

October 21, 1999

RECOMMENDED TELEPHONE CALL

TO: SENATOR JOHN EDWARDS (D-NC)

DATE: THIS AFTERNOON BEFORE THE FINAL VOTE (THE TIME FOR FINAL PASSAGE HAS NOT YET BEEN SET)

RECOMMENDED BY: LARRY STEIN
JOEL WIGINTON

PURPOSE: TO THANK THE SENATOR FOR HIS VOTE ON THE SANTORUM SENSE OF THE SENATE AND TO URGE THE SENATOR TO VOTE AGAINST THE SANTORUM BILL ON "PARTIAL BIRTH ABORTION" AND THEREBY HELP SUSTAIN A VETO.

BACKGROUND: S. 1692, "The Partial Birth Abortion Act," sponsored by Senator Santorum and 43 others, is virtually identical to those you vetoed during the 104th and 105th Congresses. S. 1692, like the previous two bills, fails to address your primary concern that the prohibition on this type of abortion procedure not apply when the attending physician considers the procedure necessary to preserve the health of the woman. (The bill would only allow this type of abortion in cases where it is needed to save the life of the woman.) Last Congress, the Senate passed the bill, 64-36. Last night, the Senate passed, with a similar veto sustaining vote of 63-36, a Santorum Sense of the Senate holding that so-called partial birth abortions should be banned.

Based upon the vote on the Santorum Sense of the Senate, Senator Boxer, the Minority Floor Manager on this issue, was confident that the Senate would have an identical vote on final passage of the underlying bill.

Senator Boxer asked the Legislative Affairs staff if you could call Senator Edwards to thank him for his vote on the Santorum Sense of the Senate and to ensure that he will vote against the Santorum bill.

In addition, Senator Durbin offered a substitute that, similar to Senator Daschle's alternative of last session, would have banned all post-viability abortions with an exception to protect the life of a woman and a narrow exception to protect the health of a woman. Unlike Daschle's alternative of last session, Durbin's proposal would have also required that a second doctor certify that a post-viability abortion is necessary. Women's groups, which last year objected to Daschle's proposal, oppose the Durbin alternative more strongly. Senator Daschle's amendment, which we supported, secured 36 votes last session. The Durbin alternative was defeated on a motion to table by a vote of 61-38.

TOPICS OF DISCUSSION:

1. Thank the Senator for his vote on the Santorum Sense of the Senate vote, and express your similar concern that this procedure should only be used when absolutely necessary.
2. Tell the Senator that you have devoted much time developing your position on this issue – that while you oppose the use of the “partial birth abortion” procedure in general, you believe that there are a small group of women in desperate circumstances who need this procedure to prevent serious injury to their health. You have implored the Congress to send you legislation that includes this necessary exception. (ACOG agrees with you that this bill endangers women, because it prevents doctors from using a procedure that in a few cases best protects women from serious injury.)
3. Tell the Senator you believe that this bill is consistent neither with the Constitution nor with sound public policy. Since your 1997 veto, more federal courts have ruled that state partial birth abortion bans are unconstitutional. More specifically, the Santorum bill is unconstitutional because it could be read to ban a wide variety of abortion procedures, including those used in the earliest stages of pregnancy. In 19 states, courts have fully or partially enjoined similar legislation on the ground that: (1) it is unconstitutionally vague because it could be read to ban some of the safest and most commonly-used abortion procedures; (2) it does not provide an exception to protect women's health; and (3) it violates Roe v. Wade.

4. Remind the Senator that medical decisions should be made by patients in consultation with their doctors, not by the government. The decision about abortion is a private, medical decision. The Santorum bill would prevent doctors and their patients from choosing what might well be the best and most appropriate medical treatment.

CONTACT PERSON AND
TELEPHONE NUMBER:

Will Austin (202) 224-7352

DATE OF SUBMISSION:

October 21, 1999

ACTION:

October 21, 1999

RECOMMENDED TELEPHONE CALL

TO: SENATOR BLANCHE LINCOLN

DATE: THIS AFTERNOON BEFORE THE FINAL VOTE (THE TIME FOR FINAL PASSAGE HAS NOT YET BEEN SET)

RECOMMENDED BY: LARRY STEIN
JOEL WIGINTON

PURPOSE: TO THANK THE SENATOR FOR HER VOTE ON THE SANTORUM SENSE OF THE SENATE AND TO URGE THE SENATOR TO VOTE AGAINST THE SANTORUM BILL ON "PARTIAL BIRTH ABORTION" AND THEREBY HELP SUSTAIN A VETO

BACKGROUND: S. 1692, "The Partial Birth Abortion Act," sponsored by Senator Santorum and 43 others, is virtually identical to those you vetoed during the 104th and 105th Congresses. S. 1692, like the previous two bills, fails to address your primary concern that the prohibition on this type of abortion procedure not apply when the attending physician considers the procedure necessary to preserve the health of the woman. (The bill would only allow this type of abortion in cases where it is needed to save the life of the woman.) Last Congress, the Senate passed the bill, 64-36. Last night, the Senate passed, with a similar veto sustaining vote of 63-36, a Santorum Sense of the Senate holding that so-called partial birth abortions should be banned.

Based upon the vote on the Santorum Sense of the Senate, Senator Boxer, the Minority Floor Manager on this issue, was confident that the Senate would have an identical vote on final passage of the underlying bill.

Senator Boxer asked the Legislative Affairs staff if you could call Senator Lincoln to thank her for her vote on the Santorum Sense of the Senate and to ensure that she will vote against the Santorum bill.

In 1995 then-Rep. Lincoln supported the so-called "partial-birth" abortion ban. Simply stated, this was a very tough vote for Senator Lincoln.

In addition, Senator Durbin offered a substitute that, similar to Senator Daschle's alternative of last session, would have banned all post-viability abortions with an exception to protect the life of a woman and a narrow exception to protect the health of a woman. Unlike Daschle's alternative of last session, Durbin's proposal would have also required that a second doctor certify that a post-viability abortion is necessary. Women's groups, which last year objected to Daschle's proposal, oppose the Durbin alternative more strongly. Senator Daschle's amendment, which we supported, secured 36 votes last session. The Durbin alternative was defeated on a motion to table by a vote of 61-38.

TOPICS OF DISCUSSION:

1. Thank the Senator for his vote on the Santorum Sense of the Senate vote, and express your similar concern that this procedure should only be used when absolutely necessary.
2. Tell the Senator that you have devoted much time developing your position on this issue – that while you oppose the use of the "partial birth abortion" procedure in general, you believe that there are a small group of women in desperate circumstances who need this procedure to prevent serious injury to their health. You have implored the Congress to send you legislation that includes this necessary exception. (ACOG agrees with you that this bill endangers women, because it prevents doctors from using a procedure that in a few cases best protects women from serious injury.)
3. Tell the Senator you believe that this bill is consistent neither with the Constitution nor with sound public policy. Since your 1997 veto, more federal courts have ruled that state partial birth abortion bans are unconstitutional. More specifically, the Santorum bill is unconstitutional because it could be read to ban a wide variety of abortion procedures, including those used in the earliest stages of pregnancy. In 19 states, courts have fully or partially enjoined similar legislation on the ground that: (1) it is unconstitutionally vague because it could be read to ban some of the safest and most commonly-used abortion procedures; (2) it does not provide an exception to protect women's health; and (3)

it violates Roe v. Wade. **This includes the September 24, 1999, Eighth Circuit decision striking down the Arkansas ban.**

4. Remind the Senator that medical decisions should be made by patients in consultation with their doctors, not by the government. The decision about abortion is a private, medical decision. The Santorum bill would prevent doctors and their patients from choosing what might well be the best and most appropriate medical treatment.

CONTACT PERSON AND
TELEPHONE NUMBER:

Beth Overman (202) 224-6706

DATE OF SUBMISSION:

October 21, 1999

ACTION:

PARTIAL BIRTH ABORTION

Q&A

October 21, 1999

Q: Does the President still remain committed to vetoing the partial birth abortion bill?

A: The President will veto the bill for the same reason as before – because it does not adequately protect women from serious harm. The President based his veto on the fact that there are a small group of women in desperate circumstances who need this procedure in order to save their lives or prevent serious injury to their health. The President believes that this procedure should be banned except when necessary to save the life of a woman or prevent serious harm to her health. If Congress presented such legislation to him, he would gladly sign it.

Q: Didn't the President base a prior veto on false information – i.e. that this procedure is performed on only a few hundred women in desperate circumstances?

A: Let's be clear – the President based his veto on the fact that there is a small group of women in desperate circumstances who need this procedure in order to save their lives or prevent serious injury to their health. He never said that these are the only circumstances in which the procedure is used; he said that these few women need to be protected. If Congress presented the President with a bill that did that, he would gladly sign it. It is worth noting that the American College of Obstetricians and Gynecologists (ACOG), which is the organization of specialists who know the most about this issue, agrees with the President that the bill endangers women, because it prevents doctors from using a procedure that in a few cases best protects women from serious injury.

BACKGROUND: In 1997, Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, said that partial birth abortions are (1) performed more frequently than pro-choice groups have acknowledged and (2) often performed on healthy women with healthy fetuses. There are no good statistics on these questions, and it would be a mistake to challenge Fitzsimmons on the facts. The important point is that even if true, Fitzsimmons claims do not undermine the President's position, as explained above.

Q: Does the President support Senator Durbin's alternative?

A: We have not fully reviewed the language of the specific alternative, but the President has made clear that he would sign a bill that bans partial birth abortions if it included an exception to save women's lives or prevent serious injury to their health.

Q: Would the President support a bill that bans all late term abortions?

A: The President has long opposed late-term abortions regardless of the procedure used, and, as Governor of Arkansas, signed into law a bill that banned them, with an appropriate

exception for the life or health of the mother. The President would sign legislation that prohibits all late-term abortions, except those necessary to save the life of a woman or prevent serious harm to her health.

Dear Kate:

It's always good to hear from you and

Thanks, ^{*somewhat*} you for your letter of ~~October 18.~~ ^{*^*} You've brought up some complex and difficult issues, and as always, I appreciate your counsel? *on this complex and difficult issue.*

I have urged Cayless to send me a bill

As you know, I ~~have long opposed~~ ^{*do not support*} late-term abortions, and would sign ~~that bill~~ ^{*I can sign.*} I believe a ban must have to protect a federal law banning them, with an appropriate exception for the life or health of the mother. ^{*to prevent serious adverse threats to her health*} However, in bills presented to me

~~banning the procedure, the Congress has chosen not to adopt my sensible and constitutionally appropriate proposal to except women who are subject to serious physical harm if they are denied the procedure. As you may know, as Governor of Arkansas, I signed a law that banned third trimester abortions, with an exception for instances in which the procedure may be necessary to protect the life or health of the mother~~

~~My position is consistent with the U.S. Supreme Court's decision on Roe v. Wade, which dictated that any law regulating abortion must~~

protect both the life and the health of the woman.

*This is info from
Devorah Adler -
Laurie Supina
is sending
me
info*

In regards to your concerns about handling and disposal of fetal tissue removed during these procedures, I can assure you that this matter is dealt with utmost sensitivity. The selling of body parts or human tissue is illegal. The regulations which govern handling of tissue following the procedure explicitly prevent clinics from receiving anything other than reimbursement for storage and handling of such materials. Research labs never receive whole organs or limbs; the material supplied to labs is considered to be medical waste. Further regulations determine the manner in which the tissue is transported and cared for.

-- in fact, they trouble me deeply --

I have never contended that this procedure, today, is always used in circumstances falling within the ^{narrow} exception. *I believe is appropriate.* I do not support such uses, and, as I have stated repeatedly, I would sign appropriate legislation banning them. However, I maintain that the procedure must remain legal for the few women whose tragic and disturbing cases necessitate that this procedure must be available in order to save their life or health.

*More
P. to
to
#:*

In regards to the article which you sent, "Dead Baby Parts Business Booming," I would be interested to know if there is reliable evidence to support the claims made by Paul Likoudis in *The Wanderer*. My staff in the Domestic Policy Council advise that the information is not accurate. As I mentioned, the selling of body

*DP
do
not
want
to clear*

*In fact, the procedure has
troubled me deeply, as it has many people.
This is
Need Women's
office clearance
Luis where abortion is*

parts or human tissue is illegal.

Thank you again for sharing your thoughts on this difficult issue.

Need language from Nicole.

Thought: Kate and the President have been corresponding on this issue for some time. I don't think this letter should be a history on l.t.a. b/c they've probably discussed the basics. Let's just answer his questions and make the draft sound personal.

Nicole -

12/13

From EL -

Have you seen this? Do you know
if a response was ever sent?

THE PRESIDENT HAS SEEN

12-30-99

THE WHITE HOUSE

WASHINGTON

December 17, 1999

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Eric Liu

SUBJECT: DPC Weekly Report

Copied
Reed
Liu
Podesta
Copied p.
Podesta

1. Crime – Update on Gun Negotiations. We have begun to engage various parties in the settlement talks and want to keep you updated. This week we met with representatives of most of the cities and counties that have filed suit against the gun manufacturers. Our message to this sprawling group was the importance of solidarity, and they were roundly supportive of our involvement. We also discussed strategy with the Attorneys General of New York and Connecticut, Eliot Spitzer and Richard Blumenthal, who have led the slow-moving talks to this point and who will be working with us as we push things forward. (We are meeting with Stan Chesley on Monday). Our plan is as follows: we are working now to hone a common “wish list” of remedies that we, the cities, the states and others on our side can bring into the settlement talks; on January 6, Robert Delfay, the lead industry negotiator, will come to the White House for a preliminary visit; on January 21, we will meet the manufacturers at the annual Shot Show in Las Vegas for a round of substantive talks; and sometime in the middle of January we may also meet informally with manufacturers to lay the groundwork for the Las Vegas round. None of this information is yet public. On a separate track, we met with this week with John Podesta and Administration staff to lay out our legislative and regulatory agenda on gun control and enforcement. We have a series of announcements in queue, beginning this weekend with a new budget initiative for ATF on ballistics, that will serve both to fortify our negotiating position and to frame public debate on our terms as talks with the industry get underway.

2. Education – Civil Rights Investigation of Chicago Social Promotion Policy. You asked recently about a federal civil rights investigation of the Chicago Public Schools social promotion policy. In October, the Education Department’s Office of Civil Rights (OCR) received a complaint from an advocacy group alleging that Chicago’s policy discriminates on the basis of race and sex and violates Title VI and Title IX. The complaint alleges that Chicago uses the Iowa Test of Basic Skills (ITBS) as the sole criterion for promoting students to the 4th, 7th and 9th grades; that this has a disparate impact on African American, Latino, and male students; and that CPS is using the test in a manner that the test’s makers deem inappropriate. OCR is now gathering information on the allegations, but has determined already that the Title IX claim has no factual basis. Chicago maintains that it takes into account factors other than ITBS scores, such as grades and attendance. The plaintiffs contend that those other factors never mitigate poor scores. While we cannot influence the course of this investigation we are monitoring it closely. The social promotion policy in your Education Accountability Act requires multiple measures, not scores from a single test, for promotion decisions.

What they are doing in Chicago is good -- they need to keep high numbers of low learners going to summer school!

What they are doing in Chicago is good -- they need to keep high numbers of low learners going to summer school!

3. **Health Care – Partial Birth Abortion and Organ Trafficking.** Kate Britton recently wrote to you about partial birth abortion, and you asked two questions about her letter. First, you asked about fetal tissue trafficking. Britton cites an article in the *Wanderer* claiming that women are coerced into having abortions so that fetal tissues and organs can be sold to NIH-funded laboratories. This is simply not accurate. Selling body parts or human tissue is illegal, and NIH would not sanction or fund the types of activities described in the article. Second, you asked about Britton's claim that "the vast majority of partial-birth abortions are performed in the 5th and 6th months of normal pregnancies and are completely elective, that is, not associated with maternal or fetal risk." According to a survey by the Alan Guttmacher Institute, the majority of these procedures are indeed performed in the 5th and 6th months of pregnancy, but we do not have good data on the associated risk level. Your position on this procedure is clear: you would sign a ban of late-term abortions if there were an appropriate exception to protect the health and life of the woman. You have consistently opposed the cases Britton objects to – procedures that are "completely elective." We will help draft an appropriate response.

