



The Police Commission
CITY AND COUNTY OF SAN FRANCISCO

July 11, 2024

Chief William Scott
Chief of Police

Dear Chief Scott:

At the meeting of the Police Commission on Wednesday, July 10, 2024, the following resolution was adopted:

RESOLUTION 24-80

APPROVAL OF REVISED DEPARTMENT GENERAL ORDER 5.04, "ARRESTS BY PRIVATE PERSONS," TO USE IN MEETING AND CONFERRING WITH THE EFFECTED BARGAINING UNITS AS REQUIRED BY LAW, WITH LABOR INSTRUCTIONS PROVIDED IN RESOLUTION NO. 23-30;

RESOLVED, that the Police Commission hereby approves revised Department General Order 5.04, "Arrests by Private Persons," for the Department to use in meeting and conferring with the effected bargaining units as required by law; and be it

FURTHER RESOLVED, that labor instructions are provided in Resolution No. 23-30, Police Commission Directions Regarding Police Department and Department of Human Resources Labor Negotiations with Effected Bargaining Units regarding Department General Orders.

AYES: Commissioners Clay, Walker, Benedicto, Yee, Vice President Carter-Oberstone and President Elias
EXCUSED: Commissioner Yanez

Very truly yours,

Sergeant Stacy Youngblood
Secretary
San Francisco Police Commission

CINDY ELIAS
President
MAX CARTER-OBERSTONE
Vice President
LARRY YEE
Commissioner
JESUS YANEZ
Commissioner
KEVIN BENEDICTO
Commissioner
DEBRA WALKER
Commissioner
C. DON CLAY
Commissioner
Sergeant Stacy Youngblood
Secretary

1211/ks

cc: Captain D. Toomer/PDD
Manager A. Steeves/PDD
Management Assistant G. Rosalejos/WDU
Director L. Preston/Labor Relations
Senior Analyst L. Davis/Labor Relations

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) Duty to investigate, Decision to Cite, or Cite and Release. When receiving an arrest from a private person, the decision to cite or book the suspect shall be made upon further investigation of SFPD and not the arresting person's preference. SFPD has a duty to investigate allegations raised by a private person. When a person is arrested for a misdemeanor or an infraction and it is later determined that they are eligible for a citation release, an officer shall promptly cite and release the person at any time prior to the Sheriff Department assuming custody.
- 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) or document the person's verbal affirmative response to make a private person's arrest on BWC. Note in the incident report that a Private Persons Arrest form had been documented via BWC or SFPD Form 80 .
- 5) PRIVATE PERSON ARRESTS. An incident report is not required if the officer accepts all the allegations as true and no crime has been committed, or the allegations are frivolous or unfounded without the need for further investigation—for example, if a person alleges that an alien abducted them or that a neighbor implanted a chip in their body to control their thoughts.
- 6) If a copy of the Private Person's Arrest form is received, it shall be scanned and uploaded with the incident report.

References:

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

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) ~~Duty to investigate, Decision to Cite, or Cite and Release. When receiving an arrest from a private person, the decision to cite or book the suspect shall be made upon further investigation of SFPD and not the arresting person's preference. SFPD has a duty to investigate allegations raised by a private person. When a person is arrested for a misdemeanor or an infraction and it is later determined that they are eligible for a citation release, an officer shall promptly cite and release the person at any time prior to the Sheriff Department assuming custody. 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) or document the person's verbal affirmative response to make a private person's arrest on BWC.—Note in the incident report that a Private Persons Arrest form had been documented via BWC or SFPD Form 80 .been completed and signed.
- 5) ~~PRIVATE PERSON ARRESTS. An incident report is not required if the officer accepts all the allegations as true and no crime has been committed, or the allegations are frivolous or unfounded without the need for further investigation— for example, if a person alleges that an alien abducted them or that a neighbor implanted a chip in their body to control their thoughts. Give the person making the arrest a copy of the Private Person's Arrest form.~~
- 6) ~~5) 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.~~
- 6) If a A-copy of the Private Person's Arrest form is received, it shall be scanned and uploaded with the incident report.
- 7) ~~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



The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

April 10, 2023

Chief William Scott
Chief of Police

Dear Chief Scott:

At the meeting of the Police Commission on Wednesday, April 5, 2023, the following resolution was adopted:

RESOLUTION 23-30:

APPROVAL OF POLICE COMMISSION DIRECTIONS REGARDING POLICE DEPARTMENT AND DEPARTMENT OF HUMAN RESOURCES LABOR NEGOTIATIONS WITH AFFECTED BARGAINING UNITS;

CINDY ELIAS
President

MAX CARTER-OBERSTONE
Vice President

LARRY YEE
Commissioner

JAMES BYRNE
Commissioner

JESUS YANEZ
Commissioner

KEVIN BENEDICTO
Commissioner

DEBRA WALKER
Commissioner

Sergeant Stacy Youngblood
Secretary

WHEREAS, The Police Commission remains committed to its duty of effective oversight and policymaking for the San Francisco Police Department; and

WHEREAS, The Police Commission respects the importance of labor relations and the rights of public sector employees, including peace officers, under the Meyers Milias Brown Act; and

WHEREAS, In 2016, the U.S. Department of Justice's "Assessment of the San Francisco Police Department" identified delays in policy enactment "because of collective bargaining practices," and recommended that the Police Department and the Police Commission "expedite the process in the future for other policy development;" now, therefore, be it

RESOLVED, When bargaining with affected bargaining units regarding Department General Orders or other policies passed by the Police Commission that require effects bargaining under law, the Police Commission hereby direct the Police Department and urge the San Francisco Department of Human Resources to meet and confer only to those negotiable effects required by law; and

RESOLVED, When bargaining with affected bargaining units regarding Department General Orders or other policies passed by the Police Commission that involve mandatory subjects of bargaining under law, the Police Commission hereby direct the Police Department and urge the San Francisco Department of Human Resources to meet and confer only to the extent required by law; and

FURTHER RESOLVED, When bargaining with affected bargaining units regarding Department General Orders or other policies passed by the Police Commission, the Police Commission hereby direct the Police Department and urge the San Francisco Department of Human Resources to not meet and confer on managerial decisions that are not within the scope of representation, and where there is no legal duty to meet and confer; and

FURTHER RESOLVED, When bargaining with affected bargaining units regarding Department General Orders or other policies passed by the Police Commission, the Police Commission hereby directs the Police Department and urges the San Francisco Department of Human Resources to ensure there are no unreasonable delays on any items within the scope of representation and consistent with the City's legal obligations.



The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

AYES: Commissioner Walker, Byrne, Yanez, Benedicto, Yee, Vice President
Carter-Oberstone and President Elias.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Stacy Youngblood".

Sergeant Stacy Youngblood
Secretary
San Francisco Police Commission

CINDY ELIAS
President

MAX CARTER-OBERSTONE
Vice President

LARRY YEE
Commissioner

JAMES BYRNE
Commissioner

JESUS YANEZ
Commissioner

KEVIN BENEDICTO
Commissioner

DEBRA WALKER
Commissioner

Sergeant Stacy Youngblood
Secretary

1211/ks

cc: Deputy City Attorney Cabrera
Director L. Preston/SFPD Labor Relations
Captain D. Toomer/PSPP
Lieutenant E. Altorfer/PSPP
Isabelle Choy/SFPD Labor Relations