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STATE OF MARYLAND
PUBLIC INFORMATION ACT COMPLIANCE BOARD

PIACB 26-58
June 11, 2026
Town of Keedysville, Custodian
Justin Holder, Complainant

In November 2025, complainant Justin Holder sent a Public Information Act (“PIA”) request to the Town of Keedysville (“Town”) asking for Town records maintained on United States Department of Transportation (“US DOT”) servers. The Town responded in December and produced records. Shortly after receiving the records, the complainant sent another PIA request to the Town, this time asking for records about US DOT’s production of the responsive records to the Town. The Town responded and advised that no responsive records existed. In this complaint, the complainant alleges that the Town has constructively denied inspection of records responsive to both PIA requests. In response the Town, through counsel, maintains that it has produced all public records responsive to the complainant’s first PIA request, and properly advised that it has no records responsive to the second PIA request. After review of the submissions, we find that the Town failed to comply with the PIA. We explain below.

Background

We take the following facts from the parties’ submissions. Kenneth Lord has served at the Town’s mayor since 2016.¹ During that time, Mr. Lord apparently used a US DOT email account to send and receive emails related to Town business. In September 2024, the complainant sent a PIA request to the Town seeking some of those email records. After the Town responded and produced records, the complainant challenged the Town’s production in a complaint to our Board. Last November, we issued a decision finding that the Town’s response to that PIA request did not violate the PIA. *See* PIACB 26-08 (Nov. 20, 2025).

On November 20, 2025, the same day we issued our decision, the complainant sent a PIA request to the Town seeking “every Town of Keedysville public record on US DOT servers.” The complainant stated that “the US DOT lawyer tells me it is 60,209 pages/emails.” The Town responded by letter dated December 19, 2025, in which it

¹ *See* Maryland Manual On-Line, Washington County, Maryland, Municipalities, Keedysville, <https://msa.maryland.gov/msa/mdmanual/37mun/keedysville/html/kmayors.html> (last visited June 10, 2026).

provided a link to the responsive records. The Town advised that “DOT generated these files directly and shared them with the Town’s attorney for review,” and that the Town “had no input or visibility into this process.” The Town stated that the attorney’s office “conducted the review.” In addition, the Town advised that, though it had not charged a fee, “the request was substantial and resulted in considerable expense.” Thus, the Town indicated, it would in the future “assess fees for similarly broad requests.”

After the complainant received the records, he contacted the Town to ask the Town to provide “the original .eml files that [the Town] provided last time, with metadata.” The complainant stated that he did not “trust the authenticity of these.” The Town’s attorney² responded, stating that the Town had spent “close to \$2,340 complying with [the] request,” and would not “take on any additional work without [the complainant] paying for it.” The complainant then contacted a different attorney in the firm, asking him “how [the] shared file . . . came to be.” The complainant stated that he was “looking for a chain of custody, if the Town would decline to produce the OG .eml files.” Later, the complainant sent another email to the Town explaining his issues with the production, advising that he was “convinced that the Town simply excluded any emails they did not want the public to have,” and “made no Log or give any statements or reasons for a partial denial or any reasons why the Town could not have redacted parts of the emails that it declined to turn over.”

That same evening, on December 19, 2025, the complainant sent the second PIA request at issue in this complaint. That request sought “the public record that informs [the complainant] about the production of USDOT emails to Ken Lord that were allegedly produced in MPIA 138.” The complainant stated that he wanted to be “informed of the total number of records sent by US DOT, chain of custody, file size, date the records were transmitted, how they were transmitted, file type that was transmitted, etc.” On January 5, 2026, the Town sent the complainant a letter stating that “[n]o such document exists.” In response, the complainant sent the Town an email expressing his disbelief that no responsive records existed.

In December 2025, and again in January 2026, the complainant contacted the Public Access Ombudsman to request dispute resolution assistance regarding his two PIA requests to the Town.³ On January 14, 2026, the Ombudsman issued final determinations stating

² We note that the attorney and firm that handled the response to the complainant’s PIA request is not the same attorney who ordinarily serves as the Town Attorney, and who responded to this complaint on behalf of the Town.

