

PMLIA Subcommittee Research Questions - Policing

Updated **Aug 20, 2021**

[QUESTION 1 - Which U.S. cities have combined a Citizen's/Community Police Review Commission with an Office of the Independent Police Auditor? What were the impacts of that decision based on how these entities were functioning before and after the decision to combine?](#)

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QUESTION 1 - Which U.S. cities have combined a Citizen's/Community Police Review Commission with an Office of the Independent Police Auditor? What were the impacts of that decision based on how these entities were functioning before and after the decision to combine?

SUMMARY OF FINDINGS:

We have not found any instances of Cities who have combined a Community Police Review Commission and an Office of the Independent Police Auditor.

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While many cities have an Independent Police Auditor, few have an established "Office of the Independent Police Auditor" like San José's. Initial research shows that often the Independent Police Auditor is a third-party (often part-time) contractor who works with the city to "review personnel complaint investigations, take personnel complaints about the Police Department from people who do not feel comfortable going directly to the Department, and interact with community members and organizations." In California, the [OIR Group](#) is one of the most widespread independent police auditor providers working with Cities of: Anaheim, Pasadena, Davis, San Diego, Palo Alto, Santa Monica, Oakland, Burbank, Santa Rosa and Vallejo. They also have worked with Chicago, Denver, Spokane, Madison (WI), and Portland.

There are, however, numerous instances of IPAs collaborating or reporting to Commissions and Citizen Review Boards. In Los Angeles County, for example, the Office of the Inspector General works closely with the Sheriff Civilian Oversight Commission. In the cases of the Cities Pasadena, Anaheim, and Davis, the IFP and Citizen Police Review Board/Commission work in collaboration in an advising capacity.

Requested Case Studies:

The City of Pasadena has a [Community Police Oversight Commission](#) that was created in October of 2020 and has yet to meet or public agendas. In February 2021, the City of Pasadena was actively recruiting, via RFP, an Independent Police Auditor (IPA) to advise the newly-created 11-member Community Police Oversight Commission.

The City of Anaheim has a [Police Review Board](#) and contracts with the OIR group as its Independent Police Auditor. These entities collaborate on police oversight and an annual report. The IPA attends PRB meetings and both are responding to the Police Chief's request for more regular and timely feedback.

- [OIR Group IPA Report 2021](#) [*contains helpful context*]

The City of Davis - [History of Police Oversight](#): On July 11, 2017, following a discussion on police oversight, the City Council directed staff to hire a short-term consultant to:

- Review current system, historical documents, and recommendations from the [Human Relations Commission](#).
- Participate in up to five public or sponsored forums (sponsored forums could be for vulnerable groups who may not be willing to come to public forums) as content experts. Forums should be used to solicit community input on the goals of oversight, guiding principles, and key desired processes for oversight.
- Recommend 1-3 options that would seem to fit in Davis given size, history of policing, and community needs.
- Include model contract and scope of work for ombudsman/auditor and details of the role of any other entities and how they might change from what is currently in place.

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On June 12, 2018 the subcommittee of Mayor Davis and Councilmember Frerichs proposed the following:

1. Consider a recommendation that involves a dual oversight structure, including a revised and enhanced Independent Police Auditor position and the creation of a Davis Police Accountability Commission.
2. Direct staff to return to the City Council with documents necessary to create the Davis Police Accountability Commission and to recruit for an Independent Police Auditor to assist with concerns about the police department and to make recommendations to improve the delivery of police services.

The City's new [Police Accountability Commission](#) and [Independent Police Auditor](#) both began work in 2019.

What were the impacts of that decision based on how these entities were functioning before and after the decision to combine?

We have not found any examples of communities who have decided to combine these two positions.

QUESTION 2 - Examples of cities that have publicly elected police chiefs. What are the pros and cons of this model?

SUMMARY OF FINDINGS:

It is uncommon to have an elected police chief of a city. City police chiefs are most often appointed by the Mayor or City Council. County Sheriffs, on the other hand, are considered chief executives of the county police department and are, for the most part, elected by voters.

