

PRESS RELEASE

Wiley Rein Files *Amicus* Brief on Behalf of ACLU-MD and Public Justice Center in Maryland Personnel Records Exemption Case

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Wiley Rein LLP filed an *amicus* brief in support of the petitioner with the Maryland Court of Appeals in *Gary Alan Glass v. Anne Arundel County, Maryland et al.* on behalf of the American Civil Liberties Union of Maryland (ACLU-MD) and the Public Justice Center.

In a widely publicized case that began in September 2010, appellant Gary Alan Glass filed a police misconduct complaint against an Anne Arundel County Police detective following a traffic stop. Later, concerned that he had been targeted for retaliation for filing the complaint, Mr. Glass submitted various requests for information from the police department in an effort to inspect records about himself. County officials denied those requests in large part, claiming the records were part of a police internal affairs file—and that as matter of law, all documents in the file were subject to mandatory withholding, regardless of their content.

Mr. Glass then filed suit against the county and the police department's custodian of records. Following a bench trial in April 2015, the Circuit Court for Anne Arundel County concluded in a mixed ruling that although the county had violated the Maryland Public Information Act (MPIA), Mr. Glass had not proven damages.

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On appeal, the Court of Special Appeals—Maryland’s intermediate appellate court—agreed with the county, holding that under *Maryland Dept. of State Police v. Dashiell*, 443 Md. 435 (2015), pursuant to the MPIA’s disclosure exemption for personnel records, the county must withhold an entire internal affairs file regardless of its content. Mr. Glass is now asking the Court of Appeals of Maryland, the state’s highest court, to consider the validity of the Court of Special Appeals’ decision—particularly the lower court’s interpretation of MPIA jurisprudence, including the Court of Appeals’ decision in *Dashiell*.

Wiley Rein’s brief argues that internal affairs investigations may include many documents that are not properly characterized as personnel records, and the Court of Appeals’ jurisprudence has established that such records can and should be severed and disclosed. It further argues that the MPIA’s personnel records exemption has had a chilling effect on public officials’ willingness to disclose records of public concern that are not actually personnel records—and in some instances, it has been used to thwart police transparency and accountability.

The *amicus* brief also states that “The Court of Special Appeals’ ruling, providing a categorical disclosure exemption for police internal affairs files, stands in direct opposition to the public policy favoring police transparency and the goal of strengthening public trust in law enforcement.” To that effect, the brief explains that the Court of Appeals’ jurisprudence is being used improperly as an affirmative weapon against those mechanisms that were specifically intended to ensure transparency and accountability. It thus asserts that the misinterpretation of the personnel records exemption has precluded the MPIA from living up to its original purposes of fostering open government and encouraging public trust.

The brief urges the court to reverse the decision of the Special Court of Appeals, and hold that it erred in reading *Dashiell* as changing the law to create a blanket disclosure exemption for all documents within a police internal affairs file. Rather, each document in an internal affairs file—or any other government file—must be evaluated on its own merit to determine whether any MPIA exemption applies to that document.

Richard A. Simpson, a partner in Wiley Rein’s Appellate, Litigation, and Insurance practices, Insurance Practice partner Kimberly A. Ashmore, and Insurance Practice associate Jessica Gallinaro participated in drafting the brief. Wiley Rein was co-counsel with Deborah A. Jeon and Sonia Kumar of the American Civil Liberties Union of Maryland.

To read the brief, please [click here](#).