

PAUL TERRENCE GOODWIN

Summary of Standardized Test Results (2001 - 2014)

INTELLIGENCE AND LANGUAGE DEVELOPMENT:

Stanford-Binet Scale of Intelligence – IV (2001)

Composite Intelligence Score – 67 (1st percent)

Peabody Picture Vocabulary Tests- 4th Ed. (PPVT-4)

Standard Score – 79 (95% Confidence = 72-87)

8th %

Age Eq: 13 yrs. 9 mo.

ACADEMIC ACHIEVEMENT:

Woodcock-Johnson Achievement (2001)

	Standard Score	Age Equivalent	Grade Equivalent
Broad Reading -	78	11 – 2	5.1
Passage Comprehension	77	10 – 9	4.8
Broad Math -	71	8 – 4	2.8
Written Language -	77	10 – 11	4.7
Total Achievement	75	10 – 7	4.6

Wide-Range Achievement Test 4 (2014)

	Blue	SS	%	GE	Green	SS	%	GE
Word Reading		79	8	6.4		80	9	6.5
Sentence Composite		74	4	6.5		74	4	6.5
Spelling		82	12	6.7		77	6	6.3
Math Computation		63	1	2.7		73	3	4.0
Reading Composite		74	4	6.4		75	5	6.6

ADAPTIVE BEHAVIOR:

Adaptive Behavior Assessment System (ABAS-II)

Respondent	Conceptual	Social	Practical	GAC
Joe Goodwin (brother)	59	68	53	53
Mary Mifflin (sister)	65	68	69	59
Brenda Goodwin (sister)	63	66	65	57
David Barnett (friend)	65	79	72	62
Ronald Wright (friend)	61	66	61	55
Daniel Porter (friend)	63	70	63	57
Charles Armentrout (friend)	63	68	72	59
Paul Goodwin (self)	65	66	65	62

Independent Living Scale (ILS, 1996)

Subscale	t-score	Factor	t-score
Memory Orientation	36	Problem Solving	25
Managing Money	32	Performance/Information	37
Home & Transportation	39		
Health & Safety	28		
Social Adjustment	22		
FULL SCALE STANDARD SCORE			
<u>63</u>			

VALIDITY VERIFICATION: Test of Memory Malingering (TOMM, 1996)

TRIAL ONE - 43 TRIAL TWO – 50 Test results indicate valid efforts.

REPORT ON FINDINGS OF MENTAL RETARDATION

Name: **Paul Terrence Goodwin**
DOB: **November 12, 1966**
Age: **48 years – 1 month**
Report Date: **December 3, 2014**

Residing: **Potosi Correctional Institution**
Crime / Sentence: **Capital Murder - Death**
Attorneys: **Jennifer Herndon, Mike Gorla**
Dates Active: **2001 – 2003 and Fall, 2014**

A Rationale for this Report

Paul Terrence Goodwin has lived on Death Row at Potosi Correctional Institution in Potosi, Missouri for almost seventeen years. The current crime was committed in March, 1998, only a few months after Paul, at 32 years of age, had lost the only woman he ever loved. Given the facts of Paul's significantly impaired intelligence, ineffective education (in public schools limited to teaching students in special education only), serious and lifelong adaptive skill deficits, personal history of substance abuse and prior problems with ineffective assistance of counsel, Paul's current attorneys felt a re-evaluation of his functioning could still be decisive to actual findings of fact toward a true diagnosis, and for a fair disposition of his case.

This Clemency Appeal report has been prepared by Denis William Keyes, Professor of Special Education in the Department of Teacher Education at the College of Charleston, in South Carolina. After starting his career as a teacher's assistant in 1974, Dr. Keyes completed his Bachelor's degree in Special Education from the Ohio University in 1979. He also holds a Master of Education in Special Education, a Master of Science and an Educational Specialist degree in School Psychology from Miami University, Oxford, Ohio. Dr. Keyes received his Doctor of Philosophy in Special Education from the University of New Mexico in May, 1992, having studied the impact of mental retardation in criminal offenders, particularly death row inmates, under Professor Ruth Luckasson, J.D.

Dr. Keyes has been actively involved in the field of educating people with mental retardation since 1974, and was a classroom teacher of young adults with mental retardation from 1979 to 1984. He has been certified as a school psychologist since 1988 in Ohio, later in New Mexico and South Carolina, and is Nationally Certified (through the National Association of School Psychologists) since 1989. Dr. Keyes has also been a Diplomate of the American Board of Forensic Examiners since 1993. Dr. Keyes is honored to be a member of the Board of Directors and a Fellow of the American Association on Intellectual Developmental Disabilities (formerly the American Association on Mental Retardation). For the reader's ease of understanding, this report will continue to use the term "mental retardation," however, it is important to note that the proper terminology, as of 2008, is '*intellectual developmental disability*.'

Dr. Keyes has consulted for numerous legal protection and advocacy agencies (particularly in the areas of mental retardation, special education and the criminal justice system), and has testified as an expert witness in criminal justice suits in numerous state and federal courts. Since 1988, Dr. Keyes has been active in cases involving the death penalty and offenders with mental retardation.

In his research, Dr. Keyes has published several articles in the field of mental retardation, most of which have dealt with legal issues, particularly Death Row cases and mental retardation. In

June, 2002, a research article on which Dr. Keyes was lead author was cited by the United States Supreme Court in the majority opinion for Atkins v. Virginia (see: 536 U.S. 304 [2002] footnote 20). It is important to note that, while Dr. Keyes is not strongly against the imposition of the death penalty personally, morally, or philosophically, he is vehemently opposed to the execution of people who have mental disabilities, particularly those who are mentally retarded, or who are dually diagnosed as mentally ill and mentally retarded, and fully supports the Atkins decision.

Mental Retardation and Capital Punishment

It is not an exaggeration to say that the judicial execution of individuals with mental retardation is cruel and inhumane punishment. This was the majority finding of the United States Supreme Court in the 2002 case of *Atkins v. Virginia* (536 US 304). Since 1988, this evaluator has been actively involved in more than 75 criminal (mostly capital) cases involving offenders suspected of having mental disabilities, and with Paul Goodwin's case since 2001. He has turned down more than half the cases he is approached to work on when historical documentation (school records, psychological records, medical records) does not support further investigation. Nevertheless, it is also not an exaggeration to say that this is the single case that has caused this evaluator more desperate concern than any other case over the past 26 years. The reasons for this are numerous, but primarily, it is Dr. Keyes' belief that Paul Goodwin's mental retardation claim was never presented in the original trial, that the case was very poorly presented in appeal, and that the Court was unable to make a fully informed decision because of Paul's poor legal representation. As stated, over the past 26 years, this expert has never seen such a poorly presented case on appeal.

Under ordinary circumstances, the functioning level of an adult individual with mental retardation should not be compared to the functioning level of a child, since this may be seen as demeaning and degrading to the person's experiences and dignity. However, there are certain circumstances where it is the only way to convey the level of understanding that one has for abstract concepts, particularly the concept of death. Research supports the idea that even the concept of permanence, such as the permanent nature of death, is not fully comprehended by children until approximately ages 9 to 11. Piaget took this work one step further in developing his stage theory of development, where he suggested that human children do not even begin to understand abstract concepts prior to age 12. The findings to be presented in this report will illustrate to the reader that, in certain areas, Paul Terrence Goodwin has a lack of capacity to understand the *abstract* nature of almost anything.

Section 552.060 of the Missouri Revised Code provides that the State may not execute any prisoner who "...lacks capacity to understand the nature and purpose of the punishment about to be imposed upon him or matters in extenuation, arguments for executive clemency or reasons why the sentence should not be carried out." (Mo. Rev. Stat. § 552.060.1). Thus, the actual requirement, as presented above in the Missouri State Statute, is that the condemned prisoner must clearly understand something that is extremely abstract in its very nature. As such, Paul Goodwin is simply incapable of this level of understanding in *anything* abstract, much rather the judicial imposition of his own death.

Additionally, Piagetian Theory strongly suggests that the onset of abstract reasoning occurs at or about the beginning of adolescence, usually estimated to be age 12 or 13, so if one estimates Paul's understanding level at about age 13, to suggest he has the capacity to fully understand concepts such as "matters of extenuation" to the extent of suffering the ultimate punishment would

be facetious, at best. Thus, as the U.S. Supreme Court rightly noted in their decision, the execution of individuals who, essentially, understand and view the world more like children than adults, is cruel and inhumane punishment, and is unconstitutional.

