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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 INTERIM
SAN FRANCISCO SHERIFF
VICKI HENNESSY

16
17
18 I, VICKI HENNESSY, declare as follows:

19 1. I am the Interim Sheriff of the City and County of San Francisco ("City"), and have
20 served in that capacity since March 21, 2012. I have personal knowledge of the matters stated
21 herein, except for those matters set forth on information and belief, which I believe to be true. If
22 called to testify, I could and would testify competently as to all matters set forth herein.

23 **I. EMPLOYMENT BACKGROUND**

24 2. On March 21, 2012, Mayor Edwin M. Lee appointed me to discharge the duties of
25 Sheriff of the City during the period of suspension of Sheriff Ross Mirkarimi. I have served as
26 Interim Sheriff since that appointment and currently serve in that capacity.

27 3. I served in the San Francisco Sheriff's Department ("SFSD") from December 1975 to
28 July 2006. Through the remainder of my City employment until I retired in June 2010, I worked in

1 other City departments but remained on a SFSD requisition. In the SFSD, I was promoted through
2 the ranks: In 1977, I was promoted from Deputy Sheriff to Senior Deputy Sheriff; in 1979, I was
3 promoted to Sergeant; in 1981, I was promoted to Lieutenant; in 1983, I was promoted to Captain;
4 and in 1997, I was promoted to Chief Deputy Sheriff. As Chief Deputy Sheriff, I was in charge of
5 the SFSD's Custody Division from 1997 to 1999, Administrative Division from 1999 to 2001, and
6 Field and Support Services Division from 2001 to 2006.

7 4. In July 2006, I was selected to serve as the Deputy Director of the Mayor's
8 Department of Emergency Services and Homeland Security. In January 2007, the City consolidated
9 that Department with the City's Department of Emergency Communications to establish the
10 Department of Emergency Management ("DEM"). Beginning January 2007, I served as a Deputy
11 Director at DEM, responsible for the Division of Emergency Services. In March 2008, then-Mayor
12 Newsom selected me to serve as the DEM Executive Director. I retired in June 2010, but continued
13 to serve as the DEM Executive Director until January 2011, when the Mayor appointed Anne
14 Kronenberg to that position.

15 5. Based on my over thirty years working in the SFSD, I have extensive experience
16 with the SFSD's operations, policies and procedures. When I began serving as Interim Sheriff, I
17 met with SFSD staff and reviewed current operations, policies, procedures and pending issues.

18 6. As Interim Sheriff, I have access to records created, received and maintained in the
19 ordinary course of SFSD business and operations.

20 **II. SHERIFF AND SHERIFF'S DEPARTMENT FUNCTION, ORGANIZATION AND**
21 **OPERATIONS**

22 7. The Sheriff and the SFSD are responsible for providing for the safe and secure
23 detention of persons arrested or under Court order; operating the county jail facilities and alternative
24 sentencing programs; providing security for City and Court facilities; and processing, serving and
25 effectuating criminal and civil warrants and court orders. Under the City Charter, the Sheriff "shall
26 1. Keep the County jail; 2. Receive all prisoners committed to jail by competent authorities; 3.
27 Execute the orders and legal processes issued by courts of the State of California; 4. Upon court
28 order detail necessary bailiffs; and 5. Execute the orders and legal processes issued by the Board of

1 Supervisors or by any legally authorized department or commission. [¶] The Sheriff shall appoint,
2 and at his or her pleasure may remove, an attorney, one under-sheriff, one assistant sheriff and one
3 confidential secretary." (San Francisco Charter §6.105.) Under State law, a Sheriff is responsible
4 for preserving the peace, "and to accomplish this object may sponsor, supervise, or participate in
5 any project of crime prevention, rehabilitation of persons previously convicted of crime, or the
6 suppression of delinquency." (California Government Code §26600.) Attached hereto as **Exhibit 8**
7 is a true and correct copy of the SFSD Departmental Mission Statement. Attached hereto as
8 **Exhibit 9** is a true and correct copy of SFSD Policy and Procedure A-01, Department Organization.
9 Attached hereto as **Exhibit 10** are true and correct copies of current SFSD organizational charts.

10 8. Currently, the SFSD is organized into three Divisions: Custody; Field and Support
11 Services; and Community Programs. A Chief Deputy Sheriff manages each Division, and reports to
12 the Sheriff through the Assistant Sheriff and Undersheriff. In addition, five units report to the
13 Sheriff through the Undersheriff: Investigative Services; Administrative; Information and
14 Technology Services, Prisoner Legal Services; and Sheriff's Bureau of Building Services. The
15 Investigative Services Unit conducts administrative investigations into alleged employee
16 misconduct, as well as criminal investigations of incidents in the jails. Through the chain of
17 command, the Sheriff oversees these investigations.

18 9. In addition to the Undersheriff, the SFSD Legal Counsel, Chief Financial Officer and
19 Chief of Staff report directly to the Sheriff.

