

# Ethical questions surround Bundy's legal team, strategy

Oregon Public Broadcasting

While Ammon Bundy was teaching others about his interpretation of the Constitution, lawyers were schooling him about potential violations of federal laws as the militant leader led the occupation at the Malheur National Wildlife Refuge.

Both Ammon Bundy and his brother Ryan told several journalists, including OPB reporters, that an Oregon-based law firm was asking to represent the men.

On Jan. 7, in an interview with OPB, Ryan Bundy said the militants didn't need lawyers because he didn't believe the group had broken any laws.

"But some are coming up to talk with us," Bundy said.

On Jan. 9, Lissa Casey of the Arnold Law Firm tweeted that she and Brian Boender, a fellow attorney from the Eugene Based Arnold Law Firm, met with some "very nice men" at the Malheur National Wildlife Refuge.

"Most dangerous part of the trip: [Bryan Boender] driving snowy pass," Casey tweeted.

On Jan. 14, Ammon Bundy confirmed he met with lawyers over the previous weekend; however, he didn't name them.

"I did, and they had their suggestions, but look, we're not breaking any laws," Bundy said. "They made a list and shared it with us and we'll keep that in mind, but again, the federal government has no authority on this land."

Federal government officials disagree, and indicted Ammon Bundy along with 15 others for keeping federal employees from "discharging their duties."

To defend him against those charges, Bundy retained the Arnold Law Firm.

That retention could potentially be a violation of Oregon State Bar guidelines.

## Rules against soliciting clients

Lissa Casey and Mike Arnold, the head of the Arnold Law Firm, confirmed that Ammon Bundy did not contact the firm, but rather attorneys for the firm went to meet the militants face-to-face.

"I felt duty-bound to give pro bono advice to the protesters out there given that they were practicing civil disobedience and didn't appear to have any legal counsel," Casey told OPB in a written statement.

That action could potentially violate Oregon bar rules, specifically, section 7.3. Portland criminal attorney Janet Hoffman said that the rule prohibits attorneys from soliciting clients by phone, electronic contact or in person.

"It kind of gives clients



Attorney Lissa Casey, attorney for Ammon Bundy, listens to a recorded statement by Bundy as an image of him is shown on a screen, in Eugene on Thursday.

some distance from the proverbial image of like ambulance chasing — that you're calling people chasing after one catastrophe after another," Hoffman said.

The rule specifically prohibits solicitation if one of the driving motivations for the attorney is financial gain.

In an email to OPB, Casey repeatedly emphasized that any legal advice given to Bundy and other militants was offered pro bono. But now that an indictment has been issued against Bundy and 15 others, Casey said the firm is charging for its services.

"We expect the litigation to be rather lengthy and expensive so he asked us to set him up with the crowd sourcing page to assist in raising funds," Casey wrote.

As of Friday, Feb. 5, that page had raised about \$27,000 of its \$100,000 goal.

While representing Ammon Bundy could raise the profile of the Arnold Law Firm and potentially bring more business to the firm, a prominent legal professor said that shouldn't be considered when looking at possible ethics violations.

"That wouldn't be a factor here, because it's not money they're going to make from [this] client," said John Strait, an associate professor at the Seattle University School of Law.

One of the key questions is when Ammon Bundy became a client of the Arnold Law Firm, and whether the firm approached him to solicit his business. Casey said she and Boender drove to the refuge to advise the armed militants as they occupied the refuge.

"We drove the five hours over there and offered our free legal services about the occupation itself while they were doing their sit-in protest at the refuge," said Casey.

She declined to comment about the specific conversations she had with Ammon Bundy, as did managing partner Mike Arnold. He cited attorney-client privilege as the reason for not commenting about the conversations.

Casey, however, told OPB that Bundy was not yet at a client at the time she and Boender visited.

"Ammon Bundy retained us the morning of his initial appearance," she wrote, meaning it's possible privilege was not established between the firm and Ammon Bundy until that point.

## Leaders ordered young, new recruits to break laws

Another question hanging over the case is whether attorneys advised militant leaders to pin certain crimes on younger militants and new recruits.

Before he was arrested, Ryan Bundy said attorneys gave him and other occupation leaders lists of laws to steer clear of breaking.

Ammon Bundy also said that attorneys had inventoried potential legal violations, and had given the militant leaders a list of laws they believed were being broken.

An OPB reporter saw militant leader Ryan Payne, who headed the security team at the refuge before he was arrested, giving orders to young militants.

Some of them had arrived at the refuge hours before and were new to the group.

Payne was also seen stopping now deceased militant Robert "LaVoy" Finicum from getting into a white, federally owned truck.

"You don't do that, have them do that," Payne said as he pointed a new arrival who went by the name of "Joe."

An OPB reporter also witnessed Ammon Bundy telling television journalists that he would not drive federally owned vehicles, use federal computers, or engage in other illegal activities that other, rank-and-file, militants had done.

Ryan Bundy was asked about his brother's comments, and acknowledged militant leaders would not engage in those visible crimes, because younger militants and newer recruits were less likely to be

prosecuted.

