



Specialists In Reproductive Medicine & Surgery, P.A.

Craig R. Sweet, M.D.

Board Certified in Reproductive
Endocrinology & Infertility and
Obstetrics & Gynecology

Dedicated to Excellence in Reproductive Medicine

This is a draft of Dr. Sweet's presentation:

ABANDONED LIFE: What should be done with abandoned frozen embryos?

My name is Craig Sweet and I am a Reproductive Endocrinologist. While my specialty is Obstetrics & Gynecology, my subspecialty is in Reproductive Endocrinology, Infertility & Genetics. My practice, Specialists in Reproductive Medicine & Surgery, recently celebrated our tenth anniversary in practice here in Fort Myers.

My patients include newborns through menopause. The bulk of my practice, however, involves infertile couples. Rabbi Diamond knew this when he originally asked me to speak on a related topic. After additional discussion, he thought that I should speak on the issue of our abandoned frozen embryos.

Following the tremendous loss of life in New York, Pennsylvania and

Washington, I also thought this an excellent topic. In a time where a few

have taken the lives of so many, it is an ideal time to discuss the fate of our abandoned frozen embryos.

The basic process of In Vitro Fertilization (IVF) involves the retrieval of about a dozen eggs from the wife, which are then fertilized by the husband's sperm. We then grow the embryos for a number of days wherein a few healthy embryos are gently transferred into the wife's womb. Success rates vary, but our general "Take-Home-Baby-Rate" is about 50%. We have about 650 pregnancies in the practice with the greatest portion resulting from the IVF procedure.

In about one-half of IVF procedures, excess embryos are frozen for future use, that is, cryopreserved in liquid nitrogen. If the couple is successful the first time with the fresh embryos, the frozen embryos can be transferred to create future siblings. If the couple is not successful with the fresh embryos, it is less expensive to thaw and transfer the frozen embryos.

It should be made clear that these embryos resemble a ball of cells. Each embryo is made of four to sixty-four cells. Although not visible to the naked eye, these very early embryos most resemble a transparent microscopic golf ball. These embryos do not appear human, but certainly possess great potential.

Over the past ten years, my practice has cryopreserved over 1400 embryos.

Without boring you with detailed statistics:

- About 35% were transferred (493) with many families expanded through the process.
- About 41% are still frozen for future use by the genetic parents (n=579).
- About 24%, or 336 embryos are placed in the “Alternative Use” category.

Within this “Alternative Use” category, nearly half of the frozen embryos were destroyed as instructed by the parents (45%, n=152). While sounding harsh, many of these couples were successful with their first IVF procedure

and had a full family to show for it. They did not feel it appropriate to expand their family further and decided to destroy their embryos. While not palatable to all, in a country that allows for the elective termination of a pregnancy, this seems to be well within the rights of the parents to request the destruction of the embryos. While we far preferred to use the frozen embryos in a more “reproductive” manner, we abided by the parent’s wishes.

About a quarter of the “Alternative Use” embryos (26%, n=88) have been or will be donated to needy couples. This is truly wonderful gift. Some of these have already been transferred while many others await parents.

About 10% (n=35) were donated to science. In the past, these were used to train the laboratory personnel. This step remains important in initiating and maintaining the high level of skills required in running a successful reproductive laboratory. After thawing and training, these embryos were eventually destroyed.

Much to my amazement, we started seeing some of the embryos totally abandoned by their parents. We now have 61 abandoned embryos from six couples. Essentially, just over 4% (4.4%, 61/1400) of all of our cryopreserved embryos are abandoned.

The reasons for the abandonment remain unclear since we cannot find the couples to discuss the issues. My practice has spent many hours over a number of years trying to track these reluctant parents down, but to no avail.

Prior to initially freezing their embryos, the genetic parents read and signed a “Consent for Cryopreservation”. My original consent stated that the embryos would eventually become the property of the practice and would be thawed and allowed to degenerate should they be abandoned. I stated clearly that they would not be donated to needy couples or used for research.

While drafting this original consent, I tried to place myself in the genetic parent’s situation. How would I feel if my abandoned embryos were successfully transferred to another couple? How would I feel if I never had

children, but some strange parents were raising my only children? The prospect did not sit too well with me. Yet another reason for the decision involved the media. Perhaps I am wrong, but I thought they would chastise me for transferring the embryos without knowledge of the original parents, even after they were abandoned.

Interestingly, this original consent was also drafted well before anyone abandoned any embryos. I never really thought that anyone would really do so. Obviously, I was wrong.

In 1996, the American Society of Reproductive Medicine provided guidelines from their Ethics Committee stating that the embryos would be officially abandoned if five years passed since the last contact with their parents. It was their suggestion that the embryos then be destroyed. They wrote, and I quote, “In no case without prior consent, should embryos deemed abandoned be donated to other couples or be used in research.” One month after this guide was released, over 3,300 abandoned embryos from

900 couples were destroyed in England. At the time, I did not agree with the legislated decision. I thought it was such a waste of potential life.

