

# IRRECONCILABLE TRUTHS

## A Recollection of the Greensboro Massacre

DANIEL STAINKAMP

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*The basic function of all storytelling is to induce the story-listener to identify with the story, to see themselves in the story. All other functions flow from this foundational one.*

*If it is healing when someone comes to us and tells us our story, it completes the gift of wholeness when we discover that telling our story has brought healing to someone else.*

## INTRODUCTION

In Greensboro, North Carolina, on November 11, 1979, the Communist Workers Party (CWP)<sup>1</sup> held a “Death to the Klan” march. As the march was beginning, white supremacists attacked and killed five people in the street. Eleven others were injured. The killers were members of the Ku Klux Klan and American Nazi Party. The slain were Maoist activists who worked in labor and union organizing; four were members of the CWP<sup>2</sup> and one was a CWP sympathizer.<sup>3</sup> Those killed came from Christian, Jewish, Latino, and African-American backgrounds. Among the injured were ten demonstrators<sup>4</sup> and a Klansman.<sup>5</sup> CWP leader Nelson Johnson survived the attack, and has continued to do social justice work for the past four decades.<sup>6</sup>

After two criminal trials by all-white juries, there were no convictions. After a federal civil trial, \$351,500 in restitution was awarded to one victim’s surviving family. Two Greensboro Police Department (GPD) officers, four Klansmen, and two Nazis were found jointly liable for the wrongful death of one victim.

The GPD had a KKK informant, Edward Dawson, who they gave a copy of the permit, which provided the exact route and time of the march. Dawson was originally tapped by the FBI as part of their Counter-Intelligence Program (COINTELPRO) to infiltrate and disrupt the Klan. The Bureau of Alcohol Tobacco and Firearms had a Nazi informant with knowledge of the event as well. Both informants were absent from 11/3/79;<sup>7</sup> the information they shared with their handlers did not result in police presence at the march.

In 2004, the Greensboro Truth and Reconciliation Commission (GTRC) was convened. Its purpose was to facilitate societal reconciliation, and to reveal and disseminate the truth. It sought to accomplish this via hearings to receive testimony from all sides involved in 11/3/79. The GTRC also facilitated public forums, community meetings, discussions, research, and publications in an effort to foment healing and clarity.

The GTRC found that the primary contributor to the loss of life was the absence of police. They said the absence was potentially malicious, and certainly at least negligent. They said the heaviest burden of responsibility is on the Klan and Nazis, who initiated and escalated the violence. They said some burden of responsibility is on the CWP for their part in the fighting. They said the CWP members did not seek or deserve to be killed, but that they underestimated the danger of taunting and provoking the KKK.

In 2009, the Greensboro City Council passed a resolution expressing regret for the 11/3/79 deaths. In 2015, the city unveiled a marker to memorialize the Greensboro Massacre. On August 15, 2017, and on October 6, 2020, the Council formally apologized for the massacre.

<sup>1</sup> The CWP was originally a Maoist collective founded in the early 1970s as the Asian Study Group. It was renamed the Workers Viewpoint Organization in 1976, and changed its name to the Communist Workers Party in 1979. See *Asian Study Group*, KEY WIKI (Jan. 13, 2013), [https://keywiki.org/Asian\\_Study\\_Group](https://keywiki.org/Asian_Study_Group).

<sup>2</sup> César Cauce, William Sampson, Sandra Smith, and James Waller.

<sup>3</sup> Michael Nathan, husband of CWP member Martha Nathan

<sup>4</sup> Including Nelson Johnson, organizer and CWP member; Paul Bermanzohn, CWP organizer and physician; Marty Nathan, CWP member and physician; CWP members Tom Clark and James Wrenn. See *Tom Clark*, KEY WIKI (May 10, 2016), [https://keywiki.org/Tom\\_Clark](https://keywiki.org/Tom_Clark).

<sup>5</sup> Harold Flowers.

<sup>6</sup> Some blame Johnson for the deaths. See discussion *infra* I.A.5.

<sup>7</sup> While known officially as the “Greensboro Massacre,” I referred to it as “11/3/79” (except when referencing terms used by others) because the term is value-laden. See *Joe Dominguez, Mixed emotions as council approves ‘Greensboro massacre’ marker*, FOX8NEWS (Feb. 4, 2015), <https://myfox8.com/news/mixed-emotions-as-council-approves-greensboro-massacre-marker/>. Moreover, the term massacre may be imprecise: “The lack of a coherent definition of what constitutes a massacre and what distinguishes a massacre from other forms of killing continues to impair our ability to understand this crucial phenomenon.” THE MASSACRE IN HISTORY (Mark Levene and Penny Roberts, Eds.) (1999).

Forty years later, the legacy of 11/3/79 reverberates. Police still militaristically attack poor people<sup>8</sup> and murder of Black revolutionaries.<sup>9</sup> Black activists are killed with impunity.<sup>10</sup> Police failure to act in the face of known threats results in senseless loss of life.<sup>11</sup> White supremacist, neo-fascist, chauvinist militias continue to terrorize people.<sup>12</sup> White people armed with assault rifles murder anti-racists in the street with impunity.<sup>13</sup> Police with known connections to violent racist groups keep their jobs; the overlap between white supremacy and law enforcement persists.<sup>14</sup>

A key figure in the 11/3/79 killings, Nazi Harold Covington, later relocated to the Pacific Northwest and founded the Northwest Front, a militant ethnoseparatist website whose ignorant vitriol would come to serve as inspiration<sup>15</sup> for Dylann Roof, the white supremacist neo-Nazi who shot and killed nine Black people at the Emanuel African Methodist Episcopal Church in Charleston, South Carolina, in 2015.<sup>16</sup> KKK Imperial Wizard and likely architect of the 11/3/79 killings Virgil Griffin pivoted to xenophobia and his Klan-backed opposition to illegal immigration helped draw new sympathizers to a then-burgeoning nativist movement.<sup>17</sup> Even with leaders like Covington and Griffin out of the picture, hatred outlives the hateful.

It's difficult to trace the origins of hate. But it's undeniable that the killings followed a campaign of bitter class conflict. The CWP was fundamentally a group of anti-capitalists trying to make life better for poor laborers. Moreover, the CWP was multi-racial, challenging traditional American caste dynamics in a way that, to many, threatened financial destabilization. The connection between whiteness and wealth accumulation is well documented. But, more than that, whiteness itself is wealth.

For societies in which racism is an operating system, whiteness is a form of currency with a significantly high exchange rate.<sup>18</sup> Its value is so meaningful that it produces a false group solidarity and possessive investment in its continuation.<sup>19</sup> For many white people in the United States, whiteness has provided a pathway to opportunities for acquiring society's transformative

<sup>8</sup> In 1985 the Philadelphia Police Department destroyed 61 homes in Philadelphia during a standoff and gun fight between MOVE and the police. Two bombs were dropped by a police helicopter onto the roof of the MOVE house, causing a fire that the fire department let burn out of control, destroying neighboring houses over two city blocks and leaving 250 people homeless. Six adults and five children in the MOVE house died in the incident. Gray Hall, *11 Philadelphia City Council members issue apology on 35th anniversary of MOVE bombing*, 6ABC PHILADELPHIA (May 13, 2020). A federal court found that the city used excessive force and violated constitutional rights protecting against unreasonable search and seizure. Don Terry, *Philadelphia Held Liable For Firebomb Fatal to 11*, THE NEW YORK TIMES (June 25, 1996). MOVE, founded in 1972 by John Africa, was a communal organization that advocated for natural living and practiced principles of anarcho-primitivism and Black power revolutionary ideology. MOVE is not an acronym. *MOVE*, ENCYCLOPEDIA OF GREATER PHILADELPHIA. (Mar. 19, 2018).

<sup>9</sup> See, e.g., assassination of Black Panther leader Fred Hampton. Ranjani Chakraborty & Melissa Hirsch, *Why the US government murdered Fred Hampton*, VOX (June 2, 2021, 12:00 pm) <https://www.vox.com/videos/2021/6/2/22464896/why-the-us-government-murdered-fred-hampton>.

<sup>10</sup> See, e.g., Marsha P. Johnson, killed in 1992 by unknown assailants, her death ruled a suicide. Johnson was an outspoken gay rights advocate, a founder of the Gay Liberation Front and co-founder of the radical activist group Street Transvestite Action Revolutionaries alongside close friend Sylvia Rivera; the two were instrumental in the genesis of what we now call "Pride" events. *Marsha P. Johnson (1945–1992)*, BLACKPAST.ORG.

<sup>11</sup> See, e.g., the shooting at Robb Elementary School in Uvalde, Texas, where police inaction for more than an hour contributed to the deaths of a total of 21 children. Ed Pilkington, *US reels after massacre in fourth-grade classroom leaves 21 dead*, THE GUARDIAN (May 25, 2022). The entire police department was later suspended for their bungled response to the shooting. Alejandro Serrano and Uriel J. García, *Uvalde school district suspends its entire police department, and superintendent announces retirement plans*, TEXAS TRIBUNE (Oct. 7, 2022), <https://www.texastribune.org/2022/10/07/uvalde-school-police-suspended/>

<sup>12</sup> Khalida Volou, *DC's oldest Black church hangs new Black Lives Matter banner after it was burned during MAGA protest*, WUSA9 (Dec. 13, 2020); See also <https://www.jsonline.com/story/news/2020/06/04/armed-white-men-milwaukee-protests-could-far-right-boogaloo/3147128001/>

<sup>13</sup> See, e.g. the exoneration of Kyle Rittenhouse after his killings in Kenosha, WI. David K. Li and Deon J. Hampton, *Kyle Rittenhouse found not guilty on all counts*, NBC NEWS (Nov. 19, 2021), <https://www.nbcnews.com/news/us-news/rittenhouse-verdict-jurors-reach-decision-rna5090>

<sup>14</sup> <https://www.brennancenter.org/our-work/research-reports/hidden-plain-sight-racism-white-supremacy-and-far-right-militancy-law>

<sup>15</sup> Joseph Wood, *Jackboots, White Hoods, and the White Bible: The Fusion of the KKK, American Nazis, and Christian Identity* (2021) (Master's thesis, UNC Charlotte), <https://repository.charlotte.edu/islandora/object/etd%3A2359> [hereinafter Jackboots].

<sup>16</sup> Robert Costa and Lindsey Bever, *Church shooting suspect Dylann Roof captured amid hate crime investigation*, THE WASHINGTON POST (June 18, 2015). <https://www.washingtonpost.com/news/morning-mix/wp/2015/06/17/white-gunner-sought-in-shooting-at-historic-charleston/>

<sup>17</sup> Martin, Douglas, *Virgil Lee Griffin, Klan Leader, Dies at 64*, THE NEW YORK TIMES (17 February 2009).

<sup>18</sup> Emily M. Drew, *Whiteness as Currency: Rethinking the Exchange Rate*, in *LIVING WITH CLASS, PHILOSOPHICAL REFLECTIONS ON IDENTITY AND MATERIAL CULTURE* 101 (Ron Scapp and Brian Seitz, eds., 2013).

<sup>19</sup> *Id.*, (citing GEORGE LIPSTZ, *THE POSSESSIVE INVESTMENT IN WHITENESS: HOW WHITE PEOPLE PROFIT FROM IDENTITY POLITICS* (1998), 18).

assets: land, housing, jobs, and education.<sup>20</sup> In this way, whiteness has been a tool for social mobility and intergenerational economic security—it has material benefits that can pay a high economic yield.<sup>21</sup>

Yet, for *most* white people in the United States, the real dividend of whiteness comes in its symbolic value: its deeply felt power in shaping social status, group membership, and identity.<sup>22</sup> In this way, whiteness provides a well-documented identity to buy into, *one that promises a placement in the social hierarchy higher than people of color.*<sup>23</sup> For whites, who become signatories in a racial contract, they will “live in an invented delusional world, a racial fantasyland, a consensual hallucination.”<sup>24</sup>

White supremacists, whether middle- or working-class, accumulate and protect this whiteness-as-currency through their terrorism and camaraderie.<sup>25</sup> Seen through this lens, poverty is at the heart of the Greensboro Massacre.

A key site of poverty is, of course, employment. The United States is the only advanced industrial nation without national laws guaranteeing paid maternity leave.<sup>26</sup> It’s also the only advanced economy that doesn’t guarantee workers any vacation, paid or unpaid, and the only highly developed country (other than South Korea) that doesn’t guarantee paid sick days.<sup>27</sup> In contrast, the European Union’s 28 nations guarantee workers at least four weeks’ paid vacation.<sup>28</sup>

Among the three dozen most developed industrial nations,<sup>29</sup> the United States has the lowest minimum wage as a percentage of the median wage—just 34 percent of the typical wage, compared with 62 percent in France and 54 percent in Britain. It also has the second-highest percentage of low-wage workers among that group.

Union organizing remains an important tool used by workers to combat the deprivations of poverty caused by poor working conditions. The Reagan era saw major airline worker strikes,<sup>30</sup> the early 2000s saw anti-globalization and pro-living-wage movements nationwide. George W. Bush was responsible for a major rollback of collective bargaining rights, stripping them from hundreds of thousands of civil servants.<sup>31</sup> While some ground was regained during the Obama administration,<sup>32</sup> The Great Recession generated further setbacks.<sup>33</sup>

Since 2016, union activity has been on the rise.<sup>34</sup> Recently, successful organizing drives by workers have won key struggles at major companies like Amazon, Apple, and Starbucks.<sup>35</sup> The prominence of these organizing efforts, however, obscures the steady downward trend of union

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* (citing Meizhu Liu, *Climbing the Up Escalator: White Advantages in Wealth Accumulation*, in THE COLOR OF WEALTH, (Meizhu Liu, et al., eds.) 225–66 (2005)).

<sup>22</sup> *Id.*, emphasis in original.

<sup>23</sup> *Id.*, emphasis added.

<sup>24</sup> *Id.* (citing Charles Mills, THE RACIAL CONTRACT 18 (1997)).

<sup>25</sup> I searched for but could not find scholarship regarding the connection between poverty and membership in white supremacist groups. Access to research and/or data on this topic would be valuable to the claims made here or for future scholarship.

<sup>26</sup> Steven Greenhouse, *Yes, America is Still Rigged Against Workers*, NEW YORK TIMES (Aug. 3, 2019) <https://www.nytimes.com/2019/08/03/opinion/sunday/labor-unions.html>.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> That is, the member countries of the Organization for Economic Cooperation and Development, a global intergovernmental group.

<sup>30</sup> PATCO strike in 1981. See DANA L. CLOUD, WE ARE THE UNION: DEMOCRATIC UNIONISM AND DISSENT AT BOEING, 23 (2011).

<sup>31</sup> *History*, AFL-CIO (2022), <https://aflcio.org/about-us/history>.

<sup>32</sup> In 2009 Obama signed the Lilly Ledbetter Fair Pay Act, which restored the rights of working women to sue over pay discrimination, *Id.*

<sup>33</sup> Decline in private sector unions began in 2011. See David Shepardson, *UAW membership up 6 percent*, DETROIT NEWS (Apr. 1, 2011).

<sup>34</sup> Raimonde, Olivia, *The number of workers on strike hits the highest since the 1980s*, CNBC. (Apr. 30, 2020).

<sup>35</sup> Taylor Johnston, *The U.S. Labor Movement is Popular, Prominent, and Also Shrinking*, (Jan. 25, 2022).

<https://www.cnn.com/2022/09/05/business/union-organizing-efforts/index.html>. Other major companies with unionization efforts include REI, Kellogg, and John Deere. <https://www.nytimes.com/interactive/2022/01/25/business/unions-amazon-starbucks.html>.

membership in the United States for more than four decades; there are about half as many union employees in 2021 than there were in 1983.<sup>36</sup>

Poor people, the working class, and union members in particular face tremendous repression.<sup>37</sup> Throughout history, the United States has remained hostile to union organizing, both in terms of policy, legislation, and culture.<sup>38</sup> This hostility is racialized: some of the first labor unions were formed by formerly enslaved people in the wake of emancipation.<sup>39</sup> Black radicals originated the tradition of resistance by means of class consciousness and cross-racial solidarity.<sup>40</sup>

The specter of communism continues to be conjured to poison progressive movements with racism and to dismantle class solidarity, especially solidarity across identity lines. Demonizing Black organizing in particular remains a tool to discipline white labor and to cultivate ignorance and hate. Authorities render cross-racial labor organizing terroristic, violent, and dangerous. This enables powerful profiteers to maintain the illusion of control on one hand, while reacting with a set of reformist-based processes that are labeled as a solution on the other.<sup>41</sup> The upshot is the prevention of coalescence of labor across racial and class lines, and the perpetuation of poverty.

Access to histories of resistance enable us to understand how this deprivation is materially, historically reproduced. Conversely, erasure and amnesia of such histories tend to perpetuate those deprivations. Beyond any material effects, the *way* the story is told affects how we understand ourselves and define our communities. Narratives give us access to ancestry and identity. They allow us to situate ourselves in traditions of compassionate struggle, to align ourselves with actors whose values match ours, and to aspire to match our values to theirs.

Accordingly, my purpose with this paper is to recollect the story of 11/3/79, with an explicitly partisan purpose of aligning myself with the poor, celebrating BIPOC and cross-racial labor organizing, and challenging white supremacy. To that end, I include many perspectives and analyses that I personally disagree with, in order to build out a more robust understanding of the dynamics that produced this tragedy.

This article proceeds in four parts: Part I discusses facts about 11/3/79 that are generally agreed-upon; Part II surveys media made about 11/3/79, with plenty of diversions along the way to discuss events since 11/3/79 that contain reverberations of conflict, resistance, and restoration; Part III conducts legal and critical analysis of 11/3/79; Part IV draws a conclusion, and offers a few takeaways. An appendix containing personal reflections on methodology is attached; its content is not essential to the paper.

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<sup>36</sup> Johnston, *supra* note 26.

<sup>37</sup> Greenhouse, *supra* note 16.

<sup>38</sup> See Jamelle Bouie, *The Deep South Has a Rich History of Resistance, as Amazon Is Learning*, NEW YORK TIMES (Feb. 26, 2021), <https://www.nytimes.com/2021/02/26/opinion/amazon-union-south-us.html>

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> For the basis of this analysis as it was originally applied to the disciplining of Black people and suppression of Black radicalism in schools, see Damien Sojoyner, *Undoing the Myth of the School-to-Prison Pipeline*, 4 BERKELEY REV. EDUC. (2013).

## I. SOME GENERALLY ACCEPTED FACTS OF 11/3/79

### A. THE BACKGROUND

#### *1. Black School Uprisings, Black Radicalism, and Other Organizing*

The story starts with North Carolina's oldest unsolved homicide. In May 1969, a controversial election for student body president at Greensboro's Dudley High School turned into an open revolt against police repression and racial segregation.<sup>42</sup> Claude Barnes ran for school president on a Black-power platform and won in a landslide.<sup>43</sup> Barnes was active in the Greensboro Association of Poor People (GAPP), a Black separatist organization lead by NC A&T student Nelson Johnson. The school denied Barnes his rightfully elected position as president, for allegedly being a militant Black Panther, which he was not.<sup>44</sup> Johnson helped the Dudley students organize protests against the unfair decision by the school.

But the controversy over Barnes' election wasn't the only students' only grievance, and it served as a platform to protest other problems.<sup>45</sup> Students were angered that Dudley was the only school in Greensboro that restricted dress, hairstyles, and off-campus lunch. Barnes and others were also frustrated by the absence of Black culture in the curriculum.<sup>46</sup> More importantly, many of the Black students who joined the May 1969 protests felt as if there was no true outlet for them to discuss and negotiate their grievances with officials at Dudley or in the community as a whole.<sup>47</sup>

The protests went on for weeks, and eventually turned to "violent"<sup>48</sup> riots, which in turn lasted for days.<sup>49</sup> Eventually, the National Guard was called in, students were tear-gassed; witnesses said it was like a war.<sup>50</sup> During the chaos of the protests, NC A&T student Willie Grimes was shot and killed. Black people in the community believed the Greensboro Police Department or the National Guard was responsible for the death, but the GPD and military deny this, saying Grimes was mistakenly hit.<sup>51</sup> Eventually all students were evacuated from A&T's campus and the semester was ended.<sup>52</sup> No one arrested and no one was tried for Grimes' death.<sup>53</sup>

This act of Black killing without accountability was nothing new. But people's refusal to accept it was. Claude Barnes says the revolt marked a cultural shift, as Greensboro's Black community more readily embraced itself and more people identified as "Black and proud of it." The resistance set an important precedent for the events that would follow a decade later.

<sup>42</sup> BIONDI, MARTHA, THE BLACK REVOLUTION ON CAMPUS (2012).

<sup>43</sup> Karen Hawkins, *Dudley High School/NC A&T University Disturbances, May 1969*, CIVIL RIGHTS GREENSBORO.

<https://web.archive.org/web/20120606150323/http://library.uncg.edu/dp/crg/topiclessays/DudleyATProtest.aspx>

<sup>44</sup> *Id.*

<sup>45</sup> *Id.* (citing interview by Eugene Pfaff with Cecil Bishop, Greensboro pastor (February 5, 1985)).

<sup>46</sup> *Id.* (citing North Carolina State Advisory Committee to the United States Commission on Civil Rights, *Trouble in Greensboro: A Report of an Open Meeting Concerning the Disturbances at Dudley High School and North Carolina A&T State University*, WASHINGTON, DC: NORTH CAROLINA ADVISORY COMMITTEE (1970)).

<sup>47</sup> *Id.*

<sup>48</sup> The traditional binary of violent-nonviolent is problematic and value-laden. One example is that 18 U.S.C. § defines a "crime of violence" as "an offense that has as an element the use, attempted use, or threatened use of physical force against the person or *property* of another." And nonviolence is often deployed as a tool of racism. Nonviolence as an ethical framework ignores that *violence is already here*; that violence is an unavoidable, structurally integral part of the current social hierarchy; and that *it is people of color who are most affected by that violence*. Faced with the total repression of the white supremacist system, the obvious uselessness of the political process, and the shameless efforts of a dissident elite to exploit and control the rage of the oppressed, it should be no surprise or controversy at all that "the colonized man finds his freedom in and through violence," as Frantz Fanon put it. PETER GELDERLOOS, HOW NONVIOLENCE PROTECTS THE STATE (2007) (emphasis added).

<sup>49</sup> Hawkins, *supra* note 39.

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

In 1970, GAPP helped build a coalition of students, middle-class Black people and others to support a long-running rent strike.<sup>54</sup> During the strike, members prevented landlords and police from evicting people by physically standing in front of them.<sup>55</sup> The strike eventually won tenants several concessions, and called attention to welfare recipients' inability to afford safe and healthy housing and other basic living costs, deprivations that continue to the present.<sup>56</sup>

In 1971, nine young men and a woman were wrongfully convicted in Wilmington, North Carolina, of arson and conspiracy.<sup>57</sup> Most were sentenced to 29 years in prison; all ten were incarcerated for nearly a decade before an appeal won their release.<sup>58</sup> Among them was Dr. Benjamin Chavis. Chavis would go on to deliver a stirring speech on February 2, 1980, at a memorial rally for the five slain on 11/3/79.<sup>59</sup> Chavis said that day: "We will not fight another imperialist world war. We have to tear this whole system down."<sup>60</sup> He dedicated his remarks to Martin Luther King and the CWP 5."<sup>61</sup>

The Worker's Viewpoint Organization (WVO), under Nelson Johnson's leadership, became a central organizing body and ideological foundation for the events leading up to 11/3/79. WVO's stated goal was to overthrow the capitalist government via socialist revolution.<sup>62</sup> Their purpose was to create a society in which workers were not abused, exploited, or mistreated.<sup>63</sup>

Short of fomenting actual revolution, the WVO spent time organizing with poor people and attempting to bring material improvements to the lives of laborers in North Carolina.<sup>64</sup> Members agitated at local factories, revived unions, staged slowdowns, protests, walk-outs, and strikes. They sought to increase their wages, consolidate their power, and defend their dignity.<sup>65</sup> The problems that the WVO were attempting to solve were problems created by poverty.

North Carolina has historically been anti-union and anti-labor organizing; the last substantial union activism before Summer 1979 was in the 1930s.<sup>66</sup> Beyond organizing textile workers, WVO activists encroached on and at times displaced other union organizers, and made enemies of progressives, liberals, and moderates.<sup>67</sup> Several members, including three who died, had backgrounds of elite higher education and professional training as physicians, making their shift to life as factory workers remarkable, and to some, suspicious.<sup>68</sup> The WVO (and, later, the CWP) was also very concerned with consolidating its own power base, connecting to a larger national and international Maoist<sup>69</sup> movement.<sup>70</sup> So the CWP had many enemies and detractors.<sup>71</sup>

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<sup>54</sup> GREENSBORO TRUTH AND RECONCILIATION COMMISSION FINAL REPORT 55 (2006) [hereinafter FINAL REPORT].

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> They were known as "The Wilmington Ten;" their sentences and ages were: Benjamin Chavis (age 24) 34 years, Connie Tindall (age 21) 31 years, Marvin Patrick (age 19) 29 years, Wayne Moore (age 19) 29 years, Reginald Epps (age 18) 28 years, Jerry Jacobs (age 19) 29 years, James McKoy (age 19) 29 years, Willie Earl Vereen (age 18) 29 years, William Wright, Jr. (age 19) 29 years, and Ann Shepard (age 35) 15 years.

<sup>58</sup> See Chavis v. State of North Carolina, 637 F.2d 213 (4th Cir. 1980) (convictions overturned on grounds that prosecutor and trial judge had both violated defendants' constitutional rights).

