



LEGAL RESPONSE TO PLANNED PARENTHOOD ABORTION PROFITEERING

Planned Parenthood Employees and Contractors Raise Probable Cause of the Systemic Violations of Federal Criminal Laws and Unethical Behavior

The conversations with employees of Planned Parenthood and tissue procurement companies that were recorded by the Center for Medical Progress (CMP) raise probable cause that federal laws may have been violated in the practices and procedures of Planned Parenthood Federation of America and its affiliates and outside contractors (“PPFA”) in procuring, selling and/or donating the human remains of aborted unborn infants.

This memorandum documents specific statements made by current and former employees of PPFA and tissue procurement companies **based on all the full unedited video transcripts released by CMP**, which raise probable cause that PPFA violated one or all of the following federal laws regarding:

- I. Receiving valuable consideration for providing fetal tissue, 42 U.S.C. § 289g-2(a);
- II. Altering abortion procedures to obtain fetal tissue, 42 U.S.C. § 289g-1;
- III. Obtaining informed consent for fetal tissue donation, 42 U.S.C. § 289g-1;
- IV. Performing partial-birth abortions, 18 U.S.C. § 1531;
- V. Killing infants born alive after an attempted induced abortion, who are persons entitled to legal protection under 1 U.S.C. § 8.

The facts also raise the probable cause that PPFA has created an enterprise engaged in the coordinated violation of these laws. For example, Section VI. includes statements illustrating that Planned Parenthood Federation of America coordinates its affiliates’ potentially unethical and illegal practice of harvesting baby body parts in concert with others and that these practices are already pervasive in California and expanding throughout the United States. Taken together, there is probable cause to investigate whether in their fetal organ harvesting scheme PPFA, its affiliates, and the tissue procurement companies they contract with have violated other federal laws, including conspiracy in violation of 18 U.S.C. § 371, and engaging in racketeering in violation of the “Racketeer Influenced and Corrupt Organizations Act” (“RICO”), 18 U.S.C. § 1961-1968.



I. Receiving Compensation for Fetal Tissue

- a. Federal law prohibits any person to “knowingly acquire, receive, or otherwise transfer any fetal tissue for valuable consideration if the transfer affects interstate commerce.” **42 U.S.C. § 289g-2(a).**
- b. Comments made by Planned Parenthood employees raise probable cause that Planned Parenthood’s current practice of harvesting baby body parts in exchange for compensation violates federal law and/or Planned Parenthood is willing to violate federal law in expanding its practice of harvesting baby body parts in exchange for compensation.¹

- Planned Parenthood Federation of America, Senior Medical Director of Medical Services, **Dr. Deborah Nucatola:**

- Nucatola: You know, I would throw a number out, I would say it’s probably anywhere from \$30 to \$100 [per specimen], depending on the facility and what’s involved. It just has to do with space issues, are you sending someone there who’s going to be doing everything, is there shipping involved, is somebody gonna have to take it out. You know, I think everybody just wants, **it’s really just about if anyone were ever to ask them, “What do you do for this \$60? How can you justify that? Or are you basically just doing something completely egregious, that you should be doing for free.” So it just needs to be justifiable.**
- Nucatola: I think for affiliates, at the end of the day, they’re a non-profit, they just don’t want to—they want to break even. **And if they can do a little better than break even, and do so in a way that seems reasonable, they’re happy to do that.**
- Nucatola: **In all cases, it’s really gonna be about staff time, because that’s the only cost to the affiliate. And then, if you want space.** For example, it is, it’s Novogenix is at PPLA, they have a corner of the lab. And they set up, come in with their coolers and everything, and handle all the tissue, **but they’re taking up space, so I’m sure the affiliate considers that when they come up with what’s reasonable. But I don’t think**

¹ Full footage and transcripts for each interview with Planned Parenthood’s employees are available at <http://www.centerformedicalprogress.org/cmp/investigative-footage/>.



anybody's gonna come up with a crazy number, because they're all very sensitive to this too.

- Nucatola: I think if you can be creative or come up with another way or a better way, times are hard in TX right now, **anything that you can do to make things a little bit easier for them, or a little bit better for everybody**, I think gets your foot in the door.
- Nucatola: No one's going to **see this as a money-making thing**. The other reason affiliates think this is a good thing is, it's less tissue that they need to worry about, it's taken care of. They have to do something with that tissue, it's hard to find somebody that wants to do something with that tissue, so the fact that there's somebody that's looking for that tissue is-
- Nucatola: That is **such a huge service to them**, and I just have to say- this came up on a national level, is there are issues with disposal of fetal tissue. ... Even if you could find a way to do that, can I just tell you? Even if there were people who weren't donating, **you'd have huge business just for taking the tissue**. People would pay you. They would just say, "Take my tissue!" Then, you could only send off what you wanted to send off, but you would still have to consent the patients though. It's just something to keep in the back of your mind.
- Nucatola: **If anything, you can make it even better to their bottom line by giving them services in kind instead of money**. I think a lot of them will take you up on that. That would definitely get people. **Say, "I'll give it to you for the same price, AND I'll do that."**
- Nucatola: I mean really, **the guidance is, this is not something you should be making an exorbitant amount of money on**.
- Nucatola: The messaging is this **should not be seen as a new revenue stream**, because that's not what it is.
- Nucatola: but at the end of the day, **you still need to have the paperwork to back it up** because, we are under a microscope.
- Nucatola: no affiliate should be doing anything that's not like, reasonable and customary. This is not- **nobody should be "selling" tissue**. That's just not the goal here.



