

State of New York
Offices of the Inspector General



Investigation of Robert Freeman,
Former Executive Director
of the New York State
Committee on Open Government

November 2019

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Inspector General

EXECUTIVE SUMMARY

On June 13, 2019, the Offices of the New York State Inspector General received a detailed written complaint from a female newspaper reporter alleging that Robert Freeman, then the executive director of the State's Committee on Open Government, "sexually assaulted" her while meeting with her in his official capacity.

In subsequent sworn testimony to the Inspector General, the complainant described unwanted physical contact by Freeman during a May 23, 2019 meeting she had with him to discuss New York State Public Officers Law provisions relating to open meetings. The complainant testified that during and immediately after the meeting, Freeman engaged in conduct that included squeezing her shoulder; touching her waist, back, and buttocks with his hand; parting her braids from her face and placing them behind her shoulder; hugging her; and kissing her on her cheek while holding her head. The complainant also described very personal and inappropriate statements made by Freeman to her at this meeting, which included gender- and racially based derogatory comments that were made while Freeman repeatedly looked at her chest. The Inspector General's investigation found compelling evidence that Freeman acted in a sexually inappropriate manner towards the complainant while meeting with her in his official capacity.

During the course of the Inspector General's investigation, a review of Freeman's work emails revealed his repeated inappropriate use of State resources. Specifically, this review found that Freeman used his work email account to improperly communicate with a woman he had met as part of his official duties. This series of sexually suggestive emails from October 2018 through June 2019 included provocative photographic images sent by the woman to Freeman.

Additionally, a forensic computer analysis of Freeman's work computer revealed several image files of naked women and hundreds of image files depicting scantily clad women, all likely obtained through the internet. Moreover, the New York State Office of Information Technology Services, which is responsible for the Committee on Open Government's computer systems, twice a year removed and reinstalled all software on Freeman's work computer because its operating system had become plagued with viruses and other malicious software. Although such viruses can be indicative of improper computer internet usage and subject the computer network to vulnerabilities, the Office of Information Technology Services took no action to address this.

Further, the investigation found that the New York Department of State, in which the Committee on Open Government is housed, was aware of and had acted against Freeman for prior incidents of inappropriate conduct toward women. Specifically, the investigation found that the Department of State verbally admonished Freeman in 2003 after a coworker complained that Freeman had kissed her while the two were in a hotel lobby on a business trip. And in 2013, Freeman was investigated by the Department of State for claims of inappropriate behavior in the workplace towards several female department employees. According to personnel records of the 2013 investigation, one employee alleged Freeman sat on her desk while ogling her; another claimed he frequently stood uncomfortably close to her and said she was “cute” and “attractive”; and two others alleged Freeman ran his hand along their arm or shoulder, thrust his pelvic area toward them, and asked if they worked out. As a result of the investigation, Freeman received a counseling memorandum and, as directed, attended additional sexual harassment prevention and equal employment opportunity training with the Governor’s Office of Employee Relations. As noted in the counseling memorandum, the department reissued Freeman a copy of the agency’s policy on sexual harassment and informed him that “failure to adhere to this policy, the conditions of this memorandum, or the development of related issues will lead to more serious corrective action up to and including termination.”

In sworn testimony to the Inspector General on June 24, 2019, Freeman admitted meeting with and kissing the female reporter at a diner on May 23, 2019. Additionally, he admitted using his work email system to exchange emails with and receive sexually suggestive photographic images from a woman he met while presenting at a university in his official capacity. Freeman also acknowledged that he had viewed a number of sexually explicit images on his work computer via the internet.

On June 24, 2019, the Inspector General referred these findings to the Department of State, which terminated Freeman’s employment that day.

In the aftermath of Freeman’s termination, which was widely reported in the media, numerous additional allegations surfaced regarding Freeman’s conduct toward members of the media as well as State and local government employees. Several newspapers published reporters’ accounts of their uncomfortable encounters with Freeman that exhibited common themes. One newspaper published a letter that its news director had sent to Freeman in March 2015 to express disapproval of the nature of Freeman’s communication with a young female

reporter at the newspaper. The Inspector General was also contacted by State and local government employees about their alleged encounters with Freeman, which had never been reported before. In total, the Inspector General interviewed 14 individuals who claimed Freeman engaged in inappropriate conduct toward them.

The Inspector General found that Freeman habitually engaged in sexual harassment of multiple women over many years. Given the stature Freeman attained during his tenure as executive director, his role as the sole authority on government transparency, and the power dynamic he repeatedly promoted, many of the women who spoke with the Inspector General said they believed it would be futile to report his misconduct.

The Inspector General's investigation also revealed that Freeman—despite his inappropriate conduct being known by many news media outlets—continued to be a frequent source for these media outlets, some of which did not report or directly address his misconduct. Indeed, prior to Freeman's June 2019 termination, the only documented complaints from the news media were the 2015 news director's letter, which was sent directly to Freeman, and the complaint filed by an employee of a media outlet with the Inspector General in June 2019.

The Inspector General referred evidence obtained in this investigation to prosecutorial authorities for consideration.

In light of these findings, the Inspector General recommends that employers, both public and private, disseminate and clarify sexual harassment reporting options involving a State actor. State employees who encounter sexual harassment related to their employment should contact the agency's affirmative action officer, who reports to the Governor's Office of Employee Relations, an entity independent from the employee's agency.¹ Private sector complainants unsure where to file a complaint against a State actor may submit such complaints to the Inspector General, which will handle or refer it to the appropriate entity.

Given that the Office of Information Technology Services failed to act on evidence that Freeman misused his computer, the Inspector General recommends that it promulgate policies

¹ 9 N.Y.C.R.R. § 4.19 (1983). On January 1, 2011, Governor Andrew M. Cuomo issued Executive Order No. 2 reissuing Executive Order No. 19, which established the State policy on sexual harassment in the workplace. Executive Order No 19 was issued by Gov. Mario M. Cuomo on May 31, 1983.

and procedures for reporting suspected abuse of agency computer resources, disseminate these new policies and procedures to staff, and train on the same.

The findings of this investigation illustrate Freeman's continual abuse of his official position. As such, this report was provided to the New York State Joint Commission on Public Ethics for its review of possible violations of New York State Public Officers Law's Code of Conduct and provisions governing the use of State resources.

ALLEGATION

On June 13, 2019, the Inspector General received a complaint alleging that Robert Freeman, then the executive director of the Committee on Open Government, "sexually assaulted" a young female newspaper reporter while meeting with her in his official capacity. Specifically, in a detailed, lengthy written statement, the reporter alleged unwanted contact by Freeman during a work meeting on May 23, 2019, which included squeezing her shoulder, putting his arm on her waist, touching her buttocks with his hand, placing her braids behind her shoulder, hugging her, and kissing her. The reporter also alleged that Freeman engaged in very personal and inappropriate conversation with her during this meeting and made gender- and racially based derogatory statements toward her while constantly looking at her chest. In addition, the reporter alleged that during this meeting, Freeman bragged about his salary and work status, commenting that he is his own boss and "no one is above him." Upon receipt of this allegation, the Inspector General immediately commenced an investigation into Freeman's conduct.

BACKGROUND

New York State Sexual Harassment Policy

Sexual harassment in the workplace, a form of gender-based discrimination, involves unwelcome sexual conduct that is used as the basis for employment decisions or creates an intimidating, hostile or offensive work environment. Sexual harassment, which may be verbal, visual, or physical, includes such actions as comments about a person's gender or sexual preferences, sexually offensive remarks, and unwanted touching or groping, among other actions. Sexual harassment can also occur outside the workplace. Sexual harassment is prohibited by Title VII of the 1964 federal Civil Rights Act, New York State Human Rights Law and, in some instances, local law.

