August 27, 2015

The Honorable John A. Boehner  The Honorable Mitch McConnell
Speaker  Majority Leader
U.S. House of Representatives  U.S. Senate
Washington, DC 20515  Washington, DC 20510

The Honorable Nancy Pelosi  The Honorable Harry Reid
Minority Leader  Minority Leader
U.S. House of Representatives  U.S. Senate
Washington, DC 20515  Washington, DC 20510

Dear Speaker Boehner, Leader McConnell, Leader Pelosi, and Leader Reid:

In the last month, Planned Parenthood has been the focus of extensive discussion and scrutiny for our role in fetal tissue research.

Four committees in the Senate and House are currently investigating allegations against Planned Parenthood. The Senate has already held a vote on an effort to strip federal funding from Planned Parenthood, and the House of Representatives may hold a similar vote in September. Several Senators and House members, as well as some Republican Presidential candidates, are advocating shutting down the federal government unless Planned Parenthood is defunded.

We obviously take this matter very seriously. We also agree with Speaker Boehner’s view that Congress should get the “facts first” because “the more we learn, the more it will educate our decisions.”¹

I am writing today because we are doing as much as we can to collect the facts and share them with you. We are also cooperating with the House and Senate committees that have requested relevant information from us.

In this letter, I will provide background on the bipartisan 1993 law on fetal tissue research, Planned Parenthood’s role in this research, and what we are doing in response to questions that have been raised over the last month. I will also share what we know about anti-abortion extremist David Daleiden and the organizations that spent nearly three years infiltrating our affiliates and trying to entrap our staff into potentially illegal conduct, including the results of a forensic analysis of the doctored videos.

While I am providing a lot of information in this letter, it is especially important to highlight three points.

First, Planned Parenthood adheres to the highest standards and follows all laws.

Second, Planned Parenthood is proud to have a role in fetal tissue research. Overwhelming bipartisan majorities in both the House and Senate recognized the value of this medical research when Congress passed the NIH Revitalization Act of 1993, and it has led to life-saving discoveries that are helping millions of Americans.

Third, our affiliates’ involvement in fetal tissue research is a miniscule part of the work of Planned Parenthood. Despite a deliberate and systematic effort to distort our role, only two of 59 Planned Parenthood affiliates are currently involved with fetal tissue research.

Our affiliates operate health centers, which is where we provide health services to millions of women and men every year. Of the hundreds of health centers that are part of the Planned Parenthood network, just 1% are involved with fetal tissue research.

The attacks on us have the intended purpose of making it appear that fetal tissue research is an enormous focus of Planned Parenthood. But the simple fact is that 99% of our health centers have no involvement in this work. Women who visit our affiliates regularly express a desire to donate tissue from their abortion. But whether because researchers have not requested tissue from the local affiliate or because the local affiliate has chosen not to participate, very few of our health centers offer women this opportunity.

For the few centers that are involved with fetal tissue research, there is absolutely no indication they have deviated from the law or done anything inappropriate. In fact, despite Mr. Daleiden’s three-year effort to entrap Planned Parenthood, he failed to succeed in convincing even a single affiliate to enter into a procurement contract with his fake company.

Even though our work involving fetal tissue research is a small part of what Planned Parenthood does, we are committed to continual improvement and meeting the highest medical and ethical standards in all we do, including facilitating tissue donations. I have asked our senior medical leadership to conduct a review of the policies and practices that guide the affiliates that offer tissue donation services and our oversight of these activities. If this review identifies ways we can improve our practices while staying true to our core mission, we will promptly implement them. Furthermore, because the current debate has been marked by considerable confusion over what fetal tissue research is and what rules apply or should apply, I have written to the Director of the National Institutes of Health to suggest that he consider convening an expert panel on fetal tissue research.²

² Letter from Cecile Richards, President of Planned Parenthood Federation of America, to Francis Collins, Director of the National Institutes of Health (July 29, 2015).
Federal Law on Fetal Tissue Research

The federal law on fetal tissue research was shaped by a blue-ribbon panel created in 1988 under the Reagan Administration. Arlin Adams, a retired federal judge opposed to abortion, chaired the panel, which was called the Human Fetal Tissue Transplantation Research Panel. Although the panel’s charge – to evaluate the ethics of research involving fetal tissue – was controversial, Judge Adams led the panel to a broad consensus. Its final report stated: “a decisive majority of the panel found that it was acceptable public policy to support transplant research with fetal tissue.”

