

David Russell Hosier



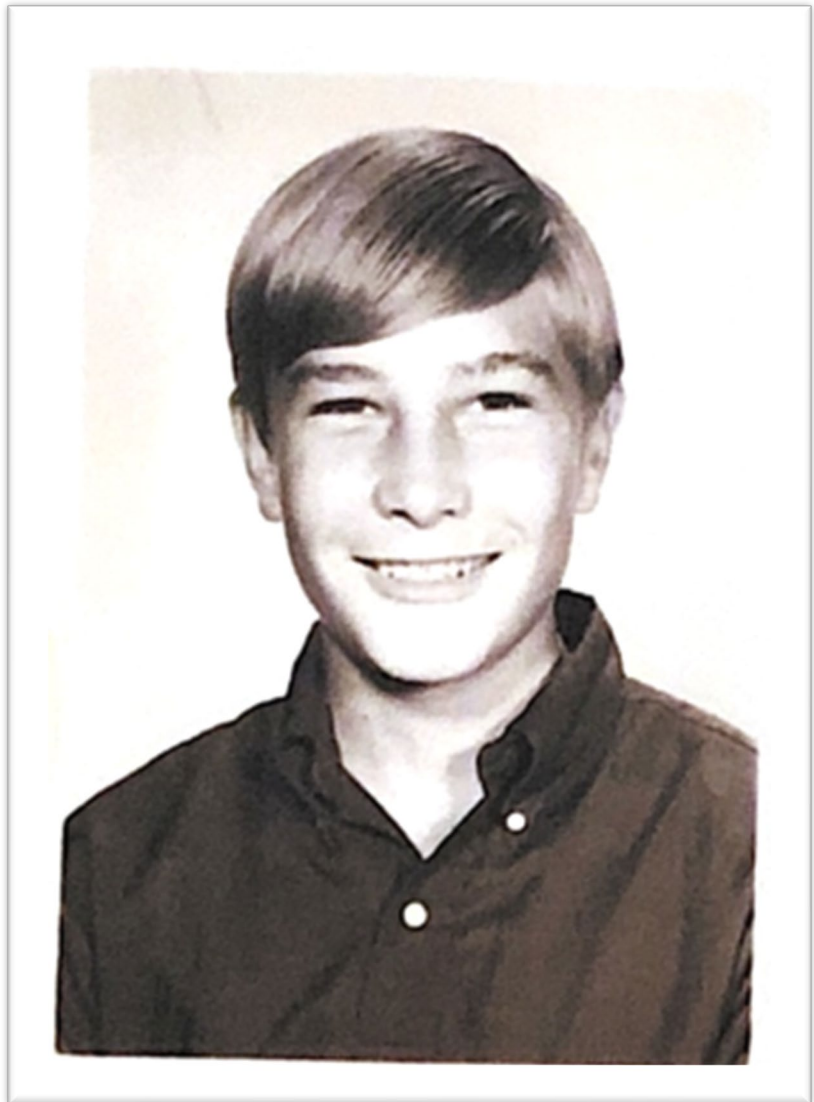
Petition for Clemency
Made to Missouri Governor Mike Parson

1. Introduction

David Hosier is a 69 year-old veteran of the United States Navy, former EMT and Firefighter with the Jefferson City, Missouri Fire Department who is scheduled to be executed on Tuesday, June 11, 2024, at 6:00 PM. David is seeking clemency from Governor Parson to allow him to serve out his remaining days in prison rather than be executed by the State of Missouri.

David's journey to this point is the result of a family tragedy all too familiar to those who serve in law enforcement. When David was just 16, his father, Glen Hosier, a Detective Sergeant with the Indiana State Police, was shot in the head by a fugitive he sought to arrest. Glen was in a coma for the next thirteen days in an Indianapolis hospital. David was in Logansport when his father passed away and never had the chance to say goodbye.

Detective Hosier's murder was a profound tragedy for the entire Hosier family, but it hit young David particularly hard. David suddenly and violently lost his beloved father, a man with whom he spent countless hours



bonding through hunting, fishing, and camping. Glen mentored David and taught him about being a law enforcement officer by taking David on "ride alongs" in his patrol car. David wanted to be just like his father, a well-respected officer with a family. David idolizes his father to this day.

