

THIS CLINIC STAYS OPEN

Dear Organization Leader,

We are writing to you today to ask you to join a campaign to keep open a vital clinic that provides compassionate quality care for women from all across the country with no place else to turn.

Women's Health Care Services of Wichita, Kansas, is one of the last remaining clinics in the United States providing late-second or third-trimester abortions. Because of the lack of providers, women from all across the country who are terminating pregnancies that would endanger their health or life, or that involve severe fetal abnormalities detected late in pregnancy, have no choice but to travel to the clinic in Wichita to receive the care they desperately need.

In what we fear is a 'witch hunt,' a grand jury has begun an investigation into whether the clinic's medical director, Dr. George Tiller, has violated Kansas abortion law. The grand jury was convened after the extremist group Operation Rescue gathered the roughly 5,000 signatures required under an 1887 Kansas law that allows citizens to petition to impanel a grand jury to investigate alleged violations of law.

Operation Rescue is conducting a persistent and harassing effort to induce criminal prosecutions of Dr. Tiller. Last year, a grand jury also created through petitions filed by Operation Rescue was disbanded after failing to produce any evidence of wrong-doing on Dr. Tiller's part.

Dr. Tiller long has been vilified by the anti-abortion movement. He has been the target of repeated and sometimes violent attacks by extremists. His clinic has been bombed and was blockaded for 6-weeks by Operation Rescue in the summer of 1991. In 1993, Dr. Tiller was shot and survived an assassination attempt by an Army of God adherent who had participated in Operation Rescue's blockades.

In 2002, Troy Newman, an anti-abortion extremist from California, took the name Operation Rescue, and together with a small band of followers, moved to Wichita with the stated purpose of shutting Dr. Tiller's clinic down. Explaining his reason for moving to Wichita, Operation Rescue's Newman told the *Associated Press*, "I thought – and still believe – we cannot win this fight [to stop abortion] without winning it here."

The grand jury is investigating whether Dr. Tiller or other physicians at Women's Health Care Services are performing later abortions in violation of Kansas law. It has subpoenaed more than 2,000 patient records and the records of clinic employees and doctors, jeopardizing doctor-patient privacy. Dr. Tiller is fighting to quash the subpoena fearing that information will be leaked to Operation Rescue as occurred the last time a grand jury investigated Dr. Tiller.

A previous attempt to charge Dr. Tiller with criminal violations of Kansas state law governing later abortions was resolved in Dr. Tiller's favor. For more than two years, Dr. Tiller was relentlessly investigated by anti-abortion ideologue and former Kansas Attorney General Phill Kline. Kline charged Dr. Tiller with 30 counts of violations of Kansas law. All charges were later dismissed, and Kline was accused of withholding exculpatory evidence from the judge.

Dr. Tiller is still fighting 19 misdemeanor criminal charges alleging he violated Kansas law specifying procedures in later abortions for securing a second physician opinion. Dr. Tiller not only denies any wrongdoing, but he was following procedures for second opinions approved by the Kansas Board of Healing Arts. Furthermore, the U.S. and Kansas Supreme Courts have held that states cannot require a second physician to sign off on abortions.

Between us, our three groups have worked with Dr. Tiller and the courageous staff of Women's Health Care Services over many years. We have helped mobilize the Wichita community to stand up to the Operation Rescue bullies. We have assisted law enforcement officials in preventing and responding to the violent attacks. And we are working with the legal team representing Dr. Tiller's patients on a case to protect their privacy rights.

We are now launching an even larger effort ... and we need your help.

We are asking prominent citizens and organizations to stand up against these latest tactics of the anti-abortion extremists. We cannot let them succeed in closing yet another clinic – and especially this clinic, which provides care for women with the most troubled pregnancies.

We have enclosed a fact sheet on the anti-abortion war against Dr. Tiller, and a resolution form to become a Co-Sponsor of the *This Clinic Stays Open Campaign*. Co-Sponsors names will be listed in all Campaign materials, invited to participate in any major press events regarding the Campaign, and will receive regular email updates. Please consider the Co-Sponsor resolution at your next board meeting and return it to us.

We are counting on you. Help us build such a large campaign that the extremists will be defeated and this clinic, which provides compassionate, quality care for countless, desperate women will stay open.