³ The Public Access Ombudsman is charged under the PIA with making “reasonable attempts to resolve disputes between applicants and custodians relating to requests for public records.” Md. Code Ann., Gen. Provisions § 4-1B-04(a). Before submitting a complaint to 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. *Id.* § 4-1A-05(a). In this case, the final

that the disputes were not resolved due to conflict and the complainant filed this complaint with our Board. Stating that the US DOT lawyer told him there were 60,209 pages/emails related to his first PIA request, the complaint alleges that “the Town produced less than the expected records with no redactions or exemptions.” As to his second PIA request, the complainant alleges that a responsive record “must exist, and the Town is refusing to produce it, stating it does not exist.”

In response to the complaint, counsel for the Town characterizes the complaint as a “continuation and extension of [the complainant’s] complaint in PIACB 26-08.” Counsel states that, while PIACB 26-08 was pending, the complainant sent a Freedom of Information Act (“FOIA”) request to US DOT “essentially seeking the documents [at issue in PIACB 26-08] and expanding the scope of his request in 26-08.” Attaching correspondence exchanged between US DOT and the complainant, counsel for the Town explains that “DOT’s resolution of that FOIA matter was to review its servers, identify non-DOT emails generated by Kenneth Lord and provide ‘copies’ that would be provided to the Town’s attorneys.” Referring to the US DOT correspondence, counsel for the Town states that, during this process, the complainant requested “an affidavit regarding the number of emails/documents,” but that counsel for US DOT “declined to provide a number specifying the quantity and/or the requested affidavit.” Counsel for the Town states that the complainant “arbitrarily assigned a number of 60,209,” and stresses that “no email or other document has been provided to support that statement.” Counsel advises that US DOT “electronically provided the emails that it, not the Mayor, extracted from its server after a thorough review,” and that US DOT “did not differentiate between emails of a personal nature and emails that may have related to the Town of Keedysville.”

According to counsel for the Town, “[t]he electronic data in its entirety was provided to Mayor Lord who transmitted same without review” to the Town’s attorneys. Counsel states that the law firm “used a document management system (LOGIKUILL) to review the documents that had been provided by DOT and isolated those emails that related to the Town of Keedysville, excluding privileged/confidential communications with the Town Attorney.” In addition, “[a]ll personal emails identified [by the firm] were also excluded.” Counsel for the Town attaches a memorandum from attorneys in the law firm describing the “specific process utilized by that firm.” Counsel also attaches, with the Town’s response, a zip file containing the records produced to the complainant. Counsel for the Town represents that the “Mayor’s only concern in responding to the MPIA request was to avoid providing personal and/or privileged emails,” and that the Town’s attorneys “reviewed and isolated those emails relating to Town matters.” After that review, counsel states, “the emails relevant to [the complainant’s] request were assembled in electronic

determinations state that “[t]he Office of the Public Access Ombudsman is unable to mediate this matter due to ongoing conflicts that prevent both the Ombudsman and Deputy Ombudsman from serving as third-party neutrals in disputes involving Mr. Holder.” See COMAR 14.37.02.07C (regulations governing conflicts of interest in the Ombudsman’s office).

folders which were then made available to him via a link to the information.” Counsel maintains that the Town’s response to the complainant’s first PIA request complied with the PIA.

As to the complainant’s second PIA request, which counsel characterizes as “more of a request for further explanation than a request for documented information,” counsel asserts that the Town “responded appropriately because the Town did not have any other documentation than that which was provided to [the complainant]” in response to his request. Counsel argues that, “based upon the totality of the circumstances,” the Town has met its obligations under the PIA, and that the complainant “has not provided any information or reasoning to support his contention that the Town of Keedysville acted in violation of the [PIA].”

The complainant, in reply, focuses on the information about the records production process provided in the memorandum from the attorneys in the firm who handled the PIA response. The complainant argues that the information demonstrates that the attorneys’ process was insufficient and may have led the Town to exclude disclosable, responsive public records from production. As the complainant sees it, the Town “did a generic search of certain terms and removed all of those records from disclosure without notifying [the complainant].” The complainant maintains that the Town must review each record to determine whether it is a disclosable public record. As to the Town’s response to his second PIA request, the complainant continues to assert that the Town must have responsive records. Noting the Town’s statement that the Mayor himself forwarded a link to the US DOT records to the attorneys handling the PIA request, the complainant emphasizes that the record of the Mayor’s email was not produced. The complainant suggests that there are other responsive records such as a “directory file of the ‘cloud based’ services . . . as well as session logs and files from the searches the Town performed.”

