

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. draft	POTUS to correspondent Kate (3 pages)	nd	P6/b(6)
001b. letter	Correspondent Kate to POTUS (3 pages)	10/18/1999	P6/b(6)

COLLECTION:

Clinton Presidential Records
First Lady's Office
Domestic Policy Council (Nicole Rabner)
OA/Box Number: 15421

FOLDER TITLE:

Partial Birth Abortion [1]

2012-1035-S
kc1088

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

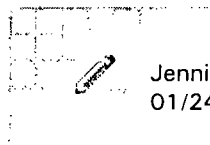
C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]



Jennifer L. Klein
01/24/99 01:18:50 PM

Record Type: Record

To: Matthew W. Pitcher/WHO/EOP

cc:

Subject:

Con letter --

Thank you for your thoughtful and heartfelt letter.

As you know, I have twice vetoed bills banning a particular procedure used in late-term abortions, because Congress would not include a limited exception in the bill for those few but tragic cases in which the procedure is necessary to save the life of a woman or to prevent serious harm to her health.

Then use rest of letter as you have it.

Pro letter --

Thank you for your letter regarding my veto of the so-called "partial birth abortion" ban. I appreciate your words of support.

Then use rest of letter as you have it, except change word "bill" to "bills". Without having seen the letters, I would imagine that some of them are on HR 1833 and some are on HR 1122. The President vetoed these similar bills. You could either make sure the responses refer to the right bill number or you could simply make the letter apply to both.

Please feel free to call with any questions at 6-2599.

From: Matthew W. Pitcher on 01/12/99 01:13:57 PM

Record Type: Record

To: Jennifer L. Klein/OPD/EOP

cc:

Subject: Re: partial birth abortion form letters 

We've divided them into "pro" and "con" (meaning the writer is either for or against partial birth abortion). The first draft below is the latest version of the "con" and the second, the "pro" version. Thanks!

Thank you for your thoughtful and heartfelt letter.

As you know, last year I vetoed H.R. 1833, the proposed late-term abortion ban, because Congress would not include a limited exception in the bill for those few but tragic cases in which the procedure is necessary to save the life of a woman or to prevent serious harm to her health; I will veto H.R. 1122 for the same reason.

I have never contended that this procedure, today, is always used in circumstances falling within this exception. To the contrary, the procedure may well be used in situations where a woman's serious health interests are not at risk. But I do not support such uses, I do not defend them, and, as I have stated repeatedly, I would sign appropriate legislation banning them. I know that many believe that any health exception will be so broad that it would negate the ban. That is not the kind of exception I support; instead I am asking for an exception that takes effect only when a woman faces real, serious adverse health consequences. I remain confident that Congress and this Administration, working together, could craft such an exception, and I regret the failure of recent good-faith efforts to reach a workable compromise.

I appreciate knowing your concerns on this complex and important issue.

Thank you for your message regarding my veto of H.R. 1833, the so-called "partial birth abortion ban." I appreciate your words of support.

H.R. 1833 presented a difficult and disturbing issue, one that I studied and prayed about for many months. In the end, I vetoed the bill because it fails to protect women from serious threats to their health. While I oppose use of the procedure on an elective basis, I do believe it should be available in the small number of compelling cases where its use, in the medical judgment of a woman's physician, is necessary to preserve her life or to avert serious damage to her health.

The problem with the bill Congress passed is that it provides an exception to the ban on this procedure only when a doctor believes that a woman's life is at risk, but not when the doctor believes she faces serious adverse health consequences. I could not accept a bill that fails to protect women at such a difficult time in their lives.

Thank you for letting me know how you feel. I am grateful for your encouragement.

I am writing to express my concern over the Congress's unprecedented effort in recent weeks to restrict safe reproductive choices for women. It is regrettable that some Members of Congress have chosen to pursue a series of initiatives designed to create a political issue at the risk of increasing unintended pregnancies and abortions and of compromising women's health and safety.

I have long said that I believe abortion should be safe, legal, and rare. All of the proposals being offered would restrict safe medical choices. Some would actually restrict access to family planning information and services and could have the perverse effect of increasing the number of unintended pregnancies and abortions. I urge the Congress to put partisan politics aside and instead put women's health and safety first.

In this context, I am heartened that the House defeated attempts to kill Congresswoman Lowey's amendment to require health plans participating in the Federal Employees Health Benefits Program to cover all FDA approved prescription contraceptives. The Lowey proposal will improve basic health care coverage for many women and help reduce unwanted pregnancies and the need for abortion. A bipartisan majority of the House acted in the interests of women's health when it beat back efforts to undermine this important proposal.