The following cities have elected Chiefs of Police:

- City of Santa Clara - City of Santa Clara is one city out of 482 incorporated cities in California that elect their police chief. This arrangement is required by the City Charter. Police chief is elected by voters and serves a 4 year term.
- Las Vegas Metropolitan Police Force (through Clark County Sheriff's office) - Chief executive of the agency is the sheriff of Clark County who is an elected official. That sheriff is elected by voters.

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- In Mississippi out of 275 police chiefs across the state, the vast majority are appointed. Just 11 elected positions (4 percent) remain: Houston, Aberdeen, Amory, Baldwin, Brookhaven, Corinth, Iuka, Nettleton, New Albany and Okolona.
- City of San Angelo, Texas: The City of San Angelo's original 1915 charter stated that the Chief of Police should be appointed. In 1941 citizens forcefully made the Chief of Police position an elected one through a petition which then led to an amendment to the charter which continues until today. In 2015 a Charter Review Committee recommended changing the position to an appointed one but when the proposition (Proposition 8) was put before San Anselmo voters in the November 2015 election, it failed by a wide margin of 73 to 27 percent. ([Source](#)) "San Angelo is the largest U.S. city that still elects its police chief." ([Source](#)) Longstanding San Angelo Chief of Police Timothy Vasquez lost his re-election campaign in 2016...while being investigated for allegedly taking more than \$130,000 in bribed from vendors. San Angelo is the only city in Texas that still elects its Chiefs of Police ." ([Source](#))
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- New Martinsville City, West Virginia: "Under consideration by New Martinsville City council is a change which would remove three elected positions to appointed jobs. One would include the chief of police, the other two would be the street commissioner and the city clerk." ([Source](#))

We have not found any instances where Independent Police Auditors are publicly elected. This is likely by design, as it is much more difficult to ensure the impartiality of political positions. The IPA can be appointed by a number of entities:

- The City Council (San José)
- Board of Supervisors (Fairfax)
- Contracted through the City via RFP (Davis & Santa Cruz)

Arguments for and against elected police chief model

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Because there are relatively few cities with elected Chiefs of Police, little academically reviewed research exists about the benefits and drawbacks of elected versus appointed Chiefs of Police. However, there has been considerable news coverage in local media outlets when these cities consider shifting from elected Chief of Police to appointed, and vice versa. Arguments from both sides of this debate in a number of geographical contexts have been captured below with corresponding sources.

Arguments for

- **Voter Agency:** Gives voters agency over their Chief of Police. This has been shown to be desirable to voters amidst times of distrust in government ([Source](#))
- **Accountability to Community:** The Chief of Police is accountable to voters through elective office. Thus the Chief of Police must be in touch with community and voter interests or risk being replaced in the following election. Elected Chiefs of Police are also susceptible to a recall if voters are unhappy with the chief's performance. ([Source](#))
- **Checks & Balances:** Supporters emphasize that "electing a Chief of Police provides a checks-and-balances system for internal city operations." ([Source](#))
- **Control over Police Department:** "An elected chief tends to have more control over a police department, which can be both good and bad. A chief, in theory, is in a better position to make decisions regarding the department compared to aldermen or a mayor" ([Source](#))
- **Somewhat Separate from Internal City Politics:** Because elected Chiefs of Police are beholden to the people, they are less beholden to navigating "the politics of a multi-member Board of Aldermen" or City Council. "Elected chiefs have four years of job security and can focus on the task of running a department, instead of pleasing board members." ([Source](#))

Arguments against

- **Impact on police force around election time:** Can create morale challenges, lapse in productivity and increased divisiveness among police forces who have to "choose sides" every four years. ([Source](#); [Source 2](#))
 - "We're already starting to see some divisiveness and tensions with the officers," Vasquez said about the expected effect the election will have on the esprit de corps of the department. "Like in the past elections, we'll see a slight decrease in performance and a slight increase in crime because we're not going to be totally focused and all of the chitter-chattering," Vasquez said. "We have to redouble our efforts and minimize it." ([Source](#))
 - "It creates a lot of morale problems," Turner said. "Every four years they're picking sides." ([Source](#))
- **Budgetary Concerns:** Since the chief does not report under the city manager, the police department can and has exceeded its annual budget. Can be unpredictable and hard to manage ([Source](#))

