

**APPENDIX C**  
**REPORT OF THE PUBLIC ACCESS OMBUDSMAN**  
**FY 2020**

The General Assembly created the Office of the Public Access Ombudsman (“Ombudsman”) in 2015 through the same statute that created the Public Information Act Compliance Board (“Board” or “PIACB”).

The Ombudsman’s principal duties involve making reasonable attempts to resolve disputes between records custodians and applicants seeking public records under the Maryland Public Information Act (“PIA”). The Ombudsman’s process is voluntary, non-binding and confidential, and her jurisdiction includes any dispute under the PIA such as those involving exemptions, the failure of a custodian to respond timely, fee waivers, and repetitive or overly broad requests. See § 4-1B-04 of the General Provisions Article of the Maryland Code

In addition to mediating PIA disputes, the Ombudsman also regularly provides informal assistance, resource material, and PIA trainings across the state. These and other activities are reported by the Ombudsman on a semi-annual, annual, and “since inception” basis in summary statistical reports that are available on the Ombudsman’s website <http://piaombuds.maryland.gov> or on request.

This report describes the Ombudsman’s principal activities from July 1, 2019 through June 30, 2020 (“FY 2020”). For additional context, summary reports covering Ombudsman activities from program inception in 2016 through June 30, 2020, during calendar year 2019 and during the first six months of 2020 are attached to this Appendix at pages C-5 - C-10.

**ACTIVITIES OF THE OMBUDSMAN**

The Attorney General appointed Lisa Kershner as the first Public Access Ombudsman in March 2016 and reappointed her to a second four-year term effective March 30, 2020. The activities of the Ombudsman are supported by an Administrator and an Assistant Attorney General, who are full-time employees of the Office of the Attorney General (“OAG”).

**Mediation Metrics**

**Impact of Covid-19:** Since mid-March 2020, the Ombudsman and her staff have worked remotely, as have many of the state and local government offices with which the Ombudsman works to resolve PIA issues and disputes.

While most agencies have continued to process PIA requests during the covid-19 public health crisis, the additional duties and needs created by the pandemic combined with staffing and operational limitations affecting many agencies have had the overall effect of slowing the PIA response process as well as the Ombudsman’s ability to handle mediation

matters. Apart from the impacts of the covid crisis, the Ombudsman's caseload has remained largely consistent in many respects with program experience in prior years. For example, the Ombudsman has continued to receive requests for assistance from a wide variety of requestors and from agencies concerning a wide range of issues.

**Requestors:** As in prior years, the single largest category of requestors seeking assistance – approximately 52% during the first 6 months of 2020 – are individuals whose PIA requests most often are related to an agency action that impacts the requestor. In comparison, occupational users of the PIA – a diverse category that includes press, attorneys, advocacy organizations, and businesses – comprised about 29% of the Ombudsman's caseload during the same period. Requestors who are incarcerated and typically seek records related to their cases comprised about 19% of requestors during the first half of 2020.

**Agencies:** The Ombudsman continues to work with agencies at all levels of government (state, local and municipal). Although agencies initiate a relatively small number of mediations, they regularly seek informal guidance or proactive assistance from the Ombudsman aimed at preventing PIA problems or disputes. Proactive consultations with agencies are captured in the Ombudsman's statistical reports as "Help Desk" matters.

**Disputes and Dispositions:** Since inception, about 69% of the Ombudsman's caseload has involved exemption issues, incomplete/nonresponsive, or missing responses. The trend in calendar year 2019 and during the first 6 months of 2020 is similar, with about 70% of the caseload involving one of those issues.

As part of the work on the *Final Report on the Public Information Act* ("Final Report") issued jointly by the PIACB and Ombudsman in December 2019, see discussion, *infra*, at C-3 – C-4, the Ombudsman conducted a detailed review of all mediations handled during the 42 months from inception of the Ombudsman program in 2016 through September 30, 2019. The purpose of this case review was to estimate the number and complexity of matters as well as the types of issues that were not resolved by mediation and that were deemed likely to go to a Board with decisional authority if that remedy existed. The conclusions drawn from the case review include that some 25%-26% of all mediation matters submitted to the Ombudsman are in need of a decisional remedy at the conclusion of the mediation and that the majority of these matters involve the application of exemptions. See Final Report at p. 16-17. <https://news.maryland.gov/mpiaombuds/wp-content/uploads/sites/20/2019/12/Final-Report-on-the-PIA-12.27.19.pdf>.

