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**Sent:** Tuesday, July 19, 2022 1:38 PM

**To:** CityClerk <CityClerk@longbeach.gov>

**Cc:** Mayor <Mayor@longbeach.gov>; Council District 1 <District1@longbeach.gov>; Council District 2 <District2@longbeach.gov>; Suzie Price <Suzie.Price@longbeach.gov>; Council District 4 <District4@longbeach.gov>; Council District 5 <District5@longbeach.gov>; Council District 6 <District6@longbeach.gov>; Council District 7 <District7@longbeach.gov>; Council District 8 <District8@longbeach.gov>; Council District 9 <District9@longbeach.gov>

**Subject:** Packet information for the July 19 Joint Meeting of the Charter Amendment Committee and the City Council – File #22-0852:

**-EXTERNAL-**

***TO THE CITY CLERK: Please include the following in the agenda packet for the July 19 Joint Meeting of the Charter Amendment Committee and the City Council – File #22-0852:***

**Statement by Stephen Downing , CD 3 resident:**

**On the night of Jan. 13, 1989, a Black police officer from Hawthorne named Don Jackson was pulled over by the LBPD while lawfully driving into Long Beach along Pacific Coast Highway.**

**His car was equipped with with hidden cameras installed by NBC News.**

**After the stop, Jackson was profanely ordered out of the car and directed to approach one of the officers so he could be searched.**

**Jackson politely challenged the officer's authority to make such a request and a second LBPD officer moved in and ordered him to put both hands on his head and face the storefront.**

**Jackson offered no resistance, complied and the LBPD officer suddenly shoved him from behind into the store's plate-glass window.**

**Shards fell all around him. The officer was cut on the finger. Jackson was uninjured.**

**The officers subsequently wrote false reports about the incident.**

**The cameras told a different story. The scandal went viral on local, national and international news.**

**Because of that police brutality scandal 32 years ago a grass roots movement promised voters a new era of police accountability, especially in Black Communities.**

**They fought for a charter amendment that would satisfy the outrage of the people.**

They overcame some of the insider resistance in city hall - demanded removal of a “Sunset Clause” and saw to it that the City Council put a Charter amendment on the ballot that created a civilian oversight commission with the authority to conduct full investigations, subpoena witnesses, put them under oath and hold hearings to find the truth.

But what the activists overlooked is that the City Hall institution engineered the Charter Amendment so that the CPCC Commissioners were not allowed to hire or fire their own staff.

The City Manager retained that right and - with the help of the City Attorney’s corrupted legal opinion that the law prohibited the commission or its staff from interviewing accused or witness officers - exercised total control over what the commissioners saw and did not see.

So, over the past 32 years - because of that internal “legal” engineering - the Commission never once interviewed an accused or witness police officer, never once held a hearing to learn the truth, and the public never once saw the disinfectant light of transparency.

The CPCC came to be called a paper tiger.

Then came the George Floyd outrage.

Chief Luna suddenly announced that CPCC Commissioners would be allowed access to officer statements written and recorded by Internal Affairs investigations - but still maintained that they could not interview the officers.

Luna said the decision was made because of a “change in the law.”

I asked Luna “what change,” and did not receive a response.

I asked the City Manager’s office the same question and did not receive a response.

I asked the City Attorney’s office and did not receive a response.

Now, today, the recommended Charter change specifically empowers the new Director of Police Oversight to interview officers- but in a highly restricted category of misconduct allegations.

I ask once again - what law suddenly changed to allow this authority?

Or is it now clear to all of us that there never was a legal prohibition against the CPCC doing its job – only a twisted and flawed legal opinion that was used to neuter, impede and misrepresent the lawful charter authorized functions of the appointed Commissioners.

The 32 year fact remains - if the Charter empowers the CPCC and its staff to investigate all officer misconduct there is no restriction in state law that restricts the scope of that investigation - including holding hearings, subpoenaing witnesses and interviewing accused and witness officers.

Why is the CPCC important?

The CPCC - as authorized today - could have provided reasonably effective civilian oversight had its commissioners been able to hire and fire their own staff, had been allowed to conduct competent investigations and make public their recommendations as provided in the Charter.

