

Timeline of Sebelius Administration Obstruction of Abortion Investigation

Background

Kansas Attorney General Phill Kline initiated his investigation of Kansas abortion clinics in 2003. At the time, Health and Human Services Secretary Kathleen Sebelius was Governor of Kansas and oversaw the Kansas Social and Rehabilitation Services (SRS) and the Kansas Department of Health and Environment (KDHE). It was important that both agencies cooperate with any investigation in that SRS receives mandatory reports of child abuse required to be filed by abortion doctors and KDHE receives reports on every abortion in the state that Kansas law requires abortion doctors to file.

The reports received by KDHE are abortion compliance reports. Kansas law required abortion doctors to file a compliance report for every single abortion performed. The reports are not medical records and are to be used by law enforcement to ensure that the abortion doctor complies with Kansas abortion restrictions. (See K.S.A. 65-445). The reports do not contain any patient names. Furthermore, the reports contain a code assigned to each abortion doctor. Accordingly, it is not possible to identify the clinic that performed the abortion without knowing the code. The compliance reports do contain the date of the abortion and the age of the abortion patient.

At the time Kansas law prohibited late-term abortion (post viability) unless two doctors find that the mother would suffer “substantial and irreversible impairment of a major bodily function” if the abortion is not performed. The compliance reports required the abortion doctor to report the reason and basis substantiating compliance with Kansas law for each abortion.

The law required the compliance reports to be honestly and fully completed or the abortion doctor was guilty of a crime. Furthermore, the abortion clinic was required to maintain in the patient file a copy of the compliance report for five years and failure to do so was a crime.

KDHE was also required to publicly report composite statistical data in an annual report regarding abortion in Kansas. This statistical compilation, from which it was impossible to identify patients, reported the overall number of abortions and the ages of the mothers obtaining abortions. As Kline started his investigation into the clinics failure to report child rape, these statistical annual reports indicated that 166 children 14 years of age and younger had abortions in Kansas in the previous 18 months. By law these children were victims of the crime of sexual abuse and/or rape and by law had the abortion doctor had to report these crimes to SRS since they had been harmed by the crime.

Kline had received evidence indicating these crimes were not being reported by Kansas abortion clinics. During his campaign for Attorney General and during his tenure as Attorney General Kline focused on strengthening Kansas laws protecting children and enforcement of Kansas laws designed to protect children. Kline provide leadership by doing the following:

- Helped establish the Kansas City based Cyber Crimes Task Force, convicting more than 100 Internet predators of children during Kline's tenure;
- Strengthened Kansas laws for possession of child pornography and promoting child prostitution;
- Helped author Kansas law criminalizing the sex trafficking of children;
- Wrote and led the fight for passage of Jessica's law in Kansas;
- Initiated the first ever public/private partnership to train and educate Kansas school children on Internet safety in Kansas public schools (the Netsmartz program);
- Initiated PADLOC, a federal, state and local law enforcement cooperative effort to apprehend dangerous sex crime fugitives resulting in scores of arrests;
- Became Vice-Chairman of the National Violent Sexual Predator Apprehension Task Force and helped draft new federal law relating to sexual predator apprehension and registration.

All of the above policies and programs are still in force in Kansas and our nation.

Kline's office also received substantial and credible information that Kansas abortion clinics were performing illegal late term abortions. This information led him to initiate an investigation into criminal late-term abortion. Kansas law only imposes criminal liability on the abortion doctor. The abortion patient cannot be charged with a crime and is not under any legal liability. Kansas law provided that the Compliance Reports to KDHE would allow the Attorney General to view those documents, which did not contain patient names, to determine whether the abortion doctor was complying with the law.

First Steps in the Investigation

Kline prioritized the investigation and decided to first seek cooperation from the Sebelius Administration and to obtain reports of child sexual abuse from SRS. Kline investigators knew that 166 abortions were performed on children and accordingly, wanted to review the child abuse reports to determine if these rapes and sexual abuse had been reported to SRS as required by law and to work to ensure that the children were being protected.

Kline investigators then planned to get the individual reports of abortions from KDHE, obtain the clinic codes and see where the child abortions were performed – compare that information to the SRS records to see if the clinics were reporting those child sex crimes. Accordingly, both the SRS record of abuse and the KDHE report of the abortion were necessary to obtain to further the investigation and to ensure the children were being protected. For example: if a KDHE compliance report showed an abortion on a child was performed at Planned Parenthood on a specific date and the child was from Arkansas City, was 13 years of age and Hispanic (the compliance reports contained such information but did not contain the child's name) Kline could compare this data to the SRS reports of child abuse and see if there was a child abuse/rape report from Planned Parenthood meeting that profile. If SRS did not have such a report, Kline could then seek a District Court Judge to issue a subpoena to obtain the actual abortion record from Planned Parenthood to obtain the child's name in order to act to protect that child and also proceed with the investigation of Planned Parenthood's failure to report child rape.

