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9 BOARD OF SUPERVISORS
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.

**MAYOR'S INITIAL LIST OF FACT
WITNESSES**
[San Francisco Charter Section 15.105]

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19 In response to the Ethics Commission's April 23, 2012 directions to the parties, the Mayor
20 hereby submits the following list of fact witnesses expected to provide testimony at hearing. The
21 Mayor may not call all of these witnesses, and may not elicit testimony on all of the listed subjects.
22 The Mayor reserves the right to supplement this list based on additional information gained through
23 continuing investigation, by adding witnesses or by adding subjects that witnesses might address.
24 As identified below, certain witnesses' testimony could be presented by declaration, to the extent
25 that their testimony addresses subject matter that Sheriff Mirkarimi does not dispute.

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27 1. **Inspector Becker, SFPD.** Inspector Becker is expected to testify about the
28 investigation he began, with Inspector Daniele, on January 4, 2011 concerning Sheriff Mirkarimi's

1 acts of domestic violence. That investigation included interviews with witnesses Ivory Madison,
2 Abraham Mertens, and Callie Williams; observations of Eliana Lopez; and obtaining documentary
3 and physical evidence, including a videotaped statement by Eliana Lopez, and emails and text
4 messages sent by and among Eliana Lopez, Ivory Madison, Abraham Mertens, and Callie Williams.
5 He was also present at the January 13 booking of Sheriff Mirkarimi, served Sheriff Mirkarimi with
6 an Emergency Protective Order, and discussed with Sheriff Mirkarimi the need to locate and
7 surrender his firearms as required by the Emergency Protective Order. He also followed up with
8 securing those firearms into the custody of the SFPD.

9 Inspector Becker is expected to give live testimony.

10 2. **Inspector Daniele, SFPD.** Inspector Daniele is expected to testify about the
11 investigation he began, with Inspector Becker, on January 4, 2011 concerning Sheriff Mirkarimi's
12 acts of domestic violence. That investigation included interviews with witnesses Ivory Madison,
13 Abraham Mertens, and Callie Williams; observations of Eliana Lopez; and obtaining documentary
14 and physical evidence, including a videotaped statement by Eliana Lopez, and emails and text
15 messages sent by and among Eliana Lopez, Ivory Madison, Abraham Mertens, and Callie Williams.
16 He was also present at the January 13 booking of Sheriff Mirkarimi, served Sheriff Mirkarimi with
17 an Emergency Protective Order, and discussed with Sheriff Mirkarimi the need to locate and
18 surrender his firearms as required by the Emergency Protective Order. He also followed up with
19 securing those firearms into the custody of the SFPD.

20 Inspector Daniele is expected to give live testimony.

21 3. **Jan Dempsey.** Retired Undersheriff Jan Dempsey is expected to testify about
22 Sheriff Mirkarimi's actions during the period between the November 2011 election and January 8,
23 2012 inauguration, in connection with the transition from one Sheriff to another. In addition, Ms.
24 Dempsey is expected to testify about her communications on January 14 regarding the surrender of
25 Sheriff Mirkarimi's firearms.

26 Ms. Dempsey is expected to give live testimony.

27 4. **Christina Flores.** Christina Flores was in a relationship with Ross Mirkarimi in
28 which he committed an act of domestic violence against her. She testified under oath about Sheriff

1 Mirkarimi's acts, during an evidentiary hearing in the criminal action against Sheriff Mirkarimi.
2 She was also subject to cross-examination under oath by Sheriff Mirkarimi's attorney. The
3 Superior Court ruled that Ms. Flores' testimony would be admissible at trial under Evidence Code
4 1109.

5 Because Ms. Flores has already testified under oath and has been subject to cross-
6 examination by counsel for Sheriff Mirkarimi, her testimony can be presented in the form of
7 transcripts from the criminal action, rather than live.

8 5. **Captain Kathy Gorwood, SFSD.** Captain Gorwood is expected to testify that she
9 took possession of Sheriff Mirkarimi's firearms on January 14 from Sheriff Mirkarimi's attorney
10 Robert Waggener.

11 Captain Gorwood's testimony may be suitable for declaration.

12 6. **Linnette Peralta Haynes.** Ms. Haynes is expected to testify about: her
13 communications with Ivory Madison on January 4, which were intended to deter Ivory Madison
14 from reporting Sheriff Mirkarimi's conduct to the police; her communications with Eliana Lopez on
15 January 4, which were intended to deter Eliana Lopez from reporting Sheriff Mirkarimi's conduct to
16 the police; her communications with Sheriff Mirkarimi between December 31 and January 3; her
17 communications on January 4 with Sheriff Mirkarimi regarding the police investigation of Sheriff
18 Mirkarimi's conduct; and her communications with Sheriff Mirkarimi after January 4. Ms. Haynes
19 may be asked about other subjects as well; however, because Ms. Haynes is not currently
20 cooperating with our investigation, we cannot identify those additional subjects at this time.

