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Annotated Code of Maryland
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*** CURRENT THROUGH THE 2005 REGULAR SESSION AND CHAPTERS 1 THROUGH 17
OF THE 2006 REGULAR SESSION ***

*** ANNOTATIONS ARE CURRENT THROUGH JUNE 2, 2006 ***

STATE GOVERNMENT
TITLE 10. GOVERNMENTAL PROCEDURES
SUBTITLE 6. RECORDS
PART III. ACCESS TO PUBLIC RECORDS

GO TO MARYLAND STATUTES ARCHIVE DIRECTORY

Md. STATE GOVERNMENT Code Ann. § 10-616 (2006)

§ 10-616. Same — Specific records

(a) In general. — Unless otherwise provided by law, a custodian shall deny inspection of a public record, as provided in this section.

(b) Adoption records. — A custodian shall deny inspection of public records that relate to the adoption of an individual.

(c) Welfare records. — A custodian shall deny inspection of public records that relate to welfare for an individual.

(d) Letters of reference. — A custodian shall deny inspection of a letter of reference.

(e) Circulation records, or other item, collection, or grouping of information about an individual. —

(1) Subject to the provisions of paragraph (2) of this subsection, a custodian shall prohibit inspection, use, or disclosure of a circulation record of a public library or other item, collection, or grouping of information about an individual that:

(i) is maintained by a library;

(ii) contains an individual's name or the identifying number, symbol, or other identifying particular assigned to the individual; and

(iii) identifies the use a patron makes of that library's materials, services, or facilities.

(2) A custodian shall permit inspection, use, or disclosure of a circulation record of a public library only in connection with the library's ordinary business and only for the purposes for which the record was created.

(f) Gifts. — A custodian shall deny inspection of library, archival, or museum material given by a person to the extent that the person who made the gift limits disclosure as a condition of the gift.

(g) Retirement records. —

(1) Subject to paragraphs (2) through (7) of this subsection, a custodian shall deny inspection of a retirement record for an individual.

(2) A custodian shall permit inspection:

(i) by the person in interest;

(ii) by the appointing authority of the individual;

(iii) after the death of the individual, by a beneficiary, personal representative, or other person who satisfies the

administrators of the retirement and pension systems that the person has a valid claim to the benefits of the individual; and

(iv) by any law enforcement agency in order to obtain the home address of a retired employee of the agency when contact with a retired employee is documented to be necessary for official agency business.

(3) A custodian shall permit inspection by the employees of a county unit that, by county law, is required to audit the retirement records for current or former employees of the county. However, the information obtained during the inspection is confidential, and the county unit and its employees may not disclose any information that would identify a person in interest.

(4) On request, a custodian shall state whether the individual receives a retirement or pension allowance.

(5) A custodian shall permit release of information as provided in § 21-504 or § 21-505 of the *State Personnel and Pensions Article*.

(6) On written request, a custodian shall:

(i) disclose the amount of that part of a retirement allowance that is derived from employer contributions and that is granted to:

1. a retired elected or appointed official of the State;
2. a retired elected official of a political subdivision; or
3. a retired appointed official of a political subdivision who is a member of a separate system for elected or appointed officials; or

(ii) disclose the benefit formula and the variables for calculating the retirement allowance of:

1. a current elected or appointed official of the State;
2. a current elected official of a political subdivision; or
3. a current appointed official of a political subdivision who is a member of a separate system for elected or appointed officials.

(7) (i) This paragraph applies to Anne Arundel County.

(ii) On written request, a custodian of retirement records shall disclose:

1. the total amount of that part of a pension or retirement allowance that is derived from employer contributions and that is granted to a retired elected or appointed official of the county;
2. the total amount of that part of a pension or retirement allowance that is derived from employee contributions and that is granted to a retired elected or appointed official of the county, if the retired elected or appointed official consents to the disclosure;
3. the benefit formula and the variables for calculating the retirement allowance of a current elected or appointed official of the county; or
4. the amount of the employee contributions plus interest attributable to a current elected or appointed official of the county, if the current elected or appointed official consents to the disclosure.

(iii) A custodian of retirement records shall maintain a list of those elected or appointed officials of the county who have consented to the disclosure of information under subparagraph (ii)2 or 4 of this paragraph.

