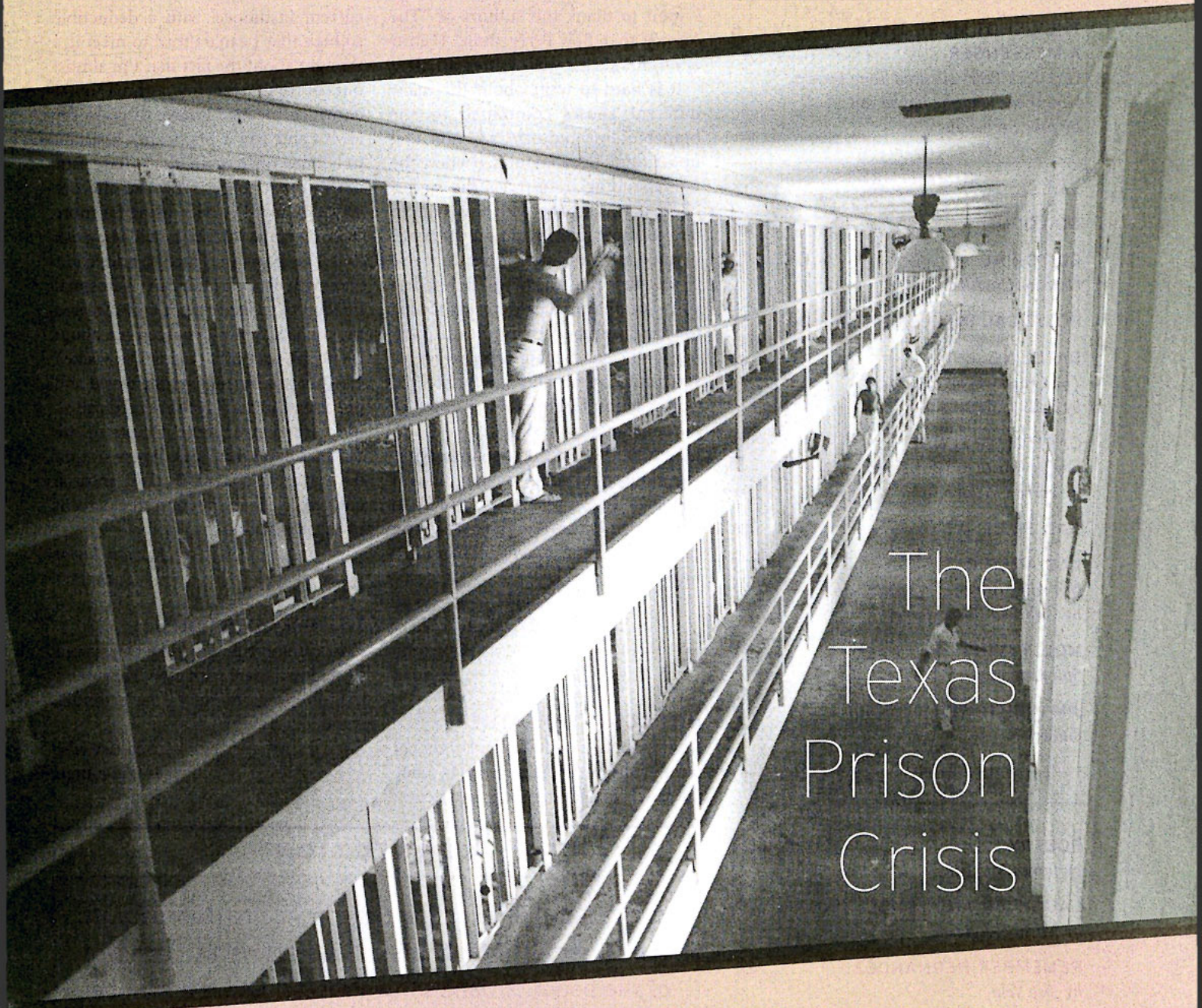


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# The Texas Observer



The  
Texas  
Prison  
Crisis

## Inside

The TO talks with Tony Fabelo, the man Gov. Rick Perry tried to silence

Tulia minister Alan Bean reflects on the Tom Coleman trial



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# The Texas Observer

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*Cover photograph by Alan Pogue.*

# Dialogue

## FOXES, CHICKENS, AND THE TRCC

As someone who has fought for consumers for many years as an activist, I want to thank the authors of "The Agency that Bob Perry Built" (February 4) for such a well-written article.

It is hard to write about the many different abuses committed by the homebuilding industry and not end up writing a book about it. I believe the homebuilding industry is the source of all that is wrong with this state in terms of tort reform and the influence of money in politics. What is worse is that listening to the homebuilders, you would think they were advocating for the consumer! I have heard members of the building industry say with a straight face that the Texas Residential Construction Commission is good for the consumer.

Let's face it, trusting the homebuilding industry to advocate for the consumer is like trusting a terrorist to advocate for homeland security. You can't trust them. Again, thanks for a well-written article!

*John R. Cobarruvias*  
*Homeowners Against Deficient*  
*Dwellings*  
*Houston*

## NO ROOM TO BREATHE

Bush's quote in Molly Ivins' last column ("Misguided," February 4) made me laugh out loud, blowing my cover

that I was sneaking a read during a work meeting. Reading that America "has the best health care system in the world" made me think about my current insurance, with a deductible so high that I can't afford to meet it. I thought about the fact that I'm almost out of refills for my asthma inhaler, which means I'll have to go to my HMO and pay a physician's assistant to tell me, once again, that I have asthma in order to get refills for the prescription that I've been using for more than 20 years. I'd like to tell Mr. Bush that I've been in Third World countries with better health care. A hospital in Nairobi took me right away, treated me for tick typhus, charged me about 20 bucks, and off I went. I've walked into pharmacies all over the world and purchased generic asthma medication for a fraction of what it costs in the States. I agree with Ms. Ivins—we do have a great system IF your income happens to be in the top three percent of the population.

*Kristan Taylor*  
*Denton*

## THE BIG QUESTION

How can there be guys like DeLay and Bush down there with guys like you on the job! Some things I'll never understand.

*Warren Crowder*  
*Via e-mail*

## CORRECTION

In the Bad Bill "Hunting Season Again! (February 4), the Observer misidentified Susan Hays as president of the board of Jane's Due Process. She is a member of the board, not the president. Additionally, HB 17 requires the number and outcome of judicial bypass cases be reported by a region (to be defined by the Texas Supreme Court), not by a "judicial district" as the TO reported. We regret the errors.

# UndemoCraddick

**T**he Texas Public Policy Foundation (TPPF) has become the in-house think tank of the state's current Republican leadership. The TPPF's legislative conference this past January—funded by business interests and lobbyists with issues before the Lege—featured talks by the governor, lieutenant governor, and the speaker of the House. Speaker Tom Craddick used his early morning slot to lay out his strategy for tackling the most difficult challenge facing the Lege this session: school finance. "We are not going to put together 100 votes," he told the breakfast crowd. "We are going to go with 76 votes."

Craddick should have no problem conjuring a simple majority of 76 votes. And although many members will protest, he will likely succeed in ramming through his legislation with this bare minimum of support. But is that really the right way to guide the Texas House to create laws for the state?

When Craddick was elected to his second term as speaker on January 11, the first day of the 79th Legislature, forsaking consensus and utilizing power-play tactics were not the traits that nominators lauded. "Tom Craddick: a man who chooses moderation over ideology," extolled Houston Democratic Rep. Har-

old Dutton. He continued, "Tom Craddick: a man who chooses compromise over confrontation." And, "Tom Craddick: a man who chooses cooperation over defiance." Somehow, everyone in the chamber that day managed to keep a straight face.

Love him or hate him, Craddick is most certainly a creature of ideology. As for Dutton's other descriptions, there are Marine drill sergeants more compromising and cooperative than the self-described drilling mud salesman from Midland. (Dutton might want to ask former colleague Steve Wolens about Craddick's moderation, after the speaker literally switched off Wolens' microphone in a floor debate during last spring's special session on school finance.)

After opening day, Craddick quickly moved away from the portrait his nominators painted, when he announced new committee assignments. The choices showed a remarkable amount of vindictiveness although the speaker has denied that was his motive. He ousted Carlos Uresti (D-San Antonio) and Austin Democrat Elliott Naishtat from the chairmanship and vice chairmanship, respectively, of the Human Services Committee. Former speaker Pete Laney (D-Hale Center) was removed from the Transportation Committee, where his knowledge and experience might get in

the way of the TransTexas Corridor. And the Agriculture and Livestock Committee, loaded with urban Democrats who didn't support Craddick, has become a kind of hovel for the legislatively damned. The speaker's retribution is not without a certain sense of humor.

And what kind of school finance plan will emerge from such mob-rule legislating? Ideally, a school-finance proposal would spring from broad consensus, with input from all parts of Texas: rich and poor, Black, Latino, Asian, and Anglo, rural and urban, Democrat and Republican. That approach isn't easy. It requires actual compromise, cooperation and moderation. It may be more expedient to punch through a narrow, ideologically based Republican plan, loaded with gambling and school voucher proposals that are giveaways to lobbyists and ideological cronies. Worse, Craddick's willingness to ignore nearly half the representatives of the people of Texas and impose on the populace his own backroom plan for financing schools simply isn't democratic government.

As speaker, it's Craddick's right to muscle his short-sighted legislation through the House in this manner, if he chooses. But the taxpayers and the school kids of this state will be the worse for it. —DM & JB

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# Open and Shut Cases

**A VOTE FOR OPENNESS** When the secretary of state's office certified electronic voting software this past year from Diebold and Electronic Systems & Software—two politically connected and often controversial makers of touch-screen voting machines—state officials did so behind closed doors and out of public view. (See "Encoded Democracy," TO, February 13, 2004.) A recent court ruling has changed that.

On January 26, Stephen Yelenosky, the 345th district judge in Travis County, ruled that the ACLU of Texas, which filed a lawsuit with Jon Lebkowsky against the secretary of state, had demonstrated that the electronic voting machine examinations should be open to the public. Yelenosky's decision was based largely on his finding that the secretary of state examiners had "de facto control" over which voting machines can be used in Texas elections. The secretary of state's office held that its voting machine examiners were simply an advisory group, which is exempt from the state's Open Meetings Act. They recommended which machines met the state's standards, then the secretary of state considered their decision and gave counties a list of approved systems. The problem, Yelenosky pointed out in his ruling, was that the state always followed the examiners' recommendations.

"It was quite gratifying to see the judge really observing the facts and reaching the logical conclusion that a set of people that meets regularly three times a year, including some people who had been doing it for a decade, to conduct government business, that that's called a meeting," said Adina Levin, who directs the ACLU of Texas Cyberliberties Project.

Yelenosky also noted in his ruling that the examiners seemed to have the power to modify the voting systems. When they convened on Janu-

ary 5, just weeks before the ruling, the judge wrote, "They engaged in a spirited discussion of a perceived security weakness in the system... and proposed a solution, which the vendor said he could take back to the vendor's development team. The discussion ended with one examiner suggesting that 'we concur' on the matter." Ultimately, the judge decided that any meeting where substantive decisions were made about the state's process of elections should be an open meeting.

As the *Observer* went to press, the secretary of state's office was still weighing whether to appeal the district court ruling and fight to keep the meetings closed. The ACLU's Levin believes that's the wrong approach. "The selection of voting systems is something that is very important to the public," she said. "It's important to make the process open to people with relevant technical expertise to listen and to be able to comment on what the state's doing."

**WINNING THEIR SHARE** It took more than two years but shareholders in the power company TXU who lost millions of dollars when the stock price collapsed in 2002 have finally won restitution. The Dallas-based energy firm announced in late January that it would award aggrieved shareholders \$150 million in damages to settle a class-action lawsuit.

TXU, which operates on three continents and boasts assets of more than \$40 billion, narrowly avoided bankruptcy in late 2002. TXU's European subsidiary revealed glaring financial weaknesses in October of that year and was eventually sold off at a \$4 billion loss. During the crisis, then-chief executive Erle Nye assured a national CNBC television audience that the company's quarterly dividend wouldn't be cut. Three days later, the company slashed its dividend 80 percent. The

move robbed many elderly shareholders of the dividend income that some rely on to meet their living expenses. TXU's stock, which traded around \$40 a share in the summer of 2002, sank to nearly \$10. Without the dividend income, many elderly shareholders lost their life savings when they had to sell the stock at its bottomed-out price.

In the spring of 2003, former TXU vice president Jim Murray filed a federal whistleblower lawsuit against the company. Murray claims that TXU executives engaged in securities fraud in 2001 and 2002 leading up to the crisis. As the *Observer* reported last fall, Murray argues in his suit that executives knew all along that the company was risking bankruptcy and lied to shareholders and analysts about TXU finances (see "Power Players," TO, September 10, 2004). The separate class-action shareholder lawsuit echoed Murray's contentions that TXU misled its investors. In court filings, attorneys for the shareholders argued that executives lied to the public to keep TXU's stock price artificially high in order to inflate their own stock bonuses.

Under the deal with shareholders, TXU will pay \$84 million of the \$150 million settlement (the company's insurance will cover the rest). After attorney's fees, harmed shareholders will receive about \$130 million. Payments will begin early next year to plaintiffs who owned TXU shares between April 2001 and October 2002. The settlement class could number several thousand shareholders. As part of the settlement, TXU doesn't admit wrongdoing in the case, but will institute a series of corporate reforms. TXU will ensure that its board of directors is more independent and that all directors maintain a minimum stake in the company (at least \$75,000 in stock). It also will require investor approval of all employee stock option plans.

Meanwhile, Murray's lawsuit goes on. It is believed to be the first case to test the corporate whistleblower protections of the Sarbanes-Oxley Act, the corporate reform bill passed by Congress after the Enron scandal. Murray's case is scheduled for trial in federal district court in Dallas later this spring.

#### **ALL OF THE JOURNALISTS' NOTES**

The opening of the Woodward and Bernstein archives at the Harry Ransom Center at the University of Texas earlier this month was one of those rare occasions when one could witness journalists posing for pictures with other journalists. There they were, Bob Woodward and Carl Bernstein together again, the dynamic duo from *The Washington Post* who, in 1972, broke the story of the Watergate scandal, setting off the eventual demise of the malfeasant Nixon administration. A full accompaniment of press from across Texas attended the event, which marked the opening of an exhibition of paraphernalia related to the Watergate investigation—74 boxes worth of interview notes, story drafts, and clippings, among other items. UT paid some \$5 million for the collection, and the duo has committed \$500,000 to maintain the archive in perpetuity.

Woodward said that he thought the collection, which will be open to the public, would "serve as a kind of case study" in investigative journalism. Would-be journalists should take heart from the fact that Woodward had been working as a journalist for less than two years at the time of the Watergate break-in, and had been at the *Post* for less than nine months. Youth and inexperience were not obstacles. "Be persistent, ask questions, make lists, and talk to as many people as you can," he said. If only an older Woodward had stayed as critical while writing the relatively toothless *Bush at War* (see "Comandante W," January 17, 2003).

While the names of more than 100 sources for Woodward and Bernstein's Watergate investigation are included in the materials, it is the name of the infamous "Deep Throat" that has intrigued Washington insiders and the public in

general all these years. Woodward has vowed to keep Deep Throat's identity secret until the source dies.

**DEEP BUSH?** Now that Bob Woodward and Carl Bernstein's Watergate papers are safely ensconced in Austin at the University of Texas, questions about the identity of Deep Throat are rising again. And the name of George H.W. Bush has surfaced. Although Dear Leader 41 has been ignored by many in the Deep Throat Sweepstakes, a number of facts suggest that he had the knowledge and the motive to betray Nixon.

