

SUPREME COURT OF KENTUCKY

Pearce v. University of Louisville ex rel. Board of Trustees

448 S.W.3d 746 (Ky. 2014) · No. 2011-SC-000756-DG; 2012-SC-000104-DG · Decided December 18, 2014

OPINION

VENTERS, J.

OPINION OF THE COURT BY JUSTICE VENTERS In this decision we review, two separate opinions of the Court of Appeals, each of which concerns the applicable scope of KRS 15.520. KRS 15.520, often referred to as the “police officer’s Bill of Rights,” details specific procedural rights for police officers who are accused of misconduct and are facing the disciplinary processes administratively conducted by the police agency that employs them.

We granted discretionary review of these cases because the issue they present is of significant concern to law enforcement personnel throughout the state and to the municipalities and governmental units that employ them, and is a matter we have not previously addressed.

In addition to the arguments presented to this Court by the respective parties, we have *748received and we have considered arguments presented, as amicus curiae, by the Kentucky League of Cities and a consortium of Kentucky’s public universities supporting of the Court of Appeals’ decisions, and we have considered arguments presented by Lodges of the Fraternal Order of Police as amicus curiae in opposition to the Court of Appeals’ decisions.

Upon review, we conclude that as it is currently written, KRS 15.520 applies to disciplinary actions that originate from within a police department as well as to disciplinary actions initiated upon complaints from persons outside the police department.

Therefore, we reverse in both cases and remand each case to the respective trial court for further proceedings consistent with this opinion. I. FACTUAL AND PROCEDURAL BACKGROUND In the case of Jeffery T. Pearce v. University of Louisville, 2011-SC-000756-DG, Appellant Pearce’s employment as a University of Louisville campus police officer was terminated by the University’s chief of police after he determined that Pearce had violated University and departmental policies on two separate occasions.¹ In Stephen Derrick Hill v. City of Mt.

Washington, 2012-SC-000104-DG, Appellant Hill, a Mt. Washington police officer, was temporarily suspended without pay and reduced in rank upon the recommendation of the Mt. Washington police chief, Thomas Ros-selli, who determined that Hill had been insubordinate by making statements critical of Rosselli’s administration to other officers.

In both cases, an administrative disciplinary action was initiated against the officer as a result of allegations that arose from within the police department itself. In neither case was a formal complaint filed against the officer by a person from outside the department. Both officers requested an administrative review procedure consistent with KRS 15.520 and in both cases that request was denied.

In Pearce's case, an administrative hearing was scheduled but Pearce's request to have an attorney present as provided under KRS 15.520(l)(h)(5) was denied. Hill's request for an administrative hearing pursuant to KRS 15.520 was denied altogether. Each Appellant sought review of his department's disciplinary decision in the appropriate circuit court, along with a claim for damages.

The Bullitt Circuit Court rejected Hill's claim upon its conclusion that KRS 15.520 does not apply "where no citizen complaint is involved." In Pearce's case, the Jefferson Circuit Court seemed to conclude that KRS 15.520 was preempted by KRS 164.830, which mandates a different disciplinary process for employees of the University of Louisville. Each officer appealed and argued to the Court of Appeals that he was improperly denied the protections provided by the police officer's Bill of Rights.

In the Pearce case, the Court of Appeals ruled that the procedural protections provided to the police officer by KRS 15.520 apply only when the disciplinary action was initiated by a "citizen's complaint," and for that reason they were unavailable to Pearce. By the term "citizen's complaint," the Court of Appeals meant a formal allegation of police *749misconduct by a person from outside the police department, as opposed to an allegation of misconduct asserted from within the department, for example, by a supervisory authority, a fellow officer, or others employed within the department.² The Hill case was decided later by a different panel of the Court of Appeals that, for the most part, simply cited the Pearce opinion as authority for the conclusion that Hill was not entitled to the procedural processes of KRS 15.520.

As noted above, we reverse the decisions rendered herein by the Court of Appeals, and remand each case for further proceedings consistent with this opinion. Because this case involves the construction and interpretation of statutes, we begin with a brief overview of guiding principles.

II. GENERAL PRINCIPLES OF STATUTORY CONSTRUCTION Statutory construction is an issue of law that we review de novo.

Therefore, "[t]he trial court's and Court of Appeals's construction of statutes is also entitled to no deference on appeal...." *Cumberland Valley Contractors, Inc. v. Bell County Coal Corp.*, 238 S.W.3d 644, 647 (Ky.2007) (citing *Bob Hook Chevrolet Isuzu, Inc. v. Kentucky Transportation Cabinet*, 983 S.W.2d 488, 490 (Ky.1998)).

In construing a statute, it is fundamental that our foremost objective is to determine the legislature's intent in enacting the legislation. "To determine legislative intent, we look first to the

language of the statute, giving the words their plain and ordinary meaning.” *Richardson v. Louisville/Jefferson County Metro Government*, 260 S.W.3d 777, 779 (Ky.2008).

