

1 DENNIS J. HERRERA, State Bar #139669
City Attorney
2 JESSE C. SMITH, State Bar #122517
Chief Assistant City Attorney
3 SHERRI SOKELAND KAISER, State Bar #197986
PETER J. KEITH, State Bar #206482
Deputy City Attorneys
4 1390 Market Street, Suite 700
San Francisco, California 94102-5408
5 Telephone: (415) 554-3886 (Kaiser)
Telephone: (415) 554-3908 (Keith)
6 Facsimile: (415) 554-6747
E-Mail: sherri.kaiser@sfgov.org
7 peter.keith@sfgov.org

8 Attorneys for MAYOR EDWIN M. LEE

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 CHIEF
SAN FRANCISCO PROBATION
OFFICER WENDY STILL

16
17
18 I, Wendy Still, declare as follows:

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 **~~I. POSITION, EXPERIENCE, QUALIFICATIONS~~**

23 2. ~~I am currently the Chief Adult Probation Officer for the City and County of San~~
24 ~~Francisco, and have been in that position since 2010. As the Chief Adult Probation Officer I~~
25 ~~oversee the operations the San Francisco Adult Probation Department (APD). In that position I am~~
26 ~~both a peace officer and an officer of the court. Among other things, my duties include setting~~
27 ~~department policies; making staffing decisions and overseeing staff performance; developing and~~
28 ~~overseeing the department's budget; developing and implementing a strategic vision for the~~

1 ~~department; and ensuring that the department fulfills its mission. The department's mission is to~~
2 ~~supervise offenders and enforce the conditions of their release and supervision, to assist and~~
3 ~~encourage them in the path towards rehabilitation, and to protect the public by holding probationers~~
4 ~~accountable for violating the terms of their release or for reoffending. Attached as Exhibit 29 is a~~
5 ~~true and correct copy of APD's Mission, Vision, and Values. Attached as Exhibit 30 is a true and~~
6 ~~correct copy of APD's FY 2011 Annual Report.~~

7 3. ~~In fulfilling my responsibilities as Chief of APD, I must maintain close working~~
8 ~~relationships with the heads of other local criminal justice agencies, and interface frequently with~~
9 ~~community based organizations including victims' rights groups, as well as with the Mayor's Office~~
10 ~~and the Board of Supervisors.~~

11 4. ~~In my capacity as Chief of APD and together with the heads of our other local~~
12 ~~criminal justice partners, I sit on local policy bodies that also share responsibility for criminal~~
13 ~~justice issues such as public safety and rehabilitation. The Sheriff and I are two of the co-chairs of~~
14 ~~the Reentry Council, which is charged with developing strategies to facilitate the successful reentry~~
15 ~~of recently released offenders. I also chair the Community Corrections Partnership (CCP) and the~~
16 ~~Community Corrections Partnership Executive Committee (CCPEC). Both the CCP and the~~
17 ~~CCPEC developed and recommended the City and County of San Francisco Public Safety~~
18 ~~Realignment & Postrelease Community Supervision 2011 Implementation Plan, Public Safety~~
19 ~~Realignment, a true and correct copy of which is attached as Exhibit 31, a plan approved by the~~
20 ~~Board of Supervisors for the implementation of Realignment as required by Assembly Bills 109 and~~
21 ~~117. The Sheriff is also a member of the Executive Committee. In addition, I am a member of the~~
22 ~~recently established San Francisco Sentencing Commission, whose mission is to make~~
23 ~~recommendations regarding sentencing reforms that would advance public safety, reduce~~
24 ~~recidivism, and utilize best practices in criminal justice. The commission's members include,~~
25 ~~among others the District Attorney as chair, the Public Defender, the Sheriff, and the Chief of~~
26 ~~Police.~~

27 5. ~~Prior to holding my position as Chief Probation Officer, I worked for the California~~
28 ~~Department of Corrections and Rehabilitation ("CDCR") for 33 years. My 26 years of correctional~~

1 experience includes operating, managing, and performing direct supervision and oversight for up to
2 ten male and female prisons with approximately 40,000 inmates and 15,000 staff. While at CDCR,
3 I served as Southern Regional Prison Administrator, Associate Director Female Offender Programs
4 and Services, Deputy Director of Finance, Chief of Regulation and Policy Management, and Prison
5 Rape Elimination Act (PREA) Executive Project Director. I was also the Director of Rehabilitation
6 and Activation for the Federal Medical Prison Receiver appointed by the court in the *Plata v.*
7 *Schwarzenegger* litigation, reporting to the Medical Receiver while also remaining a CDCR
8 employee.

9 6. I am currently a member of the California Rehabilitation Oversight Board (CROB)
10 to which I was appointed by the California State Legislature. CROB provides oversight of the
11 CDCR's inmate prison rehabilitation programs and reports to the legislature.

