



Third Meeting
2005 Interim
October 20 & 21, 2005

LCR 1 & 2
State Capitol
Pierre, South Dakota

The third meeting of the South Dakota Task Force to Study Abortion was called to order by Chair Dr. Marty Allison at 9:15 a.m. (CT), October 20, 2005, in LCR 1 and 2 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senator Stanford Adelstein, Dr. Marty Allison (Chair), Dr. Maria Bell (Vice Chair), Mr. Travis Benson, Senator Jay Duenwald, Senator Brock Greenfield, Ms. Linda Holcomb, Representative Roger Hunt, Representative Elizabeth Kraus, Ms. Kate Looby, Representative Kathy Miles, Dr. John Stransky, Dr. Allen Unruh, and Dr. David Wachs. Senator Julie Bartling, Mr. David Day, and Senator Theresa Two Bulls were excused.

Staff members present included Reuben D. Bezpaletz, Chief of Research and Legal Services; Jim Fry, LRC Director; Jacquelyn Storm, Principal Legislative Attorney; Annie Mehlhaff, Principal Fiscal Analyst; and Teri Retrum, Senior Legislative Secretary.

(**NOTE:** For sake of continuity, the following minutes are not necessarily in chronological order. Also, all reference documents are on file with the Master Minutes.)

Thursday, October 20, 2005

Opening Remarks

Chair Dr. Marty Allison asked **Representative Roger Hunt**, Chair of the Steering Committee to Determine Experts from South Dakota Who Should Be Invited to Testify on Both Sides of the Abortion Issue, to proceed with the testimony on the following subject areas:

- A. **The review and exposition of the body of medical, psychological, and sociological knowledge that has accumulated since 1973 concerning the physical and mental health of women who have undergone abortions and their subsequent life, health, and socioeconomic experiences.**
- B. **The nature of the biological and psychological relationship between the pregnant woman and the unborn child.**
- C. **An Analyses from both the legalistic perspective and from the psychological perspective of the degree to which the decision to undergo an abortion is actually voluntary and the degree to which such abortion constitutes an appropriate legal waiver or termination of the relationship between the woman and the unborn child.**

Presentations

Representative Hunt told the Task Force that the Steering Committee agreed that both sides of the issue will have an equal opportunity to testify and that some flexibility will be allowed when circumstances require.

Ms. Kate Looby stated that she understood that the object of today's testimony was to receive testimony from South Dakotans regarding the abortion issue. With that understanding, Ms. Looby said that she requested special permission from the Steering Committee to provide an expert witness from out of state. She expressed concern about the process that occurred for this meeting whereby there was limited notice concerning the agenda and that most of the Task Force was under the impression that this meeting was supposed to be to hear testimony from South Dakotans.

Representative Hunt said that if the Task Force allowed testimony from one out-of-state individual, then it should allow input from other out-of-state testifiers.

Dr. Alan Unruh said that the Steering Committee should have discretion on who would be allowed to testify.

Ms. Looby reiterated that the understanding was that this meeting would be to hear from South Dakotans and that is why she asked special permission to hear from an out-of-state expert witness.

Ms. Linda Holcomb reminded the Task Force about the motion and vote at its previous meeting to address South Dakota testimony at this meeting: Ms. Holcomb read the motion:

THAT THE TASK FORCE SELECT REPRESENTATIVES HUNT AND MILES AND SENATOR ADELSTEIN TO SERVE AS A SUBCOMMITTEE TO DETERMINE EXPERTS FROM SOUTH DAKOTA WHO SHOULD BE INVITED TO TESTIFY ON BOTH SIDES OF THE ABORTION ISSUE ON SUBJECT AREAS III, IV, AND V.

Presentations

NOTE: Task force members were given time for questioning after each of the presentations.

Dr. Carol E. Ball, Medical Director, Planned Parenthood of Minnesota, North Dakota, and South Dakota, and **Ms. Kate Looby**, Director of the Sioux Falls Clinic of Planned Parenthood, and Task Force member, discussed Planned Parenthood services in South Dakota. Via a PowerPoint presentation, Dr. Ball described various services available at Planned Parenthood Clinics in Minnesota, North Dakota, and South Dakota and medical aspects of a patient's experience. Ms. Looby reviewed a patient's experience at the Planned Parenthood Clinic in Sioux Falls and showed a videotape of a Planned Parenthood Clinic.

Mr. Travis Benson asked for copies of the PowerPoint presentation and the video.

Ms. Looby said that the video is her personal copy and that she would ask Dr. Ball if the PowerPoint presentation perhaps could be provided by e-mail.