- Planned Parenthood Federation of America Medical Directors' Council President, **Dr. Mary Gatter**:
 - Gatter: logistically it was very easy for us, **we didn't have to do anything. There was compensation for this**, and there was discussion if that was legal, they have been paying by the case, and there was some discussion about do we, in a different way, or I don't know what you're used to doing, how you're used to compensation. Patients don't care what we do, of course..."
 - Buyer: What would you expect for intact tissue? What sort of compensation? Gatter: **Well why don't you start by telling me what you're used to paying.**
 - Gatter: Well, **you know in negotiations the person who throws out the figure first is at a loss, right?**
 - Gatter (After originally saying \$75 a specimen): I was going to say \$50, because I know places that did \$50, too. But see we don't, we're not in it for the money, and **we don't want to be in a position of being accused of selling tissue**, and stuff like that. On the other hand, there are costs associated with the use of our space, and that kind of stuff, so what were you thinking about?
 - Gatter: Okay. **Now this is for tissue that you actually take, not just tissue that the person volunteers** but you can't find anything, right?
 - Dr. Gatter: Well **let me agree to find out what other affiliates in California are getting, and if they're getting substantially more, then we can discuss it then.**
 - Dr. Gatter: I mean, the money is not the important thing, but **it has to be big enough that it is worthwhile.**
 - Dr. Gatter: It's been years since I talked about compensation, so **let me just figure out what others are getting, if this is in the ballpark, it's fine, if it's still low then we can bump it up.** I want a Lamborghini. [laughs]
- Planned Parenthood Gulf Coast, Director of Research **Melissa Farrell**:

- Farrell: (discussing compensation for specimen types): “Right, and we would definitely have to work that out in terms of budgeting.”
- Farrell: I’m very particular about working with **the language of the budgeted contract to where the language is specific to covering the administrative costs** and not necessarily the per-specimen, because that borders on some language in the federal regs that’s a little touchy.
- Farrell “And of course, we don’t offer the patient any compensation at all”
- Farrell: “Yeah, **we can work it out in the context of—obviously, the procedure is more complicated.** So that **anything that we integrate into that procedure,** without having you cover the procedural cost, **is going to be higher.** So anything of a higher gestational age, there’s more opportunity for complication, there’s more administrative time involved, Sometimes the procedures are longer. So then, **anything that we piggy-back onto that for collection purposes, obviously, would have to, that additional time, cost, administrative burden.**
- Farrell: “Right. And that’s the thing that it’s, a lot of folks I get this mainly from academic institutions, they see Planned Parenthood and think, “Oh, you’re nonprofit. That means you’re non-budget.” **And they will come to us with budgets that are, quite frankly, insulting. I mean, really?** Where in the United States can you, an 8-page consent form for this amount of money? It takes 30 minutes to administer that to a patient. So, you know, again, **with the understanding that just because we’re non-profit, doesn’t mean that we’re fiscally unstable.** If anything, we serve the community and we have to provide services to the community at a very very low cost, and we can’t underwrite anyone’s research project.”
- Farrell: “A lot of academic studies, unfortunately the physician or you know, researcher writes the grant and then as an afterthought, “hmm where am I going to get this.” **They know they want to come to Planned Parenthood to get it but they don’t bring us enough money.** Then there’s mentality where “you’re no profit, you should just give us the stuff.” **I wasn’t joking when I said insulting budgets,** I mean they’re wanting us to do all of these things consent the patient, collect the specimens, and do this, and do that and for nothing, literally, literally, zero.”



- Farrell (not sure she is saying fetal tissue here): “We have- **I make it a point to have very healthy budgets on all of our industry sponsored studies, so there is room in my day for me to underwrite some projects for local academic studies**, especially because we don’t have it come around that often, because we’re in Texas.
- Buyer: I want to underscore it again, double back if you need to financially, **I want it to be profitable for you.** Farrell: **Oh sure, right.**
- Planned Parenthood of the Rocky Mountains:
 - Vice President and Medical Director, Dr. Savita Ginde: No, and the, **I think a per-item thing works a little better**, just because we can see how much we can get out of it.
 - J.R.: I guess another question that comes to mind, is if the tech can’t identify a liver or what not, pack it, send it and it get received by the researcher and they find it not suitable, what in that case- I guess, I’m wondering, would PPRM still be compensated for that? Would they be compensated at a full one hundred percent rate or?
 - J.R.: I think what would be best is to have a specific item, is to have an itemized breakdown for what compensation would be, and just send that to Savita. That can be a starting point
 - J.R.: Yea. We’ve never done this before, so we would be literally creating a list and be guessing but because **you have a better idea of what’s market value of** what researchers are asking for and your existing relationships- **just a general price list.**
- c. Comments made by Planned Parenthood employees demonstrate that PPFA and its affiliates are aware that their actions may violate the law but that their primary concern is creating the perception that they are following the law, not the reality of whether they do, in fact, receive valuable consideration in exchange for the body parts of the babies it abortions.
 - Planned Parenthood Federation of America Medical Directors’ Council President, Dr. Mary Gatter:
 - Gatter: “logistically it was very easy for us, we didn’t have to do anything. **There was compensation for this, and there was discussion if that was legal, they have been paying by the case, and there was some discussion about do we, in a different way,**



or I don't know what you're used to doing, how you're used to compensation. Patients don't care what we do, of course..."

- Ginde: "Just making sure that all the language, and that's the lawyers, what they'll do. And just making sure it's all spelled out. I know that our legal is obviously very in tuned to just the overall politics of the state and what you, you know, the antis would do, I don't know if you guys ran into them."
- Dr. Deborah Nucatola, Senior Medical Director of Medical Services, Planned Parenthood Federation of America:
 - Nucatola: Yeah, you know, **I don't think it's a reservations issue so much as a perception issue**, because I think every provider has had patients who want to donate their tissue, and they absolutely want to accommodate them. **They just want to do it in a way that is not perceived as, 'This clinic is selling tissue, this clinic is making money off of this.'** I know in the Planned Parenthood world **they're very very sensitive to that**. And before an affiliate is gonna do that, they need to, obviously, they're not—some might do it for free—but they want to come to a number **that doesn't look like they're making money**. They want to come to a number that **looks like** it is a reasonable number for the effort that is allotted on their part.
 - Nucatola (responding to a scenario of offering \$10 more than a competitor): **That makes it look fishy**. Exactly.
 - Nucatola: And **because we're the target**, we're not looking to make money from this.
 - Nucatola: You know, I would love to find a way to frame this, too. And maybe you guys can think about this. **You know it's all about framing**.
 - Nucatola: But there are a lot of people who think that what we're all doing is bad and they don't want it to happen at all. You know, **is there a way to continue to frame this**, are there things that we can spotlight, benefits. Because if we can **reframe the conversation**, it's just a win-win for everybody.
 - Nucatola: **Look we've got to come up with the statistics**, four in ten women have had an abortion in their lifetime, you know, by the



time they're forty-five everybody knows somebody who's done this. Wanna know something else? Even more than that I will say, everybody knows somebody who can benefit from stem cells research. **We just need to collectively figure out, what the talking points are,** but I know that we all want to be strong partners in this for sure.

