CITIZEN'S ARREST

The Law of Arrest, Search, and Seizure For Private Citizens and Private Police

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A recognized authority in the field of criminal law and international criminal law, M. Cherif Bassiouni has produced yet another definitive investigation of a controversial topic. In this compact manual, the author provides an analysis of the legal authority permitting a private person to make an arrest without a warrant. Additionally, the book describes the limits of arrest, search and seizure performed by citizens and private police; the applicability of state law to federal officers and state agents acting outside of their jurisdiction; citizen's civil and criminal responsibility for making a mistaken arrest; and a proposal for a model statute on citizen's arrest.

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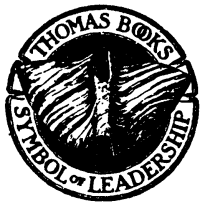

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DEDICATION

TO

KITTY GENOVESE

Stabbed to death in New York City
in 1968 while thirty-eight persons
witnessed the killing or heard her
cries without intervening or even
calling the police for help.

So that we may heed the advice of
GEORGE SANTAYANA —

"Those who forget the
past are condemned to
repeat their mistakes."

PREFACE

THE 1960's WITNESSED an increase in the rate and volume of crime which was unparalleled in the history of the United States. One of the consequences of that situation has been an increase in private security and citizen intervention, which has continued to grow since then. Nevertheless, existing laws and conflicting policies in the various states proved inadequate to regulate these activities. Among the most significant legal norms bearing on citizen intervention and private security is the law of citizen's arrest, search, and seizure. Paradoxically, that area of the law has not received adequate study, and the public's knowledge concerning the rights and duties of citizens and private police is at best scant. These considerations would have been ample reason for any one to study that area of the law in order to disseminate resulting findings to the citizenry. Indeed, these considerations caused be to study the subject, but a dramatic event in 1968 moved me to write this book. That event was the 1968 murder of Kitty Genovese in the streets of New York. While she was being pursued and repeatedly stabbed by her assailant Kitty cried for help. Her screams and her desparate flight were heard or seen by thirty-eight persons. None of them intervented. No one came down to rescue her. No one even called the police. The thirty-eight witnesses simply did not "get involved." That was the mood of the times, which to some extent lingers on.

As a jurist, my training and expertise does not encompass the possibility of learning *why* such a phenomenon occurred. Instead, I can bring to the public's attention some knowledge of the relevant aspects of the law which could have some bearing on citizen's intervention. Thus, this book which is intended to encourage reasonable and lawful citizen intervention in distress situations as an expression of human concern and social solidarity is dedicated to Kitty Genovese so that her death may not have

been in vain. Between 1968 and 1976, several of my assistants have contributed some research to my work, and I wish to acknowledge it. They are: Harvey Levin, Sherwin Gerstein, Robert Sheridan, and Donna Rak. Also, my appreciation is extended to the Honorable George N. Leighton, Judge of the Federal District Court, Northern District of Illinois, who, when he was a presiding judge of the Illinois Appellate Court, read an earlier version of this book and gave me the benefit of his views.

The final version of this book was completed in 1976 while I was serving as a consultant to the National Task Force on Private Security. Its capable Executive Director Clifford Van Meeter graciously allowed me to work contemporaneously on my report to the Task Force and on this book.

Chicago
November 25, 1976

M. CHERIF BASSIOUNI

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I

INTRODUCTION

LAW ENFORCEMENT AGENCIES in the United States spend more than 8 billion dollars annually; yet from the late 1950s to date the ratio of arrests, convictions, and incarcerations as compared with the estimated number of crimes committed has been steadily decreasing. This is illustrated by the following estimates of the last decade: As to crimes of violence, 25 percent of the crimes committed are reported, of these only 50 percent result in arrests (in 1975, of the 11.3 million crimes reported, 20 percent resulted in arrests); 25 percent are prosecuted, 6 percent result in conviction, and only 1 percent receive unsuspended or nonprobationary prison sentences. As to property crimes, the estimated figures are about one-half of those concerning crimes of violence.