<sup>59</sup> Press Release, Communist Workers Party (Feb. 4, 1980) <https://www.marxists.org/history/erol/ncm-5/cwp-press-release.htm>

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> *Capitalism Destabilized [sic] – How Do We Prepare to Overthrow the U.S. Government*, 1 THE 80'S, No. 3 (Oct. 1980) <https://www.marxists.org/history/erol/ncm-5/cwp-overthrow.htm>

<sup>63</sup> See *Id.*

<sup>64</sup> See FINAL REPORT page 81.

<sup>65</sup> See *Id.*

<sup>66</sup> Jeffrey C. Billman, *Quickbait: The State of Our Anti-Union State*, INDY WEEK (Jan. 28, 2020). <https://indyweek.com/news/northcarolina/quickbait-the-state-of-our-anti-union-state/>

<sup>67</sup> FINAL REPORT.

<sup>68</sup> See *Id.*

<sup>69</sup> Maoists in Greensboro in the 1970s were anti-capitalist, anti-imperialist, and emphasized unionization and self-determination for Black people.

<sup>70</sup> Interview with Mary Louise Frampton, Professor, U.C. Davis School of Law, in Chapel Hill, (Nov. 1, 2022) [hereinafter Frampton Interview].

<sup>71</sup> *Id.*

In 1972, The Black Citizens Concerned with Police Brutality (BCCPB) was formed by GAPP members frustrated by the city government and justice system's mistreatment of the Black community.<sup>72</sup> Also in 1972, the WVO formed an alliance with Nelson Johnson's Greensboro group, the Youth Organization for Black Unity (YOBU), formerly the Student Organization for Black Unity, instrumental in the organizing and fighting during the A&T Rebellion.<sup>73</sup> SOBU and YOBU were extensions of the Black Power movement, advocating for the civil rights of all people in the Black community.<sup>74</sup> Mergers with other small Maoist Communist groups followed.

The Revolutionary Youth League (RYL), was founded in 1977 in Chicago, and it advocated for socialist revolution in the tradition of Malcolm X.<sup>75</sup> In Greensboro, SOBU, YOBU, RYL, and WVO members were active in various left causes including support of Maoist revolutionary<sup>76</sup> organizations through the African Liberation Support Committee, a black activist organization that supported Pan Africanism.<sup>77</sup> The WVO announced its change of name to the Communist Workers Party in October 1979, with Nelson Johnson as its chairman and Jerry Tung<sup>78</sup> as general secretary. Activists organizing under these and other radical groups were key players in the protests and union work in the summer of 1979 that preceded the killings on 11/3/79.

## 2. Winston Salem<sup>79</sup>

On February 26, 1979, in Winston Salem, NC, the CWP interfered with an exhibition of KKK memorabilia at the Forsyth County Central Library.<sup>80</sup> The picketers chanted "time to take a stand, put a stop to the racist Klan!"<sup>81</sup> The Klansmen responded with racial and anti-communist epithets.<sup>82</sup> While there were some minor scuffles, there were no serious injuries, and the exhibition quickly got shut down.<sup>83</sup> A 2020 article on the library's website describes it this way:

The next morning, the library opened at its usual time. The exhibit never reopened, and there was no more trouble at the library. But the night before, in that little exhibit room, three groups who had never seen each other before—the local chapter of the National Socialist White Peoples Party (neo-Nazis), the local klavern of the Federated Knights of the Ku Klux Klan and the Greensboro chapter of the soon-to-be Communist Workers' Party—had met and begun a chain of encounters that would lead, eight months later, to tragedy.<sup>84</sup>

<sup>72</sup> BLACK CITIZENS CONCERNED WITH POLICE BRUTALITY, TROUBLE IN GREENSBORO CONTINUED: POLICE BRUTALITY (1972).

<sup>73</sup> ROBERT COHEN; DAVID J. SNYDER; DAN T. CARTER, REBELLION IN BLACK AND WHITE: SOUTHERN STUDENT ACTIVISM IN THE 1960S 255 (2013).

<sup>74</sup> *Id.*

<sup>75</sup> *Revolutionary Youth League Founded!, 2 WORKERS' VIEWPOINT*, No. 4 (May 1977).

<sup>76</sup> These organizations were seen as terrorist by critics. *Id.*; see also Western Goals, RED TIDE RISING IN THE CAROLINAS (1980) *infra* [hereinafter RED TIDE RISING].

<sup>77</sup> *African Liberation Support Committee*, AFRICAN ACTIVIST ARCHIVE, <https://africanactivist.msu.edu/organization/210-813-780/>.

<sup>78</sup> Jerry Tung's Asian Study Group was a Marxist-Leninist collective and precursor to the WVO and CWP. Tung was born in China and raised in the United States by his mother, a garment worker. His father, a visiting student in Raleigh, North Carolina, was allegedly killed by the Ku Klux Klan in 1951. Jerry Tung, *The Socialist Road, Character of Revolution in the U.S. and Problems of Socialism in the Soviet Union and China*, <http://www.marxists.org/history/erol/ncm-7/tung-road/about.htm>.

<sup>79</sup> Also of note, in North Carolina in March 1979, an eight-foot cross was burned on the front lawn of James Stowe, a Black man.

WORKERS VOICE WVO NEWSPAPER 9 (March 1980), <https://www.marxists.org/history/erol/ncm-5/rwh-anti-klan-march.pdf>

<sup>80</sup> *It all began at the Central Library, 660 West Fifth Street..., FORSYTH COUNTY PUBLIC LIBRARY NORTH CAROLINA COLLECTION* (Aug. 13, 2020). <https://northcarolinaroom.wordpress.com/2020/08/13/it-all-began-at-the-central-library-660-west-fifth-street/>

<sup>81</sup> *Id.*

<sup>82</sup> *Id.*

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

### 3. *China Grove*

On July 8, 1979, in the small town of China Grove (about 70 miles southwest of Greensboro) the WVO, RYL and ALSC assembled to protest a local KKK screening of the 1915 racist Klan propaganda film, Birth of a Nation.<sup>85</sup> Approximately 75 WVO-affiliated protestors brandished clubs, pipes, and bottles, and scuffled with the 15 Klansmen and their supporters. Some chanted “Hitler was right. Hitler was right.”<sup>86</sup> Opponents burned a Confederate flag. The KKK retreated and there were no serious injuries.<sup>87</sup>

Having successfully blocked the screening, a multiracial WVO contingent marched through China Grove’s Black community displaying guns, indicating that the demonstrators were prepared for armed confrontation.<sup>88</sup> Here again, there were no serious injuries, and the victory was largely symbolic. But it would prove to be a key catalyst to the violence of 11/3/79.

### 4. *The United Racist Front*

On September 22, 1979, in Louisburg, NC, some KKK members met with members of the National Socialist Party (a small splinter group descended from the old American Nazi Party)<sup>89</sup> to form a United Racist Front (URF). The phrase “United Racist Front” was either coined or authenticated by Harold Covington,<sup>90</sup> leader of the Chapel Hill chapter of the National Socialist White People’s Party (NSWPP), a neo-Nazi group.<sup>91</sup>

Later, the WVO alleged that the Greensboro Massacre was planned at this meeting,<sup>92</sup> and that the URF was in fact a formal alliance, forged by Covington and Bernard Butkovich—a federal agent working undercover within the Nazi groups for the Bureau of Alcohol, Tobacco and Firearms (ATF)—for the express purpose of attacking the anti-Klan demonstration on 11/3/79.<sup>93</sup> Those present at the Louisburg rally claim otherwise.<sup>94</sup>

The meeting was covered by press. Afterward, Nazi Milano Caudle said that a reporter asked Covington if it was a united racist front, and that Caudle said yes. Whatever the source, the phrase gained traction. It appeared in many newspaper stories, one of which was clipped and added to the ATF’s files. The name “United Racist Front” was passed from agent to agent, agency to agency. “Thus, a figment of a reporter’s overactive imagination became fact,” according to Elizabeth Wheaton.<sup>95</sup>

Perhaps astonishingly, Butkovich had a tape recorder secreted on his person during the meeting, and the recording of the conversations that day would seem the best way to settle the mystery about the URF’s genesis. But in his civil trial court testimony, Butkovich said the tapes ended abruptly before the meeting started because he did not have an opportunity to change batteries in his body microphone. This contradicted testimony he gave in May 1982, when he said he did in fact change the batteries.<sup>96</sup>

<sup>85</sup> RED TIDE RISING 5 (1980).

<sup>86</sup> FINAL REPORT 140.

<sup>87</sup> *Id.*

<sup>88</sup> *Id.* (citing Workers Viewpoint newspaper (date unknown)).

<sup>89</sup> *Id.*

<sup>90</sup> ELIZABETH WHEATON, CODENAME GREENKIL: THE 1979 GREENSBORO KILLINGS, 99 (1987, 2009) [hereinafter GREENKIL].

<sup>91</sup> Jackboots 4.

<sup>92</sup> Workers Voice WVO Newspaper, March 1980, page 10, <https://www.marxists.org/history/erol/ncm-5/rwh-anti-klan-march.pdf>

<sup>93</sup> GREENKIL (citing *Waller amended complaint*, Civil Action 80-605-G, p. 17 (May 3, 1982)).

<sup>94</sup> GREENKIL 99.

<sup>95</sup> *Id.*

<sup>96</sup> Editorial, NEW YORK TIMES (1985), <https://www.nytimes.com/1985/05/12/us/agent-tells-of-79-threats-by-klan-and-nazis.html>

So it's not clear whether any formal group identifying itself as "the United Racist Front" ever existed. Still, much has been made of the Louisburg meeting. Wheaton identifies it as the first publicly visible united white supremacist movement.<sup>97</sup> Assael and Keating have gone so far as to say that 11/3/79 is the massacre that "spawned the alt-right," and cite the "racist retreat" at Louisburg as an historic alliance between Klansmen and Nazis that facilitated the killings.<sup>98</sup>

In 1979, veterans of the Second World War were still around, and some of them were Klansmen. As Assael and Keating recount, a Klansman once told the Associated Press, "[y]ou take a man who fought in the Second World War, it's hard for him to sit down in a room full of swastikas. . . [b]ut people realize time is running out. We're going to have to get together."<sup>99</sup>

But it may have been more than mere exigency that allowed these antipathetic hate groups to hybridize. Joseph Wood (who credulously names the United Racist Front as the perpetrators of the Greensboro Massacre<sup>100</sup>) identifies the popularization of certain racist conspiracy theories as the force uniting Klansmen and Nazis. Specifically, Wood says William L. Pierce's *The Turner Diaries*<sup>101</sup> and underground reprints of *The Protocols of the Meetings of the Learned Elders of Zion*<sup>102</sup> reached and radicalized individuals who otherwise have had no contact with white nationalism or ethno-terrorism.<sup>103</sup> Critically, Virgil Lee Griffin—who at various times held the title of Grand Dragon and Imperial Wizard of the Ku Klux Klan in North Carolina—and Harold Covington were both influenced by these works, laying a foundation of fear of white genocide that evidently surmounted the ideological divide between the groups.<sup>104</sup>

### 5. Seeking Confrontation

11/3/79 was preceded by inflammatory rhetoric from both sides. Flyers distributed by the WVO ahead of the China Grove incident read "[The Klan] should be physically beaten and chased out of town—This is the only language they understand!"<sup>105</sup>

On October 11, 1979, Paul Bermanzohn held a press conference in Kannapolis, NC, where the WVO had been organizing in Cannon Mills.<sup>106</sup> He delivered an intentionally aggressive challenge to the Klan.<sup>107</sup> He said "[The Klan] are cowards, nightriders who try to terrorize innocent people. They must be physically beaten back, eradicated, exterminated, wiped off the face of the earth. We invite you and your two-bit punks to come out and face the wrath of the people." The story was picked up by the Associated Press and ran the following day in the Charlotte Observer under the headline "Group Seeks Confrontation with the Klan."<sup>108</sup>

<sup>97</sup> *Id.*

<sup>98</sup> Shaun Assael and Peter Keating, *The Massacre That Spawned the Alt-Right*, POLITICO (Nov. 3, 2019).

<https://www.politico.com/magazine/story/2019/11/03/greensboro-massacre-white-nationalism-klan-229873/> [hereinafter *Spawned*].

<sup>99</sup> *Id.*

<sup>100</sup> Jackboots 4.

<sup>101</sup> A 1978 novel depicting a violent revolution in the United States and a race war that leads to the systematic extermination of non-whites, which here includes Jews, liberal actors, and politicians. The book has been described as "the bible of the racist right" by the FBI, and was greatly influential in shaping white nationalism and the later development of the white genocide conspiracy theory. It also inspired numerous hate crimes and acts of terrorism, including the 1995 Oklahoma City Bombing. *Extremism in America: The Turner Diaries*, ANTI-DEFAMATION LEAGUE (2007); Camille Jackson, *Turner Diaries, Other Racist Novels Inspire Extremist Violence*, SPLCENTER.ORG (Oct. 14, 2004).

<sup>102</sup> A fabricated antisemitic text purporting to describe a Jewish plan for global domination, key in popularizing belief in an international Jewish conspiracy, first published in Russia in 1903. Benjamin Segel, *A Lie and a Libel: The History of the Protocols of the Elders of Zion* 30 (Richard S. Levy trans., S. University of Nebraska Press) (1995).

<sup>103</sup> *Id.*

<sup>104</sup> *See Id.*

<sup>105</sup> FINAL REPORT 140.

<sup>106</sup> *Id.* at 139.

<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

Around this time, WVO members began organizing a “Death to the Klan” march.<sup>109</sup> They obtained an official parade permit for the march. On October 22, 1979, Nelson Johnson issued an open letter to the Klan which included the following language: “The KKK is one of the most treacherous scum elements produced by the dying system of capitalism. We challenge you to attend our rally in Greensboro.”<sup>110</sup> It went on, “We are having a march and conference on November 3, 1979, to further expose your cowardness,<sup>111</sup> . . . and to organize to physically smash the racist KKK wherever it rears its ugly head. Yes, we challenge you to attend our November 3rd rally in Greensboro.” It went on to say “Klansmen Joe Grady and Gorrell Pierce and all KKK Members and Sympathizers . . . We take you seriously and we will show you no mercy.”

For their part, the Klan and Nazis uttered plenty of hateful venom prior to 11/3/79, although most of it never reached the ears of the CWP.<sup>112</sup> Virgil Griffin, speaking at a Klan rally in October 1979, said, “If you cared about your children you would go out and kill 100 n----s and leave their bodies in the street.” Harold Covington, in a letter to the Revolutionary Communist Party (which he had confused with the WVO), said he and his men had killed Communists in Vietnam and looked forward to the chance to kill communists in America.<sup>113</sup> He also intimated a police-Nazi alliance at China Grove, saying, “we had it all worked out with the cops that if you were dumb enough to try to attack the community center we’d waste a couple of you and none of them would see anything.”<sup>114</sup> As it happens, the RCP were at odds with the CWP, and it does not appear that this message reached them.<sup>115</sup> On the day of 11/3/79, at the march, the CWP had an effigy of a Klansman dressed in a white sheet and hood, which neighborhood kids punched. Moments later, after firing the first shot, Klansman Mark Sherer is reported to have said “Show me a n----r with guts and I’ll show you a Klansman with a gun!”<sup>116</sup>

## 6. *The Informants*

Two informants involved in 11/3/79 complicate things. Both seem to have had some genuine propensity for racist hate. Both seem to have been convinced to betray their white supremacist roots in the service of the American government. Both seem to have encouraged Nazis and Klansmen to confront and violently attack communists. To do so as a snare for entrapment would seem a passable strategy for confidential informants. But to do so without follow-up by law enforcement—to provoke hate groups and then to vanish—would seem to generate tremendous culpability, both for the informants and their government handlers. That said, the GTRC express the difficulty in interpreting the role of informants this way:

The BATF had an undercover agent among the Nazis . . . Although he certainly did nothing to prevent it, based on the information available to us we do not find that agent Butkovich acted to provoke the violence. Acting undercover often requires

<sup>97</sup> UNC University Libraries Wilson Special Collections Library Collection Number 04630, Collection Title: Greensboro Civil Rights Fund Records, 1971-1987. <https://finding-aids.lib.unc.edu/04630/>

<sup>109</sup> *An Open Letter to Joe Grady, Gorrell Pierce, and All KKK Members and Sympathizers*, Nelson Johnson. Archived at <https://gateway.uncg.edu/islandora/object/duke%3A65>

<sup>111</sup> [Sic], but it should be noted that this is a real word that means ‘cowardice.’ <https://www.merriam-webster.com/dictionary/cowardness>

<sup>112</sup> See GREENKIL 2009 Afterword 306: “As vile as the Klan’s rhetoric can be, there was not a single instance of the Klan and Nazis who came to Greensboro publicly insulting or insulting the CWP, either collectively or individually, prior to November 3.”

<sup>113</sup> FINAL REPORT 140.

<sup>114</sup> *Id.*

<sup>115</sup> *See Id.*

<sup>116</sup> *Id.* Nelson Johnson and Paul Bermanzohn have since expressed remorse and accepted blame for their part in provocation. Nazi Roland Wood and Klansman Gorrell Pierce have expressed some remorse as well.

an agent to feign support for violent ideas, but the facts we have do not lead us to believe Butkovich incited these feelings where they did not already exist. However, federal agencies exercise very tight control over evidence relevant to their operations and agents. Therefore, as a general problem, citizens often find it extremely difficult to document any inappropriate behavior by federal agents.

The ATF's Nazi informant, Bernard Butkovich, portrayed himself as someone who gave people with a known propensity for illegal activity the "opportunity to violate the law." Nazis Milano Caudle and Roland Wayne Wood alleged during trial that Butkovich encouraged them to take guns to the march on 11/3/79.<sup>117</sup> They also alleged that Butkovich told them he would train them in hand-to-hand combat and in the use of explosives, and that he would help them convert their guns to fully automatic weapons.<sup>118</sup> During testimony, Butkovich said that he and his superiors decided he would not join the caravan of vehicles that went to Greensboro to confront the demonstrators on 11/3/79, but, cryptically, he conceded he could have been "in the vicinity of Greensboro" when the shootings occurred.<sup>119</sup>

The GPD had an informant, Edward Dawson, who notified them prior to 11/3/79 that the Klan was prepared for armed violence.<sup>120</sup> Dawson had been convicted in 1967 of shooting into the home of Black people; he was also convicted of cross burnings. His exposure to the justice system left Dawson dissatisfied with his local chapter of the KKK. He resented them for making him pay his own fines after these convictions, and, worked out a deal to receive only probation in exchange for becoming an informant for the FBI within the KKK from 1969 to 1977. After his career as an FBI informant ended, he continued to work as a contractor and painter. He remained friendly with officers of both the GPD and the FBI, and worked on their homes.

In 1979 Dawson was called to work for the GPD as a plant in the KKK, and he began to work consistently for the GPD.<sup>121</sup> While Dawson was supposed to disrupt the KKK, he may also have contributed to their development and provoked them to attack. Some of the people in the caravan on 11/3/79 said they joined the KKK because of Ed Dawson's speeches. One such speech was in October 1979 at a Lincolnton KKK rally, where Dawson delivered inflammatory rhetoric condemning Blacks and Jews and encouraging confrontation. He said it was the patriotic duty of Klansmen to show up on 11/3/79, and to bring guns. Dawson has since denied saying this.

Leading up to 11/3/79, the GPD was allegedly worried that the taunting of the KKK by the CWP would cause problems. Dawson obtained a copy of the parade permit and led the KKK-Nazi caravan to the location of the "Death to the Klan" rally, where the five people were killed. Dawson also called the GPD multiple times the morning before the massacre to report on the whereabouts of the KKK, their progress, and being armed. Despite this, no intervention occurred.

While Dawson may be reprehensible, he was ultimately an employee of the FBI and GPD. The GPD paid Eddie Dawson to provide information about criminal activity and his handlers were aware of his role in planning the confrontation that took place, yet they did nothing. The GPD laid low and sat on the sideline.

So it is the law enforcement agencies which must receive the harshest criticism, for failing to make use of the information he gathered, failing to criminalize the violence Dawson supposedly provoked, failing to act to stop violence. It's hard not to look at this dereliction as complicity.

<sup>117</sup> *Agent Tells of '79 Threats by Klan and Nazis*, NYT, <https://www.nytimes.com/1985/05/12/us/agent-tells-of-79-threats-by-klan-and-nazis.html>

<sup>118</sup> *Id.* Author's note: Of course, deflecting blame to Butkovich is an obvious strategy for the defendants here; their word holds little weight.

<sup>119</sup> *Id.*

<sup>120</sup> For more discussion of Dawson's involvement, See 88 SECONDS IN GREENSBORO, *infra*.

<sup>121</sup> Frampton Interview.

## B. THE KILLINGS

On November 3<sup>rd</sup>, 1979, Nazis and members of the KKK from around the state came to Greensboro, North Carolina, and attacked members of the CWP as they gathered for the march.<sup>122</sup> Five CWP members were killed and eleven others were injured.<sup>123</sup> The killings took place at Morningside Homes, a mostly Black housing project on the east side of Greensboro.

Just after 11:20 a.m., a caravan of Klansmen and Nazis snaked through Morningside's narrow byways.<sup>124</sup> As the protesters stood their ground, a man in a leaned out the passenger window of a pickup truck and yelled, "You asked for the Klan. Now you got 'em!"<sup>125</sup> The station wagon behind him carried four Nazis. Seven more vehicles followed, carrying nearly 30 more men, including KKK Imperial Wizard Virgil Griffin. A confrontation began; a CWP supporter, beat on one of the cars.<sup>126</sup> As the two opposing groups came in contact at the onset of the march, both sides exchanged gunfire.<sup>127</sup> The CWP and supporters had one or more handguns, while Klansmen and Nazis drew on their cache of dozens of weapons hidden in their cars.

Klansmen and Nazis began firing pistols, rifles and shotguns. CWP members responded with stick fighting and gun shots of their own.<sup>128</sup> Television cameramen taking cover from the gunfire captured the incident on film. No police intervened, although at least two were observing from nearby.<sup>129</sup> Police soon arrived on the scene and made arrests.<sup>130</sup> Police arrested three CWP demonstrators on misdemeanor charges and, over the ensuing weeks, arrested 16 Klansmen and Nazis on murder and riot charges.<sup>131</sup>

The slain included four members of the CWP (Cesar Cauce, William "Bill" Sampson, Sandra "Sandi" Smith, and James "Jim" Waller), and one CWP sympathizer (Michael "Mike" Nathan, husband of CWP member Martha "Marty" Nathan). Among the injured were ten demonstrators (including Nelson Johnson, organizer and CWP member; Paul Bermanzohn, CWP organizer and physician; Marty Nathan, CWP member and physician; Tom Clark; and Jim Wrenn), and a Klansman (Harold Flowers).

Durham resident César Cauce was an employee of the Duke University Medical Center, was active in organizing with the American Federation of State, County and Municipal Employees, and was a leader in the Duke Hospital Organizing Committee.<sup>132</sup>

Greensboro resident Bill Sampson was the Shop Steward of the Amalgamated Clothing & Textile Workers Union (ACTWU), Local 1391, at Cone Mills White Oak plant near Greensboro.<sup>133</sup> He had been a student activist at Duke University and was a member of the New American Movement.<sup>134</sup>

<sup>122</sup> *Id.*

<sup>123</sup> *Id.*

<sup>124</sup> *Spawned.*

<sup>125</sup> *Id.*

<sup>126</sup> *Id.*

<sup>127</sup> *Id.*

<sup>128</sup> *Id.*

<sup>129</sup> *Id.*

<sup>130</sup> *Id.*

<sup>131</sup> *Id.*

<sup>132</sup> Greensboro Massacre Poster, published by Greensboro Justice Fund. Image can be found here:

[https://keywiki.org/images/a/a7/45196162\\_354842308420133\\_643888921462996992\\_n.jpg](https://keywiki.org/images/a/a7/45196162_354842308420133_643888921462996992_n.jpg); RED TIDE RISING.

<sup>133</sup> RED TIDE RISING 4.

<sup>134</sup> NAM was a multi-tendency socialist and feminist political organization, eventually absorbed into the Democratic Socialists of America. STEPHEN E. ATKINS, ENCYCLOPEDIA OF MODERN AMERICAN EXTREMISTS AND EXTREMIST GROUPS 222 (2002).

Greensboro resident Sandi Smith was a former student body president of Bennett College, and was Chairperson of the Textile Union Organizing Committee. She had moved to Greensboro a decade before 1979 to become a campus militant with YOBU; she later became active in GAPP as well.<sup>135</sup> She worked in Cone Mills textile plant as a union organizer.<sup>136</sup>

Haw River resident Jim Waller was a medical doctor and was the president of the Local 11132 of ACTWU. Waller began organizing in the with the Student Non-violent Coordinating Committee and was active in the Medical Committee for Human Rights (MCHR) in New York.<sup>137</sup> He moved to North Carolina as an organizer of “brown lung”<sup>138</sup> screening clinics for textile mill employees. In 1978 he led a wildcat strike<sup>139</sup> of some 200 employees.<sup>140</sup>

Durham Resident Mike Nathan was the Chief Pediatrician of the Community Health Clinic in Durham. He had previously been a member of the MCHR and the revolutionary communist Progressive Labor Party. He also was involved in the pan-African movement, working as a leader of a drive for medical aid to Zimbabwean refugees.

