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9  
10 ETHICS COMMISSION  
11 CITY AND COUNTY OF SAN FRANCISCO  
12

13 In the Matter of Charges Against  
14 ROSS MIRKARIMI,  
15 Sheriff, City and County of San Francisco.  
16

AMENDED CHARGES OF OFFICIAL  
MISCONDUCT; BILL OF  
PARTICULARS  
[S.F. CHARTER § 15.105(a)]

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18  
19 On March 21, 2012, I, EDWIN M. LEE, Mayor of the City and County of San Francisco  
20 (the "City"), acting under the authority vested in me by Charter Section 15.105(a), suspended and  
21 charged San Francisco Sheriff Ross Mirkarimi ("SHERIFF MIRKARIMI") with engaging in  
22 official misconduct as defined in San Francisco Charter Section 15.105(e). I now submit these  
23 amended charges as requested at the May 29, 2012, meeting of the Ethics Commission. All the  
24 factual allegations contained in these amended charges are based upon my information and belief.

25 **BACKGROUND**

26  
27 1. San Francisco Charter Section 15.105 authorizes me to file these charges and initiate  
28 proceedings to remove SHERIFF MIRKARIMI from his elective office. Section 15.105 states that

1 "[a]ny elective officer" is "subject to suspension and removal for official misconduct" as provided  
2 for in that section. Section 15.105(a) provides: "Such officer may be suspended by the Mayor and  
3 the Mayor shall appoint a qualified person to discharge the duties of the office during the period of  
4 suspension. Upon such suspension, the Mayor shall immediately notify the Ethics Commission and  
5 Board of Supervisors thereof in writing and the cause thereof, and shall present written charges  
6 against such suspended officer to the Ethics Commission and Board of Supervisors at or prior to  
7 their next regular meetings following such suspension, and shall immediately furnish a copy of the  
8 same to such officer, who shall have the right to appear with counsel before the Ethics Commission  
9 in his or her defense."

10 2. Charter Section 15.105(a) further provides: "The Ethics Commission shall hold a  
11 hearing not less than five days after the filing of written charges. After the hearing, the Ethics  
12 Commission shall transmit the full record of the hearing to the Board of Supervisors with a  
13 recommendation as to whether the charges should be sustained. If, after reviewing the complete  
14 record, the charges are sustained by not less than a three-fourths vote of all members of the  
15 Board of Supervisors, the suspended officer shall be removed from office; if not so sustained, or if  
16 not acted on by the Board of Supervisors within 30 days after the receipt of the record from the  
17 Ethics Commission, the suspended officer shall thereby be reinstated."

18 3. Charter Section 15.105(e) defines the term "official misconduct":  
19 "Official misconduct means any wrongful behavior by a public officer in relation to the duties of his  
20 or her office, willful in its character, including any failure, refusal or neglect of an officer to  
21 perform any duty enjoined on him or her by law, or conduct that falls below the standard of  
22 *decency, good faith and right action impliedly required of all public officers and including any*  
23 *violation of a specific conflict of interest or governmental ethics law.*" (Emphasis added.) For ease  
24 of reference, the underlined portion of Section 15.105(e) may be referred to as the "wrongful  
25 behavior" clause, and the italicized portion as the "required conduct" clause.

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ALLEGATIONS

**A. Sheriff Mirkarimi's Public Offices**

4. From January 8, 2005, until January 8, 2012, SHERIFF MIRKARIMI at all times held the elected office of member of the Board of Supervisors of the City and County of San Francisco.

5. On November 8, 2011, SHERIFF MIRKARIMI was elected to the Office of Sheriff for the City and County of San Francisco for a four-year term beginning January 8, 2012. The Director of Elections certified the results of this election on November 22, 2011, and the Board of Supervisors declared the results on December 6, 2011.

6. Between November 8, 2011, and January 8, 2012, SHERIFF MIRKARIMI had the duty and the power in his official capacity as Sheriff-Elect to work with the Sheriff's Department and its officials to prepare himself to assume the full duties of Sheriff. SHERIFF MIRKARIMI also had the duty and the power as Sheriff-Elect to represent the Sheriff's Department to the public. SHERIFF MIRKARIMI exercised those official powers.