To fully understand the rationale for this clemency appeal from a disability perspective, it is necessary to grasp the background history of Paul Terrence Goodwin. The following information was developed as part of this evaluator's original report in 2002, and he strongly maintains that it is every bit as crucial and relevant today as it was then. It is clear that, given the general consistency of Paul Goodwin's intelligence test results over time, and the remarkable consistency of numerous respondents, both in 2001 and now, to the measure of Paul's adaptive abilities, and the precautions made to ensure the validity of Paul's effort, this was and still is a case of mental retardation.

Background Information

Background information for this evaluation has been gathered from several sources. Initial documentation was obtained in 2001 from Paul's attorney at the time, Ms. Loyce Hamilton, and more particularly from the PD investigator assigned to the case, Mrs. Kathy Foster, who also supplied the examiner with statements from the examinee's family and acquaintances, records (medical, psychological and educational) from Paul's past, as well as transcripts from his trial. Finally, since starting on this case over 13 years ago, this examiner spent over 24 hours personally interviewing numerous individuals with extensive knowledge of Paul Goodwin's past and present functioning.

In order to understand the impact of Paul's intellectual and adaptive deficits on his overall functioning, a thorough awareness of Paul Goodwin's social history is essential. Paul's father, Dan Goodwin, along with his brother, Jim Goodwin, took over the family company, Goodwin Brothers Printing, after his father's death. The younger Goodwin brothers had joined the company at the bottom of the employment ladder and worked their way up to management. The company was solvent and lucrative for many years, and Paul's father earned enough to bring up his family in comfort.

Described by virtually everyone interviewed by this examiner as a "loner" who tended to be "nicer to strangers than he ever was to his own family," Paul's father was a perfectionist who would not tolerate anything less than perfection in his children. Descriptions of his erratic behavior included month-long periods of homebound drinking and smoking cigarettes, violent outbursts and binge-spending on various, short-lived hobbies, including motorcycles, guns, hunting, and just prior to his death, model trains. Symptoms such as these strongly suggest that Mr. Goodwin might have suffered from severe bipolar mood disorder. Though his daughters described him as "sometimes warm," both his sons felt that their father was a hard man who made their lives miserable; nothing either of them ever did was good enough. In fact, Mr. Goodwin's nickname for his son Paul was "Moron."

Paul's mother, Mary Elaine Meiners Goodwin, known as Elaine, was the youngest of seven children, whose parents had emigrated from Germany and were a very closely-knit family. Paul's parents, Dan Goodwin and Elaine Meiners Goodwin, met while they were in high school at Saint Ann's in Normandy, Missouri. By the time Dan and Elaine married in 1960, Dan worked as a pressman at his father's business. The Goodwins had five children in five years (1 son, Joe, born in 1961, and three daughters, Mary, Kathleen & Brenda, born in 1962, 1964, and 1965, respectively). Paul Terrance Goodwin, their youngest child, was born on November 12, 1966. Four of these five offspring are congenitally hearing-impaired, and Paul is the most severely afflicted of these. It is

estimated that Paul is only capable of understanding approximately one-third of the information he receives.

Paul's mother, Elaine, had been an outgoing and sociable person prior to marrying Dan. Dorothy Seiter described the Meiners family as very fun loving and sociable people. However, after their marriage, Elaine became nearly as reclusive as her husband, and he was the 'ruler' of the Goodwin household. For example, Elaine was not allowed to answer the telephone. In the forty years since Elaine married Dan, Dorothy has spoken to her sister on the telephone only once. Dan always answered the phone and told Dorothy that Elaine was busy. Elaine never returned the calls.

Members of the Meiners' family portrayed Paul's father, Dan, as a "spook," a "jerk," a "horse's ass," and a "social zero." Virtually everyone agreed that he was simply not a likeable person. Elaine's siblings, Joe Meiners and Dorothy Seiter, depicted him as "...very remote and withdrawn." Dan stayed at home and seldom went to work. On the rare occasions when he did leave the house, he drank excessively and his personality completely changed, becoming talkative, loud and obnoxious. If a bottle of liquor was available, Dan drank until it was empty. In interviews, the Goodwin children indicated that each night Mr. Goodwin got drunk there would be an uproar.

The Meiners were heavily involved with their extended family, and frequently held family gatherings. They attended weddings, parties, and other activities. The Goodwins were always invited, but seldom showed. They never responded to invitations and never sent gifts to couples being married. Although Dan chose not to socialize with the Meiners at their family functions, he often showed up unexpectedly at one of Elaine's brother's homes late at night, searching for a drinking partner. Bob Meiners recalled late one Christmas Eve, when he was assembling a toy train set when Dan showed up, entered the house and asked Bob for a drink. Bob fixed the two of them a Scotch and brought the bottle into the living room. Dan began putting the train together. At some point, Bob excused himself and went to bed. At 3:00 a.m., Dan came into the bedroom, woke Bob up and told him to come downstairs and look at the train. Bob tried to discourage Dan and told him that he needed to sleep. Dan refused to leave. Eventually, Bob capitulated and went downstairs to see the train. While downstairs, he noticed that the bottle of Scotch was empty.

Dan was described as "obsessive" when he found an interest or hobby. Whether it was motorcycles, photography, or trains, he became completely immersed. He spent large sums of money on these projects, paid little attention to anything else – sometimes for months - and then dropped it as quickly as he had taken it up. Jim Goodwin corroborated these periods; when Dan had an interest, he never worked, spent far more money than he could afford, and neglected his family even more so than usual. The family business suffered as well. Because Dan was Jim's brother and had a family to support, Jim continued to pay Dan a salary, although he rarely, if ever, earned it. Jim stated that he believed that Dan's children should not have to suffer financially because of their father's irresponsibility.

Jim Goodwin also described his brother, Dan, as a headstrong man who would not listen to advice. He had ideas of how things should be done and no one could change his mind. Dan often had serious money problems, but would not listen to the advice of the company auditors. He failed to file an income tax return for several years until the federal government threatened to put him in jail. Barely escaping jail, the family business bailed Dan out by paying his back taxes, fines and penalties.

The company also bailed Dan out when he fathered an illegitimate child, Daniel Thomas Miller, in 1970. Daniel's mother, Nancy Miller, was a bartender at the Marriot Hotel. After Daniel's

birth, Dan failed to live up to his financial responsibilities. He paid little, if any, support for Daniel. Nancy Miller eventually sued him to recover child support arrearages covering seventeen years. The company paid Dan's child support obligations until his son turned twenty-one in 1991. They never withheld any funds from Dan's paychecks to recover this expenditure. Family members agree that Dan was very strict, and often mean, to his children, *particularly* his sons. According to several of Elaine's siblings, Dan treated Paul in the cruelest and most demeaning way. Paul's intellectual and social deficits embarrassed his father, and he never accepted the fact that his youngest son, Paul, was significantly disabled. However, this did not stop him from calling Paul a "moron" or a "punk" in front of other family members.

Paul's cousin, Eileen Cervantes, recalls her Uncle Dan calling Paul "dumb" in front of the other children. When she was a child, Dan frightened her because he was so menacing and unkind to his own children. Throughout his lifetime, Dan often looked at Paul, his youngest child, with undisguised disgust. Another cousin on Paul's mother's side, Gussie Klorer, was also afraid of Dan when she was a teenager and would babysit the Goodwin children. Dan was very aggressive toward his entire family. Elaine, on the other hand, was very passive with Dan, and very loving toward her children. Ms. Klorer recalled an incident in which Dan was home when she arrived to babysit. He was angry at his older son, Joe. Dan entered Joe's bedroom and closed the door. Although Ms. Klorer could not hear what was being said behind closed doors, the look on Mary, Kathleen, and Brenda's faces said it all. They were afraid.

Bob Meiners considered that Dan frightened Elaine as well as the children. Dan often berated his wife for no apparent reason. When they were first married and living in a small apartment in St. Louis, Elaine bought the wrong kind of coffee and Dan angrily threw it into the trash. On another occasion, after they had moved to Elaine's late parents' home in Bellerive Acres, Dan stopped the car he was driving and emptied automobile ashtray out of the car window. He was drunk and dropped the ashtray on the ground. He forced Elaine to get out and pick it up. When she did, he drove away without her. She walked home alone in the dark. Such behavior is not atypical for individuals suffering from bipolar mood disorder (specifically Type II).

Another cousin, Elaine Cervantes, observed Dan repeatedly insult Elaine or making inappropriate, off-color remarks to her in front of others. Elaine always giggled or laughed it off and pretended there was nothing wrong. She appeared embarrassed, but never stood up for herself. Elaine's brother, Dr. Paul Meiners, observed that Dan appeared to "have little use for his younger son, Paul. Dan was intolerant of anything Paul said or did." Jim Goodwin, Dan's older brother, admitted that Dan was not a good father and felt that Dan should never have had children. Although Jim rarely visited Dan's home, he later observed Dan's interactions with his children at Goodwin Brothers Printing. Jim often witnessed violent verbal altercations between Dan and his oldest daughter, Mary. When Paul was working for the company, Jim observed frequent arguments between them. Dan treated Paul with "disgust," called him demeaning and degrading names and cursed at him regularly. As previously stated, nothing Dan's children did was ever good enough to suit him.