Bush knew Nixon's fundraising operation from the inside. His pals and former business partners, the Liedtke brothers, Hugh and Bill, ran the Houston oil company, Pennzoil. Bush convinced Bill Liedtke to be the regional finance chairman for Nixon's presidential campaigns in both 1968 and 1972. In 1972, Liedtke, acting on instructions from Nixon's chief fundraiser, Maurice Stans, began soliciting contributions—mostly in cash—from Texas oil men, for the Committee to Reelect the President (CREEP).

Liedtke raised \$700,000 in cash and securities—which was then flown to Washington on the Pennzoil plane in order to beat a new federal law requiring the disclosure of political contributions of \$100 or more, as well as the identities of the contributors. Some of that \$700,000 was later found in the pocket of Bernard Barker, one of the burglars arrested at the Watergate.

Throughout Nixon's career, one of his main uses for G.H.W. Bush was making sure that Bush continued tapping Texas oil barons for money. Some of that money made its way back to Bush. During his 1970 race for the Senate, Bush got at least \$112,000 from Nixon's secret slush fund. At least \$6,000 of that money was in cash and was never declared by the Bush campaign.

Although Nixon pretended to be Bush's ally, he liked to disparage Bush in front of others. And after he helped convince Bush to give up a safe seat in Congress in order to run for the Senate in 1970, which Bush then lost, Nixon allegedly renegeed on his promise to

give Bush a cushy job in his administration. Bush ended up at the U.N. Then, in 1972, instead of making Bush his running mate, Nixon decided to stay with Spiro Agnew. Furthermore, Nixon was much more enamored of another Texan, John Connally, than he ever was of G.H.W. Bush.

Nixon's love for Connally was particularly galling for Bush. Connally and Bush despised each other. Connally was always making fun of Bush's eastern heritage—"all hat and no cattle" Connally said—and he'd played a key role in Bush's defeat in his 1970 race. Connally backed Bush's opponent, Lloyd Bentsen. After Agnew was forced to resign in 1973, Connally was on the short list to replace him as vice president. Bush, who was then serving as chairman of the Republican National Committee, was not.

By betraying Nixon, Bush could also get even with Connally. Furthermore, getting rid of Nixon was a perfect way for Bush to create his own power base. And that is exactly what happened. With Nixon and Connally out of the way, Bush began building his own credentials within the party. Gerald Ford made him ambassador to China, then CIA director. By 1977, three years after Bush wrote a letter telling Nixon that he should resign, Bush and his political hitman, Karl Rove, were in Houston, readying Bush for his first run for the White House.

Revenge is an ancient motive. And that makes Bush a prime candidate for the role of Deep Throat. ■

## write dialogue

**The Texas Observer**  
307 W. 7th St.  
Austin, TX 78701

[editors@texasobserver.org](mailto:editors@texasobserver.org)

# They Shot More than a Messenger

Governor Rick Perry silenced Tony Fabelo. Now, hear what he has to say.

BY JAKE BERNSTEIN

In June 2003, at the end of the regular session of the 78th Legislature, Governor Rick Perry abolished an entire agency with a line-item veto. The agency had a biannual budget of only \$2.5 million, but Perry's action will likely end up costing the state much more than that. For an institution that was unique in the nation, the agency had a rather bland name—the Criminal Justice Policy Council. It had started in 1984 as a council of elected officials tasked with forcing agencies dealing with the criminal justice system to work together. One of its first employees was a freshly minted doctorate from the University of Texas named Tony Fabelo.

Over two decades Fabelo would transform the council into an unbiased source of data and planning for one of the largest prison systems in the world. The council studied everything from prison costs and upkeep to the effectiveness of drug treatment programs. Astoundingly, 1 out of every 20 Texans are under the control of the Texas Department of Criminal Justice either in prison, parole, or on probation. Fabelo created order from chaos. "We must have a criminal justice policy council," Senate Criminal Justice Committee Chairman John Whitmire (D-Houston) told *The Houston Chronicle* upon hearing of Perry's veto. "It's critical to the state's public safety net that we have experts like Dr. Fabelo around."

Why Perry removed Fabelo is a favorite guessing game of those who work on the advocacy side of the system. The official line from the governor's office was that the council, created to act "as an independent agency to assist with solutions to prison overcrowding" was superfluous, its demise a money saver. For those



who don't swallow that line, there are at least three different conspiracy theories detailing which hidden interest did in the straight-talking civil servant. Many, aware that a few key players in the lobby run much of the Lege, believe it was Fabelo's appraisal of privatization—grounded in realism and not ideology. In this theory, it was a corporate deal and Mike Toomey's fingerprints are all over the axe. Toomey was a lobbyist whose clients

included private-prison behemoth Corrections Corporation of America. He helped engineer the 2002-coordinated Republican campaign to seize the Legislature—currently under investigation by a Travis County grand jury. He then became Rick Perry's chief of staff. (Toomey is back in the lobby for the 79th Legislature: see, "Texas' First Post-Modern Lobbyist," *TO*, December 17, 2004.)

Theory number two had Fabelo done in by faith, so to speak. The council did a study comparing faith-based treatment programs to those offered by the state. It found that, while faith-based programs saved the state money, recidivism rates were about the same. Both approaches failed to keep prisoners engaged or successfully integrate them back into their communities. According to this theory, faith-based Republicans, a key bloc in any Perry primary victory, are responsible for killing the council.

Last but not least is the current prison crisis. The Legislative Budget Board, which subsumed many of the council's responsibilities, says the state prison system could be at capacity by March. Fabelo had predicted as much the session before. A crisis in the prison system is not something to trumpet when running for reelection. The next best thing to solving the problem is minimizing its importance.

None of this need concern Fabelo anymore. His value is clear to officials in five states where he is working as a consultant. He is also helping out in Puerto Rico, his boyhood home. Born in Cuba, Fabelo's parents spirited their young son off the island after the revolution. They were headed to Spain on a tourist visa, but when the boat stopped in Puerto Rico, his father asked for political asylum. Fabelo laughs as he tells the story from his South Austin home. Throughout the house are touches of the islands. It's clear in talking to the bearded and perpetually pensive Fabelo that he still cares deeply about Texas and the criminal justice system he spent almost 20 years trying to fine tune. What follows are excerpts from that conversation.

**The Texas Observer:** There seems to be evidence that other states that didn't have Texas' prison building boom also had crime rates that went down. Are we safer or just poorer?

**Tony Fabelo:** It is a combination of everything. We had such a crisis. We let the system get so out of control in the '80s. We neglected to have adequate capacity. We neglected to really pay attention to how the war on drugs was having an impact on sentences, or pay attention to the probation infrastructure and so forth. We had such a crisis that we had a gigantic backlog in the county jails. The counties sued the state and won, and we had to pay the counties half a billion dollars over a period of,

I think, six years for holding the prisoners in their county jails and for penalties the court decided to impose on the county jails. So at that point, really, there was no choice but to build.

We were in a tremendous bind. There were a lot of releases. The parole rate was 80 percent. When we release at 80 percent, you're not making good release decisions. So, we released [violent offenders] and they became the poster cases for this situation. So the parole board was shut down, and releases started declining, which aggravated the whole overcrowding. [It] was totally out of whack. So there was no choice given the situation but to build prisons and get the system stable. So in that regard we had to build prisons and we did have an impact on crime, because eventually we had a more stable system where the violent offenders were serving longer.

The other answer to your question is, if we continue to do this, are we just putting more money in this thing, and getting the same returns on the investment? We are getting to the point where we have the highest incarceration rate in the country, the third highest right now. We have about the same prison population as California, [which] has 13 million more people. And that gives you a sense of how high our incarceration rate is. In terms of crime rates, there are other states that saw declines in crime, particularly New York, [which had a] tremendous decline in crime. They did a lot better in terms of crime rate decline even though their incarceration rates did not increase as much.

Right now with the highest incarceration rate in the country, with a projected shortfall in capacity of about 6,000 to 8,000 beds in the next five, six years, there is not enough capacity. If we build more prisons and build 8,000 prison beds, and that would cost a lot of money nowadays, probably over \$1 billion, are you going to get dramatic declines in crime? The answer is no. [We] won't.

*TO: What are the other parts of the system that we need to enhance?*

**TF:** The first one is probation. The probation system in Texas is not a very effective system. Half of the probationers that terminate probation terminate because of a revocation. We have about 30,000 absconders at any point in time, from probation. We don't even know where these guys are. These are felon probationers. The problem with the probation system is that we have very long supervision terms. We have the longest supervision terms in the country. These people stay there for a long time, so that's why we end up with 250,000 felonies on probation—more than California, and then another 150,000 or so in misdemeanor probation. The caseloads [for probation officers] are 100 to 116 for felony probations. Which means that the probation officer cannot do much with these people, except to figure out if they're reporting or not.

So we have a system that—if you're a probationer and you get in trouble, you don't get a lot of services, you don't get a lot of attention that can help you get out of trouble. In particular, attention with employment problems, substance abuse problems and so forth. On the other hand, if you're doing well on probation, you stay on probation forever because you're paying

fees and they generate money for the system. Half of the funding of the system comes from fees paid by probationers. [For every \$1 the state invests, probation collects \$1.13 in offender fees for supervision, victim restitution, court costs, and fines.] So if you're doing well, stay on probation for a long time. Thanks for paying for the system! If you're not doing as well, we slap you in the face a couple of times, don't give you a lot of attention in terms of good programs and casework supervision, and then all of a sudden we revoke you.

*TO: What would the ideal caseload for probation officers look like?*

**TF:** It varies. Some people say seven. But look, we did this in the juvenile system when Bush was here and that was one of the proudest things I did when I was working there with Governor Bush. He came in and said we need to fix our juvenile system. And part of the fix was to increase time for the most violent juvenile offenders. But the other part of the fix was to strengthen probation. So they put more money into juvenile probation. They put in a system of progressive sanctions. [A] staircase system of how kids will move. If you don't do it good in step one, we're going to take you to step two. And put programs behind that; and the caseloads went down—right now I think it's 1 [probation officer] to 26. And they were way up before the reform: 1 to 70 and so forth. By every measure the numbers are now better, even recidivism, the numbers are better. Now, that's a smaller system. It's a system of very short terms. If you're in juvenile probation you don't stay on forever like adult probation. You stay on for a year, we try to do something with you to make you better, and in that year, we hope that you don't come back. And that is exactly what happened. So the same logic needs to apply to the adult system. It hasn't been applied because you will need funding to replace all these fees that you're not going to have when you cut the probation terms.

But the solution is very clear: First, you need to cut probation terms. We are talking non-violent offenders. We're not talking about sex offenders. Most of the probationers are non-violent offenders. So you cut the terms, have very strong supervision for the first year. Strong supervision means not only the guy knocking on your door but making sure you go to the counseling that you need and all that jazz. If you survive that first year, we're going to put you in another year with lower supervision and see if you survive that second year. And if you do, you're off the hook. You've done good. Studies have shown—I'm doing some work in Virginia—79 percent of the violations that lead to revocation occur in the first eight months. So, most of the stuff happens that first year. And you can do another year just to make sure that now they can follow the rules. If you do that, you will cut the numbers of people on probation substantially.

*TO: How do we prepare people for re-entry? Is there a good way? Is it something that the state should invest in more?*

**TF:** We sure don't prepare them by just opening the door and

—continued on page 20

# The Chuckwagon Stakeout

BY FELIX GILLETTE

**O**n a rainy Thursday in January, I pull out my digital recording device at the Chuckwagon restaurant in Weatherford, Texas, and put it near the salt and pepper shakers at the center of the table. Merle Bull, who is sitting next to me, takes a long look. "You sure you don't want to put that under the table?" he asks.

*Very funny.*

This past summer a crew of people in Weatherford learned the hard way what happens when you put your voice recorder underneath a table at the Chuckwagon. There was an embarrassing investigation. A grand jury. Allegations of abuse of authority. Hurt feelings. Lost jobs. Months later, the American Civil Liberties Union has filed a lawsuit; and the town's 20,000 residents are still reading about the fallout on the front page of *The Weatherford Democrat*.

Bull puts down his glass of iced-tea next to my recorder. Until he retired recently, Bull taught biology at Weatherford College, a public junior college that sits in the middle of North Texas peach country about a half-hour drive west of Fort Worth. Every Thursday, Bull comes to the Chuckwagon to meet with a handful of his former colleagues. Typically, they talk about their vacations, discuss country and western music, and gossip about the college. The group, which is

known as the Weatherford Business and Professional Men's Club, came into existence more than 20 years ago when it split off from a Kiwanis Club. "Kind of the way Baptist churches do sometimes," says Bull.

On this particular Thursday, Bull is the first member to arrive. While we wait for the others, he explains how this innocuous looking table in front of us—it's round, with a tattered green tablecloth became ground zero for the scandal which Bull and his comrades refer to as Tablegate.

The trouble started back in 1998 when the former president of Weatherford College retired and the board of trustees began looking to replace the top administrative spot at the town's largest and oldest academic institution, which was founded more than a century ago. These days, approximately 5,500 students take classes at the 90-acre campus, a modest arrangement of unpretentious buildings on the southeast side of town.

Eventually, the board of trustees promoted a dean by the name of Don Huff, who had recently arrived at Weatherford from Odessa College. It's not uncommon for a new college administration to feud with the faculty. But this transition was unusually rocky.

In particular, one of Bull's colleagues in the biology department, a popular professor named Morri Hartgraves, clashed with the new president. Even before Huff was promoted, the two hadn't gotten along. With Huff's ascension, things got worse. In the coming years, the two disagreed on various professional matters. At one point, Hartgraves filed a report with the Southern Association of Colleges and Schools alleging that the college's biology facilities lacked adequate eyewash stations. Later Hartgraves accused the administration of discriminatory hiring practices. The mutual hostility eventually culminated in allegations of sexual harassment and assault. Finally, in February of 2002, the college's board of trustees, acting at Huff's behest, voted to fire Hartgraves for insubordination. (Reached by phone at his home in Weatherford, Huff said he had no comment for this story.)

Until his dismissal, Hartgraves had been a regular member of the club. Back in those days, the club used to meet for lunch at the Pizza Place restaurant, which was owned by a member of the college's board of trustees. During the dismissal procedures, the trustee



*The Weatherford Business and Professional Men's Club*

photo: Felix Gillette

had voted to fire Hartgraves. This didn't sit well with Bull and the others. Shortly thereafter, they decamped to the Chuckwagon in protest. Despite the show of solidarity, the club lost one of its members in transition. According to Bull, Hartgraves never made it to the Chuckwagon. "It was probably just too uncomfortable for him," says Bull.

Eventually, Hartgraves got a job teaching at South Plains College in Levelland in West Texas. For a while, the tension subsided. But then in February of last year, he filed a wrongful termination lawsuit in federal court alleging that members of the administration had retaliated against him for registering complaints with the Equal Employment Opportunity Commission and the Texas Commission on Human Rights. Several members of the club, including Bull, were potential witnesses.

This past summer, with the lawsuit gaining momentum, the members of the club received a bizarre warning. According to an anonymous tipster, the college's bureaucrats were covertly monitoring their meetings at the Chuckwagon. The informant offered a bit of advice: Look under your table.

"We thought someone was playing a joke on us," says Bull. "We didn't think anyone could be that stupid."

**O**n Thursday, August 19, around noon, Bull walked into the Chuckwagon. He didn't put much stock in the warning. Common sense suggested that if you were going to find a bug at the Chuckwagon, chances are, it would be in your salad.

