

# Police Accountability, Community Safety and Healing Initiative



A PROJECT OF THE BELOVED COMMUNITY CENTER  
417 ARLINGTON STREET GREENSBORO, NC 27406  
336.230.0001 OFFICE ~ 336.230.2428 FAX

---

May 8, 2015

Mr. Jim Westmoreland  
Manager, City of Greensboro  
One Governmental Plaza  
PO Box 3136  
Greensboro, NC 27402-3136

Dear Mr. Westmoreland:

Thank you for your apology to Rufus and Devin Scales and for facilitating the dropping of the charges against Rufus Scales. As you know, the Scales Brothers, their family, and the broader social justice community have been burdened by and engaged with this case for over eight months. In fact, a movement has grown up around the Scales case, resulting in a small measure of justice. In this letter we want to:

- a.) Share our views on the broader context and implication of the Scales case.
- b.) Make use of the Scales case to examine specific weaknesses in the Greensboro Police Department's (GPD) Professional Standards Divisions and the City of Greensboro's Complaint Review Committee (CRC).
- c.) Set forth several action oriented proposals to more fully resolve the Scales case.
- d.) Make several proposals to begin to build lasting trust and to promote healing between the community and the police department, while changing the culture of the GPD.

There can be little doubt that there exists a crisis in police and criminal justice cultures across the nation. It is a historically grounded and deeply entrenched culture. At the center of the crisis is the issue of race and racism, a particular form of domination that establishes the context for all the other forms of domination in our nation. Greensboro is very much a part of this culture. While the abuse of police power is manifest in many ways, it is most graphically reflected in a broad pattern of killing of young black people, especially black males. This is not new. It is becoming more apparent because of cell phone videos and a resultant national resistance movement generally called "Black Lives Matter."

This crisis in police cultures grows from and is inextricably bound to the broader culture. Therefore, the broader Greensboro population must be simultaneously engaged with GPD issues on multiple levels. However, because of the extraordinary power granted police, including the legal right to kill in the name of the state (i.e. the people), the police culture must necessarily be a focus. The work before us will be challenging. We believe, however, that as we work together with imaginative, bold and creative engagement of the underlying causes, Greensboro can model for ourselves and for the nation a way forward, as we have done in the past.

The Scales case began on August 4, 2014, when Rufus and Devin Scales left their home on Memphis Street after picking up some groceries for their disabled grandmother, with whom they share a home.

On this warm summer evening at approximately 6:30 PM, they set out on foot walking on the left side of the street, side-by-side, because there are no sidewalks on their block. There was no traffic anywhere on their quiet residential street. As they proceeded less than 25 yards down the street from their home, a police car parked on Atlanta Street at the intersection of Atlanta and Memphis, pulled around the corner onto their street (Memphis) coming towards them.

The patrol car slowed down as it passed them and the officer inside—Officer T.B. Cole—lowered his window and yelled “get out of the street, morons!” Rufus and Devin kept walking, even closer to the curb. Officer Cole then drove about a half block up the street, only to come to an abrupt stop, and then suddenly leap from his patrol car and rush towards Rufus and Devin.

This is not the first time Rufus and Devin have been targeted by the police. They have had at least four prior run-ins with the GPD, involving highly questionable police tactics. The worst of these incidents resulted in Rufus’s face being badly scared as a result of being dragged face down across a concrete parking lot (see photos). Because of previous incidents, Devin, sometime prior to August 4, 2014, began to carry around a digital video camera everywhere he goes as protection from police abuse.

As Officer Cole rushed toward them, Devin quickly pulled out his camera and began to record. Once Officer Cole was upon them, he (Officer Cole) immediately and illegally grabbed for the camera, snapped it shut, handed it to Devin and demanded identification. They turned over their IDs and began to ask for an explanation: “Why are you stopping us? Why are you questioning us? We were just walking down the street.” And, when Officer Cole failed to answer, they both asked for their IDs back.

