

Term Limits for Municipal Elected Officials:

Executive and Legislative Branches

prepared for the New York City Charter Revision Commission

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Executive Summary

Term limits for elected officials are popular with voters both nationwide and in New York City. But empirical scholars—whose research has largely focused on the effects of term limits on the legislatures of state governments—are not so sanguine. Term limits have not appreciably increased the racial or gender diversity of elected officials, nor have they had any effect on the type of people who seek election to office. Surveys of elected officials indicate that those who are term limited pay less attention to their geographic constituencies and more to statewide matters—perhaps because term limits force officials to anticipate running for higher office more quickly.

Scholarship has identified one consistent effect of term limits that most will agree is deleterious: when term limits are applied to both the executive and legislative branches, they weaken the legislative branch in a significant fashion. Term limits' systematic removal of experienced members from the legislature handicaps it vis-à-vis the executive branch with regard to expertise and thus influence. This finding has particular implications for New York City, which invests its executive branch (the Mayor) with a particularly strong set of powers, making the role of its legislature (the City Council) as a check on executive power all the more important. Furthermore, New York City's sheer size puts the members of City Council at a disadvantage with regard to the Mayor. Members of the City Council have more constituents—and on a person-for-person basis are responsible for overseeing the spending of more government dollars—than legislators in all but one of the nation's

fifty states. Term limits—which, by construction, mean that the average tenure of City Council members at any given time can be no more than six years—make it even harder for the Council to handle these outsized responsibilities. With small staffs and limited expertise, these relatively inexperienced legislators face an executive branch staffed by hundreds of mayoral appointees who are experts on local policymaking. It is no wonder that many observers of New York City politics have noticed a marked decline in recent years of Council’s ability to fulfill its role as a democratic check on the Mayor.

To level the playing field between the executive and legislative branches, a majority of the nation’s most populous states—and several of the nation’s biggest cities—have either applied term limits only to the executive branch, or applied term limits in a stricter fashion to the executive branch than the legislative branch. As the Charter Revision Commission deliberates over the status of term limits in New York City, it may wish to consider a similar approach. Setting less strict term limits for Council than the Mayor—for example, limiting members of Council to three, four-year terms but limiting the Mayor to two, four-year terms—could help re-establish the balance of power between the executive and legislative branches.

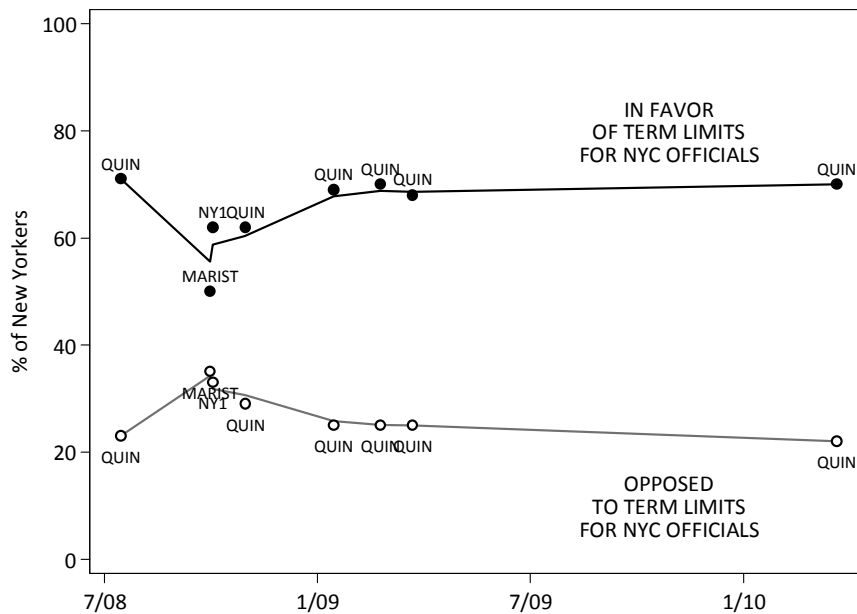
Political scientists tend to be skeptical about the extent to which term limits actually live up to the promises—and whether they solve the problems—that spur their adoption. Nevertheless, they remain deeply resonant with voters. Paradoxically (and contrary to the claims of term-limit proponents) the adoption of term limits

can weaken the legislature’s ability to serve its purpose in a checks-and-balances system. To the extent that New York City must have term limits, it is reasonable that they be less strict for its legislative branch than its executive branch.

