

TULIA

TULIA, TEXAS

By Cassandra Herrman and Kelly Whalen

A small town's search for justice.

A lone undercover cop moves into a small farming town. By the end of the blazing summer of 1999, 46 people are arrested for selling cocaine—nearly all of them African American. It was heralded as one of the biggest drug busts in Texas history, until a team of lawyers set out to uncover the truth.

FROM THE FILMMAKER

When we first heard about Tulia in the summer of 2002, the small town in West Texas had become a lightning rod for criticism of the drug wars. The apparent racism underlying the 1999 drug sting, the subsequent convictions and the story's small-town backdrop sparked our interest. Could there really be 46 cocaine dealers in a town of 5,000, all accused of selling to one undercover cop? The last of the trials had ended two years before, but the story was far from over. We first spoke by phone with residents of Tulia and then decided to fly there, launching the first of over a dozen visits to the area.

With the Tulia story, we saw an opportunity to illuminate a side of the war on drugs that's rarely covered. Narcotics task forces in Texas and in many other states predominantly target people of color in rural areas; yet most films about American drug policy take place in urban areas, not in rural communities.

By the time we began filming in Tulia, the drug sting and its aftermath had captured considerable national media attention, but most of the television coverage consisted of formulaic news magazine stories or talk-shock programs. By presenting a different take on the story, we wanted to reach a broad viewing audience, including those who had been alienated by the divisive news reports. We felt it was important to minimize "outsider" voices; we wanted to put the Tulia story back in the voices of those people who had lived it and tell the story without a narrator. By framing the Tulia story from the different perspectives of those most closely involved, we ask viewers to consider the experiences of all those involved: from law enforcement and jurors to the defendants and their families. With our access to the array of people featured in the film, we hope viewers will walk away with surprising counterpoints to the broad-stroke portrayals in the popular media.

In the cross-section of stories presented—including the former undercover agent, the father of one of the defendants, the sheriff and the retired minister—we wanted to show a more complex, nuanced place instead of the usual portrayals of small towns on television. We hope viewers will see their own communities reflected in the daily life in Tulia, and in the struggles and aspirations of the townspeople we represented.

We were just as surprised as many Tulians to witness the remarkable turn of events that made the landmark civil rights case we know today. As our camera captured each new development, our goal was to put viewers inside this compelling legal thriller we experienced ourselves. But we also set out to present an intimate town portrait, taken from our growing recognition of the tensions playing out between Tulia neighbors, coworkers, church parishioners and townspeople.

Some viewers may interpret what happened in Tulia as yet another small town scandal and the story of a rogue cop. But, in the course of making this documentary, our eyes were opened to the large extent of our nation's problems with corrupt drug law enforcement. As we learned, the current system gives communities financial incentive to participate in the war on drugs—and rewards them if they deliver. What happened in Tulia is rooted in a much bigger, systemic problem in this country, and we hope viewers will recognize that these events could have happened in any town in America.

We titled this film "TULIA, TEXAS," because in many ways it is the story of this one small town's search for justice. But the lessons of Tulia are ones we can all learn from.

We hope the film compels viewers to take a critical look at law enforcement practices and the biases that may exist in their own communities. We offer this documentary with the hope that it will provoke debate and challenge viewers to consider the deep ties between race, poverty and the criminal justice system in this country.

Cassandra Herrman & Kelly Whalen
Directors/Producers of "Tulia, Texas"

Cassandra Herrman (Producer/Director) and Kelly Whalen (Producer/Director) of TULIA, TEXAS
Photo: Ryan Anson / ITVS



THE FILM

At the end of the 1990s, Tulia was a quiet place, a small town in the rural panhandle of Texas that had fallen on hard economic times. Residents were anxious about the growing threat of drugs in their community, and, in response, the Swisher County Sheriff joined forces with a regional drug task force to rid the town of its problem. For eighteen months, narcotics agent Thomas Coleman went undercover in Tulia using the identity "TJ Dawson," a longhaired rocker who sped through town in his pick up truck buying drugs from whoever would sell to him. Then, on July 23, 1999, Coleman and other members of the Panhandle Regional Narcotics Task Force executed one of the biggest drug stings in Texas history. In an early morning raid, dozens of residents were rounded up and arrested on charges of selling cocaine to Coleman. Of the 46 accused, 39 were African American. At the end of the investigation, more than ten percent of Tulia's adult black population was jailed.

