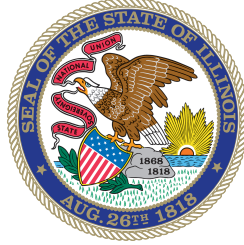


**Complainant's name redacted 10-26-18
at complainant's request.



OFFICE OF THE SPECIAL LEGISLATIVE INSPECTOR GENERAL

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****REDACTED REPORT - PUBLIC**¹**

January 19, 2018

Hon. John J. Cullerton
Senate President
327 State Capitol
Springfield, IL 62706

Re: Summary Report, Case 16-008

Dear President Cullerton:

This summary report of investigation is issued pursuant to Section 25-50(a) of the State Officials and Employees Ethics Act, 5 ILCS 430.

██████████ was the proponent for a bill that Senator Ira Silverstein filed in 2015. The bill, known as SB2151, did not pass. In a complaint submitted in November 2016, ██████████ alleges that during the time that Silverstein sponsored the bill, he behaved unethically by using his status as the bill's sponsor to cultivate a personal relationship with ██████████. ██████████ further alleges that Silverstein killed the bill in retaliation for what he believed to be ██████████ relationship with another man, and otherwise delayed resolving the bill in order to continue to have access to ██████████. Below, I summarize the applicable law, my investigation, my conclusions concerning whether Silverstein engaged in misconduct, and my recommendations.

¹ Pursuant to 5 ILCS 430/25-52, the Legislative Ethics Commission may make available to the public any summary report and response of the ultimate jurisdictional authority. On January 25, 2018, the Commission voted in favor of making public a redacted version of the summary report and response. As required by the Ethics Act, 5 ILCS 430/25-52(b), the Commission—before publication—permitted Silverstein to review the redacted report and offer suggestions for redaction or provide a response to be made public with the summary report.

Ultimately, I conclude that although Silverstein did not engage in sexual harassment in violation of the State Officials and Employees Ethics Act, or other unlawful conduct, he did behave in a manner unbecoming of a legislator in violation of the Illinois Governmental Ethics Act, 5 ILCS 420/3-107.

1. Applicable Law

My jurisdiction is to investigate allegations of fraud, waste, abuse, mismanagement, misconduct, nonfeasance, misfeasance, malfeasance, violations of the State Officials and Employees Ethics Act, and violations of other related laws and rules. 5 ILCS 430/25-10(c). Here, I focus on the State Officials and Employees Ethics Act's prohibition on sexual harassment and the Illinois Governmental Ethics Act's code of conduct for legislators.

Sexual Harassment

The State Officials and Employees Ethics Act prohibits sexual harassment and states:

(a) All persons have a right to work in an environment free from sexual harassment. All persons subject to this Act are prohibited from sexually harassing any person, regardless of any employment relationship or lack thereof.

(b) For purposes of this Act, "sexual harassment" means any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when: (i) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (ii) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (iii) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. For purposes of this definition, the phrase "working environment" is not limited to a physical location an employee is assigned to perform his or her duties and does not require an employment relationship.

5 ILCS 430/5-65. Subparts (b)(i) and (b)(ii) define what is commonly known as *quid pro quo* sexual harassment, while subpart (b)(iii) refers to what is commonly known as hostile-environment sexual harassment. The Ethics Act's prohibition on sexual harassment is brand new, passed in or about November 2017, and I am not aware of any case law interpreting it.

The Illinois Human Rights Act and Title VII set forth similar definitions of sexual harassment. The IHRA makes sexual harassment a civil-rights violation. See 775 ILCS 5/2-102(D). Federal prohibitions of sexual harassment are found in section 703(a)(1) of Title VII, and in section 703(a)(1)'s accompanying regulations. See 42 U.S.C. § 2000e-2(a)(1); 29 C.F.R. § 1604.11. Unlike the State Officials and Employees Ethics Act, the Illinois Human Rights Act and Title VII apply only to employer-employee relationships and therefore do not directly govern the conduct at issue in this case.

Conduct Unbecoming a Legislator

The Illinois Governmental Ethics Act provides in part, “No legislator may engage in other conduct which is unbecoming to a legislator or which constitutes a breach of public trust.” 5 ILCS 420/3-107. I am not aware of any statutory definition of these terms or any case law exploring their parameters.

2. The Investigation

A. Scope

My investigation included interviews of the following witnesses:

- [REDACTED] (Co-sponsor for SB2151)
- [REDACTED] (Co-sponsor for SB2151)
- [REDACTED] (Former staffer for Senate Assignments Committee)
- [REDACTED] (Friend of [REDACTED])
- [REDACTED] (Receptionist in Sen. Cullerton’s office)
- [REDACTED] (Co-sponsor for SB2151)
- [REDACTED] (Illinois Attorney General’s Office)
- [REDACTED] (Legal counsel to Sen. Cullerton)
- [REDACTED] (Friend of [REDACTED])
- [REDACTED] (Former staffer for Senate Judiciary Committee)
- [REDACTED] (Illinois Attorney General’s Office)
- [REDACTED] (Lake County State’s Attorney)
- [REDACTED] (Silverstein’s legislative aide)
- [REDACTED] (Sponsor of HB1808)
- [REDACTED] (Ethics Officer)
- [REDACTED] (Judiciary Committee Chairman)
- [REDACTED] (Sen. Cullerton’s chief of staff)
- [REDACTED] (Complainant)²
- Sen. Ira Silverstein (Subject of complaint)
- [REDACTED] (Sen. Cullerton’s former legislative aide)

Summaries of my interviews of [REDACTED] and Silverstein, as well as the victim-impact statement that [REDACTED] volunteered, are contained in the appendix to the confidential Summary Report, but are not provided with this redacted report.

I also reviewed and relied upon the following items:

- [REDACTED] public Facebook page
- Private Facebook messages exchanged between [REDACTED] and Silverstein, provided in .pdf format by [REDACTED]
- Selected images from some of the private Facebook messages exchanged between [REDACTED] and Silverstein, provided in .pdf format by [REDACTED]

² On December 22, 2017, [REDACTED] provided a signed waiver of her right to confidentiality, pursuant to 5 ILCS 430/25-90(a).

- E-mail messages supplied by multiple witnesses
- Additional correspondence and documents supplied by Silverstein
- [REDACTED] victim-impact statement
- Audio and video of a September 2015 subject-matter hearing concerning SB2151
- Audio of a May 2016 Judiciary Committee hearing concerning SB2151
- Audio and video of [REDACTED] November 2016 testimony concerning sexual-harassment legislation
- Audio of *Chicago Tribune* reporter Eric Zorn's interview of [REDACTED], supplied by Zorn at [REDACTED]'s request
- Illinois General Assembly bill status reports for HB1808 and SB2151
- Senate Majority Staff Analysis reports for SB2151

B. Background Concerning [REDACTED] Proposed Legislation

[REDACTED] is a passionate advocate for victims' rights. At eleven years' old, [REDACTED] daughter was raped, and—in addition to her obvious dismay and concern for her daughter—she was also scarred by her experience with the criminal-justice process. Among other things, [REDACTED] was frustrated by what she perceived to be the prosecutor's failure to allow her and her daughter to exercise rights as victims to have a voice at critical stages of the process. Following this experience, [REDACTED] became a proponent for laws that she believed would help protect crime victims and ensure that they could exercise their rights. [REDACTED] has also run for a variety of elected offices and, until recently, was running for an Illinois House seat in District 62.