(h) Certain police records; criminal charging documents. —

(1) This subsection applies only to public records that relate to:

- (i) police reports of traffic accidents;
- (ii) criminal charging documents prior to service on the defendant named in the document; and
- (iii) traffic citations filed in the Maryland Automated Traffic System.

(2) A custodian shall deny inspection of a record described in paragraph (1) of this subsection to any of the following

persons who request inspection of records for the purpose of soliciting or marketing legal services:

(i) an attorney who is not an attorney of record of a person named in the record; or

(ii) a person who is employed by, retained by, associated with, or acting on behalf of an attorney described in this paragraph.

(i) Personnel records. —

(1) Subject to paragraph (2) of this subsection, a custodian shall deny inspection of a personnel record of an individual, including an application, performance rating, or scholastic achievement information.

(2) A custodian shall permit inspection by:

(i) the person in interest; or

(ii) an elected or appointed official who supervises the work of the individual.

(j) Hospital records. — A custodian shall deny inspection of a hospital record that:

(1) relates to:

(i) medical administration;

(ii) staff;

(iii) medical care; or

(iv) other medical information; and

(2) contains general or specific information about 1 or more individuals.

(k) Student records. —

(1) Subject to paragraphs (2) and (3) of this subsection, a custodian shall deny inspection of a school district record about the home address, home phone number, biography, family, physiology, religion, academic achievement, or physical or mental ability of a student.

(2) A custodian shall permit inspection by:

(i) the person in interest; or

(ii) an elected or appointed official who supervises the student.

(3) (i) A custodian may permit inspection of the home address or home phone number of a student of a public school by:

1. an organization of parents, teachers, students, or former students, or any combination of those groups, of the school;

2. an organization or force of the military;

3. a person engaged by a school or board of education to confirm a home address or home phone number;

4. a representative of a community college in the State; or

5. the Maryland Higher Education Commission.

(ii) The Commission or a person, organization, or community college that obtains information under this paragraph may not:

1. use this information for a commercial purpose; or

2. disclose this information to another person, organization, or community college.

(iii) When a custodian permits inspection under this paragraph, the custodian shall notify the Commission, person, organization, or community college of the prohibitions under subparagraph (ii) of this paragraph regarding use and disclosure of this information.

(l) RBC records. — Subject to the provisions of § 4-310 of the *Insurance Article*, a custodian shall deny inspection of all RBC reports and RBC plans and any other records that relate to those reports or plans.

(m) Maryland Transportation Authority records. —

(1) Subject to the provisions of paragraph (2) of this subsection, a custodian shall deny inspection of all photographs, videotapes or electronically recorded images of vehicles, vehicle movement records, personal financial information, credit reports, or other personal or financial data created, recorded, obtained by or submitted to the Maryland Transportation Authority or its agents or employees in connection with any electronic toll collection system or associated transaction system.

(2) A custodian shall permit inspection of the records enumerated in paragraph (1) of this subsection by:

(i) an individual named in the record;

(ii) the attorney of record of an individual named in the record;

(iii) employees or agents of the Maryland Transportation Authority in any investigation or proceeding relating to a violation of speed limitations or to the imposition of or indemnification from liability for failure to pay a toll in connection with any electronic toll collection system;

(iv) employees or agents of a third party that has entered into an agreement with the Maryland Transportation Authority to use an electronic toll collection system for nontoll applications in the collection of revenues due to the third party; or

(v) employees or agents of an entity in another state operating or having jurisdiction over a toll facility.

(n) Higher education investment contracts. —

(1) Subject to paragraph (2) of this subsection, a custodian shall deny inspection of any record disclosing:

(i) the name of an account holder or qualified beneficiary of a prepaid contract under Title 18, Subtitle 19 of the *Education Article*; and

(ii) the name of an account holder or qualified designated beneficiary of an investment account under Title 18, Subtitle 19A of the *Education Article*.

(2) A custodian:

(i) shall permit inspection by a person in interest; and

(ii) may release information to an eligible institution of higher education designated:

1. by an account holder of a prepaid contract or qualified beneficiary under Title 18, Subtitle 19A of the *Education Article*; or

2. by an account holder or qualified designated beneficiary under Title 18, Subtitle 19A of the *Education Article*.

