

Use of Intoxicants or Drugs by Sworn Department Members

2.03.01 PURPOSE

The San Francisco Police Department

2.03

~~GENERAL ORDER~~

07/20/94

~~DRUG USE BY MEMBERS~~

~~This order outlines the policies and procedures regarding the use of prescription and illegal drugs by members, including definitions, testing, and investigative procedures.~~

~~I. POLICY~~

~~A. STATEMENT. Police officers hold a trust from the public. As part of that trust, police officers are empowered to use lethal force without recourse to other than their immediate judgment. This power demands that those who hold it should at all times be in complete physical and mental control. Furthermore, police officers are empowered to deprive other citizens of their freedom when they violate the law. Because they have this power, the public expects, and rightly so, that police officers live up to the highest standards of conduct they enforce among the public generally.~~

~~There is sufficient evidence to conclude that the use of illegal drugs, drug dependence, and drug abuse seriously impairs an employee's performance and general physical and mental health.~~

~~The Department could be held liable stands for not taking the appropriate steps to ensure that all its members can perform their duties without endangering themselves or the public they serve. The illegal possession or use of drugs is a crime and as such will not be tolerated.~~

~~The United States Government requires agencies receiving public funding to establish policies to promote a drug free work place. The Drug Free Workplace Act requires that employees be notified of the illegality of the manufacture, distribution, dispensing, possessing, or use of a controlled substance in the workplace and that such activities shall result in discipline.~~

~~B. DEFINITIONS~~

~~1. MEMBER: All sworn officers and all non-sworn employees Safety with Respect for all. It is the San Francisco Police Department's policy to maintain the highest level of professional conduct and to ensure that members of the San Francisco Police Department to the extent permitted by law.~~

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- ~~2. SUPERVISORY OFFICER: A member assigned to supervise members and is responsible for the performance of those members.~~
- ~~3. USE (AS USED IN THIS ORDER IN REFERENCE TO A DRUG): The ingestion or consumption of any drug, whether prescription or non-prescription or any controlled substance defined under the California Uniform Controlled Substance Act of the Health and Safety Code of the State of California, Sections 11000 to 11651, inclusive.~~
- ~~4. UNDER THE INFLUENCE OF A DRUG/IMPAIRMENT: When a member is unable to perform his/her duties because of the ingestion or consumption of any drug, whether prescription or non-prescription, or any controlled substance. A member shall be deemed to be performing their duties, providing services to the public, and enforcing the laws in a fair, impartial, and ethical manner. Police officers hold a position of trust with the public. Therefore, it is essential that officers be in complete mental and physical control while performing their duties. Being under the influence or impaired when the member is unable to perform his/her duties in a calm, efficient and deliberate manner.~~
- ~~5. DRUG TEST: A urinalysis or blood test administered under approved conditions and procedures to detect drugs.~~
- ~~6. REASONABLE SUSPICION: An apparent state of facts and/or circumstances which would induce a reasonable and prudent person to believe that a member is or was using, in possession of, or under the influence of drugs/narcotics.~~

C. ILLEGAL DRUGS

- ~~1. POSSESSION/USE. It is the policy of the San Francisco Police Department that members (both sworn officers and non-sworn employees) shall not illegally possess or use any drug or controlled substance identified under Sections 11053 to 11058 inclusive of the Health and Safety Code. Narcotic evidence obtained in the course of police duties and processed according to Department of drugs and consuming drugs as defined in this policy and procedures is not subject to this policy. while on duty will not be tolerated.~~
- ~~2. RECOMMENDATIONS OF PUNISHMENT
 - ~~a. It is the policy of the Chief of Police to recommend that any member found to have been in illegal possession of any drug or controlled substance as defined under the California Uniform Controlled Substance Act, whether on duty or off duty, shall be severely disciplined and may be terminated.~~~~