Dr. David Wachs asked to hear the four-minute recorded message on informed consent that is heard by callers to the Planned Parenthood Clinic in Sioux Falls.

The Task Force recessed at 11:08 a.m. and reconvened at 11:20 p.m.

Ms. Tamera M. Weis, Registered Nurse, Sioux Falls, South Dakota, discussed the informed consent law in South Dakota. Ms. Weis talked about her experiences as a nurse working with pregnant women and with babies in a hospital setting. She also talked about her experiences in dealing with women who have had negative emotional experiences after their abortions. Ms. Weis distributed copies of her testimony (**Document #1**).

Ms. Linda Schlueter, Vice President and Senior Staff Attorney, The Justice Foundation, San Antonio, Texas, distributed written copies of her testimony (**Document #2**). Ms. Schlueter entered into the record affidavits of approximately 1,500 women who have had negative experiences with their abortions. She distributed copies of a pamphlet titled "A Woman's Right to Know" produced by the Texas Department of Health (**Document #3**).

The Task Force recessed at 1:00 p.m. and reconvened at 2:10 p.m.

Presentations (Continued)

Ms. Charon Asetoyer, Executive Director of Native American Women's Health, Lake Andes, South Dakota, briefed the Task Force from a historical perspective pertaining to women and their reproductive health as it relates to indigenous people. Ms. Asetoyer also advocated that abortion should be available to women in a safe and clean environment.

At this time, the Task Force addressed a procedural matter concerning how written materials should be addressed in the permanent record.

DR. UNRUH MOVED, SECONDED BY REPRESENTATIVE HUNT, THAT ALL WRITTEN MATERIALS, TESTIMONY, AND AFFIDAVITS BE ENTERED INTO THE PERMANENT RECORD OF THE PROCEEDINGS OF THE TASK FORCE.

Dr. Maria Bell said that, since she was of the understanding that this meeting would be devoted to testimony from South Dakotans and that, since this has not been the case, she also would like the opportunity to enter written testimony into the record from individuals who were not invited to attend today's meeting.

Dr. Unruh agreed that written testimony from those individuals should be included.

Representative Hunt said that, if such written testimony is introduced by a committee member, then the Task Force should accept that testimony.

Dr. Bell said that the Task Force should set some guidelines for this testimony, such as the testimony should be South Dakota specific.

Representative Hunt said that the Task Force was given the broad study of abortion. The Task Force narrowed its focus to five subjects. He said that the Task Force is a fact-gathering body. Representative Hunt said that there is more knowledge since the 1973 Roe v. Wade decision. He said that the issue does not affect just South Dakotans but affects people from all over and that it would be difficult to set guidelines today.

Ms. Holcomb said that the rules keep changing, which makes it difficult to know how to deal with the content of the meeting.

Senator Jay Duenwald said that he wants to see and hear all the information that is available.

Dr. Bell said that it seems wrong to bring in testimony from another state with different laws than in South Dakota. She said that it is very difficult to compare with those differences.

DR. UNRUH'S MOTION THAT ALL WRITTEN MATERIALS, TESTIMONY, AND AFFIDAVITS BE ENTERED INTO THE PERMANENT RECORD OF THE PROCEEDINGS OF THE TASK FORCE PREVAILED ON A ROLL CALL VOTE WITH 11 VOTING AYE, 2 VOTING NAY, 1 ABSTAINING, AND 2 EXCUSED. Those voting AYE: Allison, Bell, Benson, Duenwald, Holcomb, Hunt, Kraus, Miles, Stransky, Unruh, and Wachs. Those voting NAY: Greenfield and Looby. Those ABSTAINING: Adelstein. Those EXCUSED: Bartling, Day, and Two Bulls.

Presentations (Continued)

Reverend Rhonda Arias, Houston, Texas, distributed copies of her testimony (**Document #4**). Reverend Arias said that she is an ordained minister and the founder and director of Oil of Joy for Mourning (Oil of Joy), the primary function of which is to train and equip lay leaders for abortion recovery support groups throughout Texas. Reverend Arias also related her personal negative experiences with her abortions (**Document #5**).

Ms. Luana Stoltenberg, Davenport, Iowa, provided written testimony concerning her negative experiences with her abortions (**Document #6**).

Ms. Donna Haukaa, Lake Andes, South Dakota, explained her belief that abortion needs to remain legal, safe, and available to women. She said that a woman needs to be able to decide her respective reproductive issues and health.

Ms. Stephanie Pochop, Gregory, South Dakota, addressed the committee as an attorney who, among her clients, represents women who are victims of violence. Ms. Pochop said that Texas laws and South Dakota laws are very different and addressed the area of informed consent. She said that South Dakota's informed consent law to obtain an abortion procedure is more detailed and involved than that of any other medical procedure performed in South Dakota. Ms. Pochop said that the right to choose is a constitutionally protected right.

