
**HOUSE COMMITTEE ON GENERAL INVESTIGATING
TEXAS HOUSE OF REPRESENTATIVES
INTERIM REPORT 2003**

**A REPORT TO THE
HOUSE OF REPRESENTATIVES
79TH TEXAS LEGISLATURE**

**KEVIN BAILEY
CHAIRMAN**

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Committee On
GENERAL INVESTIGATING

January 4, 2005

KEVIN BAILEY
Chairman

P.O. Box 2910
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The Honorable Tom Craddick
Speaker, Texas House of Representatives
Members of the Texas House of Representatives
Texas State Capitol, Rm. 2W.13
Austin, Texas 78701

Dear Mr. Speaker and Fellow Members:

The Committee on GENERAL INVESTIGATING of the Seventy-Eighth Legislature hereby submits its interim report including recommendations and drafted legislation for consideration by the Seventy-ninth Legislature.

Respectfully submitted,

A handwritten signature in cursive script that reads "Kevin Bailey".

Kevin Bailey, Chairman

A handwritten signature in cursive script that reads "Ken Paxton".

Ken Paxton, Vice-Chairman

A handwritten signature in cursive script that reads "Terry Keel".

Terry Keel

A handwritten signature in cursive script that reads "Harold Dutton, Jr.".

Harold Dutton, Jr.

A handwritten signature in cursive script that reads "Dan Flynn".

Dan Flynn

Ken Paxton
Vice-Chairman

Members: Harold Dutton, Jr., Dan Flynn, Terry Keel

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INTRODUCTION

At the beginning of the 78th Legislature, the Honorable Tom Craddick, Speaker of the Texas House of Representatives, appointed five members to the House Committee on General Investigating. The committee membership included the following members: Kevin Bailey, Chairman; Ken Paxton, Vice-Chairmen; and members: Harold Dutton, Dan Flynn and Terry Keel.

During the regular session of the 78th Legislature, the Committee conducted hearings, took testimony, proposed legislation, and closed two of the five issues before the committee. The following list contains the issues which were before the committee during the regular session.

1. Houston Police Department Crime Lab - Committee proposed and passed House Bill 2703, which establishes accreditation of DNA crime labs. The unresolved crime lab issue was included in the committee's interim work.
2. Texas Commission on Human Rights - this agency was abolished as a stand-alone entity and moved under the Texas Attorney General's office.
3. Texas Health and Human Services Commission - while this agency was not included in the committee's interim work, our initial investigation is ongoing.
4. Special Districts - legislation was proposed during the session but was not passed. Our committee and the House Committee on Urban Affairs have this topic as interim work.
5. Texas Lottery Commission - one issue concerning the purchasing of equipment was brought before the committee and addressed during a public hearing. It was determined that while the general public was opposed to the purchase, there appeared to be no clear violation of any established rules or procedures.

Finally, the Committee wishes to express appreciation to all who contributed their time and efforts on behalf of the State of Texas.

**HOUSE COMMITTEE ON GENERAL INVESTIGATING
INTERIM STUDY CHARGES AND SUBCOMMITTEE ASSIGNMENTS**

During the interim, the Committee was assigned three charges by the Speaker:

1. Continue investigation into the Houston Police Department Crime Lab, and other crime labs as necessary.
2. Continue review of the creation of special purpose districts and their use of tax dollars.
3. Investigate use of funds at Texas State Technical College.

The Committee has completed its hearings and investigations and issues the report that follows. The members of the committee have approved all recommendations.

**CONTINUE INVESTIGATION INTO THE HOUSTON POLICE DEPARTMENT
CRIME LAB, AND OTHER CRIME LABS AS NECESSARY.**

PART I

HISTORY

On September 10, 1984 in Leicester, England, Alec Jeffreys and his colleagues by accident discovered DNA fingerprinting while tracking genetic variations. The identifying patterns within DNA that are unique to each individual - except identical twins that shares the same pattern - have been used to convict murders and rapist but also can be used to clear those wrongly accused. Their discovery has revolutionized everything from criminal investigations to family law.

