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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.

**DECLARATION OF SFPD  
INSPECTOR RICHARD DANIELE**

16  
17 I, RICHARD DANIELE, declare:

18  
19 1. I have personal knowledge of the matters stated herein, except for those matters set  
20 forth on information and belief, which I believe to be true, and if called to testify, I can and will  
21 testify competently as to all matters set forth herein.

22 2. I am currently an Inspector in the Domestic Violence Response Unit of the San  
23 Francisco Police Department. I have worked in the San Francisco Police Department since 1981,  
24 initially as a patrol officer. In 1999 I was promoted to Inspector. I worked in the General Works  
25 Division from 1999 to 2005, investigating a variety of crimes including assault, kidnapping, and  
26 extortion. From 2005 to 2006, I was in the Special Investigations Division, where I worked with  
27 the US Secret Service to provide dignitary security. For a time in 2006, I returned to the General  
28 Works Division. At both the General Works Division and the Special Investigations Division, I

1 investigated allegations of criminal conduct by law enforcement officers. I have worked in the  
2 Domestic Violence Response Unit since 2007. I have conducted approximately 500 domestic  
3 violence investigations.

4 3. This declaration includes information about an investigation conducted by me and  
5 Inspector Mike Becker of the San Francisco Police Department Domestic Violence Response Unit,  
6 concerning a report of a December 31, 2011 incident of domestic violence involving victim Eliana  
7 Lopez and suspect Ross Mirkarimi.

8 4. On January 4, 2012 around 1 p.m., I was on duty in the Domestic Violence Response  
9 Unit. Inspector Mike Becker and I were the on-call inspectors. My lieutenant in the Unit, Lt.  
10 Michele Jean, met with me and Inspector Becker and directed us to investigate a report of domestic  
11 violence that Inspector John Keane of the Domestic Violence Response Unit had received by  
12 telephone around 12:25 p.m., from reporting party Ivory Madison, concerning an incident that  
13 occurred on December 31, 2011 involving victim Eliana Lopez and suspect Ross Mirkarimi. I  
14 received information that Madison had videotaped the victim's injury and received Madison's  
15 address and telephone number.

16 5. On January 4, 2012 around 1:15 p.m., Inspector Becker and I obtained photos of  
17 Lopez, Madison, and Mirkarimi. Around 1:40 p.m., Inspector Becker called Ivory Madison and left  
18 a message on her voice mail. Around 2:19 p.m., I called Ivory Madison and left a message on her  
19 voice mail.

20 6. On January 4, 2012 around 2:30 p.m., Inspector Becker and I arrived at Madison's  
21 address. Madison's father in law opened the door and told us he was babysitting his granddaughter  
22 and Madison would be home in 30 minutes. I left a contact card with him and advised him to have  
23 Madison call me. Around 3:07 p.m. I received a call from Madison, who told me she would be  
24 home in approximately 30 minutes and would call me when she got home.

25 7. On January 4, 2012 around 3:50 p.m., Inspector Becker and I arrived at Madison's  
26 address and rang the door bell. A short time elapsed and the door opened and Lopez exited the  
27 front door. She walked past Inspector Becker and me. Inspector Becker called "Eliana" and  
28 identified himself and me. Inspector Becker told Lopez that we needed to talk to her, at which time

1 she looked at us and kept walking. Inspector Becker repeated himself. Lopez replied that she did  
2 not have anything to say. Lopez walked down the stairs and Inspector Becker again called "Eliana"  
3 and told her we needed to speak with her. Lopez stated she did not want to talk to us and pointed at  
4 Madison and stated, you should talk to Ivory, she's the one who called the police. Lopez walked  
5 away and continued walking on Webster Street.

6 8. Inspector Becker and I introduced ourselves to Madison and we responded inside  
7 and were met by her husband Abe Mertens, who was holding their two-year-old daughter. I later  
8 found out from Inspector Becker that shortly after we arrived, Madison told Inspector Becker that a  
9 person who worked with Mirkarimi on his campaign just called Madison and told Madison she was  
10 some kind of domestic violence advocate; the person was trying to have Madison not follow  
11 through with reporting the incident; and Madison did not appear happy about this.

