



Throughout its history, Citizens Union has supported periodic comprehensive review of the New York City Charter absent a political agenda via the appointment of an independent Charter Revision Commission. Charter Revision Commissions ensure that city government is operating effectively, efficiently and in the public's best interest. This process and the recommendations that come out of it must strengthen the integrity and transparency of government institutions so that public confidence is greater, and New Yorkers are able to better participate in governmental decision-making.

We make the following recommendations to the 2019 Charter Revision Commission in response to the Preliminary Staff Report published in April 2019.

ELECTIONS AND REDISTRICTING

Citizens Union urges the Commission to recommend ranked choice voting (RCV) for New York City elections. Ranked choice voting allows voters to rank their preferences for candidates, rather than only voting for one candidate. New York City election law provides that, unless a candidate running in a citywide primary receives 40% of the vote, a runoff election is required. Runoff elections are held at a great financial expense to New Yorkers; the 2013 runoff election for the office of Public Advocate is estimated to have cost New Yorkers \$13 million, more than the entire four-year budget of the office of Public Advocate. In addition, in a city marked by terrible voter turnout in even high profile elections, runoff elections have abysmal voter participation, leading to a tiny percentage of eligible voters selecting citywide candidates. The voters who turn out in runoff elections tend to be older, richer and whiter and not representative of New York City as a whole. In other cities where instant runoff voting has been implemented it has led to both increased voter turnout and participation. Finally instant runoff voting has led to more diverse candidates – by gender and race – in cities where it has been implemented. The diversity of the New York City Council has improved over years, but with a mere 11 female Councilmembers out of 51, it is not at all reflective of the city it serves. New York needs instant runoff voting and we strongly urge you to develop a ballot proposal to bring it to the voters this fall.

There are many forms that Ranked Choice Voting can take. Citizens Union makes the following recommendations to the Commission.

- Citizens Union recommends that the Commission support and propose RCV for all primary and general election races in New York City. The benefits of RCV are consistent

for all elections, and it is easier to have one consistent form of voting on the ballot rather than two.

- Citizens Union recommends that the Commission support and propose a RCV system where all candidates remain in play and the lowest vote-getter's votes are distributed, then the next lowest and so on, until one candidate gets a majority.
- Citizens Union recommends that the Commission support and propose a RCV system where the number of candidates that can be ranked is tied to the physical limit of the machines.
- Citizens Union recommends that the Commission support and propose a RCV system with a 50% threshold for victory, as it makes sense to adhere to a majority vote decision.

CIVILIAN COMPLAINT REVIEW BOARD

Since 2008, Citizens Union has been exploring the issue of police accountability with particular emphasis on establishing clarity and consistency across the police oversight system, and strengthening the Civilian Complaint Review Board (CCRB) to bolster independent oversight of the police.

Citizens Union strongly urges the Commission put forward a proposal that requires the Police Commissioner to provide to the CCRB and respondent the rationale when diverging from CCRB disciplinary recommendations. A 2012 memo of understanding (MOU) between the CCRB and NYPD requires that the Police Commissioner notify the CCRB in writing with "a detailed explanation of the reasons for deviating from CCRB's recommendation including but not limited to each factor the Police Commissioner considered in making his determination." Citizens Union was involved in the negotiation of this MOU and believes this requirement would provide an appropriate and meaningful expansion of the CCRB's independent oversight of the NYPD.

To ensure appropriate disciplinary responses to misconduct, Citizens Union also recommends expanding the responsibilities and disciplinary options of the Police Commissioner to allow for more narrowly tailored punishment and better compliance with CCRB recommendations.

Finally, to safeguard the independence and integrity of CCRB investigations and to standardize the effects of participation in an investigation for complainants, witnesses, and officers we recommend a "zero tolerance" policy for false official statements and granting the CCRB authority to prosecute officers who lie under oath during the course of its investigations.

CONFLICTS OF INTEREST BOARD

Citizens Union believes the current appointment structure of the Conflicts of Interest Board (COIB) should be maintained, with mayoral appointment and advice and consent by the City

Council.¹ As we have observed the functioning of the COIB over the past several years, we have found the Board has operated effectively and independently, and are hesitant to change what is working well. In addition, we note that virtually the entire activity of the COIB relates to Executive Branch employees. The Board does not have the same City-shaping role as, say, the City Planning Commission and the Board of Standards and Appeals, both of which we believe should have multiple appointing authorities.