*
Good


4. **Health Care – Update on Gene Patenting.** Following your Millennium Meeting on genetics, the NIH met with the Patent and Trademark Office to discuss growing public concerns about PTO's liberal approval of patents for gene sequences. From the NIH's point of view, such patents severely limit research and development on the genetic underpinnings and treatments of disease. (As you know, there is also considerable debate whether intellectual property monopolies over genetic material should ever, as an ethical matter, be granted). As it happens, PTO is now developing new guidelines for the genetic patent approval process. Under the current draft guidelines, PTO would not grant patents for short genetic sequences that have no known function, but would approve patents for sequences when: 1) a specific function for the sequence has been determined, such as its role in disease development or its use as a diagnostic; or 2) general information about the sequence's location or potential function has been identified. The NIH, while pleased that PTO would refuse patents for sequences with no known function, is troubled that sequences for which merely general information is known could be patented. Indeed, many in the consumer and scientific advocacy communities would prefer to permit patents only for those sequences that are linked to a new diagnostic use or treatment intervention. The final guidelines are subject to an OMB review, and we will work closely with OMB and others to build in more protections against premature application of patents.

↳ Padesta
important issue
NIH is right about this

Padesta
Important issue
NIH is right
about this

Debra D. Alexander
12/13/99 07:38:45 PM

Record Type: Record

To: John H. Corcoran III/WHO/EOP@EOP
cc: devorah r. adler/opd/eop@eop, Nicole R. Rabner/WHO/EOP@EOP
bcc:
Subject: Re: IMPORTANT FOB -- Kate Britton 

Hi, everyone. The article seemed inflammatory. John, you might want to say something like,

The article is very disturbing, and I would be interested to know if there is reliable evidence to support the claims made by Paul Likoudis in *The Wanderer*. My staff in the Domestic Policy Council advise that the information is not accurate. Specifically, selling body parts or human tissue is illegal. Second, the "site fees" mentioned are not paid by any lab that we are aware of. Third, labs never receive whole organs or limbs. Material supplied to labs is basically "medical waste".

John H. Corcoran III


John H. Corcoran III
12/13/99 07:23:08 PM

Record Type: Record

To: Debra D. Alexander/WHO/EOP
cc: Devorah R. Adler/OPD/EOP@EOP
Subject: Re: IMPORTANT FOB -- Kate Britton

Debi -- FYI
Devorah-- Thanks.

----- Forwarded by John H. Corcoran III/WHO/EOP on 12/13/99 07:22 PM -----

 Devorah R. Adler
12/13/99 07:16:26 PM

Record Type: Record

To: John H. Corcoran III/WHO/EOP@EOP

cc:

Subject: Re: IMPORTANT FOB -- Kate Britton 

I called the researcher (Alan Fantel) who is cited in the article to get more information.

First, selling body parts or human tissue is illegal.

Second, the "site fees" that he is talking about are not paid by any lab he has ever heard of.

Third, they never receive whole organs or limbs. Everything is basically "medical waste".

Fourth, he has never heard of the humice the article discusses.

I am not sure what our response should be. I think that this article is basically false.

Devorah

THE PRESIDENT HAS SEEN

11-24-99

Kate Britton

October 18, 1999

Dear Bill,

Thank you for sharing with me in such a personal way your own past reasoning in regard to partial-birth abortion, in response to the extraordinary *Eulogy for Matthew*. As a friend and sister-in-Christ, I feel a desire to respond to the explanation you offered as to why criminality should not be attached to partial-birth abortion.

As you know, your success in keeping this procedure free of criminality has not restricted its practice to a "benign zone" wherein partial-birth abortion is performed only on behalf of conflicted and earnest parents facing rare circumstances. I wish to bring to your attention some results of the growing practice of partial-birth abortion in our country. I enclose for you an article, "Dead Baby Parts Business Booming" (*The Wanderer*, 9/30/99) which exposes grotesque sub-industries that now openly auction the intact corpses of American babies. This article shows that the lack of criminality of partial-birth abortion has had an effect far beyond that of being lenient toward women whose unborn babies have rare medical conditions. The article quotes directly from brochures and publicity materials published by fetal tissue wholesalers which solicit or advertise their leasing of space at abortion facilities, in order to have their own employees on site for the purpose of harvesting correctly-packed fetal tissue, limbs and organs. Vendors of human body parts offer top price only for *intact* organs. The prices for fragmented parts are reduced by 30%. The incentive for increased partial-birth abortion, which results in an intact body, becomes clear. The industry anticipates only increasing demand for tissue harvested from intact aborted babies. *What kind of nation are we becoming?*

Bill, when you personally legitimized the reasoning of five mothers who defended their decisions to end their pregnancies by means of partial-birth abortion, you assumed the obligation of guaranteeing that this option must be permissible even if practiced on a large scale. When you protect from criminality the decision of a mother who decides for partial-birth abortion due to a desire to preserve her future fertility and/or end the suffering of her child, you also condone the error she makes of naming the undeniable but *relative goods* of fertility and freedom from suffering superior to the *absolute good* of already-created human life. Scripture records in countless passages that God has reserved exclusively to Himself the right to number the days of a human life. ["*The LORD kills and brings to life.*" I Samuel 2:6 "*There are... things which the LORD hates... hands that shed innocent blood.*" Proverbs 6:16,17] No creature may assume a right superior to the rights of the Creator Himself. These mothers' poor formation in natural law led them to the wrong conclusion that protecting their potency to have another baby with a longer life-expectancy or better health was an *absolute good*. No parent, however prayerful, has an absolute right to fertility or to a healthy child. These are gifts of God--gifts which He is free to grant or to withhold. ["*For My thoughts are not your thoughts, neither are your ways My ways, says the LORD. For as the heavens*

Bill / Kate

What about her agreement on p. 12 -
Does anyone really know how many of them procedure on don't when? (need to reply -

What about Alex
K

Copied
Reed
Cahill
Podest

THE PRESIDENT HAS SEEN

11-24-99

are higher than the earth, so are My ways higher than your ways." Isaiah 55:8,9] The tragic cost of each mother's erroneous ranking of *relative goods* (the natural desire for fertility, for a normal pregnancy and for freedom from suffering) over an *absolute good* (man's obligation to heed God's absolute injunction against the taking of innocent life) was the intentional death of her baby.

I can state with confidence that the mothers you mentioned who said that they were Catholic acted in violation of 20 centuries of unequivocal teaching by the Roman Catholic Church upholding the absolute dignity and sanctity of every human life, irrespective of its health or duration. The freedom of a Catholic to follow her conscience proceeds from the obligation first to achieve a rightly-formed conscience. These mothers cannot cite a single Scripture passage, the writings of any Church Father, a Papal Encyclical nor reference from the Catholic Catechism which supports their decisions to end their pregnancies—no matter how hard to bear the cross of painful circumstances surrounding them.

is this true?

It is a sad fact that your five women—and any woman to whom partial-birth abortion is presented as the best option—were given poor medical care. Partial-birth abortion has not been shown to influence positively maternal fertility. Its effectiveness as a means of euthanizing a handicapped child *in utero* is undisputed. Today, the vast majority of partial-birth abortions are performed in the 5th or 6th months of normal pregnancies and are completely elective, that is, not associated with maternal or fetal risk. Most doctors in practice today did not learn this method of abortion in medical school. The procedure was devised, absent scrutiny of mainstream physicians, by physician-operators of abortion clinics. In 1992, details of the procedure were presented publicly for the first time at the National Abortion Federation. The electorate, the courts, and the medical establishment became aware of partial-birth abortion only after this presentation. The procedure is unnatural in every way and clearly was designed to manipulate the scope of *Roe v. Wade*. The procedure's inventors wagered (so far, correctly) that if they insured that *only the head was allowed to emerge* previous to delivering the fatal puncture, they evaded the protection guaranteed to a whole person under the Constitution.

Bill, I ask you to re-examine your past stand and look hard at what motivated you in it. This procedure is evil and, as the enclosed article shows, its results are evil, and you—a Christian and President of the United States—should not continue to support its protection from criminality.

Bill, every president needs moral standing before the people he serves. Let a reversal on your part toward the criminality of partial-birth abortion be a sign of your humility and moral courage toward that end. It's never too late to do what's right. I urge you to take bold advantage of extraordinary graces that are offered by Jesus Christ to all those who are blessed to be alive for the celebration of the 2000th year since His birth. Jesus Himself assures you personally, "*Do not be afraid!*" [Mt 28:10] We recall that the Mary's pregnancy with Jesus was not without aspects of "crisis." God did not spare even the mother of His own Son anguish and confusion in her maternity. She too feared for

the proximate and ultimate fate of her baby. Jesus has truly gone before us in every way in order to provide for our needs *right now*.

My favorite parable is the one where Jesus tells about two brothers who are given an order by their father. One says immediately that he will obey, but does not. The other defies his father verbally, but then reconsiders and ultimately does obey. Jesus asks, "*Which of the two did the will of his father?*" [Mt 21:31] I love this story because I am like the second brother. Many times in my life—sometimes in grave matters—I too say "no" to my Father. Upon reconsidering (often *years* later), I must repent of my words and deeds of defiance and follow instead the *narrow way* of God's Will. What a relief it is to me to know that my habitual, ever-ready expressions of self-love do not determine my ability to repent and then *do the will of my Father!* I am grateful that He is the God of second chances.

I'll be praying for you regarding the criminality of partial-birth abortion. A change within your heart is the basis for the change of mind in you that can instantly strike a measurable blow to this evil. I know that this is hard, but it is not too hard for you, if you surrender to God's doing of it through you. Ask Him sincerely, and then watch how He makes for you "*a hiding place from the wind; a covert from the tempest; streams of water in a dry place; shade in a weary land.*" [Is 32:2] I believe in you and in your capacity, as Mother Teresa taught us all, "*to do something beautiful for God.*" I see in you *liberation of spirit*, a virtue much-loved by God, for those blessed with it can seek and find Him everywhere and in everyone. Take courage in the knowledge that God has called and kept hidden Donna Wilkes as a *suffering co-worker* both of your interior life in Christ and your public life as President of the United States. At Mass today, we heard proclaimed, "*Despite the increase of sin, grace has far surpassed it, so that, as sin reigned through death, grace may reign by way of justice leading to eternal life, through Jesus Christ our Lord.*" [Rom 5:21] Let us claim this verse for the sake of Jesus Christ's babies!

+ In Christ,
Rat

11-24-99

Dead Baby Parts Business Booming

By PAUL LIKOUDIS

Here is a sign of the times of American life in the Clinton regime:

"Human embryonic and fetal tissues are available from the Central Laboratory for Human Embryology at the University of Washington. The laboratory, which is supported by the National Institutes of Health, can supply tissue from normal or abnormal embryos and fetuses of desired gestational ages between 40 days and term. Specimens are obtained within minutes of passage and tissues are aseptically identified, staged, and immediately processed according to the requirements of individual investigators. Presently, processing methods include immediate fixation, snap fixation, snap freezing in liquid nitrogen and placement in balanced salt solutions or media designated and/or supplied by investigators. Specimens are shipped by overnight express, arriving the day following procurement. . . .

"Inquiries:

"Alan G. Fantel, Ph.D.

"Department of Pediatrics, RD-

20

"Seattle, WA 98195."

In cold, clinical research terms, here is the end product of the "fetal tissue issue" — an economical-

ly important byproduct of the sexual revolution.

(For those who want to see the document themselves, it's only a click away on the Internet. Just call up the ask.com search engine, type in "Where can I purchase fetal tissue?," and within seconds, "NIH Guide" will appear as one of the answers.)

Here, courtesy of the National Institutes of Health, in taxpayer-funded black and white, is the reality of America's culture of death: commercial cannibalism of the young of the human species, a business about to break into the mainstream as a coalition of major medical and health organizations, businesses, and associations press for federal funding of lethal embryo research.

Since the widespread legalization of abortion, abortionists, protected and promoted by media publicists, have dramatized the plight of the poor pregnant girl whose life can only be set right by free and easy access to tax-funded abortions.

The abortion industry, however, has always been about money, and now Houston-based Life Dynamics has shown it's a double-profiteering, body-snatching supplier for the rapidly growing biologics and pharmaceutical industries which require a continuing supply of fresh human bodies, brains, organs, flesh and bones for research, product manufacturing, treatments, and therapies.

Following the release, last May, of a powerful LifeTalk video featuring "Kelly," a fetal tissue procurer for the Maryland-based Atomic Gifts Foundation, Life Dynamics has released documentation obtained from fetal tissue wholesalers, that is, companies which place their employees in abortion facilities to harvest tissue, limbs, organs, etc. The tissue is

See

Business Booming

(Continued from Page 1)
then shipped to universities, pharmaceutical and biophysics firms, and government research centers.

Just Business

Included in the documents are price lists and shipping and procurement instructions.

Opening Lines, a division of Consultative and Diagnostic Pathology, Inc., of West Frankfurt, Ill., will pay \$999 for brains eight weeks old or less; ("30% discount if significantly fragmented"), \$400 for an intact embryonic cadaver eight weeks old or less; \$600 for an intact embryonic cadaver above eight weeks; \$550 for gonads; \$350 for bone marrow, and various prices for everything but the scream: livers, spleens, pancreas, thymus, mesentery, kidney, pituitary gland, ears, eyes, skin, lung and heart block, spinal column, spinal cord, cord blood, limbs.

Anatomic Gift Foundation will pay \$220 for a first-trimester aspiration abortion ("fresh") and \$260 if it is "frozen."

Opening Lines provides two kinds of promotional literature, brochures for abortion clinics and brochures for researchers and industry, which Life Dynamics includes in its booklet of documentation.

The front page of the brochure for abortion facilities proclaims: "Find out how you can turn your patients' decision into something wonderful." Inside is this text: "We know your patient's decision to have an abortion was carefully considered and we also know it was a very difficult one to make."

"Now that the choice has been made, we ask that you propose to your patient a simple program that could help thousands of people."

"Consultative and Diagnostic Pathology, Inc., will be asking to obtain tissue specimens from your patient's medical procedure."

"This is an opportunity to make a difference... and it can be beneficial to your clinic."

"1) Consultative and Diagnostic Pathology will lease space from your facility to perform the harvesting and distribution of tissue. The revenue generated from the lease can be used to offset your clinic's overhead."

"2) Consultative and Diagnostic Pathology can train your staff to harvest and process fetal tissue. Based on your volume we will reimburse part or all of your employee's salary, thereby reducing your overhead."

The brochure for industry declares: "Fresh Fetal Tissue harvested and shipped to your specifications... where and when you need it."

The company boasts its tissue "is the highest quality, most affordable, and freshest tissue prepared to your specifications and delivered in the quantities you need when you need it."

A Ghoulish Request

Also included in the Life Dynamics booklet are dozens of copies of completed "tissue requested" documents, along with protocols for harvesting, preserving, and shipping.

One such document is a request for "Limbs, Liver, Thymus."

"Preservation: Fresh shipped on wet ice. IMDM/10% lx L-Glutamine, Pen/Strep. Will supply if necessary. Limbs intact. To be removed under sterile conditions...."

"Shipping: Fresh, wet ice. Priority overnight or same day."

"Tissue Use/Significance: Human fetal tissue will be used for the generation of SCID-humice. Briefly, a SCID mouse is engrafted with either a human bone marrow fragment, thymus/liver graft, or a lymph node. These mice will then be used to study hemoglobinopathy in vivo... Approval for the production of SCID humice and transplantation of cells into them has already been obtained from the IUCUC of Genetech, Inc. (Study #97-156)."

