

# TULIA

## TIP OF THE DRUG WAR ICEBERG

ON JULY 23, 1999, THE SMALL TOWN OF TULIA, TEXAS became ground zero in the war on drugs. The uncorroborated testimony of a white undercover narcotics officer led to the arrest of nearly half of the town's adult African American population. Guilty verdicts stacked up and innocent people went to prison, despite gross misconduct in the case. In 2003, after an extraordinary national campaign challenging the wrongful prosecutions, all of those imprisoned were released.

In scrutinizing this travesty of justice, *Tulia: Tip of the Drug War Iceberg* examines the connections between racial profiling, law enforcement misconduct, federally funded drug task forces, and the country as a whole. It demonstrates that the events in Tulia were not an isolated case of one cop gone bad, but instead represent systemic problems in the U.S. justice system. And, it offers recommendations for how to prevent future "Tulias."



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JANUARY 2005



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*By Gara LaMarche, Vice President of the Open Society Institute  
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# Executive Summary

In the early morning of July 23, 1999, nearly half of the adult African American population of Tulia, Texas was rounded up, arrested and paraded half-dressed through the streets on charges of drug trafficking. The arrests were based solely on the uncorroborated allegations of a single officer whose testimony was later described by a Texas judge as “absolutely riddled with perjury.” Not until August 2003 were all of the Tulia defendants pardoned even though the officer had been characterized as “the most devious, non-responsive law enforcement witness this court has witnessed in 25 years on the bench....”

On May 7, 2003 Members of Congress, in conjunction with the Open Society Institute, conducted a forum on the Tulia fiasco with expert witnesses and family members of its victims. The hearing revealed that Tulia is not an aberration. It is just one example of a chronic lack of oversight over federally funded narcotics task forces. The panelists discussed the Tulia case at length, including the lessons learned and the reforms needed to end the rampant abuses which characterize federally funded, multi-jurisdictional task forces.

This volume contains **background on the Tulia case** and examines the **role of federally funded drug task forces (Part One)**. It also reproduces the **Congressional forum transcript (Part Two)** and contains concrete recommendations for reform, including:

- Requiring corroborating evidence in federally funded drug convictions
- Placing time limits on regional narcotics task forces
- Enforcing a ban on racial profiling and documenting traffic stops, arrests, and searches by race, ethnicity, and gender
- Prohibiting the use of federal funding to facilitate asset forfeiture unless the defendant is convicted of a crime
- Providing federal funding for indigent defense in prosecutions based on federally funded drug investigations and prosecutions
- Conditioning federal funding on states creating indigent defense systems
- Requiring serious background checks of officers hired with federal funds
- Minimizing the incentives for drug task forces to make unjustified arrests

# Introduction

Tulia, Texas is a town of 5,000, located in the Texas panhandle, about 49 miles south of Amarillo. The median household income is \$27,794 and the median age of Tulia residents is 32.6 years. The racial make up of the city is 66.5 percent white, 39.6 percent Hispanic or Latino, and 8.4 percent African American. More than 19 percent of the population lives below the poverty line.

On July 23, 1999, Tulia, Texas became ground zero in the war on drugs. Early that morning, nearly half of the town's adult African American population was rounded up, arrested and paraded half-dressed through the streets on charges of drug trafficking. Three Mexicans were also arrested as well as several whites who had close marital or social ties to Tulia's black community. The majority of those swept up in the highly publicized undercover sting were impoverished and living in public housing, humble homes, or trailers. The arrests and subsequent convictions resulted in the decimation of whole families, and dozens of children were left virtually parentless.

The undercover officer who orchestrated the sting operation, Tom Coleman, was hired by the Panhandle Regional Narcotics Task Force, one of nearly 1,000 federally funded partnerships nationwide where local police departments, sheriffs' offices and district attorneys combine their efforts to fight the war on drugs. Coleman alleged that over an 18 month period, 46 Tulia residents sold him cocaine, nearly all of which was worth less than \$200. The first person to be tried, a 57 year old hog farmer, received a 90 year sentence after being convicted of one count of selling

cocaine to Coleman. Others who went to trial received sentences ranging from 20 to 341 years. Most of the prison sentences were increased because the drugs were allegedly sold within 1000 feet of a school. After witnessing such extraordinary sentences meted out by nearly all white juries, many of the defendants began pleading guilty in exchange for “lighter” sentences ranging from probation to 18 years, despite the fact that no drugs, weapons or large sums of cash were found. The arrests and convictions generated so much attention that Coleman was honored as “Lawman of the Year” by the Texas Attorney General in 1999.

But Coleman’s allegations were called into question and the government’s case began to fall apart after evidence revealed inconsistencies in his testimony. One defendant was more than 300 miles away in Oklahoma at the time Coleman alleged she was selling him cocaine in Tulia. Another defendant produced employee time sheets, establishing that he was at work during the critical time. Other evidence revealed that Coleman grossly misidentified suspects.

In November 2001, the NAACP Legal Defense and Educational Fund (LDF) got involved in the case to coordinate the litigation of the defense appeals. LDF found that all of the trials or pleas were marred by serious due process violations. The convictions were based solely on the uncorroborated testimony of one white narcotics officer with a dubious past, whose modus operandi was to record purported drug buys on his leg. Coleman admittedly targeted the African American community for law enforcement scrutiny. There was no corroboration of his testimony in the form of a second officer, no audio or video surveillance, no photographs, and no wiretaps. LDF found an “indifference on the part of law enforcement to ensure that their undercover agent was credible and trustworthy; that undercover operation protocols were observed to guarantee the validity of the agent’s testimony; and that full disclosure was made to the defense prior to trial about the character of the government’s only witness.” During the post-conviction appeals it was revealed that Coleman had been arrested while working undercover in Tulia. There were also past allegations of sexual harassment, misconduct, unpaid debts and habitual use of a racial slur.

In September 2002 the Texas Court of Criminal Appeals ordered an evidentiary hearing into the defense allegations of misconduct, and appointed retired state district Judge Ron Chapman to preside. At the conclusion of the hearing during which Coleman was cross-examined for over six hours, Judge Chapman characterized Coleman's testimony as "absolutely riddled with perjury," and stated that he was "the most devious, non-responsive law enforcement witness this court has witnessed in 25 years on the bench in Texas." Further proclaiming that Coleman "is simply not a credible witness under oath," Judge Chapman recommended that all the defendants that had been convicted based on his testimony receive a new trial. Within hours the state's special prosecutor said the cases would be dismissed, adding that the entire debacle had been "a travesty of justice," conceding that the government made a mistake in relying on the uncorroborated testimony.

In August 2003, Texas Governor Rick Perry pardoned those ensnared in the drug sweep, after both Houses of the Texas Legislature passed a bill allowing the remaining imprisoned defendants to be released on bail. Five years after the incident, a civil suit ended with the announcement that the City of Amarillo, which was a significant player in the regional drug task force which hired Coleman, would pay a \$5 million settlement to the former defendants. Shortly after the evidentiary hearing, Tom Coleman was indicted on charges of perjury, and his trial is pending. The original prosecutor, District Attorney Terry McEachern, was sanctioned by the Texas State Bar for failing to turn over legally required evidence to the defense about the character of the government's chief witness.

Victory in the Tulia case was the culmination of a remarkable multi-year campaign led by a wide coalition of local and national lawyers, journalists and activists who mobilized to expose and challenge the injustice of the wrongful arrests and prosecutions. Although this travesty of justice has abated, Tulia is not just a tale of one cop gone bad. Instead, it underscores systemic abuses which are part and parcel of the manner in which the war on drugs is being fought across the country.



ANDREW LICHTENSTEIN

Christopher Jackson, arrested and sent to prison in the 1999 Tulia drug sting, greets a relative just after being released by a special court hearing.

# Foreword

*By Nkechi Taifa, Senior Policy Analyst,  
Open Society Policy Center*

Prior to the wee hours of the morning of July 23, 1999, few people outside of the Texas panhandle had heard of the small town of Tulia, but now Hollywood is planning to project its image onto the big screen. Tulia, the scene of a massive roundup and imprisonment of nearly half of the town's black population on the non-corroborated, now-discredited testimony of an undercover narcotics officer, represents the tip of the drug war iceberg.

Numerous narcotics task forces as well as entire police departments have been enmeshed in controversy and scandal over the past several years, causing public confidence in the criminal justice system to increasingly erode. Although there is headline-grabbing public awareness of these incidents, the attention rarely results in systemic change. The next outrage which occurs is often predicated on the same underlying issues unresolved earlier, and the cycle continues. The tragedy which occurred in Tulia, Texas has once again placed a national spotlight on law enforcement abuses and, with proper examination, could become a catalyst with which to focus attention on broader issues associated with criminal justice reform and the war on drugs.

Now that the Tulia defendants have been released, pardons have been issued and a civil settlement reached, the time is ripe for legislative and administrative changes in national policy to prevent such miscarriages of justice in the future. Although the legal cases have ended, the case in the

court of public opinion will intensify. Two major ventures highlighting aspects of the Tulia tragedy are reportedly being produced. The first is a CBS made-for-TV movie with actress Alfre Woodard slated to play the part of Mattie White, a Tulia mother, whose four children were unjustly imprisoned. The second is a Paramount Pictures production starring Oscar winner Halle Berry as Vanita Gupta, the Soros Fellow and NAACP Legal Defense and Educational Fund attorney whose dogged tenacity helped to bring justice to Tulia.

It is both exciting and important that the now infamous Tulia drug bust may soon be in the limelight of the entertainment industry. Public attention to Tulia, however, must be more substantive than “pass the milk duds and buttered popcorn.” It is critical that media focus not rest on a “lone bad apple” scenario, but underscore the problems which plague the war on drugs in this country.

In essence, the abuses which occurred in Tulia are a mirror image of systemic problems facing the nation’s criminal justice system as a whole — police who specifically target people of color for law enforcement scrutiny; prosecutors who plow ahead to secure convictions despite dubious evidence; under-funded defense counsel who fail to adequately represent indigent clients; juries who robotically believe police testimony over that of the accused; judges who are constrained by law to levy harsh sentences which often do not fit the crime — in sum, a “war on drugs” is being fought where the casualty is justice.

Systemic reform, however, is possible. Every so often a moment occurs, and a window of opportunity opens. Every so often a glimmer of hope sparks, and the faint possibility of change appears on the horizon. One such moment occurred in 1955 when Rosa Parks sat down on a bus and began a chain of events which dismantled the system of Jim Crow. A window opened in 1991 when a videotape exposed the attack on Rodney King and a spotlight was shown on U.S. police abuse. We are on the verge of another “moment,” which could usher in a favorable era of change. The victory in the Tulia case; Justice Anthony Kennedy’s pivotal speech before the American Bar Association about the duty to address the inadequacies

and injustices in the criminal justice system; and the Supreme Court's decision in *Blakely v. Washington* addressing the issue of fairness in criminal sentencing – all brought national attention to criminal justice practices manifest in the war on drugs and represent an unprecedented opportunity to undertake a comprehensive re-examination of our deteriorated criminal justice system.

We need an examination of our justice system. Nearly half of the total U.S. prison and jail population of over two million people is African American. There are more young black men incarcerated than in college. The increase in the prison population is not evidence of rising crime, nor an indication of more criminal activity; it is a reflection of more stringent sentencing policies. We need an examination of the system that allowed over 10% of the black population of Tulia to be arrested, convicted, and imprisoned based on the sole, uncorroborated testimony of a federally-funded drug task force officer with a penchant for scribbling evidence on his body parts.

There needs to be a focused movement with strategic partnerships to break the criminal justice continuum — which moves from law enforcement and trial to sentencing and prison and culminates in barriers to successful reentry into society, causing the cycle to begin anew. We need a comprehensive approach to promote fairness and equality in the justice system, and to redirect the focus from the current punitive system to one that is rehabilitative, just and sound.

The time is ripe for Congress to step up to the plate and embrace the panoply of legislative proposals that will bring true reform. Legislative initiatives to end racial profiling, insure trust and integrity in law enforcement and require corroboration in undercover drug cases would bring much needed accountability to law enforcement policies and practices. Passing bills to equalize the penalties between crack and powder cocaine and repeal mandatory minimum sentences would bring justice to sentencing and restore judicial discretion to assure that sentences fit the crime.

As the Tulia movies prepare to hit the big screen, as the American Bar Association implements its Justice Kennedy Commission recommenda-

tions, as the Supreme Court sorts out the future of criminal justice sentencing, and as Congress considers new approaches for reform, we must open wide the window of opportunity and let the fresh air of needed change flow in – for the *moment* is now.



Joe Moore, a 60 year old impoverished hog farmer who received a 90 year sentence for being a drug kingpin, returns home a day after being released from prison.

