

DA plans no charges on abortion records shredding

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TOPEKA, Kan. (AP) -- An outside investigation has determined that the Kansas attorney general's office didn't shred documents from a Planned Parenthood clinic when it destroyed abortion records in April 2009, raising questions about another prosecutor's statements that had prompted the dismissal of some criminal charges against the clinic.



None of the destroyed documents was "connected in any way" with Planned Parenthood, which performs abortions at its clinic in the Kansas City suburb of Overland Park, Shawnee County District Attorney Chad Taylor said Friday. The attorney general's office asked the Shawnee County sheriff's office to investigate the shredding and turn its findings over to Taylor.

The request came after another prosecutor, Johnson County District Attorney Steve Howe, told a judge last fall that the attorney general's office destroyed documents it had from Planned Parenthood, hindering the prosecution of its clinic. In November, the judge dismissed 49 of 107 charges against the clinic, including the most serious ones that accused it of falsifying reports to the state on abortions it performed in 2003.

Howe didn't back away from those statements Friday, saying that despite whatever Taylor said, the records in the attorney general's possession that could have been used in prosecuting the clinic are "missing."

"I disagree with some of his factual assertions," Howe said. "To me, it doesn't change anything."

Taylor said boxes of documents were destroyed by the attorney general's office in April 2009, but they were all part of files involving the unsuccessful -- and closed -- prosecution of another abortion provider, the late Dr. George Tiller of Wichita. Taylor said he won't file criminal charges over the shredding, which he said occurred "in the same fashion" as it would have for any case resulting in a not-guilty verdict.

Taylor said the investigation examined the actions of employees at the attorney general's office, focusing in particular on former Assistant Attorney General Barry Disney, who handled Tiller's prosecution.

And Disney said: "I hope that others respect the decision that this independent investigation made and not politicize it."

Taylor wouldn't comment about Howe's past statements. Attorney General Derek Schmidt, who sought the outside investigation because the shredding occurred under his predecessor, said only that he appreciated investigators' work.

Planned Parenthood officials, who've maintained that the clinic did not break the law, also had expressed confidence that state officials committed no wrongdoing and said it's grossly unfair to suggest a conspiracy. Pedro Irigonegaray, a Topeka attorney representing the clinic, called the idea "a fantasy" designed to distract attention from a case Howe's office was bound to lose.

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"They needed somewhere else to put the blame, rather than accept the blame for an incompetent prosecution," he said.

Abortion opponents' criticism of Taylor's findings seemed inevitable. Taylor is a Democrat, and the shredding occurred during the administration of Attorney General Steve Six, a Democrat who lost to Schmidt, a Republican, in 2010. Howe also is a Republican, as is Phill Kline, the former Johnson County district attorney who filed the charges against the Planned Parenthood clinic in October 2007.

Abortion opponents had seen Howe's statements and the dismissal of some charges against the clinic as evidence of attempts by some state officials to protect providers.

Mary Kay Culp, executive director of the anti-abortion group Kansans for Life, called Taylor's statements "a bizarre dodge."

"We feared the worst and we got it," she said.

Taylor did not discuss the exact status of the Planned Parenthood documents in the criminal case, which has a hearing scheduled March 29 in Johnson County District Court. Taylor said the investigation -- conducted by Shawnee County sheriff's detectives -- focused on the shredding in April 2009.

The Associated Press has filed a request under the Kansas Open Records Act for a full copy of the report forwarded from Taylor to the attorney general's office.

Irigonegaray said the documents that Howe said were destroyed still exist and were held by the attorney general's office as of last fall, when he was allowed to examine and take inventory of boxes of abortion-related documents with members of Howe's and Schmidt's staffs there. Irigonegaray said he has not talked publicly about it until now to avoid interfering with the investigation of the shredding.

In 2005, the Kansas Department of Health and Environment destroyed its originals of Planned Parenthood's reports on abortions from 2003 -- along with reports on hundreds of other abortions that year. The attorney general's office had its own set, and the Johnson County district attorney's office had what Howe has described as partial copies.

The dismissed charges alleged that Planned Parenthood failed to maintain its copies of the reports, then produced falsified versions when compelled to do so by a judge in 2006, during an ongoing investigation of abortion providers by the attorney general's office. The clinic said it made copies by hand.

In 2006, the attorney general's office was held by Kline, a strong abortion opponent. Kline lost his race for re-election as attorney general that year, then became Johnson County district attorney. Howe defeated Kline in the 2008 Republican primary and inherited Kline's case against Planned Parenthood.

Roxana Hegeman in Wichita, Kan., also contributed to this report.