Even though neither Rufus nor Devin had violated any laws and had not been charged with any offense, Officer Cole said they would have to follow him to his patrol car (3/4 of a block away) to get their IDs back. He then turned his back to Rufus and Devin and began to walk back to his patrol car with their IDs in hand. Rufus and Devin followed him. After a few paces, Rufus understandably frustrated, asked “What is this bullshit?”

That comment prompted Officer Cole to abruptly turn, grab Rufus, and slam him to the ground. Devin again reached for his camera and started recording. Rufus did not resist. The footage Devin captured shows Rufus handcuffed face down on the ground with Officer Cole’s knee pressed into his back. Rufus can be heard repeatedly saying “why are you doing this?” and “are you getting this on film?” Officer Cole finally said, “You can’t just walk around in the street cussing!” There was no mention of blocking traffic. Also, neither Devin nor Rufus had been cursing.

Multiple patrol cars appeared on the scene in less than two minutes. One of the arriving officers quickly grabbed Devin’s camera, threw him to the ground and arrested him without any inquiry. Devin was charged with impeding traffic and was released from custody at the scene. Rufus, however, was charged with public intoxication, resisting arrest, and impeding traffic. Rufus was then jailed for several hours. He had to subsequently post bond to be released.

## **HOW THE JUSTICE SYSTEM, THE GPD AND THE CITY OF GREENSBORO FAILED THE SCALES BROTHERS AND WILL CONTINUE TO FAIL COUNTLESS OTHERS**

A citizen complaint review process is vital to the health of any city and the reasons for this are twofold: first, citizen complaint processes should review cases and hold police officers accountable when they violate law or policy; and second, a citizen complaint review process allows law enforcement the opportunity to restore trust and affirm its legitimacy throughout the city

According to the City of Greensboro website, [Greensboro's Complaint Review Committee \(CRC\)](#) is comprised of volunteer members appointed by the City's Human Relations Commission. The CRC's job is to review findings initially made by the police department's Professional Standards Division (PSD). The CRC "serves as a neutral third party ensuring fair and transparent oversight of the police internal investigative process." It is important to note that the CRC was created because citizens of the city raised numerous complaints about police abuse of power, and because the City saw a need for better oversight of the GPD. By creating the CRC, Greensboro has acknowledged that the GPD cannot effectively police their own.

The Scales case and many others, however, demonstrate that Greensboro's complaint review system, including the CRC, fails to hold police officers accountable, fails to ensure appropriate consequences or punishment, and fails to maintain trust and legitimacy within the community.

With the help of the Beloved Community Center, the Scales Brothers filed a seven page complaint, dated August 7th, 2014 with the PSD, just two days prior to the police killing of an unarmed Black man in Ferguson, MO. The Scales' complaint asserted, along with 12 specific points of wrongdoing, that the criminal charges brought by Officer Cole, which asserted that the brothers were impeding traffic, resisting arrest and intoxicated, were a "ruse" and that both men were "wrongly charged." The complaint made it clear there was no basis for their arrest. The physical, psychological, and legal abuse grew from "walking while black." Race and racism, implicit or explicit, were the underlying reasons why they were stopped and subsequently arrested.

On September 16, the Scales Brothers received what they initially thought was positive news. Captain Cranford of the Greensboro Police Department's PSD sent them a letter, dated September 16, 2014, which stated that their complaint had "been thoroughly investigated." Further, the letter concluded "there was evidence to substantiate your complaint against Officer Cole for his actions on August 4, 2014." The letter added that the department had addressed the matter "appropriately within the organization." However, the letter did not indicate how the PSD planned to correct the wrongdoing, nor did the letter offer anything about the status of false criminal charges from the August 4<sup>th</sup> incident that remained pending against them.