"The government's going to leave those guys alone," Ryan Bundy said.

Two of the last holdouts on the refuge — David Fry and Sandy Anderson — confirmed to OPB that they, too, saw militant leaders order those outside the inner circle to break laws, like using government computers, driving federal vehicles, or plowing new roads on the refuge.

But in one of his last conversations before the FBI severed militants' communications, holdout Sean Anderson said those orders were not given with the intent of shifting criminal responsibility to new recruits. Anderson added that he "trusted Ammon and Ryan" with his life.

A source close to Ammon Bundy, speaking on the condition of anonymity because of the ongoing federal criminal case, said a list of crimes to avoid might have been compiled. However, the person suggested that interloping lawyers from out of state had created and distributed that inventory to militant leaders.

Lissa Casey didn't respond directly to that inquiry. In her statement to OPB, she wrote, "it appeared that some out-of-town lawyers arrived to help as well."

The only lawyer from out of state OPB could identify as visiting the compound before the arrest of Ammon and Ryan Bundy is Todd Macfarlane. He represents the family of LaVoy Finicum.

In a statement to OPB, Macfarlane wrote, "I have never represented the Bundys and have never given them any legal advice."

Law professor John Strait said that if a lawyer advised the Bundys on "how to break the law," that would be an ethical violation.

"If the lawyer counsels what is or isn't against the law, that's their job," Strait said. "But the lawyer can't help by saying, 'Here's how you commit the crimes smarter.'"

## UMATILLA COUNTY'S Most Wanted Saturday, Feb. 6, 2016

Umatilla County Community Corrections and the *East Oregonian* are cooperating in this weekly publication of descriptions of people who are wanted. The persons below have criminal warrants. If you see any of these people, do not attempt to apprehend them yourself. If you know where these people may be, contact dispatch at (541) 966-3651 or Community Corrections at 276-7824.

- |   |  |
|---|--|
| <b>Askins, Anthony Lawrence</b><br>Felon with weapon                | <b>Ortega Jr., Jose Raul</b><br>Delivery/manufacture of controlled substance. (3 counts) |
| <b>Espino, Antonio Pete</b><br>Assault, burglary, felon with weapon | <b>Salinas, Andrew Jacob</b><br>Assault, riot, selling marijuana                         |
| <b>Ibarra, Juan Manuel</b><br>Sexual abuse                          |  |

For more information about Umatilla/Morrow County Community Corrections and additional wanted offenders, check out our website at: [www.co.umatilla.or.us/corrections](http://www.co.umatilla.or.us/corrections)

## UMATILLA COUNTY'S Warrants Saturday, Feb. 6, 2016

The *East Oregonian* receives a list of warrants on the Friday before publication of the weekend edition. The warrants below are outstanding as of Feb. 5, 2016.

- |   |   |
|---|---|
| <b>Aguilar, Antonio Charles</b><br>Failure to appear<br>Bail: 40,000                  | <b>Delacruz, Faustino Delacruz</b><br>Contempt of court<br>Bail: 1,000        |
| <b>Albee, Bruce Wayne</b><br>Driving while suspended<br>Bail: 50,000                  | <b>Drury, Curtis James</b><br>Driving while suspended<br>No bail              |
| <b>Bagg, Cody James</b><br>Reckless driving<br>Bail: 2,500                            | <b>Esquibel, Kristina Marie</b><br>Theft<br>Bail: 5,000                       |
| <b>Daniels-Hughey, Kimberly Marie</b><br>Failure to appear<br>Bail: 10,000            | <b>Littlelight, Sally A Ramirez</b><br>DUII, Reckless Driving<br>Bail: 10,000 |
| <b>Del Carmen, Joel Loeza</b><br>Failure to perform duties of a driver<br>Bail: 5,000 | <b>Oakes, Richard Forrest</b><br>Harassment<br>No bail                        |

Please call dispatch at (541) 966-3651 if you know the location of any of the above subjects.

## PUBLIC SAFETY LOG

### THURSDAY

- 6:39 a.m. - Two semitrailers without chains passed a car westbound on Interstate 84 on Cabbage Hill. The car's driver called 9-1-1 to complain because the road required semis to have chains. He said they big rigs almost hit his vehicle.
- 8:03 a.m. - Pendleton police received a call for an officer to check on the occupant of a silver Dodge van that each morning parks on Southwest 44th Street between McKay Creek Elementary School and a church and appears to watch children going in and out of the school.
- 8:35 a.m. - A caller told Pendleton police a man is harassing and threatening employees at her office at 27 S.W. Frazer Ave. in violation of his restraining order.
- 11:30 a.m. - A man reported the theft of sod from property on Southwest 11th Street, Hermiston.
- 11:58 a.m. - A woman on West Furnish Avenue, Stanfield, reported someone tapped on her window for the second time in the last two hours.
- 2:46 p.m. - Pendleton police received a report of a scam caller posing as a power company employee.
- 3:05 p.m. - A caller told Pendleton police a male was hurting a female at Southwest 16th Street and Emigrant Avenue.
- 4:47 p.m. - A caller told Pendleton police her grandmother pushed her, assaulted her fiancée and made her hit her 3½-year-old daughter.
- 5:07 p.m. - A 36-year-old Milton-Freewater man on probation tried — and failed — to buy a gun at Garner's Grocery and Sporting Goods, Pendleton.
- 10:18 p.m. - A caller reported a woman who may have been an assault victim came into the lobby of Out West Motel, 84040 Highway 11, Milton-Freewater, said she needed help and wanted to call her friend. Then she stated she did not want to involve law enforcement. Officers were not able to find the woman.
- 10:31 p.m. - A woman told Pendleton police she was cleaning at her father's house when her sister attacked her. The caller also said her sister has been stealing from her for a while and now he wants to report all of it.

