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9 Attorneys for SHERIFF ROSS MIRKARIMI

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11  
12 **ETHICS COMMISSION**  
13 **CITY AND COUNTY OF SAN FRANCISCO**  
14

15 IN RE MAYOR EDWIN LEE'S CHARGES )  
16 OF OFFICIAL MISCONDUCT AGAINST )  
17 SHERIFF ROSS MIRKARIMI )  
18  
19  
20  
21  
22

**SHERIFF ROSS MIRKARIMI'S  
REQUEST FOR CONTINUANCE**

Hearing Date: September 11, 2012  
Hearing Time: 3:00pm

23 **INTRODUCTION**

24 As it stands, the San Francisco Ethics Commission ("Commission") is currently set to  
25 deliver the record of the proceedings, along with an incomplete Summary, Findings and  
26 Recommendation, in the above captioned case to the Board of Supervisors ("Board") in the  
27 weeks following its meeting on September 11, 2012. As the Board has 30 days to act after  
28 receiving the record, the Board, should it choose to act at all, would be doing so in the weeks or

1 days immediately prior to an election in which five members of the Board are running political  
2 campaigns to retain their seats. The fate of the sheriff has been made a key political issue in the  
3 election by the media, candidates, consultants, political scientists, mayoral appointees to  
4 commissions, and others. Sending the record to the Board immediately prior to an election  
5 deprives the Sheriff of a neutral decision-maker, as guaranteed by the Due Process clauses of the  
6 5<sup>th</sup> and 14<sup>th</sup> Amendments.

7 The only party who would be prejudiced by any further delay is the Sheriff; the Sheriff  
8 waives any objection to a one month delay so that he may receive the benefit of a neutral  
9 decision-maker informed with the best information, as required by fundamental due process.  
10 Accordingly, for the reasons stated herein, the Sheriff respectfully requests that the Commission  
11 continue the matter and hold further meetings as may be necessary to clarify its position and  
12 avoid forcing a political train wreck at the Board in the midst of a highly charged political  
13 election.

#### 14 ARGUMENT

##### 15 **I. The Sheriff Will Be Deprived of a Neutral Decision-Maker if the Board Votes** 16 **Immediately Prior to the November 6, 2012, Election**

17 “Every procedure which would offer a possible temptation to the average [person] as a  
18 judge to forget the burden of proof required to convict the defendant, or which might lead [the  
19 person] not to hold the balance nice, clear and true between the State and the accused, denies the  
20 latter due process of law.” (*Caperton v. A.T. Massey Coal Co., Inc.* (2009) 556 U.S. 868, 869,  
21 quoting *Tumey v. Ohio* (1927) 273 U.S. 510, 532). In the case at bar, the Board is acting as the  
22 judge. Sending this case to the Board prior to the election is tantamount to telling a judge or jury  
23 that how they determine the outcome of a case will decide whether or not they get to keep their  
24 jobs. Each member of the Board has been warned either directly or indirectly that he or she will  
25 face political wrath for his or her respective vote.

26 Numerous media articles have appeared in San Francisco regarding the timing of the  
27 Board’s vote on the record and recommendation from the Commission:

28 1. The San Francisco Chronicle has published several stories on the Board vote  
timing. An article entitled, “Mirkarimi case puts pressure on supes,” (Exhibit 1) dated August

1 18, 2002, states the following:

2  
3 In politics, timing is everything, and in the official misconduct case of suspended  
4 San Francisco Sheriff Ross Mirkarimi, the timing couldn't be trickier for the  
5 Board of Supervisors...

6 "Obviously there's going to be a lot of pressure on the supervisors," said Jim Ross,  
7 a local political consultant.

8 A vote of at least nine of the 11 supervisors would be needed to remove  
9 Mirkarimi from office for official misconduct. The vote is expected to be held in  
10 the weeks leading up to the Nov. 6 election, when five incumbents will face  
11 voters.

12 The two who will feel the most heat, predicted Ross and other City Hall  
13 observers, are Supervisors Eric Mar and Christina Olague, the board members  
14 facing the toughest election battles. They will feel the squeeze by forces  
15 entrenched on the left who back Mirkarimi and oppose the mayor's move.

16 Jason McDaniel, a political scientist at San Francisco State University, cautioned  
17 that their decision may be remembered if they run for another office. "This could  
18 be the kind of action that would draw attention the next time they're up before  
19 voters," he said...

20 But McDaniel noted that the myriad interest groups making up San Francisco's  
21 famously fractured progressive camp are not united when it comes to  
22 Mirkarimi... "It's not something that's going to unite a progressive coalition,"  
23 McDaniel said. "It's become a wedge issue."[..]

24 Gabriel Haaland, a labor organizer and Mirkarimi backer with deep roots in San  
25 Francisco's progressive causes, said that, ultimately, the board's decision will be a  
26 political one.

27 "None of the decisions at City Hall get made on policy," he said. "At the end of  
28 the day, they're based on relationships, friendships, grudges, history. This is not  
going to be any different."

