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## Article and Essay

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## THE PUZZLING PERSISTENCE OF CITIZEN'S ARREST LAWS AND THE NEED TO REVISIT THEM

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*The killing of Ahmaud Arbery at the hands of individuals purportedly making a “private person's arrest” has brought new attention to the existence of so-called citizen's arrest laws. Every state has them, and surprisingly, most of these laws still have the same content as the common-law doctrine that preceded them. The sheer persistence of these laws is puzzling and demands an explanation. This article is one of the very few in the last several decades to bring critical \*162 scrutiny to citizen's arrest laws, and to make recommendations for their reform, if not their repeal.*

*Part I of our Article describes the main features of citizen's arrest laws, gives some recent examples of citizen's arrests, and briefly analyzes the Arbery case as a supposed instance of a “citizen's arrest.” Part II speculates why these laws persist, offering two and non-mutually exclusive broad theories: first, that they are part of an ideology of “citizen empowerment” that sees individuals as co-equal to the police in their ability to enforce the law; and second, that these laws have been hijacked in the service of white supremacy. Part III covers some possible reforms of citizen's arrest laws, viz., restricting the crimes for which citizen's arrests can be made, requiring notification of the police and the wait of a reasonable period of time for the police to arrive, and eliminating citizens' ability to use deadly force to make an arrest. An appendix lists citizen's arrest laws as they now exist in the 50 states and the District of Columbia.*

### INTRODUCTION

After the shooting and killing of Ahmaud Arbery, the suggestion that the actions leading to Arbery's death could be justified under Georgia law added insult to the injury. Indeed, one prosecutor, recusing himself in a letter, said that in his opinion the killing of Arbery was “perfectly legal” under Georgia's citizen's arrest law.<sup>1</sup> This is because, according to the prosecutor, Gregory and Travis McMichael were in “hot pursuit” of someone that they had “probable cause” to believe had committed a felony.<sup>2</sup> Although his interpretation of the facts and the law is questionable,<sup>3</sup> Georgia's citizen's arrest law even *appearing*

to condone such conduct led to widespread calls for its repeal. In the words of one commentator, “the state of Georgia should not allow private citizens to play amateur detective with guns in their hands. \*163 The decisions are too difficult, and the consequences are too dangerous.”<sup>4</sup>

The state of Georgia is hardly unique in having such laws.<sup>5</sup> These laws are common, even ubiquitous. In fact, no state is without one either as a matter of statute or a matter of the common-law.<sup>6</sup> What is more, many of those laws are broad in scope, giving citizens the right to arrest people on misdemeanors or felonies, even ones not committed in their presence.<sup>7</sup> To be sure, a citizen who makes an arrest risks his or her own liability. If the arrest is a false one, they may face charges themselves of false imprisonment or assault.<sup>8</sup> But the mere existence of such laws can seem to be a troubling fact, as it seems to permit--if not positively encourage--citizens to take the law into their own hands. Even more troubling may be the fact that the laws have undergone almost no change in content from the days of the English common law and the “hue and cry.”<sup>9</sup> In the words of one *New York Times* story, such laws look like relics “in an age in which 911 is widely available and police response times are generally within minutes.”<sup>10</sup>

Our short essay takes a critical look at these laws and makes suggestions for reforming them. In the first part, we examine the existing citizen's arrest laws in some detail, giving some examples where those laws might come into play, and pointing out the commonalities between the laws of various states. Many of these laws are not only similar, they are word-for-word *exactly* the same. We conclude the part by looking in detail at the Arbery case, and the operation of Georgia's citizen's arrest law, raising some questions about the initial decision not to charge Gregory and Travis McMichael. In the second part, we try to reckon with the fact that not only do these laws exist, they exist everywhere, and there has been no serious momentum to repeal or even reform them in the past several decades. In doing so, \*164 we situate citizen's arrest laws within the context of two sets of laws that *have* seen recent efforts to change them: self-defense laws and law regarding police officers' use of force. We also deal with whether there may not be a simpler, and more sinister, explanation for the persistence of citizen's arrest laws: they simply persist as tools of white supremacy.

Finally, in the last part of our paper, we offer suggestions for reforming these laws. Many of these suggestions are inspired by a *Columbia Law Review* note from the 1960s, which shows the surprising lack of change in citizen's arrest laws over a half-century,<sup>11</sup> and the need to revisit them.<sup>12</sup> The conclusion to the paper weighs the question of whether citizen's arrest laws should be abolished or only reformed.

## I. GENERAL CHARACTERISTICS OF CITIZEN'S ARREST LAWS

What do we mean by citizen's arrest laws? Two broad distinctions should be made at the outset. First, by a citizen's arrest, we do not intend to capture all those means of enforcing the criminal law that are not conducted by the actual, professional police. This would sweep too broadly for our purposes. That is, we do not mean to be discussing what is widely called the “private police”<sup>13</sup> --*inter alia*, security guards, bouncers, or other “corporate” private security.<sup>14</sup> We will also be putting to one side those not infrequent cases of police officers who make citizen's arrests when they are outside of their jurisdiction. In short, when we deal with citizen's arrests, we mean to take it in its ordinary sense: arrests by citizens, who have no special training or expertise or special statutory authority in enforcing the criminal law.<sup>15</sup> Our focus is only “ordinary” citizens, who attempt to make arrests of people they believe have committed a crime.<sup>16</sup>

\*165 But here we also should make another distinction, this one a little harder to make because the relevant contrast is with an ambiguous category, viz., vigilantism.<sup>17</sup> When we speak of citizen's arrest, we also do not mean to talk about vigilante justice, a type of justice that sees itself as outside the law, and as bringing about some desired moral end. On this rough definition of “vigilantism,” a vigilante--as opposed to someone making a citizen's arrest--seeks not merely to restrain the person in order to turn that person over to law enforcement, but in fact to mete out punishment of that person.<sup>18</sup> The vigilante, too, may see it as his or her job to seek out criminals, even those who have committed their crimes long ago, rather than simply pursue those who have recently committed a crime in his or her presence. At the same time, an ongoing concern with allowing citizen's arrest is that it may turn into a license for vigilantism, where citizens go beyond *restraining* people who have committed a crime to *punishing* them. We might see a “citizen's arrest” as falling in between a justified arrest by a trained law enforcement officer on one side and vigilantism on the other, but always at risk of spilling over into vigilantism.

## A. Some Examples

We believe it will be helpful to go over some examples of citizen's arrests-- of the sort we mean to focus on--before going on to investigate in greater detail the statutes that may or may not provide a justification for these actions.<sup>19</sup> While going through the examples, we will also highlight the statutes of the jurisdictions where these purported citizen's arrests occurred. That will enable us to preview somewhat the surprising uniformity of these statutes, something dealt with in much greater detail in the second section of this part. These examples are not meant to be especially illustrative--the cases from outside of Georgia were almost selected at random. We are necessarily limited by those cases that were considered sensational or troubling enough to generate significant media attention, or which were the subject of an appeal. But they will help make clear what types of cases interest us, and what motivates us in seeking to revisit existing citizen's arrest laws.

**\*166** One further caveat has to be made. We do not claim that all of these cases involve instances where citizen's arrest would *succeed* as a defense at trial against any charges--or even that the defendant would get a jury instruction on the defense. We offer them here to show the range of behaviors that might at least *seem* to raise an issue of citizen's arrest. We begin with two cases from Georgia, which are not as well-known as the Arbery case. We follow that with four cases from four other jurisdictions. We then examine the Arbery case in greater detail in the final section of this Part.

### 1. Georgia Cases

*Payne*. Twenty-two-year-old Hannah Payne witnessed a minor hit-and-run accident in Clayton County, Georgia, and followed the suspect, sixty-two-year-old Kenneth Herring, in her jeep.<sup>20</sup> She blocked off the suspect's vehicle, approached the driver's side window, and shot him, despite repeated instructions from the 9-1-1 operator to not intervene. Hannah Payne was charged with multiple felonies, including murder.<sup>21</sup> Payne's attorney has tried to characterize her actions as part of a citizen's arrest.<sup>22</sup>

*Fannin*. In 2015, when Hashim Fannin was about to leave an Atlanta area Family Dollar parking lot, Edgar Horn got into the passenger seat in an apparent attempted carjacking.<sup>23</sup> Fannin pulled a gun on him, and asked him to exit the car.<sup>24</sup> Fannin then held Horn at gunpoint for several minutes until police arrived and took custody of **\*167** Horn.<sup>25</sup> Horn has said that he mistakenly got into the wrong car, and had no intent to steal.<sup>26</sup>

In Georgia, it is lawful for a private citizen to arrest anyone who has committed a misdemeanor or felony in their presence or with their immediate knowledge. The law also allows a private person to make an arrest of someone who is escaping.<sup>27</sup> If the offense is a felony and the offender is escaping or attempting to escape, and the citizen has reasonable and probable ground to suspect the offender has committed a felony, then the private person is permitted to make an arrest.<sup>28</sup>

### 2. Cases from other jurisdictions

*Indiana*. In Indiana, the city council president of Gary, Ron Brewer, used a phone app to track his stolen vehicle. This led him to East Chicago, where he found teenagers occupying his vehicle. Brewer allegedly fired shots at the teenagers, and captured one fourteen-year-old, taking him back to his home in Indiana. Brewer was charged with kidnapping, criminal confinement, and intimidation. Brewer and his attorney are claiming he had a right to confront the teenagers under Indiana's citizen's arrest law.<sup>29</sup>

In Indiana, a private citizen may arrest anyone if they have probable cause to believe that person committed a felony. A private citizen may also arrest someone who commits a misdemeanor in their presence if arrest is necessary in order to prevent further breach of peace.<sup>30</sup>

**\*168** *Montana*. In 2016, four men fled from the scene after colliding with a truck in Billings, Montana.<sup>31</sup> Bystander Jake Vangen was standing on a nearby street and pulled a gun on one of the fleeing men, ordering him to the ground until police arrived.<sup>32</sup> On a different nearby street, two bystanders tackled a second suspect and held him down until police arrived.<sup>33</sup>

A responding Highway Patrolman thanked the citizens for their help saying it was “greatly appreciated.”<sup>34</sup> There was no indication that the citizens making the arrest were charged with any crime.<sup>35</sup>

In Montana, “[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.”<sup>36</sup> In addition, “[t]he private person may use reasonable force to detain the arrested person.”<sup>37</sup>

*Missouri.* Last year in Springfield, Missouri, Dmitriy Andreychenko walked into a Walmart wearing body armor and carrying an assault rifle and a handgun with 100 rounds of ammunition.<sup>38</sup> He did this during a rash of mass shootings in 2019, and less than a week after the El Paso Walmart mass shooting.<sup>39</sup> He began walking around the store filming people's horrified reactions.<sup>40</sup> A shopper held him at gunpoint until police arrived.<sup>41</sup> Andreychenko was charged with second degree terroristic threats.<sup>42</sup> It does not seem as that the shopper was charged with any crime.<sup>43</sup> In Missouri a private citizen may make an arrest when a felony has been committed and they have reasonable grounds to suspect the culprit.<sup>44</sup>

**\*169** *California.* A San Jose man, Victor Magana, suspected of attempted murder and kidnapping, was detained by a number of citizens in San Luis Obispo County at a gas station when they recognized his car from an Amber Alert.<sup>45</sup> Local law enforcement arrived shortly after, and the child was found in the vehicle unharmed.<sup>46</sup> Magana was charged with attempted murder and kidnapping for slashing the throat of his ex-girlfriend and taking their two-year-old daughter.<sup>47</sup> There is no indication that the citizens who made the arrest were charged with a crime.<sup>48</sup> In California, a private citizen may arrest someone whom they have reasonable cause to believe has committed a felony or anyone who commits a misdemeanor in their presence.<sup>49</sup>

## B. Citizen's Arrest Statutes in the States

Every state<sup>50</sup> has a citizen's arrest law, and even more surprisingly, those laws are very similar, even to the point of being word-for-word copies of one another. Most of the laws tend to provide broad latitude for citizens to make arrests, subject to few limitations, especially when it comes to felony arrests.<sup>51</sup> The parallel to police officer's use of force statutes, something we highlight in the text, is hard to miss.<sup>52</sup> While it would be impossible to summarize the variations in all of the laws, we can make a few generalizations about them. In particular, we can pick out which crimes citizens may arrest for, and what general restrictions they have in their ability to make those arrests. Five commonalities among the laws stand out.<sup>53</sup>

*Distinctions between crimes.* The key distinction here is between felonies and misdemeanors. When there are restrictions on citizen's **\*170** arrests, they tend to fall on the misdemeanor side.<sup>54</sup> Citizen's arrests for felonies are generally permitted, although they are not without their own limitations.<sup>55</sup> In some states, citizen's arrests are not allowed for misdemeanors, or only for certain misdemeanors, such as those that involve a “breach of the peace.”<sup>56</sup> There are no such corresponding categorical exclusions for felonies in most states. Many states, however, will allow arrests for any offense--felony or misdemeanor.

*Presence or immediate knowledge.* When there is a qualification on misdemeanor arrests, the misdemeanor is usually made in the presence of the person or within that person's “immediate knowledge.”<sup>57</sup> There is greater allowance of citizen's arrests for felonies that are committed outside the presence or immediate knowledge of the person making the arrest.<sup>58</sup> Indeed, many states, such as Georgia, allow for a felony arrest if the person making the arrest only had “reasonable and probable grounds” to believe that the person arrested was the one who committed the felony--especially in those cases where the suspected felon is escaping.<sup>59</sup>

*Notice.* A common restriction on citizen's arrest is that a person making a citizen's arrest must inform the person he or she is arresting that they are being arrested and what is the “cause for the arrest.”<sup>60</sup> Some states explicitly remove this requirement when the person being arrested is still in the course of committing the crime; is apprehended after hot pursuit; or more generically, in those cases where the person would clearly know that he or she is being arrested.<sup>61</sup>

*Notification and surrender of arrestee.* After the arrest is made, the person making the arrest must take the arrestee before a judge as soon as practically possible, or else notify a law enforcement officer of \*171 the arrest, and turn over the arrestee to the officer.<sup>62</sup> Some “reasonable delay” in turning the suspect over is usually explicitly allowed by statute.<sup>63</sup>

*Consequences of a mistaken arrest.* Although citizen's arrest laws (as we will detail in the next part) share many features with laws regarding law enforcement officer's use of force, there is a crucial difference, highlighted by many state statutes. If a police officer has probable cause but arrests someone who has not in fact committed a crime, he or she will normally not face liability for that arrest.<sup>64</sup> This is not so for a citizen who arrests someone who has not committed a crime. In that case, the citizen has not just made a mistake; that citizen has quite possibly committed a tort, or even a crime--of false imprisonment, or worse.<sup>65</sup> Thus the requirement in many statutes that the person arrested has “in fact” committed a felony,<sup>66</sup> although not all states have this rule.

There are some variations on these major themes in citizen's arrest laws--some states further qualify *which* felonies or misdemeanors can be the basis of a citizen's arrest,<sup>67</sup> and others add that the arrest must be immediately necessary to prevent the arrestee from escaping--but the uniformity is obvious and striking. Few states have sought to modify or adapt their citizen's arrest laws, let alone get rid of them, even in the face of changes to other areas of the criminal law, or to particularly reported instances of the abuse of the citizen's arrest power.<sup>68</sup>

One further point to note is that citizen's arrest laws still may be subject to general rules about the *proportionality* of force that can be used to affect the arrest.<sup>69</sup> For the most part, these rules are not explicitly codified in the citizen's arrest statute *per se*.<sup>70</sup> They may be in other statutes, such as law enforcement officer's use of force laws.<sup>71</sup> Still, some courts have seen fit to read these restrictions into the citizen's \*172 arrest laws.<sup>72</sup> But in some states, because of reforms to law enforcement officer's use of force laws, citizens sometimes have a *greater* ability to use force than police officers do in certain circumstances.<sup>73</sup>

### C. The Arbery Case, Briefly Examined

With this background, we can look at the Arbery case, both as a matter specific to Georgia law, and as an abstract comparison to the principles that seem to unify most citizen's arrest statutes across states. The killing of Ahmaud Arbery now stands as the most notorious and most familiar recent case of citizen's arrest.<sup>74</sup> Apparently, believing that Arbery was a suspect in several crimes, Gregory and Travis McMichael pursued Arbery as he was jogging down a street.<sup>75</sup> At some point, they stopped and confronted him while armed with a gun.<sup>76</sup> In the ensuing struggle, Arbery was shot and killed. When the video of the confrontation emerged, the McMichaels were arrested and charged with murder and assault.<sup>77</sup>

Given the facts as we know them, could the attack on Arbery be justified as a citizen's arrest? We can see dangers in either way we answer this question. In one direction, the answer to the question might be “no,” so that the McMichaels would not succeed on their claim of making a valid citizen's arrest. This would open them up--barring a successful self-defense claim<sup>78</sup>--to a conviction for the murder of Arbery. The citizen's arrest law in Georgia could still be condemned for encouraging this behavior rather than permitting it. That is, even if citizen's arrest is not a valid defense in this case, having it available *as* a defense may lead some people to go too far and lead to tragic results, as it did in the Arbery case.<sup>79</sup>

\*173 The second direction we might go in examining the Arbery case would involve finding that the McMichaels' actions *could* be justified under Georgia's citizen's arrest law. This may be the more disquieting result, as it would mean that their apparently outrageous, cruel, and even evil behavior would get a legal “cover.”<sup>80</sup> If this were the case, then it would seem to provide an even greater motivation for repealing citizen's arrest laws, or at least drastically curtailing them.

In looking at the *Arbery* case as an instance of a possible citizen's arrest, we should start by acknowledging that our assessment here awaits a fuller picture of the evidence, namely, evidence that may only come out at trial. There is a lot that we still do not know, although what we know is troubling enough. In any event, we will emphasize our uncertainty about the facts throughout as we consider three major points: (1) whether there was a felony; (2) whether (even if there was not a felony) there was



a reasonable suspicion that Arbery was “escaping”; and, finally, (3) whether disproportionate force was used in “arresting” Arbery. Questions can be raised about the validity of the citizen's arrest at each point. Raising these three questions in this context may help us see in more detail the flaws in many citizen's arrest laws, and to point the way toward reform.

