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Michelle Barrientes Vela invoked Fifth Amendment more than 100 times during taped deposition

Bexar County settled lawsuits connected to depositions for \$347,000

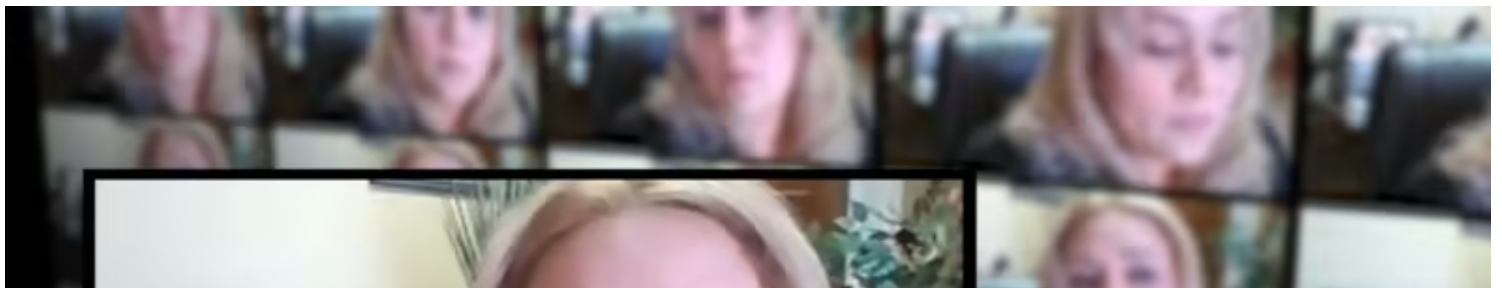
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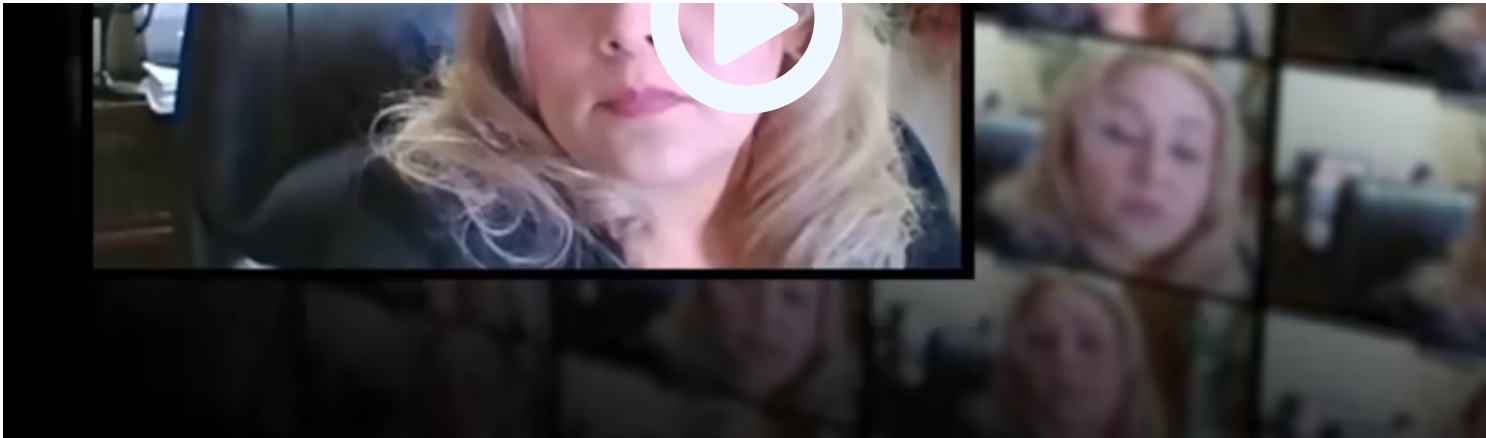
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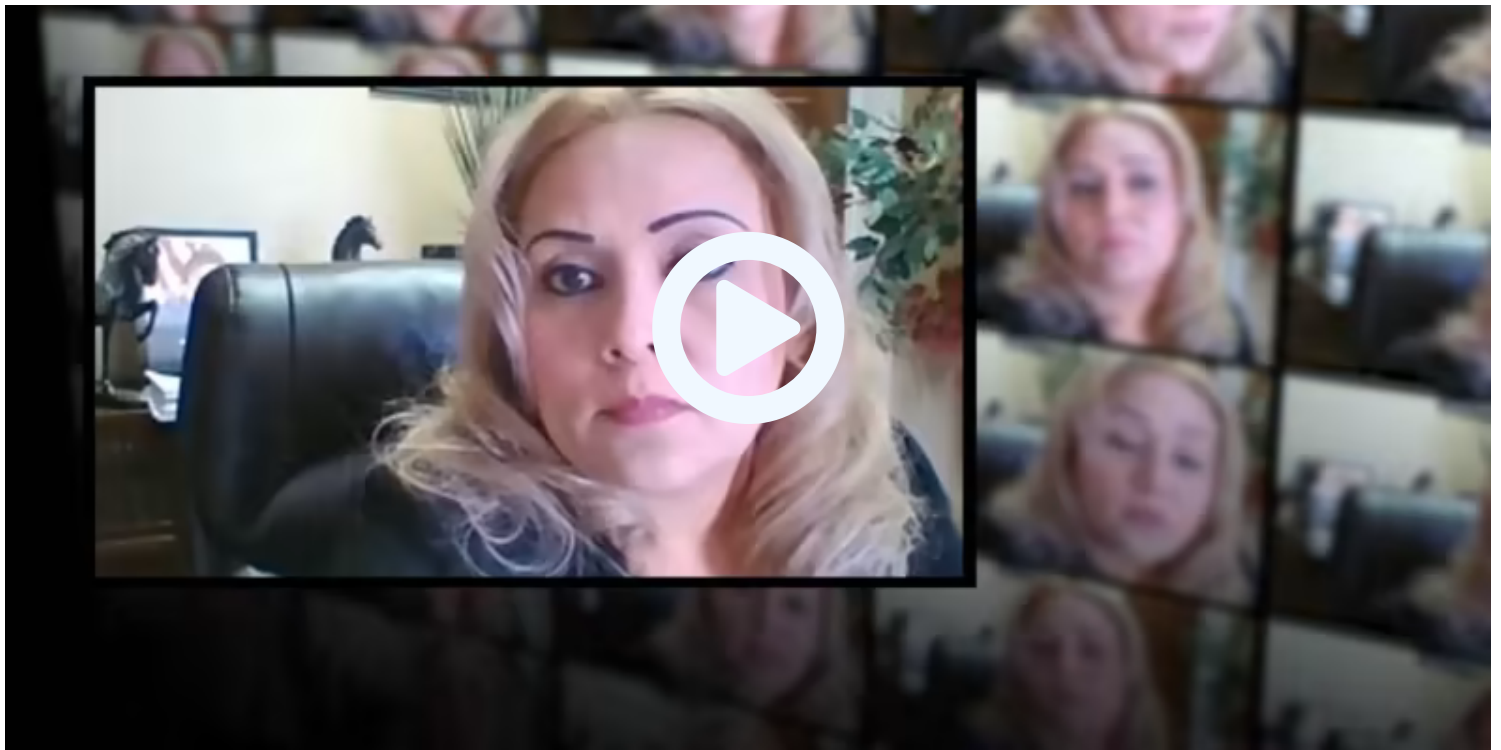


