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STATE OF MARYLAND
PUBLIC INFORMATION ACT COMPLIANCE BOARD

PIACB 23-04
November 9, 2022
Frederick County Sheriff's Office, Custodian
Lois Jarman, Complainant

In June of 2022, the complainant, Lois Jarman, sent a Public Information Act ("PIA") request to the Frederick County Sheriff's Office ("FCSO") seeking "the in and out wipes at the Frederick County Courthouse garage #1 for Sandra Dalton" for as long as such records existed. The FCSO denied inspection of the records, citing § 4-352(a)(2)(ii),[1] and stating that disclosure of the records would be contrary to the public interest because it would compromise the security protocols established to protect the courthouse. Dissatisfied with the FCSO's response, the complainant sought dispute resolution through the Public Access Ombudsman. On August 3, 2022, the Ombudsman issued a final determination stating that the dispute was not resolved. On September 2, 2022, the complainant filed a complaint challenging the FCSO's denial of access to the records she requested. The FCSO responded on September 27, 2022, and advanced a second justification for withholding the records—specifically, § 4-351(a)(3)'s exemption for certain records maintained by a sheriff. For the reasons discussed below, we conclude that, while the FCSO improperly applied § 4-352(a)(2)(ii), § 4-351(a)(3) provides grounds for withholding the records and the FCSO sufficiently demonstrated that the harm from disclosure would be greater than the public interest in that disclosure.

Background

The FCSO denied the complainant's PIA request for records reflecting Sandra Dalton's entry and exit swipes at a Frederick County Courthouse garage on grounds that disclosure of these records would compromise the security protocols in place to protect the courthouse, its staff, and the public. In her complaint, the complainant counters that the public has an interest in knowing "the amount of time that the elected official in question is present and accounted for at her desk in her office at her place of work."[2] She suggests

[1] Statutory references are to the General Provisions Article of Maryland's Annotated Code, unless otherwise indicated.

[2] Sandra Dalton is the Clerk of Court for the Circuit Court for Frederick County.

200 Saint Paul Place ❖ Baltimore, Maryland 21202-2021
Telephone Number 410-576-6560 ❖ Main Office Toll Free (888) 743-0023
Telephone for Deaf (410) 576-6372

that the FCSO could redact the records and provide the information "in a restrictive way" that does not reveal information that would compromise security protocols.

In response to the complaint, the FCSO emphasizes that it is tasked with providing physical security for the Frederick County courts. The FCSO explains that the Frederick County Courthouse has several parking garages that are accessible only by authorized personnel, and that access to those garages is controlled by a keycard and monitored by the FCSO. In light of this context, the FCSO argues that two exemptions apply, both of which provide a custodian with discretion to deny inspection of records if inspection would be "contrary to the public interest." First, § 4-351(a)(3) permits withholding of records that contain the security procedures of a sheriff.[3] Second, § 4-352(a)(2)(ii) permits withholding records of a building, structure, or facility if disclosure would "reveal the building's, structure's, or facility's life, safety, and support systems, surveillance techniques, alarm or security systems or technologies, operational and evacuation plans or protocols, or personnel deployments." According to the FCSO, the records the complainant seeks clearly constitute records of the FCSO's security procedures and systems for the Frederick County courthouse. The FCSO also maintains that redaction is not possible because providing any information about whether and when Ms. Dalton parks at the garage "implicates security concerns."

Analysis

We are authorized to review and resolve complaints alleging certain violations of the PIA, including allegations that a custodian denied inspection of a public record in error. *See* § 4-1A-04(a)(1)(i). Before applicants or custodians[4] may file a complaint for our review, they must attempt to resolve their disputes through the Office of the Public Access Ombudsman, and the Ombudsman must issue a final determination stating that the dispute was not resolved. § 4-1A-05(a). If, after reviewing the compliant, the response, and any additional submissions before us, we conclude that a violation of the PIA has occurred, we must issue a written decision stating such and order the relevant remedy, as provided by statute. § 4-1A-04(a)(2), (3). For example, if we determine that a custodian has wrongfully denied inspection of a public record, we must order the custodian to "produce the public record for inspection." § 4-1A-04(a)(3)(i).

