Enhancing Governmental Effectiveness and Ethics in Cincinnati
An Analysis and Recommendations by the National Civic League

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Final Report

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Introduction

Cincinnati's city government has experienced an evolution in its form and structure since adopting the council-manager form in the 1920's. State law and authority granted under the charter allow the council to convene a charter commission at any time. The charter has been amended more than thirty times since 1926. Cumulatively, these changes have allowed the mayor to exercise more influence than what is typically seen in council-manager governments, weakening both the city council and city manager and resulting in a less collaborative and professional approach to local governance.

In 2020, three members of Cincinnati's city council were indicted on corruption charges related to improper interactions with developers, including bribery. In 2021, a fourth member of council was indicted for deleting text messages that were deemed to be public records. These arrests and indictments constituted a major disruption for the city government of Cincinnati that has implications for the public's trust in government.

This report is intended to provide an analysis of the structure and governance of Cincinnati through an investigation of peer governments, interviews with key stakeholders, document analysis, and interviews with national experts. The goal of the investigation was to determine how provisions in the law and actions by public officials that alter the roles and responsibilities of Cincinnati's leadership may have weakened the city's governance structure and contributed to the corrupt acts and whether there are changes that might improve local governance and help protect the city from future corrupt acts.

Process and Methods

To explore how well Cincinnati is functioning under its current structure, we used a mix of methodologies. First, we examined the current structure of government in Cincinnati by analyzing the city charter and ordinances, other official documents and news articles. Next, we interviewed 20 key stakeholders, including current and past city employees, elected officials, community leaders, members of the business community and members of the media. Interviews with stakeholders took place in July-August 2021, generally lasting 30 minutes with twelve key questions and an assurance that quotes would not be attributed. Some of these stakeholders were recommended by Seasongood Foundation Trustees and others were identified by the research team.

A major part of our analysis was a comparison of Cincinnati to a set of peer cities from across the country. Seven cities were selected for an in-depth comparison to Cincinnati regarding their governance structures and practices. This information was combined with national research on local governance, ethics and economic development gathered through a review of the literature and conversations with national experts.

Background

There are two major forms of municipal government in the United States. The mayor-council form, in its pure form, has an elected executive mayor and an elected council that is responsible for legislative functions. Similar to the structure of federal and state governments, this form of government has a separation of legislative and executive authority. The council-manager form is the other major form of municipal government. Considered a reform government due to its birth during the Progressive Era as an antidote to political machine corruption, the council-manager form is modeled after the structure of U.S. corporations, and has a "unified" structure, with both legislative and executive powers under the direction of a city council. Cincinnati was among the early adopters of the council-manager system.

Although the early proponents of council-manager form touted its lower risk of corruption due to the separation of the manager from partisan politics, there were no empirical studies of municipal corruption in the U.S. until 2019. In an article published in *Public Administration Review*, a top-tier peer-reviewed research journal, Nelson and Afonso[1] find that the council-manager form provides a 57 percent lower risk of corruption than the mayor-council form. In their article, Nelson and Afonso collected data on all U.S. municipalities with populations of 10,000 or above and searched for corruption cases that occurred between 1990 and 2010; they measure corruption as corruption convictions. The only other variable in the model that was significantly related to corruption convictions was the city's poverty rate.

The council-manager form is the most popular form of municipal government in the United States in communities with populations of at least 10,000 (see Table 1). In large cities, those with populations of at least 100,000, the council-manager form is even more popular, making up 64% of these municipal governments, though when the population is 250,000 and above, mayor-council governments outnumber council-manager, making up 57% of cities.

Table 1: Municipal Form of Government Distribution in the U.S.[2]

	10,000 and Above		100,000 and Above	
Form of Government	Frequency	Percent	Frequency	Percent
Mayor-Council	1,245	36.0	98	35.3
Council-Manager	1,824	52.8	178	64.0
Commission	47	1.4	2	0.7
Town Meeting	164	4.7	0	0.0
Other	177	5.1	0	0.0
Total	3,457	100.0	278	100.0

Given Cincinnati's structural evolution, some may assume that cities frequently modify their government forms. Nationally, this is not the case. Since 1990, in U.S. cities with at least 10,000

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[1] Nelson, K.L. and Afonso, W.B. (2019), Ethics by Design: The Impact of Form of Government on Municipal Corruption. Public Admin Rev, 79: 591-600. https://doi.org/10.1111/puar.13050

[2] Source: Dataset compiled by co-author, Kimberly Nelson.

residents, there have been 132 attempts to change the form of government between council-manager and mayor-council. For context, there are more than 3,000 U.S. municipalities with populations of at least 10,000. In the same time period, in cities with populations of at least 100,000, there have been only 34 attempts to change between council-manager and mayor-council forms. Of those 34 attempts, only 15 have successfully changed their form of government. In four cities there were multiple attempts to change the form of government during that period—Hartford, Connecticut (1994 and 2004); Pueblo, Colorado (2009 and 2017); Sacramento, California (2014 and 2020); and Spokane, Washington (1996 and 1999).[3] Of the 15 successful changes to the form of government, eleven changed from council-manager to mayor-council form and four changed from mayor-council to council-manager form.

