

1 John M. Mitchell (039739)
2 AMERICAN CIVIL LIBERTIES UNION
3 FOUNDATION OF ARIZONA
4 P.O. Box 17148
5 Phoenix, Arizona 85011
6 (602) 650-1854
7 jmittell@acluaz.org

8 Patrick Emerson McCormick (037036)
9 WOMBLE BOND DICKINSON (US) LLP
10 One South Church Avenue, Suite 2000
11 Tucson, AZ 85701-1611
12 (520) 629-4455
13 Patrick.E.McCormick@wbd-us.com

14 *Attorneys for Plaintiff*

15 **ARIZONA SUPERIOR COURT**

16 **PIMA COUNTY**

17 AMERICAN CIVIL LIBERTIES UNION
18 OF ARIZONA,

19 Plaintiff,

20 vs.

21 CHRIS NANOS, in his official capacity as
22 the duly elected Sheriff of Pima County,

23 Defendant.

No. C20254935

**PLAINTIFF'S BRIEF IN SUPPORT
OF APRIL 3, 2026 EVIDENTIARY
HEARING**

The Hon. Greg Sakall

CONTENTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I. INTRODUCTION 3

II. ARGUMENT..... 5

A. Defendant violated Arizona Public Records Law in failing to promptly respond to Plaintiff’s Request. 5

 1. *Timeline of Defendant’s responses to Plaintiff’s Request* 5

 2. *Defendant’s eventual responses to Plaintiff’s Request fall outside any reasonable interpretation of “prompt”* 6

B. Defendant continues to violate Arizona Public Records Law by failing to produce additional responsive records. 12

 1. *Defendant should be ordered to produce updated records of internal correspondence referencing GO 2025-001 between May and July 2025.*..... 12

 2. *Defendant should be ordered to produce records responsive to “requests for Federal immigration authority assistance or response” between July 1, 2024 and May 14, 2025.*..... 13

III. CONCLUSION 18

1 Plaintiff American Civil Liberties Union of Arizona (“ACLU of Arizona” or
2 “Plaintiff”) submits this brief in support of its claims for relief against Defendant Chris
3 Nanos, in his official capacity as Sheriff of Pima County (“Defendant Nanos” or
4 “Defendant”), administrative head of the Pima County Sheriff’s Department (“PCSD”).

5 **I. INTRODUCTION**

6 Defendant Nanos has failed to comply with Arizona Public Records Law in two
7 fundamental ways. Firstly, Defendant was required to respond promptly to Plaintiff’s May
8 14, 2025 Public Records Request (“Request”). He did not respond in any way that could
9 considered prompt. To the contrary, Defendant assigned Plaintiff’s Request to a technician
10 who went on vacation; took no action until after receiving Plaintiff’s demand letter; “just
11 briefly skim[ed]” the Request; and only provided any responsive records after Plaintiff
12 initiated this action. Defendant ultimately took 147 days to provide the current totality of
13 responsive records—which, as he admits, were readily available and took only days to
14 procure.

15 Secondly, and more critically, Defendant has contravened the core purpose of the
16 public records law: “to allow the public access to official records and other government
17 information so that the public may monitor the performance of government officials and
18 their employees.” Defendant publicly maintained a policy of “track[ing] department
19 requests for Federal immigration authority assistance or response” until May 21, 2025, yet
20 has provided few responsive documents since mid-2023. Defendant asserts that applying
21 its then-existing policy retroactively would be “unduly burdensome,” and instead offers for
22 Plaintiff to incur both a cost of production exceeding \$10,000 and the cost of sorting
23 incident reports according to policy.

24 Defendant Nanos has good reason to wish away inquiries into PCSD deputy
25 communications with immigration agents. Since the beginning of the second Trump
26 administration, Defendant Nanos has made routine assurances to the public that he does not
27 collaborate with federal immigration officials. Defendant Nanos has doubled down on such
28 claims since the filing of this special action.

1 Records obtained through this litigation show a different reality. PCSD deputies
2 appear to have engaged in unconstitutional coordination with federal immigration
3 authorities, generally against Spanish-speaking individuals who cannot produce U.S.
4 identification but are under no suspicion of criminal wrongdoing. Defendant Nanos claims
5 to maintain no written policies or procedures—and provide no training on—how PCSD
6 deputies request federal immigration assistance. Notwithstanding, PCSD incident reports
7 detail deputies summoning Border Patrol in such instances as:

- 8 - A 911 caller observes a group of 25-45 Hispanic individuals with foreign accents
9 congregating behind a Dollar General Store.
- 10 - A deputy consensually contacts Spanish-speaking men on the side of the road;
11 the deputy alerts Border Patrol, believing he cannot detain them longer than 15
12 minutes, despite admitting the men are under no criminal suspicion.
- 13 - Individuals flee from their vehicle after crashing into a fence; Border Patrol
14 called “due to the possibility of the bailout being undocumented aliens.”
- 15 - Five individuals on construction company property claim to be looking for work;
16 a private security guard calls both PCSD and Border Patrol. Upon hearing that
17 Border Patrol will take over an hour to arrive, PCSD deputies offer the men a
18 ride to a Taco Bell. The PCSD deputies then inform Border Patrol to meet them
19 at the Taco Bell and take the men into federal custody.

