

For Immediate Release: 7/22/2020

Regarding Our Demands and Press Conference

We will be hosting a Press Conference at Bailey Park on Thursday, July 23, at 2pm.

Demonstrators and occupiers have regularly attended Occupy WSNC for just over a week now. We set up our occupation on the corner of Fourth St. and Patterson Ave, where we regularly host education programming, direct action, marches, speeches from local organizers and activists, vigils, free lunches and dinners, and camaraderie. We are very thankful for all of the support from the WSNC community.

Organizers intend to maintain the occupation until our demands are met. Those demands are as follows:

1. Respond to all questions posed by TAP and UC (outlined below).
2. Ban the use of the prone restraint (hogtie) on ANY civilian, incarcerated or not, sick or not). Make relevant policy changes in the FCDC around protocol for inmates in medical distress.
3. Notify the public of any death involving an officer or deputy immediately. Make relevant policy changes around transparency and accountability in deaths of citizens in custody of the county (including in FCDC and other guardianship situations).
4. Dismiss all charges against protesters from July 8 and July 9 arrests.

Respond to all questions posed by TAP and UC.

Local media outlets that have regularly reported on Occupy WSNC include *YES! Weekly*, *Winston-Salem Journal*, *WXII*, and *News & Observer*, among others. With this being said, we are very aware that the questions and our demands are being heard by the community, as well as by Sheriff Bobby Kimbrough, DA Jim O'Neill, and Attorney Michael Grace. Furthermore, the DA's office and the Sheriff's office have been repeatedly contacted with the list of questions; they have offered no response.

We pose these questions to Sheriff Bobby Kimbrough, DA Jim O'Neill, and Attorney Michael Grace because 1) Sheriff Bobby Kimbrough should have disclosed the death of John Elliott Neville and the subsequent investigation to the public back in December 2019, even without the completion of the SBI investigation and the full autopsy report, 2) DA Jim O'Neill's charges of involuntary manslaughter will not result in justice for John Elliott Neville as evidenced by similar incarcerated death cases in North Carolina and 3) Attorney Michael Grace has conflicts of interest in this case due of his close and long-lasting relationship with Sheriff Bobby Kimbrough,

among other law enforcement entities. Michael Grace presented Sheriff Kimbrough at his swearing-in, and in the dedication page from Sheriff Bobby Kimbrough's book *Surviving the Stop: Change the Atmosphere, Change the Outcome* (2016), he writes, "To...the brilliant ones at Grace, Tisdale and Clifton, you are astute business men who have shared your unparalleled knowledge, keen sense of community and overwhelming support throughout the years -- you are appreciated." *Surviving the Stop* is a short book about how law enforcement officers should protect themselves during traffic stops. Contrary to the thesis of Kimbrough's book: according to the FBI, only 6 law enforcement officers were killed at traffic stops in 2015, and the Washington Post reported that 107 civilians were shot and killed by police officers at traffic stops in 2015.

Ban the use of the prone restraint (hogtie) on ANY civilian, incarcerated or not, sick or not). Make relevant policy changes in the FCDC around protocol for inmates in medical distress.

On December 2, 2019, John Elliott Neville, while under medical distress, was hogtied and murdered by 5 Forsyth Detention Officers (Lt. Lavette Maria Williams, Cpl. Edward Joseph Roussel, Officer Christopher Bryan Stamper, Officer Antonio Woodley Jr., and Officer Sarah Elizabeth Poole) and 1 Wellpath nurse (Michelle Heughins). John Elliott Neville died from injuries sustained by the 5 Detention Officers and 1 nurse on December 4, 2019. The external exam of the autopsy was completed on December 5, 2019 and later reported to the public, along with the "Final Autopsy Diagnosis," on July 7, 2020. According to the external exam section of the autopsy report conducted on December 5th, "*Representatives for the Forsyth County Sheriff's Office and North Carolina State Bureau of Investigations are present during the autopsy*". Representatives of the SBI and the Sheriff's Office were present for this exam and all that was observed and recorded throughout, including the observation of blunt trauma on Neville's back, head, and arm. In the "Summary of Findings" of the autopsy report released July 7th, efforts to restrain John Elliott Neville occurred 10 times, while he was in medical distress and pleading for help. It was the prone restraint (hogtie) that caused asphyxiation, which led to the brain injury observed during the external exam that caused his death. In addition, according to the "Summary of Findings," "investigative reports, detention center documents, videos, and medical records" were all compiled in order to come to a conclusion on the cause of John Elliott Neville's death. The external exam of the autopsy was completed in the presence of the Sheriff's Office and the SBI on December 5th. The SBI investigation, itself, was completed by April of 2020; the evidence of John Elliott Neville's murder was compiled and available to the Sheriff in the reports, documents, videos, and medical records since at least April. The delay in revealing his death to the public was clearly an effort to suppress the information in this investigation and in the autopsy. John Elliott Neville's cause of death: "Complications of hypoxic ischemic brain injury due to cardiopulmonary arrest (resuscitated) due to positional and compressional asphyxia during prone restraint."