# Analysis, Recommendations & Reforms

## *The Role of the Federal Government*

The role of the federal government in financing the Tulia sting, as well as its unfettered funding of drug task forces nationwide, has yet to be officially examined or congressionally investigated. Issues of oversight, accountability, training and transparency in distributing millions of federal dollars to state and local law enforcement collaborations remain unacknowledged and unaddressed. Although an impressive Congressional Briefing, which is the subject of this booklet, was held prior to the finale of the Tulia cases, formal Judiciary Committee hearings are critical as the next step to needed policy reform. Congress must insure that the problems which manifested in Tulia are appropriately addressed and remedied not just in Tulia, but across the entire country.

A key factor in the Tulia fiasco was the dearth of federal oversight over the narcotics task force that hired Tom Coleman as its undercover agent. The task force was essentially accountable to no one, and provided no critical training or supervision of its employees. Coleman worked as an undercover agent for the Texas Panhandle Regional Narcotics Task Force, a drug interdiction unit funded by the federal Byrne Grant Program. The Program provides federal grants to help states fight violent crime and drugs.<sup>1</sup>

A recent report issued by the Drug Policy Alliance (DPA) found that the lack of meaningful federal oversight over the federal law enforcement grants for drug task forces results in the proliferation of corruption and

racial disparities.<sup>2</sup> A 2002 report issued by the ACLU of Texas identified seventeen scandals involving Texas-based Byrne-funded narcotics task forces, including tampering with government records, witness tampering, fabricating evidence, stealing drugs from evidence lockers, selling drugs to children, large-scale racial profiling, sexual harassment, and other abuses of official capacity.<sup>3</sup> A more recent report by the ACLU of Texas found that the federal Byrne Grant Program is fueling racial profiling and unwarranted traffic stops, and that Byrne-funded task forces are “designed to fail because of structural flaws, misguided priorities, and fundamentally unaccountable management and hiring arrangements.”<sup>4</sup> According to the DPA report, a lack of accountability is inherent in the very structure of regional narcotics task forces, which are “federally funded, state managed, and locally staffed by officers from several different police departments.” Government officials have even stated that their status as actual law enforcement agencies is questionable.<sup>5</sup> In light of the power that such task forces wield in the investigation of drug offenses and the apprehension of suspects, the nebulous nature of task force supervision makes it even more important to institute structured federal oversight to insure appropriate management and accountability.

Texas is not the only state experiencing problems with its narcotics task forces. The DPA report cites numerous examples across the country where drug task force agents overstepped the bounds of legal behavior. The following series of examples are illustrative:

- In 2003, a Missouri deputy who was a member of the Mid-Missouri Unified Strike Team and Narcotics Task Group was charged with three counts of perjury for lying under oath during the trials of three men who were convicted based on the deputy’s testimony. The convictions of the men were set aside after the county prosecutor said the deputy had lied during the trials when he said he had witnessed them selling drugs. Five people convicted of drug crimes because of that testimony have filed suit against the deputy, the county sheriff, and the task force.<sup>6</sup>

- In Kentucky, the FBI is investigating the Pennyryle Narcotics Task Force's expenditures from a \$1 million federal grant that was to be used to pay for the cost of cleaning up methamphetamine labs and to provide training to law enforcement officers. The director of the task force was served with a subpoena for records pertaining to the grant.<sup>7</sup> Despite the investigation, the task force received an additional \$745,125 from the Department of Justice to fight methamphetamine use.<sup>8</sup>
- In the spring of 2004, the Alabama Bureau of Investigation and the FBI began a probe into allegations that the Lauderdale County Drug Task Force made deals with people charged with drug crimes, promising to drop or lower charges against the suspects in exchange for money or vehicles. Investigators are also examining the theft of \$36,000, illegal drugs, case documents, and other evidence from the task force's office. A federal grand jury has been convened to hear evidence relating to these charges.<sup>9</sup>
- Law enforcement agencies have been accused of trading lower sentences for cash in Arkansas, Georgia, Massachusetts, New York, Ohio, Texas, and Wisconsin.<sup>10</sup> In December 2003 and January 2004 alone, law enforcement officers working for regional narcotics task forces were accused of witness tampering and theft in Arizona<sup>11</sup>, picking fights while off duty in Illinois<sup>12</sup>, shooting an unarmed man in Georgia<sup>13</sup>, trafficking drugs in New Jersey<sup>14</sup> and stealing \$615,000 in task force money in Utah<sup>15</sup>. The U.S. Justice Department also launched an investigation into the possible misuse of millions of dollars in Byrne grant money by the Massachusetts Office of Public Safety.<sup>16</sup>

Federally funded narcotics task forces have also been criticized for focusing their resources on investigations of small-time drug sales that do little to stem the flow of drugs into communities. An ACLU review of 45 Texas task force applications indicates that all or nearly all of the task forces are engaged in small-time “buy-bust” operations that threaten citizens’ privacy while doing nothing to stop the flow of drugs into the

state. The ACLU also found that the task forces' efforts are focused disproportionately on arresting minorities.<sup>17</sup> The ACLU has criticized the use of arrests and forfeitures as outcome measures to judge the success of the task forces, arguing that such goals not only reduce the incentive to find solutions to the drug problem, but actually encourage the kinds of behaviors that resulted in the Tulia scandal.<sup>18</sup>

The efficacy of the Byrne Program has also been called into question by the Heritage Foundation, which reports that “there is virtually no evidence” that Byrne grants have been successful in reducing crime and the Program lacks “adequate measures of performance.”<sup>19</sup> A 2001 report by the General Accounting Office (GAO) faulted the Office of Justice Programs (OJP) for failing to adequately document its monitoring of the grants it distributes through the Byrne Program. The GAO found that a third of the grants did not contain required monitoring plans, grant managers were not consistently documenting their activities according to the monitoring plans they developed, and large numbers of grant files did not contain required progress reports (70 percent) or financial reports (41 percent) covering the full grant period. The GAO also found that a majority of progress reports (68 percent) and financial reports (53 percent) were submitted late by grantees.<sup>20</sup>

### Supporting Federal Reforms

Congressional monitoring of federally funded multi-jurisdictional drug task forces is needed in order to minimize the reoccurrence of incidents such as Tulia and the litany of other scandals throughout the country. It is critical that Congress hold oversight hearings, evaluate the effectiveness of this drug war tool, and institute needed reforms.

On June, 16, 2003, the imprisoned Tulia defendants were released. Members of Congress and more than 40 primarily national criminal justice, civil/human rights, faith-based, law enforcement and legal organizations joined together in a statement commending the release as a major step in rectifying the injustice that was committed in Tulia, Texas. In addition to calling upon the Texas Court of Criminal Appeals and the Texas Board of Pardons and Parole to expeditiously vacate all the convic-

tions based on the discredited testimony of Tom Coleman (all convictions have since been overturned), the statement also expressed collective concern that the abuses perpetrated in Tulia were not isolated, but illustrated larger problems of systemic injustice which must be fully scrutinized and rectified by the full Judiciary Committee.

Listed below are the names of Congressional members and organizations supporting the statement, and endorsing the scrutiny of the full Judiciary Committee:

**Honorable John Conyers, Jr. (MI-14)**

**Honorable Charles B. Rangel (NY-15)**

**Honorable Robert C. Scott (VA-3)**

**Honorable Melvin L. Watt (NC-12)**

**Honorable Maxine Waters (CA-35)**

**Honorable Sheila Jackson Lee (TX-18)**

Academy of Criminal Justice Sciences  
Advancement Project  
American Civil Liberties Union  
Black Voices for Peace  
Common Sense for Drug Policy  
Criminal Justice Policy Foundation  
CURE-Citizens United for the  
Rehabilitation of Errants  
Drug Policy Alliance  
Families Against Mandatory Minimums  
Fellowship of Reconciliation  
Howard University School of Law  
Human Rights Watch  
Justice Policy Institute  
Leadership Conference on Civil Rights  
Legal Action Center  
Mexican American Legal Defense &  
Educational Fund  
National Association for the  
Advancement of Colored People  
NAACP Legal Defense & Educational  
Fund  
NAACP National Voter Fund  
National Association of Blacks in  
Criminal Justice  
National Association of Criminal  
Defense Lawyers  
National Association of Sentencing  
Advocates

National Black Police Association (NBPA)  
National Coalition of Blacks for  
Reparations in America (NCOBRA)  
National Coalition on Black Civic  
Participation  
National Conference of Black Lawyers  
National Council of La Raza  
National Lawyers Guild (DC Chapter)  
National Organization of Black Law  
Enforcement Executives (NOBLE)  
National Prison Project of the ACLU  
Foundation  
National Religious Affairs Association  
National Trust for the Preservation of  
African-American Men  
National Urban League Institute for  
Opportunity and Equality  
Nu Policy Leadership Group  
Open Society Policy Center  
Penal Reform International  
Poli-Tainment, Inc.  
Rebecca Project for Human Rights  
Religious Leaders for More Just &  
Compassionate Drug Policy  
The Sentencing Project  
United Methodist Church-General  
Board of Church & Society  
Washington Bar Association  
Washington Council of Lawyers

## No More Tulias! – Specific Recommendations for Reform

As part of initial oversight, the following recommendations are offered for immediate legislative consideration:<sup>21</sup>

- Enact “The Tulia Rule” - that federal funding can only be used for anti-drug activity if a state adopts legislation preventing any drug conviction based solely on the word of an individual with no corroborating evidence.
- Restrict regional narcotics task forces to the same four-year funding limit that applies to other Byrne funded projects (Current law sets a four-year funding limit for all projects, except regional drug and gang task forces, which can be funded indefinitely).
- Require that law enforcement agencies receiving federal funding enforce a ban on racial profiling and document traffic stops, arrests, and searches by race, ethnicity, and gender. Such data collection could serve as early warning indicators for problem officers.
- Prohibit federal funding from being used to facilitate asset forfeiture unless the defendant is convicted of a crime.
- Allow Byrne grant money to be used for indigent defense (Funding for prosecutorial programs is currently permissible).
- Condition federal funding on establishment of statewide indigent defense systems, or require that a percentage of the federal grant go toward indigent defense programs.
- Require serious background checks of officers hired with Byrne funds.
- Minimize the incentives for drug task forces to make unjustified arrests (currently, federal money is distributed based on arrest statistics) by shifting the judgment of success to a diminution of drug activity in the jurisdiction being monitored.

## References

- 1 The Edward Byrne Memorial State and Local Law Enforcement Assistance Program was created in 1988 to provide federal grants to help states fight violent crime and drugs. A Department of Justice review of the program's first five years revealed that regional narcotics task forces accounted for a disproportionate share of Byrne program funds. The grant program was named after a slain New York undercover officer. In return for these federal funds, states are required, among other obligations, to submit to the Bureau of Justice Assistance a program allocations list and an annual performance report. Despite these reporting requirements, states have not been held accountable for their use of the federal funds.
- 2 *Federal Byrne Grants and Regional Narcotics Task Forces: Fueling Corruption and Racial Disparities Across America*, Drug Policy Alliance, 2004.
- 3 *Too Far Off Task*, American Civil Liberties Union of Texas, 2002, at 5.
- 4 *Flawed Enforcement*, American Civil Liberties Union of Texas, May 2004
- 5 *Id.*, at 4. See also *Federal Byrne Grants and Regional Narcotics Task Forces: Fueling Corruption and Racial Disparities Across America*, Drug Policy Alliance, 2004.
- 6 James Goodwin, *Lawsuit Targets Sheriff: Plaintiffs Cite Alleged Perjury of Ex-Drug Task Force Deputy*, Columbia (Mo.) Daily Tribune, May 29, 2003.
- 7 *Drug Task Force Facing Investigation*, The (Henderson, Ky.) Gleaner, Aug. 29, 2003.
- 8 Lauren Howard, *Scrutinized Drug Task Force Gets Grant*, The (Clarksville, Tenn.) Leaf-Chronicle, Sept. 30, 2003.
- 9 Mike Goens, *Probe Targets Drug Task Force Activity: Grand Jury Expected to Review Evidence in May*, The (Florence, Ala.) Times Daily, April 20, 2003.
- 10 Kevin Krause, *Criminals assets help fund drug task force*, The Dallas Morning News, November 2003; and *Man who avoided prison for drug dealing rearrested; gets seven years*, Associated Press, December 11, 2003.
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- 13 Allison Kennedy, *Sharpton Plans to Visit Columbus Over Shooting*, Columbus Ledger Enquirer, December 18th, 2003.
- 14 Lonnie Mack, *Former New Brunswick police detective pleads guilt*, New Brunswick Home News Tribune, January 7, 2004.
- 15 Elizabeth Miller, *Benson Will be Tried in Iron County*, The Spectrum, December 20, 2003.
- 16 Sean Murphy, *State use of millions in US grants probed*, Boston Globe, December 3, 2003.
- 17 *Too Far Off Task*, American Civil Liberties Union of Texas, 2002, at 9.
- 18 *Id.* at 7, 10.

