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Kathleen E. Brody (SBA 026331)  
Darrell L. Hill (Bar (SBA 030424)  
ACLU Foundation of Arizona  
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*Attorneys for Plaintiff*

**ARIZONA SUPERIOR COURT**  
**MARICOPA COUNTY**

American Civil Liberties Union of  
Arizona,  
  
Plaintiff,  
  
v.  
  
City of Phoenix Police Department,  
  
Defendant.

No.: CV 2017-015033  
**VERIFIED COMPLAINT FOR  
STATUTORY SPECIAL ACTION**

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**INTRODUCTION**

This is a public-records lawsuit against the City of Phoenix Police Department following its refusal to provide public records concerning events of great community interest and concern – the large, peaceful protests of President Trump’s rally in downtown Phoenix on August 22, 2017, and the Phoenix Police Department’s violent actions against hundreds of protesters who had gathered to exercise their free-speech rights.

In the aftermath of the August 22 events, the American Civil Liberties Union of Arizona (“ACLU of Arizona”) submitted two public-records requests to the Phoenix Police Department, but the Phoenix Police Department has refused to provide records in response to those requests. The Phoenix Police Department has admitted that it has gathered records responsive to the ACLU of Arizona’s requests, and has publicly used those records to refute claims of police malfeasance during the protest. But the Department nevertheless refuses to release the actual records to the ACLU of Arizona, claiming that the ACLU of Arizona (and other public-records requesters) must wait until the Department completes an “after action report,” which it “hopes to complete . . . by the end of the year.”

The Phoenix Police Department’s refusal to provide the requested records violates the Arizona Public Records Law and is directly contrary to the primary purpose of the Law, which is to provide for transparency so that the public “may monitor the performance of government officials and their employees.” *Phoenix New Times, Inc. v. Keegan*, 201 Ariz. 344, 351 ¶ 33 (App. 2001) (citation omitted). The Department may not under the Public Records Law refuse to promptly release public records in its possession so that the public may monitor its actions, while at the same time using those same records to rebut public criticism of the Department’s actions.

1           **NATURE OF ACTION, PARTIES, JURISDICTION, AND VENUE**

2           1.       This is a statutory special action to compel the production of  
3 public records pursuant to the Arizona Public Records Law, A.R.S. § 39-121,  
4 *et seq.*

5           2.       Plaintiff is the American Civil Liberties Union of Arizona  
6 (“ACLU of Arizona”), a non-profit, civil-rights organization that has  
7 furthered the public interest and defended individual rights in Arizona  
8 through litigation, legislation, public education, and other methods for  
9 decades. Protecting and ensuring freedom of expression is part of the  
10 foundational mission of the ACLU of Arizona’s mission.

11          3.       Through the public-records requests that are the subject of this  
12 litigation, the ACLU of Arizona seeks transparency and public disclosure  
13 regarding the Phoenix Police Department’s preparations for and conduct  
14 during the rally and protests in downtown Phoenix on August 22, 2017.

15          4.       Defendant Phoenix Police Department is a public body as  
16 defined in A.R.S. § 39-121.01(A)(2) and is subject to the Public Records Law.

17          5.       Jurisdiction over this action is proper pursuant to A.R.S. §§ 39-  
18 121.02 and 12-123, **and Rules 1 and 4 of the Arizona Rules of Procedure for**  
19 **Special Actions.**

20          6.       Venue is proper pursuant to A.R.S. § 12-401 and Rule 4(b) of the  
21 Arizona Rules of Procedure for Special Actions.

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1 **FACTS**

2 **The ACLU of Arizona’s Public-Records Requests**

3 7. The ACLU of Arizona has made two public-records requests to  
4 the Phoenix Police Department relating to the Department’s preparations  
5 for and conduct during the rally and protests in downtown Phoenix on  
6 August 22, 2017, each seeking different information. The first request was  
7 made on August 28, 2017 (attached as **Exhibit A**), and the second request  
8 was made on October 6, 2017 (attached as **Exhibit C**).

9 8. The Phoenix Police Department has provided no records in  
10 response to either of the ACLU of Arizona’s two requests.

11 9. The ACLU of Arizona sent its August 28, 2017 request to the  
12 Phoenix Police Department’s Code Enforcement Unit – Public Records  
13 Office via email and certified mail, and received confirmation that the  
14 Department received the request. *See* **Exhibit B**.

15 10. The August 28, 2017 request sought “[a]ll video recordings of  
16 the August 22, 2017 Trump rally and protests taken or obtained by the  
17 Phoenix Police Department, including: security camera video from  
18 surrounding buildings managed, owned, or operated by the City of Phoenix,  
19 aerial video from any overhead helicopters or drones in the area, and any  
20 video obtained from members of the public.” The request explicitly excluded  
21 body camera and dash camera video. *See* **Exhibit A**.

22 11. After receiving no response to the August 28 request, on October  
23 19, 2017, the ACLU of Arizona sent a letter to Phoenix Police Department  
24 Chief Jeri Williams and City of Phoenix Attorney Sandra Hunter. *See*  
25 **Exhibit E**.

1           12. The Phoenix Police Department did not respond to the ACLU of  
2 Arizona's October 19 letter and did not provide any records responsive to the  
3 ACLU of Arizona's August 28 request.