Though great advancements in the exact science of DNA fingerprinting/profiling have taken place over the past twenty years, the one element which eludes advancement is the human touch. Since the mid-1990s, DNA crime labs across the nation increasingly are finding themselves under investigation with allegations of deceit, misconduct, and incompetence. These allegations are not based on the DNA science but rather on those individuals who perform the testing.

The House Committee on General Investigating has continued its investigation during the interim of the Houston Police Department Crime Lab, operated at the Houston Police Department.

BACKGROUND

During our initial investigation, the Committee found evidence that the first problems with the crime lab surfaced in 1997, when the Houston Chronicle reported that an innocent man spent nine months in jail due to delays in DNA testing by the crime lab. The Houston Police Department, under the direction of then-Police Chief Sam Nuchia, ordered an audit of the crime lab and put in place new crime lab procedures and guidelines. According to the new guidelines tracking of the tests would be more thorough, with the investigating officer required to provide more information on what analysis is needed. Under these guidelines the district attorney's office would contact the investigator in charge of the case to request lab work. This would ensure that the investigator would be better informed and that the requested tests would be better tracked. Crime lab managers would do a better job of making sure there were ongoing monitoring and review of the cases. The overall conclusion was that supervisors would be more aware of the needed monitoring of the DNA tests, and the process in the lab tests would be expedited.

The 1997 incident was a largely unheeded warning sign to the Mayor, City Council, and the Police Chief that the above was not an isolated case. While some changes were put in place, though short lived, the overall picture of the crime lab continued to encounter or produce problems. The lab was severely hampered by a lack of funding, antiquated equipment, and under trained staff. The staff also often failed to follow standard protocol that they should have been adhering to in order to protect evidence from mislabeling and contamination. It was also confirmed that the lab facility roof leaked water damaging evidence when it rained.

The crime lab was left on its own, undetected, to continue inferior practices until November 2002, when KHOU-Channel 11, after a three-month investigation aired a news series that questioned whether errors had been made at the crime lab and whether innocent people were going to prison, or if guilty people were being set free as a result. Acting Police Chief Tim Oettmeier requested an external audit for the HPD crime lab. This was conducted in December 2002, by certified inspectors from the Texas Department of Public Safety and with assistance from the Tarrant County Medical Examiner's Office.

The audit documents deficiencies in procedure; training of laboratory personnel; and handling, interpretation, and documentation of DNA analysis. The auditors found wide-ranging deficiencies, from the potential for evidence contamination to a lack of basic record-keeping. It concluded that the lab did not meet the FBI standards for DNA analysis. Acting Chief Tim Oettmeier temporarily suspended DNA testing until the problems in the lab identified by the audit were addressed.

Had KHOU-Channel 11 not conducted its investigation, and questioned whether errors were being made, it would still be business as usual at the crime lab.

The House Committee on General Investigating held an organizational meeting on February 20, 2003¹ and determined that it should examine these and other allegations concerning the Houston Police Department Crime Lab and review the policies and procedures of the lab to ensure that the highest standards for evidence testing were being followed.

The Committee held a public hearing on March 6, 2003². Testimony was taken from Houston Police Chief C.O. Bradford, Houston Crime Lab employees, Harris County District Attorney's Office, Bexar County Crime Lab Director, Director of the DPS Crime Lab, Dr. Arthur Eisenberg, Elizabeth Johnson, and the individuals who conducted the audit of the Houston Crime Lab, Irma Rios, and Cassie Carradine. During testimony, it was heard by all that the Houston Crime Lab was the worst that either of the auditors had ever seen.

Police Chief Bradford advised the committee that it was his intent to correct the problems, request an Internal Affairs investigation, work with the District Attorney's Office in reviewing possible cases to be retested, and restore the confidence in the crime lab.

