

DATE TYPED: September 29, 2006
DATE PUBLISHED: October 2, 2006

IN RE: JEFFREY D. LUNDGREN, OSP #A235-069

**STATE OF OHIO
ADULT PAROLE AUTHORITY
COLUMBUS, OHIO**

Date of Meeting: September 26, 2006

Minutes of the **SPECIAL MEETING** of the
Adult Parole Authority held at 1030 Alum Creek Drive,
Columbus, Ohio 43205 on the above date.

IN RE: JEFFREY D. LUNDGREN, OSP #A235-069

SUBJECT: Death Sentence Clemency

CRIME, CONVICTION: Aggravated Murder with Specifications (5 counts),
Kidnapping (5 counts)

DATE, PLACE OF CRIME: April 17, 1989 -Kirkland, Ohio

COUNTY: Lake

CASE NUMBER: 90CR015

VICTIMS (S): Dennis Avery, Age 49
Cheryl Avery, Age 46
Trina Denise Avery, Age 15
Rebecca Lynn Avery, Age 13
Karen Diane Avery, Age 7

INDICTMENT: January 5, 1990: Counts 1-5: Aggravated Murder
with 2 Specifications; Specification #1 - Purposeful
killing of 2 or more persons, Specification #2 –
While in the commission of the crime of Kidnapping;
Counts 6-10: Kidnapping.

VERDICT: August 29, 1990: Found Guilty by Jury as charged in
the indictment.

SENTENCE: September 26, 1990: Counts 1-5: Death; Counts 6-
10: 10-25 years on each count, to be served
consecutive to each other.

ADMITTED TO INSTITUTION: October 26, 1990

TIME SERVED: 199 months

CUURENT AGE: 56 years old

DATE OF BIRTH: May 3, 1950

PRESIDING JUDGE: Honorable Martin Parks

PROSECUTING ATTORNEY: Steven C. La Tourette
Karen Lutz Kowall.

ACCOMPLICES:

Alice Lundgren was convicted of Aggravated Murder (5 counts) and Kidnapping (5 counts) and sentenced to 150 years to Life.

Damon Lundgren was convicted of Aggravated Murder (4 counts) and Kidnapping (4 counts) and was sentenced to 120 years to Life.

Ronald Luff was convicted of Aggravated Murder (5 counts) and Kidnapping (5 counts) and was sentenced to 170 years to Life.

Daniel Kraft was convicted of Aggravated Murder (5 counts) and Kidnapping (3 counts) and was sentenced to 50 years to Life.

Gregory Winship was convicted of Murder (5 counts) and was sentenced to 15 years to Life.

Richard Brand was convicted of Murder (5 counts) and was sentenced to 15 years to Life.

Sharon Bluntschly was convicted of Conspiracy to Aggravated Murder and was sentenced to 7-25 years.

Deborah Olivarez was convicted of Conspiracy to Aggravated Murder and was sentenced to 7-25 years.

Susan Luff was convicted of Conspiracy to Aggravated Murder and was sentenced to 7-25 years.

Kathryn R. Johnson was convicted of Obstructing Justice and sentenced to one year.

Dennis Patrick was convicted of Obstructing Justice and sentenced to 18 months, sentence suspended and placed on 1 year probation.

Tonya Patrick was convicted of Obstructing Justice and sentenced to 18 months, sentence suspended and placed on one-year probation.

FOREWORD:

Clemency in the case of Jeffrey D. Lundgren #A235-069 was initiated by the Honorable Bob Taft, Governor of the State of Ohio, and the Ohio Parole Board, pursuant to Sections 2967.03 and 2967.07 of the Ohio Revised Code and Parole Board Policy #105-PBD-01.

An application requesting clemency was submitted on Mr. Lundgren's behalf by attorney Henry Hilow. On September 20, 2006, Parole Board Member Kathleen Kovach interviewed Mr. Lundgren at the Ohio State Penitentiary in the presence of his counsel, Henry Hilow.

The Clemency Hearing was held on September 26, 2006. Mr. Hilow appeared on Mr. Lundgren's behalf, and gave oral arguments in support of the application for clemency. Arguments in opposition to clemency were presented by Lake County Assistant Prosecutor

Karen Kowall, Principal Assistant Attorney General Charles Wille, and Renee Webster who is the niece of the victims Dennis and Cheryl Avery.

