

IN THE CIRCUIT COURT OF BALTIMORE CITY, MARYLAND

**American Friends Service Committee,
Middle Atlantic Region**
4806 York Road
Baltimore, MD 21212

Baltimore Emergency Response Network,
325 East 25th Street
Baltimore, MD 21218

Baltimore Pledge of Resistance,
325 East 25th Street
Baltimore, MD 21218

Jonah House,
1303 Moreland Avenue
Baltimore, MD 21216

Janine Maria Allwine,
2702 Louise Avenue
Baltimore, MD 21214

Ellen E. Barfield,
814 Powers Street
Baltimore, MD 21211

Marilyn J. Carlisle,
1238 Ramblewood Road,
Baltimore, MD 21239

Susan Schofield Crane,
1301 Moreland Avenue
Baltimore, MD 21216

Cynthia Holt Farquhar,
115 Springside Drive,
Timonium, MD 21093

Carol Sue Gilbert, O.P.,
1303 Moreland Avenue
Baltimore, MD 21216

Jay Gillen,
1523 Lakeside Avenue
Baltimore, MD 21218

Case No. _____

Max J. Obuszewski,
3338 Gilman Terrace
Baltimore, MD 21211

Ardeth Platte, O.P.,
1303 Moreland Avenue
Baltimore, MD 21216

Levanah Ruthschild,
2615 Ailsa Avenue
Baltimore, MD 21214

Plaintiffs,

v.

Department of State Police,
1201 Reisterstown Road
Pikesville, MD 21208

Defendant.

COMPLAINT

Plaintiffs American Friends Service Committee, Middle Atlantic Region, Baltimore Pledge of Resistance, Baltimore Emergency Response Network, and Jonah House, on behalf of their individual members, as well as the above named individual members of these groups, (collectively, “Plaintiffs”), by and through their undersigned counsel, and for their complaint against Defendant Department of State Police (“MSP”), state, claim, and allege as follows:

INTRODUCTION

1. Defendant MSP has improperly withheld a record (the “Denied Record”) that is required to be disclosed by the Maryland Public Information Act (“MPIA”), Maryland Code Annotated, State Government Article §§ 10-611 *et seq.* The Denied Record is relevant to whether it the MSP conducted surveillance of Plaintiffs’ political protest activities. The

principles of open government embodied by the MPIA prohibit Defendant MSP from continuing to withhold this document.

PARTIES

2. Plaintiffs are groups and individual activists who work for peace through non-violent civil resistance, including efforts to educate the public. Among other activities, Plaintiffs have periodically traveled to the National Security Agency's ("NSA") facilities in Fort Meade, Maryland to protest the NSA's activities and petition for changes in NSA policies and practices. Plaintiffs collectively filed an MPIA request, through counsel, with the MSP seeking, in part, the document now at issue in this case.

3. Defendant MSP is a law enforcement agency of the Maryland state government whose headquarters is located at 1201 Reisterstown Road, Pikesville, Maryland 21208. Defendant MSP has refused to permit Plaintiffs to inspect a document responsive to their MPIA request.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this action pursuant to Md. Code Ann., Cts. & Jud. Proc. § 1-501. Venue is proper in this Court pursuant to Md. Code Ann., State Gov't § 10-623.

STATEMENT OF CERTAIN BACKGROUND FACTS

5. On several occasions in 2003 and 2004, Plaintiffs and their individual members traveled together to protest the Iraq war at the headquarters of the National Security Agency at Fort Meade. During the course of one of these demonstrations, several individuals were arrested and charged with criminal trespass and disorderly conduct. While defending themselves against these charges, the individuals obtained in discovery documents suggesting that Plaintiffs had

been the target of surveillance activity. For example, one document indicated that a “Baltimore Intel Unit” had monitored Plaintiffs’ activities as they gathered at the American Friends Service Committee in Baltimore, and then traveled to the NSA for the protest. *See* Exh. A.

6. Concerned that their civil liberties may have been violated by the surveillance, on August 29, 2006, Plaintiffs filed requests under the federal Freedom of Information Act with several federal agencies and under the MPIA, Md. State Code Ann., State Gov’t § 10-611 *et seq.*, with six state agencies, including the MSP. The MPIA requests sought disclosure of records documenting “any monitoring, surveillance, observation, questioning, interrogation, investigation, infiltration and/or collection of information” relating to Plaintiffs or their individual members. The requests sought disclosure of such records generally and specifically as they related to arrests of individual members of Plaintiffs’ organizations in connection with protest activities in Maryland. *See* Exh. B.

7. On January 10, 2007, the MSP responded that it had one record in its custody that was responsive to Plaintiffs’ MPIA requests, a record that the MSP stated “pertains to one of the requesters.” The MSP declined to disclose the record, citing the confidential source and investigative technique exemptions to the MPIA. The MSP did not provide any details regarding the record or its contents, the requestor to whom it pertained, what type of investigation it related to, why it was created, or what promises of confidentiality had been made. Nor did the MSP provide any details about why the responsive record could not be redacted to avoid disclosure of confidential information. *See* Exh. C.

8. Plaintiffs sent a letter to the MSP on September 7, 2007, requesting that Defendant MSP reconsider its decision to withhold the Denied Record. Plaintiffs set forth in detail why Defendant MSP’s decision was contrary to the letter and spirit of the MPIA.

Plaintiffs suggested that in order to protect the identities of any confidential sources or to prevent the disclosure of confidential police methods, Defendant MSP could redact such information. Finally, Plaintiffs sought further descriptive information about the Denied Record that could have helped Plaintiffs evaluate the legal merits of Defendant MSP's position. *See* Exh. D.

9. On December 18, 2007, the MSP rejected Plaintiffs' request that it reconsider its position regarding the Denied Record, produce a redacted version of the record or provide further descriptive detail as to the record. *See* Exh. E.

10. As of this date, Defendant MSP has not provided Plaintiffs access to the Denied Record.

COUNT ONE

Improper Denial of Access to Records

11. Plaintiffs incorporate by reference the allegations made in paragraphs 1 through 10 above as if each were separately restated herein.

12. Under the MPIA, Md. State Code Ann., State Gov't § 10-613, "[e]xcept as otherwise provided by law, a custodian shall permit a person or governmental unit to inspect any public record at any reasonable time."

13. The record requested by Plaintiffs is a public record under Defendant MSP's possession, custody and control. Because the MSP refuses to provide any description of the Denied Record, Plaintiffs are unable to assess the merits of its assertion that the Denied Record is exempt from disclosure under the MPIA. Even if some portion of the Denied Record is exempt from disclosure, the MSP must "permit inspection of any part of the record that is subject to inspection and is reasonably severable." Md. Code Ann., State Gov't § 10-614(b)(3)(iii).

14. Defendant MSP has violated the MPIA by refusing to allow Plaintiffs to inspect the Denied Record or a redacted version thereof, or to provide legally sufficient descriptive information about the Denied Record.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court:

- (1) Enter a judgment in favor of Plaintiffs that Defendant MSP has violated the MPIA;
- (2) Order Defendant MSP to permit Plaintiffs to inspect and copy the Denied Record or a redacted version thereof, or, in the alternative, to provide Plaintiffs with descriptive information sufficient to justify its withholding;
- (3) Award Plaintiffs the costs they have incurred, including attorneys' fees, in maintaining this action, as authorized under the MPIA, Md. Code Ann., State Gov't § 10-623(f); and
- (4) Grant Plaintiffs such other relief as is just and proper.

Respectfully submitted,

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