

Abused, then condemned: For women on death row, a history of gendered violence is the norm

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A majority of the women sentenced to capital punishment have experienced ongoing abuse since childhood.

This article is part of Prism's [series](#) on women and the death penalty in the United States.

Note: This article includes descriptions of childhood sexual abuse, physical abuse, and intimate partner violence.

Next month, Lisa Montgomery is scheduled to be the first woman executed by the federal government in almost 70 years. She is one of 52 women currently on death row nationwide and the only woman currently on federal death row. To the public, Montgomery's story began 16 years ago in 2004 when she traveled from Kansas to Missouri after connecting online with Bobbi Jo Stinnett. Stinnett was 23 years old, pregnant with her first child, and operating a dog breeding business outside of her home alongside her husband. Montgomery had arranged to meet with Stinnett to purchase a puppy, but once inside her home, Montgomery murdered the young mother-to-be, removed the 8-month-old fetus from her body, and took the newborn back to Kansas with her. There, she passed the child off as her own. The nature of Stinnett's murder brought national attention to the case.

In truth, however, the violence and trauma that marked Montgomery's life and set her on the path to that fatal day, and now her pending execution, began with the earliest moments of her childhood.

While the specifics of her life are unique, Montgomery shares a common story with most women who end up on death row: While they have often committed shocking crimes, [nearly two-thirds](#) of the women sentenced to capital punishment experienced regular, ongoing abuse as children and as adults. In many cases—including Montgomery's—that abuse included sexual assault, intimate partner abuse, and other forms of heinous gender-based violence—violence that was ignored while it was happening, and dismissed by the criminal legal system afterwards. As for the women's crimes, most were committed either against their abusers in acts of self defense, or against others as a result of the psychological trauma incurred from years of unaddressed abuse. The personal histories of women on death row mirror those of incarcerated women more broadly, a significant number of whom have lived lives [marked by years of sexual violence, physical and psychological torment, and domestic abuse](#).

Instead of investing in care for these women, the U.S. has chosen to greet their trauma and the acts that follow with incarceration and for some, execution.

'Her story is unique in its horror'

Although Montgomery's experience is not unusual in its trajectory from abuse to incarceration, the details of her life story reveal particularly intense trauma. She was born in Ogden, Kansas, in 1969, and her older half-sister, Diane Mattingly, has publicly recounted the abuse that the two endured at the hands of Lisa's mother and how she tried to shield Lisa from it. In a first-person essay written for [Elle](#) magazine, Mattingly shared that Lisa's mother (Diane's stepmother at the time), would beat the young girls with "brooms, belts, and whatever else she got her hands on," and often left the two alone with older male babysitters. When Mattingly was 8 years old, one of these older men raped her in the bedroom that she and her sister shared. At just 4 years old, Montgomery bore witness to it all.

When Mattingly was 8 years old, child protective services removed her from home and she was eventually placed with a safe, loving family. Montgomery was left behind with her mother. In the decades that followed, Montgomery would endure almost ceaseless abuse. While she was in kindergarten, her mother remarried Jack Kleiner and the new family moved to a secluded trailer outside of Sperry, Oklahoma. Shortly thereafter, Montgomery's stepfather began physically abusing both Lisa and his wife. Kleiner built a shed off the side of his trailer and it became the site of ongoing horrors for Lisa. When she was 11 years old, Kleiner raped her for the first time, and over the ensuing years would go on to sexually assault her again and again. Soon, he invited his friends to rape his young stepdaughter as well. In a court declaration, Lisa's stepbrother stated, "Lisa told me that when these men raped her, she would go away in her mind and try not to be present."

At the age of 18, Lisa married her stepbrother at the behest of her mother. The two quickly had four children. The marriage itself, much like Lisa's youth and adolescence, was rife with abuse. After the birth of her fourth child, Lisa was [involuntarily sterilized](#).

