



DEPARTMENT NOTICE

24-148

Published: 10/04/24

Expires: 10/04/27

Department General Order 5.04 “Arrests by Private Persons” Update Packet #114

The purpose of this directive is to announce the revision of Department General Order 5.04 *Arrests by Private Persons*, adopted by the Police Commission on September 4, 2024. Members will be held accountable for this policy starting Saturday, October 19, 2024.

The major updates in this policy include, but are not limited to the following:

5.04.04, Procedures [responsibilities of the Responding Member], revisions are as follows:

- Section 3 language was replaced to read as follows: *“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.”*
- Section 4 language is amended to read as follows: *“If an arrest is made, obtain the signature of the arresting private person on the Private Person’s Arrest form (SFPD Form 80) 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.”*
- Section 5 language was replaced and reads as follows: *“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.”*
- Members are no longer required to book a copy of the Private Person’s Arrest form into evidence. The form shall now be scanned and uploaded with the incident report.
- Members are no longer required to issue a Certificate of Release whenever a person is not free to leave, even if no arrest occurs.

Lieutenants, sergeants, and training coordinators should read, review, and discuss this policy during line-ups.

Members are expected to have a working knowledge of all directives applicable to their respective assignment and comply with their provisions, per DGO 3.01, *Department Written Directives*. Members shall obey all written orders, policies, and procedures of the Department, per DGO 2.01, *General Rules of Conduct*.

Department General Order update packet #114 is attached to this Notice and is available to members on the PowerDMS site.


WILLIAM SCOTT
Chief of Police

Per DN 23-152, all sworn & non-sworn Members shall electronically acknowledge this Department document in PowerDMS within (30) thirty calendar days of issuance. Members whose duties are relevant to this document shall be held responsible for compliance. Any questions regarding this policy should be sent to sfpd.writtendirectives@sfgov.org who will provide additional information.

I made a PRIVATE PERSON'S ARREST on the person of _____

for the violation(s) of _____

on _____, committed in my presence at _____
MONTH DAY YEAR ADDRESS

_____ and I did thereupon request the San Francisco Police Department to assume custody of the above subject. I understand that I will be contacted by the District Attorney of the City and County of San Francisco should I be required to sign a formal complaint charging the above-named subject with the commission of the violations(s) hereon indicated.

*Scan and upload
with Incident Report.*

Signature _____

Address _____

Incident Report No. _____

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 80) 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