The enduring popularity of term limits in New York City and nationwide

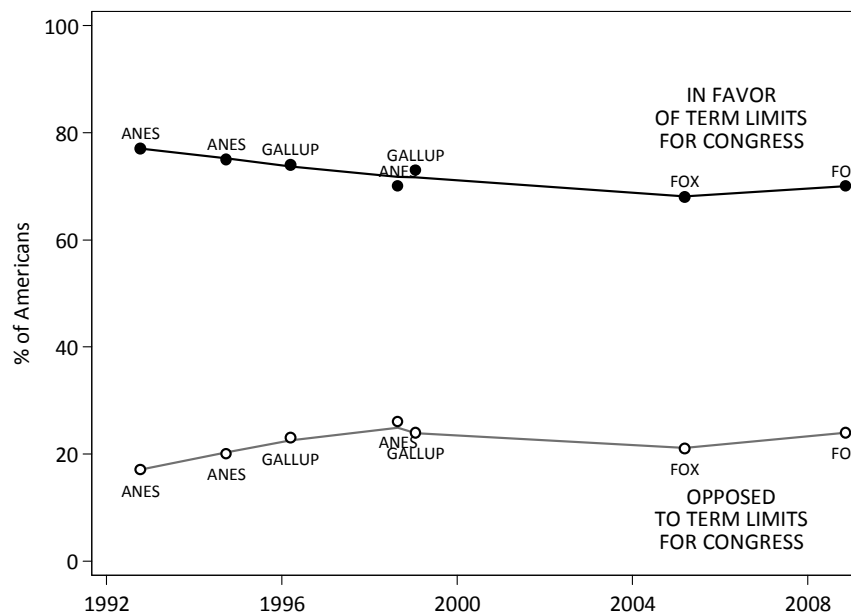
New York City voters approved limits of two, four-year terms for virtually all of its elected officials in a citywide ballot measure held in 1993, and reaffirmed their support for these limits by rejecting a 1996 ballot proposal to change them. As shown in Figure 1, recent support among New Yorkers for term limits remains strong, with surveys conducted by local pollsters typically finding 60 to 70 percent of the city’s residents in favor of limits on for the city’s elected officials.

Figure 1. Opinion on Term Limits for NYC Elected Officials, 2008-present
Question wording and sources for data: see Appendix.



In this regard, New Yorkers are similar to voters nationwide, who have been consistently and substantially in favor of term limits for Congress since the modern movement for term limits began in earnest in the 1990s. As shown in Figure 2, over the past two decades, Americans' support for term limits has remained remarkably steady—across different question wordings and pollsters—at slightly above 70 percent on average.

Figure 2. American Opinion on Term Limits for Congress, 1992-present
Question wording and sources for data: see Appendix.



The consistent, overwhelming support for term limits nationwide suggests that institutional rules—not public opinion—determine whether they are implemented in any particular jurisdiction. For example, term limits on the service of members of Congress would require an amendment to the U.S. Constitution—as state laws

imposing such limits were declared unconstitutional and struck down by the U.S. Supreme Court in *U.S. Term Limits v. Thornton* (1995). The institutional rule relevant to term limits in New York City is New York State's Home Rule Law, which allows municipal charters to be amended by voter initiative. Given the popularity of term limits among New Yorkers, this means any future move to eliminate term limits in New York City would likely be rolled back via a citywide ballot measure. Term limits—in one form or another—are probably here to stay in New York City.

New York City: *Sui Generis*

As discussed below, most of the empirical scholarship on term limits focuses on the effects of term limits on state legislatures.¹ As we consider the implications of this research for New York City, it is worth noting that the states—not other big cities—are probably the most appropriate group of jurisdictions for comparative purposes. As shown in Table 1, if New York City were a state, its estimated population of 8.4 million people would rank it 12th on the list of the nation's most populous states. (The next largest city in the United States, Los Angeles, would be far down the list at number 27. No other city would crack the top 40.) Furthermore, the scope of New York City's government is immense. Services such as education, public welfare, health and hospitals, corrections, and highways fall under the aegis of New York's municipal government to a degree that is unmatched by any other big city in the nation. Thus New York City's \$82 billion budget (its total government expenditure

¹ This is partly because term limits are actually quite unusual at the municipal level. A recent survey of municipal governments by the nonpartisan International City/County Management Association found that only nine percent of municipal governments place term limits on their chief elected officials, and only nine percent limit the terms of their council members (Moulder 2008).

in 2006, the latest year for which comparison data are available) places it second on the list of states. No other city comes close: the city with the next largest municipal budget is again Los Angeles, with citywide total government expenditures of \$12 billion.² Thus the elected officials charged with overseeing the operations of New York City's government have responsibilities at the level of their counterparts in our nation's state capitols, rather than its city halls.