**Length of Time to Close Mediations:** While the number of open mediation matters in the first half of 2020 (161) is comparable to the number of open mediation matters during the first half of 2019 (155), the rate at which the Ombudsman is able to close new matters has slowed. For example, during the first half of 2019, 49% of open mediation matters were closed within 3 weeks and 78% were closed within 6 weeks. By comparison, during the first half of 2020, only 24% of open matters were closed within 3 weeks and only 36

% were closed within 6 weeks. During calendar year 2019, overall, 44% of open matters were closed within 3 weeks and 73% were closed within 6 weeks.

The Ombudsman attributes the substantial increase in time required to close mediations to several factors including an uptick in the volume of new matters beginning in the summer of 2019 that coincided with the period during which the Ombudsman was required to devote increasing amounts of time to tasks necessary to complete the *Final Report* requested by the Chairmen of the Senate Budget and Taxation and House Appropriations Committees. These factors combined to create a longer than usual queue going into 2020, which has continued due both to a high volume of new matters received in January and February 2020, as well as circumstances related to the covid-19 pandemic.

**Outreach and Training:** The Ombudsman has seen a steady increase in requests for trainings and “help-desk” assistance since program inception in 2016. Until the onset of the covid crisis in March 2020, the Ombudsman regularly conducted one to two in-person trainings per month. Since March 2020, however, in-person trainings have been deferred indefinitely. The Office has published guidance on the handling of PIA requests during the pandemic through its blog (“*Open Matters*”), Twitter account (@MPIA\_Ombuds), and website (<http://piaombuds.maryland.gov>) and is able to conduct virtual trainings on request.

### **Final Report – Legislation Needed to Implement Joint Recommendations**

During FY 2020, the Ombudsman worked extensively on the state agency/cabinet-level survey and other research and outreach related to the *Final Report*, issued jointly by the Board and Ombudsman on December 27, 2019 as requested by the Chairmen of the Senate Budget and Taxation and House Appropriations Committees in April 2019.

The central recommendation of the *Final Report* is to create an accessible enforcement remedy for PIA disputes by expanding the jurisdiction of the Board to allow it to decide any dispute that cannot first be resolved by mediation through the Ombudsman program. Doing so will have two principal benefits. First, it will make the Ombudsman program much more effective by providing a real incentive for parties to engage meaningfully with the Ombudsman’s process, and secondly, it will provide an accessible and highly cost-effective remedy where none currently exists. Under this recommended framework, the benefits of voluntary and confidential mediation are fully preserved, while the Board, which currently is under-utilized, would play a more vital role in dispute resolution and the ongoing articulation of the PIA without altering any existing judicial remedy.

In order to assess the need, process and additional resources necessary to implement the recommendation to expand the Board’s jurisdiction, the Ombudsman and Board conducted extensive outreach to all stakeholders during 2019, researched programs in other states and considered data submitted by the state agencies surveyed per the Committee Narrative request. Additionally, the Ombudsman undertook a detailed review of all

mediation matters handled by her Office during the 42 months from inception of the program through September 30, 2019. The conclusions drawn from this data were reported separately for both fiscal year 2019 and from program inception through September 30, 2019 and are discussed in the *Final Report* at pages 13-17.

Briefly, these conclusions are that a Board with full jurisdiction would receive approximately 50 to 60 additional matters per year, that the biggest single issue area (about 45%) will involve exemptions and that the Board's expanded caseload will be relatively evenly split between matters appropriate for summary disposition and others requiring a more labor-intensive process such as research, review of privilege logs or records and potential hearings. *Id.* The Board and Ombudsman estimate that two additional full-time staff will be required to manage the expected additional caseload.

The Ombudsman also participated in the effort to pass HB 502/SB 590, the bill introduced during the 2020 session to implement the Board and Ombudsman joint recommendations. A copy of the Ombudsman's written testimony submitted to the House Health and Government Operations Committee is attached to this Appendix at pages C-11 - C-12.<sup>1</sup> Substantial consensus on the bill appeared imminent with certain clarifying amendments when the session closed in March without the bill being brought to a vote.

