

Innocent and Executed

Four Chapters in the Life and Death of America's Death Penalty.

NATIONAL COALITION TO

ABOLISH THE DEATH PENALTY

Shouting from the Rooftops

“My name is Ruben M. Cantu and I am only 18 years old. I got to the 9th grade and I have been framed in a capital murder case.”

-- Ruben Cantu in a letter to a San Antonio newspaper

“I just want to say I hold no grudges. I hate no one. I love my family. Tell everyone on death row to keep the faith and don't give up.”

-- last words of Carlos De Luna

“I suspect my life will end soon, if the state should have its way. I am no angel, but nor do I deserve to lose my life for a murder I did not commit.”

-- Larry Griffin in a letter to a St. Louis newspaper

“I am an innocent man, convicted of a crime I did not commit. I have been persecuted for 12 years for something I did not do.”

-- Cameron Todd Willingham, moments before execution.

We've believed it for years. With at least 123 people freed from death row after evidence of their innocence emerged, it seemed inevitable that one day, news of an execution of an innocent person would emerge.

For many years, however, our strong suspicion that innocent people have been executed has been no more than that – simply a strong suspicion. Once an execution occurs, there historically has been little opportunity to reflect on what has transpired. Overburdened attorneys and advocates have always moved to stop the next execution, knowing that the line is growing and hard choices in favor of the living must be made. Research and fact-finding take time and resources.

Death penalty supporters maintain “the system works” and that no innocent person has been proven to be executed. U.S. Supreme Court Justice Antonin Scalia recently wrote 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. If such an event had occurred in recent years, we would not have to hunt for it; the innocent's name would be shouted from the rooftops.”

Justice Scalia is wrong.

With the help of the NAACP Legal Defense Fund, the Justice Project, the Innocence Project and others, some of the nation's best investigative journalists and leading newspapers have reported on what appear to be the first established cases involving the execution of innocent people.

Executed and Innocent: Four Chapters in the Life of America's Death Penalty documents four such stories:

Ruben Cantu, a 26-year-old Latino man from San Antonio, was executed in August 1993 for a robbery-murder committed in 1985 when he was 17. The Houston Chronicle in November 2005 published an investigative series in which it reported that another defendant, who pleaded guilty to participating in the crime but did not testify at Cantu's trial, has signed an affidavit swearing that Cantu was not with him that night and had no role in the murder. The only witness who did testify – a second victim, who was shot nine times but survived – now says that police pressured him to identify Cantu as the shooter, and that he did so even though Cantu was innocent.

Carlos De Luna, a young Latino man from Corpus Christi, Texas, was executed in December 1989 for stabbing a convenience store clerk to death in 1983. De Luna, who was convicted on the basis of a quick on-the-scene witness identification, claimed that the killer was a man named Carlos Hernandez. In June 2006, an investigative series published by the Chicago Tribune revealed that Hernandez had a long history of knife attacks similar to the convenience store killing and repeatedly told friends and relatives that he had committed the murder for which De Luna was

executed. The newspaper revealed that a prosecutor at De Luna's trial denied the very existence of Hernandez, calling him a “phantom.” (Hernandez died in prison in 1999.)

Larry Griffin, a 40-year-old black man from St. Louis, was executed in Missouri in June 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. This witness was a white career criminal with several felony charges pending against him. In July 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. A second victim injured in the shooting knew Griffin and says that Griffin was not in the car from which the shots were fired, but he was not called to testify at Griffin's trial.

Cameron Todd Willingham, a 36-year-old white father of three from Corsicana, Texas, was executed in February 2004 for murder by arson. In December 2004, the Chicago Tribune reported that new scientific knowledge proves that the testimony by arson experts at Willingham's trial was worthless, and that there is no evidence that the fire was caused by arson. A panel of the nation's leading arson experts confirmed that conclusion in March 2006.

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 that four people who were almost certainly if not demonstrably innocent have been executed? How many more are there for whom the proof has been lost or destroyed? How can we trust a system that we always knew sent the innocent to death row – and that we now know has executed them as well?