Analysis

The PIA authorizes our Board 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).⁴ We have interpreted our authority to include review of an allegation that a custodian has constructively denied a PIA request, e.g., by performing an inadequate search that failed to locate all responsive records. *See* PIACB 23-05, at 3-5 (Nov. 23, 2022). After review of the submissions, 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). In cases of a constructive

⁴ Statutory citations are to the General Provisions Article of Maryland’s Annotated Code, unless otherwise stated.

denial following an insufficient search, we may direct the custodian to conduct a remedial search and “produce any non-exempt responsive records to the complainant.” PIACB 24-08, at 6 (Sept. 28, 2023).

The PIA is meant to provide “access to information about the affairs of government and the official acts of public officials and employees,” § 4-103(a), and thus favors disclosure of public records, § 4-103(b); *see also Office of the Governor v. Wash. Post Co.*, 360 Md. 520, 544-45 (2000). Accordingly, after receiving a written request to inspect public records, custodians must permit that inspection, unless the records are exempt from disclosure by law. § 4-201(a). As indicated in § 4-201(a), the PIA applies only to “public records,” which are specifically defined to mean “documentary material” made or received by “a unit or an instrumentality of the State or of a political subdivision . . . in connection with the transaction of public business.” § 4-101(k)(1). Thus, to the extent that a record does not meet the definition of a “public record” for purposes of the PIA, a custodian is not obligated to produce the record for inspection. *See Washington Post Co.*, 360 Md. at 538 & n.8 (concerning personal telephone calls placed on government employers’ phones); PIACB 24-55 (Mar. 25, 2024) (concerning recordings of jail calls between inmates and third parties); *see also Lamson v. Montgomery County*, 460 Md. 349, 362, 365 (2018) (observing that the definition of public record is “broad enough to cover a wide range of document types,” but that “the mere physical location of a record is not necessarily dispositive of its characterization” as a public record or not).

When a custodian receives a PIA request, the custodian must “conduct a search in good faith that is reasonably designed to capture all responsive records.” *Glass v Anne Arundel County*, 453 Md. 201, 232 (2017). To perform a reasonable search, a custodian should use “methods that can be reasonably expected to produce the information requested” and focus the search “on where responsive records are likely to be found.” *Id.* (citation omitted). While, ideally, a reasonable search will locate all responsive records, a custodian is not expected to “robotically examine every record in its possession, running up an extravagant fee and diverting public resources in furtherance of a futile effort.” *Id.* As our State’s Supreme Court has said, “[i]n the end, what the PIA requires is a *reasonable* search designed to locate all records responsive to the particular PIA request, not a perfect search that leaves no stone unturned.” *Id.* at 233 (emphasis original).

As stated above, the PIA is a pro-disclosure statute. But, the PIA does not permit “complete *carte blanche*, unrestricted disclosure of all public records.” *Immanuel v. Comptroller*, 449 Md. 76, 88 (2016). Instead, the PIA contains both mandatory and discretionary disclosure exemptions. When a mandatory exemption applies, a custodian ordinarily has no choice but to deny inspection of the relevant record or information. *See, e.g.*, § 4-311 (individuals’ personnel records); § 4-329 (individuals’ medical or psychological information). If the applicable exemption is discretionary, then a custodian may deny inspection if inspection would be “contrary to the public interest.” § 4-343; *see, e.g.*, § 4-351 (certain law enforcement records). A custodian who denies inspection of a

public record must provide certain information in writing, including the reasons and legal authority for the denial and “a brief description of the undisclosed record that will enable the applicant to assess the applicability of the legal authority for the denial.” § 4-203(c)(1)(i). If the exemption applies only to certain information within a public record, the custodian must “allow inspection of any part of the record that is subject to inspection.” § 4-203(c)(1)(ii). A custodian has the burden of demonstrating that an exemption was correctly applied. *Lamson*, 460 Md. at 367.

With this general background, we turn to the PIA requests at issue here. According to the submissions, in July 2025, the complainant asked US DOT for “any/all email correspondence” between Mr. Lord’s US DOT email address and twelve non-DOT email addresses, spanning July 1, 2014, to June 30, 2024. US DOT declined to produce those records, stating that they were not “agency records” for purposes of the federal FOIA. US DOT explained to the complainant that “[a]ll of the potentially-responsive emails and calendar appointments appear to relate to the business of Keedysville, Maryland, and not to DOT.” In an email sent to the complainant in September 2025, an attorney for US DOT advised that US DOT was “providing Mr. Lord with copies of all emails responsive to [the complainant’s] July 2, 2025 FOIA request.” Though the complainant asked US DOT several times for “the total number of responsive records,” it appears that US DOT did not provide that information to the complainant. Thus, it is unclear to us how the complainant arrived at his claim that there are 60,206 responsive records.

