

Broadcast Ten, ¶¶ 1-3: The reported information on drug cases and drug-related crimes was obtained from prosecutors' reports supplied by the McLennan County District Attorney's Office and compiled by the Waco Police Department. Duncan Aff. ¶ 83 & Ex. 51. All statistics and comments used in this broadcast were presented and discussed at a Waco City Council Meeting.

- [1] A population explosion among the Waco criminal element has prompted a call for action from officials of this Central Texas city. Drug cases and drug related crimes, including burglary and robbery, are increasing rapidly. Police have broken up several drug labs and arrested hundreds of suspects. Local and state lawmen say lax prosecution of drug cases by District Attorney Vic Feazell in the last two years has opened the door to increased drug trafficking in McLennan County. Waco City Council members were astounded last week with some preliminary statistics compiled by police from prosecutors' reports.
- [2] 45 percent of 1983 drug cases were thrown out by the District Attorney. 49 percent of 1984 drug cases were dismissed. Police say they have never been advised by Feazell that the cases were not properly handled by their officers. Council members were also told that only six drug dealers were sent to prison from McLennan County in 1983. Just five went to TDC last year. And more than half the suspects arrested on methamphetamine charges were set free.
- [3] Earlier this year, Waco police began taking their drug cases and many other arrests to a federal prosecutor who has produced a 100% conviction rate so far. The Waco city council expressed support for police but is concerned with poor state prosecution in McLennan County.

Broadcast 10 aired on August 11, 1985, and began with a lead-in read by a WFAA anchor person stating:

"Council members met last week in a lengthy closed-door session for a detailed report from police."

This statement ↑ is not in dispute, but Plaintiff does take issue with Defendants' claims to the "fair accounts" privilege of a meeting which was held behind "closed doors." According to news accounts ~~published~~ published concerning the meeting, the council issued a written statement through them - Mayor Reuben Santos, from which some of the statements in the broadcast were derived. (See in paragraphs 1 and 3)

The "call for action" included the following:

"We believe that our police department must make every effort to work with all law enforcement and prosecutorial agencies in the Waco-McLennan county area to eliminate this most undesirable activity. We also encourage all other agencies to work with us in addressing the drug problem... we have asked the police department

(misc)

While Duncan states that the statistics in Exhibit 51 were compiled "from prosecutors' reports," the Exhibit speaks to the contrary. Page 1 of Exhibit 51 states:

"The enclosed statistics were compiled from the Uniform Crime Report and Waco Police Department Records ...

Calls for police service, Part II offenses (total drug cases) and authorized personnel figures were obtained from police department records."

The Report which is Duncan Affidavit Exhibit 51 says nothing concerning case dispositions — nothing about any 45 percent of 1983 drug cases being thrown out by the District Attorney — nothing about 49 percent of 1984 drug cases being dismissed — nothing about the number of drug dealers sent to prison from McLennan County in 1983 or 1984 — nothing about the number of suspects arrested on methamphetamine charges who were set free — and nothing about the conviction rate of any federal prosecutor on Waco police drug cases.

Duncan has no "fair accounts" privilege on any of these statements, and he has produced no evidence that support them.

There is however one important statement in Exhibit 51 to which Plaintiff would like to draw the Court's attention.

That statement appears on page 13:

"Waco drug enforcement officers, assisted by Arlington Police Department drug officers, D.P.S. Narcotics Agents and McLennan County District Attorney's Personnel executed a search warrant ..."

The report indicates that there was one arrest, that guns, chemicals and equipment used to manufacture controlled substances was seized, and that this search occurred on March 26, 1985 — ONE MONTH TO-THE-DAY before Duncan began his so-called "investigation."

"A population explosion among the Waco criminal element has prompted a call for action from officials of this Central Texas city. Drug cases and drug related crimes, including burglary and robbery, are increasing rapidly. Police have broken up several drug labs and arrested hundreds of suspects. Local and state lawmen say lax prosecution of drug cases by District Attorney Vic Feazell in the last two years has opened the door to increased drug trafficking in McLennan County. Waco City Council members were astounded last week with some preliminary statistics compiled by police from prosecutors' reports."

"45% of 1983 drug cases were thrown out by the District Attorney. 49% of 1984 drug cases were dismissed. Police say they have never been advised by Feazell that the cases were not properly handled by their officers. Council members were also told that only six drug dealers were sent to prison from McLennan County in 1983. Just five went to TDC last year. And more than half the suspects arrested on methamphetamine charges were set free."

