

MICHIGAN WOMEN'S JUSTICE & CLEMENCY PROJECT

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Endorsements:

Michigan Coalition Against Domestic and Sexual Violence, Michigan Council on Crime and Delinquency, Amnesty International USA, American Friends Service Committee, Michigan CURE, Ann Arbor, CURE Life-Long, AAUW, Michigan Lifers Association, Team for Justice, Michigan Women Lawyers Association, Safe House, Jean Ledwith King, Esq., Sen. Elizabeth Brater, Rep. Alma Wheeler Smith, Sen. Michael Switalski, Rep. Frank Accavitti, Jr., Dr. Chandra Mudaliar, Dawn Van Hoek, Esq., Sen. John Conyers, Jr., Lynn Rivers, Mary Schroer, Lynn Martinez, James Neuhard, Esq., Governor William Milliken, Helen Milliken, Eve Ensler, William Edwards Foundation, Dr. Rosemary Saari, Jeanice Dagher-Margosian, Esq., Evanne Dietz, Esq., Human Rights Watch, National Clearinghouse for the Defense of Battered Women, Free Battered Women, American Civil Liberties Union, University of Michigan, Michigan Women's Foundation, Michigan NOW, First Step, Dr. Angela Y. Davis, New Visions: Alliance to End Violence in Asian/Asian American Community

**TO: GOVERNOR RICK SNYDER
PAUL SMITH, LEGAL DIRECTOR**

Per our recent meeting, we have listed below some of the mitigating factors & laws that would likely be considered by courts today in our cases of incarcerated battered women that we are presenting for commutation by Governor Snyder.

I. PLEASE EXPEDITE PAROLE BOARD & PUBLIC HEARING PROCESS SO GOVERNOR SNYDER CAN GRANT CLEMENCY FOR THESE WOMEN:

1. **DELORES KAPUSCINSKI #191704, Kent County, Murder I, Life, 10/28/87(offense).** She shot her husband after severe sexual and ongoing abuse.

Changes in Laws & Mitigating Issues that would impact Kapuscinski case if tried today:

- *MCL Assault, Act 328 Sec. 750.520/Legal Spouse as Victim (Marital Rape Law passed 6/88)
- *VAWA U.S. federal law, (Violence Against Women Act, 1994)
- * **People v Geraldine Wilson/** Allowing Expert testimony (Battered Women evidence 1992)
487 N.W. 2d. 822, 824-25 (Mich. Ct. App. 1992)
Note: this is still inadequate law due to limits on testimony
- * **MCL Act 328; Act 335** Sec. 750.85/ Torture; felony; Add. 2005; (Torture, 2006)
- * **Domestic Violence Movement** nationally, and shelters available in Michigan since this case

2. **LUANNE SZENAY #214992 Bay County, Murder I, Conspiracy, Life, 1990.** She was beaten, threatened with death and her daughter was kidnapped by her violent, drug addicted husband. Police did nothing to intervene when called. An employee killed her husband to protect her & daughter.

Changes in Laws & Mitigating Issues that would impact Szenay case if tried today:

- *MCL Assault, Act 328 Sec. 750.520/Legal Spouse as Victim (Marital Rape Law passed 6/88)
- *VAWA U.S. federal law, (Violence Against Women Act, 1994)
- * **People v Geraldine Wilson/** Allowing Expert testimony (Battered Women evidence 1992)
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Note: this is still inadequate law due to limits on testimony

- * **MCL Act 328; Act 335** Sec. 750.85/ Torture; felony; Add. 2005; (**Torture, 2006**)
- * **Domestic Violence Movement** nationally, and shelters available in Michigan since this case

3. **NANCY SEAMAN #520695, Oakland County, Murder I, Life, 2004.** She killed her husband in classic, self-defense struggle when he tackled and attacked her because she was leaving him. Three judges believed the jury did not understand the evidence and defense was ineffective, and ordered/ voted for a new trial.

Change in Laws & Mitigating Issues that would impact Seaman case if tried today:

- *TRIAL JUDGE CHANGED CONVICTION TO 2nd degree due to unfair trial (see letter to Gov)
- *COURT OF APPEALS JUDGE Karen Fort Hood agreed w/ Trial Judge
- *FEDERAL JUDGE Bernard Friedman ordered new trial, agreed w/Trial Judge (see letter to Gov)
- * Inadequacy of People v Geraldine Wilson; Battered Women Expert Testimony Law
- * **MCL Act 328; Act 335 (Torture)** Sec. 750.85/ Torture; felony. **2006**

4. **MELISSA SWINEY #285346 Oakland County, Murder I, Life, 1988.** Abused, incested, suffering from seizures and depression she grew up in a violent, drug infested home. She became pregnant at 20 by boyfriend and hid it, gave birth in her car, left baby in a field. She had a breakdown immediately, was hospitalized in mental ward where her “confession” was coerced by police over her refusals and while on heavy medication.

Change in Laws & Mitigating Issues that would impact Swiney case if tried today:

Changes in Laws & Mitigating Issues that would impact Szenay case if tried today:

- *MCL ACT 288, (**Safe Delivery of Newborns Law, Sec. 712.2**)
- * People v. Kowalski, 2012 (**expert witness on false confessions**)
- * People v. Marks, Mich Ct of App 2005, Deprived of Freedom to Leave while interrogated in hospital denotes police custody without Miranda.
- * Domestic Violence Movement nationally; shelters available in Michigan since this case
- * **Melissa Swiney is the only woman in Michigan in 28 years** to receive LIFE for neonaticide; most young women get a few years; or no prison time / it is seen as mental illness issue.