David's sisters, Kay and Barbara, consider their father's death a seminal

moment in their beloved brother's life. Knowing the grief and anger, and how it continues to come in waves even now, the sisters believe David's behavior throughout his life has been a product of Glen's death.

Dr. Robert Stinson, forensic psychologist, evaluated David and found that the trauma of losing Glen in such tragic circumstances, combined with not receiving the counseling he needed, had a profound impact on David's life and mental health. David fell into a lifelong depression, and while at times he seemed to be on the verge of some success, his mental health struggles would ultimately dictate his life's course.

David's life became much more complicated after his father's death. And the simple life he sought through military service, being a firefighter and a family man, was difficult for him to maintain. Complicated grief, major depression, and displaced anger made it nearly impossible for David to sustain a life that looked like his father's, even though that is what David wanted.

The murders of Angela and Rodney Gilpin is tragic, and this petition for clemency is not meant to minimize the pain their families experienced. But the prosecutor of the case, recognizing the circumstances of the case and David's life, extended a plea offer for life in prison without parole. It seems that if the prosecutor thought such a sentence was appropriate given all the facts, such a sentence should now be seriously considered.

2. David Grows Up in a Loving Family Marked By Service

David Russell Hosier was born on February 10, 1955, to Glen Russell Hosier and Martha (Baker) Hosier of Fowler, Indiana. David was welcomed home by two older sisters, Kay and Barbara.

David enjoyed a stable and supportive



From Left: Martha, David, Kay, Barbara, and Glen Hosier

home environment growing up in Indiana. David's mother attended nursing school and graduated in 1947. She worked as a nurse in the nursing corps while also serving as the primary caregiver for Kay and Barbara, but David was Glen's son, and Glen quickly assumed primary parenting responsibilities for David.

David's father was a lifelong public servant. He served in the United States Navy, enlisting the day before he turned 18 in 1944. At the time of his enlistment, Glen noted the reason for doing so as "patriotism." He was honorably discharged at the end of his first enlistment, and he returned to Indiana.

Glen soon continued his public service when he joined local law enforcement as an officer with the



Glen Hosier pictured on the left in his Logansport Police Department uniform

Logansport Police Department. Glen was most known for his work with the Indiana State Police where he served with distinction until his death in 1971.

David was incredibly close with his father throughout his childhood. Glen and his fellow officers in the Indiana State Police loomed larger than life for David, so much so that David desired to join their ranks when he grew up.

and hunting and walking the river, ice skating in the winter.” Martha noted that David’s best friend was “his father, his hero, his mentor. They probably had a closer relationship than most boys and their fathers have.”



The family also spent much time on Cook Lake in Indiana where the family had a lot. They were joined on the lake by Martha’s two sisters and their families. The Hosiers would fish and enjoy extended time together.

David and Glen were “exceptionally close,” according to Martha. She recounted that they would go “fishing

3. Tragedy Tears the Hosier Family Apart

On April 11, 1971, the family attended Easter services together. Following the service, the family took photos in front of their Logansport home.



Glen, Martha, and David outside their home in Logansport, Indiana on the Easter Sunday, April 11, 1971.

Just two days later, on the evening of April 13, 1971, Glen was shot in the head while attempting to arrest Linzie Mallard, a fugitive wanted for murder in Peru, Indiana. While searching for a murder suspect, Glen and other police officers were dispatched to a residence on a report that the suspect was hiding

inside. Officers surrounded the house, while Glen, accompanied by three other officers, entered the residence. Leading the way up the staircase, Glen rounded a landing and the suspect shot him in the head at close range. After 13 days in a coma, Glen died on April 26, 1971.

