

Private Person's Arrest

333.1 PURPOSE AND SCOPE

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

333.2 POLICY

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

333.3 ARRESTS BY PRIVATE PERSON

A private person may arrest another when there is probable cause to believe that the person is committing or has committed an offense and the existing circumstances require the person's immediate arrest (§ 46-6-502, MCA).

The private person may use reasonable force to detain the arrested person (§ 46-6-502, MCA).

333.4 OFFICER RESPONSIBILITIES

An Officer confronted with a person claiming to have made a private person's arrest should determine whether such an arrest is 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 take the individual into custody and proceed in the same manner as with any other arrest (§ 46-6-505, MCA).

333.5 PRIVATE PERSON'S ARREST STATEMENT

The arresting person should be asked to complete and sign a citizen affidavit of probable cause. If the person fails or refuses to do so, the arrested individual should be released, unless the officer has probable cause, independent of the private person's arrest, to take the individual into custody and determines an arrest is appropriate.