

WES MOORE
GOVERNOR

ARUNA MILLER
LT. GOVERNOR



MICHELE L. COHEN, ESQ.
SAMUEL G. ENCARNACION
DEBRA LYNN GARDNER
NIVEK M. JOHNSON
DEBORAH MOORE-CARTER

STATE OF MARYLAND
PUBLIC INFORMATION ACT COMPLIANCE BOARD

PIACB 24-80

May 24, 2024

Office of the State's Attorney for Baltimore City, Custodian
John Davis, Complainant

In August of 2023, an individual named James Alford sent three Public Information Act (“PIA”) requests to the Office of the State’s Attorney for Baltimore City (“BCSAO”). When the BCSAO did not respond to his satisfaction, Mr. Alford filed a complaint with our Board and also, as we later determined, continued to either send, or apparently coordinate the sending of, dozens and dozens of additional PIA requests for the same universe of records over the course of the following months, and into this year. Those requests were sent from numerous other email accounts, including that of this complainant. Regarding the complaint Mr. Alford filed, we found no violation of the PIA on the BCSAO’s part. *See* PIACB 24-27 (Mar. 6, 2024). As to the continued PIA requests, they prompted the BCSAO to file a complaint with our Board that the requests were frivolous, vexatious, or in bad faith. *See* § 4-1A-04(b).¹ After a careful and thorough review of the extensive record before us, we concluded that those PIA requests were vexatious and in bad faith. *See* PIACB 24-29 (Mar. 29, 2024). We thus ordered that the BCSAO may ignore those requests, as well as any subsequent or future requests, from the same or different email accounts for the same universe of specific records. *See* § 4-1A-04(b)(3)(i); COMAR 14.02.07.04D(1) and (2).

This matter involves a subsequent request, from an account identified in the BCSAO’s complaint, for records falling within the same universe of records involved in PIACB 24-29—i.e., “records related to James Alford, Louis Leibowitz, and the matters between them heard in the District Court of Maryland for Baltimore City from early 2022 through the end of 2023.” PIACB 24-29, at 25 (Mar. 29, 2024). The request was sent on March 4, 2024, and asked for records of certain BCSAO employees’ “actual or alleged subornation of Louis Richard Leibowitz’s perjury from the year 2022 to 2023,” and other employees’ emails “that pertain[] to Louis Richard Leibowitz.” The BCSAO denied the PIA request, stating that the request had been identified as part of a larger group of requests that the BCSAO believed to be frivolous, vexatious, and in bad faith.

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

The relief sought in this complaint is an order directing the BCSAO to “conduct a comprehensive search, waive all fees, and immediately produce the target public records.” We cannot grant this relief, however, if we are to follow our own reasoning and the conclusions we reached in PIACB 24-29. This is because, by that decision, we have already directed that the BCSAO may ignore this PIA request.² It would defy logic and reason for us, after review, to resolve this complaint in any way inconsistent with our conclusions in PIACB 24-29. We therefore dismiss this complaint as moot. *Cf. Frazier v. Castle Ford, Ltd.*, 430 Md. 144, 162 (2013) (explaining that “[a]n issue is moot if, at the time it is before the court, there is no longer an existing controversy between the parties, so that there is no longer any effective remedy that the court can provide”). While we are aware that, from the complainant’s perspective, there is still much in controversy, in our view we cannot order any “effective remedy” here.

Public Information Act Compliance Board*

Michele L. Cohen, Esq.
Samuel G. Encarnacion
Debra Lynn Gardner
Nivek M. Johnson

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

² We are aware that our decision has been appealed. *In the Matter of William Hernandez*, No. C-24-CV-24-000368 (Cir. Ct. Balt. City). Should the Circuit Court reverse or otherwise alter our decision and order, we are confident that the Court’s opinion and order will guide the BCSAO’s handling of this and the many other PIA requests it has received related to PIACB 24-29. Though the PIA provides that an appeal “automatically stays the decision of the Board pending the circuit court’s decision,” § 4-1A-10(b)(2), this provision does not prevent us from electing to remain consistent in our fact-finding and reasoning here. Especially when, as just stated, the Circuit Court’s opinion will ultimately dictate how the BCSAO responds to these PIA requests.