

## **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) 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 as arrest as listed below.

- 3) 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 Arrest form (SFPD 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 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

---

## ARRESTS BY PRIVATE PERSONS

### 5.04.01 -PURPOSE

This order establishes policies regarding ~~ana~~ 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.

### ~~5.04.03~~ ~~DEFINITIONS~~

~~Exigent Circumstance Exception—An exigent circumstance arises when a member has specific and articulable facts that a particular action was performed by an member due to concerns of the person's, the safety of others or the safety of the involved member(s).~~

### 5.04.04 PROCEDURES

The following are the responsibilities of the Responding Member:

- 1) 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 ~~refrain from encouraging or dissuading~~ remain neutral when providing guidance to any individual ~~from~~ making such an arrest and should ~~instead~~ limit advice to the legal requirements for such ~~an~~ arrest as listed below.
- 3) 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 ~~isthat they are~~ free to leave. In the event of no arrest or citation, the member ~~should~~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 Arrest form (SFPD 80 also known as a Citizen's Arrest form). Note in the incident report that a Private Persons Arrest form had been ~~utilized~~completed and signed.
- 5) Give the person making the arrest a copy of the Private Person Arrest form.
- 6) Except in exigent circumstances, a Member shall issue a Certificate of Release whenever a person is ~~detained~~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, ~~or the individual in question refuses to accept a certificate of release,~~ the member shall ~~notify their supervisor and~~ 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 ~~attached to~~uploaded with the incident ~~report~~ in the Crime Data Warehouse.
- 9) ~~In the course of duty, a member may encounter a private person requesting the arrest of an individual. In some instances, the~~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

Working Group Recommendation and Department Response

#	DPA Recommendations for DGO 5.04 (Arrests by Private Persons)	Date recommendation received	SFPD response	SFPD explanation	Open/Closed
R1	Add the below language of Dept. Bulletin 18-186: In the course of duty, a member may encounter a private person requesting the arrest of an individual. In some instances, 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 II 8.	4/30/20	Recommendation has been included in draft DGO	incorporated in Section 5.04.04, Procedures, Paragraph 9.	
R2	DPA recommends deleting 5.04 II. 5 and adding the below language to be consistent with new the Citation Release Procedures in Draft DGO 5.03 III. C: Except in exigent circumstances, a Member shall issue a Certificate of Release whenever a person is detained (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.	4/30/20	Recommendation has been included in draft DGO	incorporated in Section 5.04.04, Procedures, Paragraph 6.	
R3					
R4					
R5					
R6					
R7					
R8					
R9					
R10					