The Scales Brothers immediately responded with a letter to Captain Cranford, asking why the charges against them had not been dropped, especially in light of the substantiation of their complaint. The next

response from Captain Cranford dodged a central issue of the case – the fact that Officer Cole committed perjury when he appeared before a Magistrate and swore that Rufus and Devin had committed the crimes. The allegations against Rufus and Devin are false. *This is major! An Officer should not lie to justify false charges.* See the attached copy of the Magistrate’s Order, dated August 4, 2014, which states: “This Magistrate’s Order is issued upon information furnished under oath by the arresting officer shown.” Officer Cole is listed as the arresting officer. Captain Cranford’s letter said: “We cannot honor your request to dismiss criminal charges. Ultimately, that decision rests with the District Attorney and not with the Greensboro Police Department.”

Captain Cranford’s response quoted above was deliberately deceptive. The investigation and substantiation of the Scales complaint most certainly concluded there was no factual basis for any of the criminal charges. The duty and responsibility rested with the police department to contact the District Attorney to advise that office that the charges against the Scales Brothers should be dismissed because there was no basis for them.

The Scales Brothers took the next step and appealed to the CRC of the Human Relations Commission. On November 13, 2014, they received a letter from the CRC, stating that they (CRC) reviewed the complaint and that they (CRC) disagreed with the finding of the PSD. The letter from the CRC did not provide any information about how or why it disagreed with the CRC. Pursuant to the city policy, the case was then referred to Interim Chief of Police Anita Holder, who—as usually occurs—agreed with the PSD. Finally, at the request of the CRC, the complaint then entered the last stage of the process and was delivered to the City Manager, Jim Westmorland, to make a final determination.

In an October 20, 2014 meeting with City Manager Westmoreland, Interim Police Chief Holder, and Assistant Chief James Hinson, Rev. Nelson Johnson, Devin Scales and Rufus Scales were orally told by then Interim Chief Holder that the PSD had only substantiated “discourtesy” on the part of Officer Cole. This avoided the issue of Officer Cole committing perjury by presenting false information under oath to a Magistrate. The fact that this crime was not recognized and/or not acknowledged by the City Manager and two top police officials raises serious questions about the integrity of the current internal police investigative mechanism. This fact is even more egregious considering all the legal expertise available to the City at taxpayers’ expense.

Further, it was in that same October 20th meeting that the Scales Brothers learned the specifics of the initiating charge against them, i.e. “blocking traffic.” Interim Chief Holder was asked how there could have been legitimate charges against the Scales Brothers for blocking traffic when there simply was no traffic at the time of the incident. No one could testify with honesty that any traffic was blocked. The discussion got quite specific as questions continued to be asked: Who was blocked? How many cars were blocked? What color was the lead car and how many people were in the car? Where is the person who complained? It was only after these kinds of questions were asked—trying to get to the truth of the matter—that Interim Chief Holder said it was Officer Cole’s police car that was supposedly blocked when he was responding to a call.

It is both incredible and absurd that it would take more than two and a half months after the initial charges before the Scales Brothers were informed that it was actually Officer Cole's police car that they were accused of blocking. We learned recently, however, that there is a specific law making it illegal to block an emergency vehicle (which includes police cars) in pursuit of his/her duty. Why then were the Scales Brothers not charged under that law? In a conversation with Attorney Graham Holt (attorney for the Scales Brothers), Officer Cole asserted that the reason he went after Rufus and Devin was because after passing them Officer Cole looked back through his rear view mirror and saw Devin giving him a "snickering" look. Devin did acknowledge that he turned and looked at Officer Cole with wonderment for calling them a moron when they had done nothing.

Finally, accepting Interim Chief Holder's assertion that Officer Cole was responding to a police call related to his duty, it indeed seems odd that Officer Cole broke off the response to the "call" to which he was allegedly responding to *harass two black men walking*. The truth of the matter is that Officer Cole did not stop his car until he had passed the Scales Brothers. Clearly, Officer Cole's car had not been blocked, and there were no other cars on the street. Again, this is simply a false statement that Officer Cole made to the Magistrate.