Moments later Kent Miller rolled in. Miller, who teaches history and government at Weatherford, is the kind of guy who keeps a "Jenna Bush Stole My ID" bumper sticker on his office door. Half joking, Miller dropped to his knees and flipped up the edge of the tablecloth. Then he looked up at Bull and told him that there was a recording device stuck to the underside of the table. Its red light was on. Bull dislodged the recorder and turned it off.

A few minutes later, the rest of the club members appeared: Quinton Reeves, a social science professor, Max Ratheal, a retired chemistry professor, and Nancy McVean, a drama teacher. The professors began speculating about who might have planted the recorder. They all suspected the college's administration. But how could they prove it?

They called over their waitress Jeanie and asked if she had seen anything suspicious. Jeanie said that earlier in the morning a man and a woman had sat down at the table. But Jeanie's subsequent description of those individuals (young woman, bald man) didn't ring any bells. The club members were at a loss. After settling up, they decided that Bull would hang on to the recorder.

"If they had left it at that, we would have only had supposition," Professor Ratheal would later recall. "But they wanted that recorder back. They brought the rest on themselves."

Sure enough, around 2 p.m., Traci Ingram, a member of the Weatherford College police department, showed up at the Chuckwagon in street clothes. After a few minutes, Ingram

approached Jeanie, acting upset. She told the waitress that she was looking for a recorder, which belonged to her daughter. It must have slipped out of her pocket. Jeanie told her that one of the professors had taken it with him.

Afterwards, Ingram returned to the campus police headquarters. The recorder—as a criminal investigation would later uncover—belonged to a Weatherford geology instructor named Tim Poston. Once upon a time, Poston had taught criminal justice at the junior college. Apparently he was still itching to investigate something other than rocks. Bugging the Chuckwagon was, in large part, his idea, and now things had taken an unexpected turn, a subsequent police investigation revealed. Poston decided to call an acquaintance on the city's police force and ask for a favor. (Calls to Poston for comment were not returned.)

That afternoon, Poston convinced a Weatherford police sergeant named Ronnie Villarreal to help retrieve the recorder. They soon learned that Bull had it in his possession. With Villarreal's help, Poston summoned two more officers from the city's police force.

Around 4 p.m., a police cruiser pulled up in front of Bull's house on the outskirts of town. Officer Larry Price repeated to Bull the story he had heard from the sergeant: specifically, that the recorder belonged to a regional drug task force and that they wanted it back. If Bull refused, he might be charged with a misdemeanor. Bull agreed to turn it over if the officer would provide him with a handwritten receipt acknowledging Bull's misgivings. Price agreed. A few minutes later, he left with the recorder.

By the following morning, the Weatherford police force had turned over the recorder to the Parker County District Attorney's office. The question remained: Why would a college police force spy on its own professors?

**T**he following day, James Rutledge of the district attorney's office started a criminal investigation. Over the next few weeks, he would videotape various interviews with members of the college's police force and administration. What did they know, and when did they know it?

Early in the investigation, Rutledge questioned Paul Stone, the chief of Weatherford's campus police. Stone eventually admitted that the previous Thursday hadn't been the first time that they had bugged the Chuckwagon, and the Sony recorder wasn't the only one they had used. Under Stone's supervision, undercover campus cops had monitored a total of four of the club's meetings. To get better sound, they had hidden a second recording device at various places near the professors' table, including under a doll's dress (a collection of dolls decorate a shelf overlooking the professors' table).

Stone emphasized that they weren't interested in eavesdropping on the five professors. No, sir. They were after Morri Hartgraves. Stone explained that shortly after the college had fired Hartgraves in February 2002, a series of nasty, anonymous letters began circulating around campus. The letters were full

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# Going Nuclear in West Texas

BY FORREST WILDER

**L**ike nuclear waste, bad ideas never seem to go away. Long-time *Observer* readers will remember the decades-long knock-down drag-out fights over where to put a radioactive waste dump. The last major episode was in 1998, when an unusually effective citizen-led campaign succeeded in persuading the Texas Natural Resources Conservation Commission (now the Texas Commission on Environmental Quality (TCEQ)) to deny the license for a low-level radioactive waste dump in Sierra Blanca. Oddly, not just the people of Texas celebrated this victory. A particularly aggressive and well-connected private outfit, Waste Control Specialists (WCS), backed by Dallas billionaire Harold Simmons, saw opportunity in the Sierra Blanca site's demise. Now, because of WCS's deep pockets, deeper political connections, and dogged persistence, Texas could soon find itself the national dumping ground for state and federal, commercial and governmental nuclear waste.

On February 1, Sen. Robert Duncan (R-Lubbock), whose district lies near WCS-owned land in Andrews County in West Texas, organized a hearing for the Senate Committee on Natural Resources. Chair Sen. Ken Armbrister (D-Victoria), who accepted \$2,500 in campaign contributions in 2004 from WCS interests, called it a "fact-finding mission." Sen. Duncan was intent on getting to the bottom of just what WCS was up to. He and several other senators seemed blindsided by WCS's multiple (and multiplying) schemes to accept state and federal radioactive waste streams. Under legislation passed in 2003, WCS has a license to process, store, and dispose of hazardous and toxic materials at its mammoth site in Andrews County, near the New Mexico border. Now WCS is back ask-



Sen. Robert Duncan (R-Lubbock) tries to get to the bottom of WCS schemes. photo: Senate Media Services

ing for more. As Sen. Duncan related, the company has several pending applications into the TCEQ and the Department of State Health Services (DSHS) that, if approved, would vastly expand WCS's fledgling radioactive empire in West Texas.

One of the DSHS licenses would allow WCS to begin accepting the leftovers from a retired bomb plant in Fernald, Ohio, for permanent storage—some 10 million cubic feet to be brought in on an estimated 800 railcars. This Ohio nuclear waste is at least four times (and up to 140 times) more radioactive than the average gram of uranium waste, according to Richard Ratliff, chief of the bureau of radiation control of DSHS. The TCEQ license would also allow WCS to permanently dispose of Texas' (and other states') commercial radioactive waste as well as federal low-level radioactive waste. Additionally, WCS has its eyes on a proposed uranium enrichment facility right across the border in New Mexico that could conveniently hand over its by-product—depleted uranium—to WCS

for disposal. WCS, a company that consistently reports quarterly losses to the Securities and Exchange Commission, stands to make billions of dollars from these deals. The state and the people of Texas, however, won't receive a cent on most of this revenue.

In a presentation to the committee, Sen. Duncan reviewed what transpired in the 2003 legislative session. WCS, after years of failed attempts and millions of dollars spent on political contributions and high-dollar lobbyists, finally succeeded in getting a bill passed, House Bill 1567, that catered to its interests. HB 1567 essentially authorized a private radioactive waste facility in Texas for this state, Vermont, and possibly others. Although it technically allowed any private company to apply to establish the dump, WCS was the only company that was positioned to qualify. Vermont comes into the picture because of a "compact" agreement that states can enter into that makes one state—Texas, in this case—a host for other states' low-level radioactive waste. But because of a

loophole, any other entity—including a foreign government—can opt into the compact with the majority consent of the compact commissioners, according to Richard Simpson, a long-time activist who has worked on anti-nuclear waste dump campaigns in New Mexico and Texas.

Sen. Duncan also reminded the committee that the Legislature had authorized a private company to process and (temporarily) store *federal* low-level radioactive waste in addition to the compact waste. Sen. Mike Jackson (R-La Porte) seemed to have forgotten this fact. “We formed the compact to avoid being a dumping ground for the federal government,” he told George Dials, President of WCS. Dials, who was testifying in front of the committee, gently corrected Sen. Jackson. In fact, in the lead-up to passage of HB 1567, WCS’s proxies had convinced lawmakers that compact waste alone wouldn’t generate enough revenue to keep WCS afloat, the loophole notwithstanding. Obliging, legislators passed the bill without any meaningful caps on the amount of federal waste the company can accept. As a result, WCS potentially has full access to massive amounts of nuclear waste that the feds have been trying to unload since the Cold War.

If Dials succeeds in landing a permit from the TCEQ for (permanent) disposal of “low-level” radioactive waste, Andrews could be the home for vast amounts of this waste forever. Luckily, TCEQ’s permit process is relatively stringent and a decision isn’t expected until December 2007. According to an official with TCEQ, WCS was recently issued its “third notice of administrative deficiency.” If not corrected, WCS would have to start the licensing process all over again. TCEQ oversight of the compact and federal low-level radioactive waste was a concession won by Sen. Duncan in 2003. Perhaps that’s why he seemed a little miffed at the prospect of DSHS—seen by many as a regulatory pushover—handling the application for the Fernald waste. One of Sen. Duncan’s concerns is that the agency will approve WCS’s applications before the Legislature has time to intervene. The Legisla-

ture “has never considered whether the state of Texas should be a commercial importer of [Fernald radioactive materials],” Duncan said at the hearing.

The twist is that WCS may not even need to get its disposal permit granted to become the nation’s repository for aging Cold War waste. A “perfect storm” may make it one by default. On February 7, President Bush announced major budget cuts to the environmental cleanup budget of Fernald and two other similar facilities. According to the Alliance for Nuclear Accountability, a grassroots network that monitors nuclear issues, that kind of pressure forces the Department of Energy to find a permanent home for their radioactive waste soon. Currently, the other states that could feasibly accept Fernald-type and other low-level radioactive waste—Nevada, Utah, and South Carolina—are signaling their intention to cut back or get out of the business.

Nevada, which is still fighting to rid itself of the Yucca Mountain high-level waste site, has said that it will also fight any attempted low-level importation. In a letter to the DOE, Nevada attorney general helpfully mentioned WCS’s site as an alternative. Utah, which is home to WCS’s long-time rival Envirocare, has been moving away from radioactive dumping due to public opposition. Finally, South Carolina is eliminating the importation of the most radioactive of the low-level waste despite its generating an estimated \$300 million in revenue for the state. That leaves WCS holding a virtual monopoly. Sen. Duncan argues that “once we get the [Fernald waste] here we’re going to have to dispose of it most likely,” even if WCS is only permitted for storage, not disposal.

The final wild card in WCS’s and Texas’ radioactive future is the proposed uranium enrichment facility that lies, in the words of Sen. Duncan, “a nine-iron chip away from the [Texas] border” in New Mexico, next door to WCS’s facility. An initial agreement has already been inked to create a private uranium plant that will take dangerous depleted uranium coming from the proposed National Enrichment Facility (NEF) outside of Eunice, New Mexico, and try to make it

a little more chemically stable.

Sen. Duncan pressed Dials on the matter. “In addition to the waste that we authorized last session and the compact waste, potentially now there’s another source of waste that could be disposed of at your site. We could anticipate that in 2008, you might come back to ask for an amendment to allow you to take that waste,” said Duncan. After some hesitation, Dials responded. “Yes,” he said.

And why can’t the depleted uranium just stay in New Mexico? Simple: The state and its people don’t want it.

WCS is promoting its various radioactive ventures as a popular jobs program for West Texas and a chance for Texas to seize the market in “an emerging industry.” On hand at the hearing to drive his point home was Robert Zap, the mayor of the city of Andrews, and Russell Shannon, Vice President of the Andrews Industrial Foundation. They recounted the hard times their area fell on after the oil crash in the ’80s, and plugged the jobs that an expanded dump would create. What they didn’t mention was their county’s zeal for high-risk holes in the ground no one else seems to want: the national, high-level radioactive waste site (now slated for Yucca Mountain), the failed supercolliding superconductor, and the hazardous and toxic materials dump WCS currently operates at its facility. Shannon told the committee of a sign outside Andrews that promotes the area’s values: God, Country, and Free Enterprise. “We hope the Legislature takes no action to impede our growth,” Dials said.

WCS has spent a lot of time and money to get to this point. They’ve been helped along the way by lawmakers either too shortsighted or too indebted to pay attention to WCS’s expanding ambitions. HB 1567 allows for a total of 162 million cubic feet of federal low-level waste—virtually all of it. In addition, the Fernald waste is estimated to be 1.3 million cubic feet. The Sierra Club estimates that WCS could generate \$100 billion in profits on the federal waste it’s already allowed to accept, to say nothing of the waste from Ohio. That’s a nice return on the millions

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# No Nudes is Good Nudes

## Enclave Cops House Bill 246

**Rep. Tony Goolsby (R-Dallas)**

Imagine a Texas where the affluent are so fearful that they retreat from the public commons to gated communities protected by exclusive police forces, who, weapons at the ready, are only accountable to the neighborhood association. It appears Rep. Tony Goolsby already has. His HB 246 will allow neighborhoods and apartment complexes to privately hire their own special police force, to be awarded all the same powers as the gun-slinging, handcuff-toting city and state police. If enacted, this latest special police force designation will be the 34th special police category in Texas and would boldly ignore a Senate admonition to quit creating them.

T.J. D'Aquino, CEO of Crime Strike, a private security company operating in Goolsby's district, asked the representative to file the legislation in order to elevate for-profit residential security company personnel to the level of full-fledged police officers. The newly appointed officers would have the authority to make arrests for anything from misdemeanors to felonies. (They will not be allowed to write traffic citations.)

The burgeoning industry of special police in Texas includes a force for the Board of Medical Examiners and one to enforce water code. Last session, the Legislature authorized a special peace force for the State Board of Dental Examiners. (You can just imagine the television series potential with that one.) The dental cops conduct investigations and then, as certified peace officers, write search warrants and make arrests, for example, of a renegade dentist operating without a license in a garage. These certified peace officers are also required to use their powers to prevent offenses from being committed at any time, in any place, whether by a dentist or some other menace to society, like say,

an optometrist. Fortunately, they can be armed 24 hours a day. Special police officers not busy rounding up crooked dentists or any of the other "special" targets often seek outside employment. As certified peace officers they enjoy full-blown police power—all the time. One popular side gig is as a bouncer at a club.

The numerous special police forces scattered around the state have less accountability than state and city police departments. No single state agency oversees the special police forces nor does there exist a standard set of guidelines for them. And while Goolsby's bill does establish limited oversight and some standards of training for his new force, public interest groups like the ACLU are not pleased. "It's not the same as a department with a chain of command and policies," said Scott Henson of the Texas ACLU. "Some of these smaller agencies are very underdeveloped in infrastructure and supervisory techniques." He said the officers receive less rigorous training than state and city police departments. Henson also warned that some neighborhoods may be surprised by the potential cost of having their own police force, especially if the neighborhood association finds itself on the defendant side of a lawsuit.

The Senate Criminal Justice Committee, in its interim report last December, recommended that the Legislature "cease and resist" creating special police forces and consider creating one category to include all specialized police forces in order to clarify their functions.

Fritz Reinig, chief of staff for Rep. Goolsby's office, said he was unaware of the report.

## Naked Time! House Bill 772

**Rep. Bryan Hughes (R-Mineola)**

Oh, to be a kid again. Remember summer camp? Bonfires. Swimming in the river. Volleyball. These are activities sans

clothes offered by the American Association for Nude Recreation (AANR) at its nudist camps for the 11- to 18-year-old set. Children who have been raised as nudists migrate to their favorite camp in the summertime just like tens of thousands of kids across the nation do. Fortunately this nudism scourge is not available in Texas, nor does the AANR plan on opening any camps here, according to spokeswoman Carolyn Hawkins. But just to be sure, Rep. Bryan Hughes has filed the prophylactic HB 772 to make certain that such camps never get a license in the Lone Star State.