12 9. While we were at Madison's home, Mertens told us he was not present for Lopez's  
13 meeting with Madison on January 1, 2012. We told Madison we would like to conduct a taped  
14 interview of her, by herself. She agreed. The taped interview of Madison began at approximately  
15 4:33 p.m. and concluded at approximately 5:03 p.m.

16 10. During the time we were at Madison's home, Lopez attempted to contact Madison  
17 numerous times on Madison's cell phone. At least once, Madison answered the phone and spoke to  
18 Lopez. Madison told us at the time that Lopez said she was taking care of it and that she was at  
19 City Hall at the Sheriff's office meeting someone and her husband was coming to meet her; Lopez  
20 told Madison that she was meeting with an advocate of some kind and she was meeting the right  
21 people; Lopez told Madison she did not want to involve the police and asked Madison not to show  
22 the police the video tape. I heard Madison tell Lopez she wasn't going to show the police the video  
23 unless they had a search warrant or a court order. This statement and other statements we overheard  
24 from Madison were consistent with Madison's report that the calls were from Lopez.

25 11. We requested that Madison provide us with the video, and she said she would not  
26 provide it unless we had a search warrant or court order. In response, we told Madison and her  
27 husband that we were going to freeze the premises while a search warrant was being obtained. We  
28 did so and requested a search warrant. At approximately 8:35 p.m. on January 4, 2012, Inspector

1 Keane arrived at the premises with the signed search warrant, for the video camera used to record  
2 Lopez's January 1 statement and for Madison's cell phone containing text messages from Lopez.  
3 After we presented and explained the warrant to Madison and Mertens, Madison provided Inspector  
4 Keane with the video camera and her cell phone. Madison also told us that she had corresponded  
5 with Lopez through e-mails. We asked Madison if she could forward those e-mails, and Madison  
6 stated she would forward those e-mails to Inspector Becker.

7 12. On January 4, 2012 around 9 p.m., I arrived back at the Domestic Violence Response  
8 Unit at 850 Bryant and took custody of the video camera and Madison's cell phone from Inspector  
9 Keane.

10 13. On January 4, 2012 around 10:51 pm., Inspector Becker searched computer  
11 databases regarding Mirkarimi and determined that Mirkarimi had three firearms registered to him.  
12 Inspector Becker later informed me of the results of his search and I entered this information in the  
13 chronological report of our investigation.

14 14. On January 5, 2012 in the morning, with the assistance of the SFPD Forensic Video  
15 Unit I viewed and heard the January 1 video. The SFPD Forensic Video Unit downloaded the video  
16 from the camera and made a copy for me, which I placed in the investigative file. The SFPD later  
17 provided the District Attorney with copies of this video for their use and for discovery to Mirkarimi  
18 in the criminal case. In addition, the SFPD later made a copy for the San Francisco City Attorney's  
19 Office, after an Order from the San Francisco Superior Court on May 15, 2012. A true and correct  
20 copy of the video is attached as Exhibit 4 to this Declaration.

21 15. On January 5, 2012 shortly after noon, as part of our investigation, Inspector Becker  
22 contacted the custodian of records at the Emergency Communications Division for video from  
23 surveillance cameras at public housing units, to determine whether any video footage existed of the  
24 block of Webster Street where Lopez lived. Inspector Becker was informed there was none.  
25 Inspector Becker also contacted SFPD communications to determine whether there were any  
26 service calls by SFPD to that block on December 31 between 11:30 a.m. and 4 p.m. Inspector  
27 Becker was informed there were none. Inspector Becker told me about these contacts and I entered  
28 them in the chronological report of our investigation.