But City Hall interests interfered and weakened that process, so the Commission became a paper tiger used by City Hall as a Public Relations gimmick to mislead the public each time a disposition letter was written to the complainant announcing that a "Fair and Independent investigations had taken place" - when it had in fact a fair and independent investigation had not taken place.

It is these kinds of public criticisms about the ineffectiveness of the Commission that resulted in the CPCC being reexamined after the George Floyd outrage.

What are the Biggest Flaws in the proposed changes to the CPCC?

All of the existing authority - as opposed to current practices - given the CPCC in the Charter - subpoenaing witnesses and documents, holding hearings and putting witnesses under oath - are stripped away, leaving the Citizen Commissioners without the authority to provide independent civilian oversight of police operations and behavior.

Instead the Commissioners are relegated to become another PR tool for city hall that has nothing to do with civilian oversight.

They have no authority to bring about change in the operation or organizational culture of the LBPD.

Some of their authority to investigate a narrow area of alleged misconduct has been handed to a new individual - a Director of Police Oversight - whose recruitment and applicant screening is conducted under the purview of the City Manger who will provide a list of candidates to the City Council for final selection.

The Director will be a city employee whose obligation will be to serve the political sensitivities of the city council rather than the oversight responsibilities of a separate and distinct board of citizen commissioners whose sole obligation is to provide independent civilian oversight of the LBPD.

Is there a better CPCC model Long Beach could follow?

Yes. The LA City model where the Commissioners are the policy head of the police department overseeing the chief of police who is held responsible for proper internal affairs investigation and the administration of discipline.

The Commission hires and fires the chief of police and hires and fires their staff - including an Inspector General who is authorized by the Charter to investigate and audit all functions in the police department.

What could be done to actually improve the CPCC without adopting the LA model?

If the CPCC kept and exercised their existing power and authority, were empowered to hire and fire their staff, including the Police Oversight Director, and given the power to overrule

the City Manager's adjudication findings by a 2/3 vote, the current model - with added transparency - could improve police oversight in Long Beach.

Without this as a minimum - the current proposal is a sham.

#### Conclusion

The citizen oversight function in Long Beach is totally ineffective and the internal affairs function of the LBPD is utterly corrupted.

This condition results in bad apple cops being retained and true professions being diminished, retaliated against and blocked from leadership positions in favor of those who "go along to get along."

As officer Michael Hines once said after his brutality cost the city millions in a lawsuit - "If you lie for the Department, you will be taken care of." A few weeks later he was promoted to Sergeant.

Let's stop "taking care of" the bad apples.

Let's stop allowing them to promote and continue to contaminate the LBPD.

Let's install a Commission who can insure that the Chief of Police leads the LBPD in a manner that puts in place a command, management and supervisory staff that is willing to weed out the bad apples, honor the professionals, protect the whistleblowers and bring the LBPD out of the dark ages - with the help of true independent civilian oversight that recognizes that the People are the police and the police are the People.

This proposal fixes nothing. It does not advance civilian police oversight. It takes it backwards.

This proposed Charter amendment - if implemented - would prohibit the Don Jackson incident from being investigated by an independent citizen commission or even the so-called "Police Oversight Director" - because the arbitrary and brutal humiliation imposed upon Hawthorne police officer Don Jackson by the two thug-liars who wore the LBPD badge did not result in a "serious injury."

Thank you,  
Stephen Downing  
Resident, CD 3

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The Following is a strike-line of the existing charter and a recommended charter amendment that would provide the City of Long Beach with a Civilian Oversight Commission similar to the Los Angeles Model.

**Strike LINE OF PROPOSED CHANGES TO CPCC COMMISSION**

ARTICLE XIA. - CITIZEN POLICE COMPLAINT COMMISSION

Section 1150. - CREATION OF CITIZEN POLICE COMPLAINT COMMISSION.

There is hereby created a Citizen ~~Police Complaint~~ **Oversight Police Complaint** Commission.

~~(Added by Prop. 1, 4-10-1990, eff. 5-3-1990)~~ Sec. 1151. - MEMBERSHIP AND TERMS OF CITIZEN POLICE COMPLAINT OVERSIGHT COMMISSION.

