

MEMORANDUM

Planned Parenthood Abuses: Highlighting Investigations, Audits, and Legal Actions

Growing evidence from Planned Parenthood affiliates across the nation suggests systemic and possibly organization-wide problems with the misuse of federal funding, protocols that do not adequately protect women's health and safety, practices that endanger minors, and other troubling issues. Below, we provide a list of the current investigations of Planned Parenthood that have been made public, prior investigations of Planned Parenthood, audit reports of Planned Parenthood affiliates or clinics that have found improprieties, and legal actions taken against Planned Parenthood.

It is particularly important to note that there likely may be ongoing state and local investigations that are not public knowledge. Thus, the list provided below of ongoing investigations can neither be comprehensive nor exhaustive. Moreover, information on any potential on-going investigations would not likely be available as making such information available might compromise and/or unduly politicize such investigations. Generally, investigations become public once they have been completed.

1) Ongoing Public Investigations of Planned Parenthood

- a. Investigation of the Planned Parenthood Federation of America (PPFA) and its affiliates' "institutional practices and policies" and "handling of federal funding" by the Committee on Energy and Commerce of the U.S. House of Representatives. In December 2011, several former Planned Parenthood employees wrote a letter to Congress stating that they "are prepared to testify" about the transgressions they witnessed at Planned Parenthood clinics across the nation. These transgressions include not only financial misdeeds, but also failure to "detect and act upon instances where a girl or woman was brought to the clinic under some degree of coercion, up to and including instances where the girl or woman was subjected to human trafficking and was a victim of crime."¹
- b. Investigation of Planned Parenthood of Kansas and Mid-Missouri for providing unlawful late-term abortions. Although potential evidence was destroyed during the then-Governor Sebelius' administration, enough evidence still exists to prosecute Planned Parenthood for 58 instances of illegal late-term abortions. (The next hearing is scheduled for February 22, 2012.)
- c. Investigation of Planned Parenthood of San Antonio for performing abortions without a license. (Ongoing as of 2009.)
- d. In 2010, the criminal division of the Internal Revenue Service looked into the finances of Planned Parenthood Golden Gate, and Planned Parenthood brought in forensic accountants to evaluate its books.²

¹ See : http://www.sba-list.org/sites/default/files/content/shared/12.7.11_former_employees_of_planned_parenthood_letter_to_congress_2.pdf (last visited Feb. 3, 2012).

² See <http://www.nytimes.com/2010/09/03/health/03parenthood.html> (last visited Feb. 9, 2012).

- e. Following the release of Live Action’s video in January of 2011 that revealed the Planned Parenthood of Central New Jersey’s (PPCNJ) Perth Amboy center willing to advise and partner with a man posing as a pimp on how to obtain abortions for girls as young as 14 years that he managed, New Jersey state Senator Michael Doherty called for state and federal law enforcement to investigate Planned Parenthood.³ Last year, New Jersey Attorney General Paula Dow called for an investigation, asking the Division of Criminal Justice to investigate whether the clinic manager broke any laws. “At first glance, I find these allegations to be very disturbing,” Dow said in a statement.⁴ Paul Loriquet, a spokesman for Attorney General Dow stated that the office is “looking into allegations.”⁵

2) Completed Investigations of Planned Parenthood noted in AUL’s Report, “The Case for Investigating Planned Parenthood.”

- a. Following the release of video footage taken by Live Action in 2008 demonstrating a willingness by Alabama Planned Parenthood clinics to violate reporting laws, Alabama Attorney General Troy King investigated the Birmingham, Alabama abortion clinic and found multiple state law violations, including failure to comply with parental consent laws and failure to report suspected sexual abuse of minors to authorities.⁶ In 2009, the Alabama Department of Public Health issued a report stating that the Planned Parenthood clinic staff “failed to obtain parental consent for 9 of 9 minor patients in a manner that complies with state legal requirement.”⁷ The health officials’ report also stated: “A reasonable person would suspect abuse or neglect of [this] 13-year-old child. Neither the Registered Nurse, the Medical Doctor, nor any other Center staff reported the suspected abuse or neglect [of a 13-year-old child] to the authorities as required by law.”⁸ Following the Attorney General’s investigation, the Alabama Department of Public Health put the Planned Parenthood clinic on probation.⁹
- b. In October 2005, after state officials investigated Planned Parenthood Minnesota/North Dakota/South Dakota, it was fined \$50,000 for ignoring Minnesota’s parental notice law.¹⁰

