

1 DENNIS J. HERRERA, State Bar #139669
City Attorney
2 WAYNE K. SNODGRASS, State Bar #148137
JEREMY M. GOLDMAN, State Bar #218888
3 Deputy City Attorneys
City Hall, Room 234
4 1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102-4682
5 Telephone: (415) 554-6762
Facsimile: (415) 554-4699
6 E-Mail: jeremy.goldman@sfgov.org

7 Attorneys for Defendant
8 SHERIFF VICKI HENNESSY

9
10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12

13 RIANA BUFFIN and CRYSTAL
PATTERSON, et al.,

14 Plaintiffs,

15 vs.

16 SHERIFF VICKI HENNESSY, in her
17 official capacity,

18 Defendant.
19
20
21
22
23
24
25
26
27
28

Case No. C15-04959 YGR

**ANSWER TO PLAINTIFFS' THIRD AMENDED
COMPLAINT BY SHERIFF VICKI HENNESSY**

Judge: Hon. Yvonne Gonzalez Rogers

1 Sheriff Vicki Hennessy (“the Sheriff”), in her official capacity, hereby answers Plaintiffs’
2 Third Amended Complaint (“TAC”). Any allegation not specifically admitted is denied. The
3 headings contained in the TAC are not substantive factual allegations to which a response is required.
4 The claim for damages against the Sheriff has been dismissed, as have the claims against the City and
5 County of San Francisco and the Attorney General, and accordingly no response is required as to those
6 claims.

7 **INTRODUCTORY STATEMENT**

8 Pretrial liberty is a fundamental interest of all people accused of a crime, and although it can be
9 restricted, the measure must be the accused’s risk of flight, or a threat posed to the safety of others.
10 California law, however, requires the Superior Court to establish a bail schedule that lists the price of
11 freedom for every offense, without any consideration of the individual’s circumstances. Those who
12 can pay are released at a time of their choosing, regardless of any threat they may pose to public safety
13 and regardless of any flight risk. Those who cannot pay must wait. This two-tiered system of pretrial
14 justice does not serve the interests of the government or the public, and unfairly discriminates against
15 the poor. It transforms money bail from its limited purpose in securing the appearance of the accused
16 at trial into an all-purpose denial of liberty for the indigent. The Sheriff is required to enforce the
17 State’s law, and she will, unless and until its unconstitutionality is established in the courts. But she is
18 not required to defend it, and she will not.

19 **RESPONSE TO THE ALLEGATIONS OF THE THIRD AMENDED COMPLAINT**

20 **Introduction**

21 1. Responding to paragraph 1, as to the first sentence, the Sheriff admits that the TAC speaks
22 for itself as to the nature of the action, and otherwise denies the allegations. The Court has held that
23 the Sheriff acts on behalf of the State, not the City and County of San Francisco, when enforcing
24 California’s bail laws. As to the second sentence, the Sheriff admits that Plaintiff Riana Buffin did not
25 pay the amount specified by the Superior Court’s bail schedule and was accordingly detained until the
26 District Attorney’s Office decided not to file charges against her. The Sheriff also admits that Plaintiff
27 Crystal Patterson was detained until she posted a bond in the amount specified by the Superior Court’s
28

1 bail schedule. The Sheriff otherwise lacks information sufficient to form a belief as to the truth of the
2 allegations and on that basis denies them.

3 2. Responding to paragraph 2, as to the first sentence, the Sheriff admits that the bail
4 schedule creates different outcomes on the basis of arrestees' access to funds, and otherwise denies the
5 allegations. As to the second sentence, the Sheriff admits that Ms. Buffin and Ms. Patterson would
6 have been released upon payment of the applicable amounts under the bail schedule, \$30,000 and
7 \$150,000 respectively, and that some individuals accused of the same offenses are able to obtain
8 release by paying the applicable bail amounts (or by paying a nonrefundable percentage to a bail bond
9 company), and otherwise denies the allegations. The third sentence is a legal argument to which no
10 response is required. However, the Court has held that the Sheriff acts on behalf of the State, not the
11 City and County of San Francisco, when enforcing California's bail laws.

