



Policy 603

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DOCUMENT COMPLIANCE UNIT	
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By Order of the Police Commissioner

POLICY

1. **MPIA Compliance.** It is the policy of the Baltimore Police Department (BPD) to ensure compliance with the Maryland Public Information Act (MPIA), Maryland Code, General Provisions § 4-101 et seq.
2. **Unit Creation.** This policy officially forms the Document Compliance Unit (DCU). The DCU is responsible for receiving and processing Public Information Act Requests on behalf of the BPD.
3. **Points of Contact.** This policy memorializes the requirement for all Departmental Entities (i.e., Divisions, Sections, Units, etc.) to assign dedicated Points of Contact with the responsibility for searching, collecting, and providing records when requested from the DCU.

DEFINITIONS

Custodian of Records — The Police Commissioner of the Baltimore Police Department and those persons designated to create, maintain, and distribute Baltimore Police Department records.

Departmental Entity — The concerned Division, Section or Unit from which the MPIA request is being forwarded by the DCU.

Point of Contact (POC) — The individual specifically identified to serve as liaison between the DCU and the specific Departmental Entity.

GENERAL

1. An MPIA request is any written request for access to documents “made by a unit or instrumentality of the State ...in connection with the transaction of public business.” Maryland Code, General Provisions § 4-101(j)(1)(i).
2. The BPD must provide a written response within 10 days of the request. Due to the time constraints imposed by law, it is imperative that all Departmental Entities respond promptly and fully cooperate with DCU requests.
3. All records released by the DCU will be accompanied by a cover letter detailing what is being released and the basis for any withholdings, redactions, and/or denials.

4. Each Departmental Entity is responsible for assigning a POC to the DCU. The commander of the Departmental Entity shall communicate with the DCU whenever there are changes in the assigned POC for that specific Departmental Entity.
5. Upon written request from the DCU, a Departmental Entity shall advise the DCU of the current dedicated POC for the Departmental Entity. A failure to provide the DCU with the requested POC will immediately be forwarded to the Police Commissioner or his designee for a violation of this Policy.

REQUIRED ACTION

Document Compliance Unit

Receipt of MPIA Requests

1. Upon receipt of an MPIA request, via standard mail, date stamp the document to acknowledge receipt.
 - 1.1. Requests received via electronic mail need not be physically date stamped.
 - 1.2. If the request is received outside of the DCU, it shall be forwarded to the DCU with a brief cover sheet detailing when the document was received and if any action has been taken.

Review of Materials

1. Review all records and make proper redactions if necessary, in order to ensure that all confidentiality and privileges are maintained and any objections to the production of records/reports are made.

NOTE: Investigatory records/reports will often raise concerns regarding the release of information. Maryland Code, General Provisions § 4-351(a)(b) permits the denial of inspection of records by a person, including the person in interest, to the extent that it would:

- (i) *Interfere with a valid and proper law enforcement proceeding;*
- (ii) *Deprive another person of a right to a fair trial or an impartial adjudication;*

Note: Both (i) and (ii) should be the basis for withholding records, if the case is open and being investigated or when the case is pending prosecution by the Office of the State's Attorney (OSA).

- (iii) *Constitute an unwarranted invasion of personal privacy;*
- (iv) *Disclose the identity of a confidential source;*

Note: Confidential source information should be withheld on this basis. The identifying information should be redacted. If no portion of the record can be shown without identifying the source, the record must be withheld.

(v) *Disclose an investigative technique or procedure;*

Note: This exception is rarely used. It must apply to a technique or procedure that is not already known by the public.

(vi) *Prejudice an investigation; or*

(vii) *Endanger the life or physical safety of an individual.*

Note: This applies to both witnesses and suspects. If there are threats or any reason to believe that the disclosure of the individual's identity or other information will endanger the life or physical safety of an individual, that information must be redacted or withheld. In denying records on this basis, it must be stated, in a particularized manner, what information in the investigation leads to believe this information should be redacted or withheld.

1.1. Maryland Code, General Provisions § 4-330 allows for the withholding of "sociological information" gathered and maintained by the BPD. Before releasing police reports that involve crimes of violence as defined by Maryland Code, Criminal Law Article § 14-101, the following information must be redacted concerning any person named in the report:

1.1.1. Social security number;

1.1.2. Personal address;

1.1.3. Personal phone number;

1.1.4. Any information obtained through a doctor's examination;

1.1.5. Any transcript or information obtained from a high school, college, or other approved educational institution;

1.1.6. Any information regarding marital status or dependents;

1.1.7. Personal relationships, beliefs, values, etc.;

1.1.8. Identity of dependents;

1.1.9. Finances including income, assets, liabilities, debt payments;

1.1.10. Address, occupation, and school status of family members;

1.1.11. Information concerning the support and custody of children;

1.1.12. Religious preference and attendance; and

1.1.13. Names of close associates and relatives unless considered a victim, witness, suspect or may have material information regarding an investigation.

EXCEPTION: If the requester is a "person in interest," as defined by Maryland Code, General Provisions § 4-101(g), the requester's personal information need not be redacted.

