

LOS ANGELES FIRE DEPARTMENT



BRIAN L. CUMMINGS
FIRE CHIEF

February 24, 2012

BOARD OF FIRE COMMISSIONERS
FILE NO. 12-040

To: Board of Fire Commissioners

From: Brian L. Cummings, Fire Chief

Subject: PROPOSED CITY CHARTER AMENDMENTS - CHARTER SECTION
1060 – SWORN FIRE DISCIPLINARY STATUTE OF LIMITATIONS

FINAL ACTION:	<input type="checkbox"/> Approved	<input type="checkbox"/> Approved w/Corrections	<input type="checkbox"/> Withdrawn
	<input type="checkbox"/> Denied	<input type="checkbox"/> Received & Filed	<input type="checkbox"/> Other

RECOMMENDATION

That the Board recommends that the Council and Mayor authorize by resolution proposed rights and due process changes amending the statute of limitations under City Charter Section 1060 "Disciplinary Procedures for the Fire Department" to (1) eliminate the limitation of "and in no event later than two years from the date of the act or omission"; (2) to satisfy the Charter limitations requirement by notifying the accused of the proposed disciplinary action and (3) to add seven exceptions (commonly referred to as "tolling" provisions) which either "tolls" or allows for a reasonable extension of the one-year statute of limitations under the City Charter.

SUMMARY

Pursuant to City Charter Section 1060's statute of limitations, the Fire Department cannot suspend, remove or separate a sworn firefighter from employment unless charges are filed with the Board of Fire Commissioners "within one year of the department's discovery of the act committed or omitted by a member and in no event later than two years from the date of the act or omission." The statute of limitations under the 2008 California Firefighters Procedural Bill of Rights requires that punitive action against a firefighter must occur "within one year of discovery by the employing fire department." Because the Charter provides for a more limited period for discipline than the Firefighters Procedural Bill of Rights does, the Fire Department must abide by both limitations periods.

The two-year statute of limitations under Charter Section 1060 precludes suspension, removal or separation if the underlying event occurred more than two years before. This is true even if the event could not have been reasonably discovered by the Fire

Department or conduct had been concealed through the fraud or misrepresentation of or by the firefighter.

Amending City Charter Section 1060 "Disciplinary Procedures for the Fire Department" to mirror the statute of limitations in Government Code § 3254 (the Firefighters Procedural Bill of Rights) would resolve the inherent conflict between the two limitations periods and ensure the Fire Department can enforce and maintain the high standard of conduct expected of sworn firefighters while respecting their due process right to a fair and impartial disciplinary process.

A table comparing the current Charter Section 1060, the Firefighters Procedural; Bill of Rights, Charter Section 1070 governing disciplinary procedures for sworn police officers, Charter Section 1016 governing disciplinary procedures for civilian employees and listing the impact and advantage of the proposed Charter Section 1060 amendment is attached as Attachment Number One of this report.

ANALYSIS

Statute of Limitations

In *Jackson v. City of Los Angeles* (2003) 111 Cal. App. 4th 899 (a case discussing the tension between the Peace Officers Procedural Bill of Rights and City Charter Section 1070 as it applied to the Los Angeles Police Department), the California Court of Appeals discussed the necessity that the statute of limitations balance the public and the employer's interest in maintaining standards and efficiency of the work place and ensuring that the employee is treated fairly and accorded due process:

When a law enforcement agency investigates alleged misconduct by an officer employee, the procedural protections in *The Bill of Rights Act* balance the public interest in maintaining the efficiency and integrity of the police force with the police officer's interest in receiving fair treatment. The *section 3304, subdivision (d)* limitations provision promotes both policies. By encouraging prompt investigation of allegations of officer misconduct, it promotes the public interest in maintaining the efficiency and integrity of the police force. It promotes the police officer's interest in receiving fair treatment by requiring the diligent prosecution of known claims so that police officers receive prompt notice of claims against them, can prepare a fair defense on the merits, and can marshal the facts while memories and evidence are fresh.