First, it is not obvious what felony Arbery is supposedly guilty of, if he is indeed guilty of any felony. There is a video of Arbery looking into a building under construction prior to the pursuit of Arbery. This might be the felony of burglary, depending on whether there is proof that Arbery intended to commit a crime inside the structure,<sup>81</sup> and also whether the half-completed house would count as a “structure” under Georgia's second-degree burglary statute.<sup>82</sup>

But this brings us to the second point. Presumably, the McMichaels would claim that they were making a citizen's arrest in *\*174* pursuit of a fleeing felon. Under the second part of Georgia's citizen's arrest statute, this requires that the citizen making the arrest have “reasonable or probable grounds” to believe that the person had committed a felony.<sup>83</sup> Did the McMichaels have this? Based on what we know, it is hard to conclude that they did. According to recent reports, Gregory McMichael had only a “gut feeling” or an “instinct” that Arbery was responsible for a prior burglary.<sup>84</sup> This seems hardly enough to amount to reasonable or probable grounds of suspicion.

Finally, there is the question of disproportionate force. Although Georgia's citizen's arrest law does not say anything about a proportional use of force, Georgia state courts have found that citizens are constrained in a similar way as police in their use of force.<sup>85</sup> Deadly force to arrest someone can only be used in certain circumstances: (1) when the person is armed, (2) presents a physical threat to others, or (3) when the crime suspect is one involving the infliction of serious physical harm.<sup>86</sup> But *none* of those circumstances seems obviously present. Arbery was unarmed, and (certainly while being pursued) presented no threat to the McMichaels; nor was the suspected crime (burglary or trespass) one that involved the infliction of serious harm.<sup>87</sup> This means that if the use of deadly force can get a justification in these circumstances, it would probably have to come from Georgia's self-defense statute.

## II. SITUATING CITIZEN'S ARREST LAWS

Every state has a citizen's arrest law, although it is something of a puzzle *why* these laws still exist. To be sure, there was a time where there simply were no professional police, and so the main type of arrest *\*175* was one made by ordinary citizens.<sup>88</sup> Citizens were to make a “hue and cry” when a crime was committed, and other citizens were then able to use force to stop and to restrain the person who was suspected of committing the crime.<sup>89</sup> Not only was this an option on the part of citizens, in was a positive duty,<sup>90</sup> because in a real sense, it was a matter of necessity.<sup>91</sup> If citizens were not going to make the arrest, nobody would.

Of course, when the police were invented, there were still gaps in a citizen's ability to enforce the law, so the right of citizen's arrest remained, and was from time to time needed.<sup>92</sup> But as policing became more professionalized and more pervasive, the need for citizen's arrests waned, and the rights of citizens and police to make arrests could no longer be seen as coequal.<sup>93</sup> It could no longer be plausibly maintained that citizens had the *duty* to arrest.<sup>94</sup> And now, citizens would bear the risk that if they made an arrest of a person who was not in fact guilty of a felony, they could be liable for damages.<sup>95</sup>

The inevitable result of the rise of the police would seem to be that the power of citizen's arrest would not only be used less but that the laws authorizing those arrests would be limited, and eventually repealed. If there is a professional police force, leaving arrests—any arrests—in the hands of citizens, could suggest that the police are not capable of controlling crime. In addition, it gives citizens power that could be abused (as recent events show).<sup>96</sup> The common-law rules that most states adopted thus seem out of place “in a society that places the primary responsibility for apprehending criminals in the hands of professional law-enforcement officers.”<sup>97</sup> In short, we may believe that “the law governing arrest by citizens is outmoded in today's *\*176* world,”<sup>98</sup> and reasonably expect to see many states abandoning such laws, or at least strongly limiting them.

But this is not what happened. Citizen's arrest laws have “stagnated,”<sup>99</sup> staying in place, relatively unchanged; and while these arrests are not as common as they once were, they are still made, and seem to have an important place in the background of the

criminal law. What we need, then, is a better explanation of why citizen's arrest laws not only seem to exist, but also seem to *persist*. There are forces at work making the laws stick, and we need to explain those forces.

In this Part, we try to give some context for the persistence of citizen's arrest laws. We can initially see tacit support for those laws coming in two directions. The first direction is an increasing assertion of individual citizen power to use force in the form of expanding self-defense laws. The second direction is in rising skepticism of the police to adequately enforce the criminal law.<sup>100</sup> Citizen's arrest laws importantly complement both of these developments. If they do not directly support the existence of citizen's arrest laws (and in our third part, we offer arguments why they might show the *lack* of need for such laws), they at least can be construed as broadly consistent with these two movements, viz., one that shows increasing citizen empowerment, and the other which points to greater constraints on law enforcement. These movements fit into the larger traditions of American individualism and self-reliance, as well as skepticism of state power.<sup>101</sup> In the closing section of this Part, however, we also consider the relationship of citizen's arrest laws to another tradition in America: racism.

### A. Self-defense

The past several decades have seen a movement in favor of expanding self-defense laws, which, in essence, give citizens the authority to prevent crime.<sup>102</sup> In principle, citizens can use force justifiably not only to hurt someone--the usual case of self-defense--but also \*177 to restrain them.<sup>103</sup> Self-defense laws could then be read, plausibly, to be involved in the same sort of activity that citizen's arrest laws permit: using force to restrain crime. Of course, self-defense is usually repelling force against one's person with force, so there is a critical distinction here--citizen's arrest laws can justify force used against a crime against another.<sup>104</sup> But even here, lines can become blurred. Most self-defense laws give a person the right, not only to protect him or herself, but also to protect another party.<sup>105</sup> And this gets us closer to the focus of citizen's arrest laws, which are designed to give protection to those who make an arrest for a crime not necessarily committed against *them*. Again, self-defense laws and citizen's arrest laws are certainly not identical, but they are cousins to one another, and may spring from the same basic idea. In the words of Wilbur Miller, that idea is something like "an assertion that citizens may protect themselves when threatened instead of having to depend on public officials."<sup>106</sup>

So, it does not strike us as implausible to see the expansion of self-defense laws as relevant to the persistence of citizen's arrest laws. Over the past several years, several states have made it easier for citizens to stand their ground in the face of an impending attack.<sup>107</sup> Missouri's experience in this regard is illustrative. Missouri initially was a state where one could stand one's ground in one's house (one's "castle").<sup>108</sup> That is, one did not have to retreat when faced with an immediate threat of force inside of one's home or within one's curtilage.<sup>109</sup> In all other places--the street, someone else's home, a bar--one would have to retreat, if retreat was practicable. Otherwise, it was not just that one would lose at trial on a claim of self-defense, one would probably not even get the jury instructed in self-defense in the first \*178 place.<sup>110</sup> Retreat was a *duty* one had, prior to the justifiable use of force.

But over the years, Missouri (along with a number of other states), gradually allowed people to "stand their ground" in the face of a threat *outside* the home, including in one's car and eventually to any place one had a right to be.<sup>111</sup> In other words, there was no duty to retreat in the face of an imminent threat in *most* places (a duty to retreat still exists for trespassers). As a result, citizens' ability to use justified force markedly increased.<sup>112</sup> A citizen no longer had to run away from a threat. They could simply confront it with force.

Standing one's ground and using force is not the same as actively *pursuing* someone in order to arrest them, and so self-defense--even when there is no duty to retreat--is not redundant with an ability for a citizen to make an arrest. But one can certainly see the relationship. Most obviously, expanding self-defense makes a strong statement both about that citizen's rights and about that citizen's powers. The default is no longer to *avoid* using force by retreating if this is a possibility. The default is instead to *confront and deal with the crime on one's own*, without waiting--and without needing to call the police.

In a context where the right to self-defense is being expanded, citizen's arrest laws no longer look so out of place, especially if we include a citizen's right to defend property in the formula as well. Citizen's arrests laws, when seen in this way, emerge as a natural companion to the idea that a citizen *in his or her own case* can deal with the situation on their own, without having

to immediately resort to contacting the police, and, importantly, without having to back away from using force to deal with the threat.<sup>113</sup> Indeed, a citizen's arrest law can look like a logical extension of the right to self-defense.<sup>114</sup> If one can use force to prevent a crime *against oneself*, or against a third \*179 party, why should it be OK, when the crime has already been committed, to let the person get away with it? Why leave the citizen's power only in the realm of *prevention* but not also in *apprehension*? Both situations require a need to act quickly; both situations prevent obvious dangers if left unattended to. If a citizen can use force in his or her own defense, why not also as a way of protecting the community?

## B. Law Enforcement Use of Force

Now consider a movement in another, different direction, this time toward restraint rather than toward empowerment. In the past several decades, dating from at least the Supreme Court's decision in *Tennessee v. Garner*, there has been an increasing skepticism about letting police use force, especially deadly force, in encounters with citizens.<sup>115</sup> *Garner* was a decision in a civil suit, and so we should be careful about drawing too many lessons from it about state criminal law.<sup>116</sup> Still, *Garner* embodied a trend in regard to law enforcement's use of force, embodied most clearly in *Garner's* caution that it was not always better that "all felony suspects die than they escape."<sup>117</sup> When it came to force, especially deadly force, police needed to be restrained. They could use that force but only in situations that clearly called for it--when a person had committed a violent felony or was continuing to threaten violence.<sup>118</sup>

State laws now seem to have come more and more to mirror *Garner*, if not in direct response to it, at least in response to a mood that the old idea--that deadly force could be used against all felons--resulted in too many deaths, too many unjustified uses of force.<sup>119</sup> Some states even go further, requiring such things as notice before deadly force was used, or that all other available methods of detaining the suspect have been exhausted.<sup>120</sup> The pattern of reform was not the same throughout all states, and some states have only very recently brought themselves in line with the *Garner* standard.<sup>121</sup> Even when change was not reflected at the legislative level, it was present at \*180 the level of the department: the police themselves, at least in theory, were more closely regulating the use of force in making arrests.<sup>122</sup>

Again, we should be careful about drawing too close causal connections between restrictions on police use of force and citizen's arrests laws. But there *does* seem to be a line that we can draw. If citizens are skeptical of police, for whatever reason (they are racist, or corrupt, or simply unresponsive or unavailable, for example), it might be safer to at least leave citizen's arrests laws on the books, so that citizens retain the power of self-help when police either cannot be counted on to respond in time or otherwise cannot be trusted. What may at first seem a counter-trend to the persistence of citizen's arrest laws--skepticism about the uses of force against criminal suspects-- may on further reflection be a confirmation of why those laws still exist. Distrust of police power, and limits on that power, mean that more power should reside in the citizen. Restrictions on the police may be at the same time reminders of the powers that citizens still have.

In any event, it is a rather striking fact that in the 21st century, an increasing focus on reforming police and calls to limit their power have been met with no corresponding efforts to limit the ability of citizens to engage in self-help, in the form of limiting or eliminating citizen's defense laws. In other words, the movement here seems not to be simply against the use of force, regardless of who uses that force. If we add to this equation the expansion of self-defense laws and the increasingly zealous protection courts have given to Second Amendment rights,<sup>123</sup> then the conclusion becomes even more striking. Citizens have seen a positive increase in their ability to *be almost exactly like* police officers both in their legal rights (self-defense) and in the lethal means they have to exercise those rights (guns). Note that this conclusion is consistent with saying that police still have too much power, viz. citizens, and they should be further constrained. The point is a relative one. Still, if recent events are any indication, we may expect that the balance will shift further to citizen empowerment.

## \*181 C. Citizen's Arrest

It is important to be clear, again, about what we are saying in this Part. The claims are extremely speculative, but worth investigating. The puzzle is that the arc of the standard narrative would seem to point in the direction of the eventual dismantling of citizen's arrests laws, and their eventual repeal. The standard narrative, after all, was a story of a shift from *only* citizens being able to make arrests to the existence of a separate police force whose job was to make arrests so that citizens would not have to. Moreover, it was not simply a story of addition--police now get to arrest people, in addition to citizens--it was a story of



*displacement*. Police would be the *only* ones to make arrests, not only because citizens would be bad at making arrests, but also because citizens *should not* make arrests: they did not have the authority to do so.

What we have tried to suggest, instead, is an emerging counter-narrative of citizen empowerment that pushes back against the standard story. The transition of power to the police has been blocked by an expansion of the rights of citizens to stand their ground and use force in defense of themselves and others and a corresponding distrust of the police to protect communities.<sup>124</sup> On this different story we are describing, while citizen's rights laws do not need to be expanded (the necessary expansion is being done in the self-defense area and in the assertion of gun rights) neither do those laws need to be repealed.<sup>125</sup> They are not anomalous, as the standard narrative would have it; rather, they exist as complements to other social facts, viz., the right of people to act in self-defense, and the need to limit the police in the exercise of their powers. As such, citizen's arrest laws "belong." They do not need to be changed or repealed-- because they are part of the rights citizens have against the government. On this revised story, getting rid of citizen's arrest laws would signal that we either did not trust ourselves to protect ourselves or trusted the police to protect us. Even if the two trends we have noted in this Part (expansion of self-defense and restrictions on policing) do not provide a *justification* for citizen's arrest laws (as they most certainly do not), they may explain \*182 why they persist--or better, our relative inattention to them until something goes wrong.

The resulting picture of where we are, today, or at least where we seem to be heading, is much closer to the common-law period, where citizen's ability to arrest was taken for granted, and even relied on as part of a broader responsibility of the community to prevent and deter crime. On this picture, the right of citizens to make arrests is parallel to the ability of the police to make arrests, even if it is not precisely equal to it. Instead of telling a story about the increasing power of the police, we may instead need to look further back, to a time we have not have fully left behind, where citizens and police both have a share in law enforcement. But there is a further variable we need to explore, viz., race.

#### D. Racism

What may be a more obvious, and more sinister, explanation for the persistence of citizen's arrest laws is that they function as a tool to entrench and enforce white supremacy. It is hard to overlook the racial aspects of the Arbery case, especially with the revelation that Gregory McMichael used racial slurs in the course of making his "citizen's arrest."<sup>126</sup> And there is some evidence that citizen's arrest laws were passed in response to changing racial and legal dynamics in the South. Indeed, we may be able to make a connection in the case of Georgia's citizen's arrest law, which was part of the codification of Georgia's criminal law led by Thomas Cobb, a lawyer and a slaveholder as well as the author of a book defending slavery.<sup>127</sup> The fact that the language of Georgia's citizen's arrest statute echoes the common-law is not dispositive. It is perfectly possible for a racially neutral law to be passed with racial animus as its motive and racial oppression as its goal.<sup>128</sup>

The claim here is once more speculative, we should emphasize, and the evidence is not easy to come by. There is strong evidence that border patrols have sought cover from citizen's arrest laws to enforce \*183 a nativist agenda.<sup>129</sup> But it is harder to find that citizen's arrest laws were used in this way in the case of race. One reason is that the campaign of racial oppression carried on by white people during the 19th and 20th century may be better characterized as acting *outside* of the law, rather than within it.<sup>130</sup> Lynching and other acts of terror against black people were not justified as citizen's arrests--rather, they did not have to be justified at all given the way the law was selectively enforced at the time.<sup>131</sup> Black people were killed or maimed and the white people who were guilty of these acts were almost never called into account by the legal system.<sup>132</sup>

In the terminology referenced briefly above, these acts were acts of *vigilantism*.<sup>133</sup> They did not purport to be legally justified; given the corrupt and racist legal systems in many parts of the U.S. at the time, there was no need for the pretense; the law was going to allow them in practice, however much of these acts were extra-judicial and unlawful in theory.<sup>134</sup> More specifically, while the Ku Klux Klan and other groups may have thought that they were agents enforcing the "law," they did not, to our knowledge, offer that they were acting under the power of citizen's arrest laws.<sup>135</sup> Their actions were tacitly condoned, and even approved of, by the relevant authorities.<sup>136</sup> If anything, these groups acted under a broader notion of "popular sovereignty," in which the law was ultimately enforced by "the people," and so the \*184 people could choose to enforce it their way if they wished.<sup>137</sup> The "higher law" on this theory could be managed and manipulated in the interests of enforcing a racist order, even if-- by the letter of the law--these white people were guilty of false imprisonment or murder.<sup>138</sup>

But this is not to say that the racist hypothesis regarding citizen's arrest does not seem to us rather plausible all things considered. Citizen's arrest laws over the course of the last century could have been overtly or implicitly "repurposed" to enforce white supremacy.<sup>139</sup> In the words of Sherilynn Ifill, this could be another instance in which "the law itself has been hijacked, and it plays a central role in aiding and abetting white people's ability to kill black people with impunity."<sup>140</sup> Recent cases-- we can add Trayvon Martin to this list, as well as Arbery--certainly point in that direction. White people may not have needed, before, to justify their actions in actual legal terms, but now they do, and citizen's arrest laws are another tool they can use to do it (along with self-defense, or the right to bear arms under the Second Amendment).<sup>141</sup>

Racism helps explain something else. It is our impression that many of those who defend citizen's arrest laws also tend to be propolice. That is, there does not seem to be a strong coalition nowadays that is both aggressive when it comes to self-defense but also extremely skeptical of police power.<sup>142</sup> But if the goal of citizen's arrest laws is to help white people exert "justified" force over black people, then those who believe this may also view the police in this way, either consciously or unconsciously. Lynch mobs in the 20th century South, \*185 after all, in the words of one historian, "act[ed] as an auxiliary to the state, carrying out its policy of white supremacy while saving its money."<sup>143</sup> The result is a more or less coherently racist view that sees the criminal law--whether enforced by private citizens or by state police--as a tool for the oppression of black bodies and lives.

### III. SUGGESTIONS FOR REFORM

The second Part gave only a possible explanation for why citizen's arrest laws persist, and why they are seemingly taken for granted. It was not meant, by any stretch, as a justification for those laws. Indeed, one may believe that the expansion of citizen's rights to self-defense is troubling (especially when combined with a strengthened Second Amendment) *and* that reforms on police officer's use of force are welcome. That is, as opposed to a citizen empowerment narrative, one may instead side with a *limited force* model, where both citizen and police use of force is put under greater constraint.<sup>144</sup> In other words, the fact that a variety of social conditions and trends have put us in a place where citizen's arrest laws may not seem to be especially out of place does not mean that we have to agree to a large place for them, or indeed any place at all. We may, in fact, be troubled by the persistence of these laws. If we add the fact that there seems to be racial overtones in the use--if not in the existence--of these laws, our disquiet may grow even further.