Prosecutorial and police misconduct, ineffective assistance of counsel and flawed testimony characterized each of these cases, and faulty eyewitness identification and lack of credible evidence were factors in at least three of the four. Now is the time to move forward to drastically overhaul the death penalty. Better yet, because alternatives exist, we should finally abandon our national experiment with capital punishment.

It is time to gather our voices and let it be “shouted from the rooftops” that we have, in fact, put innocent people to death.

Let it not happen again.

Diann Rust-Tierney

Diann Rust-Tierney, Executive Director
National Coalition to Abolish the Death Penalty

Did This Man Die for a Phantom's Crime?



On the night of December 7, 1989, the state of Texas executed 27-year old Carlos De Luna. Sixteen years after the execution, the *Chicago Tribune* published a three-part investigative series that implicated another man and debunked the evidence that had originally been used against De Luna.

In February of 1983, Wanda Lopez, a gas station clerk, was stabbed to death during her night shift. She did not have to die. In fact, she had called 911, not once but twice, asking for help. Had police responded after her initial call, there is a good probability that she would still be alive today, as would De Luna. Throughout the second call, at the end of which her final screams can be heard, she was audibly upset because through a series of yes or no questions with the dispatcher, she affirmed that an Hispanic male was brandishing a knife in the store and she was scared.

When police eventually did arrive at the gas station, they found Lopez dead on the floor of the store and De Luna nearby, hiding underneath a truck.

His immediate claims of innocence and knowledge of the true perpetrator were ignored. Also ignored was the fact that no blood whatsoever could be found on his body or clothing, despite the fact that the crime scene was extremely bloody and had De Luna been the perpetrator he would have had no time to clean himself.

The police discovered two eyewitnesses and brought them over to De Luna, who was seated and cuffed in the back of their squad car. The eyewitnesses were told that De Luna had been found hiding under a truck nearby. The eyewitnesses took that as an indication of the man's guilt, and in doing so, gave a positive identification to the police. Only one of the eyewitnesses, Kevan Baker, could be reached by the *Tribune's* investigative team. He told them that he was never entirely certain that De Luna was the perpetrator. The reliability of the other eyewitness is suspect: he could not even identify De Luna at a pretrial hearing.

During the trial, the prosecution argued that De Luna had stabbed Wanda Lopez, a gas station clerk, during the commission of a robbery. However, the *Tribune's* investigation revealed that no money had been taken that night from the register. It was the supposed robbery that statutorily elevated the murder of Wanda Lopez to a death-eligible crime.

The jury was told that the reason De Luna ran and hid was because he was the one who committed the murder. However, from the onset, De Luna had told the detectives and his lawyers that the reason he hid was because he had just been paroled and got scared when he heard the sirens coming. He told them he was not guilty of the crime, but he knew who was.

The prosecution managed to get the jury to convict without any DNA or physical evidence implicating De Luna as the perpetrator. They relied only on the eyewitness testimony and the 911 audio tape which was certainly more prejudicial than probative in terms of De Luna's possible role in the crime.

The jury then subsequently sentenced him to die.

Did This Man Die for a Phantom's Crime? (continued)

From the moment of De Luna's arrest until his execution, one key piece of evidence was consistently and deliberately ignored by everyone who was in a position to use it to save his life. This evidence was the fact that another man had been named as the perpetrator – Carlos Hernandez. De Luna told police that the two of them had been together on the night of the crime.

Carlos De Luna and Carlos Hernandez didn't just share a first name. Mug shots reveal that their physical appearances are strikingly similar. So much so that it would be easy to mistake one for the other, especially during a dimly-lit, late-night, prejudiced identification procedure. The police never had De Luna stand in a lineup.

Normally, there should be a good amount of skepticism when someone is arrested and points their finger at a different person for the crime. However, Hernandez was infamous in his neighborhood and in the criminal justice system, with a lengthy rap sheet of violent convictions including an assault charge and an arrest for a murder committed with a knife. De Luna's rap sheet consisted mostly of status offenses and nonviolent crimes.