12 **H. OVERVIEW OF APD**

13 7. APD is charged with supervising and monitoring criminal offenders who are ordered
14 by the Court to serve probation as part of their sentence. As part of their responsibilities, probation
15 officers must meet regularly with the probationers on their caseload to determine if they are
16 adhering to the terms and conditions of their probation, and meeting all affirmative, such as
17 attending Batterer's Intervention Programs, parenting classes or substance abuse counseling. At
18 regularly scheduled status hearings, probation officers must report back to the court on how well a
19 probationer is performing on probation. Should a probation officer determine that a probationer is
20 performing unsatisfactorily or is failing to adhere to the conditions of probation, the officer will
21 alert the court and may move to modify or revoke that individual's probation. For example, if
22 probationers fail to comply or their compliance is not satisfactory, e.g., the fail to participate
23 meaningfully in a court order program, the court can revoke probation and send them to jail or
24 prison, or modify their probation to make the conditions more restrictive, for instance, by imposing
25 electronic monitoring.

26 8. While on probation, offenders must comply with and fulfill the terms and conditions
27 ordered by the court. Probationers remain out of custody as long as they comply. Probation
28

1 ~~officers are responsible for monitoring offender's compliance with the terms and conditions ordered~~
2 ~~by the court.~~

3 9. ~~APD has a specialized unit assigned to supervise offenders on probation for crimes~~
4 ~~involving domestic violence ("DV"). Attached as Exhibit 32 is a true and correct copy of APD's~~
5 ~~supervision protocols for this specialized DV unit. The DV unit has 10 dedicated officers: 8 deputy~~
6 ~~probation officers, one supervising probation officer, and one officer that staffs the domestic~~
7 ~~violence court. APD has a separate unit for supervision of these offenders because they are~~
8 ~~typically a more difficult population to manage, requiring greater monitoring. DV offenders tend to~~
9 ~~be manipulative and quicker to become violent. This population also has a high rate of substance~~
10 ~~abuse which typically results in unpredictable behavior and volatility.~~

11 10. ~~Immediately after a sentencing hearing ends with a DV offender being sentenced to~~
12 ~~probation, APD's Court Liaison officer sets an appointment with the offender to attend orientation at~~
13 ~~the APD's offices and to be assigned a probation officer. Attached as Exhibit 33 is a true and~~
14 ~~correct blank copy of the notice form the DV probationer receives at the sentencing hearing.~~

15 11. ~~During their orientation, DV probationers are given a "Probationer Guide" written in~~
16 ~~easy to understand language which explains what is expected of them and what the consequences~~
17 ~~could be for violating probation or re-offending. Attached as Exhibit 34 is a true and correct copy~~
18 ~~of that guide.~~

19 12. ~~As part of their probation, all DV probationers are required to attend a year long~~
20 ~~weekly Batterer Intervention Program ("BIP") approved by APD. Attached as Exhibit 35 is a true~~
21 ~~and correct copy of the list of BIPs approved by APD. One of these programs, called "PREP" is run~~
22 ~~by Community Works West, a community based organization ("CBO") which also operates several~~
23 ~~anti-violence programs both in custody and post custody and for survivors of violence with grant~~
24 ~~funding from the SFSD.~~

25 ~~III. COLLABORATION BETWEEN APD AND SFSD~~

26 13. ~~In order to facilitate the flow of the San Francisco criminal justice process,~~
27 ~~representatives of APD and the San Francisco Sheriff's Department ("SFSD") must work~~
28 ~~cooperatively and coordinate closely with each other. For example, when offenders plead or are~~

1 found guilty of committing criminal violations, APD and SFSD must coordinate to provide access
2 to these individuals so that probation can conduct the presentencing investigations required by the
3 Court. When APD probationers are arrested for violating probation, SFSD is responsible for
4 booking these offenders and holding them in custody. There is also significant operational need for
5 collaboration regarding inmates leaving custody and entering probation or mandatory supervision,
6 as well as for coordination of post custody programs and services.

7 14. In addition to the day to day working collaboration involving movement of offenders
8 and custody, APD and SFSD also work together on additional programs, including, as an example,
9 a gender responsive blueprint for women in the criminal justice system, including inmates and
10 probationers. APD depends on SFSD to do criminal history background checks in connection with
11 APD's hiring process. APD also makes use of electronic monitoring services that are contracted
12 through SFSD, and APD work orders funds to SFSD for those services. APD and SFPD also work
13 together to coordinate on applications for grant funding and on reentry and rehabilitation programs.

14 15. With the advent of criminal justice realignment ("Realignment"), effective October
15 1, 2011, cooperation and collaboration between APD and SFSD is now more critical than ever. The
16 state's realignment legislation shifts much of the fiscal and operational responsibility for
17 incarceration and post release supervision of convicted offenders from state to county. As a result,
18 SFSD is now responsible for housing an increased number of offenders sentenced to serve time for
19 less serious criminal violations, as well as for housing parolees serving time on revocations. APD
20 also has significant new supervision responsibilities, and now must also supervise a higher risk
21 population of offenders *after* they complete their sentences in jail or prison.