Congress unfortunately has not adopted this reasonable, health-oriented approach on other issues. First, I strongly object to the amendment to impose restrictions on international family planning programs. By prohibiting foreign non-governmental organizations from receiving United States funds if the organization uses any non-US government funds for abortion-related services or even advocates changes in abortion laws, the amendment jeopardizes funding to health care providers who are working to meet the growing demand for family planning and other critical health services in developing countries. The result of this amendment's provisions could be an increase in unintended pregnancies, abortions, and maternal and infant death.

Second, I find it deeply disturbing that the House would take the unprecedented step of intervening in the Food and Drug Administration's drug approval process by banning funding for the approval or testing of drugs such as RU-486. For years, the FDA has used vigorous testing and the highest scientific standards to protect public health. This amendment substitutes political ideology for sound science. It would restrict scientific research that can protect women's lives and offer them safe medical choices.

Third, I am disappointed that the House chose to reject the changes that I proposed to the Child Custody Protection Act. As my Administration conveyed to Congress, I would support properly crafted legislation that would make it illegal to transport minors across state lines for the purpose of avoiding parental involvement

requirements. I have repeatedly stated that I would sign a bill if it were amended to exclude close family members from criminal and civil liability and to ensure that individuals who provide only information, counseling, referral, or medical services to the minor cannot be subject to liability. As amended in this way, the legislation would prevent the circumvention of state parental involvement laws while ensuring healthy family communications. Unfortunately, the Congress has ignored these proposed changes, as well as those designed to address certain constitutional infirmities. In doing so, this Congress has demonstrated that it is not truly interested in passing legislation, but only in creating another partisan political issue.

Finally, Congress is again signaling that it will turn the difficult debate over so-called partial birth abortions into an opportunity to score political points, rather than to pass legislation restricting this procedure. I have long opposed late term abortions, and I believe that we generally should prohibit the use of this procedure. I have insisted, however, on exempting those few but tragic cases in which this procedure is necessary to save a woman's life or to protect her against serious injury to her health. I again call upon Congress to add such a narrow, tightly drawn exception to this bill, so that I can sign the legislation and put an end to all other uses of this procedure.

I urge Congress to move beyond ideology and political maneuvering, to abandon extremism, and to protect women's lives and health while reducing the need for abortions. Congress's current course would remove appropriate reproductive choices for women, seriously jeopardize their health, and very possibly increase the frequency of abortions. I will strongly oppose these efforts.

July 22, 1998

Dear Steny:

I am writing to express my concern over the Congress' plans to override my veto of H.R. 1122, a bill banning so-called partial birth abortions. In this vote, Congress is once again opting for partisanship over progress; it is turning the painful debate over this issue into an opportunity to score political points, rather than to pass legislation restricting this procedure.

The procedure addressed in H.R. 1122 poses a difficult and disturbing issue. I strongly believe that we generally should prohibit the use of this procedure. I have insisted, however, on exempting those few but tragic cases in which this procedure is necessary to save a woman's life or to protect her against serious injury. I again call upon Congress to add such a narrow, tightly drawn exception to this bill, so that I can sign the legislation and put an end to all other uses of this procedure.

The legislation that you have sponsored with Representative Greenwood -- which prohibits all late-term abortions, except those necessary to save the life of a woman or prevent serious harm to her health -- is also consistent with my principles. As you know, I have long opposed late-term abortions, and as Governor of Arkansas, I signed into law a bill that banned them, with an appropriate exception for life or health. If Congress were to pass your bill, I would sign it immediately.

Congress's refusal to consider such constructive proposals -- proposals that would put an end to inappropriate abortions while protecting women from death or serious injury -- prevents us from resolving these issues and moving forward. Similarly, Congress's recent votes restricting safe medical choices and access to family planning information and services stand in the way of progress on these issues. I urge Congress once again to move beyond ideology and political maneuvering and to protect the lives and health of women.

Sincerely,

The Honorable Steny Hoyer
House of Representatives
Washington, D.C. 20515

Lichtman Letter Insert

H.R. 1833 presented a difficult and disturbing issue, one which I studied and prayed about for many months. In the end, I vetoed the bill because it fails to protect women from serious threats to their health. While I oppose use of the procedure on an elective basis, I do believe it should be available in the small number of compelling cases where its use, in the medical judgment of a woman's physician, is necessary to preserve her life or avert serious damage to her health.