Ms. Stacey Wollman, Rapid City, South Dakota, related her personal experiences working at the Pregnancy Resource Center in Rapid City.

Ms. Gail Dirckson, Social Worker, Bethany Christian Services, Sioux Falls, South Dakota, distributed copies of "Bethany Christian Services of Eastern South Dakota Domestic Adoption Statistics" (**Document #7**) and spoke about adoption services.

The Task Force recessed at 5:40 p.m. and reconvened at 8:20 a.m. on October 21, 2005.

Friday, October 21, 2005

Presentations (Continued)

Lin Jennewein, Minister, United Methodist Church, Rapid City, South Dakota, distributed copies of an e-mail stating her testimony (**Document #8**). Minister Jennewein said that she has counseled many people, including women who have had an abortion. She said that she has never had one woman approach her in need of counsel because of any trauma surrounding her abortion. Minister Jennewein said that judgment is the worst sin that she can find in the Bible and that the issue of abortion falls into how a woman or man resolves it personally for them.

Ms. Lisa Dudley, Paralegal, Representative of Operation Outcry, The Justice Foundation, distributed copies of her written testimony (**Document #10**). Ms. Dudley told the Task Force about how an abortion negatively affected her. She included some quotes from some other women regarding the negative affects of their abortions.

Ms. Elli Schwiesow, Rapid City, South Dakota, distributed copies of a brochure titled "The First Nine Months" from Focus on the Family (**Document #10**). Ms. Schwiesow said that she was speaking on her own behalf but that she is also a volunteer at the Crisis Pregnancy Center in Rapid City and discussed some of her experiences in that capacity.

Dr. Susan Nolan, School Guidance Counselor, Rapid City, South Dakota, spoke about her experiences counseling students regarding personal social issues. Dr. Nolan said that unintended pregnancies could be dramatically reduced in South Dakota, if there were a good sexuality education grade appropriate curriculum in South Dakota schools to teach contraception along with abstinence.

The Task Force recessed at 10:08 a.m. and reconvened at 10:25 a.m.

Presentations (Continued)

Dr. Donald Oliver, MD, Black Hills Pediatrics, Rapid City, South Dakota, spoke via teleconference concerning the unborn. Dr. Oliver said that he was speaking on his own behalf and addressed fetal pain in the unborn. Stating that he is pro-life in his views, Dr. Oliver stated that he has no doubt that the unborn can feel pain prior to and after birth.

On behalf of Dr. Oliver, Mr. Bezpaletz, LRC, distributed Curriculum Vitae and copies of his testimony (**Document #11**).

Ms. Connie Pitch, Rapid City, South Dakota, testified regarding a personal experience when she was raped. She stated that it is a woman's right to control her reproductive health. At the request of Senator Adelstein, Ms. Pitch relinquished the remainder of her testimony until the public testimony portion of the meeting. Ms. Pitch concluded her testimony later, in part, by outlining her credentials as having degrees in Psychology and Education Psychology.

Dr. Craig Uthe, MD, Family Physician, Sioux Falls, South Dakota, testified via teleconference. Dr. Uthe said that he delivers many babies and also talked about some of the experiences he has had with adoptive parents. He said that he has seen some women experiencing post traumatic stress disorder after an abortion.

Ms. Millie Lace, MSE, LPC, distributed copies of her testimony and said that she is a Licensed Professional Counselor in Arkansas (**Document #12**). Ms. Lace also told about her negative experience with her own abortion and relayed stories of other women who have had negative experiences with abortions.

Ms. Carol Whalon, Pine Ridge, South Dakota, spoke as an early childhood education instructor and gave a historical perspective of Native American peoples' beliefs concerning reproduction. Ms. Whalon showed a Medicine Wheel Diagram.

Dr. Marvin Bohner, Obstetrician-Gynecologist, Rapid City, South Dakota, spoke on his own behalf via teleconference regarding women's health care. Dr. Bohner said that he does not know when life begins—no one does. Dr. Bohner said that women who choose to have an abortion procedure do so with great thought and consideration of what is best for them—most regret the circumstances surrounding the unintended pregnancy to make the decision to terminate necessary but not the abortion itself. Dr. Bohner said that most women who consider abortion want the medical procedure to remain legal and safe.

At the request of Mr. Benson, Dr. Bohner said that he would provide copies of his remarks in writing.

