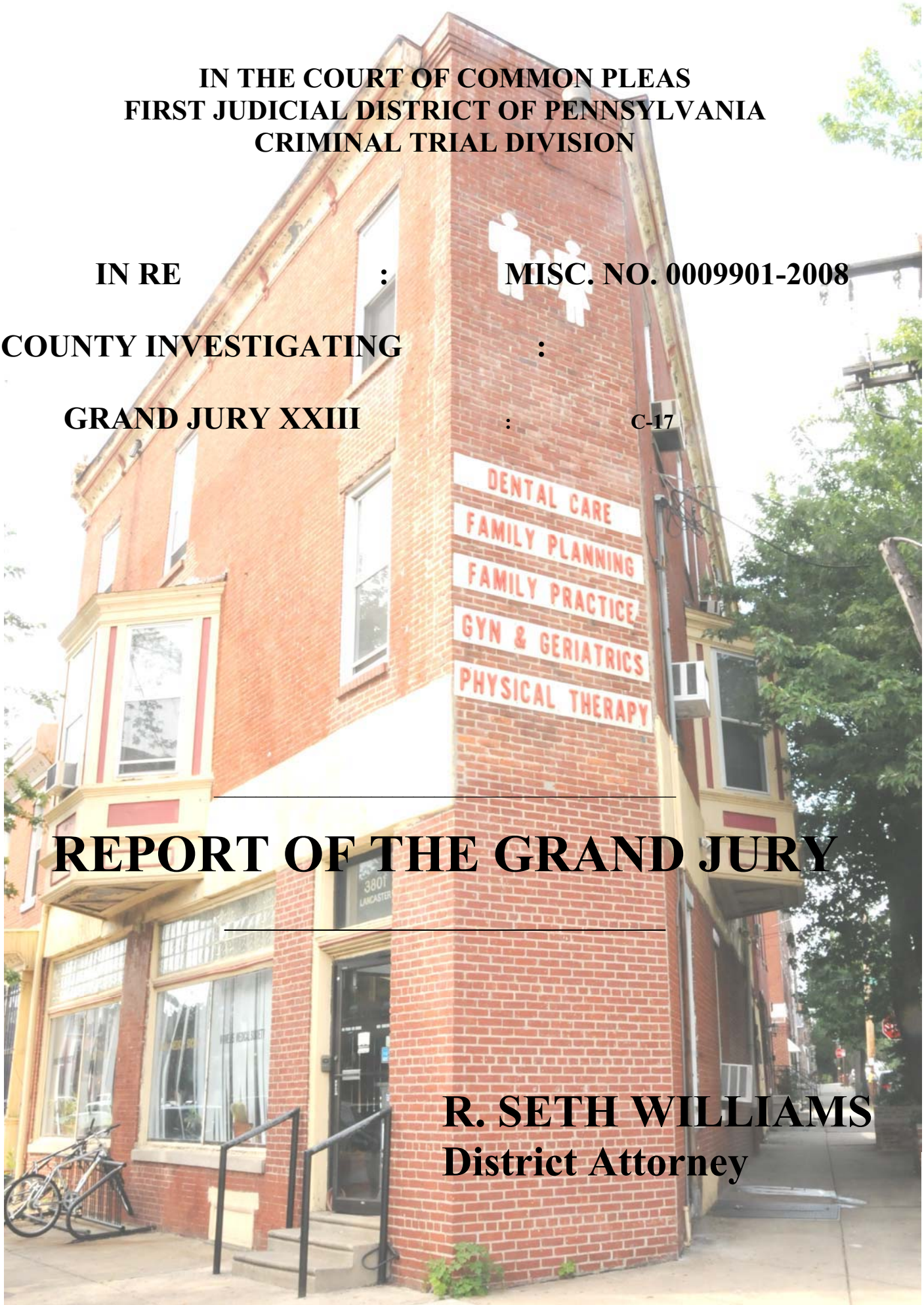
IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CRIMINAL TRIAL DIVISION

IN RE	**:**	**MISC. NO. 0009901-2008**
COUNTY INVESTIGATING	**:**	
GRAND JURY XXIII	**:**	**C-17**



REPORT OF THE GRAND JURY

R. SETH WILLIAMS
District Attorney

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CRIMINAL TRIAL DIVISION

IN RE	:	**MISC. NO. 0009901-2008**
COUNTY INVESTIGATING	:	
GRAND JURY XXIII	:	**C-17**

FINDINGS AND ORDER

AND NOW, this 17th day of January, 2011, after having examined the Report and Records of the County Investigating Grand Jury XXIII, this Court finds that the Report is within the authority of the Investigating Grand Jury and is otherwise in accordance with the provisions of the Investigating Grand Jury Act, 42 Pa.C.S. §4541, et seq. In view of these findings, the Court hereby accepts the Report and refers it to the Clerk of Court for filing as a public record.