20 The tallying of incidents including *prima facie* constitutional violations ends
21 abruptly in 2024. This is because Defendant ceased tracking communications between his
22 deputies and Border Patrol, contrary to his publicly posted policy.

23 After the promptness inquiry, then, Plaintiff requests the Court order injunctive relief
24 by compelling Defendant to furnish two additional categories of records at no cost to
25 Plaintiff. The first is an updated record of internal communications referencing GO 2025-
26 001 from May 1, 2025 through July 21, 2025. The second is a complete library of the 2,158
27 incident reports between July 1, 2024 and May 14, 2025 referencing Border Patrol.
28 Production of both is well-supported by existing case law and applicable doctrines.

1 **II. ARGUMENT**

2 **A. Defendant violated Arizona Public Records Law in failing to promptly respond**
3 **to Plaintiff’s Request.**

4 Failure to “promptly respond” to a public records request constitutes a denial under
5 the Arizona Public Records Law. *See* A.R.S. § 39 121.01(E) (“Access to a public record is
6 deemed denied if a custodian fails to promptly respond to a request for production of a
7 public record”). “Whether a response is prompt depends on the factual circumstances of the
8 request,” and the “burden is on the [government actor, office or agency] to establish its
9 responses to requests were prompt.” *Lunney v. State*, 244 Ariz. 170, 179-80, ¶ 31 (App.
10 2017) (ordering sanctions for a response time of 135 days as “not prompt”). The government
11 must specifically provide a “legally sufficient reason why [a delayed response] should be
12 considered ‘prompt’.” *Phoenix New Times, L.L.C. v. Arpaio*, 217 Ariz. 533, 541, ¶ 28 (App.
13 2008) (“*Phoenix New Times*”). Absent such rationale, a delayed response is tantamount to
14 a denial. *See id.* As a guidepost, the Arizona Court of Appeals has held that “records not
15 furnished until seventy-seven days (fifty-three working days) after the request,” absent
16 sufficient evidence to justify such an amount of time, cannot be deemed prompt as a matter
17 of law. *Id.* at 545, ¶ 44.

18 Here, Defendant cannot meet his burden to show a prompt response to Plaintiff’s
19 Request. Defendant offers no legally sufficient rationale for the extensive delays in
20 supplying readily obtainable records.

21 *1. Timeline of Defendant’s responses to Plaintiff’s Request*

22 Plaintiff herein provides, and stipulates to, Brief Exhibit (“Exh.”) 1 as the full and
23 complete record of Defendant’s productions in response to Plaintiff’s Request. Defendant
24 therefore took the number of days to produce responsive records as follows:

- 25 - 77 days after Plaintiff’s Request: one document of compiled internal PCSD
26 emails referencing "GO 2025-001" from January – April 2025;
- 27 - 86 days after Plaintiff’s Request: two incident reports involving Border Patrol
28 from 2025;

- 1 - 135 days after Plaintiff's Request: four spreadsheets of incidents involving
2 Border Patrol contact (2021-24); fourteen internal memos summarizing monthly
3 Border patrol contact (2021-23); and two Public Records Requests from a
4 Reporter regarding GO 2025-001 dated March 27, 2025 and April 30, 2025;
- 5 - 140 days after Plaintiff's Request: seventeen incident reports involving Border
6 Patrol (2021-24); and
- 7 - 147 days after Plaintiff's Request: four incident reports involving Border Patrol
8 (2021-24).

9 2. *Defendant's eventual responses to Plaintiff's Request fall outside any*
10 *reasonable interpretation of "prompt"*

11 Arizona law places on Defendant the burden of establishing that its responses to
12 Plaintiff's Request were prompt given the circumstances surrounding each request. *See*
13 *Phoenix New Times* at 538-39, ¶ 15. In this context, "prompt" is defined as being "quick to
14 act" or producing the requested records "without delay." *Id.* at 538, ¶ 14 (citation omitted).
15 Records already in the agency's possession, which are available for immediate
16 transmission, are to be produced "at once." *Id.* Evidence that simply explains the rationale
17 for a delay in production does not meet the burden of "prompt" disclosure. *Id.* at 541, ¶ 27.¹

18 Two threshold facts are undisputed here. First, while Plaintiff's Request included
19 fourteen categories of records, Defendant admits that "most of the material described in
20 Petitioner's Public Records Request does not exist," narrowing Defendant's search and
21 production responsibilities significantly. (Def's. Answer at 2.) Second, Defendant produced
22 no records until weeks after Plaintiff filed this special action—a total of 77 and up to 147
23 days after the Request. (*See* Exh. 1, Index of Defendant's Responsive Records Produced to
24 Plaintiff.)