³ See <http://www.senatenj.com/index.php/doherty/doherty-planned-parenthoods-endorsement-of-child-trafficking-must-be-investigated-by-law-enforcement/7900> (last visited Feb. 9, 2012).

⁴ See <http://www.nationalreview.com/corner/258684/back-perth-amboy-kathryn-jean-lopez> (last visited Feb. 9, 2012).

⁵ See http://www.msnbc.msn.com/id/41382676/ns/us_news-life/t/clinic-manager-fired-after-anti-abortion-sting/#.TzQEP6VPvig (last visited Feb. 9, 2012).

⁶ See Alabama Dep’t of Public Health, *Statement of Deficiencies and Plan of Correction* (Oct. 15, 2009), available at <http://www.liveaction.org/files/PPViolations.pdf> (last visited Apr. 13, 2011).

⁷ See Alabama Dep’t of Public Health, *Statement of Deficiencies and Plan of Correction* (Oct. 15, 2009), available at <http://www.liveaction.org/files/PPViolations.pdf> (last visited Apr. 13, 2011).

⁸ See Alabama Dep’t of Public Health, *Statement of Deficiencies and Plan of Correction* (Oct. 15, 2009), available at <http://www.liveaction.org/files/PPViolations.pdf> (last visited Apr. 13, 2011).

⁹ *Alabama puts Planned Parenthood Clinic on Probation After Undercover Sting* (Feb. 10, 2010), available at <http://www.foxnews.com/us/2010/02/10/alabama-puts-planned-parenthood-clinic-probation-undercover-sting/> (last visited Apr. 18, 2011).

¹⁰ Prather, *Judge Faults St. Paul Clinic in Abortion Lawsuit*, ST. PAUL PIONEER PRESS A1 (Oct. 2005).

3) Audits that uncovered improper billing practices within Planned Parenthood.

- a. In 2004, the California Department of Health Services (CDHS) audited Planned Parenthood of San Diego and Riverside Counties, uncovering that the Planned Parenthood affiliate's improper billing practice resulted in overpayment from the government of at least \$5,213,545.92 in just one fiscal year.¹¹
- b. In 2008, the U.S. Inspector General for HHS uncovered the misuse of federal funds by family planning providers in New Jersey finding specifically that Planned Parenthood clinics were a significant part of the problem.¹²
- c. In 2009, the Office of the Medicaid Inspector General for the State of New York issued reports demonstrating a pattern of overbilling at the Margaret Sanger Center in New York City.
- d. An audit report for Planned Parenthood of the Inland Northwest (PPINW) conducted by the State of Washington's Department of Social and Health Services found improper billing practices, including where Planned Parenthood incorrectly billed a medication under the family planning program that was an antibiotic routinely prescribed as part of a surgical abortion.¹³ In addition to overbilling, the audit found that PPINW violated Department of Health Telehealth/Telenursing guidelines for Registered Nurses.¹⁴

4) Legal Actions Taken Against Planned Parenthood

- a. In a complaint filed in October 2011, Karen Reynolds, a former employee of Planned Parenthood Gulf Coast (PPGC), alleges that PPCG trained and instructed the employees at its twelve regional clinics to bill the government for medical services that were not medically necessary, to bill the government for medical services that were not actually provided, to bill the government for services that are not covered by Medicaid, and to falsify information in patient medical charts that was material to claims submitted to the government for reimbursement in an effort to evade detection of PPCG's fraudulent billing practices.
- b. In 2008, an action against Planned Parenthood affiliates in California was brought by Victor Gonzalez under the False Claims Act (FCA), 31 U.S.C. § 3729, on behalf of the United States of America, under the *qui tam* provisions of the FCA.¹⁵ Mr.

