



John Hummel District Attorney

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STATEMENT OF DISTRICT ATTORNEY JOHN HUMMEL

(Bend, Oregon: October 29, 2020)

District Attorney Hummel released this statement about the incidents at Pilot Butte State Park and the Bend Police Department:

October 3, 2020 should have been a wonderful day in Bend. Supporters of United States President Donald Trump had plans to meet at Drake Park to begin a caravan cruise through the city: flying their flags, honking their horns, and otherwise exercising their free speech rights in support of their chosen candidate. Advocates for social justice and equality for black lives, while not generally supportive of President Trump, chose not to counter protest the Trump cruise. They chose, instead, to host a pot luck social event at Pilot Butte State Park.

After the social justice group publicly announced their event would be held at Pilot Butte, the organizer of the Trump Cruise, Nicholas Dieringer, changed the meet up spot for the cruise from Drake Park to Pilot Butte Park. Mr. Dieringer's decision was provocative, ill-advised, and was the precipitating act that resulted in October 3, 2020 being an awful day in Bend.

It's important to note that the vast majority of participants in the Trump cruise surely did not know that Pilot Butte Park was the location of a social justice/Black Lives Matter event when Mr. Dieringer notified them of the change in venue; they were pawns in Dieringer's plan to stoke unrest in our community.

The social justice group's potluck, by all accounts, was a peaceful and family friendly event, until Dieringer's followers arrived. Most of the Trump cruise attendees were peaceful while they eagerly awaited the start of the cruise. Many however were drinking heavily in public, racing motorbikes recklessly around the parking lot (at least one crashed), and verbally insulting the attendees of the social justice pot luck. In response, many of the attendees of the social justice pot luck loudly shouted their views of President Trump at the Trump supporters. On numerous occasions the police were contacted and asked to come to the scene; the police did not arrive until the violence began.

The tension was at a fever pitch when 23-year old Garrett Gerdes grabbed a flag off of one of the trucks lined up for the cruise (the flag said: "Americans for Trump - Keep America Great."). Trump supporters then ran towards Gerdes who took off running and tossed the flag. Then things blew up: punches were thrown, pepper spray was deployed, and Tasers were used. After this initial melee, things started to calm down, until 42-year-old Jake Strayer pulled out his gun and pointed it at two peaceful people. A second melee then ensued. Police arrived, things began to calm down again, and the police began their investigation.

When the police officers completed their work and began to leave the park, numerous people sat or stood in front of and in back of patrol cars to prevent the cars from leaving. These people were protesting the fact the police did not arrest Mr. Strayer for threatening people with his gun. Police officers eventually physically removed the

people who were blocking their cars, and then departed the scene. Allegations were made that the officers used excessive force in removing these protesters: I determined the manner in which the officers removed the protesters was appropriate, lawful, and did not result in injuries to anyone.

The day after this incident at Pilot Butte, dozens of people gathered outside the Bend Police Department to express displeasure about the actions and inactions of Bend Police Officers at the Pilot Butte event. During this protest, for two and a half minutes, many of the protesters stood in a crosswalk on HWY 20 and blocked traffic, before exiting the crosswalk.

The Bend Police Department conducted an investigation into the incidents at Pilot Butte State Park and the Bend Police Department. Last week, they provided me with the results on their investigation and with their recommendations as to what charges to file. I conducted a complete review of the incidents, requested follow-up investigation where warranted, and today announce my decisions to the public. I based my charging decisions on the facts, evidence, law, and what justice requires. I was not swayed by the public or the police, as I am charged with making an independent assessment, and proceeding based on my findings.

I charged both supporters of President Trump and supporters of black lives, with crimes of violence, because the evidence showed they committed violence. I declined to charge other supporters of black lives and other supporters of President Trump with crimes of violence, because the evidence showed they acted in lawful self-defense. I declined to charge people who were engaged in passive resistance in furtherance of their right to peacefully assemble. And I charged people who used force against the police. Every person I charged is presumed innocent, and in fact is innocent, unless and until the State proves their beyond a reasonable doubt.

I will always defend the public's right to peacefully assemble to express whatever view they want to express, regardless of whether their view is in favor of, or in opposition to, our government. I will never defend the use of unlawful violence against another person.

While reviewing the incidents to determine if criminal charges were warranted against any of the participants, I observed some interactions between members of the public and law enforcement that were concerning. Specifically, numerous Bend Police Officers declined to denounce white supremacy when asked to do so. These officers are better than this and our community deserves their best.