Under the prior New York State standard, harassment was illegal when it was so “severe or pervasive” that it resulted in an adverse employment decision or created a hostile or offensive work environment. Effective October 11, 2019, new anti-discrimination legislation modified this standard by eliminating the “severe or pervasive” requirement. Additional new workplace harassment protections signed into law include:

- All nondisclosure agreements in employment contracts must include language stating that employees may still file a complaint of harassment or discrimination with a state or local agency and testify or participate in a government investigation.
- The statute of limitations to file a sexual harassment claim with the New York State Division of Human Rights will be increased from one to three years.
- Employers must provide employees with notice about their sexual harassment prevention policy in English as well as the employee's primary language
- The New York State Human Rights Law applies to all employers in the state, providing protections against all forms of discrimination in the workplace to all contractors, subcontractors, vendors, consultants, or others providing services; and against all forms of discriminatory harassment to domestic workers.
- Employers are prohibited from mandating arbitration to resolve cases of discrimination and harassment in the workplace.
- The law increases the power of the Attorney General to enforce the Human Rights Law
- All employers are required to adopt a sexual harassment prevention policy and provide training on the same.
- All State contractors must submit an affirmation that they have a sexual harassment policy and that they provide annual training to all of their employees.

More information, including the effective dates of these statutory reforms, may be found via the New York State Division of Human Rights.²

² <https://dhr.ny.gov/sites/default/files/pdf/nysdhr-sexual-harassment.pdf> and dhr.ny.gov/sexualharassment

In 2018, New York State enacted Labor Law section 201-g requiring every public and private employer to adopt a sexual harassment prevention policy, provide the written policy to all employees at the time of hiring and annually thereafter, and provide annual sexual harassment training to all employees. All employers were also required to train current employees by October 9, 2019. This law further requires that the New York State Department of Labor, in consultation with the New York State Division of Human Rights, create and publish a model sexual harassment prevention policy and training program to be utilized by employers in order to meet the minimum statutory requirements. The sexual harassment model policy, complaint form, and training materials can be publicly accessed through the websites of the New York State Department of Labor and New York State Division of Human Rights.³

On August 23, 2018, Governor Andrew M. Cuomo issued Executive Order 187, which assigns to the Governor’s Office of Employee Relations responsibility for investigating all sexual harassment allegations filed by employees, contractors, interns, or other identified State employees. The purpose of this executive order is to “promote the effective, complete and timely investigation of complaints of employment-related protected class discrimination.” This order became effective December 1, 2018. The Governor’s Office of Employee Relations has a formalized investigative process that it utilizes for sexual harassment complaints made against State employees.

Moreover, New York State Public Officers Law section 74, entitled Code of Ethics, provides in pertinent part:

An officer or employee of a state agency . . . should endeavor to pursue a course of conduct which will not raise suspicion among the public that he or she is likely to be engaged in acts that are in violation of his or her trust.

Additionally, New York State Executive Law 4-A authorizes the Inspector General to “receive and investigate complaints from any source, or upon his or her own initiative, concerning allegations of corruption, fraud, criminal activity, conflicts of interest or abuse in any covered agency.” The Inspector General also has authority to determine if the allegations warrant “disciplinary action, civil or criminal prosecution, or further investigation by an appropriate federal, state or local agency . . . and to assist in such investigations.”

³ www.ny.gov/programs/combating-sexual-harassment-workplace

As detailed at the end of this report, there are established mechanisms for reporting sexual harassment by state employees in New York State:

- Individuals who believe they have been subjected to sexual harassment by a state employee may contact the employee's supervisor and/or their agency's affirmative action officer (AAO). AAOs report directly to the Governor's Office of Employee Relations (GOER), which is responsible for conducting investigations of all employment-related discrimination complaints. GOER conducts internal administrative investigations of complaints filed by employees, contractors, interns and other persons engaged in employment at these agencies and departments concerning discrimination, retaliation and harassment under federal and New York State law, Executive Orders and policies of the State of New York.
- Concurrently, individuals may also contact the New York State Division of Human Rights (DHR), which investigates discrimination complaints to determine if the violation(s) occurred and there is probable cause.
- Sexual harassment, discrimination or retaliation may also constitute violations of the Public Officers Law under the Joint Commission on Public Ethic's (JCOPE) jurisdiction.
- The New York State Offices of the Inspector General will continue to receive and investigate complaints regarding sexual harassment in state government.

The Committee on Open Government and Former Executive Director Robert Freeman

The Committee on Open Government (Committee), which was established by New York State Public Officers Law section 89, consists of 10 members and a chair and is housed within the New York State Department of State. Its members are required to meet at least twice annually. Notably, the Committee's website does not contain a list of its current members or meeting minutes; only an outdated list of members can be found on the cover page of a 2018 annual report.

The Committee is charged with overseeing and advising the government, public, and news media on matters related to New York's Freedom of Information Law (Public Officers Law Article 6), the Open Meetings Law (Public Officers Law Article 7), and the Personal Privacy Protection Law (Public Officers Law Article 6-A). New York's Freedom of Information Law

provides public access to government records, Open Meetings Law ensures the public's right to attend meetings of public bodies, and Personal Privacy Protection Law regulates the collection and dissemination of personal information collected and maintained by State agencies.

The Committee also frequently offers guidance in response to inquiries from members of the media, public, and government via telephone conversations, email correspondence, training sessions, public presentations, and legal advisory opinions. In addition, the Committee issues an annual report to the Governor and State legislature summarizing its yearly activities and making recommendations to improve open government laws. According to its latest annual report, the Committee responded in calendar year 2018 to approximately 3,423 telephone inquiries, prepared 1,628 responses to written inquiries, issued 94 advisory opinions, and conducted 77 presentations.

Although the Committee's enabling statute does not contain language describing the appointment of an executive director or others, the Committee's daily operations are performed by an executive director along with an assistant director and administrative assistant. Moreover, the Committee has no policy identifying the individual responsible for supervising or disciplining the Committee's executive director. Of note, there have been no significant changes to the makeup or oversight of the Committee's operating structure since its inception the 1970s.

Robert Freeman worked for the Committee since its inception in 1974 and served as its executive director from 1976 to 2019, when he was terminated as a result of this investigation.⁴

As its long-tenured executive director, Freeman was the face and voice of the Committee. Freeman frequently presented at conferences, was interviewed by the media, issued legal advisory opinions, and responded to telephone and email inquiries. He served at the pleasure of seven New York State governors. Over the decades, he became a respected and vocal proponent for open government that reporters and government employees greatly relied upon. Reporters became so familiar with Freeman that they would often ask to speak directly with him when calling the Committee for information or a source for an article. In effect, he held himself out as the premier authority on government transparency issues and became an invaluable resource for the media.

⁴ Effective April 28, 2012, Freeman, who was then earning an annual salary of approximately \$121,000, retired from his position as the Committee's executive director, became eligible to collect his pension, and was rehired on May 3, 2012, into the same position at an annual salary of \$40,234.

Freeman also was given great autonomy and deference in his position. He established his own schedule and frequently traveled throughout New York State speaking to varying audiences. He also occasionally traveled internationally on official business, including an honorarium trip to Ghana in 2017 to speak at a conference. Freeman was also known to lecture delegates from other countries who came to New York to learn about how state government functions and its level of transparency.

In 1993, a newspaper publisher sent a handwritten letter to the secretary of state stating, “Bob Freeman is a man/God. As far as our industry is concerned, he is the single most valuable state employee” In this investigation, a newspaper editor told the Inspector General that its reporters relied on Freeman so frequently that he was most likely quoted each day by the newspaper.

THE INSPECTOR GENERAL’S INVESTIGATION OF ROBERT FREEMAN’S MISCONDUCT

Review of Prior Sexual Harassment Investigations by the Department of State

The Inspector General reviewed the Department of State’s 2013 investigation of prior complaints made against Freeman and found that contrary to his public persona, Freeman’s actions toward numerous women were habitually inappropriate throughout the years. The investigation, conducted by the Department of State, included information related to a 2003 incident as well as incidents involving four other individuals in 2013.

According to Department of State records, in 2003, a female department employee alleged that Freeman kissed her on her cheek when they met in a hotel lobby during an overnight business trip. The coworker reported this encounter to her supervisor explaining that she felt uncomfortable about Freeman’s conduct and his invitation to her to attend dinner with him that evening. When questioned by the department’s affirmative action officer and deputy secretary of state about his conduct in 2003, Freeman admitted to kissing the coworker but claimed it was his manner of greeting her. Freeman was verbally admonished that this behavior was inappropriate, and he should not engage in this type of behavior in the future.