This situation has been aggravated by a steadily rising volume of crime, particularly in the 1960s and 1970s. The overall effect of this state of affairs has generated a climate of fear which has led to the significant development of a class of private law enforcers, who almost everywhere in the country increasingly supplement public agents. There are, however, no exact figures as to the number of guards, detectives, private patrols, and the like in the United States (consider, for example, that the number of guards which banks employ is secret). Unofficial estimates are that private police personnel, such as security guards, detectives, and the like, are over 800,000 persons. The national expenditure for private security is 6.6 billion per year.

Notwithstanding the large number of persons presently and prospectively engaging in private security, no state or municipality has so far enacted comprehensive legislation for the regulation of such persons and their activity. Where there is some regulation, it is limited to the carrying of weapons, whereby the private or special police person is either deputized or

licensed, thereby vesting him or her with all or part of the powers of a public agent. Usually such authority is to be confined to the place and hours of employment and limited to the performance of such licensed activities. In all states where private law enforcement may lead to arrest, the authority for it arises from the citizen's arrest statute of that jurisdiction.

In addition to private police, all federal agents with arrest powers, such as those of the Federal Bureau of Investigation, the Drug Enforcement Agency, the Secret Service, Postal Inspectors, Customs Inspectors, Treasury Agents, and others, in the absence of specific federal legislation vesting them with authority to act pursuant to federal jurisdiction, operate under the authority of the citizen's arrest law of the given jurisdiction. The same legal authority which applies to the private police and federal officers (acting outside their limited federal jurisdiction) also applies to state law enforcement agents acting outside their jurisdiction. Thus the total number of officials who, when outside the scope of their jurisdiction, operate under the citizen's arrest authority, is estimated at well over one million persons.

There are no available figures on the number of citizens' arrest to compare with public agents' arrest to determine their overall impact. However, the large number of persons operating by virtue of the citizen's arrest legal authority denotes its significance.

The number of persons engaged in the business of private security and private police is continuing to grow and in all likelihood will increase substantially. It is estimated that by 1980 some one million persons will be engaging either full-time or part-time in that type of activity. Indeed it is plausible to assume that with an increased volume of crimes committed and a decreased ratio of effective law enforcement prevention and criminal justice control the resort to private protective measures will increase.

A national survey of Appellate and Supreme Court cases (discussed later in detail) reveals that the citizen's arrest authority is more often relied upon and used by public agents who are acting outside their jurisdictional authority and private police than by its historically intended beneficiary, the ordinary citizen. One reason is the sharp decrease in individual citizens' interventionist behavior in emergency situations. This reaction may well be prompted by the existence of a conflict between legisla-

tive and judicial policy on the question of citizens' intervention in emergency distress situations. Sociologists and behavioral psychologists maintain that individual response to emergency situations is so strongly counterbalanced by noninterventionist impulses that all too often the latter prevails. Social commentators also advance that this situation is caused, in part, by individual and public disinterest, indifference, and apathy, amounting to the citizenry's failure to discharge its social responsibilities. Among these responsibilities they claim are assistance to victims of crime, intervention in emergency situations, assistance to law enforcement agencies, and the participation in the process of administration of criminal justice. But public attitude, particularly in communities characterized by a high crime rate, relegates, indeed surrenders, to law enforcement agencies these social responsibilities. The press frequently reports instances of extreme social apathy, disinterest, and indifference in emergency and distress situations. Nevertheless, there are increased reports of individual and community self-help efforts which range from the establishment of regular vigilante groups to the use of whistles by inhabitants of an apartment building or a residential block. Thus one can infer from these observations that, while noninterventionism may be a social problem, there is a growing number of people who are becoming increasingly active in self-protection and in the protection of others. Because of this situation there is a potential increase in the number of citizens who may operate under the legal authority of the citizen's arrest law.

Another aspect of the question of interventionism has to do with the effectiveness of crime prevention. It is a well-established fact that the presence of a peace officer at the scene of a potential crime is a major factor in crime prevention. A parallel aspect is the presence of an interventionist citizen. The statistical probabilities, however, are much higher that a citizen will be present at the scene of a crime as compared with that of a peace officer. This is explainable, in part, by the ratio of peace officers (approximately 350,000) to the general population, which in the United States is approximately 1.6 per thousand. Thus, the law of citizen's arrest becomes significant as an instrument of social policy. Indeed, if the law of citizen's arrest and its criminal and civil implications are formulated and interpreted in a narrow sense, it will discourage interventionism; but if the

