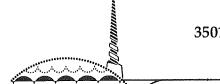
COUNTY OF MARIN OFFICE OF THE ADMINISTRATOR



3501 CIVIC CENTER DRIVE, SUITE 325, SAN RAFAEL, CA 94903

415/499-6358 - FAX 415/507-4104

Matthew H. Hymel County Administrator

November 30, 2010

Board of Supervisors County of Marin San Rafael, CA 94903

Re: Administrative Regulation No. 1.24 Regarding HIV Testing of Pre-Convicted Criminal

Defendants

RECOMMENDATION:

It is recommended that your Board:

 Review and Approve the HIV Testing of Criminal Defendants Administrative Regulation No. 1.24, to become effective January 1, 2011

SUMMARY:

The United States Department of Justice's (DOJ) grant program, through its Office on Violence Against Women, requires a special condition upon grantees wherein grantees must perform HIV testing on a criminal defendant (who is accused of a specific sexual assault type crime) within 48 hours of the filing of a criminal information where the victim requests such testing. Until recently, the DOJ accepted as sufficient compliance with the grant program a letter from grantees certifying the 48-hour testing practice.

The County of Marin is a grant recipient in the DOJ program described above. The County is the grantee and fiscal agent for the Marin County Community Change Program to End Domestic Violence Project managed by Marin Abused Women's Services (MAWS). The County has been in compliance with the DOJ grant program by its practice of performing the HIV testing pursuant to the grant requirements and then certifying the practice by letter to the DOJ.

DOJ now requires that grant recipients perform the testing pursuant to a mandatory obligation either through state or local law or regulation. California law permits the HIV testing of preconvicted criminal defendants where the criminal defendant is accused of specific sex related crimes against a victim; however, there is no time requirement for such testing. Thus, the State has not addressed the 48-hour requirement. In order to be in compliance with special conditions of the grant program, the County should enact an administrative regulation to require the 48-hour testing limits where the victim requests such testing. Otherwise, the County will forfeit its right to a portion of the grant proceeds.

Stake holding agencies, including MAWS, the County Sheriff, County District Attorney and County Department of Health & Human Services have been consulted and agree with the proposed new Administrative Regulation.

FISCAL IMPACT:

If the Administrative Regulation were not adopted, the County as grantee would forfeit 5% of the grant funding described above - funds which are passed through MAWS to support the Marin County Community Change Program to End Domestic Violence Project. The amount which would be forfeited currently stands at \$60,000; this consists of \$20,000 for the most recently awarded grant, plus an additional \$40,000 based on DOJ's retroactive application of the requirement to the previous two grant cycles.

	[]	Auditor-Controller	[X]	N/A
REVIEWED BY:	[X]	County Counsel	[]	N/A
	[]	Human Resources	[X]	N/A

Respectfully submitted,

Matthew H. Hymel

COUNTY ADMINISTRATOR