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STATE OF MARYLAND
PUBLIC INFORMATION ACT COMPLIANCE BOARD

PIACB 26-81

July 21, 2026

Office of the State's Attorney for Frederick County, Custodian
Justin Holder, Complainant

Complainant Justin Holder alleges that the Office of the State's Attorney for Frederick County ("FCSAO") violated the Public Information Act ("PIA") by constructively denying a two-part PIA request for certain records. As explained below, we find that the FCSAO constructively denied the second part of the complainant's PIA request.

Background

On March 13, 2026, the FCSAO received the following PIA request from the complainant asking for:

[A]ny and all emails sent from Burke Miller to Joseph Murtha on March 12, 2026.

[A]ny and all public records that will inform me of what type of behavior would be considered "harrassing [sic] government officials", specifically, a document that defines "government official" and a document that defines how a "government official" may be "harrassed", [sic] and moreover if that document would include "derogatory name calling", each and every "derogatory name" on that list, or a document that informs me on how to determine if a name is in fact "derogatory".¹

¹ The complainant sent his PIA request to the dedicated PIA email addresses for the offices of the State's Attorney for Baltimore City and for Washington County, and to specific individuals in the offices of the State's Attorney for Baltimore City and for Frederick County. In his complaint, the complainant seems to take the position that he sent his PIA request to "Maryland State's Attorney Writ Large." There is no such custodian. Rather, each county and Baltimore City has an elected State's Attorney that operates his or her own office. *See* Md. Const., art. V, § 7. For purposes of the PIA, a PIA request must be directed to the custodian of records for each individual office. *See* Md. Code Ann., Gen. Provisions § 4-202(a) (requiring a "written application" to inspect public records be submitted to the custodian of the records); *see also* PIACB 24-47, at 4-5 & n.7 (March 19, 2024) (regarding who is authorized to access records of the Office of the State's Attorney for Harford County).

The FCSAO responded to the PIA request on March 17, 2026, stating that the FCSAO “is not a custodian of such public records and does not provide legal advice to the public.” Therefore, the FCSAO stated, the office denied the request. The complainant was dissatisfied with the FCSAO’s response to his PIA request, so, that same day, the complainant contacted the Public Access Ombudsman to request dispute resolution assistance.² On March 19, 2026, the Ombudsman issued a final determination stating that the dispute was not resolved due to conflict³ and the complainant filed this complaint with our Board. The complainant alleges that the FCSAO’s denial of his PIA request is unlawful, arguing that “it can not [sic] be that SAO ‘is not the custodian’ or ‘has no records,’ AND the request is ‘denied,’ citing no ‘exemptions.’”

In response to the complaint, counsel for the FCSAO maintains that the FCSAO’s response to the complainant’s PIA request complied with the PIA.⁴ Counsel first addresses the first part of the complainant’s PIA request, which sought “any and all emails sent from Burke Miller to Joseph Murtha on March 12, 2026.” Counsel explains that Mr. Miller was appointed as a special prosecutor for Frederick County in a particular matter, but that he is an Assistant State’s Attorney for Baltimore City. Counsel for the FCSAO provides an affidavit from Mr. Miller averring such. (“Miller Affidavit”). The Miller Affidavit states

² 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).

³ 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).

⁴ Counsel makes arguments concerning responses issued by the offices of the State’s Attorney for Baltimore City and for Washington County, but also takes the position that any allegations as to those custodians must be dismissed. We agree that the allegations regarding those custodians are not properly before our Board, as the final determination identifies the relevant custodian as the FCSAO. *See* § Md. Code Ann., Gen. Provisions § 4-1A-05(a) (complainant must first attempt to resolve a dispute about a PIA request through the Ombudsman). We note that it appears that the Office of the State’s Attorney for Washington County issued a response on March 18, 2026, the day after the complainant contacted the Ombudsman. That office too stated that it had no responsive records. The Office of the State’s Attorney for Baltimore City issued a response on March 24, 2026, stating that it was “not able to locate any files associated with the information provided.” The office also noted that Mr. Miller was handling a case on behalf of the Frederick County State’s Attorney’s Office, and that the case appeared to be open. Thus, the office advised that even if it was “considered a custodian of records specifically related to that case, it is contrary to public interest to disclose investigatory records and material used for prosecution purposes when litigation is not final.” The office cited §§ 4-343 and 4-351 of the General Provisions Article.