Other documents stipulate that organs must be retrieved within ten minutes, indicating that the organ must be procured from a living, aborted baby.

Other documents stipulate "no dig," which instructs the abortionist that no digoxin (a fetocidal chemical) can be used, for it would harm the desired organs.

Other norms stipulate "no anomalies" or "no congenital abnormalities" — evidence perfectly healthy babies are being aborted for organ harvesting.

Life Dynamics also discloses that these fetal organ harvesting businesses set up promotional booths at conferences held by the National Abortion Federation.

Much of the fetal tissue is used for HIV/AIDS research.

Technically, this gruesome business is illegal. It is against federal law to sell human tissue or body parts, but as Life Dynamics points out: "The fetal material [the companies] harvest is 'donated' to

them by the clinics. However, they do pay a 'site fee' to the clinics for the right to access the tissue.

"The tissue is then 'donated' to the researchers who in turn pay the wholesalers for the cost of retrieval. Profit is realized by the wholesalers' ability to set their own retrieval fees."

Something Old, Something New

Fetal tissue research, harvesting organs from living, aborted babies, building "humice" for research and the rest of the brave new world of biomedical research is not new; the work goes back to the 1920s, according to the American Life League's Judie Brown in "Recycling Babies: The Practice of Fetal Tissue Research" (1996).

In the American Life League's *Pro-Life Activist's Encyclopedia* entry on "Fetal Experimentation: Frankenstein Revisited," author Brian Clowes traces the gruesome history of fetal experimentation and organ harvesting — the "road to Auschwitz" — back to European and U.S. universities in the 1960s. The practice rapidly accelerated with the legalization of abortion.

On May 20th, a coalition called Patients' CURE (Coalition for Urgent Research) started lobbying in Washington, D.C., for federal taxpayer funding of stem cell research that requires the killing of human embryos, accompanied by an enormous media blitz ballyhooing the alleged benefits of fetal tissue research for a host of medical problems.

Members of the coalition include the Alliance for Aging Research, the American Cancer Society, the Glaucoma Research Council, Juvenile Diabetes Foundation International, Parkinson's Action Network, Resolve: The National Infertility Association, and the Spina Bifida Association, Inc.

As Richard Doerflinger of the U.S. Bishops' Pro-Life Activities office observed, the demand for federal funding for destructive embryo research — currently against the law — represents a dramatic turn in the American abortion culture: Government now can only fund those abortions which "save the life of the mother," but

under proposed legislation, will fund abortions that "produce life-saving benefits for others."

Clowes estimates that, with the aging of America and the growing callousness of baby-boomers, there will be an increased demand for medical treatments using organs and tissue harvested from aborted babies.

"It may be expected," he wrote in *ALL's Encyclopedia*, "that as many as five million people will make use of fetal tissue on a regular basis. This means that the total amount of fetal tissue required to satisfy the demands of these 'neovampires' will be measured in the tons every year."

"Since there are only about 120,000 second and third trimester abortions in the United States, this means that demand for fetal tissue will crushingly and inevitably overwhelm the available supply."

Clowes predicted "inflated prices... a thriving black market; the growing and selling of preborn babies for sale; the import of fetal tissue from poor and developing countries; and entrepreneurs encouraging women to abort as late as possible for a monetary reward."

Clowes wrote the above in 1995.

In 1999, Kelly, the pseudonymous organ harvester who unloaded her documents at Life Dynamics, confirmed that women are "coerced" into having abortions. Women, she says, would change their minds after entering the abortion mills, but they were sedated by staff into a "Niquil nap."

Kelly also testified on the Life Dynamics video that women are encouraged to have late-term abortions to meet the demands of an industry that requires intact specimens and tissues.

Mark Crutcher, president of Life Dynamics, says he's convinced that the reason the abortion industry fights so hard to keep "partial-birth abortion" legal is that it wants to sell the fetal tissue.

"Why do pro-aborts fight so hard to keep it?" he asks in an interview published last month in *The Alberta Report*. "All it says is you can't kill them by this method...."

"This is about maximizing profits. First, you sell the woman an abortion. Then you turn around and sell the dead baby you take out of her. But you have to take it out whole or you don't have anything to sell."

THE PRESIDENT HAS SEEN
TWENTY-NINTH SUNDAY: YEAR A

(10/17/99)

46. GIVING TO GOD WHAT IS GOD'S

46.1 Loyal collaborators in fostering the common good.

The *First Reading* of today's Mass shows us how God chooses his instruments of salvation wherever He pleases.¹ To bring his People out of exile the Lord takes hold of Cyrus, a pagan king. The Lord uses political authority to do good. There is nothing in the universe that lies outside his paternal dominion.

In the Gospel for today² Jesus reaffirms the duty of all of us to obey civil authority. The Pharisees and the Herodians had attempted to lay a trap with their question: Was it licit to pay tribute to Caesar? There were those among the Jews who argued that such payments simply reinforced the tyranny of foreign domination over the Chosen People. If the Master were to acquiesce in this payment, the Pharisees would be able to accuse him of collaboration with the Romans. He would thus be discredited before a good part of the people. But if He were to oppose the tax, the Herodians, who were in league with the (occupying) civil power, would then have grounds for a denunciation to the Romans.

Jesus gives his enemies a profound response, which went far beyond their twisted expectations. He does not limit himself to a 'yes' or 'no'. The Master speaks: *Render therefore to Caesar the things that are Caesar's, he says, and to God the things that are God's.* Give to Caesar what

1. *First Reading*, Is 45:1; 4-6

2. Matt 22:15-21

rightfully belongs to him: tribute, obedience to just laws ... but nothing more. The State does not enjoy absolute power and dominion. As ordinary citizens, Christians have *the obligation of rendering to the state whatever material and personal services are required for the common good.*³ For their part, civil authorities are obligated to act with equity and justice in the distribution of their goods and services. They have to serve the common good without looking for any personal gain. They have to legislate and govern with the greatest respect for the natural law and the rights of people. This includes the protection of life from the moment of conception, defence of the family, religious liberty, the rights of parents regarding the education of their children. The Lord speaks through the Prophet Isaiah: *Woe to those who decree iniquitous decrees!*⁴

Christians are obliged to pray for those who exercise civil authority. Rulers and governments have a great responsibility to carry out. Christians should fulfil their duties to society with virtually scrupulous exactitude. There should be no more loyal collaborators for the common good than the Christian faithful. This fidelity will spring naturally from well-formed consciences. Their relations with civil authority should become, in fact, a path to sanctity: the payment of taxes, the power to vote, our involvement in associations for public welfare, active participation in political life should that be our calling ... Let us examine ourselves today to see if we are truly being good examples to others of fostering the common good.

3. Second Vatican Council, *Gaudium et spes*, 75

4. Is 10:1

your
duty

my
duty

46.2 The religious dimension of man.

The Lord recognized the civil power and its rights, but He also stated quite clearly that we have to respect the rights of God.⁵ Human activity cannot be reduced to strictly social and political spheres of action. Every individual has a profound religious dimension to his being. It informs all of his works and gives them tremendous dignity. This explains why the Lord adds those important words: Give ... to God the things that are God's.

Whenever a Christian plays a part in public affairs, in education, say, or in cultural life, he or she cannot behave as if to reserve the faith for some better occasion in the future. *The distinction which Christ made was not intended to relegate religion to the temple – to the sacristy – so that temporal realities would develop apart from divine and Christian law.*⁶ Quite the contrary; Christians are challenged to be *light* and *salt* in the middle of the world. We are called to transform the environments in which we live and work, so as to make them more human. We should strive to make the path to God accessible for as many of our fellow men as possible. In the words of the Second Vatican Council: *The laity accomplish the Church's mission in the world principally by that blending of conduct and faith which makes them the light of the world; by that uprightness in all their dealings which is for every man such an incentive to love the true and the good and which is capable of inducing him at last to go to Christ and the Church; by that fraternal charity that makes them share the living conditions and labours, the sufferings and yearnings of their brothers, and thereby prepare all hearts, gently, imperceptibly, for the action of saving grace; by that full awareness of their*

*personal responsibility in the development of society, which drives them on to perform their family, social and professional duties with Christian generosity.*⁷

46.3 The Faith, a powerful light.

When it comes to fundamental questions of social morality, Christians should be fully aware of the fact that their religious faith serves as a powerful light illuminating the whole area of the common good. The teachings of God and his Church are not an obstacle to human welfare or scientific progress. They are rather a sure guide for the realization of those worthy goals. When, for example, a Christian maintains the indissolubility of marriage, he is showing the way to guaranteeing the health of society.⁸ He thus provides huge benefit to all. It is not a question of safeguarding our own special privileges. We have so much to give for the good of society! This is what we can learn from the example of the first Christians. A person with a well-formed conscience can make an enormous contribution to the real welfare of his or her fellow citizens. The Christian has a most precious light to offer amidst so much darkness!

What has come to pass in our society is most lamentable, as was pointed out by Cardinal Luciani, later Pope John Paul I: *In this same society there is a terrible moral and religious void, he wrote, Today all seem frantically directed toward material conquests: make money, invest, surround oneself with new comforts, live the 'good life'. Few think also of 'doing good'.*

God – who should fill our life – has, on the contrary, become a very distant star, to which people look only at

5. cf Second Vatican Council, *Dignitatis humanae*, 11

6. J. Escrivá, *Letter*, 9 January 1959

7. Second Vatican Council, *Apostolicam actuositatem*, 13

8. cf J. M. Pero-Sanz, *Believers in Society*, Madrid 1981, p. 30

• certain moments. People believe they are religious because they go to church; but, outside of church they want to lead the same life as many others, marked by small or big deceits, acts of injustice, sins against charity; and thus they totally lack coherence.⁹ This is not the way to render to God the things that are God's. The proper path lies in living a coherent life of faith. We should act as children of God in the halls of government as well as in the living-rooms of our friends. We should have the firm conviction that the Church is an unquenchable source of truth, the only source capable of filling our modern age's terrible moral and religious void. A society without these values is at the mercy of aggressive elements and prey to a gradual dehumanization. God is not a distant star out of touch with mankind. He is a most powerful light who gives meaning and significance to all human affairs. We Christians, then, are the ones who have to transform the world we live in, in alliance with all people of good will. How can we stand idly by in the defence of human life from its beginnings? Shall we be silent in the face of genetic manipulations that degrade the subject and at the same time every other human person? In another area, what is to be done about the right of parents to educate their children?

• *Render to God the things of God.* The Lord is the life of every person from the moment of conception. The Lord sanctified family life in Nazareth and later taught us to respect the indissolubility of marriage. The Lord revealed these truths even though many of his hearers were scandalized at his message. Despite all social pressures and propaganda to the contrary, married Christians should take care not to block the wellsprings of life. Truly, all men and women should make a serious effort to receive good

formation for their consciences.

Our entire life is for the Lord, and everything in it. How is it possible that we could reserve some area of it for our sole personal domain?

9. A. Luciani, *Illustrissimi*, p. 179

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
LEGISLATIVE AFFAIRS

File - Abate -
Partial - Print -
~~SAP~~ official
statements

PHONE: 395-4790 / FAX: 395-3729

TO: Elena Kagan

DATE: 3/19/97

FROM:

___ CHUCK KIEFFER

___ CHUCK KONIGSBERG

___ LISA KOUNTOUPES

✓ ___ ALICE SHUFFIELD

___ KATE DONOVAN

___ NANCY BRANDEL

Comments: Final SAP on HR. 929

FAX #: _____

PAGES: 4

PHONE NUMBER: _____

(includes cover page)



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

March 19, 1997
(House)

STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

H.R. 929 - Partial-Birth Abortion Ban Act of 1997 (Rep. Canady and 181 cosponsors)

H.R. 929 contains the same serious flaws as H.R. 1833, a virtually identical bill that was passed during the 104th Congress and vetoed by the President on April 10, 1996.

The President will veto H.R. 929 for the reasons he expressed in his veto message of April 10, 1996, which is attached.

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

April 10, 1996

TO THE HOUSE OF REPRESENTATIVES:

I am returning herewith without my approval H.R. 1833, which would prohibit doctors from performing a certain kind of abortion. I do so because the bill does not allow women to protect themselves from serious threats to their health. By refusing to permit women, in reliance on their doctors' best medical judgment, to use this procedure when their lives are threatened or when their health is put in serious jeopardy, the Congress has fashioned a bill that is consistent neither with the Constitution nor with sound public policy.

I have always believed that the decision to have an abortion generally should be between a woman, her doctor, her conscience, and her God. I support the decision in Roe v. Wade protecting a woman's right to choose, and I believe that the abortions protected by that decision should be safe and rare. Consistent with that decision, I have long opposed late-term abortions except where necessary to protect the life or health of the mother. In fact, as Governor of Arkansas, I signed into law a bill that barred third trimester abortions, with an appropriate exception for life or health.

The procedure described in H.R. 1833 has troubled me deeply, as it has many people. I cannot support use of that procedure on an elective basis, where the abortion is being performed for non-health related reasons and there are equally safe medical procedures available.

There are, however, rare and tragic situations that can occur in a woman's pregnancy in which, in a doctor's medical judgment, the use of this procedure may be necessary to save a woman's life or to protect her against serious injury to her health. In these situations, in which a woman and her family must make an awful choice, the Constitution requires, as it should, that the ability to choose this procedure be protected.

In the past several months, I have heard from women who desperately wanted to have their babies, who were devastated to learn that their babies had fatal conditions and would not live, who wanted anything other than an abortion, but who were advised by their doctors that this procedure was their best chance to avert the risk of death or grave harm which, in some cases, would have included an inability to ever bear children again. For these women, this was not about choice -- not about deciding against having a child. These babies were certain to perish before, during or shortly after birth, and the only question was how much grave damage was going to be done to the woman.

I cannot sign H.R. 1833, as passed, because it fails to protect women in such dire circumstances -- because by treating doctors who perform the procedure in these tragic cases as criminals, the bill poses a danger of serious harm to women. This bill, in curtailing the ability of women and their doctors to choose the procedure for sound medical reasons, violates the constitutional command that any law regulating abortion protect both the life and the health of the woman. The bill's overbroad criminal prohibition risks that women will suffer serious injury.

more

(OVER)

2

That is why I implored Congress to add an exemption for the small number of compelling cases where selection of the procedure, in the medical judgment of the attending physician, was necessary to preserve the life of the woman or avert serious adverse consequences to her health. The life exception in the current bill only covers cases where the doctor believes that the woman will die. It fails to cover cases where, absent the procedure, serious physical harm, often including losing the ability to have more children, is very likely to occur. I told Congress that I would sign H.R. 1833 if it were amended to add an exception for serious health consequences. A bill amended in this way would strike a proper balance, remedying the constitutional and human defect of H.R. 1833. If such a bill were presented to me, I would sign it now.

I understand the desire to eliminate the use of a procedure that appears inhumane. But to eliminate it without taking into consideration the rare and tragic circumstances in which its use may be necessary would be even more inhumane.

The Congress chose not to adopt the sensible and constitutionally appropriate proposal I made, instead leaving women unprotected against serious health risks. As a result of this Congressional indifference to women's health, I cannot, in good conscience and consistent with my responsibility to uphold the law, sign this legislation.

WILLIAM J. CLINTON

THE WHITE HOUSE,
April 10, 1996.

###



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

Abortion-partial
birth-official
statements
letters

TO: RAHM EMANUAL
TODD STERN
NANCY ANN MIN (OMB)
MARTHA FOLEY (WHLA)
PETER JACOBY (WHLA)
PHIL CAPLAN (COS)
WILLIAM MARSHALL (White House Counsel)
JOHN HART (Intergovernmental Affairs)
MELANNE VERVEER (1st Lady's Office)
ELENA KAGAN (DPC)
BARBARA WOOLLEY (Public Liaison)
LYNN HOGAN (DPC)

CC: CHARLES KIEFFER
CHUCK KONIGSBERG
TRACY THORNTON

DATE: March 6, 1997

FROM: Alice Shuffield

RE: Partial-Birth Abortion letter for your clearance

Attached is a draft response to Senator Kennedy's 3/5/97 letter to Dr. David Satcher (also attached), requesting specific information for the Tuesday, March 11th Senate Judiciary Committee hearing on partial-birth abortion.

