INSPECTOR GENERAL OF BALTIMORE CITY ISABEL MERCEDES CUMMING, ESQ., *et al.*	*	**IN THE**
	*	**CIRCUIT COURT**
***Plaintiffs*,**	*	**FOR BALTIMORE CITY**
v.	*	**CASE NO.: C-24-CV-26-001410**
MAYOR AND CITY COUNCIL OF BALTIMORE,	*	
	*	**Part 88**
***Defendant*.**	*	
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OPINION ON SUMMARY JUDGMENT

The "First Amended Verified Complaint" is filed by the Plaintiffs and sworn by Inspector General Isabel Mercedes Cumming. The Court's Decision and Order filed on August 14, 2026, found that Plaintiffs Inspector General Cumming, Advisory Board Chairperson Gayle Guilford, and Advisory Board Secretary, CPA James Godey (collectively Office of Inspector General, "OIG") have standing to sue. The Amended Complaint seeks Declaratory Judgment by the Court on OIG governance allegations and operational issues, injunctive relief, a writ of mandamus (at common law), and/or further relief as may be necessary to enforce subpoenas issued by OIG, to enjoin Defendant from hindering OIG investigations, to require Defendant's compliance with Charter directives essential for performance of OIG responsibilities.

For reasons set out in the Court's Decision and Order, expressly incorporated herein by reference, and for reasons otherwise appearing in this Opinion and Order after the parties' arguments on July 28 and September 16, 2026, this Court has jurisdiction and authority pursuant to the Maryland Uniform Declaratory Judgments Act, Md. Code Ann., Cts. & Jud. Proc. I §§ 3-401 et seq. The Decision described the parties' allegations putting them "at loggerheads" over the responsibilities of an independent Inspector General set out in the City Charter, Article X,

and the City's obligations to provide systems access to OIG as well as to respond to subpoenas. (BALT. CITY CHARTER art. X). The jurisdiction of the OIG to perform its investigatory work, including the issuance and enforcement of its subpoenas, was held not in conflict with or restricted by the Maryland Public Information Act (MPIA) as argued by the City. The City also is alleged to act to restrict or control OIG investigatory methods and deprive OIG of access to data systems, all likely to have impaired OIG's ability to perform its essential duties. The Verified Complaint and the parties' Motions manifest challenges, uncertainty and insecurity, if not direct contradiction of Charter Article X by the City, with respect to rights and responsibilities of OIG and City officials. The enforceability of OIG subpoenas is further and negatively impacted by the City Solicitor's insistence but irreconcilably conflicted representation of OIG. Thus, this Court has authority to grant declaratory relief to the Plaintiffs "whose rights, status, or other legal relations are affected by a statute, municipal ordinance, administrative rule or regulations." (*Id*. at § 3-406).

The City's Motion to Dismiss was Denied by the Court's Decision and Order, [1] and the case was to proceed after instructing the City's Answer and further Response to Plaintiffs'

[1] The Court's Order (August 14) Reserved consideration of the Summary Judgment Motion while affording Defendant further opportunity to respond pursuant to Rule 2-501(b). The Order instructed:

> 1.Because the pending Motion is supported by certain documents and Affidavits accompanying the Verified Amended Complaint and Motion, Defendant's further response to the written Motion, pursuant to Rule 2-501(b), "shall (1) identify with particularity each material fact as to which it is contended that there is a genuine dispute and (2) as to each such fact, identify and attach the relevant portion of the specific document…or other statement under oath that demonstrates the dispute."
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> 2.Also pursuant to Rule 2-501(b), within 15 days of the filing date of this Order, Defendant's "response asserting the existence of a material fact or controverting any fact contained in the record shall be supported by an affidavit or other written statement under oath."
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> 3.Because Defendant's counsel represented at hearing that responses to outstanding OIG subpoenas have been and are being prepared on a "rolling" basis, Defendant shall promptly identify and produce to Plaintiffs the entirety of each response to (a) each subpoena identified in Paragraphs 49, 61-62, 82, 84-85, 86 in the Amended Complaint, and (b) each subpoena issued by OIG to each and any City agency or governmental unit since April 10, 2026.