Klansman David Matthews shot or shot at three people. Klansman Jerry Smith shot at four or five people.<sup>141</sup> Although the killings were never adjudicated, it seems all but certain that Roland Wayne Wood, David Matthews, and/or Jerry Smith killed César Cauce, Bill Sampson, Sandi Smith, Jim Waller, and Mike Nathan. Klansman Roy Toney and Nazi Jack Fowler seem also to have shot and fought; Toney shot Paul Bermanzohn in the face with a shotgun, permanently disabling him, but not killing him. Matthews also shot CWP member Jim Wrenn; Wrenn survived. CWP member Dori Blitz emptied a .38 pistol at Jerry Smith but missed and exited the fray. Another CWP sympathizer fired a pistol at David Matthews and missed. Harold Flowers, the one white supremacist who was shot, was wounded by friendly fire.<sup>142</sup>

## C. THE AFTERMATH

### 1. *The Trials*<sup>143</sup>

#### a. *N.C. v. Fowler* (1980)<sup>144</sup>

*N.C. v. Fowler*, a state criminal case held in Guilford County<sup>145</sup> Superior Court, was the first trial. Judge James Long presided over it. State prosecutors brought felony charges against six anti-Klan demonstrators, including CWP leader Nelson Johnson.<sup>146</sup> This was a criminal trial, so the named plaintiff was the state of North Carolina, and Fowler was the named defendant. But it was not a case of the CWP v. the Klan and Nazis, that legal battle would be realized in the federal

<sup>135</sup> RED TIDE RISING 4..

<sup>136</sup> *Id.*

<sup>137</sup> *Id.*

<sup>138</sup> The lung disease byssinosis, caused in workers by breathing in microscopic cotton dust in factories.

<sup>139</sup> A strike action undertaken by unionized workers without union leadership's authorization, support, or approval.

<sup>140</sup> *Id.*

<sup>141</sup> 2442 - Section 3 Testimony of Nappier, Lisford Carl — Misc., in the Greensboro Civil Rights Fund Records #4630, Southern Historical Collection, Wilson Library, University of North Carolina at Chapel Hill.

<sup>142</sup> See infographics produced by the GREENSBORO NEWS AND RECORD (citing GREENKIL and news footage).

<sup>143</sup> Three main trials occurred as a result of 11/3/79, although there were also other legal matters ancillary to the killings and the aftermath. See *In re Greensboro News Co. and Nathan v. Smith*.

<sup>144</sup> This case took place in Guilford County Superior Court, and no official reporter exists of the matter. Official transcripts can be accessed by contacting the Guilford County Clerk of Court or visiting Wilson Library.

<sup>145</sup> Greensboro is the county seat of Guilford County.

<sup>146</sup> UNC University Libraries Wilson Special Collections Library Collection Number 04630, Collection Title: Greensboro Civil Rights Fund Records, 1971-1987. <https://finding-aids.lib.unc.edu/04630/>.

civil trial four years later. Instead, members of the CWP were also joined as defendants in this case after they too were charged with felony riot.

Prosecutors had probable cause<sup>147</sup> to believe that there was a conspiracy by the Klan and Nazis.<sup>148</sup> Under state law, it was not enough for the prosecutors to show that the defendants conspired to commit an act that resulted in death—they had to prove the defendants conspired to commit murder.<sup>149</sup> Assistant District Attorney James Coman said the evidence “simply was not there.” There was, however, firm evidence of first-degree murder and felony riot, said Coman. With that belief, the prosecution presented indictments of first-degree murder and felony riot to the Guilford County grand jury. True bills on both counts were issued for David Matthews, Jerry Smith, Jack Fowler, Wayne Wood, Johnny Pridmore, Lawrence Morgan, Roy Toney, Junior McBride, Harold Flowers, Billy Joe Franklin, and Terry Hartsoe. Carl Nappier, Lee McLain, and Michael Clinton were indicted only on riot charges. Milano Caudle, who had been charged only with conspiracy, was dismissed from the case.

There were issues with Edward Dawson, who feared for his safety after he found out about a newspaper article naming him as an informant for the police. Dawson tried to get Coman to quash the subpoena for Dawson to testify, and threatened to lie on the stand if he were called.<sup>150</sup> Neither the defense nor prosecution called Eddie Dawson nor Bernie Butkovich to the stand.<sup>151</sup>

The prosecution’s strategy in this case was to combine the trials of the four defendants who were most visible on the videotapes: Fowler, Smith, Pridmore, and Morgan. Roland Wayne Wood, who was also prominent on the tapes, had cooperated with the prosecutors in his statements to the police and FBI.<sup>152</sup> The defense’s strategy was to move to include Wood and Matthews in the first trial, which would accomplish two crucial goals: increasing the number of defendants on trial would raise the probability that the jury would be confused about who did what to whom, thereby making acquittals more likely, and bringing in Wood and Matthews would mean the defense team would be led by two skilled criminal lawyers, Bob Cahoon and Percy Wall.<sup>153</sup> The defense’s motion to include Matthews and Wood in the first trial was granted.<sup>154</sup> The prosecution had a total of 88 peremptory challenges,<sup>155</sup> the defense had 108, enabling the attorneys defending the white supremacists comparatively higher ability to shape the jury.<sup>156</sup>

CWP members refused to cooperate with the prosecutors unless they were all granted immunity; the prosecutors did not feel they could make any bargains until they knew what the demonstrators had to say.<sup>157</sup> After a standstill, the DAs asked the grand jury for felony indictments against six CWP members: Nelson Johnson, Allen Blitz, Dori Blitz, Rand Manzella, Lacey Russell, and Percy Sims.<sup>158</sup> The CWP believed the trial was a sham and a farce, and they refused to testify.<sup>159</sup> Waller said “There were enough witnesses from the community that were willing to testify. There were the videotapes, there was enough evidence that could be reconstructed from

<sup>147</sup> Coman mentioned “the meeting at the house and so forth” as what constituted that probable cause. GREENKIL 202.

<sup>148</sup> *Id.*

<sup>149</sup> See generally Ch. 14, N.C. GEN. STAT.

<sup>150</sup> GREENKIL 202.

<sup>151</sup> *Id.*

<sup>152</sup> *Id.*

<sup>153</sup> *Id.*

<sup>154</sup> *Id.* at 206

<sup>155</sup> Each side has unlimited challenges for cause, but the peremptories are limited. Peremptories are used to dismiss persons who the attorney feels would not be sympathetic, for whatever reason, *Id.*, absent objections, e.g. a Batson challenge, which can be used to prevent peremptories based on discrimination. [https://www.law.cornell.edu/wex/batson\\_challenge](https://www.law.cornell.edu/wex/batson_challenge)

<sup>156</sup> GREENKIL 206.

<sup>157</sup> *Id.* at 204

<sup>158</sup> *Id.*

<sup>159</sup> *Id.* at 212.

the event—more than is present in any other murder trial. There was enough evidence to convict all the people in the caravan and the fourteen men a thousand times over.”<sup>160</sup>

The prosecution disagreed, and said their testimony would have been valuable in humanizing the victims, and under the Federal Rules of Evidence,<sup>161</sup> that was the kind of testimony the prosecutors could not bring in from any other source.<sup>162</sup> This was crucial, because without it, the prosecutors could only refer to the victims by name or by the grossly impersonal legal term “the alleged victims.”<sup>163</sup> To hear the prosecutors tell it, they did everything they could to bring the killers to justice, whereas the widows and other survivors in the CWP actively interfered with the process with their silence and contempt and disruption of the court proceedings.<sup>164</sup>

Conversely, the KKK and Nazi defendants were not seen as obstinate. They “cooperated” strategically, avoiding incriminating themselves by claiming no memory in some cases and outright lying in other cases.<sup>165</sup> Using this foundation, their talented lawyers wove a detailed, compelling narrative, a story that made sense to the jury. There simply wasn’t a story on the other side, leaving the prosecuting attorneys unable to humanize and give life to their side of the story. This narrative imbalance some have credited as the true death knell for the CWP’s legal case.<sup>166</sup>

Procedurally, there were some decisions in the courtroom that, from an outsider’s point of view, seem like plain sympathy for the white supremacists. For example, during the trial, Klansman Jerry Smith requested copies of photos of autopsies of slain CWP members, as well as photos of Smith running up the street shooting. Smith then brought these photos to a KKK rally in Lincolnton on 9/13/80 and displayed them.<sup>167</sup> This event was raised in court, an attempt by the prosecution to impute malice on the part of the killers. But the discussion was done with the jury not present, because the judge so ordered, and the judge later ordered this evidence suppressed because it would be prejudicial to Smith.<sup>168</sup> Another ignored improbity was that David Matthews sought to prevent witnesses with knowledge from testifying before the grand jury.<sup>169</sup>

One bizarre and noteworthy aspect of this trial was the hypnotized testimony from a local news reporter. The reporter was interviewed under hypnosis, and a video of this interview was shown to the jury. In the video, she clearly states that the hypnosis “revived her subconscious feeling that the communists had brought the violence upon themselves.”

Further impeding justice was noncooperation between federal and state government agencies, which the prosecutors complained of, but were given no recourse.<sup>170</sup> Ultimately, not one person was convicted for a single crime; all the defendants were found not guilty and acquitted.<sup>171</sup> The jury was all-white.<sup>172</sup> In the wake of the acquittals, the Greensboro Justice Fund (GJF) was organized by the families and friends of the deceased CWP members. The GJF began fund raising for a civil suit on behalf of the victims.<sup>173</sup>

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<sup>160</sup> *Id.*

<sup>161</sup> See FED. R. EVID. 404.

<sup>162</sup> *Id.* at 212–13.

<sup>163</sup> *Id.* at 213.

<sup>164</sup> See *Id.* at 215–16.

<sup>165</sup> See generally evasive and inconsistent testimony by Klansmen across various trials.

<sup>166</sup> Frampton Interview.

<sup>167</sup> UNC Wilson Library Archives Files 2499–2501- transcript series 3 - NC v. Fowler: Testimony of Smith, Jerry P. — 2 Oct 1980.

<sup>168</sup> *Id.*

<sup>169</sup> UNC Wilson Library Archives Testimony File 2443 - United States v. Griffin: Nappier, Lisford Carl Sr.

<sup>170</sup> *Id.* at 219.

<sup>171</sup> *Id.* at 226.

<sup>172</sup> *Id.*

<sup>173</sup> UNC University Libraries Wilson Special Collections Library Collection Number 04630, Collection Title: Greensboro Civil Rights Fund Records, 1971-1987. <https://finding-aids.lib.unc.edu/04630/>

b. *United States v. Griffin* (1983)<sup>174</sup>

The full title of the federal criminal trial was: *United States of America v. Virgil Griffin, Edward Dawson, David Matthews, Roland Wayne Wood, Jerry Smith, Jack Fowler, Jr., Roy Toney, Coleman Pridmore, and Raeford Milano Caudle*. The relief sought was \$48 million in damages. The named plaintiff here was the United States because the alleged violations were of federal discrimination crimes and constitutional violations. Specifically, a federal grand jury indicted nine members of the KKK and Nazis with (1) conspiracy to commit an offense or to defraud the United States, (2) conspiracy to violate the civil rights of persons because of their race or religion, and (3) conspiracy to violate the rights of persons because of their participation in an integrated activity. The complaint alleged failure to protect demonstrators and wrongful death. Four KKK/Nazis also indicted for actions that resulted in injury or death.<sup>175</sup> No government or police official was indicted. All 48 named defendants were found not guilty and acquitted of all charges. The jury, which was all-white,<sup>176</sup> had accepted their claims of self-defense, despite vivid newsreel film of the massacre that seemed to prove the contrary.<sup>177</sup>

According to UC Davis School of Law Professor Mary Louise Frampton, the odds were stacked against the CWP because, from a pure optics standpoint, the jury sees two main things: (1) The CWP did not participate in first trial and (2) The CWP filed a multi-million-dollar civil suit.<sup>178</sup> The GJF had asked for a special prosecutor because they believed the assigned prosecutor had a conflict of interest, since FBI were among the named defendants in the civil case. This request was denied.

c. *Waller v. Butkovich* (1984)<sup>179</sup>

This was the federal civil trial. It was initiated in 1980 but not adjudicated until 1984. The original civil complaint named 88 defendants, including 21 Nazi and KKK<sup>180</sup> members, 34 members of the GPD, many city and federal officials—including the Mayor of Greensboro, the

<sup>174</sup> *United States v. Griffin*, 585 F. Supp. 1439 (M.D.N.C. 1983) (Defendants were indicted under state program and activities provision of statute governing federally protected activities. Defendants moved to dismiss indictment. The District Court, Flannery, J., sitting by designation, held that: (1) parade with which defendants allegedly interfered was not kind of “assembly” clearly contemplated by speech and assembly provisions of statute; (2) city “administered” parade organized primarily to enable participants to express their public contempt for clandestine racist organization within meaning of statute; (3) parade was “activity” within meaning of statute; and (4) statute is not unconstitutionally vague.”) Crim Nos. 83-53-01-6 to 83-53-09-G.

<sup>175</sup> Matthews, Wood, Smith, Fowler, and Toney

<sup>176</sup> *Id.*

<sup>177</sup> *Opinion: Acquittal in Greensboro*, NEW YORK TIMES. (Apr. 18, 1984) <https://www.nytimes.com/1984/04/18/opinion/acquittal-in-greensboro.html>.

<sup>178</sup> Frampton Interview.

<sup>179</sup> *Waller v. Butkovich* 584 F. Supp. 909 (M.D.N.C. 1984) (This is the main case; participants in anti-Ku Klux Klan rally brought action charging city, state, and federal government officials and agencies with complicity in attack by members of Ku Klux Klan and American Nazi Party against the rally participants and in ensuing cover-up of alleged official involvement in the attack. The District Court, per Merhige, J., held that: (1) motions to dismiss on grounds of sovereign immunity, lack of personal jurisdiction, and prosecutorial immunity would be granted in part and denied in part; (2) with few exceptions, second amended complaint stated with sufficient specificity facts on which allegations were based; (3) allegation that conspiracy was animated by plaintiffs' status as labor organizers did not fulfill “discriminatory animus” requirement of section 1985(3) cause of action; (4) allegation that conspiracy was animated against advocates of equal rights for black people satisfied the discriminatory animus requirement; (5) federal defendants were subject to suit under section 1985(3) and section 1986; (6) complaint stated cause of action for conspiracy and cover-up under section 1983 and section 1985(3); (7) complaint stated cause of action against city police, but not against federal law enforcement officials, for failure to protect; (8) complaint failed to allege section 1981 cause of action; (9) claims relating to deficient supervisory practices would not be dismissed; and (10) motions of pro se defendants for appointment of counsel would be denied.); *Waller v. Butkovich* 593 F. Supp. 942 (M.D.N.C. 1984) (holding by the District Court, per Merhige, J., sitting by designation, that, on a challenge under the Jury Selection and Service Act, plaintiffs failed to establish substantial underrepresentation of blacks in the Middle District of North Carolina); *Waller v. Butkovich* 605 F. Supp. 1137 (M.D.N.C. 1985) (holding by the District Court, per Merhige, J., that, on motion to dismiss counterclaims brought by Ku Klux Klan and Nazi defendants, the counterclaims sufficiently alleged claims under federal conspiracy statute).

<sup>180</sup> During the proceedings Klan leader Virgil Griffin gloated to reporters, “No matter what the communists say, the KKK is here to stay.”

Governor of North Carolina, the directors of the FBI and ATF, the Justice Department, and two U.S. Attorneys General. There were 14 total causes of action (4 federal torts claims and 10 civil rights violations claims). The 16 named complainants were people widowed, injured, and/or arrested on 11/3/79. The matter was presided over by Judge Robert R. Merhige, Jr.

Notably, Edward Dawson testified that he'd acted as a liaison between the KKK and the Greensboro Police. He said under oath that he'd warned police that as many as 200 KKK and American Nazi Party members were planning to show up at the CWP rally, and that he'd been paid by the police for this information. He was riding in the first car of the KKK caravan and testified that he'd expected the police to be there when they arrived, and couldn't understand why they weren't. For Dawson, the verdict came back not guilty. Although Dawson was not convicted, there were some convictions. Ultimately, eight defendants were found liable for the wrongful death of the one protester who was not a member of the CWP. The city settled with the plaintiffs for \$351,000.

This was historic: "After two criminal trials, not a single gunman has spent a day in prison, although a civil trial won an unprecedented victory for the victims: For one of the only times in US history, a jury held local police liable for cooperating with Ku Klux Klan in a wrongful death."<sup>181</sup> Still, to many, the six-figure award was paltry compared to the \$48 million in damages sought.

Merhige's jurisprudence was impactful.<sup>182</sup> Bacigal and Bacigal say "[p]erhaps the ultimate embodiment of a trial judge's power to alter social conditions rests in the personage of Federal District Judge [Merhige]. . . ." Admirers of Merhige have labeled him as a problem solver and a seeking to use his power to correct the injustices prevalent in our society. His critics called him a liberal judicial activist who overstepped his role. Merhige seemed ideally nonpartisan for the role; he was quoted as saying "The only thing I'm afraid of is that somebody might come out of [the case] saying they like me." Bacigal and Bacigal do a nice job describing X:

If litigation is civilization's answer to revolution, then the Greensboro trial was a final confrontation between political zealots who apparently had gotten what they sought from violence itself. The Klansmen and Nazis used the violent encounter to rebut charges of cowardice and to boast that they had gunned down five "dirty commies." In turn, the CWP touted its five dead "martyrs" as proof that there was no justice under capitalism. The only task that remained for the judge was to verify either side's version of the facts.<sup>183</sup>

But Merhige refused to do so. Notably, Merhige chose to rule only on procedural matters, refusing to openly discuss the substantive merits of either side's case, and so all published opinions address procedural rulings.<sup>184</sup> The CWP accused him of being conservative and distorting the law to protect the Klan and Nazis.<sup>185</sup> The Klan and Nazis accused him of being liberal and manipulating the proceedings to ensure that only the radical plaintiffs could receive a full hearing on the charges.<sup>186</sup> It would seem he reached his goal of coming away with no party friends.

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<sup>181</sup> SALLY BERMANZOHN, THROUGH SURVIVORS' EYES: FROM THE SIXTIES TO THE GREENSBORO MASSACRE, Introduction (2002) [hereinafter THROUGH SURVIVORS EYES].

<sup>182</sup> Ronald J. Bacigal and Margaret Ivey Bacigal, *When Racists and Radicals Meet*, 38 Emory L. J. 1145 (Fall 1989).

<sup>183</sup> *Id.* at 1178.

<sup>184</sup> *Id.* n.3.

<sup>185</sup> *Id.* at 1178.

<sup>186</sup> *Id.*

Absent criminal convictions and a tepid civil liability finding, survivors and other stakeholders in 11/3/79 were left unsure how to grieve, process, or move on. For better or for worse, convictions likely would have placated many of those disturbed by 11/3/79. In the adversarial legal system, closure is adjudicated, or at least adjudication provides closure. Indeed, the absence of convictions seemed to cultivate a need for resolution. Accordingly, decades later, a truth and reconciliation commission was convened.

## *2. Non-Legal Aftermath*

The Greensboro Truth and Reconciliation Commission (GTRC) was designed to create space for the community to seek its own extralegal closure and justice. The project<sup>187</sup> was founded in 1999. It was an historic undertaking, the first of its kind in America, modeled after the South African Truth and Reconciliation Commission undertaken after apartheid.

The Andrus Family Fund<sup>188</sup> provided significant primary funding, with the International Center for Transitional Justice<sup>189</sup> providing supplementary financial support. The stated purpose of the GTRC was not punitive in nature; it instead sought to investigate the events of 11/3/79, to identify constructive avenues designed to facilitate societal reconciliation, and to reveal and disseminate the truth.

The work of the Commission<sup>190</sup> began in earnest in 2004. Seven commissioners held hearings, hosted public forums, community meetings, discussions, and conducted research. Their research included recorded oral testimonials from survivors, a judge, KKK and Nazi members, and police officers. They commission faced noncooperation and reluctance from police and the press. In 2006, they ultimately issued a 553-page full report, a 60-page executive summary, and many other shorter documents that included their many findings, highlights of which follow.

The GTRC lacked some notable legal authority that previous truth and reconciliation commissions (TRCs) had enjoyed. For one thing, the private organization failed to secure authority or local sanction; when the mayor and most of the members of the City Council voted against the endorsement of the undertaking. The GTRC lacked subpoena power to compel testimony, and lacked the ability to invoke perjury for false testimony. This places its work firmly outside the realm of adjudication.

After issuing its Final Report, the GTRC concluded that both sides used inflammatory rhetoric, but that Klan and ANP members had intended to inflict injury on protesters, and the police department had colluded with the Klan by allowing anticipated violence to take place.<sup>191</sup>

In 2009, the Greensboro City Council passed a resolution expressing regret for the deaths in the march. In 2015, the city unveiled a marker to memorialize the Greensboro Massacre.

On both August 15, 2017, and on October 6, 2020, the Greensboro City Council formally apologized for the massacre. The unexpected 2017 apology came via City Council vote, three days after the murder of Heather Heyer,<sup>192</sup> a counter-protester at a white supremacist rally in

<sup>187</sup> It was later decided in October 2002, to remove the term “massacre” in respect to the victims and survivors. FINAL REPORT.

<sup>188</sup> See ANDRUS FAMILY FUND, <https://affund.org/>, which states “The Andrus Family Fund supports the self-determination, power and liberation of Black, Brown and Indigenous youth impacted by the youth justice, child welfare and other disruptive systems.” Further analysis of the AFF in the late ‘90s and early 2000s would add an interesting dimension, but is beyond the scope of this paper as of now.

<sup>189</sup> See INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE <https://www.ictj.org/>.

<sup>190</sup> On May 27, 2004, the seven commissioners (five women and two men) were publicly announced; the list included Muktha Jost, Bob Peters, Barbara Walker, Pat Clark, Cynthia Brown, Angela Lawrence, and Mark Sills. Three (Jost, Brown and Lawrence) were African American, and Lawrence, Sills (who also served on the selection committee) and Brown were native North Carolinians. FINAL REPORT.

<sup>191</sup> See discussion *infra* section I.C.2.

<sup>192</sup> Heyer’s death captured the imagination of film director Spike Lee, who included footage of her murder at the end of his film BlaKkKlansman, a film that came out in 2018, around the mid-point of the Trump presidency.

Charlottesville, Virginia. The murderer in Charlottesville was James Alex Fields, then 20, who had previously espoused white supremacist beliefs.<sup>193</sup> Here were eerie parallels with 11/3/79: the death of a white anti-racist at the hands of an attacker with hybridized KKK-Nazi beliefs.

It's impossible to ignore the story of Kyle Rittenhouse here. In August 2020, Rittenhouse, then 17, committed double homicide in the streets of Kenosha, Wisconsin, during riots and unrest following the shooting of a black man, Jacob Blake, by a white police officer. The second apology<sup>194</sup> for the Greensboro Massacre issued by the city of Greensboro took place on October 6, 2020, less than two months after the Rittenhouse murders, and only five months after the historically gruesome death by torture of George Floyd. It seems the cultural dissatisfaction with police complicity in Black death became too much for the city to ignore.

But Greensboro seemed not to learn from its past, or to take its own apologies seriously. In 2018 in Greensboro, Marcus Deon Smith, a Black man, was killed after being tortured by police.<sup>195</sup> Smith was experiencing homelessness and a mental health crisis and walking erratically through traffic when he asked police to help him.<sup>196</sup> He was not a threat, had not committed a crime and had not been charged.<sup>197</sup> But he ended up hogtied in a dangerous maximum restraint device known to cause asphyxiation.<sup>198</sup> He died in police custody a few moments later, bound face down on the ground and unable to breathe.<sup>199</sup>

The Chief Medical Examiner of the state of North Carolina pronounced Marcus' death a homicide.<sup>200</sup> In 2022, Greensboro reached a \$2.57 million settlement in exchange for full release from liability in his death.<sup>201</sup> As part of the settlement, all documents from the case were sealed, including transcripts, depositions, and body-camera footage of many incidents of previous incidents in which individuals were hogtied by GPD.

Despite the settlement many local residents still feel that the GPD has the same entrenched culture as decades ago, marked by racism, excessive use of force and lack of accountability. Not long after Smith's death, the Homeless Union of Greensboro (HUG) distributed a handout called "Pattern & Practice of Police Abuse, Misconduct & Cover-Ups in Greensboro."<sup>202</sup>

It cited 16 instances of this alleged pattern, including the 1969 military siege of A&T and the shooting of Willie Grimes mentioned above, the Greensboro Massacre, the 1995 wrongful conviction of LaMonte Armstrong, the 2009 settlement in the lawsuit brought by then 85-year-old Eva Foster after she was injured in a police raid but not charged with any crime, and a 2015 front-page article in the New York Times about "the disproportionate risks of driving while black" in Greensboro. The handout also cited the city's \$95,000 settlement in the case of Dejuan Yourse after the release of bodycam footage of his arrest showed him being assaulted by officers Travis

<sup>193</sup> James Pilcher, *Charlottesville suspect's beliefs were 'along the party lines of the neo-Nazi movement,' ex-teacher says*, CINCINNATI ENQUIRER (Aug. 13, 2017).

<sup>194</sup> In the apology, Greensboro acknowledged that the GPD, "along with other city personnel failed to warn the marchers of their extensive foreknowledge of the racist, violent attack planned against the marchers by members of the Ku Klux Klan and the American Nazi Party with the assistance of a paid GPD informant." The apology further concedes that "the GPD failed to divert, stop or arrest the members of the Ku Klux Klan and American Nazi Party, whom police knew were carrying a cache of concealed weapons, as they approached the Morningside Homes Community where the marchers were gathered." Signe Waller and Nelson Johnson, *An Apology for a Massacre, 41 Years Later*, TIKKUN (Dec. 21, 2020)<https://www.tikkun.org/an-apology-for-a-massacre/>.

