



**Genital Integrity Awareness
Week, April 1—7, 2003
Washington, DC**

A week of special events in Washington, D.C., is being sponsored by an international community of individuals and organizations committed to raising public awareness about the rights of all human beings to genital integrity.



**April 1
10th Annual March
For Genital Integrity**

10 AM - 12 Noon
Gather at Washington Monument
12 NOON

March to the steps of the Capitol
1 - 5 PM

Gather at the Capitol,
distribute information
Contact: David Wilson
Phone: 321.783.6383

e-mail: sicsociety@aol.com

**April 2
March to the Supreme Court**
10 AM - 12 NOON

Gather at Washington Monument
12 NOON

March to the steps of the Supreme Court
1 - 5 PM

Gather at the Supreme Court,
distribute information
Educate Legislators

8 - 11AM and 1 - 5 PM

Visit your elected representatives regarding Medicaid funding and taxpayer waste, lack of informed consent, and failure of Congress to provide equal protection for males in its bill outlawing female genital mutilation. To contact your elected representatives to schedule an appointment, please visit the following websites:

www.house.gov www.senate.gov

Flatt v. Kantak

by John Geisheker

As an attorney and former Minnesota law prof I followed, from New Zealand, the high profile Flatt v. Kantak informed consent case in North Dakota with much interest. I hope to pursue similar cases on the U.S. West Coast. To those speculating about what this single loss means I offer the following.

First of all I give full marks to Zenas Baer for his courage and dedication and for putting himself in harm's way. This is not a popular US cause and the case likely unsettled some very powerful people and institutions nationwide.

The defense verdict in Flatt is indeed a setback, as much as a plaintiff win would have been a morale boost for us all. But I remind myself this finding does NOT set a precedent that binds other states or hampers further cases. Medical malpractice is state-law driven, and is not particularly uniform where it matters most, in the details. A state case is rarely even persuasive in another state, let alone controlling, though it may be useful for analysis and strategy. And this was a trial verdict, not an appellate decision. It is not even binding in North Dakota, though that could change if the appeal is unsuccessful. (And even an appellate loss can be rationalized as limited to the facts of this single consent, not an endorsement of circumcision generally.)

In any event, this was a tough case – a radical issue in a conservative, conformist, religious, puritanical jurisdiction with a high circumcision rate. (I know—I have practiced law in Fargo on occasion). Mr. Baer also represented a lawyer/plaintiff, perhaps not as sympathetic as she might have been for that fact alone. And only the consent was on trial, not circumcision itself, though luckily, examining the thoroughness of informed consent necessarily involves disclosing what was consented to.

That the case survived aggressive pre-trial motions to dismiss means it is possible to convince a judge that even a 'typical' circumcision is worthy of litigating, and cannot be dismissed as frivolous. Mr. Baer can be very proud of that major success, as all fact situations are different and stand on their own. That means 'follow-on' cases are more possible now, the laugh factor having been muted.

The judge obviously got the message that circumcision was intended to desensitize (i.e., damage) (continued on page 3)

Utah Drops Funding!!!

Since our last issue, Montana and Utah have both discontinued Medicaid funding for circumcision. Nathan Kennard has this wonderful news to report:

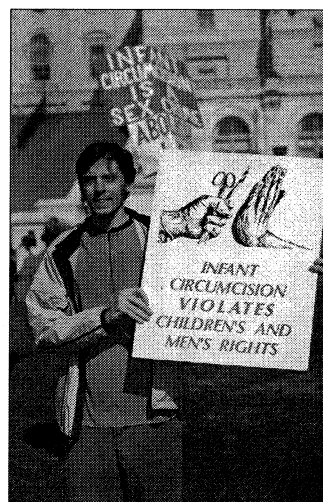
The Utah Legislature passed the budget yesterday [Thursday, March 6] before the close of the session omitting funding for circumcision through Medicaid.

A large number of people contributed to this effort including the members of MP-UT group, NOCIRC - Medicaid Project, DOC, Judi Hilman (a local advocate for the poor), Dianna Douglas (Utah public radio, now with NPR), Steve Scott and others. Thank you all for your help.

P.S. For me, an extension to this project will be to get funding taken from circumcision for state employees. The Medicaid savings was estimated at \$100,000 (state dollars) while expenditures for state employees have been confirmed to be greater than \$150,000. The director of the state public employees health plan is sympathetic with my efforts and has been very cooperative.

Nathan Kennard

This makes Utah the first state to drop Medicaid funding in 2003 and the fifth to do so in less than a year! We now have eleven states that refuse to fund this harmful procedure. Nathan, one of the leading activists in Utah, has kindly agreed to do a story on the Utah development for the next ARC newsletter. We ought to publish this newsletter more often, as this is the third consecutive issue that went to press within a week in either direction from the date a state dropped Medicaid funding.



Washington, D.C., 2002 photo by Chip Feise

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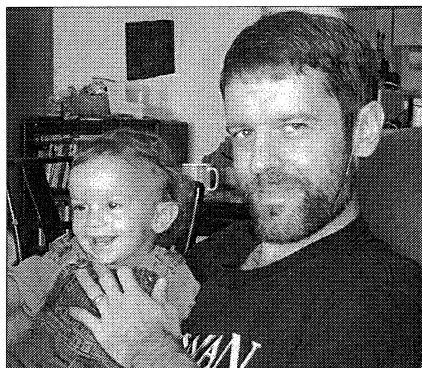
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Associates of Attorneys for the Rights
of the Child receive no compensation. All
contributions are tax deductible and go
directly towards paying expenses.

Message from the Executive Director

It's a new year, marking six years since ARC's official founding, and seemingly the golden era of intactivism continues. Utah just became the eleventh state to reject Medicaid reimbursement for the procedure. I love the way states from across the demographic spectrum are jumping out of the Medicaid pool. A warm congratulations to all the Utah activists.