29  
30 2. In the political blog Beyond Chron, Randy Shaw wrote a story, dated August 28,  
31 2012, entitled, "Pre-Election Vote Imperils Mirkarimi" (Exhibit 2). Shaw writes:

32 With the Ethics Commission now certain to send the Board of Supervisors its  
33 report on the Ross Mirkarimi case several weeks before Election Day, the 30 day  
34 period for Board action ensures a pre-election vote. And that's bad news for  
35 Mirkarimi. Post-election, Mirkarimi had a chance to get the votes of Supervisors  
36 Campos, Avalos and Mar. But Mar cannot vote for Mirkarimi before November  
37 without sacrificing his seat...

1 One political factor that has not changed since March is that D1 Supervisor Eric  
2 Mar faces a very tough re-election struggle against David Lee. Mar would be  
3 sacrificing his political career by voting to keep Mirkarimi in office. I can't  
4 imagine that Mar's labor supporters would want him to jeopardize his seat for  
such a reason, so that a pre-election vote means Mar upholds the sheriff's ouster.

5 3. San Francisco Chronicle columnist CW Nevius, in a story entitled, "Can supes  
6 muster 9 anti-Mirkarimi votes?" (Exhibit 3) dated August 18, 2012, writes:

7 Mar is facing a very tough election in District One, and his district is relatively  
8 conservative. Backing Mirkarimi would probably not be a popular choice there.  
9 Olague, of course, was appointed by the mayor and is also facing a difficult  
10 election. As one insider said, 'Ed doesn't want much from Christina, but he does  
11 want this.' She'd be doing some serious bridge-burning to turn her back on her  
12 benefactor. And frankly, I'm not so sure about Campos and Avalos. Campos is  
likely to run for Assembly when this term is up. Backing Mirkarimi... could  
13 come back to haunt him.

14 4. San Francisco Bay Guardian Editor Tim Redmond also weighed in on the Board  
15 vote timing. In a story (Exhibit 4) dated August 29, 2012, Redmond wrote:

16 Everybody knows that the timing of the Board of Supervisors vote on ousting the  
17 sheriff for official misconduct is bad for Ross Mirkarimi. We're talking about a  
18 huge, high-profile decision just week before some of the key board members are  
19 up for re-election, two of them in hotly contested races. For Sups. Eric Mar and  
20 Christina Olague, it's going to be particularly difficult: Mar's in a moderate  
district, and he'll be attacked from the more conservative David Lee if he supports  
21 Mirkarimi. Olague's in a progressive district where Mirkarmi was a popular  
22 supervisor, so no matter what she does, she'll take heat.

23 5. F.X. Crowley, a candidate for supervisor in District 7, sent out an email blast  
24 (Exhibit 5), urging the Board to remove Sheriff Mirkarimi from office.

25 6. Norman Yee, also a candidate for supervisor in District 7, posted a similar  
26 message (Exhibit 6) urging the Board to remove Sheriff Mirkarimi from office on his website.

27 7. A poll (Exhibit 7) funded by individuals who have taken public positions against  
28 Sheriff Mirkarimi asked 500 San Francisco voters this question:

If your Supervisor voted to allow someone who pled guilty to a crime and is  
serving three years' probation to lead a major law enforcement agency like the  
Sheriff's office, would that make you more or less likely to vote for them in the  
next election, or would it not make a difference?

1  
2 8. Former Editor of Asian Week and columnist Samson Wong wrote about the poll  
3 in a blog published August 30, 2012 (Exhibit 8). Wong wrote:

4 STAND WITH ROSS AND...: You'll be tossed. Although there's a debate about  
5 how the poll was conducted, 51% of 500 SF voters said they would "likely" vote  
6 against a supervisor not supporting the August 16 SF Ethics Commission finding  
7 that suspended SF Sheriff Ross Mirkarimi was guilty of misconduct. 19% were  
8 "more likely" to support a supervisor while 30% were not sure or said the  
9 Mirkarimi decision "wouldn't make a difference."

10 The more than 2-to-1 ratio will pressure supervisors this October, especially in the  
11 midst of the campaign season. For hotly contested races, the Mirkarimi issue  
12 could be the tipping point in District 1 between incumbent Eric Mar and former  
13 commissioner David Lee and District 5 between appointee Christina Olague and  
14 challengers London Breed, John Rizzo, Julian Davis and others. The Mirkarimi  
15 decision is swaying the District 7 race where Norman Yee and FX Crowley have  
16 already urged supervisors to remove him...

17 The poll results were also widely reported in the San Francisco Chronicle and other  
18 media. All of the above referenced publicly available materials underscore the fact that each  
19 member of the Board has a "direct, personal, substantial, pecuniary" interest in this case (*Tumey*  
20 *v. Ohio* (1927) 273 U.S. 510, 523.) A normal judge or jury has no such interest in the outcome  
21 of a case; if they did, recusal or dismissal would be appropriate. Here, however, it is clear that  
22 each Board member's vote may determine whether or not they retain their employment as  
23 members of the Board. Furthermore, the Mayor and his associates have raised hundreds of  
24 thousands of dollars for Board members running to retain their seats.

25 The Commission has the authority under the Charter to deliver the record to the Board  
26 after it makes a recommendation on the charges. While there may be grounds for recusal for one  
27 or more members of the Board, it is unnecessary to force the Board into a process that will be  
28 marked by immense political pressure and in which each Board member has a personal stake in  
how he or she votes.

As Commissioner Studley remarked:

1 My view on this one is that the very purpose of the Ethics Commission is -- and  
2 our role here is to take -- and why the voters created this multistep process is to  
3 take this out of the realm of motivation and politics and put the five of us -- to  
4 interpose us between two entities who are by their nature political.  
(Tr. 1387:7-13.)