Martha had a vivid recollection of learning that Glen had been mortally wounded. David was sick upstairs in his bed and Martha was downstairs reading, waiting for Glen to return as she had so many other nights. Martha looked out the front door and saw two state troopers walking towards the Hosier home. They told her Glen had been shot and had been rushed by ambulance to Indianapolis for surgery. Martha immediately called her sister, Marolyn, and her husband John. Marolyn and John rushed over to Martha's home. David, who had heard the news, was

too sick to go with Martha and Marolyn to the hospital. Dick Keyes, another state trooper, brought David to the hospital a few hours later. When David was taken to see his father, whose face was swollen beyond recognition, he fainted.

Following the shooting, as Glen remained in a coma, Martha made the

was still just a child, having only turned 16 a couple of months prior to Glen's death.



The grief of the State Police community was magnified by the fact that Glen's murder came about 2 months after the death of another Indiana State Police officer. Trooper John J. Streu, a Logansport, Indiana, native,

decision that David should return to Logansport with Marolyn and John and resume school. On the morning Glen died, David was at school trying to maintain some sense of normalcy. John came to see David at school to tell him in person that his father had died. He brought David home after informing him of Glen's passing. One of the trooper's wives drove David's sister Kay and Martha from Indianapolis to Logansport. When Martha arrived home, David was standing on the sidewalk outside the house. He opened the car door for his mother who got out and hugged him. They both cried.

was murdered on February 20, 1971, after less than a year of the force. The loss of two Indiana State Police officers so close in time, and from the same close-knit community, was particularly devastating.

Glen was laid to rest at the First United Methodist Church in Logansport. Glen was honored by the local community



There was an initial outpouring of grief for Glen's death in the community. Glen's funeral included a procession of law enforcement officers from around the state and country marching through the streets of Logansport. Martha remembered hearing people say to David, "Now you're the man of the house." Martha recalled that it was such a cruel thing for people to say to him because he

In 2001, the Glen R. Hosier Memorial Bridge, formerly the Market Street Bridge was dedicated in his honor in Logansport.

with a bridge dedicated in his honor. The bridge crosses the Eel River in the heart of Logansport, Indiana.

Few resources were available to the Hosier family in the wake of Glen's death

At the time of Glen's death, there was little in place to assist the family. Trooper Earl McCullough remembered Glen's death. Glen was killed a short time after Trooper McCullough was assigned to the area and met the Hosier family. He recalled there were limited resources available to survivors of line of duty deaths. Another Trooper who worked with Glen before his death recalled if Martha needed anything, she would have to reach out to the other officers individually. He believes things are much different now, with a more formal support system for families of fallen officers.

With few resources to assist her, Martha felt she did not help her children deal with the grieving process. Because of her own shock and grief, "I was not in the role of a mother at all." She did not feel she was any help to them. To make matters worse, one state trooper would promise to take David fishing with him. David would sit on the front porch with his fishing pole and minnows he caught in

the river as bait waiting for the trooper. David would sit for a couple of hours, but the trooper never showed to take him fishing. This happened more than once, leading David to a sense of isolation.

Martha recalled that a young David would go many times to his father's grave



Detective Sergeant Glen R. Hosier at his funeral in Logansport, Indiana

at night. David's first cousin, Rex Gale, remembers driving David to his father's grave at night where David would sit and cry. Kay, David's oldest sister, remembers David sobbing with grief and isolating himself from others. His first cousin, Maureen Gale, observed that David never got past the death of his father. Martha recalled that following Glen's death, David was quieter, and she never heard him discuss Glen's death with anyone. David admits that he took the death of his father especially hard. David remembered

being 16 years old at the time and taking his father's death especially hard.

Bob Shriner, one of David's counselors at Culver Military Academy, recalled learning about Glen's death and the circumstances surrounding it. Glen's death stayed with David. Mr. Shriner was very concerned about David and drove to Logansport to try to speak with Martha about his concerns. Mr. Shriner did not remember if he was able to talk with her, though. Traveling to speak with a parent regarding his concerns about a student was unusual. Mr. Shriner believed David was troubled. David did not go out of his way to socialize. He stayed to himself and while David was physically there completing the program, he was not embracing it. Mr. Shriner's impression was David did not want to be at Culver. David would mention his father but did not want to talk about his loss.