In an effort to meet his request for a response by March 7th, please contact me (5-4790) by 1:00 pm on Friday with your comments or your clearance.

THANKS!

DRAFT 3/6/97

The Honorable Edward Kennedy
United States Senate
Washington, D.C.

Dear Senator Kennedy:

Thank you for your letter of March 5 to Dr. David Satcher regarding the availability of data on abortions, particularly the so-called partial birth abortion. Dr. Satcher has asked that I respond and I am pleased to have the opportunity to respond to your several questions. I have divided my response into three sections: the sources of abortion data, the annual number of abortions as a function of gestation period and abortion method, and the availability of data on partial-birth abortions.

Current sources of abortion data

There are two current sources of abortion data: The Centers for Disease Control and Prevention (CDC) and The Alan Guttmacher Institute (AGI):

The Centers for Disease Control and Prevention (CDC)—The CDC began abortion surveillance in 1969 to document the number and characteristics of women obtaining legal induced abortions, to monitor the incidence of unintended pregnancies, and to assist with efforts to identify and reduce preventable causes of morbidity and mortality associated with abortions. The CDC's abortion data are currently compiled from data submitted voluntarily by the health departments of 45 States plus Washington, D.C. and New York City. CDC's national count also includes estimates for the five states not collecting abortion statistics; these five states (including Alaska, California, Iowa, New Hampshire, and Oklahoma) account for an estimated 26.5 percent of U.S. abortions.

The Alan Guttmacher Institute (AGI)—The AGI, a private, non-profit research organization, periodically collects data on total abortions by directly contacting abortion providers to obtain information on the number of abortions performed. The AGI does not collect information on patient characteristics. The data reported by the AGI are believed to accurately reflect the national count of abortions. The totals reported by central health agencies to CDC are generally lower than those obtained by direct surveys of abortion providers conducted by the AGI. In 1992, for example, the CDC national estimate was about 12.5 percent lower than the number reported to AGI. The trends in abortions according to the two data sources have been fairly similar; the percent difference in the number of abortions reported by CDC and AGI has declined in recent years.

Abortion data analyzed according to gestation period and abortion method.

Two tables are attached. The first - labeled "Table 16" - is an excerpt from Abortion Surveillance--United States, 1992 (CDC, MMWR No. SS-3, 1996), based on CDC's abortion surveillance system. It provides a cross-classification of numbers of procedures by weeks of

gestation and abortion method for the 36 areas that report these characteristics to CDC. Abortion data compiled by CDC does not include breakdown of abortion method on a week by week basis beyond a gestational period of 21 weeks. We have also enclosed a copy of the full CDC report.

The second table provides estimates of numbers of abortions by more detailed gestational distribution. The table includes data from the CDC system as well as a table that was developed by the Alan Guttmacher Institute using data from three data systems: their reporting system, the CDC surveillance system, and data collected from the 14 States that were part of an NCHS data system in 1992.

It should be stressed that these tables, like other abortion data, have serious limitations. These include:

- There is no verification or validation of information reported in either of these data systems. Gestational age, in particular, is highly subject to error.
- Definitions of procedure are vague, lack consistency in the way they are applied, and reflect a lack of consensus on use of medical terminology.
- CDC compiles information from 47 reporting areas (not all provide all data items), which in turn are based on reports from facilities and physicians, and there are inconsistencies across states regarding abortion reporting. AGI obtains reports from facilities, covering the whole U.S. but lacking characteristics on the encounter (e.g., abortion method, gestation, etc.).
- The AGI national estimates according to patient characteristics, such as age, length of pregnancy, and type of procedure, are based on coupling the total abortion figures collected by the AGI with the more detailed data compiled by the CDC. The CDC data according to patient characteristics are limited, however, because all states do not provide information on all characteristics. For example, in 1992, gestational age was reported by 37 states, the District of Columbia, and New York City. Gestational age according to type of procedure was reported by only 35 states and New York City. The AGI estimates of abortions according to gestational age in the second attached table were based on the CDC distributions. However, the figures for abortions after 20 weeks were based on a tabulation of NCHS abortion data for 14 states which provided detailed gestational data.

Data on "partial-birth abortions," and intact dilation and extraction abortions

Because the term "partial birth abortions" is not a medical term, it is not used in reports submitted by physicians or providers to State health departments. Therefore, abortion data compiled by CDC does not have data specific to that term. Dilation and extraction (also known as D&X and intact D&E) is one of several abortion methods included under the general category of curettage, however the data submitted by states and providers do not subdivide the category further into

specific abortion methods. In fact, the current lack of standardization in the definition of the procedures is a barrier to the collection of such data. As noted, the AGI surveillance system does not collect abortion data by procedure.

While anecdotal information has been discussed in the press, the validity of the anecdotal data has not been determined.

I hope we have provided some clarification on the availability of data on partial birth abortions, or more specifically, intact dilation and extraction. In short, while there are data available that allow monitoring of trends and abortion issues in the aggregate, we are unaware of credible data to address the use of this specific procedure.

Sincerely,

Edward J. Sondik, Ph.D.
Senior Advisor to the Secretary on Health Statistics, and
Director, National Center for Health Statistics, CDC

cc: David Satcher, M.D.

Attachments

TABLE 16. Reported legal abortions, by weeks of gestation and type of procedure* — United States, 1992

Type of procedure	Weeks of gestation												Total	
	≤8		9-10		11-12		13-15		16-20		≥21			
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Curette (suction or sharp) [†]	352,453	99.9	168,815	99.9	32,811	99.6	40,740	98.2	25,180	99.8	2,505	95.4	668,594	99.8
Intrauterine saline instillation	43	0.0 [‡]	32	0.0 [‡]	53	0.1	208	0.5	1,324	4.5	422	4.3	2,074	0.3
Intrauterine prostaglandin instillation	22	0.0 [‡]	19	0.0 [‡]	35	0.0 [‡]	199	0.5	1,273	4.3	455	4.8	2,019	0.3
Hysterotomy/ hysterectomy	11	0.0 [‡]	7	0.0 [‡]	3	0.0 [‡]	3	0.0 [‡]	11	0.0 [‡]	8	0.1	41	0.0 [‡]
Other [†]	282	0.1	70	0.0 [‡]	211	0.3	325	0.8	1,485	5.1	437	4.4	2,820	0.4
Total**	352,811	100.0	168,943	100.0	33,214	100.0	41,467	100.0	26,283	100.0	2,838	100.0	669,557	100.0

*Excludes unknowns.

[†] Includes dilatation and evacuation.[‡] ≤0.05%.[†] Includes instillation procedures not reported as a specific category.

** Reported by 35 states and New York City.

Note: Total numbers of abortions differ from the following table due to different reporting areas.

Source: CDC. Abortion Surveillance: United States, 1992, MMWR 45(No. SS-3), 1996.

EDWARD M. KENNEDY
MASSACHUSETTS

United States Senate

WASHINGTON, DC 20510-2101

March 5, 1997

Dr. David Satcher
Offical of the Director
Centers for Disease Control and Prevention
1600 Clifton Road, NE
Atlanta, Georgia 30333

Dear Dr. Satcher,

As you know, the Senate Judiciary Committee will hold a hearing entitled, "Partial-Birth Abortion: The Truth," on Tuesday, March 11, 1997. Although the hearing will undoubtedly address several issues, I believe a great deal of attention will be focused on the confusion surrounding the number of intact D&E abortions performed annually. I hope you will be able to provide information that assists members of the Committee to better understand this issue.

It is my understanding that no public or private organization compiles national data on the number of intact D&E procedures performed annually. The Centers for Disease Control (CDC) and the Alan Guttmacher Institute, recognized by the CDC as maintaining highly accurate and comprehensive abortion statistics, do maintain a range of abortion-related data. Based on this information and our understanding about the period in which the intact D&E procedure is employed, we can infer, with reasonable accuracy, the number of abortions performed after fetal viability.

It would be very helpful to me and other members of the Judiciary Committee if the CDC would tell us how long they have been maintaining abortion data and provide the following: abortion data by gestation period and correlated to abortion method; data regarding "partial-birth abortions," if such data exists; data regarding intact D&E abortions or verification that my understanding of data collection regarding intact D&E abortions is correct; and your opinion regarding the validity of the statistics provided by the Alan Guttmacher Institute. Finally, I would like to know if you are aware of any public or private organization that maintains accurate information on "partial-birth abortions."

Because the Senate Judiciary Committee will hold a hearing on this issue on Tuesday, March 11, 1997, I would appreciate a response to my request no later than Friday, March 7, 1997. If you have any questions regarding this request, please call me or my Judiciary Committee General Counsel, Melody Barnes, at (202) 224-7956.

Thank you for your assistance with this matter, and I look forward to your response.

Sincerely,



Edward M. Kennedy

**Abortion
Q&A
October 27, 1999**

Q: Last week, the Senate passed the Partial Birth Abortion Act with a narrow veto-sustaining margin. Why are you committed to vetoing a bill that most Americans agree outlaws an unconscionable procedure?

A: I support the decision in Roe v. Wade protecting a woman's right to choose. At the same time, I have long opposed late-term abortions, and I continue to do so except in those instances necessary to save the life of a woman or to prevent serious harm to her health. Unfortunately, the bill passed by the Senate does not contain an exception to the measure's ban that will adequately protect the lives and health of a small group of women in tragic circumstances who need an abortion performed at a late stage of pregnancy to avert death or serious injury. I have met women who desperately wanted to have their babies, but who were devastated to learn that their babies had fatal conditions and would not live, who wanted anything other than an abortion, but who were advised by their doctors that this procedure was their best chance to avert the risk of death or grave harm.

I have asked Congress repeatedly, for nearly 4 years, to send me legislation on this issue that includes a limited exception for the small number of cases where use of this procedure is compelling. Their failure to make such a humane exception leaves me no choice but to veto this legislation.

Q: On Tuesday, a federal appeals court in Chicago upheld bans on late-term abortion in Wisconsin and Illinois -- what affect do you think this will have on the congressional debate?

A: The federal courts continue to be divided on the constitutionality of these statutes. Other circuit courts have struck down such bans as unconstitutional. As the courts continue to wrestle with this issue, I can tell you where I stand on this question. I am ready to sign a bill that bans all late term abortions if it includes a reasonable exception to save a woman's life or prevent a serious threat to her health.

PARTIAL BIRTH ABORTION Q&A
October 19, 1999

BACKGROUND: S. 1692, the Partial-Birth Abortion Ban of 1999, sponsored by Senator Santorum and 43 co-sponsors, may come up for Senate floor consideration this afternoon.

Q. Does the President still remain committed to vetoing the partial birth abortion bill?

A. The President will veto the bill for the same reason as before – because it does not adequately protect women from serious harm. The President based his veto on the fact that there are a small group of women in desperate circumstances who need this procedure in order to save their lives or prevent serious injury to their health. The President believes that this procedure should be banned except when necessary to save the life of a woman or prevent serious harm to her health. If Congress presented such legislation to him, he would gladly sign it.

Q. Didn't the President base a prior veto on false information – i.e. that this procedure is performed on only a few hundred women in desperate circumstances?

A. Let's be clear – the President based his veto on the fact that there is a small group of women in desperate circumstances who need this procedure in order to save their lives or prevent serious injury to their health. He never said that these are the only circumstances in which the procedure is used; he said that these few women need to be protected. If Congress presented the President with a bill that did that, he would gladly sign it. It is worth noting that the American College of Obstreticians and Gynocologists (ACOG), which is the organization of specialists who know the most about this issue, agrees with the President that the bill endangers women, because it prevents doctors from using a procedure that in a few cases best protects women from serious injury.

BACKGROUND: In 1997, Ron Fitzsimmons, executive director of the National Coalition of Abrotion Providers, said that partial birth abortions are (1) performed more frequently than pro-choice groups have acknowledged and (2) often performed on healthy women with healthy fetuses. There are no good statistics on these questions, and it would be a mistake to challenge Fitzsimmons on the facts. The important point is that even if true, Fitzsimmons claims do not undermine the President's position, as explained above.

Q. Will the President support Senator Durbin's alternative that he is expected to offer?

A. We have not yet seen the language of the specific alternative, but the President has made clear that he would sign a bill that bans partial birth abortions if it included an exception to save women's lives or prevent serious injury to their health.

Q. Would the President support a bill that bans all late term abortions?

A. The President has long opposed late-term abortions regardless of the procedure used, and, as Governor of Arkansas, signed into law a bill that banned them, with an appropriate

exception for the life or health of the mother. The President would sign legislation that prohibits all late-term abortions, except those necessary to save the life of a woman or prevent serious harm to her health.



aherwitt@naral.org
10/27/99 05:00:44 PM

Record Type: Record

To: Nicole R. Rabner/WHO/EOP

cc:

Subject: 7th Circuit decision on WI and IL pba statutes

Nicole -- just wanted to make sure you saw our memo on yesterday's 7th Circuit decision on the WI and IL so-called "partial-birth" statutes.

Kate Michelman has been talking to the press and stressing the following points:

* all pro-choice Americans should be deeply concerned about yesterday's decision and its effect on women's reproductive freedom.

* This decision conflicts with the majority of the courts who have reviewed similar bans and found them unconstitutional.

* Unlike other courts that have simply struck down state bans as unconstitutionally vague, the 7th Circuit felt compelled to read limiting definitions into the bans despite the fact that they were not in the language of the bans themselves.

* When the Supreme Court reviews this issue, it will be the first time since 1992 that the Court has addressed a major abortion decision. This should alarm any American who cares about preserving a woman's right to choose.

* A woman in consultation with her doctor must have all appropriate and safe medical options available. As Judge Posner noted in his dissent, by not containing a health exception, these bans in effect are stating "that fetal life is more valuable than women's health."

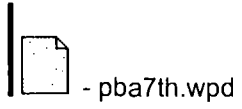
* This decision underscores the importance of the 2000 Presidential elections. The next President will likely nominate two or three Supreme Court Justices who will hold the power to reaffirm or overturn *Roe*.

* This decision is another in a series of assaults on a woman's right to choose just in the last week: Last Thursday the Senate voted to ban abortion procedures for the third time in four years; and 48 Senators voted against the principles of *Roe* in the first floor vote on the *Roe v. Wade* decision since early in the Reagan Administration.

If you have any questions on this decision, please give me a call.

allison

Let me know if you can't print or open this document and I will have it faxed to you.



TO: Interested Parties
FROM: NARAL
RE: Hope Clinic v. Ryan & Christensen v. Doyle (7th Cir. Oct. 26, 1999)
DATE: October 27, 1999

- ◆ In a sharply divided decision (5 to 4), a majority of the U.S. Court of Appeals for the Seventh Circuit voted to uphold so-called “partial-birth” abortion bans in Wisconsin and Illinois — but only after directing the lower courts to issue “precautionary injunctions” prohibiting the enforcement of these bans as applied to all but a single type of procedure. Neither statute contained such limiting language.
- ◆ In issuing these “precautionary injunctions,” the Seventh Circuit joined courts around the country in finding that, if the statutes were more broadly applied, they would be unconstitutional. However, the Seventh Circuit’s approach ignored the bans’ threat to women’s health recognized both by other courts and by the dissenters in this case.
- ◆ The four dissenters, led by Judge Richard A. Posner, would have held that both the Illinois and Wisconsin statutes are unconstitutionally vague and impose an undue burden on women’s right to choose. He explained that proponents of the ban “are concerned with making a statement in an ongoing war for public opinion The statement is that fetal life is more valuable than women’s health.”
- ◆ Moreover, the Seventh Circuit’s opinion conflicts with recent Eighth Circuit decisions striking down the Nebraska, Iowa, and Arkansas bans on the ground that they impose an unconstitutional undue burden on women’s right to choose.
- ◆ Because the majority opinion conflicts with the three decisions issued by the Eighth Circuit on September 24, 1999, it is likely that the U.S. Supreme Court will review the issue. This will be the first time since 1992 that the Court has addressed a major abortion issue. It is possible that a ruling could come as early as next summer.
- ◆ This decision — following on the heels of last Thursday’s Senate votes, one in favor of a ban on abortion procedures, and a second in which 48 Senators voted against the principles of *Roe* — underscores the importance of the 2000 Presidential election since the next President will likely nominate two or three

Supreme Court Justices who will hold the power to reaffirm or overturn *Roe*.

