Chapter 19

STRATEGIES FOR LITIGATION

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The conundrum of a continuing high male neonatal circumcision rate in the United States in the face of the official opposition, or at least neutrality, of the American Academy of Pediatrics since 1970, and despite increasingly vocal protest by medical, psychological, legal, and lay organizations, is puzzling to many at home as well as to most abroad. Americans' insistence on circumcising their newborn sons must seem particularly strange to those who reside in Western Europe, most notably in Italy and France where, since the Renaissance, there has existed a tradition of openly portraying the intact male nude in all artistic media, including monumental sculpture that graces public squares, and where the museums are filled with ancient art depicting the intact male. Even well-written books outlining the specious reasons for the adoption of routine circumcision and the mental and physical disadvantages of its infliction on infants have been unable to induce a majority of American parents to forego circumcising their baby boys. In short, circumcision is now a cultural tradition deeply embedded in the American psyche. It has become a cultural and social norm. Its status as such affects, to a great extent, its treatment by the American legal system.

Circumcision has been the predominant social norm in the United States since at least 1940. For the upper classes, it has been such since at least 1910. Encouraged by well-known nineteenth-century physicians, such as orthopedic surgeon Lewis Sayre in New York and Italian-born (Turin), but Minnesota-raised, Peter C. Remondino, a graduate of the prestigious Jefferson Medical College of Philadelphia, circumcision was first touted as a remedy for masturbation, which was thought to have deleterious effects upon the male body.

Slowly, but surely, other ailments were added to the list of those supposedly prevented by circumcision until the American medical
establishment and nearly all parents were convinced of circumcision’s absolute necessity. By the time of my birth in 1950, circumcision was so well entrenched in American medical practice that only premature infants, children of recent immigrants, and those whose parents were too poor to afford the cost of the operation avoided the knife at birth. So pervasive was circumcision that gentile boys generally believed they were born without a foreskin and that the possessor of one had a birth defect. I recall that, when I was in the United States Navy in the early 1970s, a fellow officer, a graduate of the United States Naval Academy, asked me why he could not see a difference between himself and his Jewish friends in the shower. Of course, the reason was that he was circumcised and so were they. He just didn’t know what circumcision is. He apparently had never seen a Greek or Roman statue or had assumed that the human penis had changed since ancient times. Such ignorance is quite general in a society where public male nudity is virtually unheard of, even in art. A recent article on circumcision in a national parent’s magazine had the author admitting that, since he was a Roman Catholic, he assumed he was not circumcised until his mother told him differently, when his wife was expecting their first child. He commented, “In the midst of deciding whether to circumcise Jordan, a somewhat embarrassing call to my mother set the record straight. Not only was I circumcised, but every boy I knew as a kid was, too.” This common ignorance was and is aided by sex instruction books for children that almost always show a circumcised penis or at least one that appears circumcised. In the 1950s, one well-known and widely read book on human anatomy for children completely ignored the subject by showing only a sagittal view of the male genitalia and by ending the penis just before the glans, thus avoiding having to explain that most boys had been surgically altered at birth (Figure 1). Small wonder that my fellow officer did not know that he had been mutilated.

The situation was not much better in medical schools, nor is it much better today. As an exhaustive study by Gary Harryman has shown, many, if not most, medical texts in the United States do not correctly depict the normal penis. One text that illustrates the Tanner stages of human maturation depicts the penis so that it appears that a boy grows a foreskin as he matures. Physicians seem universally ignorant of normal foreskin