- 19 David Muhlhausen, *How Congress Can Improve Its Financial Support for Law Enforcement*, The Heritage Foundation, Aug. 12, 2002, available at: <http://heritage.org/Research/Crime/EM827.cfm>.
- 20 Laurie E. Erkstrand, *Justice Discretionary Grants—Byrne Program and Violence Against Women Office Grant Monitoring Should Be Better Documented*, GAO Reports, Nov. 28, 2001.
- 21 These recommendations, among others, have been specifically raised by various organizations, including the Drug Policy Alliance, American Civil Liberties Union, and the NAACP Legal Defense and Educational Fund.

# Participant Biographies

**Freddie Brookins, Sr.**, a community activist and leader of the local chapter of the NAACP, resides in Tulia, Texas, and is the father of Freddie Brookins, Jr., who was arrested during the Tulia sting. Freddie, Jr. was a high school athletic star and months away from going to college when he was incarcerated during the Tulia undercover operation. After his son's arrest, Mr. Brookins, in addition to his managerial position at a meat-packing plant, played a pivotal role in organizing his community to bring justice to Tulia. He also organized a chapter of the NAACP in Tulia, and serves as its chair.

**Congressman John Conyers, Jr.**, represents Michigan's 14th Congressional District. First elected in 1964, Mr. Conyers is the second most senior member in the House of Representatives. Conyers serves as the Democratic leader on the House Judiciary Committee, where he continues to oversee constitutional, consumer protection and civil rights issues. Mr. Conyers is one of the founders of the Congressional Black Caucus, and is considered the Dean of that group. The list of legislative achievements accomplished during Mr. Conyers' tenure in Congress is long and impressive. He was the original sponsor of the National Voter Registration Act which was passed in the 103rd Congress and signed into law in 1993. Among the many legislative initiatives of Mr. Conyers is the bill to examine the present-day effects of slavery, and the feasibility of

reparations to be paid to African Americans. The Jazz Preservation Act was introduced by Mr. Conyers in the 106th Congress and it was he who introduced the House Resolution designating jazz as a national treasure. Representative Conyers wrote and led the drive for the Martin Luther King Holiday Act of 1983. Mr. Conyers has also introduced legislation aimed at racial profiling by law enforcement officers, and been a proponent of asset forfeiture reform and health care reform.

**Vanita Gupta** joined the NAACP Legal Defense and Educational Fund (LDF) as a Soros Justice Fellow in September 2001. She works in the area of criminal justice, with a focus on drug war reform. Her work at LDF has centered on leading an effort to overturn the convictions of the defendants in Tulia, Texas, and to promote more systemic reform of the “War on Drugs.” Ms. Gupta received her law degree from New York University School of Law, where she served as the Colloquium Editor of the *Review of Law and Social Change*, and was awarded the Vanderbilt Medal for Public Service. During law school, she participated in a year-long capital defender clinic at LDF as well as a year-long trial clinic at NY Legal Aid, Juvenile Rights Division. She received the Anne Petluck Poses Prize for her clinical work. She attended Yale University, where she graduated *magna cum laude* in History and Women’s Studies. Prior to attending law school, she worked at the Harvard School of Public Health as a community organizer and public policy coordinator for its Violence Prevention Programs. As the result of her advocacy in the Tulia case, she was one of four persons to receive the Reebok Human Rights Award, which honors individuals age 30 or younger who have made significant contributions to human rights.

**Morton H. Halperin** is the Director of the Open Society Policy Center and Senior Vice President and Director of Fellows for the Center for American Progress. Dr. Halperin has a distinguished career in federal government, having served in the Clinton, Nixon and Johnson administrations. From 1984 – 1992 he was the director of the Washington Office of the American Civil Liberties Union, and served as the Director of the Center for National Security Studies. Halperin has been associated with a number of think tanks and universities including Harvard University where he taught for six years (1960-66) and the Council on Foreign Relations. He has been widely published in newspapers and magazines across the world, and has authored, coauthored and edited more than a dozen books.

**Wade Henderson** is the Executive Director of the Leadership Conference on Civil Rights (LCCR) and Counsel to the Leadership Conference on Civil Rights Education Fund (LCCREF). Prior to his role with the Leadership Conference, Mr. Henderson was the Washington Bureau Director of the National Association for the Advancement of Colored People (NAACP). He was also previously the Associate Director of the Washington Office of the American Civil Liberties Union. Mr. Henderson, a graduate of Howard University and the Rutgers University School of Law, serves as the Joseph L. Rauh, Jr. Professor of Public Interest Law at the David A. Clarke School of Law, University of the District of Columbia, Washington, D.C. He received the prestigious District of Columbia Bar's 2002 William J. Brennan award.

**Congresswoman Sheila Jackson Lee** represents the 18th Congressional District of Houston, Texas, elected to the House of Representatives in 1994. She has been hailed by *Congressional Quarterly* as one of the 50 most effective members in Congress, and by *Ebony* magazine as one of the “100 Most Fascinating Black Women of the Century.” She has distinguished herself as a staunch defender of the Constitution, civil rights and juvenile justice, protection of America’s health needs, gun safety and responsibility, and economic empowerment for low and middle income America. She has also been outspoken on human rights issues. She sits on several Committees, including the House Committee on the Judiciary and its Subcommittee on Crime, and serves as the Ranking Democrat on the Subcommittee on Immigration and Claims. Before her election to Congress, she served two terms as one of the first African American women At-Large members of the Houston City Council. Prior to her Council service, she was an Associate Municipal Court Judge for the city of Houston.

**Congressman Charles B. Rangel** was elected to Congress in 1970 to represent the 15th Congressional District of New York. He is the Ranking Member of the Committee on Ways and Means, Chairman of the Board of the Democratic Congressional Campaign Committee and Dean of the New York State Congressional Delegation. He is the principal author of the five billion dollar Federal Empowerment Zone demonstration project to revitalize urban neighborhoods throughout America. In his efforts to reduce the flow of drugs into the U.S. and to solve the nation’s continuing drug abuse crisis, Congressman Rangel served as former chairman of the Select Committee on Narcotics Abuse and Control and is currently chair of the Congressional Caucus on Narcotics Abuse and Control. He continues to lead the nation’s fight against drug abuse and trafficking. He is the original sponsor of the Crack-Cocaine Equitable Sentencing Act. Congressman Rangel is a founding member and former chairman of the Congressional Black Caucus. He was also chairman of the New York State Council of Black Elected Democrats and was a member of the House Judiciary Committee during the hearings on the articles of impeachment of Richard Nixon.

**Mattie White Russell** is a community activist, grandmother, and mother of four children who were arrested during the Tulia, Texas undercover drug operation. She also had seven additional family members who were ensnared. She has worked tirelessly to voice the struggles of her community and family in the aftermath of the arrests and subsequent prosecutions. She has given dozens of interviews to the press to keep the story alive, and has helped raise funds for the Tulia families in need. She was left to raise her two grandchildren who were left motherless after the raid. She is regularly employed as a prison guard. In 2002, she was profiled in *People* magazine regarding her grassroots work in challenging the legitimacy of the Tulia drug sting.

**Congressman Robert C. “Bobby” Scott** represents Virginia’s 3rd Congressional district. He was first elected to the U.S. Congress in 1993. Rep. Scott serves on the House Budget Committee and the Judiciary Committee where he is the lead Democrat on the Subcommittee on Crime, Terrorism and Homeland Security and a member of the Constitution subcommittee. Scott served in the Virginia House of Delegates from 1978 – 1983, and in the Virginia State Senate from 1983- - 1993. In 1992 he became the first African American from Virginia to be elected to the U.S. House of Representatives since the Reconstruction era. Congressman Scott has championed several successful legislative initiatives. He led a key fight to protect the rights of all children with disabilities to a free and appropriate education under the Individuals with Disabilities Education Act (IDEA), and sponsored the Death in Custody Act that was signed into law in 2000. He also led bipartisan efforts to pass comprehensive juvenile delinquency prevention programs. He is known in Congress as a champion of the Bill of Rights and the U.S. Constitution.

**Nkechi Taifa** is a Senior Policy Analyst in the Washington Office of the Open Society Institute and the Open Society Policy Center, advancing OSI's criminal and civil justice initiatives. She also heads the OSI Watching Justice initiative. Taifa has played a major role in raising the visibility of issues involving sentencing and justice reform, and has testified before Congress, the U.S. Sentencing Commission, the Council of the District of Columbia and the American Bar Association's Justice Kennedy Commission on these issues. She is also an adjunct professor at Howard University School of Law, and has served as director of its Equal Justice Program; legislative counsel for the ACLU Washington Office; policy counsel for the Women's Legal Defense Fund; staff attorney for the National Prison Project; and Network Organizer/Office Manager for the Washington Office on Africa.



Tulia family members Mattie White Russell (left) and Freddie Brooks, Sr. (right) at the May 2003 Congressional Briefing on Tulia.

# Systemic Injustice in the War on Drugs

*A Briefing from the Frontlines of Tulia, Texas and Beyond*

MAY 7, 2003, WASHINGTON, D.C.

SPONSORED BY REPRESENTATIVES SHEILA JACKSON LEE, JOHN CONYERS, JR. AND CHARLES B. RANGEL, IN CONJUNCTION WITH THE WASHINGTON OFFICE OF THE OPEN SOCIETY INSTITUTE.

**MS. TAIFA:** My name is Nkechi Taifa and I am a Senior Policy Analyst for the Open Society Institute, Washington Office. I will serve as today's moderator. On behalf of the Open Society Institute, I would like to thank Congresswoman Sheila Jackson Lee, Congressman John Conyers, Jr., and Congressman Charles Rangel for hosting this very important briefing. Today's proceedings will help us understand what happened in Tulia, Texas, and the implications the abuses which occurred there have for the country as a whole.

Two very special people have traveled all the way from Tulia, Texas to be here this morning and reflect on their view of the drug sting that occurred in Tulia, Texas.

The first is Freddie Brookins, Sr. who is a community activist and a leader of the local chapter of the NAACP. He resides in Tulia and is the father of Freddie Brookins, Jr. who was arrested and incarcerated on that fateful day in July 1999. His son was a high school athletic star and months away from going to college when he was arrested. Since his son's arrest, Mr. Brookins has, on top of his managerial position at a meat packing plant, played a very pivotal role in organizing his community to bring justice to Tulia.

We also have Mattie White Russell who is a community activist and the mother of six children, four of whom were arrested in Tulia. She also had seven additional family members who were arrested. For the past four years, since the outset of this case, she's worked tirelessly to voice the struggles of her family and community in the aftermath of the prosecutions. She has helped raised funds for Tulia families in need, and she's also raising her two grandchildren who were left motherless after the sting. She is regularly employed as a prison guard, and has been profiled in *People* magazine regarding her grassroots work in challenging the legitimacy of the Texas drug sting. So, I'd like everyone to give them a round of applause.

**MR. BROOKINS:** My name is Freddie Brookins and I'm very pleased to be here today. This gives us an opportunity to voice our opinion and tell what actually happened in Tulia, Texas back in 1999. In '99, many of the residents in Tulia were taken out of their beds in the early morning, and then paraded across television screens. I was like most people. The raid was hard for me to believe. I thought that they made a mistake. I didn't think the law did things like this. I didn't think things like this happened in this day and time.

So I didn't go to the first two trials, but as it started escalating and I saw what was taking place, I saw that it wasn't about drugs. It was about capitalizing. Tulia, Texas was capitalizing by putting people in prison. Tom Coleman was capitalizing by putting people in prison. And so, from that day forward, I decided that I'd join the fight, and I started attending the trials.

Listening to the main witness was like a cut out of a movie. It wasn't real. It wasn't really happening. It seemed as if the things that Tom Coleman presented in court couldn't be possible. It couldn't be happening, yet it did. People testified to Coleman's credibility. They said he was a good man and an upstanding citizen. Yet, he put my child away for 20 years. There were twelve jurors who said "okay."

This is tough. It's tough to deal with. My son has been locked up. He's been locked up on the inside. I've been locked up on the outside. I've been doing time. I've been doing time on the outside; it's hard time too.

**MS. WHITE RUSSELL:** Freddie, you really said everything. But, you know, it's hard for me, too. It's hard to believe that people believed him [Coleman] when he said 'I'm going to write this on my stomach or on my leg.' And this is a town that doesn't really care. They say they care about us, but they don't care. They don't try to clean up the town the right way. But, I'm like Freddie. I was locked up with my kids and I'm still locked up because I'm taking care of two of theirs. They can't see what's going on with their parents. Everybody's parents are coming home but theirs and it's kind of hard on the whole family. It really hurts.