Police never followed the lead on Hernandez, even after receiving tips from anonymous sources that he, not De Luna, was the one responsible for Lopez's death.

The defense lawyers passed the name onto the prosecution who simply dismissed it, even though one prosecutor not only knew of Hernandez's violent history, but had interviewed him and questioned him on the stand during a prior trial. When Hernandez's name was mentioned during the trial, another prosecutor convinced the jury that Hernandez was just a phantom, that he didn't exist.

De Luna's family members and others who knew him have never wavered in their belief that their Carlos could not have committed the murder of Wanda Lopez.

Carlos Hernandez's family lacked the same confidence. Family members recounted their story for the *Tribune*: he was violent, extremely so after drinking, and had a love of knives – especially the kind with a locking blade, the type of knife that was found at the crime scene of Lopez's murder. They also believe that he was responsible for Lopez's death.



Five people, including Hernandez's family members, told the *Tribune* that after De Luna was arrested and sentenced for the murder of Lopez, Hernandez said that he was the one who had stabbed and killed Lopez. He would say that his "stupid tocayo" took the blame and was sent to death row for Hernandez's crime. "Tocayo" is the Spanish word for "namesake." Some people never told this to the police because they were scared of Hernandez's wrath or they wanted to forget that they had such knowledge. Others believed that they would be questioned, but they never were.

In 1999, ten years after De Luna was executed, Hernandez died in prison of liver cirrhosis. During that decade, Hernandez managed to accumulate five additional arrests, the final of which, an assault with a knife, landed him in prison.

When confronted with the evidence of Hernandez's guilt and De Luna's innocence, the prosecutors in De Luna's trial offered no apologies for their actions.

No one is willing to apologize to Carlos De Luna or his family for taking away his life. Nor is anyone willing to apologize to all those who Hernandez had the opportunity to victimize, but shouldn't have if the police and attorneys had done a thorough investigation of the Lopez murder. And what about the jurors who were lead to believe that De Luna was guilty? They deserve an apology as well.

The Eye Witness who Wasn't There.

Early in the morning of June 21, 1995, Larry Griffin of Missouri died by lethal injection. Even up to his last moments, he claimed that he was innocent. Ten years later, the *St. Louis Post-Dispatch* revealed new disclosures from a year-long investigation conducted by the NAACP Legal Defense and Educational Fund that support those claims.

Twenty-six years ago, Quintin Moss, a 19-year-old drug dealer, was shot 13 times by men firing from a slow-moving Chevrolet Impala at the corner of Olive Street and Sarah Avenue in St. Louis. Police immediately began to suspect Griffin because his older brother, Dennis Griffin, had been shot to death earlier that year. Moss, although never charged, was a prime suspect in that crime. An attempt had been made on Moss's life several weeks before the afternoon he was killed, and Larry and Reggie Griffin were chased down in a car by police after that attempt.

An eyewitness account by a man named Robert Fitzgerald implicated Larry Griffin. During Griffin's trial, Fitzgerald told the jury that, while giving a ride to a man and his daughter on the afternoon of June 26, 1980, his car overheated and broke down near the scene of the crime. His passenger was in the process of fixing the car when the drive-by shooting occurred. Fitzgerald testified that, while inside the car, he was able to avoid the bullets, protect the little girl from being shot, identify Griffin as one of the shooters and memorize the car's license plate number, JPP 203. Michael Ruggeri, the first police officer to respond to the incident, testified at Moss's trial that he saw Fitzgerald attempting to care for Moss when police arrived on the scene. Fitzgerald became the prosecution's star witness.

Ten years after the execution, the *Post-Dispatch* published new facts undermining the credibility of this eyewitness testimony. Coincidentally, publication of these new facts came at a time when Congress was considering legislation that would have radically curtailed federal appeals of state-imposed death sentences.

Fitzgerald, then 36, was a convicted felon living in a St. Louis motel under the witness protection program, waiting to testify against a former associate in crime in the murder of a Boston police officer. By that time, Fitzgerald had been convicted of numerous charges, including possession of heroin, auto theft, armed robbery, and credit card fraud. On the exact day Griffin was convicted, St. Louis County authorities released Fitzgerald. Months later, he testified in the Boston police officer murder trial. That jury rejected his testimony, and the defendant was acquitted.