12 3. Responding to paragraph 3, as to the first sentence, the Sheriff admits that the TAC speaks
13 for itself as to the nature of the action, and otherwise denies the allegations. The second sentence
14 states a legal conclusion to which no response is required.

15 4. Responding to paragraph 4, as to the first sentence, the Sheriff admits that the TAC speaks
16 for itself as to the nature of the action and the relief sought. The second sentence states a legal
17 conclusion to which no response is required.

18 **Nature of the Action**

19 5. Responding to paragraph 5, the first sentence is a legal conclusion and concerns a claim
20 that the Court has dismissed and accordingly no response is required; however, the Court has held that
21 the Sheriff acts on behalf of the State, not the City and County of San Francisco, when enforcing
22 California's bail laws, and that state law, rather than any local "policy and practice," requires the acts
23 of the Sheriff challenged in this lawsuit. The second sentence states a legal conclusion to which no
24 response is required; however, the Sheriff admits that state law requires her to enforce the bail
25 schedule, which establishes an individual's bail amount without any inquiry into the individual's
26 ability to pay. The remainder of the sentence concerns a claim against the Attorney General that the
27 court has dismissed, and accordingly no response is required. Responding to the final sentence of the
28

1 paragraph, the Sheriff admits that the TAC speaks for itself as to the nature of the relief sought and
2 otherwise denies the allegations.

3 **Jurisdiction and Venue**

4 6. Responding to paragraph 6, the allegations of this paragraph are legal conclusions to
5 which no response is required. The TAC speaks for itself as to the nature of the action.

6 7. Responding to paragraph 7, the allegation is a legal conclusion to which no response is
7 required.

8 **Intradistrict Assignment**

9 8. Responding to paragraph 8, the allegation is a legal conclusion to which no response is
10 required.

11 **Parties**

12 9. Responding to paragraph 9, the Sheriff admits the allegations of the first sentence as of the
13 time of Ms. Buffin's arrest based on information in Sheriff's Department records. As to the second
14 and third sentences, the Sheriff lacks information sufficient to form a belief as to the truth of the
15 allegations and on that basis denies them. Responding to the final sentence, the Sheriff admits that the
16 TAC speaks for itself as to the roles in which Ms. Buffin sues.

17 10. Responding to paragraph 10, the Sheriff admits the allegations of the first sentence as of
18 the time of Ms. Patterson's arrest based on information in Sheriff's Department records. The Sheriff
19 lacks information sufficient to form a belief as to the truth of the allegations in the second sentence
20 and on that basis denies them. Responding to the final sentence, the Sheriff admits that the TAC
21 speaks for itself as to the roles in which Ms. Patterson sues.

22 11. Responding to paragraph 11, the first sentence concerns the City and County of San
23 Francisco, which has been dismissed from this action, and accordingly no response is required.
24 Responding to the second sentence, the Sheriff admits the allegations, except denies them insofar as
25 the Court has held that the Sheriff acts on behalf of the State of California, rather than the City and
26 County of San Francisco, when enforcing the state's bail laws.

27 12. Responding to paragraph 12, these allegations state a legal conclusion to which no
28 response is required; however, the Court has already held that the Sheriff acts on behalf of the State of

1 California, rather than the City and County of San Francisco, when enforcing the state's bail laws, and
2 that release and detention decisions are controlled by state law and not by any policy of the City and
3 County of San Francisco.

4 13. Responding to paragraph 13, these allegations state legal conclusions to which no
5 response is required; moreover, the cited statutory sections speak for themselves.

6 14. Responding to paragraph 14, the Sheriff admits the allegations of the first sentence, except
7 denies them insofar as the Court has held that the Sheriff acts on behalf of the State of California,
8 rather than the City and County of San Francisco, when enforcing the state's bail laws. The
9 allegations of the second sentence state legal conclusions to which no response is required. The
10 allegations of the final sentence are denied insofar as the Court has already held that the relevant
11 detention and release decisions are controlled by state law, not by any "policy and practice" of the
12 Sheriff's Department. The Sheriff admits that state law requires the Sheriff's Department to detain
13 any person who does not pay the applicable bail established by the Superior Court's bail schedule, and
14 otherwise denies the allegations.

15 15. Responding to paragraph 15, the Sheriff admits the allegations, except denies them insofar
16 as currently there are only four operating jails.

