

MARYLAND STATE POLICE,	*	IN THE
	*	COURT OF APPEALS
Petitioner,	*	
	*	OF MARYLAND
v.	*	
TELETA DASHIELL,	*	September Term, 2014
	*	
Respondent/Cross-Petitioner.	*	Petition Docket No. 558

* * * * *

**ANSWER TO RESPONDENT/CROSS-PETITIONER’S
CROSS-PETITION FOR WRIT OF CERTIORARI**

There being no objection from the respondent, Teleta Dashiell, to either the petition of the Maryland Department of State Police (the “Department”) for a writ of certiorari or its motion to stay the effect of the Court of Special Appeals’ ruling, the Court should grant the petition and the motion to stay for the reasons previously explained. The Court should, however, deny the respondent’s cross-petition for a writ of certiorari seeking review of the Court of Special Appeals’ conclusion that Ms. Dashiell is not a “person in interest” with respect to the records at issue in this appeal.

While both parties agree that a writ of certiorari is desirable and in the public interest to address the question presented in the Department’s petition, the answer to the question posed in the cross-petition has been clearly established for more than two decades. As defined in the Maryland Public Information Act (“PIA”), the term “person in interest” means a “person” who is “the subject of the public record or a designee of the person.” Md. Code Ann., Gen. Prov. § 4-101(e)(1). In *Mayor & City Council of Baltimore v. Maryland Comm. Against the Gun Ban*, this Court examined “[t]he Act’s

history covering reports of police investigations” and concluded that it is “clear that the ‘person in interest’ referred to in § 10-618(f)(2) [now codified as Gen. Prov. § 4-351(b)] is the person who is investigated.” 329 Md. 78, 92 (1993). *See also Briscoe v. Mayor & City Council of Baltimore*, 100 Md. App. 124, 130 (1994) (holding that a complaining witness is not the person in interest with respect to an investigatory record).

Although the holding in *Maryland Committee Against the Gun Ban* focused on the phrase “person in interest” in the Act’s discretionary exemption for investigative records, in determining the correct interpretation, the Court addressed the use of “person in interest” elsewhere in the PIA. The Court found it significant that in the Act’s mandatory nondisclosure provisions—including the “personnel records” exemption (*see* then State Gov’t § 10-616(i)(2), now Gen. Prov. § 4-311(b)) and a similar exemption for “retirement records” (*see* then State Gov’t § 10-616(g)(2)), now Gen. Prov. § 4-312(b))—the General Assembly provided exceptions permitting inspection by the “person in interest” or “an elected or appointed official who supervises the work of the individual” (in the case of a personnel record) or “the appointing authority of the individual” (in the case of a retirement record). *See Maryland Committee Against the Gun Ban*, 329 Md. at 91. From these statutory references to “supervis[i]on” of “the individual” and the “appointing authority of the individual,” the Court inferred that the “person in interest” with respect to such records is the relevant individual who is subject to supervision by a public official or appointed by an appointing authority. *Id.*

In the years since *Maryland Committee Against the Gun Ban* was decided, its construction of the term “person in interest” and its supporting analysis have been treated as authoritative by the government agencies that implement the PIA, by lower courts when entertaining actions for judicial review under the PIA, and by this Court itself. *See, e.g., Montgomery County v. Shropshire*, 420 Md. 362, 380-81 (2011) (relying on the analysis in *Maryland Committee Against the Gun Ban* and concluding that the PIA’s personnel records exemption did not permit disclosure of a police internal affairs investigatory record to a county’s “inspector general,” who was not among the supervisors of the employees deemed to be the “persons in interest”); *Office of the Attorney General v. Gallagher*, 359 Md. 341, 348-50 (2000) (relying on analysis in *Maryland Committee Against the Gun Ban* in holding that the exception for inspection by a “person in interest” found in the PIA’s investigatory records exemption does not override other exemptions in the Act); *see also Maryland Dep’t of State Police v. Md. State Conf. of NAACP Branches*, 430 Md. 179, 191-93 (2013) (reaffirming *Gallagher*’s holding).

The language of the PIA, as interpreted by this Court, offers no textual support for the cross-petition’s contention that the meaning of “person in interest” with respect to a record of a police internal affairs investigation somehow may be altered by the outcome of the investigation, *i.e.* whether or not a complaint against that individual employee is sustained. In the absence of any indication that the General Assembly intended the

meaning suggested by Ms. Dashiell, the issue raised by the cross-petition does not warrant further review.

CONCLUSION

For the reasons stated, the cross-petition should be denied.

Respectfully submitted,

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December 9, 2014

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of December, 2014, Petitioner's Answer to Respondent/Cross-Petitioner's Cross-Petition for Writ of Certiorari was mailed first class, postage prepaid and emailed to:

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