that the only professional email address that Mr. Miller has is an “email address administered by the State’s Attorney for Baltimore City,” and that he does “not have access to, nor . . . use any email account for the State’s Attorney for Frederick County.” Thus, counsel for the FCSAO argues that the FCSAO correctly responded that it was not the custodian of any email records dated March 12, 2026, reflecting email exchanged between Mr. Miller and Joseph Murtha.⁵

As to the second part of the complainant’s PIA request, which sought records showing what behavior is considered “harassing” and how the FCSAO defines certain terms, counsel for the FCSAO maintains that “records custodians are not obligated to conduct legal research or compile information that is not held in existing public records.” Counsel asserts that “[t]he burden rests on the requester to specify the records sought with sufficient particularity to enable straightforward identification and retrieval by the custodian.” In counsel’s view, “[b]road or vague requests that would necessitate legal interpretation generally do not impose a duty on the custodian to conduct such research or analysis to fulfill the request under the PIA.”

The complainant, in reply, suggests that the FCSAO is “the ‘official custodian’ of the March 12, 2026 email” attached to the FCSAO’s response to the complaint. In addition, the complainant argues that “a ‘reasonable search’ constitutes SOMETHING, even if it means asking different departments or employees a question like, ‘Hey, do we have anything?’ or a search for keywords in a database, which were provided in quotations in this instant MPIA.”

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).⁶ 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).

⁵ Counsel for the FCSAO indicates that “Mr. Miller discovered that he had sent two email[s] to Mr. Murtha on March 12, 2026.” Counsel attaches the emails to the FCSAO’s response to this complaint, noting that Mr. Miller’s cell phone number is redacted. Counsel states that “[i]n different circumstances, a plea offer may be protected from PIA disclosure,” but that in this case, “the plea offer was read in open court on March 13, 2026 so it is no longer confidential.”

⁶ Statutory citations are to the General Provisions Article of Maryland’s Annotated Code unless otherwise stated.

To inspect public records, a requester must “submit a written application to the custodian.” § 4-202(a). “Custodian” is defined in two ways in the PIA. First, a “custodian” is “the official custodian,” i.e., “an officer or employee of the State or of a political subdivision who is responsible for keeping a public record, whether or not the officer or employee has physical custody and control of the public record.” § 4-101(d)(1) and (f). Second, a “custodian” is “any other authorized individual who has physical custody and control of a public record.” § 4-101(d)(2). Upon receipt of a PIA request, a 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). When a custodian determines that he or she is not the custodian of the records sought, or that the records sought do not exist, the custodian must notify the requester of such facts. § 4-202(c) and (d).

Generally, the PIA must be construed “in favor of allowing inspection of a public record, with the least cost and least delay.” § 4-103(b). At the same time, “the purpose of the [PIA] reveals a legislative goal other than complete *carte blanche*, unrestricted disclosure of all public records.” *Immanuel v. Comptroller*, 449 Md. 76, 88 (2016). The PIA contains disclosure exemptions, some mandatory (e.g., § 4-311, for individuals’ personnel records) and some discretionary (e.g., § 4-351, for certain law enforcement investigation records). If a discretionary exemption applies, a custodian must demonstrate why disclosure would be “contrary to the public interest.” § 4-343. A custodian has the burden of justifying a denial of inspection of public records. *Lamson v. Montgomery County*, 460 Md. 349, 367 (2018).