US DOT described the records as appearing to “relate to the business of Keedysville, Maryland,” but this does not mean that all of those records are disclosable under the PIA. Some of those records may well be subject to exemptions in the PIA. US DOT’s general description also does not eliminate the possibility that some of the records were not made or received by Mr. Lord “in connection with the transaction of public business,” § 4-101(k)(1), and therefore are not public records under the PIA. According to the memorandum prepared by the attorneys who processed the US DOT records on behalf of the Town, the Town received 38,168 records but produced only 9,268 of those records to the complainant.⁵ The memorandum states that the attorneys uploaded the records to “cloud based electronic discovery software,” which performed a “global deduplication of the documents.” The Town does not state, however, how many records remained after deduplication. The memorandum does indicate that, following the deduplication process, the attorneys ran certain “key word searches” to “eliminate records that involved Mayor Lord’s family or revealed students’ names,” presumably taking the position that those records are not public records subject to disclosure. Those keywords included the names of Mr. Lord’s wife and three children, his home address and the address of his neighbor,

⁵ Due to the volume, we have not reviewed all records produced to the complainant. We note that the Town produced the records in thirty-one separate folders, each containing several hundred PDF email records. It appears that the total number of pages produced to the complainant was approximately 30,420. The email records appear to date from 2015 through 2020.

as well as the word “students” and, apparently, the phrase “trying times.” It seems that the Town excluded all records containing these keywords or terms, as well as all records “related to legal advice by the Town’s attorneys.” The attorneys’ memorandum does not state whether the Town reviewed any or all of those records before excluding them from production.

The Town’s PIA response letter of December 19, 2025, provided the complainant a link to the records and stated that the Town had “no input or visibility into [the] process” of producing them.⁶ Thus we observe that the Town did not comply with § 4-203(c)(1)(i). It is clear that the Town denied inspection of some of the responsive records, either because the Town believed they were not public records or because they were subject to the attorney client privilege and thus exempt under § 4-301(a)(1). The Town did not, however, advise the complainant of the reason or legal authority for the denial, or briefly describe the records withheld.

We also have concerns with how the Town came to exclude the records in the first place. In our view, it is generally not permissible to exclude wholesale and without review, records based on the fact that they contain certain keywords or terms. As the complainant points out, the Mayor’s wife (whose first name was included among the excluding keywords) has a role within the Town.⁷ It is thus likely that at least some of the email records that contain her name are connected to public business and thus public records under the PIA. The same can be said for the other first names (which are not uncommon names) used to exclude records, or general terms such as “students” or “trying times.”⁸ In addition, although communications strictly between the Mayor and the Town’s attorneys are likely to be privileged, *see Abell. Found. v. Baltimore Dev. Corp.*, 262 Md. App. 657, 712 (2024), it is at least possible that some of those communications involved third parties outside of Town government, meaning that the attorney-client privilege normally would not apply, *Newman v. State*, 384 Md. 285, 303 (2004). As we see it then, the Town’s process in all likelihood led to a constructive denial of responsive records.

⁶ To the extent that the Town takes the position that, because an outside law firm handled the records production, the Town is not responsible for the process or cannot be charged with knowledge of the particulars of the process, we find such position problematic. The Town, not the law firm, has an obligation to issue a PIA-compliant response. If the Town needs information necessary to issue such a response, including whether records were excluded from production and, if so, why, then the Town must obtain that information or risk non-compliance.

⁷ *See* Keedysville, Maryland, Green Team, <https://keedysvillemd.com/government/green-team/> (last visited June 10, 2026).

⁸ Some of the email records we reviewed were generated in 2020, during the Covid-19 pandemic, a period that could certainly be described as “trying times.” Those records were undoubtedly public records.

At the same time, we cannot disregard our Supreme Court’s instruction, which has some relevance here, that:

Reasonableness must be measured against the specificity of the request and the willingness of the requestor to focus a request to improve the efficiency of the search. An agency is not expected to divert its resources to an exhaustive search in response to a broadly worded request that the requester refuses to focus and at an expense that will not be recovered.

