



## John Hummel District Attorney

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July 16, 2021

Mike Krantz  
Chief  
Bend Police Department

RE: Charging decisions related to June 23, 2021 houseless camp sweep on Emerson Avenue

Dear Mike:

I hope all's well. On numerous occasions you've reached out to me to discuss my charging decisions in cases involving suspects who are associated with the Central Oregon Peacekeepers group. Because of your interest in cases involving the Peacekeepers, I figured I would proactively inform you about my decisions in the cases your office referred to me from the June 23<sup>rd</sup> houseless sweep on Emerson Avenue. In short, I am declining to file charges against any of the suspects.

Later in this letter I individually discuss my assessment of the evidence against each of the suspects you referred to me, but first I want to again express my concern at the targeted enforcement actions your department deploys against the Peacekeepers. In previous conversations with you, I've shared my impression that your department evinces disdain toward people associated with Peacekeepers. After reviewing the 62-page report of the Emerson road incident, I now consider your department to be obsessed with them.

A 62-page, detailed report for what amounts to allegations of trespassing, is shockingly long. I venture to say it's the longest trespassing police report in the history of the City of Bend. I would love to see domestic violence allegations receive the level of investigation and documentation that these trespassing allegations received.

The surveillance of the Peacekeepers that occurred on this day was chilling. Running license plates of people you knew were associated with the Peacekeepers; running criminal records checks of people you knew were associated with the Peacekeepers; and writing the names of people you knew were associated with the Peacekeepers in the reports your surveillance officers wrote, while not including names of non-peacekeepers your surveillance officers encountered, was noteworthy and troubling. This is the type of conduct that should never happen in American law enforcement.

When people your department did not associate with the Peacekeepers allegedly trespassed, your department treated it as no big deal and did not note the names of the people who trespassed. But when people your department associated with the Peacekeepers allegedly trespassed, their names were noted and referred to me for prosecution.

Here's my individual assessments of each of the alleged crimes your office sent to me for consideration:

## **Darren Hiatt**

Mr. Hiatt is a person your office notes might be mentally ill. He asked to use a port-a-pottie that was inside the area cordoned off for the sweep of the houseless camp. Your officers told him he could not use the port-a-pottie. Mr. Hiatt then ran toward the port-a-pottie and your officers chased him, tackled him, and took him into custody.

Your officers went to great pains to document their fear of Mr. Hiatt. Notably, they said he might have been running to retrieve weapons he might have hidden to use against officers. They said he might have had plans to barricade himself in the port-a-pottie to thwart the cleanup efforts. They shared other theories as well, most of which is true, would have justified their actions in tackling Mr. Hiatt and arresting him for trespassing. My gosh, if a person was running to obtain a weapon to shoot officers, heck yes he should be tackled and arrested. The problem though is there was no evidence to support any of these fanciful theories. All evidence pointed to Mr. Hiatt, a houseless person who might be mentally ill, entering the barricaded area to use the port-a-pottie, as he said.

Your officers wrote in their reports that they advised Mr. Hiatt that he could use restrooms at nearby businesses. I found this to be perplexing, as your officers also use the fact that nearby businesses do not want people like Mr. Hiatt and/or people associated with the Peacekeepers on their properties, to support your enforcement actions against them for trespassing when they enter onto these private properties.

Your officers also wrote in their report that they advised Mr. Hiatt he could use the bathroom in the nearby warming shelter. The problem with this is that one of your officers previously told Mr. Hiatt that he was barred from entering this shelter: "for the rest of his life." (see Bend Police Department report 2021-0000-9027).

Yes, Mr. Hiatt committed the crime of trespassing. If I charged him, he would most likely be able to present a viable defense of choice of evils (ORS 161.200), on the theory that he either would have had to defecate or urinate in public, which would constitute a crime, or he would have had to commit the crime of trespass to use the port-a-pottie.