Further, we construe a “statute only as written, and the intent of the Legislature must be deduced from the language it used, when it is plain and unambiguous....” *Western Kentucky Coal Co. v. Nall & Bailey*, 228 Ky. 76, 14 S.W.2d 400, 401-02 (1929).

Therefore, when a statute is unambiguous, we need not consider extrinsic evidence of legislative intent and public policy. *County Bd. of Educ. Jefferson County v. Southern Pac. Co.*, 225 Ky. 621, 9 S.W.2d 984, 986 (1928).

However, if the statutory language is ambiguous, we will look to other sources to ascertain the legislature’s meaning, such as legislative history and public policy considerations. *MPM Financial Group Inc. v. Morton*, 289 S.W.3d 193, 198 (Ky.2009). Further, we “read the statute as a whole, and with other parts of the law of the Commonwealth, to ensure that our interpretation is logical in context.” *Lichtenstein v. Barbanel*, 322 S.W.3d,27, 35 (Ky.2010).

With these principles in mind, we now consider the scope and meaning of KRS 15.520. III. ANALYSIS As reflected in the above principles, we begin our review of the issue by examining the statutory language, and if the meaning of the statute may be ascertained by the plain language of its text, we must accept that explicit expression of legislative intent. KRS 15.520 is somewhat unusual because, unlike many statutes, its opening section contains an explicit expression of the General Assembly’s intention in adopting KRS 15.520.

Ironically, it is that very expression of legislative intent that holds the ambiguity that led the Court of Appeals down the wrong path. A. Statutory Text of KRS 15.520(1) Subsection (1) of KRS 15.520 serves as the preamble for the remainder of the *750statute, and provides, perhaps, the most informative clues for ascertaining the scope of the due process protections the legislature intended to provide police officers facing administrative discipline.

It contains the following expression of legislative intent and purpose: In order to establish a minimum system of professional conduct of the police officers of local units of government of this Commonwealth, the following standards of conduct are stated as the intention of the General Assembly to deal fairly and set administrative due process rights for police officers of the local unit of government and at the same time providing a means for redress by the citizens of the Commonwealth for wrongs allegedly done to them by police officers covered by this section....

KRS 15.520(1). Despite the somewhat awkward phrasing, the General Assembly states that it is creating “a minimum system of professional conduct of the police officers of local units of government of this Commonwealth.” *Id.* That is, it is establishing a baseline system for the investigation and hearing of complaints against police officers, and it does so simultaneously with the intention of “dealfing] fairly and setfting] administrative due process rights for police officers

of the local unit of government” and providing “a means for redress by the citizens of the Commonwealth for wrongs allegedly done to them by police officers.” *Id.* We disagree with the Court of Appeals’ conclusion that KRS 15.520(1) expresses a legislative intention to provide “due process rights for police officers” only in matters based upon a “citizen’s complaint” and to otherwise deny those rights to officers facing disciplinary action based upon intra-departmental complaints.

The Court of Appeals’ very restrictive interpretation of the statute is based upon its misconstruction of the statutory language “at the same time” and upon its abridgment of the phrase “citizens of the Commonwealth” to simply the word “citizens.” B. The Court of Appeals Misperceived the Legislative Intent of KRS 15.520 Significantly, the statutory text of KRS 15.520 contains no explicit suggestion that the administrative due process rights provided therein are not to be available to officers confronting an intra-departmental complaint.

Had that been the original intent for the statute, its inclusion would have been very simple for the legislature. For example, if it had been the legislature’s intention to impose such a limit, the text could have stated that the purpose of the statute was to establish standards for “dealfing] fairly and setfting] administrative due process rights for police officers of the local unit of government in situations involving a citizen’s complaint.” The better word to convey the meaning read into the statute by the Court of Appeals would have been “civilians,” rather than “citizens,” since even the police chiefs and police supervisory authorities complaining about the persistent tardiness of an officer are “citizens” of the Commonwealth.

The word “citizen” means “a legally recognized subject or national of a state or commonwealth, either native or naturalized” and “an inhabitant of a particular town or city.” *New Oxford American Dictionary* 316 (3d ed. 2010).

The same dictionary defines “civilian” as “a person not in the armed services or the police force.” *Id.* at 317. But the word “civilians” is not contained in the statute. The dichotomy of a “citizen’s complaint” vs. an intra-departmental complaint is wholly a creation of the lower courts rather than the legislature. It is fundamental that the courts “are not authorized to read *751into [a] statute something that is not there.” *O’Neil & Hearne v. Bray’s Adm’x*, 262 Ky. 377, 90 S.W.2d 353, 355 (1936).

