

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 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 of the San Francisco Police Department to the extent permitted by law.

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 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 policy and procedures is not subject to this policy.
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.

- b. **Members who test positive for illegal drug use (see test guidelines) shall be severely disciplined and may be terminated.**
- c. **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.** 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.

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 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.

E. MEMBERS' DUTY TO REPORT. Members who have reasonable suspicion to believe that another member is illegally possessing or using drugs, or is under the influence of any drug - whether legal or illegal - shall report such fact to their supervisors immediately. Failure to so report shall result in discipline. (Refer to DGO 11.09, Employee Assistance Program/Stress Unit and DGO 11.04, Peer Support Program for policies regarding confidentiality.)

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.

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.

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:

	<u>ng/ml</u>
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:

	<u>ng/ml</u>
Marijuana metabolites	20
Cocaine metabolites	50
Opiates	300
Phencyclidine	25
Amphetamines	300

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

1. The responsibility for immediately investigating and reporting suspected cases of drug use by members in violation of this order rests with the commanding officer or, if not immediately available, the senior-ranking officer on duty at the time of the report.
2. If the member to be investigated is assigned to another unit, the commanding officer or the senior-ranking officer on duty at that unit shall assume the responsibilities of the investigation.

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.
2. **DUTIES OF THE MCD INVESTIGATOR.** The MCD investigator shall:
 - a. If there is reasonable suspicion to believe that a member has consumed illegal drugs and is under the influence, order the member to submit to 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.
 - c. If the member is determined to be unfit to perform his/her duties according to the terms of this order, the MCD investigator shall, in addition to other procedures:
 - 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.
 - 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:
 - Relieve the member of the firearm, star and identification card.

- Submit a written report describing the member's conduct.
 - 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 provisions of this order and failed to take appropriate action. Negligence, failure to take action, or coverups, will subject supervisory personnel involved to disciplinary action.
- B. TESTING.** The Management Control Division investigator shall adhere to the following testing procedures:
1. **IDENTIFICATION.** Positively identify the member and advise him/her of the cause for ordering the test.
 2. **INTERVIEWS.** Prior to the test, do not allow the member to be interviewed by anyone other than MCD personnel.
 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.
 5. **DOCUMENTATION.** Document the collection and processing of the samples to establish procedural integrity and ensure that the chain of evidence is not broken.

References

DGO 1.06, Duties of Superior Officers
DGO 2.02, Alcohol Use by Members
DGO 11.04, Peer Support Program
DGO 11.09, Employee Assistance Program/Stress Unit