Regardless of the viability of the choice of evils defense, I'm declining to charge Mr. Hiatt in the interest of justice. Yes, your officers were authorized to arrest him for trespassing, and when he refused their orders to stop and continued to advance toward the port-a-pottie, they were authorized to tackle him to take him into custody. They also had a choice to allow him to use the port-a-pottie. Unfortunately, they chose the former. Fear based policing prevailed over common-sense and humane policing.

In every case I review that includes an officer's use of force, in addition to reviewing the actions of the suspect, I review the actions of the officer, and this case was no different. While I would have preferred Mr. Hiatt not to have been arrested, your officers were legally entitled to arrest him, and the force they used in doing so was authorized under Oregon law. I am not charging any of your officers for their actions in the arrest of Mr. Hiatt.

## **Luke Richter and Jasmine Barnett**

Mr. Richter and Ms. Barnett crossed a few feet over the police barricade after your officers tackled Mr. Hiatt and scuffled with him while arresting him. Your officers told Barnett and Richter to stay back, and they did. Soon thereafter, Richter and Barnett retreated back behind the barricade. Their actions were clearly based on a concern for Mr. Hiatt's safety and well-being.

In the interests of justice, I am declining to charge Mr. Richter and Ms. Barnett. This trespassing violation was de minimis in nature, and I'm confident it would not have been referred to me for prosecution if Mr. Richter and Ms. Barnett were not associated with the Peacekeepers.

## **Mike Satcher**

Mr. Satcher was referred to me for prosecution of two alleged trespass incidents.

One incident relates to him allegedly being on private property adjacent to Emerson Avenue, in spite of the owner of the property allegedly indicating he was not authorized to be there. The relevant police report states: "I was aware of an agreement / document that was signed by Jack Holt, Compass Commercial (Property Management) and Jennifer Thornton (Owner – Style 8) that clearly stated they did not have permission to remain on the property in April and confirmed it was still current."<sup>1</sup>

I assumed the document in question referred to Mr. Satcher, and that there was a legal basis for him being excluded from the property. I requested this document from your office and was dismayed with what I learned. The document did not "clearly state" that Mr. Satcher did not have permission to be on the property. In fact, the document did not list any person at all who was not authorized to be on the property (document enclosed).

The relevant police report indicates that your officers called the owner of the property who allegedly confirmed that Mr. Satcher did not have authorization to be on the property. No details of the conversation are included in the police report, and I question whether the owner of the property would have explicitly named Mr. Satcher as someone who was not authorized to be on the property. I suspect what was written in the police report captured the gist of this scenario: "*they* did not have permission to remain on the property." (emphasis added)

Who is "they?" If your officers were merely investigating Mr. Satcher, why did they write "they" in their police report? If the business owner in question wanted to exclude Mr. Satcher from his property, why did he refer to "they" as opposed to Mr. Satcher? Is "they" the Peacekeepers? Does "they" refer to a certain "type" of person. If so, what type of person does "they" refer to? People who advocate for improvements to policing? People who advocate for the rights of our houseless neighbors? People who don't look like them?

Regardless of the motivations of the owner of a retail store to selectively exclude members of the public from their business, the police should not aid them in their actions (retail stores are subject to public

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<sup>1</sup> The fact your department is "aware" of documents of private property owners that purportedly relate to the Peacekeepers is yet another example of your fixation on them.

accommodation laws, and thus cannot selectively exclude people based on the content of their speech or the way they look). I certainly won't aid them in their actions.

If a restaurant attempts to exclude patrons who voted for former President Donald Trump, and your office sent me a trespass referral for a Trump voter who went to the restaurant, I would decline to file charges. Likewise, if an owner of a retail established wants to exclude "they" or "them" type people from their property, I won't file trespassing charges if "they" or "them" goes on the property.


The other trespass allegation involves Mr. Satcher and another person walking slightly inside the police barricade for a relatively short amount of time. Mr. Satcher then went back outside the barrier while the other person continued on inside the barrier. Mr. Satcher was referred to me for prosecution of trespassing. The other person's name was not noted in the police report; it's safe to assume this other person was not associated with the Peacekeepers. In the interests of justice, I will not charge Mr. Satcher for trespassing, because the violation was de minimis, and prosecuting him would constitute selective prosecution.