25 ¹ Defendant claimed that "[a]ny delay in providing responsive records has been reasonable under
26 the circumstances." (Defendant's Answer to Verified Complaint, filed August 13, 2025, at 2). A
27 "reasonable" delay is not the relevant standard. Arizona unambiguously requires "prompt"
28 production of records. Furthermore, *Phoenix New Times* at 541, ¶ 27 makes clear that an agency's
explanation for delay does not amount to promptness, and instead goes to whether a failure to
produce records was in bad faith, arbitrary, or capricious.

1 to “just briefly skimming through” Plaintiff’s Request, and otherwise waiting on further
2 information from Defendant’s counsel as to the status of the Request. (*Id.* at 37-39.)

3 Defendant has failed to proffer any legally sufficient rationale for the delay in
4 responding to Plaintiff’s Request. Defendant violated his obligations under Arizona Public
5 Records Law.

6 *b. Defendant failed to promptly respond after Plaintiff stated*
7 *reason to believe additional records existed*

8 “[W]hen public records are requested from an agency, the agency has the burden of
9 establishing that it adequately searched for them.” *Phoenix New Times* at 539, ¶ 16.
10 Furthermore, “after an agency learns that it erroneously responded to a records request, the
11 agency may not justify its failure to provide records by claiming that it no longer has any
12 responsibility to provide them,” including the responsibility to provide them in a timely
13 manner. *Id.* at 544, ¶ 38.

14 Here, Defendant first erroneously represented that Plaintiff’s Request had been
15 fulfilled entirely on August 11, 2025. (*See* Exh. 3, Email from Records Supervisor to
16 Plaintiff’s Counsel, dated August 11, 2025.) Defendant has walked back this representation
17 on several occasions after Plaintiff pressed Defendant to verify the thoroughness of its
18 searches. The results yielded responsive records after delays upwards of four months, as
19 well as conflicting accounts of when certain records ceased to exist.

20 *i. Monthly Communications Summaries*

21 On September 9, 2025, after Plaintiff corrected Defendant’s misinterpretation of the
22 Request timeframe,² Defendant agreed to locate and produce additional responsive records.
23 (*See* Exh. 4, Email from Plaintiff’s Counsel to Defendant’s Counsel, dated September 9,
24 2025). Defendant did not respond until the day of the Parties’ next status conference on
25

26 ² Defendant has not explained this misinterpretation, aside from the Records Unit “just briefly
27 skimming through” Plaintiff’s Request, thereby likely overlooking key details. (Exh. 10 at 37).
28 However, it is undisputed that Defendant did not proactively seek clarification of the Request
timeframe. This runs contrary to both Defendant’s legal obligations and PCSD’s policy of
following up with requestors for clarification as needed. *See* Sec. II.A.2.c, *infra.*, for further detail.

1 September 22, 2025, prompting Plaintiff to seek a continuance of the matter. (*See* Exh. 5,
2 Email from Defendant’s Counsel to Plaintiff’s Counsel, dated September 24, 2025
3 (exchange on September 22, 2025).) Defendant thereafter located not only the records
4 Plaintiff had identified, but also additional synopses of communications with Border Patrol
5 from January through December of 2021; January through February of 2022; and July 2023.
6 (*Id.*)³ Defendant also stated in this email: “I discovered that even though the memos to the
7 Sheriff ceased after July 2023 (that directive was given word-of-mouth and thus there is no
8 record), the data continued to be tracked up to January 2025, when the policy changed.”
9 (*Id.*)

10 Defendant’s searches for responsive records prior to September 24, 2025 were
11 therefore insufficient, and the subsequent productions 135-147 days after Plaintiff’s
12 Request a violation of Defendant’s duty to promptly furnish records.

13 *ii. Requests or Complaints from the Public*

14 Likewise, 135 days after Plaintiff’s Request, Defendant also corrected course and
15 produced items responsive to Plaintiff’s Request #11—requests or complaints from other
16 members of the public regarding the same communications tracking policy. (*See* Exh. 6,
17 Email from Records Supervisor to Plaintiff’s counsel, dated September 25, 2025.)
18 Defendant has provided no legally sufficient rationale for such delay in providing this
19 readily available record.