10/22/97
10/21/97
Abbott

VETO OF H.R. 1122

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

HIS VETO OF H.R. 1122, A BILL TO AMEND TITLE 18, UNITED STATES CODE, TO BAN PARTIAL-BIRTH ABORTIONS



OCTOBER 21, 1997.—Message and bill referred to the Committee on the Judiciary and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

To the House of Representatives:

I am returning herewith without my approval H.R. 1122, which would prohibit doctors from performing a certain kind of abortion. I am returning H.R. 1122 for exactly the same reasons I returned an earlier substantially identical version of this bill. H.R. 1833, last year. My veto message of April 10, 1996, fully explains my reasons for returning that bill and applies to H.R. 1122 as well. H.R. 1122 is a bill that is consistent neither with the Constitution nor sound public policy.

As I have stated on many occasions, I support the decision in *Roe v. Wade* protecting a woman's right to choose. Consistent with that decision, I have long opposed late-term abortions, and I continue to do so except in those instances necessary to save the life of a woman or prevent serious harm to her health. Unfortunately, H.R. 1122 does not contain an exception to the measure's ban that will adequately protect the lives and health of the small group of women in tragic circumstances who need an abortion performed at a late stage of pregnancy to avert death or serious injury.

I have asked the Congress repeatedly, for almost 2 years, to send me legislation that includes a limited exception for the small number of compelling cases where use of this procedure is necessary to avoid serious health consequences. When Governor of Arkansas, I signed a bill into law that barred third-trimester abortions, with an appropriate exception for life or health. I would do so again, but only if the bill contains an exception for the rare cases where a woman faces death or serious injury. I believe the Congress should work in a bipartisan manner to fashion such legislation.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 10, 1997.*

One Hundred Fifth Congress
of the
United States of America

AT THE FIRST SESSION

Begun and held at the City of Washington on Tuesday,
the seventh day of January, one thousand nine hundred and ninety-seven

An Act

To amend title 18, United States Code, to ban partial-birth abortions.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Partial-Birth Abortion Ban Act of 1997".

SEC. 2. PROHIBITION ON PARTIAL-BIRTH ABORTIONS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 73 the following:

"CHAPTER 74—PARTIAL-BIRTH ABORTIONS

"Sec.

"1531. Partial-birth abortions prohibited.

"§ 1531. Partial-birth abortions prohibited

"(a) Any physician who, in or affecting interstate or foreign commerce, knowingly performs a partial-birth abortion and thereby kills a human fetus shall be fined under this title or imprisoned not more than two years, or both. This paragraph shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury. This paragraph shall become effective one day after enactment.

"(b)(1) As used in this section, the term 'partial-birth abortion' means an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.

"(2) As used in this section, the term 'physician' means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State to perform abortions: *Provided, however,* That any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs a partial-birth abortion, shall be subject to the provisions of this section.

"(3) As used in this section, the term 'vaginally delivers a living fetus before killing the fetus' means deliberately and intentionally delivers into the vagina a living fetus, or a substantial portion thereof, for the purpose of performing a procedure the physician knows will kill the fetus, and kills the fetus.

H. R. 1122-2

"(c)(1) The father, if married to the mother at the time she receives a partial-birth abortion procedure, and if the mother has not attained the age of 18 years at the time of the abortion, the maternal grandparents of the fetus, may in a civil action obtain appropriate relief, unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion.

"(2) Such relief shall include—

"(A) money damages for all injuries, psychological and physical, occasioned by the violation of this section; and

"(B) statutory damages equal to three times the cost of the partial-birth abortion.

"(d)(1) A defendant accused of an offense under this section may seek a hearing before the State Medical Board on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, illness or injury.

"(2) The findings on that issue are admissible on that issue at the trial of the defendant. Upon a motion of the defendant, the court shall delay the beginning of the trial for not more than 30 days to permit such a hearing to take place.

"(e) A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section, for a conspiracy to violate this section, or for an offense under section 2, 3, or 4 of this title based on a violation of this section."

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

"74. Partial-birth abortions 1531".

NEWT GINGRICH,

Speaker of the House of Representatives.

STROM THURMOND,

President pro tempore of the Senate.

[Endorsement on back of bill:]

I certify that this Act originated in the House of Representatives.

ROBIN H. CARLE, *Clerk.*

THE WHITE HOUSE
WASHINGTON

October 7, 1997

Dear Rosa:

The House of Representatives will soon vote on accepting the Senate Amendment to H.R. 1122, legislation that will ban a certain late-term abortion procedure. As you know, I have long opposed late-term abortions, and I continue to do so except in those instances necessary to save the life of a woman or prevent serious harm to her health. Unfortunately, neither H.R. 1122, nor the Senate Amendment which will be pending before the House, contains an exception to the measure's ban that will adequately protect the lives and health of the small group of women in tragic circumstances who need an abortion performed at a late stage of pregnancy to avert death or serious injury. Consequently, I urge you to vote against H.R. 1122 when it comes before the House. Should the House agree to the Senate Amendment and send H.R. 1122 to me for signature, I will veto the legislation.

I have asked Congress repeatedly, for almost two years, to send me legislation that includes a limited exception for the small number of compelling cases where use of this procedure is necessary to avoid serious health consequences. When Governor of Arkansas, I signed a bill into law that barred third-trimester abortions, with an appropriate exception for life or health. I would do so again tomorrow, but only if the bill contains an exception for the rare cases where a woman faces death or serious injury. I believe that Congress should work in a bipartisan manner to fashion such legislation.

Although I continue to hope that this painful issue can be resolved, enactment of H.R. 1122 is not the answer. I urge you to vote against this measure.

Sincerely,



The Honorable Rosa L. DeLauro
House of Representatives
Washington, D.C. 20515



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

May 14, 1997 (SENT)
(Senate)

STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

H.R. 1122 - Partial-Birth Abortion Ban Act of 1997 (Solomon (R) NY)

H.R. 1122 contains the same serious flaws as H.R. 1833, an identical bill that was passed during the 104th Congress and vetoed by the President on April 10, 1996.

The President will veto H.R. 1122 for the reasons he expressed in his veto message of April 10, 1996, which is attached.

(Do Not Distribute Outside Executive Office of the President)

This Statement of Administration Policy was developed by the Legislative Reference Division (Pellicci) in consultation with Associate Director Min.

OMB/LA Clearance: Nancy Ann (OMB), Elena Kagan (DPC), Peter Jacoby/John Hilley (WHLA).

H.R. 929

As reported by the House Judiciary Committee on March 12th, H.R. 929 would ban under most circumstances a certain type of late-term abortion procedure, which the bill calls a "partial-birth abortion." H.R. 929 defines the term "partial-birth abortion" to mean any "abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery."

H.R. 929 would allow a "partial-birth abortion" in cases where it is needed to "save the life of a mother whose life is endangered by a physical disorder, illness, or injury . . ." This exception, however, is permitted only when no other procedure would suffice. This bill does not include an exception for cases in which the woman's health is threatened.

H.R. 929 would subject doctors and others who perform the procedure to criminal fines and/or up to two years of imprisonment. The bill would exempt women who obtain such abortions from any criminal penalties.

Because of the criminal fines provisions, H.R. 929 is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990. OMB's preliminary scoring estimate of the criminal fine receipts under this bill is zero.

Congressional Action on H.R. 1833

Last year the House passed H.R. 1833 by a vote of 288-139 and the Senate passed the bill by a vote of 54-44. The House voted to override the President's veto by a vote of 285-137; the Senate failed to override the President's action by a vote of 57-41.

LEGISLATIVE REFERENCE DIVISION DRAFT

3/18/97 - 3:45 P.M.

VETO OF H.R. 1833

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

HIS VETO OF H.R. 1833, A BILL TO AMEND TITLE 18, UNITED STATES CODE, TO BAN PARTIAL-BIRTH ABORTIONS



APRIL 15, 1996.—Message and accompanying bill referred to the Committee on the Judiciary and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1996

29-011

To the House of Representatives:

I am returning herewith without my approval H.R. 1833, which would prohibit doctors from performing a certain kind of abortion. I do so because the bill does not allow women to protect themselves from serious threats to their health. By refusing to permit women, in reliance on their doctors' best medical judgment, to use this procedure when their lives are threatened or when their health is put in serious jeopardy, the Congress has fashioned a bill that is consistent neither with the Constitution nor with sound public policy.

I have always believed that the decision to have an abortion generally should be between a woman, her doctor, her conscience, and her God. I support the decision in *Roe v. Wade* protecting a woman's right to choose, and I believe that the abortions protected by that decision should be safe and rare. Consistent with that decision, I have long opposed late-term abortions except where necessary to protect the life or health of the mother. In fact, as Governor of Arkansas, I signed into law a bill that barred third trimester abortions, with an appropriate exception for life or health.

The procedure described in H.R. 1833 has troubled me deeply, as it has many people. I cannot support use of that procedure on an elective basis, where the abortion is being performed for non-health related reasons and there are equally safe medical procedures available.

There are, however, rare and tragic situations that can occur in a woman's pregnancy in which, in a doctor's medical judgment, the use of this procedure may be necessary to save a woman's life or to protect her against serious injury to her health. In these situations, in which a woman and her family must make an awful choice, the Constitution requires, as it should, that the ability to choose this procedure be protected.

In the past several months, I have heard from women who desperately wanted to have their babies, who were devastated to learn that their babies had fatal conditions and would not live, who wanted anything other than an abortion, but who were advised by their doctors that this procedure was their best chance to avert the risk of death or grave harm which, in some cases, would have included an inability to ever bear children again. For these women, this was not about choice—not about deciding against having a child. These babies were certain to perish before, during or shortly after birth, and the only question was how much grave damage was going to be done to the woman.

I cannot sign H.R. 1833, as passed, because it fails to protect women in such dire circumstances—because by treating doctors who perform the procedure in these tragic cases as criminals, the bill poses a danger of serious harm to women. This bill, in curtailing the ability of women and their doctors to choose the procedure for sound medical reasons, violates the constitutional command

that any law regulating abortion protect both the life and the health of the woman. The bill's overbroad criminal prohibition risks that women will suffer serious injury.

That is why I implored Congress to add an exemption for the small number of compelling cases where selection of the procedure, in the medical judgment of the attending physician, was necessary to preserve the life of the woman or avert serious adverse consequences to her health. The life exception in the current bill only covers cases where the doctor believes that the woman will die. It fails to cover cases where, absent the procedure, serious physical harm, often including losing the ability to have more children, is very likely to occur. I told Congress that I would sign H.R. 1833 if it were amended to add an exception for serious health consequences. A bill amended in this way would strike a proper balance, remedying the constitutional and human defect of H.R. 1833. If such a bill were presented to me, I would sign it now.

I understand the desire to eliminate the use of a procedure that appears inhumane. But to eliminate it without taking into consideration the rare and tragic circumstances in which its use may be necessary would be even more inhumane.

The Congress chose not to adopt the sensible and constitutionally appropriate proposal I made, instead leaving women unprotected against serious health risks. As a result of this Congressional indifference to women's health, I cannot, in good conscience and consistent with my responsibility to uphold the law, sign this legislation.

WILLIAM J. CLINTON.

THE WHITE HOUSE, April 10, 1996.

ONE HUNDRED FOURTH CONGRESS,
AMERICA, AT THE SECOND
CITY OF WASHINGTON ON WEDNESDAY,
ARY, ONE THOUSAND NINE HUNDRED NINETY-SIX

To amend title 18, United States Code.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Partial-Birth Abortion Ban Act of 1995".

SEC. 2. PROHIBITION ON PARTIAL-BIRTH ABORTION.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 73 (relating to abortion) the following:

"CHAPTER 74—PARTIAL-BIRTH ABORTION"

"Sec. 1531. Partial-birth abortions prohibited.

"§ 1531. Partial-birth abortion prohibited.

"(a) Any physician who, in the course of performing an abortion, knowingly performs a procedure that kills a human fetus shall be fined under this title or imprisoned not more than two years, or both, if the procedure is performed in connection with a partial-birth abortion on a mother whose life is endangered or injury: *Provided*, That no person shall be liable for that purpose. This paragraph shall take effect on the date of enactment of this Act.

"(b)(1) As used in this section, the term 'partial-birth abortion' means an abortion in which a fetus is partially vaginally delivered and completing the delivery.

"(2) As used in this section, the term 'physician' means a doctor of medicine or osteopathic medicine and surgery by the State, or any other individual who is licensed to perform abortions: *Provided*, That a person who is not a physician or not otherwise licensed to perform abortions, but who performs a partial-birth abortion, shall be liable under this section.

"(c)(1) The father, if married, shall be liable under this section if he receives a partial-birth abortion and he has not attained the age of 18 years or the maternal grandparents of the fetus are not both aged 65 years or older.

on protect both the life and the
verbroad criminal prohibition risks
jury.

ress to add an exemption for the
s where selection of the procedure,
attending physician, was necessary
an or avert serious adverse con-
exception in the current bill only
believes that the woman will die. It
at the procedure, serious physical
ability to have more children, is
ress that I would sign H.R. 1833
exception for serious health con-
is way would strike a proper bal-
al and human defect of H.R. 1833.
e, I would sign it now.

inate the use of a procedure that
ate it without taking into consid-
stances in which its use may be
umane.

t the sensible and constitutionally
stead leaving women unprotected
result of this Congressional indif-
ot, in good conscience and consist-
old the law, sign this legislation.

WILLIAM J. CLINTON.

ONE HUNDRED FOURTH CONGRESS OF THE UNITED STATES OF
AMERICA, AT THE SECOND SESSION, BEGUN AND HELD AT THE
CITY OF WASHINGTON ON WEDNESDAY, THE THIRD DAY OF JANU-
ARY, ONE THOUSAND NINE HUNDRED AND NINETY-SIX

An Act

To amend title 18, United States Code, to ban partial-birth abortions.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Partial-Birth Abortion Ban Act
of 1995".

SEC. 2. PROHIBITION ON PARTIAL-BIRTH ABORTIONS.

(a) IN GENERAL.—Title 18, United States Code, is amended
by inserting after chapter 73 the following:

"CHAPTER 74—PARTIAL-BIRTH ABORTIONS

"Sec.
"1531. Partial-birth abortions prohibited.

"§ 1531. Partial-birth abortions prohibited

"(a) Any physician who, in or affecting interstate or foreign
commerce, knowingly performs a partial-birth abortion and thereby
kills a human fetus shall be fined under this title or imprisoned
not more than two years, or both. This paragraph shall not apply
to a partial-birth abortion that is necessary to save the life of
a mother whose life is endangered by a physical disorder, illness,
or injury: *Provided*, That no other medical procedure would suffice
for that purpose. This paragraph shall become effective one day
after enactment.

"(b)(1) As used in this section, the term 'partial-birth abortion'
means an abortion in which the person performing the abortion
partially vaginally delivers a living fetus before killing the fetus
and completing the delivery.

