

Chapter Three

The Flood

Counseling the Thousands, Challenging the Law

"I need help and I need it kind of fast," a nineteen year-old Grove City, Ohio woman wrote to the Clergy Consultation Service on Abortion. "I'm scared to death right now and I don't have anybody at all to talk to, so I am turning to you." For women like this teenager, the Clergy Consultation Service on Abortion was more than just another channel to an illegal abortion, it was a Godsend. "Out of utter and sheer relief," one of the first women counseled by the CCS wrote in a single-sentence note, "the only thing [I] could do was to put down a small check." The tiny contribution of twenty-five dollars simply emphasized the writer's sentiment: utter and sheer relief.¹

In the months following the May 1967 launching of the CCS, the procedure for obtaining a safe abortion through a clergyman began with a simple phone call that could be placed at any time. The caller was connected to an answering machine in the office at Judson Memorial Church. "This is the Clergy Consultation Service on Abortion," said Arlene Carmen's voice on the outgoing message. "You are being answered electronically and need only take down the name and phone number of one of the clergymen whose names will follow. . . ." The recording, which changed as the schedule of on-duty clergy rotated, would list at least three clergymen and their contact information. At least one of the on-duty clergy was a rabbi. "There is no charge for the consultation," explained the recording, but a note from a gynecologist verifying the pregnancy was required. There were no warnings about potential illegality or secrecy, no code

¹ [Name omitted] to New York Clergy Consultation Service, 6 September 1972, CCS archive; [Name omitted] to New York Clergy Consultation Service, July 1967 (estimated), CCS archive.

words or procedures for surreptitiously contacting a clergyman. The message ended with a courteous "thank you."²

The next step for a woman seeking counseling was to select one of the clergy on the list and call him. The recorded message instructed women simply to tell the clergyman or his secretary that she wished to "make an appointment for a consultation about a problem pregnancy." If an appointment could not be made because the clergyman's schedule was full, the woman would be referred to another clergyman who could meet with her. Consultations were generally held in the clergyman's office and tended to last about an hour. Though individual counseling styles varied, most counselors spent the first forty minutes exploring the situation, inquiring into the woman's circumstances, and reviewing the various options for handling the problem pregnancy. Estimates differ, but it is certain that at least ninety percent—and possibly as many as ninety-eight percent—of the women counselled chose to have an abortion. Some of the clergy report that they can't remember ever counselling a woman who decided against abortion. "They had pretty much made the abortion decision [when they came to us]," recalls Moody, "but they were scared to death of the process, of the procedure, they didn't know anything about it. That's where we came in. We told them what would happen to allay some of those fears and to give them some confidence that what they were doing was not the most horrible thing in the world."³

The last part of the consultation was generally dedicated to logistics. The clergyman, having ascertained the length of pregnancy and type of abortion required, would explain the abortion procedure step by step, including both the medical details and what the woman was

² [Arlene Carmen], "Message for Code-a-Phone Tape," undated, CCS Archive.

³ Moody has reported different percentages of counseled women who chose abortion, and all of these figures should be considered "ball park" estimates. Several sources suggest other chapters of the CCS had similarly high rates. The rates given here are from Moody, interview, 27 November 1997, and Brownmiller, "Abortion Counseling: Service Beyond Sermons," *New York Magazine*, 4 August 1969.

likely to experience. Most importantly, the clergyman would consult a frequently up-dated list of doctors to whom the CCS made referrals. If there was more than one option available, the clergyman and the woman would agree on which doctor she should see, after which the clergyman gave her the details of finding the doctor, what to tell him, and how much to pay him. According to Service regulations, a clergyman never knowingly referred a woman to an abortionist who was not a licensed physician.

Following her consultation, the woman was usually on her own. The CCS never referred women to in-state doctors, so unless the Service managed to arrange a semi-legal therapeutic abortion in New York, the woman had to travel. In some cases, she only had to cross the George Washington Bridge into New Jersey. Most women had longer trips to make, however, sometimes to other states, but usually to Puerto Rico or even overseas to England or Japan. The women assumed full responsibility for paying the abortionist, but at a price pre-set by the CCS. Though some clergy may have offered post-abortion counseling, very little appears to have been done. Feedback was always welcome, but fairly uncommon. "Ordinarily [feedback] didn't happen a whole lot unless there was trouble on the other end," remembers Moody. The percentage of women who contacted the CCS after their abortions is difficult to determine. Carmen and Moody reported the figure to be forty percent, but there is no evidence that it was this high, and Moody has recently admitted that the forty percent figure "wasn't exactly scientific." Following their abortions, most women disappeared from the lives of the clergy who counselled them. Women were not required to give their real names, and the names they gave were never recorded. Moody recalls, "We really wanted to hear from every one of them, but we didn't of course. Psychologically the woman wanted to wipe that thing from her mind forever." Occasionally a note or small contribution would arrive at Judson, simple tokens of thanks. Negative feedback about a doctor led to an immediate investigation, and the Service's diligence

on this account made certain that relatively few women ran into any trouble.⁴

Despite an outward appearance of smooth and efficient operation, the Clergy Consultation Service got off to a rocky start. Unexpected complications arose quickly, and in the first year the clergy met monthly to address problems and to adjust their operating procedures. The reason for the difficulties were twofold. First, abortion referral was an experiment in social activism that had only been previously attempted by individuals such as Larry Lader and Pat Maginnis, and never by a large organization like the CCS. The clergy were learning by doing, and there was no way to foresee the impediments that would appear in their path. Second, no one in the CCS had predicted the volume of women that contacted the Service in the first months. Moody and Carmen wrote that after the first week of incessant phone calls, "We began to see the outline of the dimensions of the issue. . . . Far more women responded to our offer of advice and counsel than we ever dreamed were out there in our city. Calls were coming from every state in the Union, and women were willing to travel great distances just for a counseling session and information."⁵

The enormous volume of women seeking counseling proved to be one of the most formidable hurdles in the first year of operation. Fortunately, what the CCS lacked in numbers of available counselors, it made up for in enthusiasm and devotion to the cause. Several of the clergy counseled more than six or seven hours a day for six or seven days each of the weeks that they were "on duty" The clergy who were most deeply involved even counselled women on their days off from regular parish duties. To ease the strain, Moody and Carmen regularly reorganized the rotation of clergy on-duty. Thus counselors who had worked during particularly strenuous shifts would be left off the rotation for a week or two, giving them time to rest and

⁴ The dubious forty percent feedback figure is from Carmen and Moody, *Abortion Counseling*, 43, and the comment on it is from Howard Moody, telephone conversation with author, 21 February 1998; Moody, interview, 13 October 1997.

⁵ Carmen and Moody, *Abortion Counseling*, 35.

catch up on their paid work at their church or synagogue. An inadvertent effect of the effort to relieve over-burdened counselors was that some of the clergy, like Moody or Tilda Norberg, the Service's only clergywoman, were on duty almost all the time. Whenever a clergyman took a break, someone had to pick up the slack. Publicity by word of mouth complicated matters, since women who had had a good experience with a particular clergyman passed his name on to friends who would by-pass the duty roster and contact the clergyman directly. "Once word got out," recalls Rev. Bob Pierce, "I didn't have to be 'on' [to get calls from women]."⁶

By January 1968, after only six months of counselling, the CCS had referred over eight hundred women for safe abortions. The pressure on the clergy had been partially ameliorated by a swelling in their ranks to thirty-five from the original twenty-six, but the volume of calls still made for what Moody called "heavy duty times," and that volume was still increasing. The CCS was buoyed by exposure in the press, improvements in the free flow of information about abortion that resulted from the growth of the abortion rights movement, and public appearances by Moody at lectures and at least one televised debate. In 1968, close to three thousand women were counseled by the CCS. They continued to come from all across the country, finding the Service through a variety of channels ranging from word of mouth to referral by *Playboy* magazine, a staunch advocate of abortion rights. The CCS was even in the phone book, under "Clergy Consultation Service on Abortion" in the white pages and "Social and Health Agencies" in the Yellow Pages. By 1969, the annual number of referrals had risen to nearly ten thousand.

