



TEXAS JUDICIAL COUNCIL

205 WEST 14TH STREET, SUITE 600 - TOM C. CLARK BUILDING – (512) 463-1625 – FAX (512) 936-2423
P. O. BOX 12066 – AUSTIN, TEXAS 78711-2066

CHAIR:

HON. NATHAN L. HECHT
Chief Justice, Supreme Court

EXECUTIVE DIRECTOR:
DAVID SLAYTON

VICE CHAIR:

HON. SHARON KELLER
Presiding Judge, Court of Criminal Appeals

TIMOTHY COLE EXONERATION REVIEW COMMISSION AGENDA

October 27, 2016 - 1:00 P.M.

**Supreme Court of Texas Courtroom
201 West 14th Street, Austin, Texas 78701**

Action and Discussion Items:

- I. Commencement of Meeting – *Representative John Smithee, Presiding Officer***
- II. Attendance of Members – *Wesley Shackelford***
- III. Approval of Minutes from September 15, 2016**
- IV. Opening Remarks – *Representative John Smithee, Presiding Officer***
- V. Review Draft Final Report – *Alejandra Peña***
- VI. Review Timeline**
- VII. Public Comment**
- VIII. Other Business**
- IX. Next Meeting**
- X. Adjournment**



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**TIMOTHY COLE EXONERATION REVIEW COMMISSION
DRAFT MINUTES OF MEETING
September 15, 2016 - 1:00 P.M.
House Appropriations Hearing Room, Texas State Capitol
1100 Congress Avenue, Austin, Texas 78701**

Commencement of Meeting:

On September 15, 2016, Representative John T Smithee called the meeting of the [Timothy Cole Exoneration Review Commission](#) (TCERC) to order at approximately 1:00 p.m. in the Texas House Appropriations Hearing Room in Austin, Texas

The following Commission members were present:

Representative John T Smithee, District 86, Amarillo
The Honorable Sharon Keller, Chair, Texas Indigent Defense Commission
Senator Joan Huffman, District 17, Houston
Senator John Whitmire, District 15, Houston
Mr. Sam Bassett, President, Texas Criminal Defense Lawyers Association
Mr. John Beauchamp, General Counsel, Texas Commission on Law Enforcement
Dr. Vincent Di Maio, Presiding Officer, Texas Forensic Science Commission
Mr. Charles Eskridge, Quinn Emanuel Urquhart & Sullivan, LLP, Houston
Mr. Carol Vance, Retired, Houston (participated by phone)

Advisory Members in Attendance:

Ms. Cassandra Jeu, Director, Texas Innocence Network, University of Houston Law Center
Mr. Mike Ware, Executive Director, the Innocence Project of Texas

Additional attendees:

David Slayton, Executive Director, Texas Judicial Council

Not in attendance:

Representative Abel Herrero, District 34, Corpus Christi
Mr. Staley Heatley, President, Texas District and County Attorneys Association
Advisory members,
Tiffany J. Dowling, Director, Texas Center for Actual Innocence,
University of Texas School of Law
Mr. Anthony S. Haughton, Executive Director, Innocence Project at the Thurgood Marshall School of Law at Texas Southern University

Minutes

Without objection, the [June 28, 2016](#) meeting minutes were approved as submitted.

Opening Remarks

Presiding Officer, Representative John Smithee welcomed members and gave a brief overview of the meeting agenda.

Forensic Evidence

Staff presented an overview of Texas exonerations where false or misleading forensic evidence was the main contributing factor.

Inger Chandler, Conviction Integrity Unit, Harris County District Attorney's Office & Nicolas Hughes, Harris County Public Defender's Office provided testimony on drug case exonerations in Harris County and Lynn Garcia, Texas Forensic Science Commission, provided an overview of forensic issues in criminal cases as well as potential reforms.

The Commission considered and approved three of the four proposed policy recommendations relating to forensic evidence.

Informant and False Accusations

The Commission considered and approved three of the seven proposed policy recommendations which had been presented at the June 28th Commission meeting.

Faulty Eyewitness Identification

The Commission considered and approved three of the six proposed policy recommendations which had been presented at the June 28th Commission meeting.

