

12-2106**BOULDER COUNTY SHERIFF'S OFFICE**Nature of Call
OFC INFOReported Date
04/25/2012Officer
GEORGE, MARK T

Administrative Information							
Agency BOULDER COUNTY SHERIFF'S OFFICE			Case No 12-2106	Supplement No ORIG	Reported Date 04/25/2012	Reported Time 09:55	
CAD Call No 120018736	Status OPEN	Nature of Call OFFICER INFORMATION					
Location 6300 VALMONT DR				City BOULDER COUNTY	Rep Dist P8	Area 5	Beat 5
From Date 04/09/2012	From Time 12:00	To Date 04/24/2012	To Time 12:00	Officer 001088/GEORGE, MARK T			
Assignment OPERATIONS PATROL		Entered by 100004	Assignment LAW ENFORCEMENT TECHNICIAN		Confidential PUBLIC	RMS Transfer Successful	
Prop Trans Stat Successful	Approving Officer 002368		Approval Date 04/27/2012	Approval Time 11:35:14			
Person Summary							
Invl WIT	Invl No 1	Type L	Name GEORGE, MARK	MNI 136919	Race	Sex	DOB
Invl WIT	Invl No 1	Type I	Name AFFLECK, CAROL L	MNI 105965	Race W	Sex F	DOB 10/25/1946
Invl WIT	Invl No 1	Type I	Name HARPER, JODY	MNI 142008	Race W	Sex F	DOB 09/19/1956
Invl WIT	Invl No 1	Type I	Name BOYES, BILL	MNI 842517	Race W	Sex M	DOB 12/07/1950
Invl WIT	Invl No 1	Type I	Name CASTRO, JOE	MNI 935733	Race W	Sex M	DOB
Invl WIT	Invl No 1	Type I	Name RUDOLPH, MARK	MNI 935735	Race W	Sex M	DOB
Property Summary							
Involvement EVD	Description Article: Other (none of the above) PHOTOS MG1 digital camera card						
Summary Narrative							

Case #12-2106

Deputy Mark George, #593

On 04/25/12 at approximately 09:55 hours, I was contacted by dispatch and asked to call a party identified as Carol Affleck on her home telephone number reference a grave being disturbed up near the Valmont Cemetery up in Butte Mill in unincorporated Boulder County. I contacted her and she wanted to make me aware of what she considered a grave desecration by the City of Boulder as outside the Valmont Cemetery fence, a grave had been marked with rocks with a cross in the middle made of rocks and apparently this had been disturbed and she described it as being "dug up". She informed me that there were many gravesites outside of the fence in the city property which was currently being worked on and tested for soil contamination. I checked with the city and it was determined that they had moved the rocks but had not dug up any possible grave. The site was cordoned off with Sheriff's Department tape and detectives and coroners were notified.

Recommended Case Status: Open pending further investigation

BOULDER COUNTY SHERIFF'S OFFICE**Witness 1: GEORGE, MARK**

Involvement Witness	Invl No 1	Type LAW ENFORCEMENT	Name GEORGE, MARK	MNI 136919
PRN 1146912				
Employer/School BCSO			Position/Grade DEPUTY	

Witness 1: AFFLECK, CAROL L

Involvement Witness	Invl No 1	Type INDIVIDUAL	*		
Name AFFLECK, CAROL L			MNI 105965	Race White (NCIC value)	Sex Female
DOB 10/25/1946	Age 65	Juvenile? No	Height 5'07"	Eye Color Green	PRN 1146913
Type Home	Address 8757 87TH ST			City LONGMONT	
State Colorado (not for boat RES)			ZIP Code 80503	Date 04/25/2012	
Phone Type CELL	Phone No [REDACTED]	Date 04/25/2012	Phone Type HOME	Phone No (303) 651-2180	
Date 04/25/2012					

Witness 1: HARPER, JODY

Involvement Witness	Invl No 1	Type INDIVIDUAL	*		
Name HARPER, JODY			MNI 142008	Race White (NCIC value)	Sex Female
DOB 09/19/1956	Age 55	Juvenile? No	Eye Color Blue	PRN 1146914	
Type Home	Address 931 BROSS ST			City LONGMONT	
State Colorado (not for boat RES)			ZIP Code 80501	Date 04/25/2012	
Phone Type CELL	Phone No [REDACTED]	Date 04/25/2012	Phone Type HOME	Phone No (303) 702-1425	
Date 04/25/2012					

