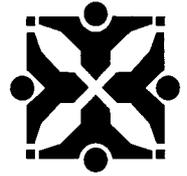


City of Columbia

701 East Broadway, Columbia, Missouri 65201



Agenda Item Number: B 204-14

Department Source: Law *MS*

To: City Council

From: City Manager & Staff

Council Meeting Date: July 7, 2014

Re: Citizens Police Review Board Proposed Amendments to Chapter 21

Documents Included With This Agenda Item

Council memo, Ordinance.

Supporting documentation includes: Memo from Citizens Police Review Board and Citizens Police Review Board minutes from special meeting on March 13, 2014.

Executive Summary

In 2009, the City of Columbia established the Citizens Police Review Board. The Board began hearing appeals in 2010. The Board has identified changes to the powers, duties and processes of the Board that it is recommending to the Council for adoption.

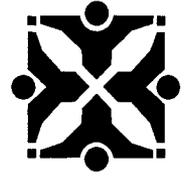
Discussion

The Review Board's proposed ordinance would make the following changes to the City Code:

1. Extends jurisdiction of the Review Board over civilian community service aides within the police department;
2. Provides for a jurisdictional review by the Review Board to determine whether allegations of misconduct fall within the Board's purview;
3. Allows the Review Board to conduct audits or reviews of records in the police department for compliance with Chapter 21 of the City Code;
4. Requires Review Board members to participate in one ride along every two years (the current requirement is once every four years); and
5. Establishes a mediation process.

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Fiscal Impact

Short-Term Impact: None

Long-Term Impact: None

Vision, Strategic & Comprehensive Plan Impact

Vision Impact: Community Facilities and Services

Strategic Plan Impact: Health, Safety and Well being

Comprehensive Plan Impact: None

Suggested Council Action

None.

Legislative History

07/20/2009 Ordinance No. 20331 passed.

08/16/2010 Ordinance No. 20722, amendment.

09/20/2010 Ordinance No. 20764 amendment.

11/21/2011 Ordinance No. 21157 amendment.

10/07/2013 Ordinance No. 21848 amendment.


Department Approved


City Manager Approved

Introduced by _____

First Reading _____

Second Reading _____

Ordinance No. _____

Council Bill No. B 204-14

AN ORDINANCE

amending Chapter 21 of the City Code as it relates to the powers, duties and processes of the Citizens Police Review Board; and fixing the time when this ordinance shall become effective.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. Chapter 21 of the Code of Ordinances of the City of Columbia, Missouri, is hereby amended as follows:

Material to be deleted in ~~strikeout~~; material to be added underlined.

Sec. 21-44. Purpose.

The purpose of this article is to provide an external and independent process for review of actual or perceived ~~police-misconduct~~ by police officers and community service aides thereby increasing the police department's accountability to the community and community trust in the police department.

Sec. 21-45. Definitions and rule of construction.

The following definitions and rules of construction apply to this article:

Board, when not otherwise specified, means the citizens police review board.

Community service aide means a uniformed civilian employee who does not have the power of arrest and served in the Columbia police department with a position title of "community service aide."

Complainant means a person who files a complaint with the police department or with the city clerk against a police officer or a community service aide.

Complaint means a written statement alleging misconduct of a police officer or community service aide involving interaction with the public.

...

Sec. 21-48. Administration and training.

(a) The city manager shall designate staff for the administration of the board.

(b) New board members shall participate in orientation and training that includes review of the police professional standard unit's operating policies and procedures and a ride along with police officers. Training shall also include topics suggested by NACOLE in its recommended orientation and training for board members.

(c) Board members shall participate in a ride along with police officers at least one (1) time every two (2) years, with at least one (1) ride along occurring at night.

Sec. 21-49. Duties.

The citizens police review board shall have the following duties:

(1) Review appeals from the police chief's decisions on alleged ~~police~~ misconduct as provided for in this article.

(2) Conduct a jurisdictional review from the decision by the police chief that a person's allegations do not fall within the requirements set forth in this article related to complaints.

(3) Host public meetings and educational programs for Columbia residents and police department-officers.

~~(3-4)~~ Review and make recommendations to the police chief and city manager on police policies, procedures and training.

(5) Conduct audits or reviews of the records of the police department for compliance with the requirements of this article.