Another eyewitness testimony was unavailable until recently. On the afternoon that Moss was killed, a man named Wallace Conners was also at the corner of Olive Street and Sarah Avenue. Moss was there to sell drugs, and Conners was there to buy. Conners was struck by a stray bullet and taken to the hospital. When police initially interviewed him after the shooting occurred, Conners did not identify Griffin as a shooter. Shortly thereafter, Conners left St. Louis and was not called as a witness by either the defense or the prosecution at the trial or the later hearings.

Today, we know what Conners never said. Conners told the *Post-Dispatch* during an interview that he knew Griffin, and Griffin was not one of the shooters. "If it would have been somebody who I knew or something, I would have recognized them because I did get a look," Conners said.

According to Conners, someone else was not on the scene on the afternoon Moss was killed—Robert Fitzgerald. Is it possible

The Eye Witness Who Wasn't There.

(continued)

that Conners simply did not see Fitzgerald? Conners explained that Fitzgerald would have stood out if he were present, because Fitzgerald is white. Everyone at the corner of Olive and Sarah that afternoon was black.

Fitzgerald testified that he was parked 20 feet away from the shooter's vehicle. Conners points out two flaws with this statement. First, if Fitzgerald's vehicle was on the scene and so close to the assailant's vehicle, then Conners would have taken refuge behind Fitzgerald's vehicle. Second, if Fitzgerald was on the scene, "he would have been shot just like everybody else," Conners said.

Why was Conners' testimony not heard at Griffin's trial? Conners left St. Louis shortly after the shooting. The original prosecutor, Gordon Ankney, told the judge that Conners had left the state and could not be located. However, records show that Conners was being held by police in Texas at that time. In fact, Texas officials had even issued a subpoena to St. Louis police seeking records regarding Conners.

Ruggeri, the officer who initially confirmed Fitzgerald's presence at the crime scene, also has recently revealed new information. The officer, now retired, told investigators and the *Post-Dispatch* during interviews that, in fact, he saw no one else with Moss and Conners when he arrived. According to Ruggeri, he arrived on the scene when he was dispatched from a police garage four blocks away. He cannot remember seeing anyone with Moss and Conners at the crime scene. Ruggeri took a description of the assailant's vehicle from Conners and broadcast an alert based on the description. It was not until several minutes later that he saw Fitzgerald on the scene. Ruggeri also did not recall seeing Fitzgerald's car broken down near the corner of Olive and Sarah.

"He might have been around the block. He might have been across the street. He may have been, you know, I don't know where he was, but he wasn't there," Ruggeri said.



Ankney, Griffin's prosecutor, does not believe the new findings. Ankney claims that the new report's authors have a political agenda and have tailored the findings to fit their desired result. He dismisses the question of Fitzgerald's credibility, asserting that he "never saw any indication that what [Fitzgerald] said wasn't true." As for Conners, Ankney said, "I was told or I participated in an interview of him in which he said it was one of the Griffins." Ankney discounts Ruggeri's change of story due to memory issues.

The new report identifies three other potential suspects: Reggie Griffin, Ricky Thomas, and Ronnie Parker. St. Louis Circuit Attorney Jennifer Joyce has reopened the case, assigning two top lawyers to investigate the Moss murder case as if it had happened yesterday as opposed to more than 25 years ago.

For the Moss family, old wounds are being reopened as investigators attempt to discover the truth about Quintin Moss's killer. Moss's sister, Sherry, said that she has always doubted Griffin's guilt. His brother, Walter, said he will reserve judgment about whether Griffin was guilty until after the reinvestigation is completed.

Margurette Hollinshed, Griffin's sister, welcomes the new report and reinvestigation in hopes of absolving her brother. She admits that Griffin made mistakes in his life, but also notes that he always confessed when he actually committed a crime. This time, he maintained his innocence until the last moments.



