funded 230 fetal-tissue-transplant experiments since 1991, and 288 experiments in 1997 and 1998 alone.

Public Law 103-43, the National Institutes of Health Revitalization Act of 1993, governs the sale of fetal tissue. Congress passed the legislation after several years of fierce debate, which reached its peak in 1992 when President Bush vetoed the NIH reauthorization bill. The next year, President Clinton, on his first day in office, signed an executive order that ended federal curbs on fetal-tissue research, and soon thereafter approved the revived NIH bill that boosted federal funding for fetal-tissue research. The law, passed by a large majority, sought to spur federal and private-sector research while simultaneously regulating it.

Some sections of the law are widely supported. For example, section 498B bars the collection of fetal organs from an identified person or their donation to a specific individual, such as a relative. Researchers say this rule has successfully prevented women from conceiving fetuses to serve as organ banks and kept rich patients from buying organs from poor donors.

During the congressional debates in 1992 and 1993, supporters of fetal-tissue research argued that the ethics provisions in the bill would curb the emergence of a marketplace for fetal body parts. "The idea of such a market is barbaric," said Sen. John McCain, R-Ariz., in a May 1992 letter to constituents in which he announced that because of the ethical safeguards added to the law, he had dropped his opposition to fetal-organ research.

"It would be abhorrent to allow the sale of fetal tissue and a market to be established for that sale," said Rep. Henry A. Waxman, D-Calif., a leading abortion-rights advocate.

But Douglas Johnson, legislative director of the National Right to Life Committee, sees the 1993 law on fetal tissue as an attempt "to enshrine language that would not impede the practices but would provide a modicum of cover for legislators who voted for abortion-dependent research.... It is a fig leaf."

The current controversy over the sale of fetal tissue and

RICHARD A. BLOC

HENRY-WAXMAN:
"It would be abhorrent to allow the sale of fetal tissue and a market to be established for that sale."

parts focuses on section 498B(a), which declares flatly that "it shall be unlawful for any person to knowingly acquire, receive, or otherwise transfer any human fetal tissue for valuable consideration." Violation of this law can bring a prison sentence of 10 years. But the ban is greatly weakened by clause 498B(d.3), which says, "The term 'valuable consideration' does not include reasonable payments associated with the transportation, implantation, processing, preservation, quality control, or storage of human fetal tissue."

SELLING FETAL PARTS

The question Congress will face first is whether researchers and their suppliers have violated the 1993 law's payment rule. In documents obtained by an anti-abortion group, Life Dynamics, in Denton, Texas, medical researchers don't mince words when placing orders from abortion clinics:

"Arm bones (humeri) must accompany the leg bones (femurs and tibias)," says an order for three to five bones, plus livers, spleens, and thymuses from fetuses older than 18 weeks. The order came from SyStemix Inc., a Palo Alto, Calif., subsidiary of Novartis of Switzerland. The order forms also include many requests from universities, including a request for "whole eyes, 13-20 weeks, 1-2 per donor, fresh" from the Tulane University School of Medicine, which was researching eye surgery.

The price list offered by tissue broker Opening Lines, in West Frankfort, Ill., was similarly straightforward: "Brain [younger than] 8 weeks *30% discount if significantly fragmented* $999 ... Eyes [older than] 8 weeks *40% discount for single eye* $50. ... Prices in effect through December 31 1999." Anatomic Gift Foundation, in Laurel, Md., charged a flat fee of $90 for every organ or slice of tissue taken during a second-trimester abortion, or $220 for those taken from a fetus 6 weeks to 12 weeks old.

In general, the order forms are perfectly legal. Critics, however, maintain that the price lists show that the tissue resellers are making a profit in violation of the law's "reasonable payments" rule. Alan G. Fantel, who runs an NIH-funded service that supplies free fetal tissue and organs to universities, is especially concerned about the price lists from Opening Lines. "The fact that they are pricing [organs] at different levels leads one to think they are after profit," he said. Miles Jones, the founder of Opening Lines, declined to comment.

Critics of fetal research also charge that the order forms show that demand for fetal tissue has prompted unethical behavior by researchers and abortion clinics. But the law is complicated. Any change to abortion procedures to get more tissue is entirely legal for commercial research, but is largely banned for government-funded research. Under the 1993 law, NIH-funded researchers can use fetal tissue only if the woman's "attending physician ... makes a statement, made in writing and signed by the physician that ... no alteration of the timing, method, or procedure used to terminate the pregnancy was made solely for the purpose of obtaining the tissue." Many universities that receive government money for medical research have voluntarily agreed that all of their researchers—even those working with outside companies—will comply with these rules.