The Goodwin family was very private and secretive. They never shared details of their lives with extended family members. When Paul was arrested for the crime that brought him to Death Row, extended family members learned of his arrest by reading it in the newspaper or seeing it on the television news. Many family members tried to reach Elaine, but Dan would not let anyone talk to her, and refused to discuss the matter with anyone.

Dan Goodwin's daughters judged him more kindly than his sons and the extended family members. Mary Mifflin, Paul's oldest sister, thinks that both of her brothers disappointed Dan. He had a lot of pride in his family's business and wanted to leave the business to his sons when he died. He thought that neither son was competent enough to run the business. As a result, he suffered from depression. She recognized that he drank a lot and that he was hard on both of his sons, but did not consider him a bad person. He was a strict disciplinarian and always had to be right. Mary considered her father to be very intelligent, although he had only a limited education. She acknowledged that her father treated her brother Paul very badly and admitted that he frequently called Paul demeaning and demoralizing names. Mary rationalizes that her father was unable to deal with subjects that embarrassed him: Paul was at the top of that list.

Dan and Elaine's second daughter, Kathleen Goodwin, admitted that her father treated his daughters differently than his sons. The girls excelled in school and rejected drug use. Dan bought the girls horses and thought they could do no wrong. Though Dan berated Paul and Joe for every mistake they made, and frequently ejected Paul from the home, he remained supportive of Brenda when she became pregnant while still in high school.

Brenda Goodwin Thomas admitted that her father was constantly disciplining and criticizing her brother, Paul. When it came to Paul, conflicts erupted constantly. Dan was consistently harsh toward Paul, while Elaine was soft and even helpful toward Paul. Even after Paul became an adult, Elaine continued to help him, providing him with food and money, helping him find jobs (even completing the applications for him), and driving him to and from work to ensure timely arrival. Dan repeatedly scolded Elaine for pampering Paul. Dan naively believed that hard work and tough love would make Paul stronger and more independent. Had Paul been a normal, functioning individual, it might have.

All three sisters agree that Paul and Joe both disappointed their demanding father. During the time that both Joe and Paul worked at Goodwin Brothers, their father never complimented them on anything they did. It was a constant struggle for both of them to deal with a father who had so little faith or interest in them. Joe's recollections of his father are much harsher than those of his sisters. He admitted that Dan was the king of the castle and whenever he spoke, everyone listened or paid the consequences. Dan frightened everyone in the family, including Elaine. Joe recalled that Dan and Elaine fought all the time when the children were small. Dan was mean to her and mean to the children. However, it should be noted that there appeared to be very few incidents of physical violence in the home.

While Dan treated both of his sons harshly, he was roughest on Paul. Dan constantly told Paul, "You should be normal. Why can't you be normal?" He expected Paul to be a normal kid, even though it was clear to everyone that Paul was incapable of fulfilling those expectations. Dan and Paul never got along and never really communicated. Paul would be told what to do, and no matter how hard Paul tried, Dan was never satisfied. This was true for most of Dan's interactions with most of his children. Joe and Paul's enmeshed relationships with their father made childhood and adolescence very difficult for both of them. Joe had significant learning difficulties and struggled throughout his school years, but could only manage to be a "C" student. His father thought that he could do better and berated him, telling him that he was not paying attention or not trying hard enough. Like Paul, Joe could also never please his father.

Joe believes that his father never wanted to get close to his sons. Because Dan did not go to work for long periods of time, he was always around the house, during which times Paul and Joe

found no escape from their father's constant criticism. Dan, a mean-spirited drunk, targeted Paul and Joe as objects of his disdain. Because of Dan's criticism, Paul grew up with a distorted self-view, a very limited vision of his own value and self-worth. While Paul wanted and needed his father's acceptance, Joe only wanted his own space and independence. Paul, hearing and language impaired and clearly intellectually stunted, was nothing but a burden to his father, a constant reminder of his own failings.

As previously stated, financial burdens plagued Dan and Elaine Goodwin. Like his own father, who died owing the federal government over \$200,000.00, Dan got into financial problems, owing large sums of money to the Internal Revenue Service. On one occasion, the family was so broke that they could not afford to pay their household bills. As a result, the electricity was disconnected. The fact was that the Goodwin family was dysfunctional, they never celebrated birthdays, anniversaries or holidays like other families did, even their own cousins. Dan never took his sons anywhere with him and seemed only to spend time in the same place because of his reclusive nature. For months at a time, Dan rarely left the house, even to go to work.

When asked, Paul could not recall any time in his life when he interacted with his father in any father-son type of activity. They were almost always in conflict; Dan was always angry at Paul and felt that Paul just could not do anything right. Dan did not approve of anything Paul did or of any of his friends. Paul believes that his father did not love him because he was not "perfect," like he viewed his siblings. Paul's brother and sisters attended private schools. Because Paul was not smart enough, he had to go to public school, and to "the special school district." Paul felt that he had no father, even telling his Uncle Joe Meiners on occasion, "I wish you were my father."

From the time of Paul's infancy, family members noticed that there was something different about him. Elaine noticed that Paul did not walk and talk as quickly as her other children. Paul's maternal first cousin, Nancy McCabe, babysat Paul when he was an infant. Because Nancy was the second oldest in a family of twelve children, she was accustomed to taking care of infants. Nancy observed that Paul rolled back and forth in his crib very quickly, "like a monkey." She had never seen a child rolling in this manner before, and she dubbed Paul, "Roly-Poly," because of this behavior. The name stuck and several cousins still refer to him this way.

Always an active child, Elaine found it difficult to keep track of Paul and prevent him from wandering away from their home and yard. When Paul was five years-old, she began locking the doors to keep him inside. Eventually, she let him out to play in the yard and he would inevitably walk away from the property, wander around the neighborhood, often into other people's homes. On many occasions, Elaine received telephone calls from her neighbors, advising her that Paul had entered their homes unannounced.

From the time he was a child until well into adulthood, Paul would climb on the roof of the family home when he was upset or frustrated. The house, which Dan and Elaine eventually purchased from Elaine's parents' estate, always had loose gutters because Paul climbed them so often to get on the roof. Any time there was any conflict in the family, or Paul and his father had an argument, Paul could be found sitting on the roof of the house and staring into space. On one occasion, an elderly babysitter could not find Paul and eventually received a telephone call from a neighbor advising that Paul was playing Frisbee on the roof of the home. On another occasion, Elaine was notified that Paul was on the roof... naked.

On the ground, however, Paul appeared to be very accident-prone. He loved to ride his bicycle, but frequently attempted stunts that resulted in accidents and injuries. On one occasion, he

tried to maneuver his bicycle up a large ramp. The bike flipped over, Paul tumbled off and down the ramp and hit his head on the concrete. A neighbor reported that he was unconscious for several minutes. By the time Elaine got to the scene, Paul was up and walking around. Despite being injured in his head, his mother did not seek medical assistance for him. Elaine also recalled an injury when Paul was approximately two years-old. She and Paul were standing in front of their home when he began to cry very hard, and without notice, he passed out and hit his head on the sidewalk. When Paul was older, he was riding standing up in the back of a pickup truck and failed to duck to avoid hitting a concrete bridge abutment. He was knocked unconscious and, again, could not be roused for several minutes.

Despite Paul's high level of physical activity in his childhood, he was generally considered a quiet child when around other people. At family gatherings at the Meiner's home, all his relatives noticed that Paul was quiet and tended to prefer playing by himself. Although there were always numerous sports, games and other activities going on, Paul tended to remain alone and not participate in group activities. Paul's cousin, Paul Meiners, Jr., observed that everyone recruited Paul to join in these activities, but that Paul "...couldn't remember what team he was on." Often, Paul would quit the games in frustration. On other occasions, he could not remember the rules of the game and had to be frequently reminded how to play. Even with repeated instruction, Paul never comprehended the rules.

Paul Meiners also remembered that Paul was once included in a game of hide-and-seek. Paul was unable to understand the purpose of the game, so he would never hide with the rest of the children, but would remain close to the counter in order to be the first player discovered, which he thought meant that he was the winner. Often, his sister, Mary, would have to go get Paul and teach him how to hide. Another of Paul's cousins, Jean McCarty, recalled that every time she saw Paul at the family home, he was jumping up and down on one of the two trampolines in the back yard. Jean never saw Paul attempt any flips or other tricks. He simply jumped straight up and down for hours at a time, oblivious to his surroundings.

