

Unit 3

Saving Choices: Counter the Violence

For two decades, reproductive health clinics and health care providers throughout the nation have been under escalating attack. Physicians and clinic workers have been shot, clinics have been burned down, and patients have been intimidated. **While abortion remains legal, the rising tide of violence is jeopardizing access to vital medical services.** Anti-abortion extremists are waging a national campaign of attrition. This strategy targets one set of clinics and health care workers today; then, after these clinics perish or the health care workers quit, extremists move on to target another set of clinics.

Anti-abortion violence not only threatens access to abortion services, but also reduces the availability of a whole range of other reproductive health care services as well. **Clinics provide a wide variety of affordable health services**, often serving geographic regions where no other comparable care is available. The vast majority of reproductive health clinics provide: gynecological and prenatal care, routine cancer screening, HIV testing, menopausal treatment, infertility treatment, sexually transmitted infection (STI) screening and treatment, and adoption and family planning services. The **Feminist Majority Foundation's 2000 National Clinic Violence Survey found that virtually all clinics (98%) provided other health care services in addition to abortion.**

These clinics for the most part serve poor women, young women, and women who depend on clinics for their health care needs. The clinics most targeted by extremists are those that provide services to African American and Latina populations. For example, at a heavily targeted clinic in Norfolk, Virginia, half of the patients are African-American women; an embattled clinic in Ft. Lauderdale has a patient base of 40% Haitian immigrants; and the most besieged Los Angeles clinic primarily services Latina women.

The Feminist Majority Foundation's **National Clinic Access Project** is the oldest clinic defense project in the nation. The Project leads efforts to keep women's health clinics open in the face of harassment and violence by abortion opponents. Through public education, community organizing, direct emergency assistance, our clinic violence research and investigative unit, and frequent contact with law enforcement officials, the National Clinic Access Project has helped keep open clinics which were threatened with crippling anti-abortion blockades and violence.

Pro-choice vigilance and mobilization have been crucial to reducing clinic violence and are essential to ending the current reign of terror. This section of the *Choices Study and Action Manual* will review the history of violent attacks on clinics and clinic personnel.

This section will also address strategies to protect clinics, clinic personnel, and women's access to abortion services, including the Freedom of Access to Clinic Entrances Act (FACE), clinic buffer zones, litigation strategies, community organizing, and clinic security.

History & Patterns of Anti-Abortion Violence

Not long after the *Roe v. Wade* Supreme Court decision in 1973 that made abortion legal, anti-abortion extremists began their assault on women's health care providers. Anti-abortion extremists have invaded, blockaded, vandalized and bombed clinics as well as murdered and wounded abortion providers and their supporters. **The first clinic arson occurred in 1977.** Throughout the 1980s and early 1990s, clinic facilities were the focus of escalating anti-abortion attacks.

Anti-abortion extremists have injured and murdered health care workers at abortion clinics across the country:

- In 1991, in Springfield, Missouri, a clinic office manager was shot by a masked gunman who barged into the clinic in search of the doctor. **Claudia Gilmore** was paralyzed from the waist down and a second person was wounded in the attack.
- In March of 1993, **Dr. David Gunn** was murdered outside of an abortion clinic in Pensacola, Florida.
- In August 1993, in Mobile, AL, **Dr. George Patterson** was shot and killed while entering his car. He owned the Women's Medical Services Clinic in Pensacola, FL, where Dr. David Gunn had been murdered earlier in the year. His assailant remains at large.
- **Dr. George Tiller** was shot and wounded outside of his clinic in Wichita, Kansas in August of 1993.
- In July of 1994, **Dr. John Bayard Britton** and volunteer clinic escort **Lt. Col. James Barrett** were murdered outside of a second Pensacola clinic. Barrett's wife and volunteer escort **June Barrett** was shot and wounded in the attack.
- Four months later, on December 30, 1994, John Salvi shot and killed receptionist **Shannon Lowney** at a clinic in Brookline, Massachusetts. A few minutes later, Salvi entered a second clinic a few blocks away, shooting and killing receptionist **Leanne Nichols**. Five others were injured in the Brookline attacks including an armed security guard.
- In December of 1996, a physician in New Orleans was brutally stabbed 15 times in his clinic's parking lot by an assailant, who then traveled to a Baton Rouge clinic, where he was found lying in wait for a second physician and was arrested.
- A double bombing of an Atlanta clinic in January, 1997 left seven persons injured, including federal law enforcement officers responding to the scene following the first explosion.
- On January 28, 1998, a bomb packed with nails exploded at a clinic in Birmingham, Alabama, killing the security guard and maiming a clinic nurse.
- On October 23, 1998, **Dr. Barnett Slepian** was killed by a sniper's bullet through his kitchen window. Dr. Slepian worked at Buffalo GYN Women's Services in NY and was the fifth doctor shot by sniper fire since 1994 on or around the November 11 Canadian holiday Remembrance Day. Dr. Slepian was the first fatality. Also shot and injured in their homes were: Dr. Garson Romalis of Vancouver, BC, on 11/08/94; Dr. Hugh Short of Hamilton, ON, on 11/10/95; an unnamed doctor in Rochester, NY, on 10/28/97; and Dr. Jack Fainman of Winnepeg, MB, 11/11/97.

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■ Canadian doctor Garson Romalis was stabbed in the back while entering his clinic on July 11, 2000. This was the second attempt on his life. In 1994, Dr. Romalis nearly bled to death after being shot by a high-powered rifle in his home.

Numerous other physicians, nurses, and clinic administrators have been the targets of relentless harassment and threats of violence.

