



Texas Forensic Science Commission

Justice Through Science

Texas Forensic Science Commission: A Work in Progress

by John Bradley

I am John Bradley, the elected District Attorney in Williamson County and the new presiding officer of the nine-member Texas Forensic Science Commission. I am writing to introduce myself, explain the purpose of the Commission and inform you about the work the Commission now faces.

The Commission wants to reassure you that the Willingham case, involving a study of the application of the forensic science of arson, will be completed. However, pending the release of a final report by the Commission, you should be skeptical of media reports, personal pronouncements and editorials on that case. Those with agendas separate from the advancement of forensic science have made exaggerated claims and drawn premature conclusions about the case. The Commission can only ask that the public be patient and permit the Commission to apply a disciplined, scientific approach to the investigation. That kind of hard work takes time, careful deliberation and is not likely to result in a simplistic report.

You also need to know that the Commission was created to determine only whether there was negligence or misconduct by an accredited laboratory conducting forensic analyses of certain kinds of evidence in specific cases. The Commission does not decide whether persons are guilty or innocent of criminal offenses. The Commission also is not a forum for the debate of social issues, such as the appropriateness of the death penalty. Such discussions are better suited for our court system and the legislative process.

The Commission was created in 2005 but still is in its infancy. Actual work by the Commission began only two years ago. After several weeks of educating myself about the brief history of the Commission, I have learned there is still significant work to be done before decisions by the Commission can be treated as authoritative.

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First, no state agency should operate without clear written policies and procedures. Those policies and procedures help public servants apply consistent standards and avoid accusations of making up the rules as they go along. The Commission does not have any written policies and procedures; there are no consistent standards currently being applied to the work of the Commission. For example, there are no definitions of what constitutes negligence or misconduct by a forensic scientist. There is not even a written standard for deciding what cases should be accepted for review or how the Commission reviews, investigates and draws conclusions in such cases. For a state agency with a mission to improve the application of forensic science, the absence of such definitions and standards is unacceptable. And that is why I have reached out to the Director of the Office of Court Administration of the Judicial Branch for assistance in drafting policies and procedures to be adopted by the Commission.

Second, any investigative process should be handled under professional investigative standards that maintain the highest level of integrity. Currently, the Commission simply delegates an investigation to a person outside the Commission through a competitive bid process. Once an investigator is assigned to a case, there is no established process for and oversight of the investigation, leaving the complainant, the person subject to investigation and the Commission subject to accusations of inappropriate outside influence and the damaging effects of the premature release of sensitive information; these gaps in process could create doubts about the integrity of final reports even before they are issued. At my request, the Director of the Department of Public Safety has offered the assistance of the Texas Rangers in drafting investigative standards that will reassure you of the integrity of Commission investigations.

Third, most state agencies with investigative and deliberate functions are protected by laws designed to keep such information confidential until a final decision is released. Unfortunately, the law creating the Commission does not include those protections. While the Commission's work should remain ultimately transparent, the sensitive process of receiving a complaint, investigating that complaint, deliberating on a case and preparing a final report, must be protected from interference and improper outside influence until a final report is issued. I have asked lawyers with the Attorney General's Office, who have expertise in such matters, to advise the Commission on how it can make improvements.

Fourth, the Commission must have sufficient resources to create an independent, authoritative presence in the forensic science field. Commission members all have full-time jobs that prevent them from meeting frequently and conducting the detailed sort of study required by these cases. The Commission currently has one employee to handle all of the administrative, legal and public contact work of the Commission. That simply is insufficient. I will be talking to the Legislature about future funding so the Commission can grow into a mature, well-respected entity.

Finally, the Commission should also have a positive role in the development of best practices in the various fields of forensic science. Through better training, the Commission can help raise the standards for the application of forensic science in our courtrooms. But there is nothing in the law authorizing such work by the Commission. I will be asking the Legislature to expand the legal authority of the Commission to provide such leadership.

This will not all be done overnight. Working together, the Commission may need several years to complete all of these goals. But, I can assure you that the members of the Commission take their appointments seriously and are excited to be involved in the advancement of forensic science in Texas courts. You can do your part in supporting this process by exercising patience and telling anyone who will listen that good work takes time.