Another cousin, Patricia (Gussie) Klorer often babysat for the Goodwin children. She specifically recalled an occasion when Paul was five or six years-old. Paul and another child were playing outside, while Ms. Klorer and the rest of the children were in the house. She observed Paul enter the house, push a chair up to the kitchen cabinet, remove a dinner plate, run water in the plate, jump down from the chair, and run outside with the plate. Paul did this on two or three occasions before Ms. Klorer went outside to investigate. She was astonished to discover that a section of the lawn was on fire, and that apparently Paul had attempted to use plates of water trying to extinguish the fire. She did not ask him why he had not tried to use a glass or a bowl. Instead, she immediately used a nearby garden hose to put the fire out.

Although Paul did not frequently participate in group activities with his Meiners cousins, they all remember Paul as a happy, pleasant child who was always smiling. He seldom communicated or engaged in conversation with any of them. Jean McCarty never heard Paul speak when he was a child. Paul Meiners, Jr. believed that Paul was incapable of conversing and engaging in a normal conversation with others. When he saw Paul, the only conversation consisted of Paul saying "high five," or answering questions with a "yes" or "no." Even after Paul became an adult, his conversational abilities improved little. His answers were usually put forth in phrases, childlike and very often inappropriate.

Paul's maternal uncle, Dr. Paul Meiners, found it very difficult to tell how much of what he said was actually "getting through" to Paul. Often his answers seemed to have nothing to do with the

questions. One of Dr. Meiners' sons has Down's Syndrome. Eventually, he found his son a placement outside the family home. Dr. Meiners suggested to Dan and Elaine on numerous occasions during Paul's adolescence that they should seek a placement for Paul in a group home or other facility where he could interact with peers with "similar disabilities." Dan repeatedly rejected this suggestion, wanting instead to enroll Paul in military school, indicating that Dan thought that all Paul really needed was discipline.

Paul's maternal uncle, Joe Meiners, lived down the street from Paul's family when Paul was five or six years old. Paul is Joe's favorite nephew. He described that he and family members just took it for granted that Paul was mentally retarded. Although there was never a lot of discussion about the subject, they recognized early on that Paul was not like the rest of the children. His learning and social skills improved little over time and the more capable children could easily lead Paul to do what they wanted. Children quickly learned that Paul could be manipulated into doing whatever they wanted him to do. As Paul grew older, this manipulation increased. Paul attracted new "friends," at least when he had money or when they needed someone strong. Because of Paul's large size and low intelligence, these "friends" knew that they could easily lead him on.

Ray Dickerson had known Paul since Ray was eight years-old. When they first met, Ray looked up to Paul because he was bigger and older and had a nice bicycle. He recognized, however, that many of the other kids teased Paul because they knew that he was slow. They took his bicycle away from him and pushed it down the hill because they knew Paul would not fight with them. They often called him derogatory names. Neighborhood children who were not overtly mean to Paul often manipulated him for what they could get. When Paul had money, he shared it with anyone. He did not know how to say "no." Whenever the other children suggested to Paul that they go to McDonald's, he always went, although he knew he would have to pay.

From the time Paul was in kindergarten, he did not function well at school. His kindergarten teacher advised Elaine that Paul just sat in the classroom and did not participate with the other children. She suggested that Paul be evaluated by the Special School District. During the first months of the first grade, that evaluation took place. In December, 1973, the Special School District found that Paul was significantly hearing-impaired and suspected that he was mentally retarded. After the evaluation, he was transferred to the Special School District and stayed in that program throughout his academic years. Despite being in the Special School District, Paul failed to progress academically.

Paul had difficulty learning, and fearing ridicule, did not participate much. Records and subsequent interviews indicated that he had serious problems in communication, attention span, motivation, self-concept and knowledge retention. When Paul was eleven years-old, he had difficulty with rote memory tasks, frequently misunderstood directions, required much individual attention, confused word meanings, frequently answered inappropriately, misprinted words, usually spoke in single words, confused word order, frequently used incorrect grammar, and seldom volunteered verbal responses. He appeared to be absent of a well-developed self-concept and believed he could not function with the skills he possessed. Paul could not understand interrogatories, such as what, where, why and when.

A psychological evaluation conducted by Dr. Marilyn Lamb indicated that Paul had a poor self-concept and appeared depressed, was very passive and dependent, lethargic and poorly motivated to either cooperate or succeed. He lost confidence quite easily in the face of even minor frustrations. Paul suffers from a serious language deficit. He was unable to learn spontaneously

from the environment, was extremely concrete in his thoughts, and both his auditory and visual short-term memory were poor, as well as his ability to receive both auditory and visual information. Paul never seemed to complete his thoughts, and was unable to make the finer distinctions that he needed to make in order to succeed in learning.

In May, 1980, when Paul was 13 years old, his full-scale IQ was estimated to be 72, and his verbal skills were found to be well within the "mental defective" range. His classroom behavior was very immature and included making noises at his desk and making faces at his peers. Much of the psychological, educational and developmental testing indicated that Paul's skills were at the age equivalent of seven years-old. It should be mentioned that Paul was retained three times during elementary school, approaching 16 years old in the eighth grade.

At age 16, Paul was attending the Wertz Vocational School. Though his Performance IQ had increased slightly, his Verbal IQ remained within the "mentally defective" range. In the area of language, testing showed him to be within the 4 to 7 year range. On the *Test of Language Development*, Paul scored a mental age score of 4 years on both sentence imitation and grammatic completion. His math skills were found to be at the 3.6 grade equivalence. Results of Paul's language testing revealed significant deficits in concept formation, vocabulary, grammatic understanding and usage, and auditory memory. His overall expressive skills were consistently below expectations, even after his hearing loss was taken into consideration. Visual perception testing revealed significant deficits in both discrimination and memory with numerous transpositions and reversals noted. Academically, Paul's reading skills were at a fourth to fifth grade level, while his math was weaker at mid-third grade. An investigation of Paul's adaptive behavior skills at age 16 indicated that he often wore clothes that were too small, made no eye contact when speaking and looked at the speaker only when directed to do so. Although Paul could work independently with reinforcement from his teachers, he could not consider consequences prior to acting, left assigned areas and was extremely impulsive verbally and physically with his peers and the staff.

In his 1984 individualized education program (IEP), 17 year-old Paul was considered to have successfully attained his immediate educational objective because he could:

1. Identify and define survival vocabulary with 81% accuracy;
2. Identify various forms of transportation with 75% accuracy;
3. Identify factors of personal health and good grooming with 80% efficiency;
4. Identify safety rules that must be used for his personal safety; and,
5. Identify most tools when shown a picture, but needed help when asking for certain tools.

The reader is asked to keep in mind that Paul was 17 years-old when he was said to have "achieved" these tasks. When his father decided that Paul should come to the family business to work, the school principal hastily arranged for Paul to be awarded a "Certificate of Completion" from this program when he was 18 years of age, in the spring of 1985. Although the certificate indicates completion of a course on auto mechanics, the only automotive-related skill Paul learned from this course was how to change a tire. Such certificates are not predicated on any Carnegie units, and cannot at all be equated to a high school diploma.

Dr. Marilyn Lamb was the school psychologist who conducted Paul's early Special School District evaluations. At that time, given the teacher's referral and parental permission, a school psychologist would evaluate the child at the regular school. If warranted, they would then bring the

child to the clinic for a multi-disciplinary evaluation that would include examinations by a medical doctor, a psychologist, occupational/physical therapist (if indicated), and a learning/educational specialist. At the time of Paul's initial evaluation, a social worker was also a part of the team and conducted an in-depth social history of the child examinee.

It is important to note that, during these years and particularly in certain states, while African-American children were often diagnosed as mentally retarded, white children were far less frequently so diagnosed. Dr. Lamb admitted that she tried everything possible to ensure that none but the most severely affected children were labeled as mentally retarded. She stated that she tried her best to place in them in another disability category if possible, in order to avoid the life-long stigma attached to a diagnosis of "mental retardation." Additionally, Paul was 9 years old when PL 94-142, the Education of All Handicapped Children Act (20 USC at 1400, *et seq.*), now known as the Individuals with Disabilities Education Act (IDEA) came into effect, so his hearing impairment was easily identified as his primary disability, thus ensuring special educational funding, but sparing Paul and his family the stigma of a mental retardation diagnosis.

