

# CULVER CITY POLICE

## GENERAL ORDER

**January 22, 2024**

**2024-02**

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**TO: ALL SWORN PERSONNEL**  
**FROM: THE OFFICE OF THE CHIEF OF POLICE**  
**SUBJECT: LEGISLATIVE AND POLICY UPDATE**  
**ASSEMBLY BILL 2188**

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**To All Personnel:**

As a follow up to information recently sent to department personnel, please find the changes and updates to the following policies below.

**Purpose:**

This General Order was created to notify all department members of the changes to the Department's Lexipol Policies due to Assembly Bill 2188: Off-Duty Law Enforcement Actions (344.3), Vehicle Use (703.3.8), and Drug-and Alcohol-Free Workplace (1004.3.2).

**Policy changes:**

Please review the attached Lexipol Policy sections (changes reflected in red):

- Off-Duty Law Enforcement Actions (344.3)
- Vehicle Use (703.3.8)
- Drug-and Alcohol-Free Workplace (1004.3.2)

Please also review the City of Culver City Council Policy Statement regarding a drug-free workplace and drugs/alcohol in the workplace.

If you have any questions, please direct them to your immediate supervisor.

*Troy Dunlap*

Assistant Chief of Police

**Policy: Off-Duty Law Enforcement Actions (344)**

**Update (changes reflected in red)**

**Firearms (344.3)**

Officers of this department may carry firearms while off-duty in accordance with federal regulations and department policy. All firearms and ammunition must meet guidelines as described in the department Firearms Policy. When carrying firearms while off-duty officers shall also carry their department-issued identification.

Officers should refrain from carrying firearms when consumption of alcohol or marijuana is likely or when the need to carry a firearm is outweighed by safety considerations. Firearms shall not be carried by any officer who has consumed an amount of an alcoholic beverage or taken any drugs or medications or any combination thereof that would tend to adversely affect the officer's senses or judgment.

**Policy: Vehicle Use (703)**

**Update (change reflected in red)**

Alcohol or **Drugs** (703.3.8)

Members who have consumed alcohol or marijuana are prohibited from operating any department vehicle unless it is required by the duty assignment (e.g., task force, undercover work). Regardless of assignment, members may not violate state law regarding vehicle operation while intoxicated.

**Policy: Drug- and Alcohol-Free Workplace (1004)**

**Update (change reflected in red)**

1004.3.2 MEDICAL **OR RECREATIONAL** CANNABIS

Possession, use, or being under the influence of *medical or recreational cannabis on-duty is prohibited and may lead to disciplinary action. Members shall not smoke, ingest, or otherwise consume cannabis within 24 hours of reporting for duty.*"

CITY OF CULVER CITY  
COUNCIL POLICY STATEMENT

Policy Number: 4004

General Subject: Employees and City Officials

Date Issued: 12/27/94

Specific Subject: Drug-Free Workplace and Effective Date: Rev. 8/25/97

Drugs/Alcohol in the Workplace

Resolution No. 97-R077

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**PURPOSE:**

To declare Culver City a drug-free workplace, to establish City policy regarding problems related to controlled substances and/or alcohol, including employee performance and behavior, and to establish procedures for investigation, discipline or referral as appropriate.

**BACKGROUND:**

The intent of this policy is to deter substance abuse as it relates to City employees and the provision of City services to the public, and to create a program of education and rehabilitation assistance. The City recognizes that education and referrals must be backed by the force of punitive disciplinary authority.

The public has a right to expect each public employee to be trustworthy and efficient, and to carry out their duties. Inefficiency or safety problems caused by the use of alcohol or controlled substances creates a serious potential public liability. Based on this, the City of Culver City will take such steps as necessary to mitigate such problems.

**STATEMENT OF POLICY:**

1. The unlawful manufacture, distribution, dispensing, possession or use of a controlled substance in the workplace, or at such time as it may impair ability to perform, or which poses a hazard to the employee, the public, or other employees, is strictly prohibited. While at work, each employee of the City has a responsibility to the public to deliver services in a safe and conscientious manner. Therefore, in order to ensure the safety of employees, the public, and the work environment, employees

must be free of potential impairment by controlled substances and/or alcohol. Violation of this policy may result in disciplinary action, up to and including termination of employment. Specific actions taken in dealing with individual employees will be determined on a case by case basis.

2. Pursuant to State and Federal laws, any employee working in a position funded in whole or part by grants or under specific Federal legislation, must agree to abide by this policy and, in addition, must report to the City any conviction for a violation of a criminal drug statute occurring in the workplace. Such report must be provided in writing within five (5) calendar days after the conviction.

