

## Sample Op-Ed: What We Now Know About the Death Penalty

For a growing number of years, public attention has focused on the number of people sent to death row only later to be exonerated by newly discovered evidence. We know that at least 123 people thus far have been released from prison after evidence emerged of their innocence.

Only recently, however, have we discovered something much more chilling: in at least four cases, innocent men have not just been sent to death row. They have been executed.

Despite overwhelming evidence, death penalty supporters continue to cling to the false belief that “the system works” and that the innocence of any executed person has never been proven. In 2006 U.S. Supreme Court Justice Scalia even went as far to say that there has not been “a single case – not one – in which it is clear that a person was executed for a crime he did not commit.”

Justice Scalia ignores the evidence and he is wrong.

Over the past two years some of the nation’s leading newspapers have published groundbreaking exposes detailing the cases of four men who were executed despite the existence of evidence which clearly revealed demonstrably innocence

Ruben Cantu, a 26-year-old Latino man from San Antonio, was executed in 1993 for a robbery-murder committed in 1985 when he was 17. Twelve years after his death, the *Houston Chronicle* published an investigative series which revealed that another defendant, who pled guilty to participating in the crime, signed an affidavit swearing that Ruben Cantu was not with him that night and had no role in the murder.

Also from Texas comes the unfortunate story of Carlos De Luna, a young Latino man from Corpus Christi. De Luna, executed in 1989 for stabbing a convenience store clerk to death in 1983, was convicted on the basis of a quick on-the-scene witness identification despite De Luna’s claims that the real killer was Carlos Hernandez. In 2006 an investigative series by the *Chicago Tribune* revealed that Hernandez had a long history of attacks similar to the convenience store killing and reportedly confessed to friends and relatives that he committed the murder for which De Luna was executed.

Larry Griffin, a 40-year-old black man from St. Louis, was executed in Missouri in 1995 for the drive-by shooting of a drug dealer in 1980. The only evidence against him was a witness who claimed to have seen Griffin at the crime scene. The witness was a white career criminal with several felony charges pending. In 2005 the *St. Louis Post Dispatch* reported that the first police officer on the scene and the victim’s sister both agreed that this supposed witness – who would have stood out in the all-black neighborhood – wasn’t there when the shooting occurred.

Cameron Todd Willingham, a 36-year-old white father of three from Corsicana, Texas, was executed in 2004 for murder by arson. Months after his execution the *Chicago*

*Tribune* reported that new scientific knowledge proved that the testimony by arson experts at Willingham's trial was worthless, and that there was no evidence that the fire was even caused by arson.

Prosecutorial and police misconduct, ineffective assistance of counsel and flawed testimony characterized each of these four cases, while faulty eyewitness identification and lack of credible evidence were factors in at least three of the four. The very same frailties that exist in Texas' and Missouri's capital punishment systems also accompany death penalty statutes in other states. If it could happen there, it could happen in any state that has this irreversible punishment.

If the execution of one innocent person is one execution too many, then what have we discovered about our criminal justice system when we learn of *four* such cases? How many more cases are there where evidence of innocence has been lost or destroyed? How can we trust a system that we now know has executed them as well?

It is too late to save Cantu, De Luna, Griffin, Willingham or other victims of erroneous executions who have yet to be discovered. But in order to honor their memory, while at the same time striving to create a more perfect criminal justice system, future debates over the death penalty must proceed with the knowledge that innocent people have indeed been executed.

As we've seen with the above cases, mistakes inevitably are going to happen. Yet, regardless of your views on the death penalty, we can all agree that when the ultimate penalty is death, the smallest mistake is too high a price to pay.