According to our (TAP and UC's) press release on July 17 2020, "Sheriff Bobby Kimbrough claimed that the Forsyth County Detention Center is '*not responsible for the health of the*

residents of the detention center, and that this falls under the jurisdiction of Wellpath, the medical provider. He pushed the blame for the murder of John Elliott Neville onto “public health.” However, Mr. Neville is not the first incarcerated civilian in the Forsyth County Detention Center to fall victim to both the FCSO and Wellpath. Dino Vann Nixon (2013), Jennifer Schuler (2014), Stephen Antwan Patterson (2017), and Deshawn Colley (2017) are all reported deaths in the FCDC.”

In 2018, Marcus Deon Smith, a Greensboro man, died while in the hogtie position, a position he was put in while he was in medical distress. Video evidence is available on YouTube, and none of the officers involved in Smith’s death have received any disciplinary action. Smith’s case was also reviewed by the SBI before being turned over to the Greensboro District Attorney’s office. The N.C. Office of the Chief Medical Examiner ruled Smith’s death a homicide. According to the Winston-Salem Journal, Guilford County Chief Assistant District Attorney Steve Cole stated, “I expect going forward at this point that the matter should be considered closed,” in reference to the DA at that time reviewing all SBI reports and determining that the white GPD officers who killed Marcus Deon Smith were not negligent in their act of using the hogtie. Guilford County ADA Steve Cole is referenced by *News & Observer*, referencing the John Elliott Neville case, as saying that Guilford County was not made aware of Neville’s death when ADA Randi Spiker signed Neville’s ROR; in fact “he was charged with failure to appear on Jan. 7 after he missed his court appearance...That order is still pending.”

Our legal and law enforcement offices, across Forsyth County, Guilford County, and the state, need to come together and not only ban the use of the hogtie, but also dedicate extensive time and effort in relevant policy changes which prioritize caring for the lives which are legally in their care. This blatant silence and complicity in the deaths of Marcus Deon Smith and John Elliott Neville is not only unacceptable, it is the epitome of how an unjust system cannot be just without full transparency and accountability.

Notify the public of any death involving an officer or deputy immediately. Make relevant policy changes around transparency and accountability in deaths of citizens in custody of the county (including in FCDC and other guardianship situations).

Lack of transparency and accountability surrounding jail deaths in North Carolina is not new. State Law only requires that Sheriffs report jail deaths if the death occurs in the jail, which triggers an automatic DHHS investigation; thus, the incarcerated who are transported outside of the jail after medical distress, such as John Neville, are technically not required to be reported to the public and do not require a DHHS investigation. However, Sheriff Bobby Kimbrough’s office did report to SBI in the case of John Elliott Neville. Sheriff Kimbrough has repeatedly stated that he could have handled the investigation internally, without SBI, if he was indeed covering up a murder; however, the State Bureau of Investigation is a law enforcement agency and not a true external investigative entity. When asked by the *Winston-Salem Journal* why he did not publicly report this death when it occurred as he has reported previous officer-involved deaths, Sheriff

Bobby Kimbrough said he withheld this information from the public because he didn't know the cause of death until July 7th, just one day after the veto of SB168, which would have kept this autopsy and the cause of death confidential once it was finalized. While Sheriff Kimbrough may not have known the cause of death named in the finalization of the autopsy, he was represented at the autopsy itself and should have notified the public that this death occurred and was under investigation at that time. DHHS has still not investigated John Elliott Neville's death. According to the *News & Observer's* "Jailed to Death" 5-part series, "The largest known settlement for such a death in NC is \$150,000 to the family of Shon McClain, who died of head and neck injuries in 2013 after a Wake County detention officer twice slammed him into a concrete floor. That officer, Markeith Council, received 90 days in jail and three years probation after a jury convicted him of felony involuntary manslaughter." Settlements such as this are from tax dollars. Typically, in the state of North Carolina, Government Immunity is to be provided to county governments, and sheriff departments. Individual immunity is to be provided to public officials including detention officers. This policy limits settlement payouts to between \$10,000 and \$30,000 (N&O).

