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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
17 EXPERT DECLARATION OF SAN
DIEGO CHIEF OF POLICE WILLIAM
18 LANSDOWNE

19 I, WILLIAM LANSDOWNE, declare as follows:

20 1. Currently, I am the Chief of Police of the City of San Diego, California. I have been
21 in the law enforcement field for 47 years. I have been the Chief of Police in three cities: Richmond,
22 California (1994 – 1998); San Jose, California (1998 – 2003); and San Diego, California (2003 –
23 present). I have agreed to render expert opinions for Mayor Edwin M. Lee in the above-referenced
proceeding.

24 2. I have served as an expert witness over 50 times in matters involving police
25 management and policy, use of force, training and discipline, undercover operations, and narcotics.

26 3. I have authored or helped author numerous publications through the Police Executive
27 Research Forum (“PERF”), the Department of Justice, Major Cities Chiefs, and symposiums on law
28 enforcement leadership. This includes numerous articles on the topics of leadership, ethics,

1 community policing, use of force, and the changing dynamics of law enforcement. I often teach and
2 lecture on these topics throughout the nation.

3 4. Law Enforcement Experience. I began my law enforcement career in 1965, when I
4 joined the San Jose Police Department as a reserve patrol officer. San Jose hired me as a full-time
5 police officer in 1966, and I was promoted to sergeant in 1972. During this time, I served
6 simultaneously as a member of the California National Guard (1966-1972). I rose steadily through
7 the ranks at the San Jose Police Department, commanding a variety of units and divisions: I served
8 as a detective working general crimes, which included felony assaults, domestic violence, armed
9 robbery, vice and auto theft. I helped develop the Field Officer's Training curriculum that became a
10 national model. I was promoted to Lieutenant and developed and commanded the first Internal
11 Investigation Unit for the San Jose Police Department. I worked Homicide as the commander and
12 as a patrol lieutenant. I was promoted to Captain to manage the patrol swing shift and the Records
13 Division. I was promoted to Deputy Chief and was in charge of the Patrol Division with the specific
14 responsibility to design and implement community policy in the San Jose Police Department. In
15 1993, I was promoted to the position of Assistant Chief.

16 5. In 1994, I left the San Jose Police Department to become Chief of Police for the City
17 of Richmond, California, a diverse community of 93,000 people. I reorganized that department and
18 its priorities, placing new emphasis on community policing and implementing violence reduction
19 and truancy programs. When I was hired, Richmond had one of the highest homicide rates in the
20 nation, and I implemented a community policing program that cut the homicide rate in half in one
21 year. I also managed a jail for short-term detentions. I served as Chief of the Richmond Police
22 Department for five years.

23 6. In August 1998, I returned to the City of San Jose, to serve as its Chief of Police. As
24 Chief in San Jose, I continued to emphasize community involvement and transparency. While I was
25 Chief, San Jose became nationally recognized as the safest large city in America. *See*
26 <http://bjsdata.ojp.usdoj.gov/dataonline/Search/Crime/Local/OneYearofDataStepTwoLarge.cfm>.

27 7. In 2003, I was selected to serve as the Chief of Police for the City of San Diego, and
28 I have served in that position continuously to the present. With a population of 1.25 million people,

1 San Diego is the seventh largest city in the United States and the second largest city in California.
2 San Diego's crime rate has come down almost every year during the nine years that I have been
3 Chief of Police, and San Diego is seen as a national model for crime reduction.

4 8. As Chief of Police, my responsibilities include all operational, policy, strategy and
5 employment decisions for the department I lead. I know from experience that the culture of the
6 department flows from the Chief – not just the words the Chief says, but his or her actions.

7 9. Knowledge of sheriffs. I am knowledgeable about the duties and responsibilities of
8 sheriffs as a result of my extensive work with law enforcement professional organizations,
9 including PERF, Major Cities Police, the California Chief's Association, and the Police Chief
10 Association in Richmond, San Jose and San Diego. I have attended and taught at the FBI Academy
11 and the Law Enforcement Executive Institute, which include sheriffs as well as police chiefs. I
12 frequently interact with sheriffs – as fellow law enforcement executives and as personal friends –
13 and discuss mutual problems and issues with them.

14 10. Education. While a member of the San Jose Police Department, I attended San Jose
15 State University, and in 1973 I graduated with a Bachelor of Science degree in Criminal Justice
16 Administration.