<sup>195</sup> See Ian McDowell, *Marcus Smith legal team alleges a history of GPD misconduct*, YES! WEEKLY (Aug 9, 2019)

[https://www.yesweekly.com/news/marcus-smith-legal-team-alleges-a-history-of-gpd-misconduct/article\\_aaa7bd9-c31b-5ee3-bbc9-5d0235fe3111.html](https://www.yesweekly.com/news/marcus-smith-legal-team-alleges-a-history-of-gpd-misconduct/article_aaa7bd9-c31b-5ee3-bbc9-5d0235fe3111.html)

<sup>196</sup> *Id.*

<sup>197</sup> *Id.*

<sup>198</sup> *Id.*

<sup>199</sup> *Id.*

<sup>200</sup> *Id.*

<sup>201</sup> Neal Charnoff, *Greensboro reaches \$2.57M settlement with family of Marcus Smith*, WUNC (Feb. 2, 2022) <https://www.wunc.org/law/2022-02-02/greensboro-reaches-2-57m-settlement-with-family-of-marcus-smith>

<sup>202</sup> See *supra* note 195.

Cole and Charlotte Jackson, a 2013 article reporting that city council member Marikay Abuzuaiter once served as a GPD confidential informant; and journalist Nate Thayer's 2018 report that GPD officers Steven Kory Flowers<sup>203</sup> and Robert Finch served as "control agents" for KKK imperial wizard Chris Barker, shielding Barker from felony prosecution.

This HUG assessment is just one of many efforts at making sense of the constellation of racism and violence in Greensboro over the last four decades. For many, HUG's conclusion may feel unacceptable. Critics would suggest that it ignores the thousands or millions of quiet successes, nonviolent acts of service, and ethical performance of duty by law enforcement officers.

Whether or not that's true, my contention here is that both the apologies by Greensboro and the HUG handout came about as the result of collective memory. This memory is not a fixed, static object. It is a dynamic system of negotiating narratives. Truth is a social relation. Depending on who you are, Truth may require compromise, or it may require commitment to a point of view. Depending on your historical demographic context, Truth may require de/prioritization of certain peoples' experiences. Some truths may come at the expense of another's truth. To that end, each piece of writing offered into the literature competes for its own chance to carry Truth. The story of "the Greensboro Massacre" has been told and retold, adjudicated, memorialized, historicized. To cast light on how the narrative persisted and to give a flavor of certain underreported truths, I offer a partial survey of 11/3/79 media.

## II. A PARTIAL SURVEY OF 11/3/79 MEDIA

The events of November 11, 1979, have been extensively historicized. Massacre media abounds.<sup>204</sup> Some histories are biased in favor of the CWP.<sup>205</sup> Other histories attempt neutrality.<sup>206</sup> Some perform neutrality but still subtly ooze bias.<sup>207</sup> Some are critically compassionate toward the CWP,<sup>208</sup> others bitterly critical,<sup>209</sup> and still others are unabashedly contemptuous of the CWP.<sup>210</sup>

I use *bias* and *critical* and here descriptively. I contend that histories are partisan and that historians are advocates.<sup>211</sup> This should present no problem for legal professionals, who, as professional convincers and drafters of "persuasive facts," recognize the bias inherent in storytelling as an essential part of the "zealous advocacy" mandated by legal ethics counsels.<sup>212</sup>

Without making a value judgment about the validity of any one history, I'm interested in attempting to identify the project served by each bias. I think doing so can be both revelatory and healing. To make sense of each project, I consider the phenomena of story-telling, social amnesia, collective remembering, collection, and recollection. I also invoke critical theory methodologies to help parse texts I've culled from the massive archive on the matter.<sup>213</sup>

<sup>203</sup> I have no way of proving it, but I have a suspicion that Steven Kory Flowers may be kin to Harold Flowers, the Klansman wounded by friendly fire on 11/3/79. This is based on my assumption that Flowers is a relatively uncommon name.

<sup>204</sup> See, e.g., Aran Robert Shetterly, *Morningside: A Survivor's Story of the Greensboro Massacre* (forthcoming Oct. 2023). For an extensive analysis of massacres as a coherent historical category globally, see THE MASSACRE IN HISTORY *supra* note 7, which explores the subject of massacre from a variety of perspectives—its relationship to politics, culture, religion and society, its connection to ethnic cleansing and genocide, and its role in gender terms and in relation to the extermination of animals. The historians provide evidence to suggest that the massacre is often central to the course of human development and societal change. All these perspectives are relevant but beyond the scope of this paper.

<sup>205</sup> See, e.g., THE TRUE STORY OF THE GREENSBORO MASSACRE, THROUGH SURVIVORS' EYES, LOVE AND REVOLUTION, all discussed *infra*.

<sup>206</sup> See, e.g. BLACK WHITE PERCEPTIONS, *infra*.

<sup>207</sup> See, e.g., GREENKIL, especially the 2009 afterward, *infra* and *supra*.

<sup>208</sup> See, e.g., FULL REPORT, *infra* and *supra*.

<sup>209</sup> See, e.g., THE GREENSBORO MASSACRE, CRITICAL LESSONS FOR THE 1980'S, *infra*.

<sup>210</sup> See, e.g., Jason Kops, The Greensboro Massacre: A Challenge to Accepted Historical Interpretations (arguing that members of the CWP, the primary proponents and organizers of the "Death to the Klan" march, largely bear responsibility for the tragedy). <https://uncw.edu/csurl/explorations/documents/jasonkops.pdf>; RED TIDE RISING (arguing the same).

<sup>211</sup> See Appendix, *infra*, for further discussion.

<sup>212</sup> See, e.g., N.C.RPC, <https://www.ncbar.gov/for-lawyers/ethics/rules-of-professional-conduct/rule-35-impartiality-and-decorum-of-the-tribunal/>

<sup>213</sup> See Appendix, *infra*, for more on these lenses and methodologies.

## A. THE LITERATURE — BOOKS, ARTICLES, AND EPHEMERA FROM THE ARCHIVE

As a student amateur researcher in 2022, my access to anything resembling the “Facts” of 11/3/79 is constrained. Three of the most definitive histories on 11/3/79 were written by massacre survivors: one by a widow of a man killed on 11/3/79,<sup>214</sup> one by the wife of a man critically wounded that day,<sup>215</sup> and one by she and that man himself.<sup>216</sup> For better or for worse, each of the popular history books authored on 11/3/79 were written by white people.<sup>217</sup>

Seeking balance, I’ve included in my survey shorter works by Black authors that have received little or no attention from other historians, including work by the Paul Robeson/Amilcar Collective. I deliberately give more cursory treatments to books published by survivors of 11/3/79, though I attempt to draw out important points of critical analysis from each piece where possible, regardless of author demography. I proceed chronologically.

### *1. The True Story of the Greensboro Massacre*

Paul and Sally Bermanzohn’s 1980 book is a moving, compelling account, published mere months after 11/3/79. More than anything else, this book was an excellent piece of elegiac propaganda. Indeed, Sally Bermanzohn said that she began working on the book at the instruction of the CWP.<sup>218</sup> Elizabeth Wheaton (whose book, Codename Greenkil, is discussed *infra*) critiques the book as being heavy-handed, calling its focus on the CWP “suffocating,” and describing the CWP portrayed therein as “one-dimensional [communist] party drones.”<sup>219</sup>

Substantively, the book makes a very clear case for negligence, and perhaps recklessness, on the part of specific GPD officers who consciously disregarded the risk of harm to the CWP and failed to act,<sup>220</sup> and who also failed to pursue the perpetrators afterward. And it serves as a clarion call to action for new radicals to take up arms to vindicate the martyred “CWP Five.”

That being said, some of the facts presented in this early work were inaccurate—Paul Bermanzohn himself testified at trial that, in his zeal to portray the five slain CWP members as heroes, he and Sally exaggerated, embellished, and distorted the truth.<sup>221</sup> His overstatements should be instructive to students of evidence and future litigators: the book was introduced by the defense in the federal criminal trial to impeach his testimony.<sup>222</sup>

If nothing else, this book was a provocative work of public grief. And it was a story of survival against preposterous odds. Paul, left for dead on the ground on 11/3/79, survived a gunshot to the face and partial paralysis that left him permanently disfigured and disabled.

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<sup>214</sup> SIGNE WALLER, LOVE AND REVOLUTION (2002).

<sup>215</sup> THROUGH SURVIVORS’ EYES

<sup>216</sup> Paul and Sally Bermanzohn, *The True Story of the Greensboro Massacre* (1980).

<sup>217</sup> Paul Bermanzohn, Sally Bermanzohn, Signe Waller, Elizabeth Wheaton, Spoma Jovanovic. It’s worth noting here that the story has been preserved outside the realm of media, in spaces like faith communities and grassroots organizing, by the likes of Nelson Johnson and others.

<sup>218</sup> GREENKIL (2009 afterword) 301.

<sup>219</sup> GREENKIL 235–36.

<sup>220</sup> For more on the state-created danger doctrine and the special relationship exception, *see, e.g.*, DeShaney v. Winnebago, 489 U.S. 189 (1989).

<sup>221</sup> GREENKIL 236 (citing Paul Bermanzohn’s testimony in Waller v. Butkovich).

<sup>222</sup> GREENKIL 236. *See also* FED. R. EVID. 608.

## 2. THE GREENSBORO MASSACRE: Critical Lessons for the 1980's<sup>223</sup>

In 1980, a group composed of the Paul Robeson/Amilcar Collective and the Greensboro Collective (the Collectives) wrote a short pamphlet reflecting on the events of 11/3/79.<sup>224</sup> The name comes from one of Africa's foremost anti-colonial leaders,<sup>225</sup> a revolutionary socialist named Amílcar Lopes da Costa Cabral;<sup>226</sup> and from Paul Robeson, a twentieth-century American musician, actor, athlete, Pan-Africanist, and activist.<sup>227</sup>

No individual author names are provided in the pamphlet, and as of November 2022 I don't know who is responsible for this work, so I rely on context to try to interpret the position and perspective of the authors. The authors say "we had fairly intimate contact with events, people, organizations, and political tendencies described in the work."<sup>228</sup> The authors identify themselves this way: "[We] are Marxist-Leninist collectives with roots in the Black Liberation and African Liberation Support Movements. Some members of each [collective] . . . have had associations with either the [Revolutionary Workers League], the "Revolutionary Wing," or the [Revolutionary Communist Party]. . . ."<sup>229</sup>

The authors discuss the role of Malcolm X University (MXLU) in their work. In the 1960s and '70s MXLU was "perhaps the most vivid evidence of Black Power in Greensboro."<sup>230</sup> In the eyes of its founders, MXLU represented an alternative to the perceived institutionalized racism of the American educational system by focusing on Black self-determination.<sup>231</sup>

In the mid-seventies, Black Power began to give way to competing ideologies. In particular, members of the Black Power movement became divided into separatist Black Nationalism versus class-focused Marxism camps.<sup>232</sup> When local leaders such as Nelson Johnson took a more Marxist stance, they gradually lost support and funding from the Black community, which was skeptical of the communist rhetoric.<sup>233</sup> By the end of the '70s, Black Power in Greensboro and throughout much of the United States had dissolved, but its legacy of struggle and violence remained.

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<sup>223</sup> This paper originally included discussion of Vann Newkirk's 1991 Master's thesis, entitled "The Greensboro Massacre: The Communist and Black Relationships" In it, Newkirk intimates that communist organizations used Black people as pawns for their own "revolutionary" ends. Newkirk suggests that the CWP intentionally sought to have its members martyred to accelerate its goal of government overthrow. Ultimately Newkirk paints the WVO/CWP as manipulative. Because the Collectives' writing covers the same ground exhaustively, I have omitted discussion of Newkirk's work. Likewise, Kops, *supra* note 210, reaches conclusions that mirror those reached by The Collective, albeit for different reasons and from a different identity perspective.

<sup>224</sup> Wilson Library folder number 3138. Author's note: because I've never seen this work quoted or cited to anywhere else, and because I've also never seen this critique leveled anywhere else, I dedicate considerable space to excerpting it and analyzing it here. Moreover, the fact that it is, to my knowledge, only available in the archive as of now motivates me to include more of it here than of other extant and easily accessible works.

<sup>225</sup> Chilcote, Ronald H. *Amílcar Cabral's Revolutionary Theory and Practice: A Critical Guide*. BOULDER & LONDON: LYNNE RENNER (1991).

<sup>226</sup> Martin, G. (23 December 2012). African Political Thought. Springer. Cabral was a Bissau-Guinean/Cape Verdean agricultural engineer, pan-Africanist, intellectual, revolutionary, poet, and diplomat. Cabral, who fought in the war of independence in Guinea-Bissau, was assassinated in 1973. Deeply influenced by Marx, he was an inspiration to revolutionary socialists and national independence movements worldwide.

<sup>227</sup> See PAUL ROBESON, JR., THE UNDISCOVERED PAUL ROBESON: AN ARTIST'S JOURNEY, 1898–1939 (2001).

[https://media.wiley.com/product\\_data/excerpt/59/04712426/0471242659.pdf](https://media.wiley.com/product_data/excerpt/59/04712426/0471242659.pdf). Robeson was the Chairman of the Council on African Affairs, an early advocacy group for anti-colonialism and Pan-Africanism that emerged in 1937. Duberman, Martin, "The Apex of Fame", Paul Robeson, 1989, pp. 284–285. Notably, W.E.B. DuBois served as vice-chair alongside Robeson.

<sup>228</sup> PAUL ROBESON/AMILCAR COLLECTIVE, THE GREENSBORO MASSACRE: CRITICAL LESSONS FOR THE 1980S (1980). This work has no page numbers. Citations are omitted throughout this section to save space; all uncited assertions of fact are substantiated by this footnote [hereinafter CRITICAL LESSONS].

<sup>229</sup> *Id.* These groups were, by some accounts, at odds with the particular strain of communist praxis espoused by the WVO/CWP.

<sup>230</sup> Rebecca Boger, Historical Black Power Essay, <https://gateway.uncg.edu/crg/essayblackpower>.

<sup>231</sup> Brent H. Belvin, Malcolm X Liberation University: An Experiment in Independent Black Education (master's thesis, North Carolina State University, 2004) 1. MXLU moved from Durham to Greensboro in 1970, spurred in part by "its level of community support and enthusiasm for the ideas of Malcolm X Liberation University," although only about sixty students were enrolled.

<sup>232</sup> Dent, Tom, *Southern Journey: A Return to the Civil Rights Movement* 48 (1997); Boger, *supra* note 230.

<sup>233</sup> Oral History Interview with Nelson Johnson (January 1979), 10; Dent, 44, 53.

The work offers a caustic excoriation of the CWP from a (non-CWP) Black communist point of view. It seems unfettered by reverence for the dead. Put another way, it seems able to make cogent, precise, direct critiques of the slain CWP members in a moment where the cultural tide among most radicals, many liberals, and many progressives<sup>234</sup> was to treat the slain as martyrs, a tendency that crowded out all but the most cursory criticisms of the dead.<sup>235</sup> While this perspective slowly emerged in works published decades after 11/3/79's wounds had begun to scar over, this piece came out less than a year afterward.<sup>236</sup> The authors begin:

We think there is a great need for this pamphlet because revolutionaries around the country, although they have firm views of CWP's opportunism and adventurism, have only had access to accounts of the events carried by the ruling class press or CWP's lies and distortions. In addition, we think it is rich in lessons in a way far different from other examples of Klan terror. It brings out in vivid detail the danger of "left" (the ultra-left) opportunism, right opportunism, and the various forms of revisionism to the Black Liberation Movement in particular, the movement of the other oppressed nationalities, and the working class struggle for socialisms. These phony communists [the CWP] . . . are a threat to the real liberation of the Afro-American masses.

The pamphlet goes on to critique the “‘left’ infantile idiocy of [the CWP]<sup>237</sup> and the danger it poses to the Black community, the Black Liberation Movement, and the socialist revolution.”<sup>238</sup>

The authors argue that the state and the fascists colluded on 11/3/79, but that such collusion does not prove a conspiracy against the CWP. They say that the CWP propagated a view that the government engineered the massacre and used the KKK as a tool to carry it out. The authors call this a dangerous, incorrect assessment that reveals delusions by the CWP of its importance. The authors say that by intimating the existence of a government conspiracy, the CWP lets the Klan off the hook; they say it should be evident to any rational person that the Klan, without provocation, is capable of committing atrocities against Black people, trade unionists, and progressives. The authors go on to say that this is an attempt by the CWP to distract from their actions leading up to the event. The authors squarely blame the CWP for what happened on 11/3/79: “while it is conceivable that the Klan would have come to the march and rally even without CWP’s posturing, the challenge that they issued had a profound effect on the events that took place.”<sup>239</sup>

The authors critique the CWP as a group of ideologues who, their rhetoric and propaganda notwithstanding, posed no real material threat to the preservation of monopoly capitalism.<sup>240</sup> They say the CWP were opportunists and revisionists who did nothing to increase the class consciousness of the working classes to rise up and overthrow imperialism.<sup>241</sup> The authors blame the CWP’s “childish antics” for its infiltration and repression by government agents. The authors seem ambivalent about whether the CWP were targeted—it says it is likely that the high profiles

<sup>234</sup> Wheaton’s approach is discussed in further detail *infra*.

<sup>235</sup> I think this cultural tide is completely understandable. If I imagine a friend of mine who passed, it would be exceptionally difficult to do anything other than sing songs of praise of their life, to do anything I could to make meaning out of their death, to grieve vigilantly, and to celebrate them with stalwart vitriol.

<sup>236</sup> I think there’s something to be said about “white fragility” here, and that its absence among the Black Marxist authors of this piece perhaps facilitated their perspective.

<sup>237</sup> Note that the pamphlet mostly uses ‘WVO’ to refer to the CWP.

<sup>238</sup> CRITICAL LESSONS.

<sup>239</sup> *Id.*

<sup>240</sup> *Id.*

<sup>241</sup> *Id.*

the dead had as activists put them in the line of fire when the attack came down. It offers this seemingly as a way to disprove the conspiracy theory, although it's easy to read this as a confirmation of it.

They conclude the prologue with optimism that the Black community in Greensboro will be channeled into effective protest against Klan-Nazi terror and police collusion, and that this will be done "apart from and in spite of the CWP's petty bourgeois theatrics that discourage mass struggle and fuel anti-communism and fascism."<sup>242</sup>

Next, the authors describe the CWP as developing a plan for exploiting the issue of being "Anti-Klan fighters." They say the CWP sold wolf tickets,<sup>243</sup> attempted to impress the Black masses with their "freedom from fear," and intentionally attempted to provoke violent exchanges between themselves and the KKK, Nazis, cops, and others.

It's tempting to say, "death to the Klan." It's edgy, it's a hardline, it's taking a stand. It's easy to feel like you mean it, but to be unwilling to follow up on it as a literal statement—to back it up with weapons and tactical fighting and/or killing skills that would be required to vindicate such a statement.

"Death to the Klan" means something different depending on who's saying it and who's hearing it. To hear the killers and their cronies tell it, they took the phrase at face value. To hear the authors tell it, such a phrase is bizarre and senseless to utter from a Black perspective: why on earth would you need to even say such a thing about an institution that has perpetrated gruesome, brutal violence and terror on Black people? The authors dress down the CWP for saying that the KKK did not have the guts to carry out the attack, saying that for 100 years Klansmen have been killing Blacks in the South, many of whom fought back. Historically, the KKK has come with superior firepower and numbers. They contend that the CWP betrayed Black people in their characterization of the Klan as cowards:

With supreme petty bourgeois arrogance and contempt for the masses, [the CWP] thinks that Blacks simply, passively allowed themselves to be killed [by the KKK] until [the CWP] came along to show us how to be "Free from fear." The fact is that the Black masses always knew how to shoot back, and long ago learned more about how and when to shoot back than [the CWP] will ever grasp.

Given this historical context, the authors describes the deaths of the CWP:

[CWP's] members stood there and allowed themselves to be shot. In their own newspaper [the CWP] has claimed that their people charged into a hail of bullets, while firing pistols. They describe how one comrade fell, another grabbed his pistol and charged on[,] screaming and firing until he was shot. *Obviously, these tactics will get you killed.*<sup>244</sup>

The authors go on to say:

*November 3rd and the sequence of events leading up to it was an exercise in 'left' adventurist suicide.* Entranced by their fantasies of themselves as revolutionary

<sup>242</sup> *Id.*, prologue.

<sup>243</sup> To "sell wolf tickets" is an expression meaning "to spread boasts or threats that you can't (or won't) back up. Notably, the first recorded usage of this phrase dates to 1963, when sociologists noted its use by Black gang members in Chicago. <https://www.grammarphobia.com/blog/2018/>

<sup>244</sup> Emphasis added.

heroes, the [CWP] engaged in a wild escapade that was just as successful in achieving their own murders as if they had set out with that purpose in mind.<sup>245</sup>

The authors continue by contending that the RCP and CWP did anti-KKK activities to put on a show. They weren't concerned about any serious Klan threat to the masses; rather, they considered the situation a "wonderful opportunities for street theater."<sup>246</sup> The authors describe how hard it is to ignore the tactical ignorance and other contradictions inherent in some of the CWP's behavior:

At the press conference, they continued . . . the cute trick of publicly announcing Windsor Community Center as their assembly point while actually planning to assemble at Morningside Homes several blocks away. However, when they applied for their parade permit, they listed the true assembly point. Despite their stated understanding that 'The police protect the Klan, many are Klan members,' in their leaflet announcing the march, they did not realize that if they told the police the truth the Klan might hear about it. This is exactly what happened.

The authors go on to say:

The WVO like most of the so-called 'communists' in this country are extreme idealists. Their whole method of thought flows from the premise that *ideas* are the basic motive force of history. . . . [They believe] that intellectuals like themselves, as the carriers of the most developed ideas, are the principal actors on the historical stage. And they are supreme intellectuals in the worst sense of the word no matter how many factory jobs they might take when they think it expedient.<sup>247</sup>

The authors offer a strong anti-white-savior critique<sup>248</sup> of the CWP. While their members leaving academia, theology, and medicine to work in factories is often a fact presented to lionize a moment of heroic class betrayal, the authors dismiss this conception wholesale:

Their personal histories revealed that they were a group made up mainly of people from privileged, intellectual backgrounds. Two of the people killed were medical doctors by training. Others . . . held advanced degrees, had taught in college, or had other professional backgrounds. . . . Textile company executives and union officials who were interviewed talked about how these people had been a problem for awhile, but [got] generally driven out of the mills. More and more[,] you began to get a view that these were frustrated and desperate people—people so desperate that they would, perhaps, have risked provoking their own murders in order to gain publicity and a following.

The authors say that no such saviors were ever needed by the factory workers, that in fact the masses themselves are the makers of history, capable of forming their own correct ideas without intellectual leadership. They dismiss the CWP for their arrogance and lack of humility in relation

<sup>245</sup> Emphasis added.

<sup>246</sup> *Id.*, emphasis added.

<sup>247</sup> Emphasis added.

<sup>248</sup> See generally, Teju Cole, *The White-Savior Industrial Complex*, THE ATLANTIC (March 21, 2012).

<https://www.theatlantic.com/international/archive/2012/03/the-white-savior-industrial-complex/254843/>

to the factory workers, and say that the CWP erroneously operated under the assumption that the most important task in organizing was to accumulate followers and influence. The authors locate the roots of this arrogance can in their academic training. They said their violent rhetoric was directed toward the Black masses, as a way to curry their favor, rather than toward the Klan as a threat, and that this was a fatal decision:

To them, “Death” was just a word. They came from almost exclusively academic backgrounds where they were taught to talk theorize, polemicize, etc. but not to grasp the concrete connection between words and deeds, the actual effect of rhetoric on material reality. Thus they misjudged the effect of their rhetoric on both the masses and the Klan.

This is one of the most meaningful insights in the work. The authors go on to say:

Black people generally see the Klan not in terms of how much publicity they get but what measure of actual threat they pose to the Black community[,] and more importantly to the ongoing struggle of Black people. Therefore, while being somewhat concerned by the increase in Klan activity, few Blacks saw the need to make fighting the Klan a major activity as long as [the Klan] confined themselves to holding exhibits or showing movies. Moreover most Black people saw fighting the Klan in the context of building the Black Liberation Movement generally or for some, simply defending the Black Community.

Cast in this light, it seems particularly perverse that the CWP planned to have the march move through not one but seven Black neighborhoods on 11/3/79. The detail that these neighborhoods were leafleted with suggestions to stand on porches with guns seems almost cruelly ignorant, an invitation to expose the Black community to Klan violence, quite the opposite of defending it.

One thing that defies easy explanation is the question of the race analysis by Black people in the CWP like Nelson Johnson and Sandi Smith. Certainly their take on the threat caused by the KKK and the danger posed to Black neighborhoods deserves equal attention and is equally valid to that of the Collectives. There is no single spokesperson for the Black perspective, or even the Black communist perspective in Greensboro in 1979. Reasonable minds can differ.