BY THE COURT:

RENEE CARDWELL HUGHES
Supervising Judge
Court of Common Pleas

I HEREBY CERTIFY the foregoing to be a true and correct copy of the original as filed in this office:

Date: 1/14/11

Active Criminal Records
Criminal Motion Court Clerk
First Judicial District of Pa.

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CRIMINAL TRIAL DIVISION

IN RE	**:**	**MISC. NO. 0009901-2008**
COUNTY INVESTIGATING	**:**	
GRAND JURY XXIII	**:**	**C-17**

TABLE OF CONTENTS

I. Overview 1

II. The Raid 19

III. Gosnell's Illegal Practice 23

IV. The Intentional Killing of Viable Babies 99

V. The Death of Karnamaya Mongar 117

VI. How Did This Go On So Long? 137

Pennsylvania Department of Health 137

Pennsylvania Department of State 173

Philadelphia Department of Public Health 199

Other Doctors 212

VII. The Criminal Charges 219

VIII. Recommendations of the Grand Jury 247

Appendices:

A. Anesthesia Chart

B. Anesthesia for Surgery

C. Price List

D. K. Mongar file

Section I: Overview

This case is about a doctor who killed babies and endangered women. What we mean is that he regularly and illegally delivered live, viable, babies in the third trimester of pregnancy – and then murdered these newborns by severing their spinal cords with scissors. The medical practice by which he carried out this business was a filthy fraud in which he overdosed his patients with dangerous drugs, spread venereal disease among them with infected instruments, perforated their wombs and bowels – and, on at least two occasions, caused their deaths. Over the years, many people came to know that something was going on here. But no one put a stop to it.

Let us say right up front that we realize this case will be used by those on both sides of the abortion debate. We ourselves cover a spectrum of personal beliefs about the morality of abortion. For us as a criminal grand jury, however, the case is not about that controversy; it is about disregard of the law and disdain for the lives and health of mothers and infants. We find common ground in exposing what happened here, and in recommending measures to prevent anything like this from ever happening again.

The "Women's Medical Society"

That was the impressive-sounding name of the clinic operated in West Philadelphia, at 38th and Lancaster, by Kermit B. Gosnell, M.D. Gosnell seemed impressive as well. A child of the neighborhood, Gosnell spent almost four decades running this clinic, giving back – so it appeared – to the community in which he continued to live and work.

But the truth was something very different, and evident to anyone who stepped

inside. The clinic reeked of animal urine, courtesy of the cats that were allowed to roam (and defecate) freely. Furniture and blankets were stained with blood. Instruments were not properly sterilized. Disposable medical supplies were not disposed of; they were reused, over and over again. Medical equipment – such as the defibrillator, the EKG, the pulse oximeter, the blood pressure cuff – was generally broken; even when it worked, it wasn't used. The emergency exit was padlocked shut. And scattered throughout, in cabinets, in the basement, in a freezer, in jars and bags and plastic jugs, were fetal remains. It was a baby charnel house.

The people who ran this sham medical practice included no doctors other than Gosnell himself, and not even a single nurse. Two of his employees had been to medical school, but neither of them were licensed physicians. They just pretended to be. Everyone called them "Doctor," even though they, and Gosnell, knew they weren't. Among the rest of the staff, there was no one with any medical licensing or relevant certification at all. But that didn't stop them from making diagnoses, performing procedures, administering drugs.

Because the real business of the "Women's Medical Society" was not health; it was profit. There were two primary parts to the operation. By day it was a prescription mill; by night an abortion mill. A constant stream of "patients" came through during business hours and, for the proper payment, left with scripts for Oxycontin and other controlled substances, for themselves and their friends. Gosnell didn't see these "patients"; he didn't even show up at the office during the day. He just left behind blank, pre-signed prescription pads, and had his unskilled, unauthorized workers take care of the rest. The fake prescriptions brought in hundreds of thousands of dollars a year. But this

drug-selling operation is the subject of separate investigation by federal authorities.