We believe one should also be troubled by the fact that these laws seem to have undergone no substantive revisions since they were passed, even when in the past several decades increasing attention has been paid to the use and abuse of police force.<sup>145</sup> It is in the spirit of raising questions about the presently existing laws that we offer the following reform suggestions. What is more than a little perplexing is that these reform suggestions echo those made in a Note in the *Columbia Law Review* that was written over a half century ago.<sup>146</sup> The suggestions were welcome and good then, but--as the subsequent history has shown--have fallen on deaf ears. The result is that we are left with laws that are mostly common-law era holdovers.<sup>147</sup> One \*186 does not even have to think that things have changed all that much to believe that seriously considering reform is at least a useful hypothetical exercise. But it is no longer merely hypothetical for it appears that, finally, some states are taking seriously the need to change their citizen's arrest laws.<sup>148</sup>

Here, then, are some of those reforms:

*Limit the type of offense that can be subject to a citizen's arrest, and when.*<sup>149</sup> The first limitation should be a limitation on what types of offenses that can be subject to a citizen's arrest. Here we do not mean to refer to the distinction between felonies and misdemeanors, with the idea that only those suspected of committing a felony may be subject to a citizen's arrest. This strikes us too blurry a line to be drawn, especially given the wide range of behaviors that could be considered felonious under many criminal codes.<sup>150</sup> Rather, we believe that there should be a *substantive* standard for citizen's arrest, rather than the formal one of felonies as opposed to misdemeanors: only those crimes which involved a risk of physical harm to others, or those offenders who present an ongoing risk of physical harm to others should be capable of being arrested not only by police officers but also by citizens. This would apply even to those felonies that were not committed in the presence of the person making the arrest.

The rationale here is straightforward. When it comes to minor crimes, citizens should not be the ones in charge of making arrests; this should be left to the police and not to the meddling of citizen-officers. The stakes are simply not great enough to allow citizens to take the risk. However, if there is an exigent situation where lives or safety are at risk, citizens should be able to intervene if there is simply no other option available (this can be the case even if the crime does not rise to the level of a felony). Of course, intervening in such a <sup>\*187</sup> situation contains risks of its own, so we do not believe many citizens will avail themselves of this option. But that seems a feature of our approach, not a bug. Our default is that citizens *usually* should not be stepping into the shoes of the police--not for misdemeanors, because they are too trivial, and not (usually) for crimes of violence, because the risks are too great.

Moreover, the power of citizen's arrest should be allowable only in those situations where there is a risk of immediate harm, not one that has passed. It will not do to allow citizens to affect an arrest for a felony that is days or weeks old, something seemingly allowed by many citizen's arrest laws still on the books. This should be changed. The aim of a citizen's arrest is not to supplant the police officer's job and to freely range about and make arrests, but to address a dangerous situation where police are unable to respond in time. A requirement that one be present when the crime has or is being committed may serve the same end (viz., making sure that the risk is still at hand, rather than over), although a probable cause in a belief that the suspect presents a real and credible threat may be preferable, and sufficient. <sup>151</sup>

*Require efforts to contact the police, first, and allow reasonable time for police to respond.* <sup>152</sup> In the days of the hue and the cry, communication with others was not easy--if one was not in a populated area, you were pretty much on your own. But we no longer live in that era. Not only do we have a 911 system, nearly all of us have the means at our disposal to *call* 911 if a crime has been committed. It makes sense to us, then, to require citizens who wish to make an arrest at least make an *attempt* to contact the authorities, rather than go at it on their own. A citizen's arrest should be a last resort, not a first option.

The requirement here is meant to mirror those rules of the use of deadly force by police officers, viz., that they try other means to diffuse the situation *short* of deadly force as a prerequisite to employing deadly force. The issue in our case is relatively similar, although the standard is not to use lesser means of force before greater ones, but to try to avoid intervening in the situation *at all* until one had made a <sup>\*188</sup> good faith effort to get the police involved. We believe in most cases, proving this will be easy, by showing, e.g., that one had made a 911 call and waited, but the response would not be quick enough, or for whatever reason, one was without any means to communicate with the police.

*No deadly force in making arrests.* <sup>153</sup> For this restriction, we try to draw a firm line between what citizens can do and what the police are permitted to do. Police can use deadly force in making an arrest, if necessary, and often only when certain conditions are met: the crime was a felony, or involved a present risk of violence. Police also are ostensibly trained in the use of deadly force, and are taught not to use it until all other means have been exhausted (as was mentioned above, in a related context). Not so with citizens. Citizens by and large have not been trained to use force, and they should not use force when they are trying to arrest someone. The use of force by citizens in these situations is simply too likely to escalate the situation, rather than diffuse it (although the same could certainly be the case with police violence as well).

In recommending the no-deadly-force limitation on citizen's arrests, it is important that we are *not* proposing to remove a citizen's right to defend him or herself from attacks with the use of deadly force in those cases where use of deadly force would be a proportionate response. In cases where a citizen faces a direct, imminent attack against him or a third party that threaten serious physical injury or death, that person can use deadly force to repel the attack. Indeed, many times in which a citizen's arrest will seem appropriate to our mind will be precisely in these situations--where the felony to be committed is in the form of an attack against the person who goes on to try to repel the attack and restrain the attacker. It is in these cases that the goals of citizen's arrest laws and the goals of self-defense overlap, and the justifications reinforce one another: it is good to stop the attack, and it is good to restrain the attacker, if possible, and bring them to justice.

Based on our survey, there is no state that currently adopts all of these recommendations, though there are a few states that have adopted one of them. <sup>154</sup> It is important to note that the reforms we <sup>\*189</sup> propose do not have to be adopted wholesale. Each stands separately from the others, although we believe they support one another, by pointing to the idea that citizen's arrests should be rare, and arrests should be left to the police for the most part. Only in those cases where there is a serious threat that needs to be addressed, and the citizen is willing to take the risk in stopping that threat, should the law provide support for that citizen. Otherwise, and to paraphrase *Garner*, it is not always better that a citizen make an arrest than a suspect get away. <sup>155</sup>

In offering these above suggestions, we need to return to a point we made in the first Part. Our focus here has been in restraining the *citizen* in making the arrest, and in Part I, we tried to make clear that we meant a citizen who was untrained in anything relating to use of force, and who did not have a job in any way related to crime prevention: we left to one side cases involving store security guards and police officers making arrests out of their jurisdiction. These cases, in theory, could be covered under citizen's arrest laws, and in fact many times are. But some states have separated these cases out, under separate shopkeeper's laws and laws relating to out-of-jurisdiction police arrests. We think this is a wise move. These cases are best treated separately, as they may raise fewer concerns than with having citizens making arrests. They also may need to be specifically limited in ways not relevant to the general and more sweeping limitations to citizen's arrests laws.

There is one final point that we wish to emphasize especially given current events. Reform of citizen's arrest laws does not mean that efforts to reform policing should not also proceed. We are not proposing to readjust the equilibrium away from citizens and toward the police. Our suggestions for reform are not meant to be suggestions for police empowerment. Limits on police force, and generally on police intervention, should be considered, debated, and then, if they make sense, put into law. But there is still, overall, a benefit to having a professionalized police force rather than roaming citizen-officers be in charge of making arrests and keeping the peace. There is no contradiction between wanting the use of force to be centralized rather than dispersed, yet wanting to put strong constraints on that centralized body in its ability to use force.

## \*190 CONCLUSION

Our final section concluded with suggestions for reforming citizen's arrest laws, but we should ask in conclusion: why have those laws at all? The question merits serious thought. The limits we proposed would make citizen's arrests an uncommon thing, even more uncommon than they already seem to be. Why not, then, simply get rid of them? This may not be a bad idea. Given that the one situation we believe would merit citizen intervention--where there is a person who has committed a violent crime, and still represents an ongoing threat--is so risky and so serious, we might want citizens to stay away rather than try to play the "hero."<sup>156</sup> In those situations, it may not be good that the person be left to get away, but it may be better all things considered. That is, it may be better than having a citizen put his or her life at risk with an uncertain chance of success, and a greater chance of more violence. If we add to this the idea that the citizen may still act in his or her own self-defense, then we still leave open that in a subset of those situations, there *will* be room for a response. Again, why not send a clear signal that citizens should just stay out of it, and wait for the police, by getting rid of these laws rather than by amending them?

This indeed may be the answer, but we also may need to get there by incremental steps. For political reasons, it may be better to start by mending citizen's arrest laws rather than ending them outright. They may still be needed in some places where police are simply not around, or cannot be trusted. There may also be some unanticipated consequences of removing the citizen's ability to affect an arrest of someone who has committed a crime.<sup>157</sup> In any event, it may not be wrong to think seriously about a world in which citizens are no longer given the legal cover to take the law into their own hands. But if there are to be such laws, we can do no better than conclude with the unheeded admonition of the 1965 *Columbia Law Review* Note:

If the private citizen is to assume his proper responsibility in the enforcement of the criminal law, the immunities and limitations of citizen's arrest must be clearly defined. If professional enforcement authorities \*191 are to receive necessary assistance from private individuals, the scope of citizen's arrest must be adapted to the conditions and problems of modern society.<sup>158</sup>

## \*192 APPENDIX: CITIZEN'S ARREST LAWS IN THE UNITED STATES<sup>159</sup>

Alabama	
ALA. CODE § 15-10-7 (2020).	<b>Arrests by Private Persons</b>
	(a) A private person may arrest another for any public offense:
	(1) Committed in his presence;
	(2) Where a felony has been committed, though not in his presence, by the person arrested; or

	(3) Where a felony has been committed and he has reasonable cause to believe that the person arrested committed it.
	(b) An arrest for felony may be made by a private person on any day and at any time.
	(c) A private person must, at the time of the arrest, inform the person to be arrested of the cause thereof, except when such person is in the actual commission of an offense, or arrested on pursuit.
	(d) If he is refused admittance, after notice of his intention, and the person to be arrested has committed a felony, he may break open an outer or inner door or window of a dwelling house.
	(e) It is the duty of any private person, having arrested another for the commission of any public offense, to take him without unnecessary delay before a judge or magistrate, or to deliver him to some one of the officers specified in Section 15-10-1, who must forthwith take him before a judge or magistrate.
ALA. CODE § 13A-3-27 (2020).	<b>Use of force in making an arrest or preventing an escape</b>
	(g) A private person acting on his own account is justified in using physical force upon another person when and to the extent that he reasonably believes it necessary to effect an arrest or prevent the escape from custody of an arrested person whom he reasonably believes has committed a felony and who in fact has committed that felony, but he is justified in using deadly physical force for the purpose only when he reasonably believes it necessary to defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical forces.
Alaska	
ALASKA STAT. ANN. § 12.25.030 (West 2020).	<b>Grounds for arrest by private person or peace officer without warrant</b>
	(a) A private person or a peace officer without a warrant may arrest a person
	(1) for a crime committed or attempted in the presence of the person making the arrest;
	(2) when the person has committed a felony, although not in the presence of the person making the arrest;
	(3) when a felony has in fact been committed, and the person making the arrest has reasonable cause for believing the person to have committed it.
ALASKA STAT. ANN. § 11.81.390 (West 2020).	In addition to using force justified under other sections of this chapter, a person, acting as a private person, <b>may use nondeadly force</b> to make the arrest or terminate the escape or attempted escape from custody of a person who the private person reasonably believes has committed a misdemeanor in the private person's presence or a felony when and to the extent the private person reasonably believes it necessary to make that arrest or terminate that escape or attempted escape from custody. A private person may use deadly force under this section only when and to the extent the private person reasonably believes the use of deadly force is necessary to



	make the arrest or terminate the escape or attempted escape from custody of another who the private person reasonably believes
	(1) has committed or attempted to commit a felony which involved the use of force against a person; or
	(2) has escaped or is attempting to escape from custody while in possession of a firearm on or about the person.
ALASKA STAT. ANN. § 12.25.010 (West 2020).	An arrest may be made by a peace officer or by a private person.
Arizona	
ARIZ. REV. STAT. ANN. § 13-3884 (2020).	<b>Arrest by private person</b>
	A private person may make an arrest:
	1. When the person to be arrested has in his presence committed a misdemeanor amounting to a breach of the peace, or a felony.
	2. When a felony has been in fact committed and he has reasonable ground to believe that the person to be arrested has committed it.
ARIZ. REV. STAT. ANN. § 13-3889 (2020).	<b>Method of arrest by private person</b>
	A private person when making an arrest shall inform the person to be arrested of the intention to arrest him and the cause of the arrest, unless he is then engaged in the commission of an offense, or is pursued immediately after its commission or after an escape, or flees or forcibly resists before the person making the arrest has opportunity so to inform him, or when the giving of such information will imperil the arrest.
ARIZ. REV. STAT. ANN. § 13-3854 (2020).	<b>Arrest without a warrant</b>
	The arrest of a person may be lawfully made also by any peace officer or a private citizen without a warrant upon reasonable information that the accused stands charged in the courts of another state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a judge or magistrate with all practicable speed an complaint must be made against him under oath setting forth the ground for the arrest as in § 13-3853, and thereafter his answer shall be heard as if he had been arrested on a warrant.
Arkansas	
ARK. CODE ANN. § 16-81-106 (West 2020).	<b>Authority to Arrest</b>
	(a) An arrest may be made by a certified law enforcement officer or by a private person.
	(b)
	(c)
	(d) A private person may make an arrest where he or she has reasonable grounds for believing that the person arrested has committed a felony.

	<i>Practice Note:</i> According to <i>Arkansas Law of Damages</i> § 33:3 the reasonable grounds or probable cause standard found in the statute reflects a balancing between the right to personal liberty and the public interest in apprehending criminals. It then defines probable cause for citizen's arrests. Probable cause exists when the circumstances give the private citizen a reasonable belief that there is a likelihood that the other has committed a felony.
Ark. R. Crim. P. 4.1(b), (e) (2020).	<b>Authority to Arrest Without Warrant</b>
	(b) A private person may make an arrest where he has reasonable grounds for believing that the person arrest has committed a felony.
	(e) A person arrested without a warrant shall not be held in custody unless a judicial officer determines, from affidavit, recorded testimony, or other information, that there is reasonable cause to believe that the person committed an offense. Such reasonable cause determination shall be made promptly, but in no event longer than forty-eight (48) hours. Such reasonable cause determination may be made at the first appearance of the arrested person pursuant to Rule 8.1.
Carr v. State, 43 Ark. 99,105 (1884).	<b>Resistance of arrest</b>
	If a felon resist arrest or fly so that he cannot possibly be apprehended alive by those who pursue him, whether private persons or public officers, with or without a warrant from a magistrate, he may be lawfully slain by them.
California	
CAL. PENAL CODE § 834 (West 2020).	<b>"Arrest" defined; persons authorized to arrest</b>
	ARREST DEFINED. BY WHOM DEFINED. An arrest is taking a person into custody, in a case and in the manner authorized by law. An arrest may be made by a peace officer or by a private person.
CAL. PENAL CODE § 837 (West 2020).	<b>Private persons; authority to arrest</b>
	ARRESTS BY PRIVATE PERSONS. A private person may arrest another:
	1. For a public offense committed or attempted in his presence.
	2. When the person arrested has committed a felony, although not in his presence.
	3. When a felony has been in fact committed, and he has reasonable cause for believing the person arrested to have committed it.
	<i>Practice Note:</i> According to <i>California Criminal Procedure</i> § 3:66 a citizen has a limited ability to break doors or windows in making an arrest. They may also remove weapons from the suspect. In addition, when the arrestor contacts the police, the police must make a good faith effort to inform the citizen how to safely execute the arrest.
CAL. PENAL CODE § 838 (West 2020).	<b>Magistrate; oral order to officer or private person to arrest</b>

	MAGISTRATES MAY ORDER ARREST. A magistrate may orally order a peace officer or private person to arrest any one committing or attempting to commit a public offence in the presence of such a magistrate.
CAL. PENAL CODE § 839 (West 2020).	<b>Authority to summon aid to make arrest</b>
	PERSONS MAKING ARREST MAY SUMMON ASSISTANCE. Any person making an arrest may orally summon as many persons as he deems necessary to aid him therein.
CAL. PENAL CODE § 844 (West 2020).	<b>Breaking open door or window to effect arrest; demand admittance; explanation of purpose</b>
	To make an arrest, a private person, if the offense is a felony, and in all cases a peace officer, may break open the door or window of the house in which the person to be arrested is, or in which they have reasonable grounds for believing the person to be, after having demanded admittance and explained the purpose for which admittance is desired.
CAL. PENAL CODE § 847(a) (West 2004).	<b>Arrest by private person; duty to take prisoner before magistrate or deliver him to peace officer; liability for false arrest</b>
	(a) A private person who has arrested another for the commission of a public offense must, without unnecessary delay, take the person arrested before a magistrate, or deliver him or her to a peace officer.
CAL. PENAL CODE § 849(a) (West 2017).	<b>Arrest without warrant; duty to take prisoner before magistrate and file complaint; release from custody</b>
	(a) When an arrest is made without a warrant by a peace officer or private person, the person arrested, if not otherwise released, shall, without unnecessary delay, be taken before the nearest or most accessible magistrate in the county in which the offense is triable, and a complaint stating the charge against the arrested person shall be laid before the magistrate.
Kaufman v. Brown, 93 Cal. App. 2d 508, 513 (1949).	<b>False arrest and imprisonment, arrest</b>
	One making arrest without warrant owes duty to bring arrested person before proper magistrate without unnecessary delay, and failure to do so renders officer or private person making arrest a trespasser from beginning and liable for false arrest and imprisonment.
Colorado	
COLO. REV. STAT. ANN. § 16-3-201 (West 1972).	<b>Arrest by Private Person</b>
	A person who is not a peace officer may arrest another person when any crime has been or is being committed by the arrested person in the presence of the person making the arrest.
	<i>Practice Note:</i> According to 14 Colo. Prac., <i>Criminal Practice &amp; Procedure</i> § 3.35 (2d ed.) a citizen arrestor may use the same degree of force in performing the arrest as a police officer could. It further adds that a private person may also arrest anyone upon reasonable information that the suspect

	stands charged with a crime punishable by death or a prison term exceeding one year.
COLO. REV. STAT. ANN. § 16-19-115 (West 2020).	<b>Arrest without warrant</b>
	The arrest of a person may be lawfully made also by any peace officer or a private person without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year. When so arrested the accused must be taken before a judge with all practicable speed, and complaint must be made against him under oath setting forth the ground for arrest as in section 16-19-114; and thereafter his answer shall be heard as if he had been arrested on a warrant.
COLO. REV. STAT. ANN. § 18-1-707 (West 2020).	<b>Use of physical force in making an arrest or in preventing an escape</b>
	(7) A private person acting on his own account is justified in using reasonable and appropriate physical force upon another person when and to the extent that he reasonably believes it necessary to effect an arrest, or to prevent the escape from custody of an arrested person who has committed an offense in his presence; but he is justified in using deadly physical force for the purpose only when he reasonably believes it necessary to defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force.
People v. Joyce, 68 P.3d 521, 523 (Colo. App. 2002).	<b>Arrest by private person</b>
	In order to be entitled to use of physical force to effect arrest by private person, person who attempted to effect arrest must have witnessed arrestee's alleged crime.
Connecticut	
CONN. GEN. STAT. ANN. § 53a-22(f) (West 2020).	<b>Use of physical force in making arrest or preventing escape</b>
	(f) A private person action on his or her own account is justified in using reasonable physical force upon another person when and to the extent that he or she reasonable believes such to be necessary to effect an arrest or to prevent the escape from custody of an arrested person whom he or she reasonably believes to have committed an offense and who in fact has committed such offense; but he or she is not justified in using deadly physical force in such circumstances, except in defense of person as prescribe din section 53a-19.
CONN. GEN. STAT. ANN. § 54-170 (West 2020).	<b>Arrest without warrant</b>
	The arrest of a person may be lawfully made also by any peace officer or a <b>private person</b> , without a warrant, upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused shall be taken before such a judge with all practicable speed and complaint shall be made against him under oath setting forth the ground for the arrest as in section 54-169; and thereafter his answer shall be heard as if he had been arrested on a warrant.