A limitations period also promotes repose by giving security and stability to human affairs. Although a statute of limitations may purchase such repose at the price of procedurally barring a meritorious cause of action, the public policies favoring repose and disposition on the merits are equally strong, substantial, and important. It is for the Legislature to establish a period that strikes a balance between the two.

Jackson, 111 Cal. App. 4th at 909 (citations omitted).

Statute of Limitations Affecting Disciplinary Actions against Sworn Firefighters

Until 2008, City Charter Section 1060 set forth the sole statute of limitations in which the Fire Department could bring punitive action against a sworn firefighter. Under Charter Section 1060(a), the Fire Department may suspend, remove, or separate a sworn firefighter from employment if it files charges with the Board of Fire Commissioners within “one year of the department’s discovery of the act committed or omitted by a member and in no event later than two years from the date of the act or omission”.

In 2008, the Firefighters Procedural Bill of Rights set forth a limitations requirement statewide for firefighters of “within one year of discovery by the employing fire department.” The City Attorney advised the Fire Department that Charter Section 1060 provides the member with additional protection from those under the Firefighters Procedural Bill of Rights, in that it narrows the timeframe in which the Fire Department can discipline a sworn firefighter. The City Attorney advised that because the existing limitations period under Charter Section 1060 expands on those provided under the Firefighters Procedural Bill of Rights, the Fire Department should consider both limitations statutes when suspending, removing, or separating a firefighter from employment.

Los Angeles City Charter Section 1060 (Disciplinary Procedures for the Fire Department)

This proposed Charter amendment would make changes to the Los Angeles Fire Department's disciplinary procedures applicable to firefighters who have passed the civil service probationary period.

Voters of the City of Los Angeles approved Charter changes in 1934 (effective in 1935) that created virtually identical systems of discipline for police officers in the Police Department and firefighters in the Fire Department under Section 135.

Prior to 1999, former Charter Section 135 required that disciplinary charges supporting punitive action “must be based upon some act committed or omitted by such officer or employee within one (1) year prior to the filing of the complaint referred to herein.”

Based on a hostile work environment case in which disciplinary action could not be pursued because of Charter Section 135’s limitations period, the Fire Department sought to amend the statute of limitations beginning in 1996. The amendment proposed by the Fire Department mirrored the existing statutory scheme of Charter Section 202 for the Police Department, which consisted of (1) one year from the date of discovery and brought to the attention of the Chief Engineer and (2) either two years from date of event if the event was not criminal, three years from date of event if the conduct were a

misdemeanor crime or no limit if the conduct were a felony crime. This proposed version did not move forward.

When approved by the voters on June 8, 1999, the revised City Charter moved the Disciplinary Procedures for the Fire Department from Charter Section 135 to Charter Section 1060. Contained in the 1999 revision was the current statute of limitations that exists today.

The current statute of limitations set forth in Charter Section 1060 requires that the Fire Chief file charges with the Board of Fire Commissioners (1) "within one year of the department's discovery of the act committed or omitted by a member" and (2) "in no event later than two years from the date of the act or omission." (Charter Section 1060(a)).

The statute of limitations under Charter Section 1060 is satisfied by filing with the Board of Fire Commissioners, a copy of a verified written complaint and a statement that specific documents were served upon the accused firefighter. (Charter Section 1060(c)).

Firefighters Procedural Bill of Rights (Government Code Section 3250, et seq).

The Legislature's enactment of the Firefighters Procedural Bill of Rights in 2008 included its own statute of limitations intended to be the minimum state guideline to ensure the "maintenance of reasonable and consistent procedural protections applicable to all employers with respect to the disciplinary process." (See Legislative History, *Firefighters Procedural Bill of Rights Act*, Assembly Bill 220, (Cal. 2007)).

