



Northern
California

Wednesday, October 31, 2018

Sent via U.S. Mail and Email and Facsimile

Arcata City Council
736 F Street
Arcata, CA 95521
Fax: 707-822-8018

Re: Excessive Police Presence at City Council Meetings

Dear City Council Members:

We write on behalf of the American Civil Liberties Union Foundation of Northern California (“ACLU”) to express concern over the implementation of new police measures at recent Arcata City Council meetings. To allow the public to meaningfully participate in future meetings, the Arcata City Council must reduce the excessive and intimidating police presence and remove the notice posted on the door of the City Council building, which threatens activists with a laundry list of criminal penalties. These steps should be taken prior to the next City Council meeting on November 7th.

The Facts

Over the last year, members of the Arcata community have actively participated in the public comment portion of city council meetings. Residents have regularly voiced their concerns about matters of public importance including racial justice issues impacting them and their neighbors. After the death of an unarmed 19-year old Black college student (David Josiah Lawson) in April 2017, the City Council acknowledged the importance of students of color feeling safe and protected in Arcata; and residents requested that the Council ensure the murderer was prosecuted.

After months of peaceful gatherings, prayer sessions and activist attendance at city council meetings, community members organized a non-violent protest at the August 15, 2018 meeting. The protest highlighted the lack of closure in the Lawson investigation after 18 months and resulted in stopping the scheduled meeting from taking place.

The day after the non-violent protest the police presence was increased outside City Hall and this show of force continues to date. Nine armed officers now stand in and around City Hall in advance of every City Council meeting and appear (at least to community members) to be permanent fixtures. This includes officers stationed at the main entrance, and outside and inside the council chambers. At the same time, a notice appeared on the door of the City Hall Building which listed eight criminal offenses

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related to assemblies, meetings and riots, and prohibited certain items being brought into City council meetings, including any “items deemed by City Representatives as reasonably capable of disrupting or disturbing a meeting.”

Increased Police Presence Chills Public Participation at City Council Meetings

The very presence of police can be intimidating. *See Michigan v. Chesternut*, 486 U.S. 567, 575 (1988). Nine armed officers standing outside and inside a legislative session and next to a list of posted criminal penalties is hardly the environment for conducting the people’s business. This is particularly problematic considering the current climate in Arcata. The death of a young Black man and the failure to prosecute continues to heighten tensions in the community. Many Arcata residents have expressed their dissatisfaction with how the investigation into Josiah Lawson’s murder is being handled and these same community members are now met by armed officers when they attempt to speak out in the official public forum.

The posted notice adds to the environment of intimidation. A laundry list of penal code sections coupled with the presence of armed officers ready and willing to enforce that list has discouraged community members from attending council meetings. Specifically, during the City Council meeting held on October 3, 2018, at least one resident remarked during the public comment period that “people [were] afraid to come participate in their community and speak to representatives.” Whether intended or not, these security measures appear to target those groups who have been raising dissenting voices in front of the Council on issues such as the Lawson investigation and the McKinley statue, many of whom are persons of color.

The City Council Has Not Justified the Excessive Police Presence

A city council may respond to potential and actual violence with an adequate police presence. *Collins v. Jordan*, 110 F. 3d 1363, 1372 (9th Cir 1996). However, nine officers placed in and around the City Council building as a regular presence following a single incident of non-violent protest is an excessive and unnecessary response. Unless the city has specific and credible evidence that unlawful activity will occur at future meetings, these measures are contrary to the letter and the spirit of the First Amendment’s guarantee of freedom of speech and assembly. That a disruption has occurred at a meeting or a protest on one day is not grounds to place undue burdens on the exercise of First Amendment rights at future events. *Collins* 110 F.3d at 1372. If the Arcata City Council plans to treat meetings as a dangerous and threatening place, where community members must walk a gauntlet of police to participate in their government, then the burden is on the city to justify these measures which are having a chilling effect on public participation.

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Conclusion

City council meetings must provide a forum where the public is afforded the opportunity to address the council and speak directly with the members of a government body without fear of police intervention and criminal prosecution. Whether intended or not, Arcata City Council's latest practices discourage public participation, particularly from dissenting voices. Accordingly, immediate steps should be taken to eliminate or significantly reduce the visible police presence and to remove the notice so that the public can freely attend the November 7 meeting (and meetings thereafter) of their government without needing to overcome the fears that have been engendered by these unnecessary security measures.

Sincerely,

A handwritten signature in blue ink, appearing to read "Alan Schlosser".

Alan L. Schlosser, Senior Counsel
ACLU Foundation of Northern California

A handwritten signature in black ink, appearing to read "Kena Cadore".

Kena C. Cadore, Esq.
Equal Justice Works Fellow, Sponsored by Apple Inc. and O'Melveny & Myers
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Cc: Richard Ehle, Interim Chief of Police
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