



## Prohibiting Trafficking of Baby Body Parts and Federal Funding for Fetal Tissue Research from Induced Abortions

*Arina O. Grossu, M.A., M.S.*

### Summary

- The 2015 videos from the Center for Medical Progress (CMP) uncovered an industry of trafficking of aborted baby body parts for profit and research.
- Harvesting the body parts of aborted children for research subsidizes the abortion industry and incentivizes harmful practices such as late-term abortion, altering abortion methods, violating patient privacy, and even likely killing some children born alive in order to harvest their organs, as CMP videos uncovered.
- Congress, the National Institutes of Health (NIH), the Secretary of Health and Human Services (HHS), and/or the president can and should ban federal funding for research using human fetal tissue obtained from induced abortions.
- The NIH Secretary should create a registry of ethically-obtained fetal tissue derived from miscarriages and stillbirths to support research.
- Congress and the states should prohibit the sale and trafficking of baby body parts and close the “valuable consideration” loophole in federal law.
- States should ensure the respectful burial of unborn children killed in abortion.
- There are ethical alternatives to human fetal research that do not involve induced abortions.

### **Is the research, sale, and trafficking of human fetal tissue from induced abortions happening?**

Yes. The 2015 CMP videos, filmed by investigative journalist David Daleiden, uncovered an industry of trafficking of aborted baby body parts for profit and research. Daleiden went undercover to record abortionists, executives, and staff-level employees of the abortion industry discussing fetal tissue procurement from abortions in shocking detail. These videos and other acquired documents exposed the buyer-seller relationship between the abortion industry and fetal tissue procurement companies, including Advanced Bioscience Resources (ABR), DaVinci Biologics, and StemExpress.

The House of Representatives in the 114th Congress responded to the CMP videos by establishing the Select Investigative Panel on Infant Lives in October 2015 to examine these grotesque practices. The Select Panel uncovered widespread unethical and illegal practices involving the trafficking of baby body parts from abortion businesses to sellers via fetal tissue procurement companies acting like middlemen. For example, ABR was investigated and appeared as a case study in the Select Panel’s July 2016 interim update. The Panel found that ABR paid Planned Parenthood and other abortion facilities a flat fee of \$45

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to \$60 per baby specimen. In 2015 alone, ABR made nearly \$80,000 in payments to its top five abortion facilities from which it procured baby body parts. In turn, ABR sold these parts to customers. In 2015 alone, ABR's revenue from the sale of baby body parts to its top six customers equaled \$191,984 including at least 80 baby brains, 36 pairs of eyes, eight hearts, 16 spinal cords, two intact skullcaps, two spinal columns, two skins, and other tissue.<sup>1</sup>

CMP's investigations revealed from invoices that the process was similar with other biotech companies. The middlemen paid abortion facilities for collecting the baby body parts and then sold them to universities, pharmaceutical companies, research labs, and even the NIH and the Food and Drug Administration (FDA) for astronomical prices. For example, ABR charged customers \$340 to \$550 per fetal specimen procured. StemExpress sold human hearts of 18 to 24 week babies for \$595 each. DV Biologics sold half a baby liver for \$350 and a baby thymus for \$500.<sup>2</sup> The interim update also revealed a StemExpress purchase order selling limbs with hands and feet of a 17 to 18 week baby for \$890 each.<sup>3</sup> StemExpress also sold "Fetal Liver CD133+ Stem/Progenitor Cells" for \$2,425 to \$24,250.<sup>4</sup>

The CMP videos further revealed that the abortion industry, including Planned Parenthood, incentivizes harmful practices such as late-term abortion, altering abortion methods, violating patient privacy, and even likely killing some children born alive in order to harvest their organs.

In December 2016, the Select Panel issued 15 criminal and regulatory referrals to fetal tissue procurement companies and abortion facilities, including two Planned Parenthood facilities, involved in the trafficking and sale of baby body parts.<sup>5</sup> Additionally, the Senate Judiciary Committee also made seven criminal referrals to the FBI and the Department of Justice of three biotech companies and four Planned Parenthood facilities for investigation and potential prosecution for their paid fetal tissue practices.<sup>6</sup> The current bills would address some of the concerns made in these referrals.