Although a Crime Victims' Bill of Rights has been part of the Illinois Constitution since 1992, the Constitution was amended in November 2014 further to address victims' rights. In 2015, the Illinois legislature approved implementing legislation, known as HB1121, and it was signed into law in August 2015. Proponents of these measures—known as Marsy's Law for Illinois—say that they significantly benefitted crime victims, guaranteeing them additional participation in the criminal process and enabling them to enforce their rights in court.

[REDACTED] opposed Marsy's Law, because she did not believe it went far enough to protect victims. Among other things, [REDACTED] was concerned that the law prohibited courts from appointing attorneys to victims who could not afford to hire lawyers to enforce their rights. [REDACTED] favored legislation amending the Crime Victims Compensation Act. That statute, 740 ILCS 45, allows victims to apply to the Illinois Attorney General for reimbursement for expenses incurred as a result of a crime. The Attorney General investigates the claim and presents it to the Court of Claims, which decides what reimbursement to award. The statute covers up to \$27,000 in eligible expenses for things like funerals, relocation costs, and medical expenses.

[REDACTED] proposed that the Crime Victims Compensation Act be changed to allow crime victims to apply to the Attorney General and the Court of Claims for reimbursement of attorney's fees and costs related to enforcement of the victims' rights.

C. Opposition to ██████████ Proposal

From the start, organizations focused on criminal justice and victims' rights—including the Illinois Attorney General's Office, State's Attorneys, and a variety of victims' advocacy groups, including the Illinois Coalition Against Sexual Assault and the Illinois Coalition Against Domestic Violence—expressed concern about ██████████ proposal.

The primary objections were, first, that ██████████ proposed legislation was premature. Those working on Marsy's Law believed that the new protections for victims would mitigate the need for victims to require attorneys to enforce their rights. The Marsy's Law proponents wanted to wait and see how the new law took hold before adding an attorneys' fee provision.

Second, there were substantial worries about funding. Opponents objected that allowing reimbursement for attorneys' fees would reduce the money available for more immediate victim needs. Concern was expressed that—because \$27,000 was a lifetime cap for a victim—attorneys' fees could quickly eat up the funds, leaving victims with other, unreimbursed expenses. Opponents also disagreed with ██████████ about funding sources and what money was realistically available.

Third, opponents suggested that if ██████████ idea were going to be pursued, safeguards should be added to ensure that unscrupulous attorneys did not abuse vulnerable victims. One idea was to cap the total amount payable for attorneys' fees at \$1,000 (as New Jersey had done) and to cap the reimbursement rate at \$125 per hour. There was also support for considering alternative models, such as creating a legal-aid clinic that would focus on assisting victims in asserting their rights.

In sum, although opponents to ██████████ proposal did not object to the concept of finding a way to provide victims with attorney representation at no cost, there was substantial objection to doing so in the manner that ██████████ proposed.

D. How SB2151 Came to Be Filed by Silverstein

██████████ work on changing the Crime Victims Compensation Act began no later than 2014. ██████████ worked with a legislator in the House, who had assisted ██████████ on other legislation and agreed to help seek a change to the Crime Victims Compensation Act. According to that legislator, the bill—known as HB1808—went nowhere. The legislator heard concerns that victims' funding was already spread thin, and adding money for attorneys without caps was going to be problematic. Representatives from the Attorney General's Office confirm that they informed the legislator and ██████████ about their and other stakeholders' objections to this legislation.

██████████ was also working with a senator on her proposal. The senator recalls spending a considerable amount of time working with ██████████ on the proposed bill. Like the legislator in the House, though, the senator encountered significant opposition, including by the Illinois Attorney General's Office.

On May 20, 2015, ██████████ appeared in Springfield and testified in opposition

to Marsy’s Law. She described the negative experience she and her daughter had in the rape prosecution and explained why she believed HB1121 was insufficient to protect victims’ rights.

Sen. Ira Silverstein heard ██████████ testimony. He was moved by her story and wanted to help. He called her the same day and expressed interest in assisting. ██████████ told Silverstein that she had been working with another senator on introducing a change to the Crime Victims Compensation Act.

██████████ recollection is that, when she informed the senator of Silverstein’s interest, the senator recommended that Silverstein sponsor the bill. ██████████ recalls the senator stating that Silverstein would be the better steward because, as a Democrat, he was in the majority’s party. Also, ██████████ remembers the senator reasoning that because the Attorney General—a Democrat—opposed the legislation, having a Democrat as sponsor may be useful. Silverstein also recalls the senator stating that it would be better for Silverstein, as a Democrat, to be the sponsor.

Although the senator does not recall advocating Silverstein as the sponsor, the senator was fine with his taking the lead. The senator agreed to and did provide Silverstein’s staff with the materials staff had accumulated on the issue. The senator also expressed willingness to be a co-sponsor, on the theory that having a Democrat and a Republican co-sponsoring the bill would be well received by the General Assembly.

There is uncertainty concerning how much Silverstein understood concerning opposition to ██████████ proposal when he agreed to sponsor the bill. The senator recalls informing Silverstein about the opposition. Silverstein states that he does not remember knowing anything about the bill’s status or support before he became a sponsor.

Silverstein filed the bill—SB2151—on July 14, 2015.

E. SB2151’s Legislative Path

Understanding SB2151’s legislative path is critical to assessing ██████████ allegations. The Illinois General Assembly’s public record concerning the status of SB2151 identifies the following events (excluding dates that co-sponsors were added):

7/14/2015	SB2151 filed by Silverstein
7/14/2015	Referred to Assignments
2/17/2016	Assigned to Licensed Activities and Pensions
2/24/2016	Re-referred to Judiciary
3/2/2016	To Subcommittee on Special Issues
4/8/2016	Rule 2-10 Committee Deadline Established as April 22, 2016
4/12/2016	Reported Back to Judiciary
4/22/2016	Rule 3-9(a) / Re-referred to

	Assignments
4/28/2016	Rule 2-10 Committee/3rd Reading Deadline Established As May 13, 2016
4/28/2016	Assigned to Judiciary
5/13/2016	Rule 2-10 Committee/3rd Reading Deadline Established As May 27, 2016
5/17/2016	Sponsor Removed Sen. Michael E. Hastings
5/18/2016	Postponed – Judiciary
5/27/2016	Rule 2-10 Committee/3rd Reading Deadline Established As May 31, 2016
5/31/2016	Rule 2-10 Committee/3rd Reading Deadline Established as December 31, 2016
1/1/2017	Pursuant to Senate Rule 3-9(b)/Referred to Assignments

SB2151’s initial placement in the Assignments Committee was standard operating procedure. All new Senate bills start in Assignments. There, analysts evaluate the proposed legislation, including arguments by proponents and opponents. Senate leaders and their staff then hold bill-review meetings and determine the substantive committee assignments.

In the first Senate Majority Staff Bill Analysis document, dated July 2015, the assigned legal analyst provided a general summary of crime victims’ constitutional rights, the Crime Victims Compensation Act, and how the bill would change that Act. There was no information about opposition to the bill in this initial Bill Analysis.

