

**IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY,
MARYLAND**

MARVIN D. TUTT 5407 Brinkley Road Temple Hills, MD 20748

marvindtutt@gmail.com (240) 432-5869

v. Case No. _____

OFFICE OF THE PUBLIC ACCESS OMBUDSMAN;

**LISA A. KERSHNER, Public Access Ombudsman, in her official and
individual capacities;**

**ALISA BRALOVE-SCHERR, Deputy Public Access Ombudsman, in her
individual capacity,**

**AMENDED PETITION FOR JUDICIAL REVIEW OF MARYLAND PUBLIC
INFORMATION ACT DENIAL (GP § 4-362)**

Petitioner Marvin D. Tutt, proceeding pro se, petitions this Court for judicial
review of Respondents' denial of his Maryland Public Information Act ("MPIA")

request, and for damages arising from Respondents' willful misconduct, and states as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction to review Respondents' denial of Petitioner's MPIA request pursuant to General Provisions Article ("GP") § 4-362(a).
2. Venue is proper in Prince George's County pursuant to GP § 4-362(a)(3), as Petitioner resides in Prince George's County, Maryland.

PARTIES

3. Petitioner Marvin D. Tutt is a natural person and resident of Prince George's County, Maryland. Petitioner is currently proceeding in forma pauperis in related federal litigation, including Case No. 8:25-cv-02006-TDC (D. Md.) and Case No. 25-1950 (4th Cir.).
4. Respondent Office of the Public Access Ombudsman ("PAO") is a unit of the Office of the Attorney General of Maryland, located at 200 St. Paul Place, Baltimore, Maryland 21202. PAO is a custodian of public records

under the MPIA.

5. Respondent Lisa A. Kershner is the Public Access Ombudsman, appointed by the Attorney General, and is the "official custodian" with "overall legal responsibility for the care and keeping of public records" maintained by PAO. See GP § 4-101(f). She is sued in her official and individual capacities. Under Maryland law, custodians carry personal liability for MPIA violations—a feature unique to Maryland.
6. Respondent Alisa Bralove-Scherr is the Deputy Public Access Ombudsman who signed each of PAO's responses to Petitioner's PIA request, including the false statement that "we do not have any records that reference you." She is sued in her individual capacity for her personal conduct in making false statements and obstructing Petitioner's rights under the MPIA.

FACTUAL BACKGROUND

The PIA Request

7. On November 10, 2025, Petitioner submitted a written request under the MPIA to Respondent PAO seeking administrative metadata for any matters

referencing Petitioner from January 1, 2025 to present.

8. Petitioner specifically requested: a) Case log/registry entries (dates opened/closed, referring party names, responding party names, subject tags, dispositions, PIACB referrals); b) Referral documentation and header metadata (To/From/Date/Subject) for any communications referencing Petitioner; c) PAO policies and procedures for case handling.
9. Petitioner explicitly excluded mediation content protected by GP § 4-1B-04(d) and requested only non-confidential administrative routing data.
10. Petitioner instructed: "If any field is considered confidential, please segregate and produce the remainder and cite the specific authority for any redaction/withholding."

The Progression of False Responses

11. On November 13, 2025, Respondent Bralove-Scherr stated in writing: "We reviewed your PIA request and have determined that we do not have any

records that reference you." (ZERO RECORDS)

12. On November 13, 2025, Petitioner responded, noting that given his documented interactions with Maryland state agencies—including multiple PIA requests filed in 2025 and knowledge of the OAG's contact with PAO—"the absence of any responsive records would be implausible and warrant further inquiry."

13. On November 24, 2025, Respondent Bralove-Scherr issued a "final response" that contradicted her prior statement. PAO now claimed to have located "an email that includes your name" and a reply to that email, but withheld both records entirely. (ONE EMAIL EXCHANGE)

14. On November 24, 2025, Petitioner requested segregation of non-exempt portions, a Vaughn index, and certification of a comprehensive search.