20 10. Custody Division. The Custody Division facilitates the intake, classification and
21 custody of prisoners. This Division is comprised primarily of the City's six jails: County Jail 1
22 (intake unit); County Jails 2, 3, 4 and 5 (prisoner housing units currently in use), and County Jail 6
23 (modular jail unit at San Bruno, currently closed). In addition, the Custody Division includes a
24 Classification Unit, which is responsible for prisoner classification, program eligibility assessment,
25 and jail assignment. It also includes a secure prisoner ward at San Francisco General Hospital.

26 11. The population inside San Francisco's jails varies, recently ranging from
27 approximately 1550 to 1650 prisoners. Approximately 77 percent of the population is pre-sentence,
28 with charges or prosecution pending. Of the remaining prisoners, some were sentenced to time in

1 county jail. The balance are sentenced to state prison or had their parole revoked, and are serving
2 time in county jail under the state's correction realignment plan ("Realignment").

3 12. Realignment is one of the most significant changes to California's criminal justice
4 system in decades, and went into effect on October 1, 2011. Realignment shifts responsibility from
5 the state to counties for the custody, treatment, and supervision of individuals convicted of specified
6 nonviolent, non-serious, non-sex crimes. Realignment is designed to make changes to California's
7 correctional system to stop the costly, ineffective and unsafe "revolving door" of lower-level
8 offenders and parole violators through the state prisons. Realignment provides the City's criminal
9 justice agencies, including the SFSD, a unique opportunity to coordinate and work cooperatively
10 and collaboratively to evaluate local services and program, and to research, design and implement
11 innovative, evidence-based approaches to managing and rehabilitating this population of state
12 prisoners and parolees, as well as existing local prisoners and probationers, with the goal of
13 reducing recidivism and protecting public safety.

14 13. With Realignment, the San Francisco jails have received and will continue to receive
15 an influx of state prisoners. Many of these prisoners are sophisticated, career criminals. In
16 Realignment Phase 1, the City received 262 state prisoners. Realignment Phase 2, set for summer
17 and fall of 2012, will include a second wave of state prisoners. In addition to shifting state
18 prisoners to county jail, Realignment has increased the opportunity for local agencies to use
19 alternatives to incarceration, including community programs and home monitoring.

20 14. Operating the City jails is the core function and responsibility of the Sheriff and
21 SFSD. In running these jails, the Sheriff must ensure lawful confinement and humane treatment
22 and the safety of jail prisoners, staff and visitors.

23 15. In addition to the physical care of prisoners, through the years the SFSD has risen as
24 a national leader in restorative justice programs, including in-custody programs administered by the
25 Custody Division. Crime, victimization, and the rights of victims are compelling public concerns
26 and top priorities for the SFSD. The SFSD in-custody programs seek to educate offenders about the
27 impacts of their crimes on victims, the community and the offenders themselves. These programs
28 address offender attitudes, behaviors, conditions and circumstances that lead to violence and crime.

1 These programs include the award-winning Resolve to Stop the Violence Project, the No Violence
2 Alliance project (which bridges offenders from custody to the community), and the Five Keys
3 Charter High School. SFSD programs seek to rehabilitate prisoners and provide them with tools
4 and support to reenter society successfully when they leave jail. Through these programs, prisoners
5 may obtain additional education, including an opportunity to obtain a high school diploma or GED,
6 anger management counseling, substance abuse and mental health treatment, parenting and family
7 skills, and cognitive behavior therapy teaching alternative behavior to confrontation, violence and
8 crime.

9 16. Field and Support Services Division. The Field and Support Services Division
10 includes the Court Services Unit, which provides bailiffs for criminal and civil courtrooms in the
11 San Francisco Superior Court, as well as security at Court buildings. Other units in this Division
12 include the Institutional Patrol Unit, which provides law enforcement services at San Francisco
13 General Hospital, Laguna Honda Hospital, and Department of Public Health clinics, and the
14 Building Patrol Unit. Also in the Field and Support Services Division are the Special Operations
15 Unit, Civil Unit, Prisoner Transportation Unit, and Central Warrants Bureau.

16 17. Community Programs Division. The Community Programs Division organizes and
17 operates the SFSD's community programs, which are noncustodial. Through this Division, the
18 SFSD participates in and funds activities related to pre-trial diversion, sentencing, reentry and
19 rehabilitation. This Division includes the Sheriff's Work Alternative Program, Survivor Restoration
20 Program, the Women's Resource Center, the Warrant Services Unit, the Electronic Monitoring Unit,
21 and a satellite of the Five Keys Charter School.

22 **III. POWERS AND DUTIES OF THE SHERIFF**

23 18. The Sheriff is a top law enforcement officer for the City, and leads a large
24 department with significant obligations for the public safety and welfare. The Sheriff is a peace
25 officer under state law, and possesses the authority to make arrests and to carry a firearm, among
26 other powers. (California Penal Code §830.1(a).) As a peace officer, the Sheriff has the duty and
27 obligation to take all reasonable steps to prevent the commission of crime, assist in the detection of
28

1 crime, and disclose all information that may lead to the apprehension and punishment of criminal
2 offenders.