The Subject-Matter Hearing

In or around June 2015 (shortly before Silverstein filed the bill), Silverstein and a co-sponsor received permission to hold a subject-matter hearing on the issues presented by the proposed legislation. Cullerton’s Senior Legal Counsel was tasked with assisting in organizing the hearing. The Senior Legal Counsel recalls communicating with Silverstein, as sponsor, to determine what he wanted for the hearing. Silverstein asked Senior Legal Counsel to communicate with [REDACTED] about this.

Senior Legal Counsel requested and received approval to use a Chicago hearing room from 1:00 to 4:30 pm on September 21, 2015. Senior Legal Counsel reached out to [REDACTED] for a witness list. [REDACTED] list had 16 witnesses, including [REDACTED]. Senior Legal Counsel informed [REDACTED] that, “Due to time constraints, we will have to cut the list of speakers.” Although Senior Legal Counsel does not recall specifically what the time constraints were, this was a common experience, typically due to committee members having scheduling conflicts. According to Senior Legal Counsel, Silverstein did not request that the meeting be shortened or that the witness

list be pared back.

On September 17, 2015, Senior Legal Counsel sent ██████████ the agenda for the hearing. In addition to ██████████ and eight witnesses proposed by ██████████, the agenda included a person who advocated to pass Marsy's Law for Illinois, an Illinois Coalition Against Domestic Violence representative, and an Illinois Coalition Against Sexual Assault representative. ██████████ objected to the Marsy's Law advocate, stating that the Marsy's Law advocate was "not welcome" due to an allegedly "defamatory attack" made against ██████████ on Facebook. Senior Legal Counsel informed ██████████ that the Senate's policy was to hear all sides of the issue. Senior Legal Counsel further stated, "Senator Silverstein is committed to upholding this view by keeping hearings fair and balanced. [The Marsy's Law advocate] and others have voiced interest in being heard at the public hearing will be afforded the opportunity to do so." ██████████ acceded, stating by email, "Ira said he will maintain the integrity of holding a fair hearing so I am good. No distractions will be allowed."

On September 18, 2015, a few days before the hearing, an updated Bill Analysis was prepared. This analysis stated, in part, "The Illinois State's Attorneys Association, the Illinois Coalition Against Sexual Assault, and the Illinois Coalition Against Domestic Violence oppose this bill as written. All three organizations worked extensively with the Illinois Office of the Attorney General and other stakeholders in crafting the Victims' Bill of Rights Constitutional Amendment and the ensuing implementing legislation." The document went on to describe the reasons for these entities' opposition to the bill and provided additional analysis of the funding possibilities and New Jersey's alternate approach.

The subject-matter hearing was held in Chicago on September 21, 2015. Ten senators were present, with Silverstein presiding. At the hearing, ██████████ and seven others invited by ██████████ testified in support of SB2151. Most were victims or family members of victims who had endured difficulties during criminal prosecutions of their offenders. At the conclusion of each witness's testimony, Silverstein asked if any of the senators had questions for the witness. There were no questions for ██████████ or her witnesses. Four witnesses testified in opposition to the bill, including the Marsy's Law advocate, a representative from the Illinois Coalition Against Sexual Assault, a representative from the Illinois Coalition Against Domestic Violence, and a representative of the Illinois Association of Criminal Defense Lawyers. These witnesses expressed concerns along the lines of what is described in Section 2.C., above.

A senator asked one of the opponents a question about how the \$1,000 cap on attorney's fees was working in New Jersey. When the Marsy's Law advocate started to answer, Silverstein invited ██████████ to return to the witness stand so that she could also share her perspective on the senator's question. ██████████ also responded to other issues the opponents had raised during their testimony. The hearing lasted a total of approximately one hour and 18 minutes.

SB 2151 Moves Out of Assignments

In January 2016, Silverstein requested in writing that SB2151 be released from Assignments. In February 2016, SB2151 was moved out of Assignments. The initial

placement of SB2151 in the Licensed Activities and Pensions Committee was, according to Silverstein, a mistake. It was obvious from the bill's substance that it should be before the Judiciary Committee. Silverstein or his staff reached out to an Assignments Committee staffer about the issue, which was corrected within six days.

The Assignments staffer does not recall this specific incident, but the Assignments staffer observed that with thousands of bills in play, it was not unusual for mistakes like this to occur. The Assignments staffer also noted that on the Assignments paperwork used to make committee assignments, "Licensed Activities and Pensions" was on a line very close to "Judiciary," and that this would have been an easy mix-up.

At this time, there was a senior Judiciary Committee staffer, whose duties included identifying issues and problems with legislation and making recommendations to the Judiciary Committee Chairman. The Judiciary Committee staffer perceived that those opposing SB2151 had valid objections. The Judiciary Committee staffer incorporated these objections in the analysis and raised the concerns with the Judiciary Committee Chairman.

The Judiciary Committee staffer recalls talking with Silverstein about the issues with the bill. He was aware that opponents were raising problems but said that ██████████ did not want to compromise; she wanted to try to pass the bill as it was. But the Judiciary Committee staffer knew, and believed that Silverstein knew, it was going to be difficult to get the bill to move forward with so much opposition.

Despite continued opposition, ██████████ continued to solicit support for SB2151. In February 2016, she secured a letter of support from a State's Attorney. She also reached out to other senators, drafting information statements for Silverstein to use and successfully persuading multiple senators to sign on as co-sponsors to the bill.

Subcommittee on Special Issues

Soon after being moved to the Judiciary Committee, SB2151 was referred to a Subcommittee on Special Issues, with a senator in charge of the subcommittee. The Judiciary Committee Chairman made this decision, with the Judiciary Committee staffer's input. This was a way to accommodate the proponent's desire for a hearing but not necessarily to let the bill advance, given the extent of the opposition. Silverstein recognized that assignment of the bill to a subcommittee was not a good sign and is—some say—how bills get killed in the Senate. Silverstein believed that for the bill to move forward, he needed to get it moved out of subcommittee as quickly as possible.

The subcommittee head recalls meeting with Silverstein and ██████████ at the subcommittee head's office. The subcommittee head had learned of opposition to the bill and believed that the opponents had legitimate concerns. During the meeting, ██████████ and Silverstein spoke about why they believed in the bill. The subcommittee head asked ██████████ specifically whether she would be able to work through the issues with the opposition groups. She said she believed so. The subcommittee head said the bill would not be passed out of subcommittee otherwise, because the opposition groups had valid concerns. According to the subcommittee

head, █████ committed to the subcommittee head that when she brought the bill back to the subcommittee, and to the committee as a whole, there would be no opposition.

Silverstein and █████ both recollect this more as an agreement between the subcommittee head and Silverstein, rather than between the subcommittee head and █████. In particular, Silverstein's memory is that the subcommittee head asked Silverstein to keep the bill in subcommittee and work out issues with the opposition. Once the opposition was removed, the bill would be passed out of subcommittee and put before the full Judiciary Committee. Silverstein did not want to do this. He wanted to get the bill out of subcommittee and back before the full Judiciary Committee as soon as possible. Silverstein recalls committing to the subcommittee head that—if the bill was allowed out of the subcommittee—Silverstein would not present SB2151 before the full Judiciary Committee unless he had agreement with the opposition.