While wholesale shifts from one form of government to another occur infrequently, incremental change is more common, particularly in states that provide structural home rule powers to their municipalities. Some states allow elected boards to make structural changes without seeking approval from citizens, but in many cases, as in Cincinnati, voters weigh in on charter changes through referenda. It is important to note that these referenda typically have very low turnout. So, the choice on whether or not to amend the charter is left to a tiny percentage of the population—in some cases leading to a change based on only a few dozen votes.

Cincinnati's Charter Changes

Since Cincinnati enacted the council-manager form of government, voters have supported numerous changes to the charter, creating what can be considered a hybrid form of government. While retaining the council-manager nomenclature, including naming the city manager as the city's chief executive, the current form contains elements of both the council-manager and mayor-council forms of government. Some of these elements are detailed below.

In 1999, voters approved Issue IV, which substantially changed the role of the mayor. These provisions took effect in 2001. The mayor, who previously was selected by council, became a directly elected position. A separately elected mayor in the council-manager form in and of itself, is not a departure from common practice nor does it lead to a hybridization of form. In a majority of council-manager cities in the United States, the mayor is elected at-large.

The mayor was also granted the authority to initiate hiring and firing of the city manager with approval of a majority of council. The charter states that "Prior to the vote (of council), the mayor shall seek the advice of council, to include the opportunity for council to interview the candidates considered by the mayor. Should the council not approve the recommendation of the mayor, the mayor may submit another recommendation or institute a new search." (Article III, Section 2) This does not negate the fact that the mayor has a significantly greater role in the selection of the city manager than what was envisioned in the inception of the council-manager form of government.

The manager appointment system in Cincinnati is a substantial departure from what is typically seen in the council-manager form of government, in which the mayor and council together select

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[3] Source: Data compiled by the co-author, Kimberly Nelson. Municipal form of government change contests in the United States, 1990-2021.

the manager, and is more in line with what is seen in a mayor-council system with an executive mayor.[4] Since the mayor is the one who has the power to initiate the firing of the manager, this provision makes the manager primarily accountable to the mayor. By doing so, the mayor is more than a "first among equals." allowing for the potential erosion of unified legislative and executive powers that are the hallmark of the council-manager form.

In addition to the manager appointment authority mentioned above, other executive functions assigned to the mayor include veto power, the ability to appoint the vice-mayor without the advice and consent of council, and the ability to take control of the police department, with council consent, during an emergency.

Cincinnati's mayor also has more involvement in the budgeting process than in most council-manager systems. The city's charter designates the manager with preparing, presenting, and executing the council-approved budget. However, the manager presents the budget to the mayor for review and comment and the mayor then forwards the budget to council. Here are two quotes from the mayor's 2020 budget letter that illustrate this point:

> "Dear Members of Council:
>
> I transmit the budget for your consideration, together with Manager Duhaney.
> …
> This budget reflects my values. I look forward to working together to find common ground and pass a budget that we can all be proud of."

All of these features combined mean that Cincinnati has developed a hybrid form of government, as described in research by Kimberly Nelson and James Svara.[5] Similar hybrids are found in only a few other cities, including Kansas City, Missouri and Stockton and San José, California. On paper, Cincinnati retains the designation of council-manager form because it does preserve several key characteristics of the form, but the additional executive powers reserved for the mayor have eroded the key characteristics of this form of government, reducing the influence of both the city council and city manager.

In addition to the above-mentioned executive powers, Cincinnati's mayor has significantly more legislative powers than what is typical in the majority of either council-manager or mayor-council cities. Among other powers, the mayor chairs council meetings, sets the council agenda, assigns legislation to committees and assigns council members to committees. While recent changes have allowed the council to call executive sessions, rather than depending on the mayor to call such sessions, this has not occurred and has substantially affected the council's ability to play a stronger role in oversight of the city manager and review of economic development proposals.

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[4] In only 24% of mayor-council cities with populations of 10,000 or above does the mayor alone appoint the CAO. Source: co-author dataset.