7. Between November 8, 2011, and January 8, 2012, SHERIFF MIRKARIMI had all of the duties and powers of a member of the Board of Supervisors. As the chair of the Public Safety Committee, SHERIFF MIRKARIMI also had particular powers and duties in regard to legislation addressing law enforcement and criminal justice issues. SHERIFF MIRKARIMI exercised those official powers.

8. On January 8, 2012, SHERIFF MIRKARIMI ceased to be a member of the Board of Supervisors and assumed all powers and duties of the Sheriff of the City and County of San Francisco. SHERIFF MIRKARIMI exercised those official powers.

9. As set forth in Charter Sections 6.100 and 6.105, the Sheriff is an elective officer of the City. Under San Francisco Charter Section 6.105, the duties of the Sheriff include keeping the County jails; receiving all prisoners committed to jail by competent authorities; executing the orders and legal processes issued by the courts of the State of California; upon court order detailing necessary bailiffs; and executing the orders and legal processes issued by the Board of Supervisors or by any legally authorized department or commission.

1           10. Under Government Code Section 26600 et seq., the Sheriff's powers and duties  
2 include but are not limited to: (a) preserving the peace, including by sponsoring, supervising, or  
3 participating in any project of crime prevention or offender rehabilitation; (b) arresting all persons  
4 who commit or attempt to commit a public offense; and (c) "tak[ing] charge of and be[ing] the sole  
5 and exclusive authority to keep the county jail and the prisoners in it."

6           11. Under AB 109, the Sheriff has absolute discretion to decide which offenders in his  
7 custody must remain in jail, and which may serve their jail time in a community treatment program  
8 or on electronic monitoring.

9           12. The Sheriff is also a department head. The Sheriff leads the several hundred  
10 members of the San Francisco Sheriff's Department by, among other things, setting its policies,  
11 administering its budget, overseeing its functions, ensuring members' proper conduct, disciplining  
12 misconduct, maintaining morale, and representing the Sheriff's Department to all other City  
13 agencies and to the San Francisco public. As the head of a City department, the Sheriff also  
14 represents the City to other jurisdictions and the public at large.

15           13. As a peace officer, the Sheriff has the authority to make arrests and to carry a  
16 firearm, among other powers. Cal. Penal Code § 830.1 et seq.

17           14. Under California Family Code Sections 6250 et seq., peace officers, including the  
18 Sheriff, can request and must enforce emergency protective orders in domestic violence cases.

19           15. The Office of the Sheriff regularly interacts with local programs for perpetrators and  
20 victims of domestic violence. This interaction includes providing grant funding to one or more  
21 rehabilitation programs for perpetrators of domestic violence, and the Sheriff's Office may refer  
22 offenders to such programs. The Sheriff's Office also provides recovery programs for persons in jail  
23 who are victims of domestic violence. The Sheriff has the discretion to decide whether to fund  
24 these programs, and if so, in what amount.

25           16. The Office of the Sheriff also interacts with and cooperates with the City and County  
26 of San Francisco's Adult Probation Department, which supervises all individuals sentenced to  
27 probation. The Sheriff is a member of the Community Corrections Partnership, which is chaired by  
28 the county's Chief Probation Officer. Cal. Penal Code § 1230. The Sheriff is also responsible for

1 appointing a co-chair of the City's Re-Entry Council, which supports programs serving individuals  
2 exiting the criminal justice system who reside in or will be released to San Francisco.

3 San Francisco Administrative Code Section 5.1-1 et seq.

4 17. The Sheriff's Office also participates in and funds activities related to pre-trial  
5 diversion, sentencing, re-entry and rehabilitation.

6 18. San Francisco criminal justice agencies, including the Police Department, District  
7 Attorney's Office, Adult Probation Department and the Sheriff's Department have for a number of  
8 years collaborated closely among themselves and with community programs to combat domestic  
9 violence.