The Parole Board considered all of the testimony provided by the applicant, the information disseminated by presenters at the hearing, prior investigative findings as well as judicial decisions. With these, the Board deliberated upon the propriety of clemency in this case. With eight members participating, the Board came to unanimous agreement and voted to provide an unfavorable recommendation for clemency to the Honorable Bob Taft, Governor of the State of Ohio.

DETAILS OF THE INSTANT OFFENSE:

The following account of the instant offense was obtained from the Ohio Supreme Court opinion decided August 30, 1995:

Lundgren's Background: Lundgren was born in Missouri and raised in the Reorganized Church of Jesus Christ of Latter Day Saints (RLDS). While attending college, Lundgren met and married his wife, Alice. Unsuccessful in school, Lundgren joined the Navy and served in the Vietnam War in the early 1970s. After his honorable discharge in 1974, he unsuccessfully held a series of hospital maintenance and other jobs in Missouri.

Lundgren's Religious Beliefs: Although the RLDS, headquartered in Independence, Missouri, differs from the Utah-based Mormon Church, both religions trace their origins to the prophet Joseph Smith, Jr., who published the Book of Mormon in 1830. During the 1830s, Smith moved to Kirtland, Ohio, and built the Kirtland Temple, now managed by the RLDS.

In summer 1984, Lundgren and his family moved from Missouri to Kirtland so that Lundgren could serve as senior temple guide, a job that had no pay but did include family lodging. Lundgren initially attracted favorable attention in his Sunday school classes and as a guide. William Russell, a religion professor at an RLDS college, testified that Lundgren knew scripture exceptionally well, especially the Book of Mormon, and followed the chiastic method of scripture interpretation, which involves searching text for recurring patterns. However, Lundgren did not understand the Bible's historical context and tended to concentrate on this esoteric method. Lundgren generally fit within the traditions of the RLDS faith in that he described visions, direct spiritual experiences, and God speaking directly to prophets.

Over the next three years, Lundgren served as a temple guide and taught classes on the Bible and the Book of Mormon. Despite the church's direction to turn over all money received from temple visitors to the church, Lundgren solicited and kept contributions received from visitors. Temple contributions dropped dramatically, and the temple bookstore also suffered fund shortages. The church eventually removed Lundgren as a religion teacher and, in October 1987, fired him as a temple guide and evicted him from his quarters next to the temple.

The Cult: From 1985 on, Lundgren attracted a substantial following in his classes because of his knowledge of religious texts. Eventually, Kevin Currie and Sharon Bluntschly moved in with the Lundgrens, as did Richard Brand, Daniel Kraft, and Gregory Winship. Debbie Olivarez joined the group in April 1988. Those living with the Lundgrens called him “Dad” and contributed their paychecks and other money for common group expenses. Two couples, Ron and Susan Luff and Dennis and Tonya Patrick, also contributed money, but did not live with the Lundgrens. In the spring of 1987, the Avery family moved from Missouri to follow Lundgren's teachings. The Avery family included Dennis, age 49; Cheryl, age 46; and their daughters, Trina, age 15; Rebecca, age 13; and Karen, age 7.

After Lundgren's eviction, he and his family and followers moved to a rented farmhouse. There, Lundgren continued his classes, stressing the importance of the Kirtland Temple. According to Lundgren, his followers had to recapture the temple, an earthquake would elevate it, and Christ would return and establish Zion. Lundgren also spoke of his conversations with God and his visions. He discussed the Book of Revelations and the Book of Mormon, and referred to “pruning the vineyard” and the need to kill ten followers before Zion could be created. Eventually, the men in the group undertook paramilitary training to prepare for a temple assault. Lundgren picked May 3, 1988 (his birthday) as the day to recapture the temple, but later decided it was not yet time. The Averys, on the fringe of the group, were invited to only a few of Lundgren's prayer meetings.

By October 1988, the RLDS church had excommunicated Lundgren. In early 1989, Lundgren was stressing the need for his followers to go on a wilderness trip before Zion would be possible. By that time, both Kevin Currie and another follower, Shar Olson, had left the group, but Kathryn and Larry Keith Johnson had joined.

The Murders: In April 1989, at Lundgren's direction, the group began preparing for the wilderness trip. Those who worked left their jobs and some bought provisions. Lundgren encouraged all of the followers to use up any of their available credit cards. All of the group members, including the Averys, gathered their worldly possessions. Around April 12, two or three of the followers secretly began digging a six-by-seven-foot pit in the dirt floor of Lundgren's barn. Lundgren told Cheryl Avery to write and tell her family that they were going to Wyoming. Then, Lundgren invited the Averys to dinner.