In reviewing the records, Dr. Lamb saw that Paul's *speech* development was not a problem, strongly indicating that Paul's problems in *language* development were likely *not directly related to his hearing loss*. In fact, much of her testing seemed to indicate that hearing was not Paul's primary problem. She was concerned that Paul's record indicated a re-evaluation after only 1-1/2 years, since the law then required a re-evaluation only triennially, unless a specific request came from the parent or teacher. She also found it interesting that Paul's test scores actually went down during that year and a half. Dr. Lamb stated it was clear from reviewing his records that Paul was impulsive and his intellectual problems precluded him from either devising an elaborate plan or executing it.

Mrs. Patty Higgins was Paul's special education teacher in the 7th and (perhaps) 8th grade at Normandy Junior High School. She stated that Paul never really did much in her class, but he was always smiling. Mrs. Higgins described Paul as being confused much of the time. He had to be watched or he would constantly wander off from the school toward the University of Missouri – St. Louis (UMSL). At one point, Paul's mother, Elaine Goodwin, was actually asked to spend time in the school with him to keep him from wandering off. She sat outside of Mrs. Higgins's classroom and escorted Paul from class to class so that he would get to the correct classroom. Mrs. Higgins recalls numerous instances when she looked out the classroom window only to see Paul sitting at UMSL. Because Paul was such a large child, even in 7th grade, he did not look out of place at UMSL.

Mrs. Higgins also expressed concern about Paul's hearing impairment. She knew that Paul could comprehend only a fraction of what people were saying to him, unless they were looking directly at him. She recalled an incident when the principal was speaking with Paul. Paul thought the conversation was over and turned to leave the room. The principal thought that Paul was being disobedient and actually yelled at him, "What's wrong with you? Are you deaf?" Patty explained to the principal that Paul was hearing impaired and could not hear him.

Mrs. Higgins stated that Paul was diagnosed at the special school district as being hearing impaired, and as having a learning disability and language impairment. This combination of disabilities (hearing impaired, language impaired and learning disability, which, as stated above, was diagnosed to avoid the stigma of a mental retardation diagnosis) makes it very difficult to the person to communicate effectively with the world. Dr. Lamb continued that it was the Special School District's unwritten policy to make *every effort not to label a student as 'mentally retarded.'* Mrs.

Higgins agreed with Dr. Lamb, indicating if a more socially acceptable label like "learning disability" could be placed on a child rather than "mentally retarded," it was routinely done, even if the student could be placed in the MR category based on the educational IQ cut-off scores.

Mrs. Mary Welch was a special education teacher in the St. Louis Special School District. She was acquainted with Paul when he was a high school-aged student, approximately fourteen to fifteen years-old. Mrs. Welch and Paul's maternal first cousin, Linda Cook, were friends from high school and college. She was acquainted with Linda's entire family, including her father, Bob Meiners. Through her acquaintance with the Meiners' family, they were aware that she was a special education teacher and that, at that time, she was employed at the Alternative School in St. Louis, working with children who were learning disabled, behaviorally disordered, and mentally retarded.

Bob Meiners, Paul's maternal uncle, approached her and requested that she provide tutoring assistance to his nephew, Paul Goodwin. Mrs. Welch agreed to provide services to Paul two days a week for one hour per session, at Mr. Meiners' office. On her first visit with Paul, she made an assessment of his basic skills and needs. Her testing was largely informal, as she believed written testing might seem to Paul to be too much like school and that he would be resistant to participate. Academically, Paul was determined to be at the third or fourth grade level in reading and math. Mrs. Welch also described Paul as "very emotionally needy."

Mrs. Welch's work with Paul centered on reading, but she also helped him in many other areas. Frequently, Paul would bring materials from school that he could not comprehend and she attempted to work with him on those lessons. Most often, she brought materials from her classroom for him to complete. Mrs. Welch explained that, in her professional opinion, Paul was emotionally disabled and possessed low intelligence. He had strong emotional needs that had, thus far, not been met. She found him to be extremely needy, oppositional, and often non-responsive. She explained that in dealing with children who have special needs, the behavior seen in a one-to-one situation is generally the ideal and the best responses one can expect. For, in those situations, the child is the center of attention and is motivated to perform well. Mrs. Welch found that, lacking one-on-one instruction, Paul often could not learn the information being instructed. She believed that, even with strong positive reinforcement and a motivation to do his best, Paul was often reluctant to attempt tasks he was asked to perform, not wanting to fail or appear stupid. This concept is referred to as 'Learned Helplessness,' and is common to people having mental disabilities.

Often Paul was not focused or engaged in off-task conversations. Mrs. Welch worked hard to find activities for Paul that she thought he would find interesting and fun. Despite these attempts, Paul could rarely complete his assignments. Mrs. Welch often had to rephrase her instructions more than once and get Paul to repeat the instructions back to her to before he could even begin a task. Instructions provided were usually only one-step or two-step instructions, however Paul was often unable to comprehend and follow through on tasks that had even such simple directions. Mrs. Welch concentrated on functional reading with Paul, attempting to teach him to recognize and comprehend words and phrases that were necessary to daily living, such as the signs, "Restrooms," "Danger" and "No Smoking." Mrs. Welch worked with Paul twice a week for several months during the regular school year and perhaps a couple of times during the summer. She did not recall much improvement in Paul's academics during the period in which she tutored him.

In addition to recognizing Paul's academic deficits, Mrs. Welch noticed other indicators in his behavior that suggested low intelligence. While Paul had few friends, he clearly sought them

out. Paul always wanted to please others, even though he was clearly incapable of performing many tasks. Mrs. Welch recognized that Paul thinks only concretely. He was, at 16, incapable of comprehending abstract concepts. She indicated that simple tasks, such as choosing appropriate clothes to wear, are skills that involve very basic thought processes. Given his limitations, Mrs. Welch was not surprised that Paul needed assistance in picking out what clothes to wear for different occasions, such as going to work, even as an adult. Mrs. Welch spoke with Paul's parents on one occasion about his lack of progress and about his need for more frequent and intense academic, as well as socio-emotional, interventions. She advised them that Paul required much more work than she was able to provide in her two, one-hour sessions with him each week. However, she did not believe that Paul's parents ever followed-up on these recommendations.

When Paul turned eighteen, his father advised the school that he was removing Paul so that he could go to work full time for the family business. The Wertz Skill Center was not a traditional educational institution and had no requirements for graduation. The principal suggested to Paul's father that Paul be given a certificate announcing his completion of the program, feeling that such a certificate would assist Paul's weak self-esteem. Thus, while Paul received a certificate from Wertz, it was largely meaningless.

Paul had begun working at Goodwin Brothers in 1982, and even then his Uncle Jim Goodwin considered him to be very backward. Paul started as a janitor by sweeping floors, driving a forklift, and emptying trash bins and in that limited capacity, and at those tasks, Paul was quite capable. When there was an opening in the shipping and receiving department, Paul was promoted to that job. The job entailed placing advertising circulars onto pallets, determining how many pallets went to each location, and loading the appropriate number of pallets onto various trucks. The job was fairly routine since the truck schedule was virtually the same each week. However, several people, including Paul's Uncle Jim Goodwin, cousin Pat Goodwin (Jim's son, who now runs the business with Paul's brother, Joe), and Paul's sister, Kathleen Goodwin, all worked at Goodwin Brothers at the time, and each stated that Paul did not learn the job easily and never really learned it completely. Paul worked directly under Jim and Pat at the printing company. He often assembled an incorrect number of pallets for a particular location and sometimes incorrectly loaded the trucks and consequently sent pallets to the wrong location. Since the circulars were dated, mistakes like these would have cost the company considerable time and money. When ads were delivered to the wrong destination, they had to retain another trucking firm to deliver the correct pallets as quickly as possible. Because of the inordinate amount of financial and labor resources necessary to correct Paul's mistakes, he required close supervision.

There was no doubt in Jim Goodwin's mind that Paul was always intellectually limited. Simple instructions that Jim gave to Paul were not attended to. Although Paul had difficulty following directions and frequently made mistakes on the job, Jim never seriously considered firing him. He advised, however, that any other employee whose work was commensurate with Paul's would not have lasted with the company for a month. Paul's sister, Kathleen, stated that she requested that Paul only do tasks for her that involved manual labor because she knew that he could not successfully complete jobs that took any real measure of judgment and reasoning. Everyone in the plant knew that Paul was slow, limited in the types of responsibilities that he could handle without direct supervision and repeated instruction. Other employees at the company teased and ridiculed Paul, as he had been teased by other children in the neighborhood and at school, years before. In the pressroom, he was called "Boing, Boing," which Kathleen equated with stupid. Others called him "fat and tubby." Her father and brother did not help the situation, as both were

constantly criticizing Paul for his mistakes, urging him to work harder and pay closer attention. Though Paul seemed to try his best, he was incapable of meeting their expectations.