17 11. In 1992, I attended and graduated from the FBI National Academy in Quantico,
18 Virginia. I also attended and graduated from the Law Enforcement Executive Institute and Law
19 Enforcement Executive Development course. These courses provide training and leadership
20 development for top executives in law enforcement across the nation.

21 12. Professional Organizations. I have served on a variety of state and national boards,
22 including the Major Cities Police Chiefs, PERF, Second Chance, Invest in Kids, gang commissions
23 in San Jose and San Diego, Star Pal, California Chiefs Association, Crime Commission, the
24 Children's Initiative, National Conference for Community and Justice, and the Family Justice
25 Center in San Diego. These are professional organizations that design and manage professional law
26 enforcement training, including programs to address youth safety, violence reduction, and domestic
27 violence.

1 13. Ethics and Leadership Courses. I am POST Certified and have received POST-
2 accredited training in leadership, ethics, and management every year for the 47 years I have been in
3 law enforcement.

4 14. For the past 19 years, I have received or provided ethics and leadership training
5 through the California Chief's Association in Richmond, San Jose, and San Diego; Major Cities
6 Chiefs; PERF; the Department of Justice; and the FBI for the State and the Federal Government. I
7 have attended and taught hundreds of classes and seminars on homicide, narcotics, armed robbery,
8 internal affairs, domestic violence, ethics and leadership.

9 15. For the past three years, I have taught the final class in Senior Management in
10 Policing at PERF. At this class, sitting police chiefs and sheriffs make presentations about politics,
11 community, and personnel, with a strong focus on ethics. The class is designed to train the next
12 generation of police chiefs and sheriffs.

13 16. A Chief of Police and a Sheriff are both law enforcement executives and top law
14 enforcement officers. They have similar responsibilities relating to custody, management,
15 discipline, budget, and ethics. The primary difference between the two positions is a Sheriff's
16 additional responsibility for jails and courtroom security. The basic skills of leadership and
17 management are the same. A good police chief and a good sheriff could exchange jobs with very
18 little difference. It is not uncommon for a police chief to become a sheriff.

19 17. The same professional standards and requirements apply to a Chief of Police and
20 Sheriff. Both must be fair, firm and consistent. As top law enforcement officers, both are obligated
21 to set and defend the highest standard of professionalism. They do this through word and deed, and
22 both are expected to demonstrate integrity, self-control and exemplary ethical conduct in their
23 professional and private lives.

24 18. Training and Mentoring. I meet with and train every new hire in the San Diego
25 Police Department about ethics and professionalism. I have trained close to 1000 officers. I also
26 give presentations on these topics at the University of San Diego, San Diego State University, and
27 the Point Loma Nazarene University.

1 19. I have mentored 13 police chiefs who formally worked under my direct supervision,
2 and all but one, who retired from Salinas, are still in office. They are now in National City, El
3 Centro, Walnut Creek, Concord, Redwood City, Coronado, Hayward, Los Gatos, Anaheim, Los
4 Altos, Fairfield, and San Jose.

5 20. Domestic Violence. In my years as a peace officer in California, the law
6 enforcement response to domestic violence incidents has evolved dramatically, as have community
7 attitudes and perceptions. When I started as a police officer, law enforcement treated domestic
8 violence as a private, family matter. If the victim was unwilling or afraid to file a complaint, law
9 enforcement would ask the perpetrator to leave the house for a few hours or a day. Generally,
10 officers did not take further action regarding the offender, and they did not connect the victim with
11 services or programs. This approach focused on the immediate incident, and it did nothing to
12 prevent future incidents. Often the result was further violence, sometimes leading to the tragic death
13 of the victim.

14 21. Through the years, the criminal justice system – including law enforcement – has
15 developed and implemented a comprehensive multi-faceted approach to domestic violence, with
16 rehabilitation programs for offenders and extensive services for survivors and their families. We
17 first began to see true success in domestic violence prevention when law enforcement joined forces
18 with the District Attorneys, the courts, and domestic violence professionals and organizations. Now
19 there are mandatory arrest laws and a no-drop prosecution policy, and prosecution of domestic
20 violence is the responsibility of the courts and law enforcement. We now treat domestic violence
21 for what it is, a serious crime.

22 22. Today we have one stop centers, like the Family Justice Center in San Diego. We
23 use evidence-based prosecution to file charges against the suspect even when the victim is reluctant
24 to participate. In most cases the victim feels helpless because of fear, loss of income, loss of
25 children, or worry that no one will help.