The problem with the bill Congress passed is that it provides an exception to the ban on this procedure only when a doctor believes that a woman's life is at risk, but not when the doctor believes she faces serious adverse health consequences. I could not accept a bill that fails to protect women like the ones who came to the White House April 10 and spoke with such heartfelt eloquence about their experiences.

Once again, I am grateful for your encouragement.

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:

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-life 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.

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
Padesta
Copied p. 2
Padesta

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.

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.

↳ Podesta

Important issue
NIH is right about this

Podesta

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

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. draft	POTUS to correspondent Kate (3 pages)	nd	P6/b(6)

COLLECTION:

Clinton Presidential Records
First Lady's Office
Domestic Policy Council (Nicole Rabner)
OA/Box Number: 15421

FOLDER TITLE:

Partial Birth Abortion [1]

2012-1035-S
kc1088

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001b. letter	Correspondent Kate to POTUS (3 pages)	10/18/1999	P6/b(6)

COLLECTION:

Clinton Presidential Records
First Lady's Office
Domestic Policy Council (Nicole Rabner)
OA/Box Number: 15421

FOLDER TITLE:

Partial Birth Abortion [1]

2012-1035-S
kc1088

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

Freedom of Information Act - [5 U.S.C. 552(b)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Privacy Cliffhanger

THE NEWS early last week that the administration was poised to issue rules on medical privacy—rules that appeared Friday—touched off a furious burst of doomsaying by affected groups. Insurers, drug companies and HMOs that had successfully blocked Congress from enacting a medical privacy law declared that the regulations would add \$43 billion to health care costs over five years. The BlueCross BlueShield Association distributed a scary diagram showing the need for repeated notice to patients as their records were transferred from a physician to a hospital to a lab and back.

Now the regulations are out, and they require nothing of the sort. Patients must be notified if their electronic records are shared for reasons *other than* medical treatment or payment—for instance, marketing—and they must be allowed to see their medical records and correct errors. These are basic privileges whose enshrinement in law was long overdue.

Congress in 1996 gave the Department of Health and Human Services authority to regulate if Congress itself failed to pass a medical privacy law by August 1999. The same law required hospitals, doctors and insurers to share medical data more efficiently online; lawmakers feared, sensibly, that this would mean an explosion in the misuse of such data unless strong privacy protections were already in place. The ease of sharing data on patients has quickened worrisome trends toward large-scale brokering of sensitive information pos-

sessed by hospitals, insurers, pharmacists, HMOs and other entities—information that can be enormously profitable as it is sold and resold, but enormously damaging to individuals if it reaches the wrong eyes.

Some exchange among caregivers is obviously necessary and valuable—that's the point of the 1996 law. Privacy rules must also make exceptions for investigators pursuing fraud, law enforcement authorities armed with court orders and some public health and research needs. But those exceptions need to be narrow and, whenever possible, confined to information stripped of identifying marks. An early draft of the HHS rule drew criticism for making the loopholes too wide—for instance, allowing police to see records without a court order. Those requirements are now tighter.

Much of the opposition that kept privacy bills gridlocked in Congress comes from those unwilling to give up the chance to make bales of money on information about people's ailments, habits and medications. So intense is this opposition that conferees on the appropriation bill for Labor and Health and Human Services, urged by both House and Senate leadership, last week slipped language into the final report that would have extended the missed deadline two years and headed off the new regulations. Immediate outcry reversed that effort, but those unhappy with the regulations may try again. The broad and urgent public interest in keeping medical data private should trump any such efforts.

The Partial-Birth Decisions

THE DECISION BY a sharply divided U.S. Court of Appeals for the 7th Circuit to uphold two state bans on "partial-birth abortions" all but guarantees that the Supreme Court will have to consider the constitutionality of these laws. The decision is wrong, indefensible under Supreme Court precedent and an aggressive aggrandizement of a court's power to interpret state laws. It is also directly at odds with recent holdings by the 8th Circuit. But in some ways, the saddest part of what has become the cutting edge of abortion litigation is that the fight over partial birth laws was wholly unnecessary. It is perhaps the ultimate elevation of the politics of abortion over the creation of reasonable and balanced policy on the subject.

If the legislative goal, either at the federal or at the state level, was to restrict late-term abortions, legislation was entirely possible. As long as exceptions for the life and health of women are included, such regulation is constitutional. Indeed, the vast majority of states have already banned post-viability abortions. And Senate Democrats suggested a federal ban as an alternative to the partial-birth bill in Congress.