(o) Recorded images from traffic control signal monitoring systems. —

(1) In this subsection, "recorded images" has the meaning stated in § 21-202.1 or § 21-809 of the *Transportation Article*.

(2) Except as provided in paragraph (3) of this subsection, a custodian of recorded images produced by a traffic control signal monitoring system operated under § 21-202.1 of the *Transportation Article* or a speed monitoring system operated under § 21-809 of the *Transportation Article* shall deny inspection of the recorded images.

(3) A custodian shall allow inspection of recorded images:

(i) as required in § 21-202.1 or § 21-809 of the *Transportation Article*;

(ii) by any person issued a citation under § 21-202.1 or § 21-809 of the *Transportation Article*, or an attorney of record for the person; or

(iii) by an employee or agent of a law enforcement agency in an investigation or proceeding relating to the imposition of or indemnification from civil liability pursuant to § 21-202.1 or § 21-809 of the *Transportation Article*.

(p) Motor Vehicle Administration records containing personal information. —

(1) Except as provided in paragraphs (2) through (5) of this subsection, a custodian may not knowingly disclose a public record of the Motor Vehicle Administration containing personal information.

(2) A custodian shall disclose personal information when required by federal law.

(3) (i) This paragraph applies only to the disclosure of personal information for any use in response to a request for an individual motor vehicle record.

(ii) The custodian may not disclose personal information without written consent from the person in interest.

(iii) 1. At any time the person in interest may withdraw consent to disclose personal information by notifying the custodian.

2. The withdrawal by the person in interest of consent to disclose personal information shall take effect as soon as practicable after it is received by the custodian.

(4) (i) This paragraph applies only to the disclosure of personal information for inclusion in lists of information to be used for surveys, marketing, and solicitations.

(ii) The custodian may not disclose personal information for surveys, marketing, and solicitations without written consent from the person in interest.

(iii) 1. At any time the person in interest may withdraw consent to disclose personal information by notifying the custodian.

2. The withdrawal by the person in interest of consent to disclose personal information shall take effect as soon as practicable after it is received by the custodian.

(iv) The custodian may not disclose personal information under this paragraph for use in telephone solicitations.

(v) Personal information disclosed under this paragraph may be used only for surveys, marketing, or solicitations and only for a purpose approved by the Motor Vehicle Administration.

(5) Notwithstanding the provisions of paragraphs (3) and (4) of this subsection, a custodian shall disclose personal information:

(i) for use by a federal, **state**, or local **government**, including a law enforcement agency, or a court in carrying out its functions;

(ii) for use in connection with matters of:

1. motor vehicle or driver safety;
2. motor vehicle theft;
3. motor vehicle emissions;
4. motor vehicle product alterations, recalls, or advisories;
5. performance monitoring of motor vehicle parts and dealers; and
6. removal of nonowner records from the original records of motor vehicle manufacturers;

(iii) for use by a private detective agency licensed by the Secretary of State Police under Title 13 of the Business Occupations and Professions Article or a security guard service licensed by the Secretary of State Police under Title 19 of the Business Occupations and Professions Article for a purpose permitted under this paragraph;

(iv) for use in connection with a civil, administrative, arbitral, or criminal proceeding in a federal, state, or local court or regulatory agency for service of process, investigation in anticipation of litigation, and execution or enforcement of judgments or orders;

(v) for purposes of research or statistical reporting as approved by the Motor Vehicle Administration provided that the personal information is not published, redisclosed, or used to contact the individual;

(vi) for use by an insurer, insurance support organization, or self-insured entity, or its employees, agents, or contractors, in connection with rating, underwriting, claims investigating, and antifraud activities;

(vii) for use in the normal course of business activity by a legitimate business entity, its agents, employees, or contractors, but only:

1. to verify the accuracy of personal information submitted by the individual to that entity; and
2. if the information submitted is not accurate, to obtain correct information only for the purpose of:
 - A. preventing fraud by the individual;
 - B. pursuing legal remedies against the individual; or
 - C. recovering on a debt or security interest against the individual;

(viii) for use by an employer or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986 (*49 U.S.C.A. § 2701 et seq.*);

(ix) for use in connection with the operation of a private toll transportation facility;