Our focus was on the other side of the business.

Murder in plain sight

With abortion, as with prescriptions, Gosnell's approach was simple: keep volume high, expenses low – and break the law. That was his competitive edge.

Pennsylvania, like other states, permits legal abortion within a regulatory framework. Physicians must, for example, provide counseling about the nature of the procedure. Minors must have parental or judicial consent. All women must wait 24 hours after first visiting the facility, in order to fully consider their decision. But Gosnell's compliance with such requirements was casual at best. At the Women's Medical Society, the only question that really mattered was whether you had the cash. Too young? No problem. Didn't want to wait? Gosnell provided same-day service.

The real key to the business model, though, was this: Gosnell catered to the women who couldn't get abortions elsewhere – because they were too pregnant. Most doctors won't perform late second-trimester abortions, from approximately the 20th week of pregnancy, because of the risks involved. And late-term abortions after the 24th week of pregnancy are flatly illegal. But for Dr. Gosnell, they were an opportunity. The bigger the baby, the more he charged.

There was one small problem. The law requires a measurement of gestational age, usually done by an ultrasound. The ultrasound film would leave documentary proof that the abortion was illegal. Gosnell's solution was simply to fudge the measurement process. Instead of hiring proper ultrasound technicians, he "trained" the staff himself, showing them how to aim the ultrasound probe at an angle to make the fetus look

smaller. If one of his workers nonetheless recorded an ultrasound measurement that was too big, it would just be redone. Invariably these second ultrasounds would come in lower. In fact, almost every time a second ultrasound was taken, the gestational age would be recorded as precisely 24.5 weeks – slightly past the statutory cutoff. Apparently Gosnell thought he would get away with abortions that were just a little illegal. In reality, of course, most of these pregnancies were considerably more advanced.

But the illegal abortion business also posed an additional dilemma. Babies that big are hard to get out. Gosnell's approach, whenever possible, was to force full labor and delivery of premature infants on ill-informed women. The women would check in during the day, make payment, and take labor-inducing drugs. The doctor wouldn't appear until evening, often 8:00, 9:00, or 10:00 p.m., and only then deal with any of the women who were ready to deliver. Many of them gave birth before he even got there. By maximizing the pain and danger for his patients, he minimized the work, and cost, for himself and his staff. The policy, in effect, was labor without labor.

There remained, however, a final difficulty. When you perform late-term "abortions" by inducing labor, you get babies. Live, breathing, squirming babies. By 24 weeks, most babies born prematurely will survive if they receive appropriate medical care. But that was not what the Women's Medical Society was about. Gosnell had a simple solution for the unwanted babies he delivered: he killed them. He didn't call it that. He called it "ensuring fetal demise." The way he ensured fetal demise was by sticking scissors into the back of the baby's neck and cutting the spinal cord. He called that "snipping."

Over the years, there were hundreds of "snippings." Sometimes, if Gosnell was unavailable, the "snipping" was done by one of his fake doctors, or even by one of the administrative staff. But all the employees of the Women's Medical Society knew. Everyone there acted as if it wasn't murder at all.

Most of these acts cannot be prosecuted, because Gosnell destroyed the files. Among the relatively few cases that could be specifically documented, one was Baby Boy A. His 17-year-old mother was almost 30 weeks pregnant – seven and a half months – when labor was induced. An employee estimated his birth weight as approaching six pounds. He was breathing and moving when Dr. Gosnell severed his spine and put the body in a plastic shoebox for disposal. The doctor joked that this baby was so big he could "walk me to the bus stop." Another, Baby Boy B, whose body was found at the clinic frozen in a one-gallon spring-water bottle, was at least 28 weeks of gestational age when he was killed. Baby C was moving and breathing for 20 minutes before an assistant came in and cut the spinal cord, just the way she had seen Gosnell do it so many times.

And these were not even the worst cases. Gosnell made little effort to hide his illegal abortion practice. But there were some, "the really big ones," that even he was afraid to perform in front of others. These abortions were scheduled for Sundays, a day when the clinic was closed and none of the regular employees were present. Only one person was allowed to assist with these special cases – Gosnell's wife. The files for these patients were not kept at the office; Gosnell took them home with him and disposed of them. We may never know the details of these cases. We do know, however, that, during the rest of the week, Gosnell routinely aborted and killed babies in the sixth and

seventh month of pregnancy. The Sunday babies must have been bigger still.