Nonetheless, in 2013, over the course of two months, two supervisors and an employee separately informed the affirmative action officer of Freeman’s inappropriate conduct toward women. Notably, one supervisor personally witnessed one such encounter and took it upon herself to advise the affirmative action officer. Another supervisor learned of Freeman’s alleged

wrongdoing during an informal conversation with two coworkers and appropriately reported his conduct to the affirmative action officer. And one employee sought advice from the affirmative action officer regarding Freeman's uncomfortable interactions with her. Although the women stated at that time they were reluctant to file formal complaints against Freeman, the affirmative action officer filed a formal complaint on their behalf and commenced an investigation on his own initiative.

One female Department of State employee, whose work location was in close proximity to Freeman's, alleged that Freeman sat on her desk and, while very close to her, looked at her "up and down in a gross way." According to the female employee, when she backed away from her desk, Freeman did not seem to get the hint. The employee's supervisor witnessed this activity and reported it to the affirmative action officer, stating that it appeared Freeman was attempting to look down the employee's blouse. The supervisor advised the employee to immediately notify her if anything further occurred with Freeman. The employee informed the Inspector General that after the conduct was reported, Freeman left her alone.

Around the same time, a second woman, a State employee, informed the affirmative action officer that Freeman frequently stood uncomfortably close to her and made comments about her being "cute" and "attractive." This employee reported backing away from Freeman and placing documents in front of her or opening her desk drawer to keep him out of her personal space. While these efforts did not deter Freeman's actions, the employee conveyed to the affirmative action officer at that time that she could manage his behavior on her own and did not want to pursue the complaint any further.

Also around this time, a supervisor of two other women employed by the Department of State advised the affirmative action officer that Freeman had acted inappropriately toward them. According to Department of State records, the two employees told their supervisor they felt Freeman did not respect their personal space and described Freeman running his hand/palm along their arms/shoulders, making thrusting movements with his pelvic area in close proximity to them, and asking whether the women worked out. He also emailed one of the women and asked her to accompany him on a walk. Both employees told the Inspector General that they declined to file a complaint or cooperate with the agency's investigation at the time and dealt with the situation by avoiding further contact with Freeman. The two employees advised the Inspector General that at the time, they lacked confidence in the Department of State's internal

investigative processes because they felt that a previous sexual harassment complaint against another employee had been mishandled.⁵

Despite the unwillingness of the four employees to file formal complaints or cooperate with an investigation, the affirmative action officer took it upon himself to file a formal complaint against Freeman given the circumstances—four similar but separate incidents arising within one month. Thereafter, an investigation was conducted in which nine witnesses were interviewed by an agency associate counsel concerning their interactions with Freeman, including some witnesses being interviewed multiple times.

On September 10, 2013, as a result of the affirmative action officer's complaint and the ensuing investigation, the Department of State's then executive deputy secretary issued Freeman a written counseling memorandum. This counseling memorandum, in part, read:

During our meeting on September 10, 2013, you were told that the following conduct is or could be perceived as offensive and could potentially violate the Department's policy contained in 'The Prevention of Sexual Harassment' by:

1. Standing too close;
2. Looking female employees 'up and down;'
3. Making comments about how a person looks, such as stating that someone is 'cute' and commenting on a person's clothing;
4. Touching the arm or shoulder of someone while in conversation; and
5. Asking employees if they work out.

The memorandum directed Freeman to immediately stop engaging in this conduct. Further, Freeman was directed to attend additional sexual harassment prevention and equal employment opportunity training with the director of training at the Governor's Office of Employee Relations, which he did. According to the counseling memorandum, Freeman was "also provided with another copy of 'The Prevention of Sexual Harassment' and informed that failure to adhere to this policy, the conditions of this memorandum, or the development of related issues will lead to more serious corrective action up to and including termination." Freeman signed the memorandum, indicating that he understood what was expected of him.

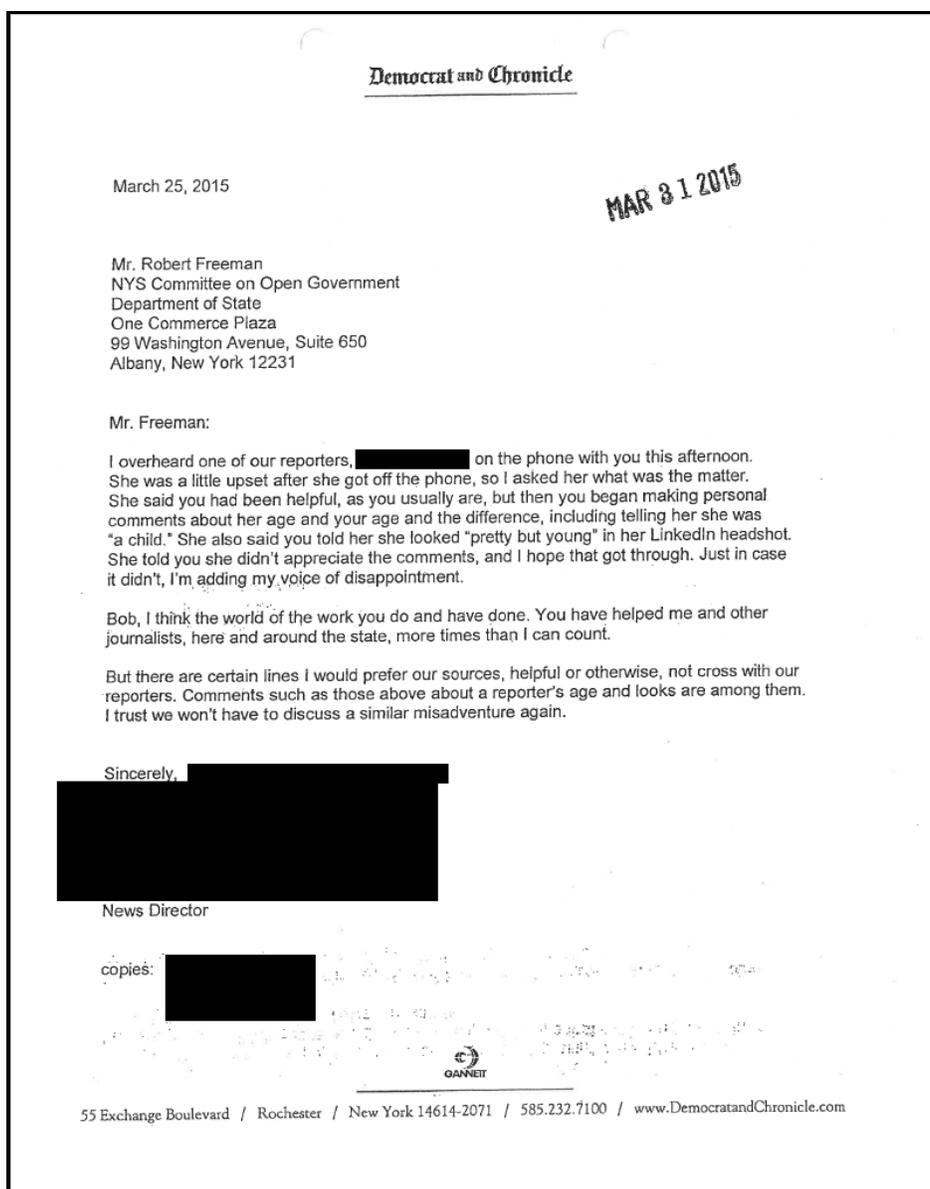
The investigation also recognized that "Freeman's admitted actions toward female employees could create a hostile work environment if not properly addressed." To avoid this scenario, the Department of State informed the complainants of the outcome of the investigation

⁵ The employee they referred to has since retired from State service.

and directed the affirmative action officer to “periodically follow-up with complainants to encourage them to alert the Department of any future behaviors by Mr. Freeman that they believe are inappropriate, may make them feel uncomfortable, or that they might consider to be retaliatory in nature.” No further misconduct toward these complainants was reported to the affirmative action officer.

