

**REVIEW OF MARICOPA COUNTY ATTORNEY'S
OFFICE'S POLICY, PROCEDURES & ACTIONS INVOLVING
THE PROTEST ARREST ON OCTOBER 17, 2020.**

**SUBMITTED
BY
ROLAND J. STEINLE
August 6, 2021**

SCOPE OF THE REVIEW

The scope was to provide an independent review of the charging decisions and processes of the Maricopa County Attorney's Office (MCAO) related to the October 17, 2020, arrest of fifteen (15) protesters related to the Black Lives Matter Movement march in the City of Phoenix. It will also include a review of the related policies and procedures and whether the MCAO prosecutors followed the existing prosecution policies.

STANDARD FOR REVIEW

The first question is what is the standard to be used in determining the question presented? The minimum standard is set for in the Arizona Code of Professional Responsibility:

ER 3.8. Special Responsibilities of a Prosecutor

The prosecutor in a criminal case shall:

- (a) refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause;

COMMENT

[1] A prosecutor has the responsibility of a minister of justice and not simply that of an advocate. This responsibility carries with it specific obligations to see that the defendant is accorded procedural justice, that guilt is decided upon the basis of sufficient evidence, and that special precautions are taken to prevent and to rectify the conviction of innocent persons.

However, the ABA CRIMINAL JUSTICE STANDARDS FOR THE PROSECUTION FUNCTION set forth a standard which is more explicit, and which will assist in looking at the circumstances. While not a mandatory minimum, it is certainly an aspirational standard.

Standard 3-1.2 Functions and Duties of the Prosecutor

- (a) The prosecutor is an administrator of justice, a zealous advocate, and an officer of the Court. The prosecutor's office should exercise sound

discretion and independent judgment in the performance of the prosecution function.

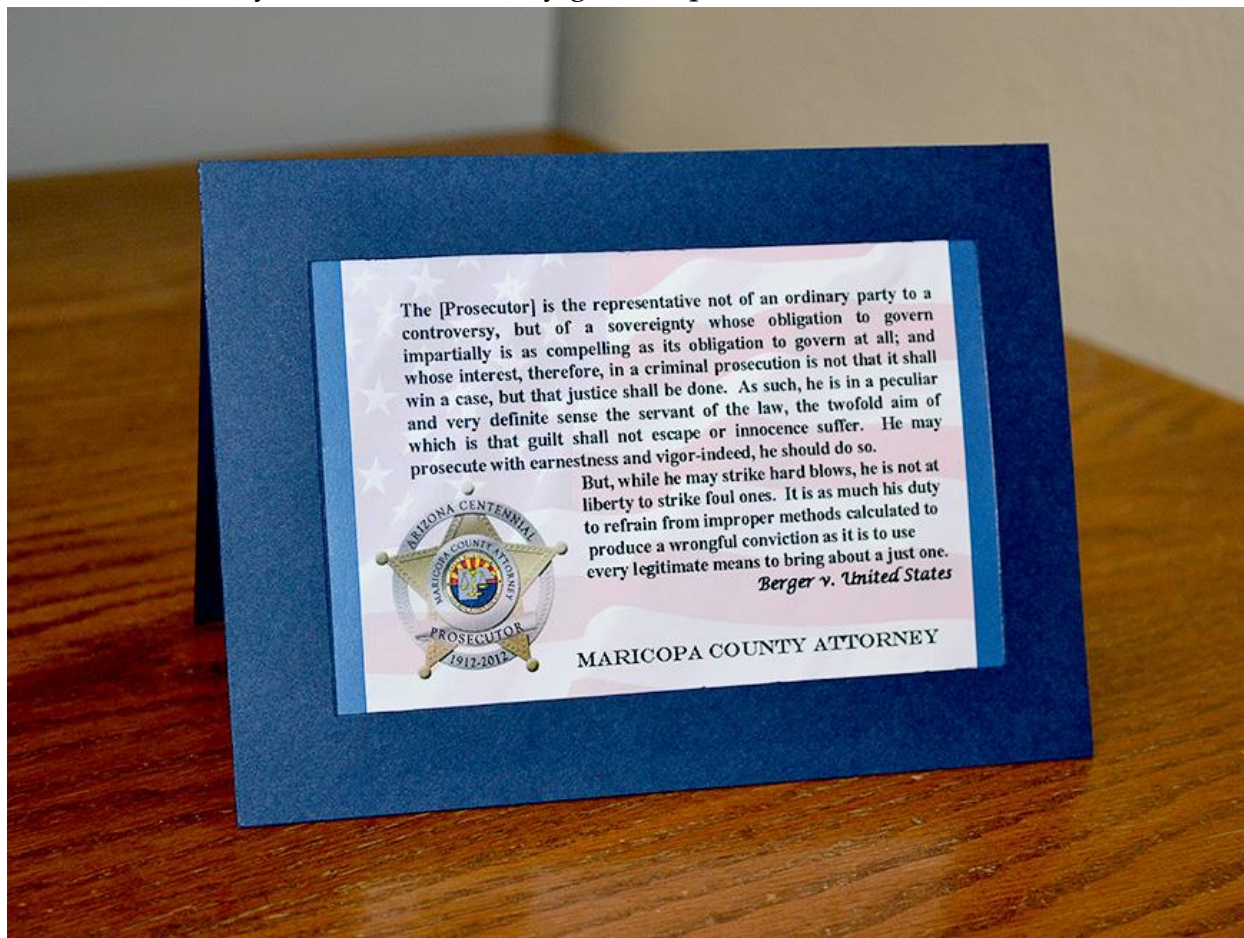
(b) The primary duty of the prosecutor is to seek justice within the bounds of the law, not merely to convict. The prosecutor serves the public interest and should act with integrity and balanced judgment to increase public safety both by pursuing appropriate criminal charges of appropriate severity, and by exercising discretion to not pursue criminal charges in appropriate circumstances. The prosecutor should seek to protect the innocent and convict the guilty, consider the interests of victims and witnesses, and respect the constitutional and legal rights of all persons, including suspects and defendants.

Standard 3-1.3 The Client of the Prosecutor

The prosecutor generally serves the public and not any particular government agency, law enforcement officer or unit, witness or victim. When investigating or prosecuting a criminal matter, the prosecutor does not represent law enforcement personnel who have worked on the matter and such law enforcement personnel are not the prosecutor's clients. The public's interests and views should be determined by the chief prosecutor and designated assistants in the jurisdiction.

Accordingly, the public's interests and views should be determined by the elected prosecutor, Allister Adel and her designated assistants, in this case Ken Vick.

This standard seems to reflect County Attorney Alister Adel's view. When she hires new attorneys, each new attorney get this quote:



With this mind, the review will begin.

FACTS AND TIMELINE

During the summer of 2020 protests erupted across the United States in response to the death of George Floyd. Protestors took to the streets in cities across the nation to express their solidarity with those affected by police shootings and to voice their concern in regard to racial issues and the treatment of black citizens when arrested. Phoenix was one of the many cities that experienced protests throughout the summer and fall. The protests raised the question can law enforcement police the city in an unbiased way.

The ideologies that unified and motivated the protesters were under the umbrella of the Black Lives Matter Movement. The Joint Task force SITUATIONAL AWARENESS BULLETIN early in October, 2020 listed Arizona Protests/Events October 5-17, 2020 Phoenix: 1900 hours

- No Justice No Peace
- Location: 1002 W Van Buren St
- Hosted by: bvalthagod on instagram
- Source: twitter.com/Freedom4ThePeo1/status/1310291696844861440
- Source: [instagram.com/p/CFp8goQgP4h/](https://www.instagram.com/p/CFp8goQgP4h/)

The flyer is set for below:



The theme “we have been peaceful, we have been patient, we have been ignored” has been a recurring theme since the mid 60’s when the late Congressman John Lewis stated the following at the march on Washington D.C. in August of 1963:

...To those who have said, “Be patient and wait,” we have long said that we cannot be patient. We do not want our freedom gradually, but we want to be free now! We are tired. We are tired of being beaten by policemen. We are tired of seeing our people locked up in jail over and over again. And then you holler,

“Be patient.” How long can we be patient? We want our freedom and we want it now. We do not want to go to jail. But we will go to jail if this is the price we must pay for love, brotherhood, and true peace.

According to a 5/24/21 USA Today article:

In 2020, 1,127 people were killed by police, according to data collected by Mapping Police Violence, a research collaborative that uses a variety of state and regional databases to determine the number and nature of most but not all police-involved deaths.

... Black people represented 27% of all police deaths last year, although they are 13% of the population. Latinos comprised 21% of those killed and are 17% of the population. The database does not break out police deaths of Asian Americans and Native Americans.

So, the underlying issue which began with George Floyd’s death continues and will continue into the future with the protest marches which demand reforms in how law enforcement departments police their streets. In the underlying criminal case, Judge Jennifer Ryan-Touhill gave a thoughtful comment on the current state of affairs:

2020 was a tough year. Social unrest, partisanship, racism, sexism, divisiveness, cowardice, lack of empathy, and a shortness of patience led to pervasive conflict in America. Add in a global pandemic, food insecurities, significant anxiety, and grief and trauma. . . it is no wonder discord exists. People have a right to feel safe, respected, and entitled to their opinions. People have a right to navigate their lives in a manner that suits them. People have a right to express outrage over brutality, deception, and demoralizing behavior. And people—all people—have to share these rights with everyone else. No one person’s rights supersede those of others and, yet, it is difficult to find balance within the disharmonious exchanges. Moreover, it is undoubtedly difficult to separate simple civil disobedience from serious threat to safety and well-being, especially in light of our current environment.

The Phoenix Police Department received what they believed to be credible threats against them, opened an investigation into these threats, and took steps to jettison those threats while executing their duty. This Court cannot opine on whether the threats were or were not credible, whether the police conducted their investigation

in an appropriate manner, or if the steps taken were necessary given the circumstances.

With this backdrop, after reviewing the circumstances of the protest march of October 17, 2020, and subsequent arrests it is necessary to start in the summer of 2020. What happened on October 17th was the direct result of actions taken by individual members of the Maricopa County Attorney's Office since the original protests began in the summer. There existed no Maricopa County Attorney Office (here after referred to as MCAO) policy to deal with protest cases. Ken Vick, chief deputy, indicated there was not a policy. In his long career in the MCAO's office, protest cases were rare. Earlier in the year after the death of George Floyd approximately 140 cases came in related to the Black Lives Matter protests. As a matter of convenience, he gave these cases to Sherry Leckrone since she was the supervisor of the "First Responder Bureau". He told her that she should go through the files and kept a few cases involving aggravated assault on police officers (both class 4 and class 5), however, the vast majority were to be sent to the City of Phoenix for prosecution in Phoenix City Court. He assumed that other cases that came in throughout the summer were handled in a similar fashion. The Scottsdale cases were handled different because they were investigated differently because they involved vandalism and looting of stores.

In early August 2020, the protesters arrested on August 9th were now being charged with Riot as a class 5 felony, and Hindering Prosecution, a class 5 felony as well as other charges. Based upon the email correspondence with defense counsel, cases were no longer being referred back to the Phoenix City Attorney. Now the defendants were charged which included Riot, class 5 felony. The following email exchange shows the coordination between MCAO & PPD. The email chain begins with an email from Phoenix Police Officer Jeffrey Howell to Sgt. McBride who then forwards it on to April Sponsel with the note "Does This work?". April Sponsel's response to SGT McBride is "Perfect".

From: April Sponsel

Sent: Wednesday, August 12, 2020 8:18 AM

To: Douglas R McBride

Subject: RE: FORM 4

Perfect!!!

From: Douglas R McBride <Douglas.McBride@phoenix.gov> **Sent:**

Tuesday, August 11, 2020 11:31 AM

To: April Sponsel <Sponsela@mcao.maricopa.gov>
Subject: Fw: FORM 4

Does this work?

From: Jeffrey A Howell <
Sent: Sunday, August 9, 2020 22:27 **To:** Douglas R McBride <
Subject: FORM 4

This is what April had sent for requirements:

Hey Jeff nice to email you. Can you please take a look at this report and then add on the form 4 how the suspect was Identified? This is what we have to prove for RIOT and I think this guy fits the bill but just need to make sure that the form 4 lists out the elements. This is what PPD formulated after the first couple of days. This is what we need to prove. Let me know if you have any questions. What is nice is our eye witness is Chuck Rowland from the US Marshall's office that is now in Portland dealing with the stuff over there. Once the form 4 is fixed I can get the case charged.

On _____ at _____ hours, at _____, located in the City of Phoenix, Maricopa County, the defendant committed rioting by using force or violence with more than two persons by _____ (list what they did, threw rocks, fireworks, bottles etc. towards law enforcement or caused damaged to property). This occurred after an unlawful assembly was declared and an order was given at _____ hours, by _____ serial#. Multiple orders were given over the course of _____ hours. The defendant continued to refuse to disperse while engaging in rioting and was arrested at _____ hours.

I have attached the one I wrote for the form 4 that barely had any info for it. The other form 4's are listed in April's earlier emails..

**OFFICER JEFF HOWELL #5823 DOWNTOWN LIAISON OFFICER,
ABATEMENT, ROP DETECTIVE DOWNTOWN OPERATIONS UNIT
PHOENIX POLICE DEPARTMENT**

The plea offers extended required the defendants to plead to at least a class 6 felony much to the chagrin of defense counsel who were still pleading to have the cases sent to the City Attorney where the plea offers involved deferred dispositions. Later in August the same approached was taken for arrest made for a protest march on August 24, 2020. I received no emails/memorandum by Ken Vick nor did he relate to me during an interview wherein he approved the change in the process he had set forth earlier in the summer. Again, he assumed the process he set out was being followed. Therefore, it was an internal decision by the First Responder Bureau whose supervisor was Sherry Leckrone. Despite several requests Ms. Leckrone did not sit for an interview before she resigned from the office. As a county employee she has certain rights when there is a request to interview the employee. While Sherry Leckrone did not refuse the requests, she left the office before she was interviewed. From the beginning and until December of 2020, she was the one who assigned the cases to members of the unit.

In early September, April Sponsel sent the following email:

From: April Sponsel

Sent: Wednesday, September 9, 2020 2:38 PM

To: Sherry Leckrone; Vince Goddard; Ken Vick; Jennifer Liewer

Subject: File , Court Case Number CR2020-130075-006 For Defendant Wilson, Khiry Jaquan

Hello all,

Just wanted to let you know that this defendant just pled guilty to Riot, class 5 and Hindering, class 5 - No agreements - for the crimes that occurred on August 9th in front of 620 when the barriers were torn down and the rioters tried to storm 620. His sentencing is set on October 27th.

Please let me know if you need anything

The email was sent to Vince Goddard and Ken Vick. Later in September, April Sponsel sent a self-congratulating email to MCAO Adel indicating this plea was the first such plea in the country. After some exchange with MCAO Adel and Sherry Leckrone, it was agreed they would settle for first time locally. It is important to note that these emails involve one individual defendant and it does not set forth that this was part of a new approach to handling protest cases.

In late September, 2020, the Phoenix Police Department sent an inquiry to Tom Van Dorn who is a deputy county attorney. He also is Director - Investigations Department, Chairman of the Critical Review Committee and he is a liaison between the County Attorney and the county's chiefs of police. The email suggested that MCAO begin to look at the cases to treat them as conspiracy and/or syndicate type cases as it relates to protest/demonstration activities. Here is the exchange:

From: Tom Van Dorn <vandornt@mcao.maricopa.gov>
Sent: Thursday, September 24, 2020 8:32:07 AM
To: Vince Goddard <goddardv@mcao.maricopa.gov>; Sherry Leckrone <Leckrons@mcao.maricopa.gov> Subject: Fwd: My contact

Vince and Sherry:

Bryan is a Sergeant in HDB and would like to discuss with you all the possibility of building conspiracy and syndicate type cases as it relates to protest/demonstration activities. Would you please reach out to him and discuss at your convenience? Thanks.

Tom

Tom Van Dorn
Director
Investigations Department
Email: vandornt@mcao.maricopa.gov Phone: 602- | Mobile: 602-
225 West Madison Street, 3rd Floor Phoenix, AZ 85003
<http://www.maricopacountyattorney.org> Sent from iPhone/iPad

From: Bryan L Korus <Bryan.Korus@phoenix.gov> Sent: Thursday, September 24, 2020 8:28 AM
To: Tom Van Dorn
Subject: My contact

Tom,
My contact info is in my signature and my personal cell is 480-

Thanks, Bryan

According to his sworn statement, he has no supervisory role with the First Responder Bureau and he was not a decision maker for the charging and non-charging

of criminal cases. On September 24, 2021, he forwarded the email to Vince Goddard and Sherry Leckrone. Other than forwarding the email, he did not arrange or participate in any meetings between MCAO and PPD. He did participate in the “incident review” of 10/30/20, as part of the leadership team, however, he did not provide any recommendations or opinions with respect to this incident or any criminal cases.