But instead of accepting such a deal, the antiabortion forces have pushed bills that seek to criminalize a particular procedure for late-term abortion but do so vaguely enough as to include within their scope other procedures

that are used much earlier in pregnancy. Under these laws, the viability of the fetus and its stage of development are irrelevant; the manner of the abortion is all important.

But as Chief Judge Richard Posner pointed out in an excellent dissent, this creates utter irrationality in the laws. The definition of partial-birth in these laws—the line that separates a felony punishable in Wisconsin by life in prison from a constitutional right—comes down to the direction and placement of the fetus's feet during the procedure. The laws, Judge Posner argues, could clearly be used to prosecute abortions that are protected by Supreme Court precedent. And no exception is made for the health of the mother either. Only by effectively rewriting these state laws to narrow their scope—an act of naked judicial legislation—was the court majority able to hold either that they did not place undue burdens on women seeking abortions or that they were not unconstitutionally vague.

Whatever one thinks of the Supreme Court's abortion jurisprudence, it is the law, and this law cannot be overturned by cleverly worded statutes or by activist lower-court judges. While there clearly exists room to ban most late-term abortions, these statutes go way beyond what is constitutionally permissible. The decision upholding them should be reversed.

Geneva Overholser

The Box Stops Here

The death knell of the "big box" has sounded: They're banning them in Rockville.

You know the big-box store—its square bulk encased in a bland unnameable substance, possessing all the grace of a storage carton, beached in a vast ocean of asphalt—the toast of 1980s and 1990s merchandising.

It's over.

Nothing could make this clearer than for the City of Rockville to cry, "Enough!" Which it did one recent evening, when Mayor Rose Krasnow and Rockville's city council passed a six-month moratorium. They're going to "take a serious look" at the megastores, said the mayor, "and find out what the citizens of Rockville want."

Up to now, it has seemed that the good-citizens of Rockville wanted more—always more—big boxes. At least it has seemed so to all who know Rockville mostly as a thoroughfare called Rockville Pike.

What Washington's serene mall is to monuments, Rockville's clogged pike is to the big box.

Krasnow said the pike is nearing its traffic "saturation" point "in terms of people's willingness to shop there"—thus proving herself the last elected official in America given to understatement. In our household, the person who journeys to Rockville Pike racks up big points on the family-sacrifices scale. I would happily take out the garbage for 52 weeks rather than navigate the pike.

The funniest part of Rockville's box moratorium is that developers proposing the newest box—a 135,000-square-foot Costco—said this one would be architecturally unobjectionable because it would be "largely hidden behind a ring of other retail stores." It's the perfect Rockville Pike aesthetic: Build enough awful boxes and more will be fine, because the older mammoths will hide them.

But now the fad is dying—and Rockville's glimpse of the light is not our only proof. Some planners are already puzzling over what to do with the box-filled malls and strips once we've moved on to the next trend. How we'll "recycle them," in the words of architect David Lewis, professor of urban studies at Carnegie Mellon University, is a challenge for the next century.

One hint: Here and there across the country,

developers are beginning to convert some of the malls to more Main Street-like shopping areas.

Meanwhile, the real Main Streets are still succumbing to big boxism. One topic at the National Trust for Historic Preservation's huge gathering here recently was how to fight the big, suburblike buildings that drugstore chains are erecting on prominent downtown corners.

Preservationists showed horror-story slides: a noble 1906 U.S. Post Office building in DeKalb, Ill., torn down for a Walgreen's; an 1876 Friends

Meeting house in Richmond, Ind., offed by a CVS. But they noted too that the chains have begun sometimes to do the nobler thing: to convert old buildings, as CVS has done here in historic Georgetown and in Lowell, Mass. Or to build new stores that come up to the sidewalk, have windows at the street level, use bricks like their neighbors and keep their

parking out back. A new Rite Aid in Camden, Maine, looks like three classic New England buildings side by side; yet inside is the airy, spacious interior that the big chains want.

"If you accept standard, off-the-shelf, cookie-cutter design, you will get that every time. If you don't, you'll get better," Ed McMahon, director of land use programs at the Conservation Fund, told the National Trust folks.

Absent the pressure, though, the bad trends will persist. "Drugstores are building the last generation's retail buildings," said McMahon—though surveys show that 86 percent of respondents would rather shop in "a walkabout town center," and that such stores earn more than stores in strip developments.

For example, said McMahon, the big Barnes & Noble bookstore in downtown Bethesda, easily reached on foot or by bike, bus or subway, earned 15 percent more last year than the big Barnes & Noble on—you guessed it, Rockville Pike.

