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STATE OF MARYLAND
PUBLIC INFORMATION ACT COMPLIANCE BOARD

PIACB 26-99

July 28, 2026

Montgomery County Office of Inspector General, Custodian
Ruby Tang, Complainant

In this complaint, complainant Ruby Tang challenges the response of the Montgomery County Office of the Inspector General (“MCOIG”) to a Public Information Act (“PIA”) request. The complainant sought records related to a complaint she filed with the MCOIG in August 2025. In response to the PIA request, the MCOIG produced records, including a complaint intake sheet with redactions applied under § 4-301(a)(1)¹ of the PIA. The complainant alleges that the MCOIG improperly applied those redactions. The MCOIG responds, through counsel, that the redactions are justified by the executive and deliberative process privileges, and that the redactions are also appropriate under § 4-351(a)(2) of the PIA, which may apply to certain investigatory records. After review of the submissions, we find that the MCOIG improperly redacted certain information in the records. We explain below.

Background

The facts below are supplied by the parties’ submissions. On December 3, 2025, the complainant sent a PIA request to the MCOIG asking for “copies of all records related to [her] OIG complaint filed in or around August 2025,” including “any investigation findings, communications, internal notes, emails, or comparisons of the original versus falsified report versions.” The MCOIG acknowledged the request on December 17, 2025, stating that the complainant would receive the records “no later than January 2, 2026.” On January 2, 2026, the MCOIG produced records to the complainant,² but stated that one record had been “retained” because it needed review by the Office of the County Attorney “to determine whether there are any necessary redactions pursuant to § 4-301 of the [PIA].” The MCOIG advised that it would forward the record to her after review early in the next week.

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

² The records produced included internal MCOIG email records, and a final decision and order issued in a matter concerning the complainant, meeting agendas and minutes, and hearing notices, all of which were presumably submitted by the complainant to the MCOIG with her MCOIG complaint.

On January 13, 2026, the MCOIG produced a redacted complaint intake spreadsheet. Citing § 4-301(a)(1) of the PIA, the MCOIG explained that the redacted material was “protected under common-law executive privilege, recognized in Maryland for deliberative records that reflect the decision-making process of government officials.” The MCOIG took the position that the records were “essential to candid, internal deliberations, and advice.”

The complainant disagreed with the redactions the MCOIG applied to the records, so she contacted the Public Access Ombudsman to request dispute resolution assistance.³ Through that process the MCOIG, on April 14, 2026, issued a supplemental response to the complainant’s PIA request. The MCOIG stated that it “greatly appreciate[s] those that take the time to reach out to this office with their concerns regarding the operations of County government,” noting that the MCOIG received “hundreds of complaints yearly” and that, “due to limited resources [was] unable to initiate investigations into each complaint.” The MCOIG reaffirmed its position regarding the redactions applied to the complaint intake spreadsheet. On April 17, 2026, the Ombudsman issued a final determination stating that the dispute was not resolved and the complainant filed this complaint with our Board.

The complaint alleges that the redactions to the complaint intake spreadsheet “appear categorical and total, rather than narrowly tailored as required by the PIA.” The complainant states that the redacted material “concerns alleged falsification of a public record by a government official,” thus she contends that “[t]he public interest in disclosure outweighs generalized claims of confidentiality.” In addition, the complainant asserts that the MCOIG did not provide “a sufficiently detailed explanation to justify its complete redaction of the [Commission on Common Ownership Communities, or “CCOC”] response,” which “violates the PIA’s transparency requirements and prevents meaningful review.”

In response to the complaint, the MCOIG, through counsel, first explains that the MCOIG “receives and investigates complaints of fraud, waste, and abuse in County government.” The complainant’s MCOIG complaint, counsel states, concerned an investigator employed by the CCOC, within the County Department of Housing and Community Affairs (“DHCA”). Counsel describes the CCOC as “a 15-member Commission, appointed by the County Executive and confirmed by the County Council, whose purpose is to educate the public and advise County government.” Counsel notes that the MCOIG’s records production included referral emails from the MCOIG to the

³ The PIA charges the Public Access Ombudsman with making “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).

Director of the DHCA. Counsel states that, on January 13, 2026, in addition to disclosing the redacted complaint intake spreadsheet, the MCOIG advised the complainant that it would not investigate the allegations contained in her MCOIG complaint.