A meeting was scheduled Wednesday, September 30th at 2:30 pm at MCAO. There was an email exchange setting up the date. In my interview with Mr. Goddard, he did not indicate that he, in fact, did attend a meeting. Sherry Leckrone did not sit for an interview before she left the office. There was no email, memorandum or other documentation of what happened at the meeting or whether it actually took place. Mr. Goddard specifically said he did not attend the Valley-Wide Training on October 14, 2020. The direct result was that beginning with the October 17th protest, a new way of charging was discussed with Phoenix Police Department which will be discussed later in section concerning MCAO involvement in the charging. It is clear there were no memorandums, or internal meeting with Ken Vick nor MCAO Adel. Decisions were made internally within the First Responder Bureau.

According to an interview of Vince Goddard, he stated that while he was not the direct supervisor for April Sponsel (Sherry Leckrone was her direct supervisor), April Sponsel came to him. According to him, every once in a while, things would get out of sync and a deputy county attorney would come to him directly. He supervised several units including the homicide unit and at the time of this case, Vince Goddard’s attention was focused on the Homicide Unit and an especially difficult case he inherited from Juan Martinez. It should be noted he supervised the Capital Litigation Bureau, the Homicide Bureau and the Gang Bureau so he had responsibility for the most complex and difficult cases in the office.

Vince Goddard stated when April Sponsel came to him and she told him that the police were investigating a “hard core group”. His recollection was in it was 4 people. It could have been 3 or 5 but he does recall it was approximately 4. The only one he remembered was Suvarna Ratnam because of her unusual name. They had a confidential informant who was feeding them information. She told him they were looking for the “big case” where they were going to look at gang charges. He personally did not like the “big case theory” where you have limited targets and you charge a large group people. Vince Goddard expressed his opinion he did not favor the “big case” approach and he

found them to be problematic because you end up pleading the vast majority to relatively minor charges.

On September 28, 2020, Karl Martin received an email from Vince Goddard which indicated Vince Goddard had a priority project. According to Karl Martin's sworn statement, Vince Goddard told him, based upon his experience investigating criminal street gangs/criminal syndicates, he wanted him to investigate the potential for criminal gang/criminal syndicate charges as to groups of protesters. Karl Martin was to contact Phoenix Police Downtown Operations.

Karl Martin met with Phoenix Police Officer Jeff Howell who had accumulated the intel for the groups. He was given charts for two groups: "We Rising Project" and "ACAB" which had been generated by the Phoenix Police. He concentrated on "WE Rising Project" group because it appeared most active at the time. For several weeks, he and Officer Howell met at MCAO. He was provided PPD reports and other evidence including phone screen shots in order to gather information to further potential of charging gang or syndicate charges.

After review and analysis, and based upon his experience in investigating criminal street gangs/criminal syndicates, he formed the opinion that the information from the Phoenix Police Department would only aid in the prosecution of non-gang charges against member of the "We Rising Project". Further, he formed the opinion that the information did not establish probable cause to charge "We Rising Project" as a criminal street gang under the applicable criminal statutes. He communicated his opinions to his supervisor MCAO Ira Williams and MCAO Chief William Long.

At or around, mid-October, 2020, either Officer Howell or Officer Steve Denny informed Karl Martin that an informant, Riley Behrens, informed a detective that Elizabeth Carpenter allegedly made a direct threat to shoot Phoenix Police Lt. Ben Moore. Based upon the police reports and certain evidence provided, Karl Martin authored a draft search warrant for a cell phone to further investigate the threat. The draft was provided to DCA April Sponsel and PPD Sgt. Doug McBride on October 22, 2020 and forwarded to PPD Lt. Bryan Knueppel on 10/26/20. The warrant was never served.

The Phoenix Police submitted charges to MCAO for the 10/17/20 protest event the night of the arrests. On October 21, 2020, Karl Martin emailed a document to Vince Goddard, DCA April Sponsel and Officer Howell containing information relating to Suvarna Ratnam, one of the arrestees. The information was based upon the information

he had developed from his work on the draft search warrant that was never served. In the document, he indicated that Ms. Ratnam's conduct appeared to meet several of the criminal gang criteria, however, he did not express an opinion that Ms. Ratnam or any of the protesters should be charged as a member of a criminal street gang. This document was written to support the issuance of a search warrant for further investigation only. The email chain is set forth below.

On October 14, 2020, April Sponsel presented at the Valley-Wide Force/Protest Meeting at the Scottsdale Training Facility. MCAO Allister Adel made opening remarks but she left after the remarks. The Power Point (Exhibit #1) was reviewed by Sherry Leckrone the day before the presentation and in an email, she cautioned April Sponsel that the it came close to crossing the line where she was giving legal advice. In the presentation, it was suggested that the following should be charged: Rioting, Resisting Arrest, Hindering Prosecution and Aggravated Assault. This was consistent with what the First Responder Bureau was doing in the protest cases charged in August. Vince Goddard was invited to the meeting on October 14th. He did not attend because he was dealing with a difficult and problematic case he had inherited from Juan Martinez.

On October 20th, which was the Tuesday after the October 17th protest arrests, according statements made by Vince Goddard in his interview, Sherry Leckrone told County Attorney Allister Adel that she needed to get a hold of Vince Goddard to conduct an "incident review". Vince Goddard never got a hold of Allister Adel. However, an incident review was scheduled but because of the number of senior leadership people needed and availability conflicts, it was agreed that the incident review would be on October 30th.

On October 17th, April Sponsel sent an email to IA Court. It was sent at 10:48 pm on the night of the arrest. The police were still processing the individuals and writing their reports. A review of the BWC video in the police station reveals that twice during the evening the police were informed that April Sponsel was directing what charges were to file and how to address the form 4. Late in the evening the officers were informed they should add a count of riot at the direction of April Sponsel. Since April Sponsel was not at the police station on 10/17/20, these actions were taken based upon oral reports from the Phoenix Police personnel to April Sponsel. This is confirmed by an email from April Sponsel to Tom Van Dorn and Vince Goddard the next day wherein she said "Thanks Tom, I had a lengthy discussion with the Sgt's last night"(see email set forth below). And then in preparation for the initial appearance before the IA Commissioner, April Sponsel sent the following email at 10:48 pm while the police were still processing the people arrested.

From: April Sponsel

Sent: Saturday, October 17, 2020 10:48:51 PM (UTC-07:00) Arizona

To: MCAO IA Court Attorney; Nicholas Michaud; Sherry Leckrone; Vince Goddard
Subject: Fwd: ARRESTED SUBJECTS

Hello IA peeps,

Attached is a list of individuals who will be booked in mainly for conspiracy to commit Agg Aslt, class 2 and other offense for a riot tonight in PHX. These individuals, many of them, used smoke bombs throwing them at officers. If there are any issues please give me a call at 602-

Suspect Ratnam should be held non-bondalbe as she is on release for stabbing and officer with an Umbrella with a sharpened end.

Thanks

The following are the exchanges early the next morning.

From: George Kelemen <kelemeng@mcao.maricopa.gov>

Sent: Saturday, October 17, 2020 11:11:44 PM

To: April Sponsel <Sponsela@mcao.maricopa.gov>

Cc: Burt Jorgensen <JORGENSE@mcao.maricopa.gov>; MCAO IA Coverage <IACoverage@mcao.maricopa.gov>; Nicholas Michaud <michaudn@mcao.maricopa.gov>; Sherry Leckrone <Leckrons@mcao.maricopa.gov>; Vince Goddard <goddardv@mcao.maricopa.gov>

Subject: FW: ARRESTED SUBJECTS FROM PHOENIX RIOTS April,

Thanks for heads up, will be looking for them. Burt has daytime IA coverage beginning with 8 am IA Court session. Trust Phoenix PD has been instructed to do good particularized Form IV P/C statements for each of them. George

From: April Sponsel <Sponsela@mcao.maricopa.gov>

Sent: Saturday, October 17, 2020 11:13 PM

To: George Kelemen <kelemeng@mcao.maricopa.gov>

Cc: Burt Jorgensen <JORGENSE@mcao.maricopa.gov>; MCAO IA Coverage <IACoverage@mcao.maricopa.gov>; Nicholas Michaud

<michaudn@mcao.maricopa.gov>; Sherry Leckrone
<Leckrons@mcao.maricopa.gov>; Vince Goddard
<goddardv@mcao.maricopa.gov>

Subject: Re: ARRESTED SUBJECTS FROM PHOENIX RIOTS Thank you
and yes they have!!
Get Outlook for iOS

From: George Kelemen <kelemeng@mcao.maricopa.gov>
Sent: Saturday, October 17, 2020 11:21 PM
To: April Sponsel <Sponsela@mcao.maricopa.gov>
Cc: Burt Jorgensen <JORGENSE@mcao.maricopa.gov>; MCAO IA
Coverage <IACoverage@mcao.maricopa.gov>; Nicholas Michaud
<michaudn@mcao.maricopa.gov>; Sherry Leckrone
<Leckrons@mcao.maricopa.gov>; Vince Goddard
<goddardv@mcao.maricopa.gov>

Subject: RE: ARRESTED SUBJECTS FROM PHOENIX RIOTS
Great, they've been instructed. Now we'll see whether they do. ??

From: George Kelemen <kelemeng@mcao.maricopa.gov>
Sent: Sunday, October 18, 2020 5:33:09 AM
To: April Sponsel <Sponsela@mcao.maricopa.gov>; Burt Jorgensen
<JORGENSE@mcao.maricopa.gov>
Cc: Nicholas Michaud <michaudn@mcao.maricopa.gov>; Sherry Leckrone
<Leckrons@mcao.maricopa.gov>; Vince Goddard
<goddardv@mcao.maricopa.gov>; MCAO IA Coverage
<IACoverage@mcao.maricopa.gov>
Subject: ARRESTED SUBJECTS FROM PHOENIX RIOTS

April and Burt,

The rioters appear distributed between the 8 am and 11 am IA calendars.
The scheduled Judicial Officer is Steven McCarthy. I tried to skim all the
Form IV P/C statements.

*They are understandably alike, but appear to name the individual arrestee
at least at one point in each of them.* The facts recite that incendiary
device were thrown at the police and most of the arrestees are charged
with conspiracy to commit aggravated assault against the police officers.

The main problem I see is that the booking statute is cited as the garden variety ARS 13-1204(A)(8)(A) rather than the more appropriate ARS 13-1204(A)(2). Not sure whether you want to do Page Two "Scratch/Add" on all of these or go with them as is at IA and correct the error at formal charging. Moreover, even if corrected for the IA, it's not clear whether it would make any significant difference in Comm McCarthy's release terms. Simply FYI and a heads up.

George

Emphasis was added on the issue of individuality of the Form 4 probable cause section.

From: Vince Goddard <goddardv@mcao.maricopa.gov>
Sent: Sunday, October 18, 2020 6:39 AM
To: George Kelemen <kelemeng@mcao.maricopa.gov>; April Sponsel <Sponsela@mcao.maricopa.gov>; Burt Jorgensen <JORGENSE@mcao.maricopa.gov>
Cc: Nicholas Michaud <michaudn@mcao.maricopa.gov>; Sherry Leckrone <Leckrons@mcao.maricopa.gov>; MCAO IA Coverage <IACoverage@mcao.maricopa.gov>
Subject: Re: ARRESTED SUBJECTS FROM PHOENIX RIOTS

Thanks George

After IA Court was concluded the IA deputy sent the following email.

From: Burt Jorgensen <JORGENSE@mcao.maricopa.gov>
Sent: Sunday, October 18, 2020 12:20:47 PM
To: Vince Goddard <goddardv@mcao.maricopa.gov>; George Kelemen <kelemeng@mcao.maricopa.gov>; April Sponsel <Sponsela@mcao.maricopa.gov>; Jennifer Liewer <liewerj@mcao.maricopa.gov>; Ann Alexov <Alexov@mcao.maricopa.gov>; David Foster <Fosterd@mcao.maricopa.gov>; Tom Van Dorn <vandornt@mcao.maricopa.gov>
Cc: Nicholas Michaud <michaudn@mcao.maricopa.gov>; Sherry Leckrone <Leckrons@mcao.maricopa.gov>; MCAO IA Coverage <IACoverage@mcao.maricopa.gov>; MCAO IA Court Attorney

<iaca@mcao.maricopa.gov>

Subject: RE: ARRESTED SUBJECTS FROM PHOENIX RIOTS

IA results from 11AM IA calendar. 10 additional cases.

I made a record that the incendiary devices were described in two of the form IVs as either a smoke grenade or a gas grenade.

Bottom line, the IA Commissioner did not find probable cause for the "aggravated assault" counts for each defendant. The recurring problem arose at the hearing because the Form 4 facts were for the most part "cut and paste". The next day April Sponsel replied to an email.

From: April Sponsel

Sent: Sunday, October 18, 2020 7:14 AM

To: Tom Van Dorn; Vince Goddard

Subject: Re: ARRESTED SUBJECTS FROM PHOENIX RIOTS

Thanks Tom, I had a lengthy discussion with the Sgt's last night and they knew to book in under the A2....I don't know if there is an issue with RMS defaulting to the A8 or something but this seems to happen a lot. populated the information but I will let they Sgt's know.

On October 20th, Judge Gregory Gnepper, Maricopa County Superior Court, found probable cause to issue a search warrant for the search of certain devices identified in the search warrant, based upon a sworn affidavit signed by Karl Martin. The search warrant (SW2020-014245) was placed under seal. The search warrant was obtained in furtherance of an investigation into potential criminal syndicate/criminal gang relating to the alleged conduct of certain protester groups, being conducted per DCA Goddard's direction earlier. The search warrant was for investigative purposes only. To his knowledge, no criminal syndicate/criminal street gang charges had been filed against the protesters. The following email was sent after a judge signed a search warrant. The following email was sent to Vince Goddard.

From: Karl Martin <martik01@mcao.maricopa.gov>

Sent: Tuesday, October 20, 2020 2:16 PM

To: Vince Goddard <goddardv@mcao.maricopa.gov>; April Sponsel <Sponsela@mcao.maricopa.gov> Subject: signed search warrant

Sent to PPD Robbert Marshal and Chris Scott to start on those phones.
Note one of the charges is leading and assisting a criminal syndicate.

On October 21, 2020 Karl Martin drafted an affidavit and sent it to April Sponsel.
She thought it was an amazing idea.

From: April Sponsel
Sent: Wednesday, October 21, 2020 8:41 AM
To: Karl Martin; Vince Goddard; Jeffrey A Howell
Subject: RE: Take a look at Ratnam for street gang

I agree!! This a amazing.

From: Karl Martin <martik01@mcao.maricopa.gov>
Sent: Wednesday, October 21, 2020 8:36 AM
To: April Sponsel <Sponsela@mcao.maricopa.gov>; Vince Goddard <goddardv@mcao.maricopa.gov>; Jeffrey A Howell <Jeffrey.Howell@phoenix.gov>
Subject: Take a look at Ratnam for street gang

When I thought we actually had a location to serve, I started a search warrant. Take a look and see if you agree on my assessment of her meeting the criteria for qualifying as a street gang member.

Your Affiant Detective Karl Martin #755 retired from Phoenix Police Department on January 2018 after serving 28 years in multiple detective details to include nine years in violent crimes bureau homicide unit. Since March 2018 is currently working for the Maricopa County Attorney's Office as a capital homicide detective. Your affiant learned the following:

Suvarna Ratnam aka "Sue" or "Lotus" has identified herself as an active member of A.C.A.B. (all cops are bastards). This group is similar to the ANTIFA group and shares its ideology. Members in these groups have a tendency of taking a leadership role by organizing, planning, and having an increased propensity for violence towards police officers. During a continuing investigation involving several members of the A.C.A.B. group and the "We Rising Project". Search Warrants have been authored and executed on members of both groups garnering information from their cellular phones.

On July 14, 2020, Phoenix Police Sergeant Larry Davis #6367 Authored a search warrant for Kristen Byrd and Jonah Ivy's cellular phones. Search Warrant 2020-009131 was authorized by Honorable Gregory Gnepper. Detectives were able to obtain data from Jonah Ivy's cellular phone. Jonah Ivy is identified as an active member of the "We Rising Project". Ivy also utilized the "Signal App" and messages, threads/chats were recovered.

Jonah is in conversation with an A.C.A.B. member "Sue" Suvarna Ratnam looking up Phoenix Police Chief Jeri Williams home address and husband Judge Cody Williams. The address was on the tread/chat. There were also names and addresses of other active members of Phoenix Police Department and Mayor Kate Gallego.

Using her cell phone number: 301-956-4728 verified by TLO

In another Signal App conversation Suvarna Ratnam tells the group she made the server. " Just don't post anything sensitive in it, It's not as secure as Signal, but we can organize information though. It's encrypted. However, unlike Signal, discord explicitly complies with subpoenas: <https://discord.gg/WvdUQN>"

This along with many other conversations of telling members where to meet and police tactics. It is a clear indication of her leadership role within the A.C.A.B. group. Booking photos of Ratnam reveals a tattoo on her left upper chest of the A.C.A.B. identifier of one dot, three dots, one dot, two dots indicated the numerical order of the alphabet. This is a common practice of a criminal street gang. Ratnam has met at least four of the criteria that indicate she is part of a criminal street gang. 1. Self-proclamation 2. Written or electronic correspondence 3. Tattoos 4. Other indicia of street gang membership.

"Criminal street gang" means an ongoing formal or informal association of persons in which members or associates individually or collectively engage in the commission, attempted commission, facilitation or solicitation of any felony act and that has at least one individual who is a criminal street gang member.