(x) for use in providing notice to the owner of a towed or impounded motor vehicle;

(xi) for use by an applicant who provides written consent from the individual to whom the information pertains if the consent is obtained within the 6-month period before the date of the request for personal information;

(xii) for use in any matter relating to:

1. the operation of a Class B (for hire), Class C (funeral and ambulance), or Class Q (limousine) vehicle; and
2. public safety or the treatment by the operator of a member of the public;

(xiii) for a use specifically authorized by the law of this State, if the use is related to the operation of a motor vehicle or public safety; and

(xiv) for use by a hospital to obtain, for hospital security purposes, information relating to ownership of vehicles parked on hospital property.

(6) (i) A person receiving personal information under paragraph (4) or (5) of this subsection may not use or redisclose the personal information for a purpose other than the purpose for which the custodian disclosed the personal information.

(ii) A person receiving personal information under paragraph (4) or (5) of this subsection who rediscloses the personal information shall:

1. keep a record for 5 years of the person to whom the information is redisclosed and the purpose for which the information is to be used; and
2. make the record available to the custodian on request.

(7) (i) The custodian shall adopt regulations to implement and enforce the provisions of this subsection.

(ii) 1. The custodian shall adopt regulations and procedures for securing a person in interest's waiver of privacy rights under this subsection when an applicant requests personal information about the person in interest that the custodian is not authorized to disclose under paragraphs (2) through (5) of this subsection.

2. The regulations and procedures adopted under this subparagraph shall:

- A. state the circumstances under which the custodian may request a waiver; and
- B. conform with the waiver requirements in the federal Driver's Privacy Protection Act of 1994 and other federal law.

(8) The custodian may develop and implement methods for monitoring compliance with this section and ensuring that personal information is used only for purposes for which it is disclosed.

(q) Records pertaining to arrest warrants. —

(1) Except as provided in paragraph (4) of this subsection and subject to the provisions of paragraph (5) of this subsection, unless otherwise ordered by the court, files and records of the court pertaining to an arrest warrant issued pursuant to Maryland Rule 4-212(d)(1) or (2) and the charging document upon which the arrest warrant was issued may not be open to inspection until either:

(i) the arrest warrant has been served and a return of service has been filed in compliance with Maryland Rule 4-212(g); or

(ii) 90 days have elapsed since the arrest warrant was issued.

(2) Except as provided in paragraph (4) of this subsection and subject to the provisions of paragraph (5) of this subsection, unless otherwise ordered by the court, files and records of the court pertaining to an arrest warrant issued pursuant to a grand jury indictment or conspiracy investigation and the charging document upon which the arrest warrant was issued may not be open to inspection until all arrest warrants for any co-conspirators have been served and all returns of service have been filed in compliance with Maryland Rule 4-212(g).

(3) Subject to the provisions of paragraphs (1) and (2) of this subsection, unless sealed pursuant to Maryland Rule 4-201(d), the files and records shall be open to inspection.

(4) (i) Subject to subparagraph (ii) of this paragraph, the name, address, birth date, driver's license number, sex, height, and weight of an individual contained in an arrest warrant issued pursuant to Maryland Rule 4-212(d)(1) or (2) or issued pursuant to a grand jury indictment or conspiracy investigation may be released to the Motor Vehicle Administration for use by the Administration for purposes of § 13-406.1 or § 16-204 of the *Transportation Article*.

(ii) Except as provided in subparagraph (i) of this paragraph, information contained in a charging document that identifies an individual may not be released to the Motor Vehicle Administration.

(5) The provisions of paragraphs (1) and (2) of this subsection may not be construed to prohibit:

(i) the release of statistical information concerning unserved arrest warrants;

(ii) the release of information by a State's Attorney or peace officer concerning an unserved arrest warrant and the charging document upon which the arrest warrant was issued; or

(iii) inspection of files and records, of a court pertaining to an unserved arrest warrant and the charging document upon which the arrest warrant was issued, by:

1. a judicial officer;

2. any authorized court personnel;

3. a State's Attorney;

4. a peace officer;

5. a correctional officer who is authorized by law to serve an arrest warrant;

6. a bail bondsman, surety insurer, or surety who executes bail bonds who executed a bail bond for the individual who is subject to arrest under the arrest warrant;

7. an attorney authorized by the individual who is subject to arrest under the arrest warrant;

8. the Department of Public Safety and Correctional Services or the Department of Juvenile Services for the purpose of notification of a victim under the provisions of § 11-507 of the *Criminal Procedure Article*; or

9. a federal, State, or local criminal justice agency described under Title 10, Subtitle 2 of the *Criminal Procedure Article*.