Ultimately, from an anti-racist point of view, material consequences must be kept top of mind for scholars, organizers, and activists. Although the CWP was not all-white, it was majority-white. White radicals today must recognize the potential allure of extremist rhetoric, and then interrogate that allure. They, we, must ask: does engaging in an extremist or ultra-left stance materially benefit Black people, or does it cause them harm, or put them at risk? Am I responding to the stated needs of a community? Or am I offering “support” that nobody asked for? As Teju Cole put it, “If we are going to interfere in the lives of others, a little due diligence is a minimum requirement.<sup>249</sup>

### *3. Red Tide Rising in the Carolinas*

This small pamphlet was published in 1980 by the Western Goals Foundation, which describes itself as dedicated to the concept of rebuilding and strengthening the political, economic,

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<sup>249</sup> *Id.*

and social structure of the United States “so as to make any merger with totalitarians impossible.”<sup>250</sup> It identifies communists and socialists as an escalating threat to domestic stability.<sup>251</sup> It goes on to associate unions with assassinations, bombings, extortion, and other acts of political terrorism.<sup>252</sup> It connects organizing in North Carolina with a global rise in communism.

Militant revolutionary rhetoric and action by multiracial unionists is described as an insidious threat; the authors say the Carolinas have been “targeted” by communist organizing since the 1920s.<sup>253</sup> After describing the Carolinas’ historical problems with revolutionary violence, it says that communist groups intend to antagonize Klan and neo-Nazi groups for the purpose of provoking them to violence and enabling the revolutionaries to position themselves as defenders of minorities and leaders of coalitions.

The pamphlet characterizes union organizing in the textile plants as a program of infiltration.<sup>254</sup> It describes the Revolutionary Youth League and the African Liberation Support Committee as front groups of the CWP, and says these organizations “carried out public assaults on the local Ku Klux Klan,” thereby setting the stage for the shootings on 11/3/79.<sup>255</sup> It blames the CWP’s “deceit” for the lack of police presence, saying they listed the wrong address as the starting point of the march to “deliberately confuse the issue.”<sup>256</sup> Notably, this pamphlet mistakenly attributes the first shot to the CWP.<sup>257</sup> It characterizes 11/3/79 as a shootout between outsider extremist groups with no genuine ties to Greensboro or its concerns.<sup>258</sup>

The pamphlet makes an interesting rhetorical turn, extensively comparing the communist activities of the CWP as indicative of a global wave of anti-capitalist extremist revolutionary activity, which can be seen in the disorder, attacks, and killings surrounding labor organizing in Italy in the 70s and 80s.<sup>259</sup> The author casts these activities as ultra-left and threatening to civil society here and abroad, again and again raising the threat of clandestine terrorism.<sup>260</sup>

The pamphlet takes special care to attack the un-American activity and speech of Benjamin Chavis and Nelson Johnson.<sup>261</sup> The pamphlet alleges that the CWP sought conflict as an opportunity to escalate their union organizing activity into terrorism.<sup>262</sup> It accuses the CWP of being propagandists exploiting the deaths of their comrades for the purpose of achieving this goal.<sup>263</sup> Ultimately, the pamphlet concludes that counter-measures must be taken to abate the communist threat, including providing support to law enforcement groups and education of the masses about the threat posed by communism.<sup>264</sup>

I include the synopsis of this piece because it presents a fairly common conservative reactionary viewpoint to 11/3/79 that was adopted by many, even “progressives,” to distinguish themselves from an out-of-control leftism that had gone too far. In particular, the myth<sup>265</sup> of

<sup>250</sup> RED TIDE RISING back jacket.

<sup>251</sup> *Id.* at i. It also names the National Lawyers Guild and ACLU as groups that interfere with law enforcement intelligence gathering activities.

<sup>252</sup> *Id.*

<sup>253</sup> *Id.*

<sup>254</sup> *Id.*

<sup>255</sup> *Id.*

<sup>256</sup> *Id.* at 6.

<sup>257</sup> *Id.*

<sup>258</sup> See *id.* at 12.

<sup>259</sup> *Id.*

<sup>260</sup> *Id.* at 9–10.

<sup>261</sup> *Id.* at 13, 16.

<sup>262</sup> *Id.* at 12.

<sup>263</sup> *Id.*

<sup>264</sup> *Id.* at 18.

<sup>265</sup> Ian McDowell, *Four myths of the Greensboro Massacre*, YES! WEEKLY (Nov 1, 2019) [https://www.yesweekly.com/news/four-myths-of-the-greensboro-massacre/article\\_8071ab29-2d96-52d7-b3e032b77593.html](https://www.yesweekly.com/news/four-myths-of-the-greensboro-massacre/article_8071ab29-2d96-52d7-b3e032b77593.html)

11/3/79 as a shootout between outside agitators gained particular traction, and is frequently summoned by state officials wishing to condemn civil unrest. While participants in the confrontation on 11/3/79 were not all from Greensboro proper, most were from the nearby Triad and Triangle areas.

The trope of the outside agitator has a long history in American society; it has been used by everyone from plantation owners in the South during antebellum slavery revolts to corporate industry magnates attempting to suppress worker rebellions.<sup>266</sup> Indeed, the trope is specific to race and labor, having been deployed as a tool of repression during the Cold War to discredit anti-segregationists and union organizers by calling them subversives and anti-patriotic. More recently, it has been conjured to describe the riots in Ferguson in 2014. When a reporter asked people on the ground in Ferguson what was going on, nearly every white person blamed “outsiders” for what was happening in their town.<sup>267</sup> Today, such xenophobic rhetoric should raise red flags, as it were.

#### *4. Black White Perceptions: Race Relations in Greensboro*

This 1981 report was prepared by the North Carolina Advisory Committee (NCAC) and submitted to the U.S. Commission on Civil Rights.<sup>268</sup> The report's findings came from a 1980 field investigation. The report contains statements from a wide range of Greensboro residents regarding their perceptions about race relations in Greensboro. In addition, the report gives an overview of Greensboro, a detailed analysis of 11/3/79, and recommendations for the citizens of Greensboro.<sup>269</sup>

Specifically, NCAC recommended that the Greensboro Department of Public Safety seek “more creative approaches to recruitment, training and upward mobility to overcome the underrepresentation and to meet the Department’s own goals and timetables. The overall goal . . . [is to] achieve a city police force that would be *reflective of the populace* and its interests in public safety and protection.”<sup>270</sup>

The report describes “two diverging Greensboro societies: one with economic and political power and one which possesses neither.”<sup>271</sup> In the testimonies given to NCAC, white and black residents of Greensboro revealed different perceptions of the city.<sup>272</sup> The report states, “Greensboro citizens who are white emphasize the progress made. They see the Greensboro glass as more than half full. The city’s citizens who are black focused on the problems that remain, perceiving the glass to be almost empty.”<sup>273</sup> The report concludes that:

By glossing over the problems that beset a large segment of the population, Greensboro’s leading citizens tend to deny responsibility for the circumstances that create them, blaming instead society as a whole for the ills. Such official inattention contributes to [B]lack residents’ lack of interest in and alienation from city government. A crisis in community can be met in different ways: It can become an occasion for defensiveness, whereupon attitudes harden, and, ultimately the

<sup>266</sup> Shereen Marisol Meraji and Gene Demby, *Unmasking The ‘Outside Agitator,’* CODE SWITCH (podcast). (June 9, 2020) <https://www.npr.org/2020/06/09/873592665/unmasking-the-outside-agitator>.

<sup>267</sup> *Id.*

<sup>268</sup> The North Carolina Advisory Committee to the U.S. Commission on Civil Rights, BLACK WHITE PERCEPTIONS: RACE RELATIONS IN GREENSBORO (1981) <https://babel.hathitrust.org/cgi/pt?id=uiug.30112075633930&view=1up&seq=3> [hereinafter BLACK WHITE PERCEPTIONS].

<sup>269</sup> <https://gateway.uncg.edu/crg?page=3>

<sup>270</sup> BLACK WHITE PERCEPTIONS 33 (emphasis added).

<sup>271</sup> Laura Michael Brown, Region and Remembrance: Public Memories of Civil Rights in Greensboro, North Carolina, (PhD dissertation for Pennsylvania State University, 2017) (citing FINAL REPORT 247).

<sup>272</sup> *Id.* at 89–90.

<sup>273</sup> *Id.* at 90 (citing FINAL REPORT 248).

community fractures. It can also serve as an occasion for openness, the facing of reality and focusing upon solutions for the future. [NCAC] urges Greensboro to continue on the latter course. [NCAC] believes that by acknowledging that racism does indeed exist, and then working to ameliorate its persisting vestiges, the city could break this vicious and too familiar cycle of cause and effect.<sup>274</sup>

The modest, identity-based analysis presented in the conclusion closely matches my own as a student borrowing from the school of Critical Race Theory. But it's not clear that mere representation in law enforcement is enough to stymie discrimination, even for members of the police force itself. In 2013, the City of Greensboro settled the claims<sup>275</sup> of nearly 40 Black and Latino police officers who say they were discriminated against. The city, explicitly not admitting any fault, paid \$500,000 to quiet the allegations of racial hostility. A further confidential settlement was reached in 2014 with two remaining plaintiffs who refused to settle in 2013.<sup>276</sup>

##### *5. Codename GREENKIL: the 1979 Greensboro Killings*

This book was published in 1987; a revised edition was published in 2009 with an updated afterword. It offers the most thorough treatment of the history of the court cases. It also appeared to be the most neutral and level-headed. Wheaton, who also testified at the 2005 Greensboro Truth and Reconciliation hearings, seemed committed to a certain dispassionate objectivity in her work; the work is journalistic<sup>277</sup> in its painstaking efforts to fully present the cases on both sides. Her attitude as an author is captured well in this excerpt from her obituary in 2018:

In both her book and her testimony, Liz refused to paint the bloody clash in black and white. While the heavily armed white supremacists' attack on anti-Klan protesters that day was cold-blooded ("Kill the n----s!" someone shouted), and the [GPD's] lame response to the incident was inexcusable, Liz also pointed out the culpability of [the CWP]. As in what were you thinking? Why stage a "Death to the Klan" rally in a neighborhood (Morningside Homes) in the first place? And why dare the Klan to show up? How could you not see the danger you were creating for a community of innocent people, including children?<sup>278</sup>

These questions are perhaps harsh, but insightful and worth asking. For her part, Wheaton is not sentimental about 11/3/79. She says it was "one of the most controversial tragedies in Southern history,"<sup>279</sup> one in which there are "no heroes" but "many, many fools."<sup>280</sup> Wheaton believed there was no conspiracy by police to incite the Klansmen and Nazis to violence, but that the police's failure to recognize the possibility of bloodshed was indefensible.<sup>281</sup>

Wheaton's obituary writer describes her as a "political progressive."<sup>282</sup> Johnson says that while some expected her to side with the protesters in her work, she didn't. She thought there was

<sup>274</sup> *Id.*

<sup>275</sup> Cherry v. City of Greensboro, 12-cv-217 (M.D.N.C. Feb. 4, 2013).

<sup>276</sup> *Greensboro reaches agreement with former officers who sued*, WXII12 NEWS, (July 1, 2014) <https://www.wxii12.com/article/greensboro-reaches-agreement-with-former-officers-who-sued/2055628>.

<sup>277</sup> Prior to writing the book, Wheaton covered the events for the Institute for Southern Studies and United Press International. See note 283 *infra*.

<sup>278</sup> Allen Johnson, '*Greenkil*' author Wheaton was spirited, tough and honest, GREENSBORO NEWS AND RECORD (Feb. 4, 2018).

<sup>279</sup> GREENKIL 10.

<sup>280</sup> *Id.* at 4.

<sup>281</sup> Johnson obituary *supra* note 278.

<sup>282</sup> For a critique of "progressivism" and notes on the poverty of progress, see Saralee Stafford and Neal Shirley, DIXIE BE DAMNED 261 (2015).

plenty of blame to go around. In Greenkil, after opening with an unflattering litany of quotes about the CWP's philosophy and tactics, she said, "We can't do justice to this tragedy if we hold the various players to different standards." Yet, as Hershman puts it in a review of Greenkil:

[Greenkil] generally avoids drawing grave judgments, preferring instead to provide the information for readers to draw their own conclusions. A notable exception is [Wheaton's] strong disapproval of the Leninist tactics used by the [CWP] in their dealings with labor union and left groups [who she calls out-of-touch].<sup>283</sup>

Hershman goes on to say that Wheaton glosses over the motivating forces shaping the CWP, leading to an imbalance, given the author's treatment of the Klansmen. Hershman identifies an inconsistency in Wheaton's treatment of the media coverage of white supremacists around the time of 11/3/79, at one point calling it "pure hype,"<sup>284</sup> while later noting that Nazi leader Harold Covington received 43 percent of the vote in the Republican state primary for attorney general.<sup>285</sup>

Hershman, writing in the late 1980s, identified the continuing existence of "extreme right-wing elements" as a dangerous part of North Carolina's public life. I completely agree with this assessment. I also think that, rhetorically, it is a perfect mirror image of the argument made in Red Tide Rising. Both writers identify an extremist element that exists opposite their ideological point of view, and warn against its accumulating influence and power. Of course, both may be right, but I think these and other discussions about 11/3/79 belie a common phenomenon of fear of "the other" in an age of alienation and creeping xenophobia. Red flags abound.

Regardless of whether Wheaton's work is perfectly balanced or slightly skewed, it is a meticulously researched work that offers the most comprehensive look at 11/3/79 from a non-partisan. Importantly, Wheaton was very deeply embedded in Greensboro. She spent a tremendous amount of time interviewing witnesses, survivors, officials, and other stakeholders in 11/3/79. Among her many roles as a writer, she worked as an oral historian.<sup>286</sup>

In a 1988 oral history interview with William Link of UNC Greensboro, she said: "I think the people in the Black community . . . were as upset with the communists for bringing their Death to the Klan march into that neighborhood as they were the police for not being there." This matches the sentiment expressed by the Collectives, *supra*. While one explanation for this sentiment may be that the members of the Black community expressing such views were moderate or conservative, the work by the Collectives makes that rationalization hard to accept.

It should be noted that the afterword Wheaton added in 2009 was offensive to some CWP sympathizers.<sup>287</sup> For one thing, she derides the Local Task Force of the Greensboro Truth and Reconciliation Commission as "a political version of musical chairs."<sup>288</sup> Mixing metaphors a bit, Wheaton said that those who didn't sing the "massacre" tune were relegated to the sidelines, leaving survivor advocates in control of the process with little input from those who could have provided balance and perspective.<sup>289</sup> This, in turn, she said, led many participants to leave after six months, allowing Nelson and Joyce Johnson to assume control of the group's key decisions.<sup>290</sup>

<sup>283</sup> J.H. Hershman, *Review of Codename GREENKIL: The 1979 Greensboro Killings.*, by E. Wheaton. 55 J. OF SO. HIST. 161–63 (1989) <https://doi.org/10.2307/2209769>.

<sup>284</sup> GREENKIL 79.

<sup>285</sup> GREENKIL 209.

<sup>286</sup> *Id.*

<sup>287</sup> Frampton Interview.

<sup>288</sup> GREENKIL (2009 afterword) 301.

<sup>289</sup> *Id.* at 302.

<sup>290</sup> *Id.*

Wheaton goes on to critique the ideological imbalance of the commissioners selected to serve on the GTRC: most were either linked with project organizers or directly involved in anti-Klan activities.<sup>291</sup> Wheaton says their failure to disclose these sympathies and “conflicts of interest” tainted the GTRC’s work and raised questions about “partisan maneuvering to achieve a predetermined outcome.”<sup>292</sup> Wheaton called the public hearings held by the GTRC “pageantry” belying the left-leaning ideological bent of its constituents, and called their presentation of a collage of the events “voyeuristic.”<sup>293</sup>

She goes on to critique the GTRC’s Final Report<sup>294</sup> as “both overly comprehensive and woefully lacking in several major aspects.”<sup>295</sup> She claims the report provides too little information about the specific organizations involved in 11/3/79.<sup>296</sup> She says that other than a single instance of Eddie Dawson’s arrest for going armed to the terror of the public in 1967, there were no proven instances of violent activities prior to 11/3/79 by the Klan and Nazi members who rode in the caravan or took part in the shootings, only citations to violent language and braggadocio.<sup>297</sup> She says the reasoning behind CWP’s allegations of assassination plots is specious and lacking, and that the report in general is deficient for lack of meaningful contributions by groups not sympathetic to the CWP (like the GPD, FBI, KKK, etc.). She then cites to the Report itself, noting that the GTRC found no evidence of a conspiracy to assassinate the CWP leadership whatsoever, and that prosecutors in the trials had accepted—not rejected, as the CWP survivors alleged—all thirty-one Black prospective jurors who were not disqualified.<sup>298</sup> It was the typical jury selection voir dire and peremptory challenges by which the defense removed all eligible Black jurors.<sup>299</sup>

Wheaton goes on to criticize the GTRC’s Executive Summary<sup>300</sup> for leaving out key details like the China Grove incident and the CWP leadership’s view of its anti-Klan campaign as party-building rather than community-building. She says it omits the CWP’s avowal that “a confrontation with the Klan would be best if we can get it”<sup>301</sup> and direct challenges issued by Nelson Johnson and Paul Bermanzohn in October 1979.<sup>302</sup> Critically, Wheaton says the CWP’s view of the Klan was “prejudicial;” that viewing Virgil Griffin’s Klan through the lens of the night-riding terrorists of the nineteenth and early twentieth centuries is no different than holding the CWP accountable for the Cambodian killing fields because the CWP once supported Pol Pot.<sup>303</sup>

Wheaton’s next claim demonstrates a fundamental lack of understanding of white supremacy, of structural racism, and of anti-blackness.<sup>304</sup> She says, “[a]n investigative body that promotes itself as ‘antiracist’ should be especially sensitive to all forms of prejudice. Yet time and again the [GTRC] based its judgment of the Klan and Nazis involved in [11/3/79] on the actions of racist groups from other times and other places.”

<sup>291</sup> *Id.*

<sup>292</sup> *Id.*

<sup>293</sup> *Id.* at 303.

<sup>294</sup> FINAL REPORT (about 500 pages long).

<sup>295</sup> GREENKIL 304.

<sup>296</sup> *Id.*

<sup>297</sup> *Id.*

<sup>298</sup> *Id.* at 305

<sup>299</sup> See FED. R. CIV. PROC. 47; see also 28 U.S.C. §1870.

<sup>300</sup> EXECUTIVE SUMMARY OF THE FINDINGS OF THE GREENSBORO TRUTH AND RECONCILIATION COMMISSION (about 60 pages long).

<sup>301</sup> GREENKIL (2009 afterword) 306.

<sup>302</sup> *Id.*

<sup>303</sup> *Id.* at 307. Pol Pot was a Cambodian revolutionary, dictator, and politician who ruled Cambodia as Prime Minister of Democratic Kampuchea between 1976 and 1979. Ideologically a Marxist–Leninist and a Khmer nationalist, he was a leading member of Cambodia’s communist movement, the Khmer Rouge, from 1963 until 1997 and served as the General Secretary of the Communist Party of Kampuchea from 1963 to 1981. Under his administration, Cambodia was converted into a one-party communist state and perpetrated the Cambodian genocide. DAVID P. CHANDLER, BROTHER NUMBER ONE: A POLITICAL BIOGRAPHY OF POL POT. (1992).

<sup>304</sup> For a thorough discussion of these dynamics, see Devon W. Carbado, *Critical What What?*, 43 CONN. L. REV. 1593, (2011).

(This is a classic rhetorical move: the victimization of white people at the hands of “reverse racism.”<sup>305</sup> Reverse racism is often conjured whenever a white person feels discriminated against because of their race.<sup>306</sup> The problem with this notion is that it focuses purely on racism as an interpersonal construct, rather than a systemic problem.<sup>307</sup> In other words, when a white person feels they are experiencing reverse racism, they are probably facing simple prejudice—as opposed to systemic discrimination—if anything at all.<sup>308</sup>)

Wheaton says that there was no indication of any pattern or practice by the GPD of violating civil rights or supporting white supremacy, and criticizes the GTRC for speculating on the intentionality of some key officers to stand aside as the Klan-CWP confrontation unfolded.<sup>309</sup>

In her afterword, Wheaton notes that what she calls the lapses, errors, and omissions by the GTRC mock its claim of “rigorous review and impartial weighing of evidence,” and belie a partisan, ad-hoc vanity project whose aims were always self-serving. She holds this up against past TRCs whose focus was on widespread abuses by powerful institutions against thousands, even millions of mostly powerless citizens, such as those in South Africa or South Korea.

Wheaton’s critique seems to suggest that the decision to invoke the medium/process of “truth and reconciliation commission” was disingenuous, inadequate, and inappropriate. The scale of the harm was too small, the culpability too diffuse, buy-in from the opponents of the CWP too sparse for such an undertaking to be meaningful. Her critique even suggests that the GTRC’s approach impaired any possibility at achieving true restorative justice, the effort’s ultimate aim, because the forum they provided did not create space for perpetrators to take responsibility for their actions and seek forgiveness.

As Wheaton notes, the tension between “truth” and “reconciliation” was in play from day one,<sup>310</sup> and Wheaton notes that “reconciliation” was set aside as the GTRC pursued its version of the “truth.” A racial dynamic was at play: according to GTRC Executive Director Jill Williams, most Black people preferred to focus on “truth” while most whites sought “reconciliation.”<sup>311</sup> Hence this paper’s title, *Irreconcilable Truths*. Ed Whitfield later expressed outright contempt for the concept of reconciliation in this context:

There are two divergent paths for Truth and Reconciliation processes: one toward seeking truth, giving voice to the voiceless, comforting the downtrodden and confronting the powers that be. The other path is toward avoiding confrontation, muting dissent, glossing over differences, appealing to the broadest possible cultural base and ultimately excusing injustice in the name of reconciling the community while supporting the status quo and those powers that depend on it.<sup>312</sup>

Ultimately, Wheaton concludes that the five years of work, thousands of volunteer and staff hours, and the million-plus dollars spent on the GTRC resulted in negligible benefits, if any, to the people of Greensboro. She indicts the media, including documentarians and academics, for

<sup>305</sup> The claim is also adjacent to the conservative victimhood complex. See Vivek Ramaswamy’s, *The Grand Old Party of Crybabies*, POLITICO, (Sep. 12, 2022), <https://www.politico.com/news/magazine/2022/09/12/republicans-victimhood-mythology-elections-00055908>; and David Frum, *The Conservative Cult of Victimhood*, THE ATLANTIC (Jan. 11, 2021), <https://www.theatlantic.com/ideas/archive/2021/01/conservatism-reaches-dead-end/617629/>.

<sup>306</sup> *Reverse Racism*, THE ANTI RACIST EDUCATOR (2019), <https://www.theantiracisteducator.com/reverseracism>.

<sup>307</sup> GREENKIL (2009 afterword) 307.

<sup>308</sup> *Id.*

<sup>309</sup> *Id.*

<sup>310</sup> *Id.* at 308, quoting task force member John Young.

<sup>311</sup> *Id.* at 308.

<sup>312</sup> *Id.* I’ll note here that I suspect but cannot prove that Ed Whitfield was among the authors of CRITICAL LESSONS, *supra*.

having become complicit by uncritically accepting the survivors' story. She says that such actors amount to little more than scribes for a twenty-first-century version of Radical Chic<sup>313</sup> that would have done Mao<sup>314</sup> proud. She ends her book by quoting Archbishop Desmond Tutu, who endorsed the formation of the GTRC. He said: "Without truth, no healing."

## 6. *Love and Revolution*

In her 2002 book, Signe Waller calls the work a "documemoir" to signify that her story is both political memoir and documentary history.<sup>315</sup> The first half of the book is a detailed insider's view of the WVO's North Carolina organizing in the years leading up to 11/3/79.<sup>316</sup> Waller argues that labor was important because it united Black southern revolutionaries and white Marxists nationwide, and because these unlikely comrades were making significant headway in organizing textile workers in the anti-union South.<sup>317</sup> Although this work was incipient, it was growing, and it posed a threat to the "lords of labor who dominated the largest textile empire in the world."<sup>318</sup>

Because the KKK recruiting drive across the South in the late 1970s threatened both Black communities and the fragile unity of Black and white industrial workers in unions, the WVO launched an anti-Klan campaign in North Carolina.<sup>319</sup> The campaign began in Whitakers, a small town in eastern North Carolina, where racist storeowner, Joe Judge, murdered a Black man, Charlie Lee.<sup>320</sup> This seems to contradict Wheaton's assertion in Greenkil that there was no documented evidence of Klan violence prior to the 11/3/79 march.

In response, WVO comrades, working with the ALSC, joined the Black community of Whitakers in a campaign for justice. Such local struggle that is often omitted from history books, and *Love and Revolution* is valuable for its recollection of such events. While the Whitakers struggle does not loom large in the overall history of black liberation, it is today acknowledged by the Black residents of Whitakers as the beginning of a new spirit of fightback and self-determination that flowered in later years. Following the Whitakers struggle, WVO comrades participated in the national anti-Klan marches in Decatur, Alabama and Tupelo, Mississippi.<sup>321</sup>

Waller pays close attention to detail and uses archival material liberally, including press releases, published and unpublished reports, legal documents, and interviews.<sup>322</sup> Reviewer Angela Dillard says Waller's attention to detail is too granular, describing the book as rife with "tedious detail and unnecessary tangents" which often "bog down the unfolding of the narrative." The book identifies the CWP's relationship to Maoism and the New Communist Movement of the '70s and

<sup>313</sup> Radical Chic is the fashionable practice of upper-class people associating with politically radical people and causes. Coined in 1970 by journalist Tom Wolfe. Unlike dedicated activists, revolutionaries, or dissenters, those who engage in "radical chic" remain frivolous political agitators—ideologically invested in their cause of choice only so far as it advances their social standing.