As Kline investigators approached SRS and the Sebelius Administration came to know Kline was investigating the abortion clinics, however, the Sebelius Administration demanded to know the specifics about Kline's evidence. Later, when forced to provide the information pursuant to subpoena, Sebelius ran SRS provided thousands of duplicative reports and took months to provide the information.

Also, once Kline investigators finally obtained and analyzed the SRS records and sought records from Sebelius controlled KDHE, that agency filed numerous motions to block Kline's investigation. All of these actions were in previously sealed court proceedings and have only recently come to light.

It was necessary for Kline to obtain court orders requiring the Sebelius Administration to turn over relevant documents.

Recent Developments

It has recently come to light that Sebelius controlled KDHE destroyed original documents that a court ordered KDHE to provide to Kline. The Sebelius Administration turned over copies of those documents and now it has been learned, soon after being ordered to produce those copies in Kline's criminal investigation, the Sebelius Administration destroyed the original documents without notifying the court or Kline's investigators. The destruction of the documents took place in 2005 and is now hampering the only criminal case filed against Planned Parenthood – a case Kline filed in October of 2007.

Context

The following is a timeline detailing some of the efforts of the Sebelius Administration to block Kline's investigation of the abortion clinics. Federal law provides that Planned Parenthood would lose all of its annual \$350 million in federal funding if convicted of the crimes Kline was investigating and Planned Parenthood and abortion providers poured millions of dollars into Kansas to support Sebelius and support a candidate Sebelius recruited to run against Kline. That candidate, Paul Morrison, promised to end Kline's investigation into Planned Parenthood. Sebelius, for years, has been a close political ally and political benefactor of Planned Parenthood.

During the 2002 campaign and during Kline's initial months as Attorney General the issue of enforcing Kansas abortion law and enforcing laws requiring the report of child rape received significant attention. Abortion interests funneled hundreds of thousands of dollars to defeat Kline and Sebelius publicly expressed concern about any investigation of abortion clinics as "invasion of patient privacy." Accordingly, the Sebelius Administration had expressed objections to such efforts.

It should also be noted that Kansas print media is largely controlled by two co-owned newspapers – the Kansas City Star and the Wichita Eagle. The Kansas City Star's coverage of these issues in Kansas was so distorted and supportive of Planned Parenthood that the abortion provider awarded the Star its "Maggie Award" for how the paper treated Phill Kline on these

issues. For example, the Star portrayed Phill Kline as a child molester in an editorial cartoon depicting Kline on a park bench with his hand under a little girl's skirt due to Kline invasion of child privacy in investigating Planned Parenthood's failure to report child rape.

Timeline

April 1, 2003

Kline and his staff at the Attorney General's Office formally begin the investigation by reviewing available data received by the AG's office.

July 15, 2003

Kline investigators are prepared to request SRS information. The decision is made by investigators to not fully inform SRS about the nature of the investigation if asked. This is a routine decision by law enforcement. Concern exists that revealing investigations can harm reputational interests, spawn rumors, invade privacy, possibly result in harm to witnesses and victims and possibly result in tipping off the investigation target and result in the destruction of evidence. Furthermore, the initial information sought is information available to the public and involves general statistical data regarding the number of reports of sexual abuse of children. This information is sought from SRS. (See, Confidential Memo by AAG Maxwell and Investigator Williams to AG Kline and AAG Rucker, dated July 15, 2003)(Ex. 13)).

SRS/KDHE Records

July 18, 2003

Tom Williams meets with SRS representatives to request stats on under-16 sexual abuse reports. (Ex. 14/D2/E2)

July 25, 2003

SRS provides general statistical data regarding reports of child sexual abuse.

July 30, 2003

SRS Chief Counsel John Badger asks for official request for records access. (Ex. 16)

July 31, 2003

Kline's Deputy Attorney General and Chief of Staff Eric Rucker responds to SRS's demand for a letter and sends a letter to SRS informing the agency that Kline's office was investigating failure to report child rape. Accordingly, SRS now knows Kline is investigating an issue that could cost

Planned Parenthood its federal funding and knows that Kline expressed a willingness to investigate the abortion clinics. SRS now demands to know specifics. (Ex. 16/H2)

August 5, 2003

SRS Chief Counsel John Badger writes Rucker refusing access to the information unless the AG's office discloses "thorough and specific information" and legal analysis supporting access to these reports. Badger asks the AG's office to address HIPPA concerns. HIPPA expressly allows law enforcement access and questions the authority of the Attorney General to access these records. (Ex. I2)

September 9, 2003

Kline investigators begin to compare the reports of child sexual abuse received in Wichita with the general information received from SRS prior to SRS refusing to provide additional information. The comparison demonstrates concern that SRS is not receiving the required reports and Kline lead investigator Tom Williams asks SRS to recheck records. (Ex. 16). SRS, however, stops cooperating until the "thorough and specific information" is obtained.