Defendant did <u>not</u> respond as instructed. Instead, undisputed material facts attested by Plaintiffs' submissions are without contradiction.

pending Motion for Summary Judgment. However, Defendant did not offer documents informing or statements attesting to genuine disputes of material fact so as to counter the pending Motion.

Plaintiffs' Motion requires determination, if on undisputed material facts, whether to enforce OIG subpoenas directed to City officials, employees, board or commission members in 2025 and 2026, and whether to reinstate OIG access to City servers and data systems, all without restriction or obstruction of OIG investigations by the Mayor or City Solicitor, and without limitation by unspecified privileges declared by the City Law Department. The Court has reviewed the arguments of counsel on July 28 and September 16, 2026, with the Verified Amended Complaint (April 10, 2026); Answer (August 31, 2026); Plaintiffs' Motion for Summary Judgment, Exhibits, Affidavits of Messrs. Bartsch and Neil (June 18, 2026); Defendant's Opposition, Affidavits of Mmes. Layman and Moore (July 9, 2026); Plaintiffs' Reply, Exhibits, Affidavit of Andre Davis (July 24, 2026); Defendant's SurReply, Exhibit 1 (August 31, 2026). For reasons identified at hearing and otherwise appearing in the Court's Record, with applicable authorities, and pursuant to Maryland Rule 2-501, the Court has determined to Grant the Plaintiffs' Motion for Summary Judgment in substantial part.

The express responsibilities of the Office of Inspector General are directed by Article X, Section 4(b) of the Charter. The OIG is responsible for:

> (1) investigating complaints of fraud, financial waste, and abuse in City government; and
> (2) promoting efficiency, accountability, and integrity in City government.

(BALT. CITY CHARTER art. X, § 4(b)). Baltimore voters acted by referendum in 2018 "[f]or the purpose of creating an independent Office of Inspector General headed by an Inspector General," and further specified that the Inspector General was "grant[ed] … the power to issue subpoenas"

for testimony and production of documents and information, and to enforce subpoenas in the courts. OIG reports directly to Baltimore citizens. OIG is to "prepare and publish an annual report of the Office's activities," including "recommendations regarding program weakness, contracting irregularities, or other institutional problems discovered by the Office" in the operations of City government. (CHARTER art. X, § 4(e)). A non-partisan Advisory Board is responsible to appoint the Inspector General (CHARTER art. X, §§ 2(a)(1), 2(j)(3)) and to "provide the City Council with an overview of the activities of the advisory board and the Office of the Inspector General" (*id.* § 2(l)), all without direction or control by the Mayor or City Council. The Mayor is instructed to provide adequate resources for performance of their duties: "The Mayor must provide the advisory board with access to City resources to facilitate the advisory board's completion of its responsibilities." (BALT. CITY CHARTER art. X, § 2(a)(3)).

> OIG is charged with broad 'watchdog' jurisdiction:
>
> > The Office of the Inspector General may investigate allegations that involve City government and potential violations of laws or regulations by any (1) City elected official; (2) City employee; (3) member of a board or commission established or governed by the City Charter, City Code, or an executive order issued by the Mayor; (4) City contractor or person negotiating a contract with the City; (5) person seeking certification to provide goods or services to the City; or (6) external recipient of City funds, benefits, or services.

(*Id.* § 4(c)). No jurisdictional exemption or exception to OIG investigation appears for any City office or employee or at the behest of any City official.

> > "The mission of the Office of the Inspector General is to promote accountability, efficiency, and integrity in City government by identifying waste, fraud and abuse to ensure public trust in City government. Citizens have the right to expect efficiency and honesty from City leadership, qualities that are best fostered when the government polices itself and initiates improvements in operational efficiency. The OIG contributes to these objectives through impartial and independent investigation."

(2025 Report at p.4.)

Applicable rules 'govern' the Advisory Board, the duties of the Inspector General, and the "administrative and operational procedures of the Office." (CHARTER art. X, § 6(c)). Rules and professional standards inform and instruct OIG performance, including "Legal Requirements": "OIGs should initiate, conduct, and report investigations in accordance with (a) all applicable laws, rules, and regulations; (b) guidelines from applicable prosecutorial authorities; and (c) internal agency policies and procedures. Investigations will be conducted with due respect for rights and privacy of those involved." (ASS'N OF INSPECTORS GENERAL, *supra* at 28, 36). "[P]rivileged or confidential information gathered by the OIG will be protected from disclosure unless the OIG determines that such disclosure is required by law or necessary to further the purposes of an audit, investigation, inspection, evaluation, review or other inquiry." (*Id.* at 21).

