



DEPARTMENT NOTICE

20-171
11/20/20

Department General Order 5.04 “Arrests by Private Persons” Update Packet #71

The purpose of this directive is to announce the revised Department General Order 5.04, Arrests by Private Persons, adopted by the Police Commission on November 18, 2020.

Members are expected to have a working knowledge of all directives as applicable to their respective assignment and comply with their provisions, per DGO 3.01.12. Members shall obey all written orders, policies and procedures of the Department, per DGO 2.01, Rule 10.

Department General Order update packet #71 is attached to this notice and is available to members on the PowerDMS site.


WILLIAM SCOTT
Chief of Police

Per DN 20-150, all sworn & non-sworn members shall electronically acknowledge this Department document in PowerDMS. Members whose duties are relevant to this document shall be held responsible for compliance. Any questions regarding this policy should be made to sfpd.writtendirectives@sfgov.org who will provide additional information.

Arrests by Private Persons

5.04.01 PURPOSE

This order establishes policies regarding a member's obligation to receive a subject arrested by a private person and procedures regarding the arrest or release of the subject.

5.04.02 DEFINITIONS

Exigent Circumstance Exception - An exigent circumstance exception arises when a member has specific and articulable facts that a particular action was performed by a member due to a concern for the safety of others or the safety of the involved member(s).

5.04.03 POLICY

Arrests by private persons may be made in the following circumstances (see Penal Code 837 for further):

- 1) A public offense either attempted or committed in the presence of the private person.
- 2) A misdemeanor or felony committed in the presence of the private person.
- 3) A felony has been committed and the private person has reasonable cause to believe the subject committed the felony.

A private person may arrest for public offenses not committed in the member's presence, and the member is required to receive a person so arrested.

5.04.04 PROCEDURES

The following are the responsibilities of the Responding Member:

- 1) Bearing in mind the potential for bias by proxy, determine if reasonable suspicion exists to justify detaining the subject pending further investigation. If reasonable suspicion does not exist, the subject is free to leave.
- 2) Members shall advise private persons about their right to make a private person's arrest. When advising any individual regarding the right to make a private person's arrest, members should remain neutral when providing guidance to any

individual making such an arrest and should limit advice to the legal requirements for such an arrest as listed below.

- 3) Bearing in mind the potential for bias by proxy, determine if probable cause exists to believe the individual committed the crime in question. If probable cause exists such that an arrest should be made, accept the private person's arrest and book or cite the individual as appropriate (see DGO 5.06, "Citation Release"). If probable cause does not exist, accept the arrest and then advise the individual that they are free to leave. In the event of no arrest or citation, the member shall advise and explain the situation to both parties and shall document the incident in a report.
- 4) If an arrest is made, obtain the signature of the arresting private person on the Private Person's Arrest form (SFPD Form 80, also known as a Citizen's Arrest form). Note in the incident report that a Private Persons Arrest form had been completed and signed.
- 5) Give the person making the arrest a copy of the Private Person's Arrest form.
- 6) Except in exigent circumstances, a Member shall issue a Certificate of Release whenever a person is not free to leave even if no arrest occurs. In cases when a member is unable to issue a Certificate of Release due to exigent circumstances, the member shall document the reasons in the incident report.
- 7) A copy of the Private Person's Arrest form shall be booked into SFPD evidence.
- 8) The Private Person's Arrest form shall be scanned and uploaded with the incident report.
- 9) The private person may withdraw their request by refusing to cooperate with the member's investigation and declining to sign a Private Person's Arrest form (SFPD Form 80). The subsequent refusal and lack of cooperation by the private person does not relieve a member from completing an incident report under DGO 5.04.

References:

PC 837
PC 142
DGO 5.03 Investigative Detentions
DGO 5.17 Bias-Free Policing
DGO 5.06 Citation Release