Eli and Steven Svoboda, Eli's first birthday

The spring of odd years typically bring us NOCIRC's more nationally focused meeting, this year called Genital Integrity Awareness Week. A lot of good folks will come together for lobbying, staffing informational tables, marching, a one-day strategy session, and much more, not to mention the very enjoyable meals and informal meetings that always make these events so wonderful.

The dreadful article by Benatar and Benatar in the American journal of bioethics has been met with some spirited responses by several of us including Rio Cruz, George Hill, Wayne Hampton, and myself. (The text of my response appears on this page.) All of these pieces will be published in their next issue along with the

Benatar article. The February 28 issue of the Jewish publication Forward from New York City recently ran an interesting article which mentioned ARC, bound to provoke disagreement among intactivists. The text of this article can be found at: <http://www.forward.com/issues/2003/03.02.28/oped4.html>. George Hill has already had his response placed under consideration for acceptance by Forward.

A lot of us including myself have been at this work for a while now, but it remains a lot of fun. I'm grateful for the support we get in a number of ways, good advice from experts in graphic design or web design or medicine, feet and hands to help me to leverage my efforts—most notably from Al Fields but also from Gary Burlingame, Jeff Borg and others, and just good feeling that goes around in this crazy group in which we seem somehow to have found ourselves.

More exciting changes are afoot. We are preparing to more actively get involved in direct litigation of circumcision cases, and a major civil rights case in which we are involved is going to trial in August. Things are heating up and getting very interesting. 2003 should see what promises to be some fascinating developments from the Stowell case, under David Llewellyn's talented leadership and thanks to William's own remarkable qualities. Financial support is always welcome and needed if you can manage it, and we still have a few ARC T-shirts left for those who contribute \$25 or more and want one. *J. Steven Svoboda*

**Text of ARC's Response to
Benatar and Benatar
in the**

American Journal of Bioethics

Circumcision - A Victorian Relic Lacking
Ethical, Medical or Legal Justification

J. Steven Svoboda

Attorneys for the Rights of the Child

Michael Benatar and David Benatar are to be commended for raising the issue of male circumcision for ethical consideration. However, we cannot agree with their conclusion that "non-therapeutic circumcision of infant boys is a suitable matter for parental discretion," nor that "religious and cultural factors, though preferably subject to critical evaluation, may reasonably play a role." Doctors may not properly act as cultural brokers, and male circumcision is not a medically, ethically, or culturally neutral practice, suitable to be left to parental whim, but rather a clear violation of a number of central principles from the disciplines of medicine, ethics, law and human rights.

In order to protect patients and doctors

alike, it is ethically and legally essential that our default assumption must be against a procedure. This presumption cannot be reversed until we have substantial scientific evidence based on well-established research criteria that the procedure will provide an overall *medical* benefit to the patient. Despite the authors' candid admission that the "evidence for beneficial effects of circumcision is controversial," somehow, they nevertheless come out in favor of the procedure. Either the evidence suffices to justify this invasive, painful, unconsented - to procedure, or it does not.

In fact, according to the unanimous opinion of the world's national and international medical organizations, routine circumcision is not justified, and it is the Benatars who are severely out of step with current medical knowledge. Of the at least sixteen national and international medical organizations that have spoken on routine neonatal circumcision, not a single group has recommended it. This includes five leading American organizations such as the American Medical Association and the American Academy of Pediatrics.

A further serious difficulty with the Benatars' analysis is its inclusion as possible disadvantages of the procedure only complications and pain while ignoring the elephant in the room - the inherent value of the intact penis. The authors entirely omit any discussion of the functions of the foreskin, which fall into three main categories - protective, immunological, and erogenous (Fleiss et al. 1998). Moreover, the Benatars go on at length about the alleged benefit of helping prevent the vanishing rare condition of penile cancer while entirely omitting any discussion of the most serious complication of all: death. Although precise estimates are difficult due to, among other factors, concealment of the event when it occurs (Newsnet5 1998), nevertheless responsible commentators place the number of circumcision - caused deaths in the United States annually at well over 200 (Baker 1979).

The Benatars attempt to sanitize circumcision by comparing it with various forms of plastic and cosmetic surgery that presumably are familiar to us - breast reduction, liposuction, and rhinoplasty. The critical distinctions are that these other practices are performed on *adults* who *themselves* give informed consent to the procedure prior to its performance, whereas routine circumcision is performed on non-consenting infants. For this reason, routine male circumcision violates human rights principles contained in documents such as the Universal Declaration of Human Rights, The Covenant on Civil and Political Rights, and the Convention on the Rights of the Child, while these (continued on page 8)

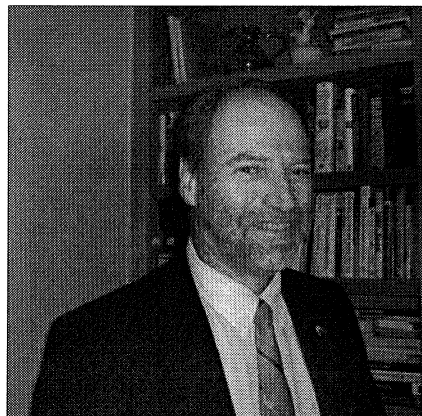
Flatt v. Kantak

(continued from page 1) boys and even suggested they might have a right to sue their parents. While I have misgivings about whether suits against parents are a social improvement (as parents are usually dupes), the message is itself a stunning comment on the pernicious triangle of mendacious doctor- duped parent- helpless infant we all know well.

Even a lost case is useful as it serves to publicize the issue, and this was a shot heard 'round the world. Circumcision is a furtive, tawdry, soundproofed back room, indefensible barbarity. Any limelight shed is more useful for opponents than for doctors. You could guess that by the defendant's attempt in Flatt to block the use of video or even slides which show circumcision graphically. (And remember, ironically, had the judge allowed those, a trial win would surely have been appealed, the case potentially overturned, the published decision a more problematic outcome than a loss at trial.)