	<p><i>Practice Note:</i> A private citizen may justify use of physical force in making an arrest to the extent that he believes the force to be necessary to effect an arrest or prevent escape of the suspect he reasonably believes committed an offence and who, in fact, has committed such offence. Such circumstances do not, however, justify deadly force. Additionally, if the suspect did not commit the offense the arrest is not justified regardless of the reasonableness at the time. It is not required that the arresting citizen must have witnessed the offence, nor must they have come upon the scene shortly after the offence occurs. <i>State v. Smith</i>, 63 Conn. App. 228, 238 (Conn. App. 2001).</p>
Delaware	
DEL. CODE ANN. tit. 11, § 2514 (West 2020).	<b>Arrest without warrant</b>
	The arrest of a person may be lawfully made by any peace officer or a private person, without a warrant, upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding 1 year, but when so arrested the accused shall be taken before a judge or justice of the peace with all practicable speed and complaint shall be made against the accused under oath setting forth the ground for the arrest as in § 2513 of this title, and thereafter the accused's answer shall be heard as if the accused had been arrested on a warrant.
District of Columbia	
D.C. CODE ANN. § 23-582 (West 2020).	<b>Arrest without warrant by other persons</b>
	(b) A private person may arrest another--
	(1) who he has probable cause to believe is committing in his presence--
	(A) a felony; or
	(B) an offense enumerated in section 23-581(a)(2); or
	(2) in aid of a law enforcement officer or special policeman, or other person authorized by law to make an arrest.
	(c) Any person making an arrest pursuant to this section shall deliver the person arrested to a law enforcement officer without unreasonable delay.
Florida	
FLA. STAT. ANN. § 941.14 (West 2020).	<b>Arrest without a warrant</b>
	The arrest of a person may be lawfully made also by any peace officer or a private person, without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding 1 year, but when so arrested the accused must be taken before a judge with all practicable speed and complaint must be made against the accused under oath setting forth the ground for the arrest as in the preceding section; and thereafter his or her answer shall be heard as if the accused had been arrested on a warrant.



	<p><i>Practice Note:</i> Deadly force is justifiable during a citizen's arrest in order to prevent the escape of a felon as long as that deadly force is reasonable under the circumstances and the precipitating felony was committed in the arrestor's presence. <i>Nelson By and Through Bowens v. Howell</i>, 455 So.2d 608, 609 (Fla. Dist. Ct. App. 1984).</p>
Georgia	
GA. CODE ANN. § 17-4-60 (West 2020).	<b>Arrest by private person</b>
	A private person may arrest an offender if the offense is committed in his presence or within his immediate knowledge. If the offense is a felony and the offender is escaping or attempting to escape, a private person may arrest him upon reasonable and probable grounds of suspicion.
	<p><i>Practice Note:</i> According to 9 Ga. Proc. Criminal Procedure § 6:19 the terms “presence” and “immediate knowledge” can be taken synonymously. In addition, if a citizen does not immediately arrest upon witnessing a crime, their power to arrest goes away. The only situation in which a citizen may arrest a suspect for a crime not committed in their presence is if they have probable cause to believe the suspect committed a felony and the suspect is fleeing the scene. Finally, a citizen does not have the right to kill in order to carry out a citizen's arrest.</p>
GA. CODE ANN. § 17-4-61 (West 2020).	<b>Procedures subsequent to arrest by private person</b>
	(a) A private person who makes an arrest pursuant to Code Section 17-4-60 shall, without any unnecessary delay, take the person arrested before a judicial officer, as provided in Code Section 17-4-62, or deliver the person and all effects removed from him to a peace officer of this state.
	(b) A peace officer who takes custody of a person arrested by a private person shall immediately proceed in accordance with Code Section 17-4-62.
	(c) A peace officer who in good faith and within the scope of his authority takes custody of a person arrested by a private person pursuant to this Code section shall not be liable at law for false or false imprisonment arising out of the arrest.
GA. CODE ANN. § 17-4-62 (West 2020).	<b>Duty of person arresting without warrant</b>
	In every case of an arrest without a warrant, the person arresting shall, without delay, convey the offender before the most convenient judicial officer authorized to receive a affidavit and issue a warrant as provided for in Code Section 17-4-40. No such imprisonment shall be legal beyond a reasonable time allowed for this purpose; and any person who is not brought before such judicial officer within 48 hours of arrest shall be released.
GA. CODE ANN. § 17-13-34 (West 2020).	<b>Arrest without a warrant</b>
	The arrest of a person may be lawfully made by an peace officer or private person, without a warrant, upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for

	a term exceeding one year, but when so arrested, the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against him under oath, setting forth the ground for the arrest, as provided in Code Section 17-13-33; and thereafter the answer of the accused shall be heard as if he had been arrested on a warrant.
Lavina v. State, 63 Ga. 513, 514 (Ga. 1879).	<b>False imprisonment under color of legal process</b>
	If a private person arrests a supposed fugitive from justice without a warrant, and detains him beyond a reasonable time, without carrying him before a magistrate, he is, under Code, § 4725, guilty of the offense of false imprisonment.
Habersham v. State, 56 Ga. 61, 62 (Ga. 1876).	<b>Aiding escape</b>
	Actual guilt of the person held in custody for felony by a private person without warrant, is not indispensable to the legality of the custody, and therefore neither his conviction nor his prosecution is a prerequisite to convicting another for assisting him to escape. The question of his guilt is not otherwise involved than as throwing light upon the motive and lawfulness of his arrest, but for that purpose it is open to the consideration of the jury.
McPetrie v. State, 263 Ga.App. 85, 87 (Ga. Ct. App. 2003).	<b>Weight and sufficiency of evidence</b>
	Sufficient evidence supported defendant's conviction for false imprisonment; even assuming that defendant had "immediate knowledge" that victim had committed felony as required by statute governing arrest by private person, evidence nonetheless supported his conviction for false imprisonment since record revealed that defendant detained victim either to bludgeon a confession out of him or administer his version of vigilante justice.
Hawaii	
HAW. REV. STAT. ANN § 803-3 (West 2020).	<b>By person present</b>
	Anyone in the act of committing a crime, may be arrested by any person present, without a warrant.
HAW. REV. STAT. ANN. § 832-14 (West 2020).	<b>Arrest without a warrant</b>
	The arrest of a person may be lawfully made also by any peace officer or a private person, without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a judge with all practicable speed and complaint must be made against the accused under oath setting forth the ground for the arrest as in section 832-13; and thereafter the accused's answer shall be heard as if the accused had been arrested on a warrant.
	<i>Practice Note:</i> Hawaii permits arrests of citizens if they are in fact committing a crime by any person present. Citizen's arrest has been part of Hawaii statutory law since 1869. <i>State v. Kapoi</i> , 64 Haw. 130 (Haw. 1981).
Idaho	

IDAHO CODE ANN. § 19-4514 (West 2020).	<b>Arrest without a warrant</b>
	The arrest of a person may be lawfully made by any peace officer or a private person, without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one (1) year. When so arrested the accused must be taken before a judge or magistrate with all practicable speed, and compliant must be made against him under oath setting forth the grounds for the arrest as provided in section 19-4513, Idaho Code, and thereafter his answer shall be heard as if he had been arrested on a warrant.
IDAHO CODE ANN. § 19-601 (West 2020).	<b>Arrest defined</b>
	An arrest is taking a person into custody in a case and in the manner authorized by law. An arrest may be made by a peace officer or by a private person.
IDAHO CODE ANN. § 19-604 (West 2020).	<b>When private person may arrest</b>
	A private person may arrest another:
	1. For a public offense committed or attempted in his presence.
	2. When the person arrested has committed a felony, although not in his presence.
	3. When a felony has been in fact committed, and he has reasonable cause for believing the person arrested to have committed it.
IDAHO CODE ANN. § 19-605 (West 2020).	<b>Magistrate may order arrest</b>
	A magistrate may orally order a peace officer or private person to arrest any one committing or attempting to commit a public offense in the presence of such magistrate
IDAHO CODE ANN. § 19-611 (West 2020).	<b>Breaking doors and windows</b>
	To make an arrest, if the offense is a felony, a private person, if any public offense, a peace officer may break open the door or window of the house in which the person to be arrested is, or in which there is reasonable ground for believing him to be, after having demanded admittance and explained the purpose for which admittance is desired.
IDAHO CODE ANN. § 19-614 (West 2020).	<b>Duty of private person making arrest</b>
	A private person who has arrested another for the commission of a public offense must, without unnecessary delay, take the person arrested before a magistrate, or deliver him to a peace officer.
IDAHO CODE ANN. § 19-615 (West 2020).	<b>Procedure upon arrest without warrant</b>
	When an arrest is made without a warrant by a peace officer or private person the person arrested must, without unnecessary delay, be taken before the nearest or most accessible magistrate in the county in which the arrest is made, and an information, stating the charge against the person, must be laid before such magistrate.
Illinois	

720 ILL. COMP. STAT. ANN. 5/7-6 (West 2020).	<b>Private person's use of force in making arrest</b>
	(a) A private person who makes, or assists another private person in making a lawful arrest is justified in the use of any force which he would be justified in using if he were summoned or directed by a peace officer to make such arrest, except that he is justified in the use of force likely to cause death or great bodily harm only when he reasonably believes that such force is necessary to prevent death or great bodily harm to himself or another.
	(b) A private person who is summoned or directed by a peace officer to assist in making an arrest which is unlawful, is justified in the use of any force which he would be justified in using if the arrest were lawful, unless he knows that the arrest is unlawful.
725 ILL. COMP. STAT. ANN. 5/107-3 (West 2020).	<b>Arrest by private person</b>
	§ 107-3. Arrest by Private Person. Any person may arrest another when he has reasonable grounds to believe that an offense other than an ordinance violation is being committed.
	<i>Practice Note:</i> According to 2 <i>Trial Handbook for Illinois Lawyers - Criminal</i> § 80:15 (9th ed.) an arresting citizen must have the same reasonable ground to make an arrest that a police officer without a warrant would need to have.
725 ILL. COMP. STAT. ANN. 5/107-8 (West 2020).	<b>Assisting peace officer</b>
	(a) A peace officer making a lawful arrest may command the aid of persons over the age of 18.
	(b) A person commanded to aid a peace officer shall have the same authority to arrest as that peace officer.
	(c) A person commanded to aid a peace officer shall not be civilly liable for any reasonable conduct in aid of the officer.
725 ILL COMP. STAT. ANN. 225/14 (West 2020).	<b>Arrest Without a Warrant</b>
	The arrest of a person may be lawfully made also by any peace officer or a private person, without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a judge with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in the preceding Section; and thereafter his answer shall be heard as if he had been arrested on a warrant
720 ILL COMP. STAT. ANN. 5/7-9 (West 2020).	<b>Use of force to prevent escape</b>
	(a) A peace officer or other person who has an arrested person in his custody is justified in the use of such force to prevent the escape of the arrested person from custody as he would be justified in using if he were arresting such person.
	(b) A guard or other peace officer is justified in the use of force, including force likely to cause death or great bodily harm, which he reasonably believes to be necessary to prevent the escape from a penal institution of a person whom the

	officer reasonably believes to be lawfully detained in such institution under sentence for an offense or awaiting trial or commitment for an offense.
Indiana	
IND. CODE ANN. § 35-33-1-4 (West 2020).	<b>Any person</b>
	Sec. 4. (a) Any person may arrest any other person if:
	(1) the other person committed a felony in his presence;
	(2) a felony has been committed and he has probable cause to believe that the other person has committed that felony; or
	(3) a misdemeanor involving a breach of peace is being committed in his presence and the arrest is necessary to prevent the continuance of the breach of peace.
	(b) A person making an arrest under this section shall, as soon as practical, notify a law enforcement officer and deliver custody of the person arrested to a law enforcement officer.
	(c) The law enforcement officer may process the arrested person as if the officer had arrested him. The officer who receives or processes a person arrested by another under this section is not liable for false arrest or false imprisonment.
Iowa	
IOWA CODE ANN. § 804.9 (West 2020).	<b>Arrests by private persons</b>
	A private person may make an arrest:
	1. For a public offense committed or attempted in the person's presence.
	2. When a felony has been committed, and the person has reasonable ground for believing that the person to be arrested has committed it.
IOWA CODE ANN. § 804.10 (West 2020).	<b>Use of force in arrest by private person</b>
	1. A private person who makes or assists another private person in making a lawful arrest is justified in using any force which the person reasonably believes to be necessary to make the arrest or which the person reasonably believes to be necessary to prevent serious injury to the person.
	2. A private person who is summoned or directed by a peace officer to assist in making an arrest may use whatever force the peace officer could use under the circumstances, provided that, if the arrest is unlawful, the private person assisting the officer shall be justified as if the arrest were a lawful arrest, unless the person knows that the arrest is unlawful.
IOWA CODE ANN. § 804.24 (West 2020).	<b>Arrests by private persons - disposition of prisoner</b>
	A private citizen who has arrested another for the commission of an offense must, without unnecessary delay, take the arrested person before a magistrate, or deliver the arrested person to a peace officer, who may take the arrested person before a magistrate, but the person making the arrest must also accompany the officer before the magistrate.



IOWA CODE ANN. § 804.6 (West 2020).	<b>Persons authorized to make an arrest</b>
	An arrest pursuant to a warrant shall be made only by a peace officer; in other cases, an arrest may be made by a peace officer or by a private person as provided in this chapter.
IOWA CODE ANN. § 820.14 (West 2020).	<b>Arrest without warrant</b>
	The arrest of a person may be lawfully made also by any peace officer or a private person, without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against the accused under oath setting forth the ground for the arrest as in section 820.13; and thereafter the accused's answer shall be heard as if the accused had been arrested on a warrant.
	<i>Practice Note:</i> A private person may perform an arrest when a felony is committed and the citizen has reasonable ground for believing that the suspect has committed it. The citizen making the arrest must take the arrested person before a magistrate or deliver the person to a peace officer. A citizen may use physical force if the citizen reasonably believes it to be necessary to make the arrest, prevent escape, or prevent serious injury to any person. A citizen's arrest does not require formal words of arrest to be legitimate. <i>State v. Bowman</i> , No. 00-1015, 2001 WL 1578007 (Iowa Ct. App. 2001).
Kansas	
KAN. STAT. ANN. § 21.5228 (West 2020).	<b>Same; private person making arrest</b>
	(a) A private person who makes, or assists another private person in making a lawful arrest is justified in the use of any force which such person would be justified in using if such person were summoned or directed by a law enforcement officer to make such arrest, except that such person is justified in the use of deadly force only when such person reasonably believes that such force is necessary to prevent death or great bodily harm to such person or another.
KAN. STAT. ANN. § 22-2403 (West 2020).	<b>Arrest by private person</b>
	A person who is not a law enforcement officer may arrest another person when:
	(1) A felony has been or is being committed and the person making the arrest has probable cause to believe that the arrested person is guilty thereof; or
	(2) any crime, other than a traffic infraction or a cigarette or tobacco infraction, has been or is being committed by the arrested person in the view of the person making the arrest.
KAN. STAT. ANN. § 21-5228 (West 2020).	(a) A private person who makes, or assists another private person in making a lawful arrest is justified in the use of any force which such person would be justified in using if such person were summoned or directed by a law enforcement officer to make such arrest, except that such person is justified in the use of deadly force only when such person reasonably

	believes that such force is necessary to prevent death or great bodily harm to such person or another.
	(b) A private person who is summoned or directed by a law enforcement officer to assist in making an arrest which is unlawful, is justified in the use of any force which such person would be justified in using if the arrest were lawful.
KAN. STAT. ANN. § 22-2714 (West 2020).	<b>Arrest without a warrant</b>
	The arrest of a person may be lawfully made also by any peace officer or private person without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in the preceding section; and thereafter his answer shall be heard as if he had been arrested on a warrant.
Kentucky	
KY. REV. STAT. ANN. § 431.005 (West 2020).	<b>Arrest by peace officers; by private persons</b>
	(6) A private person may make an arrest when a felony has been committed in fact and he or she has probable cause to believe that the person being arrested has committed it.
KY. REV. STAT. ANN. § 440.280 (West 2020).	<b>Arrest may be made without warrant; conditions; procedure</b>
	The arrest of a person may be lawfully made also by any peace officer or a private person, without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one (1) year, but when so arrested the accused must be taken before a judge with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in the preceding section; and thereafter his answer shall be heard as if he had been arrested on a warrant.
Louisiana	
LA. CODE CRIM. PROC. ANN. art. 214 (2019).	<b>Arrest by private person; when lawful</b>
	A private person may make an arrest when the person arrested has committed a felony, whether in or out of his presence.
	<i>Practice Note:</i> According to <i>La. Prac. Crim. Trial Prac.</i> § 2:5 (4th ed.), people who wrongly believe they have the authority to make an arrest do not validate the arrest by their good faith.
LA. CODE CRIM. PROC. ANN. art. 218 (2019).	<b>Method of arrest without warrant</b>
	A private person, when making an arrest, shall inform the person to be arrested of his intention to arrest him and of the cause of the arrest.
	The officer or private person making the arrest need not so inform the person to be arrested if the person is then engaged

	in the commission of an offense, or is pursued immediately after its commission or after an escape, or flees or forcibly resists before the officer or person making the arrest has an opportunity to so inform him, or when the giving of the information would imperil the arrest.
LA. CODE CRIM. PROC. ANN. art. 224 (2019).	<b>Forcible entry in making arrest</b>
	(a) The right of forcible entry in making an arrest is limited to "a peace officer," but this includes a private person who is called upon to assist a peace officer in making an arrest. See Art. 219. The general authority of a private person, under Art. 72 of the 1928 Code, to break and enter to arrest for "a felony committed in his presence" is not continued. Such drastic measures in effecting private arrest should not be authorized or encouraged.
	(b)
LA. CODE CRIM. PROC. ANN. art. 226 (2019).	<b>Duty of private person after making arrest</b>
	A private person who has made an arrest shall immediately turn the prisoner and all effects removed from him over to a peace officer.
Maine	
ME. REV. STAT. ANN. tit. 17-A, § 16 (2019).	<b>Warrantless arrests by a private person</b>
	Except as otherwise specifically provided, a private person has the authority to arrest without a warrant:
	1. Any person who the private person has probable cause to believe has committed or is committing:
	A. Murder; or
	B. Any Class A, Class B or Class C crime.
	2. Any person who, in fact, is committing in the private person's presence and in a public place any of the Class D or Class E crimes described in section 207; 209; 211; 254; 255-A; 501-A, subsection 1, paragraph B; 503; 751; 806; or 1002.
	3. For the purposes of subsection 2, in the presence has the same meaning given in section 15, subsection 2.
Santoni v. Potter, 369 F.3d 594, 600 (1st Cir. 2004).	<b>In general</b>
	Maine law does not authorize private citizens to make an arrest for a Class E crime not committed in their presence.
Maryland	
<i>Common-law rules govern, supported by case law</i>	In Maryland a private person has authority to arrest without a warrant only when a) there is a felony being committed in his presence or when a felony has in fact been committed whether or not in his presence, and the arrestor has reasonable ground (probable cause) to believe the person he arrests has committed it; or b) a misdemeanor is being committed in the presence or view of the arrestor which amounts to a breach of the peace. <i>Great Atl. &amp; Pac. Tea Co. v. Paul</i> , 261 A.2d 731, 738-739 (Md. Ct. Spec. App. 1970).
Massachusetts	