[5] Nelson, K. L., & Svara, J. H. (2010). Adaptation of Models Versus Variations in Form: Classifying Structures of City Government. Urban Affairs Review, 45(4), 544–562. https://doi.org/10.1177/1078087409356349

Concerns Related to Ethics in Cincinnati

The arrests and subsequent convictions of sitting Cincinnati city council members in 2020 may be partially related to unclear roles and lines of authority. Research on public sector corruption points to a number of factors related to institutional arrangements that could lead to a higher propensity for corrupt acts by elected officials and administrators. Essentially, corruption risk is higher when any of the following conditions exist, particularly when they occur in concert with one another.[6]

- Government officials or employees can commit a corrupt act, due to access, opportunity, and/or lack of oversight.
- Political incentives exist to commit a corrupt act (for example, bribes can be delivered in the form of campaign contributions).
- Perceived risk of being caught in a corrupt act is low.
- Perceived penalties for being caught in a corrupt act are low.
- Those seeking to influence government officials believe that they will be successful using unethical means.

Until voters approved new charter amendments in May of 2021, there was no way to remove a Cincinnati council member who was indicted for public corruption. This served to limit the consequences from the corrupt act. In May, voters approved two charter amendments that allowed for the suspension of a council member who is indicted for public corruption and removal upon conviction. Alternatively, the city solicitor can appoint a special prosecutor can be appointed to remove a council member who is indicted. Another part of the charter amendments calls for mandatory ethics training for elected officials. Prior to 2021, Cincinnati had limited options for dealing with corrupt acts by local elected officials.

Certain characteristics of the council-manager form of government related to professionalism and accountability provide protection from some of the elements listed above. Professional managers receive training in ethics, financial management, and internal controls. A basic way to reduce opportunities for corrupt acts is to institute proper internal controls for handling money. Oversight over the administration is greater in the council-manager form than the mayor-council form. In the council-manager form, the council has direct oversight over the manager, but this is not the case in the mayor-council form.

Among the local stakeholders interviewed for this project, there was general agreement that the public corruption charges against three city council members within a ten-month period in 2020 has eroded trust in city government and the city council. As one observer put it, "Trust is at an all-time low." "The arrests were a wakeup call," said another source.

There were a variety of opinions on the question of whether the public corruption charges against council members were a sign of an underlying systemic problem. Some interviewees

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[6] Nelson, K.L. and Afonso, W.B. (2019), Ethics by Design: The Impact of Form of Government on Municipal Corruption. Public Admin Rev, 79: 591-600. https://doi.org/10.1111/puar.13050

ascribed the situation to a few bad actors, while others attributed the public corruption incidents to the lack of experience and knowledge of individual councilmembers. Several respondents recommended better training or orientation sessions for new councilmembers.

To the degree that ethical lapses relate to economic development in Cincinnati, insights from several national experts indicate that the involvement of Cincinnati's elected officials early in the review of development arrangements is problematic. Early involvement of elected officials in negotiating economic development deals was described by one expert as "really dangerous — both for them and the process." A second expert said that his city makes it clear to developers that, once negotiations have started, "communications with elected officials are not allowed." The expert continued that the reason for this provision is to protect the elected officials from potential violations of ethical and legal standards.

Comparative Analysis

For the comparative analysis, we sought out information about institutions and practices. Institutionally, we were interested in how each government operates under the council-manager form, including roles and responsibilities of key participants, election methods and terms, and processes for removing elected officials from their positions. Given that corruption and ethics are also areas of interest, we researched how each community addressed corruption and ethics in their policies and ordinances as well as whether an independent commission existed to accept ethics complaints about the local government. In addition to interviews with officials from the comparative cities, we also gathered input from national experts on local governance, ethics and economic development, which we integrated into our findings and recommendations.

Seven cities were selected for this analysis based on the following criteria: council-manager form of government, population range between 200,000-500,000, and geographic diversity. The cities in the sample are listed in Table 2 with their demographics for comparison. For each city, we examined charters, statutes, and municipal codes and other city documents, researched news articles about the cities, and spoke to a small sample of community leaders.

Table 2: Comparative Cities Analyzed[7]

Cincinnati, Ohio	Corpus Christi, Texas
Population: 303,940	**Population:** 327,144
Population Density: 3,809 residents/mi^2	**Population Density:** 2,049 residents/mi^2
Average Age: 32.2	**Average Age:** 35.2 years
Median Household Income: $40,640	**Median Household Income:** $56,333
Percent Below Poverty Line: 26.3%	**Percent Below Poverty Line:** 16.1%
Demographic Breakdown:	**Demographic Breakdown:**
White: 50.7% Black: 42.3%	White: 89.59% Black: 4.08%
Hispanic: 3.8% Other/mixed race: 7%	Hispanic: 63.2% Other/mixed race: 6.33%

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[7] Source: U.S. Census Bureau Quick Facts, 2019 estimates.