[3] The FCSO did not cite § 4-351(a)(3) in its response to the complainant's PIA request.

[4] Recent amendments to the PIA, which became effective on July 1, 2022, vested this Board with jurisdiction to consider and resolve a wider variety of PIA-related disputes, including that "an applicant's request or pattern of requests is frivolous, vexatious, or in bad faith." § 4-1A-04(b)(1). Prior to July 1, 2022, our jurisdiction was limited to allegations that a custodian had charged an unreasonable fee higher than $350 only. *See, e.g.*, PIACB 22-08 (Feb. 23, 2022) (discussing the Board's limited jurisdiction). The amendments also required the Board to adopt regulations, § 4-1A-04(c)(1), which are found in Title 14, Subtitle 02 of COMAR.

The PIA is grounded in the principle that "[a]ll persons are entitled to have access to information about the affairs of government and the official acts of public officials and employees." § 4-103(a). Thus, the Court of Appeals has "on several occasions explained that the provisions of the [PIA] 'must be liberally construed . . . in order to effectuate the Public Information Act's broad remedial purpose.'" *Kirwan v. Diamondback*, 352 Md. 74, 81-82 (1998) (citations omitted). The PIA's pro-disclosure bias is evident in its basic mandate, i.e., that "[e]xcept as otherwise provided by law, a custodian shall allow a person or governmental unit to inspect any public record at any reasonable time." § 4-201(a)(1). With this lens in mind, we turn to the two exemptions cited by the FCSO to support its denial of inspection of records of "the in and out wipes at the Frederick County Courthouse garage #1 for Sandra Dalton," beginning with § 4-352.

I. § 4-352 – Information Related to Emergency Management

Section 4-352 of the PIA was enacted in 2002 as emergency legislation in response to the 2001 terrorist attacks. *See* Report of the Office of the Attorney General on the Public Security Exception of the Public Information Act 6 (Dec. 2007) ("OAG Report");[5] *see also* Revised Fiscal & Policy Note, S.B. 733, 2003 Leg., Reg. Sess. at 2 (noting that § 4-352 was "enacted in response to possible terrorist threats"). As the Office of the Attorney General ("OAG") observed in its report, before § 4-352 was enacted "the PIA contained no exception that clearly permitted a custodian of records to withhold access to sensitive records concerning the vulnerability of buildings and facilities that might be the target of a terrorist attack." OAG Report at 12. In 2007, when it issued its report, the OAG noted that there were no published or unpublished appellate court decisions interpreting the exemption, and that the exemption had "rarely been invoked to deny access to public records." *Id.* at 1, 6. Although we are not in a position to comment on the frequency of the exemption's application since 2007, as far as we know it remains true today that there is little in the way of guidance from the courts regarding how broadly (or narrowly) § 4-352 should apply.

Described as "broadly worded in some respects and excruciatingly detailed in others," *id.* at 13, § 4-352 allows a custodian to deny access to, among other things:

> [R]ecords of any other building, structure, or facility, the disclosure of which would reveal the building's, structure's, or facility's life, safety, and support systems, surveillance techniques, alarm or security systems or technologies, operational and evacuation plans or protocols, or personnel deployments[.]

§ 4-352(a)(2)(ii).

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[5] The OAG Report is available online here: https://www.marylandattorneygeneral.gov/OpenGov%20Documents/PIA_public_security_exemption_report.pdf.

Typically, to withhold records or redact information under a discretionary exemption, a custodian must demonstrate that inspection would be "contrary to the public interest." § 4-343. Section 4-352, however, allows a custodian to deny inspection "only to the extent that the inspection would: (1) jeopardize the security of any building, structure, or facility; (2) facilitate the planning of a terrorist attack; or (3) endanger the life or physical safety of an individual." § 4-352(b); *see also Maryland Public Information Act Manual* (17th ed. July 2022), at 3-48 (explaining that § 4-352 is "unusual in that it requires the custodian to assess, in light of the particular circumstances, the 'extent' to which an adverse outcome will result from inspection").

