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STATE OF MARYLAND
PUBLIC INFORMATION ACT COMPLIANCE BOARD

PIACB 26-69
June 30, 2026
Washington County, Custodian
Justin Holder, Complainant

Complainant Justin Holder alleges that Washington County (“County”) violated the Public Information Act (“PIA”) by failing to produce certain records responsive to his PIA request. As explained below, we find that the County improperly denied inspection of records responsive to the complainant’s PIA request.

Background

On December 18, 2025, the County received the following PIA request from the complainant asking for:

All messages on any device or account belonging to or in the possession of any county commissioner to or from the county treasurer’s office, or any elected official or County employee therein, from 10/1/2025 thru 10/31/2025, which discusses in any way the business of the County or the county treasurer’s office.

On January 29, 2026, the County sent the complainant a letter stating that it had “contacted the Commissioners and the County Treasurer to confirm whether any records exist on their personal devices or accounts,” but that “[a]ll responses indicated that there were no such records on personal accounts or devices.” In addition, the County advised that it had run “searches on the County’s e-mail server,” which “yielded approximately 197 potentially responsive e-mails.” The County asked the complainant to pay a “security deposit in the amount of \$200.00” to process the PIA request.

The complainant was dissatisfied with the County’s response to his PIA request, so he contacted the Public Access Ombudsman to request dispute resolution assistance.¹ On

¹ The PIA requires the Public Access Ombudsman to “make 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).

March 5, 2026, the Ombudsman issued a final determination stating that the dispute was not resolved due to conflict² and the complainant filed this complaint with our Board.

The complaint challenges the County's assertion that there are no responsive records stored on personal devices or in personal accounts.³ The complainant alleges that "the County did not ask Treasurer Matt Breeding for responsive records." In response, counsel for the County asks that we dismiss the complaint for lack of jurisdiction. Taking the position that the complainant has "made no efforts to resolve the dispute through mediation, and instead, has taken overt actions to effectively deny the County of its statutory right to mediation," the County argues that we lack jurisdiction because mediation has not been attempted, as required by § 4-1A-05(a)⁴ of the PIA.

The County asserts that the complainant is "the sole source of any conflicts with the Ombudsman and Deputy Ombudsman," and that the County is "ready, willing, and able to participate in mediation." Thus, in the County's view, because the complainant "has created the circumstances which prevent any meaningful attempt for resolution through the Public Access Ombudsman," he has "not fulfilled his obligation . . . to attempt to resolve the dispute." The County urges that the complainant's conduct, which the County calls "antagonistic and vexatious," both "supports the conclusion that [our Board] lacks jurisdiction to resolve the complaint[]," and that the complainant's "conduct in his dealings with Washington County staff regarding his PIA requests are inherently harassing and vexatious." The County asks that we both dismiss the complaint and issue a "statement designating Complainant as a vexatious requester" under § 4-1A-04(b) of the PIA.⁵

² The final determination states 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).

³ We do not review the County's response with respect to the email records it found on County servers, as we lack jurisdiction over fee disputes when the fee is \$350 or less. *See* Md. Code Ann., Gen. Provisions § 4-1A-04(a)(ii).

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

⁵ To support this aspect of the County's position, the County attaches emails it has received from the complainant, which it describes as "incessant, unsolicited, disturbing and vitriolic communications." The County states that, although the email messages do not concern this PIA request, they are "important to the overall context of the complaint[]" as they accurately portray what it is like to deal with Complainant on a consistent basis." Maintaining that "the PIA does not compel government employees to serve as Complainant's punching bags," the County argues that "[u]nless or until [our Board] designates Complainant as vexatious, County staff are required to read through these disturbing messages to determine whether a request for records is contained therein."

The complainant, in reply, denies that he is the cause of the conflict that prevents mediation through the Ombudsman from occurring. As to the County's arguments that he is a vexatious requester, the complainant states that he has "the absolute right to sharply criticize his government and express his viewpoint with harsh words and coarse language." The complainant also argues that the County "declined and waived its right to provide any arguments on the merits of the underlying complaint[] because a meritorious argument does not exist."