<i>Common-law rules govern, supported by case law</i>	A private person may lawfully arrest one who in fact has committed a felony. <i>Com. v. Lussier</i> , 128 N.E.2d 569, 575 (Mass. 1955).
	<i>Also:</i>
	In the interest of curbing the promiscuous use of firearms, and the unnecessary and dangerous use of deadly force in the community, we have now set limits applicable to arrests by private persons. The defendant can be held to have used excessive force only in light of the fact that the felons here were not themselves engaged in the use of threatened use of deadly force in their crimes directed against the drug store. <i>Com. v. Klein</i> , 363 N.E.2d 1313, 1320 (Mass. 1977).
	<i>Practice Note:</i> According to 30 <i>Mass. Prac., Criminal Practice &amp; Procedure</i> § 3:4 (4th ed.) the Fourth Amendment does not apply to citizen's arrests unless the citizen is acting as an agent or instrumentality of the police. In 30 <i>Mass. Prac., Criminal Practice &amp; Procedure</i> § 3:51 (4th ed.) it says that the person arrested must be shown to have committed a felony in fact. This requirement is designed to discourage citizen's arrests as well as to prevent vigilantism and anarchistic actions. Furthermore, 17B <i>Mass. Prac., Prima Facie Case</i> § 53.88 (5th ed.) notes that the use of force is only justified in a citizen's arrest if the actor makes known the purpose of the arrest or otherwise believes the suspect already knows or it is not practical to inform the suspect; and the arrest is made under a valid warrant or the actor believes there is a valid warrant. Deadly force is justifiable if the arrest is for a felony, if the citizen is assisting a peace officer, if the actor believes the force creates no substantial risk to the suspect, if the precipitating crime included the use or threat of deadly force, or if there is substantial risk that the suspect will cause death or serious physical injury if the arrest is delayed.
Michigan	
MICH. COMP. LAWS ANN. § 764.14 (West 2020).	<b>Disposition following arrest by private person; complaint</b>
	Sec. 14. A private person who has made an arrest shall without unnecessary delay deliver the person arrested to a peace officer, who shall without unnecessary delay take that person before a magistrate of the judicial district in which the offense is charged to have been committed. The peace officer or private person shall present to the magistrate a complaint stating the charge against the person arrested.
MICH. COMP. LAWS ANN. § 764.16 (West 2020).	<b>Arrest by private person</b>
	Sec. 16. A private person may make an arrest--in the following situations:
	(a) For a felony committed in the private person's presence.
	(b) If the person to be arrested has committed a felony although not in the private person's presence.
	(c) If the private person is summoned by a peace officer to assist the officer in making an arrest.

	(d) If the private person is a merchant, an agent of a merchant, an employee of a merchant, or an independent contractor providing security for a merchant of a store and has reasonable cause to believe that the person to be arrested has violated section 356c or 356d of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.356c and 750.356d of the Michigan Compiled Laws, in that store, regardless of whether the violation was committed in the presence of the private person.
	<i>Practice Note:</i> According to Gillespie <i>Mich. Crim. L. &amp; Proc. Search &amp; Seiz.</i> § 5:67 (2d ed.), a private person may use deadly force to arrest a felon without regard to the dangerousness of the felon as long as it is necessary to prevent escape.
MICH. COMP. LAWS ANN. § 764.20 (West 2020).	<b>Duty of private person making arrest</b>
	Sec. 20. A private person, before making an arrest, shall inform the person to be arrested of the intention to arrest him and the cause of the arrest, except when he is then engaged in the commission of a criminal offense, or if he flees or forcibly resists arrest before the person making the arrest has opportunity so to inform him.
MICH. COMP. LAWS ANN. § 764.21 (West 2020).	<b>Right to break open door in making arrest</b>
	Sec. 21. A private person, when making an arrest for a felony committed in his or her presence, or a peace officer or federal law enforcement officer, when making an arrest with a warrant or when making a felony arrest without a warrant as authorized by law, may break open an inner or outer door of a building in which the person to be arrested is located or is reasonably believed to be located if, after announcing his or her purpose, he or she is refused admittance.
MICH. COMP. LAWS ANN. § 764.22 (West 2020).	<b>Right to break out of building in making arrest</b>
	Sec. 22. A peace officer, a federal law enforcement officer, or a private person who has lawfully entered a building for the purpose of making an arrest and is detained in the building, may break open a door or window of the building if necessary to escape from the building. A peace officer or federal law enforcement officer may break open a door or window of a building if necessary to liberate a person who lawfully entered the building for the purpose of making an arrest and is detained in the building.
Minnesota	
MINN. STAT. ANN. § 629.14 (West 2020).	<b>Arrest without warrant</b>
	The arrest of a person may be lawfully made also by any peace officer or a private person, without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year. When arrested the accused must be taken before a judge with all practicable speed and complaint must be made against the accused under oath setting forth the ground for the arrest as in section 629.13. Thereafter the answer shall be heard as if the accused had been arrested on a warrant.



MINN. STAT. ANN. § 629.37 (West 2020).	<b>When private person may make arrest</b>
	A private person may arrest another:
	(1) for a public offense committed or attempted in the arresting person's presence;
	(2) when the person arrested has committed a felony, although not in the arresting person's presence; or
	(3) when a felony has in fact been committed, and the arresting person has reasonable cause for believing the person arrested to have committed it.
MINN. STAT. ANN. § 629.38 (West 2020).	<b>Private person to disclose cause of arrest</b>
	Before making an arrest a private person shall inform the person to be arrested of the cause of the arrest and require the person to submit. The warning required by this section need not be given if the person is arrested while committing the offense or when the person is arrested on pursuit immediately after committing the offense. If a person has committed a felony, a private person may break open an outer or inner door or window of a dwelling house to make the arrest if, before entering, the private person informs the person to be arrested of the intent to make the arrest and the private person is then refused admittance.
	<i>Practice Note:</i> According to 7 Minn. Prac., Criminal Law & Procedure § 4:4 (4th ed.), a private person may arrest for a gross misdemeanor. A misdemeanor, or ordinance violation as long as it is predicated by a crime committed or attempted in the arrestor's presence except for certain statutory exceptions. In 9A Minn. Prac., Criminal Law & Procedure § 56:36 (4th ed.) it states that a private person may perform a citizen's arrest for impaired driving violations but may not investigate, i.e. perform sobriety test or the like. 7 Minn. Prac., Criminal Law & Procedure § 5:11 (4th ed.) notes that constitutional search and seizure provisions apply to law enforcement officers only, not to private persons.
MINN. STAT. ANN. § 629.39 (West 2020).	<b>Private person making arrest to deliver arrestee to judge or peace officer</b>
	A private person who arrests another for a public offense shall take the arrested person before a judge or to a peace officer without unnecessary delay. If a person arrested escapes, the person from whose custody the person has escaped may immediately pursue and retake the escapee, at any time and in any place in the state. For that purpose, the pursuer may break open any door or window of a dwelling house if the pursuer informs the escapee of the intent to arrest the escapee and the pursuer is refused admittance.
Mississippi	
MISS. CODE. ANN. § 99-3-7 (West 2020).	<b>Warrantless arrests, domestic violence and protection order violations; intensive supervision program violations</b>
	(1) An officer or private person may arrest any person without warrant, for an indictable offense committed, or a breach of the peace threatened or attempted in his presence; or when a

	<p>person has committed a felony, though not in his presence; or when a felony has been committed, and he has reasonable ground to suspect and believe the person proposed to be arrested to have committed it; or on a charge, made upon reasonable cause, of the commission of a felony by the party proposed to be arrested. And in all cases of arrests without warrant, the person making such arrest must inform the accused of the object and cause of the arrest, except when he is in the actual commission of the offense, or is arrested on pursuit.</p>
MISS. CODE ANN. § 99-3-11 (West 2020).	<b>Admission to house</b>
	To make an arrest an officer or private person, after notice of his office and object, if admittance is refused, may break open a window or outer or inner door of any dwelling or house in which he has reason to believe the offender may be found.
MISS. CODE ANN. § 99-3-17 (West 2020).	<b>Offender to be promptly taken before magistrate</b>
	Every person making an arrest shall take the offender before the proper officer without unnecessary delay for examination of his case, except as otherwise provided in Section 99-3-18.
Missouri	
MO. ANN. STAT. § 548.141 (West 2020).	<b>Arrest without warrant</b>
	The arrest of a person may be lawfully made also by any peace officer or a private person, without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a judge or associate circuit judge with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in section 548.131; and thereafter his answer shall be heard as if he had been arrested on a warrant.
MO. ANN. STAT. § 563.051 (West 2020).	<b>Private person's use of force in making an arrest</b>
	1. A private person who has been directed by a person he or she reasonably believes to be a law enforcement officer to assist such officer to effect an arrest or to prevent escape from custody may, subject to the limitations of subsection 3 of this section, use physical force when and to the extent that he or she reasonably believes such to be necessary to carry out such officer's direction unless he or she knows or believes that the arrest or prospective arrest is not or was not authorized.
	2. A private person acting on his or her own account may, subject to the limitations of subsection 3 of this section, use physical force to arrest or prevent the escape of a person whom such private person reasonably believes has committed an offense, and who in fact has committed such offense, when the private person's actions are immediately necessary to arrest the offender or prevent his or her escape from custody.
	3. A private person in effecting an arrest or in preventing escape from custody is justified in using deadly force only:

	(1) When deadly force is authorized under other sections of this chapter; or
	(2) When he or she reasonably believes deadly force is authorized under the circumstances and he or she is directed or authorized by a law enforcement officer to use deadly force; or
	(3) When he or she reasonably believes such use of deadly force is immediately necessary to arrest a person who at that time and in his or her presence:
	(a) Committed or attempted to commit a class A felony or murder; or
	(b) Is attempting to escape by use of a deadly weapon.
	4. The defendant shall have the burden of injecting the issue of justification under this section.
	<i>Practice Note:</i> An arresting citizen must give notice to the suspect of the intention to arrest. Additionally, any use of force must be reasonable and necessary to prevent escape. <i>Chism v. Cowan</i> , 425 S.W.2d 942, 949 (Mo. 1967). An arresting citizen must have a reasonable belief that the suspect committed a crime, and the suspect must have in fact committed that crime. Also, any physical force must be reasonably necessary to effect arrest or prevent escape. <i>State v. Brown</i> , 824 S.W.2d 924, 928 (Mo. Ct. App. W.D. 1992).
Montana	
MONT. CODE ANN. § 46-30-301 (West 2019).	<b>Arrest of accused without warrant</b>
	The arrest of a person may also be lawfully made by any peace officer or a private person without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term of 1 year or more. When arrested under this section, the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against the accused under oath setting forth the ground for the arrest as provided in 46-30-227. After the complaint is made, the accused's answer must be heard as if the accused had been arrested on a warrant.
MONT. CODE ANN. § 46-6-502 (West 2019).	<b>Arrest by private person</b>
	(1) 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. The private person may use reasonable force to detain the arrested person.
	(2) A private person making an arrest shall immediately notify the nearest available law enforcement agency or peace officer and give custody of the person arrested to the officer or agency.
Nebraska	
NEB. REV. STAT. ANN. § 29-402 (West 2020).	<b>Arrest by person not an officer</b>

	Any person not an officer may, without warrant, arrest any person, if a petit larceny or a felony has been committed, and there is reasonable ground to believe the person arrested guilty of such offense, and may detain him until a legal warrant can be obtained.
NEB. REV. STAT. ANN § 29-742 (West 2020).	<b>Arrest without warrant by officer or citizen; when</b>
	The arrest of a person may be lawfully made also by any peace officer or a private person, without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in section 29-741; and thereafter his answer shall be heard as if he had been arrested on a warrant.
Nevada	
NEV. REV. STAT. ANN. § 171.104 (West 2020).	<b>Arrest defined; by whom made</b>
	An arrest is the taking of a person into custody, in a case and in the manner authorized by law. An arrest may be made by a peace officer or by a private person.
NEV. REV. STAT. ANN. § 171.126 (West 2020).	<b>Arrest by private person</b>
	A private person may arrest another:
	1. For a public offense committed or attempted in the person's presence.
	2. When the person arrested has committed a felony, although not in the person's presence.
	3. When a felony has been in fact committed, and the private person has reasonable cause for believing the person arrested to have committed it.
	<i>Practice note:</i> In 2001, the Nevada Supreme Court in <i>State v. Weddell</i> ruled that a private citizen could not use deadly force during a citizen's arrest in order to prevent escape. The Court reasoned that this privilege which had existed in the common-law and early legislation was abrogated by the Nevada Legislature in 1993. <i>State v. Weddell</i> , 117 Nev. 651, 656 (2001).
NEV. REV. STAT. ANN § 171.128 (West 2020).	<b>Magistrate may order arrest for committing or attempting to commit offense in magistrate's presence</b>
	A magistrate may orally order a peace officer or private person to arrest anyone committing or attempting to commit a public offense in the presence of the magistrate, and may thereupon proceed as if the offender had been brought before the magistrate on a warrant of arrest.
NEV. REV. STAT. ANN § 171.138 (West 2020).	<b>Breaking open door or window: Making arrest</b>
	To make an arrest, a private person, if the offense is a felony, and in all cases a peace officer, may break open a door or window of the house, structure or other place of concealment

	in which the person to be arrested is, or in which there is reasonable grounds for believing the person to be, after having demanded admittance and explained the purpose for which admittance is desired.
NEV. REV. STAT. ANN. § 171.1772 (West 2020).	<b>Issuance of citation after arrest by private person</b>
	Whenever any person is arrested by a <b>private person</b> , as provided in NRS 171.126, for any violation of a county, city or town ordinance or state law which is punishable as a misdemeanor, such person arrested may be issued a misdemeanor citation by a peace officer in lieu of being immediately taken before a magistrate by the peace officer if:
	1. The person arrested furnishes satisfactory evidence of identity; and
	2. The peace officer has reasonable grounds to believe that the person arrested will keep a written promise to appear in court.
NEV. REV. STAT. ANN. § 179.205 (West 2020).	<b>Arrest without warrant</b>
	The arrest of a person may be lawfully made also by any peace officer or a private person, without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding 1 year; but when so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against the person under oath setting forth the ground for the arrest as in NRS 179.203. Thereafter the answer shall be heard as if the person had been arrested on a warrant.
New Hampshire	
N.H. REV. STAT. ANN. § 612:14 (West 2020).	<b>Arrest without a warrant</b>
	The arrest of a person may be lawfully made also by any peace officer or a private person without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a judge or magistrate with all practicable speed, and complaint must be made against him, under oath, setting forth the ground for the arrest as in RSA 612:13, and, thereafter, his answer shall be heard as if he had been arrested on a warrant.
New Jersey	
N.J. STAT. ANN. § 40:24-6 (West 2020).	<b>Arrest without warrant</b>
	Every police officer shall, <b>and any other person may</b> , apprehend without warrant or other process any person violating in his presence or view any of the provisions of any such resolution, and shall take the offender before a court of the county where apprehended.
	<i>Practice Note:</i> According to 31 N.J. Prac., Criminal Practice and Procedure § 12:15 (2019 ed.), there are numerous citizen's arrests every day in the state and they are usually made in retail establishments. 51 N.J. Prac., Municipal Court Prac. Manual § 43:10 (2019-2020 ed.), adds that shoplifting suspects are

	the exception to the rule that the crime be committed in the citizen's presence; for shoplifting the actor only needs probable cause to make a citizen's arrest.
N.J. STAT. ANN. § 2A:161-1 (West 2020).	<b>Appointment of citizen to make immediate arrest</b>
	In all criminal complaints before a judge of the Superior Court or a municipal court, where in the opinion of such judge, public justice shall require that a warrant for the arrest of the alleged offender issue and be executed immediately, and no person authorized to make an arrest can be had in time, such judge may, by writing, under his hand and seal, appoint some fit person, who shall be a citizen of this State, to execute the warrant, who shall have the same authority in the premises in all respects and be subject to the same liability as a constable.
New Mexico	
N.M. STAT. ANN. § 31-4-14 (West 2020).	<b>Arrest without a warrant</b>
	The arrest of a person may be lawfully made also by any peace officer or a private person without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in the preceding section; and thereafter his answer shall be heard as if he had been arrested on a warrant.
	<i>Practice Note:</i> Before using force, a citizen must give notice of intent to arrest unless circumstances are such that notice is apparent or cannot reasonably be made. In order to get an instruction on citizen's arrest as a defense the court need not require proof that felony actually occurred, but only see evidence of the reasonableness of the arrestor's belief that a felony was committed. <i>State v. Johnson</i> , 122 N.M. 696, 700 (N.M. 1996).
New York	
N.Y. CRIM. PROC. LAW § 140.30 (McKinney 2019).	<b>Arrest without a warrant; by any person; when and where authorized</b>
	1. Subject to the provisions of subdivision two, any person may arrest another person (a) for a felony when the latter has in fact committed such felony, and (b) for any offense when the latter has in fact committed such offense in his presence.
	2. Such an arrest, if for a felony, may be made anywhere in the state. If the arrest is for an offense other than a felony, it may be made only in the county in which such offense was committed.
	<i>Practice Note:</i> According to 1 <i>Criminal Procedure in New York</i> § 4:15 (2d), justifiable force may be used in making a citizen's arrest pursuant to the penal law. In addition, it notes that a police officer is not required to take an arrested person into custody or take any action on behalf of the arresting person if the officer has reasonable cause to believe the



