

BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

## MEMORANDUM

### PUBLIC SAFETY COMMITTEE

#### SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor David Chiu, Chair  
Public Safety Committee

FROM: Gail Johnson, Committee Clerk

DATE: December 7, 2010

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**  
Tuesday, December 7, 2010

The following files should be presented as a **COMMITTEE REPORT** at today's Board meeting. These items were acted upon at the Committee Meeting on Monday, December 6, 2010, at 10:00 a.m., by the votes indicated.

Item No. 49            File No. 101190

Ordinance adding Article 15.7 to the San Francisco Police Code, requiring event promoters to register with the Entertainment Commission; prohibiting holders of certain entertainment-related permits, and registered promoters, from retaining an unregistered promoter to hold an event; and authorizing under certain circumstances for certain promoters reporting requirements, increased security plan requirements for events they promote, general liability insurance requirements, a criminal background check requirement, and other requirements.

#### RECOMMENDED AS A COMMITTEE REPORT

Vote:            Chiu:            Aye  
                    Mirkarimi:    Excused  
                    Elsbernd:     Aye

Item No. 50

File No. 101349

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 Police Department 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.

RECOMMENDED AS AMENDED AS A COMMITTEE REPORT

Vote:	Chiu:	Aye
	Mirkarimi:	Excused
	Elsbernd:	Aye

Item No. 51

File No. 101443

Ordinance authorizing the San Francisco Police Department, on behalf of the City and County of San Francisco, to retroactively accept and expend grant funds in the amount of \$424,107 from the United States Department of Justice/National Institute of Justice "Solving Cold Cases with DNA" Grant Program; and amending Ordinance No. 191-10 (Annual Salary Ordinance, FY2010-2011) to reflect the addition of three (3) part-time positions (1.50 FTE total) in job classification Q4 Police Officer III in the San Francisco Police Department.

RECOMMENDED AS A COMMITTEE REPORT

Vote:	Chiu:	Aye
	Mirkarimi:	Excused
	Elsbernd:	Aye

cc: Board of Supervisors  
Angela Calvillo, Clerk of the Board  
Rick Caldeira, Deputy Director  
Cheryl Adams, Deputy City Attorney

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 ~~Mayer~~ Police Department to report on DNA collection and testing**  
8 **performance as part of the budget submission, and make it the policy of the City and**  
9 **County of San Francisco to appropriate sufficient funds each fiscal year to ensure**  
10 **timely testing of DNA evidence in sexual assault cases; and (2) add Section 10.100-172**  
11 **to establish the Police DNA 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.  
15 Board amendment deletions are ~~strikethrough-normal~~.

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

17 Section 1. FINDINGS

18 (a) California Penal Code Section 680 establishes the “Sexual Assault Victims’ DNA  
19 Bill of Rights,” which identifies the importance of testing deoxyribonucleic acid (DNA) evidence  
20 from sexual assault crimes codified in Penal Code Sections 261, 261.5, 262, 286, 288a and  
21 289. The Sexual Assault Victims’ DNA Bill of Rights also gives a sexual assault victim the  
22 right to obtain specific information about his or her case, subject to the investigating law  
23 enforcement agency having sufficient resources to respond to the request for information, and  
24 requires the law enforcement agency to provide specified notices to the victim.  
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 Police Department shall report on the its performance of the Police  
6 Department in meeting the goals 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**  
**(Amended December 6, 2010)**

[Administrative Code - 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 Police Department 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

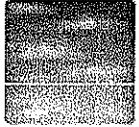
California Penal Code Section 680 establishes the “Sexual Assault Victims’ DNA Bill of Rights,” which identifies the importance of testing deoxyribonucleic acid (DNA) evidence from specified sexual assault crimes, gives a sexual assault victim the right to obtain specific information about his or her 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 Police Department to report on its performance 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 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.





To: BOS Constituent Mail Distribution,  
Cc:  
Bcc:  
Subject: File 101349: DOSW: SUPPORT for Accountability in DNA Testing in Sexual Assault Cases (#50-101349)

From: Emily Murase/DOSW/SFGOV  
To: BOS-Supervisors/BOS/SFGOV  
Cc: BOS-Legislative Aides/BOS/SFGOV, Angela Calvillo/BOS/SFGOV@SFGOV  
Date: 12/03/2010 04:38 PM  
Subject: DOSW: SUPPORT for Accountability in DNA Testing in Sexual Assault Cases (#50-101349)

To the Board of Supervisors,

On behalf of the San Francisco Department on the Status of Women, I urge you to support Supervisor Alioto-Pier's proposal to amend the San Francisco Administrative Code to add Section 2A.89 and Section 10.100-172. These codes would put into practice the "Sexual Assault Victims' 'Bill of Rights'" and increase convictions of perpetrators of sexual assault.

As you know, in 1998, San Francisco became the first municipality in the world to enact a local ordinance reflecting the principles of the UN Convention on the Elimination of All Forms of Discrimination Against Women. The CEDAW Ordinance states, "The City shall take and diligently pursue all appropriate measures to prevent and redress sexual and domestic violence against women and girls."-Administrative Code 12K.3 (b)(1).

Sexual assault victims deserve systematic DNA collection and testing. These must be adequately funded. With these proposed measures in place, San Francisco will be held accountable for timely testing of DNA evidence in commonly under-prosecuted sexual assault cases. According to The Rape, Abuse and Incest National Network, Only 6% of sexual assailants will ever spend a day in jail. This is a mere fraction of the cases that exist, as 1 in 6 women are sexually assaulted in their lives. Consider that presently within San Francisco, over 100,000 women could be positively affected by this amendment to the code.

In October, San Francisco was selected to receive the prestigious Americas Award for Gender Equity by the United Nations, Organization of American States, and the Jimmy Carter Center. The proposed legislation would establish a farsighted policy that further distinguishes San Francisco as a model city for gender equity. I urge your support.

Sincerely,

Emily M. Murase,

\*\*\*\*\*  
Emily Moto Murase, Ph.D.  
Executive Director  
Department on the Status of Women  
City and County of San Francisco  
25 Van Ness Avenue, Suite 130  
San Francisco, CA 94102

[www.sfgov.org/dosw](http://www.sfgov.org/dosw)

W 415.252.2571

F 415.252.2575

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\*Please note that due to the high volume of e-mail I receive, your correspondence may be viewed by others, including my assistant Cynthia Vasquez. I generally check e-mail once a day. If you require an immediate response, please call Cynthia at 415.252.3206 and she will know how to get a hold of me. Thank you for your patience.