1           16.       On January 5, 2012 around 12:20 p.m., I called the cell phone number I had for  
2 Lopez. Lopez told me she was doing very well and doing fine and was okay. Lopez declined to be  
3 interviewed and advised me to speak to her attorney. Lopez told me that her neighbor is doing this,  
4 that she was not in fear and nothing happened at all. Lopez told me that no one had threatened her.  
5 Lopez told me that because she was on her cell phone she was not able to access her attorney's  
6 phone number and asked me to call her right back. At around 12:25 p.m. I called Lopez again and  
7 she provided me with her attorney's name, Cheryl Wallace, and a phone number for Wallace. I  
8 advised Lopez that there are advocates to assist her, and Lopez told me that she did not need their  
9 services. Lopez stated that her neighbor is trying to get attention. I advised Lopez about the video,  
10 and Lopez told me it was completely out of context. Lopez again advised me to call her attorney  
11 and again stated it was completely out of context. Lopez stated everything was fine with Ross.  
12 Lopez told me she would call if she was in danger. At 12:33 p.m. I attempted to contact Wallace by  
13 phone and left a message. [Attorney Note: This paragraph is not offered for the truth of the matters  
14 stated by Lopez.]

15           17.       On January 5, 2012 around 1:25 p.m., Inspector Becker and I met with Madison  
16 again at her home. I asked Madison if she had forwarded all of her e-mails of her correspondence  
17 with Lopez, and Madison told me that she had only forwarded the e-mails involving this incident.  
18 We advised Madison that we needed all of her e-mail, and Madison stated that she would forward to  
19 Inspector Becker the other e-mails. Inspector Becker received an email later that day from Madison  
20 with an attachment that he could not open, and after I informed Madison of this she stated that she  
21 would forward the individual emails to Inspector Becker, and she did so.

22           18.       On January 5, 2012 around 2:40 p.m., I received a call from attorney Cheryl  
23 Wallace, who informed me that she was representing Lopez. Wallace asked me to contact her in the  
24 future if I needed to contact Lopez. Wallace also told me that Mirkarimi had counsel, Robert  
25 Waggener, and gave me telephone numbers for Waggener.

26           19.       During the afternoon of January 5, 2012 between 3:15 p.m. and 4:17 p.m., I had a  
27 series of telephone calls and messages with the San Francisco Superior Court duty judge, requesting  
28

1 that the Court issue an emergency protective order (EPO) for Lopez based on information I orally  
2 provided to the duty judge. The duty judge denied the EPO.

3 20. On January 5, 2012 around 3:48 p.m., I received a call from attorney Robert  
4 Waggener, who informed me that he was representing Mirkarimi. I told Waggener that I would like  
5 to interview Mirkarimi. Waggener told me that he needed to meet with Mirkarimi and would get  
6 back to me. Around 4:20 p.m., I contacted Waggener, who told me he needed to call Mirkarimi and  
7 would get back to me. Around 6:21 p.m., Waggener called me and told me that Mirkarimi was  
8 meeting him the next day at noon and he would get back to me after their meeting.

9 21. On January 5, 2012 around 5:00 p.m., as part of our investigation, Inspector Becker  
10 and I returned to the block of Webster where Lopez lived and canvassed for witnesses. We were  
11 unable to locate any witnesses. Of note, Callie Williams, a resident who lived in another apartment  
12 of Lopez's building, told us that she did not witness anything on December 31 between 11am and  
13 4pm, but on January 4 Lopez approached Williams and asked Williams if she had heard anything on  
14 New Year's Eve.

15 22. On January 6, 2012 around 10:55 a.m., I left a telephone message for Waggener.  
16 Around 11:20 a.m. Waggener returned my call and told me he would be meeting with Mirkarimi at  
17 12:30 p.m. and would call me after their meeting. Around 2:00 p.m., Waggener called me and  
18 informed me that Mirkarimi would not be giving me a statement.

