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STATE OF MARYLAND
PUBLIC INFORMATION ACT COMPLIANCE BOARD

PIACB 24-42

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Baltimore County Police Department, Custodian
Catherine Rentz, Complainant

Complainant Catherine Rentz challenges redactions applied to investigation records responsive to a July 2022 Public Information Act (“PIA”) request she sent to the Baltimore County Police Department (“BCPD”). Those redactions were applied to shield the name and identity of a deceased sexual assault victim. In response, the BCPD maintains that it properly exercised its discretion, under § 4-351¹ of the PIA, to redact this information because the BCPD determined that disclosure of the victim’s identity would cause an unwarranted invasion of personal privacy and thus be contrary to the public interest. After review of the submissions, we conclude that the BCPD has not violated the PIA and explain below.

Background

On July 18, 2022, the complainant sent a PIA request to the BCPD seeking “[t]he police reports and/or arrest reports made in connection to any arrests or cases closed since November 2019 from processing DNA slide/tube evidence that had been saved at GBMC^[2] between 1975 and 1997.” The BCPD responded on September 6, 2022, and produced police reports related to two such cases with redactions applied to protect the victims’ identities. The BCPD cited §§ 4-101(h), 4-320, 4-326, and 4-356 of the PIA.

Dissatisfied with the BCPD’s response to her PIA request—specifically, with its refusal to disclose the identity of the victim in one set of reports—the complainant contacted the Public Access Ombudsman³ in August 2023. As a result, the BCPD supplemented its response with an additional letter detailing the reasons why the BCPD would not agree to disclose the identity of the victim. That letter focused on § 4-351 in particular, and the reasons why the BCPD had determined that disclosure of the victim’s

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

² Greater Baltimore Medical Center.

³ The Ombudsman is charged with making “reasonable attempts to resolve disputes between applicants and custodians relating to requests for public records under [the PIA].” § 4-1B-04(a).

identity would be contrary to the public interest. The Ombudsman ultimately issued a final determination stating that the dispute was not resolved. The complainant then filed this complaint with our Board.

The complainant explains that she is a journalist working on a project “examining justice from a historical set of evidence in Baltimore County.” She further explains that the police reports she seeks are from cases tied to “one of the oldest (if not the oldest) rape kit backlogs in the country.” The complainant states that the BCPD has previously released police reports for closed sexual assaults without redacting the victims’ names, and suggests that the fact that the BCPD is now “withholding names of *deceased* victims in *closed* cases reveals more about their attempt to try to protect themselves from embarrassment and accountability.”

Contending that media attention is “critical” to ensuring that police departments continue to test the backlog of rape kits, the complainant argues that “[t]he impact of one survivor’s voice is often long-lasting.” As example, she notes that a television segment on the issue led a survivor to call police to have her case investigated. The complainant states that this investigation led to the identification of perpetrators in several cases where evidence had been preserved by the GMBC doctor. The complainant argues that this survivor “would not have been contacted and she would not have been able to speak out had city police redacted her name.” In the case relevant here, the complainant notes that the rape kit was not tested until 2020, which was years after the victim died.

The complainant also points to exonerations that have occurred with the testing of the backlogged rape kits. And, the complainant stresses, wrongful convictions necessarily also mean that the real perpetrators are free to continue to commit sexual assaults. The same is true for cases in which there is no conviction which, the complainant states, is what happened in the case subject to her PIA request—according to the complainant, the suspect who was eventually identified through rape kit DNA testing (and who died in 2021) had been charged with rape in Maryland and was on the sex offender registry in another state.

Ultimately, the complainant argues that the BCPD’s redaction of the victim’s identity “precludes accountability journalism that puts pressure on leaders to invest necessary resources into investigating these crimes.” She contends that the media offers victims and their families “the opportunity . . . to speak out and take action,” and emphasizes that she does not and would not “publish names without their approval.” The complainant takes the position that “[e]nabling police to shield the [victims’] names even after death is effectively stripping survivors and their families of their right to accountability reporting and potential action to affect change.” In addition, the complainant rejects the BCPD’s argument—advanced here and in its supplemental response to the PIA request—that it has redacted victims’ names in certain cases out of concerns for their privacy and that of their families’, and to assure other victims that the BCPD will respect their privacy.