SAN ANTONIO – Months before Bexar County officials settled multiple lawsuits filed against indicted ex-constable Michelle Barrientes Vela, she and her former captain repeatedly invoked their Fifth Amendment privileges, taped depositions obtained by the **KSAT 12 Defenders** show.

The depositions were taken virtually on December 3, 2020 due to the COVID-19 pandemic and were used in separate state court lawsuits filed against Barrientes Vela and the county by Precinct 2 deputies Leonicio Moreno and Christopher De La Cerda, who sued the then-constable, accusing her and members of her administration of repeatedly mistreating them at work.

The county earlier this year agreed to settle the suits with Moreno and De La Cerda **for a combined \$347,000.**

Ad



Michelle Barrientes Vela gave a deposition in a civil suit where she asserted the Fifth Amendment more than 100 times.

A civil attorney representing both men provided a copy of the taped depositions and transcripts after county officials said they did not have a copy of them.

Former Precinct 2 captain Marc D. Garcia, who faces four public corruption charges, invoked his Fifth Amendment right 60 times during his 52-minute deposition.

Garcia, who was not listed as a defendant in either of the civil lawsuits the deposition was taken in connection to, answered questions about his law enforcement background and the structure of the Precinct 2 Constable's Office while he worked there.

Former Precinct 2 captain Marc D. Garcia was deposed virtually last December. (KSAT)

Garcia, however, was cut off by his attorney when asked if he valued his reputation for truth and honesty.

"Absolut..." said Garcia as his attorney, Mark Anthony Sanchez, interrupted his answer and instructed his client assert his Fifth Amendment privilege.

Garcia then paused and read out loud, "On the advice of my lawyer I invoke my constitutional right to remain silent."

Ad

The Fifth Amendment of the U.S. Constitution guarantees a person the right to remain silent to avoid providing possibly self-incriminating information.

Garcia did answer "absolutely" when asked by a civil attorney for Moreno and De La Cerda whether it is detrimental to a law enforcement officer's career to be placed on a Brady list.

The list, typically maintained by district attorneys, is used to alert attorneys to members of law enforcement who have credibility issues.

This list, including who from Precinct 2 was placed on it and when, figures to play a key role in the



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The lead prosecutor in Barrientes Vela's upcoming public corruption trial has repeatedly asked the court during hearings to ensure that personnel information of law enforcement officers involved in the case be protected as much as possible.

A civil attorney representing Moreno and De La Cerda told the Defenders he believed both deputies were placed on a Brady list while Barrientes Vela was in office.

Ad

Moreno confirmed during his own taped deposition in September 2020 that he had been placed on the list.

The 10 biggest revelations from the Barrientes Vela lawsuit depositions

Moreno did not know how long he was on the list, only that he was added after the Texas Commission on Law Enforcement gave him a permanent reprimand for his reporting of training hours.

Moreno and De La Cerda were terminated by Barrientes Vela in early 2018, only to be reinstated.

Former Precinct 2 captain Marc D. Garcia (left) seated next to his attorney Mark Anthony Sanchez earlier this year. (KSAT)

Asked for comment about his decision to have Garcia repeatedly assert his Fifth Amendment right and not answer many of the questions during the deposition, Sanchez released a written statement that reads in part:

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On December 3, 2020, Moreno and De La Cerda's personal lawyer requested that Marc Garcia appear for a deposition in their sex discrimination lawsuits. In a deposition, a witness provides sworn, out-of-court testimony that can later be used in a jury trial. Marc Garcia followed court rules and, with me sitting right next to him, appeared for his deposition prepared to answer questions about Moreno and De La Cerda's sex discrimination claims against Bexar County, to the best of his recollection. Initially, Moreno and De La Cerda's personal lawyer asked Marc Garcia questions about their sex discrimination claims against Bexar County, which Marc Garcia answered truthfully and to the best of his recollection. Moreno and De La Cerda's personal lawyer, however, veered of topic and asked several questions about the criminal indictment filed by the District

dispute any suggestion that he committed any crime, I immediately instructed Marc Garcia to invoke his right to remain silent, which is his legal right to exercise. As Marc Garcia's attorney, it is my duty to protect him, to ensure that court rules are applied fairly and equally to him, and, if necessary, object to improper questions. It is unfair for anyone to use a civil sex discrimination lawsuit in a civil court as a tool to force Marc Garcia to defend himself against criminal charges in a separate criminal court, and I did not allow this to stand. Marc Garcia is innocent until proven otherwise and plans to exonerate himself in the 226th criminal District Court, the court designated to resolve the indictment against him, not in irrelevant sex discrimination lawsuits. He looks forward to the day when he will be vindicated.

— Mark Anthony Sanchez, criminal and civil attorney for Marc D. Garcia

“Did it make you mad that Leo Moreno rebuffed your sexual overtures?”

Barrientes Vela, whose 44-minute deposition was taken shortly after Garcia finished, answered questions about her educational background and what she was currently up to.

Barrientes Vela confirmed she does not have a college degree, but has paralegal and peace officer certifications and is currently helping her husband with his auto sales business.

When asked about her law enforcement background less than four minutes into the deposition, Barrientes Vela was instructed by attorney Patrick Ballantyne to invoke her privilege.

Ballantyne then told the other attorneys and the court reporter that Barrientes Vela would not answer any question related to her 33-month tenure as constable of Precinct 2.

Barrientes Vela then proceeded to plead the Fifth Amendment 105 times.