10 **B. Sheriff Mirkarimi's Wrongful Conduct**

11 19. On or about December 31, 2011, while an incumbent Supervisor and Sheriff-Elect,  
12 SHERIFF MIRKARIMI committed acts of verbal and physical abuse against his wife, Eliana  
13 Lopez. Among other things, SHERIFF MIRKARIMI grabbed Ms. Lopez with such force that he  
14 bruised her upper right arm.

15 20. During that incident, SHERIFF MIRKARIMI restrained Ms. Lopez and violated her  
16 personal liberty.

17 21. At or around the time of the incident, SHERIFF MIRKARIMI indicated to  
18 Ms. Lopez that he was very powerful and could therefore take custody of their two-year-old child.

19 22. On January 1, 2012, Ms. Lopez described the incident to one of her neighbors.  
20 On January 4, 2012, Ms. Lopez described the incident to a second neighbor. One of these neighbors  
21 contacted the San Francisco Police Department, which initiated a criminal investigation into the  
22 report of domestic violence by SHERIFF MIRKARIMI.

23 23. Between December 31, 2011 and January 4, 2012, SHERIFF MIRKARIMI  
24 participated in and condoned efforts to dissuade witnesses from reporting this incident to police  
25 and/or cooperating with police investigators.

26 24. On January 8, 2012, shortly after his swearing-in, SHERIFF MIRKARIMI stated  
27 publicly that the December 31, 2011 incident of domestic violence was a "private matter" and  
28

1 “family matter.” SHERIFF MIRKARIMI also publicly denied that he was ever verbally or  
2 physically abusive to his wife.

3 25. On January 13, 2012, the District Attorney initiated a criminal complaint against  
4 SHERIFF MIRKARIMI, charging that SHERIFF MIRKARIMI violated three provisions of the  
5 California Penal Code in connection with the December 31, 2011 incident. Specifically, the  
6 District Attorney charged that SHERIFF MIRKARIMI had violated:

- 7 • Penal Code Section 273.5(a), by unlawfully inflicting a corporal injury resulting in  
8 traumatic condition upon Ms. Lopez;
- 9 • Penal Code Section 273a(b), by willfully and unlawfully causing and permitting the  
10 person and health of his two-year-old child to be endangered; and
- 11 • Penal Code Section 136.1(b)(1), by willfully and unlawfully attempting to prevent  
12 and dissuade Ms. Lopez from making a report of the incident to law enforcement.

13 26. On January 13, 2012, SHERIFF MIRKARIMI was arrested by the San Francisco  
14 Police Department and booked by San Francisco Sheriff’s deputies at the San Francisco County  
15 Jail. At the time that SHERIFF MIRKARIMI was arrested and booked, the San Francisco Police  
16 Department served him with an emergency protective order. That emergency protective order  
17 prohibited SHERIFF MIRKARIMI from, among other things, possessing, controlling, owning or  
18 receiving any firearms. SHERIFF MIRKARIMI agreed to locate and surrender his firearms to the  
19 San Francisco Police Department within 24 hours. Instead, SHERIFF MIRKARIMI transferred his  
20 personal firearms to the Sheriff’s Department, thereby keeping them under his own direct control.

21 27. On January 19, 2012, SHERIFF MIRKARIMI was arraigned in San Francisco  
22 Superior Court. The Court issued a criminal protective order that prohibited SHERIFF  
23 MIRKARIMI from, among other things, owning, possessing, or controlling any firearms. The  
24 Court also ordered the Sheriff’s Department to transfer SHERIFF MIRKARIMI’S firearms to the  
25 SFPD.

26 28. On March 12, 2012, the District Attorney, on behalf of the People of the State of  
27 California, filed a First Amended Misdemeanor Complaint against SHERIFF MIRKARIMI. The  
28 Amended Complaint charged SHERIFF MIRKARIMI with the three original counts contained in

1 the January 13, 2012 Misdemeanor Complaint and added a fourth count for a violation of Penal  
2 Code Section 236, charging that SHERIFF MIRKARIMI committed the crime of false  
3 imprisonment on or about December 31, 2011, by willfully and unlawfully violating the personal  
4 liberty of Ms. Lopez.