October 29, 2003

Rather than provide SRS the detailed information the agency demands, Kline prosecutor Steve Maxwell approaches Judge Richard Anderson, a Topeka Judge who is a Democrat, and requests a subpoena. Judge Anderson finds reasonable suspicion exists to believe that the SRS records sought contain evidence of criminal activity and issues a subpoena. (Ex. 15) Judge Anderson issues a subpoena duces tecum to SRS requiring the production of the records requested. (Ex. L3)

November 1, 2003

The subpoena is served on SRS and this begins months of effort to receive complete information from the Sebelius Administration and to make sense out of the conflicting information they provided. (Ex. KKK)

November 10, 2003

SRS provides a 281-page print-out of abuse reports for Jan '02 – Jun '03. (Ex. L2) 820 from counties where abortion clinics are located. Analysis of the spreadsheet begins.

December 12, 2003

After a month of trying to figure out the SRS produced information, Kline investigator Jared Reed reports that the computer printout showed 19,042 abuse reports and 12,245 of those reports were duplicates, leaving only 6797 unique reports with only 1837 involving female victims ages 11-15. (Ex. C3).

December 16, 2003

Jared Reed prepares list of 660 names of reports in child female victims from Johnson, Sedgwick, and Wyandotte Counties. Planned Parenthood is located in Johnson County, Dr. George Tiller clinic in Wichita County and a third abortion clinic is in Wyandotte County. Kline investigators are demanding that SRS provide the actual physical records of abuse involving children from those counties. (Ex. C3)

January 22, 2004

SRS produces 213 of the requested reports. (Ex. U2)

January 28, 2004

SRS produces 77 additional reports. (Ex. V2)

February 6, 2004

SRS produces 109 additional reports, (Ex. W2), and 64 additional reports (Ex. X2).

March 6, 2004

SRS produces 69 additional reports. (Ex. Y2)

March 16, 2004

Reed requests 214 additional records from Shawnee County. 820 total requested (660 + 214). (Ex. C3)

March 23, 2004

SRS produces 43 additional reports (Shawnee). (Ex. Z2/C3)

March 31, 2004

SRS produces 131 additional reports. (Ex. A3)

April 23, 2004

SRS produces 53 additional reports. (Ex. B3)

May 26, 2004

Kline investigators are through enough analysis of the SRS records to demonstrate reasonable suspicion to believe that crimes are being committed. Accordingly, Kline prosecutors again Judge Anderson, this time for a subpoena of the compliance reports held by KDHE for abortions

performed in 2001-2004. (Ex. 20/O2/P2) Judge Anderson issues a subpoena to KDHE for the records. These compliance reports do not contain patient names.

June 7, 2004

Sebelius' KDHE files a motion to quash the subpoenas claiming patient privacy concerns about "confidentiality" of the compliance reports. (Ex. N2)

June 25, 2004

Judge Anderson holds a hearing on KDHE's Motion to Quash (Deny) the subpoena. Anderson denies KDHE's motion and orders the agency to provide the records.

July 6, 2004

KDHE provides the subpoenaed records. The records reveal the age of the child who received the abortion and the date the abortion was performed. The records do not contain patient names and also the abortion clinic is not revealed.

July 19, 2004

Analysis of the KDHE reports reveal that 659 of the reports show abortions on children 15 years of age and younger in 2003 and/or abortions on fetuses more than 22 weeks old. Kline investigators are now beginning to actively investigate criminal late-term abortion. Kansas law required the abortion doctor to provide the medical reason and basis to justify abortions on post-viable fetuses. The KDHE reports which were designed to ensure Kansas late-term abortion restrictions were being followed were woefully deficient. Rather than provide the medical reason and basis for a late-term abortion, the abortion clinics were simply stating the law: "the patient will suffer severe and irreversible impairment of a major bodily function." This failing necessitated a review of the actual abortion records to determine the doctor's claimed diagnosis supporting the abortion. KDHE, by law, was supposed to ensure full and accurate compliance reports by the abortion doctor. Under Sebelius, KDHE appointed a statistician to ensure compliance. That person later testified he didn't care what information the abortion clinics reported as long as all of the boxes on the reports had something in them.

July 26, 2004

At this stage, members of the Sebelius Administration are fully aware of Kline's investigation and that the information is zeroing in important political allies of Sebelius. Suddenly, Kline is sued by the Center for Reproductive Freedom in Federal Court and Clinton appointee, Federal Judge Thomas Martin issues a temporary restraining order preventing Kansas from enforcing its law requiring the report of child rape. At this stage, Kline's investigation was still out of the public eye and all issued subpoenas required all parties to keep the investigation secret. It is believed that the Sebelius Administration approached the Center for Reproductive Freedom to request this lawsuit to prevent the investigation from proceeding further.

