

# Resolution No. 892-2021

By Council Member Kazy

## AN EMERGENCY RESOLUTION

Strongly opposing Issue 24, the initiated proposal to amend the Charter regarding police reform and further, strongly supporting the significant and positive police reforms that continue to be made by the Safety Department and Division of Police under the Federal Consent Decree.

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WHEREAS, at the election on the November 2, 2021, voters will decide on Issue 24, which proposes to amend certain Charter sections and enact new Charter sections that will, among other things, establish an unelected group of 13 Cleveland residents as a Community Police Commission that would have final authority on disciplining police officers; and

WHEREAS, this unelected group of people without police training or expertise would also have final authority over police policies, applications and examinations for police recruits and over police policies, procedures and training for police officers; and

WHEREAS, this unelected group of people without police training or expertise would interview and recommend candidates for police commander and inspector general; will be able to review all current officers' records and be able to get information on officers whose career or personal history may show violence or misconduct; and

WHEREAS, this unelected group of people without police training or expertise will have access to un-redacted complaints against officers as well as un-redacted files of all closed investigations and will direct the Civilian Police Review Board to investigate the conduct of any officer if a lawsuit has been either filed or simply threatened; and

WHEREAS, this unelected group of people without police training or expertise shall have a budget of no less than one million dollars with annual adjustments, plus at least 0.5% of the amount budgeted for the Division of Police for grants, and will be authorized to spend money and enter into contracts without legislative branch or executive branch authority or oversight; and

WHEREAS, the unelected Community Police Commission will have immense power but there will be no checks or balances on that power; its orders must be followed, or it can file for injunctive relief; failure of any city officer or employee to follow orders or failure to cooperate is cause for termination; and

WHEREAS, the proposed amendment specifically states that the section governing the Community Police Commission supersedes and controls over any previously adopted sections of the Charter, the Codified Ordinances or collective bargaining agreements where conflicts exist; and

WHEREAS, this means that the proposed Community Police Commission section would take precedence over long-standing Charter provisions regarding Civil Service, control of the Police force, Mayoral appointing authority, and the authority of the Law Director; and

WHEREAS, the current Charter sets forth a distribution of authority: for example, the administration cannot make a purchase over \$50,000 without Council authority; the Mayor proposes a budget with justification and the Council examines and makes desired changes; the Civil Service Commission controls the classification of employees and testing of applicants; however, the proposed Community Police Commission section would eliminate this distribution of authority, as it pertains to the Department of Public Safety and the Division of Police; and

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WHEREAS, the proposed amendment also changes the current Charter in that the Office of Professional Standards no longer would report to the Safety Director, but instead to the Civilian Police Review Board; the Civilian Police Review Board, not the Safety Director, would appoint investigators and the Administrator of the Office of Professional Standards; the Safety Director and the Chief of Police no longer have authority over their officers and employees but must cede that authority to the Civilian Police Review Board; and

WHEREAS, the scope of investigations of the Office of Professional Standards would be expanded to go beyond matters in a complaint and it would be allowed to investigate criminal complaints; and

WHEREAS, the proposed amendment expands the authority of the Civilian Police Review Board to allow it on its own to initiate investigations and recommend resolutions of alleged misconduct of police officers and Division of Police employees; neither it nor the Office of Professional Standards may choose not to investigate allegations against a police officer or Division of Police employee even if investigations are or have been conducted by the Division of Police or another non-federal law enforcement agency; and

WHEREAS, the Safety Director and Chief of Police must defer to the Civilian Police Review Board and assume it is correct in recommendations of discipline of an officer; the Chief of Police and the Safety Director must justify a lesser discipline with “clear and convincing evidence”; the Civilian Police Review Board may overrule and order the Chief of Police and the Safety Director to establish higher discipline, up to and including termination; and

WHEREAS, under the proposed amendment, the disciplining of officers and employees, and the suspension of officers, is no longer determined by the Safety Director and Chief of Police but is instead “subject to the higher authority” of the Civilian Police Review Board and the Community Police Commission; and

WHEREAS, the Office of Professional Standards and the Civilian Police Review Board together must have a budget of at least 1% of the police force budget, which budget is overseen by the Administrator of the Office of Professional Standards with guidance from the Civilian Police Review Board – again, with no legislative branch or executive branch authority or oversight; and

WHEREAS, both the Community Police Commission and the Civilian Police Review Board may contract with outside lawyers, without legislative or executive branch authority or oversight and at the City Law Department’s expense, if they deem a conflict exists; and

WHEREAS, the City’s Safety Department and Division of Police have been making great strides pursuant to the Federal Consent Decree that has been in force and effect since 2015 and will stay in effect until the City shows substantial compliance for two years; and

WHEREAS, between 2011 and 2014, prior to entering the Consent Decree, there were 80 police-involved shootings; in 2011, five of those shootings ended in fatalities; there were 4 fatalities each in 2013 and 2014; in the first five years of the Consent Decree, from 2015 through 2020, there were a total of 24 police involved shootings; in 2016, none of the shootings was fatal; there was one fatality each in 2018, 2019 and 2020; and

WHEREAS, the number of complaints to the Office of Professional Standards averaged 550 complaints per year between 2010-2014; since the Consent Decree went into effect the number of complaints has dropped by 50% - from a high of 294 complaints in 2015 to between 220 and 260 complaints each year between 2016 and 2020; and

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WHEREAS, this Council believes that the proposed amendment will cause officers to leave the Division of Police, and drive potential officers to apply elsewhere, dire considerations when the Division is already down 150 officers; and

WHEREAS, this Council further believes that the City must be permitted to continue to develop effective and positive reforms under the Consent Decree and not cede authority to untrained, inexperienced citizens; and

WHEREAS, the proposed amendment was not initiated by a majority of Cleveland residents, but was driven and promoted in large part by entities outside Cleveland and outside Ohio, with \$113,619.34 - or about 97% of the total contributions - coming from those outside sources; and

WHEREAS, if the proposed amendment is approved by voters, the only way to make changes to it is by a vote of the people at a different election; and

WHEREAS, this resolution constitutes an emergency measure for the immediate preservation of public peace, property, health or safety, now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That this Council strongly opposes Issue 24, the initiated proposal to amend the Charter regarding police reform and further, this Council strongly supports the significant and positive police reforms that continue to be made by the Safety Department and Division of Police under the Federal Consent Decree.

Section 2. That this resolution is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its adoption and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

BK:rns  
10/11/2021  
FOR Council Member Kazy