~~(4-6)~~ Prepare and submit to the city council annual reports that analyze citizen ~~and police~~ complaints including demographic data on complainants, complaint disposition, investigative findings and disciplinary actions. The reports should also describe the board's community outreach and educational programs. The reports should also set forth any recommendations made on police department policies, procedures and training. The reports shall be submitted no later than March 1 for the previous calendar year.

Sec. 21-50. Internal affairs procedures; police officer and community service aide rights.

(a) The city manager shall cause police department rules and regulations to be established that provide for internal affairs investigations. These rules and regulations must be consistent with the provisions of this article and chapter 19.

(b) Police department officers and community service aides under investigation shall have the following rights in connection with internal affairs investigations:

- (1) The police officer and community service aide may provide a written or oral statement to an investigator before investigative findings are made.
- (2) The police officer and community service aide may have an attorney or Columbia Police Officer Association representative present during the officer's or community service aide's interview to observe the interview.
- (3) When practicable, a police officer or community service aide interview shall be conducted during the ~~officer's~~ employee's normal working hours.
- (4) The police officer and community service aide may record the ~~officer's~~ interview or obtain a copy of any recording of the interview made by the city.

Sec. 21-51. Complaints; police chief decision on complaint; appeals to board.

(a) Complaints may be filed with the police department or with the city clerk only by the following:

- (1) Any person who is an alleged victim of misconduct of a police officer or community service aide; or
- (2) Any family member, friend or attorney of an alleged victim of misconduct of a police officer or community service aide; or
- (3) Any person who witnessed alleged misconduct of a police officer or community service aide in person; or
- (4) Any resident of Boone County.

(b) The city clerk shall promptly forward complaints to the police chief. Complaints must be filed within one (1) year from the date of the alleged ~~police officer~~ misconduct. The board shall take no action on a complaint alleging misconduct that the police department is treating as a criminal matter unless and until the police determines that the officer's or community service aide's alleged conduct was not criminal or a prosecutor has declined to prosecute the alleged offense or a prosecution of the alleged offense has concluded.

(c) Unless the complaint has been withdrawn or the police officer or community service aide is no longer employed by the city, the complaint investigation process shall conclude with a decision by the police chief that the complaint is unfounded (acts complained of did not occur or were misconstrued), the complaint is not sustained (insufficient facts established to either prove or disprove the acts complained of), the complaint is sustained (sufficient facts established to prove misconduct) or the officer or

community service aide is exonerated (acts complained of occurred but were justified, lawful and proper). If the complaint is sustained, the police chief shall take appropriate disciplinary action.

(d) The police chief shall promptly give written notice of the decision and any disciplinary action to the police officer or community service aide and the complainant. The notice shall include information on the right and manner of appealing the decision of the chief to the citizens police review board.

(e) ~~Both the~~ The police officer, the community service aide and the complainant have the right to appeal the police chief's decision to the board. An appeal to the board must be made in writing and delivered to the city clerk. The clerk must receive the appeal within twenty-one (21) days after the notice of the chief's decision was given. The appeal must be either hand delivered to the office of the city clerk or sent to the city clerk by United States Mail, facsimile machine or electronic mail.

(f) When an appeal has been filed, the city clerk shall promptly notify all board members and the police chief. The police chief shall promptly forward to each board member a copy of all police department records pertaining to the complaint and the investigation of the complaint.

Sec. 21-51.1. Request for jurisdictional review.

(a) Upon a written request, the board shall conduct a jurisdictional review from the decision by the police chief that a person's allegations do not fall within the requirements set forth in this article related to complaints, including but not limited to:

- (1) An appeal of a determination that the complaint or concern was untimely filed, as defined in Sec. 21-51(b).
- (2) An appeal of a determination that the person failed to allege misconduct, as defined in Sec. 21-45.
- (3) An appeal of a determination that the person does not meet the requirements set forth in Section 21-51(a).

(b) Requests for limited review pursuant to this section shall be filed with the city clerk within twenty-one (21) days after the person is given notice of the determination by the police chief.

(c) When a request for jurisdictional review has been filed, the city clerk shall promptly notify all board members and the police chief. The police chief shall promptly forward to each board member a copy of the person's allegations, any relevant police or city policies, records relating to any police investigation, and a copy of the police chief's written notice.

