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STATE OF MARYLAND
PUBLIC INFORMATION ACT COMPLIANCE BOARD

PIACB 24-32

April 15, 2024

Office of the State's Attorney for Baltimore City, Custodian
Terry Jones, Complainant

The complainant, Terry Jones, 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 29, 2023, the complainant sent the BCSAO a PIA request seeking "copies of public records that were provided by Louis Richard Leibowitz to the [BCSAO] and the Civilian Review Unit," including "all Behavioral Analysis Certification Board (BACB) documents, Maryland Department of Health (MDH) documents, and Maryland Board of Professional Counselors and Therapists (BPTC) documents that this individual released to [the BCSAO]."

On October 27, 2023, the BCSAO sent the complainant an email explaining that the PIA request had been "identified as part of a larger group of requests that appear to be frivolous, vexatious, or made in bad faith," and thus the BCSAO had referred the request to the Public Access Ombudsman.¹

In the complaint, the complainant alleges, among other things, that the BCSAO never sent "an acknowledgment, a 10-day notice, or any sort of denial."

In response to the complaint, the BCSAO provides a copy of the October 27 email it sent to the complainant containing notice of the Ombudsman referral. 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.

¹ See Md. Code Ann., Gen. Provisions § 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]").

In reply, the complainant contends that the BCSAO “did not provide an actual legal authority for why they denied [the] request and seems to have invested more time in slandering one of their targets/victims than justifying their PIA violations.”²

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).³ 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.⁴ § 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 Ombudsman or our Board, “shall be extended pending resolution of that dispute.” § 4-203(d).

After review of 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 September 29, 2023. Twenty-eight days later, on October 27, 2023, the BCSAO sent the complainant a notice that it had referred this PIA request—along with many others—to the

² The complainant’s reply also contains a lengthy narrative that the complainant indicates is provided for “a little context.” Because this context is irrelevant to our decision here, and because we lack jurisdiction to entertain any of the accusations the complainant makes therein, we do not consider or address it.

³ Statutory citations are to the General Provisions Article of Maryland’s Annotated Code unless otherwise stated.

⁴ 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)).

Ombudsman in an effort to resolve a dispute, i.e., the BCSAO's contention that the requests were frivolous, vexatious, and in bad faith.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.

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.