CORPORATION COUNSEL

Citizens Union opposes establishing a set term for the Corporation Counsel. We are concerned that this would be a move toward politicizing the office and the Law Department. The Corporation Counsel should be able to serve as other commissioners, so as to develop a continuity of leadership within the department and relationships among city entities and agencies.

We recognize the Commission also is considering having the Corporation Counsel be subject to the advice and consent of the City Council. While Citizens Union has no position on that issue, we note that providing such advice and consent would give the Council a role analogous to the one it has regarding the Commissioner of the Department of Investigation, who also serves with no term limit.

PUBLIC ADVOCATE

Citizens Union recommends the Charter empower the Public Advocate to request and receive documents from city agencies. This should be achieved in the Charter by mandating that agencies provide documents to the Public Advocate when requested, rather than requiring the public advocate go through the relevant council committee. Exceptions to this currently in the Charter, namely those documents for which a claim of privilege may properly be raised or are being used by the Department of Investigations for use in an investigation, should be maintained as provided in Chapter 2, Section 24(j) of the Charter. Citizens Union does not recommend granting the Public Advocate subpoena power, as there are already many investigative agencies in New York City.

In addition, we recommend the Public Advocate be given access to data from the 311 call center. The 311 call center is the nation's largest municipal call center and the most centralized site of communications between residents and city government. The system is intended to field complaints and inquiries, and act as a communication network among city agencies. As the citywide ombudsperson – the only elected official tasked with addressing individuals' complaints on a global scale – it is essential to have access to information gathered by 311. From nowhere else can the Public Advocate assess the scope and scale of city service problems

¹ Citizens Union has reconsidered its position set forth in its 2010 charter report, reiterated in earlier testimony to this Commission.

so completely. 311 has an Agency Relations department, which works to exchange information about trends with city agencies, and there should be an explicit link between this work and the public advocate's.

BOROUGH PRESIDENTS

In addition to Citizens Union's recommendation below that the Borough Presidents receive a budget pegged to the City Council, we support granting each Borough President an appointment to the Board of Standards and Appeals (BSA). A Borough President's appointee would only vote on matters affecting that borough. The BSA, like the City Planning Commission (on which each Borough President already has an appointment), addresses important city policy matters, albeit generally on a smaller scale than does the Planning Commission. It is therefore appropriate to give the Borough President a voice in deciding matters in the BSA's purview. We recognize that the Board has geographic diversity among the boroughs, but that's not the same as a Borough President being able to pick someone of her/his choice to serve on the BSA. Citizens Union also supports the staff's effort to provide for more meaningful engagement of city agencies in borough service cabinets. A provision should be added to the charter requiring attendance by the designated agencies at each cabinet meeting.

CITY BUDGET

Citizens Union recommends that the Public Advocate, Borough Presidents, Conflict of Interest Board and Civilian Complaint Review Board receive budget protection. These offices and agencies are designed to be independent of the budget-setters: the Mayor and City Council. Indeed, these offices and entities act as a check and counterweight regarding aspects of city government. It is important that all these offices and agencies not fear that acting as they believe is warranted would cause the Mayor or Council to retaliate by limiting their budgets. Nor should they be subject to the Mayor and Council otherwise seeking to limit their effectiveness. The 1989 Charter Commission was aware of this issue in establishing the Independent Budget Office. The same reasoning would apply to the Public Advocate, Borough Presidents, COIB and CCRB.

We note that the Commission staff has distinguished between providing these entities with an independent or a guaranteed budget. We prefer that the budgets be guaranteed, pegged to an agency that is not designed to serve as a counterweight. For example, the COIB budget can be pegged to the City's Law Department budget. The budgets of the Public Advocate and Borough Presidents can be pegged to the City Council's budget. And, the CCRB's budget can be pegged to the budget of the Police Department.

Improving the form and function of city government is no small challenge, but it is one which Citizens Union believes is critical for the continued progress of our city. It is this challenge that frames Citizens Union's set of recommendations.