"Criminal street gang member" means an individual to whom at least two of the following seven criteria that indicate criminal street gang membership apply:

- (a) Self-proclamation.
- (b) Witness testimony or official statement.
- (c) Written or electronic correspondence. (d) Paraphernalia or photographs.
- (e) Tattoos.
- (f) Clothing or colors.

(g) Any other indicia of street gang membership.

Recent arrests:

Phoenix Police Report: 202000001394037

3 Cts. 13-1204.A.8.A- Aggravated Assault on Officer 13-2508.A.2- Resisting arrest

On 08/24/2020, Suvarna Ratnan was arrested for throwing water bottles at Police Officers, while attempting to arrest Ratnan she stabbed Police Sergeant Herr in the hand with a sharpened edge of an umbrella causing an open wound injury to the Sergeant. In Ratnan's backpack was Acetone, several large pieces of metal, as well as protective gear, ear plugs, goggles.

Phoenix Police Report: 202000001707081

3 Cts. 13-1204A8A Aggravated Assault on Officer

1 Cts. 13-2512A Hindering prosecution F5

1 Cts. 13-2903A Riot F5

1 Cts. 13-2902A Unlawful assembly 1M

1 Cts. 13-2906A1 Obstruct highway/Pub thoroughfare M1

On 10/19/2020 Suvarna participated in a riot at 1002 West Van Buren St. when she and other ACAB members impeded traffic and business access. Ignoring police commands to disperse, the group began to huddle together, from the group 3 incendiary devices were thrown towards police cars that were following behind. The group pulled in tight to conceal the person throwing the devices. The group also toppled construction zone barriers utilized to protect the public during construction. One of these barriers were thrown under a Police Supervisor vehicle making it inoperable. During an interview with co-defendant Jessica Behrens "Riley" she told officer McCombs #9348 on video that the incendiary devices were brought to the event and handed out by Suvarna Ratnan. Ratnan was on pretrial release at the time of this incident.

According to Karl Martin, on October 21, 2020, he and DCA April Sponsel were invited to attend a briefing reference the protester investigations on October 23, 2020. On October 23, 2020, the briefing/meeting was held at Phoenix Police Department. It was the Friday before the grand jury presentation on Tuesday 10/27/20. It was attended by several Phoenix Police command staff including three Assistant Chiefs. At the meeting it was decided that Phoenix Police Department would be taking the lead on the investigation/case and all reports were to be routed to Phoenix Police Detective Adam Legere. After the meeting Karl Martin described his involvement as a minimal role. During the meeting, a Phoenix Police Lieutenant, who Karl Martin did not recall his name, passed around a document identifying criminal street

gang/syndicate charges which were proposed to be appropriate for violent protestor groups. He did not recall whether there was a specific discussion that a specific group should be charged with criminal street gang/syndicate charges. At the end of the meeting, the Lieutenant retrieved the documents from Karl Martin.

On Friday October 23, 2020, according to his statement, Vince Goddard got a call from April Sponsel informing him there was going to be a press conference at the Phoenix Police Department and they wanted MCAO Allister Adel to attend. The chief of police was also asked and/or was scheduled to attend. He was told this was going to be the "big gang" case that she had talked about in September. Since he only heard about approximately 4 people, he was not sure what she was talking about. He again told her he did not like the "big case theory" where you have limited targets and you charge a large group people. He did not attend the press conference nor did he know if the County Attorney did. No information was provided if a press conference was held.

According to Ken Vick's interview Ken Vick received a telephone call from Vince Goddard. Vince Goddard told him he wanted to set up a meeting either in person or virtually to discuss the ongoing investigation of the 10/17/20 protest group arrest. He indicated there was a meeting at Phoenix Police Department where a PPD expert believed there was sufficient facts to support a gang charge. A meeting was to take place on Thursday or Friday October 22nd or October 23rd which would have been before the scheduled grand jury. The meeting was later rescheduled to October 30th, 2020

During the call with Vince Goddard, the subject of "warrants" was discussed, however, Ken Vick assumed he meant search warrants for houses and/or phone records. He was not aware nor was he told a Grand Jury presentation was scheduled for October 27th which would have been before the meeting on October 30th. He provided me the email exchange between Vince Goddard and himself which showed Ken Vick's surprise and dismay that they had gone to the Grand Jury prior to the meeting. In his interview, Vince Goddard acknowledged there was a miscommunication between he and Ken Vick and that Ken Vick was unaware that April Sponsel had already scheduled the Grand Jury for October 27th, prior to the October 30th meeting. Here is Ken Vicks email of October 30, 2020 which confirms the misunderstanding.

From: Ken Vick <VICK@mcao.maricopa.gov>

Sent: Friday, October 30, 2020 4:19 PM

To: Niferitites Nunez <nunezn@mcao.maricopa.gov>; Sherry Leckrone <Leckrons@mcao.maricopa.gov>; April Sponsel <Sponsela@mcao.maricopa.gov>; Vince Goddard

<goddardv@mcao.maricopa.gov>

Subject: RE: High Profile Case Memo Tuesday Oct 27 2020 at 030859_1270923 PM.docx

And this is important because this is what is causing all the confusion right now. The media is asking us about charges that we can't talk about.

From: Ken Vick

Sent: Friday, October 30, 2020 4:07 PM

To: Niferitites Nunez <nunezn@mcao.maricopa.gov>; Sherry Leckrone <Leckrons@mcao.maricopa.gov>; April Sponsel <Sponsela@mcao.maricopa.gov>; Vince Goddard <goddardv@mcao.maricopa.gov>

Subject: RE: High Profile Case Memo Tuesday Oct 27 2020 at 030859_1270923 PM.docx

Was assisting a criminal street gang on any of the direct complaints? I don't think they were but they are showing on this page. Those are the indictment charges; the direct complaint charges all show "dismissed due to grand jury indictment" and then the indictment charges are listed.

The following is the email sent by April Sponsel in preparation for the meeting.

From: April Sponsel

Sent: Wednesday, October 28, 2020 11:24 AM

To: Vince Goddard

Subject: High Profile Case Memo Tuesday Oct 27 2020 at 030859_1270923 PM.docx **Attachments:** High Profile Case Memo Tuesday Oct 27 2020 at 030859_1270923 PM.docx

Here you go. Take a look at this and let me know if you need me to add anything else. I can also of course expand at the time of the meeting on Friday. Thanks

Phoenix Police Department, 202000001707081

CR2020-139581-001-015 1857386

Riot, F5

Obstructing A Highway Or Other Public Thoroughfare, M1 Unlawful

Assembly, M1

Conspiracy to Commit Aggravated Assault, F2

Assisting A Criminal Street Gang, F3

Case Summary:

On October 17, 2020 at approximately 7:00 pm, several individuals converged on the University Park located near downtown Phoenix. The group that arrived is known to law enforcement as A.C.A.B aka All Cop Are Bastards. Upon meeting at the park, the group began to walk down the city sidewalks eventually making their way on to city streets blocking traffic and causing issues with vehicle and pedestrian traffic. Officers noted that the group was all dressed in black and all were carrying umbrellas which were being used to obscure their identity and faces from law enforcement.

Phoenix offices began to follow the group giving them commands to get out of the street, however the group did not comply despite the numerous announcements. As PPD was providing the announcements, many in the group would turn around flipping the officers off acknowledging that they were hearing the announcements that were being given.

As the group continued to walk east on Washington, they threw smoke bombs at the patrol cars and the officers on foot trying to harm and obscure the roadway for the officers. As the smoke was billowing a few officers had to leave their cars to move the bombs out of the area so they could continue to travel behind the group. At one point the group began to grab construction barriers throwing them into the street blocking the officer's passage down Washington. Due to the smoke, one police Tahoe was rendered inoperable because one of barriers thrown in the street was hit as it was not seen by the officers. As the group walked, they would yell out ACAB and/or All Cops Are Bastards chants.

The group eventually made their way to Van Buren close to the light rail where officers heard the group yell out to take the tracks. As this point believing that group was going to impede light rail traffic, officers moved in and took the group into custody. As the officers moved in many of the group fell to the ground and interlocked their arms and legs making it difficult for them to be arrested. While trying to remove each member of

the group some dug their fingernails into the hands of the officers injuring the officers.

After the group was arrested officers learned that the group was armed with bricks, rocks, guns and other weapons that were eventually impounded. The umbrellas were also impounded along with the black clothing they were wearing.

Many of the group invoked when read Miranda, however suspect Riley Behrens agreed to speak to the officers and admitted that the actions against the officers were planned. This included information regarding the use of the umbrellas, clothing and smoke bombs and why the group used those items. Behrens also stated that the AR15 that defendant Brittany Austin possessed was for a show of force. Officers have learned that Austin is also not only a known ACAB member but is highly associated with ANTIFA.

During the investigation into ACAB, officers learned that some of the members were tattooing ACAB or 1312 on their bodies showing their affiliation to the group that have and continue to engage in acts of violence not only in the city of Phoenix, but also the Cities of Gilbert and Mesa. Detectives have been able to identify ACAB as a criminal street gang and have documented them and their members as such. Detectives have noted that many of the members meet several criteria documenting them individually as members of ACAB.

The following criteria have been attributed to 1 or more of the members:

Black Clothing

Tattoos

Self-Proclamation

Witness Statements

Photos and Paraphernalia

Electronic Correspondence

And other indicia of street gang membership.

After this investigation detectives from PPD learned tht ACAB had tagged up the Mesa Police Department as well as the area housing downtown operations for PPD.

Many of the criminal acts by this group have been captured on video either with surveillance video or body worn camera.

Please see the video compilation of some of the BWC and surveillance video of the riot under:

Case This video was shown to the Grand Jurors who were able to see exactly what the officers were dealing with on October 17, 2020 and the coordinated attack on them. A true bill was returned with a 16-0 vote. The grand jury was made up of older citizens, younger citizens, Caucasian, African American and Hispanic.

At the "incident review", this is the narrative presented. After the incident review on October 30th, based upon the fact that April Sponsel appeared to have all of the evidence, the consensus of the group was they let it play out. Here are the chat logs for the meeting:

Chat Log C:\Users\sponsela\Documents\ChatLog Riot cases briefing 2020_10_30 10_24.rtf

ryan Green (to Everyone): 9:14 AM: 1. how many separate instances/dates did this group appear in Phoenix and engage in riots?

April Sponsel (to Everyone): 9:15 AM: All

Ken Vick (to Everyone): 9:20 AM: HP memo is in the file.

Ken Vick (to Everyone): 9:20 AM: Case 013-1

857386(<https://mcaogov.hostedbykarpel.com/PBKAZMaricopa/Reports/RedirectToCaseInfo.aspx?cid=0131857386>), Court Case Number CR2020-139581-002 For Defendant Ratnam, Suvarna

ryan Green (to Everyone): 9:39 AM: During their "march" in October, did any of them have signs? Shout slogans? What are the devices thrown at police? Smoke bombs vs. explosives? Any of them have prior felony convictions? If so, what for? What are the tattoos that they have gotten? Do we have photos of their tattoos? Do we have a picture of the sharpened tip on the umbrella? Do we have photos of the sharpened fingernails? Is it

obvious that the umbrella has been converted into a weapon and that the nails are unnaturally sharp?

Tom Van Dorn (to Everyone): 9:40 AM: Short answer...yes to all the above

Vince Goddard (to Everyone): 9:42 AM: Correct. Though I don't believe they ever carry signs.

April Sponsel (to Everyone): 9:50 AM: yes we have photos of thier hands

April Sponsel (to Everyone): 9:57 AM: We have the umbrella with the s harpened tip.

ryan Green (to Everyone): 9:58 AM: will there be a bond hearing where this evidence will be presented on the in-custody defendant?

Heather Livingstone (to Everyone): 9:59 AM: PBK shows a bind hearing today at 2:45PM.

Heather Livingstone (to Everyone): 9:59 AM: *bond

April Sponsel (to Everyone): 10:03 AM: Yes on Ratnam

Karl Martin (to Everyone): 10:05 AM: On 10/17/2020 Suvarna participated in a riot at 1002 West Van Buren St. when she and other ACAB members impeded traffic and business access. Ignoring police commands to disperse, the group began to huddle together, from the group 3 incendiary devices were thrown towards police cars that were following behind. The group pulled in tight to conceal the person throwing the devices. The group also toppled construction zone barriers utilized to protect the public during construction. surreptitiously audio recorded One of these barriers were thrown under a Police Supervisor vehicle making it inoperable. During an interview with co-defendant Jessica Behrens "Riley" she told officer McCombs #9348 on video that the incendiary devices were brought to the event and handed out by Suvarna Ratnan. Ratnan was on pretrial release at the time of this incident. Suvarna's last known address was checked and detectives learned she moved two weeks prior

Karl Martin (to Everyone): 10:12 AM: A Phx Sergeant wrote and testified in the Grand Jury

April Sponsel (to Everyone): 10:21 AM: Sorry I just lost you all

It is important to note the questions posed by Ryan Green and the response:

ryan Green (to Everyone): 9:39 AM: During their "march" in October, did any of them have signs? Shout slogans? What are the devices thrown at police? Smoke bombs vs. explosives? Any of them have prior felony convictions? If so, what for? What are the tattoos that they have gotten? Do we have photos of their tattoos? Do we have a picture of the sharpened tip on the umbrella? Do we have photos of the sharpened fingernails? Is it obvious that the umbrella has been converted into a weapon and that the nails are unnaturally sharp?

Tom Van Dorn (to Everyone): 9:40 AM: Short answer...yes to all the above

DCA Tom Van Dorn, in his sworn statement, indicated that he attended the "incident review" as a member of the senior leadership. He stated that responses in the chat log to Ryan Green's questions were not intended as making assurances that April Sponsel had all of the evidence. He was not vouching for the evidence. His responses were based upon information he had received from April Sponsel and others within the First Responder's Bureau. He further indicated that it is not his role or responsibility to vouch for evidence or indictments or otherwise make assurances to others at the incident review.

Karl Martin stated, in his sworn statement, he was invited to the meeting on October 30, 2020 which was three days after the return of the indictment. At the meeting, he gave a summary of information pertaining to Ms. Ratnam which he obtained from reviewing the then-available reports written by the Phoenix Police Department which had taken the lead in the investigation at 10/23/20 meeting at the Phoenix Police Department. He pointed out that a Phoenix Police Sgt. testified at the grand jury. He further stated he was not the case agent, and he did not have access to the entirety of the investigation or evidence in the case. He had not intended his comments as making assurances that April Sponsel had all of the evidence. He was not vouching for the evidence.

This will be discussed in detail in the sections that follow. Based upon that case summary presentation, no action was taken by Ken Vick. He briefed the County Attorney based the above narrative presented. He heard nothing more until early February when another incident review was set for February 12, 2021. After the February 12th meeting a decision was made by MCAO Adel to dismiss the charges and the 10/17/20 cases were reassigned to Deputy County Attorney, Ryan Green.

According to Vince Goddard, he did tell April Sponsel on October 30th she was going to narrow the indictment down. She acknowledged the directive. As time passed, when he inquired about the status, her response was that she was awaiting mobile phone records. Note: Karl Martin stated the warrants he had prepared were never served.

On October 30, 2020, a bond hearing was held in Suvarna Ratnam's case wherein the state wanted the court to hold her without bond. A presentation that included testimony and video evidence was the same narrative presented at the grand jury. Commissioner Guyton imposed a \$5000 secured appearance bond in the case. The commissioner found that there was no "proof evident, presumption great" to support the class 5 felony Riot charge, which was the only charge that was before the court for the purposes of the hearing. Charges added after the grand jury indictment, including criminal street gang charges, were not before the court and but the narrative from those charges was argued and the state asked that they be considered in setting the amount of the bond (state requested \$100,000.00 bond).

Based upon the information given to the undersigned, the County Attorney Allister Adel was not briefed on the Grand Jury presentation in this case in the ten (10) days prior to the Grand Jury presentation. CA Adel never got a head's up that the case was going to a Grand Jury nor the charges April Sponsel would be seeking in a draft indictment. The County Attorney did not know a Grand Jury presentation was taking place on October 27th for arrests made on October 17th. The County Attorney was made aware on October 30th about the October 27th Grand Jury Indictment after the media made an inquiry with the office's communication director on Thursday, October 29th. The County Attorney did not attend the 'incident review' on October 30th since she had been hospitalized on October 28th and she was not discharged until October 31st. This is collaborated by Ken Vick who was not told about the Grand Jury, nor the charges being sought and he did not know what was presented until the day before the October 30th "incident review".

Here is the medical/health timeline for County Attorney Adel:

Sunday, Oct. 25: Adel fell at her home

Wednesday, Oct. 28: Her husband drove her to a hospital, where she was admitted as a precautionary measure.

Saturday, Oct. 31: She was released from the hospital. While in the hospital, she was alert and continued working virtually.

Tuesday evening, Nov. 3: Adel was unresponsive and transported to a hospital for emergency surgery. She was later transferred for care at Phoenix's Barrow Neurological Institute.

Thursday, Dec. 31: Adel was discharged from Barrow.

Monday, Jan. 4: Adel returned to Barrow for surgery to replace the portion of her skull that had been removed on Nov. 3. She was hospitalized for three days following that surgery.