"Her trauma history is more severe than any other client I've ever represented, male or female," said Sandra Babcock, the faculty director at the Cornell Center on the Death Penalty Worldwide and an attorney currently representing Montgomery. "I think her story is unique in its horror and in its ability to quickly allow people to grasp that there is something wrong, and something fundamentally unjust, about putting a person to death who has suffered so much her entire life."

The harmful dichotomy of victim and perpetrator

While there was a slight uptick in public support for the death penalty in 2018, according to a [Pew Research Survey](#), the percentage of Americans in favor of capital punishment is currently far lower than it was in the 1990s and much of the 2000s. Despite this growing opposition, our social response to women who face abuse and later lash out has yet to evolve. Delphine Lourtau, executive director of the Cornell Center on the Death Penalty Worldwide, says that this

is due in part to the public's inability to square the complexity of women defendants being both perpetrators of harm and survivors of it.

"It's difficult for us, I think, to overcome this dichotomy that we've developed in our minds between victims and perpetrators," said Lourtou in an interview with Prism. "The whole underpinning of our very retributive criminal legal system is based on there being a clear distinction between those who deserve punishment and those who are the victims of violence that triggers the need for punishment. In a lot of cases involving women, we are talking about defendants who are both survivors, as well as sometimes perpetrators of violence and holding those complex stories in our minds—there doesn't seem to be a template for that."

Since the reinstatement of the death penalty in the U.S. in 1976, there have been close to 1,500 executions—16 of which ended the lives of women. In nine of those cases, the homicide victim was an intimate partner of the defendant. Lourtou says that 42 of the 52 women currently on death row are known survivors of gender-based violence.

'How do you do gender sensitive mitigation?'

Evidence of past abuse can be surfaced in court during mitigation, a process used during sentencing negotiations where a defendant can identify mitigating factors like childhood trauma or mental illness that would justify a lower sentence. Mitigation processes require collecting special records, conducting interviews with the defendant and those close to them, and securing expert analysis of the evidence gathered. According to "The Forgotten Population," a 2004 report written by the ACLU and the American Friends Service Committee, in many capital cases with women defendants, there has been independent evidence available to verify their claims of abuse, but defense attorneys failed to present it during trial. Thus, juries were unable to take the evidence into consideration.

That's what happened in Montgomery's case. According to advocates, her team of defense attorneys [failed to present](#) evidence about her past trauma and history of abuse. Babcock cites a number of factors for that negligence, including the fact that Montgomery had an all male defense team that was inadequately trained to conduct trauma-informed mitigation interviews that could have sensitively elicited important evidence to present at trial.

"Nobody talks about how you interview women," said Babcock. "How do you do gender sensitive mitigation? How do you talk to people in a way that makes them comfortable in confiding and sharing details of their abuse, that to them are extremely shameful, and for which they blame themselves?"

Failure to approach these conversations with the necessary level of nuance and sensitivity can severely re-traumatize a defendant, as was clear in Montgomery's case when she was questioned about her past experiences.

“In Lisa's case, for example,” said Babcock, “she was curled up in a fetal position on the floor of the jail cell during one of the interviews that her lawyer had with her. She was so traumatized by the way that he interviewed her.”

While the extent of the abuse Montgomery endured was rare and undeniably heinous, it's hardly the only example of women defendants experiencing extreme violence in their lifetimes and failing to have those experiences meaningfully taken into account at trial.

In 1989, Marilyn Plantz was convicted and sentenced to death along with her lover William Bryson for the murder of her husband, James Plantz. Plantz's trial and media coverage of her case was deeply colored by not just the nature of the offense itself, but Plantz's deviation from the “expected” behavior of a mother and wife as well as her extramarital, interracial affair with Bryson, a Black man. However, what was missing from her trial, said Plantz's advocates, was any discussion of the abuse she had endured both in her childhood and within her marriage. Her attorneys, they say, failed to present evidence that her husband had raped her before their marriage and that she had suffered sexual and psychological abuse from her family during her youth. In a statement to the police, Bryson said, “All I was thinking while I was beating him was all the times [Marilyn] came up to me with a black eye and crying. I didn't like that.” In June of 2000, Bryson was executed by the state of Oklahoma; less than a year later, Plantz was executed by lethal injection as well.