3 19. Historically, peace officers have been held to a higher standard than other public
4 employees, in part because they alone are the guardians of the peace and security of the community.
5 The public expects peace officers to be above suspicion of violating the laws they are sworn to
6 enforce. The efficiency of the entire criminal justice system, essential to maintaining law and order,
7 depends on the extent to which peace officers perform their duties and are faithful to the trust
8 reposed in them. If peace officers generally are held to a higher standard, the Sheriff must be held
9 to the highest of standards in order to earn and hold the respect of the SFSD deputies and the trust
10 of the community. It would be a struggle for a Sheriff who lacks the respect of his or her
11 subordinates and the trust and confidence of the community to be a credible and effective leader and
12 law enforcement officer.

13 20. The Sheriff is an elected official. The Sheriff does not report to and is not supervised
14 by anyone within the SFSD, and is not subject to the SFSD discipline process.

15 21. As the leader of the SFSD, the Sheriff is the most influential and visible member of
16 the SFSD. The Sheriff leads the SFSD peace officers and civilian employees by example. To
17 demand exceptional conduct and performance from SFSD personnel, the Sheriff must set the
18 highest ethical and professional standards and expectation for the Sheriff's own conduct and
19 performance, and must deliver on those standards and expectations through leadership and actions.
20 An effective Sheriff motivates employees, drives change within the organization, and capably and
21 professionally manages Departmental operations.

22 22. In running a jail, the overriding priority and obligation on the Sheriff is the safety
23 and security of the prisoners, staff and visitors. A successful and effective Sheriff must be able to
24 make split second decisions in moments of crisis that can be life and death situations, while
25 remaining calm and level headed, and keeping emotions under control. The Sheriff must be able to
26 confront chaotic and evolving situations – for example, inmate unrest, prisoner against prisoner
27 fights, and medical emergencies – while maintaining composure and command presence. The
28

1 Sheriff must be capable of maintaining emotional control and exercise good judgment under
2 difficult and challenging circumstances.

3 23. The Sheriff is the public face of the SFSD, and the primary voice of the SFSD with
4 the press and community, other City and governmental agencies, and SFSD employees.

5 24. The Sheriff has the responsibility to make and oversee implementation of high-level
6 decisions about SFSD policy and strategy, including for example, policies on the conditions of
7 confinement, in-custody and community programming priorities, the availability of community
8 release and other alternatives to incarceration.

9 25. The Sheriff oversees the SFSD budget. For Fiscal Year 2012-2013, that budget is
10 approximately \$176 million, and covers personnel costs, work orders with other City departments,
11 funding for offender, victim and community programs and services, and facilities and equipment
12 costs. In addition, the Sheriff makes capital funding prioritizing and planning decisions for the
13 SFSD, in conjunction with other City agencies when applicable.

14 26. Through the SFSD budget, the Sheriff awards funding contracts to nonprofit
15 organizations to offer in-custody and community based services and programs on behalf of the
16 SFSD, including antiviolence programs for perpetrators of domestic violence and recovery
17 programs for victims of domestic violence and other violent crime. For example, SFSD provides
18 funding to the nonprofit Community Works West, which runs many in-custody and community
19 antiviolence programs for the SFSD, including the Resolve to Stop the Violence Project. (See
20 discussion of Resolve to Stop the Violence Project, ¶¶44-49.) Community Works West also runs a
21 post-release antiviolence program for offenders and a Violence Against Women Act/Survivor
22 Restoration Program for the SFSD. The No Violence Alliance ("NoVA") provides case
23 management services on behalf of the SFSD for survivors of violent crime, and runs a One Family
24 Reentry Initiative ("OFRI"), which provides case management for in-custody and out of custody
25 parents of minor children, parenting education, therapeutic services and facilitation of contact visits.
26 The Sheriff has decision making authority over the funding for and continuation of these programs,
27 and can decide to increase, reduce or eliminate funding for one or more of these programs.
28

1 27. The Sheriff manages – directly or through subordinate command personnel – all
2 SFSD employees. SFSD employs approximately 1020 personnel, approximately 890 sworn peace
3 officers and 130 civilian employees. Subject to civil service and legal requirements, the Sheriff
4 makes hiring and promotion decisions, and is the final decision maker on employee discipline. To
5 the best of my knowledge, SFSD has never hired an employee on active criminal probation.

6 28. The Sheriff also determines whether to retain an employee who is unable to meet
7 minimum qualifications or perform the essential functions of the employee's position, with or
8 without accommodation, due to medical restrictions or a legal disability. For example, the ability to
9 carry a firearm is an essential function and minimum qualification for all SFSD peace officer
10 positions. If a peace officer employee becomes unable to carry a firearm due to medical restrictions
11 or a legal disability, the Sheriff must determine whether to release that employee for failure to meet
12 the minimum qualifications and perform the essential functions of a peace officer position in the
13 SFSD. Similarly, SFSD peace officer employees must possess a current and valid driver's license.
14 If a peace officer employee loses his or her license, the Sheriff must determine whether to dismiss
15 that employee for failure to meet minimum qualifications for the position. An employee who lost
16 his or her ability to carry a firearm or possess a driver's license would likely be dismissed from
17 employment for failure to meet the minimum qualifications for the position, unless the sentencing
18 court granted the employee a waiver of the prohibition for employment purposes. Attached hereto
19 as **Exhibit 11** is a true and correct copy of the Essential Functions for the Classification 8304
20 Deputy Sheriff position, the entry deputy position in the SFSD. Attached hereto as **Exhibit 12** are
21 true and correct copies of the job specifications for the peace officer positions in the SFSD,
22 specifically Deputy Sheriff, Senior Deputy Sheriff, Sheriffs Sergeant, Sheriffs Lieutenant, Sheriffs
23 Captain, Chief Deputy Sheriff, Assistant Sheriff, Undersheriff and Sheriff, from the City's
24 Department of Human Resources website.

