

From: [Board of Supervisors, \(BOS\)](#)
To: [BOS Legislation, \(BOS\)](#)
Subject: FW: ACLUNC Letter re Resolution #1840428
Date: Monday, April 30, 2018 4:50:31 PM
Attachments: [2018.04.30 ACLUNC Letter.pdf](#)

From: Danielle J.P. Flores [mailto:dflores@aclunc.org]
Sent: Monday, April 30, 2018 3:54 PM
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Cc: Alan Schlosser <aschlosser@aclunc.org>
Subject: ACLUNC Letter re Resolution #1840428

Dear Members of the Board of Supervisors,

Please see the attached letter from Senior Counsel Alan Schlosser regarding Resolution #1840428.

Best,

Danielle J.P. Flores

Litigation Assistant

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April 30, 2018

City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

RE: Resolution Urging Arbitration Board to Adopt City Proposal #22 into MOU with SFPOA (File No. 180428)

Via email

Dear Members of the Board of Supervisors:

I am writing on behalf of the American Civil Liberties Union of Northern California (ACLUNC) to express our strong support for Resolution # 1840428, which is on the agenda for the May 1, 2018 meeting of the Board. In light of the experience of the last two and a half years in adopting and implementing reforms in the San Francisco Police Department (SFPD), the ACLUNC believes that the Resolution is a limited but much-needed measure to maintain the momentum towards achieving the goal of making SFPD a model of 21st Century policing.

The ACLUNC has been an active participant in the collaborative reform process instituted by Mayor Lee to bring about significant and long-overdue reforms in a police department that had lagged behind in adopting best practices and that had lost the trust of many segments of the community. The effort was immeasurably helped by a thorough investigation of SFPD and a lengthy report by the United States Department of Justice Office of Community Oriented Policing Services (COPS). Mayor Lee, the Police Commission and SFPD itself immediately committed the City to carrying out each and every one of the 272 recommendations coming out of this report, a commitment that Chief Scott has fully endorsed.

That collaborative reform process has had some major successes: 1) the adoption of a new Use of Force policy, and 2) the recently adopted taser policy, which even opponents of tasers (such as the ACLUNC) recognize as a fair and collaborative effort to protect public safety from what all recognize as a dangerous weapon.

Unfortunately, the San Francisco Police Officers Association (POA) has been an outlier in the City's movement towards 21st Century policing reforms. While the POA has participated in the working groups, they have used **(and we would contend misused)** labor law procedures designed to bargain about working conditions as a lever to try to delay, undermine and reverse fundamental policy decisions that have been made by the Police Commission after a very public collaborative process. For example, after the Commission unanimously adopted the new Use of Force policy, the POA insisted that the City bargain behind closed doors about certain aspects of the policy that were clearly fundamental policy decisions not within the scope of collective bargaining. And when the City, after 5 months of negotiations, ended the meet and confer process, the POA went to court to try and force the City to

arbitration; and when their position was rejected by a Superior Court judge, the POA appealed that decision, and the case is now pending in the Court of Appeal.

Similarly, when the Commission recently adopted a policy for the regulations of the use of tasers, after months of working group and community meetings with SFPD officials and Commissioners, the POA announced that it will insist that the City meet and confer about this policy, once again trying to move fundamental managerial policy decisions from the transparent forum of public meetings and community input into labor bargaining where the community is not presented.¹

This POA pattern of diverting fundamental policy decisions implementing the 272 COPS reforms into a closed-door forum with no public participation, is a major road block to the City in achieving its goal of implementing the 272 reforms, **and its equally important goal of regaining the trust of the communities it serves.** The Memorandum of Understanding is the perfect vehicle to ensure that the agreement does not permit, or even encourage, a process whereby the POA gets a second bite at the apple after every policy decision by being able to impose impasse and fact-finding procedures that are meant for discussions about working conditions and not for fundamental SFPD policies. Thus, the Resolution supports the City's proposal that, with respect only to the 272 COPS recommendations, the POA waive fact finding and impasse procedures if no agreement is reached. The COPS report made it very clear that there was a direct link between the adoption of these reforms and goal of bringing modern best practices to SFPD. Therefore, it is very appropriate that the willingness of the POA to accept this limited proposal should be a factor in considering other issues, including compensation. Only if these reforms are implemented in a timely and transparent manner will the City and its residents receive the high quality and modern policing that it deserves.

Accordingly, the ACLUNC urges the Board of Supervisors to take this step to move forward on police reform in San Francisco, and to adopt this Resolution.

Very truly yours,



Alan Schlosser

¹ Apparently not satisfied with their use of the labor laws to delay and undermine public decisions about public policy, the POA has taken the extraordinary step, even before the taser policy was adopted, to qualify a ballot initiative for the June 2018 ballot (Prop H) which would divest the Police Commission of power with respect to setting the standard for use of tasers and for budgetary decisions, and replace that with a vote on POA proposals that would explicitly lower the use of force standard that the Commission had adopted.