

**IN THE CIRCUIT COURT
FOR BALTIMORE CITY, MARYLAND**

**AMERICAN CIVIL LIBERTIES UNION
OF MARYLAND**

3600 Clipper Mill Road – Suite 350
Baltimore, MD 21211

Plaintiff,

vs.

**OFFICE OF THE SHERIFF OF
CALVERT COUNTY, MD**

30 Church Street
Prince Frederick, MD 20678

-and-

MIKE EVANS in his official capacity as
Sheriff of Calvert County, MD
30 Church Street
Prince Frederick, MD 20678

Defendants.

Case No.

CIVIL DIVISION

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CIRCUIT COURT FOR
BALTIMORE CITY

COMPLAINT – CIVIL ACTION

Plaintiff, the American Civil Liberties Union of Maryland, Inc. (the “ACLU”), by and through its undersigned attorneys, hereby sues Defendants, the Office of the Sheriff of Calvert County, Maryland (the “Sheriff’s Office”) and Mike Evans, in his official capacity as the Calvert County Sheriff, upon the following causes of action and averments of fact.

NATURE OF THE ACTION

1. In July 2021, the ACLU requested documents from Defendants under the Maryland Public Information Act (“MPIA”), Maryland Code, General Provisions Article (“G.P.”) § 4-101 *et seq.*, relating to the use of three police searching techniques by the Sheriff’s Office. The ACLU

also requested a waiver of fees associated with that request. In their response, Defendants stated that the Sheriff's Office possesses documents that are responsive to the ACLU's request, but denied the ACLU's request for a fee waiver, citing only the ACLU's ability to pay and the resources required to produce the requested documents. Defendants withheld the requested documents until the ACLU paid the requested fees and continues to withhold the documents. The ACLU now brings this action against Defendants to challenge Defendants' denial of the ACLU's request for a fee waiver and to seek an order requiring Defendants to produce the responsive documents.

PARTIES

Plaintiff

2. Plaintiff, the American Civil Liberties Union of Maryland is a Maryland non-profit membership organization with its principal place of business at 3600 Clipper Mill Rd., Suite 350, Baltimore, Maryland. The American Civil Liberties Union of Maryland is the Maryland affiliate of the national organization the American Civil Liberties Union.

3. The ACLU "exists to empower Marylanders to exercise their rights so that the law values and uplifts their humanity."

4. To further its mission, the ACLU gathers information and authors reports about issues important to the lives of Marylanders. Examples of the ACLU's reporting efforts include:

- a. An August 2016 report entitled "Detained Without Process: The Excessive Use of Mandatory Detention Against Maryland's Immigrants";
- b. More recently, an October 2021 report entitled "Chasing Justice — Addressing Police Violence and Corruption in Maryland."

5. The ACLU publishes these reports on its website (<https://www.aclu-md.org/en/publications>) along with summaries of their contents.

6. The ACLU also publishes shorter form news stories and blog posts on its website (<https://www.aclu-md.org/en/news>).

7. To protect the civil rights of all Marylanders, the ACLU also engages in legal advocacy and litigation to protect the rights of Marylanders.

8. The ACLU uses information gathered through requests under the MPIA to research and create its public reports and to help guide its legal advocacy efforts.

9. The ACLU routinely requests fee waivers when it makes document requests under the MPIA and those requests are routinely granted. Some of the Maryland agencies that have waived fees in response to document requests by the ACLU are the Baltimore City Police Department, the Baltimore County Police Department, the Frederick City Police Department, the Montgomery County Police Department, the Office of the Sheriff of Frederick County, the Prince George's County Police Department, and the Office of the Sheriff of Wicomico County.

Defendants

10. The Office of the Sheriff of Calvert County, Maryland, is an agency of the Calvert County government and the custodian of the records sought in this case, as defined by the MPIA, Md. Code, G.P. § 4-101(d). It has its headquarters at 30 Church Street, Prince Frederick, Maryland.

11. Mike Evans is the current Calvert County Sheriff.

JURISDICTION AND VENUE

12. This Court has jurisdiction over this action under Maryland Code Ann., Cts. & Jud. Proc. § 1-501. Venue is proper in Baltimore City under Md. Code, G.P. § 4-362(a)(3)(i).

FACTS

13. In a letter dated July 22, 2021 (the "July 22 request"), the ACLU requested from Defendants documents related to the use of three types of police searches by the Sheriff's Office

and requested that Defendants waive all fees associated with the request. A copy of the July 22 request is attached hereto as **Exhibit A**.

14. The July 22 request sought three categories of documents:

- a. “Any records showing the number of body searches, strip searches, and manual body cavity searches conducted each year from 2017 to present”;
- b. “Any video and/or audio recordings, including dashboard camera footage and/or body camera footage for all strip searches and manual body cavity searches performed from 2017 to present”; and
- c. “Any field observation reports, uniform criminal citation reports (DC/CR 45), criminal investigation/case reports, arrest reports, statements of charges (DC/CR 2), probable cause continuation sheets (DC/CR 4), and/or Traffic Stop Data Collection forms that relate to or arise out of any strip search or manual body cavity search performed from 2017 to present.”

15. In the July 22 request, the ACLU requested that “all fees related to this request be waived” pursuant to Md. Code, G.P. § 4-206(e).

16. In the July 22 request, the ACLU clarified that it was “request[ing] this information to carry out [its] charitable mission.”

17. The ACLU explained in the July 22 request that disclosure of the documents was “in the public interest” because: “(1) the information sought would significantly contribute to the public understanding of the sheriff’s office operations and activities; (2) there is a strong public interest in having the requested information available as there is a genuine public concern regarding policing; and (3) the waiver would primarily benefit the public, not a narrow personal or commercial interest.”

18. In the July 22 request, the ACLU also advised Defendants that “the [ACLU] has a limited ability to pay for the copying and other charges associated with [the] MPIA requests.”

19. On or about July 23, 2021, the ACLU sent the July 22 request by electronic mail to Captain David Payne, who was designated by the Sheriff’s Office on its website as the appropriate recipient for MPIA requests.

20. Notwithstanding this designation, Captain Payne disputed being the proper recipient for MPIA requests and insisted that the ACLU re-send the July 22 request to Assistant Sheriff, Lieutenant Colonel P. D. McDowell.

21. The ACLU then sent the July 22 request to Lt. Col. McDowell, also on or about July 23, and received an email from Captain Payne confirming that the Sheriff’s Office had received the request.

22. On or about the same day, the ACLU sent a hard copy of the July 22 request by certified mail to the Sheriff’s Office, addressed to Captain Payne.

23. After hearing nothing from Defendants, on or about September 7, Gina Elleby, Legal Advocacy Manager for the ACLU, called the Sheriff’s Office to inquire about the status of the request. Lt. Col. McDowell returned Ms. Elleby’s call and conveyed that he was conferring with the Attorney General to ensure the requested records were disclosable.

