

# OPINION

THE BATTALION

## With New DNA testing technology, should convicted criminals be given ONE MORE CHANCE?

Imagine a society where justice is never final and convicted criminals get unlimited chances to prove their innocence. Cops become more desperate to ensure convictions, people become more paranoid, and justice is always second-guessed. With a new piece of legislation proposed by Sen. Orrin Hatch to the Senate Judiciary Committee, all this might soon become a reality. The proposed legislation would allow DNA testing to prove a convicted criminal's innocence. Yes, a convicted criminal, one who has already been found guilty, could be given another trial.



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chance to defend themselves. The American justice system is a well-designed process that has allowed everyone an equal chance for more than 200 years. A legal system in which juries give a definitive verdict, judges can overrule decisions, and appeals are guaranteed provides a great sense of security to the society it oversees. DNA retesting undermines this trustworthy system. Defendants should not await a verdict that says, "We find the defendant guilty at this point in time. But after technology advances, we may change our minds."

Instead of retrying convicted criminals, society should move forward by renewing its faith in the legal system. After all, one judge and 12 jurors found the defendant guilty, and appeals have upheld that conviction. Additional tax dollars are not needed to prove a criminal's guilt one more time. Instead, faith in the fairness and accuracy of the legal system will be the successful way to achieve closure.

Other potential problems with allowing convicted criminals a DNA test and trial must also be considered. This response by inmates could clog the entire legal system by allowing more frivolous appeals. As Oregon prosecutor Joshua Marquis said, allowing DNA testing of convicted criminals "would be used as yet another tool by an undoubtedly guilty murderer to extend the appeals process another five to 10 years."

DNA testing should be a tool to help prove innocence the first time. But let closed cases be closed, and convictions be carried out. Let those found guilty be punished. Just as new types of DNA testing have been devised, other breakthroughs in technology will follow. This does not mean that current convictions need to be postponed until these technologies are developed, just as DNA testing does not need to backtrack to prove innocence. There needs to be faith in the legal system. Multiple courts have upheld the criminal's conviction and society is ready to punish the perpetrator. Justice cannot be put off any longer.

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When the general public hears that the chair of the Senate Judiciary Committee has proposed a new piece of legislation, the reaction is usually one of boredom and indifference. After all, it is legislation that will probably only affect a small fraction of the population, right?

However, this is not the case when the chair has just proposed legislation to provide those already convicted of crimes with access to DNA testing that could establish their innocence. This is legislation that will probably be the most important ever considered by Congress.

Recently, Utah Sen. Orrin Hatch introduced legislation that would not only allow convicted criminals to use DNA testing to exonerate themselves, but also give them the chance to do so after their time for court appeals has expired. This action is the first step in recognizing a grave problem with wrongful convictions. Incarcerating innocent people is as obvious a flaw of the judicial system as is the releasing of guilty persons.

An error-free system is seen by many as unattainable. "Nobody is perfect" is the excuse offered by the "tough-on-crime" crowd. This topic could be argued endlessly, and it should be, for it would likely lead to a more efficient legal system.

However, when the person in question is awaiting execution for a crime he or she did not commit, the argument becomes redundant and a crime in itself.

Wrongfully convicting and then executing an innocent person is a crime as serious as the crime in question. To do so while also denying the accused a chance to vindicate himself with advanced DNA testing is an even greater evil.

During a previous Judiciary Committee hearing, the plan was harshly criticized by law-enforcement officials who said it would lead to frivolous appeals that would clog courts.

The critics pointed to the \$2000 cost of each DNA test and claimed it would needlessly delay justice for victims. They argued that if the courts even at-



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tempted to resolve the 180,000 DNA tests awaiting trial, the progress of day-to-day justice would suffer enormous consequences.

Publishers of Webster Dictionaries need to be contacted because law-enforcement officials speaking out against post conviction DNA testing have redefined the word "ignorance."

One would be hard pressed to find more barbaric reasoning than that employed by the opponents of this legislation. It seems bureaucracy knows no worthy enemies.

