

To whom it may concern:

Pursuant to the state open records law Md. General Provisions Code Ann. Secs. 4-101 to 4-601, I write to request access to and a copy of the documents/records that list:

All County Email retention policies/controls/system settings/document preservation/archiving as it relates to individual emails in the <@washco-md.net> "domain";

referencing "The **established email system retention settings** no longer cover the date range you've indicated." September 27, 2021 letter from Counsel Kevin Karpinski "RE: *Public Information Act Request dated 8/30/2021*" - Attached hereto and incorporated herein by reference;

specifically as it relates to "brady materials", "criminal material evidence", or open MPIA request from the Public;

AND;

the list/document/policy that administers controls of access/information in which names of specific employees can be inferred;

that would have access/permission/control to permanently delete an "email" record from the <@washco-md.net> "server"/file retention system/public record archive.

Note: Open MPIA request From June 15th, 2020 attached and incorporated herein for by reference; in which the "deleted records" in September 27th, 2021 letter were requested and the aforesaid Request has not been withdrawn. The MPIA Ombudsman and/or Attorneys have been in negotiation of these "requests" since at least May 1st, 2020, as well as a preservation letter sent on December 2[3rd], 202[0]. The Litigation is ongoing as well as law enforcement proceedings and the Ombudsman mediation concluded on September 1st, 2021 .

I agree to pay any reasonable copying and postage fees of not more than \$50, however I request electronic delivery if available. If the cost would be greater than this amount, please notify me. Please provide a receipt indicating the charges for each document.

As provided by the open records law, if you deny this request, I will expect a written response within ten (10) working days. See Md. General Provisions Code Ann. § 4-203(b)(2). If my request is approved, the law requires that you respond as soon as reasonably possible. In no case, however, can this period exceed thirty (30) days. See Sec. 4-203(b)(1).

If you choose to deny this request, please provide a written explanation for the denial including a reference to the specific statutory exemption(s) upon which you rely. Also, please provide all segregable portions of otherwise exempt material.

I would note that willful violation of the open records law can result in a fine of up to \$1,000 and the award of actual damages, reasonable counsel fees and other litigation costs. See Md. General Provisions Code Ann. § 4-402.

Thank you for your assistance.

Sincerely,

Justin K Holder

308 west chapline st Sharpsburg md 21782

2403562008

"It is often true that a requestor is at a disadvantage in formulating a PIA request because the requestor does not know what records the agency keeps or how it keeps them. It is part of every agency's mission to be as transparent as the State's sunshine laws, including the PIA, require it to be. A public records request is not an occasion for a *game of hide and seek*. For that reason, if possible, an agency should in good faith provide some reasonable assistance to the requestor in refining the request for the records the requestor seeks. Of course, nothing requires the requestor to accept such assistance." [emphasis added] **160 A.3d 658 (2017) 453 Md. 201 Gary Alan GLASS v .ANNE ARUNDEL COUNTY**, Maryland, et al.

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Follow up October 6th, 2021 MPIA:

MPIA - County "Offsite" Cloud Storage Policy and Contracts

To whom it may concern:

Pursuant to the state open records law Md. General Provisions Code Ann. Secs. 4-101 to 4-601, I write to request access to and a copy of the documents/records that list:

All County Contracts/Invoices/Agreements/MOU/policies as it relates to offsite backup storage or cloud storage of the County data preservation of emails in the <@washco-md.net> "domain";

referencing "We have found nothing to satisfy your request(s), no matter how the search parameters are manipulated, **due to system retention constraints.**" September 27, 2021 letter from Counsel Kevin Karpinski "RE: Public Information Act Request dated 8/30/2021" - Attached hereto and incorporated herein by reference;

specifically as it relates to "brady materials", "criminal material evidence", or open MPIA request from the Public;

AND;

the list/document/policy that administers controls of access/information in which names of specific employees can be inferred;

related to "Performing and monitoring nightly, weekly and monthly backups of all enterprise and departmental data." as listed at:

<https://www.washco-md.net/information-systems-home/it-infra-ops/>

that would have access/permission/control to change/corrupt/delete an "email" backup/cloud/offsite record from the <@washco-md.net> "server"/file retention system/public record archive.

I agree to pay any reasonable copying and postage fees of not more than \$50, however I request electronic delivery if available. If the cost would be greater than this amount, please notify me. Please provide a receipt indicating the charges for each document.

As provided by the open records law, if you deny this request, I will expect a written response within ten (10) working days. See Md. General Provisions Code Ann. § 4-203(b)(2). If my request is approved, the law requires that you respond as soon as reasonably possible. In no case, however, can this period exceed thirty (30) days. See Sec. 4-203(b)(1).

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KARPINSKI, CORNBROOKS & KARP, P.A.