The Committee was advised that with the closing of the DNA section of the crime lab, the Houston Police Department and the Harris County District Attorney's Office began a review of criminal cases over an approximate 10-year period. It was determined at one point that as many as 400 cases would require review. The number later identified was more than 1300 cases. Prosecutors have culled the list to approximately 379 that will require retesting. Excluded from testing are approximately 21 cases where the evidence is missing or all samples were used or destroyed. Nor

¹House General Investigating organizational meeting February 20, 2003

²House General Investigating public hearing March 6, 2003

did it include an additional 14 cases that were handled by the Houston Crime Lab and prosecuted in surrounding counties. The Committee did confirm with the surrounding District Attorneys that the evidence analyzed from the crime lab was not the only evidence on which convictions were obtained.

The Committee felt that, notwithstanding assurances made by both the Police Chief and District Attorney's Office, legislation was needed to ensure crime laboratories in Texas met accreditation standards. The Committee sponsored House Bill 2703, which mandate's accreditation of crime laboratories and sets guidelines for evidence. The legislation was signed into law by Governor Rick Perry on June 20, 2003, with immediate effect.

However, House Bill 2703³ was not the final answer to the problems at the Houston Crime Lab. The crime lab continued to discover additional problems.

In March 2003⁴, Chief Bradford requested that the DPS purge from its DNA database all cases examined by the HPD crime lab. Removing these cases from the Combined DNA Indexing System (CODIS) would also ensure removal from the FBI's National DNA Indexing System (NDIS). The crime lab had only uploaded 313 DNA profiles into the CODIS system since 1996, the smallest number of entries for the largest city in Texas.

From all appearances, it seemed that Police Chief Bradford had taken the initiative to follow through on his commitment. An Internal Affairs investigation was conducted and resulted in two top officials being allowed to retire early rather than be terminated and seven others being disciplined, Chief C.O. Bradford announced his own retirement in July, effective in September.

As Chief Bradford announced his retirement, problems continued with the crime lab. These included doubts cast on ballistics work at the HPD lab and the toxicology section being closed because a technician failed a competency test.

In October 2003, the Houston City Council approved the hiring of a new crime lab director, Irma Rios, who was one of the original auditors during the December 2002 external audit. Director Rios brought nine years supervisory experience with the Texas Department of Public Safety's 12 regional DNA laboratories, as well as valuable insight to the problems, since she was one of the original auditors in December 2002.

During a General Investigating hearing held in Houston, on November 7, 2003⁵, Captain Richard Holland, Houston Police Department provided an overview on the status of the Crime Lab. Director Irma Rios gave the committee an assessment of the lab and the progress made since she has taken over the lab. Both explained that a complete assessment by the National Forensic Science

³78th Legislature House Bill 2703

⁴Letter by Police Chief C.O. Bradford - March 2003

⁵House General Investigating hearing November 7, 2003

Technology Center (NFSTC) has taken place on the lab and on all laboratory employees. This assessment is considered a fault finder and identified the appropriate measures to fix the problems with laboratories, and their employees. The NFSTC does provide certification of both labs and employees.

It would seem we have reached a turning point in the investigation of the Houston Police Department Crime Lab one year after the initial problems were exposed. However, the Josiah Sutton case that was handled by the Houston Crime Lab has drawn even closer scrutiny to the problems that exist. An independent evidence review began in the Josiah Sutton case in February 2003, and the evidence used to convict him was retested by independent experts. Based on the new test results, Josiah Sutton was freed on March 12, 2003. It would take an additional 14 months before he received a pardon from the Governor of Texas⁶. Had the crime lab processed the evidence correctly from the beginning, Sutton would not have been found guilty nor had to serve almost five years of his life in prison.