While David's family struggled following Glen's unexpected death, there were few resources available to help them cope with the sudden family tragedy. Since that time, things have changed for the better. In 1984, Concerns of Police Survivors [C.O.P.S.] was organized and founded. This organization provides resources to families who lose a family member who was a law enforcement officer in the line of duty. The organization provides resources including, "the National Police Survivors' Conference held each May during National Police Week; scholarships; peer-support at the national, state, and local levels; 'C.O.P.S. Kids' counseling

reimbursement program; the "C.O.P.S. Kids" Summer Camp, 'C.O.P.S. Teens' Outward Bound Adventure for young adults, special retreats for spouses, parents, siblings, adult children, extended family, and co-workers; trial and parole support ...".

C.O.P.S. recognized the need in the law enforcement community for support of the family of a fallen officer. The organization noted in a national policy directive, "Too often police surviving

"Law enforcement is a calling that leads men and women to selflessly take on risks to protect the public . . . We grieve all these line-of-duty deaths alongside the officers' families and their law enforcement comrades, who heroically carry on despite the dangers. We will never forget the sacrifices the fallen have made. Their service to our communities strengthens our appreciation for the heroic work that all our officers do each day."

**Missouri Governor Mike Parson
May 6, 2023**

families state they feel totally isolated by the department within a short time following the funeral."¹ C.O.P.S. developed clear plans for departments to

¹ *Support Services to Surviving Families of Line-of-Duty Death: Law Enforcement Agency Handbook*, C.O.P.S., October 1988,

<https://www.ojp.gov/pdffiles1/Digitization/17594NCJRS.pdf>

deal with line-of-duty deaths that focus on the needs of the family and compassionately helping them through the grieving process.

4. David Hosier's Record of Service

Like his father, David Hosier has a significant record of public service that he is rightfully proud of. David followed in his father's footsteps and volunteered for the United States Navy in September 1974.

David signed a four-year enlistment with the Navy and was assigned to the Naval Communications Unit in Washington, D.C. While in that role, David earned Top Secret clearance and was recommended for reenlistment after serving his four-year contract. David, though, chose to return home and was transferred from active-duty status to the Naval Reserve until 1980. David earned a Good Conduct Medal and an honorable discharge from the Navy.

a Firefighter and EMT until he separated from the department in 1986.



497 THIS IS AN IMPORTANT RECORD SAFEGUARD IT. 33

1. LAST NAME - FIRST NAME - MIDDLE NAME HOSIER, DAVID RUSSELL		2. SEX M	3. SOCIAL SECURITY NUMBER 313 60 7613		4. DATE OF BIRTH YEAR MONTH DAY 55 FEB 10
5. DEPARTMENT, COMPONENT AND BRANCH OR CLASS USN		6. GRADE, RATE OR RANK RMS		7. PAY GRADE E4	8. DATE OF MARK YEAR MONTH DAY 76 NOV 30
9. SELECTIVE SERVICE NUMBER	10. SELECTIVE SERVICE LOCAL BOARD NUMBER, CITY, STATE AND ZIP CODE		11. HOME OF RECORD AT TIME OF ENTRY INTO ACTIVE SERVICE (Street, RFD, City, State and ZIP Code)		
			LOGANSPORT, INDIANA 46947		
12. TYPE OF SEPARATION RELEASED FROM ACTIVE DUTY AND TRANSFERRED TO NAVAL RESERVE			13. STATION OR INSTALLATION AT WHICH EFFECTED NAVAL COMMUNICATION UNIT WASHDC		
14. AUTHORITY AND REASON			15. EFFECTIVE DATE YEAR MONTH DAY 78 SEP 27	16. REENLISTMENT CODE	
17. CHARACTER OF SERVICE HONORABLE			18. TYPE OF CERTIFICATE ISSUED NA		
19. LAST DUTY ASSIGNMENT AND MAJOR COMMAND NAVAL COMMUNICATION UNIT WASHDC			20. COMMAND TO WHICH TRANSFERRED NAVAL RESERVE PERSONNEL CENTER NEW ORLEANS LA		
21. TERMINAL DATE OF RESERVE/RECALL OBLIGATION YEAR MONTH DAY 80 SEP 27		22. PLACE OF ENTRY INTO CURRENT ACTIVE SERVICE (City, State and ZIP Code) LOGANSPORT, INDIANA		23. DATE ENTERED ACTIVE DUTY THIS PERIOD YEAR MONTH DAY 74 SEP 28	