Analysis

The PIA directs us to review and resolve complaints alleging certain violations of its provisions, including that a custodian "denied inspection of a public record in violation of [the PIA]." § 4-1A-04(a)(1)(i). We have construed our authority broadly to include review of alleged constructive denials. *See* PIACB 23-05, at 3-5 (Nov. 23, 2022). If we find that a custodian improperly denied inspection of a public record, we must issue a written decision and "order the custodian to . . . produce the public record for inspection." § 4-1A-04(a)(3)(i).

Generally, the PIA requires custodians to allow inspection of public records unless a disclosure exemption applies. § 4-201(a)(1). 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," and that uses "methods that can be reasonably expected to produce the information requested." *Glass v. Anne Arundel County*, 453 Md. 201, 232 (2017). In doing so, the custodian is not required to "robotically examine every record in its possession," or perform "a perfect search that leaves no stone unturned." *Id.* at 232-33. Rather, the custodian is expected to focus the search "on where responsive records are likely to be found." *Id.* at 232.

We start with the County's request that we dismiss this complaint. Under § 4-1A-05(a), we may not review a complaint unless "the complainant has attempted to resolve the dispute through the Office of the Public Access Ombudsman" and the Ombudsman "has issued a final determination stating that the dispute was not resolved." While the County is correct that no mediation occurred here—the final determination states that that the Ombudsman's office cannot mediate matters involving the complainant—we think that the "attempt" to resolve the dispute has occurred. *See* PIACB 23-23, at 3 n.4 (June 20, 2023) (recognizing that "not all Board-eligible disputes are *actually* mediated through the Ombudsman," and stating that "the request for dispute resolution assistance . . . [is] tantamount to the statutorily required 'attempt[] to resolve the dispute'"). The Ombudsman's process is voluntary, *see* COMAR 14.37.02.06, meaning that a party may decline to engage in dispute resolution. In such cases, the party requesting resolution should not be prevented from filing a complaint with our Board simply because the other party declined to engage. Similarly, there may be instances in which a conflict precludes

mediation through the Ombudsman.⁶ The Ombudsman’s regulations account for such circumstances by providing that an “unresolved” final determination should normally issue. *See* COMAR 14.37.02.07C.

The County points to some of our prior decisions, in which we asserted jurisdiction over certain allegations despite the fact that they were not presented for dispute resolution through the Ombudsman. *See, e.g.*, PIACB 26-19 (Dec. 17, 2025); PIACB 26-24 (Jan. 20, 2026). In each of those complaints, however, there was a final determination that stated that a certain dispute was not resolved—i.e., that the County had not issued a final response to a PIA request. *See* PIACB 26-19, at 2 (Dec. 17, 2025); PIACB 26-24, at 2-3 (Jan. 20, 2026) (final determinations issued as to lack of response to a PIA request from the County). In the time between when the complainant contacted the Ombudsman and filed the complaint with our Board, the County issued responses. *See* PIACB 26-19, at 3 (Dec. 17, 2025); PIACB 26-24, at 3 (Jan. 20, 2026).

