

## INVESTIGATIVE DETENTIONS

This order establishes policies and procedures regarding investigative detentions.

### I. POLICY

- A. DETENTIONS.** It is the policy of the San Francisco Police Department that every person has the right to use the public streets and public places so long as he/she does not engage in criminal activity. Factors such as the person's race, sex, sexual orientation, gender, gender identity, gender presentation, age, dress, unusual or disheveled or impoverished appearance do not alone justify even a brief detention, a request for identification, or an order to move on, nor do general complaints from residents, merchants or others.
- B. REASONABLE SUSPICION.** A police officer may briefly detain a person for questioning or request identification only if the officer has a reasonable suspicion that the person's behavior is related to criminal activity. The officer, however, must have specific and articulable facts to support his/her actions; a mere suspicion or "hunch" is not sufficient cause to detain a person or to request identification.
- C. LENGTH OF DETENTION.** A detention must be brief and limited to the amount of time reasonably necessary to conduct the investigation.
- D. REQUESTS FOR IDENTIFICATION.** The refusal or failure of a person to identify himself or herself or to produce identification upon request of a police officer cannot be the sole cause for arrest or detention, except where the driver of a motor vehicle refuses to produce a driver license upon the request of an officer enforcing the Vehicle Code or the Traffic Code. Except in the case of a driver of a motor vehicle, a person's refusal or failure to produce identification is not unlawful, and an officer may not threaten a person with arrest solely for his or her refusal to identify himself or herself.
- E. ORDERS TO MOVE ON.** Officers do not have the authority to order persons to "move on" absent probable cause to believe an offense has occurred, or absent articulable facts requiring movement for public safety. Also see DGO 5.07, Rights of Onlookers.
- F. WARRANT CHECKS (POLICY).** See DGO 6.18, Warrant Arrests.

## **II. PROCEDURES**

### **A. CERTIFICATE OF RELEASE/INCIDENT REPORT/DUTIES OF DETAINING OFFICER**

1. **BRIEF DETENTIONS.** If you briefly detain a person where you stop him/her, or move a person a short distance for safety, convenience, or privacy, the person is not considered arrested or taken into custody. When releasing the person, you need not issue a Certificate of Release or prepare an incident report.
2. **PROLONGED DETENTIONS.** If, however, you release a person after he/she has been moved a substantial distance or has been detained a significant length of time, you must issue the person a Certificate of Release and prepare an incident report justifying the movement or the length of detention. Title the incident report "Investigative Detention," list the person as "D" detained, and include the reasons the subject was detained such a long tune or why he/she was moved.
3. **PHYSICAL RESTRAINT.** If you take the detained person to a police facility or physically restrained the person, issue a Certificate of Release.
4. **UNDER THE INFLUENCE.** If you arrest a person solely for being under the influence of a narcotic, drug or restricted dangerous drug and take him/her to a facility or hospital for treatment and no further proceedings are desirable, issue the person a Certificate of Release.
5. **QUESTIONABLE SITUATIONS.** If there is doubt as to whether you should issue a Certificate of Release, always resolve the doubt by issuing the form.
  - b. **FORM PREPARATION AND FILING.** Complete the Certificate of Release form in duplicate. Give the original to the person being released and forward a copy to the Records Section, Room 475, Hall of justice.

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#### References

Penal Code Section 849(b)