

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

David Cummings,

Complainant

Against

Docket # FIC 2018-0125

Elizabeth Graham, Executive  
Director, State of Connecticut,  
Administrative Services Division,  
Judicial Branch; and State of  
Connecticut, Administrative Services  
Division, Judicial Branch,

Respondent(s)

February 27, 2019

The above-captioned matter was heard as a contested case on February 8, 2019, at which time the complainant and the respondents appeared, presented testimony, exhibits and argument on the complaint. For purposes of hearing, this matter was consolidated with: Docket # FIC 2018-0124; David Cummings v. Elizabeth Graham, Executive Director, State of Connecticut, Judicial Branch, Administrative Services Division; Docket #FIC 2018-0208; David Cummings v. Elizabeth Graham, Executive Director, State of Connecticut, Judicial Branch, Administrative Services Division; and Docket # FIC 2018-0303; David Cummings v. Elizabeth Graham, Executive Director, State of Connecticut, Judicial Branch, Administrative Services Division.

By email filed February 11, 2019, the complainant moved to add testimony and an exhibit to the record in this matter, pursuant to section 1-2j-28, Regulations of Connecticut State Agencies. Such motion is hereby denied. The exhibit the complainant seeks to add is already in the record and the proffered testimony is essentially argument. Nevertheless, such argument will be considered below.

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. The respondents are public agencies with respect to their administrative functions within the meaning of §1-200(1), G.S.

2. It is found that, on March 1, 2018, the complainant emailed the respondents requesting to inspect and/or copy records related to testimony by Judge William Bright before the General Assembly's Judiciary Committee on February 26, 2018. Specifically, it is found that the complainant was seeking records which would include the name and

address of the person who claimed that the complainant, “physically um [sic] touched one of them when she was leaving for the day and trying to go home.”

3. It is found that, on March 1, 2018, the complainant received fifteen pages of documents from the respondent. It is found that the fifteen pages of records provided to the complainant consist of incident reports detailing the complainant’s alleged conduct at the courthouse, however none of the records mentions an improper touching.

4. It is found that, on March 1, 2018, the complainant sent an email to the respondent’s attorney, informing him that the fifteen pages provided were not responsive to his request in that none of the documents made reference to, or contained information regarding, remarks made by Judge Bright during his February 26, 2018 testimony before the Judiciary Committee.

5. It is found that by email dated March 12, 2018, the complainant filed a complaint with the Freedom of Information (“FOI”) Commission alleging that the responded failed to comply with his March 1, 2018 request, as described in paragraph 2, above.

6. Section 1-200(5), G.S., provides that:

"Public records or files" means any recorded data or information relating to the conduct of the public's business prepared, owned, used, received or retained by a public agency, or to which a public agency is entitled to receive a copy by law or contract under section 1-218, whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

7. Section 1-210(a), G.S., provides in relevant part that:

Except as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to (1) inspect such records promptly during regular office or business hours, (2) copy such records in accordance with subsection (g) of section 1-212, or (3) receive a copy of such records in accordance with section 1-212.

8. Section 1-212(a), G.S., provides in relevant part that “[a]ny person applying in writing shall receive promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

9. The complainant testified to his belief that the Judge provided inaccurate information during his testimony to the Judiciary Committee and that if the complainant had truly ever improperly touched a court employee, the Judicial Department would have conducted an investigation into the matter. The complainant further testified that if such an investigation were conducted there would be a record of that investigation.

10. The complainant also testified that he never physically touched any court employee. The complainant submitted as evidence a letter dated March 27, 2018, from Judge William Bright, Jr., to Representative Minnie Gonzalez. It is found that, in the letter, Judge Bright wrote that during his testimony before the Judiciary Committee he briefly mentioned an incident when the complainant physically touched a court clerk as she was leaving for the day, and wrote that his testimony was his honest recollection and understanding of the event. He further wrote that since such testimony, he spoke with the clerk who was at the center of the incident and she informed him that the complainant was yelling at her and was in her personal space, however, she was able to maneuver around him and avoid physical contact. Judge Bright also wrote that, "Consequently, my understanding that there was actual physical contact was incorrect."

11. Based on the evidence adduced at the hearing, it is found that the respondents did not conduct an investigation into allegations that the complainant touched a court employee improperly. It is further found that the respondents do not maintain the records described in paragraph 2, above.

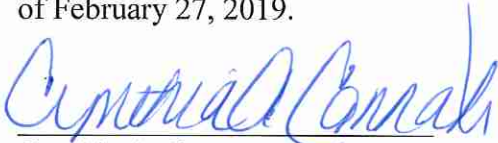
12. In his February 11, 2019, motion to the Commission, the complainant contended that the respondents should have provided him with a copy of the March 27, 2018 letter by Judge Bright in response to his March 1, 2018 request, and that their failure to do so violated the FOI Act. However, it is found that such letter is not within the scope of the request, since it post-dates such request.

13. Based on all of the foregoing, it is concluded that the respondents did not violate the disclosure provisions of §§1-210 and 1-212, G.S., in this matter.

The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. The complaint is hereby dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of February 27, 2019.



Cynthia A. Cannata  
Acting Clerk of the Commission

PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

**DAVID CUMMINGS**, P.O. Box 84, Ellington, CT 06029

**ELIZABETH GRAHAM, EXECUTIVE DIRECTOR, STATE OF CONNECTICUT, ADMINISTRATIVE SERVICES DIVISION, JUDICIAL BRANCH; AND STATE OF CONNECTICUT, ADMINISTRATIVE SERVICES DIVISION, JUDICIAL BRANCH**, c/o Attorney Martin Libbin, Judicial Branch, 100 Washington Street, 3rd Floor, Hartford, CT 06106



Cynthia A. Cannata  
Acting Clerk of the Commission