Counsel for the MCOIG advises that the eight-page complaint intake spreadsheet was generated from the MCOIG's online complaint management system, which has "information ranging from basic information provided by complainants, such as their name and email, to internal OIG communications between investigators, auditors, and managers of the OIG about the pending complaint." According to counsel, "[t]ranslating the information from the online case management system into a well-formatted document is a challenge," explaining that the resulting spreadsheet "makes each column the entire vertical length of the page, with text appearing in very small font, yielding large swaths of blank page." Thus, counsel states, "[t]he redaction tool utilized by OIG left the incorrect impression that the OIG redacted lengthy amounts of information." Counsel advises that the redacted information includes:

[A] recommendation on how to handle the complaint, the decision of the Deputy Director of OIG based on that recommendation, the name of an OIG investigator, how [the complainant] submitted the OIG complaint (e.g. whether via phone, email, website form, or otherwise), the dates of internal reviews and action on the OIG complaint after its receipt, and other headings with no text underneath.

Counsel explains that the headings with no text were redacted to "preserve the confidentiality of OIG's investigatory process as evidenced by the categories of information tracked during investigations."

Counsel for the MCOIG defends the MCOIG's application of § 4-301(a) and the executive privilege to the redactions in the complaint intake spreadsheet. Counsel states that the redacted sections are "internal communications between OIG employees to an OIG manager as to how to investigate and resolve the complaint." Characterizing the communications as "from subordinate employees to a deciding official," counsel argues that the communications qualify for the executive privilege under Maryland law, as they apply to the "decisional process." Counsel contends that such "internal, deliberative communications are precisely the type of frank communications necessary for officials to determine future governmental action—such as whether to investigate [the complainant's] OIG complaint, or whether to simply refer it to the department supervising the employee that is the subject of the OIG complaint." Counsel for the MCOIG asserts that the MCOIG must be able to "have these candid, internal conversations in order to make decisions essential to its ongoing mission of investigating fraud, waste, and abuse in County government."

In response to this complaint, counsel for the MCOIG also takes the position that the redactions are justified under § 4-344, a discretionary exemption in the PIA for inter-agency or intra-agency memoranda that encompasses the deliberative process privilege. Counsel reiterates that the redacted material consists of “data and communications generated by OIG employees as part of a non-public OIG investigation, for review by their supervisors to decide how to handle the complaint, and thereby are essential to the OIG’s core governmental function.” Counsel argues that “[d]isclosure of such internal, pre-decisional deliberations is against the public interest as it would frustrate the OIG’s ability to fulfill its mission by freezing candor from subordinates to their supervisors, and would frustrate OIG’s processes to document accurately its internal investigatory decision-making processes.” In addition, counsel for the MCOIG suggests that, “if the OIG’s processes, deliberations, and investigatory techniques become public, persons intent on committing fraud, waste, and abuse would have a blueprint on how to frustrate a future investigation.”

Finally, counsel for the MCOIG contends that the complaint intake spreadsheet is an investigatory record subject to § 4-351(a)(2), which permits discretionary withholding of records compiled for a “law enforcement, judicial, or prosecution purpose.” Stating again that the redacted information would “reveal the OIG’s non-public staffing decisions, investigatory methods, and techniques,” counsel states that disclosure would be against public interest under § 4-351(b)(5). Counsel argues that the County has an interest in not disclosing the redacted information so as to “prevent individuals from using that knowledge to thwart the effectiveness of future OIG investigations.”

The complainant, in reply, argues that the case law cited by the MCOIG does not support the complete withholding of the redacted information. Noting that the records themselves “show that the OIG did not conduct a substantive investigation,” the complainant contends that the matter “does not involved confidential investigative techniques, witness interviews, or sensitive investigative materials.” In addition, the complainant stresses that some of the categories of information, “such as routing information, dates, intake method, and administrative handling, appear factual and administrative rather than deliberative or privileged.” The complainant asks that we review the record in camera to determine whether the redactions are proper.