The BCPD attaches and incorporates its December 11, 2023, supplemental response into its response to this Board complaint. The BCPD states that the deceased victim's identity was redacted because the BCPD "determined, in its sound discretion after proper consideration, that disclosure would be contrary to the public interest." The BCPD notes that the complainant is not a "person in interest," but states that it nevertheless considered the seven factors applicable to such requesters provided in § 4-351(b). After doing so, the BCPD concluded that "public release of this victim's identity would constitute an unwarranted invasion of personal privacy." The BCPD argues that its previous release of information from other cases is "not relevant to the particularized examination of this case."

The BCPD acknowledges the complainant's representation that she does not publish victims' names without consent. But, the BCPD stresses, by disclosing the report without redacting the victim's identity, the BCPD itself would essentially be publishing that victim's name. The BCPD also explains that it is "striving to reassure other victims that their privacy will be respected," arguing, in its December 2023 supplemental response—which cites sources that address the problem of under-reporting of sexual assaults—that "any observed failure by police to protect the identity and privacy of other victims would likely further discourage victims from coming forward." The BCPD also asserts that it is "expressly striving to protect the victim's family from being surprised and harmed by being contacted from someone outside law enforcement who wants to discuss their deceased relative's case."⁴ The report disclosed here, the BCPD points out, was not heavily redacted—"[e]ntensive text was released, including the victim's statements describing the circumstances of the sexual assault." For these reasons, the BCPD argues that disclosure of the victim's identity would be an unwarranted invasion of personal privacy. The BCPD takes the position that "the victim's death does not end the victim's privacy interest," and cites cases in its December 2023 supplemental response to support that position.

In reply, the complainant reiterates that "the name is crucial to accountability." The complainant maintains that if the BCPD can "perpetually hide names even in closed cases even after the death of victims, that is an obvious Kafkaesque problem and contrary to the spirit of the Maryland Public [Information] Act."

Analysis

We are authorized to review complaints from PIA requesters that allege certain violations of the PIA's provisions, including that a custodian improperly denied inspection

⁴ In its December 2023 supplemental response, the BCPD states that it reviewed the case record for the disputed reports here and "found no information showing that the victim in [the case] made a public disclosure of her identity," and "no information showing that her identity was publicly disclosed by others."

of a public record.⁵ § 4-1A-04(a)(1)(i). This includes instances in which a custodian denies inspection of information within a public record that is disclosed by redacting the information. *See, e.g.*, PIACB 23-18 (June 7, 2023) (concerning redaction of a police report). If, during the course of our review, we determine that we need more information, the PIA empowers us to ask for it. *See* § 4-1A-06(b)(2). After consideration of the parties' submissions, we must determine whether the alleged violation occurred and issue a written decision. § 4-1A-04(a)(2). When we find a violation, the PIA directs us to order a specific remedy—e.g., if a custodian has improperly denied inspection of a public record, we must “order the custodian to . . . produce the public record for inspection.” § 4-1A-04(a)(3)(i).

Generally, “unless an unwarranted invasion of the privacy of a person in interest would result,” the PIA’s provisions must be “construed in favor of allowing inspection of a public record.” § 4-103(b). Thus, the PIA “reflect[s] the legislative intent that citizens of the State of Maryland be accorded wide-ranging access to public information concerning the operation of their government.” *Amster v. Baker*, 453 Md. 68, 76 (2017) (quotation and citations omitted). But, the PIA “does not require the carte balance, and unrestricted disclosure, of all public records.” *Univ. Sys. of Maryland v. Baltimore Sun Co.*, 381 Md. 79, 94 (2004). Rather, in some instances the PIA requires a custodian to deny access to public records or certain specific information within otherwise disclosable records.⁶ *Id.*; *see, e.g.*, § 4-311 (mandatory denial of personnel records); § 4-329(b) (mandatory denial of “medical or psychological information about an individual”). And, in other instances, a custodian has discretion to deny inspection if it would be “contrary to the public interest.” § 4-343; *see, e.g.*, § 4-351(a)(1) (custodian may deny inspection of “records of investigations” conducted by, among others, “a police department”). In all cases, a custodian bears the burden of justifying non-disclosure. *Cranford v. Montgomery County*, 300 Md. 759, 780 (1984).

