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Subject: 052422 Washington County gang detective, prosecutor discussed 'fiesta' to celebrate 'convicted Mexicans,' text messages reveal - OPB
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Fred:

In the context of discipline matrix issues associated with moral character and bias discussions that LESC is supposed to address I am providing the following OPB article of an issue that transcends many of the discussion points the LESC is supposed to grapple with.

Please provide this Article to the LESC.

<https://www.opb.org/article/2022/05/23/washington-county-oregon-police-fiesta-text-messages/>

STAY HEALTHY and Regards,

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Washington County gang detective, prosecutor discussed 'fiesta' to celebrate 'convicted Mexicans,' text messages reveal

Feb. 19, 2020

At least one member of the former Washington County interagency gang enforcement team appears to have planned a "fiesta" early in 2018 to celebrate the convictions of several men whom law enforcement officers identified as Hispanic, according to text messages and emails included in a recent court filing.

"You available to celebrate at our home on feb 16? Spouses ate [sic] invited. Bring a bottle and a Mexican themed food dish!" Hillsboro Police Department Detective Rebecca Venable wrote in a text on Jan. 21 to Washington County Deputy District Attorney John Gerhard.

"Anything's possible. What's the fiesta for?" Gerhard replied.

Venable said it was to "celebrate the Elmer's" case. She does not provide more specifics, but six months earlier, in July 2017, four "Hispanic males" assaulted and robbed a person in the parking lot of an Elmer's Restaurant in Hillsboro, police reports state. Venable was involved in the investigation. Gerhard later prosecuted the cases. The four men had all pleaded guilty by the end of January 2018, days before the party planning messages were sent.

"Ha! Sounds fun," Gerhard replied.

"You have to dress accordingly [sic] to the theme. Bring a bottle and an authentic dish," Venable texted Gerhard.

“Is this going to end up as a headline in Willamette Week?” Gerhard texted back.

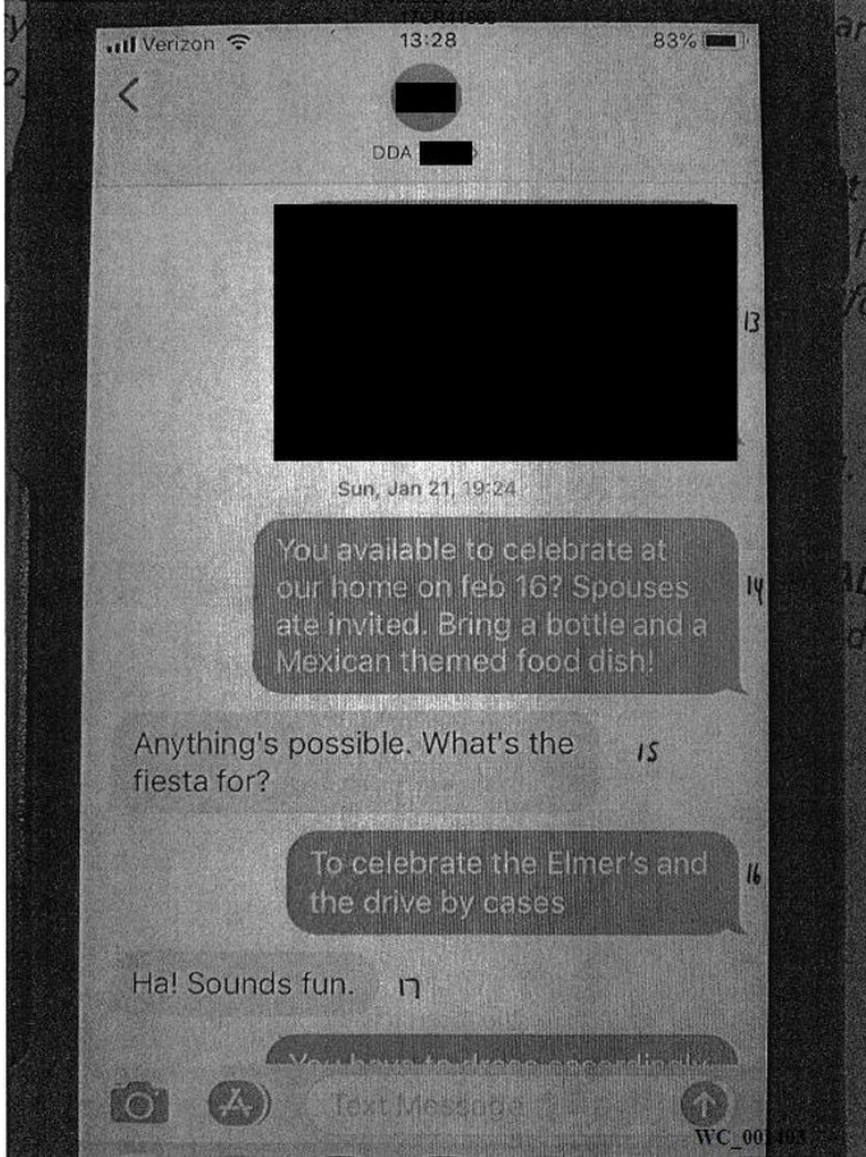
Gerhard’s name was redacted in the text exchange included in the court filing. However, a spokesperson for the Washington County District Attorney’s Office confirmed his identity.

