

TESTIMONY OF MICHAEL J. NORTON

Regarding House Bill 16-1200, "Concerning Providing Enforcement Authority
To the Attorney General Over Unlawful Transfers of Fetal Tissue from an Induced
Termination of Pregnancy"

April 4, 2016

My name is Michael J. Norton. I am an attorney with the Denver law firm of Thomas N. Scheffel & Associates, P.C. I also serve as president and general counsel of the Colorado Freedom Institute.

The Colorado Freedom Institute is a nonprofit legal organization dedicated to protecting religious freedom for Coloradans and for people across America. The Colorado Freedom Institute also fights for the sanctity of human life and for traditional marriage and families.

Today, I am privileged to represent Colorado Family Action. The mission of CFA is to advocate for laws and policies that will make Colorado a safe, prosperous, and wholesome climate for families.

On behalf of Colorado Family Action, I ask you to support HB 16-1200.

CURRENT COLORADO LAW

In 2000, several legislators in Colorado recognized the depravity associated with the harvesting and sale of body parts of aborted babies and passed legislation to make such conduct illegal in the State of Colorado. That legislation was codified as C.R.S. § 25-2-111.5: "Transfer of fetal tissue from induced termination of pregnancy." A copy of this law is attached.

The legislative declaration of C.R.S. § 25-2-111.5 states: "The general assembly determines and declares that the acquisition, receipt, or other transfer of human fetal tissue for valuable consideration affects intrastate commerce and is not in the public interest of the residents of Colorado. Therefore, the general assembly finds, determines, and declares that the exchange for valuable consideration of human fetal tissue should be prohibited." Notably, under Colorado law, "valuable consideration" expressly includes "[a]ny agreement to purchase fetal tissue for a profit." C.R.S. § 25-2-111.5 (2)(IV).

For the reasons detailed below, current Colorado law is ineffective and needs to be changed. HB 16-1200 should do just that.

**DENVER'S PLANNED PARENTHOOD OF THE
ROCKY MOUNTAINS CAUGHT HARVESTING AND
SELLING BODY PARTS OF ABORTED BABIES**

In 2015, we learned that Denver's Planned Parenthood of the Rocky Mountains was making a profit by harvesting and trafficking the hearts, brains, lungs, eyes and livers of babies whose lives Planned Parenthood has ended by abortion.

This gruesome revelation came from a series of videos released by an organization called the Center for Medical Progress¹ which demonstrated that various affiliates of Planned Parenthood Federation of America, including a video taken at Denver's Planned Parenthood of the Rocky Mountains, ~~These videos~~ demonstrated that affiliates of Planned Parenthood Federation of America, including Denver's Planned Parenthood of the Rocky Mountains, had been actively engaged in harvesting and trafficking, for profit, body parts of babies whose lives Planned Parenthood has ended by abortion.

In the first video released by the Center for Medical Progress, Planned Parenthood Federation of America executive Deborah Nucatola was shown in a Los Angeles restaurant describing over lunch how Planned Parenthood affiliates such as Denver's Planned Parenthood of the Rocky Mountains facilitated trafficking in the organs of aborted unborn babies, all while enjoying her salad and sipping wine. Nucatola discussed prices and confessed that Planned Parenthood's abortionists were happy to alter abortion procedures in order to further the organ harvesting and trafficking program. One such way, she related, was by using an ultrasound where ordinarily it would not be used so as to prevent damage to valuable organs of aborted babies.

In her own words, Nucatola can be heard saying:

So then you're just kind of cognizant of where you put your graspers, you try to intentionally go above and below the thorax, so that, you know, we've been very good at getting heart, lung, liver, because we know that, so I'm not gonna crush that part, I'm going to basically crush below, I'm gonna crush above, and I'm gonna see if I can get it all intact. And with the

¹ These videos may be accessed at the Center for Medical Progress's website at <http://www.centerformedicalprogress.org/cmp/investigative-footage/>

calvarium, in general, some people will actually try to change the presentation so that it's not vertex, because when it's vertex presentation, you never have enough dilation at the beginning of the case, unless you have real, huge amount of dilation to deliver an intact calvarium.²

In order to get the full impact of Nucatola's statements, it is necessary to understand the terminology used. "Calvarium" is medical jargon for "head." "Vertex presentation" means head-first delivery, *i.e.*, the normal presentation. What Nucatola is referring to is repositioning the baby in the womb to enable more effective organ harvesting by Planned Parenthood abortionists. In fact, this is also the repositioning which occurs in the barbaric and unlawful procedure known as "partial-birth" abortions.