5 29. On March 12, 2012, SHERIFF MIRKARIMI agreed to a negotiated disposition of  
6 the charges, under which SHERIFF MIRKARIMI would plead guilty to the fourth count alleged  
7 against him (a false imprisonment of Ms. Lopez under Penal Code section 236) and receive an  
8 agreed-upon sentence that included, among other things, three years of probation and credit for time  
9 served. Under the negotiated disposition, the criminal protective order was to remain in effect until  
10 lifted by the Court.

11 30. SHERIFF MIRKARIMI stipulated that a factual basis existed for his guilty plea.  
12 The Court found a factual basis for the plea, found that SHERIFF MIRKARIMI knowingly and  
13 voluntarily waived his rights and entered his guilty plea, and accepted the plea. False imprisonment  
14 of a spouse is a crime of domestic violence. The California Penal Code considers spousal abuse to  
15 be a "crime against public decency and good morals." Cal. Penal Code, Part 1, Title 9, Ch. 2.5.  
16 Spousal abuse is also a crime of moral turpitude under California law.

17 31. On March 19, 2012, the Superior Court accepted SHERIFF MIRKARIMI'S waiver  
18 of his appellate rights. The Court imposed sentence consistent with the March 12, 2012 plea  
19 agreement and ordered SHERIFF MIRKARIMI to be placed on three years' probation under the  
20 supervision of the San Francisco Adult Probation Department under the terms and conditions that  
21 he was to: serve one day in County Jail, with credit for time served; perform 100 hours of  
22 community service pursuant to Penal Code section 1203.097; enter, participate, and successfully  
23 complete 52 weeks of domestic violence counseling pursuant to Penal Code section 1203.097; pay a  
24 \$400 domestic violence fine pursuant to Penal Code section 1203.097; and enter and complete  
25 parenting classes if deemed appropriate by the Adult Probation Department. The Court further  
26 ordered that the criminal protective order would remain in full force and effect until lifted by the  
27 Court that would be monitoring SHERIFF MIRKARIMI's probation, and that SHERIFF  
28 MIRKARIMI was subject to any family court order. SHERIFF MIRKARIMI was also ordered to

1 pay \$120 to the restitution fund, a \$40 court operations assessment fee, and a \$30 criminal  
2 conviction assessment fine.

3  
4 **CHARGES OF OFFICIAL MISCONDUCT**

5 **COUNT ONE**

6 **Wrongful Behavior By A Public Officer**

7 **(Domestic Violence)**

8 32. Paragraphs 1-31 are incorporated by reference and realleged as if set forth in full.

9 33. SHERIFF MIRKARIMI was a public officer at all times during the events alleged  
10 herein.

11 34. SHERIFF MIRKARIMI engaged in wrongful behavior by committing domestic  
12 violence against his wife.

13 35. SHERIFF MIRKARIMI'S wrongful behavior was willful.

14 36. SHERIFF MIRKARIMI'S wrongful behavior relates to the duties of his office,  
15 including, but not limited to: (a) his duties as Sheriff and Sheriff-Elect to safeguard the public trust  
16 as an elected official, lead by example, obey the law, and avoid any action bringing the Sheriff's  
17 Department into disrepute; (b) his further duties as Sheriff to abide by his oath of office, abide by  
18 departmental policies, arrest wrongdoers, report public offenses, discipline members of the Sheriff's  
19 Department who commit domestic violence, jail domestic violence offenders, request and enforce  
20 protective orders in domestic violence cases, oversee jail programs to rehabilitate domestic violence  
21 offenders and aid domestic violence victims in their recovery, and collaborate with other criminal  
22 justice agencies and community groups to combat domestic violence; (c) his duties as a member of  
23 the Board of Supervisors to safeguard the public trust as an elected official, lead by example, obey  
24 his oath of office and the code of conduct, and avoid any actions casting the Board of Supervisors  
25 into disrepute; and (d) his duties as chair of the Public Safety Committee of the Board of  
26 Supervisors to lead by example, safeguard the public trust, and control criminal justice policies and  
27 legislation.