David's service continued when he joined the Jefferson City, Missouri Fire Department in June 1979. David served as

5. David Hosier's Health Issues

David's overall health began to decline in the mid-1980s. One of David's close friends in Jefferson City was James Smarr, a Jefferson City, Missouri Police Officer. On July 31, 1985, Officer Smarr murdered a man and attempted to kill his former girlfriend before turning the gun on himself. This senseless loss to someone so close to David contributed to a growing depression and stress.

Over the course of the next few months David's mental health began to worsen. David started showing up late to work and missing shifts altogether at the Fire Department. David was approached by his Fire Chief to seek mental health counseling. He agreed to go to therapy, but he did not stick with it and his mental state continued to deteriorate.

David is despondent and depressed

David's mental health condition continued to decline through the first part of 1986. His second wife, Mary, reported that David was despondent and depressed at this time. Their marriage was falling apart.

David's deteriorating mental health problems led to arguments between the couple, culminating in a physical altercation on May 17, 1986. No charges were pursued, but this marked the end of their nearly seven-year marriage. Mary filed for divorce from David and was awarded custody of the couple's two children.

David is Hospitalized for Serious Mental Health Issues

On June 26, 1986, David was admitted to the Biggs Forensic Center of the Fulton State Hospital. David was committed on a 96-hour involuntary court commitment by the Circuit Court of Cole County, Probate Division. The order for the commitment was entered June 25, 1986. On July 7, 1986, the hold was extended to a 21-day involuntary hold after a hearing in Callaway County.

David's initial diagnosis was Major Depression, Single Episode with Psychotic Features. His discharge diagnosis was Major Depression, Recurrent with Psychotic Features and Rule Out Bipolar Disorder Mixed with Psychotic Features.

On June 30, 1986, Dr. Henry Bratkowski, and multiple other providers met with David. Following this meeting, Dr. Bratkowski requested the 21-day commitment. During the evaluation, Dr. Bratkowski discussed David's prior depressive episodes. When David divorced his first wife, he could not cope with the situation. He isolated himself and would listen to tapes he and his first wife made over and over. His mother and sister urged David to get help at the time. He did not, but admitted to Dr. Bratkowski he should have. Dr. Bratkowski identified the psychotic features David experienced including losing control, experiencing rage, becoming angry and dissociating. David's assault on Mary was a time when he lost control of his emotions, only breaking

free from the heightened emotional state when he heard his child crying and the phone ringing.

Dr. Bratkowski felt David's lack of sleep combined with the loss of his father and the loss of his close friend exacerbated his depression. The loss of David's father was a major blow to David, and he still had not recovered from it. Likewise, the loss of James Smarr was likely a source of distress.

David underwent testing at the facility. The hospital also provided individual psychotherapy and started David on 50 mg of Desyrel at bedtime. By the time of his discharge, his behavior improved according to the psychiatrist due to the use of antidepressants and individual psychotherapy. David was discharged on July 24, 1986.

David is jailed following another mental health break

David was arrested and jailed on November 23, 1992, for battering his then girlfriend, Nancy Marshall. David remained in jail until December 28, 1992. David underwent a mental health examination on January 5, 1993, and again on January 22, 1993.

David was remorseful for his conduct and told the doctor that he did not want what happened to Nancy to happen again. David recalled some of his conduct but not other parts. David reported that he had lost 50 pounds in the months leading up to the incident. David expressed an underlying uneasiness about his identity and where he fit in the world. As a result, he was afraid to be open with people for fear he would be

rejected. David was ultimately diagnosed with Dissociative Disorder, NOS.

David pled guilty to assaulting Nancy and was sentenced to eight years imprisonment. David successfully served his imprisonment and was paroled on February 8, 1997. During his period of incarceration, he had only one violation for failing to be awake, dressed, and bunk made for standing count. He successfully completed parole and was formally discharged on July 5, 2000.