Mark Crutcher, the president of Life Dynamics and an abortion opponent, says that abortion providers change their operating-room techniques to maximize tissue collection and profit, thus endangering the patient. For example, Crutcher said, some of the order forms ask that abortion clinics not use standard poisons frequently given to fetuses before abortions: in particular, SyStemix's order form asks for second-trimester legs, arms, livers, and spleens to be removed, dissected, and stored on crushed ice "within a maximum of ten (10) minutes after circulation has stopped." Crutcher argues that there's no way to do a second-trimester abortion within 10 minutes unless the procedure is changed to delay the death of the fetus.

One way to delay the death of the fetus is to perform a "partial-birth abortion," which is also called "intact dilation and extraction." According to Brent Bardsley of the Anatomic Gift Foundation, which for several years supplied tissue to researchers, including government-funded ones, some clinics use that technique and a low-pressure vacuum for first-trimester fetuses. The vacuum technique is especially important for research into Parkinson's disease, he said, because "they had to have that brain nearly intact ... [and with the normal abortion method] it's nearly impossible." However, said Bardsley, "we strive not to influence the procedure or the patient's decision to have an abortion. We don't need to: there's plenty of material out there."

Changes in abortion procedure, and especially the use of "intact dilation and extraction," are unethical because they pose greater risks to the woman, argued Dr. Gerard Rafferty, an obstetrician at St. George's Hospital in London, who has performed abortions. "Almost nobody does the [intact] D&E in Europe because they are incredibly barbaric and quite dangerous to the mother," he said. Abortion-rights groups disagree, saying the procedure can be safer than its alternatives.

The law's wording complicates this legal issue because it

bars modifications to abortions done "solely for the purpose of obtaining the tissue." During the 1993 debate, Bliley sought to strike the word *solely*, but Waxman argued successfully that it should be preserved so abortions could be modified for "medically necessary reasons." Crutcher and other critics argue that this allows abortion clinics to use tissue-producing techniques while claiming they are necessary for medical reasons.

DOUG JOHNSON: The current law is "a fig leaf" for "legislators who voted for abortion-dependent research."

BENEFITS TO SCIENCE

Activists for patients suffering from Parkinson's disease are influential in Congress and provided much of the support for the 1993 law. Other groups also campaign for fetal-tissue research. These patients' rights groups have plenty of supporters in Congress, partly because older legislators see their families or legislative colleagues struck ill.

For such patients, the controversial work of Dr. Curt Freed at the University of Colorado offers some hope. Freed has used $5 million of NIH money in a four-year experiment on Parkinson's patients in which he implanted tissue from the brains of seven- or eight-week-old fetuses into 19 patients. The particular piece of brain is the ventral mesacephelon, which contains all the cells that produce a chemical called dopamine. The dopamine-producing cells are intended to offset the loss of dopamine production that causes Parkinson's.

Thus far, Freed's work has yielded few results. Last May, the British medical journal *The Lancet* reported that "there was no significant difference" between the 19 patients given the fetal transplants and the 20 patients given a placebo

MAKING SENSE OF THE LAW

Verifying compliance with the complicated 1993 federal law governing fetal-tissue research is difficult. For government-funded researchers, the law requires the abortion clinics supplying their tissue to certify that "no alteration of the timing, method, and procedure used to terminate the pregnancy was made solely for the purpose of obtaining the tissue."

In light of this restriction, consider Dr. Curt Freed, a researcher at the University of Colorado who receives NIH money to transplant healthy fetal brain tissue into patients suffering from Parkinson's disease. He said he has acquired 1,000 specimens of brain tissue from fetuses seven weeks to eight weeks old. The fetuses had been aborted using 10-millimeter tubes called cannula, he said, which are wide enough to allow usable tissue to be recovered from 1 in 10 abortions.

But, according to a standard 1990 reference, *Abortion Practice* by Dr. Warren M. Hern, the director of the Boulder Abortion Clinic in Colorado, embryos seven weeks to eight weeks old should be aborted using a thinner tube 6 or 7 millimeters wide. The same recommendation appears in Dr. Philip G. Stubblefield's chapter on abortion techniques in *Gynecologic and Obstetric Surgery*, published in 1993. Dr. Suzanne Poppema, the medical director of Aurora Medical Services in Seattle and president of the National Abortion Federation in Washington, D.C., says that for such early abortions "there would be no reason to use a big [10-millimeter-wide] one. It would hurt more ... and it would increase risk" to the patient. She added, "I don't do it that way, and I don't know anybody who does."