As an organization, the CCS coped with the pressure very well. Though eventually some of the original participants in the group withdrew from counseling, it appears that none of them did during the first year and a half of operation. Enormous investments of time and energy by Moody, Carmen, and Judson's staff met the logistical needs of the Service. Though the

⁶ "Clergy Consultation Service—Duty Roster," February 1968, CCS Archives; Pierce, interview, 28 January 1998.

headquarters of the CCS had arrived at Judson by a series of accidents, the situation proved serendipitous. Without Judson as its nerve center and Carmen and Moody as its diligent eyes and brain, the eclectic collection of clergy would never have been able to meet the challenges of operating the organization. Furthermore, Judson discretely defrayed the costs of operation, which added up to nearly two thousand dollars a year in phones, mailings, and other sundry expenses. Donations to the CCS were made to Judson Church and applied against Judson's expenditure. The resulting gap proved to be small, since the CCS brought in an average of fifteen hundred dollars in gifts a year in the first two years. Nevertheless, channeling funds through Judson was useful because no CCS bank account was required, and the donations came under the religious umbrella of legal protection that the clergy hoped would shield them from prosecution.⁷

Unfortunately, enthusiasm and organization ultimately proved to be no match for sheer numbers, and in the spring of 1968 the CCS found itself faced with a difficult decision. The volume of women seeking help was simply too much for the New York clergy to handle. "The burden of the entire country was too great for the New York CCS to carry by itself," wrote Carmen and Moody, "and a way to serve those non-New York women closer to their homes had to be found." Eventually the solution to the problem would prove to be the founding of clergy services in other cities and the formation of a national organization, but in the spring of 1968 such efforts were still far from bearing fruit. Carmen and Moody considered the possibility of telephone referrals, but they rejected the idea. On the phone there would be no way to verify the length of the woman's pregnancy or "read" her in such a way as to be sure that aborting her pregnancy was really the course she wanted to take. Furthermore, Carmen and Moody realized, "Telephone counseling clearly worked against our goals of making responsible referrals,

⁷ The accounting of the Service's expenses is from numerous documents. The numbers vary a little from report to report, and this is a fair representation of the annual expenses. One account may be found in Carmen and Moody, *Abortion Counseling*, 47.

alleviating fear and guilt, and being emotionally supportive to women.”⁸

Left with little recourse, the New York CCS began refusing to counsel out-of-state women. No matter how desperate the situation, written requests for assistance from outside New York were answered with a short note from Carmen. “I am sorry to tell you that our service is exclusively for residents of New York City,” she wrote. “We are simply unable to handle the number of requests for help that we receive from all over the country.”⁹

This harsh reality of the abortion problem in America did not sneak up on the CCS. In the Service’s second week of operation in 1967, the clergy had taken steps to avoid being overwhelmed by volume by issuing a plea for help to “allied professions.” In a written statement, Moody called for doctors and psychiatrists to “courageously step forward to help reinterpret the law so as to bring light and hope to the thousands of people who suffer . . . the miseries and heartbreak of back-street abortions.” The response to this rousing call to arms was silence. The struggle to bring significant numbers of doctors into the fight for abortion rights would not be successful for years. Misled perhaps by the support of abortion advocates like Dr. Hall and Dr. Guttmacher, the CCS had expected too much of New York’s medical establishment.¹⁰

What they did not expect at all was the way in which doctors initially proved to be a hindrance to their work. Instead of referring women to the CCS, doctors were notorious for stalling when women expressed a concern that they were pregnant. Many doctors would ask women to wait and see if they skipped another period before performing a pregnancy test. While some doctors undoubtedly stalled to avoid testing women who were simply experiencing a flux in their menstrual cycle, women were frequently delayed past the point where they could

⁸ Carmen and Moody, *Abortion Counseling*, 48, 50;

⁹ Arlene Carmen to [name omitted], 9 September 1968, CCS Archive.

¹⁰ Carmen and Moody, *Abortion Counseling*, 36.

safely have an abortion. Moody believed the mistake was not always an innocent one. "The delaying tactics are more than just unconcern," he explained to a reporter. "Conscious or unconsciously, a lot of these doctors are making moral judgements."¹¹

The resistance the CCS felt from doctors was not limited to their dawdling with pregnancy tests. As a medical precaution, the CCS required women to bring medical verification of their pregnancy to the counseling session. But this minor safeguard proved to be too little. In late 1967 a minor accompanied by a CCS member for a San Juan abortion suffered serious complications during the procedure. Neither the doctor nor the clergy counselor had been aware that the young woman was actually almost four months pregnant. Believing she was in her first trimester, the doctor gave her an anesthetic that caused a fetal reaction and stopped her vital signs. Fortunately, the doctor revived her. "Well, she died," he told the horrified CCS member. "But we saved her." To avoid a repeat of this near disaster, the CCS immediately initiated a policy that each woman seeking a consultation receive a pelvic exam from an ob/gyn and bring a note stating the length of her pregnancy in weeks. Much to their dismay, the clergy found that the majority of doctors refused to give women such a note, possibly out of fear that they would be implicated in a conspiracy to commit abortion. Carmen and Moody developed an angry form letter they sent to uncooperative doctors. "We have discovered to our shock and regret," it said, "that physicians . . . refuse for reasons we fail to understand to provide [women] with a note that they would willingly write for an employer or a school."¹²

The refusal of the majority of doctors to provide women with pelvic exams for abortions, however, was the least of the Service's medical problems. A far greater concern was finding doctors who were willing to perform abortions. As Larry Lader discovered in his ground-breaking referral efforts, and as Carmen confirmed in her own efforts to round up

¹¹ Susan Brownmiller, "Abortion Counseling: Service Beyond Sermons."

¹² Carmen and Moody, *Abortion Counseling*, 49, 37.

doctors for the CCS, competent, cooperative, medically-licensed abortionists were not easy to find. In May, 1967, the CCS had one or two doctors to whom they could refer women. Within a year, however, the CCS was counseling an average of nearly ten women a day, requiring a larger roster of doctors. To meet the demand, the clergy relied on much the same method as they had in the beginning: they used information from women and other "grapevine" sources to locate doctors, and then Carmen or some other CCS member went "undercover" to check them out. The criteria for doctors changed very little, though the original requirement that he be an ob/gyn was abandoned; experience showed that ob/gyn's were no more likely to be skilled in dilation and curettage than general practitioners who had been discretely helping patients with problem pregnancies for years. Other requirements ranged from medical to humanitarian concerns. On the advice of its medical advisors, the CCS determined that general anesthesia should be used only in hospitals. In an office setting where a local anesthetic was unavailable, no anesthetic was preferred over a general. Dilation and curettage, and later the suction method, were the preferred abortion techniques. "Packing," which induced a miscarriage by packing the cervix with gauze strips, was absolutely unacceptable, as were the gamut of non-medical methods. A doctor's psychological treatment of the women was considered very important. Doctors who made lewd comments, offered moral judgments, or treated women in an uncourteous manner were spurned. Lastly, the physical setting of the doctor's offices had to be satisfactory. Offices in bad neighborhoods, run-down buildings, or unsanitary conditions were considered unacceptable.¹³

Not surprisingly, the strict requirements for CCS doctors eliminated many marginal doctors and sharply limited the supply. When a new doctor was approved, he was assigned a probationary status and received referrals exclusively from a single clergyman who closely monitored him and made special efforts to get feedback from his patients. Only after several

¹³ Carmen and Moody, *Abortion Counseling*, 41-43.

weeks of good reports would a doctor be put on the regular referral list. Relatively few doctors weathered the close watch of the clergy.