In 2003, a then-freshman Rep. Hughes filed this bill during the failed school finance special session. It was determined not to be germane to the political slugfest underway in the fourth special session of that year. A constituent had brought the bill to Hughes after reading a *New York Times* story about the AANR's Florida "Youth Leadership Camp." According to the AANR's website, the camp aims to "educate and inspire future nudist leaders" and "offer[s] graduates the opportunity to be ambassadors to other nudist youth." Come for the nudity, stay for the seminar!

The *Times'* article stated that AANR organizers were planning on opening a nudist youth camp in Texas in 2005. Carolyn Hawkins insists the Paper of Record was mistaken. Hughes did his research and found another article in Georgia's *Gwinnett Daily Post* that detailed a particularly disturbing activity at a Virginia camp, "splattering a fellow camper's nude body with pudding." That report also contained a quotation from the camp's manager, Bob Roche. He said of the camp, "Sure, it could be a magnet for pedophiles, but we don't let it be. We screen everyone thoroughly and, thanks to the [Virginia] governor, we can check online to see if someone's a sex offend-

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# If It Ain't Broke... Which It Ain't

**O**n Wednesday, February 2, 2005, the terror continued. The President of our patriotic and free national homeland spoke from his bully pulpit once again to varnish and hype the State of the Union. In a continuing drumbeat of terror, he announced that Social Security would be in trouble by 2018—just when your five-year-old is about to go to college to prepare for a working life. Subsequently, he warned, your tot will be condemned to old-age destitution. By 2042, Social Security will be “exhausted.” When Bush read these predictions off his teleprompter, a certain amount of booing issued from the Democratic side of the aisle.

This was unexpected. Washington can keep a straight face through quite a lot. We have all sat still for Nixon’s “I am not a crook” speech, Reagan’s “Peacekeeper” forward-based missiles, the absurd—and extremely costly—Strategic Defense Initiative that does exactly nothing, and of course decades of Soviet-based terror, with warnings that the Communists were just about to a) nuke us or b) invade us. But this President and his cronies are so chronically mendacious that it is no longer good enough to say that they “misspoke.”

In 2005, with trade deficits and oil prices at all-time highs, dollar value at an all-time low, and a potentially endless war on terror that drains a billion a week from the national treasury, foreign capital may well be about to abandon the U.S. economy as a bad bet. Bush & Co. therefore plan to replace these more savvy investors with middle-class savings in private retirement accounts. This is not a good idea. Many commentators, actuaries, and politicians are already booing. They predict that the privatization of Social Security will produce legions of old people living in doorways and eating from dumpsters. And here on the World Bank beat, we don’t have

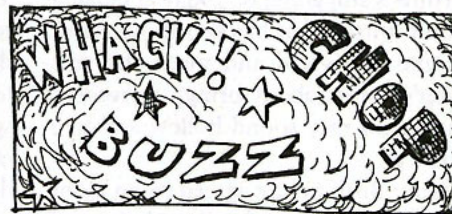
to predict or argue. We know that this is what will come to pass because in other countries, it already has.

The United States, which occupies a privileged position at the World Bank and the International Monetary Fund (IMF), has a number of not-completely-transparent uses for these institutions. One of the lesser known of the “Bank’s” and the “Fund’s” functions is their ability to stage-manage, in poorer, weaker countries, the imposition of

policies that an elected administration could never get away with here in the homeland.

Like privatizing Social Security, for example. Just because Social Security is the deadly third rail in U.S. politics doesn’t mean that it’s the Third World third rail too, now does it? So, why not try it someplace smaller and less—heh, heh—consequential, where the stakes aren’t so high?

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# Spinning Away

I don't get it. The divide between the rhetoric and the reality in this administration is larger than I can span. The dissonance between the noble ideals expressed and the nasty actions is too raw for me.

For example, Bush announces: "Our founders dedicated this country to the cause of human dignity, the rights of every person and the possibilities of every life. This conviction leads us into the world to help the afflicted, and defend the peace, and confound the designs of evil men." (I got that nugget from the 2003 State of the Union via an article by Bush speechwriter Matthew Scully.) So how come we give less to the afflicted than any other advanced nation?

And how come we're torturing people? How come we're putting people into high office—attorney general, Department of Homeland Security—who unleashed the whole torture scandal? The International Red Cross says torture is still going on today at Guantanamo. Torture has blackened our name around the world and made the president's words about bringing freedom and democracy sound hollow and hypocritical.

Item: Bush finally agreed to go along with the creation of a Department of Homeland Security, asserting nothing was more important than the safety of Americans. But then came lobbyists for the American Chemistry Council, and suddenly our safety wasn't so important. According to Christine Todd Whitman, then head of the Environmental Protection Agency, she and Tom Ridge of Homeland Security crafted regulations requiring the 15,000 highest-risk chemical plants to take steps to reduce their vulnerability to terrorism. Seems like a sensible idea.

But nope, the administration wouldn't support it, and the lobby fought it. "I

## Here's an administration dedicated to destroying government as much as possible.

sometimes wonder whether those companies spend more money trying to defeat new regulations than they would by simply complying with them," writes Whitman in her book *It's My Party Too*. There are no federal regulations today requiring chemical companies to prepare for terrorist attacks.

Here's an administration dedicated to destroying government as much as possible until, as Grover Norquist says, "we can drown it in the bathtub." But they have no hesitation about spending our money on "public relations." The Bushies have spent \$250 million on "public relations" during their first term, more than twice as much as in Clinton's last term. But it was not public-interest spending, like trying to get people to eat healthier diets or not drink while driving. This was propaganda for the administration's political agenda.

Then there is the ludicrously loony matter of the budget deficit. Recall these people inherited a whopping budget surplus. For over a year now, the administration has said, "We've got a plan to cut the deficit in half over the next five years." The deficit in 2004 was \$412 billion, the largest ever. The White House now says this year's will be \$427 billion—BUT that the plan to cut the deficit is "on track." Man, that's some track.

To this cascading disaster, Bush wants to add \$2 trillion in transition costs over the next decade for his scheme to partially privatize Social Security. This

is one I'm really having trouble figuring out. There is no crisis in the Social Security program. It is not in trouble. If nothing is done, come 2042—or 2052 if you believe the Congressional Budget Office—Social Security will have to start paying less than its promised benefits, but will still be able to pay seniors more than it does today in constant dollars. You can easily fix even that minor problem by lifting the cap on FICA taxes now at \$90,000.

Why should people who make more than \$90,000 have their higher income exempted, when every nickel made by people below the poverty level is taxed?

As Paul Krugman of *The New York Times* points out, if you accept the Rosy Scenario the administration is using to paint privatization as an effective scheme, then Social Security is in no trouble at all and we don't need to do anything about it—economic growth will take care of it all. Contrariwise, if you accept the doom-and-gloom scenario the administration uses to prove that Social Security is in trouble, then there's no way the privatization scheme will be anything other than a disaster.

Dogged if I know what these people have against a program that works just fine and has kept elderly people from having to eat cat food for many years now. Because the right wing has somehow become a cult of anti-government nuthatches, I have no idea where we're headed. The purpose of government, according to the U.S. Constitution, is "to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare and secure the blessings of liberty to ourselves and our posterity." ■

*Molly Ivins is a nationally syndicated columnist. Her most recent book with Lou Dubose is Bushwhacked: Life in George W. Bush's America (Random House).*

# Snow Job

**L**et's shout out a message to Treasury Secretary John Snow: Yoo-hoo, Johnnie—next time you orbit anywhere near Earth, call home. This guy is farther out than Pluto. When it was announced recently that the U.S. trade deficit has set yet another record, Bush's top economic official rocketed off into deep space claiming like some alien goofball juiced up on jimson weed that bad news is good news. In 2004, the American economy bought \$600 billion more in products from foreign countries—especially China—than we sold to them. This is the exact opposite of a good business plan. Yet, Snow, apparently snorting a noseful of intergalactic dust, proclaimed that this Grand Canyon of a trade gap "reflects the fact that Americans are becoming more prosperous," thus buying more foreign products. More prosperous? Hey, you Bushites are waving our middle-class manufacturing and high-tech jobs offshore, and American wages are not even keeping up with the cost of living, at the same time that your disastrous borrow-and-spend economic policies are sinking us into an unfathomable sea of federal debt. Just the interest on that debt now costs every American man, woman, and child \$333 a year. This is prosperity? As is typical of Bush and the people he puts around him, Snow blames others for the rising trade imbalance. He whines that the Europeans and Japanese are at fault because they don't buy enough American products. So his "solution" is to plead with foreign governments to change their economic policies to fit our needs. Hellooooo, Johnnie—they're our competitors. We're supposed to out-do them, not whimper at them. It's not exactly in the can-do spirit of America for our team leaders to be begging the other team to give us some points.

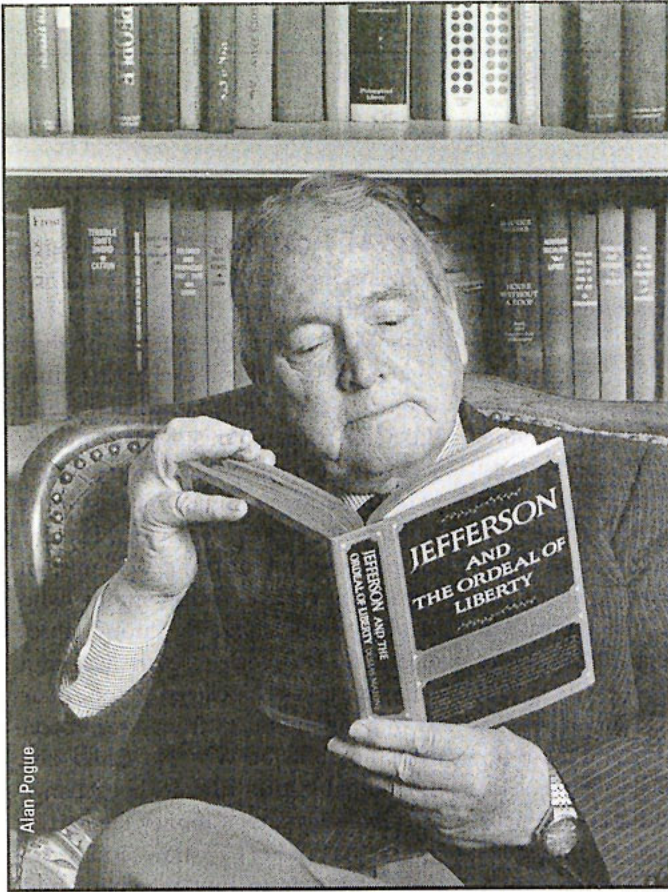
To bridge the trade gap, our lead-

ers must start investing again in American workers, farmers, and entrepreneurs, restoring our grassroots competitive strength.

**SWAGGER STEP** "A bumper year for U.S. jobs," exclaimed the headline in my local daily paper. The boom must be back! But, read further, and you learn that job creation isn't even keeping pace with the increasing number of working-age Americans. Way down in the story is this sentence: "The increase in jobs was not translating into increases in wages." Good news for CEOs, but bad news for the average American. Yes, say corporate economists and the Bushites, but it's bound to get better soon. Trust us. I was in Southern California recently, and a local paper offered its 2005 jobs forecast for Orange County, one of the most prosperous places in America. There will be new jobs, the story said, but don't expect to live high on the hog. The 10 occupations expecting the most job growth were: retail sales, security guards, cashiers, food service, janitorial, wait staff, nurses, telephone customer service, laborers, and landscapers. Most pay what amounts to poverty wages in Orange County. Meanwhile, the one boom that really is underway is a job crusher: corporate mergers. For example, Kmart is taking over Sears, Sprint is swallowing Nextel, and Oracle is absorbing PeopleSoft. Looking at the merger surge expected this year, one analyst gushed, "Corporate America has finally gotten a bit of swagger back in its step." Dandy. We need economic growth, not economic consolidation. Corporate profits are way up, 70 percent, and cash flow is at a record rate of \$1.3 trillion a year. But instead of increasing wages and opening new factories, swaggering CEOs are diverting America's investment capital into buying out their competitors, shrinking both jobs and consumer choice.

**MORAL GUIDANCE** Right-wing politicians and pundits are always huffing and puffing about moral values—but, wait, what's that sticking out of their coat pockets? Aside from Rush's drug scandal, Newt's extramarital affairs, and Bill Bennett's gambling problem, money seems to be the most common corrupter of those who so loudly profess to be arbiters of proper behavior. The latest example is Armstrong Williams, an ultra-conservative commentator who regularly wails about the moral lapses of others. This rock thrower lives in a glass house—he pocketed a cool quarter of a million bucks from a secret contract to shill for W's "No Child Left Behind" education scheme. In exchange for taking taxpayer's money, he agreed to use his radio/TV show and newspaper columns to tout the "No Child" law, to run promotional spots featuring Bush's education secretary, and to try to get other African-American journalists to join him in ballyhooing Bush's educational achievements. Williams is only quasi-contrite, saying, "There's a thin line ... and I think I crossed it." Not thin at all, Mr. Williams. You knowingly took taxpayer funds to do political propaganda. Imagine the explosion of moral indignation if, say, Bill Clinton had funneled education money to a liberal commentator. Apparently, Williams got his ethical schooling from Clarence Thomas, for whom he used to work. The Supreme Court justice tucked a windfall of valuable freebies under his judicial robes, including a \$1,200 set of tires, a \$19,000 Bible, and a \$5,000 check to pay for a relative's education expenses. Children are supposed to take moral guidance from these guys? ■

*Jim Hightower is a speaker and author. To order his books or schedule him for a speech, visit [www.jimhightower.com](http://www.jimhightower.com). To subscribe to his newsletter, the Hightower Lowdown, call toll-free 1-866-271-4900.*



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—*Las Américas, continued from page 13*

From the 1980s until the present day, Latin America has always looked like a promising place to take a run at creating “ownership societies” for old people. With help from the Bank and the IMF, Argentina, Bolivia, Brazil, Colombia, Chile, the Dominican Republic, El Salvador, Mexico, Nicaragua, and Peru have regressed to different degrees in this direction. Due to U.S. pressure, this policy for financing old age became much more popular in South America than it has been (until now) in North America, since, for one thing, far fewer people ever got old there.

One of the first places to privatize pensions was, after all, Chile in 1981, where at the time, one of the world's most ruthless dictators was cooking up economic policy, and politicians did not worry about rails of any kind. You complained about your public pension going private in Pinochet's Chile, by God, and your life became short and fleeting. You, for one, would not be needing Social Security at any time, ever. Because Chile

did it early and thoroughly, the system developed there was the most widely discussed and copied. It was also one of the most drastic of the pension system overhauls. Chile replaced the pay-as-you-go system, where current workers fund the benefits of current retirees, with a pray-as-you-pay system, where current workers fund their own retirements, if they are lucky, if they invest wisely, and if no one rips them off too badly.

Because the privatization of Social Security started long ago in Latin America, and the evidence about its relative performance is now accumulating, the Inter-American Development Bank (IDB) held a seminar in December 2004 to review the results. In the parlance of the IDB, results are “mixed.” Now, when the development banks call the results of their programs “mixed,” they typically mean “catastrophic failures.” As far as I know, despite routine financial collapses in the economies they manage, nothing they have ever done has been publicly called “categorically misconceived,”

or anything like that.

So, okay, the results are mixed. Carolin Crabbe and Juan Giral, who produced “Transition Issues and Deepening Pension Reforms,” the document distributed at the seminar, studied four cases: Argentina, Bolivia, Chile, and Mexico. They found that a) the poor did not benefit at all from privatized pension programs because they did not have enough money to save, b) the commission costs on the private savings account were unexpectedly high, and c) the savings of middle- and higher- income earners should be invested in such a way as to help pay for the poor. They also discovered that the entire process would have produced results that were much less mixed if there had been adequate and realistic data on which to base the conversion from public to private accounts, there had been more effective monitoring and evaluation of the programs, and if the institutions responsible for the new investors had been adequately prepared. Also, Ms. Crabbe and Mr. Giral warned, the characteristics of

the economy and the labor force should be taken into account.

