

New sheriff puts hold on fugitive

2003 warrant served at prison

By [Chad Day](#)

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LITTLE ROCK — In 2003, Thomas G. Ballard Jr. was charged in the rape of a young girl in Phillips County. Paperwork was filed. A warrant was issued, and a court date set.

A few weeks later, Ballard didn't show in court. After that, as far as the court officials in Phillips County knew, he vanished.

On Friday, more than nine years after Ballard was charged, newly elected Phillips County Sheriff Neal Byrd filed papers to detain Ballard for possible prosecution in the rape.

Byrd lodged the order, called a detainer, with the agency that has been Ballard's home for most of the past decade: the

Arkansas Department of Correction.

"We do have an active fugitive warrant on him, and ... we're going to place a detainer on him," Byrd said in an interview.

Byrd's decision came after Ballard had spent years in and out of jails and prisons, all while the Phillips County arrest warrant remained outstanding.

Ballard served nearly all of a five-year prison term and was paroled in 2010. He was sentenced back to prison on other charges in 2011, and until Byrd filed the detainer, he was about to be released again, prison records show.

He was approved in October for parole and was awaiting the go-ahead on his postrelease plans.

Correction Department spokesman Shea Wilson, who confirmed that the prison received the detainer Friday morning, said Ballard's release will be placed on hold.

"The detainer just means that we wouldn't turn him out on the streets. We would turn him over to Phillips County," she said.

Until Friday, the Correction Department had no record that it should have held Ballard for Phillips County, Wilson said.

Byrd, who was sworn in at the beginning of this month, also didn't know about Ballard until reporters for the Arkansas Democrat-Gazette

came across the case while following up on defendants listed on the Phillips County Circuit Court fugitive list.

According to court records, a felony fugitive warrant for Ballard was issued nine years and one month ago in the rape case in which he was accused of assaulting a young girl over the course of several years.

On Jan. 16, a reporter contacted Byrd to inquire whether the sheriff's office had a record of Ballard's outstanding warrant. Byrd, his chief deputy and a secretary then began researching Ballard's case.

"My secretary actually tracked it down. We've got a lot of files back there in the back. It's just a conglomeration of files back there. She spent a great deal of time trying to locate it, and she found it," Byrd said during an interview Thursday.

Inside the file was the order for Ballard's arrest, which Byrd determined was still valid. He then directed his chief deputy to put the warrant into the Arkansas Crime Information Center's databases. Law enforcement and prison systems nationwide rely on the databases to find out when suspects or inmates have warrants or cases pending.

As in more than 400 other Phillips County fugitive cases, the warrant on Ballard hadn't been entered into the crime databases during the watch of former Sheriff Ronnie White — a situation revealed last year by an Arkansas Democrat-Gazette investigation.

White didn't have his staff members enter the warrants into the databases. As a result, more than 40 percent of Phillips County fugitives wanted for the most serious felonies came into contact with police or the courts on occasion but weren't arrested on the warrants, the newspaper found.

Additionally, about a quarter of the fugitives were in prisons in other states, in Arkansas and even in White's own jail — while they had outstanding warrants.

That included Ballard.

On Thursday, Byrd said his staff has been working to make sure all fugitive and felony warrants are entered in the crime databases. He said he planned to meet Friday with Phillips County Deputy Prosecuting Attorney Todd Murray to discuss prosecuting Ballard.

Byrd said he would relate the details of the meeting Friday afternoon but he did not return a reporter's call. About 3 p.m. Friday, a secretary at the sheriff's office said he was out. A message left on Murray's cell phone Friday afternoon wasn't returned.

According to Ballard's court file, he faces allegations of sexual molestation that were first reported in September 2003. The allegations, made by a girl who was 14 at the time, spanned from when she was 6 years old in 1995 through August 2003, and occurred in Marvell and Barton, according to court records.

In November 2003, Murray filed a rape charge against Ballard.

A few weeks later, prosecutors in Jefferson County also filed charges against Ballard on the basis of similar allegations from the same victim that also included a sexual assault in Humphrey.

But while the Jefferson County case progressed — and Ballard pleaded no contest to second-degree sexual assault and was sentenced to five years in prison in the case — the Phillips County case went stagnant after the failure-to-appear warrant.

Karres Manning, the deputy prosecutor in the 11th West Judicial District who handled Ballard's Jefferson County case, said the charge she filed against Ballard related only to an instance of sexual assault in Humphrey, though it cited a series of molestations dating back to 1995.

While the charge involved the same victim, Manning noted that the Phillips County charge is prosecuted as a separate crime — relating to the allegations of sexual abuse in Barton and later in Marvell.

"They were in different counties, and they were different allegations for sure. We can only charge for things that occur in Jefferson County," she said, adding later that "whatever happened in Barton and Marvell would be [in the jurisdiction of] Phillips County."

While authorities have placed the detainer to keep Ballard in custody, the newspaper couldn't confirm whether prosecutors have decided to pursue the case.

Prosecuting Ballard will be complicated because of the passage of time — nearly a decade since the purported crime — and the fact that he's been incarcerated for significant portions of that time, said Brian Gallini, an associate professor of law at the University of Arkansas at Fayetteville.

Ballard's case appears to mirror a situation outlined in the Arkansas Rules of Criminal Procedure that mandates dismissal, he said.

Under Rule 28.1, "any defendant charged with an offense and incarcerated in prison in this state pursuant to conviction of another offense shall be entitled to have the charge dismissed with an absolute bar to prosecution if not brought to trial within twelve (12) months from the time provided in Rule 28.2," which in Ballard's case, would have begun at the time of his initial arrest.

The rule allows for exceptions, including if the defendant is unavailable or his whereabouts are unknown, such as when someone is declared a fugitive, but Gallini said that argument would be hard to win in Ballard's case.

"It's all arguable. I think the defense is wise to ignore that terminology [of fugitive] and just say, 'You had him. You shouldn't be able to hide behind terminology that's not applicable,'" he said.

"If he was incarcerated in this state that language seems hard to run from," Gallini added.

Information for this article was contributed by Cathy Frye of the Arkansas Democrat-Gazette.

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