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Report: Ex-Texas DA Jim Wheeler Was Under Investigation for Sexual Harassment When He Resigned

Although news reports in October 2018 revealed that Wood County Criminal District Attorney Jim Wheeler's resignation came amid an investigation, the full details haven't become widely public — until now.

By Angela Morris | August 05, 2019



Former Wood County Criminal District Attorney Jim Wheeler.

Two hours and 47 minutes.

That's how long it took Jim Wheeler to resign as the Wood County Criminal District Attorney after learning he was under criminal investigation for allegedly sexually harassing his first assistant district attorney.

Although it unfolded in October 2018, until now, the public has not known exactly why Wheeler stepped down. The reason came to light because this summer, a Texas Public Information Act request unearthed a report of investigation into Wheeler for official oppression for sexual harassment, a Class A misdemeanor.

The allegations in the Texas Department of Public Safety Texas Ranger Division's report (<https://drive.google.com/file/d/16dJNYGQ3qrYiPfaPVJEQf3sXfyx7wNI9/view?usp=sharing>) show that Wood County D.A. investigator Jerry Hirsch was suspicious of Wheeler's conduct toward then-First Assistant District Attorney Angela Albers. When Hirsch asked her, Albers admitted that Wheeler had been pursuing her for sex for eight months; she had been recording his comments for two months.

The report said Wheeler would say things like, "We could have fun together and no one would know," and ask what Albers would do when he started putting his hands on her. He didn't touch her physically, other than giving her "full-frontal hugs" in the office, said the report.

Wheeler declined to comment.

But James Paul Wheeler, who is Jim Wheeler's father and attorney, said that Jim Wheeler was not guilty of any crime.

"However, rather than go through any trial, if there was to be one, he made the determination that he would retire, and retired with the full retirement of 12 years and lifetime medical," James Paul Wheeler said.

Albers said previously, she had no aspirations to be a district attorney. She enjoyed her job and assignments as an assistant, and the political part of the elected position didn't appeal to her. Yet under Texas law, first assistants become the acting district attorney whenever the office becomes vacant, so Albers managed the office after Wheeler stepped down. Eventually, she submitted an application for Texas Gov. Greg Abbott to consider her for the position, and he appointed her in February.

"This has been my career. My kids are in this county; they have grown up here. I'm established in this county: church and all of those things. This is my job. I love being a prosecutor. I just felt like that was the right thing to do," she said.

The audio recordings that Albers provided to the Rangers also revealed Albers and Wheeler had been discussing potential criminal conduct by 402nd District Judge Jeffrey Fletcher of Wood County. According to the report, Wheeler filed a judicial misconduct complaint against Fletcher that claimed Fletcher inappropriately inserted himself into the prosecution of a DWI case that was pending in another judge's court. There were also rumors that Fletcher had sexual relationships with women in the courthouse, the report said.

Accuser Becomes D.A.

Because of the #MeToo era, which has empowered women to speak up about sexual harassment, there has been public backlash about the veracity of women's allegations and the consequences for men.

Because of this backlash, some may question the fact that Albers took Wheeler's job after he resigned.

However, Albers' outcry of sexual harassment went beyond allegations — There was enough evidence to charge Wheeler with official oppression, said Upshur County District Attorney Billy Byrd, who was appointed to prosecute Wheeler's case.

The crime of official oppression applies to a public servant acting under color of his office who commits certain offenses, according to the Texas Penal Code. One of those offenses is intentionally subjecting someone to sexual harassment, which means unwelcome sexual advances, requests for sexual favors, verbal or physical sexual conduct and more. The crime is a Class A misdemeanor, which is punishable by up to one year in jail and a \$4,000 fine.

Byrd never filed official charges against Wheeler. Instead, he asked Wheeler to resign as district attorney.

"Being very involved with the victim and fully discussing all of those potential avenues of disposition, we felt this was in the best interest of justice. My oath of office is not to see that convictions happen, but to see that justice is done," Byrd explained. "If there was a jury trial and a conviction, the same result would have happened, but getting to that point, there would have been a lot of information that was potentially harmful to other people, who were not victims."

Male Ally

The Texas Rangers investigation report reveals how the criminal probe unfolded.

Texas Lawyer first obtained the report from Laura Benitez Geisler, partner at Sommerman, McCaffity, Quesada & Geisler in Dallas. She said she requested the report through the Texas Public Information Act as she investigated her own case, *Bevill v. City of Quitman*, in which her client, former Quitman Police Captain Terry

Bevill, sued Wheeler and other public officials for alleged retaliation, which the defendants deny. Bevill's claims do not pertain to Wheeler's alleged conduct with Albers.

