

Introduced by McDavid

First Reading 07/07/14

Second Reading 07/21/14

Ordinance No. 022142

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.

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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.

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#### 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.

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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 21st day of July, 2014.

ATTEST:

Sheela Amin  
City Clerk

Robert McDavid  
Mayor and Presiding Officer

APPROVED AS TO FORM:

Nancy Thompson  
City Counselor