(r) Maryland Transit Administration records. —

(1) Except as provided in paragraph (2) of this subsection, a custodian shall deny inspection of all records of persons created, generated, obtained by, or submitted to the Maryland Transit Administration, its agents, or employees in connection with the use or purchase of electronic fare media provided by the Maryland Transit Administration, its agents, employees, or contractors.

(2) A custodian shall permit inspection of the records enumerated in paragraph (1) of this subsection by:

- (i) an individual named in the record; or
- (ii) the attorney of record of an individual named in the record.

(s) Department of Natural Resources' records containing personal information. —

(1) Except as provided in paragraph (2) of this subsection, a custodian may not knowingly disclose a public record of the Department of Natural Resources containing personal information.

(2) Notwithstanding paragraph (1) of this subsection, a custodian shall disclose personal information for use in the normal course of business activity by a financial institution, as defined in § 1-101(i) of the *Financial Institutions Article*, its agents, employees, or contractors, but only:

- (i) to verify the accuracy of personal information submitted by the individual to that financial institution; and
- (ii) if the information submitted is not accurate, to obtain correct information only for the purpose of:
 - 1. preventing fraud by the individual;
 - 2. pursuing legal remedies against the individual; or
 - 3. recovering on a debt or security interest against the individual.

(t) Application for renewable energy credit certification or claim for credits. — A custodian shall deny inspection of an application for renewable energy credit certification or a claim for renewable energy credits under Title 10, Subtitle 15 of the *Agriculture Article*.

(u) Surveillance images. —

(1) In this subsection, "surveillance image" has the meaning stated in § 10-112 of the *Criminal Law Article*.

(2) Except as provided in paragraph (3) of this subsection, a custodian of a surveillance image shall deny inspection of the surveillance image.

(3) A custodian shall allow inspection of a surveillance image:

- (i) as required in § 10-112 of the *Criminal Law Article*;
- (ii) by any person issued a citation under § 10-112 of the *Criminal Law Article*, or an attorney of record for the person; or
- (iii) by an employee or agent of the Baltimore City Department of Public Works in an investigation or proceeding relating to the imposition of or indemnification from civil liability under § 10-112 of the *Criminal Law Article*.

HISTORY: An. Code 1957, art. 76A, § 3; 1984, ch. 284, § 1; ch. 285, § 8; 1985, ch. 590; 1986, ch. 141; 1987, ch. 11, § 1; 1988, ch. 233; 1990, ch. 635; 1992, ch. 100; ch. 131, § 12; 1994, chs. 468, 524; 1995, ch. 339, § 1; 1996, ch. 219; 1997, ch. 14, § 1; ch. 70, § 4; chs. 110, 111, 315, 338, 339; 1998, ch. 21, § 1; ch. 332; ch. 530, § 2; ch. 647; 1999, ch. 34, § 1; chs. 349, 350, 419, 563; 2000, ch. 683; 2001, chs. 35, 529, 684; ch. 730, § 3; 2003, ch. 19; ch. 53, § 6; chs. 381, 382; 2004, ch. 297; 2005, ch. 332; 2006, chs. 13, 15, 16.

NOTES:

EFFECT OF AMENDMENTS.—Chapter 19, Acts 2003, effective October 1, 2003, added (p)(5)(xiv).

Chapter 53, Acts 2003, effective Oct. 1, 2003, substituted "Services" for "Justice" in (q)(5)(iii)8.

Chapters 381 and 382, Acts 2003, both effective July 1, 2003, made identical changes. Each reenacted (a) without change and rewrote (n).

Chapter 297, Acts 2004, effective June 1, 2004, added (s).

Chapter 332, Acts 2005, effective October 1, 2005, reenacted (a) without change; and added (t).