5 If the Commission sends this to the Board immediately before the Board election, there is  
6 no question it will be sending the matter directly into "the realm of motivation and politics." To  
7 do so would defeat the "very purpose of the Ethics Commission." The Commission has  
8 consistently exercised its discretion as when and how it will hold hearings, compile a record and  
9 make its recommendation to the Board. The Commission should continue this matter in an effort  
10 to minimize the political pressures at stake and give some semblance of fairness to the Board  
11 vote. Fundamental due process should not be sacrificed on the altar of expediency.

#### 12 CONCLUSION

13 For the reasons stated above, the Sheriff respectfully requests that the Commission  
14 continue this matter to ensure the Board can consider its Findings and Recommendation only  
15 after the November 6, 2012, election.

16 Dated: September 10, 2012

17 DAVID WAGGONER  
18 SHEPARD KOPP  
Attorneys for Sheriff ROSS MIRKARIMI

19 /s/ David Waggoner  
20 By: DAVID WAGGONER

# Exhibit 1

## Mirkarimi case puts pressure on supes

Rachel Gordon

Updated 11:04 p.m., Saturday, August 18, 2012

In politics, timing is everything, and in the official misconduct case of suspended San Francisco Sheriff Ross Mirkarimi, the timing couldn't be trickier for the Board of Supervisors.

On Thursday, the Ethics Commission found that Mirkarimi committed official misconduct when he grabbed and bruised his wife's arm during a Dec. 31 argument, an incident for which he pleaded guilty to misdemeanor false imprisonment under a plea deal with prosecutors. He was sentenced to three years' probation and ordered to attend weekly domestic violence intervention classes for batterers.

After Mirkarimi was convicted in March, Mayor Ed Lee swiftly suspended him without pay and said he would seek his permanent removal.

Now it is up to the Board of Supervisors to decide if the sheriff should be stripped of his job. The last time San Francisco supervisors considered ousting another elected official was in 1932, when the then-public defender was indicted for murder and forced from office.

Mirkarimi served on the board as the District Five representative for seven years before he was sworn in as sheriff Jan. 8.

"Obviously there's going to be a lot of pressure on the supervisors," said Jim Ross, a local political consultant.

### **Vote likely before election**

A vote of at least nine of the 11 supervisors would be needed to remove Mirkarimi from office for official misconduct. The vote is expected to be held in the weeks leading up to the Nov. 6 election, when five incumbents will face voters.

The two who will feel the most heat, predicted Ross and other City Hall observers, are Supervisors Eric Mar and Christina Olague, the board members facing the toughest election battles. They will feel the squeeze by forces entrenched on the left who back Mirkarimi and oppose the mayor's move.



Mar, who regularly votes with the board's left flank, represents District One, a swing district centered in the Richmond that neither progressives nor moderates dominate. He faces two more-moderate challengers in the supervisor's race.

Olague, also a progressive, has a strong field of challengers running to her left and right in District Five, which includes the Haight. It is the city's most liberal district.

Supervisors David Campos and John Avalos, who are solid votes with the most liberal faction, are seeking re-election, but any immediate effect the Mirkarimi decision may have on them has been blunted because they are running unopposed. The other supervisor on the ballot is David Chiu, a swing vote on the board and the front-runner in his race.

Jason McDaniel, a political scientist at San Francisco State University, cautioned that their decision may be remembered if they run for another office. "This could be the kind of action that would draw attention the next time they're up before voters," he said.

Mirkarimi has cast the case against him as politically motivated, an assertion that has gained traction with progressive activists and organizations. The Harvey Milk LGBT Democratic Club, the San Francisco Labor Council and the National Lawyers Guild, among others, have passed resolutions supporting Mirkarimi.

### **Milk club's view**

While stating that it has no tolerance for acts of domestic violence, the Milk club resolution says the effort to remove Mirkarimi from office "has devolved into a raw attempt to unseat an independent political figure."

The Bay Guardian, the weekly newspaper that helps drive San Francisco's progressive agenda and whose endorsements carry clout with a core of voters on the left, suggested in a recent editorial that the charges be dropped and Mirkarimi returned to office.

"For a lot of interest groups, this will be a litmus test," said Ross, the political consultant.

But McDaniel noted that the myriad interest groups making up San Francisco's famously fractured progressive camp are not united when it comes to Mirkarimi.

A vocal group of domestic violence victims' advocates, spearheaded by the leaders of three politically connected organizations - La Casa de las Madres, the Domestic Violence Consortium and Futures Without Violence - wants Mirkarimi out. They have made clear since the saga first unfolded in early January that they are paying close attention.

"The world really is watching," said Beverly Upton, executive director of the Domestic Violence Consortium.

Mirkarimi's backers say that while they think what he did was wrong, bruising his wife's arm was not egregious enough to warrant removing him from office.

His detractors, however, say that his status as a criminal offender on probation makes him unfit to serve as one of San Francisco's top law enforcement officials.

"It's not something that's going to unite a progressive coalition," McDaniel said. "It's become a wedge issue."

Admonished by their legal counsel to keep quiet, no supervisor has signaled his or her thinking on the matter.

