The ongoing work of David Daleiden and the Center for Medical Progress (CMP) in exposing trafficking in aborted baby parts got a boost from the Ninth Circuit Court of Appeals.

On August 14, 2017, the court remanded for further proceedings an injunction ordering the University of Washington (UW) to produce only heavily-redacted documents in response to Daleiden’s public records requests for information about financial relationships between researchers at UW and area abortion providers, including Planned Parenthood.

In February 2016, Daleiden had requested several categories of records from the University’s research branch, including communications between UW employees and eight named abortion providers or abortion clinic directors. UW delayed responding for several months, during which time it alerted those individuals and many others whose names turned up in the search for responsive documents. Those individuals, identified only as Does One through Ten, brought a class action lawsuit to prevent the release of the documents, claiming that such release would jeopardize their safety.
LIFE LEGAL DEFENSE FOUNDATION TEAMS UP WITH 40 DAYS FOR LIFE TO DEFEND THE RIGHTS OF SIDEWALK COUNSELORS ACROSS THE NATION

For decades, Life Legal Defense Foundation has protected the rights of sidewalk advocates who offer women live-giving alternatives to abortion. Sidewalk counselors are the last line of defense for precious babies as their moms walk into abortion clinics. Pro-abortion forces know this and continually attempt to silence the counselors’ prayers and voices.

Clinic owners, doctors, and staff members witness first-hand the impact that the counselors are having on their business and they don’t like it. They will stop at nothing in their attempts to drive the pro-lifers away. They blast crude and abhorrent obscenities from their boom boxes. They falsely accuse sidewalk advocates of being too loud, or blocking the sidewalk, or illegally interfering with women entering the clinic. They intimidate and harass sidewalk advocates, even going so far as destroying pro-life signs and following pro-lifers home. Faced with bullying, police involvement, and threats, many sidewalk advocates feel helpless and have no idea where to turn for help.

This is why Life Legal has partnered with 40 Days for Life campaigns and pray to end abortion outside of local abortion clinics. We have received calls from all across the United States asking for help on issues ranging from how to obtain a permit, to how to deal with pro-abort harassment, to what to do when the police say to move the signs.

Hostile Police Officers
A longtime pro-life advocate in San Francisco was issued a citation for having a table of literature on a public sidewalk even though the table did not block or prevent normal use of the sidewalk. Life Legal attorneys contacted the police to explain that the activity was protected by the Constitution and that the gentleman had not violated any criminal law.

Similarly, in Pomona, California, a police officer told sidewalk advocates that they could not let their signs touch the ground or lean them against a tree. Life Legal had handled this exact issue with the same police department a number of years before. This time we worked with the local sidewalk advocates and showed the police a copy of the prior agreement between the City Attorney and pro-life advocates. As a result, the police backed down and allowed the signs to stay.

Threatening and Violent Pro-aborts
Pro-aborts in Thousand Oaks, California threw bottles at sidewalk advocates and blared car radios to disturb a prayer vigil. They even followed the counselors part-way home to intimidate them from returning. In Seattle, a pro-abort flashed a knife and stabbed a sign that a counselor was holding. In both of these cases, Life Legal encouraged the pro-life advocates to call the police and file a report. After the matter was reported to the police, the perpetrators were never seen or heard from again.

Sidewalk counselors have not been as fortunate in Atlanta, Georgia. Despite repeated reports to police, the local clinic escort continues to harass pro-life
advocates. When called to the scene, the police threatened to arrest the advocates for putting their signs on the public right of way. Life Legal is helping to get a restraining order against the abortion fanatic and is working to have him prosecuted for his actions in a court of law.

A pro-abort physically attacked a young girl who was praying and counseling in front of an abortion clinic in Downey, California. The police took a report and Life Legal is following up with the District Attorney’s office to ensure that the criminal is brought to justice and that pro-life advocates are protected!

**Accused of a committing a crime**

Pro-aborts shout Satanic slogans at the pro-life advocates in Huntsville, Alabama and falsely accuse them of committing criminal acts. Recently, a clinic volunteer called the police and had a sidewalk counselor arrested for disorderly conduct because, from inside the building, she could hear the counselor praying on the public sidewalk. Of course she could hear traffic and ordinary noise outside too, but that noise was not offensive to her ears. Life Legal is working with a local criminal attorney to defend against the unwarranted charges and we will do all that we can to get the unconstitutional ordinance struck down.

These are just a few examples of what Life Legal does to defend the rights of sidewalk counselors and defend the lives of babies all across the country. We field calls and help resolve conflicts during the twice-yearly 40 Days for Life vigils and we work with organizers to provide important legal training and safety tips to 40 Days for Life participants in their cities. For many, volunteering to pray with 40 Days for Life is their first experience as pro-life advocates. We’ve been told countless times that it is reassuring to know the legal rights of a sidewalk counselor and that a team of lawyers across the country is ready to protect those rights. Life Legal is honored to stand beside these warriors to protect their most fundamental right, the right to pray to end abortion.

“**The confidence that Life Legal Defense gives our local leaders allows 40 Days campaigns to thrive in the United States and that impacts the rest of the world.**”

Shawn Carney
President of 40 Days for Life
But is that the real story? Has Prop 71 delivered on the promises of its proponents that human embryonic stem cells (hESC) and human cloning would lead to medical miracles that were otherwise beyond reach?

