

What Criminal Records Can I Get Under the PIA?

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The Maryland Public Information Act (“PIA”) provides access to government records of all kinds, but it also protects certain records and information under both its own provisions and under the provisions of other laws—including other Maryland laws and the [Maryland Court Rules](#). This is true when it comes to various kinds of criminal law enforcement and criminal justice records. In this blog post, we briefly describe how the PIA—and other relevant laws—treat these kinds of records.

Grand Jury Records

Generally, the circuit court’s files and records pertaining to criminal investigations must be sealed and may only be disclosed by order of the court. This means the court must protect all of its records relating to criminal investigations of a grand jury, of a State’s Attorney, and of the State Prosecutor. Rules 4-641 and 4-642.

Search Warrants

Not just anyone can obtain a copy of a search warrant. The [Maryland Rules](#) restrict access to search warrants as follows:

1. At the time the warrant is executed, you are entitled to a copy if you are “the person from whom the property was taken or . . . an authorized occupant of the premises from which the property was taken.” Rule 4-601(e)(2).
2. During the criminal discovery process, you are entitled to a copy of the warrant from the State’s Attorney—without even asking—if you are a criminal defendant in the case. Rule 4-263(d)(7)(A).
3. At any other time, you can file a request for the warrant and related materials with the clerk of the circuit court if you are “a person from whom or from whose premises property is taken under [the] warrant;” are “a person having an interest in the property taken;” or are “a person aggrieved by the search or seizure.” Rule 4-601(i).

Unless one of the above scenarios apply, only a judge can authorize the disclosure of a search warrant. Rule 4-601(j).

Arrest Warrants and Charging Documents

Generally, court files and records pertaining to an arrest warrant and related charging documents can’t be released until either:

1. the warrant has been served and a return of service has been filed; or
2. 90 days have passed since the warrant was issued.

Criminal History Records

As a general matter, police departments and the State Department of Public Safety and Correctional Services cannot release “criminal history record information” unless you are

requesting your own information. This means you can't get information about anyone else's arrests, charging documents, incarceration, or similar information, although you can get your own such information. See [Md. Code, Criminal Procedure Art.](#), §§ 10-201, 10-219, and [COMAR 12.15.01.01](#).

Criminal history record information does not include law enforcement investigation files, which are covered under a separate exemption in the PIA, or the records of public judicial proceedings.

Investigation Records

The PIA allows various law enforcement agencies—including local police departments and State's Attorneys offices—to protect records of investigations if releasing those records would be contrary to the public interest. Md. Code, [General Provisions Art.](#) ("GP"), § 4-351. This might be the case, for example, with an open investigation that needs to remain secret to be most successful.

If you are the subject of the investigation, you have a greater right of access to the records, but the agency can still deny your request if it believes that disclosing the records would:

1. interfere with a valid and proper law enforcement proceeding;
2. deprive another person of a right to a fair trial or an impartial adjudication;
3. constitute an unwarranted invasion of personal privacy;
4. disclose the identity of a confidential source;
5. disclose an investigative technique or procedure;
6. prejudice an investigation; or
7. endanger the life or physical safety of an individual.

GP § 4-351(b).

Releasing records from a closed investigation is less likely to harm the public interest, so an agency that denies a request for closed investigation records should explain in detail why releasing them would harm the public interest. See [PIA Manual](#), 3-34.

~We hope this article provides the information you need to make more efficient requests for law enforcement and judicial records. The advice given is not legal advice nor is it a binding legal opinion. To make a request for Ombudsman's assistance, please email our office at pia.ombuds@oag.state.md.us.