On April 17, 1989, Dennis, Cheryl and their three daughters ate dinner at Lundgren's farmhouse. After dinner, Lundgren went out to the barn with his son, Damon, and four followers, Brand, Kraft, Winship, and Ron Luff. The Averys stayed in the house with the women and children. At Lundgren's direction, Luff individually led each Avery family member out to the barn, where each was bound and gagged by the men. After the men placed each Avery family member into the pit, Lundgren shot each person two or three times with a .45 caliber semiautomatic weapon. The men then filled the pit with dirt and stones. Afterwards, Lundgren and the others went back to the farmhouse and held a prayer meeting.

The Months Prior to Lundgren's Arrest: The next day, April 18, police officers and FBI agents visited the Lundgren farm to investigate reports about the planned temple assault.

Everyone interviewed said that they were at the farm voluntarily and denied knowing anything about plans to assault the temple. The FBI left without arresting anyone, and the group drove away on their wilderness trip.

Lundgren selected mountain campsites near Davis, West Virginia, and the group lived in tents there through October 1989. Some of the followers took jobs, and the men continued their military exercises. While in West Virginia, Lundgren chose Tonya Patrick as his second wife. That arrangement did not work out, so Lundgren then picked Kathryn Johnson as his second wife. That choice upset Larry Johnson, Kathryn's husband, and contributed to group dissension. By October 1989, Lundgren, his family, and about ten of his followers moved to Missouri. However, more dissension occurred and, by the end of December 1989, Larry Johnson had contacted federal law enforcement authorities about the murders.

On January 3, 1990, Kirtland police began digging out the pit in the barn and found Dennis Avery's body. Police uncovered the other Avery family members' bodies the next day. Lundgren had shot Dennis twice in the back and Cheryl three times in the torso. He shot Trina once in the head and twice in the body, Rebecca in the back and thigh, and Karen in the head and chest. The coroner found silver duct tape wrapped around the victims' heads, hands, and feet. The origin of two damaged bullets found at the scene was unknown. Police discovered that a .45 caliber semiautomatic weapon, belonging to Lundgren, had fired all of the other bullets they recovered. Lundgren bought the weapon in 1987 and sold it in West Virginia in October 1989. On January 7, 1990, federal authorities arrested Lundgren in California.

APPLICANT'S STATEMENT:

On September 20, 2006, inmate Jeffrey Lundgren met with Kathleen Kovach, Parole Board Member, for his clemency interview at the Ohio State Penitentiary. Also present were Mr. Lundgren's counsel Henry Hilow and Parole Board Parole Officer Panzy Eldridge. The interview was witnessed via teleconference at the Department of Rehabilitation and Correction's Central Office in Columbus by Principal Assistant Attorney General Chuck Wille and Senior Deputy Attorney General Heather Gosselin. Also present were Lake County Assistant Prosecutor Karen Kowall and Executive Assistant to the Ohio Parole Board Chair Judy Coakley.

The interview lasted approximately one hour and forty minutes. Mr. Lundgren shared that he grew up in the Reorganized Church of Jesus Christ of Latter Day Saints. Additionally, he had a very strict upbringing and was taught that love equals judgment. Mr. Lundgren began to study the scriptures and Joseph Smith's teachings in greater depth following his honorable discharge from the United States Navy. He shared that he "...sought to grow in his knowledge and preserve his people."

During the first hour of the interview, Mr. Lundgren read a prepared statement. In this statement he described his various role models in the Book of Mormons and read various passages from the scriptures in the Book of Mormons. Mr. Lundgren believed this was

necessary to share with the Board in order to lay a foundation as to what led up to his crimes involving the killing of the Avery family.

Mr. Lundgren shared that he thought that the “end of time was near” and that he had to build a city where he and his followers would dwell together, have a place of refuge, and escape the enemy. Thus, Mr. Lundgren went to Kirtland, Ohio to “receive the law of God.” He further shared that he had a role to play in the redemption process and that he and his followers were servants. Mr. Lundgren also pointed out that in the 1830’s, the church failed to “build the city.” Thus, that was what he was going to do. Further, Mr. Lundgren shared that he felt there would be great consequences for not obeying the Lord.

Mr. Lundgren compared himself to Moses and stated that the Lord communicated to him “...to go and get the sacred records.” This is what led him to the Kirtland Temple. He stated that he went to the Kirtland Temple to “...receive a vision and establish a pattern to test the spirits.” Mr. Lundgren studied the pattern and design of the temple and compared it to the scriptures. He shared that he was commanded by God to do this crime. Additionally, he stated that in order to get to Zion, a “cleansing” had to be done in order to preserve his own family.