"(2) As used in this section, the term 'physician' means a
doctor of medicine or osteopathy legally authorized to practice medi-
cine and surgery by the State in which the doctor performs such
activity, or any other individual legally authorized by the State
to perform abortions: *Provided, however*, That any individual who
is not a physician or not otherwise legally authorized by the State
to perform abortions, but who nevertheless directly performs a
partial-birth abortion, shall be subject to the provisions of this
section.

"(c)(1) The father, if married to the mother at the time she
receives a partial-birth abortion procedure, and if the mother has
not attained the age of 18 years at the time of the abortion,
the maternal grandparents of the fetus, may in a civil action obtain

H. R. 1833—2

appropriate relief, unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion.

"(2) Such relief shall include—

"(A) money damages for all injuries, psychological and physical, occasioned by the violation of this section; and

"(B) statutory damages equal to three times the cost of the partial-birth abortion.

"(d) A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section, for a conspiracy to violate this section, or for an offense under section 2, 3, or 4 of this title based on a violation of this section."

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

"74. Partial-birth abortions 1531".

BILL EMERSON,

Speaker of the House of Representatives pro tempore.

STROM THURMOND,

President of the Senate pro tempore.

[Endorsement on back of bill:]

I certify that this Act originated in the House of Representatives.

ROBIN H. CARLE, *Clerk.*

2 20 76

THE WHITE HOUSE

WASHINGTON

The Honorable John Conyers, Jr.
House of Representatives
Washington, D.C. 20515

Dear John:

I understand that the House is preparing to consider H.R. 1833, as amended by the Senate, which would prohibit doctors from performing a certain type of abortion. I want to make the Congress aware of my position on this extremely complex issue.

I have always believed that the decision to have an abortion should be between a woman, her conscience, her doctor, and her God. I strongly believe that legal abortions -- those abortions that the Supreme Court ruled in Roe v. Wade must be protected -- should be safe and rare. I have long opposed late-term abortions except, as the law requires, where they are necessary to protect the life of the mother or where there is a threat to her health. In fact, as Governor of Arkansas, I signed into law a bill that barred third trimester abortions except where they were necessary to protect the life or health of the woman, consistent with the Supreme Court's rulings.

The procedure described in H.R. 1833 is very disturbing, and I cannot support its use on an elective basis, where the abortion is being performed for non-health related reasons and there are equally safe medical procedures available. As I understand it, however, there are rare and tragic situations that can occur in a woman's pregnancy in which, in a doctor's medical judgment, the use of this procedure may be necessary to save a woman's life or to preserve her health. In those situations, the Constitution requires that a woman's ability to choose this procedure be protected.

I have studied and prayed about this issue, and about the families who must face this awful choice, for many months. I believe that we have a duty to try to find common ground: a resolution to this issue that respects the views of those -- including myself -- who object to this particular procedure, but also upholds the Supreme Court's requirement that laws regulating abortion protect both the life and the health of American women.

I have concluded that H.R. 1833 as drafted does not meet the constitutional requirements that the Supreme Court has imposed upon us, in Roe and the decisions that have followed it, to provide protections for both the life and the health of the mother in any laws regulating abortions.

I am prepared to support H.R. 1833, however, if it is amended to make clear that the prohibition of this procedure does not apply to situations in which the selection of the procedure, in the medical judgment of the attending physician, is necessary to preserve the life of the woman or avert serious adverse health consequences to the woman.

I urge the Congress to amend H.R. 1833 to ensure that it protects the life and the health of the woman, as the law we have been elected to uphold requires.

Sincerely,

Bill Clinton



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

December 6, 1995 (SENT)
(Senate)

STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

H.R. 1833, Partial-Birth Abortion Ban Act of 1995
(Rep. Canady (R) FL and 115 others)

The President believes that the decision to have an abortion should be between a woman, her conscience, her doctor, and her God. He believes that legal abortions should be safe and rare. The President has long opposed late-term abortions except where they are necessary to protect the life of the mother or where there is a threat to her health, consistent with the law. The Supreme Court has ruled that "Roe forbids a state from interfering with a woman's choice to undergo an abortion procedure if continuing her pregnancy would constitute a threat to her health." Therefore, the Administration cannot support H.R. 1833 because it fails to provide for consideration of the need to preserve the life and health of the mother, consistent with the U.S. Supreme Court's decision in Roe v. Wade. If the bill is not amended to rectify these constitutional defects, the Attorney General and the White House Counsel will recommend that the President veto the bill.

* * * * *

BRIEFING

MEMORANDUM FOR MARIA ECHAVESTE

FROM: Laura Efurd
Office of Public Liaison

RE: Meeting with women groups on late-term abortion bill, S. 1692

DATE\TIME: Tuesday, October 19th, 3:00 pm

LOCATION: Room 100, OEOB

ATTENDEES: Maria Echaveste, Deputy Chief of Staff
Ann Lewis, Counselor to the President
Sylvia Matthews, Deputy Director, OMB (still awaiting confirmation)
Nicole Rabner, DPC
Lauren Supina, Director, Women's Office, OPL

Representatives of women's organizations
(see attached list of those invited)

PURPOSE: The purpose of this meeting is to give the women's organizations an opportunity to talk with high level White House staff about the upcoming debate on S. 1692, the Partial-Birth Abortion Ban of 1999.

BACKGROUND: Senate Leadership has indicated that they may take S. 1692 later this week, when they complete action on Campaign Finance Reform. In anticipation of this debate, we have proposed a meeting with some women's groups who have been most active on this issue to give them an opportunity to discuss with White House staff the current situation on the Hill, and provide their views on how the debate will go this year. This will be an informal meeting to share information.

FORMAT:

- Opening – Maria Echaveste
- Self Introductions of organization representatives (optional)
- Turn over discussion to women's groups
- Discussion

TALKING POINTS:

- As we all know, Senate Majority Leader Trent Lott has indicated that he may bring up the Late Term abortion bill this week, following campaign finance reform.
- Our position on this bill has not changed. As you all were key in the previous debates on this issues, we want to keep in touch with you as this bill moves forward.
- We would like to hear from on the status of the bill in the Senate and how it compares to previous debates on this issue and discuss your strategy for this year's vote,

ATTACHMENTS:

- 1) List of invitees (list of confirmed attendees will be provided by COB)
- 2) Draft SAP and Draft Statement

**List of Invitees
Meeting with Women's Groups
Late Term Abortion Bill
October 19, 1999**

*Denotes confirmed attendee

Joanne Husted*
National Partnership for Women and Families
202-986-2647

Marsha Greenberger
National Women's Law Center
202-588-5180

Allison Herwitt*
NARAL
202-973-3000

Sana Shtasel*
Center for Reproductive Law and Public Policy
202-530-2975

Jodie Leu*
Planned Parenthood
DC office # is 202-785-3351

Maureen Britell
National Abortion Federation
202-667-5881

Nancy Zirken*
National Ass'n of University Women
202-785-7700

Julie Burton
Voters for Choice.
202-944-5080

Patricia Ireland*
Jan Erickson*
NOW

Alice Cohan*
Fund for Feminist Majority

October 18, 1999

(Sen

S. 1692 - Partial-Birth Abortion Ban Act of 1999
(Sen. Santorum (R) PA and 43 cosponsors)

S. 1692 contains the same serious flaws as H.R. 1833 and H.R. 1122, virtually identical bills that were passed during the 104th and 105th Congresses and vetoed by the President on April 10, 1996, and October 10, 1997, respectively.

The President will veto S. 1692 for the reasons he expressed in his veto message of April 10, 1996, which is attached. [see below]

* * * * *

(Do Not Distribute Outside Executive Office of the President)

This Statement of Administration Policy was developed by the Legislative Reference Division (Pellicci) in consultation with the DPC (Rabner), CoS (Bernstein), WHLA (Thornton), HD (Garcia), and the Justice Department (per Patty First).

Background

The proposed position is identical to that taken during the 104th and 105th Congresses on virtually identical legislation. S. 1692, like the previous two bills, fails to address the President's primary concern that the prohibition on this type of abortion procedure not apply when the attending physician considers the procedure necessary to preserve the health of the woman. (The bill only would allow this type of abortion in cases where it is needed to save the life of the woman.)

During the 104th Congress, H.R. 1833 passed the House by a vote of 286-129, and the Senate by a vote of 54-44. During the 105th Congress, H.R. 1122 passed the House by a vote of 296-132, and the Senate by a vote of 64-36.

S. 1692 was placed on the Senate calendar earlier this month without committee action. To date, there is no House companion bill.

Description of S. 1692

S. 1692 would ban under most circumstances a certain type of late-term abortion procedure, known medically as intact dilation and extraction, which the bill calls a "partial-birth abortion". S. 1692 defines the term partial-birth abortion to mean any "abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery."

S. 1692 would allow a partial-birth abortion in cases where it is needed "to save the life of a mother whose life is endangered by a physical disorder, illness, or injury." The bill does not include an exception for cases in which the woman's health is threatened.

S. 1692 would subject doctors and others who perform the procedure to civil and criminal fines and/or up to two years of imprisonment. The bill would allow the father, if married to the woman at the time of the procedure, and certain other family members to sue the individual performing the procedure for damages. S. 1692 would exempt women who obtain such abortions from any criminal penalties.

Pay-As-You-Go Scoring

S. 1692 could increase both direct spending and receipts; therefore, it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990. OMB estimates that the net pay-as-you-go effect of this bill would be zero.

LEGISLATIVE REFERENCE DIVISION DRAFT
10/15/99 - 4:00 p.m.

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

April 10, 1996

TO THE HOUSE OF REPRESENTATIVES:

I am returning herewith without my approval H.R. 1833, which would prohibit doctors from performing a certain kind of abortion. I do so because the bill does not allow women to protect themselves from serious threats to their health. By refusing to permit women, in reliance on their doctors' best medical judgment, to use this procedure when their lives are threatened or when their health is put in serious jeopardy, the Congress has fashioned a bill that is consistent neither with the Constitution nor with sound public policy.

I have always believed that the decision to have an abortion generally should be between a woman, her doctor, her conscience, and her God. I support the decision in *Roe v. Wade* protecting a woman's right to choose, and I believe that the abortions protected by that decision should be safe and rare. Consistent with that decision, I have long opposed late-term abortions except where necessary to protect the life or health of the mother. In fact, as Governor of Arkansas, I signed into law a bill that barred third trimester abortions, with an appropriate exception for life or health.

The procedure described in H.R. 1833 has troubled me deeply, as it has many people. I cannot support use of that procedure on an elective basis, where the abortion is being performed for non-health related reasons and there are equally safe medical procedures available.

There are, however, rare and tragic situations that can occur in a woman's pregnancy in which, in a doctor's medical judgment, the use of this procedure may be necessary to save a woman's life or to protect her against serious injury to her health. In these situations, in which a woman and her family must make an awful choice, the Constitution requires, as it should, that the ability to choose this procedure be protected.

In the past several months, I have heard from women who

desperately wanted to have their babies, who were devastated to learn that their babies had fatal conditions and would not live, who wanted anything other than an abortion, but who were advised by their doctors that this procedure was their best chance to avert the risk of death or grave harm which, in some cases, would have included an inability to ever bear children again. For these women, this was not about choice -- not about deciding against having a child. These babies were certain to perish before, during or shortly after birth, and the only question was how much grave damage was going to be done to the woman.

I cannot sign H.R. 1833, as passed, because it fails to protect women in such dire circumstances -- because by treating doctors who perform the procedure in these tragic cases as criminals, the bill poses a danger of serious harm to women. This bill, in curtailing the ability of women and their doctors to choose the procedure for sound medical reasons, violates the constitutional command that any law regulating abortion protect both the life and the health of the woman. The bill's overbroad criminal prohibition risks that women will suffer serious injury.

That is why I implored Congress to add an exemption for the small number of compelling cases where selection of the procedure, in the medical judgment of the attending physician, was necessary to preserve the life of the woman or avert serious adverse consequences to her health. The life exception in the current bill only covers cases where the doctor believes that the woman will die. It fails to cover cases where, absent the procedure, serious physical harm, often including losing the ability to have more children, is very likely to occur. I told Congress that I would sign H.R. 1833 if it were amended to add an exception for serious health consequences. A bill amended in this way would strike a proper balance, remedying the constitutional and human defect of H.R. 1833. If such a bill were presented to me, I would sign it now.

I understand the desire to eliminate the use of a procedure that appears inhumane. But to eliminate it without taking into consideration the rare and tragic circumstances in which its use may be necessary would be even more inhumane.

The Congress chose not to adopt the sensible and constitutionally appropriate proposal I made, instead leaving women unprotected against serious health risks. As a result of this Congressional indifference to women's health, I cannot, in good conscience and consistent with my responsibility to uphold the law, sign this legislation.

WILLIAM J. CLINTON

THE WHITE HOUSE,
April 10, 1996.

###


Nicole R. Rabner

10/15/99 02:54:27 PM

Record Type: Record

To: Laura Efurd/WHO/EOP@EOP

cc: Ruby Shamir/OPD/EOP@EOP

Subject: Re: Meeting with Women's Group on Late Term Abortion Bill. 

My thoughts for the women's groups to invite to this meeting:

Judy Lichtman, National Partnership for Women and Families
202-986-2647

Marsha Greenberger, National Women's Law Center
202-588-5180

Kate Michaelman, NARAL
202-973-3000

Janet Benschow (phoenetic), Center for Reproductive Law and Public Policy
(Janet works out of the NY office, but Sona Shtasel is a good contact in their DC ofc at 202-530-2975)

Gloria Felt, Planned Parenthood
(Gloria works from the NY office; their DC office # is 202-785-3351)

Vicky Saporta, National Abortion Federation
202-667-5881

Nancy Zirken, National Ass'n of University Women
202-785-7700

ACLU

(I'm not sure whom to invite from here, but Kate Engustian has been recommended as someone to call to ask -- 202-544-1681)

I defer to Marybeth on whether to add or subtract, but these are my thoughts. Thanks for putting this together.

Nicole

Total Pages: 5

LRM ID: RJP195

**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001**

Thursday, October 14, 1999

LEGISLATIVE REFERRAL MEMORANDUM

URGENT

TO: Legislative Liaison Officer - See Distribution below

FROM: Janet R. Forsgren (for) Assistant Director for Legislative Reference
Robert J. Pellicci

OMB CONTACT: Robert J. Pellicci
 E-Mail: Robert.J.Pellicci@omb.eop.gov
 PHONE: (202)395-4871 FAX: (202)395-8148

SUBJECT: Executive Office of the President Statement of Administration Policy on S1692 Partial Birth Abortion

DEADLINE: 3:00 P.M. Friday, October 15, 1999

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: Senate floor consideration of S. 1692 could occur as early as next week.

DISTRIBUTION LIST

AGENCIES:

- 61-JUSTICE - Robert Raben - (202) 514-2141
- 52-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7760

EOP:

- Daniel N. Mendelson
- Nicole R. Rabner
- Ruby Shamir
- Joel K. Wiginton
- Aprill N. Springfield
- Leslie Bernstein
- JENNINGS_C
- Devorah R. Adler
- Peter Rundlet
- Barry T. Clendenin
- Olga O. Garcia
- James J. Jukes
- Janet R. Forsgren
- Sandra Yarnin

DRAFT - NOT FOR RELEASE

DRAFT

October 14, 1999
(Senate)

S. 1692 - Partial-Birth Abortion Ban Act of 1999
(Sen. Santorum (R) PA and 43 cosponsors)

S. 1692 contains the same serious flaws as H.R. 1833 and H.R. 1122, virtually identical bills that were passed during the 104th and 105th Congresses and vetoed by the President on April 10, 1996 and October 10, 1997, respectively.

The President will veto S. 1692 for the reasons he expressed in his veto message of April 10, 1996, which is attached.

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

April 10, 1996

TO THE HOUSE OF REPRESENTATIVES:

I am returning herewith without my approval H.R. 1833, which would prohibit doctors from performing a certain kind of abortion. I do so because the bill does not allow women to protect themselves from serious threats to their health. By refusing to permit women, in reliance on their doctors' best medical judgment, to use this procedure when their lives are threatened or when their health is put in serious jeopardy, the Congress has fashioned a bill that is consistent neither with the Constitution nor with sound public policy.