3. Employees subject to State or Federal law or regulation which requires drug testing on any basis (e.g., commercially licensed or transportation related employees subject to reasonable suspicion, random, pre-employment, post-accident, or follow-up testing) shall also be subject to City policy in regard to the types of drugs tested which may exceed State or Federal law or regulation.

It is the City's intent to conform to any authoritative regulations, including those issued by the U.S. Department of Transportation under the Federal Transportation Administration (FTA) or the Federal Highway Administration (FHWA) affecting employees engaged in public transportation, commercial vehicle operation, vehicle maintenance or other duties affecting public health, safety or security. By reference herein, such policies or regulations are incorporated in this City policy.

Employees who suspect they may have a chemical dependency problem (alcohol or controlled substances abuse) are encouraged to utilize the City's Employee Assistance Program before this dependency affects their employment status. Participation in the program is voluntary and confidential. However, the City reserves the right to require employee participation in the EAP or other rehabilitative program as a condition of discipline or continued employment if the employee has been found to be in violation of the policy against controlled substances or alcohol in the workplace.

The City will attempt to rehabilitate an employee whenever the individual employee's work record, length of employment with the City, and other factors justify such an effort. Rehabilitative efforts may include referral to the EAP, detoxification or treatment at the employee's expense, approved leave of absence, or transfer or reassignment as the circumstances may warrant. Failure of an employee to participate in a rehabilitative effort may result in serious discipline.

**Conditions for Testing:**

For the purposes of this policy, the phrase "controlled substances" shall mean illegal drugs, narcotics, and hallucinogens, including but not limited to Marijuana, Cocaine, opiates, amphetamines, phencyclidine, barbiturates, hallucinogens, synthetic or designer drugs and other controlled substances identified in applicable Health and Safety Code sections, including prescription medications not medically prescribed to the specific individual.

"Alcohol" shall mean alcoholic beverages.

Employees may be subject to drug and alcohol testing for cause upon reasonable suspicion. Reasonable suspicion must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee. The observations must be made by a supervisor or managerial employee who has been trained to recognize symptoms of drug or alcohol abuse. A written record of the observations supporting the reasonable suspicion determination shall be prepared. An employee suspected of impairment caused by the use of alcohol or controlled substances will be ordered to submit to appropriate testing (breath alcohol tests or urine tests)

Refusal to submit to such testing as ordered will be considered insubordination and grounds for termination for employment.

Some employees may be required to participate in random testing for drugs and alcohol, pursuant to law or to City policy. As of the adoption of this policy, employees whose positions are involved with the operation of commercial vehicles, as defined in Federal Transportation Act regulations are subject to random testing. Should legal standards change, other employees may also become eligible and be required to submit to random testing. Refusal of a subject employee to submit to ordered random testing shall be

grounds for dismissal from employment. Procedures regarding random testing shall be established consistent with law and are hereby incorporated by reference. A list of affected classifications will be established, and, as amended from time to time, will be attached to this policy as Attachment "A". Affected employees will be notified of the policy and procedures prior to testing.

Pre-employment tests for drug usage will be conducted during the medical evaluation. Such tests are limited to those candidates for employment in jobs which fall under State or Federal requirements or which involve or affect public health, safety and security.

Supervisors and managers are charged with the responsibility to ensure that employees are not allowed to perform their duties when there is any reasonable objective indication of impairment.

**PROCEDURES:**

The City will designate a Drug Program Manager (DPM) who will administer the drug and alcohol testing pursuant to policy and regulations and retain all confidential medical records relating to such testing. The DPM will administer the random selection process for covered employees. The DPM will work with the Personnel Director and affected department management to coordinate training for all supervisors and managers in recognizing and addressing suspected drug or alcohol use.

Employees suspected of drug or alcohol use (under reasonable suspicion guidelines), or employees subject to random testing will be transported to the designated testing facility by his/her respective supervisor and ordered to comply with the test. The DPM will receive the confidential results of the test and notify the supervisor or manager of the employee of the test results. If the initial test result is positive, the DPM or Personnel Director will advise the supervisor regarding steps to be taken under applicable City policy or other regulation.

In the case of urine testing, a split sample will be taken. The employee may request the split sample be evaluated separately, and he/she will bear the cost of such additional testing. The evidentiary chain of custody of the original sample will be documented and

secured.