15. On December 3, 2025, Respondent Bralove-Scherr issued a second "final response" stating PAO had located TWO potentially responsive records but continued to withhold all information, including header metadata

(To/From/Date/Subject). (TWO RECORDS)

16. The documented progression from "no records" (November 13) to "one email" (November 24) to "two records" (December 3) demonstrates either a grossly inadequate initial search or willful concealment of responsive records—both of which violate the MPIOA's requirement of a good faith search.

The Inadequate Search Standard Under Glass

17. The Maryland Supreme Court has held that "[a]n agency that receives a PIA request must conduct a search in good faith that is reasonably designed to capture all responsive records." *Glass v. Anne Arundel County*, 453 Md. 201 (2017).

18. The Glass Court further explained that "the search should be focused on where the responsive records are likely to be found" and that "the reasonableness of an agency's search is to be measured prospectively by how the agency designed the effort to find responsive records."

19. Petitioner specified multiple systems likely to contain responsive records:

PAO case/registry logs, shared mailboxes, Exchange/Outlook, Teams/SharePoint/OneDrive, and any ticketing/CRM systems.

20. Respondents searched only an "Access database" and "a spreadsheet"—demonstrating a search not "reasonably designed to capture all responsive records."

21. Respondents admitted finding responsive records in "an email account other than those you named in your request"—proving additional unsearched systems contained responsive records.

22. Respondent Kershner herself, during her August 21, 2025 update to the PIA Compliance Board, acknowledged that "email searches is a perennial problem" and requires comprehensive system searches. Yet her own office failed to conduct such a search in response to Petitioner's request.

Context Demonstrating Implausibility of "Two Records"

23. Petitioner is the plaintiff-appellant in active federal civil rights litigation against the State of Maryland and multiple state agencies, Case No. 8:25-cv-02006-TDC (D. Md.), currently on appeal as Case No. 25-1950 (4th Cir.).
24. The federal case, filed June 23, 2025, names as defendants multiple Maryland agencies and officials, including but not limited to: a) State of Maryland; b) Office of the Attorney General; c) Charles County Child Support Administration; d) Charles County Department of Social Services; e) Multiple state court judges and officials.
25. In connection with his federal case, Petitioner has directly contacted Maryland officials regarding systemic fraud and civil rights violations.
26. Petitioner has made all case documentation publicly available through online repositories, which have been accessed by hundreds of unique users or cloud instances, predominantly from government systems, demonstrating widespread awareness of Petitioner's case across state agencies.

27. Given this extensive government awareness and multi-agency involvement in active federal litigation against the State, Respondents' claim that only TWO communications exist referencing Petitioner in an 11-month period is facially implausible.

28. On information and belief, multiple state agencies—including parties to the federal litigation—have contacted PAO regarding Petitioner, and Respondents are concealing these communications to obstruct Petitioner's federal case.

OAG's Pattern of Seeking Expanded Denial Authority

29. During the 2025 legislative session, the Office of the Attorney General—the parent agency of PAO—sought passage of HB 806 / SB 554, titled "Public Information Act – Frivolous, Vexatious, or Abusive Requests – Remedies."

30. This legislation, introduced "By Request – Office of the Attorney General," would have authorized custodians to deny PIA requests deemed "abusive" and would have expanded grounds to refuse disclosure beyond the existing

standards of "frivolous, vexatious, or in bad faith."

31. A coalition including Common Cause Maryland worked to defeat HB 806 / SB 554. The General Assembly declined to expand custodians' denial authority.

32. The Office of the Attorney General also sought passage of HB 821 / SB 555, which would have authorized custodians to deny PIA requests pertaining to "pending or reasonably anticipated litigation."

33. The General Assembly also declined to pass HB 821 / SB 555.

34. Having failed to obtain expanded denial powers legislatively, OAG's subsidiary office—PAO—now applies the broadest possible interpretation of existing exemptions to deny Petitioner's request.