Generally, there have been improvements at the Houston Police Department Crime lab with the outside assessment, termination, or retirement of problem employees; hiring of a new laboratory director; purchase of new computers; and the quest for accreditation. However, new problems continue to surface at the Houston Police Department Crime Lab. Allegations of crime lab employees falsifying testimony have surfaced, prompting the call for a court of inquiry. Doubts have been cast in the conviction of George Rodriguez for a 2001 child molestation case. Then on August 26, 2004, the Police department disclosed the finding of 280 boxes of mislabeled evidence in approximately 8,000 cases, which they had known since August 2003. Former City Controller George Greanias complained that HPD under former Chief Sam Nuchia, denied him access to records and property during a 1994 audit. It appears that a similar attempt to audit the same records and property was scuttled in 1997. In light of the additional boxes of evidence found, and the projected time that it will take to process, both Police Chief Hurtt and District Attorney Chuck Rosenthal have agreed to appoint a special master to examine these cases.

CONCLUSIONS

The Houston Police Department Crime Lab has been a flawed operation. Problems in the crime lab include:

1. Inadequate funding by Houston City Council and Houston Police Department.
2. Inadequate oversight by City Council, Mayor and Houston Police Department.
3. Lack of trained and experienced staff, and a failure to provide continuing educational opportunities.
4. Lack of adequate equipment and supplies.

⁶Pardon granted by Governor Perry on May 14, 2004

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5. Improperly designed facility which led to potential cross contamination of evidence.
 6. Failure to appropriately track cases between Houston Police Department and District Attorney, created by the use of dissimilar tracking identifiers.
 7. Failure to adequately address the leaking roof on a timely basis. Water contamination was common and well documented.
 8. Difficulty in testifying as to findings and facts in court proceedings.

RECOMMENDATIONS

The fundamental problem with forensic science in crime laboratories - whether the laboratory is doing DNA, hair, handwriting, ballistics, toxicology/serology testing - is that, unlike clinical laboratories, crime laboratories are unregulated. House Bill 2703 that establishes accreditation of crime laboratories relates to the testing of certain physical evidence and sets guidelines for the admissibility of evidence examined or tested in a crime laboratory. House Bill 2703 establishes that the Director of the Texas Department of Public Safety shall promulgate rules to regulate DNA testing, including regulation of DNA laboratories, but this scope of regulation deals specifically with accreditation.

The Committee makes the following recommendations:

HOUSE GENERAL INVESTIGATING COMMITTEE FOLLOW-UP

1. Continue to monitor the Houston Police Department Crime Lab.
2. Investigate any new allegations concerning any crime lab.
3. Revisit H.B. 2703 for recommended changes or corrections
4. Explore establishing Regional Crime Laboratories in Texas
5. Recommend that an outside independent investigator or master be appointed to examine additional problems in the HPD crime lab.

RECOMMENDATIONS FOR HOUSTON POLICE DEPARTMENT CRIME LAB

1. To address the issue of funding, with a special focus on the need, if any, for stand-alone funding for the crime lab independent of the police department budget.

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2. Fully utilize grants available through the National Institute of Justice and the Department of Justice. As the funds are obtained, they should be used for the specific purpose for which they were obtained, not to supplement the crime labs budget. Grant funding must be used in a timely manner to achieve the maximum benefits.
 3. The Houston crime lab should either develop or purchase an evidence tracking system. The evidence tracking system should employ the use of a bar code. The bar code can then be associated with a laboratory report number which will open a case file. The bar code can be scanned which will update the system as to the location of the evidence. Cases that do not have a completed report could then be tracked. The tracking system should also provide a laboratory management system, capable of providing information about case assignments, completed work and evidence location.
 4. The City of Houston should adequately fund the Houston Police Department Crime Lab.
 5. Monitoring and oversight of the crime lab should remain the responsibility of the Police Chief.

**CONTINUE INVESTIGATION INTO THE HOUSTON POLICE DEPARTMENT
CRIME LAB, AND OTHER CRIME LABS AS NECESSARY.**

PART II

HISTORY

The Texas Department of Public Safety (DPS) operates as the chief law enforcement agency for the state. The DPS provides public safety throughout the state from prevention and detection of crime, to enforcement of traffic laws, and the administration of licensing programs. It operates thirteen crime laboratories across the state. Eight of these laboratories perform DNA analysis. The DPS also operates the Combined DNA Indexing System (CODIS) lab which processes DNA samples from convicted offenders housed in the prison system.

