

METADATA IS SUBJECT TO DISCLOSURE UNDER ARIZONA PUBLIC RECORDS LAW
- *Lake v. City of Phoenix et al.*, ___ P3d ___ (October 29, 2009)

Last month, the Arizona Supreme Court ruled that metadata - specific file information that is embedded in an electronic document that is not normally visible when the document is printed - is a public record subject to disclosure.

A police officer in Phoenix, Arizona (City) submitted a public records request regarding his employment with the City. Specifically, the officer sought the metadata contained in copies of his superior's notes, including the true creation date, access dates and the names of the individuals who had changed or accessed the document because he suspected the documents had been altered. The City denied his request.

Both the trial court and Arizona Court of Appeals affirmed the City's denial and found the metadata was not subject to disclosure. The Court of Appeals determined that Arizona's statutes do not define the term "public record" and that Arizona's statutory scheme distinguishes "metadata" from "public record".

Conversely, the Supreme Court reasoned that Arizona's definition of what constitutes a public record is broad and not specifically defined and further concluded that metadata is part of the underlying document and is not separate from the printed documents that were initially released by the City. Public entities are required to produce information such as the date of creation when written on paper by hand, so it follows, noted the Arizona Supreme Court, that similar information embedded into an electronic document should be produced as well.

The Washington Supreme Court is set to hear a similar case on appeal from the state's Court of Appeals. The Court of Appeals in that case held that metadata in e-mail received by a city's deputy mayor was a public record under Washington's public records law.