24. Over the following two months, the parties engaged in correspondence and a series of phone calls clarifying and narrowing the scope of the July 22 request.

25. Defendant formally responded to the July 22 request in a letter dated November 8, 2021 (the “November 8 response”). A copy of the November 8 response is attached hereto as

Exhibit B.

26. In the November 8 response, Defendants explained that “[t]he Sheriff’s Office does not have in its custody any ‘records showing the number of body searches, strip searches, and manual body cavity searches conducted each year from 2017 to the present.’”

27. Regarding the ACLU’s second and third requests, Defendants explained that:

- a. “The Criminal Investigations Bureau has approximately 240 cases where responsive records may exist.” (Emphasis added.) Defendants indicated that production of these records would take approximately 240 hours of personnel time.
- b. “The Detention Center likely possesses video and/or audio recordings of strip searches performed from 2017 to the present at the detention center.” Defendants indicated that production of these records would take approximately 126 hours of personnel time.
- c. “The Patrol Bureau had one known report of an incident where a suspect was found to have CDS in his body cavity.” Defendants produced this responsive record. *See* Attachment to **Exhibit B** (Case Report Supplement dated Feb. 10, 2021).

28. Defendants indicated, however, that it would require the ACLU to pay \$12,271.50 for Defendant to produce the remaining responsive records.

29. Ignoring the public interest apparent from the face of the ACLU’s July 22 request, Defendants denied the ACLU’s request for a waiver of fees because the ACLU “has the ability to pay and there is no apparent public interest served by [the July 22 request].”

30. In a five-page letter dated December 21, 2021 (the “December 21 reply”), the ACLU, by its undersigned counsel, explained why a waiver of fees associated with the July 22 request was in the public interest, and requested that Defendants reconsider and reverse their denial

of the ACLU's request for a fee waiver. A copy of the December 21 reply is attached hereto as **Exhibit C**.

31. Defendants reiterated their decision to deny the waiver in a letter dated January 6, 2021 (the "January 6 denial"). A copy of the January 6 denial is attached hereto as **Exhibit D**.

32. The January 6 denial states simply: "Given the Sheriff's Office resources needed to satisfy the request, your request for a waiver of fees is denied."

COUNT I: IMPROPER DENIAL OF WAIVER OF FEES

33. The ACLU incorporates preceding paragraphs 1-32 by reference as if each were fully restated herein.

34. Under Md. Code, G.P. § 4-206(e), a custodian of records must waive the fees associated with a records request if the requestor asks for a waiver and the custodian determines that a waiver would be in the public interest.

35. A waiver of fees associated with the July 22 request is in the public interest and Defendants' denial of the fee waiver was arbitrary and capricious.

36. Defendants violated the MPIA by denying the ACLU's request for a waiver of the fees associated with the July 22 request.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff ACLU respectfully requests that this Court:

- (1) Enter judgment in favor of Plaintiff ACLU declaring that Defendants have violated the MPIA;
 - (2) Order Defendants to waive all fees associated with the July 22 request;
 - (3) Order Defendants to produce all documents associated with the July 22 request;
- and

- (4) Award Plaintiff ACLU its costs, including attorneys' fees, it has incurred in maintaining this action, as authorized by Md. Code., G.P. § 4-362(f).

March 2, 2022

Respectfully submitted,



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Attorneys for Plaintiff, American Civil Liberties Union of Maryland



July 22, 2021

Public Information Officer
Major Dave McDowell, Assistant Sheriff
Calvert County Sheriff's Office
30 Church Street
Prince Frederick, Maryland 20678

AMERICAN CIVIL
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OF MARYLAND

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WWW.ACLU-MD.ORG

OFFICERS AND DIRECTORS
JOHN HENDERSON
PRESIDENT

DANA VICKERS SHELLEY
EXECUTIVE DIRECTOR

ANDREW FREEMAN
GENERAL COUNSEL

VIA ELECTRONIC AND CERTIFIED MAIL, RETURN RECEIPT REQUESTED,

Re: Maryland Public Information Act Request

Dear Major McDowell or Custodian of Records:

This is a request under the Maryland Public Information Act (MPIA), Md. Code, Gen. Prov., §§ 4-101 *et seq.* On behalf of the American Civil Liberties Union of Maryland, we wish to inspect and copy all records in your custody and control pertaining to the following:

- a. Any records showing the number of body searches, strip searches, and manual body cavity searches conducted each year from 2017 to the present;
- b. Any video and/or audio recordings, including any dashboard camera footage and/or body camera footage for all strip searches and manual body cavity searches performed from 2017 to present; and
- c. Any field observation reports, uniform criminal citation reports (DC/CR 45), criminal investigation/case reports, arrest reports, statements of charges (DC/CR 2), probable cause continuation sheets (DC/CR 4), and/or Traffic Stop Data Collection forms that relate to or arise out of any strip search or manual body cavity search performed from 2017 to present.

We anticipate that we will want copies of some or all of the records sought. Pursuant to Gen. Prov. § 4-206(e), we request that all fees related to this request be waived. The American Civil Liberties Union Foundation of Maryland is a non-profit 501(c)(3), receives its funding from charitable donations, and does not charge for its legal services. Our non-profit, tax-exempt organization is dedicated to protecting the civil liberties of all Marylanders and visitors to Maryland.

We request this information to carry out our charitable mission. This request meets the criteria for a fee waiver under the MPIA, and fees associated with similar requests are regularly waived. The fee waiver would be in the public interest as: (1) the information sought would significantly contribute to the public understanding of the sheriff's office operations and activities; (2) there is a strong public interest in having the requested information available as there is a genuine public concern regarding policing; and (3) the waiver would primarily benefit the public, not a narrow personal or commercial interest. In addition, please note that the ACLU of Maryland has a limited ability to pay for the



AMERICAN CIVIL LIBERTIES UNION
FOUNDATION

Maryland

copying and other charges associated with MPIA requests. *See generally* Office of the Attorney General, Maryland Public Information Act Manual 7-5-7-9 (15th ed. 2020) (discussing criteria for waiver of fees under the MPIA). If the request for a waiver of fee is denied, please advise us in writing of the reason(s) for the denial and of the cost, if any, for obtaining a copy of the requested records.

If you determine that some portions of the requested records are exempt from disclosure, I will expect, as the Act provides in § 4-203(c)(1)(ii), that you provide me with any portion of the records that is subject to inspection. If all or any part of this request is denied, please provide me (1) the reasons for the denial, (2) the legal authority for the denial, (3) a brief description of the record that will enable me to assess the applicability of the legal authority for the denial, and (4) notice of the available remedies. Md. Code, Gen. Prov., § 4-203(c)(1)(i). The Act also requires in § 4-203(c)(1)(i)(2) that you may not decline to allow inspection of the full record on the grounds that part of the record is not subject to inspection, when redaction would resolve the issue. If no redaction is possible, an explanation must be provided describing why the redacted record cannot be provided.