(d) The board shall review the records provided to determine if the person timely filed a complaint within the meaning of this article. In reaching its determination, the board shall limit the scope of its review to determine if the police chief's determination was correct. The scope of the board's review shall be limited to a jurisdictional review of the records. The board shall not hear public comment and shall not call witnesses.

(e) If the board agrees with the police chief's determination, the board shall notify the police chief, the police officer or community service aide, and the complainant of its determination. If the board disagrees with the police chief and finds that the complainant has timely filed a complaint, the board shall notify the police chief, the police officer or community service aide and the complainant. The police chief shall proceed with an investigation of the complaint or shall refer the complaint to mediation.

Sec. 21-52. Board review of police chief's decision on complaints and recommendation.

(a) The board shall review the record of the investigation and may request the police chief to order further investigation. Subject to the availability of appropriated funds, the city shall contract with independent investigators to assist the board in its investigations of alleged ~~police~~ misconduct.

(b) The board, as part of the review of an appeal, may interview and hear comments from witnesses to the incident under investigation. The board shall not allow comments by the general public as part of the review.

(c) The police chief and all police officers and community service aides shall cooperate with the board in its review of appeals from the police chief's decision. Cooperation shall include, but not be limited to, appearing before the board upon request and answering all questions honestly and thoroughly. Failure to cooperate shall be grounds for disciplinary action up to and including dismissal.

(d) The board shall provide timely updates on the progress of the review and any follow-up investigation to the complainant and the police officer and community service aide, unless the specific facts of the review and investigation would prohibit such updates.

(e) The board may decline further action on an appeal if it determines that the alleged acts of misconduct are false and that the complainant knew they were false when the appeal was filed.

(f) After completing its review and investigation, the board shall report its findings and recommendations to the city manager, the police chief, the police officer, the community service aide and the complainant.

(g) If the board agrees with the police chief's disposition of the complaint, it shall give notice to the police officer, the community service aide and the complainant that they have the right to appeal the chief's decision as provided in section 21-53.

(h) If the board recommends a disposition of the complaint other than the disposition made by the police chief, the chief shall have ten (10) business days to reconsider the original decision and either reaffirm or modify it. The chief shall give written notice of the decision to the board, the city manager, the police officer, the community service aide and the complainant. The police chief shall also give notice to the police officer or community service aide and the complainant that they have the right to appeal the chief's decision as provided for in section 21-53. If the chief takes no action within ten (10) business days after the date of the board's findings and recommendation, the original decision is automatically reaffirmed and the board shall give notice to the police officer, the community service aide and the complainant that they have the right to appeal the chief's decision as provided for in section 21-53.

Sec. 21-53. Appeals to city manager or personnel advisory board.

After the board's findings and recommendation or, if applicable, the chief's decision after reconsideration, the police officer, the community service aide and the complainant shall have the right to appeal as follows:

(a) The police officer and community service aide may appeal the police chief's decision to the personnel advisory board if the officer or community service aide was suspended, demoted or discharged. The appeal shall be made by filing a written request with the city clerk for a hearing before the personnel advisory board. The request shall set forth the employee's grievance and reasons for appeal. The request must be filed within twenty-one (21) days after the officer or community service aide was given notice of the right to appeal. The hearing shall be held in accordance with the provisions of chapter 19. The director of human resources shall give the complainant ten (10) days written notice of the hearing. At the hearing, the complainant shall be allowed to testify to the facts of the incident and shall be allowed to express an opinion on the appropriate personnel advisory board action.

(b) The police officer and community service aide may appeal the police chief's decision to the city manager if the officer's or community service aide's discipline was other than suspension, demotion or discharge. The appeal shall be made by filing a written statement with the city manager setting forth the employee's reasons for appeal. The request must be filed within twenty-one (21) days after the officer or community service aide was given notice of the right to appeal. The appeal shall be handled in accordance with the provisions of chapter 19. The city manager shall give notice of the appeal to the complainant and afford the complainant the opportunity to discuss the matter with the city manager.