25 29. The Sheriff is responsible for ensuring effective labor/management relations, and
26 must maintain a professional and effective working relationship with employee bargaining groups
27 and their representatives.
28

1 30. The Sheriff establishes employment standards, policies and procedures. Attached
2 hereto as **Exhibit 13** is a true and correct copy of the SFSD Employee Rules and Regulations.
3 Attached hereto as **Exhibit 14** is a true and correct copy of the SFSD Work Rules. The Rules and
4 Regulations, Work Rules, and other SFSD policies and procedures establish standards for employee
5 conduct and procedures for employee misconduct investigations, counseling and discipline.
6 Attached hereto as **Exhibit 15** is a true and correct copy of SFSD Policy and Procedure I-25,
7 Counseling and Disciplinary Procedures. Attached hereto as **Exhibit 16** is a true and correct copy
8 of SFSD Policy and Procedure J-01, Internal Affairs Policy and Procedure. Attached hereto as
9 **Exhibit 17** is a true and correct copy of SFSD Policy and Procedure J-02, Contacting Investigative
10 Services/I.A. Attached hereto as **Exhibit 18** is a true and correct copy of SFSD Policy and
11 Procedure J-04, Investigation of Employees. Attached hereto as **Exhibit 19** is a true and correct
12 copy of SFSD Policy and Procedure J-05, Internal Affairs Officers.

13 31. SFSD employees must cooperate with all investigations by: divulging all known
14 information; answering questions truthfully, without evasion; producing all physical evidence in
15 their possession, under their control, or to which they have access; giving answers that are clear,
16 responsive, unambiguous and most accurately reflect the truth of the matter; and providing
17 information and evidence to investigators whenever information or evidence becomes known or
18 available to the employee. (Rules and Regulations, Section 9.5.) Failure to actively cooperate with
19 an investigation is misconduct and subject to discipline. (Rules and Regulations, Section 9.6.)
20 Employees may not obstruct, impede, delay or otherwise hinder an investigation. (Rules and
21 Regulations, Section 9.6.) Finally, employees are required to be truthful at all times, whether under
22 oath or not. (Rules and Regulations, Section 9.7.)

23 32. Under the SFSD discipline policy, a permanent SFSD employee may be disciplined
24 only for just cause as set forth in the Charter, Civil Service Rules and Regulations, and SFSD Rules
25 and Regulations, Work Rules and policies and procedures. The Sheriff provides employees with
26 notice of the intended discipline and an opportunity to be heard regarding that discipline. The
27 Sheriff is the final decision maker on discipline. The Sheriff must evaluate and judge the
28 employee's conduct, determine whether that conduct violates SFSD policies, standards or Rules and

1 Regulations, and if so, determine the appropriate disciplinary penalty. As the final decision maker
2 on discipline matters, the Sheriff must be above reproach, in order to maintain the integrity and
3 efficacy of the SFSD discipline system.

4 33. The Sheriff is a member of the Community Corrections Partnership Executive
5 Committee, formed to develop, implement and review Citywide plans associated with Realignment.
6 The Chief Adult Probation Officer chairs the Committee. That partnership is a collaboration of the
7 local criminal justice agencies, including Adult Probation Department ("APD"), SFSD, the Courts,
8 the Police Department, the District Attorney and the Public Defender. The role of the Executive
9 Committee is to collectively provide oversight of Realignment implementation.

10 34. In addition, the Sheriff is a co-chair of the Reentry Council, which supports
11 programs serving individuals exiting the prisons and jails who reside in or will be released to San
12 Francisco. The Sheriff also sits on the City's Disaster Council and JUSTIS Governance Council.
13 The Disaster Council develops the City emergency disaster plan, to provide for the effective
14 mobilization of public and private community resources in a disaster; and recommends to the Board
15 of Supervisors proposed ordinances, resolutions, rules and regulations to implement the emergency
16 plan. The JUSTIS Governance Council oversees implementation and ongoing operation of the
17 City's Justice Tracking Information System ("JUSTIS"), which the City is developing as an
18 integrated criminal justice information system designed to serve participating criminal justice
19 agencies in San Francisco, including the SFSD.

20 **IV. SHERIFF DEPARTMENT POLICIES AND PROCEDURES**

21 35. The SFSD Employee Rules and Regulations apply to all SFSD employees: "Every
22 Sheriff's Department employee is expected to know and abide by the Department's Rules and
23 Regulations, both in its specific directions and in the spirit in which it was written." (Rules and
24 Regulations, Introduction letter from Sheriff Michael Hennessey.)