It follows that overlaying a nondepartmental source prerequisite onto the process provided by the statute plainly violates this fundamental principle. The Court of Appeals’ misinterpretation of the legislative intent begins with its misconstruction of the “redress by the citizens” provision of KRS 15.520(1) as relating to and modifying the “administrative due process” provision, thereby creating the illusion that this antecedent section applies only in temporal conjunction with proceedings arising from a “citizen’s complaint.” Thus, the Court of Appeals concludes

“administrative due process” rights of police officers can only be available “at the same time” that wrongs done by police officers to citizens are redressed.

A more precise reading of the plain text of the statute makes clear that the phrase “at the same time” does not link the “due process rights for police officers” clause to the “redress by the citizens” clause. See KRS 15.520(1).

The statute does not say that one of the legislative purposes for the statute’s enactment, “administrative due process,” can be served only “at the same time” that a second purpose, a means for redressing wrongs to citizens is also being served. Instead, the phrase relates to the “intention of the General Assembly” to exercise its legislative prerogative to accomplish dual purposes “at the same time.” The General Assembly is expressing its intention to enact a law that serves multiple purposes at the same time, not an intention to create an administrative hearing that must do two things at the same time.

The statute does not say, as the Court of Appeals holds, that every administrative hearing authorized by the statute must accomplish two purposes “at the same time.” It does not logically follow that simply because one aspect of the legislative purpose was to allow the use of administrative hearings for redress of citizens’ grievances, all other expressions of legislative intent within the same statute must be subjugated to redress of so-called “citizen’s complaints.” The Court of Appeals further distorts the meaning of the statute by ignoring essential words, and instead discussing “citizens’ complaints.” Only by conscripting the word “citizens” from its modifying prepositional phrase, “of the Commonwealth,” is the Court of Appeals able to avoid the absurdity that its reasoning would produce if it used in its opinions the complete phrase, “citizens of the Commonwealth.” The difference is significant.

Standing by itself, the word “citizens” fairly means members of the general public at large. But the full phrase used by the legislature, “citizens of the Commonwealth,” denotes a distinct subset of the general public who are residents of Kentucky, as opposed to others who are not “citizens of the Commonwealth,” but are instead citizens of another state or nation.

If the legislature intended to allow police officers to have the due process protections of KRS 15.520 only when wrongs against “citizens” were being redressed, as the Court of Appeals reasons, then we must consider the entire phrase and account for all of the words used in it.

The courts are not at liberty to ignore the legislature’s use of the phrase the “of the Commonwealth” to modify word “citizens.” See *University of the Cumberland’s v. Pennybacker*, 308 S.W.3d 668, 683 (Ky.2010) (“Simply put, we are not free to ignore portions of statutes that are inconvenient to a particular litigant’s position.”).

We are not free to use only the words that satisfy us, and ignore the words that do not suit our conception of what the law ought to be. *752 Thus, under the reasoning of the Court of Appeals

and using the full phrasing given by the legislature, only police officers confronted by complaints from “citizens of the Commonwealth” would have the full panoply of rights provided by KRS 15.520.

Accordingly, police officers facing a complainant who is not a “citizen of the Commonwealth” (for example, a tourist from Indiana or a non-resident University of Kentucky student from Ohio) would have none of the KRS 15.520 protections.

We find it highly unlikely that the legislature would have intended to create such an absurd distinction or such a weak and narrowly-applicable bill of administrative due process rights. It is only by miscasting of the statutory language and ignoring the term “citizens of the Commonwealth” that the Court of Appeals avoids that absurdity.

The better way to avoid that absurdity is to take into account all of the words used by the legislature and recognize the proper function of the phrase “at the same time.” The Court of Appeals’ interpretation of the statute as applying only in the case of complaints from outside the police department produces another unreasonable result.

For example, suppose that a police officer arguably used excessive force against an arrestee, and the events were witnessed by a fellow police officer and a bystander from the community. Under the Court of Appeals’ interpretation, if the complaint triggering a disciplinary inquiry into the possible misconduct were to be raised by the arrestee or the bystander, the proceedings would be subject to KRS 15.520; however if the arrestee and the bystander were, for whatever reason, reticent about filing a complaint, and the complaint was instead filed by the fellow police officer, the statute would not apply.

Indeed, the Court of Appeals’ interpretation actually sets the stage for the mischief that would result when departmental authorities prefer to impose discipline unconstrained by the police officer’s statutory due process rights. By simply manipulating the source of the initiating complaint, they could determine whether the subject of the inquiry, the police officer, had the due process rights outlined in KRS 15.520.