The text messages are surfacing now because of a separate effort, by defense attorney Amanda Alvarez Thibeault, to dismiss an attempted murder case against her client, a man convicted in 2018. In three of the eight charges, the jury handed down a non-unanimous verdict, a result the U.S. Supreme Court found unconstitutional in 2020. That finding vacated convictions for hundreds of Oregonians, including Thibeault’s client. In her effort to get the case dismissed, Thibeault filed a subpoena for documents related to this case that ended up including the text exchange.

Gerhard has been the prosecutor on Thibeault’s attempted murder case since the beginning and Venable was actively involved in the investigation and interviewed a key witness.

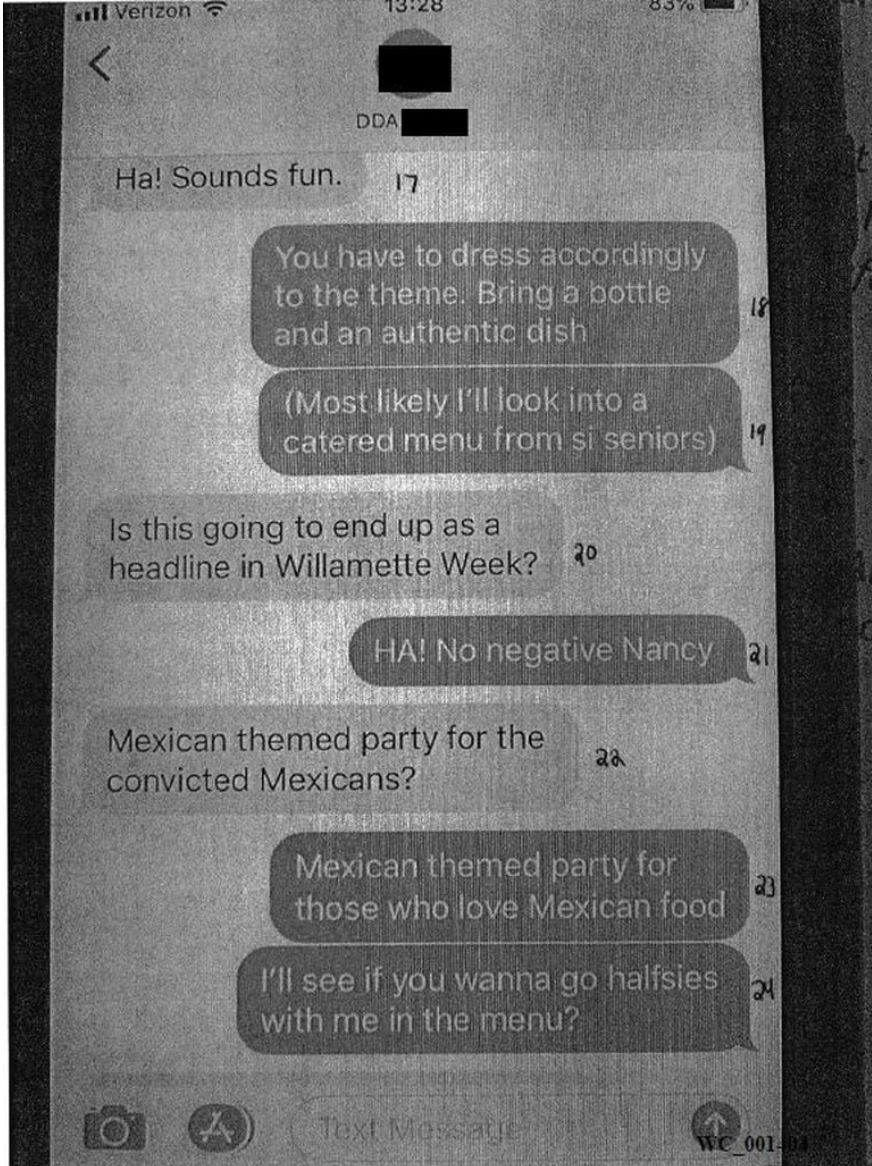
Thibeault writes in a court filing that Venable’s previous actions show bias against Hispanic people. Thibeault argues that since her client was identified by witnesses as Hispanic, Venable’s bias could have influenced the detective’s actions and testimony in his case.