Butcher of women

Dr. Gosnell didn't just kill babies. He was also a deadly threat to mothers. Not every abortion could be completed by inducing labor and delivery. On these occasions, Gosnell would attempt to remove the fetus himself. The consequences were often calamitous – though that didn't stop the doctor from trying to cover them up.

One woman, for example, was left lying in place for hours after Gosnell tore her cervix and colon while trying, unsuccessfully, to extract the fetus. Relatives who came to pick her up were refused entry into the building; they had to threaten to call the police. They eventually found her inside, bleeding and incoherent, and transported her to the hospital, where doctors had to remove almost half a foot of her intestines.

On another occasion, Gosnell simply sent a patient home, after keeping her mother waiting for hours, without telling either of them that she still had fetal parts inside her. Gosnell insisted she was fine, even after signs of serious infection set in over the next several days. By the time her mother got her to the emergency room, she was unconscious and near death.

A nineteen-year-old girl was held for several hours after Gosnell punctured her uterus. As a result of the delay, she fell into shock from blood loss, and had to undergo a hysterectomy.

One patient went into convulsions during an abortion, fell off the procedure table, and hit her head on the floor. Gosnell wouldn't call an ambulance, and wouldn't let the woman's companion leave the building so that he could call an ambulance.

Undoubtedly there were many similar incidents, but even they do not demonstrate

Gosnell at his most dangerous. Day in and day out, the greatest risks came when the doctor wasn't even there. Gosnell set up his practice to rely entirely on the untrained actions of his unqualified employees. They administered drugs to induce labor, often causing rapid and painful dilation and contractions. But Gosnell did not like it when women screamed or moaned in his clinic, so the staff was under instruction to sedate them into stupor. Of course his assistants had no idea how to manage the powerful narcotics they were using. Gosnell prepared a list of preset dosage levels to be administered in his absence. But no allowances were made for individual patient variations, or for any monitoring of vital signs. All that mattered was the money. The more you paid, the more pain relief you received. It was all completely illegal, and completely unsafe.

Only in one class of cases did Gosnell exercise any real care with these dangerous sedatives. On those rare occasions when the patient was a white woman from the suburbs, Gosnell insisted that he be consulted at every step. When an employee asked him why, he said it was "the way of the world."

Karnamaya Mongar was not one of the privileged patients. She was a 41-year-old, refugee who had recently come to the United States from a resettlement camp in Nepal. When she arrived at the clinic, Gosnell, as usual, was not there. Office workers had her sign various forms that she could not read, and then began doping her up. She received repeated unmonitored, unrecorded intravenous injections of Demerol, a sedative seldom used in recent years because of its dangers. Gosnell liked it because it was cheap.

After several hours, Mrs. Mongar simply stopped breathing. When employees finally noticed, Gosnell was called in and briefly attempted to give CPR. He couldn't use

the defibrillator (it was broken); nor did he administer emergency medications that might have restarted her heart. After further crucial delay, paramedics finally arrived, but Mrs. Mongar was probably brain dead before they were even called. In the meantime, the clinic staff hooked up machinery and rearranged her body to make it look like they had been in the midst of a routine, safe abortion procedure.

Even then, there might have been some slim hope of reviving Mrs. Mongar. The paramedics were able to generate a weak pulse. But, because of the cluttered hallways and the padlocked emergency door, it took them over twenty minutes just to find a way to get her out of the building. Doctors at the hospital managed to keep her heart beating, but they never knew what they were trying to treat, because Gosnell and his staff lied about how much anesthesia they had given, and who had given it. By that point, there was no way to restore any neurological activity. Life support was removed the next day. Karnamaya Mongar was pronounced dead.

See no evil

Pennsylvania is not a third-world country. There were several oversight agencies that stumbled upon and should have shut down Kermit Gosnell long ago. But none of them did, not even after Karnamaya Mongar's death. In the end, Gosnell was only caught by accident, when police raided his offices to seize evidence of his illegal prescription selling. Once law enforcement agents went in, they couldn't help noticing the disgusting conditions, the dazed patients, the discarded fetuses. That is why the complete regulatory collapse that occurred here is so inexcusable. It should have taken only one look.