There has been considerable discussion as to what County Attorney knew prior to the Grand Jury. Again, here is the chain of text messages from/to Ken Vick and Vince Goddard:

From: Vince Goddard <goddardv@mcao.maricopa.gov> Sent: Thursday, October 29, 2020 7:56 PM
To: Ken Vick <VICK@mcao.maricopa.gov>
Subject: Re: Gang charges?

Yes please call me. I don't want to sit over night with this Get Outlook for iOS

From: Ken Vick <VICK@mcao.maricopa.gov>
Sent: Thursday, October 29, 2020 7:53:44 PM
To: Vince Goddard <goddardv@mcao.maricopa.gov> Subject: Re: Gang charges?

I'll call you when I eat home. I thought you were talking about warrants on houses. I didn't realize we'd have indictments in place before the meeting

From: Vince Goddard <goddardv@mcao.maricopa.gov> Sent: Thursday, October 29, 2020 5:48:15 PM
To: Ken Vick <VICK@mcao.maricopa.gov>
Subject: Re: Gang charges?

I told you they were serving warrants on Tuesday. That didn't happen until today. Get Outlook for iOS

From: Ken Vick <VICK@mcao.maricopa.gov>
Sent: Thursday, October 29, 2020 5:45:03 PM
To: Vince Goddard <goddardv@mcao.maricopa.gov> Subject: Fwd: Gang charges?

From our conversation last week I didn't think any of these would happen before our briefing tomorrow. In class now, we'll discuss tomorrow.

This lack of communication is shown in following email from Jennifer Liewer, the communication director

From: Jennifer Liewer

Sent: Sunday, November 1, 2020 2:30 PM

To: Vince Goddard; Candice Copple; Tom Van Dorn; William Long; Ken Vick

Subject: Re: April Sponsel

Vince,

The decision to seek a grand jury indictment without including the person responsible for communicating with the media makes it very difficult for me to do my job, which includes shielding our DCA's from being named and having their image used in media coverage. I take this responsibility seriously. Over the past year, I have learned how dangerous the position of DCA can be and understand the concern you share below.

I was unable to respond to media inquiries in my capacity as spokesperson and Allister was not able to issue a statement about this case because there is no record that the defendants have been served. Had I been consulted, I would have presented what was needed to ensure this decision was not attributed to a single prosecutor. Our inability to publicly discuss these charges put the media in a position to use statements made by April in open court...

...I am here to serve this office and the DCA's and this is why it is critical that I am engaged prior to decisions of this nature being made, so I can plan accordingly and provide this leadership team consultation on how to avoid situations like this from occurring. Jennifer Liewer, Director of Communications

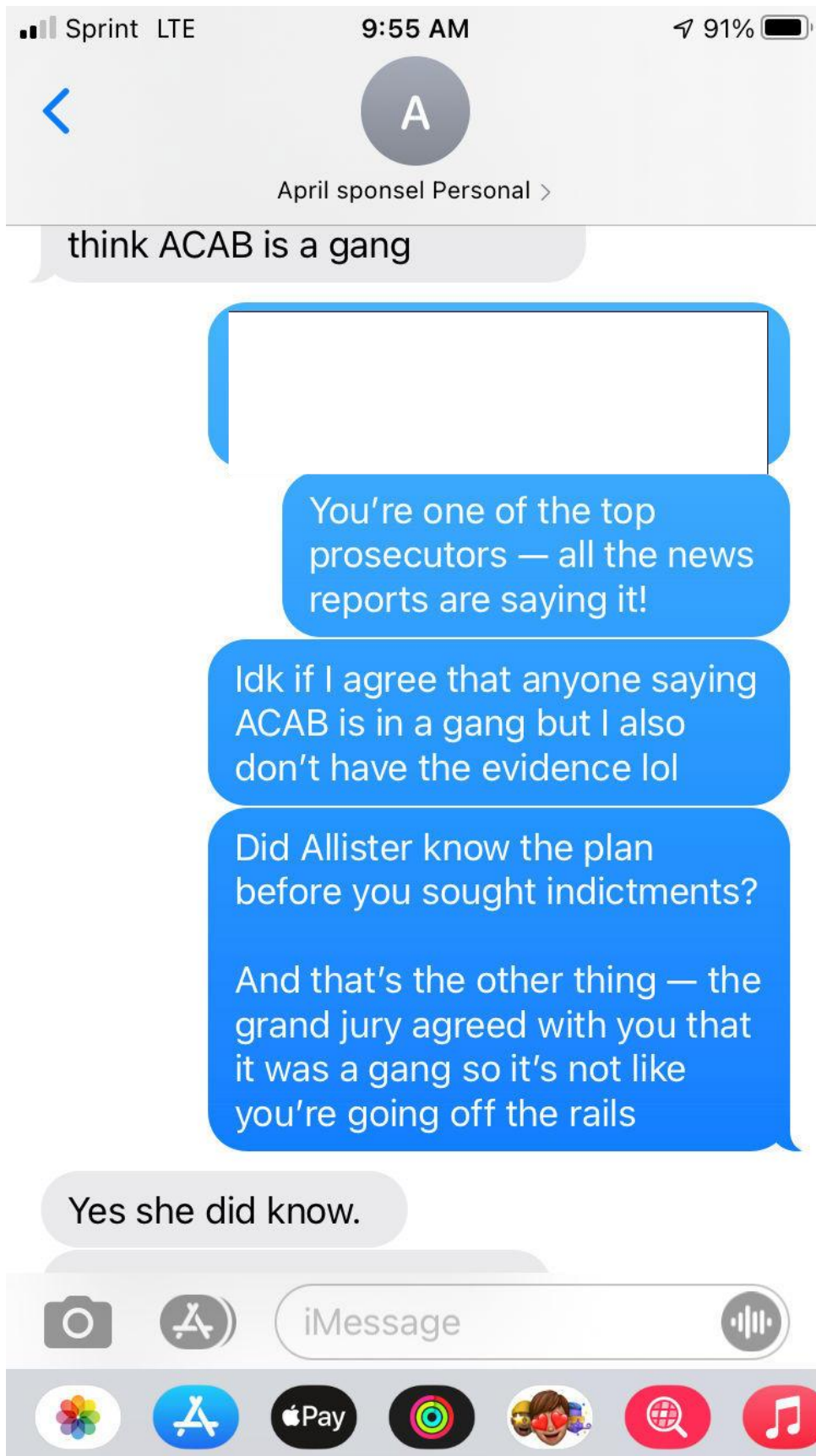
There was a text message exchange between April Sponsel, and another unknown prosecutor that were sent on November 3, 2020 — one week after the case was presented to a grand jury. The exchange was after April Sponsel was notified by the press personnel of news reports which April Sponsel acknowledged she knew about it. On November 3, 2020 Allister Adel was admitted to the hospital later in the day.

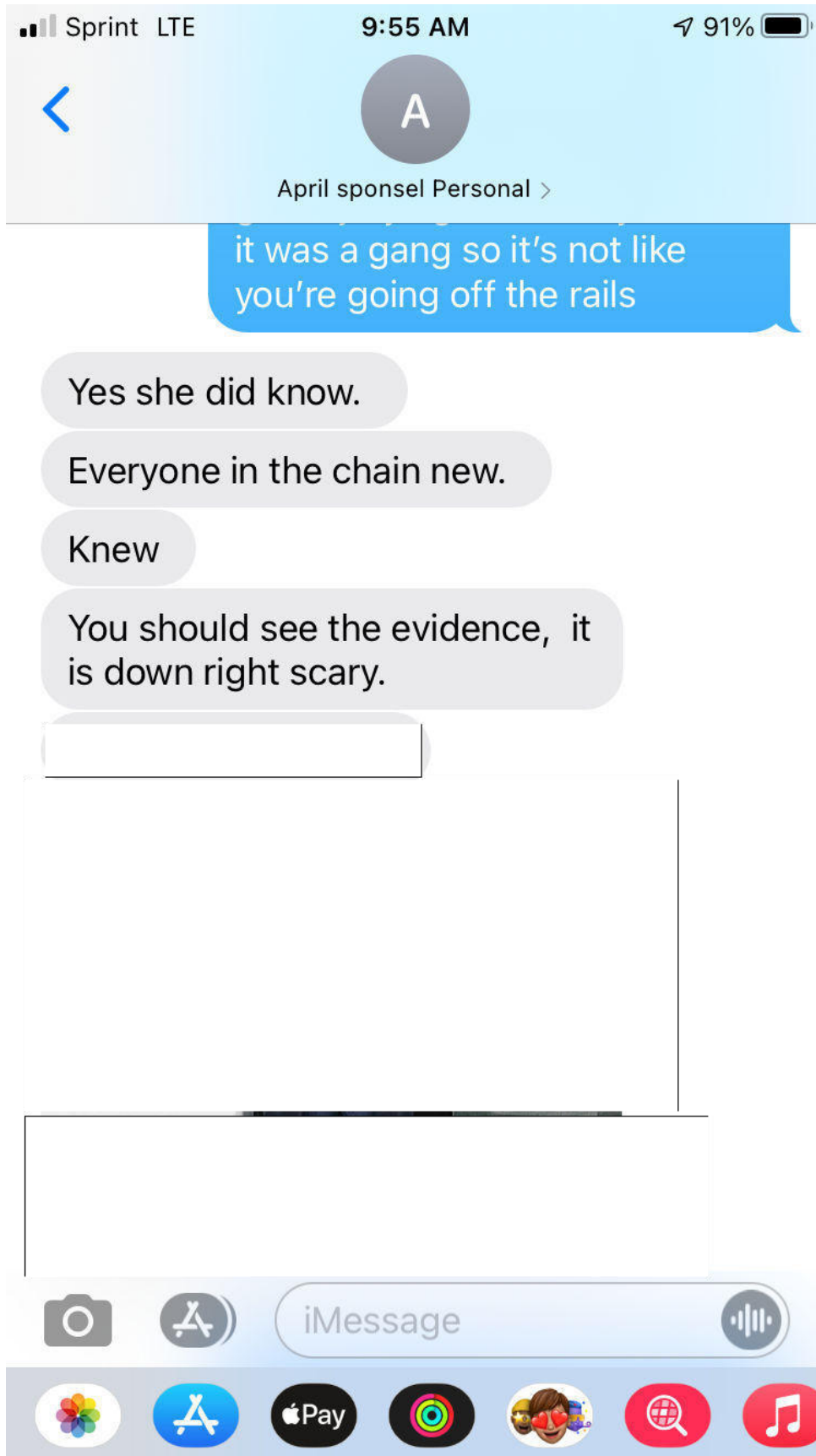
In the following text exchange, Sponsel asks her colleague if he/she uses Signal, a text encryption app that can reduce the digital trail of messages. The text messages were obtained through public record requests.

Regarding the concerns about the use of Signal, an MCAO spokesperson sent the following written statement:

“In response to a public records request, a review of employee-issued cell phones was completed by MCAO. It was determined that Signal was not downloaded onto any of the county-issued devices. Additionally, as part of the office’s continued efforts to comply with public records law, several employees, including April Sponsel, were asked if “Signal” was being used to conduct county business on personal cellphones and employees reported that this did not occur,” the statement said. “How and what people use to communicate on their private devices about personal matters is not something this office has the ability to regulate or track. However, the County Attorney’s Office fully acknowledges that should an employee choose to conduct official business on a personal device, it is a public record.”

The following is a text exchange. This was the only text exchange provided to the undersigned.





In an emailed statement for media, the County Attorney wrote:

“As I have stated in response to similar inquiries, I was not properly briefed about the plan to present this case to the grand jury. I cannot speculate as to what an employee meant in a text message conversation with others that I was not a part of.”

After reviewing all of the emails and other documents disclosed, other than the two emails in late September referencing a plea to Riot charges, there was no email or text from anyone in the First Responder Bureau outlining the intended charges sent to County Attorney Allister Adel prior to the presentation to the grand jury. Since Sherry Leckrone did not submit to an interview, there was no way to verify what, if any, actions she took which was not disclosed by the email traffic. The timeline and messaging are discussed in detail above. Based upon the response, it is important to note she told her friend the “evidence is scary”. This scary evidence is the “narrative” that the judge later found to be contain material misrepresentations, assisted in misdirecting the Grand Jury and resulted in an unfair and bias presentation to the grand jury. The judge also found the state had acted in “bad faith” in presenting the evidence. Any objective review would conclude the statements made in the text messages were just part of the pattern of behavior of perpetuating the narrative created by April Sponsel.

Around the day of the election, there were protest marches challenging the results of the election. In an email exchange among the county attorneys, April Sponsel says she is familiar of the group, AZPatriots and that they should not cause any problem. She then tells the others how you could have to access the AZPatriot Video channel. So, it is apparent April Sponsel was aware and could have accessed the video of the AZPatriots for the 10/17/20 march.

In mid-November, 2020, Vince Goddard requested the file involving the October 17th protest be locked and only limited people would have access (this did not include Ryan Green or Jennifer Liewer, communications director).

From: Vince Goddard <goddardv@mcao.maricopa.gov>

Sent: Saturday, November 21, 2020 2:39:36 PM

To: Niferitites Nunez <nunezn@mcao.maricopa.gov>; Melissa Horning <mayerm@mcao.maricopa.gov>; Sherry Leckrone <Leckrons@mcao.maricopa.gov>; April Sponsel

<Sponsela@mcao.maricopa.gov>

Subject: Case lockdown in PbK

We need to restrict access to the ACAB cases. It should be just the FRB bureau. How can we get that done ASAP? Karl Martin with investigations should also have access.

From: April Sponsel

Sent: Monday, November 23, 2020 10:09 AM **To:** Terianne Topp

Subject: RE: Case lockdown in PbK

We only want people that are assigned to the case to actually have access to it and not just random people in the office. 😊

In mid-December 2020, there is an email exchange between Sherry Leckrone and April Sponsel wherein Sherry Leckrone had decided to have all protest cases sent directly to April Sponsel for review. This now had completely changed the process Ken Vick had directed. There was no documented request by Sherry Leckrone to Ken Vick to change the process Ken Vick had set in place. Also, April Sponsel began extending plea offers for the October 17th arrests to some of the defendants including specifically Ryder Collins who has been exonerated because he was not involved in the protest march. It required the defendants plead to two felonies: count 1: riot (ARS 13-2903), a class 5 non-dangerous felony and count 5: assisting a criminal street gang (ARS 13-2321), a class 3 non-dangerous felony.

Early in January 2021, April Sponsel initiated requests to have cell phones processed as well as other evidence. This is important because the case was more than sixty (60) days old and plea offers were extended and only now, was she looking for discovery information which should have been provided in November. Apparently, these were the records she was telling Vince Goddard she was waiting on.

From: April Sponsel <Sponsela@mcao.maricopa.gov> **Sent:** Monday, January 4, 2021 09:11

To: Adam P Legere < >

Cc: Eric J Newton < > **Subject:** Riot from October 17th

Hey Adam,

Can you do me a favor and take a look at the attached impounded list and pull the items and have the cell phones processed. Can you also ask them to process the apple watch as well. You will likely have to write a warrant for that watch as well as the phones. I am not sure if they can process a watch, but I know that even if you delete messages off your phone they can stay on your watch.

Can you also pull the video that were not uploaded by FIU, such as the items number 51000945675 and get us a copy for defense?

Can you also pull the items that are not cell phones or videos and photograph them for me and get them back to me so I can get them disclosed in that form as well as look at them.

Let me know if you have any questions. Thanks

In mid- January 2021 Ryan Green was alerted by the communication director, Jennifer Liewer to a press inquiry. Her access was blocked. He attempted to review the file, however, the file was locked and restricted to certain individuals. After talking to Vince Goddard, both Jennifer Liewer and Ryan Green gained access and began a review. Here the email:

From: Jennifer Liewer <liewerj@mcao.maricopa.gov>
Sent: Wednesday, January 13, 2021 1:35:27 PM
To: April Sponsel <Sponsela@mcao.maricopa.gov>; Vince Goddard <goddardv@mcao.maricopa.gov>; Tom Van Dorn <vandorn@mcao.maricopa.gov>; Sherry Leckrone <Leckrons@mcao.maricopa.gov>
Cc: Ken Vick <VICK@mcao.maricopa.gov>
Subject: RE: High Profile Case Memo Tuesday Oct 27 2020 at 030859_1270923 PM.docx

I can no longer access these cases in PBK. I am guessing that they have been protected. Can someone please get me access? I have a media inquiry and I am trying to create a draft response for your review.

Thanks, Jennifer

Counsel for Ryder Collins filed a motion to dismiss or to remand the case for a redetermination of probable cause. April Sponsel delegated the response to a person

believed to be a law intern. On February 8, 2021 Ryder Collins' counsel requested that the Court grant the Defendant's pending motions including the motion to dismiss or alternative remand to the Grand Jury, filed January 29, 2021 because the State failed to file a timely response to the motion. It is important to note that any cursory review of the motion would have made April Sponsel or any reasonable prosecutor aware that there were substantial problems with the arrest of Ryder Collins.