News Director’s 2015 Letter to Freeman and Department of State’s Failure to Act

The Inspector General’s investigation uncovered that in 2015, a letter was sent to Freeman from a news director. This letter, as shown below, described an inappropriate conversation Freeman had with a reporter at the newspaper during a work-related telephone call.



The Inspector General's investigation determined that when this letter was received by the Committee in 2015, a coworker, pursuant to regular practice, opened the envelope and reviewed the letter. Since the coworker was aware of Freeman's prior inappropriate conduct with women in the office, the coworker not only forwarded the letter to Freeman but also delivered a copy of the letter to the Department of State's then-director of the Human Resources Office. According to the coworker, when she later inquired with the then-director of the Human Resources Office, she was told there would be no action taken.

The Inspector General interviewed the former director of the Human Resources Office, who stated that he did not recall how or from whom he received the letter. The former director, who maintained a copy of the letter in a file, was also not aware of any action taken as a result of the letter. The female reporter referenced in the letter was also interviewed by the Inspector General and advised she and the writer of the letter were unaware of any further action taken as a result of the letter.

2019 Sexual Harassment Complaint Involving Robert Freeman

On June 13, 2019, a female newspaper reporter utilized the Inspector General's online complaint form to submit allegations that she had been "sexually assaulted" by Freeman while meeting with him in his official capacity on May 23, 2019. The reporter's detailed written complaint described unwanted physical contact by Freeman, including squeezing her shoulder, putting his arm on her waist, touching her buttocks with his hand, placing her braids behind her shoulder, hugging her, and kissing her during this work meeting. The Inspector General contacted the reporter on June 14, 2019 and conducted a sworn interview with her on June 18, 2019.

During this interview, the Inspector General found the reporter to be credible and consistent. She testified that while working on a story that involved the Freedom of Information Law and Open Meetings Law, her supervisor, an editor at the newspaper, suggested she contact Freeman to learn more about the law and potential violations that were the subject of her reporting. After an email introduction by the editor, the reporter contacted Freeman by telephone on May 8, 2019.

According to the reporter, in this conversation, Freeman was helpful in answering her questions, but also spoke of personal and unrelated matters for approximately 30 minutes. Freeman made comments to the reporter about her youth and looks and claimed to be viewing an

online photograph of her as they talked. Freeman also stated that he was going to be in the reporter's area soon for a lecture and offered to meet her for follow-up questions. The reporter hesitantly suggested she would check her schedule and get back to him. The reporter explained to the Inspector General that at the time she had no intention or need to meet with Freeman but did not want to be rude to him on the telephone.

To her astonishment, on Friday, May 17, 2019, Freeman sent her an email asking if she was planning to meet him prior to and near the site of his lecture. The reporter stated that by that date, Open Meetings Law issues had arisen in the story she was working on that warranted follow-up questions for Freeman, and she agreed to meet him on May 23, 2019. Freeman suggested meeting at a diner previously unknown to the reporter. The complainant explained that it is common for reporters to meet sources at public places to obtain information.

On May 23, 2019, at approximately 11 a.m., the reporter met with Freeman at the diner. This was and has been her only physical encounter with Freeman. After entering the diner, Freeman greeted the reporter with a hug and the two proceeded to sit at a booth and order coffee. The reporter testified, "And then it went downhill from there." According to the reporter, Freeman said, "You look very beautiful. . . You look better than you do in pictures. And you look very pretty in pictures."

Freeman then asked the reporter personal questions about her family, education, employment, and if she had a boyfriend. The reporter recalled Freeman telling her, "It's so easy for females to be journalists because everyone wants to talk to girls." Also, according to the complainant, Freeman told her that as reporter, "people probably don't trust you because, let's face it, you're black." Further, Freeman bragged about his family, salary, and work stature, commenting that he is his own boss and there is "no one above him."

During the entirety of this conversation, the reporter testified, Freeman "just kept looking down at my chest." Freeman eventually answered the reporter's questions related to the Open Meetings Law and then excused himself to go to the restroom. On his way to and from the restroom, Freeman deliberately passed by and squeezed the reporter's shoulder, even though the restroom was in the opposite direction.

According to the reporter, Freeman then asked her if she wanted to take a walk around the outside of the diner to get some fresh air—an offer she summarily declined. Upon exiting the diner, the reporter testified, Freeman placed his hand on her waist. Once outside, Freeman told

the reporter that he liked her long braids. He then used his hand to move her braids out of her face and put them behind her shoulder. At this point, the reporter said, she attempted to move away from Freeman, but he continued moving toward her.

The reporter further testified that Freeman then asked her if she wanted to see his vehicle, a minivan, which was parked near her car. As the two proceeded down the sidewalk, Freeman again placed his hand on the reporter's waist and then moved it down to her buttocks. In response, the reporter instinctively "jumped forward," and in doing so, removed his hand from her buttocks.

In a panic, the reporter stated, she started walking toward her car. She described her hands shaking as she tried to unlock the door to her car. The reporter testified that Freeman, who had followed her to her car, hugged her, placed his hands on both sides of her head, and kissed her on her cheek, "close enough to my mouth to where I felt his like mustache like on me." The reporter testified that she entered her car and immediately drove away toward her office, upset.⁶

That afternoon, the reporter texted her editor, "I had one of the most uncomfortable meeting[s] with Freeman. He was extremely inappropriate with me and did some very not okay things and disrespected me."

After later speaking with the reporter, the editor alerted the newspaper's management and the matter was referred to its human resources department. According to the reporter, on June 13, 2019, the human resources department advised her it could not take action against Freeman because he was not an employee. However, it provided the reporter with information about the Offices of the New York State Inspector General and informed her of the option to report the incident to local police. Although hesitant and skeptical, the reporter said, later that evening she filed a written complaint with the Inspector General. This complaint led to the instant investigation.

During her interview with the Inspector General, the reporter testified, "I'm sure Robert [Freeman] has done this worse in the past." Although she was unaware of any other individuals who had similar encounters with Freeman, she stated she believed his actions toward her during the diner meeting were too calculated to be a singular occurrence. She described the uneven

⁶ On June 18, 2019, immediately after interviewing the reporter about her complaint, the Inspector General attempted to obtain video surveillance footage from the diner. However, the Inspector General determined the diner only maintained less than one week of data in its system and footage from May 23, 2019 had been overwritten.

dynamic he created by devaluing her race and gender while boasting about his State salary and professional stature. She testified:

[I]n hindsight, it was like the perfect setup . . . it was perfect. You set up this power move, you answer the questions she actually wants so she can't say that she came here for no reason, and then you like kind of go for the kill and see what you can get away with. And it was just too organized, and then the walk, I just can't stop thinking about the walk around. It was just too organized for me to believe that he hasn't successfully done this in the past because like, you're not just going to wake up at 72 [years old] and just be like, 'Let me assault . . . this journalist that's been at the job for two months,' casually. . . I don't think that happens.

The Inspector General's investigation would reveal the reporter's suspicions were valid.

The Inspector General also immediately contacted a local Police Department and a prosecutorial authority. The reporter also separately contacted the local Police Department.

Thereafter, in a covertly recorded telephone call placed at the direction of the Police Department, the reporter contacted Freeman. During a 3½ minute conversation, the reporter confronted Freeman about his inappropriate behavior during their meeting. Their exchange, in part, is as follows:

Reporter: I think you were very inappropriate during our meeting.

Freeman: I'm sorry you feel that way. I thought that we were just being friendly.

Reporter: Um, like the, like the shoulder grab? And the waist grab?

Freeman: I'm sorry.

Reporter: And then, when you . . .

Freeman: Certainly, there was no intent.

Reporter: . . . when you kissed me at the end, it was like not, not good.

Freeman: I'm sorry. I'm sorry that you feel that way and I apologize. Certainly, there was no intent to make you feel uncomfortable. I'm sorry. And if I can help you in any way in the future, I've said this to you, I'd be happy to do so.

Reporter: Um, I mean, I, I don't, I don't think I need your help in the future, but, um, I just . . .