As I have described earlier in this affidavit, the "local and state lawmen" who told me that lax prosecution had caused increased drug trafficking in McLennan County included Waco police chief Larry Scott, Texas Alcoholic Beverage Commission officer Darnall, Texas Department of Public Safety Captain Ed Pringle, Ron Boyter, and Waco police officers Dean Priddy and Donnie Tidmore. Bill Johnston told me that the increase in McLennan County was greater than in surrounding counties, and a sergeant working in the Drug Enforcement Unit of the Waco police department confirmed that fact. The statement that the Waco police department had not been told that they were not handling cases properly was made to me by Chief Scott.

83. The statistics that were reported in the series were

funny, the broadcast says it was a closed meeting.

given to me by the Waco police department and were reported to the Waco City Council at an open public meeting on a large display board. The statistics were compiled by police directly from prosecutors' reports supplied by the McLennan County District Attorney's Office. A true and correct copy of the updated report dated October 1985 and presented to the Waco City Council by the Waco police department, entitled "Five Year Review and Comparison of Drug Cases and Arrests Processed by the Waco Police Department," is attached hereto as Exhibit 51.

The Report does not substantiate this statement, and Duncan has no personal knowledge

84. The videotape of the Waco City Council meeting incorporated in the broadcast was provided to me by Waco television station KCEN-TV, Channel 6, which had covered the meeting.

85. Part 10 continues:

"Earlier this year, Waco police began taking their drug cases and many other arrests to a federal prosecutor who has produced a 100% conviction rate so far. The Waco city council expressed support for police but is concerned with poor state prosecution in McLennan County."

Again, this information was taken directly from statistics compiled by the Waco police department from figures contained in prosecutors' reports. I believe that the 100 percent success rate applied to six to 12 different cases prosecuted by United States Attorneys. I spoke to a clerk in the United States District Clerk's Office to confirm the 100 percent conviction rate by federal prosecutors.

FIVE YEAR REVIEW AND COMPARISON
OF DRUG CASES AND DRUG ARRESTS PROCESSED BY
THE WACO POLICE DEPARTMENT

1980	1981	1982
1983	1984	

PREPARED FOR THE WACO
CITY COUNCIL MEMBERS

October, 1985



INTRODUCTION

The enclosed statistics were compiled from the Uniform Crime Report and the Waco Police Department records. All arrest figures (Part I and Part II) were compiled from the Uniform Crime Report. All reported Index Crime Offenses (Part I) were also obtained from the Uniform Crime Report. Calls for police service, Part II offenses (total drug cases) and authorized personnel figures were obtained from Police Department records. The Uniform Crime Report does not include Part II offenses.

Statistics cover a five year period from January 1, 1980 through December 31, 1984. Some figures are also included for the first 9 months of 1985.

The purpose of this report is to present only factual information in a format that permits a review of Drug cases and arrests and how this activity compares to other criminal activity in the community. This report also reflects how the City of Waco compares to the State of Texas and the Nation in relation to Index Crimes and Drug arrests.

This report has been prepared at the request of the City of Waco Council members.

Clandestine Laboratory Seizures
JAN-SEPT., 1985 (7 Labs)

FIRST LAB - 1985

DATE: March 26, 1985
ADDRESS: Rt.#5
Waco, Texas (Chalk Bluff Area off FM 933)
CASE NUMBER: 85-03-11968
ARRESTS: One (1)

DRUGS SEIZED:

	<u>Street Value</u>
1. Small amount of Amphetamine	\$ 500.00
2. Chemicals used in the manufacture of controlled substances	2,000.00
3. Glassware and equipment used in the manufacture of controlled substances	500.00
4. 1-Rifle and 1-Shotgun	<u>100.00</u>
Total Amount of Seizure	\$ 3,100.00

SUMMARY

Waco Drug Enforcement Officers, assisted by Arlington Police Department Drug Officers, D.P.S. Narcotic Agents and McLennan County District Attorney's Personnel, acting on information developed by Arlington Drug Officers, executed a search warrant on a farm house in the Chalk Bluff area, just off of FM Road 933. Remnants of a clandestine laboratory was seized, along with a small amount of amphetamine. One person was arrested. Waco Officers had received information on this lab for several months but had been unable to locate it prior to information provided by an informant of the Arlington Officers. Part of the lab had been removed from the farm house prior to the execution of the search warrant.