<sup>314</sup> The WVO/CWP were Maoists. Mao Zedong was a communist revolutionary and founder of the People's Republic of China, which he from 1949 until his death in 1976. Ideologically a Marxist-Leninist, his theories, military strategies, and political policies are collectively known as Maoism. His government was responsible for vast numbers of deaths with estimates ranging from 40 to 80 million victims through starvation, persecution, prison labor, and mass executions. Mao for some is an iconic anti-imperialist, and he has been praised for transforming China from a semi-colony to a leading world power, with greatly advanced literacy, women's rights, basic healthcare, primary education and life expectancy. See RODERICK MACFARQUHAR, THE POLITICS OF CHINA: THE ERAS OF MAO AND DENG (1997); Ian Johnson, *Who Killed More: Hitler, Stalin, or Mao?*, THE NEW YORK REVIEW OF BOOKS (Feb. 5, 2018).

<sup>315</sup> Cursory analysis due to time constraint; I draw heavily and credulously from the anonymous reviewer's observations.

<sup>316</sup> I have decided to draw from a summary of the book compiled by an anonymous reviewer of the book who identifies as a comrade's of Signe's during the late 1970s in the WVO. <https://cdr.lib.unc.edu/indexablecontent/uuid:a9317e86-0fc5-435f-b66e-ce2eaa375da8>

<sup>317</sup> *Id.*

<sup>318</sup> *Id.*

<sup>319</sup> *Id.*

<sup>320</sup> *Id.*

<sup>321</sup> *Id.* The review then goes on to mention the incident at China Grove as an immediate precursor to 11/3/79.

<sup>322</sup> Angela D. Dillard, *Review of Love and Revolution*, by 33 CONTEMPORARY SOCIOLOGY 343–44 (May 2004).

'80s, often attempting to explain and perhaps justify itself politically. As a result, Dillard says the book occasionally suffers from the stultifying language of ideological debate and sloganeering.<sup>323</sup>

But the book shines when Waller focuses on love and the interpersonal ties that sustained her in the activist community. Dillard says one of the more useful aspects of the book is the textured portrait of life among radical activists in and around Greensboro.<sup>324</sup> Dillard identifies something very important: “[Waller] wants to write a ‘people’s history,’ yet must acknowledge that many people find the idea of revolutionary socialism either crazy or dangerous, if not both.”<sup>325</sup>

This observation about Waller’s writing speaks to the larger contradiction (or at least tension) inherent in the presence of the CWP in Greensboro—loving, caring, passionate revolutionary intellectuals came to understand their own version of how best to serve the common man and worked doggedly to see that vision brought to fruition.

But However brilliant and advanced that vision may have been, it was simply non-representative of the needs or wants of most workers at the time, and today, for that matter. This is the perennial pitfall of Maoist politics; reliance on “the advanced” worker to galvanize or otherwise activate the lumpenproletariat always risks errors of misrepresentation, and, at worst, manipulation, as the Collectives identify.

I find it meaningful to note here the difference between the legal profession’s concept of *advocacy*, which, ideally, is client-centered and responsive to the needs of the person who we seek to help, and *organizing*, which, while attempting to improve conditions on behalf of another, sometimes loses the perspective and humanity of that other in translation. This is not to suggest that lawyers act ethically and serve humanity better than activists; rather, it is a reminder to me and other members of the legal profession to think critically about how we engage, both in movements and in our professional work.

## 7. *Through Survivors’ Eyes*

This book, by Sally Bermanzohn, was published in 2003.<sup>326</sup> Because I’m sympathetic to the CWP, I’ve opted to include analysis by a book reviewer who is decidedly not. In 2004, reviewer Barbara Kay described the work this way:

It is an interesting, informative (albeit in an ideologically blinded way), sometimes rambling blend of transcribed oral narratives told in the voices of the six. . . . The book is as revealing for what it leaves out as for what it puts in. For example, Bermanzohn’s introduction to the section on the KKK identifies the group thusly: “The KKK is best understood not as an organization, but as a terrorist social movement for white supremacy; it uses violence and the threat of violence to achieve its political goals.” Fair enough. Now here is the author’s introduction to Communism: “Socialism developed in the nineteenth century as a vision that would offer an alternative to capitalist exploitation. Communist parties developed in many countries around the world, including the United States. The Communist Party

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<sup>323</sup> *Id.*

<sup>324</sup> *Id.*

<sup>325</sup> *Id.*

<sup>326</sup> Cursory analysis due to time constraint—I didn’t have enough time to read this book, so chose to use a book review to showcase a particular point-of view, which I believe is illustrative.

USA faced intense repression during the McCarthy era of the 1950s. In 1949, Mao Zedong's Communist Party began to build a socialist society in China.”<sup>327</sup>

Kay’s take on the book echoes the critiques of the CWP discussed *supra*: the work is one-sided, hypercritical of white supremacists but uncritical of communist tendencies. The reviewer sees the portrayals as distorted. Kay, somewhat caringly, offers an explanation for the distortion:

Sally's own post-massacre lot was harsh. That she struggled back to a life of normalcy and academic achievement is a testimony to her determination and strength (although a leftist dominated academy certainly helped). Her recorded testimony is more nuanced than the others, because she seems to have suffered more ambivalence about the lack of autonomy Communist doctrine imposes on its followers. Alternatively, she may deliberately have opted for psychological revisionism in writing the book to win reader sympathy and/or purge her guilt for having supported the ill-fated adventure. As radical-turned-conservative David Horowitz has so often pointed out in his several deconstructions of the radical mindset, that accountability and candor in dealing with their own failures are insurmountable problems for true believers on the Left. So it can be difficult to say how much of any of these retrospective self-analyses is truth, how much is wishful thinking, and how much has been left unsaid.<sup>328</sup>

Kay goes on to trace the ideological development of some of the survivors. She notes that in the “post-massacre slough of despondence” each survivor had to find their or her own road to recovery. Nelson Johnson found God after years of rigidly doctrinal atheism, becoming a charismatic minister at Greensboro’s Beloved Community Center. Marty Nathan took comfort in running the Greensboro Justice Fund that was founded by the civil trial settlement money, and organizing yearly 11/3/79 commemorative events.

Kay says that communists “are extremely good at mythologizing their own past, and at organizing events that highlight and perpetuate the memory of their own victims.” She accuses them of forgetting the victims their ideology has created. Interestingly, she claims that the Bermanzohn’s commemorations eventually conquered the original public hostility to the movement, leaving the survivors “bathed in a glow of heroism they came by dishonestly.”

Kay, writing in 2004, worried that the upcoming GTRC would obscure the true victims of the KKK, and provide undue attention to the mainly white radicals. She said the CWP manipulated Blacks for their own political ends, thereby assuring themselves of a “permanent niche in the pantheon of ‘civil rights’ heroes in Greensboro.” Kay says 11/3/79 was a fairly predictable and entirely avoidable tragedy. She said it was “neither an isolated incident nor a page from the civil rights struggle for black equality” but, rather, “the climax of a campaign by political cultists, out of touch with reality, seeking glory in the melodramas of political correctness.”<sup>329</sup> Kay concludes:

The murderous Klansmen and supporting members of the American Nazi party were not more virtuous than the Communists who confronted them, and indeed not virtuous at all. But in Greensboro the Communists provided a symbol that

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<sup>327</sup> Barbara Kay, *Was the Greensboro Massacre of 1979 Really a Massacre of Innocents?*, FRONTPAGEMAG.COM (Nov. 17, 2004), <https://historynewsnetwork.org/article/8584>.

<sup>328</sup> *Id.*

<sup>329</sup> *Id.*

persuaded them that a real war had been declared and that in this war they were the patriots fighting an anti-American threat that was global in scope. The Cold War had come to Greensboro, and Greensboro responded. Thus did two political melodramas converge in one terrible event. The Bolsheviks of the Communist Workers Party never appreciated that ordinary people, including many blacks, might prefer overt racists who were patriots to traitors who were not. The Klansmen were, ironically, the low end workers—machine operators, loggers, mill laborers—that the well-educated Communists were so eager to recruit in their union drives, the very people the Greensboro Bolsheviks were trying to save as capitalism fell into its death throes and the revolution took place.<sup>330</sup>

I include so much of Kay's analysis because I believe it does a good job encapsulating a prevailing perspective on 11/3/79 that is rarely so forcefully and frankly articulated. Like the work of the Collectives, Kay, a Canadian writing nearly 25 years after 11/3/79, is unsentimental and plain in her critiques. Whether her portrayal of the CWP is fair or kind, I think the conclusions she draws are meaningful and worthwhile, especially for would-be anti-racists.

#### *8. Reports Produced by the Greensboro Truth & Reconciliation Commission*

The report found that the primary contributor to the loss of life was the absence of police, which endangered the welfare of all involved, including residents of Morningside Homes. The report said that most commissioners *believe* that the police absence was the result of some intentionality on the part of at least some officers in the GPD.<sup>331</sup> They also found that the events of 11/3/79, were “woven through with issues of race and class.”<sup>332</sup> It went on:

[The heaviest burden of responsibility is on the Klan and Nazis,] who, after an initial stick fight with demonstrators, returned to their cars, retrieved weapons, and fired at mostly unarmed demonstrators, when the caravan's path of exit was cleared and they could have fled. . . . Communist Workers Party members did not seek or deserve to be killed. They did, however, underestimate the danger of taunting the Klan with provocative language, and for beating on caravan cars with sticks.”<sup>333</sup>

The report found that the police department had underestimated the threat posed by the KKK and the American Nazi Party, and overestimated their perceived threat of Johnson and the CWP. The report found that Nelson Johnson planned the 11/3/79 march, for the stated purposes of promoting social, economic, and racial justice. They found he followed proper procedure by applying for a parade permit listing Morningside Homes as the starting point and obtaining it from the GPD. They found that the police gave their informant, Klan member Eddie Dawson, a copy of the permit, which provided the exact route and time of the march. They found that the police were well aware of the history between the KKK, Nazis, and the CWP. The report found that after the earlier confrontation between the groups in China Grove, the KKK and the Nazis were purposely looking for an opportunity to exact revenge.

<sup>330</sup> *Id.*

<sup>331</sup> *Id.* (emphasis added). Wheaton finds the use of ‘belief’ in the findings contrary to the purpose of the GTRC as a truth-finding operation.

<sup>332</sup> FINAL REPORT.

<sup>333</sup> *Id.*

The report found that the police knew that it was the intention of the KKK and the Nazis to confront the protesters, to attempt to prevent the march from occurring, and above all, that members from each group would very likely be armed with firearms. The report found that the police knew that if the march was disrupted, Klan and Nazis would be acting in direct violation of the protesters' right of free speech and their right to assemble, both of which are protected in the First Amendment. The report found that, in advance of the march, Johnson was required by the GPD to sign a form agreeing that he and his fellow protesters and he would not be armed. The report found that, though some did defy the agreement, usual North Carolina laws in 1979 did not make it illegal for the protesters to carry weapons.

Regarding guns, the commission found that "*The idea of armed self-defense is acceptable and deeply embedded in our national identity and tradition [yet] there is a double standard by which armed Black people are seen as an unacceptable threat.*"<sup>334</sup> I found this observation poignant, especially given the identification of structural racism above that informs my analysis.

The report found that Johnson was never notified or warned in advance by GPD of the Klan and American Nazi Party's intentions regarding the march. The report found that The police went so far as to purposely station all of its officers in a perimeter some five to twenty-four blocks away from the Morningside Housing Projects. The report found that when Officer April Wise and her colleague were at Morningside Homes that morning to investigate an act of domestic violence, they were intentionally called back by their superiors. The report found that police in the field were effectively ordered to stay at their posts. The report found that they did this even when a plainclothes officer reported the approaching caravan of KKK and American Nazi Party members. GPD officers even stayed put after the shootings, deciding to only stop the last car in the caravan.

The report found that after 11/3/79, the city of Greensboro took immediate and significant steps to purposely deflect critical attention and deliberately conceal critical facts from the public. It found that police deliberately misled the public by manipulating and concealing facts regarding what happened at the march, in an attempt to shield the GPD from responsibility. The report found that Greensboro's mayor and other city officials went so far as to intimidate news stations to not broadcast footage of the massacre. The report found that the events of 11/3/79 and its aftermath produced "general distrust of police, the justice system, elected officials and the media."<sup>335</sup>

One final quote used by the GTRC was striking to me: "Another of our aims in this inquiry is to reveal how the legal system inevitably reflects and also is influenced by the prevailing social and political contexts . . ." The subtext of this quote to my mind, is: the legal system reflects white supremacy by failing to convict white supremacists; the legal system is influenced by the prevailing sociopolitical context of anti-Blackness, which explains the lack of Black people on the juries and the tacit acceptance of murders resulting in the disruption of Black radical organizing.

Of course, to concede such a partisan objective would seem contrary to the stated purpose of the GTRC. But if we allow ourselves to reimagine the GTRC as something other than the traditional truth and reconciliation commission, this need not trouble us. Here is a partisan body presenting persuasive facts for the purpose of zealously advocating for its constituents; this is no different than the work of lawyers. Wheaton's critiques above fall flat against such a reinterpretation. Thousands of people were not killed in Greensboro; the scale and scope of the killings on 11/3/79 is in many ways smaller than that of, say South African apartheid. Participation by perpetrators was spotty and inconsistent. The government was in many ways hostile to the project, and unwilling to concede to its legitimacy. The truths proved irreconcilable, and the

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<sup>334</sup> *Id.* (emphasis added).

<sup>335</sup> *Id.*

commission carried out its mandate to the best of its ability, preserving its own truths and dignities for the sake of survival. At least that's my take. No one from the GTRC would describe it this way.

And in fact, a new project, the North Carolina Truth, Justice and Reconciliation Commission Process (NC-TJRCP) is underway, being conducted by the Beloved Community Center, led by 11/3/79 survivor Nelson Johnson. NC-TJRCP is a “grassroots, people-powered process, commission and movement” designed “to walk the varied segments of NC’s diverse population towards each other so that they may eventually walk together building broad “community truths.”<sup>336</sup> The BCC website goes on to say:

Perhaps that day has come, as we now find ourselves locked into a cycle of blaming, devaluing and uttering threats of violence at one another that grows increasingly into episodes of violence aimed towards one another. This vicious cycle, built on falsehoods, makes others “the enemy” and in so doing, breeds anger, fear, and mistrust among those devalued and mistreated. All of this has been simmering and intensifying for years. If the current trend continues unchecked with more outbreaks of targeted and random violence, it will lead to a familiar end — civil war. This is not mere hyperbole; our history gives evidence to the ultimate consequences. The previous diagram reflects the trend of a people posturing for war.<sup>337</sup>

The NC-TJRCP aims to address a multitude of societal ills, many of which touch law, poverty and policy. They include financial security, wealth creation, inclusive voter access and adequate housing, police accountability, judicial equity, community safety, adequate healthcare, mental wellness, climate justice, ecological sustainability, and quality education.<sup>338</sup>

Critics might find these ambitions too diffuse to be feasible; they might decry this initiative as traditional non-profit organizing campaigns being rebranded with “truth and reconciliation” as buzzwords to catch attention. My opinion is that the NC-TJRCP is demonstrating and understanding of the interlocking nature of poverty, racism, and oppression in Greensboro, North Carolina, and America. It’s intergenerationally remarkable—more than fifty years after he led an uprising against a military occupation of the world’s largest HBCU, NC A&T, Nelson Johnson is still organizing against oppression. Such a sustained legacy of struggle and dedication to a cause is rare and precious, and I think some deference is owed to elders with a pedigree like this. I think we should be flexible in our conception of what the truth and reconciliation model has to offer, and support efforts like these as threads in a fabric of resistance to white supremacy.

## B. FILMS AND PLAYS

One of the troubling things for many about 11/3/79 was the fact that so much of it was caught on film, both video and photograph, and yet this visual proof was insufficient to convict anyone. Those interested in 11/3/79 will get a sense of its graphic gravity by engaging in the audio-visual media created about it. It adds life in a way that the black and white written material from the archive, at least for me, did not.

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<sup>336</sup> *The North Carolina Truth, Justice, and Reconciliation Commission Process*, <https://belovedcommunitycenter.org/nctjrc-process/>

<sup>337</sup> *Id.*

<sup>338</sup> *Id.*

### *1. 88 Seconds in Greensboro*

This 1983 episode of the PBS series *Frontline* is remarkable because it contains extensive interviews with Klansman Edward Dawson, the FBI/GPD informant. I see Dawson as a mercenary, as a traitor to all. He started in the Klan, got in trouble for committing white supremacist terrorist hate crimes, and felt that he was unsupported and betrayed by Klan leadership. He worked as a confidential informant for law enforcement for nearly a decade, providing inside information about the KKK that certainly led to its disruption. He also periodically infiltrated CWP functions and reported to his handlers on that too. And I personally assume that he probably left out important details whenever it served his own interests. There is some reason to believe that he was a friend of officers because they shared his white supremacist beliefs; there is reason to believe that he was supposed to be a tool to disrupt white terror in Greensboro. Ultimately, it seems that he was loyal only to himself.

The second remarkable thing about this episode is its inclusion of testimony of a local television news reporter who filmed the events of 11/3/79 and who herself seems to have been in danger. The reporter was interviewed under hypnosis. Yes, hypnosis. What's even more incredible is that film of the hypnotized reporter was admitted into evidence and shown to the jury at the first criminal trial. In the film, the reporter says the hypnosis "revived her subconscious feeling that the communists had brought the violence upon themselves."

### *2. Other Media*

Other 11/3/79 films include *Red November Black November* (1981), *The Guns of November* 3rd, 1979, by Jim Walters (1999),<sup>339</sup> *The Greensboro Massacre* by Bill Brummel Productions, Inc., (2000), and *Greensboro: Closer to the Truth*, directed by Adam Zucker (2007).<sup>340</sup> Emily Mann's play, *Greensboro: A Requiem*, was written in 1996, and was performed as a public reading in 2019 upon the 40<sup>th</sup> anniversary of 11/3/79. These are mentioned to give a sense of the event's continuing impact on the collective consciousness. Finally, the book *Democracy, Dialogue and Community Action: Truth and Reconciliation in Greensboro*, by Spoma Jovanovic (2012), does an excellent job recounting in minute detail the origin and process of the GTRC.

## **III. LEGAL AND CRITICAL ANALYSIS**

### **A. JURY SHOPPING, PROCEDURAL GAMESMANSHP, AND THE DEATH PENALTY**

"Both the prosecution and the defense knew that jury selection would be crucial to winning the case."<sup>341</sup> It is taken for granted that who you get to be on your jury is going to determine who wins the case. To me, this is an alarming concession. Surely a process as error-prone, bias-driven, and imperfect as jury selection shouldn't be the single determining factor of guilt or innocence. Yet, obviously, in our Anglo-adversarial justice system, this is precisely the case.

<sup>339</sup> A restored version can be found here <https://www.youtube.com/watch?v=la8qiglxscw>

<sup>340</sup> <https://gateway.uncg.edu/crg/resources>. The film reconnects 25 years later with the players in this tragedy—widowed and wounded survivors, along with their attackers—and chronicles how their lives have evolved in the long aftermath of the killings. All converge when the first Truth and Reconciliation Commission ever held in the United States is convened in Greensboro from 2004-2006 to investigate the Massacre.

<sup>341</sup> GREENKIL 206.

The perverse irony of the 11/3/79 criminal trials is that many potential jurors were dismissed because they honestly identified their *bias against white supremacists*. They said—bless their hearts—that they did not believe they could be a fair and impartial juror because their beliefs, for one reason another, would tend to make them biased against the Klansmen and Nazis. This is a byproduct of the legal fixation with neutrality, which we as a society have accepted. Just as professors have the free-speech right to ignore students’ preferred pronouns, so too do white supremacists enjoy the Constitutional right to a fair trial by an impartial jury of their peers.

Strategically, in the criminal trials, the defense had another advantage. It was gifted to them by the prosecution, who decided to seek first-degree capital murder charges, which, in North Carolina at the time, could carry the death penalty. The prosecution, by pursuing the death penalty, alienated many jurors who would have otherwise been sympathetic to the CWP. Here is another perverse irony: to seek conviction for the crime that it seems most clear that the Klan and Nazis committed, the prosecution alienated the group most likely to convict them.<sup>342</sup> Well-educated professionals, liberals, and Blacks—precisely the kinds of persons who were least likely to be swayed by the predictable manipulation of anti-Communist sentiment by the defense—are highly represented among opponents of the death penalty.<sup>343</sup>

Prior to venire, as Guilford County residents were asked to appear for jury selection, each was sent a letter explaining the nature of the case and its expected duration—several months.<sup>344</sup> More than 70 percent asked to be excused for hardship reasons. About half of the remaining jurors were then excused for cause. About a third of those excused said they were opposed to capital punishment, although a majority said they were convinced that the Klan defendants were guilty.

Ninety-four Blacks were in the jury pool.<sup>345</sup> Sixty-three of whom were dismissed for cause, two-thirds of whom said they were unable to judge a Klan member objectively.<sup>346</sup> Fifteen more were successfully challenged for cause.<sup>347</sup> So it took only sixteen of the defense peremptory challenges to assure an all-white jury.<sup>348</sup> Then again, presumably, no anti-Communists would be allowed on the jury as well, so the system, however flawed, would at least be symmetrical.

Except it wasn’t. Octavio Manduley, a college graduate who worked as a chemist for Lorillard, made it onto the jury and was selected to be the foreman. Manduley was a Cuban exile who had fought with the Americans at the Bay of Pigs to overthrow Fidel Castro. To the CWP, the presence of an anti-Communist Cuban with CIA connections on the jury seemed to be evidence of the conspiracy against them penetrating the jury.<sup>349</sup> Whether it was a conspiracy or not, the odds were stacked against them.

I say “bless their hearts” above with equal measures of love and disdain for the truth-tellers who chose to be honest about their bias against white supremacists. I say so because this is an instance where a person can feel they have acted ethically, that they have made a neutral choice, abided by the law, and that they can avoid any complicity in wrongdoing by dissociating themselves from the process entirely. Of course, this is the most natural tendency in the world, and is completely understandable. However, not every potential juror was so inclined.

<sup>342</sup> GREENKIL 206.

<sup>343</sup> *Id.* Wheaton explains that prosecutors Greeson and Coman worked long hours with a local psychologist to establish a profile of the kind of person who would be most likely to convict, arriving at a profile of the death penalty opponent: educated, middle-to-upper class, liberal, black.

<sup>344</sup> *Id.*

<sup>345</sup> *Id.* at 207.

<sup>346</sup> *Id.*

<sup>347</sup> *Id.*

<sup>348</sup> *Id.*

<sup>349</sup> *Id.*

William A. Browning made his way onto the jury by deliberately lying. When Browning was questioned by ADA Coman, the answers Browning gave matched exactly what Coman was looking for. Yet, by the time the defense questioned him, Browning said that he felt sorry for the members of the KKK and Nazi group who were being prosecuted. According to Coman, Browning said that he “could see how somebody could be sitting over there,” and that he “could even see himself sitting over there.” What that means is that Browning could relate to what the defendants<sup>350</sup> had done; he could relate to being a KKK member who shot and killed CWP members in the street.

So among the twelve jurors, there was an exiled Cuban and a KKK sympathizer.<sup>351</sup> There was also a former Marine master sergeant and Vietnam veteran, a friend of a Klan member who once went to a rally, one who thought the Communists caused the incident.<sup>352</sup> In fact, all of the jurors expressed some degree of anti-Communist sentiment. The prosecutors conceded as an inevitability that in 1980 Guilford County the chances of coming across a prospective juror who was neutral toward communism was slim to nil.<sup>353</sup> Which of course is curious if set opposite the necessary implication: prosecutors Greeson and Coman were less bothered by the risk that any potential juror would be biased in favor of white supremacists. Something like this shouldn’t be surprising given the cultural climate of the place and time, likely many more people had friends and loved ones who they considered good and decent who were racist than they had friends and loved ones who were communist at all.

In any event, Greeson and Coman decided their approach to juror selection would be to ask these questions: Do you believe people should be killed for their political beliefs? Is it less of a crime to kill Communists than Klansmen? Wheaton suggests that “they were ugly questions, but they had to be asked,” but this begs the question, as it were. Shifting to these questions was a concession to the inevitability of white supremacy as a cultural tendency.

## B. JUSTICECRAFT

The justice system can deliver justice, but justice is in the eye of the beholder. The typical definition of justice is something like “the fair treatment of people” or “the quality of being reasonable.” Justice can be defined as a procedural function: “the fair and proper administration of laws.” This definition implies another common definition of justice, whereby justice is used as a euphemism for the legal system. Black’s law dictionary’s third definition of justice is “The legal system by which people and their causes are judged; especially the system used to punish people who have committed crimes.” This last definition prefigures the expansion of justice.<sup>354</sup>

For people active in spaces of incarceration or otherwise touched by the American penal system, the phrase “justice-involved” will be familiar. That phrase is preferred by some as a way to humanely refer to people with criminal justice histories.<sup>355</sup> Today about 2 million people are locked up in the United States.<sup>356</sup> More than 70 million Americans have a criminal record of some

<sup>350</sup> Remember, “the defendants” here refers to the KKK & Nazi cadre, even though technically the CWP were also defendants being charged with felony riot.

<sup>351</sup> GREENKIL 207–08.

<sup>352</sup> GREENKIL 208.

<sup>353</sup> *See Id.*

<sup>354</sup> Justice, BLACK’S LAW DICTIONARY (11th ed. 2019).