Under California Government Code Section 3254(d), the Firefighters Procedural Bill of Rights mandates that "[p]unitive action or denial of promotion on grounds other than merit shall not be undertaken for any act, omission, or other allegation of misconduct if the investigation of the allegation is not completed within one year of discovery by the employing fire department or licensing or certifying agency." The Firefighters Procedural Bill of Rights does not contain a statutory limitation from the time of the act itself.

The statute of limitations under the Firefighters Procedural Bill of Rights is satisfied when the employer notifies the firefighter of its proposed disciplinary action. (See *Mays v. City of Los Angeles* (2008) 43 Cal. 4th 343)).

Government Code Section 3254(d) contains seven exceptions (commonly referred to as "tolling" provisions) which either "tolls" or allows for a reasonable extension of the one-year statute of limitations. The seven exceptions are

- (1) If the firefighter voluntarily waives the one-year time period in writing, the time period shall be tolled for the period of time specified in the written waiver.
- (2) If the act, omission, or other allegation of misconduct is also the subject of a criminal investigation or criminal prosecution, the time during which the criminal investigation or criminal prosecution is pending shall toll the one-year time period.
- (3) If the investigation is a multijurisdictional investigation that requires a reasonable extension for coordination of the involved agencies.
- (4) If the investigation involves an employee who is incapacitated or otherwise unavailable.
- (5) If the investigation involves a matter in civil litigation where the firefighter is named as a party defendant, the one-year time period shall be tolled while that civil action is pending.
- (6) If the investigation involves a matter in criminal litigation in which the complainant is a criminal defendant, the one-year time period shall be tolled during the period of that defendant's criminal investigation and prosecution.
- (7) If the investigation involves an allegation of workers' compensation fraud on the part of the firefighter.

Challenges in Complying with Both the Statute of Limitations in Charter Section 1060 and the Firefighters Procedural Bill of Rights

The City Attorney has advised the Fire Department that because the City Charter's statute of limitations provides the member with protections which expand on those provided under the Firefighters Procedural Bill of Rights, the Fire Department abide by both provisions when disciplining its firefighters.

According to the City Attorney, Charter Section 1060's limitation that disciplinary action must occur "within a period of two years from the date of the act" is definite and absolute. The two-year limitation even applies even if the misconduct is egregious or criminal. If the act has been concealed from discovery by the intentional or fraudulent acts of the involved firefighter, the two-year limitation period still applies, barring the Fire Department from suspending, removing, or separating a firefighter from employment.

Based on the statutory language and the advice of the City Attorney, the Fire Department may suspend, remove, or separate a firefighter from service only if it has:

- (1) Filed charges against the firefighter with the Board of Fire Commissioners;
- (2) Filed charges against the firefighter within one year of the department's discovery of the act, and;
- (3) Filed charges against the firefighter within two years from the date of the act.

Concurrent Investigations/Inquiries Regarding the Same Event

Following both the statute of limitations in both City Charter Section 1060 and the Firefighters Procedural Bill of Rights (1) creates tension when the Fire Department has only one year to proceed with its discipline while inquiries or investigations by outside agencies or litigants are not so bound and (2) presents impediments to the Fire Department's ability to deal with misconduct issues because they are over two years old.

In the event that there are extraordinary circumstances connected to the underlying incident (such as concurrent criminal prosecution or civil litigation), the Fire Department is unable to "toll" the statute of limitations because unlike the Firefighters Procedural Bill of Rights, the City Charter does not contain "tolling" provisions. This means that the Fire Department must proceed with its disciplinary action despite the fact that simultaneous investigations and/or proceedings regarding the same event have not been completed.

When it is forced to complete its disciplinary action within one-year, the Fire Department must conduct its administrative investigation while other entities, including law enforcement, civil litigants, and licensing agencies, are conducting their own parallel investigations. Simultaneous investigations always create the potential that statements made by witnesses and parties may differ ever so slightly when recounted to different agencies. Further, evidence that may be discovered in one inquiry may not be shared with other simultaneous investigations, including the Fire Department's disciplinary case.