21 Ms. Haynes is expected to give live testimony.

22 7. **Paul Henderson, Deputy Chief of Staff, Director of Public Safety, Mayor's**
23 **Office.** Mr. Henderson is expected to testify about how the law enforcement and criminal justice
24 agencies in the City and County of San Francisco work with each other and with community-based
25 organizations to achieve public safety goals. These public safety goals include not just prosecution
26 and punishment of offenders, but also providing advocacy and support to victims and witnesses,
27 encouraging reporting and building trust in law enforcement agencies in vulnerable communities,
28 and treatment and rehabilitation of offenders.

1 Mr. Henderson is expected to give live testimony.

2 8. **Michael Hennessey.** Retired Sheriff Michael Hennessey is expected to testify about
3 Sheriff Mirkarimi's actions during the period between the November 2011 election and January 8,
4 2012 inauguration, in connection with the transition from one Sheriff to another. In addition, Mr.
5 Hennessey is expected to testify about his communications with Sheriff Mirkarimi regarding his
6 acts of domestic violence and the law enforcement investigation and charges that resulted.

7 Mr. Hennessey is expected to give live testimony.

8 9. **Acting Sheriff Vicki Hennessy, SFSD.** Acting Sheriff Hennessy will testify about
9 the functions and operations of the Sheriff's Department and the role of the Sheriff, including but
10 not limited to policy and budget matters, maintaining lawful custody of prisoners, rehabilitation,
11 realignment, domestic violence prevention and treatment, probation matters, coordination with other
12 law enforcement agencies, and the Sheriff's responsibility to supervise deputies and impose
13 discipline for misconduct.

14 Acting Sheriff Hennessy is expected to give live testimony.

15 10. **Lt. Michele Jean and/or Inspector John Keane, SFPD.** Inspector Keane and/or
16 Lt. Jean is expected to testify about receiving a call from Ivory Madison on January 4 regarding a
17 December 31 act of domestic violence by Sheriff Mirkarimi, and the dispatch of Inspectors Becker
18 and Daniele to conduct an investigation.

19 Their testimony may be suitable for declaration.

20 11. **Mayor Edwin M. Lee.** The Mayor is expected to testify about the reasons why he
21 charged Sheriff Mirkarimi with official misconduct.

22 The Mayor is expected to give live testimony.

23 12. **Eliana Lopez.** Ms. Lopez will be asked about: the incident of domestic violence
24 that occurred on December 31, 2011, as well as an incident of domestic violence that occurred in
25 March 2011; Sheriff Mirkarimi's attempts to control Ms. Lopez consistent with domestic abuse;
26 Ms. Haynes' relationship with and communications with Ms. Lopez; Sheriff Mirkarimi's
27 communications with Ms. Lopez regarding the police investigation; Ms. Lopez's communications
28

1 with and relationship with Ivory Madison; Ms. Lopez’s communications with and relationship with
2 Abraham Mertens; and Ms. Lopez’s communications with and relationship with Callie Williams.

3 Ms. Lopez is currently in Venezuela, and according to news reports, will not return earlier
4 than June 2012 – and when Ms. Lopez returns, we do not expect her cooperation. It is an open
5 question whether Ms. Lopez will make herself available to testify in these proceedings; if she does,
6 we would expect her testimony to be live.

7 13. **Ivory Madison.** Ms. Madison was Ms. Lopez’s neighbor and became her friend
8 during the year before the December 31, 2011 domestic violence incident. They regularly
9 communicated about family, children, and other friendly topics. On January 1, 2012, Ms. Lopez
10 and Ms. Madison met to talk about their goals for the upcoming year. Ms. Lopez told Ms. Madison
11 about Sheriff Mirkarimi’s December 31 act of domestic violence. According to Ms. Lopez, her
12 family was driving to a restaurant for lunch, when Ms. Lopez suggested traveling to Venezuela with
13 their son to visit relatives. Sheriff Mirkarimi responded by screaming at Ms. Lopez, saying fuck
14 you, fuck you, and turning the car around, adding that Ms. Lopez didn't deserve to eat. Their fight
15 continued through the drive home, out in front the house and inside the house. Inside the house,
16 Sheriff Mirkarimi pushed, pulled and grabbed Ms. Lopez, who was crying and screaming, as was
17 their son. Ms. Lopez asked Sheriff Mirkarimi to stop, and said look what you’re doing to our son.
18 Ms. Lopez then ran out of the house. While both inside and outside the house, Lopez was yelling,
19 do you want me to call the police. When Ms. Lopez yelled about calling the police while outside,
20 Sheriff Mirkarimi said no, come inside. Ms. Lopez went back inside.