Kathleen stated that she felt Paul's planning abilities had not improved with age. When he began earning a paycheck, he needed to learn to manage his money and save for those items that he wanted to purchase. Everyone in the Goodwin family tried to teach Paul about budgeting and financial management, but nothing seemed to penetrate. Jim and Pat Goodwin advised that, when Paul started working, he was paid approximately six or seven dollars per hour. Shortly afterward, Paul purchased a used sports utility vehicle (SUV), clearly a vehicle beyond his price range. Additionally, Paul received his paychecks on Friday; by Monday morning, he was borrowing from family and friends. Consequently, Jim raised his hourly wage to \$13.00, but his raise in salary did not help. Paul simply could not manage his money regardless of the size of his income.

Elaine Goodwin, Mary Mifflin and Brenda Thomas all tried to work with Paul and teach him how to budget, but without success. Brenda stated that, frequently, Paul called her on the telephone and told her he was coming over to barbecue. Paul bought all the meat and cooked it for their family. Afterwards, he had no money left to pay bills or live on until his next paycheck. He borrowed money from friends, family and co-workers, but could never afford to pay it back. Mary stated that Paul was very proud of his SUV and wanted to buy decorative items, like pin-striping, to make it look better. While buying these items, he neglected to save money to make the payment on the loan or the car insurance payments.

In his young adulthood, Paul began drinking alcohol on a regular basis. He spent a lot of time with his friends, drinking. In 1987, Paul and his friends Andy Silkwood, Richard Meggsin, Ray Dickerson, and Johnny Mansion (aka: Johnny Morris) were watching television, drinking beer, and 'hanging out' at Andy Silkwood's house. Andy's father, Jerry Silkwood, was asleep in an adjacent bedroom. Paul, Andy, and Richard were about eighteen to twenty years-old. Ray and Johnny were thirteen or fourteen years old. Ray described Johnny as an average size adolescent with a chip on his shoulder. Johnny had been taking karate lessons and wanted to prove that he was tougher than other teenagers in the neighborhood. Johnny had tried to provoke Paul on other occasions without success. On this occasion, he had been drinking and was threatening Ray with a knife. Ray stated that Paul was sitting between himself and Johnny. When the threats began to escalate, Paul told Johnny that he was tired of his threats, stood up and turned his back on Johnny. He told Johnny that he had five minutes to cut him and then they were going to have it out. Immediately thereafter, Johnny jumped up and stabbed Paul in the neck. A delirious Paul stumbled out of the back door holding a pillow at his neck, went next door, banged on the door and asked Andy's uncle, William Hanna, to help him. Immediately thereafter, Paul fell on the ground where he lay bleeding and unconscious until medical assistance arrived.

Paul was taken by helicopter to University Hospital. University Hospital medical records indicate that Paul had a stab wound to the neck, plus a laceration to the right internal jugular vein and to the right transverse cervical artery. His injuries required exploratory surgery to the right side of his neck, lateral repair of his internal jugular vein, and suture ligation of his transverse cervical artery. He was released from the hospital on September 15, 1987. Paul almost died as result of his injuries, but despite his near-brush with death, he did not want Johnny prosecuted. Still, Paul did not see his friends for nearly a year after this event because he stayed in the house most of the time. When he finally ventured out of the house, Paul saw Andy, Richard, Ray and Johnny on numerous occasions. Even though Paul realized that Johnny's attack was unwarranted, he never held a grudge

against Johnny.

Paul lived with his sister, Mary, and her husband, Gary Mifflin, for approximately six months in 1991 or 1992. Although Mary believed that Paul was earning a sufficient salary to be able to support himself, he never seemed to have any money and was always borrowing from others. She thought that she could help him manage his finances and help him improve his personal hygiene and cleanliness issues. Mary discovered quickly that living with Paul was like living with a young child who was impulsive and could only think about the present. He could not set or meet goals. Mary tried to instill in Paul the need to keep himself and his rooms clean. Paul loved chocolate, particularly ice cream with chocolate syrup. Numerous times Mary had to scold him for taking the ice cream out of the freezer for a snack in the middle of the night and leaving the open carton on the counter overnight.

On one occasion, Mary and her husband let Paul watch their house while they were out of town. They gave Paul detailed instructions on how to take care of the big angel fish in their aquarium and their pet ferret. Paul overfed the fish and it died. Paul also let the ferret out of the cage and did not catch it right away. He then left the house and when he returned, he accidentally stepped on the ferret as he came in the door and broke its hip.

Paul was unable to search for and obtain jobs on his own. After being fired from Goodwin Brothers by his father, his mother, Elaine, found other jobs for Paul. She made every attempt to find employment for him that was purely physical in nature. Because of his size and strength, he was easily capable of doing physical labor, but he was extremely limited in his ability to figure out problems. She helped him obtain a job at DiMac, which he held for awhile, until they computerized their time clock. Employees were required to clock in at the beginning of the day and out when they left at the end of the day. They were also required to clock in and out for lunch and other breaks. Paul was unable to consistently figure out how to work the time clock and when he did, it took an inordinate amount of time. Consequently, Paul's time card showed that he was routinely late for work, though Elaine knew that he arrived at work on time because she drove him to and from work every day. However, because Paul could not adequately utilize the time clock, he was fired from the job for tardiness.

Since reaching adulthood, Elaine saw and spoke with Paul virtually every day. In addition to finding him employment and taking him to and from work, she assisted him in myriad other ways. She often had to advise him of the appropriate clothing to wear to work. She tried to teach him how to budget money, write out checks to pay his bills, and conduct other banking transactions. Elaine understood that Paul could not take care of himself without some assistance. He never learned to adequately take care of his personal hygiene needs. Because of an irrational fear of toilets, instilled in childhood, Paul could not use the bathroom without getting urine and feces all over the wall and floor. He could not pay monthly bills, create and/or follow a budget, make and carry-out short or long term plans, reach goals that were important to him, fully understand the consequences of his actions, understand the meaning of many, often simple words. He could not recognize the difference between a real friend and someone who was manipulating him, nor could he complete a job application, pick appropriate (both for weather or for style) clothes to wear to work, get to work on time, or clock in or out of work if a computerized time-clock was used. Nor could he routinely purchase groceries from the store, identify and successfully bond with adults in his age group, or carry-on rational conversations with adults and family members in social situations.

Paul did have several brushes with the law. In August, 1984, when Paul was seventeen, he

was arrested on a charge of felony stealing. It was alleged that he had stolen twenty-seven aluminum bleacher sections from the soccer field at the University of Missouri, St. Louis. The sections were about nine inches wide, and ranged from twenty-five to thirty-five feet in length. The thieves used a socket and ratchet to remove the bleachers, dragged them to the woods near Paul's home, cut them with an axe, tied them into bundles, and, with the assistance of Mrs. Goodwin - who drove them - sold the metal for scrap to the Reynolds Aluminum Company. The boys received a total of \$54.00 for their efforts. Paul pled guilty to an amended charge of stealing under \$150, a misdemeanor, and his parents paid restitution in the amount of \$3,620 to replace the bleachers.

On September 1, 1986, 19 year-old Paul, along with two friends, were arrested in Camden County for strong arm robbery and assault. Paul and his friends met two other young men while they were drinking and partying at Lake of the Ozarks. They went to property of one of the young men to camp for the night. A fight broke out. One of the men jumped in his car and drove away. Paul and his friends thought they were being abandoned in the woods, and because they did not know their way out, they chased him. The chase concluded when his car slid into a ditch. More fighting ensued and one of Paul's friends took the man's wallet. Paul cooperated and made a statement to the police. The officer recording his statement noted in his police report that Paul was hard of hearing and appeared to be "slightly retarded." On January 15, 1987, Paul pled guilty to the amended charge of assault in the third degree, a misdemeanor, and was placed on probation.

On April 22, 1992, when Paul was 25 years-old, he was charged with strong-armed robbery and assault. Paul had been drinking with friends at the Visions Bar in St. Louis several days before his arrest. Another man, Edward Reed, was drinking in the same establishment. When he left the bar, intoxicated, to walk home, he saw Paul and two other men walking in the same general vicinity. He was hit on the head and knocked unconscious. When he woke up, his bag of marijuana and his wallet was missing. Paul was picked up for questioning and gave a voluntary statement. He stated that while sitting in the bar he observed his friends follow Reed out of the tavern. He thought there might be trouble, so he followed them. He saw them talking with Reed and asked, "What's the problem?" When no one answered, he punched Reed in the back of the head and knocked him down. He immediately went back into the tavern and told the barmaid, "I just did something bad." After a preliminary hearing in the case, the charges against Paul were dismissed.

