



*The Senate of
The State of Texas
Austin, Texas 78711*

September 13, 2010

Texas Forensic Science Commission
Sam Houston State University
College of Criminal Justice
Box 2296
816 17th Street
Huntsville, Texas 77341-2296

Via email to the Commission and individual Commission members

Dear Texas Forensic Science Commissioners,

We write to you today as members of the Senate Criminal Justice Committee, which has oversight authority over the Texas Forensic Science Commission (FSC). As you know, the FSC was established by the legislature to ensure the quality and integrity of forensic science used in Texas courts and considered by Texas juries. While your role is critical to instilling public confidence in forensic evidence, we are concerned that your handling of the Willis/Willingham investigation could be having the opposite effect.

The FSC's enabling statute directs that you will "investigate, in a timely manner, any allegation of professional negligence or misconduct that would substantially affect the integrity of the results of a forensic analysis...." We are particularly concerned about your investigation in the Willis/Willingham case because:

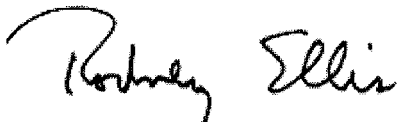
- The Willingham investigation has not been transparent: Much of your investigation has occurred in secret "investigation panels," beyond public view.
- The Willingham investigation has been significantly diluted since the FSC was reconfigured days before the October 2, 2009 meeting: At that meeting, the FSC had originally intended to publicly question Dr. Beyler about his report and invite other important actors to testify before the Commission. Based on the agenda for your upcoming meeting, your investigation seems now to only consist of a review of written materials, with no questioning of witnesses, particularly persons who could help the Commission assess competing assertions. Additionally, at your last meeting you appeared to be on the verge of approving the investigation panel's recommendations without having properly investigated the facts underlying the allegation.

- The Willingham investigation is ignoring a critical part of the complaint: The complaint before you in this case not only asked you to determine if negligence or misconduct occurred in the Willingham case, but it also asked you to "direct a re-examination of other forensic analyses conducted by the Texas State Fire Marshal or its contractors that may involve the same kind of erroneous arson analysis, and recommend corrective action." Based on the letters the FSC sent out requesting additional comments, it appears that you are not interested in looking at the "big picture" component of this complaint: Did the State Fire Marshal commit professional negligence or misconduct if it failed to inform the courts, prosecutors, the Board of Pardons and Parole, and the Governor that flawed arson science may have been used to convict hundreds or thousands of defendants?

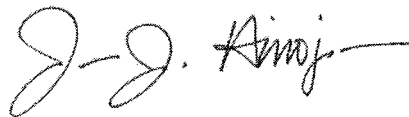
Between 225 and 250 people are sent to Texas prisons every year on arson convictions. There are over 700 people in prison today with an arson conviction. Texans need to be confident that the flawed science used to convict and execute Mr. Willingham wasn't used to wrongly imprison many others – particularly when the State of Texas has already recognized the "actual innocence" of one such person, Ernest Willis, who seems to comprise the forgotten half of this investigation.

Given the public attention that this allegation has drawn, your handling of it is critical to the public's faith in your work – and as a result, the public's faith in forensic evidence. If this investigation is seen as incomplete or biased, Texans will likely lose faith – not just in the arson evidence being questioned in this case, but in the FSC's ability to investigate serious allegations of forensic negligence or misconduct and ensure the accuracy and reliability of forensic evidence in the future.

Sincerely,



Senator Rodney Ellis



Senator Juan "Chuy" Hinojosa