

POLICE DISCIPLINE

Planning and Public Safety Committee

June 16, 2020



LEXINGTON



Source of Process

- Statutes
- Ordinances
- CBA's
- Police General Order



Police General Order

- G. O. 1973-02K
- Sets forth policy, process and philosophy for discipline
- Addresses formal and informal complaints
- References and follows statutes and CBA
- Appendix A is a copy of statutes
- Appendix B titled “Operational Rules”
 - Code of Conduct
 - Recommended disciplinary action for violation



Ordinances

■ Section 23-43

- Applies to police officers
- Mirrors KRS 15.520 (though established in 1982 and not amended since 1994)
- Anticipates ultimately hearing before the Council
- Includes following:
 - *When a member of the police force has been charged with a violation of divisional rules or regulations, **no public statements** shall be made concerning the alleged violation by any person or persons of the urban county government or the member so charged until final disposition of the charges.*



Ordinances

- Section 23-44
 - Applies to police officers and firefighters
 - Mirrors KRS 95.450 (though established 1982 and not amended since 1987)
 - Anticipates ultimately hearing before the Council
 - Provides (in subsection (g)) for:
 - “Agreement of Conformity” for officer to accept discipline and waive provisions of statute
 - subject to ratification by Council
 - if rejected by Council, officer may withdraw and entitled to hearing



Statutes

- KRS 95.450
 - Applies to police officers and firefighters
 - Established 1942; last amended 2014
 - Provides for hearing before the legislative body
 - Generally discusses charges, hearing process and timing



Statutes

- KRS 15.520
 - Commonly called “Police Officer Bill of Rights”
 - Applies only to police officers
 - Established 1980; last amended 2018
 - It appears that at least 18 states have passed some form of such Bill of Rights (Source: *The Rights of Law Enforcement Officers, 7th Ed*, Will Aitchison)
 - Historically, confusion/conflict between some provisions of KRS 15.520 and KRS 95.450
 - Amendment to KRS 15.520 created a distinction between “law enforcement procedures” and “general employment policies”
 - If alleged violation of “general employment policies”, KRS 95.450 applies



Statutes—KRS 15.520 continued

- If alleged violation of “law enforcement procedures”, KRS 15.520 applies
- Generally sets forth discipline process and rights of officers, including:
 - Nature of complaints
 - Timing and nature of investigation and questioning of officer
 - Nature of charges
 - Suspending officer during an investigation and pending final disposition
 - Timing and rights related to hearing



Statutes—KRS 15.520 Continued

- States that since the provisions of the statute “relate to a minimum system of professional conduct, nothing in this section shall be interpreted or construed to:
 - Limit or to in any way affect any rights previously afforded to officers of the Commonwealth by statute, collective bargaining or working agreement, or legally adopted ordinance; or
 - Prevent an employing agency from electing to apply the provisions of this section, or parts thereof, in circumstances that would not be covered under this section.”
- Includes the following:
 - *When an officer has been charged with a violation of law enforcement procedures, **no public statements** shall be made concerning the alleged violation by any person or persons of the employing agency or the officers so charged, until final disposition of the charges.*



Collective Bargaining Agreements

- CBA for Police Officers and Sergeants and CBA for Lieutenants
- Article 15 (in both agreements) sets forth “Disciplinary Procedures and Bill of Rights”
- Article 15 provides:
 - “The provisions of this Article are supplementary to the statutory provisions of KRS 15.520 and KRS 95.450. Neither party waives its rights under those statutes.”
 - Five year look back for progressive discipline
 - Informal complaints investigated and resolved at Bureau level and action limited to counseling and/or remedial training



CBA—Article 15

- Formal complaints investigated by Public Integrity Unit
- 60 days to complete investigation
- Extension can be requested for extenuating circumstances
- Chief of Police may meet with officer and make a disciplinary recommendation or refer matter to a Disciplinary Review Board
- If officer rejects disciplinary recommendation from Chief, matter goes to Disciplinary Review Board
- Review Board composed of seven members: 6 either Assistant Chiefs or Commanders and 1 FOP rep; Department of Law advises (non-voting)
- Review Board makes recommendation to Chief of Police



CBA—Article 15

- Chief may accept, reject or alter the recommendation
- Chief meets with officer to make disciplinary recommendation
- If officer does not agree to recommendation, matter referred to Department of Law for preparation of charges to be filed with Council Clerk (within 60 days)
- Article includes other details for investigation procedure and hearing process and anticipates hearing before the Council
- If officer accepts disciplinary recommendation, then Agreement of Conformity is processed (Note: not referenced in Article 15)