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- **Professional Quality Concerns:**
 - City staff have less control over the professional quality of elected candidates. ([Source](#)) There is the “risk of electing someone without adequate law enforcement experience.” ([Source](#))
 - “The biggest difference in elected or appointed Chiefs of Police can be qualifications. Appointed chiefs can be subject to qualifications required by a Board of Aldermen. Elected chiefs need only to live in the city and gather enough signatures to qualify to run. Voters may choose the most qualified candidate or they may choose the most popular.” ([Source](#))
- **Candidate qualifications:** Supporters of the move to an appointed chief note that it would allow for a wider, more qualified pool of candidates in the future. ([Source](#))
 - “Limited to someone who lives” in the city rather than seeking qualified Assistant Chiefs of Police and other candidates in other surrounding areas. ([Source](#))
- **Length of removal process:** It can take more time to remove an elected police chief. ([Source](#)) A recall process takes much longer than a City Manager or Mayor removing an appointed police chief. However, voters rarely have the ability to remove an appointed police chief.
- **Potential vulnerability to corruption:** “With accountability imposed only once every four years and for reasons that may have more to do with popularity than performance, temptation for corrupt behavior increases. Since last spring, half a dozen Louisiana elected chiefs have been arrested for a variety of alleged crimes.” ([Source](#))

QUESTION 3 - Examples of cities where the Mayor has the ability to fire the police chief. What are the pros and cons of this model?

Mayor-Led Removal of Chief of Police

Oakland

Removal: The Mayor has the power to remove the Police Chief. (Note: See explicit language about the Mayor’s power to appoint/remove the police chief in the City Charter’s Police Commission amendment):

“**Upon removal**, by the Commission, **by the Mayor**, or by the Mayor and the Commission acting jointly, or upon the notice of vacancy of the position of Chief of Police, the Mayor, in consultation with the Chair of the Commission, shall immediately appoint an Interim Chief of Police. “ (Source: [Oakland City Charter](#))

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Police Commission also has the power to remove the Police Chief with no fewer than 5 affirmative votes. See charter verbiage below:

“(b) Powers and Duties. The powers and duties of the [Police] Commission are as follows:

10. Notwithstanding any other provision of this Charter or any provision of the Oakland Municipal Code, and acting separately or jointly with the Mayor, remove the Chief of Police by a vote of no fewer than five (5) affirmative votes. If acting separately, the Commission may remove the Chief of Police only after adopting a finding or findings of cause, which shall be defined by City ordinance. The Commission must make its finding of just cause by no fewer than five (5) affirmative votes and must follow a process for notification, substantiation and documentation which shall be defined by ordinance. Upon removal, by the Commission, by the Mayor, or by the Mayor and the Commission acting jointly, or upon the notice of vacancy of the position of Chief of Police, the Mayor, in consultation with the Chair of the Commission, shall immediately appoint an Interim Chief of Police. No person appointed to the position of Interim Chief of Police shall simultaneously hold additional non-sworn employment with the City, or simultaneously serve as an elected official or officer of the City. Such appointment shall not exceed six (6) months in duration unless an extension to a date certain is approved by a majority vote of the Commission. The Commission, with the assistance of the City Administrator, shall prepare and distribute a job announcement, and prepare a list of at least three (3) candidates and transmit the names and relevant background materials to the Mayor. The Mayor shall appoint one person from this list, or reject the list in its entirety and request a new list from the Commission.” (Source: [Oakland City Charter](#))

Baltimore

Appointment: The Mayor has the power to appoint the Chief of Police subject to confirmation by City Council: “Except as otherwise provided in the Charter, the Mayor shall have the sole power of appointment of all municipal officers, subject to confirmation by the City Council by a majority vote of its members; provided the Council shall take action on the nomination within the first three regular meetings of the Council after the nomination is sent to it by the Mayor. If the Council fails to take action within this time, then the person nominated shall be, by operation of this subsection, confirmed by the Council.” (Source: [Baltimore City Charter](#))

