

Private Persons Arrests

331.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for handling private person's arrests and detentions made pursuant to CRS § 16-3-201, CRS § 16-3-202(2) and CRS § 16-19-115.

331.2 ADVISING PRIVATE PERSONS OF THE ARREST PROCESS

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.

331.3 ARRESTS BY PRIVATE PERSONS

A private person may arrest another under the following circumstances (CRS § 16-3-201, CRS § 16-3-202 (2) and CRS § 16-19-115):

- a. For any crime that has been or is being committed or attempted in his/her presence
- b. When directed by any peace officer to assist a peace officer
- c. When there is reasonable information that the accused has been charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year
 1. The accused shall be taken before a judge without unnecessary delay and a complaint must be made against the accused under oath by the private person making the arrest.

331.4 OFFICER RESPONSIBILITIES

Any officer presented with a private person who has made a private person's 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.

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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.

331.5 REPORTING REQUIREMENTS

In all circumstances in which a private person is claiming to have made an arrest, the individual must complete and sign, or give an audio/video recorded, detailed statement outlining the justification for the arrest and circumstances of the incident. 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 written or recorded statement (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.