It is essential that this request be fulfilled within 30 days, as required by Gen. Prov. § 4-203(a). Further, if you anticipate a delay, I expect a response within 10 days addressing (1) the amount of time that you estimate records production will take, (2) an estimate of the range of fees that may be charged to comply with the request, and (3) the reason for the delay. Md. Code Gen. Prov. § 4-203(b)(2). If I do not receive notice within the required time period, I will treat your failure to respond as a denial and seek appropriate relief.

Thank you for your time and attention to this matter, and I look forward to receiving your response. Please feel free to contact me with any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Gina Elleby", is written over a horizontal line.

Gina Elleby
Legal Advocacy Manager
ACLU of Maryland
elleby@aclu-md.org



Major S. R. Jones
Special Operations &
Homeland Security Bureau

Capt. K. Cross
Detention Center Administrator

Capt. T. M. Ireland
Office of Professional Standards

OFFICE OF THE SHERIFF CALVERT COUNTY

MIKE EVANS
SHERIFF

Lt. Col. P. D. McDowell
ASSISTANT SHERIFF

Major T. D. Reece
Detention Center Administrator

EXHIBIT B



Capt. R. V. Naughton
Patrol Bureau

Capt. T. K. Fridman
Investigations Bureau

Capt. W. B. Parrott
Administrative &
Judicial Services Bureau

November 8, 2021

Dear Ms. Elleby:

This letter responds to your letter dated July 22, 2021, in which you request records from the Calvert County Sheriff under the Maryland Public Information Act ("PIA"), General Provisions Article("GP") §§4-101 et seq. In your letter you requested the following:

- a. Any records showing the number of body searches, strip searches, and manual body cavity searches conducted each year from 2017 to the present;
- b. Any video and/or audio recordings, including any dashboard camera footage and/or body camera footage for all strip searches and manual body cavity searches performed from 2017 to present; and
- c. Any field observation reports, uniform criminal citation reports (DC/CR 45), criminal investigation/case reports, arrest reports, statements of charges (DC/CR 2), probable cause continuation sheets (DC/CR 4), and/or Traffic Stop Data Collection forms that relate to or arise out of any strip search or manual body cavity search performed from 2017 to present.

Since receiving your request, I reached out to you to discuss the difficulties and burdens associated with the Sheriff's Office search for responsive records and asked that if you seek records of some specific incident to please specify the incident so that responsive records can be located and produced. You declined this request. Having declined this request, I have made inquiries with all relevant command staff personnel to determine whether responsive records exist and what Sheriff's Office resources are necessary to satisfy your request. Based on this investigation, the Sheriff responds to your request as follows:

Detention Center
410-535-4300

Metro Line
301-855-1194

The Calvert House, 30 Church Street
Prince Frederick, Maryland 20678
410-535-2800

FAX
410-535-1770

For Hearing and
Speech Impaired
TDD-535-3491

EXHIBIT B

The Sheriff's Office does not have in its custody any "records showing the number of body searches, strip searches, and manual body cavity searches conducted each year from 2017 to the present." With respect to parts b and c of your request:

The Criminal Investigations Bureau has approximately 240 cases where responsive records may exist. We have determined that the locating, review, and production of any responsive records will take approximately 240 hours / 30 plus business days of Bureau personnel time.

The Detention Center likely possesses video and/or audio recordings of strip searches performed from 2017 to present at the detention center. We have determined that the locating, review, and production of any responsive records will take approximately 126 hours / 15 plus days of detention center and Information Technology Services personnel time.

The Patrol Bureau had one known report of an incident where a suspect was found to have had CDS in his body cavity. That report will be disclosed.

Given the Sheriff's Office resources needed to satisfy the request, the Sheriff's Office must charge a fee of \$12,271.50 to satisfy the request. Because your organization has the ability to pay and there is no apparent public interest served by your request, your request for a waiver of fees is denied. The Sheriff's Office will not begin the search and review of these records until receipt of this fee. See *Glass v. Anne Arundel County*, 453 Md. 201 (2017).


Pursuant to GP § 4-362, your client is entitled to seek judicial review of this decision. Your client also has the option to file a complaint with the Public Information Act Compliance Board concerning the amount of the fee charged, see GP § 4-1A-01 et seq., and may also refer any concerns about this decision to the Public Access Ombudsman pursuant to GP § 4-1B-01 et seq.

If you have any questions about this letter, please feel free to contact me.

Sincerely,



Lieutenant Colonel Dave McDowell

 CALVERT COUNTY SHERIFF'S OFFICE 30 Church St., Prince Frederick, MD 20678 CASE REPORT SUPPLEMENT		CASE NO. 2021-00007137	
E V E N T	DATE REPORTED	TIME	INCIDENT TYPE
	02/10/2021	12:01	
	OCURRED BETWEEN	TIME	LOCATION OF OCCURRENCE
AND	TIME	REPORTING OFFICER (NAME AND ID #)	STATUS / DATE
		Buckler, 6042	

O F F E N S E	STATUTE/ORDINANCE #	COMMIT/ATTEMPT	DESCRIPTION OF STATUTE/ORDINANCE
1			
2			
3			
4			
5			

S U B J E C T	SUBJECT CODE	NAME (LAST, FIRST, MIDDLE)		
	ADDRESS (STREET ADDRESS, CITY, STATE, ZIP)		PRIMARY PHONE	OTHER PHONE
	DOB	AGE	RACE	SEX
	HEIGHT	WEIGHT	HAIR COLOR	EYE COLOR
	INJURY TYPE		<input type="checkbox"/> APPARENT BROKEN BONES <input type="checkbox"/> LOSS OF TEETH <input type="checkbox"/> POSSIBLE INTERNAL INJURIES <input type="checkbox"/> UNCONSCIOUSNESS <input type="checkbox"/> HEAD INJURY <input type="checkbox"/> MINOR INJURY <input type="checkbox"/> MAJOR INJURY <input type="checkbox"/> SEVERE LACERATION <input type="checkbox"/> NONE <input type="checkbox"/> OTHER <input type="checkbox"/> STAB WOUNDS <input type="checkbox"/> BURNS <input type="checkbox"/> SERIOUS INJURY	