Removal: Mayor has the power to remove the Chief of Police. “Removal – In general. **The Mayor shall have the power to remove at pleasure all municipal officers**, except members of boards and commissions established by Charter or other law, appointed by the Mayor in the manner prescribed in this section and confirmed by the City Council; provided, however, that 06/14/21 -134- MAYOR ART. IV, § 6 appointees holding office pursuant to the provisions of the Charter relating to the Civil Service may be removed from office only in accordance with such provisions.” (Source: [Baltimore City Charter](#))

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Chicago

Latest police oversight update: Most recently adopted a compromise ordinance between the Empowering Communities for Public Safety Coalition and the Mayor to establish an elected civilian commission called the Community Commission for Public Safety and Accountability to give civilian oversight of the Chicago PD, the Civilian Office of Police Accountability, and the Police Board. “The ordinance, which passed 36 to 13, still gives a mayor the ultimate power to remove the superintendent, but there will now be a process that involves a commission hearing, the individual’s official response and a council vote.” ([Source](#)) “The ordinance also grants the commission the right to take a vote of no confidence in a superintendent, chief administrator, or police board member, though their removal ultimately requires a two-thirds vote by the city council, as well as, in the case of the superintendent and police board members, action by the mayor.” ([Source](#))

Appointment: “The Mayor...appoints city officers, department commissioners or directors, and members of city boards and commissions.” (Source: [Chicago City Clerk](#))

Removal: The Mayor has power to remove the Police Superintendent. The new Community Commission for Public Safety and Accountability will have the power to “take a vote of no confidence in a superintendent, chief administrator, or police board member, though their removal ultimately requires a two-thirds vote by the city council, as well as, in the case of the superintendent and police board members, action by the mayor.” ([Source](#))

As of July 21, 2021: “The ordinance, which passed 36 to 13, still gives a mayor the ultimate power to remove the superintendent, but there will now be a process that involves a commission hearing, the individual’s official response and a council vote.” ([Source](#))

Detroit ([Link to City Charter](#))

Appointment: “The Board of Police Commissioners shall conduct a professional search with a reputable and qualified executive search firm or other equally qualified entity to identify candidates for Chief of Police. The Mayor shall appoint, subject to approval by City Council, a Chief of Police from a list of qualified candidates provided by the Board of Police Commissioners.” ([Sec. 7-805](#)) “Except as otherwise provided in this Charter or as may be required by law, Mayoral appointment of the Chief of Police, Fire Commissioner, Director of Planning and Development, Director of Human Resources and Corporation Counsel, is subject to approval by City Council. However, if the City Council does not disapprove the appointment within thirty (30) days after submission by the Mayor, the appointment is confirmed.” ([Sec. 4-111. Confirmation Authority](#)) “The Chief of Police serves at the pleasure of the Mayor.”

Removal: Since the Mayor appoints the Police Chief, the Mayor may also remove the Police Chief.

- “A city appointee who serves at the pleasure of his or her appointing authority may be removed by the appointing authority without cause.” ([C. Removal of City Appointees](#))

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- “A city appointee who is removable for cause may not be removed under this subsection without an opportunity for a hearing before the appointing authority.” ([C. Removal of City Appointees](#))

San Diego

Appointment: Council approves candidate put forth by Mayor.

Removal: “In addition to exercising the authority, power, and responsibilities formally conferred upon the City Manager as described in section 260, the **Mayor shall have the following additional rights, powers, and duties: ...Notwithstanding contrary language in Charter sections 30, 57 or 58, authority to dismiss the Chief of Police or the Chief of the Fire Department, subject only to a right for these city officials to appeal to the City Council to overturn the Mayor’s decision. Any such appeal must be filed with the City Clerk within 10 calendar days of receiving the notice of dismissal or termination from the Mayor. The City Clerk shall thereafter cause the appeal to be docketed at a regular open meeting of the City Council no later than 30 days after the appeal is filed with the Clerk;**” ([San Diego City Charter: ARTICLE XV Strong Mayor Form of Governance; Page 2](#))

Arguments for and against Mayor having ability to hire/fire Chief of Police?

