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Maryland
OFFICE OF THE
PUBLIC ACCESS OMBUDSMAN

December 3, 2025

Sent via email to Marvin D. Tutt

marvindtutt@gmail.com

Dear Mr. Tutt,

We are writing in response to your November 24, 2025 email, replying to our Maryland Public Information Act (“MPIA”) response of the same day. This letter is intended to provide additional information concerning our efforts in responding to your MPIA request of November 10, 2025. This is our final response concerning your MPIA request.

On November 10, 2025, you requested the following:

REQUESTED RECORDS (July 1, 2025 – Present)

1. Case Log / Registry Entries (Administrative Metadata Only)
For any matter referencing “Marvin Tutt,” “Marvin D. Tutt,” or case identifiers associated with me, please provide:
 - Date opened / Date closed
 - Referring party name (individual or agency)
 - Responding party name (agency/custodian)
 - Subject category/tag (e.g., “child support,” “federal court,” “OAG”)
 - Disposition (e.g., “resolved,” “referred to PIACB,” “closed – no jurisdiction”)
 - Whether referred to the PIA Compliance Board (yes/no + date)Exclude: mediation communications, party statements, settlement terms, or any content protected by GP §4-1B-04(d).
2. Referral Documentation (Administrative Routing Only)
 - Intake forms or equivalent records showing who initiated contact with PAO regarding matters involving me (name, agency, contact info).
 - Referral letters/emails to the PIA Compliance Board (if any) concerning me — header metadata only (To/From/Date/Subject), not mediation substance.
 - Closure notices or disposition letters sent to referring/responding parties (please redact mediation content; produce administrative routing/outcome data).
3. PAO Policies / Procedures (Public Records)
Current PAO case-handling procedures describing:
 - How party identities are recorded in case logs.

- When/how matters are referred to PIACB.
- Retention schedules for case metadata vs. mediation communications.

On November 13, 2025, in response to our email seeking clarification on the scope of Part 1 of your request, you confirmed that you are only seeking records related to you.

Then, on November 15, 2025, you emailed us to amend your MPIA request to include records from January 1, 2025 going forward.

Following our November 24, 2025 PIA response, you asked us for more information about the potentially responsive records referenced in our letter. We are providing the below summary in response to your request for more information.

Responsive Record	Reason for Withholding
Item #1: Email received by Ombudsman's Office that includes your name	The MPIA only applies to "public records." If something is not a public record, it is not subject to the MPIA at all and there is no obligation to produce any part of it. This is because the record itself is beyond the scope of the MPIA. The definition of "public record" specifically excludes "a record or any information submitted to the Public Access Ombudsman. See Maryland's General Provisions Article ("GP") § 4-201(a)(1) and § 4-101(k)(3)(ii).
Item #2: Email reply to sender from the Ombudsman's Office that includes the sender's original email thread	In addition to the authority noted above, the content of this email is confidential under the Maryland Mediation Confidentiality Act. See Maryland's Courts and Judicial Proceedings Article, §§ 3-1801 – 3-1806, and GP §4-1B-04(d) and GP §4-301(a)(2)(i).

1. "You Did Not Follow My Segregation Instructions"

You requested that "[i]f any field is considered confidential, please segregate and produce the remainder and cite the specific authority for any redaction/withholding." We interpret this to mean that we should redact any protected information and disclose the rest of the document.

As we explained in our prior response, however, "a record or any information submitted to the Public Access Ombudsman" is explicitly excluded from the MPIA's definition of a "public record" *See GP § 4-101(k)(3).*

Because such records or information are beyond the scope of the MPIA, the “header metadata” you are requesting is not subject to production under the MPIA. There is no part of the record that would be appropriate to produce.

2. “You Did Not Provide the Certification I Requested”

We interpret this to mean you are requesting an affidavit from us, i.e. a written statement under oath, to explain how we conducted our search. The MPIA, however, does not require a custodian to provide a “no-records certification” or “systems searched + search terms used.” *See PIACB 25-92, at 7 (Oct. 21, 2025)* (PIA does not require a custodian to state unequivocally that all records have been located and produced). It simply requires a written response under GP § 4-203, which we have provided.