- Nucatola: Unless the composition of the Supreme Court changes anytime soon, **we don't want to be raising eyebrows.**
- Planned Parenthood of the Gulf Coast, Director of Research, Melissa Farrell:
 - Farrell: **"Just because we get audited** all the time because we're Planned Parenthood for everything else, so **we're very risk averse, but strategic.** So, we'll take on grants where we have a lot of mission type support. Something we're really behind. But otherwise, we really focus on our industry sponsored studies."
- Planned Parenthood of the Rocky Mountains, Vice President and Medical Director, Dr. Savita Ginde:
 - Ginde: But the welcoming committee, how they would respond, **you can imagine how they would run with this. "Oh, they're selling body parts!"** You know. And so I think he's sort of making sure that all of our ducks are in a row, that that would never be an issue.
 - Ginde: **And that's why we do it under research.** It makes it a lot different, to do it as a research program, you know, this is research just like any other program where we also collect specimen for a bunch of other studies that we do. We have cervical tissue or anything else.
 - Ginde: No, I mean I think that **the other sort of PR piece, the spin on it,** right, is that this is stem cell research, this is going to stem cell research, it's not for, we're selling a liver to someone else for transplantation, it's not organ, uh, sales or anything like that that would otherwise be, that someone could take out of context.
 - Ginde: Yeah, and I think it makes it easier too to know that these samples will be going directly to a research program or a

researcher and not to some warehouse. **I mean, it makes it a lot more legit.**

- Ginde: Oh. Well I think communication with the affiliates is something that would be really important. Because this could be, and again, I've been here long enough and I do a lot of stuff nationally with Deb and others that I think, and Deb is I'm assuming probably talked to you, **this is potentially like we were talking before, a hot-button issue that if the antis got a hold of it, could really run with it and make it really negative**, and so I feel like if you're talking to other Planned Parenthoods we really have to be on the same page, almost to the point where we really have to disclose to each other that we're doing this so that if anyone gets called out, or runs with it, that we're all like, "Oh I didn't know you were
- Ginde: Yeah. **Well, and to make sure that we're all saying the same thing.** And make sure that the CEOs are all saying the same thing. I feel like, you know, there's donors, and there's the CEOs, and all those people who do a lot of public interface who would need to be able to speak to any questions that came up appropriately.
- Ginde: That's the thing. I think there's- you have to look at the public understanding of everything so, **it's different when the public hears specimen procurement versus stem cell research.**
- Ginde: **It's all lingo right? making sure we're all saying the same thing**, that- that is in fact, what we are doing, we're doing stem cell- we're making stem cells happen and that our patients are proud and satisfied with being able to participate in that. Because of the circumstance and the decisions that they made. So, that's where I think, sort of the bond of the Planned Parenthood itself. And working through Den, if that's where it is to say lets get all these people together because they're all interested. And getting the logistics worked out.
- Ginde: Well I know **but putting it under the research gives us a little bit of a, an overhang** over the whole thing.
- Ginde: We have to know who else is doing this. Because if you have someone in a really anti state who's going to be doing this for you, they're **probably gonna get caught.**

- Buyer: How confident are you with your attorneys' work that you've seen, they are building many layers and making it difficult—Ginde: We've got it figured out, that he knows that—because we talked to him in the beginning, we were like, **we don't want to get called on, you know, selling fetal parts across states.**
 - Ginde: I'm confident that our lawyers, **legal will make sure that we're not put in that situation.** But I think that my CEO, if she knows that there's conversations with other affiliates, that she would want to know who they are so that we make sure that they're all coming from the same space.
 - Ginde: once all of this is happening, we definitely want to circle back and I'll have a conversation with research and say okay, where do we want to fit this in? Because maybe from a logistics side, it's too much for research, but I feel like maybe from a veiled side and getting a little coverage, it's a little bit easier to do it under research **and I think that's an easier sell. To the public. Of doing tissue procurement for stem cell research, than to be doing it outside of that.**
- d. Comments made by Cate Dyer, the CEO of StemExpress, LLC,² about the financial benefits of fetal organ harvesting corroborate the concerns that the practice is done for valuable consideration in violation of federal law:
- Buyer: "Going into it knowing it has to be financially beneficial for you." Dyer: "Right, and both of us."
 - Dyer: "You feel like there's clinics out there that have been burned? They're doing all this work for research **and it hasn't been profitable for them?... I haven't seen that.**"
 - Dyer: "So, I mean, it is providers getting creative with procedure, **attorneys being careful with layers, how contracts are worded...**"
 - Dyer: "We're like the total pro-choice advocate, [National Abortion Federation (NAF)] supporters. **We sponsor events. We**

² Full footage and transcript for the interview with Cate Dyer is available at <http://www.centerformedicalprogress.org/cmp/investigative-footage/>.

sponsor NAF. We give money to those organizations. We're totally committed to everything, with supporting the clinics. I mean a clinic manager recently donated money for support. We're just totally, all in."

- Dyer: "Some of their – some staff, not that I know so much on the Planned Parenthood side, I wouldn't be surprised. **There have been some [Planned Parenthood] staff in the past that have been on the payroll at ABR...** Like a nursing director or somebody who is like a paid employee." Buyer: "Are they doing procurement or are they just sitting there, holding the fort down?" Dyer: "An 'advisory role.' They didn't have to- yeah, it was an advisory role. But for a long time there was some clinics that were sitting on boards for these clinics, they are also advisors for ABR."
- e. The testimony of Holly O'Donnell, a former procurement technician of StemExpress, LLC, who was partnered with Planned Parenthood clinics, confirms the necessity of an investigation into unethical and/or illegal sale of fetal tissue.³
- O'Donnell: "They [StemExpress] partner with Planned Parenthood and they get part of the money, because we pay them to use their facilities and they get paid from it. They do get some kind of benefit."
 - O'Donnell: "For whatever we could procure they [Planned Parenthood] would get a certain percentage."
 - O'Donnell: "The main nurse [at Planned Parenthood] was always trying to make sure we got our specimens. No one else really cared, but the main nurse did because she knew Planned Parenthood was getting compensated. So she wanted to make sure that everything was going great for us, and going great for them."
 - O'Donnell: "The harder and more valuable the tissue, the more money you get. If you can somehow procure a brain or a heart, you're going to get more money ... I guess that's an 'incentive' to try and get the hard stuff, to get more money."