Right now we have probably hundreds of kids that are growing up in Tulia and we don't have a youth center. We don't have anything there for those kids. I don't think it's fair, but we just don't know what to do. We need help. We need someone to come in and help us and see what we can do about everything. I just love those lawyers who came there—God just sent some people there who really understood what we were going through, because we couldn't do it ourselves. If it hadn't been for those New York lawyers and those Washington lawyers we wouldn't have done this. I sure appreciate them and I sure appreciate all of you.

**MS. TAIFA:** Thank you so much Ms. White and Mr. Brookins. Some of the lawyers are here today. This is a very big moment. I'd like to recognize Congressman Bobby Scott. He's been a stalwart leader in the Judiciary Committee for many, many years.

**CONGRESSMAN SCOTT:** Thank you. I want to express my appreciation for everything that's going on. We deal with a lot of problems with civil liberties, the U.S.A. Patriot Act and a lot of times people will complain, but you can't point to specific cases where the abuses have been notorious. This lets us pinpoint some of the problems in the criminal justice system. We want to thank you for coming forward. And we want to thank the lawyers for all the work they have done in exposing the problems for what they are, and for putting a human face on it. So, we want to express our appreciation for you being here and helping us do our work. Thank you.

**MS. TAIFA:** I'd like to introduce Morton Halperin, Director of the Open Society Institute, Washington Office. He's also a Senior Fellow at

the Council on Foreign Relations, and from 1975-1992, directed the Center for National Security Studies Project of the American Civil Liberties Union.

**DR. HALPERIN:** Thank you. I'd like to welcome you all here and to welcome the Congressional hosts of this event. Congressman John Conyers of Michigan, Congressman Charlie Rangel of New York, and Congresswoman Sheila Jackson Lee of Texas.

**CONGRESSMAN RANGEL:** Let me thank the Open Society for taking the time to bring us together. I also wish to thank the Legal Defense Fund and Bob Herbert who kept the light shining on this situation. I call it the Rodney King case of a town in Texas because a lot of people consistently reported what was happening there. And I tell my white critics here in the Congress that this indictment wasn't against just black folks. It wasn't against poor folks. It was an indictment against everything this country is supposed to stand for. But, we're at that point in our history where the whole world is watching what we do. We can attempt to bomb other people into liberation, but we are going to be guided by how we treat each other and when you do these types of things, then you have lost the moral authority to judge how other people treat the people in their countries.

I want to especially thank the young people for being here. Those of us who are old have a tendency to say 'well, you never knew how rough it was and you never knew the blessings that we passed on to you,' but I believe that you do understand because you're here. And if you're going to have a better life, and if your children are going to have a better life, we can never, never, never allow this country to forget its obligations to all of its people. And this is especially so when we find it so easy to attack heads of other countries for inhumane treatment of their people. How we treat our own people should be the standard.

I want to also take the liberty to present to you, John Conyers. John Conyers is the ranking member of the Judiciary Committee and every-day of his life, he holds on to that Constitution as though it belongs to all Americans. He makes certain that this fragile document is not tampered with to such an extent that all of the things that we say that it

should be are shattered. The Ashcroft Attorney Generalship is trying to take us back decades in terms of intruding on our rights to privacy. John Conyers has been there for two impeachments. He's been there for the Constitution. He's been there for civil rights. He's been there for voting rights. We're so lucky to have him here in this struggle today.

**CONGRESSMAN CONYERS:** Thanks so much, Charlie, for that welcome. Charlie Rangel was on Judiciary all these years as well. Actually, I'm saving myself for last because Sheila Jackson Lee is here now and she's been on the committee for several terms; a ranking subcommittee member and a real fighter in this area, as well as immigration. So, without further ado let me bring to you from Houston, Texas, Sheila Jackson Lee.

**CONGRESSWOMAN LEE:** When one comes to an occasion such as this and has the privilege of being amongst, if you will, the heroes and benefactors of a Constitutional document that so many of us have held so dear— in spite of the fact that many in this room first came to this nation in the bottom of a belly of a slave boat— you are humbled by the presence of those who have taken the values, the principles that the Constitution purports and alleges to be the underpinnings of this nation so seriously.

We realize that the challenges that face us will only be overcome if we encourage you to continue to remain on the battlefield. We realize that what we must do when there are those who have been broken, but yet unbowed, such as Mattie White and Freddie Brookins – Texans – warriors; those who have been brought to their very knees, not for the doings of themselves, but because someone else did not understand the simple words of the Constitution. Maybe the beginning words that we organize to form a more perfect union; maybe the 13th, 14th, and 15th Amendments that would guarantee equal opportunity; maybe the 5th Amendment that guarantees due process.

And so, if there is anything that I would like to say to you this morning first, before I speak very briefly — standing next to a giant, John Conyers, and as well as his equal giant Charlie Rangel — allow me today to forcefully and vocally apologize for the United States of America. Allow me to apologize for the state of Texas still rising, still climbing, and

still falling. Allow me to say to you that although those times were extremely lonely – and you may not have thought that all the political force that should have been brought to bear, was – that there were those who were seeking justice.

So, this day that is being held with all the main groups and associations, should be a day of rejuvenation in remembrance of that day on July 23, 1999 when police forces broke into a home and began the domino effect of arresting 46 people, even when it was determined that the key witness with all of his personal problems, all of his ego problems, all of his desire to be important, was, if you will, shown on the witness stand to be a crumbling, unreliable source. How utterly despicable to find out that there were those who still did not listen.

So, I am gratified that you've come to the seat of government today and there are so many familiar faces who will tell me I've been here before. I've traveled that journey. I've tried, but now, in the backdrop of a Justice Department that tries as hard as you do, you cannot give up. You frankly cannot give up.

And to the many associations that are here, be reminded of Mattie. Be reminded of Freddie. Be reminded of those families. Be reminded of those young lives destined for college, destined for jobs, destined to protect their families and yet, in the midst of life, they were stopped. Estopped.

And I could go on and talk of the rights we have. I'd like to say the rights we do not have and the only way that we will be able to capture again the concept of the 5th Amendment, the underpinnings of the Bill of Rights, the respect for diversity and differences, and to be able to try to make Mattie and Freddie whole – four of her children becoming part of this web of sin – is to begin a journey, anew.

There are many challenges — the detaining of individuals, and the naming of individuals as enemy combatants. The refusal of allowing attorneys to see their own clients or individuals who need counsel. The monitoring of the works of the House Judiciary Committee and the Senate Judiciary Committee. Not taking lightly the filibuster on judges to be appointed to the 5th Circuit and the Supreme Court ultimately.

Because one of the difficulties of this situation is not being able to get the judicial system to be responsive and for this community to feel isolated and by itself.

And so, I think it is important as we look at a myriad of challenges, that we challenge ourselves Mr. Chairman, Mr. Conyers, I'm not sure how far we have gone, but I do believe that in your work on hate crimes and racial profiling— and believe me, we have been pressing the envelope here as a committee— that we need to press the envelope for a full hearing on many of these issues so that they can come out in the light of day.

And I do appreciate some of the Representatives that work very hard in the state of Texas, but I believe that this day's work can culminate with a challenge, an obligation, and a demand from the many groups that are here that we've not yet answered the question on racial profiling. We've not answered the question on the removal, denial, and extinguishing of civil liberties. We've not answered the question on the judiciary being packed with individuals not willing to understand choice questions, and the right to privacy. An enormous mountain of civil liberties are being extinguished. I am reminded of Angela Davis' book, "If they come for me at night, they will come for you in the morning."

I have somewhat of a bent head, but not a broken spirit. Because sometimes, this hollow place can be very isolating, very stifling, and frustrating is not a strong enough word, but it is important to see those like you to be able to light the fire to press the point. The hearings and committee rooms should not be just for the special interests, but it's got to be for the special people, the special heroes that have suffered and have been penalized and brutalized by a system that does not work.

So, I hope as I close, first of all to express my belief that this is an extremely important presentation today and to indicate to you that I expect to file a resolution dealing with the horrific events of your city in Texas asking for this Congress to condemn such; to condemn those who participated; and to as well, praise those who survived. In honor of you and in commitment to ultimately find a reason why justice did not prevail, I ask my friends here to join us in pressing for this as well, adding light to this by hearings that we can hold or press our committees to do so.

I thank you for allowing me to be a small part of this, along with Charlie Rangel and John Conyers, individuals who have a deep and abiding spirit, commitment, but also resolve in all their portfolios, who have never strayed from remembering from whence they've come. They are our mutual heroes. I hope you appreciate their presence here and I hope we will work together to shed an enormous light on an America that has not yet reached its promise.

Thank you for having me this morning.

**CONGRESSMAN CONYERS:** Now, you begin to see why I let her go first.

We want to get started with this hearing and — I do want to thank Charles Rangel, Sheila Jackson Lee, Bobby Scott, and others of our colleagues that may be coming.

Charlie has been on the case for a long time. He'll be the first Congressional Black Caucus member that will be the Chairman of the Ways and Means Committee and I'm very proud of that. Sheila Jackson Lee has created her own record here as a fighter on all fronts. Whenever we call for action, she's there. So, I thank you, Mort Halperin and Attorney Taifa for having the foresight, with the Open Society Institute, to create this public forum. Because this is how we're going to win this.

Now, the public forum is very important, because you're bringing together people that in this Congress we couldn't bring to a hearing even if we got it. But I am saying nothing but nice things about the Chairman of the Judiciary Committee, Jim Sensenbrenner and the reason is that Rangel and Lee and Conyers are going to him today while this is going on to meet him to ask him to let us bring the word back to this forum before you leave the Hill that we will have official Judiciary Committee hearings on this subject.

We want some hearings because Tulia tells you the whole story about the immorality of drug prosecutions and their relationship to the criminal justice system. You don't need another case. If you didn't hear but one thing about this immoral system, this is it. So, it's "throw down" time. We either need to get a hearing, but it's not going to stop us if we don't, because we need to hold hearings like this all around the country. The Congressional Black Caucus needs to do this. The Progressive

Caucus, the Open Society, the NAACP, the Legal Defense Fund, the American Civil Liberties Union, and the National Bar Association – all should be doing the same thing.

And it's all because we met here today and said "enough." We're going to turn this thing around and it's beginning to crumble of its own. All of you know the judges are now releasing prisoners by the thousands because the system can't take it. We finally reach this point in law — what's it called? Critical mass. We've reached critical mass where we can't get enough money to build enough prisons to hold all the people the system is trying to put in them. We can't even get enough federal money. We can't get enough private money. So that, now, the courts are saying, "forget it." We're letting people out because we've reached the end of our rope.

But, we have a duty beyond that – it's to reverse laws of this country. Our duty goes beyond just getting people released. We've got to change the system so that no more can be incarcerated as they tragically have, as represented by the Tulia tragedy.

And so, we're going for hearings. I'm going to come back as soon as we — as a matter of fact, call the Chairman right now. We're going to him right now. We're going to come back and tell you we (a) got hearings, (b) we're thinking about getting hearings, (c) we're not getting hearings, and then you can conduct yourselves with whatever is the appropriate possibility. Chairman Sensenbrenner is in a mark up in 2141. I'm going there right now to request formal Judiciary Committee hearings. I'll be right back. [Applause].

**DR. HALPERIN:** Thank you very much. Well — it sounds like we may all be called to a sit-in later.

[Laughter]

Unfortunately, Elaine Jones was detained in New York and will not be able to join us this morning, but I just wanted to say how much we all appreciate her work and the work of the Legal Defense Fund over the years in fighting for civil rights and for justice.

At this time it's my great pleasure to introduce to you somebody whom you all know has been a leader in the fight for civil rights and civil

liberties in Washington for many years since he first was with the American Civil Liberties Union. He and I worked together at that time, he then went with the NAACP, and he is the leader of the Civil Rights Coalition. It's my great pleasure to introduce Wade Henderson.

**MR. HENDERSON:** Thank you, Mort and thank you for that wonderful introduction and thank you the Open Society Institute most especially for convening this extraordinarily important forum.

I'm Wade Henderson, the Executive Director of the Leadership Conference on Civil Rights. The Leadership Conference is the nation's premier civil and human rights coalition with over 180 national organizations working to advance the cause of civil and human rights and I'm especially pleased to participate in this forum entitled "Systemic Injustice in the War on Drugs: A Briefing from the Frontlines of Tulia, Texas and Beyond." Before I begin, I really want to thank most importantly and especially the Tulia families for coming to Washington today and bringing with them their very powerful stories of injustice, and to congratulate them for their perseverance. Because without their willingness to bring their stories to national attention, we would not know of the injustice they've experienced.