But if Freed's specialists had performed abortions with the narrower tubes recommended by the guides, it would have been exceedingly difficult or impossible to find undamaged brain tissue, said Dr. Alan Fantel, who dissects and distributes tissue from Poppema's first-trimester abortions for government researchers. Dr. Gerard Rafferty, a London-based obstetrician who has extracted tissue from in utero embryos for Parkinson's researchers, agreed.

Freed responded that the abortion clinics signed forms for him saying they had not altered the timing or methods solely to extract tissue. A March 1997 report by the General Accounting Office declared that Freed's project had "appropriately executed" the required paperwork. Freed declined to name the clinics, or to forward a copy of the signed forms to *National Journal*. Poppema said that abortion doctors use a variety of techniques, and "cannula size is such a variable anyway."

5-5

operation, although some improvements were noted in patients under 60.

Gillian Woollett, an associate vice president for biotechnology at the Pharmaceutical Research and Manufacturers of America, cautioned against false hopes. Patients' groups "can be part of overselling," Woollett said, adding that cures may not be forthcoming for many years or decades. Their optimistic prediction of progress "is a psychological thing. I don't think it is realistic."

Tom Buley: The longtime opponent of fetal-tissue research is expected to hold hearings in March.

The defense of fetal-tissue research does not rest solely on the benefits of transplanting the tissue. Scientists are quick to point out that the research has already yielded improved knowledge in the laboratory. For example, research with mice shows that single human genes can be added to that animal. These modified mice, called SCID-mice, then multiply by natural means. In Freedman's research at the University of Colorado, a human gene that may be related to adult schizophrenia has been grafted onto mice. The suspect gene was extracted from two fetuses removed from two Swedish schizophrenia patients after the Swedish abortion team decided the patients were competent to make the decision. A medical therapy resulting from this research is still "decades away," Freedman said. "We don't even understand what is going on in the mice yet."

Fetal organs and tissue are also needed to extend and verify the data being gathered about the human genome, which is the set of instructions within each cell that dictates how human tissue works. As researchers learn more about the myriad genes that tend to make people smarter, sicker, faster, forgetful, beautiful, or bald, they will need to test their theories on human tissue—especially because the tissue can show how genes interact with one another, researchers say. "If we don't have fetal tissue to do it with, we'll never be able to do it," said Fantel, who runs the NIH-funded service that supplies free fetal tissue and organs to universities.

Fetal-tissue research is especially important, Freedman and other scientists say, because human embryos and fetuses contain special cells—called stem cells—that are particularly vigorous and that, when implanted in other people and in animals, are less likely to be rejected by the host's disease-fighting cells. Stem cells might also evolve into many different types of cells, including blood, bone, and brain cells. These stem cells are easiest to find in human embryos, but are increasingly being found in adults. This development creates the possibility that a patient's own cells could be activated to repair problems, such as paralysis, cancer, or Alzheimer's. By studying fetal stem cells, researchers hope to find and fix the root cause of later human diseases, including the mechanisms that trigger uncontrollable cancerous growth or cause adult schizophrenia, Freedman said.

The fetal-tissue and stem-cell work are the building blocks of gene therapy, which researchers say can modify an adult's genes to defeat a disease, repair a disorder, or just to gain an upgrade. But the gene-therapy-research community faces increasing scrutiny following the death last fall of 18-year-old Jesse Gelsinger during a gene-therapy experiment at the University of Pennsylvania.

At an NIH meeting in late December, attendees said that university researchers and companies disregarded risks to patients' health, concealed problems, and exaggerated the promise of research, all in the hope of generating profits in the hot market for new medical products. In mid-January, the Food and Drug Administration shut down all human-subject research experiments under way at the University of Pennsylvania. It said that researchers had recruited 18 patients for the Gelsinger study without checking whether they were eligible, and had failed to inform half of the patients about the known risks.

In late January, NIH officials released data showing that gene-therapy researchers had concealed three deaths and 652 "serious adverse events" from oversight officials. In February, two patients' groups and a Harvard-affiliated medical center announced they were stopping gene-therapy projects. "It is a multisystem failure. ... We may have just touched the tip of the iceberg," said Sen. Bill Frist, R-Tenn., at a Feb. 2 hearing.

