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STATE OF MARYLAND
PUBLIC INFORMATION ACT COMPLIANCE BOARD

PIACB 26-75

July 8, 2026

Maryland Department of Natural Resources, Custodian
Justin Holder, Complainant

Complainant Justin Holder alleges that the Maryland Department of Natural Resources (“DNR”) charged an unreasonable fee of \$400 for production of records responsive to his PIA request. In response to the complaint, DNR, through counsel, maintains that the \$400 fee is reasonable under § 4-206¹ of the PIA. After review of the parties’ submissions, we find that the \$400 fee DNR charged was reasonable as defined by the PIA.

Background

On December 4, 2023, the complainant sent the PIA request below by email to DNR,² asking for:

[A]ny/all correspondence, writings, text messages/ social media messages, voicemails, emails, letters, memoranda, memos, notes, social media messages, call logs, (the “communications”) between/to/from/sent/received/with the parties to this email, or their agents, council and assigns (except for those communications between a party and their own attorney, e.g. Mr. Burrows and Mr. Wolfe etc.) regarding/discussing/relating to Justin Holder's MPIA requests, and/or criminal charges being prosecuted/investigated/dismissed against Justin Holder;

any/all communications with D. Bruce Poole, esq; and

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

² The PIA request was also sent individuals in several other agencies as well, including the Maryland Department of the Environment, Washington County, the Maryland Attorney General, and the Town of Keedysville.

any/all communications which include the attachment video.moc and are a derivative (forward/reply) of a May 29, 2020 email from Natural Resource Officer Cody Litton to Natural Resource Park Manager Mary Ironside.

The complainant asked DNR to “limit the search to the date range March 1, 2020 through December 4, 2023,” and to waive any fees associated with the response.

On December 19, 2023, DNR sent the complainant a ten-day letter³ stating that a preliminary search had returned “at least 840 potentially responsive records (and likely more),” and that DNR needed to “determine whether they are responsive and, if so, to review them for privilege or other protections from disclosure.” DNR stated that the two free hours of labor it was required to provide had been exhausted,⁴ and that it expected the review process to take a minimum of ten hours. Thus, DNR asked the complainant to pay a \$400 estimated fee before DNR would begin work on processing the records. DNR received a check from the complainant in February of 2024.

On September 12, 2025, DNR sent the complainant a letter in response to his PIA request and produced records.⁵ Noting that the Office of the Attorney General (“OAG”) had produced records responsive to the first part of the complainant’s PIA request, DNR stated that it “adopts and incorporates the OAG’s response, which is attached hereto.” DNR advised that “[b]eyond records of communications with members of the OAG, DNR had few responsive records that have not already been produced . . . in OAG’s response” or in DNR’s “responses to [the complainant’s] other MPIA requests.” DNR also stated that “most records responsive to the first part of [the] request are communications with [the complainant].”

³ See § 4-203(b)(2) of the PIA which requires a custodian who “reasonably believes that it will take more than 10 working days to produce the public record” to state so in writing and provide certain information, including the reason for the delay and an estimate of any fees that may be charged.

⁴ See § 4-206(c) of the PIA, which provides, “[t]he official custodian may not charge a fee for the first 2 hours that are needed to search for a public record and prepare it for inspection.”

⁵ In the time between February 2024 and September 2025, DNR sought dispute resolution regarding this and other PIA requests it had received from the complainant, and then filed a complaint with our Board alleging that the complainant’s pattern of PIA requests was frivolous, vexatious, and in bad faith. See PIACB 24-114 (Oct. 25, 2024). The time for DNR to respond to the PIA request was thus extended under § 4-203(d). Although we issued a decision denying DNR relief in October 2024, DNR appealed that decision to the circuit court. See *In the Matter of Department of Natural Resources*, Case No. C-21-CV-24-000486 (Cir. Ct. Wash. County). DNR withdrew its petition for judicial review on September 12, 2025, the same day it issued the response to the PIA request at issue here.