Further complicating the issue is the fact that as the employer, the Fire Department will generally compel a statement from the accused firefighter. When a statement from the accused firefighter is compelled by the employer, it is obtained with the employer's promise that it will not be given to criminal investigators and prosecutors. Should law enforcement or prosecutors be exposed to a compelled interview, the criminal case against the accused could be jeopardized. (See *Kastigar v. United States*, 406 U.S. 441, 448 (1972)).

Preclusion from Imposing Punitive Action for Events Over Two Years Old

The Fire Department has encountered several instances where it was unable to pursue punitive action against an accused firefighter despite having evidence beyond preponderance because of Charter Section 1060's two-year limitation. A recent

publicized example occurred in May 2011, when the Fire Department learned of a video on a commercial pornographic website depicting inappropriate acts occurring on an unmanned Fire Department apparatus. The investigation proved that the incident itself occurred in 2008. Because the incident itself occurred over two years prior, the Fire Department was precluded by Charter Section 1060 from suspending, removing or separating any of the involved firefighters.

This incident exemplifies the dispositive nature of the two-year prong of Charter Section 1060's statute of limitations. Even where the Fire Department could not have reasonably discovered the misconduct, such as when the accused concealed the conduct through his or her own fraud or misrepresentation, the Fire Department is barred from imposing disciplinary action if the act occurred over two years prior, regardless of egregious or significant the misconduct is.

Protection against Prosecuting Discipline for Where the Department Failed to Exercise Due Diligence

This proposed Charter amendment eliminates the requirement that the event upon which discipline is imposed is not over two years old. One of the concerns of eliminating a limitation based on the date of the event itself is safeguarding against the Department pursuing discipline where it had failed to exercise due diligence after becoming aware of the alleged misconduct.

Consistent Review and Adjudication by the Professional Standards Division

Within the creation of the Professional Standards Division (PSD) in 2008 was a fair and consistent evaluation of the propriety of disciplinary decisions within the Fire Department. When a completed administrative investigation is reviewed and adjudicated, two of the key components that are considered are: (1) Whether the Fire Department can present admissible evidence by preponderance to prove the charges at a Board of Rights and (2) whether proceeding with disciplinary action is fair, given the intrinsic and extrinsic factors of the event and investigation.

In that evaluation, PSD considers whether the Department has upheld the firefighter's interest in being treated fairly and due process accorded during that process. This is done by reviewing whether the Department acted diligently in investigating allegations of misconduct and whether the accused firefighter received timely notice of the charges against them so that they can prepare a fair defense on the merits by obtaining the facts while memories and evidence are fresh. If PSD believes that it cannot meet this burden, it will not proceed with recommending disciplinary action.

Laches

Where the Department believes that it should proceed with disciplinary action and the firefighter believes that it is untimely, the firefighter may allege the affirmative defense of *laches* to bar the punitive action from occurring.

Statutes of limitations and the doctrine of *laches* share a common policy: Both are designed to promote justice by preventing surprise through the revival of claims that have been allowed to slumber until evidence has been lost, memories have faded and witnesses have disappeared. (See *Brown v. State Personnel Bd.* (1985) 166 Cal. App.3d 1151, 1161. Under appropriate circumstances, the defense of *laches* may operate as a bar to the Department's disciplinary decision if the requirements of unreasonable delay and resulting prejudice are met. (See *Fountain Valley Regional Hospital & Medical Ctr v. Bonta* (1999) 75 Cal. App. 4th 316, 323-324). Merely facing disciplinary charges does not constitute prejudice. Instead, the firefighter has the burden of proof of establishing both that the Department's actions created an unreasonable delay and that delay resulted in prejudice to the firefighter.

Independent Assessor's Recommendation to Amend Charter Limitations

On March 27, 2010, the Independent Assessor, Board of Fire Commissioners, issued his "Assessment of the Department's Disciplinary Process and Professional Standards Division". Among his recommendations to enhance the Department's disciplinary process was that the Fire Department "seriously consider" amending the "City Charter to mirror the Firefighter Procedural Bill of Rights on the one year statute of limitations and its tolling provisions".

