

File No. 101349

Committee Item No. 3

Board Item No. \_\_\_\_\_

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee PUBLIC SAFETY

Date 12/6/10

Board of Supervisors Meeting

Date \_\_\_\_\_

#### Cmte Board

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| <input type="checkbox"/>            | <input type="checkbox"/> | Motion                                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Resolution                                   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Ordinance                                    |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Budget Analyst Report                        |
| <input type="checkbox"/>            | <input type="checkbox"/> | Legislative Analyst Report                   |
| <input type="checkbox"/>            | <input type="checkbox"/> | Introduction Form (for hearings)             |
| <input type="checkbox"/>            | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/> | MOU  |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Subcontract Budget                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Application                                  |
| <input type="checkbox"/>            | <input type="checkbox"/> | Public Correspondence                        |

#### OTHER

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Completed by: Gail Johnson

Date 12/2/10

Completed by: \_\_\_\_\_

Date \_\_\_\_\_

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.



1 [Administrative Code - DNA Testing in Sexual Assault Cases]  
 2

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 Mayor to report on DNA collection and testing performance as part of the**  
 8 **budget submission, and make it the policy of the City and County of San Francisco to**  
 9 **appropriate sufficient funds each fiscal year to ensure timely testing of DNA evidence**  
 10 **in sexual assault cases; and (2) add Section 10.100-172 to establish the Police DNA**  
 11 **Testing in Sexual Assault Cases Account.**

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.  
 24  
 25

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 Section 680. The  
22 procedures shall include the following time goals: (1) collect a DNA "rape kit" from a healthcare  
23 provider within not more than 72 hours of notification from a health provider; and (2) test DNA  
24 evidence obtained from a healthcare provider within not more than fourteen days of receipt. The  
25 procedures shall also include timeframes for testing any DNA evidence from a sexual assault crime

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

4 (b) Accompanying the Mayor's budget submissions, for fiscal year 2011-2012 and  
5 continuing, the Mayor shall report on the performance of the Police Department in meeting the goals  
6 established by this Section.

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

10  
11 Section 3. The San Francisco Administrative Code is hereby amended by adding  
12 Section 2A.89, to read as follows:

13 **SEC. 10.100-172. POLICE DNA TESTING IN SEXUAL ASSAULT CASES ACCOUNT.**

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

19 (b) Use and Administration of the Account. Money comprising the Police Department DNA  
20 Testing in Sexual Assault Cases Account shall be used and expended to provide personnel, equipment,  
21 training and other resources needed to ensure timely collection and testing of deoxyribonucleic acid  
22 (DNA) evidence in sexual assault cases, as provided in Administrative Code Section 2A.89. The Chief  
23 of Police, or the Chief's designee, is authorized to administer the Police DNA Testing in Sexual Assault  
24 Cases Account and to determine expenditures from the account for the uses and purposes described  
25 herein.

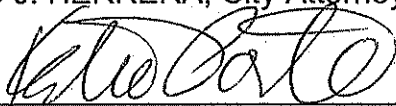
1           (c) Authority of Chief. The Chief of Police is authorized to accept all gifts and grants to the  
2 Police Department for the uses and purposes described in subsection (b), including but not limited to  
3 gifts of money, equipment, property, supplies and services. Gifts to the account are exempt from the  
4 provisions of Administrative Code Section 10.100-305. Grant funds for the purposes described in  
5 subsection (b) are exempt from the provisions of Administrative Code Section 10.170-1.

6           (d) If the Controller projects that the account will end the fiscal year with a surplus,  
7 excluding any restricted gift or grant funds, and if the Mayor's Office certifies that the Police  
8 Department has met the goals established by this Administrative Code Section 2A.89 during the  
9 preceding six months, the Mayor may authorize the Police Department to reprogram the surplus funds  
10 to use for other evidence collection or analysis requirements.

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

17  
18 APPROVED AS TO FORM:  
19 DENNIS J. HERRERA, City Attorney

20 By:

  
21 KATHARINE HOBIN PORTER  
22 Deputy City Attorney  
23  
24  
25

**LEGISLATIVE DIGEST**

[DNA Testing in Sexual Assault Cases]

**Ordinance implementing the California "Sexual Assault Victims' Bill of Rights" by amending the San Francisco Administrative Code to: (1) add Section 2A.89 to require the Police Department to develop and implement procedures to collect and test DNA samples in sexual assault cases and provide information and notices to victims, require the Mayor to report on DNA collection and testing performance as part of the budget submission, and make it the policy of the City and County of San Francisco to appropriate sufficient funds each fiscal year to ensure timely testing of DNA evidence in sexual assault cases; and (2) add Section 10.100-172 to establish the Police DNA Testing in Sexual Assault Cases Account.**

Existing Law

California Penal Code Section 680 establishes the "Sexual Assault Victims' DNA Bill of Rights," which identifies the importance of testing deoxyribonucleic acid (DNA) evidence from specified sexual assault crimes, gives a sexual assault victim the right to obtain specific information about his or her case subject to the investigating law enforcement agency having sufficient resources to respond to the request for information, and requires the law enforcement agency to provide specified notices to the victim. There is no local law implementing the California "Sexual Assault Victims' DNA Bill of Rights."

Amendments to Current Law

The proposed ordinance amends the San Francisco Administrative Code by adding Section 2A.89, to implement the California "Sexual Assault Victims' DNA Bill of Rights." Section 2A.89 would require that by not later than March 1, 2011, the Chief of Police establish procedures for collecting and testing DNA evidence and providing information and notice to sexual assault victims. The procedures must include a goal of collecting a DNA "rape kit" from a healthcare provider within not more than 72 hours of notification and testing DNA evidence obtained from a healthcare provider within not more than 14 days of receipt. Section 2A.89 of the proposed ordinance would also require the Mayor to report on the performance of the Police Department in meeting the collection and testing goals in the annual budget submission, beginning Fiscal Year 2011-2012 and continuing. Finally, Section 2A.89 would make it City and County policy to appropriate sufficient funds each fiscal year for the Police Department to maintain the personnel and other resources needed to ensure timely collection and testing of DNA evidence in sexual assault cases.

The proposed ordinance would also amend the San Francisco Administrative Code by adding Section 10.100-172, to establish the Police DNA Testing in Sexual Assault Cases Account as

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a category six account, to receive funds for personnel, equipment, training and other resources needed to ensure timely collection and testing of DNA evidence in sexual assault cases, as provided in Administrative Code Section 2A.89. Section 10.100-172 would authorize the Chief of Police to accept all gifts and grants to the Police Department to ensure timely collection and testing of DNA evidence in sexual assault cases.