We do not believe that the General Assembly intended to discriminate between a “citizen’s complaint” and intra-departmental complaint, and certainly the words of the statute itself do not compel the finding of such intent. C. KRS 15.520 Makes No Distinction Between Administrative Disciplinary Actions for Police Officers Based Upon the Source of the Initiating Complaint or the Status of the Complainant A clear, cohesive interpretation of the statute, harmonizing all of its parts without ignoring any of its words, is entirely possible and leads to the conclusion that the General Assembly did not create a special set of administrative due process rights that apply to police officers facing disciplinary charges arising out of a “citizen’s complaint.” The phrasing employed by the legislature is entirely consistent with its expressed intention to enact one statute,

KRS 15.520, that provides both a process for conducting administrative disciplinary hearings of police misconduct and affords “citizens of the Commonwealth” with an administrative means to seek redress for wrongs done by police officers.

While these complementary legislative objectives are accomplished by a single statute, there is no indication in the statute that the first objective is not to be made available unless the second objective is simultaneously achieved. KRS 15.520(1) discloses the legislature’s intention to establish “administrative due process rights for police officers” and certainly KRS 15.520(1)(h)-(3) enumerate a comprehensive set of such rights.

An administrative disciplinary proceeding originating from an internal action is, by definition, an administrative proceeding in the same sense as an administrative disciplinary proceeding originating from a “citizen’s complaint,”³ and so application of the statute to an intra-departmental complaint is compatible with the legislature’s express intention to “set administrative due process rights for police officers.” KRS 15.520(1) (emphasis added).

Therefore, this rather unambiguous statement of legislative intent weighs heavily against an interpretation imposing a limitation restricting application of the statute to “citizens’ complaints” only. The statutory text creates no distinction between administrative hearings conducted to resolve intra-departmental complaints and administrative hearings conducted to resolve a “citizen’s complaint.” Accordingly, we discern no legislative intention to differentiate the administrative due process rights available in either kind of administrative hearing.

1. References to “complaints” and “individuals” At various points throughout the statutory text, the legislature refers to “complaints.” KRS 15.520(1)(a) addresses disciplinary charges arising out of a complaint alleging misconduct of a police officer. It appears to be conceded by the parties that a citizen-initiated grievance against a police officer will generally arise from some form of formal complaint.

It also appears, however, that intra-departmental disciplinary charges of misconduct will also arise by way of a formal accusation that is fairly characterized as a “complaint.” For example, an intra-departmental hearing based upon a sexual harassment charge initiated by a fellow employee would fit within the meaning of complaint. There is no readily apparent reason why the legislature would put in place different procedural protections for these.

It is equally apparent that some intra-departmental disciplinary issues will arise through the normal operation of the department. For example, in one of the cases below, Officer Hill was informed that the police chief was recommending that he be disciplined by the mayor for his insubordination. That accusation of insubordination was a complaint. It was the functional equivalent of a complaint in a civil proceeding because it informed Hill that he was accused of misconduct that could result in adverse consequences.

Based upon the broad and non-restrictive language of KRS 15.520(l)(a), we are persuaded that the statutory text favors application of the section to both citizen initiated complaints and internal complaints by an intra-departmental coworker.

The introductory section of KRS 15.520(l)(a) states as follows: “Any complaint taken from any individual alleging misconduct on the part of any police officer, as defined herein, shall be taken as follows:.... ” (emphasis added). Obviously, the statute is intended to apply to any complaint taken from any individual.

In context, it is clear that the term “any” is used synonymously with the term “all.”⁴ *754 Therefore, based upon the text’s use of the term any, we discern no reason to confine the application of the term “any complaint” to only complaints initiated by “citizens” from the general public.

For a similar reason, we see no reason to limit the term any individual to persons outside the police department and thereby exclude employees of the police department from the definition. A fellow police officer or member of the department’s administrative staff is obviously an individual, just the same as a member of the public is.

Accordingly, this section of the statute supports an interpretation which would include complaints arising from within the police department, as well as from outside the department. Subsections 1-3 of KRS 15.520(l)(a) state as follows: 1. If the complaint alleges criminal activity on behalf of a police officer, the allegations may be investigated without a signed, sworn complaint of the individual; 2.

If the complaint alleges abuse of official authority or a violation of rules and regulations of the department, an affidavit, signed and sworn to by the complainant, shall be obtained; 3. If a complaint is required to be obtained and the individual, upon request, refuses to make allegations under oath in the form of an affidavit, signed and sworn to, the department may investigate the allegations, but shall bring charges against the police officer only if the department can independently substantiate the allegations absent the sworn statement of the complainant.... (emphasis added).

Subsections 1 and 3 refer to an individual which, again, pursuant to ordinary usage, does not exclude police department personnel. So these provisions apply to both complaints from persons outside the police department and complaints brought by individuals employed within the police department. Subsection 2 pertains to complaints alleging a violation of “rules and regulations of the department,” which are more likely to be discovered and reported by way of a formal complaint from within the police department, if only because departmental rules would be largely unknown to the general citizenry.

This text, therefore, gives no support to the theory that KRS 15.520 does not apply to complaints lodged by individuals within the police department. Moreover, there is no apparent reason from the statute why the legislature that chose to confer bill of rights protections for violations of “rules and regulations of the department” would deny those protections where they may be needed most, i.e. complaints from supervisory authorities within the police department.