26 23. As a Chief of Police, I have managed two of the first Family Justice Centers in
27 California, one in San Jose and the other in San Diego. These Family Justice Centers are dedicated
28 exclusively to domestic violence prevention, and offer wrap-around services and support for

1 victims. The San Diego Family Justice Center, one of the first centers of its kind in the United
2 States, provides help and hope to victims of family violence and their children. Every day, those
3 impacted by family violence find safety, protection from their abuser, legal help, counseling, food,
4 clothing, spiritual support, medical assistance, and so many other free services from the Center's
5 professionals and volunteers. The mission of the Center is to stop family violence, make victims
6 safer, hold batterers accountable, and provide long-term support for victims and children through
7 collaboration and coordinated services. The Center provides a safe location where all the needs of
8 victims are met, violence is stopped, families heal, and hope is realized.

9 24. Expert Testimony. In preparing to write this declaration, I reviewed the materials
10 listed in Exhibit 76. I found them to be the types of materials on which a law enforcement expert
11 would normally and reasonably rely in forming opinions about whether standards for professional
12 conduct have been met. I may rely on those materials, in addition to the documents specifically
13 cited as supportive examples in particular sections of this declaration, as additional support for my
14 opinions. I have also relied on my years of law enforcement experience, as set out above.

15 25. In connection with my anticipated testimony in this action, I may use portions of this
16 declaration or the references cited herein as exhibits. In addition, I may use various documents
17 produced in this proceeding that refer or relate to the matters discussed in this declaration. I may
18 also create, or assist in the creation of, demonstrative exhibits or summaries of my opinions to assist
19 me in testifying.

20 26. I may testify as an expert regarding additional matters, including (i) by rebutting
21 positions that Sheriff Mirkarimi takes, including opinions of his experts and materials they discuss
22 or rely upon; (ii) issues that arise from any forthcoming orders from the Ethics Commission; (iii)
23 issues that arise from documents or other discovery or materials that Sheriff Mirkarimi has not yet
24 produced, or that were produced too late to be fully considered before my declaration was due; or
25 (iv) to respond to witness testimony that has not yet been given.

26 27. I reserve the right to supplement or amend this declaration based on (i) any orders of
27 the Ethics Commission; (ii) documents or other discovery or materials that Sheriff Mirkarimi has
28 not yet produced; or (iii) witness testimony that has not yet been given.

1 **I. THE PROFESSIONAL STANDARD OF CONDUCT FOR A CHIEF LAW**
2 **ENFORCEMENT OFFICER**

3 28. A sheriff is a peace officer under state law. Peace officers are held to a higher
4 standard than other public servants, because of the extraordinary degree of authority and power they
5 possess and the critical role they play in the criminal justice system.

6 29. The San Francisco Sheriff's Department (SFSD) includes the "Law Enforcement
7 Code of Ethics" in its Rules and Regulations. The Peace Officers' Association of the State of
8 California adopted this Code of Ethics in 1956, and it is as meaningful a guide to peace officers
9 today as it was when adopted:

10 As a Law Enforcement Officer, my fundamental duty is to serve mankind; to safeguard lives
11 and property; to protect the innocent against deception, the weak against oppression or
12 intimidation, and the peaceful against violence or disorder; and to respect the Constitutional
13 rights of all men to liberty, equality and justice.

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

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

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

(See Exhibit 13 to Declaration of Acting Sheriff Vicki Hennessy.)

29 30. A top law enforcement officer – a Sheriff or Chief of Police – is held to the highest
30 standard and must lead by personal example. As the top peace officer of the SFSD, this
31 professional standard demands that the Sheriff's conduct be above reproach, both personally and
32 professionally. Everything counts. A chief law enforcement officer is never off duty.

33 31. To be above reproach, a chief law enforcement officer must demonstrate honesty,
34 integrity, honor, responsibility, accountability and professionalism, every day and in every

1 interaction. A sheriff must do the right thing, even when it is hard, even when he's upset, and
2 especially when he thinks no one is looking or what he does won't count. It always counts.

3 32. A chief law enforcement officer must always maintain credibility. Honesty is
4 required.

5 33. A chief law enforcement officer must safeguard the public trust. A chief law
6 enforcement officer must never use his power for personal advantage. Power is not the personal
7 property of a chief law enforcement officer – it belongs to the office and to the public, and must
8 always be used in service of the public good.