4           13. The ACLU of Arizona sent its October 6, 2017 request to the  
5 Phoenix Police Department's Code Enforcement Unit – Public Records  
6 Office, and City of Phoenix Attorney Sandra Hunter, via email and certified  
7 mail, and received confirmation that the Department received the request.  
8 *See Exhibit D.*

9           14. The October 6, 2017 request sought Phoenix Police Department  
10 communications, training materials, reports, weapons inventories, and  
11 policies relevant to the events of August 22, 2017. *See Exhibit C* (with  
12 detailed requests).

13           15. On November 15, 2017, the Phoenix Police Department's Code  
14 Enforcement Unit sent an email to the ACLU of Arizona with the subject  
15 line "REGARDING OCTOBER 6, 2017 TRUMP RALLY." *See Exhibit F.*

16           16. The Phoenix Police Department's November 15 email indicates  
17 that "multiple requesters," including the ACLU of Arizona, have sought  
18 records related to events of August 22, 2017.

19           17. The Phoenix Police Department's November 15 email reads, in  
20 part: "Due to the unique nature of the event, the Phoenix Police Department  
21 has sought and gathered many records for review, with the intention of  
22 creating a comprehensive after action report. . . . The Department hopes to  
23 complete the report by the end of the year."

24           18. The Phoenix Police Department's November 15 email further  
25 indicates that the Department does not intend to provide records in  
26 response to the requests submitted by the ACLU of Arizona, or any other

1 requester, *at least* until after the Department completes its after action  
2 report.

3 19. The Phoenix Police Department’s November 15 email also  
4 indicates that, even after it completes its after action report, it still may not  
5 release the requested records. Instead, the email states: “You and the other  
6 requesters of records surrounding the August 22<sup>nd</sup> event may review the  
7 after action report and be satisfied with the provided information. However,  
8 if you desire additional records after review of the after action report, the  
9 City is *open to dialogue concerning supporting records.*” (Emphasis  
10 added.)

### 11 **Background: The Phoenix Trump Protest**

12 20. On August 22, 2017, President Donald Trump held a rally at the  
13 Phoenix Convention Center in downtown Phoenix.

14 21. The Phoenix rally was planned for a week after President  
15 Trump’s controversial remarks about the violence on August 12, 2017, in  
16 Charlottesville, Virginia, when white supremacists clashed with anti-hate  
17 demonstrators. In addition, the Phoenix rally approached amid speculation  
18 that President Trump planned to pardon former Maricopa County Sheriff  
19 Joe Arpaio from his criminal-contempt conviction. Given the public concern  
20 about both issues, as well as general disagreement with President Trump’s  
21 administration and its policies, a large number of protestors was expected  
22 outside the rally.

23 22. According to the Phoenix Police Department, its officers spent  
24 “countless hours” working with community groups and other law-  
25 enforcement and public-safety agencies “to plan and prepare for the day’s  
26 events.”

1           23. According to Chief Williams, the protest and rally were attended  
2 by “tens of thousands of people.”

3           24. The rally was planned to begin at 7:00 p.m., and people began to  
4 gather in downtown Phoenix to attend both the rally and the protest as  
5 early as noon.

6           25. The protest was peaceful and largely without incident until  
7 approximately 8:30 p.m. when Phoenix Police Department officers located  
8 outside the Phoenix Convention Center began using smoke, gas, and impact  
9 projectiles to disperse protesters, who still numbered in the hundreds when  
10 police officers deployed these weapons against them.

11           26. The August 22, 2017 rally and protests, and the actions of the  
12 Phoenix Police Department surrounding the events of that day, have been  
13 the subject of tremendous media attention and are matters of grave public  
14 concern.

15           27. In particular, the Phoenix Police Department has been accused  
16 of deploying chemical weapons and other dangerous and harmful tactics  
17 against people engaged in constitutionally protected expressive activity  
18 without warning or cause.

### 19           **The Phoenix Police Department’s Response After the August 22** 20           **Protests**

21           28. In the immediate aftermath of the rally and protests, and amid  
22 community outrage over the Phoenix Police Department’s actions that day,  
23 the Department announced that it would conduct an internal review of its  
24 actions.

25           29. On August 31, 2017, Phoenix Police Sergeant Jonathan Howard  
26 led a press conference where he presented a thirteen-minute, heavily edited  
video compilation of the August 22 protests, which Sergeant Howard said

1 was compiled from “a variety of sources” and would “provide a perspective  
2 not yet publicly seen.”

3 30. According to Sergeant Howard, the Phoenix Police Department  
4 compiled and presented the video to provide the public with a “better  
5 understanding” of the events of that day.

6 31. Sergeant Howard began his presentation by claiming that “the  
7 night was marred when some people concealing themselves in the crowd  
8 began to intentionally create disruption. They began assaulting the officers  
9 who were there to protect them. . . . Based on experience, intelligence  
10 gathering, on the ground observation, and active acts of violence by some  
11 people, police were forced to respond by dispersing the group.”

12 32. The Phoenix Police Department distributed a copy of the video  
13 compilation to those in attendance at the press conference.

14 33. Sergeant Howard encouraged any person who had video or other  
15 information about the events of August 22 to submit that information to  
16 Phoenix Police Department’s Professional Standards Bureau.

17 34. Sergeant Howard also stated that videos in the Phoenix Police  
18 Department’s possession would be available to the media and public via  
19 public-records request.