In 1998, the Sunset Committee⁷ staff examined DPS oversight and management capabilities. It determined that DPS management had been complicated by an expanding array of program responsibilities. One of the key elements of the review focused on improving employee relations.

Charges of the 77th interim had the General Investigating Committee⁸ investigating recent actions of the DPS crime labs relating to personnel accountability and integrity. The previous committee report highlighted the facts, findings, and recommendations.

The DPS crime laboratory services, prior to the 2001 report, did take actions to implement many of the recommendations contained in the interim study.

BACKGROUND

While the DPS has implemented innovative changes, it has been lacking in an important personnel responsibility communication. Evidence of this came to light in a news story by the Houston Chronicle on March 15, 2004. The Chronicle reported that the DNA section of the McAllen DPS crime lab was shut down from June 16, 2003 to September 26, 2003, after an internal audit exposed numerous problems. Most of the problems cited appeared to be non-critical. However, if not corrected, the problems could produce faulty test results, contribute to the loss of evidence, and hasten cross contamination.

The Committee does not find fault with the DPS for closing the McAllen laboratory. The Committee is bothered by the lack of communication with the District Attorney and local police agencies affected by the closing of the lab. Their only notification was when they were contacted by the press. It was reported and confirmed that DPS did not notify law enforcement agencies that conduct business with the McAllen lab about that lab's problems. The closing of the DNA section of the lab could place in jeopardy cases pending in the courts.

⁷Sunset Report 1998-1999

⁸ General Investigating 77th Interim Report

The closing of the lab is the first incident of a want of communications on the part of the DPS; the next communication shortfall involved incident employees. The committee reviewed the following documents concerning all eight DNA labs, the CODIS lab, and all Austin lab employees:

Internal Audits - conducted in-house

External Audits - conducted by American Society of Crime Laboratory Directors (ASCLAD) certified auditors

Performance Reviews on Employees

Evaluations of Employees

DPS responses to external audit documents

Standard Operating Procedure Manual (SOP)

Following the review, the Committee on General Investigating held a hearing on April 20, 2004, concerning the DPS crime labs. The committee was given an overview of the internal and external audits. The closure of the McAllen lab was also discussed and it was ascertained that perhaps the agency did not do the best job of advising local law enforcement and District Attorneys of the problems with the lab and the closure. Recently, DPS has proposed rules addressing communication matters, as required by HB 2703.

The committee did not call on those individuals who were subpoenaed from DPS to testify openly before the full committee, but arranged to have each one deposed privately by the Committee's General Counsel David Brooks. Mr. Brooks conducted approximately eight hours of taped interviews with employees from DPS. From these interviews, the review of employee evaluations, and performance review documents, we have identified shortcomings with procedure and in communication.

Employees (analysts) in the crime labs receive, every six months from an outside source, a test performance review case. The analyst completes the test case, which is then reviewed by a co-worker and passed on to the Quality Assurance (QA) supervisor. The test case is then sent back to the outside source and the results from their finding are reported back to the QA supervisor. Once the QA supervisor receives the results, that person is to cover the documentation with the employee in a timely manner. During our depositions, the employees generally said that the results are not being discussed with them, although DPS did take action following negative test results.

During the depositions and document review, the committee found that employee evaluations were not being done in a timely manner. In one case it was not done for a period of three years. Probationary analysts should receive evaluations every three to six months. This is not being done. Copies of the recent evaluations were signed by an individual who had only been the supervisor for approximately two months. The evaluations, however covered the prior twelve month period. The supervisor who should have written, covered and signed the evaluations had left the DPS for a position with the Houston Police Department Crime lab in October 2003.

