

NEWS RELEASE

Arizona Supreme Court
Administrative Office of the Courts

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Arizona Supreme Court Clarifies Standard for Withholding Public Records Under the “Best Interests of the State” Exception

PHOENIX – The Arizona Supreme Court today issued an opinion in *Barry Goldwater Institute for Public Policy Research Center v. City of Phoenix*, clarifying how courts should evaluate claims that public records may be withheld under the “best interests of the state” exception to disclosure. The Court addressed an earlier Arizona Supreme Court opinion in *Carlson v. Pima County*, which determined that access to public records may be restricted where “the interests of privacy, confidentiality, or the best interest of the state in carrying out its legitimate activities outweigh the general policy of open access.”

The case arose after the Barry Goldwater Institute for Public Policy Research Center requested records from the City of Phoenix related to ongoing collective bargaining negotiations between the City and the Phoenix Law Enforcement Association. The requested records included draft memoranda of understanding and bargaining proposals exchanged during negotiations. The City declined to produce records while negotiations were ongoing, arguing that premature disclosure would negatively interfere with the bargaining process.

The Court held that a public entity seeking to withhold records under the “best interests of the state” exception is not required to prove that it is more likely than not that disclosure would cause specific, material harm as a discrete element in resisting disclosure. Courts must apply the balancing test established in *Carlson*, weighing Arizona’s strong presumption favoring public access against the “best interests of the state.” Although a public entity need not satisfy a rigid “probability” requirement, it must do more than rely on purely speculative, vague, or generalized concerns. The government must show a degree of likelihood of specific, material harm resulting from disclosure of the records—and in cases where the harm is more specific and material, the harm is more likely to occur, and the causal connection is stronger, the balancing test will favor non-disclosure of records.

The Court held that the superior court should conduct a confidential review of Goldwater’s requested public records to determine whether particular portions may be withheld. The Court also noted that redaction and partial disclosure may provide a practical alternative to withholding entire documents. Finally, because the City’s asserted justification for withholding records was tied to ongoing negotiations, the Court emphasized that any delay in disclosure should be limited to the duration of the specific harm supporting non-disclosure.

The opinion also clarifies the role of appellate courts in reviewing public records disputes. Appellate courts defer to a trial court’s factual findings unless clearly erroneous. But appellate courts conduct a de novo review of the trial court’s legal conclusion under the *Carlson* balancing test to determine whether the evidence supporting non-disclosure due to the “best interests of the state” outweighs the presumption of disclosure.

The Supreme Court reversed the superior court's judgment, vacated the court of appeals' opinion, and remanded the case for further proceedings consistent with its opinion.

Justice King authored the opinion of the Court. Chief Justice Timmer, Vice Chief Justice Lopez, Justice Bolick, Justice Beene, Justice Montgomery, and Justice Berch (Ret.) joined the opinion.

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This summary is intended solely to notify the public about an Arizona Supreme Court Opinion. It is not to be considered an official commentary by the Court or any member of the Court, nor may it be cited as legal authority for any reason or purpose. The full Opinion is available [here](#) for those seeking details about the Court's reasoning.

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