² See U.S. Census Bureau 2010 (Table 446). The conclusions drawn here are similar if calculations are made using "direct expenditures" instead of "total expenditures."

**Table 1. New York City and the 20 Most Populous States:
Population, Term Limits, and Government Expenditures**

State rank	Jurisdiction	Population, 2008 (1)	# of Legislators (2)	Population per Legislator	Total gov't expenditure, 2006 (\$millions) (3)	Annual gov't expenditures per legislator (\$millions)
1	California	36,756,666	120	306,306	225,317	1,878
2	Texas	24,326,974	181	134,403	85,514	472
3	New York	19,490,297	212	91,935	142,853	674
4	Florida	18,328,340	160	114,552	76,142	476
5	Illinois	12,901,563	177	72,890	55,768	315
6	Pennsylvania	12,448,279	253	49,203	64,917	257
7	Ohio	11,485,910	132	87,014	64,929	492
8	Michigan	10,003,422	148	67,591	53,087	359
9	Georgia	9,685,744	236	41,041	34,945	148
10	North Carolina	9,222,414	170	54,249	41,108	242
11	New Jersey	8,682,661	120	72,356	54,073	451
	New York City	8,363,710	51	163,994	82,454	1,617
12	Virginia	7,769,089	140	55,493	34,776	248
13	Washington	6,549,224	147	44,553	33,915	231
14	Arizona	6,500,180	90	72,224	25,731	286
15	Massachusetts	6,497,967	200	32,490	39,880	199
16	Indiana	6,376,792	150	42,512	26,959	180
17	Tennessee	6,214,888	132	47,082	23,968	182
18	Missouri	5,911,605	197	30,008	24,335	124
19	Maryland	5,633,597	188	29,966	28,966	154
20	Wisconsin	5,627,967	132	42,636	30,125	228

Sources for data:

(1) U.S. Census Bureau estimates (U.S. Census Bureau 2010, Table 12, Table 27).

(2) National Conference of State Legislatures, 2009. (Figure is total number of legislators in state Senate and House, 2008.)

(3) U. S. Census Bureau Survey of Government Finances, 2006 (latest data available). (U.S. Census Bureau, 2010, Table 442, Table 446).

The Effects of Term Limits

The most prominent arguments put forth by advocates for term limits are that they change the composition of our governing bodies to make them more representative of everyday citizens and that they change the behavior of our elected officials for the better. But in comparing the trajectories of the 15 states that have adopted and maintained term limits on their state legislators with those that have not, political scientists have discovered that many of the changes that conventional wisdom assumes are associated with the adoption of term limits do not actually come to pass.³

The Composition of Legislatures and the Behavior of Elected Officials

Term limits have not led to the election of more women or racial minorities as legislators, nor have they been associated with election to office of legislators who are younger, less wealthy, less ideological, or less likely to already be politicians (Bernstein & Chadha 2002; Carey et al, 2006; Carroll & Jenkins 2001). In the most comprehensive study of the effects of term limits on state legislators to date, Carey and his co-authors found that limits have indeed changed legislators' behavior (that is, how they spend their time and what they consider to be their responsibilities), but whether these changes are improvements are unclear.⁴ Term-limited legislators are decidedly less focused on their geographic constituents than those in states

³ Of the states currently with legislative term limits in place, the state where their impact was earliest is Maine (where legislators began to be "termed out" in 1996). The most recent is Nevada (where the limits' impact begins in 2010). See National Conference of State Legislatures 2009.

⁴ The research referred to here is co-authored by University of Rochester political scientist Richard Niemi, who testified before the Charter Revision Commission at its hearing on term limits in May 2010.

without term limits. This means that they spend less time securing government projects and funds that benefit only their districts (a transformation considered an improvement by most) but that they also spend less time providing constituency service (which many will count as a change for the worse). Furthermore, term-limited legislators are more likely to report that they care about statewide concerns, while non-term-limited officeholders are more likely to say they care about their particular districts' interests. No significant differences were found in the average level of electioneering efforts (such as fundraising and campaigning) in legislatures that are term-limited compared to those that are not (Carey et al 2006).