The exemption's specific references to certain types of records (e.g., "building plans, blueprints, schematic drawings, diagrams, operational manuals," § 4-352(a)(2)(i)) and certain circumstances (e.g., when disclosure would reveal a building's "life, safety, and support systems," § 4-352(a)(2)(ii)) were not included in the provision as originally drafted and introduced. Indeed, the original version of the bill allowed a custodian to deny inspection of "a public record that contains information disclosing or relating to public security" if the custodian determined that disclosure would "constitute a risk to the public or to public safety." S.B. 240, 2002 Leg., Reg. Sess. (First Reader). But, as a committee report notes, the bill was amended so that the "broad authority" granted to a custodian by the original version was cabined somewhat. *See* Floor Report, Senate Educ., Health, & Env't Aff. Comm., S.B. 240, 2002 Leg., Reg. Sess. (explaining that the amended bill "now specifies the types of records that would be subject to non-disclosure such as response procedures or plans for emergency situations," and that the amendments also required a custodian to consider certain specified harms when determining the public interest).

As noted above, the legislation that ultimately became § 4-352 was part of a package of bills designed to respond to "terrorism and related topics." Revised Fiscal Note, S.B. 240, 2002 Leg., Reg. Sess., at 3. Written testimony in support of the measure generally reveals a focus on protecting infrastructure and preventing terrorist or other attacks. *See, e.g.*, *Hearing on S.B. 240 Before the Senate Educ., Health, & Env't Aff. Comm.*, 2002 Leg., Reg. Sess., at 1 (Feb. 28, 2002) (written testimony of the Dep't of State Police) (noting that the bill would allow custodians to deny access to information that "would allow persons with criminal intent to counter the emergency response effort," thereby protecting the safety of "emergency responders, employees, and members of the public in and around our state buildings"); *Hearing on S.B. 240 Before the Senate Educ., Health, & Env't Aff. Comm.*, 2002 Leg., Reg. Sess., at 1 (Feb. 28, 2002) (written testimony of the Maryland Assoc. of Counties) (noting that the bill was a "direct response to the events of September 11, 2001 and other events such as the mass shooting at Columbine High School").

At the same time, while the then-recent attacks of September 11, 2001, may have served as the impetus for crafting § 4-352, it seems apparent that the Legislature intended it to reach a broader range of records than simply those that, the disclosure of which, might aid in a similar attack. For instance, in its written testimony, the Office of the Governor

explained that, since the September 11th attacks, State agencies had been "reviewing and updating emergency response procedures and plans" and that, "[a]s a result of this review, it ha[d] become clear that there are certain records in the possession of State and local governments that, if released, could pose a threat to the public." *Hearing on S.B. 240 Before the Senate Educ., Health, & Env't Aff. Comm.*, 2002 Leg., Reg. Sess., at 1 (Feb. 28, 2002) (written testimony of the Office of the Governor). And, although the Office of the Governor cited emergency response procedures and information on the State's pharmaceutical supplies as specific examples of records that should be protected, the Office also urged protection for "information relating to governmental structures" that could be "used to harm individuals located in those structures and curtail government's ability to function and respond to emergencies," *id.* at 3, thus suggesting that § 4-352 was intended to cast a wider net.

