



120 S.W. 10th Avenue, Topeka, KS 66612-1597

**FOR IMMEDIATE RELEASE
December 27, 2006**

**CONTACT: Jan Lunsford
(785) 296-2219**

**STATEMENT BY ATTORNEY GENERAL PHILL KLINE CONCERNING CHARGES AGAINST DR.
GEORGE TILLER**

I am announcing that tomorrow I will appoint an independent special prosecutor for the case of Kansas vs. Tiller in Sedgwick County, Case No. 06CR 2961. With this appointment, Mr. Don McKinney, a Democrat attorney from Wichita, will have full discretion regarding how the state will proceed with its case against Mr. Tiller.

It is important to note that at this stage of the case two independent judges have found probable cause to believe that crimes have been committed. The latest review of the evidence by a judge in this community resulted in a finding of probable cause to believe that Mr. Tiller committed those crimes.

Furthermore, the Kansas Supreme Court reviewed this investigation for over one year and has now twice ruled that the investigation may go forward.

Kansas law relating to such investigations expressly states that the Attorney General may file a criminal complaint if the evidence supports such a complaint.

KSA 22-3103 states "(i)f the testimony taken at an inquisition discloses probable cause to believe that a crime has been committed...the attorney general...may file such testimony, together with his complaint...against the person or persons alleged to have committed the crime...and a warrant shall there upon be issued for the arrest of such person...as in other criminal cases."

Also, the Kansas Supreme Court has stated that once the Attorney General commences a prosecution, the Attorney General may not be removed from the case but for cause. *State v. Finch*, 128 Kan. 665, 280 P. 910 (1929); rehearing denied November 16, 1929.

I was stunned that the District Attorney, after meeting with me prior to the filing of charges and pledging not to stand in the way, later reversed course and without any effort to notify myself or my office went to a different judge who had not reviewed the evidence and obtained a dismissal ex parte contrary to law and contrary to the facts.

The District Attorney has never sought to review the evidence supporting these charges, despite the existence of such evidence in the public realm for several years and this ongoing investigation.

This appointment of an independent special prosecutor will remove this prosecution from a highly charged political process in which millions of dollars has been spent in media and campaign efforts to elect as Attorney General a candidate who, without reviewing any of the evidence, repeatedly pledged not to pursue this investigation and expended the majority of his campaign criticizing the existence of the investigation. The Attorney General-Elect has also, without foundation, wrongfully criticized the Shawnee County District Court Judge overseeing the investigation falsely alleging that the judge failed to perform his duties. The Attorney General-elect at times has called for my appointment of a special prosecutor and he should not attempt to interfere with the duties of such a prosecutor.

It is also important to note what has not happened in this investigation and case. The privacy of the patients has never been compromised. This office has never sought nor has it received the identity of the patients who are not victims of rape. I have asked that Mr. McKinney continue this approach and he will maintain the position that the names of the patients need not be revealed by the court or the parties.

The charges in this case are just that – charges. Mr. Tiller is presumed innocent by law. The charges relate to 15 counts of criminal late-term abortion and 15 counts relating to failure to report the reason and basis of those abortions as required by Kansas law. Each count is a class A misdemeanor punishable by up to one year in jail and a \$2,500 fine.

As stated in the complaint, the ages of the patients ranges from 10 years of age to 22 years of age, and the age of the fetuses ranges from 25 weeks to 31 weeks. In all cases charged it is alleged that Mr. Tiller performed an abortion on a viable fetus with the reason justifying the late term abortion being that the mother would suffer either severe depression - single episode, anxiety disorder, or adjustment disorder if the abortion was not performed.

My office has now referred over 25 cases of child rape to local authorities from abortion records for further investigation and or prosecution. Neither Mr. Tiller nor his attorneys would be notified of such referrals as they are not parties nor are they investigating authorities.

The records supporting the present charges were not finally delivered to my office until October 24, 2006. The investigation is ongoing.

[Click Here for Opinion 2000-20](#)

###