Mr. Lundgren did share that he has now found “Redeeming Love” and that he would like for the Parole Board to “redeem him and grant him clemency”. Mr. Lundgren shared that his support system consists of his wife and daughter who come to Ohio from Missouri to visit with him every 12-14 months. Mr. Lundgren shared that he married his wife, Kathryn Johnson, in 1992 or 1993 while he was in prison. Together, they have a 16-year old daughter. He does not communicate with any of his other children.

Board Member Kathleen Kovach did inquire of Mr. Lundgren as to why he did not offer any defense at the time of trial. He shared that he learned one hour prior to trial that his counsel would not be presenting a defense. Mr. Lundgren further commented that he was instructed by his attorneys to look straight ahead and to display no emotion.

Mr. Lundgren shared that he met the Avery family in Missouri when he began attending their church, and that the Avery family eventually moved to Ohio to follow Mr. Lundgren’s teachings. Mr. Lundgren was asked how he felt about killing/slaughtering five people, three of whom were young children. His initial response was, “burdened.” He went on to describe himself as a “wretched man who should not have judged the Avery family.” He further stated that he should have tried to save the Averys. Mr. Lundgren also admitted that he “misinterpreted” the scriptures.

Finally, Mr. Lundgren was asked if he has communicated at all with any of his co-defendants. He responded that he recently received a letter from Gregory Winship forgiving him. Mr. Lundgren further responded that Mr. Winship had asked a series of questions to which he wished Mr. Lundgren to respond. The content of those questions was not shared.

PRIOR RECORD:

JUVENILE: Mr. Lundgren has no known juvenile arrest record.

ADULT: Mr. Lundgren has the following known adult arrest record:

| <u>Date</u> | <u>OFFENSE</u> | <u>LOCATION</u> | <u>DISPOSITION</u> |
|-----------------------|--|------------------------|---------------------------|
| 4/17/1989 (Age 38) | Aggravated Murder with 2 specifications (5 counts); Kidnapping (5 counts) | Kirtland, Ohio | INSTANT OFFENSE |

DISMISSED, NOLLED AND/OR UNKNOWN CONVICTIONS: Mr. Lundgren reported at the time of his admission to the Department of Rehabilitation and Correction in 1990, that he was convicted of Insufficient Funds in 1979 in Camden County, Missouri for which he spent one day in jail.

INSTITUTIONAL ADJUSTMENT:

Mr. Lundgren was admitted to the Department of Rehabilitation and Correction on October 26, 1990. His overall adjustment to incarceration since that time appears satisfactory. His current work assignment is that of a porter. Mr. Lundgren has also been a Recreation Worker. He completed a volunteer tutor workshop, and proceeded to serve as a tutor for over five (5) years while incarcerated at the Mansfield Correctional Institution. During his interview Mr. Lundgren shared that he has assisted other inmates in preparing for their GED and has also worked on various community service projects. His Inmate Work Evaluation Reports indicated an above-average rating.

PROPOSERS TO CLEMENCY:

Mr. Henry Hilow provided the following oral arguments supporting Mr. Lundgren's request for clemency:

- Mr. Lundgren lacks any criminal history.
- This tragedy would not have taken place without the assistance of all of the co-defendants. All co-defendants should be held "as accountable" as Mr. Lundgren in that everyone shared the "same philosophy."
- Mr. Lundgren is an honor inmate and spends his time educating/tutoring other inmates.
- At the time of his trial, the instrument used to diagnose mental illness (DSM I) did not include Delusional Disorder with Grandiose Themes as it does today. Mr. Hilow argued that he believes, based on Mr. Lundgren's beliefs at the time of the offense that Mr. Lundgren likely suffered from this disorder. If this diagnosis would have been available at the time of trial, Mr. Lundgren's counsel would have

more likely pursued an insanity defense. In addition, the failure of trial counsel to introduce the insanity defense at the time of trial resulted in Mr. Lundgren not receiving a fair trial. Mr. Hilow referred to Judge Merrit's dissenting opinion stating, "In many similar deific decree cases in which a delusional person like Lundgren professed to be following God's command to kill, defense lawyers have almost uniformly entered an insanity plea-and the jury has accepted the defense in some of the cases." Judge Merrit found, "Lundgren's counsel was manifestly ineffective and that the writ of habeas corpus should have been issued in this case requiring a new trial in which Lundgren would have been allowed to present the insanity defense before the jury."