20 This particular record, however, is important for another reason. The record that
21 Defendant furnished is an email with two attachments: the first titled “Public Records
22 Request (media)” requests “[t]he monthly synopses created by the Communications Section
23 Manager of all department requests for federal immigration authority assistance or response
24 between Nov. 1 2023 and today, March 27, 2025.” (Exh. 6.a., Email from P. Aguilar to
25 PCSD-PIO, dated March 28, 2025.) The second attachment is a follow-up from the same
26

27 ³ Defendant’s September 24 email states that counsel located synopses from “January—December
28 of 2022 [sic]” as well as “January—February 2022.” Plaintiff believes this to be a typographical
error given the eventual production.

1 sender approximately a month later, showing a response from PCSD that the March 27,
2 2025 records request had been completed by April 29, 2025:

3 I wanted to provide you with some updated information as it
4 relates to this request and a previous request you submitted in
5 March. After confirming with our Communications Section
6 Manager, all records have been provided to you reference
your previous and current request. We have no additional
documents to provide.

7 (Exh. 6.b., Email from P. Aguilar to Public Records Request, dated April 30, 2025, at 2
8 (emphasis added).)

9 These two emails confirm that Defendant had previously responded to public records
10 requests of the same subject matter in approximately a month’s time. Defendant’s taking
11 several months to minimally respond to Plaintiff’s Request, therefore, has no legally
12 justifiable explanation.

13 c. *Defendant offers no coherent explanation about the apparent*
14 *confusion surrounding Plaintiff’s Request timeframe.*

15 Public records laws require requestors to describe the records sought with sufficient
16 particularity to facilitate the agency’s search. *See Yagman v. Pompeo*, 868 F.3d 1075 (9th
17 Cir. 2017).⁴ Because public records laws strongly favor disclosure, agencies should
18 liberally construe requests and make good-faith efforts to help requesters refine requests as
19 needed. *Id.* An agency cannot refuse—or unreasonably delay—disclosure on the ground
20 that a request fails to reasonably describe records, unless the agency has first attempted in
21 good faith to assist the requester in clarifying the request. *Id.*

22 Plaintiff’s Request unambiguously specified “records dated from January 1, 2021 up
23 to and including the date of this Request.” (Plaintiff’s Verified Complaint at 4, 14.) While
24 referencing GO 2025-001, Plaintiff clarified at the outset that “[t]his Request encompasses
25

26 ⁴ While Arizona case law exists on the reasonableness and sufficiency of an agency search, Plaintiff
27 finds no direct binding precedent on the issue of clarifying requests. For this reason, Arizona courts
28 appropriately refer to litigation on the Freedom of Information Act (“FOIA”), the federal analog.
See Phoenix New Times at 539 n. 3, ¶ 15 (“When interpreting Arizona’s public records statutes, it
is appropriate to look to FOIA for guidance.”).

1 any of PCSD’s previous policies, rules, regulations and/or procedures (prior to the
2 implementation of GO 2025-001) that contain the same or similar language and purpose of
3 GO 2025-001.” (*Id.* at 13.)

4 Defendant, however, took 135 days to furnish any responsive records prior to 2025.
5 Defendant first indicated that he believed all responsive records had been produced by
6 August 11, 2025—namely, two incident reports and a batch of internal emails containing
7 January to May 2025. (*See* Exh. 4, email from Plaintiff’s Counsel, dated September 9,
8 2025.) Defendant later claimed he was confused by the simultaneous references of a 2025
9 order and records dating back to 2021. (*See* Exh. 7, Defendant’s Answers to Plaintiff’s
10 Nonuniform Interrogatories, at 7 (“No documents were intentionally withheld. Plaintiff’s
11 request was reasonably interpreted as encompassing records generated because of and from
12 the effective date of General Order 2025-001”).)

13 However, the Records Unit’s procedures dictate “[t]he Records Management Section
14 Manager shall [e]nsure the requesting party is contacted. Explain the delay and/or request
15 clarification on the request,” and “[e]very ten (10) business days, repeat [the above steps]
16 until the request is fulfilled.” (Exh. 7, Defendant’s Answers to Plaintiff’s Nonuniform
17 Interrogatories, at 13.) Defendant additionally stated:

18 Q. Do you recall any confusion arising from the window of time
19 that the ACLU of Arizona request -- asked for records?

20 A. Not to my knowledge, no.

21 (Exh. 10, Deposition Transcript of D. Romero at 37.) Defendant reiterated this position on
22 cross-examination:

23 Q. Do you recall. . . whether there was any confusion regarding
24 the particular date range that -- that records were searched for?

25 A. From when I first initially pulled it from [the assigned
26 records technician], I wasn't sure of exactly what was being
27 produced on what he had sent out . . . But other than that, I
28 mean, date ranges, I wasn't really sure what was going on with
it until speaking further and what was being processed on other
units ends.

