

1 [Administrative Code - DNA Testing in Sexual Assault Cases]

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3 **Ordinance implementing the California “Sexual Assault Victims’ Bill of Rights” by**
4 **amending the San Francisco Administrative Code to: (1) add Section 2A.89 to require**
5 **the Police Department to develop and implement procedures to collect and test DNA**
6 **samples in sexual assault cases and provide information and notices to victims,**
7 **require the Controller to evaluate DNA testing in sexual assault cases annually as part**
8 **of the budget process, and make it the policy of the City and County of San Francisco**
9 **to appropriate sufficient funds each fiscal year to ensure timely testing of DNA**
10 **evidence in sexual assault cases; and (2) add Section 10.100-172 to establish the**
11 **Police DNA Testing in Sexual Assault Cases Fund.**

12 Note: Additions are *single-underline italics Times New Roman*;
13 deletions are *strikethrough italics Times New Roman*.
14 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

15 Be it ordained by the People of the City and County of San Francisco:

16 Section 1. FINDINGS

17 (a) California Penal Code Section 680 establishes the “Sexual Assault Victims’ DNA
18 Bill of Rights,” which identifies the importance of testing deoxyribonucleic acid (DNA) evidence
19 from sexual assault crimes codified in Penal Code Sections 261, 261.5, 262, 286, 288a and
20 289. The Sexual Assault Victims’ DNA Bill of Rights also gives a sexual assault victim the
21 right to obtain specific information about his or her case, subject to the investigating law
22 enforcement agency having sufficient resources to respond to the request for information, and
23 requires the law enforcement agency to provide specified notices to the victim.

1 (b) Victims of sexual assaults have a strong interest in the investigation and
2 prosecution of their cases, which includes the prompt testing of DNA evidence from a “rape
3 kit” collected by a healthcare provider or from the crime scene.

4 (c) The California Department of Justice’s Cal-DNA database and the national
5 database through the Combined DNA Index System (CODIS) make it possible to identify
6 many sexual assault perpetrators after their first offense, provided that DNA evidence is
7 tested and uploaded into the databases in a timely fashion.

8 (d) Additional resources for the Police Department’s DNA Unit in the Crime Lab,
9 including funding for sufficient staff and advanced equipment, will assist the Department in
10 timely collecting, testing and uploading DNA evidence from sexual assault cases and improve
11 the ability to identify, arrest and prosecute perpetrators, thereby providing justice to victims
12 and protecting others from possible future assaults.

13
14 Section 2. The San Francisco Administrative Code is hereby amended by adding
15 Section 2A.89, to read as follows:

16 **SEC. 2A.89. IMPLEMENTING THE CALIFORNIA SEXUAL ASSAULT VICTIMS’ DNA BILL**
17 **OF RIGHTS.**

18 (a) By not later than March 1, 2011, the Chief of Police or designee shall develop and
19 implement procedures for collecting and testing deoxyribonucleic acid (DNA) evidence in sexual
20 assault cases, and providing information and notices to sexual assault victims as provided in the
21 California Sexual Assault Victims’ DNA Bill of Rights, California Penal Code §680. The procedures
22 shall include the following time goals: (1) collect a DNA “rape kit” from a healthcare provider within
23 not more than 72 hours of notification from a health provider; and (2) test DNA evidence obtained from
24 a healthcare provider within not more than fourteen days of receipt. The procedures shall also include
25 timeframes for testing any DNA evidence from the sexual assault crime scene. For purposes of this

1 Section, testing DNA evidence shall include conducting an examination of the DNA evidence,
2 developing a potential suspect profile, and uploading any profile obtained from the evidence to the
3 Combined DNA Index System (CODIS).

4 (b) Beginning February 1, 2011, and each February 1 thereafter, as part of the budget
5 process, the Controller shall review and evaluate the Police Department's DNA testing in sexual
6 assault cases to determine whether the Police Department has the personnel, equipment and other
7 resources necessary to collect and test DNA evidence within the time goals in Subsection (a). Based on
8 that review, the Controller shall calculate and provide to the Mayor and Board of Supervisors the
9 amount of funding the Police Department needs in the upcoming fiscal year to test DNA evidence
10 within the time goals in Subsection (a).

11 (c) It shall be the policy of the City and County of San Francisco to appropriate sufficient
12 funds each fiscal year for the Police Department to maintain the personnel and other resources
13 necessary to ensure timely collection and testing of DNA evidence in sexual assault cases.

14
15 Section 3. The San Francisco Administrative Code is hereby amended by adding
16 Section 2A.89, to read as follows:

17 **SEC. 10.100-172. POLICE DNA TESTING IN SEXUAL ASSAULT CASES FUND.**

18 (a) Establishment of Fund. The Police DNA Testing in Sexual Assault Cases Fund is hereby
19 established as a category eight fund for the purpose of receiving general fund amounts appropriated by
20 the Board of Supervisors, grant funds, gifts of money, and any other funds that may be offered to the
21 City and County of San Francisco through the Police Department for the uses and purposes described
22 in subsection (b).

23 (b) Use and Administration of the Fund. Money comprising the Police Department DNA
24 Testing in Sexual Assault Cases Fund shall be used and expended to provide personnel, equipment,
25 training and other resources needed to ensure timely collection and testing of deoxyribonucleic acid

1 (DNA) evidence in sexual assault cases, as provided in Administrative Code Section 2A.89. The Chief
2 of Police, or the Chief's designee, is authorized to administer the Police DNA Testing in Sexual Assault
3 Cases Fund and to determine expenditures from the fund for the uses and purposes described herein.

4 (c) Authority of Chief. The Chief of Police is authorized to accept all gifts to the Police
5 Department for the uses and purposes described in subsection (b), including but not limited to gifts of
6 money, equipment, property, supplies and services.

7
8 Section 4. Statement of General Welfare. In undertaking the enforcement of this
9 ordinance, the City is assuming an undertaking only to promote the general welfare. It is not
10 assuming, nor is it imposing on its officers or employees, an obligation for breach of which it is
11 liable in money damages to any person who claims that such breach proximately caused
12 injury.

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14 APPROVED AS TO FORM:
15 DENNIS J. HERRERA, City Attorney

16 By: _____
17 KATHARINE HOBIN PORTER
18 Deputy City Attorney

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