Freeman: Okay, again, there was no, no intent of any sort. I'm sorry.

Reporter: Why, why did you touch me? I know, I know, I don't get it.

Freeman: I, I can't really answer that question. It seems to me that sometimes that is simply part of ah, routine social interactions.

Reporter: But you touched like my waist and like you touched my butt when we turned the corner.

Freeman: I did? Well if I did, if I did, I'm, if I did, again, it was unintentional. I'm sorry. I'm sorry.

Reporter: And then when you asked me to take a walk around the diner, the outside, I, I felt like I don't know why you asked that either, or why . . .

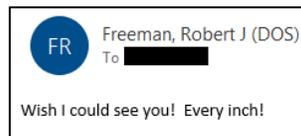
Freeman: I was showing you my car and you were going to yours; I think. Well, I apologize and as I said, I'm, I'm, it's five o'clock on a Friday and I'm heading home, if you don't mind. All right, good luck to you. I apologize.

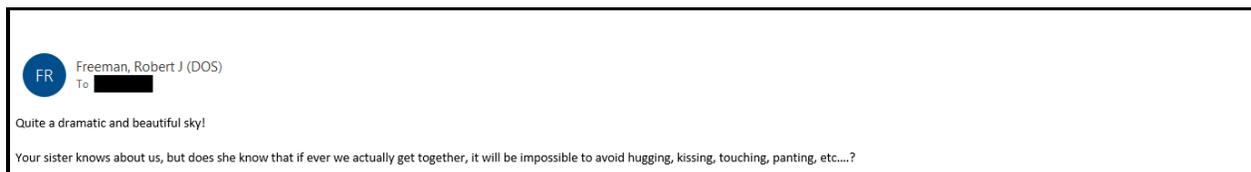
During this telephone call, Freeman never denied any of the reporter's allegations.

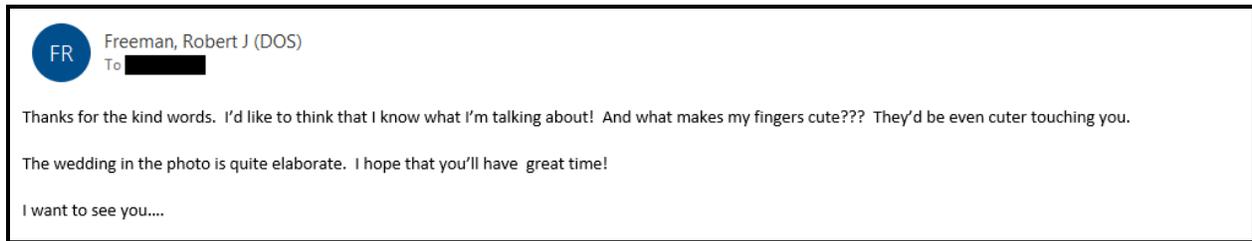
Sexually Suggestive Emails and Photographs on Freeman's Work Computer

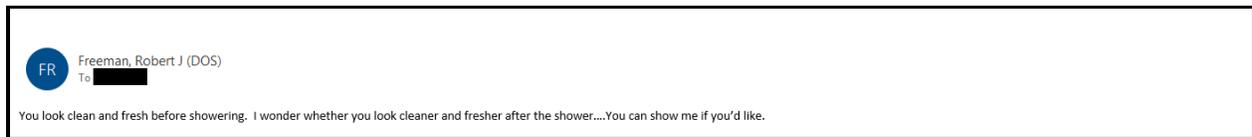
In reviewing files on Freeman's State computer and his email and internet usage, the Inspector General uncovered a series of sexually suggestive email messages and inappropriate images. The Inspector General found that in October 2018, Freeman met a foreign female university student while he was presenting to her class as part of his official duties. Emails reveal that shortly after meeting, the two continued to engage in a personal relationship utilizing Freeman's State email account to correspond. Their email exchanges, which occurred as recently as June 2019, include sexual intimations as well as several sexually provocative photographic images the woman emailed to Freeman. In one exchange, the woman sent Freeman a photograph of herself clad only in a towel. Freeman emailed her, "Why is the towel wrapped around? I think it should be removed!" She then proceeded to send him a photo of herself wearing just underwear with her hand covering her breasts. She also emailed him a photo of herself posing nude in front of a bed and massage table.

Other examples of inappropriate messages from Freeman via his State email account to the woman, a foreign female university student, include:









Additionally, the Inspector General’s forensic analysis of Freeman’s work computer revealed several image files of naked women and hundreds of image files depicting scantily clad women, all files likely obtained through the internet. An employee of the New York State Office of Information Technology Services, which is responsible for the Committee on Open Government’s computer systems, stated that she observed images of nude women and a gambling website on Freeman’s State computer in 2008 or 2009. The employee stated that she immediately advised her supervisor of this incident, but he was dismissive of her concern. The supervisor advised the Inspector General that he did not recall this exchange.

Moreover, the Office of Information Technology Services advised the Inspector General that Freeman’s work computer was often reimaged—all software was removed and reinstalled—up to twice each year because its operating system had become plagued with viruses and other malicious software with a suspicious frequency. Although such viruses can be indicative of improper computer and internet usage and subject the computer network to vulnerabilities, the Office of Information Technology Services did not report this concern to the Department of State. In fact, the Office of Information Technology Services advised the Inspector General that it does not have a policy addressing how its staff should handle the discovery of suspicious activity or inappropriate files on State computers.

Freeman’s Response to the Allegations

The Inspector General interviewed Freeman under oath on June 24, 2019. Freeman repeatedly claimed he “did not recall” specific interactions with the reporter in the recorded telephone conversation referenced above. As for his meeting with the reporter at the diner,

Freeman claimed it was “all business.” Freeman testified he did not recall touching the complainant’s shoulder, but stated, “Maybe I touched her shoulder. I don’t remember. I don’t remember . . . I’m not going to say it didn’t happen. Maybe it did. Maybe it did.” When questioned if he touched the complainant’s back upon exiting the diner, Freeman stated, “No. I don’t recall any of it. I don’t recall any of it, in terms of other than maybe shaking hands before and at the end.” When confronted about touching the complainant’s buttocks, Freeman stated, “Certainly not. Certainly not. It’s not something that I do.” When asked if he recalled kissing the complainant, Freeman initially stated, “I do not.” He later admitted, “I probably did, I think I did at the end of our meeting. Yes.” During this interview, Freeman denied meeting alone with any other female reporters and kissing or touching them.

When questioned about the woman with whom he exchanged emails on his State computer and received several sexually provocative photographic images from, Freeman stated he knew little about her but that they had become friends. Freeman advised that the two corresponded almost daily during his work hours. When shown a photograph that this woman had emailed to Freeman that depicted her posing nude in front of a bed and massage table, Freeman testified, “I think I’m being civil and pleasant . . . It’s almost like ordinary, civil kind of communication. And, you know, the reality is that when somebody is 8,000 miles away, it’s safe. . . . It’s not like communicating with somebody who is down the hall. Completely different.” Nonetheless, Freeman told the Inspector General, “You’ve given me fair warning and all I can say is that I will be good from this moment forward. It’s the last of my communication with [this individual], I guess.” Freeman also admitted, “I don’t want anybody to find out about it . . . I go back and I delete. . . . I delete a lot of things.”

During this interview, Freeman confirmed that he was counseled in 2013 for inappropriate conduct towards women in the workplace and had attended additional sexual harassment training as directed. However, Freeman was dismissive of the 2013 allegations claiming, “It involved the reality that sometimes I look at people. And some people these days don’t like that.” Freeman also attempted to rationalize his behavior in 2013 stating, “To be honest with you, I don’t know at this point where the line is drawn. . . . It’s a different time. It’s a different era. . . . I like to think that I learned a lesson from that. I am very cautious.” Despite this claim, Freeman proceeded to admit to the Inspector General that he repeatedly engaged in inappropriate conduct toward women in the workplace.

