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STATE OF MARYLAND
PUBLIC INFORMATION ACT COMPLIANCE BOARD

PIACB 24-11
October 20, 2023
Somerset County Emergency Services, Custodian
La'Asia Cesar, Complainant

In May of this year, complainant La'Asia Cesar sent a Public Information Act ("PIA") request to Somerset County Emergency Services ("SCES") seeking records of 911 calls related to her address and name. SCES produced redacted records. The complainant challenges those redactions. In response to the complaint, SCES produced new records, this time with redactions only for "the names of the dispatchers involved." After review of the submissions, we conclude that SCES has violated the PIA and order that unredacted records be produced. We explain below.

Background

On May 25, 2023, the complainant asked SCES for records of 911 calls related to her address and name. SCES produced responsive records, but with the phone numbers and names of the call dispatchers redacted. SCES did not indicate the legal authority for the redactions.

The complainant sought mediation with the Public Access Ombudsman regarding the redactions and SCES's failure to cite legal authority for them. The Ombudsman ultimately issued a final determination stating that the dispute was not resolved. The complainant then filed this complaint with our Board alleging that SCES's response to her PIA request violated the PIA. Pointing out that "[n]o exact laws were provided to relate to the denial of [her] request," the complainant argues that she has a right to all of the information regarding 911 calls for service to her house. She contends that, in the absence of any law authorizing SCES to withhold the redacted information, that information should be released.

We forwarded the complaint to SCES on August 21, 2023, and requested that SCES respond in writing to the complaint by September 20, 2023. On September 25, 2023, SCES forwarded an email it had sent to the complainant on September 15, 2023, attaching responsive records, this time with only the names of the dispatchers redacted. The phone numbers in the records were no longer redacted. Again, SCES did not cite any authority for the redaction of the dispatchers' names.

Analysis

The PIA authorizes us to review and resolve complaints that allege certain violations of its provisions, including that a custodian improperly denied inspection of a public record in its entirety or of certain information contained in a public record. *See* § 4-1A-04(a)(1)(i).¹ Before filing a complaint, a complainant must attempt to resolve a dispute through the Public Access Ombudsman and receive a final determination that the dispute was not resolved. § 4-1A-05(a). If we conclude that the alleged violation of the PIA has occurred, we must issue a written decision and order a statutory remedy. § 4-1A-04(a)(2) and (3). For instance, if we determine that a custodian has denied inspection of a public record in error, then we must direct the custodian to “produce the public record for inspection.” § 4-1A-04(a)(3)(i).

Generally, the PIA must be construed in favor of disclosure of public records. *See* § 4-103(b) (PIA’s provisions must be construed in favor of “allowing inspection of a public record, with the least cost and least delay,” unless “an unwarranted invasion of the privacy of a person in interest would result”); *Office of the Governor v. Washington Post Co.*, 360 Md. 520, 544 (2000) (“[T]he statute should be interpreted to favor disclosure.”). The statutory exceptions to disclosure must be interpreted narrowly, and the custodian denying inspection bears the burden of justifying the non-disclosure if later challenged. *Washington Post Co.*, 360 Md. at 544. When a request is denied, the PIA requires that custodians provide certain information to the requester, including “the reasons for the denial” and “the legal authority for the denial.”² § 4-203(c)(1)(i).

SCES has failed to carry its burden to justify redaction of the dispatchers’ names in the records responsive to the complainant’s PIA request. SCES did not provide any legal authority for the denial at the time it denied the PIA request, and it did not explain the legal justification for the redactions in response to the Board complaint.³ *See* COMAR

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

² The custodian must also provide, “without disclosing the protected information, a brief description of the undisclosed record that will enable the [requester] to assess the applicability of the legal authority of the denial,” and “notice of the remedies under [the PIA] for review of the denial.” § 4-203(c)(1)(i). In addition, if the custodian invokes a discretionary exemption to withhold records or information, he or she must provide “a brief explanation of why the denial is necessary” and “an explanation of why redacting the information would not address the reasons for the denial.” § 4-203(c)(1)(i)(2).

³ We do not see an exemption in Part III of the PIA—the part that contains mandatory exemptions for specific information contained in otherwise-disclosable records—that might potentially apply to the dispatchers’ names. Section 4-331, the exemption that protects certain information about public employees, generally shields employees’ “home address, personal telephone number, [and] personal e-mail address.” To the extent that the 911 records here might qualify as records

14.02.02.03C (governing responses to complaints alleging improper denials and requiring the responding custodian to “[e]xplain why denial was necessary” and “[p]rovide the legal authority for the denial”). Thus, we find that SCES violated the PIA by redacting the dispatchers’ names from the responsive records and direct SCES to produce those records to the complainant without redaction.

Conclusion

Citing no authority for the denial, SCES violated the PIA by redacting the dispatchers’ names from the records responsive to the complainant’s PIA request. We direct SCES to produce the records to the complainant without redaction.

Public Information Act Compliance Board

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from “an investigatory file compiled for any other law enforcement purpose,” § 4-351(a)(2), information in those records may be withheld only if inspection would “contrary to the public interest, § 4-343; *see also* 71 Md. Op. Att’y Gen. 288, 264-95 (1986) (opining that “the recorded [911] complaint that triggers [a police response and] investigation is part of an ‘investigatory file’” and is subject to discretionary withholding or redaction if disclosure would be contrary to the public interest). In this regard, we note that the complainant here appears to be a person in interest as to these 911 calls—i.e., she is the “person . . . that is the subject of [the] public record.” § 4-101(g)(1). Thus, to sustain redaction, SCES would need to provide a detailed explanation about why one of the harms enumerated in § 4-351(b) would result from disclosure. *See* § 4-351(b) (permitting denial of inspection “by a person in interest only to the extent that inspection would” cause one of seven harms); *see also Blythe v. State*, 161 Md. App. 492, 531 (2005) (“The custodian must point to precisely which of the seven circumstances enumerated by the rule would require the exemption and explain precisely why it would do so.”).