Next, subsection 4 of KRS 15.520(l)(a) provides, “Nothing in this section shall preclude a department from investigating and charging an officer both criminally and administratively.” (emphasis added). The Court of Appeals interpreted this section as support for its conclusion that the statute applies only to “citizen” complaints.

However, upon examination, it is seen that this section, too, cannot reasonably be so construed. If a police officer has violated a criminal statute, clearly the relevant prosecuting authority should be permitted to proceed with criminal charges regardless of how we interpret KRS 15.520. Though the due process rights contained in the statute expressly apply to criminal investigations, see KRS 15.520(l)(d), KRS 15.520 obviously is not intended to provide police officers with any sort of shield or immunity against criminal prosecutions not available to the general public.

In addition, the provision that “[n]othing in this section shall preclude a department *755from investigating and charging an officer... administratively” also provides no indication that the statute is intended to only apply to a “citizen’s complaint.” See KRS 15.520(l)(a)4. Indeed, a principal purpose of the statute is to codify with clarity the due process rights of police officers in the event of an administrative disciplinary proceeding.

This provision hints that the legislative intent of the police officer’s bill of rights is for KRS 15.520 to work in tandem with whatever other administrative disciplinary procedures are in place at any particular police department; that is, KRS 15.520 is not in and of itself intended to be a comprehensive system of disciplinary procedures, rather its purpose is to assure that the disciplinary procedures adopted by a particular department “deal fairly” with an accused police officer.

KRS 15.520(l)(h)(3) provides “[i]f any hearing is based upon a complaint of an individual, the individual shall be notified to appear at the time and place of the hearing by certified mail, return receipt requested.” The purpose of this provision is obvious. It offers no hint that individual complainants from within the police department should be treated differently from the others situated outside the department.

The absence of any rationale for distinguishing between intra-departmental complainants and citizen-complainants outside the department tends to negate any inference that the legislature intended to exclude the former from the notice requirement of KRS 15.520(l)(h)(3). 2. Interaction with KRS 15.410 through 15.515 As noted above, the first clause of KRS 15.520(1) declares that

one purpose of the police officer's bill of rights is to "establish a minimum system of professional conduct of the police officers of local units of government of this Commonwealth." That clause closely interrelates with KRS 15.520(4), which provides, in part, that "[t]he provisions of this section shall apply only to police officers of local units of government who receive funds pursuant to KRS 15.410 through 15.992." KRS 15.410 through KRS 15.515 provide for the establishment and funding of the Law Enforcement Foundation Program Fund, which, in turn, is intended to incentivize participating law enforcement agencies to require their police officers to undertake advanced training intended to educate them in "minimum standards of professional conduct." See KRS 15.440 (setting forth the Program's rigorous training and education curriculum).

Significantly, KRS 15.520(4) directly references and incorporates KRS 15.410, which further identifies the legislature's express intent in relation to the Law Enforcement Foundation Program: It is the intention of the General Assembly to assure that the criminal laws of the Commonwealth are enforced fairly, uniformly and effectively throughout the state by strengthening and upgrading local law enforcement; to attract competent, highly qualified young people to the field of law enforcement and to retain qualified and experienced officers for the purpose of providing maximum protection and safety to the citizens of, and the visitors to, this Commonwealth; and to offer a state monetary supplement for local law enforcement officers while upgrading the educational and training standards of such officers.

Therefore, in interpreting KRS 15.520, we must give important consideration to the overall scheme of the legislative intent, as expressed in KRS 15.410, "to attract competent, highly qualified young people to the field of law enforcement and to retain qualified and experienced officers for the purpose of providing maximum protection and safety to the citizens." *756 Honoring this objective and intent, it seems, would require giving a broad and expansive reach to the police officer's bill of rights, because anything less would appear to be inconsistent with the legislature's stated objective of attracting and retaining highly qualified people to the field of law enforcement.

Accordingly, we construe the opening clause of the preamble as favoring the application of the bill of rights to intra-departmental disciplinary matters. 3. KRS 15.520(1) (b)-(g) KRS 15.520(l)(b) through (g) contains, in relevant part, the following provisions:⁵ (b) No threats, promises, or coercions shall be used at any time against any police officer while he or she is a suspect in a criminal or departmental matter [[Image here]] (c) No police officer shall be subjected to interrogation in a departmental matter involving alleged misconduct on his or her part, until forty-eight (48) hours have expired from the time the request for interrogation is made to the accused officer, in writing. [[Image here]] (e) Any charge involving violation of any local unit of government rule or regulation shall be made in writing with sufficient specificity so as to fully inform the police officer of the nature and circumstances of the alleged violation in order that he

may be able to properly defend himself...., (f) When a police officer has been charged with a violation of departmental rules or regulations, no public statements shall be made concerning the alleged violation by any person or persons of the local unit of government or the police officer so charged, until final disposition of the charges.... (emphasis added).