Turning to the records at issue here, it is not immediately clear to us that information about the Clerk of Court's entries and exits from a courthouse garage constitutes a record that, in and of itself, would fall within § 4-352. While records of the dates and times that garage access cards are used may certainly be characterized as records of a parking garage—i.e., "records of . . . [a] building, structure, or facility"—they are not necessarily records that would reveal that garage's "life, safety, and support systems, surveillance techniques, alarm or security systems or technologies, operational and evacuation plans or protocols, or personnel deployments." § 4-351(a)(2)(ii). However, given that the FCSO is charged with providing security for the County's courts, including its buildings and its staff, the records bear at least some relation to the garage's "security systems or technologies." And, while the legislative history demonstrates that the General Assembly rejected language that would have broadly allowed a custodian to withhold *any* public record containing "information disclosing or relating to public security," that history also suggests that legislators and bill advocates were concerned with the safety and security of the employees and public who work and conduct business inside government facilities in particular. Thus, although not without some hesitation, we conclude that the records at issue here are of the type that § 4-352 may protect, provided that at least one of the statutory reasons for non-disclosure is met.[6]

Before turning to the question of whether the FCSO adequately justified withholding the records as contrary to the public interest, we note that Offices of Attorneys General in several other states have determined that records reflecting the use of key cards

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[6] We note that the complainant herself does not seem to dispute whether or not these records might be covered by § 4-352 in the first place. In a reply to the FCSO's response, filed on October 6, 2022, the complainant almost wholly focuses on her contention that disclosure is not contrary to the public interest. She reiterates her argument that "[t]he public is entitled to know how their tax dollars are being spent," and that the "in and out swipes will prove the amount of time that the Clerk is present and accounted for at her desk." She also asserts that disclosure would not compromise security protocols because the access swipes "ha[ve] all taken place in the past."

or security badges to gain access to government buildings and garages were properly withheld under those states' exemptions for public security related records. For example, examining a request for "[a]ny and all card key or security badge entry records for DeLuca at all Delaware Department of Labor offices," the Chief Deputy Attorney General in Delaware noted that the exemption was added after the attacks of September 11, 2001, and was "intended to respond to public safety concerns raised by acts of terrorism—both foreign and domestic." Del. Op. Att'y Gen. No. 11-IIB05, 2011 WL 2065034 at *1-2 (Apr. 1, 2011). The Chief Deputy also noted that the exemption was "written with the sweeping term 'could,'" and that "[a]ny record that 'could' endanger life or safety is excluded." *Id.* at *2. Focusing on this broad language, the Chief Deputy concluded that the exemption must be "construed to mean that any record that comes with the 'range' or 'zone' of safety or security should be excluded," and that it was not for him to "second-guess the determination made by [the agency] that its security system may be undermined by the disclosures sought by this request." *Id.*

Similarly, in Texas, an Assistant Attorney General reviewed a request for records of "the access card swipes of [certain] specified employees at the City Attorney's Office located at City Hall." Tex. Op. Att'y Gen. No. OR2018-30267, 2018 WL 6510684 at *1 (Dec. 3, 2018). The Assistant Attorney General concluded that the agency had properly withheld those records pursuant to a statute that made confidential information that "relates to the specifications, operating procedures, or location of a security system used to protect public or private property from an act of terrorism or related criminal activity." *Id.* Though the Assistant Attorney General cautioned that "[t]he fact that information may generally be related to a security system does not make the information *per se* confidential," she nevertheless found that the agency had sufficiently demonstrated that the statute applied. *Id.* Specifically, the agency had asserted that the information could be "used as part of a plan to disrupt or cause harm to the facility or its occupants," or that it could be "useful for identifying vulnerabilities of the building access point." *Id. See also* Ky. Op. Att'y Gen. No. 14-ORD-169, 2014 WL 4253414 at *6 (Aug. 13, 2014) (finding no violation of the Open Records Act where agency provided the dates that a specific judge used a key card to enter the county parking garage, but redacted the identification number assigned to the card and the times of day that the card was used because "the public's right to know that [a judge], a public servant, is property executing her statutory functions does not outweigh the significant privacy interest [the judge] possesses in her own personal safety and security").