Des Moines, Iowa	Durham, North Carolina
Population: 210,723	**Population:** 287,865
Population Density: 2,390 residents/mi^2	**Population Density:** 2,565 residents/mi^2
Average Age: 24.2 years	**Average Age:** 33.9 years
Median Household Income: $53,525	**Median Household Income:** $58,905
Percent Below Poverty Line: 16.1%	**Percent Below Poverty Line:** 15.9%
Demographic Breakdown:	**Demographic Breakdown:**
White: 75.5% Black: 11.36%	White: 49.18% Black: 38.65%
Hispanic: 13.6% Other/mixed race: 12.83%	Hispanic: 13.8% Other/mixed race: 12.17%
Long Beach, California	**Tacoma, Washington**
Population: 456,154	**Population:** 221,259
Population Density: 8,997.9 residents/mi^2	**Population Density:** 4,447 residents/mi^2
Average Age: 34.9 years	**Average Age:** 35.7 years
Median Household Income: $63,017	**Median Household Income:** $62,358
Percent Below Poverty Line: 16.8%	**Percent Below Poverty Line:** 14.6%
Demographic Breakdown:	**Demographic Breakdown:**
White: 51.23% Black: 12.67%	White: 64.81% Black: 10.45%
Hispanic: 42.6% Other/mixed race: 36.1%	Hispanic: 12% Other/mixed race: 24.74%
Tallahassee, Florida	**Wichita, Kansas**
Population: 197,974	**Population:** 391,352
Population Density: 1,970 residents/mi^2	**Population Density:** 2,421 residents/mi^2
Average Age: 26.9 years	**Average Age:** 35 years
Median Household Income: $45,734	**Median Household Income:** $52,620
Percent Below Poverty Line: 26.4%	**Percent Below Poverty Line:** 15.9%
Demographic Breakdown:	**Demographic Breakdown:**
White: 56.23% Black: 35.02%	White: 74.31% Black: 10.95%
Hispanic: 6.7% Other/mixed race: 8.75%	Hispanic: 17.2% Other/mixed race: 14.74%

City Councils[8]

Cincinnati's city council is similar in size to those of the selected peer cities (see Table 3). Councils range in size from five to nine members, with an average of seven members. So, while Cincinnati is at the top of the range, its size is not far afield from the others. Where Cincinnati does differ from most others is in the election method of council members. The council-manager form, as first envisioned, promoted at-large elections of council members to dilute the power of political machines. A series of legal challenges in the 1970's and 1980's seeking greater minority electoral representation in local governments led to a number of at-large cities changing to district elections or mixed systems. Even when not compelled by the courts, some cities instituted district or mixed systems (both district and at-large seats) for council member

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[8] Tallahassee's elected board is called a commission. For consistency's sake, we use the term council for all of the elected boards in the comparison set.

elections, seeking greater racial diversity and a better representation of the differences within a city.

In the comparison cities, only one city other than Cincinnati has retained a fully at-large system of council elections—Tallahassee, Florida. Two others—Long Beach and Wichita—have all district elections. The four others—Corpus Christi, Des Moines, Durham, and Tacoma—have a mix of district and at-large elections. There is no evidence from research that indicates whether the different options for council elections result in different performance outcomes.

Table 3: City Council Comparison

City	State	Council Size	# Elected by District	# Elected At-Large	Term	Term Limits	Presiding Officer
Cincinnati	OH	9	0	8	2	4	Mayor
Corpus Christi	TX	8	5	3	2	4	Mayor
Des Moines	IA	6	4	2	4	None	Mayor
Durham	NC	6	3	3	4	None	Mayor
Long Beach	CA	9	9	0	4	3	Mayor
Tacoma	WA	8	5	3	4	2	Mayor
Tallahassee	FL	5	0	5	4	None	Mayor
Wichita	KS	6	6	0	4	2	Mayor

Over time, Cincinnati has a number of variations in the terms and term limits of council members. Presently, council members are elected for two years and are limited to four terms. Corpus Christi is the only comparison city that shares the two-year term length and term limits used in Cincinnati. Three cities in the sample, Des Moines, Durham, and Tallahassee have four-year terms with no term limits. The others also have four-year terms for council members but limit the number of terms to between two and three. The presiding officer at council for all comparison cities is the mayor. This is typical in the council-manager form but not usually the case in mayor-council cities. Cincinnati stands apart in that the mayor remains a member of council while having some powers of an executive mayor, which are detailed in the next section.

Mayoral Authority

Although the council-manager form, as initially promoted by the National Civic League and others, called for the mayor to be selected by and from the members of council, mayors are elected at-large in most council-manager cities today. All the comparison cities, like Cincinnati, elect their mayors at-large (Table 4). In some cases, states require all mayors to be elected. In other places, cities have opted to elect the mayor rather than designate council selection or highest vote getter. Cincinnati's mayor has considerably more authority than the average council-manager mayor, both in terms of legislative authority and executive powers.