In any event, all three attest that an agreement was made: the subcommittee head would permit SB2151 out of subcommittee, but Silverstein would not bring it back before the full Judiciary Committee unless it was an agreed bill. On or about April 5, 2016, Silverstein requested a deadline extension for SB2151. An April 22 deadline was granted. Then, on or about April 12, 2016, the subcommittee convened and—pursuant to the agreement—the bill was reported back to the Judiciary Committee.

When April 22 arrived, SB2151 was automatically re-referred to Assignments, pursuant to Senate rules. █████ reminded Silverstein and his legislative aide—both before and after April 22—of the need for an extension. On April 25, Silverstein requested an additional deadline extension, which was granted. The bill was promptly placed back before the Judiciary Committee.

Silverstein's Meeting with the Attorney General's Office

Silverstein continued his effort to gain agreement on SB2151, to satisfy the condition the subcommittee head had imposed for moving SB2151 out of subcommittee. On May 2, 2016, Silverstein met with representatives of the Illinois Attorney General's Office to discuss potential compromises, such as creating a legal-aid clinic instead, or at least implementing a cap on attorney compensation and a cap on the hourly rate. Although Silverstein appeared to the Attorney General's Office representatives to be receptive to compromise, he also seemed concerned that █████ would not be open to their proposals. Silverstein requested that the Attorney General's Office put in writing its position concerning SB2151 so that he could show it to █████. Silverstein pushed hard for the letter, which the Attorney General's Office perceived as an extraordinary request.

Silverstein relayed the meeting to █████. As Silverstein predicted, █████ would not agree to the legal-aid clinic idea, or to caps. The next day, May 3, █████ wrote to Silverstein with a proposed amendment to SB2151, which would allow the Court of Claims to determine reasonable compensation for attorney's fees. She wrote to Silverstein again on May 5, asking whether Silverstein would set SB2151 for a hearing. She wrote, "I don't know what else you need from me to get

this bill out of the senate. I've done everything I can do! You spoke with the AG's office, they have no opposition, so what else is holding up the amendment or hearing date?"

On May 9, the Attorney General's Office provided Silverstein with the letter he requested. The letter did not express support for SB2151; nor did it state unequivocal opposition. It stated, "Over the course of the next year, we are committed to continuing our discussions with you, victim advocates, prosecutors and the legal community to assess how the Crime Victims Constitutional Amendment and the Act are being implemented. In particular, we will continue our discussions with you regarding the need for legal representation for crime victims and the most effective way to meet that need, as well as the other significant needs of victims, given the financial constraints of the Crime Victims Compensation Fund."

On May 12, Silverstein reached back out to the Attorney General's Office. He said that the letter was too vague and that he was going to go ahead and schedule the hearing. He knew that the votes were not there to pass the bill. But, he conveyed to the Attorney General's Office, ██████████ was adamant that the bill be heard and called for a vote.

The May 17, 2016 Judiciary Committee Hearing

SB2151 was presented before the Judiciary Committee on May 17, 2016. The hearing, which was recorded, lasted approximately 20 minutes. Silverstein introduced the bill and called on ██████████ to testify. After ██████████ testimony, the subcommittee head spoke. The subcommittee head recounted the agreement that had been reached: as a condition of bringing SB2151 out of subcommittee, Silverstein would not re-present the bill without having agreement. Silverstein said, "We were unable to get an agreement, so we decided to go before the full committee." The subcommittee head stated that the agreement Silverstein and ██████████ reached with the subcommittee head had not been honored; the subcommittee head therefore requested all committee members vote no. ██████████ stated, "That would be on a technicality." The subcommittee head replied, sternly, "I'm going to be very clear. We had an agreement that you would come back, and it would be agreed upon. That agreement has not been met."

Next, there was brief testimony from the Marsy's Law advocate and more extensive testimony from a representative from the Attorney General's Office. Both expressed concern about the bill in its current form. The Judiciary Committee Chairman concluded by stating, "The sponsor has indicated to me that the bill will be held." That day, the subcommittee head withdrew as a co-sponsor.

Silverstein recalls this hearing as an especially low point. He regards himself as a man of his word, and the subcommittee head was 100% right that Silverstein had gone back on his word. He brought the bill before the full committee to appease ██████████.

██████████ wrote to Silverstein and another senator, and posted publicly on Facebook, about her frustration with the hearing. In response to ██████████ Facebook post, the Marsy's Law advocate wrote, "It died today because it needed some

amending and you weren't willing to work with other stakeholders, essential to the democratic process." ██████ took strong issue with the Marsy's Law advocate's statement. Among other things, she stated to Silverstein and the other senator, "Honestly, I do not know how much more abuse I can take. This bill has affected me to the point where I lost 20 pounds and half my hair. The weight loss attributed to my hair loss. I had spoken with [a State's Attorney] about taking over on this bill in my place..."

Further Extensions of the Bill

In response to Silverstein's written requests, SB2151 was further extended, first to May 31, 2016 and then to December 31, 2016.

█████ recalls seeing online in or around October 2016 that—in July 2016—SB2151 was re-referred to the Assignments Committee. ██████ and Silverstein had the following Facebook message exchange:

October 4, 2016 Facebook exchange:

█████: *You have some explaining to do*

IS: What?

█████: *Yeah I saw the bill*

IS: What r u talking about

█████: *You killed the bill again by putting it back in assignments*

IS: If u think I did that they u don't know me. I did not do that. This is the first I heard of it I would never tell anyone to do that If u do not believe me then get another sponsor. I have been out of the office for two days and will get to the bottom of this. Now I am mad.

█████: *It was done on July 30. I know you can correct it why does this bill keep getting beat up*

The history for SB2151 on ilga.gov does not show the bill being moved to Assignments on July 30.

The Assignments staffer recalls this incident. The Assignments staffer remembers getting a call from Silverstein's legislative aide, who said that something appeared to be wrong with SB2151. The legislative aide asked the Assignments staffer to check to see if it had been mistakenly re-referred to Assignments. According to the Assignments staffer, this does happen occasionally, around six or so times a year. If it's only a mistake, it can be fixed quickly. The Assignments staffer checked, found that SB2151 had been erroneously returned to Assignments, and corrected the

problem. The Assignments staffer stated that if the bill had truly been sent back to Assignments, the Assignments staffer would not have been able to correct the problem. The bill would have needed to be put on the agenda for the next Assignments Committee meeting, and formal action would have been required. The Assignments staffer also stated a belief that because this was just fixing an error—and not an actual movement of SB2151 between committees—it was not formally recorded as part of the bill’s history.

Silverstein’s legislative aide recalls this incident the same way. Silverstein called, stating that something appeared to be wrong with the bill. The legislative aide knew that Silverstein had sought and received an extension on the bill, so the legislative aide reached out to the Assignments staffer. Soon after, the Assignments staffer called the legislative aide back and said the problem had been fixed. An October 5, 2016 email from the legislative aide to the Assignments staffer, with subject matter “sb 2151” and a statement, “Could you give me a call on this bill ASAP?” helped the legislative aide recall the exact date of outreach to the Assignments staffer.