Investigatory experience and expertise of the Inspector General is mandated by the Charter: a qualified Inspector General shall be a Certified Inspector General, with "substantial experience in auditing, financial analysis, criminal justice law, management analysis, public administration, investigations, or another appropriate field." (CHARTER art. X, § 3(a)(1), (2)). Stated principles and standards confirm that the Inspector General's independence--and trustworthiness--are integral to the identification and operation of the OIG to perform its core functions:

> The Public expects OIGs to hold government officials accountable for efficient, cost-effective government operations and to prevent, detect, identify, expose and eliminate fraud, waste, corruption, illegal acts and abuse. This public expectation is best served by inspectors general when they follow the basic principles of integrity, objectivity, independence, confidentiality, professionalism, competence, courage, trust, honesty, fairness[.]

(ASS'N OF INSPECTORS GENERAL, PRINCIPLES AND STANDARDS FOR OFFICES OF INSPECTOR GENERAL 3 (Oct. 22, 2022)). Thus, the nature and manner of work to be performed by OIG

necessarily cannot be subject to the control or influence of the Mayor or any other office in City government. The OIG Advisory Board—not the Mayor, Solicitor, or any other unit of local government—has the jurisdictional authority to determine when and how the Inspector General may investigate allegations that involve City government and potential violations of laws or regulations by City officials, employees, board members, contractors, prospective vendors or recipients of City funds. (CHARTER art. X, § 4(c)). Restricting the fact or manner of investigatory interviews or data research, for example, would infringe on the statutory independence and objectivity of the Inspector General.

Issuing subpoenas is vital to OIG broad investigatory functions. (CHARTER art. X, § 4). The OIG's jurisdictional authority to issue and enforce subpoenas is not limited to allow production only of certain kinds of information contained in 'public records' amassed by other government offices. OIG investigatory functions are not analogous to "request" procedures of the MPIA. (*See* MD. CODE ANN., GEN. PROV. §§ 4-101 et seq.). OIG subpoenas are legal orders compelling attendance and production of evidence, serving as investigatory, fact-finding tools authorized by the Charter and seeking information relevant to fraud, financial waste and abuse in City government. There is nothing about an OIG investigation or subpoena authority that could fairly characterize OIG as an "applicant … that asks to inspect a public record." (MD. CODE ANN., GEN. PROV. § 4-101(b); see § 4-103(a)).

Nevertheless, OIG investigations and consequent reports are instructed to follow applicable law and are informed by the exercise of discretion appropriate to protect confidentiality. Applicable rules and professional standards inform and instruct OIG performance, including "Legal Requirements". (ASS'N OF INSPECTORS GENERAL, *supra* at 28, 36). According to the Complaint and pertinent Affidavits, uncontradicted by Defendant, OIG

has established and follows "procedures for safeguarding the identity of confidential sources and for protecting privileged and confidential information." (*Id.*).

The Verified Complaint details, without contradiction, a developing pattern by the City to delay, diffuse, and deny OIG subpoenas to City offices and employees. In 2025, OIG directed subpoenas to Defendant's "MONSE" program (Mayor's Office of Neighborhood Safety and Engagement). Subpoenas had followed certain Investigative reports, for example, on November 19, 2024 (Exhibit 7 to Amended Complaint): "The OIG received numerous complaints regarding the Safe Streets program and learned that MONSE and their contractors included fictitious employees on the Board of Estimates (BOE) contract approval documentation." *See also* OIG Report on October 22, 2025, describing "ongoing investigation" of MONSE's "SideStep program" (Exhibit 9 to Amended Complaint). Document responses to OIG subpoenas issued to MONSE in June 2025 were heavily redacted by the City Law Department because of MPIA and attorney-client privilege concerns. At no time in 2025 or during the pendency of this case has the Law Department offered an explanation of the applicability of the privilege[2] or identified a privilege log[3] so as to allow evaluation whether designated documents are confidential communications made in providing legal services or in anticipation of litigation. The Law Department's actions served, at least, to materially limit OIG's ability to advance its investigatory decisions. A direct conflict appeared as the Solicitor would not act to engage independent counsel for OIG to enforce its subpoenas while contemporaneously acting to restrict or avoid MONSE's responses to those subpoenas.