The panel separated the question of the ethics of abortion, about which the panel members had differing views, from the question of the ethics of using fetal tissue from legal elective abortions for medical research. The panel supported fetal tissue research for two primary reasons: (1) “abortion is legal” and “would occur regardless” of the use of fetal tissue in research and (2) “the research in question is intended to achieve significant medical goals.” The panel then made a series of recommendations to ensure that any research followed appropriate guidelines.

The panel recommended that “the decision and consent to abort must precede discussion of the possible use of fetal tissue” so that “a woman’s abortion decision would be insulated from inducements to abort to provide tissue for transplant research and therapy.” The panel recommended prohibiting “payments … associated with the procurement of fetal tissue … except payment for reasonable expenses” so that there would be “no offer of financial incentives or personal gain to encourage abortion or donation of fetal tissue.” And the panel recommended that “no abortion should be put off to a later date nor should any abortion be performed by an alternate method entailing greater risk to the pregnant woman in order to supply more useful fetal materials for research.”

The panel’s work won broad bipartisan support. In 1993, Congress overwhelmingly passed the NIH Health Revitalization Act, which codified the key recommendations of the panel into law. As you know, three of you – Senate Majority Leader McConnell, Senate Minority Leader Reid, and House Minority Leader Pelosi – all voted for the legislation. The final vote was 93 to 4 in the Senate and 290 to 130 in the House.

The law has two main provisions. One section (42 U.S.C. 289g-1) addresses federally funded research on “the transplantation of human fetal tissue for therapeutic purposes.” Under this section, the medical researcher must obtain a statement from the attending physician declaring that the consent of the woman for the abortion was obtained prior to the consent for the fetal tissue donation and that there was no alteration of the timing, method, or abortion procedure solely for purposes of obtaining the tissue.

---

The other provision (42 U.S.C. 289g-2) prohibits the acceptance of any payment for a fetal tissue donation other than “reasonable payments associated with the transportation, implantation, processing, preservation, quality control, or storage of human fetal tissue.”

Under both laws, “human fetal tissue” is defined narrowly to mean “tissue or cells obtained from a dead human embryo or fetus” after an abortion or stillbirth.

**Planned Parenthood’s Limited Involvement in Fetal Tissue Research**

Planned Parenthood is the nation’s leading provider of reproductive health care services for women. We are also an important provider of primary and preventive health care for men and young people. Each year, our health centers provide high quality, affordable birth control, lifesaving cancer screenings, testing and treatment for sexually transmitted infections, and other essential care to 2.7 million patients. One in five women in the United States has visited a Planned Parenthood health center at least once in her life.

We are also a trusted provider of education and information on reproductive health. Every year, 1.5 million youth and adults participate in our educational programs. We currently average 6 million visits a month on our web sites where health care information is readily available in English and Spanish.

Planned Parenthood uses an affiliate structure. The national organization, Planned Parenthood Federation of America, establishes policies and accreditation standards for our 59 legally independent affiliates. The affiliates operate nearly 700 health centers across the country, which provide our health care services.

Planned Parenthood distinguishes between two types of services. Core services are those that every affiliate is required to provide. They include birth control, breast exams, pregnancy testing, abortions, identifying and treating sexually transmitted infections, and other essential health services. Optional services are those that affiliates can elect to provide. Offering women the opportunity to donate post-abortion tissue for research is an optional service.

In fact, not only are affiliates not required to be involved with tissue research, very few are. Our doctors report that women regularly ask whether they can donate their tissue for medical research. But the vast majority of our affiliates do not offer this service. In some instances, this may reflect the affiliate’s considered decision. In many others, local research institutions simply have not requested tissue donations.