A. Members. The Citizen Police ~~Complaint~~ Commission shall be composed of ~~eleven (11)~~ seven (7) members who are broadly representative of the racial, ethnic, religious, labor, business, age, gender, sexual orientation identity, and disabled members of the general public, and who reside in the City of Long Beach. Each member shall be appointed by the Mayor, subject to confirmation by the City Council. ~~There shall be one Commission member appointed to represent each of the nine City Council districts, and two members appointed at large. Each member of the City Council shall nominate an individual to the Mayor to represent each respective Council district.~~

~~The term of each member of the Commission shall be for two years; provided, however, that of the eleven members first appointed after the effective date of the Article, a drawing will be held at the first meeting to determine who serves for two years and three years; six shall serve for three years, and five shall serve for two years. No person shall serve more than two full terms. Serving any portion of an unexpired term shall not be counted as service of one term.~~

~~(Added by Prop. 1, 4-10-1990, eff. 5-3-1990)~~

B. Term of Office. The term of office for members of the Commission shall be four (4) years. No member shall be appointed for more than two (2) consecutive terms. Notwithstanding the provisions of this Section, the three (3) members first appointed by the Mayor to this Police Oversight Commission shall serve for an initial two (2) year term. Members serving an initial two (2) year term shall be eligible for re-appointment to one (1) additional four (4) year term.

C. Vacancies. Appointments to fill vacancies on the Commission shall be made within sixty (60) days of the position becoming vacant. Appointments to fill vacancies shall be for the unexpired term of the member whom the appointee succeeds. Serving any portion of an unexpired term shall not be counted as service of one term. A vacancy or vacancies shall not impair the right of the remaining members to exercise the powers of the Commission.

D. Quorum. A majority of members of the Commission shall constitute a quorum, and the affirmative vote of at least a majority of members shall be required to take any action.

Sec. 1152. - ~~INDEPENDENT INVESTIGATOR.~~ APPOINTMENT OF POLICE OVERSIGHT DIRECTOR

~~The City Manager shall appoint an Independent Investigator, as needed, who shall serve at the pleasure of the City Manager. The investigator shall have the authority to receive, administer and investigate, at the direction of the Commission, allegations of police misconduct, with emphasis on excessive force, false arrest and complaints with racial or sexual overtones. The investigator shall thereafter report the results of said investigations to the Commission.~~

~~(Added by Prop. 1, 4-10-1990, eff. 5-3-1990)~~

~~The office of the investigator shall be located outside of the Public Safety Building.~~

The City Council shall appoint a Police Oversight Director who shall be the chief administrative officer of the Police Oversight Commission. The City Council, subject to veto by the Mayor and City Council override by a vote of two-thirds (2/3) of its members, shall appoint the person deemed best qualified on the basis of executive and administrative capabilities, with special reference to experience in, and knowledge of, accepted practices with respect to the duties of the office as set forth in this Charter. The Police Oversight Director shall be appointed for an indefinite period and cannot be removed from office except by a vote of five (5) members of the

City Council, subject to veto by the Mayor and City Council override by a vote of two-thirds ( 2/3 ) of its members. The Director shall have the following authority:

- A.
  - Audit completed investigations for timeliness, thoroughness and quality;
- B.
  - Review Internal Affairs' intake of complaints to ensure the appropriate allegations have been included for investigation;
- C.
  - Investigate issues, such as complaints against the Chief or Command Staff, an officer-involved-shooting, an in-custody death, or other critical incident, as defined in California Government Code Section 6254(f)(4)(C), upon request of the City Manager or designee;
- D.
  - Review all major use of force incidents, which shall be defined as incidents in which the use of force by any peace, custodial or public officer, as defined in California Penal Code Section(s) 830.33(d), 831(a) and 836.S(a), against a person, resulted in death or in great bodily injury;
- E.
  - Have access to the scene of critical incidents to observe Long Beach Police Department's handling of the incident investigation;
- F.
  - Prepare an Annual Report with a focus on Statistical trends and special reports;
- G.
  - Make recommendations and prepare reports to the Commission relating to Long Beach Police Department operations, policy, procedures and training;
- H.
  - Have access to all relevant Police Department records and data, with the authority to question witnesses, including Police Department personnel, in order to fulfil the duties stated herein; and
- I.
  - Required to preserve the privacy of Long Beach Police Department employees, including personnel files, and keep confidential all Long Beach Police Department files and other data to the maximum extent permitted by law.