Table 4: Mayoral Authority

City	State	Appoints Manager	Removes Manager	Mayor Votes on Council	Mayor has Veto Power	Term	Term Limits	Appoints Council Committee Members	Who Can Call Special Sessions of Council?
Cincinnati	OH	Mayor w/ council approval	Mayor w/ council approval	No	Yes	4	2	Mayor	Mayor or 2 council members
Corpus Christi	TX	Council	Council	Yes	Yes	2	4	Council	Mayor, manager, or 4 council members
Des Moines	IA	Council	Council	Yes	No	4	None	No mention in code	Mayor or majority of council
Durham	NC	Council	Council	Yes	No	2	None	Mayor	Mayor, manager, 4 council members
Long Beach	CA	Council (Mayor can veto, subject to 2/3 vote override)	Council (Mayor can veto, subject to 2/3 vote override)	No	Yes	4	3	Mayor	Mayor or 5 members of council. (Executive sessions limited to personnel issues.)
Tacoma	WA	Council	Council	Yes	No	4	2	No mention in code	Mayor or 3 council members.
Tallahassee	FL	Council	Council	Yes	No	4	None	Council	Mayor, manager, or 2 council members
Wichita	KS	Council	Council	Yes	No	4	2	Mayor (must be approved by 4 members of council)	Mayor or 4 council members

In many larger cities, mayors in the council-manager form devote a considerable amount of time to their role as mayor. While it is rare for a council-manager mayor to be formally designated as full-time (and therefore disallowed from having other employment), mayors often received a generous salary and benefits. In the comparison cities, only Corpus Christi and Durham pay their mayors a nominal salary of less than $30,000 annually. Des Moines pays their mayor just under $60,000 per year. The remainder, including Cincinnati, pay their mayors more than $100,000 annually.

A high salary does not necessarily confer greater formal authority, however. Aside from Cincinnati, the city in the sample that confers the mayor with the greatest additional authority is Long Beach. The mayor has a regular veto and can also veto council's choices to hire or fire the city manager. However, only Cincinnati grants the mayor the authority to select the manager, though council must still approve the selection. In the council-manager form, it is rare for the mayor to have such a substantial role in the hiring and firing of the manager. In cities with populations of 10,000 or over, only about 2% grant the mayor this authority.

Cincinnati's mayor has no vote on council. Most of the mayors in the sample do have that authority. In the council-manager form the mayor is usually considered a member of council and so either has a vote, or votes to break a tie. In fewer than 3% of council-manager cities with a minimum population of 10,000 does the mayor have no vote at all. Veto power is also rare in the council-manager form, with only about 9% of cities with populations of 10,000 or greater granting the mayor that authority. This is consistent with the sample of comparison cities, with only two granting the mayor veto power.

Perhaps most significantly, the mayor in Cincinnati has considerable authority to manage the legislative process. Usually, the manager will set the agenda for council meetings based on input from council members and the mayor. In Cincinnati, the mayor decides when legislation will be

considered and whether to call an executive session. While two members of council can also call for a special session under the charter, this has not occurred. In addition, the mayor determines committee assignments for council members and chooses which committees will consider a given piece of legislation. The authors were unable to find another city, using either council-manager or mayor-council form that grants the mayor so much authority over the legislative process.

Manager's Roles and Authority

One of the primary justifications for the development of the council-manager form was to ensure that a professional manager would be tasked with day-to-day operations and policy recommendations with the goal of insulating the administration from partisan politics and special interest group influence. To this end, managers are typically tasked with hiring department heads and formulating the budget to present to council for debate, modification, and approval.

In Cincinnati, as well as the comparison cities, the manager is granted the authority by charter to hire department heads, though in a few cases directors are appointed by commissions. All managers in the sample also give the manager the authority to formulate the budget. Cincinnati is the only city in the sample in which the mayor receives the budget from the manager before members of council (see Table 5). As stated in the charter, it is the mayor who delivers the manager's budget to council, with the mayor's comments; "The mayor shall transmit to the council the annual budget estimate prepared by the city manager. The transmittal shall occur within 15 days after receipt from the city manager and may include a letter commenting on the proposed budget" (Article III, Section 2).