9 34. A chief law enforcement officer must maintain the respect of other government
10 agencies.

11 35. The leader of a law enforcement agency must place the best interests of the agency
12 before his or her personal concerns and interests.

13 36. A sheriff must believe in and advocate for the fairness and effectiveness of the
14 criminal justice system, including supporting and encouraging victims and witnesses and validating
15 the criminal justice process.

16 37. Attached hereto as Exhibit 77 is a true and correct copy of *To Lead, To Learn, To*
17 *Leave A Legacy*, jointly published by the Major Cities Chiefs and the FBI National Executive
18 Institute in June 2005. It is a collection of essays by top law enforcement executives in the United
19 States and Canada about the things they have learned during their careers about law enforcement
20 leadership and ethics. The principles that I set out above reverberate throughout those essays and
21 represent a shared understanding in the profession.

22 **II. SHERIFF MIRKARIMI'S ACTS – AND FAILURES TO ACT – FALL WELL**
23 **BELOW THE STANDARD OF PROFESSIONAL CONDUCT FOR A CHIEF LAW**
24 **ENFORCEMENT OFFICER**

25 **A. Sheriff Mirkarimi's Professional and Ethical Duties Arose As Soon As He Was**
26 **Elected And Continue To This Day**

27 38. Sheriff Mirkarimi claims that he had no duty to his Department or his City until after
28 he took the oath of office. But once Sheriff Mirkarimi was elected, he had a claim to the office of
the Sheriff that made him a law enforcement leader in the eyes of the public, the personnel in the

1 SFSD, and other civic leaders. This imbued him with a professional and ethical duty to conduct
2 himself accordingly from then on. He is incorrect to claim that he had no duty to conduct himself
3 as a leader of the SFSD until months later. At the most elementary level, this is why his case has
4 generated such significant public scrutiny from the moment the allegations of domestic violence
5 became known, which was shortly before his inauguration. A private citizen in his situation who
6 did not represent law enforcement or was not a public official would not have attracted such public
7 attention. He claims he shouldn't be treated any differently than anyone else who commits
8 misdemeanor domestic violence, but he is not in the same position as just anyone. By running for
9 and winning the office of sheriff, he asked to be treated differently and to be gifted with an
10 extraordinary level of public trust. His duty to meet the highest moral and ethical standards to
11 protect and honor that trust arose the moment he won the election, continued after he took the oath
12 of office, continued to exist during the time he put on the defense of his criminal case, remains in
13 place even today, and will remain in place for as long as he can claim the title of Sheriff.

14 **B. Domestic Violence**

15 39. Sheriff Mirkarimi has admitted that physically harmed and falsely imprisoned his
16 wife, and he apparently did this in front of his distraught child. Committing any crime, much less a
17 violent and heartless crime against a loved one, falls far below the professional standard expected
18 and required of a chief law enforcement officer.

19 40. In addition, Sheriff Mirkarimi has failed to treat the assault, and by implication
20 domestic violence itself, with the proper gravity. He joked about it at his inauguration. Domestic
21 violence is never a laughing matter. It is a crime of great public consequence, and great personal
22 consequence to the many victims who rely on law enforcement for protection.

23 **C. Failure To Accept Responsibility And Demonstrate Accountability**

24 41. Sheriff Mirkarimi has engaged in classic domestic violence offender behavior.
25 While he claims to have accepted accountability for his actions, he has repeatedly minimized his
26 actions and the harm he caused his wife, family and community; portrayed himself as a victim
27 rather than offender; and blamed others for the situation he created, including other City officials
28

1 and agencies, the criminal justice system itself, and an alleged political conspiracy. This behavior
2 falls below the standard expected and required of a sheriff.

3 **D. Failure To Protect The Integrity Of A Criminal Justice Investigation**

4 At some point, Sheriff Mirkarimi learned that both his wife and his campaign manager had
5 instructed his neighbor, who had reported his domestic violence, not to cooperate with police and to
6 withhold or destroy evidence. A chief law enforcement officer has an ethical obligation to ensure
7 the integrity of a criminal justice investigation, but Sheriff Mirkarimi took no corrective action and
8 did nothing to disavow such improper conduct. That failure to act falls well below the professional
9 standard of conduct for a law enforcement officer of any kind.

