

AGGRESSIVE SOLICITATION

I. PURPOSE

The purpose of this General Order is to provide sworn members with guidance on enforcing San Francisco Municipal Police Code (MPC) §120-2, the local ordinance on aggressive solicitation.

II. POLICY

The San Francisco Police Department recognizes that poverty is not a crime and that panhandling for donations is protected under the First Amendment to the United States Constitution. However, aggressive pan handling is illegal under California Penal Code § 647(c) and MPC §120-2. It is the Department's policy that members enforce the law for Aggressive Solicitation, when feasible, and provide persons with information on available resources to assist them and prevent reoccurrence of the offense (*Refer to SFPD Form 507, Homeless Resource Sheet*).

Members may make arrests for violation of Section 120-2 MPC. Members shall comply with Department policy regarding private person arrests (see DGO 5.04, Arrests by Private Persons).

III. INTRODUCTION / ELEMENTS OF A VIOLATION

- A. Section 120-2 does not prohibit begging or soliciting; it prohibits aggressive soliciting in public, soliciting within twenty feet of any entrance or exit of any check cashing business, or within twenty feet of an ATM Machine, and to an occupant or operator of a motor vehicle, on any public transit vehicle and in any private or public parking lot or structure.
- B. AGGRESSIVE SOLICITING DEFINED: For the purpose of this ordinance, "Aggressive Soliciting" is defined as:
1. Approaching or speaking to a person, or following a person before, during or after soliciting if that conduct is intended or is likely to cause a reasonable person to fear bodily harm to oneself or to another, or damage to or loss of property or otherwise be intimidated into giving money or other thing of value;
 2. Continuing to solicit from a person after the person has given a negative response to such soliciting;

3. Intentionally touching or causing physical contact with another person without that person's consent in the course of soliciting;
4. Intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including unreasonable causing a pedestrian or vehicle operation to take evasive action to avoid physical contact;
5. Use violent or threatening gestures toward a person solicited; **or**,
6. Following the person being solicited, with the intent of asking that person for money or other things of value.

C. JURISDICITON. The prohibition against aggressive solicitation applies within the City and County of San Francisco on streets, sidewalks and other places open to the public (whether publicly or privately owned), including parks.

IV. PROCEDURE

A. ENFORCEMENT PROCEDURE: WARNING FIRST.

1. Aggressive Solicitation (120-2 MPC) violations require that a violator be warned before citation or arrest. For the purposes of enforcement, a person need only be warned once.
2. If a member has knowledge of a previous warning, citation, or booking, the person will be considered warned. A member citing an individual for this section shall include in their narrative the specifics regarding the previous warning, citation, or booking.
 - a. Warnings must be documented either:
 - i. In Crime Data Warehouse as a Field Interview with a brief description of the behavior and warning, or
 - ii. A completed report. A written report shall be required for interactions involving any action beyond a brief detention to identify and provide a warning to the suspect.

For the purposes of this DGO, an officer shall have satisfied the requirement for documentation of a detention if they have completed the FI input in Crime Data Warehouse, in incidents where there was no further action, no use of force, and no physical evidence collected.

Warnings should include a SFPD Homeless Resource Sheet (Form 507).

3. A person need only be warned about the violation once. The person will not need to be warned again. Warning should be recorded on the Officer's BWC.

B. ENFORCEMENT PROCEDURE: CITATION or BOOKING

1. CITATIONS:

- a. All 120-2 (d) MPC misdemeanor violations shall be cited with a corresponding report in CDW or booked as a continuing offense **misdemeanor** violation as per department policy (*refer to Department General Order 5.06 Citation Release*).

4. BOOKING:

Persons who have been previously cited may be booked. They may also be booked when there is a reasonable likelihood of a continuing offense. (Refer to Department General Order 5.06 Citation Release, 1.B.7., Continuing Offense.)

5. REPORTS:

- a. Members citing or booking for misdemeanor violations of 120-2(d) MPC shall complete a report in Crime Data Warehouse. Title your report "SOLICITING, AGGRESSIVE"
- b. Reports need not be faxed. However, copies of arrest reports shall be included in a Misdemeanor Rebooking Packet to be completed in keeping with the latest Department Notice or Department Bulletin.

C. ON-VIEW ARRESTS.

1. Generally, enforcement of this ordinance will be in response to a Private Person Arrest. However, members 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 member witnesses all the elements of the violation (i.e., overhears or observes the solicitation and rejection, and witness the hounding or harassing) the member should arrest the suspect and attempt to get the name and address of the victim. If this is not possible, members should describe the victim (race, sex, age, clothing, etc.) in the narrative of the incident report and include the details of the violation.
2. 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 their name(s), address(es) and telephone number(s) in your incident report.