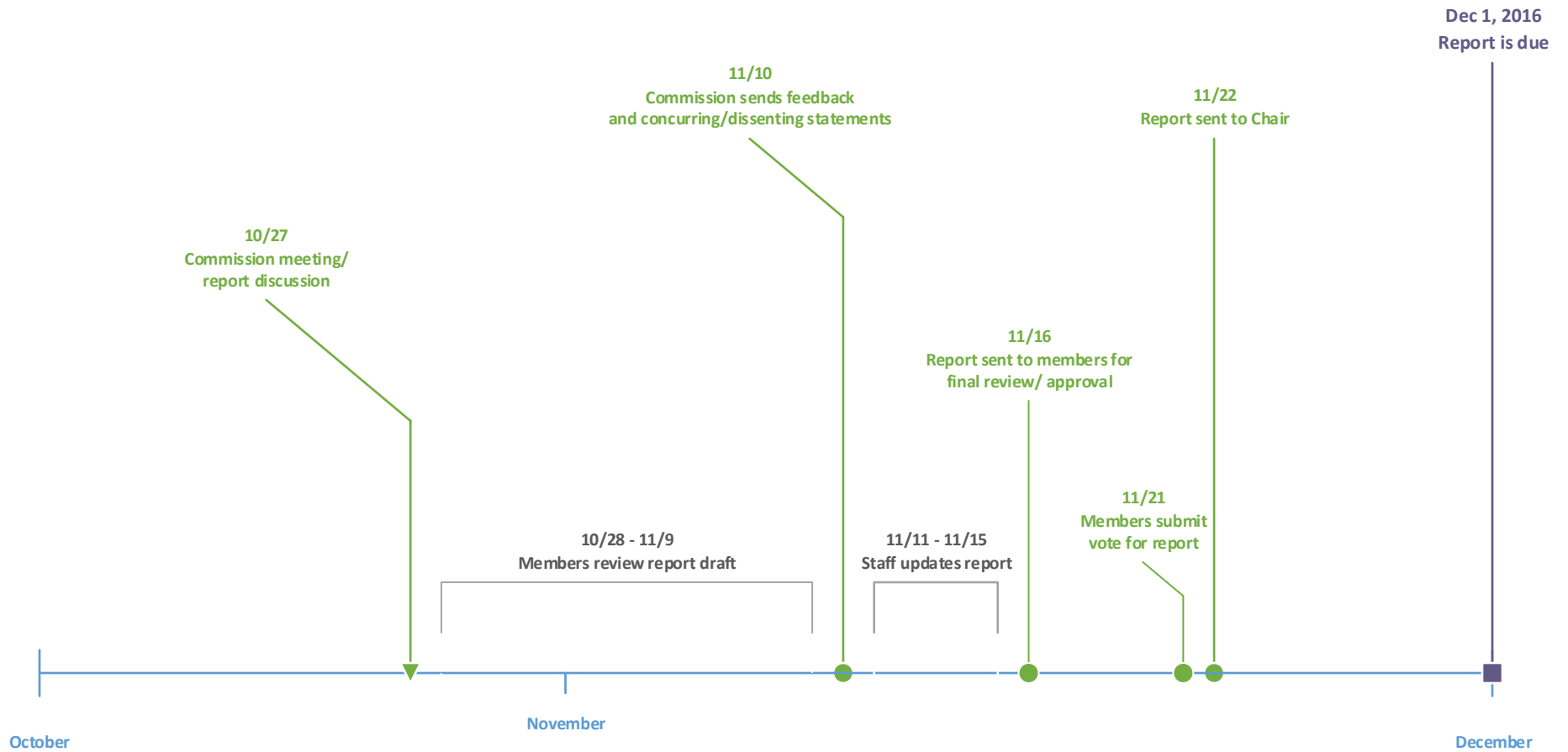
Review of Timeline and Draft Outline for Final Report

Staff presented an updated timeline and draft outline for final report.

Public Comment

Mr. Cory Sessions, brother of Timothy Cole and Vice-President, Innocence Project of Texas, Fort Worth, Texas thanked the Commission for its work thus far and expressed his desire for the Commission's continuation. He also brought attention to a law, repealed by the 73rd Legislature, which involves a person who intentionally transmits the HIV virus to unsuspecting individuals. He introduced Mandy Cole, a victim who was intentionally transmitted the HIV virus. Ms. Cole stated that the current statute limitations of three years is far too short for this type of crime.

