

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Anthony Albuquerque,
Complainant

Report of Hearing Officer

against

Docket #FIC80-85

Town of Windsor; and the Police
Department of the Town of Windsor

February 24, 1981

The above captioned matter was heard on December 9, 1980 at which time the complainants and the respondents appeared, and presented testimony, exhibits and argument on the complaint.

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

1. The respondents are a public agency within the meaning of §1-18a(e), G.S.

2. On or before February 21, 1980, the Chief of the respondent department appointed two officers to sit with him to adjudicate a hearing concerning an allegation that the complainant had violated certain rules and regulations of the respondent department.

3. It is found that the Chief and the two officers who were appointed to hear the foregoing matter are a public agency within the meaning of §1-18a(a), G.S.

4. The hearing on the aforesaid matter was held February 21, 22, 25 and March 12, 1980.

5. The complainant had requested that the hearing be open and public.

6. At one point during the hearing on February 22, the Chief held a recess and urged counsel for the complainant to behave in a more respectful fashion.

7. After the public hearing was completed on March 12, 1980, the Chief and the officers who presided met in private and reached a decision by consensus.

8. By complaint filed with the Commission April 8, 1980, the complainant alleged that his rights were violated both when the Chief held a private conversation during the recess on February 22, and when the case was decided after the public hearing.

9. The complainant further requested that the action of the hearing board be declared null and void.

10. The Commission has no jurisdiction over the allegation of the complainant that the private conversation on February 22, was illegal because pursuant to §1-21i(b), G.S., complaints of violation of the Freedom of Information Act must be filed within 30 days of the alleged violation.

11. The Chief had the authority to decide whether the complainant had violated the rules of the respondent department by himself, but he had determined that he preferred not to decide alone.

12. Section 1-18a(e)(1), G.S. provides that an individual whose job performance is being discussed may require that such discussion be held in public.

13. It is found that the request of the complainant for an open hearing constituted a request for the discussion, which was held after the public hearing ended, to be held in public as required by §1-18a(e)(1), G.S.

14. It is concluded, therefore, that the officers and the Chief, who reached their decision in private, did not comply with the requirements of §1-18a(e)(1), G.S.

15. The record contains no evidence which shows that the complainant was harmed by the off the record discussion.

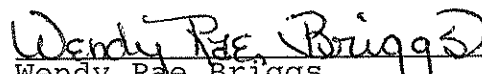
16. It is therefore concluded that it is not appropriate to declare null and void the action of the hearing board.

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

1. The respondent shall henceforth comply with the requirements of §1-18a(e)(1), G.S.

2. The Commission commends the efforts of the respondent to assure a fair and orderly hearing on the charges which were brought against the complainant.

Approved by Order of the Freedom of Information Commission at its regular meeting of February 11, 1981.


Wendy Rae Briggs
Clerk of the Commission