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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**

8 Manuel de Jesus Ortega Melendres, on
9 behalf of himself and all others similarly
situated; et al.

No. CV-07-2513-PHX-GMS

ORDER

10 Plaintiffs,

11 and

12 United States of America,

13 Plaintiff-Intervenor,

14 v.

15 Paul Penzone, in his official capacity as
16 Sheriff of Maricopa County, Arizona; et al.

17 Defendants.
18

19 Before the Court is Proposed Intervenor the Associated Press (“AP”), and
20 journalists Jacques Billeaud and Jude Joffe-Block’s (collectively, “Intervenors”) Motion
21 to Intervene for the Limited Purpose of Challenging Sealing of Records and Motion to
22 Unseal Records (Doc. 2785.) For the following reasons, the motion is granted.

23 **BACKGROUND**

24 Proposed Intervenor seek to intervene in this case for the limited purpose of
25 requesting that certain documents be unsealed. The Intervenor filed the motion to
26 intervene and unseal documents on July 13, 2022. Specifically, Intervenor request to
27 unseal quarterly status reports pertaining to Armendariz Investigations spanning between
28 April 2017 to August 2022. Intervenor also request that the Court unseal documents

1 related to various other administrative and criminal investigations. Plaintiffs do not oppose
 2 the intervention or unsealing of these documents and echoed Proposed Intervenors
 3 arguments that the Court should direct that the documents be unsealed. Sheriff Penzone
 4 and MCSO do not oppose the motion to intervene or unseal but maintain that “if any new
 5 Armendariz Investigations are opened in the future, any reports or other information about
 6 such investigations should be filed with the Court under seal and should remain under seal
 7 during the pendency of those investigations.” (Doc. 2797 at 4.)

8 DISCUSSION

9 I. Motion to Intervene

10 The Court construes Intervenors’ request to intervene as a request for permissive
 11 intervention under Federal Rule of Civil Procedure 24(b). “Nonparties seeking access to
 12 judicial record in a civil case may do so by seeking permissive intervention.” *San Jose*
 13 *Mercury News v. U.S. Dist. Court*, 187 F.3d 1096, 1100 (9th Cir. 1999). The Ninth Circuit
 14 has explicitly recognized that “the press and other interested third parties retain their right
 15 to intervene and request that particular documents be unsealed.” *United States v. Gurolla*,
 16 333 F.3d 944, 953 (9th Cir. 2003). Additionally, a “non-party moving to intervene solely
 17 for the purpose of accessing records need not show a nexus of fact or law with the main
 18 action.” *Muhaymin v. City of Phoenix*, No. CV-17-04565-PHX-DLR, 2021 WL 5173767,
 19 at *1 (D. Ariz. Nov. 3, 2021).

20 Here, Intervenors are journalists and a news organization who have reported
 21 extensively on this case. (Doc. 2785.) Neither Plaintiffs nor Defendants oppose their
 22 intervention for the limited purpose of filing their motion to unseal documents. Because
 23 the Intervenors seek to vindicate the public’s right of access, the Court grants their motion
 24 to intervene for that limited purpose.

25 II. Motion to Unseal Documents

26 The next issue before the Court is whether to unseal the documents that Intervenors
 27 allege fail to satisfy the criteria to remain sealed. The proper standard when considering
 28 whether to seal the documents is whether the party filing the document offers “compelling

1 reasons” for the document to be filed under seal. *Kamakana v. City & Cnty. of Honolulu*,
2 447 F.3d 1172, 1178-79 (9th Cir. 2006). The compelling reasons standard highlights the
3 fact that “[i]n this circuit, we start with a strong presumption in favor of access to court
4 records.” *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003).
5 Additionally, if sensitive information can be redacted “while leaving other meaningful
6 information,” rather than “only meaningless connective words and phrases,” redaction is
7 preferred. *Id.* at 1137.

8 Intervenor seek to unseal nearly forty documents that were previously filed under
9 seal. Neither Plaintiffs nor Defendants oppose the motion to unseal. Most of the
10 documents that Intervenor request to be unsealed relate to Armendariz Investigations or
11 other related internal investigations. Defendant acknowledges that the majority of
12 Armendariz Investigations have now been completed so the majority of the filings
13 Intervenor seek to have unsealed relate to closed investigations. Because the filings do
14 not relate to open investigations, Defendant does not seek to show compelling reasons why
15 the documents should remain sealed. (Doc. 2797 at 3.) In the absence of any compelling
16 reasons why the documents pertaining to closed investigations should remain sealed, the
17 presumption of public access favors unsealing these documents.

18 At this time, is not necessary for the Court to decide at this time which hypothetical
19 future filings related to new internal investigations should be filed under seal. Defendants
20 should continue to file motions to seal for documents containing highly sensitive
21 information. If Defendants believe a document should be sealed, Defendants should lodge
22 the document under seal and file a motion to seal articulating the compelling reasons for
23 sealing the document in full. If the Court finds those reasons insufficient or finds that the
24 highly sensitive information contained in the filings “can be redacted with minimal effort,”
25 *Foltz*, 331 F.3d at 1137, it will require Defendants to file a redacted version on the public
26 docket.

27 The last issue is how Defendants should proceed in light of discovering previously
28 filed quarterly reports that were filed with missing data. (Doc. 2797 at 5.) In responding

1 to this motion to unseal documents, MCSO explained that it identified certain reports in
 2 which “certain rows of data were inadvertently omitted from some of the under-seal
 3 filings.” (Doc. 2797 at 5.) MCSO has explained that the spreadsheet is cumulative and
 4 therefore closed reports do not get deleted from the spreadsheet. This means that the most
 5 recent version of the report contains all the investigations that should have been included
 6 in the incomplete reports, as well as any new investigations opened since then. Because
 7 MCSO has represented that the most recent version of the spreadsheet contains the most
 8 current information about all Armendariz investigations, the incomplete filings do not omit
 9 information that would otherwise be unavailable if MCSO does not update the filings.
 10 Further, because the most recent filing will be made available to the public as a result of
 11 the instant motion, the public will nevertheless have access to all of the information that
 12 was omitted from the original filings. As such, MCSO need not file updated versions of
 13 the spreadsheets.

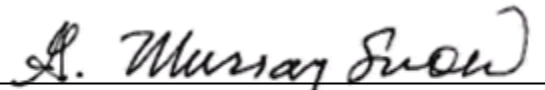
14 CONCLUSION

15 Accordingly,

16 **IT IS THEREFORE ORDERED** that Intervenors’ Motion to Intervene and
 17 Motion to Unseal Documents (Doc. 2785) is **GRANTED**.

18 **IT IS FURTHER ORDERED** directing the Clerk of Court to unseal the following
 19 documents: Docs. 1625, 1662, 1674, 1710, 1725, 1766, 1767, 1768, 1795, 1800, 1819,
 20 1820, 1881, 1882, 1883, 1928, 1951, 2002, 2209, 2271, 2297, 2320, 2367, 2438, 2451,
 21 2473, 2492, 2526, 2542, 2563, 2589, 2629, 2686, 2715, 2752, 2778.

22 Dated this 29th day of September, 2022.

23 

24 G. Murray Snow
 25 Chief United States District Judge