Related story: Texas District Judge, Ex-District Attorney Deny They Retaliated Against Former Police Captain (<https://www.law.com/texaslawyer/2019/07/15/texas-district-judge-ex-district-attorney-deny-they-retaliated-against-former-police-captain/>)

Texas Lawyer verified the authenticity of the Wheeler report by making our own open records request for the same report directly from the Department of Public Safety.

Regarding Wheeler, the Rangers report shows the matter started with the office's investigator, Hirsch. He suspected that Albers was being sexually harassed and asked her about it. She confirmed that Wheeler had been pursuing her for sex. Hirsch, who declined to comment for this story, urged her to report it to law enforcement.

It started in February 2018, the report said, when Wheeler made sexual advances, "saying, 'We could have fun together and no one would know,' 'We could get in trouble together,' and that 'She would only feel guilty for a little while.' "

His alleged sexual advances continued through the summer. Because she feared no one would believe her, in August 2018, the report said Albers started recording her conversations with Wheeler whenever he called her to his office, or came to her office and closed the door.

Texas Ranger Investigator Richard Henderson, who wrote the report, met with Hirsch, Albers and Albers' attorney on Oct. 1, 2018. They gave him a thumb drive with 48 audio recordings, the report said.

Albers told Henderson about a number of examples of unwanted sexual advances. For example, Wheeler once asked what Albers would do if he started putting his hands on her. He would give her "a full-frontal hug," yet he didn't hug other women in the office that way, said the report.

“Albers explained that she had tried numerous times to tell Wheeler she was not interested in a sexual relationship with him. Albers stated she was afraid of losing her job, having to move to find another job and the effect that it would have on her children,” wrote Henderson, who didn’t return a call seeking comment.

After Byrd was appointed to prosecute the matter and he called on a criminal investigation, Albers began having second thoughts.

“Albers was upset and crying, questioning me if she was doing the right thing in regards to pursuing this issue criminally,” Henderson wrote in the report.

Albers on Oct. 10, 2018, told Henderson she wanted to call off the criminal investigation. However, Byrd, the prosecutor, said in an interview that despite Albers’ change of heart, he had to do the right thing for Wood County.

Read the report:

REPORT OF INVESTIGATION Page 1 of 13

**TEXAS DEPARTMENT OF PUBLIC SAFETY
TEXAS RANGERS**

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LEAD INVESTIGATOR:	RICHARD HENDERSON	INVEST#:	2018I-TRF-50029819
SUPERVISOR:	BILLY MIMS	OPENED:	10/10/2018
TITLE:	OFFICIAL OPPRESSION / WOOD COUNTY / STATE OF TEXAS	FILE STATUS:	CLOSED
TYPE:	CRIMINAL	DIVISION:	TEXAS RANGERS
SERVICE:		REGION:	F
DISTRICT:		AREA:	
SUBTYPE:	ABUSE OF OFFICE	SPURS URN:	CMIV50029819
CATEGORY:		REVIEW DATE:	
SPECIAL APPROVAL:	CHANCE COLLINS	LEGACY REF:	
PROGRAM:	PUBLIC TRUST	SUBPROGRAM:	PUBLIC INTEGRITY UNIT - HQ
CASE#:			

INVESTIGATION SYNOPSIS
 On 10-09-2018, I, Texas Ranger Richard Henderson, received a letter from Billy Byrd, the Upshur County District Attorney, who had been appointed Attorney Pro Tem in regards to a complainant against the Wood County District Attorney. Mr. Byrd requested the Texas Rangers initiate a criminal investigation to determine the merits of the complaint. This report will document those findings.

SUPPLEMENTAL SYNOPSIS
 S1 10/31/2018 Re 11/14/2018 Ap Page 1 / 13
 On 10-09-2018, letter from Billy Byrd, the Upshur County District Attorney, who had been appointed Attorney Pro Tem

DA Accuses Judge

The report said that investigator Henderson met with Wheeler on Oct. 12, where the pair discussed a judicial conduct complaint that Wheeler had filed against Fletcher.



**Judge Jeffrey Fletcher,
402nd District, Texas.**

The report said that the judicial conduct complaint alleged that Fletcher had approached Albers in October 2017 to ask for information about a criminal defendant who was charged with a DWI second offense in county court. Wheeler thought Fletcher's involvement in the case was a crime, the report said.