Public Testimony

DR. BELL MOVED, SECONDED BY REPRESENTATIVE HUNT, THAT PUBLIC TESTIMONY BE LIMITED TO FIVE MINUTES PER PERSON, WITH FIVE MINUTES FOR TASK FORCE QUESTIONS.

Ms. Looby expressed concern that everyone who traveled long distances across South Dakota be given enough time to present their testimony.

The motion prevailed on a voice vote.

DR. BELL MOVED, SECONDED BY MS. LOOBY, THAT SOUTH DAKOTA RESIDENTS BE GIVEN PREFERENCE AND ALLOWED TO TESTIFY FIRST; IF TIME IS AVAILABLE, NON-SOUTH DAKOTANS WOULD BE ALLOWED TO TESTIFY AFTER ALL SOUTH DAKOTANS.

Representative Hunt said that would be okay with him, if the Task Force agrees to hear testimony from everyone.

Dr. Bell said that it was decided at the last meeting that this meeting would be geared to testimony from South Dakotans.

Dr. Unruh said that everyone should be allowed to testify.

The motion failed on a roll call vote with 5 voting AYE, 9 voting NAY, and 3 EXCUSED. Those voting AYE: Adelstein, Allison, Bell, Holcomb, and Looby. Those voting NAY: Benson, Duenwald, Greenfield, Hunt, Kraus, Miles, Stransky, Unruh, and Wachs. Those EXCUSED: Bartling, Day, and Two Bulls.

DR. UNRUH MOVED, SECONDED BY SENATOR ADELSTEIN, THAT THE TASK FORCE HEAR TESTIMONY FROM THE THREE PEOPLE WHO ARE OPERATING UNDER TIME CONSTRAINTS BEFORE TESTIMONY FROM SOUTH DAKOTA RESIDENTS.

Dr. Bell and Ms. Looby expressed disagreement with the motion and stated that preference should be given to South Dakota residents.

SENATOR DUENWALD MADE A SUBSTITUTE MOTION, SECONDED BY DR. UNRUH, THAT THE TASK FORCE HEAR TESTIMONY FROM THOSE PEOPLE WHO ARE OPERATING UNDER TIME CONSTRAINTS BEFORE TESTIMONY FROM SOUTH DAKOTA RESIDENTS. The substitute motion prevailed on a voice vote.

The Task Force recessed at 12:42 p.m. and reconvened at 1:27 p.m. in Room 412 of the State Capitol to accommodate the number of people who wanted to testify.

Retired Pastor Dick Pittenger, Sioux Falls, South Dakota, said that organic life begins at conception but that he does not know when human life begins, nor does anyone else. Pastor Pittenger said there is a difference in beliefs among various faiths over when a being gains a soul. He said that abortion procedures should remain legal and safe.

Retired Pastor Russ Tarver, Sioux Falls, South Dakota, said that everyone wants to end abortion and that every effort should be made to provide every aspect of sex education in the schools so there will not be as much of a need for people to make that choice. Also, Pastor Tarver said that the life of the mother and any violence involved surrounding a pregnancy should be considered.

Retired Minister Rodney Gist, Sioux Falls, South Dakota, posed this question: Do we want abortion to be illegal or do we want it to be unnecessary? With his daughter's permission, Minister Gist related her personal experience when she was raped.

The following individuals related personal negative experiences of having an abortion and spoke against abortion:

Ms. Karen Nelson
Ms. Pamela Kuemmerle
Ms. Barb Frick
Ms. Rebecca Porter—Distributed copies of testimony (**Document #13**).
Ms. Tracy Reynolds
Ms. Cynthia Collins
Ms. Carol Miller

The following individual related a personal experience of choosing not to have an abortion:

Ms. Rachel Rieman

The following individual related a personal experience regarding a family member's decision to have an abortion:

Mr. Al Carlson

The following individual spoke against abortion

Mr. Jaaron Johnson

The following individuals spoke from the perspective of keeping the abortion procedure legal and safe:

Ms. Kelly Fuhrman
Ms. Mary LeHood
Mr. Dylan Anderson
Ms. Mandy Hagseth
Ms. Evelyn Gruse
Ms. Mahala Bach
Ms. Zara Mattox
Ms. Kylene Guse
Ms. Florence Moller
Ms. Kelsey Collier-Wise

Having completed the public testimony, the Task Force recessed at 4:45 p.m. and reconvened at 4:55 p.m.

Approval of Minutes

REPRESENTATIVE KRAUS MOVED, SECONDED BY REPRESENTATIVE MILES, THAT THE MINUTES OF THE SECOND MEETING (SEPTEMBER 21 AND 22, 2005) BE APPROVED. The motion prevailed on a voice vote.