We believe our letter was clear in identifying the two potentially responsive records we located. We also explained how we arrived at our conclusion that these are the only two responsive records in our custody.

As stated in our November 24, 2025 MPIA response:

We have determined that we do not have any correspondence or other records responsive to Parts 1 or 2 of your MPIA request, as amended on November 15, 2025. Using the search terms and parameters you provided, we searched our Access database where we maintain data concerning mediation matters and a spreadsheet used to track both mediations and less formal requests for MPIA-related assistance. We do not log or track mediations or informal requests for MPIA-related assistance by any means other than those.

Our Office has record retention schedules applicable to mediations and other types of program activities and documentation, which are responsive to Part 3 of your request. We have attached a copy of our record retention schedules to this response.

In addition, we note that we do not have any specific instructions or training materials that reflect how party identities are recorded in case logs. Further, the Office of the Public Access Ombudsman does not refer any matters to the PIA Compliance Board (the “Board”). Rather, a party to a mediation that is unresolved or only partially resolved may, on their own, seek review by the Board.

Our office maintains records related to our program’s activities other than specific MPIA mediations. For example, records may involve requests for other types of MPIA assistance, such as how to avoid an MPIA dispute, potential mediations that do not proceed to an actual mediation, or those that are terminated, withdrawn, or when not appropriate for mediation because the dispute does not involve an MPIA issue.

In this regard, we note that we have located an email that includes your name. We responded to this email. We found these emails in an email account other than those

you named in your request. The MPIA only applies to a “public record” as defined in Maryland’s General Provisions Article § 4-201(a)(1) which provides that a “record or any information submitted to the Public Access Ombudsman” is explicitly excluded under GP § 4-101(k)(3)(ii). Thus, email communications with our office and our reply, which reflect information provided to us by the sender, are not subject to the MPIA and therefore are not produced.

3. “You Did Not Explain How Header Metadata Is Protected”

Again, as we noted, the only potentially responsive records we identified are not subject to the MPIA at all because they are not “public records” and even if they were, they would be protected by the Maryland Mediation Confidentiality Act and our governing statute. See GP §4-1B-04(d), GP §4-301(a)(2)(i), and Courts and Judicial Proceedings, §§ 3-1801 – 3-1806.

4. “The Mediation Contradiction”

You asked us to confirm that no mediation file has been opened concerning you. We can confirm that no mediation file has been opened concerning you. Before we open a mediation file, we must get consent from the other party. You would have been contacted in writing had we received a request from a custodian for mediation with you.

The Maryland Mediation Confidentiality Act defines a mediation communication to include “a communication made for the purpose of considering, initiating, continuing, reconvening, or evaluating a mediation or a mediator.” Courts and Judicial Proceedings § 3-1801(c)(2). This means that a communication can be protected even if there is no mediation that takes place.

5. “No Vaughn Index”

Though the MPIA does not require us to create a Vaughn index or privilege log, we have provided additional information at the beginning of this letter to give you more context about the two emails we are withholding.

The PIA requires only that a custodian provide, “without disclosing the protected information, a brief description of the undisclosed record that will enable the applicant to assess the applicability of the legal authority for the denial. GP § 4-203(c)(1)(i)(4). We have complied with this provision.

6. “Confirmation of Completeness”

Please see our comments above, under “You Did Not Provide the Certification I Requested.” We reiterate that we have identified the only potentially responsive records in our custody that include the search terms you provided.

The MPIA provides certain remedies for a requestor who disagrees or is dissatisfied with a custodian's response, including the right to seek judicial review of the custodian's decision in court, GP § 4-362, and/or to submit the disputed matter to the Ombudsman, GP § 4-1B-04. If a dispute is not resolved through the Ombudsman, a party may be eligible to file a complaint with the Board. See GP §§ 4-1A-04 and 4-1A-05.

Although the mediation remedy otherwise available through the Ombudsman would not yield the usual input of a third party (requestor, custodian, and Ombudsman), we again invite you to reach out if you would like to have a call to discuss this response.

We hope that this information is helpful to you.

Sincerely,

A handwritten signature in blue ink that reads "Lisa Kershner".

Lisa A. Kershner
Ombudsman