While the opinions discussed above may support the conclusion that records of when security badges are used to access government buildings fall within the ambit of § 4-352, there important differences between those opinions and the matter at issue here as it pertains to whether the FCSO has justified its denial of inspection. First, while Delaware's

statute permits withholding if disclosure "could" cause certain harms,[7] § 4-352(b) allows a custodian to deny inspection only "to the extent that the inspection *would*" cause one or more of three specifically enumerated harms. It seems to us, then, that Maryland's exemption is narrower in that a custodian must do more to justify its application to withhold records. *See* Del. Op. Att'y Gen. No. 11-IIB05, 2011 WL 2065034 at *2 (Apr. 1, 2011) ("The General Assembly must be presumed to have known how to limit the breadth of this exception. It could easily have said records should be excluded if they "are likely" or "are reasonably likely" or "would" jeopardize life or safety."). Second, the agency invoking the exemption in Texas provided specific justifications for doing so, asserting that the records could be used to identify "vulnerabilities of the building access point," or to strategize "how and when to gain access to the facility in order to subject [the facility], city employees, and the public to acts of criminal activity and terrorism." Tex. Op. Att'y Gen. No. OR2018-30267, 2018 WL 6510684 at *1 (Dec. 3, 2018). Here, however, the FCSO simply states that disclosure "compromises the security protocols established to protect the courthouse, its staff and the public," and that "[p]roviding any record of if and when Ms. Dalton parks at the garage implicates security concerns." But, the FCSO does not explain *how* disclosure of these specific records compromises protocols or implicates security concerns. *Cf. Blythe v. State*, 161 Md. App. 492, 532 (2005) (noting, regarding § 4-351(b)'s list of seven possible reasons to deny a person in interest access to investigatory records, that "[m]ore was required than a merely conclusory incantation of the exception," (citing *Maryland Comm. Against the Gun Ban v. Mayor & City Council of Baltimore*, 91 Md. App. 251, 264-65 (1992), *rev'd on other grounds*, 329 Md. 78 (1993)).

The question, then, is whether these differences compel a different result in this matter—i.e., whether or not the somewhat bald and unsupported assertions that disclosure would "compromise the security protocols" in place or "implicate[] security concerns" sufficiently demonstrate that inspection of the records *would* jeopardize the security of the parking garage, facilitate the planning of a terrorist attack, or endanger the life or physical safety of an individual. § 4-352(b). We think the differences do call for a different result. As discussed above, the legislation that enacted § 4-352 was amended during the legislative process to reign in the broad discretion that the bill originally granted, and to instead require a custodian to consider certain very specific harms and "assess, in light of the particular circumstances, the 'extent' to which an adverse outcome *will* result from inspection."

[7] With the exception of the use of "could," Delaware's public security exemption contains language that is nearly identical to Maryland's. Among other things, it exempts records of "any building or structure operated by the State or any of its political subdivisions, the disclosure of which would reveal the building's or structure's life, safety and support systems, surveillance techniques, alarm or security systems or technologies, operational and evacuation plans or protocols, or personnel deployments," if those records "could jeopardize the security of any structure owned by the State or any of its political subdivisions, or could facilitate the planning of a terrorist attack, or could endanger the life or physical safety of an individual." Del. Code Ann. tit. 29, § 10002(o)(17)(a)(3).

Maryland Public Information Act Manual (17th ed. July 2022), at 3-48 (emphasis added). The FCSO has not explained how disclosure of these records to the complainant would jeopardize the security of the parking garage—it has not asserted, e.g., that the records would identify "vulnerabilities of the building access point," as with the Texas case. Nor has the FCSO explained how disclosure would facilitate a terrorist attack or endanger someone's life or physical safety. In our view, the assertions that disclosure would "compromise the security protocols" or "implicate[] security concerns" alone simply do not satisfy § 4-352(b)'s requirements for a permissible denial. Thus, we conclude that § 4-352 was improperly applied.

