

October 28, 2020

**VIA ELECTRONIC MAIL**

**([adela@mcao.maricopa.gov](mailto:adela@mcao.maricopa.gov))**

Allister Adel, Esq.  
Maricopa County Attorney's Office  
225 West Madison Street  
Phoenix, Arizona 85003

**RE: Phoenix Police Officer Anthony Armour (#08605)  
Demand to Notify All Convicted Defendants of Destroyed Evidence**

Dear Ms. Adel,

Our office has recently uncovered some deeply concerning information regarding former Phoenix Police Officer Anthony Armour (#08605). I am writing you today because I believe this information requires immediate action by your office.

**I. Background**

As you know, we represent JeAnna Anderson in a civil claim against Mr. Armour for sexually assaulting her during an October 2015 traffic stop. For the better part of five years Mr. Armour has defended this case by claiming that the assault never happened, that Ms. Anderson is lying, and that his arrest and use of force against Ms. Anderson on a misdemeanor traffic violation – which resulted in a torn rotator cuff, among other injuries – was appropriate.

Ms. Anderson's civil rights case against Mr. Armour and the Phoenix Police Department proceeded to trial in federal court last week. Because there was no body-cam footage, surveillance footage, or audio recordings of any portions of Mr. Armour's interaction with Ms. Anderson, it was a case that hinged entirely on the relative credibility of the only two witnesses to the assault (Ms. Anderson and Mr. Armour).

Last Thursday, October 22, 2020, Mr. Armour took the stand to testify on his own behalf. On cross-examination, Mr. Armour offered sworn testimony that he audio-recorded portions of his interaction with our client on his personal cell phone; that he never impounded the recording (or his phone) as evidence; and that he never produced the recording in our case.

Mr. Armour further testified that this was not the only such recording he created during this time-period. Mr. Armour clarified, that at some point prior to the summer of 2015, he began audio-recording portions of his interactions with female suspects; that he recorded these interactions on his personal cell phone; that these recordings were never deleted; and that he no longer owns this phone. [See App. 1]

## **II. Due Process and Public Safety Concerns Raised by Mr. Armour's Trial Testimony**

Put bluntly, Mr. Armour's trial testimony came as a total shock to us. In more than five (5) years since Ms. Anderson's arrest, Mr. Armour never produced any recording.

Even more concerning, prior to last Thursday Mr. Armour had never even acknowledged the *existence* of a recording: Not in his Rule 15.1 defense interview in the criminal case against our client (which was ultimately dismissed); not in his investigatory interview with the Phoenix Police Department's Special Investigations Division (which was investigating whether he had committed a criminal offense with respect to his use of force and assault on Ms. Anderson); not in his interview with Phoenix PD's Professional Standards Bureau (which was investigating whether he had committed a violation of Phoenix PD policy with respect to his use of force and assault on Ms. Anderson); and not in his prior sworn deposition testimony in our civil case (in which I had specifically asked him if he had audio-recorded the interaction).

I trust that this is new information to your office as well. And it is clear that Mr. Armour's 11<sup>th</sup>-hour disclosure of these audio recordings raises several major concerns.

***Officer Integrity:*** Mr. Armour's testimony at trial – indicating for the first time that he had audio recorded his interaction with Ms. Anderson – was at odds with his prior sworn testimony at deposition. [See App. 2] At trial, Mr. Armour's counsel pointed to a concern about specific word choice that raised questions as to whether Mr. Armour had perjured himself. But this word-parsing is a distinction without a difference for the purpose of *Brady*: Mr. Armour's recording of this interaction, refusal to disclose its existence for five years, and reliance on a hyper-technical explanation to explain why he wasn't in fact perjuring himself is textbook *Brady* material and must be added to Mr. Armour's file.

***Due Process:*** Mr. Armour's sworn testimony makes clear that he recorded his interactions with women on his personal cell phone – an express violation of policies of both the Phoenix Police Department and the City of Phoenix. He admits that he never impounded his recording of Ms. Anderson into evidence – a separate violation of Phoenix PD policy. And he admits that he took recordings of other women, as well – with absolutely no indication that he ever impounded those recordings into evidence.