Anti-abortion violence gained national attention in 1982, with the bombings of three clinics in the spring and the August **kidnapping of Dr. Hector Zevallos and his wife Rosalie Jean** in Granite City, Illinois. Extremist Don Benny Anderson, with various associates, was convicted of bombings at clinics in St. Petersburg and Clearwater, Florida and Arlington, VA. Anderson, along with two brothers, Matthew and Wayne Moore, were convicted in the kidnapping and extortion of Zevallos, which was orchestrated under the name of the **“Army of God.”**

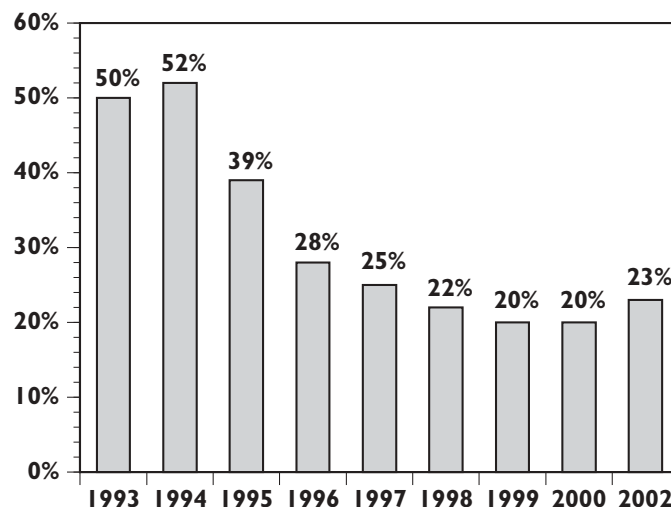
A rash of serial clinic bombings and arsons followed in 1984. By the end of the year, 25 clinics had been bombed or arsoned, along with the Washington, D.C. offices of the National Abortion Federation (NAF) and the American Civil Liberties Union (ACLU). Anti-abortion extremists Kenneth Shields, Thomas Spinks, and Michael Bray received sentences for their roles in nine of the D.C. area bombings. Curtis Beseda was convicted of one 1983 and three 1984 Washington State arsons. Matthew Goldsby, James Simmons, Kathren Simmons, and Kaye Wiggins

were found guilty for their participation in three bombings at Pensacola clinics on Christmas morning, 1984. The investigations of nine other arsons in Texas and Georgia were closed after the statute of limitations expired.

Breaking onto the national scene in 1988 with blockades of Atlanta clinics during the Democratic National Convention in Atlanta, Georgia, **“Operation Rescue”** organized mass blockades at abortion clinics across the country throughout the late 1980s and early 1990s. Operation Rescue orchestrated major blockades in places such as Los Angeles, Orange County, and San Diego, CA; Wichita, KS; Buffalo and New York City, NY; Houston, TX; Milwaukee, WI; Jackson, MS; Philadelphia, PA; and Cleveland, Ohio.

Arrests were made, often as many as 200 or 300 protesters at a time, putting significant burdens on local law enforcement and courts, and creating escalating costs for taxpayers and local governments. Local law enforcement efforts to respond were hampered by the relatively minor trespassing laws that protesters violated in blocking a clinic

Chart 1 ■ Percent of Clinics Experiencing Severe Violence 1993-2002



entrance. Protesters arrested for trespassing and blocking clinics were often back out on the streets within a few hours – only to return to clinics to be arrested again.

In the first seven months of 1993, one half of all abortion clinics were under siege, according to the Feminist Majority Foundation’s first annual National Clinic Violence Survey. The Feminist Majority Foundation’s annual survey was the first to measure violence at independent clinics as well as clinics which are affiliated with the National Abortion Federation, Planned Parenthood Federation of America, the National Coalition of Abortion Providers, the National Women’s Health Clinics, and other national organizations. Of clinics responding to the 1993 survey, 50.2% experienced one or more of the most severe forms of violence, including death threats, stalking, bomb threats and bombings, arson threats and arsons, chemical attacks, blockades, and invasions (See Chart 1).

Death threats were the most frequently reported form of anti-abortion violence. Of the clinics responding to the survey, 21% received **death threats** to staff during the first seven months of 1993. **Bomb**

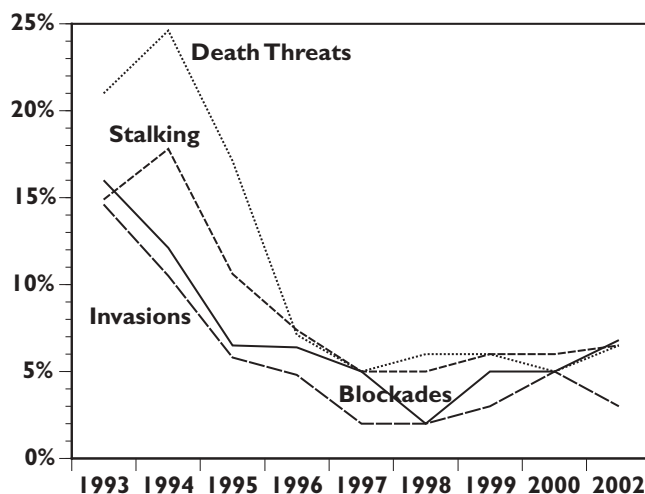
threats were reported by 18.1% of clinics. **Blockades** were set up at 16% of clinics. Clinic personnel were **stalked** at 14.9% of clinics. **Invasions** had occurred at 14.6% of the clinics. **Chemical attacks** were experienced at 10.3% of clinics (Feminist Majority Foundation, *National Clinic Violence Survey, 1993*). The National Abortion Federation (NAF) also reported historically high levels of violence in 1993. NAF reported 432 extreme incidents of anti-abortion violence in 1993.

