

Grant County district attorney has suspects in 2018 murder of couple

By Steven Mitchell
Blue Mountain Eagle

JOHN DAY — Closure may be coming almost two years after a couple vanished after their cabin became engulfed in flames in the Laycock Creek Road area.

Grant County District Attorney Jim Carpenter said May 20 he planned to prosecute suspects in the murder of Terry and Sharon Smith.

“There are suspects in the case,” Carpenter told the Eagle, “and a substantial amount of evidence that points to the suspects such that I will be taking it to the grand jury.”

Carpenter said, as soon as grand juries can meet without social distancing restrictions, he plans to take the case to a grand jury, and he anticipates an indictment.

The couple and their pickup were not found after their home on Nan’s Rock Road between John Day and Mt. Vernon burned in the early morning hours of July 18, 2018.

The case evolved into a homicide after investigators confirmed DNA samples from remains found in the residence belonged to Terry and Sharon Smith. The pickup was later located in Boise.

Carpenter said the Oregon Department of Justice was brought in as a special prosecutor for Grant County, and the DOJ had been directing the investigation and working toward prosecution.



Submitted photo

Terry and Sharon Smith

He said, several months ago, Grant County Sheriff Glenn Palmer requested the case back from the DOJ to have it prosecuted in Grant County.

Carpenter said, because of limited resources, he attempted to bring in a special prosecutor, a local attorney whom he declined to name, who initially agreed to take the case but then backed out after receiving the materials from the DOJ.

“It was initially assigned to the Department of Justice because I simply didn’t have the resources to take care of it,” Carpenter said. “I still don’t, but there are no other options. The Department of Justice isn’t going to take it back.”

The case is being investigated by the Oregon State Police and Grant County Sheriff’s Office with the assistance of the FBI Bend office.

“I’ve discussed the case recently with

the FBI, and they are assisting the sheriff’s office with a few final steps in the investigation,” Carpenter said.

Grant County Sheriff Glenn Palmer declined to comment in an email on May 14, stating it was “an ongoing criminal investigation.”

Family and friends told the Eagle about the social nature of Terry and Sharon Smith and how unusual it would be for them to disappear for any length of time without communicating with their friends and family.

“The Smiths’ friends and acquaintances all would like to know if there has been any progress in solving this heinous murder,” Lisa Roach, a friend of the Smiths, said in an email. “Any news would be greatly appreciated.”

Timothy Williams, a pastor, who grew close to the Smiths after purchasing a property from them roughly a year before their murder, said he was their “hanai son” — a term used in Hawaiian culture to refer to a family member, though not blood-related.

He said Terry and Sharon saw something good in him and treated him like family. He said they were not just people he bought a house from in an agreement of sale.

“I loved these people,” Williams said. “There’s no reason that you can tell me, or anybody can tell me, they deserved to die like they did.”

Oregon State Penitentiary has largest outbreak of coronavirus

By Noelle Crombie
The Oregonian/OregonLive

The number of coronavirus cases continues to rise at the Oregon State Penitentiary, which last week became the source of the single largest known outbreak of the virus in the state.

On Friday, the Oregon Department of Corrections said a total of 141 people at the prison — 115 inmates and 26 employees — have tested positive. A Southeast Portland nursing home is the source of the state’s second largest outbreak.

Four inmates at the maximum-security prison in Salem have been treated for the disease at local hospitals, including one man who died Wednesday. It was the first inmate death from coronavirus in Oregon.

The man had been transferred Monday to Salem Hospital and was tested that day. On Tuesday, the results confirmed he had the virus. He died the next day.

Like the vast majority of people who have died from the illness in Oregon, the man had an underlying health condition, prison officials said. Citing the confidentiality of medical information, the state declined to identify the man, saying only that he was between 50 and 60 years old, and wouldn’t disclose his underlying condition.

Dr. Christopher DiGiulio, the chief of medicine for the Corrections Department, said inmates’ movements within the prison are restricted to contain the spread of the illness.

Built in 1866, the state penitentiary, a hulking complex of

imposing cellblocks, was not designed with a pandemic in mind, DiGiulio said.

“That is one of the most difficult aspects and the biggest challenge managing this,” he said. “The building is over 100 years old. It was not designed for social distancing. It was probably designed before germ theory was established. So the idea of social distancing inside of OSP is difficult.”

He said hundreds of men live “in very close quarters on multiple tiers.”

Corrections officials had been moving almost all infected inmates to Coffee Creek Correctional Institution in Wilsonville, where the infirmary is equipped with rooms that limit air circulation. But the rising number of cases has prompted the agency to shift away from that practice,

DiGiulio said.

The infirmary continues to take people who are considered medically vulnerable and have a serious case of the virus, but people with symptoms who are in better shape are treated in a converted housing unit at Coffee Creek, the state women’s prison.

DiGiulio said people who test positive but don’t have any symptoms and are otherwise healthy have remained in quarantine at the state penitentiary.

Inmates are routinely screened for symptoms, he said, but testing remains a hard sell among the men who fear they will test positive and end up moved away from their cells and placed in an even more restrictive setting.

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LAWSUIT

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If Shirtcliff declines to either vacate his order or submit a written opinion, then the Supreme Court would set a deadline of Thursday for the governor’s attorneys to file a brief related to the preliminary injunction.

The plaintiffs’ attorneys would then have until June 2 to file briefs in response to the governor’s brief.

Kevin Mannix, a Salem attorney who is representing a group of intervenors — including Bill Harvey, chairman of the Baker County Board of Commissioners, acting as an individual and business owner, not in his elected capacity — who have joined the plaintiffs in the lawsuit against the governor, said Saturday that he hopes Shirtcliff will either send a written response to the Supreme Court further explaining his decision to issue a preliminary injunction, or do nothing.