On April 1, 2015, the Scales Brothers received a letter (attached) from City Manager Westmoreland substantiating in different degrees various portions of the original complaint. This letter came eight months after the Scales Brothers filed their complaint with the PSD and only after a huge and vocal outpouring of community support. Since their arrests, the community has gotten behind these two young men. They have become increasingly well-known, and their story has served as an inspiration at peaceful protests and demonstrations throughout the city. Their story is particularly resonant because so many African Americans in our community have been through similar and worse circumstances with the GPD.

#### **HOW THE CITY'S INTERNAL COMPLAINT REVIEW PROCESS LACKS IMPARTIALITY AND SERVES TO ALLOW THE CULTURE OF POLICE MISCONDUCT TO CONTINUE**

To register a complaint about police officers, a citizen or resident must initially submit the complaint to the Professional Standards Division (PSD), which is internal to the GPD. Hence, police personnel of PSD are able to shape the narrative and the framing of the citizen's complaint. The result of the PSD investigation is then passed along to the supervisor of the person against whom the complaint is lodged. Supervisors of an officer, alleged to have engaged in wrongdoing, have a vested interest in clearing the officer. If the officer's conduct is found to be in violation of law or GPD policy, then that strongly suggests that the supervisor and GPD leadership failed to properly hire, train, and supervise the officer. *This is the first internal circle of police-protected self-interest.*

The second step in the internal process is the Citizens Review Committee (CRC) of the Human Relations Commission. The CRC is denied subpoena power, necessary to question the police officer. Instead, they are provided the slanted "investigation" done by the PSD as the framing for the case. They have little to no investigative staff to conduct an independent investigation. The accused police

officer is advised and protected by the police union/association. Members of the CRC are not trained by anyone with experience in investigation of police misconduct or the sad history of the “code of silence” whereby police refuse to reveal wrongdoing or whistle blowing against their peers for fear of retaliation. Still worse, the CRC is trained and coached in the interpretation of the law by the police, city attorney, and others, all of whom have an institutional interest in NOT finding wrongdoing by the police that might result in bad publicity or legal liability. The CRC is made up of at least one former law enforcement person and a representative from the PSD sits in on all their meetings. Few citizens have the courage, knowledge, or support under the current system to challenge and hold the police accountable. *This is the second internal circle of police-protected self-interest; it is more deceptive than the first because it looks like an impartial third party has been meaningfully involved.*

To their credit, the CRC in the Scales case officially disagreed with the PSD decision. However, the Scales Brothers have been denied access to that crucial document and, therefore, cannot obtain specifics of the CRC’s findings. We pause here to note that we are not questioning the motives of all CRC members. We are, however, asserting that they simply do not have the tools or broad community support to carry out an impartial investigation and render fair and binding decisions.

Unlike what happens in most complaints brought before the CRC, Rufus and Devin Scales, with assistance from the Beloved Community Center, persisted and insisted that their complaint be written in great detail and spent approximately three hours pressing Human Relations Commission Attorney Allen Hunt to write a fair statement of their allegations against Officer Cole. Their persistence, along with the public exposure of the false nature of the allegations made against Rufus and Devin and the nationwide exposure of racially motivated violence by police, such as in Ferguson, MO, likely played a positive role in aiding the CRC, in this instance, to challenge and contradict the PSD.

If the CRC rules that the police officer engaged in misconduct, as they did in this case, the matter merely goes to the (Interim) Chief of the GPD for his or her decision. The Chief of Police routinely rubber stamps the initial decision by the PSD for the institutional reasons described above. This is exactly what happened in the Scales case. Then Interim Chief Anita Holder discounted the CRC decision and upheld the decision by the PSD. *This is the third internal circle of police protective self-interest.*

The CRC continued to disagree with the PSD and Interim Chief Holder. As a result, the complaint went before the City Manager. The final step in the internal process, if a complainant is fortunate enough to obtain a favorable ruling from the CRC, is an appeal to the City Manager. The City Manager is also under pressure because he personally selects the chief of police, and he faces all the institutional pressures to conceal police wrongdoing mentioned above. In the Scales case, it appears that the City Manager made the correct decision when he advised the District Attorney to dismiss all the charges and when he offered a “sincere apology” in his letter to Rufus and Devin.