The references in these sections to “departmental matter[s]” and “ violations] of departmental rules or regulations” is not indicative of a legislative intent to restrict the protections of the statute to “citizen” complaints. Indeed, it would seem more likely that a police officer would become a suspect in a departmental matter or be charged with violating a departmental rule or regulation based upon an internal source of information rather than a complaint from a citizen.

We see no reason to suppose the legislature would intend to exclude these protections from the majority of the occasions in which they are likely to arise. There is nothing in the statutory text to indicate that due process rights afforded by KRS 15.520 would be appropriate protections in the unique case of a “citizen’s complaint,” but not in the case of. an intra-departmental complaint.

Similarly, the legislature’s use of the terms “charge” and “charged” in subsections (e) and (f) point towards application of the bill of rights to intra-departmental disciplinary matters. No rational difference can be discerned between an officer charged on a “citizen’s complaint” for violating a regulation of the local government or rule of the police department, and an officer charged with the same conduct by his supervising police chief.

4. KRS 15.520(1) (h) The provisions of KRS 15.520(l)(h) concern specific due process rights in the event of a hearing arising from a police disciplinary matter. The section is not *757particularly instructive in ascertaining the legislative intent underlying KRS 15.520 beyond what we have already discussed; however, the following points are worth noting.

The preamble of the section provides as follows: When a hearing is to be conducted by any appointing authority, legislative body, or other body as designated by the Kentucky Revised Statutes, the following administrative due process rights shall be recognized and these shall be the minimum rights afforded any police officer charged.... ICRS 15.520(l)(h) (emphasis added).

The legislature’s use of the expansive adjective “any” suggests that the provisions of KRS 15.520(l)(h) are to apply to a hearing whether the hearing was convened as a result of a “citizen’s complaint” or an intra-departmental disciplinary proceeding.

The section then lists various rights to be afforded police officers in the event of a hearing (such as time constraints, right to notice, right to counsel, right to cross-examine, and the right to subpoena witnesses) which are generic and basic enough that there would be no reason to suppose that the rights would not also be intended to apply in the case of an internally generated disciplinary proceeding.

As such, these subsections likewise support an interpretation that, KRS 15.520 is not intended to be limited to “citizens’ complaints.” 5. KRS 15.520(2) & KRS 15.520(3) KRS 15.520(2) and KRS 15.520(3) address a police officer’s right to appeal an adverse decision. KRS 15.520(2) provides as follows: Any police officer who shall be found guilty by any hearing authority of any charge may bring an action in the Circuit Court in the county in which the local unit of government may be located to contest the action of that hearing authority, and the action shall be tried as an original action by the court. (emphasis added).

Again, the legislature’s use of the adjective “any” suggests that this provision applies to both internal disciplinary proceedings and citizen complaints. KRS 15.520(3) states as follows: The judgment of the Circuit Court shall be subject to appeal to the Court of Appeals.

The procedure as to appeal to the Court of Appeals shall be the same as in any civil action. As the provisions of this section relate to a minimum system of professional conduct, nothing herein shall be construed as limiting or in any way affecting -any rights previously afforded to police officers of the Commonwealth by statute, ordinance, or working agreement. (emphasis added).

The first sentence provides for an appeal from the circuit court to the Court of Appeals. The second sentence indicates that other sources of rights may provide greater protections than those afforded under KRS 15.520. It appears from this text that the legislature believed that the statutory protections contained in the bill of rights were intended as a minimal level of safeguards for police officers in disciplinary proceedings.

Thus, the statute provides the least acceptable due process protections, which may sometimes even fall below the level of protections afforded through other sources, such as a police department’s established disciplinary procedures.

In this vein, an examination of the protections provided under KRS 15.520 discloses, as far as we can tell, no provisions so burdensome or so out of line with the efficient operation of an internal disciplinary proceeding that it would seem at all unusual to apply them to an *758internal disciplinary proceeding.⁶ Therefore, this text likewise supports the conclusion that the legislature intended KRS 15.520 to apply to internal disciplinary proceedings.

In summary, we find nothing in the statutory text which would limit the application of the police officer’s bill of rights to only complaints lodged by a member of the public. To the contrary, the broad and sweeping language employed by the legislature, as explained above, would appear to evince a legislative intent to cover both public and internally generated complaints.

An examination of the individual provisions of the bill of rights discloses that they confer police officers with no more than basic due process protections in the event of the initiation of disciplinary proceedings against them than would be expected if a principal objective of the

legislation is to attract and retain outstanding citizens to serve as our first line of defense against murderers, thieves, robbers, and other criminals.

