

Public Information Act Compliance Board
Conference Call Minutes
September 5, 2018

On September 5, 2018 Board members held a conference call to discuss the Board's Annual Report and to adopt the minutes of its Annual Meeting.

In Attendance:

Board and Board Staff:

John JH. West III, Board member and Chair
Larry E. Effingham, Board member
Deborah F. Moore-Carter, Board member
René C. Swafford, Board member
Darren S. Wigfield, Board member
Jeffrey P. Hochstetler, Board Counsel
Janice Clark, Board Administrator

Call to order and welcoming remarks.

Board chair called the meeting to order at 2:02 pm. He noted that the Board had heard valuable insights from the public at the annual meeting held on August 7, 2018, and asked board members to discuss identified areas of concern.

Discussion of Annual Meeting Public Comments

Issue 1. Discussion of financial barriers inmates face requesting their own case files.

Board members noted that the Board had seen a number of complaints from inmates regarding fee waiver requests due to indigency. Board members discussed the implication of inmates not having access to their own case file and offered solutions.

Board members suggested that the PIA could be amended to permit inmates to receive fee waivers when they requested their own case files. Ms. Swafford suggested that the Board's authority itself could be expanded to hear complaints from inmates with regard to fee waiver denials when they requested their own case files.

Board members discussed issues associated with expanding the Board's authority and the likely increase in costs to agencies.

Mr. Wigfield acknowledged that incarcerated inmates have a right to records pertaining to their own case without paying fees and agreed that the Board's jurisdiction could be expanded to hear complaints from inmates regarding fee waivers. Ms. Swafford added that the Board might recommend expanding the jurisdiction of the board to hear complaints from any requestor regarding fee waivers when the estimated fee is over \$1,000.

Board members agreed to include recommendations in the annual report about a mandatory fee waiver for inmates who request their own files, and about expanding the Board's jurisdiction to review fee waiver denials.

Issue 2. Misuse of the PIA to invade the privacy of Maryland citizens for commercial purposes.

Board members discussed an area of concern identified at the annual meeting—that some requestors try to obtain bulk personal information from custodians for commercial purposes. The Board discussed privacy-related exclusions that currently exist for the PIA and FOIA. They asked Mr. Hochstetler to research current law in this regard. After discussion of current law, the Board agreed to recommend that the legislature amend the PIA to continue to strengthen the protections for personal identifying information of citizens, especially when that information is stored electronically.

Board members also discussed the issue identified by PIA custodians regarding misuse of the PIA by a small number of requestors who make large volume requests for the same kind of information from one agency over a short period of time. Board members agreed that agencies should be allowed to consolidate multiple requests from a single requestor and that the legislature may consider some recommendation for a limit on PIA requests.

Minutes of the Annual Meeting.

MOTION by René Swafford to adopt the minutes as written. Seconded by Deborah Moore-Carter. Motion unanimously passed.

Annual Report

The Board instructed Mr. Hochstetler to draft recommendations for the annual report based on the discussions earlier in the call, and a review of recommendations by the Board in 2017. Board members discussed the recommendations from its 2017 report and asked that all of them be included again in 2018.

Mr. Wigfield noted that the Public Access Ombudsman had provided a report as an appendix to the Board's 2017 report, because she did not have another official channel to report on the workings of the Ombudsman's office. He asked board members to consider repeating this inclusion in 2018. Board members discussed the proposal.

MOTION, by Darren Wigfield, to invite the Public Access Ombudsman to submit a report for inclusion in the Board's annual report. Seconded by René Swafford. Motion unanimously passed.

Other Issues

Mr. Effingham noted that a majority of the public attendees at the annual meeting were representatives from Maryland agencies. He asked the staff and other Board members to consider additional outreach to the public for the next annual meeting to include more requestors and media. Board members discussed outreach opportunities and agreed to include in its 2018 annual report an advertisement for its 2019 annual meeting. They also noted that Ms. Snyder, executive director of the Maryland, Delaware, and DC Press Association (MDDC), has offered to publicize Board meetings and PIA trainings. Board members agreed that there should be a more inclusive approach to announcing the Board's annual meeting.

Mr. Wigfield asked Board members to consider the Board's jurisdiction with regard to fee estimates. He noted that past Board decisions found that the Board does not have jurisdiction to review estimates. Mr. Wigfield asked the Board to consider changing this policy. Mr. Hochstetler noted that the Board does have some flexibility in this regard. For instance, a new complaint involving a precise fee estimate and requirement for prepayment is in the queue for the Board's review, and this type of scenario is within

the Board's jurisdiction. Board members agreed that they could assess the reasonableness of a detailed fee estimate and, where the estimate is not detailed, they could require the agency to provide more detail before demanding prepayment.

MOTION by René Swafford to adjourn. Seconded by Deborah Moore-Carter. Motion unanimously passed.

Chairman West thanked Board members and staff for their time and dedication to the PIA Compliance Board.