

ARIZONA SUPERIOR COURT, PIMA COUNTY

HON. GREG SAKALL

CASE NO. C20254935

DATE: June 05, 2026

AMERICAN CIVIL LIBERTIES UNION OF ARIZONA
Plaintiff,

vs.

CHRIS NANOS, IN HIS OFFICIAL CAPACITY AS THE
DULY ELECTED SHERIFF OF PIMA COUNTY
Defendant

UNDER ADVISEMENT RULING

IN CHAMBERS:

This matter came before the Court for a hearing on April 3, 2026. At the conclusion of the hearing, the Court took under advisement as of April 17, 2026. This is that Ruling.

At the hearing, Plaintiff American Civil Liberties Union of Arizona had requested for the following relief:

1. A declaration that Defendant Chris Nanos, in his official capacity as the duly elected Sheriff of Pima County, violated Arizona Public Records Law, A.R.S. §§ 39-121.01(D)(1) and 39-121.01(E);
2. Require Defendant to produce all records in its possession of internal communications referencing GO 2025-001 between May 1, 2025 through July 21, 2025 at no cost to Plaintiffs; and
3. Require Defendant to produce all records in its possession of “[PCSD] request for Federal immigration authority assistance or response” between July 1, 2024 and May 14, 2025, at no cost to Plaintiff.

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As noted below, based upon the parties' ongoing cooperation, some of the above requests have been resolved. The Court expresses its gratitude to counsel for their cooperative efforts to address these issues.

The Court has considered the parties' filings, oral arguments, and admitted exhibits.

A. By Failing to Respond Promptly to Plaintiff's Request, Defendant Has Violated Arizona Public Records Law.

As to Plaintiff's request for a declaration that Defendant violated Arizona Public Records Law, A.R.S. §§ 39-121.01(D)(1) and 39-121.01(E), the Court finds that Defendant has violated that law by failing to respond promptly to Plaintiff's May 14, 2025 Public Records Request ("the Request").

The Court adopts by reference the parties' 19 stipulated facts and 4 stipulations of applicable law contained in their Joint Pretrial Statement.

The Court further finds and concludes as follows:

1. "The public's right to know any public document is weighty in itself." *Phoenix Newspapers, Inc. v. Keegan*, 201 Ariz. 344, 351, ¶ 30 (App. 2001).
2. In this case as documented by Plaintiff on pages 14-15 of its March 25, 2026 Brief, broad segments of the public have great interest in public documents related to immigration enforcement and cooperation between federal immigration officers and state-level law enforcement officers.
3. A.R.S. §§ 39-121.01(D)(1) provides that in response to a public records request, a custodian of public records "shall promptly furnish such copies, printouts or photographs and may charge a fee if the facilities are available, except that public records for purposes listed in section 39-122 or 39-127 shall be furnished without charge."
4. A.R.S. §§ 39-121.01(E) provides that "[a]ccess to a public record is deemed

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denied if a custodian fails to promptly respond to a request for production of a public record. . .”

5. The Arizona Court of Appeals has defined “prompt . . . as being quick to act or producing the requested records without delay.” *Phoenix New Times, L.L.C. v. Arpaio*, 217 Ariz. 533, 538, ¶ 14 (App. 2008) (quotation marks and citation omitted). Documents which are available for immediate production must be produced “at once.” *Id.*
6. Regarding promptness, Arizona’s appellate opinions do not “specify a fixed timeframe.” *McKee v. Peoria Unified School Dist.*, 236 Ariz. 254, 258, ¶ 15 (App. 2014). However, they do provide the following guideposts:
 - a. A court may order a public entity to make available press releases to a party “‘at once or without delay,’ that is, on the same day that it distributes them to other news media by way of e-mail.” *West Valley View, Inc. v. Maricopa County Sherriff’s Office*, 216 Ariz. 225, 230, ¶ 21 (App. 2007);
 - b. A rolling response beginning 16 days after receipt and completed within 24 business days has been found to be prompt (*McKee*, 236 Ariz. at 259, ¶ 15);
 - c. In a case involving broad requests covering several years and involving multiple persons, production occurring between 30 to 58 days (20 to 23 business days) after the request was prompt (*Lake v. City of Phoenix*, 220 Ariz. 472, 485, ¶ 43 (App. 2009), vacated on other grounds by 222 Ariz. 547 (2009));
 - d. A response 135 days or 95 working days after the request has been found to be not prompt (*Lunney v. State*, 244 Ariz. 170, 180, ¶ 36 (App. 2017)); and
 - e. A response 141 days after the request has been found to be not prompt

(*Phoenix New Times*, 217 Ariz. at 541, ¶¶ 27-28).