D. Recently Proposed Legislative Amendments to KRS 15.520 The Kentucky League of Cities refers us to the 2012 proposed legislation seeking to amend KRS 15.520 to explicitly remove any doubt about whether it applies to all disciplinary proceedings.

We are not persuaded that the proffer of proposed legislation to amend the statute proves anything about the existing statute. Obviously the existing statute is inartfully drafted. Rather than proposing the legislation for the purpose of changing the meaning of the statute by expanding its application to all administrative disciplinary matters, as the Kentucky League of Cities suggests, it is just as likely that sponsors of the proposed legislation were intent upon clarifying the statute to confirm its broad application to all such proceedings regardless of the source of the complaint.

We are often engage in the process of discerning the legislature's intent from the words used in a statute so that we can direct the application of the law as the legislature intended. We draw conclusions about legislative intent from the words used by the legislature, but the same cannot be said for the words not used by the legislature.

Because we do not direct the application of bills not passed into law, we do not indulge in speculation about why a bill did not become a law, or what, among myriad reasons for which proposed legislation is rejected, proves the collective legislative intention for not enacting a proposed statute. E. KRS 15.520 is not in conflict with KRS Chapters 90, 95, 83A, and 70, and 164 The dissent's position—that KRS 15.520 applies only to civilian complaints—is based less upon the statutory language of KRS 15.520, and more upon preexisting statutory provisions contained in KRS Chapter 90 (City Civil Service); KRS Chapter 95 (City Police and Fire Departments); KRS Chapter 83A (Organization of Government in Cities); KRS Chapter 70 (Sheriffs, Constables and County Police *759Force); and KRS Chapter 164 (State Universities and Colleges....)

Referring to these provisions as the “remainder of the law,” the dissent purports to “harmonize” KRS 15.520 with those provisions by application of the doctrine of *in pari materia* (in the same manner) and thereby demonstrate that KRS 15.520 applies only to civilian complaints. Obviously, as noted in the dissent, these statutes provide for somewhat different disciplinary procedures for municipal employees, including police officers, depending upon the size of the city and the form of government organization it had adopted.

The dissent, therefore, concludes that we have created a conflict between KRS 15.520 and these preexisting statutes. The dissent's reasoning is flawed and its concern is misplaced for several reasons. First, because KRS 15.520 is both the more specific and later-enacted statute, its

provisions supersede and supplant any conflicting provisions (and the proposition that there even are any conflicts is very much in doubt) contained in these widely dispersed statutes.

Withers v. University of Kentucky, 939 S.W.2d 340, 345 (Ky.1997) (“[W]here two statutes concern the same or similar subject matter, the specific shall prevail over the general.”); *Commonwealth v. Brasher*, 842 S.W.2d 535, 536 (Ky.App.1992)⁷ (“Generally, when a later-enacted and more specific statute conflicts with an earlier-enacted and more general statute, the subsequent and specific statute will control.”).

For that reason, whatever conflict could be perceived in these earlier and less specific statutes must yield to the provisions of KRS 15.520, not the other way around as the dissent would have it. And further, the so-called “conflicts” identified by the dissent are actually not conflicts at all. An examination of those provisions discloses that KRS 15.520 may easily be overlain onto the existing statutory structure without disturbing the processes provided therein.

The dissent greatly overstates the ardor of complying with the basic due process rights required by KRS 15.520. Second, if, as the dissent would hold, the legislature intended for the police officer’s bill of rights even in the case of a “citizen’s complaint” to vary depending upon the size of the police officer’s city and its form of municipal government, the legislature could easily have said so by specific language to that effect or by cross-referencing the very KRS Chapters now cited by the dissent.

Much to the contrary, the entire tone and tenor of KRS 15.520 suggests uniformity of due process protections to police officers all across the Commonwealth, irrespective of the urban or rural nature of the local community. Indeed, the very idea of “standards,” and of “set[ting] administrative due process rights,” as stated in KRS 15.520(1), denotes uniformity.

It is incongruous (if not unconscionable) to grant police officers in rural areas a lesser measure of due process protection than their more urban counterparts. Furthermore, this interpretation is in direct conflict with the plain language of the statute. KRS 15.520(l)(h) (“When a hearing is to be conducted by any appointing authority, legislative body, or other body as designated by the Kentucky Revised Statutes, the following administrative due process rights shall be recognized and these shall be the minimum rights afforded any police officer charged.... ” (emphasis added)).

Third, the dissent takes great pains in its effort to “harmonize” KRS 15.520 with other statutes when there is no dissonance to harmonize. In so doing, the dissent chooses to read the statute as inapplicable to intradepartmental complaints, thus creating a distinction within KRS 15.520 that is simply not there.

The legislature is presumed to be aware of existing laws when enacting a new statute. *St. Clair v. Commonwealth*, 140 S.W.3d 510, 570 (Ky.2004). When the “police officer’s bill of rights” was enacted, the legislature was well aware of the existing statutes and, if it intended to provide

differing procedural protections for police officers depending upon the class of cities in which they serve it could have easily done- so.