20 35. Using the edited video compilation, Sergeant Howard attempted  
21 to make the case that the Phoenix Police Department’s actions on August 22  
22 were legal and justified.

23 36. On September 5, 2017, Phoenix Mayor Greg Stanton and Chief  
24 Williams held a meeting, which was attended by representatives from the  
25 ACLU of Arizona and other community organizations, as well as Vice Mayor  
26 Laura Pastor and other City of Phoenix personnel.



1           37.     At the September 5 meeting, Chief Williams stated that the  
2 Phoenix Police Department was reviewing available materials regarding the  
3 events of August 22, including records that would be made public. Chief  
4 Williams stated that the Phoenix Police Department would complete an  
5 “after action report” within four to six weeks.

6           38.     Chief Williams’s statements at the September 5 meeting were  
7 consistent with the Phoenix Police Department’s Critical Incident  
8 Transparency Protocol, announced to Department personnel on July 14,  
9 2017, which “contains guidelines for timely and standardized releases of  
10 existing video, records, and information following a police critical incident.”  
11 *See Exhibit G.*

12           39.     Under the Critical Incident Transparency Protocol, critical  
13 incidents include an “Exceptional use of force” and “Incidents generating  
14 significant community concern.”

15           40.     The Critical Incident Transparency Protocol establishes a  
16 thirty-day timeline for the dissemination of all police reports and records  
17 related to critical incidents. In a message that accompanied the adoption of  
18 the Critical Incident Transparency Protocol, Chief Williams stated that “the  
19 sharing of information is critical to ensuring legitimacy with the people we  
20 serve.”

### 21                   **Legal Claim and Request for Order to Show Cause**

22           41.     Under Arizona law, public records are to be available for public  
23 inspection. *See* A.R.S. § 39-121 (“Public records . . . shall be open to  
24 inspection by any person at all times during office hours.”). The Public  
25 Records Law presumes that all records are “open to the public for inspection  
26 as public records.” *Carlson v. Pima County*, 141 Ariz. 487, 491 (1984).

1           42. Arizona’s Public Records Law mandates prompt compliance  
2 with public-records requests. *See* A.R.S. § 39-121.01(D)(1) and (E) (requiring  
3 that public records be furnished “promptly”).

4           43. “Prompt” disclosure means that the Phoenix Police Department  
5 must be “quick to act” and “produc[e] the requested records without delay.”  
6 *Phoenix New Times, L.L.C. v. Arpaio*, 217 Ariz. 533, 538 ¶ 14 (App. 2008)  
7 (citation and internal quotation marks omitted).

8           44. Under the Public Records Law, “when records are subject to  
9 disclosure the required response is the **prompt** and **actual** production of  
10 the documents.” *Phoenix New Times*, 217 Ariz. at 538 ¶ 12 (emphasis  
11 added).

12           45. The failure to promptly furnish records constitutes a wrongful  
13 denial as a matter of law. *Phoenix New Times*, 217 Ariz. at 538 ¶ 13.

14           46. The ACLU of Arizona’s August 28, 2017 request has been  
15 pending for more than twelve weeks, and the Phoenix Police Department  
16 has not produced a single responsive record, nor indicated when responsive  
17 records will be forthcoming.

18           47. The ACLU of Arizona’s October 6, 2017 request has been  
19 pending for more than six weeks, and the Phoenix Police Department has  
20 not produced a single responsive record.

21           48. The Phoenix Police Department’s November 15, 2017 email  
22 admits that the Department has gathered records responsive to the ACLU  
23 of Arizona’s requests for its own internal review in connection with  
24 preparing an after action report.

25           49. The Phoenix Police Department’s November 15, 2017 email  
26 further indicates that it will not release records responsive to the ACLU of

1 Arizona's requests *at least* until after its after action report is completed,  
2 which it "hopes" will "by the end of the year."

3 50. The Phoenix Police Department's November 15, 2017 email also  
4 indicates that requested records will not be released even upon completion  
5 of the after action report, but that the Department will be "open to dialogue"  
6 about the records at that time.

7 51. The burden is on the Phoenix Police Department to establish  
8 that its responses to the ACLU of Arizona's requests are prompt. Where, as  
9 here, a public body fails to provide a legally sufficient rationale for its delay  
10 in providing the requested records, it has failed to meet its burden and it is  
11 deemed to have wrongfully denied access to the public records. *Phoenix New*  
12 *Times*, 217 Ariz. at 539-40 ¶ 15; *see also id.* at 541 ¶ 28 ("By offering no  
13 legally sufficient reason why 141 days should be considered 'prompt'  
14 disclosure of documents that were clearly requested and immediately  
15 available, MCSO failed, as a matter of law, to meet its burden of  
16 establishing that it did not wrongfully deny the New Times' document  
17 request[.]"); *id.* at 545 ¶ 45 ("We cannot find that a document furnished  
18 forty-nine days (thirty-four working days) after it was requested was  
19 furnished 'promptly' when the only reason for the delay was lack of diligence  
20 on the agency's part.").

21 52. By its own admission, the Phoenix Police Department has  
22 gathered records responsive to the ACLU of Arizona's requests, but has  
23 nevertheless refused to provide them.