Anti-abortion extremists began in 1993 to intensify their focus on abortion providers, circulating “**WANTED**” posters with names and personal information about physicians, and stalking and threatening health care professionals and their families. Frustrated by the election of pro-choice President Bill Clinton in 1992, anti-abortion extremists escalated their attacks in early 1993. Operation Rescue’s IMPACT Team trainings in Melbourne, Florida, and the bombing of a clinic in Corpus Christi, Texas foreshadowed the increasing intensity of violence.

On March 10, 1993, Dr. David Gunn was murdered by **Michael Griffin** outside

the Pensacola Women’s Medical Center. Signaling further escalation, following the assassination of Dr. David Gunn, anti-abortion extremist **Paul Hill** began advocating the concept of “Justifiable Homicide,” the use of lethal force to stop abortion. Hill circulated petitions of endorsement for the “use of force” to stop abortion. Several anti-abortion leaders from across the country signed the petitions and joined in demonstrations with Hill outside the trial of Dr. Gunn’s accused assailant to demand his release and acquittal.

Chart 2 ■ Four Types of Severe Anti-Abortion Violence 1993–2002



Later in the year, Dr. George Tiller was nearly killed when he was shot outside of his Wichita clinic on August 19, 1993 by anti-abortion extremist **Shelley Shannon**. Tiller was shot multiple times in both arms at point-blank range, but recovered.

Armed with extensive data documenting the extent of clinic violence and lack of response to this violence from local law enforcement officials, abortion rights organizations, along with pro-choice legislators, worked to increase federal response to this violence. Finally, in May 1994, the **Freedom of Access to Clinic Entrances Act (FACE)**, which made anti-abortion violence a federal crime, was signed into law.

Violence remained at extremely high levels into 1994, with 51.9% of clinics experiencing severe violence. Data on clinic violence made it clear that while the numbers of blockades and invasions decreased, the numbers of death threats and stalking increased. **Planned Parenthood Federation of America (PPFA)** reported a total of 6,327 acts of violence and harassment directed at doctors, patients, and clinics at their affiliate health care centers in 1994. **NAF** affiliates documented 160 extremely violent incidents that year. The Feminist Majority Foundation's 1994 National Clinic Violence Survey found that death threats were again the most frequently reported type of violence, with 24.8% of clinics indicating that their staff had received death threats, up from 21% in 1993. In contrast, in 1994, blockades dropped to 12.1% from 16% in 1993 and invasions declined to 10.5% of clinics, down from 14.6% in 1993. Physicians continued to be the main target of anti-abortion attacks.

In July of 1994, shots rang out again in Pensacola, Florida. Dr. John Bayard Britton and clinic escort James Barrett were killed by anti-abortion extremist Paul Hill, who

had promoted the "**justifiable homicide**" of doctors. Volunteer escort June Barrett was wounded in the attack. The shooting of James and June Barrett represented yet another tactical shift and escalation in anti-abortion extremists' strategy. Attacks were no longer limited to health care personnel; anyone assisting patients, physicians, or clinic staff was now also a possible target of violence. This escalation continued, and soon the lives of even bystanders in what anti-abortion extremists referred to as the "**war zone**" were at risk. On December 30, 1994, a shooting rampage at two Brookline clinics left two receptionists dead, and five other people – families and friends of patients and an armed security guard – who had been in the vicinity of clinic waiting rooms were wounded. The assailant, **John Salvi**, then traveled to another targeted clinic in Norfolk, Virginia, where he was arrested after shooting wildly at the clinic when his attempt to enter failed.

By 1995, clinics began to feel some relief because of increased enforcement of the FACE law, passed in 1994, and the **Madsen** U.S. Supreme Court decision that same year, which affirmed the use of buffer zones around clinics. Violence declined, but continued at high levels. The 1995 FMF Clinic Violence Survey reported that 38.6% of clinics still experienced violence. For the first time in every category of violence, however, more clinics reported decreases than increases. Yet the smallest net decreases were in reports of death threats and stalking.

In the first seven months of 1996, violence levels dropped for the second consecutive year. The 1996 FMF National Clinic Violence Survey found that 27.6% of clinics were faced with one or more serious types of violence that year. Death threats (7.1%) and stalking (7.4%) continued the decline begun in 1995. But for the first time since 1994, the survey documented

very slight increases in several types of violence directed at clinic facilities such as bombings and chemical attacks. Clinic blockades virtually plateaued at 6.4% from 6.5% in 1995, ending a steady decline that was first recorded in 1994 (FMF, *National Clinic Violence Survey, 1996*).

However, by the end of 1996, the two-year decline in overall clinic violence came to a halt. Some types of anti-abortion violence again escalated, as extremists apparently grew more desperate in the wake of the reelection of a pro-choice President. In December of 1996, a physician was brutally stabbed 15 times outside of the Orleans Women's Clinic. The physician lost four pints of blood and his ear was almost severed. The assailant was apprehended as he lay in wait for a second physician at a clinic in Baton Rouge.

NAF noted another disturbing trend in 1996 – repeated arsons targeted at the same facility. Two arsons were attempted at the Women's Health Care Clinic in Boise, Idaho, with the second arson resulting in the relocation of the clinic. In December 1996, three arson attempts were directed at the A-Z Women's Center in Phoenix, Arizona (National Abortion Federation).