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- ~~b. Members who test positive for illegal drug use (see test guidelines) shall be severely disciplined and may be terminated.~~
- ~~e. A member who tests between 20 and 50 ng/ml for marijuana and between 50 and 150. ng/ml for cocaine (see test guidelines) shall either:
 - ~~• Be ordered by the Chief of Police to participate in a 2 year program of mandatory unscheduled drug tests, or~~
 - ~~• Be recommended for appropriate discipline, which may include termination.~~~~
- ~~d. Any member who refuses to take a test after a valid order to do so shall be recommended for termination.~~

~~D. PRESCRIPTION/NON-PRESCRIPTION DRUGS~~

- ~~1. POSSESSION/USE. Members shall not possess or use any **controlled** substance defined under the California Uniform Controlled Substance Act at any time, whether on or off duty, unless prescribed by a physician.~~
- ~~2. IMPAIRMENT. When drugs are prescribed, members are required to ask the prescribing physician or other authorized health practitioner whether the drug will impair them in the performance of their duties. If the prescribing practitioner indicates that the drug may impair performance of duties, the member shall inform his/her supervisor immediately upon reporting for duty.~~
- ~~3. NOTIFYING SUPERVISOR. This order outlines Department policy and procedures regarding the use of intoxicants, illegal drugs or narcotics by members, including definitions, testing and investigative procedures. The San Francisco Police Department strives to achieve a safe and healthy workforce and a workplace free from the influence of drugs.~~

2.03.02 DEFINITIONS

- A. Drug – illegal drugs, prescription drugs or any other substance which could impair a member’s ability to safely and effectively perform the functions of the particular job.
- B. Impairment - Consumption of an intoxicant, drug, medicine or other substance that results in the member’s mental and/or physical state of being altered in a way that may diminish their ability to safely and effectively perform the duties of a sworn officer.

C. **Influence** – Ingestion, use, or presence of drugs in the body system.

D. **Member** - Any sworn officer of the San Francisco Police Department.

E. **On Duty** - A member is considered on duty during any scheduled paid work hours including details to events, conferences, seminars, meetings, training, while on “standby” pay status and during any voluntary or mandatory overtime assignments.

F. **Reasonable Suspicion** – A belief based on objective and articulable facts sufficient to lead a supervisor to suspect that a member is under the influence of drugs or alcohol, such that the member’s ability to perform the functions of the job safely and effectively is impaired or reduced.

1. Examples of situations in which there may be reasonable suspicion include but are not limited to:

a. A pattern of documented abnormal or erratic behavior;

- b. The direct observation of drug or alcohol use while on duty; or a report by a reliable and credible source that a member has engaged in drug or alcohol use while on duty, the identity of which source shall be available to the member and the Union, unless the source is a victim who is eligible for confidentiality. (See Gov § 6254).
- c. Symptoms of drug or alcohol use (e.g., glassy or bloodshot eyes, alcohol odor on breath, slurred speech, poor coordination and/or reflexes, etc.); or
- d. A work-related incident in conjunction with other facts which together support reasonable cause.

2.03.03 POLICY

- A. Members shall not use any drug while on duty as defined in this policy.
- B. Members shall not be under the influence of any drug while on duty.
- C. Members shall not store or bring into any Department vehicle or facility controlled substances, except in the performance of police duties.

Members shall notify a supervisor immediately if they observe behavior or have reasonable suspicion that any member using legal over the counter non-prescription drugs, or prescription drugs, who feels in any way impaired shall advise his/her supervisor of such impairment.