An Execution on the Basis of Lies.

During the investigation of the crime, Moreno was shown pictures of possible suspects. Cantu's photograph was among those that he was shown. However, Moreno was unable to identify Cantu, so the case was dropped for lack of evidence—the police had no DNA or physical evidence and Moreno could not identify Cantu as the perpetrator.

A few months later, an off-duty police officer was drinking and playing pool at a local lounge. Cantu was there doing the same. Supposedly, Cantu, unprovoked, shot the officer four times. However, a conviction could not be made for this crime because of tainted evidence. It was then that the murder of Pedro Gomez was reopened. The police wanted to be certain that if they could not get Cantu for shooting one of their own, then they would manage to find another way to get him. And that is what they did.

No new physical evidence had been uncovered in the crime. So the very next day the police decided that they were going to try again with Moreno. They showed him pictures of possible suspects again. But to no avail: Moreno failed to identify Cantu as the shooter. The police were not yet ready to give up their quest to prosecute Cantu and returned to Moreno's house the next day. But this time they brought him down to the station, where for the third time he was shown photographs. Finally, the police got what they want—a positive identification of Cantu as the perpetrator. No one really knows exactly what happened at the station. Were there threats of deportation or violence? The *Chronicle* reported that a police officer testified that Moreno signed and dated the back of Cantu's photograph after making a positive identification. In fact, the back of the photograph is blank. And no signed statement of Moreno's can be found that implicates Cantu as the shooter.

On Aug. 24, 1993, Ruben Cantu of Texas died from a lethal injection. Twelve years later, the *Houston Chronicle* published a two-part investigative series strongly suggesting that Cantu was innocent,

Growing up in a neighborhood imbued with violence, gangs, drugs, and criminals, Cantu was quickly assimilated into the only lifestyle he knew. It wasn't a surprise to his community in 1985 when Cantu, at the age of 17, was charged with murder committed during the commission of a robbery. Such crimes were commonplace in Cantu's neighborhood and Cantu was known to have a bad reputation. But being charged with this crime must have come as a surprise for Cantu.

At trial, prosecutors argued that in November 1984, Cantu and his codefendant, David Garza, needed some money. They came up with a plan to rob two illegal immigrants, Juan Moreno and Pedro Gomez, who were staying in the neighborhood. According to prosecutors, when Cantu and Garza broke into the house, Gomez awoke and reached for his gun. According to the prosecution, Cantu then fired back at both Gomez and Moreno. The latter of the two victims miraculously survived despite being shot nine times; Gomez was not as fortunate.

An Execution on the Basis of Lies.

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Cantu always claimed innocence and never once admitted to being involved with the crime or even being present at the scene. His codefendant, Garza never admitted to the murder but he did admit to being there and to the robbery. In doing so, he managed to negotiate a plea deal from the prosecutors. Usually in cases where there are multiple defendants, the prosecution will try to get one defendant to flip on any others and testify against them. But Garza never did that. He never named Cantu as being present the night of the crime.

The *Chronicle's* in-depth investigation revealed accounts directly from Garza and Moreno that implicate someone else in the shooting and corroborates what Cantu had been saying all along until the moment he died – that he was innocent and he was never even there that night.

Garza attests in a sworn statement that yes, he was there on the night of the robbery-murder. But Cantu was not. It reads "Ruben Cantu had nothing to do with the murder, attempted murder and robbery of the two men at 605 Briggs Street. I should know." What would cause Garza to tell the truth regarding something that he had remained silent about for so many years? Garza attributes it to an ever-growing guilt he has felt; his silence helped send his best friend to his death. Garza said "Part of me died when he died." And Garza wasn't the only one who had something new to say.

The prosecution's sole witness, Juan Moreno recanted his story. In reference to Cantu being the shooter, Moreno now says that he is "sure it wasn't him... It was a case where the wrong person was executed." Moreno told the *Chronicle* that Cantu was never there that night. He only identified Cantu on the third try because he felt immense pressure from the police to identify him. After all, he was an illegal immigrant at the time.