Prop 71 arose from the national controversy surrounding hESC and the ethical implications of creating life in order to destroy it, as the embryos formed in vitro would only live for research purposes. The promise of such research—the possibility of cures for incurable illnesses and of personalized medicine made out of embryonic stem cells—was held out as a glowing prospect. The debate at the federal level had resulted in a policy, under President George W. Bush, that allowed federal funding of research using existing lines of hESC, but forbade funding research on any newly-created lines. The underlying idea was that no further nascent human life should be lost.

The Debate Begins

Less than a decade prior, the modern world felt quite like a science fiction novel come to life when Scottish Professor Ian Wilmot from the University of Edinburgh's Roslin Institute announced on February 22, 1997, that his team had successfully cloned a sheep. Both excitement and concern filled the airwaves, as news reports and commentaries discussed the possibilities and ethical concerns that might proceed from this incredible scientific innovation.

Members of the U.S. Senate went quickly to work drafting legislation to find a workable balance between scientific progress and ethical considerations of the sanctity of human life. Republican Senators from Missouri and Tennessee advocated for a ban on all human cloning, while Democrats countered with bills allowing creating embryos for research while banning the transfer of cloned human embryos into wombs for gestation (“reproductive cloning”). None of these bills passed.

Compromise at the federal level was eventually found through an executive ban on federal funding for research on new embryonic stem cell lines, but this didn’t satisfy hESC advocates in some states.

California’s Proposition 71 was a direct response to President Bush’s executive order on hESC funding. The campaign to pass the initiative, well-funded and headlined by celebrities including Michael J. Fox and Christopher Reeves, touted the “promise” of hESC research. By pouring taxpayer money into research on embryonic stem cells, California would lead the nation in reaping the benefits of both cures and revenues.

Prop 71 passed in November 2004 with 59% of the vote, becoming Article XXXV of the California constitution. It authorized $3 billion of bond funds to be raised under the directive of the California Institute for Regenerative Medicine (CIRM).

A Legal Battle Stalls Unethical Funding

Life Legal Defense Foundation challenged the law on behalf of two taxpayers’ groups—People’s Advocate and National...
A PUBLICATION OF THE LIFE LEGAL DEFENSE FOUNDATION

Tax Limitation Foundation. The initial challenge sought a Writ of Mandate at the California Supreme Court seeking a declaration that the organizational structure of CIRM was unconstitutional. While this was promptly denied, the California High Court noted that the case could be re-filed at the superior court.

Eventually, Life Legal’s lawsuit was consolidated with another lawsuit challenging Prop 71 (California Family Bioethics Council v. CIRM). The two lawsuits sought declaratory and injunctive relief, claiming that, unlike other state agencies created to distribute public funds, CIRM operated for all intents and purposes outside state control. Life Legal also asserted that CIRM board members had conflicts of interest because of their affiliations with biotech companies, universities, and interest groups that stood to receive grants under Prop 71.

Unfortunately, Life Legal’s challenge was turned away, by both the trial court and the court of appeal. However, for the two years the lawsuit was pending, CIRM could not sell the bonds authorized by Prop 71, severely hampering efforts to move forward with research on embryos. Only after the case ended in 2007 could CIRM begin approving research proposals and making grants.

The New Go-To in Stem Cell Research

During exactly those two years, something else was happening in the stem cell research landscape. The hype around hESC research started to diminish as another technology came to the forefront. This technology was discovered and used by researchers at Kyoto University in Japan to create induced Pluripotent Stem Cells (iPSC), which are “a type of stem cell created by taking an adult cell, such as a skin cell, and reprogramming it into a cell that closely resembles an embryonic stem cell,” according to CIRM. California researchers at facilities such as UCLA quickly latched on to the new direction of stem cell research and acknowledge the foundational role iPSC has taken in regenerative medicine.

This breakthrough in stem cell research has removed layers of ethical controversy, as donated or cloned embryos are no longer the favored source of cells. Rather, researchers have realized that using a patient’s own cells creates pre-programmed solutions without the controversy of creating human life for the express purpose of destroying it. As the promise of iPSC rises, the studies funded by CIRM lean heavily away from embryonic stem cell research and focus on utilizing cells derived the patients themselves. Prop 71’s audacious commitment to developing cures solely or primarily from embryonic stem cells has been quietly shelved.

One CIRM-funded project has a particularly interesting target. Rather than creating embryos to harvest stem cells and destroy new human life, this project out of University of California San Francisco seeks to take cells from a pregnant mother’s bone marrow and treat babies in the womb who have been diagnosed with alpha thalassemia major, a fatal blood disorder.

Another current project aimed at children with immunodeficiency disease uses the patient’s own blood stem cells to heal the immune system. Treatments using patients’ own stem cells are also in clinical trial to treat diseases such as ALS, various cancers, Type 1 Diabetes, and Sickle Cell Anemia.

Life Legal’s challenge to Prop 71 unfortunately failed. CIRM still has questionable oversight, conflicts of interest aplenty, and a mandate for taxpayer-funded research on cloned human embryos. However, life-destructive hESC research has largely been replaced by the astounding innovation of iPSC. A 2013 “breakthrough” in hESC research was greeted by another stem cell researcher with the comment, “Honestly, the most surprising thing [about this paper] is that somebody is still doing human [cloning] in the era of iPSC.”

And what about CIRM’s cover girl, little Evangelina Vaccaro? She was cured by a therapy using her own blood cells. Kudos to Dr. Donald Kohn and his team at UCLA for saving lives without taking lives.