You can only wish Rockville's leaders the best in imagining the unimaginable—an other-than-boxlike future for Rockville Pike. But here is one heartening thought for them: Some future preservationist's fondest dream will be to take a Costco or Target and lovingly freeze it in time—an irreplaceable symbol of an era gone by.

For that monument, there can be no better site than Rockville Pike.



BY MICHAEL WILLIAMSON—THE WASHINGTON POST

Dead Baby Parts Business Booming

By PAUL LIKOU DIS

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 pharmacological 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 Anatomic 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" p. 8

Business Booming

(Continued from Page 1)
then shipped to universities, pharmaceutical and biologics 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 Frankfort, 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%, 1x 1-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 hemoglobinopathies 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 feticidal 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 'neo-vampires' 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 "Nyquil 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."

" 24-77)
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

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.

1. *First Reading*, Is 45:1; 4-6
2. Matt 22:15-21

3. Second Vatican Council, *Gaudium et spes*, 75
4. Is 10:1

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

THE WHITE HOUSE

Office of the Press Secretary

Abortion -
Partial bi-Th -
Official statement

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)

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
LEGISLATIVE AFFAIRSFile - Abortion -
Partial-Birth -
~~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) ^a	362,453	99.9	168,815	99.9	32,811	99.6	40,740	99.2	25,180	99.0	3,505	95.4	588,594	99.9
Intrauterine saline instillation	43	0.0 ^b	32	0.0 ^b	53	0.1	208	0.5	1,324	4.5	422	4.3	2,074	0.3
Intrauterine prostaglandin instillation	22	0.0 ^b	19	0.0 ^b	36	0.0 ^b	199	0.5	1,273	4.3	489	4.8	2,018	0.3
Hysterotomy/ hysterectomy	11	0.0 ^b	7	0.0 ^b	3	0.0 ^b	3	0.0 ^b	11	0.0 ^b	6	0.1	41	0.0 ^d
Other ^f	282	0.1	70	0.0 ^b	211	0.3	325	0.8	1,495	5.1	437	4.4	2,820	0.4
Total**	362,817	100.0	168,943	100.0	33,214	100.0	41,467	100.0	26,283	100.0	3,938	100.0	593,557	100.0

^aExcludes unknowns.^bIncludes dilatation and evacuation.^c≤0.001%.^dIncludes instillation procedures not reported as a specific category.^eReported 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.

MMWR

32

United States Senate

WASHINGTON, DC 20510-2101

March 5, 1997

Dr. David Satcher
Office 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

PRINTED ON RECYCLED PAPER

**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 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. 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.

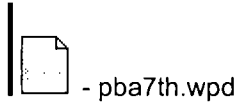
Kate Michelman has been talking to the press and stressing the following points:

- * 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*.

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

59-011

WASHINGTON : 1997

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,

A handwritten signature in dark ink, appearing to read "Bill Clinton", with a long horizontal flourish extending to the right.

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

28-011

WASHINGTON : 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.

ONE HUNDRED FOURTH CONGRESS
AMERICA, AT THE SECOND SESSION
CITY OF WASHINGTON ON WEDNESDAY,
MAY, ONE THOUSAND NINE HUNDRED

An

To amend title 18, United States Code

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Partial-Birth Abortions Prohibition 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 the course of his or her practice of medicine, knowingly performs a procedure that kills a human fetus shall be fined not more than two years, or both, if the procedure is a partial-birth abortion that results in the death of a mother whose life is endangered or injury: *Provided*, That no other person shall be liable for that purpose. This paragraph shall not apply after enactment.

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

"(2) As used in this section, the term 'physician' means a doctor of medicine or osteopathy licensed to practice medicine and surgery by the State in which the activity, or any other individual authorized by the State to perform abortions: *Provided*, That the person is not a physician or not otherwise qualified 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 for a partial-birth abortion if he has not attained the age of 18 years at the time of the maternal grandparents of the

n protect both the life and the
erbrood criminal prohibition risks
ury.

ess to add an exemption for the
where selection of the procedure,
tending physician, was necessary
an or avert serious adverse con-
exception in the current bill only
ieves that the woman will die. It
t the procedure, serious physical
ability to have more children, is
ess that I would sign H.R. 1833
exception for serious health con-
s way would strike a proper bal-
l 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-
bt, in good conscience and consist-
old the law, sign this legislation.

WILLIAM J. CLINTON.

96.

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

4
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, 28 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.

* * * * *