II. Altering Abortion Procedure to Obtain Fetal Tissue

³ Holly O'Donnell's testimony is featured in the documentary web series, "Human Capital," which is available at: <http://www.centerformedicalprogress.org/human-capital/documentary-web-series/>.



- a. Federal law prohibits “alteration of the timing, method, or procedures used to terminate the pregnancy...solely for the purposes of obtaining the tissue.” **42 U.S.C. § 289g-1.**
- b. Comments made by Planned Parenthood employees suggest that Planned Parenthood violates federal law by altering its abortion procedures to harvest baby body parts and/or is willing to [knowingly] violate federal law as it expands its practice of harvesting baby body parts.

- Planned Parenthood Federation of America, Senior Medical Director of Medical Services, Dr. Deborah Nucatola:

- Nucatola: “So, that’s a whole ‘nother issue, **and that’s kind of an ethical issue** too, **ideally you shouldn’t do the procedure in any other way**. You should always do the procedure the same, and that’s what the providers try to do. They’re not gonna treat these patients any differently than they would treat any other patients, just the disposition of the tissue at the end of the case is different.”
- Nucatola: “Yea, **so that’s where we kind of get into an ethical situation**, because what I think most providers don’t want to have do, they don’t want- In terms of the steps and the preparation, and getting them to the actual procedure, you know, if you really want an intact specimen, the more dilation, the better. Is the clinic gonna you know, put in another set of laminaria to do something different? **I think they’d prefer not to**. For example, what I’m dealing with now, **if I know what they’re looking for, I’ll just keep it in the back of my mind, and try to at least keep that part intact**. But, I generally don’t do extra dilation. I won’t put in an extra set of laminaria, or add an extra day, that’s going to add significant cost of expense to everybody. Basically, if you need to add another set of laminaria, and have the patient come back another day, if you provide procedures enough days in a row that you can do that, then you know, that’s a whole ‘nother consideration. In general, I’d say most people, unless there’s a specific research protocol that’s been I.R.B. approved, try to avoid that.
- Nucatola after being asked if knowing what the needs are makes a difference: **It makes a huge difference**. I’d say a lot of people want liver. **And for that reason, most providers will do this case under ultrasound guidance, so they’ll know where they’re putting their forceps**. The kind of rate-limiting step of the

procedure is the calvarium, the head is basically the biggest part. Most of the other stuff can come out intact. It's very rare to have a patient that doesn't have enough dilation to evacuate all the other parts intact.

- Nucatola: So then you're just kind of cognizant of where you put your graspers, **you try to intentionally go above and below the thorax, so that, you know, we've been very good at getting heart, lung, liver, because we know that, so I'm not gonna crush that part, I'm going to basically crush below, I'm gonna crush above, and I'm gonna see if I can get it all intact.**
- Nucatola: **And with the calvarium, in general, some people will actually try to change the presentation** so that it's not vertex, because when it's vertex presentation, you never have enough dilation at the beginning of the case, unless you have real, huge amount of dilation to deliver an intact calvarium. So if you do it starting from the breech presentation, there's dilation that happens as the case goes on, and often, the last, you can evacuate an intact calvarium at the end. **So I mean there are certainly steps that can be taken to try to ensure—**
- Nucatola: So the preparation would be exactly the same, **it's just the order of the removal of the products is different.** And most people see that as not very-
- Nucatola: And, we've been pretty successful with that. I'd say.
- Nucatola: You know I asked her at the beginning of the day what she wanted, yesterday she wanted, she's been asking, a lot of people want intact hearts these days, they're looking for specific nodes. AV nodes, yesterday I was like wow, I didn't even know, good for them. Yesterday was the first time she said people wanted lungs. And then, like I said, always as many intact livers as possible. ...Some people want lower extremities too, which, that's simple. That's easy. I don't know what they're doing with it, I guess if they want muscle.
- Nucatola: **No, it's just what you grab versus what comes out. It doesn't make anything any different.**
- Nucatola: One who's training, who's basically doing the procedure, it comes out in a thousand- you're not going to get

anything intact, so. What we did for a while, and I think it worked pretty well if there's a trainee, I'd say, any research case, I'll do. And as you get better, I'll let you do more, but we really need to do this, intact.

- Nucatola: With that said, If you maintain enough of a dialogue with the person who's actually doing the procedure, so they understand what the end-game is, **there are little things, changes they can make in their technique to increase your success.**
- Nucatola: for example, so I had 8 cases yesterday. And I knew exactly what we needed, and I kinda looked at the list and said okay, this 17-weeker has 8 lams, and this one—**so I knew which were the cases that were probably more likely to yield what we needed, and I made my decisions according to that too, so it's worth having a huddle at the beginning of the day, and that's what I do.**
- Nucatola: “it helps to have a relationship with the provider, because if you do, you can have this conversation with them, and you can say, this is what we're looking for today, and they're more apt to—“
- Planned Parenthood Federation of America Medical Directors' Council President, Dr. Mary Gatter:
 - Gatter: “But at Los Angeles we used digoxin- a feticidal agent- once you apply a feticidal agent [cells aren't usable]...**once the patients have signed the consent form, the patients did not receive digoxin...**”
 - Gatter: So that's an interesting concept. **Let me explain to you a little bit of a problem, which may not be a big problem,** if our usual technique is suction, at 10 to 12 weeks, and **we switch to using an IPAS or something with less suction, and increase the odds that it will come out as an intact specimen, then we're kind of violating the protocol that says to the patient, ‘We're not doing anything different in our care of you.’ Now to me, that's kind of a specious little argument and I wouldn't object to asking Ian,** who's our surgeon who does the cases, to use an IPAS at that gestational age in order to increase the odds that he's going to get an intact specimen, but I do need to throw it out there as a concern. Because the patient is signing something and we're

signing something saying that we're not changing anything with the way we're managing you, just because we agree to give tissue. You've heard that before.

