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STATE OF MARYLAND
PUBLIC INFORMATION ACT COMPLIANCE BOARD

PIACB 24-36

April 15, 2024

Office of the State's Attorney for Baltimore City, Custodian
Adrian Ramirez, Complainant

The complainant, Adrian Ramirez, 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 October 7, 2023, the complainant sent the BCSAO a PIA request seeking, among other things, "all documents, records and information related to" two Assistant State's Attorneys ("ASA") whom the complainant alleged had released "confidential police reports and information for ongoing criminal investigations in violation of MPIA disclosure laws and California third-party release laws." The complainant also asked for "all documents, records, and information related to [the ASAs] obstructing and impeding the criminal investigation and prosecution of case [sic] Maryland case 4B02470094," and "failing to process charging documents," "failing to review evidence, failing to contact victims, and failing to afford victims their right to be informed or confer with the prosecutor assigned to the case."

On October 16, 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

The complaint states that, on November 22, 2023, the complainant "reached out to ask if there was an update." The complainant alleges that the BCSAO "never provided an initial notice" or an "actual denial letter," and that the BCSAO did not give "a legitimate reason or authority for denying . . . access to public records." The complainant asserts that "this is either a failure to respond or a constructive denial, you choose."

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 response to the complaint, the BCSAO provides a copy of the October 16 email it sent to the complainant containing notice of the Ombudsman referral. The BCSAO also states that it denied the PIA request on November 22, 2023 because the records “were nonexistent,” as “no such records of [a] fictitious conspiracy exist, nor were there any records of email communications reflecting a conspiracy to impede any investigations sent between [ASAs].” 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 contends that the BCSAO’s response “makes no sense.” The complainant alleges that the BCSAO provided the records he sought to a different requester, and that there are “endless emails” from ASAs that show a failure to “investigate and process charging documents.” The complainant also refers to other Board complaints and attaches documents connected to those complaints, which he asserts are responsive.

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).² 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.³ § 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

² Statutory citations are to the General Provisions Article of Maryland’s Annotated Code unless otherwise stated.

³ 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 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).⁴ The complainant sent the PIA request on October 7, 2023. Nine days later, on October 16, 2023, the BCSAO sent the complainant a notice that it had 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.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*

Michele L. Cohen, Esq.
Samuel G. Encarnacion
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* Board Member Deborah Moore-Carter did not participate in the deliberation, preparation, or issuing of this decision.

⁴ Neither party attaches the denial letter that the BCSAO indicates was sent on November 22, 2023, and the complaint does not allege that this letter was improper. We nevertheless note that the documents provided by the complainant, which the complainant alleges were responsive to the PIA request, do not appear to us to be responsive. The complainant did not seek merely records exchanged by the named ASAs or records related to a particular case. Rather, the complainant sought records that demonstrated those ASAs “obstructing and impeding” investigations and prosecutions, and failing to do certain things, e.g., “review evidence” or “contact victims.” In our view, none of the records supplied by the complainant show these things.

⁵ The time for responding was also tolled when the complainant sought dispute resolution assistance on November 22, 2023, as indicated in the Ombudsman’s final determination.