

Private Person's Arrest

330.1 PURPOSE AND SCOPE

This policy provides guidance for the handling and acceptance of a private person's arrest.

330.2 POLICY

It is the policy of the Havre de Grace Police Department to accept a private person's arrest only when legal and appropriate.

330.3 ARRESTS BY PRIVATE PERSON

A private person may arrest another under the following circumstances:

- (a) An arrest without a warrant varies based on the nature of the crime.
- (b) If the crime is a felony, a private person can make an arrest if:
 - 1. A felony is being committed in the private person's presence.
 - 2. A felony has in fact been committed and the private person making the arrest has probable cause to believe the individual arrested has committed the felony, whether or not in the private person's presence.
- (c) If the crime is a misdemeanor, a private person can make an arrest if the misdemeanor amounts to a breach of the peace and is committed in the private person's presence or view.

330.4 OFFICER RESPONSIBILITIES

An officer confronted with a person claiming to have made a private person's arrest should determine whether or not such an arrest would be lawful.

If the officer determines that the private person's arrest is unlawful, the officer should:

- (a) Take no action to further detain or restrain the arrested individual, unless there is independent justification for continuing a detention.
- (b) Advise the parties that the arrest will not be accepted but the circumstances will be documented in a report.
- (c) Document the incident, including the basis for refusing to accept custody of the individual.

Whenever an officer determines that a private person's arrest is justified, the officer may further detain the individual in order to obtain reporting information and to determine the appropriate charging method. If the violation is determined to be a felony, an on-view arrest is authorized. If the violation is classified as a misdemeanor, charges via a criminal citation or application for statement

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of charges would be more appropriate. Due to the uniqueness of these situations, consultation with the Harford County State's Attorney's Office may occur prior to charging.

330.5 PRIVATE PERSON'S ARREST FORM

The arresting person should be asked to complete and sign a written statement for the incident report. If the person fails or refuses to do so, the arrested individual should be released, unless the officer has a lawful reason, independent of the private person's arrest, to take the individual into custody and determines an arrest is appropriate.