She avoided questions from Moreno and De La Cerda's attorney five separate times when asked about what happened in a resort hot tub during a 2017 work trip in Galveston.

“Did it make you mad that Leo Moreno rebuffed your sexual overtures?” asked attorney Dennis Richard about 17 minutes into the deposition.

“I’m going to assert my Fifth,” replied Barrientes Vela.

The incident, in which Moreno accused Barrientes Vela of putting her arms around him and trying to caress him in a hot tub at the San Luis Resort, was the basis for Moreno’s 2018 lawsuit against Barrientes Vela accusing her of sex discrimination.

De La Cerda, who testified under oath that he witnessed the incident, accused Barrientes Vela of sex discrimination in a 2019 suit also filed in state district court.

Both men have repeatedly said that they were blackballed from the agency after the trip and **were told by a former member of the Precinct 2 command staff that Barrientes Vela was searching for ways to terminate them.**

Ad

Richard, while questioning both Barrientes Vela and Garcia, shared a document on screen showing that the U.S. Equal Employment Opportunity Commission found sufficient evidence to support a hostile work

Richard, in a phone interview with the Defenders last month, called that determination "rare" and said the letter could have been introduced as an exhibit had the lawsuits gone to trial.

The video depositions of Barrientes Vela and Garcia were a stark contrast to those of Moreno and De La Cerda, who provided more than eight hours of recorded testimony during depositions taken in September 2020.

The testimony included an expansive list of ways in which both deputies said they were targeted with workplace abuse after returning to Precinct 2 in 2018.

Another former Precinct 2 deputy, Josh Ruiz, **received over \$120,000 as part of an out-of-court settlement earlier this year.**

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Ruiz sued Bexar County in December 2019, claiming that Barrientes Vela "took deliberate, calculated measures to reshape the department into a cadre of young, inexperienced loyalist deputies and rid herself of older, senior and more experienced officers when she was not otherwise engaging in chicanery such as charging the county for training exercises that she did not attend."

The suit, which alleged age discrimination violations, referred to Barrientes Vela as "the poster child of government done wrong" and said she forced out the 16-year veteran of Precinct 2 after being required to trim staff.



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Mary Burton, a former Santa Clara County prosecutor with nearly 40 years of legal experience, said attorneys

for Barrientes Vela and Garcia made the right call by not having their clients answer a majority of the questions asked during the depositions.

“She didn’t pay a dime and her assistant didn’t pay a dime. This is coming out of the county coffers. So, to my mind and I think most people, the threat of going to the penitentiary for a long time, as well as paying some pretty substantial fines on the criminal side is much greater because they’re taking away your liberty,” said Burton, referring to the settlements paid out by the county earlier this year.

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Former Harris County prosecutor Randy Burton. (KSAT)

Burton did take issue, however, with the Bexar County District Attorney's Office prosecuting the case.

He pointed out that an assistant district attorney defended Barrientes Vela in multiple lawsuits early in her tenure as constable.

"A party who represents a party in one matter cannot, within the same law firm, prosecute that person or be counter to them in a separate case," said Burton.

As an example, he pointed to Harris County, where an office separate from the DA, **the Office of the Harris County Attorney**, represents elected officials and county employees in civil suits, eliminating possible conflicts of interest.

"It concerns me greatly in terms of how aggressive the DA's office is going to go after someone that they've already tried to protect on the civil side. It's a huge problem," said Burton.

No member of the county's prosecution team has been accused of violating the Texas Disciplinary Rules of Professional Conduct.

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Attorneys for Barrientes Vela last week filed a motion to have Bexar County District Attorney Joe Gonzales disqualified from prosecuting the case, citing alleged comments made by Gonzales' former

fellow Democrat Judge Velia Meza, the judge hearing the criminal cases against Barrientes Vela and Garcia, if Meza “didn’t do the right thing” in Barrientes Vela’s upcoming public corruption trial.

Judge Sid Harle, who sat in for Meza during an Aug. 5 evidentiary hearing related to the motion, will be tasked with ruling on it, a court official previously said.

Barrientes Vela and Garcia, who face a combined nine public corruption charges, are both tentatively scheduled to go to trial Dec. 6.

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Meza previously indicated that Barrientes Vela would be tried first, however, meaning that Garcia’s trial in all likelihood would be pushed to 2022.

Attorneys for Barrientes Vela declined to speak on the record for this story.

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