***Public Safety:*** Mr. Armour has a lengthy disciplinary history. He has been credibly accused of sexual assault by numerous women, including a fellow City of Phoenix Police Officer. He has been credibly accused of mistreating numerous other women, including shooting one in the stomach in the doorway of her own home, planting drugs on another (a case that resulted in a woman's criminal conviction being overturned), and arresting another and booking her into jail without probable cause (the case that landed him on the *Brady* list). With this context, Mr. Armour's recent trial testimony takes on particular public safety concerns: Mr. Armour's sworn admissions that he was secretly recording interactions with women in his custody, on his personal cell phone, electing not to impound the recordings or his phone into evidence, and ultimately failing to preserve, retain, or even delete that evidence before passing the phone on to someone else raises major concerns for the safety of the women he has arrested.

### **III. Your Ethical Obligations under ER 3.8.**

As you know, if Mr. Armour had revealed this information for the first time in the middle of a criminal – rather than civil – trial, the due process concerns could well have been fatal to the State's prosecution efforts. The obvious violation of Ariz. R. Crim. P. 15.1 might well have compelled a mistrial. And, at a minimum, the destruction of a recording between the arresting officer and the criminal defendant likely would have compelled a *Willits* instruction to the jury regarding destruction of potentially exculpatory evidence.

I raise this issue for a simple reason: Because any woman facing criminal charges based in whole or in part on testimony from Mr. Armour would be entitled to such remedies if Mr. Armour had revealed this information in her case. Thus, any convictions procured by your office based on Mr. Armour's testimony – while Mr. Armour was deliberately withholding *recordings* of his interactions with them, likely without your office's knowledge – are constitutionally compromised.

Your ethical duty to the women impacted by Mr. Armour's withheld evidence is clear: **Ethical Rule 3.8 requires a prosecutor, upon learning of “new, credible, and material evidence creating a reasonable likelihood that a convicted defendant did not commit an offense of which the defendant was convicted,” to promptly disclose this evidence to the Court and the convicted defendant.** Such is precisely the case here: Mr. Armour has admitted to making recordings of female suspects on his personal cell phone, against PPD policy; failing to

Allister Adel, Esq.  
10/28/20  
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impound those recordings into evidence, against PPD policy; and failing to otherwise preserve this evidence, in violation of PPD policy, Arizona Public Records Laws, and the Arizona Rules of Criminal Procedure.

Given the above information, I trust that your office will take all appropriate measures to investigate Mr. Armour's conduct to determine if his surreptitious recording of women – and non-disclosure of those recordings – violated any provisions of Title 13. That, ultimately is within your discretion as a prosecutor.

What is beyond your discretion – what *Brady* and the Rules of Professional Conduct require – is as follows:

- (1) that your office investigate and add Mr. Armour's potentially perjured testimony, policy violations, and disclosure violations to MCAO's *Brady* officer integrity file on him, and promptly disclose this information to all defendants and defense attorneys on any case in which Mr. Armour was involved; and
- (2) that your office immediately identify all cases in which a female suspect's conviction was based in whole or in part on Mr. Armour's investigation and/or testimony and notify the Court, defense attorneys, and each defendant of Mr. Armour's collection and destruction of material and potentially exculpatory evidence.

While I'm certain that you are very busy leading up to the election, there are countless women whose freedom, housing, and job prospects have been forever impacted by your office's reliance on Mr. Armour's testimony. And, as you read this, there are countless potential injustices that you have an ethical duty to investigate and remedy. Accordingly, it is vital that your office's audit of Mr. Armour's cases and your subsequent notification efforts begin immediately. I implore you to take prompt action to do so.

Very truly yours,

A handwritten signature in black ink, appearing to read "S. Benedetto", with a long horizontal flourish extending to the right.