In recent months, concern over researchers' priorities has caused officials on the White House-appointed National Bioethics Advisory Commission to consider seeking greater oversight over experiments on humans.

Science Meets Politics

At the moment, the main dispute between researchers and anti-abortion groups is over stem cells. Anti-abortion groups want NIH to promote research into adult stem cells, but in late 1999, NIH approved federal funding for research into stem cells taken from human embryos. The agency acted despite the fiscal 2000 Consolidated Appropriations Act, which bars all funding for "research in which a human embryo or embryos are destroyed." NIH officials say that the ban applies only to the use of funds for the act of destroying the embryos.

In the stem-cell debate, as in the broader fight over fetal-tissue research, anti-abortion advocates argue that scientists' interest in fetal tissue is not merely scientific, but is driven by a mix of interests associated with the tissue, including

medical value, marketplace competition, low prices, easy availability, and legal advantages. Full ownership of fetal tissue is transferred during donation and leaves researchers with no reason to fear a later lawsuit when the tissue helps produce a billion-dollar blockbuster drug.

Helen Alvaré, the director of planning and information for the secretariat for anti-abortion activities at the National Conference of Catholic Bishops, says fetal-tissue research raises "the entire specter of humans being seen as means and not as ends in themselves." The abortion-dependent research is a

RICHARD A. BLOOM

cans and from some Democrats, such as Sen. John Breaux, D-La.

In any debate on possible curbs, the researchers and patients' groups will be aided by abortion-rights advocates, including Planned Parenthood and the New York City-based Center for Reproductive Law and Policy. Last year, the two groups persuaded a federal judge to strike down a clause in the Arizona Constitution that bars research on fetal tissue. That lawsuit is heading for an appeal late this year in the 9th U.S. Circuit Court of Appeals in San Francisco.

Testimony in Opposition to the House Committee Substitute for House Bill 2581
by Gordon Risk, M.D.

Presented to the Senate Federal and State Affairs Committee
Senator Lana Oleen, Chair

Wednesday, March 5, 2000

Good morning, Senator Oleen and members of the Committee. I am testifying today as a psychiatrist with a practice in Wyandotte and Johnson Counties who is dismayed by the proposed elimination of mental health as a legitimate consideration in a woman's right to choose an abortion. Mental health problems can impair functional abilities and enthusiasm for life every bit as profoundly as a physical problem, and the emotional consequences of putting a child up for adoption can be devastating.

I would like first to talk about three women from my practice. The first two women had unwanted pregnancies prior to 1973 and Roe v. Wade, and as a consequence had to carry their pregnancies to term. The first woman became pregnant while her husband was serving two tours of duty in Vietnam. He returned to discover her pregnancy and insisted that the child be put up for adoption, a wish with which she complied. The marriage deteriorated, and included the physical and emotional abuse of my patient by her husband. The marriage ultimately ended in divorce. This unfortunate scenario would probably not have happened if abortion had been an option, an option my patient would have taken, not for reasons of physical health, but for her own emotional health and the emotional health and well-being of her family.

Another patient, also prior to 1973, had an unwanted pregnancy as a teenager. She had to carry the pregnancy to term and was sent to a home for unwed, pregnant minor girls in another city for the duration of the pregnancy. Her stay in this group home was motivated at least in part by her parents' wish to isolate her from her younger siblings to prevent what they thought would be her moral contamination of them. This patient suffered as a consequence of these events a devastating blow to her self-respect that had ramifications in her subsequent behavior, her choice of a husband who was in few respects her equal, and in an ultimately failed marriage.

Both of these women have struggled with severe and incapacitating depression as adults. The symptoms have included physical self-mutilation and serious suicide attempts. Both have been hounded by guilt and both have wondered what has happened to these children whom they put up for adoption, with whom they have had no contact since birth. My sense from these and other women I have treated who have put children up for adoption is that the process is traumatic for the woman and that there are long-term emotional consequences.

The third woman I would like to talk about was in treatment with me for a manic-depressive (bipolar) disorder. I was proscribing Lithium, a medication with serious teratogenic risks, and she was using birth control in order to prevent a pregnancy. Her birth control techniques failed, however, and she became pregnant. Her relationship with the father of the fetus was not good; she was struggling financially as a single parent who already had one small child; her emotional life was a roller coaster; and she had legitimate worries that the fetus, if she carried the

pregnancy to term, would be born with serious birth defects. She elected to have an abortion because she did not feel emotionally equal to the demands of pregnancy or of raising another child. Her decision to abort was based on a number of considerations that only she could appropriately evaluate, and mental health considerations, her own and the mental health of the child she already had, were important determinants.