¹¹ Letter from Jan English, Chief, Med. Rev. Branch, Cal. Dep't of Health Servs., to Bob Coles, Vice President & Chief Fin. Officer, Planned Parenthood of San Diego & Riverside Counties (Nov. 19, 2004).

¹² Letter from James Edert, Regional Inspector Gen., Office of the Inspector Gen., U.S. Dep't of Health & Human Servs., to Jennifer Velez, Comm'r, N.J. Dep't of Human Servs. (June 17, 2008); OFFICE OF INSPECTOR GEN., U.S. DEP'T OF HEALTH & HUMAN SERVS., REVIEW OF OUTPATIENT MEDICAID CLAIMS BILLED AS FAMILY PLANNING BY NEW JERSEY (2008). According to the audit report, covering February 1, 2001 through January 31, 2005, of the 107 claims sampled, "43 claims did not qualify as family planning services, and therefore were not eligible for Federal Medicaid reimbursement at the 90 percent rate."

¹³ OFFICE OF PROGRAM INTEGRITY, WASH. DEP'T OF SOC. & HEALTH SERVS., FINAL AUDIT REPORT OF PLANNED PARENTHOOD OF THE INLAND NORTHWEST 14 (2009) ("This med should have been included in the bundled facility fee and not billed under this provider number.")

¹⁴ *Id.* at 16-18. The guidelines issued by the Department of Health Nursing Commission require that a prior patient-clinician relationship be established as part of the standing-order protocol. However, the audit revealed that at PPINW, a registered nurse wrote contraceptive orders for new patients without a countersignature by a clinician.

¹⁵ *Gonzalez ex rel. U.S. v. Planned Parenthood of L.A.*, No. CV05-8818 AHM (C.D. Cal.). In April 2010, the claims made under the federal False Claims Act were dismissed for failing to comply with Federal Rule of Civil Procedure

- Gonzalez estimates that, over a six-year period beginning in 1999, overbilling by Planned Parenthood’s California affiliates exceeded \$180,000,000. As his complaint notes, “This conservative figure only takes into account the illegal and unscrupulous billing practices of [Planned Parenthood affiliates] within the state of California.”¹⁶
- c. In 1998, a 13-year-old girl was raped by her 23-year-old foster brother. He later took the young girl to Planned Parenthood of Central and Northern Arizona (PPCNA) for an abortion, and the clinic subsequently failed to notify authorities about the sexual abuse.¹⁷ The sexual abuse continued, and the young girl came into PPCNA for a second abortion six months later. Later, the abused girl filed a lawsuit, arguing that but for PPCNA’s negligence in failing to notify authorities of the sexual abuse, she would not have had her second abortion.¹⁸ In 2003, PPCNA was found negligent and civilly liable for failing to report the sexual abuse.¹⁹
 - d. In 2007, Denise Fairbanks filed suit against Planned Parenthood alleging that it had violated Ohio law by failing to report her sexual abuse.²⁰ Fairbanks, whose father had sexually abused her for four years, became pregnant at age 16.²¹ Her father brought her to visit a Planned Parenthood clinic for an abortion.²² Although she informed Planned Parenthood employees that she was being sexually abused by her father, they ignored state law²³ and failed to report the abuse, allowing it to continue for another year and a half.²⁴ Fairbanks has sued Planned Parenthood and five of its employees for refusing to report signs of abuse when she obtained an abortion.
 - e. Another lawsuit was filed against Planned Parenthood in Ohio for, among other allegations, violating an Ohio law mandating the reporting of sexual abuse and a law requiring a 24-hour reflection period before a woman may obtain an abortion.²⁵ Fourteen-year-old Jane Roe was impregnated by her 21-year-old soccer coach. After being pressured by the perpetrator to have an abortion, Jane contacted Planned

9(b). However, the plaintiff was granted leave to amend his complaint to remedy the deficiencies. State law claims made under the California False Claims Act were dismissed as time-barred.