Table 5: Roles of the Manager

City	State	Appoint Department Heads	Formulate Budget	1st Look at the Budget
Cincinnati	OH	Manager	Manager	Mayor
Corpus Christi	TX	Manager	Manager	Council
Des Moines	IA	Manager (some require approval of council)	Manager	Council
Durham	NC	Manager	Manager	Council
Long Beach	CA	Manager	Manager	Council
Tacoma	WA	Manager w/ council approval	Manager	Council
Tallahassee	FL	Manager	Manager	Council
Wichita	KS	Manager	Manager	Council

While it may appear that Cincinnati's manager has similar authority to other managers around the country, the mayor's authority to initiate hiring and firing of the manager and the mayor's role in commenting on and transmitting the annual budget to the council changes the accountability dynamic for the manager.[9] Although the charter cautions against interference by the mayor or council members in the appointment process, to retain their job managers will seek to please the person who can remove them.

The subject of form of government—the council-manager system versus the hybrid or "stronger mayor" system—came up repeatedly during our questioning even prior to our specific question about the topic. Several observers thought it would be better to have either a mayor-council form of government or a council-manager form because the current system is "neither fish nor fowl," thereby causing confusion and a poor understanding of the various roles within government. "Decide on strong mayor [meaning mayor-council] or council-manager and go with that," said one observer. "The hybrid system doesn't serve anybody very well."

Beyond this statement, interviewees split on whether a council-manager or mayor-council system is better for the city. Some felt that the move toward strengthening the mayor's influence since the 1999 amendments has been good for the city, while others expressed concern that council now has little power, and the manager simply works for the mayor.

The Impact of Personality

While some cities, as noted above, have changed their charters to strengthen the powers of mayors and move away from the council-manager system, others have mayors who, by the force of their personality and dedication, wield more influence than previous mayors under the same set of rules. This is particularly true in larger cities where mayors are better compensated and sometimes see the position as a steppingstone to higher office.

Many Cincinnati stakeholders interviewed for this study commented that the balance of power in the city is heavily influenced by the personalities and behavior of elected officials. Supporters of a strong mayor system were pleased that the current mayor is exercising more influence, while others are concerned that the city council has abdicated its role in many areas, allowing the mayor to have more control over both executive and legislative functions. Said one observer: "My assessment of what has transpired in the last few years is a major blurring of the lines between the roles of the executive and legislature."

Ethics and Corruption Protections

The extent to which cities have implemented ethics policies, corruption preventive measures, and related penalties varies from place to place. Adopting codes of ethics through ordinance is a fairly common practice. In the comparison group, all have a code of ethics codified through ordinance. In these cities, two codes apply only to elected officials, one applies only to employees (Cincinnati), and five codes apply to both elected officials and employees (Table 6). In some states, such as California and North Carolina, local elected officials are required under

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[9] For an explanation and analysis of this, see Nelson KL, Svara JH. Adaptation of Models Versus Variations in Form: Classifying Structures of City Government. *Urban Affairs Review*. 2010;45(4):544-562.

state law to take ethics training and adopt a code of ethics for the elected board. Wichita created new rules for council, adopted in 2021, after a series of ethics violations. Many of the provisions for elected officials pertain to campaign contributions and conflicts of interest.

Table 6: Codes of Ethics in Municipal Code

City	State	Employees	Elected Officials
Cincinnati	OH	X	
Corpus Christi	TX	X	X
Des Moines	IA	X	X
Durham	NC		X
Long Beach	CA	X	X
Tacoma	WA	X	X
Tallahassee	FL	X	X
Wichita	KS		X

A recent trend in local government is to create local government ethics commissions or committees. State-level ethics commissions are found in every state. Whether those commissions police state government activity exclusively or all governments in the respective state varies. Most of the cities in the comparison set have recently implemented ethics provisions. Four of the cities in the comparison set have a local ethics commission or board—Corpus Christi, Long Beach, Tacoma, and Tallahassee.

The Independent Ethics Board in Tallahassee was approved by voters in 2014 as a city charter amendment. The seven-members of the Board are appointed by the city council, public defender office, state attorney, and the presidents of both Florida A & M and Florida State universities. In addition, the board can hire staff, has subpoena authority, and maintains a website that allows for anonymous reporting of potential violations (https://www.talgov.com/Main/ethics.aspx). The Board is also tasked with providing mandatory ethics training to city administrators, staff, and elected officials. We interviewed the director of the Tallahassee Ethics Board. When asked about the factors that have helped the board succeed, the director pointed out that the Board operates independently of city government. Therefore, they are not influenced by local politics and they are able to make decisions that are in the best interest of the public.

Tacoma has the longest standing ethics board in the comparison sample. Created in the 1980s, the Board of Ethics has investigation authority, but they do not have independent staffing and the same level of power that is seen in Tallahassee. There are five members on the board who can investigate and make recommendations to the manager or the city council, should they find violations have occurred.