Before this event and during this event, these officers were being yelled at, denigrated, told their profession is evil, and generally being disrespected and berated. Law enforcement is a difficult line of work and one I respect greatly. We require our officers to put their lives on the line when necessary to save ours. Their work results in them interacting with people experiencing mental health crises or in the throes of addiction. Our Constitution mandates that they defend the right of free speech, especially when speech challenges government actions. All of this is difficult, challenging, and results in me understanding why officers at times find it difficult to denounce white supremacy when asked to do so by those shouting at them.

This having been said, the Bend Police Officers I know are not white supremacists, and in fact care about the dignity and integrity of all residents and visitors to Bend. I encourage them to convey to the public their stance against white supremacy and to redouble their efforts to show by their actions, their commitment to making Bend as welcoming and inclusive as possible.

October 3, 2020 will not define who our community is. We will be defined by how we respond to one of the darker days in our history. The community I know will rise up to meet this challenge. We will dig deep to listen to those with whom we disagree. We will resist the siren song of national politicians, and hateful social media pages that seek to divide us. We will learn to be comfortable being uncomfortable about discussions regarding race. We will support one another during this time when all of us are struggling. We will do better. In short, we will be the Deschutes County we know we can be. Godspeed.

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SUMMARY OF CHARGING DECISIONS: PILOT BUTTE AND POLICE STATION INCIDENTS

District Attorney Hummel Filed Charges Against the Following Individuals:

1. Garrett Lee Gerdes, 23-year-old resident of Bend

Facts: Gerdes snapped the plastic mount that attached a flag to Brett Radabaugh's truck and then ran off with the flag. He was pursued by people and threw the flag down.

Police Charging Referral

- Cited by police with theft in the third degree and disorderly conduct in the second degree.

Hummel Charging Decision

- DA Hummel filed charges of criminal mischief in the second degree and theft in the third degree because Gerdes intentionally broke the plastic mount of the flag to remove it from the car and then fled with it.
- DA Hummel declined to file a charge of disorderly conduct because Gerdes' act was brief and apparently unplanned. Disorderly conduct charges should be reserved for actions that last more than a few seconds.

2. John Wells Jr., 38-year-old resident of Bend

Facts: Kalan Roberts falls to the ground after either swinging and missing an attempt to land a punch, or attempting to use his arm to ward someone to the side so he could get by them. When Roberts is on the ground, Wells strikes him with his fist. On his fist is a knuckle Taser.

Police Charging Referral

- Police forwarded to District Attorney Hummel the following charges for consideration: riot, disorderly conduct II, unlawful use of a weapon, unlawful use of an electrical stun gun.

Hummel Charging Decision

- DA Hummel filed a charge of harassment because Roberts was on the ground and not posing a threat to anyone when Wells punched him.
- DA Hummel declined to file a charge of unlawful use of an electrical stun gun because it's unknown if the Taser was activated when Wells' punched Roberts.
- DA Hummel declined to file riot because there is no proof Wells was participating with others in the tasing.

- DA Hummel declined to file a disorderly conduct charge because Wells' act was brief and apparently unplanned. Disorderly conduct charges should be reserved for actions that last more than a few seconds.

3. Michael Green, 44-year-old resident of Redmond

Facts: During the initial melee, Green charged in and punched John Wells Jr., Andrew Heller, and Michael Satcher. Green is later seen punching Brent Barnett and body slamming an unknown person. He inserts himself several times into events with opposing protestors.

Police Charging Referral

- Police forwarded to District Attorney Hummel the following charges for consideration: riot, two counts of disorderly conduct in the second degree, three counts of assault in the fourth degree, one count of harassment.

Hummel Charging Decision

- DA Hummel filed three counts of assault in the fourth degree (victims Andrew Heller, Michael Satcher, and John Wells, Jr.) because each of the victims was posing no threat to Green or anyone else at the time Green punched and injured them.
- DA Hummel filed one count of disorderly conduct in the second degree because Green's conduct throughout this incident constituted violent, tumultuous and threatening behavior and his actions created a risk of public inconvenience, annoyance and alarm.
- DA Hummel declined to file riot charges because there is insufficient proof that Green was participating with others in his assaultive conduct.
- DA Hummel declined to file assault charges for the punch of Barnett because the punch was arguably in defense of Jake Strayer.
- DA Hummel declined to file charges for the body slam of the unknown individual because Green's body slam of the unknown individual was arguably in defense of himself.
- DA Hummel declined to file a second count of disorderly conduct because one charge of disorderly conduct covers all Green's actions.

