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STATE OF MARYLAND
PUBLIC INFORMATION ACT COMPLIANCE BOARD

PIACB 24-84

April 26, 2024

State Public Information Act Compliance Board, Custodian
Adam Barry, Complainant

On March 7, 2024, our Board received a Public Information Act (“PIA”) request for:

[A]ll documents, records, emails, exhibits, and internal correspondences between board members the PIACB has about the PIACB inviting over twenty different non parties to respond to PIA matter, in which the PIACB provided the non parties explicit documents related to an ongoing rape investigation and private domestic violence issues, and requested that the non parties respond without providing any redactions to the records, warning about explicit nature of the content, or consent about to release of the documents.

We sent a response to the PIA request on March 21, 2024. We produced a record of an email communication responsive to the request. We also denied inspection of additional email communications under §§ 4-301(a)(1), 4-343, and 4-344¹ of the PIA. We indicated that those records were protected by both the attorney-client and the deliberative process privileges. In that letter we also provided the following notice of remedies:

The PIA provides certain remedies for a requester who disagrees or is dissatisfied with a custodian’s response, including the right to seek judicial review of the custodian’s decision in court, GP § 4-362, and/or to submit the disputed matter to the Ombudsman, GP § 4-1B-04. In the event that a dispute is not resolved through the Ombudsman, a party ordinarily may be eligible to file a complaint with the Public Information Act Compliance Board. See GP §§ 4-1A-04 and 4-1A-05. *However, in this case, the Board reasonably believes that it cannot review complaints about its own responses to PIA requests.* See GP § 4-1A-07(c)(2) (“A decision of the Board may state that the Board is unable to resolve the complaint.”).

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

(emphasis added).²

The complainant then filed this complaint.³ Among other things,⁴ the complainant alleges that we improperly denied his PIA request. For obvious reasons, we cannot review our own responses to PIA requests to this Board. Thus, we conclude that we are unable to resolve this complaint. § 4-1A-07(c)(2)(i); *see also id.* § 4-1A-07(c)(2)(ii) (“A person may not appeal under § 4-1A-10 of this subtitle or § 4-362(a)(2) of this title a decision of the Board stating that the Board is unable to resolve the complaint.”). A person may file a complaint for judicial review in circuit court under § 4-362(a)(1).

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.

² We also indicated that by providing the response to the request, “the Board does not adopt or otherwise agree with the implied assertions in your PIA request that the Board has taken any illegal, unethical, or otherwise improper action by sending the request for additional responses to PIACB 24-29.”

³ The complainant first contacted the Public Access Ombudsman. The Ombudsman issued a statement in which she indicated that she was unable to mediate the matter due to a conflict. *See* COMAR 14.37.02.07C(3) (providing that, “[i]f the Ombudsman is unable to proceed in a neutral, impartial, and independent manner,” then the Ombudsman must withdraw from the mediation and issue a final determination “stating that the dispute was not resolved through the Ombudsman due to conflict”).

⁴ Among other things, the complainant accuses our Board of criminal harassment and violation of Maryland’s revenge porn statute, apparently based on an allegation that we provided records to him that contained active links to records related to a rape case. For purposes of clarification, we first note that this complainant sent a PIA request to a different agency—the Office of the State’s Attorney for Baltimore City (“BCSAO”)—which we determined was vexatious and in bad faith. *See* PIACB 24-29, at 18 n.28, 23, 25 (Mar. 29, 2024). In the course of resolving the BCSAO’s complaint, we sent the complaint to all of the email accounts identified by the BCSAO, including that of this complainant. While the complaint did contain PIA response letters sent by the BCSAO that included hyperlinks to responsive public records, those links were no longer active on February 23, 2024, when we sent the complaint to the other email accounts. Even if they were active, our actions in no way constituted harassment or revenge porn.