Let's take these points one-by-one, shall we? First: The poor did not benefit because they could not save. As a matter of fact, poor people are notorious for having empty bank accounts and limited stock portfolios. This is why we call them "poor."

Number two: The commission costs were high. Also understandable. Private companies charge more than the government for their services because they depend on profits. For them, breaking even isn't good enough. Breaking even does not pay for private jets, lavish birthday parties on wholly owned Greek islands, thoroughbred race horses, and stuff like that. Administrative costs are therefore going to be higher.

Number three: Higher-income people should help pay for the poor. Whoops. What happened to the "ownership society"? Who wants to own an old person with no savings? Raise hands?

Number four: Adequate and realistic data are necessary. Excellent advice. In the United States, we understand that our system is entirely solvent until 2042, at which point benefits will have to be cut about 30 percent if current economic and demographic trends continue. Pssst—by then, the earth will be 10 degrees hotter overall, half the population of Africa under 40 will be dead of AIDS, most Americans will be dead of toxic fallout from the Clear Skies Initiative, and the few gringos still alive will be on their way to Mars (also a bank-breaking Bush program). If we are going to address the problems of 2042, why not start with something more crucial, like planetary viability?

Number five: Effective monitoring is necessary. Hey! You guys in Texas! Remember Enron? This could happen to you. *Again.*

And finally, Ms. Crabbe tells us, the characteristics of the economy and the labor force should be considered in a conversion to private pensions. Here, our expert is not really talking about the economy, as in employment and retirement. She is talking about what Mr. Bush is also talking about without mentioning it—capital markets.

Let's put on our thinking caps. If privatized Social Security does not benefit the poor, and if middle-income people will have to pay for the destitute elderly, so it doesn't benefit them either, then why does anyone want it? And why do they want it so badly? Like, enough to dedicate half the State of the Union address to it, together with a two-day tour through the boring square states in the middle of the country? Who *does* benefit?

Rich people. That's right. After all, does anyone, anywhere, for any reason whatsoever believe for one instant that George Bush is worried about the old-age incomes of future generations of middle-class Americans? Has he ever worried about anything like that before? Come on. This is the tax-cuts-for-the-rich, no-bid war president.

Bush's constituency has noticed that the stock market went into free fall after 2000, a full year before Osama struck, and its recovery stalled a year ago. With the huge budget deficits brought on by tax cuts and the war against—what was it? Iraq? Iran? Osama? Obama? I forget. Anyway, the dollar is at a record low against the euro. Soon now, investors who hold our free homeland's debt will begin to withdraw their funds because of the dollar's continuing decline. To keep their dividends up, rich people are going to need billions of bucks pouring into private invest-

ments from other sources. They themselves will have wisely hedged their bets by diversifying their portfolios and investing in France, where economic conditions appear to be more stable.

It is interesting to note that the experts who wrote the paper on the mixed results of pension privatization in Latin America were not sociologists, actuaries, or economists. They were finance experts. Here is what they had to say about the rationale for privatization: "One of the additional benefits expected from the reform of pension systems in all countries (studied), is the anticipated growth in capital markets."

Essentially, the experts are telling us that because the more savvy and mobile investors invest abroad, privatizing pension funds can, essentially, create an enormous new pool of suckers dumb enough to bet their savings on their own national economies. However, the experts report that privatizing pensions did not even spur growth in the capital markets of Latin America because the

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"anticipated growth in equities is hampered by the lack of corporate governance in the region."

Hey, Texas, here's Enron again. And WorldCom, Fannie Mae, Richard Grasso, and the New York Stock Exchange—shall we go on? The U.S. homeland is no stranger to problems of—how do we say this politely?—corporate governance?

We do not need to learn this lesson the hard way. Let us benefit from those we have forced to go before us. In *The New York Times*, Larry Rohter reports that in Chile, where the first generation to depend on privatized pension is starting to retire, people are finding that the program is "[f]alling far short of what was originally advertised under the authoritarian government of General Augusto Pinochet." The poor do not have accounts large enough to provide the \$140 monthly benefit, and middle-class accounts are making up the difference. "Even many middle-class workers who contributed regularly are finding that their private accounts—burdened with hidden fees that may have soaked up as much as a third of their original invest-

ment—are failing to deliver as much in benefits as they would have received if they had stayed in the old system."

Then there is Argentina, where privatizing Social Security ultimately played a major role in the economy's collapse in 2001, after which 50 percent of the population suddenly found itself living below the poverty line. Mark Wiesbrot, an economist at the Center for Economic and Policy Research in Washington, reports that in Argentina: "Social Security privatization deprived the government of a large amount of tax revenue. Payroll taxes that had gone to the government to support the old pay-as-you-go Social Security system were instead diverted to private accounts. As a result, the government lost an amount of revenue that has been estimated at 1.0 percent of annual GDP (the equivalent of \$100 billion a year in the United States)." When the Argentine economy suffered a four-year economic downturn, the government defaulted on its debt, capital fled the country, production stopped, and incomes vaporized just like that.

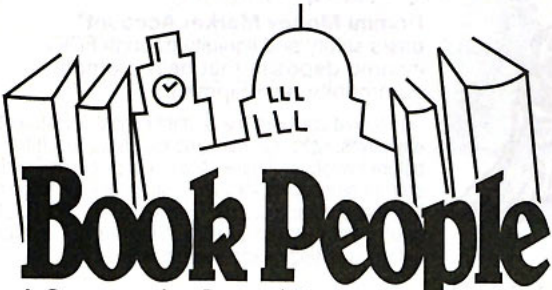
This could happen to us. Our gov-

ernment is up the wazoo in debt and in 2003 borrowed the \$138 billion Social Security Trust Fund surplus for the year before to help fund the government. What happens when the \$138 billion has to be borrowed from Citibank instead?

And finally, let us learn from Nicaragua, where corporate governance issues were almost as unimportant as they are in Houston. This wretchedly poor Central American country makes an interesting cautionary tale. There, the crooked president, Arnaldo Alemán, named his crooked crony, Miguel Aguado, as superintendent of the transitioning pension fund. The wholesale theft of public pensions was temporarily arrested, together with the President, when labor unions denounced the ploy and the Superintendent was obliged to flee the country. At this time we do not know where, precisely, he is, but rumors suggest that he is in Chile, where he is almost certainly not living on Social Security. ■

*If Gabriela Bocagrande has anything to say about it, neither she nor Social Security will be exhausted in 2042.*



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—Nuclear, continued from page 11

WCS and its affiliates have sunk into political contributions to state and federal candidates, parties, and PACs over the years. (According to Andrew Wheat of Texans for Public Justice, Harold Simmons, one of the company's principals, was the state's number four politi-

cal donor in 2004, paying out \$548,250. From January 1, 2003, to late October 2004, WCS-related contributions totaled \$843,200. Several members of the Senate Committee on Natural Resources have received significant contributions from WCS and its affiliates.)

It will be hard for a Republican senator, even one with a thoughtful take on the issue, to undercut a company that has dispensed favors so generously to Republican candidates. "Duncan has to realize that he's up against some major donors," according to Colin Leyden, the Legislative Director for Rep. Lon Burnham (D-Fort Worth). Nonetheless, the senator from Lubbock finally seemed to get his colleagues to listen when he broached the topic of fees for the state. Under HB 1567, Andrews County and the state of Texas will each eventually receive 5 percent of WCS's gross receipts from compact and federal waste, much less than the amount South Carolina generates for similar low-level waste. However, the Fernald waste stream would generate not a single dime for Texas

under the current fee schedule. According to Cyrus Reed, a registered lobbyist with the Sierra Club, some lawmakers are considering imposing a 5 percent fee on the Fernald waste in order to generate revenue for cash-strapped state coffers. Considering the tremendous pressure the Legislature is under to come up with billions in new funding for public schools, it's not unlikely that Texas may follow South Carolina's example and use the fee money to fund public education. The appearance of a quick-and-easy fix may spur lawmakers reluctant to squeeze WCS's profits into action, quickly setting up a fee system for the incoming radioactive waste while putting pressure on TCEQ and DSHS to expedite WCS's applications. "Once [the waste] is a state revenue source you'll never get rid of it," says Leyden. Left out of the mix, of course, will be the short-term and long-term health and environmental consequences of unloading millions of cubic feet of radioactive junk on future generations. ■

*Forrest Wilder is a freelance writer living in Austin.*

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—Fabelo, continued from page 7

giving them fifty bucks [laughs] “Okay people, take the bus and good luck!”

I mean, we sure don’t. And this is a national initiative [to deal with this problem]. In Connecticut for example, we identify through mapping studies the higher-risk neighborhoods in New Haven and Hartford. We’re working with the Council of State Governments there, which is a national organization that is also looking at criminal justice issues. And we identify million-dollar neighborhoods. These are neighborhoods where you superimpose the criminal justice supervision costs with welfare costs and employment assistance costs and all that. They’re receiving all the state money, okay? But it is being received by different pots [sic] of people that are not well coordinated.

So part of the initiative that just got adopted is to go back to those neighborhoods, working with all the agencies, not only the criminal justice agencies but their mental health, substance abuse agency, and probation agency, and the Department of Corrections, to try to see how to coordinate these services better. Identify the people going to those communities early on. Start the re-entry process in the prison system. Transition them to those communities [where] they [can] get an array of services that might be paid for by different [public and private groups]. But it’s an array of services oriented at trying to make these people succeed in the community. We call it “justice reinvestment.”

So we’re trying that in Connecticut. We’re going to try it in Arizona. We’re going to try it in Kansas. Those are our three sites that we selected for this year. The people there are all gung-ho about it. And they’re very different states. Connecticut is, let’s say, more liberal, although they have a Republican governor. Kansas is conservative. Arizona is very conservative. But they’re looking at this picture and saying, this makes sense. How can we get out of [having] to build prisons and more prisons? In Connecticut I think it was 60, 70 percent of the people coming back to prison were coming back from [the same] neighborhoods, in New Haven and Hartford. So if

you do something there, and you’re better at delivering the resources, you can cut criminal justice costs; and, ironically, reinvest the money that would be freed up—in theory—back in those communities to continue to enhance that.

**TO:** *Do you think the nation, or maybe even Texas, is getting close to a prison tipping point where across the ideological spectrum there is an acknowledgement that it’s not working and something has to be done?*

**TF:** Yes. We have reached that in Texas. We have reached that tipping point, I think. Nationwide, you have that conversation where you have Senator Brownback from Kansas, for example, conservative Republican, talking about the need to improve re-entry, and actually being very involved in this issue nationwide along with what you might call more liberal elected officials. President Bush raised the issue of improving re-entry and dealing with this population in the State of the Union address and that has generated lot of interest. Faith-based communities are behind this and, you know, they are very conservative but they’re behind this. They were behind the adoption of the prison rape bill that was just passed in Congress to prevent rapes in prison. There’s a second part to that bill to enhance community capacity to deal with these populations going back.

I think you have an ideological consensus that violent offenders should be locked up for a long time. But I also think you’re getting a development of an ideological consensus about what we do in these communities with these drug offenders that are substance abusers. I don’t think the consensus is clear yet there. There is a lot of debate around mandatory sentences and so forth. But I think there’s a consensus developing. Now you can have that consensus and nothing gets done. So, you need the leadership to forge that consensus into something that gets done—and that is the key.

**TO:** *Is privatization the magic bullet that some people think it is? And if not, why not?*

**TF:** I think privatization has a role in all

this, and Texas has led the way on privatization. So it has a role. It depends where, how, and at what cost? So I don’t think it’s a magic bullet. If some people think we can privatize the whole prison system—that is pretty hard to do. It might cost less now but it’s going to cost you a lot more later. My feelings with privatization is that you have to figure out where it fits and how it fits, for what populations, what performance you expect from them, and work that into the contract arrangement. And if it reduces costs, it’s okay. But it has its limits.

There is no magic bullet in any of this. The magic bullet is to have a long-term commitment to improve your probation infrastructure in such a way that you cut terms, improve programs and services, and try to work with judges to make them feel very comfortable that when they put somebody in probation they are more likely to do good and they will have more alternatives to revocation.

I was in Kansas in November and if you get revoked from probation on a technical violation, you basically serve six months in prison, and you get out. You don’t go back with your original sentence. In Texas you go back with your original sentence so you’re going to serve whatever, 50 percent of that, probably now, 40 percent of whatever the sentence was.

[I’m working in] Virginia—a very conservative state. One big difference is they have sentencing guidelines that are administered by the judges. They are working on a risk assessment instrument for probation and community supervision revocation that lets the judges identify where these people fall in terms of risk of coming back again. And if they fall below a certain line, the recommendation is to leave them in the community with alternative programs.

They think they can divert like 40 percent of the people that are being revoked based on this risk assessment. The people that fall in this lower category, only 17 percent were re-arrested after a two-year period compared to 48 percent for the people that fall in the higher risk. So it’s not that you have zero risk, you always have a risk. But you have to iden-

—continued on page 26

WE ARE THE BUS

direct—Monteverde  
 to San Jose but stop if someone waves  
 or lifts a sack of onions bound  
 for relatives. My nephew  
 has taken your money.  
 Your seat is numbered by the window  
 you must open for the humid plain  
 and close on the dust. I am your driver.  
 I have rolled my sleeves  
 today and my brother rides along  
 standing clear to San Jose.  
 His boy took your suitcase.  
 The picture of our father, mercy  
 and blessings on him, rides the visor.  
 It is he who worked the fields  
 to buy this bus and we lay our hands  
 in blessing everyday on the wheel.  
 We have taped in red and white  
 every sharp corner every chrome rail  
 so our grip will be sound  
 all the way down the mountain's dirt  
 and shoulderless road. Please,  
 relax. This road is well-traveled.  
 It is the dry season. On each side of us  
 there are inches to spare beside  
 the cliff rising, the rainbow falling behind.  
 Trucks hear us coming and stop  
 for coffee, for we are the bus. We carry  
 everyone's sister home on Sunday.  
 You have your ticket. My brother tells me  
 when it is safe to pass on the left shoulder  
 or the right, to flick our lights  
 to sound the horn to say, please,  
 slow in reverence and pull aside  
 in prudence and raise a fist in greeting.  
 My brother admires how I shift  
 the plastic gear knob Virgin third  
 to fourth and find the open lane  
 the open field, the shoulder and the ditch,  
 how we drop from cloud forests  
 through sugar cane and pineapple fields

into the city and its fireworks,  
 its crowded lanes, its blind corners  
 we turn on faith because  
 we are expected. We have 49 seats  
 and 75 souls and dry goods  
 and animals and spare tires.  
 We fill the town with exhaust.  
 We are the bus.

A PLACE FOR EVERYTHING

When my mother spoke  
 of sadness and widows,  
 my father muttered, "Well, well,"  
 and shook the paper open  
 in front of his face.

Now fifty years together  
 isn't enough. I was wrong about her,  
 a widow three days who will not  
 sit in his easy chair.  
 In their living room I wait to lift

whatever she wants and then  
 as if I were a boy again wandering  
 at dusk I hear her voice fly  
 across the woods to call me home.  
 A place for everything,

I thought, was what she loved.  
 On their unmade bed—a torn envelope,  
 its birthday card he must have hidden  
 beneath his socks, signed in x's and o's,  
 a boy's hand, a boy's gesture.

