



The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

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February 28, 2018

HAND DELIVERED AND SENT VIA EMAIL

Mr. John Arntz
Director of Elections
Department of Elections
City and County of San Francisco
1 Carlton B. Goodlett Place
City Hall, Room 48
San Francisco, CA 94102

Re: Analysis of SFPOA Ballot Measure

Dear Director Arntz:

I write to you, as president of the Police Commission regarding the Ballot Simplification Committee's on for "Use of Tasers by San Francisco Police Officers" for the June 5, 2018 ballot.

I am troubled that the San Francisco Police Officers' Association (SFPOA) has submitted this ballot measure in an effort to circumvent the San Francisco Police Commission's authority as set forth in the City Charter, and the Commission's policy expertise on this issue. Further, I believe both the ballot initiative as well as the title and summary of the ballot measure and draft digest, are misleading in several critical respects that must be corrected.

First, the title, summary, and digest for the ballot measure ("Use of Tasers by San Francisco Police Officers") must communicate to voters that SFPOA, with this ballot measure, seeks to circumvent the governmental responsibility of the Commission and substitute a more permissive set of policy "conditions" for the Taser policy currently being developed by the Police Commission and SFPD command staff with extensive input from community groups as well as SFPOA.

The Commission, SFPD and community stakeholders, in accordance with recommendations of the Department of Justice, have all worked collaboratively over a several month period in an

effort to achieve a thoughtful and thorough policy that recognizes the complexity and limitations of this weapon, the potential for serious harm and/or death resulting from use and misuse, especially with vulnerable population, while protecting, as much as possible, the city from civil liability. We are well aware that many police departments have reported a lack of Taser reliability, many have faced significant lawsuits when injury and/or death have occurred and we have worked long and hard to assure that this city and department uses the weapon in accordance with best practices and the law.

The digest does not alert the voter that the Commission has already authorized Taser use by the SFPD and that the Commission, SFPD and stakeholders remain committed to designing a safe policy and close oversight.

The digest must make clear that a “NO” vote nonetheless means that the Police Commission and SFPD will arm officers with Tasers and implement the Taser policy that is currently under development—instead of the more lax SFPOA’s policy conditions, which it seeks to have “written in stone” with this ballot measure. Relatedly, the summary and digest must make clear that this ballot measure seeks to force an accelerated timeline for the implementation of Tasers that is inconsistent with the timeline set by Police Commission, in recognition that many important reforms recommended by the U.S. Department of Justice are still ongoing at SFPD.

The draft ballot materials also do not accurately reflect the Police Commission’s policy process to date. The Police Commission has held numerous hearings and heard expert testimony on many occasions on this issue, and convened a collaborative working group of community and legal stakeholders—including the SFPOA—which worked for months to research and develop a proposed policy for Tasers.¹ The summary is incomplete in its account of this process. It states that in November 2017, the Police Commission authorized SFPD to use Tasers starting in December 2018, but neglects to mention that, at the same time, the Police Commission simultaneously directed SFPD to submit to a proposed policy for Tasers, based on the working group’s draft policy. I expect SFPD will submit a proposed policy to the Police Commission for a vote no later than next month.² The policy developed by the Police Commission working group and SFPD (with SFPOA’s full participation) reflects national best practices, extensive legal and medical research, and negotiated compromises that accommodate the interests of all stakeholders including community groups. Thus, a “no” vote means that the Police Commission—not the SFPOA—will continue to exercise its authority and expertise to develop sound policy for SFPD.

¹ This collaborative working group process was modeled after the Commission’s working group on the use of force, which was lauded by the U.S. Department of Justice Community Oriented Policing Services (US DOJ COPS) in its 2016 report.

² For this reason, I believe the title “Use of Tasers by San Francisco Police Officers” is inaccurate and misleading. The Police Commission has already authorized the use of Tasers, and the ballot measure is directed to stipulating SFPOA’s preferred policy terms. A more accurate title would be: “San Francisco Police Officers’ Association Preferred Policy Conditions on Use of Tasers by San Francisco Police Officers.”

Second, the summary and digest omit important factual information reflected in the extensive record that was developed by the Police Commission, subject matter experts that testified, and research provided by community groups and SFPD. It is very misleading to say merely that Tasers merely cause “incapacitation,” and that the heart’s normal rhythm can “resume following a sudden cardiac arrest.” In fact, there no dispute in the medical literature that Tasers cause sudden cardiac arrest *and a heightened risk of death due to cardiac capture*. To present a neutral account of this issue, the ballot measure materials must clearly state that Tasers are lethal and have killed and injured many hundreds of people in the United States.

Third, and closely relatedly, the ballot measure materials must also communicate that the Police Commission and SFPD’s Taser policy currently under development contains many detailed provisions designed to mitigate the risk of injury or death as well as city liability. These provisions are absent from the SFPOA’s ballot measure and therefore in conflict with the ballot measure. The ballot measure materials *must* make clear that the SFPOA’s ballot measure will limit the Police Commission and SFPD’s ability to implement these important protections for the public’s benefit. The digest oversimplifies the nature of the weapon and ignores other important information presented to the Commission, most notably, the weapon often fails to accomplish incapacitation and that the weapon can be lethal. The manufacturer has issued 22 warnings regarding the weapon’s use, and the public may be woefully misled in the absence of accurate information regarding the risks attendant and the process needed to protect the officers, citizens and city from misuse. For example:

- The Police Commission and SFPD’s draft Taser policy contains limitations on the use of Tasers against vulnerable populations, such as pregnant women and children, whereas SFPOA’s “conditions” provide no such protections.
- The Police Commission and SFPD’s draft Taser policy contain detailed requirements for training of officers and for the review of each Taser use, in contrast to the minimal “conditions” set forth in SFPOA’s ballot measure.
- The Police Commission and SFPD’s draft Taser policy also may provide a fundamentally stricter standard for the use of Tasers, as compared to the “assaultive” standard set forth in the legal text of the ballot measure, which will further protect the public and limit SFPD and officers’ legal liability.

These tradeoffs between the SFPOA policy “conditions” and the Taser policy developed by the Police Commission and SFPD must be conveyed to voters by the ballot measure materials.

I believe the foregoing revisions must be made to educate voters about the dangers of allowing SFPOA to dictate the terms of a Taser policy. A vote “NO” ensures that the Police Commission continues to exercise its rightful role overseeing reforms at SFPD and crafting policies that govern SFPD’s activities.

I suggest that the digest must make the following facts clear:

- 1) Taser use by SFPD has already been approved by the Commission;
- 2) The Commission, with significant input from SFPD, SFPOA and Community stakeholders, in accordance with DOJ recommendations is finalizing a sound policy which encompasses training, oversight, measurable impact, safety controls, and review boards;

- 3) This ballot measure is sponsored by a police union and not SFPD or the Police Commission;
- 4) A "NO" vote means that SFPD officers will nonetheless be armed with Tasers once fully trained in accordance with sound policy developed by the Commission and the SFPD and all stakeholders;
- 5) A "YES" vote means that the Commission and the SFPD will be prohibited from altering the policy and/or use should the weapon prove to be problematic.

Thank you for attention to my concerns and comments.

Sincerely,

L. Julius M. Turman
President
San Francisco Police Commission