The exemption at issue here, § 4-351, is a discretionary exemption that permits a custodian to deny inspection of “records of investigations conducted by . . . a police department” if the custodian “believes that inspection of a part of a public record by the [requester] would be contrary to the public interest.” §§ 4-343, 4-351(a)(1). Under this exemption, a “person in interest”—often the person “that is the subject of a public record,” § 4-101(g)(1)—has a greater right of access. “A custodian may deny inspection by a person in interest only to the extent that the inspection would” cause at least one of seven enumerated harms, e.g., inspection would “constitute an unwarranted invasion of personal

⁵ A complainant must first attempt to resolve the dispute through the Public Access Ombudsman and receive a final determination that the dispute was not resolved. *See* § 4-1A-05(a).

⁶ Maryland’s Supreme Court has observed that “in enacting the MPIA, the General Assembly was attempting to balance the right of the public to unfettered access to government records against the ‘unwarranted invasion of the privacy of the person in interest,’ and that “[c]learly, it is the threat of, and protection against, an unwarranted invasion of privacy that led to the [mandatory] exclusions” in the PIA. *Univ. Sys. of Maryland v. Baltimore Sun Co.*, 381 Md. 79, 95 (2004).

privacy.” § 4-351(b)(3). When the PIA requester is not a “person in interest,” however, a custodian may deny inspection “if, for any reason, disclosure would be contrary to the public interest.” *Frederick v. Randall Family LLC*, 154 Md. App. 543, 561 (2004). Regardless of the requester’s status, a custodian generally must set forth a “particularized factual basis for the ‘public interest’ denial” to justify the exercise of discretion to withhold records.⁷ *Id.* at 567.

Neither the complainant nor the BCPD provided a copy of the redacted police reports at issue in the complaint. Because we felt that review of those records would be helpful to our decision, we asked the BCPD to provide them, which the BCPD did. *See* § 4-1A-06(b)(2). There are thirty-seven pages of records, nearly all of which are handwritten reports by the various police officers who investigated the sexual assault. The victim’s handwritten statement is also included. All of these reports and statements are detailed and describe not only what took place during the sexual assault, but also the investigative steps taken and the witnesses interviewed. There are also a handful of more contemporary records related to the slides taken from GBMC and the eventual match to a suspect made via DNA testing. The BCPD is correct in its assertion that the records are not heavily redacted; it appears to us that the bulk of the redactions have been applied to the victim’s name and any identifying information, e.g., her address or vehicle registration number.⁸

The question before us is whether the BCPD properly exercised its discretion under § 4-351(a)(1) to redact the victim’s name and identifying information from the police reports it disclosed to the complainant. To make that determination, we must ask whether the BCPD has provided a “particularized factual basis,” *Randall Family*, 154 Md. App. at 567, for its conclusion that disclosure of this information would be “contrary to the public interest,” § 4-343. Though the complainant is not a “person in interest”—meaning that the BCPD may deny inspection “if, for any reason, disclosure would be contrary to the public interest,” *Randall Family*, 154 Md. App. at 561—the BCPD nevertheless turned to § 4-351(b) for guidance and concluded that disclosure of the victim’s identity would cause “an unwarranted invasion of personal privacy.” *See* 64 Md. Op. Att’y Gen. 236, 241-42 (1979) (addressing what is now § 4-351(b) in the context of a PIA request from a non-“person in

⁷ The one exception to this general rule applies to records related to investigations that are open and ongoing. *See Frederick v. Randall Family LLC*, 154 Md. App. 543, 566 (2004) (“In cases where defendants are awaiting trial or [when] criminal investigations are ongoing, the reason why it is in the public interest to withhold the contents of an investigative file is obvious, i.e., disclosure almost always would ‘interfere with law enforcement proceedings.’”).

