August 12, 1982

Mr. Morris B. Abram Chairman President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research Suite 555 2000 K Street, N.W. Washington, D.C. 20006

Dear Mr. Abram:

Representative Henry Hyde has forwarded to me your letter to him of June 3, 1982, and requested that I furnish you with further material on the subject of the ethical issues regarding care of defective newborn infants. I share a concern of those who view many of the statements contained in the staff background paper prepared for the Commission's hearing on January 9, 1982, as insensitive to the needs and aspirations of handicapped children. In your letter to Mr. Hyde, you stated that:

"When a Commission undertakes the sort of basic inquiry in which we are engaged, it is necessary for us to go back to fundamental propositions and to examine each one, even ones which seem self-evident. As a fellow lawyer, I am sure you are familiar with the statements which are made arguendo. Such propositions are tested out merely as a way of refuting them."

I was particularly troubled by the statement on page 6 of the staff paper which reads:

"Even if one believes that an individual infant is a person and that the moral protections and duties usually associated with personhood attach to such an infant, there remain a number of questions. These can be grouped under two general categories -- decisions based on the best interest of the

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infant and those based on the interests of third parties."

I did not see in the staff paper a treatment of this statement as you suggest, that is, as a proposition which is tested out merely as a way of refuting it. I look forward to reading a strong refutation of this position in the final Commission report.

In general, I think that the questioning of fundamental propositions as part of the Commission's mandate would have its limitations. For example, I would assume that in deliberation of the Commission regarding the ethical and moral parameters of government provision of health services the Commission would not question what I would consider to be a fundamental proposition that government services should not be made available on the basis of race or that certain people may be excluded from government services due to their racial background. Perhaps some fundamental propositions are more fundamental than others.

In 1976 I addressed the American Academy of Pediatrics as the recipient that year of the Academy's William E. Ladd medal. I took that occasion to discuss the medical and ethical dimensions of the treatment-decisions regarding the care of newborn infants with a defect incompatible with life. That address has been reprinted in the latest issue of the <u>Human Life Review</u>. I believe it most clearly states my philosophy and concerns regarding this issue and I have taken the liberty of enclosing a copy of it for you.

I would be happy to discuss this matter with you and members of the Commission at your convenience.

Sincerely yours,

C. Everett Koop, M.D. Surgeon General

cc: Mr. Henry Hyde

bcc: Mr. Carl Anderson Mr. David Swoap

Prepared by:CEK:vsd, 8/12/82

cc: EXSEC and CLO

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