David Suffers a Stroke in 2007

Dr. Bruce Harry, a clinical psychiatrist and an Emeritus Associate Professor of Clinical Psychiatry and Forensic Psychiatry at the University of Missouri School of Medicine in Columbia, Missouri, evaluated David and testified at his post-conviction hearing. Dr. Harry concluded:

My medical opinion of David Hosier when I testified at his post-conviction case was that his condition was consistent with depression and mixed-state bipolar disorder as diagnosed at the Fulton State Hospital. I still hold this opinion.

Before David's father's murder, David was functional. Following his father's death, David's behavior changed significantly. David presents to others in a manner that denies the pain and loss he suffered. David's father died when David was at a critical age in his development. This loss thwarted David's ability to develop and maintain intimate

relationships. Depression can present as irritability. David's history of depression is consistent with periods of functioning well followed by periods of instability and essentially falling apart when he meets with an obstacle.

Dr. Harry attributed some of David's depression to a stroke David had in 2007.

In January 2007, David went to the Audrain Medical Center because he suddenly felt weak at work and the symptoms seemed to be most acute on the left side of his body. Testing revealed he had a transient ischemic attack (TIA). A TIA results in the temporary decrease in blood flow and then consequently, oxygen and glucose to a part of the brain. A TIA can lead to a stroke in some, but not all, cases. David's condition improved and he demanded to leave the hospital on the same day. He was told to return for a follow-up MRI.

David returned to the hospital on January 17, 2007, for his MRI. The results of the MRI showed that David had a lacunar infarct, a stroke where a part of the brain dies. This type of stroke increases the likelihood of depression. David's stroke occurred just over two years before the Gilpin murders.

David Hospitalized for Atrial Fibrillation

David's medical issues have intensified recently. On May 8, 2024, David began exhibiting symptoms of illness, including loss of appetite and dizziness. Over the next few days, his symptoms worsened steadily, with soreness and pain developing by May 12. On May 13, David reported to the medical facility at Potosi Correctional Center that he was nauseous, was experiencing increased thirst, and was feeling weak and shaky. He described feeling "like he was beat up with a bat on his back and [was] sore all over." Medical staff noted that David was pale.

The next day David reported again to the medical facility with worsening symptoms and feeling increasingly ill. He reported that he had been able to eat only four crackers and one bite of a sandwich. Dr. Donald L. James, DO recorded that David had a "respiatory [sic] rate of approxmiatly [sic] 20 and a heart rate of 121"² and noted that David had "+1 edema and he looks very uncomfortable." Dr. James wrote that he "suspect[ed] congestive heart failure." Despite Dr. James' working diagnosis and David's deteriorating condition, the medical staff "did not see a need for hospital care." The lab work, x-rays, and EKG Dr. James

² The normal respiratory rate for adults ranges from 12 to 18 breaths per minute. <https://my.clevelandclinic.org/health/article/s/10881-vital-signs>. A normal resting heart rate ranges from 60 to 100 beats per minute. [https://www.mayoclinic.org/healthy-](https://www.mayoclinic.org/healthy-lifestyle/fitness/expert-answers/heart-rate/faq-20057979#:~:text=A%20normal%20resting%20heart%20rate%20for%20adults%20range%20from%2060,function%20and%20bette%20cardiovascular%20fitness)

[lifestyle/fitness/expert-answers/heart-rate/faq-20057979#:~:text=A%20normal%20resting%20heart%20rate%20for%20adults%20range%20from%2060,function%20and%20bette%20cardiovascular%20fitness](https://www.mayoclinic.org/healthy-lifestyle/fitness/expert-answers/heart-rate/faq-20057979#:~:text=A%20normal%20resting%20heart%20rate%20for%20adults%20range%20from%2060,function%20and%20bette%20cardiovascular%20fitness).

ordered were *not* considered to be stat or urgent.