- 1.2. If considered in the public interest, the Custodian of Records, the Commanding Officer of the Criminal Investigation Division, or the Director of Media Relations Section (MRS) may authorize the release of all or any portion of the personal records.
2. Log all requests into the DCU Database for tracking and to ensure timely responses to all requests.
3. When requesting records/reports, advise the Departmental Entity to provide the responsive records/reports within 10 days.
4. When records are reviewed by the DCU, the staff member reviewing the documents may write a synopsis of the file and detail any concerns and portions of the records/reports that should be withheld.
5. Log all of the time associated with responding to the request to ensure proper fees are charged.

NOTE: In order to limit the need for contacting another Department Entity for records/reports, the DCU has access to most BPD databases.

Redactions

1. Any and all redactions shall be made in good faith and must have a legal basis.
2. All redactions shall be made by the DCU, or by an outside entity at the direction of the DCU, when technical expertise is needed (e.g., redaction of audio, video, or other technical redactions requiring specialized software/technology, etc.).

Responding to MPIA Requests

1. Respond to all MPIA requests in writing.
 - 1.1. When applicable, notify the requester of the unavailability of the records/reports in writing.
2. The DCU's first response to the requester shall:
 - 2.1. Provide the records;
 - 2.2. Deny the request;
 - 2.3. Seek additional information; or
 - 2.4. Provide the requestor with an estimate of the costs associated with the request.
3. If the DCU cannot fulfill the request within 30 days, it must request a one-time 30-day extension per Maryland Code, General Provisions § 4-203 (d).

Departmental Entity

1. Upon receipt of a DCU request, the Departmental Entity, via its designated POC, must begin to undertake a reasonable search for any and all documents responsive to the request.

2. It is the responsibility of the Departmental Entity POC to track all time expended in searching and preparing responsive records under the request.
 - 2.1. When a request for records/reports is received from the DCU, the Departmental Entity POC must provide the responsive records/reports within 10 days.
 - 2.2. If the Departmental Entity cannot fulfill the DCU request within the 10 days, it must notify the DCU in writing prior to the expiration of the 10 days and within a reasonable time.
 - 2.3. If the Departmental Entity is not the appropriate custodian, the POC must immediately notify the DCU.

NOTE: There is no duty to create records, only to provide what is available at the time of the request.

3. If the Departmental Entity, via the dedicated POC, believes the MPIA request raises concerns regarding release (e.g., an open police investigation, pending criminal proceeding, or safety concerns), the POC shall notify the DCU, via written memorandum, regarding the scope of permissible disclosures, redactions, or denials of information or documents, along with the responsive records/reports.
4. It is improper for any Departmental Entity to withhold records from the DCU upon a belief that the records should not be released.

Fiscal Considerations

1. Pursuant to Maryland Code, General Provisions § 4-206, the DCU may receive payments, associated with MPIA requests.
2. The first two hours of staff time for search and review are free.
3. The Department will make every effort to accurately estimate all costs associated with the request, in advance, including any necessary staff time beyond the initial first two hours. However, the Department is not bound by the estimate and may charge fees that exceed the estimate, should the actual costs be in excess of the estimate. The requester will be provided justification for any fees charged by the Department.
 - 3.1. The Department will charge reasonable fees to search for, prepare, and reproduce records that are requested in a customized format.
 - 3.2. The Department will charge the actual cost to search for, prepare, and produce records that are in a standard format (e.g., crash reports, incident reports, case files, etc.).
4. Generally, advance payment of any fees will be requested prior to processing the request and/or production of records. Payment, in the form of a business or cashier's check, must be made payable to the Director of Finance – Baltimore DCU.
5. DCU will coordinate the deposit of all payments into the appropriate account with Fiscal Services.

Fee Waivers

1. If the processing of the request is expected to exceed two hours, a fee waiver may be requested.
2. If a fee waiver is requested, the DCU shall provide the fee waiver application to the requester, via standard or electronic mail.
3. Upon receipt of a completed fee waiver application or a detailed request from the requester, the DCU shall consult with the Commanding Officer of the Departmental Entity and the Director, MRS, to determine the appropriateness of the proposed fee waiver. The DCU shall consider the applicant's ability to pay the fees and other relevant factors, and waive the fees if it is within the public interest.

NOTE: All requests to waive a fee must be considered and granted if the documents and/or information requested are in the general interest of the public. See *Burke v. MCC*, 67 Md. App. 147, 157 (1986). A request to waive a fee may not be denied solely because of the expense BPD would incur in processing the MPIA request and the requester's ability to pay. *Id.*

4. If the DCU and the Commanding Officer of the Departmental Entity, and the Director, MRS cannot form a consensus, the ultimate decision making authority as to fee waivers shall rest with the Deputy Police Commissioner, Strategic Services Bureau.

RESCISSION

Remove and destroy/recycle Policy 603, *Document Compliance Unit* dated 28 February 2017.

COMMUNICATION OF POLICY

This policy is effective on the date listed herein. Each employee is responsible for complying with the contents of this policy.