There were mixed reactions to the *Chronicle's* new evidence that seems to exonerate Cantu.

The police are still firm in their belief that Cantu was guilty of the murder of Gomez.

The prosecutor told the *Chronicle* that there is a possibility that Moreno could have given a false identification of Cantu. But he believed at the time that Moreno's identification was untainted.

The forewoman of the jury was quoted as saying "When the pieces come together in the wrong way, disaster happens. That's not the way our legal system is supposed to work. Ruben Cantu deserved better."

The judge did not comment on Cantu's guilt or innocence. But conceded that "People do lie under oath, and people do get convicted on the basis of lies... This case, like thousands of other cases in the system across the country, cry for a thorough examination of the process."



Executed for an Accidental Fire.

On Feb. 17, 2004, Cameron Todd Willingham was strapped to a gurney in a Texas death chamber as he declared his innocence for the last time. Minutes later, he was executed by lethal injection. In December of the same year, the *Chicago Tribune* uncovered secrets behind the Willingham case, addressing questions left unanswered and raising doubts left unacknowledged.

On Dec. 23, 1991, Willingham was at home with his three daughters. His wife, Stacy, left their home in the morning to pay the bills and shop for Christmas gifts at a Salvation Army store. The family had been struggling that year; Todd, as everyone called him, had recently been laid off, and Stacy was supporting the family with her wages from a bar. The Willinghams were two months behind on rent, and they had even stopped paying some bills in order to save money for Christmas.

Willingham recalled waking up briefly as his wife was leaving the home around 9 a.m. When he heard their one-year-old twins, Karmon and Kameron, crying, he woke up to feed them and went back to sleep. About an hour later, his two-year-old daughter Amber woke him with her cries, and the house was already full of smoke. Willingham remembers not being able to see “anything but black” toward the front of the house. The circuits were popping throughout the home as Willingham frantically went to his daughters’ bedroom. At this point, his hair caught on fire, and he was able to see little more than the glowing of the ceiling. Willingham called out for his children and felt along the floor and bed for them, but he could not find them. This is when debris began falling from the ceiling, causing him to burn his shoulder. He fled the home through the front door.

After fleeing his house, he asked his neighbors to call the fire department and screamed to them, “My babies is in there and I can’t get them out.” A neighbor, Mary Barbee, then asked other neighbors to place the call because her own telephone was disconnected. Willingham reported that, while this was happening, he tried to re-enter his home, but it was too hot. Then, he knocked out two bedroom windows with a pool cue, but could not get into the bedroom.



Buvin Smith arrived on the scene after hearing the neighbor’s call over a radio scanner. Smith remembered restraining Willingham from going onto the porch, and heard him yelling that his “babies were in the house” and noticed that he was “acting real hysterical.”

Almost immediately, Willingham became a suspect. According to the *Chicago Tribune*, prosecutors often are able to rely on circumstantial evidence in cases when a child dies and the parent survives. In this case, the prosecution convinced the jury that Willingham killed his children because they interfered with his beer-drinking, dart-throwing lifestyle. The jury believed it.

Neighbors told investigators that they did not believe Willingham tried hard enough to save his children. In fact, Barbee said that she saw Willingham standing by the fence as heavy smoke came out of the windows. Also, she told investigators that Willingham seemed more concerned with moving his car away from the burning house as the windows blew out than with saving his children.

Willingham’s wounds were treated shortly after the fire. Firefighters did not think that his burns were severe enough had he indeed searched for his daughters in the manner he described. His shoulder, back, and hair were burned, but his bare feet were not burned at the bottom.

Police stated that, the day after the fire, Willingham complained about not being able to find a dartboard in the wreckage of his home. Others mentioned hearing loud music and laughter in the following days as the couple attempted to salvage their belongings.

A police chaplain grew suspicious that Willingham’s hysterics during the fire were not genuine. The chaplain, George

Executed for an Accidental Fire.

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Monaghan, noted that Willingham seemed “too distraught.”