The Evidence Is Clear: Term Limits Weaken Legislatures' Power

The scholarship discussed thus far on the effects of legislative term limits indicates that change is minimal, and that it is difficult to say whether any change that does occur under term limits is a net improvement. But with regard to one kind of change, the evidence is clear: the legislative branch loses power vis-à-vis the executive branch under term limits, even when they are applied equally to both branches. Research by political scientists has found that the adoption of term limits in the states is typically accompanied by a decline in the legislative branch's power, expertise, and oversight. In California, for example, Kousser (2005) found that term limits not only led to high turnover of legislators. They were also accompanied by high turnover in legislative staff, and fewer bills were introduced and passed into law. Kousser's conclusion is that term limits have "dismantled" many of the achievements of the legislative professionalism movement that began in the 1960s,

whose chief goal was to transform state legislatures to fulfill their roles as independent, competent policymakers in state governments that had become increasingly complex and greater in scope. Throughout the country, in states where term limits have been introduced, the legislature acts more like a “rubber stamp” than a check on the governor: it makes fewer changes to the budgets proposed by the executive branch, and knowledgeable observers report a decline in the power of these legislatures relative to the governor and the bureaucracy (Kousser 2005; Kurtz, Cain, & Niemi 2007). In Carey et al’s survey, state legislators in term-limited states were significantly more likely to say that the governor had power over legislative outcomes. As they write, “after the axe [of term limits] falls, the surge in gubernatorial influence is substantial” (Carey et al 2006: 124). This result echoed earlier findings from a survey conducted of legislative leaders by Peery and Little (2002). Carey et al’s survey also found that the legislature’s power and effectiveness declined on other measures in term-limited states. Term-limited legislators are more likely to report that unelected bureaucrats enjoy influence in their states’ policy-making processes than do non-term-limited legislators. Majority party leaders and committee chairs—the very people the legislature relies upon to go toe-to-toe with the executive branch and its staff—are also weaker in term-limited states. In earlier work, interviews with lobbyists in state capitals yielded similar findings (Moncrief & Thompson 2001).

In sum, the empirical evidence that term limits weaken the legislature vis-à-vis the executive is “straightforward” (Carey et al, 2006: 129). Legislatures in term-limited

states play a “diminished role” (Kousser 2005: 207), and term limits “contribute to a migration of power from elected representatives to nonelected officials” (Powell 2007: 146). This development must be considered a setback by anyone who believes legislatures should check the authority of the executive branch and oversee the activities of unelected bureaucrats.