Since 1976, eight prisoners have been freed from death sentences and 67 others from lesser sentences after DNA tests proved their innocence. The proof is in the writing, and the writing is crystal clear.

By saying the implementation of this legislation would delay justice for victims of other crimes, opponents are placing a greater value on the swift conclusion of trials than on human life.

The idea is so despicable that it is bizarre and foreign to those who still retain a decent sense of humanity.

The fight to correct the flaws in the judicial system is not a private one. Some heavy hitters are putting their reputations on the line in the interests of justice.

After Texas Gov. George W. Bush delayed an execution to give a death-row inmate time for new DNA tests, media attention has focused on him.

When asked what his stance on the current system is, Bush replied that reviewing death penalty cases is his "most profound" duty as governor and that his "worst nightmare" is the death of an innocent person.

Bush, however, has not stated whether he will support the similar legislation being drafted in Texas right now. Many people say that Bush's move to delay this last execution was a politically motivated move and a poor indicator of his true sentiments.

As it stands, only New York and Illinois permit DNA testing during appeals. Nebraska, Maryland, Oregon and New Hampshire are reviewing their systems. Texas legislators are also in the process of finalizing legislation that would allow for the same testing in appeals.

However noble these moves are, this is not an issue to be decided by the states. The legislation proposed by the Judiciary Committee must pass with the approval of the federal government.

The logic used by the opponents of this legislation is flawed. When a wrongfully convicted person is executed, murder is committed. If the opponents of the proposed legislation are willing to accept the possibility of a wrongful execution, then they must accept their decision as murder.

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### Faith in legal system, past convictions should dispel fears of wrongful convictions.

since 1988, but recently the FBI has introduced the use of mitochondrial DNA, which is located outside the cell's nucleus and can be extracted from poorly-preserved fragments of evidence such as hair, blood, skin or semen. Nuclear DNA is more accurate, but harder to keep in its pure state when removed from a crime scene, resulting in tainted samples.

A perfect example is the O.J. Simpson trial, where the nuclear DNA sample was not pure enough to substantiate a conviction. On the other hand, mitochondrial DNA does not provide as unique a fingerprint because it is inherited only from the mother, which means many relatives could share the same mitochondrial DNA sequence, but it does not taint as easily as nuclear DNA.

Because DNA is found in all parts of the human body, it is easy to obtain DNA and determine someone's presence at a crime. But, as lawyers argue, being present at the scene of a crime does not prove guilt or involvement beyond a "shadow of a doubt" which is required for a conviction. The presence of DNA particles on or around a victim proves only that those two humans had contact, not that one assaulted or murdered the other. While DNA samples can prove someone was at a crime scene, eyewitness testimony would still be the most crucial piece of evidence identifying the perpetrator.

Furthermore, DNA is the most scientifically advanced, but not the only effective, way to link someone to a crime. Convicted criminals have already been found guilty beyond a shadow of a doubt with other reliable forms of evidence such as fingerprints and eyewitness testimony. Appeals have evaluated the trial and concluded it was fair. If there were an injustice, it would have been acknowledged, and criminals would have had a new



RUBEN DELUNA THE BATTALION

## Biased evaluations mar professor review site

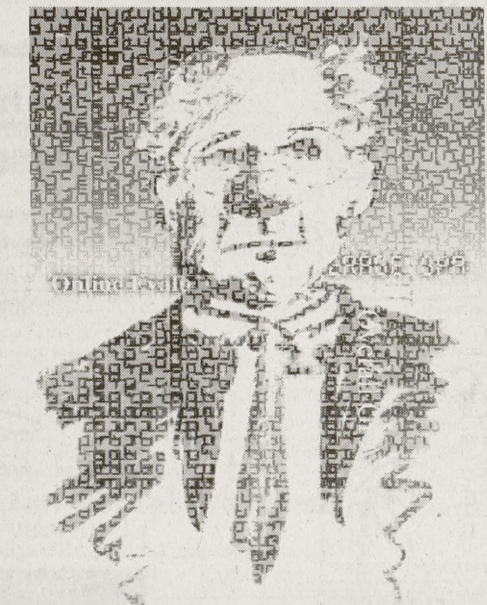
Combining modern technology with the desire to take an easy professor, the Website pickaprof.com offers grade point distributions and student evaluations of University of Texas-Austin (UT) and Texas A&M professors. Though students may think this site is the best resource to come along since Cliff's Notes, they should be wary of its information.