The arduous task of monitoring and managing the doctors fell to Carmen. To keep track of the service's abortion resources she travelled frequently and scrutinized all the feedback available. Her job was to insist firmly that every doctor meet all the criteria of the CCS, and to punish those who strayed from the course. "[Carmen and I] were monitoring everything we could," recalls Moody. "When we found out that a doctor abused a woman in *any* way, verbally, the way he treated her on the phone, or when they started to raise their prices, we just cut them out." Doctors usually were not warned or even informed when they were dropped from the roster, but the sudden disappearance of their patients generally encouraged them to call Carmen within days. When confronted with their misdeeds, they frequently denied the reports, but Carmen was uncompromising. The most common cause for dropping a doctor was failure to meet the price set by the CCS, which was a maximum of \$600 in 1967. Doctors whose only offense was overcharging were usually given a second chance. Any abuse of women or medical misjudgments, however, resulted in permanent dismissal. The Service's rigid requirements caused relationships with abortionists to average only a few months in duration.¹⁴

Nonetheless, Carmen and Moody considered most of their problems with abortionists to be minor. If misconduct had been widespread and doctors had been more uncooperative in adhering to CCS regulations, Carmen's job would have been virtually impossible, and the referral service would have been unable to operate. The reason the CCS had relatively few major problems with doctors was probably the nature of the abortion market. The high demand for competent abortionists and the extremely high prices for illegal abortions indicate that on the whole, abortion was a sellers' market. This was certainly the perception of the CCS when it set its \$600 price limit. The growing volume of women counseled by the CCS, however, eventually

¹⁴ Moody, interview, 13 October 1997.

created a demand among abortionists for clergy referrals. Carmen and Moody wrote,

The clergy were able to do for [abortionists] something which had not been done before, namely refer a steady volume of patients who had been examined, screened, and counseled in advance. This meant that only patients without medical contraindications were referred; also these patients arrived with . . . their fears allayed and a detailed explanation of the medical procedure provided by their counselor. Contrast this clientele with that ordinarily seen by most "illegal" abortionists . . . and the benefits of working with us become clear.¹⁵

Instead of accepting the prices set by abortionists, the clergy ultimately realized they had real economic power and could actually control the price of abortions. They came to this realization very slowly, and perhaps even by accident. When one Puerto Rican doctor discovered the clergys' dependence on his services, he began to raise his prices. When the price got too high, the clergy cut off his referrals, and within days he was on the phone offering to lower his fee. Over several months, the CCS pushed his price from \$500 to \$400 and finally to \$350. Any money he lost per patient he made up for in increased security and a steady flow of customers. As the New York CCS expanded and its referrals increased to a 1969 level of ten thousand women per year, the clergy used their expanding economic leverage to force abortion prices down with other doctors. Few were willing to lose clergy referrals just to keep their prices up, and eventually CCS competitive pressure forced even non-CCS abortionists to lower their rates.¹⁶

As the CCS gained notoriety, two new potential sources of doctors began to develop, though both were considered unworthy of cultivation. After only six months in operation, abortion middlemen began to solicit the CCS by phone and in person at Judson. According to Moody, the middlemen were often uneducated male laborers who tended to tell a familiar story:

¹⁵ Carmen and Moody, *Abortion Counseling*, 43-44.

¹⁶ The information here is pieced together from several sources, including Brownmiller, "Abortion Counseling: Service Beyond Sermons," Moody, interview, 13 October 1997, and Carmen and Moody, *Abortion Counseling*, 43-44. The Puerto Rican doctor is Dr. Montalvo, who is discussed further below.

a humane doctor had allegedly suffered the tragic loss of a loved one at the hands of an unskilled abortionist and was now willing to offer his services to women for what turned out to be an outrageous rate. The middlemen usually offered the CCS a kickback of around fifty dollars for each woman referred to the doctor. "Oddly enough," wrote Carmen and Moody, "when we explained we would not accept any financial remuneration but would be happy if the fee charged to women was lowered by fifty dollars, the response was negative." The middlemen would not accept changes to their price structure, and the CCS therefore refused to deal with them.¹⁷

Potential new recruits also came directly from the abortionists themselves, who began to solicit the CCS once word got out that a steady stream of potential patients was springing forth from the churches. While there was never any official policy to refuse doctors who solicited, the CCS in fact never accepted such doctors' services. Reasons for their refusal can be inferred from Carmen and Moody. They recounted a visit from a famous Michigan abortionist who not only came to Judson (a major breach in clergy-doctor etiquette), but later sent a one thousand dollar contribution to the Service. Carmen rejected the doctor, citing his refusal to accept the CCS safety ban on office abortions past twelve weeks gestation. The check was returned. It is reasonable to assume that other prominent abortionists may have been similarly at odds with the Service's strict guidelines and loathe to adapt to them if they already enjoyed a thriving practice.¹⁸

Maintaining a roster of doctors was thus not an easy task. Though Carmen and Moody report only one instance of a prominent abortionist refusing to perform abortions for the CCS, in the early years of the Service there was a dearth of medically licensed abortionists. The problem was not only the Service's strict guidelines, but a lack of doctors willing to perform abortions.

¹⁷ Carmen and Moody, *Abortion Counseling*, 59-60.

¹⁸ Carmen and Moody, *Abortion Counseling*, 60.

There were several reasons for this shortage of qualified physicians. First, some doctors refused to perform abortions simply because they believed abortion was murder. Even though a majority of Americans favored reform of abortion legislation, the American public held a very low opinion of abortion itself in the late 1960s. Gallup polls reported that in 1969 the group expressing the least disapproval for abortion was college-educated men, the category that naturally included most doctors. Nevertheless the disapproval rate in this group was still sixty-three percent. If physicians had moral problems with abortion, they were in the company of most of their college-educated peers.¹⁹

Personal convictions aside, however, the medical establishment put a great deal of pressure on doctors not to perform abortions. The Hippocratic Oath itself orders doctors not "to give a woman means to procure an abortion," and this rule was not taken lightly by some doctors even though most ignored the Oath's proscriptions of surgery and charging tuition for medical school. More importantly, the socialization process in medical school was strongly biased against abortion. In 1969, the standard obstetrics textbook cautioned, "Since therapeutic abortion entails destroying the fetus it is a grave undertaking and must never be considered unless there is imminent danger of death of the mother . . . or of great bodily or mental harm." Would-be abortion specialists were trained by a faculty whose own education on the subject of abortion pre-dated penicillin, a major factor in bringing down the complication rate of abortions, and thus had likely been taught that abortion was unsafe. Nanette Davis notes that physicians were "convinced that abortion was more dangerous to the woman's health than a full-term delivery," and thus they "ignored well-established international data published for more than a decade that showed abortion to be safer than childbirth."²⁰ The erroneous belief in

¹⁹ Judith Blake, "Abortion and Public Opinion: The 1960-1970 Decade," 1971, from Rubin, ed., *The Abortion Controversy*, 105.

²⁰ Hippocrates, *Hippocratic Writings*, ed. G. E. R. Lloyd (London: Penguin Books, 1978), 67; textbook information from Davis, *From Crime to Choice*, 68-70.

the hazards of abortion was reinforced by doctors' contact with illegal abortion. When back-alley abortionists made mistakes, emergency room doctors treated the injured or dying women, undoubtedly intensifying the negative stigma of abortion.