Employees at the DPS crime lab in Austin repeatedly questioned the management team about their performance reviews and evaluations to little resolve, in their view.

CONCLUSIONS AND RECOMMENDATIONS

Crime laboratories across the nation are experiencing a multitude of problems, but it is not the science that is bad. In most cases those individuals responsible for taking evidence and following standard operating procedures is the cause of the problems. It is the basic breakdown of communicating and listening that could lead to employees developing bad attitudes and bad work ethics.

The Committee has identified two specific areas of communication failure and recommends the following;

1. That the Texas Department of Public Safety (DPS) implement a procedure to advise the appropriate law enforcement agencies and District Attorneys when they close or cease testing of any particular science in their labs. This notification shall be given prior to closure.
2. That the DPS also notify the Governor, Lieutenant Governor, and the Speaker of the House, Chair of the General Investigating Committee, and Chairs of the Legislative Oversight Committees in both the House and Senate.
3. That the DPS should develop and maintain a system to track performance reviews and evaluations for each employee. This should ensure that evaluations are performed and covered with employees in a timely manner. A maintained and updated system that will track performance reviews and their results will enable the employees to feel a better sense of understanding about their job.
4. That the DPS establish a peer review system to denote peer review and performance review, which would take place every three months. Co-workers and supervisors would come together and discuss individual case loads, case management techniques, and performance concerns. It is important to encourage and stimulate input from the analysts to their supervisors to promote a cooperative environment. By affording flexibility to respond to the changing environment, a peer review system would help the crime lab stay abreast of current scientific practices.

Recommendation numbers 3 and 4 above, were proposed by the General Investigating Committee in the 77th interim report. While the DPS has focused on making the suggested recommendations from the Sunset and General Investigating Committee, implementation of the last recommendation would open up the exchange of information between employees and management.

CONTINUE REVIEW OF THE CREATION OF SPECIAL PURPOSE DISTRICTS AND THEIR USE OF TAX DOLLARS

HISTORY

Special Districts have generated an overwhelming interest over the last four years. During the 77th Legislative interim, the General Investigating Committee and the Senate Committee on Intergovernmental Relations reviewed the operation of special districts. Both committees issued extensive reports based on information obtained through working group meetings, the Texas Commission on Environmental Quality, and public hearings held in Austin, Houston, and Dallas.

Charges of the 78th Legislative interim have the House Committee on Urban Affairs and the General Investigating Committee revisiting special districts. Since both committees will be reviewing this issue, it is not necessary for both to include historical data and duplicate efforts.

BACKGROUND

On April 3, 2003,⁹ a public hearing was held concerning special districts. Representatives from the office of the Texas Attorney General (OAG) and the Texas Comptroller of Public Accounts presented an overview of their involvement with special districts. Lynn Stuckey and Jeff Moore explained that the only function the OAG has is to grant approval for bonds to be issued by those special districts that have expressed authority to issue bonds. They were unable to advise the committee who had requested approval or if any had been denied. It was expressly stated that this was the only function they performed.

Alfonso Casso and Bob Bearden briefed the committee on the Comptroller's functions concerning special districts. The Committee was advised that the only information available concerning special districts is obtained from records received from each county appraisal district. The current information concerning special districts is limited to type of tax and rate of tax levied. Any other information should be available from the appraisal district.

The comptroller's office provided the following additional information on special districts. In 1999, there were 1241 special districts (SD) assessing property taxes and 515 special districts (SD) assessing sales taxes. There were 76 special purpose districts (SPD) which imposed sales and use tax. The SPD tax is collected in addition to state tax and any other local taxes (city, transit and county) when applicable. Thus, special or special purpose districts impose additional taxes.