24 53. The Phoenix Police Department's progress (or lack thereof)  
25 toward completing an after action report regarding the events of August 22  
26 does not excuse the withholding of relevant public records, particularly  
when Chief Williams indicated on September 5 that the report would be

1 completed in four to six weeks, and now the Department has indicated that  
2 it “hopes” the report will be completed “by the end of the year.” *See Phoenix*  
3 *New Times*, 217 Ariz. at 544 ¶ 38 (“An agency may not wait to provide  
4 records already available until a final report is produced.”).

5 54. Nor is completion of an after action report by the Phoenix Police  
6 Department an adequate or legal substitute for responding to the ACLU of  
7 Arizona’s public-records requests by providing the actual records requested.

8 55. “The public’s right to know any public document is weighty in  
9 itself,” and that interest is even greater where, as here, “the public  
10 documents are of broad and intense interest.” *Phoenix Newspapers, Inc. v.*  
11 *Keegan*, 201 Ariz. 344, 351 ¶ 30 (App. 2001). The Trump rally, related  
12 protests, and related conduct of the Phoenix Police Department were and  
13 continue to be the subject of intense media coverage and public interest,  
14 which is underscored by the Phoenix Police Department’s own August 31  
15 press conference and its November 15 email noting “multiple requesters” of  
16 records concerning the events of August 22.

17 56. Because of this intense public interest, it is extremely important  
18 that the public promptly receives direct access to the records in the  
19 possession of the Phoenix Police Department and that it receive them  
20 promptly. The public must be able to monitor the actions and performance  
21 of the Phoenix Police Department, and the purpose of Arizona’s Public  
22 Records Law is undermined when government officials defer the release of  
23 public records to delay or impede scrutiny, while using those same records  
24 to deflect criticism and advance the agenda of government officials.

25 57. The Phoenix Police Department’s delay and refusal to provide  
26 public records in response to the ACLU of Arizona’s requests violates the  
Public Records Law. A.R.S. § 39-121, *et seq.*



1 C. Order the Defendant to immediately provide copies of the public  
2 records requested by the ACLU of Arizona on August 28 and October 6,  
3 2017;

4 D. Declare that the Defendant has failed to perform its duty, as  
5 required by law, to promptly provide the public records requested by the  
6 ACLU of Arizona;

7 E. Order such other and further relief injunctive and declaratory  
8 relief as this Court deems just and proper;

9 F. Order the Defendant to pay the attorneys' fees and costs  
10 incurred by the ACLU of Arizona in connection with this matter pursuant to  
11 A.R.S. §§ 39-121.02, 12-348, 12-341, and 12-2030, and Rule 4(g) of the  
12 Arizona Rules of Procedure for Special Actions.

13 Respectfully submitted this 21st day of November, 2017.

14 ACLU FOUNDATION OF ARIZONA

15 By /s/Kathleen E. Brody

16 Kathleen E. Brody

17 Darrell L. Hill

18 *Attorneys for Plaintiff*

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**Verification**

Pursuant to Rule 80(i), Ariz. R. Civ. P., Darrell L. Hill verifies under penalty of perjury that the foregoing is true and correct:

1. I am a full-time employee of Plaintiff American Civil Liberties Union of Arizona.

2. I have read the foregoing Complaint and know the contents thereof.

3. The statements and matters alleged are true of my own personal knowledge, except as to those matters stated upon information and belief, and as to such matters, I reasonably believe them to be true.

Dated this 21<sup>st</sup> day of November, 2017.

/s/ Darrell L. Hill  
Darrell L. Hill

# **EXHIBIT A**



**ALESSANDRA SOLER  
EXECUTIVE DIRECTOR  
DALE BAICH  
PRESIDENT**



***Via Email and Certified Mail***

August 28, 2017

Phoenix Police Department  
Code Enforcement unit - Public Records  
1717 East Grant St. Suite#100  
Phoenix, AZ 85034-3401  
[public.records.ppd@phoenix.gov](mailto:public.records.ppd@phoenix.gov)

**AMERICAN CIVIL  
LIBERTIES UNION  
FOUNDATION  
OF ARIZONA**  
P.O. BOX 17148  
PHOENIX, AZ 85011-0148  
P/602.650.1854  
F/ 602.650.1376  
WWW.ACLUAZ.ORG

***Re. Trump Rally Public Records Request***

Dear Public Records Officer:

Pursuant to Arizona's public records law, A.R.S. § 39-121 *et seq.*, the ACLU of Arizona requests the right to examine and copy or to be furnished with copies of public records in the possession of the Phoenix Police Department ("PPD"). These records are not sought for any commercial purpose. Nevertheless, we agree to reimburse you for reasonable costs associated with producing the requested records. If the costs will exceed \$100, please let us know before you incur the costs.

If the request is denied in whole or in part, please justify any redactions or withholdings by referencing the specific grounds on which the information is withheld under the Public Records Law. All divisible portions of otherwise exempt material must be produced. We reserve the right to appeal your decision to withhold any information.

We seek the following records in the possession of the PPD:

1. All video recordings of the August 22, 2017 Trump rally and protests taken or obtained by the Phoenix Police Department including: security camera video from surrounding buildings managed, owned, or operated by the City of Phoenix, aerial video from any overhead helicopters or drones in the area, and any video obtained from members of the public. This request excludes body camera and dash camera video.