One of the most significant factors discouraging doctors from performing abortions was pressure from other doctors. Doctors who performed abortions were shunned by their colleagues, essentially making them untouchable in the medical community. "Don't touch this with a ten-foot pole," one CCS doctor was warned by a colleague. "You'll be called an abortionist, they'll take your license away, you'll go to jail. This is a taboo subject."²¹

The shortage in medically licensed abortion providers was exacerbated by the prevailing anti-abortion attitude in obstetrics and gynecology, the specialty most logically suited to perform abortions. The ob-gyn field was predominately male, and the motivation for many obstetricians to enter the specialty conflicted with providing abortions. "Ob-gyns are mama's boys," explained one doctor. "They go into obstetrics because they identify with women and the whole reproductive process. Now ask them to do an abortion and it's against what they're psychologically attuned to. They're trained to deliver babies and put them at mothers' breasts." Dr. Guttmacher concurred, "I found . . . that obstetricians and gynecologists were the most conservative medical group in regard to abortion. Indeed, there had developed a feeling of prideful accomplishment among the ob-gyn staff if one's hospital had a low therapeutic abortion rate and a feeling of disgrace if the rate was relatively high. . . ."²²

Last but certainly not least, physicians feared the legal consequences of performing abortions. The penalties for illegal abortions were severe, and abortionists were frequently

²¹ Carole Joffe, *Doctors of Conscience: The Struggle to Provide Abortion Before and After Roe V. Wade* (Boston: Beacon Press, 1995), 97.

²² Lael Scott, "Legal Abortions, Ready or Not," *New York Magazine*, 25 May 1970; Alan F. Guttmacher, "The Genesis of Liberal Abortion in New York: A Personal Insight," in *Abortion, Medicine, and the Law*, ed. J. Douglas Butler and David F. Walbert (New York: Facts on File Publications), 231.

arrested after complications resulting in their patient's admittance to a hospital or worse, her death. Malpractice and criminal charges combined as a decisive deterrent. "The legal situation was paramount—it involved too much risk to doctor and patient," writes Davis.²³

The medical profession's general distaste for abortions and abortionists did not mean, however, that some doctors were not involved in the booming illegal abortion business. An institutionalized hypocrisy allowed doctors to avoid assuming responsibility for the abortion problem. While the medical establishment as a whole kept its head buried in the sand, many gynecologists discretely referred women to abortion resources on which they could rely. "Every doctor—let's put it very frankly—who wanted to help people had to have an abortionist that he trusted," recalled one doctor, who referred a dozen women a year to a nurse who ran a safe and competent abortion business out of her home. "Every doctor I knew well . . . had someone [who performed abortions]. It was something you didn't talk about, even with your best friends." Physicians without local connections commonly referred patients to abortionists in Mexico or Puerto Rico, frequently through professional middlemen who operated at great profit.²⁴

Some doctors were willing to perform abortions, however, and more joined their ranks as liberalization of abortion laws reduced the legal risks in the late 1960s. Their reasons for entering the abortion business were varied. Before the abortion rights movement took form, one of the most common reasons for performing abortions was profit. Abortionists were pariahs in the medical community, but they were very well paid pariahs, an aspect of their practice that must have increased other doctors' resentment toward them. Black doctors frequently undertook abortion practices because their professional opportunities were limited in the mainstream medical community. For doctors of all races who failed to advance professionally

²³ Davis, *From Crime to Choice*, 68.

²⁴ Joffe, *Doctors of Conscience*, 110-112.

or lost their licenses in malpractice suits, abortion provided a very lucrative alternative to legitimate practice.²⁵

American doctors who worked for the CCS, however, appear to have been largely motivated by humanitarian concerns. The accounts offered by a few of the doctors of the CCS as to why they entered the abortion field are rife with anecdotes about horrible experiences with illegal abortion or terrible injustices they witnessed when they could do nothing to help women in dire need of abortions. Dr. Guttmacher, a leader in the abortion rights movement though never an abortion provider for the CCS, reported that as a hospital resident he “witnessed three deaths from illegal abortions: a sixteen-year-old with a multiperforated uterus, a mother of four who died of sepsis rejecting another child, and a patient in early menopause who fatally misinterpreted amenorrhea.” Dr. Nathanson, one of the most prominent CCS doctors, had a girlfriend who nearly died from a botched illegal abortion. He later wrote that his entrance into the abortion movement was spurred on by “fury at my own impotence to aid my patients, and particularly in anger at the egregious inequity of the availability of abortions. . . .” Dr. David Bennet started accepting CCS referrals after he was urged to do so by his Unitarian minister, a member of the Service. Dr. Henry Morgentaler, a doctor in Quebec who later gained fame through his battles over abortion in the Canadian courts, began performing abortions because the abortion sources he usually referred his patients to ceased to operate. A staunch abortion rights proponent, Morgentaler could no longer endure the hypocrisy of preaching abortion reform to other doctors while refusing to take responsibility for the process. In the case of all three of these CCS doctors, abortion began as sideline endeavor but eventually led them to abandon their regular practices in favor of full-time abortion practice. Moody told a newspaper reporter that there was great pressure for part-time abortionists to go full time. “In addition to the money, there is tremendous demand from the women themselves,” he said. None of these

²⁵ Davis, *From Crime to Choice*, 68.

three doctors cited pecuniary interests as a reason for their transition to full-time abortion practice.²⁶

Unfortunately for the organizers of the New York Clergy Consultation Service, doctors like Nathanson and Morgentaler were not performing abortions when the Service was launched in May 1967. Instead, the clergy were forced to rely on a number of other options, most of which were abroad. Several of these were tenuous, risky arrangements that changed frequently and always required fastidious oversight.

The most common referral site for the CCS in its early days was Puerto Rico, where abortion was not legal but abortionists operated openly and were rarely prosecuted. Sending women to Puerto Rico for abortions was so common a practice that by 1967 it had earned the nickname "San Juan weekend." Popular Puerto Rican abortionists were usually licensed practitioners taking advantage of the enormously lucrative abortion trade. The CCS used the services of several different Puerto Rican physicians, though one doctor in particular, Dr. Angel C. Acevedo Montalvo, received thousands of clergy referrals. Montalvo was preferred because he was trustworthy and was one of the only Puerto Rican abortionists who dealt with the CCS in a "purely professional manner." Unlike some Puerto Rican abortionists, Montalvo could be telephoned from the United States, allowing women to schedule their abortions before departing for San Juan. Montalvo was also the first doctor who proved to be flexible about pricing, an issue to which the CCS paid increasing attention over time. (Montalvo's price concessions couldn't have been too bad for business; Carmen later discovered he owned racehorses worth nearly a million dollars.) In general, Puerto Rican abortions were relatively cheap. The CCS considered an acceptable price for an abortion to be \$600 in 1967, and the best San Juan clinics varied in price from \$500 to \$700. Airfare and hotels pushed the price of a Puerto Rican

²⁶ Guttmacher in Butler and Walbert, eds., *Abortion, Medicine, and the Law*, 230; Nathanson, *Aborting America*, 23; the information on Bennet and Morgentaler is from Joffe, *Doctors of Conscience*, 89, 99; Moody is quoted in Dave Behrens, "Despite Lack of Reform Action, Abortion Aid a Phone Call Away," *Newsday*, 26 March 1969, 10-11.

abortion over \$1,000, a significant expenditure but still cheaper than the cost of a Park Avenue procedure. Puerto Rican abortions also carried significantly less legal risk than domestic illegal abortions.