Also insurers must defend even marginal suits, which is very expensive. The Flatt defense will likely have cost \$30k—\$50k or more, with perhaps a \$10k 'deductible' (UK 'excess') contributed by the doctor had here had been an award. That alone ought to cause a shiver of worry to pulse through docs and the whole industry. Perceived risk ultimately affects malpractice premiums and insurer instructions to their clients. This is serious stuff; it's about lots of money ven case-by-case, let alone in the aggregate.

We also need to remember that the law is the trailing edge, not a leading indicator, of social change, more's the pity. It moves when there is movement. That means that we cannot expect miracles from the courtroom. It is too plodding and too hedged about with protections for the status quo.



John Geisheker

Even so—the day will come, incrementally, when a plaintiff—parent or child—will win on the simple grounds that the parents were hopelessly misinformed, even duped, as all parents are, or that the doc withheld important, material facts, whether out of negligence if not malice.

I view it as an evil irony that docs invented and marketed circumcision with the most brazen mendacity and cruelty, even using racism, and now claim that parents request it and they are only being obliging.

That is rankly disingenuous and craven, but it works --for now.

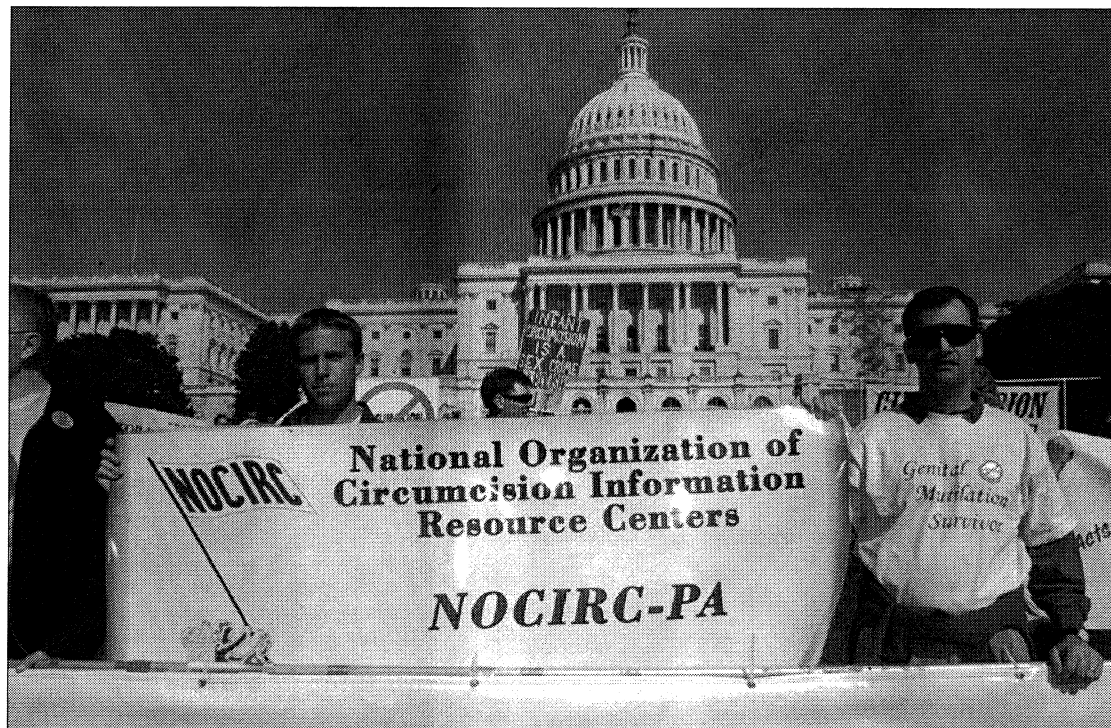
That medical ploy could be exposed with enough education and enough publicity—and litigation. But the tipping point was not in Fargo in February, 2003.

So take heart and spread the word that our legal quest is far from dead or even wounded. Indeed, it is only in its infancy, just as tobacco litigation was 15 years ago. A verdict for the plaintiff, then several, then many, is only a matter of time. Fear of suit is a powerful motivator for the wealthy; indeed, they fear little else. When there is money to be made from these suits and enough anger from mutilated men (or alert parents) to make suit routine, circumcision will grind to a halt. Even heartless doctors would avoid taking a \$200 circumcision fee if it risked a \$50,000 suit and higher premiums.

Alas, circumcision will be stopped by the only form of steady social progress that seems to work in the USA—litigation, (or fear of it) —melancholy though that may be to those of you who would like a more cuddly, more ethical, less litigious society.

Finally a Greek proverb—"A society is great when old citizens plant trees whose shade they can never enjoy."

John Geisheker, Seattle, WA (who writes from New Zealand, where forcible, non-therapeutic, medical circumcision is now largely history, and intactivist scholars work to help the faraway US.)



Washington, D.C.,
2002

Photo by
Chip Feise

Fight doesn't scare Baer: Circumcision battle latest for 'crusader of underdog'

*By Jeff Baird, Reprinted with permission
from "The Forum", Feb. 22, 2003*

Zenas Baer spent 500 hours, or about \$75,000 in billable time, working on the circumcision lawsuit against Fargo's Merit-Care Hospital and one of its doctors.

And, as he prepares to ask for a retrial of the suit, which ended Feb. 14, it's a tab that is going to grow.

So why circumcision? Why, of all the causes for Baer to take up, has he taken such a passionate interest in the most common medical procedure in the nation?

Publicity? Money? A bad circumcision experience?

None of the above, the Hawley, Minn., attorney said.

This issue is personal for Baer. He likens the struggle to stop infant circumcision to the civil rights battles of the 1960s, in that he is fighting against a mindset that is so engrained most people refuse to question its purpose.

"If people want to criticize this as grand-standing or making my mark, they can," the 51-year-old said. "But I'm not going to apologize for looking out for the best interest of 1-day-old babies."

People who know Baer best - know where he came from and where he has been—aren't at all surprised by his persistence.