4. Nutasha Nicole Duran, 32-year-old resident of Bend

Facts: Duran sprayed bear spray on someone who threw a punch, she sprayed bear spray on Jake Strayer who was sitting in his truck after the incident where he threatened others with his gun, she blocked patrol cars, and she attempted to push her way past officers during the blocking of the patrol cars.

Police Charging Referral

- Police forwarded to District Attorney Hummel the following charges for consideration: riot, two counts of unlawful use of mace, two counts of interfering with a police officer, two counts of harassment, and one count of disorderly conduct in the second degree.

Hummel Charging Decision

- DA Hummel declined to file a riot charge because there is no evidence Duran was participating with others when she engaged in these acts.
- DA Hummel declined to file one count of unlawful use of mace because the mace was deployed in defense of others after an unlawful assault.
- DA Hummel charged one count of unlawful use of mace in the second degree for the macing of Strayer because the threat caused by Strayer was over and the macing was done to punish Strayer rather than to defend others from Strayer.
- DA Hummel declined to file a disorderly conduct charge because Duran's macing of Strayer was brief and apparently unplanned. Disorderly conduct charges should be reserved for actions that last more than a few seconds.
- DA Hummel declined to charge interfering with a police officer because Duran was engaged in passive resistance when she blocked the police cars. Passive resistance does not violate the interfering with a peace officer statute. The Oregon Supreme Court in State V. McNally (2017) ruled that "passive resistance" refers to noncooperation with a lawful order of a peace officer that does not involve active conduct.
- DA declined to file a charge of harassment because the contact was de minimis.

5. Jake Thomas Strayer, 42-year-old resident of Bend

Facts: Strayer is seen standing facing away from his truck. He has a revolver on his hip (open carry). He is facing the crowd of people who had just been engaged in a fight. The fight is over and things are calming down. Strayer, with his hand on his gun, says to the crowd: "You put pepper on me, you'll F***ing get a hole in you, copy that?" In the background, his white Ford truck begins to roll backwards. He is oblivious to this. Several people get behind his truck and push on it to stop it from rolling. Caleb Campbell and Carly Denkers then come to the driver's door of the truck to put it in park. Campbell puts the truck in park and Denkers stands outside of the door. Strayer then turns to face his truck and sees them in it. He pulls his revolver and points it at Campbell and Denkers, while yelling at them to get out of his truck. When interviewed by the police, Strayer denied drawing his gun – he said it never left his holster.

Police Charging Referral

- Police forwarded to District Attorney Hummel the following charges for consideration: one count of unlawful use of a weapon and two counts of menacing.

Hummel Charging Decision

- DA Hummel charged one count of unlawful use of a weapon, two counts of menacing, and two counts of pointing a firearm at another, because Strayer's actions violated the law and were an unreasonable response to any threat he may have perceived.

6. Adriana M. Aquarius, 21-year-old resident of Bend

Facts: Aquarius yells in officers' faces. She hits and shoves multiple officers. Aquarius blocks officers' patrol cars from leaving. She holds onto the push bars of a patrol car. Once officers remove her and start to escort her away, she makes herself as dead weight and drops to the ground.

Police Charging Referral

- Police forwarded to District Attorney Hummel the following charges for consideration: three counts of interfering with a peace officer and three counts of harassment.

Hummel Charging Decision

- DA Hummel charged one count of harassment for Aquarius' forearm strike of Officer Denney.
- DA Hummel declined two other counts of harassment, because the contact with the officers was de minimis.
- DA Hummel declined the interfering with a peace officer charges because Aquarius was engaged in passive resistance when she blocked the police cars. Passive resistance does not violate the interfering with a peace officer statute. The Oregon Supreme Court in State v. McNally (2017) ruled that "passive resistance" refers to noncooperation with a lawful order of a peace officer that does not involve active conduct.

7. Stephanie VanKlootwyk, 50-year-old resident of Bend

Facts: VanKlootwyk made physical contact with two officers during the sit-in in front of the police cars. After the entire melee was concluded, VanKlootwyk is seen on a video with sunglasses in her hand. One of the officers says he dropped his sunglasses during the melee and when he viewed the video, he recognized the sunglasses in VanKlootwyk's hand as his sunglasses.

