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STATE OF MARYLAND
PUBLIC INFORMATION ACT COMPLIANCE BOARD

PIACB 26-06
November 6, 2025
Montgomery County Police Department, Custodian
Nhien Be, Complainant

Complainant Nhien Be sent a request under Maryland’s Public Information Act (“PIA”) to the Montgomery County Police Department (“MCPD”) asking for certain records generated after police responded to his house. The MCPD produced body worn camera footage, but with redactions applied to some of the audio and video footage. The MCPD cited § 4-351(b)(5)¹ of the PIA, which permits discretionary withholding or redaction of certain investigative records. The complainant challenges those redactions in this complaint. After consideration of the submissions, including the unredacted body worn camera footage, we find no abuse of discretion in the MCPD’s denial of inspection of a specific video portion of the body worn camera footage, but find that the MCPD improperly applied § 4-351 to deny inspection of the audio portion of that specific footage. We explain in more detail below.

Background

On November 12, 2024, the complainant sent a PIA request to the MCPD asking for body worn camera footage from three specific officers and an incident report, after police responded to the complainant’s house. The MCPD responded to the request in January 2025 and produced redacted footage. The MCPD stated that “any sensitive information passed via audio will also be bleeped or redacted,” and that “[a]ll screen information in police cruiser should be redacted or blurred.” To support the redactions, the MCPD cited § 4-351(b)(5) of the PIA, advising that “portions of this material have been redacted . . . to protect investigative techniques or procedures of the Montgomery County Police Department.” It appears that later, in March 2025, the complainant contacted the MCPD to ask that the redacted portions of the videos be provided, noting that two specific videos were redacted at certain points. In response, the MCPD asked the complainant to “[p]lease reach out to the PIA Ombudsman for your complaint/appeal,” as the MCPD intended to “stand by [its] denial of the interaction with the officers and the neighbor.”

¹ Statutory citations are to the General Provisions Article of Maryland’s Annotated Code, unless otherwise specified.

The complainant did contact the Public Access Ombudsman, on April 4, 2025, to request dispute resolution assistance.² Specifically, the complainant disputed redaction of the footage depicting the officers' interaction with his neighbor. On July 7, 2025, the Ombudsman issued a final determination stating that the dispute was not resolved and the complainant then filed this complaint with our Board. The complaint states that the complainant is "[r]equesting a copy of the unredacted body camera footage."

In response to the complaint, the MCPD provides a "summary of the 22 minute video," advising that "[t]he first 14 minutes are the three officers speaking with [the complainant] in his home," while "[t]he remaining 8 minutes depict the officers going over and into the neighbor's home to discuss their interaction with [the complainant]." The MCPD states that it "evaluated the content of the video and applied 4-351(b)(5) to support [the] initial redaction of the computer screens and any sensitive information passed via any audio transmissions."³ The MCPD explains that "[t]he neighbor's home and interview with the officers were both blurred and silenced and withheld from [the complainant] . . . using 4-351(b)(3) to maintain the personal privacy of the neighbor." The MCPD acknowledges that, "[a]t the time, [it] did not note this privacy reference in the release letter to [the complainant]," but states that the provision was cited after the complainant contacted the MCPD to ask for the unredacted footage. The MCPD maintains its position that "what the neighbor (and her daughter) and the officers discussed with regard to their interactions—prior, current, and future—with [the complainant] should remain private."

In reply, the complainant states that "the audio and video should not be redacted as the section of the video relates to [his] complaint."

Analysis

The PIA directs us to review and resolve complaints alleging certain violations of its provisions, including that a custodian improperly denied inspection of a public record. § 4-1A-04(a)(1)(i). We must review the complaint, response, and any other submissions and, if we determine that the custodian violated the PIA as alleged, we must issue a written decision and order a remedy as provided in the PIA. *See* § 4-1A-04(a)(2) and (3). When we find that a custodian has improperly denied inspection of a public record, we must "order the custodian to . . . produce the public record for inspection." § 4-1A-04(a)(3)(i).

² Under the PIA, the Public Access Ombudsman must "make reasonable attempts to resolve disputes between applicants and custodians relating to requests for public records." § 4-1B-04(a). Before filing a complaint with our Board, a complainant must attempt to resolve a dispute through the Ombudsman and receive a final determination stating that the dispute was not resolved. § 4-1A-05(a).

³ The complainant does not appear to challenge any redactions to the computer screens.