The Feminist Majority Foundation, Planned Parenthood Federation of America, and the National Abortion Federation held a press conference in mid-January, 1997 to refute the recent spate of articles claiming that anti-abortion violence is no longer a problem. During the press conference, two bombs exploded at the Atlanta Northside Family Planning Services clinic. The first bomb went off inside the building, injuring no one. A second bomb, detonated an hour later outside the building in a dumpster, was intended to injure and kill emergency rescue personnel and law enforcement officials responding to the first bomb. The blast injured seven people including

federal law enforcement authorities. Weeks later, news media outlets received a letter, purportedly from an anti-abortion extremist group, "**Army of God**," claiming responsibility for the clinic bombing and the February 1997 bombing of a lesbian nightclub in Atlanta.

The Atlanta bombings were only the beginning. In the first eleven months of 1997 alone, there were 13 arsons and bombings at clinics – the seventh highest rate of abortion clinic bombings and arsons recorded by the Federal Bureau of Alcohol, Tobacco, and Firearms (ATF) since 1982, and nearly double the number of bombing/arsons for all of 1996.

On January 29, 1998, a bomb exploded at a Birmingham, AL, clinic killing a security guard and critically injuring the clinic's head nurse. Eric Robert Rudolph was seen fleeing from the scene that morning and has been charged with the fatal attack. The Army of God again claimed credit for the bombing in letters mailed from Birmingham to Atlanta newspapers. The FBI also charged Rudolph with the earlier Atlanta bombings. Rudolph was apprehended in North Carolina in June 2003.

Anti-abortion clinic violence continued in 2000 at an unacceptable level, with 1 in 5 clinics continuing to experience severe violence. This figure is identical to 1999 and represents a slight decline from 1998, during which 22% of clinics experienced severe violence. Nonetheless, the fact that 20% of clinics still experience severe anti-abortion violence indicates an enduring problem for women's access to health care. Bomb threats, stalking, death threats, and blockades were the most commonly reported types of severe violence in 2000 and threatening anti-abortion speech such as "Wanted" posters and internet harassment, plus anti-abortion leafleting were experienced by 35% of clinics.

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On March 29th, 2001, after a man-hunt lasting more than 2 1/2 years, accused assassin James Charles Kopp was arrested in France, followed by the arrest of two alleged co-conspirators. Kopp, a well-connected member of the anti-abortion extremist movement, was one of the FBI's Ten Most Wanted fugitives and has been convicted of the October 1998 sniper-style assassination of Dr. Barnett Slepian. He has also been indicted in the 1995 sniper attack of Ontario abortion provider Dr. Hugh Short and is suspected in two sniper shootings in Canada in 1994 and 1997 and the 1997 sniper attack of an abortion provider in Rochester, New York.

Kopp's conviction, in conjunction with the arrest of co-conspirators Loretta Claire Marra and Dennis John Malvasi, marks the first time a federal investigation of an anti-abortion assassination has exposed the

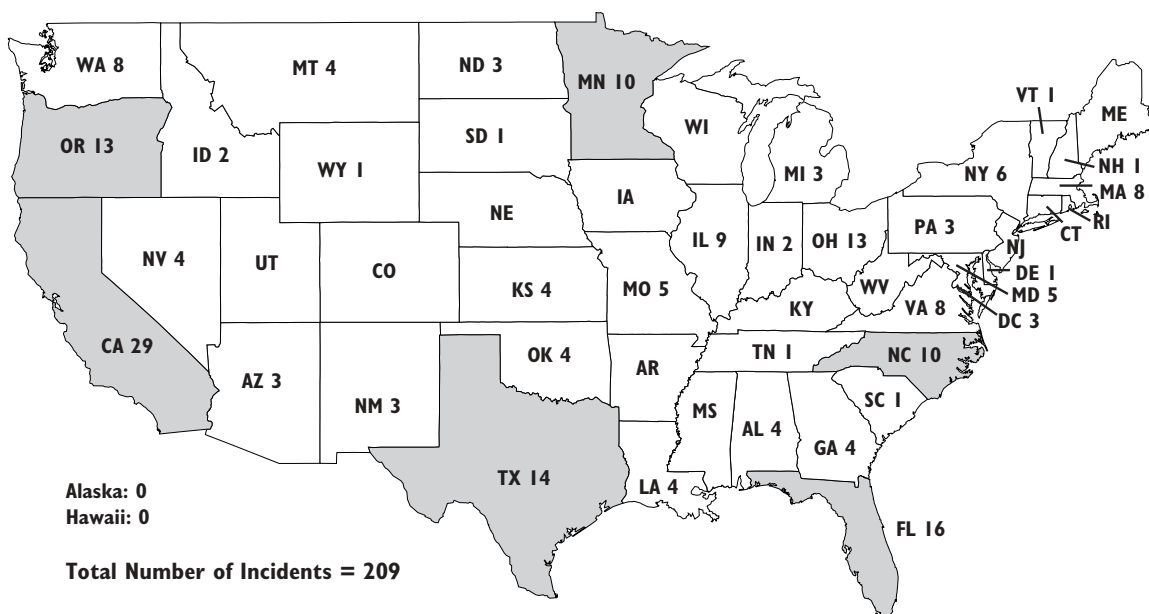
substantial material, financial, and other help provided to an anti-abortion extremist. According to Eleanor Smeal, President of the Feminist Majority Foundation, "The arrest of Kopp and these alleged co-conspirators represents only the beginning of an organized network of extremists who have aided and abetted not just Kopp, but others who commit violent anti-abortion crimes." Kopp was sentenced to 25 years to life and awaits a federal trial for violating FACE. Marra and Malvasi struck a plea deal, only serving 29 months.

GEOGRAPHICAL DISTRIBUTION

Violence at women's reproductive health care centers occurs nationwide, but is especially concentrated in a few specific regions that are the most heavily targeted by anti-abortion extremists.