Sec. 1153. - POWERS AND DUTIES OF THE COMMISSION.

The Commission shall have the following powers and duties:

~~A. To receive, and in its discretion to administer and investigate, through the Independent Investigator, allegations of police misconduct, with emphasis on excessive force, false arrest, and complaints with racial or sexual overtones.~~

~~B. To conduct a hearing into allegations of police misconduct, when such hearing, in the discretion of the Commission, will facilitate the fact-finding process.~~

~~C. To subpoena and require the attendance of witnesses, and the production of books and papers pertinent to the investigation and to administer oaths to such witnesses to the extent permissible by law.~~

~~D. To thereafter make recommendations concerning allegations of misconduct to the City Manager, who shall have final disciplinary authority.~~

~~E. To recommend to the City Council the provision of such staff as is necessary to carry out its powers and duties under this Article. Upon authorization by the City Council, the City Manager shall select staff members, who shall serve at the pleasure of the City Manager. The Commission shall advise the City Manager of the performance of said staff, and the City Manager shall thereafter take such steps as he deems necessary to assure their satisfactory performance.~~

~~(Added by Prop. 1, 4-10-1990, eff. 5-3-1990)~~

- ~~• A.~~
- ~~• Provide input to Police Oversight Director on setting auditing priorities and to review and approve recommendations from the Police Oversight Director;~~
  
- ~~• B.~~
- ~~• Solicit input from the community on recommendations under consideration;~~
  
- ~~• C.~~
- ~~• Provide feedback to Police Oversight Director on annual reports with a focus on statistical trends and special reports on matters addressed by the Police Oversight Director;~~
  
- ~~• D.~~
- ~~• Educate and engage with the community and bring community concerns to the attention of the Police Oversight Director and the Long Beach Police Department; and~~
  
- ~~• E.~~
- ~~• Receive briefings on high-profile incidents and keep confidential such information to the maximum extent permitted by law.~~

#### Sec. 1154. - CONFIDENTIALITY.

The hearing process shall be open to the public to the extent legally possible and insofar as it does not conflict with state or federal law.

~~(Added by Prop. 1, 4-10-1990, eff. 5-3-1990)~~Sec. 1155. - REVIEW AND EVALUATION. STAFF ASSISTANCE AND BUDGET

~~On or before July 1, 1992, the Charter Amendment Committee of the City Council shall meet and evaluate the operation of the amendments to the Charter adopted by this Proposition on the April 1990 ballot. On or before January 1, 1993, the Charter Amendment Committee shall report its findings, in writing, together with any recommendations it wishes to make to the City Council. Thereafter, the City Council shall receive said report, findings and recommendations and take such implementing action as it deems appropriate and necessary.~~

~~(Added by Prop. 1, 4-10-1990, eff. 5-3-1990)~~

Staffing for administrative and management functions of the Commission will be addressed in the Municipal Code. The Commission will have a budget, as determined by the City Council, sufficient to conduct the Commission's mission and business.

THE FOLLOWING ARE RECOMMENDATIONS FOR CHANGES TO THE LONG BEACH CITY CHARTER SUPPORTED BY THE EIGHT EXPERTS WHO CONTRIBUTED [TO THIS ARTICLE IN THE BEACHCOMBER NEWS PAPER:](#)

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- **ARTICLE III. - CITY MANAGER**
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- **Section 300. - SELECTION AND QUALIFICATIONS.**

The City Council shall appoint a City Manager who shall be the chief administrative officer of the City. The City Manager shall be responsible for the administration of all departments except the City Attorney, City Auditor, City Prosecutor, Civil Service Department, Legislative Department, Harbor Department, Water Department **and Police Department.** The City Council, subject to veto by the Mayor and City Council override by a vote of two-thirds ( 2/3 ) of its members, shall appoint the person deemed best qualified on the basis of executive and administrative capabilities, with special reference to experience in, and knowledge of, accepted practices with respect to the duties of the office as set forth in this Charter. The City Manager shall be appointed for an indefinite period and cannot be removed from office except by a vote of five (5) members of the City Council, subject to veto by the Mayor and City Council override by a vote of two-thirds ( 2/3 ) of its members.