Corpus Christi and Long Beach have ethics commissions that operate similarly. In both places, the primary roles of the ethics commissions are to make recommendations about the code of ethics, suggest policies to help administer the code, and prepare reports. The Corpus Christi commission has nine members who are nominated by a variety of community organizations and approved by the city council. In Long Beach, the first four members of the commission were

appointed by the council and three others were appointed by the original members. The commission was created in 2018 and reached full membership in 2020. Long Beach also has an online ethics portal that can be used to report suspected violations of the code. Neither of these two commissions has independent enforcement ability.

Regarding economic development more specifically, national experts told the research team that ethical problems are often reduced when cities have firm policies and guidelines. Several experts emphasized that the city's overall development goals and policies around incentives should be clear upfront. This helps avoid confusion and reduces opportunities for favoritism. One expert said that "there should not be a huge amount of discretion," but that rather, established rules should govern precisely what is possible." To the degree that there needs to be negotiation, said that expert, "the advantages of negotiation are to the developer." Another expert said that there should be a "clear understanding of what's appropriate" so that both the private parties and public are not confused or surprised.

When asked about approaches to development, Cincinnati stakeholders tended to agree that there should be less direct interaction between individual elected officials and developers, that clear procedures for dealing with development issues—incentives, spending, etc.—should be established and followed. "We should remove council from development decisions and tax breaks altogether," said one person. "I don't think the mayor should be in the weeds of a development deal or negotiating a development deal without there being a city solicitor present," said one interviewee. "Or there should be some sort of way of making sure he proper checks and balances or making sure there is a blackout period on contributions before something goes before council."

Recommendations

Drawing on our comparison cities analysis, interviews with stakeholders, and an evaluation of Cincinnati's charter and procedures, we are suggesting a number of avenues for change that should improve the functionality and integrity of the city's government. Broadly speaking, our recommendations are aimed at strengthening the role of the city manager as the city's chief executive, reasserting the city council's role as the chief legislative body, and repositioning the mayor to be the city's political leader, rather than being the overseer of both the manager and council.

City Manager

Hiring, firing and directing the city manager should be the collective responsibility of the mayor and council.

1. City council rules should specify that the council will conduct an annual evaluation of the city manager. The city manager should be hired by the council as a whole, through a national search and interview process that involves the full council.

2. Firing the city manager should take place on a majority vote of council and not be based on a recommendation from the mayor, as things currently stand.

As stated before, the mayor's role in initiating the hiring and firing of the city manager is unusual in the council-manager form. In most of these systems the full council conducts the search and hiring process, interviewing candidates collectively or through a subcommittee and deciding collectively on the top candidate. Although the Cincinnati charter states that "the mayor shall seek the advice of council, to include the opportunity for council to interview the candidates considered by the mayor," that provision allows for too much flexibility, to the point of little significant involvement by council, and the council has not availed itself of the power it could exercise under current rules.

Similarly, the full council is normally involved in personnel evaluations and decisions to terminate the manager. ICMA provides guidance for councils on evaluating the city manager. The *ICMA Manager Evaluation Handbook*[10] recommends a regular process for manager evaluations by an external consultant be part of the manager's employment contract. Alternatively, an annual evaluation of the manager could be put into the charter.

It appears that, until recently, despite charter changes that increased the authority of the mayor, Cincinnati's government operated similarly to traditional council-manager cities. A number of stakeholders who were interviewed commented that the current mayor had maximized his authority under the charter. Many of the interviewees spoke about the need to change the balance of power in the government. Some noted that issues have arisen with the mayor's ability to hire and fire the manager. "Basically, the mayor gets to hire the manager, the city council is allowed to have input…This mayor has only hired managers who he can control. He lost control of one and tried to fire him." Several interviewees believe that managers know they must do the bidding of the mayor or be fired.

Others laid the blame for the improper balance of authority between the mayor and the council at the foot of the council members. For example, one spoke about the recent trend to approve all ordinances through emergency provisions, side-tracking the opportunity for public debate. A majority of the council must approve the passage of ordinances in this expedited way. Council also has the ability to insist on a stronger role in the manager selection process, but they appear to have deferred to the mayor.

The Mayor

The mayor's legislative and administrative powers should be scaled back to return the city's governance to a more professionally-managed system and increase the influence of the legislative body.

1. The mayor should review annual budgets in the same manner as council members, as a body, and not have the ability to "preview" and make comments on the budget in advance.

2. Legislative matters should be assigned to council committees by the manager, not the mayor, according to the topic being considered.

In addition to strengthening the role of council and encouraging council members to fulfill their responsibilities under the charter, we believe the mayor's authority over the city manager and

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[10] https://icma.org/documents/icma-manager-evaluation-handbook

extra legislative powers should be reduced. Many of the interviewees spoke about the need to change the balance of power in the government, partly to reduce confusion over who is the chief executive. While council has not chosen to fully exercise its influence in recent years, this is partly due to structural changes that have strengthened the mayor's authority.