⁸ There are some redactions that appear to shield other information. For instance, it appears that a minor may have been implicated in the investigation at some point, and that the identity of that minor has been redacted. *See* Md. Code Ann., Cts. & Jud. Proc. § 3-8A-27(a)(1) (providing that a “police record concerning a child is confidential” and generally precluding disclosure unless “by order of the court upon good cause shown”). In any event, because the complainant focuses her challenge on the victim’s identity, we do not address the propriety of any other redactions.

interest” and suggesting that “if a custodian does determine that disclosure will have one of these consequences, he may reasonably conclude, that, *a fortiori*, [inspection] is ‘contrary to the public interest’”).

We have, on at least two occasions, reviewed a custodian’s decision to deny inspection of police investigative records under § 4-351(a)(1) on grounds that inspection would cause an unwarranted invasion of personal privacy. In both matters, the complainant was a “person in interest” entitled to a broader right of access to the records than the complainant is here. One matter concerned a request for law enforcement records of an investigation of sexual assault allegations lodged against the complainant. *See* PIACB 23-02 (Nov. 3, 2022). After reviewing a descriptive index of the records, we found no error in the custodian’s exercise of discretion to withhold the records under § 4-351(b)(3), concluding that the custodian had “adequately demonstrated that disclosure of each responsive record would constitute an unwarranted invasion of personal privacy.” *Id.* at 4-5 (cleaned up). We noted that the file contained “only a handful of records,” all of which contained “explicit details of an alleged non-consensual encounter between the complainant and the alleged victim,” whose identity was known to the complainant. *Id.* at 4 (cleaned up). Thus, there was “specific factual information” that supported the custodian’s argument that disclosure would cause an unwarranted invasion of personal privacy. *Id.* at 5.

Another matter concerned a PIA request for a police report in which the complainant was a “person in interest.” PIACB 23-18 (June 7, 2023). The custodian in that case disclosed the report but redacted witnesses’ names, dates of birth, race, sex, age, driver’s license numbers, heights, and weights, citing § 4-351(b)(3) among others. *Id.* at 7. After reviewing several federal cases involving a similar exemption in the Freedom of Information Act (“FOIA”), which we found persuasive, we determined that the custodian had not improperly applied § 4-351(b)(3) to redact that information. *Id.* at 9. Federal cases on the issue generally instruct that “[a]n agency may not withhold records under exemption 7(C)⁹ solely because disclosure would infringe legitimate privacy interests, but must balance privacy interests against the public’s interest in learning about the operations of its government.” *Campbell v. U.S. Dep’t Just.*, 164 F.3d 20, 33 (D.C. Cir. 1998); *see also Lahr v. Nat’l Transp. Safety Bd.*, 569 F.3d 964, 974 (9th Cir. 2009) (“[T]he only relevant public interest in the FOIA [exemption 7(C)] balancing analysis is the extent to which disclosure of the information sought would shed light on an agency’s performance of its statutory duties or otherwise let citizens know what their government is up to.” (cleaned up)).

⁹ FOIA’s general rule of disclosure does not apply to “records or information compiled for law enforcement purposes, but only to the extent that the production” would have certain consequences, including that disclosure “could reasonably be expected to constitute an unwarranted invasion of personal privacy.” 5 U.S.C.A. § 552(b)(7)(C).