July 27, 2004

Kline investigators have finally received all of the requested information from SRS and analyzed the conflicting data provided by the agency. This analysis reveals that during a time when 166 abortions were performed on children 14 and under in Kansas SRS only received 4 reports of child sexual abuse from abortion clinics. Only 1 report was received from Planned Parenthood and only 1 report from Dr. Tiller. (Ex. 24) Kline investigators and the Sebelius Administration now know that there is a gross underreporting problem in Kansas and that Planned Parenthood's federal funding is in jeopardy.

July 28, 2004

KDHE now files another motion to prevent Kline investigators from obtaining further information and to return the information already obtained. (Ex. RR)

NOTE: The Sebelius Administration is now seeking the return of information it already produced by order of a Judge, preventing the use of that information in the criminal investigation of key Sebelius political supporters. When a judge denies this request and allows Kline investigators to retain the copies of the information, the Sebelius Administration at KDHE destroys the originals, fully knowing the originals are evidence in a criminal investigation.¹

This motion is based on Judge Martin's restraining order. Judge Anderson reviews Martin's order and finds it is irrelevant and denies KDHE's motion. Judge Martin's order is later reversed by the 10th Circuit Court of Appeals which finds Martin "abused his discretion."

August 2, 2004

After being informed that the KDHE reports do not contain a medical reason and basis for late-term abortions, Kline orders the expansion of the investigation into criminal late-term abortion.

August 9, 2004

¹ This is also important because a panel appointed by the Kansas Supreme Court has concluded that Kline violated legal ethics when he initially refused to tell SRS about the full nature of his investigation. Kline and his investigators maintained that law enforcement does not have a duty to tell third parties about an investigation and that doing so can harm an investigation, invade privacy and foster rumors. Kline investigators were also concerned that informing the Sebelius Administration at that time could result in tipping off the targets and in the destruction of the evidence. These concerns are not proven to be valid. It should be noted that Kansas law clearly allows law enforcement to even engage in deception to forward an investigation - this is how undercover investigations are done. Furthermore, this allegation against Kline was already reviewed by District Court Judge Clark Owens in 2009 and Kline was found to have done nothing wrong. Owens stated that the law even allowed deception and that Kline did not deceive but rather simply refused to divulge confidential information - which was proper. Regardless, Kline is now possibly losing his law license over the finding of the ethics panel. That panel is appointed by the Kansas Supreme Court. Five of the 7 justices of this court were appointed for life by Sebelius or her Lt. Governor. This court joined Planned Parenthood in filing the complaint against Kline, they appointed the prosecutor who prosecuted Kline and appointed the hearing panel. Furthermore, it is this very court that filed the complaint who will make the final decision regarding Kline's law license.

Judge Anderson orders KDHE to give Kline investigators the codes for the abortion providers. Kline investigators could then determine which abortion provider performed the abortions on the children.

August 10, 2004

KDHE provides the abortion codes and the evidence reveals the potential crimes occurred at the Planned Parenthood clinic in Johnson County and Dr. Tiller's clinic in Wichita.

September 10, 2004

Since the SRS information was presented in such a conflicting and confusing manner, Kline investigator Williams writes SRS Chief Counsel John Badger requesting Badger confirm that the SRS information is accurate. Kline investigators were planning to seek additional subpoenas and wanted to make sure that SRS provided all relevant information. The agency had provided more than 12,000 duplicative reports and then took months to gather relevant information. Williams wanted to make sure the agency did not later come up with additional information and wanted to make sure investigator analysis was correct before approach Judge Anderson for an additional subpoena. (Ex. K3)

September 16, 2004

Badger replies and indicates the information is correct. (Ex. L3)

September 21, 2004

Judge Anderson reviews Kline's evidence and finds probable cause to believe that abortion records at Dr. Tiller's clinic and at Planned Parenthood's clinic contain evidence of crimes and issues a subpoena for the records.

Although typically records produced by subpoena are given directly to law enforcement, Kline orders his prosecutors to have the records provided to Judge Anderson. Kline wants the Judge to remove adult patient names before turning over the records to Kline's office. Kline reasons he can prosecute the abortion doctors without revealing the identities of the adult women. Kline wants the names of the children so that he might act to protect the children. Judge Anderson agrees with this approach.

September 22, 2004

The subpoenas are served on the abortion clinics.