However, the City Manager’s actions do not change the flaws in having “the police to police themselves.” It does not address any of the three *internal circles of police-protected self-interest*. It

speaks more to the public pressure and all the activism manifested both in Greensboro and the nation demanding objective and impartial accountability of the police and an end to the culture of physical abuse, double standards, corruption, and perjury that result in mass incarceration and racially biased law enforcement.

Again we pause to affirm that there are many good police officers doing their best to do a good job. However, within a culture that has multiple internal circles of police self-protection and which punishes those who cross the "thin blue line," it is nearly impossible for individual officers to stand against this kind of internal pressure from within the police culture. This has been so clearly demonstrated in the last decade right here in Greensboro (see the Beloved Community Center online publication, *Our Democratic Mission*).

### **TRUTH AND RECONCILIATION AS IT RELATES TO THE SCALES CASE:**

Our city and community have a wonderful opportunity with the Scales case to begin building trust and a more democratic, fair process. The actions by the City Manager offer an opportunity for progress; ultimately, however, future actions will speak louder than words. Having the charges dropped is a good start, but let us remember that they were fabricated from the beginning.

At least three critical issues remain to be addressed:

- 1) Obtaining a truly objective, impartial and transparent process for review of citizens' complaints against the police. Development of such a fair, impartial process, supported by all city officials, must begin immediately. Again, we offer the April 9, 2014 document from the Police Accountability, Community Safety and Healing Initiative (PACSHI), entitled "Presentation to the City of Greensboro's CRC Enhancement Committee," as a starting point. All over the nation, the fallacy that the police can police themselves is being exposed as a ruse, as most recently revealed by the North Charleston, SC and Baltimore, Maryland events.
- 2) Ensuring appropriate consequences for all officers implicated in police wrongdoing, including supervisors and other executive level law enforcement personnel. Officer Cole committed perjury before a judicial officer. The PSD and then Interim Chief Holder failed in their review responsibilities. Have these issues been investigated and appropriate consequences imposed on all responsible? The North Charleston, SC police officer, accused of shooting and killing Walter Scott, had already wrongfully tasered an African American man a few years prior to the Walter Scott incident. The previous complaint made to the police department by that victim, who was tasered, was ignored and covered up by the North Charleston Police internal process. Had that earlier incident been meaningfully investigated and consequences imposed on the officer, Walter Scott might be alive today.

- 3) Providing a fair, appropriate remedy, with preventative impact, for Rufus and Devin for the suffering, humiliation, and damage they experienced. They suffered from false arrest, assault by the officer, wrongful incarceration, public humiliation, employment discrimination due to the charges, stress and pressure from repeated court dates, burden of obtaining trustworthy legal counsel, and ongoing fear of being wrongfully convicted of false charges. Most important, perhaps, is the negative impact on Rufus' three children for whom he has sole custody. The remedy should also help the public better address the suffering inflicted on people by the abuse of police power, as well as better understand the public's role in the corrective process. Black Lives Do Matter.

Further details of the proposals referenced earlier will be shared in a separate document: **"The Proposals Going Forward to Properly Resolve the Scales Brothers and Other Related Cases, while Promoting Greater Police Accountability and Trust in Greensboro, NC."**

Sincerely yours,



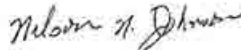
Rev. Dr. Cardes Brown  
Pastor, New Light Missionary Baptist Church



Mr. Lewis Pitts  
Retired Civil Rights Attorney



Rev. Dr. Gregory Headen  
Pastor, Genesis Baptist Church



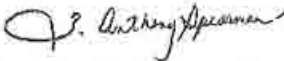
Rev. Nelson Johnson  
Pastor, Faith Community Church & Director, Beloved Community Center



Rev. Alphonso McGlen  
Pastor, Bethel AME Church



Rev. Dr. Daran Mitchell  
Pastor, Trinity AME Zion Church



Rev. Dr. T. Anthony Spearman  
Pastor, St. Phillip AME Zion Church