Glass, 453 Md. at 233. The complainant has asked for every email Mr. Lord sent or received from a specific email address in his capacity as a Town official over a ten-year period. Judging by the some 30,000 pages of records already produced to the complainant, the volume of potentially responsive records is enormous. Although, on balance and in light of the PIA’s pro-disclosure purpose, we find that the Town’s process likely led to a constructive denial of responsive records, it is not clear that the remedy here—i.e., directing the Town to “produce the public record for inspection” § 4-1A-04(a)(3)(i)—entails having to review every single excluded record. Rather, the Town may wish to ask the complainant to “focus” the request to target certain records among those excluded from production. Or, the Town could perform a search of the records excluded in an effort to capture those that likely pertain to public business, e.g., by searching for the term “Green Team,” *see supra*, note 7, or other words and terms that appear frequently in the Town’s email records. Finally, with regard to the Supreme Court’s reference to expense, we note that § 4-206(b) permits a custodian to charge a “reasonable fee”—i.e., one that is reasonably related to “the recovery of actual costs,” § 4-206(a)(3)—for the work of responding to a PIA request.⁹ Having found that the Town constructively denied inspection of public records, we direct the Town to perform a remedial search of the excluded records and produce any non-exempt, responsive public records to the complainant.

The allegations concerning the complainant’s second PIA request are a bit more difficult to resolve. The complainant asked the Town for a record that would “inform” him about the production of the US DOT email records to the Town. The complainant stated that he wanted to know “the total number of records sent by USDOT, chain of custody, file size, date the records were transmitted, how they were transmitted, file type that was transmitted, etc.” In response, the Town advised that “no such document exists.” It is unclear how the Town arrived at that conclusion; however, we may infer from the record that the Town’s position is that records in the custody of the law firm that processed the records are not the Town’s public records.

⁹ The complainant requested a fee waiver under § 4-206(e). The Town did not address that request, presumably because it produced the records free of charge. Should the Town determine that a fee may be warranted in light of the amount of work to be done, it must first meaningfully consider and respond to the complainant’s request for a fee waiver. *See Baltimore Police Dep’t v. Open Justice Balt.*, 485 Md. 605, 650-54 (2023).

In a different matter involving these same parties, we concluded that invoices submitted by outside counsel for the Town to the Town's insurance carrier, for payment by that insurance carrier, were not the Town's public records, unless the Town received or otherwise came into possession of those invoices. *See* PIACB 25-73, at 10-12 (Aug. 15, 2025).¹⁰ In reaching that conclusion, we relied on the plain language of § 4-101(k)(1), as well as authority in other states with similar definitions of "public record." *Id.* at 11-12. We think this complaint presents different circumstances. In PIACB 25-73, the disputed invoices related to services performed by an attorney hired by the insurance carrier, and for which the insurance carrier—and not the Town—was responsible for payment. Here, the law firm essentially processed a PIA response on the Town's behalf, performing almost directly what is undeniably a government function. Such distinction was important in at least one of the outside authorities to which we cited in PIACB 25-73. *See Berney v. Colonial Sch. Dist.*, OOR Dkt. AP 2017-2426 (Feb. 6, 2018) (no obligation to retrieve records from a law firm when they were not "directly related" to a "governmental function"). As noted *supra*, note 6, the Town is ultimately responsible for ensuring that its obligations under the PIA are met. While it may be necessary, at times, for an agency to use outside law firms or other contractors to assist with a PIA response, we think the records directly related to generating that response are public records for purposes of the PIA. Thus, we direct the Town to conduct a remedial search for records responsive to the complainant's second PIA request; to include any records its attorneys may have that are directly related to the response process.¹¹

Conclusion

For the reasons discussed above, we find that the Town constructively denied the complainant's PIA requests. We direct the Town to perform the remedial searches described above within thirty days of receipt of this decision and order, and to produce any non-exempt responsive records found to the complainant.

Public Information Act Compliance Board

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

¹⁰ The Town appealed our decision regarding a different issue. *See In the Matter of Town of Keedysville*, Case No. C-21-CV-25-000438 (Cir. Ct. Wash. County). On May 28, 2026, after a hearing, the Circuit Court for Washington County reversed our decision with respect to redactions in certain other attorney invoices, but did not disturb our conclusions regarding § 4-101(k)(1).

¹¹ We are cognizant that many of those records may be protected attorney-client communications exempt from disclosure under §4-301(a)(1).