Statute of Limitations for Police Disciplinary Cases – Charter Section 1070

Prior to 2001, City Charter Section 1070 (Disciplinary Procedures for the Police Department) required that the Police Department had to satisfy two limitations standards in order to discipline an officer (that charges be filed (1) within one year after the misconduct was discovered and (2) an extension of either one year or two years if the charge was substantially based on conduct that would be a misdemeanor or a felony crime.)

The statute of limitations provisions for Charter Section 1070 were amended following voters approval on April 10, 2001 to eliminate the second prong, leaving only the one-year statute from the date of discovery. The impartial analysis of the Chief Legislative Analyst provides the rationale for the charter amendment:

The number of limitations periods applicable to police officer misconduct would be reduced, and certain time extensions and exceptions would be introduced. Currently, two limitations standards must be met for an officer to be charged with misconduct: charges must be filed within (a) one year after the misconduct was

discovered and (b) a criminal offense limitations period, where the charge is based substantially or entirely on conduct which may be punishable criminally. This proposed amendment eliminates the second of these time limitations, thereby leaving only one limitations period one year from discovery. This amendment would, however, allow for extension of or exceptions to the one-year period in certain circumstances in a manner similar to that provided by state law for many other police officers in the State of California. The extensions include delaying the one-year limitations standard if the alleged misconduct is also the subject of a criminal investigation or criminal prosecution, or if the alleged misconduct involves a matter in civil litigation where the member is named as a party defendant.

City of Los Angeles Civilian Employees – Charter Section 1016

According to City Personnel, the City Charter does not prescribe a statute of limitations for civilian employees. Instead, the disciplinary action must occur within a reasonable time after it has been discovered.

FISCAL IMPACT

Should the statute of limitations under Charter Section 1060 be amended to eliminate the limitation of “two years from the date of event” and incorporate the “tolling” provisions, the number of investigations and proposed disciplinary actions will increase. However, the Professional Standards Division believes that the number of additional cases would not be significant. PSD estimated that had the “two year from date of event” limitations period not existed, it would have pursued 10-15 additional cases over the past three years. However, those cases would have involved serious types of misconduct that would have been appropriate for investigation despite the passage of time.

CONCLUSION

The Fire Department requests that City Charter Section 1060 be amended to reduce the number of limitations periods applicable to firefighter misconduct and to align the City Charter provisions with those of the Firefighters Procedural Bill of Rights. The proposed amendment would eliminate the second of the two Charter time limitations (two years from the date of event), leaving only the one limitations period of one year from the discovery of the misconduct.

The proposed amendment would also incorporate seven “tolling” provisions which would allow for either a reasonable extension of or a “pausing” of the one-year period in certain circumstances provided for in the Firefighters Procedural Bill of Rights. The extensions include tolling the one-year limitations standard if the alleged misconduct is also the subject of a criminal investigation or criminal prosecution or if the alleged

misconduct involves a matter in civil litigation where the member is named as a party-defendant.

The Fire Department also requests Charter Section 1060 be amended so that the statute of limitations is satisfied when the Department notifies the firefighter of its proposed disciplinary action, provided that such notification occur within one year of the department's discovery of the act committed or omitted by a member. This is the manner of satisfying the statute of limitations under the Firefighters Procedural Bill of Rights. (See *Mays v. City of Los Angeles* (2008) 43 Cal. 4th 343).

Charter Section 1060 (Proposed Amendment)

- (a) **Applicability; Rights.** For purposes of this section, the term "member" refers to all officers and firefighters of the Fire Department. This section shall not apply to any member of the department who has not completed the period of probation in his or her entry position as provided in Section 1011(a). Members not covered by this section who are otherwise entitled by law to a hearing or appeal with regard to proposed or imposed discipline shall be provided a hearing or appeal under rules promulgated by the Fire Chief.