S U B J E C T	SUBJECT CODE	NAME (LAST, FIRST, MIDDLE)		
	ADDRESS (STREET ADDRESS, CITY, STATE, ZIP)		PRIMARY PHONE	OTHER PHONE
	DOB	AGE	RACE	SEX
	HEIGHT	WEIGHT	HAIR COLOR	EYE COLOR
	INJURY TYPE		<input type="checkbox"/> APPARENT BROKEN BONES <input type="checkbox"/> LOSS OF TEETH <input type="checkbox"/> POSSIBLE INTERNAL INJURIES <input type="checkbox"/> UNCONSCIOUSNESS <input type="checkbox"/> HEAD INJURY <input type="checkbox"/> MINOR INJURY <input type="checkbox"/> MAJOR INJURY <input type="checkbox"/> SEVERE LACERATION <input type="checkbox"/> NONE <input type="checkbox"/> OTHER <input type="checkbox"/> STAB WOUNDS <input type="checkbox"/> BURNS <input type="checkbox"/> SERIOUS INJURY	

S U B J E C T	SUBJECT CODE	NAME (LAST, FIRST, MIDDLE)		
	ADDRESS (STREET ADDRESS, CITY, STATE, ZIP)		PRIMARY PHONE	OTHER PHONE
	DOB	AGE	RACE	SEX
	HEIGHT	WEIGHT	HAIR COLOR	EYE COLOR
	INJURY TYPE		<input type="checkbox"/> APPARENT BROKEN BONES <input type="checkbox"/> LOSS OF TEETH <input type="checkbox"/> POSSIBLE INTERNAL INJURIES <input type="checkbox"/> UNCONSCIOUSNESS <input type="checkbox"/> HEAD INJURY <input type="checkbox"/> MINOR INJURY <input type="checkbox"/> MAJOR INJURY <input type="checkbox"/> SEVERE LACERATION <input type="checkbox"/> NONE <input type="checkbox"/> OTHER <input type="checkbox"/> STAB WOUNDS <input type="checkbox"/> BURNS <input type="checkbox"/> SERIOUS INJURY	

OFFICER DECLARATION		DATE
REPORTING OFFICER, I.D. NUMBER		
Buckler, 6042		
REVIEWING SUPERVISOR, I.D. NUMBER		DATE

CALVERT COUNTY SHERIFF'S OFFICE CASE REPORT SUPPLEMENT	CASE NO. 2021-00007137
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NARRATIVE

On 02/10/2021 I was assisting DEU detectives with a narcotics case. [REDACTED] was in the interview room located at the Calvert County Sheriff's Office, located at 30 Church St, Prince Frederick, Calvert County, MD 20678. While observing [REDACTED] on a recorded system I observed [REDACTED] reaching into his underwear. [REDACTED] pulled something out of his underwear and placed it into his mouth. [REDACTED] is a known user of controlled dangerous substances. Detectives went into the interview room to intercept what [REDACTED] was attempting to swallow. [REDACTED] said he did not swallow anything, he was getting a hair out of his mouth. Other detectives and I believed [REDACTED] was concealing controlled dangerous substances on his person. Dep. J. Murphy and I took [REDACTED] into the bathroom and I conducted a strip search on [REDACTED]. During the strip search I located a plastic bag that contained numerous smaller plastic bags that contained a white powdery substance. [REDACTED] told me the substance was cocaine a schedule II controlled dangerous substance. Before becoming a police officer I was employed by the Calvert County Detention Center as a Corrections Officer. I attended the Southern Maryland Criminal Justice Academy's entry level corrections training program. During this training I was trained in conducting strip searches. I collected the suspected cocaine as evidence and turned it over to Det. Ridgely.

I certify (or declare) under penalty of perjury under the laws of the state of Maryland that the foregoing is true and correct.

REPORTING OFFICER	PERSONNEL #	DATE	SUPERVISOR APPROVAL	PERSONNEL #	DATE
Buckler, 6042		02/10/2021			

Adam Abelson
 Zuckerman Spaeder LLP
 410.949.1148
 aabelson@zuckerman.com



ZUCKERMAN
 SPAEDER

December 21, 2021

VIA E-MAIL & FEDERAL EXPRESS

Lt. Col. P. D. McDowell
 Calvert County Sheriff's Office
 30 Church St.
 Prince Frederick, MD 20678
Dave.Mcdowell@calvertcountymd.gov

Re: Request for Reconsideration of Fee Waiver Denial.

Dear Lt. Col. McDowell:

I represent the American Civil Liberties Union of Maryland (the "ACLU"), and write in response to your correspondence dated November 8, 2021, informing the ACLU that the Office of the Sheriff of Calvert County (the "Sheriff's Office") will not honor the ACLU's request for a waiver of fees associated with its request, dated July 22, 2021, seeking records related to the use of body searches, strip searches, and manual body cavity searches by members of your department (the "July 22 request"). As detailed below, your denial of a waiver for fees associated with the July 22 request is arbitrary and capricious, because under the statute and applicable case law, the ACLU and the July 22 request fall squarely within the Maryland Public Information Act's ("MPIA's") public interest exception. Accordingly, we request that you reverse that decision.

Applicable Law

Under the MPIA, although a custodian of records may charge a "reasonable fee" for costs incurred in the search for and production of requested records, a requester is entitled to have any such fees waived if such waiver "would be in the public interest." Md. Code, General Provisions Art. § 4-206(a) & (e). Courts have routinely reversed denials of public interest fee waiver requests based on findings that the custodian's denial was arbitrary and capricious, particularly where, as here, a nonprofit organization has requested records related to the conduct of government actors. See, e.g., *Baltimore Action Legal Team v. Office of the State's Attorney of Baltimore City*, No. 1251, 2021 WL 4786936, at *14-18 (Md. App. 2021)¹; *Action Comm. for Transit, Inc. v. Town of Chevy Chase*, 145 A.3d 640, 654 (Md. App. 2016); *Mayor and City Council of Baltimore v. Burke*, 506 A.2d 683, 688 (Md. App. 1986).

¹ The *Baltimore Action Legal Team* opinion was published December 17, 2021.

To determine whether a fee waiver is “in the public interest,” Maryland courts look to guidance from the Maryland Attorney General, including the Maryland Public Information Act Manual (“MPIA Manual”)² and Opinions of the Attorney General.³ See, e.g., *Baltimore Action*, 2021 WL 4786936, at *14–18 (applying factors identified in the MPIA Manual and Opinions of the Attorney General to reverse denial of fee request); *Chevy Chase*, 145 A.3d at 649 (same). The Attorney General instructs that custodians should waive fees “when a requestor seeks information for a public purpose, rather than a narrow personal or commercial interest, because a public purpose justifies the expenditure of public funds to comply with the request.” *MPIA Manual* at 7-5. Custodians should also waive fees where disclosure “will shed light on ‘a public controversy about official actions,’ or on ‘an agency’s performance of its public duties.’” *Id.* at 7-6 (quoting *Chevy Chase*, 145 A.3d at 650). The Attorney General specifically instructs that it is improper for agencies that receive a waiver request to consider only “the ability of the applicant to pay” when deciding whether to grant a fee waiver; custodians “*must* consider . . . other relevant factors,” including whether the requester has only a “personal or commercial interest” and whether disclosure will shed light on “an agency’s performance of its public duties.” *MPIA Manual* at 7-5 & 7-6 (emphasis added). See also *Burke*, 506 A.2d at 688 (denial of fee waiver was arbitrary and capricious where custodian failed to consider public interest factors).