Analysis

We are authorized to review and resolve complaints alleging certain violations of the PIA’s provisions, including that a custodian improperly denied inspection of a public record. § 4-1A-04(a)(1)(i). If, after we review the submissions, we find that a custodian violated the PIA as alleged, we must issue a written decision and order a specific remedy as provided in the PIA. § 4-1A-04(a)(2) and (3). For instance, when we determine that a custodian wrongfully denied inspection of a public record—by, e.g., withholding the record

in its entirety or by applying improper redactions—we must “order the custodian to . . . produce the public record for inspection.” § 4-1A-04(a)(3)(i).

In Maryland, a person who wants to inspect public records must send a written request to the appropriate custodian. § 4-202(a). 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), thus custodians must allow inspection of public records unless a disclosure exemption applies, § 4-201(a). There is no doubt that the PIA favors disclosure. *Office of Governor v. Washington Post Co.*, 360 Md. 520, 544-45 (2000). But, not every public record is subject to inspection. *Immanuel v. Comptroller*, 449 Md. 76, 88 (2016). The PIA contains both mandatory and discretionary disclosure exemptions that either require or permit a custodian to deny inspection of certain records or information. *See, e.g.*, § 4-311 (mandatory exemption for individuals’ personnel records); § 4-351 (discretionary exemption for certain law enforcement records). To withhold records subject to a discretionary exemption, a custodian must find that disclosure would be “contrary to the public interest.” § 4-343. No matter the type of exemption, a custodian has the burden of showing that the exemption was properly applied. *See Lamson v. Montgomery County*, 460 Md. 349, 367 (2018).

In response to this complaint, the MCOIG has invoked both mandatory and discretionary exemptions. Section 4-301(a)(1) is mandatory in nature. That section requires that a custodian deny inspection of “a public record or any part of a public record if . . . by law, the public record is privileged or confidential.” The executive privilege falls within the ambit of § 4-301(a)(1). Typically, the executive privilege applies to “records made in connection with the deliberative decision-making process used by chief or high Executive officials—Presidents, Governors, and their immediate advisors.” *Stromberg Metal Works, Inc. v. Univ. of Maryland*, 382 Md. 151, 161 (2004); *see, e.g.*, 66 Md. Op. Att’y Gen. 98, 102 (1981) (“[B]udget recommendations submitted in confidence to the Governor, at his request, would be presumptively privileged as confidential executive communications of an advisory nature.”). The Supreme Court of Maryland has explained that the executive privilege is a “Constitutionally-based privilege,” and that, when invoked, it “must be given the most serious attention,” requiring a custodian to deny inspection of records subject to the privilege. *Stromberg*, 382 Md at 162.

The deliberative process privilege, the second exemption invoked by the MCOIG, is similar to the executive privilege in that it is focused on records that reflect “advisory opinions, recommendations and deliberations comprising part of a process by which governmental decisions and policies are formulated.” *Id.* at 165. However, the deliberative process privilege is not confined to “chief or high Executive officials,” *id.* at 161, and may be invoked as to the decision-making processes of lower-level government workers, *see id.* at 163 (concerning a decision-making process “seven rungs down in the chain of command and responsibility”). Section 4-344 of the PIA, a discretionary exemption for “interagency or intra-agency letter[s] or memorand[a] that would not be available by law to a private

party in litigation with the unit,” encompasses the deliberative process privilege. *Admin. Office of the Courts v. Abell Found.*, 480 Md. 63, 92 (2022). Because the exemption is discretionary, a custodian must demonstrate why disclosure of the records or information would be against the public interest. *Id.*

To qualify for withholding under the deliberative process privilege and § 4-344, the records must contain pre-decisional and deliberative material. *Stromberg*, 382 Md. at 165. Information that is “purely factual” in nature ordinarily does not fall within § 4-344, although under certain circumstances, it might. *See id.* at 166 (explaining that “some factual material is entitled to a degree of protection under the privilege,” including “investigative facts underlying and intertwined with opinions and advice”). When a record contains privileged deliberative material alongside non-privileged factual material, the PIA generally requires that a custodian redact the material subject to § 4-344 and produce the rest. *Cf. Cranford v. Montgomery County*, 300 Md. 759, 774 (1984) (noting that it is rare that a record reflects “purely deliberative or policy-making processes without factual matters” and that, “[i]n such instances” the federal Freedom of Information Act “applies a severability approach”); *see also* § 4-203(c)(1)(ii) (requiring that a custodian “allow inspection of any part of the record that is subject to inspection”).

