Citizens arrests are subject to fewer constitutional requirements than an arrest by law enforcement officers, but citizens arrests still have rules that govern them. Failure to abide by these rules can result in civil and criminal liability for the arresting individual.

Breaches of the Peace
In general, people can't use citizens arrests for misdemeanors unless the misdemeanor involves a breach of the peace. Even in these circumstances, however, individuals can only make arrests when they have personally witnessed the criminal behavior and the breach has just occurred or there is a strong likelihood that the breach will continue.

Constitutionality of a Citizens Arrest
As mentioned above, a citizens arrest does not carry with it the same constitutional requirements that attach to an arrest by law enforcement officers. If, however, a person acts on the request of law enforcement, any arrest they carry out must meet the same constitutional standards as an arrest by the law enforcement officers themselves.

For example, a citizens arrest upon the request of law enforcement would still have to comply with the Fourth Amendment's restrictions against unreasonable searches and seizures and its warrant requirement. A citizen could also face prosecution under statutes that make it a crime to deprive someone of their constitutional rights.

If a citizen acts on their own initiative in making the arrest, however, those same constitutional restrictions do not apply.

Citizens’ Arrest
By David C. Grossack, Constitutional Attorney

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Not long ago the politically correct Boston Globe noticed a “shocking” new trend. It seems as if some citizens of Massachusetts were so fed up with crime that they have begun to intervene in petty street crime afflicting the streets of our cities. Thieves and pickpockets in Massachusetts should exercise caution in where and how they ply their craft as the chances that vigilantes pummel them and drag them to the nearest cop are definitely on an upswing. While the Globe is shocked at this healthy trend, students of the law should note that both a statutory and common law basis for a certain degree of “vigilante behavior” is
Black’s Law Dictionary for a good definition of an arrest: “The apprehending or detaining of a person in order to be forthcoming to answer an alleged or suspected crime.” See Ex parte Sherwood, (29 Tex. App. 334, 15 S.W. 812).

Historically, in Anglo Saxon law in medieval England citizen’s arrests were an important part of community law enforcement. Sheriffs encouraged and relied upon active participation by able bodied persons in the towns and villages of their jurisdiction. From this legacy originated the concept of the posse comitatus which is a part of the United States legal tradition as well as the English. In medieval England, the right of private persons to make arrests was virtually identical to the right of a sheriff and constable to do so. (See Inbau and Thompson, Criminal Procedure, The Foundation Press, Mineola, NY 1974.

A strong argument can be made that the right to make a citizen’s arrest is a constitutionally protected right under the Ninth Amendment as its impact includes the individual’s natural right to self preservation and the defense of the others. Indeed, the laws of citizens arrest appear to be predicate upon the effectiveness of the Second Amendment. Simply put, without firepower, people are less likely going to be able to make a citizen’s arrest. A random sampling of the various states as well as the District of Columbia indicates that a citizen’s arrest is valid when a public offense was committed in the presence of the arresting private citizen or when the arresting private citizen has a reasonable belief that the suspect has committed a felony, whether or not in the presence of the arresting citizen.
chapter 39, C.R.S. 1963. The provisions of those articles were repealed and
reenacted in 1972, resulting in the addition, relocation, and elimination of
sections as well as subject matter. For amendments to those articles prior to
1972, consult the Colorado statutory research explanatory note beginning on
page vii in the front of this volume. For a detailed comparison of those articles,
see the comparative tables located in the back of the index.

Editor's note: This article was repealed and reenacted in 1972. For historical
information concerning the repeal and reenactment, see the editor's note before
the article 1 heading.

ANNOTATION

Law reviews. For comment, "Leake v. Cain: Abrogation of Public Duty

Annotator's note. Since § 16-3-201 is similar to repealed § 39-2-20, C.R.S.
1963, relevant cases construing that provision have been included in the
annotations to this section.

A private citizen may arrest for any crime committed in his presence. Schiffner

Office outside of jurisdiction arrests with authority of private citizen. A peace
officer acting outside the territorial limits of his jurisdiction does not have any
less authority to arrest than does a person who is a private citizen. People v.

When "in presence" requirement met. The "in presence" requirement of this
section is met if the arrestor observes acts which are in themselves sufficiently
indicative of a crime in the course of commission. People v. Olgui, 187 Colo.
34, 528 P.2d 234 (1974).

F.B.I. agent had authority as private citizen to arrest one escaping from police
station in his presence. Schiffner v. People, 173 Colo. 123, 476 P.2d 756

Hospital security guards, like any other citizens, have the power to make a

An arrest must be first authorized under this section before a private person can
use physical force to effect the arrest. People v. Joyce, 68 P.3d 521 (Colo.
App. 2002).

C.R.S. 16-3-202 (2013)
16-3-202. Assisting peace officer - arrest - furnishing information - immunity

(1) A peace officer making an arrest may command the assistance of any person who is in the vicinity.

(2) A person commanded to assist a peace officer has the same authority to arrest as the officer who commands his assistance.

(3) A person commanded to assist a peace officer in making an arrest shall not be civilly or criminally liable for any reasonable conduct in aid of the officer or for any acts expressly directed by the officer.

(4) Private citizens, acting in good faith, shall be immune from any civil liability for reporting to any police officer or law enforcement authority the commission or suspected commission of any crime or for giving other information to aid in the prevention of any crime.