CASES TO WATCH
GENERAL RECAP & UPDATE OF CURRENT CASES

Planned Parenthood v. Daleiden et al. (Calif.)—In January 2016, Planned Parenthood Federation of America and several PP affiliates sued David Daleiden and several of his fellow investigators for the express purpose of punishing them for their investigative work, incurring over $10 million in actual damages. Planned Parenthood is also seeking treble damages for alleged “racketeering” (RICO) as well as punitive damages and attorney fees. The abortion giant is represented by one of the largest law firms in the United States. Daleiden and his co-defendants’ motions to dismiss and anti-SLAPP motions were denied. They have appealed the denial of the anti-SLAPP motions to the Ninth Circuit, and oral arguments were heard on November 17. Discovery on the federal claims is proceeding while the appeal is pending. Daleiden and CMP filed a motion to disqualify Judge William Orrick from hearing the case, citing his ties to Planned Parenthood, but the motion was denied.

NAF v. Daleiden and CMP (Calif.)—NAF sued Daleiden to prevent release of the recordings and information he obtained at NAF meetings on the grounds that he is a “racketeer” who “committed fraud,” “snuck into” their meetings, “stole” NAF information, and repelled them with his constant questions about buying fetal tissue. In March, the district court’s ruling granting NAF a preliminary injunction was affirmed by the Ninth Circuit. Life Legal filed a petition for certiorari to the United States Supreme Court. Meanwhile, NAF was awarded contempt sanctions against CMP and Daleiden based on Daleiden’s criminal defense attorneys’ release of NAF videos to the public. The sanctions will be reversed if the preliminary injunction is found to be invalid by the Supreme Court or on remand to a lower court.

California v. Daleiden et al. (Calif.)—California Attorney General Xavier Becerra charged Daleiden and his Center for Medical Progress colleague Sandra Merritt with 14 counts of eavesdropping and one count of conspiracy to eavesdrop. California’s eavesdropping statute exempts conversations that can be overheard by others. The conversations for which Daleiden and Merritt are being charged occurred either in restaurants or in the exhibit hall at a hotel in the midst of a large conference. Daleiden filed a demurrer to the charges, and Merritt moved to dismiss 14 of the 15 charges against her based on the AG’s failure to properly file an amended complaint. Both motions were denied and writs have been filed.

Diss v. Portland Public Schools (Ore.)—Civil complaint for unlawful termination and religious discrimination. Bill Diss, a teacher at a Portland, Oregon high school, had his teaching contract terminated following his request for a religious accommodation to excuse his participation in a school program administered by Planned Parenthood. Following his request for accommodation, Diss was subjected to harassment and retaliation by school administrators throughout the school year, which culminated in the termination of his employment. Life Legal filed employment discrimination complaints with the Oregon Bureau of Labor and Industries and the Equal Employment Opportunity Commission. In September 2014, Life Legal also filed a civil action on Diss’ behalf, seeking monetary damages as well as reinstatement in his teaching position. In November, the district court granted summary judgment against Diss. That ruling is on appeal to the Ninth Circuit.

People v. Garza / Garza v. Jackson Public School District (Jackson, Miss.)—Two young pro-life activists were arrested for distributing leaflets on a sidewalk in front of a high school and were charged with trespass, disturbing the peace, and interference with school buses. After criminal trial in which the court excluded video evidence exonerating them, they were found guilty on two of the three charges. Victory!: After two years and a civil rights suit was filed, all charges have been dismissed!

Planned Parenthood v. MMB Properties (Kissimmee, Fla.)—Planned Parenthood purchased and occupied the property in Kissimmee in April of 2014. When it became clear that the office was going to become an abortion clinic, a cardiology practice which also had an office at Oak Commons sued to enforce the restrictive covenant that forbade “outpatient surgical centers” at the site. Planned Parenthood lost when the Fifth District Court of Appeals for the State of Florida upheld a trial court preliminary ruling that prohibited the abortion giant from running a baby-killing mill at its office in Kissimmee. Planned Parenthood appealed the decision by the Fifth District Court of Appeals to the Florida Supreme Court. Oral arguments heard August 31, 2016. On February 23, the Court dissolved the temporary restraining order, but agreed with the lower court’s construction of the terms of the covenant. The case returns to the trial court for permanent injunction
proceedings consistent with the Supreme Court’s opinion.

**Ahn v. Hestrin**  
(Calif.)—Proponents of physician-assisted suicide, unsuccessful for 20 years in passing legislation during regular sessions, took advantage of an abbreviated review process in an extraordinary legislative session, called to address Medi-Cal funding shortfalls, to advance their agenda. California Governor Jerry Brown signed the bill, making California the fourth state, and by far the largest state, to decriminalize physician-assisted suicide, permitting physicians to prescribe lethal drugs (so-called “aid-in-dying drugs”) to individuals believed to have a terminal disease. Life Legal filed a challenge in June 2016 on behalf of doctors

**Life Legal** for help. Life Legal attorneys had to go to court in both cases to get the women returned to the hospital to receive nutrition. One was starved for 10 days and the other for 34 days. Just weeks later, both women are talking, walking, and well on their way to a full recovery. MH's court-appointed guardian continues to seek involvement from the very family members who sought to put her to death. On May 11, 2017, the judge ruled that MH no longer needed a guardian. She is consulting with attorneys to evaluate a malpractice action against the hospital/hospice.

**Two Rivers School v. Darnell et al.**  
(Washington, D.C.)—Pro-life advocates protested the building of a Planned Parenthood megacenter adjacent to a middle school in Washington, D.C. The school district sued. Life Legal is representing the lead plaintiff in the case. The case remains on hold pending the D.C. Court of Appeals decision. The next hearing is scheduled for January 2018.

