

In some cases, citizens step in to make an arrest of an impaired driver. Under certain circumstances, a private citizen may act like a law enforcement officer.

In *State v. Hart*, 669 N.E.2d 762 (Ind. App 1996), a private citizen saw the defendant's vehicle swerving and forcing other vehicles out of their travel lanes. When the driver stopped at the next traffic signal the private citizen reached into the car, removed the keys and placed the car in park. Another motorist called the police and the driver was apprehended by law enforcement running away from the scene. The Indiana appellate court upheld a "citizen's arrest" in these circumstances. The Indiana Code authorizes a citizen to arrest a person who is observed committing a misdemeanor involving a breach of the peace, if the arrest is necessary to prevent an ongoing breach of the peace. The Indiana appellate court determined that DUI was a breach of the peace, and upheld the legality of the arrest.

However, in cases where an off-duty police officer makes a stop/arrest, whether the officer was acting under "color of office" are factors the courts consider when determining if the off-duty officer was a private citizen.