The Outsized Responsibilities of New York City Councilmembers

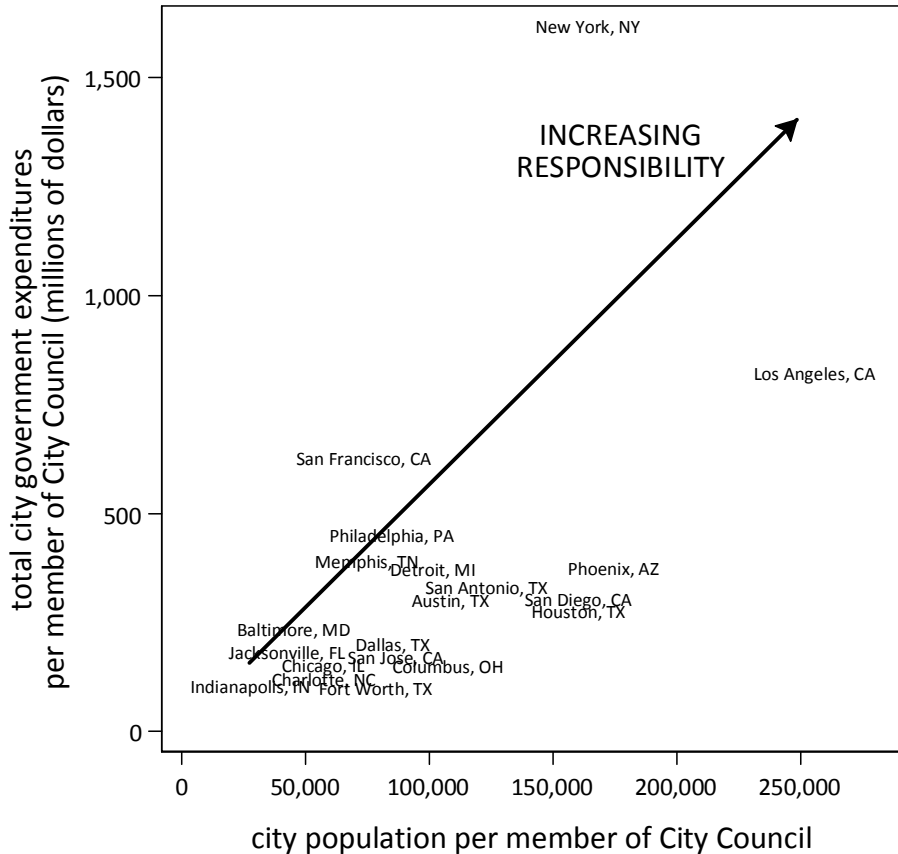
Any consideration of the implications of this research for New York City should begin by acknowledging the fact that in many ways, members of the New York City Council bear greater responsibilities than do most state legislators. As seen in Table 1, compared to the nation’s most populous states—each which has two legislative houses—the number of legislators in New York City who are available to serve constituents and oversee the government’s budget is startlingly small. There are 164,000 New Yorkers for each City Council member—a figure that is larger than the population-to-legislator ratio for every state except California. And if each City Council member were responsible for overseeing an equal share of the city’s budget, these shares (i.e., the expenditure-to-legislator ratio) would total more than \$1.6 billion each. Again, this amount of budgetary responsibility dwarfs that faced by legislators in any state except California. Thus the typical member of New York City Council is responsible for serving more constituents—and monitoring more government programs—than the members of all but one of our nation’s fifty state

legislatures. And the government of that state—California—is routinely cited as among the worst in the nation in terms of overall performance.⁵

By similar measures, the New York City Council bears an immense amount of legislative responsibility compared to other councils in our nation's big cities. There are four big cities with relatively small city councils—Houston, Los Angeles, Phoenix, and San Diego—that have constituent-to-legislator ratios similar to or greater in size than that of New York City. But no city comes close to matching New York City's expenditure-to-legislator ratio: the next largest is Los Angeles, whose ratio is approximately half the size. If we consider these two measures—constituents per legislator and expenditures per legislator—as a rough index of legislative responsibility, we see (in Figure 3) that New York and Los Angeles are in a league of their own with regard to the combined amount of oversight and constituency responsibilities borne by members of their city councils. (Note that while this measure is related to the size of a city's budget and its population, it captures a concept that is distinctive. For example, Chicago—the city with the nation's third largest population and fourth largest budget—scores low on this measure due to the relatively large size of its city council (which has 50 members).

⁵ See, for example, Pew Center on the States 2008.

Figure 3. Government Oversight and Constituency Responsibilities of City Council Members in America’s Twenty Most Populous Cities
sources for data: see Appendix.



Implications of Term Limits for Legislative-Executive Relations in New York City

Empirical work by political scientists shows definitively that in the states—an appropriate comparison group for a city of the size of New York City—term limits weaken the legislature in its relationship with the executive branch. Given that New York City’s legislators are each responsible for serving more people and overseeing more government activity than just about any state or municipal legislators in the entire country, an intuitive conclusion is that the effect of term limits may be to weaken to an even greater degree the influence of New York City’s legislature

relative to the executive branch. That is, all the evidence and facts suggest that the experience of term-limited states is not only relevant to New York City—but that term limits’ weakening of City Council may be particularly exacerbated by the fact that individual members of Council are each responsible for so much oversight and so many constituents. Many observers believe that City Council has decreased in stature vis-à-vis the Mayor in recent years. The findings presented here provide good reason to believe that term limits are partly to blame.