For women's lives,

Eleanor Smeal
Feminist Majority Foundation

Vicki Saporta
National Abortion Federation

Nancy Northup
Center for Reproductive Rights

Co-Sponsor Resolution
This Clinic Stays Open Campaign

WHEREAS, Dr. George Tiller's Clinic – Women's Health Care Services of Wichita, Kansas – is one of the last remaining clinics in the U.S. performing late-second or third-trimester abortions;

WHEREAS, women from across the country – as well as Canada, Mexico and Central and South America, and Europe – who are terminating pregnancies involving severe fetal abnormalities detected late in pregnancy, or pregnancies that would endanger her health or life, consequently have no choice but to travel to Wichita to receive the medical care they desperately need;

WHEREAS, Dr. Tiller long has been the target of repeated and sometimes violent attacks by extremists determined to close his clinic ... including bombing and blockades and an assassination attempt;

WHEREAS, Troy Newman- who has taken the name Operation Rescue and moved to Wichita in 2002 – is conducting a persistent and harassing effort to induce criminal prosecutions of Dr. Tiller, including twice forcing a grand jury to be convened through citizen petition to investigate Dr. Tiller;

WHEREAS, the grand jury has requested more than 2,000 patient records, jeopardizing doctor-patient privacy;

WHEREAS, so far, all attempts to charge Dr. Tiller with criminal violations of Kansas state law have been resolved in Dr. Tiller's favor, including charges filed by the former extreme anti-abortion state Attorney General Phill Kline.

THEREFORE, BE IT RESOLVED that _____ (organization) which is pro-choice and dedicated to women's health, is determined to help mobilize and make visible the massive public support for Dr. Tiller and the courageous staff at Women's Health Care Services of Wichita against these latest tactics of the anti-abortion extremists;

BE IT FURTHER RESOLVED that _____ (organization) is determined to show that the extremists cannot succeed in closing this clinic which provides compassionate, quality care for women with the most troubled pregnancies;

AND BE IT FURTHER RESOLVED that our Organization will become a co-sponsoring group of the ***This Clinic Stays Open Campaign*** and that we will help spread the word to our members and in our communities through our newsletter and website, letters to the editor and newspaper op-eds about the attacks on Dr. Tiller and how dangerously close women are to losing access to this clinic which is providing vital health care services for women.

Organization _____

Contact person _____

Address _____

City, State, Zip _____

E-mail _____

Phone: Day _____ Eve: _____

Mail or fax completed resolution to: Feminist Majority Foundation
433 S. Beverly Drive, Beverly Hills, CA 90212 Office (310) 556-2500 www.feminist.org

FACT SHEET

ANTI-ABORTION EXTREMISTS' WAR AGAINST DR. TILLER

- 1986 Tiller's clinic bombed – results in \$100,000 in damage.ⁱ
- Summer 1991 Operation Rescue targets Tiller with its “Summer of Mercy” protest, a siege lasting 46 days. Anti-abortion protestors from around the country descend on Wichita with the aim of shutting down the city's abortion clinics. They mount numerous blockades of the entrance to Tiller's clinic, repeatedly ignoring a U.S. district judge's orders and overwhelming U.S. marshals sent in to protect the clinic.
- Aug 19, 1993 Tiller shot and wounded in both arms in an assassination attempt by Rachelle “Shelley” Shannon, an adherent of the Army of Godⁱⁱ (the most violent branch of anti-abortion movement) who participated in Operation Rescue's 1991 “Summer of Mercy” blockades.ⁱⁱⁱ Shannon was convicted of attempted murder and a string of arsons of clinics in the Pacific Northwest.
- July 29, 1994 Paul Hill shoots and kills Pensacola, Florida abortion provider John Britton and clinic escort Jim Barrett and wounds Barrett's wife June. Attorney General Janet Reno orders around the clock U.S. marshal protection for clinics in a dozen cities, including Dr. Tiller's.^{iv}
- 1995 Dr. Tiller, along with 12 other abortion providers, featured in posters accusing them of “crimes against humanity” and offering a \$5,000 reward for “information leading to arrest and conviction.” The posters sponsored by the American Coalition of Life Activists are later determined to be threats under the federal Freedom of Access to Clinic Entrances act.
- July 2001 Operation Save America (formerly Operation Rescue) kicks off “Let's Finish It” campaign in Wichita, on ten-year anniversary of “Summer of Mercy” protests. Attorney General John Ashcroft orders U.S. marshal protection for Tiller.^v
- 2002 Troy Newman moves Operation Rescue West's headquarters from Southern California to Wichita with the stated purpose of shutting Tiller down.^{vi} “I thought – and still believe – we cannot win this fight without winning it here,” Newman told the *Associated Press* regarding his reason for moving.^{vii} He later changed name of group to Operation Rescue.
- 2004 Troy Newman and Operation Rescue launch “Year of Rebuke” campaign^{viii} targeting Tiller, his employees, and those who do business with the clinic or Tiller personally with relentless harassment.