These videos have exposed the ghoulish underbelly of Planned Parenthood. In the video taken at Denver's Planned Parenthood of the Rocky Mountains, Inc., released by the Center for Medical Progress on July 30, 2015, Rocky Mountain Planned Parenthood's vice president and medical director, Savita Ginde was captured saying, "[We'd] have to do a little bit of training with the providers on making sure that they don't crush" aborted babies' organs.³

**THE VIDEO TAKEN AT DENVER'S PLANNED PARENTHOOD OF THE
ROCKY MOUNTAINS, INC., PROVIDES PROBABLE CAUSE TO
BELIEVE THAT COLORADO LAW WAS VIOLATED**

Denver's Planned Parenthood of the Rocky Mountains was caught red-handed in engaging in a gross, disgusting, barbaric and probably illegal practice. Later, Planned Parenthood's CEO Cecile Richards, in a virtual admission of guilt, announced that Planned Parenthood affiliates would no longer accept any "reimbursement" for sales of fetal tissue. Not that Planned Parenthood has done anything illegal, said Richards, but Planned Parenthood is going to stop taking money for baby body parts.

No one really knows whether Planned Parenthood affiliates, including Denver's Planned Parenthood of the Rocky Mountains, have stopped taking money for trafficking in harvested baby parts. Powerful government allies, including allies here in Colorado,

² Id., Transcript, July 25, 2013, p. 11.

³ Center for Medical Progress, Transcript, April 2, 2015, Planned Parenthood of the Rocky Mountains, Inc., p. 14.

have so far shielded Planned Parenthood from any accountability for this gruesome conduct.

It is important to recognize that these videos do not simply create a generalized queasiness at surgery and blood. The reaction to these videos is a very specific disgust, informed by reason and experience. By reason, we know that an unborn baby's humanity is what makes her organs valuable. From experience we know that, from seeing images on the ultrasound monitor and after, what is being birthed is more than just a clump of tissue or, as Planned Parenthood instructs its abortionists to call aborted babies, "products of conception." The issue is whether Colorado, as a civilized society, should allow the harvesting of body parts of aborted babies to be trafficked in the market place as though there were agricultural commodities.

Indeed, no matter how one stands on the issue of abortion, no one who has viewed these videos has come away thinking that Planned Parenthood's harvesting and selling of the lungs, hearts, brains, or other organs of unborn babies is consistent with the values of our American society. Those who have taken time to view these videos know beyond a shadow of a doubt that this should not be happening in America.

**NO COLORADO OFFICIAL TAKES RESPONSIBILITY
FOR THE ENFORCEMENT OF CURRENT COLORADO LAW**

Unfortunately, to date, no Colorado Executive Branch agency has taken any responsibility for the enforcement of current Colorado law.

When pressed to investigate the patently illegal conduct by Denver's Planned Parenthood of the Rocky Mountains in the Center for Medical Progress video, the Colorado Attorney General acknowledged⁴ that she was "closely monitor[ing] developments related to this controversy." Nevertheless, the Attorney General contended that, unless she was specifically requested by the Governor to investigate this "controversy," she "lack[ed] authority to enforce" the provisions of C.R.S. 25-2-111.5.

⁴ Attorney General Coffman's October 15, 2015 letter expressing her view that her department lacks legal authority to investigate the harvesting and trafficking of the body parts of aborted babies is attached.

Of course the Governor, ever the friend and protector of Denver's Planned Parenthood of the Rocky Mountains, has not bothered to ask the Attorney General to investigate this "controversy." And, it cannot be expected that he will.

