

# **Bond Case Briefs**

*Municipal Finance Law Since 1971*

---

## **PUBLIC RECORDS - MARYLAND**

### **Baltimore Police Department v. Open Justice Baltimore**

**Supreme Court of Maryland - August 31, 2023 - A.3d - 2023 WL 5616318**

Organization interested in investigating and publicizing reports of police misconduct sought judicial review of police department's denial of organization's request under Maryland Public Information Act (MPIA) to waive estimated fees of approximately \$245,000 to produce records relating to incidents involving uses of force.

The Circuit Court upheld police department's denial of fee waiver. Organization appealed. The Court of Special Appeals reversed. Police department and police commissioner filed petition for writ of certiorari, and petition was granted.

As matters of first impression, the Supreme Court held that:

- Organization's challenge to denial of request for fee waiver was in the nature of an administrative mandamus action, such that circuit court had jurisdiction to review the challenge;
- MPIA vests the custodian with discretion to determine which factors are relevant to the public interest determination for a request for waiver of fees;
- Custodians have discretion to determine whether the waiver would be in the public interest after considering all relevant factors;
- Courts determine whether the custodian's exercise of discretion in deciding a fee waiver request was arbitrary and capricious;
- Police department's denial of organization's request for public interest waiver of fees was arbitrary and capricious; and
- Remand to police department for reconsideration of public interest determination was appropriate remedy.