35. PAO claims that GP § 4-101(k)(3)(ii) exempts not merely mediation content protected by GP § 4-1B-04(d), but ALL information submitted to their office—including basic administrative metadata such as sender identity,

dates, and subject lines.

36. This interpretation effectively creates the expanded denial authority the General Assembly refused to grant through HB 806, SB 554, HB 821, and SB 555. It constitutes abuse of discretion and contravenes legislative intent.

COUNT I - VIOLATION OF MARYLAND PUBLIC INFORMATION ACT

37. Petitioner incorporates paragraphs 1-36 as if fully restated herein.

Improper Withholding of Non-Exempt Records

38. Header metadata (To/From/Date/Subject) is not "mediation content" or a "communication made in and relating to a request for mediation" protected by GP § 4-1B-04(d).

39. Header metadata is administrative routing data that identifies: (a) the sender's identity, (b) the recipient's identity, (c) the date of communication, and (d) the subject line. None of this constitutes the substance of any mediation.

40. GP § 4-101(k)(3)(ii) provides that "public record" does not include "a record or any information submitted to the Public Access Ombudsman or the Board under Subtitle 1B of this title."

41. This exemption was enacted to protect the confidentiality of the mediation process itself—not to shield all administrative records about PAO's operations from public scrutiny.

42. Respondents' interpretation—that ALL information submitted to PAO is categorically exempt from the MPIA—is overbroad and would render the MPIA meaningless for PAO's office.

43. If accepted, Respondents' interpretation would allow PAO to receive communications about any Maryland citizen from any government agency and permanently conceal even the existence of such communications—a result antithetical to Maryland's strong public policy favoring transparency.

Failure to Segregate Non-Exempt Portions

44. GP § 4-203 requires custodians to produce non-exempt portions of records.

45. Petitioner specifically requested segregation of non-exempt portions.

46. Respondents withheld records entirely without segregating releasable header metadata, in violation of GP § 4-203.

Inadequate Search

47. The progression from "no records" to "one email" to "two records" proves the initial search was inadequate, as each subsequent response revealed additional records.

48. Respondents' admission that records were found in "an email account other than those you named" demonstrates additional systems exist that were not searched.

49. Given the scope of Petitioner's federal litigation and contacts with over 600 Maryland officials, a comprehensive search would likely reveal substantially

more than two responsive communications.

Failure to Provide Vaughn Index

50.Despite Petitioner's specific request, Respondents refused to provide a document-by-document justification (Vaughn index) for their withholdings.

51.A Vaughn index is standard practice when MPIA exemptions are claimed and is necessary for this Court to evaluate the propriety of Respondents' withholdings.

COUNT II - BAD FAITH AND WILLFUL NONCOMPLIANCE (Against All Respondents)

52.Petitioner incorporates paragraphs 1-51 as if fully restated herein.

53.Under GP § 4-362(d)(1), "A defendant governmental unit is liable to the complainant for statutory damages and actual damages that the court considers appropriate if the court finds that any defendant knowingly and willfully failed to: (i) disclose or fully to disclose a public record that the

complainant was entitled to inspect under this title."

54. Under GP § 4-362(d)(2), "An official custodian is liable for actual damages that the court considers appropriate" for failing to comply with MPIA requirements.

55. Respondents acted in bad faith and knowingly and willfully failed to comply with the MPIA, as demonstrated by:

- a) Respondent Bralove-Scherr's false statement on November 13, 2025 that "we do not have any records" when records did exist;
- b) Changing position to acknowledge "one email" (November 24, 2025) only after Petitioner challenged the implausibility of the initial response;
- c) Changing position again to acknowledge "two records" (December 3, 2025) only after Petitioner demanded segregation and a Vaughn index;
- d) Refusing to segregate non-exempt header metadata despite Petitioner's specific instructions and the clear inapplicability of mediation confidentiality to routing data;

- e) Claiming an overbroad categorical exemption—the same expanded denial authority the General Assembly refused to grant through HB 806 / SB 554;
- f) Refusing to provide a Vaughn index despite request;
- g) Conducting an inadequate search of only 2 systems when Petitioner specified multiple systems, despite Respondent Kershner's own acknowledgment to the PIACB that email searches require comprehensive system review;
- h) On information and belief, concealing communications from multiple state agencies to obstruct Petitioner's federal civil rights litigation.