Freeman also admitted to the Inspector General utilizing his State computer to intentionally search the internet for photographs of women in underwear and lingerie. This activity resulted in large numbers of such image files being stored on his computer. Freeman advised, “[T]hey are clothed in a way that does not leave a great deal to the imagination, but they’re not naked. I don’t think we can get to sites with naked women in this State.” “If they were naked . . . it was by happenstance.”

Freeman also admitted to regularly looking at internet photos of people he was speaking to, as had been reported by the complainant. Freeman specified, “If I was talking to you, I might Google you.”

On June 24, 2019, the Inspector General sent a letter to the Secretary of State summarizing the above findings and recommended that the Department of State take immediate disciplinary action as it deemed appropriate. Freeman was terminated the same day.

THE AFTERMATH OF ROBERT FREEMAN’S TERMINATION

Numerous Additional Complainants Come Forward

In the days after Freeman’s termination, numerous allegations surfaced involving members of the media as well as State and local government employees. Several newspapers published reporters’ and other individuals’ recollections of their uncomfortable encounters with Freeman that sounded disconcertingly familiar. The following are excerpts from several such articles⁷:

I remember being crestfallen by the subsequent interaction, even though I can’t recall exactly what he said. He commented to me about my body. I remember him staring at my chest. I wanted to disappear. And I remember the sinking feeling that I was meeting someone who didn’t seem to value my intelligence or my work.
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⁷ Laura Nahmias, Opinion, The open secret about the secret-opener: How Bob Freeman treated women, *New York Daily News*, June 25, 2019 <https://www.nydailynews.com/opinion/ny-oped-bob-freeman-20190625-zn6ibryhsnaublx5acnznewsde-story.html>; Jon Campbell, Joseph Spector, and Meaghan M. McDermott, Multiple women claim harassment by Robert Freeman, the prominent NY open-government expert, *lohud.com*, June 27, 2019, updated July 8, 2019, <https://www.lohud.com/story/news/2019/06/27/sexual-harassment-details-robert-freeman-open-government-expert/1561274001/>; Chris Bragg, Transparency official fired over sexually inappropriate behavior, *Times Union*, June 25, 2019, <https://www.timesunion.com/news/article/Transparency-watchdog-Robert-Freeman-fired-over-14043829.php>; and Tcholakian, Danielle, News Men’s ‘Flirty Business’ Is Awful for Women Reporters, *Daily Beast*, December 3, 2017, <https://www.thedailybeast.com/news-mens-flirty-business-is-awful-for-women-reporters>.

Freeman, 72, looked her up on Facebook while they spoke, according to her notes of the call.

"I'm looking at you right now — you're cute," Freeman said before noticing ██████ 25, was married. "Tell your husband he's a lucky man."

He was in town for a newspaper workshop and a community forum. ██████ attended the forum. Afterwards, as attendees walked to their cars, she noticed Freeman was deliberately "lingering."

That's when he gave her a lengthy, uncomfortable embrace.

"When I describe it, it doesn't sound like anything, but it was an inappropriate hug," ██████ said. "It lasted for way longer than it should have and I had to end it. I didn't push him away, but I definitely broke away from it."

There was the source I met for lunch, who is a grandfather, and the only person who does a particular job that was crucial for a story I was hunting. He'd always seemed so paternal and nice, except when he kept commenting on the lipstick I was wearing the first time we met one on one. I walked him to the train after that lunch and he insisted I kiss him goodbye on the mouth. I kissed the air near his head and kept myself out of arm's reach.

A former television reporter, ██████ said she approached Freeman to chat about open-government laws. Soon after, he followed up with an email, inviting her on a walk around Empire State Plaza, the state complex at the Capitol.

She accepted, thinking it was a valuable professional networking opportunity.

Afterward, Freeman kept asking ██████ to go on walks. If she didn't respond, she would inevitably bump into him around the Capitol and he would ask in person.

On the walks, he would put his arm around the small of her back. He kissed her cheek, she said. He would ask personal questions. He would make comments about her appearance.

I'd been warning ppl about Bob. He didn't do anything that I could easily call a violation. A hug that lasted too long, a sloppy kiss on the cheek, he steered the conversation away from anything professional. Sometimes it's feeling you get. Kudos to this reporter for outing him. twitter.com/████████

The Inspector General also received additional allegations through its complaint hotline. The Inspector General made attempts to speak with each identifiable complainant.

After speaking to more than 14 complainants, a common thread emerged. Freeman was repeatedly described as a venerable figure and the authority on transparency and open access to public records. He regularly claimed he reported to no one and would never be fired by the State, believing he positioned himself in such a way that there would be significant news media outcry if he was ever terminated. Freeman also regularly engaged women in the workplace in uncomfortable personal conversations concerning their love life and physical appearance as well as bragging about his salary and perceived power while staring at their chests or viewing photographs of the women on the internet. Many of the women were young or new reporters whose male supervisors suggested they contact Freeman as a valuable source of information.

Moreover, repeated witnesses described uncomfortable, long-lasting “bear hugs,” his hands touching the small of their backs, and him kissing their cheeks, often during their first encounter. Multiple witnesses also described Freeman placing his hand on his hips and thrusting his pelvic area toward them as he spoke. The investigation also found that Freeman was known for taking lunchtime walks at Albany’s Empire State Plaza and downtown area. During these walks, he was often observed ogling women’s chests as they passed. Multiple women the Inspector General spoke with described Freeman inviting them on these lunchtime walks.

For example, one State employee reported to the Inspector General that although she had never met Freeman before, he approached her during a lunchtime walk, grabbed her State identification from her chest, and informed her that he knew an attorney who worked in her office. He then requested she walk with him, which she declined. According to this woman, she informed the attorney in her office of her uncomfortable encounter with Freeman, but he shrugged the matter off. Freeman later attempted to contact her at work, claiming he found her telephone number in a State employee directory. Subsequently, whenever Freeman saw this woman in downtown Albany, he persistently asked her to walk with him and attempted to hug her.

Freeman’s behavior was so bewildering to this woman that she often returned to work distressed by her lunchtime interaction with him. According to this woman, Freeman’s behavior escalated over time such that on one occasion, Freeman walked up behind her on the concourse level of the Empire State Plaza, grabbed her from behind, and pressed his genital area against her backside. Startled, she said, she immediately told him to get off her and insisted that he needed

to get help. Although she mentioned this encounter to a coworker, she did not notify her supervisor or file a complaint.

Following his termination, the Inspector General interviewed Freeman's former subordinates, two women, who advised they were unaware of any inappropriate activity by Freeman.

Media's Continued Reliance on Freeman Despite Knowing of His Behavior

The Inspector General's investigation found that leadership at certain news media outlets continued to engage Freeman despite knowledge of his inappropriate behavior toward young female reporters.

For example, after Freeman was terminated, one female newspaper reporter explained to the Inspector General that in May 2017, during her first meeting with Freeman, he lured her into taking a walk with him based on the promise of journalistic leads. However, during this 1½ hour walk, Freeman refused to talk about any information of value, and instead asked the reporter personal questions and commented about her physical appearance. According to this reporter, Freeman also gave her a hug and a "big, sloppy, wet kiss on the cheek" as they were parting ways. Although the reporter did not confront Freeman at the time, she advised the Inspector General that she felt she had walked with Freeman under false pretenses, he treated the walk as if it were a personal date, and he did not respect her as a professional. Strangely, Freeman subsequently sent this reporter a video of a member of his family and called the reporter's cellular telephone "just to chat" in the weeks following this encounter. From that point forward, the reporter chose to avoid Freeman.

However, in Spring 2019, while working at Albany-based newspaper, the reporter learned that Freeman had been invited to be a guest speaker at a presentation hosted by her new employer. The reporter informed two male editors about her prior unnerving encounter with Freeman and advised that based on that experience, she felt it was unsafe for women to be alone with Freeman. Despite her concerns, the newspaper declined to cancel Freeman's presentation, opting instead to verbally warn women attending the presentation not to meet with Freeman alone. The reporter stated to the Inspector General that at that time, she felt this was a proportional response and agreed with it. However, as detailed below, the newspaper's verbal warning was not communicated to all women who attended the presentation.