The Ombudsman looks forward to continuing her work with the Board and all stakeholders in 2021 in order to pass legislation needed to implement the central recommendations of the *Final Report*.

### CONCLUSION

The Ombudsman wishes to thank the Attorney General for appointing her to this important position. In addition, the Ombudsman thanks the Board for providing this forum for sharing information about the Ombudsman program. Finally, the Ombudsman wishes to thank the dedicated staff from the Office of the Attorney General who support the Ombudsman.

Additional program information, including statistical reports, helpful tips, and PIA-related news and developments, are regularly posted throughout the year to the Ombudsman's website <http://piaombuds.maryland.gov>, and on Twitter @MPIA\_Ombuds.

Respectfully submitted,

Lisa A. Kershner  
Public Access Ombudsman

September 25, 2020

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<sup>1</sup> The Ombudsman also submitted the same written testimony to the Senate Education, Health, and Environmental Affairs Committee.



51 Months Since Inception

**MARYLAND PUBLIC INFORMATION ACT (PIA)**  
 The public's right to information about government activities lies at the heart of democracy.

**Metrics Handout**  
 Office of the Public Access Ombudsman  
 Since Inception Report  
 March 30, 2016—June 30, 2020

**1646** since March 30, 2016  
 1022- Mediation requests  
 624- Other /"help-desk" inquiries

**The Big Picture: Mediation Matters!**  
 Early resolution of disputes saves time and resources and increases public knowledge and awareness of the PIA process. Mediation is entirely voluntary, confidential, and in many cases doesn't require an attorney.

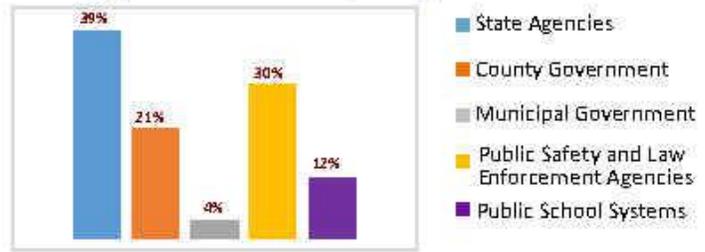
**The Requestors**



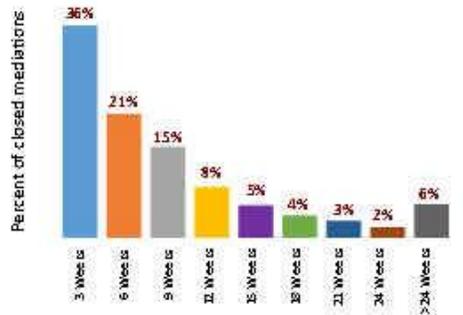
**The Agencies**

**266** unique agencies participated in mediation matters with the PIA Ombudsman since the beginning of the program. Agency jurisdictions are state, county and local level.

**What Agencies are Participating in Mediation?**

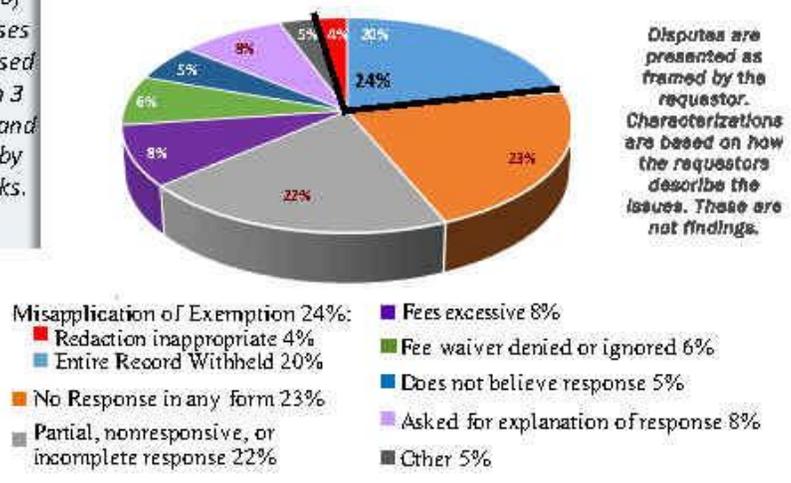


**How Long does Mediation Take?**



**36%** of the cases are closed within 3 weeks and **57%** by 6 weeks.

**What are the PIA disputes?**



Disputes are presented as framed by the requestor. Characterizations are based on how the requestors describe the issues. These are not findings.