10 **E. Failure To Step Forward And Protect The Complaining Witness**

11 42. Sheriff Mirkarimi and his representatives have also made numerous statements
12 attacking the credibility and honesty of witnesses who reported his admitted criminal conduct, as
13 well as the honesty and motives of the SFPD, DAO and others, and the fairness of the criminal
14 process. Sheriff Mirkarimi did nothing to stop the attacks by his agents. He cannot serve as a
15 central player in a criminal justice system that he attacks and tears down, and clearly does not
16 believe in. This behavior – undermining the effectiveness of the City’s criminal justice agencies
17 and system – is wrongful behavior in relation to the duties of the office of Sheriff, and is below the
18 professional standard for a top law enforcement officer.

19 **F. Refusal To Cooperate With Investigators**

20 The SFSD rules and regulations include a strict code of conduct, and require employees to
21 cooperate fully and truthfully in investigations. (Exhibit 13 to Hennessy Dec.) Employees are
22 subject to discipline for violating those rules and regulations, and for bringing discredit on the
23 SFSD. Sheriff Mirkarimi admits grabbing his wife and bruising her arm. He pled guilty to false
24 imprisonment and is on criminal probation. At every turn during the criminal and administrative
25 investigations, when his cooperation was solicited, Sheriff Mirkarimi refused to cooperate, evaded
26 discovery and other investigative efforts, and only cooperated if ordered by the Court or when all
27 his suppression efforts failed. It would be the height of hypocrisy for Sheriff Mirkarimi to hold
28 SFSD personnel to rules and standards when he refuses to hold himself to those same rules and

1 standards. Sheriff Mirkarimi's conduct has destroyed his credibility and effectiveness in enforcing
2 SFSD rules and regulations, and disciplining personnel. His conduct constitutes wrongful behavior
3 in relation to the duties of the office of Sheriff, and falls below the professional standard for a top
4 law enforcement officer.

5 **G. Refusal To Surrender Firearms to SFPD**

6 A peace officer must store and handle all firearms, including personal firearms, in
7 compliance with applicable laws and departmental training and regulations. When directed to
8 surrender his personal firearms to the SFPD, Sheriff Mirkarimi advised the SFPD inspectors that he
9 had only two weapons. When SFPD inspectors indicated he had three registered firearms, Sheriff
10 Mirkarimi informed the inspectors that he had sold one of the firearms, only had two firearms, and
11 would need time to find those weapons because they were "buried" deep in his house. Although
12 Sheriff Mirkarimi agreed to surrender the firearms to SFPD, instead, through his attorney, he
13 surrendered them to SFSD personnel. It is inconceivable that Sheriff Mirkarimi would not know
14 the location and status of his three personal firearms. Every law enforcement officer is expected to
15 know the location and status of his firearms at all times. See Exhibit 22 to Hennessy Declaration
16 ("Personnel have a moral and legal obligation to safely secure any firearm under their control"). A
17 firearm is a deadly weapon. A law enforcement officer has the power and authority to use a firearm
18 under the circumstances permitted by law, even to cause the death of another human being. For a
19 law enforcement officer, forgetting the location of one's firearms is as likely as forgetting the
20 location of one's home. It is inconceivable. It is also inconceivable that he would not have the
21 firearms stored securely in a known location, especially because he had a young child living in the
22 home. It is my opinion that Sheriff Mirkarimi misrepresented to SFPD the number of guns he
23 possessed, and it is not implausible he did so in an effort to retain a firearm despite the court order
24 barring such possession. Further, in my opinion, Sheriff Mirkarimi surrendered his firearms to the
25 SFSD rather than the SFPD as agreed, either in an effort to retain some degree of control over those
26 firearms, through his authority over the SFSD and SFSD personnel, or to avoid follow up
27 questioning by police inspectors about his misrepresentation about selling his third gun, or both.
28 Throughout the gun surrender process, Sheriff Mirkarimi was evasive and uncooperative. He