21 Ms. Lopez told Ms. Madison that she had met with a divorce lawyer and was concerned
22 about losing custody of her son. During the December 31 dispute, Sheriff Mirkarimi told Ms.
23 Lopez that he was “very powerful” and could win custody of their son.

24 Ms. Madison suggested that a photo or video of the injury caused by Sheriff Mirkarimi
25 would be helpful to Ms. Lopez in a custody dispute. Ms. Lopez agreed. Ms. Madison helped Ms.
26 Lopez make a video statement about the events, and the injury Sheriff Mirkarimi inflicted on
27 December 31. Ms. Madison observed Ms. Lopez’s demeanor and her injury.

1 Over the next few days, Ms. Madison continued to communicate with Ms. Lopez about
2 Sheriff Mirkarimi's domestic violence, and the actions that Ms. Lopez could take to protect herself.
3 On January 2, 2012, Ms. Lopez indicated to Ms. Madison that she thought calling the police was a
4 good idea. Their communications continued over email, and they met in person in the late morning
5 of January 4. Ms. Lopez expressed that she wanted to find ways to stop Sheriff Mirkarimi from
6 abusing her and save their marriage. Ms. Madison suggested calling the police. Ms. Lopez was
7 afraid that the police would not believe her and would not protect her from Sheriff Mirkarimi, and
8 was concerned about what the police could do to protect her. Ms. Lopez decided to leave and said
9 she was going to call her father in Venezuela for advice. Shortly after Ms. Lopez left, around
10 12:30pm, Ms. Madison contacted the SFPD to obtain more information about the process for
11 making a domestic violence complaint. During the call, the SFPD informed her that it was opening
12 a domestic violence investigation. After the call, Ms. Madison left her home for a few hours.

13 Later that afternoon, between 3 and 4pm, Ms. Madison returned home with her husband Mr.
14 Mertens and found Ms. Lopez waiting outside. Ms. Madison told Ms. Lopez about the police
15 investigation. Ms. Lopez was unhappy about the investigation. Ms. Lopez called Linnette Peralta
16 Haynes (Sheriff Mirkarimi's campaign manager in the November 2011 election) on her mobile
17 phone. After speaking with Ms. Haynes, Ms. Lopez handed her phone to Ms. Madison. Ms.
18 Haynes attempted to dissuade Ms. Madison from cooperating with the police and attempted to
19 persuade Ms. Madison to lie to the police. When SFPD Domestic Violence inspectors arrived, Ms.
20 Lopez left.

21 Ms. Madison cooperated with the inspectors. She answered their questions. Ms. Madison
22 would not, however, turn over Ms. Lopez's video statement without a warrant. Therefore, the
23 inspectors stayed at Ms. Madison's home, per normal procedure, while they waited for a warrant to
24 issue. When they presented the warrant, Ms. Madison turned over the video. During the time that
25 officers were at Ms. Madison's home, Ms. Lopez called Ms. Madison several times and attempted
26 to dissuade her from cooperating with the police.

27 Ms. Madison is expected to give live testimony.
28

1 14. **Abraham Mertens.** Abraham Mertens is the husband of Ms. Madison. Like Ms.
2 Madison, Mr. Mertens became friendly with Ms. Lopez in the year before the incident. On January
3 1, 2012, Mr. Mertens was not present during the time that Ms. Lopez met with Ms. Madison and
4 made the video. However, he returned home shortly afterwards and observed that Ms. Lopez had
5 been crying.

6 On January 4, Mr. Mertens got home between 3 and 4pm with his wife and found Ms. Lopez
7 waiting outside his home. He was present when Ms. Lopez came inside.

8 During the time that SFPD inspectors were interviewing Ms. Madison on January 4, Mr.
9 Mertens received a telephone call from Eliana Lopez urging him to make Ms. Madison stop talking
10 to the police. Mr. Mertens heard Sheriff Mirkarimi's voice in the background.

11 During the various communications after the police investigation began, Ms. Lopez told Mr.
12 Mertens to tell the police that the domestic violence did not happen.