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OF COUNSEL

RICHARD COLARESI
RETIRED

September 27, 2021

via email jholder2004@gmail.com only

Justin Holder

308 West Chapline Street

Sharpsburg, Maryland 21782

RE: Public Information Act Request
dated 8/30/2021

Dear Mr. Holder:

I am in receipt of your August 30, 2021 email, which is acknowledged as persistence of recent related email requests dated July 21, July 22, August 4 and August 20, 2021, several previous 2020 requests including those dated June 15th and June 23rd for blevey@washco-md.net emails; August 3rd for morral7@msn.com emails; September 14th for emails between blevey@washco-md.net and hullscraneservice@hotmail.com; October 14th for a renewal of the August 3rd request for morral7@msn.com emails; October 16th for morral6@msn.com emails; and October 19th and November 4th for blevey@washco-md.net emails, as well as an additional 2021 email request dated May 13th for clmorral@gmail.com emails, among others. Your email(s) request records pursuant to the Maryland Public Information Act, Md. Code Ann., Gen'l Prov. Art. §§4-101 *et seq.* ("PIA"). Your July 21 and August 30, 2021 requests and the County's correlating response are set forth below.

July 21, 2021: "All emails/correspondence/communication with the Sheriff's Department and/or another county official/employee; Sent or Received; With the email address Morral7@msn.com. Please include: all emails/correspondence/communication in which the email Morral7@msn.com is a party aforesaid email; to include forwarded emails or cc, such as a June 2nd, 2020 email forwarded to blevey@washco-md.net from townhall@keedysvillemd.com

September 27, 2021

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originally sent from Morral7@msn.com on May 29th, 2020. Please include all attachments to the aforesaid emails.

August 31, 2021: "I have the emails between the address requested and sao. I also have 1 email to the Sheriff. I specifically requested the emails sent June 2nd, 2020 to blevey@washco-md.net. I have not received those emails. I have undisputed proof and personal knowledge these emails exist."

The County's Director of Information Systems has conducted a search of the County's email system based on the search parameters set forth in your requests. No records, other than what was provided to you by my office on August 23, 2021, were retrieved.

Please note that although the County email system is administered by the County Division of Information Technology, it is the discretion of each individual system user as to how all communications are saved and filed, including emails sent or received through the email account. As a means of organization, some users delete emails as soon as the related matter has been handled. Deleted emails are no longer accessible after a certain time period. The established email system retention settings no longer cover the date range you've indicated. We have found nothing to satisfy your request(s), no matter how the search parameters are manipulated, due to system retention constraints.

Sincerely yours,

KARPINSKI, CORNBROOKS & KARP, P.A.

/s/

BY: Kevin Karpinski

KK:bjap

Justin Holder

308 West chapline st

Sharpsburg, Md 21782

(240) 356 -2008

Washington County Government 'Writ Large

Washington County Commissioners

Served only by Electronic Mail to <kdowney@washco-md.net> on 12/23/20:

Washington County Maryland Attorney

100 West Washington Street, Room 1101

Hagerstown, MD 21740

MPIA Request in 2020 and Tort Claim Notices 2020 - Documents, EMAILS, Correspondence,
MDE Law 9-503 9-506, 9-521 and Environmental Standing ACT, County Road Repair

Dear Commissioners and agents/attorneys thereof,

I am sending you this letter regarding your clients' obligation to preserve and collect all electronically stored information ("ESI") related to the claims and defenses in the above matter for litigation. Because you have represented Washington County from the beginning of this matter, I am sure you have advised them of their duties to preserve and protect all potentially relevant materials. Nonetheless, we specifically request that you act immediately to preserve, protect and hold any potentially relevant materials, documents, files, and information to prevent the possible spoliation of evidence of the loss and/or destruction of materials that are discoverable in any potential future litigation. Failure to cooperate with this request may expose Washington County to potential liability, adverse evidentiary presumptions, and/or sanctions for spoliation of evidence.

This notice applies to any and all electronically stored information and/or paper documents or other tangible potential evidence in the possession, custody or control of you or the Commisioners, Administrator's, or agents thereof related to: Deleted documents, attachments, emails, text, facebook messages, whatsapp messages, or any other social media or instant messaging; (2) the emails that were deleted and in possession of Washington County 'writ large, and any subsequent found emails; (3) the events described in the Correspondance; and (4) any claims or defenses to be asserted in the instant litigation. This notice also applies to all on and off-site computer systems, and removable electronic media, as well as laptops, tablets, cell phones, service and storage devices (including all remote access and wireless devices) used by Washington County or it's agents thereof.