**Passamore v. 21st Century Oncology**  
(Fla.)—Discriminatory termination of two medical employees for taking part in pro-life activities after work hours. Trial back on track after Plaintiffs granted a relief from stay after employer filed for bankruptcy.

**Stinson/Fonseca**  
(Calif.)—Life Legal continues our challenge to California’s brain death statute in federal court. The statute does not provide due process for family members who seek a second opinion after their loved one has suffered a serious brain injury. The lawsuit was filed on behalf of the parents of Israel Stinson, whose two-year-old son was declared brain dead by a California hospital and was subsequently found to have active brain waves, against the California Department of Public Health and the Calif. Attorney General. After Israel Stinson was forcibly removed from life support in August, the other side sought to have the case dismissed, claiming the toddler’s death rendered the case moot as there were no further damages. Life Legal subsequently sought to be joined as a co-plaintiff. Case is on appeal to the Ninth Circuit.

**In re Joe Williams**  
(Calif.)—Case involving the father of two small children who suffered a brain injury in May 2015. Joe’s wife decided in December that she wanted to take him home to die, i.e., without nutrition or hydration. Life Legal was contacted by Joe’s sister (through Bobby Schindler). Tragically, Joe’s condition became unstable due to lack of fluids and he passed away in June. Inexplicably, our opponents want to keep the case alive. We are seeking dismissal of the case.

**Duran v. Southwestern Women’s Options**  
(N.M.)—Late-term abortion clinic sued for failure to obtain lawful consent to provide baby parts for research. Congress is also investigating University of New Mexico and the abortion mill. Federal law prohibits the sale of fetal tissue.

**Masterpiece Cakeshop v. Colorado Civil Rights Commission**  
(Colo.)—The Masterpiece case involves a baker who was asked to create a cake for the wedding of a same-sex couple. The baker, Jack Phillips, said he could not use his artistic talents to give approval to a marriage that violated his religious beliefs. In response, the Colorado Civil Rights Commission said Phillips' religious beliefs were illegal and prohibited him from designing any wedding cakes, which resulted in the loss of 40% of his business. The Commission imposed draconian reporting requirements on Phillips, forcing him to provide a detailed account of the reasons for any orders he declines. Life Legal filed a brief in support of the baker because this case is likely to have rapid and lasting impact on the rights of medical professionals to practice their professions consistently with their consciences and the teachings of their faiths on issues of life and death—or indeed to practice their professions at all.

**Unnamed Minor**  
(Calif.)—Abortion clinic escort committed battery on a minor outside an abortion clinic while she was praying with women entering the clinic. Life Legal is coordinating with law enforcement to ensure criminal charges are filed.

**Schneider**  
(Ga.)—An abortion clinic escort repeatedly harassed a 40 Days for Life
SURROGACY: BUY, BUY, BABY!

Mary Rose Short

Melissa Cook of Woodland Hills, California, found her first experience as a gestational surrogate so fulfilling that, at age 47, she agreed to act as a surrogate a second time. Chester Shannon Moore, Jr., a 50-year-old postal worker in Georgia, promised to compensate her $27,000 for one child and $6,000 for each additional child if she carried twins or more.

Only a handful of states prohibit commercial surrogacy, and among the rest, California is one of the most friendly to surrogacy. Anyone, including single people, unmarried couples, homosexual couples, non-citizens from abroad, and those genetically unrelated to a child conceived from purchased egg and sperm may bypass the regular adoption process by contracting with a surrogate to carry and give birth to a child. Under California law, the surrogate mother never has parental rights and is merely a carrier.

In the summer of 2015, eggs purchased from an anonymous 20-year-old were fertilized with Moore’s sperm and at least 13 embryos were conceived. At Moore’s request, three male embryos were transferred to Cook’s uterus. All three implanted successfully and, on August 31, 2015, Cook and Moore learned she was carrying triplets. Two and half weeks later, Moore suggested aborting all three boys. Cook and Moore have never met or even spoken on the phone. In the weeks after he suggested aborting one or all of his sons, Cook found out that the surrogacy clinic had never done a home study on Moore’s living arrangement and had no idea whether he was in a position to raise even one baby. Cook had not known that, unlike infant adoption, which requires home inspections, references, and other safeguards to ensure the baby is taken to safe and healthy home, in “friendly” states like California parents through surrogacy have no standards to meet. The only necessity is having money to purchase a baby.

This baby-selling ring horrified the public, but there is little difference between what they did and what surrogacy clinics do.

Cook wrote to Moore, “Do you even know what you want/can do? Are you able to afford and love and have the support to care for all three babies? You need to realistically look at the situation in hand... We have to do what’s best for the babies.”

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Most surrogacy contracts include a section on “Selective Reduction” in which the surrogate mother agrees to abort one or more children if she is pregnant with more children than desired by the purchasing parent(s). A woman cannot legally be forced to undergo an abortion, but her refusal to do so may negate the surrogacy contract and the purchaser’s obligation to pay her.

In response to Cook’s message that they had to do what was best for the babies, Moore responded, “I would decide to select—reduct [sic] one of three babies...” Cook told him, “I am not having an abortion. They are all doing just fine.” Over the next few months, Moore and his attorney—who is part owner of the surrogacy clinic—tried to pressure Cook into aborting one of the babies. They argued that she had an obligation to do so because Moore was not capable of raising three babies. His attorney wrote, “Triplets for a married couple is hard enough. Triplets for a single parent would be excruciating; triplets for a single parent who is deaf is—well beyond contemplation.” Moore repeatedly wrote that he had decided on “selection [sic] reduction.” Moore’s attorney threatened to sue Cook for large amounts of money if she did not abort one of the babies.

