

Private Person's Arrest

329.1 PURPOSE AND SCOPE

Best Practice

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

329.2 POLICY

Best Practice

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

329.3 ARRESTS BY PRIVATE PERSON

State

A private person may arrest another under the following circumstances:

- (a) For a felony and for any other offense committed in the person's presence (CPL § 140.30).
 - 1. The arrest for a felony may be made anywhere in the state, and an arrest for an offense may be made only in the county where the offense was committed.
 - 2. The private person's arrest may occur at any hour of the day or night (CPL § 140.35).
- (b) A juvenile under the age of 18 may be arrested for an act that would be a crime if committed by an adult if the arrest would be valid for an adult (Family Court Act § 305.1).
- (c) When the accused is charged in another state with a crime punishable by death or imprisonment for a term exceeding one year (CPL § 570.34).

329.4 OFFICER RESPONSIBILITIES

State

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.

Syracuse Police Department

Policy Manual

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Whenever an officer determines that a private person's arrest is justified, the officer shall take the individual into custody and bring the person before a local criminal court or issue and serve an appearance ticket as provided in CPL § 140.40 or CPL § 570.34.

If an officer takes an arrested juvenile into custody, the officer shall immediately notify the parent or other person legally responsible for the juvenile's care or the person with whom the juvenile is domiciled that the juvenile has been arrested and the location where he/she is being detained. The officer shall then proceed as required by the Temporary Custody of Juveniles Policy (CPL § 140.40).

329.5 PRIVATE PERSON'S ARREST FORM

Best Practice **MODIFIED**

The arresting person should be asked to complete and sign the accusatory instrument or a supporting deposition and arrest 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.