(*Id.* at 57.)

1 Defendant did not fulfill his obligation to work with Plaintiff for clarification, nor
2 did he abide by his own policy on clarifying requests. Rather, Defendant took 135 days to
3 produce responsive records prior to 2025—and even then, only after Plaintiff inquired as to
4 the reason behind such delay. Defendant violated his obligations under Arizona Public
5 Records Law.

6 **B. Defendant continues to violate Arizona Public Records Law by failing to**
7 **produce additional responsive records.**

8 Despite Plaintiff’s repeated requests and clarifications, Defendant continues to
9 violate Arizona Public Records Law by declining to provide all responsive records. Plaintiff
10 requests this Court order injunctive relief by compelling Defendant to furnish two additional
11 categories of records at no cost to Plaintiff: 1) an updated record of internal communications
12 referencing GO 2025-001 from May 2025 through July 2025, and 2) the 2,158 incident
13 reports between July 1, 2024 and May 14, 2025 including references to Border Patrol.

14 *1. Defendant should be ordered to produce updated records of internal*
15 *correspondence referencing GO 2025-001 between May and July 2025.*

16 “[A]fter an agency learns that it erroneously responded to a records request, the
17 agency may not justify its failure to provide records by claiming that it no longer has any
18 responsibility to provide them.” *Phoenix New Times* at 544, ¶ 38.

19 Here, Defendant has produced no records from within PCSD’s internal
20 communications from May to July 2025—the timeframe when he replaced GO 2025-001
21 with GO 2025-019. This is important because Defendant first claimed a top-down policy
22 change, indicating to media that he “never saw a need” to track Border Patrol
23 communications, and “recognized that the old policy was really a [standard operating
24 procedure] for our Communications Section and should never have been in our Rules and
25 Regulations that dictates actual 'policy.’” (*See* Plaintiff’s Verified Complaint, Exhibit 5.)
26 Defendant’s Communications Section later justified the word-of-mouth policy change
27 because the summaries of incidents involving Border Patrol “seemed like information that
28 nobody had asked for” in years, and he “didn't really feel that we needed to keep it anymore,

1 so we just stopped.” (See Exh. 11, Deposition Transcript of J. Nicholas, at 15.) Neither
2 account explains why GO 2025-019 took effect days after Plaintiff’s Request.

3 Plaintiff therefore informed Defendant that it sought production of internal
4 communications between the time of the initial Request (May 14, 2025) and this special
5 action (July 21, 2025) precisely to understand PCSD’s impetus for changing the policy.
6 Plaintiff first made this request in September 2025. (See Exh. 4, Email from Plaintiff’s
7 Counsel to Defendant’s Counsel, dated September 9, 2025.) Plaintiff reminded Defendant
8 of the request again on September 25, 2025; October 23, 2025; and January 23, 2026. (See
9 Exh. 8, Email from Defendant’s Counsel to Plaintiff’s Counsel, dated January 28, 2026
10 (Plaintiff’s email sent January 23).) Despite Defendant’s assurances, Defendant has yet to
11 produce these responsive records, and claims no exemptions or justifications for his failure
12 to do so. As of the date of this filing, 197 days have elapsed. Defendant cannot meet his
13 burden to justify his failure to produce these records. Plaintiff therefore requests that the
14 Court order a production along with an adequate explanation of the search parameters.

15 2. *Defendant should be ordered to produce records responsive to “requests*
16 *for Federal immigration authority assistance or response” between July*
17 *1, 2024 and May 14, 2025.*

18 Finally, Plaintiff requests a complete production of the incident reports between July
19 1, 2024 and May 14, 2025 referencing Border Patrol at no cost to Plaintiff. Such injunctive
20 relief is appropriate given the high public interest in furnishing these records, the lack of
21 burden on Defendant to do so, and the Court’s inherent equitable authority.

22 a. *The public interest in obtaining responsive records is uniquely*
23 *and demonstrably high.*

24 “The public’s right to know any public document is weighty in itself,” and a
25 requestor has never been required to prove the probative value of a public document in order
26 to request it. *Phoenix Newspapers, Inc.*, 201 Ariz. at 351, ¶ 30. Notwithstanding, public
27 documents “of broad and intense interest” outweigh the agency’s countervailing assertions
28 of expense and convenience. *Id.* The public interest in uncovering evidence of potential

1 government misconduct is self-evident and compelling. *See Cox Ariz. Publications, Inc. v.*
2 *Collins*, 852 P.2d 1194, 1198 (Ariz. 1993); *see also In re Sealed Case*, 121 F.3d 729, 737-
3 38 (D.C. Cir. 1997), *Nat'l Whistleblower Ctr. v. Dep't of Health & Hum. Servs.*, 903 F.
4 Supp. 2d 59, 67 (D.D.C. 2012) (noting evidence of government misconduct can overcome
5 even recognized exemptions to disclosure under FOIA).