Mannix said he’s encouraged by the Supreme Court’s decision to set deadlines for lawyers to submit briefs in the event Shirtcliff chooses either

of those two options.

“This means that the Oregon Supreme Court has kept this case on a very short time frame,” Mannix said.

He said he was pleased that the Supreme Court didn’t issue a peremptory writ of mandamus, which would have ordered Shirtcliff to vacate his order granting a preliminary injunction rather than give him the option of defending his earlier decision.

The legal issue at play now is not the lawsuit itself, but rather Shirtcliff’s order granting the preliminary injunction.

Even if that order is vacated — either by Shirtcliff himself or by a later decision of the Supreme Court — the lawsuit would continue, potentially leading to a trial in Baker County Circuit Court.

The governor’s attorneys from the state Department of Justice filed a motion seeking to dismiss the lawsuit, arguing it has no legal merit, but Shirtcliff denied that motion.

Mannix said that both he and Ray Hacke, the Salem attorney from the Pacific Justice Institute who is representing the plaintiffs and filed the lawsuit on May 6, submitted

briefs on Friday arguing why they believe Shirtcliff was correct in issuing the preliminary injunction and why the Supreme Court should reinstate that injunction. That would prohibit the state from continuing to enforce Brown’s executive orders.

In all but one of Oregon’s 36 counties — Multnomah, which includes Portland — the state has begun to ease some of the restrictions in those orders. Baker County is among the counties that started phase one of the state’s reopening plan on May 15. The county could potentially move into phase two, which further eases restrictions (details have yet to be announced), on June 5.

Mannix said the 57-page brief he filed includes additional legal support for the plaintiffs’ position — a position with which Shirtcliff concurred in his order granting a preliminary injunction.

That position is that because Gov. Brown has invoked the state’s public health emergency law — Oregon Revised Statute (ORS) 433.441 — in several of the executive orders she has issued since mid March, she was bound by the 28-day limit for public health emergencies as stated in that law.

Attorneys for the governor have argued that the 28-day limit in ORS 433 doesn’t apply to the executive orders because Brown’s initial declaration of a state of emergency due to the pandemic was made under a different state law — ORS 401.165 — which does not have a time limit.

In his brief to the Supreme Court, Mannix argues that the two laws overlap, and that when there is a conflict between laws — in this case one law that has a time limit and another law which does not — the more specific law “should take precedence.”

Mannix contends ORS 433 is more specific, not only because it prescribes a time limit but also because it grants the governor particular authorities, including the ability to restrict residents’ movements, that are not included in the more general emergency law, ORS 401.

Indeed, Shirtcliff, in his order granting the preliminary injunction, wrote that Brown had to invoke ORS 433 in some of her executive orders because of the specific powers it conveys to the governor.

Oregon’s Solicitor General,

Benjamin Gutman, disagreed, writing in a memo asking the state Supreme Court to vacate the preliminary injunction that Shirtcliff “committed fundamental legal error” in granting the injunction.

“The trial court erred in finding that the Governor’s emergency powers under ORS chapter 401 are time-limited by the provisions of ORS chapter 433,” Gutman wrote. “The provisions for public-health emergencies in chapter 433 supplement rather than supplant the Governor’s powers under chapter 401.”

TRIBUTE

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Curry referred to “the people behind us” — the orderly rows of white headstones in the veterans section of the cemetery.

And then she addressed the veterans who stood before her on a slope of well-tended grass, the snowy Elkhorn Mountains providing a stirring backdrop.

Both groups, Curry said — those in front and those behind — helped to make possible events such as Monday’s Memorial Day ceremony.

Curry is herself a member of the former group. She served in the U.S. Army in both Afghanistan and Iraq.

“When we signed on the dotted line we knew we might have to give

our lives,” she said. “But in the bottom of our hearts we knew our job is to protect the people at home. We’re not going to let anyone take away our freedoms.”

Jimm Mooney of Veterans Hope Ministries introduced Curry, and also followed her address with concluding remarks.

Mooney said he was thrilled with the turnout for the ceremony, which he started planning little more than a week earlier after learning that the annual event would be another casualty of the coronavirus pandemic.

“My heart is so big and so grateful for all of you to be here today,” Mooney said. “Today is the day to honor and remember those who paid the ultimate sacrifice so we could be free in this country today.”

COUNCIL

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In other business this evening, councilors will hear from Marilyn Hayes Shollenberger, president of Baker City Events, about her concerns about recurring

vandalism to the Powder River Pavilion in Geiser-Pollman Park. In a letter to councilors, Shollenberger posed questions to councilors, including whether the city can take additional steps to enforce ordinances prohibiting vandalism.

LOCAL BRIEFING

AmeriTitle’s Baker City employees donate \$300 to local Backpack program

Employees from AmeriTitle’s Baker City branch have donated \$300 to the Baker City Backpack Program, which provides meals during weekends to local children.

Community Connection has money available for food and shelter programs

Baker County will receive \$6,792 from the Federal Emergency Management Agency and \$9,683 from the CARES Act’s emergency food and shelter program. Organizations that provide those services to Baker County residents can apply for some of the money through Community Connection of Baker County.

To request an application, call Joe Hayes at 541-523-6591, extension 11, or email to joe@ccno.org. Application deadline is June 12 at 4 p.m.

Pine Fest Music Festival in Halfway canceled due to coronavirus pandemic

HALFWAY — The organizers of the annual Pine Fest Musical Festival scheduled for Sept. 11-12 in Halfway announced that the event has been canceled due to the coronavirus pandemic.

People who have bought tickets or camping reservations can keep their receipts, which will be honored at the 2021 event. For refunds, or other questions, email steve@pinetel.com, specifying “Pine Fest 2020” in the subject line.

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