The first line of defense was the Pennsylvania Department of Health. The

department's job is to audit hospitals and outpatient medical facilities, like Gosnell's, to make sure that they follow the rules and provide safe care. The department had contact with the Women's Medical Society dating back to 1979, when it first issued approval to open an abortion clinic. It did not conduct another site review until 1989, ten years later. Numerous violations were already apparent, but Gosnell got a pass when he promised to fix them. Site reviews in 1992 and 1993 also noted various violations, but again failed to ensure they were corrected.

But at least the department had been doing something up to that point, however ineffectual. After 1993, even that pro forma effort came to an end. Not because of administrative ennui, although there had been plenty. Instead, the Pennsylvania Department of Health abruptly decided, for political reasons, to stop inspecting abortion clinics at all. The politics in question were not anti-abortion, but pro. With the change of administration from Governor Casey to Governor Ridge, officials concluded that inspections would be "putting a barrier up to women" seeking abortions. Better to leave clinics to do as they pleased, even though, as Gosnell proved, that meant both women and babies would pay.

The only exception to this live-and-let-die policy was supposed to be for complaints dumped directly on the department's doorstep. Those, at least, would be investigated. Except that there were complaints about Gosnell, repeatedly. Several different attorneys, representing women injured by Gosnell, contacted the department. A doctor from Children's Hospital of Philadelphia hand-delivered a complaint, advising the department that numerous patients he had referred for abortions came back from Gosnell with the same venereal disease. The medical examiner of Delaware County informed the

department that Gosnell had performed an illegal abortion on a 14-year-old girl carrying a 30-week-old baby. And the department received official notice that a woman named Karnamaya Mongar had died at Gosnell's hands.

Yet not one of these alarm bells – not even Mrs. Mongar's death – prompted the department to look at Gosnell or the Women's Medical Society. Only after the raid occurred, and the story hit the press, did the department choose to act. Suddenly there were no administrative, legal, or policy barriers; within weeks an order was issued to close the clinic. And as this grand jury investigation widened, department officials "lawyered up," hiring a high-priced law firm to represent them at taxpayer expense. Had they spent as much effort on inspection as they did on attorneys, none of this would have happened to begin with.

But even this total abdication by the Department of Health might not have been fatal. Another agency with authority in the health field, the Pennsylvania Department of State, could have stopped Gosnell single-handedly. While the Department of Health regulates facilities, the Department of State, through its Board of Medicine, licenses and oversees individual physicians. Like their colleagues at Health, however, Department of State officials were repeatedly confronted with evidence about Gosnell, and repeatedly chose to do nothing.

Indeed, in many ways State had more damning information than anyone else. Almost a decade ago, a former employee of Gosnell presented the Board of Medicine with a complaint that laid out the whole scope of his operation: the unclean, unsterile conditions; the unlicensed workers; the unsupervised sedation; the underage abortion patients; even the over-prescribing of pain pills with high resale value on the street. The

department assigned an investigator, whose investigation consisted primarily of an offsite interview with Gosnell. The investigator never inspected the facility, questioned other employees, or reviewed any records. Department attorneys chose to accept this incomplete investigation, and dismissed the complaint as unconfirmed.

Shortly thereafter the department received an even more disturbing report – about a woman, years before Karnamaya Mongar, who died of sepsis after Gosnell perforated her uterus. The woman was 22 years old. A civil suit against Gosnell was settled for almost a million dollars, and the insurance company forwarded the information to the department. That report should have been all the confirmation needed for the complaint from the former employee that was already in the department's possession. Instead, the department attorneys dismissed this complaint too. They concluded that death was just an "inherent" risk, not something that should jeopardize a doctor's medical license.

The same thing happened at least twice more: the department received complaints about lawsuits against Gosnell, but dismissed them as meaningless. A department attorney said there was no "pattern of conduct." He never bothered to check a national litigation database, which would have shown that Gosnell had paid out damages to at least five different women whose internal organs he had punctured during abortions. Apparently, the missing piece in the "pattern" was press coverage. Once that began, after the raid, the department attorney quickly managed to secure a license suspension against Gosnell.