Fletcher declined to comment.

The report also said Wheeler also told Henderson about a rumor that Fletcher was having sexual relations with women in the courthouse. Wheeler said he confronted Fletcher about the rumor because the pair were friends.

"He went to him and warned him that if he found out he had sexual relations with women in the courthouse he would charge him with official oppression under the sexual harassment section of the statute," the report said.

Texas Lawyer requested Albers' recordings and other evidence, including the judicial conduct complaint, under the open records law, but the Texas Department of Public Safety withheld the records, citing an exception to disclosure that allows law enforcement agencies to withhold records that are subject to an ongoing investigation, and the release of the records would hamper the investigation or prosecution of a crime.

"An investigation into a separate incident is ongoing and the exhibits are part of the active investigation," said the agency's letter to the Texas Office of the Attorney General, seeking a ruling about withholding the records. "Because this is an ongoing investigation, the release of potential evidence would interfere with the investigation and prosecution of this case."

The Texas Rangers has closed its investigation into Wheeler, said the Wheeler report.

When Texas Lawyer submitted an open records request to the department for an investigation report about Fletcher, the department only produced the Wheeler report. When asked again for a separate report into Fletcher, an email by assistant general counsel Brian Sears said there is none.

“The Rangers have not conducted an investigation into Jeffrey Fletcher,” Sears said.

Quick Resignation

The bulk of the Oct. 12, 2018, meeting between Henderson and Wheeler involved the discussion about Fletcher. At the very end, Henderson finally broke the news that he had hours of recordings of Wheeler making concerning, inappropriate sexual comments to Albers.

“I told him I believed it amounted to official oppression [for] sexual harassment,” wrote Henderson, who told Wheeler he was under a criminal investigation. Wheeler then invoked his right to an attorney and ended the interview at 11:28 a.m., the report said.

Exactly two hours and 47 minutes later, at 2:15 p.m. on Oct. 12, 2018, Byrd, the appointed prosecutor, contacted Henderson to say that Wheeler had agreed to resign. By Oct. 24, 2018, Henderson received Wheeler’s letter of resignation, which took effect Jan. 1.

James Wheeler, Jim Wheeler’s father and attorney, said Jim Wheeler is a good man who went directly into prosecution after earning his law degree from Baylor University School of Law in 1999. He worked in the McLennan County District Attorney’s Office for a time, then did criminal defense work with his father before running for election as the Wood County district attorney.

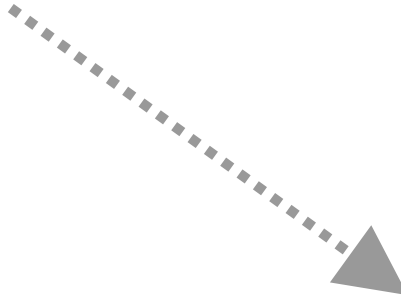
“I think he handled criminal justice as best as it could be done,” he said.

Wheeler timeline



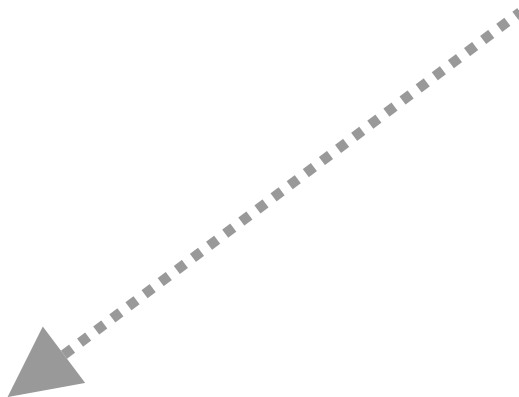
February 2018

Wheeler allegedly makes his first unwanted sexual advance against Angela Albers.



August 2018

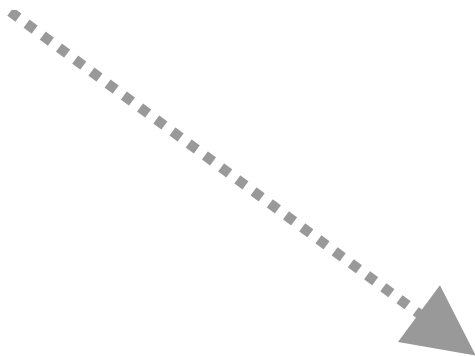
Albers fears no one will believe Wheeler is allegedly sexually harassing her, and so she begins audio recording her conversations with him.