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~~4.—REASSIGNMENT OF MEMBER. When informed that a member is taking a prescription drug or an over the counter non-prescription drug that may impair the performance of the member's duties, the supervisor shall not assign the member to those duties. Instead, the supervisor shall assign in the member other suitable duties when available. If other suitable duties are not available, the supervisor shall relieve the member of duty and place him/her on sick leave or disability leave as appropriate. The supervisor may consult with the police physician regarding the effects of a particular drug in making the determination.~~

~~5.—RECOMMENDATION OF PUNISHMENT. It shall be the policy of the Chief of Police to recommend that any member found to be under the influence of a legally obtained prescription drug while on duty and in violation of this order, be suspended without pay for up to 3 months for the first offense, and may be terminated for a second offense. A member in violation of this order involving the use of legally prescribed or over the counter drugs may request or be referred to a diversion program.~~

~~A.D. E.—MEMBERS' DUTY TO REPORT. Members who have reasonable suspicion to believe that another member workplace is illegally possessing or using drugs, ~~or is under~~ the influence of any drug ~~—whether legal or illegal—shall report~~ as defined in this policy, such ~~fact~~ that the member's ability to their supervisors immediately. Failure to so report shall result in discipline. (Refer to DGO 11.09, Employee Assistance Program/Stress Unit perform the functions of the job safely and DGO 11.04, Peer Support Program for policies regarding confidentiality.) effectively is impaired or reduced.~~

~~F.—DRUG TESTS~~

~~1.—REQUIREMENT. Members are required to immediately submit to a drug test when ordered by the Chief of Police or a Management Control Division investigator. Management Control Division investigators shall complete the Department of justice 11550 H&S drug influence course for the recognition and detection of drug use prior to carrying out any provision of this order.~~

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- ~~2. WHEN A TEST MAY BE ADMINISTERED. A supervisor may request a drug test be administered by the Management Control Division when there is reasonable suspicion to believe that a member has recently used or is under the influence of any drug. The decision to test will be that of the Chief of Police or the Management Control Division investigator. When any of the following facts are present during an investigation, a drug test (urine or blood) shall be ordered:
 - ~~Member admits to the use of drugs.~~
 - ~~Member's body shows evidence of drug use (e.g., track marks).~~
 - ~~Member is found to be in unlawful possession of any drug, or in close open proximity of a suspected illegal drug.~~
 - ~~Member appears to be under the influence of a drug.~~~~
- ~~3. ORDERED TEST: The Chief of Police or any deputy chief may also order a drug test when a Management Control Division's preliminary investigation reveals reasonable suspicion to believe a member is currently using or possessing illegal drugs, or is under the influence of any drug. The Chief of Police or the Deputy Chief shall carefully examine and analyze the facts and ensure that the reasonable suspicion is based on specific, objective and articulable facts, and that evidence is sufficiently reliable.~~
- ~~4. EVIDENCE. After complying with the order to provide the sample, the member shall be allowed the opportunity to explain or disprove any circumstantial evidence or inferences. If any new evidence refuting the reasonable suspicion is discovered, the Chief of Police or Deputy Chief may, or in his/her sole discretion, decide not to test the specimen and may destroy it; the member shall be notified of that fact in writing.~~
- ~~5. REFUSAL. Any member who refuses to take a required test will be immediately relieved of duty and administrative proceedings will be instituted.~~

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~~6. TYPES OF TESTS~~

- ~~a. BLOOD SAMPLES. Blood samples will be taken only after a drug detection test is administered and the investigator deems the member to be under the influence of a drug. Blood samples must be obtained by medical personnel under normal hygienic conditions.~~
- ~~b. URINE SAMPLES. Urine samples must be collected at a site with restroom facilities that are clean, well-lighted and sufficiently secure to prevent compromise during the collection process. Collection of the sample must also be supervised by testing personnel of the same sex as the member under investigation to assure forensic reliability. To the extent reasonably possible, the procedure must not demean, embarrass, or cause discomfort to the member.~~

~~G. SCIENTIFIC AND TECHNICAL GUIDELINES FOR LABORATORY TESTING
(CUTOFF LEVELS)~~

- ~~1. INITIAL TEST. Initial testing shall use an immunoassay which meets the requirements of the Food and Drug Administration for commercial distribution. The following initial cutoff levels shall be used when screening specimens to determine negative or positive results for these five drugs or classes of drugs:~~

	ng/ml
Marijuana metabolites	100
Cocaine metabolites	300
Opiates	300
Phencyclidine	25
Amphetamines	1000