Fall 2016 Events

On October 28, 2016, Silverstein and ██████████ met with representatives from the Attorney General’s office, at Silverstein’s request. The purpose, again, was to discuss potential compromise. The Attorney General’s Office explained its objections to SB2151 and offered various ideas. Silverstein and ██████████ openly argued with each other during the meeting, with ██████████ refusing to accede to any of the suggested ideas. It was clear to the Attorney General’s Office representatives that ██████████ was not going to budge. Silverstein recalls ██████████ storming out of the meeting.

When the veto session arrived in November, ██████████ wanted the bill to be called. According to Silverstein, ██████████ told him she was going to camp in front of the Senate President’s office until he called the bill. Silverstein spoke to the President, who (according to Silverstein) said that if Silverstein could get the bill passed in the House, the President would help Silverstein in the Senate. Silverstein shared this with ██████████, who became irate. The same day, she went to the President’s office to make the ethics complaint against Silverstein that prompted this investigation.

Although ██████████ made efforts to find alternative sponsors for SB2151, it did not progress further.

F. Silverstein’s Interactions with ██████████

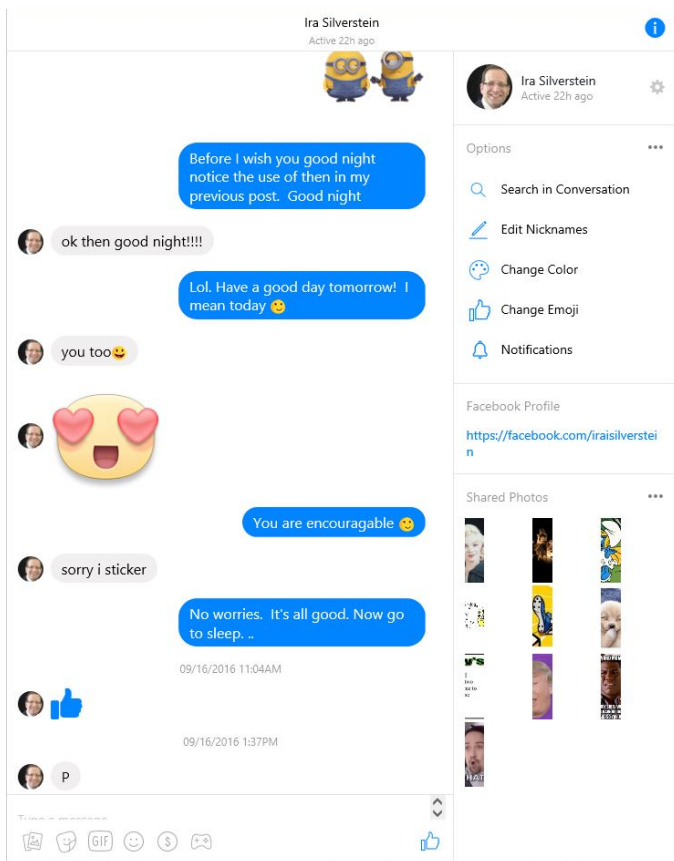
Available Evidence

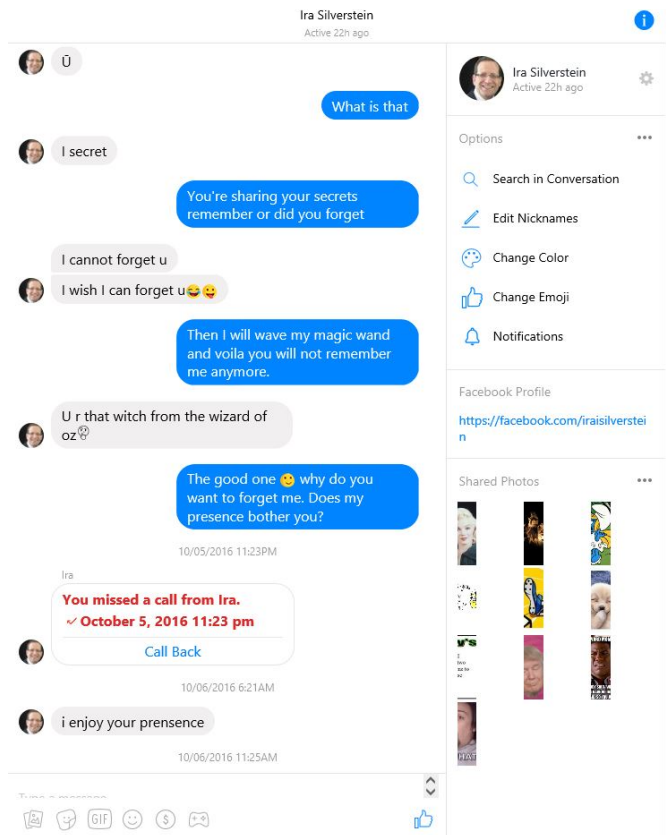
Silverstein and ██████████ first conversation was by phone in May 2015, after Silverstein heard ██████████ testify in Springfield. Silverstein initiated communication with ██████████ via Facebook Messenger in June 2015, and they used that medium extensively through November 2016. They also exchanged emails. Both ██████████ and Silverstein reported exchanging text messages on their cell phones

and having frequent telephone calls.

I requested the original Facebook Messenger exchanges from both [REDACTED] and Silverstein, but neither provided them. Silverstein deleted all Facebook messages from [REDACTED]. He states that he deleted them on a rolling basis, during his communication with her. Silverstein's counsel sought advice about how to recover the deleted messages but was informed that it is impossible to do so.

[REDACTED] provided a handful of examples of the original messages, complete with the accompanying images, but declined to provide all of the messages in their original format. The messages that I have, provided by [REDACTED] with her initial complaint, are in .pdf format and do not contain the images [REDACTED] and Silverstein exchanged. From context, and based on [REDACTED] and Silverstein's statements, it appears that the images are almost exclusively emojis or "stickers" (cartoon images). [REDACTED] did provide six screenshots of communications that display images. Here are two of the examples, one from September 2016 and one from October 2016:





I requested text messages from both [REDACTED] and Silverstein. Silverstein states that he deleted any text messages with [REDACTED] contemporaneously with receiving them. [REDACTED] states that she has text messages, but she did not provide them to me. [REDACTED] did play me voicemail messages from Silverstein that were stored on her phone.

Given the vast amount of information that I have gathered during this investigation, I concluded that it was unnecessary to delay this investigation to obtain additional evidence, such as additional text messages or images exchanged between Silverstein and [REDACTED].

Overall Nature of Silverstein's Interactions with [REDACTED]

[REDACTED] states that, early on, Silverstein told her he wanted to have “friendly conversation.” [REDACTED] further states that Silverstein began giving her compliments, such as “you look like a movie star,” and “you have pretty eyes,” and “you’re intoxicating.” [REDACTED] claims that Silverstein told her that he had feelings for her.

The email exchanges between Silverstein and [REDACTED] that were provided to me are professional and almost exclusively related to SB2151. Some of the emails relate to Silverstein’s legal representation of [REDACTED] father, discussed further below.

The Facebook Messenger exchanges between Silverstein and ██████████ are more personal in nature. The messages—excerpted at length in the interview summaries of Silverstein and ██████████ that are included in the appendix to the unredacted Summary Report—support a finding that Silverstein and ██████████ regarded each other as friends, sought each other’s approval and continued attention, and developed a more-than-just professional relationship. Not only did Silverstein and ██████████ frequently message each other about personal topics, they did so at all hours of the day and night, particularly as time went on. It was not uncommon for Silverstein and ██████████ to send each other messages late into the night, even into the next morning.