September 23, 2004

Dr. Tiller's clinic files an objection to the subpoena claiming patient privacy. (Ex. N3)

September 24, 2004

Planned Parenthood files an objection to the subpoena claiming patient privacy. (Ex. O3)

October 5, 2004

Judge Anderson denies the motions to quash subpoenas filed by the abortion clinics. Judge Anderson states that Kline has been concerned about protecting patient privacy from the beginning. At this state of the investigation, all parts of the investigation are still secret. (Ex. 35)

October 8, 2004

The abortion clinics file a motion for Anderson to reconsider his order requiring production of the records. (*Alpha*, 128 P.3d at 369)

October 21, 2004

Judge Anderson orders production of patient records to the court. (*Id.* at 370)

October 26, 2004

The abortion clinics now file a lawsuit against Judge Anderson and against Kline before the Kansas Supreme Court in a petition for writ of mandamus filed. (*Id.* at 371) Such action is typically not allowed to the target of a criminal investigation. In almost all such investigations, the criminal defendant is ordered to comply with subpoenas if the lower court makes such an order. If charged with a crime, the defendant can then challenge the subpoenas during that trial by objecting to the introduction of evidence obtained in the subpoena. If the judge in the criminal trial allows the evidence to be admitted and denies the objection, and the criminal defendant is convicted, then the defendant can appeal to a higher court and seek the setting aside of the conviction. Allowing the target of a criminal investigation to appeal a subpoena during an investigation would result in investigations never being completed. Nevertheless, the Sebelius appointed Kansas Supreme Court accepts the lawsuits by the abortion clinics, stays the subpoenas and thus begins years of involvement and delay by the Kansas Supreme Court that involves: i) secret trials ordered by the Kansas Supreme Court; ii) secret orders silencing witnesses of Planned Parenthood crimes; iii) ethics complaints against Kline filed by the Sebelius Court and Planned Parenthood; and iv) the Sebelius Court's accepting several additional lawsuits by Planned Parenthood against Kline.²

2005

Representatives of the Sebelius Administration in KDHE destroy the original compliance which Kansas law requires KDHE to maintain. The agency, at the time of the destruction, knows these records are key evidence in the criminal investigation against Planned Parenthood and Dr. Tiller. The agency does not inform the court or AG Kline about the destruction.

² This information has been detailed in other records and reports and can be provided. This report, however, primarily deals with the destruction of evidence by members of the Sebelius Administration.

February 2005

Kline's investigation becomes public by order of the Kansas Supreme Court. The Court continues to delay Kline's subpoenas as the statute of limitations runs on the crimes Kline is investigating. By Kansas law, the statute of limitations on failure to report child rape is two years – this means that any criminal case under this law must be filed within two years of when the abortion clinics performed the abortion. The Kansas Supreme Court, while holding onto the case, is running out the statute of limitations on all of Kline's cases.

Kline writes and proposes a comprehensive rewrite of Kansas criminal law, strengthening laws relating to methamphetamine, child sexual abuse and the use of DNA in criminal prosecutions. In this complex bill, Kline includes a lengthening of the statute of limitations from 2 to 5 years thus saving his investigation.

The Sebelius appointed Kansas Supreme Court does not release the subpoenas until January of 2006. The redacted abortion records are not produced to Kline until October 24, 2006. By this time Kline, due to millions of dollars of abortion industry monies, has lost his re-election to Sebelius recruited Attorney General candidate Paul Morrison. Morrison has promised to end Kline's investigation.

Late 2006, Early 2007

Kline Becomes District Attorney and Files Charges

Kline was defeated in his Attorney General re-election effort in November of 2006 by Johnson County District Attorney Paul Morrison who was backed by millions of dollars of abortion industry monies and the pro-abortion Kansas media establishment. Morrison, then a Republican, was recruited by Sebelius to switch parties and run against Kline. During his campaign, Morrison promised to end Kline's investigation calling the investigation a "witch hunt."

After winning the Attorney General's election as a Democrat, Morrison had to vacate his District Attorney's position to assume his duties as Attorney General. Since Morrison was originally elected as a Republican, under Kansas law Republicans were

authorized to hold a special election and choose Morrison's successor and they elected Kline.

Accordingly, as Johnson County District Attorney, Kline was able to continue his investigation into Planned Parenthood whose clinic is located in Johnson County. It is in this capacity that Kline filed charges against Planned Parenthood in October of 2007. Kline's investigation and his charges could result in Planned Parenthood losing its annual federal funding amounting to more than \$350 million a year.

The charges include 23 felony charges for manufacturing documents in response to Judge Anderson's subpoena of Planned Parenthood records. Kansas law required Planned Parenthood to file the compliance reports with KDHE and to keep copies of these reports in their files for five years. The failure of the abortion provider to keep copies of the reports is a misdemeanor crime. Kline alleges that Planned Parenthood did not keep the required copies of the reports and to cover up their failure, manufactured fake reports in response to Judge Anderson's subpoena. The manufacturing of the records is a felony.