- Mr. Hilow also referred to a case out of Utah in 2001 involving *State v. Lafferty* in which a Mormon fundamentalist killed his sister-in-law and her infant child pursuant to God's "removal revelation." Attorney Hilow pointed out that the insanity defense was used in this case.
- No option of life without the possibility of parole existed at the time of Mr. Lundgren's trial for the jury to consider. The jury may have recommended a different sentence had this option been available.
- Mr. Hilow shared that Mr. Lundgren has had a shift in his beliefs today, acknowledges that he misinterpreted the scriptures, and is remorseful for the crimes he committed.

OPPONENTS TO CLEMENCY:

Karen Kowall, Assistant Prosecuting Attorney for Lake County, and Chuck Wille, Principal Assistant Attorney General, represented the State of Ohio at the hearing before the Parole Board on September 26, 2006. Prior to the day of the hearing, these individuals submitted a response to the application opposing clemency, including exhibits, judicial decisions, and a complete transcript of both the trial phase and the penalty phase of Mr. Lundgren's trial. Arguments in opposition included:

- Lake County Assistant Prosecuting Attorney Karen Kowall began with the fact that she, too, had the opportunity to view Mr. Lundgren's interview with Board Member Kathleen Kovach. She pointed out that Mr. Lundgren, to this day, did not say he wishes he would not have killed the Avery family. Rather, he did state that he should have let them plead for their lives. Additionally, Ms. Kowall pointed out that she believed that no remorse for this crime was shown during his interview.
- Ms. Kowall further pointed out that this case was about the manipulation of people, the exploitation of their weaknesses, fears, and religious beliefs, and not about religion.
- She shared that Mr. Lundgren did not want the Avery family to come to Ohio and that he even wrote them a letter stating this.
- When the Avery family arrived, they were forced to give up their car and money. Ms. Kowall further pointed out that when Mr. Lundgren found out that Mr. Avery had a credit card, Mr. Lundgren maxed it out. In fact, Mr. Lundgren used this card to purchase the very gun that he used to kill the Avery family.
- Mr. Lundgren talked about killing the Avery family for two years.

- The reason Mr. Lundgren wanted to kill the Avery family was because he thought they were “disobedient, lazy, wimpy, and strange.” The Averys were not invited to live with the Lundgren family and were not invited to all of his scripture classes.
- Mr. Lundgren took money from all of his followers as well as some of their wives. He also had a gun with him when he asked some of the co-defendants if they were “with him” when referring to the slaying of the Avery family.
- Assistant Prosecutor Karen Kowall further pointed out that there were no grounds to raise the insanity defense in this case in that two experts hired by the defense to address this issue found that Mr. Lundgren was **not** insane. Principal Assistant Attorney General, Chuck Wille pointed out that both of these experts knew all of the facts surrounding the case and interviewed Mr. Lundgren at length.
- Mr. Lundgren has been on death row longer than any of the Avery children were alive.
- Ms. Kowall argued that if the Board considers current sentencing options as mitigation as Mr. Hilow suggested, then the Board must also give equal consideration to the fact that Mr. Lundgren’s crimes, if committed today would result in additional aggravating factors for the death penalty to be imposed, specifically the killing of a child under 13 years of age.
- God did not command Mr. Lundgren to kill the Avery family. Rather, Mr. Lundgren did not like them, they were easy targets, and he continues to display no remorse for his crimes.
- Lastly, Assistant Prosecutor Kowall pointed out that this case has been reviewed for 16 years by 43 judges, 42 of whom found that no error occurred, no violations of Mr. Lundgren’s rights existed, and that the aggravating factors outweighed all mitigating factors in this matter. She cited United States District Court Judge Donald Nugent’s 272 page opinion stating that it was time to put this matter to rest.

Principal Assistant Attorney General Chuck Wille shared the following facts with the Board on behalf of the State of Ohio:

- It was Mr. Lundgren and not God who was deciding who should live or die.
- This offense was well planned. A cancelled check made payable to Mr. Lundgren totaling \$21,492.32 from Sharon Bluntschly was presented as evidence at trial along with un-rebutted testimony that Mr. Lundgren was given \$10,000 by Dennis Avery.
- Mr. Lundgren shared that the scriptures told him HOW to do the killings, and to fill the pit with stones. Principal Assistant Attorney General Chuck Wille wondered aloud if these same scriptures instructed Lundgren to have some of his followers pour lime on the bodies of the Avery family to speed up the process of decomposition or led him to ask his followers to research how to change one’s identity. Mr. Wille suggested that these events illustrate the extreme cover up Mr. Lundgren had planned.
- Mr. Lundgren is morally and legally more culpable than the others involved in this case.