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abilities or to an individual student's poor work ethic. Likewise, not all students have the same academic abilities or ambition, and what is a walk-in-the-park class for one could very well be a challenging course for another.

Pickaprof.com could increase the reliability of its online evaluations by asking students to provide a little personal information.



BRANDON HENDERSON/THE BATTALION

Before pickaprof.com, choosing the right professor meant relying on word-of-mouth recommendations. The site, while trying to help students, poorly attempts to replicate the word-of-mouth practice by offering professor evaluations written by students. Though both evaluations and word-of-mouth recommendations convey relevant information, online versions are less reliable.

An individual reading a pickaprof.com evaluation knows neither the character of the student who wrote the evaluation, nor how long ago the course was taken, nor what grade was received in the class. Because evaluators are completely anonymous, a resource of useful information is cheapened and potentially tainted with bias.

For example, a student who bears a grudge against a professor is more likely to be motivated to whip up an evaluation than a student who is indifferent toward the professor.

And although pickaprof.com says it screens the reviews for profanity and direct attacks on professors, the online testimonies still offer an enticing platform for vindictive students to have the last word. It is impossible to discern whether negative responses are due to the professor's poor teaching

Information such as the semester the student took the course, the student's major, other classes taken at the same time, and the grade received in the class could be disclosed while maintaining the student's anonymity.

In addition to offering online evaluations, pickaprof.com displays grade distributions for each professor. The grade distributions are taken directly from the Universities' open records, but the manner in which the distributions are displayed is misleading.

Each professor has the cumulative average of all the grades he or she has given out. However, some professors have taught a course longer than others, and therefore their grade distribution has a deeper pool of grades to more accurately depict their average grade distributions.

The problem arises in that, for some professors, this may encompass only two semesters and 100 students, while for other professors, eight semesters and 13,000 students.

For this reason, class size and the duration of a professor's teaching career should be considered when comparing grade distributions from pickaprof.com.

Furthermore, the consistency of the grade distributions could be questioned. There are no footnotes concerning textbook changes, extraordinary events which may have affected a semester, or the addition of prerequisite courses that increase the knowledge base of students.

On the other hand, the Website is fairly well designed, easy to follow and available at no cost to the user. In respect to core curriculum courses, the site could be a potential gold mine if a few informational improvements were made.

But for the time being, when it comes to students assessing professors before taking their classes, the most well-rounded and reliable information still comes from word-of-mouth recommendations.

Elizabeth Kohl is a senior accounting major.

### Mail Call

#### Splitting Microsoft solves nothing

In response to Sunnye Owens' June 22 column.

Maybe Microsoft is a monopoly, but breaking up Microsoft and breaking up monopolies of the past is quite different, because competition in operating systems is not something we really want.

The software industry is not like any other industry. Unlike gasoline and telephones, which can be produced by anybody and meet the same standard, the software industry does not have a standard.

When two programs are written based on different standards, they will not be compatible with each other. Windows so far has set a standard in the software industry.

But competition in the operating system market will only break this standard. The result will be a rising price in application software because all software then has no standard to follow.

Several different versions of each program have to be written for the different operating systems. It will drive up the cost of application software production. It will also increase the complexity of buying software for everyday people, because they will have to make sure that what they are buying is compatible with their operating system.

By preventing Microsoft from including its programs with the

operating system, consumers will have to purchase software that came with the operating system in the past. The breakup will not produce the desired effect.

In my opinion, Microsoft's proposed breakup plan is far better than the one proposed by the government. Under Microsoft's plan, the company will not be broken up, but will make its source code available to other companies, which will make software development much easier and cheaper.

The government will accomplish nothing by splitting Microsoft. They will be splitting a two-headed dragon into two one-headed dragons. They are essentially splitting Microsoft into Standard Oil and Bell Telephone.

Yixuan Li  
Class of '02

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