opposite occurs, it will tend to encourage interventionism. But, encouraged interventionism, based on a valid social policy, can have positive effects on law enforcement, as well as negative effects with respect to officious intermeddling. The immediate consequence of a policy encouraging interventionism will be an increased number of persons who will act under the authority of the citizen's arrest law. Clearly the legislative and judicial policies of a given county or state will have far-reaching effects insofar as they will tend to encourage or discourage interventionism. This will be accomplished by expanding or reducing the intervenor's degree of leeway to act in case of doubt and to expand or restrict the permissible limits of making a mistake in judgment or conduct. The citizen's arrest policy, however, varies from state to state as it depends upon the social context of the times. As criminality increases and social involvement decreases, it is likely that a given state will develop policies to spur individual action; but where individual action interferes with the social order, the policies developed will likely seek to restrict it.

In the United States, there has never been a general legal duty on all the members of society to lend assistance to each other in distress situations. Nevertheless the history of this country, particularly in its first one hundred years, indicated that a need existed to curb the almost uncontrollable activity of individual citizens who were acting under the guise of self-defense, defense of others, as self-appointed law enforcers. Consequently, since the late 1800s most states developed policies which tended to discourage this type of individual activity. As a result, individuals became subject to civil and criminal liability for errors of judgment and mistaken conduct with respect to almost every aspect of intervention. This has been true with respect to lending assistance to an injured person, performing a citizen's arrest, or defending another. This policy was expressed by one author as follows:

> The law favors law enforcement by official agents and discourages private persons from "meddling." The unfortunate result is that the meddler has no greater rights than has the person he is defending. If he mistakenly defends a felon against an officer of the law, believing the officer to be the aggressor, the defender cannot invoke greater rights than the felon, and he will not be protected by the self-defense privilege. The same holds true when a person defending another mistakes the amount of force of the

> aggressor and consequently inflicts unreasonable harm upon the aggressor; he does so at his own peril.
>
> The principal argument advanced to support this position is the need to maintain an orderly society and that such a policy will be conducive to that result. The better view, however, is to consider the apparent circumstances of danger and to apply the "reasonable man" standard to the conduct of the defender. To regard a citizen who is lawfully employing self-defense in favor of others as an intermeddler is a serious injustice which can produce serious social consequences.
>
> A certain duty to inquire or reasonably ascertain the facts is essential before permitting third party intervention, but such a practice should be favored and not discouraged. Safeguards can be established by applying this policy through a more stringent test of reasonableness.[1]

The underlying policy of the law concerning citizen's interventions as manifested by civil and criminal sanctions has permeated the social psychology and has created a negative inference affecting the individual's decision to intervene or not to intervene in emergency situations. Thus, while the policy of a citizen's arrest statute is to permit if not encourage intervention, judicial interpretation and application of such a statute developed conflicting policies aimed at discouraging intervention. The first of these policies is embodied in citizen's arrest statutes, which in the United States are derived from the common law wherein a private citizen is authorized to act independently of any public authority under certain circumstances. That authority is recognized in one form or another in every state of the United States.

The authority to perform a citizen's arrest is exclusively regulated by the states under its "police powers," and is not subject to the constitutional limitations placed upon law enforcement or other public agents. The reason is that the Fourteenth Amendment due process clause applies to states and their agents and not to individuals acting on their own; the Fourth Amendment, which protects against unreasonable searches and seizures, applies to states through the Fourteenth Amendment, which refers to states and not to private conduct. Thus, a citizen's arrest, which constitutes the "seizure" of a person, does not fall within the category of governmental or state action

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[1] M. C. BASSIOUNI, CRIMINAL LAW AND ITS PROCESSES: THE LAW OF PUBLIC ORDER, 121, 122 (1969).

proscribed by the Fourth and Fourteenth Amendments to the Constitution of the United States, unless the individual is acting for or on behalf of public authority. Consequently, the absence of any constitutional limitations on citizen's arrest reveals a policy tending to encourage the performance of such activity.