Please produce the requested records as they become available. For your convenience, these documents may be emailed to [dhill@acluaz.org](mailto:dhill@acluaz.org) or mailed to ACLU of Arizona, Attn. Darrell Hill, P.O. Box 17148, Phoenix, Arizona 85013. Should you have any questions, please feel free to contact me via email at [dhill@acluaz.org](mailto:dhill@acluaz.org) or by phone at 602-773-6008. Thank you very much for your attention to this request.

Sincerely,

A handwritten signature in cursive script that reads "Darrell Hill". The signature is written in black ink and is positioned above a thin horizontal line.

Darrell Hill  
Staff Attorney, ACLU of Arizona

**AMERICAN CIVIL  
LIBERTIES UNION  
FOUNDATION  
OF ARIZONA**

# **EXHIBIT B**

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Phoenix Police Department  
 Code Enforcement Unit  
 Public Records  
 1717 East Grant St., Ste. 100  
 Phoenix, AZ 85034-3401



9590 9402 3049 7124 0660 26

2. Article Number (Transfer from service label)

7016 3560 0000 7422 3549

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X

Agent

Addressee

B. Received by (Printed Name)

S. Serna AS913

C. Date of Delivery

8/29/17

D. Is delivery address different from item 1?  Yes  
If YES, enter delivery address below:  No

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

# **EXHIBIT C**

**ALESSANDRA SOLER  
EXECUTIVE DIRECTOR  
DALE BAICH  
PRESIDENT**



*Via Email and Certified Mail*

October 6, 2017

Sandra Hunter, Assistant Chief Counsel  
City of Phoenix Law Department  
Public Safety Section, PD Legal Unit  
Phoenix City Hall  
200 W. Washington St., 13th Floor  
Phoenix, AZ 85003  
[sandra.hunter@phoenix.gov](mailto:sandra.hunter@phoenix.gov)

Phoenix Police Department  
Code Enforcement Unit - Public Records  
1717 East Grant St. Suite#100  
Phoenix, AZ 85034-3401  
[public.records.ppd@phoenix.gov](mailto:public.records.ppd@phoenix.gov)

**AMERICAN CIVIL  
LIBERTIES UNION  
FOUNDATION  
OF ARIZONA**  
P.O. BOX 17148  
PHOENIX, AZ 85011-0148  
P/602.650.1854  
F/ 602.650.1376  
WWW.ACLUAZ.ORG

*Re. Trump Rally Public Records Request*

Dear Ms. Hunter and Public Records Officer:

The American Civil Liberties Union of Arizona (ACLU), pursuant to Arizona's public records law, A.R.S. § 39-121 *et seq.*, requests the right to examine and copy or to be furnished with copies of public records in the possession of the Phoenix Police Department (PPD). This request is in addition to the enclosed ACLU's August 28, 2017, request that PPD has thus far failed to acknowledge. These records are not sought for any commercial purpose. Nevertheless, we agree to reimburse you for reasonable costs associated with producing the requested records. If the costs will exceed \$100, please let us know before you incur the costs.

Arizona public records law carries with it a presumption that all records are "open to the public for inspection as public records." *Carlson v. Pima Cnty.*, 141 Ariz. 487, 490 (1984). The "core purpose of our public records law is to give the public access to official records and other government information so that [the public] may monitor the performance of government officials and their employees. Thus, the statutes broadly define such records and presume that public records will be disclosed." *Congress Elementary Sch. Dist. No. 17 of Yavapai Cnty. v. Warren*, 227 Ariz. 16, 18 (App. 2011) (citations and internal quotations omitted). "Unlike public information statutes in some other jurisdictions, Arizona's statute specifies that when records are subject to disclosure the required response is the prompt and actual production of the documents." *Phoenix New Times, L.L.C. v. Arpaio*, 217 Ariz. 533, 538 (App. 2008) (emphasis added).

If this request is denied in whole or in part, please justify any redactions or withholdings by referencing the specific grounds on which the information is withheld under the Public Records Law. All divisible portions of otherwise exempt material must be produced. We reserve the right to appeal your decision to withhold any information.

We seek the following records in the possession of PPD:

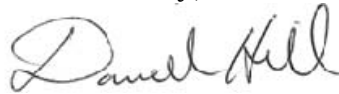
1. All communications, including emails and text messages, between PPD officers from the Community Response Squad (including the Hispanic Advisory Board) also known as “community liaisons and members of the public concerning the August 22, 2017 Trump rally and protests.
2. All communications, including emails and text messages, from command staff to Phoenix police officers concerning the August 22, 2017 Trump rally and protests.
3. All communications, including emails and text messages, between Phoenix police officers, agents, and staff and members of the Phoenix city government, including the city manager, the mayor, or any person within the city manager or mayor’s office concerning the August 22, 2017 Trump rally and protest.
4. All communications, including emails and text messages, between Phoenix police officers, agents, and staff and members of the media concerning the Trump rally and protest on August 22, 2017.
5. All communications, including audio recordings, emails, and text messages, between and among members of the PPD on August 22, 2017, from 5:00 PM to 12:00 AM concerning the Trump rally and protest.
6. All communications to and from PPD Chief Jeri Williams, including emails and text messages, concerning the August 22, 2017 Trump rally and protests.
7. All reports, including incident reports, police reports, arrest reports, and investigative reports, concerning the August 22, 2017 Trump rally and protest.
8. All documents, records, reports, orders, and communications concerning the PPD’s decisions to: (1) wear riot gear; (2) employ non-lethal weapons and chemical agents; and (3) disperse the crowd and clear the area surrounding the Trump rally and protest.

