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STATE OF MARYLAND
PUBLIC INFORMATION ACT COMPLIANCE BOARD

PIACB 26-72
June 30, 2026
Washington County, Custodian
Justin Holder, Complainant

Complainant Justin Holder alleges that Washington County (“County”) violated the Public Information Act (“PIA”) by constructively denying his PIA request for certain telephone records and call logs. As explained below, we find that the County’s search for responsive records was unreasonable under the PIA.

Background

On January 20, 2026, the County received the following PIA request from the complainant asking for:

[A]ny call logs or phone records that would inform [him] of when a call between someone and County planning and MDH employee Kimmie Armstrong transpired regarding an interim sewer permit for 25, 28 and/or 30 Antietam Drive in Keedysville, Maryland. This call would have occurred in the 2nd half of 2024 and is detailed in the litigation surrounding the attached PIACB opinion.

The complainant stated that the call “may have been to Jill Baker,” but that he was “advised” that “it was with someone at Washington County Planning.” On February 26, 2026, the County sent the complainant a message and advised that it had reviewed the PIA request and “determined that it does not possess any records responsive to [the] request.”

The following day, February 27, 2026, the complainant contacted the Public Access Ombudsman to request dispute resolution assistance.¹ On March 5, 2026, the Ombudsman

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).

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 alleges that the County has improperly denied inspection of the requested telephone records and call logs. The complainant asserts that he “knows the call logs must exist,” given representations made in connection with a different complaint to our Board, involving a different custodian. The complainant states that he “explained to the County that it can not [sic] play symantics [sic] and say ‘call logs’ are not records, or billings, or lists, etc., because the MPIA is to construe the term ‘call logs’ as broadly as possible, and it is crystal clear from the plain text of [his] PIA request what he wanted to inspect and why.”

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)³ 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.⁴

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

⁴ 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

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

to read through these disturbing messages to determine whether a request for records is contained therein."

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.⁵ 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). However, 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)).

⁵ 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).

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 telephone records and logs—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 his PIA request. We needed additional information from the County to resolve this allegation. Specifically, we asked the County to provide an affidavit from a person with knowledge that detailed the facts relevant to the search for the requested telephone logs and records. *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 Joshua O’Neal, the Director of the Information and Technology Department for the County. (“O’Neal Affidavit”). Mr. O’Neal avers that “[t]he County does not retain phone logs longer than one hundred and eighty (180) days.” Thus, according to the O’Neal Affidavit, “at the time of [the complainant’s] request, there were no responsive records to produce.”⁶

The complainant asked, in January 2026, for records of telephone calls that took place in “the 2nd half of 2024.” Assuming the County followed its retention policy, records of calls from the second half of 2024 likely would no longer exist in January 2026, as 180 days would include records of calls from July 2025 through January 2026. However, that the County may not be required to retain records of older calls does not necessarily mean that such records were not, in fact, retained. *See* PIACB 26-54 & 26-55, at 13 (June 4, 2026) (addressing a request for handwritten notes that a custodian asserted were not

⁶ After receiving the O’Neal Affidavit, the complainant objected to the affidavit, stating that it does not detail the facts relevant to the search, “but instead makes the presumption they are spoiled.”

required to be kept and directing the custodian to search for such records, in the event that they were retained). The County provides no information as to whether it actually searched for the records the complainant asked for. And, the O’Neal Affidavit provides no information about what happens to the telephone call logs after 180 days—e.g., whether they are auto-deleted or whether the County must take some affirmative action to purge the records from its system (and if so, whether it took such action here). In addition, the County has not described any efforts to determine whether “phone records” other than “logs” may exist. Without such information, we cannot find the County’s search for responsive records reasonable and sufficient. *See id.*

Conclusion

Based on the submissions, including the O’Neal Affidavit, we find that the County failed to perform an adequate and reasonable search for responsive records and thus may have constructively denied the complainant’s PIA request. We therefore direct the County to perform a remedial search within thirty days of receipt of this decision and order, to include a search for any responsive telephone call records that may not constitute the “logs” that the County does not ordinarily maintain for longer than 180 days. The County must produce any non-exempt responsive records it may find to the complainant.

Public Information Act Compliance Board

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