- ~~2. CONFIRMATORY TEST. All specimens identified as positive on the initial test shall be confirmed using gas chromatography/mass spectrometry (GC/MS) techniques. Quantitative GC/MS confirmation procedures at the following cutoff values shall be used for the following drugs:~~

	nng/ml
Marijuana metabolites	20
Cocaine metabolites	50
Opiates	300
Phencyclidine	25
Amphetamines	300

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~~Results below these cutoff values shall be considered negative. Results above these cutoff values shall be considered positive evidence that a member has used illegal drugs, except that tests for marijuana and cocaine shall be handled as set forth below.~~

- ~~3. GS/MS TEST RESULTS FOR MARIJUANA AND COCAINE. Test results for marijuana between 20 and 50 ng/ml, and test results for cocaine between 50 and 150 ng/ml shall be considered along with other evidence to ascertain whether or not a member has used illegal drugs. Results over 50 ng/ml for marijuana, and over 150 ng/ml for cocaine shall be considered positive evidence that a member has used illegal drugs.~~
- ~~4. LIMITATIONS. Laboratory testing is not necessarily limited to the substances listed above. Values of other substances not stated in this order will be determined on accepted medical and legal literature.~~

~~H. REPORT AND INVESTIGATION RESPONSIBILITIES~~

- ~~E. 1. — The responsibility for immediately investigating and reporting suspected cases of drug use by members in violation of this order rests with Any prescription drug that could cause impairment to perform essential job functions shall be reported to Medical Liaison.~~

2.03.04 PROCEDURES

Reporting and Investigative Responsibilities - The commanding officer ~~or~~ of the member's unit, or if not immediately available, the senior ~~ranking officer~~ supervisor on duty at the time of the report.

- ~~A. 2. — If~~ of a member under the influence of an intoxicant or illegal drug use shall be responsible for directing the preliminary investigation. If the member to be investigated ~~is assigned~~ was detailed or loaned to another unit, the commanding officer, or the senior ~~ranking officer~~ supervisor on duty at that unit shall ~~assume~~ be responsible for directing the ~~responsibilities of the~~ preliminary investigation.

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II. PROCEDURES

A. INVESTIGATIVE

~~1. DUTIES OF THE COMMANDING OFFICER/SENIOR RANKING OFFICER. When informed by any means that a member may be in violation of the provisions of this order, supervisors shall:~~

~~a. Assure that the Management Control Division is immediately notified. If the Management Control Division is closed, notify the Operations Center, which will contact the on-call MCD investigator.~~

~~b. Prepare a written confidential report of the circumstances, including any notifications, and have it hand-carried to the Chief of Police.~~

~~e. That EAP or Stress Unit be notified towards the conclusion of the investigation and testing procedure if warranted, so that members have timely access for support and resources.~~

~~2. DUTIES OF THE MCD INVESTIGATOR. The MCD investigator shall:~~

~~a. If there is Supervisors shall comply with DGO 2.08 regarding Peace Officers' Rights.~~

B. Drug Tests – When reasonable suspicion ~~to believe exists~~ that a member ~~has consumed illegal drugs and~~ is under the influence, ~~order~~ of drugs, the member ~~to~~ shall immediately submit to testing when ordered by a supervisor.

~~an immediate blood or urine analysis as appropriate to the case.~~

~~b. Afford the member his/her rights as defined by law or employee contractual agreement.~~

~~e.~~

C. Investigative Duties and Responsibilities of the Investigating Supervisor

1. On-Duty Member - If ~~the~~ a member is ~~determined~~ on duty and is reasonably believed to be unfit to perform his/her duties according to the terms of this order, the MCD investigator ~~impaired~~, the investigating officer shall, ~~in addition to other procedures:~~

~~a. •~~ Immediately relieve the member from duty.