Another "incident review" was scheduled for February 12, 2021. On February 11, 2021 April Sponsel sent the following email. One will note the source of the GMIC narrative was Riley Behrens who told the police that Ryder Collins was not involved in the group and was not involved in the march the night of the arrest October 17, 2020. Here is the narrative email chain:

From: April Sponsel

Sent: Wednesday, February 10, 2021 1:30 PM **To:** 'clint.davis ; Karl Martin

Subject: FW: GMIC Narrative

From: Douglas R McBride <

Sent: Wednesday, February 10, 2021 12:48 PM **To:** April Sponsel

<Sponsela@mcao.maricopa.gov> **Subject:** GMIC Narrative

On October 17th, 2020, at approximately 2040 hours, Riley Behrens participated in a protest which turned into an unlawful assembly and riot in downtown Phoenix. Approximately 20 people dressed in "blac blok" clothing identified themselves as A.C.A.B (All Cops Are Bastards) by chanting "All Cops Are Bastards" over and over again. These subjects also had signs which read "ACAB". Riley Behrens actively participated in this riot, at one point tearing a sign off the wall in the Central City Precinct corridor.

Riley was wearing all black. A long sleeve black t-shirt, face covering, black pants, black shoes and black gloves. This is consistent with ACAB's way of dressing during anti-police gatherings and protests. This group has been responsible for a multitude of felonies committed during the George Floyd protests throughout the year. These crimes include but aren't limited to: riot, aggravated assault on police, hindering prosecution,

unlawful assembly, obstruction of a public thoroughfare, interfering with governmental operations, etc.

Riley participated in the repetitive chanting "All Cops Are Bastards" identifying himself as being apart of this group while they committed violent acts against police. Three incendiary devices were launched at police during this violence. Simultaneously a fully marked City of Phoenix police vehicle was rendered immobile when members of this group placed traffic barricades in the street to defeat police as they were being pursued for apprehension. Riley continued to be violent even after being placed in custody and transported to the precinct where he kicked a biohazard sign off the wall and broke it in half making it unrepairable.

Other indicia was discovered when Riley briefed officers of the hierarchy of ACAB including leaders, meeting places and members. He also told investigators about tattoos different members were getting and where they were located on their bodies. Riley elaborated saying there were two types of tattoos "ACAB" and the dots. One dot followed by 3 dots by one dot by 2 dots which corresponds to the letters of "ACAB". During the arrests on October 17, 2 of these tattoos were discovered photographed and documented on Suvarna Ratnam 03/03/95 and Kaleb Martin 10/17/2002.

During this same debrief Riley admitted to attending several meetings involving ACAB members and various locations. Undercover surveillance verified Riley's information was accurate. Riley related 2 different plots against police were discussed during these meetings. One was to steal the Phoenix Police Department's LRAD (Long Range Acoustic Device) and another was to ramp up violence against police by being more physical and more violent with police officers in Phoenix.

Doug McBride, Sergeant Downtown Operations Unit Training Sergeant
Phoenix Police Department 602

April Sponsel presented a Power Point presentation (Exhibit #2) at the incident review on February 12, 2021. However, the day before and the days preceding the incident review there is a hurried attempt to obtain phone records.

From: April Sponsel <Sponsela@mcao.maricopa.gov>
Sent: Thursday, February 11, 2021 2:17 PM
To: Kendall Moreland <morelank@mcao.maricopa.gov>; Frank Bustillos <bustillf@mcao.maricopa.gov> **Subject:** Info needed
Importance: High

Hi guys,
Billy told me to reach out to you.can you run this number for an owner:
301-956-4728
And
602 253 1129
Thanks!!

From: Frank Bustillos <bustillf@mcao.maricopa.gov>
Sent: Thursday, February 11, 2021 3:29 PM
To: April Sponsel <Sponsela@mcao.maricopa.gov>; Kendall Moreland <morelank@mcao.maricopa.gov> **Subject:** RE: Info needed

April, the following is the information that I was able to retrieve for your numbers:

1. 602-663-4578 Verizon Wireless Subscriber= Colson Clemons
Address= 5818 N. 8th Place Phoenix, AZ. There is also a second line registered to this address it is a landline registered to: Kenneth Clemons 602-504-6544.
2. 602-253-1129 Landline Subscriber= Ability Lock Safe Phoenix, AZ.
Valid since 7/1998.
3. 301-956-4728 Verizon Wireless Subscriber= Suvarna Sheila Ratnam
Address= 8010 Gramercy Blvd, Apt. 464 Derwood, MD 20855

From: April Sponsel <Sponsela@mcao.maricopa.gov>
Sent: Friday, February 12, 2021 7:42:34 AM
To: Frank Bustillos <bustillf@mcao.maricopa.gov>; Kendall Moreland <morelank@mcao.maricopa.gov> **Subject:** RE: Info needed

HI there. Can you search all of the numbers listed in these chats?
The numbers are listed on pages 2 and 3 and then again on 6-9.
Thanks!!

April Sponsel presented a Power Point presentation at the incident review on February 12, 2021. The Power Point is attached as Exhibit #2. A review of the Power Point reveals that the same theory of the case which was presented to the Grand Jury was presented again. There is a specific slide pressing hard the case Ryder Collins was an active participant. There are two other slides showing news articles wherein two cities were pursuing BLM as a criminal street gang. After the review, County Attorney Allister Adel issued the following statement:

"We had that review; I made my decision that at this time we needed to take a closer look at those cases. Some of them we can't move forward with ethically or legally."

Adel's office filed motions to dismiss the fifteen (15) cases on February 12, 2021. Ryder Collins' case was dismissed with prejudice. The other cases were dismissed without prejudice.

On February 12, 2021 the following email chain is about a request for research in the gang statute. Question is why now is Vince Goddard asking for research about the gang statute. Maybe he should have requested this when he requested Karl Martin to work with Phoenix Police or when he was told the search warrants referenced the "assisting a gang" in mid-October prior to the grand jury presentation.

From: Cameron Willis <willisc@mcao.maricopa.gov>
Sent: Friday, February 12, 2021 8:01:10 PM
To: Vince Goddard <goddardv@mcao.maricopa.gov>; Sherry Leckrone <Leckrons@mcao.maricopa.gov> **Subject:** Re: Urgent project

Mrs. Leckrone, I just saw your latest email after I sent mine. I hope it was helpful even if it is no And thank you Mr. Goddard.

From: Vince Goddard <goddardv@mcao.maricopa.gov>
Sent: Friday, February 12, 2021 7:58 PM
To: Cameron Willis <willisc@mcao.maricopa.gov>; Sherry Leckrone <Leckrons@mcao.maricopa.gov> **Subject:** Re: Urgent project

This is great work. Thank you Cameron.

Get Outlook for iOS

From: Cameron Willis <willisc@mcao.maricopa.gov> **Sent:** Friday, February 12, 2021 7:57:14 PM

To: Sherry Leckrone <Leckrons@mcao.maricopa.gov> **Cc:** Vince Goddard <goddardv@mcao.maricopa.gov> **Subject:** Re: Urgent project

Hello,

I am not sure how urgently you need this information, but I have researched the matter and believe I found some useful information. A.R.S. 13-2321 has its roots in the 2007 Regular Session, Senate Bill 1222. (Laws 2007, Ch. 287, section 6).

Since then, Ryan Green and a team of lawyers have done an in-depth review of the 10/17/20 cases including a complete video review of the body worn cameras (BWC) of the police, and other video evidence. He filed the responses to have all of the cases dismissed with prejudice. In his response on the motions to dismiss with prejudice, he conceded there were a number of problems with the prior presentation to the Grand Jury.

Ryan Green's in-depth review was the basis for the letter sent by County Attorney Adel to the Chief of Police requesting that an internal investigation be conducted of the following officers: Sgt. James Groat, Sgt. McBride, Officer Jeffrey Raymond, Officer Volk, and Joseph Crowley. In the letter, Attorney Adel outlined, in detail, the issues with the reports filed and testimony given including the fact that the reports omitted several significant exculpatory statements made by Ryder Collins in his recorded interview as well as the issues with Sgt. McBride testimony and expert testimony which the judge used in her ruling on the motions to dismiss.

On June 3, 2021, Judge Jennifer Ryan-Touhill was the presiding judge in the protest cases. The Court issued a minute entry decision on the motions to dismiss with prejudice filed by the defense attorneys (Exhibit #3). She entered the following orders as to Count 4—Conspiracy to Commit Aggravated Assault and Count 5—Assisting a Criminal Street Gang

THE COURT FINDS the Grand Jury presentation denied co-defendants a substantial procedural right on counts 4 and 5.

THE COURT FURTHER FINDS the State made material misrepresentations of evidence to the grand jury, resulting in an unfair and biased presentation on counts 4 and 5.

THE COURT FURTHER FINDS the State assisted in misdirecting the Grand Jury on counts 4 and 5.

THE COURT FURTHER FINDS the State failed to provide relevant exculpatory evidence or correct misleading information to the Grand Jury on counts 4 and 5.

THE COURT FINDS the State acted in bad faith in presenting evidence on counts 4 and 5.

THE COURT FURTHER FINDS fundamental unfairness would exist if the State could refile counts 4 and 5. Therefore,

It is ordered dismissing counts 4 and 5 with prejudice.

AREAS OF CONCERN THAT NEED TO BE ADDRESSED

After my review, the following are areas that need to be addressed by the Maricopa County Attorney and her senior leadership team.

1. THERE WAS NO POLICY ESTABLISHED TO HANDLE PROTEST CASES

As was stated in the factual discussion, there was no policy. Ken Vick, Chief Deputy, indicated there was not a policy. In his long career in the MCAO's office, protest cases were rare. Earlier in the year after the death of George Floyd approximately 140 cases came in related to the Black Lives Matter protest. As a matter of convenience, he gave these cases to Sherry Leckrone since she was the supervisor of the "First Responder" group. He told her that she should go through the files and keep a few cases involving aggravated assault on police officers (both class 4 and class 5), however, the vast majority were to be sent to the City of Phoenix for prosecution in Phoenix City Court. Early follow up emails reporting on the status of the cases indicated that this had been done and the vast majority of the cases were sent back to the City of Phoenix to be prosecuted there. He assumed that other cases that came in throughout the summer were handled in a similar fashion.

However, following the protest march on August 9th and later the protest march on August 24th, the cases were now being handled differently. April Sponsel was involved in the change. The people arrested were now going to be charged with Riot, a class 5 felony and Hindering Prosecution, a class 5. The following is April Sponsel's response to an email from Jeff Howell and the Form 4 template requirements. This is what April had sent for requirements:

Hey Jeff nice to email you. Can you please take a look at this report and then add on the form 4 how the suspect was Identified? This is what we have to prove for RIOT and I think this guy fits the bill but just need to make sure that the form 4 lists out the elements. This is what PPD formulated after the first couple of days. This is what we need to prove. Let me know if you have any questions. What is nice is our eye witness is Chuck Rowland from the US Marshall's office that is now in Portland dealing with the stuff over there. Once the form 4 is fixed I can get the case charged.

On _____ at _____ hours, at _____, located in the City of Phoenix, Maricopa County, the defendant committed rioting by using force or violence with more than two persons by _____ (list what they did, threw rocks, fireworks, bottles etc. towards law enforcement or caused damaged to property). This occurred after an unlawful assembly was declared and an order was given at _____ hours, by _____ serial#. Multiple orders were given over the course of _____ hours. The defendant continued to refuse to disperse while engaging in rioting and was arrested at _____ hours.

I have attached the one I wrote for the form 4 that barely had any info for it. The other form 4's are listed in April's earlier emails.

Plea offers made to defendants for the marches were now going to require to at least a class 6 felony. By mid-September, April Sponsel was reporting a plea in one case to Riot as a class 5 felony. How many cases were now being referred back to the Phoenix City Court is not known (spread sheet for those cases was maintained), however, the vast majority were charged as outlined above.

The problem is this was an internal decision by the First Responder Bureau. There was no information provided to the undersigned that indicated there had been a discussion with Ken Vick who originally gave Sherry Leckrone the direction on how to process the cases. This constitutes a significant change in the process. According to the ABA Standards, this is a decision which should have been made by the Maricopa County Attorney Allister Adel and/or Ken Vick, her Chief Deputy. The standard states: *The public's interests and views should be determined by the chief prosecutor and designated assistants in the jurisdiction.*

Considering the First Amendment issues and the ongoing protest marches across the country, any significant change which escalates the charges and the penalties, County Attorney Adel should have been the one who adopted the new changes and what the new charges should be as well as the plea offers extended. This decision should not have been made by a line deputy county attorney, no matter how experienced. Apparently, Sherry Leckrone either approved and consented to the change or at least, passively deferred to April Sponsel.

The second concern is that it appears that April Sponsel began now giving legal advice to the police department and drafting Form 4 templates. The ABA Standards state:

The prosecutor generally serves the public and not any particular government agency, law enforcement officer or unit, witness or victim. When investigating or prosecuting a criminal matter, the prosecutor does not represent law enforcement personnel who have worked on the matter and such law enforcement personnel are not the prosecutor's clients.

The consequence of these decisions created the problems in the 10/17/20 cases. The Form 4 filings were now being criticized by the IA Commissioners because they were just "cut & paste" forms which did not individualized each defendant. The email chains in the August protest cases indicated that the IA Commissioners were not finding probable cause at IA Court. Vince Goddard indicated he addressed the issue with the First Responder Bureau, however, as seen in cases earlier in October and the October 17, 2020 protest cases, the Commissioner did not find probable cause on the Aggravated Assault charges and the underlying reason for not finding probable cause was because they were not individualized. The individual determination issues continued as seen is the prior email exchanges after the IA Court hearings.

The individualization of the defendants goes deeper. On the night of the protest, there were several people who never marched with the core group. Charges should reflect the actions taken or not taken by the individual protester. By escalating the charges to Riot, the County Attorney now treated all protesters with the same broad brush. Any people marching were now treated the same. This was the problem the IA Commissioners complained about when reviewing the Form 4 probable cause sections.

NOTE: The State reliance on *State v. Garland* is misplaced. It involved a prison riot. In the *Garland* case the court held that while “mere presence will not support the charge, **a person must distance themselves from the assembly when anyone in the group manifests an intent to engage in unlawful conduct.**” Failure to do so results in “knowing participation”. First Amendment's Freedom of Speech and Assembly are much more limited in a prison setting than a protest march like the 10/17/20 case. This is an issue that needs to be addressed. There is federal caselaw which is more similar to facts in this case which come to contrary holdings.

2. PROBLEMS WITH THE GRAND JURY PRESENTATION

In addition to the problems with the intelligence which formed the basis for all of the gang testimony and the opinions by the expert, here is a list of problematic areas in the Grand Jury Presentation:

Ryder Collins

During the Grand Jury, April Sponsel specifically focused in on Ryder Collins. It is now clear after a thorough review, that Ryder Collins was not a participant. He was arrested by the police after Lieutenant Moore directed Sgt Groat to have the officers arrest him because it was believed he was a “legal observer”. During the testimony of Officer Jeffrey Raymond, April Sponsel asked a suggestive, leading and argumentative question whether Ryder ran up on the officers and tried to impede their ability take the others under arrest into custody and he tried to distract the officer. The officer simply agreed and said yes. A review of the video showed this just did not happen. While he was in the street, he was in a marked cross walk. He was across the street diagonally from where

the protesters were arrested and he was starting to leave the scene heading down 1st Avenue.

At the police station, Riley Behrens, the key informant, told the officers he was not involved in the march nor was he part of the group. He was not dressed in “black bloc” nor did he have an umbrella or other items which the other protesters had. He just had his camera equipment he used as an amateur photographer from the Prescott area.

Officer Raymond also failed to testify to significant exculpatory evidence from the video interview with Ryder Collins which was not in his written report including the fact that Mr. Collins was already downtown doing street photography with friends who were photographers; he was in the area of the hotel/skybridge when he first saw the protesters. He did not know the other people taking picture (AZPatriots). When the march ended, he was “caty corner” from the area of arrest. And, finally, he was an amateur photographer with a bag of photography equipment.

Sgt. McBride made a number of conclusory statements which are not based upon any facts including that Collins was in and around the group the entire night and he was working in concert with them. This was not true. Sgt McBride then asserted real press representatives needed ID placards which they are required to wear and Collins did not have one. This was not true. There is no requirement for anyone to have or to wear an ID. The AZPatriot’s video clearly shows he is not present until later in the march when he walked up to the AZPatriots who had been walking with the police throughout the march and asked what was going on. This occurred near 1st Avenue and Washington. They explain what was going on and he followed along with the AZPatriots who were taking video and/or pictures. Even at the time of his arrest there was confusion among the officers who it was that the lieutenant wanted them to arrest.

ER 3.8. Special Responsibilities of a Prosecutor provides:

The prosecutor in a criminal case shall:

- (a) refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause;

COMMENT

[1] A prosecutor has the responsibility of a minister of justice and not simply that of an advocate. This responsibility carries with it specific obligations to see that the defendant is accorded procedural justice, that guilt is decided upon the basis of sufficient evidence, and that

special precautions are taken to prevent and to rectify the conviction of innocent persons.

Clearly, special precautions were not taken by the prosecutor before and after the Grand Jury presentation to prevent and later, as documented in the Power Point presentation of 2/12/21, rectify the prosecution of Ryder Collins.

3. GRAND JURY PHYSICAL EVIDENCE

Photos: While the police did in fact photograph all of the hands of those arrested. There is no photographic evidence to support statements that the protestors would sharpen their finger nails nor was there any evidence that fingernails were in fact used to dig into police officers when they were arrested. One officer received a minor cut.