The General Assembly enacted the PIA so that people could access “information about the affairs of government and the official acts of public officials and employees,” § 4-103(a), through inspection of public records, *see* §§ 4-201(a), 4-205(b) (custodians must allow inspection and copying of public record unless otherwise provided by law). Maryland courts have said that the PIA “establishes a public policy and a general presumption in favor of disclosure of government or public documents.” *Kirwan v. The Diamondback*, 352 Md. 74, 80 (1998); *see also* § 4-103(b) (providing that the PIA generally must be “construed in favor of allowing inspection of a public record”). At the same time, the PIA contains exemptions from disclosure for certain records or information, some of which are mandatory and some of which are discretionary. For instance, a custodian must deny inspection of records that “relate to welfare for an individual,” § 4-307, or individuals’ “medical or psychological information,” § 4-329(b)(1). Under § 4-351(a), at issue here, a custodian may deny inspection of certain investigatory records if inspection would be “contrary to the public interest.” § 4-343. Whenever challenged, a custodian has the burden of justifying the application of an exemption to deny inspection of a public record. *Lamson v. Montgomery County*, 460 Md. 349, 367 (2018).

A custodian has discretion to deny inspection of “records of investigations conducted by . . . a police department” if disclosure is not in the public interest. §§ 4-343, 4-351(a)(1). The records here—body worn camera footage of police responding to the complainant’s house and speaking with the complainant and others—clearly fall within the scope of that exemption. They are records of the MCPD’s investigation into whatever circumstances called them to the complainant’s home that evening. Under § 4-351(b), “[a] custodian may deny inspection by a person in interest only to the extent that the inspection would” cause one of seven specific harms to result, e.g., interfering with a law enforcement proceeding or disclosing a confidential source. § 4-351(b)(1) and (4). The PIA defines “person in interest” as “a person or governmental unit that is the subject of a public record or a designee of the person or governmental unit.” § 4-101(g)(1). For purposes of investigatory records, the person in interest is the individual “targeted by the investigation.” *Maryland Dep’t State Police v. Dashiell*, 443 Md. 435, 463 (2015). It is not clear to us that the complainant was the “target” of the officers’ investigation here, as it appears that he called police and made the complaint. *See id.* at 462 (holding that the individual who filed a police misconduct complaint was not the “person in interest” as to the records related to that complaint). If the complainant is not the person in interest, then the MCPD may deny inspection of the records if “for any reason, disclosure would be contrary to the public interest.” *City of Frederick v. Randall Family LLC*, 154 Md. App. 543, 561 (2004). Of course, any of the reasons listed in § 4-351(b) would suffice. 64 Md. Op. Att’y Gen. 236, 241-42 (1979).

Though not cited in its initial response, the MCPD relies on § 4-351(b)(3),⁴ which permits denial of inspection if inspection would “constitute an unwarranted invasion of personal privacy.” The MCPD did not deny inspection of the body worn camera footage in its entirety, rather only the footage taken during the police officers’ interaction with the complainant’s neighbors was withheld. We could not determine whether the MCPD properly applied § 4-351(b)(3) based on the submissions alone, so we asked the MCPD to provide the unredacted body worn camera footage for our review. *See* § 4-1A-06(b)(2)(ii) (allowing our Board to request “a copy of the public record” from the custodian). As required by law, we will maintain the confidentiality of this camera footage. *See* § 4-1A-06(b)(5); COMAR 14.02.06 (regulations governing treatment of confidential records or information received from a custodian). Any references to the records or redacted information in this decision will be general in nature so as not to reveal any information that the MCPD maintains is non-disclosable under the PIA. COMAR 14.02.06.05.

Our past decisions have underscored that “individuals have a ‘legitimate privacy interest’ in personal information about them contained in law enforcement records.” PIACB 24-63, at 5 (Apr. 11, 2024) (citing federal cases). While we have not addressed the precise circumstances presented here, we would be hard-pressed to find that a person does not have a strong privacy interest in police body worn camera footage taken from inside their own home, especially when—as is the case here—that person did not call or ask for the police to come.⁵ *Cf. Cartnail v. State*, 359 Md. 272, 283 (2000) (stating that the Fourth Amendment’s “main import is the protection against invasions of the sanctity of one’s person, home, and the privacies of life”). Notably, courts in other jurisdictions have upheld the denial of police recordings taken from inside a private home based on certain exemptions in their states’ open records laws that are rooted in privacy concerns. *See, e.g., Augusta Press v. Roundtree*, 888 S.E.2d 267, 270 (Ga. Ct. App. 2023) (video footage from a private home taken after the residents called the sheriff’s department for assistance). At the same time, federal courts interpreting the comparable Freedom of Information Act (“FOIA”) exemption⁶ have explained that an agency may not withhold an investigative record “solely because disclosure would infringe legitimate privacy interests but must

⁴ Based on the response to this complaint, we presume that the MCPD no longer relies on § 4-351(b)(5) and therefore do not address that particular ground for withholding in our decision.