Likewise, the Colorado Department of Public Health and Environment, an agency under Governor Hickenlooper's authority, has stonewalled requests that it investigate these gruesome practices by Denver's Planned Parenthood of the Rocky Mountains. It is not known whether any official of the Colorado Department of Public Health and Environment has even bothered to view the Center for Medical Progress videos, including the video depicting the patently illegal conduct by Denver's Planned Parenthood of the Rocky Mountains. Astonishingly, however, the Colorado Department of Public Health and Environment has taken the position that "there is no credible evidence of wrongdoing" by Denver's Planned Parenthood of the Rocky Mountains.

CONCLUSION

Executive Branch officials of the State of Colorado, including the Colorado Attorney General and the Colorado Department of Public Health and Environment need to recognize that these barbaric practices are not consistent with Colorado values and quit protecting Planned Parenthood. If this bill is passed, it should be expected that the Attorney General would then launch an investigation into the harvesting and selling of the lungs, hearts, brains, or other organs of unborn babies.

Colorado's Attorney General needs to be given whatever authority she thinks she needs to investigate and bring an end to these outrageous practices.

We believe HB 16-1200 will help do just that. We urge its passage.

Thank you.

APPENDIX I

FEDERAL LAW

Federal law prohibits the harvesting and trafficking of fetal body parts for profit, and provides for criminal penalties for those who knowingly ignore the law. 42 U.S.C. § 289g-2. The law expressly states that it is unlawful for any person to “knowingly acquire, receive, or otherwise transfer any human fetal tissue for valuable consideration if the transfer affects interstate commerce.”⁵ 42 U.S.C. § 289g-2(a). It is further unlawful “for any person to solicit or knowingly acquire, receive, or accept a donation of human fetal tissue for the purpose of transplantation of such tissue into another person if the donation affects interstate commerce, the tissue will be or is obtained pursuant to an induced abortion, and . . . the person who solicits or knowingly acquires, receives, or accepts the donation has provided valuable consideration for the costs associated with such abortion.” 42 U.S.C. § 289g-2(b)(3).

The law prohibits the acquisition, receipt or transfer of human fetal tissue for “valuable consideration,” which does “not include reasonable payments associated with the transportation, implantation, processing, preservation, quality control, or storage of human fetal tissue.” 42 U.S.C. § 289g-2 (e)(3).

Federal law also establishes substantial limitations on the use of fetal tissue for “research.” 42 U.S.C. § 289g-1. The informed consent of the mother of the unborn child is required. 42 U.S.C. § 289g-1(b). The law also prohibits any “alteration of the timing, method, or procedures used to terminate the pregnancy . . . solely for the purposes of obtaining the tissue.” 42 U.S.C. § 289g-1(c)(4).

⁵ “Interstate commerce” has been construed extremely broad by the U.S. Department of Justice. See, e.g., Jonathan H. Adler, “How the Justice Department is using the Commerce Clause to criminalize forcible beard cutting as a hate crime,” *The Washington Post*, June 24, 2014; available at <https://www.washingtonpost.com/news/volokh-conspiracy/wp/2014/06/24/how-the-justice-department-is-using-the-commerce-clause-to-criminalize-forcible-beard-cutting-as-a-federal-hate-crime/>.

APPENDIX II

PLANNED PARENTHOOD FEDERATION OF AMERICA

The national headquarters organization in the Planned Parenthood enterprise is Planned Parenthood Federation of America (“PPFA”). PPFA serves as the national management and policy center for all Planned Parenthood Affiliates throughout the country, including the Denver affiliate, Rocky Mountain Planned Parenthood. PPFA has numerous affiliates in the United States, and each affiliate has multiple abortion facilities.

There are currently 59 Planned Parenthood Affiliates in the United States.⁶ PPFA directs all the activities, programs, services, and pronouncements of each of its Affiliates.⁷ Pursuant to PPFA’s bylaws⁸, Planned Parenthood Affiliates must, among other things: (a) “conform[] to the purposes, written policies and standards of PPFA”; (b) “develop a program to further those purposes and policies”; (c) “provide services consistent with the purposes of PPFA”; and (d) financially support PPFA.

