



## Joint Response to Public Comment Pursuant to DGO 3.01.04(D)

### DGO 7.04 Safeguarding Children of Arrested Persons

November 13, 2023

SFPD Department General Order (DGO) 3.01 requires that all policies under development be posted publicly to provide members of the public thirty (30) business days to submit policy recommendations.

Pursuant to DGO 3.01.04 (D), the Department and the Department of Police Accountability (DPA) jointly prepare a public response, which shall be posted on the Department's website, outlining the recommendations included and not included in the DGO draft submitted to the Police Commission.

Joint responses are captured in the following recommendation grid which captures the original recommendation, whether the recommendation was included or not included in the draft DGO, and the explanation relating to the decision to include or not include the recommendation into the draft DGO.

The Department reserves the right to remove or not respond to comments if they are:

- Unrelated to the subject of the DGO
- Include private personal information (whether the commenter's or someone else's), including home address, home or cell phone number, personal e-mail address, or personal identification.
- Include profanity or obscene language.

The Department received six (6) recommendations for *DGO 7.04 Safeguarding Children of Arrested Persons* from the public and reached a consensus with the DPA on each of the responses.

The Department and DPA extend gratitude to all who took the time to contribute recommendations to this policy.

DGO 7.04 Public Comment Responses

#	Public Comment	Date Received	Joint response	Explanation
R1	"Officers should not be able to contact FCS if one parent is arrested and there is another parent present"	3/14/23	Recommendation will not be included in Draft DGO	Both SFPD and DPA agree that the child of an arrested parent should be placed with another parent if that parent can legally assume responsibility for the child and is capable of doing so as the DGO explicitly states in Section 7.04.04.B. The reason behind contacting FCS is not to separate the child from the parent who has not been arrested. Rather, it is to verify that that parent is legally allowed to have contact with the child. Contacting FCS for this limited purpose maintains the goal of safeguarding the child of the arrested parent.
R2	"FCS should not automatically be on scene when arresting a parent. They can be on call if the detainee does not have another parent in the picture or a caregiver"	3/14/23	Recommendation will not be included in Draft DGO	This DGO does not mandate that FCS be called to the scene in every instance. It simply requires officers contact FCS when a parent is arrested and the other parent (or caregiver designated by the arrested parent) is safe to assume care of the child. Section 7.04.04(A)2 states, "When reasonably possible, officers should attempt to make the arrest away from the child or at a time when the child is not present. If delaying the arrest is not possible, arrangements should be made in advance to have representatives from FCS at the scene or on call."
R3	"If a child is not present during the time of arrest with the parent, there should not be a determination regarding appropriate placement"	3/14/23	Recommendation will not be included in Draft DGO	The purpose statement of the Draft DGO 7.04 (7.04.01) and policy section (7.04.03) discuss this issue. Whether or not the child is present during the arrest is irrelevant to whether the child needs safeguarding. The goal is the welfare of the child, and determining safe placement is paramount especially if, as the policy states, "in the event the parent does not designate placement, or no responsible caregiver exists."
R4	"The term "child" is in direct conflict with the draft of DGO 7.01. The term and definition, as used in 7.01 is based on the legal requirement to treat "children" and "youth" differently when arrested for 602 offenses."	3/18/23	Recommendation will not be included in Draft DGO	DPA and SFPD disagree with this suggestion and have determined that "child" and "children" will be used throughout DGO 7.04. We do not believe this will create confusion for officers as DGO 7.01 addresses punitive measures relating to youth offenders, where the need to delineate between a 17 year old and an 11 year old is necessary for the enforcement of such punitive measures. In contrast this DGO discusses children of arrested parents and may be victims of the circumstance. This does not require a delineation and applies to anyone under the age of 18. As such, DPA and SFPD agree that the term "child" should not be changed to "youth" in DGO 7.04.
R5	"The definition of "responsible adult" needs to mirror the definition that is used in the current draft of DGO 7.01 which is based upon the SF Admin Code."	3/18/23	Recommendation will not be included in Draft DGO	The "Responsible Adult" definition in DGO 7.01 is based upon SF Administrative Code 96C, a local ordinance, which deals with Police interrogations of Youth and as such expanded this definition to allow detained youth broader options for adults to be present during custodial interrogations. The definition of "Responsible Adult" in Draft DGO 7.04 is specific to those who can assume care and who can pass a preliminary National Crime Information Center (NCIC) check and clear a child protection registry background check. This definition is more narrow than the definition in SF Administrative Code 96A to ensure heightened safeguards are in place. In any case, the term "responsible adult" does not appear anywhere other than the definition so the Department and DPA have agreed to change this term to "caregiver".

## DGO 7.04 Public Comment Responses

#	Public Comment	Date Received	Joint response	Explanation
R6	Not all search warrants results in an arrest so section A title is a little misleading. Prior Notification to FCS regarding an arrest could compromise officer safety, so additional language should be added to address this.	<b>4/21/23</b>	Recommendation has been included in draft DGO	DPA and SFPD do not believe that the Section 7.04.04(A) title (Making an Arrest or Executing a Search Warrant) is misleading. However, we do agree with the commenter that clarifying language should be added. Changes were made to incorporate this recommendation. See 7.04.01(A)(2)(a) "Due to the confidential nature of search warrants, officers shall not disclose information relating to a search warrant to any member of FCS prior to the execution of the search warrant."