

AGGRESSIVE SOLICITING

The purpose of this order is to outline the procedures for enforcing Section 120-1 of the Municipal Police Code which outlaws certain types of conduct while soliciting persons.

I. INTRODUCTION/GUIDELINES

- A. Recently, the voters of the City and County of San Francisco approved an amendment (Section 120-1) to the Municipal Police Code that prohibits aggressive soliciting.
- B. Section 120-1 MPC does not specifically prohibit begging or soliciting; it prohibits harassing or hounding a citizen for money or other thing of value after the citizen expressly or impliedly makes it known that he/she does not want to give money or other thing of value to the solicitor .
- C. **HARASSMENT OR "HOUNDING" DEFINED.** For the purpose of this ordinance, harassment or hounding occurs when the suspect:
 - 1. Closely follows a citizen, and
 - 2. Requests money or other item of value after the citizen has expressly or impliedly made it known that he/she does not wish to give money or other item of value to the solicitor.
- D. **JURISDICTION.** The prohibition against aggressive solicitation applies within the City and County of San Francisco on streets, sidewalks, or other places open to the public (whether publicly or privately owned), including parks.

II. POLICY

- A. **ENFORCEMENT PRIORITY.** Enforcement of Section 120-1 MPC is a responsibility for the Department; however, officers are reminded that their primary enforcement objective is preventing and suppressing serious crime.
- B. **PRIVATE PERSON ARRESTS.** Officers making arrests for violation of Section 120-1(b) MPC shall comply with Department policy regarding private person arrests (see DGO 5.04, Arrests by Private Persons). As with all public offenses, private persons may make arrests for violations of the ordinance.
- C. **INFRACTION VS MISDEMEANOR.** Although the decision to file a complaint as a misdemeanor or infraction rests with the District Attorney, it is the policy of the Department that officers cite or book violators for the misdemeanor violation and complete an incident report.

III. PROCEDURES

- A. **INVESTIGATION.** The following factors should be considered when encountering an aggressive solicitation. The information must be included in your incident report, with victim and suspect's words noted verbatim as reported to or heard by you, and with gestures described in detail.
 - 1. **How closely did the suspect follow the victim?** The law states "closely follows," but does not specify a certain distance; however, following within six feet can reasonably be considered to be close. Even with distances greater than 6 feet, aggravating circumstances may be present to fit the situation within the statute. Your report must in all cases note the estimated closest distance between the suspect and victim.
 - 2. **How was the solicitation communicated, e.g., verbal, an open hand, a cup?**
 - 3. **Did the suspect use threatening words or gestures? Did the suspect demand money or property?**
 - 4. **How did the citizen communicate that he/she did not wish to give money or other thing of value to the suspect?** This may be expressed verbally or implied when the citizen continues walking, walks away at a faster pace, or uses gestures, e.g., shaking head, waving the suspect off, etc.

5. **Was there a size or age difference between the suspect and victim suggesting intimidation? Was the victim afraid? Did the suspect have a weapon in his/her possession or did he/she engage in other criminal conduct? Any case involving a threat of bodily injury or offensive touching of the victim should be reviewed by a supervisor to determine if a more serious offense has occurred, e.g. 664/211 P.C.**

B. ENFORCEMENT/INCIDENT REPORT

1. **PRIVATE PERSON ARRESTS.** If the incident did not occur in your presence, offer the victim an opportunity to make a Private Person Arrest. Also give the victim a statement form and have him/her complete it if possible. After ensuring that the elements exist, cite or book the suspect according to Department policy.
2. **ON-VIEW ARRESTS.** Generally, enforcement of this ordinance will be in response to a private person arrest; however, you may also witness violations of the ordinance, but the victim(s) may walk away or feel too intimidated to make a "Private Person Arrest." If you witness all the elements of the violation, i.e., overhear or observe the solicitation and rejection, and witness the hounding or harassing, arrest the suspect and attempt to get the name and address of the victim. If this is not possible, at least describe the victim (race, sex, age, clothing, etc.) in the narrative of your incident report and include the details of the violation.
3. **WITNESSES.** Whether enforcing the ordinance in response to a Private Person Arrest or an on-view arrest, always attempt to locate any witness and include his/her names, address and telephone number in your incident report
4. **INCIDENT REPORT.** Title your report "AGGRESSIVE SOLICITING."