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STATE OF MARYLAND
PUBLIC INFORMATION ACT COMPLIANCE BOARD

PIACB 24-44

April 15, 2024

Office of the State's Attorney for Baltimore City, Custodian
Rachel Garcia, Complainant

The complainant, Rachel Garcia, 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 8, 2023, the complainant sent the BCSAO a PIA request seeking a "copy of BCSAO [PIA officer's] notice, dated 9/28/2023, in which he mockingly indicated that a rape victim's founded case was an 'unfounded' rape incident and falsely entered that statement into an official public record," and a "copy of the hyperlink where BCSAO [PIA officer] unlawfully published and disclosed, on 9/28/2023, the rape victim's founded and open investigation file full of sensitive details on the internet for public view for everyone to see in violation of MPIA disclosure laws." For both requests, the complainant provided information about when the record was "communicated" and where it was "realmed."

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

In the complaint, the complainant alleges, among other things, that the BCSAO failed to respond to the request and asks that we "compel the BCSAO to provide . . . these documents so that [the complainant] can provide them to the proper disciplinary authorities."

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

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]").

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 “fails to address their wrongful denial or provide any sort of legal justification or provision.”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 October 8, 2023. Eight days later, on October 16, 2023, the BCSAO sent the complainant a notice

² The complainant’s reply also contains a host of other allegations and accusations that we do not consider or address because they are irrelevant to our decision here and, in any event, beyond our jurisdiction.

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)).

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*

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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 2, 2023, as indicated in the Ombudsman’s final determination.