17 16. Responding to paragraph 16, the allegations state a legal conclusion to which no response
18 is required; however, to the extent a response is required, the allegations are denied. The Court has
19 already held that the Sheriff's pretrial release and detention decisions are controlled by state law, over
20 which neither the Sheriff nor the City and County of San Francisco have any policymaking authority
21 or discretion. Furthermore, the Court held that the Sheriff acts on behalf of the State when enforcing
22 the bail laws, and accordingly the City and County of San Francisco is not the relevant actor.

23 17. Responding to paragraph 17, the first two sentences state legal conclusions to which no
24 response is required. Responding to the final sentence, the Sheriff admits that, upon taking office, she
25 swore an oath to support and defend the Constitution of the United States.

26 18. Responding to paragraph 18, the first sentence contains legal conclusions to which no
27 response is required; however, the Court has already held that the Sheriff's detention and release
28 decisions are controlled by state law. Responding to the second sentence, the Sheriff admits that she

1 enforces state law insofar as it requires her to detain a person who does not pay the applicable bail
2 established by the Superior Court’s bail schedule, and otherwise denies the allegations. The Court has
3 held that the challenged actions of the Sheriff are controlled by state law, not by any “policy and
4 practice” of the City and County of San Francisco, which has been dismissed as a defendant.

5 19. Responding to paragraph 19, the allegations state legal conclusions to which no response
6 is required, and concern a claim against the City and County of San Francisco, which has been
7 dismissed.

8 20. Responding to paragraph 20, the allegations state legal conclusions to which no response
9 is required, and concern a claim against the City and County of San Francisco, which has been
10 dismissed.

11 21. Responding to paragraph 21, the allegations state legal conclusions to which no response
12 is required.

13 22. Responding to paragraph 22, the allegations state legal conclusions to which no response
14 is required, and concern a claim that the Court has dismissed. The Court has held that pretrial
15 detention is controlled by state law, not by any “policy or practice” of the City and County of San
16 Francisco or of the Sheriff.

17 23. Responding to paragraph 23, the allegations state legal conclusions to which no response
18 is required, and concern a claim that the Court has dismissed.

19 24. Responding to paragraph 24, the allegations state legal conclusions to which no response
20 is required, and concern a claim that the Court has dismissed.

21 25. Responding to paragraph 25, the allegations state legal conclusions to which no response
22 is required, and concern a claim that the Court has dismissed.

23 26. Responding to paragraph 26, the allegations state legal conclusions to which no response
24 is required, and concern a claim that the Court has dismissed.

25 **Factual Allegations**

26 27. Responding to paragraph 27, the Sheriff admits the allegations.

27 28. Responding to paragraph 28, the Sheriff admits that Ms. Buffin was booked into the jail
28 and received information regarding the applicable bail amount under the Superior Court’s bail

1 schedule, which was \$30,000. The Sheriff otherwise lacks information sufficient to form a belief as to
2 the truth of the allegations and on that basis denies them.

3 29. Responding to paragraph 29, the Sheriff lacks information sufficient to form a belief as to
4 the truth of the allegations and on that basis denies them.

5 30. Responding to paragraph 30, the Sheriff lacks information sufficient to form a belief as to
6 the truth of the allegations and on that basis denies them, except the Sheriff admits that Ms. Buffin did
7 not pay the applicable bail amount under the Superior Court's bail schedule.

8 31. Responding to paragraph 31, the Sheriff lacks information sufficient to form a belief about
9 whether Ms. Buffin was told anything about when she would be brought to court, and on that basis
10 denies the allegation. The Sheriff admits that Ms. Buffin was released before an initial court
11 appearance, that she was discharged when the District Attorney's Office decided not to file formal
12 charges against her, and that at the time of her release she had been detained for approximately 46
13 hours.

14 32. Responding to paragraph 32, the Sheriff lacks information sufficient to form a belief as to
15 the truth of the allegations, and on that basis denies them.

16 33. Responding to paragraph 33, the Sheriff admits the allegations of the first sentence. As to
17 the second sentence, the Sheriff admits that Ms. Patterson was accused of two counts of assault with a
18 deadly weapon or instrument other than a firearm, and otherwise denies the allegations.