Citizen's arrest is referred to as a "right," but this is questionable because there is usually no duty to do so. The authority of a citizen to perform an arrest by authority of the law should therefore more appropriately be labelled a "privilege." There is no statute in the United States which imposes a duty on a citizen, not directed by a peace officer or magistrate, to perform an arrest. The policy of a legal privilege underscores its purpose of encouraging voluntary action. Thus in the absence of a legal duty, the limited authority to optionally engage in such conduct constitutes a "privilege" and not a "right."

An examination of the language of citizen's arrest statutes reveals that it is broad enough to induce the layperson to believe its intended purpose. Case law, however, shows that restrictions and limitations placed on statutory interpretation tend to defeat that purpose. The beneficiary of the privilege becomes trapped between the law and its application and confronted by an implied doctrine analogous to *caveat emptor*. The result is a conflict between two contradictory policies: legislative policy encouraging such form of intervention, and judicial policy seeking to limit it. Thus the value-oriented goal of the legislative policy is negated by its judicial application.

This study covers the law and practice of citizen's arrest, its policies and application, and makes recommendations for legislation.

II

CITIZEN'S ARREST AT COMMON LAW

Three civil brawls, bred of an airy word,
By thee, old Capulet and Montague,
Have thrice disturbed the quiet of our streets,
And made Verona's ancient citizens
Cast by their grave beseeming ornaments
To wield old partisans, in hands as old,
Cankered with peace, to part your cankered hate.
If ever you disturb our streets again,
Your lives shall pay the forfeit of the peace.[2]

So it was, when the Capulets and Montagues began to riot in the streets, and Shakespeare's audience was not surprised to see private citizens take up clubs and pikes to join with officers in restoring public order.

The Statutes of Winchester, enacted in 1285, formalized much of England's practice in matters of criminal justice and rules of apprehension. These rules endured in full force for many centuries, and are not without effect even today when common law elements of arrest are considered. Under this approach, the role of private persons in criminal justice was significant. Not only was it the right of any person to apprehend offenders, there was also a positive duty to drop all work when the "hue and cry" was raised, and to "join immediately in the pursuit";[3] and a private person was required to take part in the community institution of the "hue and cry." According to some commentators, a private person was bound to arrest a person who committed a felony in his presence. In Dalton's time, the jurisprudential emphasis was still on the private person's right to arrest, and he remarked that an officer of the king could arrest without a warrant at any time when a private person could. Even later, the only difference between the power

[2] W. SHAKESPEARE, ROMEO AND JULIET, Act I, Scene 1, at 96.
[3] J. HALL, THEFT, LAW AND SOCIETY, 162 (2d ed. 1952).

of an officer and a private person to effect a warrantless arrest was that the former was excused if no felony had in fact been committed, while the latter was not. After Dalton, Hale suggested that there was another distinction between arrests performed by a private person and an officer of the Law. That distinction applied to the degree of suspicion regarding the guilt of the arrestee. Such a private person, said Hale, needed suspicion arising from his own knowledge while an officer might, in addition, act on the information of others.[4] That distinction, however, never played any substantial part in the determination of cases arising from arrests made by private persons.

During the seventeeneth century, thief-catchers flourished in England as large rewards along with amnesties were offered to those who could capture highwaymen. But this afforded only a minor improvement in the effectiveness of law enforcement, since most of the catchers were themselves felons. During the eighteenth century, privately funded organizations such as the Bow Street Runners sprang into existence. Their purpose was to "watch and ward." While these groups were successful, their scope was too limited to be useful to society as an adjunct to law enforcement. By the end of that century, the system of "watch and ward" was deemed by all to be utterly inadequate to deal with the rising criminality of an urbanizing society. One example of its inadequacy was given by Lee in his *History of Police in England,* where he related that it had become popular amusement in England for young men to imprison watchmen in their own boxes by upsetting them on top of the watchman as he dozed.[5]

The early common law system of law enforcement which had been built around the citizen's involvement became unable to cope with the new problems of a more densely populated and urbanized society and of necessity gave way to the advent of professional law enforcement. Since that time, the participation of private citizens in law enforcement has been diminishing, and until recently there was no reason to suppose that individuals would soon assume again their common law roles or be, as

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[4] M. HALE, PLEAS OF THE CROWN, 92 (1609), as cited by *Hall, Legal and Social Aspects of Arrest,* 49 *Harv.L.Rev.* 566, 569 (1936).

[5] *Id.* at 582.