9. A complete inventory or list of the types and amounts of non-lethal weapons and chemical agents used by PPD during the Trump rally and protest on August 22, 2017.
10. All policies in effect on August 22, 2017, concerning: (1) employing riot gear and other protective gear; (2) employing non-lethal and chemical agents; (3) crowd control and dispersal; and (4) managing public rallies or protests.
11. All training, plans, and guidance concerning crowd control offered to PPD officers in preparation for the August 22, 2017 Trump rally and protest. We do not seek general training or guidance that would be provided to officers in the general course of their duties, only material that was provided to officers for this specific event.

**AMERICAN CIVIL  
LIBERTIES UNION  
FOUNDATION  
OF ARIZONA**

Please let us know as soon as possible the time frame in which the records will be produced. We would appreciate receiving records on a rolling basis, if possible. For your convenience, these documents may be emailed to [dhill@acluaz.org](mailto:dhill@acluaz.org) or mailed to ACLU of Arizona, Attn. Darrell Hill, P.O. Box 17148, Phoenix, Arizona 85011. Should you have any questions, please feel free to contact me via email at [dhill@acluaz.org](mailto:dhill@acluaz.org) or by phone at 602-773-6008. Thank you very much for your prompt attention to this request.

Sincerely,



Darrell Hill  
Staff Attorney, ACLU of Arizona

Enclosure as indicated



**ALESSANDRA SOLER  
EXECUTIVE DIRECTOR  
DALE BAICH  
PRESIDENT**



***Via Email and Certified Mail***

August 28, 2017

Phoenix Police Department  
Code Enforcement unit - Public Records  
1717 East Grant St. Suite#100  
Phoenix, AZ 85034-3401  
[public.records.ppd@phoenix.gov](mailto:public.records.ppd@phoenix.gov)

**AMERICAN CIVIL  
LIBERTIES UNION  
FOUNDATION  
OF ARIZONA**  
P.O. BOX 17148  
PHOENIX, AZ 85011-0148  
P/602.650.1854  
F/ 602.650.1376  
WWW.ACLUAZ.ORG

***Re. Trump Rally Public Records Request***

Dear Public Records Officer:

Pursuant to Arizona's public records law, A.R.S. § 39-121 *et seq.*, the ACLU of Arizona requests the right to examine and copy or to be furnished with copies of public records in the possession of the Phoenix Police Department ("PPD"). These records are not sought for any commercial purpose. Nevertheless, we agree to reimburse you for reasonable costs associated with producing the requested records. If the costs will exceed \$100, please let us know before you incur the costs.

If the request is denied in whole or in part, please justify any redactions or withholdings by referencing the specific grounds on which the information is withheld under the Public Records Law. All divisible portions of otherwise exempt material must be produced. We reserve the right to appeal your decision to withhold any information.

We seek the following records in the possession of the PPD:

1. All video recordings of the August 22, 2017 Trump rally and protests taken or obtained by the Phoenix Police Department including: security camera video from surrounding buildings managed, owned, or operated by the City of Phoenix, aerial video from any overhead helicopters or drones in the area, and any video obtained from members of the public. This request excludes body camera and dash camera video.

Please produce the requested records as they become available. For your convenience, these documents may be emailed to [dhill@acluaz.org](mailto:dhill@acluaz.org) or mailed to ACLU of Arizona, Attn. Darrell Hill, P.O. Box 17148, Phoenix, Arizona 85013. Should you have any questions, please feel free to contact me via email at [dhill@acluaz.org](mailto:dhill@acluaz.org) or by phone at 602-773-6008. Thank you very much for your attention to this request.


Sincerely,


A handwritten signature in cursive script that reads "Darrell Hill".

Darrell Hill  
Staff Attorney, ACLU of Arizona

**AMERICAN CIVIL  
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FOUNDATION  
OF ARIZONA**

# **EXHIBIT D**

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> <li>Complete items 1, 2, and 3.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<p>A. Signature <input checked="" type="checkbox"/> Agent  <input checked="" type="checkbox"/> Addressee  <i>Sharon Beaty</i></p> <p>B. Received by (Printed Name) _____ C. Date of Delivery _____</p>
<p>1. Article Addressed to:</p> <p><b>Phoenix Police Department  Code Enforcement Unit  Public Records  1717 East Grant St., Ste. 100  Phoenix, AZ 85034-3401</b></p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes  If YES, enter delivery address below: <input type="checkbox"/> No</p>
 9590 9401 0179 5234 0491 06	<p>3. Service Type</p> <input type="checkbox"/> Adult Signature <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Certified Mail® <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery
<p>2. Article Number (Transfer from service label)</p> <p>7016 3560 0000 7423 8666</p>	<input type="checkbox"/> Insured Mail Restricted Delivery
PS Form 3811, July 2015 PSN 7530-02-000-9053	Domestic Return Receipt