19 23. On January 11, 2012, I received a voice mail message from Abe Mertens advising  
20 me that he had text messages on his cell phone and was willing to download the text messages for  
21 the investigation. I contacted Mertens and he consented to the download of his text messages. I  
22 arranged for those text messages to be downloaded by the SFPD on the same date. A true and  
23 correct copy of the printout from that download, including the pages containing text messages  
24 between Mertens and Lopez, is attached to this declaration as Exhibit 5; the telephone numbers are  
25 blacked out, and so are the text messages involving other persons. I also conducted a taped  
26 interview of Mertens; Inspector Becker and Assistant District Attorney Jean Roland were also  
27 present. I also received a copy of a separate taped interview with Madison conducted by the  
28 District Attorney's Office.

1           24.    On January 12 and 13, 2012, Inspector Becker and I worked with the District  
2 Attorney's Office to prepare a warrant for Mirkarimi's arrest.

3           25.    On January 13, 2012 around 1:30 p.m., Inspector Becker and I received a warrant  
4 from the District Attorney's Office. Around 2:30 p.m., Inspector Becker and I met with the duty  
5 judge, who reviewed and approved the arrest warrant. A true and correct copy of the arrest warrant  
6 is attached as Exhibit 6. We also requested an Emergency Protective Order. The duty judge  
7 reviewed the information we presented and granted an Emergency Protective Order. The  
8 Emergency Protective Order was issued on the standard Judicial Council Form EPO-001 (Rev. Jan.  
9 1, 2007).

10          26.    On January 13, 2012 around 4:05 p.m., I called Waggener and advised him that I had  
11 an arrest warrant for Mirkarimi and asked Waggener to have Mirkarimi surrender himself to us.  
12 Around 4:55 p.m., Inspector Becker and I made arrangements with Waggener for Mirkarimi to  
13 surrender himself to us at County Jail No. 1.

14          27.    On January 13, 2012 around 5:30 p.m., Mirkarimi arrived at County Jail No. 1 with  
15 his attorney Waggener, at which time Inspector Becker and I placed Mirkarimi under arrest.  
16 Inspector Becker and I served Mirkarimi with the Emergency Protective Order. We explained the  
17 provisions of the Emergency Protective Order to Mirkarimi, including that it prohibited him from  
18 owning or possessing any firearms. We advised Mirkarimi that he had to surrender all firearms, and  
19 advised him that three weapons were registered to him. Mirkarimi stated that he only had two  
20 weapons, and I advised him that a Smith & Wesson revolver, a Sig Sauer, and a Beretta were  
21 registered to him. Mirkarimi stated that he sold the Smith & Wesson revolver to a fellow recruit at  
22 the Police Academy in 1996. Mirkarimi stated that the other weapons were at his residence and  
23 they were buried deep inside the house. At this time, Inspector Becker and I told Mirkarimi and  
24 Waggener that we would give them 24 hours to locate and surrender the weapons to us, and also  
25 proof of the sale of the Smith & Wesson revolver. Waggener told us that he would make  
26 arrangements to surrender the two firearms Mirkarimi had in his possession to Inspector Becker and  
27 me tomorrow, and would telephone us when he was ready to meet with us. We agreed. Inspector  
28 Becker asked Mirkarimi if he was armed at this time, and Mirkarimi responded that he was not

1 issued a firearm. Inspector Becker asked Mirkarimi if he had his own firearm with him. Mirkarimi  
2 stated that he did not, and raised his coat to show he did not have a firearm. During this discussion,  
3 we also advised Mirkarimi that if he did not surrender his weapons to us he would be subject to  
4 arrest under the Emergency Protective Order. At no point in this conversation did anyone ever  
5 discuss or agree to Mirkarimi or Waggener surrendering Mirkarimi's weapons to the Sheriff's  
6 Department.

7 28. Mirkarimi was booked at County Jail No. 1 by deputy sheriffs. Inspector Becker and  
8 I left as Mirkarimi was being photographed for booking.