Abortions in Puerto Rico also had significant drawbacks. Operating mostly for monetary gain, Puerto Rican abortionists had a reputation for being fairly unscrupulous, and price gouging and sexual advances toward women were common. Many of the San Juan doctors did not operate under conditions that would be considered acceptable by American doctors' standards. Larry Lader refused to make referrals to Puerto Rican doctors "I didn't trust Puerto Rico," he recalls. "I only used U.S. doctors I could check on." The CCS addressed this problem in part by sending an investigator to San Juan as often as possible, but difficulties with doctors abounded. Even Dr. Montalvo was reportedly a "source of much grief" because his lab technician charged women up to \$30 for tests that were supposed to cost \$10. The CCS responded to such behavior by dropping Montalvo from its referral list, which would lead him to call back and promise to fix the problem. For example, documents indicate that Montalvo was removed from the referral list in November 1968, eliminating Puerto Rico as a referral option. He was apparently reinstated not long after, and may have continued the cycle until he was permanently dropped in the spring of 1970. It is unclear whether his final dismissal was because of the impending change in New York's abortion law, or because of an incident that winter in which Montalvo refused to perform an abortion on a woman referred to him by the CCS.²⁷

Some of the liabilities in Puerto Rican abortions were beyond the control of the CCS. The large volume of women travelling to San Juan occasionally caused doctors to suffer patient traffic jams, forcing women to wait for their procedures after they arrived in Puerto Rico. One

²⁷ Lader, interview. Information about Dr. Montalvo has been pieced together from several sources including Carmen and Moody, *Abortion Counseling*, 44; Memorandum by Howard Moody, 12 November 1968, CCS Archive; Howard Moody to [Name omitted], 27 May 1970, CCS archive.

particularly troublesome side effect of the heavy abortion traffic was a hijacking problem. Women arriving at the airport depended upon taxi service to get them to their clinic, and savvy Puerto Rican cab drivers received kickbacks from abortionists for hijacking unsuspecting women and transporting them to a clinic other than the one they requested. Women properly briefed about which doctor they should see could rectify the situation without too much trouble, but crooked cab drivers were a nuisance all the same.²⁸

Japan, where abortion had been legal since 1948, was also a site for CCS referrals. One advantage of sending women to Japan was the very high level of surgical skill exhibited by Japanese abortionists, who were licensed doctors working in clinics subject to regular inspection. Through most of the service's first two years of operation, Japan was the only place to refer women for abortions after the first trimester. Unfortunately, this option was prohibitively expensive. Though the price of abortions in Japan was comparatively low, the cost of airfare was tremendously high, frequently bringing the price of an abortion in Japan to \$2,000. The cost was too high for all but a few women, and the CCS made referrals to only two Tokyo doctors.²⁹

In April, 1968, a new referral location became available to the CCS: London. Carmen and Moody closely followed the movement to change the abortion laws in England, but they refrained from sending women to London when the new law went into effect. The Service was not financially capable of sending Carmen to England to investigate, and the clergys' experience with Puerto Rico made them reluctant to refer women to a location that had not been inspected. After hearing positive accounts of British abortions from several women who had gone to London independently of the CCS, the Service cautiously began to refer women to London, insisting that each woman provide them with feedback about her experience. The reports, which were largely positive, led the CCS to Dr. David Sopher, a London physician who was a pioneer

²⁸ Carmen and Moody, *Abortion Counseling*, 64.

²⁹ Joan Muyskens to Ms. Marjorie Sener, 24 March 1972, CCS Archive.

in the abortion field even before it was legal. Sopher displayed remarkable surgical skills, and his competence as a practitioner was complemented by his gentility. "Dr. Sopher is a rare gem of a person," wrote a woman referred to Sopher by the CCS. "[He is] understanding, concerned, and considerate, and he has my recommendation—unreservedly." Carmen finally visited Sopher in April 1969, and she became friends with him and his wife. Sopher became the primary doctor for referrals to London, and was a benefactor of Judson Church in the years following *Roe v. Wade*.³⁰

Sending women to London for abortions was not cheap, but it was nevertheless a popular option. The average fee for a first trimester abortion ranged from \$300 to \$700, and airfare and hotel costs made an abortion in London a \$1,000 endeavor. Puerto Rican abortions were cheaper, but London had a distinct advantage for which women were frequently willing to pay the extra expense: abortions in England were legal. "The psychological and medical advantages of a legal termination were clearly worthwhile," wrote Carmen and Moody. England also offered the only option for women who were between twelve and sixteen weeks pregnant. After twelve weeks, most doctors found the standard dilation and curettage to be too difficult to perform. A saline abortion, however, was not an option until later in the pregnancy. Women who did not make the twelve week cut-off were usually forced to wait until their pregnancy was advanced enough for a saline abortion, which was more expensive and difficult. The waiting period was inconvenient and psychologically very difficult. Dr. Sopher, however, mastered a special dilation and curettage technique involving a surgical dismantling of the fetus. The procedure was very complicated, but Sopher was so skilled that he performed it without difficulty in little more than one-tenth the time it took other doctors. The only problem with London other than the relatively high cost of airfare was that it suffered the same hijacking problem as Puerto Rico. "We had to warn women in the counseling session against believing any

³⁰ Carmen and Moody, *Abortion Counseling*, 63; [Name omitted] to Howard Moody, 8 May 1969, CCS Archive; Moody, interview, 27 November 1997.

cab driver who claimed that Dr. Sopher was on vacation, arrested, or dead," wrote Carmen and Moody.³¹

Though most of the CCS early referrals were to Puerto Rico, London, and Japan, as the abortion rights movement gathered steam a growing number of continental North American options became available. Prior to 1970, most of the American doctors performing abortions were scattered around the country, and the availability of their services varied from week to week according to local legal pressures. The New York CCS at various times had doctors in Pittsburgh, Washington D.C., Chicago, Toronto, Montreal, New Jersey, and a variety of other locations around the country. One report in the spring of 1969 indicated that the service was using the services of fifteen different abortionists.³²

Of all the American doctors who performed abortions illegally for the CCS, Dr. Hale Harvey deserves particular note. Harvey, who Moody described as a "curiously impersonal but totally dedicated man," proved to be one of the best doctors the CCS ever had. Harvey had not only an M.D., but a Ph.D. in ethics. In his dissertation, "An Epidemiological Approach Toward Making Good Decisions About Ethical Problems in Medicine and Public Health," Harvey came to the conclusion that abortion was an epidemic. He determined that he had an ethical responsibility to perform abortions regardless of their legality. Harvey found the CCS through a remarkable young woman named Barbara Pyle.³³

Pyle had met Harvey at Tulane University. He was writing his doctoral dissertation while she was completing her undergraduate work, and they shared an advisor in the philosophy department. Harvey so dominated his time that Pyle finally sought Harvey out and

³¹ Carmen and Moody, *Abortion Counseling*, 63-64. Dr. Sopher's technique was described in Nathanson, *Aborting America*, 27.

³² Behrens, "Abortion Aid a Phone Call Away."

³³ Carmen and Moody, *Abortion Counseling*, 73.

asked him to give their advisor a chance to review her work. Harvey was impressed by Pyle, and soon he convinced her to do research for him in England in the summer of 1969. Pyle spent the summer studying sexual education and abortion in England, and then in the fall began working on a Ph.D. in philosophy at New York University. When she arrived in New York, Pyle was asked by Harvey to investigate the need for abortion providers. New York University not only surrounds Judson Memorial Church, but it even owns its bell tower, and thus it did not take Pyle long in New York to find Carmen, Moody, and the New York CCS. Carmen and Moody were persuaded by Pyle to invite Harvey to visit them, the only time they ever intentionally met with an abortionist at Judson. Harvey offered to work for the Service, charging women on a sliding scale in which they paid a \$100, \$200 or \$300 rate as determined by their counselor. Though concerned that he might be concealing some self-interested motive, Carmen and Moody agreed to Harvey's offer.³⁴

Harvey returned to New Orleans and opened an abortion practice in a suite of rooms in the downtown Delta Hotel. He performed abortions using one of the nation's first vacuum aspirators, which Pyle had acquired in a London medical supply store. The aspirator was an innovation that used suction to remove the contents of the uterus; the technique took only minutes to complete. Harvey's New Orleans practice proved to be a tremendous success, largely because of his thoughtful concern for his patients. "Harvey had a unique style and used his imagination to provide extras no other 'illegal' abortionist would have. . . ." wrote Carmen and Moody. "He put colorful potholders on the stirrups of the operating table for both the comfort and pleasure of the patients . . . he had Cokes and cookies available post-operatively for patients who had not eaten for twelve hours; and he mimeographed a sheet of things for patients with free time to do before catching their return flight." Women raved about Harvey, and the CCS finally had a consistent alternative to more expensive or untrustworthy