### **30-day window for decision**

They will have 30 days to make a decision once the Ethics Commission hands the case over to them. The earliest that would happen would be the first or second week of September. If the board doesn't act within the requisite 30-day period, Mirkarimi automatically keeps his job.

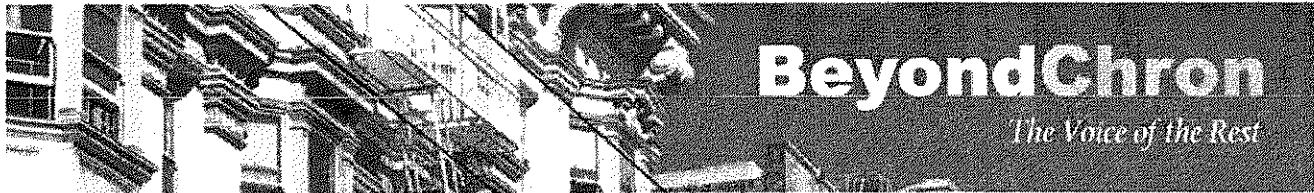
Gabriel Haaland, a labor organizer and Mirkarimi backer with deep roots in San Francisco's progressive causes, said that, ultimately, the board's decision will be a political one.

"None of the decisions at City Hall get made on policy," he said. "At the end of the day, they're based on relationships, friendships, grudges, history. This is not going to be any different."

*Rachel Gordon is a San Francisco Chronicle staff writer. E-mail: [rgordon@sfgate.com](mailto:rgordon@sfgate.com) twitter: [rachelgordonsf](https://twitter.com/rachelgordonsf)*

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## Exhibit 2



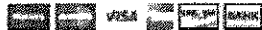
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## Pre-Election Vote Imperils Mirkarimi

by Randy Shaw, Aug. 28, 2012

NT

With the Ethics Commission now certain to send the Board of Supervisors its report on the Ross Mirkarimi case several weeks before Election Day, the 30 day period for Board action ensures a pre-election

vote. And that's bad news for Mirkarimi. Post-election, Mirkarimi had a chance to get the votes of Supervisors Campos, Avalos and Mar. But Mar cannot vote for Mirkarimi before November without sacrificing his seat. And while a pre-election vote once increased the likelihood that District Five Supervisor Christina Olague could back Mirkarimi, attacks on her by his supporters now makes this very unlikely. The result is that when this long saga is finally done, Mirkarimi will not get the Board votes he needs.

For Ross Mirkarimi and his "Stand With Ross" supporters, it's beyond incredible that the elected Sheriff could lose his job over allegations of domestic violence. Mirkarimi is described by his mother, friends and supporters as a peaceful man whose physical actions toward his wife were completely out of touch with his character.

Had Mirkarimi apologized for his actions and acknowledge anger management issues at the very outset, he would have never been removed from office. Yet from the date the incident went public through today, Mirkarimi has used strategies that decreased his chances for success.

### The Error of Pleading Guilty

Let's put aside Mirkarimi's mistake in calling domestic violence a private matter, and his initial efforts to downplay the physical actions he took toward his wife. Those words galvanized the domestic violence community, but he still could have overcome this mistake had he not made the signature error of this entire story: he pled guilty to false imprisonment.

It made no sense for Mirkarimi to plead guilty absent a deal to keep his job. Mirkarimi did not want to go through the embarrassment of a public trial, so

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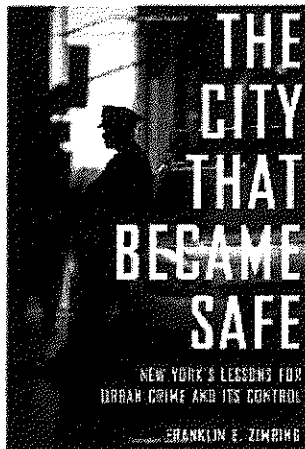
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that pleading guilty to false imprisonment made sense – so long as it protected Mirkarimi's future.

Instead, pleading guilty proved the key factor in his future permanent removal.

The logic of Mirkarimi's strategy escapes me. The attorneys' fees he saved by not going to trial have been spent on the even more lengthy Ethics Commission process. And his private conversations and contacts with his wife were publicized before he pled guilty, so there was little more a trial would reveal.

But the big problem with pleading guilty was that it rendered the Ethics Commission hearing unwinnable.

Mirkarimi put on a full-blown case both in and outside City Hall that excited supporters as never before. The Ethics hearing resembled a political campaign more than an administrative trial, and Eliana Lopez became a major asset in her husband's defense.

If you followed coverage of the proceeding in the Bay Guardian, you would think that the Ethics Commission's vindication of Ross was a mere formality. The entire process proceeded as if Mirkarimi had not already pled guilty to false imprisonment but was instead freshly litigating the key issues and facts.

If Mirkarimi could put on such a spirited defense at Ethics, why not go to trial? I've asked many about this, and answers range from "Ross got bad legal advice" to "he thought pleading guilty would enable him to keep his job." Others suggested Mirkarimi made a bad decision under tremendous pressure, which would certainly be understandable under the circumstances.

But Mirkarimi has not filed a court petition to withdraw his guilty plea. And given his education, criminal justice experience and tenure at the District Attorney's Office, this is not a case of an unsophisticated defendant pressured by inadequate attorneys to make a bad deal.