Chapter 13, Acts 2006, effective February 18, 2006, and ch. 16, Acts 2006, effective February 24, 2006, made identical changes. Each reenacted (p)(5)(i) without change and added (u). Chapter 13, Acts 2006, passed over the veto of the Governor in the Senate on January 12, 2006, and in the House on January 19, 2006. Chapter 16, Acts 2006, passed over the veto of the Governor in the House on January 19, 2006, and in the Senate on January 25, 2006.

Chapter 15, Acts 2006, effective February 24, 2006, added "or § 21-809" in (o)(1), (o)(3)(i), (o)(3)(ii), and (o)(3)(iii); and added "or a speed monitoring system operated under § 21-809 of the *Transportation Article*" in (o)(2). Chapter 15, Acts 2006, passed over the veto of the Governor in the House on January 24, 2006, and in the Senate on January 25, 2006.

EDITOR'S NOTE.—Section 3, ch. 683, Acts 2000, provides that "the Motor Vehicle Administration, in consultation with the primary law enforcement officers in the State that provide information to the Administration under Section 1 of this Act regarding individuals named in outstanding arrest warrants, shall report to the General Assembly pursuant to § 2-1246 of the *State Government Article* by October 1, 2002 and each year thereafter on the effectiveness of this Act in reducing the number of outstanding arrest warrants in those jurisdictions that provide arrest warrant information to the Administration."

Chapter 332, Acts 2005, and chs. 13 and 16, Acts 2006, enacted over the Governor's 2005 veto, all added (t). None of the amendments referred to the other. The subsection added by chs. 13 and 16, Acts 2006, has been redesignated as (u).

Section 2, ch. 13, Acts 2006, provides that "this Act shall take effect October 1, 2005"; however, ch. 13, Acts 2006, passed over the veto of the Governor in the Senate on January 12, 2006 and in the House on January 19, 2006, and became effective February 18, 2006, pursuant to *Article II, § 17(d) of the Maryland Constitution*.

Section 3, ch. 15, Acts 2006, provides that "this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any contract awarded before the effective date of this Act."

Section 4, ch. 15, Acts 2006, provides that "an obligation or contract right existing on the effective date of this Act may not be impaired in any way by this Act."

Section 6, ch. 15, Acts 2006, provides that "this Act shall take effect October 1, 2005"; however, ch. 15, Acts 2006, passed over the veto of the Governor in the House on January 24, 2006 and in the Senate on January 25, 2006, and became effective February 24, 2006, pursuant to *Article II, § 17(d) of the Maryland Constitution*.

Section 2, ch. 16, Acts 2006, provides that "this Act shall take effect October 1, 2005"; however, ch. 16, Acts 2006, passed over the veto of the Governor in the House on January 19, 2006 and in the Senate on January 25, 2006, and became effective February 24, 2006, pursuant to *Article II, § 17(d) of the Maryland Constitution*.

BILL REVIEW LETTER.—Chapter 332, Acts 2005 (Senate Bill 740) was approved for constitutionality and legal sufficiency as the payment of credits for the production of ethanol and biodiesel that meets specified requirements amounts to a subsidy, rather than discriminatory taxation; therefore, the bill does not violate the Commerce Clause of the United States Constitution. (Letter of the Attorney General dated May 3, 2005.)

UNIVERSITY OF BALTIMORE LAW REVIEW.—For note discussing executive privilege to prevent disclosure of official information, see *10 U. Balt. L. Rev.* 385 (1981).

UNIVERSITY OF BALTIMORE LAW FORUM.—For article, "Recent Developments: Kirwan v. Diamondback: Records of University Parking Tickets Are Not Protected From Disclosure as Personal or Financial Records Under the Maryland Public Information Act or as Education Records Under Family Education Rights and Privacy Act," see *29.2 U. Balt. Law Forum* 63 (1999).

BURDEN OF JUSTIFYING NONDISCLOSURE OF DOCUMENTS SATISFIED.—The county may adequately meet its burden of proving that documents should not be released: (1) by presenting sufficient evidence showing that the withheld documents fell within one of the enumerated exemptions, and (2) by providing the court with sufficient evidence from which it could reasonably conclude that disclosure of the documents would be contrary to the public interest. This two-prong standard for meeting the burden of proof recognizes the agency's requirements for confidentiality and the public's interest in disclosure, but does not require a balancing process. *Cranford v. Montgomery County*, *55 Md. App.* 276, 462 A.2d 528 (1983), vacated and remanded on other grounds, *300 Md.* 759, 481 A.2d 221 (1984).