Trivializing trauma

For defendants who are also survivors of violence, these past histories of abuse place them in a bind even when evidence reflecting their trauma is presented in trial. In those cases, prosecutors often discredit this evidence, downplaying it as “the abuse excuse,” a term coined by attorney and legal scholar Alan Dershowitz. In his 1994 book *The Abuse Excuse*, Dershowitz wrote that “to understand is not necessarily to forgive ... our growing understanding of the causes of violent crime does not necessarily decrease either its incidence or the moral culpability of its perpetrators though some apparently believe it does.” However, the idea that society and courtrooms understand the full impact of trauma on a defendant's life and decisions is debatable.

In an interview with [HuffPost](#), Katherine Porterfield, a clinical psychologist at Bellevue who evaluated Montgomery while in prison, explained that in the absence of a nurturing adult and access to treatment, children who grow up in a chronic state of fear and terror will train their brain to adapt to survive and can experience dissociation from their feelings and actions. However, according to advocates for women on death row, courts fail to tease out this relationship between one's crime and their past abuse not in spite of the ubiquity of women's trauma but *because* of it. Nearly one out of every six women in the U.S. has experienced some form of sexual violence over the course of their lifetime, and 25% of women have experienced severe intimate partner violence. The expectation that women will have experienced trauma has allowed it to be trivialized during the moments it ought to matter most.

“There is a real temptation for a history of abuse and violence—because they are so commonplace in cases involving violence and in capital cases—to be presented as an excuse that the defense has come up with,” said Lourtau, “[Prosecutors say] ‘this doesn’t justify the violence and the aggravated acts that are that are being tried today’. It’s almost as if how widespread trauma is causes it to lose credibility when in fact it should be the opposite: how widespread trauma is should cause us to seriously rethink who the criminal legal process is targeting and why.”

Those who denigrate “the abuse excuse” also argue that just because a history of abuse may have led someone to commit an act of violence, it does not absolve them of personal responsibility. Dershowitz even argues that to do so would threaten the “foundations of our legal system.” The idea of responsibility, however, raises the question of what duty the legal system and our society have to properly address those harms, and whether choosing to meet violence with more violence poses a greater threat to justice. While it is true that simply understanding the root causes of crime may not prevent it from occurring, understanding and then working to stymie those roots certainly might.

‘There are other Lisas out there’

In the future, both Babcock and Lourtau say it will be critical to train advocates and experts on how to use gender-specific and trauma-informed practices to sensitively elicit and present stories about trauma in court, but that’s not the place to start. Rather, they say, the first and most important step must be stopping abuse when it occurs and providing treatment and healing for survivors in its immediate wake. That preventative work must specifically target those most overlooked in society, like children who grew up in similar circumstances to Montgomery’s. Babcock says that there are other Lisa Montgomery’s out there “who are now being abused, and who nobody is helping, [and] those are the people that we need to be thinking about.”

The divergent life courses taken by Montgomery and her own sister highlight the impact of shielding survivors from further violence, versus the harm that may flow from letting it continue unchecked. In her essay in *Elle*, Mattingly describes herself as “bruised, but not broken.” The abuse she faced in her youth did not leave her unscathed, but being removed from such a violent environment and placed in a safe and loving home allowed her to rebuild her life and forge a different path than her sister. Montgomery, of course, was not afforded that opportunity. Mattingly and Montgomery’s different outcomes suggest that the harms committed by Montgomery, and so many women like her, are not a result of inherent deviance, but rather of lifetimes of suffering without being seen, let alone saved.

“We have heard from so many women who are directly impacted by incarceration and who were in a situation of domestic abuse or violence, that if only they had had access to the assistance that they needed, then the events that led them to come into contact with the criminal legal system would never have arisen,” said Lourtau, “So I think it’s really important to say upfront that the failures begin long before the police and the courts and the judicial system become involved. The failure is in our collective response to the problem of gender-based violence.”