In PIACB 23-18, we found that the redacted information implicated legitimate privacy interests “relating to an individual’s control of information concerning his or her person,” and “keeping personal facts away from away from the public eye.” PIACB 23-18, at 9-10 (June 7, 2023) (quoting *Lahr*, 569 F.3d at 974). Because the complainant’s stated interest in the redacted information—i.e., pursuing charges against the witnesses for making what the complainant contended was a false report—did not further the PIA’s public purpose of shedding light on the workings of government or actions of government employees, we determined that the custodian appropriately exercised discretion under § 4-351(b) to redact the witnesses’ information. *Id.* at 10; *cf. also Clemente v. FBI*, 741 F.Supp.2d 64, 85 (D.D.C. 2010) (no need to factor in an individual’s death when no public interest would be served by disclosure of the individual’s name because “something, even a modest privacy interest, outweighs nothing every time,” (citation omitted)).

In this matter, the BCPD has disclosed thirty-seven pages of reports related to a sexual assault—specifically, as the reports state, “vaginal intercourse, against [the victim’s] will”—that occurred in Baltimore County in August of 1978. The BCPD has redacted the victim’s name, address, telephone numbers, and vehicle registration number. The complainant does not appear to dispute that individuals generally have a strong privacy interest in this sort of information, especially when contained in criminal law enforcement records.¹⁰ See *U.S. Dep’t Just. v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 766 (1989) (recognizing that FOIA’s provisions “reflect a congressional understanding that disclosure of records containing personal details about private citizens can infringe significant privacy interests”); see also *Nat’l Archives & Recs. Admin. v. Favish*, 541 U.S. 157, 166 (2004) (noting that there is “special reason” to protect “intimate personal data” contained in law enforcement records “to which the public does not have a general right of access in the ordinary course”). Rather, she argues that that privacy interest has been so diminished by the victim’s death and the passage of time that it cannot outweigh the complainant’s stated public interest in disclosure of the victim’s identity—i.e., pressing law enforcement to move the backlog of untested rape kits through accountability journalism.

¹⁰ Here we note that even when a sexual assault is made public through prosecution and appeals, measures are often taken to protect the victim’s privacy. See, e.g., *State v. Frazier*, 469 Md. 627, 631 & n.1 (2020) (noting, in a case involving convictions for second-degree rape, second-degree sex offense, fourth-degree sex offense, second-degree assault, and false imprisonment, that the court would not refer to the victim by name to protect her privacy); *State v. Miller*, 475 Md. 263, 265 n.1 (2021) (explaining that while “[i]n a prior case involving the rape of an adult victim,” the Court “declined to ‘use the victim’s name or initials’ in order to ‘protect her privacy,’” the Court would use the victim’s initials in this case because it included a crime lab report as an appendix to the opinion and the report referred to the victim’s initials, (quoting *Raynor v. State*, 440 Md. 71, 75 n.1 (2014))).

The complainant *does* dispute the BCPD's other argument as to why disclosure of the victim's identity would be contrary to the public interest—namely that it would telegraph to other sexual assault victims that their privacy will be treated with a certain carelessness or nonchalance. This would, the BCPD maintains, lead to even higher levels of sexual assault under-reporting because some victims will not trust law enforcement. Thus, when evaluating the privacy interests at stake here, we must consider the effect of the victim's death and age of the case, and also whether negative reporting repercussions would result from disclosure, as the BCPD contends.

As to the effect of death and the passage of time, we generally agree with the BCPD's position that death does not entirely extinguish privacy interests in the kind of personal identifying information at issue here, especially in the context of records related to a sexual assault. *See Campbell*, 164 F.3d at 33 (explaining that, while “the deceased by definition cannot personally suffer the privacy-related injuries that may plague the living,” a court “must also account for the fact that certain reputational interests and family-related privacy expectations survive death”); *see also Eil v. U.S. Drug Enf't Admin.*, 878 F.3d 392, 400 (1st Cir. 2017) (concluding that the trial court “failed to acknowledge the distinct privacy interests of the relatives of [a doctor's] deceased patients in the deceased patients' death-related records”). Those interests may include the interest of surviving family members in being left alone and not reminded of the traumatic assaults perpetrated upon their loved ones. *See, e.g., Favish*, 541 U.S. at 166 (explaining that the family of the deceased “invoke[d] their own right and interest to personal privacy,” which was “to be shielded by the exemption to secure their own refuge from a sensation-seeking culture for their own peace of mind and tranquility”).