Furthermore, it should be noted that Officer Markeith was charged with the same felony involuntary manslaughter as the five Forsyth County Detention Officers and the Wellpath nurse responsible for the death of John Elliott Neville. On July 19, 2020, the *Winston-Salem Journal* reported, in "Legislators say local law-enforcement officials did not request controversial death investigation records bill," that Rep. Josh Dobson, R-McDowell claimed the provision added to SB168 that would have limited public access to death investigation records was requested by the NC Department of Health and Human Services (DHHS), and that "it was a good-faith effort to work with DHHS." The *News & Observer* reported that North Carolina Chief Medical Examiner Michelle Aurelius said the request from her department for this language in SB168 was due to reluctance from law enforcement to share death investigation records quickly, citing that this hesitance frequently held up investigations into these deaths. However at the time of the interview with N&O, Aurelius could not cite one specific case in which her office was unable to obtain a record. Multiple outlets have reported that DHHS directly requested the records provision in SB168, and the *Winston-Salem Journal* reported that local officials deny that any communication regarding SB168 occurred between Forsyth County law enforcement officials and the Health House Committee. However, this does not mean that communication never occurred between Wellpath and DHHS, the Police Benevolent Association (the law enforcement union Attorney Michael Grace works for) and DHHS, or between any private parties associated with law enforcement looking to conceal these records from the public indefinitely. While much remains unknown regarding local connections to the proposal of SB168, we seek to raise awareness that there was attempted interference with transparency, this records provision was not denounced by local officials or law enforcement, questions still need to be answered, and accountability and justice are still imperative. The fact remains that the autopsy report for John Elliot Neville was released to the public and charges were brought against the involved officers the day after SB168 was vetoed, seven months after Neville's murder.

Dismiss all charges against protesters from July 8 and July 9 arrests.

According to our first press release titled “Winston-Salem Demonstrators Regarding the Arrest of 20 Peaceful Protestors”, dated 7/10, “The need for civil disobedience in Winston Salem was a direct result of WSPD Chief Catrina Thompson’s broken promise to protect peaceful protests. Forsyth County District Attorney Jim O’Neill held a press conference to announce the six involuntary manslaughter charges for the murder of John Neville in the Forsyth County Detention Center on December 2, 2019. He also used this platform to warn civilians that WSPD and the Forsyth County Sheriff’s Department would prosecute any protesters not complying with law enforcement’s newly outlined command to remain on sidewalks during any protest action. Laws like the one used to criminalize peaceful protesters this week were written to intimidate those demanding transparency, accountability, and safety from law enforcement. In 2020, we stand in the street in an act of civil disobedience, an act of nonviolent direct action, because our brothers, sisters, and siblings are being murdered, mistreated, abused, and neglected in the county jail here in Winston Salem and in many places across the country.” and “ The citation is N.C. Gen. Stat. 20-174.1, “Standing, sitting or lying upon highways or streets prohibited,” a State Law used widely during the 1960s Civil Rights Movement. The fifteen protesters arrested during their acts of civil disobedience on July 9th were also charged with impeding traffic.”

Triad Abolition Project and Unity Coalition will continue to occupy downtown Winston-Salem for as long as it is necessary for our demands to be met. As we move into the coming days of our occupation, we wish to clarify that the work of transformative change has no end while we’re all living in an unjust system of law and law enforcement. Our work continues, as does our community growth.

Our Questions

Why are you covering up a murder?

We demand answers to all of the following questions: Was Sheriff Bobby Kimbrough at any time on the scene during the hogtying of Neville? Why has the hogtie remained an acceptable restraint in Forsyth County when it has been banned in the majority of police precincts across the country years ago? Have there been any changes in the medical provider since Neville’s death? How many other deaths have occurred at the detention center since the death of Neville? Have there been changes to the handcuff policies of sick inmates? When was the last time the FCSO conducted an overall use of force training and handcuffing training for its deputies and detention officers? Were the detention officers that handcuffed Neville certified to handcuff him? Have there been any policy changes for how to handle handcuffs when the key breaks, for when bolt cutters are necessary? When did Sheriff Kimbrough and DA O’Neill

become aware and view of the contents of the video footage, specifically viewing Mr. Neville being hogtied and calling out, "I can't breathe"?

Why was Guilford County never notified of John Neville's death? What would have happened had Guilford County ADA Spiker known that John Neville was resuscitated after losing his pulse in FCDC custody when she was asked to release his unsecured bond? Would these staff members have still been charged had SB 168 not been vetoed by Governor Cooper? Why were these staff members allowed to continue working with our incarcerated siblings for seven months after their involvement in a murder? Would the public have been notified of this murder had SB168 not been vetoed by Governor Cooper? Was the passing of SB168 intended to shield the murder that took place in the FCDC from the public? What involvement did Sheriff Bobby Kimbrough have in the proposal of SB 168 the night before news reports on the death of John Neville were to become publicly available?

Furthermore, according to the Grace, Tisdale, & Clifton website, "Mike and the firm Grace, Tisdale & Clifton are one of the two local firms who represent local law enforcement through the Police Benevolent Association." Michael Grace, the lawyer for the John Neville estate, has been representing the Sheriff's Department since Sheriff Shatzmen's tenure, and presented Sheriff Bobby Kimbrough to the court and to the public at his swearing in ceremony. What rules of professional conduct under the NC State Bar Rule 1.7 Conflict of Interest are implicated by Michael Grace representing both the estate and the Sheriff's Office?

Why are you, Sheriff Bobby Kimbrough and DA Jim O'Neill, covering up a murder?

For further information, please see @TriadAbolitionProject and @_theunitycoalition_ on Instagram. All press release documents can be found at www.triadabolitionproject.org.

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