Sec. 302. - POWERS AND DUTIES OF THE CITY MANAGER.

The City Manager shall have the following powers and duties:

- (a) To direct and supervise the administration of all Manager-directed departments of the City.
- (b) To appoint, suspend and remove all City employees in both the classified and unclassified service; except that for the classified service, such powers shall be pursuant to the Civil Service provisions of this Charter, Civil Service rules, regulations and ordinances; and except the City Clerk's Department, the Police Department and the elective officers and their appointees and such officers and employees as shall be subject to appointment by the City Council.
- (c) To see that all laws, ordinances, orders, resolutions, contracts and franchises are enforced and executed.
- (d) To attend all City Council meetings or councilmanic committee meetings; and to have the right to participate in the discussion without vote.
- (e) To prepare and submit the annual budget; and to keep the City Council fully advised as to the financial condition and needs of the City, including the filing of an annual and interim financial reports.
- (f) To submit such reports as the City Council may require concerning the operations of Manager-directed departments, and to recommend to City Council the adoption of measures deemed advisable.
- (g) To perform such other duties as are specified in the Charter, by law or required by City Council

ARTICLE XIA – THE BOARD OF POLICE COMMISSIONERS AND THE POLICE DEPARTMENT

**Sec. 1150. Powers and Duties of the Police Department.**

The Police Department shall have the power and duty to enforce the penal provisions of the Charter, City ordinances and state and federal law. In the discharge of these powers and duties, the members of the department shall have the powers and duties of peace officers as defined by state law. The officers and employees of the Police Department shall have the power and duty to protect lives and property in case of disaster or public calamity. The scope and extent of those emergency powers and duties and the manner of their exercise shall be prescribed by ordinance,

**Sec. 1151. Board of Police Commissioners.**

- (a) Members of the Board of Police Commissioners shall serve for a maximum of two five-year terms, except that a member may serve up to two years of an unexpired term plus two terms of



five years. A member of the Board of Police Commissioners shall be limited to two consecutive one-year terms as President of the Board of Police Commissioners.

(b) The Board of Police Commissioners shall have the power to:

(1) issue instructions to the Chief of Police concerning the exercise of the authority conferred on the Chief of Police by the Charter, other than the disciplinary authority of all police department employees, which shall be conferred upon the Chief of Police subject to the rules of the Civil Service.

(2) evaluate the Chief of Police annually, set or adjust the compensation for the Chief of Police within the salary guidelines established by Council after recommendations concerning those guidelines have been made to the Council by the City Manager; and forward a copy of the evaluation and salary determination to the Mayor and Council for information;

(3) appoint and remove an Executive Director whose position shall be exempt from the civil service provisions of the Charter and who shall not be a member of the Police Department; and

(4) appoint and remove an Inspector General of the Police Department, whose position shall be exempt from the civil service provisions of the Charter and who shall not be a member of the Police Department.

**Sec. 1152. Executive Director of the Board of Police Commissioners.**

Subject to the provisions of the Charter, the rules of the Police Department, and the instruction of the Board of Police Commissioners, the Executive Director of the Board of Police Commissioners shall have the power and duty to:

(a) administer the affairs of the Board of Police Commissioners as its chief administrative officer;

(b) appoint, discharge, discipline, transfer and issue instructions to employees appointed as independent staff of the Board of Police Commissioners, except for employees under the direction of the Inspector General, all subject to the civil service provisions.

(c) expend the funds designated by budgetary appropriations or appropriations made after adoption of the budget for expenditure by the Board of Police Commissioners or its staff, in accordance with the provisions of those appropriations;

(d) recommend to the Board of Police Commissioners prior to the beginning of each fiscal year a budget covering the anticipated revenues and expenditures of the board and its staff, conforming so far as practicable to the forms and dates provided in the Charter in relation to the general City budget;

(e) certify the expenditures of the Board of Police Commissioners and its staff to the chief accounting employee; and

(f) exercise further powers in the administration of the Board of Police Commissioners conferred upon the Executive Director by the board.

