From:	Jim Nugent
To:	Jaeson White; Scott Hoffman; Mike Colyer; Chris Odlin; Richard Stepper; Laurie Clark
Cc:	Dept. Mayors Office; Grp. City Council and City Web Site; Dept. Attorney
Subject:	FW: Violation of the Veteranss Memorial Preservation Act during the Black Lives Matter Protest
Date:	Tuesday, June 23, 2020 4:38:37 PM

From: Jim Nugent
Sent: Tuesday, June 23, 2020 1:16 PM
To: 'oddpilot@aol.com' <oddpilot@aol.com>
Subject: RE: Violation of the Veteranss Memorial Preservation Act during the Black Lives Matter Protest

DENNIS:

Thank you for your follow-up email.

The United States Code, VETERANS' MEMORIAL PRESERVATION AND RECOGNITION ACT OF 2003 is a United States law that must be federally investigated and federally prosecuted in order for a federal prosecution to occur. A Montana municipal attorney has absolutely no legal authority or legal jurisdiction to cite and prosecute anyone pursuant to the United States Code. City and county law enforcement would share any information about any United States Crime with federal law enforcement and federal law enforcement would be consulting with the United States attorney's office concerning whether there is adequate evidence against someone to proceed with a federal prosecution.

If law enforcement apprehends anyone for which there is adequate evidence to prosecute a criminal offense against for vandalizing the Dough Boy statue at the Missoula County courthouse lawn, the primary focus should be to file a federal criminal offense in United States District Court for violation of the "VETERANS'' MEMORIAL PRESERVATION AND RECOGNITION ACT OF 2003". Any such prosecution would be required to be prosecuted by a United States attorney from the United States Attorney's Office.

If for some reason the United States attorney elected not to file federal charges, then local county and city law enforcement would likely present any information that they have gathered to the Missoula County Attorney's office to determine if there are any grounds for a felony criminal prosecution pursuant to Montana state law. In Montana only the county attorney has legal authority or legal jurisdiction to prosecute a felony criminal offense violating a Montana state law. For example if the criminal mischief damage exceeded $1,500.00 it may be prosecuted as a felony offense. The monetary cut off between a felony and misdemeanor criminal mischief criminal offense is $1,500.00. Monetary damage above $1,500.00 may be prosecuted as a felony criminal offense at the discretion of the county attorney.

If the county attorney declines to prosecute any criminal mischief conduct as a felony, since the county courthouse Dough Boy is located within the city limits, it would be possible for the city attorney's office to have the law enforcement gathered information for a review and determination as to whether there is adequate evidence to prove beyond a reasonable doubt that a specific

defendant(s) committed the misdemeanor criminal offense of criminal mischief.

All criminal offenses, no matter at what level, must be proven beyond a reasonable doubt in order to successfully obtain a conviction. Our office has the least or most limited prosecution authority in the hierarchy of prosecutors. Our office does not have any crime investigators and must rely on municipal police officers to gather evidence at crime scenes and pursue any investigatory leads that they might have.

I do not possess any information/evidence as to whether law enforcement has one or more suspects for defacing the Dough Boy. I am not sure what you mean by "address". However, if the United States Attorney and county attorney decline to prosecute based on any and all evidence gathered by law enforcement and city law enforcement request our office to review the information/evidence gathered by law enforcement, our office will work cooperatively with law enforcement to review any and all information/evidence that law enforcement has gathered.

I hope this explanation is helpful to you to facilitate your understanding of the legal jurisdiction and legal authority that is required for prosecuting criminal offenses; especially with respect to the prosecutions of federal laws. It seems that the vandalism you are identifying for prosecution, should be a federal prosecution pursuant to the "VETERANS' MEMORIAL PRESERVATION AND RECOGNITION ACT OF 2003". Montana municipal attorneys do not have legal jurisdiction or legal authority to prosecute federal violations of the "VETERANS' MEMORIAL PRESERVATION AND RECOGNITION ACT OF 2003".

JIM NUGENT

From: oddpilot@aol.com <oddpilot@aol.com>
Sent: Tuesday, June 23, 2020 10:57 AM
To: Jim Nugent <NugentJ@ci.missoula.mt.us>
Cc: Oddpilot@aol.com
Subject: Re: Violation of the Veteranss Memorial Preservation Act during the Black Lives Matter Protest

Jim
who has to ask you to address this despicable act? I am a taxpaying citizen of Missoula. I am calling on you to address it.
Thank you,
Dennis Gordon

In a message dated 6/23/2020 9:19:51 AM Mountain Standard Time, NugentJ@ci.missoula.mt.us writes:

> DENNIS:
>
> Thank you for your email and the link to your Missoulian pinion editorial.

I was not aware that the Doughboy statue had been vandalized until I received your email. Such an act of senseless destructive vandalism is disappointing, unacceptable and in conflict with nearly 250 years of efforts by United States citizens to establish and protect our citizen constitutional rights, such as freedom of speech, and equal protection of the laws, that are intended to be respected and civilly exercised by United States citizens.

I agree that all lives matter. All lives matter equally. All human beings should be treated with equal respect as well as afforded equal rights as part of our humanity to each other as well as part of our equal protection of the laws Constitutional rights provided pursuant to both the United States and Montana Constitution to all citizens.

Our office will of course work cooperatively with law enforcement to bring justice in all matters that our office is called upon to address within the limited authority and jurisdiction that Montana municipal attorneys are allowed pursuant to Montana state law.

JIM NUGENT

From: oddpilot@aol.com <oddpilot@aol.com>
Sent: Tuesday, June 23, 2020 8:01 AM
To: Jim Nugent <NugentJ@ci.missoula.mt.us>
Cc: oddpilot@aol.com
Subject: Violation of the Veteranss Memorial Preservation Act during the Black Lives Matter Protest

Jim, good morning,

As you must be aware, the Doughboy Veteran's Memorial was vandalized in early June by a protester(s) at the Black Lives Matter rally at the Missoula County Courthouse. In case you aren't aware of the circumstances, I have attached a link to my op/ed which appeared in Sunday's Missoulian. As you know, this vandalism violates the Federal Veterans Memorial Preservation Act. Whoever did the act of vandalism is subject to up to ten years in Federal Prison.

Since you are the top law enforcement officer for the city of Missoula, will you will act in conjunction with the Missoula County Attorney, and with the FBI, to bring to justice the perpetrator(s) of this despicable act?

Thank you,

Dennis Gordon

https://missoulian.com/opinion/columnists/defend-doughboy-statue-from-vandalism/article_e59fe107-5f4b-56f0-8b5e-44add17ca656.html

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