TULIA, TEXAS chronicles the 1999 raid and its aftermath, which roiled the town and stirred up racial animosities many felt had been festering for years. When Gary Gardner, a retired white farmer, questioned the arrests, other white Tulia residents, convinced of the defendants' guilt, criticized him for raising the issue publicly. More questions were raised during the trials, in which eight defendants were convicted and given sentences ranging from twenty to ninety years. Others, fearful of maximum prison time, were quick to enter pleas of guilty for reduced sentences or probation.

A small multiracial group of concerned Tulia citizens organized under the name "Friends of Justice," and soon captured the attention of state and national civil rights groups, including the American Civil Liberties Union of Texas and the William Kunstler Fund for Racial Justice. Before long local criminal defense lawyer Jeff Blackburn, working with the NAACP Legal Defense Fund and other powerful Washington law firms, began looking into details of the evidence, discovering striking inconsistencies in Coleman's reports and testimony. Further investigation uncovered Coleman's shady background, including a pattern of dishonesty and a warrant for his own arrest. When the case was finally heard by the Texas Court of Criminal Appeals, Coleman perjured himself, and those still imprisoned were freed from prison. All of the convicted Tulia drug sting defendants were pardoned by the Texas governor.

In spite of the evidence showing a clear miscarriage of justice, some white residents of the town held onto their belief that all those who had been arrested were guilty and that Coleman's "mistakes" were merely a legal technicality.

For Tulia, the outcome of the drug task force action and all that followed is mixed. Found guilty of perjury, Coleman was given probation, disappointing Tulia's black community, which had been hoping for justice in the form of a prison sentence. As former defendants try to mend their disrupted lives, some may find ways to forgive those who supported an unjust process. But the residents of Tulia, both white and black, are left with feelings of wariness toward one another. The scourge of drugs combined with fear of the "other" and overzealous law enforcement exposed what was apparently lying just below the surface. In a community that claimed to be "integrated," the racial division seems palpable even as both sides try to resume life as usual.



Mother of Freddie Brookins Jr., Pardoned Tulia Defendant, Tulia, Texas
Photo: Ryan Anson / ITVS

INDIVIDUALS FEATURED IN TULIA, TEXAS

Tom Coleman (aka "TJ Dawson") – Undercover agent and officer, Panhandle Narcotics Task Force
Freddie Brookins, Jr. – Defendant
Terri Brookins – Freddie's wife
Freddie Brookins, Sr. – Freddie's father
Pattie Brookins – Freddie's mother
Larry Stewart – Swisher County Sheriff and Tom Coleman's supervisor
Charles Kiker – Retired minister; Friends of Justice Coalition member
Gary Gardner – Retired farmer
Sue Riddick – Juror on one of the Tulia trials
Jeff Blackburn – Criminal defense attorney
Nate Blakeslee – Journalist
Rod Hobson – Special prosecutor
Ron Chapman – Retired Texas district judge

BACKGROUND INFORMATION

Criminal Justice in the U.S. – Some Facts & Figures

Racial disparity

Statistics gathered by law enforcement and nonprofit organizations show that African Americans and other minorities in the United States are disproportionately arrested, detained and incarcerated.

- Although African Americans make up 12 percent of the overall population, 46 percent of prison inmates and 42 percent of jail inmates are black.
- In the juvenile justice system, while African American youth represent 15 percent of their age group within the general population, they represent 26 percent of juvenile arrests
- Although African Americans comprise 13 percent of drug users, they make up 38 percent of those arrested for drug offenses and 59 percent of those convicted of drug offenses.
- Nationwide, black men are sent to state prison on drug charges at 13 times the rate of white men.

Once arrested, people of color receive harsher treatment from the criminal justice system than whites do. The disparity between crack cocaine and powder cocaine sentences provides a particularly revealing example. Crack cocaine was once thought to be more dangerous than powder cocaine but the two are pharmacologically identical, the primary difference between them being their production and means of consumption. Crack, however, is marketed in less expensive quantities and in lower income communities of color. For selling five grams of crack cocaine an offender receives a five-year federal mandatory minimum sentence, but to get the same sentence, an offender must sell 500 grams of powder cocaine.