While Planned Parenthood represents itself as a health care operation concerned primarily with the well-being of women, Planned Parenthood's own numbers persuasively document a different focus. According to the most recently available annual report from Planned Parenthood, its affiliates performed 327,653 abortions in 2013-2014. That equates to one abortion every 96 seconds. Abortions and abortion-related services constituted 94% of Planned Parenthood Affiliates’ pregnancy services, while prenatal care and adoption referrals accounted for only 5% (18,684) and 0.5% (1,800), respectively.⁹

⁶Planned Parenthood Federation of America, “Who We Are,” (November 6, 2015),

<https://www.plannedparenthood.org/about-us/who-we-are/planned-parenthood-at-a-glance>

⁷ By way of example, it has been reported that Planned Parenthood Federation of America, Inc (hereinafter “PPFA”) has mandated that all of its affiliates must provide abortions by the end of 2013. See New York State Right to Life, *Planned Parenthood Fast Facts*, <http://nysrighttolife.org/planned-parenthood-fast-facts>; Baptist Press, *P. Parenthood: affiliates must do abortions*, Townhall.com (January 12, 2011), http://townhall.com/news/religion/2011/01/12/p_parenthood_affiliates_must_do_abortions.

⁸ Amended and Restated Bylaws of the Planned Parenthood Federation of America, Inc. As Amended by the Membership at Its Meeting on March 29, 2008, Article XI.

⁹ PPFA 2013-2014 Annual Report; see also Susan B. Anthony List, *Fact Sheet: Planned Parenthood’s 2013-2014 Annual Report*, http://www.sba-list.org/wp-content/uploads/2015/10/12.31.14fact_sheet_pp_2013_2014_annual_report.pdf

Although Planned Parenthood claims that millions of women will be “deprived of access to basic health care” if Planned Parenthood is defunded by federal and state governments, the facts expose that claim to be false. There are thousands of health care centers that provide comprehensive health care to women, including mammograms, which Planned Parenthood does not, as it is not properly licensed, provide. This is true both in Colorado, and across the country.¹⁰

Planned Parenthood frequently cites to its cancer screening and prevention programs in an effort to redirect the focus from the truth that Planned Parenthood is really all about abortion and bottom-line financial profit. However, Planned Parenthood's own numbers belie this claim. For example, over the past five years, Planned Parenthood's cancer screening and prevention programs have decreased by 49%. Breast exams have decreased by 41% during that same time period, and prenatal services have decreased by more than 50%.¹¹

During PPFA's fiscal year 2013-2014, PPFA received over \$528 million in federal taxpayer funding in the form of government grants, contracts, and Medicaid reimbursements. Consequently, taxpayer funds constituted 41% of PPFA's reported overall revenue. PPFA reported over \$1.4 billion in assets in its most recent annual report.¹²

¹⁰ See Exhibits 11-13, Alliance Defending Freedom, November 9, 2015, Hearing Exhibits Notebook. See also <http://getyourcare.org>.

¹¹ Family Research Council, *The Real Planned Parenthood: Leading the Culture of Death* (2015), <http://downloads.frc.org/EF/EF11B52.pdf>. PPFA annual reports for the past several years are available for review and comparison at <https://www.plannedparenthood.org/about-us/annual-report>.

¹² *Id.*

APPENDIX III

PLANNED PARENTHOOD OF THE ROCKY MOUNTAINS

PPFA's affiliate in Colorado is Planned Parenthood of the Rocky Mountains, Inc. There are 21 Planned Parenthood facilities in Colorado.¹³ Although in November 1984, the voters of the State of Colorado approved an amendment¹⁴ to the Colorado Constitution that expressly prohibited the use of public funds, either directly or indirectly, to pay for induced abortions, millions of taxpayer dollars have flowed to Planned Parenthood of the Rocky Mountains over the past several years. Indeed, until 2001, prior Colorado Governors ignored this voter approved mandate. Then, upon the election of Governor Ritter, Colorado again ignored this mandate.

