

Ref: TG AMR 51/2009.092
AI Index: AMR 51/079/2009

Eric H. Holder
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington DC 20530-0001
USA

10 June 2009

Dear Attorney General Holder

I am writing to express Amnesty International's deep concern about the death of Dr George Tiller on 31 May 2009 in Wichita, Kansas and ask that, through the Justice Department, you ensure that appropriate measures are taken to protect both health service providers and women who seek or use their services.

Dr Tiller was killed apparently because he provided lawful abortion services in the late stages of pregnancy to women whose pregnancies presented a grave risk to their health or life as well as to women carrying non-viable fetuses.

The threats to Dr Tiller and his clinic were well known. In fact, he had been the target of numerous threats and acts of violence by groups and individuals opposed to women's access to abortion for many years. In 1986, his clinic was bombed; in 1993 he was shot, and the threats and attacks on his clinic continued until the day of his murder. The threats to Dr. Tiller were not unique. Since 1973 three physicians and four clinic workers have been killed while untold others continue to be threatened and harassed.

Given this history, it is imperative that the government ensure the security of health service providers who offer lawful abortion services. Given the clear and long-standing threat to health service providers and their clinics, inaction or inadequate action is a failure of due diligence on the part of the government.

Amnesty International is concerned that the government in its failure to provide adequate security not only allows attacks to continue – but such attacks drive other health service providers to refrain from offering these life-saving services. This undermines women's right to life, right to health and to reproductive and sexual health-related services. To deny a woman medically indicated treatment such as an abortion when her pregnancy poses a grave risk to her health or life is cruel and unusual treatment. These concerns are heightened by reports that Dr. Tiller's clinic has closed following his death. The number of clinics providing similar services has reportedly declined over the past decade due to persistent intimidation, harassment and attacks.

Amnesty International urges you to ensure that all reasonable measures are taken to protect those who are providing reproductive health services to women across the US. Such measures should include concerted, ongoing monitoring and vigilance to protect physicians providing lawful abortion services by the federal authorities in conjunction with the appropriate state and local authorities, vigorous investigations and prosecutions when service providers are threatened or attacked, regular meetings and resourcing of the National Task Force on Violence Against Reproductive Health Care Providers, the full enforcement of the Freedom of Access to Clinic Entrances Act (FACE Act), and work with other authorities to ensure adequate enforcement of other federal, state and local laws.

The international human rights framework recognizes that when a physician or other medical service provider is attacked for protecting a woman's rights to life and right to health, the person is a human rights defender. Physicians such as Dr. Tiller are human rights defenders and are entitled to protection by the competent authorities against any violence, threats, retaliation, de facto or *de jure* adverse discrimination, pressure or any other arbitrary action as a consequence of their legitimate exercise of human rights defence (Article 12.2 of the United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms). The protection measures proposed by the Department of Justice and to be implemented by the US Marshals Service are an important step toward recognizing this obligation, and Amnesty International urges you to ensure that once the consternation surrounding the killing of Dr. Tiller wanes the Justice Department's recognition of its obligation does not also wane.

Amnesty International notes that Dr Tiller's alleged killer has been charged with first-degree murder under Kansas state law. We welcome the announcement of further measures by the Justice Department, including a full investigation into the killing to determine the extent of any violation of federal law and whether other actors were involved. However, we urge you to ensure there is an investigation into claims that the F.B.I. failed to take prompt action against Dr Tiller's alleged assassin after he was witnessed trying to vandalise a Kansas women's health clinic for a second time just a day before the murder, despite his having a prior history of violence and despite the alleged offence being a clear FACE violation.

As we note above, action against reproductive health care providers in the USA has already resulted in a serious decline in the number of clinics specialising in access to safe, legal abortion. Urgent action is required to address this shortfall in services for women whose lives and health may be at risk. We urge that a strategy to address this include forthright acknowledgement by the federal government and state authorities of the legitimacy of work in this area and the right of physicians to pursue their legal practices free from harassment, obstruction or intimidation.

Yours sincerely,

Susan Lee
Program Director
Americas Regional Program

cc Loretta King, Acting Assistant Attorney General for the Civil Rights Division
Lanny D. Welch, US Attorney for the District of Kansas
Nola Foulston, District Attorney for the 18th Judicial District of Kansas