56. Respondents' pattern of conduct—false initial denial, incremental admissions only when challenged, categorical refusal to produce even basic metadata—demonstrates willful obstruction rather than good faith compliance with the MPIA.

COUNT III - PERSONAL LIABILITY OF OFFICIAL CUSTODIAN (Against Respondent Lisa A. Kershner)

57. Petitioner incorporates paragraphs 1-56 as if fully restated herein.

58. Respondent Kershner is the "official custodian" of PAO's records under GP § 4-101(f), with "overall legal responsibility for the care and keeping of public

records."

59. Maryland uniquely imposes personal liability on custodians for MPIA violations. As noted in the Maryland Association of Counties' publication Conduit Street: "The disruption to productivity and workload severity of these requests also makes it hard to get and keep good people in these custodian positions, which carry personal liability – a feature unique in Maryland."

60. Under GP § 4-362(d)(2), Respondent Kershner is personally liable for actual damages for PAO's failure to comply with the MPIA.

61. Under GP § 4-362(e), if this Court finds Respondent Kershner "acted arbitrarily or capriciously in withholding the public record," the Court "shall send a certified copy of its finding to the appointing authority of the custodian"—i.e., Attorney General Anthony G. Brown—for disciplinary action.

62. Respondent Kershner acted arbitrarily and capriciously by: a) Overseeing an office that issued a demonstrably false response; b) Failing to ensure

adequate search protocols despite her own statements to the PIACB about the need for comprehensive email searches; c) Applying an overbroad exemption interpretation that the General Assembly explicitly declined to codify; d) Permitting her office to obstruct a federal civil rights litigant's access to records.

COUNT IV - PERSONAL LIABILITY FOR FALSE STATEMENTS (Against Respondent Alisa Bralove-Scherr)

63. Petitioner incorporates paragraphs 1-62 as if fully restated herein.

64. Respondent Bralove-Scherr personally signed each of the three responses to Petitioner's PIA request.

65. Respondent Bralove-Scherr's November 13, 2025 statement that "we do not have any records that reference you" was false, as demonstrated by her own subsequent admissions on November 24 and December 3, 2025.

66. This was not mere negligence. Either: a) Respondent Bralove-Scherr knowingly made a false statement, constituting willful misconduct; or b)

Respondent Bralove-Scherr made the statement without conducting any reasonable search, constituting reckless disregard for her obligations under the MPIA.

67. Respondent Bralove-Scherr's conduct caused Petitioner actual harm, including: a) Inability to obtain evidence for his pending federal litigation; b) Inability to identify which agencies are coordinating against him; c) Time and resources expended pursuing records that should have been promptly disclosed; d) Ongoing harm from concealed government coordination.

68. Respondent Bralove-Scherr is personally liable for compensatory damages, and given the willful nature of her conduct, punitive damages to deter future misconduct.

COUNT V - ABUSE OF DISCRETION AND CONTRAVENTION OF LEGISLATIVE INTENT (Against All Respondents)

69. Petitioner incorporates paragraphs 1-68 as if fully restated herein.

70. The Office of the Attorney General sought expanded PIA denial authority through HB 806 / SB 554 (adding "abusive" as grounds for denial) and HB 821 / SB 555 (authorizing denial for "pending litigation").

71. The General Assembly declined to pass these bills, thereby refusing to expand custodians' denial powers.

72. Respondents' overbroad interpretation of GP § 4-101(k)(3)(ii)—treating ALL information submitted to PAO as categorically exempt—effectively grants PAO the expanded denial authority the legislature refused to provide.