- Gatter: I think they're both totally appropriate techniques, there's no difference in pain involved, I don't think the patients would care one iota. **So yeah, I'm not making a fuss about that.**
- Gatter: Here is my suggestion. Write me a three of four paragraph proposal, which I will then take to Laurel and the organization to see if we want to proceed with this. And then, if we want to pursue this, mutually, **I talk to Ian and see how he feels about using a "less crunchy" technique to get more whole specimens.**
- Planned Parenthood of the Gulf Coast, Director of Research, Melissa Farrell:
 - PPGC Farrell: Right, **the neural tissue is what we've done specifically** in the past. Buyer: **Could you adjust the procedure, if you knew—** PP: **Mhm.**
 - PPGC Farrell: But it's something that **we can look at and explore how we can make that happen, so we can have a higher chance.** It will probably require a little bit of input from the doctors. Because the doctors are the ones asking to, really be doing that, you know, when it matters, **and the cases where it's mattered and the physicians have needed an intact specimen—**
 - PPGC Farrell: Right. And it will depend, obviously the change in the procedure will have to be where it's not gonna put the patient at more risk, prolong the procedure and put her at more risk. And alter the procedure so we leave things in the patient—
 - PPGC Farrell: Right. And that's something we'll have to discuss with our doctors and see how they could do it. **Because some of our doctors have projects and they're collecting the specimens, so they do it in a way they can get the best specimens. So I know it can happen—**

- PPGC Farrell: Mhm, mhm. Yeah. **And so if we alter our process— And we are able to obtain intact fetal cadavers, then we can make it part of the budget that any dissections are this, and splitting the specimens into different shipments is this, that’s, it’s all just a matter of line items.**
- Planned Parenthood of the Rocky Mountains, Vice President and Medical Director, Dr. Savita Ginde:
 - Ginde: **So that’s where we have to do a little bit of training with the providers on making sure that they don’t crush or are able to—** Buyer: So it’s a matter of just training, it sounds like, to a provider. Ginde I think so. I mean, it’s hard to know how their specimen come out right now because it’s not like we’ve been looking. Buyer: Right. It’s not your- Ginde: We have to kind of see the baseline of how things are getting extracted now **and see if we can do any work with them to maybe be more gentle.**
 - Ginde: **Yea, if it wasn’t a major deal, like just some tweaks, I don’t think it would be a major deal.**
- c. Comments made by Cate Dyer, CEO of StemExpress, LLC, corroborate the concern that abortions are unethically and illegally altered to harvest organs:
 - Dyer: **“So, I mean, it is providers getting creative with procedure, attorneys being careful with layers, how contracts are worded, altering gestational age.”**
 - Dyer: **“The model that clinics are moving to, the one day prep-not just one day prep, just one day everything. In which case, you’re not going to get the cervical dilation you need [for tissue procurement]... And the suction destroys everything and it gets to the point where you could look at 60 cases and get nothing.”**
- d. The testimony of Holly O’Donnell, a former procurement technician with StemExpress, LLC, who was partnered with Planned Parenthood clinics confirms the necessity of an investigation into unethical and illegal altering of abortion procedures to obtain fetal tissue. According to O’Donnell: **“If we didn’t watch [Planned Parenthood abortionist Dr. Ron Berman] we would lose our specimens.”**

III. Coercion and Failure to Obtain Informed Consent

- a. Federal law prohibits research on human fetal tissue unless “the woman providing the tissue” makes a signed written statement declaring that she donates the fetal

tissue for research. In addition, federal law requires that the attending physician makes a signed written statement that “the consent of the woman for the abortion was obtained prior to requesting or obtaining consent for a donation of the tissue for use in such research.” **42 U.S.C. § 289g-1.**

- b. The testimony of Holly O’Donnell, an ex-procurement technician of StemExpress, LLC, raises credible concern that Planned Parenthood and StemExpress have both failed to obtain informed consent in accordance with federal law and coerced/pressured women to obtain their babies’ body parts for research.
- O’Donnell: “[StemExpress is] making a lot of money, based off the poor girls who, half the time, they don’t even want to get the abortions.”
 - O’Donnell: “Some women come in and they do a test, and then you find out they are pregnant. And then you can consent them. So pregnancy tests are potential pregnancies, therefore potential specimens. So it’s just taking advantage of the opportunities.”
 - O’Donnell: “Some of these women don’t even know if they’re going to get an abortion, some are not even 100% they are going to get [the abortion] done.”
 - O’Donnell: “The co-workers I had, **they would not consent the donors.**”
 - O’Donnell: “If there was a higher gestation, and the technicians needed it, **they would just take what they needed. And these mothers don’t know.** And there’s no way they would know.”
 - O’Donnell describes a situation **where a woman expressly denied consent for fetal tissue donation** but her fetus was taken for research anyway: “And the next day Jessica [a coworker] came and she’s like ‘oh that high gestated girl, you have to get her, make sure you get her’ and I told her ‘oh, I already consented her yesterday and she’s not comfortable.’ And she looked at me like, ‘ok,’ and walked out. **[Jessica] took her into the room, and she came back out and she was holding all these tubes. And all I said to her was, ‘what did you say to her to get that blood?’ She’s like ‘nothing.’ I’m like, ‘so basically you just went in there and took her blood and you’re going to be taking her fetus without her knowing.’**”