Our few participating affiliates can offer tissue donation services in two ways: through tissue procurement organizations (TPOs) which have been the focus of the recent public debate, or as partners or participants in research studies being conducted by major research programs connected to some of our nation’s most prestigious universities, medical schools, and research laboratories.

Today, only one affiliate (in California) is involved with fetal tissue research working through a TPO. That affiliate also has a separate relationship with the University of California.
A second affiliate is involved with fetal tissue research working with the University of Washington. Altogether, the health centers at the affiliates involved with fetal tissue research represent 1% of our centers. Stated the other way, 99% of our health centers do not offer women the opportunity to be involved with fetal tissue research.  

When Mr. Daleiden released the first doctored video on July 14, four additional affiliates in California were involved with fetal tissue research. For varying reasons, these affiliates are not doing so presently. One affiliate suspended its program after receiving security threats prompted by Mr. Daleiden’s video. Two others had their contracts with a TPO featured in Mr. Daleiden’s videos cancelled because of the controversy. The fourth affiliate was working with a research laboratory that had been undergoing renovations and has postponed restarting until the renovations are complete.

At this point, we are aware of no additional affiliates beyond those described above that are involved with fetal tissue research over the last five years. We will continue to make our best efforts to make sure our current understanding is comprehensive.

Compliance with Federal Requirements

As mentioned above, federal law restricts the reimbursement that Planned Parenthood can receive when it facilitates a fetal tissue donation. Our guidance to our affiliates reflects this requirement, stating:

Federal law prohibits the payment or receipt of money or any other form of valuable consideration for fetal tissue, regardless of whether the program to which the tissue is being provided is federally funded or not. There are limited exceptions that allow reimbursement for actual expenses (e.g. storage, processing, transportation, etc.) of the tissue. If an affiliate chooses to accept reimbursement for allowable expenses, it must be able to demonstrate the reimbursement represents its actual costs.  

Our affiliates involved with fetal tissue research comply with this requirement. The California affiliate receives a modest reimbursement of $60 per tissue specimen from the TPO, and the Washington affiliate receives no reimbursement. The four other affiliates whose programs ended after the release of the videos received lesser but comparable amounts. The affiliate working with the research laboratory received no reimbursement. The others received reimbursements from TPOs ranging from $45 to $55 per tissue specimen. In every case, the

---

8 We have one affiliate, located in Oregon, that has a relationship with researchers at the Oregon Health & Sciences University who are studying placental tissue, not fetal tissue. The affiliate provides OHSU with post-abortion tissue from which the researchers extract the placental tissue they are studying. We did not count this affiliate as one that is involved with fetal tissue research because the OHSU researchers are not engaged in fetal tissue research. If we count this affiliate, that does not change the fact that just 1% of our centers are currently involved with this research.

9 We are aware of four additional affiliates that at some time over the past five years provided donations of post-abortion tissue to support medical research. These include an affiliate in Texas and the affiliate in Colorado that have been included in videos released by Mr. Daleiden. All of these affiliates had arrangements with research universities, not with TPOs, where the research focused on placental or decidual tissue, not fetal tissue.

10 Planned Parenthood, Programs for Donation of Blood and/or Aborted Pregnancy Tissue for Medical Research (May 2015).
affiliates report that these amounts were intended to recover only their costs, as allowed under the federal law and our guidance.

The other provision of federal law applicable to fetal tissue research has a narrow scope: it applies only to research funded by the Department of Health and Human Services into “the transplantation of human fetal tissue for therapeutic purposes.”11 This month, the Department stated in a letter to Congress that the Department “has not funded or conducted this specific type of research involving fetal tissue in recent years.”12 The federal rules relating to consent and timing and method of abortion when the donated tissue is used for federally funded fetal transplantation research are therefore not applicable to any recent fetal tissue donations in the United States.