There is no facial conflict here. We presume that the legislature did not intend to create a conflict; the source of the cacophony heard by the dissent is its own attempt to harmonize an otherwise complimentary set of statutes. F. Our Holding is Consistent with *City of Munfordville v. Sheldon*. The dissent also relies extensively upon the case *City of Munfordville v. Sheldon*, 977 S.W.2d 497 (Ky.1998) in support of its conclusion that KRS 15.520 applies only to externally-originated civilian complaints and not to intradepartmental complaints.

In *Sheldon*, the newly-elected mayor fired the police chief (*Sheldon*) as the result of a civilian complaint about *Sheldon's* investigation of a robbery. Because *Sheldon* involved a complaint that happened to originate from an individual citizen outside the police department, we specifically noted that “our opinion merely forbids a mayor or other local executive authority from receiving a citizen’s complaint against a police officer, then firing the officer based on that complaint, without ever affording the officer a right to publicly defend against the complaint as required by KRS 15.520.” *Id.* at 499.

And per our crystal clear language, that is all we held. We indicated that “[n]oth-ing in our holding prohibits a mayor from discharging an officer at his or her discretion [pursuant to KRS 83A.080(2)]” and we qualified that by noting that discretion was proper only so long as “the reason behind the discharge does not trigger the hearing requirement of KRS 15.520[.]” *Sheldon* simply did not address the question we now address.

The holding of *Sheldon* would have been no different if the process invoked against *Sheldon* had been triggered by a complaint from within the police department. There is no indication in *Sheldon* that this Court gave any consideration at all to the weighty issue we address here. IV. CONCLUSION Having concluded that KRS 15.520 applies to both disciplinary proceedings generated by citizen complaints and those initiated by intra-departmental actions, our final task is to apply our holding to the two cases under review.

In each case, but for different reasons, the circuit court concluded that the officer was not entitled to an administrative hearing subject to the due process provisions of KRS 15.520, and accordingly dismissed the officers’ complaints.

In each case, the Court of Appeals affirmed the dismissal upon the grounds that KRS 15.520 was not applicable to the respective administrative proceedings. For the reasons set forth above, we reverse the opinions of the Court of Appeals in the cases now before us.

Accordingly, we remand the case of *Pearce v. University of Louisville*, 2011-SC-000756-DG, to the Jefferson Circuit Court for further proceedings consistent with this opinion; and we remand

the case of *Hill v. City of Mt. Washington*, 2012-SC-000104-DG, to the Bullitt Circuit Court for further proceedings consistent with this opinion. *761Noble and Scott, JJ., concur.

Keller, J., concurs by separate opinion. Minton, C.J., dissents by separate opinion in which Abramson and Cunningham, JJ., join.. Specific details of the alleged misconduct are not material to our review, beyond the fact that the disciplinary action against Pearce originated within his own department rather than upon the complaint from a member of the general public.

Pearce was charged by police department authorities with failing to respond to a fire alarm, failing to file in a timely fashion his report about the fire alarm and pursuing a motorist going the wrong way on a one-way street in violation of departmental rules..

For clarity and consistency, we adopt the term “citizen’s complaint” for administrative charges brought against an officer as a result of complaints filed by persons from outside the department, and will use the term “intra-departmental complaints” when referring to charges that originated from within the department.. Black’s Law Dictionary defines an administrative proceeding as “[a] hearing, inquiry, investigation, or trial before an administrative agency, usu. adjudicatory in nature but sometimes quasi-legislative.” Black’s Law Dictionary 48 (8th ed.

2004).. We recognize that the terms “any” and “all” are not necessarily interchangeable. See *Miles v. Dawson*, 830 S.W.2d 368, 369 (Ky.1991) (discussing the interchangeability of “any” and “all.”). However, in the context of 15.520(l)(a), we construe the terms as synonymous; we can think of no one who would be included in the term “all” who would be excluded by the term “any.”.

KRS 15.520(l)(d) provides that police officers in criminal cases have the same constitutional rights as a civilian and KRS 15.520(1)(g) contains limitations providing that a police officer may not be compelled to speak to nongovernmental personnel as a condition of employment..

We are, of course, familiar with the policy-based argument posed in the amicus brief filed by the Kentucky League of Cities predicting the parade of horrors that would follow from the application of KRS 15.520 to routine disciplinary matters, citing for example, the inability of a police chief to ask a police officer about the reasons for tardiness. Concerns of that nature are grossly overstated.

See KRS 15.520(l)(c). Seemingly, such inquiries would naturally be made before a formal accusation of misconduct since a justifiable cause for being late would negate the apparent violation of policy.. Overruled on other grounds by *Moore v. Commonwealth*, 990 S.W.2d 618 (Ky.1999).