[2] At hearing on September 16, 2026, defense counsel declined the Court's invitation to specify employees or offices for whom any privilege was claimed. (9/16/26 Hearing Transcript at pp. 5, 46).

[3] The necessary contents of a privilege log include identification of each communication claimed as privileged; type of document (letter, memo, etc.); author, recipients and their roles; document date; specific privilege claimed, whether attorney-client privilege, work product; sufficient description of nature, subject of document sufficient to assess privilege claim.

A dozen OIG subpoenas throughout 2026 directed BCIT (Baltimore City Office of Information Technology) to produce email traffic of 29 or more City employees. (Plaintiffs' Exhibit 1, filed August 21, 2026, ordered under Seal September 18, 2026). Despite defense counsel's representations of preparing 'rolling' responses, the 2026 subpoenas remain unanswered, unfulfilled. Defendant's Surreply offers defense Exhibit 1 (August 31) to complain of "the approximate size and number of the records requested" and to suggest the City had made "various attempts to cooperate with the requests, produce the necessary information, and to limit wasteful requests by the OIG unrelated to any legitimate OIG investigation." (Surreply at p.3). Defendant's arguments do not serve to counter the material facts advanced by Plaintiffs, the legitimate investigatory purposes of the subpoenas, or dispute enforceability of the subpoenas.

The Maryland Supreme Court recognizes a "threefold test for determining the validity of a subpoena issued by an administrative agency." *Washington Home Remodelers, Inc. v. State Office of Attorney General Consumer Protection Division*, 426 Md. 613, 623 (2012) (citing *Oklahoma Press Publ'g Co. v. Walling*, 327 U.S. 186, 208 (1946)). This Court has applied the test to find that OIG's inquiries[4] by subpoena to City employees are authorized by City Charter, the emails are relevant to the inquiries, and the demand for Outlook and One Drive emails of City employees is not too indefinite or overbroad. See *Banach v. State Comm' n on Human Relations,* 277 Md. 502, 506 (1976). Each of the subpoenas are relevant and reasonable in the circumstances of OIG's reported investigatory activities to ferret out indicia of potential fraud, financial waste and abuse. OIG must retain its authority to obtain information that enables it to fulfill its statutory mandate even if the Mayor distrusts OIG to accomplish responsibilities that the Mayor may be inclined to take on for himself. OIG's investigative authority and jurisdiction

[4] OIG's investigations are initiated primarily by citizen complaints. Ultimately, OIG will report on its inquiries and/or may refer to prosecutorial or enforcement entities to address violations of law.

to enforce its subpoenas follows directly from the City Charter (Article X), from citizens voting to trust the Inspector General to do her job with the Advisory Board. It is not for Defendant or the City Solicitor to obstruct or unilaterally restrict an OIG investigative inquiry. See *Washington Home Remodelers, supra,* 426 Md. at 633-34.

In addition to rejecting OIG investigatory requests and subpoenas, the City Law Department announced in January 2026 that OIG was no longer approved or authorized for "unfettered access" to City servers and to "legally-protected confidential work product and communications" with other units—that "the extra-subpoena access granted by former law department officials was revoked." (Defendant's Memorandum at p. 6). The Charter did not "grant" OIG access to City servers. (*Id.* at p.7). In an Affidavit of the current "Chief of Staff, Governance & Administration for the Baltimore City Office of Information and Technology ("BCIT")", Leyla Layman appears to approve 'removal' of OIG 'administrative privileges' in 2026 as "best practices of identity and access management" after describing a BCIT policy disagreement in 2020 as to the scope of OIG administrative privileges. (Leyla Layman Affidavit July 9, 2026, at Paragraph 6). At hearing on September 16, defense counsel reported that Defendant had denied OIG access to City systems "because anything within that server could be attorney-client privileged information." (9/16/26 Hearing Transcript at p. 94).