According to Colorado government records, including information obtained through Colorado's "Transparency Online Project," Colorado government agencies paid to or provided Rocky Mountain Planned Parenthood with **\$1,944,541.99** in public funds during fiscal year **2009**. According to those same records, Colorado government agencies distributed **\$2,300,469.27** in public funds to Planned Parenthood in 2010, **\$3,315,586.98** in fiscal year 2011, **\$2,734,098.62** in fiscal year 2012, **\$3,454,678.29** in fiscal year 2013.¹⁵

It is this funding of abortions performed by Planned Parenthood that has been challenged in a lawsuit we filed on behalf of Jane E. Norton, the former Executive Director of the Colorado Department of Public Health and Environment. That case, *Norton v. Hickenlooper, et al.*, is currently pending before the Colorado Court of Appeals.

Despite efforts by Planned Parenthood of the Rocky Mountains to hide the extent of its abortion services from Colorado taxpayers, it is beyond doubt that Planned Parenthood of the Rocky Mountains is performing abortions . . . and a lot of them. While former Planned Parenthood employees have confirmed that the national abortion giant has abortion quotas for affiliates, this was substantiated here in Colorado when a

¹³Planned Parenthood of the Rocky Mountains, (November 6, 2015), <https://www.plannedparenthood.org/health-center/CO>.

¹⁴ Colo. Const., article V, Sec. 50.

¹⁵ See Exhibit 28, Alliance Defending Freedom, November 9, 2015, Hearing Exhibits Notebook.

photograph surfaced of a Planned Parenthood “certificate” that was “awarded” to the Planned Parenthood facility in Aurora “For Exceeding Abortion Visits.”¹⁶ Additionally, Dr. Savita Ginde, Vice President and Medical Director of Planned Parenthood of the Rocky Mountains, was recorded on video saying that at Planned Parenthood’s Denver abortion facility, reportedly one of the largest Planned Parenthood abortion facilities in the Nation, they perform 18 to 25 abortions *per day*.¹⁷

The fact that Planned Parenthood of the Rocky Mountains itself performs abortions is confirmed through a recent civil case involving the failure of a Planned Parenthood abortionist, nurses and other staff members to report sexual abuse and comply with Colorado law. A civil lawsuit alleged the Planned Parenthood employees failed to inquire about or report the suspected sexual abuse of a 13-year-old child by her stepfather.¹⁸ The sex abuse of this child began when she was only six years old.¹⁹ When it resulted in the child becoming pregnant at age *thirteen*, the abuser took her to the Planned Parenthood abortion facility in Denver. An abortion was performed without her parents’ knowledge or consent, even though parental notice of such an event is required by Colorado law.²⁰ According to the lawsuit, not a single Planned Parenthood employee asked about potential sex abuse despite knowing that the child was only 13 years old and that sex abuse was evident by virtue of her pregnancy.²¹ After the abortion, the Planned Parenthood facility reportedly sent the child home with her abuser where she continued to be abused by this same predator for months.²² Publicly available court documents filed in that case reveal that Planned Parenthood has a “Don’t Ask, Don’t Tell” policy when it comes to children and the age of their sexual partners, and that Planned Parenthood of the Rocky Mountains itself provides “abortion care.”²³ After the judge opened up the

¹⁶ Cortney O’Brien, *Sick: Planned Parenthood Gives Award to Abortion Clinic that Exceeds Expectations*, Townhall.com (July 1, 2014), <http://townhall.com/tipsheet/cortneyobrien/2014/07/01/sick-planned-parenthood-gives-award-to-abortion-clinic-that-exceeds-expectations-n1857708>.

¹⁷ Center for Medical Progress, *Transcript: Planned Parenthood VP Says Fetuses May Come Out in Tact, Agrees Payments Specific to the Specimen*, p. 2 (“So, we usually see about twenty, well from eighteen on a light day but up to twenty five patients in a day. Obviously, not in the gestational age that you’re interested in.”), <http://www.centerformedicalprogress.org/cmp/investigative-footage/>.

¹⁸ Third Amended Complaint, *Cary Smith (Sisk) v. Planned Parenthood of the Rocky Mountains*, Case No. 2014CV31778, Denver Dist. Ct., <http://www.adfmedia.org/files/SiskThirdAmendedComplaint.pdf>.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *See, e.g.*, Answer; Motion to Amend (re: Punitive Damages); Order Granting Motion to Amend, *Cary Smith (Sisk) v. Planned Parenthood of the Rocky Mountains, et al.*, Denver Dist. Ct., Case No. 2014 CV 21778; various deposition

possibility of punitive damages, Planned Parenthood settled the case for a substantial, but undisclosed sum.