6 Such is the case here. Focus on immigration enforcement has intensified across the
7 country since the second Trump administration,⁵ particularly in Pima County, which
8 extends down to the U.S.-Mexico border.⁶ Focus is particularly strong on collaboration
9 between federal immigration authorities and state-level law enforcement agencies.⁷
10 Ostensibly for this reason, Defendant Nanos has made routine assurances to the public that
11 PCSD does not collaborate with federal immigration officials.⁸ Defendant Nanos has
12 doubled down on such claims since the filing of (and in response to) this special action.⁹

13 ⁵ *See, e.g.*, National Immigration Forum, *One Big Beautiful Bill Act: Immigration Provisions* (Jul.
14 7, 2025) (<https://forumtogether.org/article/one-big-beautiful-bill-act-immigration-provisions/>);
15 Council on Foreign Relations, *ICE and Deportations: How Trump Is Reshaping Immigration*
Enforcement (Feb. 27, 2026) ([https://www.cfr.org/articles/ice-and-deportations-how-trump-](https://www.cfr.org/articles/ice-and-deportations-how-trump-reshaping-immigration-enforcement)
16 [reshaping-immigration-enforcement](https://www.cfr.org/articles/ice-and-deportations-how-trump-reshaping-immigration-enforcement)).

17 ⁶ *See, e.g.*, Tucson Sentinel, *Advocates warn of 'alarming increase' in ICE detainees in Az*
suffering serious medical issues (Mar. 20, 2026)
18 ([https://www.tucsonsentinel.com/local/report/032026_detention_health/advocates-warn-](https://www.tucsonsentinel.com/local/report/032026_detention_health/advocates-warn-alarming-increase-ice-detainees-az-suffering-serious-medical-issues)
[alarming-increase-ice-detainees-az-suffering-serious-medical-issues](https://www.tucsonsentinel.com/local/report/032026_detention_health/advocates-warn-alarming-increase-ice-detainees-az-suffering-serious-medical-issues))

19 ⁷ *See, e.g.*, ProPublica, *Arizona Police Agencies Were Once at the Forefront of Local Immigration*
Enforcement. Now Most Are Avoiding It. (Oct. 21, 2025)
20 (<https://www.propublica.org/article/arizona-police-immigration-ice-287g>)

21 ⁸ *See, e.g.*, AZPM News, *Sheriff Nanos says he will not enforce federal Laken Riley Act* (January
22 16, 2025) (“I do not have the staff. I do not have the resources, the funds, and, more importantly,
23 the desire to do the job of the federal government . . . just as my deputies have no desire to enforce
24 immigration laws”); News 4 Tucson KVOA-TV, *Pima County sheriff clarifies stance on*
immigration enforcement, (January 29, 2025) (“Our role is quite simple: we provide public safety
25 for all those who are in our community. Whether you’re a visitor, whether you’re a resident, it
26 doesn’t matter. Your immigration status is not a concern to us. What we don’t do is we don’t enforce
27 federal immigration law”).

28 ⁹ *See, e.g.*, Arizona Daily Star, *ACLU sues Pima County sheriff for records of immigration contacts*
(July 26, 2025), [https://tucson.com/news/local/government-politics/article_1f1647b9-05fc-4635-](https://tucson.com/news/local/government-politics/article_1f1647b9-05fc-4635-91f3-50dded900edf.html)
[91f3-50dded900edf.html](https://tucson.com/news/local/government-politics/article_1f1647b9-05fc-4635-91f3-50dded900edf.html) (“[Sheriff Nanos] said it is his policy that none of his deputies call
immigration officials in the case where a traffic stop finds someone lacks legal immigration status.
In fact, he said, his agency specifically will not cooperate with ICE, to the point of refusing to hold
on to someone the agency says it wants. Such requests to detain people are ‘unconstitutional,’ the
sheriff said.”)