³⁴ Barbara Pyle, telephone interview by author, notes, 28 January 1998.

abortionists in Puerto Rico and Japan.³⁵

The only legal abortions available domestically were so-called therapeutic abortions, which were performed by Dr. Bernard Nathanson. In January 1969, Nathanson agreed to take on some of the Service's neediest cases and arrange therapeutic abortions for them at St. Luke's hospital. Though none of the women actually qualified for therapeutic abortion according to the law, Nathanson found a psychiatrist who would rubber-stamp each case by claiming that the woman's mental health was in danger. Precious few abortions could be obtained this way, but the resource was very important for poor women or women who couldn't travel. "Invariably these were young, black, and impecunious women who had allowed the pregnancy to advance too far, either through ignorance or the fear-denial syndrome. I helped them out by doing them at no charge," Nathanson wrote.³⁶

The clergy's business was booming. By 1970, the New York CCS was counseling ten thousand women a year. A sampling of 6,455 women referred by the New York service gives an excellent statistical picture of who the thousands were. Some of the results are surprising.³⁷

Moody had frequently argued in CCS position papers that "the large majority of women seeking the termination of their pregnancies are married women between the ages of thirty and forty years with two or more children who have conceived by their husbands." By 1970, "large majority" had been changed to "large percentage," but even this was a prevarication. In the June 1970 sampling, nearly sixty percent of the women counselled were under the age of twenty-five, and only twenty-five percent were married. Moody explained the discrepancy in an interview in

³⁵ Pyle, interview; Carmen and Moody, *Abortion Counseling*, 73.

³⁶ Nathanson, *Aborting America*, 44.

³⁷ All of the following statistics are from "Sampling of 6,455 Women Seen by New York CCS," June 1970, CCS Archive. This is the only statistical sample of the New York CCS in the CCS archive. It was frequently copied and put in CCS mailings, so Carmen and Moody must have considered these statistics a fair sampling of all the women that the CCS counseled.

a newsletter of the National Council of Churches. "We always talk about it being mostly married women but that's because we didn't want to talk about single women—because of the morality involved, that was an embarrassment at a time when we're trying to change the law." Another surprising result was the sources of referral. Of the 4,975 women who listed a referral source, almost thirty percent reported they had been sent to the CCS by their doctor (an equal percentage reported being referred by a friend). This is a clear sign of the increasing cooperation of the medical community, which in 1967 had by and large refused to perform even pelvic exams for women being counselled by the CCS.³⁸

The religious demographics of the women counseled parallels the religious demographics of New York state. Of the women reporting a religious affiliation, thirty-four percent claimed to be Catholic, thirty-four percent claimed to be Protestant, and twenty-three percent reported they were Jewish. The high percentage of Catholics may have seemed a startling statistic at the time, but not in retrospect. One-third of New York was Catholic in the late 1960s, and polls in 1968 revealed that sixty-four percent of Catholics and seventy-three percent of Protestants were in favor of abortion to preserve the health of the mother.³⁹ Thus, the religious proportions and public opinions of residents of New York are closely mirrored in these CCS abortion statistics.⁴⁰

³⁸ [Howard Moody], Position Paper on the Proposed Change in Laws Governing Abortion, March 1968, CCS Archive; "Clergy Consultation Service: Accepted More & More in New York", interview with Howard Moody in *First Source* (Newsletter of the National Council of Churches), 3 April 1970.

³⁹ Jane E. Brody, "Abortion: Once a Whispered Problem, Now a Public Debate," *New York Times*, 8 January 1968, sec A.

⁴⁰ One interesting aspect of the demographic study of women counseled by the CCS was its similarity to Larry Lader's statistical findings about the women he had counseled. In his study of 282 women, Lader found that thirty-eight percent were married (twenty-five percent in the CCS study), and seventy-three percent were under age thirty (in the CCS study sixty percent of the women were under age twenty-five). Furthermore, Lader also surprisingly discovered that twenty-eight percent of the women he counseled were Catholic. The parallels in these two surveys suggest that the CCS study is a fair cross-section of New York women

A few of the statistical findings yielded results that were alarming to the clergy. The first was that forty-seven percent of the women counseled reported using no contraceptive at the time they became pregnant. This statistic did not mean women were using abortion as birth control, a misgiving of some supporters of abortion reform, but it did raise concerns about the generally low rate of contraceptive use. Moody claimed the women didn't use contraceptives because "they were mostly living up to the mores of the pre-marital chastity, when a woman's not supposed to be sexually involved with a man and consequently won't take any precautions."⁴¹

The most disappointing aspect of the statistical study was racial. Over eighty-two percent of the women sampled were white, twelve percent were black, and less than two percent were Puerto Rican. The reasons for the bias toward whites were several. First, the CCS had only one black clergyman, an associate pastor from a church in Harlem. "Black ministers were very slow to come to this issue," remembers Moody. The fear of many blacks was that abortion was a genocidal conspiracy against them, and this belief was reinforced by abortion foes who used this concern to garner support. If a black woman had no concerns about genocide and was not interested in the services of black midwives in Harlem and Bedford-Stuyvesant, she could go to a white neighborhood and meet with a white minister to discuss an abortion referral. For the CCS to be of help, however, she would have to be well-off, because all but a precious few cases handled by Dr. Nathanson required women to pay a minimum of \$800 for an abortion in Puerto Rico. Reduced price abortions were unavailable until Hale Harvey opened his New Orleans offices in the fall of 1969, and even then women had to somehow pay travel expenses. "After close to two years," wrote Carmen in the spring of 1969 to the General Coordinating Committee of Harlem, "we have discovered to our regret, that we are largely of

seeking abortions. Lawrence Lader, "First Exclusive Survey of Non-Hospital Abortions," *Look*, 21 January 1969.

⁴¹ Moody, interview, *First Source*.

help to middle class women without financial problems." The CCS was discouraged by this race and class bias, and would make efforts in the coming years to rectify these problems.⁴²

The most important of all these figures, however, was volume. By 1969 the CCS was referring dozens of women a day to over a dozen abortion providers, and the risks of referring such a large number of women were enormous to both the doctors and the clergy. A single mistake could have sunk the entire effort. "All you need is one patient unhappy, one bad outcome, and that's it," remembered Dr. Benett.⁴³ Any woman could have gone to the police and pressed charges against her doctor, and a single botched abortion or fatal complication could have brought the legal roof in on the CCS. The best the clergy could do was to monitor their doctors as closely as possible, and pray that no one made a mistake.

Despite Carmen's efforts to keep the Service's doctors in line, the CCS had its share of minor disasters, a few of which were beyond anyone's control. One harmless but sobering incident occurred early in the Service's operation. A famous abortionist in Washington, D.C. referred the CCS to a colleague of his. None of the women the Service referred to this second doctor suffered any postoperative complications, but when both doctors were arrested, Carmen discovered that the latter was a Mexican national without any formal medical training. The incident could have proved devastating for the CCS, but there appear to have been no repercussions. The Service also suffered a close scrape with one of its early referrals to England. A woman from Cleveland was referred to a rarely used London doctor, and she died during the procedure. The cause of death proved to be negligence by the anesthesiologist. The death of the Cleveland woman was the only one in the history of the CCS, and the effects of the tragedy are unclear. Moody remembers that there was "some fallout" from the accident, but the operation of the service was apparently not interrupted. The CCS may have escaped relatively unscathed

⁴² Arlene Carmen to Ronald E. Thompson, 2 April 1969, CCS Archive.