In 2007, federal sentencing guidelines were amended to reduce penalties for some crack cocaine offenses, and the U.S. Sentencing Commission voted unanimously to apply the new guidelines retroactively. Criminal justice reform advocates continue to fight for federal legislation that would fully eliminate sentencing disparity between crack and powder cocaine cases.

- Under mandatory sentencing, average sentences for crack cocaine offenses are three and a half years longer than for offenses involving powder cocaine.

- As a result of crack sentencing policies, 80 percent of crack cocaine defendants are African American despite the fact that a majority of crack cocaine users in the U.S. are white or Hispanic.

Sources: www.thesentencingproject.org; www.drugpolicy.org/communities/race; www.tompaine.com/articles/2007/03/12/seeking_justice_in_the_drug_war.php; www.hrw.org/campaigns/drugs/war/key-facts.html

Incarceration rates

The United States incarcerates a higher proportion of the adult population for longer periods of time than any other country in the world. Nationwide, the prison population grew by 25,000 in 2007, bringing it to almost 1.6 million, with another 723,000 in local jails. In other words, one in every 99 adults in the U.S. is behind bars.

Some groups experience even higher incarceration rates. For example, one in 36 Hispanic adults is behind bars (according to Justice Department figures for 2006); one in 15 black adults is behind bars, and for black men between the ages of 20 and 34, the figure is one in nine.

The general prison population has quadrupled since 1980, mainly due to policies such as the war on drugs and mandatory minimum sentencing. In 1980, about 40,000 people were in American jails and prisons for drug crimes. Today that number is almost 500,000. Nearly 1 in 4 of the inmates in federal and state prisons are there because of drug-related offenses, most of them nonviolent. According to Human Rights Watch, more people are sent to prison in the United States for nonviolent drug offenses than for crimes of violence.

What is the explanation for America's huge prison population, as compared with the rest of the world? According to legal experts, a mix of factors is responsible: higher levels of violent crime, harsher sentencing laws, a legacy of racial turmoil, strong efforts to combat illegal drugs, the "tough on crime" American temperament, and the lack of a social safety net. In many states, judges are elected and feel pressure to dispense tough justice, so even democracy shares the blame.

In Texas, some of the worst side effects of the drug wars set in. At the height of it, in the 1990s, one in three people sent to prison in Texas were convicted of a drug crime. The creation of drug-free zones, areas within 1,000 feet of schools or parks, resulted in stiffer penalties for drug offenders. And, in just ten years, the state tripled its prison capacity in what Texas journalist Nate Blakeslee describes as the "largest public-works project in modern Texas history." Today, Texas has the nation's largest prison system, with about 172,000 people imprisoned. In 2007, however, the Texas legislature approved broad changes to the corrections system, including expansions of drug treatment programs and drug courts and revisions to parole practices—steps reformers hope will reduce that state's prison population.

Sources: www.csmonitor.com/2003/0818/p02s01-usju.html; www.nytimes.com/2008/02/28/us/28cnd-prison.html; and www.iht.com/articles/2008/04/23/america/23prison.php.

The Drug Task Force Program

The regional drug task force responsible for the drug sting operation in Tulia was funded by the U.S. Department of Justice through the Edward



Byrne Justice Assistance Grant program. Signed into law by President Reagan in 1988, the program aimed to help states fight drugs and violent crime, but provided few guidelines for doing so. States could set up their own policies and procedures and the program grew popular in cash-strapped rural areas of the country, where millions of dollars of the federal funding was distributed every year. Before long, an entirely new tier of law enforcement had been created and the number of Byrne Grant agents surpassed the Drug Enforcement Agency's ranks. While Byrne funding was also intended for drug treatment and other probationary services, the state of Texas earmarked 90 percent of it for drug task forces. At its height, Texas had more than four dozen task forces employing about 700 officers and used most of the federal money to target low-level drug users in undercover sting operations netting the largest numbers of arrests. (In comparison, other states spent about 40 percent of the grant money on drug task forces and the rest on other services.)