The Maryland Attorney General also instructs custodians to “look at case law interpreting the comparable [Freedom of Information Act (‘FOIA’)] provision, 5 U.S.C. § 552(a)(4)(A),” when determining whether to grant a public interest waiver under the MPIA. *MPIA Manual* at 7-6. See also *Chevy Chase*, 145 A.3d at 649 (identifying relevant factors under FOIA). A waiver *must* be granted under FOIA where disclosure will: “(1) shed light on ‘the operations or activities of the government’; (2) be ‘likely to contribute significantly to public understanding’ of those operations or activities; and (3) not be ‘primarily in the commercial interest of the requester.’” *Cause of Action v. FTC*, 799 F.3d 1108, 1115 (D.C. Cir. 2015). Maryland courts have distilled several relevant considerations from cases applying this FOIA standard, including “the potential that the requested disclosure would contribute to public understanding and the significance of that understanding” and “whether the material sought pertains to ‘a matter of genuine public concern.’” *Chevy Chase*, 145 A.3d at 650.

These fundamental protections reflect not only the General Assembly’s determination that records sought for public interest purposes must be disclosed, and that agencies are prohibited from charging fees for such disclosure: These protections also ensure that government agencies do not deter the expression of activity protected by the First Amendment to the U.S. Constitution. Indeed, Maryland courts have recognized that the right of open access to government information “is a cornerstone of democratic government.” *Chevy Chase*, 145 A.3d at 648. The MPIA plays a

² *Maryland Public Information Act Manual* (16th ed. 2021), available at <https://www.marylandattorneygeneral.gov/Pages/OpenGov/piamannual.aspx>.

³ Available at <https://www.marylandattorneygeneral.gov/Pages/Opinions/index.aspx>.

key role in guaranteeing that “a Government of the people, by the people, and for the people” remains “open to the people.” *Id.* (quoting *MPIA Manual* at Preface) (emphasis in original). As the Court of Special Appeals has explained, “the First Amendment’s guarantee of free expression of speech protects persons from the imposition of financial burdens based upon the content of their speech. . . . A decision based upon such unconstitutional considerations is clearly arbitrary and capricious.” *Id.* at 653–54 (internal citations omitted). “[I]mposing a fee for information . . . might have a chilling effect” on the ability of organizations like the ACLU to disseminate information about government activities and thereby to advance public understanding of the conduct of government agencies. *Burke*, 506 A.2d at 688.

The Sheriff’s Office’s Denial of the Fee Waiver Is Arbitrary and Capricious

Under these standards, the ACLU’s fee waiver request must be granted. Your denial of the fee waiver requests constitutes an abuse of discretion for five independent reasons and will be reversed if we are constrained to seek judicial review.

First, the ACLU seeks the identified records for a public purpose rather than to serve a personal or commercial interest. *See MPIA Manual* at 7-5 (requiring waiver “when a requestor seeks information for a public purpose, rather than a narrow personal or commercial interest”). The ACLU relies on MPIA requests to gather information necessary for it to defend the civil rights and liberties of all Marylanders, to promote public accountability, to uncover and address unlawful practices by government agencies, and to educate the public about Maryland programs and policies. In keeping with this mission, the records identified in the July 22 request would contribute to public understanding of the activities of Maryland’s law enforcement agencies by revealing the circumstances surrounding the use of the types of searches that are the subject of our request. There is no “personal or commercial interest” served by the requests. Indeed, state and local agencies in Maryland recognize the public purpose served by the ACLU’s MPIA requests and routinely grant the ACLU’s accompanying requests for fee waivers — so much so that the ACLU has seldom had to litigate the denial of a waiver in this state. For this reason, even standing alone, the denial is arbitrary and capricious.

Second, the requested records “will shed light . . . on ‘an agency’s performance of its public duties.’” *Id.* at 7-6 (quoting *Chevy Chase*, 145 A.3d at 650). The public has an interest in reviewing the performance of the government actors who serve their communities. *See, e.g., Chevy Chase*, 145 A.3d at 643 (reversing denial of waiver where requested documents related to retention of four firms “to represent the Town’s interests in lobbying both the federal and state governments to deny funding” for construction of a new light rail line); *Burke*, 506 A.3d at 688 (recognizing “the importance of public exposure of the delayed and extremely costly improvements to” a waste water treatment plant that might be facilitated by disclosure of requested documents). *See also Physician’s Comm. for Responsible Med. v. Dep’t of Health and Hum. Servs.*, 480 F. Supp. 2d 119, 123 (D.D.C. 2007) (holding that the disclosure of records of the closed meetings of an

interagency committee “would make a significant contribution to public understanding of any lack of progress by [the committee]”). That interest is particularly acute when it comes to records of police interactions with members of the public, including the records of the use of police searches identified in the July 22 request.

Third, the requested records “will shed light on ‘a public controversy about official actions’” *MPIA Manual* at 7-6 (quoting *Chevy Chase*, 145 A.3d at 650). *See also Baltimore Action*, 2021 WL 4786936, at *17 (finding this factor “particularly germane” to a request for records of police misconduct). The request for records goes directly to an issue of substantial public controversy: the use of searches by police officers, particularly the types of searches of individuals that are the subject of our request. The General Assembly recently acknowledged the overwhelming public interest served by disclosure of police records, including personnel records, by amending the MPIA to expand the accessibility of those records. The amendment, a provision of the Maryland Police Accountability Act of 2021 known as “Anton’s Law,” was enacted in response to the death of Anton Black, a 19-year-old Eastern Shore man who died during an encounter with a police officer whose long record of police abuse had been suppressed by officials. *See Senate Bill 178 (“Anton’s Law”), 2021 Md. Laws, ch. 62. See also Hannah Gaskill, After Years of Legislating, Anton’s Law Goes into Effect, Maryland Matters (Oct. 1, 2021), <https://www.marylandmatters.org/2021/10/01/after-years-of-legislating-antons-law-goes-into-effect/> (discussing the years-long fight to reform the MPIA through Anton’s Law). Senate Sponsor Jill P. Carter summarized the purpose of Anton’s Law in public comments:*

My hope is that with the passage of Anton’s Law, we will no longer allow the patterns and practices of unconstitutional policing . . . and, most importantly, we will save lives by preventing other heinous, brutal, extrajudicial killings such as that of Anton Black.