The authority of the Executive Director shall not extend to authority over the Chief of Police nor encroach upon the authority of the Chief of Police to administer the affairs of the Police Department as its general manager and chief administrative officer.

**Sec. 1153. Inspector General.**

The Inspector General shall report to the Board of Police Commissioners and shall have the same access to Police Department information as the Board of Police Commissioners. The Inspector General shall have the power and duty to:

(a) under rules established by the Board of Police Commissioners, audit, investigate and oversee the Police Department's handling of complaints of misconduct by police officers and civilian employees and perform other duties as may be assigned by the board;

(b) conduct any audit or investigation requested by majority vote of the board;

(c) initiate any investigation or audit of the Police Department without prior authorization of the Board of Police Commissioners, subject to the authority of the board by majority vote to direct the Inspector General not to commence or continue an investigation or audit;

(d) keep the board informed of the status of all pending investigations and audits; and

(e) appoint, discharge, discipline, transfer and issue instructions to employees under his or her direction.

**Sec. 1154. Powers and Duties of the Chief of Police.**

The chief administrative officer of the Police Department shall be known as the Chief of Police. Subject to the provisions of the Charter, the rules of the Police Department, and the instruction of the Board of Police Commissioners, the Chief of Police shall have the power and duty to:

(a) suppress all riots, disturbances and breaches of the peace, and to that end may call on any person for aid. The Chief may pursue and arrest, within the limits of the City, any person fleeing from justice, and shall without delay bring all persons arrested by the department before a judge of the proper court for trial or examination. The Chief may receive and execute any proper authority for the arrest and detention of criminals fleeing or escaping from places outside the City;

(b) administer the affairs of the department as its chief administrative officer, except as to matters under the control of the Executive Director of the Board of Police Commissioners;

(c) appoint, discharge, discipline, transfer and issue instructions to the employees of the department, other than the Secretary of the Board, the chief accounting employee of the department, the Inspector General of the Police Department and his or her staff, the Executive Director of the Board and his or her staff, all subject to the civil service provisions of the Charter;

(d) expend the funds of the department, except those funds under the control of the Executive Director, in accordance with the provisions of the budget appropriations or of appropriations made after adoption of the budget;

(e) recommend to the Board of Police Commissioners prior to the beginning of each fiscal year an annual departmental budget covering the anticipated revenues and expenditures of the department, except the anticipated revenues and expenditures under the control of the Executive Director, and conforming so far as practicable to the forms and dates provided in the Charter for the general City budget;

(f) certify all expenditures of the department to the chief accounting employee, except those expenditures under the control of the Executive Director;

(g) exercise further powers in the administration of the department conferred upon the Chief of Police by the Board of Police Commissioners; and

(h) execute, personally or by deputy, and return all writs and processes issued by any court having jurisdiction of criminal cases arising upon violations of the provisions of the Charter or ordinance. The Chief's jurisdiction and that of his or her deputies in the service of process in all criminal cases, and in cases of violation of City ordinances, shall be co-extensive with that of the County of Los Angeles.

**Sec. 1155. Appointment and Removal of the Chief of Police.**

The Chief of Police shall be appointed, shall serve, and shall be removed in accordance with the following provisions:

(a) **Recruitment and Selection.** The recruitment and selection of qualified candidates for the position of Chief of Police shall be administered by the general manager of the Personnel Department, in cooperation with the Board of Police Commissioners, through a system of open competition based on professionally accepted recruitment and selection standards. The general manager of the Personnel Department shall refer a group of at least six highly qualified candidates to the Board of Police Commissioners, which shall then provide a list of three recommended candidates, in ranked order, to the Mayor for review and for appointment of one of them to the Office of Chief of Police. At the request of the Mayor, the Board of Police Commissioners shall provide the Mayor with an additional list of three candidates, in ranked order, from the group of

candidates previously provided by the general manager of the Personnel Department. The Mayor's appointee shall be subject to confirmation by the Council. Should the Council fail to confirm the appointee, and if any additional candidates remain, the Mayor may request and receive from the Board of Police Commissioners one additional candidate, who will be selected from the group of candidates previously provided by the general manager of the Personnel Department. The Mayor may appoint that candidate or one of the candidates on the list or lists previously provided to the Mayor by the Board of Police Commissioners, subject to Council confirmation.