Seventy tomorrow, she asks  
 for help tonight to sort suspenders,  
 trousers creased to their cuffs,  
 the two-tone shirts she chose for him  
 and washed and folded and set into a drawer.

—James McKean

JAMES MCKEAN has published two books of poems, *Headlong* (University of Utah) and *Tree of Heaven* (University of Iowa). *Headlong* won a 1987 Great Lakes Colleges Association's New Writer Award in Poetry. *Tree of Heaven* won a 1994 Iowa Poetry Award. He teaches at Mount Mercy College in Cedar Rapids. —Naomi Shihab Nye.

# Laughter and Forgettings

BY MICHAEL AGRESTA

## *The Age of Sinatra*

By David Ohle  
Soft Skull Press  
168 pages, \$11.95

**T**he last time David Ohle published a novel, American troops were in Vietnam, J. Edgar Hoover was alive, and Richard Nixon was up to his eyeballs working to keep the lid on Watergate. The year was 1972. The novel was *Motorman*, a fragmentary and reality-bending debut that prompted William Burroughs to call Ohle an “American Beckett.”

The book quickly went out of print and Ohle himself slipped off the radar of literary trend-watchers. But *Motorman* was not lost on serious fiction readers. For years stolen library copies and illegal photocopies were passed around, so that readers who had heard of the author’s original style could get a taste of it for themselves. Now, after more than three decades in which seemingly everything and nothing in American society has changed, Ohle is back. Not only has *Motorman* finally been reprinted, but also a brand new novel, *The Age of Sinatra*, is out in bookstores. Its 168 pages, Ohle claims, represent 32 years of creative process.

An episodic novel, *The Age of Sinatra* is set in a world that is somewhat like our own, but imaginatively skewed and filled with unfamiliar elements. As readers we can never be sure how close our everyday reality is to Ohle’s strange scenarios. The unsteadiness is deliberate, and for those willing to proceed with nothing solid to hold on to, it can be a wild ride. Ohle borrows from conventions of science fiction, mythology, absurdist theater, and political satire to create a destabilizing para-reality: a world to which we expect to be able to relate, only to find that it is constantly

surprising us with characters and ideas that are both disorientingly foreign and piercingly familiar.

Moldenke, Ohle’s protagonist, is a returning character from *Motorman*. Several of the fictional cities—Texaco City, vaguely mirroring Houston, and New Oleo, suggesting New Orleans—also appear in the earlier book. But the world that Moldenke encounters in *The Age of Sinatra* is clearly something new. He must adapt to a political system run by the brilliant and crazy quasi-Fascist Michael Ratt, whose campaign slogan is “When you’re Ratt, you can’t be wrong.”

Moldenke also must face up to the unexplained Great Forgettings, periodic phenomena that wipe clean the memories of all citizens. There are rumors that President Ratt himself causes the Great Forgettings, but Moldenke has no way of knowing, and *The Age of Sinatra* is not the sort of book where characters understand more about the world at the end of it than they do at the beginning. Instead, the lesson that both Moldenke and readers must internalize has more to do with the nature of reality and our relationship to it. Moldenke is only able to escape the sometimes paranoid and dystopian confines of his (and Ratt’s) reality by engaging with it creatively, setting out on a journey, and claiming autonomy—even if he doesn’t know enough about what’s going on around him to understand the effects of his actions.

The novel begins with a reference to the assassination of John F. Kennedy, or “President Kenny”:

*During the Age of Sinatra, just prior to the Forgetting of '64, an excavation near New Oleo unearthed a casket that, when opened, held a long-haired corpse encased in a wicker-like cage of overgrown fingernails. A metal name bracelet was found around the corpse's wrist, though rust and mold had obscured all but the middle name, which was Arvey.*

Although there are several references to the Kennedy assassination, none of the characters are quite clear as to what happened. After the exhumation, events take a bizarre twist: Lee Harvey Oswald’s corpse is worshipped by a messianic cult that hopes to reanimate its beloved “Arvey” through the latest scientific technology. Michael Ratt is among the most prominent Arvians.

When reading about Ratt, it’s impossible not to think about a real-life politician who has cemented the idea of the swaggering, winking, credulity-bending cowboy politician in the world’s imagination. Ohle satirizes Ratt’s ideas about politics, but he also engages with them to the extent that they become sneakily appealing.

Ratt’s *Manifesto* is centered on the principle of all things in balance, “with pain and pleasure in equal measure.” But this balance is taken to absurd extremes. Moldenke boards a pedal-bus and is told that, by direct order from Ratt, reading is prohibited on the pedal-bus. Moldenke reads anyway, and he is punished. A few days later, he boards another pedal-bus and is told that Ratt has just declared reading on the pedal-bus to be mandatory. Again, Moldenke is caught on the wrong side of the law. Ratt’s laws are so absurd that they cannot be taken seriously as a coherent system—but therein lies his political genius. He believes it to be his duty to structure reality for his subjects, but he does it in such a way that the absurdity of his authority is consistently reinforced to those who must submit to it.

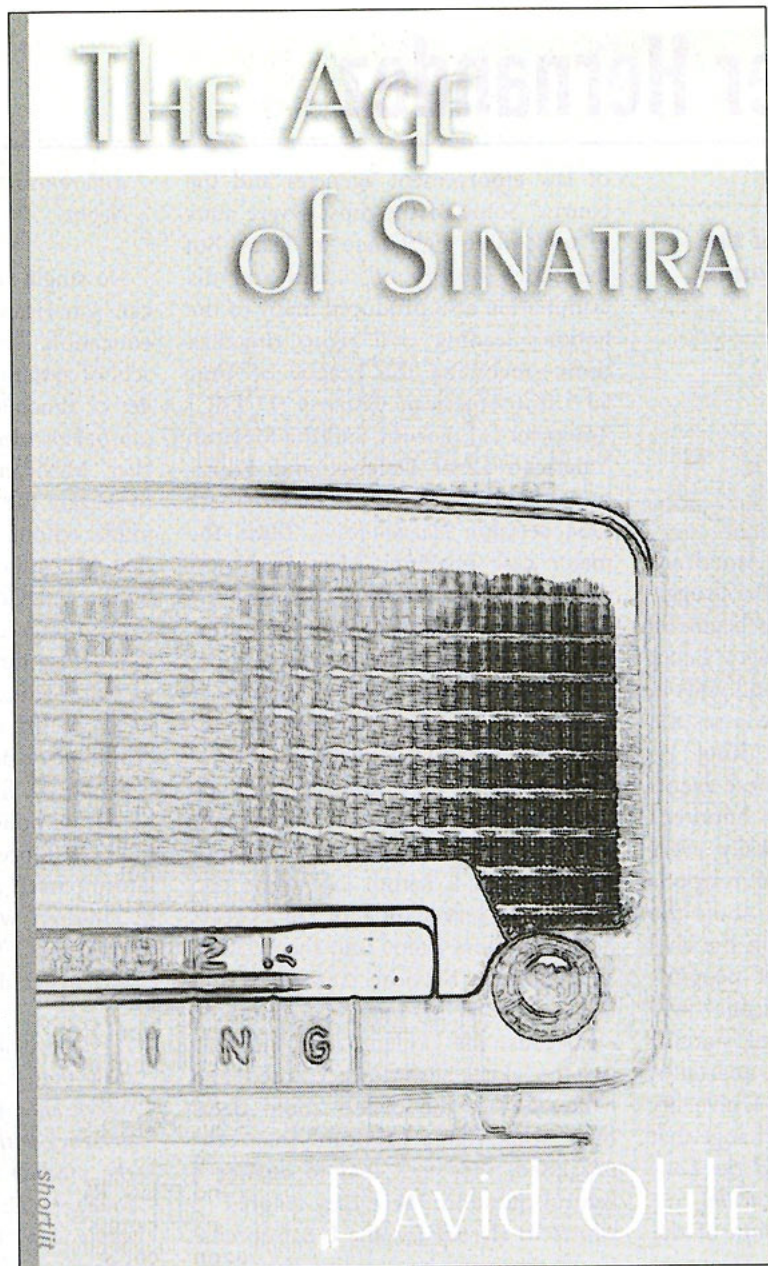
The protagonist’s mother, Agnes Moldenke, is an entrepreneur who invented edible money. “Children who play with modeling clay grow up to be tycoons,” she tells her son. “Art is a manipulation of a medium, any medium. Business is the manipulation of the medium of currency.” If politics is the manipulation of the medium of citizenry, then Ratt is an artist of unprecedented scale. Ratt’s laws do not masquer-

ade as universal moral imperatives; they are recognized as arbitrary and revered all the more because of their arbitrariness. Experiencing Ratt's world through Moldenke, we get a taste of a reality that may not be so much different from our own after all.

**A**native of New Orleans, Ohle worked for the Louisiana Department of Health in the 1960s, testing fecal samples for salmonella and shigella. This truly disgusting blue-collar job might help explain why his fiction is so often fixated on the less exalted elements of the human body. *The Age of Sinatra* is full of creative extensions of human anatomy, including facial growths called flocculi, sub-human species called neutrodynes and Stinkers, and "death eggs"—edible excretions made by neutrodynes as life leaves their bodies.

After *Motorman* was published, Ohle lived in Austin for several years and was one of a group of experimental fiction writers teaching at the University of Texas. He later became Burroughs' personal assistant, settled in Lawrence, Kansas, and taught at the University of Kansas, where he continues to teach today. In 2002, Grove-Atlantic published *Cursed from Birth: The Short Unhappy Life of William S. Burroughs, Jr.*, compiled and edited by Ohle.

Considering the time involved in the creation of *The Age of Sinatra*, it would be a mistake to place too much emphasis on its relevance to any specific historical moment, whether it be present



day politics or the assassination of Kennedy. In Ohle's work, the whole notion of time, and especially of Great Forgetting, seems to recommend against historical allegory. If anything, Ohle demonstrates how history is apt to circle back on itself, revealing patterns that have no real meaning beyond their own aesthetic charm. The slippery nature of his fiction conceals no hidden agenda, no straightforward political critique. Instead, the slipperiness is *itself* the critique. Ohle is teaching us—maybe "training" is a better word—to face up to the instability of the world we live

in and take an autonomous, creative stance toward it, to just jump into the abyss.

Toward the end of the novel, one of the neutrodynic characters (what differentiates neutrodynes from humans is never really made clear) explains the guiding philosophy of his species, Yogic, a "marriage of Logic and Yoga."

*Art is the communication of feeling. Science is the communication of measure. Yogic is the communication of the intuitive leap. And what is the intuitive leap? Even expecting tomorrow's sun is such a leap. This is both what Yogic is about and what Yogic has nothing at all to do with.*

In his typical fashion, Ohle delivers what might be a central idea couched in satire—a satire of all-knowing wise men who speak in riddles. Ohle will never step forward to tell us plainly what his books are about. In a sense, it's even irresponsible of me as a reviewer to try to pin a stable meaning onto the world

of possibilities he has created. Tell 10 different people to read this book, and all 10 will say that it's about something different. But judging by the response to Ohle's first novel, there is one reaction they are likely to have in common: They'll want to read more. That wish might be granted—Ohle reports that he is at work on a third book set in Moldenke's world, tentatively titled *The Pistown Chaos*. Here's hoping that he can finish it sometime before 2035. ■

*Michael Agresta is a prose writer and playwright in Austin.*

# Remember Hernandez

BY JOSE VELA

## *Mexican Americans and the Law: ¡El pueblo unido jamás será vencido!*

By Reynaldo Anaya Valencia, Sonia R. Garcia, Henry Flores, and José Roberto Juárez Jr. University of Arizona Press 197 pages, \$15.95

**F**or too many Americans, the history of the struggle for civil rights begins in 1954 with *Brown v. Board of Education* and ends in 1968 with the assassination of Dr. Martin Luther King. As important and defining as these events are, the true history spans hundreds of years and involves virtually every ethnic, racial, political, and religious group in the country. Yet ask about the role of Mexican Americans in the civil rights movement and most people—even most Mexican Americans—will look back at you with a blank stare or a shrug of their shoulders. A quartet of professors from St. Mary's University in San Antonio attempts to change that with *Mexican Americans and the Law: ¡El pueblo unido jamás será vencido!*

They begin with a discussion of the U.S.-Mexican War and the Treaty of Guadalupe Hidalgo. Through the Treaty, the Mexican government sought to preserve the rights of its citizens who lived in territories that were now under U.S. control. Mexico negotiated promises from the Americans that guaranteed Mexicans in the United States the same political, property, and religious rights enjoyed by U.S. citizens. Unfortunately, the U.S. government never enforced the Treaty, and its promises of legal protections for Mexicans were never realized. As the authors write, "The early history of the relationship between Mexican Americans and the legal system chronicles abuse and violence at the hands

of law enforcement agencies and the courts." Some of the most severe abuses took place right here in Texas. But the state's history of racism and discrimination also produced many of the nation's leading civil rights organizations—including the League of United Latin American Citizens (LULAC), American G.I. Forum, and the Mexican American Legal Defense and Educational Fund (MALDEF). The landmark 1954 decision *Hernandez v. Texas*, the major case involving Mexican Americans and jury selection, also marked the first time that Mexican American attorneys argued before the Supreme Court.

In 1952 an all-white jury in Jackson County, Texas, convicted a migrant cotton farmer named Pete Hernandez of the murder of Joe Espinosa. Although the population of Jackson County was nearly 25 percent Mexican American, no one with a Latino last name had served on a jury in 25 years. As the authors point out, the relationship between Mexican Americans and the U.S. legal system was complicated because the United States had only two racial classifications: colored and white. Before the courts could determine what rights Mexican Americans possessed, they first had to answer a central question: Were they colored or white? In *Hernandez*, the U.S. Supreme Court answered by deciding that Mexicans were neither black nor white—they were Mexican! They were recognized as a distinct group that could be protected by the U.S. Constitution.

*When the existence of a distinct class is demonstrated, and it is further shown that the laws, as written or as applied, single out that class for different treatment not based on some reasonable classification, the guarantees of the Constitution have been violated. The Fourteenth Amendment is not directed solely against discrimination due to a "two-class" theory—that is, based upon*

*differences between "white" and Negro.*

No single issue has ignited the Mexican American community as much as education. Texas' dysfunctional public school system has been a frequent target of those legal efforts. In *San Antonio Independent School District v. Rodriguez*, Mexican American parents sued to declare the state's system of funding public schools unconstitutional, arguing that education was a right guaranteed by the U.S. Constitution. The Supreme Court disagreed, rejecting both the idea that education is a fundamental right and that educational funding based on local wealth is unconstitutionally discriminatory, despite the huge inequities it produced. In *Plyler v. Doe*, Texas public school policy was once again before the U.S. Supreme Court after the legislature passed a law denying education to children who were undocumented immigrants. This time the Supreme Court struck down the law, stating:

*Persuasive arguments support the view that a State may withhold its beneficence from those whose very presence within the United States is the product of their own unlawful conduct. These arguments do not apply with the same force to classifications imposing disabilities on the minor children of such illegal entrants. Even if the State found it expedient to control the conduct of adults by acting against their children, legislation directing the onus of a parent's misconduct against his children does not comport with fundamental conceptions of justice.*

The 1973 *Rodriguez* decision was a major defeat for Mexican American legal activists. A victory would have enshrined education as a constitutional right and, combined with the equal protection clause, mandated some level of educational equality throughout the

nation. With the loss in *Rodriguez*, the fight for an equal education for all children turned to the state and local level, where it continues today. Although the Supreme Court was not ready to declare education to be a constitutional right, the 1982 *Plyler* decision showed that the Court was equally uncomfortable with a state explicitly denying education to a particular group of children. What balance was the Court attempting to strike? The answer may lie in the difficulties the nation encountered in trying to implement *Brown v. Board's* promise of an integrated public school system. In addition to the explicit, violent resistance that school integration faced in the South, was the quiet opposition it faced throughout much of the rest of the nation. Faced with sending their children to newly integrated schools, many white parents simply sent their children to private schools or moved to suburban enclaves unaffected by integration. Because of these trends, today's schools are virtually as segregated as they were in 1954. (Actually, they are more segregated according Gary Orfield, co-director of the Civil Rights Project at Harvard and co-author of a path-breaking 1997 book *Dismantling Desegregation: The Quiet Reversal of Brown v. Board of Education*). In the aftermath of *Brown v. Board*, legal activists discovered that it is much easier to achieve a legal victory than it is to actually implement it. The *Plyler* and *Rodriguez* decisions show that the modern Supreme Court is a more pragmatic institution, content to strike down laws that offend its legal conscience yet unwilling to pursue the greater vision embodied in the Ameri-

can Constitution.