Gaskill, *supra*. Disclosure of the records of searches requested by the ACLU will serve the public’s interest in increased accountability by exposing police officers to greater scrutiny, in part in the hope of identifying problem officers and removing them from positions of power. That interest outweighs any cost to the government in complying with the ACLU’s July 22 request.

Fourth, your Office has not identified any proper basis for denial of the fee waiver request. You justified your denial of the ACLU’s request for a fee waiver only “[b]ecause [the ACLU] has the ability to pay and there is no public interest served by [the ACLU’s] request” Letter from P. D. McDowell, Lt. Col., Office of the Sheriff of Calvert County, to Gina Elleby, Legal Advocacy Manager, ACLU of Maryland (Nov. 8, 2021). But a custodian may *not* deny a request based solely on “the expense to the [custodian] of locating and duplicating the documents . . . and the perceived ability of the [requestor] to pay” without also considering the public interest. *Burke*, 506 A.2d at 688. Your conclusory statement that “there is no public interest served” by the July 22 request comes nowhere close to “identify[ing] what relevant factors” you considered so that a reviewing

LT. COL. P. D. MCDOWELL
DECEMBER 21, 2021
PAGE 5

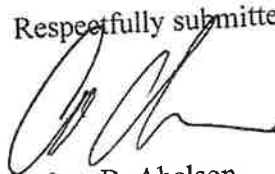
court may determine whether “the actual decision-making process” leading to your denial of a fee waiver here was arbitrary and capricious. *Chevy Chase*, 145 A.3d at 653.

Fifth, even if the ACLU did not qualify for a full waiver of fees in light of the overwhelming public interest in disclosure of the requested documents, it nonetheless qualifies for a waiver of all fees not associated solely with duplicating the requested records because it is a representative of the news media. Under FOIA and applicable case law, to which Maryland courts turn for guidance, “an agency may charge only for duplication costs ‘when records are not sought for commercial use and the request is made by . . . a representative of the news media.’” *Cause of Action*, 799 F.2ds at 1111 (quoting 5 U.S.C. § 552(a)(4)(A)(ii)(II)) (emphasis in original). “[A] representative of the news media’ means any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.” *Id.* at 1120 (quoting 5 U.S.C. § 552(a)(4)(A)(ii)). The ACLU regularly gathers information of potential interest to the public and turns raw data and materials into digestible reports, articles, and other widely disseminated “distinct work[s].” *Id.* at 1121 (“[T]he news-media waiver . . . focuses on the nature of the requestor, not its request.”). The ACLU will use the records identified in its July 22 request to contribute to such reports, articles, and other distinct works about the use of police searches.

For these reasons, the ACLU urges you to reverse your decision denying a waiver of fees associated with the processing of the July 22 request. I look forward to your prompt response, no later than January 14, 2022. With the Sheriff’s Office holding the requested documents pending resolution of the fee waiver, it is imperative that we know the Sheriff’s Office’s position so we can move forward with litigation if your Office intends to stand by the fee waiver denial. I can be reached via any of the means listed above.

Thank you for your attention in this matter.

Respectfully submitted,



Adam B. Abelson

cc: Deborah A. Jeon (via email: jeon@aclu-md.org)
Gina Elleby (via email: elleby@aclu-md.org)
Justin Lewis (via email: jlewis@zuckerman.com)



Major S. R. Jones
Special Operations &
Homeland Security Bureau

Capt. K. Cross
Detention Center Administrator

Capt. B. Parrott
Office of Professional Standards

OFFICE OF THE SHERIFF CALVERT COUNTY

MIKE EVANS
SHERIFF

Lt. Col. P. D. McDowell
ASSISTANT SHERIFF

Major T. D. Reece
Detention Center Administrator

EXHIBIT D



Capt. R. Jones
Patrol Bureau

Capt. T. K. Fridman
Investigations Bureau

Capt. R. V. Naughton
Administrative &
Judicial Services Bureau

January 6, 2022

Mr. Adam Abelson

This letter responds to your letter dated December 21, 2021, in which you request a reconsideration of fees associated with the ACLU's request, dated July 22, 2021, for records relating to the use of body searches, strip searches, and manual body cavity searches by members of our agency.

Given the Sheriff's Office resources needed to satisfy the request, your request for a waiver of fees is denied.

If you have any questions about this letter, please feel free to contact me.

Sincerely,

Lieutenant Colonel Dave McDowell

CIVIL - NON-DOMESTIC CASE INFORMATION REPORT

DIRECTIONS

Plaintiff: This Information Report must be completed and attached to the complaint filed with the Clerk of Court unless your case is exempted from the requirement by the Chief Judge of the Court of Appeals pursuant to Rule 2-111(a).

Defendant: You must file an Information Report as required by Rule 2-323(h).

THIS INFORMATION REPORT CANNOT BE ACCEPTED AS A PLEADING

FORM FILED BY: PLAINTIFF DEFENDANT **CASE NUMBER** _____ (Clerk to insert)

CASE NAME: ACLU of Maryland vs. Office of the Sheriff Calvert County MD
Plaintiff Defendant

PARTY'S NAME: American Civil Liberties Union of Maryland **PHONE:** _____

PARTY'S ADDRESS: 3600 Clipper Mill Road - Suite 350, Baltimore, MD 21211

PARTY'S E-MAIL: _____

If represented by an attorney:

PARTY'S ATTORNEY'S NAME: Adam B. Abelson **PHONE:** 410-949-1148

PARTY'S ATTORNEY'S ADDRESS: Zuckerman Spaeder LLP, 100 E. Pratt St. Ste 2440, Baltimore 21201

PARTY'S ATTORNEY'S E-MAIL: aabelson@zuckerman.com

JURY DEMAND? Yes No

RELATED CASE PENDING? Yes No If yes, Case #(s), if known: _____

ANTICIPATED LENGTH OF TRIAL?: _____ hours 2 days

PLEADING TYPE

New Case: Original Administrative Appeal Appeal

Existing Case: Post-Judgment Amendment

If filing in an existing case, skip Case Category/ Subcategory section - go to Relief section.

IF NEW CASE: CASE CATEGORY/SUBCATEGORY (Check one box.)