While the federal consent, timing, and method requirements apply only to federally funded fetal transplantation research, which no longer occurs, Planned Parenthood has voluntarily included the substance of the federal requirements in our guidance. Specifically, our guidance provides that there be “no substantive alteration in the timing of terminating the pregnancy or of the method used was made for the purpose of obtaining the blood and/or tissue.”13 Moreover, we apply this guidance not only to fetal tissue donations, but to donations of any post-abortion tissue, including placental and decidual tissue. We have taken these steps because we are committed to following the highest medical and ethical standards.

It is important to clarify our guidance on this point. There are only a few methods of abortion: (1) for early abortions, generally, the methods are medication abortion or surgical abortion involving mechanical or manual aspiration and (2) for abortions occurring from approximately 13 weeks gestation, the methods are dilation and extraction (D&E), induction of labor, or in very rare instances hysterotomy. At Planned Parenthood health centers, neither inductions nor hysterotomies are available. A decision about the method to be used is made by the physician in consultation with the woman, taking into account the relevant variables that would bear on that decision.

In performing the selected method, a physician may need to make multiple adjustments to the method as the surgery proceeds. These adjustments are clinical judgments – not a change of method – made by the physician as the abortion proceeds and are always intended to achieve the woman’s desired result as safely as possible. The key point, as the 1988 blue-ribbon commission recognized, is that there be no change that would impact the safety or well-being of the patient. The same principle applies in deliveries, where physicians will often make adjustments to facilitate the collection of cord blood if the patient wants to retain or donate this blood. Our understanding, however, is that even adjustments that facilitate fetal tissue donations rarely occur at our few clinics that offer women this service.

11 42 U.S.C. 289g-1.
12 Letter from Jim Esquea, Assistant Secretary for Legislation at the Department of Health and Human Services, to Senators Joni Ernst and Roy Blunt (August 14, 2015).
13 Planned Parenthood, Programs for Donation of Blood and/or Aborted Pregnancy Tissue for Medical Research (May 2015).
What is essential is that in every instance, the physician’s focus is on the woman’s health because our patients’ health is our paramount concern.

The Activities of David Daleiden

Finally, I want to share information with you about the outrageous activities of anti-abortion activist David Daleiden. Mr. Daleiden and his associates have sought to infiltrate Planned Parenthood affiliates and unsuccessfully to entrap Planned Parenthood physicians and staff for nearly three years. It is clear they acted fraudulently and unethically – and perhaps illegally. Yet it is Planned Parenthood, not Mr. Daleiden, that is currently subject to four separate congressional investigations.

Mr. Daleiden’s efforts began nearly three years ago with the creation of a fictitious tissue procurement company called Biomax Procurement Services and subsequently a nonprofit called the Center for Medical Progress. According to media reports and analyses by nonprofit organizations, Mr. Daleiden and his associates may have violated many laws, including federal tax laws by misrepresenting the Center for Medical Progress as a biomedicine or bioengineering organization in its application for nonprofit status;\(^\text{14}\) California criminal laws that prohibit forgery, fraud, and perjury by creating fake driver licenses or obtaining official licenses fraudulently;\(^\text{15}\) California’s Invasion of Privacy Act by recording individuals without consent;\(^\text{16}\) and California’s penal code by making false charitable solicitations.\(^\text{17}\) One group says there is also evidence that they may have violated California’s law against impersonation and federal and California laws against credit card fraud by stealing the identity of the president of the feminist club at Mr. Daleiden’s high school.\(^\text{18}\) Indeed, just last week, Mr. Daleiden’s attorneys advised a federal district court that he intends to invoke his Fifth Amendment right to refrain from self-incrimination in response to discovery sought by the National Abortion Federation in its lawsuit alleging that Mr. Daleiden and his co-conspirators violated federal and state laws.\(^\text{19}\)

We know that the videos Mr. Daleiden has released were deceptively edited to smear Planned Parenthood. They omit exculpatory passages and splice excerpts together to create false impressions. The videos have been denounced as “a total crock,”\(^\text{20}\) “distorted … and unfair,”\(^\text{21}\) “dishonest,”\(^\text{22}\) “grossly misleading and politically irresponsible,”\(^\text{23}\) and “swift boating”\(^\text{24}\) in editorials across the country.

