15.112 USE OF CHEMICAL SUBSTANCES

Reference:

Manual of Rules and Regulations – 6.01, 6.02, 6.03, 6.04
Ohio Revised Code Section 2923.15 Using a Weapon While Intoxicated
Ohio Revised Code Section 3796.28 / House Bill 110 Rights of Employer
State v. Croston, 2008 Ohio 5562, 11

Definitions:

Under the influence – For an individual to be considered "under the influence" under Ohio law, there must be an impairment or adverse impact on that individual affecting that individual's actions, reactions, conduct, movements or mental processes, or impairs his/her reactions, "under the circumstances then existing, so as to deprive him/her of that clearness of the intellect and control of himself/herself which he/she would otherwise possess." Under Ohio law the mere taking of a drug of abuse is not sufficient to establish that an individual is under the influence.

Policy:

It is the policy of the Cincinnati Police Department that the use of chemical substances while on duty is not permitted. This includes the consumption of alcoholic beverages as well as the use of any illegal drug. It is recognized that certain assignments, usually of a covert nature (i.e., vice detail, etc.), require that an officer be permitted to consume alcoholic beverages while on duty in order to carry out a particular case investigation. In no case, however, should an officer ingest an illegal drug while on or off duty.

Marijuana and products derived from hemp containing more than 0.3% Tetrahydrocannabinol (THC), are prohibited from use by Department members. Prescriptions are not an acceptable defense for Department members failing a drug test due to the use of legal cannabinoid (CBD) products.

Procedure:

A. Alcohol Consumption by On-Duty Personnel

1. When an officer plans to conduct an investigation in which the consumption of alcohol will be necessary, the officer’s immediate supervisor will be notified.
    a. Notification may be preset, reported at roll call, or via telephone.
        1) Use of the police radio for this notification is not advised.
    b. If such notification is not possible due to circumstances beyond the control of the investigator (e.g., officer's informant and/or major case may be jeopardized), the investigator is to notify a supervisor as soon as possible after such action is taken.
2. It is the responsibility of the officer involved in an investigation in which alcohol is being consumed to do so in strict moderation.
    a. Officers are expected to exercise sound judgment at all times.

b. Consumption of alcohol will be avoided whenever possible.

c. If it becomes necessary, an officer should order a drink consistent with his undercover role that contains the least concentration of alcohol (i.e., low alcohol beer, regular common brand beer, highly diluted mixed drinks, etc.).

1) If at all possible, officers will consume no more than one drink per hour.

2) No more than three drinks should be consumed in an eight-hour tour of duty.

3) Whenever possible, every effort should be made to dispose of drinks in a surreptitious manner (i.e., flush in toilet, leave drink unconsumed, etc.).

3. Officers will indicate on their Daily Activity Record (Form 436A) those investigations and locations in which the purchase and/or consumption of alcohol was necessary.

a. This would generally be the same information listed on the officer's individual expense record.

4. If the investigator or other officer notes the ability, judgment, conduct, demeanor, or physical state of any officer has been adversely affected as a result of alcohol, that officer will notify a supervisor at once.

a. The supervisor will then take the necessary action required.

1) This may include action such as assigning time off or placement in a non-critical assignment area for the remainder of the tour of duty.

a) An impaired officer should never be permitted to operate a vehicle or possess a firearm.

b) The officer's safety and well-being should be a main factor in making this determination.

b. Each officer will be held accountable for his actions.

B. Illegal Drug Consumption/Ingestion by Police Personnel

1. Police personnel will not consume an illegal drug to facilitate a successful investigation, or for any other reason.

a. Options to consider when presented drugs are:

1) Conduct an immediate arrest, even though longer term investigations may be sacrificed.

2) Make an excuse to leave and continue the investigation later.

3) Take the drug "to go."

4) Accidentally spill the drug.

5) Simply abandon that particular investigation, even if it means that undercover identity is compromised.

2. Under certain circumstances, simulated use of drugs may be acceptable.

   a. If simulation occurs, the officer must notify his supervisor as soon as possible and document the need for simulation on his Form 436A, including all relevant details.

3. If an officer is accidentally or forcibly caused to ingest or absorb drugs, he must notify his supervisor, who will order a medical examination and treatment.

   a. The supervisor will complete a Form 91SP (Supervisory Investigation of Employee Injury).

4. Supervisors will remain alert for signs that an employee may be developing a tendency toward chemical substance dependence/abuse.

   a. If any signs are indicated, intervention and assistance should be provided to the employee.

C. Prescribed Medication

1. When sworn personnel are prescribed medication by a physician or dentist, they will request the status of the medication as either a controlled or a non-controlled substance and its effects on the officer.

   a. If prescribed a controlled substance medication and are ingesting the substance, sworn personnel will:

      1) If unable to report for duty, call in and notify a supervisor. (Follow Procedure 19.105)

      2) If able to report for duty, immediately notify a supervisor. If the supervisor determines he/she is "under the influence" as defined by Ohio law, the supervisor will place him/her on light duty status until released by the Employee Health Services (EHS) physician.

      3) Sworn personnel will at no time possess a firearm while under the influence of a controlled substance. (Reference O.R.C. 2923.15, Using a Weapon While Intoxicated)

         a) There is no exception to the prohibition – law enforcement officers must not be under the influence of alcohol or controlled substance at the time they carry or use any firearm or dangerous ordnance.

   b. This information will be kept confidential by the Police Department and maintained in the employee’s medical file.

2. It is not necessary to report the use of over the counter or non-controlled prescription medications.