¹⁶ *Id.* at 22.

¹⁷ *Doe v. Planned Parenthood of Cent. & N. Ariz.*, No. CV 2001-014876 (Ariz. Super. Ct. Maricopa County Nov. 26, 2002); *Arizona Trial Judge Concludes Planned Parenthood Negligently Failed to Report Abortion*, HEALTH L. WK. 7 (Jan. 10, 2003); *Glendale Teen Files Lawsuit Against Planned Parenthood*, ARIZ. REPUBLIC B3 (Sept. 2, 2001).

¹⁸ *Id.*

¹⁹ *Id.* During this same time period, Planned Parenthood affiliates in Arizona (including PPCNA) challenged a parental consent statute—a statute which the Ninth Circuit Court of Appeals held to be constitutional. *Planned Parenthood of S. Ariz. v. Lawall*, 307 F.3d 783 (9th Cir. 2002).

²⁰ See Complaint, *Denise Fairbanks v. Planned Parenthood Southwest Ohio Region*, No. 07CU68441 (Ohio Ct. of C.P. Warren County 2007), available in Appendix XVI.

²¹ See News Release, Life Legal Defense Foundation, *Planned Parenthood must defend second suit alleging violations of Ohio law to the detriment of young girls* (May 10, 2007), available at <http://www.lldf.org/pdf/Press.PP.Fairbanks.pdf> (last viewed Apr. 13, 2011).

²² *Id.*

²³ OHIO REV. CODE ANN. § 2151.421 (2010).

²⁴ See News Release, Life Legal Defense Foundation, *Planned Parenthood must defend second suit alleging violations of Ohio law to the detriment of young girls* (May 10, 2007), available at <http://www.lldf.org/pdf/Press.PP.Fairbanks.pdf> (last viewed Apr. 13, 2011).

²⁵ Facts related to this story can be found in court documents as well as in AUL’s *amicus curiae* brief in the case, which is available in Appendix XIV and at http://www.aul.org/xm_client/client_documents/briefs/Roe_v_PP_OH_05-2008.pdf (last visited Mar. 9, 2011). The case is *Roe v. Planned Parenthood*, No. 07-1832 (Ohio 2008).

Parenthood. The minor's pregnancy and her boyfriend's involvement in her abortion should have incited Planned Parenthood's employees to report the statutory rape to the proper authorities, as required by Ohio law.²⁶ They did not. Planned Parenthood performed the abortion, which was paid for by the perpetrator.

In 2004, the soccer coach was convicted of sexual battery and spent three years in prison—despite Planned Parenthood's apparent efforts to keep the pregnancy and abortion a secret.²⁷ In December 2010, a state trial court ruled that the Ohio Planned Parenthood clinic violated state law by not abiding by the state's mandatory 24-hour reflection period before a woman may obtain an abortion.²⁸ The issue of whether Planned Parenthood violated state law by not informing the parents of the planned abortion or obtaining their consent was recently resolved and dismissed.²⁹

²⁶ OHIO REV. CODE ANN. § 2151.421 (2010).

²⁷ *Id.*

²⁸ *Id.*

²⁹ See *Ohio Lawsuit Over Teen Abortion Resolved*, ASSOCIATED PRESS, Apr. 28, 2011, available at <http://www2.nbc4i.com/news/2011/apr/28/2/ohio-lawsuit-over-teen-abortion-resolved-ar-469385/>. In addition, the minor's pregnancy and boyfriend's involvement in her abortion should have incited Planned Parenthood's employees—mandatory reporters under Ohio law—to report her sexual abuse/statutory rape to the proper authorities, but Planned Parenthood allegedly failed to do so.