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ISLAND COUNTY PROSECUTOR ANNOUNCES DECISION ON DEATH PENALTY IN GEORGE LAMBERT AND GENE EISNER MURDERS

On October 3, 2011, Joshua David Lambert allegedly murdered his two grandfathers, George Lambert and August "Gene" Eisner, in their homes. The senseless brutality of the crimes has shocked and saddened our community. It has inflicted incomprehensible pain on Joshua Lambert's extended family – the families of the two murdered men.

Washington law allows a jury to impose a death sentence when a person is convicted of aggravated first degree murder. Aggravated first degree murder is defined as premeditated first degree murder where one or more aggravating circumstances exist. Aggravating circumstances include the fact of multiple victims where the murders are part of a single plan, or the fact that murders were committed in the course of a robbery or burglary. In the Lambert murder case, it is possible that a jury could find one or both murders were premeditated and that an aggravating circumstance exists. Therefore, I am called upon to decide whether to seek the death penalty.

In making my decision, I have had multiple consultations with the family members of both victims. I have discussed the case with some of Washington's most experienced death penalty prosecutors. I have surveyed the nearly 300 aggravated first degree murder cases prosecuted in Washington since 1981. I have carefully reviewed the investigation of the murders of George Lambert and Gene Eisner and looked deep into the background of Joshua Lambert.

Washington law requires a prosecutor to consider the likely evidence that will be admitted at trial, the plausible defenses, and the mitigating factors that would be presented by the defense. To impose a death sentence after finding a defendant guilty of aggravated murder, jurors must unanimously agree beyond all reasonable doubt that there are no factors justifying leniency. A prosecutor must prove the complete absence of mitigating factors.

As horrific and devastating as his alleged crimes are, I have decided not to seek the death penalty against Joshua David Lambert. My decision is consistent with the wishes of most of the victims' surviving family members. It is consistent with the record of capital murder cases in Washington. And it is supported by the evidence known to me, and the law that governs its use at trial.

Washington juries have sentenced murderers to death only 32 times out of nearly 300 aggravated murder cases since our death penalty statute was enacted in 1981. Of those 32 death sentences, 17 murderers had their sentences reversed by higher courts. Of the other 15, six have been executed (3 of whom did not appeal their sentences), one committed suicide, and 8 remain on death row.

Based on my review, I have concluded it is highly unlikely that a jury would impose a sentence of death, due in large part to Joshua Lambert's mental state at the time of the murders. Washington law specifies that "whether the defendant was under the influence of extreme mental disturbance" is one possible mitigating factor. The evidence regarding Lambert's history and his behavior on the day of the murders, convinces me that one or more jurors would find that to be a mitigating circumstance. A single juror can block a death sentence. Other mitigating factors may also apply to Mr. Lambert, making the death penalty even less likely.

Even if a jury sentenced Mr. Lambert to death, the last word on the validity of that sentence could be delayed for well over a decade. Death sentences are subject to repeated appeals to the Washington Supreme Court. The cases often go on for years, leaving survivors, witnesses, police and prosecutors in limbo. The *Stenson* death penalty case from Clallam County, for example, was argued before the Supreme Court for the *fifth* time last fall, 17 years after the 1994 killings. The prospect of a conviction or sentence being overturned at each appeal hearing can cause undue trauma and anxiety for survivors.

I also considered the role of the family members in a capital trial. If Lambert were found guilty of aggravated murder, family members opposed to executing Lambert would most likely be made to testify on his behalf in the sentencing phase of the trial. A prosecutor must have an exceptionally strong rationale to pursue a capital prosecution, where doing so goes against the wishes of the victims' families. In my judgment, this case is not strong enough to go against the wishes of many family members.

In conclusion, I have determined that justice will best be served in this case by seeking a prison term that will ensure Mr. Lambert is never returned to free society. To that end, I will be asking the court to permit the State to amend the Information on February 27.

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