

## Document: C.R.S. 18-1-701

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**Colorado Revised Statutes Annotated Title 18. Criminal Code (Arts. 1 – 26) Article 1. Provisions Applicable to Offenses Generally (Pts. 1 – 11) Part 7. Justification and Exemptions from Criminal Responsibility (§§ 18-1-701 – 18-1-714)**

#### 18-1-701. Execution of public duty.

**(1)** Unless inconsistent with other provisions of sections 18-1-702 to 18-1-710, defining justifiable use of physical force, or with some other provision of law, conduct which would otherwise constitute an offense is justifiable and not criminal when it is required or authorized by a provision of law or a judicial decree binding in Colorado.

**(2)** A “provision of law” and a “judicial decree” in subsection (1) of this section mean:

- (a)** Laws defining duties and functions of public servants;
- (b)** Laws defining duties of private citizens to assist public servants in the performance of certain of their functions;
- (c)** Laws governing the execution of legal process;
- (d)** Laws governing the military service and conduct of war;
- (e)** Judgments and orders of court.

#### History

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**Source:** L. 71:R&RE, p. 407, § 1. **C.R.S. 1963:**§ 40-1-801.

## ▼ Annotations

### Research References & Practice Aids

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#### Hierarchy Notes:

C.R.S. Title 18

C.R.S. Title 18, Art. 1

### State Notes

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#### ANNOTATION

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##### **Process server's entry onto land to effect service was legal.**

And while land owner quickly revoked the implied license once the owner began interacting with the process server, to the extent the process server's conduct was consistent with the laws governing the execution of legal process, the conduct remained statutorily privileged even after the owner revoked the implied license. *People v. Neckel*, 2019 COA 69, \_\_\_ P.3d \_\_\_.

##### **Defense not available to penitentiary guard accused of aiding escape.**

A penitentiary guard, accused of aiding an escape, whose theory of the case is that he was attempting to apprehend an escaped criminal by using undercover techniques is not entitled to a jury instruction on the affirmative defense of execution of public duty when his authority to make an arrest is limited to penitentiary grounds and there is no evidence he had any authorization to engage in undercover activities. *People v. Roberts*, 43 Colo. App. 100, 601 P.2d 654 (1979).

##### **Defense not available to deputy sheriff when directed to perform an unauthorized act by sheriff.**

Deputy sheriff's installation of an eavesdropping device at the direction of the sheriff was not an execution of a public duty when sheriff did not have legal authority to place electronic listening device without court order. *People v. Lesslie*, 24 P.3d 22 (Colo. App. 2000).

Colorado Revised Statutes Annotated

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