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Contact: Laura Burstein at 202-626-6868 (o); 202-669-3411 (c) or lburstein@ssd.com

Clemency Petition, Letters of Support and Case Background are at:

www.HumbertoLeal.org

Former U.S. Diplomats, Retired Military Leaders, Judges, Prosecutors, & Americans Abroad Urge TX Governor to Grant Clemency to Humberto Leal

Clemency Petition Filed Today: Denial of Consular Rights Led to Death Sentence in Case of Mexican National

(Austin, TX; June 7, 2011) Attorneys for Humberto Leal Garcia today filed a clemency petition with the Texas Board of Pardons and Paroles and Governor Rick Perry, requesting a stay of his July 7 execution date. The petition states that Mr. Leal would not have been convicted and sentenced to death if the United States had complied with treaty obligations to notify the Mexican consulate after his 1994 arrest for capital murder.

Congress is poised to introduce legislation to remedy the violation of Mr. Leal's rights under the Vienna Convention on Consular Relations, which allows individuals facing prosecution in a foreign country to have early and ongoing contact with their consular representatives.

Prominent bipartisan groups, including former U.S. diplomats, retired military leaders, former judges and prosecutors, and organizations representing Americans abroad, have come forward to urge the Texas Governor and Board of Pardons and Paroles to grant a stay of execution to allow time for Congress to remedy the violations in Mr. Leal's case. In their letters, these diverse groups express concern that if Mr. Leal is executed despite the Vienna Convention violations, other nations will be emboldened to violate the consular rights of U.S. citizens arrested in foreign countries.

“For Texas to proceed with [Leal's] execution prior to full compliance with these treaty obligations would endanger the interests of American citizens and the United States around the world,” states John B. Bellinger, III, former Legal Advisor for the Department of State during the second term of the Bush Administration, in a letter signed by a group of former ambassadors and State Department officials that was delivered to Governor Perry today.

“Improving U.S. enforcement of its consular notification and access legal obligations will help protect American citizens detained abroad, including U.S. military personnel and their families stationed overseas,” write retired military leaders supporting clemency for Mr. Leal, including Brigadier General James P. Cullen, Colonel Lawrence B. Wilkerson, and Rear Admiral Don Guter. “We urge you to support those who are serving our country overseas by granting a reprieve in this case while Congress acts to meet our international responsibilities.”

In 2004, the International Court of Justice (ICJ) held that Mr. Leal must have a hearing to determine if he was harmed by the United States' violation of the Vienna Convention. The U.S. Supreme Court unanimously agreed that the United States is obligated to comply with the ICJ decision, but that Congress must act to implement the Court's decision. Both the Bush and Obama administrations have sought to enforce the decision, and in the wake of the Supreme Court's decision the Government has supported federal legislation to provide hearings for Mr. Leal and other Mexican nationals denied their consular rights.

"If Mr. Leal had been provided consular assistance, he would not have been convicted, let alone sentenced to death. With consular access, Mr. Leal would have had competent lawyers and expert assistance that would have transformed the quality of his defense," said Sandra L. Babcock, Clinical Professor of Law at Northwestern University School of Law and attorney for Mr. Leal.

Mexican consulates have a history of monitoring capital trial proceedings and securing competent lawyers for their citizens facing the death penalty in the U.S. If the government of Mexico had been informed of Mr. Leal's arrest, he would have been provided with highly qualified and experienced legal counsel, as well as funding for necessary experts and investigators.

The court-appointed lawyers Mr. Leal received were inexperienced and ineffective. One of them was suspended from the practice of law twice for failing to adequately represent clients and publicly reprimanded on two other occasions.

The state's case relied on antiquated and flawed DNA testing. Modern DNA testing may show that Mr. Leal is innocent of the crime. Yet, the state is refusing to allow the testing to proceed. A case is pending in federal court to compel Texas to release evidence so that it may be subjected to new DNA testing.

In addition, the state relied on "bite mark" evidence that is now universally recognized as inconclusive junk science. A recent scientific study revealed a 63% false positive rate when attempting to use bite mark evidence to establish identity. Indeed, several men have recently been exonerated after so-called "bite mark experts" linked them to the crime. Mr. Leal's lawyers failed to challenge both the bite mark and faulty DNA evidence.

Moreover, Mr. Leal's lawyers failed to present powerful mitigating evidence at the sentencing phase of trial. As a result, the jury that sentenced Mr. Leal to death did so without the opportunity to hear about his struggle to overcome learning disabilities and brain damage. Nor did they learn that between the ages of ten and eleven, Humberto was subjected to terrifying acts of sexual abuse by his parish priest, abuse that caused severe and lasting psychological damage.

This and other significant mitigating evidence came to light only after the Mexican consulate got involved in his case.

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To speak with Mr. Leal's attorney, Professor Sandra L. Babcock, or one of the prominent supporters, please contact Laura Burstein at (202) 626-6868 or lburstein@ssd.com. Please visit www.HumbertoLeal.org to access the clemency petition, letters of support, and additional documents and information.