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> <li>Complete items 1, 2, and 3.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<p>A. Signature <input checked="" type="checkbox"/> Agent  <input checked="" type="checkbox"/> Addressee  <i>Don-etta David</i></p> <p>B. Received by (Printed Name) _____ C. Date of Delivery _____</p>
<p>1. Article Addressed to:</p> <p><b>Sandra Hunter, Assistant Chief Counsel  City of Phoenix Law Department  Public Safety Section PD Legal Unit  Phoenix City Hall  200 West Washington St., 13<sup>th</sup> Floor  Phoenix, AZ 85003</b></p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes  If YES, enter delivery address below: <input type="checkbox"/> No</p>
 9590 9401 0179 5234 0490 90	<p>3. Service Type</p> <input type="checkbox"/> Adult Signature <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Certified Mail® <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery
<p>2. Article Number (Transfer from service label)</p> <p>7016 2710 0000 8621 2476</p>	<input type="checkbox"/> Insured Mail Restricted Delivery
PS Form 3811, July 2015 PSN 7530-02-000-9053	Domestic Return Receipt

# **EXHIBIT E**

**ALESSANDRA SOLER**  
**EXECUTIVE DIRECTOR**  
**DALE BAICH**  
**PRESIDENT**



**Via Certified Mail and Email**

October 19, 2017

Jeri Williams  
Chief of Police  
Phoenix Police Department  
620 W. Washington St.  
Phoenix, AZ 85003  
[Jeri.williams@phoenix.gov](mailto:Jeri.williams@phoenix.gov)

Sandra Hunter  
City Attorney's Office  
200 W. Washington. 13<sup>th</sup> Floor  
Phoenix, AZ 85003  
[sandra.hunter@phoenix.gov](mailto:sandra.hunter@phoenix.gov)

**AMERICAN CIVIL  
LIBERTIES UNION  
FOUNDATION  
OF ARIZONA**  
P.O. BOX 17148  
PHOENIX, AZ 85011-0148  
P/602.650.1854  
F/ 602.650.1376  
WWW.ACLUAZ.ORG

*Re: ACLU's August 28, 2017 Records Request for Trump Protest Footage*

Dear Chief Williams and Ms. Hunter:

The ACLU of Arizona ("ACLU") writes to demand the immediate release of public records responsive to the ACLU's August 28, 2017 request for video footage of the August 22, 2017 Trump protest. Specifically, the ACLU's August 28 request sought:

All video recordings of the August 22, 2017 Trump rally and protests taken or obtained by the Phoenix Police Department including: security camera video from surrounding buildings managed, owned, or operated by the City of Phoenix, aerial video from any overhead helicopters or drones in the area, and any video obtained from members of the public.

The Phoenix Police Department ("Department") has had ample opportunity to accumulate and review records responsive to the ACLU's request. Unfortunately, the Department has not released responsive records, in violation of Arizona's public records law.

For over 50 days the Department has failed to release public records as required by law despite maintaining responsive records and using them to advance the Department's public position. On August 31, 2017, Phoenix Police Department Sergeant Jonathan Howard gave a heavily edited presentation to members of the media utilizing video the Department obtained of the Trump protest. Sgt. Howard stated the Department was reviewing video from a variety of sources,

including video from security cameras, the internet and the public. According to Sgt. Howard, the Department had already gathered and examined enough video in late August to present to the public an accurate representation of what occurred during the protest. Sgt. Howard's presentation included video footage from security cameras, the public, and possibly footage created by Department officers or agents. Sgt. Howard stated the public could supply the Phoenix Police Department Professional Standards Bureau with additional video at [commandcomplaint@phoenix.gov](mailto:commandcomplaint@phoenix.gov) or by calling the department at 602-262-4580, indicating the Department was already in the process of gathering and sorting relevant video footage. Importantly, Sgt. Howard indicated that videos in the possession of the Department could be obtained via public records request.

Furthermore, in a September 5, 2017 meeting with community leaders and the ACLU, Chief Williams stated the Department was reviewing available materials, including records that would be made public, and would soon complete an "After Action Report" related to the Trump protest and police response. However in the six weeks following that meeting, the Department has failed to make a single video of the Trump protest in its possession available to the ACLU.

The Department's failure to release video responsive to the ACLU's request violates Arizona public records law. When public records are requested, the responsive agency is legally obligated to make those records available without improper delay. "Unlike public information statutes in some other jurisdictions, Arizona's statute specifies that when records are subject to disclosure the required response is the prompt and actual production of the documents." *Phoenix New Times, L.L.C. v. Arpaio*, 217 Ariz. 533, 538 (App. 2008). The plain language of Arizona public records law requires the custodian of public records to "promptly" furnish records upon request. A.R.S. § 39.121.01(D)(1). Arizona law defines prompt as "quick to act or to do what is required" or "done, spoken, etc. at once or without delay." *W. Valley View, Inc. v. Maricopa Cty. Sheriff's Office*, 216 Ariz. 225, 230 (App. 2007). Arizona public records law "further specifies that to the extent the party does not receive a prompt response, '[a]ccess to a public record is deemed denied.'" *Phoenix New Times, L.L.C.*, 217 Ariz. at 538, quoting A.R.S. § 39-121.01(E). "A denial of access to public records is deemed wrongful if the person requesting the records was, in fact, entitled to them." *Id.*

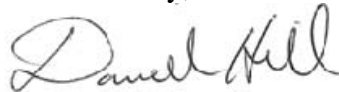
The purpose of Arizona's public records law is to allow the public to monitor the performance of elected officials and government agencies. *Griffis v. Pinal Cty.*, 215 Ariz. 1, 4 (2007); *Phoenix Newspapers, Inc. v. Keegan*, 201 Ariz. 344, 351 (App. 2001). That purpose is impermissibly hindered if government officials are allowed to improperly defer the release of records to the public to delay or impede scrutiny, while simultaneously using those same records to advance the agenda of government officials.