The main issue here is the mayor's ability to initiate hiring and firing of the city manager. Beyond this, the mayor's role in budgeting and legislative matters should also be adjusted. Although the mayor does not have the right to alter the manager's budget before sending it to council, this responsibility is also more than a formality. The ability of the mayor to make notes changes the process from what is traditionally seen in the council-manager form of government and allows the mayor to shape the discussion of the budget by council.

Regarding the assignment of legislative measures to council committees, a charter amendment will go before the voters in November 2021 that reads in part, "to require the Mayor to assign legislative proposals to the appropriate committee no later than thirty days after being filed with the Clerk and to require the Mayor to put legislative proposals on the Council agenda no later than thirty days after they are reported out of Committee." This part of the charter amendment would ensure that a mayor cannot hold legislative proposals indefinitely.

In most council-manager cities, however, legislative measures are assigned to committees by the manager in accordance with the relevance of the topic to the committee's charge. This ensures that legislative assignments are not made with a political intent, but simply on the basis of their nature.

The City Council

The legislative authority, independence and ethics of the city council should be restored.

1. Council should use annual executive sessions to deal with the manager's supervision and evaluation and for other allowed purposes during the year, including the review of development agreements, other personnel matters, labor agreements and litigation.

2. Council rules should clarify the ability of two members to call an executive session as long as the purpose fits within the bounds of open meetings laws.

3. Neither city council members or the mayor should be involved in negotiating development deals and should not review these arrangements until they are presented to the full council.

4. The city should have a code of ethics that applies to all elected officials as well as staff and create an independent ethics board to investigate violations of the code.

5. Provide better orientation and training for new council members and mayors.

6. Consider changing the structure of council seats by conducting a public charter review process to review council elections with a goal of improving accountability and representation. Options that should be reviewed include the creation of designated council seats, some of which would be by district, to allow for better representation of different

interests and to create head-to-head contests. Also consider extending terms to four years, with staggered start dates so that only half of council is up for election each time.

As stated earlier, it is critical that city council be a full partner in the hiring, evaluation and firing of the city manager and that the mayor's influence on this matter is no greater than a member of council. While council currently has the ability to evaluate the manager, council has not called an executive session to do so. A requirement in the council rules, and perhaps even in the charter, for this annual evaluation will ensure that it takes place.

The national economic development experts and several interviewees agree that the current rules that govern council and the current procedures used in development decisions need rethinking and that elected officials should not be involved early in development agreements. One participant suggested that "the council rules could be strengthened to clarify the role the members should play in negotiating contracts." Several noted that there should be more involvement by staff in development decisions and less involvement by elected officials. Better clarity for council members on their role in the development process as well as that of the staff can help prevent future problems.

Several interviewees also noted that the lack of executive sessions prevented council members from negotiating as a group with developers. In most places, they said, elected boards work with staff privately to prepare offers for developers before making them public. Interviewees noted that the lack of closed sessions led to developers approaching council members individually and said that executive sessions could help avoid these problems. If there is a need to discuss development deals with council members outside of a regular or special meeting, the manager should facilitate the talks between staff and one or two council members at a time to avoid violating open meetings provisions.

As noted in the comparative analysis, most cities have codes of ethics and a system for training and implementation. Both California and North Carolina mandate ethics training for elected officials. Other places have chosen to mandate ethics training for elected officials through local code. In May, a second charter amendment was passed in Cincinnati that requires council members to receive ethics training within 60 days of assuming office. The Ohio Ethics Commission would provide the training. Council members who do not complete the training in time will be unable to participate as members of council.

Several interviewees focused on the lack of training currently required of council members. One interviewee stated, "the city council members need more preparation and training" and others noted that the city lacks a strong orientation program for new elected officials in which the legal and ethical obligations of their roles would be explained to them. Similarly, another interviewee suggested a boot camp for council members. "It could take the place of what the [political] parties used to do. Grounding people in the basics. City Council Boot Camp along with having an annual refresher on not taking money for votes." Several mentioned that greater transparency regarding campaign donations would also help.

Some of the stakeholders interviewed commented on potential changes in the form of elections that might help alleviate many of the issues in Cincinnati's government. One commented on at-

large council elections as problematic due to the need for more money and more name recognition. This interviewee suggested the implementation of district elections to serve as a de facto form of campaign finance reform, reducing the need to raise so much money. In addition, these head-to-head contests would make it easier for voters to hold council members accountable.

While this study did not fully review options for council elections, most cities have moved away from councils that are fully at-large and have individual seats with staggered, four-year terms. This structure allows for more continuity and a greater focus on city work over campaign work. Changes to elections and representation should be made after full engagement of the community in a process that would lead to a charter amendment.