Despite the threats of Moore and his attorney, Cook refused to have an abortion and said she would raise and love the unwanted third boy. Moore then said he would look into placing the third child with strangers for adoption.
On January 4, 2016, realizing that Moore was apparently incapable of raising the three children and certainly did not want all of them, Cook filed a complaint seeking custody of the boys. Moore and his attorney ignored her complaint. They filed a petition claiming that “all parties have agreed that at all times relevant, the intent of each and every party to the surrogacy agreement was that

Cook filed a counterclaim seeking, among other things, to be declared the legal mother of the children, a prohibition against Moore removing the children from California, legal custody of the third baby, and a court proceeding to place two of the babies in a home based on their best interests.

The court proceeded as if Moore's petition was uncontested, and on February 9, 2016, signed an order naming Moore as the only legal parent of the babies. When asked whether the well-being of the children was being considered, the judge stated, “…What is going to happen to these children once they are handed over to [Moore], that's none of my business. It's none of my business. And that's not part of my job.”

Legally speaking, the judge was correct. In California, a surrogacy contract grants the purchasing parent(s) the same status as natural, biological parents, and negates the surrogate’s parental rights. California law states: “A notarized assisted reproduction agreement for gestational carriers signed by all the parties, with the attached declarations of independent attorneys, and lodged with the superior court in accordance with this section, shall rebut any presumptions ... as to the gestational carrier surrogate ... being a parent of the child or children.” The legal parents are determined by a purchasing contract. Moore was designated as the legal parent because he bought the children.

In all other adoptions, the government mandates that adopting parent(s) must meet certain standards of character and home quality to ensure the wellbeing of the child. Moreover, recognizing the natural bond between mother and child, the law allows a biological mother to reclaim her child for up to thirty days after relinquishing him. These basic safeguards to protect the best interests of mothers and their children are sorely missing from surrogacy agreements.

In 2011, the FBI broke up a “baby-selling ring” that made national news. The ring recruited women to be surrogates and sent them to Ukraine to have embryos conceived from purchased sperm and eggs transferred to their wombs. American doctors are required to check for an existing surrogacy agreement before an embryo transfer, but Ukrainian doctors are not, which is why the surrogates were sent there. If an embryo implanted successfully, the ring would then spread the word in the U.S. that a surrogacy agreement had fallen through and substitute parents were needed to adopt the baby. For fees of over $100,000 per baby, the ring would file a surrogacy agreement with the adoptive parents’ names and petition for them to be declared legal parents. The surrogate mother would be brought to California to give birth and be paid approximately $40,000 for her services.

This baby-selling ring horrified the public, but there is little difference between what they did and what surrogacy clinics do. The members of the ring were tried and convicted—of wire fraud. Baby-selling is legal, just don’t wire anything under false pretenses. One of the ringleaders was Theresa Erickson, a well-respected surrogacy lawyer, who said that what she had done was “just the tip of the iceberg” in the corrupt surrogacy industry.

Some purchasers specify the physical characteristics they would like their children to have, just as Moore asked for three males. Jeffrey Steinberg, the same doctor who transferred the triplets to Cook's womb, has been in the news for marketing embryo screening for hair, eye, and skin color.

In almost every artificial fertilization arrangement, multiple embryos are created and then abandoned by their parents. Some embryos don’t have the desired sex or physical characteristics, some are considered superfluous after their siblings successfully implant and survive pregnancy, and some are simply unwanted after their parents’ relationship fails. Moore had at least ten more embryos waiting to be transferred and gestated if the three boys didn't survive the pregnancy. An estimated 750,000 abandoned embryos are currently frozen in the U.S. Even those thousands waiting to be adopted have little chance of surviving the thawing and transfer.

Cook gave birth to the triplets via emergency Caesarean on February 22, 2016
HIDDEN IN PLAIN SIGHT: LESSONS OF GOSNELL STILL IGNORED

Michael Marcus

It has been four years since Kermit Gosnell was tried for the horrific crimes committed at his Philadelphia abortion mill, which Gosnell represents even now as a charitable enterprise. It has been four years since he evaded the death penalty, avidly pursued by prosecutors, through the desperate expedient of waiving his right to appeal. It has been four years since Gosnell was sentenced to three consecutive life terms. Later, he also racked up a thirty-year sentence in federal court—for drug crimes. We who remember the Gosnell case can’t help but ask whether the lessons of Gosnell’s example have been assimilated by a society all too eager to cut the friendly neighborhood abortionist some slack.

The short answer, well supported in exhaustive treatments by McElhinney and McAleer (Untold Story) and by Operation Rescue’s Cheryl Sullenger (Trial) is no. The obvious implication is that there are more Gosnells out there right now, evading justice not so much because of their diabolic cleverness as because of the incompetence and indifference of government officials who are charged with preventing their depredations.

The incompetence and indifference of Pennsylvania’s guardians of public health is a theme emphasized by both books. Untold Story devotes a whole chapter—entitled “Dereliction of Duty”—to this subject alone. Trial strews similar observations throughout its text—logically enough, since the theme pops up everywhere. One public official dismissed probing grand jury questions about an egregious maternal death in Gosnell’s mill with the sentence, “People die.” All staff from the Department of Health who appeared before the grand jury brought counsel to represent them. Even staff lawyers brought counsel. And all counsel representing DH was at taxpayer expense. Cost: $116,000. Pennsylvania bureaucrats who refrained from stopping Gosnell knew very well that they had failed to do anything like their jobs.