Witness 1: BOYES, BILL

Involvement Witness	Invl No 1	Type INDIVIDUAL	*		
Name BOYES, BILL			MNI 842517	Race White (NCIC value)	Sex Male
Age 61	Juvenile? No	Eye Color Blue	PRN 1146915		
Type Work/Business	Address 1720 13TH ST			City BOULDER	
State Colorado (not for boat RES)			ZIP Code 80306	Date 04/25/2012	
Phone Type CELL	Phone No [REDACTED]	Date 04/25/2012	Phone Type WORK	Phone No (303) 441-4125	
Date 04/25/2012					

Employer/School CITY OF BOULDER PUBLIC WORKS	Position/Grade MGR
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Witness 1: CASTRO, JOE

Involvement Witness	Invl No 1	Type INDIVIDUAL	*		
Name CASTRO, JOE			MNI 935733	Race White (NCIC value)	Sex Male
PRN 1146916					
Type Work/Business	Address 1720 13TH ST			City BOULDER	
State Colorado (not for boat RES)			ZIP Code 80306	Date 04/25/2012	

BOULDER COUNTY SHERIFF'S OFFICE

Phone Type WORK	Phone No (303) 441-3163	Date 04/25/2012				
Employer/School CITY OF BOULDER PUBLIC WORKS		Position/Grade FAC MGR				
Witness 1: RUDOLPH, MARK						
Involvement Witness	Invl No 1	Type INDIVIDUAL	*			
Name RUDOLPH, MARK	MNI 935735	Race White (NCIC value)	Sex Male	PRN 1146917		
Type Work/Business	Address 4300 CHERRY CREEK DR SOUTH			City DENVER		
State Colorado (not for boat RES)		ZIP Code 80246	Date 04/25/2012			
Phone Type CELL	Phone No [REDACTED]	Date 04/25/2012	Phone Type WORK	Phone No (303) 692-3311		
Date 04/25/2012						
Employer/School COPHE		Position/Grade ENG				
Property						
Item 1	Agency BOULDER COUNTY SHERIFF'S OFFICE	Case No 12-2106	Original Incident 12-2106	Original supplement ORIG	Involvement Evidence	
Invl Date 04/25/2012	In Custody? Yes	Security No	Item No/Desc MG1 digital camera card		Typ A	
Cat Other (none of the above)	Article Photographs	Entered Date 04/26/2012	Entered Time 09:05	RMS Transfer Successful		
Control 0023680427121136						
Modus Operandi						
Gang Act? No	Premise Type WILDLANDS, CROPS, FENCES, ETC	Arson Inhabited? No				
Narrative						

Case #12-2106

Deputy Mark George, #593

On 04/25/12 at approximately 09:55 hours, I was contacted by dispatch and asked to call a party identified as Carol Affleck, DOB 10/25/46. I was given a phone number of 303-651-2180. After several calls I was able to reach Ms. Affleck who relayed the following information to me. She stated that she wanted to report what she believed was a grave desecration up just outside the fence line on the northwest corner of the fence line at the old Valmont Cemetery located at 6300 Valmont Road up on the city open space property of the Butte Mill. She stated that she had contacted the city and told them about the grave, which was clearly marked with rocks which she described in an oval pattern with a rock cross in the center, and that she had been up there approximately two weeks ago Monday which would be 04/09/12. She informed me that another party that was also involved with the preservation of the Valmont Cemetery and was described as Jody Harper, DOB 09/19/56, had been up there approximately one week ago. She informed me that the rocks had been removed from around the gravesite and she described it as being "dug up", on 04/24/12 sometime around 12:00 hours. She informed me that she considers this a desecration of a grave and needed to report it.

I was aware that the city was doing soil sampling and was also decontaminating the old Butte Mill site and asked her if she felt that they had been involved and she stated that she believed that they had. I informed her that we would not take the report as a grave desecration until we did further follow up and asked her for some personal information which she was somewhat reluctant to give as she stated, "This report is not about me". I informed her that we needed some basic information as she was the complainant and she conceded.

I proceeded up to the site where I met with Bill Boyes who was the Facility Maintenance and Program Manager for the City of Boulder. I had spoken to Bill before I proceeded up to the site and he was waiting for me to let me into the gate.

Once up there he did state that they had removed the rocks and that they were currently in his office. He informed me that it was outside of the fence line of the Valmont Cemetery and that they had had Mr. Gary Brown

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BOULDER COUNTY SHERIFF'S OFFICE**Narrative**

who is a designated Tribal Monitor for the Native American group as well as a Mrs. Marilyn Marcorano from RNC Consultant which is a county approved archeological monitoring and discovery firm. He informed me that they were informed by them that the grave site was not very old and that they felt that it was not there for much longer than possibly a month or so. He stated that this was all done on 04/05/12. He informed me that he had contacted Joe Castro, who was the Facilities and Fleet Manager for the City of Boulder Public Works.