Over the years through judicial and legislative action, the powers of special districts have expanded. The legislature continues to pass legislation to create new types of special districts, making it easier for these districts to grow in size and number. The Committee selected several of the special districts to obtain information on. We contacted the appraisal districts for each. In one instance, there was no information on file; the next one did provide a contact name and number; however, when contacted, he had not been involved for more than five years. The last one contacted

⁹House General Investigating public hearing April 3, 2003

resulted in five Austin lobbyists paying a visit. After these encounters, we narrowed our time to seeking specific information. It is evident that pertinent information is difficult to determine because of the number of special districts. Furthermore, the lack of data to document the creation, whom to contact, and ability to substantiate the continued use of special districts render an inquiry to be time consuming.

According to the 2002 Special District Local report data we now have 1,336 SD's assessing property tax and 526 SD's assessing sales tax, with 89 SPD's imposing sales and use tax. These figures do not include any additional special districts authorized during the 78th Legislature.

Statistical data can be found at the following website: www.window.state.tx.us

Statistical data can be found at the following website:
www.window.state.tx.us/taxinfo/local/spd.html

CONCLUSION AND RECOMMENDATION

Because there is not a centralized location for information regarding all special districts other than what is reported to the Comptroller's office, the Committee found the need for a central database. The database would be helpful in tracking tax information, providing additional information and giving the public access to all information concerning the additional taxing authority in the area. The Committee determined that the Office of the Comptroller of Public Accounts who receives and has an established database on the special districts tax information, would be the logical site for such a database. The Committee recognizes that the state is facing possible budget deficits, but, believes the Comptroller's office should be able to adapt an existing computer program to provide for needed data concerning special districts.

INVESTIGATE USE OF FUNDS AT TEXAS STATE TECHNICAL COLLEGE

HISTORY

Texas State Technical College was created by the 59th Texas Legislature in 1965 by SB 487 as the James Connally Technical Institute, established to meet the evolving work force needs of Texas business and industry. The need for a special institute for technicians had been a pressing issue for state leaders and the soon-to-be abandoned James Connally Air force Base in Waco was a prime location for a top-quality technical institute they envisioned.

By January 1966, JCTI began to fulfill the vision of its founders by offering hands-on instruction in advanced programs such as metrology, chemical technology, and industrial design and drafting. The following year, the Legislature approved a second campus in Harlingen for the South Texas region. The Harlingen campus, built on an abandoned air force base, immediately found strong support and rapid growth. In 1970, the Legislature created additional campuses on former air force bases in the Panhandle region at Amarillo and in the West Texas region at Sweetwater. As demand for quality technical education grew, TSTC extension centers were created in McAllen (1983), Abilene (1985), Breckenridge (1989), Brownwood, and Marshall (1991). On September 1, 1999, the Marshall extension center officially became a campus, Texas State Technical College Marshall.

In 1991, significant change and opportunity unfolded for Texas State Technical Institute. The Legislature officially recognized TSTI as an institution of higher education by changing its name from institute to college. TSTI became TSTC and the Texas State Technical College System.

Through its unique statewide role and mission, high graduation rates, established relationships with business and industry, and its industry-standard laboratories, TSTC is successfully providing productive and responsible graduates for employers across Texas.

BACKGROUND

At the end of the regular Legislative session, the Committee received information concerning the possible misuse of funds at TSTC regarding the purchase of a Beechcraft King Air E90 Aircraft. The Committee carefully reviewed documentation which validates the purchase of the aircraft with monies (\$600,000) transferred from the TSTC system reserve fund. The system funds were transferred to the Waco campus account #34390 and the funds appear in the Waco campus FY01 budget book. The Waco campus acquired in September 2000, a Beechcraft King Air E90 aircraft manufactured in 1976, a type of aircraft not normally associated with student instruction due to its complexity. This aircraft was purchased from the State Aircraft Pooling Board.

The Committee was unable to verify that TSTC System administrators justified the purchase of this expensive aircraft to the legislature prior to the 2000-2001 fiscal biennium. TSTC System Administrators transferred \$600,000 to have the Waco campus purchase the King Air. Records indicate that the King Air was flown a total of seven times while located at TSTC Waco.