The third and final exemption cited by the MCOIG in response to this complaint is also discretionary in nature. Section 4-351(a)(2) permits a custodian to deny inspection of “an investigatory file compiled for any other law enforcement, judicial, correctional, or prosecution purpose,” if disclosure of such records would be “contrary to the public interest.” § 4-343. Under subsection (b), a “person in interest” has a greater right of access to investigatory records about themselves. *See* § 4-101(g) (defining “person in interest”); *see also Maryland Dep’t State Police v. Dashiell*, 443 Md. 435, 463 (2015) (for purposes of § 4-351, the “person in interest” is the person “targeted by the investigation”). If the requester is not a person in interest, a custodian may deny inspection “if, for any reason, disclosure would be contrary to the public interest.” *City of Frederick v. Randall Family, LLC*, 154 Md. App. 543, 562 (2004). To justify the application of § 4-351(a)(2) a custodian must “demonstrate that it legitimately was in the process of or initiating a specific relevant investigative proceeding.” *Fioretti v. Maryland State Bd. Dental Examiners*, 351 Md. 66, 82 (1998).

We could not resolve this complaint based on the submissions alone, so we asked the MCOIG to provide a copy of the complaint intake spreadsheet in unredacted form. *See* § 4-1A-06(b)(2)(ii) (permitting our Board to request “a copy of the public record”). As required by law, we will maintain the confidentiality of the record we received from the MCOIG. *See* § 4-1A-06(b)(5); COMAR 14.02.06. Any references to the redacted material in the complaint intake spreadsheet will be general in nature, so as not to reveal information that the MCOIG maintains is privileged and not subject to inspection under the PIA. *See* COMAR 14.02.06.05.

We start with MCOIG's application of § 4-301(a)(1) and its assertion that the redacted material is protected by the executive privilege. We disagree. Montgomery County's Inspector General is appointed by the County Council and charged with, among other duties, preventing and detecting "fraud, waste, and abuse in government activities." Montgomery County Code, § 2-151. Thus, the MCOIG is an "independent office in the Legislative Branch of county government." Montgomery County Maryland, Office of the Inspector General, About the OIG, <https://www.montgomerycountymd.gov/office-inspector-general/about-oig> (last visited July 27, 2026). Our State's Supreme Court has explained that the executive privilege typically applies to "records made in connection with the deliberative decision-making process used by chief or high Executive officials," or records that contain "diplomatic, military, and security-laden secrets." *Stromberg*, 382 Md. at 161-62. Looking at the records here, we do not think the redacted information is of the type that the executive privilege was meant to protect. It is not apparent to us that the County Executive or his advisors were involved in the matters reflected in the records, or that the matters concerned any decisions or policies that the County Executive was making or forming. We therefore find that the MCOIG improperly applied § 4-301(a)(1) to deny inspection of the records.

Next, we turn to § 4-344 and the deliberative process privilege, which may shield pre-decisional, deliberative material if disclosure of that material is against the public interest. In response to the complaint, counsel for the MCOIG states that, although the redactions' appearance might suggest that a lot of information was withheld, the redactions in fact cover text that is "only one-line long," and that sometimes there is "no text at all under the headings." Counsel's description of the volume of redacted material is accurate. Counsel further describes the redacted information as "pre-decisional communications generated by OIG subordinates for internal decision-making purposes—namely, review by the Deputy Director of OIG as to how to process [the complainant's] complaint." On this point, we do not think the unredacted record entirely support's counsel's position. In *Stromberg*, the Supreme Court of Maryland explained that "purely factual data" is not normally covered by the deliberative process privilege, although sometimes "investigative facts underlying and intertwined with opinions and advice" might be. 382 Md. at 166. In our view, much of the redacted information is "purely factual data" that does not appear to constitute "investigative facts," and certainly not facts "underlying and intertwined with opinions and advice." *Id.* Because that information is not deliberative in nature, we find that the MCOIG improperly applied § 4-344 to redact it.⁴ We also find that the redacted headings are not pre-decisional or deliberative in nature, and therefore § 4-344 cannot apply.

⁴ This finding applies to all information redacted on pages one and four of the complaint intake spreadsheet, all information but that found in the first column on page two, and all information but that found in the third column on page three.

