

Private Person's Arrests

327.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for handling private person's arrests and detentions made pursuant to state law.

327.2 ADVISING PRIVATE PERSONS OF THE ARREST PROCESS

In circumstance where applicable, officers shall advise civilians of the right to make a private person's arrest, including advice on how to safely execute such an arrest. In all situations, officers should use sound discretion in determining whether to advise an individual of the arrest process.

- (a) When advising any individual regarding the right to make a private person's arrest, officers should refrain from encouraging or dissuading any individual from making such an arrest and should instead limit advice to the legal requirements for such an arrest, as listed below.
- (b) Private individuals should be discouraged from using force to effect a private person's arrest. Absent immediate threat to their own safety or the safety of others, private individuals should be encouraged to refer matters to law enforcement officials for further investigation or arrest.
- (c) individuals shall be informed of the requirement to inform the person to be arrested, prior to making the arrest, of the intention to arrest him/her and the reason for the arrest (ORC § 2935.07).
- (d) Private individuals shall be informed of the requirement to take the arrested person before a judge or to a peace officer without unnecessary delay (ORC § 2935.06).

327.3 ARRESTS BY PRIVATE PERSONS

A private person may arrest another under the following circumstances:

- (a) When a felony has been committed and he/she has reasonable cause to believe the person to be arrested committed the felony (ORC § 2935.04).
- (b) When reasonable information exists that the accused stands charged in the courts of any state with a crime punishable by death or imprisonment for a term exceeding one year (ORC § 2963.12).

327.3.1 DETENTIONS BY PRIVATE PERSONS

A private person may detain another for subsequent arrest by a peace officer under the following circumstances:

- (a) Museums, archival institutions, libraries, merchants, and their agents and employees who have probable cause to believe the person to be detained is a shoplifter or has otherwise committed a theft of their property (ORC § 2935.041(A), (B), and (C)).
- (b) Motion picture presentation facilities and their agents and employees who have probable cause to believe a person is or has been recording in violation of ORC § 2913.07 (ORC § 2935.041(D)).

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327.4 OFFICER RESPONSIBILITIES

Any officer presented with a private person wishing to make an arrest must determine whether there is reasonable cause to believe that such an arrest would be lawful.

- (a) Should any officer determine that there is no reasonable cause to believe that a private person's arrest is lawful, the officer should take no action to further detain or restrain the individual beyond that which reasonably appears necessary to investigate the matter, to determine the lawfulness of the arrest and protect the public safety.
 - 1. Any officer who determines that a private person's arrest appears to be unlawful should promptly release the arrested individual. The officer must include the basis of such a determination in a related report.
 - 2. Absent reasonable cause to support a private person's arrest or other lawful grounds to support an independent arrest by the officer, the officer should advise the parties that no arrest will be made and that the circumstances will be documented in a related report.
- (b) Whenever an officer determines that there is reasonable cause to believe that a private person's arrest is lawful, the officer may exercise any of the following options:
 - 1. Take the individual into physical custody for booking.
 - 2. Release the individual upon a misdemeanor citation or pending formal charges.

327.5 REPORTING REQUIREMENTS

In all circumstances in which a private person is claiming to have made an arrest, the individual must complete and sign the Ohio Incident Based Reporting System (OIBRS) report and an affidavit. If the person fails or refuses to do so, the arrested subject shall be released unless the officer has an independent reason to take the person into custody.

In addition to the OIBRS report and an affidavit (and any other related documents, such as citations and booking forms), officers shall complete a narrative report regarding the circumstances and disposition of the incident.