25 36. The Rules and Regulations, Section 2, Professional Conduct and Responsibility,
26 includes Section 2.1, Standards of Conduct, which establishes standards of personal and
27 professional conduct and responsibility: "Employees shall conduct their private and professional
28

1 lives in such a manner as to avoid bring the Department into disrepute." (Rules and Regulations,
2 Section 2.1.)

3 37. In addition, SFSD sworn staff – the peace officer employees – must conduct
4 themselves in a manner consistent with the Law Enforcement Code of Ethics:

5 As a Law Enforcement Officer, my fundamental duty is to serve mankind;
6 to safeguard lives and property; to protect the innocent against violence or
7 disorder; and to respect the Constitutional rights of all people to liberty,
8 equality and justice.

9 I will keep my private life unsullied as an example to all; maintain
10 courageous calm in the face of danger, scorn or ridicule; develop self
11 restraint; and be constantly mindful of the welfare of others. Honest in
12 thought and in deed in both [m]y personal and official life. I will be
13 exemplary in obeying the laws of the land and the regulations of my
14 department. Whatever I see or hear of a confidential nature or that is
15 confided to me in my official capacity will be kept ever secret unless
16 revelation is necessary in the performance of my duty.

17 I will never act officiously or permit personal feelings, prejudices,
18 animosities, or friendships to influence my decisions. With no
19 compromise for crime and with relentless prosecution of criminals. I will
20 enforce the law courteously and appropriately without fear or favor,
21 malice or ill will, never employing unnecessary force or violence and
22 never accepting gratuities.

23 I recognize the badge of my office as a symbol of public faith, and I accept
24 it as a public trust to be held so long as I am true to the ethics of police
25 service. I will constantly strive to achieve these objectives and ideals,
26 dedicating myself to my chosen profession ... law enforcement (ellipsis in
27 original).

28 38. Under the provisions of San Francisco Campaign and Governmental Conduct Code,
the Sheriff prepared and the Ethics Commission adopted a Statement of Incompatible Activities that
guides SFSD employees regarding the types of activities that are incompatible with their
employment. A true and correct copy of the SFSD Statement of Incompatible Activities is attached
hereto as **Exhibit 20**.

39. Attached hereto as **Exhibit 21** is a true and correct copy of the SFSD Policy and
Procedure D-02, Use of Force.

40. Attached hereto as **Exhibit 22** is a true and correct copy of the SFSD Policy and
Procedure D-09, Authorized Weapons Policy.

1 41. Attached hereto as **Exhibit 23** is a true and correct copy of the SFSD Policy and
2 Procedure 01-15, Carry Concealed Weapon.

3 **V. SFSD OPERATIONS REGARDING DOMESTIC VIOLENCE**

4 42. The SFSD provides security to the court, victims, witnesses, and the public at San
5 Francisco's specialized Domestic Violence Court. The Domestic Violence Court poses particular
6 security concerns because domestic violence offenders who are otherwise in custody or under stay-
7 away orders come into contact with their victims and may try to harass, intimidate or even injure
8 them. In this context, the SFSD has established a good relationship with victim advocates, who
9 often accompany victims to court and alert the SFSD to potential problems that it can resolve.

10 43. The San Francisco jails have a consistent domestic violence offender population,
11 with offenders either in custody pending domestic violence charges, serving time on a domestic
12 violence conviction, or in custody on other charges by with domestic violence offenses in their
13 criminal history. In addition, many offenders are sentenced for crimes involving random violence.
14 For years, the Sheriff and SFSD have recognized the compelling public and private interest in
15 providing programs to address violent offender behavior before releasing offenders back into the
16 community.

17 44. The SFSD offers a number of innovative domestic violence prevention programs,
18 including the nationally recognized Resolve to Stop the Violence Project ("RSVP"). Launched in
19 1997, RSVP was the first intervention program for violent inmates in the country to be based on a
20 restorative justice model. A true and correct copy of materials from a SFSD binder regarding the
21 RSVP program is attached hereto as **Exhibit 24**.

22 45. The goals of RSVP are to reduce recidivism and the impact of crime on individuals
23 and the community through three integrated program components: offender restoration; survivor
24 restoration; and community restoration. Approximately 300 violent male offenders per year have
25 participated in RSVP since its inception. Roughly fifty percent of them were charged with domestic
26 violence and 50 percent with general violence such as robbery, assault, rape, and terrorist threats.
27 RSVP is driven by offender accountability, victim restoration, and community involvement. RSVP
28 has proven successful in reducing violent crime. An early review by James Gilligan, MD, and

1 Bandy Lee, MD, MDiv, concluded that RSVP reduced arrest recidivism by up to 80% in program
2 participants. A true and correct copy of a report on that review is attached hereto as **Exhibit 25**. In
3 2004, the RSVP program won a prestigious Innovations in American Government Award from the
4 Harvard Kennedy School, ASH Center For Democratic Governance and Innovations. A true and
5 correct copy of an article about the award, from the Kennedy School website, it attached hereto as
6 **Exhibit 26**.