The right of a member of the Fire Department, except the Fire Chief and any other member in a position exempt from civil service, to hold his or her office or position and to receive compensation attached to the office or position is hereby declared to be a substantial property right of which the holder shall not be deprived arbitrarily or summarily, nor other than as provided in this section. No member of the Fire Department shall be suspended, removed, or otherwise separated from the service of the Fire Department (other than by resignation), except for good and sufficient cause shown upon a finding of guilty of the specific charge or charges assigned as cause or causes after a full, fair and impartial hearing before a Board of Rights except as provided in subsection (b) and (h) of this section. ~~The charges must be filed within one year of the department's discovery of the act committed or omitted by a member and in no event later than two years from the date of the act or omission.~~

For a suspension or removal to be taken, the Department shall complete its investigation and notify the member of its proposed disciplinary action within one year of the department's discovery of the act committed or omitted by a member, except in any of the following circumstances:

- (1) If the member voluntarily waives the one-year time period in writing, the time period shall be tolled for the period of time specified in the written waiver.**
- (2) If the act, omission, or other allegation of misconduct is also the subject of a criminal investigation or criminal prosecution, the time**

during which the criminal investigation or criminal prosecution is pending shall toll the one-year time period.

- (3) If the investigation is a multijurisdictional investigation that requires a reasonable extension for coordination of the involved agencies.**
- (4) If the investigation involves an employee who is incapacitated or otherwise unavailable.**
- (5) If the investigation involves a matter in civil litigation where the member is named as a party defendant, the one-year time period shall be tolled while that civil action is pending.**
- (6) If the investigation involves a matter in criminal litigation in which the complainant is a criminal defendant, the one-year time period shall be tolled during the period of that defendant's criminal investigation and prosecution.**
- (7) If the investigation involves an allegation of workers' compensation fraud on the part of the member.**

No case of suspension with loss of pay shall be for a period exceeding six months.

This proposed amendment strengthens the Fire Department's ability to hold firefighters accountable for misconduct without diminishing the due process protections afforded to them. The amendment closes the loopholes that have allowed officers to escape accountability for their misconduct simply because the misconduct occurred over two years prior. The amendment brings the Charter into alignment with the protections provided for firefighters under California law.

Board report prepared by Graham Everett, Battalion Chief, Professional Standards Division, David Spence, Battalion Chief, Professional Standards Division and Paul Hayashida, Chief Special Investigator, Professional Standards Division.

Attachment

COMPARISON OF EXISTING AND PROPOSED DISCIPLINARY STATUTE OF LIMITATIONS

	City Charter §1060 (Sworn Fire)	Impact of Existing Charter §1060 Provision	Proposed City Charter §1060 (Sworn Fire)	Firefighters' Procedural Bill of Rights (FFBOR) (Gov Code 3254)	City Charter §1070 (Sworn Police)	City Charter §1016 (Civilian)
Limitations From Discovery of Misconduct	One year from Department's discovery of the act committed or omitted by a member.	None	None	One year from discovery by the employing fire department.	One year from discovery by an uninvolved Department supervisor.	"Reasonable period".
Limitations From Event	Two years from the date of the act or omission.	LAFD unable to discipline firefighters for any act which occurs more than two years prior, even if it had no notice of misconduct and/or if it was concealed by firefighter. LAPD and civilian discipline have no limitation from date of act or event.	Delete limitation prohibiting discipline for acts or omissions occurring over two years prior.	None	None	None
Satisfying Limitations Period	Department files charges and statement of service with the Board of Fire Commissioners.	Prior to filing charges with Board of Fire Commissioners, the Department must (1) notify the employee of proposed disciplinary action; (2) provide the opportunity to respond (Skelly hearing), (3) receive the Skelly recommendation, (4) Fire Chief makes final decision and (5) employee is served. This takes 3-6 weeks from the one-year limitations period under the Charter.	Notification of proposed disciplinary action (standard required under the Firefighters Procedural Bill of Rights alone) satisfies the limitations period.	Department notifies firefighter of proposed disciplinary action.	Department files complaint with the Board of Police Commissioners.	Department files written statement of cause and certification of service with the Board of Civil Service Commissioners.