Arguments for

- **Timeliness of Removal:** One of the most commonly emphasized benefits of a model where the Mayor can fire the Chief of Police is the timeliness of that decision. If the Police Chief commits a violation or comes under serious disapproval of the public, Mayors with the power to remove Chiefs of Police can make that decision quickly. This differs from elected models where voters can only remove a police chief either by recall or on election years.
- **Control over Budget:** If a Chief of Police reports to the Mayor, annual budgets must be approved by the Mayor’s office. In elected models, “since the chief does not report under the city manager, the police department can and has exceeded its annual budget.” This can be unpredictable and hard to manage. ([Source](#))
- **Relative Accountability to the Community via Mayor:** In models where Mayors have Chief of Police appointing power versus models where the City Manager appoints the Chief of Police, the position is considered more accountable to the community since the Mayor is an elected position, while City Manager positions are appointed.

Arguments against

- **Less Voter Agency than Elected Model:** In models where the Mayor has the power to hire and fire the Chief of Police, voters are, for the most part, unable to recall the Chief of Police because it is not an elected position. Communities with a longstanding history of elected Chiefs of Police have been shown to push back against attempts to shift to an appointed model, emphasizing that citizens should have the power to appoint a Chief of Police who directly serves them. ([Source](#))
- **Less Input on Decision-Making Around Hiring & Firing:** In models where the Chief of Police is hired and fired by the Mayor those decisions can be impacted by the interpersonal relationships between those two positions. In models where the City Manager, City Council and/or a Board of Police Commissioners have a say, these decisions are less influenced by one-on-one interpersonal dynamics. [Police Chief Crystal Moore's firing in Latta, South Carolina](#) which prompted a proposed shift in government structure is a good example of this.

Question 4 - Examples of cities where voters can recall a Police Chief or an IPA? What is the process for recall? How is a new Police Chief or IPA selected?

Cities where voters can recall a Police Chief, process for recall and selection of new Police Chief

- **City of Santa Clara** - Chief of Police can be recalled by voters since they are elected according to state law: "There are hereby reserved to the electors of the City, the powers of the initiative and referendum and of the recall of municipal elective officers. No primary election shall be held for municipal officers." ([source](#))
 - Process for recall:
 - Selection of new Police Chief:
- **Las Vegas Metropolitan Police Force** - Sheriff ([State Legislation on Recalling State & County Public Officers](#)): "Every public officer in the State of Nevada is subject to recall from office by the registered voters of the State or of the county, district or municipality that the public officer represents, as provided in this chapter and [Section 9 of Article 2](#) of the Constitution of the State of Nevada."

Most commonly, recalls associated with law enforcement target the removal of county sheriffs rather than municipal Chiefs of Police. However, in certain states where any public officer is

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subject to recall, city residents have the option to recall their police chief. In the state of California, only “elective officer[s] of a city, county, school district, community college district, or special district, or a judge of a trial or appeals court” are subject to recall by voters, unless a county or city charter provision provides for recall. ([Source](#)) In states like Nevada and Oregon, every public official is subject to voter recall regardless of whether they are elected by voters.

Cases of recalls initiated for the removal of municipal Chiefs of Police are quite rare as compared to recalls initiated for County Sheriffs. This is likely because many City Charters allow for the recall of elective officials, where City Police Chiefs are rarely voter-elected and most often appointed by the City Manager, Mayor or City Council depending on the city’s governance structure. The recall verbiage of Oakland, Berkeley, San Francisco, Anaheim, Pasadena & Detroit explicitly notes that “elected city officers” are subject to recall by voters, of which the Chief of Police is not one.

States & Recall Policies

California: “Elective officer of a city, county, school district, community college district, or special district, or a judge of a trial or appeals court. **County and city charter provisions providing for recall are not affected by state provisions.**” ([Source](#))

Nevada: “**Every public officer in the State of Nevada is subject to recall from office** by the registered voters of the state, or of the county, district, or municipality which he represents.” ([Source](#))

Michigan: “All elective officers except judges of courts of record.” ([Source](#))

Oregon: “Every public officer in Oregon.” ([Source](#))

Maryland: In Maryland there is no right of statewide recall, meaning voters do not have the ability to remove a state elected official from office until their term ends.

Cities where voters can recall an IPA

We have found no examples of this model. In theory, in states like Nevada & Oregon where every public officer is subject to a recall from office by voters (as per the state constitution), the IPA could be recalled by voters.