Administrating and Testing procedures required under applicable law or regulation not otherwise stated herein shall be observed in compliance with such law or regulation and are considered part of this policy by reference. The DPM will ensure affected employees are notified of this policy and applicable procedures, and that all required reports and certifications are filed.

# Assembly Bill 2188

Assembly Bill 2188 adds Section 12954 to the Government Code. The Bill establishes that, as of January 1, 2024, it is unlawful for employers to discriminate against a person in hiring, termination, or any term or condition of employment, or penalize a person based on a person's use of cannabis off the job or away from the workplace. Legislative intent is captured in the Legislative Counsel's Digest of the Bill:

*Existing law, the California Fair Employment and Housing Act, protects and safeguards the right and opportunity of all persons to seek, obtain, and hold employment without discrimination, abridgment, or harassment on account of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. The act prohibits various forms of employment discrimination and empowers the Civil Rights Department to investigate and prosecute complaints alleging unlawful practices.*

*This bill, on and after January 1, 2024, would also make it unlawful for an employer to discriminate against a person in hiring, termination, or any term or condition of employment, or otherwise penalize a person, if the discrimination is based upon the person's use of cannabis off the job and away from the workplace, except for preemployment drug screening, as specified, or upon an employer-required drug screening test that has found the person to have nonpsychoactive cannabis metabolites in their hair, blood, urine, or other bodily fluids.*

The new law does not permit an employee to possess, be impaired by, or use cannabis on the job. Per City of Culver City Council Policy Number 4004, Resolution Number 97-R077, the City of Culver City fosters a drug and alcohol-free workplace for all employees and provides a lawful and productive environment which promotes the health and safety of all employees, free from the hazards caused by the misuse of drugs and alcohol. This is supported by Health and Safety Code 11362.45.

Lexipol Policy 1004 establishes clear and uniform guidelines regarding drugs and alcohol in the workplace (41 USC § 8103). In response to the new legislation, Lexipol Policy 1004.3.2 is amended to state **“Possession, use, or being under the influence of medical or recreational cannabis on-duty is prohibited and may lead to disciplinary action. Members shall not smoke, ingest, or otherwise consume cannabis within 24 hours of reporting for duty.”** Lexipol Policy 1004.7 covers the criteria surrounding screening tests.

There is no change to police department or city policy regarding employees being under the influence of any substance while at work. While the topic of the effects of cannabis in its various forms continues to be studied, and policy may be further restricted or modified, the 24-hour time frame in Lexipol Policy 1004.3.2 is supported by various studies and publications. The time frame is to ensure the safety and wellbeing of the public and department members. THC may be present in urine for much longer than 24 hours. All employees have individual responsibility to not be impaired at work.

Sworn members that are interested in working in any federally funded capacity, such as a task force, will not be able to use or possess cannabis. The background check for the task force is



federal, exempting it from the new legislation. Members testing positive for cannabis after a critical incident or traffic collision may increase their legal exposure as cannabis stays in the body for up to 30 days.

Federal law prohibits a person who uses or who is addicted to illegal drugs, including cannabis, from possessing or purchasing a personally owned firearm for either on or off-duty use. The federal prohibition impacts sworn members' ability to carry personally owned firearms on duty. The ATF provides the following warning on Firearms Transaction Records: *"The use or possession of marijuana remains unlawful under Federal law regardless of whether it has been legalized or decriminalized for medical or recreational purposes in the state where you reside."*

**Sources:**

**Assembly Bill 2188  
Government Code 12954  
Health and Safety Code 11362.45  
Lexipol Policy 1004  
City of Culver City City Council Policy 4004, Resolution 97-R077**

**Alcohol Tobacco and Firearms Form 4473 Firearms Transaction Record  
(Revised August 2023)**

**Center for Disease Control  
<https://www.cdc.gov/marijuana/health-effects/brain-health.html>**

**National Institutes of Health "Cannabis (Marijuana) Research Report, What are marijuana's effects?"  
<https://nida.nih.gov/publications/research-reports/marijuana/what-are-marijuana-effects>**

**National Academies "The Health effects of Cannabis and Cannabinoids: The Current State of Evidence and Recommendations for Research 2017" <https://nap.nationalacademies.org/read/24625/chapter/13#270>**

**New England Journal of Medicine "Adverse health Effects of Marijuana Use" N Engl J Med 2014; 370:2219-2227  
DOI: 10.1056/NEJMra1402309  
<https://www.nejm.org/doi/full/10.1056/nejmra1402309>**