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WRITTEN TESTIMONY, 2011
HOUSE BILL 215

Dear Members of the Committee,

Thank you for allowing me the opportunity to submit written testimony on the importance of strengthening identification procedures in criminal cases.

PROBLEM

The State of Texas leads the nation in wrongful convictions. The conviction of the innocent destroys public trust and confidence in the justice system: an innocent person is punished and guilty culprits remain free, thereby threatening communities and preventing justice for victims. Indeed, for every innocent person sent to prison, the state re-victimizes the victim by allowing the perpetrator who harmed him or her to target others.

Erroneous eyewitness testimony, whether offered in good faith or perjured, is the single greatest cause of wrongful convictions in the U.S. criminal justice system,¹ as well as in Texas. According to the Justice Project, more than 84% of wrongful convictions in Texas are due to eyewitness misidentification.²

KEY FINDINGS

- Despite eyewitness misidentification being a significant contributor to wrongful convictions in Texas, many state law enforcement agencies in 2010 had yet to implement policies or practices to reduce misidentification.³
- Dallas County, which has led the nation in DNA exonerations since 2001, has 18 cases of wrongful convictions. In every instance but one, a *Dallas Morning News* investigation found that police and prosecutors built their cases on eyewitness accounts, even though they knew such testimony can be fatally flawed.⁴
- Taxpayers spent more than \$3 million in incarceration and compensation for the Dallas County cases alone.⁵

SOLUTION: SUPPORT H.B. 215 BY REPRESENTATIVE GALLEGO

- **H.B. 215 would require every law enforcement agency to adopt a written policy regarding the administration of photograph and live lineup identification procedures.** This policy would be written jointly between local law enforcement agencies and scientific experts in eyewitness memory research. This policy would also address the manner in which a photograph array or live lineup is administered to an illiterate person or a person with limited English proficiency.
- **H.B. 215 would protect the rights of the accused.** This bill would encourage best practices during the lineup procedure, including protections for the accused such as informing the witness that the individual may not be among those shown and that the witness is not required to make identification. This is important to ensuring that the witness does not feel pressured to make an inaccurate or improper identification.

It is essential that law enforcement officers use the most objective and reliable procedures to obtain accurate eyewitness identifications and reinforce the integrity of their procedures. H.B. 215 is a positive step towards strengthening public trust in the criminal justice system. Again, thank you for allowing me the opportunity to present testimony in favor of this critical bill.

citations on reverse side

¹ Innocence Project, *Erroneous Eyewitness ID*;

<http://www.law.northwestern.edu/wrongfulconvictions/issues/causesandremedies/erroneouseyewitness/Index.html>.

² The Justice Project, *Texas Wrongful Convictions*; <http://www.thejusticeproject.org/texas/texas-wrongful-convictions/>.

³ Renée C. Lee, “Efforts to draw up policies for eyewitnesses lagging,” *Houston Chronicle*, March 29, 2010.

⁴ Steve McGonigle and Jennifer Emily, “18 Dallas County cases overturned by DNA relied on heavily eyewitness testimony,” *Dallas Morning News*, October 12, 2008; <http://truthinjustice.org/dallas-eyewitness.htm>.

⁵ *Ibid.*