These charges are still pending and it is in this case that it was recently revealed that KDHE, when under Sebelius control, destroyed the original reports in KDHE's possession soon after being informed the records were a key part of Kline's criminal investigation. Kline supporters point out that this again vindicates Kline and demonstrates the political nature of the ethics investigation against Kline. They point out that Kline was right when he rejected Sebelius demands for knowledge of the investigation due to concerns that revealing the investigation might result in the

destruction of evidence. They also point to other extraordinary legal filings which they claim also show an effort to shield Planned Parenthood from criminal liability.

Secret Orders to Silence a Witness and False Filings

The pending criminal charges against Planned Parenthood were filed in October of 2007 after Judge James Vano held a two day hearing on Kline's evidence and found probable cause to believe Planned Parenthood committed 107 criminal acts including 23 felonies of manufacturing documents. The charges came after months of secret court proceedings during which Sebelius recruited Attorney General Paul Morrison engaged in extraordinary efforts to remove the evidence against Planned Parenthood from Kline's possession.

In January of 2007 Morrison and Kline switched offices. Kline investigators took copies of the evidence with them to the Johnson County District Attorney's office and left a set with Judge Anderson to keep for incoming Attorney General Paul Morrison. Morrison prosecutors picked up the documents from Anderson on Morrison's second day in office. At that time, Morrison requested that Judge Anderson order Kline to return his copies. Anderson refused.

Later, Morrison filed a formal motion with Anderson demanding the return of the documents. Additionally, Planned Parenthood filed a motion with Anderson seeking an order for Kline to return his copies. This motion was filed revealing that someone was revealing to Planned Parenthood the internal workings of the investigation. Kline supporters allege that Morrison was tipping off Planned Parenthood.

Judge Anderson rejected the Planned Parenthood and Morrison motion. Anderson in rejecting the motions, however, informed Morrison of Kline's discovery of

the alleged manufacture of documents. Within a few weeks, Morrison publicly announced that in his opinion, Planned Parenthood did not commit any crimes and joined Planned Parenthood in suing Kline in an effort to force Kline to give up his copies. Morrison then secretly sued Judge Anderson in an effort to force Judge Anderson to turn over the medical records produced by Planned Parenthood so that the records could be returned to Planned Parenthood.

Kline has revealed that defending this lawsuit to keep the evidence in the criminal case in Johnson County forced Kline to personally come up with \$250,000. Kline claims the State of Kansas should have provided for his defense since the lawsuit dealt with official state business. The Attorney General's office is the office to approve such representation. Morrison as Attorney General, even though he was suing Kline, personally refused providing for Kline's defense.

Judge Anderson Confirms Kline's Evidence

Judge Anderson vigorously fought Morrison's lawsuit to return the evidence to Planned Parenthood. The lawsuit was accepted by the Kansas Supreme Court and kept secret by that Court. The documents in that lawsuit have only recently come to light. Those documents reveal that Anderson sought to have Kline's suspicions confirmed by taking the documents to his own handwriting expert. That expert confirmed the documents "do not match up." Accordingly, Anderson filed a document with the Kansas Supreme Court stating that it appears that Planned Parenthood "committed felonies to cover up misdemeanors." The Supreme Court sealed that document and Kline was unaware of this development. Morrison's response to Anderson's filing was to redouble his efforts to return the documents to Planned Parenthood.

Sebelius Appointed Court Secretly Silences Witness

In January of 2008, Anderson testified at a hearing in Kline's criminal case against Planned Parenthood. At that time he testified that the documents do not match up, that it appears felonies were committed, that Anderson informed Morrison of these facts and Morrison's response was to sue Kline and Anderson. Anderson also states that he probably should not have informed Morrison about Kline's case. Within weeks, the Kansas Supreme Court secretly ordered that Anderson could no longer testify in Kline's criminal case.

Soon after Anderson's testimony, Morrison was forced to resign from office. Morrison's resignation was the result of allegations by a former mistress of Morrison's who worked for Morrison when Morrison was District Attorney. The mistress continued in the office when Kline became District Attorney. In December of 2006 she alleged that Morrison became abusive in their relationship and was trying to bully her to report on Kline's investigation of the abortion clinics and to work to undermine the investigation. Kline supporters point to the fact that the Supreme Court appointed ethics prosecutor did not initiate charges against Morrison as further proof of the political nature of the Supreme Court's enforcement of state lawyer ethics rules.

Kansas law allowed Sebelius to appoint Morrison's successor and she chose Stephen Six. One of Six's first actions as Attorney General was to file a secret motion with the Kansas Supreme Court seeking an order that Anderson not be allowed to cooperate in Kline's criminal case against Planned Parenthood. This motion was filed after Anderson's January 2008 testimony became known to Attorney General Six. The

Sebelius appointed court approved that order without notifying Kline. Kline only learned of this order later when he sought additional testimony from Anderson.