As to the limited information in the record that may be construed as pre-decisional and deliberative—namely the information redacted under the heading for the first column on page two and the heading for the third column on page three—counsel for the MCOIG argues that disclosing the information would “frustrate the OIG’s ability to fulfill its mission by freezing candor from subordinates to their supervisors, and would frustrate OIG’s processes to document accurately its internal investigatory and decision-making processes.” When the deliberative process privilege is at issue, the public interest analysis must focus on the harm to good decision-making that might result from disclosure of the pre-decisional, deliberative material. *See* PIACB 26-79, at 8 (July 17, 2026) (citing *Stromberg*, 382 Md. at 164-65).

Though the information redacted here is minimal and not particularly detailed, we tend to agree that disclosure of this type of information, in this context, could lead MCOIG staff and senior decision-makers to be less forthcoming in other circumstances. *Cf.* PIACB 26-15, at 6-7 (Dec. 23, 2025) (finding § 4-344 properly applied to reviewer comments and a rating score regarding a PhD candidate and recognizing that “the effect of the stated harm would be felt more broadly than as to the complainant’s application alone”). We therefore find no abuse of discretion as to the MCOIG’s application of § 4-344 to redact the information underneath the heading of the first column on page two and the third column on page three of the complaint intake spreadsheet.

Finally, we briefly address counsel for the MCOIG’s argument—made for the first time in response to this complaint—that the MCOIG properly exercised discretion under § 4-351(a)(2) to deny inspection of the redacted information, including the column headings themselves. Section 4-351(a)(2) allows a custodian to deny inspection of “an investigatory file compiled for any other law enforcement, judicial, correctional, or prosecution purpose.” Counsel for the MCOIG asserts that “the OIG conducts investigations of fraud, waste, and abuse, and has subpoena authority,” and stresses that “[f]ailure to cooperate with OIG investigations or lying to an OIG investigator is a Class A misdemeanor under the County Code.” In addition, counsel notes that MCOIG investigations may result in referrals to the County Attorney or the County Ethics Commission for enforcement action or complaint adjudication.

It is certainly true that an investigation need not be criminal in nature for records related to it to fall within the scope of § 4-351(a). *See Bowen v. Davison*, 135 Md. App. 152, 161 (2000) (concerning records of an agency that “investigates violations of the Montgomery County Code and enforces housing standards”). However, even assuming that the exemption may apply to certain MCOIG investigations, we find that the MCOIG has not shown that it “legitimately was in the process of or initiating a specific relevant investigative proceeding,” *Fioretti*, 351 Md. at 82, as to the records the complainant has requested. As *Fioretti* observed, “many [agencies], if not most, perform functions not related to law enforcement as part of their day-to-day business,” and “[e]ven traditional law enforcement agencies conduct administrative or other types of business totally

unrelated to enforcing laws.” *Id.* The MCOIG’s assertion that the MCOIG has subpoena authority and that, sometimes, complaints are referred out for enforcement action does not sufficiently demonstrate that these specific records were “compiled for [a] . . . law enforcement . . . purpose.” *See id.* at 83 (finding that application of what is now § 4-351(a)(2) was not justified when the only information offered was a “bald assertion that because the Board may refer the matter for some form of administrative prosecution, the files it had compiled were of a law enforcement nature”). We therefore find that the MCOIG has not sufficiently demonstrated that § 4-351(a)(2) applies to the records.⁵

Conclusion

For the reasons discussed above, we find that the MCOIG improperly applied § 4-301(a)(1) to deny inspection of the redacted information in the complaint intake spreadsheet. The information is not protected by the executive privilege. We also find that, because most of the information is not deliberative in nature, the MCOIG also improperly applied the deliberative process privilege and § 4-344 to all but the redactions to the information in the first column on page two of the spreadsheet and the information in the third column on page three, excluding the headings. Finally, we find that the MCOIG has not shown that § 4-351(a)(2) applies to the redacted information. We therefore direct the MCOIG to produce the records to the complainant with all redactions removed, except those we have found subject to § 4-344, as described immediately above. The MCOIG must produce the records 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.

⁵ We also note that, even if § 4-351(a)(2) did apply, we are not inclined to agree with counsel for the MCOIG’s claim that the redacted information would reveal “investigatory methods and techniques” such that denial under § 4-351(b)(5) is justified.