Similar inaction occurred at the municipal level. The Philadelphia Department of Public Health does not regulate doctors or medical facilities; but it is supposed to protect the public's health. Philadelphia health department employees regularly visited the

Women's Medical Society to retrieve blood samples for testing purposes, but never noticed, or more likely never bothered to report, that anything was amiss. Another employee inspected the clinic in response to a complaint that dead fetuses were being stored in paper bags in the employees' lunch refrigerator. The inspection confirmed numerous violations of protocols for storage and disposal of infectious waste. But no follow-up was ever done, and the violations continued to the end.

A health department representative also came to the clinic as part of a citywide vaccination program. She promptly discovered that Gosnell was scamming the program; more importantly, she was the only employee, city or state, who actually tried to do something about the appalling things she saw there. By asking questions and poking around, she was able to file detailed reports identifying many of the most egregious elements of Gosnell's practice. It should have been enough to stop him. But instead her reports went into a black hole, weeks before Karnamaya Mongar walked into the Woman's Medical Society.

Ironically, the doctor at CHOP who personally complained to the Pennsylvania Department of Health about the spread of venereal disease from Gosnell's clinic, the doctor who used to refer teenage girls to Gosnell for abortions, became the head of the city's health department two years ago. But nothing changed in the time leading up to Mrs. Mongar's death. And it wasn't just government agencies that did nothing. The Hospital of the University of Pennsylvania and its subsidiary, Penn Presbyterian Medical Center, are in the same neighborhood as Gosnell's office. State law requires hospitals to report complications from abortions. A decade ago, a Gosnell patient died at HUP after a botched abortion, and the hospital apparently filed the necessary report. But the victims

kept coming in. At least three other Gosnell patients were brought to Penn facilities for emergency surgery; emergency room personnel said they have treated many others as well. And at least one additional woman was hospitalized there after Gosnell had begun a flagrantly illegal abortion of a 29-week-old fetus. Yet, other than the one initial report, Penn could find not a single case in which it complied with its legal duty to alert authorities to the danger. Not even when a second woman turned up virtually dead.

So too with the National Abortion Federation. NAF is an association of abortion providers that upholds the strictest health and legal standards for its members. Gosnell, bizarrely, applied for admission shortly after Karnamaya Mongar's death. Despite his various efforts to fool her, the evaluator from NAF readily noted that records were not properly kept, that risks were not explained, that patients were not monitored, that equipment was not available, that anesthesia was misused. It was the worst abortion clinic she had ever inspected. Of course, she rejected Gosnell's application. She just never told anyone in authority about all the horrible, dangerous things she had seen.

Bureaucratic inertia is not exactly news. We understand that. But we think this was something more. We think the reason no one acted is because the women in question were poor and of color, because the victims were infants without identities, and because the subject was the political football of abortion.

Names

Obviously, Kermit Gosnell is the man with the clearest criminal culpability for what happened here. But many of the people who worked for the Women's Medical Society should also be charged with criminal offenses; and many of the people who worked for the public, while not criminally liable, should be called out.

We group the criminal charges into three categories: charges arising from the baby murders and illegal abortions; charges in connection with the death of Karnamaya Mongar; and charges stemming generally from the ongoing operation of a criminal enterprise.

We were able to document seven specific incidents in which Gosnell or one of his employees severed the spine of a viable baby born alive. We charge Gosnell, Lynda Williams, Adrienne Moton, and Steven Massof with murder in the first degree. Along with Sherry West, they are also charged with conspiracy to commit murder in relation to the hundreds of unidentifiable instances in which they planned to, and no doubt did, carry out similar killings. We also charge Gosnell with various violations of the Abortion Control Act, including infanticide and performing illegal late-term abortions. Charged as co-conspirators with him in this regard are Williams, West, and Pearl Gosnell, his wife.

Two employees were Gosnell's accomplices in the administration of the drugs that killed Karnamaya Mongar. We charge Gosnell, Lynda Williams, and Sherry West with third-degree murder, drug delivery resulting in death, violations of the controlled substance act and conspiracy. Gosnell, West, and Elizabeth Hampton are charged with hindering apprehension (and Hampton also with perjury) for lying to the police, to the hospital, and to us about how this woman died.