13 Mr. Mertens is expected to give live testimony.

14 15. **Sheriff Ross Mirkarimi.** Sheriff Mirkarimi will be asked about his December 31
15 acts of domestic violence against Ms. Lopez, and his statements to her; his communications after
16 that date with Ms. Haynes regarding that incident and the investigations of that incident; his actions
17 and communications with other persons on and after January 4 regarding the investigation of that
18 incident; his decisions regarding cooperation with the San Francisco Police Department in the
19 course of the investigation; and his decision to accept a three-year sentence of probation. Sheriff
20 Mirkarimi will also be asked about prior incidents of domestic violence against Ms. Lopez, Ms.
21 Flores, and other intimate partners. Sheriff Mirkarimi may be asked about other subjects as well;
22 however, because Sheriff Mirkarimi is not currently cooperating with our investigation, we cannot
23 identify those additional subjects at this time.

24 Sheriff Mirkarimi is expected to give live testimony.

25 16. **Chief Wendy Still, San Francisco Adult Probation Department.** Chief Still will
26 describe the terms and conditions of Sheriff Mirkarimi's probation and the assignment of Sheriff
27 Mirkarimi to a probation officer in San Francisco's Adult Probation Department (SFAPD) who is
28 experienced with domestic violence cases. The SFAPD makes progress reports to the Court with

1 regard to Sheriff Mirkarimi's compliance with the conditions of probation and other conditions
2 imposed by the Court. Those conditions include a stay-away order that prohibits Sheriff Mirkarimi
3 from carrying a firearm. The SFAPD is empowered to move to revoke Sheriff Mirkarimi's
4 probation if he violates its terms and conditions.

5 The SFAPD must work closely with the San Francisco Sheriff's Department in several
6 programs concerning reentry into the community. The SFAPD and the Sheriff's Department serve
7 on the same committee concerning realignment matters. In addition, there is mutual cooperation
8 between the SFAPD and the Sheriff's Department on many law enforcement matters. For example,
9 there is coordination on domestic violence work, electronic monitoring of probationers, a charter
10 school, background checks, and fulfilling sentences involving community service hours.

11 Chief Still is expected to give live testimony.

12 17. **Callie Williams.** Ms. Williams was the upstairs neighbor of Sheriff Mirkarimi and
13 Ms. Lopez. She was friends with Ms. Lopez before December 31. During that time, Ms. Williams
14 sometimes heard fighting between Ms. Lopez and Sheriff Mirkarimi. At least once in 2011, Ms.
15 Williams heard Sheriff Mirkarimi yell "get the fuck out."

16 On December 31, Ms. Williams was not at home at the time of the dispute between Sheriff
17 Mirkarimi and Ms. Lopez. On January 4, 2012, however, at around 1 or 2pm, Ms. Lopez was going
18 down the back stairs of her building and ran into Ms. Lopez. Ms. Lopez told Ms. Williams about a
19 fight on December 31 between her and Sheriff Mirkarimi. Ms. Lopez described Sheriff Mirkarimi
20 as "going ballistic." Ms. Lopez showed Ms. Williams the bruise on her arm. Ms. Lopez told Ms.
21 Williams that their son had seen what happened and said, "Daddy made boo-boo on Mommy's
22 arm." During the conversation, Sheriff Mirkarimi came home and told Ms. Lopez to come in when
23 she was done. Ms. Lopez told Ms. Williams that Sheriff Mirkarimi was scared that she was going
24 to tell people what happened. Ms. Lopez told Ms. Williams that Sheriff Mirkarimi told her that he
25 was a powerful man, and Ms. Lopez was not sure what to do. Ms. Williams advised Ms. Lopez to
26 go to the doctor to get her injury documented. Ms. Lopez told Ms. Williams that she hoped that Ms.
27 Williams could hear her. Ms. Lopez told Ms. Williams that this was the second time that Sheriff
28 Mirkarimi had been abusive to her in the past year, with the last incident occurring in March 2011.

1 Later that evening (after the police investigation began) Ms. Lopez sent Ms. Williams an
2 email message stating that what she told Ms. Williams was confidential, and not to repeat it because
3 it was “too dramatic.”

4 **

5 The foregoing list is based on the investigation to date conducted by the Mayor and his
6 attorneys. As we discussed at the April 23, 2011 hearing, several witnesses have not cooperated
7 and thereby delayed our investigation. As a result, we have issued subpoenas and used other court
8 processes to obtain evidence. If that evidence results in a decision to add fact witnesses, we will
9 notify the Commission and Sheriff Mirkarimi.

10 DATED: April 30, 2012

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15 /s/ Peter J. Keith

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18 THE MAYOR OF THE
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