The Department has had over 50 days to comply with the ACLU's public records request. As previously described, three days after the ACLU's request, the Department presented video responsive to the ACLU's request to the media. At no time has the Department requested any clarification regarding the ACLU's request or offered any explanation as to why requested records were not released promptly. The Department's response violates Arizona public records law. *See W. Valley View, Inc.*, 216 Ariz. at 230 (holding MCSO's failure to immediately release records that they had access to upon request violated Arizona public records law); *Phoenix New Times*, 217 Ariz. at 538, 545 (holding that a delay of 49 days and 141 days based on the justification of "inattention by the employee of a public body" violated Arizona public records law).

We hope to work amicably to remedy the Department's non-compliance with Arizona public records law, but will pursue litigation if necessary. The Department must immediately release responsive records; there is no justification for continued delay. If there are any questions, please contact me at [dhill@acluaz.org](mailto:dhill@acluaz.org) or by phone at 602-773-6008.

**AMERICAN CIVIL  
LIBERTIES UNION  
FOUNDATION  
OF ARIZONA**

Sincerely,



Darrell Hill  
Staff Attorney, ACLU of Arizona



# **EXHIBIT F**

---

**Subject:** FW: REGARDING OCTOBER 6, 2017 TRUMP RALLY

**From:** Public Records PPD [<mailto:public.records.ppd@phoenix.gov>]

**Sent:** Wednesday, November 15, 2017 12:21 PM

**To:** Darrell. Hill

**Subject:** REGARDING OCTOBER 6, 2017 TRUMP RALLY

Public Records Request Status Update:

You are one of multiple requesters seeking all manner of records concerning the Phoenix Police Departments actions in the days surrounding a political rally on August 22, 2017. As you are likely aware, this event was subject to great public attention. Due to the unique nature of the event, the Phoenix Police Department has sought and gathered many records for review, with the intention of creating a comprehensive after action report.

The City of Phoenix values all public records requests and requesters. In processing your request, along with the nearly 80,000 other requests received each year by the Phoenix Police Department, the focus is on the completion of the after action report (to support the police mission). The Department hopes to complete the report by the end of the year. You and the other requesters of records surrounding the August 22<sup>nd</sup> event may review the after action report and be satisfied with the provided information. However, if you desire additional records after review of the after action report, the City is open to dialogue concerning supporting records.

Public Records, Code Enforcement Unit

Phoenix Police Department

1717 E Grant St Suite 100

Phoenix, AZ 85034

Monday-Friday 8am to 4pm

[public.records.ppd@phoenix.gov](mailto:public.records.ppd@phoenix.gov)

p:602.534.1127 f:602.495-0596

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# **EXHIBIT G**



## Phoenix Police Department Critical Incident Transparency Protocol

This protocol contains guidelines for timely and standardized release of existing video, records, and information following a police critical incident. The protocol is intended to provide a template for consistent, timely and systematic dissemination of accurate, available records and information following a critical incident. Public Information Officers will continue to provide initial, immediate information on all critical incidents.

### Critical Incidents:

- Officer Involved shootings
- Exceptional use of force
- Death or injury of an officer
- In-custody deaths
- Incidents generating significant community concern

### Timeline goals for dissemination of information and records following a critical incident:

3 – 7 Days: Name(s) of involved officer(s) will be released to the public

7 – 14 Days: Information and records will be shared with:

- Involved officer(s)
- Valley community leaders
- Union representative
- Community Relations Bureau
- Command staff

14 – 30 Days: Information and records will be shared with:

- Involved person's family
- Police department - Internal
- Media

30 Days: Police report and related records

*Every incident will involve unique circumstances and therefore release timelines may vary.*

From: Web Detail <web.detail@phoenix.gov>  
Date: July 14, 2017 at 11:49:16 MST  
Subject: ENS - New Transparency Protocol - Message from the Chief

### New Transparency Protocol

As your Police Chief, I directed the Public Affairs Bureau and Investigations Team to establish a Transparency Protocol\* to help us communicate in a fair and consistent manner with our community when we have critical incidents involving your officers. These critical incidents may include police involved shootings, exceptional uses of force incidents, officer death or injury, in-custody deaths, or any other incident generating significant community concern. The sharing of information is critical to ensuring legitimacy with the people we serve. We must balance our need to be transparent with our responsibility to maintain the integrity of investigations while respecting the rights of victims, suspects and others involved.

After much discussion and review, we have established the following guidelines for information sharing following any critical incident. The new protocol will help us achieve higher levels of transparency while still protecting the rights of those involved. As you will see, our new goals for release allow us to share the bulk of information with everyone within 30 days of an incident. This protocol provides a standardized method of sharing information which was one of my goals when becoming Chief.

I appreciate the support and patience of our officers, prosecutors, and community members as we implement this accelerated information release timeline.

God Bless and Be Safe,  
Jeri Williams

\*View attachment for specifics.