	suspect did not commit the alleged offense or if the arrest is otherwise unauthorized.
N.Y. CRIM. PROC. LAW § 140.40(1) (McKinney 2019).	<b>Arrest without warrant; by person acting other than as a police officer or a peace officer; procedure after arrest</b>
	(1) A person making an arrest pursuant to section 140.30 must without unnecessary delay deliver or attempt to deliver the person arrested to the custody of an appropriate police officer, as defined in subdivision five. For such purpose, he may solicit the aid of any police officer and the latter, if he is not himself an appropriate police officer, must assist in delivering the arrested person to an appropriate officer. If the arrest is for a felony, the appropriate police officer must, upon receiving custody of the arrested person, perform all recording, fingerprinting and other preliminary police duties required in the particular case. In any case, the appropriate police officer, upon receiving custody of the arrested person, except as otherwise provided in subdivisions two and three, must bring him, on behalf of the arresting person, before an appropriate local criminal court, as defined in subdivision five, and the arresting person must without unnecessary delay file an appropriate accusatory instrument with such court.
N.Y. Fam. Ct. Act § 305.1 (McKinney 2019).	<b>Custody by private person</b>
	1. A private person may take a child who may be subject to the provisions of this article for committing an act that would be a crime if committed by an adult into custody in cases in which such private person may arrest an adult for a crime under section 140.30 of the criminal procedure law.
	2. Before taking such child under the age of sixteen into custody, a private person must inform the child of the cause thereof and require him to submit, except when he is taken into custody on pursuit immediately after the commission of a crime.
	3. After taking such child into custody, a private person must take the child, without unnecessary delay, to the child's home, to a family court, or to a police officer or peace officer.
	<i>Practice Note:</i> Under the Criminal Procedure Law, a private person may arrest an individual for misdemeanors committed in his presence and for felonies committed within or outside his presence [CPL § 140.30]. Section 305.1 extends the rule to the arrest of children. Since the word “crime” does not encompass violations, arrests for violations such as public intoxication or disorderly conduct are precluded. (See the Practice Commentary to Section 301.2.)
N.Y. CRIM. PROC. LAW § 570.34 (McKinney 2019).	<b>Arrest of accused without warrant therefor</b>
	The arrest of a person in this state may be lawfully made also by any police officer or a private person, without a warrant, upon reasonable information that the accused stands charged in the courts of another state with a crime punishable by death or imprisonment for a term exceeding one year; but when so arrested the accused must be taken before a local criminal court with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as

	in the preceding section; and, thereafter, his answers shall be heard as if he had been arrested on a warrant.
North Carolina	
N.C. GEN. STAT. ANN. § 15A-404 (West 2020).	<b>Detention of offenders by private persons</b>
	(a) No Arrest; Detention Permitted.--No private person may arrest another person except as provided in G.S. 15A-405. A private person may detain another person as provided in this section.
	(b) When Detention Permitted.--A private person may detain another person when he has probable cause to believe that the person detained has committed in his presence:
	(1) A felony,
	(2) A breach of the peace,
	(3) A crime involving physical injury to another person, or
	(4) A crime involving theft or destruction of property.
	(c) Manner of Detention.--The detention must be in a reasonable manner considering the offense involved and the circumstances of the detention.
	(d) Period of Detention.--The detention may be no longer than the time required for the earliest of the following:
	(1) The determination that no offense has been committed.
	(2) Surrender of the person detained to a law-enforcement officer as provided in subsection (e).
	(e) Surrender to Officer.--A private person who detains another must immediately notify a law-enforcement officer and must, unless he releases the person earlier as required by subsection (d), surrender the person detained to the law-enforcement officer.
N.C. GEN. STAT. ANN. § 15A-734 (West 2020).	<b>Arrest without a warrant</b>
	The arrest of a person may be lawfully made also by any peace officer or a private person, without a warrant, upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a judge or magistrate with all practicable speed, and complaint must be made against him under oath setting forth the ground for the arrest as in G.S. 15A-733; and thereafter his answer shall be heard as if he had been arrested on a warrant.
North Dakota	
N.D. CENT. CODE ANN. § 29-06-02 (West 2020).	<b>Who may make an arrest</b>
	An arrest may be made:
	1. By a peace officer, under a warrant;
	2. By a peace officer, without a warrant; or
	3. By a private person.

N.D. CENT. CODE ANN. § 29-06-20 (West 2020).	<b>When private person may arrest</b>
	A private person may arrest another:
	1. For a public offense committed or attempted in the arresting person's presence.
	2. When the person arrested has committed a felony, although not in the arresting person's presence.
	3. When a felony has been in fact committed, and the arresting person has reasonable grounds to believe the person arrested to have committed it.
N.D. CENT. CODE ANN. § 29-06-21 (West 2020).	<b>Must inform person of cause of arrest</b>
	A private person making an arrest must inform the person to be arrested of the intention to arrest the person, and of the cause of the arrest, unless:
	1. The person to be arrested then is engaged in the commission of an offense;
	2. Such person is pursued immediately after its commission or after an escape;
	3. Such person flees or forcibly resists before the person making the arrest has opportunity to inform the person; or
	4. The giving of such information will imperil the arrest.
N.D. CENT. CODE ANN. § 29-06-22 (West 2020).	<b>When a private person may break into a building</b>
	A private person, in order to make an arrest when a felony was committed in the arresting person's presence, as authorized in section 29-06-20, if the person is refused admittance after the person has announced the person's purpose, may break open a door or window of any building in which the person to be arrested is, or is reasonably believed to be.
N.D. CENT. CODE ANN. § 29-06-23 (West 2020).	<b>Arrested by private person - Duty - Taken before magistrate</b>
	A private person who has arrested another for the commission of a public offense, without unnecessary delay, shall take the person before a magistrate or deliver the person to a peace officer.
N.D. CENT. CODE ANN. § 29-06-25 (West 2020).	<b>Procedure against person arrested without warrant</b>
	When an arrest is made by a peace officer or a private person without a warrant, the person arrested without unnecessary delay must be taken:
	1. Before the nearest or most accessible magistrate in the county where the arrest is made; or
	2. If there is no magistrate in said county qualified to act, then before the nearest or most accessible magistrate authorized to act for the county where the arrest is made.
	A complaint stating the charge against the person arrested must be made before such magistrate, as is provided in rule 5 of the North Dakota Rules of Criminal Procedure.

Ohio	
OHIO REV. CODE ANN. § 2935.04 (West 2020).	<b>When any person may arrest</b>
	When a felony has been committed, or there is reasonable ground to believe that a felony has been committed, any person without a warrant may arrest another whom he has reasonable cause to believe is guilty of the offense, and detain him until a warrant can be obtained.
OHIO REV. CODE ANN. § 2935.06 (West 2020).	<b>Duty of private person making arrest</b>
	A private person who has made an arrest pursuant to section 2935.04 of the Revised Code or detention pursuant to section 2935.041 of the Revised Code shall forthwith take the person arrested before the most convenient judge or clerk of a court of record or before a magistrate, or deliver such person to an officer authorized to execute criminal warrants who shall, without unnecessary delay, take such person before the court or magistrate having jurisdiction of the offense. The officer may, but if he does not, the private person shall file or cause to be filed in such court or before such magistrate an affidavit stating the offense for which the person was arrested.
OHIO REV. CODE ANN. § 2935.07 (West 2020).	<b>Person arrested without warrant shall be informed of cause of arrest</b>
	When an arrest is made by a private person, he shall, before making the arrest, inform the person to be arrested of the intention to arrest him and the cause of the arrest.
	When a person is engaged in the commission of a criminal offense, it is not necessary to inform him of the cause of his arrest.
OHIO REV. CODE ANN. § 2963.12 (West 2020).	<b>Arrest without warrant</b>
	An arrest may be made by any peace officer or a private person without a warrant upon reasonable information that the accused stands charged in the courts of any state with a crime punishable by death or imprisonment for a term exceeding one year. When so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest, as provided in section 2963.11 of the Revised Code. Thereafter his answer shall be heard as if he had been arrested on a warrant.
Oklahoma	
OKLA. STAT. ANN. tit. 22, § 1141.14 (West 2020).	<b>Arrest without warrant</b>
	The arrest of a person may be lawfully made also by any peace officer or a private person, without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one (1) year, but when so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in the preceding

	section; and thereafter his answer shall be heard as if he had been arrested on a warrant.
OKLA. STAT. ANN. tit. 22, § 187 (West 2020).	<b>Arrest made by whom</b>
	An arrest may be either:
	1. By a peace officer, under warrant,
	2. By a peace officer without a warrant; or,
	3. By a private person.
OKLA. STAT. ANN. tit. 22, § 202 (West 2020).	<b>Arrest by private person</b>
	A private person may arrest another:
	1. For a public offense committed or attempted in his presence.
	2. When the person arrested has committed a felony although not in his presence.
	3. When a felony has been in fact committed, and he has reasonable cause for believing the person arrested to have committed it.
OKLA. STAT. ANN. tit. 22, § 203 (West 2020).	<b>Private person must inform person of cause of arrest</b>
	He must, before making the arrest, inform the person to be arrested of the cause thereof, and require him to submit, except when he is in actual commission of the offense or when he is arrested on pursuit immediately after its commission.
OKLA. STAT. ANN. tit. 22, § 204 (West 2020).	<b>Private person may break door or window</b>
	If the person to be arrested has committed a felony, and a private person, after notice of the intention to make the arrest, be refused admittance, the private person may break open an outer or inner door or window of the dwelling house of the person to be arrested, for the purpose of making the arrest.
OKLA. STAT. ANN. tit. 22, § 205 (West 2020).	<b>Private person making arrest must take defendant to magistrate or officer</b>
	A private person who has arrested another for the commission of a public offense, must, without unnecessary delay, take him before a magistrate or deliver him to a peace officer.
Oregon	
OR. REV. STAT. ANN. § 133.225 (West 2020).	<b>Arrests by private persons; physical force</b>
	(1) A private person may arrest another person for any crime committed in the presence of the private person if the private person has probable cause to believe the arrested person committed the crime. A private person making such an arrest shall, without unnecessary delay, take the arrested person before a magistrate or deliver the arrested person to a peace officer.
	(2) In order to make the arrest a private person may use physical force as is justifiable under ORS 161.255.
	<i>Practice Note:</i> According to the <i>Oregon State Bar Committee on Uniform Criminal Jury Instructions</i> § 1115 Defense--Physical Force--Arrest by Citizen, force is justifiable to the

	extent to which the citizen arrestor reasonably believes it necessary. Deadly force is justifiable when the actor reasonably believes it necessary to defend themselves or another from an imminent use of deadly force.
OR. REV. STAT. ANN. § 133.805 (West 2020).	<b>Arrest without warrant</b>
	The arrest of a person may be lawfully made also by an officer or a private citizen without a warrant, upon reasonable information that the accused stands charged in the courts of another state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against the accused under oath setting forth the ground for the arrest as in ORS 133.803; and thereafter the answer of the accused shall be heard as if the accused had been arrested on a warrant.
OR. REV. STAT. ANN. § 161.255 (West 2020).	<b>Private person making citizen's arrest</b>
	(1) Except as provided in subsection (2) of this section, a private person acting on the person's own account is justified in using physical force upon another person when and to the extent that the person reasonably believes it necessary to make an arrest or to prevent the escape from custody of an arrested person whom the person has arrested under ORS 133.225.
	(2) A private person acting under the circumstances prescribed in subsection (1) of this section is justified in using deadly physical force only when the person reasonably believes it necessary for self-defense or to defend a third person from what the person reasonably believes to be the use or imminent use of deadly physical force.
OR. REV. STAT. ANN. § 419C.088 (West 2020).	<b>Custody by private person</b>
	A private person may take a youth into custody in circumstances where, if the youth were an adult, the person could arrest the youth.
Pennsylvania	
42 Pa. STAT. AND CONS. STAT. ANN. § 9162 (West 2020).	<b>Arrest without a warrant</b>
	The arrest of a person may be lawfully made by any peace officer or a private person without a warrant upon reasonable information that the accused stands charged in the courts of another county of this Commonwealth with a crime punishable by death or imprisonment for a term exceeding one year, but, when so arrested, the accused must be taken before a judge or issuing authority with all practicable speed, and complaint must be made against him under oath setting forth the ground for the arrest as in section 9161 (relating to arrest prior to requisition), and, thereafter, his answer shall be heard as if he had been arrested on a warrant.
	<i>Practice Note:</i> Regarding Citizen's arrest, in order to use deadly force in preventing the escape of a felon, there must be fresh pursuit and the citizen must give notice of his purpose to arrest the felon. <i>Commonwealth v. Shaffer</i> , No. 111 MDA 2016, WL 6330467 (Penn. 2016).



	<p><i>Practice Note:</i> According to 26 <i>Standard Pennsylvania Practice</i> 2d § 132:387, citizens may arrest a person for a felony actually committed and they have reasonable grounds to suspect that the person they arrest committed the felony. Additionally, a private person in fresh pursuit of someone who has just committed a felony may make an arrest without having witnessed the crime itself.</p>
42 PA. STAT. AND CONS. STAT. ANN. § 9135 (West 2020).	<b>Arrest without a warrant</b>
	<p>The arrest of a person may be lawfully made also by any peace officer or a private person without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a judge or issuing authority with all practicable speed, and complaint must be made against him under oath setting forth the ground for the arrest as in section 9134 (relating to arrest prior to requisition), and thereafter his answer shall be heard as if he had been arrested on a warrant.</p>
Rhode Island	
12 R.I. GEN. LAWS ANN. § 12-9-17 (West 2020).	<b>Arrest without warrant</b>
	<p>The arrest of a person may also be lawfully made by any peace officer or a private person without a warrant, upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested, the accused must be taken before a judge with all practicable speed, and complaint must be made against him or her under oath, setting forth the ground for the arrest as in § 12-9-16; and thereafter his or her answer shall be heard as if he or she had been arrested on a warrant.</p>
	<p><i>Practice Note:</i> A citizen may arrest any person while such a person is actually engaged in the commission of any offense. A citizen has the authority to arrest a suspect while actually engaged in driving under the influence of alcohol. <i>State v. Dixon</i>, Nos. W385-370, W385-371, W385-372, 1986 WL 714421 (R.I. 1986).</p>
South Carolina	
S.C. CODE ANN. § 17-13-10 (1976).	<b>Circumstances when any person may arrest a felon or thief.</b>
	<p>Upon (a) view of a felony committed, (b) certain information that a felony has been committed or (c) view of a larceny committed, any person may arrest the felon or thief and take him to a judge or magistrate, to be dealt with according to law.</p>
	<p><i>Practice Note:</i> 8 S.C. <i>Jur. False Imprisonment</i> § 3 provides additional circumstances in which a citizen may arrest: if a suspect has committed a felony, entered a dwelling with evil intent, broken or is breaking into an outhouse with an intention to plunder, possesses stolen property, or under circumstances which raise just suspicion of an intent to steal or commit a felony. If, during nighttime, such a suspect attempts to</p>

	flee a citizen may arrest by such means as the darkness and probability of escape make necessary, including lethal force.
S.C. CODE ANN. § 17-13-20 (1976).	<b>Additional circumstances when citizens may arrest; means to be used</b>
	A citizen may arrest a person in the nighttime by efficient means as the darkness and the probability of escape render necessary, even if the life of the person should be taken, when the person:
	(a) has committed a felony;
	(b) has entered a dwelling house without express or implied permission;
	(c) has broken or is breaking into an outhouse with a view to plunder;
	(d) has in his possession stolen property; or
	(e) being under circumstances which raise just suspicion of his design to steal or to commit some felony, flees when he is hailed.
South Dakota	
S.D. CODIFIED LAWS § 23A-3-3 (2020).	<b>Citizen's arrest</b>
	Any person may arrest another:
	(1) For a public offense, other than a petty offense, committed or attempted in his presence; or
	(2) For a felony which has been in fact committed although not in his presence, if he has probable cause to believe the person to be arrested committed it.
	<i>Practice Note:</i> In <i>State v. Bonrud</i> 393 N.W.2d 785, 787 (SD 1986), the South Dakota Supreme Court found that the exact degree of seriousness of offense is not essential to the validity of the arrest because this would “require citizens to have more legal expertise than some law enforcement officials.” <i>Id.</i> In that case the actor did not witness the robbery itself, but heard a cry for help and saw a man fleeing and arrested him; these circumstances were considered adequate probable cause for a valid citizen's arrest. <i>Id.</i>
S.D. CODIFIED LAWS § 23-24-16 (2020).	<b>Arrest without a warrant</b>
	The arrest of a person may be lawfully made also by any peace officer or a private person, without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or incarceration for a term one year or greater, but when so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against the accused under oath setting forth the ground for the arrest as in § 23-24-15; and thereafter the accused's answer shall be heard as if the accused had been arrested on a warrant.
Tennessee	
TENN. CODE ANN. § 40-7-109 (West 2020).	<b>Private persons arrests; grounds</b>