Mediations	
March 30, 2016 – June 30, 2020	
New/Incoming cases between 3/30/16–6/30/20	1022
Closed as of 6/30/20	972

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**MARYLAND PUBLIC INFORMATION ACT (PIA)**  
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# Public Access Ombudsman

2019 Annual Report—12 Months  
 January to December 31, 2019



**2019  
 12 Month  
 Report**

**505** in 2019

279 - Mediation requests  
 226 - Other/"help-desk" inquiries

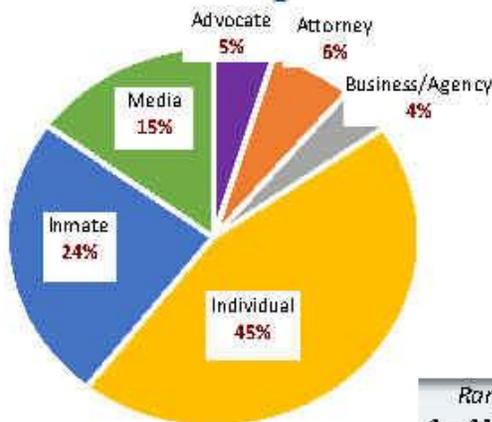
**The Big Picture: Mediation saves money**  
*Early resolution of disputes saves time and resources and increases public knowledge and awareness of the PIA process. For example, mediation is entirely voluntary, confidential, and in many cases doesn't require an attorney.*

Total Mediation Cases 2019	
Carry over from prior years	19
New/Incoming cases in 2019	279
<b>Total Number of Mediation cases</b>	<b>298</b>
Mediation cases currently open	46
Total Mediation cases Closed	252

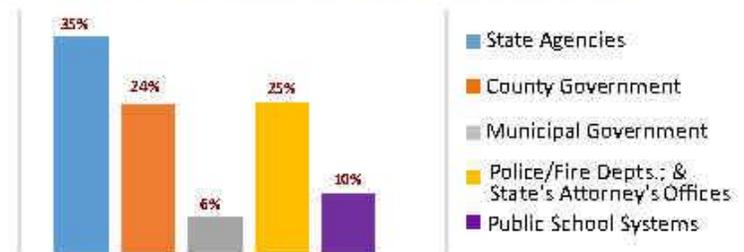
## The Agencies

**130** unique agencies participated in mediation matters with the PIA Ombudsman in 2019. Agency jurisdictions include state level, **15** different counties and Baltimore City, and **12** municipalities.

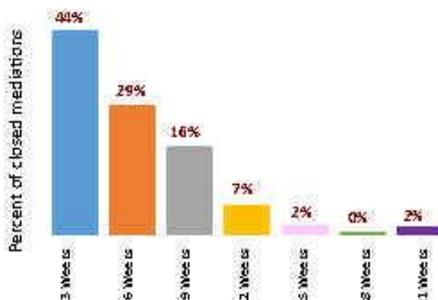
## The Requestors



## What Agencies are Participating in Mediation?

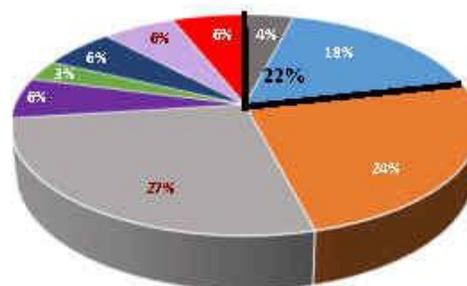


## How Long does Mediation Take?



Range: 1 – 141 days.  
**44%** of the cases are closed within 3 weeks and **73%** by 6 weeks.

