



Department Source: Law

To: City Council

From: City Manager & Staff

Council Meeting Date: August 2, 2021

Re: Amendments to Chapters 19 and 21 of the City Code due to Passage of Senate Bill 26

Executive Summary

Due to the Missouri legislature's recent passage of Senate Bill 26, staff has prepared for Council consideration ordinances amending Chapters 19 and 21 of the City Code. The proposed changes are drafted to update the Code so that it does not conflict with the new Missouri law while still ensuring civilian oversight of citizen complaints within the confines of the new law, and a compliant path for disciplinary review by police officers.

Discussion

On July 14, 2021, Governor Parsons signed into law Senate Bill 26, which contains a police officer bill of rights. This new law requires changes to Chapters 19 and 21 of the City Code.

Significant provisions of the police officer bill of rights include:

- Giving police officer rights with regard to the investigation of complaints;
- Limiting time on the investigation of a complaint to a period of 90 days from receipt of the complaint, with up to two, 60 day extensions upon a showing of good cause when the complaint involves a noncriminal matter;
- Requiring the officer to be notified of the findings and any discipline within five (5) days of the conclusion of the administrative investigation;
- Requiring the agency to determine the disposition of the complaint and render a disciplinary decision, if any, within 90 days;
- Requiring a full due process hearing for any officers who are suspended without pay, demoted, terminated, transferred, or placed on a status resulting in economic loss;
- Closing records compiled as a result of any investigation into a complaint of misconduct;
- Requiring the City to defend and indemnify police officers from and against civil claims made against them in their official and individual capacities if the alleged conduct arose in the course and scope of their obligations and duties as law enforcement officers, including any actions taken off-duty if such actions were taken under color of law; and
- Providing that a court shall void any action taken in violation of the statute upon a finding by a preponderance of the evidence that the law enforcement agency, governmental body, or member of the same has violated any provision of the statute.

This new law will primarily impact the police internal affairs processes, human resources investigations, and the work of the Citizens Police Review Board (CPRB) and the Personnel Advisory Board (PAB). The Police and Human Resources Departments are reviewing and updating their policies and procedures to comply with the new requirements. The CPRB



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reviewed the law, solicited public comment, considered the time periods and limitations, and passed motions to make the following two recommendations to the City Council:

- The CPRB recommends that community service aides be removed from the Board's jurisdiction. The Police Officers Bill of Rights does not apply to community service aides who do not hold a police commission and do not have the power to arrest. Should the ordinance be adopted, community service aides would be treated similar to other City employees who are not licensed police officers. Complaints about a community service aide would be handled by the City pursuant to its usual processes related to complaints regarding employee activities and the provisions of Chapter 19 of the City Code.
- The CPRB recommends that an appeal by a police officer be removed from the review board's jurisdiction. This recommendation was made due to the compressed time limitations contained within the Police Officer Bill of Rights contained in SB 26. (For additional information, please see the memorandum from the Citizens Police Review Board included as supplementary information.) Should the proposed ordinances be adopted, police officers would still have a path for meaningful disciplinary review by either the City Manager or the Personnel Advisory Board.

In order to comply with SB 26, amendments are needed to both Chapter 19 – Personnel Policies, Procedures, Rules and Regulations and Chapter 21, Article III – Citizens Police Review Board. The proposed legislation also incorporates the Citizens Police Review Board's recommendations.

The proposed changes to Chapter 19 would create a separate Division in Chapter 19, Article VI to ensure the investigatory practices of alleged misconduct as well as the police officer's right to appeal disciplinary action to the personnel advisory board are in compliance with SB 26. The grievance, complaint and appeals process for all other employees and for police officers who may wish to grieve something other than a disciplinary action will not be modified.

Should these ordinances be passed, police officers would appeal the police chief's decision to the PAB if the police officer was suspended without pay, demoted, terminated, transferred or placed on a status resulting in economic loss, or to the City Manager if the police officer's discipline did not involve that sort of discipline. With this change, police officers would not have to first appeal to the CPRB to access the disciplinary due process hearing rights contained in Chapter 19.

The proposed changes to Chapter 21 include:

- Remove community service aides from the Board's jurisdiction;
- Remove police officer appeals from the Board's jurisdiction;
- Close the records related to police investigations of complaints;
- Close the hearings related to investigations of complaints; and
- Reduce the time periods for to comply with the strict time limits contained in SB 26.



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Due to a mandate included in SB 26 that the investigatory and disciplinary records of police officers be closed, Sec. 21-54 of the City Code must be amended so that it does not conflict with the new law. These proposed changes would result in closure of all records compiled as a result of any complaint investigation. In addition, appeals to the CPRB will be required to be heard in closed session. The proposed changes will also amend Section 21-49 to remove inclusion of complaint information in the review CPRB's annual report.

Due to the time limitations contained in SB 26, staff recommends reducing the time period for filing an appeal or request for jurisdictional review from 30 days to 10 days. Staff has also included a requirement that the police chief provide the Police Department records related to a complaint to the CPRB within two business days of the date the appeal is filed. The proposed legislation also reduces the time period by which the police chief can reconsider the chief's decision from ten days to five days. While the reduction in the time periods are not ideal, the time periods need to be shortened in order to allow the appeal and review processes by the CPRB to occur within the 90 day time limit established by SB 26. Those persons who are not able to obtain relief within the time limits contained within SB 26 may seek relief from the courts for any actionable complaint of police misconduct.

Fiscal Impact

Short-Term Impact: At this time, it is difficult to quantify the fiscal impact; however, accomplishing the investigations and reviews within the strict time lines will require special meetings and additional staff time to process the complaints, investigations, and review in an expedited manner.

Long-Term Impact: Unknown at this time.

Strategic & Comprehensive Plan Impact

Strategic Plan Impacts:

Primary Impact: Organizational Excellence, Secondary Impact: Inclusive Community, Tertiary Impact: Safe Neighborhoods

Comprehensive Plan Impacts:

Primary Impact: Not Applicable, Secondary Impact: Not applicable, Tertiary Impact: Not Applicable

Legislative History

Date	Action
	Not applicable.

Suggested Council Action

Approval of the ordinances.