Lastly, it is evident from recently released undercover video footage that not only is Planned Parenthood of the Rocky Mountains itself performing abortions, likely in violation of the Colorado Constitution, but it also has engaged, or is willing to engage, in the harvesting and sale of human fetal body parts. This must be investigated.

transcripts, *Cary Smith (Sisk) v. Planned Parenthood of the Rocky Mountains, et al.*, Denver Dist. Ct., Case No. 2014 CV 21778.

West's Colorado Revised Statutes Annotated
Title 25. Health
Vital Statistics
Article 2. Vital Statistics (Refs & Annos)

C.R.S.A. § ~~25-2-111.5~~

§ ~~25-2-111.5~~. Transfer of fetal tissue from induced termination of pregnancy--legislative declaration

Currentness

(1) The general assembly hereby finds, determines, and declares that the United States congress enacted 42 U.S.C. sec. 289g-2, prohibiting the acquisition, receipt, or other transfer of human fetal tissue for valuable consideration if the transfer affects interstate commerce. The general assembly determines and declares that the acquisition, receipt, or other transfer of human fetal tissue for valuable consideration affects intrastate commerce and is not in the public interest of the residents of Colorado. Therefore, the general assembly finds, determines, and declares that the exchange for valuable consideration of human fetal tissue should be prohibited.

(2)(a) No physician or institution that performs procedures for the induced termination of pregnancy shall transfer such tissue for valuable consideration to any organization or person that conducts research using fetal tissue or that transplants fetal tissue for therapeutic purposes. For the purposes of this section, "valuable consideration" includes, but is not limited to:

(I) Any lease-sharing agreement in excess of the current market value for commercial rental property for the area in which the physician's or institution's place of business is located;

(II) Any lease-sharing agreement that is based on the term or number of induced terminations of pregnancy performed by such physician or institution;

(III) Any moneys, gifts in lieu of money, barter arrangements, or exchange of services that do not constitute reasonable payment associated with the transportation, implantation, processing, preservation, quality control, or storage of human fetal tissue as defined in 42 U.S.C. sec. 289g-2; or

(IV) Any agreement to purchase fetal tissue for a profit.

(b) Nothing in this subsection (2) shall prevent the disposition of fetal tissue from an induced termination of pregnancy pursuant to part 4 of article 15 of this title.

(3) Any physician or institution that violates subsection (2) of this section shall be fined by the state registrar not more than ten thousand dollars, depending upon the severity of the violation.

(4) The department of public health and environment may promulgate rules related to enforcement activities necessary to implement subsections (2) and (3) of this section.



CYNTHIA H. COFFMAN
Attorney General

DAVID C. BLAKE
Chief Deputy Attorney General

MELANIE J. SNYDER
Chief of Staff

FREDERICK R. YARGER
Solicitor General

STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

October 15, 2015

Michael J. Norton
Senior Counsel
Alliance Defending Freedom
Greenwood Corporate Plaza, Building No. 3
7951 E. Maplewood Avenue, Suite 100
Greenwood Village, CO 80111

Dear ~~Mr. Norton~~ ^{Mike}:

Thank you for your letter dated July 21, 2015 addressed to Governor Hickenlooper, in care of my office.¹ I am also aware of other communications and concerns expressed by members of your organization directly to my office related to the controversy surrounding Rocky Mountain Planned Parenthood, Inc.'s receipt of public dollars and the alleged illegal sale of fetal tissues. The office continues to closely monitor developments related to this controversy, but as has been explained, we lack legal authority to act independently of other government entities that are specifically authorized by law to address your complaints.