COMPARISON OF EXISTING AND PROPOSED DISCIPLINARY STATUTE OF LIMITATIONS

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Tolling Voluntary Written Waiver by Accused	None	Firefighter cannot waive the statute of limitations under existing Charter. (City Attorney advice – 2011)	Add tolling provision mirroring FFBOR (Government Code 3254(d)(1).	Firefighter voluntarily waives period in writing Limitations period tolled for the period of time specified in the written waiver.	Police officer voluntarily waives period in writing. Limitations period tolled for the period of time specified in the written waiver.	None
Tolling Related Criminal Investigator or Prosecution	None	High probability of concurrent investigations to meet one year statute. Potential for discrepancies in interviews; evidence in one case not made available to other; potential taint of criminal case because of compelled interview.	Add tolling provision mirroring FFBOR (Government Code 3254(d)(2).	Event is subject of a criminal investigation or criminal prosecution. Limitations period tolled during criminal investigation or criminal prosecution.	Underlying event is subject of a criminal investigation or criminal prosecution. Limitations period tolled during criminal investigation or criminal prosecution.	None
Reasonable Extension Multi- Jurisdictional Investigation	None	No reasonable extension of limitations period to allow for coordination with other agencies on multi-jurisdictional cases with differing policies, MOUs, etc.	Add tolling provision mirroring FFBOR (Government Code 3254(d)(3).	Multi-Jurisdictional investigation. Reasonable extension of limitations period to coordinate involved agencies.	Multi-Jurisdictional investigation. Reasonable extension of limitations period to coordinate involved agencies.	None

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Tolling Accused Unavailable	None	Current Charter does not take employee's unavailability into account. Department has had instances when employee takes sudden vacation or sick leave to make self "unavailable".	Add tolling provision mirroring FFBOR (Government Code 3254(d)(4).	Employee is incapacitated or otherwise unavailable. Tolling for period of unavailability	Employee is incapacitated or otherwise unavailable. Tolling for period of unavailability	None
Tolling Related Civil Litigation Where Accused is Party- Defendant	None	Conducting administrative investigation during active litigation could result LAFD investigation being part of litigation discovery including compelled statement. Potential for discrepancies in statements; other party will have an advantage as to the Department's defense.	Add tolling provision mirroring FFBOR (Government Code 3254(d)(5).	Underlying event is subject of civil litigation. Accused firefighter is a party-defendant. Limitations period tolled during civil litigation.	Underlying event is subject of civil litigation. Accused police officer is a party-defendant. Limitations period tolled during civil litigation.	None
Tolling Complainant Subject of Criminal Case From Underlying Event	None	High probability of concurrent investigations to meet one year statute. Potential for discrepancies in interviews; evidence in one case not made available to other; potential taint of criminal case because of compelled interview.	Add tolling provision mirroring FFBOR (Government Code 3254(d)(6).	Underlying event in criminal litigation. Complainant is a criminal defendant. Limitations period tolled during criminal investigation or prosecution.	Underlying event in criminal litigation. Complainant is a criminal defendant. Limitations period tolled during criminal investigation or prosecution.	None

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Delayed Discovery	None	Current Charter does not allow for extension of limitations period, allowing employee to escape disciplinary action because of own fraud.	Add tolling provision mirroring FFBOR (Government Code 3254(d)(7)).	Allegation of workers' compensation fraud. Limitations period begins when fraud was discovered by Department.	Allegation of workers' compensation fraud. Limitations period begins when fraud was discovered by Department.	None
Workers' Compensation fraud						
Reasonable Extension	None	Current Charter does not provide for extension when multiple employees are accused. Not requested in proposed Charter amendment because no analogous FFBOR provision.	Not requested in proposed Charter amendment because no analogous FFBOR provision.	None	Investigation involves more than one employee Reasonable extension of limitations period.	None
Multiple Accused Employees						