<sup>355</sup> *Words Matter: Using Humanizing Language*, THE FORTUNE SOCIETY, <https://fortunesociety.org/wordsmatter/>

<sup>356</sup> Wendy Sawyer and Peter Wagner, *Mass Incarceration: The Whole Pie* 2022, PRISON POLICY INITIATIVE (2022) <https://www.prisonpolicy.org/reports/pie2022.html>

kind.<sup>357</sup> So it's possible that this terminology might enable people to speak more sensitively to a justice-involved person in their life, or even to relate to themselves more compassionately.<sup>358</sup>

Regardless, the existence of this terminology points to something important: *involvement with justice means criminalization*. So for someone whose experience with the legal system is being charged with crimes, the above definitions harmonize; justice is a consequence of being a criminal. Seen this way, justice might not be something worth seeking.

A scholar—appropriately enough a scholar from Guilford College in Greensboro—named Hollyce Giles, has offered an important contribution to the conversation about how “justice” is defined. Giles takes up the call of restorative justice scholars to examine the language and narratives about justice in restorative practices, both to identify ways that the language reinforces oppression and domination, and to consider whether and how new language that affirms the dignity and humanity of participants can be crafted.

Extrapolating from Karen Fields' and Barbara Fields' theory of *racecraft*,<sup>359</sup> through which racism conjures the notion of race, Giles proposes that a similar socio-linguistic process occurs with the concept of justice. For Giles, *justicecraft* is the notion of justice imbued with oppression and domination; it hobbles true restorative practices. Giles considers various ways that problematic narratives of justice can undermine restorative initiatives to address issues in the United States criminal justice system. She also explores the impact of these narratives on the creation of new social knowledge in restorative initiatives. Community conversations on policing in Greensboro, North Carolina provide evidence in support of this expanded theory of *justicecraft*.<sup>360</sup>

It feels deeply appropriate to apply such a term to 11/3/79. Foremost: according to the legal system, justice was served in the criminal trials that resulted in no convictions for the killers. According to justice, those who killed did so in a way consonant with the policy goals of civil society. This is borne out by the traditional doctrines of punishment: a punishment has three main functions: deterrence, incapacitation, and retribution.<sup>361</sup> To not punish a killer is to not deter him specifically: you may kill like this again. It is to not deter society generally: anyone may kill like this. Of course, in such a situation, there is no need to incapacitate anyone.<sup>362</sup> The rights of the dead to retribution were assessed and it was found that they were owed nothing by the state. If this line of reasoning seems ridiculous, then it should reveal the difficulty of disentangling “oppression” from “justice.” This difficulty, I think, is the essence of *justicecraft*.

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<sup>357</sup> See Terry-Ann Craigie, Ames Grawert, Cameron Kimble, and Joseph E. Stiglitz, *Conviction, Imprisonment, and Lost Earnings: How Involvement with the Criminal Justice System Deepens Inequality* (Sep. 15, 2020), <https://www.brennancenter.org/our-work/research-reports/conviction-imprisonment-and-lost-earnings-how-involvement-criminal>. The article offers lots of helpful insights: “People with criminal justice histories are referred to in an array of dehumanizing labels, such as ‘inmates,’ ‘criminals,’ ‘prisoners,’ ‘convicts,’ ‘delinquents,’ ‘felons,’ and ‘offenders.’ Even after people complete their sentence of incarceration and return to the community, oftentimes these labels follow. Terms like ‘ex-inmates,’ ‘ex-prisoners,’ ‘ex-convicts,’ ‘ex-felons,’ and ‘ex-offenders’ are used to categorize and stigmatize people affected by the criminal justice system. Dehumanizing labels stereotype and marginalize people rather than support them while they rebuild their lives. Individuals with justice system involvement are not defined by their conviction history. The words we use to reference people should reflect their full identities, and acknowledge their capacity to change and grow.”

<sup>358</sup> Graffiti writers in Paris during the revolt of May 1968 might have put it this way: “kill the cop in your head.” See *1968 protests*, OXFORD ART JOURNAL. <https://academic.oup.com/oa/j/pages/1968protests>.

<sup>359</sup> Karen E. Fields and Barbara J. Fields, *Race, Racism, and Racecraft*, VERSO BLOG (Feb. 11, 2022) <https://www.versobooks.com/blogs/2482-race-racism-and-racecraft>.

<sup>360</sup> See Hollyce Giles, *Toward a theory of justicecraft: language, narratives, and justice in restorative community conversations*, CONTEMPORARY JUSTICE R., 22:3, 257-279 (2019) <https://www.tandfonline.com/doi/full/10.1080/10282580.2019.1644626>.

<sup>361</sup> See, e.g. Joseph E. Kennedy, CRIMINAL LAW (2021). Other purposes, like rehabilitation and restitution, are mentioned but not taken seriously.

<sup>362</sup> And perhaps implicit in the lack of punishment would be a validation of the incapacitation of the seditious communists.

#### IV. CONCLUSION

Strong competing narratives about the Greensboro Massacre persist, both about what happened and what it meant. Memory institutions preserve those narratives and (re)shape them. As the media survey shows, each historian serves their own project. Whether wittingly, candidly, or not, each work is embedded with bias designed to affirm its own truth. Accordingly, it's difficult to extract a simple, clear, definitive story. As a researcher, I set out hoping to find a pat answer, to solve the mystery of 11/3/79. Instead I found myself consistently unsettled. Accordingly, there are as many worthwhile questions as conclusions to be drawn from this unsettling knot of history.

First, cross-racial solidarity is an appealing tool to dismantle poverty and racism. Certainly the kinship between race and poverty are undeniable. Wealth created whiteness and whiteness became wealth. Poverty cultivated white supremacy. As long as whiteness remains supreme, pursuit of its symbolic value will reproduce anti-Blackness. Descendants of enslaved people were subjected to continued deprivation and resisted it creatively. Those unwilling to accept the myth of racial animus were able to better care for themselves. Genuine collective organizing across racial lines is powerful. It rejects civility, passivity, docility, and fear. It fights alienation and resists temptations to numb out, give up, and dissociate.

But is cross-racial solidarity an effective tactic? Does the camaraderie it confers outweigh the target it paints on your back? Or does that binary miss the point? It can be said the class-focused work of the CWP put too little emphasis on race, and in so doing, let some big blind spots develop. There's also the difficulty of teasing apart cross-racial solidarity from far-left radicalism. What genuine cross-solidarity may have been generated perhaps moved forward too fast to take root. Greta Fowler Snyder identifies a helpful theoretical framework:

The dramatic difference in typical Black and White *lifeworlds*—or sets of “cultural givens” assumed by Black and White Americans and used to interpret experience—impedes the development of a cross-racial solidarity oriented toward racial justice. If such a cross-racial solidarity is to be realized, actors must reorient the average White lifeworld in ways that make Whites more receptive to Black claims.<sup>363</sup>

She goes on to say that this can be accomplished only through confronting whiteness by marking it, making it hyper-visible, and portraying average white behavior and ideals as integral to the systemic reproduction of racial justice. So doing would render contemporary white complicity in racial injustice undeniable, she says. This is consonant with the “interest-convergence” theory proffered by Derrick Bell. David Shih describes the theory this way:

Interest convergence stipulates that black people achieve civil rights victories only when white and black interests converge. The signature example is Brown v. Board of Education, which happened because it advanced white interests too, Bell argued. Specifically, desegregation raised the nation's prestige in world politics during the Cold War. Eventually, when interests diverged, the enforcement of civil rights was curtailed: Brown was undercut by later cases that sanctioned segregation for

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<sup>363</sup> Greta Fowler Snyder, *Marking Whiteness for Cross-Racial Solidarity*, CAMBRIDGE UNIVERSITY PRESS (Nov. 16, 2015), <https://www.cambridge.org/core/journals/du-bois-review-social-science-research-on-race/article/abs/marketing-whiteness-for-crossracial-solidarity/7450EDF5CAA289BA44CC286D4577A344>

decades. Bell pointed to later affirmative-action triumphs as examples of renewed interest convergence.<sup>364</sup>

Ultimately, I believe the measure of the sincerity and effectiveness of any cross-racial solidarity depends on these two theories. White lifeworlds must be reoriented to be more receptive to Black life and its needs, and both the lives of Black and white people must stand to benefit from the work being conducted across racial lines. Otherwise, tragic results are bound to follow.

Second, police misconduct persists. Black death is abided. White supremacy is ignored, facilitated, even supported by law. Apparent neutrality can mask procedural abuses, both in the street by police and in the courtroom by judges. The enforcement of the law produces a justice that is not acceptable to all. Adjudication approximates closure but cannot stand in for grief. Unauthorized processes seeking truth, reconciliation, and accountability, may be required by communities unwilling or unable to rely on legal systems to protect them.

Third, it may be more important to take care of your friends than to fight your enemies. Being radical and being compassionate are not always compatible. The choice to *perform* anti-fascism can be self-serving and actively harmful to BIPOC. It can center whiteness and ignore the lived material reality of people most vulnerable to fascist violence. If the CWP began by asking *How can we help? What do you need?* it perhaps would have been less radical, less revolutionary. But it might have accomplished its goals of improving the lives of the working class without putting everyone at so much risk. And I think for future attorneys, such an approach is instructive—we can seek to advocate for our clients, not organize them.

Fourth, alignment and identity alone may be empty signifiers. For me as an academic and as a white person, it can be tempting to associate myself with radical-seeming ideas. As an activist I may be tempted to build a movement. But if either of these come at the expense of the safety of BIPOC, they must be scrapped and reworked. Whenever I seek to act for the wellbeing of BIPOC, I must interrogate my own tendency for performativity, for accumulation of social capital, for vestigial colonial tendencies, and for white saviorism. This is consonant with the above conclusion so long as one focuses on the immediate lived material experience of the people in their lives, rather than seeking to theorize, perform, and make rhetoric in an abstract void.

Fifth, there's a tension between taking sides and restorative justice. It requires counterintuitive action, like affirming the humanity of *all* persons involved in atrocities, including bad actors who caused harm and trauma. This means rethinking some "radical" tendencies, specifically, the decision to disengage from discourse and procedure that involves "the other side." At its core, restorative justice requires us to cross aisles, demolish silos, evacuate the echo chamber. As uncomfortable as this may be, it seems the opposite of the violent entrenchment that further alienates us and fuels the cycle of violence mentioned above.

Ultimately, what I choose to take away from the many stories about 11/3/79 is hope for transformation embodied in the spirits of the slain CWP 5. I hope to carry their legacy of resistance, and to struggle gracefully. I hope to find harmony with enemies and look past false conflict.

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<sup>364</sup> David Shih, *A Theory to Better Understand Diversity, And Who Really Benefits*, CODE SWITCH, NPR (Apr. 19, 2017), <https://www.npr.org/sections/codeswitch/2017/04/19/523563345/a-theory-to-better-understand-diversity-and-who-really-benefits>

## APPENDIX

### A. HI/STORY

A given history may fight or facilitate social amnesia, depending on who's writing it. Rather than a big-H History, what I have to offer here is a story. At first the story looked like a rationally organized web of facts. I walked through the web, and now I carry its sticky knot of truths around with me. I want to tell you what that walk has felt like.

Me telling you what it was like, what happened, and what it's like now, is the format of how I share in the context of addiction and mental illness—this is the story style. In communities of recovery, the story style helps newcomers construct a new life from the fragments of their brokenness.<sup>365</sup> Hearing someone else's story—as opposed to being told The Truth—is a gentle invitation to parse experiences that defy understanding. Stories, without being prescriptive, help make sense of the senseless. Stories are the scaffolding of memory. The selection and deselection of life events to form a coherent narrative defines identity—both personal and collective. How we attach meaning to these events exerts a profound effect on our future.<sup>366</sup>

Curating memory and attaching meaning also conjures community. Perhaps community, rather than being created, is discovered.<sup>367</sup> You sit down to hear a story. At the outset your understanding is that the story is about other people, somewhere else. But by the end, somehow, the story turns out to be about you, about me, about us, about here, about now. Ursula LeGuin puts it like this: “So when the storyteller by the hearth starts out, ‘Once upon a time, a long way from here, lived a king who had three sons,’ that story will be telling us that *things change; that events have consequences; that choices are to be made; that the king does not live forever.*”<sup>368</sup>

Here I hope to invite the reader, the story-listener, to discover themselves to be part of a community that they didn't know existed, or to remember their membership in a community they thought was dead that turned out to be only dormant. I hope to remind the listener that King History can be dethroned, that we can construct a new life from the fragments of broken history.

What follows are some of those fragments, grave and diaphanous in turns. Fragments of successful rebellion, self-determination, community protection, and preservation of dignity among the dispossessed.<sup>369</sup> Fragments of bitter resentment, artless organizing, hollow posturing, violent inertia, malice, conspiracy, and betrayal. Fragments of a myth of progress belied by a relentlessly recurring plot.

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<sup>365</sup> Ernie Kurtz, Recovery, and the Power of Story, Faces & Voices of Recovery, <https://facesandvoicesofrecovery.org/resource/ernie-kurtz-recovery-and-the-power-of-story/>

<sup>366</sup> *Id.*

<sup>367</sup> *Id.*

<sup>368</sup> *Id.*, emphasis added

<sup>369</sup> I use this term as a politicized historical term. Its first sense is from Ursula K. LeGuin's anarchist-utopianist novel “The Dispossessed,” in which citizens are *dispossessed* not just by a lack of political choice, but by the very lack of actual resources it is possible to possess in a post-scarcity world. The second is in the tradition of Shirley and Stafford in Dixie Be Damned, who, among other things, offer this description: "...the [South's] dispossessed have forever had to articulate their resistance simultaneously against multiple, competing visions of exploitation and social control....Marooned laborers, former slaves resisting the new regimes of Reconstruction, and miners fighting the convict lease all revolted in a context of local and foreign ruling-class tension..." Beyond that, dispossessed refers to the operation of primitive accumulation, whereby people became dispossessed of their collective means of survival, and were induced into market dependence. So, to say “dispossessed” here is an offering to invoke the history of the highly varied strugglers against domination and indignity for the past several centuries in the South. Page 257.

## B. SOCIAL AMNESIA

Social amnesia is a collective forgetting by a group of people. Social amnesia can be a result of “forcible repression” of memories, ignorance, changing circumstances, or the forgetting that comes from changing interests.<sup>370</sup> Protest, folklore, “local memory,” and collective nostalgia are among the counter-forces that combat social amnesia.<sup>371</sup> In turn, revisionist histories, academizing of non-academic events, and propaganda threaten to dilute, warp, misdirect, and/or erase collective memory. Misinformation and disinformation function similarly, as does bullshit.<sup>372</sup> There is interplay in this multidirectional cycle.

Access to memory is a form of control. Social amnesia can pacify resistance. In the U.S., social amnesia has been said to reflect “the tendency of American penology<sup>373</sup> to ignore history and precedent when responding to the present or informing the future . . . discarded ideas are repackaged; meanwhile, the expectations for these practices remain the same.”<sup>374</sup> Fits of social amnesia after difficult or trying periods can sometimes cover up the past, and fading memories can lock in mythologies by keeping them “impervious to challenge.”<sup>375</sup>

Historian Guy Beiner opted to engage with this phenomenon through use of the term “social forgetting,” and has shown that, under scrutiny, this is rarely a condition of total collective oblivion. Rather, it is a more complex dynamic of tensions between public forgetting and the persistence of private recollections, which can at times resurface and receive recognition and at other times are suppressed and hidden.<sup>376</sup> Telling the story of 11/3/79 is an attempt to resurface the slab of history.<sup>377</sup> Or, better yet, to remove the thick cake of lacquer accreted from decades of historicization, to see the raw material beneath.

## C. THE ARCHAEOLOGY OF KNOWLEDGE

Foucault’s “archaeology of knowledge” is a methodology and historiography of the systems of thought, which he calls “epistemes,” and systems of knowledge, which he calls “discursive formations.” Epistemes and discursive formations follow rules that operate beneath the consciousness of the subject individuals, and which define a conceptual system of possibility that determines the boundaries of language and thought used in a given time and domain.

The meaning of a given expression depends upon the conditions in which the expression emerges and exists within the discourse of a field or the discourse of a discipline; the discursive meaning of an expression is determined by the statements that precede and follow it.<sup>378</sup> The

<sup>370</sup> Michael J. Dear, Allen John Scott Urbanization and urban planning in capitalist society page 555; David Rothenberg, Marta Ulvaeus The new earth reader: the best of Terra Nova page 57, 74

<sup>371</sup> Rothenberg, Ulvaeus, *Supra*.

<sup>372</sup> Harry G. Frankfurt, *On Bullshit*, Princeton University Press, 2005, In this book, Frankfurt presents a theory of bullshit that defines the concept and analyzes the applications of bullshit in the context of communication. Frankfurt determines that bullshit is speech intended to persuade without regard for truth. “The liar cares about the truth and attempts to hide it; the bullshitter doesn’t care if what they say is true or false, but cares only whether the listener is persuaded.”

<sup>373</sup> is a sub-component of criminology that deals with the philosophy and practice of various societies in their attempts to repress criminal activities, and satisfy public opinion via an appropriate treatment regime for persons convicted of criminal offences. Rajendra Kumar Sharma (1 January 1998). Criminology And Penology. Atlantic Publishers & Dist. pp. 2 ff.; Shlomo Giora Shoham; Ori Beck; Martin Kett (8 October 2007). International Handbook of Penology and Criminal Justice. CRC Press. The Oxford English Dictionary defines penology as “the study of the punishment of crime and prison management,” and in this sense it is equivalent with corrections.

<sup>374</sup> Thomas G. Blomberg, Karol Lucken American penology: a history of control page 223

<sup>375</sup> Joe L. Kincheloe, William Pinar Curriculum as social psychoanalysis: the significance of place

<sup>376</sup> Guy Beiner, *Forgetful Remembrance: Social Forgetting and Vernacular Historiography of a Rebellion in Ulster* (Oxford University Press, 2018).

<sup>377</sup> There is something to be said for the validity of suppressing hurtful memories, not callously resurfacing them. I will leave that subject for a different writer to delve into further.

<sup>378</sup> Gutting, Gary (1994). *The Cambridge Companion to Foucault*. Cambridge: Cambridge University Press. p. 231.

statements constitute a network of rules that establish which expressions are discursively meaningful; the rules are the preconditions for signifying propositions, utterances, and acts of speech to have discursive meaning. The analysis then deals with the organized dispersion of statements, discursive formations, and Foucault reiterates that the outlined archaeology of knowledge is one possible method of historical analysis.<sup>379</sup>

As a tool to describe phenomena, I find this methodology fascinating. However, I have some issues with it. For one thing, it seems to pay less attention than I'd like to the collective meaning created and experienced by communities of speakers, experiencers, and rememberers. It also seems not to be much concerned with analyzing attendant material conditions, instead focusing on the discursive. Most importantly of all, however, I find this approach to be too hard to understand, and I expect I'll misinterpret and/or misapply it. So, instead, I'll haphazardly borrow from this methodology when doing so serves my interests, and otherwise resort to a less conventional, potentially less legitimate approach: egregores.

#### D. EGREGORES

For the last forty years, there has been a war in Greensboro. It's not the war between police and the policed, or between justice-involved-people and courts, or between landlords and tenants, or between formerly enslaved people and descendants of slaveowners, or between lighter and darker people, or between the subaltern<sup>380</sup> and the colonizer, or between fascists and antifascists, or between hegemony and protestors, or between property and people—although each of these wars figures in. The war I'm talking about is a war between egregores.

Egregores are non-physical entities that arise from the collective thoughts of a distinct group of people.<sup>381</sup> Adjacent to phenomena such as “psychic manifestations,” “collective unconscious,” “group minds,” or “thoughtforms,” egregores emerge when any group shares a common motivation or purpose. Accordingly egregores are immaterially constituted by and constitutive of the thoughts of a given group. Neither spectral nor corporeal, but, to borrow a legal term of art, *weighty*, the egregore exists in symbiosis with its group.

While it is likely unconventional to invoke terminology from chaos magic to write about the law and about history, I find the term egregore practical here. The decades of narrative tension in Greensboro has correspondents in the physical world—plaques, tombstones, millions of paper pages in the archives, furlongs of magnetic tape, museum installations, engraved historical markers, and untold cubic meters of hard-drive space. But the stories surrounding the events of 11/3/79, survive most substantially in the minds and hearts of its inheritants. I think egregore describes this phenomenon satisfactorily.

I also choose egregore as a historical framework as a means of signaling my intention. While I have been a researcher and a journalist and an amateur historian, I claim no capacity to create Truth or History in this space. As an individual, I acknowledge the myopia my work will inevitably suffer, as compared to a massive collective effort, like the Greensboro Truth and Reconciliation Commission, for example. Accordingly, rather than seeking reconciliation, this

<sup>379</sup> Campos Gonçalves, Sérgio. “O método arqueológico de análise discursiva: o percurso metodológico de Michel Foucault”, História e-História, - NEE-UNICAMP (Campinas), v. 1, p. 1-21.

<sup>380</sup> In postcolonial studies and in critical theory, the term designates and identifies the colonial populations who are socially, politically, and geographically excluded from the hierarchy of power of an imperial colony and from the metropolitan homeland of an empire.

<sup>381</sup> Bernstein, L. S. (1998). “Egregor.” The Rosicrucian Archive, Confraternity of the Rose Cross. Historically, the concept referred to angelic beings, or watchers, and the specific rituals and practices associated with them, namely within Enochian traditions. Here, I hope to apply the term to the project of historicizing without invoking any sacred or occult connotation.

paper seeks *recollection*. Rather than truth this paper seeks *trust*: I attempt to demarcate my biases and shortcomings in a way that is intellectually and emotionally honest.

To that end, I do not claim any capability to resolve the war between the *egregores* surrounding the events of 11/3/79. Rather, I will seek to provide some assertions that have yet to be made in the existing literature surrounding 11/3/79, critique some assertions that have been made, and offer my limited understanding of the event in the context of a broader struggle for dignity, autonomy, and equity in Greensboro, my hometown.

#### E. (RE)COLLECTION

Humans would rather remember than think. And we'd rather act instinctively than remember. According to Daniel Willingham, humans don't think very often because our brains are designed not for thought but for the avoidance of thought.<sup>382</sup> He adds that human minds "are not especially well-suited to thinking; thinking is slow, effortful, and uncertain. For this reason, deliberate thinking does not guide people's behavior in most situations. Rather, we rely on our memories, following courses of action that we have taken before."<sup>383</sup> Daniel Kahneman, in his book *Thinking, Fast and Slow*, explains in great detail how our mind's ability to perform "effortful mental activities" involving complex problems is characterized primarily by "laziness, a reluctance to invest more effort than is strictly necessary."<sup>384</sup> I regret to inform you that me, Daniel Stainkamp, will be adding my take on thought and memory to the already-clogged field of scholarship on the mind written by Daniels. Basically, it is easier to not think critically about 11/3/79, it's easier to proceed based on intuition, instinct, and memory, but the problem is those three things are likely warped by a dearth of good information on 11/3/79, or else too much bad information on the topic. I attempt some analogizing of 11/3/79 to other modern moments of violence and resistance. Is this helpful or hurtful?

Analogies serve as a form of cognitive linking. They provide the reader with an easy shortcut, a way to avoid some of the difficulties involved in solving a new problem. Analogies give the reader a "mental model" that is already proven to be the "correct" way of solving the problem. If readers can make the connection that the current problem is like a prior problem, they can more easily solve the current problem in the way the writer proposes.<sup>385</sup>

My fundamental premise in this paper is that social amnesia will tend to facilitate harm. It might seem that the most appropriate remedy for social amnesia is collective remembering. But to the extent a remembering interferes with or otherwise delegitimizes another remembering, there's an argument to be made that such an act of remembering is violent. Likewise, writing that occludes or crowds out or disaffirms memory can be called violent. This is why *reconciliation* is an attractive project. Ideally, through humility, compromise, research, facts, data, and honesty, competing *egregores* may together arrive at a reconciled memory, and those *egregores* may meld into one—a synthesized, harmonic, convergent Truth from truths. As appealing as that is, I have

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<sup>382</sup> Daniel T. Willingham, "Why Don't Students Like School? A Cognitive Scientist Answers Questions About How the Mind Works and What It Means for the Classroom" (2009) page 4.

<sup>383</sup> Id at 18.

<sup>384</sup> Daniel Kahneman, "Thinking Fast and Slow" page 30 (2011).

<sup>385</sup> <https://jle.aals.org/cgi/viewcontent.cgi?article=1539&context=home>, citing Steven Pinker, "The Sense of Style" (2014) page 4, Willingham *Supra* note 26; Peter C. Brown, Henry L. Roediger III & Mark A. McDaniel, "Make It Stick: the Science of Successful Learning" 115 (2014).

to concede that the histories I have encountered thus far have made me pessimistic about reconciliation. While I have no interest in foreclosing it as a possibility, I think it may be beyond my capacity. Hence, “Irreconcilable Truths.”

So, since the existing histories are partisan, and since I as an author, having not been born at the time, cannot remember anything about 11/3/79, my project is a survey. Or maybe an archaeology or a genealogy,<sup>386</sup> to the extent that these methodologies are capable of distinguishing the true and the false via mechanisms of power. Nevertheless, the recollection I mention above is: I seek to collect memories, remembrances, and memorializations. In pursuing this circular project, I recognize the risk data degradation and anaphylactic analysis. Unable to recall the past, I call for it from the archive; unable to recount the details, I count on historians; unable to feel what it was like, I try for ressentiment without resentment.