⁵ The portion of the footage disclosed to the complainant reveals that, after talking with the complainant, the police agreed to go to his neighbor’s house, knock on the door, and “interrupt their evening.”

⁶ *See* 5 U.S.C.A. § 552(b)(7)(C) (providing that FOIA’s general rule of disclosure “does not apply to matters that are . . . records or information compiled for law enforcement purposes, but only to the extent that the production . . . could reasonably be expected to constitute an unwarranted invasion of personal privacy”). Maryland appellate courts have “stated that the interpretations and reasoning of the federal courts addressing the ‘investigatory files’ exemption . . . are persuasive.” *Fioretti v. Maryland State Bd. Dental Examiners*, 351 Md. 66, 75-76 (1998).

balance privacy interests against the public's interest in learning about the operations of its government." *Campbell v. U.S. Dep't Just.*, 164 F.3d 20, 33 (D.C. Cir. 1998).

Federal courts have held that, when balancing the public interest versus an individual's privacy interest, the "*only* relevant [public] interest" is "the extent to which disclosure of the information sought would shed light on an agency's performance of its statutory duties or otherwise let citizens know what their government is up to." *Lahr v. Nat'l Transp. Safety Bd.*, 569 F.3d 964, 974 (9th Cir. 2009) (emphasis original). Viewed this way, we can discern no public interest in disclosure of the *video* footage taken from the complainant's neighbor's house. We see no way in which visual inspection of the inside of a private home here sheds any light on the MCPD officers' performance of their duties in responding to the call for service. This is true especially given that the neighbor did not call for or otherwise invite the police officers into her home; rather, the officers went of their own accord after speaking to the complainant. Therefore, we find no abuse of discretion in the MCPD's application of § 4-351(b)(3) to deny inspection of the video portion of the footage taken from inside of the complainant's neighbor's house.

We reach a different conclusion regarding the audio portion of the body worn camera footage, however, which the MCPD states was "silenced." After review, we find that disclosure of the conversation that took place between the neighbor and the police officers would not "constitute an unwarranted invasion of personal privacy" of the neighbor. The officers did not ask prying questions, and minimal—if any—personal information about the neighbor was revealed during that conversation. What the interaction between the officers and the neighbor does reveal, though, is how the MCPD officers handled the situation they were called to—i.e., how they performed their duties. *Lahr*, 569 F.3d at 974. We also note that the officers here complied with MCPD policy that states, "officers will notify individuals that they are being recorded as soon as practicable, unless it is unsafe, impractical, or impossible to do so." See Montgomery County Police Dep't, Body Worn Camera System, FC No.: 430, § VII.B. (Oct. 27, 2022).⁷ Thus, before speaking with the officers, the neighbor was aware that their conversation was being recorded. Disclosure of the audio portion of the officers' camera footage would "help[] citizens understand and oversee the workings of government," *Immanuel v. Comptroller*, 449 Md. 76, 90 (2016), which is precisely what the PIA is meant to do, § 4-103(a). Therefore, as to the audio portion of the body worn camera footage, we find that the public interest in disclosure outweighs any privacy interest that the neighbor might have in her conversation with the police officers. The MCPD improperly applied § 4-351(b)(3) to the audio portion of the footage, thus we direct the MCPD to produce the audio only to

⁷ MCPD policies are available on its website. See Montgomery County Police, Department Policies, <https://www.montgomerycountymd.gov/pol/resource/policies.html> (last visited Nov. 3, 2025).

the complainant, while maintaining redaction of the video footage from inside the complainant's neighbor's home.⁸ § 4-1A-04(a)(3)(i).

Conclusion

Based on the submissions, including the unredacted body worn camera footage that the MCPD provided for our confidential review, we find that the MCPD did not abuse its discretion in applying § 4-351(b)(3) to deny inspection of the video portion of the camera footage taken inside the complainant's neighbor's home. However, we also find that the public interest in disclosure outweighs the privacy interests in withholding the audio from the officers' interaction with the neighbor. We therefore direct the MCPD to produce to the complainant the audio portion of the officers' body worn camera footage taken inside the neighbor's house. The MCPD must produce this audio within thirty days of receipt of this decision and order.

Public Information Act Compliance Board

Sareesh Rawat, Chair
Samuel G. Encarnacion
Debra Lynn Gardner
Nivek M. Johnson

⁸ The MCPD provided us with the video footage from Officers Brown and McKinney, but appears to address only Officer Brown's footage in response to this complaint. Given that the officers were together throughout most of the call, a large portion of Officer McKinney's footage may seem duplicative. However, the footage is not entirely the same, and the MCPD must disclose both officers' footage to the complainant, with redactions to the video portion of the inside of the neighbors home, as specified above.