- The jury concluded that a cold and calculated killer deserved to die and no manifest injustice exists in this case to change their decision by recommending clemency.

VICTIM STATEMENTS:

The Board heard testimony from Dennis and Cheryl Avery's niece, Renee Webster, who read statements from Cheryl Avery's two brothers, and her cousin. The following summarizes those statements:

- Cheryl Avery's cousin, Yvonne Spencer, recalled living in Seattle, Washington when the Averys' bodies were found. She and her family were shocked when they heard the TV news reports and then saw the bodies of their loved ones being removed from the barn in Kirtland, Ohio.
- Cheryl Avery's brother, Donald Bailey, indicated that his one great fear is if Mr. Lundgren's sentence is commuted to life in prison, someday, someone will forget what he has done, and Mr. Lundgren might be turned loose on society.
- Lance Bailey, Cheryl Avery's other brother, wrote that when Cheryl died, a part of him died as well. Cheryl's brother compared his reaction to having both of his legs cut off, learning to walk again, and then never being able to walk the same way as he did before.

COMMUNITY ATTITUDE:

The Board received written correspondence from Lake County Presiding Judge Paul H. Mitrovich. His recommendation was that clemency should not be granted for Jeffrey Lundgren and that the sentence of death should be carried out. He further wrote, "Such a person does not have the right to ask for clemency when he gave no others consideration."

CONCLUSION:

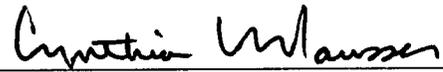
The Ohio Parole Board deliberated extensively on the documentary and testimonial evidence provided. The Board finds that the aforementioned mitigating factors do not outweigh the many aggravating factors present in the murder of the Avery family. Mr. Lundgren systematically and premeditatedly killed five people, three of whom were innocent children. Mr. Lundgren's motive for killing this particular family involved financial gain, an increase in power over the lives of others, as well as the exploitation and manipulation of the fears and beliefs of others. Further, there is no manifest injustice in the jury's verdict, nor in the sentence imposed. The Board accepts the findings and conclusions of the multiple state and federal jurists who have extensively reviewed Mr. Lundgren's conviction and sentence. The Board does not find that the evidence presented is sufficient to warrant a favorable recommendation for Executive Clemency.

RECOMMENDATION:

The Ohio Parole Board with eight (8) members participating, by a vote of eight (8) to zero (0) recommends to the Honorable Bob Taft, Governor of the State of Ohio, that Executive Clemency be denied in the case of Jeffrey D. Lundgren.

Ohio Parole Board Members
Voting **FAVORABLE**

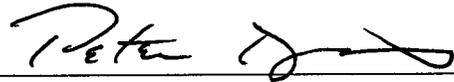
Ohio Parole Board Members
Voting **UNFAVORABLE**



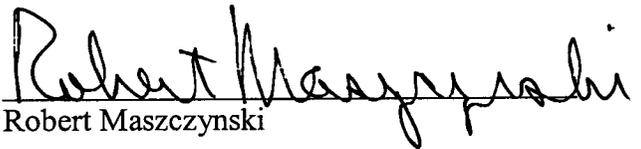
Cynthia Mausser, Chairperson



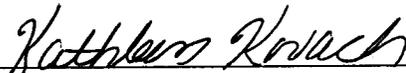
Sandra Mack, Ph.D.



Peter Davis



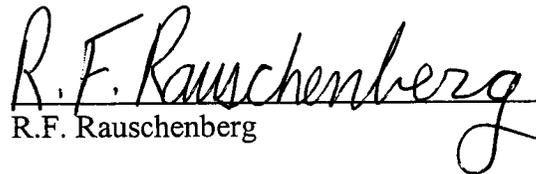
Robert Maszczyński



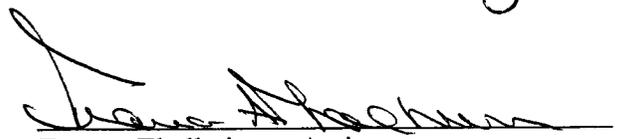
Kathleen Kovach



Ellen Venters



R.F. Rauschenberg



Trayce Thalheimer, Acting