Finally, for part of his life, Paul did have a successful relationship with one woman. When Paul was 27 years-old, he met Penny Palermo, who was 33, at a carnival in the late summer or fall, 1990. From the time they met until her death from a drug overdose on November 10, 1997, their relationship experienced highs and lows. While Paul was devoted to her, and they spent much time together, they also would break up for months at a time. Paul explained that Penny made him feel smart. She listened when he talked to her and reacted like his statements had substance. Penny did not want Paul out of her sight, even to go to work. She frequently tried to keep him from his job and called him incessantly at work during the day to talk with him. Paul reciprocated. He only wanted to talk to and be with her and was happy to spend every waking minute with her.

Paul depended totally on Penny. She was his lifeline. Penny was slick and knew how to use the system to obtain money, medical assistance and food stamps. She made all the decisions in the relationship and Paul's sole responsibility was to be her companion. Penny took the responsibility for keeping a roof over their head. When they got kicked out of one apartment for failure to pay the rent, Penny found them another place to live. They lived in her sister Michelle's home while Michelle was in the hospital, and later in Penny's mother's home for a short period after her death.

They fought often and Penny was very violent and often pulled knives on Paul or otherwise threatened him. He often called family members to come and get him. He stayed away from Penny for several days, but always ended up going back to her. They needed each other. Although Penny was very resourceful, Elaine Goodwin still subsidized Paul financially and emotionally. Often, they had no money. They did not own a car. One Thanksgiving when they were completely broke, Elaine took them to a homeless shelter so that they could have Thanksgiving dinner (since neither was welcome at Dan Goodwin's house). When their toilet broke, Elaine bought them a new one. She gave them money periodically and bought them an air conditioner. Additionally, she encouraged Paul to get a job. Elaine searched the classifieds, took him to fill out applications, filled them out for him, and drove him to and from work during the time that he lived with Penny. Elaine found jobs for Paul, because he was unable to find work on his own. He was unable to complete job applications without his mother's assistance.

In February, 1996, shortly after the death of her mother, Penny left her mother's home with another man and abandoned Paul, who was left feeling shocked, lonely and depressed. He was also fearful that drug dealers were after him because of Penny's failure to pay her drug debts. He was too afraid to stay in the house without her. Instead, he walked from the south side of St. Louis to Goodwin Brothers Printing on the north side and called his brother, Joe. Joe, in turn, called Elaine and she went and picked him up. When she found him, he was carrying all of his possessions – a cigar box filled with Marlboro coupons. Elaine convinced her husband to let Paul come home. She got him a job and he lived with his mother and father for approximately four months. During this time period, he was heartbroken because he was without Penny and continued to make telephone calls trying to locate her.

During that summer, Paul obtained a job at a construction company where a friend worked. Because he was riding to work with his friend who resided in a boarding house on Lyndhurst, Paul also moved into the boarding house. He lived at the boarding house for approximately 5 months until he found and, eventually, reunited with Penny.

Paul's family did not approve of Penny and were vocal about their opposition to the relationship. Penny's family, on the other hand, was very accepting of Paul and for the years Paul and Penny were together, Penny's family became his family. They treated him with love and respect and never criticized or degraded him like his own father did. Members of Penny's family were ill and needed frequently medical attention. Paul kept them company when they went in the hospital, went to the grocery and drug store for them and tried to help them in any way he could with his limited resources.

However, Penny was a serious drug user. She took prescription barbiturates and other psychotropic medications, and smoked crack cocaine. She encouraged Paul to use drugs with her and he frequently complied. On many occasions, Penny had overdosed and Paul had to get her to the hospital however he could, even via Metro Link. The last time Penny overdosed, however, Paul was unable to get her to the hospital in time, and she died in November, 1997.

Not surprisingly, Paul was absolutely devastated by Penny's death, particularly since Penny's mother and her sister had all died within a short period of time. Paul, still estranged from his own family, felt that he had lost all those who loved him. When Dan Goodwin, heard that Penny had died, he said, "Good." When Thanksgiving came later that month, Dan was viciously cruel to Paul, seizing on an innocent comment Paul made to attack and ban Paul from the house. When Paul left, he left in tears, and despite his mother's transportation help, he spent almost no

time at his parents' house from then on. In the meantime, Paul was essentially homeless, unemployed and doing a considerable amount of drinking and drugs until the current crime occurred on March 1, 1998.

Assessment Results

INTELLIGENCE:

It is noteworthy that the intelligence tests administered to Paul Goodwin since he was a child in school, have consistently shown scores (IQs of varying formats) that were either defective or significantly below average. For example, Paul's *Wechsler Intelligence Scale for Children (WISC)* IQ scores from May, 1980 estimated his skills at 72, and his verbal skills (typically considered the stronger indicators of intellectual ability) to be well within the range of mental defect. Three years later, Paul's performance skills had increased, but his verbal skills were still within the mental defect range. Subsequent testing indicated that Paul's language skills were also significantly defective, which often accompanies lower intellectual functioning. Still, even though Paul was formally placed in St. Louis School's Special School system and having obvious problems in intellectual and adaptive functions that had existed since childhood, the courts have thus far refused to find him as mentally retarded. Most recently, Paul was administered the *Stanford-Binet Scale of Intelligence (Fourth Edition)* in 2001, which revealed a Composite IQ score of 67, well within the range considered to be mentally retarded.

Table 1. ADAPTIVE BEHAVIOR: *Adaptive Behavior Assessment System (ABAS-II)*

Respondent	Conceptual	Social	Practical	GAC
Joe Goodwin (brother)	59	68	53	53
Mary Mifflin (sister)	65	68	69	59
Brenda Goodwin (sister)	63	66	65	57
David Barnett (friend)	65	79	72	62
Ronald Wright (friend)	61	66	61	55
Daniel Porter (friend)	63	70	63	57
Charles Armentrout (friend)	63	68	72	59

The current evaluation of Paul Goodwin's adaptive skills utilized two well-respected test instruments in effort to determine both: 1) How others view Paul's adaptive abilities; and, 2) Paul's actual ability to use practical adaptive behaviors and skills, which he demonstrated in a test session on 11/16/14. The results of many interview/testing sessions with this examiner are presented in the Table above.

First, the *Adaptive Behavior Assessment System (ABAS-II)* was administered to seven people who have close, firsthand knowledge of Paul's skills over an extended period of time. Also, this instrument includes the option of a self-report, where Paul actually filled out a form and rated his own skills. Results of these administrations indicate a striking degree of agreement between virtually all of the people who were asked to participate. The reader is asked to keep in mind that these forms are very lengthy, over 250 questions, and surveys specific information covering all ten areas of adaptive behavior identified by the American Association on Intellectual Developmental Disability's (*AAIDD*, Luckasson, 1992). It is most important to note that, on the final score of the ABAS, the GAC (General Adaptive Composite, rather like the 'IQ' of adaptive skills), the range of scores between these seven individuals was only 9 points. In the 26 year experience of this

examiner, the number and high agreement between these results is unsurpassed in their consistency and similarity. As is often the case, Paul's own self-report scores were somewhat higher, but still within the range of adaptive deficits (Conceptual: 65, Social: 66, Practical: 65, GAC: 62).

The importance of this information must not be underestimated. These people know Paul Goodwin from entirely different circumstances, including both members of Paul's family and several longtime inmate friends from Potosi. Their extensive understanding of Paul's skills and deficits have been very well documented in a series of affidavits that have been developed by Ms. Caryn Tatelli (see Table 4). What is most striking is the similarity between the family members in how they viewed Paul's deficits when he was free, and the similarity between Paul's friends from Potosi Correctional Institute, during his life as an inmate. Even from these two very disparate environments, the similarity of these findings is unprecedented. The reader is especially encouraged to take note of the striking degree of agreement in the scores above, as well as the remarkable similarities in deficits observed and recorded by what these people have said about Paul's lack of adaptive behavior. It is clear that these problems have extended throughout his life, from childhood to today.

Table 2. *Independent Living Scale (ILS, 1996)*

Subscale	t-score	Factor	t-score
Memory Orientation	36	Problem Solving	25
Managing Money	32	Performance/Information	37
Home & Transportation	39		
Health & Safety	28		
Social Adjustment	22		
FULL SCALE STANDARD SCORE			
63 (1st percentile)			

In addition to the consistent *ABAS* results indicating Paul's poor adaptive skills, it was necessary to examine Paul's skill level at practical tasks that people deal with on a day-to-day basis. To that end, Paul was administered the Independent Living Scales (ILS), a test instrument often used with adults suspected of suffering from Alzheimer's Disease or other forms of dementia. The results above are mostly reported in "T-Scores" and thus have a different mean (50) and standard deviation (10) from more commonly used normalized or *standard* scores, such as IQs and achievement test scores (where the mean is 100 and the standard deviation is 15). The individual subscale scores above could be doubled to offer a *very* basic idea of its corresponding standard score. However, the Full Scale Standard Score is calibrated as a standard score, and at 63, is well within the range of mental retardation.