Over the years, the program has been highly criticized for making grants largely based on crime statistics and because of incidents of abuse and corruption. The American Civil Liberties Union of Texas has reported more than 20 recent scandals in that state alone, including drug task forces falsifying government records, tampering with witnesses, fabricating evidence, stealing drugs from evidence lockers and practicing racial profiling. Drug task forces in other parts of the country have also been implicated in at least a dozen other controversies since 1998. After Tulia and other scandals in the state, Texas disbanded the regional drug task forces receiving Byrne funding. But more than 600 drug task forces, which received more than \$500 million dollars in 2007, continue to operate nationwide.

The Bush administration pushed to eliminate the Byrne grant program because it has not shown an impact on reducing crime, a move supported by the American Conservative Union, Citizens Against Government Waste, the ACLU, the National Black Police Association, the Drug Policy Alliance Network and others. But in 2008, Congress passed a bill to reauthorize the funding through 2012, which was signed into law by President Bush.

Before the Drug Enforcement Administration (DEA) was established in 1973, federal and local authorities were already engaged in cooperative anti-drug activities. The 1986 Anti-Drug Abuse Act institutionalized the DEA Task Force Program, replacing informality with formal procedures and appropriations. Under the Reagan administration, the FBI added five hundred drug enforcement agents, began record drug crackdowns nationwide and established thirteen regional anti-drug task forces. In 2003, about 5,959 officers in local police departments and 3,477 sheriffs' officers were assigned full time to a drug task force. Federal, state and local agencies share responsibility for enforcing the nation's drug laws, although most arrests are made by state and local authorities. In 2006 the FBI's Uniform Crime Reports (UCR) estimated that there were about 1,889,800 state and local arrests for drug abuse violations in the United States.

The War on Drugs—Who's Winning?

In 1971 President Nixon declared a 'war on drugs,' calling drug abuse the nation's number one public enemy. The war on drugs intensified under President Reagan in the 1980s with two new laws: the Anti-Drug Abuse Act of 1986, which set aside nearly \$100 million for new prisons and created mandatory minimum sentences for drug offenders, and the Omnibus Anti-Drug Act of 1988, which increased mandatory minimum sentences and targeted different drug offenses. Under the laws, merely being present during a drug transaction became sufficient grounds for arrest and a

potentially long prison sentence; penalties for drug conspiracy could be applied equally to major dealers as mid-or low-level ones; and judicial discretion in sentencing was set aside.

While the aim of anti-drug efforts has been to rid communities of the violent crimes associated with drugs and prevent young people from becoming drug users, the effect has been to fill our prisons with thousands of mostly low-level nonviolent offenders.

The war on drugs uses a three-pronged strategy: stopping drug production in other countries, stopping drugs from entering the U.S. and stopping sales of drugs in the U.S. By all accounts this strategy, which costs the federal government about \$20 billion a year, has either failed or achieved very limited success. The drug eradication program in Colombia, for example, has seen an increase in coca production in that country, and in Afghanistan, growers of opium poppies have been allowed to continue production in exchange for their support in the conflict with the Taliban. Drug interdiction at the U.S. border has netted some large shipments of cocaine and other drugs, but the flow into the U.S. continues unabated. Despite the draconian laws against selling drugs, Americans continue to spend an estimated \$60-65 billion a year on illicit substances.

There is general agreement that reducing demand would undercut the drug market, and numerous anti-drug campaigns and programs work toward that end. So far this approach seems to have had little effect, as the supply side of the equation remains strong.

Public figures on both the right and the left have been advocating an end to the war on drugs, which they see as a failed policy and a waste of American tax dollars. They cite many negative effects such as police corruption and scandals fueled by the large amounts of money associated with drug crimes; a de-facto race war in which non-whites are arrested and imprisoned at four to five times the rate of whites, even though most drug crimes are committed by whites; and more people dying as a result of violence associated with drugs than of overdosing.

Among the solutions offered as alternatives for the war on drugs are the recognition of the need for involvement of the public health system, a less punitive approach to non-violent drug activities and a move toward total decriminalization of drug use based on the Netherlands model.