PURPOSE OF DENIAL.—Purpose of denying inspection of personnel records is to preserve the privacy of personal information about a public employee that is accumulated during his or her employment. *65 Op. Att'y Gen.* 365 (1980).

The primary focus of the exemption in subsection (i) of this section is undoubtedly traditional personnel files of government employees. *79 Op. Att'y Gen.* 362 (May 9, 1994).

QUESTIONNAIRE RESPONSES AS PERSONNEL RECORDS.—Responses of lawyers on questionnaires as part of a pilot program for the evaluation of judges, which provide the raw data for the performance evaluation, the compiled data

for each judge, and the evaluation reports themselves for each judge are exempt from disclosure under subsection (i) of this section; only the judge who is the subject of the evaluation and a judge "who supervises the work of the individual" are permitted access to these records. However, members of the public will be entitled to composite data and other information that does not identify particular judges. *79 Op. Att'y Gen. 362* (May 9, 1994).

EMPLOYMENT CONTRACTS NOT EXEMPT AS PERSONNEL RECORDS—University erroneously declined to disclose its athletic coaches' employment contracts as personnel records, under (i), because, (1) under § 10-611(g)(2) of this subtitle, disclosure of the salary of an employee of a unit or instrumentality of **State government** was required; (2) this included documentary material in any form made in connection with the transaction of State business; (3) the coaches' employment contracts were the transaction of State business; (4) the purpose of the Maryland Public Information Act, § 10-611 et seq. of this subtitle, was better served when the full context in which the coaches' salaries were paid was known, which was only achieved when the contract was disclosed; and (5) the contracts were not in the nature of performance evaluations. *Univ. Sys. v. Balt. Sun Co., 381 Md. 79, 847 A.2d 427* (2004).

PARKING TICKETS NOT PERSONNEL RECORDS—Parking tickets are not personnel records within the meaning of subsection (i) of this section. *Kirwan v. Diamondback, 352 Md. 74, 721 A.2d 196* (1998).

DISCLOSURE OF BONUS OR MERIT BASED COMPENSATION NOT PROTECTED.—The public is entitled to inspect records that reflect the earnings of government officers and employees, whether those earnings consist solely of a regular salary or are augmented by a bonus or performance award. *83 Op. Att'y Gen. 192* (Dec. 18, 1998).

DISCLOSURE OF RECORDS BY CUSTODIAN PROHIBITED.—Both the clerk of the circuit court, as custodian of personnel records of employees of the clerk's office, and the Administrative Office of the Courts, as official custodian of personnel records relating to employees of the clerk's offices, are prohibited from disclosing those records to a complainant or to a third person, such as a representative of the media. *78 Op. Att'y Gen. 291* (November 18, 1993).

SUPERVISION.—Some concrete nexus of real or potential "supervision" must exist between the official and the employee before the exception allowing access to personnel records can be triggered. *65 Op. Att'y Gen. 365* (1980).

INSPECTION BY LEGISLATIVE AUDITOR OF PERSONNEL FILES.—If the Legislative Auditor requires access to personnel files in order to effectively perform the duties imposed upon him, he is entitled to knowledge of their contents in view of the mandate that the custodian of personnel records shall not deny access to them when their inspection is otherwise provided by law. *60 Op. Att'y Gen. 554* (1975).

INSPECTION BY AUDITOR OF METROPOLITAN COMMISSION OF ST. MARY'S COUNTY.—An auditor conducting an audit of the Metropolitan Commission of St. Mary's County pursuant to the Single Audit Act of 1994, Pub. L. No. 98-502, 98 Stat. 2333, may obtain access to the Commission's personnel records in furtherance of that audit. *81 Op. Att'y Gen. 159* (Apr. 11, 1996).

WORKERS' COMPENSATION CLAIM.—Where employee of the Department of Health and Mental Hygiene has filed claim for workers' compensation with State Accident Fund, it would not be a violation of the provisions designating certain records as exempt from disclosure by providing its investigators with access to information concerning the claimant, or otherwise pertinent to the claim, contained in the Department's personnel files. *60 Op. Att'y Gen. 559* (1975).