"He is not one to shy away from something because it may be a difficult obstacle to overcome," said Amon Baer, one of Zenas' 10 brothers. "He also enjoys the challenge of breaking new legal ground."

Baer, who also has four sisters, spent the first seven years of his life in a Hutterite community near Grand Forks, N.D.

In 1958, his parents moved to Americus, Ga., to a commune that stressed racial integration.

"Whites and blacks were encouraged to work together as equals," Baer said.

It was a philosophy that wasn't widely embraced in the South at that time. The "colony" was shot at and firebombed in the year the family lived there.

Americus was also Baer's first experience at a public school.

He remembers riding on a bus with kids that didn't belong to the commune. He was bombarded with racial epithets.

"As an 8 year old, I didn't know what was going on," Baer said.

The family moved to another commune in Pennsylvania in 1959, an experience Baer calls the most bizarre of his childhood.

The group purported "following in the footsteps of Christ." The reality, however,

was much different, Baer said.

"The whole purpose was to make you a sheep of the community," he said.

As their parents worked, the kids sat quietly in a large room with only molding clay to play with.

An adult watched to ensure silence.

The Baer's [sic] were kicked out of the commune for challenging the group's authority after his dad asked why the leaders weren't more involved in work chores.

"Within a weeks the leaders came to him and said they didn't think the 'spirit of God' was moving him in the right direction," Baer said.

The family of 15 was given \$300, a station wagon and told to leave.

The Baer's [sic] returned to Grand Forks, greatly shaken by their experience.

"My mother and father never formally joined any church after Pennsylvania," Baer said.

Baer's dad took odd jobs before he borrowed enough money to buy a farm near Hawley and eventually started a successful chicken egg farm.

Baer graduated from Lake Park High school in 1969, as Vietnam raged.

He was allowed to sit out the war as a conscientious objector, working instead for three years at a Minneapolis hospital.

At night he went to school at the University of Minnesota where he graduated in 1976 with degrees in German literature and political science.

He entered law school hoping to pursue a career in politics, but later determined he could do more good in law.

In his 23 years as an attorney, Baer has never shied away from controversial court cases.

He has sued cities, counties, two states and the U.S. government.

He has been involved in murder trials, police brutality lawsuits and was recently hired by parents in the Barnesville School District to sue the school board for illegal meetings.

His case selection has earned him a reputation as a crusader for the underdog, and at times has put him at odds with another of his clients - the City of Hawley, longtime Hawley City Councilman John Young Jr., said.

"Although there were times it wasn't always the most comfortable for us, we came to the understanding that was his niche," Young said.

Baer became involved with circumcision in 1995.

In the case a mother and father were divided on whether their son should be circumcised, Baer said. The doctor circumcised the child.

At first, Baer, who is circumcised,

thought "what's the big deal."

Then he began researching infant circumcision and concluded it is a procedure in which the medical risks greatly outweigh the benefits and is only perpetuated by the medical field because it is profitable.

At the same time, the North Dakota Legislature had just passed a law that made female circumcision illegal.

"When I became a lawyer, I had to take an oath I will uphold and defend the Constitution of the United States of America and Minnesota and North Dakota," Baer said. "I can't look the other way when I see constitutional violations just like those in the 1960s civil rights movement didn't. There were principled individuals who said this is wrong and society must change."

Baer brought the case forward, but a federal judge ruled it had no standing.

His latest circumcision lawsuit pitted Anita Flatt of Hawley against Fargo-based MeritCare Hospital and Dr. Sunita Kantak.

Flatt, an attorney at Baer's law firm, signed a circumcision consent form but claimed she and husband, James, weren't told complete and accurate information about removing the foreskin from their son's penis.

It took a Cass County jury about two hours to wade through two weeks of testimony and find Kantak's care not negligent.

East Central District Court Judge Cynthia Rothe-Seeger dismissed MeritCare from the lawsuit.

Baer said he will ask Rothe-Seeger for a retrial based on her decisions not to allow him to show the jury videos showing circumcision, tools used in the procedure and pictures of an uncircumcised penis.

If the retrial is not allowed, Baer said he will appeal to the North Dakota Supreme Court.

He has the support of his family.

"To me it is not quirky at all," said Baer's wife Julia Suits. "It is something that I think is a very appropriate subject to bring up."

She said if parents knew more about the procedure, fewer people would have their children circumcised.

But hospitals aren't anxious to provide that information, said Dr Christopher Cold, one of two expert witnesses to testify for Baer in the Flatt lawsuit.

"This is a \$250 million a year industry," he said. "He is trying to expose that as a less than ethical endeavor."

A special thanks to Chip Feise for providing many of the photos included in this newsletter. Mr. Feise is a professional photographer and examples of his work can be found at: www.cflp.com

Wiswell-Svoboda Debate Transcript

J. Steven Svoboda

Date: 05 Feb 2003 Time: 17:45:38

Note: This is a more-or-less verbatim transcription of my debate with Thomas Wiswell on January 30. We appeared together on the "Hot Talk" program on WDAY Radio in Fargo, North Dakota in connection with the ongoing Flatt v. Kantak case conducted by attorney Zenas Baer. I have been told the debate is archived somewhere in an hour-long WDAY segment obtainable for Real Media Player at <http://media.i29.net:8080/rangen/live/hottalk.rm>. I have not yet been able to verify this myself.

My perception and evidently that of others was that with the quick format it was hard to break through to the truth. I felt like maybe Wiswell came off worse in his condescending tone (and his comment about 200 million circumcised American men). It was interesting that the moderator picked up on Wiswell's isolation and the US' isolation from the mainstream.

[Intro by moderator (M) Scott Hennen explaining about Flatt case and setting stage for debate. Brief introductions of Svoboda (JSS) and Wiswell (TW). Request by moderator that JSS and TW refrain from interrupting each other during discussion.]

M: Mr. Svoboda, I understand that this is receiving some national attention among your group and others that would like to see the practice of circumcision just eliminated. Is that correct?

