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Presumed Guilty

The sorry tale of a spree of tainted drug convictions with ugly racial overtones.

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TULIA: Race, Cocaine, and Corruption in a Small Texas Town

By Nate Blakeslee. PublicAffairs. 450 pp. \$26.95

Iconoclastic lawyers who challenge the deeply entrenched, local powers-that-be relish the rare occasions when they prevail. For Jeff Blackburn, an Amarillo, Tex., attorney who is one of the heroes of Nate Blakeslee's thoroughly reported and superbly written new book, such an opportunity came late one night in 2003. Recalcitrant prosecutors had finally agreed to drop fraudulent drug charges brought against some three dozen defendants, most of whom were black. As Blackburn exultantly left the county courthouse, he headed for a nearby centennial monument whose self-congratulatory inscription (lauding the county's principles) he loathed. As Blakeslee recounts, Blackburn "unzipped his pants and began urinating on it" until the headlights of an approaching car brought an abrupt end to his private victory celebration.

Those false drug prosecutions were the handiwork of Tom Coleman, an undercover white narcotics officer who claimed to have made more than 100 purchases of powdered cocaine during an 18-month period in 1998-99 from about 40 different residents of Tulia, a small and relatively poor town in the north Texas panhandle. Blakeslee describes Coleman as "a scruffy, long-haired, unsavory-looking character . . . in a black leather jacket who called himself T.J. Dawson and claimed to be a construction contractor living ten miles up the interstate." Coleman worked for a regional anti-drug task force based in Amarillo, which had hired him largely because of his late father's stellar law-enforcement record.

Coleman's undercover work in Tulia went almost wholly unsupervised by Swisher County Sheriff Larry Stewart and local District Attorney Terry McEachern, as well as by the task force. Early one morning in July 1999, though, local law enforcement mobilized all its troops to execute the surprise arrests of Coleman's dozens of suspects. None of the defendants was found in possession of any drugs, but many of them had briefly shared drugs -- or used drugs -- with Coleman. "I smoked rock with that man," former high school sports star Donnie Smith exclaimed to the men in his holding pen. Four or five others admitted they had too.

"You niggers quit sellin' them drugs," Coleman yelled at the incarcerated suspects that day, as they later recounted the episode to Blakeslee. Racial animus was not the only serious problem marring the prosecutions. Local attorneys were appointed to represent defendants who could not afford private counsel, but Texas's slapdash system of indigent defense often resulted in "completely ineffective" lawyers offering only pro forma representation. Several of the Tulia

defendants were quickly convicted and imprisoned in just such a fashion before Donnie Smith's highly experienced attorney, Tom Hamilton (himself a former district attorney), bluntly challenged McEachern.

As Blakeslee notes, "Coleman never wore a wire, videotaped his [drug] buys, or had a second officer observe him," so every one of the Tulia charges rested solely on his veracity. The district attorney knew that, and he likewise knew that Hamilton had uncovered an embarrassing secret: Coleman himself had been charged with stealing gasoline from his previous employer. But McEachern's reply to Hamilton was what Blakeslee calls "devastatingly pragmatic": "Tom, let me ask you something: I have tried four cases already -- am I gonna go in and say that these cases were improperly convicted?"

That, of course, is precisely what McEachern should have done, but instead he -- and the local trial judge -- moved forward with tainted conviction after tainted conviction. A few local gadflies, plus the Texas ACLU, spoke out in protest, and Blakeslee, then writing for the Texas Observer, published a groundbreaking exposé in June 2000. In response, Tulia officialdom circled their wagons. The sheriff's daughter wrote a public letter insisting that "any attack on the undercover investigation, the officers involved, and subsequent trials and convictions" was "an attack on our entire community." But now national newspapers were writing about Tulia, and the publicity caught the attention of a young lawyer at the NAACP Legal Defense Fund, Vanita Gupta, who had finished law school just months earlier. Gupta flew to Texas, grasped the enormity of the injustice and began the difficult task of drafting post-conviction habeas corpus petitions to free all those imprisoned.

Gupta also recruited priceless pro bono assistance from several large, blue-chip law firms by telling them, in Blakeslee's words, that "the criminal justice system was the new battleground in the civil rights movement, and Tulia was the front line in that fight." Their work on the habeas appeals got a huge boost when the cases were reassigned to a new judge from Dallas, who convened a hearing at which Tom Coleman's credibility was thoroughly shredded by the out-of-town lawyers, who had joined forces with Jeff Blackburn. The judge concluded that Coleman was "the most devious, nonresponsive law enforcement witness this court has encountered in twenty-five years on the bench," and all the indictments were dismissed. Most of the defendants were pardoned, and the jurisdictions that had sponsored the task force paid out more than \$6 million in civil damages to those falsely accused. Coleman himself was convicted of aggravated perjury, and District Attorney McEachern, up for reelection, finished "a humiliating third in the primary," with less than 25 percent of the vote.

Blakeslee's excellent and eminently readable book is a wonderful story of justice triumphant, but his vivid portrait of law enforcement gone wrong suggests that there are more Tulias than there are lawyers dedicated enough to expose them. *

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