At the same time, we are mindful that it has been more than twenty-five years since the victim passed away and more than forty-five years since the crime occurred—a circumstance that certainly diminishes the privacy interests at stake. *Cf. Blethen Maine Newspapers, Inc. v. State*, 871 A.2d 523, 531 (Me. 2005) (“The disclosure of allegations that might damage a deceased person's reputation and adversely affect the peace of mind of his or her family in the years immediately following death will have considerably less effect many years later.”). But, however diminished, those privacy interests must be balanced against the public interest in disclosure of the victim's name and identity. If the public interest is slight, then even diminished privacy interests may weigh in favor of non-disclosure.

The federal cases cited above stress that, when it comes to the privacy of personal information contained in law enforcement records, the only public interest that matters is the interest in shedding light on government operations. As we have before, we find those cases persuasive and consistent with cases addressing other privacy-related exemptions decided in our State courts. *See* PIACB 23-18, at 9 (June 7, 2023); *see also, e.g., Immanuel v. Comptroller*, 449 Md. 76, 95 (2016) (upholding denial of “incremental [financial] information” about abandoned property accounts because the information did not “offer

the citizen a better understanding of how the government of the State of Maryland is functioning or what it is up to,” and provided “no discernable insight into governance that would warrant overcoming the individual privacy interest in personal financial information”). Thus, for purposes of the BCPD’s application of § 4-351(b)(3) to the records at issue here, we are concerned with the extent to which disclosure of the deceased victim’s identity will further shed light on the workings of government, particularly the BCPD.

We take the BCPD’s point that it has disclosed a lot of information that sheds light on the investigation and how it was handled at the time of the assault and in the many years since. As indicated above, the reports are very detailed and contain descriptions of the assault itself and the subsequent investigation, including notes from witness interviews and narratives of line-ups conducted for purposes of attempting to identify a suspect. The reports also contain several pages related to the DNA testing done decades after the assault occurred. Disclosure of these details affects the impact of revealing the victim’s identity on the public interest in understanding the BCPD’s treatment of sexual assault cases and the backlogged rape kits. *See Eil*, 878 F.3d at 399 (finding arguments related to the public interest in disclosure “unconvincing” where there had already been “substantial disclosure of pertinent information,” including the release of “medical records of deceased patients and of living patients who cannot be readily identified from the trial transcript”); *see also* PIACB 23-18, at 10 (June 7, 2023) (observing that the custodian “did not redact any information related to the police officers who responded and stopped the complainant, nor did it redact any statements made by witnesses,” and that this disclosed information was “far more likely to provide insight as to how [police] handled the situation”).

Looking at the record here, it is not entirely clear to us what added value disclosure of the deceased victim’s name in this case will provide in terms of shedding further light on the workings of the BCPD. The complainant seems suggests that if she has the means to contact the victim’s family, and they are willing to speak out and tell their story, their story might compel the BCPD and associated law enforcement agencies to process the backlogged rape kits faster and close more cases. But, although contingent and perhaps somewhat speculative, the complainant’s stated public interest is not “nothing,” *Clemente*, 741 F.Supp.2d at 85, for purposes of the § 4-351(b)(3) analysis. Thus, the personal privacy interests of the victim and her family must be balanced against this public interest in disclosure and considered alongside the BCPD’s additional privacy-related reason why disclosure of the victim’s identity would be contrary to the public interest.

The BCPD’s additional privacy-related argument is that its interest in assuring other sexual assault victims that the BCPD will respect their privacy—separate and apart from the privacy interests of this victim and her family—weighs against disclosure of the victim’s identity. In our view, this is a legitimate privacy related interest, although not necessarily the individual and familial “personal privacy” interests that § 4-351(b)(3) seeks to protect. But, the complainant is not a “person in interest,” and thus the BCPD is not

limited to the seven circumstances listed in § 4-351(b)(3) when determining whether disclosure would be contrary to the public interest under § 4-343. *Randall Family*, 154 Md. App. at 561. We also afford the BCPD some measure of deference when it comes to matters of law enforcement and issues related to victims, which are implicated here. *Cf. Campbell*, 164 F.3d at 32 (“Because the FBI specializes in law enforcement, its decision to invoke exemption 7 is entitled to deference.”). Thus, though the complainant encourages us to wholly disregard this argument, we do not.