## What are the PIA disputes?



*Disputes are presented as framed by the requestor. Characterizations are based on how the requestors describe the issues. These are not findings.*

**Lisa Kershner**

200 St. Paul Place,  
 25th Floor  
 Baltimore, MD 21202

Phone: 410-576-6560  
 Email: [pia.ombuds@oag.state.md.us](mailto:pia.ombuds@oag.state.md.us)  
 Twitter: @MPIA\_Ombuds

Ombudsman's Website:

<http://piaombuds.maryland.gov>

**MPIA Ombudsman  
on Twitter**  
@MPIA\_Ombuds

## Public Access Ombudsman *Annual Report 2019*

### Legislation & Court Opinions

**SB 5** (2019) requires notification to "person-in-interest" when certain 911 records requested.

### Ombudsman's Blog — *Open Matters*

*Highlights From The PIA Compliance Board's Opinions.* 5/14/19

*Ombudsman and PIACB Seeking Comments on Research Project.* 8/1/19

*Where Are My Records?* 7/12/19

*Assessing Fees for PIA Requests.* 7/03/19

*Public Access Ombudsman Adopts Regulations.* 6/18/19

*Tips for Agency Transparency in the PIA Process.* 4/15/19

*Proposed Regulations Noticed – Ombudsman Operations.* 3/29/19

*Let the Sun Shine In: Maryland Public Access Ombudsman Program.* 3/15/19

*Proactive Disclosure Saves Time and Money, and It's the Law.* 1/28/19

### Ombudsman's Selected Tweets — 2019

Maryland public records board needs teeth. Opinion The Baltimore Sun. 11/13/19.

Stewards of Maryland's public records law seek greater authority to adjudicate disputes The Baltimore Sun. 11/6/19.

Should charter schools be subject to open-record laws? The Washington Post. 10/9/19.

Maryland agencies lack consistent policies, struggle to comply with public records requests, surveys show. The Baltimore Sun. 10/8/19.

Did you miss the PIACB Annual Meeting. No worries. Here is a link to the audio. It's like you were there. 08/29/19

## Outreach 2019

### Presentations, Workshops, Trainings, and Other Outreach

2019

PIA Compliance Board, Discussion of PIA Research Report, December 17

PIA Compliance Board, Discussion of Preliminary Findings for PIA Research Report, November 5

Maryland Association of Counties, County Attorneys, November 13

Maryland Association of Counties, Winter Conference, November 20

Wicomico County Public Schools, October 17

Maryland State Bar Association, October 25

Local Government Insurance Trust, October 31

Veterans of Jessup Correctional Institution, September 25

Maryland Municipal Clerks Association, September 19

Open Government Advocacy Network meeting hosted by the ACLU, September 19

PIACB Annual Meeting Presentation on PIA Research Report, August 19

Maryland Association of Counties, Summer Conference, August 14

Veterans of Jessup Correctional Institution, July 10

Bowie Police Department, June 11

Harford Co. State's Attorney's Office, June 7

MDDC Press Association, May 10

Prince George's County Law Office, April 25

Wicomico County State's Attorney's Office, April 5

Stakeholder Survey, Online and via Post, February – March 2019

Town of Boonsboro, February 7

### Select Publications

**Final Report on the Public Information Act.** Submitted by the PIA Compliance Board and the Public Access Ombudsman and pursuant to Committee Narrative in the Report on the Fiscal 2020 State Operating Budget and the State Capital Budget. December 27, 2019

**Report on the Public Information Act: Preliminary Findings and Recommendations.** Submitted by the PIA Compliance Board and the Public Access Ombudsman. November 6, 2019

**Where Are My Records?** Office of the Public Defender, Post Conviction Newsletter, Summer 2019

Public Access Ombudsman's [Interpretive Regulations](https://tinyurl.com/y2cuqp55): <https://tinyurl.com/y2cuqp55>, June 2019

**Ombudsman comments, included as an Appendix to the 2019 Annual Report of the PIA Compliance Board.** September 2019

**HB 1105 Report: Ombudsman's Report Concerning the Howard County Public School System's Handling of Requests Under the Public Information Act.** December 30, 2016

## RESOURCES/LINKS

**PIA Manual** 14<sup>th</sup> Edition: [http://www.marylandattorneygeneral.gov/OpenGov/620Documents/PIA\\_manual\\_printable.pdf](http://www.marylandattorneygeneral.gov/OpenGov/620Documents/PIA_manual_printable.pdf). Including: List of Public Record Custodians: Appendix "J"; and Overview of the Public Information Act: Appendix "P"

**MD State Archives:** <http://msa.maryland.gov> is a resource for custodians' record management and retention practices.