JSS: Certainly in the case of non-religious circumcision, yes, we'd like to see the practice eliminated. Three leading American medical associations agree there's no medical benefit to it that justifies performing it. It's got known harm to the young boy who can't consent so yes, we'd like to see an end to it.

M: Dr. Wiswell, on this point of no medical benefit, do you disagree with that?

TW: Yes, the associations don't say that at all, and there are a number of medical benefits.

M: All right. What are the associations you are talking about, Mr. Svoboda?

JSS: The American Medical Association, the American Academy of Pediatrics, the American College of Obstetricians and Gynecologists. The American Cancer Society has said there's no benefit in terms of stopping cancer to circumcising. So these "radical, fringe" medical organizations I've just named have gotten in line with the rest of the world and said circumcision must stop.

M: You're saying, Dr. Wiswell, that that's not in fact what they're saying?

TW: They didn't say that at all. Mr. Svoboda is misquoting them and their words. All of the above organizations have recognized known medical benefits of the

procedure. What they have not come out and said is that every boy should definitely be circumcised at birth.

M: Let's go to the medical benefit question. In your view, Dr. Wiswell, what are the medical benefits to circumcision?

TW: There are a number of them and quite important ones. One is the prevention of bladder and kidney infections during early childhood. A second one is the prevention of cancer of the penis. That's usually an adult malignancy. Thirdly, the prevention of actually various sexually transmitted diseases, in particular, the most

compelling evidence is the HIV/AIDS evidence over the last decade or so. Fourthly, the prevention of local infection, inflammation of the penis itself as well as local dermatologic problems of the penis. And finally, what received a lot of attention last April was a remarkable study which sort of supported various others in the past. Prevention of cancer of cervix in the partner of the uncircumcised gentleman.

M: Now, setting aside the debate on the medical benefit, Mr. Svoboda, I've seen some literature that calls this genital mutilation. Is that what you believe it is?

JSS: Well, terminology can get tricky. I mean, nobody's arguing about male circumcision being exactly the same as female circumcision. But it's a mutilation in the sense that it's removing a body part that there's no medical reason to remove and I can refute every one of Dr. Wiswell's suggestions. The last study he referred to by Castellsague has already been refuted in the same journal that published it. What Castellsague did was took a bunch of data from

different countries that have very low or very high circumcision rates and combined the data together and did a bunch of fancy statistical footwork to try to show a correlation where there wasn't one or it was negative. As far as cancer of the penis goes, Dr. Sydney Gellis said more babies die from circumcision every year than old men die from penile cancer.

M: [cutting in] I think we're going to agree to disagree on the differences here only because of our lack of time. I'm going to go to another point. Judge Cynthia Rothe-Seeger, the local judge that has allowed this case to proceed to trial, which is I guess unusual and one of the reasons this case is being watched nationally, is saying the main harm the youngster in this case—who would be, what, five or six years old at this point?—seeks compensation for is diminished sexual sensation injury. Do you concur that that would be a proper claim in this case by the plaintiff, Mr. Svoboda?

JSS: I do concur with that and there have been recent medical studies that have documented that, showing that a large percentage of adult males that were circumcised as infants have had loss of functioning, have had various problems. And when they've compared males who were circumcised as adults they've shown that they have had loss of functioning as well. And also when you lose the foreskin, you lose the protective and immunological functions. Three important functions of the foreskin.

M: And what about that, Dr. Wiswell?

TW: Mr. Svoboda has said exactly opposite of what is quoted and what the studies, there's three major ones that have shown this that have come out in the last several years. Adult males who have been circumcised as adults have increased sexual function and those that are uncircumcised have more sexual dysfunction and so unfortunately what comes across, people come across and don't have access to medical journals or don't read them, they may not get the true perspective that Mr. Svoboda unfortunately is distorting.

M: So you don't see any downside at all as far as sexual sensation that the local judges raise to circumcision?

TW: No, in the medical literature and the trials that are out there actually show better sexual function in circumcised individuals. I sure invite

the audience to look up those studies.

M: So it sounds like, Mr. Svoboda, what we're talking about here is a battle of science?

JSS: Well, not really, because every international and national medical association in the world that has spoken to the issue of should circumcision be done on infants routinely has said no, and Dr. Wiswell knows this. Beyond that, I'd like to ask Dr. Wiswell: Urinary tract infections, which was Dr. Wiswell's claim to fame on this issue a while back, occur three times as often in girls as in boys. Now, if we could take off part of the girls' genitalia and reduce urinary tract infections, Dr. Wiswell, would you favor that?

TW: Again, Mr. Svoboda, you are distorting the medical facts. The urinary tract infections during the first six months to one year of life are far more common in boys. After that, they are more common in girls. Unfortunately, during the first year of life, that's when these kinds of infections injure the kidney, scar the kidney, and are set up for high blood pressure and even the potential for dialysis replacement.

M: [trying to cut in] Let me ask you ...

TW: I do not agree with your statements, Mr. Svoboda.

M: It seems as though many people in the international community agree with Mr. Svoboda. The United States seems to be rather unique in the large amount of circumcisions that occur as compared to, I guess Canada's at 17%, Britain at 5%. Elsewhere, Europe, South America, non-Muslim Asia, very rare. What do you make of that, Dr. Wiswell?

TW: I think over the years, really since the late 1800's, early 1900's, the United States has been at the forefront of medicine, medical science, research, etc., and it was recognized in the late 1800's and early 1900's that there were potential health benefits of this procedure and you know, this isn't anything new. The decrease in cancer of the penis, decrease in syphilis, etc., they were described as far back as the 1890's and early 1900's. And so following hospitals, the increase in hospital-born babies, rather than home, that occurred in the first part of the century, the vast majority of males were being circumcised, and for potential health reasons, as well as it became in many respects a social tradition per se and parents didn't even care to hear about health reasons. Just circumcising just because their father was.

