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## Arrest or Detention by Private Persons

### 1104.1 PURPOSE AND SCOPE

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

### 1104.2 POLICY

It is the policy of the Montgomery County Sheriff's Office to accept a private person's arrest or detention only when legal and appropriate.

### 1104.3 ARREST BY PRIVATE PERSON

A private person may only arrest an individual:

- (a) When assisting a law enforcement officer upon that officer's request.
- (b) Upon reasonable information that the accused stands charged with a crime punishable by death or imprisonment for a term exceeding one year.

The private person must take the accused immediately before a judge or magistrate and a complaint must be made against him under oath setting forth the ground for the arrest.

### 1104.4 DETENTION BY PRIVATE PERSON

A private person may only detain an individual when he/she has probable cause to believe that the individual has committed any of the following offenses in the presence of the private person:

- (a) A felony
- (b) A breach of peace
- (c) A crime involving theft or destruction of property, detention must be in a reasonable manner considering the offense involved and the circumstances of the detention.

The detention may be for no longer than required to accomplish the earliest of the following:

- Determining that no offense has been committed.
- Surrender the person detained to a law enforcement officer.

### 1104.5 DEPUTY RESPONSIBILITIES

A deputy confronted with a person claiming to have made a private person's arrest or detention should determine whether or not the person who was arrested or detained has committed a criminal offense for which the deputy may take enforcement action.

If the deputy determines that the arrested or detained person did not commit a crime, the deputy should:

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- (a) Take no action to further detain or restrain the individual, unless there is independent justification for continuing a detention.
- (b) Advise the parties that the circumstances will be documented in a report.
- (c) Document the incident, including the basis for refusing to accept custody of the individual.

Whenever a deputy determines that an arrested or detained person committed an arrestable offense, the deputy may take the individual into custody and proceed in the same manner as with any other arrest or detention. If the deputy determines that the arrested or detained person committed a crime, but the deputy is not able to make an arrest (e.g. misdemeanor occurring outside the deputy's presence), the deputy should determine if a warrant for arrest, criminal summons or citation is appropriate.

### **1104.6 INCIDENT REPORT FOLLOWING PRIVATE PERSON ARREST**

Unless the arrest was at the direction of a deputy, the arresting or detaining person should be asked to complete a signed statement including all information of the alleged offense. If the person fails or refuses to do so, the deputy should determine if sufficient grounds exist to independently arrest or charge the individual with a criminal offense.