A second young female reporter informed the Inspector General that she attended Freeman's presentation but had not been warned about Freeman's conduct. When the second reporter entered the presentation room, most seats had already been taken by others and she was limited to choosing a seat in the front of the room near Freeman. According to the second reporter, during the presentation, Freeman stood very close to her and, with his hands on his hips, repeatedly moved his pelvic area, which was at the seated reporter's eye level. The second reporter advised the Inspector General that she was made very uncomfortable by Freeman's actions, which were within her personal space. Freeman's conduct was evidently noticed by the person seated next to the second reporter, who moved her own chair backwards so the second reporter could move her chair farther away from Freeman. Despite this, Freeman's actions did not cease. After the presentation, coworkers expressed their astonishment to this reporter about Freeman's obvious inappropriate behavior toward her during the presentation. Nonetheless, despite these two known incidents of Freeman engaging in blatantly inappropriate and unprofessional behavior, no efforts were made by this newspaper's management to notify or file a complaint with a State entity about Freeman's transgressions. Nor are there any records of the newspaper admonishing or reprimanding Freeman for his actions.

FINDINGS AND RECOMMENDATIONS

The Inspector General found that Freeman habitually engaged in sexual harassment of multiple women over many years. By leveraging his unique position as the executive director of the Committee on Open Government to gain access to women in the workplace, Freeman breached the public's trust. Through a common course of conduct, Freeman created a power dynamic that made his targets believe that reporting his behavior would be futile or would have negative professional repercussions. His conduct was widespread, including women from the news media, and State, and municipal governments.

Many women described finding their own methods to handling Freeman's unwanted contact over the years, such as avoiding him completely, limiting interactions with him to telephone only, or being accompanied by others when it was absolutely necessary to encounter him in person.

Although his inappropriate behavior appears to have been rampant, many women reported they were either not aware of his similar conduct toward others, feared professional ramifications if they reported his conduct, or did not view the conduct as rising to the level of a

reportable offense. Others expressed confusion and said they were unaware of where and how to file a complaint against Freeman because they were either not State employees or worked for a different agency than Freeman. This confusion was compounded by the fact that Freeman appeared to have no supervisor.

Several private sector witnesses also described having never received sexual harassment training or only recently receiving such training as a result of New York State Labor Law section 201-g, which requires every public and private employer to adopt a sexual harassment prevention policy, provide the written policy to all employees at the time of hiring and annually thereafter, and provide annual sexual harassment training to all of its employees by October 9, 2019.

The Inspector General also found that the Department of State's affirmative action officer in 2013 acted appropriately by filing a complaint, especially given the repeated and consistent nature of the allegations. The Department of State also handled the complaint appropriately by conducting an investigation, counseling Freeman, and documenting the matter despite some complainants understandably not cooperating with the investigation at the time.

To the contrary, the 2015 letter to Freeman from a newspaper's news director should have been investigated by the Department of State's then-human resources director or referred to the affirmative action officer for further action. By failing to do so, the Department of State missed an opportunity to address Freeman's continued misconduct.

This investigation also found that many reporters and editors tolerated Freeman's misconduct because, in part, he was a consistent and reliable source for the news media who made himself seemingly invaluable to aspects of their work. Prior to Freeman's termination, the only documented complaints from the news media were the 2015 letter from a news director that was sent directly to Freeman and the formal complaint filed with the Inspector General in June 2019. But for this most recent complainant, Freeman's conduct may have continued unabated.

On June 24, 2019, the Inspector General forwarded the findings of its investigation to the Department of State and recommended that Freeman's actions and behavior warrant disciplinary action, including, but not limited to, termination. The Department of State terminated Freeman immediately upon learning of the Inspector General's findings. In addition, the matter was referred to prosecutorial authorities.

Related to the issues highlighted in this report with regard to Freeman’s abhorrent actions, behavior, and projected sense of being “untouchable,” the Inspector General’s investigation finds that there is a lack of established oversight and supervision for the Committee’s executive director. As previously stated, Freeman repeatedly indicated that he answered to no one throughout the course of his tenure.⁸ This autonomy enabled Freeman to perpetuate the conduct in which he engaged. The Inspector General recommends implementation of a clear supervisory and reporting structure for Freeman’s successor(s). In addition, the Inspector General found that the Committee’s current members are not posted on its website. For purposes of transparency and accountability, the Inspector General recommends that the Committee address this deficiency.

The Inspector General also recommends that employers, both public and private, disseminate and clarify sexual harassment reporting options involving a State actor—especially in light of recently enacted New York State Labor Law section 201-g. In the event State employees encounter sexual harassment related to their employment, they should contact their agency’s affirmative action officer, who, pursuant to Executive Order 187, reports to the Governor’s Office of Employee Relations, an entity independent from the employee’s agency. If a private sector complainant is unsure where to file a complaint against a State actor, the Inspector General will continue to receive such complaints to handle or refer to the appropriate entity.

Additionally, the Inspector General found that employees of the New York State Office of Information Technology Services were aware of improper and suspicious activity by Freeman with respect to his Department of State computer, email and internet resources but failed to act. This failure to appropriately respond to computer-related concerns resulted in another missed opportunity to derail Freeman’s misconduct. Therefore, the Inspector General recommends that the Office of Information Technology Services promulgate policy addressing how its staff should handle and report the discovery of suspicious activity or inappropriate files on State computers and train its help desk staff and supervisors on the same. The Office of Information Technology Services advised the Inspector General that it recently emailed its unit heads a draft reporting procedure for service desk agents who discover inappropriate computer content when assisting staff.

⁸ In fact, Freeman’s last performance review was in 2000.

Lastly, the findings of this investigation illustrate Freeman's continual abuse of his official position. As such, this report was provided to the New York State Joint Commission on Public Ethics for its review of possible violations of New York State Public Officers Law's Code of Conduct and provisions governing the use of State resources.

APPENDICES

1. Sexual Harassment Reforms in New York State
2. Filing Sexual Harassment Complaints in New York State
3. June 24, 2019 Letter from Inspector General Tagliafierro to Secretary of State Rosado re: Preliminary Findings
4. June 25, 2019 Statement from Inspector General Tagliafierro re: Department of State's Termination of Freeman
5. June 28, 2019 Letter from Secretary of State Rosado to Inspector General Tagliafierro re: Ongoing Investigation and Termination of Freeman

SEXUAL HARASSMENT REFORMS IN NEW YORK STATE

Sweeping new workplace harassment protections were signed into law by Governor Andrew M. Cuomo in 2019 that strengthens New York's anti-discrimination laws. Specifically:

- New York State's Human Rights Law was amended to make clear that conduct need not be "severe or pervasive" to be considered sexual harassment.
- New York State now mandates that all non-disclosure agreements in employment contracts include language stating that employees may still file a complaint of harassment or discrimination with a state or local agency and testify or participate in a government investigation.
- The statute of limitations to file a sexual harassment claim with the New York State Division of Human Rights is now three years.
- Employers must provide employees with notice about their sexual harassment prevention policy in English as well as the employee's primary language
- The New York State Human Rights Law now applies to all employers in the state, providing protections against all forms of discrimination in the workplace to all contractors, subcontractors, vendors, consultants, or others providing services; and against all forms of discriminatory harassment to domestic workers.
- Employers are prohibited from mandating arbitration to resolve cases of discrimination and harassment in the workplace.
- The New York State Attorney General's enforcement power of the Human Rights Law has been increased.
- If the federal government rolls back rights covered in the Human Rights Law, courts must interpret the Human Rights Law liberally in line with the state law.
- The law increases the power of the Attorney General to enforce the Human Rights Law
- All employers are required to adopt a sexual harassment prevention policy and training.

- All State contractors must submit an affirmation that they have a sexual harassment policy and that they provide annual training to all of their employees.

More information, including the effective dates of these statutory reforms, may be found via the New York State Division of Human Rights at dhr.ny.gov/sexualharassment.

New York State also offers “Combating Sexual Harassment in the Workplace,” a training and policy guidance program on required sexual harassment prevention measures. The program is available online at www.ny.gov/programs/combating-sexual-harassment-workplace.

