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STATE OF MARYLAND
PUBLIC INFORMATION ACT COMPLIANCE BOARD

PIACB 25-07

October 9, 2024

Baltimore Police Department, Custodian
Lionel Rodriguez, Complainant

The complainant, Lionel Rodriguez, alleges that the Baltimore Police Department (“BPD”) has violated the Public Information Act (“PIA”) by failing to respond to a request for public records and constructively denying the request. As explained below, we find that the BPD failed to respond to the PIA request within the time limitations in the PIA. Because the BPD has now responded, we order no further relief.

Background

On March 28, 2024, the complainant sent a PIA request by email to the BPD asking for “[a]ll documents, records, portal entries, every correspondence and all records related to IA 2024-0458 and how my police complaint, which was properly entered as a complaint, was dismissed as a ‘compliment.’” The BPD acknowledged the PIA request on April 1, 2024. The BPD explained that it offered PIA requesters the option of receiving “the disciplinary history summary for each BPD member identified in the request in lieu of a comprehensive response to the request.”¹ The BPD asked the complainant to respond within ten business days to advise whether he wished to receive the disciplinary history summaries rather than his PIA request as originally stated. Such information was required, the BPD advised, for the BPD to proceed so it could prepare a cost estimate. The BPD stated that it would take no further action as to the PIA request until the complainant responded.

On April 2, 2024, the complainant sent the BPD an email stating: “It will not take more than ten days. The PIB falsely closed out my complaint as a ‘compliment’ in approximately 24 hours.” It appears that the BPD did not respond to this email. On July

¹ The BPD explained that the summaries “provide an overview of all disciplinary investigations against the subject officer including the disposition of each, can be prepared more quickly than a full disciplinary file, and can be produced a little or no cost.” In addition, a summary “may provide all of the information [sought], or may enable [a requester] to resubmit a more tailored request.”

16, 2024, the complainant contacted the Public Access Ombudsman.² On August 7, 2024, the Ombudsman issued a statement in which she indicated that she was unable to mediate the matter due to a conflict.³ The statement indicated that the PIA dispute presented was a failure to respond to the PIA request. Thus, that dispute was not resolved through the Ombudsman and the complainant filed this complaint with our Board.

The complaint alleges that the BPD “refused to provide [the complainant] the document from [his] PIA request and has constructively denied [him] access to public records.” The BPD, in response, concedes that it did not respond to the complainant’s PIA request within the thirty-day timeframe provided in § 4-203(a)⁴ of the PIA. However, while this complaint was pending, BPD advises that it responded to the PIA request at no charge to the complainant. In light of this, BPD asks that we order no further relief.

In reply, the complainant states that his allegations against the BPD “were for a denial/ constructive denial” and that “[i]t was not for a failure to respond.” Noting that the BPD took four months to “fully respond,” the complainant accuses the BPD of failing to “produce the responsive documents, and then knowingly and willingly conceal[ing] other documents.” The complainant contends that the BPD “responded inadequately to [his] PIA request” and that “[t]here are more records from the file that the BPD knowingly and willingly refused to produce,” such as a “tracking record of the report/complaint.”

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). 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).

² See Md. Code Ann., Gen. Provisions § 4-1B-04(a) (charging the Ombudsman with making “reasonable attempts resolve disputes between applicants and custodians relating to requests for public records under [the PIA]”). Before filing a complaint with our Board, an applicant or custodian must attempt to resolve the dispute through the Ombudsman and receive a final determination stating that the dispute was not resolved. *Id.* § 4-1A-05(a).

³ 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 Statutory citations are to the General Provisions Article of Maryland’s Annotated Code unless otherwise stated.

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.⁵ § 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, which include the BPD’s concession that it did not grant or deny the complainant’s PIA request within thirty days, we find that the BPD violated § 4-203(a). However, on September 6, 2024, the BPD sent the complainant a response with responsive records attached, including an email, an “IA Pro History” related to his police complaint, and an incident report and investigative summary, both from the “Public Portal.” It appears that the BPD did not charge a fee for the response. Though we understand that the complainant is not satisfied with the records that the BPD produced, we cannot resolve those issues here as they were not alleged in the complaint to our Board filed on August 9, 2024, and the BPD has not had the opportunity to respond to them.

Conclusion

Based on the information before us, we conclude that the BPD violated § 4-203(a) of the PIA by failing to grant or deny the complainant’s PIA request “promptly, but not more than 30 days after receiving the [request].” Because the BPD has now responded without charging a fee, we order no further relief.

Public Information Act Compliance Board*

Sareesh Rawat, Chair
Samuel G. Encarnacion
Debra Lynn Gardner
Nivek M. Johnson

⁵ 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)).

* Board member Quinton M. Herbert did not participate in the deliberation, preparation, or issuing of this decision.