The umbrellas used were all photographed and they did not have sharpened tips and more importantly only one had a point which is clearly not sharpened. In further review of the video there was no evidence that an umbrella was being used as a weapon.

Umbrellas: During the presentation to the Grand Jury and later at bond hearing for Suvarna Ritnam, the testimony by the officers including the experts providing a nefarious narrative that the primary reason was to conceal criminal behavior which fit their theory of the case. However, the police officers providing outer security suggested that the primary purpose was a shield from the pepper spray balls and non-lethal munitions. Police officer commented, in assuring fashion, the police did not have to worry because they knew how to fire the pepper spray to avoid the umbrella. Member of the AZPatriots also said it was used as protection against pepper spray balls. Umbrellas were recently used in the Minneapolis area after the most recent killing of a black man in custody. They have also been used in demonstrations in Hong Kong in protest of the communist party crack downs.



Smoke Devices: At the Grand Jury, the objects were called “incendiary devices” which were very dangerous, and the devices were thrown directly at the police. After reviewing the videos, these devices are smoke producing objects similar to those used a gender reveals or other party celebrations. The video from police shows Sgt. Groat telling the officers to just kick them to the side of the road and the officers moved around them easily.

At the bond hearing shortly after the Grand Jury, the Commissioner made a specific finding the devices were not thrown at the police officers and devices did not provide sufficient evidence of an imminent threat. Further, the firearms carried by two protesters were lawful and were never used in any threatening fashion. Therefore, there was not sufficient evidence to support the state’s request to hold Ratnam with no bond on the charge of riot.

Vehicles were disabled: After reviewing the video, it appears that one police officer accidentally drove over an overturned traffic horse with a flashing light. It was more due to the carelessness of one police officer rather an intent by the protesters to disable police vehicles.

Chanting ACAB: While the protesters did in fact chant “ACAB” or “All Cops are Bastards”, there were other chants Black Lives Matter and/or BLM, No Justice No Peace as well as other protest chants including “Fuck cops we don’t do what they want,” “Black Lives Matter,” “Out of the Bars and into the Streets,” If We Don’t Get No Justice, then They Don’t Get No Peace,” “No Justice, No Peace,” “No Cops, No KKK, No Fascist USA,”

“Take it to the Streets and Fuck the Police. At the Grand Jury the only chant the officers testified to was ACAB and/or All Cops are Bastards. At the bond hearing, despite being confronted during cross examination about these other chants, the officer, under oath, just kept maintaining his selective recall that “he did not recall” other chants. When asked if he reviewed the video and he said he did, however he continued to maintain he did not recall hearing anything but “ACAB “and/or “All Cops are Bastards”.

4. EXPERT OPINION EVIDENCE AT GRAND JURY

The gang expert was asked if the protest march was a legal march. His answer was no. In an ex-parte proceeding, without any foundation, that the expert had any education or experience in the area of First Amendment issues, the prosecutor elicited his opinion. Sgt. McBride gave a lengthy opinion which comports with no known caselaw and actually is contrary to the caselaw as will be discussed later. Core of the opinion is it has to be a “peace protest” and they must “following all applicable laws”.

Also Sgt. McBride expressed an opinion that “ACAB” is a street gang meeting every single part of the statute. In the Judge Tourhill’s ruling dismissing the counts, the Judge Touhill-Ryan found the following as to the gang testimony:

From the Court’s perspective the egregious misconduct begins with Sergeant McBride’s testimony. Both Sgt. McBride and Ms. Sponsel colluded in their efforts to present the Grand Jury with false information regarding a non-existent gang and a historical pattern of misconduct or threats from co-defendants towards the police. First, the prosecutor essentially establishes Sgt. McBride’s credentials as a gang expert even though this officer has not directly worked on those cases for at least five years. GJT, p. 29. Next, the prosecutor establishes a history between co-defendants and the police when the officer testified, “Through several arrests and violent crimes that were committed, we had contact with several of the members on a prior occasion with prior civil unrests.” GJT, p. 30.

After establishing this witness’ expertise and the violent nature of the co-defendants, Ms. Sponsel asks if the co-defendants are members of a gang. GJT, p. 30. Not surprisingly, Sgt. McBride says yes, co-defendants are members of the “ACAB” gang, which means “All Cops Are Bastards.” GJT, p. 31. This is clearly false, misleading, and inflammatory.

The ridiculousness continues: co-defendants’ black clothing and purported self-proclamation prove the gang affiliation. GJT, p. 34. Sgt. McBride explains that co-

defendant-002, Suvarna Ratnam, is a documented member of the gang ACAB, and she and other co-defendants meet “at least two of the criteria” of a gang. GJT, pp. 33-34. This Court cannot begin to fathom how co-defendants wearing the color black—especially at a time when people protested that Black Lives Matter and wore black clothing—proved membership in a gang. Compounding the Court’s bafflement is the analogy then given to the Grand Jury about colors chosen by the Crips and the Bloods—two well-known, well-documented, and feared gangs. GJT, p. 35. Ms. Sponsel ties together the black clothing worn by co-defendants with that of notorious gangs by asking, “And are you finding that ACAB is following the exact same type of philosophy of let’s say Bloods and the Crips?” GJT, p. 36. Not surprisingly, Sgt. McBride says “yes.” *Id.* Ms. Sponsel then says, “And what about even maybe the same philosophy as the Hells Angels?” McBride: “Very similar, yes.” *Id.*

5. OTHER MISLEADING TESTIMONY AT GRAND JURY

The Court in its ruling also found the following:

What this Court does consider, for counts 4 and 5, is the information presented to the Grand Jury and the manner in which it was presented. Co-defendants correctly assert that Ms. Sponsel improperly inserted herself into the presentation, starting with labeling the co-defendants as an “organization” and then telling the Grand Jury that this organization went downtown “to participate in a riot.” Grand Jury Transcript (GJT), 10/27/20, p. 11. Ms. Sponsel also elicited misleading or inaccurate testimony, allowed a witness to provide legal opinions, and inflamed the jury.

Later the Court discussed the testimony of Officer Raymond:

Sponsel did not, however, obtain testimony from Officer Raymond showing accomplice liability, whether the smoke bombs were, in fact, dangerous (beyond impairing some visual conditions), or other evidence of a conspiracy. Ms. Sponsel also failed to elicit any relevant exculpatory evidence, including the purported lack of criminal intent from some of the co-defendants.

While Ryder Collins had already been dismissed with prejudice, Officer Raymond's testimony to the Grand Jury also failed to testify to significant exculpatory evidence from the interview with Ryder Collins and which were not in his report.

Finally, the Court found:

At this point in the Grand Jury presentation the State has moved into absurd territory. The prosecutor leads the witness to say the co-defendants intend to create violence, this violence is directed towards the police department, and this has never happened before. GJT, pp. 36-37. Sgt. McBride states, "This group is specifically setting out almost on a weekly basis to disrupt police, commit violent acts of aggravated assault against police, throw incendiary devices at police. And they are talking about it, they are buying the equipment, they are bringing it to the gathering, and executing those plans." GJT, p. 37. The witness makes this statement without providing any specificity on plans, violent acts of aggravated assault, or methods of execution. Ms. Sponsel further elaborates on the uniform of the ACAB gang as follows: "And what about the umbrella, is that part of their, I guess you could say their gang uniform?" GJT, p. 38. The witness answers affirmatively and explains how co-defendants utilize an umbrella as "an extension of what they are doing to disrupt us. . ." *Id.* Co-defendants also use the umbrella as a weapon, per the officer, because they have done so in the past. *Id.*

6. THE INTELLIGENCE, WHICH PHOENIX POLICE DEPARTMENT (PPD) RELIED UPON, WAS BASED UPON A PATENTLY INCREDIBLE WITNESS WHO WAS NOT PROPERLY VETTED.

On August 31, 2020, Riley Behrens was interviewed by Gilbert Police Detective Terry Burchett about a case where Behrens was a possible victim at a protest event. In that interview, Behrens talked about the protest group to which he belongs. He described the group as having approximately 30 to 40 people. Behrens stated that "this group just got classified as a gang" and that "everybody that I just named, got matching gang tattoos three weeks ago." Behrens explained that probably 20 or 25 of this "group" got tattoos, using braille, meant to represent the acronym ACAB standing for "All Cops Are Bastards." After reviewing the recorded statements, the State conceded, it does not appear that the group actually *called themselves* "ACAB." This interview with Behrens

appears to be the genesis of the belief that a group of protesters were behaving as a criminal street gang. In the same conversation, Behrens also told Detective Burchett about how members of his group “will steal your [meaning police officers’] bikes,” that they had planned to steal the Long Range Acoustic Device (LRAD) belonging to the Phoenix Police Department, and how some members of the group carry guns.

In the days after the interview with Behrens, Gilbert Police shared this information with other law enforcement agencies. In September, Behrens and Detective Burchett met with Phoenix Police detectives assigned to the Joint Terrorism Task Force (JTTF). Over the next month or so, there were additional meetings and communications between law enforcement and Behrens. For example, on October 12th, Behrens told police that a member of this group had said she wanted to kill “the next officer that touches one of us”. The final meeting with the JTTF occurred on October 15th at which time Behrens surreptitiously recorded at least portions of his conversation. The next day, Behrens texted law enforcement that “Something is happening tomorrow but I can’t figure it out. Several people have said to be prepared for violence and that it won’t be peaceful I’m concerned.” Behrens also attached screenshots *purporting* to be communications from and with a person named “Kaleb.” Behrens provided screenshots of texts but whether the messages were actually from “Kaleb” and if that person is Kaleb Martin, one of the defendants in this case, is unknown. Based upon his history in Tempe, this especially suspect.

Behrens had approached a media organization during this same period and provided that news organization with at least portions of the surreptitious recordings along with some of the same information that had been conveyed to law enforcement. This included a photo of 4 people with the ACAB tattoo in braille, documents entitled “Organizational Chart,” “Contact Info,” and two separate documents both labeled as “Baseline Information.” One of the documents refers to “officers at risk” and “buildings at risk” including buildings such as the federal courthouse, Phoenix Police headquarters and the Central Court Tower. Some of the documents refer to certain individuals, including one of the codefendants in this case, as being “violent.” The media organization notified law enforcement. On the morning of October 17, 2020, after JTTF learned that Behrens had exposed his own cooperation, a Phoenix police detective assigned to JTTF sent a text message to Behrens terminating the relationship. After Behrens’ arrest on October 17th, he continued communicating with Gilbert Detective Terry Burchett as will be seen later.

The problem is Riley Behrens was a patently incredible witness. He was never properly vetted by the Gilbert Police Department initially nor was there any vetting done

by the FBI nor PPD. If the police had just done a routine records search, they would have found Behrens has a troubling history of lying to police, even going so far as to fabricate text messages as part of an elaborate sexual assault hoax in Tempe. In 2019, Behrens pled guilty to misdemeanors arising out of these false statements. The lengthy Tempe Police report found he had bought a cell phone and created a false persona. At the end of the report the detective made the following comment:

On 11/24/18 at 1420 hours, Police contacted Jessica Behrens regarding a sexual assault report that occurred on 11/01/18 at approximately 0300 hours. Police performed an interview with Jessica, who stated that the suspect of the incident was her Rugby Coach, "Brandon" drove her back to her residence located at Vertex complex 1050 S. Terrace Ave., Tempe, from Mill Avenue. When they arrived at the complex, he forced her to lay down in the back seat of the vehicle, braking her hand. He then penile penetrated her vagina and had sexual intercourse with her. *An investigation revealed that Jessica fabricated the allegation. She was later placed under arrest for 7 counts of false reporting (13-2907.01) C1M. For further information on the investigation, please see IR 18-142071.*

On 03/28/19 at 2003 hours, Jessica Behrens was placed under arrest while at 31 E. 5th St., Tempe, for 7 counts of false reporting. During a subsequent Post Miranda interview with Jessica, she admitted to fabricating the accusations, stated Brandon Thompson was not a real person. I asked her about what she was trying to accomplish, she informed me she did not know.

Based on this information, Jessica Behrens should be charged with 7 counts of False Reporting (ARS 13-2907.01). One count for each of the four interviews conducted by Detectives, one for the initial report, and two for the written notes she presented to Police during the first two interviews.

It should be noted that since 11/24/18, when I have been assigned this case, I have invested approximately 120 hours into this investigation, which cost the department \$36.80 an hour. There have been 6 Police reports in addition to the original allegation where Jessica Behrens contacted Police regarding Brandon Thompson. In addition, during each interview I had to pull another detective away from their regular duties, so have them monitor my interview.

While one could argue the Phoenix Police did not know Riley Behrens was Jessica Behrens. However, the video of the arrest on October 17, 2020, the police officer booking

Riley Behrens mockingly keep referring to Riley Behrens as Jessica Behrens because that is what PPD had in their records.

In the presentation at the “Incident Review” on October 30, 2020 and February 12, 2021 by April Spounsel, she presented the intelligence upon which PPD had relied upon. Her Power Point (2/12/21) listed the information:

Information gained from Riley Behrens

- Group contains:
- ACAB (All Cops Are Bastards or 1312)
- NALM (New Age Liberation Movement) • Protestors that support BLM
- ACAB – 30-40 members. Violent tendencies have been increasing. 25 members recently received tattoos to represent their group.
- ACAB in Braille = 1 dot, then 3 dots, then 1 dot, then 2 dots.
- Tattoos are between fingers, outside of wrist, forearms, calf, lower back, and along the spine.
- They are aware they could be classified as a gang and receive Criminal Syndicate charges. “Don’t care if they get felony charges.”
- They don’t work and are living off unemployment and getting the extra money from the govt. COVID distribution. The protesters that are employed reportedly work for different political campaigns.
- “Popping tires” = “They talked about going to Lowe’s parking lot and popping all the north side corner’s (Back the Blue) tires while they are on the corner protesting. Popping two tires because one tire they can put on a spare and three tires insurance pays. So only pop 2 tires.”
- “They have gotten extreme.”

Communications Between Sue Ratnam/Riley B. and other members of ACAB

- Text Messages from Jonah Ivy’s Phone
- Calls for violence
- Conversations about tattoo
- Conversations about meetings and planning of next events • Disclosure of Officer and Political Leaders addresses.

The only conclusion is Riley Behrens was a patently incredible witness. Since MCAO nor the police have ever completed a full and accurate investigation into the phone records, the information remains unverified.

7. THERE WAS NO CONSTITUTIONAL ANALYSIS THROUGH WHICH THE PROTEST ARRESTS WERE FILTERED.

...(T)he First Amendment recognizes, wisely we think, that a certain amount of expressive disorder not only is inevitable in a society committed to individual freedom, but must itself be protected if that freedom would survive.

Hill v. Houston

This portion is not intended to a comprehensive discussion of First Amendment issues. It does show that with some research the issue is very complex. It is apparent there was no office policy applying a First Amendment filter on charging decisions in protest cases. Decisions were made by individual charging attorneys. There was no discussion by the First Responder Bureau with MCAO Allister Adel, Ken Vick or any other senior leadership. The opinion elicited from Sgt. McBride at the Grand Jury was a simplistic personal opinion and which apparently was shared by April Sponsel since she made no attempt to correct the opinion at the Grand Jury which by its nature is a “ex parte” proceeding. This is a critical issue going forward. What will be the First Amendment filter used by the Maricopa County Attorney’s Office when deciding what charges to file going forward? This has to be a decision which must be promulgated by the elected official, Allister Adel.

The protest march on October 17, 2020 was a Black Lives Matter protest. The chants used by the protester were chants used by BLM protester country wide. One protester draped a Black Lives Matter Flag on her back which was seized, photographed and inventoried by PPD. The change in policy which now treats protesters a member of a criminal street gang had its origins when PPD suggested the change in the email forwarded to Sherry Leckrone and Vince Goddard. The email chain (set forth above) showed that DCA Tom Van Dorn forward an email to meet with Phoenix Police to consider treating the protesters as a criminal street gang/criminal syndicate. DCA Tom Van Dorn had no supervisory responsibility over the Frist Responder Bureau, nor is the First Responder Bureau in his chain of command. He only forwarded the email.

As for the MCAO, there was no discussion, no incident review nor informative memorandum to senior management until after the Grand Jury indictments were returned. There were no memorandums/emails after the October 23rd meeting from April Sponsel to senior leadership summarizing what took place at the meeting. While April Sponsel may not have initiated the change in policy, she supported the change stating “this is amazing”. Later, she was orchestrating the police response throughout the entire day, and that evening and the next day. She told the Phoenix Police supervisors what to charge initially and later they were directed by her to add the riot charge and then sought conspiracy to commit aggravated assault and assisting a criminal street gang charges at the Grand Jury.

The right to protest is an afforded by the U.S. Constitution. This right is contained both in the freedom of speech and in the freedom to assemble, which protect not only the ability to verbalize protests and engage in symbolic speech such as wearing an armband, but to arrange marches and protests on certain public lands.

The government generally can’t regulate or restrict speech based on its content. Regulation of speech must be unrelated to both the ideas and the views expressed. Restrictions based on the ideas or subject matter involve regulating an entire topic of speech. For example, a local ordinance prohibiting all picketing except for labor picketing connected to a place of employment is unconstitutional because it regulates speech based on whether it is about labor.