Task Force Discussion

DR. WACHS MOVED, SECONDED BY DR. UNRUH, THAT THE TASK FORCE LISTEN TO THE RECORDED FOUR-MINUTE INFORMED CONSENT MESSAGE FROM THE PLANNED PARENTHOOD CLINIC IN SIOUX FALLS AND ALSO BE PROVIDED A TRANSCRIPT OF THE SAME AT ITS NEXT MEETING.

Ms. Looby said that she is not sure that such a transcript is required but that she will confer with the clinic's counsel as to its relevance in the proceedings of the Task Force. She explained that each doctor records three different messages in gestational increments. Ms. Looby said that one message should be adequate for the Task Force's purposes.

Dr. Wachs said that he prefers to hear a portion of each message and have a script of each.

The motion prevailed on a voice vote.

Chair Allison said that this would be the first order of business at the next meeting.

DR. UNRUH MOVED, SECONDED BY DR. WACHS, THAT PLANNED PARENTHOOD PROVIDE VIDEOTAPES SHOWN IN THE CLINIC AND THAT THE CLINIC BE OPEN TO A TOUR FOR TASK FORCE MEMBERS.

Ms. Looby responded that the available videotape has been shown at this meeting. She said that she will confer with the clinic's legal counsel as to the possibility and relevance of a tour of the facility.

Dr. Bell said that it looks a lot like most other doctors' offices.

Ms. Looby commented that the only difference would be the security system. She said that there are exam rooms, a lab, conference room, and a small kitchen area. Ms. Looby stated that nothing about informed consent has to do with the facility. She commented that the highest concern at the clinic is the safety and security of its patients and staff. Ms. Looby also said that to open the clinic to a group such as the Task Force would be unprecedented.

While stating that he does not agree with the function of the clinic, Dr. Wachs said that he, too, wants its patients and staff protected.

Ms. Holcomb said that because of HIPAA Guidelines, the tour would have to be conducted after hours; all that would be seen is a building.

Chair Allison agreed that the clinic would have to adhere to the HIPAA Guidelines and commented that Ms. Looby told the Task Force she would check into the possibility of a tour and let the members know.

Responding to Dr. Unruh, Ms. Looby said that she will try to make the necessary contacts next week.

Representative Hunt asked Ms. Looby to provide the four consent forms referenced by Dr. Ball and asked for a copy of the video shown today.

Ms. Looby said that she will provide a copy of the video but not the consent forms. She said that internal discussions have been held concerning consent forms, and a decision was made not to make those available.

REPRESENTATIVE HUNT MOVED, SECONDED BY SENATOR ADELSTEIN, THAT STAFF BE DIRECTED TO SEND AN OFFICIAL LETTER TO MS. DONEEN HOLLINGSWORTH, SECRETARY OF THE DEPARTMENT OF HEALTH, REQUESTING HER TO APPEAR AT THE TASK FORCE'S NEXT MEETING AND THAT SUCH A LETTER ALSO BE ADDRESSED TO THE GOVERNOR REQUESTING HER PRESENCE. The motion prevailed on a voice vote.

Representative Hunt encouraged members on each side of the abortion issue to work on motions that they want to make at the next meeting regarding what to include in the final report.

Next Meeting Date

REPRESENTATIVE HUNT MOVED, SECONDED BY DR. UNRUH, THAT THE TASK FORCE'S NEXT MEETING BE ON NOVEMBER 29, 2005.

Senator Adelstein said that it would be a good idea to distribute the motions to all the members before the next meeting and suggested November 22, 2005, as such a date.

Representative Hunt asked staff to compile a numbered list of the witnesses who have provided testimony and the documents which have been introduced into the record for the next meeting.

Dr. Bell said that she wants to make sure that her voice is heard in the final report.

Representative Hunt said that final report deliberations will eventually have to be voted on, and it would be easier to have something in writing to review.

Ms. Looby said that a November meeting date seems too close to the date when the final report must be submitted.

Mr. Bezpaletz said that since the Task Force is atypical of other interim committees, he believes that there would not be a problem with the Task Force working on its final report at a date later than December first.

After further discussion on the next meeting date, **DR. BELL MADE A SUBSTITUTE MOTION, SECONDED BY MS. LOOBY, THAT THE TASK FORCE HOLD ITS NEXT MEETING ON FRIDAY, DECEMBER 9, 2005, BEGINNING AT 8:00 AM (CT).** The substitute motion prevailed on a voice vote.

Adjournment

REPRESENTATIVE HUNT MOVED, SECONDED BY SENATOR DUENWALD, THAT THE TASK FORCE BE ADJOURNED. The motion prevailed on a voice vote.

The Task Force adjourned at 5:53 p.m.



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