**Federal FOIA (Freedom of Information Act):** <https://www.foia.gov/>

### PUBLIC ACCESS OMBUDSMAN

\* **Request for Mediation Form:** <https://news.maryland.gov/mpiaombuds/request-mediation>

\* **Interpretive Regulations:** <https://tinyurl.com/y2cuqp55>



**MARYLAND PUBLIC INFORMATION ACT (PIA)**  
*The public's right to information about government activities lies at the heart of a democratic government.*

# Mediation Metric Report of the Public Access Ombudsman

2020 - Semi-Annual Report  
 January 1 to June 30, 2020



**232** 6 months of 2020

- 115 - Mediation requests
- 117 - Other/"help-desk" inquiries

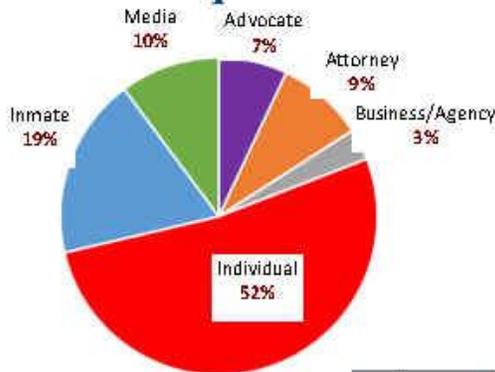
***The Big Picture: Mediation Matters!** Early resolution of disputes saves time and resources and increases public knowledge and awareness of the PIA process. Mediation is entirely voluntary, confidential, and in many cases doesn't require an attorney.*

## The Agencies

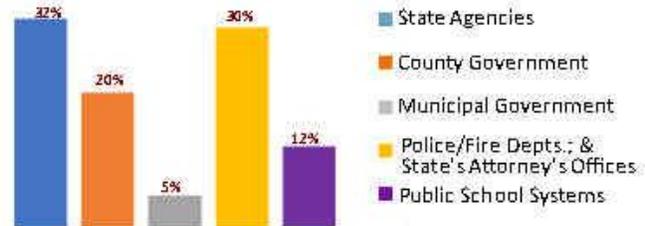
90 unique agencies participated in mediation matters with the PIA Ombudsman in the first six months of 2020. Agency jurisdictions include state level, 14 different counties and Baltimore City, and 10 municipalities.

Total Mediation Cases, as of June 30, 2020	
Carry over from 2019	46
New/Incoming cases in 2020	116
<b>Total Number of Mediation cases</b>	<b>161</b>
Mediation cases currently open	50
Total Mediation cases Closed	112

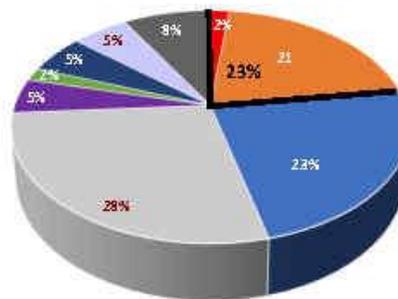
## The Requestors



## What Agencies are Participating in Mediation?

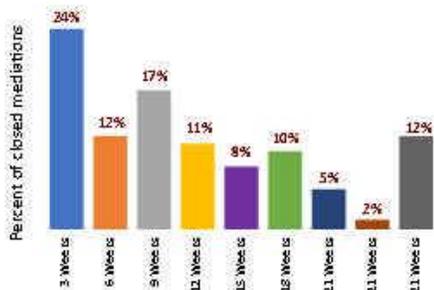


## What are the PIA disputes?



*Disputes are presented as framed by the requestor. Characterizations are based on how the requestors describe the issues. These are not findings.*

## How Long does Mediation Take?



Range: 1 – 324 days.  
 24% of the cases are closed within 3 weeks and 37% by 6 weeks.

**Lisa Kershner**

200 St. Paul Place,  
 25th Floor  
 Baltimore, MD 21202

Phone: 410-576-6560  
 Email: [pia.ombuds@oag.state.md.us](mailto:pia.ombuds@oag.state.md.us)  
 Twitter: @MPIA\_Ombuds

Ombudsman's Website:

<http://piaombuds.maryland.gov>

# Public Access Ombudsman 2020, 2<sup>nd</sup> Quarter Report

**MPIA Ombudsman  
on Twitter**  
@MPIA\_Ombuds

## 2020 Legislative Session

The only bill fully endorsed by the Public Access Ombudsman and PIA Compliance Board is HB 502/SB590. Legislative session was shortened due to COVID-19 State of Emergency and Pandemic. All bills were 'Adjourned Sine Die'.

