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Grand jury's report on abortion mill a roadmap of failure

by JULIE SHAW, shawj@phillynews.com 215-854-2592, Posted: January 21, 2011



After ripping Dana Haynes' cervix, uterus and bowel during a botched abortion, Kermit Gosnell - the West Philadelphia doctor now charged with murder - kept her bleeding and writhing in pain for four hours without calling for help, city prosecutors contend.

The doctor called an ambulance only after Haynes' cousins yelled to be let into his Women's Medical Society clinic and ordered him to do so. At the Hospital of the University of Pennsylvania, doctors found that most of the nearly 17-week fetus still remained in Haynes' uterus. She needed extensive surgery and stayed at HUP for five days.

Haynes' November 2006 case represents just one of many examples in which authorities - particularly state officials - failed to investigate alarm bells that warned something awful was happening at Gosnell's clinic, according to the 261-page grand-jury report released by the District Attorney's Office on Wednesday.

If they had done so, they could have prevented the 2009 death of a 41-year-old woman who went to Gosnell for an abortion, and the killings of babies - who, after being delivered alive, had their necks slit and spinal cords severed - at Gosnell's filthy, cat-urine-reeking clinic, city prosecutors contend.

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Gosnell, 69, and eight of his staffers were arraigned yesterday on counts that included murder, infanticide and related charges in the cases of the 41-year-old woman and seven babies. A ninth was awaiting arraignment last night.

According to the grand jury's report, people who allegedly looked the other way included:

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* Juan Ruiz, a prosecuting attorney at the State Department - whose Board of Medicine licenses physicians - who in 2009 decided an investigation into Haynes' case was not warranted after he learned of a lawsuit filed by her.

He did not even look at Gosnell's history or talk to Haynes, according to the grand-jury report.

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* State Department prosecuting attorney Mark Greenwald and his supervisor, Charles J. Hartwell, who in 2004 decided to close two investigations into Gosnell. One involved the 2000 death of Semika Shaw, 22, who died at HUP after getting an abortion at Gosnell's clinic on Lancaster Avenue and 38th Street.

The other investigation involved a complaint brought by a former Gosnell employee, Marcella Stanley Choung, who told the State Department in 2001 and 2002 that Gosnell was using unlicensed workers to administer anesthesia to patients and said she thought a second-trimester patient died at a hospital after Gosnell performed an abortion.

* At the Pennsylvania Department of Health, Janice Staloski and Susan Mitchell, two evaluators who conducted site reviews of Gosnell's clinic in 1989 or the early 1990s and found violations, but did not follow up to make sure they were corrected.

Sometime after 1993, the department instituted a policy of inspecting abortion clinics only when there was a complaint, but the grand jury found that it didn't even do that.

The grand jury found that Staloski in 2002, then the director of the department's Division of Home Health, incorrectly told the attorney for Shaw that the department had received no complaints about Gosnell's clinic since 1993.

There were at least two complaints Staloski should have been aware of, the grand-jury report said. One was a 1996 complaint by the attorney for a woman who had suffered a perforated uterus as a result of Gosnell's negligence.

Later, after the 41-year-old woman, Karnamaya Mongar, died in 2009, Staloski, then the head of the department's Bureau of Community Licensure and Certification, apparently decided the state Health Department did not have the authority to investigate Mongar's death.

Arthur Donato, attorney for Staloski, who retired last year, told the Associated Press last night that his client "testified truthfully" to the grand jury that she should have ordered an inspection of the clinic years ago.

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She acknowledged to the jury it was a mistake, Donato said.

Kevin Harley, spokesman for newly sworn Gov. Corbett, told the *Daily News* yesterday that he would not make available for interviews any of the State or Health Department employees named in the grand-jury report.

He said he didn't know yet if any state employees would be fired or disciplined.

Harley said Corbett met yesterday with his nominees for secretary of health, Eli Avila, and secretary of the commonwealth, Carol Aichele, directing them to conduct thorough reviews of their departments.

The grand jury also noted that people at the city's Department of Public Health and city hospitals also learned of warning signals, but failed to act.

* Specifically, supervisor Lisa Morgan and medical director Dr. Barbara Watson at the city Public Health Department failed to alert the State Department of abysmal conditions at Gosnell's clinic reported to them by a nurse who visited the clinic in 2008 and 2009 as part of a vaccine program.

Mark McDonald, spokesman for Mayor Nutter, said yesterday that Watson has retired and Morgan still works in the Health Department. He said: "It's far too early to talk about firing or disciplining anyone. We are beginning our own investigation."

The grand jury found that HUP had, as required by state law, reported to authorities information about Shaw's death in 2000, but said it found that no reports were made when Mongar died at HUP in 2009 or after Haynes went there in 2006.

Marc Kaplan, a spokesman for Penn Medicine, yesterday stuck to a statement he issued Wednesday that said, in part, that "starting in 1999, Penn Medicine provided reports to the authorities regarding patients of Dr. Gosnell."

He did not explain yesterday the contradiction with the grand jury's findings. "What we're doing at this point is sticking to our statement," he said.

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