I heard more recently through a third party that this woman had made the decision to have a tubal ligation, had scheduled the operation, and had then found out that she was pregnant again. She was no longer in psychiatric treatment at this time, nor taking medication, and she elected to go ahead with the pregnancy. I don't know how she arrived at her decision to go ahead with the pregnancy, but it was something only she was in a position to decide.

I think a mental health option for abortion must exist in all trimesters because life is messy and because a woman must be able to take account of all relevant factors at all stages of her pregnancy. The ideal situation would be no government interference at all in these difficult and very private matters. The specific choice of the abortion procedure is best left to the woman's physican, who should be allowed to choose whatever procedure is safest for the woman.

UGUST 24, 1999

NY Times
8/24/99

VITAL SIGNS

CHILDBIRTH

Long-Lasting Scars of Unwanted Births

An unwanted birth can have harmful emotional effects not only on the mother and her child but on other children in the family as well, researchers at the University of Michigan have found. And their study says the damage can last well into adulthood.

The study, published in the September issue of the Journal of Health and Social Behavior, analyzed two sets of data.

The first, a survey of more than 13,000 respondents in 1987-88, showed that mothers whose births were all intended were less likely than other mothers to spank or slap their children. And, they were more likely to take their children on activities and other trips outside the home.

"The data showed that mothers with intended births engaged in fun stuff like going to the movies or the zoo with their children 3.7 times a week," said the lead researcher, Dr. Jennifer Barber.

"Mothers with unintended births reported only doing activities 3.5 times a week. Over the lifetime of a child," she added, "that's a huge difference."

Using another set of data, on mother-child pairs from 1962 to 1993, the researchers found that adults who had been raised in families where there was an unintended pregnancy were still having lower-quality relationships with their mothers than children in families where all pregnancies were wanted.

"In our 20's and 30's we get a lot of help from our parents," Dr. Barber said.

"These children are missing out on this big piece of social support we all need and expect. The mothers with unintended pregnancies aren't helping them as much as other mothers — with child care or moves or just talking." *ALISHA BERGER*

Abortion position statement by the American Psychiatric Association (1978):

The emotional consequences of unwanted pregnancy on parents and their offspring may lead to long-standing life distress and disability, and the children of unwanted pregnancies are at high risk for abuse, neglect, mental illness, and deprivation of the quality of life. Pregnancy that results from undue coercion, rape, or incest creates even greater potential distress or disability in the child and the parents. The adolescent most vulnerable to early pregnancy is the product of adverse socio-cultural conditions involving poverty, discrimination, and family disorganization, and statistics indicate that the resulting pregnancy is laden with medical complications which threaten the well-being of mother and fetus. The delivery that ensues from teenage pregnancy is prone to prematurity and major threats to the health of mother and child, and the resulting newborns have a higher percentage of birth defects, developmental difficulties, and a poorer life and health expectancy than the average for our society. Such children are often not released for adoption and thus get caught in the web of foster care and welfare systems, possibly entering lifetimes of dependency and costly social interventions. The tendency of this pattern to pass from generation to generation is very marked and thus serves to perpetuate a cycle of social and educational failure, mental and physical illness, and serious delinquency.

Because of these considerations, and in the interest of public welfare, the American Psychiatric Association 1) opposes all constitutional amendments, legislation, and regulations curtailing family planning and abortion services to any segment of the population; 2) reaffirms its position that abortion is a medical procedure in which physicians should respect the patient's right to freedom of choice--psychiatrists may be called on as consultants to the patient or physician in those cases in which the patient or physician requests such consultation to expand mutual appreciation of motivation and consequences; and 3) affirms that the freedom to act to interrupt pregnancy must be considered a mental health imperative with major social and mental health implications.

