

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

Ethan Book,

Complainant

against

Docket #FIC 2019-0086

Executive Director, State of Connecticut,
Office of Legislative Management; and
State of Connecticut, Office of Legislative
Management,

Respondents

January 8, 2020

The above-captioned matter was heard as a contested case on April 30, 2019, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint.

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

1. The respondents are public agencies within the meaning of §1-200(1), G.S.
2. It is found that, by letter dated December 23, 2018, the complainant requested that, with regard to State Representatives Christopher Rosario, Steven Stafstrom, Ezequiel Santiago, John Hennessey, Cristin McCarthy Vahey and Joseph Gresko, the respondents provide him with copies of the following records:
 - a. Base annual compensation over the years 2017 and 2018;
 - b. Total annual compensation, including base compensation, reimbursements and allowances, over the years 2017 and 2018;
 - c. The dates and times that anyone entered the LOB¹ parking lot for the periods including 2017 and 2018; and
 - d. The dates and times that each one entered the LOB or Capitol for the periods including 2017 and 2018.

¹ "LOB" is the acronym for the Legislative Office Building.

3. It is found that, by letter dated January 4, 2019, the complainant requested that, with regard to State Representatives Christopher Rosario, Steven Stafstrom, Ezequiel Santiago, John Hennessey, Cristin McCarthy Vahey and Joseph Gresko, the respondents provide him with copies of “documentation which gives detail as to the dates and responsive amounts for which driving/travel allowance were requested over the years 2017 and 2018.”

4. Finally, it is found that, by letter dated January 23, 2019, the complainant requested that, with regard to State Representatives Andre Baker and Charles Stallworth, the respondents provide him with copies of the following records:

- a. Base annual compensation over the years 2017 and 2018;
- b. Total annual compensation, including base compensation, reimbursements and allowances, over the years 2017 and 2018 (with detail as to reimbursements and allowances according to the dates that such reimbursements and allowances pertained);
- c. The dates and times that anyone entered the LOB parking lot for the periods including 2017 and 2018; and
- d. The dates and times that each one entered the LOB or Capitol for the periods including 2017 and 2018.

5. By letter dated and filed February 11, 2019, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information Act (“FOI Act”) by failing to provide him with copies of the records described in paragraphs 2, 3 and 4, above.

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

“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. It is found that, to the extent that the respondents maintain or keep on file the records described in paragraph 2, above, such records are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

10. At the start of the contested case hearing, the complainant informed the hearing officer that, on January 22, 2019, he received the records responsive to the requests set forth in paragraphs 2.a, 2.b, and 3, above, and that, on January 28, 2019, he received the records responsive to the requests set forth in paragraphs 4.a, and 4.b, above. With regard to the requests set forth in paragraphs 2.c, 2.d, 4.c, and 4.d, above, the complainant contended that the disclosure of the responsive records would not pose a safety risk because, while such records would show the arrival and departure of the named State Representatives, such records were historical in nature and, as such, would not reveal the future travel patterns of the named individuals.

11. The respondents contended that the records responsive to paragraphs 2.c, 2.d, 4.c, and 4.d, above, are exempt from disclosure pursuant to §1-210(b)(19), G.S.

12. Section 1-210(b)(19), G.S., provides, in relevant part, that nothing in the FOI Act shall be construed to require the disclosure of:

Records when there are reasonable grounds to believe disclosure may result in a safety risk, including the risk of harm to any person, any government-owned or leased institution or facility or any fixture or appurtenance and equipment attached to, or contained in, such institution or facility, except that such records shall be disclosed to a law enforcement agency upon the request of the law enforcement agency. Such reasonable grounds shall be determined (A) . . . (C) by the executive director of the Joint Committee on Legislative Management, with respect to records concerning the Legislative Department. . . . Such records include, but are not limited to: [a list of eight categories of records].

13. Jim Tamburro, the Executive Director of the Joint Committee on Legislative Management, appeared and testified on behalf of the respondents.

14. It is found that Executive Director Tamburro gathered the records responsive to the requests set forth in paragraphs 2.a, 2.b, 3, 4.a, and 4.b, above, and provided such records to the complainant.

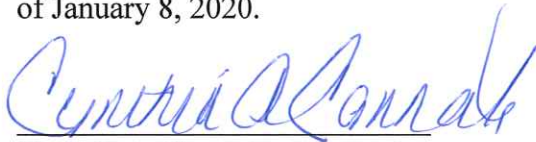
15. With regard to the requests set forth in paragraphs 2.c, 2.d, 4.c, and 4.d, above, it is found that Executive Director Tamburro believed that the disclosure of records revealing state legislators' entry into and departure from the State Capitol, the Legislative Office Building and particular parking structures over the course of two years may result in a safety risk to such individuals in that such records could reveal patterns of behavior, especially during the legislative sessions. It is found that Executive Tamburro met with the State Capitol Police Chief regarding his concerns with disclosing such records. It is found that the Chief of Police concurred with Executive Director Tamburro, also expressing concern that disclosing these records could reveal a pattern in certain legislators' itineraries and thereby pose a safety risk for such individuals.

16. Based upon the evidence produced at the hearing, it is concluded that Executive Director Tamburro had reasonable grounds to believe that the disclosure of the records responsive to the requests set forth in paragraphs 2.c, 2.d, 4.c, and 4.d, above, may result in a safety risk, within the meaning of §1-210(b)(19), G.S. It is therefore concluded that the respondents did not violate the FOI Act when they withheld such records from the complainant.

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 January 8, 2020.



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:

ETHAN BOOK, 144 Coleman Street, Bridgeport, CT 06604

EXECUTIVE DIRECTOR, STATE OF CONNECTICUT, OFFICE OF LEGISLATIVE MANAGEMENT; AND STATE OF CONNECTICUT, OFFICE OF LEGISLATIVE MANAGEMENT, 300 Capitol Avenue, #5100, Hartford, CT 06106



Cynthia A. Cannata
Acting Clerk of the Commission