---

\(^{14}\) “Group Behind Planned Parenthood Sting Video May Have Tricked IRS, Donors,” Huffington Post (July 17, 2015).

\(^{15}\) “The Faces and Fake Names of People Behind Planned Parenthood Attack Videos,” RH Reality Check (July 28, 2015).

\(^{16}\) “Does the Planned Parenthood Video Violate State Recording Laws,” MSNBC (July 16, 2015).

\(^{17}\) Letter from Brad Woodhouse, President of American Democracy Legal Fund, to Kamala Harris, California Attorney General (July 21, 2015).


\(^{20}\) “Undercover Sting of Planned Parenthood is Off Base, As Usual,” Los Angeles Times (July 16, 2015).

\(^{21}\) “Stop the Vendetta Against Planned Parenthood,” Washington Post (July 31, 2015).

Our analysis of the videos released by Mr. Daledien documents numerous instances where the videos have been heavily edited to change the meaning of what Planned Parenthood staff said and deceive the public. The first five short videos he released have at least 47 splices where content is edited out but the conversation appears seamless. Critical context is omitted, including Planned Parenthood staff members repeatedly saying that there is no “profit” from tissue donation and should not be, that tissue donation programs must follow the law, and that substantial changes to medical procedures would not occur. Quotes are attributed to Planned Parenthood staff members with no audio evidence that the quote was actually made at the time it appears in the video. Among these is one discredited, provocative quote that the Washington Post used in an editorial and about which it later issued a correction.

The first video received the most attention. We know from the longer version of the video that Dr. Deborah Nucatola at least ten times explained that Planned Parenthood affiliates do not profit from fetal tissue donation, making statements such as: “affiliates are not looking to make money by doing this. They’re looking to serve their patients and just make it not impact their bottom line.” Yet none of the highly relevant and exculpatory passages were included in the edited video excerpt that Mr. Daleiden initially released to national media.

The other videos are similarly distorted. Dr. Savita Ginde of our Colorado affiliate repeatedly told the Biomax representative that legal counsel would have to review any contract with Biomax. These references were consistently deleted from the video excerpt Mr. Daleiden released. Indeed, legal counsel did in fact review the proposed Biomax contract and objected to its terms because they did not comply with federal law.

Because of these significant distortions and omissions, we contracted with a research firm which engaged the services of a video forensics expert, a television producer, and an independent transcription agency. These experts concluded that the videos – even the alleged “full footage” videos – do not present a complete or accurate record of the events they purport to depict. They reviewed revealed that Mr. Daleiden edited content out of the alleged “full footage” videos, heavily edited the short videos so as to misrepresent statements made by Planned Parenthood representatives, and produced transcripts with substantive omissions or edits.

Forensic video analysis revealed that each of the four “full footage” videos contained intentional edits that removed content from the middle of the videos, including approximately 30 minutes of missing footage from the recordings featuring staff at our Colorado and Texas affiliates. Analysis of the transcripts released by Mr. Daleiden revealed that one transcript includes over 4,000 words that do not appear in the video or the independent transcript.

With respect to the short videos, the forensic review confirmed dozens of misleading edits, cuts, and splices designed to alter the meaning of the underlying dialogue.

This review ultimately concluded that the manipulation of the videos and the transcripts means they have no evidentiary value in a legal context and cannot be relied upon for any official inquiries unless supplemented by the original video in unaltered form. I have enclosed the report of the forensic analysis with this letter.

While the edited videos are replete with distortions and selective editing, it is what is missing from the videos that is most important: any credible evidence that Planned Parenthood has done anything wrong. All of Mr. Daleiden’s efforts to entrap our affiliates into potentially illegal contracts failed. In fact, there is no evidence in any of the videos that our affiliates have ever received anything more than reimbursement for their reasonable costs, as the law permits.