Steve Benedetto

CC: James J. Haas, Maricopa County Public Defender  
Sherri McGuire Lawson, Director of the Office of the Legal Defender  
Jared Keenan, President of Arizona Attorneys for Criminal Justice  
Sheriff Scott Mascher, Chairman of Arizona Peace Officer Standards and Training Board

## Appendix 1

CV16-03563-PHX-JJT, October 22, 2020 P.M.

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

JeAnna Anderson, a single woman, )  
Plaintiff, )  
vs. ) CV16-03563-PHX-JJT  
Anthony Armour, Jr., et al., )  
Defendants. ) Phoenix, Arizona  
October 22, 2020  
1:27 p.m.

BEFORE: THE HONORABLE JOHN J. TUCHI, JUDGE

REPORTER'S TRANSCRIPT OF PROCEEDINGSJURY TRIAL - Day 3 P.M.

(Pages 381 through 471)

Official Court Reporter:

**Elaine Cropper, RDR, CRR, CCP**  
Sandra Day O'Connor U.S. Courthouse  
401 West Washington Street  
Suite 312, SPC 35  
Phoenix, Arizona 85003-2150  
(602) 322-7245

Proceedings Reported by Stenographic Court Reporter  
Transcript Prepared by Computer-Aided Transcription

United States District Court

## ANTHONY ARMOUR - Cross

1 A. No. 03:25:52

2 Q. And we heard you testify earlier about this gentleman who  
3 identified himself as a retired New Jersey police officer came  
4 up to you and asked if you were okay; right?

5 A. Yes. 03:26:07

6 Q. You never got his name, did you?

7 A. No.

8 Q. You never got any contact information on him?

9 A. No.

10 Q. Can't even remember what he looks like? 03:26:12

11 A. I can remember what he looks like.

12 Q. But that's not documented anywhere in your report, is it?

13 A. No.

14 Q. There were two McDonald's employees standing outside the  
15 McDonald's and watching your interaction with Ms. Anderson; 03:26:52  
16 right?

17 A. I'm not sure how much they saw of it but after I  
18 handcuffed her and she began screaming, I looked over and there  
19 were two McDonald's employees standing outside.

20 Q. You never went up and talked to them, asked them for their 03:27:04  
21 names?

22 A. No.

23 Q. You never obtained any witness statements from them?

24 A. No.

25 Q. And you didn't audio-record your interaction with 03:27:15

## ANTHONY ARMOUR - Cross

1 Ms. Anderson, did you? 03:27:19

2 A. I would have audio-recorded when she was alone with me in  
3 the vehicle. So basically when I took her over to the  
4 QuickTrip until the time I dropped her off at SCS, yes.

5 Q. Are you testifying today that you audio recorded your 03:27:30  
6 interaction with Ms. Anderson from the time you were at the  
7 QuickTrip until the time you dropped her off at SCS?

8 A. I would have, yes.

9 Q. When you say you would have, I'm asking you if you did.  
10 Did you audio-record that transaction or that interaction? 03:27:46

11 A. Yes. Yes.

12 Q. What did you do with that recording?

13 A. It was on the phone I had at the time. I ended up -- that  
14 phone ended up not working any more so I had to upgrade.

15 Q. You never provided that recording to anyone in this case, 03:28:08  
16 did you?

17 A. The recording wasn't able to be accessed once my phone  
18 stopped working.

19 Q. When you observed someone committing a misdemeanor offense  
20 like driving on a suspended license, you don't have any 03:28:43  
21 obligation to arrest them, do you?

22 A. To arrest them? As in handcuffs or citation?

23 Q. Arrest them as in handcuffs?

24 A. No.

25 Q. You can issue a citation? 03:28:57



## ANTHONY ARMOUR - Cross

1 If you were to have recorded your interaction with 03:37:18  
2 Ms. Anderson, that would not have been the first time you  
3 audio-recorded interaction with a female detainee, would it  
4 have been?