II. § 4-351 – Investigation; Intelligence Information; Security Procedures

Sections 4-343 and 4-351 allow a custodian to deny inspection of the parts (or in some cases all) of "records that contain intelligence information or security procedures of . . . a sheriff" if the custodian "believes that inspection of a part of [that] public record by the applicant would be contrary to the public interest." Notably, the exemption distinguishes between an ordinary PIA requester and a "person in interest"—i.e., the "person or governmental unit that is the subject of a public record," § 4-101(g)(1)—and provides "a right of disclosure far broader" to persons in interest than that afforded to other requesters, *Blythe*, 161 Md. App. at 529; *see also Office of the State Prosecutor v. Judicial Watch*, 356 Md. 118, 139 (1999) (noting that Judicial Watch was not a person in interest and thus was "not entitled to the more favorable treatment accorded such persons"). Specifically, § 4-351(b) allows a custodian to "deny inspection by a person in interest only to the extent that the inspection would" cause at least one of seven specific enumerated harms, e.g., if it would "disclose an investigative technique or procedure" or "endanger the life or physical safety of an individual."

In determining whether disclosure under § 4-351 would be against the public interest, a custodian must "carefully consider whether [a negative] consequence is likely or possible and, then, objectively balance that possibility . . . against the asserted public interest in favor of disclosure." 64 Md. Op. Att'y Gen. 236, 242 (1979). In a case that involved a requester who was not a person in interest, the Court of Appeals explained that "the seven circumstances listed in [§ 4-351(b)][8] that permit the custodian to deny records of a police investigation to a party in interest are illustrative of the concerns that would make disclosure contrary to the public interest," but the Court also stressed that those seven circumstances "are not exclusive of the public interest concerns that can justify a refusal to permit inspection under [§ 4-351]." *Mayor & City Council of Baltimore v. Maryland Comm. Against the Gun Ban*, 329 Md. 78, 96 (1993); *see also* 64 Md. Op. Att'y Gen. at 241-42 (emphasizing that a custodian need not find that one of the seven harms enumerated

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[8] In 1993, when the Court of Appeals decided *Maryland Comm. Against the Gun Ban*, the exemption for records of investigations, intelligence information, and security procedures was found in § 10-618(f) of the State Government Article.

in § 4-315(b) will occur in order to find that inspection by a non-person in interest would be contrary to the public interest). From all of this we glean that, while custodians must, in every case, carefully and meaningfully exercise the discretion that § 4-343 vests in them, when it comes to § 4-351 and requesters who are *not* persons in interest, the public interest justification offered by the custodian may be broader and, in that regard, a custodian's burden is perhaps a bit lighter. *See Frederick v. Randall Family, LLC*, 154 Md. App. 543, 561 (2004) (explaining that, for non-persons in interest, "the discretion of the record custodian is broader and the request may be denied if, for any reason, disclosure would be contrary to the public interest"). At the same time, with the exception of denials related to records of open and ongoing investigations, a custodian ordinarily must offer a "particularized factual basis for the 'public interest' denial . . . in order . . . to meet his/her burden of proof." *Id.* at 567.

Looking to the records here, we must first determine whether they properly fall within the ambit of § 4-351 in the first instance.[9] While "records that contain intelligence information or security procedures," § 4-351(a)(3), might be interpreted narrowly to cover only those records that actually convey specific intelligence information or the security procedures themselves, it appears that courts have afforded the exemption a slightly broader construction. For example, in *Germain v. Bishop*, the Court of Special Appeals found that records showing the location of security cameras within a correctional institution fell within § 4-351(a)(3) because they "related" to security procedures. No. 232, Sept. Term 2018, 2019 WL 2393862 at *2 (Md. Ct. Spec. App. June 6, 2019) (unreported). Similarly, here, records that reflect when Ms. Dalton's key card was used to access a courthouse garage may fairly be characterized as containing or relating to the security procedures that the FCSO employs in carrying out its duty to provide security for the courts.