The Verified Complaint and Affidavits of Messrs. Bartsch and Neil[5] describe OIG's existing access to City resources, through 2025, appearing to fulfill the Mayor's Charter

[5] This Court is well-informed by the Affidavits of Messrs. Bartsch and Neil to establish that Defendant has cut off OIG access to City resources--servers, accounts, databases-- consequently interfering with OIG's Charter responsibilities. Defendant's Surreply (August 31) offered no contradiction to the contents of the Bartsch and Neil sworn statements nor otherwise identified disputes of material fact bearing on the manner and resources necessary for OIG to fulfill investigatory responsibilities. Nor do arguments of Defendant counter the nature, character, and trustworthiness of Bryan Bartsch's experience, training and trusted performance over a matter of years working in the Law Department and OIG.

obligation to "provide the advisory board with access to city resources to facilitate the advisory board's completion of its responsibilities." (CHARTER art. X, § 2(a)(3)). Bryan Bartsch had been trusted and necessarily afforded permissions to access servers and databases. Defendant's Technology Access policies accurately announced to all employees that "communications or content may be subject to disclosure to BCIT, the Office of Inspector General ("OIG"), the Law Department, law enforcement, or the Department of Human Resources ("DHR"). (E.g., Affidavit of Matthew Neil, June 18, 2026, Paragraph 15). The administrative access afforded to Bartsch since 2019 was and is "required to allow the discovery and collection of the City of Baltimore's data as it pertains to investigations for the Office of the Inspector General…." (Exhibit 4 to Verified Complaint, November 20, 2020 email, Dana Moore to BCIT; Affidavit of Dana Moore, July 9, 2026). [6]

OIG staff accessing City emails or computer imaging may do so, by training and policy, when there is reasonable suspicion of information relevant to the investigatory inquiry, when the request to access is related to official OIG activity with supervisory approval, when the request is specific and limited to investigatory subjects, or individuals directly involved, or a reasonable nexus exists between the subject and email correspondent. (Paragraphs 14-17, Neil Affidavit). Unauthorized access or disclosures are subject to disciplinary consequence. (*Id*. at 19).

Defendant's palpable distrust of OIG and arguments against "unfettered access", to justify cutting off OIG's long-term access to City systems, are unsupported by any factual attestation of the existence of a privilege or consequential breach upon some improvident disclosure by OIG. Defendant does not attempt to prove that any such privilege exists, let alone

[6] The June 17, 2026, Affidavit of Bryan Bartsch, with the email/memorandum of Dana Moore, dated November 20, 2020, also proffered by Defendant, describe a transition and resulting access of OIG to City resources without being controlled or housed in the Law Department after the 2018 Referendum.

warrants foreclosing investigatory data searches or denying subpoenas. *The Abell Foundation v. Baltimore Development Corporation*, 262 Md. App. 657, 713 (2024); *see also E.I. du Pont de Nemours & Co. v. Forma-Pack, Inc.*, 351 Md. 396, 406 (1998). Instead, Defendant refers to vague, unsubstantiated allegations of distrust of OIG's motives to cut and "revoke" access to servers, refusing to make City data resources available to OIG. The knowledgeable attestation of former City Solicitor Andre Davis is not vague as he confirms "the singular importance of the ready access of the independent OIG to digital information in the proper operation of that office [as it conducts] investigations into fraud, waste, and abuse…." (Davis Affidavit, July 24, 2026 at Paragraph 36).

When the City abruptly and adversely changed OIG's operating circumstances, consequently interfering with Plaintiffs' performance of Charter responsibilities, Plaintiffs identified and established the existence of an actual and justiciable controversy: subpoenas are outstanding, standard investigative practices cut off, access to databases shut down. OIG investigations are restricted, severely limited without direct access to employee emails and data. (Neil Affidavit at Paragraphs 21 et seq.; Bartsch Affidavit Paragraph 13; 9/16/26 Hearing Transcript at pp. 80-81). Plaintiffs' critical role to root out governmental fraud, finance waste, and abuse is obstructed by Defendant's interference with OIG's investigatory performance. *See Coates v. Charles Cnty. Bd. of Comm'rs*, 266 Md. App. 266, 290 (2025) (citing *Reed v. McKeldin*, 202 Md. 553, 558 (1955)). This Court now must declare judgment and enjoin the City from denying lawful subpoenas and from failing to provide access to the resources necessary and adequate for OIG to complete its responsibilities.

09/21/2026
Date

Senior Judge Pamela J. White