19 34. Responding to paragraph 34, the Sheriff admits that Ms. Patterson was booked into the jail
20 and received information regarding the applicable bail amount under the Superior Court's bail
21 schedule, which was \$150,000. The Sheriff otherwise lacks information sufficient to form a belief as
22 to the truth of the allegations, and on that basis denies them.

23 35. Responding to paragraph 35, the Sheriff lacks information sufficient to form a belief as to
24 the truth of the allegations, and on that basis denies them.

25 36. Responding to paragraph 36, the Sheriff lacks information sufficient to form a belief as to
26 the truth of the allegations, and on that basis denies them.

27 37. Responding to paragraph 37, the Sheriff admits that Ms. Patterson obtained her release by
28 posting a bond prior to an initial court appearance, and at the time of her release had been detained for

1 approximately 29 hours. The Sheriff lacks information sufficient to form a belief as to the truth of the
2 remaining allegations in the paragraph, and on that basis denies them.

3 38. Responding to paragraph 38, the Sheriff admits that the case against Ms. Patterson was
4 discharged when the District Attorney's Office decided not to file formal charges against her. The
5 Sheriff lacks information sufficient to form a belief as to the truth of the allegations in the second
6 sentence, and on that basis denies them. As to the third sentence, the Sheriff admits that Ms. Patterson
7 would not have had a reason to pay for a bail bond if instead, before she obtained it, she had been
8 released without bail, and otherwise denies the allegations.

9 39. Responding to paragraph 39, the Sheriff admits that, had Ms. Patterson been wealthy
10 enough to pay the full bail amount of \$150,000, and had she paid that amount, she would have been
11 released upon such payment and the full amount would have been returned to her when her case was
12 discharged. The Sheriff otherwise denies the allegations.

13 40. Responding to paragraph 40, the Sheriff admits that those arrestees who are going to be
14 booked into the San Francisco jail are transported to County Jail # 1 for booking processes, and
15 otherwise denies the allegations.

16 41. Responding to paragraph 41, the Sheriff admits the allegations.

17 42. Responding to paragraph 42, the Sheriff admits that the allegations describe the intake
18 process (although not necessarily in the order listed), of which booking is a part, except review by the
19 O.R. Project is for those arrestees eligible for release through the O.R. Project. The allegations are
20 otherwise denied.

21 43. Responding to paragraph 43, the Sheriff denies the allegations insofar as, under the current
22 pilot project, the O.R. Project does not interview arrestees or contact references provided by the
23 inmate, and instead uses a pretrial risk assessment tool. *See* ECF Nos. 91, 92. The Sheriff otherwise
24 admits the allegations of this paragraph.

25 44. Responding to paragraph 44, the Sheriff admits the allegations, except denies them insofar
26 as the bail amount is automatically populated based on the booking charge (with the amounts from the
27 bail schedule) and a deputy will have to refer to the bail schedule only if the charge is not in the Jail
28 Management System table of charges.

1 45. Responding to paragraph 45, the Sheriff denies the allegations.

2 46. Responding to paragraph 46, the Sheriff admits that, after they are booked, inmates are
3 placed in a holding cell (unless they are placed in a Safety Cell) in which a poster listing the phone
4 numbers of bail bond agents is displayed, and in which a free phone is available for arrestees to make
5 local calls to anyone they wish. The Sheriff otherwise denies the allegations.

6 47. Responding to paragraph 47, the Sheriff admits the allegations.

7 48. Responding to paragraph 48, the Sheriff denies the allegations insofar as eligible arrestees
8 may also obtain their release through the O.R. Project. The Sheriff otherwise admits the allegations of
9 this paragraph, except as to the allegation that an arrestee “is taken to court 2 to 5 days later for
10 arraignment,” the Sheriff admits that arrestees are taken to court within the time period specified by
11 law, and otherwise denies the allegation.

12 49. Responding to paragraph 49, the Sheriff admits the allegations as a rough approximation,
13 although there can be variations over time.

14 50. Responding to paragraph 50, the Sheriff admits the allegation, assuming the number
15 includes those who are subject to various holds.