### **Is the profiting from human fetal tissue from induced abortions illegal under federal law?**

Yes. Federal law under the *NIH Revitalization Act of 1993* (42 USC 289g-2) prohibits the sale of human fetal tissue if the tissue is sold for "valuable consideration" and "affects interstate commerce," that is, if the fetal tissue is sold for profit. The statute states that "[t]he term 'valuable consideration' does not include reasonable payments associated with the transportation, implantation, processing, preservation, quality control, or storage of human fetal tissue." Any profit that is made after costs are subtracted from payment is in violation of this statute. The abortion industry has used and abused this "valuable consideration" loophole to traffic the body parts of aborted babies and to make a profit as described above.

### **Do federal tax dollars currently fund research involving human fetal tissue?**

Yes. NIH spent \$103 million in fiscal year (FY) 2016 and is slated to spend \$107 million in FY 2017 to fund "human fetal tissue research." These grants for human fetal tissue research are disseminated to researchers at NIH, universities, hospitals, research centers, and pharmaceutical companies, which, in turn, enter into arrangements with abortion facilities to procure and, in many cases, purchase aborted fetal tissue harvested from induced abortions.

Under the *NIH Revitalization Act of 1993* (42 USC 289g-1), the HHS Secretary has the authority at his choosing, without any interference from the president, to use federal funds research for the limited purpose of transplantation of human aborted fetal tissue for therapeutic purposes (i.e. to be transplanted

into human patients to treat diseases). Patients have not received benefit from fetal tissue transplants and many patients have actually been harmed.<sup>7</sup>

NIH has not funded any fetal tissue transplant trials since 2007. Since that means NIH's funding of research using aborted fetal tissue consists of only basic research (not involving clinical transplantation), funding this research is not required or explicitly authorized by federal law. The NIH Director, the Secretary of HHS, and/or the president can and should restrict federal funding for research using human fetal tissue obtained from induced abortions.

### **Are there ethical alternatives to human fetal tissue research from induced abortions?**

Yes. Human fetal tissue can be obtained from ethical sources, such as miscarriages and stillbirths. Cells identical to fetal stem cells can also be obtained ethically from post-partum umbilical cord blood or the placenta. NIH could create a registry of such ethically obtained fetal tissue for the purposes of federal research.

However, the Final Report of the Select Panel further revealed that there have been no successful clinical results from human fetal tissue research. It concluded:

“Human fetal tissue research is an outdated and unproductive area of research that does not make a strong impact on the field. In over 100 years of unrestricted investigation, human fetal tissue research has had ample time to prove useful, yet it has failed to do so:

- Fetal tissue HAS NOT produced a single medical treatment.
- Fetal tissue WAS NOT used to cure polio, mumps, and measles.
- Fetal tissue IS NOT used for modern vaccine production or research.
- Fetal tissue IS NOT critical to study Zika or other diseases affecting brain development.
- Fetal tissue IS NOT required for the overwhelming majority of current research.
- Fetal tissue research is LESS PRODUCTIVE and has LOWER IMPACT when compared to non-fetal tissue research.”<sup>8</sup>

Research using human fetal tissue is antiquated and has been replaced by modern, successful alternatives that exist using organs produced in vitro from ethically-sourced cells, induced pluripotent stem cells, and adult stem cells. In fact, as of 2007, there is published evidence for at least 73 conditions that are being treated by adult stem cell transplants.<sup>9</sup> Further, as of December 2012, there are over one million patients worldwide who have been treated with adult stem cells and experienced improved health.<sup>10</sup> Adult stem cells have been used to treat various cancers, auto-immune diseases, cardiovascular diseases, immunodeficiencies, neural degenerative diseases, anemias and other blood conditions, metabolic disorders, liver and bladder diseases, and others.<sup>11</sup>

### **Federal Legislation**

Federal legislation concerning fetal tissue research includes:

1. ***Protecting Life and Integrity of Research Act (H.R. 1895)***  
Rep. Blaine Leutkemeyer (R-Mo.), Introduced in the House on April 4, 2017

The *Protecting Life and Integrity of Research Act* would outlaw the harvesting of the body parts of aborted babies and cut all federal funding for research using such human fetal tissue. This legislation would

make existing criminal penalties for violations of federal fetal tissue laws apply to any sale or donation of fetal tissue harvested from unborn children killed in abortion. This legislation would not bar NIH research for, or enact any criminal penalties regarding, ethically obtained human fetal tissue from stillbirths or miscarriages.