⁴³ Joffe, *Doctors of Conscience*, 93.

because the anesthesiologist was responsible and not the abortionist, and because abortion was legal in England.⁴⁴

Domestic problems with doctors were a much greater risk to the Service, and one incident stands out as a testimony to the need for Carmen and Moody's uncompromising demand that both clergy and doctors adhere to CCS regulations. In the summer of 1968, Rabbi "Buzz" Bogage deviated from the Service's covenant and referred three women to an unapproved abortionist in New Jersey who had been helpful to his family. Bogage had already moved on to a new job in Colorado when all three of the women contacted Moody and explained that they had gone to the doctor and paid the \$450 fee, but the doctor had refused to perform the abortions. An investigation revealed that the abortionist was not a doctor, but rather a layman who had an arrangement with a licensed physician. The "real" doctor loaned his office once a week to the abortionist. Bogage had checked the credentials of the real doctor, but not the imposter. To resolve the situation, Moody asked several "of the strongest looking men at Judson" to accompany one of the women to the abortionist, whom the men compelled to return the money. Unfortunately, by this time the women were past the point where they could undergo an abortion, and all three were forced to carry their pregnancies to term. Bogage wrote to Moody that fall and expressed his feelings of "unresolved guilt," apparently unaware of the outcome of the disaster. "I have constantly been awake at night wondering what has happened to the series of problems I unfortunately left behind in the city of New York," he wrote to Moody. Moody's response obscured the unfortunate truth of the situation. "In regard to the 'problems that you left behind,'" he wrote, ". . . everything seems o.k. now."⁴⁵

The Bogage debacle was just one example of a mistake that could have led to grave consequences for the entire organization. The questionable legality of the clergy's work put them

⁴⁴ Carmen and Moody, *Abortion Counseling*, 41; Moody, interview, 27 November 1997.

⁴⁵ Carmen and Moody, *Abortion Counseling*, 54-55; Lewis Bogage to Howard Moody, 15 November 1968; Howard Moody to Lewis Bogage, 10 December 1968, CCS Archive.

at great risk. The official agreement among the member clergy had always been that they were never to admit publicly that they suspected what they were doing might be against the law. Privately the clergy hoped that they would be protected from charges of conspiracy to commit abortion by the clergy privilege of confidentiality. Nevertheless, the early part of the Service's existence may be characterized by an intense paranoia.

Moody and Carmen believed that the phone lines at Judson Memorial Church were tapped in the first weeks of operation. Moody claimed he had a credible tip from inside the police department that someone was eavesdropping. More recently he said that previous experience with wire taps led him to recognize the familiar signals and sounds on the line. To foil the eavesdroppers, in the first weeks of operation the staff performed a comic routine of running to the pay phones on West 4th Street to return calls pertaining to the Service, all the while using code names and code words to confuse the police. Whether anyone was actually listening is unknown, but Moody wasn't the only one who was paranoid. Finley Schaefer remembers that Larry Lader arranged for a friend to come to Washington Square Methodist and check Schaefer's telephone lines for bugs. This paranoia was not without its consequences. When one woman called in the early weeks of operation and asked if this was where she could get an abortion, Moody replied carefully, "You're calling Judson Memorial Church ma'am . . . We do abortion *counseling* here. If you'd like to come in and discuss a problem pregnancy . . ." The caller misunderstood Moody's hint. "I don't need the Sermon on the Mount, Reverend. I need an abortion," she responded before abruptly hanging up.⁴⁶

Tapped phone lines were a minor concern compared to the real threat of an undercover police officer passing through the referral service. The clergy decided, however, that this was a risk they would have to take. "Feeling fairly sure that it would be hard to detect a 'ringer' or

⁴⁶ Moody, interview, 27 November 1997; Finley Schaefer, interview, 16 January 98. The story of the caller is one often repeated in secondary sources. I believe its origin may be traced to Brownmiller, "Abortion Counseling: Service Beyond Sermons."

police plant who came to see us, it would have been a real disservice to expose *all* counselees to *our* fear at a time when they were having to cope with their own anxiety about going through a criminalizing process," wrote Carmen and Moody. Thus precautions such as requiring real names and identification were not taken, and if undercover police ever investigated the service, no charges resulted. Yet the concern was legitimate. In early 1969, undercover police posing as abortion patients arrested three abortionists in a New York City hotel, indicating the kind of tactics the NYPD was using against abortion at the time. However, these abortionists were not doctors, a factor that might explain why they attracted police attention when the CCS apparently did not.⁴⁷

The operation of the Clergy Consultation Service was briefly halted in June 1969 following a peculiar incident on Staten Island. Tilda Norberg was counseling women while engaged in a "tent ministry" in a tenement. One night the building was burned by an arsonist, and Norberg and her husband escaped the fire in their pajamas. The police sealed off the building to investigate the arson, and while they were inside Norberg's apartment they confiscated a folder she had left lying on a table. Unfortunately the folder contained her CCS records, including forms she filled out for each referral indicating the length of pregnancy and which doctor the woman was referred to, and worse, a complete roster of abortionists eligible for CCS referrals. Norberg frantically called Moody, who contacted the NYCLU in a panic that the entire CCS was on the brink of destruction. Moody and Norberg agreed that the folder had to be retrieved immediately, and they called on Finley Schaef to help them. Schaef and Norberg proceeded to the precinct house, Schaef donning the clerical collar that he seldom wore, and Norberg still wearing her pajamas. Norberg remembers, "Schaef roared in there like a lion and said, 'I demand you give that folder back, that's private property!' [The police] got so intimidated they just handed it right over!" Yet the clergy could not be sure that the contents of

⁴⁷ Carmen and Moody, *Abortion Counseling*, 35; "3 Are Seized in Midtown Hotel As Members of Abortion Ring," *New York Times*, 26 January 1969, sec. A.

the folder had not already been copied. "We kind of shook in our boots for several months after that, thinking that they were preparing a case against us, but they never did," Norberg recalls, with a good humor that only distance from the incident allows.⁴⁸

In its first two years of operation the clergy had further hints that the police were intentionally leaving them alone. Rev. Lyle Guttu once had a visit from a man who came to thank Guttu for helping his wife get an abortion. He offered Guttu any assistance he could provide in "his line of work," which turned out to be a captaincy in the NYPD.⁴⁹ This story illustrates Moody's claim that the police never hassled the clergy because the women they helped were "the judge's daughter, the police chief's sister, somebody's wife." Moody believes the police knew better than to interfere with a system that had replaced middlemen and back-alley abortionists with clergy and doctors. Whether a formal decision was made to leave the CCS unmolested is unknown, but Manhattan District Attorney Frank Hogan's repeated refusal to comment on the matter may have been a tacit admission that he would not attack the Service. A spokesman for Hogan told *New York Newsday* that the clergy were operating in a legal loophole. "Referral to an out-of-state abortionist might be illegal but it would be very difficult to make a legal case involving conspiracy. . . . It's very dubious we could prosecute."⁵⁰

In April 1969, the NYPD actually cooperated with the CCS, indicating to some extent how tolerant the police were of the Service. Moody received a call from a man who claimed his

⁴⁸ Norberg, interview. Moody does not remember the Service actually ceasing operation during this incident, but he believes that it is not impossible that they took this precaution. Moody, telephone conversation with author, 21 February 1998.

⁴⁹ This story is conveyed in Carmen and Moody, *Abortion Counseling*, 36. It also appears in Brownmiller, "Abortion Counseling: Service Beyond Sermons." Brownmiller, however, claimed it was Moody, not Guttu, who met the police captain. *Abortion Counseling* is probably a more reliable source in this case. The discrepancy may be indicative of common misunderstandings and inaccuracies by journalists covering the CCS.

⁵⁰ Moody, interview 13 October 97; Hogan's spokesman is quoted in Dave Behrens, "Personal View, Moral Issues Complicate Abortion Question," *New York Newsday*, 27 March 1969.

girlfriend had obtained an abortion through the CCS. He threatened to register a complaint with the D.A.'s office unless Moody gave him \$5,000 in cash. Ephraim London advised Moody to contact the D.A.'s office himself, and detectives from the NYPD's Racket Squad came to Judson to arrange a sting. They wired Moody for sound, gave him \$5,000 in play money from a convenience store, and sent him to his meeting with the blackmailer. The arrest went according to plan, though after meeting with the man in prison and determining that he was the troubled nephew of a prominent Christian pastor, Moody dropped the charges. The incident clearly revealed that the police were not interested in the CCS. "We called on law enforcement and they helped us do what we were doing even though we were breaking the law ourselves in every literal sense," explains Moody.⁵¹

The greatest test of the New York CCS' relationship with the police came in the summer of 1969. On Friday, May 23, a dozen New York City police detectives raided a Riverdale apartment and arrested four people, charging them with violating the law against abortion. The apartment was used by a highly-skilled medical group administrated by Leo Berner and his wife Margaret Keller. They were arrested along with a nurse and a Dominican doctor who was performing an abortion on a seventeen year-old high school student when the police broke into the apartment. According to the Bronx District Attorney, Burton Roberts, the "abortion ring" had been under investigation for some time after police received a tip from a girl who underwent a hysterectomy following an abortion in the Riverdale apartment. Roberts announced in a press conference following the arrests, that the abortion ring performed up to twenty abortions a day at a price of \$400 each. Roberts claimed many of the women were coeds from Eastern colleges who had been referred to the Riverdale abortionists by "prominent individuals, including clergymen." Roberts used the press conference to expound on his own views of abortion law. "As long as the abortion law is on the books, we shall [act] according to the spirit and letter of

⁵¹ Carmen and Moody, *Abortion Counseling*, 57; Moody, interview, 13 October 97.

the law," he told the press. "However, the fact is that the law needs modification and liberalization so we can face the problem realistically. . . ."52

New York City's tabloids picked up on the story immediately. The *New York Post* managed to squeeze a second-page article into its late edition under the headline "Raid Coed Abortion Mill in Riverdale." The story was given a sordid spin, and all the facts with the most potential to harm the CCS were in the lead paragraph where they couldn't be missed. "A wholesale abortion ring, with a clientele mostly of coeds from out-of-town colleges—many of them referred by clergymen—has been uncovered operating in a plush Riverdale apartment building." According to the *Post*, Roberts had ominously announced, "We will reveal at the proper time that many of the referrals were made by clergymen."⁵³

On Sunday, the press coverage was even worse for the CCS. "Nab 4 in Bronx Abortion Mill: Clergymen Sent Coeds to Ring," screamed the front-page headline of the *Sunday News*. The article reported that police had found "voluminous files indicating that coeds were being referred to the ring by clergymen." Roberts told the *Sunday News* that clergy referral "is an offense and will be prosecuted." The more modest coverage by *The New York Times* did little to counterbalance the tabloid coverage. The *Times* story, "Raid Coed Abortion Mill in Riverdale," ran on page thirty-four.⁵⁴

Roberts had dealt a major blow to the abortion referral movement. Though the New York CCS did not make referrals to Berner because he operated in New York, affiliated clergy groups in bordering states relied heavily on the Riverdale group. Most of Larry Lader's referrals went to

⁵² Edith Evans Asbury, "Four Seized Here In Abortion Raid: District Attorney Calls for Reform of State's Laws," *New York Times*, sec. A.

⁵³ Jack Robbins and Andrew Porte, "Raid Coed Abortion Mill in Riverdale," *New York Post*, 24 May 1969, late edition.

⁵⁴ Edward Benes and Henry Lee, "Coed Abortion Ring Raided in Plush Apt.," (New York) *Sunday News (Daily News)*, 25 May 1969; Robbins and Porte, "Raid Coed Abortion Mill in Riverdale."

Berner, and the author-turned-activist suddenly found himself without any place to refer women. On May 26, District Attorney Roberts formally announced that he was investigating local clergy who were referring women for abortions. An anonymous clergyman told *The New York Times* that he had made referrals to the Riverdale group, though he was not a member of the CCS. Unfortunately for the Service, two former members *had* been making referrals to Berner. While Roberts, a notorious headline seeker, basked in the limelight and launched a grand jury investigation, Lader and the CCS feared the worst. Several of the witnesses arraigned by Roberts warned Lader that Roberts was asking about him. Realizing that he was likely to be investigated, Lader collected the hundreds of letters he had received from women requesting referrals and hid them in a friend's apartment. He later burned them on the advice of his attorney, Ephraim London.⁵⁵

It was difficult to determine how much of a risk the Bronx arrests posed to the Service. One lawyer recommended Lader and the CCS both cease making referrals until the case was settled, but London advised that halting operation would amount to an admission of guilt. Accordingly, they rejected the idea of suspending activity. The greatest threat of Roberts' investigation was to Moody, Schaef, and Jesse Lyons, the senior pastor of Riverside Church and a board member of Lader's National Association for the Repeal of Abortion Laws. Schaef and Lyons agreed they would refuse to cooperate with the grand jury on the grounds that it violated their clerical privilege of confidentiality, leaving Roberts the option to indict them and force a church-state confrontation that would be politically disastrous. As the City's abortion rights groups geared up for a confrontation with the Bronx D.A., Schaef and Lyons received subpoenas to appear before the grand jury in late August. Schaef arrived at the hearing in shorts and sandals. "I was very angry that [Roberts] should bother me," remembers Schaef. "He came out to shake everybody's hand and I refused to shake his hand." Neither clergyman was

⁵⁵ Carmen and Moody, *Abortion Counseling*, 56; "Roberts Investigating Referrals to Abortionists by Clergymen," *New York Times*, 26 May 1969, sec. A; Lader, *Abortion II*, 100.

called to testify, but Lader, Moody, Carmen, Cyril Means, Schaefer, and Lyons were all ordered to appear before the grand jury again on September 19, 1969.⁵⁶

Who testified at this hearing is difficult to determine, since accounts are conflicting, memories have faded, and the testimony is legally sealed. Lader received immunity and told the grand jury every detail of his referral service. Moody cannot remember if he and Carmen both testified, but together they later reported, "All the grand jury wanted to know was whether the New York CCS was 'officially' involved with the doctors and whether we were profiting financially or receiving any kickbacks from abortionists in general. Our answer to both questions was no." Lader claimed that Lyons refused to cooperate with the investigation. Schaefer remembers telling the grand jury all about clergy referrals and why they were doing them, though this conflicts with Lader's account of the hearing.⁵⁷

Lader and the clergy waited nervously for a month before Roberts announced four indictments against Berner and his staff, and none against Lader or the clergy. The CCS had been found "not guilty" without ever having had its day in court. Roberts, now a New York State Supreme Court Justice and firm defender of his antiabortion tactics, claims he only raided the Riverdale clinic because, "Various people in this county [urged me to arrest them.]" He remembers the pressure as coming from "citizens, members of the clergy, and individuals who were opposed to abortion." He also claims that his investigation of Lader and the clergy was a favor to the movement. "As I recall it," he recounted in a recent interview, "a group of people who were against the laws prohibiting abortion were striving to create a situation where there would be a court case where they would be arrested. They wanted to be arrested to make themselves martyred to look like they were just." This is, in fact, a gross misinterpretation of the aims of clergy referral. "We weren't trying to get arrested and prove our point," explains

⁵⁶ Lader, *Abortion II*, 104-105; Schaefer, interview.

⁵⁷ Lader, *Abortion II*, 106; Moody, telephone conversation, 3 December 1997; Carmen and Moody, *Abortion Counseling*, 57; Schaefer, interview.

Moody. "It was important for us *not* to get arrested, because if we were shut down we couldn't help the women. We wanted to stay in business."⁵⁸

⁵⁸ Roberts, telephone interview by author, 1 December 1997; Moody, phone conversation, 3 Dec 1997.