Many of the messages—from Silverstein to ██████████, and from ██████████ to Silverstein—were flirtatious. Silverstein and ██████████ complimented each other’s physical appearance and personalities, and each expressed appreciation for the other’s admiration. None of the messages was sexually explicit, and there was never any express discussion in the messages about cultivating a romantic relationship.

██████████ also interprets other, verbal exchanges she had with Silverstein as implying his interest in a romantic relationship. For instance, she describes a story Silverstein told her about a woman who, unsolicited, sent Silverstein a sexually charged letter. In ██████████ recollection, Silverstein said that a legislative aide told Silverstein not to meet the woman, and he took the advice. But Silverstein also told ██████████ that he considered meeting the woman anyway. ██████████ asked Silverstein why he would meet with her, and Silverstein said he was curious. ██████████ was uncomfortable about Silverstein telling her this story and thought he was, perhaps, testing her.

Silverstein recalls telling ██████████ the story about the woman sending him this letter. But he describes it differently. He says that there had been a series of letters from the same woman, and—when the woman requested that Silverstein meet her in the President’s Galley—he considered going so that he could tell the woman to stop sending him letters. The legislative aide told Silverstein not to meet the woman because it was likely a trap. Sure enough, later that day, a Senate colleague teased Silverstein for not showing up at the President’s Gallery, saying, “What are you, gay?” The letter had, indeed, been fake and a trap. Silverstein says that he told the story to ██████████ as an example of games that people play in Springfield.

██████████ *View of the Facebook Messages*

██████████ is adamant that all of the personal exchanges she had with Silverstein were unwanted. She states that she engaged in them only as a result of the power dynamic between her and Silverstein: she, the passionate proponent of a bill that she desperately wanted passed; and he, the bill sponsor controlling the legislation’s fate. She says that she feared retaliation by Silverstein if she did not engage in the friendly conversation he desired, and that if she stopped, Silverstein would not see the bill through. She says she had no romantic interest whatsoever in Silverstein and that, to the contrary, the very idea of leading on a married man was anathema to her.

██████████ says that she raised her discomfort about these messages in at least two ways. First, she says that she showed them to friends, expressed concern, and

sought advice from them about how they viewed the messages. Of the two friends [REDACTED] identified, one does not recall [REDACTED] showing him the messages or expressing concern. The other does recall [REDACTED] contemporaneously showing messages she was exchanging with Silverstein and expressing that she was uncomfortable. [REDACTED]'s friend stated that [REDACTED] was concerned that Silverstein would not continue sponsoring the bill if [REDACTED] withdrew from the communications or objected.

Second, [REDACTED] states that in April 2016, she felt at a breaking point and reached out to a State's Attorney, whom she viewed as an ally. They met on April 26, 2016. According to [REDACTED], she told the State's Attorney her history with Silverstein, showed the Facebook messages, and played a voicemail message in which Silverstein stated, "I'm not stalking you." She also described to the State's Attorney a recent conversation she had with Silverstein, in which—after she expressed dismay about the status of the bill—Silverstein said she should go to her boyfriend to be consoled. [REDACTED] did not have a boyfriend, but Silverstein said that a friend had told him otherwise. [REDACTED] feared that Silverstein was retaliating against her by harming the bill's progress. [REDACTED] stated that she asked the State's Attorney to take her position on the bill so that she could get away from Silverstein. The State's Attorney said that was not possible, but offered to call Silverstein and take additional steps to address [REDACTED] concerns. [REDACTED] declined and asked the State's Attorney to keep their conversation confidential.

The State's Attorney recalls meeting with [REDACTED] for approximately ten minutes. She was crying, very upset, and had lost a considerable amount of weight since the State's Attorney last saw her. The State's Attorney says that [REDACTED] said that she felt Silverstein was interested in her romantically. She showed a message that seemed personal and that Silverstein had sent after midnight. The State's Attorney corroborates [REDACTED] account that she asked the State's Attorney to take over the legislation and that the request was declined. The State's Attorney, too, recalls offering to speak to Silverstein for [REDACTED], but she did not want the State's Attorney to do so. She wanted the State's Attorney to keep their discussion confidential. Also, although the State's Attorney is not positive [REDACTED] said this at the time, the State's Attorney believes she stated a concern that Silverstein would retreat from the legislation if she complained about or to him.

Let me emphasize my full understanding and appreciation that sexual-harassment victims often feel the need to go along with a harasser's program, out of fear of retaliation or for other compelling reasons. I do not believe that a victim must expressly and loudly voice dissent to prove that an action was unwelcome to her at the time it occurred. My experience with sexual assault and sexual harassment includes many examples of victims who did not protest, and even those who may appear to some to be complicit or consenting, and that does not diminish their experience of being harmed.

In this case, I have carefully reviewed 444 pages of Facebook Messenger exchanges between Silverstein and [REDACTED], spanning 17 months, and weighed that evidence along with all the other evidence described in this Summary Report. In the communications available to me, there are dozens of instances where [REDACTED] initiates, prolongs, and deepens the intimacy of the discussions. She repeatedly

compliments and flirts with Silverstein (e.g., “You’re cute,” “You’re funny,” “You always make me smile,” “I like it when you are you and not a politician”). If one looks at the messages *from Silverstein’s perspective*, she was as interested in friendly conversation as he was, and she encouraged such exchanges to continue.

I have considered whether Silverstein said or did anything to cause [REDACTED] rationally to fear that he would abandon the bill if she did not continue to have personal communications with him. There are two Facebook Messenger exchanges that are especially relevant:

September 26, 2015 exchange:

...

[REDACTED]: *And you thought I was dull...*

IS: ok ou are not dull justed educated

[REDACTED]: *So glad I am justed educated. Your typing still sucks but you are improving 😊*

IS: ok insult me fund another sponsor

[REDACTED]: *Never*

IS: you just lost me

[REDACTED]: *You are passing this bill no matter what. There will be no other sponsor*

IS: [Another senator] can do it. I bet you do not make fun of her What am I chop liver...

[REDACTED]: *...You took the leadership on this it’s yours the good bad and my dull insults.*

IS: youu win

October 21, 2015 exchange:

...

[REDACTED]: *I respect my elders. After your birthday o can no longer make fun of you*

IS: I would not talk at least i do not have grey hair and wrinkles like you

[REDACTED]: *Booya That’s a good one. NOT*

IS: insult me one more time and i will remove myself as the sponsor of your bill

█: *Ah the threats. You can't intimidate me silly besides you love the bill as much as me*

These are the only instances in the written evidence where Silverstein arguably threatens to remove himself as the bill's sponsor. He is clearly joking, and the tone of these and the surrounding messages is lighthearted. It is nevertheless possible that █ interpreted these statements—even if made in a joking fashion—as having a kernel of truth and feared that Silverstein really would back away if she was not friendly with him. █ did not give any indication to Silverstein that she took him seriously, and the extensive communication that █ had with Silverstein for over a year after Silverstein sent these messages does not show, on its face, that █ reasonably feared retaliation. Any time there was the slightest suggestion that █ was displeased about something, Silverstein went out of his way to apologize and do whatever she wanted to make things right.

