

**Congress of the United States**  
Washington, DC 20515

February 9, 2024

Dr. Francisco J. Diaz, MD  
Chief Medical Examiner  
401 E Street, SW  
Washington, DC 20024

Dr. Diaz,

We write to respond to alarming reports that the US Department of Justice advised you to discard the remains of five children, who were allegedly recovered in March of 2022 after being killed by abortion inside the Washington Surgi-Clinic in Washington, DC. The bodies of these children should not be destroyed and a thorough investigation must be conducted into the death of each child.

On April 5, 2022, Members of Congress sent a bicameral letter to Mayor Muriel Bowser highlighting the possibility that two federal laws had been broken and calling for a thorough investigation into the deaths of each child after it was reported that Metropolitan Police were operating under the assumption that each child died as the result of a legal abortion. As of the date of this letter, we have not been made aware that any further investigation or autopsy has been undertaken or completed with regard to the death of each child.

As that letter emphasized, the Partial-Birth Abortion Ban Act of 2003 (18 U.S. Code § 1531) makes it a federal crime for a physician to partially deliver a living child for the purpose of performing an overt act that intentionally takes the life of the child. Photos that have been publicly shared suggest that one of the babies had wounds consistent with partial-birth abortion. Dr. Kendra Kolb, a neonatologist, estimated at the time that this baby girl was “somewhere between 28-30 weeks gestational age, with evidence of deep lacerations to the posterior neck which presumably correlates to the method of abortion used to end her life.”

Second, Congress passed the Born Alive Infants Protection Act (1 U.S.C. § 8) to provide equal protection for children who are born alive during an abortion. If the bodies of other babies who were not aborted were recovered in a similar fashion, it would be hard to imagine the Metropolitan Police declining to conduct a thorough investigation into the death of each child.

We repeat the demand of the April 2022 letter: a thorough investigation must be conducted into the death of each child. In order to accomplish that investigation, we request that you conduct autopsies on the children and preserve all collected evidence. Finally, at the conclusion of such examinations, we urge the city to properly and respectfully bury the remains of these children, rather than destroy them.

These five children, like all children, have inherent value and worth. They deserve to have their deaths investigated to ensure that no DC or federal laws were broken.

Sincerely,



James Lankford  
U.S. Senator



Christopher H. Smith  
Member of Congress

CC: Mayor Muriel Bowser  
Executive Office of the Mayor  
John A. Wilson Building  
1350 Pennsylvania Avenue, NW  
Washington, D.C. 20004