### **Luke Rodnick**

There's one sentence in the report that refers Mr. Rodnick to me for consideration of the crime of disorderly conduct, yet I was unable to discern a basis for this referral. In other words, I saw no alleged conduct mentioned in the report that led your officers to believe Mr. Rodnick committed the crime of disorderly conduct. Perhaps there's an additional report out there that was not sent to me? In any event, I'm declining to charge Mr. Rodnick because I'm in possession of no evidence that he committed a crime.

Mike, I know it is a difficult time to be a police officer. I do not suggest it is easy for you and your officers to be criticized on a daily basis, and to have this criticism aired in the news and on social media. That having been said, the response to criticism can be to lash out at the people criticizing you, or to lean into the criticism with the aim of working with your critics to make the Bend Police Department the most ethical, just, and effective police department in the country. If you want to do the latter, I'll work with you to make it happen. Let me know if you want my help to work with racial and social justice advocates to chart a positive path forward for your department and our community.

Sincerely,



John Hummel  
District Attorney

cc: Eric King, Bend City Manager

## TRESPASS DECLARATION

I, Jennifer P. Thornton, under penalty of perjury, declare:

1. I am the manager of Style, 8 Design, LLC, an Oregon limited liability company ("Style 8").
2. Under the terms of a written lease, Style 8 <sup>Design</sup> is entitled to sole possession and occupancy of premises at 126 NE Emerson, including all parking areas, walkways, alleys and driveways as well as the building located thereon (the "Property").
3. An unauthorized person or persons have entered on the Property and have remained thereon.
4. The unauthorized person or persons were not, and are not, authorized to enter or remain on the Property.
5. The unauthorized person persons are not tenants and have not been a tenant or tenants on the Property.
6. Style 8 has demanded that the unauthorized person or persons vacate the Property an remain off the Property, but they have not done so.
7. The Property was not vacant or abandoned at the time the unauthorized person or persons entered thereon.
8. The Property is not open to the genal public for purposes of gathering, camping, engaging in demonstrations, sleeping or depositing or storing personal property, whether useable or not.
9. I understand that peace officers may act in reliance on this Declaration.

**STYLE 8 DESIGN, LLC**

By: Jennifer P Thornton  
Jennifer P. Thornton, Manager

Date: April 14, 2021

## TRESPASS NOTICE

To: \_\_\_\_\_

You are hereby notified that any permission, invitation, or license you have previously had, or claimed to have had, to enter and remain upon the premises at 126 NE Emerson, Bend, Deschutes county, Oregon (the "Property") or any portion of the Property is revoked, denied or withdrawn immediately. Your failure to comply with this notice by entering or remaining on the Property is in direct violation of ORS 164.245<sup>1</sup> and will result in criminal prosecution. **Only the undersigned, acting through its appropriately authorized officer, may revoke this notice.** This notice shall be in force indefinitely unless modified, amended, or rescinded in writing by the undersigned, the owner of the Property or by a written court order from a court of competent jurisdiction. This notice covers the Property in its entirety, including, but not limited to all common areas, walkways, alleys, and parking lots in addition to the main business premises on the Property.

This notice is issued to you by Style 8 Design, LLC and the entity entitled to sole possession of the Property.

### STYLE 8 DESIGN, LLC

By: Jennifer P. Thornton  
Jennifer P. Thornton, Manager

I PERSONALLY SERVED A COPY OF THIS TRESPASS NOTICE ON \_\_\_\_\_  
\_\_\_\_\_ ("NOTICE RECIPIENT") ON \_\_\_\_\_,  
2021.

_____	_____	_____
Signature	Title	Date

### Witnessed By:

<u>J.P. Thornton</u>	<u>Owner</u>	<u>April 14, 2021</u>
Signature	Title	Date

<sup>1</sup> 164.245. Criminal Trespass in the Second Degree. (1) A person commits the crime of criminal trespass in the second degree if the person enters or remains unlawfully in a motor vehicle or in or upon premises.