I have always believed that the decision to have an abortion generally should be between a woman, her doctor, her conscience, and her God. I support the decision in Roe v. Wade protecting a woman's right to choose, and I believe that the abortions protected by that decision should be safe and rare. Consistent with that decision, I have long opposed late-term abortions except where necessary to protect the life or health of the mother. In fact, as Governor of Arkansas, I signed into law a bill that barred third trimester abortions, with an appropriate exception for life or health.

The procedure described in H.R. 1833 has troubled me deeply, as it has many people. I cannot support use of that procedure on an elective basis, where the abortion is being performed for non-health related reasons and there are equally safe medical procedures available.

There are, however, rare and tragic situations that can occur in a woman's pregnancy in which, in a doctor's medical judgment, the use of this procedure may be necessary to save a woman's life or to protect her against serious injury to her health. In these situations, in which a woman and her family must make an awful choice, the Constitution requires, as it should, that the ability to choose this procedure be protected.

In the past several months, I have heard from women who desperately wanted to have their babies, who were devastated to learn that their babies had fatal conditions and would not live, who wanted anything other than an abortion, but who were advised by their doctors that this procedure was their best chance to avert the risk of death or grave harm which, in some cases, would have included an inability to ever bear children again. For these women, this was not about choice -- not about deciding against having a child. These babies were certain to perish before, during or shortly after birth, and the only question was how much grave damage was going to be done to the woman.

I cannot sign H.R. 1833, as passed, because it fails to protect women in such dire circumstances -- because by treating doctors who perform the procedure in these tragic cases as criminals, the bill poses a danger of serious harm to women. This bill, in curtailing the ability of women and their doctors to choose the procedure for sound medical reasons, violates the constitutional command that any law regulating abortion protect both the life and the health of the woman. The bill's overbroad criminal prohibition risks that women will suffer serious injury.

2

That is why I implored Congress to add an exemption for the small number of compelling cases where selection of the procedure, in the medical judgment of the attending physician, was necessary to preserve the life of the woman or avert serious adverse consequences to her health. The life exception in the current bill only covers cases where the doctor believes that the woman will die. It fails to cover cases where, absent the procedure, serious physical harm, often including losing the ability to have more children, is very likely to occur. I told Congress that I would sign H.R. 1833 if it were amended to add an exception for serious health consequences. A bill amended in this way would strike a proper balance, remedying the constitutional and human defect of H.R. 1833. If such a bill were presented to me, I would sign it now.

I understand the desire to eliminate the use of a procedure that appears inhumane. But to eliminate it without taking into consideration the rare and tragic circumstances in which its use may be necessary would be even more inhumane.

The Congress chose not to adopt the sensible and constitutionally appropriate proposal I made, instead leaving women unprotected against serious health risks. As a result of this Congressional indifference to women's health, I cannot, in good conscience and consistent with my responsibility to uphold the law, sign this legislation.

WILLIAM J. CLINTON

THE WHITE HOUSE,
April 10, 1996.

###

AMA Drops Support Of 'Partial-Birth' Abortion Legislation

HEALTH

BACKERS OF legislation to ban so-called partial-birth abortions were dealt a blow Wednesday when the American Medical Association rescinded its endorsement of the bill while it was being debated on the Senate floor.

The organization broke with much of the rest of the medical community and backed the bill in 1997 after lengthy negotiations with the bill's sponsor, **Sen. Rick Santorum**, R-Pa.

But after much of the AMA's leadership was ousted following an unrelated matter, a management audit by the firm Booz Allen & Hamilton found

that the association had erred in endorsing the measure.

According to the *New York Times*, the audit found that the AMA "ignored its own decision-making procedures" and that leaders of the organization were "manipulated by Republican members of Congress."

A statement issued by AMA Trustee John Nelson dated Tuesday said: "The current version of Sen. Santorum's bill subjects physicians to criminal prosecution. For this reason, we do not support the bill."

The bill's language, however, is identical to the language in the mea-

sure the AMA endorsed in the last Congress.

Backers of the measure still hope this will be the year the Senate finally produces the two-thirds majority for the bill needed to override a promised presidential veto.

President Clinton has twice vetoed earlier versions of the measure because it does not include an exception allowing the procedure to be used to protect the pregnant woman's health.

The House has twice voted to override, but the veto has twice been sustained by the Senate.

— BY JULIE ROVNER

Political Roundup

Second GOP Candidate Eyes Moore Seat In Kan.

■ STATE REP. PHILL KLINE this week jumped into the race for the GOP nomination for the seat held by freshman **Rep. Dennis Moore**, D-Kan.

Kline, 39, a conservative who has served in the Kansas House since 1993, is the second Republican to announce a bid for the 3rd District seat.

Greg Musil, an attorney and Overland Park City Council president, announced he was running last month.

This is not the first time Kline has run for Congress. In 1986 he ran from the 2nd District, losing to then-**Rep. Jim Slattery**, D-Kan.

Other possible candidates are Jeff Colyer, an Overland Park plastic surgeon, and Gary Morsch of Olathe, a physician who is the founder of the Heart to Heart International relief organization.

Moore, the first Democrat to represent the 3rd District in 38 years, ousted GOP **Rep. Vince Snowbarger** with 52 percent of the vote last year. Snowbarger said he has decided against running for the seat in 2000.

Contest To Take On Grams Gets More Crowded

■ STATE SEN. STEVE KELLEY Wednesday entered what is becoming a crowded field seeking the Democratic nomination to challenge **Sen. Rod Grams**, R-Minn., next year, the *Associated Press* reported.

Kelley, a first-term legislator, is an attorney at a Minneapolis law firm — where he has focused on the area of commercial litigation. He has specialized in technology issues in the legislature, and Wednesday gave an announcement speech using notes on a computer set up as a sort of TelePrompTer a few feet away from him.

The race for the Democratic nomination already includes prominent trial attorney Michael Ciresi, former U.S. Attorney David Lillehaug, University of Minnesota physician Steven Miles and former Minneapolis alderman Dick Fran-son.

In addition, state Sen. Jerry Janezich said Wednesday he is 70 percent leaning toward getting in, and former **Rep. Tim Penny**, D-Minn., also may run.

Kelley said he does not yet know yet whether he will run in the

primary if he does not get the party endorsement at the Democratic-Farmer-Labor convention next summer. Miles and Lillehaug say they will run only with the endorsement; Ciresi plans to run in the primary.

Poll: Bush, McCain In Statistical Dead Heat In Arizona

■ A NEW POLL RELEASED by the Behavior Research Center of Arizona showed **Sen. John McCain**, R-Ariz., in a statistical dead heat with Texas Gov. George W. Bush in the Arizona presidential primary next February.

Of 502 registered voters polled between Oct. 13-17, Bush garnered 35 percent while McCain got the nod from 31 percent. Sixteen percent were undecided. Bush's lead is within the poll's 4.5 point error margin.

Malcolm (Steve) Forbes and Elizabeth Dole, who dropped out of the race Wednesday, both received 6 percent, while Patrick Buchanan picked up 3 percent.

A poll conducted by Northern Arizona University earlier this month found 39 percent of Arizona Republicans preferred McCain to 28 percent for Bush. That poll's error margin was 5.7 points.

URGENT VOTE TODAY

TO: Reproductive Health Staff
FROM: Allison Herwitt, Director Government Relations
Terri McCullough, Legislative Representative
DATE: October 21, 1999
RE: **HARKIN SENSE OF THE SENATE RESOLUTION**

On Thursday, October 21, the Senate will vote on Senator Harkin's non-binding resolution, "Sense of Congress Concerning *Roe v. Wade*." **NARAL urges Senators to support the Harkin Resolution and will score this vote in our 1999 Congressional Record on Choice.**

The Harkin Resolution reaffirms the deeply held principles espoused by the U.S. Supreme Court in the 1973 *Roe v. Wade* decision. In *Roe*, the Court recognized that the constitutional right of privacy "is broad enough to encompass a woman's decision whether or not to terminate her pregnancy." *Roe* decriminalized abortion, "vindicat[ing] the right of the physician to administer medical treatment according to his professional judgment..."

This landmark Supreme Court decision struck a careful balance between the right of women to choose abortion in the early stages of pregnancy and the states' interest in protecting potential life after viability. *Roe* stated that prior to fetal viability, the abortion decision must reside with the woman, to be made in consultation with her doctor and within the context of her own religious beliefs. After fetal viability, *Roe* allows states to ban abortion as long as the woman's life and health are protected.

In the years before *Roe*, an estimated 1.2 million women resorted to illegal abortions annually, despite the known hazards "of frightening trips to dangerous locations in strange parts of town; of whiskey as an anesthetic; of 'doctors' who were often marginal or unlicensed practitioners, sometimes alcoholic, sometimes sexually abusive; unsanitary conditions; incompetent treatment; infection; hemorrhage; disfiguration; and death." It is estimated that as many as 5,000 women died yearly from illegal abortion before *Roe*.

"Someone gave me the phone number of a person who did abortions and I made the arrangements. I borrowed about \$300 from my roommate and went alone to a dirty, rundown bungalow in a dangerous neighborhood in east Los Angeles. A greasy looking man came to the door and asked for the money as soon as I walked in. He

told me to take off all my clothes except my blouse; there was a towel to wrap around myself. I got up on a cold metal kitchen table. He performed a procedure, using something sharp. He didn't give me anything for the pain — he just did it. He said that he had packed me with some gauze, that I should expect some cramping, and that I would be fine. I left."

— Polly Bergen, discussing the illegal abortion in the 1940s that rendered her infertile and nearly proved fatal.

Since the legalization of abortion in 1973, the safety of abortion has increased dramatically.

- * The most important effect of the legalization of abortion on public health in the United States was the near elimination of deaths from the procedure. Between 1973 and 1990, the number of deaths per 100,000 legal abortions declined more than tenfold. By 1990, the risk of death from legal abortion had declined to 0.3 deaths per 100,000. The American Medical Association's Council on Scientific Affairs credits the shift from illegal to legal abortions as an important factor in this decline.
- * Roe not only established women's reproductive freedom, but also was central to women's continued progress toward full and equal participation in American life. In the 26 years since Roe, the variety and level of women's achievements have reached unprecedented levels. As the Supreme Court observed in 1992, "[t]he ability of women to participate equally in the economic and social life of the Nation has been facilitated by their ability to control their reproductive lives."

Attached is more information on the 1973 Supreme Court decision. If you have further questions please contact Allison Herwitt at 973-3003, or Terri McCullough at 973-3047.

ROE V. WADE AND THE RIGHT TO CHOOSE

“At the heart of liberty is the right to define one’s own concept of existence, of meaning, of the universe, and of the mystery of human life. Beliefs about these matters could not define the attributes of personhood were they formed under compulsion of the State.”¹

U.S. Supreme Court Justices O’Connor, Kennedy and Souter
Planned Parenthood of Southeastern Pennsylvania v. Casey

Abortion in the United States Before *Roe*

When *Roe v. Wade* was decided in January 1973, abortion except to save a woman’s life was banned in nearly two-thirds of the states.² Laws in most of the remaining states contained only a few additional exceptions.³ It is estimated that each year 1.2 million women resorted to illegal abortion,⁴ despite the known hazards “of frightening trips to dangerous locations in strange parts of town; of whiskey as an anesthetic; of ‘doctors’ who were often marginal or unlicensed practitioners, sometimes alcoholic, sometimes sexually abusive; unsanitary conditions; incompetent treatment; infection; hemorrhage; disfiguration; and death.”⁵

The Constitutional Development of the Right to Privacy

During the half century leading up to *Roe*, the Supreme Court decided a series of significant cases in which it recognized the existence of a constitutionally protected right to privacy that keeps fundamentally important and deeply personal decisions concerning “bodily integrity, identity and destiny” largely beyond the reach of government interference.⁶ Citing this concern for autonomy and privacy, the Court struck down laws severely curtailing the role of parents in education, mandating sterilization, and prohibiting marriages between individuals of different races.⁷

Important aspects of the right to privacy were established in *Griswold v. Connecticut*,⁸ decided in 1965, and in *Eisenstadt v. Baird*, decided in 1972.⁹ In these cases, the Supreme Court held that state laws that criminalized or hindered the use of contraception violated the right to privacy. Having recognized in these cases “the right of the individual to be free from unwarranted governmental intrusion into matters so fundamentally affecting a person as the decision whether to bear or beget

a child,”¹⁰ the Court held in *Roe* that the right to privacy encompasses the right to choose whether to end a pregnancy.¹¹

The Court has reaffirmed this holding on multiple occasions throughout the past 25 years,¹² noting in 1992 that “[t]he soundness of this . . . analysis is apparent from a consideration of the alternative.”¹³ Without a privacy right that encompasses the right to choose, the Constitution would permit the state to override not only a woman’s decision to terminate her pregnancy, but also her choice to carry the pregnancy to term.¹⁴

The *Roe* Compromise

Although *Roe* invalidated restrictive abortion laws that disregarded women’s right to privacy, the Court recognized a state’s valid interest in potential life.¹⁵ That is, the Court rejected arguments that the right to choose is absolute and always outweighs the state’s interest in imposing limitations.¹⁶ Instead, the Court issued a carefully crafted decision that brought the state’s interest and the woman’s right to choose into balance.

The Court held that a woman has the right to choose abortion until fetal viability, but that the state’s interest generally outweighs the woman’s right after that point.¹⁷ Accordingly, after viability -- the time at which it first becomes realistically possible for fetal life to be maintained outside the woman’s body -- the state may ban any abortion not necessary to preserve a woman’s life or health.¹⁸

25 Years of *Roe*: A Better Life for Women

By invalidating laws that forced women to resort to back-alley abortion, *Roe* was directly responsible for saving women’s lives. It is estimated that as many as 5000 women died yearly from illegal abortion before *Roe*.¹⁹ Since the legalization of abortion in 1973, the safety of abortion has increased dramatically. The number of deaths per 100,000 legal abortion procedures declined more than five-fold between 1973 and 1991.²⁰ In addition, *Roe* has had a positive impact on the quality of many women’s lives. Although most women welcome pregnancy, childbirth and the responsibilities of raising a child at some period in their lives, few events can more dramatically constrain a woman’s opportunities than an unplanned child. Because childbirth and pregnancy substantially affect a woman’s “educational prospects, employment opportunities, and self-determination,” restrictive abortion laws narrowly circumscribed women’s role in society and hindered women from defining their paths through life in the most basic of ways.²¹ In the 25 years since *Roe*, the variety and level of women’s achievements have reached unprecedented levels. The Supreme Court recently observed that “

[t]he ability of women to participate equally in the economic and social life of the Nation has been facilitated by their ability to control their reproductive lives.”²²

Into the New Millennium: What Will the Next 25 Years Bring?

In 1992, the Court rendered its most important decision in the abortion area since *Roe*. In *Planned Parenthood of Southeastern Pennsylvania v. Casey*, the Court reaffirmed *Roe*, while at the same time sharply restricting its protections. The *Casey* Court abandoned the strict scrutiny standard of review and adopted a less protective standard that allows states to impose restrictions as long as they do not “unduly burden” a woman’s right to choose. Under this new standard, the Court approved state obstacles that it had previously found to violate the right to privacy and effectively invited states to impose barriers on women’s access to abortion.²³ Indeed, today states are enforcing more restrictions that impede women’s access to safe, legal abortion than at any time since *Roe* was decided twenty-five years ago.²⁴

It seems inevitable that great strides will be made in the next millennium in science, technology, athletics, communication, and in numerous other fields of human endeavor. What is less clear is whether proponents of women’s reproductive health and freedom will be able to move forward in the 21st century -- to secure better access to effective methods of contraception, comprehensive sexuality education, and quality health and child care -- or will remain locked in a struggle against further deterioration of the right to choose ostensibly secured by *Roe* a quarter century ago.