M: Mr. Svoboda, do you also claim that this leaves a scar, emotionally or otherwise, on the child that could last into the adult years?

JSS: Well, it's not really a claim. I mean, there have been studies that have also been published in medical journals that have documented that repeatedly. And as far as syphilis goes, it's interesting that Dr. Wiswell mentions the 1890's and the 1900's because we all know that antibiotics and other advances have helped eradicate some of these ancient, outdated diseases. Now, it might be interesting to know what Dr. Wiswell omits to mention, which is that circumcision started as a medicalized procedure 150 years ago to stop masturbation, which was then thought to cause basically every known disease and of course this was the days of bleeding patients to cure them. Now, we don't do these things any more but for some odd reason we've kept up with our circumcision. Although I'll note that circumcision rates are continually

(continued on page 6)

(continued from page 1)

April 3

NOCIRC Strategy Meeting

8 AM - 5 PM

Best Western Capitol Skyline Hotel
101 Street SW, Washington, DC 20024
202.488.7500

- 7:30 Registration
- 8:15 Welcome/Opening Remarks
 - Marilyn Milos
- 8:30 Medicaid/Insurance
 - Amber Craig
- 9:30 Students for Genital Integrity
 - Greg Dervin
- 10:30 Break
- 11:00 Attorneys for the Rights of the Child
 - Steven Svoboda
- 12:00 Media, PR and the Fax Net
 - Dan Bollinger
- 1:00 Lunch On Your Own
- 2:00 Doctors Opposing Circumcision
 - George Denniston
- 3:00 Fund Raising
 - Jeff Borg
- 4:00 Review Session
 - Len Glick

Contact

Marilyn Milos, RN 415.488.9883
e-mail: nocirc@cris.net
\$25 donation per person requested)

April 4

Demonstrate at ACOG

(American College of
Obstetricians and Gynecologists)

10 AM - 12 NOON

Gather at Washington Monument

12 NOON - 4 PM

March to ACOG and join us as we take the message of genital integrity for ALL children to the predominant group of circumcising doctors in America. We will be holding signs and passing out literature outside of ACOG Headquarters.

Daily April 1 - 7

Education on the Steps of the Capitol

Join David Wilson and Stop Infant Circumcision Society every day on the steps of the Capitol to distribute literature to tourists and interested passersby.

Suggested Accommodations

Best Western Capitol Skyline Hotel
101 Street SW, Washington, DC 20024
800.458.7500

For special prices at the Best Western (\$60 per room for two, \$10 each additional person), tell them you're with NOCIRC and the Stop Infant Circumcision Society.

WWW.ARCLAW.ORG

Debate

(continued from page 5) reducing and four states have recently discontinued Medicaid funding for circumcision.

M: What about the pain or ultimately any emotional scars as far as you're concerned, Dr. Wiswell? Is that a concern?

TW: Two things. There is no question that infant boys can and will have pain when they're being circumcised. That's why myself and most pediatricians use a kind of local anesthesia. That's why my organization, the American Academy of Pediatrics, recommends local analgesia, some kind of either cream or an injection of lidocaine, which is like novocaine for your teeth. For the emotional scarring, there is none. There are over 200 million circumcised men in this country, and we don't have an outcry that they're emotionally harmed by this procedure, and again, there are no reputable medical journals that back this up. There are some fringe editorials, testimonials of individuals and Mr. Svoboda's anti-circumcision groups that will say, "I'm emotionally scarred because of this."

M: Is the outcome of this lawsuit, will it have national ramifications, Mr. Svoboda?

JSS: It may, yes. Certainly it may for the other men in this country who may have

been circumcised and who may feel a loss from that. And Dr. Wiswell, I'd like to know how you get 200 million circumcised men when the population of the US is around 300 million.

TW: I think you, as is unfortunately typical, you did not hear what I said. I said there are over 100 million circumcised men in this country.

M: Dr. Wiswell, do you see a national impact from the outcome of this trial in North Dakota?

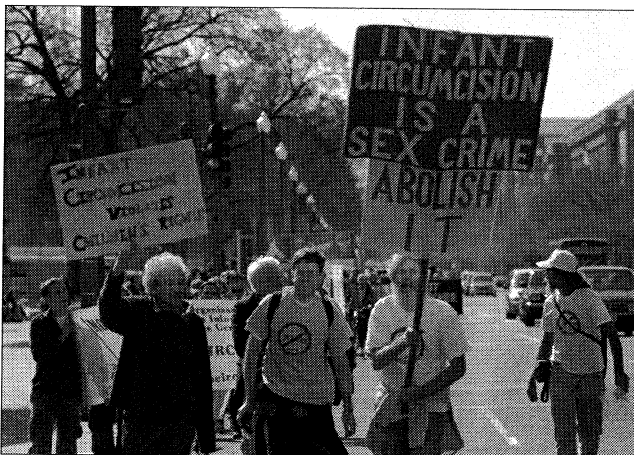
TW: It all depends on what the outcome is. I think it's a crazy trial. A well-known lawyer that's similar to Mr. Svoboda that's outspoken opponent [sic] of circumcision, by coincidence, I don't know how, one of his partners is the mother of this child that's brought forth this suit. And she requested a circumcision and there's informed witnessed, informed consent counseling to it.

And somehow his partner a couple years later decided to file a lawsuit. So I find a lot of things intriguing here. And I hope a lot of this does get into the national media.

M: Thank you both for the time. We'll continue to follow it and appreciate it.

[He thanked both of us.]