1 refused to honor his agreement with the SFPD inspectors, and sought to dictate and control the way
2 in which he complied with the Court order. Sheriff Mirkarimi's conduct disrespected the law and
3 the Court that ordered him to surrender his firearms, was the bare minimum rather than full
4 cooperation expected from a peace officer and top law enforcement officer, and is unacceptable and
5 below the professional standard for peace officer and a top law enforcement officer. In addition, by
6 involving SFSD personnel in the surrender of his personal firearms, Sheriff Mirkarimi
7 inappropriately involved the SFSD in a SFPD criminal matter. See Exhibit 13 to Hennessy
8 Declaration, § 2.17 (orders from superior to subordinate shall be issued only in pursuit of
9 Departmental business). Sheriff Mirkarimi also misused the resources of the SFSD and the trust of
10 SFSD staff, by directing them to keep his firearms under the control of his department, rather than
11 the outside law enforcement agency responsible for the investigation, and by using SFSD staff to
12 shield himself from interactions with the SFPD. This is wrongful behavior in relation to the duties
13 and office of Sheriff. The fact that placing the weapons under the control of the Sheriff's
14 Department was wrong was confirmed by the Superior Court issuing an order to the Sheriff's
15 Department to turn over the Sheriff's weapons to the SFPD. Sheriff Mirkarimi even objected to the
16 Court issuing that order. That is just further indication that the Sheriff does not take seriously the
17 duty of a chief law enforcement officer to maintain the integrity of the criminal justice process.

18 **H. Putting Other San Francisco Criminal Justice Agencies In The Completely**
19 **Untenable Position Of Having To Treat Him Like A Criminal – And Yet**
20 **Somehow A Colleague**

21 43. While he is on probation, Sheriff Mirkarimi is subject to the active supervision of the
22 San Francisco Superior Court and the San Francisco Adult Probation Department. His case remains
23 active in the DA's Office, and he is subject to arrest by the Police Department and will be returned
24 to the custody of the Sheriff's Department if he fails to satisfy the terms and conditions of
25 probation. This situation is completely untenable and creates numerous conflicts of interest
26 between Sheriff Mirkarimi and the agencies that he expects to treat him as both a colleague and a
27 criminal. See Exhibits 33, 39, 40 to Still Declaration. By remaining in office, Sheriff Mirkarimi
28 makes it harder for these public servants to effectively do their jobs, both professionally and

1 personally. Agreeing to a term of criminal probation to be supervised by coordinate criminal justice
2 agencies is inconsistent with the professional standard for the head of a law enforcement agency.

3 **I. Bringing the Sheriff's Department, And Law Enforcement Generally, Into**
4 **Disrepute**

5 44. Sheriff Mirkarimi's entire course of conduct has brought the SFSD and law
6 enforcement into disrepute, which is a breach of his professional obligations and widely recognized
7 as a form of misconduct.

8 45. Sheriff Mirkarimi has allowed his personal life to bring discredit to the SFSD, and
9 continues to do so each day he remains as Sheriff. At every opportunity, Sheriff Mirkarimi has
10 placed his personal interests and objectives before considerations of the reputation and dignity of
11 the SFSD and its personnel. He has caused a major distraction from the critical mission of the
12 SFSD and allowed it to persist for months, often trying to direct the public focus to himself and his
13 misdeeds as a way of making a case for remaining in office. This is antithetical to the role of a top
14 law enforcement official, who must always be vigilant to the needs of his Department and be
15 prepared to put them ahead of his own. A sheriff has more than himself to think about; it harms his
16 Department when he forgets that. This egocentric behavior falls below the professional standard for
17 the head of a law enforcement agency.

18 46. To the public, it is often difficult to distinguish between personnel in different law
19 enforcement agencies. Sheriff Mirkarimi's conduct has tarnished not only the reputation of the
20 SFSD, but can have collateral impact on SFPD and other City law enforcement officers. He has
21 brought discredit to the SFSD and other City law enforcement agencies and personnel.

22 47. Law enforcement organizations and law enforcement officers in other parts of the
23 State are, quite frankly, embarrassed by this situation with Sheriff Mirkarimi because it reflects
24 poorly on all of us in this profession. This is one of the reasons that I have stepped forward to offer
25 my professional opinions in this matter, as I believe that Sheriff Mirkarimi's well-known
26 misconduct is a threat to the credibility and public trust in law enforcement generally.

27 48. Law enforcement officials throughout the nation are watching how San Francisco
28 responds to Sheriff Mirkarimi's misconduct. If San Francisco does not maintain the high standards

1 that are expected of law enforcement officials, it will be used by other cities as an example that
2 integrity does not matter at the highest level of law enforcement.