Mr. Castro arrived at the scene and was carrying a draft of a report reference the so called grave which as he described it on city open space land. In it was a picture of the so called grave site with the rocks piled on it as well as an older picture from the Valmont Cemetery website which did not show the rocks piled up. There were also close ups of the rocks as well as an explanation that because of the dirt on the rocks as well as pictures of other holes nearby in which rocks had been removed recently that they felt that they had done everything that they needed to do. He stated that the archeological monitoring firm stated that there was no evidence that the rocks were historic or prehistoric and that all evidence noted and indicated that a very recent construction date perhaps within the last several weeks. He stated that it could be a recently placed grave of a pet or could be a recently placed feature that was created to appear as a grave as they did not know. He did inform me that they had not dug up the site and that they had probed it. He informed me that they had gone down about 18 inches and that after that the probe became very hard. He described the area that appeared to have been recently dug up as being approximately two feet wide by three feet long.

I asked him if he could give me a copy of the draft report and he stated that it was not yet ready but that he would send me the photographs. He did send me a nine page copy of pictures from the draft report.

Also at the scene was an individual identified as Mark Rudolph, an Environmental Protection Specialist with the Colorado Department of Public Health and Environment. Mr. Rudolph stated that he was also aware of the preservation individuals associated with the Valmont graveyard. He informed me that all the holes being dug up in the Butte area were for soil checking and that they were constantly monitoring the situation and that as far as he knew there was no problem.

I asked Joe Castor to send me information as he stated that there had been numerous emails and that the cemetery association had been trying to shut down the whole project by stating there were unmarked graves all around, especially in the parking lot area. He informed me that they were doing no digging in the parking lot area and that just around the fence line on the west side soil samples were being taken.

I thanked them for their assistance and proceeded back to the Headquarter's building to do follow up. I did receive back from Mr. Castro the aforementioned report as well as a packet of correspondence between Carol Affleck who was the preservation spokesperson and the city as well as a two page letter from the Law Offices of Randall and Weiner reference the City of Boulder Valmont Butte property and finally a message sent to him from the preservation parties. All of these were turned into records for inclusion in the case file. I contacted Sergeant Crist and informed him of the investigation and he contacted the detective's supervisors. I met with Sergeant Oehlkers and Commander Brough and filled them in on the situation and made copies of the paperwork that I had received from Mr. Castro for them. In checking, they found that probably the jurisdiction on an unmarked grave or possible unmarked grave lies with the coroner's office. At the time of the end of my shift, the coroner had not yet responded to the request.

I was finally able to re-contact the original reporting party Ms. Affleck, and inform her of what the city had said. She stated that she was able to get a hold of Jody Harper, who had apparently been at work in meetings and was unavailable and they agreed to meet me at the site at 16:00.

As the yellow gate has many padlocks on it, I took the public service road, which attaches to 63rd further south and ends up inside of the lock area. I met with both parties who followed me up to the gravesite and I explained the situation to them and gave them my card with the case number on it.

Ms. Affleck stated that she felt like they still should have waited and that she wanted to show me around the graveyard to point out that there were similar circles of rocks which she believed marked graves.

I informed both Jody and Carol that this information had been passed on to the detective supervisors and that they had attempted to contact the coroner but had not received a reply. I had previously when I met with Joe

BOULDER COUNTY SHERIFF'S OFFICE**Narrative**

Castro, tapes off the area with Sheriff's Department tape and received assurances from Mr. Castro as well as Mr. Boyes that they would not disturb the area in there.

Originally in the report I had been informed by Ms. Affleck that besides the stones being moved, that a no trespass sign had been posted just to the north of the gravesite and that a washout screen had also been placed there.

I showed them the taped in area and informed them that it would be up to the coroner tomorrow. At this point they informed me that they had originally contacted someone in the coroner's office who they identified as Holly, a female and that she had advised them to call the Sheriff's Department.

I had informed the detective supervisors of this as well Sergeant Crist and was advised to ASAP the report so they could complete follow up on it.

At this point there is no indicium of a body being buried there and that because of the size if it was a body it would most likely be a child or possibly an urn of ashes. As stated earlier, the soil was tested around the rock area and found to be loose down to about eighteen inches and after that became very packed down.

Photos were taken of the scene and were turned into evidence after being marked MG1.

Recommended Case Status: Open pending further investigation by detectives.

