

**Report of the  
Permitted Interaction Group  
on Proposals Relating to the  
Police Department and the  
Police Commission  
Revised Mar 21, 2016**

**Members:**

**Kevin D. Mulligan, Chair**

**Guy Fujimura**

**Pamela Witty-Oakland**

## POLICE COMMISSION CHARTER PROPOSAL (Revised 3-21-16)

### Section 6-1603. Chief of Police

- The Chief of Police shall serve at the pleasure of the City and shall not attain any property interest in the position of Chief of Police. The Police Commission may remove the Chief of Police at any time prior to the expiration of a five-year appointment.<sup>1</sup>
- Change the criteria in Section 3. Remove the term "Gross or continuous maladministration" as a cause sufficient for removal.
- Replace with criteria from *Missouri Revised Statutes*: The Chief of Police can be terminated or *suspended* for any of the following reasons, including but not limited to:
  1. The chief has committed any act, while engaged in the performance of his or her duties, that constitutes a reckless disregard for the safety of the public or another law enforcement officer;
  2. The chief has caused a material fact to be misrepresented for any improper or unlawful purpose;
  3. The chief is unable to perform his or her duties with reasonable competence or reasonable safety because of a mental condition, including alcohol or substance abuse.
  4. The chief has acted in a manner for the sole purpose of furthering his or her self-interest or in a manner inconsistent with the interest of the public or the chief's governing body.<sup>2</sup>

This would give the Police Commission the authority to suspend the Chief of Police.

### Section 6-1606. Powers, Duties and Functions (of Police Commission)

- Amending Section (d) by giving the Police Commission the power to subpoena and require the production of evidence pertinent to the investigation and administer oaths to such witnesses to the extent permissible by law.<sup>3</sup> The Police Commission can make recommendations concerning allegations of officer misconduct to the Chief of Police and the Chief must respond to the Police Commission with his or her decision on the recommendation in writing. *Currently, the Chief is not required to respond to the Police Commission concerning their recommendations.*
- The Police Commission investigations should provide an objective analysis of complaints filed by citizens to ensure compliance with policy and procedure, best practices and the law.<sup>4</sup>

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<sup>1</sup> Based upon Los Angeles City Charter Sec. 575 – Appointment and Removal of the Chief of Police with modifications

<sup>2</sup> Missouri Revised Statutes – Section 84.490.1

<sup>3</sup> City of Long Beach California City Charter – Citizen Police Complaint Commission

<sup>4</sup> Fresno Office of Independent Review

**Section 6-1603. Chief of Police –**

1. The chief of police shall be appointed by the police commission for a term of five years. The chief shall serve at the pleasure of the police commission and shall not attain any property interest in the position of chief of police. The police commission may remove or suspend the chief of police at any time prior to the expiration of the five year appointment. The chief shall have had a minimum of five years of training and experience in law enforcement work, at least three years of which shall have been in a responsible administrative capacity. The chief shall not serve beyond the expiration of a term unless appointed again by the police commission. If desiring to do so, the police commission may appoint an incumbent chief to a new term without first engaging in an applicant solicitation and selection process.

2. Before the expiration of a term to which appointed, the chief may be removed or suspended by the police commission [~~only for cause~~] for the following reasons, including but not limited to:

- a) The chief has committed any act, while engaged in the performance of his or her duties, that constitutes a reckless disregard for the safety of the public or another law enforcement officer;
- b) The chief has caused a material fact to be misrepresented for any improper or unlawful purpose;
- c) The chief is unable to perform his or her duties with reasonable competence or reasonable safety because of a mental condition, including alcohol or substance abuse.

- d) The chief has acted in a manner for the sole purpose of furthering his or her self-interest or in a manner inconsistent with the interest of the public or the chief's governing body.

As prerequisites to removal, the chief shall be given a written statement of the ~~[charge]~~ reasons for removal or suspension and an opportunity for a hearing before the police commission.

~~3. [Gross or continuous maladministration shall be a cause sufficient for removal of the chief. Before removing the chief for such cause, the commission shall give the chief written notice of and a reasonable period to cure the gross or continuous maladministration. If the gross or continuous maladministration is not cured to the commission's satisfaction within the period given, the commission may proceed to remove the chief in accordance with subsection 2.~~

~~This subsection shall not be construed as:~~

- ~~(a) Making gross or continuous maladministration the only cause sufficient for removal of a chief; or~~
- ~~(b) Requiring the commission to give the notice and opportunity for cure specified under this subsection when removing a chief for a cause other than gross or continuous maladministration.~~
- ~~(c) Requiring the commission to give the notice and opportunity for cure specified under this subsection when removing a chief for a cause other than gross or continuous maladministration.]~~

## Section 6-1606. Powers, Duties and Functions --

The police commission shall:

- (a) Adopt such rules as it may consider necessary for the conduct of its business and review rules and regulations for the administration of the department.
- (b) Review the annual budget prepared by the chief of police and may make recommendations thereon to the mayor.
- (c) Submit an annual report to the mayor and the city council.
- (d) Receive, consider and investigate charges brought by the public against the conduct of the department or any of its members, including issuing subpoenas and requiring the attendance of witnesses and the production of evidence pertinent to the investigation and administer oaths to such witnesses to the extent permissible by law. [and]
- (e) Submit a written report of its findings to the chief of police. If the chief of police disagrees with the findings of the police commission, the chief must submit the reasons in writing to the police commission. A summary of the charges filed and their disposition shall be included in the annual report of the commission.
- (f) Review and, if deemed necessary, make recommendations on the five-year plan and any update of goals and objectives for the police department which is submitted by the chief of police. The commission shall not have the power to approve, modify, or reject the plan or any update.
- (g) Compare at least annually the actual achievements of the police department against the goals and objectives in the five-year plan or latest update submitted by the chief.

(h) Evaluate at least annually the performance of duties by the chief of police.

Except for purposes of inquiry or as otherwise provided in this charter, neither the commission nor its members shall interfere in any way with the administrative affairs of the department.