When Mirkarimi pled guilty to false imprisonment, he locked himself in to accepting guilt for all of the allegations underlying that crime. This prevented him from re-litigating these issues at Ethics, and likely sealed his fate at the Board.

### Progressive Loyalty

I wrote on [March 26](#) that voting to save Mirkarimi "put progressives at risk." It was Supervisors Daly and Peskin who did the heavy lifting for progressives from 2005-2010, and I saw little reason for today's progressive supervisors to jeopardize their own careers to save Ross.

Some of the political dynamics have changed since that time. John Avalos no longer faces a re-election challenge in D11, which makes it politically easier for him to vote for Ross. D5 Supervisor Christina Olague once faced a tough decision on Ross, but since Mirkarimi allies have attacked her on a number of

issues it would be very unlikely for her to support him.

David Campos once appeared to have the easiest path toward voting for Ross, but David Chiu has demonstrated increasing legislative and political energy in recent months. This may mean that Chiu is considering challenging Campos in the 2014 Assembly race to replace Tom Ammiano (predicting Chiu's career plans is never easy, but he would have a much easier time running for Assembly than in challenging Dennis Herrera in a City Attorney's race).

If Campos potentially faces a tough campaign against Chiu, his vote for Ross will hurt more than help. Campos would get much of the progressive vote anyway, but backing Mirkarimi could result in a net loss of votes throughout the district.

One political factor that has not changed since March is that D1 Supervisor Eric Mar faces a very tough re-election struggle against David Lee. Mar would be sacrificing his political career by voting to keep Mirkarimi in office. I can't imagine that Mar's labor supporters would want him to jeopardize his seat for such a reason, so that a pre-election vote means Mar upholds the sheriff's ouster.

Had Mirkarimi gone to trial and prevailed, he would be serving as Sheriff today. He instead pled guilty, and now faces an abrupt end to his political career.

[Send us Feedback!](#)

## Exhibit 3

## Can supes muster 9 anti-Mirkarimi votes?

C.W. Nevius, Chronicle Columnist

Updated 3:02 a.m., Saturday, August 18, 2012

You are hereby excused if your eyes glazed over during Thursday's Ethics Commission hearing on the suspension of Sheriff Ross Mirkarimi. The commissioners, bless their hearts, drilled down so deep into the nuances of the charges of domestic abuse that even the most passionate observers lost focus.

But realistically, this was always going to be the outcome. Ethics sent the Mirkarimi mess to the Board of Supervisors. Now it is their problem.

There are two very strong opinions about what will happen when the supes vote on whether to uphold the mayor's suspension order.

The first is that Mirkarimi gets his job back. It will take nine votes to sustain Mayor Ed Lee's suspension, so if three supervisors vote against it, Mirkarimi stays as sheriff.

Conventional wisdom has it that progressive stalwarts David Campos and John Avalos will support Mirkarimi and they'd have to convince only one more to join them. Eric Mar has been a reliable progressive supporter, and Christina Olague, who was appointed to fill Mirkarimi's District Five seat, would be another possibility.

To that I say - not so fast.

Mar is facing a very tough election in District One, and his district is relatively conservative. Backing Mirkarimi would probably not be a popular choice there. Olague, of course, was appointed by the mayor and is also facing a difficult election. As one insider said, "Ed doesn't want much from Christina, but he does want this." She'd be doing some serious bridge-burning to turn her back on her benefactor.

### Campos and Avalos

And frankly, I'm not so sure about Campos and Avalos.

Campos is likely to run for state Assembly when this term is up. Backing Mirkarimi against charges that he hurt his wife is the kind of vote that could come back to haunt him.

As for Avalos, he's the personification of the problem of this case. A staunch advocate for domestic abuse support groups, he would be put in the awkward spot of defending someone



who indisputably injured his wife. Progressives can say it was just a minor flare-up, but they have yet to come up with a good answer to the question: So you are saying a little domestic abuse is OK?

Neither Campos nor Avalos is a demagogue. They're both thoughtful, principled politicians who can see the big picture. And behind the scenes, the larger view doesn't speak well for Mirkarimi.

Candidly, there are those in City Hall who had their doubts about the mayor taking such a hard line. Although Lee was under heavy pressure from domestic abuse groups, some thought a stern talking-to, coupled with a sincere, contrite apology from Mirkarimi, would have been enough.

But since the suspension, Mirkarimi has only hurt his case. He tried to claim the incident was a personal family matter - which is an absolute red flag to the antiabuse lobby.

He and his supporters have demonized neighbor Ivory Madison, who produced the video of Mirkarimi's wife tearfully showing the bruise on her arm. Why? Madison had nothing to gain by coming forward. The message is troubling. Don't report domestic abuse - you may end up as the target.

Even the legal argument sounds like hair splitting. His attorneys say because Mirkarimi hadn't been sworn in as sheriff when the bruising incident happened, it can't be called "wrongful behavior ... in relation to the duties of his office."

### **He had his chance**

C'mon. His duty as an elected official - and he still was a member of the Board of Supervisors - was to represent the city ethically and morally.

There was a time, when this started, when Mirkarimi could have stood up, taken complete responsibility for a serious lapse and announced he was getting help. He might have kept his job.

Instead, he's done all he could to dodge the charges and avoid responsibility. If he loses his job, it is because he brought it on himself.