Reducing the Debilitating Effects of Term Limits on City Council

Despite these concerns, term limits are likely now a permanent aspect of New York City’s electoral landscape. Given the enduring popularity of term limits—and the fact that any effort to eliminate them can be overturned at the ballot box—it is reasonable to presume term limits will continue be present for the foreseeable future. One way to ameliorate these conditions is to impose term limits more heavily on the executive branch than on the legislative branch. In the case of New York City, the obvious choice would be to reduce the Mayor’s service to a maximum of two, four-year terms while keeping the Council at its current limit of three, four-year terms. If it were to do so, New York City would join a majority of our nation’s most populous states and several of our most populous cities in imposing stricter term limits on its executive branch than its legislative branch.⁶ As shown in Table 2, of the 20 most populous states, 14 have limits placed on the number of terms served by their governors, but only six have term limits placed on their legislators.

⁶ Of course, this is also true for the federal government: the Constitution limits presidents to two terms but places no limits on the length of service of members of Congress.

Table 2. Term Limits in America’s Twenty Most Populous States

No term limits	Term limits for governor only	Term limits for both legislature and governor
Illinois Massachusetts	Georgia Indiana	Arizona California
New York	Maryland	Florida
Texas	New Jersey	Michigan
Washington	North Carolina	Missouri
Wisconsin	Pennsylvania Tennessee	Ohio
	Virginia	

*Sources for data: Council on State Governments 2007;
National Conference of State Legislators 2009.
Population based on 2008 Census estimates (U.S. Census Bureau 2010, Table 12).*

The practice of imposing stricter terms on the executive branch than the legislative branch is less prevalent among our nation’s largest cities, but it is by no means unusual. As shown in Table 3, of our nation’s twenty largest cities, only 13 have term limits of any kind. Of these cities, three place stricter term limits on their mayors than on members of their city councils. Philadelphia imposes a two-term limit on its mayors but no limit whatsoever on members of its city council. Los Angeles and Phoenix each limit their mayors to two terms of four years while allowing their city council members to serve up to three terms of four years. (It may be no coincidence that all three of these cities rank relatively high on the measure of individual legislator responsibility displayed in Figure 3.) The move by Los Angeles

to extend term limits for its city council is quite recent: the city’s residents approved the extension of as part of a package of government reforms in a ballot measure that passed in November 2006 with 59 percent of the vote. The measure was written and promoted by the L.A. Chamber of Commerce and the League of Women Voters of Los Angeles, who argued that councilmembers needed more time in office to solve the city’s long-term problems (Hymon 2006). A call for a similar move in New York City has been made by Eric Lane, who served as Executive Director and Counsel to the 1988 and 1989 New York City Charter Revision Commissions (Lane 2004; 2010).

Table 3. Term Limits in America’s Twenty Most Populous Cities

No term limits	Term limits for mayor only	Term limits more strict for mayor than city council	Term limits equally strict for both mayor and city council
Baltimore, MD	Philadelphia, PA	Los Angeles, CA	Austin, TX
Charlotte, NC		Phoenix, AZ	Dallas, TX
Chicago, IL			Houston, TX
Columbus, OH			Jacksonville, FL
Detroit, MI			Memphis, TN
Fort Worth, TX			New York, NY
Indianapolis, IN			San Antonio, TX
			San Diego, CA
			San Francisco, CA
			San Jose, CA

Source: City of Houston Term Limits Review Commission 2010; additional research by author. Population based on 2008 Census estimates (U.S. Census Bureau 2010, Table 27).

Citywide Elected Officials and Borough Presidents

New York City currently imposes limits of three terms of four years on a pair of additional citywide elected officials—the Comptroller and the Public Advocate—as well as on its five Borough Presidents. There are differing views about whether the functions of these officials are more akin to that of an executive (who carries out the day-to-day operations of government) or that of a legislature (whose role is to make policy, serve as a conduit for constituency concerns, and conduct oversight). The difficulty is that the functions of all of these officials are a mixture of both roles. The Comptroller, Public Advocate and Borough Presidents appoint staff and have executive authority. But to one degree or another, all of these offices also have oversight functions (particularly the Comptroller and Public Advocate) and constituency service functions (particularly the Borough Presidents). In this sense, they do serve—like City Council—as democratic checks on the power of the Mayor. Thus as the Charter Review Commission deliberates over whether to propose that the limits on the service of these officials be changed, it might first consider which of these functions—executive or legislative, operations or oversight—best describes the roles each of them play in New York City’s system of government. To the extent that an official is considered to have more of an executive (or operations) function, the reasoning set forward in this report suggests that limits on that official’s service should be more strict than those determined to have more of a legislative (or oversight) function.