(c) The complainant may appeal the police chief's decision to the city manager. The appeal shall be made by filing a written statement with the city manager explaining the reasons for the appeal. The request must be filed within twenty-one (21) days after the complainant was given notice of the right to appeal. The city manager shall give notice of the appeal to the police officer and community service aide. The officer or community service aide shall have fourteen (14) days after notice has been given to file a written

response to the complainant's appeal with the city manager. The officer, the community service aide and the complainant shall not otherwise communicate with the city manager concerning the complaint. If the employee has also appealed, the procedures of subsection (a) or (b) shall be followed. If the employee has not appealed, and the city manager determines that the alleged facts may merit more severe discipline involving the suspension, demotion or discharge of the police officer or community service aide, the city manager may refer the matter to the personnel advisory board for a hearing following the procedures set forth in chapter 19. Otherwise, the city manager may act on the appeal as the manager deems appropriate.

Sec. 21-54. Open records and meetings.

(a) Notwithstanding the provisions of section 2-25.3, all records pertaining to complaints filed against police officers and community service aides alleging misconduct of the police officer and community service aides shall be open records, except those closed by state or federal law or by section 21-55(b) and except that records or portions of records that would disclose the identity of an officer working undercover shall be closed.

...

Sec. 21-55. Mediation.

~~The board shall develop a mediation process for resolving citizen complaints.~~

(a) Unless a complaint involves an allegation of criminal activity by a police officer or community service aide, the board or the police chief may refer a complaint to mediation.

(b) If the complainant and the police officer or community service aide are able to reach an agreement through mediation, records relating to alleged misconduct shall be closed records to the extent allowed by law.

(c) If the complainant and the police officer or community service aide are unable to resolve the complaint through mediation, or a party declines to participate in mediation, the complainant and the police officer or community service aide may pursue the complaint or an appeal as set forth in this article.

(d) Statements by the police officer, the community service aide, or the complainant during a mediation session shall not be used by either party for any other purpose.

...

Sec. 21-59. Availability of police policies.

The chief of police shall make available to the ~~officers~~ police department employees and the public, and place on the city's website, all police department policies, guidelines, directives, orders, rules and regulations except those that would reveal tactics that would endanger the life of any police officer.

SECTION 2. This ordinance shall be in full force and effect from and after its passage.

PASSED this _____ day of _____, 2014.

ATTEST:

City Clerk

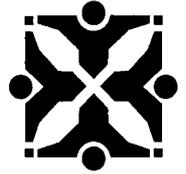
Mayor and Presiding Officer

APPROVED AS TO FORM:

City Counselor

City of Columbia

701 East Broadway, Columbia, Missouri 65201



SUPPORTING DOCUMENTS INCLUDED WITH THIS AGENDA ITEM ARE AS FOLLOWS:

Memo from Citizens Police Review Board and Meeting Minutes



CITY OF COLUMBIA, MISSOURI

Citizens Police Review Board

To: Columbia City Council

From: Citizens Police Review Board

Date: June 26, 2014

Re: Amending Chapter 21 of the City Code

In 2009, the City of Columbia established the Citizens Police Review Board. The Board began hearing appeals in 2010. Over its experience since it was formed, the Board has identified changes that the Board believes are necessary to ensure transparency and accountability to the citizens of Columbia. The Board believes that these changes will reflect the philosophy of the City's Vision Statement and the goals established by the Council in Section 21-44 of the City Code.

The Board's proposed ordinance changes are designed to remedy their concerns in the following areas:

1. Currently, the Board's oversight is limited to complaints about police officers and does not extend to community service aides. With the proposed revisions, complaints about community service aides would be subject to appeal to the CPRB. The Board identified this limitation in its authority when a member of the public attempted to appeal her complaint about a community service aide to the Board. From the public's perspective, a community service aide is often indistinguishable from a police officer.
2. Currently, the ordinance only requires Board members to participate in one ride along during their service on the Board. During the Board's discussions with Chief Burton on the proposed ordinance changes, Chief Burton suggested more frequent ride alongs. With the proposed revisions, Board members would be required to participate in ride alongs with police officers at least one time every two years, with at least one ride along occurring at night.
3. Currently, the ordinance does not provide for any review of the police chief's decision that a person's allegations do not fall within the jurisdiction of the Board and therefore cannot be reviewed by the Board. The proposed revisions would provide the Board with the ability to conduct a jurisdictional review of the police chief's decision that a person's allegations do not fall within the requirements set forth in the article related to complaints. The Board recognized the limitations of its authority several times when

citizens attempted to appeal to the Board after the police chief determined that the citizens' allegations did not fall within the jurisdiction of the Board. While the Board was unable to hear the appeal, the Board was able to conduct policy review. As a result of the policy review, the Board recommended policy changes which were implemented by the police chief.