- **HB 502/SB 590** Public Information Act - Revisions. Based on the Ombudsman's and PIA Compliance Board's report on the PIA published December 31, 2019.
- **HB 42/SB 67** Public Information Act - Applications for Inspection - Responses and Time Limits
- **HB 372** Public Information Act - Required Denials for Specific Information - Sociological Information
- **HB 380/SB 193** Public Information Act - Denial of Part of a Public Record - Investigations by Inspectors General
- **HB 401/SB 758** Public Information Act - Remote Access, Fee Complaints, Fee Waivers, and Inspection of Judicial Records (Open Government, Better Government Act)
- **HB717/SB 514** Public Information Act - Required Denials - Distribution Lists

## Open Matters-Blog of the Public Access Ombudsman

- **New Court Rules Govern Access to Judicial Records.** 7/29/20
- **What Criminal Records Can I Get Under the PIA?** 07/09/20
- **Update on Agency PIA Practices during the Pandemic.** 5/28/20
- **Importance of Accurate PIA Custodian Contact Information.** 04/06/2020
- **Guidance to Governmental Custodians Regarding PIA Timelines during the COVID-19 Crisis.** 03/23/2020
- **Ombudsman and members of the PIA Compliance Board unanimously support HB 502 / SB 590.** 02/14/2020
- **Records Management and the Public Information Act.** 01/07/2020

## Outreach 2020 & 2019 June – Dec.

### Presentations, Workshops, Trainings, and Other Outreach 2020

Due to the COVID-19 State of Emergency the Public Access Ombudsman's Office canceled three scheduled in-person trainings in the first quarter of 2020. The Ombudsman's Office can provide virtual or online training upon request.

- PIACB Annual Meeting Presentation, July 29

### 2019: June - December

- PIA Compliance Board, Discussion of PIA Research Report, December 17
- PIA Compliance Board, Discussion of PIA Research Report. Preliminary Findings, Nov. 5
- Maryland Association of Counties, County Attorneys, November 13
- Maryland Association of Counties, Winter Conference, November 20
- Wicomico County Public Schools, October 17
- Maryland State Bar Association, October 25
- Local Government Insurance Trust, October 31
- Veterans of Jessup Correctional Institution, September 25
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- Maryland Association of Counties, Summer Conference, August 14
- Veterans of Jessup Correctional Institution, July 10
- Bowie Police Department, June 11
- Harford Co. State's Attorney's Office, June 7

### Select Publications

- **Final Report on the Public Information Act.** Submitted by the PIA Compliance Board and the Public Access Ombudsman and pursuant to Committee Narrative in the Report on the Fiscal 2020 State Operating Budget and the State Capital Budget. December 27, 2019
- **Report on the Public Information Act: Preliminary Findings and Recommendations.** Submitted by the PIA Compliance Board and the Public Access Ombudsman. November 6, 2019
- **Where Are My Records?** Office of the Public Defender, Post Conviction Newsletter, Summer 2019
- **Public Access Ombudsman's Interpretive Regulations:** <https://tinyurl.com/y2cuqp55>, June 2019
- **Ombudsman comments, included as an Appendix to the 2019 Annual Report of the PIA Compliance Board.** September 2019
- **HB 1105 Report: Ombudsman's Report Concerning the Howard County Public School System's Handling of Requests Under the Public Information Act.** December 30, 2016

## RESOURCES/LINKS

- ♦ **MD Office of the Attorney General—PIA Manual 14<sup>th</sup> Edition:** [http://www.marylandattorneygeneral.gov/OpenGov%20Documents/PIA\\_manual\\_printable.pdf](http://www.marylandattorneygeneral.gov/OpenGov%20Documents/PIA_manual_printable.pdf)  
The PIA Manual includes Appendix J a List of Public Record Custodians.
- ♦ **MD State Archives:** <http://msa.maryland.gov> is a resource for custodians' record management and retention practices.
- ♦ **Office of Government Information Services (OGIS – FOIA)** <https://www.archives.gov/ogis>
- ♦ **Federal FOIA (Freedom of Information Act) :** <https://www.foia.gov/>
- ♦ **PUBLIC ACCESS OMBUDSMAN**  
\* **Request for Mediation Form:** <https://news.maryland.gov/mpiaombuds/request-mediation>  
\* **Interpretive Regulations:** <https://tinyurl.com/y2cuqp55>
- ♦ **DC Office of Open Government:** <https://www.open-dc.gov/office-open-government>