█ characterizes herself as a victim of Silverstein who was hostage to the Facebook exchanges and had to pretend she was interested in friendly conversation in order to get Silverstein to work on the bill. I take █ perspective on the Facebook exchanges seriously. I do not suggest that she is lying about how she felt, and I do not conclude that she subjectively welcomed the communications. Again, my interviews with the State's Attorney and █ friend corroborate █ assertions that—at the time—she was uncomfortable. The purpose of this investigation, however, is to determine if Silverstein engaged in misconduct and, if so, what the consequences should be. Although █ subjective perspective is relevant, it is also critical to assess the evidence objectively. My objective assessment is that even if █ was internally cringing at the messages Silverstein sent her and did not welcome them, she gave no outward sign of that at all, and no one—including Silverstein—would have had any way of knowing that she was not a fully willing participant in the discussions.

Silverstein's View of the Facebook Messages

Silverstein's statements about his relationship with █ run the gamut. On one hand, he states that from the moment he met █, he suspected something strange about her and worried she might accuse him of something. He therefore typically met her in public places, like Ghirardelli's or the park.

On the other hand, while denying that he ever told █ he had feelings for her, Silverstein acknowledges that his communications with █ crossed a line. He characterizes the Facebook messages as "joking around" and (reluctantly) recognizes them as, at times, flirtatious. He now regards the messages as painful and embarrassing.

Silverstein denies any sexual connotation to messages that he and █ exchanged. For example:

-In December 2015, Silverstein said he "had a weird dream last night and you

made an appearance.” When questioned about this, Silverstein says that the dream involved [REDACTED] driving a race car.

- In June 2016, [REDACTED] promised Silverstein a “goodie bag” when the bill is passed. Silverstein says he perceived nothing sexual in the remark.
- In November 2016, Silverstein said he “will check to see if u r a true blond.” When questioned about this, he says he was talking about checking the roots of [REDACTED] hair (because grey hair and dying hair had been a repeated topic of conversation for them).

Although some of the exchanges are ambiguous, Silverstein’s denial of any sexual connotation at all to the messages is inconsistent with the messages themselves. For example, here is the context for the December 2015 “dream” discussion:

IS: ii had a weird dream last night and you made an appearance

[REDACTED]: Was I the star

IS: i was the star

[REDACTED]: u have a big ego/Then what was my role

IS: guess

[REDACTED]: Did I appear in court was this about a case

IS: [unclear]/is that what u dream about u r sick

[REDACTED]: This is your dream not mine/I give tell me

IS: i have to think about it Attorney client privilege

[REDACTED]: Haha. So it is court related.

IS: no u r a little slow

[REDACTED]: [unclear]/tell me already

IS: at the proper time patience my dear

[REDACTED]: Okay dear. I have patience.

Perhaps Silverstein’s dream was truly about [REDACTED] driving a race car, but to an outside observer, the messages appear intended to suggest that the dream was about sex.

Just as [REDACTED] underplays her own role in encouraging the intimacy of the discussions she had with Silverstein, Silverstein also has an overly generous view of his own conduct. He correctly acknowledges that he displayed poor judgment and that his conduct was not becoming of a legislator. He is extremely contrite about the harm that he has caused to his family. But he does not appear fully to accept that the messages went beyond “joking around,” were unprofessional, and created at least the

appearance that he had a romantic interest in [REDACTED].

Legal Representation

In 2015, [REDACTED] told Silverstein about legal issues that her father was experiencing and asked for a referral. Silverstein offered to take the case, and [REDACTED] father retained Silverstein. Although Silverstein regarded [REDACTED] father as the ultimate decision-maker, he communicated with [REDACTED] extensively about the legal issues.

[REDACTED] and Silverstein have different impressions of the representation. In [REDACTED] view, Silverstein did not do what was requested of him. [REDACTED] father twice fired Silverstein and sought other counsel. In Silverstein's view, the [REDACTED] were not cooperative with him and would not listen to his recommendations. When they asked him to withdraw, he did so.

Physical Contact

Neither [REDACTED]er nor Silverstein states that they ever had any physical relationship at all. [REDACTED] does not allege that Silverstein sexually assaulted her or ever made a physical sexual approach to her. The only touch [REDACTED] relates is one occasion when she was crying about the bill, and Silverstein tried to give her a hug.

G. [REDACTED] Belief that Silverstein Intentionally Caused SB2151 to Be Delayed, and Ultimately to Fail

[REDACTED] core allegation is that Silverstein used his role as SB2151's sponsor as leverage, for access to [REDACTED] and to cause her to engage in a personal relationship with him. She claims, too, that he took steps to harm SB2151's prospects as retaliation against [REDACTED] when he perceived that she had a romantic relationship with another man. My extensive review of Silverstein's conduct with respect to SB2151 shows that he pushed SB2151 forward aggressively and took no steps to undermine the bill. The bill did not pass because of overwhelming opposition from key stakeholders, all of which existed before Silverstein ever became involved.

Specifically:

- [REDACTED] claims that Silverstein cut her witness list and the time for the subject-matter hearing on the bill in September 2015, and that he showed insufficient engagement during the actual hearing. To the contrary, Senate staff cut the witness list and hearing due to scheduling constraints, and the hearing video shows that Silverstein conducted the hearing professionally. Not only did Silverstein allow time for both sides to speak and answer any questions from the assembled senators, but he also afford [REDACTED] extra time to respond to the opponents' statements.
- [REDACTED] asserts that Silverstein intentionally placed SB2151 before the Licensed Activities and Pensions Committee as a way of delaying the bill's progress and causing excuses for Silverstein and [REDACTED] to meet. But Silverstein did not put SB2151 in Licensed Activities and Pensions. The

Assignments Committee and its staffers put the bills in substantive committees, and the Assignments staffer corroborates Silverstein's statement that the bill's initial assignment to Licensed Activities and Pensions was just a clerical mistake by staff that was quickly corrected.

- ██████ says that Silverstein intentionally failed to extend the bill on April 22, causing it to be re-referred to the Assignments Committee, to punish ██████ for purportedly having a boyfriend. During the 99th General Assembly, extensions were routinely granted. Although Silverstein was a few days late in seeking the extension for SB2151, he made the request, it was granted, and the bill was re-referred to Judiciary on April 28. ██████ was worried about the fact that the ilga.gov website did not immediately show the extension, but her worry that this meant no extension was requested or granted was unfounded. Silverstein told ██████ in a message, "your bill is still in committee Please let me do my job!" And he did, in fact, seek and receive the extension; it just took a few days to process.
- ██████ views Silverstein's movement of SB2151 out of the Special Issues subcommittee, and commitment to work out agreement with those opposing the bill, as his way of dragging out the bill so that he could continue to have "friendly" conversations with her. If Silverstein had not arranged to get SB2151 out of subcommittee, though, it would have sat there indefinitely without a vote. Getting SB2151 out of subcommittee was a way to move the bill forward to a vote more quickly, not to delay matters.
- ██████ criticizes Silverstein's decision to proceed before the Judiciary Committee in May 2016 without first amending the bill. She is correct that failing to secure agreement was fatal to the bill's success before the Judiciary Committee. But at that time, ██████ adamantly opposed the types of changes that the bill's opponents were suggesting. Although she proposed an amendment to Silverstein, the language she suggested did nothing to address the concerns repeatedly raised by the opposing stakeholders. Amending the bill in the manner ██████ suggested would not have made any difference.
- ██████ claims that Silverstein should not have caused SB2151 to be held at the May 17, 2016 Judiciary Committee meeting, but instead should have called it to a vote. Even if the bill failed, she would have been done with Silverstein, she says. She alleges that he held the bill to continue to have access to her. Based on discussions with multiple witnesses, I conclude that Silverstein's conduct in asking the bill to be held was reasonable. If he had called the bill for a vote, the bill certainly would have failed. This would put Silverstein and the bill's many co-sponsors in an embarrassing position. Also, by forcing a vote, Silverstein would have put the other Judiciary Committee members in the position of voting against a purported victims' rights measure, and most senators are cautious about causing colleagues to be put in such a position.
- ██████ asserts that Silverstein caused SB2151 to be put back before the Assignments Committee in July 2016. Silverstein denies this, and he is corroborated by other witnesses who explain that there was just a glitch.