Thus, when the complainant filed his complaint, he challenged the County’s substantive responses to his PIA requests. And, rather than asking us to dismiss the allegations related to the substantive responses, the County addressed them in full. *See* PIACB 26-19, at 3 (Dec. 17, 2025); PIACB 26-24, at 3 (Jan. 20, 2026). In resolving the complaints, we recognized that the County’s substantive responses were “not presented to the Ombudsman for dispute resolution, thus ordinarily we would lack jurisdiction to resolve [the] allegation.” PIACB 26-19, at 6 n.8 (Dec. 17, 2025); *see also* PIACB 26-24, at 5 n.8 (Jan. 20, 2026) (containing similar language). But, we resolved the allegations, noting that the County’s “entire response is focused on the question of whether the County conducted a reasonable search” and that we had, in the past, “confronted a similar situation . . . and asserted jurisdiction ‘in the interest of efficiency.’” PIACB 26-19, at 6 n.8 (Dec. 17, 2025) (quoting PIACB 24-43, at 6 (Mar. 21, 2024)). In that past case, which also involved a conflict with the Ombudsman’s office, we reasoned that it was “possible that, were we to dismiss the complainant’s second allegation, that same allegation would be before us again,” given that the “same conflict will exist in the event that the complainant attempts to resolve his dispute with the . . . response through the Ombudsman.” PIACB 24-43, at 6 (Mar. 21, 2024) (citing *Rosales v. State*, 463 Md. 552, 569-70 (2019)).

Given the above, we decline to dismiss this complaint for lack of jurisdiction. Here, the allegation raised—that the County constructively denied inspection of responsive

⁶ The County asserts that the complainant is the source of the conflict with the Ombudsman’s office and that, under such circumstances, we should not consider his request for Ombudsman assistance a genuine or good faith attempt to resolve the dispute. Given the confidentiality mandates concerning mediation communications—which include communications “made for the purpose of considering [or] initiating [or] evaluating . . . a mediation or a mediator,” Md. Code Ann., Cts. & Jud. Proc. § 3-1801(c)—we do not know the precise circumstances of the conflict, *see id.* § 3-1803 (confidentiality of mediation communications).

records on personal devices and in personal accounts—relates to the County’s substantive response, which was presented to the Ombudsman for mediation.

The County also asks that we designate the complainant a “vexatious requester,” presumably in an effort to relieve the County of having to respond to the complainant’s PIA requests. We cannot do this. First, the PIA does not empower us to “designate” someone as “vexatious.” Rather, the PIA directs us to review and resolve complaints from custodians that “an applicant’s request or pattern of requests is frivolous, vexatious, or in bad faith.” § 4-1A-04(b). If we find that a PIA request or pattern of requests is one of these things, we may grant relief to a custodian, including by issuing an order that the custodian “may ignore the request that is the subject of the custodian’s complaint.” § 4-1A-04(b)(3)(i). Here, however, the complaint has not been filed by the County. *See* PIACB 24-82, at 2 n.4 (May 22, 2024) (addressing a similar request from a custodian in the context of a PIA requester who we found to have made vexatious and bad faith PIA requests to a different custodian). To file such a complaint, the County must first attempt to resolve its dispute through the Ombudsman and receive a final determination stating that the dispute was not resolved. *See* § 4-1A-05(a).

We thus turn to the complainant’s allegation that the County constructively denied inspection of responsive records stored on private devices and in private accounts. We needed additional information about the County’s search to resolve the allegation, so we asked the County to provide an affidavit detailing its efforts to search for those records in particular. *See* § 4-1A-06(b)(4) (permitting our Board to request “an affidavit or a statement containing the facts that are at issue in the complaint”). In response, the County provided an affidavit from Zachary Kieffer, the County Attorney for Washington County. (“Kieffer Affidavit”).

In his affidavit, Mr. Kieffer avers that, on December 18, 2025, the County Treasurer sent an email to an Assistant County Attorney (“ACA”) regarding a PIA request for communications between the Treasurer’s Office and the County Commissioners made in October.⁷ The County Treasurer and the ACA exchanged emails about the request, and the Treasurer indicated that he did “not have anything recent in [his] text history that [he] could find.” Mr. Kieffer indicates that he relied on the information provided by the ACA when he sent the County’s January 29, 2026, response letter to the complainant.

The Kieffer Affidavit further states that, after this complaint was filed, Mr. Kieffer followed-up on an in-person discussion with the County Treasurer by sending an email to ask whether he had any records responsive to the PIA request. According to the Kieffer Affidavit, the County Treasurer sent an email on March 9, 2026, and “responded that he had exchanged no text messages with Commissioners, Wagner, Leatherman, or Cline during October 2025.” Mr. Kieffer avers that he “spoke personally to each of the three

⁷ Mr. Kieffer attaches this and other emails exchanged concerning the PIA request.