Turning to the allegations against the FCSAO, we find no violation of the PIA with respect to the FCSAO’s response, on March 17, 2026, that it was not the custodian of the March 12, 2026, emails between Mr. Miller and Mr. Murtha. Although the complainant later explained that he sought records related to a specific Frederick County criminal case, he did not do so in his PIA request of March 13, 2026. As the Miller Affidavit shows, Mr. Miller is not an employee of the FCSAO. We have no reason to think that emails sent by Mr. Miller, from his email account with the Office of the State’s Attorney for Baltimore City, would be in the FCSAO’s physical custody. Although we tend to agree with the complainant that the FCSAO is an “official custodian” of records related to the criminal case that the complainant later cited,⁷ the complainant did not provide, in his PIA request,

⁷ In a different complaint, we recently determined that the Maryland Department of Health (“MDH”) was an official custodian of the records of the local county health departments, and thus had a duty either to forward a PIA request to the local departments and ensure a timely response, or to collect the records from the local departments and provide them to the requester. *See* PIACB 26-44, at 5-7 (Apr. 22, 2026). Following similar logic, we would find that, had the complainant identified the Frederick County criminal case in his PIA request, the FCSAO would have had a duty to contact Mr. Miller and determine whether there were any responsive records. We note

the information necessary for the FCSAO to determine that it needed to look elsewhere for the email records. We also note that it appears that the complainant now has the email records he sought.

We move next to the second part of the complainant's PIA request, which asked the FCSAO for, in particular, "a document that defines 'government official' and a document that defines how a 'government official' may be harassed," and "a document that informs [him] on how to determine if a name is in fact 'derogatory.'" The complainant asserts that the FCSAO's response that it was "not a custodian of such public records and does not provide legal advice to the public" amounted to a constructive denial of his PIA request. The complainant maintains that the FCSAO was obligated to conduct a search in some form for responsive records. Counsel for the FCSAO disagrees, taking the position that the complainant's PIA request asked for "records that would advise [him] about behavior that is considered 'harassment of government officials.'" Counsel contends that the FCSAO was "not obligated to conduct legal research or compile information that is not held in existing public records" to respond to the complainant's request.

As discussed above, when a custodian receives a PIA request, the custodian must conduct a reasonable search for responsive records. *Glass*, 453 Md. at 232-33. What is "reasonable" depends on "the specificity of the request and the willingness of the requester to focus a request to improve the efficiency of the search." *Id.* at 233. Here, it appears that the FCSAO conducted no search at all. Although we agree that the complainant's PIA request did not, in the words of counsel for the FCSAO, identify the records with "sufficient particularity to enable straightforward identification and retrieval by the custodian," it did seek records in some form. For instance, the FCSAO may have a "document that defines 'government official.'" Searching for such a document may not be an easy task, however. In such circumstances, the Supreme Court of Maryland has explained that "a productive response to a PIA request is often an iterative process in which the agency reports on the type and scope of the files it holds that may include responsive records, and the requester refines the request to reduce the labor (and expense) of searching those records." *Id.* It appears that this process was not followed in this case. We thus find that, having conducted no search for responsive records, the FCSAO constructively denied the second part of the complainant's PIA request. We direct the FCSAO to conduct a remedial search for records, perhaps by first requesting further refinement of the request from the complainant. The FCSAO must produce any non-exempt responsive records it finds to the complainant.⁸

that MDH has appealed our decision to the circuit court, where it is pending. *See In the Matter of Maryland Dep't of Health*, Case No. C-21-CV-26-000316 (Cir. Ct. Wash. County).

⁸ It is possible that responsive records may be found in, e.g., prosecutors' trial files for cases involving charges of harassment or cases in which a government official is the alleged victim. We are mindful that records in such files may be subject to exemptions in the PIA such as § 4-351 (concerning law enforcement investigation records) or § 4-344 (attorney work product

Conclusion

For the reasons above, we find no violation of the PIA by the FCSAO with respect to the first part of the complainant's PIA request, seeking specific emails sent on March 12, 2026. However, as to the second part of the PIA request, we find that the FCSAO, by failing to conduct any search for records, constructively denied that part of the request. We direct the FCSAO to conduct a remedial search and produce any non-exempt responsive 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

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

doctrine). Although potentially exempt from disclosure, such records are still "public records" for purposes of the PIA. *See* § 4-101(k)(1) (defining "public record").