Untold Story even manages to trace the failure of oversight to the highest echelons of state government—to the execrable pro-abort Governor Tom Ridge, who claimed

to be both a Republican and a Catholic, although perhaps not in that order. In campaigning, Ridge maintained a strong commitment to removing impediments affecting “a woman’s right”—and he kept his promise when he entered his gubernatorial glory. One impediment that he removed was the regular inspection of the state’s abortion mills. After he took office, there were no such inspections until after Gosnell’s crimes became public. As always, the benefits that pro-abort politicians promised to women went instead to the exploiters of women. Gosnell flourished in the environment established by Ridge’s laissez faire policy. There are no guarantees, of course. Perhaps officialdom would have failed even if mills had been subject to further inspections. But Ridge ensured that officialdom would fail.

Even so, Sullenger’s Trial documents in painful detail that while Pennsylvania’s officials of public health did indeed fail miserably, the limping, crippled system functioned in this case better than it does in most others. Gosnell was at last investigated. Gosnell was at last convicted and sentenced. He is an exception to the rule mainly in these particulars.

For this anomaly, we have to thank not health officials but cops working narcotics. Untold Story makes Detective Jim Wood the hero of the tale. He is played by Dean Cain—Superman from Lois and Clark—in the associated movie. Not being inured to the excesses of the abortion industry, Detective Wood and his colleagues were shocked and just knew that what they were seeing couldn’t be legal. It turned out that they were right, though only just barely. A public health official would have checked a box on a form and poured a cup of coffee instead.

The infernal litany of Gosnell’s offenses, in which he was assisted by several co-defendants, may be familiar to many. Gosnell was convicted of three counts of first-degree murder for “snipping” the necks of babies born alive and one count of involuntary manslaughter for the death of Karnamaya Mongar, an aborting mother who died in the care of his establishment. He was also convicted of 261 counts of violating his state’s 24-hour waiting period. It’s pretty clear, though, that he’d committed many more crimes of the same variety. He just got rid of the evidence proving previous occurrences.

Beyond the actual crimes, Gosnell was clearly guilty of violating numerous other medical standards by delegating medical tasks to unqualified personnel, performing surgery in a filthy environment, and recycling instruments intended for one-time use. In a bizarre manifestation of his peculiar psyche, Gosnell kept trophies in time use. In a bizarre manifestation of his peculiar psyche, Gosnell kept trophies in the form of severed infant feet. Charges of abuse of corpse for possessing these collectibles were dismissed before the jury deliberated.

It’s difficult to recommend either of these excellent books over the other. Untold Story belongs more clearly to the true crime genre. It tells a fast-paced story from the viewpoints of investigators and prosecutors. One chilling chapter details an interview that the authors experienced with Gosnell in prison. The book is oriented toward identifying Gosnell as a serial killer. Its argument to this effect is very strong indeed. In the end, the abortion apologists to say that Gosnell was an outlier, newsworthy only because there were no other abortionists like him. Sullenger crushes this falsehood with her encyclopedic knowledge of abortionists and their practices, information that is terrifyingly concrete and downright gritty. Sullenger doesn’t have to look this stuff up. She knows. She could even whip out her phone and show pictures of abortionists’ enormities to skeptical journalists who were dragged into covering the Gosnell trial. Her capacity to see parallels shines in every chapter of the text.

McElhinney, McAleer, and Sullenger all perceive that we have a long way to go before the lessons of Gosnell’s case are properly applied. Both books cite the U.S. Supreme Court’s decision in Whole Woman’s Health v. Hellerstedt, which struck down a set of Texas laws passed in response to revelations about Gosnell. Both books cite the media’s hostile treatment of David Daleiden and CMP.

One piece of positive news is the effect that the case had on jurors. Both sides during jury selection favored candidates who self-identified as “pro-choice.” The prosecution wanted to avoid making the case about legalized abortion, and the defense dreaded letting die-hard pro-lifers assess Gosnell’s guilt.

After trial, however, jurors reported feeling far less comfortable about their “pro-choice” views. They’d never had any idea of what an abortion, even a legal one, really involved.

These books—and the movie Gosnell—should persuade many to take a look at the industry that loves to hide from sight.
I began my work against assisted suicide in 1993. The emotional zeitgeist at the time focused intensely—and exclusively—on preventing all suicides. Since then, I have witnessed a very disturbing transition. Today’s society asks us to support suicide in circumstances involving serious illness, disability, and even advanced age. Meanwhile, despite an increase in suicide rates, the intensity of suicide prevention campaigns has declined. As I wrote a few years ago, these campaigns are almost invisible.

Still, there are efforts to turn back that dark tide. U.C. Irvine psychiatrist Aaron Kheriaty, in the August/September issue of First Things, diagnosed our suicide problem (along with other social dysfunctions) as a loss of mutual attachment. From “Dying of Despair”:

Rising rates of suicide, drug abuse, and depression can all be traced to increased social fragmentation. Since the 1980s, reported loneliness among adults in the U.S. increased from 20 percent to 40 percent. The recently retired surgeon general announced last year that social isolation is a major public health crisis, on par with heart disease or cancer.

Assisted suicide advocacy may also have a place in this. When some suicides are promoted in media, law, and popular culture as a social good—as assisted suicides are—that can have an unintended effect on suicidal people who do not qualify for “assistance” under the law. Kheriaty addresses this concern:

The law is a teacher, and American law increasingly teaches indifference to life when it runs up against respect for radical autonomy. California and Colorado recently joined four other states in permitting doctors to assist terminally ill patients to take their own lives. In the same week that Gov. Brown signed the California bill, two British scholars published a study showing that laws permitting assisted suicide in Oregon and Washington have led to a rise in overall suicide rates in those states.