I also want to particularly thank Vanita Gupta and Elaine Jones and their colleagues at the NAACP Legal Defense and Educational Fund, along with the broad-based coalition they galvanized and the impressive array of *pro bono* litigators and talent they coordinated from the firms of Hogan & Hartson and Wilmer, Cutler, and Pickering. I want to thank them for their brilliant litigation, their advocacy, and the organizing campaign that resulted in an unprecedented legal victory recommending the dismissal of all charges against the defendants.

Now, the Tulia debacle represents an egregious and compelling example of rampant injustice in our nation's criminal justice system. What happened in Tulia is a stark illustration of the injustices that occur everyday in communities across the country that result from racial profiling, unchecked prosecutorial discretion, and the criminal justice system that puts conviction rates ahead of fairness and racial justice.

The racial inequality in our nation's criminal justice system threatens to render irrelevant 50 years of hard-fought civil rights progress. In a

report released by the Leadership Conference in 2001 entitled *Justice on Trial: Racial Disparities in the American Criminal Justice System*, which by the way is available on our website at [www.civilrights.org](http://www.civilrights.org), we compiled evidence of disparities of every aspect of the criminal justice system from police tactics to sentencing laws, and concluded that the criminal justice system is beset by massive unfairness. Both the reality and the perception of racial bias have adverse consequences for minority communities and for the criminal justice system itself.

In the half century since the Leadership Conference was founded, our nation has made great strides in combating racial discrimination. But, in the criminal justice field, racial inequality is growing, not receding. Racial profiling and other enforcement strategies begin the insidious process by which minorities are disproportionately caught up in the criminal justice system. But, such disparities do not end at the point a suspect is arrested. At every subsequent stage of the criminal justice process, from the first plea negotiations with a prosecutor, to the imposition of a prison sentence by a judge, the subtle biases and stereotypes that cause police officers to rely on racial profiling are compounded by the racially skewed decisions of other key actors.

Now, specifically, prosecutors today enjoy more power over the fate of criminal defendants than at any time in our history and the prosecutorial discretion is most dramatically exercised in the area of sentencing. In the past, sentencing has been a judicial prerogative, but the advent of mandatory minimum sentencing laws and sentencing guidelines systems has shifted in large measure the power to determine punishment from judge to prosecutor. Even where judges retain ultimate authority to impose a sentence, a prosecutor's sentencing recommendation will carry great weight. The threshold decision of whether to bring charges against a suspect and if so, which charges are appropriate, is almost never subject to review by a court.

Regrettably, the evidence is clear that prosecutorial discretion is systematically exercised to the disadvantage of black and Hispanic Americans. In 1991, the *San Jose Mercury News* reviewed almost 700,000 criminal cases in California between 1981 and 1990 and uncovered sta-

tistically significant disparities at several different stages in the criminal justice process. For example, the study found that 20 percent of white defendants charged with crimes providing for the option of diversion received that benefit while only 14 percent of some similarly arrested African Americans and 11 percent of similarly situated Latinos were placed in such programs.

Diversion programs can offer a real second chance for offenders. A chance you're more likely to get if you're white. These statistics reveal, as with police activity, that the prosecutorial judgment is too often shaped by a set of self-perpetuating racial assumptions and stereotypes. Further evidence suggests that blacks and Hispanics have borne the brunt in the so-called war on drugs. Between 1985 and 1995, while the number of white drug offenders in state prisons increased by 300 percent, the number of similarly situated black drug offenders increased by almost 700 percent.

These racial disparities in drug sentencing do not occur because minorities use drugs at a higher rate than whites. According to the federal statistics, drug use rates per capita among minority and white Americans is similar, and studies show that drug users tend to purchase drugs from sellers of their own race. So, while blacks constitute approximately 12 percent of the population, they constitute 38 percent of those arrested for drugs, 59 percent of those convicted of drug offenses, and 74 percent of those sentenced to prison for a drug offense. Now, these statistics in certain cities are extraordinary. In Columbus, Ohio, black males comprise 11 percent of the population, but 90 percent of the drug arrests. In Jacksonville, Florida, black males comprise 12 percent of the population, but 87 percent of the drug arrests.

Tulia, Texas is just not in Texas. Tulia is all over and you see it in community after community in the statistics they bear. Now, our concerns about racial profiling by law enforcement and prosecutorial misconduct are compounded by ongoing concerns about the adequacy of legal representation for the indigent, the expanded use of mandatory minimum sentences particularly for drug crimes, and the growing movement at the federal level to be tough on crime which often equals fewer

rights for defendants, less discretion for judges, and longer, more punitive sentences for those caught up in the system.

Now, this forum comes on the very day that my organization, the Leadership Conference, celebrates its annual Hubert H. Humphrey Civil Rights Award. And this year, we honor some very exemplary Americans, including Representative John Lewis, a life-long champion for civil rights, and also the Sesame Workshop, Sesame Street. But, the reason I mentioned this year is because we are also honoring Northwestern University's Journalism Innocence Project as well as their Center for Wrongful Convictions because these two organizations worked together tirelessly to exonerate several innocent persons who were on death row in Illinois and whose work calling into question the fundamental fairness of the Illinois capital punishment system culminated in the governor of that state commuting 167 death sentences because of the apparent unfairness of the system in which he operated.

Now, Governor Ryan deserves great credit and acknowledgement for his act of courage, but it is the underlying statistics and the scientifically irrefutable data that made his decision so compelling, and the fact that it occurred is so important. Now, obviously, we are troubled by people who are on death row in Illinois, but we are troubled by the failure of the system to respond fairly to that. So, we see the abuses in Tulia not as isolated instances, but rather as symptomatic of other injustices committed often in the name of the war on drugs.

Tulia is not just a tale of one cop gone bad. It rather is an illustration of an entire criminal justice system that desperately needs reform. And we must all become vigilant in demanding accountability from law enforcement, abolishing the practice of racial profiling, reigning in overzealous prosecutors, ensuring adequate indigent defense, and working toward an end to disparate sentencing. As emphasized in *Justice on Trial*, reforming the nation's criminal justice system is a top priority of the Leadership Conference on Civil Rights, and just as we worked together to meet the historic civil rights challenges of the 20th Century, so, too, should the nation's civil and human rights coalitions work together to end the injustices of unfairness in the criminal justice system, which is

the real civil rights challenge of the 21st Century.

**DR. HALPERIN:** Thank you so much Wade for your leadership. I want to invite Vanita Gupta to the podium. She was the lawyer for the NAACP Legal Defense Fund for this case, who will make remarks on behalf of Elaine Jones.

**MS. GUPTA:** Thank you, Open Society Institute, for organizing this very important event. My name is Vanita Gupta. I'm an attorney with the NAACP Legal Defense and Educational Fund, and I've spent the last year and a half working to rectify this gross injustice in Tulia, Texas, along with many other individuals and organizations that have been involved even before the Legal Defense Fund got involved.

Over a year and a half ago, I saw an older version of the documentary that was just shown, and I saw it with a bunch of LDF attorneys who were just shocked into silence after we finished the video. The Legal Defense Fund has been doing this kind of work challenging racial bias in the justice system for over 60 years now, but I didn't think any of us had ever seen or heard of a case like this where an entire town, an entire community, was brought down on the word of one individual.

We got involved late. We got involved two years after the sting operation had actually happened. The Texas ACLU and Texas NAACP actually had already started investigating the situation. There were some local civil rights attorneys who were very distressed about what had happened, but did not necessarily know how to put all the pieces together. We got involved in November of 2001, as soon as I saw this video. I made a trip to Texas to figure out what the legal situation was in Tulia, and if there were any attorneys representing those folks who had been convicted. I wanted to know what was going on with the folks whose direct appeals had been denied.

When I went down there, even though I was shocked by the video, I just could not believe what I found in the papers that I read, and in the stories that I heard. I met Mattie and Freddie on that first trip. They opened up their doors and told me what had happened to their families and to their communities. It was outrageous that on the word of one undercover narcotics officer, this entire town could be brought down. There was no wire for one to corroborate his testimony. There was no

tape recording testifying to anything that he said in court. It was his word against the words of the defendants.

I spent a couple of days down at the Swisher County courthouse basically just collecting and copying documents. I bought a suitcase at Walmart, and stuffed it with maybe thousands of pages of documents. When I came back up to New York, I told the leadership of the Legal Defense Fund that we had to get involved in this case. As soon as I started telling them the story, it was a very easy sell because after you see the video, and hear Freddie and Mattie talk — the more you learn about this case — the more outrageous it gets.

I spent the first two weeks after I got back, essentially reading these transcripts. These trials were under a day and Joe Morgan was the first one to go to trial. Tom Coleman was presented as “an exceptional officer.” There were state witnesses taking the stand and saying Tom Coleman was exceptional. They would hire him again if they had the opportunity to. Then Attorney General of Texas, John Cornyn, now a U.S. Senator, awarded Coleman the “Lawman of the Year Award.” Coleman was a big hero in this small town and the transcript reflected that.

There was no cross-examination of Tom Coleman in those earlier trials. It was truly a sight to behold that there was not a single African American on the jury. It was everything bad that one would imagine taking place in a criminal court. Because of the lack of cross-examination and suppression of evidence, the convictions were almost automatic. My clients were then sentenced to 20/30/40/60/90/341 years. When I arrived back in New York after making my first trip to Tulia, we had two weeks to quickly put a petition together. We did that, filed it, and the first person was Jason Jerome Williams. He was nineteen years old and had no prior record. His life was basically stopped in the middle by Tom Coleman and the task force that hired him. Soon thereafter we got involved. There were just too many defendants so we recruited attorneys from Hogan & Hartson. Des Hogan was the first person to call me.

What’s interesting is that after we had started filing these petitions to try to get folks out, the process was slow. We kept going down to Tulia and telling everybody to hold on. I know the process is slow. We’re all

outraged, but this is the way this is done. We're going to stick with this for as long as it takes.

In August there came a big breakthrough, thanks to Bob Herbert of *The New York Times*. Bob really helped the Legal Defense Fund to bring these cases out to the front. He wrote six columns. In August, he made a trip down and met with Freddie and Mattie and he was on fire. He was on fire like every person at the Legal Defense Fund was. He said, "I will continue to write these columns until this is made right." There was just no stopping him.

And after that, the media just started getting very intensely interested in it. And it's interesting; a lot of the Texas press felt very ashamed by Bob Herbert's reporting at the time. They were ashamed because they had been silenced and, in fact, had been complicit. They were heralding the Tulia drug sting as a big Texas victory. This is the way that the war on drugs is to be fought in the rural community. Bob Herbert really woke up the Texas media, resulting in an intense media frenzy about these cases.

And just one month later, the very same court that had upheld every single one of these convictions, on direct appeal remanded the cases back down to the convicting court and said that our claim – the claims that Hogan and Hartson, Wilmer, Cutler and Pickering and the Legal Defense Fund presented in our petitions, if true, might entitle our clients to relief. That wasn't going to happen without the media. You could have the best lawyers in the country working on these cases, but it was not going to happen without the intense political pressure in the media that was brought to bear about these cases.

We were ecstatic, but we were sent back down to the same court with the same judge who had presided over almost every single one of those trials. This was a judge who had said on the record, that he will let in no background evidence on Tom Coleman. The fact that Coleman had been arrested for theft in his official capacity while working in Tulia; the fact that he had been fired from numerous law enforcement positions; the fact that he couldn't get a law enforcement job prior to Tulia because of problems in his record that other police departments caught — I could go on and on with the list on Tom Coleman.

This judge said none of that is relevant in these cases. This was a case, again, where Tom Coleman's word was the only evidence presented that would link any of the Tulia residents to any criminal activity — any clear evidence, but none of that evidence was relevant, according to the judge. So, we were not all that thrilled about going back to the same court and it just so happened, that the same judge was running for reelection. He wrote a letter and actually published it in a local paper while he was running for reelection in response to angry letters telling folks not to vote for him. He said, 'all of my rulings stand firm. All my rulings about possible formal misconduct have been affirmed. I'm running for office, not Tom Coleman,' and on and on and on.

And we got that letter sent to us by some Tulia residents and said that it's time to recuse him for bias. It was just too blatant and that was truly the most significant document in these cases and is why we are where we are today. Because without that recusal, just as folk said this morning from the podium, the judiciary has little control of that courtroom and we would not have been able to have a hearing. We would not have been able to present the testimony that we did about Tom Coleman, about the folks who hired him, who supervised him, who knew and had time after time red flags about who this man was and yet sat by and waited to be awarded with more federal monies after this travesty had taken place.

When we went to court, Judge Ron Chapman out of Dallas was actually assigned to the cases, and that was very significant. He was not from that region and it broke the sense of local investment from the judge in these cases and that was very important. He started handing us discovery; he told us we should have a hearing — that in order to prove up our claim, we needed to put on testimony. We were getting none of that from the previous judge.