1 Plaintiff initiated its Request precisely for the public to understand the veracity of
2 Defendant Nanos’ claims. The results show a different reality. PCSD deputies appear to
3 have engaged in unconstitutional encounters, largely with Spanish-speaking individuals
4 who cannot produce U.S. identification but are under no suspicion of criminal
5 wrongdoing.¹⁰ Defendant Nanos claims to maintain no written policies or procedures—and
6 provide no training on—the circumstances in which PCSD deputies request federal
7 immigration assistance.¹¹ Notwithstanding, PCSD incident reports detail situations in which
8 deputies admit to summoning immigration agents under such situations as:¹²

- 9 - A 911 caller observes a group of 25-45 Hispanic individuals with foreign accents
10 congregating in an area behind a Dollar General Store, which the PCSD deputy
11 believes to be a “pick up area” for “people who are not of the United States.” (*See*
12 *Exh. 2.c., Incident Reports of Border Patrol Contact from 2021-23, produced*
13 *September 30, 2025 (Incident Report 210821224)*);
- 14 - A deputy consensually contacts a group of Spanish-speaking men on the side of
15 the road; the deputy searches their belongings and finds no illegal items, yet alerts
16 Border Patrol, believing that he cannot hold the individuals for longer than 15

18 ¹⁰ The Fourth Amendment protects individuals from unreasonable searches and seizures by
19 government actors. U.S. Const. amend. IV. In this context, state law enforcement officers shall not
20 prolong a stop, detention, or arrest solely for the purpose of verifying immigration status. *See*
21 *Rodriguez v. United States*, 135 S. Ct. 1609 (2015); *Arizona v. United States*, 132 S. Ct. 2492
22 (2012); and *Melendres v. Arpaio*, 695 F.3d 990 (9th Cir. 2012); *see also* Office of the Attorney
23 General, *Advisory Model Policy for Law Enforcement Applying SB 1070* (September 20, 2016)
(<https://www.azag.gov/sites/default/files/2025-06/116-010.pdf>). While the legality of any
24 individual law enforcement encounter lies beyond the scope of this special action, it is nonetheless
25 critical for this Court to understand that Plaintiff’s Request furthers the public interest in
26 understanding the constitutionality of Defendant’s agency practices as a matter of law.

27 ¹¹ Plaintiff specifically requested such policies/procedures and training materials as part of its
28 Request. Defendant has represented that no responsive records exist. (*See Exh. 3, Email from*
Records Unit Supervisor to Plaintiff’s Counsel, dated August 7, 2025 (“there are no Training Files
in reference to your request and no IA Files.”))

¹² Defendant appears never to have tracked communications between PCSD deputies and U.S.
Immigration and Customs Enforcement (“ICE”) under General Order (“GO”) 2025-001, despite
the directive to track assistance from all “federal immigration authorities” rather than only Border
Patrol.

1 minutes because they are under no criminal suspicion. (*See id.* (Incident Report
2 211203243));

- 3 - Unidentified individuals flee from their vehicle after it crashes into a guard fence;
4 Border Patrol called “due to the possibility of the bailout being undocumented
5 aliens.” (*See id.* (Incident Report 221203035)); and
- 6 - Five individuals on construction company property claim to be looking for work;
7 a private security guard calls both PCSD and Border Patrol. Upon hearing that
8 Border Patrol will take over an hour to arrive, PCSD deputies “ask[] the men if
9 they want[] a ride into town” and drive them to a Taco Bell. The PCSD deputies
10 then inform Border Patrol to meet them at the Taco Bell and take the men into
11 federal custody. (*See id.* (Incident Report 230315126)).

12 Defendant’s public assertions and the legality of his deputies’ practices are, at a
13 minimum, cast into question by the records Plaintiff obtained thus far. Affording Plaintiff
14 the corpus of Border Patrol communications at no further monetary cost would advance
15 public interest not only in transparency, but also in identifying whether broader PCSD
16 deputy conduct conforms to constitutional limitations.

17 *b. Defendant’s burden of producing responsive records does not*
18 *outweigh the public interest in disclosure.*

19 Arizona courts have weighed the burden of an “unfettered disclosure request” upon
20 an agency against the public interest in disclosure. *Lunney*, 244 Ariz. at 181, ¶ 43. The
21 agency carries the legal burden of establishing that such a disclosure amounts to an
22 “unreasonable administrative burden.” *Id.* (quotations omitted). Likewise, a public official
23 can withhold inspection of documents by showing that non-disclosure serves
24 confidentiality, privacy, or the best interests of the state. *See Phoenix Newspapers, Inc.*, 201
25 Ariz. at 348, ¶ 18 (citation omitted). This standard is “not confined to the narrow interest of
26 either the official who holds the records or the agency he or she serves;” rather, “it includes
27 the overall interests of the government and the people.” *Id.* at 348-49, ¶ 18. The official who
28

1 wishes to withhold public documents must prove specifically how such an interest
2 outweighs the right of disclosure. *Id.* at 349, ¶ 19.