3 **J. Failure To Adhere To His Own Department's Ethical Standards**

4 49. The Sheriff's conduct violates multiple sections of SFSD Employee Rules and
5 Regulations regarding professional conduct and responsibilities, which require employees to
6 conduct their private and professional lives in such a manner as to avoid bringing the Department
7 into disrepute; fulfill the Law Enforcement Code of Ethics; issue orders to subordinates only on
8 Departmental business; avoid criminal convictions for felonies or misdemeanors; avoid conduct, on
9 or off duty, unbecoming to a deputy; avoid conduct, on or off duty, which reflects adversely on the
10 SFSD; cooperate actively with investigations; and "be truthful at all times whether under oath or
11 not." See Exhibit 13 to Hennessy Dec. at §§ 2.1, 2.2, 2.17, 2.31a, 2.31c, 2.31d, 9.5, 9.6 and 9.7.

12 50. This is particularly problematic because, if the Sheriff does not hold himself
13 accountable, no one else is in a position to do so. Short of committing official misconduct, the
14 Sheriff answers only to the voters, and only once every four years.

15 **III. THE SHERIFF'S WRONGFUL ACTS, FAILURES TO ACT, AND BREACHES OF**
16 **THE STANDARD OF PROFESSIONAL CONDUCT ARE DIRECTLY RELATED**
17 **TO, AND COMPLETELY INCOMPATIBLE WITH, HIS DUTIES.**

18 51. Sheriff Mirkarimi's entire course of conduct directly relates to and negatively
19 impacts many of his duties as Sheriff.

20 52. Most obviously and detrimentally, combatting domestic violence. Based on his
21 actions and attitudes, Sheriff Mirkarimi cannot lead the SFSD, which performs such an important
22 role in educating and rehabilitating domestic violence offenders and supporting survivors. The
23 Sheriff, like other law enforcement officials, must send a clear and uncompromising message to the
24 community that family violence should not and will not be tolerated. Sheriff Mirkarimi cannot
25 possibly do that. He has taken the contrary position, arguing that the community should tolerate a
26 little domestic violence by its own sheriff, and this despite the evidence that he acted abusively in
27 additional ways and at other times in his personal relationships. This has ramifications not only for
28 his own moral fiber, but for the safety of his community. As San Francisco's Family Violence

1 Council (to which the Sheriff is appointed) has correctly emphasized, a culture of non-violence
2 cannot exist outside the home unless and until it exists within it.

3 53. The Sheriff must also encourage victims of domestic violence to come forward. For
4 too long, domestic violence was treated as just a “family matter,” and its threat to the safety (and
5 dignity) of victims was not taken sufficiently seriously. But many women have died at the hand of
6 their current or former partners, and law enforcement’s history of dismissiveness play a part in
7 some of those tragedies. Domestic violence victims need to know that law enforcement will be
8 compassionate and supportive, and there to help. How can victims believe in and trust law
9 enforcement, with Sheriff Mirkarimi at the helm of the Sheriff’s Department? He has not only
10 committed domestic violence and been convicted of it, he has made public statements that are
11 totally contrary to law enforcement efforts to bring domestic violence out of the shadows and to
12 protect victims.

13 54. The Sheriff must also encourage witnesses of domestic violence – and all crimes – to
14 come forward and to trust law enforcement. Criminals cannot be prosecuted if witnesses do not
15 come forward. But Sheriff Mirkarimi’s treatment of the witnesses in his own case has been terrible.
16 He has used every form of attack imaginable to try to discredit the witness who reported this
17 incident to police. And the unbelievable part of this behavior is that Sheriff Mirkarimi was actually
18 guilty of a crime. This domestic incident really happened, the Sheriff pled guilty to it, and he
19 admits that he injured his wife. There is no excuse for Sheriff Mirkarimi to have attacked this
20 witness who came forward to help the victim, her friend and neighbor. This sends a terrible
21 message to anyone who witnesses a crime against someone in law enforcement or other position of
22 power: If you tell the truth and report a crime, you will pay a terrible price. Be quiet instead.
23 Sheriff Mirkarimi cannot blame his lawyers or supporters for doing these things, and he can’t blame
24 the need to fight criminal charges as an excuse. Sheriff Mirkarimi chose not to resign while charges
25 were pending against him. He was still the Sheriff and still had responsibilities as the Sheriff during
26 this time. Sheriff Mirkarimi could have told his lawyers and supporters not to make these personal
27 attacks on a witness – especially when the Sheriff himself knew that he injured his wife. Sheriff
28 Mirkarimi could have stepped forward and publicly disavowed these attacks. But he never did. In

1 fact, the only time that he offered an “apology” – and if ever there was a non-apology, this one
2 qualifies – was when the District Attorney insisted he apologize as a condition of his plea
3 agreement. That is too little, too late. Far more is required of a chief law enforcement officer.