TEACHER INFORMATION—Dissemination of degree and credit information on teachers in specific school systems is not authorized. *60 Op. Att'y Gen. 600* (1975).

INSPECTION BY LEGISLATIVE AUDITOR OF MEDICAL RECORDS.—The Legislative Auditor has broad authority to gain access to the medical records of the Department of Health and Mental Hygiene for the purpose of performing his lawful duties. *63 Op. Att'y Gen. 453* (1978).

ACCESS TO RECORDS OF EMPLOYEES IN POSITIONS AFFECTING CONSENT DECREE COMPLIANCE.—The Consent Decree Oversight Management Team members are authorized to have access to personnel records and other information regarding applicants for, and employees in, Baltimore City School System positions that affect consent

decree compliance; although that information is ordinarily protected against disclosure by subsection (i) of this section, disclosure is "otherwise provided by law" by virtue of recent orders in the federal district court. *79 Op. Att'y Gen. 366* (August 23, 1994).

EXAMINATION OF ACADEMIC RECORDS OF CERTAIN STUDENTS AT MORGAN STATE.—It is permissible for a representative of the State Department of Education, who is the State's certifying agent on matters relating to institutional eligibility to participate in federal Veteran's Administration educational programs, to examine the academic records of certain students at Morgan State University. *61 Op. Att'y Gen. 340* (1976).

EXEMPTIONS.—Exemptions from inspection do not create privileges for purposes of discovery. *Boyd v. Gullett, 64 F.R.D. 169* (D. Md. 1974).

PERSONNEL FILES NOT PRIVILEGED AGAINST DISCOVERY IN CIVIL LITIGATION.—The personnel files of a private employer are not privileged against discovery in civil litigation, as to whether such files may actually be discovered depends upon their relationship to potential evidence in the litigation; even if discovery of personnel files occurs, however, the privacy interests of those who are the subject of the files may be safeguarded to some extent by a protective order. *80 Op. Att'y Gen. 249* (June 2, 1995).

ORDER ALLOWING PARTIAL DISCLOSURE OF PERSONNEL FILE REVERSED.—Police department's internal affairs division (IAD) file was a "personnel record," which, although confidential under the Maryland Public Information Act, § 10-611 et seq. of this subtitle, was not immune from disclosure to the accused in a criminal case; a trial court's order allowing disclosure a portion of an IAD file to the accused was reversed where the trial court failed to find preliminarily that the accused demonstrated the need for the confidential material and failed to then conduct the required two-step in-camera review, and where the procedure that the trial court did use was improper since it was for the trial judge, not the officer or the department, to determine what records were to have been reviewed. *Balt. City Police Dep't v. State, 158 Md. App. 274, 857 A.2d 148* (2004).

APPLICABILITY OF "LETTERS OF REFERENCE" PROVISION.—The provision in subsection (d) of this section exempting "letters of reference" from public disclosure applies to all letters — solicited or unsolicited — that concern a person's fitness for public office or employment. *68 Op. Att'y Gen. 335* (1983).

APPLIED IN Mayor of Baltimore v. Burke, 67 Md. App. 147, 506 A.2d 683, cert. denied, 306 Md. 118, 507 A.2d 631 (1986).

QUOTED IN Mayor of Baltimore v. Maryland Comm. Against Gun Ban, 329 Md. 78, 617 A.2d 1040 (1993); *Hammen v. Balt. County Police Dep't, 373 Md. 440, 818 A.2d 1125* (2003).

STATED IN Bowen v. Davison, 135 Md. App. 152, 761 A.2d 1013 (2000); *Prince George's County v. Wash. Post Co., 149 Md. App. 289, 815 A.2d 859* (2003); *Blythe v. State, 161 Md. App. 492, 870 A.2d 1246* (2005).

CITED IN Fioretti v. Maryland State Bd. of Dental Exmrs., 351 Md. 66, 716 A.2d 258 (1998); *Gallagher v. Office of Att'y Gen., 141 Md. App. 664, 787 A.2d 777* (2001); *City of Frederick v. Randall Family, LLC, 154 Md. App. 543, 841 A.2d 10* (2004).