Reading through the book, it is striking to see how divided the Court has become as it continues to wrestle with the legal and social issues that come before it. In older civil rights cases such as *Hernandez v. Texas* and *Brown v. Board of Education*, it rendered unanimous opinions that were clear and unequivocal in their reasoning. Rarely does the Supreme Court render a 9-0 decision in a major civil rights case any more, and often its decisions are uncertain and unclear. In *Plyler v. Doe*, the decision was 5-4, with the five justices in the majority unable to agree why what Texas did was unconstitutional. *San Antonio Independent School District v. Rodriguez* was another 5-4 decision. The nine justices wrote five sepa-

rate opinions, with no single opinion garnering the support of a majority. The Supreme Court's recent 5-4 decision in *Grutter v. Bollinger*, reaffirming the constitutionality of affirmative action, continues the trend of close decisions in major civil rights cases.

One of the strengths of this book is that the authors allow the justices to speak for themselves by including their actual opinions. By keeping their commentary and criticism to a minimum, the authors focus the reader's attention on the legal analysis of the court. When they do comment, it is usually to highlight the importance of a decision or to place it in its proper historical and legal context. While it is clear from the commentary that the authors are intimately involved in many of the issues they canvas, they manage to keep the tone balanced.

The primary intended use of *Mexican Americans and the Law* is as an undergraduate textbook, with each chapter covering a specific issue, such as immigration, educational equality, voting rights, and affirmative action. Discussion questions and suggested readings are at the end of every chapter. As Texas' universities struggle to adapt to the state's changing demographics, the book could not have been published at a better time. Moreover it serves as a point of departure for any discussion of the seemingly endless battle to provide a decent education to all children in this state. ■

*Jose Vela grew up in Laredo and is a recent graduate of the University of Texas School of Law.*

the mexican american experience

# Mexican Americans and the Law

¡El pueblo unido jamás será vencido!



REYNALDO ANAYA VALENCIA, SONIA R. GARCIA,  
HENRY FLORES, AND JOSÉ ROBERTO JUÁREZ JR.

—Fabelo, continued from page 20

tify where these guys fall, in what group, and the judges use it and try to divert people that way.

**TO:** Well, the governor, when asked about Texas' lack of capacity, says that we can just outsource to private facilities and county jails. But is that really a cost-effective solution for the state?

**TF:** Well, it might be cost-effective in the sense that it might cost a little bit less than housing them in the prison system. It might reduce some of the prison construction cost. If some of the privates construct their own prisons, I guess, or the counties pay them for holding them there. But the operational cost will still be large. You still have to pay for housing those people. And at one point, the question becomes, "Where's the end of this thing? How large is this going to get?" We have 160,000 prisoners. Are we going to do this every four, five years? Buy 6,000 more prisoners? Somebody is going to have to really answer questions. And I have asked that question before. What it requires is a strong commitment to

enhance other parts of this system that we have not enhanced very well.

**TO:** What questions should legislators be asking of the folks at the Legislative Budget Board who are doing some of what you used to do? What information will be missing that legislators should know?

**TF:** Let me tell you a part that was invisible. What we did a lot was serve as a neutral facilitator among the agencies to agree on what was the problem. Agree on some potential options for the problems. Agree on how we were going to approach this to provide the best information for the Legislature and the governor on what to do next. And then agree on accountability measures that the agencies will participate in to move the agenda forward. That was kind of invisible in the sense that what they tended to see were reports, projections, and so forth. But now that I'm traveling all over the country, ironically, I'm doing this role [in other states].

In this state you have all these agencies and the legislative board types and so forth, you need a mechanism for

somebody that is perceived as neutral, coming in and facilitating all this work with the agencies to provide a consistent and cohesive view of what needs to get done and how you're going to hold everybody accountable for doing it and have everybody working together. I did a lot of that so, a question that you need to ask somebody is whether, that part, that function, has been done or somebody's doing it. I honestly do not know. I don't want to speculate because it sounds pretty self-serving.

**TO:** In your final years there, did you ever feel—I'm not saying that you gave in to it—but did you ever feel pressured to reach any kind of conclusion?

**TF:** No. I mean there were a lot of pressures during the last session. But everybody that knew me, knew that I would listen, try to figure out what was reasonable given the base of numbers, of information, and give them my best judgment, and that's what they always praised me for doing. And any attempts to put pressures that were blatantly political, [they know] I will not do it, and [instead] pay the consequences.

**TO:** That's pretty much what happened!

**TF:** I don't know, [laughs]. But, that was my job, that's what they paid me to be. They needed to have somebody that they saw not playing any games with the judgment calls. And many times, Republicans and Democrats—and believe me I have good friends on both sides, very good friends—[would] tell me, "maybe we don't like what you say sometimes, but we know it's your judgment call based on the best information that we have. And if we don't like it, we're going to tell you and then try to work on it. But that's what we like, because there's a lot of people who come here, and you know they have all kinds of agendas."

And so at a certain point they don't believe anything and this is the problem. It becomes a game of opportunity—using information to create opportunity as opposed to using information to create options that most people think are reasonable [to provide] alternatives to whatever problem they're facing.

It's fascinating. The use of information in a power structure is something that fascinates me and I love to watch it.

**TO:** One last question: Why do you think the agency was terminated?

**TF:** [Laughs]. I just take it as a big compliment what [they] said. We did such a good job in helping the state get out of the crisis in the early '90s, that we were no longer needed! [Laughs]. So we worked ourselves out of a job! The only agency that has done that. And I appreciate the compliment. ■

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—Weatherford, continued from page 9

of potty-mouthed name-calling, sexual innuendo, and scripture. One, which appeared around Halloween, featured a series of gravestones, etched with the names of college administrators. Another accused Huff of having “an abandoned waterlogged mobile home for a brain.” But it was the word of the Lord that made folks skittish.

This past May, the college’s board of trustees received an anonymous letter that ended with various passages from the Bible, including *Romans 2:8-9*: “There will be trouble and distress for every human being who does evil.” Many of the bureaucrats felt that the sudden evocation of scripture, like Samuel L. Jackson quoting Ezekiel in *Pulp Fiction*, warned of a coming bloodbath.

Huff, Stone, Poston, and most of the college’s top administrators believed that Hartgraves was behind the letters. They decided to investigate. But rather than calling in professionals, the probe was turned over to Stone, the top campus cop, and Poston, the geologist.

Last summer, according to Stone, they received a tip that Hartgraves might be dropping by the Chuckwagon for a Thursday powwow with his former colleagues. They decided to target the meetings. Stone then made some phone calls to local police officers, asking for advice on how to set up an undercover

bugging operation.

In Texas, obtaining legal authority to monitor somebody else’s conversation is a long and involved process—one that is limited to certain offenses, such as murder and drug investigations. If the police want to record a conversation without consent, they have to apply to the Texas Department of Public Safety. That application, if approved, then has to be certified by the county district attorney. Next, the district attorney has to send an affidavit and an application to one of the handful of judges in Texas who can issue a warrant for covert surveillance.

Pretty soon, Stone must have realized that no judge would ever sign off on Mission Impossible at the Chuckwagon. The would-be eavesdroppers would have to do it themselves. According to court documents, Stone bought a recorder at WalMart. Poston bought one at Best Buy. By late July their operation at the Chuckwagon was in full swing.

The plan was this: On Thursday morning they would plant the recorders on the underside of the professors’ regular table and station undercover officers around the Chuckwagon. Officer Ingram would sit inside with a cell phone. If Hartgraves showed up, she would call Poston, who would be waiting outside. Once he got the word, Poston would stroll into the restaurant, express surprise at seeing

his long-departed colleague (“Of all the Chuckwagons, in all the towns, in all of Texas...”), and try and bait Hartgraves into admitting authorship of the letters.

A few days later, the district attorney’s office called in Poston, who corroborated most of Stone’s story. Poston told the investigators that since Hartgraves never showed up, they had erased all the recordings. “We never listened to them,” said Poston. “I could care less what those guys are saying. I wanted Morri.”

Throughout the interrogation, Poston repeatedly played up Hartgraves’ potential for violence, calling him a “fruitcake,” who had gone “off the deep end,” and posed a “terroristic threat.” Every so often, Poston would drop the word, “Columbine.”

But investigator Rutledge noted that there were several glaring problems with Poston’s version of events. First, contrary to Poston’s explanation, there were still recordings of the professors that hadn’t been erased. Secondly, they must have known that Hartgraves lived in Levelland, which is more than 300 miles west of Weatherford. Lunching at the Chuckwagon would require him to spend roughly 12 hours on the road. And even if he did show up, why not put the recording device on Poston? In Texas, it’s legal to tape record your own conversation. The only reason, it would seem, to put the recorder under the table was to monitor the professors’ conversation.

Rutledge also discovered that Ingram, the undercover campus cop who was posted inside, supposedly to identify Hartgraves, had no idea what he looked like.

Finally, if Poston and Stone were so concerned about Hartgraves going on a rampage, why hadn’t they filed for a restraining order, or posted pictures of him around campus, or alerted their officers to be on the lookout for him? Rutledge noted that not a single piece of paperwork had been filed in their probe. “That doesn’t sound like a real investigation to me,” said Rutledge.

On August 31, the district attorney’s investigators questioned President Huff about his knowledge of the Chuckwagon stakeout. Huff admitted that he was



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privity to the plan—as least, in a general sense. “After the tape recorder was found and I found out how they did it,” said Huff, “it certainly didn’t meet my expectations. I had visions of a little round button that you stick under the table rather than a tape recorder. But that’s probably a TV scenario.”

In the end, it was a scenario right out of Comedy Central’s *Reno 911!* But the investigators weren’t laughing. Under certain circumstances, recording other people’s conversation without their consent is a felony in Texas.

Throughout his videotaped interview, Poston maintained that the Chuckwagon espionage didn’t meet those conditions. Specifically, Poston argued that the professors couldn’t claim an “expectation of privacy” since they were meeting in a public restaurant.

Rutledge was unconvinced. “It just doesn’t make any sense to me how anybody could think that they could legally put a bug under the table in a restaurant,” Rutledge told Poston at one point. “I’ve been a police officer for 32 years and I’ve never seen a police officer place a recorder under a table. That’s just unheard of. It boggles my mind.”

**B**ack at the Chuckwagon on Thursday afternoon, Max Ratheal strolls in from out of the rain. He says hello to Jeanie the waitress, hangs a left at the salad bar, and rumbles toward the usual table in the back. “I tell you what,” says Ratheal. “It is thoroughly miserable out.”

Ratheal takes off his rain jacket and sits down at the table. Since retiring from the college, Ratheal has gone back to work in the propane business.

“Max is our resident propane delivery man,” Bull tells me, gesturing across the table. “He used to be a chemistry teacher.”

“He moved up in life,” says Reeves.

“He passes a lot of gas everyday,” adds Miller.

Thus the weekly meeting of the Weatherford Business and Professional Men’s Club commences with an old standby, some good-natured ribbing.

This past fall, a grand jury decided not to indict either Stone or Poston for their roles in bugging the Chuckwagon. But more recently, the professors celebrated a victory of sorts in another venue. In December the college’s board of trustees voted to put Huff on paid administrative leave. “I think the good that has come out of this, is that it has exposed Don Huff and his administration,” says Miller. “Hopefully he’s embarrassed enough people up there, that they will never try this again.”

In October, the four remaining members of the club (Nancy McVean has since dropped out) filed a civil lawsuit in state court against the various members of the college who took part in the Chuckwagon espionage. Attorneys David Broiles and Karin Cagle of Fort Worth are representing the professors along with assistance from the American Civil Liberties Union. Broiles believes that the case will raise some serious issues concerning academic freedom, university responsibility, and campus security.

In the meantime, if you want to record the lighthearted banter of the Tablegate Four, you’re welcome. Just keep your recorder, like mine, on top of the green tablecloth.

“People ask me, ‘Do you still eat at that table?’” say Reeves. “I say, ‘Of course I do. It’s the safest table in town.’” ■

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*Felix Gillette is a writer in Austin.*

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—*Bad Bills, continued from page 12*

er.” Hughes conveniently edited that for a press release, which ominously read, “[Roche] admitted the camps ‘could be a magnet for pedophiles.’”

Armed with his good intentions, Hughes crafted his bill, which doesn’t set parameters on what exactly a nudist camp is. Can the children be naked half the time? Can they sleep naked? When asked why nudity wasn’t defined in the bill, Hughes said he wanted to leave it up to the Department of Health and Human Services to define it. “We decided the best route was for the agency to promulgate specific rules,” he said. Hughes would only define nudity thus: “By nudity I mean no clothes.” It remains

to be seen how far HHS will go (no showers? no skinny dipping?) if indeed the bill passes.

Until then, fetch the volleyball. Let’s get nekkid.

## **Bush Country House Bill 137**

### **Rep. Ken Paxton (R-McKinney)**

There go those Big Government Republicans again. Rep. Ken Paxton’s HB 137 requires all state boundary signs erected by the Department of Transportation (TXDOT) to include the phrase, “Welcome to Texas—Proud to be the Home of President George W. Bush.”

“Welcome to Texas” signs already designate the state boundary across highways and interstates around Texas. HB 137 will add plaques with the new phrase to 66 existing signs erected along interstates and U.S. and state highways. TXDOT estimates that the project will cost \$28,560. While that’s loose change in the agency’s billion-dollar budget, surely the president would prefer that his adopted home state provide for its neediest citizens before spending money to sing his praises.

Consider this: On average, it costs the state \$2,412 a year to provide a Temporary Assistance for Needy Families (TANF) grant to one impoverished family of three, and \$1,534 dollars annually for every Medicaid-eligible child. The cost of the signs could provide TANF grants to as many as 12 more Texas families and enroll 19 more children in the Medicaid program.

Of course, Dubya is not particularly known for his modesty. (Remember: “It’s not a swagger. It’s jus’ what we call walking.”) But how about this for fiscal conservatism: There are still three and half more years to go for this president. Anything could happen.

How much more might it cost if the state is forced to take the signs down? ■

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*Bad Bills are compiled by the Observer’s Bad Bills Girl, who rises vampire-like from hibernation every two years to suck the blood from vile or absurd state legislation. If you have a likely candidate for “Bad Bills,” fax her at (512) 474-1175, or e-mail editors@texasobserver.org.*

# A Letter from Tulia

Last month, Tom Coleman, the former undercover narcotics agent whose uncorroborated testimony was responsible for the 1999 drug sting that snared 15 percent of the black population of Tulia, went on trial for perjury in the Lubbock County courthouse. Court officials feared that they would have to ration seats to accommodate an overflow crowd. Less than two years ago, reporters from all over the country descended on Tulia to watch people whom Coleman had helped put behind bars relish their newfound freedom. Cameras zoomed in as Kizzie White embraced the young children she hadn't been able to touch for almost four years. Joe Moore, an aging hog farmer, said he was looking forward to eating his first decent plate of barbecue since police officers pulled him out of his truck on the morning of July 23, 1999, and slapped handcuffs on his wrists.