Cross references: For refusing to aid a peace officer, see § 18-8-107; for authority of sheriffs to command aid, see § 30-10-516.

ANNOTATION
Aid of citizen does not make him agent of state in state action cases. The mere existence of the common-law right of a private citizen to aid in an arrest is not such significant state involvement as to make him an agent of the state, for in state action cases it has been required that the state enforce or require adherence to some unconstitutional private act and the mere fact that the state common law or custom permits the act is not sufficient to support a finding of state action under the federal civil rights act. Warren v. Cummings, 303 F. Supp. 803 (D. Colo. 1969) (decided under repealed § 39-2-20, C.R.S. 1963).


C.R.S. 16-3-203 (2013)
16-3-203. Preventing a crime - reimbursement

Any person who is not a peace officer as defined in section 24-31-301 (5), C.R.S., who is made the defendant in any civil action as a result of having sought to prevent a crime being committed against any other person, and who has judgment entered in his favor shall be entitled to all his court costs and to reasonable attorney fees incurred in such action.

Entire section amended, p. 1097, § 5, effective March 6.

Cross references: (1) For awarding of attorney fees in civil actions generally, see § 13-17-102.

(2) For the legislative declaration contained in the 1992 act amending this section, see section 12 of chapter 167, Session Laws of Colorado 1992.

ANNOTATION
This section shifts payment of the defendant's court costs and reasonable attorney fees to the plaintiff when the defendant prevails and the court finds that the defendant acted in good faith to prevent what he or she thought was a current or future crime. Schwankl v. Davis, 85 P.3d 512 (Colo. 2004).

http://www.greeleygazette.com/press/?p=4329

http://www.greeleygazette.com/press/?p=4498

VON LUEBBERT -CITIZEN POWER
“Actually citizens have more powers of arrest than police,” said Hal Von Luebbert, a former police officer who trains people in arrest techniques. “Citizens delegate their authority to police with all kinds of restrictions, but the power resides within each adult citizen to conduct arrests anywhere in the nation.” Arresting people in another nation is not recommended by Von Luebbert. “The powers are for American citizens within our own national borders,” he said.

Receive the Suspect
If the suspect is present when officers initially meet with the citizen, and if the citizen arrests him or has already done so, the officer must “receive” him, meaning they must take custody of the suspect. Note the following:

The officer's act of taking custody of the suspect does not constitute an arrest by the officers, it is merely a transfer of custody following an arrest by the citizen, and consequently, the officers cannot be held liable for false arrest.

The officer must accept custody even if they don’t know whether the citizen had probable cause. The officer who accepts custody of a person following a citizen arrest is not required to determine whether the arrest was justified, and cannot be held liable for the arrest if it was improper.

The officer could be charged with a felony for refusing to take custody of a suspect who had been arrested by a citizen.
Delegated Authority
Should the suspect not be present when officer arrives, the officer who later finds the suspect, may detain them until the citizen arrives to make the arrest. The officer can also arrest the suspect without the citizen if the citizen, in addition to declaring their intent to arrest the suspect, had delegated to the office their right to take the suspect into physical custody. Delegations of authority can be expressed or implied.

Entering the Home of a Suspect
An officer can enter a home only if they have a warrant, consent, or if there were exigent circumstances. The exigent circumstance known as “fresh pursuit” is not usually permitted unless the suspect was wanted for a dangerous felony.

Transporting the Suspect
If an officer arrests the suspect based on an express or implied delegation of authority, they may transport the suspect to the citizen for the purpose of having the citizen complete the formalities of the arrest.

Arrest Formalities
The suspect must be notified that he is under arrest. This must be done by the citizen or officer. However, neither the citizen nor the officers are required to formally arrest the suspect if, under the circumstances, a reasonable person in the suspect’s position would have known they were under arrest.

Cite and Release
Unless officers are required by statute to transport the suspect, they may cite and release him. The officers may also release the suspect without having them sign a notice to appear if they are satisfied that probable cause does not exist.

Searching the Arrestee
A citizen may seize any weapons in the arrestee’s possession, and any evidence in plain view but cannot conduct a search incident to the arrest or otherwise search for evidence unless it’s a “merchant” search.”

Merchant Search
A merchant who arrests a suspect for theft, may request that the suspect surrender the stolen property. If the suspect refuses, the merchant may conduct a limited and reasonable search for the stolen property in packages, shopping bags, handbags or other property in the immediate possession of the suspect, but not including any clothing worn by the suspect.

Search by Officer
If the officers transport the suspect to jail for booking, they may conduct a standard search incident to arrest. Regardless of whether the suspect will be transported, an officer who accepts custody of a person arrested by a merchant
having probable cause to believe the suspect had stolen retail merchandise may search the suspect for any item or items alleged to have been taken.

U.S. Constitution › Article I

Section 8.

The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;

To borrow money on the credit of the United States;

To regulate commerce with foreign nations, and among the several states, and with the Indian tribes;

To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

To provide for the punishment of counterfeiting the securities and current coin of the United States;

To establish post offices and post roads;

To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

To constitute tribunals inferior to the Supreme Court;

To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations;

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

To provide and maintain a navy;
To make rules for the government and regulation of the land and naval forces;

To provide for calling forth the militia to execute the laws of the union, suppress insurrections and repel invasions.

GOV.,

To provide for organizing, arming, and disciplining, the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress;

To exercise exclusive legislation in all cases whatsoever, over such District (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings;--And

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.