Within the past few years, it has become evident that embryos can be used for stem cell research. The thousands of embryos destroyed in England could have been used for this process.

While I strongly adhere to the guidelines of the ASRM, they are only guidelines and are now already outdated by five years. I believe the issue is still open to discussion and interpretation.

An important point in this entire discussion involves the level of respect we must pay to the embryos. There are certain religions, such as Catholicism, that feel the embryos should be held at essentially the same esteem and respect as all of you.

In general, it would seem that the Jewish religion views the embryos as potential life. Under certain circumstances, abortion, fetal and early genetic research may be allowed, so the level of respect seems to be graded.

My very personal perspective is that they need to be treated with far greater respect than simple cells, but less respect than a living/breathing human being. This is a very important point in this current discussion.

If the embryos were simple cells, destroying them would not be difficult. If they were, on the other hand, given the full level of respect that you are given, we could never destroy them or use them for any other purpose other than reproduction.

From a legal perspective, the abandoned embryos probably belong to the practice. Because the couples have failed to maintain contact as well as meet their legal and financial responsibilities, it is quite possible that they have breached the original contract. Hal Eskin, who many of you know, is an attorney who has assisted me in many reproductive legal decisions. He

advice me that there are no Florida laws on abandoned embryos and that these contractual concerns regarding abandoned frozen embryos have not been tested in the Florida courts. Hal feels this is new ground and to proceed very carefully.

Essentially, I seem to have the following alternatives:

1. Destroy the embryos.
2. Donate them to a needy couple
3. Donate them to science
4. Hang onto them until a hurricane sweeps them away (i.e., do nothing)

Let's take each one of the alternatives separately.

DESTROY THE EMBRYOS:

I can't seem to bring myself to destroy them. Their genetic parents abandoned them once and I simply refuse to abandon them again. They are potential life and deserve, in my humble opinion, a higher level of respect.

My original consent, however, stated that this is what would be done.

Essentially, I gave my word. The current dilemma is it may be best, from the perspective of the embryo, to break my word. Not an easy step for me.

TRANSFER THE EMBRYOS TO A NEEDY COUPLE:

If the contract has been broken and the frozen embryos become the property of the practice, perhaps I would not be bound by the language in the contract and should transfer them to needy couples. To do so at any profit, even to recover the costs incurred to my practice over the years of cryostorage, may be construed as self-serving. If any of the original genetic parents found out, they might sue, even if on shaky legal ground. Mr. Eskin is concerned that by transferring these embryos, I am potentially opening the practice to litigation and I suspect he is quite right. Even so, it may be a matter of principal and I may be willing to place my practice at risk to support the uncertain rights of the embryos. Perhaps they deserve a chance at life.

I also understand that I may be able to ask a court to rule on the issue before transferring the embryos, called a “Declaratory Action”. While well

intended, involving the courts will not necessarily protect me from litigation. It may simply make it easier to support my decisions in a future lawsuit.

DONATE THEM TO SCIENCE:

Donating them to science...now that is an interesting thought. With the continued debate on stem cell research, I find giving these embryos a chance to better mankind a pleasing alternative. While not necessarily as ideal as a transfer into the womb, they would at least serve a vital purpose that could go on for many, many years. I find this alternative pleasing and safer to the practice, but still less than ideal compared to giving them to a needy couple. Still, there may be some negative legal implications from this alternative depending upon the state of mind of the abandoning parents.

HANG ONTO THEM UNTIL A HURRICANE SWEEPS THEM

AWAY (I.E., DO NOTHING)

Doing nothing is of concern. In fact, this is exactly what many American IVF facilities are doing. These embryos may not be stored indefinitely, although we are uncertain as to their cryopreserved lifespan. We feel they may last for

up to 20 years or perhaps even more. In addition, they also take up space and financial resources of the practice; so continuing to hold them in storage for an indefinite amount of time is impractical.

Perhaps in my lifetime, a strong hurricane will indeed visit this area and make the decision for me. To combat even this potential situation, Dr. Mark Schneider has agreed to let me use his walk-in bank vault, which was left by the previous owners of his office space, to store these precious cryopreserved embryos during a storm. If at all possible, I will protect these embryos.

Earlier this year, after trying to come to grips with what to do with these abandoned embryos, I changed my Cryopreservation Consent. I now have a separate paragraph on Embryo Abandonment. I now make it quite clear that if the genetic parents abandon their embryos, the practice reserves the right to make use of them, including embryo donation and scientific study such as stem cell research.

Abandoned Life: What should be done? (Cont.)

I haven't decided what to do. I am truly open to suggestions, thus we are having this discussion. I know we are all very interested in what Rabbi Diamond has to say about this rather controversial subject. Rabbi....

Updated 9/10/2001

c:\docs\review\Abandoned Embryos.doc

Copyright © 2001, Specialists In Reproductive Medicine & Surgery, P.A., WEB Site: www.DreamABaby.com, E-mail: fertility@DreamABaby.com