16 51. Responding to paragraph 51, the Sheriff admits that pretrial detainees are presumed
17 innocent of the crime for which they have been arrested, and admits that more than 100 individuals at
18 any given time are being detained in the jail because they have not paid the applicable bail. The
19 Sheriff lacks information about why particular individuals do not pay bail, and on that basis denies the
20 allegation. The allegations are otherwise denied. The Court has held that the Sheriff acts on behalf of
21 the State, not the City and County of San Francisco, when enforcing the bail laws.

22 52. Responding to paragraph 52, the Sheriff lacks information sufficient to form a belief as to
23 the truth of the allegations, and on that basis denies them.

24 53. Responding to paragraph 53, the Sheriff admits the allegations, except denies them insofar
25 as the amount of money required for release is established by the Superior Court’s bail schedule, not
26 the Sheriff’s Department.

27 54. Responding to paragraph 54, the extent to which arrestees have a right to release pending
28 trial is a legal conclusion to which no response is required. The Sheriff admits that, insofar as release

1 decisions are controlled by the bail schedule, arrestees' release is conditioned on their ability to afford
2 money bail, and in that way their pretrial freedom is tied to their access to funds. The allegations are
3 otherwise denied.

4 55. Responding to paragraph 55, the allegations state legal conclusions to which no response
5 is required. However, the Sheriff admits that she enforces the state's bail laws insofar as she detains a
6 person who does not pay the applicable bail, in the absence of another legal basis or authorization for
7 release. The allegation that the Attorney General enforces unconstitutional provisions of California's
8 Penal Code concerns a claim that has been dismissed, as does the allegation that Plaintiffs' treatment is
9 caused by policies and practices of the Sheriff and the City and County of San Francisco, and
10 accordingly no response is required. The Court has held that pretrial release decisions are controlled
11 by state law, not by any "policy or practice" of the Sheriff or the City and County of San Francisco.

12 56. Responding to paragraph 56, the Sheriff denies the allegations.

13 57. Responding to paragraph 57, the Sheriff denies the allegations, except admits that the
14 Sheriff's Department promptly releases those individuals who pay the applicable money bail amount,
15 as long as they have no additional holds. The Court has held that pretrial release is controlled by state
16 law, not by local "policy and practice."

17 58. Responding to paragraph 58, the Sheriff admits the allegations.

18 59. Responding to paragraph 59, the Sheriff admits that the Sheriff's Department detains those
19 individuals who do not pay their money bail amount, in the absence of any other legal basis for their
20 release. The Sheriff further admits that, before arraignment, it detains those individuals who do not
21 pay the applicable bail amount established by the Superior Court's bail schedule, unless a different
22 amount has been specified in a warrant of arrest or by pre-arraignment court order, and unless and
23 until there exists another legal basis for their release. The Sheriff also admits that, after arraignment,
24 the Sheriff's Department detains those individuals who do not pay the bail amount set in an individual
25 order by the Superior Court, unless and until there exists another legal basis for their release. The
26 Sheriff denies all other allegations of this paragraph. The Court has held that pretrial release is
27 controlled by state law, not by local "policy and practice."

28 60. Responding to paragraph 60, the Sheriff admits the allegations.

1 61. Responding to paragraph 61, the allegation states a legal conclusion to which no response
2 is required; however, the Court has already held that release decisions are controlled by state law.

3 62. Responding to paragraph 62, the Sheriff admits that the Sheriff's Department releases
4 those individuals who pay their money bail amount, and otherwise denies the allegations of this
5 paragraph. The Court has held that pretrial release is controlled by state law, not by local "practice
6 and custom."

7 63. Responding to paragraph 63, the Sheriff admits that the Sheriff's Department detains those
8 individuals who do not pay their money bail amount, in the absence of any other legal basis or
9 authorization for their release, and otherwise denies the allegations of this paragraph. The Court has
10 held that pretrial release is controlled by state law, not by local "practice and custom."

11 64. Responding to paragraph 64, the Sheriff admits that those people who have access to
12 funds to pay their bail amount, and who pay it, are released from the county jail upon such payment.
13 The Sheriff further admits that some arrestees, who may be without access to funds to pay bail
14 outright, make arrangements with private bail bond companies, and that because they remain in jail
15 while those arrangements are made, they may spend time in jail that arrestees who are able to pay their
16 bail outright, can avoid. The Sheriff also admits that individuals who have the resources neither to pay
17 bail nor to obtain a bail bond, remain jailed until the resolution of their case, if the Superior Court does
18 not otherwise authorize their release. The allegations of this paragraph are otherwise denied.