*C.W. Nevius is a San Francisco Chronicle columnist. His columns appear Tuesday, Thursday and Saturday. E-mail: [cwnevius@sfgate.com](mailto:cwnevius@sfgate.com) Twitter: @cwnevius*

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# Exhibit 4

# SFBG

SAN FRANCISCO BAY GUARDIAN ONLINE

Published on *San Francisco Bay Guardian* (<http://www.sfbg.com>)[SFBG](#) > [Politics Blog](#) > Printer-friendly

## D5, Mirkarimi, and 8 Washington

By *tim*

Created 08/29/2012 - 11:27am



Everybody knows that the timing of the Board of Supervisors vote on ousting the sheriff for official misconduct is bad for Ross Mirkarimi. We're talking about a huge, high-profile decision just weeks before some of the key board members are up for re-election, two of them in hotly contested races. For Sups. Eric Mar and Christina Olague, it's going to be particularly difficult: Mar's in a moderate district, and he'll be attacked from the more conservative David Lee if he supports Mirkarimi. Olague's in a progressive district where Mirkarimi was a popular supervisor, so no matter what she does, she'll take heat.

But I was a little surprised by [Randy Shaw's analysis](#) <sup>[1]</sup>, which suggests that Olague will be motivated entirely by political spite:

D5 Supervisor Christina Olague once faced a tough decision on Ross, but since Mirkarimi allies have attacked her on a number of issues it would be very unlikely for her to support him.

That's pretty insulting. Shaw, who has supported her in the past, is saying that Olague won't make up her own mind based on the actual issue and case in front of her. She was pretty clear when I called her: "I will vote on the merits of this issue," she said. "If I was motivated to vote based on who had pissed me off I'd have a hard time voting on anything."

I've disagreed with Olague quite a few times, and one could easily argue that she'll be under immense pressure from the mayor. ("The mayor doesn't want a lot from Christina, but he does want this," one insider told me.) But is it impossible for Shaw to imagine that, in one of the toughest matters she will ever have to handle, the supervisor might actually listen to the testimony, consider the merits of the case, and vote to do what she thinks is right?

Meanwhile, Joe Eskenazi at the Weekly has already announced the Guardian's endorsement in D5 -- which is interesting, since we're barely started interviewing the candidates. Eskenazi calls Julian Davis "the Guardian's fair-haired boy" [2] (which, speaking of insults, is not a terribly appropriate way to refer to an African American man), indicating that he's already our candidate.

For the record: We have not made an endorsement in District Five. We plan to endorse a slate of three candidates for the ranked-choice ballot, and we'll publish that endorsement the last week in September or the first week in October.

[Beyond Chron](#) [Christina Olague](#) [District 5](#) [Ross Mirkarimi](#) [SF Weekly](#) [Tim Redmond](#)

**Source URL:** <http://www.sfbg.com/politics/2012/08/29/d5-mirkarimi-and-8-washington>

**Links:**

[1] <http://www.beyondchron.org/news/index.php?itemid=10437#more>

[2] <http://www.sfweekly.com/2012-08-29/news/8-washington-christine-olague-board-of-supervisors-district-5-race-julian-davis-rose-pak-willie-brown-ed-lee/>

# Exhibit 5

If you're having trouble viewing this email, you may [see it online](#).

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**FX CROWLEY**  
For District 7 Supervisor

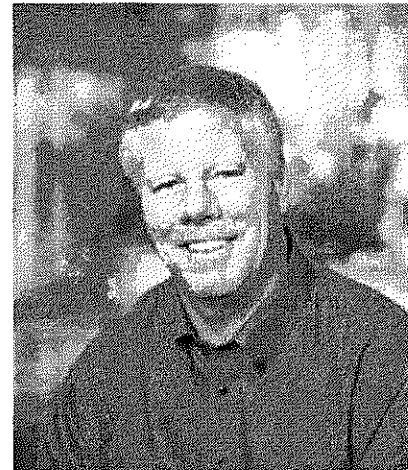
*From the Neighborhood  
For the Neighborhood*

Dear Friends,

For the past eight months, San Franciscans have stood on the sidelines while suspended Sheriff Ross Mirkarimi continues in his relentless attempt to be reinstated.

**Here are the facts:**

- Mr. Mirkarimi pleaded guilty to a misdemeanor charge of false imprisonment in connection to his December 31 domestic violence incident.
- Mayor Lee suspended Mr. Mirkarimi on March 21 for official misconduct related to his guilty plea.
- The City Ethics Commission voted 4-1 on August 17 that Mr. Mirkarimi had engaged in official misconduct by inflicting "physical violence" on his wife during an argument and pleading guilty to falsely imprisoning her.



Now it is up to our Board of Supervisors to vote on whether Mr. Mirkarimi should stay or be permanently removed from office.

**Enough is enough.**

The sheriff's misconduct, together with his efforts to discredit domestic violence victims' advocates and witnesses, have disqualified Mr. Mirkarimi from holding this vital law enforcement role.

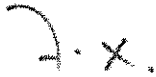
I urge the Board of Supervisors to approve the Ethics Commission's recommendation.

I urge you to tell them to do the same.

You can find your District Supervisor's email at [www.sfbos.org](http://www.sfbos.org) or write c/o City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4689.

Thank you for your consideration.