Fifteen years ago, a congressional committee launched a similar investigation into allegations that Planned Parenthood centers sold fetal tissue. Like the current investigations, this investigation was prompted by video from a hidden camera and statements from an anti-abortion extremist claiming to have witnessed large-scale violations of federal law. At the congressional hearing, questioning revealed multiple contradictions in the testimony of the star witness. When the witness recanted his most inflammatory claims, a Republican committee member stated, “I found there to be so many inconsistencies in your testimony … your credibility, as far as this member is concerned, is shot.”26 Roll Call reported in an article entitled "Fetal Tissue Hearing Thrown into Chaos" that the members were "left pointing fingers over who was to blame for [the] botched hearing ... after the panel's star witness left with his credibility in tatters."27

Already five states – South Dakota, Georgia, Indiana, Massachusetts, and Pennsylvania – have conducted investigations and cleared Planned Parenthood of any wrongdoing.28 We are confident that as additional states complete their investigations and as the congressional committees carry out their oversight activities, the facts will once again fully vindicate Planned Parenthood and indict those who are seeking to distort the facts and smear our reputation.

Conclusion

I respectfully ask that you put yourselves in our place. Imagine if a group of individuals tried for several years to secretly film your offices, obtaining fraudulent identification to gain access to restricted areas, creating a fictitious company to deceive your staff, and misleading the IRS in an application for nonprofit status. Imagine if they released selectively edited videos of excerpted and manipulated conversations involving your staff aimed at creating the worst impression possible. And imagine if they edited the videos so context was lost, exculpatory statements were omitted, and statements were stitched together out of sequence to create a fraudulent impression.

27 “Fetal Tissue Hearing Thrown into Chaos,” Roll Call (March 13, 2000).
That’s exactly what has happened to Planned Parenthood. And in our case, four congressional committees have launched investigations into our conduct – and none are investigating the person behind this fraud.

We are also facing votes to defund our entire organization even though 99% of our health centers do not participate in tissue donations and all of them comply with all laws and provide essential health services to women and men.

While our involvement with fetal tissue research is a small component of Planned Parenthood, it offers the potential of life-saving research. Earlier this month, the Department of Health and Human Services wrote Congress that “fetal tissue continues to be a critical resource for important efforts such as research on degenerative eye disease, human development disorders such as Down syndrome, and infectious diseases, among a host of other diseases.”

We stand behind our affiliates that contribute to these efforts to discover medical breakthroughs.

As I wrote to NIH Director Collins, if changes to the nation’s fetal tissue laws are to be considered, they should be guided by the deliberations of a new blue ribbon panel. The sensationalistic atmosphere the doctored videos seek to create is exactly the opposite of the reasoned and deliberate process President Reagan set in motion with the Human Fetal Tissue Transplantation Research Panel. The videos mislead rather than inform the public debate.

I hope this letter will help put us on a different path by clarifying the facts and demonstrating our commitment to providing the highest level of compassionate care to the millions of women and men we serve.

Sincerely,

Cecile Richards
President
Planned Parenthood Federation of America

CC:
The Honorable Charles E. Grassley, Chairman
Senate Judiciary Committee

The Honorable Patrick J. Leahy, Ranking Member
Senate Judiciary Committee

---

29 Letter from Jim Esquea, Assistant Secretary for Legislation at the Department of Health and Human Services, to Senators Joni Ernst and Roy Blunt (August 14, 2015).
The Honorable Robert W. Goodlatte, Chairman
House Judiciary Committee

The Honorable John Conyers Jr., Ranking Member
House Judiciary Committee

The Honorable Fred Upton, Chairman
House Energy and Commerce Committee

The Honorable Frank Pallone, Jr., Ranking Member
House Energy and Commerce Committee

The Honorable Tim Murphy, Chairman
Subcommittee on Oversight and Investigations

The Honorable Diana DeGette, Ranking Member
Subcommittee on Oversight and Investigations

The Honorable Jason Chaffetz, Chairman
House Oversight and Government Reform Committee

The Honorable Elijah E. Cummings, Ranking Member
House Oversight and Government Reform Committee