While compelling, these arguments have not swayed most political leaders and public officials in the U.S., who remain firmly committed to the war on drugs. Some critics of the war feel that, ironically, by continuing this policy the U.S. government in effect supports drug dealers who stand to maintain their lucrative business as usual.

The White House Office of National Drug Control Policy (ONDCP) sets federal policy. The 2008 drug strategy includes:

- Stopping drug use before it starts
- Intervening and healing America's drug users
- Tackling transnational threats
- Disrupting the market for illicit drugs
- Ending illegal sales of controlled substances on the Internet

The 2008 policy updates the basic 1999 drug policy, which includes:

- Expanding drug prevention and drug treatment
- Establishing 'drug courts' and fighting drug legalization
- Focusing on cocaine, heroin, and methamphetamine
- Increasing border shielding



THINKING MORE DEEPLY

1. What was your first impression of Tom Coleman? As you watched the film, did your impression change at any point before the revelations about his background? If so, why and how did it change?
2. Tulia is a small town where "everybody knows everybody." Given this characterization of the town, what other approaches could have been used to tackle its drug problem? What do you think were the town's motives in using a drug task force?
3. When Tom Coleman denied the charge of theft against him, law enforcement officers in Tulia believed him. When those arrested in the drug operation denied the charges against them, they were not believed. How do you account for this difference in "believability"? What role may the legacy of segregation in our country have played in the events in Tulia?
4. When evidentiary hearings were held to examine inconsistencies in Coleman's investigation, why did many white residents of Tulia decide not to attend those hearings? What would they have had to confront if they had attended the hearings?
5. Tom Coleman's testimony in the original Tulia trials was the sole evidence jurors relied on when they delivered guilty verdicts because corroboration of undercover officers is not required in drug cases. Should corroborating evidence (such as video or audio surveillance, photographs or a second officer's testimony) be required? Why or why not?
6. Jeff Blackburn, the criminal defense attorney, claims that the war on drugs itself produced the situation in Tulia, that is, scores of people arrested and convicted without a thorough examination of the evidence. Do you agree? What other factors could have contributed to this situation?
7. Some in Tulia still believe there were drug dealers among the men and women who were pardoned. Which is the bigger injustice: to falsely convict and take away an individual's freedom or to release a guilty person for being denied their fundamental right of due process?
8. What happened to right the wrongs in Tulia? What steps were taken that led to the eventual pardoning of the former defendants?
9. What is your prognosis for Tulia? Do you think it will ever be possible for the residents of different races to trust one another? What would be necessary for this to happen?
10. Do you think what happened in Tulia could happen in your own town? Why or why not?
11. What information is missing from this story? What questions, if any, are you left with after seeing this film?
12. Consider the closing music of the film—the song "Tear Down the Walls". What message do you get from that song?



The Tulia defendants arrive for the evidentiary hearing
 Photo: Andrew Lichtenstein / ITVS

SUGGESTIONS FOR ACTION

Together with other audience members, brainstorm actions that you might take as an individual and that people might do as a group. Here are some ideas to get you started:

1. Find out about drug task forces in your state and how your tax dollars are being used in local drug law enforcement efforts. Organize a panel of law enforcement representatives and legal and civil rights experts to address concerns about drugs in your community and law enforcement's response.
2. Learn more about drug abuse and addiction as well as community-based strategies for reducing the demand for drugs. Information is available from the Foundation for a Drug Free World (www.drugfree-world.org/#/home) and from the National Institute on Drug Abuse (www.nida.nih.gov).
3. Explore your own hidden prejudices and the legacy of segregation in your community. Join or start an initiative to promote interracial dialogue and understanding. For activities and suggestions, visit the Teaching Tolerance web site, www.tolerance.org/101_tools/index.html and the Center for Living Democracy's report, "Bridging the Racial Divide," at www.diversityweb.org/Digest/W98/bridging.html.
4. Contact your representatives in Congress and ask them to support stricter standards and accountability for drug law enforcement. Support current proposed federal legislation, H.R. 253: No More Tulias: Drug Law Enforcement Evidentiary Standards Improvement Act of 2007 (www.govtrack.us/congress/bill.xpd?bill=h110-253), which proposes cutting off states' Byrne grant funding unless thorough officer background checks are conducted and corroboration of officers' eyewitness testimony is used in drug convictions. The law would also require states to track the racial distribution of drug charges. Click on "Analysis" to share your opinion.
5. Support reform of federal sentences for crack versus powder cocaine offenses. Visit the Sentencing Project web site (see Resources) for details on proposed legislation and an outline of the issues.
6. Host a screening and discussion of TULIA, TEXAS in your home, at church or at a local school or college. For a copy of the documentary and for more information, visit California Newsreel at www.newsreel.org.