In addition to these evaluations of Willingham’s behavior, fire investigators reported over 20 indicators of arson. These include the “crazed glass,” or the web-like cracks in the glass. Until more recent research was completed, arson specialists believed this to be a clear indication that an accelerant had been used in the fire. The fire experts also noted that the fire had reached a stage known as flashover, when a fire reaches such a high temperature that an explosion results. This further supported their reasoning that an accelerant had been used.

Willingham was charged with murder on Jan. 8, 1992, just two weeks after the fire. In August of the same year, his trial began, after Willingham turned down a deal from the prosecution and insisted that he was innocent. During the trial prosecutors presented inmate Johnny E. Webb as a witness. He testified that Willingham confessed at the county jail to killing his children in order to cover up the fact that his wife, Stacy, had been physically abusing them. Webb, a recovering drug addict, was taking psychiatric medication to relieve post-traumatic stress syndrome. The prosecution also presented as witnesses the neighbors who claimed that Willingham should have done more. Fire investigators Doug Fogg and Manuel Vasquez also testified at Willingham’s trial. Both of these investigators testified in court that the fire was caused by arson. Both of these investigators testified to assumptions about fire that have been scientifically proven to be wrong.

Today, we know better. The *Chicago Tribune* has published information from recent reports regarding the Willingham case. Gerald Hurst, a Cambridge University-educated chemist, investigated this case by reviewing documents, trial testimony, and video documentation of the fire scene. John Lentini, John DeHaan, both private consultants specializing in fire investigation, along with Louisiana fire chief Kendall Ryland, also examined the materials. These four experts concluded that the original investigation was terribly flawed. In fact, they suggest that this fire may have been simply accidental.



The conclusions of this team of investigators are based on current forensic evidence and scientific knowledge of fire that was unavailable only a decade ago. For example, the original investigators determined that an accelerant was used because wood cannot burn hot enough to melt aluminum. According to Hurst, it can. The 1991 investigators also claimed that the brown rings on the Willingham’s front porch were another indicator of accelerant usage. Hurst called this “baseless speculation,” explaining that fire-hose water often leaves brown rings on surfaces after evaporation. In this full report, Hurst went on to dismiss every single indicator of arson Fogg and Vasquez had originally cited.

What was done with this report? Texas judges and Gov. Rick Perry turned it aside, confident of Willingham’s guilt.

Jury members are less confident now. One jury member asked, “Did anybody know about this prior to his execution? Now I will have to live with this for the rest of my life. Maybe this man was innocent.”

In fact, somebody did know about the new science prior to Willingham’s execution. In February 1992, just two months after the fire, a groundbreaking study on fire science was published by the National Fire Protection Association. Although it is considered the cutting-edge standard on fire investigation, some investigators refused to acknowledge it.

In his final hours, Willingham spent time with his father and step-mother, Gene and Eugenia Willingham. Afterwards, his father said, “He didn’t want us worrying over him. He said he’d be okay.”

Want to help? The following organizations support needed reforms to death penalty statutes in the U.S., moratorium or abolition:

National Coalition to Abolish the Death Penalty
(202) 331-4090 www.ncadp.org

ACLU Capital Punishment Project
(202) 675-2319 www.aclu.org/death-penalty

Amnesty International USA Program to Abolish the Death Penalty
(202) 544-0200 www.aiusa.org

Citizens United for Alternatives to the Death Penalty (CUADP)
(800) 973-6548 www.cuadp.org

Citizens United for the Rehabilitation of Errants (CURE)
202-789-2126 www.curenational.org

Death Penalty Information Center
(202) 289-2275 www.deathpenaltyinfo.org

Equal Justice USA/Quixote Center
(301) 699-0042 www.ejusa.org

Journey of Hope From Violence to Healing
(877) 92-4GIVE(4483) www.journeyofhope.org

The Justice Project
(202) 638-5855 www.thejusticeproject.org

Murder Victims' Families for Human Rights
(617) 868-0007 www.murdervictimsfamilies.org

Murder Victims' Families for Reconciliation
512.782.9895 www.mvfr.org

NAACP Legal Defense and Educational Fund
(212) 965-2267 www.naacpldf.org

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