5 A. No. 03:37:27

6 Q. You were concerned, as of June of 2015, of possibly having  
7 false accusations made against you; correct?

8 A. I don't remember the date.

9 Q. Summer of 2015?

10 A. No. It was before that. 03:37:41

11 Q. Sometime prior to the interaction with Ms. Anderson, you  
12 grew concerned about having false accusations made against you  
13 by a female detainee?

14 A. Yes.

15 Q. And so you started recording interactions with female 03:37:55  
16 detainees?

17 A. Yes.

18 Q. And in this case, your testimony is you did record an  
19 interaction but not until you got to the QuickTrip; right?

20 A. Correct. 03:38:05

21 Q. And that audio is no longer available because it was  
22 deleted from your phone?

23 A. It wasn't deleted. It's probably still on the phone. The  
24 phone is nonfunctional and I no longer own it.

25 Q. You didn't recover the audio off of the phone to serve as 03:38:20

## ANTHONY ARMOUR - Cross

1 evidence of your interaction with Ms. Anderson, did you? 03:38:25

2 A. It was not recoverable. The phone stopped taking charges  
3 and it shut off and I could never ever get it back on again.

4 It was an HTC M7 or M8 and those were notorious for just  
5 stopping working one day. 03:38:45

6 Q. Sir, I want to understand briefly the discretion you had  
7 here and the choices you made.

8 When you arrived at the vehicle, Ms. Anderson's  
9 vehicle, you chose not to advise her that you knew she had a  
10 suspended license; correct? 03:39:02

11 A. We never made it that far.

12 Q. You were aware she had a suspended license at the time you  
13 were in your vehicle behind her before you even spoke with her;  
14 right?

15 A. Yes. 03:39:13

16 Q. So at the time you were interacting with Ms. Anderson, you  
17 knew she had a suspended licenses?

18 A. Yes.

19 Q. And you chose not to advise her that you knew she had a  
20 suspended license? 03:39:20

21 A. Yes.

22 Q. Instead, you asked for her license?

23 A. License or ID.

24 Q. And when she refused to provide it, you got into a series  
25 of statements and discussion with her that not providing her ID 03:39:30

## Appendix 2

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

JeAnna Anderson, a single  
woman,

Plaintiff,

vs.

Anthony Armour, Jr. And Jane  
Doe Armour, husband and wife;  
City of Phoenix, an Arizona  
municipal corporation,

Defendants.

No.

2:16-cv-03563-JJT-BSB

DEPOSITION OF ANTHONY ARMOUR

Phoenix, Arizona  
April 4, 2018  
10:08 a.m.

**REPORTED BY:**

PAMELA J. MAYER, RMR, CRR  
Certified Reporter  
Certificate No. 50207

**PREPARED FOR:**  
DISTRICT COURT

(Original)



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1 October of 2015, are you aware of any Phoenix Police  
2 policy that would have prevented you from doing so?

3 MS. BERKE: Objection, foundation.

4 THE WITNESS: I don't know that they had a  
5 surplus of them. I'm not certain if you could just get  
6 one. I feel like you couldn't, because they were just  
7 assigned to those certain precincts and squads. So I'm  
8 not 100 percent certain.

9 BY MR. BENEDETTO:

10 Q. So as far as you know, there -- or you don't know  
11 if there was an opportunity to go in and check a body  
12 camera out if you wanted one?

13 A. That, I know we couldn't do.

14 Q. So on the night of the incident, you were not  
15 audio-recording your interaction with Ms. Anderson, were  
16 you, with, like, a digital recorder or a --

17 A. No.

18 Q. -- tape recorder?

19 That was a no?

20 A. No. Yes, that was a no.

21 Q. I heard your answer, but I was concerned that I  
22 spoke over you.

23 Have you ever audio-recorded any interactions  
24 with people that you stopped in traffic stops?

25 A. Yes.

1 Q. Under what circumstances have you audio-recorded  
2 interactions with people in traffic stops?

3 A. It's usually either transports or if I'm in a  
4 situation where I'm not in a very public place, usually  
5 with a female prisoner, I'll audio-record that, if I'm  
6 doing paperwork somewhere or transporting.