Table 3. *Wide-Range Achievement Test 4 (2014)*

	Blue SS	%	GE	Green SS	%	GE
Word Reading	79	8	6.4	80	9	6.5
Sentence Composite	74	4	6.5	74	4	6.5
Spelling	82	12	6.7	77	6	6.3
Math Computation	63	1	2.7	73	3	4.0
Reading Composite	74	4	6.4	75	5	6.6

Included in the ten factors of adaptive skills (Luckasson, 1992) are the examinee's academic achievement abilities. Typically, these include reading skills, writing skills, math skills and spelling. Above, in Table 3, are the results of Paul's achievement testing on the *Wide Range*

Achievement Test – Fourth Edition. Both versions of the test, the Blue and the Green forms, were administered to Paul on November 16, 2014.

Again, the consistency in most of Paul's scores is noteworthy, where the exceptions are in spelling (which varies in many ways due to the different rules of spelling in English) and in math (which may be explained by the difficulty that math test developers have had in increasing their reliability over time). It is important to note, however, that in results of academic achievement tests, even a difference of 10 points, as illustrated in the above results of both spelling subtests of the *WRAT-4*, is not considered significantly different.

RELATIVE ANECDOTAL INFORMATION ON ADAPTIVE SKILLS

In addition to the above data that clearly illustrate the testing data supporting Paul's mental defects, Caryn Tatelli, a Licensed Clinical Social Worker, performed interviews with inmates who have known Paul Goodwin throughout the years. This examiner met with four of these inmates, Daniel Porter, Ronald Wright, Charles Armentrout and David Barnett. Additionally, Ms. Tatelli interviewed inmates Walter "Tim" Storey, Lance Shockley, Lester Stone and Carmen Deck about their observations of Paul's adaptive skills. Collectively, these interviews brought out several extremely important facts and, once again, remarkable consistencies in the way these men view Paul Goodwin's behavior at Potosi. Below, in Table 4, is a sampling of the observations of Paul's inmate-friends that clearly demonstrate his adaptive deficits.

Table 4. Comments of Inmate-Friends of Paul Goodwin

"Lester Stone explained, 'I think it is important for me to say that...[you] could have randomly picked any staff member at Potosi Correctional Center and any inmate who has been there for any length of time. Anyone who knows Paul will be able to talk about his deficits, and while each person might provide different examples, in the end, the result would be the same -- information about the ways in which Paul does not function well cognitively...'"

"Lance Shockley and David Barnett echoed Lester Stone's thoughts, saying it is "commonly understood amongst Potosi Correctional staff and inmates alike that Paul is slow" and everyone "-- staff and inmates alike -- knows that Paul is not all the way there..."

"Charles Armentrout recalled his first impressions of Paul Goodwin saying, "he looked like Baby Huey, in that he was slumped and hulking. Even from a distance, I could tell that he was not very bright." He called Paul Goodwin a "big dummy" explaining, "I do not want that to sound mean or derogatory, but it is the perfect description for him. He is very large, physically, and he is really not very bright..."

"Carmen Deck... recalls his first impressions of Paul, which were of "a Big Dumb guy who acted a lot like a kid. Paul is like a thirteen (13) or fourteen (14) year old kid trapped in a man's body." Walter Storey also provided a strong visual image of Paul Goodwin, saying that he "is as soft as a bed of 'kitty cotton'" and added "'Paul is just like Lennie, the slow-witted character in *Of Mice and Men*.'"

"David Barnett stated that Paul's "comprehension level is delayed. He is slow in everything he does -- his speech is slow...almost as if he has to think extra hard to find the right words -- and even then, the words he uses are often not actually the 'right' words." He described Paul as "child-like," functioning at "second (2nd), third (3rd), or fourth (4th) grade" and opined that Paul has reached his "mental capacity."

"David Barnett explained by saying "[i]t does not take much to please him or to occupy him."

[He] described Paul's sense of humor as "very simple, and child-like," adding that the "things Paul finds funny are so 'low' and simple that sometimes it is hard to find the humor...because you are looking for something subtle or hidden when the 'humor' is right there in plain sight." Daniel Porter echoed David Barnett saying, "[t]he simple things in life please Paul, and early on...I decided I wanted to please him when I could, because I liked how happy it made him."

"...Paul had tremendous difficulty sharing the responsibility of cleaning the cell. Lester Stone explained "Paul is simply not capable of truly cleaning a cell...[he] can get the cleaning supplies, but he is not able to clean so that the cell...is 'tidy clean.'...He will also start cleaning something and then sit down to have a smoke or drink a cup of coffee. He gets distracted and is not clear on the task at hand, so it can take him one (1) to two (2) hours to clean his cell -- and our cells are just not that big."

"Ronald Wright explained that he and Paul had a significant disagreement over the cleaning of their cell. It happened when Paul "got some detergent and put the soap in the toilet. He swished a rag around in the toilet bowl water to make some suds and then started washing down the cell with a rag he was dipping in and out of the toilet." Ronald Wright explained, "[e]ven though I knew he had some limitations, I just could not accept that Paul was cleaning my living space with water from the toilet bowl." When Ronald Wright tried to talk to Paul Goodwin about the issue, he "responded negatively, because he did not want me telling him what to do." After a few days, Paul Goodwin approached Ronald Wright in the yard, telling him "he knew it was stupid to clean that way." Ronald Wright later learned that Paul Goodwin's mother had told him that using the toilet water was "a nasty way to clean the cell."

The above comments clearly illustrate that Paul Goodwin is obviously viewed as having severe adaptive behavior deficits that set him apart from the others at the Potosi Correctional facility. The men who made these observations have nothing to gain from sharing this information, and as such, their validity need not be overly scrutinized. But in truth, anyone who was reasonably educated and who had ever spent more than a few minutes with Paul Goodwin would immediately recognize that he truly is, at the heart, a big kid.

Conclusions

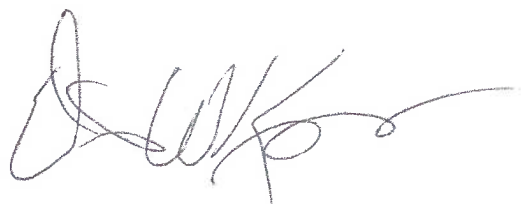
The practice of excluding adolescents from capital punishment stems from the belief that they are not yet fully mature. In 2002, the U.S. Supreme Court upheld that the judicial execution of those criminals who have impaired intellectual and adaptive functions resulting in mental retardation may not be executed. Paul Terrence Goodwin is a very good example of the reason for the Court's decision is situation. He is intellectually and adaptively impaired to the extent that a diagnosis of mental retardation (intellectual developmental disability) is appropriate. At the time he was becoming an adult, he was emotionally stilted, and even still, he is functioning at a far less mature level than 98% of the U.S. population. As adolescents are not fully mature, they cannot be held fully responsible for their crimes. As a person with mental retardation, Paul Goodwin *still* functions within the age expectations of an early adolescent, around 13 years old. Youth is perceived as a time of growth and learning, but much of Paul's youth was spent trying desperately to learn to adapt enough to get along with the others in his dysfunctional family, and maintain a positive attitude about the person he was and still is. Add to this the emotional turmoil of his childhood, and the near total lack of emotional support from his father, and one might almost guess the inevitability of tragedy in Paul's life.

The one absolute certainty for this examiner over the 12 years I have been involved with this

case is that Paul Terrence Goodwin is now, and probably always has been, mentally retarded. As such, if the State of Missouri proceeds with his judicial execution, then it is the devout opinion of this expert of 40 years experience in mental retardation, the State is doing so against the findings of both state and federal law, the Supreme Court and the Constitution of the United States of America.

If I can be of any further assistance in this matter, please do not hesitate to contact me at (843) 762-3681, or at drdeniskeyes@aol.com . In the meantime, thank you for including me on this case.

Respectfully,

A handwritten signature in dark ink, appearing to read 'D. Keyes', with a long horizontal flourish extending to the right.

Denis W. Keyes, Ph.D.

Professor of Special Education, College of Charleston

Fellow & former Board Member, *American Association on Intellectual Developmental Disabilities*

Diplomate of the American Board of Forensic Examiners

Nationally Certified School Psychologist