By the next day, May 15, David was seen again at the medical facility, this time experiencing shortness of breath and swelling on his body. A second EKG produced results indicating David's condition had continued to deteriorate, including a respiratory rate of 22 and a heart rate of 138. More alarmingly, the EKG showed "new onset rapid A-Fib," noting that just a week earlier, David had had "a normal sinus rhythm." The same day, David was referred to the emergency room at Mercy Jefferson Hospital in Festus, Missouri.

David was admitted to Mercy Hospital Jefferson in Festus, Missouri. At the time of his admission his heart rate was 130 bpm along with atrial fibrillation with RVR. David was treated at Mercy Hospital Jefferson throughout the next several days and was discharged on Sunday, May 19, 2024.

David was evaluated upon his return to the institution. His vital signs had improved, and he was prescribed medications as recommended by the physicians at Mercy. David's atrial fibrillation is being managed by medications and he continues to be evaluated by the institution.

6. David Hosier is a Worthy Candidate for Clemency.

Executive clemency is an act of mercy and an acknowledgment that the individual offender is worthy of life. An individual demonstrates their worth through their actions before and after the crime. In this case, David's commitment to public service, his institutional adjustment, and his current, ongoing health issues make him an ideal candidate for Governor Parson's mercy.

David would not be here but for the tragic murder of his father in the line of duty.

David was recently evaluated by Dr. Robert Stinson, Forensic Psychologist, to consider the impact of Glen Hosier's line of duty death on David's life and mental health.

Glen Hosier's death was a "seminal event for sure" in David's life.

Dr. Stinson spent more than 7 hours interviewing David and interviewed both of David's older sisters. David's oldest sister, Kay, remarked that their father's death in the line of duty was a "seminal event for sure" in David's life. David's other sister, Barb, remarked that had their father not been killed, this crime would not have happened, and that David would have gone on to have a successful life.

After Dr. Stinson's review of the records and materials, he made the following observations:

For the first 16 years of David's life, he was part of a stable loving home. He idolized his father, Glen, and aspired to be like him. Tragically, Glen was killed in the line of duty. Unlike today, where there is substantial support for families who lose a family member in a line of duty death through organizations like C.O.P.S., David, his mother, and his sisters were left to struggle without the appropriate treatment or support. Had David suffered his loss after 1984, when C.O.P.S. was founded, there would have been support and services to assist David and his family in processing their loss and having a community to fall back on instead of being isolated in their grief.

While in the military, working with the Jefferson City Fire Department, and at various times, David would seem to be on the verge of stabilizing his life. However, inevitably his mental health disorders would limit his ability to cope with adverse situations. David would fall into depression and react disproportionately. At times, he would experience dissociation. This is consistent with someone who suffered trauma at an early age which was not treated appropriately.

Creating a family gives a person a sense of belonging. In David's case, the loss of his father at a significant point in his development created a hole in his immediate family. While David wanted to be a father, the disruption in his development with the waxing and waning of symptoms of mental illness left him impaired in his ability to maintain relationships with his children and, at times, with others.

Kay was correct: her father's line of duty death was a "seminal event for sure" in David's life. Sadly, we'll never know for sure if Barb's assessment was correct: had their dad not been killed in the line of duty, David would have went on to have great success in his life.

David's prison conduct record shows he poses no threat to staff or other offenders.

David spent a significant amount of his time at Potosi Correctional Center in the Honor Dorm having earned this

status as a result of his positive institutional adjustment. David has just four institutional violations since he arrived at the prison in 2013. His last violation occurred in 2023, and despite these minor violations he maintained his honor dorm status and privileges.³

Several members of David's jury recognized the importance of his stroke and resulting brain damage on their deliberations.

