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Chairman Hur and Commissioners
through Executive Director John St. Croix
San Francisco Ethics Commission
25 Van Ness Avenue, Suite 220
San Francisco, CA 94102

Re: *Charges Against Ross Mirkarimi, Sheriff of the City and County of San Francisco*

Honorable Commissioners:

We write to express our serious concern about the potential for public outbursts and disruptions at the pending official misconduct hearing regarding Sheriff Mirkarimi, especially in light of the past hearings in this matter. We recognize that many people hold strong opinions related to the Mayor's official misconduct charges. But, particularly now as we are about to begin public hearings that will include live witness testimony, there should be no place in these proceedings for disruptive or intimidating conduct, and the Commission should strive to emulate a public courtroom setting for the benefit of all the witnesses.

There is a real basis for this concern. Following the Commission's May 29 special meeting, we were informed that members of two local anti-domestic violence organizations attended the meeting intending to speak during public comment, but were so intimidated by the atmosphere that they did not speak at all. We were told of incidents in overflow hearing rooms and in the hallways of City Hall, in which supporters of the Sheriff verbally harassed and intimidated these advocates and direct service providers – many of whom are themselves survivors of domestic violence.

Even outside the hearing room, the crowd was loud before and during the hearing. We recognize that the Commission made efforts at its May 29 special meeting to discourage the crowd from interrupting the proceedings, but some audience members persisted in cheering, commenting and sometimes shouting at the Commission and counsel.

If allowed to continue, this conduct risks undermining the integrity of the proceedings, interfering with witness testimony, and intimidating witnesses. Therefore, we respectfully request that the Commission take steps to minimize disruptions and ensure a safe environment for witness testimony, and the Commission has tools at its disposal to do so, consistent with the legal requirements of the Sunshine laws and with the interest in preserving the transparency and fairness of these proceedings.

First, we recommend that the Commission coordinate with the Sheriff's Department for additional security to handle disruptions at future hearings and to ensure that appropriate personnel are stationed in the hearing room, hallway, and all overflow rooms to keep order.

Second, we urge the Commission to adopt a zero-tolerance policy for disruptions, and to remove from the hearing room any individual who willfully interrupts the proceedings – through yelling, audibly commenting, jeering or repeatedly applauding. If systemic disruption continues after enforcement of the zero-tolerance policy, the Commission should consider clearing the

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room to maintain order, allowing the public to observe the proceedings from a separate overflow room.

Both these steps are permitted by the public meeting laws. The Brown Act outlines the permissible actions in response to disruptions of a public meeting. Specifically, section 54957.9 sets forth procedures to be followed in cases of disorderly conduct. That section authorizes the Commission to remove individuals who willfully interrupt a meeting. And that section authorizes the Commission to clear the room of all individuals other than members of the media if a "meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting."

The Mayor and we are firmly committed to the open meeting principles codified in the Sunshine Ordinance and the Brown Act. The public interest in attending and participating in public hearings is especially high here, where the Commission is deciding a matter of great public importance. But that interest is disserved by disruptions that interfere with the conduct of the proceedings, impair the ability of both the public and the Commission to hear evidence, and create an environment where witnesses fear coming forward to offer relevant testimony.

And like the Commission, the Mayor and we wish to ensure that the hearing process is orderly, thorough and fair. That goal and the public interest in the proceedings will be best served if the conduct of attendees does not intentionally disrupt the proceedings, interrupt witness testimony, or intimidate witnesses.

Very truly yours,

DENNIS J. HERRERA
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cc (e-mail): Scott Emblidge, Esq.
David P. Waggoner, Esq.
Shepard Kopp, Esq.

California Government Code § 54957.9

In the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the members of the legislative body conducting the meeting may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. Nothing in this section shall prohibit the legislative body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.