NATIONAL ABORTION FEDERATION

Post-Abortion Issues

Many people are interested in learning about the possible effects of abortion on women's emotional well-being, and several hundred studies have been conducted on this issue since the late 1970s. Unfortunately, much of the research on women's psychological responses to abortion can be confusing, since one can easily find research that appears to support either the position that abortion poses no long-term psychological risk for most women, or the position that abortion causes psychological trauma for many women. Despite the apparent contradictions, ***mainstream medical opinions, like that of the American Psychological Association, agree there is no such thing as "Post-Abortion Syndrome."***

A Summary of the Scientific Research

Since the early 1980s, groups opposed to abortion have attempted to document the existence of "Post-Abortion Syndrome," which they claim has traits similar to Post-Traumatic Stress Disorder (PTSD) demonstrated by some war veterans. In 1989, the American Psychological Association (APA) convened a panel of six psychologists with extensive experience in this field to conduct an exhaustive review of the available data. They reported that the studies with the most scientifically rigorous research designs consistently found no trace of "Post-Abortion Syndrome" and furthermore, no such syndrome is scientifically or medically recognized (APA News Release, 1989). The panel concluded that ***"research with diverse samples, different measures of response, and different times of assessment have come to similar conclusions. The time of greatest distress is likely to be before the abortion. Severe negative reactions after abortions are rare and can best be understood in the framework of coping with normal life stress"*** (Adler et al., 1990). While some women may experience sensations of regret, sadness or guilt after an abortion, the overwhelming responses are relief and happiness. The APA panel noted the importance of further study on post-abortion issues, specifically, the need for studies of women's emotional well-being both before and after an abortion, and the long-term effects of an abortion (Adler et al., 1992).

Researchers Nancy F. Russo and Kristin L. Zierk answered the APA's call for such analysis. From 1979 to 1987, they studied a national sample of 5,295 women, not all of whom had had abortions, and many

of whom had abortions during the time they were involved in the study. Thus, Russo and Zierk were able to learn about women's emotional well-being both before and after they had abortions, and then compare their level of well-being with women who had never had an abortion. They also examined variables such as employment, level of education, income, childbearing, and marital status, all of which might play a part in the level of self-esteem. They concluded at the end of the eight-year study that the most important predictor of emotional well-being in post-abortion women was their well-being before the abortion. Women who had high self-esteem before an abortion would be most likely to have high self-esteem after an abortion, regardless of how many years passed since the abortion (Russo and Zierk, 1992). For further information about Russo and Dabul's follow-up study published in 1997, please see http://www.apa.org/releases/abort.html.

Psychological responses to abortion must also be considered in comparison to the psychological impact of other alternatives to abortion, such as carrying an unwanted pregnancy to term and making adoption arrangements or becoming a parent. While there has been little *scientific* research about the psychological consequences of adoption, researchers speculate that it is likely "that the psychological risks for adoption are higher for women than those for abortion because they reflect different types of stress. Stress associated with abortion is acute stress, typically ending with the procedure. With adoption, as with unwanted childbearing, however, the stress may be chronic for women who continue to worry about the fate of the child" (Russo, 1992).

What the Experts Say

In a commentary in the *Journal of the American Medical Association,* Nada Stotland, M.D., former president of the Association of Women Psychiatrists, stated:

> "Significant psychiatric sequelae after abortion are rare, as documented in numerous methodologically sound prospective studies in the United States and in European countries. Comprehensive reviews of this literature have recently been performed and confirm this conclusion. The incidence of diagnosed psychiatric illness and hospitalization is considerably lower following abortion than following childbirth. . . .Significant psychiatric illness following abortion occurs most commonly in women who were psychiatrically ill before pregnancy, in those who decided to undergo abortion under external pressure, and in those who underwent abortion in aversive circumstances, for example, abandonment" (Stotland, 1992).

Henry P. David, Ph.D., an internationally known scholar in this area of research, reported the following at an international conference on abortion in Amsterdam, The Netherlands, in March, 1996. The full text can be viewed at http://www.easynet.co.uk/bct/3myth.htm.

> "Severe psychological reactions after abortion are infrequent...the number of such cases is very small, and has been characterized by former U.S. Surgeon General C. Everett Koop

> as 'miniscule from a public health perspective'...For the vast majority of women, an abortion will be followed by a mixture of emotions, with a predominance of positive feelings. This holds immediately after abortion and for some time afterward. Little is known about very long term effects beyond ten years. However, the positive picture reported up to eight years after abortion makes it unlikely that more negative responses will emerge later" (David, 1996).

