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STATE OF MARYLAND
PUBLIC INFORMATION ACT COMPLIANCE BOARD

PIACB 25-08
October 11, 2024
Maryland Office of the Attorney General, Custodian
Matt Robinson, Complainant

The complainant, Matt Robinson, alleges that the Maryland Office of the Attorney General (“OAG”) has violated the Public Information Act (“PIA”) by constructively denying his PIA request. As explained below, we find no violation of the PIA.

Background

On July 10, 2024, the complainant sent a PIA request by email to the OAG asking for “[a]ll documents and records on any device or account” that three specific OAG employees “have access to that is directly or indirectly related to Adam Barry’s suicide.” On July 16, 2024, the complainant sent an email stating, “[p]lease provide the fee assessment, I need these documents as soon as possible.” On July 23, 2024, the OAG sent the complainant an email explaining, with respect to one of the employees, that it was not the authorized custodian of the records because the employee “serves as counsel to two independent units . . . and OAG is not authorized by statute to obtain and review the records of those units.” With respect to the other two OAG employees, the OAG stated that it would take longer than ten working days to produce the records and that the OAG did not anticipate charging a fee. OAG indicated that it expected to produce any responsive records within thirty days.

The complainant responded on July 23, 2024, expressing disagreement with the OAG’s position as to the employee who served as counsel to independent units. On August 5, 2024, the complainant sent an email to the OAG stating, “[p]rovide a status update on my request.” On August 7, 2024, the complainant contacted the Public Access Ombudsman.¹ That same day, August 7, 2024, the Ombudsman issued a statement in

¹ 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).

which she indicated that she was unable to mediate the matter due to a conflict.² The statement indicated that the PIA dispute presented was a constructive denial of 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 OAG has “wrongly denied [him] access to critical information and public records without a legal basis.” The complainant states that, on August 7, 2024, the OAG indicated that it would “refuse [him] access to the public records, and did not provide a legitimate legal basis or provision under which [it] would be able to deny [him] access to these public records.” In response to the complaint, the OAG states that it requested mediation through the Public Access Ombudsman regarding the complainant’s PIA request. That request was made on August 7, 2024, on grounds that the PIA request was frivolous, vexatious, and in bad faith. Similar to what the complainant received and submitted with this complaint, the OAG states that the Ombudsman issued a statement indicating that she could not mediate the dispute due to conflict. The OAG ultimately responded to the complainant’s PIA request on September 5, 2024, by providing redacted records, which the OAG attaches with its response to this complaint. The OAG contends that the complaint is “thus moot and should be dismissed.” The OAG also contends that the timing of its response to the complainant’s PIA request did not violate the PIA because the time limits were extended under § 4-203(d)(2),³ pending resolution of this dispute.

In reply, the complainant states that the OAG “constructively denied timely access to time sensitive public records.” The complainant also asserts that “the OAG did not conduct an adequate search,” which “constitutes a bad-faith constructive denial.”

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 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”).

³ 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.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 no violation of the PIA. The complainant sent his PIA request by email to the OAG on Wednesday, July 10, 2024, at 11:10 p.m., meaning that the OAG likely received the request the following day, July 11, 2024. The OAG sent its “ten-day letter,” *see* § 4-203(b), on July 23, 2024—i.e., “within 10 working days after receipt of the request,” § 4-203(b)(2). It appears that, on August 7, 2024, before the thirty days to “grant or deny” the complainant’s PIA request had run, *see* § 4-203(a)(1), both the complainant and the OAG contacted the Public Access Ombudsman regarding the PIA request. Thus, under § 4-203(d)(2), the OAG’s time for responding was “extended pending resolution of [the] dispute.” The OAG’s September 5, 2024, response and records production was therefore timely and did not violate the PIA.

To the extent that the complainant is dissatisfied with the OAG’s response to his PIA request, the complainant ordinarily would need to contact the Public Access Ombudsman. *See* § 4-1A-05(a). We note, however, that we recently ordered that the OAG need not respond to certain PIA requests which we found frivolous, vexatious, and in bad faith. *See* PIACB 24-106 (Sept. 26, 2024).

Conclusion

Based on the information before us, we find no violation of the PIA.

Public Information Act Compliance Board

Sareesh Rawat, Chair

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)).

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