73. This constitutes abuse of discretion and an impermissible end-run around the legislative process.

74. This Court should reject Respondents' interpretation as contrary to legislative intent and the MPIA's strong policy favoring transparency.

RELIEF REQUESTED

WHEREFORE, Petitioner respectfully requests that this Court:

A. ORDER Respondents to produce header metadata (To/From/Date/Subject) for all communications referencing Petitioner, with appropriate redaction only of actual mediation substance, if any;

B. ORDER Respondents to conduct a comprehensive search of all systems specified in Petitioner's request, including but not limited to shared mailboxes, Exchange/Outlook email systems, Teams, SharePoint, OneDrive, and any ticketing or CRM systems, consistent with the standard set forth in *Glass v. Anne Arundel County*, 453 Md. 201 (2017);

C. ORDER in camera review of all withheld records to determine whether exemptions are properly claimed;

D. ORDER, if necessary, forensic examination of Respondents' email systems to identify all communications referencing Petitioner, his case numbers (8:25-cv-02006, 25-1950, C-08-FM-22-000821), or related keywords;

E. ORDER Respondents to provide a Vaughn index for any continued withholdings;

F. FIND that Respondents acted in bad faith and knowingly and willfully failed to comply with the MPIA;

G. FIND that Respondent Kershner acted arbitrarily and capriciously, and ORDER the Clerk to send a certified copy of such finding to Attorney General Anthony G. Brown pursuant to GP § 4-362(e);

H. AWARD Petitioner statutory damages up to \$1,000 pursuant to GP § 4-362(d)(3);

I. AWARD Petitioner actual damages pursuant to GP § 4-362(d)(1) and (d)(2);

J. AWARD Petitioner reasonable litigation costs pursuant to GP § 4-362(f), including but not limited to filing fees, service costs, and copying costs;

K. AWARD Petitioner compensatory damages against Respondents Kershner and Bralove-Scherr in their individual capacities;

L. AWARD Petitioner punitive damages against Respondent Bralove-Scherr to deter future misconduct;

M. DECLARE that Respondents' interpretation of GP § 4-101(k)(3)(ii) as exempting ALL information submitted to PAO is overbroad and contrary to legislative intent;

N. GRANT such other and further relief as this Court deems just and proper.

Respectfully submitted,

MARVIN D. TUTT

Pro Se Petitioner

5407 Brinkley Road Temple Hills, MD 20748

(240) 432-5869

marvindtutt@gmail.com

Date: December 04, 2025

VERIFICATION

I, Marvin D. Tutt, solemnly affirm under the penalties of perjury that the contents of this Petition are true and correct to the best of my knowledge, information, and belief.

/s/MarvinTutt

Marvin D. Tutt

Date: December 04, 2025

CERTIFICATE OF SERVICE

I hereby certify that on December 04, 2025, I served a true and correct copy of this Amended Petition for Judicial Review and all attachments on Respondents by first-class mail, postage prepaid, and by email to:

Office of the Public Access Ombudsman c/o Office of the Attorney General 200
St. Paul Place Baltimore, MD 21202 Email: PIA.Ombuds@oag.state.md.us

Lisa A. Kershner, Public Access Ombudsman Email: lkershner@oag.state.md.us

Alisa Bralove-Scherr, Deputy Public Access Ombudsman Email:
abralove@oag.state.md.us

/s/MarvinTutt

Marvin D. Tutt

EXHIBITS

Exhibit A: Complete Email Thread (Gmail - PIA request - Marvin D. Tutt.pdf)

Exhibit B: PAO "Final Response" – PDF(November 24, 2025)

Exhibit C: PAO Second "Final Response" – PDF (December 3, 2025)

Exhibit D: Conduit Street Article – "Technology Is Complicating Public Information Laws" (October 15, 2025, documenting Ombudsman Kershner's statements on email searches)

Exhibit E: OAG PIA response | Proof of ombudsman submission