If a judge grants Thibeault’s motion, other defense attorneys could replicate her argument, potentially calling into question a number of past convictions and current cases involving Venable and Gerhard. Washington County has the largest Hispanic population in the state, according to 2020 Census data.



Text messages between Detective Rebecca Venable and Deputy District Attorney John Gerhard.

Acquired



Text messages between Detective Rebecca Venable and Deputy District Attorney John Gerhard.

Acquired

Under a set of regulations known as Brady disclosure rules, prosecutors are required to turn over to the defense team any material that could exonerate a defendant. In her motion to dismiss the attempted murder charges against her client, Thibeault argues the Washington County District Attorney knowingly failed to turn over the text messages.

"The State knew that critical law enforcement involved had previously planned a Mexican themed party to celebrate the convictions of Mexican defendants and did not discover that information to the defense, despite the fact that the defendant's [sic] ... were described by the victim as being Hispanic," Thibeault writes in Thursday's court filing.

She declined OPB's interview request. In her motion to dismiss, Thibeault calls the alleged Brady violation "outrageous governmental misconduct 'akin

to active concealment.”

Washington County District Attorney spokesperson Stephen Mayer said the text message exchange happened on Gerhard’s personal cellphone in 2018.

“Is this going to end up as a headline in Willamette Week? Mexican themed party for the convicted Mexicans?”

“Mr. Gerhard advises that he did not attend any such party and, to his knowledge, no party occurred,” Mayer wrote in an email. “This type of an event would be entirely unacceptable, inappropriate, and contrary to the values of the Washington County DA’s Office. Senior Deputy District Attorney Gerhard wouldn’t feel that this type of party would be appropriate.”

Hillsboro Police Department spokesperson Sgt. Clint Chrz told OPB the texts were included in a public records request filed in 2018 and were reviewed by the department administration at that time.

“We do not believe our employee violated policy,” Chrz wrote in an email.

The Hillsboro Police Department policy manual prohibits “making derogatory or stereotypical comments about persons of a particular racial, ethnic or religious background.” The policy extends to off-duty, non-work related settings if the conduct “creates an offensive work environment or brings discredit to the city.” As an example, the policy manual cites offensive or inappropriate text messages sent from personal phones while off duty.

According to an email reviewed by OPB, Washington County Sheriff’s Office Detective Maribel Camas, who was also on the gang enforcement team, reported the party planning to her supervisor, but said she was unsure if it actually took place. OPB has similarly not been able to verify if the planned 2018 party happened.

"I believe I am required to report this to my supervisor because it may show a racial bias and issues of integrity in the prosecution of this case," Camas wrote in her February 2022 email to her supervisor, Washington County Sheriff's Office Sgt. Ryan Spang.

The 2022 email refers to the attempted murder case Thibeault is trying to get dismissed. But it wasn't the first time Camas had notified her superiors about Venable's behavior.

According to court records, Camas filed an ethics complaint in 2018 against members of the Washington County gang enforcement team specifically calling out Venable for not writing reports or conducting her investigation in a timely manner.

"Her specific statement to me while on the team was, if you do things slow enough someone else will do it for you," Camas wrote in an email to Spang.

Neither Camas nor Venable responded to requests for comment.

Camas filed a public records request in 2018 with the Hillsboro Police Department for nine months of Venable's text messages on her work cellphone. HPD denied the request. Camas appealed to the Washington County District Attorney's Office.

While the DA's office ordered some of Venable's texts released, the exchange with Gerhard was not included. It was part of several text exchanges the DA's office said "are not 'public records'...because they do not relate to the public's business."

Despite that order, the Washington County District Attorney's Office "accidentally released to Camas all of the text messages, including the ones it said she was not entitled to," Thibeault writes in her motion. The office declined to say whether the text message exchange had been previously disclosed in other criminal cases.

Tung Yin, professor of law at Lewis & Clark College in Portland, said the text messages likely fall into the category of impeachment evidence, which means they could hurt a witness' credibility. But he thought they would likely not lead to a new trial in a case like the one Thibeault is trying to get dismissed.

"With this text exchange, it doesn't directly go to the innocence of the defendants in the case," Yin said. "This would simply make the jury wonder: 'Should we really believe what the officer is testifying to? Because this officer seems like they have it in for people of color.'"

Criminal law aside, Yin said the texts demonstrate a callousness on the part of law enforcement with "potentially racially bigoted overtones to the conversation."

"The best you could say about this is, 'They were just joking around,' but even then that's not really a good look for the office to have when we need to have public confidence in our law enforcement and prosecutors," Yin said.

Gerhard seems to have had an inkling of how the racist conversation would sound to others even as he participated in it.

After the prosecutor asked if the whole thing would end up in a local press headline, he summarized the way it might be seen: "Mexican themed party for the convicted Mexicans?"