In this case, the whole basis for the march was to protest perceived police misconduct in the arrest of black citizens. “ACAB” chant as was stated before is part of the content of the Black Lives Moment uses in their marches. Wearing Black clothing was nonverbal communication as part of the Black Lives Moment. Recently in San Francisco, a group of protesters (Buddhist) wore red in solidarity and carried flags while protesting the conduct of the Myanmar government crackdown. The tattoos are another form of nonverbal communication no different than a placard. Instead, these were all used as indicia of being a gang member. So, there can be no argument the Phoenix Police Department was attempting stop the marches based upon the content which was police misconduct resulting in injuries and/or death in the arrest of black citizens.

Some content-based restrictions may be allowed if they are narrowly tailored to serve a compelling government interest and are the least restrictive way of achieving that interest. MCAO assisted what PPD was doing by charging very serious crimes carrying draconian penalties. One of the protestors in an interview commented that while in the police station, the officer told her that she appeared to be a nice person, however, if she

continued to be involved in protest marches, she would have no life. This would be true based upon the grand jury indictments and the harsh penalties.

Some categories of speech are considered outside of First Amendment protection obscenity; defamatory language that is false and is intended to harm the reputation of another person; and “fighting words,” or speech that incites imminent lawless action. The individuals who are engaged in his conduct contends that the officer violated his First Amendment right to free speech, which includes the right to engage in offensive expression. The individual asserts he has the right to criticize government officials — one of the central rights the First Amendment is designed to protect. The government counters that the individual has no First Amendment protection because he has uttered “fighting words” — an unprotected category of speech. Freedom of speech is not advanced, the government asserts, by a stream of profanities with little or no intellectual substance.

In this type of case, an individual may face criminal charges for disorderly conduct based on obnoxious, offensive speech and attempts to make a First Amendment-based defense. The question becomes whether the individual’s speech constituted unprotected “fighting words” or protected free speech. Supreme Court Justice Lewis Powell articulated this concern in his concurring opinion in *Lewis v. New Orleans*, when he wrote that “the situation may be different where such words are addressed to a police officer trained to exercise a higher degree of restraint than the average citizen.”

These situations form the basis for a surprisingly complex area of First Amendment jurisprudence. The First Amendment protects a wide range of expression that many people do not like. Former U.S. Supreme Court Justice William Brennan wrote in the Court’s 1989 flag burning decision in *Texas v. Johnson*: “If there is a bedrock principle underlying the First Amendment, it is that government may not prohibit the expression of an idea simply because it finds it offensive or disagreeable.” There the Court stated:

The State's position, therefore, amounts to a claim that an audience that takes serious offense at particular expression is necessarily likely to disturb the peace and that the expression may be prohibited on this basis. Our precedents do not countenance such a presumption. *On the contrary, they recognize that a principal "function of free speech under our system of government is to invite dispute. It may indeed best serve its high purpose when it induces a condition of unrest, creates dissatisfaction with conditions as they are, or [491 U.S. 397, 409] even stirs people to anger."*

Terminiello v. Chicago, 337 U.S. 1, 4 (1949). See also Cox v. Louisiana, 379 U.S. 536, 551 (1965); Tinker v. Des Moines Independent Community School Dist. 393 U.S., at 508 -509; Coates v. Cincinnati, 402 U.S. 611, 615 (1971); Hustler Magazine, Inc. v. Falwell, 485 U.S. 46, 55 -56 (1988). It would be odd indeed to conclude both that "if it is the speaker's opinion that gives offense, that consequence is a reason for according it constitutional protection," FCC v. Pacifica Foundation, 438 U.S. 726, 745 (1978) (opinion of STEVENS, J.), and that the government may ban the expression of certain disagreeable ideas on the unsupported presumption that their very disagreeableness will provoke violence.

Thus, we have not permitted the government to assume that every expression of a provocative idea will incite a riot, but have instead required careful consideration of the actual circumstances surrounding such expression, asking whether the expression "is directed to inciting or producing imminent lawless action and is likely to incite or produce such action." Brandenburg v. Ohio, 395 U.S. 444, 447 (1969) (reviewing circumstances surrounding rally and speeches by Ku Klux Klan). **To accept Texas' arguments that it need only demonstrate "the potential for a breach of the peace," Brief for Petitioner 37, and that every flag burning necessarily possesses that potential, would be to eviscerate our holding in Brandenburg. This we decline to do. (emphasis added)**

In the 1992 cross-burning case of *R.A.V. v. City of St. Paul*, Justice Antonin Scalia wrote that "the exclusion of 'fighting words' from the scope of the First Amendment simply means that, for purposes of that Amendment, the unprotected features of the words are, despite their verbal character, essentially a 'nonspeech' element of communication." The Court invalidated the cross-burning law because it selectively punished only a particular form of fighting words.

The ordinance, even as narrowly construed by the State Supreme Court, is facially unconstitutional, because it imposes special prohibitions on those speakers who express views on the disfavored subjects of "race, color, creed, religion or gender." At the same time, it permits displays containing abusive invective if they are not addressed to those topics. Moreover, in its practical operation, the ordinance goes beyond mere content, to actual viewpoint, discrimination.

Let there be no mistake about our belief that burning a cross in someone's front yard is reprehensible. But St. Paul has sufficient means at its disposal to prevent such behavior without adding the First Amendment to the fire.

In *Houston v. Hill* (1987), The Supreme Court ruled:

Houston's ordinance criminalizes a substantial amount of constitutionally protected speech, and accords the police unconstitutional discretion in enforcement. The ordinance's plain language is admittedly violated scores of times daily, App. 77, yet only some individuals - those chosen by the police [482 U.S. 451, 467] in their unguided discretion - are arrested. *Far from providing the "breathing space" that "First Amendment freedoms need . . . to survive," NAACP v. Button, 371 U.S. 415, 433 (1963), the ordinance is susceptible of regular application to protected expression.* We conclude that the ordinance is substantially overbroad, and that the Court of Appeals did not err in holding it facially invalid.

Today's decision reflects the constitutional requirement that, in the face of verbal challenges to police action, officers and municipalities must respond with restraint. We are [482 U.S. 451, 472] mindful that the preservation of liberty depends in part upon the maintenance of social order. Cf. *Terminiello v. Chicago*, supra, at 37 (dissenting opinion). *But the First Amendment recognizes, wisely we think, that a certain amount of expressive disorder not only is inevitable in a society committed to individual freedom, but must itself be protected if that freedom would survive.* We therefore affirm the judgment of the Court of Appeals. (emphasis added)

The "right of the people peaceably to assemble, and to petition the Government for a redress of grievances" protects two distinct rights: assembly and petition. While neither "assembly" nor "petition" is synonymous with "speech," the modern Supreme Court treats both as subsumed within an expansive "speech" right, often called "freedom of expression." Many scholars believe that focusing singularly on an expansive idea of speech undervalues the importance of providing independent protection to the remaining textual First Amendment rights, including assembly and petition, which are designed to serve distinctive ends.

Assembly is the only right in the First Amendment that requires more than a lone individual for its exercise. One can speak alone; one cannot assemble alone. Moreover, while some assemblies occur spontaneously, most do not. For this reason, the assembly right extends to preparatory activity leading up to the physical act of assembling, protections later recognized by the Supreme Court as a distinct “right of association,” which does not appear in the text of the First Amendment.

The right of assembly often involves non-verbal communication (including the message conveyed by the very existence of the group). A demonstration, picket-line, or parade conveys more than the words on a placard or the chants of the crowd. Assembly is, moreover, truly “free,” since it allows individuals to engage in mass communication powered solely by “sweat equity.”

The right to assemble has been a crucial legal and cultural protection for dissenting and unorthodox groups and civil rights groups have invoked the right to assemble in protest against prevailing norms. When the Supreme Court extended the right of assembly beyond the federal government to the states in its unanimous 1937 decision, *De Jonge v. Oregon*, it recognized that “the right of peaceable assembly is a right cognate to those of free speech and free press and is equally fundamental.” There the Supreme Court stated:

We are not called upon to review the findings of the state Court as to the objectives of the Communist Party. *Notwithstanding those objectives, the defendant still enjoyed his personal right of free speech and to take part in a peaceable assembly having a lawful purpose, although called by that Party.* The defendant was none the less entitled to discuss the public issues of the day and thus in a lawful manner, without incitement to violence or crime, to seek redress of alleged grievances. That was of the essence of his guaranteed personal liberty. We hold that the Oregon statute as applied to the particular charge as defined by the state Court is repugnant to the due process clause of the Fourteenth Amendment.

Instead of using the Crips, Bloods, and Hells Angels for comparison, the proper comparison should have included *Brandenburg v. Ohio* (1969) (reviewing circumstances surrounding rally and speeches by Ku Klux Klan), *National Socialist Party v. Skokie* (1977) (reviewing a request for injunction prohibiting marching, walking or parading in the uniform of the National Socialist Party of America; marching, walking or parading or otherwise displaying the swastika on or off their person or distributing pamphlets in Skokie, Illinois, a city with the highest population of Holocaust survivors), *Texas v.*

Johnson (1987) (flag burned cited above) and *Hill v. Houston* (1987) (cited above). The Nazi Party and the Ku Klux Klan are in fact notoriously violent gangs.

The Maricopa County Attorney, as the elected official, needs to set the policy which reflects the balance between freedom of expression and the need to maintain social order. The initial policy set by Ken Vick seemed to have accomplish that goal. A middle of the road modification would be charge Unlawful Assembly as a class 1 misdemeanor and Resisting Arrest as a class 1 misdemeanor along with any Aggravated Assaults as class 4 or 5 felony where there is sufficient proof. This was the approach done by the U.S. Justice Department in the Capitol insurrection of 1/6/21. However, no charges should be filed unless and until a review of all available videos is reviewed by the charging attorney specially the BWC video if Aggravated Assault charges are being contemplated.

Note, again, this was not intended to be a comprehensive memorandum on First Amendment issues. It was intended to show how the issue is complex.

8. AFFINITY OF THE FIRST RESPONER UNIT CREATES THE PREDILECTION BY THE PROSECUTORS TO ACCEPT THE PHOENIX POLICE NARRATIVE WITHOUT ANY REVIEW

The ABA standards provide:

Standard 3-1.2 Functions and Duties of the Prosecutor

(a) The prosecutor is an administrator of justice, a zealous advocate, and an officer of the Court. **The prosecutor's office should exercise sound discretion and independent judgment in the performance of the prosecution function.**

The affinity of the First Responder Bureau and the Phoenix Police Unit handling the protest marches created the predilection by the prosecutors to rely upon the written reports submitted by Phoenix Police officers. They did not take the time to watch the

available video. Actually, April Sponsel did not even wait for the written reports. She was giving advice to the police supervisors based upon oral reports from the police. She was drafting directions to IA Court personnel based upon oral reports because, at 10:48pm on October 17, 2020, the police officers were still processing the defendants and writing their reports. This resulted in the prosecutors overlooking and/or ignoring the misstatements, exaggerations, and outright false statements of the Phoenix Police Response team.

This false narrative would have been revealed if someone had taken the time to watch just a limited amount of BWC videos of Sgt McBride, Joseph Crowley, Sgt Groat and Jeffrey Raymond. The request by the County Attorney to have the Chief of Police conduct an investigation into Sgt. James Groat, Sgt. McBride, Officer Jeffrey Raymond, Officer Volk, and Joseph Crowley demonstrates this flaw. In the letter, she outlines, in detail, the issues with the reports filed and testimony given in Court proceedings including the fact that the reports omitted several significant exculpatory statements made by Ryder Collins in his recorded interview as well as the issues with Sgt. McBride testimony which the judge used in her ruling finding misconduct. Ryan Green and his team actually watched the available video and it was apparent from his report that there was a substantial discrepancy between the two version of the events.

The affinity is also seen in the fact that April Sponsel became an active participant in the planning and throughout the entire evening and the next day. She was giving legal advice to Phoenix Police. She told the supervisors what to charge and what was needed when they filled out the Form 4 probable cause section. This is inconsistent with the concept that the County Attorney independently reviews the evidence the police collect and submit and then the deputy County Attorney decides independently the appropriate charges regardless of what charges are requested in the Form 4.

The ABA Standards further state:

(w)hen investigating or prosecuting a criminal matter, the prosecutor does not represent law enforcement personnel who have worked on the matter and such law enforcement personnel are not the prosecutor's client.

The affinity is shown at the bond hearing for Suvarna Ratnam. After the Court found that the state had not meet its burden of proof to hold the Ms. Ratnam without bond, April Sponsel demanded bond be set at \$100,000.00 because Ms. Ratnam posed a substantial threat to the community. This was based on Ms. Ratnam's prior arrest on August 24, 2020. However, based upon recent reporting, the facts outlined by April Sponsel were inaccurate. After a review of the video, she was giving the Court an exaggerated and misleading narrative. Recently, in a motion to reduce the charges against Ratnam, the Maricopa County Attorney's Office reviewed the initial claims about the umbrella.

"The State's further review of the evidence has shown that the metal tip of the umbrella does not appear to have been modified or made sharper than its original condition," ... "Applying the legal definition of 'dangerous instrument' and considering the totality of the evidence, including body camera video, the State submits that it is appropriate to reduce the level of aggravated assault on this count." ... "Undersigned counsel has also requested follow-up investigation and documentation regarding a bottle of acetone found in the defendant's property and whether the water bottle contained anything other than water,".

For the water bottle (which not preserved as evidence), the Maricopa County Attorney's Office is now requesting that she be charged with a misdemeanor disorderly conduct charge instead of aggravated assault as a class 2 felony.

Multiple cell phone videos show Ratnam never swung the umbrella or leveled it. The videos show her attempting to run past the sergeant. An evidence photo of the umbrella's tip also shows that it was not sharpened or bent. The sergeant's right-hand doesn't appear to touch the umbrella tip, according to the videos. Instead, the sergeant raises his right arm and wraps it around Ratnam's neck and shoulders as he tackles her to the ground. So once again, apparently April Sponsel was relying upon written police reports rather than taking the time to watch the available videos/photo evidence. Bond hearing was October 30, 2020 and the arrest was August 24, 2020. There were over sixty days period of time for her to have watched the underlying video.

Another illustration is that core police report for each of the eighteen (18) individuals were almost identical short statements. There was no individuality. Vince Goddard had directed that this practice stop. Despite warnings by Vince Goddard that

this “cut & paste” approach was unacceptable and the instruction that the reports need to be individualized, a review of the Form 4 and for that matter the police reports done on October 17, 2020 were “cut & paste”. April Sponsel was actively advising the officers the night of the arrest and she knew there was an issue the next day according to her email. There was no separation nor independent review.

Mr. Collins was arrested and a narrative was created and pursued in Court. April Sponsel specifically singled him out and identified him at the grand jury. The narrative included he did not leave the area, however, a group from AZPatriots walked along after the police let them follow along. They thought it was “dope” that the police let them follow along. As they walked along, they were throwing taunts at the protesters and commenting on the protest march. They pointed out times when they thought the police could shoot non-lethal munition at the groin area of the marchers. AZPatriots were aware of and had seen the challenge coin prior to the march. A prior video of the AZPatriots which is designated as a hate group by the Southern Poverty Law Center captured an identified Phoenix sergeant talking with them regarding the coin and bragging about it.

It is the AZPatriots video of the October 17, 2020 march that shows the time and place Ryder Collins appears on the scene. Ryder was not even near the group until they passed by him near Central and Washington. Further, the AZPatriots did not leave the area. AZPatriot’s video clearly shows they are approximately one-half of a block from the intersection still yelling their taunts. They were there for an extended period. You can see them there after the light rail resume operations and the train went through the intersection. They were not arrested.

RECOMMENDATIONS

While there are recommendations based upon the above, MCAO Allister Adel took remarkably, timely and decisive action to remedy the circumstances. After the incident review on February 12, 2021, MCAO Adel removed April Sponsel from the 10/17/20 case and replaced her with Ryan Green. Later, that month April Sponsel was placed on administrative leave pending a review. At MCAO Adel’s direction, Ryan Green dismissed the cases for the fifteen (15) defendants.

Most Importantly, MCAO Adel directed Ryder Collin’s case to be dismissed with prejudice in light of the clear evidence he was not involved in the march and he engaged in no criminal conduct. The miscarriage was corrected.

MCAO Allister Adel appointed the undersigned review the charging decisions and processes of the Maricopa County Attorney's Office (MCAO) related to the October 17, 2020 arrest of fifteen (15) protesters related to the Black Lives Matter Movement march in the City of Phoenix. The review also included a review of the related policies and procedures and whether the MCAO prosecutors followed the existing prosecution policies. These actions were all done within the first thirty (30) days.

On March 9, 2021 (Phoenix, AZ) as to the August 9, 2020 gathering in downtown Phoenix that resulted in the arrest and charging of several individuals for felony and misdemeanor offenses, County Attorney Allister Adel commented:

"After reviewing these cases, I believe it is in the interests of justice to dismiss the current charges. However, I intend to refile different charges against some of these defendants based on their conduct during this event."

