

**President C. Don Clay
Police Commission
San Francisco Police Headquarters
1245 3rd Street
San Francisco, CA 94158**

October 1, 2025

Submitted via electronic mail

Re: DGO 5.08 Plainclothes, Non-Uniformed, and Undercover Officers

Dear President Clay, Vice President Benedicto, and Commissioners,

The draft of DGO 5.08 represents a good start to ending the practice of using Bureau Orders to make and implement policy. The policy is thoughtful and balances multiple competing factors. I write here to highlight several ways the proposed policy can be improved.

Eliminate the Vague Exception 5.08.04(A)(1)(c) Carves Out Permitting Plainclothes Officers to Leave BWCs Deactivated

Plainclothes officers must activate their Body Worn Camera when taking enforcement action “unless granted an exemption based on the task/operation.” The policy is silent as to who can grant that exemption or what types of tasks would require an exception, leaving this exception open to overuse, misuse, and inconsistencies. Moreover, allowing an undefined exception undermines the transparency and accountability BWCs promise. This section should specify who can grant an exemption and list more specific circumstances in which officers can deactivate their BWCs.

Revise 5.08.04(C)(3) to Require Plainclothes Officers to Call for Marked Backup Immediately and Not “As Soon As Practical”

A traffic stop is intimidating under the best of circumstances, and that fear only intensifies when the police vehicle is unmarked and the officers are in plainclothes. In an era when masked federal agents have pulled people into unmarked vans, SFPD has a heightened responsibility to reassure the public that the plainclothes officers are local police conducting a stop. Yet, this provision weakens that safeguard by requiring officers to request marked backup car only “as soon as practical.” That vague standard is overly permissive, risks escalating already tense encounters, and erodes public trust—particularly in light of the federal government’s recent threat to “straighten out” San Francisco by sending troops to the City. The policy should

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restore the stronger requirement that plainclothes officers call for a marked unit “immediately.”

Revise 5.08.05(A) to Prohibit Plainclothes and Undercover Officers From Participating in Crowd Control Unless Specified

Substituting “should” for “shall” creates unnecessary ambiguity. Restoring “shall” changes this advice into a directive and is clear on its face, particularly because the exception is similarly clear. Moreover, allowing plainclothes and undercover officers discretion to participate in crowd control arrests may circumvent the restrictions of DGO 8.10 but certainly undermines public trust in SFPD by creating the perception that it is infiltrating First Amendment activities when non-uniformed officers suddenly begin to detain or arrest individuals. The Commission should be cautious to grant non-uniformed officers the authority to detain and arrest in these situations, particularly considering the chilling effect it will have on free speech.

Require Officers to Notify Their Supervisors Before Commencing Out-of-County Work

While section 5.08.08(B) does require officers to notify their supervisors when performing out-of-county work, it does not specify *when* they must do so. The current language creates unnecessary ambiguity and will lead to inconsistent, uneven reporting. For this and for other myriad reasons—including issues of liability, accountability, transparency, and consistency—officers should report before they begin work outside of San Francisco.

Eliminate the Exception in 5.08.10(A) That Could Render This Policy Entirely Moot

The Department’s ability to suspend the policy at will and moots the purpose of the policy in the first place (i.e., to set the policy for plainclothes officers). A blanket “deviation” power—without an objective threshold, time limit, reporting mechanism, or Commission review—undercuts every safeguard (marked backup, visibility, BWC) and invites uneven, after-the-fact justification. Whatever documentation would be required will be poor consolation since those deviations will not be publicized beforehand. Some exceptions run the risk of swallowing the rule but this one essentially nullifies the rule. Further, the Commission should be cautious to grant this power in this case as it may set a precedent to grant similar powers for future DGOs.

Thank you for your time in reviewing these issues. These can likely be cleared up with some questions to the Department and by discussing this policy at the Commission meeting.

Respectfully Submitted,

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