The aircraft was never part of an organized instructional program and the “students”

shown in the records for those flights were most often TSTC flight instructors. It appears that due to growing apprehension about the aircraft's lack of legitimate use, former TSTC Waco President Martha Ellis ordered the aircraft sold. TSTC Board minutes dated October 18, 2002, showed that the Board ratified action taken on August 23, 2002 that directs that appraisals of the aircraft are to be obtained and results reported back at a future meeting. The board action indicates that the justification is because TSTC Waco is not offering the advanced certification, and the plane is no longer needed. The aircraft was relocated off-campus to the Waco Regional Airport. The Waco campus paid the cost of maintenance and housing of the aircraft.

It was during the process of obtaining appraisals of the aircraft that the valuable maintenance logbooks were discovered to be missing. The logbooks are essential in the sale of any aircraft. These logbooks must accompany the aircraft after a sale, and are important for any buyer to have confidence in the airworthiness of the plane. Documents obtained by the Committee, showed that the logbooks were reconstructed, and are purporting to be more complete than prior to the loss of the original logbook.

The Committee received a copy of a letter written in April 2003 by a student, and signed by many others which was addressed to Mr. Bernie Francis, Chairman of the TSTC Board of Regents. The students complained of not getting sufficient flight time for their certifications and licenses, along with complaints of not being able to use the King Air for instructional purposes. Chairman Francis responded late April 2003, stating that Chancellor Dr. Bill Segura, the Interim President, and Interim Vice-president, all were committed to a plan to lease rental planes for additional service and expand flight operations to include evenings and weekends. Chairman Francis referenced in his letter that the King Air was available for flying by any Airline Pilot Training (APT) student. He stated that it has been available and is currently available for training flights. He also explicitly states that the purchase of the King Air was not from APT Department operating budget, but was purchased with TSTC Systems reserve funds.

CONCLUSION AND RECOMMENDATION

In reviewing the events concerning the Beechcraft King Air E90 aircraft, the Committee finds that while TSTC System could afford to transfer \$600,000 to the Waco campus for the purchase, there was not a long range plan for its use. The aircraft was not used for student instruction or advanced certification in the Airline Pilot Training program. It is clear from continued references that the airplane was purchased from System reserve funds and not from APT department operating budget, so, intended use of the aircraft is unclear. The Committee questions how Chairman Francis could state the aircraft was available for any APT student in 2003, when Board action clearly indicates the authorized sale of the aircraft on October 18, 2002. To further complicate the use of the aircraft by the APT students, we find that in April 2002, the Board directed appraisals on the aircraft be obtained. The Committee questions that once appraised, the Board would jeopardize the aircraft by allowing its use.

The aircraft was housed at the Waco Regional Airport until moved to the TSTC West Texas campus in Sweetwater in October 2003. The aircraft was to be used for offering re-certification training to corporate pilots. It was determined by the college, this was not a viable program, due to the age of the aircraft and obsolete nature of its technology. The maintenance and housing cost were

paid for by the West Texas campus.

In April 2004, the Board of Regents again authorized the sale or trade of the aircraft for \$471,500 based on a certified appraisal. The Committee understands that the West Texas campus received two solicitations of bids on the open market which resulted in a high bid of \$431,000. Believing that the bid of \$431,000 was of fair market value, the Board authorized the sale on September 7, 2004 and the sale of the aircraft was completed. The purchaser of the Beechcraft King Air E90 aircraft was Robert Nordstorm.

The Committee is advised that from the sale, \$240,000 will be retained at the West Texas campus and \$191,000 will be returned to TSTC Systems. To this end, the following recommendations are made:

1. TSTC Waco campus should be reimbursed by TSTC Systems from the monies derived from the sale of the aircraft for the cost of maintenance and housing of the aircraft.
2. Appropriations Sub-Committee on Education should carefully review this transaction and any other questionable practices as they relate to TSTC during the budget process.
3. TSTC should develop a long range plan when expanding their curriculum, which may involve a substantial expenditure.