7. Consideration of whether a response was prompt “will ultimately be dependent upon the facts and circumstances of each request.” *Id.*, at 538, ¶ 14 (citation omitted).
8. Any explanation by Defendant as to a delay “does not establish that [his] response was prompt.” *Id.*, at 541, ¶ 27. Rather, the explanation addresses “whether a failure to furnish records was in bad faith, arbitrary, or capricious, and not at whether the disclosure was prompt.” *Id.*
9. “[E]vidence of inattentiveness on the part of the public body does not establish the promptness of a response.” *Id.*
10. In this case, Defendant did not promptly respond to the Request. In coming to this conclusion, the Court has considered the unique facts and circumstances of this case, as well as the arguments by Defendant that it should consider the document production in three phases.
11. The Request clearly and explicitly requested records from January 1, 2021 through the date of the Request (“The ACLU of Arizona seeks release of the following records dates from January 1, 2021, up to and including the date of this Request. . . .”).
12. Furthermore, the Request was not limited to just GO 2025-001 (“This Request encompasses any of PCSD’s previous policies, rules, regulations, and/or procedures (prior to the implementation of GO 2025-001[] that contain the same or similar language and purpose of GO 2025-001”).
13. Defendant has admitted that most of the public records requested do not exist, and that of those that do exist, the requested records were generally readily available and took only days to produce.
14. Defendant has not argued that there were grounds for non-disclosure based upon confidentiality, privacy, or best interests.

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15. As summarized by Plaintiff on pages 7-8 of its March 25, 2026 brief, Defendant's Records Unit Staff—including a Technician and Supervisor—did not initially act consistently with its process for responding to public records requests and did not act promptly.
16. Having not received any responsive records in a prompt timeframe, Plaintiff filed this action on July 21, 2025—68 days after the Request.
17. Shortly after Plaintiff filed this lawsuit, Defendant began its rolling production of records with its first production of 113 pages on July 29, 2025—76 days (approximately 51 business days) after the Request.
18. Defendant's next production of 34 pages was 9 days later on August 7, 2025.
19. Productions occurred on September 25, 2025—134 days after the Request—of 21 pages and an additional 86 pages on September 30, 2025—139 days after the Request.
20. Defendant has continued producing responsive documents through as recently as May 12, 2026—363 days after the Request.
21. Defendant's department stopped its monthly memos/synopses regarding the department's communications with Border Patrol for immigration assistance or response after July 2023 based upon an unwritten directive by Joshua Nicholas. However, it continued to track the data until January 2025, when the policy changed.
22. As to the monthly communication summaries/synopses, Defendant initially misinterpreted the Request, did not promptly seek clarification, and generally did not act promptly. However, on September 25, 2025—134 days after the Request, it produced additional spreadsheets and memos dating back to calendar year 2021.
23. Defendant did not promptly produce public records that Plaintiff had requested regarding requests or complaints from other public members regarding the

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tracking policy. Defendant did not produce these public records—a mere 5 pages of emails—until September 25, 2025.

24. As to Request #3 above, Defendant had argued that it would be unduly burdensome as there were 2,158 incident reports containing the term “Border Patrol” or “BP.”
25. “[T]he burden imposed on the government by responding to an unfettered disclosure request can outweigh the public interest in disclosure of public records[; however, t]he agency wishing to withhold public documents bears the burden of proving the burden of disclosure outweighs the public interest in inspecting the records.” *Lunney*, 244 Ariz. at 181, ¶ 43 (citation and quotation marks omitted).
26. “To determine if producing documents poses an unreasonable administrative burden, courts consider whether the general presumption in favor of disclosure is overcome by: “(1) the resources and time it will take to locate, compile, and redact the requested materials; (2) the volume of materials requested; and, (3) the extent to which compliance with the request will disrupt the agency's ability to perform its core functions.” *Id.* (quotation marks omitted).
27. The Court finds Defendant has not met his burden of proof as to Request #3.
28. As noted at the April 3, 2026 hearing and as documented in filings since that time, the use of technology and a protective order has allowed for review and ultimately a production of an additional 80 responsive incident reports.
29. By cross-referencing reports, Defendant was able to narrow the 2,158 reports to 1,868 reports. Defendant then produced those to Plaintiff’s counsel, subject to a stipulated protected order. Upon review by Plaintiff’s counsel, the final request was for only 80 unique reports.
30. While the original estimated cost of producing the 2,158 reports at \$5 minimum per report was over \$10,000, the final cost was only \$404.75.