This legislation would redirect NIH's scarce resources to prioritize research using cells obtained without incentivizing the destruction of human life, and which show the greatest potential for near-term clinical benefit in human patients, such as adult stem cells, cord blood, induced pluripotent stem cells, and other cell technologies not involving innocent victims of abortion.

**2. *Safe Responsible Ethical Scientific Endeavors Assuring Research for Compassionate Healthcare Act (H.R. 1203, "Safe RESEARCH Act")***

Rep. Jim Sensenbrenner (R-Wis.), Introduced in the House on April 17, 2017

The *Safe RESEARCH Act* would bar federal funds for research involving human fetal tissue that is obtained from an induced abortion (not including miscarriages, stillbirths, etc.).

**3. *Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2018 (H.R. 3358, "LHHS")***

Rep. Tom Cole (R-Okla.), Introduced in the House on July 24, 2017

A provision in the House's FY18 annual spending bill for Labor, Health and Human Services, Education, and Related Agencies (LHHS) would bar federal funding for research involving human fetal tissue that is obtained from an induced abortion (not including miscarriages, stillbirths, etc.).

## **State Legislation**

There are eight states that ban all fetal tissue research from induced abortion:<sup>12</sup> Arizona, Illinois,<sup>13</sup> Indiana, Kansas,<sup>14</sup> North Dakota, Ohio, Oklahoma, and South Dakota.<sup>15</sup> Five of these states ban all fetal tissue research from any source: Indiana, North Dakota, Ohio, Oklahoma, and South Dakota.<sup>16</sup>

There are 18 states that prohibit the purchase or sale of human fetal tissue for research: Alabama,<sup>17</sup> Arizona,<sup>18</sup> Arkansas,<sup>19</sup> California,<sup>20</sup> Colorado,<sup>21</sup> Florida,<sup>22</sup> Idaho,<sup>23</sup> Illinois,<sup>24</sup> Indiana,<sup>25</sup> Kansas,<sup>26</sup> Louisiana,<sup>27</sup> Michigan,<sup>28</sup> Nevada,<sup>29</sup> North Carolina (from aborted babies),<sup>30</sup> Tennessee,<sup>31</sup> Texas,<sup>32</sup> South Dakota,<sup>33</sup> and Wyoming.<sup>34</sup>

There are eight states that require the cremation or burial of aborted babies' remains: Arkansas,<sup>35</sup> Indiana,<sup>36</sup> Georgia,<sup>37</sup> Louisiana,<sup>38</sup> Michigan,<sup>39</sup> North Carolina,<sup>40</sup> and Texas.<sup>41</sup>

Additionally, in 2017, four states have introduced bills involving other kinds of restrictions on fetal tissue obtained from aborted babies: Iowa, Mississippi, Missouri, and Washington.

## **Conclusion**

FRC recommends the passage of federal and state legislation that outlaws the sale and trafficking of aborted baby body parts and bans funding for research using human fetal tissue obtained from induced abortions.

Resources should be redirected to research using ethically-derived fetal tissue. The NIH Secretary should create a registry of ethically-obtained fetal tissue from miscarriages and stillbirths to support research. It should also promote research using more modern and successful alternatives such as from organs produced in vitro from ethically-sourced cells, induced pluripotent stem cells, and adult stem cells.

*Arina O. Grossu, M.A., M.S. Bioethics, is the director for the Center for Human Dignity at Family Research Council, where she focuses on sanctity of human life issues ranging from conception to natural death.*

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<sup>3</sup> “Interim Update To the U. S. House of Representatives,” 41.

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<sup>5</sup> “Select Investigative Panel: Criminal and Regulatory Referrals,” Energy and Commerce Committee, December 21, 2016, accessed August 31, 2017, <https://energycommerce.house.gov/news-center/letters/select-investigative-panel-criminal-and-regulatory-referrals>.

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<sup>10</sup> Ibid.

<sup>11</sup> “Benefits of Adult Stem Cells for Human Patients,” Stem Cell Research Facts, accessed September 26, 2017, <http://www.stemcellresearchfacts.org/treatment-list/>.

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