22 16. In an effort to more effectively supervise and serve this new higher risk population,
23 APD and SFSD are now collaborating to establish a "Reentry Pod" at the SF jail so that
24 soon to be released prison inmates can be transferred locally 60 days prior to release to allow APD
25 probation officers time necessary to establish meaningful contact with the inmates prior to their
26 release.

27 17. APD and SFSD are also working closely together to facilitate "flash incarceration",
28 an intermediate sanction authorized by statute that allows probation agencies to jail certain

1 categories of offenders for up to 10 days, during which they must remain in custody in the local jail.
2 By statute, flash incarceration may be imposed by APD without court hearing and is intended as a
3 swift response to deter non-compliant behavior before it becomes serious.

4 18. Changes in the sentencing laws as a result of realignment now dictate that many
5 convicted offenders will have "split sentences" and will serve their time locally in county jail rather
6 than in prison, with a subsequent period of supervised release known as "mandatory supervision"
7 under the supervision of APD, rather than state parole authorities. The time is now critical for APD
8 and SFSD to work closely to develop strategies for cooperative case management for these
9 offenders, such as sharing information gathered from offenders' Risk and Needs Assessments, and
10 ensuring continuity in the programming an offender receives both in custody and post-release.

11 **IV. TERMS AND CONDITIONS OF ROSS MIRKARIMI'S PROBATION**

12 19. On March 12, 2012, Ross Mirkarimi pled guilty to the crime of false imprisonment, a
13 violation of Penal Code section 236. Attached as Exhibit 36 is a true and correct copy of the
14 transcript of his plea hearing. Attached as Exhibit 37 is a true and correct copy of the minute order
15 from that hearing.

16 20. One week later, on March 19, 2012, the court held a sentencing hearing in Mr.
17 Mirkarimi's criminal matter. Attached as Exhibit 38 is a true and correct copy of the transcript of
18 that hearing. Attached as Exhibit 39 is a true and correct copy of the minute order from that
19 hearing.

20 21. Attached as Exhibit 40 is a true and correct copy of the terms and conditions of
21 probation for Mr. Mirkarimi, who is considered a domestic violence offender. Mr. Mirkarimi has
22 been assigned a probation officer from our domestic violence unit, Andrea Wright, who is also
23 APD's liaison to the domestic violence court.

24 22. Pursuant to the terms and conditions of his probation, Mr. Mirkarimi is ordered to
25 serve three years on probation as well as one day in county jail with credit for time served. During
26 his probation, he must participate for at least 52 weeks in a Batterer's Intervention Program ("BIP")
27 and perform 100 hours of community service. A protective order remains in effect that prohibits
28 Mr. Mirkarimi from having any contact with his wife, Eliana Lopez, and from possessing any

1 firearms. Attached as Exhibit 41 is a true and correct copy of the original protective order entered
2 against Mr. Mirkarimi as well as the subsequent modifications to it.

3 23. During the period the DV probationer is in the Batterer Intervention Program, his
4 participation will be closely monitored by BIP staff, who will report back to his probation officer
5 and the court regarding his attendance and the quality of his participation. Should a probationer's
6 participation be unsatisfactory, the BIP would be required to report it. Based on such a report, the
7 court may modify the terms of probation to those view less favorably by the probationer or revoke
8 his probation altogether.

9 24. During his DV probation, a probationer must meet regularly with his probation
10 officer and is subject to unannounced home visits by that officer. Should a DV probationer miss an
11 appointment without explanation or should his probation officer or *any* peace officer come into
12 possession of knowledge that the DV probationer violated any of the terms and conditions of his
13 probation, he would be subject to immediate arrest and detention in the county jail. His probation
14 officer would then, return the probationer back to court requesting to modify or revoke the terms of
15 his probation, which could lead to the DV probationer being resentenced to serve time in county
16 jail.

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18 **V. DIFFICULTIES PRESENTED BY HAVING A SHERIFF ON DV PROBATION**

19 ~~25. If a probation officer under my supervision pled guilty to a charge of false~~
20 ~~imprisonment in connection with a domestic violence incident, I would terminate that officer.~~
21 ~~Committing the crime of false imprisonment reflects a lack of judgment and a lack of emotional~~
22 ~~control. As part of their supervision duties, probation officers must go out in the field and conduct~~
23 ~~unannounced site visits to their clients' homes. In my opinion, continuing to employ a probation~~
24 ~~officer who commits conduct such as false imprisonment would represent an unreasonable risk to~~
25 ~~the safety of our probation clients who must allow these officers into their homes. Furthermore,~~
26 ~~breaking the law in such a manner would represent an irreconcilable conflict for a probation officer,~~
27 ~~whose principle duty is to hold offenders under their supervision accountable for violating the law.~~

