



Contra
Costa
County

To: Board of Supervisors
From: Mark Peterson, District Attorney
Date: January 18, 2011

Subject: Resolution requiring HIV testing of individuals charged with sexual assault crimes within 48 hours

RECOMMENDATION(S):

ADOPT Resolution No. 2011/27 requiring HIV (human immunodeficiency virus) testing of individuals charged with sexual assault crimes no later than 48 hours after the filing of the Information or Indictment.

FISCAL IMPACT:

No fiscal impact.

BACKGROUND:

The County of Contra Costa is the recipient of a grant in the amount of \$4,227,924 from the U.S. Department of Justice's (DOJ) Community Defined Solutions to Violence Against Women (formerly Grants to Encourage Arrest) grant program. The program is designed to strengthen law enforcement and prosecution of cases involving domestic violence, sexual assault, dating violence or stalking.

One of the grant conditions states that 5% of the grant will be withheld unless the County certifies that it has a law or regulation that requires: (1) the local government at the request of a victim to administer to a defendant, against whom an information or indictment is

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **01/18/2011** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Karen Mitchoff, District IV Supervisor
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: January 18, 2011

, County Administrator and Clerk of the Board of Supervisors

Contact: DEVORAH LEVINE
(925) 313-1524

By: June McHuen, Deputy

presented for a crime which, by force

BACKGROUND: (CONT'D)

or threat of force, the perpetrator compels the victim to engage in sexual activity, testing for the immunodeficiency virus (HIV) not later than 48 hours after the date on which the information or indictment is presented; (2) as soon as practicable notification to the victim, or parent and guardian of the victim, and defendant of the testing results; and (3) follow-up tests for HIV as may be medically appropriate, and that as soon as practicable after each such test the results be made available.

Courts are statutorily authorized to issue search warrants, at the request of the victim, to test the blood of an accused person who has been charged with force or threat of force to engage in sexual activity (California Penal Code Section 1524.1). However, the statute does not specify when the testing must be completed.

CONSEQUENCE OF NEGATIVE ACTION:

If the resolution is not adopted, the County, as grantee, would forfeit 5% of the grant funding described above (\$171,396) – funds which are passed through the County to support the Community Defined Solutions to Violence Against Women Program. The amount that would be forfeited is based on \$50,000 for the most recently awarded grant, plus an additional \$121,396 based on DOJ's retroactive application of the requirement to two previous grant cycles.

CHILDREN'S IMPACT STATEMENT:

No Impact.

ATTACHMENTS

Resolution No. 2011/27