

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Richard More,

Complainant

Final Decision

against

Docket #FIC80-5

Town of Guilford; and Board of
Police Commissioners of the Town
of Guilford,

August 11, 1980

Respondents

The above captioned matter was heard as a contested case on June 3, 1980, at which time the complainant appeared and presented testimony, exhibits and argument.

An attorney for the respondents was present for a portion of the hearing at which he informed the hearing officer that the respondents refused to appear before the Commission because they believed the Commission lacked jurisdiction over the complaint for the following reasons: first, that the Commission had failed to comply with the time guidelines provided in §1-21i(b), G.S.; and second, that the collective bargaining agreement between the respondent town and the International Brotherhood of Police Officers, Local #343, of which the complainant is a member, preempts the jurisdiction granted to the Commission by the Freedom of Information Act.

After consideration of the entire record, the following facts are found:

1. The respondents are public agencies as defined by §1-18a(a), G.S.

2. By letter filed with the Commission on January 9, 1980, the complainant alleged, inter alia, that the respondent board convened in executive session for the purposes of hearing and ruling upon disciplinary charges preferred against the complainant by the chief of police of the respondent town, contrary to the complainant's request that such hearing and ruling be conducted in public pursuant to §§1-18a(e)(1) and 1-21, G.S.

3. On May 19, 1980, in response to a request for a continuance made by the respondents, the clerk of the Commission rescheduled the hearing from May 20, 1980 to June 3, 1980.

4. The time guidelines for Commission action provided in §1-21i(b) are directory rather than mandatory and therefore failure to comply with such guidelines does not deprive the Commission of jurisdiction over the complaint.

5. A collective bargaining agreement does not deprive the Commission of the jurisdiction conferred on it by §§1-21i and 1-21j(d), G.S.

6. On December 11, 1979, the respondent board held a meeting for the purposes of hearing and ruling upon disciplinary charges preferred against the complainant.

7. Prior to said meeting the complainant requested in writing that the hearing be held in a public meeting pursuant to §1-18a(e)(1), G.S.

8. In accordance with the complainant's request, the respondent board convened a public meeting on December 11, 1979 for the purpose of considering, conducting a hearing, and taking action regarding allegations of professional misconduct by the complaint.

9. In the course of said meeting, one or more members of the respondent board indicated that they wanted to review the complainant's personnel file.

10. The complainant's personnel file was kept in the office of the chief of police in a separate building from the building that housed the public hearing room.

11. Complainant's counsel indicated that he and his client had no objection to the respondent board reviewing complainant's personnel file in public.

12. The respondent board left the public meeting in order to go to the office of the chief of police and obtain the complainant's personnel record.

13. After leaving the public meeting, the respondent board went to the office of the chief of police and met there privately without reconvening in public session, in violation of §§1-18a(e)(1) and 1-21, G.S.

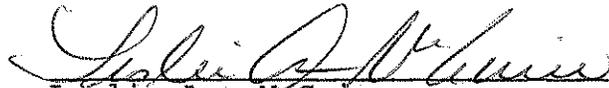
14. On December 12, 1980 the respondent board issued a written decision finding the complainant guilty of violating certain rules and regulations of the police department of the respondent town, suspended him without pay for thirty days, and placed him on supervised probation for one year.

15. The decision and actions of the respondent board were made at, or resulted from, the illegal meeting of the respondent board described in paragraph 13 above.

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

1. All actions, including votes, taken at the December 11, 1979 meeting of the respondent board are hereby declared null and void.

Approved by order of the Freedom of Information Commission on August 11, 1980.



Leslie Ann McGuire
Clerk of the Commission