J. Steven Svoboda

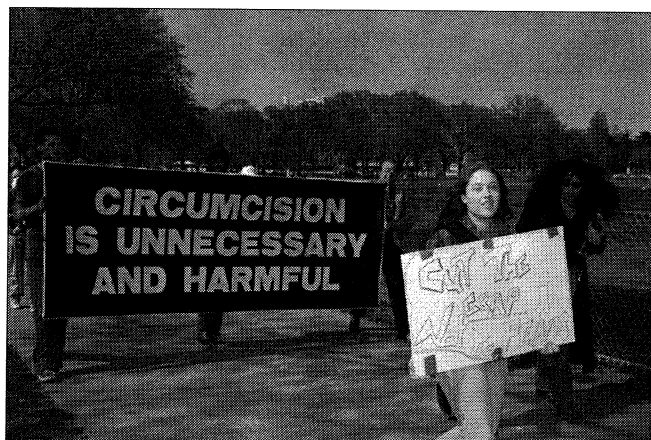


left to right; Paul
Fleiss, Steven
Svoboda, Van Lewis
and David Wilson
(looking back).
Washington, D.C.,
2002

Photo by Chip Feise

Washington
demonstrators,
Washington, D.C.
2002

Photo by
Chip Feise



New York Times Article About Intactivism

By J. Steven Svoboda

Comments: On January 23 the New York Times published an article about the intactivist movement featuring the Flatt v. Kantak case and Attorney Zenas Baer and quoting David Llewellyn and me. The article, which is written by Adam Liptak, may be accessed online at <http://www.nytimes.com/2003/01/23/national/23CIRC.html> or at <http://www.cirp.org/news/newyorktimes01-23-03/>. Here is the text of the article.

Circumcision Opponents Use the Legal System and Legislatures

By Adam Liptak

ARGO, N.D., Jan. 16 — Josiah Flatt, like about 60 percent of other newborn American boys, was circumcised soon after he was born here, in the spring of 1997. Two years later, his parents sued the doctor and the hospital.

They did not contend that the circumcision was botched or deny that Josiah's mother, Anita Flatt, had consented to the procedure in writing. They said, instead, that the doctor had failed to tell them enough about the pain, complications and consequences of circumcision, removing the foreskin of the penis.

The suit will be heard by a jury next month. In declining to dismiss the case here before trial, Judge Cynthia Rothe-Seeger acknowledged that the case was unusual in that nothing "went 'wrong' during the procedure." The main harm Josiah seeks compensation for, Judge Rothe-Seeger noted, is "diminished sexual sensation injury."

The suit is but one effort by a small but energetic group of loosely affiliated advocates and lawyers to use the legal system to combat the practice — most American newborn boys undergo the operation when they are days old — which they liken to genital cutting in girls.

The advocates have been active in state legislatures, too. Ten states no longer allow Medicaid to pay for circumcision.

"They have reached the ears of legislators and insurance companies," Dr. Thomas Wiswell, a professor of pediatrics at the State University of New York at Stony Brook and a proponent of the procedure, said about the opponents. "They are far more vocal than proponents of circumcision."

J. Steven Svoboda, director of Attorneys for the Rights of the Child, a group devoted to the issue, contends that circumcision is wrong as a matter of law, medicine and philosophy. Children of both sexes, Mr. Svoboda said, should be entitled to "bodily

integrity."

Josiah Flatt's case appears to be the first to go to trial based on the theory that the absence of an exhaustive medical briefing about the risks and benefits of circumcision is tantamount to a lack of informed consent.

Among the possible complications in the operation are excess bleeding, infection and ulceration and occasional permanent damage to the penis.

"This could be a very important test case," said Geoffrey P. Miller, a professor of law at New York University who has written about legal and cultural issues of circumcision.

Josiah's father, James, died in 2001 in an automobile accident, but the boy's mother, Anita, 33, decided to proceed with the suit. The family's lawyer, Zenas Baer, said no sensible parent would willingly subject a child to circumcision knowing what it entailed.

"The practice is absolutely barbaric," Mr. Baer said.

The doctor who performed the circumcision, Sunita Kantak, and representatives of the hospital, the MeritCare Medical Center, issued this statement:

"Anita Flatt was given information about circumcision, and she asked to have her son circumcised. The circumcision was done because she requested it."

A hospital spokeswoman, Carrie Johnson, declined to elaborate. In court papers, the hospital said the suit was part of a crusade.

"This lawsuit is an attempt to abolish circumcision in North Dakota of newborn males with healthy foreskin," the hospital's lawyers wrote. "Plaintiffs want to change public policy so that only a competent male once he reaches adulthood, and not his parent, should be able to consent to circumcision."

Only 3 in 1,000 men not circumcised at birth choose to have the procedure, experts say.

David J. Llewellyn, a Georgia lawyer who represents plaintiffs in circumcision malpractice cases, said the hospital was correct in identifying what would be the next step for opponents of the practice.

"The question of whether or not a parent can consent at all will come rather quickly," Mr. Llewellyn said.

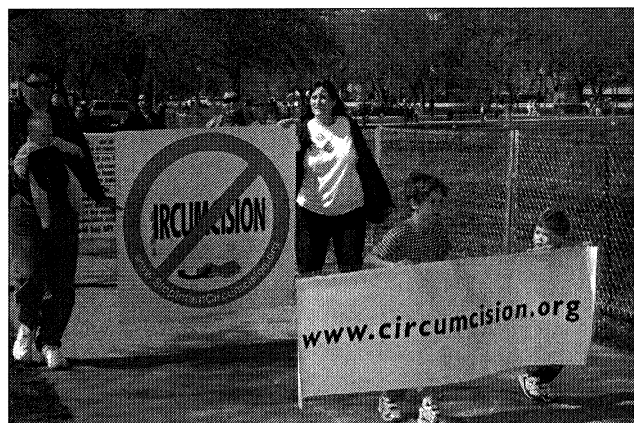
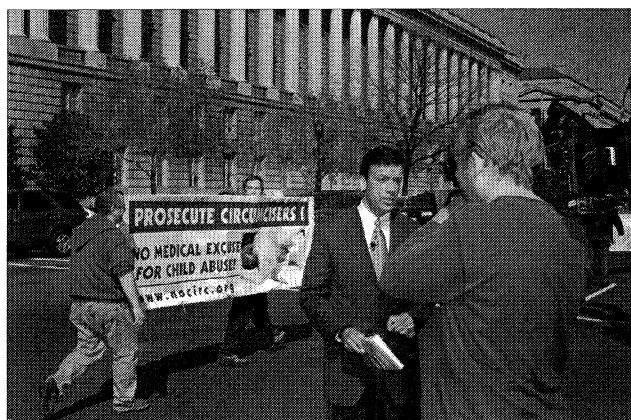
Judge Rothe-Seeger, who will preside over the trial in Cass County District Court, seemed to agree in a pretrial decision. She suggested that Josiah could sue his parents some day if he could show that they failed to act in his best interests.