The following map from the Bureau of

Chart 3 ■ Geographic Distribution of Abortion Clinic Violence 1982–1998



Source: Department of the Treasury Bureau of Alcohol, Tobacco and Firearms, 1998

Alcohol, Tobacco and Firearms (ATF) indicates which areas have been the sites of numerous violent incidents, arsons or bombings.

Anti-abortion violence has also threatened doctors and clinics in Canadian cities just across the US border. **Three Canadian abortion providers were shot by snipers** with high-powered weapons through windows at their homes in November of 1994, 1996 and 1997. All of the attacks occurred on or around the Canadian “Remembrance Day” on November 11th. Pro-choice supporters in Canada believe that the shootings could be caused or inspired by United States anti-abortion extremists. Canadian laws severely restrict the purchase and/or possession of firearms, including the high powered rifles used in each of the attempted murders. Research confirms the extremists’ broad range of travel, and each of the cities, Vancouver, Hamilton, and Winnipeg, are easily reachable from cities near the U.S. border.

Pro-Choice Response to Clinic Violence

INCREASING FEDERAL JURISDICTION OVER ANTI-ABORTION VIOLENCE: FREEDOM OF ACCESS TO CLINIC ENTRANCES ACT (FACE) OF 1994

Signed into law on May 26, 1994, FACE was the first proactive abortion rights legislation to win Congressional approval in history. This landmark victory has reaped concrete gains for abortion clinics, clinic personnel, and women seeking access to abortion facilities. FACE strengthened federal jurisdiction over clinic violence and instituted federal criminal penalties and civil remedies for anti-abortion violence, making it **a federal crime to blockade, commit violence, or threaten violence against a reproductive health care facility,**

clinic workers, or patients. While anti-abortion violence remains at unacceptably high levels, FACE has contributed significantly to the decline in violence.

While FACE had been introduced in 1992, the major impetus for passage of the legislation came after the murder of Dr. Gunn in 1993. The initial version of FACE was tailored to counter blockades at clinics. With the escalation of violence, abortion rights advocates and Congressional allies worked to redraft the legislation to protect health care workers and patients from violence and threats of violence as well as the obstruction of clinics. FACE established federal penalties for anyone who:

- “(1) by force or threat of force or by physical obstruction, intentionally injures, intimidates or interferes with or attempts to injure, intimidate or interfere with any person because that person is or has been, or in order to intimidate such person or any other person or any class of persons from, obtaining or providing reproductive health services;
- “(2) by force or threat of force or by physical obstruction, intentionally injures, intimidates or interferes with any person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of worship;
- “(3) intentionally damages or destroys the property of a facility, or attempts to do so, because such facility provides reproductive health services, or intentionally damages or destroys the property of a place of religious worship.”

FACE also includes language explicitly preserving First Amendment free speech rights, including peaceful picketing and other peaceful demonstrations.

Federal law enforcement officials had urged passage of the legislation to increase federal jurisdiction over clinic violence. Attorney General Janet Reno testified in favor of FACE at the U.S. Senate hearing, declaring that “existing federal law is inadequate to address this problem Federal legislation is necessary. The problem is national in scope, and local law enforcement has been unable to deal effectively with it.” The goal of federal legislation was to facilitate the federal government’s entrance into trouble spots when state and local authorities could not or would not intervene. In fact, **many anti-abortion groups choose to target clinics in locations where the local or state authorities appear sympathetic to them.** FACE also sought to address the fact that perpetrators of anti-abortion violence usually travel from city to city or state to state, crossing many local and state jurisdictions, making effective prosecution for repeated acts of violence difficult at the local level.

Passage of this historic legislation took the combined leadership of the bill’s chief sponsors, **Senator Edward Kennedy** (D-MA), **Representatives Charles Schumer** (D-NY), **Connie Morella** (R-MD), and **Patricia Schroeder** (D-CO), and the concerted efforts of the women members of Congress working directly with women’s rights organizations. Enactment of FACE came after a more than year-long campaign spearheaded by the Feminist Majority following the murder of Dr. David Gunn by an anti-abortion extremist in March 1993.

The Feminist Majority played a leadership role in shaping this bold legislative strategy, working around the clock with Congressional staff and leaders and other abortion rights organizations to secure the winning votes in the face of intense lobbying by anti-abortion forces. Planned Parenthood, NARAL, American Association of University Women, National Abor-

tion Federation, National Organization for Women, NOW Legal Defense and Education Fund, National Coalition of Abortion Providers, American Civil Liberties Union, and People for the American Way were among the other organizations working for passage. In November 1994, FACE passed by overwhelming margins in both Houses – 69-30 in Senate and 241-174 in House. Anti-abortion delaying tactics and reconciliation of differences between House and Senate versions of the bill stalled final enactment until the spring of 1994.

Immediately after Clinton signed the FACE Act, anti-abortion forces filed federal lawsuits to challenge the new law, claiming it violated the First Amendment’s guarantee of free speech. In early October 1996, the U.S. Supreme Court effectively settled disputes about the constitutionality of FACE by declining to hear a case challenging FACE, indicating that FACE is indeed constitutional.