(b) **Term.** The Chief of Police shall serve a five-year term and may be appointed, in the manner described below, to a second five-year term. No person shall serve as Chief of Police for more than ten years altogether. Time accrued as Acting Chief of Police or as a temporary Chief of Police shall not be included in calculating the ten years.

(c) **Reappointment.** If the Chief of Police wishes to be considered for appointment to a second term, he or she shall apply to the Board of Police Commissioners for that appointment at least 180 days prior to the expiration of the first term. At least 90 days prior to the expiration of the first term, the Board of Police Commissioners shall, in its discretion, respond affirmatively or negatively to that application. If the Board of Police Commissioners acts, affirmatively or negatively, on the application for appointment the Council may assert its jurisdiction over the matter of the application for appointment. Should that jurisdiction be asserted, any affirmative or negative action on the appointment shall be final. If the Board of Police Commissioners fails to respond to the application within 90 days prior to the expiration of the first term, the Mayor shall, at least 60 days prior to the expiration of the first term, act in lieu of the Board. Should the Mayor so act, the Council, by two-thirds vote, may act within 30 days thereafter to override the Mayor's action. If the Council does not act within 30 days to override the Mayor's action, the action shall be final. If the request of the Chief of Police for appointment to a second term is not approved as provided in this section, there shall be no reappointment and a vacancy in the Office of the Chief of Police shall occur at the expiration of the first term.

(d) **Removal by Board.** The Chief of Police shall serve at the pleasure of the City, as set forth herein, and shall not attain any property interest in the position of Chief of Police. The Board of Police Commissioners may remove the Chief of Police from office at any time prior to the expiration of a first or second five-year term. Should the Board of Police Commissioners so act to remove the Chief of Police, it shall promptly notify the Mayor of its action. If the Council has not asserted its jurisdiction over the matter of the removal of the Chief of Police, the Mayor shall have five days from the last date on which the Council could have asserted jurisdiction to reverse the action of the Board of Police Commissioners. Upon the Mayor's failure to act within that period, the removal shall become effective. By a letter received by the City Clerk within five days of the effective date of the removal, the removed Chief of Police may request a hearing on the removal before the Council which, by two-thirds vote, may override the removal and restore the Chief of Police to office. If the Council asserts jurisdiction over the matter of the removal of the Chief of Police and acts to retain the Chief, the action shall be final. If the action of the Council is to remove the Chief of Police, the removal shall be effective immediately. Should the provision of an appeal from the removal be required by law, the Council shall, by ordinance, provide an appellate procedure in conformance with the law. The Chief of Police may request an appeal by letter to the City Clerk within five days of the effective date of the removal.

(e) **Removal by Council.** The Council may remove the Chief of Police from office in accordance with the following procedures. The Council, by two-thirds vote, may initiate removal proceedings by giving ten days written notice of a public hearing on the proposed removal to the Mayor, the Board of Police Commissioners and the Chief of Police. At the hearing, the Mayor and the Board of Police Commissioners shall appear to discuss with the Council whether the Chief of Police should be removed from office. The views of the Chief of Police shall be heard and

considered at his or her request. Thereafter, the Council, by two-thirds vote, may act to remove the Chief of Police from office, and the removal shall be effective immediately. Should the provision of an appeal from the removal be required by law, the Council shall, by ordinance, provide an appellate procedure in conformance with the law. The Chief of Police may request an appeal by letter to the City Clerk within five days of the effective date of the removal.

**Sec. 1156. Acting and Temporary Chief of Police.**

(a) The Chief of Police, by a letter to the Board of Police Commissioners, shall designate a person or persons who shall serve as Acting Chief of Police for those periods of time that the Chief of Police is out of the City or is temporarily unable to perform the duties of the office.

(b) The Board of Police Commissioners is authorized to appoint a temporary Chief of Police during a vacancy in the office and pending the regular appointment of a Chief of Police. The person appointed as temporary Chief of Police shall be entitled to compensation appropriate to the position of Chief of Police for the duration of the appointment. The length of the temporary appointment shall not exceed 12 months and shall terminate when a regular appointment is made. The appointment of a temporary Chief of Police shall terminate the authority of an Acting Chief of Police.

**END**