The BCPD contends that it carefully balanced the privacy concerns implicated by disclosure of the victim’s identity against the complainant’s stated public interest in disclosure. The submissions tend to support that contention. The BCPD’s process was certainly not the “empty formality” observed by D.C. Circuit in *Campbell*, where the court found that the FBI had “made an abstract attempt to identify possible public interests in disclosure and accorded [them] surprisingly little weight.” 164 F.3d at 33. Instead, the BCPD has stated “with particularity and not in purely conclusory terms, precisely why the disclosure would be contrary to the public interest.” PIACB 23-02, at 3 (Nov. 3, 2022) (cleaned up).

In our view, the BCPD has considered the appropriate factors and carefully weighed the competing interests. We cannot find that it was improper for the BCPD to conclude that the personal privacy interests at stake—diminished by death and age though they may be—outweigh the rather speculative public interest in disclosure of the victim’s identity. This is especially true given the BCPD’s additional more general interest in encouraging the reporting of sexual crimes, which is furthered when victims feel that their privacy will be safeguarded. We therefore find that the BCPD did not violate the PIA by applying § 4-351(a)(1) to redact the victim’s identity from the police reports it disclosed in response to the complainant’s PIA request.

Conclusion

This was not an easy complaint to resolve. After careful consideration of the submissions and the BCPD’s reasoning, we conclude that the BCPD’s exercise of discretion under § 4-351 was not improper. The BCPD did not violate the PIA by redacting the name and identifying information of the deceased sexual assault victim from the detailed police reports that were disclosed. The BCPD’s conclusion that disclosure of the victim’s identity would be contrary to the public interest is supported by the record here.

Public Information Act Compliance Board*

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* For the reasons outlined below, Board members Samuel G. Encarnacion and Debra Lynn Gardner do not join in this decision.

We agree that this was not an easy complaint to resolve, but we cannot agree that the BCPD properly redacted the police reports under § 4-351. While the BCPD's process was not the "empty formality" observed by the D.C. Circuit in *Campbell*, in our view, the BCPD has not met its burden to demonstrate that disclosure of the victim's identity would be contrary to the public interest under §§ 4-343, 4-351.

The privacy interests apparent from the record are weak given the victim's death more than two decades ago and the amount of time that has passed (over four decades) since the crime occurred. Such interests simply cannot outweigh the complainant's stated public interest in disclosure, which certainly relates to opening government up to public scrutiny. As we see it, the complainant has made a convincing case that disclosure of the victim's identity will enhance her ability to shine light on the problems caused by Baltimore County's backlog of untested rape kits. And, though we credit the BCPD's representation that it is concerned with other sexual assault victims' perception of how the BCPD regards the sensitive and private nature of these crimes, there is no indication that this case received a lot of media attention or that other victims will know or worry about disclosure in such an old case. To us, these concerns—which are essentially concerns about the BCPD's reputation regarding privacy—are far more compelling in the context of more contemporary cases with living victims. *See, e.g., Cape Publications v. City of Louisville*, 147 S.W.3d 731, 732, 736 (Ky. Ct. App. 2003) (upholding the Attorney General's decision to allow redaction of the names and addresses of sexual assault victims from police reports disclosed pursuant to a "continuing open record request" by a newspaper and citing the "compelling public interest in insuring the physical safety of the victims and encouraging them to report sexual offenses without fear of exposure"). Moreover, the complainant has made an equally compelling counter-argument that investigations such as hers can help to destigmatize being victimized and empower survivors to seek justice. Given the particular facts of this case, we find that the balance tips in favor of disclosure.

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