Conclusion

The challenges faced by the City Council are bigger than those faced by legislators in almost every state in the nation. A law that mandates that the body rid itself of accumulated expertise at regular intervals inevitably makes this challenge even greater. Term limits have exacerbated the relative disadvantage faced by City Council in its relationship with the Mayor. Many New Yorkers—including, ironically, some of the strongest proponents of term limits—agree that the power of the executive branch has grown in recent years at the expense of City Council. Term limits are one reason why this is so. Although it was certainly not a popular move, it is likely that the extension in 2008 of the number of terms that may be served by members of City Council from two to three has helped reduce the disadvantages at which Council finds itself relative to the executive branch. It increased the amount of time that Council members have to build relationships with one another and their constituents. And it allowed Council members to acquire the experience needed to become experts on specific aspects of local policy.

The appeal of term limits in New York City is as strong as it is anywhere in the country. Given this popularity—and the institutional rules making it possible to change the Charter via voter initiative—term limits on New York City elected officials are likely to exist (in some form) for the foreseeable future. By putting a proposal before the voters that allows members of Council to serve more terms than the Mayor, the 2010 Charter Revision Commission has the opportunity to educate New York City's residents about the effects of term limits and finally settle a debate

that has confused, angered, and alienated voters. Most important, such a change will help restore the balance of power between New York City's executive and legislative branches to its proper place.

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APPENDIX

Question wording and sources for data in Figure 1

Marist

Question wording: “Currently, there is an eight year term limit for all elected New York City officials which means they may not run for re-election after serving eight years. Overall, do you favor or oppose term limits for elected officials in New York City?”

Source: Marist College Institute for Public Opinion, 2008. “Is the Third Term a Charm? Mayor Michael Bloomberg’s Bid for Re-election.” October 2. <http://maristpoll.marist.edu/wp-content/misc/nycpolls/NYC081001.pdf> (accessed June 23, 2010).

NY1

Question wording: “Generally speaking, do you favor or oppose setting limits on the number of years city elected officials can hold office?”

Source: NY1 News, 2008. “NY1 News Poll: Most NYers Want Public To Vote On Term Limits.” October 17. http://www.ny1.com/content/top_stories/87361/ny1-baruch-poll--most-nyers-want-public-to-vote-on-term-limits/ (accessed June 23, 2010).

Quinnipiac

Question wording: “Generally speaking, do you favor or oppose setting limits on the number of years elected officials can hold office?”

Source: Quinnipiac University Polling Institute, 2010. “New Yorkers Nix Fourth Term For Mayor Bloomberg, Quinnipiac University Poll Finds; Voters Want Mayor 5 - 1 to Lead Ground Zero Renewal.” March 23. <http://www.quinnipiac.edu/x1302.xml?ReleaseID=1435> (accessed June 23, 2010).

Question wording and sources for data in Figure 2

American National Election Studies (ANES)

Question wording: "A law has been proposed that would limit members of Congress to no more than 12 consecutive years of service in that office. Do you favor or oppose such a law?"

Source: ANES Cumulative File, 2005. Variable VCF0840. Available at the Survey Data Archive, University of California, Berkeley. <http://sda.berkeley.edu/cgi-bin/hsda?harcda+nes2004c> accessed June 23, 2010).

Fox News

Question wording: "Do you favor or oppose limiting the number of terms members of the U.S. Senate and House of Representatives, including your own senators and representatives, can serve?"

Source: Angus Reid Global Monitor, 2009. "Many Americans Want Term Limits in Congress." March 17. http://www.angus-reid.com/polls/view/32999/many_american_want_term_limits_in_congress (accessed June 23, 2010).

Gallup

Question wording: "Suppose that on election day this year you could vote on key issues as well as candidates. Please tell me whether you would vote for or against each one of the following propositions: Would you vote for or against a constitutional amendment to limit the number of terms which members of Congress and the U.S. Senate can serve?"

Source: Pollingreport.com, 2010. "Congress: Miscellaneous Questions." <http://pollingreport.com/congress.htm#misc> (accessed June 23, 2010).

Sources for data in Figure 3

City Government Expenditures: U.S. Census Bureau estimates for 2006 (U.S. Census Bureau 2010, Table 446).

City Population: U.S. Census Bureau estimates for 2008 (U.S. Census Bureau 2010, Table 27).

Number of members of city councils: City of Houston Term Limits Review Commission 2010.