Furthermore, KDHE renewed its efforts to prevent Kline from using the abortion reports in his criminal case. KDHE filed several motions in the criminal case arguing that only an Attorney General can access the abortion reports, and not Kline as District Attorney. Kline pointed to clear Kansas law that states that such redacted records can be used by law enforcement. During these proceedings in 2008, KDHE lawyers and AG Six did not reveal that the original records were destroyed by KDHE in 2005 during the time KDHE knew the records were key evidence in the criminal investigation.

Kline was forced to appeal the Supreme Court order silencing Anderson to the Supreme Court that issued the order. The Kansas Supreme Court finally reversed itself in December of 2010, after Kline was out of office and teaching at a law school in Virginia.

Did Morrison Destroy Evidence of Crimes?

Abortion opponents claim the most recent revelations are simply additional evidence of the Sebelius Administration obstructing justice. They also claim these revelations raise further questions about Morrison's actions.

Recently revealed court documents show that Kline left the original copies of the KDHE records with Judge Anderson for Morrison. Morrison picked up these records on his second day in office. The records Kline left for Morrison could be used in the case against Planned Parenthood despite KDHE's destruction of the originals, yet, it appears that no one can find these records. Pro-life groups allege that this, in light of Morrison's

legal efforts to end Kline’s investigation, lends to the belief that Morrison destroyed key evidence as well. Legal experts state that the prosecution can proceed with the copies of copies that Kline’s investigators took to Johnson County but that such a case is much more difficult. Kline numerous times tried to get Morrison’s office and then Six’s office to cooperate and provide the originally produced documents but both Attorneys General refused Kline’s request.

Summary of Evidence Showing that Morrison Had the KDHE Documents

Delivery of KDHE Abortion Reports to Paul Morrison (January, 2007)

On Friday, January 5, 2007, outgoing chief investigator Tom Williams removed all the physical abortion investigation files, including the redacted clinic records, from the Attorney General’s office and loaded them into his state vehicle.³ On Saturday, Stephen Maxwell and Williams organized files and records for Monday delivery to Judge Anderson (five boxes) and the Shawnee County District Attorney (three boxes).⁴ Mr. Maxwell prepared a court-requested Status and Disposition Report, detailing the location of the inquisition records. The Report noted that copies of the medical files and the **KDHE abortion reports (both paper and electronic) would be left with Judge Anderson for safekeeping.**⁵

³ “I took investigative files, all the records pertaining to this case, put them in the state automobile . . . nonelectronic files . . . the paper copies.” *Id.* at 905:25-906:3 (Feb. 23, 2011) (Tom Williams). *See also* Tr. of Proceeding at 607:25-608:2, CHPP v. Kline, No. 98747 (Nov. 20, 2007) (“I had taken everything out of the office, had it in the car[.]”)

⁴ *See* Report of the Appointed District Judge [King Report] 21-22, ¶¶ 91-97 (Jan. 10, 2008). “[W]e were verifying each record and where everything was going.” Tr. of Proceeding at 609:24-25, CHPP v. Kline, No. 98747 (Nov. 20, 2007) (Tom Williams).

⁵ **Status and Disposition Report at 1, ¶ 1, Shawnee County 3rd Dist. Ct., No. 04-IQ-03 (Jan. 8, 2007).**

On Monday morning, January 8, Mr. Williams and another investigator, Jared Reed, distributed the records as planned.⁶ **Judge Anderson describes the delivery of the five boxes of records to his office:**

I was getting ready to go to our swearing in, that would have been about 15 minutes until nine. Tom Williams and Jared Reed come in, each of them lugging a big banker's box and I say, "What is that?" And they say, "Well, these are the records we're supposed to deliver." I said, "Well, I didn't ask for the records, where is your report?" And I think they forgot it down in the car is what they said. I said, "Well, I've got to go to our swearing in." When I come back then **five boxes of records are there and the status and disposition report** is laying in my chair at my desk because they came and delivered it while I was out.⁷

The Supreme Court's special master found that the five boxes of records left with Judge Anderson "included copies of the CHPP and WHCS redacted patient records, KDHE Termination of Pregnancy Reports and the Status and Disposition Report."⁸

The following day, Tuesday, January 9, Judge Anderson wrote to Mr. Morrison and offered to permit him "to pick up the inquisition evidence that had been left at the judge's chambers by Williams and Reed the day before."⁹

Veronica Dersch and Richard Guinn of Morrison's office visited Judge Anderson Wednesday morning. Ms. Dersch recalls: "We met with him and he said there are some things here in my closet, locked closet that you need to take with you, some materials that were left with me on Friday . . . and this status and disposition report tells you where everything else is."¹⁰

⁶ CHPP v. Kline, 287 Kan. at 383. *See also* King Report 23-24, ¶¶ 103-04 (Jan. 10, 2008) (detailing delivery of records to Judge Anderson and District Attorney Hecht). Mr. Maxwell returned the SRS [Social and Rehabilitation Services] records as "no longer necessary." Status and Disposition Report 3, ¶ 6. *See also* King Report 25, ¶ 109 (Williams and Reed "returned all previously obtained SRS records to SRS, completing the distribution of records.").