### ARRESTS, CITATIONS

- Wednesday**
- Pendleton police arrested Shannon G. Strasser, 49, of 244 Hunt St., Athena, for driving under the influence of intoxicants.

## Fed court issues \$385K judgment against blueberry growers

SPOKANE, Wash. (AP) — Some blueberry growers in Walla Walla County have admitted in federal court that they systematically violated the rights of their agricultural workers over a period of three years.

That includes failing to pay the minimum wage and overtime in the 2011, 2012 and 2013 growing seasons.

The U.S. Department of Labor filed suit more than two years ago, and the U.S. District Court for the Eastern District of Washington this week entered a consent judgment in favor of the government on all counts.

Thursday's ruling requires the Walla Walla County growers to pay a total of \$385,318 in unpaid wages and damages to pickers and packing shed workers.

The growers, who include Blue Mountain Farms and its affiliates, must also pay \$20,000 in civil penalties to the federal government.

"We are pleased that Blue Mountain finally admitted their systemic violations of federal law and have agreed to ensure that their hard-working harvest workers are no longer exploited

by working them off the books, in the shadows," said Ruben Rosalez, regional administrator for the Labor Department's Wage and Hour Division.

Officials for Blue Mountain, headquartered in Burbank, Washington, did not immediately return a telephone message seeking comment.

Labor Department investigators in 2013 discovered the growers were paying hundreds of workers off the books in Walla Walla County fields. Workers had no tickets to track how much they had picked, and they received no paychecks, the agency said.

Many workers who did appear on the company's records were denied over-


time pay despite working long and regular overtime hours, the agency said.

Growers first tried to deny access to their fields when agency officials started their investigation.

The department obtained a court order to force Blue Mountain to give investigators immediate access and to cease interfering with the investigation.

In the consent judgment, the growers admitted that they violated federal law. Specifically, the growers admit that:

- They used a system in which multiple workers were picking berries on a single ticket, making it appear that the berries "counted as having been harvested by one person."
- The employer did not pay the promised wage, which was the Washington state minimum wage, to some of their workforce.
- Growers did not pay their workers in the packing shed the legally required overtime premium of time-and-a-half despite the long hours worked.



**PSYCHOLOGICAL SERVICES OF PENDLETON, LLC**

THINK OUTSIDE THE BOX [www.pendletonpsych.com](http://www.pendletonpsych.com)  
541-278-2222



Ron and Valori Martin

Pre-planning...  
A choice this important deserves talking to experienced professionals.

131 SE Byers Ave.  
Pendleton • 541-276-1221  
[www.pioneerchapel.com](http://www.pioneerchapel.com)



**215 - 217**

**Cineplex Show Times**

**\$5 Classic Movie**  
2/10 12:00 PM  
SABRINA (1954)

**KUNG FU PANDA 3 (PG)**  
2D: 12:00\* 4:50 7:10  
3D: 2:30\* 9:20

**DIRTY GRANDPA (R)**  
12:10\* 2:40\* 5:00 7:20 9:40

**FINEST HOURS (PG13)**  
2D: 1:50\* 7:00  
3D: 4:30 9:30

**THE CHOICE (PG13)**  
1:30\* 4:10 6:40 9:10

**THE REVENANT (R)**  
12:20\* 6:50

**13 HOURS (R)**  
3:50\* 10:00

Credit & Debit Cards accepted  
Cineplex gift cards available  
\*Matinee Pricing  
**wildhorseresort.com**  
541-966-1850  
Pendleton, OR I-84 - Exit 216



**218 - 219**

**Cineplex Show Times**

**\$5 Classic Movie**  
2/10 12:00 PM  
SABRINA (1954)

**KUNG FU PANDA 3 (PG)**  
2D: 4:50 7:10  
3D: 9:20

**DIRTY GRANDPA (R)**  
5:00 7:20 9:40

**FINEST HOURS (PG13)**  
2D: 7:00  
3D: 4:30 9:30

**THE CHOICE (PG13)**  
4:10 6:40 9:10

**THE REVENANT (R)**  
6:50

**13 HOURS (R)**  
3:50\* 10:00

Credit & Debit Cards accepted  
Cineplex gift cards available  
\*Matinee Pricing  
**wildhorseresort.com**  
541-966-1850  
Pendleton, OR I-84 - Exit 216