9 29. On Saturday January 14, 2012 around 11:00 a.m., Lt. Jean, the head of the DVRU,  
10 called me at home and asked me for an update on the surrender of Mirkarimi's weapons. Lt. Jean  
11 directed me to get these guns into our custody as soon as possible. Around 11:35 a.m., I attempted  
12 to contact Waggener by phone, and left a voice mail message asking for an update on the status of  
13 his turning over Mirkarimi's weapons to us. I then called Inspector Becker at his home and gave  
14 him an update on the situation. We decided that if we did not hear from Waggener soon, we would  
15 obtain a search warrant for the weapons and go to Mirkarimi's home. I drove to Inspector Becker's  
16 home, picked him up, and drove to the Hall of Justice. We were en route to the Hall of Justice  
17 when, around 1:52 p.m., I received a call from Waggener. Waggener told me that he was in the  
18 process of turning over Mirkarimi's weapons to the San Francisco Sheriff's Department. I asked  
19 who at the Sheriff's Department was taking possession of the weapons. Waggener responded that  
20 he was with Captain Kathy Gorwood of the San Francisco Sheriff's Department. I asked to speak  
21 with Captain Gorwood. Captain Gorwood confirmed that she had possession of all three of  
22 Mirkarimi's firearms. I asked her to describe the three weapons and she told me they were a Smith  
23 & Wesson, Sig Sauer, and Beretta. The description was consistent with the weapons registered to  
24 Mirkarimi. I said to Captain Gorwood that my partner and I would come to pick up the weapons  
25 right now. Captain Gorwood replied, no, we are handling it. I asked Captain Gorwood where she  
26 was going to store the weapons, and she told me, we have a place for them. I asked Captain  
27 Gorwood to write an incident report indicating that she had taken possession of Mirkarimi's  
28 firearms, and I gave her a case number for that purpose. Captain Gorwood took the case number



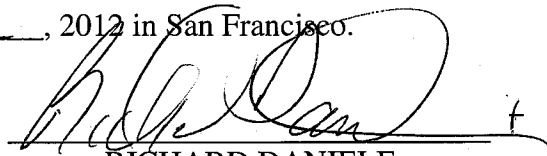
1 and told me that she would be filing a report the following week. The discussion with Captain  
2 Gorwood was very brief. I did not discuss with her the agreement with Waggener that he would be  
3 turning over the weapons to me and Inspector Becker. Inspector Becker and I contacted Lt. Jean  
4 and informed her that the San Francisco Sheriff's Department had taken possession of Mirkarimi's  
5 firearms.

6 30. On January 17, 2012 around 4:38 p.m., I received a copy of an incident report of the  
7 same date prepared by Captain Gorwood regarding the weapons surrendered to her on January 14.  
8 The three weapons listed in the incident report corresponded to the weapons that were registered to  
9 Mirkarimi.

10 31. I received from the District Attorney's Office an order from the San Francisco  
11 Superior Court dated January 19, 2012. The order directed the Undersheriff to transfer Mirkarimi's  
12 three firearms (with serial numbers listed) to the custody and control of the San Francisco Police  
13 Department, specifically to me and to Inspector Becker. A true and correct copy of that order is  
14 attached to this declaration as Exhibit 7. Inspector Becker and I presented that order to the Sheriff's  
15 Department on January 20, 2012, and the Sheriff's Department turned over three firearms to us.  
16 The weapons we seized matched the weapons listed on the court order. We transported the  
17 weapons to the SFPD Property Control Section and booked them in for safekeeping.

18 32. ~~This declaration includes much of the information about the investigation conducted~~  
19 ~~by Inspector Becker and me, but in the interest of being brief it does not include all of the~~  
20 ~~information. I am willing to provide any additional information about our investigation that I can~~  
21 ~~lawfully provide.~~

22 I declare under penalty of perjury under the laws of the State of California that the foregoing  
23 is true and correct. Executed this 6/07/12, 2012 in San Francisco.

24  
25   
26 RICHARD DANIELE  
27  
28