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31. Defendant has not made any argument that this stipulated process has imposed an unreasonable administrative burden on it.
32. The Court acknowledges Plaintiff's frustration that access to public records has been made more difficult because Defendant stopped issuing its monthly memos/synopses after July 2023 but didn't change its policy requiring such memos/synopses until January 2025. However, while not excusing Defendant's failure to follow his own policy, the Court recognizes this is a public records case. In a public records case, the Court is mindful that a public entity "need not tally, compile, analyze, or otherwise provide information *about* the information contained in existing public records, which would in effect create a new record in response to the request. Nor is the entity required to compile the data in a form more useful to a requestor." *Silverman v. Ariz. Health Care Cost Containment Sys.*, 255 Ariz. 387, 390-91, ¶ 11 (App. 2023) (citation omitted). *See also American Civil Liberties Union of Arizona v. Ariz. Dep't. of Child Safety*, 240 Ariz. 142, 148, ¶ 17 (App. 2016).

B. Defendant Has Produced Internal Communications referencing GO 2025-001 between May 1, 2025 through July 21, 2025.

As to Plaintiff's Request #2 that the Court require Defendant to produce all records in its possession of internal communications referencing GO 2025-001 between May 1, 2025 through July 21, 2025 at no cost to Plaintiffs, the Court finds that Defendant made an additional production shortly before the April 3, 2026 hearing.

To the extent that Defendant has not produced all documents in response to Request #2, the Court orders Defendant to produce any remaining responsive documents without delay.

As to Plaintiff's request that the public records be produced at no cost, the Court denies that request.

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First, there is no statutory authority for such an order. Arizona's public records law only requires that copies be provided free of charge where the public records requested are to be used in connection with a claim for benefits against the federal government, or where crime victims request law enforcement reports, audio recordings, video recordings, and transcripts. *See* A.R.S. §39-121.01(D)(1) referencing §39-122 and §127.

Second, to the extent that the Court may have equitable authority to order (see Plaintiff's March 25, 2026 Brief, p. 18), the Court exercises its discretion not to order such relief.

C. The Parties Have Reached Agreement(s) Regarding Production of Additional Reports.

Following the April 3, 2026 hearing, the parties met and conferred, and then filed a Joint Status Report on April 16, 2026. In that report, they informed the Court that as to number 3 above, they identified 1,868 unique reports containing the term "Border Patrol" and/or "BP." The parties agreed as follows:

1. Defendant would transmit those reports by April 30, 2026, subject to the terms of a stipulated Protective Order, which the Court has already issued, for designated members of Plaintiff's team to review.
2. Plaintiff would then identify those specific reports which are responsive to its May 14, 2025 Public Records Request, and transmit that list to Defendant.
3. Defendant would then process those responsive reports for public dissemination and then produce them to Plaintiff within ten court days of Plaintiff's transmission of the responsive reports, and/or notify Plaintiff of the grounds on which specific reports are being withheld.
4. The parties would inform the Court once production is complete or if there arises a matter that requires judicial intervention.

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On May 13, 2026, the parties submitted a Joint Status Report wherein they documented that Defendant provided 1,854 documents to Plaintiff for an attorney's eyes-only review. After review, Plaintiff requested 80 responsive incident reports, and Defendant provided those documents between May 6 and 12, 2026. The total cost of production was \$404.75. They also indicated that the third request—except for the request that production be at no cost to Plaintiff—is settled.

As to Plaintiff's request that the incident reports be produced at no cost, the Court respectfully denies that request for the reasons set forth above as to Request # 2. In addition, the cost charged by Defendant has been relatively nominal.

Conclusion

As the Court believes it has resolved the remaining disputed issues, the Court desires to move this case towards final judgment. Accordingly, the Court orders Plaintiff to lodge a form of final Ariz. R. Civ. P. 54(c) judgment by no later than **June 19, 2026**. The final judgment may contain language that the Court retains jurisdiction to enforce its orders, if any. If Plaintiff seeks an award of fees and costs under A.R.S. § 39-121.02 or the other grounds set forth in the Complaint, Plaintiff must file its Statement of Cost, and an Application for Attorney's Fees including a *China Doll* affidavit by no later than that same date.

By no later than **July 7, 2026**, Defendant must file any objections to the form of judgment and any request for fees and costs.

If any objection is filed, Plaintiff may file a Reply by no later than **July 15, 2026**.


HON. GREG SAKALL
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