The hearings were held in mid-March and many of you may have read about them in *The New York Times* and *Washington Post*. We spent the first day basically putting on a parade of law enforcement witnesses. It's tough to get law enforcement to testify against other members of law enforcement, but there were seven witnesses — former sheriffs, heads of the police department, former district attorneys — who took the stand and said this

man was unreliable. They testified that he was not trustworthy; he did not have credibility and suggested to us that if there had ever been any kind of background check done on Tom Coleman — using Tom Coleman’s background at all — all of that would have been discovered.

It was pretty shocking. One sheriff from the local county where Coleman worked actually took the stand. He was an elderly gentleman, who was best friends with Tom Coleman’s father. Tom Coleman’s father was a very well esteemed Texas Ranger and he took the stand and actually had to break for a few minutes because he was crying. He said it was so hard for him to take the stand and testify against his friend’s son. Finally, he said, this man is just not trustworthy and it was to the judge and everybody, just an incredibly powerful moment in the courtroom.

The second or third day we started putting on the sheriff of Swisher County who basically worked very closely with Coleman throughout the 18 months that he was there. We put on the Commander of the Task Force. We put on witness after witness and uncovered a lot of information, some of which actually was very funny. For example, in the middle of a deposition — we had already subpoenaed all the documents we thought we needed — we asked one of the law enforcement officers who was sitting as a member of the Task Force, ‘What did you do with your background check?’ How is it that you didn’t uncover all this information on Tom Coleman?’

And he sat there and took out a sheet of paper and kept looking at it as though to refresh his memory. So, we asked to see it. We had never seen this piece of paper that had handwriting on it. He turned it over to us and on it are contemporaneous notes of conversations that the task force had had with people from Coleman’s background where folk had described him as having hostile mental problems, as needing constant supervision, and as being a disciplinary problem.

This was all out there in the background check and yet, these folks allowed this man to go into Tulia and engage in the kind of devastation that he did of the town’s African American community. I’m going to read two excerpts from the testimony of Tom Coleman; Mitch Zamoff of Hogan and Hartson took this testimony from Coleman — just because it gives you a sense of the man whose word brought down this town.

Mitch Zamoff is asking him at this point in the hearing about his arrest in Swisher County and he says, “Sir, your arrest as you remember took place in August of 1998. Correct?”

“Yes, sir.”

So, then Mitch shows him testimony from where Coleman had testified in a prior hearing of another defendant and says, “On this testimony, why did you say the following ‘I’ve never been arrested or charged with nothing except a traffic ticket way back when I was kid.’”

“True.”

“How is that true?”

“This was correct.”

“What’s correct?”

“I was arrested prior to this.”

“But, you said under oath that you hadn’t been.”

“I misinterpreted being under arrest.”

[Laughter]

“Well, there’s nothing to interpret. It’s your own words. You said ‘I’ve never been arrested or charged for nothing except a traffic ticket way back when I was a kid.’ There’s nothing to interpret. These are your own words.”

“Correct.”

“Why did you do this? Why did you lie under oath?”

“Because I interpreted being under arrest as being booked into jail and put in jail.”

“Well, you testified today that you had no doubt you were arrested.”

“I was. I mean I know there’s a difference between being arrested. You can be arrested without being put into jail.”

[Laughter]

I mean, he didn’t deny the perjury. He’s explaining why he perjured himself, essentially.

Minutes after this, we started asking him questions about his racial bias. The colloquy with Mitch Zamoff went like this:

“Now, there’s an allegation made that you are racially prejudiced.”

“True.”

“Have you heard those allegations?”

“Yes, sir.”

“There’s been allegations that you have ties to the Ku Klux Klan. Have you heard those allegations?”

“True.”

“There’s been allegations that you used the word ‘nigger.’ Have you heard that?”

“Yes, sir.”

Then we were talking to him about an interview that he gave to the BBC in which he was asked whether he used the ‘N’ word. Coleman responded, “No, I don’t believe I have. I don’t believe I have in private relationships.” And Zamoff said, “Do you remember saying that only uneducated people would use that kind of word?”

“Yes, sir.”

“Then that was true, right? I mean you don’t use that word when talking to your friends or family. Do you?”

“No, I don’t use that word when I’m talking to my wife.”

“Well I’m saying when you talk to any of your friends or family, that’s not a word that you would use. Is it?”

“I’ve used it before and my friends have used it.”

“Oh, you have used it with your friends and family?”

“Yes, sir. Okay. It’s kind of a — I’m sorry.”

“What were you going to say?”

“Nothing.”

“No, please finish your answer. Answer. It’s kind of what?”

“It’s kind of a greeting.”

“It’s a greeting between you and your family and friends?”

“No, it’s just like a greeting. It’s like a greeting.”

“You — pretend I’m your family member or your friend and using it. Tell me how you use it.”

“I would have my friend come over and they knock on the door and I open the door and they would say ‘What’s up, nigger?’ I mean it’s a greeting.”

At this point, the courtroom was packed with family members whose kids were in prison or in some form of state custody because of this man

and it was painful. It was painful to be in that courtroom that morning and to hear him testify to this.

And then we asked him, “that word — that is a term of racial prejudice. Wouldn’t you agree?”

“Not this day and time I don’t agree.”

“You think its okay to use it nowadays?”

“It may not be okay, but it’s not a term of racial prejudice nowadays. I don’t think it is.”

“Did you use that word, sir, in front of your superior officers in this investigation? Did you use it in front of Lieutenant Amos? He’s the Commander of the Task Force.”

“Yes, sir.”

“Did you use it in front of Sergeant Massengill?”

“I believe so.”

“Did you use it in front of Sheriff Stewart?”

“Might have.”

We also had an affidavit from his ex-wife stating Coleman used the term “nigger” and had a KKK card in his wallet. So when we asked about this affidavit, Zamoff specifically questioned:

“In describing African American individuals in a conversation, Mr. Coleman, did you use the term nigger? True or false?”

His answer, “I probably have.”

I can’t really overstate what it was like and I wish we had this on film because you could really see him in action. He was on the stand — a white police officer who had arrested over 12% of the town’s black population — on the stand, without shame, testifying to his pervasive use of the ‘N’ word on and off the job. There was no stopping him. There are a lot of lessons to be learned from Tulia and I know it’s been reiterated over and over again, but I need to emphasize that Tulia is not an isolated problem. It really and truly is the tip of the iceberg in this country.

We broke after that testimony and spent a lot of days in settlement negotiations. Thanks to special prosecutors who were involved, we all came back and settled it with the judge on April 1, who recommended vacating all of the convictions, including those who were convicted through guilty pleas,

primarily because of Tom Coleman's very incendiary testimony.

The Department of Justice, through its Edward Byrne Memorial Fund, doles out over a half billion dollars to every district in Congress to engage in the kind of activities and sting operations that took place in Tulia. Coleman was funded by federal money and I need to emphasize one thing. What Coleman did in Tulia — writing, taking notes on his leg, and not having any corroboration for anything he did — was legal and is legal in Texas today. Now the Texas ACLU is really trying to push a bill to make it illegal, but we need to emphasize that what he did was legal and was part of the way the war on drugs is being fought in this country.

It was too easy for the state to get convictions on little to no evidence. I just got a call — well, I've been getting the same call from this individual for the last three months. His name is Eric in Hickory, North Carolina where a sting happened in September of 2002. A hundred African American men were arrested. The only evidence against this man was fifty "snitches" in prison that have obviously sentence reductions to gain by mentioning names. It's akin to a campfire where folk sit around and throw out names. If 50 people are generated, that's enough to get the indictment to go to federal court. I was trying to find North Carolina attorneys because I just didn't have time to represent him.

What happened is shocking. He was facing 25 years to life. Three weeks ago while I was in the middle of the Tulia hearing he couldn't get in touch with me. He didn't know what to do. Nothing was found on this man. Although he proclaimed his innocence, he felt the way the system operated, he would go to prison if he went to trial. So he pled guilty. This is the way the war on drugs is being fought in Tulia. The sentencing guidelines are just so incredibly draconian that no defendant will try to plead their innocence and, if you do, you will be basically punished when facing these intense guidelines.

Wade talked about the statistics and, the question is, why are so many black and brown people getting locked up? The state has still to this day not been held accountable for its actions in Tulia. Getting everybody out of prison as fast as possible is the primary focus of the lawyers in this room. It is the next stage of the Tulia battle.

Tulia happened because there was federal money to make it happen. There are task forces receiving the funding, all throughout the state of Texas that are never held accountable, and have no oversight from the federal government. It happened because the prosecution was basically allowed to suppress all of this evidence against Tom Coleman so that no jury ever heard any of his background. In addition, there's no public defender system in Texas. There was very little of the adversarial process. Even after everyone is released from prison, there will still be so much work to be done.

And the great danger is that once the Tulia defendants are released from prison, that all of us in Washington, D.C. and down in Austin forget about Tulia. The great danger is that we think our work is done after everybody who's been incarcerated in Tulia comes out and the great danger too, about Tulia, is that it becomes the story about a little cop named Tom Coleman. It is anything but that. There was an entire state operation. There are state laws that made this happen. There was state funding. And Tulia again, is the tip of the iceberg.

I'm used to getting more calls than I can handle at the Legal Defense Fund and we have to work now after folks get out to really think creatively how to get the political will to take Tulia to the next stage. Because we are in a state of crisis in our criminal justice system and we do no service to the Tulia defendants if we forget about what happened in that town as soon as these folks are out. This is going to take a lot of work, but there are a lot of good people working on these issues who have the energy to make it right.

**MS. TAIFA:** Thank you so much, Vanita. First of all, I am very proud to say a Soros Post Graduate Fellowship allowed her to work for the NAACP-LDF and travel to Tulia to investigate the abuses there. I also want to acknowledge Nate Blakeslee in the audience. He's a Soros Media Fellow, and editor of the *Texas Observer* which helped to break this whole case and bring public consciousness to bear.

I wish to thank everyone for attending this Congressional Briefing from the frontlines of Tulia, Texas. In highlighting the systemic injustice that was brought to bear on that small town, we heard from congressional leaders, the civil rights community, and family members of those

unjustly incarcerated. We will now move right into the public forum phrase of the briefing, and will hear from an individual directly engaged in advocacy before the Texas Legislature; a partner in a Washington, D.C. law firm which provided *pro bono* assistance in Tulia; criminal justice experts; and an undercover officer who was a whistleblower in a similar drug task force scandal. The forum will help illuminate broader issues involving the war on drugs and measures that can be utilized to avert corruption and restore public confidence in law enforcement and the criminal justice system.



Twelve of the wrongly convicted residents of the town of Tulia arrive at the Swisher County Court House. They were among dozens of mostly black residents arrested in 1999 on the uncorroborated testimony of a single undercover agent, Tom Coleman.

# Panelist Biographies

**Angela (Amani) J. Davis** is a Professor of Law at the American University Washington College of Law where she teaches Criminal Law, Criminal Procedure, and related courses. Professor Davis' publications include articles on racism in the criminal justice system and prosecutorial discretion in the Michigan, Fordham, and Iowa Law Reviews. She has also published book chapters on various criminal justice issues and is a co-author of the 3rd edition of Basic Criminal Procedure. Professor Davis was selected as a Soros Senior Justice Fellow to write a book on prosecutorial discretion and power. She is a graduate of Howard University and Harvard Law School, and served as the Director of the Public Defender Service for the District of Columbia from 1991-1994.

**Will Harrell** is the executive director of the ACLU of Texas. Prior to that he served as the executive director of the New York based National Police Accountability Project. He also clerked for Representative Mickey Leland and the Congressional Black Caucus. Harrell has taught law in Ecuador, lectured on human rights litigation in Chile, prosecuted human rights abuses in Guatemala, Mexico, Haiti and others, supervised elections for the U.S. State Department in Bosnia Herzegovina, and represented migrant farm workers in Colorado. For his efforts on criminal justice reform before the Texas Legislature, he was awarded the NAACP Torch Bearer Award and was noted as "Best of the Legislature" by the Hispanic Journal. His degrees include a B.A. from the University of Texas at Austin, a J.D. from American University, and an L.L.M. in international law.

**Desmond Hogan** is a partner at Hogan & Hartson L.L.P. He was one of the co-lead counsel for the petitioners in *Tulia*. His litigation practice has focused on civil rights work ranging from prison conditions litigation, to public accommodations and public benefit discrimination cases, to work on behalf of the dispossessed and disenfranchised communities. He has served as the senior associate in Hogan & Hartson's Community Services Department, a practice group which is widely recognized as one of the premier *pro bono* efforts in the country. His non-*pro bono* practice has focused on defamation, First Amendment, criminal defense, business tort and breach of contract actions. He received his law degree from Howard University, and served as Law Clerk to the Honorable Wiley Y. Daniel, U.S. District Court for the District of Colorado.