At the same time that anti-abortion forces challenged FACE, abortion rights forces have worked vigorously to implement the law. At FACE oversight hearings held in September 1994 before the House Judiciary’s Subcommittee on Crime, Crime Committee Chair Schumer urged the Justice Department to step up enforcement of FACE. A four-member panel testified before the committee, including a physician, a clinic owner, a police sergeant, and a clinic administrator. The panel related incident after incident of anti-abortion violence and their frustration at being told by the FBI, Justice Department, U.S. Marshals, and U.S. Attorneys that FACE charges would not be brought. **Pro-choice organizations have continued to press for enforcement of FACE, holding regular meetings with law enforcement officials at the federal, state, and local level and maintaining constant contact with clinics.**

We know that law enforcement cooperation with clinics is central to reducing clinic violence. The Feminist Majority Foundation's annual Clinic Violence Survey has found consistently that levels of violence correlate with local, state, and federal law enforcement response. Clinics which reported "excellent" law enforcement response experienced lower levels of violence than those which characterized law enforcement response as "poor." The Feminist Majority Foundation's 2000 survey found that FACE enforcement has continued to improve dramatically. Federal officials were far more likely to provide clear direction for initiating FACE complaints. Encouragingly, more clinics in 2000 than 1999 reported that buffer zones and injunctions were being strongly enforced, and the number of clinics reporting weak or no enforcement dropped. (FMF, *National Clinic Violence Survey, 2000* 18).

To further step up law enforcement response, the Feminist Majority Foundation and other abortion rights organizations have called for the classification of anti-abortion violence as "**domestic terrorism**" in order to secure additional federal law enforcement investigative resources. As a first step, President Clinton issued a statement calling the Atlanta clinic bombing "vile and malevolent" and saying that "anyone who brings violence against a woman trying to exercise her constitutional right is committing an act of terror." More recently, Attorney General John Ashcroft characterized a series of anthrax threat letters sent to women's reproductive health clinics as acts of domestic terrorism.

ESTABLISHING BUFFER SAFETY ZONES AROUND CLINICS

Fixed buffer zones are an essential tool in preventing anti-abortion violence. Over one-third of clinics (41%) are currently

protected by buffer zones, which prohibit anti-abortion extremists from protesting within specified distances from clinics. The Feminist Majority Foundation's 2000 National Clinic Violence Survey found that **clinics with buffer zones reported far greater decreases in death threats, blockades, and invasions than clinics without buffer zones.**

The Feminist Majority Foundation laid the legal groundwork for two successive U.S. Supreme Court decisions upholding the use of safety buffer zones. In **Madsen v. Women's Health Center**, anti-choice protesters appealed their case to the U.S. Supreme Court. The Feminist Majority Foundation's legal team obtained a permanent injunction requiring anti-abortion protesters to stay 36 feet away from the clinic and 300 feet away from clinic workers' homes in response to escalating violence at the Aware Woman Center for Choice in Pensacola. The injunction was challenged by anti-abortion protesters who claimed that it violated their First Amendment free speech rights. The Florida Supreme Court upheld the injunction in a unanimous 7-0 decision, stating that the anti-abortion protesters "have placed into jeopardy the health, safety, and rights of Florida women."

The Feminist Majority Foundation's legal team, led by **Attorney Talbot "Sandy" D'Alemberte**, argued the *Madsen v. Women's Health Center* case in favor of clinic buffer zones before the United States Supreme Court. In late June of 1994, the Court ruled in a 6-3 decision that abortion clinics harassed by anti-abortion extremists can obtain court-ordered buffer zone injunctions to keep harassers away from clinics. In a strong opinion by **Chief Justice William Rehnquist**, the Court determined that the injunction around Aware Women Center for Choice did not violate anti-abortion protesters' free speech rights

because it was not content based. Instead, it was based on the actual conduct of specified anti-abortion groups and individuals. In *Madsen*, the Court **upheld the core of the injunction- the 36-foot buffer zone around the entrance of the clinic as well as the ban on sound amplification that can be heard within the clinic during surgery hours**. Although it overturned the 300 foot buffer zone around the residences of clinic workers, it used strong language in support of the right to have peace in one's home, indicating that smaller zones would be constitutional.

A second U.S. Supreme Court case, ***Schenck v. Pro-choice Network of Western New York***, involving clinics in Buffalo, New York **reaffirmed the use of buffer zones around clinics**. Buffalo clinics had a 15-foot buffer zone around clinic buildings, driveways, and individuals entering or leaving clinics. Under that rule, members of certain anti-abortion groups who had been harassing patients at those clinics are prohibited from entering the buffer zones. Anti-abortion extremists challenged these buffer zones saying they restrict the freedom of speech of people opposed to abortion. Anti-abortion forces challenging the Buffalo buffer zones argued that the buffer zone in Buffalo should not be judged by the same standards as *Madsen*. They argued that *Madsen* applies only to Aware Woman Center for Choice, the clinic in the *Madsen* case.

In the *Schenck* case, the Court upheld a 15-foot fixed buffer zone, with the Court making clear that the size of the zone is dependent on the record of anti-abortion violence and the geographic location of the clinic. While the Court in *Schenck* did strike down a "floating buffer zone" around individual patients and clinic staff in the Buffalo case, it left open the possibility of a floating buffer zone in other cases if the record of anti-abortion extremist

behavior at a particular clinic warranted this remedy.

THE RICO STRATEGY: NOW ET.AL. V. SCHEIDLER ET.AL.

Another legal strategy to stop anti-abortion violence is the use of **Racketeer Influenced and Corrupt Organizations Act (RICO)** statutes. The strategy was pioneered in **NOW et.al. v. Scheidler et.al.**, a case which was initiated in 1986 by then NOW President Eleanor Smeal, and filed in conjunction with **the National Women's Health Organization (NWHO)**. The case began when the president of the local Pensacola NOW chapter was injured during a clinic invasion by John Burt, a leader of the local Rescue America. NOW argued that abortion opponents were conspiring in an organized way to use extortion in an effort to close established, legal businesses nationwide.

