

## 218 CITIZEN ARREST PROCEDURE

Citizen arrests must be made by the private citizen and not the police officer. The citizen must inform the arrested party of the fact that he is being arrested and what he is accused of. It is not the duty of the officer, either, to make the arrest or to inform the arrested party of the cause for the arrest. The arresting citizen must do both of these acts.

The arresting citizen has only to inform the arrested person of the fact of the arrest and the charge. It is not necessary to physically restrain or, touch the arrested person in any way. The restraint of the defendant is not a necessary element of the arrest.

It shall be the policy of the Breckenridge Police Department that all the officer shall "take into custody" the person arrested by a private citizen only.

- a. When the private citizen in the, presence of the officer actually makes the arrest by informing the party arrested that he is being arrested and why; and
- b. When the private citizen making the arrest signs and completed the Certificate of Arrest by Private Person or, "Citizen Arrest Form" as used by this Department; or
- c. When the private ci ti zen delivers the arrested person to the officer, and signs the "Form in the presence of the officer.
- d. In every case a copy of the "Form" must be delivered to the person arrested.

It must be clearly understood that the "Form" is not a warrant nor is it a complaint. It is merely a form stating that the private citizen has made an arrest and that he requests the officer, to take the arrested person into custody.

If a citizen appears at the LEC, or, stops the officer on the street and requests him to arrest another person he must accompany the officer to the scene and he must make the arrest by himself in the presence of the officer. He may, if he chooses, return to the scene, arrest the defendant, deliver him to the officer and sign the "Form". The officer, is not, under any circumstances involving a misdemeanor to take the "Form" and go effect an arrest, unless accompanied by the arresting citizen.

Citizens wishing to arrest another, should be informed that it is necessary to confront the person to be arrested and inform him that he is being arrested and the charge.

The officer, will advise the citizen making the arrest that he must inform the defendant in words similar to I am arresting you and charging you with \_\_\_\_\_." These statements don't apply to felony arrests, but only to misdemeanors. If the officer accompanies the citizen to the scene of the arrest, it shall be as soon after the offense has been committed as possible.

The law requires that arrests for misdemeanors must be made as soon as possible after the commission, or, within a reasonable time. It should be remembered by the officer, that a misdemeanor, arrest may be effected by complaints handled through the normal channels. Unless circumstances are such that an immediate arrest is necessary, the person desiring the arrest should be advised to proceed through the normal channels of complaint, investigation and warrant. Officers should suggest what their, experience has shown to be the best course of action.

If the officer, decides that an immediate arrest is necessary, he will accompany the citizen to the scene and he will protect the arresting citizen from assault by the defendant. It shall also be his duty to protect the defendant from any undue use of force.

After the arrest is made and officer has custody of the arrested person, a citation may be issued in lieu of continued detention. In any case the officer shall set a court appearance date as soon as practical. Officers will be required to write a report of all citizen arrest incidents.

Officers are reminded of statutory offenses that permit probable cause arrest by Police for misdemeanor not committed in their presence. (i.e. DWI 169.121, Domestic Abuse = 629.341, Shoplifting = 629.366).

See attached "Citizen Arrest Form", Certificate of Arrest by Private Person.