On March 12, 2021, Ken Vick, chief deputy, drafted the following procedure for reviewing all of the protest cases:

From: Ken Vick <VICK@mcao.maricopa.gov>
Sent: Friday, March 12, 2021 10:49 AM
To: Ryan Green <greenr@mcao.maricopa.gov>; Barbara Marshall <MARSHALL@mcao.maricopa.gov>; Vince Goddard <goddardv@mcao.maricopa.gov>; Jason Kalish <KALISH@mcao.maricopa.gov>; Rachel Mitchell <Mitchelr@mcao.maricopa.gov> **Subject:** Prosecutor Team for "Protest" Related Cases

To streamline the management and supervision of these cases, which will be assigned in several divisions, and to ensure consistency in charging and resolution, we have created the following prosecution team to handle these cases:

Ryan Green (DC)
Ed Leiter (BC)
Neha Bhatia
Suzie Caughlin
Esdras Rivera
Trial Division DCA TBA Appeals DCA TBA

DCAs to be supported by their assigned support teams except that FRB paralegals will remain involved as needed because they have already handled much of the discovery.

Advisory Group (for input and consultation as needed) Barbara Marshall
Vince Goddard Jason Kalish Rachel Mitchell

I have attached a spreadsheet of the cases we have identified at this point that need to be handled by this team. I cannot promise that this is the entire universe; if other related cases are identified we'll add those later. I think the easiest way to do this is to have Ryan or Ed use the attached spreadsheet to identify the cases and then reassign them in PbK. The team should discuss cases and brief me before any charges are filed. I also need to be included in case resolution plans. The advisory group does not have to be consulted on every case but it is there for any novel issues or questions that might arise or to get additional input if the prosecution team cannot agree on a particular issue.

Ryan Green conducted a comprehensive review of all of the evidence in the 10/17/20 march, included all BWC video as well as the other available video including the AZPatriot video. He made a number of requests for additional information from the Phoenix Police including information on any warrants for mobile phone records. He made a number of requests for additional information on the source of the "intelligence". He has received little in response to either request by the Phoenix Police.

He reviewed all of the photographs which revealed the true nature of the umbrella (not sharpened or modified) and the fact there was no photographs that showed the sharpened finger nails testified to by the police at the Grand Jury.

Other teams reviewed the other arrests in 2020. The new process was used to review the 2020 cases in the spring of 2021. Emails and memorandums provided for this report confirms that investigators are now reviewing all video evidence and the police reports and making recommendation based upon individual conduct. If the MCAO investigators had done this thorough review of the 10/17/20 arrest prior to the grand jury, the miscarriages of justice could have been avoided.

The undersigned received a copy of Ryan Green's report recently, and it is apparent that it formed the basis for the MCAO Adel's letter to the Phoenix Chief of Police sets forth some of the areas of concern about the conduct of several officers and informing the Chief that Sgt McBride was placed the "Brady List".

Ryan Green wrote Responses to the Motions to Dismiss with Prejudice filed by various defense lawyers. While he opposed dismissal with prejudice, he did acknowledge there were problems with the handling of the cases. Judge Ryan-Touhill granted the motions as to counts 4 and 5. Eventually the cases were dismissed at the direction of MCAO Adel. The cases were later dismissed in totality.

Ryan Green also took actions as to August arrest of Suvarna Ratnam when he made the following decision..." considering the totality of the evidence, including body camera video, "the State submits that it is appropriate to reduce the level of aggravated assault on this count". He has also requested follow-up investigation and documentation regarding a bottle of acetone found in the defendant's property and whether the water bottle contained anything other than water,".

These actions were taken by the Maricopa County Attorney independent of this investigation and review. Also, Sherry Leckrone, April Sponsel's immediate supervisor, resigned on or about June 1, 2021. Vince Goddard, Sherry Leckrone's supervisor, resigned late in May after being hired by a civil law firm.

Accordingly, MCAO Adel, when presented with the complete circumstances surrounding the 10/17/20 Black Lives Matter march, and the conduct of the attorneys that worked for the First Responder Bureau, she took swift and decisive corrective action.

It is important to note that based the timeline of MCAO Adel's medical issues and when she was briefed and that she was briefed upon this "narrative" presented at the incident review. This narrative was at its best was exaggerated and misleading and at it's a worst a complete work of fiction. The conclusion is evident that MCAO Adel did not have a full and complete picture of what occurred between October 17th and October 30th and it was not until February 12, 2021 when she fully briefed on the events of October 17, 2020. Then she took swift and decisive corrective measures. The narrative was perpetuated by the fact the file was locked by Vince Goddard so no one could review the matter including the communication director, Jennifer Liewer and Ryan Green who was part of the senior leadership.

However, there are recommendations for further corrective action.

1. The Maricopa County Attorney should promulgate a detailed policy for the prosecution of protesters arrested at protest marches. This policy should set forth charging and plea negotiation policies. This should happen after impute from a committee made up of the senior attorneys from different bureaus and diverse backgrounds, including a senior attorney from appeals. Further, the process put in place in March of 2021 by Ken Vick is an effective process which has been used to review hundreds of cases to date. It is recommended it be continued going forward with modifications as are necessary.

2. The original plan to review and what to charge in protest cases which Ken Vick instituted early in summer should be continued. Mr. Vick has a great deal of experience. Based upon the undersigned experience as a judge and public defender, Ken Vick has, in the past, has always taken a strict adherence to the policies implemented by prior administrations. That plan last summer was reasonable and measured. It balanced the need for social order and protection of the public and the First Amendment Right to Speech and Assembly.
3. If the committee recommends a different approach, then prosecutions should be done only after identifying actions and behaviors of specific individuals. In other words, MCAO will no longer accept cases if the basis is a "cut & paste" police reports and Form 4 which lack any individuality. This has been the process used to review the 2020 cases in the spring of 2021. Emails and memorandums provided for this report confirms that investigators are now reviewing all video evidence and the police reports and making recommendation based upon individual conduct. If the investigators had been assigned and then had done this thorough review of the 10/17/20 arrest, the miscarriages of justice could have been avoided.
4. If a more expanded approach is going to be used, then a moderate approach would be where MCAO would be to retain cases involving Unlawful Assembly, a class 1 misdemeanor ARS 13-2903(B) and/or Disorderly Conduct as a class 1 misdemeanor under ARS 13-2904 or Obstructing a Highway or other public thoroughfare as a class 3 misdemeanor under ARS13-2906 and/or Resisting Arrest as a class 1 misdemeanor. Riot under ARS 13-2901 or Felony Resisting Arrest should only be charges in factually specific cases as approved in writing by MCAO Allister Adel or her designee which is part of the new process.
5. Aggravated Assaults on Police Officers (class 4 and class 5) will be retained as was the policy before, however, a contemporary email should be sent directly to both MCAO Adel and her deputy chief, Ken Vick so these cases can be tracked by senior staff.
6. Protest case should no longer be sent to the First Responder Bureau. According to Ken Vick, in the past, these cases were more uncommon,

so sending the cases to the First Responder Bureau was a matter of convenience. However, in light of the new process implemented by Ken Vick, a team of lawyers, who have specific training and come from diverse backgrounds, should be formed. This assignment can be treated as additional duties beyond their normal assigned duties. The team would meet as necessary and the cases would be review by the team. A member of the senior management should head the team. That team leader should have direct report access to both MCAO Adel and Ken Vick and the team leader should send a timely memorandum to MCAO Adel and Ken Vick before any case is scheduled for a grand jury. MCAO Adel and/or Ken Vick can decide whether a formal “incident review” is in order. This similar to the new process instituted in March of 2021, however, it should include specific training for the attorneys.

7. The personal of the First Responder Bureau should all be rotated out. New attorneys should be rotated into the Bureau. These attorneys should be experienced and the member should come from diverse backgrounds. When selecting these attorneys, the MCAO should take into consideration whether there is an affinity with police officers. While it may not be an actual conflict to have a family or friend who are member of law enforcement, the question is: does a specific relationship create the “appearance of impropriety”. This individual decision should be determined by the Maricopa County Attorney.
8. The MCAO Adel shall set forth a new policy: If Body Wear Camera evidence is present in a case, no charges will be filed until the charging attorney has had an opportunity to review the BWC videos. While it may be normal to trust reports submitted, now based upon the history of unreliable reports in this case, verification is necessary. Further, MCAO will decline any “cut & paste” police report and Form 4s. These cases will be sent back for further investigation. This policy should apply to all law enforcement agencies in Maricopa County.
9. A First Amendment policy should be drafted and promulgated. Additional training should be implemented for any lawyer who handles protest cases. When developing a policy and developing a training program the MCAO should include lawyers who have First Amendment experience including members of the attorney general’s

office who handle appeals, law professors, lawyers who represent the cities when sued by protester and also lawyers who represent protestors (i.e., ACLU lawyers). Knowing what the competing issues are, the pitfalls these cases have, and the views of others will help the lawyers understand the competing interest.

10. MCAO Allister Adel should decide whether the behavior of the attorneys in the First Responder Bureau who initiated the policy changes throughout the summer and fall and those who drafted the indictments for the grand jury without approval of senior leadership after an “incident review” should be subject to disciplinary procedures. While there was no policy in place for protest cases, Ken Vick had set forth a very specific procedure. Over the summer and early fall, the First Responder Unit progressively morphed the procedure to where, in August, the MCAO was charging all individual involved in the marches with Riot and Hindering a Prosecution. After the 10/17/20 arrest, it further escalated to charging conspiracy (a class 2 felony) and gang charges (a class 3 felony) as well as the events that occurred on 10/17/20 through 10/30/20. Based upon the material provided to the undersigned, there was no written request for any changes directed to Ken Vick. He was unpleasantly surprised and taken back by Vince Goddard when he was told the case had already gone to the grand jury before the “incident review”. Vince Goddard acknowledged there was a miscommunication which effectively prevented Ken Vick from intervening before the grand jury took place.

Ethical Issues

The final issue is the ethical issues which the underlying facts raise. Judge Touhill-Ryan’s minute entry and orders do not deal with the Ryder Collins case which was dismissed with prejudice. The Ryder Collin’s arrest and prosecution was miscarriage of justice and he was treated in a cold and callous fashion throughout the arrest and prosecution. There was no kind of minimal vetting by April Sponsel. Every lawyer has that duty to do a minimal amount of investigation before filing charges or what's purported to be evidence used in court. Either April Sponsel was aware Ryder Collin’s was just a bystander and not part of the march (as Riley Behrens told the

officers the night of the arrest) or she failed to do even a minimal investigation to what his role was. April Spounsel had access to the BWC video evidence and she knew how to access the AZPatriot video. A cursory reading of the remand motion before delegating it to a another for the response, would have alerted a reasonable lawyer that there was substantial issue as to his participation, yet on 2/12/21, she was still pursuing a theory Ryder Collings was an active participant. The ethical duty is crystal clear:

ER 3.8. Special Responsibilities of a Prosecutor

The prosecutor in a criminal case shall:

- (a) refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause;

COMMENT

[1] A prosecutor has the responsibility of a minister of justice and not simply that of an advocate. This responsibility carries with it specific obligations to see that the defendant is accorded procedural justice, that guilt is decided upon the basis of sufficient evidence, *and that special precautions are taken to prevent and to rectify the conviction of innocent persons. (emphasis added)*

The Ryder Collins prosecution presents an ethical violation of this duty.

Judge Touhill-Ryan's minute entry and orders also presents a judicial finding that a deputy county attorney was found to have done the following:

THE COURT FINDS the Grand Jury presentation denied co-defendants a substantial procedural right on counts 4 and 5.

THE COURT FURTHER FINDS the State made material misrepresentations of evidence to the grand jury, resulting in an unfair and biased presentation on counts 4 and 5.

THE COURT FURTHER FINDS the State assisted in misdirecting the Grand Jury on counts 4 and 5.

THE COURT FURTHER FINDS the State failed to provide relevant exculpatory evidence or correct misleading information to the Grand Jury on counts 4 and 5.

THE COURT FINDS the State acted in bad faith in presenting evidence on counts 4 and 5.

THE COURT FURTHER FINDS fundamental unfairness would exist if the State could refile counts 4 and 5. Therefore,

It is ordered dismissing counts 4 and 5 with prejudice.

Each of the findings constitute an ethical violation. The Maricopa County Attorney's Office did not appeal the Court's finding or its order dismissing counts 4 & 5 with prejudice. As a result, Maricopa County Allister Adel has an ethical obligation to forward the findings to the State Bar of Arizona so the State Bar can determine whether disciplinary proceeding should be commenced. As part of the referral, the Ryder Collins matter should be included so the State Bar can determine whether the prosecution of Ryder Collins should be subject to disciplinary proceedings independent of the minute entry decision.

Conclusion

The Maricopa County Attorney's Office consists of Twenty (20) separate divisions. Number of attorneys in MCAO (combined criminal and civil) is 339 attorneys. Number of total employees at MCAO (combined criminal and civil) is 920 of which 581 are non-attorneys. Ken Vick is the Chief Deputy. He reports directly to the elected county attorney, Allister Adel. The First Responder Bureau is under the Special Prosecution 1 Division. Vince Goddard was the supervisor of that division. He supervised the Capital Litigation Bureau, the Homicide Bureau, Gangs Bureau, Vehicular Bureau and the First Responder Bureau. Sherry Leckrone was the supervisor of the First Responder Bureau. April Sponsel was a trial deputy county attorney assigned to the First Responder Bureau.

As the Maricopa County Attorney, Allister Adel is required to appoint division chiefs and bureau chiefs. The public's interests and views should be determined by

Allister Adel and her designated senior leadership. She relies upon these supervisors to execute the policy she promulgates. The County Attorney relies upon the supervisors doing their job and sending timely information up the chain of command so decisions can be made by the senior leadership.

As has been said several times:

A prosecutor has the responsibility of a minister of justice and not simply that of an advocate. This responsibility carries with it specific obligations to see that the defendant is accorded procedural justice, that guilt is decided upon the basis of sufficient evidence, and that special precautions are taken to prevent and to rectify the conviction of innocent persons.

In this case, what happened at the protest march of 10/17/20 was reduced to a “narrative” crafted upon police reports. This narrative has been found by the judge in the criminal case to contain material misrepresentations of evidence and where in the prosecutor assisted in misdirecting the Grand Jury. Further, the judge found that State failed to provide relevant exculpatory evidence or correct misleading information and the State acted in bad faith in presenting evidence.

Most Importantly, this is the narrative that was presented to the “incident review” on 10/30/20. Based upon this narrative Ken Vick briefed Allister Adel. The decision to continue the prosecution was based upon this narrative. Again, at the “incident review” of 2/12/21, this narrative was presented by April Sponsel including the fact that Ryder Collins was an active participant. However, the narrative had begun to unravel. The news reports were documenting that the video evidence did not support the narrative in the reports.

There also was a major miscommunication between Vince Goddard and Ken Vick. Vince Goddard knew April Sponsel was intending to pursue gang and conspiracy charges after he was informed on 10/20/20 that the judge had signed the search warrants based upon the application listing those charges. During the next few days there was a lack of urgency in setting up the “incident review” and it is clear Ken Vick was unaware a grand jury had been set for 10/27/30. He was unaware of the 10/23/20 meeting at Phoenix Police Department which was attended by three Assistant Chiefs and the topic would involve a major change in MCAO policy dealing with protest cases. It is also clear that Ken Vick was unaware of the charges in the draft

indictment. This caused the senior management being caught completely off guard when it was announced that the grand jury had returned an indictment.

The Special Prosecution Division supervised by Vince Goddard. He indicated his focus in September and October was on issues within the Homicide Bureau especially with the cases he inherited from Juan Martinez. Considering the bureaus he supervised, his job would be challenging under normal circumstances. According to him, his knowledge of what April Sponsel was doing was based upon conversations he had with April Sponsel outside the chain of command wherein she told him she was looking for the "big case". April Sponsel sent two emails on one case to Allister Adel as well as Sherry Leckrone one of which was a self-congratulatory on one case sent directly to the county attorney. There is nothing in the email which would have alerted Allister Adel of new overarching policy of handling protest cases. Vince Goddard told her he did not approve of her "big case theory".

Vince Goddard had directed Karl Martin to meet and investigate protest cases with the Phoenix Police. He did so and then he reported his findings to his supervisors, however, there is no email from Vince Goddard to senior leadership informing senior leadership of the Martin's findings that the evidence did not support probable cause for the criminal street gang charge.

On February 12, 2021, after it was determined the narrative was incorrect, exaggerated and misleading, Allister Adel began to take corrective actions which then led to the establishment of a clear and concise way of handling the cases set forth by Ken Vick in mid-March. Sherry Leckrone was the immediate supervisor. She resigned at the end of May. Vince Goddard resigned at the end of May. New supervisor will fill those positions. Several teams who were assigned to review all of the protest cases from 2020 and have undertaken the review, and actions have been taken to rectify the charges previously filed.

Regrettably, if the attorneys had followed the procedures set down, ask for an incident review prior to convening the grand jury and there had been no miscommunications within the chain of command, and most importantly, had the deputy county attorney done the same type of investigation Ken Vick began doing in March of 2021, the outcome would have been dramatically different.

Upon receiving a true picture of the events of 10/17/20, Allister Adel has attempted to carry out her responsibility and her specific obligations to see that the defendants are accorded procedural justice, that guilt is decided upon the basis of sufficient evidence,

and that special precautions are taken to prevent and to rectify the conviction of innocent persons.

Respectfully Submitted this 6th day of August, 2021.

Roland J. Steinle