[9] As noted *supra*, note 3, we recognize that the FCSO did not initially deny inspection of the records under § 4-351(a)(3). *See* § 4-203(c)(1)(i)(3) ("A custodian who denies the application shall . . . [provide] the legal authority for the denial[.]"). Before an appellate court, the failure to cite an exemption prior to the appellate proceeding may, under certain circumstances, waive the custodian's ability to rely on that exemption. *See, e.g.*, *Sharma v. Anne Arundel County*, No. 0500, Sept. Term 2020, 2021 WL 5919471 at *7 (Md. Ct. Spec. App. Dec. 15, 2021) (unreported) (citing Md. Rule 8-131(a)) (custodian waived ability to rely on personnel records exemption because it did not do so before the Circuit Court and did not make any argument supporting its application before the Court of Special Appeals). However, we are far from appellate proceedings here and, in any event, the two exemptions at issue—§§ 4-351(a)(3) and 4-352—and the arguments supporting their application are sufficiently similar in nature that we have no concerns about whether the complainant had an opportunity to respond and present her case. *Cf. Fisher v. State*, 367 Md. 218, 240 (2001) (noting that a "principal purpose of the preservation requirement is to prevent 'sandbagging' and to give the trial court the opportunity to correct possible mistakes in its rulings," and finding that purpose not served where it was clear that the trial court understood the ramifications of its actions). We also note that the complainant was afforded the opportunity to—and indeed did—submit a reply to the FCSO's response to her complaint, which cited § 4-351(a)(3).

See Prince George's County v. Aluisi, 354 Md. 422, 433 (1999) ("Providing security for the courts is clearly a common law duty of the sheriffs if required by the courts."). Thus, we conclude that the records the complainant seeks are covered by § 4-351(a)(3).

Next, we must decide whether the FCSO properly exercised its discretion in denying inspection as contrary to the public interest. *See* § 4-343. First, we note that the complainant is not a person in interest; she is not the subject of the requested records, nor does she bear any special relationship to the subject of the records that would afford her this favored status under the statute. *See* § 4-101(g). Therefore, the FCSO may deny the complainant's request for inspection "if, for any reason, disclosure would be contrary to the public interest." *Randall Family, LLC*, 154 Md. App. at 561. However, given that the records sought do not relate to any open or ongoing FCSO investigations, the FCSO must also provide a "particularized factual basis," *id.* at 567, for why disclosure of the records showing when Ms. Dalton entered and exited the court's parking garage would be against the public interest. In the denial letter issued on June 28, 2022, the FCSO stated that disclosure of the records would be contrary to the public interest because it would "compromise[] the security protocols established to protect the courthouse, its staff and the public." Later, in response to the complaint, the FCSO further explained that the garages at issue are not accessible to the public or unauthorized personnel, and that disclosure of the records of Ms. Dalton's access to those garages would "implicate[] security concerns." On the whole, we find that these assertions provide a sufficiently particularized explanation as to why, in the FCSO's determination, disclosure of these records would be contrary to the public interest. Accordingly, we conclude that the FCSO appropriately applied § 4-351(a)(3) to deny inspection of the records here.

Conclusion

Based on the submissions before us, we conclude that § 4-352 does not exempt the records that the complainant seeks from disclosure. Although the records may fall within the ambit of the exemption, the FCSO did not satisfy § 4-352(b), which provides the specific circumstances under which denial is permissible. However, we also conclude that the FCSO properly applied § 4-531(a)(3), which allows a custodian to withhold records containing the security procedures of a sheriff if inspection would be contrary to the public interest. Given the FCSO's role in courthouse security, records that reflect when Ms. Dalton accessed the courthouse garage can be said to contain or relate to the FCSO's "security procedures." And, we determine that, in explaining that records showing access to a secured garage would compromise security protocols and implicate security concerns, the FCSO has met its burden to show that disclosure of these records to the complainant would be against the public interest.

Public Information Act Compliance Board*
John H. West, III, Esq., Chair
Deborah Moore-Carter
Michele L. Cohen, Esq.
Christopher Eddings

* Board member Darren S. Wigfield did not participate in the preparation or issuance of this opinion.