**Barbara A. Markham** is a 20-year veteran of the police force in Texas. She entered the narcotics field and successfully completed a number of long-term undercover drug operations, and developed a well-regarded reputation in long term deep-cover assignments, as well as numerous overt and covert operations. In 1997, while working for a federally-funded regional narcotics task force in Southeastern Texas, she stumbled across several questionable cases and other associated injustices and unethical behaviors. After going public about the corruption, the county government filed federal lawsuits in an effort to silence her. Ultimately the lawsuits were dismissed and the people who retaliated against her indicted on charges of aggravated perjury, official oppression, and tampering with government documents. Officer Markham recently resumed her law enforcement career and currently is assigned to narcotic investigations with the Oak Point Police Department in Texas.

**Mary Price** has been the general counsel for Families Against Mandatory Minimums (FAMM) since late 2000. She directs the FAMM Litigation Project and works on federal sentencing reform on Capitol Hill and before the United States Sentencing Commission. FAMM has been instrumental in bringing the human face of mandatory sentencing to policy makers and in building a citizen movement to restore and preserve judicial discretion. Prior to joining FAMM, Ms. Price was associated with the law firm of Feldesman, Tucker, Leifer, Fidell & Bank, LLP where she handled appeals of courts martial and conducted administrative advocacy on behalf of U.S. service members. Price is a member of the ABA's Corrections and Sentencing Committee, serves on the Practitioner's Advisory Group to the United States Sentencing Commission, and is a board member of the Washington Council of Lawyers.

**Deborah Peterson Small** is the Executive Director of Break the Chains. She previously served as Director of Public Policy for the Drug Policy Alliance, and Legislative Director of the New York Civil Liberties Union where she became a well-known and ardent advocate for drug policy reform. She is a native New Yorker and graduate of the City College of New York and Harvard Law School. She frequently speaks to the public, elected officials, religious and community leaders, as well as parents, about issues relating to the government's drug policies.



# Panel Discussion

**MS. TAIFA:** Will Harrell, I would like for you to kick off this discussion. I once heard you say, in reference to the Tulia scenario and your role, that “you felt like a one-legged cowboy in an [excuse my language] ass-kickin’ contest.” Explain that comment and also tell us a little bit about the legislative reforms you have advocated before the Texas Legislature.

**MR. HARRELL:** It is important to note that in Texas, we were engaged in a fight against all odds, because we had very limited resources. It was like David against Goliath. But during the 77th Legislative Session in 2001, during the time when the Tulia scandal was receiving a lot of publicity, we were successful in passing a prohibition against racial profiling act, an indigent defense reform bill, and a bill to require corroboration of the testimony of confidential informants. This was a comprehensive package of criminal justice reform legislation, and Tulia was the battlecry for it all.

**MS.TAIFA:** Officer Markham, the rogue cop in the Tulia case, Tom Coleman, was employed by a regional narcotics task force in Texas. As a former narcotics task force agent, you witnessed first hand the activities of some of the regional narcotics task forces in Texas. What were some of the activities that gave you cause for concern and why were you once quoted as saying, “there are whole task forces of Tom Coleman’s out there?”

**OFFICER MARKHAM:** It’s because there are many little lies that are told throughout many of the narcotics investigations, whether it’s by

claiming that they're a witness when they're not a witness; claiming that someone sold them drugs when they didn't sell them drugs, and saying that they saw an informant go into a house when they didn't see him, and could not have seen him going into a house. That's why I say there's Tom Coleman's everywhere. This is substantiated. So many individuals that I'm talking about have recently in the last year been indicted for aggravated perjury for tampering with federal records.

**MS. TAIFA:** Can you expand on that a little bit more?

**OFFICER MARKHAM:** Some individuals were task force members. One of them was my superior, Dearl Hardy, Assistant Commander of the Task Force and a chief deputy of the sheriff's office. He and several other sheriff's deputies articulated an event, a capital murder or attempted capital murder charge against an individual that did not happen. It took a long time, but within a year, they were able to indict all the officers for aggravated perjury – tampering with government records. The chief deputy was the same one that fired me six years ago when I brought forward 150 fabricated cases.

**MS. TAIFA:** Let's go now to Deborah Small, and we'll get back to a discussion of those volumes of documents that you have. Deborah we have all said that Tulia is not an isolated incident, but indicative of a larger systemic problem in the criminal justice system. What are some of those systemic problems?

**MS. SMALL:** When I think about Tulia, even though our focus has been on law enforcement, on Tom Coleman, and what he did, people need to ask themselves why is it that you had a sheriff who was willing to arrest people based on no evidence? Why was it that you had prosecutors who were willing to bring cases when there was no physical extrinsic evidence other than this man's word? But, more importantly, why local people who served on the juries were willing to convict these people based on the word of a person from outside of their town? Why were they so willing to convict people who were their neighbors, who they had known their whole lives?

When you answer these questions, you start getting to the truth of the reasons for our drug war in America, which, I believe, is being used pri-

marily as a justification for continuing to criminalize and marginalize communities of color throughout the United States. I believe it's a continuation of a pattern and practice of using the justice system and the state itself as a tool of oppression to maintain the racism that has permeated this country since its founding. I come from the state of New York where 95 percent of all the people incarcerated for drugs are African American and Latino, even though the majority of New Yorkers know that 95 percent of the people that buy and sell drugs are not African American and Latino.

And I think we really need to start asking ourselves what is the war on drugs about. It's clearly not about drugs. It hasn't reduced the amount of drugs. It hasn't reduced their availability or substance abuse in this country. It hasn't changed the patterns of middle class people and people who have abused both legal and illegal substances that never end up in the criminal justice system. What it has done is allow us to put 10, 15, 20 percent of African American men behind bars, and permanently disenfranchise them. Even when they're able to get out of prison, they're permanently stigmatized as a result of having a felony conviction and, therefore, can't get jobs. They can't support their families and live productive lives.

We really need to start thinking about this, not as something that's just about the failures of the criminal justice system, but about the failures of our society to deal with continuing issues of race in America.

**MS. TAIFA:** Amani, I'd like to address the next question to you. You have written extensively on issues involving prosecutorial discretion. Generally speaking, can you shed some light for us on what role, if any, prosecutors play in situations like the one in Tulia? Specifically, do you know whether the prosecutor in this case in Tulia had any role in the miscarriage of justice which occurred?

**PROFESSOR DAVIS:** Prosecutors are not just complicit but, in my view, are as responsible as or more responsible than others. Why? Because prosecutors have more power than any other player in the criminal justice system. Wade Henderson has alluded to some of this. They have the power to dismiss a case. Judges can't dismiss cases out of hand without a reason,

but prosecutors can and do dismiss cases every single day. When I say dismiss cases I'm talking about right after their arrest. It happens in courtrooms around the country every single day. I was with the Public Defender Service for the District of Columbia for twelve years. There's a rule – n.p. — which stands for *nolle pros* or “no paper.” What that means is that the prosecutor has decided that those cases are going to be stopped right there. They are not going to go forward. When the time comes to go to court, those charges are going to be dropped.

Well, why do they do that? There's some good reasons why they do and some I would consider bad ones, or I should say neutral reasons. They're allowed to dismiss cases for a variety of reasons. Either they decide that there's not enough evidence to go to court. They decide they don't think they can get a conviction. They may decide there's a 4th Amendment violation and that they shouldn't go to court. You rarely see them dismiss a case for Miranda. But, there are reasons why they do that and then there are other reasons which are more suspect such as, ‘this person had a good future and we don't want their lives to be ruined. So, we'll just dismiss their cases.’ This, however, does not usually happen with African Americans and Latinos.

The point is, it's called prosecutorial discretion. It is incredibly powerful. When we make those decisions, they cannot be questioned. The Supreme Court has protected that discretion.

**MS. TAIFA:** Amani, what should the prosecutor have done here?

**PROFESSOR DAVIS:** It is the prosecutor's duty, his responsibility, to look behind an arrest and question it. To ask whether there is sufficient evidence and whether this is a credible person. This prosecutor could have done that, and should have done that. Especially when you're looking at the stream of people coming in on the testimony of one uncorroborated witness.

I guess the bottom line is that this prosecutor should be held accountable. It's very difficult, however, to challenge these decisions by prosecutors. The prosecutor in the Tulia case probably knew the jurors that he was facing, knew that he would have all white jurors, knew he could get away with it so he was allowed to get away with it. I was glad to hear

Wade Henderson talk about prosecutorial discretion because there's a lot of focus on the cop and there needs to continue to be, but there must be more focus on prosecutors because they have more power. They make the charging decision and whether or not to dismiss a case, and they do what they do behind closed doors, in private. Even when we find out about problems, we don't have a legal way of challenging it. We've got to change the laws to be able to fix that or none of the things we're talking about can change unless there's a check on the prosecutorial power.

The way it's supposed to work in situations where a prosecutor is elected is that the voters are supposed to vote him out, and hopefully he will be voted out, but does it have to take columnist Bob Herbert—all the way in New York—for the democratic process to work in Tulia? The bottom line is, what happened in Tulia is happening every single day all over this country, maybe in a smaller way, but it's certainly going on.

**MS. TAIFA:** Let's go now to Attorney Desmond Hogan. The issue of adequate defense for indigent defendants is an extremely important one and you were part of the *pro bono* team that helped to bring this victory about. Hogan and Hartson, as well as Wilmer Cutler and Pickering were involved. I presume that between the two of these giant law firms in Washington, D.C., the NAACP Legal Defense Fund, and local counsel Jeff Blackburn in Tulia – that superior legal resources combined to bring about the initial victory that was achieved. So Des, in playing the devil's advocate, doesn't that mean that the system works, and that indigent defendants receive their constitutional protection pursuant to the 6th amendment right to counsel?

**MR. HOGAN:** Well, it would be good if that was true, but I think we all in this room know it isn't true. If that was true, it would take every lawyer in this country dedicating about 5,000 hours apiece to get the kinds of results that we should be getting around the country. Unfortunately, however, it isn't true. What strikes me about this case is that none of us in this room and nobody in this country should be surprised about what happened in Tulia. For the last two decades at least, the only substantial investment in the criminal justice system that stays with the federal government is building more prisons. Whether that is appropriate or not is a debate that

should happen in the halls in this Congress and every statehouse as well. But, what I'd like to say is that what we have not invested in is guaranteeing that the Bill of Rights is upheld. There is no investment in the states, especially in Texas and in other states, in indigent defense systems. It's just an absolute outrage in Texas.

Let me give you example. Our client, Chris Jackson, was facing 35 years in prison for allegedly dealing about \$700 worth of cocaine. He was appointed a defense attorney who had never taken a criminal case to trial. And that isn't an exception. That's the rule down there. Moreover, the fact is that people who are appointed in rural places – who are to be indigent defense lawyers — just have the deck stacked against them. They are institutionally encouraged to accept pleas or not fight too hard. There are controls down in Texas and elsewhere. For example, if you're an indigent defense lawyer and you spend hundreds of hours researching and doing your job to represent your client, you will be removed from the list by the judge. You'll be removed, taken off and won't be able to put bread on your table.

So, there is an institutional encouragement not to advocate on behalf of your client. Moreover, the same thing happens to prosecutors. I'm glad you said something about this, Professor Davis. Prosecutors will stop giving deals to attorneys who fight too hard. I know that there are attorneys who represent the defendants in these cases who fought hard. Terry McEachern and other prosecutors in the area will not give them deals in subsequent cases in their state. What does that mean? They technically are barred from being appointed in cases or taking criminal cases in those counties because they can't go and represent a client and say to their client, 'well, you have to go to trial because the DA won't give me a plea deal.' So, it's an institutional incentive for the defense lawyers to plead cases out. The system is flawed.

I think among many other systemic changes needed in Texas and in other states is an institutionalized system of defense. We need public defender services so that you don't have these pressures. What's needed is a base of lawyers who are adequately trained and have the institutional backup to fight against these abuses.

**MS. TAIFA:** Mary, as general counsel for Families Against Mandatory Minimums, I know you've had a lot of experience with sentencing, particularly mandatory minimum sentences. But what I really don't understand is why in the world would people who feel they are completely innocent, such as the children of Mattie White Russell and the son of Freddie Brookins — why would they plead guilty to a crime that they didn't commit? What's the rationale there? Tell us about this phenomenon.