Police Charging Referral

- Police forwarded to District Attorney Hummel the following charges for consideration: two counts of harassment, two counts of interfering with a police officer, and one count of theft in the third degree.

Hummel Charging Decision

- DA Hummel charged one count of harassment for the forearm strike of Corporal Frickey.
- DA Hummel declined to charge the other harassment charge because the contact was de minimis.
- DA Hummel declined to charge interfering with a peace officer because VanKlootwyk was engaged in passive resistance when she blocked the police cars. Passive resistance does not violate the interfering with a peace officer statute. The Oregon Supreme Court in State v. McNally (2017) ruled that "passive resistance" refers to noncooperation with a lawful order of a peace officer that does not involve active conduct.
- DA Hummel declined to charge theft because there is no evidence regarding how VanKlootwyk came into possession of the sunglasses. Did she find them and thought they were abandoned? Did she find them and ask around about who might own them? Did someone else find them and give them to her?

District Attorney Hummel Declined to File Charges Against the Following Individuals:

PILOT BUTTE INCIDENT:

1. Aaron Duane Knouse, 25-year-old resident of Prineville

Facts: During the sit-in, in front of the police cars, Knouse makes physical contact with an officer.

Police Charging Referral

- Police forwarded to District Attorney Hummel the following charges for consideration: harassment

Hummel Charging Decision

- DA Hummel declined to charge harassment because the contact was de minimis.

2. Rachel Brodeur, 33-year-old resident of Bend

Facts: Brodeur blocked a patrol vehicle from leaving by standing in front of it.

Police Charging Referral

- Police forwarded to District Attorney Hummel the following charges for consideration: interfering with a police officer.

Hummel Charging Decision

- DA Hummel declined to charge interfering with a peace officer because Brodeur was engaged in passive resistance when she blocked the police cars. Passive resistance does not violate the interfering with a peace officer statute. The Oregon Supreme Court in *State v. McNally* (2017) ruled that “passive resistance” refers to noncooperation with a lawful order of a peace officer that does not involve active conduct.

3. Kalan Roberts, DOB: 10/17/1988

Facts: Roberts chased Gerdes after Gerdes committed theft of a flag. As the two groups of protesters come together, Roberts attempted to either punch or get past Satcher, swinging his right arm in the air near Satcher, but not making contact with Satcher.

Police Charging Referral

- Police forwarded to District Attorney Hummel the following charges for consideration: riot, disorderly conduct in the second degree.

Hummel Charging Decision

- DA Hummel declined to charge riot, disorderly conduct, or attempted assault because it is unclear if Roberts attempted to punch Satcher or if he merely was attempting to ward off Satcher to get by him.

If he was merely trying to get by Satcher, he did not commit attempted assault, and he did not commit riot or disorderly conduct.

4. Luke O. Richter, 28-year-old resident of Bend

Facts: Richter approached a group actively fighting and sprayed bear spray into the group. A short time later, Green punched Satcher and Richter again sprayed bear spray to end the fighting.

Police Charging Referral

- Police forwarded to District Attorney Hummel the following charges for consideration: riot, unlawful use of mace

Hummel Charging Decision

- DA Hummel declined to file a riot charge because there is no evidence Richter was participating with others when he discharged mace on two occasions.
- DA Hummel declined to file unlawful use of mace charges because the bear spray was discharged in defense of other people after unlawful assaults occurred.

5. Brent Barnett, 42-year-old resident of Bend

Facts: Barnett is seen twice spraying Strayer with bear spray after Strayer pointed a gun at people who were in or near Strayer's truck.

Police Charging Referral

- Police forwarded to District Attorney Hummel the following charges for consideration: one count of riot and two counts of unlawful use of mace.

Hummel Charging Decision

- DA Hummel declined to file unlawful use of mace charges because Barnett sprayed mace to defend others from Strayer.
- DA Hummel declined to file on the riot charge for the same reason, and because there is no evidence Barnett was participating with others when he engaged in these acts.

6. Alan Stout, 31-year-old resident of Bend

Facts: While Barnett was macing Strayer, Stout punched Barnett from behind.