12-2106**BOULDER COUNTY SHERIFF'S OFFICE**Nature of Call
OFC INFOReported Date
04/30/2012Officer
BROUGH, RICK H

Administrative Information							
Agency BOULDER COUNTY SHERIFF'S OFFICE			Case No 12-2106		Supplement No 0001	Reported Date 04/30/2012	Reported Time 10:54
CAD Call No 120018736	Status OPEN	Nature of Call OFFICER INFORMATION					
Location 6300 VALMONT DR				City BOULDER COUNTY		Rep Dist P8	Area 5
From Date 04/09/2012	From Time 12:00	To Date 04/24/2012	To Time 12:00	Officer 000704/BROUGH, RICK H			
Assignment OPERATIONS PATROL		Entered by 000704	Assignment OPERATIONS PATROL		Confidential PUBLIC	RMS Transfer Successful	Prop Trans Stat Successful
Approving Officer 002368		Approval Date 05/01/2012		Approval Time 09:30:36			

Narrative

Report Completed by Cmdr. Rick Brough

On April 25, 2012, I met with Deputy George regarding this investigation. He told me that it involved employees with the City of Boulder and members of the Valmont Butte Cemetery Association. The initial complaint had been made by Carol Affleck, a member of the Valmont Butte Cemetery Association and she was reporting that possibly one of the graves outside the cemetery had been tampered with. She reported that just outside the cemetery fence line and on City of Boulder open space was a grave that was oval and outlined by rocks. Recently, someone had removed the rocks from the grave and she believed this had been done by City of Boulder employees. The property in question is City of Boulder open space and is adjacent to the Valmont Cemetery on Valmont Butte.

Deputy George met with Bill Boyes, a City of Boulder Public Works employee, to discuss this incident. Boyes indicated that they are currently working on the property as a land reclamation project and in doing so have been taking dirt samples on the property. In an effort to follow the "Valmont Butte Archaeological Monitoring and Discovery Plan" he contacted Gary Brown, the designated tribal monitor, and Marilyn Martorano, from RMC Consultants regarding the rock formation. The rock formation was examined and a report was completed by RMC Consultants. I noticed a copy of the report (in draft format) was included in the paperwork that Deputy George had collected. In Deputy George's report he indicates that Mr. Boyes stated that "they" had removed the rocks from the rock formation and had placed them in his office.

Prior to leaving Deputy George put yellow flagging around the site and was assured by Mr. Boyes that they wouldn't do anything to it until they heard back from a representative from the Sheriff's Office.

I reviewed the paperwork that had been provided to Deputy George. In reviewing the report completed by RMC Consultants, I noted that their conclusion was that there wasn't any evidence that the rock formation was historic or prehistoric. The report also documented that Mr. Brown indicated that the rock formation was a recent feature that was not previously located on the site.

In reviewing Deputy George's report and the accompanying paperwork there isn't anything presented by any of the parties that this is actually a grave.

I reviewed the Colorado Revised Statutes, specifically Desecration of Venerated Objects. The statute indicates a person commits this crime if he "knowingly" desecrates any public monument or structure or desecrates in a public place any other objects of veneration by the public. Prior to the rocks being moved the city workers consulted with the tribal monitor and RMC Consultants to determine if the rock formation was in fact historic and

BOULDER COUNTY SHERIFF'S OFFICE**Narrative**

shouldn't be disturbed. RMC Consultants reported that it wasn't and for this reason, I didn't feel that they "knowingly" acted in manner that would be interpreted as a crime.

On Friday, April 25, 2012 I met with Asst. District Attorney Ryan Brackley and spoke to him about this incident. I provided him with Deputy George's report and the accompanying paperwork. He indicated he would review the incident and tell me if he felt there was probable cause that a crime had occurred.

On Monday, April 30, 2012 I received a telephone call from Ryan Brackley and after reviewing the paperwork he didn't believe that there was probable cause to believe a crime had occurred. He also pointed out that the city workers had made a reasonable effort to determine if the rock formation had any historical significance or appeared to be a grave prior to removing the rock. With this in mind it demonstrated that their mental culpability didn't fit the definition of "knowingly".

I contacted Mr. Boyes and told him we wouldn't be pursuing this matter as we didn't feel a crime had occurred. I advised him that he could remove the yellow flagging from the site. I asked him what their plans were for this specific area where the rock formation had been located. He stated that they had taken soil samples from the area and determined that the soil in this area isn't contaminated. For this reason, there wasn't any immediate plans to do anything to it.

I made several attempts to contact Carol Affleck to speak to her regarding our investigation. We traded several phone messages but at the time of this report I haven't been able to speak to her.

On May 1, 2012, I spoke with Carol Affleck on the telephone and explained to her that we wouldn't be pursuing criminal charges in regards to this investigation.

The case status will be closed.

End of Report