**MS. PRICE:** Sure. I think one of the sources of unfettered prosecutorial discretion that we were talking about, one of the sources of that power, is the unconscionable mandatory minimum sentences that are being meted out in those cases. What's happening is that determinate sentencing — the system that was set up presumably to insure proportionality and fairness in sentencing — has been wedded to the war on crime and the war on drugs in a way that has produced absolutely unwarranted sentences in many cases and so, the kind of sentences that we've heard about today — 300 years, 60 years, even 20 years for these minor offenses — are a tremendous tool in the hands of prosecutors who can then go into a process and sometimes drop charges.

So, they also control plea bargaining and the charge bargaining process. They control the process by which people give substantial assistance departures and so, the sentence is 60 or 100 or 400 years. You have a very difficult decision to make. Am I going to stand up for my rights for my day in court? Well, it's not a day in court anymore. It's an hour in court and it's all happening at sentencing.

FAMM struggles hard to work to bring the human face in trying to change the sentencing laws. In the federal system, 97 percent of all drug defendants are pled out. This is an incredible figure and those people that are pleading out are either going to get lower sentences because they've promised substantial assistance. So, they're giving the information on other people and sometimes those people are themselves not telling the truth. It's a terrible burden that's been talked about here. It has to be changed and one of the ways it has to change is in sentencing laws.

**MS. TAIFA:** Will, can you tell us a little more about your advocacy before the Texas Legislature on these issues?

**MR. HARRELL:** We passed a fairly intensive bill but it doesn't go nearly far enough. When you start with nothing, just a little progress helps. We got a bill passed last session that we called the "Tulia bill" at that time. What Vanita has said is true. The problems uncovered in Tulia happen all over the state and I'm certain all over the nation.

There are two bills currently pending that will deal with Tulia directly. House Bill 801 will eradicate the regional narcotics task force with one fell swoop and I think that's the beginning of a process to avoid these problems in the future. But, there's another statute that has been pending in the Senate Criminal Justice Committee for three months. Members of that committee don't have the courage to be put on the record voting in favor of a mechanism that will place systems of accountability over the police and prosecutors who are so drunk on their own arrogance that they are fighting this legislation through lies, guile and threats and they're effective at it. The bill simply says that you can not convict a person on the basis of the uncorroborated word of one lone undercover operator like Tom Coleman.

The case in Tulia makes it clear that there's occasionally a police officer who will lie because the incentive has been created for them to do so. If there's no check on that, innocent people will spend many years in jail. Mattie White and Freddie Brookins are here to attest to that fact. This legislation would simply provide that an officer has to be corroborated — it could be a fingerprint, it could be a back-up police officer. It could be a wire. It could be all the things that Barbara Markham, a cop — an undercover cop, says they do anyway. In most cases, they do this anyway.

Last session, we passed a bill requiring corroboration for confidential informants and that has been tremendously effective because these people are inherently unreliable and have an inherent motive to lie in these cases. But, often the testimony of undercover police officers is also unreliable.

**CONGRESSMAN CONYERS:** Excuse me Attorney Taifa. If I may interrupt for just a minute for an important announcement. Congressman Charles Rangel, Sheila Jackson Lee, and I approached Chairman Jim Sensenbrenner 45 minutes ago and Attorney Keenan

Keller of the Judiciary Committee just came back and told me that Mr. Sensenbrenner has agreed to hold hearings.

[Applause]

**MS. TAIFA:** Thank you so much Congressman Conyers. This is a clear example of what the power of the people can do. Because we were here, in mass, shedding light on these issues, we have a commitment for a formal Judiciary Committee hearing. We appreciate your initiative in securing this very important pledge from the Chair of the Judiciary Committee, and we hope that the formal hearing will not be limited to the particularities of what happened in Tulia, but also underscore and seek remedy to the systemic issues we are uncovering in this briefing as well.

Now, Officer Markham, you earlier mentioned that you have documentary evidence of approximately 150 fabricated or tainted narcotics cases, many of which were prosecuted; cases which involve not only fabrication, but also racial disparity and fraudulent statistics for federal funding. Could you please elaborate upon this evidence you have accumulated?

**OFFICER MARKHAM:** There are five years of case law with one particular task force I belonged to. It depicts the racial profiling of a defendant, and is engraved as an Afro-American. The color green on the chart denotes an Afro-American. It didn't matter whether it was highway interdiction. It didn't matter if it was an undercover drug deal or a search warrant. In three counties, there's not a single Asian, Hispanic or white person that was arrested by this task force. These case files go back five years. They also depict fraudulent statistics that were generated for federal funding to continue the operation. They also reveal some of the fabricated cases. But, the evidence is in the documents and every task force across the country has these types of documents.

**MS. TAIFA:** Well, John Conyers has just said there will be hearings in the Judiciary Committee on this whole situation. So I hope that they'll bring you back here and others on this panel and other experts out there to bring some of this information to light.

## QUESTIONS FROM THE AUDIENCE

**AUDIENCE MEMBER:** My name is Eddie Hailes, from the Advancement Project. I want to pick up on the power dynamic that Professor Davis mentioned, and I will start with a question. I think we need to know whether the judge that presided over the initial trial was reelected. We've had a great discussion about the amount of legal talent and the skills of Bob Herbert that helped to bring a lot of media coverage to the cases. It seems that we need a discussion about strategic campaigns to register and to turn out voters. There are a lot of untapped voters who can make a difference in bringing about the right power dynamic.

**PROFESSOR DAVIS:** Yes, most prosecutors in this country are elected officials — and most judges as well. The problem when it comes to prosecutors, Eddie, is that, even though they're elected officials, the most important decisions that they make, they make in private and so the people — unless there's a Tulia, Texas situation where the abuses come out — you don't even know the terrible things they're doing in order to vote them out of office. Again, the charging decisions are made in private. The plea bargaining decisions are made in private and when I say they're made in private, I mean the basis for making them, the fact that there's some selective prosecution going on like the case you frequently cite, Nkechi, in California — the *Armstrong* case. It went all the way to the Supreme Court, even though these folks were sending the African American cases to federal court and the white cases to state court, there was obvious racial discrimination. The Supreme Court didn't even allow discovery in that case, much less grant relief, and that's the law we're dealing with. You're correct, folk need to vote officials out of office when they engage in abuse.

**MR. HOGAN:** Can I just jump in and answer the question of whether Terry McEachern is done? Almost to the person, the answer was no, he's not done. He's not done at all. People are scared of him. People are scared to even run against him. I mean people are scared to run in an election against the DA, let alone campaign. The power the prosecutors hold in small towns is unbelievable. It is basically untethered power

that must be controlled, and it's an issue of mobilizing communities as you two have done to try to fight back against that power. That needs to be done everywhere.

**MS. GUPTA:** Yes, I just want to add something. The fact of the matter is that in a place like Tulia where you have juries who are the voters — the majority voters — the vote is of limited power. I found out last week from another local attorney who had represented one of the defendants who's actually limited in what he could do back then, but he has another case now with McEachern as prosecutor. McEachern hasn't learned. He had to basically succumb because we brought so much pressure to bear and had this whole legal team in that room, but he continues to this day to perform in the same unfettered way that he did. I can't get into the story of this case, but it's outrageous and to me, I really think the law protects and gives these prosecutors absolute immunity for what they do on the job. If there is going to be any reform and I'm not one usually to advocate for any punitive measures, but there have to be sanctions against prosecutors. There have to be sanctions against prosecutors when they go out and deliberately violate people's constitutional rights. We cannot get to prosecutors now because they are so protected by the law regardless of what outrageous acts of misconduct they engage in, and judges are the same. In fact, even more so.

The election process doesn't help folks in small rural communities where the African American community is so much smaller. Sanctions — I mean there's just no way to get to those judges. There just needs to be some level of accountability that just does not exist in the system today.

**PROFESSOR DAVIS:** Which is why there have to be other laws passed to hold prosecutors accountable. We've talked about people being afraid to challenge that power, but it's bills like eliminating mandatory minimums that need to be introduced in state legislatures all over. It's only with these kinds of stories coming out that those kinds of bills are going to get anywhere. As far as sanctions, prosecutors are subjected to ethical rules of professional responsibility. But the problem is, no one wants to challenge them.

**MR. HARRELL:** I feel we need to focus on ex-felons and their right to vote. Who is more likely to push elected officials for criminal justice reform than somebody who's been falsely convicted, beaten, and raped in prison? Believe it or not in Texas, ex-felons can vote. It's just that there is an active effort to keep them unaware of their right to vote, and we are attempting to address that.

**MS. SMALL:** I attended an amazingly wonderful conference at Columbia University a couple of weeks ago, sponsored by its Africana Studies Department, where the other Angela Davis from the west coast spoke about the U.S. Patriot Act. One should actually go and read the name of the Act. Because if that doesn't frighten you, nothing else will. Just the way they named it tells you something about what we are confronted with. We're in a city that is basically every day working very hard to strip us of our civil liberties and convince us that they're doing it in our own interest. The conversation that we're having here today is evidence of a much broader trend of what's happening in this country around freedom, around liberty, and about what the concept of justice is.

And if people think that this is only a conversation for people of color, I guarantee you that 20 years from now, you could have a panel full of regular, middle class suburban white Americans who will find themselves victims of the same type of laws today that would allow the kind of injustices that we've been talking about in Tulia, Texas.

**PROFESSOR DAVIS:** The implications are awesome and there's a Patriot Act Two, with implications beyond belief. Attorney General Ashcroft, the top prosecutor in this country, is steadily stripping away our rights. If you saw *The New York Times* yesterday, you saw the transcripts from the McCarthy years in the '50s when Langston Hughes and others were questioned about whether they were Communists. Unfortunately, I don't think we have seen the worst of it yet. We need to be active. We need to be writing and emailing our Congresspersons. We need to be very serious and loud about this because unfortunately, it hasn't gotten as bad as it's going to get.

**MS. TAIFA:** I'm going to recognize Kemba Smith right now.

**KEMBA SMITH:** My name is Kemba Smith and I'm a Soros Post Graduate Fellow, but I was also incarcerated in federal prison based on these horrendous drug laws. I'm glad that we're moving forward with hearings, however, because the issue of prosecutorial misconduct was raised, I want to make sure that some things are stressed. With respect to my particular situation, I wasn't indigent at first, but after my parents depleted all their funds, I did become indigent. Luckily, the NAACP Legal Defense Fund came on board and represented me *pro bono*. But the prosecutor in my case played around with the fact that I was pregnant and said I would receive a 24-month sentence if I pled guilty and I would be allowed to go home and have my son. I ended up receiving 24 1/2 years, giving birth in prison.

I hope that at these hearings that cases such as mine are addressed. Tulia's talked about a lot, but it's not unique, and I've been in a system where I've heard so many stories about prosecutorial misconduct and what's going on and the fact that it's not just happening to indigent people. Families are depleting their savings. My parents, for instance, had 401(k)s and took everything out to bring me home. Those issues need to be noted as well.

**MS. TAIFA:** On behalf of the Congressional hosts of this forum and the Open Society Institute, we thank all of you for taking the time to come to Capitol Hill and share your expertise. We also thank Mattie White and Freddie Brookins for taking the time to come to Washington to share the stories of their family members. And we thank Wade Henderson for his insightful remarks, and the riveting reflections of Vanita Gupta as we all gear up for the next phases of the Tulia tragedy – bringing those falsely convicted home, and insuring that there will be no more Tulas.



# Afterword

*By Gara LaMarche  
Vice President and Director of U.S. Programs  
Open Society Institute*

The Open Society Institute is pleased to have played a role in bringing the Tulia injustices to public attention. Through a Soros Justice Fellowship, Vanita Gupta was able to work at the NAACP-LDF, enabling the civil rights organization to deploy her full-time to investigate and pursue the Tulia incident. *Texas Observer* journalist Nate Blakeslee, who was the first to break the Tulia story and uncover important information about federally-funded narcotics task forces and their role in the Tulia scandal, received funding from OSI to write a book about the saga.

The work of these individuals had a ripple effect: Blakeslee's articles spurred the interest of columnist Bob Herbert of the *New York Times*, stimulating commentary and media attention in papers across the country. Gupta galvanized top Washington, D.C. law firms, bringing yet more resources to bear on the situation. Vital advocacy, public education, outreach and community mobilization conducted by organizations such as the Texas ACLU, Drug Policy Alliance, Kunstler Fund for Racial Justice and the Tulia NAACP opened the door to important reforms. All in all a strategic confluence of forces set the stage and the environment for justice for the Tulia defendants.

Although vindication in individual cases is significant, systemic change addressing underlying issues is urgent, as it would be literally impossible to mount similar massive campaigns across the country each time a scandal erupts. The success achieved in Tulia highlighted many

important problems within the U.S. criminal justice system: rogue drug task forces, racial profiling, inadequate defense for poor people, draconian forfeiture provisions, and many other incursions on rights.

This report builds on the Tulia spotlight to identify and argue for specific systemic reforms to bring us closer to the day where, truly, there will be “no more Tulias.”