FILING SEXUAL HARASSMENT COMPLAINTS IN NEW YORK STATE

Individuals who believe they have been subjected to sexual harassment by a state employee may contact the employee's supervisor and/or their agency's affirmative action officer (AAO). AAOs report directly to the Governor's Office of Employee Relations (GOER), which, pursuant to Governor Cuomo's Executive Order 187 ("Ensuring Diversity and Inclusion and Combating Harassment and Discrimination in the Workplace")⁹, is responsible for conducting investigations of all employment-related discrimination complaints. GOER conducts internal administrative investigations. These investigations include complaints filed by employees, contractors, interns and other persons engaged in employment at these agencies and departments concerning discrimination, retaliation and harassment under Federal and New York State law, Executive Orders and policies of the State of New York. Questions or compliance issues regarding Executive Order No. 187 may be sent to antidiscrimination@goer.ny.gov or by phone at 518-474-1920.

Concurrently, individuals may also contact the New York State Division of Human Rights (DHR), which investigates discrimination complaints to determine if the violation(s) occurred and there is probable cause. For more information, contact DHR at (718) 741-8400 or visit www.dhr.ny.gov.

Sexual harassment, discrimination or retaliation may also constitute violations of the Public Officers Law under the Joint Commission on Public Ethic's (JCOPE) jurisdiction. Such conduct may be reported via 1 (800) 873-8442 or www.jcope.ny.gov.

The New York State Offices of the Inspector General will continue to receive and investigate complaints regarding sexual harassment in state government. Individuals may report allegations of misconduct in state government via its website: ig.ny.gov/form/complaint-form-long, or by writing to: New York State Offices of the Inspector General, Empire State Plaza, Agency Building 2, 16th Floor, Albany, New York 12223. Complaints may also be faxed to (518) 486-3745. The Inspector General's hotline - 1 (800) 367-4448 will connect individuals with trained staff to discuss a complaint.

⁹ <https://www.governor.ny.gov/news/no-187-ensuring-diversity-and-inclusion-and-combating-harassment-and-discrimination-workplace>



STATE OF NEW YORK
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LETIZIA TAGLIAFIERRO
INSPECTOR GENERAL

June 24, 2019

Rossana Rosado
Secretary of State
New York State Department of State
One Commerce Plaza, 99 Washington Ave
Albany, NY 12231-0001

Re: NYS IG 1789-040-2019

Dear Secretary Rosado:

On June 13, 2019, the Offices of the New York State Inspector General received a detailed written complaint from a young female newspaper reporter (“complainant”) alleging that Robert Freeman, the executive director of the New York Department of State Committee on Open Government, sexually assaulted her while meeting with her in his official capacity.¹

The Inspector General is conducting an investigation which has found compelling evidence that Freeman acted in a sexually inappropriate manner with the complainant while engaged in a meeting in his official capacity. Additionally, during the course of the Inspector General’s investigation, a review of Freeman’s work emails revealed he exchanged a series of

¹Given the potential criminal implications of these allegations, the Inspector General also notified and has been in consultation with the Westchester County District Attorney’s Office throughout this investigation.

sexually suggestive emails and photographic images with another young woman whom Freeman seemingly met as part of his official duties, and his work desktop computer contained a copious number of photographic images of naked and scantily-clad women. Further, the investigation found that Freeman had been counseled in 2013 for inappropriate behavior in the workplace with respect to his interactions with several female Department of State employees.

In sworn testimony to the Inspector General, the complainant described unwanted physical contact by Freeman during the course of a meeting to discuss New York State Public Officers Law provisions relating to open meetings. The complainant testified that during and immediately after the meeting, Freeman engaged in conduct that included squeezing her shoulder; touching her waist, back, and buttocks with his hand; parting her braids from her face and placing them behind her shoulders; hugging her; and kissing her on her cheek while holding her head. The complainant also described very personal and inappropriate statements by Freeman, which included gender and racially-based derogatory comments to the complainant while Freeman repeatedly looked at her chest area.

During the course of this investigation, the Inspector General uncovered a series of sexually suggestive email messages and photographic images that Freeman exchanged with another young woman using state resources—his work email account. From a review of the content of the email messages, it is believed that in October 2018, Freeman may have met this woman while presenting at the Maxwell School of Syracuse University in its Public Policy and Good Governance Program as part of his official duties with the State. The work email messages indicate that shortly after the presentation, the two began to engage in a personal relationship. These email exchanges, which occurred as recently as June 2019, include provocative photographic images and sexual intimations. Additionally, the review found that Freeman’s work computer contains several photographic images of naked women and hundreds of photographic images of scantily clad women, believed to have been accessed via the internet.

According to Freeman’s Department of State personnel records, in 2013, Freeman was investigated for inappropriate workplace behavior with several female Department of State employees. At that time, Freeman received a counseling memorandum and was directed to attend additional sexual harassment prevention and equal employment opportunity training with the Governor’s Office of Employee Relations, among other things. According to the counseling memorandum, Freeman was “also provided with another copy of ‘The Prevention of Sexual Harassment’ and informed that failure to adhere to this policy, the conditions of this memorandum, or the development of related issues will lead to more serious corrective action up to and including termination.”

The Inspector General requested that Freeman voluntarily testify about these allegations, but he declined.

Accordingly, due to the serious nature of these allegations and the evidence presented above, the Inspector General is providing the preliminary results of its ongoing investigation to the Department of State so that it can take immediate disciplinary action against Freeman as it deems appropriate, including consideration of termination from service.

Additionally, the preliminary findings regarding Freeman's use of his State-assigned computer are being forwarded to the New York State Police for its review.

Please advise me of any action taken by the Department of State in response to this recommendation. If you require further information, please contact Executive Deputy Inspector General Spencer Freedman at 518.474.1010.

Sincerely,

A handwritten signature consisting of a stylized capital letter 'S' followed by a diagonal slash.

Letizia Tagliafierro
Inspector General

Cc: Linda Baldwin, Esq.
General Counsel

Michael N. Volforte, Esq.
Director
Governor's Office of Employee Relations



NEWS RELEASE

From New York State Inspector General
Letizia Tagliafierro

FOR IMMEDIATE RELEASE: June 25, 2019
Contact [John Milgrim](#): 518-474-1010

STATEMENT FROM INSPECTOR GENERAL LETIZIA TAGLIAFIERRO REGARDING THE TERMINATION OF ROBERT FREEMAN

“Based on the preliminary findings of our office’s ongoing investigation into a recent complaint filed against Mr. Freeman, I appreciate the swift action taken by the Department of State. The abuse of a public position to engage in illicit conduct will not be tolerated by anyone at any level in New York State government. We are continuing to work closely with our law enforcement partners on this investigation and encourage anyone who may have additional information regarding this matter to contact our offices.”

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ANDREW M. CUOMO
GOVERNOR
ROSSANA ROSADO
SECRETARY OF STATE

June 28, 2019

Inspector General Letizia Tagliaferro
Office of the New York State Inspector General
Agency Bldg. 2, 16th Floor
Albany, NY 12223

Re: NYS IG 1789-040-2019

Dear Inspector General Tagliaferro:

I am writing in response to your request for information regarding action taken by the Department of State in connection with the information you shared with me in your letter of June 24, 2019 concerning the above referenced matter.

On June 24, immediately following receipt of the information contained in your letter, the Department's Executive Deputy Secretary Brendan Hughes and Director of the Bureau of Human Resources Charles McElrath met with Robert Freeman and informed him that the Department was terminating his employment, effective immediately. Mr. Freeman was then escorted to his office to collect a box of personal possessions, asked to return his State ID and any other state property in his possession, and then escorted out of the building. It is my understanding that one of your investigators later retrieved a State issued laptop from his home that evening.

The Department will continue to assist your office in connection with your continuing investigation into this matter. The Department takes these matters seriously and intends to continue to enforce its zero tolerance policy with regard to improper conduct by its employees, in particular, as in this case, misconduct of a sexual nature.

Sincerely,



Rossana Rosado
Secretary of State

Cc: Linda M. Baldwin, Esq.
General Counsel

Michael N. Volforte, Esq.
Director, Governor's Office of Employee Relations