- O'Donnell: "The women I worked for were cold. They didn't care. They just wanted their money. They didn't care that girls throwing up in the trash can, crying. And even there were times patients would ask me, they would come in and be crying and be like 'should I be doing this?' And, look, from my personal view, I'm very pro-life and I would tell them 'run. Go. You'll figure something out. You don't want to do this. If you don't want to do this, go home.' **And I would get in trouble for that. I'd get in trouble. Jessica would say 'why didn't you consent her?' 'Because she was crying and throwing up and she didn't even know if she wants to get [the abortion] done.' 'What'd you say to her?' 'I told her if she wasn't comfortable with it, then I'm not going to do anything.' 'Well, that was an opportunity you just missed.'"**
 - O'Donnell: "I'm not going to tell a girl to kill her baby to get money. And that's what this company does."
- c. Statements made by Dr. Deborah Nucatola also raise concern that women may be coerced/pressured into allowing their babies' body parts to be harvested:
- Nucatola: "Well, we like- **there's always concerns too about kind of coercion.** So you always have to make sure they've made their decision, to actually have the procedure, and then before you start adding on other things, any time we do any research.
 - Nucatola: "It is, it's a PPLA consent form for tissue donation. But the interesting thing, I'll tell you is, some people consent, some people don't. The funny thing is, the second day, when that patients actually comes back for their procedure, when they're waiting, what often happens is, **Novogenix will talk to people who haven't consented, and they usually do, once someone has the time and energy to sit and have the conversation with them. So, she ends up picking up several more specimens, just from being there and speaking.** The seeds have been planted, they thought about it for twenty four hours, now here's somebody else- they're sitting there, waiting, they've got nothing else to do, it's not like one on top of the next, on top of the next. So, I think it's always beneficial, if you have somebody who that's just what they do, they're going to do it much better than incorporating it in, but it can be, it works both ways.



- Nucatola: “Most patients are very motivated. I haven’t really seen very many patients that say no.”

IV. Partial-Birth Abortion

a. Federal law prohibits knowingly performing a partial-birth abortion. **18 U.S.C. § 1531.**

b. Comments made by Dr. Deborah Nucatola, Senior Medical Director of Planned Parenthood Federation of America, raise credible questions about whether Planned Parenthood violates [the spirit and/or letter of] the federal Partial Birth Abortion Ban (and similar state laws).

- Nucatola: **And with the calvarium, in general, some people will actually try to change the presentation so that it’s not vertex**, because when it’s vertex presentation, you never have enough dilation at the beginning of the case, unless you have real, huge amount of dilation to deliver an intact calvarium. **So if you do it starting from the breech presentation, there’s dilation that happens as the case goes on, and often, the last, you can evacuate an intact calvarium at the end. So I mean there are certainly steps that can be taken to try to ensure—**

- Nucatola: Exactly, exactly. **Under ultrasound guidance, they can just change the presentation.**

- Nucatola: So the preparation would be exactly the same, it’s just the order of the removal of the products is different. And most people see that as not very-

- Nucatola: And, we’ve been pretty successful with that. I’d say.

- Nucatola: So let me tell you an interesting story. So there’s not a lot of clear data on digoxin. Providers who use digoxin use it for one of two reasons. There’s a group of people who use it so they have no risk of violating the Federal Abortion Ban. Because if you induce a demise before the procedure, nobody’s going to say you did a “live”—whatever the federal government calls it. Partial-birth abortion. It’s not a medical term, it doesn’t exist in reality. **So some people use it to avoid providing a “partial-birth abortion.”** Others use it because they actually think it makes the tissue softer and it makes it safer and easier to do the procedure. Is there data for either of these? No. **Because number 1, the Federal Abortion Ban is a law, and laws are up to interpretation. So there are some people who interpret it as intent. So if I say on Day 1 I do not**

intend to do this, what ultimately happens doesn't matter. Because I didn't intend to do this on Day 1 so I'm complying with the law. There are other people that say well if you induce demise it doesn't matter, you're never gonna do it so you don't have to worry about intent. So that's one side of it. The other side is there are providers who actually feel it makes the procedure easier. I am one of those providers.

V. Born Alive Infants

- a. The federal Born-Alive Infant Protection Act (“BAIPA”) extends legal protection to an infant born alive after an attempted induced abortion. **1 U.S.C. §8**
- b. Comments made by employees of Planned Parenthood and tissue procurement companies raise credible concerns that infants are born alive after an attempted induced abortion at Planned Parenthood.
 - Dr. Ben Van Handel Executive Director, Novogenix Laboratories LLC [in response to question “is there still circulation in the heart once you isolate it?”] **“So you know there are times when after the [abortion] procedure is done that the heart actually is still beating.”**⁴
 - Planned Parenthood of the Rocky Mountains, Vice President and Medical Director, Dr. Savita Ginde:
 - Ginde: Intact. So we do basically D&Es. **Intact is less than ten percent.**
 - Ginde: **Sometimes, we get- if someone delivers before we get to see them for a procedure, then they are intact**, but that's not what we go for.
 - Planned Parenthood of the Gulf Coast, Ambulatory Surgical Center Director, Tram Nguyen:
 - Nguyen: It varies by gestation, **sometimes they come out really intact.**
 - Nguyen: So it all depends, **sometimes like I said, they come out really intact.**

⁴ Dr. Van Handel's comments are featured in the Human Capital documentary web series, Episode 3: Planned Parenthood's Custom Abortions for Superior Product *available* at <http://www.centerformedicalprogress.org/human-capital/documentary-web-series/>.

- Nguyen: Yeah. Uhuh. **Because I’m like, we can’t really intend to bring it out intact.**
 - Nguyen: If you can get that- they, yea. **Like Dr. Beasley said, we can never intend to complete the procedure intact- you can’t intend to, but it happens.**
 - Planned Parenthood Federation of America Senior Medical Director, Dr. Deborah Nucatola (noting that PPNYC performs a substantial amount of later abortions and does not use a feticide): “New York City is- what PPLA is on the west coast, New York City is on the east coast. They don’t use dig [a feticide], so you would have up to 24 weeks, the other thing is, that they’re volume is probably as big, if not bigger, they do procedures Tuesday through Saturday.”
 - Perrin Larton, Procurement Manager for Advanced BioScience Resources (ABR): “I literally have had women come in and go in the OR and they’re back out in 3 minutes and I’m going ‘what’s going on?’ **‘Oh yeah. The fetus was already in the vaginal canal whenever we put her in the stirrups it just fell out.’**”⁵
 - Cate Dyer, CEO, StemExpress, LLC: “If you had **intact cases, which we’ve done a lot**, we sometimes ship those back to our lab in its entirety.”
- c. The testimony of Holly O’Donnell, a former procurement technician for StemExpress, LLC, who partnered with Planned Parenthood clinics confirms the necessity of an investigation into whether infants are born alive after an attempted abortion at Planned Parenthood.
- O’Donnell: ““I saw a message [on the company instant messenger system] saying that the doctor had aborted a fully intact fetus. Fully intact. And StemExpress was sending it straight to the lab.”
 - O’Donnell: “This is the most gestated fetus and the closest thing to a baby I’ve ever seen... and she taps the heart and it starts beating... I knew why that was happening, the nodes were still firing and I don’t know if that means it’s technically dead or it’s alive. It had a face, it wasn’t completely torn up. Its nose was