David's trial team failed to present key information to the jury that would have resulted in a different outcome. David suffered a stroke in 2007, just two years prior to the crime, and the stroke resulted in lasting brain damage. David's trial team did not highlight this information for the jury and only provided the jurors with a stack of medical records for them to review on their own. Thus, the jurors were forced to comb through the records – if they even chose to – to understand the extent of David's medical history. Counsel knows from speaking with the

³ David's violations occurred on June 8 and 9, 2018, December 29, 2020, and August of 2023. On June 8, he violated rule 18.2 which was being absent from area or out of position. During count, rather than being sitting or standing, David was laying on his bunk listening to music. On June 9, 2018, he violated rule 3.1 because they found a 6" homemade stabbing/slashing device in the mattress in his cell. David maintained that the items was not his. The cellhouse's mattresses were moved out of the cells for maintenance and then returned. David maintains they did not keep track of which mattress came from what cell when they were stacked in the dayroom outside the

cells. The mattresses were returned to cells. On December 29, 2020, he violated rules 20.1 and 21.1. These were disobeying an order and insulting behavior for calling an officer a "Momma's Boy" in an insulting manner. David's final writeup was for violating rule 19.4 for engaging in conduct that interferes with normal operations and a secondary rule violation of 20.1 for failing to comply with a written or verbal order or instruction of any staff member because he "became loud and argumentative with Mental Health staff."

jurors that they were not aware of the brain damage even though it would have made a difference in their deliberations.

Randy Moulton was selected as a juror on David's case and recalled the defense providing the jurors with medical records. He did not recall any of the

David's stroke and resulting brain damage would have been "important to me" and "would have had an impact on my decision."

"jurors going through them." He remarked that there "wasn't anyone to explain them to me or the other jurors." He explained, "Having a doctor testify about the records would have been important to me." Mr. Moulton believed that the brain damage was "something that he couldn't control" and that this information "makes a difference to [him]" in terms of the appropriate sentence.

Marc Oden, another juror, talked about how the decision to recommend a death sentence was the "hardest thing I have done in my life." Mr. Oden said the jury took "many votes" before deciding to recommend death. He also could not understand why the defense team didn't present the brain damage evidence to the jury, because "we would have considered this type of evidence in deciding what sentence to recommend."

Rochelle Clucas was selected to serve on David's jury, and she recalled that the defense provided medical records to the jury, but "the records did not have much to do with Mr. Hosier's sentence." She

said that having an expert medical doctor explain the records to the jury "would have helped me" and "been important to me." She noted that evidence showing David suffered a stroke and had resulting brain damage "would have been important to me in deciding what sentence to recommend."

Christopher Kornberger, a retired police officer, was

selected to serve as a juror on David's case. He recalls the defense did not "make a lot of points for Mr. Hosier." He remembered the defense provided "about an inch of [medical records]." Even though they were provided the records, "We never went through them page by page." Mr. Kornberger stated that had he been aware of David's stroke and resulting brain damage that this information would have been "important to [him]" and "would have had an impact on [his] decision."

These statements from several jury members make clear that they struggled with the decision of what sentence to impose with several members initially opposed and requiring many votes to ultimately reach a decision. Importantly, their decision would have been impacted had they been informed by David's defense team that David suffered from a stroke and had brain damage that affected his overall health.

Prosecutors were willing to accept a sentence of life imprisonment.

The prosecutors most familiar with the facts and circumstances of David's case made the decision to offer David a plea offer to life imprisonment. The offer was made prior to the trial but only provided David with less than a week to make a decision.

David had a poor relationship with his trial team by the time the case proceeded to trial. He did not feel as though he was being heard in terms of strategy. By the time the plea offer was conveyed to him, just before trial, he lacked the trust in his counsel to seriously consider the offer. Irrespective of David's issues, the prosecutor's offer is an important window into what they believed was an appropriate punishment for the crime. Life imprisonment was then – and is now – the appropriate result for this case.

David's deteriorating health condition supports his request for clemency.

David is a 69-year-old man suffering from a deteriorating health situation. David's health was relatively stable until recently. David walked with the aid of a cane but did not have any long-term debilitating conditions. This changed just a couple of weeks ago.

David began experiencing atrial fibrillation on May 8, 2024. His condition worsened to the point that he required hospitalization. David was diagnosed with atrial fibrillation with PVR, necessitating that he continue to take

medications to control his heart rhythm and to reduce fluid build-up in his legs. David now relies on a wheelchair to get around, as he is not stable enough to walk without assistance.

David's health condition further emphasizes the need for mercy in this case. David poses no threat to anyone else and executing an elderly man with heart failure does nothing to further the interests of justice.