**Facts for David’s Clemency Case**

***Offense***

* In August 2004, David agreed to go out of town with his best friend (and later co-defendant), along with their respective significant others, to purchase heroine.
* David and the two women the stayed in the vehicle while the co-defendant went into the supplier’s house to make the purchase.
* Note: By the date in question, law enforcement was aware of the co-defendant’s activities, who was in fact being observed as he purchased the parcel of crack cocaine.
* Suspecting he was being followed, the co-defendant threw the package of crack cocaine out of the moving car’s window into the underbrush alongside the freeway.
* After falsely assuming that he was no longer being watched, the co-defendant shortly drove back to the same point on the freeway to look for the package.
* David and the co-defendant both exited the vehicle and at that time, law enforcement officers revealed themselves, and arrested the car’s passengers.

***Clemency Considerations***

* David would face a substantially lower sentence if convicted of same offense(s) today
  + Prosecutorial policy for § 851 sentencing enhancement guidelines have fundamentally changed since 2005 conviction.
    - He was not an organizer, leader, manager, or supervisor of others within a criminal organization.
    - He was not involved in the use or threat of violence in connection with the offense.
    - His criminal history includes no prior convictions for serious offenses or violent crimes.
    - He has no ties, significant or otherwise, to large-scale drug -trafficking organizations, gangs, or cartels.
    - The filing of § 851 enhancements against David created a gross sentencing disparity with his more culpable codefendant.
    - His motivation to become involved in the drug trade was not greed, but physical dependence on opiates.
  + David’s sentence would be lower today under the current U.S. sentencing guidelines.
  + David would face a statutory range of 0 to 20 years.
  + David would likely receive a Booker Variance.
  + David would likely receive a Minor-Role Reduction.
* David is a non-violent, low-level offender with no significant ties to large-scale criminal organizations, gangs, or cartels.
* David served at least 10 years in prison.
* David had no significant criminal history.

***Education***

* While incarcerate, he received a GED on July 9, 2005.
* He has used that degree in to take college classes.
* He has excelled in classes and training regarding food management and cleaning, which would be excellent choices in his post-incarceration career.

***Emotional Growth***

* Since the underlying charge stems from a drug addiction, David understands that he will always be a recovering drug addict.
* Immediately upon his release, he will enter and maintain, treatment for his illness.

***Leadership Skills***

* Actively engaged in prison work programs, acting as a supervisor and leader
* Manages the Prison supply closet and helps in other work placements as well.
* Consistently scored ranking of “Good” and “Outstanding” in the work history sections of his progress reports.

***Low Number of Infractions***

* Only one infraction during the entirety of his incarceration for having a cup of alcohol (i.e., “prison wine”) under his bunk.
* No infractions or subsequent criminal charges for violence or drug-related offenses

***Re-entry Plan***

* David has a substantial support system within his family.
* Upon his release, he will reside with his first cousin at her house.
* He will maintain the close connections he has with the rest of his family, including his children.
* He has strong knowledge of how to access public transportation which will be helpful to seek and maintain employment.
* He knows how to maintain bank accounts and has developed healthy spending habits to live within his means and save for the future of himself and his family.
* A childhood friend has reached out to multiple contacts in various fields such as personal fitness training, landscaping, and house cleaning, and confirmed there were many interested employers that would offer David a job despite his criminal background.

***Family Background***

* David father passed away from natural causes when David was twelve years old, and from that time on he was raised by his mother and grandmother alone
* In his early 20s, David began using heroin, and developed an addiction.
* To fuel his addiction, he began selling small quantities of cocaine base (crack cocaine), either trading it directly for heroin for his personal use, or selling it for small amounts of money that he would put toward heroin.
* In 1993, he was convicted of four counts of Distribution of Cocaine, and one count of Possession with Intent to Distribute Cocaine. (All of the sales that David was convicted of involved only 0.5 to 2.0 grams of crack cocaine, with the total amount implicated in the case coming to less than 10 grams.)
* In 1996, David’s mother Debbie was injured in a car accident, leading to a moderate brain injury that required recuperation. This brain injury was later reagitated, causing severe cognitive issues and a loss in short term memory ability.
* In 1997, he was convicted of Possession of Cocaine and Possession of Heroin, both in minor amounts.
* After his 1997 conviction and subsequent jail time, David stayed out of criminal activity for over 7 years and slowly curbed his heroin addiction.