DNR stated that it was providing records that were responsive to the other parts of the complainant's PIA request, but that "records responsive to the other parts of [the] request that are related to communications among lawyers representing DNR relating to anticipated and pending litigation are subject to the attorney-client privilege" and thus were exempt under § 4-301 of the PIA. DNR took the position that those records may also be subject to the deliberative process privilege and exempt under § 4-344 of the PIA.

Addressing the complainant's request for "communications with D. Bruce Poole, esq," DNR noted that the request was duplicative of a previous PIA request. Though DNR adopted and incorporated its response to that request, it advised that it also "searched [its] records for Bruce Poole's name in any communication between March 1, 2020 through December 4, 2023." DNR provided responsive records. Similarly, regarding the complainant's request for records that included "the attachment video.moc and are a derivative (forward/reply) of a May 29, 2020 email from Natural Resource Officer Cody Litton to Natural Resource Park Manager Mary Ironside," DNR stated that the request was duplicative of several prior PIA requests. DNR again adopted and incorporated its responses to those PIA requests but stated that it also searched its records. DNR provided responsive records.

DNR advised the complainant that, "despite the number of documents produced in response to this request," DNR had needed to "review hundreds of potentially responsive records to determine whether they were indeed responsive and, if so, to review them for privilege or other protections from disclosure." DNR stated that it was "not charging any further fee for this response." DNR provided the complainant a link through which he could access the responsive records.

On September 12, 2025, the same day he received DNR's response, the complainant sent DNR an email expressing dissatisfaction with the response to his PIA request. Later, on February 22, 2026, the complainant contacted the Public Access Ombudsman to request dispute resolution assistance.⁶ The complainant asserted that the \$400 fee was excessive. On February 24, 2026, the Ombudsman issued a final determination stating that the dispute was not resolved due to conflict⁷ and the complainant then filed this complaint with our Board. The complaint alleges that the \$400 fee DNR charged is "unreasonable to look at

⁶ The PIA directs the Public Access Ombudsman to "make reasonable attempts to resolve disputes between applicants and custodians relating to requests for public records." § 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. § 4-1A-05(a).

⁷ The final determination states that the Office of the Public Access Ombudsman is unable to mediate the matter "due to 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 for regulations governing conflicts of interest in the Ombudsman's office.

just 10 emails.” The complainant suggests that “[t]he fee might be reasonable to search through 800 plus emails, but those emails were never provided to [the complainant].”

In response to the complaint, counsel for DNR advises that, shortly after DNR received the complainant’s December 2023 PIA request, DNR’s PIA Coordinator “submitted a ‘ticket’ request to [the Department of Information Technology, or “DoIT”] to provide email communications responsive to the request.”⁸ Counsel explains that the ticket was “submitted to estimate how many records would need to be reviewed for responsiveness and exemptions in order to calculate a fee.” DoIT apparently advised that there were approximately 840 total emails potentially responsive to the complainant’s PIA request. According to the Burrows Affidavit, the PIA Coordinator determined that he could “review emails and save them if necessary, at a rate of approximately 30 seconds per email,” and thus estimated that it would take “a minimum of 10 hours to complete his review and preparation for production of the records DoIT indicated it had in response to his first ticket submission.”

Counsel for DNR states that, though the PIA Coordinator’s annual salary resulted in an hourly rate of approximately \$58, “DNR charges a lower hourly rate than his actual salary to exclude benefits.” Thus, DNR charged a \$40 hourly rate for the PIA Coordinator’s anticipated time to review and prepare the records responsive to the complainant’s PIA request. DNR arrived at \$400 by multiplying that hourly rate by the 10 hours of work it anticipated for additional review and preparation. Counsel notes that the fee estimate “did not include costs for attorney review,” explaining that, because the complainant sent the same PIA request to the OAG, “any attorney time needed for charging a fee would be done by that office.”