In January 1994, the Supreme Court ruled unanimously that RICO can be used by clinics in filing civil lawsuits against anti-abortion extremists and their leaders who orchestrate acts of violence. The *NOW et.al. v. Scheidler et.al.* case went to trial in March 1998 after 12 years of litigation.

A jury of four women and two men found Joseph Scheidler, Timothy Murphy, Andrew Scholberg, as well as Operation Rescue and Pro-Life Action League, liable for violating federal and state extortion law and RICO. In October 2001, the Seventh Circuit Court of Appeals unanimously upheld the jury verdict, affirming the award of monetary damages to the plaintiffs and the nationwide injunction prohibiting the defendants from interfering with access to abortion clinics.

In February 2003, the United States Supreme Court reversed the jury verdict, the district court, and the Court of Appeals. Changing 50 years of extortion law, the Court ruled that in order to qualify as

extortion, a defendant has to obtain tangible property. Under this new interpretation of extortion law, demanding \$1,000 and taking it is extortion, but demanding someone turn over \$1,000 is not. The extortion was necessary to prove a RICO case, so the entire case was dismissed.

In the wake of the Supreme court decision, anti-abortion extremists have been calling on their supporters to start protesting at clinics again.

Hill v. Colorado

In the 2000 *Hill v. Colorado* case, the Supreme Court ruled that a Colorado law protecting patients' access to clinics is constitutional. The law prohibits any person within 100 feet of a health care facility's entrance to "knowingly approach" another person without consent, in order to pass a leaflet or handbill to, display a sign to, or engage in oral protest, education, or counseling with that person. In a 6-3 opinion, the Court found that the law's restrictions on speech were not in violation of the First Amendment. Massachusetts subsequently passed a similar law.

Planned Parenthood v. American Coalition of Life Activists et. al.

In the first private civil case to be filed under FACE, in February of 1999, a federal jury in Portland, Oregon ordered the American Coalition of Life Activists and Advocates of Life Ministries along with 12 individual defendants to pay \$107.5 million in damages to a group of abortion providers. The jury found that the defendants' "Deadly Dozen" posters and the "Nuremberg Files" web site constituted

"true threats" and were not free speech protected by the First Amendment. The "Deadly Dozen" posters list the addresses and phone numbers of thirteen doctors, accuses them of "crimes against humanity," and compares them to Nazi war criminals. The "Nuremberg Files" is a web site that lists the names of doctors, clinic staff, law enforcement personnel, judges and abortion rights advocates, along with personal information. The "Nuremberg Files" identifies doctors that have been wounded by anti-abortion extremists in grey type and draws a line through the names of doctors who have been assassinated.

Within days of their court-ordered depositions, during which they were to disclose the whereabouts of their assets, five of the twelve individual defendants, Michael Bray, Donald Treshman, David Crane, Charles Wysong, and Joseph Foreman filed for bankruptcy. In line with a trend among anti-abortion defendants, these individuals filed for bankruptcy in order to circumvent financial penalties and evade judgments against them.

In 2002, a ten judge court of the Ninth Circuit Federal Court of Appeals upheld the decision of the jury and the district court that the posters and website qualified as "true threats" and violated the Freedom of Access to Clinic Entrances Act. In a major defeat for anti-abortion extremists, the Supreme Court refused to hear an appeal to the Ninth Circuit decision. In deciding to reject the anti-abortion appeal without comment, the Supreme Court made it clear that FACE prohibits not only acts of violence, but threats of violence against abortion providers.

ADOPT-A-CLINIC PROGRAM

Since the late 1970s, an orchestrated campaign of violence and intimidation designed to terrorize the staff of women's health care clinics and to close clinics has been waged by extremist anti-choice groups. Activities directed against clinics include picketing; stalking and harassing clinic staff and patients; blockades and invasions of clinics; vandalism of clinic property; arsons and threats of arsons; bombings and threats of bombings; death threats; and even murder.

By "adopting" a local women's health clinic, your Leadership Alliance will work to **galvanize community-wide support and resources critical to reducing the violence and terror against abortion clinics and the harassment and intimidation of doctors and clinic staff**. Your campaign will also provide a support mechanism to help counter day-in and day-out harassment of patients and staff by anti-abortion protestors at your local clinic.

Bringing the violence, harassment, and intimidation experienced by clinics to the attention of the local community will help build public outrage against the anti-abortion violence and harassment and generate demands for better law enforcement response. The Feminist Majority Foundation's Clinic Violence Survey shows that where law enforcement is aggressively responding, investigating, and prosecuting anti-abortion violence, the level of violence decreases. Involving community activists and local pro-choice leaders can also help secure media attention, legal support, law enforcement assistance, and financial resources.

Other potential outcomes of the **Adopt-A-Clinic** program include:

- Bolstering morale of clinic staff, doctors, and patients;
- Mobilizing community support;
- Collecting information and monitoring activities of anti-abortion extremists, which can be key to preventing more severe incidents of violence and can facilitate the prosecution of illegal actions by anti-abortion followers; and
- Sending a strong pro-choice message to the community that harassment and violence against women's health clinics will not be tolerated.

STRATEGY

Step 1: Locate your Local Women's Health Clinic

Locate and find out about your local women's health clinic(s). The National Clinic Access Project of the Feminist Majority Foundation can be helpful in this step, and should be contacted through your Campus Organizer **before** you begin the project. The Project may be able to provide information on which local clinic is most in need of help, and will help set up the initial meeting with the appropriate clinic personnel.