⁵ Perrin Larton’s comments are featured in the Human Capital documentary web series, Episode 3: Planned Parenthood’s Custom Abortions for Superior Product *available* at <http://www.centerformedicalprogress.org/human-capital/documentary-web-series/>.



pronounced. It had eyelids. ... Since the fetus was so intact she said ‘ok, well, this is a really good fetus and it looks like we can procure a lot from it. We’re going to procure brain.’”

VI. **Planned Parenthood Federation of America’s Coordination of its Affiliates’ Expanding Practice of Harvesting Baby Body Parts**

a. Comments made by Planned Parenthood employees indicate that PPFA encourages and coordinates its affiliates’ harvesting of baby body parts but intentionally does not now commit its “guidance” to writing.

- Planned Parenthood Federation of America, Senior Medical Director, Dr. Deborah Nucatola:

- Nucatola: “Well you can have messaging, and what happens is, folks will ask the national office questions. We certainly have answers to the questions, **but we don’t have a policy per se, and that is by choice.**”
- Nucatola: So, we tried to do this, and at the national office we have a Litigation and Law Department that just really doesn’t want us to be the middle people for this issue, right now. Because we were actually approached by StemExpress to do the same thing. One of the California affiliates said, “We’re working with these people, we love it, we think every affiliate should work with them.” And so we had a conversation, and we said, you know, what if we go out and find everyone who is doing this and present everybody with a menu, and at the end of the day they just decided that **right now, it’s just too touchy and issue for us to be an official middleman.**
- Nucatola: **But I will tell you that behind closed doors, these conversations are happening with affiliates.**
- Nucatola: This is something we need to continue the conversation because **this is something we are always re-evaluating.**
- Nucatola: **There are no guidelines.** Buyer: Not written. Nucatola: They're guidelines on research, but there are no guidelines on tissue procurement. Buyer: Okay. Nuctoala: **And there will never be guidelines.** Buyer: Oh. Just to keep it—to keep everything—Nucatola: There’s no guidelines, if something qualifies as research,

and an affiliate wants to participate in a particular research study, there are guidelines of how that happens. If they're gonna participate in something like this, you know there are mechanisms by which contracts can be reviewed and things like that, but there are no guidelines. This is something that the national office is not involved in. For the first few years that it happened, it was treated as research, and then we realized that this was kind of overkill because we didn't have a particular IRB approved study, it just didn't fit into our framework. So we just kind of backed off of it.

- Nucatola: You know, it's- **if people want to ask for guidance, there is. But do we have a written policy? No. I can't imagine we're going to have one anytime soon.**
- Planned Parenthood Federation of America Medical Directors' Council President, Dr. Mary Gatter:
 - Gatter: **"PPFA, our parent body, is on board with tissue donation, but we have to ask for a waiver to do it, and we have to lay out for them what our program's gonna be like."**
 - Gatter: **"well PPLA and northern California, we were kind of the vanguard to have PP doing this kind of stuff.** I know that PP national had a hard time trying to figure out where to draw the lines and whether to have us sign—in fact, now it's all coming back to me. If you guys were doing a specific, one research project, we would have to sign it up as a research project. But if you're collecting tissue for multiple research projects, not just one, then it falls into the tissue donation area. It's complicated. The paperwork is a nightmare."
 - Gatter: **Yeah, they're always changing their mind, they're always doing things different.** I'm sorry."
- Planned Parenthood Gulf Coast, Director of Research, Melissa Farrell:
 - Farrell: "because of the nature of fetal tissue we also have some of our policies regarding it." "That are specific, well specific to any Planned Parenthood in the United States, in terms of fetal tissue donations. So, Planned Parenthood that you would work with for fetal tissue, **we all follow the same procedure.** So, additional documentation..."

- Farrell: “I’m very surprised **by that part of being related to Planned Parenthood is being like a franchise** and there is annual information that we have to submit about our populations, there are policies that are called out standards and guidelines you know, of how we conduct our business. Every affiliate is a separate and distinct corporate entity. **We still function under all the same guidelines and principles.** When it comes whether or not they have the data, I know they have the data. I know they have the data, I know they do. How they’re able to get that for you is another question.”
- Farrell: “So in terms of reporting, **any study has to be registered with the national office, and the legal department reviews the contracts** mainly for indemnification language, to make sure there’s mutual indemnification language.”
- Farrell: “So, now as far as record-keeping, how they retain that information up there, every single study that we submit gets assigned an ID number, I don’t know if it’s in any kind of data base where they can search and see that there are this many studies going on in Planned Parenthood world for fetal tissue. I don’t know how it’s maintained up there.”
- Farrell: “Yea, if it’s for fetal tissue I need to- unless it’s new this year. It’s been the same, **there’s a form that we have to use with the national office** that the physician that is performing the collection is not involved in the dating. That’s going to change because that’s a state requirement now. Whoever is doing the dating has to be the one doing the procedure. So-
- Farrell: “Gestational age. Yea. Then there’s another form where we have to attest that the patient is not being paid for the sample, just a lot of little check boxes--**this comes directly from the national office.**
- Farrell: “**There actually used to be an entire section on abortion services section and tissue donation.** I just remember when I first started here, there was this project going on- ok I need to, (inaudible) brush up on this. Buyer: It was under the abortion section but now its not there? PP: I’m not seeing it, but it doesn’t

mean it wasn't combined with something else or renamed. The renaming of things is something that happens.