These findings should not surprise us. We know that publicized cases of suicide tend to produce copycat cases, often disproportionately among young people.

This is precisely why the media’s glamorization of assisted suicide is so harmful. Take the example of Brittany Maynard. Most readers will recall that Maynard, a beautiful young woman, attained international A-list celebrity status when she decided to commit assisted suicide after contracting terminal brain cancer. People declared her a hero in a cover story:

For the past 29 years, Brittany Maynard has lived a fearless life—running half marathons, traveling through Southeast Asia for a year and even climbing Mount Kilimanjaro. So, it’s no surprise she is facing her death the same way. On Monday, Maynard will launch an online video campaign with the nonprofit Compassion and Choices, an end-of-life choice advocacy organization, to fight for expanding Death with Dignity laws nationwide.

The madness didn’t end there. CNN named her an “extraordinary person” of 2014: “Her example sparked a widespread debate about the rights of people with incurable illnesses to determine how and when they will die. Maynard followed through on her plans in November, dying on her own terms.” The message is clear: Dying naturally is for chumps. Living with significant limitations is undignified. Assisted suicide is courageous.

The most recent example of this phenomenon comes out of the Netherlands, where an elderly couple received joint euthanasia. There was a time, not so long ago, when the suicides of elderly couples were considered a tragedy. Not anymore. Notice the admiring tone of the Washington Post story describing the deaths:

Nic and Trees Elderhorst knew exactly how they wanted to die. They were both 91 years old and in declining health. Nic Elderhorst
suffered a stroke in 2012 and more recently, his wife, Trees Elderhorst, was diagnosed with dementia. Neither wanted to live without the other, or leave this world alone.

So the two, who … had been together 65 years, shared a last word, and a kiss, then died last month hand-in-hand—in a double euthanasia allowed under Dutch law⁶, according to [the Dutch newspaper] De Gelderlander. “Dying together was their deepest wish,” their daughters told the newspaper, according to an English translation.

Such media plaudits have the potential to hurt others. Kheriaty provides an example:

The case of fourteen-year-old Valentina Maureira, a Chilean girl who suffered from cystic fibrosis, illustrates both effects while highlighting the power of social influences. Maureira made a YouTube video begging her government to legalize assisted suicide. She admitted that the idea to end her life began after she heard about the case of Brittany Maynard, the twenty-nine-year-old woman who campaigned for the legalization of assisted suicide before ending her own life.

Maureira did not have access to assisted suicide, because it was illegal in Chile and she was a minor. Good thing. She changed her mind after another patient with cystic fibrosis intervened and convinced her that her life was worth continuing. Had Maureira been able to find help committing suicide before then, she never would have known that she would later have wanted to live.

But that doesn’t resonate. Showing the media’s lack of true empathy, Kheriaty writes, “Her father complained that the media were only interested in her story when she wanted to die.”

If you doubt my thesis, compare the reportage about the death of Lauren Hill, a young woman who died naturally of the same cancer that caused Maynard to pursue and promote suicide. Hill struggled to continue playing college basketball—which garnered some coverage in the sports press—and raised money for cancer research. Yet despite promoting a far more positive life-with-dignity message than Maynard did, Hill received an obituary⁷ in People of only 196 words. People devoted 1196 laudatory words—huge for that publication—to Maynard in the wake of her suicide, clearly violating the World Health Organization’s media guidelines⁸ that outlets not glamorize suicides.

Due in part to the media’s promotion campaign, suicide has become a siren song attracting the ill, aged, and despairing, while potentially endangering the lives of suicidal people whose circumstances are—for now—outside official “death with dignity” paradigms.

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Although Daleiden specifically agreed to the redaction of personal information such as home addresses and phone numbers, and even the names of individual researchers, the University essentially aligned itself with the plaintiffs in resisting providing documents. Federal district court judge James Robarts issued a temporary restraining order and later a preliminary injunction, forbidding the release of any documents without first redacting any information that could be used to identify any individual—including the eight whose names were part of the initial records request! The unnamed plaintiffs were given final say as to whether the redactions were thorough enough.

The records that were ultimately produced were heavily redacted. Purportedly to protect the identities of individuals, UW redacted their places of employment as well. The net result was that both Daleiden and the public are prevented from knowing, among other things, to what entities UW was sending taxpayer money to pay for aborted baby parts.

Daleiden appealed, arguing that persons who are in state government or doing business with a state agency have no reasonable expectation that their dealings will not be made public, much less a justification for demanding such secrecy. Indeed, public record laws are based on the exact opposite premise: the public has a right to know how the government is operating, including with whom it is doing business. The Doe plaintiffs responded by once again claiming that release of the documents threatened their physical safety, as well as by claiming their association with either research or abortion providers entitled them to anonymity under the First Amendment.

A three-judge panel of the Ninth Circuit found that the Does had failed to make a sufficient showing on either of those claims. The judges appeared dubious that 600 people who worked for or with UW were all likely to suffer harm if their names were revealed. While leaving the injunction in place for no more than 120 days, it remanded the case with directions that Judge Robarts “address how disclosure of specific information would violate the constitutional or statutory rights of individuals or groups of individuals.”