Sincerely,



F.X. Crowley

**[www.FXCrowley.com](http://www.FXCrowley.com)**

Paid for by F.X. Crowley for Supervisor 2012 | FPPC ID# 1344113 | 200 Morningside Drive, San Francisco, CA 94132

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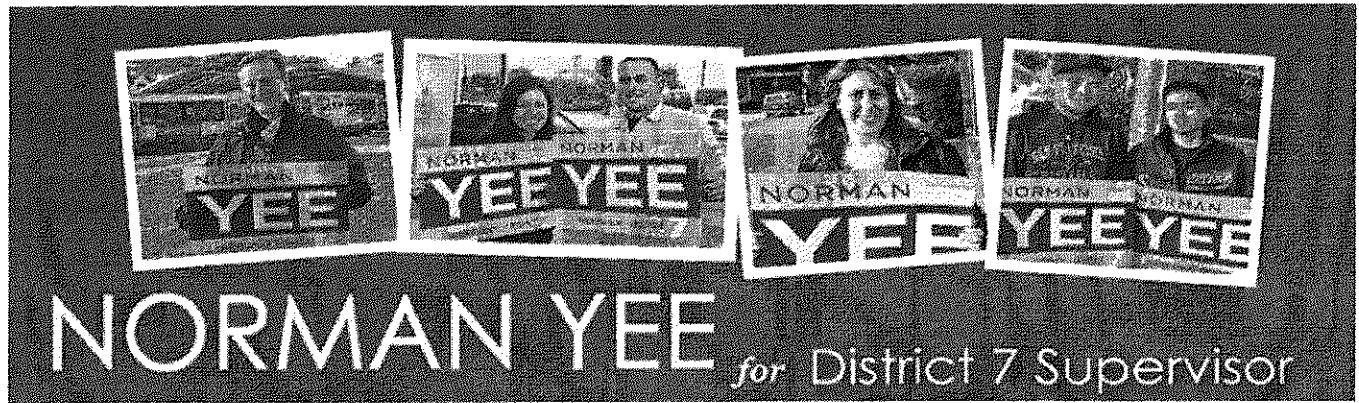
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# Exhibit 6





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## Let's Uphold What's Right for San Francisco

POSTED BY NORMAN YEE 56PC ON AUGUST 30, 2012 · FLAG

This campaign season, I have been stressing the need for city policies that create safe neighborhoods and healthy families. San Franciscans want a city government and leaders they trust to create those conditions.

On December 31, 2011, Ross Mirkarimi broke that trust. Over the past eight months, Mr. Mirkarimi has continued to resist charges of official misconduct brought by Mayor Lee and the City Ethics Commission, despite pleading guilty to a misdemeanor related to his domestic violence incident.

Now it is time for the Board of Supervisors to do what's right. Soon, they will be voting on whether to allow Mr. Mirkarimi to return to the Sheriff's office or be permanently removed from office.

We need to safeguard San Francisco's future now. As a husband, a father, and a community leader, I cannot condone allowing Mr. Mirkarimi to continue as our top law enforcement official. I therefore call on the Board of Supervisors to permanently remove Mr. Mirkarimi from office. In my 35-year career in service to our City's young children and families, I have personally witnessed mothers coming to my organization for help with domestic violence issues. From these encounters, I know first hand the physical and emotional damage that instances of domestic violence can cause.

Let's uphold the public trust. Let's uphold what's right for San Francisco's families.

Sincerely,  
Norman Yee  
<http://www.normanyee.com/>

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52012 Paid for by Norman Yee for Supervisor EPPC# 1342075  
Headquarters: 1015 Fulton Ave. (At Crocker Ave) San Francisco, CA 94112  
Contact Us: [contact@normanyee.com](mailto:contact@normanyee.com) | Office Phone: (415) 845-3059  
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# Exhibit 7



## San Francisco, CA, Survey Results

- Q1** As you may know, San Francisco Sheriff Ross Mirkarimi was charged with domestic violence, child endangerment, and dissuading a witness, in connection to a fight with his wife on New Year's Eve. He then pled guilty to the crime of false imprisonment. He has been temporarily suspended from office. This week, the San Francisco Ethics Commission found that Sheriff Mirkarimi was guilty of official misconduct for his act of domestic violence. Do you think the Board of Supervisors should affirm or reject the findings of the San Francisco Ethics Commission?
- They should affirm it* ..... 58%
  - They should reject it*..... 28%
  - Not sure* ..... 14%
- Q2** Do you think someone who pled guilty to a crime and is on probation for three years should be able to serve as the San Francisco Sheriff, or not?
- Should be able to*..... 30%
  - Should not*..... 62%
  - Not sure* ..... 8%
- Q3** If your Supervisor voted to allow someone who pled guilty to a crime and is serving three years' probation to lead a major law enforcement agency like the Sheriff's office, would that make you more or less likely to vote for them in the next election, or would it not make a difference?
- More likely*..... 19%
  - Less likely* ..... 51%
  - Wouldn't make a difference*..... 23%
  - Not sure* ..... 7%
- Q4** Do you think Sheriff Mirkarimi should be removed from office, or not?
- He should be removed*..... 61%
  - He should not*..... 31%
  - Not sure* ..... 8%
- Q5** Which of the following reasons do you think is the most important one for removing the Sheriff from office: he pled guilty in criminal court to a crime of domestic violence against his wife, serving three years' probation renders him unable to do the job of Sheriff, his role as leader of a law enforcement agency who is serving probation renders him unable to do the job, or the Ethics Commission found that the Sheriff committed official misconduct?
- Pleading guilty to domestic violence* ..... 33%
  - Serving three years' probation* ..... 6%
  - His role as leader of a law enforcement agency* ..... 25%
  - The finding of the Ethics Commission*..... 9%
  - Not sure* ..... 27%
- Q6** If you are a woman, press 1. If a man, press 2.
- Woman* ..... 53%
  - Man*..... 47%
- Q7** If you are a Democrat, press 1. If a Republican, press 2. If you are an independent or identify with another party, press 3.
- Democrat* ..... 65%
  - Republican*..... 14%
  - Independent/Other*..... 21%