This time around, the courtroom was relatively empty. On January 18, there were just four reporters and three spectators on hand for a hearing in Tulia in which Judge David Gleason sentenced Coleman to 10 years' probation and a \$7,500 fine. When it was all over, Cole-

man and his attorney tried to slip out a side door. A lone camera crew clattered down the hall in pursuit of one last sound bite from the man who had made Tulia famous.

With Coleman's quote in the can, the camera was turned on me, and I was asked the same question I have been answering for the past two years: Would Tulia be able "to heal" now that the Coleman case was resolved? The question was far more complicated than the young reporters from Lubbock and Amarillo could possibly have imagined.

In 1998 I moved to Tulia from Derby, Kansas. Nancy, my wife, felt a strong need to be reconnected with her roots and her parents were going to be retiring here. I didn't have a hometown. After the death of my parents in the 1990s there was little reason to return to my childhood home of Edmonton, Canada. By default, Tulia became my hometown.

My first reaction to the arrests was to check the list for familiar names. If I had understood what Tulia's big drug sting was all about, I wouldn't have worried. Nobody in our circle of acquaintances was on the target list. What got me really angry was an editorial in the

*Tulia Sentinel* praising the sheriff and the district attorney for rounding up the "scumbags." At the time I believed all the pious bromides about people being presumed innocent until proven guilty beyond a reasonable doubt. I've come to realize that's mostly a feel-good mantra that applies to some people but not others.

About two weeks after the big drug bust, I voiced my concerns during a Sunday school discussion. "Scumbags are exactly what they are," a flushed gentleman responded. "They're all guilty and they're all going to jail." Six months later this same gentleman served as jury foreman in one of Tulia's drug trials. From day one, my mother-in-law, Patricia Kiker, was asking the right question, "How could you have 46 drug dealers in a town the size of Tulia?"

And then Joe Moore was handed a 90-year sentence in December of 1999. I think even Terry McEachern, the district attorney, was shocked. The sentence was a hate crime. People hated Joe. Not Joe personally, they hated what they thought he represented—a black guy skulking around behind the high school peddling poison to their kids. Joe's history encouraged this kind of morbid speculation. For decades Joe had been one of dry Swisher County's high-profile bootleggers and had served time for a couple of two-bit drug charges in the early '90s.

In small Texas towns—when the charge is drugs and the defendant is poor and black, evidence is optional. Young black men, fresh out of high school, get picked up for assault or drug possession and accept a plea bargain for five years' probation just to get back on the streets. Those who fight a charge in court are convicted unless they can prove their innocence. On the streets, probation is called "paper prison." Once you have a felony conviction on your record the slightest infraction of the

**With Coleman's quote in the can, the camera was turned on me, and I was asked the same question I have been answering for the past two years: Would Tulia be able "to heal" now that the Coleman case was resolved?**

plea agreement can send you to prison.

When Moore was convicted we didn't know that Coleman had been arrested on theft charges in the middle of the Tulia operation or that he had left his last job in law enforcement owing the merchants of Morton, Texas, almost \$7,000. But it was clear from the outset that Coleman was a liar. In court, his testimony changed on the fly and the lurid accounts of the poor side of Tulia he fed to the media (crack whores, assault rifles, crack babies, and sneering drug dealers showing off the fancy boat or brand new pickup parked in

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the driveway) just didn't fit bucolic little Tulia. Not only did no one on the poor side of Tulia own a fancy boat or a new pickup truck—there were no driveways to park them on.

Shortly after Joe Moore's trial, white residents like Charles and Patricia Kiker, Gary and Darlene Gardner, and Nancy and I were having intense conversations with the defendants—most of them black—and their families. People like Freddie Brookins Sr., La Wanda Smith, Thelma Johnson, and Sammie Barrow opened a window into Tulia's black community. The media has always painted the Tulia fight as a controversy between

black people saying the defendants were all innocent and white people saying everyone was guilty: This is a gross distortion. The Coleman operation was opposed by a small but vocal group of white residents and heartily supported by a small (and silent) segment of the black population. Tulia's black community was divided between the Baptists and the Pentecostals, between "straight" people who attended church and "street" people who didn't, and between those able to maintain a blue-collar standard of living and those who limped along on welfare and dead-end jobs.

But everybody in Tulia's black community knew Joe Moore was no drug dealer. After a decade of harassment from local officials, Joe had organized his life around a simple goal: staying out of prison. Not only had he run Coleman off his place on two occasions, he had repeatedly warned his young friends to stay away from the man with the ponytail.

We quickly learned that the motivation behind Tulia's war on drugs was tangled up in the economic and social history of the community. Local officials winked at Joe Moore's bootlegging for decades because Joe played a vital role in the agricultural economy. Joe owned three old trucks for hauling hay and could organize a large crew of experienced and efficient workers with the snap of his fingers. Black men like Joe Moore played a subservient but indispensable role in Swisher County society. Then agriculture went corporate and there were far fewer farmers needing hands. After years of promiscuous irrigation, the section of the Ogallala Aquifer under Swisher County was largely depleted. Desperate farmers drove their tractors to Washington in the early 1980s to protest rising production costs and plummeting commodity prices.

At the same time, high-tech innovations like round bales and roundup-ready cotton drastically reduced the need for field labor. As protest gave way to sober resignation, hundreds of Swisher County farmers moved to the cities or found work in a suddenly booming criminal justice infrastructure. Larry Stewart gave up farming in the late

1980s to become a police officer and was named Swisher County sheriff in 1991. District Attorney Terry McEachern filed for bankruptcy during the same period and turned his hand to prosecuting criminals. As family farms gave way to massive feedlots and sprawling high-tech corporate farms, the unwritten social contract that once bound white farmers to their black field hands was severed. Some of the older black men found a place in the local economy but the kids leaving high school were viewed as surplus population. In a futile search for steady employment and decent wages they would flip burgers or wash dishes, shovel shit at the Sale Barn or work in the heat and dust at the seed company.

The local drug scene also followed the dictates of harsh economic reality. Coleman's targets defendants were all charged with selling expensive powdered cocaine to him. A dealer needed at least \$100 in his pocket to buy a little baggie of powdered cocaine from a supplier and few Tulia defendants saw that much money in a month. While some of Coleman's cases may have been legitimate, many were plainly bogus and there was no way of distinguishing the good cases from the bad. The only sensible and just solution was to pretend Tom Coleman never visited Tulia, Texas.

Tulia's black community taught me what it means to live on minimum wage. So many people we talked to couldn't afford to pay the phone bill or keep a vehicle on the road. A Tulia-based organization called Friends of Justice came to life as black residents shaped the story and white residents framed it for the media. We started writing letters to the editor questioning the validity of Coleman's testimony. We filed FOIA requests. We wrote an amateur writ for Joe Moore. When Nate Blakeslee's investigative story appeared in the *Observer* ("The Color of Justice," June 23, 2000), we used it to flog the Tulia story wherever we could.

"Tulia" happened because local black and white residents pooled their resources and refused to back down. Lawyers didn't start this fight. Local court appointed attorneys who sub-

sist on nickel-and-dime cases are desperately dependent upon the good will of the district attorney and judges. If they are too aggressive they won't get any more court appointments. There were also plenty of good attorneys in Lubbock and Amarillo who declined to represent Tulia defendants, because the money was bad and they didn't think black drug defendants had a chance in Swisher County. They were right on both counts.

Once the national media got involved, the Tulia story was about overt *Mississippi Burning* racism; a story about a racist cop and a racist town framing innocent black people. Although we tried to encourage a more nuanced treatment, the choice was between a race-driven story or no story at all. And a gusher of national media attention has produced remarkable results. Governor Perry pardoned 35 Tulia defendants. The city of Amarillo settled a civil lawsuit filed by the Tulia defendants and their attorneys for \$6 million. Terry McEachern lost his bid for re-election as district attorney last year and has been sanctioned by the Texas Bar Association. The Panhandle Narcotics Task Force has been disbanded. And now Tom Coleman has been convicted of aggravated perjury. Meanwhile, the outside world is content to see Tulia as a vestige of Jim Crow America; and most Tulia residents feel their town got a bum rap because Yankee lawyers played the race card. Both perspectives are woefully mistaken, but they fit neatly into a sound bite.

**W**e maintain a polite relationship with some of Nancy's relatives, getting together on special occasions to talk about the weather and cattle prices, but never about "Tulia." Some relatives don't talk to us at all. Nancy has a great aunt and uncle who violently opposed what we were doing. He wrote letters to the editor condemning our position; she wrote a personal letter saying that we were banned from the family reunion in perpetuity and that she had torn our kids' pictures off her refrigerator.

Like the Coleman sting itself, this kind of violent reaction is rooted in painful history. From its founding in 1890 until the end of World War II, the people of Swisher County were dirt poor. Then came a magical period during the '60s and '70s in which the economy exploded. Then it all fell apart. For the last three decades people have worked hard and sacrificed much to keep their little scrap of a town alive. And to have people like me come in and reduce their community to an ugly caricature of racism has really pissed them off. I understand their sorrow and resentment every bit as well as I understand the sense of hopelessness and fear in the black community. Both sides in this fight have been victimized.

So now we're trying to show how Tulia reflects a bigger picture—the explosion of the prison population, the development of narcotics task forces in Texas, and how the criminal justice system is driven by the cruel face of poverty. Texans could have invested billions of dollars in economic development. Instead, we led the nation in increasing the size of our prison population, from 39,000 in 1988 to 151,000 10 years later. Texas Department of Criminal Justice statistics reveal that between 1991 and 1995 alone, 57 prisons were built in little Texas towns while the incarcerated population soared by 108,000. One of these facilities went up in a once-productive farm field west of Tulia.

It is no coincidence that the Panhandle Regional Narcotics Task Force was one of several dozen regional narcotics task forces established in the late 1980s. These outfits have no discernible effect on the illegal drug trade, but they provide a nifty mechanism for transferring poor black people from urban ghettos to prisons in cash-strapped rural communities. These trends made something like "Tulia" almost inevitable. And Tulias are happening all over the place—in Dallas, in Hearne, in Palestine, and dozens of other small towns and big cities.

In Tulia, 84 percent of the defendants were black; statewide, 70 percent of convicted drug offenders are black. Tulia is simply an egregious example of busi-

ness as usual.

It all comes back to poverty. Back in the "Great Society" period of the 1960s, widespread poverty was considered a national disgrace. Now we're living in the Alan Greenspan era and a certain measure of unemployment is considered necessary to keep American companies competitive. It is widely believed that large pools of surplus skilled labor must be maintained to keep downward pressure on wages and to hamstring the labor movement. If white-collar folks are anxious and insecure it comes as no surprise that the plight of the unskilled, the uneducated, and the unconnected is simply desperate. Viewed from the penthouse suite, these are throwaway people. Will we use the war on drugs to protect the winners from the losers; or will we use a renewed war on poverty to dramatically expand economic opportunity? Or is anybody even asking the question any more?

You don't realize the extent of the problem until you've talked to well-meaning, liberal progressives—often people who had personal experience of the civil rights movement of the sixties. They're thinking of issues of poverty and civil rights as if it was still 1965. They've sentimentalized the Tulia defendants because they don't understand that the new racism has as much to do with economics and social class as it has to do with skin color.

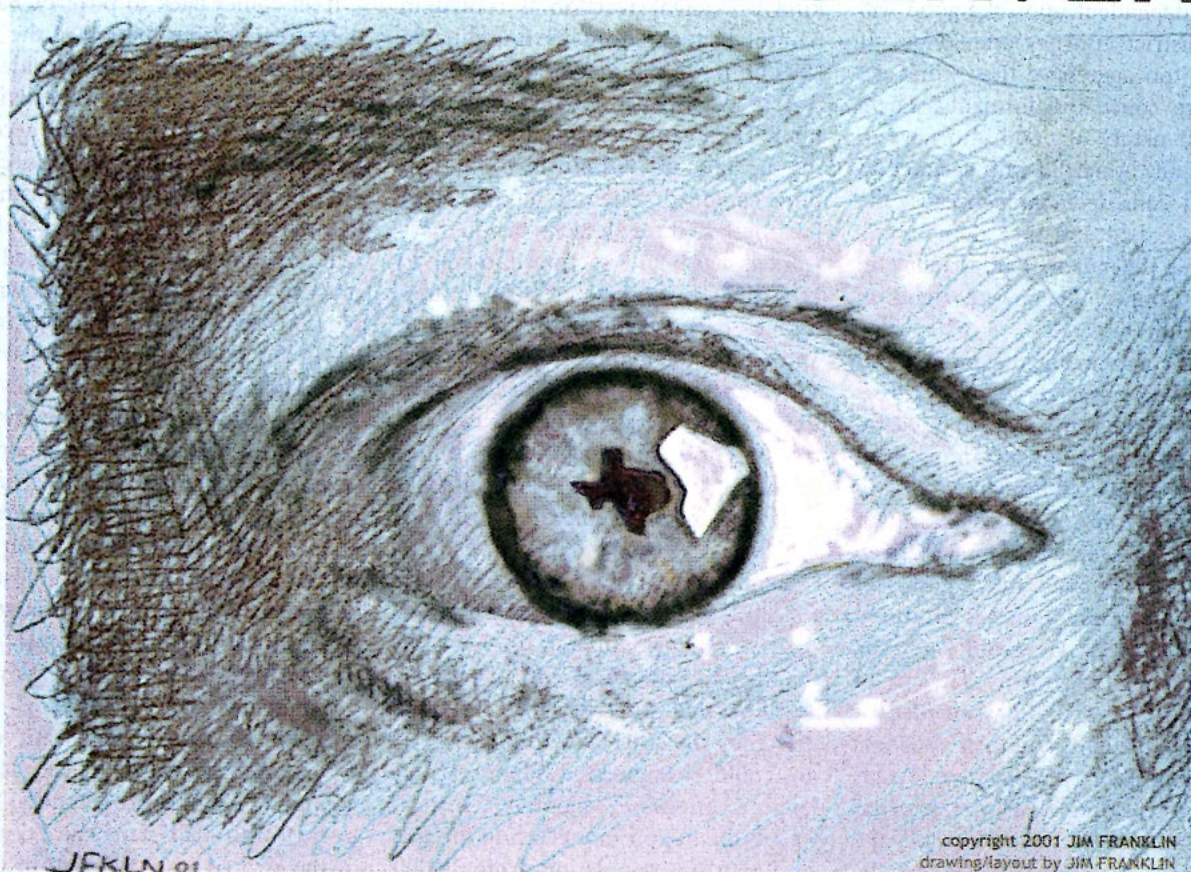
Tulia's big drug bust was the culmination of two decades of economic misery; a little community was stretched to the point where something had to give—and something gave. This isn't about the "healing" of Tulia—it's about the healing of Texas. Tulia is a symptom of a general disease.

Tulia itself doesn't matter; it's just another piss-ant town in the middle of nowhere. But I see Tulia as a parable, a metaphor, a cautionary tale... and the place I call home. ■

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*Alan Bean is the director of Friends of Justice, a Tulia-based criminal justice reform organization. He is writing Taking out the Trash in Tulia, Texas, an insider's account of the ill-famed Coleman drug sting.*

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