4 55. The Sheriff’s Department also serves civil restraining orders on alleged abusers,
5 during which deputies assess the level of agitation of the alleged abuser as an indicator of the risk of
6 possible harm to the victim. Deputies may also need to disarm offenders. If SFSD personnel
7 follow Sheriff Mirkarimi’s lead, which is what subordinate officers generally do, domestic violence
8 will not be treated as seriously, risks to victims may be undervalued, and firearms surrender
9 likewise. In my opinion, if Sheriff Mirkarimi remains in office, that will set back years of excellent
10 progress in the City on domestic violence issues, including chilling the willingness of victims and
11 witnesses to report domestic violence. The Sheriff needs to be a champion for domestic violence
12 victims, and Sheriff Mirkarimi cannot be. His actions – words and deeds – in engaging in domestic
13 violence, denying and minimizing his criminal behavior, claiming the incident was a “family
14 matter,” and playing the victim, are wrongful behavior in relation to the duties of the office of
15 Sheriff and below the professional standard of conduct for a top law enforcement officer.

16 56. Jail administration. A sheriff holds many important roles and functions in the local
17 criminal justice system, including running the county jails, supervising prisoners according to
18 constitutional requirements, and offering programs and services for prisoners, victims, and
19 survivors. The professional standard for a person running a prison or jail requires that the person
20 have a clear criminal record and exemplary personal conduct. Sheriff Mirkarimi’s conduct, as well
21 as his status as a convicted criminal and current probationer, renders him unfit to perform the core
22 function of operating and overseeing the county jails, prisoners, and SFSD programs. If he remains
23 in office, Sheriff Mirkarimi will be responsible for prisoners who have engaged in the same
24 criminal conduct that Sheriff Mirkarimi did. That situation is untenable. Sheriff Mirkarimi cannot
25 satisfy the professional standards for a person in charge of jails and prisoners.

26 57. Personnel and discipline decisions. If Sheriff Mirkarimi was applying for an entry
27 peace officer position in any law enforcement agency in California, he would not be hired with his
28 criminal history and probation status. In addition, all newly hired law enforcement officers serve a

1 probationary period, which is the final step of the hiring process, used to evaluate the officer's
2 performance, knowledge, skills and temperament. In most agencies, the probationary period is one
3 year. If Sheriff Mirkarimi were a probationary employee when he was arrested, pleaded guilty and
4 placed on criminal probation, any law enforcement agency in California would have released him
5 from employment. And rightfully so. A law enforcement agency cannot have different standards
6 for its leader than for its rank and file personnel. To do so would destroy morale. For this reason,
7 Sheriff Mirkarimi cannot remain in office, leading the SFSD. Remaining in office, when his own
8 behavior falls below the standards for SFSD sworn personnel, is conduct that falls below the
9 professional standard for a top law enforcement officer.

10 58. Risk Management. Sheriff Mirkarimi's conviction and criminal probation
11 compromise the ability of SFSD personnel to effectively testify in criminal proceedings. They also
12 present serious legal risk for the SFSD in civil litigation, both civil rights and employment lawsuits.
13 The Sheriff's judgment and integrity will continually – and effectively – be called into question in
14 these cases, leading to judgments and settlements that will need to be paid by the City and County
15 of San Francisco. Being a convicted criminal and on criminal probation is incompatible with and
16 below the professional standard for a top law enforcement officer and the duties of the office of
17 Sheriff.

18 59. Effective Working Relationships. The Sheriff must maintain effective working
19 relationships with other government agencies in order to further their collective goals, such as
20 criminal justice system realignment and enhancing interagency communication and cooperation in
21 the fight against crime. The Sheriff's conduct, and its continuing consequences, relate directly to
22 these duties. While he is on probation, Sheriff Mirkarimi is subject to the jurisdiction of the San
23 Francisco Superior Court and the San Francisco Adult Probation Department. If he remains in
24 office, Sheriff Mirkarimi will need to work as a peer with judges of the Superior Court and the
25 Chief of APD. In my opinion, it will be impossible for the judges and APD Chief to work
26 effectively with Sheriff Mirkarimi while he is a probationer subject to their authority and control.
27 By remaining in office, Sheriff Mirkarimi makes it harder for these public servants to effectively do
28