██████████ most persuasive complaint is that if the bill was not going to pass, Silverstein should have just told her so. Then, she asserts, she would have been done and would not have had to continue communicating with him. It does appear that Silverstein repeatedly sought to placate and please ██████████, rather than tell her that the bill had no chance of succeeding without meaningful compromise. For example, in early May 2016, ██████████ expressed reluctance about continuing to push for the bill. They had the following exchange, on May 5:

IS: i think you are making mistake

██████████ *It was never mine to make.*

IS: i wish you would give it more time

██████████ *I don't have more time to give ☹*

IS: ok it is your call

██████████ *If the AG is serious about supporting the bill then I want a meeting with them [and others]. If they agree to that I will give it more time. If not then I'm not wasting more of my time on smoke and mirrors*

IS: I will request a meeting

██████████ *Thank you!*

As another example, in October 2016, ██████████ stated, “Ira, I want to give up on the bill. I don’t think i can handle it anymore. It’s time for me to walk away.” He responded, “u better not give up i am in this also. I do not quit neither should you...”

Taking the evidence as a whole, though, it is unfair to fault Silverstein for continuing to seek SB2151’s passage. ██████████ pushed him, hard, to move the bill forward for over a year. She continued to do so through November 2016 (e.g., November 18, 2016: “Please do everything you can to get us the hearing.”). Everyone interviewed, except ██████████, perceived Silverstein to be earnestly and aggressively seeking the bill’s success. If anything, it appears that Silverstein—like ██████████—was misguided or naïve about whether the bill could actually succeed as proposed. He kept going and going because he wanted to help, please, and placate ██████████.

3. Whether Silverstein Engaged in Misconduct

I conclude, first, that Silverstein did not engage in sexual harassment in violation of the State Officials and Employees Ethics Act. For purposes of that Act, “sexual harassment” requires there to be “unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature.” Silverstein never requested sexual favors from ██████████, and there was no conduct of a sexual nature. I also find that Silverstein did not make “sexual advances” to her, welcome or unwelcome. He complimented her and teased her, but not about anything overtly sexual. Although some of the messages were intimate and hinted at an interest in sex, they were ambiguous, and I do not find a preponderance of evidence to support that there was a sexual advance or conduct of a sexual nature.

Even if Silverstein’s conduct could fairly be described as an unwanted sexual advance or conduct of a sexual nature, it would constitute sexual harassment in violation of the Ethics Act only if it “creat[ed] an intimidating, hostile, or offensive working environment.” Again, there is no case law interpreting this new statutory language. Nevertheless, I do not find that this language describes Silverstein’s actions. Far from coming off as “intimidating” to ██████████, Silverstein appears overly eager to please her, going so far as to press legislation—aggressively—that carried substantial opposition. Nor do I regard the environment inhabited by Silverstein and ██████████ as “hostile” or “offensive,” for the same reasons described above.

Although Silverstein and ██████████ did not have an employer-employee relationship, and therefore there could be no violation of Title VII or the Illinois Human Rights Act, I have also considered Silverstein’s conduct in light of the wealth of sexual-harassment case law in Illinois and the Seventh Circuit. Silverstein’s conduct does not come close to meeting the standards that courts require to prove sexual harassment under Illinois and federal law. To be considered actionable under the employment statutes, harassment must be so severe and pervasive that it alters the conditions of employment and creates a hostile work environment. Although each case is different, and lawsuits often turn heavily on facts, I have not found any case that would support a finding that Silverstein’s conduct created the type of hostile work environment that constitutes sexual harassment.

Second, even though I do not sustain ██████████ core allegation that Silverstein intentionally strung her along with no genuine intention of securing the passage of SB2151, I conclude that Silverstein’s conduct was unbecoming of a legislator, in violation of Section 3-107 of the Illinois Governmental Ethics Act. Neither statute nor case law defines what this means. It is in the eye of the beholder.

In this case, I assess—as Silverstein himself does—that he did not maintain an appropriate professional distance from the proponent of a bill he was sponsoring. Even though ██████████ appeared to encourage and enjoy the communications, and appeared to regard Silverstein as a friend, Silverstein should have been much more cautious and conscientious about engaging in these types of teasing and flirtatious communications with someone he knew was depending on him to advance legislation.

Moreover, even joking about withdrawing as a bill’s sponsor when ██████████ teasingly insulted him created a situation where ██████████ may have genuinely felt concern about having to behave a certain way to keep his favor and persuade him to advance her legislation. Although Silverstein did not actually harm or try to harm SB2151 based on his personal relationship with ██████████ (if anything, he continued to try to move it forward to please her, when it might have been more prudent for him to conclude that it was a lost cause), his conduct—and ██████████ public revelation of it—has harmed the public’s trust in the General Assembly. Legislators are public servants, held to a high standard. Even the appearance—which Silverstein himself created—that Silverstein felt enamored with a bill proponent and may have used his office to advance or impede legislation as a result is problematic and warrants my finding.

4. My Recommendations

The jurisdiction of the Legislative Ethics Commission is limited to matters arising under the State Officials and Employees Ethics Act. Because there is no violation of that Act, the Legislative Ethics Commission has no role in determining corrective or disciplinary action in this matter. Moreover, the law imposes no penalties on legislators for violating the code of conduct set forth in the Illinois Governmental Ethics Act.

I nevertheless make two recommendations:

First, I recommend that Silverstein be counseled by his ethics officer.

Second, I recommend that a redacted version of this report (withholding the names of witnesses other than Silverstein and [REDACTED]), as well as your response, be made public, pursuant to 5 ILCS 430/25-52, which permits the Legislative Ethics Commission to make available to the public any summary report and response of the ultimate jurisdictional authority or a redacted version of the report and response. I informed Silverstein's attorney that I was likely to recommend publication of my report, and he stated—without knowing my findings—that Silverstein agrees that the report should be available to the public.

* * * * *

Pursuant to Section 25-50 of the Ethics Act, you are required to respond to this summary report in writing within 20 days. Your response is to include a description of any corrective or disciplinary action to be imposed. Feel free to contact me if you would like to discuss the matter and my recommendation.

Regards,



Julie B. Porter
Special Legislative Inspector General

cc: Ethics Officer Giovanni Randazzo