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STATE OF MARYLAND  
PUBLIC INFORMATION ACT COMPLIANCE BOARD

Public Information Act Compliance Board

May 19, 2016

**Complainant:** Paul McGrew (Fox45 WBFF-TV)

**Custodian agency:** Harford County Sheriff's Office

**Date of original Public Information Act request:** February 22, 2016

**Date of custodian's final response to requester:** March 23, 2016

**Date of complaint to the Compliance Board:** May 2, 2016

**Fee estimate in dispute:** Denial of request for waiver of fee

**Date of this opinion:** May 18, 2016

**Compliance Board's finding:** Complaint dismissed as not within jurisdiction

**Refund/reduction ordered:** N/A

**Reasons for Dismissal**

Complainant protested the custodian's denial of Complainant's request for a waiver of the fees that the custodian had estimated for fulfilling Complainant's Public Information Act request. Specifically, Complainant "ask[s] that the waiver be approved." As we will explain below, we do not have the authority to issue such an order, and we therefore dismiss the complaint. However, as also explained below, the Complainant's concern expressly lies within the purview of the Ombudsman, and we recommend that Complainant contact her if he has not done so already.

The Compliance Board is authorized to review complaints that allege: (1) that "a custodian charged a fee under § 4-206 of [the Public Information Act] of more than \$350" and (2) that "the fee is unreasonable." § 4-1A-05.<sup>1</sup> If we find that "the custodian charged an unreasonable fee under § 4-206," we are to "order the custodian to reduce the fee to an

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<sup>1</sup> The PIA is codified in the General Provisions Article (2014, with 2015 Supp.) of the Maryland Annotated Code.

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amount determined by [us] to be reasonable and refund the difference.” § 4-1A-04 (a)(3). Under § 4-206, a “reasonable fee” is “a fee bearing a reasonable relationship to the recovery of actual costs incurred by a governmental unit.” § 4-206 (a)(3). We thus have the authority to consider, and determine, whether the fee that a custodian has charged bears a reasonable relationship to the actual costs of fulfilling the requester’s request. And, if we find that the custodian has charged more than the actual costs, we are authorized to order a reduction in the fee and a refund. *Id.* The statute does not authorize us to order other actions.

However, the statute does authorize the Ombudsman to address fee waiver issues. Section 4-1B-04 expressly provides that the Ombudsman’s authority extends to “disputes over . . . a request for or denial of a fee waiver under § 4-206(e).” Complainant may therefore bring his concerns to the Office of the Ombudsman.

Public Information Act Compliance Board

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