3 Here, Defendant maintains that “it would be unduly burdensome for [PCSD] to
4 manually read through the hundreds of case reports entailed in [Plaintiff’s] request to
5 determine if the specific facts [Plaintiff is] looking for are included.” (Exh. 8, Email from
6 Defendant’s counsel to Plaintiff’s counsel, dated January 28, 2026.) However, Defendant
7 also maintains that he has “never taken the position that any records will not be produced”
8 to Plaintiff. (Exh. 9, Email from Defendant’s counsel to Plaintiff’s counsel, dated January
9 29, 2026.) Defendant reconciles these two positions only by offering to provide Plaintiff
10 with the entire universe of incident reports containing “Border Patrol” or “BP”—a total of
11 2,158 reports over the subject time period—at a minimum cost of \$5 per report. (*Id.*)

12 As a threshold matter, the “unduly burdensome” process Defendant refuses to
13 undertake is owed entirely Defendant’s failure to follow his own publicly posted policy of
14 maintaining such records. (*See* Exh. 11, Deposition Transcript of J. Nicholas, at 29-31.)
15 Indeed, Defendant testified that the communications responsive to Plaintiff’s Request were
16 “documented in time because it was logged,” and that the 911 technician “would notate in
17 that call that Border Patrol was requested,” so the real-time burden of compiling PCSD
18 requests to Border Patrol was minimal. (*Id.* at 23.) Instead of applying the communications
19 policy retroactively, Defendant proposes that Plaintiff incur two burdens: a minimum cost
20 of \$10,790 to obtain the incident reports, and the time and effort required to cull the list of
21 2,158 reports down to those which include PCSD deputy requests for federal immigration
22 authority assistance or response.

23 Moreover, Defendant must show that the task of identifying and transmitting the
24 records requested would be unduly burdensome. Defendant has not done so. Defendant’s
25 admissions, in fact, indicate the opposite. (*See* Exh. 10, Deposition Transcript of D. Romero
26 at 37 (“I want to say [obtaining responsive records from other units] did take him about two
27 weeks or so”); Exh. 11, Deposition Transcript of J. Nicholas at 51-52 (“it wouldn’t have
28 taken more than a day, a workday to produce that stuff. They just needed to know where to

1 find the archive files that I probably dumped in a folder somewhere.”.) Defendant has
2 already identified 2,158 reports over the subject time period, and offered no evidence about
3 the burden of transmitting those—only that Defendant charges a \$5 minimum processing
4 fee per report. (See Exh. 9, Email from Defendant’s counsel to Plaintiff’s counsel, dated
5 January 29, 2026.)

6 Plaintiff therefore requests that this Court fashion its relief accordingly, and order
7 Defendant to produce the 2,158 reports identified at no cost to Plaintiff. Such a remedy is
8 appropriate because “[a]n injunction is an equitable remedy which allows the court to
9 structure the remedy so as to promote equity between the parties.” *Ahwatukee Custom Ests.*
10 *Mgmt. Ass’n, Inc. v. Turner*, 196 Ariz. 631, 635, ¶ 9 (App. 2000) (quoting *Scholten v.*
11 *Blackhawk Partners*, 184 Ariz. 326, 331 (1995) (supplemental opinion)). Absent statutory
12 constraints, equity principles should guide the relief granted. *See id.*; *NBD Enters., LLC v.*
13 *Arnold*, 579 P.3d 874, 877-78, ¶ 13 (App. 2025).

14 Here, it is plainly equitable for Plaintiff not to pay Defendant for 2,158 incident
15 reports. Plaintiff seeks the records at issue to afford transparency into—and determine the
16 constitutionality of—Defendant’s law enforcement encounters. A public agency abides by
17 its own policies in order to instill maintain public confidence; when it falters, the agency
18 cannot expect to outsource its shortcomings. Plaintiff should not need to reimburse
19 Defendant for the opportunity here.

20 **III. CONCLUSION**

21 For the foregoing reasons, Plaintiff respectfully requests the Court issue the
22 following orders:

- 23 1. Declaring that Defendant violated Arizona Public Records Law, A.R.S. §§ 39-
24 121.01(D)(1) and 39-121.01(E);
- 25 2. Requiring Defendant to produce all records in its possession of internal
26 communications referencing GO 2025-001 between May 1, 2025 through July 21,
27 2025 at no cost to Plaintiffs;

- 1 3. Requiring Defendant to produce all records in its possession of “[PCSD] requests for
2 Federal immigration authority assistance or response” between July 1, 2024 and May
3 14, 2025, at no cost to Plaintiffs; and
4 4. Any further declaratory or injunctive orders that the Court deems just and proper.
5

6
7 Respectfully submitted this 25th day of March 2026.
8

9 AMERICAN CIVIL LIBERTIES UNION
10 FOUNDATION OF ARIZONA

11 By //s// John M. Mitchell

12 John M. Mitchell

13 Womble Bond Dickinson (US) LLP

14 By //s// Patrick Emerson McCormick

15 Patrick Emerson McCormick
16

17 Attorneys for Plaintiff
18
19
20
21
22
23
24
25
26
27
28