Specifically, Washington County was found to have deleted/lost Public Records or neglected statutory requirements, correspondance and emails. All Public Records, messages, email messages, call logs, and any other messages, communications, transmissions of any sort during or related to the subject matter of the litigation must be preserved. Please note that electronic devices and computer systems such as those used by Washington County contain information that is relevant to this matter but may not be user-accessible, although it would be accessible to a properly qualified expert. This information could include relevant information such as location data, web-browsing history, call logs and durations, etc., which is relevant to the verification of the data retrieved by the Forensic reconstruction expert. If Washington County or agents thereof utilized any sort of backup, whether through iCloud, iTunes, or any other physical or internet-based backup, those backups must be preserved. In some cases, the continued use of a pre-existing backup service, such as iCloud, will overwrite and destroy previous backups, which would destroy relevant information.

This notice also includes, without limitation, email and other electronic communications; electronically stored documents, records, images, video recordings, surveillance recordings, graphics, recordings, spreadsheets, financial statements, databases, calendars, system usage logs, contact manager information, telephone logs, internet usage files, deleted files, cache files, user information and other data. Further, this notice applies to archives, backup and disaster recovery tapes, discs, drives, cartridges, voice mail and other data. All operating systems, software, applications, hardware, operating manuals, codes, keys and other support information needed to fully search, use, and access the electronically stored information must also be preserved. This notice is applicable to Washington County , Commissioners, Administration, and all agents thereof.

The importance of immediate action cannot be overstated. Electronically stored information can easily be corrupted, altered, and/or deleted in normal daily operations. Booting a drive, running an application, or reviewing a document can permanently alter evidence. To protect all potential evidence and discoverable materials, a forensic image (mirror image or clone image) should be made of pertinent hard drives, solid-state drives, computers, phones, tablets and networks servers. This forensic image captures all current data, including the background or metadata about each document. Simply copying data to a flash drive, CD-ROM or other common back-up medium may not be adequate.

We request that you follow the above procedures to preserve paper and electronically stored information created after this notice.

Current law and rules of civil procedure apply to the discovery of electronically stored information just as they apply to other evidence, and confirm the duty to preserve such information for discovery. Washington County and their agents must take all reasonable steps to preserve this information until this litigation is finally resolved. Failure to take the necessary steps to preserve the information addressed in this letter or other pertinent information in Washington County s' possession or control may result in sanctions, civil liability or other penalties as provided by law.

To properly fulfill their preservation obligations, we ask that Washington County immediately stop all scheduled data destruction, electronic or physical shredding, rotation of backup tapes, and the sale, gift or destruction of hardware and ask that it please notify all individuals and affiliated organizations of the need and duty to take the necessary affirmative steps to comply with the duty to preserve evidence.

Respectfully,

A handwritten signature in black ink, appearing to read "Justin Holder". The signature is written in a cursive, flowing style.

Justin Holder



Justin Holder <jholder2004@gmail.com>

RE: Fwd: Re: Public information request (ethics)

Downey, Kirk <kdowney@washco-md.net>

Wed, Nov 25, 2020 at 10:45 PM

To: Justin Holder <jholder2004@gmail.com>**Cc:** "McCarty, Rachael" <rmccarty@washco-md.net>

Dear Mr. Holder:

Thank you for your kind words and compliments.

I would be happy to help you narrow your search. Please be advised that the Ethics Ordinance requires disclosure statements from elected officials, certain County employees, and appointees to boards and commissions. Elected officials must make financial and conflict of interest disclosures, while employees and appointees are generally limited to disclosures of conflicts of interests. Given the number of individuals this involves, the pieces of paper accumulate quickly. If you would narrow the focus of your search as to individuals and years, it would limit your costs and our efforts significantly.

Moreover, most documentation is comprised of disclosure statements rather than complaints, which are relatively few, and a number of these are already in the public record.

Finally, I would welcome an opportunity to discuss how we might come to an understanding to balance your desire for public information and the resources it requires for us to provide it. It appears that your requests are overly broad, burdensome to us, and costly to you. While we will continue to respond as the law requires, it appears that this approach is serving neither party well. Given your apparent sincerity in your communications, I don't think you want to be a burden on County government, and we don't want to be an impediment to your right to receive information to which you--or anyone else--would be entitled. **Nevertheless, our current thrust and parry appears unproductive to both parties.** Perhaps we and your counsel can have a frank conversation to address the base issues that may be the foundation of these interactions.

Best wishes for a very **Happy Thanksgiving.**

Kirk

From: Justin Holder <jholder2004@gmail.com>**Sent:** Wednesday, November 25, 2020 2:23 PM**To:** Downey, Kirk <kdowney@washco-md.net>**Cc:** McCarty, Rachael <rmccarty@washco-md.net>**Subject:** Re: Fwd: Re: Public information request (ethics)