**LAWRENCE J. HOGAN, JR.**  
*Governor*

**BOYD K. RUTHERFORD**  
*Lt. Governor*



**LISA A. KERSHNER**  
*Public Access Ombudsman*

**STATE OF MARYLAND  
OFFICE OF THE  
PUBLIC ACCESS OMBUDSMAN**

**TESTIMONY IN SUPPORT OF HB 502**

**February 11, 2020**

**Health and Government Operations Committee**

Dear Chair Pendergrass, Vice Chair Pena-Melnyk, and Members of the Committee:

I am Maryland's first Public Access Ombudsman ("Ombudsman"), a position I have held since March 2016.<sup>2</sup> In this position, I have witnessed the importance of State and local government agencies in the lives of citizens, and the importance of compliance with the Public Information Act ("PIA") for building trust and confidence in those agencies. I also regularly see the destructive effects of protracted or unresolved PIA disputes on both requestors and agency personnel—effects that erode public trust in governmental transparency, and sap agency morale and productivity.

House Bill 502, which tracks the recommendations made jointly by my Office and the PIA Compliance Board ("Board") in our *Final Report on the PIA*, published in December 2019, addresses these problems by providing for expanded Board authority to review and decide PIA disputes that cannot be resolved through voluntary mediation with the Ombudsman. The Bill also requires agencies to track and self-report basic information about their PIA caseload, and to develop realistic policies for proactive records disclosure.

These measures will strengthen the PIA overall, promote increased agency efficiency and transparency, enable the Ombudsman and Board to operate in an effective and complimentary fashion, and provide a much needed and cost-effective administrative review and decisional remedy for disputes and issues that cannot be resolved by Ombudsman mediation alone.

As further background, the Legislature in 2015 created the current Board and Ombudsman programs, authorizing the Board, on the one hand, to review and decide only those complaints about the reasonableness of PIA fees that exceed \$350, and on the other, directing the Ombudsman to make "reasonable attempts" to resolve a broad range of PIA disputes, but only on a voluntary and non-binding basis.

Now, after nearly four years of operation, several deficiencies in the current system are clear:

1. A significant and consistent number of PIA disputes across State and local agencies cannot be resolved by the Ombudsman's efforts alone; as reflected in the *Final Report*, roughly a

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<sup>2</sup> For the Committee's information, I attach a statistical summary of the Ombudsman program since inception.

Public Access Ombudsman, Lisa Kershner  
**TESTIMONY IN SUPPORT OF HB 502**  
Page 2 of 2

quarter of my caseload—or about 60 matters per year—are likely in need of the proposed Board remedy;

2. The current Board and its staff are underutilized due to the Board’s extremely limited jurisdiction; while the Ombudsman program has handled some 903 mediation requests through December 31, 2019, the Board has received only 31 complaints within its narrow jurisdiction;
3. The natural synergy that should exist between the Ombudsman and Board due to their complimentary processes and aims is almost completely lacking; the Board lacks jurisdiction to review and decide the vast majority of PIA disputes, and thus does not provide an incentive for parties to engage meaningfully with the Ombudsman or prioritize PIA compliance; and
4. The Ombudsman program and Board, as currently configured, are falling far short of their real potential to provide meaningful and accessible remedies for PIA disputes in a cost-effective manner.

In contrast, HB 502, if enacted, will benefit all PIA stakeholders by:

- 1) Preserving and enhancing the benefits of the current Ombudsman program without altering its character as a purely voluntary, informal, confidential, and non-binding process of facilitated dispute resolution;
- 2) Providing a comprehensive and accessible dispute resolution remedy for both requestors and agencies where none presently exists, without altering existing judicial remedies;
- 3) Facilitating the further development and articulation of the PIA through written Board decisions; and
- 4) Maximizing public resources by enabling the Board and Ombudsman to interact in a fully complimentary and synergistic fashion, while at the same time utilizing both programs and staff to their fullest potential.

For all of these reasons, I urge the Committee to issue a favorable report on HB 502.

Respectfully submitted,



Lisa Kershner  
Public Access Ombudsman