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STATE OF MARYLAND
PUBLIC INFORMATION ACT COMPLIANCE BOARD

PIACB 24-31

April 15, 2024

Office of the State's Attorney for Baltimore City, Custodian
Briana Moore, Complainant

The complainant, Briana Moore, alleges that the Office of the State's Attorney for Baltimore City ("BCSAO") violated the Public Information Act ("PIA") by failing to respond to a request for public records. As explained below, we find no violation.

Background

On September 16, 2023, the complainant sent the BCSAO a PIA request seeking "copies of all available documents, records, and information that relate to the wage garnishment, open judgments and bankruptcy information" for a specific Assistant State's Attorney ("ASA"). The complainant listed seven Maryland cases and two U.S. Bankruptcy Court cases, and stated that the request "pertained" to those cases. The complainant also asked for "confirmation" if the ASA could "still be served documents" at the office address.

The BCSAO sent the complainant a letter on September 28, 2023, that purported to deny the PIA request on grounds that the records were "records of the United States Department of Justice," and not the BCSAO. However, that letter, while addressed to the complainant, referred to a PIA request the BCSAO received on May 2, 2023, for records of a man who was apparently tried in federal court—i.e., a different matter than that referenced in the complainant's PIA request.

In the complaint, the complainant alleges, among other things, that the BCSAO never sent the September 28, 2023, response letter and that the PIA request "has still gone unacknowledged for no legitimate reason."

In response to the complaint, the BCSAO "acknowledges that the body of the notice did not contain the correct response and contained information about a completely different MPIA request." It further states that it "would have denied this request" because the BCSAO does not "adjudicate bankruptcies on the federal level," and because "the portion of the request related to wage garnishment records" would constitute personnel records,

which are subject to a mandatory exemption in § 4-311¹ of the PIA. The BCSAO also asserts that this request is one of many frivolous, vexatious, and bad faith requests that it received over the course of several months at the end of 2023.

In reply, the complainant maintains that the BCSAO failed to respond to the PIA request and has provided our Board “a falsified and backdated response document” in an attempt to “gaslight both the Board and [the complainant].”

Analysis

The PIA directs us to review and resolve complaints alleging certain violations of its provisions, including that a custodian failed to respond to a PIA request within certain time limitations. § 4-1A-04(a)(1)(iii). If we determine that a custodian has failed to respond within those time limitations, we must order the custodian to “promptly respond,” and have discretion to waive any associated fees if our written decision states the reasons why. § 4-1A-04(a)(3)(iii).

When custodians receive PIA requests, they must “grant or deny the [requests] promptly, but not more than 30 days after receiving the [request].” § 4-203(a)(1). “If the custodian reasonably believes that it will take more than 10 working days to produce the public record,” the custodian must state so in writing and provide certain information, including how long it will take to produce the records, an estimate of any fees that may be associated with production, and the reason for the delay.² § 4-203(b). A custodian who denies a PIA request must, within ten working days, provide a written statement that explains, among other things, “the reasons” and “legal authority” for the denial, a brief description of the undisclosed records, and a notice of remedies. § 4-203(c)(1). The time limits found in § 4-203 “may be extended for not more than 30 days” with the requester’s consent, and, if the requester or custodian “seeks resolution of a dispute” through the Public Access Ombudsman³ or our Board, “shall be extended pending resolution of that dispute.” § 4-203(d).

After reviewing the submissions, we find that the BCSAO has not violated the time limitations imposed by § 4-203(a) or (d). The complainant sent the PIA request on

¹ Statutory citations are to the General Provisions Article of Maryland’s Annotated Code unless otherwise stated.

² Notably, we lack authority to review and resolve complaints about a custodian’s failure to comply with this provision. See § 4-1A-04(a)(1)(iii) (Board has authority to resolve complaints that a custodian “failed to respond to a request for a public record within the time limits established in § 4-203(a) or (d),” but not § 4-203(b)).

³ See § 4-1B-04(a) (requiring the Ombudsman to “make reasonable attempts to resolve disputes between applicants and custodians relating to request for records under [the PIA]”).

September 16, 2023. While the BCSAO apparently sent the complainant a letter on September 28, 2023—within the thirty days afforded by § 4-203(a)(1)—that letter was not a proper denial given that it related substantively to a different PIA request.⁴ But, as noted in the BCSAO’s response, the BCSAO referred this PIA request—along with many others—to the Ombudsman in an effort to resolve a dispute, i.e., the BCSAO’s contention that the requests were frivolous, vexatious, and in bad faith. As detailed in our decision, PIACB 24-29 (Mar. 29, 2024), that referral was made in early October, before the thirty days provided in § 4-203(a)(1) had run.⁵ The time for responding to the complainant’s PIA request was therefore “extended pending resolution of that dispute” § 4-203(d)(2), which occurred when we issued our decision.

Conclusion

Based on the information before us, we conclude that the BCSAO has not violated the PIA. Given that the time for responding begins to run again with our resolution of this complaint, the BCSAO may take action consistent with our decision in PIACB 24-29 (Mar. 29, 2024).

Public Information Act Compliance Board*

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* Board Member Deborah Moore-Carter did not participate in the deliberation, preparation, or issuing of this decision.

⁴ The complainant contends that the BCSAO never actually sent that erroneous letter in the first place. In light of our decision, we do not need to resolve that factual dispute. However, we note that one of the exhibits attached to the complaint is an email dated September 27, 2023—or the day before the BCSAO states that the letter was sent—in which the complainant asks for an update.

⁵ The time for responding was also tolled when the complainant sought dispute resolution assistance on November 4, 2023, as indicated in the Ombudsman’s final determination.