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N.M. pair may face charges in grave case

Mark Shaffer
Republic Flagstaff Bureau
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PRESCOTT - There was barely a ripple in Arizona's territorial capital when an old cowpuncher named John Miller was laid to rest 69 years ago in an unmarked grave on a dusty knoll now overlooking a Wal-Mart Supercenter. After all, Miller had come here to die at the Arizona Pioneers' Home, as had been the wont of many state old-timers, only a few months before.

He had lived an unremarkable life, herding cattle in New Mexico before moving to Buckeye, where he farmed a few acres. An obituary in the *Prescott Courier* noted only that Miller had been raised by Indians who had killed his parents and that "he was not a man to make up stories about himself."

But historians of William "Billy the Kid" Bonney and the American West say that Miller's remains are now the victim of the worst fabrication of all, that he actually is the legendary Wild West outlaw. Last year, a pair of former New Mexico law enforcement officers had the body of Miller and a man identified as William Hudspeth, who was interred next to him, exhumed from the Pioneers' Home Cemetery. Bones and teeth were taken to a Dallas laboratory for DNA analysis.

The Yavapai County Attorney's Office is reviewing a Prescott Police Department investigation to determine if criminal charges will be filed in the exhumation of Miller and Hudspeth because a permit was not obtained.

Dennis McGrane, chief deputy Yavapai County attorney, said Friday that his office is seeking outside legal help in the case.

"This is crazy stuff that probably shouldn't have occurred, but it did," Gary Olson, superintendent of Arizona Pioneers' Home, wrote to Anne Winter, Gov. Janet Napolitano's policy adviser for health.

Former Lincoln County, N.M., Sheriff Tom Sullivan and his partner, former federal officer and Capitan, N.M., Mayor Steve Sederwall, don't believe that Sheriff Pat Garrett ambushed and killed Billy the Kid in Fort Sumner, N.M., on a July night in 1881. They contend the Kid could have lived out his years peacefully using the alias John Miller.

Sullivan and Sederwall sold the History Channel on their theory and camera operators from the channel filmed the exhumation.

Sullivan said that he came up with the bloody bench that the outlaw purportedly died on "through good police work," and now it's just a matter of making a DNA match.

More than 25 people over the years have claimed to be Billy the Kid. One of those was a man named Ollie "Brushy Bill" Roberts. Sullivan and Sederwall are trying to get permission to also exhume the bodies of Roberts, who is buried in Hico, Texas, and his mother, Catherine Antrim, who is buried in Silver City, N.M.

Yavapai County began investigating the unearthing of Miller's remains in March after David Snell of Tucson, a Billy the Kid aficionado, wrote a letter to Yavapai County

Attorney Sheila Polk claiming that in a "sordid and reprehensible affair . . . grave robbers are plying their trade in Yavapai County."

Some of the world's leading historians on the Old West and Billy the Kid have been equally offended by the exhumation.

In an e-mail, Frederick Nolan of London called it (the exhumations by the former lawmen) "stupid, pointless and criminal."

"It is beyond belief that in any civilized country in the world two officers of the law could arbitrarily and without the slightest authority exhume not one but two bodies for the avowed purpose of comparing DNA," Nolan said.

Robert Utley, former chief historian of the National Park Service, said that Sullivan and Sederwall, in a "nonsensical project," have pandered to conspiracy theorists.

"These 'lawmen' seem pretty certainly to have broken the law," Utley said, referring to them not having a permit for the exhumation.

Sullivan bristles at that comment.

"We used an attorney and got written permission to be there and do what we did from the superintendent of the Pioneers' Home. There wasn't any bad intent," Sullivan said, referring to Jeanine Dike, who gave the permission for the exhumation, and has since retired and left the country to do religious work. Olson, the current superintendent of the Pioneers' Home, said he would have sought an opinion from the state Attorney General's Office before allowing the grave digging.

Sullivan acknowledges that any evidence proving that Miller was Billy the Kid isn't exactly overwhelming.

It's based in large part on a 1993 book by Helen Airy, who died two years ago, called *Whatever Happened to Billy the Kid?*

Airy interviewed elderly people in the Ramah and Zuni areas of western New Mexico in the 1970s who said they knew Miller in the early part of the century. Many said that he claimed to be the outlaw.

Airy also pointed out physical similarities, adjusted for time, between the only known picture taken of Billy the Kid at about age 20 and a similarly posed picture of Miller in his early 50s.

According to the book, Miller's wife died during a house fire when the couple lived in Buckeye and he had no known heirs at the time of his death in 1937. Miller's name is etched in a plaque at the Prescott cemetery with a birth date listed as 1850, which is believed to be about 10 years before Billy the Kid was born.

The book also notes that a trunk containing a number of items that friends said would have proven Miller was the outlaw disappeared after his death when Arizona officials took it back to New Mexico while trying to find relatives to claim it.

"It's a believable story," Sullivan said. "You look at the likenesses in those pictures and the fact that they were both good with a gun, had blue eyes, were good dancers and expert horsemen and made frequent trips to Mexico. I look at Brushy Bill and say, 'Uh, I don't know about him,' but I think a good case can be made about John Miller."

Sullivan said he hopes to have DNA results on the bodies and bench by this summer while pushing for more exhumations.

Dale Tunnell, a forensic scientist who assisted in Miller's exhumation, said New Mexico has staked a good chunk of its tourism future on Bonney being buried in Fort Sumner and "a group of people there have banded together to protect that gravesite at all costs.

"If someone can prove that William Bonney is not buried there, they can turn out the lights of that town. And I'm thinking Prescott could be the big beneficiary of that," Tunnell said.

Reach the reporter at mark.shaffer@arizonarepublic.com or (602)444-8057.

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