- Fall 2004 Kansas Attorney General and anti-abortion ideologue Phill Kline subpoenaed unedited medical records of 90 women and girls who sought abortions in 2003,^{ix} some at Tiller's clinic and some at Overland Park Planned Parenthood. After district court upholds Kline's request for records, Tiller's attorneys appeal to the Kansas Supreme Court. A year later KS Supreme Court rules that Kline can receive 60 records^x provided that an independent attorney redact any information not relevant to the investigation.^{xi}
- Spring 2006 Anti-abortion activists gather 7,700 signatures to force a grand jury to be convened to investigate the death of a mentally disabled woman from a 3rd trimester abortion at Dr. Tiller's clinic. The grand jury was dismissed after it found no grounds for indictment, and state health authorities cleared Tiller of any wrongdoing.^{xii}
- Nov 3, 2006 Kline appears on conservative T.V. talk show host Bill O'Reilly's FOX News program. O'Reilly said that an inside source told him Dr. Tiller was performing late-term abortions because of depression and that he performed dozens of abortions on girls ages 10 to 15 without reporting them to authorities.
- Nov 7, 2006 After switching to the Democratic Party to run for Attorney General,^{xiii} Johnson County DA Paul Morrison defeats Kline 58 to 42 percent.^{xiv} Johnson County Republican Precinct Committee chooses Kline to succeed Morrison as county's DA.
- Dec 21, 2006 Before stepping down as attorney general, Kline charges Tiller with 15 counts of "unlawful late term abortion" and 15 counts of "failure to report justification of late term abortion."^{xv} He claims the records show that 15 patients were approved for late-term abortions because they had anxiety or had suffered from "major depressive disorder."^{xvi} He deems these reasons insufficient to satisfy Kansas law which requires that a woman's life is at risk or that continuing the pregnancy would cause "substantial and irreversible impairment of a major bodily function."^{xvii} The Kansas and U.S. Supreme Courts have interpreted this exemption to include mental health.^{xviii}
- Dec 22, 2006 Judge Paul W. Clark dismisses Kline's charges after Sedgwick County DA Nola Foulston argued that Kline did not have the authority to pursue charges in a county without asking the county prosecutor.
- Dec 24, 2006 Kline appoints Wichita lawyer and anti-abortion activist Donald McKinney as special prosecutor to continue investigation.
- Jan 8, 2007 Paul Morrison takes office as new AG and dismisses the special prosecutor.^{xix}

- Jan 2007 After a month-long investigation, Sedwick County DA Foulston clears Tiller of Kline's allegations that he broke state laws requiring him to report suspicions of underage sex.^{xx}
- Feb 2007 Kansas Supreme Court grants Morrison's request that Kline's charges against Tiller be dropped.
- Mar 26, 2007 Kansas lawmakers introduce and debate resolution in State Legislature to compel Morrison to file charges against Tiller.
- June 27, 2007 Morrison's office alleges incompetence in the Kline investigation of Tiller. Says that Kline withheld exculpatory evidence about Tiller from a judge when filing his charges, that they had difficulty locating the 90 medical files Kline had subpoenaed when they took over, and that Kline's office mixed up forms submitted by Tiller making it look like he had committed a violation of the law.^{xxi}
- June 28, 2007 Morrison files 19 new charges (entirely different from Kline's) against Tiller accusing him of illegally having financial and legal ties to a physician providing the requisite second opinion for 19 later term abortions. Each charge carries a maximum sentence of one year in jail and a \$2,500 fine and could cost Tiller his medical license.^{xxii} Tiller's attorneys say he is innocent and that the Kansas Board of Healing Arts knew, and had approved of his practices, in regard to referring physicians. Tiller's attorneys ask Sedgwick County District Court Judge Clark Owens to dismiss the 19 charges filed by Morrison against Tiller, arguing that they put an "undue burden" on women seeking abortion in violation of the U.S. constitution. Owens says he will rule at a later date.
- In a Motion to Dismiss the charges, Tiller's attorneys also argue that the statute requiring a second physician's approval of the abortion violates the constitution since it places a "burden on a physicians right to practice medicine." They note that every challenge to a second approving physician that has been filed in states since 1973 has been sustained.^{xxiii}
- July 4, 2007 Vandals cut a hole in the ceiling of Tiller's clinic, insert a garden hose, and flood a room of the clinic with several inches of water. They also attempt to seal the gates of the parking lot.^{xxiv} The clinic is forced to close for more than a month partly due to mold damage.^{xxv}
- Sept 2007 Kansans for Life and Operation Rescue,^{xxvi} using an 1887 Kansas State law that allows citizens to petition for impaneling grand juries to investigate alleged violation of laws,^{xxvii} submit nearly 8,000 signatures to Sedgwick County District Court calling for grand a jury to investigate Dr. Tiller.^{xxviii}