7 46. Unequivocal offender accountability is the overriding principle of RSVP. Offenders
8 must take full and complete responsibility for their violence and the harm they caused. They cannot
9 deny the violence. They must not minimize the harm or impact of their violence. They must not
10 blame the survivor or others. And there can be no collusion, no effort to garner support from others
11 for the offender's denial, minimizing and blame. Through RSVP, offenders learn to change their
12 patterns of control and coercion, and to adopt an approach based on listening patiently, openly and
13 empathetically to their partner and on honestly and authentically disclosing their own thoughts and
14 feelings.

15 47. RSVP's offender restoration focuses on male-role reeducation, victim impact, and
16 personal accountability. Offenders participate in an intensive jail curriculum that develops an
17 understanding of the consequences of violence for victims and changes men's beliefs about the
18 aspects of male-role behavior that lead to violence. The offender program includes survivor impact
19 presentations, which provide RSVP participants with the opportunity to hear the experiences of
20 people who are survivors of violent acts that are similar to those they have committed.

21 48. RSVP's survivor restoration program supports survivors through their own process of
22 restoration and empowerment, while providing opportunities for them to contribute to the
23 development, implementation, and evaluation of all RSVP components. The SFSD survivor
24 restoration program has served hundreds of survivors of domestic and random violence with
25 counseling, referrals, empowerment classes and opportunities to participate in survivor impact
26 presentations, among other activities.

27 49. Community restoration allows RSVP graduates to repair the harm their violence
28 caused the community by becoming violence prevention advocates and mentors. Offenders continue

1 mandatory participation in violence prevention groups, education, and job placement programs.
2 They may work with survivors and community organizations to perform violence prevention
3 education, including theater productions and presentations in schools and community centers.

4 50. In San Francisco, there is an active and engaged community against domestic
5 violence. Domestic violence prevention groups work with local criminal justice agencies, including
6 the SFSD, on education, policies and procedures, and programs and services related to domestic
7 violence prevention. Historically, the Sheriff and SFSD have routinely and regularly interacted and
8 collaborated with these groups on SFSD domestic violence prevention services and programs.

9 51. Through its budget, the SFSD funds antiviolenace programs for perpetrators of
10 domestic violence and recovery programs for victims of domestic violence and other violent crime,
11 including the RSVP and PREP programs run by Community Works West. The PREP program is
12 one of the APD's authorized battered intervention programs for probationers. The Sheriff has
13 decision making authority over the funding for and continuation of this PREP program. The SFSD
14 also provides recovery programs for persons in jail who are victims of domestic violence.

15 **VI. SFSD ROLE AND RESPONSIBILITIES REGARDING PROBATIONERS**

16 52. If a probationer violates the terms of probation and is arrested, SFSD holds that
17 probationer in custody pending a Court determination of whether to revoke probation and return the
18 probationer to custody. If probation is revoked, SFSD assumes responsibility for any prisoner
19 serving their sentence in county jail custody.

20 53. Also, SFSD is developing a program to work more closely with the APD to conduct
21 a risk and needs analysis of prisoners as they near release from jail and prepare for out of custody
22 supervision, including probation.

23 **VII. COORDINATION WITH OTHER LAW ENFORCEMENT, GOVERNMENTAL** 24 **AND COMMUNITY AGENCIES AND ORGANIZATIONS**

25 54. San Francisco Adult Probation Department ("APD"). The SFSD interacts with APD
26 on a myriad of operational and administrative matters. Effective implementation of Realignment is
27 a critical area of coordination. Under state law, APD is the lead City agency for Realignment.
28 SFSD staff are working closely and collaboratively with APD and other local criminal justice

1 agencies to understand local obligations under these new state requirements, receive and supervise
2 prisoners and parolees shifted from the state prisons, minimize duplication of services, and deliver
3 services to prisoners and probationers in a manner that is meaningful, effective and efficient. I am
4 actively involved in this effort. A close and cooperative working relationship between SFSD and
5 APD is a necessary component of the City's successful implementation of Realignment.

6 55. In addition, changes in the sentencing laws as a result of Realignment now dictate
7 that many convicted offenders will have "split sentences," serving their time locally in county jail
8 rather than in prison, with a subsequent period of supervised release known as "mandatory
9 supervision" under the auspices of APD, rather than on parole. APD and SFSD are working closely
10 to develop strategies for cooperative case management for these offenders, such as sharing
11 information gathered from offenders' risk and needs assessments, and ensuring continuity in the
12 programming an offender receives both in custody and post-release.

13 56. Currently, SFSD and APD are collaborating to ensure a smooth and successful
14 transition for prisoners leaving custody and entering probation or mandatory supervision by
15 planning for a "Reentry Pod" for prisoners nearing their release date. In the Reentry Pod, SFSD and
16 APD staff will conduct a prisoner risk and needs analysis and develop a customized plan to connect
17 a prisoner with housing, support, services and programs to assist with reentry. The departments are
18 also working on a gender-responsive blueprint for women in the criminal justice system, including
19 female prisoners and probationers. APD staff routinely impose "flash incarceration" for individuals
20 on Post Release Community Supervision ("PRCS") who violate probation conditions, with the
21 probationer returned to jail and SFSD custody during that flash incarceration.