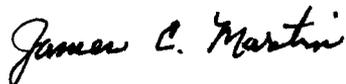
4. Currently, the ordinance does not specifically provide the Board with the power to conduct audits or file reviews, although staff's interpretation is that the Board has access based upon its primary oversight duty. The proposed revisions provide the Board with the authority to conduct audits or file reviews of the records of the police department for compliance with the requirements of the article. By formally granting the Board the ability to audit or review the police department's files related to complaints, the Council will provide greater transparency and enable the Board to provide more oversight. Section 21-49 requires the Board to submit an annual report to the Council which analyzes police complaints. Granting the Board the right to audit and review files will allow the Board to comply with Council's mandate in Section 21-49.

5. Currently, the ordinance requires the Board to establish a mediation program. The Board has established a mediation program design and is in the process of selecting a mediator for the program. The proposed changes to the ordinance would establish the requirements for mediation. In addition, the proposed changes to the ordinances would close records related to complaints resolved via mediation to the extent allowed by law. The Board believes the mediation program will increase trust and transparency between citizens and the police. The mediation program also has the potential to reduce the costs associated with investigations of complaints by the police. Mediation of minor complaints will resolve complaints in a more timely manner.

The Board met with Chief Burton regarding these changes and has provided to him the draft changes. Based upon their discussions, the Board believes that Chief Burton agrees with the proposed approach although he questioned whether the changes needed to be codified. The Board believes that they have a strong working relationship with Chief Burton. The Board feels the changes should be codified for the future.

The Citizens Police Review Board suggests that the City Council approve the ordinance.

Respectfully submitted,



James C. Martin
Chair

MINUTES

Citizens Police Review Board Special Meeting

March 13, 2014
10:00 a.m.
City Hall – New Addition
Conference Room 1C
701 East Broadway
Columbia, Missouri

Board members present: Dr. Alexander, Mr. Dean, Mr. Fisher, Dr. Martin, Mr. Sheltmire, and Ms. Wilson.

Excused absence: Dr. Kennett.

Unexcused absence: Mr. Hargrove and Mr. Dowis.

Staff present: Rose Wibbenmeyer.

Others present: Chief Burton.

A member of the public was present.

A special meeting of the Citizens Police Review Board was held on Thursday, March 13, 2014 at 10:00 a.m. in Conference Room 1C. Dr. Martin, Chair, opened the meeting at 10:01 a.m.

The following items were discussed:

- Currently the ordinance covers police officer conduct and not civilian employees. The Board expressed its concerns about CSAs. Chief Burton suggested CSA's instead of Police Employees.
- Jurisdictional review of all appeals prior to their hearing the appeal. Chief Burton is in agreement with this, but is not sure if it is necessary to change the ordinance.
- Audits/Reviews of letters and complaints – Chief Burton agreed to provide the Board with the complaint letters.
- Chief Burton said that as of January 1, 2014, all files that come in are classified as a complaint.
- Chief Burton supports creation and implementation of a mediation program. He does not believe it requires an ordinance change as it can be established under the existing ordinance. Chief Burton believes that if someone enters the

mediation program, the decision of the mediator is the final say. The Board discussed this issue and thought that those involved with mediation should still be able to pursue their complaint if they don't agree with the mediator. Chief Burton agreed to try it according to the design CPRB currently has, and would like to revisit this within six months.

- Chief Burton, mentioned the concern in his department about those that are allowed to file a complaint (i.e. parent of person who was involved in incident).
- Chief Burton, brought up the issue of videos being held for as little as 30 days in some instances and a complaint has up to a year to be filed. He is concerned about the loss of evidence with that large of an amount time allowed to file. The Board discussed this issue. All agreed that the timelier a complaint is filed the better in terms of evidence preservation and that this should be emphasized in any literature for filing and/or presentations.
- Chief Burton discussed with the Board that the variety of ways that complaints come in can be problematic.
- Chief Burton, or his designee, was invited to attend the CPRB regular meeting on April 9, 2014 to be involved in the review of the proposals for the Mediation Program. If Chief Burton cannot attend, he can submit written comments.

Mr. Sheltmire moved to adjourn the meeting at 11:14 a.m. Dr. Alexander seconded the motion and it passed unanimously.