~~•~~ Relieve the member of ~~his/her Department issued firearm, star and identification card.~~

- ~~• Not permit the member to drive a vehicle.~~
- b. ~~d. — If the member is off duty and carrying a firearm while under the influence of any drug, the MCD investigator shall, in addition to other procedures:~~firearms.
- c. ~~• — Relieve~~Notify the member's commanding officer, who shall notify the members Bureau Chief. Notify the Internal Affairs Division (IAD).
- ~~e. d. Inform the member of the firearm, star and identification card, their peace officer rights in disciplinary investigations.~~

- ~~• Submit Order the member to submit to a written report describing the member's conduct.~~

~~d.e.e. — When a violation is found by someone other than the member's supervisor, an investigation will be conducted to determine whether the member's supervisor knew the member was violating the provision the presence of this order and failed to take appropriate action. Negligence, failure to take action, intoxicants or coverups, will subject supervisory personnel involved to disciplinary action. drugs.~~

~~B. TESTING. The Management Control Division investigator shall adhere to the following testing procedures:~~

- ~~1. IDENTIFICATION. Positively identify Order the member and advise him/her of the cause for ordering the test.~~

~~f. 2. — INTERVIEWS. Prior to submit a handwritten statement, as a response to the test, do allegations.~~

~~e.g. Not allow the member to be interviewed by anyone other than MCD personnel. drive a vehicle.~~

- ~~3. TESTS. Order a blood or urine test as appropriate.~~

- ~~4. HANDLING OF SPECIMENS. Once a specimen has been collected, the container shall be sealed and labeled by the person witnessing the collection. Samples shall be personally delivered to a laboratory by the MCD investigator handling the case.~~

~~h. 5. — DOCUMENTATION. Document the collection and processing Take reasonable steps to prevent the member from leaving the police facility once the investigation has been initiated.~~

~~i. Investigate and determine whether any of the samples member's supervisors may have been negligent by failing to establish procedural integrity take appropriate action.~~

~~j. Prepare a supervisor's investigative report and submit it along with any statements, test record, etc., to the commanding officer of the Risk~~

Management Office (RMO) in a sealed envelope clearly marked “confidential” by the end of your tour of duty.

- k. The investigating officer shall make a notification to the Behavioral Science Unit (BSU) and ensure refer the member to BSU for appropriate Employee Assistance Program (EAP) resources.

2. Off-Duty Member - If a member is off-duty, carrying a firearm or driving a Department vehicle, and is reasonably believed to be impaired, the investigating officer shall:

- a. Notify the member’s Commanding Officer, who shall notify the member’s Bureau Chief.
- b. Relieve the member of any firearms.
- c. Order the member to submit to a test to determine the presence of intoxicants or drugs.
- d. Notify IAD.
- e. Prepare a memorandum with any supportive documentation and submit it to the commanding officer of the RMO in a sealed envelope clearly marked “confidential”.
- f. The investigating officer shall make a notification to the (BSU) and refer the member to BSU for appropriate EAP resources.

D. Investigative Report - The investigative report must contain the following information:

1. The accused member’s name, rank and assignment.
2. The time the commanding officer or senior-ranking supervisor of another unit was notified (if applicable).
3. Reason the member’s conduct was brought to the Investigating Supervisor’s attention, and the basis for the belief that the ~~chain of evidence is not broken~~ member was using illegal drugs or was impaired.
4. Witness and victim’s statements.
5. Actions taken including all notifications.

References

DGO 1.06, Duties of Superior Officers
DGO 2.02, Alcohol Use by Members
DGO 11.04, Peer Support 11 Intervention and Resource Program
DGO 11.09, Employee Assistance Program/Stress Unit
DGO 11.04 Peer Support Program
DGO 2.08 Peace Officers’ Rights
DGO 2.07 Discipline Process For Sworn Officers 9
DGO 2.03 Drugs Use by Members

DGO 1.06 Duties of Superior Officers
Disciplinary Penalty & Referral Guidelines