	(a) A private person may arrest another:
	(1) For a public offense committed in the arresting person's presence;
	(2) When the person arrested has committed a felony, although not in the arresting person's presence; or
	(3) When a felony has been committed, and the arresting person has reasonable cause to believe that the person arrested committed the felony.
TENN. CODE ANN. § 40-7-110 (West 2020).	<b>Private persons arrests; time</b>
	A private person may make an arrest for a felony at any time.
TENN. CODE ANN. § 40-7-111 (West 2020).	<b>Private persons arrests; notice</b>
	A private person making an arrest shall, at the time of the arrest, inform the person arrested of the cause of the arrest, except when the person is in the actual commission of the offense, or when arrested on pursuit.
TENN. CODE ANN. § 40-7-112 (West 2020).	<b>Private persons arrests; refusal of admittance; breaking in</b>
	If the person to be arrested has committed a felony, and a private person, after notice of the person's intention to make the arrest, is refused admittance, the arresting person may break open an outer or inner door or window of a dwelling house to make the arrest.
TENN. CODE ANN. § 40-7-113 (West 2020).	<b>Private persons arrests; disposition</b>
	(a) A private person who has arrested another for a public offense shall, without unnecessary delay, take the arrested person before a magistrate or deliver the arrested person to an officer.
	(b) An officer may take before a magistrate, without a warrant, any person who, being engaged in the commission of a public offense, is arrested by a bystander and delivered to the officer, and anyone arrested by a private person as provided in §§ 40-7-109--40-7-112, and delivered to the officer.
Texas	
TEX. CODE CRIM. PROC. ANN. art. § 14.01 (West 2020).	<b>Offense within view</b>
	(a) A peace officer or any other person, may, without a warrant, arrest an offender when the offense is committed in his presence or within his view, if the offense is one classed as a felony or as an offense against the public peace.
	(b) A peace officer may arrest an offender without a warrant for any offense committed in his presence or within his view.
	<i>Practice Note:</i> According to 43 <i>Tex. Prac., Criminal Practice and Procedure</i> § 43:39 (3d ed.), a citizen may use force if they reasonably believe force is immediately necessary to make the arrest, but may not use force in a search. The use of force is also contingent upon the actor's manifestation of a reason for the arrest. In addition, deadly force is only justified if the actor reasonably believes the suspect used or attempted to use deadly force in the commission of the initial crime or if they

	reasonably believe there is substantial risk of death or serious bodily injury if the arrest is delayed.
	<i>Practice Note:</i> The court properly charged that a private person making an arrest should inform accused of the purpose of the arrest, and if defendants had committed a felony in the presence of decedent or the third person, and if decedent and the third person were attempting to arrest defendants, decedent and the third person should inform defendants of that purpose, provided he had time and opportunity so to do, which is for the jury and if they failed to so inform defendants, the latter could resist an illegal arrest, and use necessary force, viewed from the standpoint of defendants, correctly submitted the issue of resisting arrest. <i>Stewart v. State</i> , 76 Tex. Crim. 442 (1915).
Utah	
UTAH CODE ANN. § 77-7-3 (West 2020).	<b>By private persons</b>
	A private person may arrest another:
	(1) For a public offense committed or attempted in his presence; or
	(2) When a felony has been committed and he has reasonable cause to believe the person arrested has committed it.
UTAH CODE ANN. § 77-30-14 (West 2020).	<b>Arrest without warrant</b>
	The arrest of a person may be lawfully made also by any peace officer or a private person without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in Section 77-30-13, and thereafter his answer shall be heard as if he had been arrested on a warrant.
	<i>Practice Note:</i> Any person is justified in using any force except deadly force, as long as he reasonably believes it to be necessary to make an arrest or prevent bodily harm while making an arrest. <i>State v. Quada</i> , 918 P.2d 883, 887 (Utah Ct. App. 1996).
UTAH CODE ANN. § 77-7-23 (West 2020).	<b>Delivery of prisoner arrested without warrant to magistrate--Transfer to court with jurisdiction--Transfer of duties--Violation as misdemeanor</b>
	(1)
	(a) When an arrest is made without a warrant by a peace officer or private person, the person arrested shall be taken without unnecessary delay to the magistrate in the district court, the precinct of the county, or the municipality in which the offense occurred, except under Subsection (2). An information stating the charge against the person shall be made before the magistrate.
	(b) If the justice court judge of the precinct or municipality or the district court judge is not available, the arrested person shall be taken before the magistrate within the same county

	who is nearest to the scene of the alleged offense or nearest to the jail under Subsection (2), who may act as committing magistrate for arraigning the accused, setting bail, or issuing warrants.
	(2)
Vermont	
VT. STAT. ANN. tit. 13, § 4954 (West 2020).	<b>Arrest without a warrant</b>
	The arrest of a person may be lawfully made by an officer or a private citizen without a warrant upon reasonable information that the accused stands charged in the courts of another state with a crime punishable by death or imprisonment for a term exceeding one year. When so arrested, the accused shall be taken before a Superior Court judge as soon as may be, and complaint shall be made against him or her under oath, setting forth the ground for the arrest as in section 4953 of this title; and thereafter his or her answer shall be heard as if he or she had been arrested on a warrant.
	<i>Practice Note:</i> A citizen cannot make an arrest for misdemeanors committed in their presence unless it constitutes a breach of the peace. <i>State v. Hart</i> , 149 Vt. 104, 108 (Vt. 1987).
Virginia	
VA. CODE ANN. § 19.2-100 (West 2020).	<b>Arrest without Warrant</b>
	The arrest of a person may be lawfully made also by any peace officer or private person without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year. But when so arrested the accused shall be taken before a judge, magistrate or other officer authorized to issue criminal warrants in this Commonwealth with all practicable speed and complaint made against him under oath setting forth the ground for the arrest as in the preceding section; and thereafter his answer shall be heard as if he had been arrested on a warrant.
	<i>Practice Note:</i> There must be a breach of peace in order to make a citizen's arrest for a misdemeanor under Virginia common law. A breach of peace is the offense of disturbing the public peace or a violation of a public order or public decorum. <i>Commonwealth v. Borek</i> , 68 Va. Cir. 323, 325 (Cir. Ct. Va. 2005).
	<i>Practice Note:</i> According to <i>Va. Prac. Tort and Personal Injury Law</i> § 2:22, a private citizen may perform an arrest if the suspect has in fact committed the felony, a felony has in fact been committed and the actor reasonably believes the suspect committed it; or if the suspect has committed a breach of peace in the presence of the actor, or if the actor is preventing a felony being attempted in his presence.
Washington	
WASH. REV. CODE ANN. § 10.88.330 (West 2020).	<b>Arrest without warrant</b>

	(1) The arrest of a person may be lawfully made also by any peace officer or a private person, without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against him or her under oath setting forth the ground for the arrest as in RCW 10.88.320; and thereafter his or her answer shall be heard as if he or she had been arrested on a warrant.
	<i>Practice Note:</i> Since few arrests occur with the consent of the criminal, the authority to make arrests must necessarily carry with it the use of all reasonable force. <i>State v. Miller</i> , 103 Wash.2d 792, 795 (Wash. 1985).
	<i>Practice Note:</i> 12 <i>Wash. Prac., Criminal Practice &amp; Procedure</i> § 3111 (3d ed.), states that a private citizen has probable cause sufficient to perform an arrest when they have trustworthy information which would justify a person of reasonable caution to believe that an offense has been or is being committed by a certain person. In addition, a private person is only authorized to arrest for a misdemeanor if it constitutes a breach of peace and was committed in the actor's presence. Furthermore, 12 <i>Wash. Prac., Criminal Practice &amp; Procedure</i> § 3140 (3d ed.), adds that force may be used as long as the force is reasonable and no reasonably effective alternative appears to exist. A citizen may use deadly force if a felony has been committed in their presence and it would be lawful for a peace officer to use such force. In the case of a misdemeanor the arresting citizen has no right to kill the offender in order to prevent escape or overcome resistance, unless it is in self-defense.
West Virginia	
<i>Common-law rules govern, supported by case law</i>	It has often been recognized that a police officer who is without <i>official</i> authority to make an arrest may nevertheless make the arrest if the circumstances are such that a private citizen would have the right to arrest either under the common-law or by virtue of statutory law. <i>State ex rel. State v. Gustke</i> , 516 S.E.2d 283, 289 (W.Va. 1999).
	Under the common law, a private citizen is authorized to arrest another person who the private citizen believes has committed a felony. <i>State v. Horn</i> , 750 S.E.2d 248 (W. Va. 2013).
	<i>Practice Note:</i> <i>The Trial Handbook for West Virginia Lawyers</i> § 30:36, notes that a DUI violation constitutes a breach of peace and as such is a misdemeanor offence for which a private citizen may perform an arrest.
Wisconsin	
<i>Common-law rules govern, supported by case law</i>	In general, citizens may arrest when a felony or misdemeanor effecting a breach of the peace is committed in their presence. A citizen's arrest is authorized for a misdemeanor committed in the citizen's presence and amounting to a breach of the peace. <i>City of Waukesha v. Gorz</i> , 479 N.W.2d 221, 223 (Wisc. Ct. App. 1991).
Wyoming	



WYO. STAT. ANN. § 7-3-214 (West 2020).	<b>Authority to arrest person without warrant</b>
	The arrest of a person may be lawfully made by an officer or a private citizen without a warrant upon reasonable information that the accused is charged in the courts of another state with a crime punishable by death or imprisonment for a term exceeding one (1) year. When arrested under this section the accused shall be taken before a judge or magistrate as soon as possible and complaint shall be made against him under oath setting forth the ground for the arrest as in W.S. 7-3-213. Thereafter his answer shall be heard as if he had been arrested on a warrant.
	<i>Practice Note:</i> A citizen may make an arrest when a felony has been committed in his presence, when a felony has been committed in fact and he has probable cause to believe the suspect committed it, or a misdemeanor larceny has occurred in his presence, or misdemeanor property destruction is committed in his presence. <i>Marshall v. State</i> , 941 P.2d 42, 46 (Wyo. 1997).
WYO. STAT. ANN. § 7-8-101 (West 2020).	<b>Arrest by private person</b>
	(a) A person who is not a peace officer may arrest another for:
	i. A felony committed in his presence;
	ii. A felony which has been committed, even though not in his presence, if he has probable cause to believe the person to be arrested committed it; or
	iii. The following misdemeanors committed in his presence:
	(A) A misdemeanor theft offense defined by W.S. 6-3-402; or
	(B) A misdemeanor property destruction offense defined by W.S. 6-3-201.

### Footnotes

- <sup>a1</sup> Chad Flanders is a professor of law at Saint Louis University School of Law. Raina Brooks and Jack Compton, are second year students at Saint Louis University School of Law; Lyz Riley is a joint degree student in law and public health at Saint Louis University. We thank Seth Stoughton, Nathan Perlmutter, and the attendees at the Saint Louis University School of Law “Half-Baked Ideas” workshop in the summer of 2020 for comments and discussion.
- <sup>1</sup> George E. Barnill, *Ref: Glynn County, The Shooting death of Ahmaud Arbery, Feb 23rd 2020* (May 11, 2020), <https://int.nyt.com/data/documenthelper/6916-george-barnhill-letter-to-glyn/b52fa09cdc974b970b79/optimized/full.pdf>.
- <sup>2</sup> *Id.*
- <sup>3</sup> See the discussion of the case *infra* Part I.C. The defendants in the Arbery case have now been indicted. See Theresa Waldrop, Erika Henry & Angela Barajas, *Three men indicted in the death of Ahmaud Arbery*, CNN (June 24, 2020, 12:26 PM), <https://www.cnn.com/2020/06/24/us/ahmaud-arbery-grand-jury-indictment/index.html>.
- <sup>4</sup> Dana Mulhauser, *The killing of Ahmaud Arbery shows the dangerous failings of citizen's arrest laws*, WASH. POST (May 7, 2020, 9:14 PM), <https://www.washingtonpost.com/opinions/2020/05/07/killing-ahmaud-arbery-shows-dangerous-failings-citizens-arrest-laws/>.

See Appendix.

*Id.*

*Id.*

See the discussion in Part I.B. *infra*.

See generally Cynthia A. Brown, *Utah v. Strieff: Sound the Hue and Cry*, 45 S.U. L. REV. 1 (2017).

Frances Robles, *The Citizen's Arrest Law Cited in Arbery's Killing Dates Back to the Civil War*, N.Y. TIMES (May 13, 2020), <https://www.nytimes.com/article/ahmaud-arbery-citizen-arrest-law-georgia.html>.

See discussion and notes *infra*.

Our debt to Robbins' essay is evident throughout our article. See Ira P. Robbins, *Vilifying the Vigilante: A Narrowed Scope of Citizen's Arrest*, 25 CORNELL J.L. & PUB. POL'Y 557 (2016) (the only major recent paper on the subject).

See generally David A. Sklansky, *The Private Police*, 46 UCLA L. REV. 1165 (1999).

*Id.*

See also Robbins, *supra* note 12 (arguing that these examples of citizen's arrests, i.e. police outside jurisdiction and lost prevention officers detaining shoplifters, are “good” applications of citizen's arrests). We are not so sure, but we do not pursue that point here.

By focusing our inquiry in this way, we do not mean to say that there might be good reasons to reform *these* uses of force as well (a point we emphasize later when discussing police use of force).

In thinking about this concept, we are indebted to unpublished work by Antony Duff on “vigilantism.”

We return to a discussion of vigilantism in our discussion of citizen's arrest laws and racism, *infra*.

For a nice collection of examples, see also Robbins, *supra* note 12.

Zachary Hansen & Chelsea Prince, *Woman intervenes in hit-and-run, fatally shoots driver, police say*, ATLANTA J. CONST. (May 9, 2019), <https://www.ajc.com/news/crime--law/just-woman-allegedly-shot-killed-man-285-after-crash/K1Ht2xXOUoB348wnD1JtaL/>; Diane Dimond, *The good, the bad, and the ugly of citizen's arrests*, ALBUQUERQUE J. (May 23, 2020, 12:02 AM), <https://www.abqjournal.com/1458879/the-good-the-bad-and-the-ugly-of-citizens-arrests.html>.

*Id.*



Donesha Aldridge, *She's accused of witnessing a hit and run and killing the driver. A judge denied her bond*, 11ALIVE (July 13, 2019, 1:26 AM), <https://www.11alive.com/article/news/shes-accused-of-witnessing-a-hit-and-run-and-killing-the-driver-a-judge-denied-her-bond/85-865526a6-6c39-496f-bf4c-6d28fee15e6d>; see also Simon Cherie, *This Failed Citizen's Arrest Case Reminds us that “Karen” is Capable of Murder*, MEDIUM (July 16, 2020), <https://medium.com/antiparty/after-multiple-delays-controversial-citizens-arrest-case-moves-forward-in-clayton-county-8d43b448133c> (describing Payne's attorney's arguments at a bail reduction hearing).






Evan Bleier, *Atlanta man turns the tables on would-be carjacker when he pulls a gun and holds the robber for police*, DAILY MAIL (May 22, 2015, 12:46 AM), <https://www.dailymail.co.uk/news/article-3092966/Hashim-Fannin-Atlanta-pulls-gun-carjacker-Family-Dollar.html>.





*Id.*


Emily Shapiro, *Georgia Man Turns the Tables on Carjacker: ‘You Messed Up Big Time,’* ABC NEWS (May 22, 2015, 4:41 PM), <https://abcnews.go.com/US/georgia-man-turns-tables-carjacker-messed-big-time/story?id=31238545>.

*But cf. id.* (indicating through police spokesperson that they generally advise “citizens to take themselves out of harm's way and to contact 911, so that police may respond to the situation”).


- 26 Rebecca Lindstrom, *Suspected would-be robber says he's the real victim*, ARGUS LEADER (May 22, 2015, 7:12 PM), <https://www.argusleader.com/story/news/local/east-point/2015/05/22/edgar-horn-hashim-fannin-cell-phone-robbery/27803595/> (“Horn says Fannin's story actually supports his own. He says Fannin's car was a similar color and model to his friends. He didn't get in aggressively or make any demands. He didn't even realize his mistake until he turned around and saw Fannin, and the gun.”).
- 27  GA. CODE ANN. § 17-4-60 (West 2020).
- 28 *Id.*
- 29 Jeremy Ross, *Gary Councilman In Jail After Attempting ‘Citizen's Arrest’*, CBS CHI. (Sept. 23, 2019), <https://chicago.cbslocal.com/2019/09/23/gary-councilman-in-jail-after-attempting-citizens-arrest/>; Dimond, *supra* note 20.
- 30  IND. CODE ANN. § 35-33-1-4 (West 2020).
- 31 Mike Kordenbrock, *Citizens stop two men fleeing Billings wreck, police looking for two more*, BILLINGS GAZETTE (Oct. 29, 2016), [https://billingsgazette.com/news/local/citizens-stop-two-men-fleeing-billings-wreck-police-looking-for-two-more/article\\_7421faa7-10f0-51ed-ba0b-228fe0eab40b.html](https://billingsgazette.com/news/local/citizens-stop-two-men-fleeing-billings-wreck-police-looking-for-two-more/article_7421faa7-10f0-51ed-ba0b-228fe0eab40b.html).
- 32 *Id.*
- 33 *Id.*
- 34 *Id.*
- 35 *Id.*
- 36 MONT. CODE ANN. § 46-6-502(1) (West 2019).
- 37 *Id.*
- 38 Hannah Knowles, *Armed man who sowed panic at Walmart claimed he was testing his Second Amendment rights, police say*, WASH. POST (Aug. 19, 2020), <https://www.washingtonpost.com/nation/2019/08/10/armed-man-who-sowed-panic-walmart-said-he-was-testing-his-nd-amendment-rights-police-say/>.
- 39 *Id.*
- 40 *Id.*
- 41 *Id.*
- 42 *Id.*
- 43 *Id.*
- 44 MO. ANN. STAT. § 548.141 (West 2020).
- 45 *People block in Amber Alert suspect at California gas station*, KCRA3 (Dec. 16, 2019, 4:20 PM), <https://www.kcra.com/article/amber-alert-issued-san-jose-victor-magana/30242034>; Robert Salonga, *Man charged with brutal stabbing of ex-girlfriend, kidnapping daughter in San Jose*, MERCURY NEWS (Dec. 18, 2019, 1:39 PM), <https://www.mercurynews.com/2019/12/18/san-jose-man-charged-with-brutal-stabbing-and-kidnapping-of-daughter/>.
- 46 *People block in Amber Alert suspect at California gas station*, *supra* note 45.
- 47 Salonga, *supra* note 44.