For additional outreach ideas, visit www.itvs.org, the website of the Independent Television Service. For local information, check the website of your PBS station.

RESOURCES

www.sentencingproject.org

The Sentencing Project is a national organization working for a fair and effective criminal justice system by promoting reforms in sentencing law and practice, and alternatives to incarceration.

www.hrw.org

Human Rights Watch is an independent, non-governmental organization dedicated to protecting the human rights of people around the world. HRW is active on a wide variety of issues, including criminal justice and imprisonment.

www.drugpolicy.org

The Drug Policy Alliance Network (DPA Network) is the nation's leading organization promoting sensible drug policy reforms through active involvement in the legislative process.

www.drugsense.org/wodclock.htm

This site contains the "War on Drugs Clock," which keeps a constant tabulation of the funds spent to fight the war on drugs on a state and federal level, as well as other drug war statistics.

www.whitehousedrugpolicy.gov

The White House Office of National Drug Control Policy (ONDCP) sets policies, priorities, and objectives for the nation's drug control program. Among its efforts has been an anti-drug media campaign aimed at youth and parents.

www.naacpldf.org

The NAACP Legal Defense and Educational Fund, Inc. (LDF), founded in 1940 under the leadership of Thurgood Marshall, provides legal assistance to low-income African Americans.

www.civilrights.org

CivilRights.org, a collaboration of the Leadership Conference on Civil Rights and the Leadership Conference on Civil Rights Education Fund, serves as the site of record for relevant and up-to-the minute civil rights news and information.

<http://friendsofjustice.wordpress.com>

Formed in response to the Tulia drug sting of 1999, Friends of Justice is a multiracial, faith-based movement that works to uphold due process for all Americans by building public consensus behind equal access to justice and respect for human dignity in the criminal justice system.

www.kunstler.org

The William Moses Kunstler Fund for Racial Justice, which helped to organize the Tulia defendants and their families, coordinates and implements projects and initiatives in the interest of racial justice. It also works to mobilize families and publicize the unduly harsh sentencing and racially biased enforcement of drug legislation throughout the United States.



www.aclu.org

The American Civil Liberties Union is an organization that works to protect the constitutional rights of all Americans.

www.innocenceproject.org

The Innocence Project is a national litigation and public policy organization dedicated to the work of exonerating wrongfully convicted people through DNA testing and reforming the criminal justice system to prevent future injustice.

TULIA, TEXAS WILL AIR NATIONALLY ON THE EMMY AWARD-WINNING PBS SERIES *INDEPENDENT LENS* IN FEBRUARY 2009. CHECK LOCAL LISTINGS.

TULIA, TEXAS is a co-production of Cassandra Herrman & Kelly Whalen and the Independent Television Service (ITVS), with funding provided by the Corporation for Public Broadcasting (CPB). The Emmy Award-winning series *Independent Lens* is jointly curated by ITVS and PBS and is funded by the Corporation for Public Broadcasting (CPB) with additional funding provided by PBS and the National Endowment for the Arts.

ITVS COMMUNITY is the national community engagement program of the Independent Television Service. ITVS COMMUNITY works to leverage the unique and timely content of the Emmy Award-winning PBS series *Independent Lens* to build stronger connections among leading organizations, local communities and public television stations around key social issues and create more opportunities for civic engagement and positive social change. To find out more about ITVS COMMUNITY, visit www.pbs.org/independentlens/communitycinema.

The Texas panhandle town of Tulia
Photo: Ryan Anson / ITVS