# Exhibit 8

# SADISTICAL STATISTICS – THE MIRKARIMI POLL

<http://www.asianweek.com/2012/08/30/sadistical-statistics-the-mirkarimi-poll/>

By

*Samson Wong*

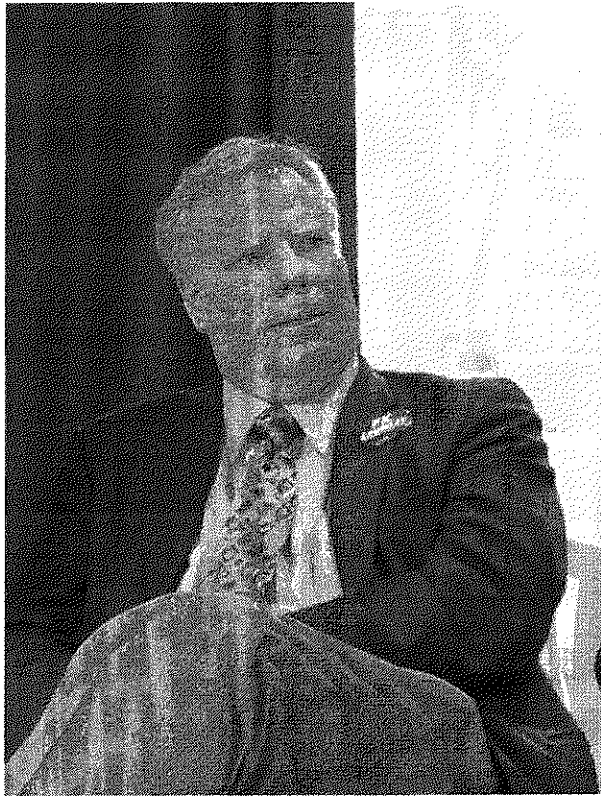
– August 30, 2012 **Posted in:** Bloggers, Potstickers by Samson Wong



Supervisor Eric Mar straightens out his campaign finance reports.

At least one daily should be very careful when using an **Aug. 18-19 poll** to gauge ethnic voter sentiment on ousting suspended SF Sheriff **Ross Mirkarimi**. North Carolina's **Public Policy Polling** had interviewed 50 Asian Pacific American (APA) voters or 10% of 500 total SF voters, which is unrepresentative given nearly one-fifth of SF voters is APA, according to **Chinese American Voters Education Committee** estimates. Further, campaign manager **Jim Ross** – running **David Lee's** supervisor bid – cautioned about interpreting APA voter data, considering PPP conducted a “robocall” survey without interviewing Chinese-language voters who also make up a substantial segment of SF voters. The PPP survey did find that 58% of APA voters were “less likely” to re-elect a supervisor. Meanwhile 10% were “more likely” to vote for the candidate while 23% said the Mirkarimi finding didn't make a difference. 69% of APA voters wanted him removed while 21% said he should not be...

**STAND WITH ROSS AND...:** You'll be tossed. Although there's a debate about how the poll was conducted, 51% of 500 SF voters said they would "likely" vote against a supervisor not supporting the August 16 **SF Ethics Commission** finding that suspended SF Sheriff **Ross Mirkarimi** was guilty of misconduct. 19% were "more likely" to support a supervisor while 30% were not sure or said the Mirkarimi decision "wouldn't make a difference." The more than 2-to-1 ratio will pressure supervisors this October, especially in the midst of the campaign season. For hotly contested races, the Mirkarimi issue could be the tipping point in District 1 between incumbent **Eric Mar** and former commissioner **David Lee** and District 5 between appointee **Christina Olague** and challengers **London Breed**, **John Rizzo**, **Julian Davis** and others. The Mirkarimi decision is swaying the District 7 race where **Norman Yee** and **FX Crowley** have already urged supervisors to remove him...



District 7 supervisor candidate FX Crowley

**BY DISTRICT:** With as few as 35 to 60 voters surveyed, the data on each APA supervisor or major APA district up for election: District 1 (Eric Mar – Richmond) 45% less likely, 19% more likely; District 3 (**David Chiu** - Chinatown/North Beach) 63%-9%; District 5 (Christina Olague – Japantown/Haight-Ashbury) 42%-19%; District 7 (major candidates **Crowley**, **Garcia**, **Yee** and others West of Twin Peaks) 61%-18%; and District 11 (**John Avalos** - Excelsior/Ingleside) 41%-16%. The rest of voters in the districts said they were "not sure" or the Commission decision "wouldn't make a difference"...