Counsel for DNR states that, by the time DNR issued its response on September 12, 2025, “OAG had already produced over 2000 pages of records in response to [the complainant’s PIA request], most of which came from Assistant Attorney Generals working for DNR.” Thus, according to counsel, “DNR’s records production included duplication of the records produced by OAG.” In addition, counsel states, “DNR still submitted additional tickets to DoIT, and it searched again for records it had already searched for and produced previously, and produced records that were not duplicative of OAG’s production.” The Burrows Affidavit states that the total number of hours spent working on the PIA request “far exceeded the 10 hours DNR initially charged to [the complainant],” but “DNR did not charge [the complainant] any additional fees.” At the same time, the Burrows Affidavit states that, “[d]espite the number of hours spent

⁸ The factual information in counsel’s response is supported by an affidavit of Anthony Burrows, who served as DNR’s PIA Coordinator during the relevant timeframe. (“Burrows Affidavit”). According to the affidavit, Mr. Burrows is still employed by DNR and works with his successor to the role of PIA Coordinator.

searching for, reviewing, and preparing records, the additional records produced by DNR beyond those produced by OAG numbered approximately 35.”

The complainant, in reply, states that “DNR identified 840 emails, and only 10 were produced to [him], with no exemptions claimed on the other 830 emails.” The complainant asserts that the “OAG production did not include those 830 emails that DNR withheld with exemption.” The complainant suggests that the \$400 fee might be reasonable “[i]f DNR did review 840 emails,” but the complainant does not “think it is reasonable to charge a fee to destroy 830 emails.” The complainant also notes that he has sued DNR for failing to state the exemptions it claimed.

Analysis

The PIA directs us to review and resolve complaints that allege certain violations of its provisions, including that a custodian charged an unreasonable fee higher than \$350 to produce public records. § 4-1A-04(a)(1)(ii). After review of the parties’ submissions, if we determine that the fee is unreasonable under the PIA, we must order the custodian to “reduce the fee to an amount determined by the Board to be reasonable and refund the difference,” if applicable. § 4-1A-04(a)(3)(ii).

The PIA is intended to provide “access to information about the affairs of government and the official acts of public officials and employees.” § 4-103(a). Under § 4-201(a), a custodian must allow inspection of public records, unless a disclosure exemption applies. Normally, the PIA must be “construed in favor of allowing inspection of a public record, with the least cost and least delay to the person or governmental unit that requests the inspection.” § 4-103(b). At the same time, the PIA permits a custodian to charge a “reasonable fee” for “the search for, preparation of, and reproduction of a public record.” § 4-206(b). For purposes of the PIA, a “reasonable fee” is one that bears a “reasonable relationship to the recovery of actual costs incurred by a governmental unit.” § 4-206(a)(3). A custodian “may not charge a fee for the first 2 hours that are needed to search for a public record and prepare it for inspection.” § 4-206(c).

After review of the submissions, including the Burrows Affidavit, we find the \$400 fee at issue here reasonable under the PIA. The \$40 hourly rate used to calculate the fee, while perhaps not strictly compliant with § 4-206(b)(2), which requires staff labor costs to be “prorated for each individual’s salary,” favors the complainant. The Burrows Affidavit attests that the actual prorated rate is \$58 per hour, thus “the deviation favors the complainant.” *See* PIACB 26-54 & 26-55, at 20 (June 4, 2026) (considering similar circumstances where the hourly rate charged was less than the prorated annual salary). Section 4-206(b)(2) also requires that a fee be based on the “actual time attributable to the search for and preparation of a public record.” In the context of an estimated fee charged in advance, a custodian must have a reasonable estimate of the amount of time it anticipates the search and preparation process will take. Here, the Burrows Affidavit states that, based

on his experience, Mr. Burrows estimated he could “review emails and save them” at “a rate of approximately 30 seconds per email.” This figure does not strike us as excessive. Indeed, based on the Burrows Affidavit, it appears that the actual review time took longer than the ten hours estimated, but that DNR did not charge the complainant for the overage.

We understand that, from the complainant’s perspective, the actual records produced do not appear to be \$400 worth of records. However, the \$400 fee represents the time and effort it took DNR to search for and produce those records that were responsive, as detailed in the Burrows Affidavit. We thus cannot find the \$400 fee unreasonable.

Conclusion

For the reasons discussed above, we find the \$400 fee that DNR charged the complainant in this matter reasonable under § 4-206 of the PIA.

Public Information Act Compliance Board*

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

* Board member Kimberly A. Moses did not participate in the deliberation, preparation, or issuing of this decision.