



Tuesday, April 19th 2016

Committee on Energy and Commerce  
2125 Rayburn House Office Building  
Washington, D.C. 20515

Dear Honorable Chairman and Members of the Committee,

My name is Robert Raben. Now in private practice, over the years I have served as counsel to the House Judiciary Committee, and was the confirmed Assistant Attorney General for the Office of Legislative Affairs at the Department of Justice from 1999 to 2001. I have taught law, practiced at a large law firm, and clerked after law school. I deeply appreciate the law, and this Committee's attention to it.

For over twenty years, my work has involved the representation of people and organizations before the Congressional and executive branch. I give this testimony as someone who has experienced both sides of advocacy and representation around investigations.

This Committee has asked us to opine on the questions of whether the current legislative language adequately prevents profiteering in the sale of fetal tissue and the parameters around what constitutes a sale for profit of fetal tissue.

In 2000, in my capacity as Assistant Attorney General for the Office of Legislative Affairs at the Department of Justice, I was called upon to respond to almost identical concerns expressed by members of the Congress regarding the alleged transfer of fetal tissue for profit. On March 9th 2000, I communicated with Congress a willingness to investigate and learn further about credible claims and allegations. While I have no recollection of further oral conversations within the Department



subsequent to that communication, I know from the public record that in July 2008, Acting Kansas US Attorney Jim Flory decided "after a thorough review of the issues involved," that there were no violations of federal statutes, thereby announcing the closure of a thorough investigation into related facts. That is a matter of public record. We are today witnessing virtually identical allegations.

While I am unaware as to whether DOJ or the FBI presently have ongoing inquiries into the factual allegations, it is significant to note that twelve states have affirmatively looked into related matters and declined to pursue any charge, and an additional eight states have affirmatively declined to even investigate.

Innumerable reasons exist as to why federal law enforcement has little record of indictment under the existing language, which may include: the dearth of actual profiteering in fact, the deference to state law enforcement authorities which are certainly capable of determining the same predicate, past failed attempts to establish wrongdoing, or a lack of credibility of those presenting facts to the law enforcement officials.

Of the ultimate question on which this Committee is presently engaged, whether or not the existing statute merits either change or more rigorous enforcement, I believe that the statute is sound and fully addresses its intended aims. The statute, a considered bipartisan judgment of Congress, was meant to address profiteering from the sale of fetal tissue. There is no evidence of an outbreak of such behavior in this Nation. Further, I am confident that any acts of intentional misbehavior would be investigated and punished by law enforcement, both Federal and State .

Yours respectfully,

Robert Raben