19 65. Responding to paragraph 65, the allegations state a legal conclusion to which no response
20 is required.

21 66. Responding to paragraph 66, the allegations state a legal conclusion to which no response
22 is required, except the Sheriff admits that the contents of Cal. Pen. Code § 1269b(b) speak for
23 themselves.

24 67. Responding to paragraph 67, the allegation states a legal conclusion to which no response
25 is required.

26 68. Responding to paragraph 68, the allegation states a legal conclusion to which no response
27 is required, and concerns a claim against the Attorney General that has been dismissed.
28

1 69. Responding to paragraph 69, the allegations state legal conclusions to which no response
2 is required, and concern claims that have been dismissed. The Court held that pretrial detention is
3 controlled by state law, not by any local “policy and practice.”

4 70. Responding to paragraph 70, as to the first sentence, the Sheriff admits that, for those
5 arrestees who are appointed counsel, the appointment of counsel routinely does not occur until their
6 first appearance in court, and otherwise denies the allegations. As to the second sentence, the Sheriff
7 admits that some arrestees, depending on the offense of which they are accused, have a right to apply
8 to a magistrate for release on lower bail or on their own recognizance. The allegation that “this
9 process is functionally non-existent while arrestees remain unrepresented by counsel” is insufficiently
10 clear to allow the Sheriff to admit or deny it, and on that basis she denies the allegation; however, the
11 Sheriff admits that few, if any, unrepresented arrestees make such an application, except to the extent
12 such application is made through the O.R. Project.

13 71. Responding to paragraph 71, as to the first sentence, the Sheriff admits that some arrestees
14 are released without bail after the O.R. Project submits information to the Superior Court, and that the
15 Sheriff’s Department contracts with the San Francisco Pretrial Diversion Project to operate the O.R.
16 Project; however, the Sheriff denies that such release is “at the discretion of the O.R. Project,” because
17 any such release decision is made by the Superior Court, and the Sheriff lacks information about
18 whether particular arrestees are indigent, and on that basis denies the allegations. As to the second
19 sentence, the Sheriff admits that not all arrestees are eligible for release through the O.R. Project, or
20 are released through the O.R. Project, and admits that some amount of time elapses between booking
21 and any release through the O.R. Project, and otherwise denies the allegations. Because the Sheriff
22 does not know what amount of time is intended by the word “significant,” the Sheriff lacks
23 information sufficient to form a belief as to the truth of the allegation in the third sentence, and on that
24 basis denies it.

25 72. Responding to paragraph 72, the Sheriff admits that arrestees who can and do pay bail are
26 able to avoid waiting in jail for possible release through the O.R. project, because they are released
27 when they pay their money bail amount. The Sheriff otherwise denies the allegations.

28

1 73. Responding to paragraph 73, the Sheriff admits that (1) California law authorizes pretrial
2 release on bail for certain arrestees; (2) the Sheriff's Department releases those arrestees entitled to
3 release on bail if they pay bail, and does not release arrestees who do not pay the applicable bail, in the
4 absence of any other legal basis or authorization for their release; and (3) only those who are able to
5 pay the applicable money bail amount are permitted pretrial release, unless and until there is another
6 legal basis or authorization for their release. The Sheriff otherwise denies the allegations of this
7 paragraph.

8 74. Responding to paragraph 74, with respect to the first sentence, the Sheriff lacks
9 information sufficient to form a belief as to the truth of the allegation that "tying pretrial freedom to
10 wealth-status is the norm in San Francisco," and on that basis denies it, excepts admits that in the
11 absence of an individualized order from the Superior Court (or bail set in a warrant of arrest) the bail
12 schedule applies; the Sheriff lacks information sufficient to form a belief about particular practices in
13 other jurisdictions, and on that basis otherwise denies the allegations. As to the second sentence, the
14 Sheriff lacks information sufficient to form a belief as to the effectiveness of particular pretrial
15 supervision practices in particular jurisdictions, and on that basis and to that extent denies the
16 allegations, but admits that there are pretrial supervision practices that can effectively promote court
17 attendance and public safety without requiring detention. As to the third sentence, the Sheriff admits
18 that the listed practices are employed in other jurisdictions as well as in San Francisco, and otherwise
19 lacks sufficient information to form a belief as to the truth of the allegations, and on that basis denies
20 them.