About 1.2 million newborns are circumcised in the United States every year, at a cost of \$150 million to \$270 million, the American Academy of Pediatrics says. —

Washington, 2002

News media
cover the
demonstration.

Photo by
Chip Feise



Many families
participated in
the demonstration

Photo by
Chip Feise

Journal of Bioethics

(continued from page 2) other practices do not. The United Nations has acknowledged that at least in certain circumstances, male circumcision does constitute a human rights violation.

Benatar and Benatar point out that prophylactic immunizations of children are acceptable, despite the lack of clear and immediate medical necessity for the child, suggesting a possible parallel that might support circumcision. However, the case of circumcision sharply differs from that of immunization in that the public health "benefits" of the former are incomparably miniscule compared to the later, and also in that circumcision constitutes a much more serious invasion of the individual's body (Hodges 2002). Although prophylactic double mastectomy of girls whose family histories place them at high risk of breast cancer might result in substantial health benefits (which in fact would be orders of magnitude greater than circumcision's ostensible "benefits"), no one seriously suggests such an invasive procedure. Female breasts are sacrosanct; the male genitalia is not.

The authors apocryphally suggest that "there are costs to delaying circumcision until adulthood," although the only one they are able to point to is a tentative suggestion that "circumcision may be psychologically unpleasant in adults in ways that it is not in infants." Studies show just the opposite: relative to older children, infants probably suffer *more greatly* from the pain (Fernandez 1986). Moreover, researchers have documented the serious lifelong psychological damage inflicted by the procedure, which may include post-traumatic stress disorder, depression, and a host of other sequelae (Rinehart 1999).

Benatar and Benatar write that "[p]rior to the last century, it was not medical, but rather cultural and religious reasons for which circumcision was most often performed." In fact, medicalized circumcision began approximately 150 years ago, in response to anti-masturbation hysteria (Hodges 1996). It was thought that circumcision - both male *and* female - would stop "self-abuse" and thereby prevent most conditions including epilepsy and clumsiness. As recently as the mid-seventies, it was still possible to read articles in leading popular magazines (Isenberg 1976) and medical journals (Wollman 1973) recommending *female* circumcision. This is a shameful legacy that the medical community would prefer be forgotten.

The Benatars come closer to the truth when they examine circumcision in cultural context. To their credit, they note the strangeness of removal of the foreskin. They even go on to suggest some of the

disjunctions between the sharply divergent views in our culture of FGM and circumcision (which also, incidentally, mystify Europeans). Their mention of footbinding is also appropriate, since like FGM and circumcision it was legally and morally justified in its own culture and roundly rejected by outside cultures. Each culture practicing a form of childhood body mutilation fails to see the harm of its own practice while recoiling in horror from other culture's different practices (Shweder 2002).

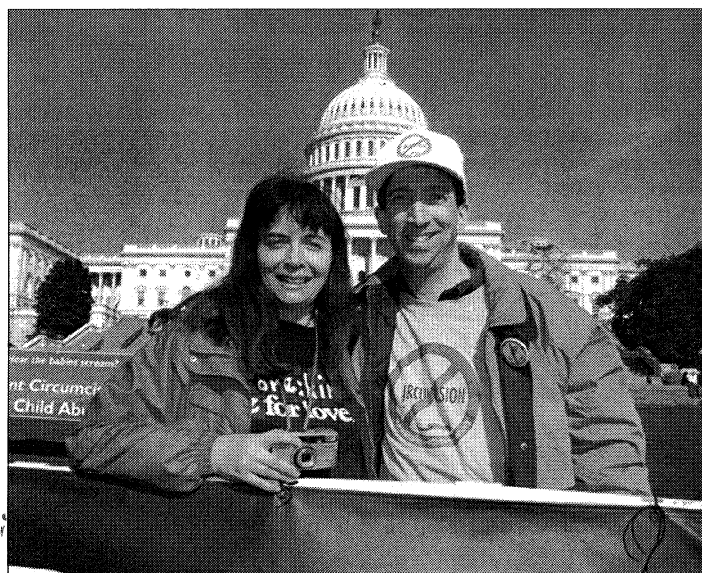
Lawsuits over this issue are experiencing increased success in recent years. Male circumcision is drawing the concerned attention of medical ethicists (Somerville 2000), legal scholars (Smith 1998), and the United Nations. As American taxpayers and legislators are coming to realize that tax dollars are being squandered on a worse than useless medical procedure, states are refusing to use scarce Medicaid dollars to fund circumcision. In 2002, in fact, four

Arizona, Missouri, North Carolina, and Montana — stopped Medicaid funding for circumcision, bringing the total that do not pay for the procedure to ten. Several more states are expected to follow suit this year.

As judicial, legislative and public awareness about this medically unjustified and harmful procedure grows, we can anticipate that the Victorian relic of medicalized circumcision will be discarded along with the bleeding of patients and other antiquated practices. In the meantime, given the thicket of ethical, legal, human rights, and medical issues, the most prudent path is to at least defer this procedure until the boy reaches adulthood and can decide for himself as a competent adult. It may be an indication of the procedure's long-term lack of viability that no more than one out of every 200 American men opts for circumcision in adulthood. Time will tell.

(Footnotes omitted).

*Demonstrators at the Capitol, Washington, D.C., 2002
Photo by Chip Feise*



Nurses for the Rights of the Child, Washington, D.C., 2002 Photo by Chip Feise