Illegality was so integral to the operation of the Women's Medical Society that the business itself was a corrupt organization. We charge Gosnell, Lynda Williams, Sherry West, Adrienne Moton, Maddline Joe, Tina Baldwin, Pearl Gosnell, Steven Massof, and Eileen O'Neill with running that organization or conspiring to do so. We charge Massof and O'Neill, in conspiracy with Gosnell, with theft by deception for

pretending to be doctors, and billing for their services as if they were licensed physicians. Gosnell should also be charged with obstruction and tampering for altering his patient files to hide illegality, and for destroying or removing other files entirely. As a final note, we charge Gosnell and Tina Baldwin, his employee, with corrupting the morals of a minor. Gosnell hired Tina's 15-year-old daughter as a staff member. She was required to work 50-hour weeks, starting after school until past midnight, during which she was exposed to the full horrors of Gosnell's practice. Bad enough that he expected grown-ups to do it.

That leaves the government employees whose job was to make sure that things like this don't happen. Worth special mention is Janice Staloski of the Pennsylvania Department of Health, who personally participated in the 1992 site visit, but decided to let Gosnell slide on the violations that were already evident then. She eventually rose to become director of the division that was supposed to regulate abortion providers, but never looked at Gosnell despite specific complaints from lawyers, a doctor, and a medical examiner. After she was nonetheless promoted, her successor as division director, Cynthia Boyne, failed to order an investigation of the clinic even when Karnamaya Mongar died there. Senior legal counsel Kenneth Brody insisted that the department had no legal obligation to monitor abortion clinics, even though it exercised such a duty until the Ridge administration, and exercised it again as soon as Gosnell became big news. The agency's head lawyer, chief counsel Christine Dutton, defended the department's indifference: "People die," she said.

Lawyers at the Pennsylvania Department of State behaved in the same fashion. Attorneys Mark Greenwald, Charles Hartwell, David Grubb, Andrew Kramer, William

Newport, Juan Ruiz, and Kerry Maloney were confronted with a growing pile of disquieting facts about Gosnell, including a detailed, inside account from a former employee, and a 22-year-old dead woman. Every time, though, they managed to dismiss the evidence as immaterial. Every time, that is, until the facts hit the fan.

We want better from our public servants. We trust that their actions will be reviewed, and that they will be held accountable.

What to do

If oversight agencies expect to prevent future Dr. Gosnells, they must find the fortitude to enact and enforce the necessary regulations. Rules must be more than words on paper.

We recommend that the Pennsylvania Department of Health plug the hole it has created for abortion clinics. They should be explicitly regulated as ambulatory surgical facilities, so that they are inspected annually and held to the same standards as all other outpatient procedure centers. Inspectors should review patient files, including ultrasound images, on site. Equipment, and employees' licenses, should be scrutinized. Second-trimester abortions should be performed or supervised by physicians board-certified in obstetrics and gynecology.

The Pennsylvania Department of State must repair its review process. Complaints should be taken by internet and telephone, and patients should be assured of confidentiality and a response when the investigation is completed. No complaint should be dismissed until the subject's full history of prior complaints has been considered, and malpractice databases have been examined. Reports about individual doctors should be cross-checked against reports about the medical offices where they have worked, and

vice versa.

The Philadelphia Department of Public Health should do at least as much to control infectious medical waste as it does to inspect swimming pools and beauty parlors.

Statutory changes are necessary as well. Infanticide and third-trimester abortion are serious crimes. The two-year statute of limitations currently applicable for these offenses is inadequate to their severity. The limitations period for late abortion should be extended to five years; infanticide, like homicide, should have none. Impersonating a physician is also a serious, and potentially very dangerous, act. Yet under current law it is not a crime at all. An appropriate criminal provision should be enacted. There may also be other statutory and regulatory revisions that we, as lay people, have not thought to consider. Legislative hearings may be appropriate to further examine these issues.

We recognize that these relatively technical recommendations will be unsatisfying to those fighting the abortion battle. "Pro-choice" advocates will argue that the real solution is government-funded abortion. "Pro-lifers" will see the case as an indictment of all legalized abortion.

We must leave these broader questions to others; our authority as a grand jury is more limited. But we exercise its full extent by recommending the maximum response available under the criminal law: murder charges. If you willfully disregard a deadly risk to the mother's life, and kill her, you will be charged with murder. If you deliver a viable baby, born alive, and kill it, you will be charged with murder. That prospect may make doctors more careful about performing abortions, especially abortions approaching the legal limit. We hope so.