Police Charging Referral

- Police forwarded to District Attorney Hummel the following charges for consideration: one count of riot, one count of disorderly conduct in the second degree, one count of harassment, one count of assault in the fourth degree, and one count of a probation violation.

Hummel Charging Decision

- DA Hummel declined to file assault and harassment charges because Stout's punch of Barnett was in lawful defense of Strayer.
- DA Hummel declined to file a riot charge for the same reason, and because there is no evidence Stout was participating with others when he engaged in these acts.
- DA Hummel declined to charge disorderly conduct because, again, his action was in lawful defense of Strayer. Also, Stout's macing of Strayer was brief and apparently unplanned. Disorderly conduct charges should be reserved for actions that last more than a few seconds.
- DA Hummel declined to file a probation violation, because there is only a violation if Mr. Stout committed a crime.

7. Joslyn Stanfield, 28-year-old resident of Prineville

Facts: Stanfield engaged verbally with officers during the sit-in in front of the police cars, and made physical contact with officers.

Police Charging Referral

- Police forwarded to District Attorney Hummel the following charges for consideration: two counts of interfering with a police officer, two counts of harassment, and one count of disorderly conduct in the second degree.

Hummel Charging Decision

- DA Hummel declined to charge interfering with a peace officer because Stanfield was engaged in passive resistance when she blocked the police cars. Passive resistance does not violate the interfering with a peace officer statute. The Oregon Supreme Court in *State v. McNally* (2017) ruled that "passive resistance" refers to noncooperation with a lawful order of a peace officer that does not involve active conduct.
- DA Hummel declined to file on the harassment charges because the contacts were de minimis.
- DA Hummel declined to file on the disorderly conduct charge because this allegation is based on the same contact that constituted constitutionally protected passive resistance that formed the basis for consideration of the interfering charge.

8. Kourtnei E. Perez, 28-year-old resident of Bend

Facts: After Strayer put away his gun and things calmed down, someone handed Perez a baseball hat that was found on the ground. Perez apparently believed the hat belonged to Strayer and tossed it in the garbage. Also after the gun incident, Perez on at least one occasion held her Taser close to her body, with it activated, while yelling at people to keep their distance from her. Perez also was involved in the sit-in in front of the police cars, and during this incident, made slight physical contact with police officers.

Police Charging Referral

- Police forwarded to District Attorney Hummel the following charges for consideration: one count of unlawful use of an electrical stun gun, one count of disorderly conduct in the second degree, one count of harassment, three counts of interfering with a police officer, and one count of theft in the third degree.

Hummel Charging Decision

- DA Hummel declined to file the stun gun charge because Perez did not discharge the stun gun against another person
- DA Hummel declined to file on the disorderly conduct charge for the same reason.
- DA Hummel declined to file on the harassment charge because the alleged contact was de minimis.
- DA Hummel declined to file on the interfering with a peace officer charges because Perez was engaged in passive resistance when she blocked the police cars. Passive resistance does not violate the interfering with a peace officer statute. The Oregon Supreme Court in *State v. McNally* (2017) ruled that “passive resistance” refers to noncooperation with a lawful order of a peace officer that does not involve active conduct.
- DA declined to file on the theft charge because the hat was abandoned and Perez tossed it rather than kept it. Also, it would be unjust to charge someone with theft for a hat that she thought belonged to a man she just witnessed unlawfully threatening two people with a gun.

BEND POLICE DEPARTMENT INCIDENT

Facts: On the day after the Pilot Butte Park incident, dozens of people gathered outside the Bend Police Department to express displeasure about the actions and inactions of Bend Police Officers at the Pilot Butte event. During this protest, for two and a half minutes, many of the protesters stood in a crosswalk on Highway 20 and blocked traffic, before exiting the crosswalk. Also, a few of the protesters walked on an internal access road behind the police department.

Police Charging Referral

- Police forwarded to District Attorney Hummel seven suspects to consider charging with the crime of disorderly conduct in the second degree. One of these seven was also referred for consideration of a charge of criminal trespass in the second degree.

Hummel Charging Decision

- DA Hummel declined to file charges against any of the people referred to his office.
- DA Hummel declined to file charges of disorderly conduct, because the standing in the street was relatively brief (2.5 minutes total, with some of this time being when a “walk” signal was activated), and constituted peaceful assembly.
- DA Hummel declined to file the charge of criminal trespass because there is insufficient evidence of criminal intent of the one person referred for consideration.