<p>TORTS</p> <p><input type="checkbox"/> Asbestos</p> <p><input type="checkbox"/> Assault and Battery</p> <p><input type="checkbox"/> Business and Commercial</p> <p><input type="checkbox"/> Conspiracy</p> <p><input type="checkbox"/> Conversion</p> <p><input type="checkbox"/> Defamation</p> <p><input type="checkbox"/> False Arrest/Imprisonment</p> <p><input type="checkbox"/> Fraud</p> <p><input type="checkbox"/> Lead Paint - DOB of Youngest Plt: _____</p> <p><input type="checkbox"/> Loss of Consortium</p> <p><input type="checkbox"/> Malicious Prosecution</p> <p><input type="checkbox"/> Malpractice-Medical</p> <p><input type="checkbox"/> Malpractice-Professional</p> <p><input type="checkbox"/> Misrepresentation</p> <p><input type="checkbox"/> Motor Tort</p> <p><input type="checkbox"/> Negligence</p> <p><input type="checkbox"/> Nuisance</p> <p><input type="checkbox"/> Premises Liability</p> <p><input type="checkbox"/> Product Liability</p> <p><input type="checkbox"/> Specific Performance</p> <p><input type="checkbox"/> Toxic Tort</p> <p><input type="checkbox"/> Trespass</p> <p><input type="checkbox"/> Wrongful Death</p> <p>CONTRACT</p> <p><input type="checkbox"/> Asbestos</p> <p><input type="checkbox"/> Breach</p> <p><input type="checkbox"/> Business and Commercial</p> <p><input type="checkbox"/> Confessed Judgment</p> <p>(Cont'd)</p> <p><input type="checkbox"/> Construction</p> <p><input type="checkbox"/> Debt</p> <p><input type="checkbox"/> Fraud</p>	<p><input type="checkbox"/> Government</p> <p><input type="checkbox"/> Insurance</p> <p><input type="checkbox"/> Product Liability</p> <p>PROPERTY</p> <p><input type="checkbox"/> Adverse Possession</p> <p><input type="checkbox"/> Breach of Lease</p> <p><input type="checkbox"/> Detinue</p> <p><input type="checkbox"/> Distress/Distrain</p> <p><input type="checkbox"/> Ejectment</p> <p><input type="checkbox"/> Forcible Entry/Detainer</p> <p><input type="checkbox"/> Foreclosure</p> <p><input type="checkbox"/> Commercial</p> <p><input type="checkbox"/> Residential</p> <p><input type="checkbox"/> Currency or Vehicle</p> <p><input type="checkbox"/> Deed of Trust</p> <p><input type="checkbox"/> Land Installments</p> <p><input type="checkbox"/> Lien</p> <p><input type="checkbox"/> Mortgage</p> <p><input type="checkbox"/> Right of Redemption</p> <p><input type="checkbox"/> Statement Condo</p> <p><input type="checkbox"/> Forfeiture of Property / Personal Item</p> <p><input type="checkbox"/> Fraudulent Conveyance</p> <p><input type="checkbox"/> Landlord-Tenant</p> <p><input type="checkbox"/> Lis Pendens</p> <p><input type="checkbox"/> Mechanic's Lien</p> <p><input type="checkbox"/> Ownership</p> <p><input type="checkbox"/> Partition/Sale in Lieu</p> <p><input type="checkbox"/> Quiet Title</p> <p><input type="checkbox"/> Rent Escrow</p> <p><input type="checkbox"/> Return of Seized Property</p> <p><input type="checkbox"/> Right of Redemption</p> <p><input type="checkbox"/> Tenant Holding Over</p>	<p>PUBLIC LAW</p> <p><input type="checkbox"/> Attorney Grievance</p> <p><input type="checkbox"/> Bond Forfeiture Remission</p> <p><input type="checkbox"/> Civil Rights</p> <p><input type="checkbox"/> County/Mncpl Code/Ord</p> <p><input type="checkbox"/> Election Law</p> <p><input type="checkbox"/> Eminent Domain/Condemn.</p> <p><input type="checkbox"/> Environment</p> <p><input type="checkbox"/> Error Coram Nobis</p> <p><input type="checkbox"/> Habeas Corpus</p> <p><input type="checkbox"/> Mandamus</p> <p><input type="checkbox"/> Prisoner Rights</p> <p><input checked="" type="checkbox"/> Public Info. Act Records</p> <p><input type="checkbox"/> Quarantine/Isolation</p> <p><input type="checkbox"/> Writ of Certiorari</p> <p>EMPLOYMENT</p> <p><input type="checkbox"/> ADA</p> <p><input type="checkbox"/> Conspiracy</p> <p><input type="checkbox"/> EEO/HR</p> <p><input type="checkbox"/> FLSA</p> <p><input type="checkbox"/> FMLA</p> <p><input type="checkbox"/> Workers' Compensation</p> <p><input type="checkbox"/> Wrongful Termination</p> <p>INDEPENDENT PROCEEDINGS</p> <p><input type="checkbox"/> Assumption of Jurisdiction</p> <p><input type="checkbox"/> Authorized Sale</p> <p><input type="checkbox"/> Attorney Appointment</p> <p><input type="checkbox"/> Body Attachment Issuance</p> <p><input type="checkbox"/> Commission Issuance</p>	<p><input type="checkbox"/> Constructive Trust</p> <p><input type="checkbox"/> Contempt</p> <p><input type="checkbox"/> Deposition Notice</p> <p><input type="checkbox"/> Dist Ct Mtn Appeal</p> <p><input type="checkbox"/> Financial</p> <p><input type="checkbox"/> Grand Jury/Petit Jury</p> <p><input type="checkbox"/> Miscellaneous</p> <p><input type="checkbox"/> Perpetuate Testimony/Evidence</p> <p><input type="checkbox"/> Prod. of Documents Req.</p> <p><input type="checkbox"/> Receivership</p> <p><input type="checkbox"/> Sentence Transfer</p> <p><input type="checkbox"/> Set Aside Deed</p> <p><input type="checkbox"/> Special Adm. - Atty</p> <p><input type="checkbox"/> Subpoena Issue/Quash</p> <p><input type="checkbox"/> Trust Established</p> <p><input type="checkbox"/> Trustee Substitution/Removal</p> <p><input type="checkbox"/> Witness Appearance-Compel</p> <p>PEACE ORDER</p> <p><input type="checkbox"/> Peace Order</p> <p>EQUITY</p> <p><input type="checkbox"/> Declaratory Judgment</p> <p><input type="checkbox"/> Equitable Relief</p> <p><input type="checkbox"/> Injunctive Relief</p> <p><input type="checkbox"/> Mandamus</p> <p>OTHER</p> <p><input type="checkbox"/> Accounting</p> <p><input type="checkbox"/> Friendly Suit</p> <p><input type="checkbox"/> Grantor in Possession</p> <p><input type="checkbox"/> Maryland Insurance Administration</p> <p><input type="checkbox"/> Miscellaneous</p> <p><input type="checkbox"/> Specific Transaction</p> <p><input type="checkbox"/> Structured Settlements</p>
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IF NEW OR EXISTING CASE: RELIEF (Check All that Apply)