21 75. Responding to paragraph 75, the Sheriff admits the allegations, except denies them insofar
22 as the Sheriff lacks sufficient information to form a belief as to the extent to which particular methods
23 contribute to high public safety and court appearance rates in particular jurisdictions; however, the
24 Sheriff admits in general that methods other than detention in the county jail can contribute to high
25 public safety and court appearance rates.

26 76. Responding to paragraph 76, as to the first sentence, the Sheriff denies the allegations,
27 except admits that courts in San Francisco can and do order release on conditions other than money
28

1 bail. The Sheriff lacks information sufficient to form a belief as to the truth of the allegation in the
2 final sentence, and on that basis denies it.

3 77. Responding to paragraph 77, the Sheriff lacks information sufficient to admit or deny the
4 allegations as stated, and on that basis denies them, but admits that high court-appearance rates can be
5 achieved through means other than detention in jail.

6 78. Responding to paragraph 78, as to the first sentence, the Sheriff admits that unnecessary
7 pretrial detention may cause instability in employment, housing, and care for dependent relatives, and
8 otherwise denies the allegations. As to the second and last sentences, the Sheriff lacks information
9 sufficient to form a belief as to the truth of the allegations, and on that basis denies them. The Sheriff
10 lacks information sufficient to form a belief as to the truth of the allegations of the third sentence, and
11 on that basis denies them. As to the fourth sentence, the Sheriff admits that detained defendants can
12 have a harder time preparing for their defense, gathering evidence and witnesses, and meeting with
13 their lawyers, than defendants who are released pretrial, and otherwise denies the allegations.

14 79. Responding to paragraph 79, the Sheriff lacks information sufficient to form a belief as to
15 the truth of the allegation of the first sentence, and on that basis denies it. The Sheriff admits the
16 allegations of the second sentence.

17 80. Responding to paragraph 80, as to the first sentence, the Sheriff admits that money bail is
18 a central component of California's pretrial justice system, and admits that in some circumstances the
19 Superior Court can and does rely on a variety of non-wealth-based metrics to make release/detention
20 decisions; the Sheriff otherwise denies the allegations. The Sheriff denies the allegations of the
21 second sentence, except admits that California law authorizes the detention of arrestees without money
22 bail in certain circumstances; the circumstances under which California law does so is a legal
23 conclusion to which no response is required. The third sentence states a legal conclusion to which no
24 response is required; however, the Sheriff admits that, under California law, individuals charged with
25 certain serious crimes may be held without money bail. The final sentence states a legal conclusion to
26 which no response is required; however, the Sheriff admits that there are specific circumstances in
27 which California law authorizes the release of arrestees without requiring money bail.

28

1 81. Responding to paragraph 81, the Sheriff admits that the TAC speaks for itself as to the
2 capacity in which Plaintiffs sue.

3 82. Responding to paragraph 82, the allegations state legal conclusions to which no response
4 is required.

5 83. Responding to paragraph 83, the allegations state legal conclusions to which no response
6 is required.

7 84. Responding to paragraph 84, the allegations state legal conclusions to which no response
8 is required.

9 85. Responding to paragraph 85, the Sheriff admits that the TAC speaks for itself as to the
10 proposed class.

11 86. Responding to paragraph 86, the Sheriff admits the allegations of the first two sentences.
12 As to the third sentence, the Sheriff admits that, with the exception of pretrial detainees subject to one
13 or more holds, the remaining pretrial detainees may pay bail to obtain their release or remain jailed
14 unless and until there exists another legal basis or authorization for their release, and otherwise denies
15 the allegations.

16 87. Responding to paragraph 87, the Sheriff admits the allegations of the first sentence. As to
17 the second sentence, the Sheriff admits that those individuals who do not pay bail are held in the jail
18 unless and until there exists another legal basis or authorization for their release, and otherwise denies
19 the allegations.

