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For Immediate Release: Dallas County Criminal District Attorney's Office Agrees that Death Row Inmate is Intellectually Disabled and Entitled to Sentence of Life Without Parole

(Dallas, Texas) – A decision that is currently pending before a Dallas County Judge is poised to have major impact on a 2005 death penalty case involving an individual determined to be intellectually disabled.

The case in question centers on Juan Lizcano who was convicted of capital murder and sentenced to death in 2007 for the 2005 murder of Dallas Police Officer Brian Jackson. Mr. Lizcano and his attorneys have contended that he is intellectually disabled.

The Dallas County Criminal District Attorney's Office has previously opposed his claim; but, after the United States Supreme Court issued its decision in *Bobby Moore v. Texas* on February 19, 2019, we felt we no longer could oppose relief for Mr. Lizcano.

The State has agreed that, based on the evidence in this case, Juan Lizcano has proven by a preponderance of the evidence that he is intellectually disabled. This bars him from being subject to the death penalty under the Eighth Amendment, and we feel he is entitled to relief.

The trial court has until March 28, 2019 to submit findings of fact and conclusions of law to the Court of Criminal Appeals. If the trial court and the Court of Criminal Appeals agree with the parties that Mr. Lizcano is intellectually disabled, he will receive a sentence of life without parole.

As the Criminal District Attorney for Dallas County, my oath requires that I see that justice is done, and I take that responsibility seriously. I have submitted written testimony supporting several bills or committee substitutes now before the Texas Legislature that address sentencing issues in death penalty cases.

- Senate Bill 418/House Bill 1139—Allows a trial judge to determine prior to a jury trial in a death penalty case whether the defendant has an intellectual disability and is exempt from the death penalty. The bill will likely save our government's scarce resources because it will eliminate the need for the lengthy and costly individual jury selection needed in a death penalty case if a trial judge determines that a defendant is intellectually disabled. Additionally, the State should have an interlocutory right of appeal, which is included in the committee substitute. This appeal will ensure that the State may contest an adverse ruling that we believe is inconsistent with the law.
- House Bill 1936—Changes the law to prohibit a death sentence for a person who was severely mentally ill at the time he or she committed capital murder. Allows a jury to determine whether the defendant had a severe mental illness at the time of the offense and is exempt from the death penalty. A defendant may only be exempt if he meets the following strict requirements: (1) that at the time of the offense, the defendant had schizophrenia, schizoaffective disorder, or bipolar disorder; and (2) the defendant had active psychotic symptoms as a result of that disorder; and (3) those psychotic symptoms impaired the defendant's capacity either to appreciate the nature, consequences or wrongfulness of his conduct or to exercise rational judgment in relation to his conduct. This bill ensures that capital punishment is proportional to the offense and offender.
- House Bill 1030—Changes the jury instructions in every death penalty case. The current instructions require all 12 jurors to agree to a verdict favoring the State (which results in a death sentence) or at least 10 out of 12 jurors to agree to a verdict favoring the defendant (which results in a life without parole sentence). House Bill 1030 only requires a verdict favoring the State to be unanimous. Any configuration of votes other than unanimous for the State would result in a sentence of life without parole.

I support this legislation and believe it will serve the interests of justice by ensuring Texas's death penalty scheme complies with federal constitutional requirements.