September 2018

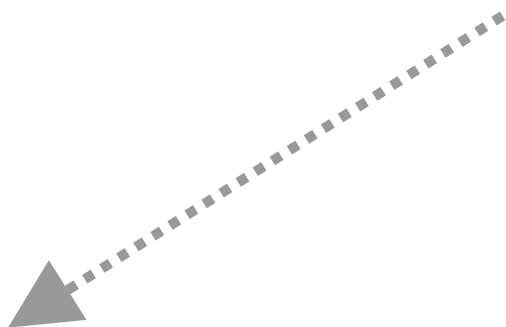
Jerry Hirsch emails the Texas Department of Public Safety Texas Ranger Division to report that Wheeler had allegedly been sexually harassing Albers for at least six months.





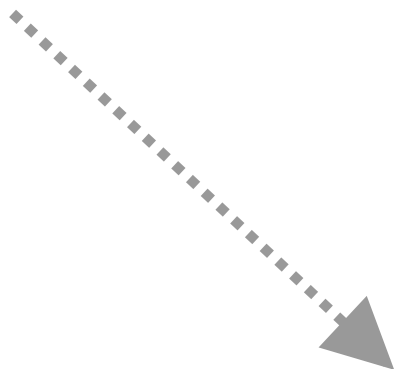
October 1, 2018

Texas Ranger Investigator Richard Henderson first meets with Hirsch, Albers and her attorney. They give him 48 audio recordings showing Wheeler's alleged sexual harassment, and discussions about alleged criminal conduct by 402nd District Judge Jeffrey Fletcher.



10th

Albers tells Henderson she wants to call off the criminal investigation because of potential ramifications for herself and her family.

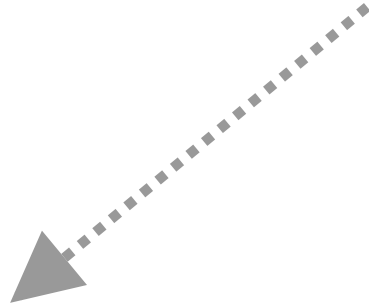


October 12th, morning

Henderson meets with Wheeler and learns about his accusations that Fletcher engaged in alleged

criminal conduct by inserting himself improperly into a DWI prosecution, and having sexual relationships with women in the courthouse. Henderson then tells Wheeler he's under criminal investigation for official oppression for sexually harassing Albers.

Jeffrey Fletcher



12th, afternoon

Wheeler meets with Upshur County District Attorney Billy Byrd, the appointed prosecutor in the case, and agrees to resign as Wood County district attorney in order to avoid being prosecuted for official oppression.



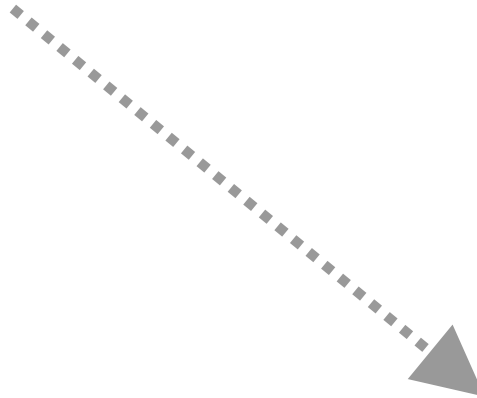
24th

Henderson receives a copy of Wheeler's letter of resignation.



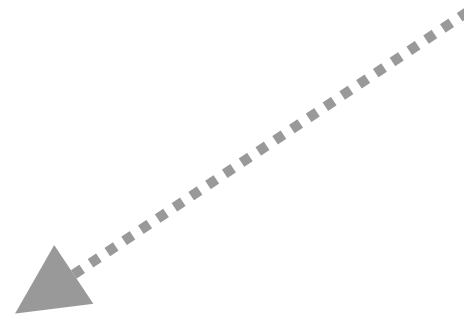
1st

Wheeler's resignation becomes effective.



February 8, 2019

Gov. Greg Abbott appoints Albers, who had already served as acting district attorney after Wheeler's resignation, to fill the remainder of Wheeler's term. It runs through 2020.



15th

Texas Lawyer obtained a copy of the Rangers' investigative report into Wheeler from Dallas lawyer Laura Benitez Geisler, who got it through a Texas Public Information Act request.

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