- Oct 2007 Operation Rescue files complaint with Kansas Board of Healing Arts in conjunction with a former patient of Tiller's alleging that he failed to obtain her legal consent prior to the abortion, that his staff purposely miscalculated how far along she was to circumvent Kansas abortion law, and that she never received follow up care.
- Oct 26, 2007 Operation Rescue files petition signatures to impanel a grand jury in Johnson County to investigate Planned Parenthood of Overland Park.^{xxix}
- Dec 15, 2007 Attorney General Paul Morrison resigns after his affair with a former employee of the Johnson County DA's office (Phill Kline's current office) becomes public. KS Gov. Kathleen Sebelius appoints Douglas County judge Stephen Six new Attorney General, to replace Morrison.^{xxx}
- Jan 8, 2008 Grand jury convenes to investigate Tiller for allegedly violating Kansas abortion law.^{xxxi} Operation Rescue leader Troy Newman testifies before the grand jury, providing them with photographs of women entering Tiller's clinic taken with "a telescopic digital camera from an undisclosed location," and posts the photos on Operation Rescue's website.
- Jan 28, 2008 Grand jury subpoenas the medical records of every woman that sought or obtained an abortion from Dr. Tiller after 21 weeks of pregnancy dating back to July 1, 2003. The jury also subpoenas names and addresses of Tiller's employees and doctors with whom he has worked.^{xxxii} Tiller's lawyers file a motion to stop or limit the grand jury's access to the records.^{xxxiii}
- Jan 30, 2008 The nationally renowned Center for Reproductive Rights, on behalf of some of Dr. Tiller's patients, file motion to stop grand jury's access to their records. State district court judge orders Tiller to turn over the 2,000 patient records to the grand jury with names and addresses removed.^{xxxiv} Tiller files emergency appeal with Kansas State Supreme Court.
- Feb 5, 2008 KS Supreme Court temporarily blocks grand jury from getting patient files pending its consideration of the case. Chief Justice Kay McFarland says the subpoena of the records raises "significant issues" about patient privacy and the grand jury's power to obtain medical records.^{xxxv} Grand jury subpoenas new Kansas Attorney General Stephen Six and the 60 patient records of Tiller that were turned over as a result of the Phill Kline investigation.^{xxxvi}
- Feb 8, 2008 Dr. Tiller's patients also seek protection from the Kansas Supreme Court to prevent disclosure of the medical files.
- Feb 15, 2008 The Kansas Attorney General's Office joins in the effort to protect patient privacy by asking the Kansas Supreme Court to order the state court judge to not allow the subpoena for patient records to be enforced.

- Feb 29, 2008 The Kansas Supreme Court schedules a rare special setting for two hours of oral arguments in the case for April 8, 2008 and orders that, in the meantime, the grand jury may not subpoena any patient files.
- May 6, 2008 The Kansas Supreme Court rules that the grand jury investigating Dr. Tiller cannot embark on a fishing expedition into his patients' medical records. The court orders the lower court, the Eighteenth Judicial District Court in Wichita, to undertake a number of steps before determining what, if any, information can be disclosed to the grand jury.
- May 23, 2008 The Eighteenth Judicial District Court reduces number of patient records the grand jury can subpoena. The court also gives Dr. Tiller and an independent physician broad authority to redact all information from records that is not relevant to grand jury investigation, before Dr. Tiller hands records over to grand jury.