Potential Timeline for Timothy Cole Exoneration Review Commission





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GRITS FOR BREAKFAST

WELCOME TO TEXAS JUSTICE: YOU MIGHT BEAT THE RAP, BUT YOU WON'T BEAT THE RIDE.

TUESDAY, SEPTEMBER 13, 2016

Many wrongfully convicted Harris County drug defendants never notified of innocence claims

The Timothy Cole Exoneration Review Commission continues to trundle along months after your correspondent left its ranks and is scheduled to meet Thursday, September 15th at 1:00 p.m. in the House Appropriations Committee Room, Texas Capitol Extension Room #E1.030. The Office of Court Administration posted [links to the Agenda, Meeting Book, Appendix, and Media clips](#) for this and prior meetings. The meeting will be broadcast live on the House of Representatives website [here](#).

Among other documents, the "meeting book" this time contains a joint power-point presentation from the Harris County DA and Public Defender on the rash of drug exonerations in that county stemming from a combination of over-aggressive drug enforcement and faulty field tests. Their update included a reminder that quite a few falsely convicted people in this episode served out their full sentences without ever being notified they were entitled to relief. Just to try out something new, here are a few screenshot-highlights from that presentation collected into a brief slideshow:



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The difficulties faced in notifying defendants eligible for relief, much less equipping them with counsel if they have a viable claim, are neither new nor unique to this episode. Rather, it's a problem the state **confronts in multiple situations** where **large-scale forensic and/or other errors** potentially taint large classes of cases instead of one or two convictions. These are not problems with obviously great solutions, but identifying them and talking about ways to improve on past failings is a good place to start.

POSTED BY GRITSFORBREAKFAST AT 12:21 PM

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LABELS: [DISTRICT ATTORNEYS](#), [DRUG POLICY](#), [EXONERATION COMMISSION](#), [HARRIS COUNTY](#), [INNOCENCE](#)

4 COMMENTS:

A Waco Friend said...

With pending liability for the county/state, it would seem that funding a few dedicated investigators to track down the victims, provide a few additional attorneys in the public defender office dedicated to this, etc., could be a cheaper alternative to having to respond to massive civil rights lawsuits.

9/14/2016 04:27:00 AM

Anonymous said...

How hard could it be? Start with an arrest database from the cops. Marry that to a conviction database. You might think the next step is to further research cases that involve the existence of X, where X is the condition that made the conviction faulty. That's where govt officials can put their hands in their pocket and claim they will never be able to derive the golden list of cases and thereby fall short on notification of those impacted. Nonsense. The answer is to over-notify. All convicted of a class of crime should get a notice saying, you are being contacted because you were convicted of ABC. If your case also involved X, you may be eligible for relief. Contact your attorney and direct them to this web page...

9/14/2016 04:49:00 AM

Dean Becker said...



Drug prohibition is evil, proves itself every day, those who believe in drug war are evil.

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On Zombie Animation and Interpreting Splits Among Texas Court of Criminal Appeals Judges

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"A protein-laden dose of big thinking on criminal justice reform."

- Evan Smith, Editor-in-chief and publisher, *The Texas Tribune*

"A powerful and well-researched site."

- *The Austin Chronicle*

"plenty of biting commentary and credible research"

- *San Antonio Current*

Grits for Breakfast "is the best blog about criminal justice in Texas" and "as usual extremely

9/14/2016 10:06:00 AM

Anonymous said...

Did they have a problem finding these people when they were handing out indictments? Maybe they should just pretend they are serving new indictments...

9/16/2016 12:24:00 AM

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fair"

- Erica Grieder, *The Economist*

"the best coverage of criminal justice in the entire state"

- Pamela Colloff, *Texas Monthly*

"I respect the work Scott does and appreciate his thoughtful and extensive coverage of Texas's criminal justice system"

Jim Bethke, *Texas Indigent Defense Commission*

"Grits for Breakfast has done a terrific job covering Texas prison overcrowding issues."

- Doug Berman, *Sentencing Law & Policy*

"plugged in and well written"

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"I always tell people interested in these issues that your blog is the most important news source, and have had high-ranking corrections officials tell me they read it regularly."

- Scott Medlock, *Texas Civil Rights Project*

"a helluva blog"

- Solomon Moore, *NY Times criminal justice correspondent*

"Congrats on building one of the most read and important blogs on a specific policy area"