The transfer for valuable consideration of fetal tissue from an induced termination of pregnancy is illegal in Colorado. § 25-2-111.5, C.R.S. However, the Office of the Attorney General lacks authority to enforce this provision of law. When the law was enacted in 2000, the General Assembly assigned specific authority for enforcement to the Colorado Department of Public Health and Environment (CDPHE). § 25-2-111.5 (3)-(4), C.R.S. (empowering the state registrar, which is housed within CDPHE, to fine physicians or institutions that violate the statute and granting CDPHE authority to promulgate rules "related to enforcement activities necessary to implement" the statute). Under well-established canons of statutory construction, the specific assignment of enforcement authority to a particular government agency trumps general enforcement

¹ I am responding on my own behalf and not on behalf of Governor Hickenlooper.

authority under the common law.² When the General Assembly assigned authority to CDPHE to enforce the statute and to the relevant district attorney to prosecute alleged violations of the law, it simultaneously removed any potential authority of my office to investigate or enforce that law. That was the policy choice made by the General Assembly in 2000, and any concerns about the wisdom of that decision should be directed to the General Assembly, which can revisit it at any time.

Further, the Attorney General's general authority to prosecute crimes committed in Colorado has also been limited by the General Assembly. *People ex rel. Tooley v. District Court*, 549 P.2d 774, 776-77 (1976) ("[I]n the absence of a command from the governor or the general assembly, the attorney general is not authorized to prosecute criminal actions."). If the General Assembly were to revisit the Attorney General's authority to bring independent prosecutions without reliance on referral from executive branch agencies or the approval of a district attorney, our office would exercise such authority with due diligence. As the drafters of our Constitution understood when they created a plural executive, checks and balances apply in state government as well as at the federal level. But in Colorado, those checks and balances often involve policy determinations made by the legislature. As the chief law enforcement officer in the State, the Attorney General is bound foremost by the rule of law, which restricts my ability to act independently under the circumstances.³

² "If a statute creates legal duties and provides a particular means for their enforcement, the designated remedy excludes all others." *Minnick v. Denver*, 784 P.2d 810, 812 (Colo. App. 1989); see also *Henry v. Kemp*, 829 P.2d 505, 506 (Colo. App. 1992) ("[I]f a statute provides a specific means of enforcing legal duties that were unknown at common law, that statutory remedy will be considered exclusive."). This reflects the background rule that specific statutory provisions control over general legal principles. See, e.g., § 2-4-205, C.R.S. ("[A] special or local provision prevails as an exception to [a] general provision, unless the general provision is the later adoption and the manifest intent is that the general provision prevail."); *Telluride Resort & Spa, L.P. v. Colo. Dep't of Revenue*, 40 P.3d 1260, 1265 (Colo. 2002) ("If different statutory provisions cannot be harmonized, the specific provision controls over the general provision.").

³ While it is clear that my office lacks enforcement authority under the statute, it is likely that the district attorney in the jurisdiction in which an alleged violation occurred has criminal jurisdiction to investigate, and if the facts justify, prosecute a case for criminal penalties under the statute. See § 25-2-118(2), C.R.S. (creating criminal penalties for willful violations of Title 25, Article 2). District attorneys are independently authorized to prosecute criminal matters within their jurisdictions. § 20-1-102, C.R.S. (district attorneys "shall appear on behalf of the state in all indictments, actions, and proceedings which may be pending in the district court in any county within his district wherein the state or the people thereof or any county of his district may be a party.").

The Alliance Defending Freedom also has raised the issue of whether public dollars received by Rocky Mountain Planned Parenthood, Inc. indirectly fund abortions in violation of Article V, Section 50 of the Colorado Constitution. As you are aware, this issue is currently in litigation initiated prior to my taking office, and that litigation is pending before the Colorado Court of Appeals in *Norton v. Rocky Mountain Planned Parenthood, Inc., et al.* My office continues to defend the Governor of Colorado in that lawsuit, as it has done since 2013. This office has and will continue to comply with its legal mandate. But to be clear, the policy question at issue is not mine to make.

I appreciate your concerns and recognize the strongly held beliefs behind them, but under the current law of the State of Colorado, redress of your complaints can only be found with those entities of state government with authority to act.

Most sincerely yours,

A handwritten signature in black ink, appearing to read "Cynthia H. Coffman". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Cynthia H. Coffman
Attorney General

cc: The Honorable John Hickenlooper, Governor of the State of Colorado