22 57. Administratively, SFSD does background investigations for APD hiring. In addition,
23 APD employs electronic monitoring through the SFSD electronic monitoring contract. APD work
24 orders funds to SFSD for those services.

25 58. APD and SFSD have begun coordinating on grant applications, and on occasion,
26 have applied jointly for grants. In addition, the departments coordinate their grant programs, to
27 maximize grant funding and services and to provide effective and efficient delivery of meaningful
28 services.

1 59. San Francisco Superior Court. The SFSD works extensively with the San Francisco
2 Superior Court. SFSD deputy sheriffs and supervisory personnel serve as the Court bailiffs. The
3 SFSD provides security at all Court facilities, including the criminal courts at the Hall of Justice, the
4 civil courts at 400 McAllister Street, and at the juvenile courts at the Juvenile Justice Center. SFSD
5 is responsible for transportation, safety and custody of prisoners when they are brought to Court.
6 As necessary, the Sheriff or SFSD staff meet with the Presiding Judge or Court staff to ensure
7 efficient and effective communication regarding Court operations and security.

8 60. San Francisco District Attorney's Office ("DAO"). The Sheriff meets as needed with
9 the District Attorney ("DA") or DAO staff. For example, recently I met with the DA and DAO staff
10 regarding notifications under *Brady v. Maryland*, 373 U.S. 83 (1963). The DA has a constitutional
11 obligation under *Brady* to provide criminal defendants with exculpatory evidence, material to either
12 guilt or punishment, including substantial evidence bearing on the credibility of prosecution
13 witnesses. When a SFSD employee will be a prosecution witness, the DAO submits a letter to the
14 SFSD requesting notification about whether that employee has any information in his or her SFSD
15 record that may constitute potential *Brady* material. Potential *Brady* material may include records or
16 information regarding the following:

- 17 a. The character of the witness for honesty or veracity or their opposites. (Evid. Code §
18 780 (e).)
- 19 b. A bias, interest, or other motive. (Evid. Code § 780 (f).)
- 20 c. A statement by the witness that is inconsistent with the witness's testimony. (Evid.
21 Code § 780 (h).)
- 22 d. Felony convictions involving moral turpitude. (Evid. Code § 788; *People v. Castro*
23 (1985) 38 Cal.3d 301, 314.) Discovery of all felony convictions is required
24 regarding any material witness whose credibility is likely to be critical to the
25 outcome of the trial. (Penal Code § 1054.1 (d); *People v. Santos* (1994) 30
26 Cal.App.4th 169, 177.)
- 27 e. Facts establishing criminal conduct involving moral turpitude, including
28 misdemeanor convictions. (*People v. Wheeler* (1992) 4 Cal.4th 284, 295-297.)
- f. False reports by a prosecution witness. (*People v. Hayes* (1992) 3 Cal.App.4th 1238,
 1245.)
- g. Pending criminal charges against a prosecution witness. (*People v. Coyer* (1983)
 142 Cal.App.3d 839, 842.)
- h. Parole or probation status of a prosecution witness. (*Davis v. Alaska* (1974) 415
 U.S. 308, 319; *People v. Price* (1991) 1 Cal.4th 324, 486.)

1 i. Evidence that a witness has a racial, religious or personal bias against the defendant
2 individually or as a member of a group. (*In re Anthony P.* (1985) 167 Cal.App.3d
3 502, 507-510.)

4 61. If the SFSD identifies potential *Brady* material regarding a SFSD employee who will
5 be a prosecution witness, the SFSD notifies the DAO. The assigned prosecutor makes a motion
6 under California Evidence Code Section 1043, seeking access to those records, which typically are
7 peace officer personnel records protected from disclosure under Penal Code Section 832.7. The
8 Court conducts an *in camera* review and determines whether to order the SFSD to release the
9 records to the DAO.

10 62. In a separate meeting, I met with high-level DA personnel to discuss sentencing and
11 other criminal laws.

12 63. San Francisco Police Department ("SFPD"). The SFSD provides mutual aid to the
13 SFPD, and coordinates custody of arrestees, for example at mass events. Currently, the SFSD is
14 coordinating with the SFPD and other City agencies, including the DEM, in preparation for Urban
15 Shield, a homeland security funded training and exercise event in September 2012. SFSD is
16 involved with SFPD in planning for security at the America's Cup events in San Francisco in the
17 fall 2012 and summer 2013. I speak regularly with the Chief of Police, on operational issues and to
18 ensure a smooth working relationship between the two departments.

19 64. Community Groups. The SFSD regularly sends personnel to participate in
20 community events and to attend community meetings. When requested by a community group, I try
21 to make myself available to speak at or participate in discussions or community events, or make
22 staff available for those discussions and events. I understand that this is an important aspect of the
23 Sheriff role, in reaching out to and building relationships with all San Francisco communities.

24 **VIII. TRANSITION BETWEEN SHERIFF MICHAEL HENNESSEY AND SHERIFF
25 ROSS MIRKARIMI**

26 65. In my capacity as Interim Sheriff, I reviewed official business records maintained by
27 the SFSD regarding the transition between the departing Sheriff, Michael Hennessey, and the
28 incoming Sheriff, Ross Mirkarimi, and conferred with staff regarding the transition.