- Farrell: “But **this is from 2005 so it might not exist in our standards and guidelines anymore. So yea, ok. It existed, I’m not hallucinating. Ok, alright. Bye.**

- Planned Parenthood of the Gulf Coast, Ambulatory Surgical Center
Director, Tram Nguyen:

- Nguyen: Yes, I attended the patient service day and Kristen Flood did talk about fetal collection and stuff like that.
- Nguyen: **They [PPFA] are encouraging more participation [in fetal tissue procurement] but they don’t want to get too into the mix of it.**

- Planned Parenthood of the Rocky Mountains:

- Dr. Savita Ginde: Just a registration that says we’re doing it for study, and the study is on going specimen procurement, which we’ve done with other entities before. They’ve had different specimen (inaudible) where we’ve collected pap smear samples and stuff like that. This would be a specimen procurement and we just register it and PPFA would just close it out when it’s done.
- J.R.: Just a formality, really. We have good relations with PPFA. **It’s just so they know that we’re not running on our own.**

- b. Statements made by Planned Parenthood employees demonstrate that the practice of harvesting baby body parts is already pervasive and expanding:

- Nucatola: **There are affiliates who have been doing this for so long, they have staff that are so good at it,** they may just say, that it’s something that staff can do. Especially because you know, they know how to identify some stuff. They probably wouldn’t know how to identify the stuff you need. They’re looking for basically, all of the limbs a thorax a head, to present them, “We’ve got it all.” That’s the only concern.

- Nucatola: I don't think that misperception exists in Planned Parenthood anymore, because **this is a conversation we've been having for years now**, where people know it's research and yes, it's an alternative way to help you manage your tissues,
- Nucatola: people have been talking about this for so long now- **California's pretty saturated**
- Gatter: **"You've got one small pocket of people who are not partnered, that's Pasadena because the volume is not big."**
- Gatter: **"every California affiliate is paired up in a tissue donation program, except for Pasadena."**
- Laurel (Gatter video): **"I was with the San Diego affiliate, and they were utilizing the same process."**
- Dr. Katharine Sheehan, Medical Director of Planned Parenthood Pacific Southwest: "We have already a relationship with [Advanced BioScience Resources (ABR).]" "We've been using [ABR] for over 10 years, really a long time." "We just kind of renegotiated the contracts. They're doing the big, I can't remember what they call it, the big collection for the government level collections."⁶
- Farrell: **"We get requests a lot for fetal tissue."**
- Farrell: "And under the scope of **where we probably have an edge over other organizations, is our organization has been doing research for many many years**. And we've had studies in which the company or the investigator has a specific need, for certain portion of the products of conception. ... And we bake that into our contract, and our protocol, that we follow this. And we deviate from our standard in order to do that. So, you know, we can do it in a way that we're still verifying that everything is there for the safety of the patient, but then we maintain the integrity of that sample. So yeah, that's definitely something we can do. So as far as, this is our standard process, telling you then we can get

⁶ Dr. Sheehan's comments are featured in the Human Capital documentary web series, Episode 1: Planned Parenthood's Black Market in Baby Parts *available* at <http://www.centerformedicalprogress.org/human-capital/documentary-web-series/>.

creative about when and where and under what conditions can we interject something that is specific to the tissue needs.

- Farrell: “**We already have done this, so we have some expertise here...**”
 - Gatter: “back when I was in Los Angeles **maybe sixty to seventy percent of people said yes to tissue donation.**”
 - Gatter: “Novogenix was our partner in PPLA and they would send us—you know, **big volume.**”
 - Nucatola: “I was in the O.R. yesterday and we had, I’d say, 18 patients, probably half of them were either got digoxin or were under eighteen **and the rest of them all donated their tissue.**”
 - Farrell: “**we had a collection that was going on when I got here that had been multi-year.** It had been collecting specimens of a certain gestational age in a certain way, those actually worked really really well, because our staff, they really like to get on auto-pilot. They want to do their job, they want to do it well, and if we have a long-term project, where we’re getting lots and lots and lots of specimens, **they can get on auto-pilot** after the initial training pretty quickly. So everyone likes monotony, to an extent you know.”
 - Nucatola: “**That’s why you want to go with someone like PPFA, who does 40 percent of the cases and has a whole schedule for the day.**”
- c. Comments made by Cate Dyer, CEO of StemExpress, LLC, confirm that PPFA coordinates the organ harvesting operation of its affiliates:
- Dyer: “**Most everything nowadays has to be vetted through PPFA.** The affiliate puts their own logo at the top, had their own name in the consent, but the language is exactly the same, usually, clinic to clinic in Planned Parenthood.”
 - Dyer: “Form wise, you shouldn’t see any issue. I mean because **Planned Parenthood keeps a pretty tight rein on their organization.** And when they don’t, like Golden Gate is a good example on how they did away with an entire affiliate in San Francisco because they wouldn’t toe the line. So, when you’re one



of those affiliates that go outside the ropes, usually PPFA is like ‘you’re done,’ and shuts them down.”

d. Comments made by Cate Dyer, CEO of StemExpress, LLC, raise additional concerns about the coordination between abortion providers and tissue procurement companies:

- Dyer: “We’re like the total pro-choice advocate, [National Abortion Federation (NAF)] supporters. **We sponsor events. We sponsor NAF. We give money to those organizations.** We’re totally committed to everything, with supporting the clinics. I mean a clinic manager recently donated money for support, we’re just totally, all in.”
- Dyer: “Some of their – some staff, not that I know so much on the Planned Parenthood side, I wouldn’t be surprised. **There have been some [Planned Parenthood] staff in the past that have been on the payroll at ABR...** Like a nursing director or somebody who is like a paid employee.” Buyer: “Are they doing procurement or are they just sitting there, holding the fort down?” Dyer: “An ‘advisory role.’ They didn’t have to- yeah, it was an advisory role. But for a long time there was some clinics that were sitting on boards for these clinics, they are also advisors for ABR.”