- 48 *Id.*
- 49 CAL. PENAL CODE § 837 (West 2020).
- 50 And the District of Columbia.
- 51 *See* discussion *infra* Part II-B.
- 52 *Id.*
- 53 The list here is obviously indebted to the one in Note, *The Law of Citizen's Arrest*, 65 COLUM. L. REV. 502, 503-09 (1965) [hereinafter Note]. *See also* Alvin Stauber, *Citizen's Arrest: Rights and Responsibilities*, 18 MIDWEST L. REV. 31, 31-33 (2002) (laying out several “statutory variations on a common law theme” in citizen's arrest laws).
- 54 A citizen's arrest for a misdemeanor usually requires that it be committed in the presence of the person making the arrest. *See, e.g.*, ALASKA STAT. ANN. § 11.81.390 (West 2020); ARIZ. REV. STAT. ANN. § 13-3884 (2020);  IND. CODE ANN. § 35-33-1-4(a) (West 2020). *See also* discussion *infra* in the following paragraph.
- 55 ALASKA STAT. ANN. § 11.81.390 (West 2020); ARIZ. REV. STAT. ANN. § 13-3884 (West 2020);  IND. CODE ANN. § 35-33-1-4(a) (West 2020).
- 56 *See, e.g.*,  *Great Atl. & Pac. Tea Co. v. Paul*, 261 A.2d 731, 739 (Md. 1970) (restricting citizen's arrests for misdemeanors that “amounts to a breach of the peace”);  *City of Waukesha v. Gorz*, 479 N.W.2d 221, 223 (Wisc. Ct. App. 1991) (clarifying that only misdemeanors that breach the peace allow for a citizen's arrest).
- 57 As in Georgia.  GA. CODE ANN. § 17-4-60 (West 2020).
- 58 *Id.*
- 59 *Id.*
- 60 *See, e.g.*, ALA. CODE § 15-10-7(c) (West 2020); MINN. STAT. ANN. § 629.38 (West 2020);  MISS. CODE ANN. § 99-3-7(1) (West 2020).
- 61  MISS. CODE ANN. § 99-3-7(1) (West 2020).
- 62  IND. CODE ANN. § 35-33-1-4(b) (West 2020).
- 63 D.C. CODE ANN. § 23-582 (West 2020).
- 64  MISS. CODE ANN. § 99-3-7(1) (West 2020).
- 65 *See* Robbins, *supra* note 12, at 573.
- 66 *See, e.g.*, ARIZ. REV. STAT. ANN. § 13-3884 (2020); CAL. PENAL CODE § 837 (West 2020).
- 67 ME. STAT. tit. 17-A, § 16 (2020) (limiting citizen's arrests to the crimes of murder or any Class A, B, or C crime).
- 68 Robbins, *supra* note 12, at 577, 580.
- 69 Paul H. Robinson, *Causing the Conditions of One's Own Defense: A Study in the Limits of Theory in Criminal Law Doctrine*, 71 VA. L. REV. 1 (1985).
- 70 Robbins, *supra* note 12, at 568.

- 71  *Graham v. Connor*, 490 U.S. 386, 386-87 (1989).
- 72 *State v. Emmons*, 141 N.M. 875, 879 (N.M. Ct. App. 2007).
- 73  MO. ANN. STAT. § 563.051 (West 2020). In Missouri, for example, citizens can use deadly force to arrest a person who has committed a Class A felony, which includes some nonviolent felonies. Missouri law enforcement officers lack the power to use force on this basis.
- 74 See generally *Ahmaud Arbery: What do we know about the case?*, BBC (June 5, 2020), <https://www.bbc.com/news/world-us-canada-52623151#:~:text=ahmaud%20Arbery%C2%was%C2%jogging%20in,we%20know%20about%C2%the%20case>.
- 75 *Id.*
- 76 *Id.*
- 77 *Id.*; see Robles, *supra* note 10.
- 78 See Lauren Aratani, *Trio charged with murder of Ahmaud Arbery plead not guilty*, GUARDIAN (July 18, 2020, 12:30 AM), <https://www.theguardian.com/us-news/2020/jul/17/ahmaud-arbery-murder-suspects-plead-not-guilty> (although the McMichaels have not made a formal statement, Gregory McMichael told the police that he was acting in self-defense after Arbery attacked his son).
- 79 Hansen & Prince, *supra* note 20; Dimond, *supra* note 20; Ross, *supra* note 29 (a similar point could be made about the *Payne* and *Brewer* cases).
- 80 See Seth W. Stoughton, *Ahmaud Arbery's killing puts a spotlight on the blurred blue line of citizen's arrest laws*, CONVERSATION (May 29, 2020), [https://www.salon.com/2020/05/29/ahmaud-arberys-killing-puts-a-spotlight-on-the-blurred-blue-line-of-citizens-arrest-laws\\_partner/](https://www.salon.com/2020/05/29/ahmaud-arberys-killing-puts-a-spotlight-on-the-blurred-blue-line-of-citizens-arrest-laws_partner/) (“[W]hat concerns me is not just that the men who killed Arbery may have thought that their attempted apprehension was legally sanctioned, but that they would have had good reason to believe that. Most states still retain outdated laws that protect would-be vigilantes.”).
- 81 A person commits burglary under OCGA § 16-7-1(b)-(c) when “without authority and with the intent to commit a felony or theft therein, he or she enters or remains within ... [the] dwelling house of another or any building, vehicle, railroad car, watercraft, or other such structure designed for use as the dwelling of another,” or “enters or remains within ... [any other] building, railroad car, watercraft, or aircraft.” GA. CODE ANN. § 16-7-1(b)-(c) (West 2017).
- 82 See, e.g.,  *Weeks v. State*, 616 S.E.2d 852, 853-54 (2005) (“A house under construction which is so far completed as to be capable of providing shelter to people, animals, or property constitutes a building under this statute.”).
- 83  GA. CODE ANN. § 17-4-60 (West 2020) (“If the offense is a felony and the offender is escaping or attempting to escape, a private person may arrest him upon reasonable and probable grounds of suspicion.”).
- 84 *Ahmaud Arbery killing: What we learned from latest court hearing*, WRDW (June 5, 2020, 5:24 AM), <https://www.wrdw.com/content/news/Ahmaud-Arbery-killing-What-we-learned-from-latest-court-hearing-571040041.html> (investigator testimony that Greg McMichael told police that “he didn't know if Mr. Arbery had stolen anything or not, but he had a gut feeling” that Arbery had committed prior break-ins).
- 85 *Patel v. State*, 603 S.E.2d 237, 242 (2004).
- 86 *Prayor v. State*, 447 S.E.2d 155, 156 (1994) (“[T]he law in Georgia forbids a person from using more force than is reasonable under the circumstances to make a citizen's arrest and deadly force in making the arrest is limited to self-defense or to a situation where it is necessary to prevent a forcible felony.”).
- 87 *Ahmaud Arbery: What do we know about the case?*, *supra* note 74.

- 88  *Stevenson v. State*, 413 A.2d 1340, 1347 (1980) (“During the formative years of the law of arrest, the apprehension of criminals by private individuals was the norm rather than the exception as it is today.”).
- 89  *Id.* at 1345.
- 90 M. CHERIF BASSIOUNI, CITIZEN'S ARREST: THE LAW OF ARREST, SEARCH, AND SEIZURE FOR PRIVATE CITIZENS AND PRIVATE POLICE 9 (1977); Emeline L. K. Diener, *Into Our Own Hands Citizen's Arrest in Pennsylvania*, 41 PA. LAW. 18, 20 (2019) (asserting that “citizen's arrest was an affirmative duty”); Robbins, *supra* note 12, at 562.
- 91 Alameda County District Attorney's Office, *Citizen's Arrests* (2009), <https://le.alcoda.org/publications/files/CITIZENSARREST.pdf>.
- 92 *Id.*
- 93  *Stevenson*, 413 A.2d at 1347.
- 94  *Id.* at 1348.
- 95 *Id.*
- 96 *Id.* at 1349.
- 97 Note, *supra* note 53, at 504.
- 98  *Stevenson*, 413 A.2d at 1349; *see also* *Brooks v. Commonwealth*, 61 Pa. 352, 359 (1869).
- 99 *See* Note, *supra* note 53.
- 100 This skepticism may be part of a broader American tradition of separating out power--not placing power in any one source, whether that be public or private. *See* WILBUR R. MILLER, A HISTORY OF PRIVATE POLICING IN THE UNITED STATES 220 (2018).
- 101 *See id.* at 286 (discussing of American “individualism”).
- 102 Cheng Cheng & Mark Hoekstra, *Does Strengthening Self-Defense Law Deter Crime or Escalate Violence? Evidence from Expansions to Castle Doctrine*, 48 J. HUM. RES. 821 (2013).
- 103 Alameda County District Attorney's Office, *supra* note 91.
- 104 Joseph A. Conoscienti, *A Guide to Georgia Stand Your Ground Law*, CONOSCIENTI & LEDBETTER (June 13, 2019), <https://cl-firm.com/georgia-stand-your-ground-law/>.
- 105 *See, e.g., Foster v. Commonwealth*, 412 S.E.2d 198, 201 (Va. App. 1991) (use of force generally available to defend a third person).
- 106 Wilbur R. Miller, *A State within 'The States': Private Policing and Delegation of Power in America*, 17 CRIME, HIST. & SOC'Y 125, 127 (2017). We are indebted to Miller's article in this section, as well as his book, MILLER, *supra* note 100.
- 107 Pamela C. Bell, *Stand Your Ground Laws: Mischaracterized, Misconstrued, and Misunderstood*, 46 U. MEM. L. REV. 383, 401 (2015). Bell's article usefully collects the laws on the books in many states. We disagree with her strong defense of “stand your ground” laws, however, for reasons which may be clear from our article.
- 108 *Id.* at 408.
- 109 *Id.*



- 110 See generally Chad Flanders, *Interpreting the New “Stand Your Ground” Rule*, 73 J. MO. B. 20 (2017).
- 111 Chad Flanders, *Commentary: Of castles, cars, road rage, and guns*, ST. LOUIS PUB. RADIO (June 15, 2012, 2:17 PM), <https://news.stlpublicradio.org/government-politics-issues/2012-06-15/commentary-of-castles-cars-road-rage-and-guns>; Chad Flanders, *The problem with ‘stand your ground’ law*, ST. LOUIS POST-DISPATCH (Feb. 21, 2018), [https://www.stltoday.com/opinion/columnists/the-problem-with-stand-your-ground-law/article\\_c1f7fa57-f5fb-5b06-beb5-e3210c2b6883.html](https://www.stltoday.com/opinion/columnists/the-problem-with-stand-your-ground-law/article_c1f7fa57-f5fb-5b06-beb5-e3210c2b6883.html).
- 112 *Self Defense and “Stand Your Ground”*, NCSL (May 26, 2020), <https://www.ncsl.org/research/civil-and-criminal-justice/self-defense-and-stand-your-ground.aspx>.
- 113 AJ Willingham, *Citizen's arrest laws aren't cut and dry. Here's what you need to know*, CNN (May 12, 2020, 7:32 AM), <https://www.cnn.com/2020/05/12/us/citizens-arrest-what-is-explained-trnd/index.html>.
- 114 *Id.*
- 115 Chad Flanders & Joseph Welling, *Police Use of Deadly Force: State Statutes 30 Years After Garner*, 35 ST. LOUIS UNIV. PUB. L. REV. 109 (2015).
- 116 *Id.* at 110.
- 117  *Tennessee v. Garner*, 471 U.S. 1, 11 (1985).
- 118 *Id.*
- 119 Flanders & Welling, *supra* note 115, at 133.
- 120 These reforms are gaining increased momentum in the wake of several recent, highprofile excessive uses of police force. Flanders & Welling, *supra* note 115, at 114.
- 121 *Id.* at 120-21.
- 122 SETH W. STOUGHTON, JEFFREY J. NOBLE & GEOFFREY P. ALPERT, *EVALUATING POLICE USES OF FORCE* 85 (2020); see generally Abraham N. Tennenbaum, *The Influence of the Garner Decision on Police Use of Deadly Force*, 85 J. CRIM. L. & CRIMINOLOGY 241, 241 (1994).
- 123 Miller, *supra* note 106, at 127.
- 124 STOUGHTON, NOBLE & ALPERT, *supra* note 122, at 73.
- 125 As Seth Stoughton has pointed out to us, citizen's arrest laws still represent a real expansion beyond self-defense, despite the continuity. Those laws represent *assertive* uses of force, whereas self-defense laws ostensibly remain defensive. *Id.* at 72 (explaining that citizen's arrest laws still represent a real expansion beyond self-defense, despite the continuity; such laws represent *assertive* uses or force, whereas self-defense laws ostensibly remain *defensive*); see also MILLER, *supra* note 100, at 11 (distinguishing between self-defense and “aggressive” attacks).
- 126 Brakkton Booker, *White Defendant Allegedly Used Racial Slur After Killing Ahmaud Arbery*, NPR (June 4, 2020, 6:17 PM), <https://www.npr.org/2020/06/04/869938461/white-defendant-allegedly-used-racial-slur-after-killing-ahmaud-arbery>.
- 127 See Alan J. Singer, *Citizen's Arrest: Racist at its Roots*, HIST. NEWS NETWORK (May 24, 2020), <https://historynewsnetwork.org/article/175619>.
- 128 *Id.*
- 129 Peter Yoxall, *The Minuteman Project, Gone in a Minute or Here to Stay? The Origin, History and Future of Citizen Activism on the United States-Mexico Border*, 37 U. MIA. INTER-AM. L. REV. 517, 519 (2006) (noting how border patrols “acted within the legal framework of a citizen's arrest while fulfilling a societal need that the government did not

necessarily have the resources to provide” but also “were motivated by racist, xenophobic agendas”); *see also* Robbins, *supra* note 12, at 582-83.

130 Christopher Waldrep, *National Policing, Lynching, and Constitutional Change*, 74: 3 J.S. HIST. 589, 591 (2008).

131 Miller, *supra* note 106, at 128.

132 As explained more fully in the next paragraph, they would never need to assert *any* defense to their actions, let alone a defense that they were making a citizen's arrest. *See* ROBIN D. G. KELLEY, HAMMER AND HOE: ALABAMA COMMUNISTS DURING THE GREAT DEPRESSION 83-84 (Univ. of N.C. Press, 25th ed. 2015) (troubling discussion of a citizen's arrest case).

133 *See generally* the discussion of vigilantism in MILLER, *supra* note 100.

134 *Id.* at 32.

135 *See* Miller, *supra* note 106, at 128 for a discussion of the Klu Klux Klan in the context of private policing.

136 Miller describes that during reconstruction “although a few local Sheriffs resisted lynch mobs in the name of due process of law, most were absent or stood aside when crowds broke into jails to seize black prisoners.” *Id.* *See* Christopher Capozzola, *The Only Badge Needed Is Your Patriotic Fervor: Vigilance, Coercion, and the Law in World War I America*, 88: 4 J. AM. HIST. 1354, 1359 (2002). (“White vigilance groups enforced white racial supremacy. They enjoyed the support of formal state institutions at every level of American government, which consistently declined to intervene in what they deemed local or wholly private matters.”).

137 This idea of popular sovereignty was commonly used to justify extra-judicial violence against black people. *See* Waldrep, *supra* note 130, at 591 (“In this highly localized world where local jurisdictions struggled to maintain order with little outside help, Americans sometimes rationalized lynching as so-called lynch law, a constitutionally legitimate expression of popular sovereignty outside statutory law.”).

138 Miller also notes appeals to public safety as the “supreme law” in the attempts of vigilantes to justify their actions. MILLER, *supra* note 100, at 31.

139 In other words, it could be that when white people started being charged with crimes, they needed a defense (before, they would not need a defense because they were never charged).

140 Sherrilyn Ifill, *We must confront the inconsistent laws that allow black lives to be taken with impunity*, WASH. POST (May 11, 2020, 5:38 PM), <https://www.washingtonpost.com/opinions/2020/05/11/even-if-we-bring-justice-ahmaud-arbery-work-will-remain/>; *see* Ekow Yankah, *Racialized violence never takes a break: On the killing of Ahmaud Arbery*, N.Y. DAILY NEWS (May 8, 2020, 4:16 PM), <https://www.nydailynews.com/opinion/ny-oped-racialized-violence-never-takes-a-break-20200508-2qgf7s73nzfp3hd7ywiwxnakdi-story.html>.

141 *See, e.g.*, MILLER, *supra* note 100, at 48 (increasing convictions for extra-judicial, vigilante justice in the latter half of the 20th century).

142 This may need to be qualified, as there are extremist groups that both assert their power as citizens to defend themselves and are extremely skeptical of the state, including the police.


143 MILLER, *supra* note 100, at 38.

144 *See id.* at 178.

145 Indeed, as noted above, in some cases reform of police use of force has left citizens with a *greater* power to arrest than the police.

146 Note, *supra* note 53, at 513.

147 *Id.*

- 148 See, e.g., Robles, *supra* note 10 (citing legislators in Georgia who want the citizen's arrest law abolished); see also Stanley Dunlap, *Lawmakers press change to citizen's arrest law cited in Arbery case*, GA. RECORDER (June 1, 2020), <https://georgiarecorder.com/2020/06/01/lawmakers-press-change-to-citizens-arrest-law-cited-in-arbery-case/> (Georgia lawmakers are considering reform of citizen arrest law); see also A.T. McWilliams, *Georgia Can Honor Ahmaud Arbery by Repealing Its Horrible Citizen's Arrest Statute*, SLATE (May 19, 2020, 10:01 AM), <https://slate.com/news-and-politics/2020/05/georgia-honor-ahmaud-arbery-repeal-citizens-arrest.html>; see also Trone Dowd, *Ahmaud Arbery's Death is Already Inspiring a State to Change Its Citizen's Arrest Law*, VICE NEWS (May 14, 2020, 5:54 PM), [https://www.vice.com/en\\_us/article/z3ee73/ahmaud-arberys-death-is-already-inspiring-a-state-to-change-its-citizens-arrest-law](https://www.vice.com/en_us/article/z3ee73/ahmaud-arberys-death-is-already-inspiring-a-state-to-change-its-citizens-arrest-law) (South Carolina considering change in its citizen's arrest laws).
- 149 Note, *supra* note 53, at 513.
- 150 Robbins, *supra* note 12, at 573 (noting the confusion citizens may face in requiring them to distinguish between felonies and misdemeanors).
- 151 “[I]t would seem preferable to lower the incidence of mistaken arrests not through an arbitrary requirement of firsthand observation but by application of a standard of probable cause-- namely, that the apprehension be justified by probable cause for believing a crime had been committed.” Note, *supra* note 53, at 507.
- 152 *Id.* at 513.
- 153 The Note permits deadly force to be used by a citizen making an arrest in certain circumstances. In recommending a limit on use of deadly force, we obviously depart from this. *Id.*
- 154 Massachusetts and Nevada, for example, have banned the use of deadly force by citizens in making an arrest. See generally Appendix.
- 155 See generally  *Tennessee v. Garner*, 471 U.S. 1 (1985).
- 156 Here we are again inspired by Robbins, and the examples he cites where individuals taking “the law into their own hands” and risks dangers for “both the arrestor and the arrestee.” Robbins, *supra* note 12, at 572.
- 157 See, e.g., Alameda County District Attorney's Office, *supra* note 91 (noting that citizen's arrests are necessary because police officers in California cannot make arrests for misdemeanors not committed in their presence).
- 158 Note, *supra* note 53, at 502.
- 159 This appendix was assembled by Lyz Riley, Raina Brooks, Jack Compton, and Lindsay Parks. After we compiled the appendix, we learned of a similar one that had recently been assembled. See Shakierah Smith, Module on Citizen's Arrest and the Killing of Ahmaud Arbery, *2020 Summer Supplement to KAPLAN, WEISBERG & BINDER, CRIMINAL LAW: CASES AND MATERIALS* (8th Edition 2016).