1 66. When Sheriff Hennessey retired, many of his top command staff and advisors retired
2 as well. Sheriff Hennessey served 32 years as Sheriff. As part of the transition in administrations,
3 Assistant Sheriff Marcum retired after approximately 29 years with the SFSD, with approximately
4 12 years as Assistant Sheriff. Legal Counsel James Harrigan also retired, after 26 years in that
5 position. Eileen Hirst, Sheriff Hennessey's Chief of Staff, retired after approximately 25 years of
6 service to the SFSD. Undersheriff Jan Dempsey, with approximately 30 years of experience with
7 the SFSD, approximately 7 years as Undersheriff, agreed to stay for the transition. In total, the
8 SFSD lost over 100 years of knowledge, skills and experience.

9 67. Based on my review of SFSD records and discussions with SFSD staff, there were a
10 series of transition meetings between departing Sheriff Michael Hennessey, incoming Sheriff Ross
11 Mirkarimi, and SFSD command staff. Sheriff Mirkarimi began meeting with Sheriff Hennessey
12 and his staff soon after the election, to allow as much time as possible to learn from the outgoing
13 Sheriff and his staff. These meetings occurred on several dates, including at least November 22,
14 November 28, November 29, December 1, December 5, December 8, December 9, and December
15 12. Among other things, Captains and other personnel in the SFSD used these meetings to
16 introduce themselves to Sheriff Mirkarimi and welcome him to the Department; give presentations
17 to Sheriff Mirkarimi on the different operations of the SFSD, including jail management, jail
18 programs and RSVP, the lawful confinement of prisoners, enforcing stay-away orders and other
19 court processes, probation, rehabilitation, and crime prevention; inform the Sheriff of the most
20 pressing issues in their units; and make recommendations and requests. The purpose of these
21 meetings was to prepare incoming Sheriff Mirkarimi for the duties of the office of Sheriff.

22 68. Based on my review of SFSD records and discussions with SFSD staff, the materials
23 provided to Sheriff Mirkarimi during these transition meetings included six binders of information
24 about the following SFSD divisions, programs and affiliated organizations: Field and Support
25 Services Division (two binders); County Jail 5 Programs; the Training Unit; the Sheriff's Mounted
26 Posse (which is a volunteer organization that assists the SFSD); and the Sheriff's Air Squadron
27 (which is a volunteer organization that assists the SFSD).

1 69. Based on my review of SFSD records and discussions with SFSD staff, during the
2 transition period, Sheriff Mirkarimi also attended at least two confidential disciplinary hearings
3 regarding alleged misconduct by SFSD personnel to prepare him for his own role as the final
4 decision maker in disciplinary matters. Peace officer personnel records and matters are confidential
5 under state law, Penal Code Section 832.7, and not open or available to the public unless the peace
6 officer waives those protections, which happened in these cases.

7 70. Based on my review of SFSD records and discussions with SFSD staff, during this
8 transition period, in his capacity as Sheriff-Elect, Mirkarimi attended two monthly SFSD
9 management meetings, one on November 15, 2011 and another on December 13, 2011.

10 71. Based on my review of SFSD records and discussions with SFSD staff, Sheriff
11 Mirkarimi attended the public ceremony on January 4, 2012 celebrating the official demolition of
12 the old San Bruno jail facility.

13 **IX. SHERIFF MIRKARIMI'S SURRENDER OF FIREARMS**

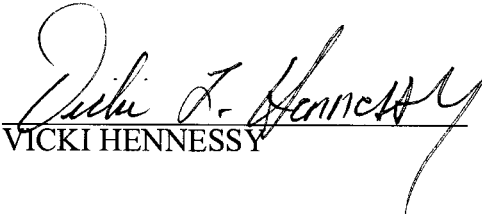
14 72. I am informed and believe that on Saturday, January 14, at the direction of
15 Undersheriff Dempsey, SFSD Captain Kathy Gorwood met with attorney Robert Waggoner and
16 took possession from him of three firearms owned by Sheriff Ross Mirkarimi. Soon after, Capt.
17 Gorwood prepared a report regarding her actions, approved by Undersheriff Dempsey. SFSD
18 maintained this report as an official business record, consistent with its record retention policies and
19 practices. A true and correct copy of the report prepared by Capt. Gorwood, dated January 17,
20 2012, is attached hereto as **Exhibit 27**.

21 **X. SHERIFF MIRKARIMI'S MEMORANDUM TO SFSD EMPLOYEES**

22 73. Attached hereto as **Exhibit 28** is a true and correct copy of a memorandum dated
23 March 12, 2012 from Sheriff Ross Mirkarimi to all SFSD employees. Sheriff Mirkarimi prepared
24 this memorandum in his capacity as Sheriff, and SFSD maintains this memorandum as an official
25 business record, consistent with its record retention policies and practices.

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1 I declare under penalty of perjury under the laws of the State of California that the foregoing
2 is true and correct. Executed this 8th day of June, 2012, in San Francisco, California.

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5 VICKI HENNESSY
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