Russo and Dabul, who performed further statistical analysis on the results of Russo and Zierk's eight-year study on post-abortion psychological issues, reported their conclusions in *Professional Psychology*:

> "Although an intensive examination of the data was conducted, controlling for numerous variables and including comparisons of Black women versus White women, Catholic women versus non-Catholic women, and women who had abortions versus other women, the findings are consistent: The experience of having an abortion plays a negligible, if any, independent role in women's well-being over time, regardless of race or religion. The major predictor of a woman's well-being after an abortion, regardless of race or religion, is level of well-being before becoming pregnant. . . .Our findings are congruent with those of others, including the National Academy of Sciences (1975), and the conclusion is worth repeating. ***Despite a concerted effort to convince the public of the existence of a widespread and severe postabortion trauma, there is no scientific evidence for the existence of such trauma, even though abortion occurs in the highly stressful context of an unwanted pregnancy***" (Russo and Dabul, 1997, emphasis added).

The Impact of Anti-Choice Activities

A current concern among psychologists is the effect on women of the increasingly negative social and political climate surrounding abortion. Russo and Dabul (1997) point out that when women in their study were interviewed from 1979 to 1987, anti-choice efforts to stigmatize abortion had not yet reached prominent levels. Today, anti-choice groups regularly harass clinic staff, intimidate patients at clinics, and use graphic language designed to punish women (e.g. "abortion is murder," "women are baby-killers"). Additionally, the past few years have revealed a new anti-choice strategy of offering "counseling" services to women. Rather than exploring the roots of women's psychological distress and providing non-biased therapy, anti-choice counselors affiliated with groups like Project Rachel and Women at Risk tend to direct women's anger towards the abortion provider by claiming that the women were misinformed about the psychological trauma that abortion inflicts. Due to the political bias of these counselors and their misuse of psychological services, women can be left feeling angry and betrayed.

Russo and Dabul (1997) concluded that practitioners should acknowledge the detrimental effects of the social ostracism felt by abortion patients. Some post-abortion difficulties may result from a lack of

social support because women are expected to bear the brunt of unplanned and unwanted childbearing. The researchers encouraged all practitioners to continue to provide accurate information since many women have been misled by anti-choice sources which may contribute to concerns if they choose abortion. Further, women who are suffering emotionally after an abortion should be encouraged to see a professional psychologist or join a support group supervised by a professional mental health provider, rather than one sponsored by any anti-choice organization.

Research on post-abortion psychological issues continues in this new, punitive and anti-choice climate, and scientists are currently working to collect more data. We will provide updated research when it becomes available.

References

Adler, Nancy E., Henry P. David, Brenda N. Major, Susan H. Roth, Nancy F. Russo, and Gail E. Wyatt. "Psychological Factors in Abortion: A Review." *American Psychologist* Vol. 47, no. 10 (October, 1992): pp. 1194-1204.

Adler, Nancy E., Henry P. David, Brenda N. Major, Susan H. Roth, Nancy F. Russo, and Gail E. Wyatt. "Psychological Responses After Abortion." *Science* Vol. 248 (April 6, 1990): pp.41-44.

American Psychological Association. "APA Research Review Finds No Evidence of 'Post-Abortion Syndrome' But Research Studies on Psychological Effects of Abortion Inconclusive." *Press Release* January 18, 1989.

David, Henry P. "Comment: Post-Abortion Trauma." *Abortion Review Incorporating Abortion Research Notes* No. 59 (Spring, 1996).

Russo, Nancy F. "Psychological Aspects of Unwanted Pregnancy and Its Resolution." In J.D. Butler and D.F. Walbert (eds.), Abortion, Medicine, and the Law (4th Ed., pp. 593-626). New York: Facts on File, 1992.

Russo, Nancy and Amy J. Dabul. "The Relationship of Abortion to Well-Being: Do Race and Religion Make a Difference?" *Professional Psychology: Research and Practice* Vol. 28, no. 1 (1997).

Russo, Nancy F., and Kristin L. Zierk. "Abortion, Childbearing, and Women's Well-Being." *Professional Psychology: Research and Practice* Vol. 23, no. 4 (1992): pp. 269-280.

Stotland, Nada. "The Myth of the Abortion Trauma Syndrome." *Journal of the American Medical Association* Vol. 268, no. 15 (October 21, 1992): pp. 2078-2079.

For More Information

For information or referrals to qualified abortion providers, call the National Abortion Federation's toll-free hotline: 1-800-772-9100. In Canada: 1-800-424-2280. In Washington, DC: 202-667-5881. Weekdays, 9:00-7:00 Eastern time.