⁷ Tr. of Hr'g at 749:9-23, In re Kline, No. 10,088 (Feb. 23, 2011). Judge Anderson initialed receiving the Report at 9:20 AM. *Id.* at 1495:1-19 (Feb. 25, 2011) (Steve Maxwell).

⁸ **King Report at 23, ¶ 103.**

⁹ CHPP v. Kline, 287 Kan. at 384; *See also* Letter of Hon. Richard D. Anderson to Att'y Gen. Paul J. Morrison, at 2 (Jan. 9, 2007) ("**You may retrieve the evidence returned to the Court which has been identified in the Status and Disposition Report.**").

¹⁰ Tr. of Hr'g at 67:20-68:2, In re Kline, No. 10,088 (Feb. 21, 2011).

At their instruction, **Bob Blecha of the Kansas Bureau of Investigation retrieved the five boxes of subpoenaed records.**¹¹ Judge Anderson memorialized the retrieval in a court opinion.

On the morning of the day Mr. Kline left office, his agents delivered five large file boxes of records to the Court with the Status and Disposition Report. On January 9, 2007, the Court notified newly elected Attorney General Paul J. Morrison that the materials had been delivered and could be retrieved. Mr. Morrison's agents promptly retrieved the materials.¹²

He testified similarly in a Supreme Court evidentiary hearing:

When Kline left office on the day that everyone was sworn in, including judges in our district court, **five boxes of records were delivered to me, long banker's box records were delivered by the Attorney General's office to me. I had Morrison's officers come over a couple of days later, they retrieved those records.**¹³

The new Attorney General also retrieved the files that were left at the courthouse with Shawnee County District Attorney, Robert Hecht. "[T]here was a whole bunch at Bob Hecht's office." recalled Veronica Dersch. "The entire investigative file was there. . . . We sent Mr. Blecha to get them[.]"¹⁴ The Supreme Court's Special Master wrote in his report: "On January 18, 2007 all files left behind with District Attorney Hecht's office were turned over to KBI Deputy Director Robert E. Blecka [sic]."¹⁵

Within two days of taking office, Mr. Morrison had in his possession, or direct access to, the entire case file **and the subpoenaed CHPP, WHCS, and KDHE records.** As Mr. Kline

¹¹ "On January 10, 2007, Morrison's agents picked up the boxes of records which had been delivered to the court by Kline." *Additional Response to Petition for Mandamus* at 3, Morrison v. Anderson, No. 99,050 (Oct. 19, 2007). *See also* Tr. of Hr'g at 753:8-20, In re Kline, No. 10,088 (Feb. 23, 2011) (Judge Anderson) (**KBI agent Bob Blecha "was the person I believe that actually physically carted the records out"** that day or the next morning.); *id.* at 68:6-13 (Feb. 21, 2011) (Veronica Dersch) (explaining the choice of a KBI agent to retrieve the boxes "because we felt like we needed a chain of custody").

¹² Mem. Decision at 3, Shawnee County 3rd Dist. Ct., No. 04-IQ-03 (Apr. 18, 2007). *See also id.* at 5 ("Five file boxes were delivered to the Court and retrieved by Attorney General Morrison's officers.").

¹³ Tr. of Proceeding at 84, CHPP v. Kline, No. 98747 (Nov. 19, 2007).

¹⁴ Tr. of Hr'g at 68:17-22, In re Kline, No. 10,088 (Feb. 21, 2011). "I had what I called an investigative file, which was in some black folders, and there were multiple volumes." Tr. of Proceeding at 606, CHPP v. Kline, No. 98747 (Nov. 20, 2007) (Tom Williams). *See also* King Report 24, ¶ 104 ("Williams' investigative records consisted of multiple black folders that contained investigative reports, memos, and subpoenas from the inquisition.").

¹⁵ King Report 16, ¶ 66.

explained: “He had access to the case file in paper documents and five boxes with Judge Anderson. He had access to the medical records that were maintained by Judge Anderson. He had access to the entire electronic file[.]”¹⁶ Ms. Dersch confirms that Bob Blecha was sent out to retrieve the records “right away” after identifying the locations from the Status and Disposition Report. “The first thing he went to was Judge Anderson and Robert Hecht’s office.”¹⁷

¹⁶ Tr. of Hr’g at 2080:25-2081:4, In re Kline, No. 10,088 (Mar. 2, 2011).

¹⁷ *Id.* at 140:23-141 (Feb. 21, 2011).