In light of these directions from the higher court, perhaps Judge Robarts will not be so willing to swallow the Does’ claims when he rules on the matter again in December. At 28 weeks gestation. She was not allowed to see any of the children as they were removed from her womb and was not told anything about them, not even their weights. Security guards were stationed at her hospital room door to prevent her from getting information or seeing the babies. On February 23, Cook filed a notice of appeal to the order declaring Moore as the only legal parent. She refused the remaining $19,000 owed her by Moore.

The boys spent the next ten weeks in the NICU. Moore visited them for only three days. Cook was not allowed to see them at all. At the end of April, nurses from the hospital accompanied Moore and the babies to Georgia. After seeing his deplorable living arrangements, the head nurse reported the situation to the Georgia Division of Family and Children Services.

Months later, Moore’s sister came forward with new evidence about her brother’s unfitness to raise the boys. She stated that Moore is paranoid and believes everyone is out to get him, that he frequently becomes angry to the point of irrationality, and that he has a history of deliberately killing family pets. She also said that he lives with his elderly parents—his mother is bedridden and his father smokes heavily indoors—and that his nephew deals heroin from the house. She stated that he is afraid to spend money, and, in order to save money, doesn’t change the babies’ diapers as often as needed. She says that once the boys developed such severe rashes that he had to take them to the hospital. She says that he leaves the children—still less than two years old—unattended for hours at a time and that he forces them to eat off the floor.

Even leaving aside the particularly horrendous allegations of Moore’s unfitness to raise these three children, the case has helped cut through the public’s perception of surrogacy as a heartwarming way to build a family and revealed it for what it is: buying and selling human beings.

For almost two years, Melissa Cook has been challenging the California surrogacy law in court, but losing at each stage. She eventually appealed to the U.S. Supreme Court, which, on October 2, 2017, refused to hear the case. She will continue her efforts to rescue the boys through other means, but the California law remains intact.

In 2014, the New York Times interviewed Rudy Rupak, founder of Planet Hospital, which facilitated surrogacy arrangements. Rupak was then under investigation by the FBI and would later be convicted of bribery, defrauding clients, and wire fraud. Rupak said, “Here is a little secret for all of you. There is a lot of treachery and deception in I.V.F./fertility/surrogacy because there is gobs of money to be made.”

Exploiting our most basic instincts has always been a winning business strategy. However, with surrogacy, the harm goes beyond purportedly willing buyers and sellers to a new class of innocent victims: human beings created to be bought, sold, or discarded.

For more information, go to stopsurrogacynow.com
sidewalk advocate. Life Legal is coordinating with local attorneys to obtain a restraining order against the escort.

**People v. Monagan** (Calif.) Abortionist called the police and had a pro-life advocate arrested as he was talking with women entering the abortion facility.

**In Re Unborn Baby Doe** (Mo.)—Court appointed unborn 23-week preborn child a Guardian Ad Litem and with order of protection because state law forbids killing after 20 weeks. **Victory!** Baby boy was born just a few weeks ago!

**Kline v. Biles** (Kan.)—Former Kansas Attorney General was accused by Planned Parenthood and pro-abortion public officials of violating state ethics rules while investigating Kansas abortion providers, including notorious late-term abortionist George Tiller as well as others who failed to report cases of child rape. Kline’s license to practice law was suspended indefinitely by the Kansas Supreme Court in 2013—however, five of the seven justices had to recuse themselves because of conflicts. Kline filed a motion in federal court to challenge what he calls a void judgment by an “unlawfully constituted” court. The motion was dismissed and Kline appealed to the 10th Circuit, which affirmed the lower court’s ruling in July 2017. Kline’s attorneys plan to appeal the case to the U.S. Supreme Court.

**Little Sisters of the Poor v. Burwell** (Washington, D.C.) Life Legal filed an amicus brief with the U.S. Supreme Court on behalf of the Breast Cancer Prevention Institute in support of the Little Sisters. The brief opposes the government’s mandate requiring employers, including religious employers such as the Little Sisters, to offer health insurance policies that include contraceptive and abortifacient drug coverage. **Victory!** In light of the change in policy direction under the new administration, including a revision of the HHS regulations concerning the mandate, the Government has agreed to cease efforts to force the Little Sisters and other employers with religious or moral objections to provide the offending coverage.

**In re baby Kiarri** (Fla.) 4-year-old girl threatened with removal of ventilation against parents wishes. The family seeks to have the hospital provide a second set of tests as well as consultation to confirm the hospital’s diagnosis of brain death.

**In re R.S.** (Calif.) Life Legal assisted in stopping the removal of life support until family and clergy from Russia could be present.

**Westphal v. Etter** and **Diaz v. Molina** (Calif.)—A.W. v. K.E. and In re G.M. (Calif.)—Two cases involving patients who required intubation after suffering heart attacks at the same hospital (Antelope Valley Hospital in Lancaster, Calif.). Both were scheduled for removal of life support on Friday, October 27. We intervened in both cases and received a temporary reprieve for both patients. In A.W., a POLST was produced that stated the patient only wanted “Selective Treatment,” which precluded the use of a ventilator. Even though the patient was showing signs of significant improvement and was being considered for transfer to a lower level facility, the hospital abruptly withdrew ventilator support and the patient died an hour later. In G.M, the court scheduled a conservatorship hearing for next month and the patient has been transferred to a long-term care facility where he continues to make progress.

**In re baby Kiarri** (Fla.) 4-year-old girl threatened with removal of ventilation against parents wishes. The family seeks to have the hospital provide a second set of tests as well as consultation to confirm the hospital’s diagnosis of brain death.

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