Commissioners and they confirmed that they also did not have texts messages with [the County Treasurer] during October 2025.” However, in his March 9, 2026, email, the County Treasurer advised that “had a text message exchange with Commissioner Barr dated October 2, 2025.” Mr. Kieffer states that he “spoke personally with Commissioner Barr and he confirmed the text message exchange,” and that Commissioner Barr “handed [Mr. Kieffer] his personal cell phone.” After he reviewed the text messages, Mr. Kieffer states that the exchange was “personal in nature and while it discussed local politics, did no[t] constitute the discussion or consideration of public business.”⁸

In light of the information in the Kieffer Affidavit, we asked the County to provide a copy of the text messages that Commissioner Barr and the County Treasurer exchanged in October 2025. See § 4-1A-06(b)(2)(ii) (allowing our Board to request “a copy of the public record” for review). As required by law we will maintain the confidentiality of this record. See § 4-1A-06(b)(5); COMAR 14.02.06 (regulations governing confidential records and information received from a custodian). Any references to the record will be general in nature so as not to disclose information that the County maintains is protected under the PIA. COMAR 14.02.06.05.

After review of the submissions, including the confidential records, we find that the County improperly denied inspection of records responsive to the complainant’s PIA request. First, as to the search for records maintained on the Commissioners’ the personal devices and in personal accounts, the submissions demonstrate that the County took steps to locate such records, namely by contacting the County Treasurer within a day of receipt of the PIA request to ask whether he had responsive records. The emails exchanged between the ACA and the County Treasurer indicate that, at that time, the County Treasurer advised that he did not have any responsive text messages. More recent emails, however, demonstrate that this is not the case; the County Treasurer and Commissioner Barr exchanged text messages on October 2, 2025. Although, in its response letter of January 29, 2026, the County advised that it had “contacted the Commissioners and the County Treasurer to confirm whether any records exist on their personal devices,” and that “[a]ll responses indicated that there were no such records on personal accounts or devices,” neither the Kieffer Affidavit nor the attached emails with the County Treasurer provide more detail about how the Commissioners’ accounts and devices were searched. In addition, the Kieffer Affidavit does not address or explain why the responsive text message was missed. Given that it is the County that must demonstrate that its search was reasonable and adequate, we find, on this record, that the County failed to conduct a search that was “reasonably designed to capture all responsive records.” *Glass*, 453 Md. at 232.

As to the text messages exchanged by Commissioner Barr and the County Treasurer, the County takes the position that the exchange was personal in nature and therefore the

⁸ After we received the Kieffer Affidavit, the complainant sent several emails in response. We have reviewed those emails but do not detail them here.

records are not public records subject to the PIA. The County asserts that the messages “discussed local politics” but “did not constitute the discussion or consideration of public business.” After review of the messages sent on October 2, 2025, we disagree. For purposes of the PIA, the term “public record” is broadly defined to include text messages made or received by a unit of the State or political subdivision “in connection with the transaction of public business.” § 4-101(k)(1). In our view, the messages exchanged between Commissioner Barr and the County Treasurer clearly concerned the public business of the Treasurer’s Office and are thus subject to disclosure under the PIA.⁹ The County improperly denied inspection of these responsive records. We therefore direct the County to produce those responsive text messages to the complainant. § 4-1A-04(a)(3)(i).

Conclusion

Based on the submissions, we find that the County improperly denied inspection of records responsive to the complainant’s PIA request. Thus, we direct the County to produce the records to the complainant 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

⁹ There is another text message that precedes the messages clearly dated October 2, 2025, and it is not clear to us when that message was sent. Although a closer call, we think that message too concerns public business. Thus, if it is responsive to the complainant’s PIA request, the County must disclose it.