It is past time for the nation to develop policies that secure access to abortion, make abortion less necessary, and improve reproductive health. Our nation must commit resources to prevent unintended pregnancy by promoting sexuality education, family planning and healthy childbearing. Only then will the promise of *Roe* be fulfilled.

January 8, 1998

NOTES:

-
1. *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833, 851 (1992).
 2. *Roe v. Wade*, 410 U.S. 113, 118-119 n.2 (1973).
 3. See, e.g., Calif. Health & Safety Code §§ 25950-25955.5 (Supp. 1972); Colo. Rev. Stat. Ann. §§ 40-2-50 to 40-2-53 (Cum. Supp. 1967); Del. Code Ann., Tit. 24, §§ 1790-1793 (Supp. 1972); N.M. Stat. Ann. §§ 40A-5-1 to 40A-5-3 (1972) .
 4. Richard Schwarz, *Septic Abortion* (Philadelphia: J.B. Lippincott Co., 1968), 7; Willard Cates, Jr., “Legal Abortion: The Public Health Record,” *Science*, vol. 215 (Mar. 1982): 1586.
 5. Walter Dellinger and Gene B. Sperling, “Abortion and the Supreme Court: The Retreat from *Roe v. Wade*,” 138 *University of Pennsylvania Law Review* 83, 117 (Nov. 1989).
 6. *Casey*, 505 U.S. at 927 (Blackmun, J., concurring and dissenting).
 7. See *Meyer v. Nebraska*, 262 U.S. 390 (1923); *Skinner v. Oklahoma*, 316 U.S. 535 (1942); *Loving v. Virginia*, 388 U.S. 1 (1967).
 8. *Griswold v. Connecticut*, 381 U.S. 479 (1965).

-
9. *Eisenstadt v. Baird*, 405 U.S. 438 (1972).
 10. *Eisenstadt*, 405 U.S. at 453 (emphasis omitted).
 11. *Roe*, 410 U.S. at 153.
 12. See, e.g., *Akron v. Akron Center for Reproductive Health, Inc.*, 462 U.S. 416 (1983); *Thornburgh v. American College of Obstetricians and Gynecologists*, 476 U.S. 747 (1986).
 13. *Casey*, 505 U.S. at 859.

 14. *Casey*, 505 U.S. at 859.
 15. *Roe*, 410 U.S. at 159.
 16. *Roe*, 410 U.S. at 153-54.
 17. *Roe*, 410 U.S. at 163-65.
 18. *Roe*, 410 U.S. at 163-64.
 19. Schwarz, *Septic Abortion*, 7.
 20. Lisa M. Koonin et al., "Abortion Surveillance -- United States, 1993 and 1994," *CDC Surveillance Summaries, Morbidity and Mortality Weekly Report*, vol. 46, no. SS-4, (Aug. 8, 1997): 96.
 21. *Casey*, 505 U.S. at 928 (Blackmun, J., concurring and dissenting)
 22. *Casey*, 505 U.S. at 856.
 23. *Casey*, 505 U.S. at 881-87.
 24. *Who Decides? A State-by-State Review of Abortion and Reproductive Rights, 1998* (Washington, D.C.: The NARAL Foundation/NARAL, 1998), v.



OFFICE OF THE VICE PRESIDENT
Office of Legislative Affairs

United States Capitol Building
Room S-212
Washington, DC 20510
Telephone (202) 224-8391
Facsimile (202) 224-0291

Old Executive Office Building
Room 269
Washington, DC 20501
Telephone (202) 456-9003

FAX COVER SHEET

To: Nicole Kaber

Fax: 6-2878

From: Kay Casstevens David Thomas
Paul Thomell Billy Glunz

Joel

Pages: _____ (including cover sheet)

Comments: _____

This transmission may contain certain information that is sensitive or confidential in nature. Its contents are exclusively intended for the person (s) identified above.

6-2878
514-9149

**FBA definition Version Beta 2
10/19/99**

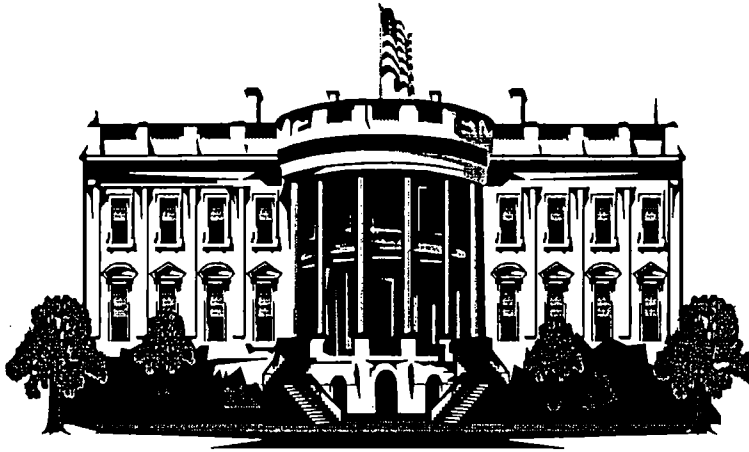
(b)(1) As used in this section, the term 'partial-birth abortion' means an abortion in which the person performing the abortion deliberately and intentionally (a) delivers through the vagina some portion of an intact living fetus until the fetus is partially outside the body of the mother, for the purpose of performing an overt act that the person knows will kill the fetus while the fetus is partially outside the body of the mother; and (b) performs the overt act that kills the fetus while the intact living fetus is partially outside the body of the mother.

THE AMENDED SANTORUM BILL REMAINS UNCONSTITUTIONAL

The proposed amendment to S. 1692 entirely fails to cure the constitutional defects in the Santorum bill. The bill continues to endanger women's health and to deprive them of their constitutional rights by banning safe, common, pre-viability abortions. Virtually every court in the nation to have considered similar bans has found them to be unconstitutional.

The amended version of S. 1692 remains unconstitutional for the following reasons:

- ◆ The bill continues to impose an unconstitutional undue burden on women's right to choose by reaching safe and common abortion procedures performed before fetal viability. The bill continues to contain no reference to gestational age whatsoever.
- ◆ The bill further endangers women's health by failing to include a constitutionally-mandated exception to protect the health of the pregnant woman, and by including only a constitutionally inadequate life exception.
- ◆ The bill impermissibly attempts to micro-manage surgical procedures, thereby undermining the health of women, intruding on the doctor-patient relationship, and interfering with pregnant women's right to medical self-determination.



FAX COVER SHEET

DOMESTIC POLICY COUNCIL

THE WHITE HOUSE

WASHINGTON, DC 20502

PHONE: 202/456-5696 • FAX: 202/456-2878

DATE: 10/19 NUMBER OF PAGES (INCL. COVER): 8

FROM: Nicole Rabner

TO: Joel Wigginton

FAX: 66468

COMMENTS: Joel, attached are the 3 ^{call sheet} ~~pages~~ from last session - I'll forward my draft shortly for this memo.

The document accompanying this Facsimile Transmission Sheet is intended only for the use of the individual or entity to which it is addressed. This message contains information which may be privileged, confidential or exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any disclosure, dissemination, copying or distribution, or taking any action in reliance on the contents of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately at the number above.

THE PRESIDENT HAS SEEN
5-15-97

0100000
97 MAY 14 09:33

FG-001-08

THE WHITE HOUSE
WASHINGTON

May 14, 1997

RECOMMENDED TELEPHONE CALL

TO: SENATOR BREAUX

DATE: ON OR BEFORE NOON MAY 15, 1997

RECOMMENDED BY: SUSAN BROPHY, LEGISLATIVE AFFAIRS *SB*
TRACEY THORNTON, LEGISLATIVE AFFAIRS

PURPOSE: TO ASK THE SENATOR TO SUPPORT THE DASCHLE
ALTERNATIVE ON LATE-TERM ABORTION

BACKGROUND:

On March 20, 1997, the House of Representatives passed a bill identical to the one you vetoed last year by a vote of 295-136, a veto-proof margin. The Senate will vote on the Daschle substitute tomorrow as well as a Feinstein-Boxer substitute to the underlying bill sponsored by Senator Santorum (R-PA).

Both substitutes would ban all post-viability abortions with exceptions for life and health of the mother. The differences between them go to the definition of health. The Daschle alternative contains a very strict definition of health making it unlawful to abort a viable fetus unless the physician certifies that continuation of the pregnancy would threaten the mother's life or risk grievous injury to her health. Grievous injury does not include any condition that is not medically diagnosable or any condition for which termination of pregnancy is not medically indicated. Senator Daschle intends to cover a mental health condition only when it manifests itself in some serious physical way. The Feinstein-Boxer exception covers "serious adverse health consequences to the woman".

TOPICS OF DISCUSSION:

1. Tell Senator Beaux that you recognize and respect the fact that he is pro-life and that you would never ask him to

5/15/97
Call made
per Betty
Currie, Leg
Affairs informed
C. Clewell
605
Brophy
Thornton

do anything that would in any way compromise his position. But say that you really believe that Daschle's alternative is a pro-life position since it would actually prevent abortions of viable fetuses. A simple ban on one procedure will not stop a single abortion; it would merely result in abortion by other methods, all of which may pose a greater and therefore unacceptable risk to the woman's health.

2. Tell him that while you will not yield on the issue of protecting the health of the mother, you are supporting Daschle's very strict definition of health in hopes of bringing this matter to closure -- neither side is happy with Daschle's alternative. Ask him to vote for Daschle so that we can begin to bring this divisive matter to a close once and for all. Say that the Senate's acceptance of the Daschle approach will send a signal that it time to find a moderate solution to this issue which includes a total ban while protecting the life and great injury to the health of the woman.

CONTACT PERSON AND
TELEPHONE NUMBERS(S):

Senator Breaux
202-543-9011 or White House Operator

DATE OF SUBMISSION:

May 14, 1997

ACTION:

THE PRESIDENT HAS SEEN

5-16-97

THE WHITE HOUSE
WASHINGTON

210001
57 MAY 16 1997

FG-001-08

MAY 14, 1997

RECOMMENDED TELEPHONE CALL

TO: SENATOR HOLLINGS X

DATE: ON OR BEFORE NOON MAY 15, 1997

RECOMMENDED BY: SUSAN BROPHY, LEGISLATIVE AFFAIRS
TRACEY THORNTON, LEGISLATIVE AFFAIRS

PURPOSE: TO ASK THE SENATOR TO SUPPORT THE DASCHLE
ALTERNATIVE ON LATE-TERM ABORTION

BACKGROUND:

On March 20, 1997, the House of Representatives passed a bill identical to the one you vetoed last year by a vote of 295-136, a veto-proof margin. The Senate will vote on the Daschle substitute tomorrow as well as a Feinstein-Boxer substitute to the underlying bill sponsored by Senator Santorum (R-PA).

Both substitutes would ban all post-viability abortions with exceptions for life and health of the mother. The differences between them go to the definition of health. The Daschle alternative contains a very strict definition of health making it unlawful to abort a viable fetus unless the physician certifies that continuation of the pregnancy would threaten the mother's life or risk grievous injury to her health. Grievous injury does not include any condition that is not medically diagnosable or any condition for which termination of pregnancy is not medically indicated. Senator Daschle intends to cover a mental health condition only when it manifests itself in some serious physical way. The Feinstein-Boxer exception covers "serious adverse health consequences to the woman".

South Carolina recently passed a ban on "partial-birth" abortions and Senator Hollings announced that he would switch his vote to override your veto since his state passed a

similar law. He has also indicated that he will not support the Daschle alternative but Senator Daschle thinks he might be persuaded to vote for his alternative.

TOPICS OF DISCUSSION:

1. Tell Senator Hollings that you respect his decision to reflect South Carolina's statute on "partial-birth" by supporting Santorum's bill, but let him know that supporting either Senator Daschle or Feinstein is obviously not inconsistent with his position. Indicate that enactment of either alternative allows Congress to pass a comprehensive ban that actually stops abortions of viable fetuses; it is a ban that is constitutional and it is a ban that you would sign.
2. Tell him that while you will not yield on the issue of protecting the health of the mother, you are supporting both Feinstein's approach as well as Daschle's very strict definition of health in hopes of bringing this matter to closure -- neither side is happy with Daschle's alternative. If he is unwilling to vote for Feinstein, ask him to vote for Daschle so that we can begin to bring this divisive matter to a close once and for all. Say that the Senate's acceptance of the Daschle approach will send a signal that it time to find a moderate solution to this issue which includes a total ban while protecting the life and preventing great injury to the health of the woman.

**CONTACT PERSON AND
TELEPHONE NUMBERS(S):**

Senator Hollings
202-244-1114 or White House Operator

DATE OF SUBMISSION:

May 14, 1997

ACTION:

THE PRESIDENT HAS SEEN

5-1597

THE WHITE HOUSE

WASHINGTON

010300

197 MAY 14 0453Z

FG-001-08

MAY 14, 1997

RECOMMENDED TELEPHONE CALL

TO: SENATOR BOXER

DATE: ON OR BEFORE NOON MAY 15, 1997

RECOMMENDED BY: SUSAN BROPHY, LEGISLATIVE AFFAIRS
TRACEY THORNTON, LEGISLATIVE AFFAIRS

PURPOSE: TO THANK THE SENATOR FOR HER LEADERSHIP IN OPPOSING THE SANTORUM BILL ON "PARTIAL-BIRTH ABORTION" AND TO ASK HER TO CONSIDER VOTING FOR DASCHLE IF HER ALTERNATIVE DOES NOT PREVAIL

BACKGROUND: On March 20, 1997, the House of Representatives passed a bill identical to the one you vetoed last year by a vote of 295-136, a veto-proof margin. The Senate will vote on the Daschle substitute tomorrow as well as a Feinstein-Boxer substitute to the underlying bill sponsored by Senator Santorum (R-PA).

Both substitutes would ban all post-viability abortions with exceptions for life and health of the mother. The differences between them go to the definition of health. The Daschle alternative contains a very strict definition of health making it unlawful to abort a viable fetus unless the physician certifies that continuation of the pregnancy would threaten the mother's life or risk grievous injury to her health. Grievous injury does not include any condition that is not medically diagnosable or any condition for which termination of pregnancy is not medically indicated. Senator Daschle intends to cover a mental health condition only when it manifests itself in some serious physical way. The Feinstein-Boxer exception covers "serious adverse health consequences to the woman".

5/15/97

Call made
per Betty
Curren
Reg Hfz
C. Cleveland
B. Thornton, B. Brophy

Senator Daschle's approach is not supported by the pro-choice movement because of its narrow health definition. Senator Boxer has privately indicated her very strong reservations about the Daschle alternative but she has not said that she will vote against it. She is concerned that the women who were here when you vetoed the bill may not be covered under Daschle. We have told her that we believe they would be and have asked Daschle to make that clear in his remarks on the floor.

TOPICS OF DISCUSSION:

1. Tell Senator Boxer that you are very grateful for her work to protect a woman's right to choose. Say that we would not have been able to hold the line as we have so far were it not for her courage and the strength of her convictions. Ask for her assessment of the vote situation in the Senate.
2. She may tell you that Daschle is leaning towards voting for Santorum if Daschle's alternative does not pass. Let her know that you had a conversation with Senator Daschle earlier today and he did not raise that possibility with you. Tell her that you are concerned about the veto override vote and that you know how difficult this matter is for many of her colleagues. Tell her that you think it is important to pass either her alternative or Daschle's so that at least there are two different bills, one in the Senate recognizing the need to protect the mother's health and the other an extreme House measure that will be vetoed. Tell her she should vote for Daschle's alternative if her's does not pass.

**CONTACT PERSON AND
TELEPHONE NUMBERS(S):**

Senator Boxer
202-547-1015 or White House Operator

DATE OF SUBMISSION:

May 14, 1997

ACTION: