

PETITION FOR EXECUTIVE CLEMENCY
ON BEHALF OF LISA MARIE MONTGOMERY



PRESENTED TO PRESIDENT DONALD J. TRUMP
DECEMBER 24, 2020

PETITION FOR EXECUTIVE CLEMENCY ON BEHALF OF LISA MARIE MONTGOMERY

President Donald J. Trump
1600 Pennsylvania Avenue N.W.
Washington, D.C. 20500

Dear President Trump:

Broken before she was born, Lisa Montgomery's life was filled with torture, terror, failure, and betrayal. Caretakers, family members, neighbors, schoolteachers, social workers, counselors, lawyers, and judges — all could have intervened to save Lisa from the crippling trauma and profound mental illness that overtook her already damaged brain, culminating in the awful tragedy that took the life of Bobbie Jo Stinnett. Had just one person intervened, all of this could have been avoided. But they did not. And so now you are faced with the awesome responsibility of deciding whether Lisa Montgomery lives or dies. You alone have the power to temper Justice with Mercy. You alone have the power to protect her children and grandchildren from more heartache and pain. You alone have the power to join the growing chorus to end the stigmatization of mental illness. You alone have the power to send a message to the thousands of women who have been the victim of childhood rape and trafficking that their pain matters — that they matter — that their lives have value. You alone write the ending to this story — does it end with more pain? Or does it end with hope, mercy, and understanding? We pray it is the latter.

It is with this in mind that, on behalf of Lisa Montgomery and her family, we ask you to use the power granted to you by Article II, § 2 of the United States Constitution to commute Lisa Montgomery's death sentence to Life Imprisonment Without the Possibility of Parole. We are joined in this request by a diverse, bipartisan coalition of supporters including prosecutors who have prosecuted cases similar to Lisa's, former state and federal prosecutors, the nation's three leading mental health organizations, advocates for victims of child sexual abuse, advocates seeking to end violence against women, and over 140,000 citizens who have signed on to our petition for clemency. We respectfully request that Lisa's petition for mercy receive a full investigation as contemplated by the Department of Justice's regulations governing these matters. We also respectfully request the opportunity to make an oral presentation to the Office of Pardon Attorney and to you, personally.

Our request is supported by numerous supporting documents. We have made those available to you, your staff, and the Office of Pardon Attorney via dropbox link: <https://www.dropbox.com/sh/x4de8d6853pz61m/AADXip1h6w3uqa7TyH-7Imp6a?dl=0>. We prepared a short video in support of our request which you can view here: <https://vimeo.com/493579656>. We urge you to listen to Lisa's Song, an

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original piece written by Veronica Cinibulk whose lyrics beautifully capture the horrifying betrayal of Lisa by those who should have loved and cared for her. It is available [\(231\) Lisa's Song by Veronica Cinibulk - YouTube](#).

Appended to this petition is a table of contents to the exhibits we are providing in support of relief. We are presenting you with as much information as we possibly can and in the best format we can, given the extraordinarily short timeframe we had to prepare this document, the challenges of the pandemic, and our own illness during this time. Respectfully, the fact that William Barr's Department of Justice plucked Lisa Montgomery out of sequence to leapfrog her execution over others' and schedule her execution on such a short timeframe came as a shock. There are thirty other death row inmates whose convictions pre-date Mrs. Montgomery's. See [List of Federal Death-Row Prisoners | Death Penalty Information Center](#). Given all that is at stake, all there is to review, and the monumental challenges you face as the leader of our country, we alternatively request you grant Mrs. Montgomery a reprieve of her January 12, 2021 execution date so that a full, studied, and thorough investigation of the issues we raise here and in our attachments can take place.

The truth about Mrs. Montgomery cannot be found in any reported court opinion. As we discuss below, the Judiciary failed. In the pages that follow, we will try to share the truth about Lisa and her case. Before we do, it is important to acknowledge the life and tragic death of Bobbi Jo Stinnett and the on-going pain of the Harper and Stinnett families. Nothing we say here is meant to bring them more pain. And we do not mean to suggest that Mrs. Montgomery should not be punished. She should. We do not make excuses for her actions.

Everything about this case is overwhelmingly sad. As human beings we want to turn away. It is easy to call Mrs. Montgomery evil and a monster, as the Government has. She is neither. The harder thing to do is to face all of the facts, all of the failures, all of the betrayals, and come to a new understanding. With understanding comes hope. You can do Justice and exercise Mercy at the same time. Justice in this case is life imprisonment, without parole.

Lisa Montgomery's Life Has Been Filled With Unimaginable Terror

"Don't spank me it hurts." These were Lisa first words, her mother, Judy Shaughnessy, proudly announced to a defense investigator. Judy was an out-of-control, mentally unstable, alcoholic when she met John Patterson, Lisa's father. She drank throughout her pregnancy with Lisa. We know from science and Lisa's brain scans, that Lisa was born with brain damage. John Patterson was also a heavy drinker and suffered from bipolar disorder. Judy and John had a volatile

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relationship. John volunteered to go to Vietnam to escape Judy. He left his older daughter from another marriage, Diane, in Judy's "care." When he returned, John took the children from Judy without her permission. Ultimately, he returned the children to Judy and abandoned them for good. John Patterson did not see either of his daughters again until Lisa's trial. Patterson regrets not remaining in his daughters' lives.

Judy's treatment of the girls was cruel and sadistic. She beat them if the tines of their forks made a noise on the table. She covered Lisa's mouth with duct tape. As a matter of survival, Lisa's tiny brain learned not to cry when this happened, because if she cried her nose would become so congested that she felt as if she were suffocating. Judy forced Diane to eat raw onions, because she knew that Diane did not like onions. Judy preyed on Diane's fear of abandonment. She stripped her naked and pushed her outside in the cold telling her that she was kicking her out of the house. Leaving Diane to shiver and cry, alone, in the dark. No one called the police.

Diane and Lisa shared a small bedroom, their beds so close together that they could reach out and hold each other's hand. Judy allowed her boyfriends into that bedroom to rape Diane. Lisa would lie silently in the bed next to Diane. We do not know when the rapes began, but we do know that Diane was only eight years old when social services finally rescued her from the hell that was Judy's home.

Diane vividly recalls the day that the social worker came to get her. Judy leaned down to whisper in Diane's ear, "this is all your fault." As Diane was driven away the reality that Lisa was not coming with her set in. She began to vomit. She knew that Lisa would take her place with the faceless men that Judy allowed in the room. The next time Diane saw Lisa was from the witness stand at Lisa's trial. Kansas social services never investigated Judy.

Judy's cruelty knew no bounds. Her son Teddy describes how, as punishment, she killed the family dog by beating its head with a shovel while the children looked on. This sort of behavior instilled in the children the sense that Judy was all powerful and able to take away anything, or anyone, they treasured. And it would be all their fault.

Not long after Diane was removed from Judy, Judy married Jack Kleiner. Kleiner was a vicious, alcoholic, pedophile. A neighbor, Wesley Gann, explained to investigators that Kleiner terrorized his family. Gann, who was a preacher, described how Kleiner would stand across the street from Gann's house on Sunday mornings and masturbate as Gann and his family left for church. Gann's daughter

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was one year old. Kleiner threatened that he would kill Gann and his wife and take their daughter for his own. The threats escalated and one day Kleiner tried to attack Gann with a 4x4. The altercation culminated with Kleiner getting in his truck and attempting to run over Gann and his nine-year-old son. Gann pressed charges and moved away. Kleiner received minimal punishment. No one investigated the home.

Kleiner moved the family from one run-down trailer to the next, finally landing in an isolated tract of land in Osage County, Oklahoma. There, Jack built a special room on the back side of the trailer. The only way to enter the room was through a door on the outside. It was in that room that Lisa was repeatedly raped not only by her step-father, Jack Kleiner, but also by his buddies and other men who paid Judy to rape her daughter.

Jack Kleiner began molesting Lisa when she was approximately 11 years old. When she was a young teenager the molestation turned to rape. During the rapes he beat her head against the concrete floor of the rape room. He allowed his drinking buddies to do the same. Reeking of alcohol, these middle-aged men violated her anally, orally, and vaginally. Jeering at her as they went. Slapping, punching, beating her. When they were done, they urinated on her like she was trash.

People knew. Linda Baker, a neighbor, told investigators that she knew that Kleiner had raped Lisa. Mrs. Baker said that Judy believed that Lisa “brought it on herself.” Though Mrs. Baker recognized that Lisa was scared, Mrs. Baker did not call the police or social services.

A cousin, David Kidwell, a law enforcement officer knew. Kidwell told investigators that he could tell something was wrong when he went to visit the family in Oklahoma. He took Lisa to get a coke so he could ask her what was happening. Lisa told him what Jack Kleiner and his buddies did to her. Kidwell took Lisa home and drove back to Kansas where he lived. He did not call the police. He did not call social services.

The worst betrayal, perhaps, was Lisa’s mother. She prostituted her own daughter. Today we call that trafficking. She told Lisa she had to submit to these men to “earn her keep.” The roofer, the plumber, the propane man, and who knows how many others, each took their turn.

When Judy decided that she was done with Jack and ready to move on to her third husband, Richard Boman, Judy used Jack’s proclivities to her advantage to get what little money she could from Jack Kleiner. She made Lisa testify about the abuse from Kleiner, but ordered her to leave out many important details. Judy did

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not want Jack Kleiner to go to prison, because then he could not pay child support. The judge upbraided Judy Kleiner for her stony demeanor during her daughter's testimony and failure to report the abuse to the police. The Judge did not refer Jack Kleiner for prosecution.

On the advice of her divorce attorney, Judy took Lisa to a few counseling sessions. The counselor noted Judy's narcissism and lack of empathy for Lisa. Judy stopped the counseling sessions when the divorce was finalized. The counselor did not report Jack Kleiner to the police.

After the divorce trial, Lisa lived with public shame and humiliation. Everyone knew what Jack had done to her – but no one helped. Lisa began to make plans to join the military to escape Judy. Judy undermined Lisa's plans. She pressured Lisa into a marriage with her step-brother, Carl Boman. Lisa got pregnant and any hope of escape vanished.

Lisa's marriage to Carl Boman was a continuing nightmare. He used the knowledge of what Jack had done to Lisa to humiliate and degrade her. He violently raped her using inanimate objects. He beat her and forced her into stress positions. And he recorded all this on video that he showed to his friends. Lisa's brother, Teddy Kleiner, confirmed the existence of one such video. He described it as "like something out of a horror movie."

Lisa had four children in four years. By this time in her life, Lisa was suffering from mental illness, alcoholism, severe trauma, and brain damage. When her fourth child was born, Judy and Carl coerced Lisa into a tubal fulguration under threat of taking her children. Judy's and Carl's threat to take Lisa's children would become a consistent theme in her life. No doctor or social worker offered help to Lisa.

Lisa succumbed to her mental illness. She could not function. She did not know what was real and what was not real. She lived in abject poverty. Though she loved her children and wanted to be a good mother, she was not. Her behavior became erratic. One night she woke all the children, poured them into the van, put a diaper on a pet goat, and drove all night to San Antonio to see the Alamo. Still no one got her to a doctor for treatment.

Eventually Lisa married Kevin Montgomery and they moved to a farm in Melvern, Kansas. Kevin was divorced and had three boys. Lisa sank further into an alternate reality. She fantasized about being pregnant. Soon she started having imagined pregnancies.

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Lisa was so out of touch that she often did not respond to her own name. She mistook ammonia for vinegar while cooking. Her home was filthy. She could not dress her children or help them with their hair. Still no one suggested that she seek psychiatric help.

Lisa's Mental Illness is Severe, Pervasive, and Debilitating

In the year before the crime, Lisa finally saw a counselor, Sallye Wilkinson. She was only able to afford a few sessions. The counselor diagnosed Lisa with Depression and assessed Lisa's GAF (Global Assessment of Functioning) at 48, which reflects serious impairment in her ability to function. But this diagnosis was preliminary and did not begin to explain what was really going on with Lisa.

Since her arrest, Lisa Montgomery has been under constant psychiatric care by jail or prison psychiatrists. The Marshal who escorted her to court described her as one of the worst-off inmates he had ever dealt with. An Assistant United States Attorney observed that she was clearly crazy.

BOP psychiatrists have documented Lisa in an acute psychotic state. BOP has diagnosed Lisa with bipolar disorder, depression, and post-traumatic stress disorder. Her medication regimen has changed over time, but she has received anti-psychotics since 2008. Currently Mrs. Montgomery takes a cocktail of psychotropic drugs including anti-psychotics. These medications can only do so much. They treat her symptoms, but they are not a cure.

Mental health professionals with access to all the materials we are providing to you, provide a fuller picture of Lisa's mental functioning. Beginning in 2012, when we were appointed, we began the intensive social history investigation that trial counsel failed to conduct. Our team interviewed hundreds of witnesses and scoured every state, county, and city that Lisa lived in (she moved 63 times in 34 years) for records. Anything to shed light on who Lisa is and how she came to commit this crime. This investigation provided the fundamental data needed for the biopsychosocial history. Mental health experts use the biopsychosocial information to understand a patient's clinical history and presentation.

Although the jury heard some mental health testimony, it was unsupported and so badly bungled that the Government was able to use it against Mrs. Montgomery. The extensive medical and mental health history that could have been developed and presented to the jury is attached to this petition with our materials. It is important to note that the testimony presented here was uncontested by the government at the 2016 hearing on Mrs. Montgomery's postconviction petition; in fact, the government noted that the report was very well sourced. The proof

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establishes that Mrs. Montgomery's brain was damaged from her mother's drinking during pregnancy, multiple head injuries, and the neurobiological impact of the severe torture that Lisa experienced in her life. Scientific imaging demonstrates that Mrs. Montgomery's brain is damaged structurally and functionally. Neuropsychological data shows that this damage expresses itself in functional deficits. Neurological evaluations conclude that Mrs. Montgomery suffers from temporal lobe epilepsy. Further evaluation reveals that Mrs. Montgomery also suffers from bipolar disorder and complex posttraumatic stress disorder. These illnesses are layered one on top of the other, and manifest with many of the same symptoms. The government's mental health professionals agree. Mrs. Montgomery is seriously mentally ill.

Key symptoms of Mrs. Montgomery's illness are dissociation, depersonalization, and derealization. One of the leading experts on torture, Dr. Katherine Porterfield, explains in her testimony that children who are experiencing the type of trauma experienced by Mrs. Montgomery lose contact with reality. This is because what is happening to them is so terrifying that their mind goes to another place simply to survive. This all happens at a subconscious level. The part of the brain responsible for fight or flight takes over to protect the mind. The mind then disconnects from the body. These people often describe themselves as having experiences where they are watching what is happening in the room. Sometimes they will describe feeling as if another person is next to them. For Mrs. Montgomery, these episodes of disconnecting from her physical being and reality began at a very young age.

If she had received treatment and medication, then this crime would never have happened. Our country has stigmatized mental disease for centuries. We have not prioritized mental health treatment. Many who are poor, like Mrs. Montgomery, cannot afford treatment and medication. Inevitably, we warehouse rather than treat the mentally ill.

Our country has long recognized that mental illness is a mitigating factor and calls for a lesser punishment. Our call for clemency on this basis is echoed by the letter from Stanley Garnett and Harry Zimmerman. Both men prosecuted women for crimes similar to that committed by Mrs. Montgomery. They write:

We know from first-hand experience that these crimes are inevitably the product of serious mental illness. Women who commit such crimes also are likely to have been victimized themselves. These are important factors that make death sentences inappropriate. We therefore urge you to commute the death sentence of Lisa Montgomery, a mentally ill and brutally traumatized woman[.]

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800 organizations, scholars, individuals, law clinics, and survivors join together to urge you to exercise Mercy on behalf of Lisa Montgomery. They write, “Lisa’s mental illness is inextricable from the crime she committed.” This diverse and bipartisan group concluded:

Those of us who work in the anti-violence field or have experienced abuse know that victims of violence are complex, that someone can both use even horrific violence and nonetheless be a victim of serious trauma. Lisa suffered horrific physical and sexual abuse and serious trauma throughout her life, struggled with mental illness, and was a victim long before she became a defendant. While her experiences of victimization and mental illness do not excuse her crime, they do help to explain what otherwise seems unimaginable. Lisa has experienced a lifetime of punishment and it is now time for mercy.

Leading advocates for people with serious mental illness, the National Alliance of Mental Illness, Mental Health America, and Treatment Advocacy Center, also petition you to commute Mrs. Montgomery’s sentence.

As advocates for people with serious mental illness and their families, we ask that you to commute the death sentence of Lisa Montgomery, a woman with multiple severe mental illnesses and neurological disorders. We believe that Ms. Montgomery, who acted in grip of a psychotic episode, should not be subject to the death penalty due to her brain damage and severe mental illnesses, and a sentence of life imprisonment without possibility of release is an appropriate sentence for her.

A growing number of states are now considering legislation to outlaw the execution of individuals with severe mental illness. Ohio passed such a bill just a few days ago. This movement is a recognition that individuals with severe mental illness are less culpable and to execute them violates our society’s standards of decency. The execution of this sad, severely traumatized, and mentally ill woman would surely be a stain on our country.

The Judiciary Failed Lisa Montgomery

The Sixth Amendment of the Constitution guarantees to every citizen the right to effective assistance of counsel. It is well understood that the representation of persons charged with a capital offense requires experienced counsel. A capital case is unique from every other criminal case: a person’s life is on the line. The Constitution requires heightened due process. In recognition of this fact, the

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American Bar Association adopted Guidelines for the Appointment and Performance of Defense Counsel in 2002. In 2008, the ABA provided further guidance by adopting the Supplementary Guidelines for the Mitigation Function of Defense Teams in Death Penalty Cases. These guidelines represent the standard of care required in every capital case. They are based on years of experience and data collected by the American Bar Association. Lisa Montgomery's trial counsel, Fred Duchardt, a self-described "maverick," proudly boasts that he does not follow these guidelines. Trial counsel's approach to cases such as Mrs. Montgomery's is discussed in an article published in the Guardian in 2016, by David Rose titled "Death Row: The Lawyer Who Keeps Losing."

Trial counsel's out-of-the-box thinking included refusing to work with the mitigation specialist on the case; spending nominal time preparing witnesses to testify in the penalty phase; failing to recognize that the key witness to his ill-fated insanity defense was not a licensed mental health professional in this country; and pursuing an impossible theory that Mrs. Montgomery's brother was the true culprit, even though the brother had a rock-solid alibi. Trial counsel's maverick style included announcing his insanity defense in open court in front of opposing counsel before having his client evaluated.

It did not have to be this way.

Mrs. Montgomery's legal team changed personnel multiple times over the course of the first two years of her defense. A chart demonstrating the chaotic turnover is included in the materials. By the summer of 2005, the two lawyers charged with representing Mrs. Montgomery (AFPD Dave Owen and Susan Hunt) realized that they were in over their heads. They knew Mrs. Montgomery was severely mentally ill. They also knew she was incredibly remorseful and willing to accept a plea offer for life without parole. They knew they needed help to accomplish this goal. They sought help from one of the country's most successful capital defense attorneys, Judy Clarke. Ms. Clarke is known for her meticulous preparation, expertise, and negotiating prowess. She agreed to help. Ms. Clarke brought two experienced mitigation experts to the effort. Ms. Clarke's team immediately got to work and tried to build a team with the local attorneys and staff.

Egos got in the way. Dave Owen bristled at Ms. Clarke's leadership of the team. The FPD lead investigator bluntly stated that he was not "taking any orders from some damn woman." Owen went to the Judge and complained about Clarke in a private meeting. At the conclusion, the judge picked up the phone and called the jail to inform them that Ms. Clarke no longer represented Mrs. Montgomery and to deny her anticipated visit that afternoon. Shortly thereafter, the court entered an order

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to remove Ms. Clarke from Lisa Montgomery's approved telephone list. Neither Mrs. Montgomery nor Ms. Clarke knew about the meeting. In her declaration provided in the materials, Ms. Clarke wrote, "Capital cases are always difficult, but I have managed to work with a number of teams through the tense and exhausting disputes that inevitably arise when the consequences are life and death, the pace of work is overwhelming, and the issues complex and multidimensional. The drama that infected this team was definitely detrimental to the work that we were trying to accomplish for Lisa Montgomery." Ms. Clarke candidly explains, "as much as I tried, I could never figure out how to fix what was wrong, and I deeply regret this failure."

Owen's co-counsel, Susan Hunt, implored the Court to bring Ms. Clarke back into the case. Owen announced he could no longer work with Hunt. The Court instructed Hunt to withdraw. And that is how Lisa Montgomery came to have the maverick-lawyer-who-keeps-losing appointed as her trial counsel.

There is little doubt that had Ms. Clarke remained on Lisa's case the information discussed here and in our supporting materials would have been uncovered. It would have led to a plea to life imprisonment without the possibility of parole. And even if it did not, this evidence would have moved at least one juror to vote for a life sentence, which is all the federal system requires to impose a sentence of life.

Mrs. Montgomery should not be executed because her lawyers could not figure out how to set their hurt feelings aside and work together for their client.

Mrs. Montgomery's Sentence Is Disproportionate

The type of crime Mrs. Montgomery committed is rare. Data collected by researchers at Cornell law school verifies that Mrs. Montgomery is the only person on death row (state or federal) for such a crime. The data supporting the research is attached. The reason for this is apparent. As Garnett and Zimmerman explain "these crimes are inevitably the product of serious mental illness. Women who commit such crimes also are likely to have been victimized themselves."

As the 41 current and former prosecutors explain in their letter to you:

Lisa's experiences as a victim of horrific sexual violence, physical abuse, and being trafficked as a child do not excuse her crime. But her history provides us with an important explanation that would influence any sentencing recommendation we made as prosecutors. Our experience prosecuting human traffickers and those who commit sex crimes against children has given us a unique understanding of the profound physical

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and psychological harm that victims like Lisa suffer. ... We view this kind of evidence as critically relevant to determining the appropriate punishment for a serious crime.

Lisa Montgomery Has Shown Remorse and Her Prison Behavior Demonstrates That She is Not a Danger

Mrs. Montgomery confessed to her crime immediately. She was willing to plead guilty and accept a life sentence.

Since her incarceration, Mrs. Montgomery has been housed at the Federal Medical Center where she receives constant psychiatric care. Mrs. Montgomery has a positive prison record and has the support of many current and former staff.

International Experts Have Called for Mrs. Montgomery's Execution to Be Stayed

UN Experts on Violence Against Women; Extrajudicial, Summary or Arbitrary Executions; the Rights of Persons with Disabilities; Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment; Extreme Poverty and Human Rights; and the Working Group on Discrimination Against Women and Girls issued an unusual joint appeal calling for clemency in Mrs. Montgomery's case.

“Ms. Montgomery was the victim of an extreme level of physical and sexual abuse throughout her life against which the State never provided protection and for which it failed to offer remedies. She suffered from several mental health conditions which the State failed to care for,”

the experts said.

“Shamefully, Ms. Montgomery's years of sexual abuse and State's neglect were further compounded by the gender discrimination she faced, pervasive at all stages of the capital proceedings against her.”

The letter from the coalition of UN experts is in your materials and can be accessed here:

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26559&LangID=E>.

The Inter-American Commission on Human Rights (IACHR) concluded that Mrs. Montgomery “is in a situation of serious and urgent risk of irreparable harm to her rights.” The Commission called on the United States to refrain from carrying out Mrs. Montgomery's execution, and to “adopt necessary measures to protect [her] life.” The IACHR's Ruling on a Stay of Execution is included in the materials and

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can be accessed here: <https://www.deathpenaltyworldwide.org/wp-content/uploads/2020/10/Precautionary-Measures.pdf>.

The Inter-American Commission's ruling came in response to a petition filed by Cornell Law School's International Human Rights Clinic. The petition argued that the United States has violated several international legal obligations in Mrs. Montgomery's case, including her right to be free from gender discrimination, her right to a fair trial, and her right to humane treatment. The petition also argues that Mrs. Montgomery cannot be executed because of her severe mental illness, including a dissociative disorder and complex post-traumatic stress disorder.

As you know, the Inter-American Commission on Human Rights is an organ of the Organization of American States (OAS) that has the power to review violations of human rights in the United States. The United States has been a member of the OAS since 1951 and accepts the jurisdiction of the Inter-American Commission in death penalty cases. The petition filed by the Cornell Clinic is included in your materials and can be found at <https://www.deathpenaltyworldwide.org/wp-content/uploads/2020/10/IACHR-Petition.pdf>.

A Reprieve Is Appropriate Under the Circumstances

Mr. President, you know better than anyone that our country is under siege from the coronavirus. The pandemic has disrupted life as we know it for every single American. Executions during a pandemic create the environment for super-spreader events. We know that multiple staff and a spiritual advisor have tested positive for the virus after attending executions. It is reported that at least 14 men on federal death row have confirmed cases – though the number is believed to be as high as 32. Mrs. Montgomery's execution stands to put even more people at risk because BOP has determined that they should fly Mrs. Montgomery from where she is housed in Fort Worth, Texas to Terre Haute, Indiana for execution. This operation will involve countless additional personnel placing each of them at unnecessary risk and potentially expose each of their families and communities. Responsible governance counsels in favor of canceling executions during a pandemic, as every state in the union has done. Executions are not essential government operations that must occur during a state of emergency.

The pandemic has had a direct, negative impact on Mrs. Montgomery's ability to pursue her right to clemency. Two of us contracted the virus in the course of our professional duties on behalf of Ms. Montgomery. We developed serious symptoms which substantially impaired our ability to prepare Mrs. Montgomery's case. Moreover, the threat of infection prevents key expert witnesses from traveling to

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the prison where Mrs. Montgomery is housed to conduct important evaluations. These evaluations are critical to Mrs. Montgomery's defense.

To be clear, the materials we are presenting to you are substantial and provide a compelling case for clemency. But there is more work to be done. There are interviews of individuals – such as the prison staff who support her application – that we could not conduct.

Moreover, the Attorney General created an artificial rush to execution by scheduling Mrs. Montgomery's case in such haste. There are important matters demanding your attention during this crucial time. But this is also an important matter which deserves thoughtful and considered attention. A brief reprieve would allow time to carefully weigh the matters presented here.

Commuting Mrs. Montgomery's Sentence to Life Imprisonment Without the Possibility of Parole Would Send An Important Message About the Need to Combat Human Trafficking and to Provide Services for Victims of Domestic Violence and Sexual Abuse

Human Trafficking is a world-wide epidemic. One hundred organizations who work to combat human trafficking in the United States and around the world support Mrs. Montgomery's petition. They explain:

As advocates who raise awareness about human trafficking, create responses to better identify and protect trafficking victims, and support those recovering from sexual exploitation, we understand why Lisa's history is so relevant to determining how she should be punished for her crime.

The coalition goes on to recount the unimaginable abuse Lisa suffered and laments, "like so many other trafficking victims, the very systems that were supposed to protect Lisa did not, rendering her vulnerable to ongoing exploitation and abuse." While Lisa's victimization does not excuse her crime, they write, "it provides critical context that explains why she committed these acts, which might otherwise seem incomprehensible." The coalition explains that the laws we have today that are designed to protect children were not in place to protect Lisa. "Had any of these laws been in effect when Lisa was a child or young adult suffering human trafficking, our legal systems would have offered more meaningful intervention." Their letter concludes, "Lisa has suffered some of the worst forms of sexual violence, and we know the victims of such violence suffer lifelong psychological damage."

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Forty advocates for child and family victims of violence separately wrote to you in support of Lisa. These experts know from first-hand experience how years of trauma and abuse such as that which Lisa suffered takes a terrible mental toll. While not excusing her crime, “her trauma history is critically relevant to the penalty she should receive.” Poignantly, these experts who have dedicated their lives to protecting children and families observe:

As child and family advocates, we step in for children who been abused, victimized, and/or abandoned by their parents or caregivers. Tragically, no one stepped in to save Lisa. Lisa was repeatedly abused and exploited by the very adults she turned to for protection – first her own mother and stepfathers, then her partners. There were many missed opportunities to intervene and stop Lisa’s suffering: Lisa’s sister was removed from the home by social services and escaped their mother’s abuse, but Lisa was left behind; a judge learned about Lisa’s childhood rapes by her stepfather, but failed to take action; Lisa’s cousin, a police officer, was told that her mother was selling her to multiple men for sex, but also did nothing. In a final betrayal, the justice system failed Lisa when prosecutors dismissed her experience as an “abuse excuse” – a characterization that is contrary to all the evidence and everything we understand as experts in this field.

Prosecutors did more than dismiss Lisa’s trauma as an abuse excuse—they blamed her for it. They presented an expert who testified that Lisa was a “willing participant” in her stepfather’s abuse. The prosecutors capitalized on trial counsel’s ineptitude, taking evidence which could have been attributed to Lisa’s mental illness and trauma and twisting it into evidence that Lisa was an evil monster undeserving of love or sympathy. The prosecutors did not need to tell her that, her own mother instilled that belief in her from the moment she was born.

Countless women have suffered silently under the weight of the shame and humiliation of the trauma inflicted by sexual and physical violence. They blame themselves. They see themselves as dirty, wicked, trash. They have been told that they are worthless – and they believe it. By commuting Lisa’s sentence to life, your action will send a message of hope to those women. If the Leader of the Free World stands up for them and says “Trauma Matters” it will make a difference in women’s lives. It may even save lives.

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Clemency for Mrs. Montgomery Will Prevent Additional Pain and Suffering

Lisa Montgomery has a husband, four children, and twelve grandchildren all of whom will suffer horrible pain if Mrs. Montgomery is executed. She has reestablished her relationship with her father, John, and sister, Diane. Diane has suffered so much in this life and somehow has found the strength to advocate for her sister “because that is what big sisters do.” An execution would bring more trauma and suffering to this family which has lost so much.

Before she was locked down due to the execution warrant, Mrs. Montgomery spent her days making gifts for others. She made angels, blankets, ornaments, sweaters, scarves, mittens, doilies, dolls, stuffed animals, nativity sets. She built a dollhouse for one granddaughter and a carousel for another. Each of us has cherished items that she has made for us and our families. She spent her days trying to make amends from prison in the only way she knew how.

This crime did not have to happen. It could have been prevented if one person had gotten Lisa help. This execution does not have to happen. You can stop it. You can temper Justice with Mercy with just the stroke of a pen.

Very respectfully,

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Exhibit 1 – The Comprehensive Evaluation of the Inter-generational Biopsychosocial Influences on Mrs. Montgomery’s Development by Janet Vogelsang (supported by accompanying attachments):¹

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¹ In addition to stipulating to the admission of this exhibit, the Government credited Ms. Vogelsang’s sourcing and documentation as follows at Vol. ##, p.## of the Transcript of the 2255 (post-conviction) Hearing:

Mr. KETCHMARK: Your Honor, if I might, it’s not really an objection. It’s more of a – we did stipulate to her original report and supplement. I would note the original report is 184 pages. The PowerPoint is also – there’s objection to a stipulation of the PowerPoint. **We’re not contesting the information** that she was able to compile and put together in the biosocialpsych (sic) history here. I don’t know that we need to go through ad nauseam the PowerPoint because **it’s all sourced back**, and I think they did an excellent job of providing the Court with a roadmap of the information in the 184 pages and then digesting it down with these source attachments here, and so I just think this is cumulative of stuff that we haven’t objected to coming in, and I just don’t know that we need to do this and go through the two-hundred page PowerPoint in this fashion.

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- Exhibit 54 - Lisa Rickert (first trial mitigation specialist) Resignation Letter
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- Exhibit 58 - Transcript of Proceedings, April 3, 2007, announcing Dr. Ramachandran's diagnosis of Mrs. Montgomery before he had assessed her
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- Exhibit 60 - Declaration of Susan Hunt (third woman lawyer removed from trial team), regarding removal of Anita Burns from trial team, the decision to involve Judy Clarke in the case, the team and expertise Ms. Clarke brought to the case, Mr.

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- Exhibit 61 - Declaration of Phil Thompson (Susan Hunt's private investigator) regarding FPD Investigator Ninemire's reluctance to take direction from women
- Exhibit 62 - Affidavit of David Owen, trial counsel, regarding the removal of Anita Burns as counsel, the need for outside counsel with experience in mental health, the decision to add Judy Clark to the trial team, his problems with Ms. Clarke, Ron Ninemire's problems with Ms. Garvey, Mr. Conrad's discussion with Judge Fenner, Judge Fenner's removal of Ms. Clarke, the appointment of the ultimate trial team, his relationship with Mrs. Montgomery's mother, Mr. Duchardt's abandonment of investigation into FASD and PTSD in favor of pseudocyesis, Mr. Duchart's wife's involvement in the defense team, failure of the team to tell Mrs. Montgomery's story, including that she appeared flat because of her medication.
- Exhibit 63 - Declaration of Judy Clarke, Capital Resource Counsel (second woman attorney removed from trial team), setting out her credentials, involvement with the case, the resources she brought to the team, and her removal as counsel
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- Exhibit 65 - Susan Hunt Letter to Richard Burr (federal capital resource counsel), 4.30.06
- Exhibit 66 - Transcript of Proceedings April 21, 2006 wherein Judge Fenner informed Mrs. Montgomery that he had removed Ms. Clarke as counsel
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- Exhibit 72 - Deposition of Ray Conrad, regarding Owens' and Ninemires' complaints about Ms. Clarke; testifying that Owen told him that Hunt was in agreement to have Clarke removed and that he called the judge to arrange a meeting and denying—contrary to the testimony of Owen and Maughmer—that he was part of the April 20, 2006 unrecorded, in chambers meeting with the judge.

- Exhibit 73 - Declaration of Dr. Linda McCandless, outlining her treatment of Mrs. Montgomery at CCA Levenworth with antipsychotic medication, and reflecting that trial counsel failed to prepare her for testimony at trial and she found that experience traumatic
- Exhibit 74 - Declaration of Ben Leonard re: Dr. Linda McCandless
- Exhibit 75 - Declaration of Charles Dedmon, setting out the symptoms of serious mental illness Mrs. Montgomery manifested upon arrest, outlining that Judy Clarke was the only trial counsel that ever inquired as to his observations and documentation, recounting his interaction with Owen wherein Owen was defensive about having had Clarke removed from the case
- Exhibit 76 - Declaration of Melody Brannon, supporting Charles Dedmon's recollection
- Exhibit 77 - Transcript of In Chambers Hearing April 5, 2007 continuing trial date
- Exhibit 78 - Stipulation Regarding Denise Baker wherein the Government agreed that Ms. Baker would testify that Ms. Baker, a social worker, investigated the allegations that Jack Kleiner sexually abused Lisa Montgomery and concluded that Lisa was telling the truth, that Ms. Baker recommended the case be pursued for criminal charges and filed the appropriate paperwork, but that it appears the case was never reviewed by any prosecutor and appears to have fallen through the cracks.
- Exhibit 79 - Stipulation Regarding Hugh Rineer wherein the Government agreed that Judge Rineer would testify that he reviewed the transcript of the Kleiner v. Kleiner divorce proceeding and that it would not be fair to conclude that he did not believe Lisa Montgomery regarding the abuse, but rather that he believed the matter had been referred for prosecution such that no further action was needed on his part.
- Exhibit 80 - Declaration of James Brooks regarding the Grand Jury investigation of Park Diest
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- Exhibit 82 - Billing Records of Frederick Duchardt
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- Exhibit 84 - Billing Records of John O'Connor
- Exhibit 85 - CCA Visitation Records

- Exhibit 86 - ABA Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases (1989)
- Exhibit 87 - Supplementary Guidelines for the Mitigation Function of Defense Teams in Death Penalty Cases Russell Stetler, 2008
- Exhibit 88 - Guide to Judiciary Policy; Appx 2A: Model Plan for Implementation and Administration of the Criminal Justice Act (2016)
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- Exhibit 96 - Mitigation Investigation: A Duty that Demands Expert Help but Can't Be Delegated, Russell Stetler
- Exhibit 97 - Getting it Right: Life History Investigation as the Foundation for a Reliable Mental Health Assessment, Richard Dudley Jr. and Pamela Blume Leonard (2008)
- Exhibit 98 - Curriculum Vitae of David Freedman
- Exhibit 99 - Letter to Susan Hunt from Reuben Camper Cahn, Executive Director of the Federal Defenders of San Diego, confirming that the federal defender was willing to accept appointment in the case, assign Judy Clarke as co-counsel, and provide funding for the cost of the defense.
- Exhibit 100 - The Mystery of Mitigation: What Jurors Need to Make a Reasoned Moral Responses in Capital Sentencing, Univ. of PA Journal of Law and Social Change
- Exhibit 101 – Chart of Records Requested Before Trial comparing the work product of the various trial teams
- Exhibit 102 - Witnesses Interviewed Chart comparing the work performed by each trial team
- Exhibit 103 - ABA Guidelines (rev. 2003), Hofstra Law Review
- Exhibit 104 - The Defense Team in Capital Cases (2003), Jill Miller, Hofstra Law Review
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- Exhibit 110 - The ABA Guidelines & Norms (20 13), Russell Stetler & W. Bradley Wendel, Hofstra Law Review

- Exhibit 111 - Mental Health Evidence and the Capital Defense Function (2014) Russell Stetler, UMKC Law Review
- Exhibit 112 - The ABA Guidelines: A Historical Perspective (2015), Russell Stetler & Aurelie Tabuteau, Hofstra Law Review
- Exhibit 113 - New Strategies for the Defense of Capital Cases (1979), Dennis Balske, Akron Law Review
- Exhibit 114 - The Trial for Life (1983), Gary Goodpaster, NYU Law Review
- Exhibit 115 - The Penalty Phase Trial (1984) Dennis Balske, Champion
- Exhibit 116 - The Nelson Case (1982), Lacey Fosburgh, Forum
- Exhibit 117 - Using the Mitigation Specialist and the Team Approach (1987), James Hudson, et al., Champion
- Exhibit 118 - The Mental Health Evaluation in Capital Cases: Standards of Practice (1994), Douglas Liebert & David Foster, American Journal for Psych.
- Exhibit 119 - Mitigation Investigation (1992) Lee Norton, Champion
- Exhibit 120 - Federal Death Penalty Cases: Recommendations Concerning the Cost and Quality of Defense Representation, Spencer, Cauthron, Edmonds, May 1998 - Spencer I
- Exhibit 121 - Cultural Competency in Capital Mitigation, 2008, Scharlette Holdman and Christopher Seeds
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- Exhibit 137 – 5.9.2007 Notes by R. Ketchmark on hearing to complete expert examination
- Exhibit 138 – 4.3.2007 Notes by R. Ketchmark on meeting wherein Duchardt revealed that in January 2007 Mrs. Montgomery said Tommy Kleiner with her during the

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- Exhibit 155 – PowerPoint presentation of Dr. Porterfield's expert opinions presented in testimony at the 2255 hearing (*see* Vol. VI. p.1577-1591 November 7, 2016, and Volume VII p. 1636-171, November 8, 2016)
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