Step 2: Set up a Meeting with a Clinic

Call and set up a meeting with the clinic director or appropriate personnel and the core students who will take the lead in the Adopt-A-Clinic program. When calling, identify yourself as college students affiliated with the Feminist Majority Foundation. Showing your support and interest is very important because this clinic may have experienced many years of anti-choice harassment without any help from the community or local law enforcement.

Being at the clinic is a learning experience. Ask for a tour of the clinic. Ask questions about the clinic's services and patients. It is essential for the Adopt-A-Clinic program to understand what a clinic does and how needed its services are.

Ask to be shown step by step what a patient does once she arrives at the clinic. Remember that the clinic is a medical facility and it should be treated as such.

Step 3: Assessing Type and Degree of Anti-Abortion Activities

To get a feel for the kinds of anti-abortion harassment, intimidation, and violence faced by the clinic, be sure to ask questions. The following are intended as a guideline and can be modified as appropriate:

- What has the overall experience been with anti-abortion protesters? How long have the anti-choice protesters been congregating here? How many times a week do they come? At what times?
- Do the protesters belong to a certain church or group/organization? (For example: Operation Rescue, PLAN, etc.)
- What do protesters do when they are here? Do they harass the patients? Doctor? Clinic staff? Do they follow the patients to their cars? Do they copy down license plates or call patients at home? Do the protesters distribute any anti-choice literature? Does this literature refer to your clinic specifically or to staff or doctors?
- Have protesters ever invaded the clinic? What happened?
- What kinds of harassment does your staff/doctor experience? Are you harassed by phone, mail, or in person? Have any of your staff or doctors ever been stalked? Are staff or doctors picketed at their homes? Followed in their cars? Are there any WANTED posters for your doctors or staff?
- Have you or any of your doctors/staff been threatened? How?
- Have you experienced physical vandalism at the clinic? Fires/arson? When? How severe? Was anyone ever charged and prosecuted for the violence?
- What is the history of law enforcement response to clinic safety concerns? How does law enforcement respond to requests for assistance from you?
- How have you dealt with the protestors? What strategies have worked?
- What is the local political and community atmosphere with regard to this clinic?
- What could we do that would be most beneficial to you?

Step 4: Observe the Anti-Abortion Demonstrators

Set up a separate time for the core students who are taking a lead in the Adopt-A-Clinic program to meet with clinic staff on a day when the protesters are at the clinic. This visit will give you an opportunity to see exactly what the protestors do at the clinic, and understand the conditions under which the clinic must operate. Discuss with the appropriate staff the extent of the hostility that the clinic has experienced over the years.

Observe and take notes on the protesters and their actions. Check to see if the protest-

ers harass the patients, and see where the protesters are standing and sitting. Survey the outside of the clinic, noting where patients park, whether and how protesters block their entryway to the clinic. What do protesters do when the doctor and clinic staff arrive?

Observe clinic security. Is the entrance always kept locked? Are patients cleared before being allowed into the clinic? Are there large areas of glass windows or doors? Can protesters disturb the patients and staff inside the clinic?

Step 5: Develop a Plan of Action

Be sure to simply ask the clinic director/owner what kinds of support/assistance they most need. They will generally have a very clear idea about what would help improve safety, security, and the morale of their clinic and staff. After you have interviewed the appropriate clinic personnel or administrator, it should become clear what type of support is needed, what the director wants, and what she does not want. Discuss the following types of support:

- 1. Legal Observing:** videotaping and photographing anti-abortion protesters and their activities for possible legal action; for example, petitioning the court for a buffer safety zone around the clinic. Also, experience shows that when protesters believe their activities are being recorded, they are more likely to tone down their activities, thus guarding against escalation. Tracking incidents and recording and reporting them to law enforcement can also assist both the clinic and law enforcement in recognizing patterns of anti-abortion activity, and thereby increase preparedness.
- 2. Escorts:** providing escorts to facilitate the safe passage of patients and staff/doctors into the clinic. The clinic may already have a volunteer escort program in which Leadership Alliance members could participate. You will need to establish an escorting plan with the clinic and possibly go through an escort training. Organize the dates and times you will provide escorts or legal observers, recruiting twice the numbers of Leadership Alliance activists and other volunteers you will need. The Leadership Alliance will provide a steady stream of volunteers for the clinic as needed.
- 3. Mobilizing Public Opinion Against Protesters:** calling press attention to the problems the clinic faces. Meeting with the local newspaper's editorial board, circulating petitions in support of the clinic and strong law enforcement action, organizing community events as a show of support for the clinic, and raising resources to help pay for such expenses as clinic security measures.

Step 6: Connect clinics to the services of the Feminist Majority Foundation's National Clinic Access Project

Ask the clinic if they have a copy of the Feminist Majority Foundation's *Women's Health Care Clinic Security Guide*, if not, offer them a free copy to use. National Clinic Access Project staff can also help clinics develop security plans and provide information on anti-abortion extremists. If clinics need legal advice, point them towards our recently revised and updated legal guide for clinics: "Drawing the Line Against Anti-Abortion Violence and Harrassment." This guide is available online at <http://www.feminist.org/rrights/Drawing the Line.pdf>.

Step 7: Work with Clinics that already have a Local Clinic Defense, Escort Group, or Coalition

When you contact your area clinic(s), you may be directed to a local group that already works with the clinic. Before contacting them directly, try to ascertain exactly what they do – is it a volunteer escorting service? Are clinic defenders present at the clinic whenever anti-choice protesters are there? Determine if there is a void that your group could fill or if your group can join the existing clinic support efforts.

In talking or meeting with this group or coalition, show them that your involvement will add to the well-being of the clinic and the group/coalition's efforts.

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