I diverge from typical book histories and from work by groups like the TRC: I offer no Truth, no “true story,” no rigorous historical account, and instead, only small, curated collections of others’ recollections, in the interest of honoring tendencies seeking to remedy harm.

#### F. THE MYTH OF OBJECTIVITY IN MEMORY INSTITUTIONS

The archive is not neutral. There is no “the archive;” there are many archives, each staffed with librarians and archivists data scientists and other skilled thinkers and curators, who have made intentional decisions, whether autonomously or as a result of encouragement or coercion from their controlling institutions.

Archives are one among many memory institutions in American society. Others include libraries, museums, monuments, historical sites, aquaria, arboreta, botanical gardens, heritage sites, data aggregation services, and digital collections. Perhaps also garbage dumps, scrapheaps, junkyards. It’s worth noting that each of these institutions is its own domain, with its own approach to cataloguing, description, interpretation, and deployment of collections, that lead each to engage with history, meaning, and memory in its own way.<sup>387</sup> Fine distinctions across lines of difference among memory institutions notwithstanding, their putative purpose is to document, contextualize, preserve, and index elements of human culture. In so doing, institutions become nodes where memories can be collected and collectivized, and each offers a fertile ground for new egregores.

At their best, memory institutions allow and enable society to better understand itself, its past, and how the past impacts the future;<sup>388</sup> they preserve communities, languages, cultures, customs, tribes, and individuality.<sup>389</sup> Beyond collecting knowledge, memory institutions can also be seen as actors in history, or agents of history-making, perhaps even organs of history. Memory institutions have predominantly presented a colonial history as fact and have excluded the voices of marginalized people and by doing so have demonstrated an ingrained bias.<sup>390</sup> This bias

<sup>386</sup> From michel-foucault.com: “‘Archaeology’ is the term Foucault used during the 1960s to describe his approach to writing history. Archaeology is about examining the discursive traces and orders left by the past in order to write a ‘history of the present’. In other words archaeology is about looking at history as a way of understanding the processes that have led to what we are today.” The site goes on to say: “Foucault’s remarks on the difference between archaeology and genealogy are generally rather vague and confusing. The tools Foucault uses to practice both methods are to all intents and purposes the same. But, if archaeology addresses a level at which differences and similarities are determined, a level where things are simply organized to produce manageable forms of knowledge, the stakes are much higher for genealogy. Genealogy deals with precisely the same substrata of knowledge and culture, but Foucault...describes it as a level where the grounds of the true and the false come to be distinguished via mechanisms of power.”

<sup>387</sup> Robinson, Helena (2012). "Remembering Things Differently: Museums, Libraries and Archives as Memory Institutions and the Implications for Convergence". *Museum Management and Curatorship*. 27 (4): 413–429.

<sup>388</sup> Pessach, Guy (2008). "[Networked] Memory Institutions: Social Remembering, Privatization and its Discontents". SSRN Working Paper Series

<sup>389</sup> Byrne, Alex. ["Memory institutions shaping the past, present and future"](#) (PDF). Archived from [the original](#) (PDF) on June 15, 2020

<sup>390</sup> Jimerson, Randall, C. *Archives power : memory, accountability, and social justice*. Society of American Archivists, 2009

manifests itself in how material is collected, described, preserved, and exhibited.<sup>391</sup> I argue that museums, libraries and archives cannot remain objective or neutral because they never were.<sup>392</sup> From this premise it follows that my work must not be objective or neutral; it is not even possible that it could be, but I won't attempt to claim it is. Instead, I will fall back on an old political tendency for guidance in telling my story: anarchism.

#### G. ANARCHIST HISTORIOGRAPHY

Here I invoke some of the tools used by two of my favorite story tellers, Neal Shirley and Saralee Stafford.<sup>393</sup> Their preliminary notes for an anarchist historiography of the American South is rife with sharp procedure and theory that I wish to apply to the substantive content of 11/3/79 and the recollections of repression and resistance I offer below. I think the following quote harmonizes nicely with the above:

“History is not ‘the past’ but our own relationship to that past; it is not a mass of data to be entered and processed but an infinite set of revolutionary possibilities, which arise again to communicate themselves during every new outburst of struggle and conflict.”<sup>394</sup>

Shirley and Stafford view the insurgents they choose to historicize as spirits of the dead that fight alongside the living, seeking final redemption.<sup>395</sup> To write a history according to these metaphysics seems to accord with the war between egregores mentioned above. More than that though, the war is material. The war is always already in my body, in my expressions and gestures, alive in every social site, from the field to the factory to the bedroom to the bus stop.<sup>396</sup> The war has to do with wealth, accumulation, scarcity, access to space, the ability to move freely and without fear.

War, however, may be too figurative a term. Better is revolt, which is to rise in rebellion, which is to refuse to acknowledge someone or something having authority. Whether or not my work here is revolutionary, I think it's fair to call it revolting. Friends of this story can identify with the rebellious connotation; enemies can identify the connotation of disgust. Regardless of what I'm doing here, Shirley and Stafford pay attention to the revolts of the past, noting how they fold into the revolting present.

Revolt in the South blasts open the continuum of history, rupturing notions of progress,<sup>397</sup> even of time itself.<sup>398</sup> Perhaps the white supremacist rioter seeks the rupture to return his bit of America to its state two hundred years ago. Perhaps the Afrofuturist writer seeks to rupture her bit of Turtle Island<sup>399</sup> to its state two hundred years in the future, or five hundred years in the past, or

<sup>391</sup> *Id.* at 93.

<sup>392</sup> Nathan Sentence, Museums are not F\*\*king Neutral, The myth of objectivity in memory institutions, Archival Decolonist [ - O - ], January 18, 2018. <https://archivaldecolonist.com/2018/01/18/your-neutral-is-not-our-neutral/>.

<sup>393</sup> See generally, Dixie Be Damned: 300 Years of Insurrection in the American South. 2015, AK Press.

<sup>394</sup> Dixie Be Damned, 253

<sup>395</sup> *Id.*

<sup>396</sup> See *Id.*

<sup>397</sup> Shirley and Stafford note how crucial the countertradition to the narrative of progress exemplified by former slaves' refusal of labor contracts, push-backs against northern industrialization, and a generalized disinterest in traditional forms of labor organizing. The upshot, I think, is that we would do well to not automatically consider “progress” to be a good thing, to recognize how progress rhetoric has been used to justify atrocities, and to be wary of “progressive” becoming a lazy euphemism or shorthand for “just,” which it frequently is not.

<sup>398</sup> *Id.*, citing Walter Benjamin's Theses on the Philosophy of History.

<sup>399</sup> Robinson, Amanda; Filice, Michelle (November 6, 2018). “Turtle Island.” The Canadian Encyclopedia. Historic Canada. Notes: “For some Indigenous peoples, Turtle Island refers to the continent of North America. The name comes from various Indigenous oral histories that tell

even outside the white linear forward moving concept of time into a circular recurrence plot.<sup>400</sup> Whatever the case may be, it's critical to recognize the racial dimension of revolt.

### *1. Race and Violence and Affinity*

I think a good anarchist history must candidly name and dress down the systems of oppression that the “modern” or “progressive” present would gloss over or downplay. Shirley and Stafford do just that: they name white supremacy, in the context of the first century of colonization of America, as a defining characteristic of America, as a tool of state power consolidation, wealth accumulation, and forced social hierarchy. Social norms and structures were initially beaten into the consciousness of the indigenous, the colonized, the criminal, the indentured, the unwell, the indebted, and the chained, specifically on the bodies of black slaves, for hundreds of years. Law functioned as a tool to create and reinforce race,<sup>401</sup> as early planters and politicians racialized legal codes in the service of primitive accumulation. To put it more plainly, the land and the law were put in place to preserve the original hierarchies of seventeenth-century colonization.<sup>402</sup> This is helpful to keep in mind as one tries to make sense of what did and did not happen on the land, on property, in the court, and in the law, on and after 11/3/79.

Shirley and Stafford describe the intersection of violence and race as the heart of the white supremacy—imposing divisions of labor and social alienation upon nonwhite subjects in a way that was and is open-ended, gratuitous, and without reason or constraint.<sup>403</sup> And here we can also find a critical theoretical and historical underpinning to what precisely was at stake on 11/3/79:

Those who would risk extending solidarity across racial boundaries would find themselves the recipient of exemplary violence in order to instill fear of constant consequence for this treason. Ever after, meaningful cross-racial affinity can only be found in moments of revolutionary violence. [Violence has always been the prerequisite for true cross-racial affinity.] It's an uncomfortable reality, but it stares us clearly in the face: everywhere race and violence are inseparable....That cross-racial affinity has at times been created in these moments of violence, without any progressive political vision in the most white supremacist region in the world suggests that violence often brings forth an immediate possibility for new social relations.<sup>404</sup>

The CWP, in its attempt to combat the Klan, took just such a perilous risk. The demography of the dead—one black woman, one Latino man, three white<sup>405</sup> people—demonstrates that solidarity across racial boundaries was being practiced. And, accordingly, they received “exemplary violence,” by which Shirley and Stafford mean the type of violence that makes an

stories of a turtle that holds the world on its back. For some Indigenous peoples, the turtle is therefore considered an icon of life, and the story of Turtle Island consequently speaks to various spiritual and cultural beliefs.”

<sup>400</sup> Cf. Recurrence Plot, Rashida Lewis, 2017.

<sup>401</sup> See, e.g. *The Color of Law*, Richard Rothstein, 2017

<sup>402</sup> Dixie Be Damned, 261, quoting Ashanti Alston

<sup>403</sup> Dixie Be Damned 258, quoting Frank Wilderson

<sup>404</sup> Dixie Be Damned 259.

<sup>405</sup> Some Jewish, some Christian. Whether or not Jewish people are white is beyond the scope of this paper. For further reading, See, e.g. “Are Jews White?” <https://www.theatlantic.com/politics/archive/2016/12/are-jews-white/509453/>; “The Racial Identity of Jews,” <https://rpl.hds.harvard.edu/religion-context/case-studies/minority-in-america/racial-identity-us-jews>; “Race, Ethnicity, Heritage, and Immigration among Jews,” <https://www.pewresearch.org/religion/2021/05/11/race-ethnicity-heritage-and-immigration-among-u-s-jews/>

example out of its recipient, violence that adheres to the deterrence philosophy of punishment, violence designed to carry a message: *you may not; this is not allowed.*

Beyond its political, radical, revolutionary tenor, the race-violence nexus constitutes the psycho-affective elements of memory, racialized violence, and identity.<sup>406</sup> Race must be understood as the relation of nonwhite subjects to regimes of discipline and punishment, which are used to realize a social hierarchy in which whiteness is maintained as non-racialized civil subjectivity.<sup>407</sup> Passivity and pacification belong in this construction of Whiteness too, and that the construction of innocence is intertwined with whiteness.<sup>408</sup> For one thing, “innocent” can be typically understood as a euphemism for “nonthreatening to white civil society.”<sup>409</sup>

While indeed the legal-social regime of white supremacy has fascist characteristics, it would be incomplete to describe it as merely fascist. Instead, the primary structures the state has and continues to use to maintain power are various practices of self-policing, which are compatible with contemporary “democracy,”<sup>410</sup> as opposed to old-fashioned fascism. Some practices include social media, CCTV, community policing, and do-gooder vigilantism, increasingly defined and performed by a self-professed “citizenist” contingent. “The atomized death of civil society has allowed for its ghoulish reanimation as a neighborhood watch group.”

This framework has profound implications for assessing and historicizing 11/3/79. For one thing, it invites 11/3/79 to be included among the historical struggles against white supremacy, a rare and powerful instance of cross-racial solidarity. Here we can recognize the fight against white supremacy in its historical context, as one among many in a constellation of struggles against domination and oppression. The facts of 11/3/79 seem to function exactly according to their prescription: “meaningful cross-racial affinity can only be found in moments of revolutionary violence.” One need look no further than the deep, decades-long bonds formed and maintained by survivors. This framework also models how to spend time with the dead. You believe their stories. You take sides.

## 2. *Labor and Unions and Race and the South*

Stafford and Shirley offer meaningful insight into how the struggle for workers’ rights in the South has been dealt with by historians. For one thing, it’s worth recalling that the subtitle of their book is “300 Years of Insurrection in the American South.” It’s interesting to try to apply that perspective to what the WVO/CWP was up to in Greensboro in the 1970s. On the one hand, the party line of the CWP was explicitly anti-capitalist, and advocated for the overthrow of the United States government, [cite, examples]. To that extent, it would seem appropriate to include the CWP in a rough category of “Southern insurrectionists.” Indeed, they may have been more actively, material conflictual against the industrialist-capitalist hegemony than many averred anarchists and insurrectionists. Still, there were certainly dimensions to the work of the CWP that could be described as “progressive,” that is, concerned with accumulating rights under democracy. [DBD 261 expand on this]. I think it’s unsurprising that a group like CWP would occupy a multiplicity of identities and engage a variety of tactics to work toward their goals. [more take.] Essentially

<sup>406</sup> *Id.*, citing Frantz Fanon.

<sup>407</sup> *Id.*

<sup>408</sup> Jackie Wang, Against Innocence (pinpoint citation needed)

<sup>409</sup> *Id.*

<sup>410</sup> The anarchist critique of democracy, used here, identifies the social order of American democracy as a state-guaranteed trap of rights and contracts, a knot of repression and recuperation, an apparatus of social control and state violence, management, coercion, ad betrayal. An important product of democracy is the sweeping, scalable murder of and atrocities against Black people, and generally working to preserve, reinforce, or resurrect the social order of the 1600s.

what we see from the CWP is a spectrum, starting on one end with benign acts of protest and stretching out to the other end with active conflict that. Could be fairly called “revolt,” and even precursors to armed insurrection, although never quite making their own active coup attempt. And likely it is this very positionality that made them such important targets for disruption by law enforcement. They made enemies not only of the KKK, but of factory bosses, police, federal agents, and just folks with non-radical tendencies. Stafford and Shirley go on to say:

This points forward to the ways in which historians dealing with the subject of labor revolts in the South have been troubled, both by the region’s relative ambivalence toward unionism and by unions’ relative ambivalence toward the region...the history of labor has been classically treated as mostly synonymous with the history of trade unions.<sup>411</sup> In a region with little unionism but high levels of class violence, this is an obvious problem, and as a result, non-union based proletarian revolt in the South has often been simply ignored. This omission carries a particular racial dynamic as well because rebellious Black laborers, both pre- and post-emancipation, were often excluded from union membership, and in any case typically had little use for the trade union model in their specific positions of work and bondage. In seeing the union as the sole reflection of proletarian struggle, scholars have effectively whitened the history of class war in this country.<sup>412</sup>

I think this perspective points out an important tension that is often ignored in the histories of 11/3/79 I have encountered. On the one hand, CWP was fighting the good fight, actively seeking to benefit the lives of workers via their union organizing. On the other hand, they were mostly-white and largely concerned with galvanizing “active” workers and perhaps manipulating the lumpenproletariat, who didn’t know enough to do what they needed to do to preserve their own dignity, autonomy, and wellbeing in the context of work. If this seems condescending, the critique from the Paul Robeson collective, *supra*, Section IV, will be of some interest.

#### H. WASTED MIRACLES

I spent the summer of 2022 researching the 11/3/79 in the archive at Wilson Library on UNC Chapel Hill’s Campus. The experience was challenging, rewarding, difficult. I had access to more data than I could possibly skim, let alone carefully interpret—the collection housed in Wilson Library contains approximately 93,000 items and occupies 165 feet of linear shelf space.<sup>413</sup> I had access to primary sources, documents potentially unmarred by enemies revisionists, apologists, white supremacist egregores. Faced with this pristine vein of information, the possibilities are dizzying. I took dutiful notes. I returned each day to a font of bloodshed. I was told the story of the deaths of the CWP 5 over and over and over and over. It was a focused, attentive listening to a story of murder. Although there are plenty of ways to rationalize and to seek silver linings, which I do, the story in at least some ways was a story of failure, of abject loss.

Borges, in his writings, discusses “wasted miracles,” it’s a favorite thematic element. One wasted miracle he mentions is that of Funes the Memorious, who has perfect memory. Someone like Funes would be well-suited to the task of archival research, if he could bear the weight of the

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<sup>411</sup> Dixie Be Damned 265, quoting Louis Adamic’s *Dynamite*

<sup>412</sup> Dixie Be Damned, 265.

<sup>413</sup> Collection Overview, <https://finding-aids.lib.unc.edu/04630/>

excruciating details. 11/3/79 is not a work of fiction, but it is an instance, I think, of wasted miracles. The people who were killed were no less than miracle workers. At least, it's hard to conclude otherwise when reading the histories of their lives. They were extraordinary servants. They were exceptionally selfless. Their absence in the world would seem to be an empirical lessening of good. To me, imagining this sort of a cavity makes me despair. So, I want to balm the despair with a new narrative. I want to either take up the mantle of those slain, or else, at least, convey their goodness to readers, that others might seek to emulate them as well. This is to write the wrong to right the wrong.

But, as any good lawyer will tell you, the facts you include in a given piece of writing are not inevitable. Setting aside stylization, and setting aside my preoccupation with what is a Truth versus a truth and a Fact versus a fact and that sort of epistemological enigma. We choose which facts to include and exclude. We choose which story to tell. And part of my misgivings about the egregore of the Greensboro Massacre is that it is such a sad story, a story of death, of loss, of victimization. There's a reactivity to it that disturbs me. It's not a disturbance I claim to be valid. It seems the cadence of victimization followed by protests is an established and valuable one. Look at the changes in culture that followed the death of George Floyd, or look at the #MeToo movement or look at the Arab Spring. Each of these is a tragedy where the violence visited upon a victim galvanized resistance movements that shored up meaningful material changes for the better.

There's something about resistance by itself that feels incomplete. The more I sit with 11/3/79, the more I long for stories, self-determination, acts of autonomy, self-expression, preservation of dignity, moments of connection, successful attacks, instances of life in the affirmative. Maybe it can be called affirmative resistance. Whatever it is exactly, I think it's important to dedicate some space here to such instances. Because, I'm realizing, for me, to talk about the Greensboro Massacre would mean to dwell on death. But to talk about X it would be a celebration of the lives positively impacted by those involved. To that end, what follows is a small and incomplete look at moments of affirmative resistance in Greensboro, in North Carolina, and in The South, since 1979. If I had time, I would use this space to do a recollection of affirmative resistance in Greensboro, to attempt to cast light on the positive and the connective and the optimistic, which seems to me to be overshadowed in history by the grave and brutal.

### I. \*BHEIDH-: TO TRUST, CONFIDE, PERSUADE

The words *comrade* and *camaraderie* feel important to me as I attempt this recollection. These words bring me to the communist<sup>414</sup> horizon. Reading "The True Story of the Greensboro Massacre," I am overcome with a deep and abiding urge to take up arms and fight with my advanced proletarians against the capitalist regime. The book is effective propaganda. Having dabbled in producing my own petty punk propaganda in the past, I have an appreciation for the technique. And of course, having the sort of tender, angry heart that I have, it's appealing to me when I can believe myself to be a part of an egregore whose purpose is to disrupt iniquity. I'm malleable, mutable; I think this tendency could be activated in any number of contexts. In the past I've found myself activated by charismatic Quakers, freight train union organizers, Sunni mystics, BDS Jews, tattoo-lacquered straightedge antifascists, Zen Buddhists, nihilist DJs, Tamil Tigers, neurodivergent shape note singers, Earth-Firsters, the Communist-Feminist reading group,

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<sup>414</sup> "To See our political horizon as communist is to highlight the emancipatory egalitarian struggle of the proletarianized against capitalist exploitation—that is, against the determination of life by market forces; by value; by the division of labor (on the basis of sex and race); by imperialism (theorized by Lenin in terms of the dominance of monopoly and finance capital); and by neocolonialism (theorized by Nkrumah as the last stage of imperialism)." Pg. 6, Comrade, Jodi dean.

descendants of Black Panthers, prison strikers, Latin Kings, and, most recently and abidingly, humble drunks in recovery. Each of these contingents has offered me a lens through which to understand the world. They not only grasped at the root of things, they regularly extirpated to survive. Each has marked me, molded me, left their trace on me. While so often I feel mute and passive, afraid and inert, when I write text like this on the page I feel like I am returning, turning into who I am, and I also feel powerful. To that end, it feels important for me to name these groups as comrades. I borrow from Jodi Dean:

The comrade relation remakes the place from which one sees, what it is possible to see, and what possibilities can appear. It enables the revaluation of work and time, what one does, and for whom one does it. Is one's work for the people or for the bosses? Is it voluntary or done because one has to work? Does one work for personal provisions or for a collective good? We should recall Marx's lyrical description of communism in which work becomes "life's prime want." We get a glimpse of that in comradeship: one *wants* to do political work. You don't want to let down your comrades; you see the value of your work through their eyes, your new collective eyes.

Later Dean goes on to offer four theses on the comrade, the fourth of which is "The relation between comrades is mediated by fidelity to a truth. Practices of comradeship materialize this fidelity, building its truth into the world."<sup>415</sup> Comrades, Dean says, put individual identity aside as they work together for justice. Collective desire replaces the fiction that desire can be individual. Ascribed identities are recognized as vehicles for oppression and discrimination, and comradeship generates new values, intensities, and possibilities outside the oppressive, alienated determinations of capitalism.

Fidelity to truth. It's a beautiful, powerful notion. Some cursory etymology reveals that the phrase is almost circular: fidelity's roots can be traced to the Latin *fidelis*, which means "faithful, true, trusty, sincere,"<sup>416</sup> and in that sense the phrase would mean something like "Staying true to the truth." It bears resemblance to *semper fidelis*, the Latin motto of the United States Marine Corps, which means something like "always faithful" or "always loyal." It seems grotesque to find a way to conflate the motto of the marines with a thesis on the comrade, but there's a purpose, just bear with me.

Going deeper into the etymology, fidelity's roots can be traced to the Proto-Indo-European word *\*bheidh-*, which means something like "to trust, confide, persuade." This is truth-as-persuasion, persuasive truth, the bread and butter of the legal field, although perhaps anathema to traditional historians. What I'm getting at here is that truth is a social relation. Depending on who you are, Truth may require compromise, or it may require commitment to a point of view. Depending on your historical demographic context Truth may require de/prioritization of certain peoples' experiences. Some truths may come at the expense of another's truth.<sup>417</sup> Truth functions differently when exposed to light and air. Perhaps the #MeToo movement is a good example of this, to the extent this movement has impacted rape culture<sup>418</sup> and contributed to believing

<sup>415</sup> Comrade, 95

<sup>416</sup> <https://www.etymonline.com/word/fidelity>

<sup>417</sup> Perhaps it was true to person A, genuinely ignorant of a hurtful comment that they never said anything hurtful to person B, until person B communicated person B's truth: that comment was hurtful, thus inviting person A to discard their previous "truth" and share in the common truth offered by person B's revelation. One could easily replace a hurtful comment with an assault, a microaggression, etc.

<sup>418</sup> Rape culture is a setting, studied by several sociological theories, in which rape is pervasive and normalized due to societal attitudes about gender and sexuality. Flintoft, Rebecca (October 2001). John Nicoletti; Sally Spencer-Thomas; Christopher M. Bollinger (eds.). Violence Goes to

survivors' truths, thus replacing the old default of not believing them or believing them but dismissing them or blaming them. What must emerge from this is that commitment to truth is partisan, and it is up to each of us to take sides.

\**Bheidh-* forms all or part of the following words: abide; abode; affidavit; *auto-da-fé*<sup>419</sup>; *bona fide*; confederate; confidant; confide; confidence; confident; defiance; defy; diffidence; diffident; faith; fealty; federal; federate; federation; fideism;<sup>420</sup> fidelity; fiduciary; infidel; infidelity; perfidy.<sup>421</sup> This litany reveals the intimate relationship between law, truth, belief, and community. The one you call comrade could just as easily be called your confederate or your confidant. When you assume the relationship of comradeship or participate collectively in the manner described by Dean above, you owe your confidant your confidence and fidelity; to fail is no less than perfidy. As an attorney, your client may know you as confidant, and you will be ethically bound to be your client's fiduciary. Courtrooms manufacture truths: official truth is fashioned by the adjudicator. Each of us must abide by the truths created in the abode of the law. Legal truth can be found in affidavits. Federal court is somehow graver than state court. A legal status is created in terms of what is *bona fide*, say for a property purchaser or a contractor drafting an agreement in compliance with the implied duty of good faith and fair dealing.

So I think \**bheidh-* provides a practical, clear, helpful way of understanding "persuasive truth" in a way that remains ethical. As legal practitioners, we seek to simultaneously trust our clients, to allow them to confide in us, to confidently communicate their truth, and to seek to persuade adjudicators to affirm that truth.

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College: The Authoritative Guide to Prevention and Intervention. Charles C Thomas. p. 134. Behaviors commonly associated with rape culture include victim blaming, slut-shaming, sexual objectification, trivializing rape, denial of widespread rape, refusing to acknowledge the harm caused by sexual violence, or some combination of these. Herman, Dianne F. "The Rape Culture". Printed in *Women: A Feminist Perspective* (ed. Jo Freeman). McGraw Hill, 1994. Retrieved 18 October 2011.

<sup>419</sup> "Sentence passed by the Inquisition," or, put in plainer legal terms, "to adjudicate." <https://www.etymonline.com/word/auto-da-fe>

<sup>420</sup> "The doctrine that knowledge depends on faith or revelation." From Oxford languages, <https://languages.oup.com/google-dictionary-en/>

<sup>421</sup> "Breach of faith or trust, base treachery." <https://www.etymonline.com/word/perfidy>