ⁱ Risen, James and Judy L. Thomas. *Wrath of Angels*. New York: Basic Books, 1998. p 317-338.

ⁱⁱ FMF wire 7/12/01

ⁱⁱⁱ Risen, James and Judy L. Thomas. *Wrath of Angels*. New York: Basic Books, 1998. p 349.

^{iv} Risen, James and Judy L. Thomas. *Wrath of Angels*. New York: Basic Books, 1998. p 363.

^v FMF wire 7/13/01

^{vi} Sevcik, Kimberley. "One Man's God Squad." *Rolling Stone*, 7/28/04.

^{vii} Roxana Hegeman. "Operation Rescue Makes Stand in Kansas." *Associated Press*, 1/21/07.

^{viii} Sanchez, Mary. "Abortion Debate Needs Reason." *Kansas City Star*, 1/27/04.

^{ix} FMF wire 3/2/05

^x Klepper, David. "Abortion provider Tiller is charged by Morrison." *Kansas City Star*, 6/29/07.

^{xi} Simon, Stephanie. "The Nation: Abortion provider must turn over files." *Los Angeles Times*, 1/31/08.

^{xii} Simon, Stephanie. "The Nation: Judge won't revive charges against abortion doctor." *Los Angeles Times*, 12/28/06.

^{xiii} Klepper, David. "Abortion provider Tiller is charged by Morrison." *Kansas City Star*, 6/29/07.

^{xiv} Klepper, David. "Abortion provider Tiller is charged by Morrison." *Kansas City Star*, 6/29/07.

^{xv} FMF wire 1/2/07

^{xvi} Simon, Stephanie. "The Nation: Kansas judge dismisses abortion charges." *Los Angeles Times*, 12/23/06.

^{xvii} Simon, Stephanie. "The Nation: Abortion provider must turn over files." *Los Angeles Times*, 1/31/08.

^{xviii} Klepper, David. "Abortion provider Tiller is charged by Morrison." *Kansas City Star*, 6/29/07.

^{xix} FMF wire 1/2/07

^{xx} FMF wire 1/11/07

^{xxi} Klepper, David. "Morrison alleges Kline's office mixed up documents in abortion case." *Kansas City Star*, 6/28/07.

^{xxii} Simon, Stephanie. "The Nation: Pressure rises for abortion provider." *Los Angeles Times*, 9/17/07.

^{xxiii} Amended Motion to Dismiss, Eighteenth Judicial District Court, Sedwick County, Kansas, Criminal Department, filed June 20, 2007 [don't understand why this date is before Morrison actually filed charges]

^{xxiv} FMF wire 7/6/07

^{xxv} Simon, Stephanie. "Pressure rises for abortion provider." *Los Angeles Times*, 9/17/07.

^{xxvi} Sylvester, Ron. "Grand jury sworn in to investigate Wichita abortions." *Kansas City Star*, 1/8/08.

^{xxvii} Peres, Judy. "Abortion foes put grand jury on case." *Chicago Tribune*, 2/11/08.

^{xxviii} Simon, Stephanie. "Pressure rises for abortion provider." *Los Angeles Times*, 9/17/07.

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- ^{xxix} Klepper, David. "Supreme Court stops abortion grand jury." *Kansas City Star*, 10/26/07.
- ^{xxx} Klepper, David. "New attorney general vows to serve with integrity." *Kansas City Star*, 1/18/08.
- ^{xxxi} FMF wire 1/9/08
- ^{xxxii} Simon, Stephanie. "The Nation: Abortion provider must turn over files." *Los Angeles Times*, 1/31/08.
- ^{xxxiii} Sylvester, Ron. "Grand jury seeks Tiller patients' files." *Wichita Eagle*, 1/29/08.
- ^{xxxiv} Simon, Stephanie. "The Nation: Abortion provider must turn over files." *Los Angeles Times*, 1/31/08.
- ^{xxxv} "Kansas Supreme Court temporarily blocks grand jury's access to abortion records." *Kansas City Star*, 2/6/08.
- ^{xxxvi} Hanna, John. "Attorney general's office subpoenaed by Tiller grand jury." *Kansas City Star*, 2/6/08.