20 88. Responding to paragraph 88, the Sheriff admits that the number of people who are
21 currently detained, and in the future (in the absence of any specified timeframe) will be detained if
22 there is no change in the law, because they cannot pay bail is well into the hundreds, and otherwise
23 denies the allegations.

24 89. Responding to paragraph 89, the allegations state legal conclusions to which no response
25 is required. The Sheriff admits that the TAC speaks for itself as to the relief sought; however, the
26 Court has held that pretrial detention is controlled by state law, not by local “policies, practices, and
27 procedures.”

28

1 90. Responding to paragraph 90, the allegations of the first sentence are denied; the Court has
2 held that pretrial detention is controlled by state law, not local “policies and practices.” As to the
3 second sentence, the Sheriff admits that she enforces the applicable provisions of California law in the
4 same way every day, and otherwise denies the allegations. The remainder of the paragraph consists of
5 legal conclusions to which no response is required; however, several of the allegations concern a claim
6 that has been dismissed, and are contrary to the Court’s holding that that pretrial detention is
7 controlled by state law, not local “policies and practices.”

8 91. Responding to paragraph 91, the allegations state legal conclusions to which no response
9 is required.

10 92. Responding to paragraph 92, the allegations state legal conclusions to which no response
11 is required. The Sheriff admits that the TAC speaks to itself as to the proposed class definition.

12 93. Responding to paragraph 93, the allegations state legal conclusions to which no response
13 is required; however, the Court has held that pretrial detention is controlled by state law, not by local
14 “policies and practices.”

15 94. Responding to paragraph 94, the allegations state legal conclusions to which no response
16 is required.

17 95. Responding to paragraph 95, the Sheriff lacks information sufficient to form a belief as to
18 whether there are any known conflicts of interest among Class Members, and on that basis denies the
19 allegation; the remainder of the paragraph states a legal conclusion to which no response is required.

20 96. Responding to paragraph 96, as to the first sentence, the Sheriff admits that Plaintiffs are
21 represented by attorneys from Equal Justice Under Law, and otherwise lacks information sufficient to
22 form a belief as to the truth of the allegations and on that basis denies them. As to the last sentence,
23 the Sheriff admits that the contents of the previously filed motion for class certification speak for
24 themselves, and otherwise denies the allegations.

25 97. Responding to paragraph 97, the Sheriff lacks information sufficient to form a belief as to
26 the truth of the allegations, and on that basis denies them.

27 98. Responding to paragraph 98, the Sheriff lacks information sufficient to form a belief as to
28 the truth of the allegations, and on that basis denies them.

1 99. Responding to paragraph 99, as to the first sentence, the Sheriff lacks information
2 sufficient to form a belief as to the truth of the allegations, and on that basis denies them. The second
3 sentence states a legal conclusion to which no response is required.

4 100. Responding to paragraph 100, the first sentence states a legal conclusion as to which no
5 response is required. As to the second sentence, the Sheriff denies the allegations, except admits that
6 she enforces the state's bail laws insofar as she releases a person entitled to release on bail upon
7 payment of the applicable bail amount, and detains a person who does not pay the applicable bail
8 unless and until there is another legal basis or authorization for release.

9 101. Responding to paragraph 101, as to the first sentence, the Sheriff admits that the TAC
10 speaks for itself as to the nature of the relief sought; however, the claim against the City and County of
11 San Francisco has been dismissed. The second sentence states a legal conclusion to which no response
12 is required.

13 102. Responding to paragraph 102, the allegations state legal conclusions as to which no
14 response is required.

15 103. Responding to paragraph 103, the Sheriff admits that the TAC speaks for itself as to the
16 relief sought.

17 **Claims for Relief**

18 104. Responding to paragraph 104, the Sheriff incorporates by reference her responses to the
19 allegations in paragraphs 1-103.

20 105. Responding to paragraph 105, the allegations state legal conclusions to which no response
21 is required.

22 **Plaintiffs' Request for Relief**

23 Plaintiffs' requests for relief are not substantive factual allegations to which a response is
24 required.

25 Dated: November 1, 2016

26 DENNIS J. HERRERA
City Attorney

27 By: /s/ Jeremy M. Goldman
JEREMY M. GOLDMAN
Attorneys for Defendant