7 Q. And is that audio recorder a digital recorder?

8 A. I pretty much just use my phone.

9 Q. And is it your personal phone or a  
10 department-issued phone?

11 A. Personal.

12 Q. What is the -- the first time you can remember --  
13 and I don't need an exact date, but a rough estimate of  
14 when you audio-recorded an interaction with a citizen?

15 MS. BERKE: Objection, vague.

16 THE WITNESS: You mean when I started doing  
17 it myself?

18 BY MR. BENEDETTO:

19 Q. Correct.

20 A. Like, for my own personal?

21 I don't remember what year it was. There was an  
22 incident with an officer and a female that, I don't -- do  
23 you mind if I look it up?

24 Q. Sure.

25 A. I could probably find the date, or at least a

1 year.

2 Q. And while you're looking it up, I'll say, if  
3 during the course of this deposition there's anything that  
4 comes up like that where it would be helpful for you to  
5 refer to notes or anything like that, just ask. That's  
6 fine. I'd rather have your testimony be complete than  
7 guess.

8 A. June of 2015.

9 Q. And what was it about that particular interaction  
10 that made you decide to record it?

11 A. It was an improper sexual misconduct between an  
12 officer and a female. And after that, it was kind of,  
13 just protect yourself, be safe.

14 Q. What do you mean, it was an improper -- that  
15 particular interaction --

16 A. Yes.

17 Q. -- involved a person who had claimed to have --  
18 let me just ask, tell me more about that. I'm not quite  
19 following as to what it was about that interaction that  
20 involved an officer --

21 A. I'm sure you heard of it. A Phoenix officer  
22 picked up a person from Scottsdale. You know what I'm  
23 talking about now?

24 Q. I do. Yeah.

25 A. And he had her perform oral sex on her [sic] in

1 his patrol vehicle in a Walgreens parking lot.

2 Q. Okay. And this incident that you recorded, it  
3 didn't involve that same -- that same citizen involved in  
4 that incident.

5 A. No.

6 Q. Okay. Why did you record this particular  
7 incident that you're referring to right now in June of  
8 2015?

9 A. Oh, no, no. I was saying, that's when the  
10 incident with the other officer happened. You asked me  
11 what led me to start recording mine. And that was the  
12 impetus for that.

13 Q. Okay. So once -- once that happened and that  
14 became -- you became aware that an officer had become a  
15 public figure, essentially, and had gotten in trouble for  
16 this incident, then you started sometimes recording  
17 incidents -- or interactions with citizens? Is that --

18 MS. BERKE: Objection, vague, compound.

19 BY MR. BENEDETTO:

20 Q. Is that correct?

21 A. Yes.

22 Q. Approximately how many interactions with citizens  
23 after that point would you record?

24 A. I don't know.

25 Q. It wasn't every interaction? That's fair to say?



1 A. No, not every.

2 Q. Can you give us a percentage of approximately how  
3 many interactions with citizens you would record versus  
4 the ones you would not?

5 A. No, because it would depend.

6 Q. What would it depend on?

7 A. How many females I would arrest versus males.  
8 How many people at one time I was arresting. Where I was  
9 going to be with them, if I was going to be, you know, not  
10 in a well lit, preserved place where accusations could not  
11 be made, that type thing. It was just kind of judgment.

12 Q. So if -- if you were interacting with a female,  
13 it would be more likely that you would record the  
14 interaction?

15 A. Yes.

16 Q. And if you were interacting with a female in a  
17 dark place, it would be more likely you'd record the  
18 interaction?

19 A. Correct.

20 Q. If there were not other officers present, it  
21 would be more likely you'd record the interaction?

22 A. Correct.

23 Q. All right. I'm going to ask you to go back to  
24 the night of October 16th, 2015, which is the night of the  
25 incident.