5. **MELISSA CHAPMAN #196612 Genesee County, Murder I, Life, 1988.** At age 18, her violent boyfriend shot a man out of jealousy in front of her, and to her horror. He then forced her to help hide the body, burn the truck, rob, all while threatening her life and family.

Change in Laws & Mitigating Issues that would impact Chapman case if tried today:

- ***MCL Assault, Act 328** Sec. 750.520/Legal Spouse as Victim (**Marital Rape Law passed 6/88**)
- ***VAWA** U.S. federal law, (**Violence Against Women Act, 1994**)
- * **People v Geraldine Wilson/** Allowing Expert testimony (**Battered Women evidence 1992**)
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Note: this is still inadequate law due to limits on testimony
- * **MCL Act 328; Act 335** Sec. 750.85/ Torture; felony; Add. 2005; (**Torture, 2006**)
- * **Domestic Violence Movement** nationally, and shelters available in Michigan since this case

6. **SUSAN FARRELL #206979 Oakland County, Murder I, Conspiracy, Life, 1989.** Her mentally ill son killed her abusive husband / stepfather to the son, in a fit of rage. She tried to stop him, had nothing to do with her son's impulsive, violent act against his stepfather.

Change in Laws & Mitigating Issues that would impact Farrell case if tried today:

- ***MCL Assault**, Act 328 Sec. 750.520/Legal Spouse as Victim (**Marital Rape Law passed 6/88**)
- ***VAWA** U.S. federal law, (**Violence Against Women Act, 1994**)
- * **People v Geraldine Wilson/** Allowing Expert testimony (**Battered Women evidence 1992**)
487 N.W. 2d. 822, 824-25 (Mich. Ct. App. 1992)
Note: this is still inadequate law due to limits on testimony
- * **MCL Act 328; Act 335** Sec. 750.85/ Torture; felony; Add. 2005; (**Torture, 2006**)
- * **Domestic Violence Movement** nationally, and shelters available in Michigan since this case

II. OTHER WOMEN WITH LIFE SENTENCES MWJCP SUPPORTS (ADDITIONAL MATERIALS ATTACHED)

7. **TOWANDA EPPENGER #251338, Wayne County, Murder I, Life, 1994.** Suffering from PTSD as a Gulf War Veteran, she shot a former abusive boyfriend because he was threatening her woman friend.

Change in Laws & Mitigating Issues that would impact Eppenger case if tried today:

- * **PTSD expert testimony** has expanded in use in Courts

8. **SHARLEEN WABINDATO #160340, Muskegon, Murder I, Life, 1977.** She robbed an elderly man with her violent boyfriend who coerced, threatened, beat her, and he shot the man.

CHANGES IN LAWS & DV FACTORS AFFECTING WABINDATO CASE:

- ***People v. Aaron**, (MCL 750.316; MSA 28.548) stated the intention to commit a felony does not equal as a matter of law the intention to kill, do great bodily harm, or wanton and willful disregard of the likelihood that the natural tendency of a person's behavior is to cause death or great bodily harm; nor is the intention to commit a felony, standing alone, sufficient *mens rea* to establish murder
- ***VAWA** U.S. federal law, (**Violence Against Women Act, 1994**)
- * **People v Geraldine Wilson/** Allowing Expert testimony (**Battered Women evidence 1992**)
487 N.W. 2d. 822, 824-25 (Mich. Ct. App. 1992)
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- * **MCL Act 328; Act 335** Sec. 750.85/ Torture; felony; Add. 2005; (**Torture, 2006**)
- * **Domestic Violence Movement** nationally, and shelters available in Michigan since this case

MWJCP RECENT SUCCESSES:

- 1) **KAREN KANTZLER** (2nd degree Life) was paroled Dec. 27, 2017
- 2) **MELANISE PATTERSON** (2nd degree Life) was paroled Oct. 17, 2017

UPDATE:

MACHELLE PEARSON # 176620 (has served 33 years) As a Juvenile Life case, she was resentenced to 38 years based on Miller v. Alabama. She has earned approximately 7 years good time (prior to Michigan ban on good time credits) for her outstanding record and she will be released soon.

TONYA CARSON # 136681 (2nd degree Life) awaiting answer from Parole Board; Public Hearing was Nov. 10, 2017

MWJCP ALSO SUPPORTS A LONG LIST OF WOMEN WHO HAVE PAROLEABLE SENTENCES. WE TESTIFY AT PAROLE HEARINGS, PUBLIC HEARINGS, WRITE LETTERS OF SUPPORT, WORK W/ WOMEN & FAMILIES

III. WE REPORT HUMAN RIGHTS ABUSES AGAINST WOMEN IN HURON VALLEY WOMEN'S PRISON INCLUDE:

* Ongoing abuses occurring against women, esp. those in Segregation cells, Acute cells and Infirmary include:

refusals to give water, food, showers, care when ill.

* Overcrowding condition is severe. Women are in multi-bed rooms, closets.

Prison Count: 2,300 – 2,500

* Black mold is visible in several units is causing sickness, rashes, lung inflammations, COPD, physical reactions

* Unlawful strip searches are still going on before visits – some visitors wait 2-3 hours to see the prisoner