- | | | | |
|--|--|---|---|
| <input type="checkbox"/> Abatement | <input type="checkbox"/> Earnings Withholding | <input type="checkbox"/> Judgment-Interest | <input type="checkbox"/> Return of Property |
| <input type="checkbox"/> Administrative Action | <input type="checkbox"/> Enrollment | <input type="checkbox"/> Judgment-Summary | <input type="checkbox"/> Sale of Property |
| <input type="checkbox"/> Appointment of Receiver | <input type="checkbox"/> Expungement | <input type="checkbox"/> Liability | <input type="checkbox"/> Specific Performance |
| <input type="checkbox"/> Arbitration | <input type="checkbox"/> Findings of Fact | <input type="checkbox"/> Oral Examination | <input type="checkbox"/> Writ-Error Coram Nobis |
| <input type="checkbox"/> Asset Determination | <input type="checkbox"/> Foreclosure | <input type="checkbox"/> Order | <input type="checkbox"/> Writ-Execution |
| <input type="checkbox"/> Attachment b/f Judgment | <input type="checkbox"/> Injunction | <input type="checkbox"/> Ownership of Property | <input type="checkbox"/> Writ-Garnish Property |
| <input type="checkbox"/> Cease & Desist Order | <input type="checkbox"/> Judgment-Affidavit | <input type="checkbox"/> Partition of Property | <input type="checkbox"/> Writ-Garnish Wages |
| <input type="checkbox"/> Condemn Bldg | <input checked="" type="checkbox"/> Judgment-Attorney Fees | <input type="checkbox"/> Peace Order | <input type="checkbox"/> Writ-Habeas Corpus |
| <input type="checkbox"/> Contempt | <input type="checkbox"/> Judgment-Confessed | <input type="checkbox"/> Possession | <input type="checkbox"/> Writ-Mandamus |
| <input checked="" type="checkbox"/> Court Costs/Fees | <input type="checkbox"/> Judgment-Consent | <input checked="" type="checkbox"/> Production of Records | <input type="checkbox"/> Writ-Possession |
| <input type="checkbox"/> Damages-Compensatory | <input checked="" type="checkbox"/> Judgment-Declaratory | <input type="checkbox"/> Quarantine/Isolation Order | |
| <input type="checkbox"/> Damages-Punitive | <input type="checkbox"/> Judgment-Default | <input type="checkbox"/> Reinstatement of Employment | |

If you indicated **Liability** above, mark one of the following. This information is not an admission and may not be used for any purpose other than Track Assignment.

- Liability is conceded. Liability is not conceded, but is not seriously in dispute. Liability is seriously in dispute.

MONETARY DAMAGES (Do not include Attorney's Fees, Interest, or Court Costs)

- Under \$10,000 \$10,000 - \$30,000 \$30,000 - \$100,000 Over \$100,000
- Medical Bills \$ _____ Wage Loss \$ _____ Property Damages \$ _____

ALTERNATIVE DISPUTE RESOLUTION INFORMATION

- Is this case appropriate for referral to an ADR process under Md. Rule 17-101? (Check all that apply)
- | | | | | | |
|----------------|------------------------------|--|--------------------------|------------------------------|--|
| A. Mediation | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | C. Settlement Conference | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| B. Arbitration | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | D. Neutral Evaluation | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

SPECIAL REQUIREMENTS

- If a Spoken Language Interpreter is needed, **check here and attach form CC-DC-041**
- If you require an accommodation for a disability under the Americans with Disabilities Act, **check here and attach form CC-DC-049**

ESTIMATED LENGTH OF TRIAL

With the exception of Baltimore County and Baltimore City, please fill in the estimated LENGTH OF TRIAL. (Case will be tracked accordingly)

- | | |
|---|---|
| <input type="checkbox"/> 1/2 day of trial or less | <input type="checkbox"/> 3 days of trial time |
| <input type="checkbox"/> 1 day of trial time | <input type="checkbox"/> More than 3 days of trial time |
| <input type="checkbox"/> 2 days of trial time | |

BUSINESS AND TECHNOLOGY CASE MANAGEMENT PROGRAM

For all jurisdictions, if Business and Technology track designation under Md. Rule 16-308 is requested, attach a duplicate copy of complaint and check one of the tracks below.

- | | |
|---|---|
| <input type="checkbox"/> Expedited - Trial within 7 months of Defendant's response | <input type="checkbox"/> Standard - Trial within 18 months of Defendant's response |
|---|---|

EMERGENCY RELIEF REQUESTED

**COMPLEX SCIENCE AND/OR TECHNOLOGICAL CASE
MANAGEMENT PROGRAM (ASTAR)**

FOR PURPOSES OF POSSIBLE SPECIAL ASSIGNMENT TO ASTAR RESOURCES JUDGES under Md. Rule 16-302, attach a duplicate copy of complaint and check whether assignment to an ASTAR is requested.

- Expedited** - Trial within 7 months of Defendant's response **Standard** - Trial within 18 months of Defendant's response

IF YOU ARE FILING YOUR COMPLAINT IN BALTIMORE CITY, OR BALTIMORE COUNTY, PLEASE FILL OUT THE APPROPRIATE BOX BELOW.

CIRCUIT COURT FOR BALTIMORE CITY (CHECK ONLY ONE)

- Expedited Trial 60 to 120 days from notice. Non-jury matters.
- Civil-Short Trial 210 days from first answer.
- Civil-Standard Trial 360 days from first answer.
- Custom Scheduling order entered by individual judge.
- Asbestos Special scheduling order.
- Lead Paint Fill in: Birth Date of youngest plaintiff
- Tax Sale Foreclosures Special scheduling order.
- Mortgage Foreclosures No scheduling order.


CIRCUIT COURT FOR BALTIMORE COUNTY

- Expedited (Trial Date-90 days) Attachment Before Judgment, Declaratory Judgment (Simple), Administrative Appeals, District Court Appeals and Jury Trial Prayers, Guardianship, Injunction, Mandamus.
- Standard (Trial Date-240 days) Condemnation, Confessed Judgments (Vacated), Contract, Employment Related Cases, Fraud and Misrepresentation, International Tort, Motor Tort, Other Personal Injury, Workers' Compensation Cases.
- Extended Standard (Trial Date-345 days) Asbestos, Lender Liability, Professional Malpractice, Serious Motor Tort or Personal Injury Cases (medical expenses and wage loss of \$100,000, expert and out-of-state witnesses (parties), and trial of five or more days), State Insolvency.
- Complex (Trial Date-450 days) Class Actions, Designated Toxic Tort, Major Construction Contracts, Major Product Liabilities, Other Complex Cases.

March 2, 2022 _____
Date

100 East Pratt Street - Suite 2440 _____
Address

Baltimore MD 21202
City State Zip Code


Signature of Counsel / Party

Adam B. Abelson (CPF # 1012140004)
Printed Name