**COUNT TWO**  
**Wrongful Behavior By A Public Officer**  
**(Abuse Of Office)**

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2  
3 37. Paragraphs 1-36 are incorporated by reference and realleged as if set forth in full.

4 38. SHERIFF MIRKARIMI was a public officer at all times during the events alleged  
5 herein.

6 39. SHERIFF MIRKARIMI engaged in wrongful behavior by threatening to misuse his  
7 power as a public official for personal advantage against his wife.

8 40. SHERIFF MIRKARIMI'S wrongful behavior was willful.

9 41. SHERIFF MIRKARIMI'S wrongful behavior relates to the duties of his office,  
10 including, but not limited to, his duties as public officer to safeguard the public trust, lead by  
11 example, avoid any action bringing his public office into disrepute, and refrain from using or  
12 threatening to use his public office for personal advantage.

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14  
15 style="text-align: center;">**COUNT THREE**  
**Wrongful Behavior By A Public Officer**  
**(Impeding A Police Investigation)**

16  
17 42. Paragraphs 1-41 are incorporated by reference and realleged as if set forth in full.

18 43. SHERIFF MIRKARIMI was a public officer at all times during the events alleged  
19 herein.

20 44. SHERIFF MIRKARIMI engaged in wrongful behavior by participating in and  
21 condoning efforts to dissuade witnesses from reporting his domestic violence to police and/or  
22 cooperating with police investigators.

23 45. SHERIFF MIRKARIMI'S wrongful behavior was willful.

24 46. SHERIFF MIRKARIMI'S wrongful behavior relates to the duties of his office,  
25 including, but not limited to: (a) his duties as Sheriff and Sheriff-Elect to safeguard the public trust  
26 as an elected official, lead by example, obey the law, act with integrity and honesty, aid  
27 investigations, and avoid any action bringing the Sheriff's Department into disrepute; (b) his further  
28 duties as Sheriff to abide by his oath of office, abide by departmental policies, arrest wrongdoers,

1 report public offenses, discipline members of the Sheriff's Department who tamper with  
2 investigations, ensure the integrity of investigations, and ensure the integrity of the criminal justice  
3 system; (c) his duties as a member of the Board of Supervisors to safeguard the public trust as an  
4 elected official, lead by example, obey his oath of office and the code of conduct, and avoid any  
5 actions casting the Board of Supervisors into disrepute; and (d) his duties as chair of the Public  
6 Safety Committee of the Board of Supervisors to lead by example, safeguard the public trust, and  
7 ensure the integrity of the criminal justice system.

8  
9 **COUNT FOUR**

10 **Wrongful Behavior By A Public Officer**  
11 **(Crime, Conviction and Sentence)**

12 47. Paragraphs 1-46 are incorporated by reference and realleged as if set forth in full.

13 48. SHERIFF MIRKARIMI was a public officer at all times during the events alleged  
14 herein.

15 49. SHERIFF MIRKARIMI engaged in wrongful behavior by committing the crime of  
16 falsely imprisoning his wife, resulting in a criminal conviction and sentence of three years'  
17 supervised probation to be served concurrently with and in the same jurisdiction as his term as  
18 Sheriff.

19 50. SHERIFF MIRKARIMI'S wrongful behavior was willful.

20 51. SHERIFF MIRKARIMI'S crime, conviction and sentence is related to each and  
21 every duty of his office.

22 **COUNT FIVE**

23 **Breach Of Required Conduct**  
24 **(Sheriff and Sheriff-Elect)**

25 52. Paragraphs 1-51 are incorporated by reference and realleged as if set forth in full.

26 53. SHERIFF MIRKARIMI was a public officer at all times during the events alleged  
27 herein.