Thomas Smith observed of every Englishman, "a sergeant to take the thiefe."[6]

In the eighteenth century the common law developed more precise rules for arrest by public officials and private citizens. It is this aspect of the common law which has been relied upon in England and which was taken up by the United States when the common law of England was absorbed into United States law in the various states. So a magistrate who witnessed the commission of a felony, or a portion thereof, or a breach of the peace, had the power to arrest the offender and to order any peace officer or private citizen to do so. This order could be given orally or by way of a writ or warrant. Under the same circumstances, a peace officer was also empowered to perform an arrest or cause the arrest of an offender to be made by a citizen at his direction.

A citizen also had the right to make an arrest on his or her own initiative in certain cases, but historically he or she only owed a duty to do so if a felony had been committed in his or her presence. In the absence of an authoritative mandate to perform an arrest, a citizen's efforts to participate, engage in, or support law enforcement activities were purely voluntary and at his or her own risk.

The authority of a citizen to act independently was, however, to be distinguished from his or her duty to aid, assist, or lend support to the law when so directed, commanded, or requested to do so by a magistrate or a peace officer. That distinction remained in contemporary Anglo-American law. Thus a citizen could perform a valid and lawful arrest on his or her own authority if the person arrested committed a misdemeanor in his or her presence, or if there were reasonable grounds to believe that a felony was being or had been committed by the arrestee, though not in the presence of the arresting citizen.

Blackstone referred to this right in these words:

> Any private person, who is present when any felony is committed, is bound by law to arrest the felon, on pain of fine or imprisonment, if he escapes through the negligence of the bystanders. And they may break open doors in following such felon, and if they kill him, provided he cannot otherwise be taken, it is

[6] T. SMITH, THE COMMONWEALTH OF ENGLAND (1589); also quoted by *HALL, supra* note 4, at 579.

> justifiable. If they are killed in endeavoring to make such arrest, it is murder. Upon probable suspicion, a private person may arrest a felon or a person suspected of felony. But he is not justified in breaking open doors to do it; and if either party kill the other in the attempt, it is manslaughter. Such arrest upon suspicion is barely permitted, and not enjoined by the law.[7]

This statement expresses the common law's policy of citizen's arrest. It imposed a duty on the citizen to act in certain cases and granted him or her a privilege in other instances.

As to felonies not committed in the presence of the citizen, despite considerable uncertainty in the early English cases, a citizen's arrest on reasonable suspicion that a felony had been committed but not in his or her presence was summed up as follows:

> Whether the arrestor was a police officer, or a private citizen, the authority was recognized in felony cases and not misdemeanor cases, but this important decision was made if an officer acted upon suspicion of a felony based upon reasonable grounds he was protected even if in fact, no felony had been committed, whereas a private citizen was required to act at his peril in this regard.[8]

At common law different rules applied to private citizens and to law enforcement officers in regard to the authority to make an arrest without a warrant. The distinction was particularly significant when the basis of the arrest was the belief that a felony was or had been committed. A peace officer and a private citizen could make an arrest regardless of whether the offense was committed in or out of their presence, provided that they had reasonable grounds to believe that the arrestee had committed or was committing a felony. However, some U.S. cases relying on the common law, held that a private person could only arrest for the commission of a felony committed in whole or in part in his or her presence.[9]

A private citizen could also perform an arrest for a misdemeanor, but only when the offense amounted to a breach of the peace and was committed in his or her presence, while a

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[7] W. BLACKTSONE'S COMMENTARIES ON THE LAW OF ENGLAND, 872 (Gavitt ed. 1892). See also, BASSIOUNI, *supra* note 1, at 348 *et seq.*

[8] ALI MODEL CODE CRIM. PROC. §§21-2, 25-26, *Commentary* at pages 235-6, 239-40 (1930).

[9] E.g. Byrd v. Commonwealth, 158 Va. 897, 164 S.E. 400 (1932). See also, 1 ALEXANDER, THE LAW OF ARREST, 381.

peace officer could perform an arrest on reasonable grounds or belief that such an offense had been committed even though outside his or her presence. This distinction also survived in one form or another in contemporary Anglo-American law.

Whatever reason the citizen had to make an arrest, it always was done at his or her own peril. Consequently, a mistake could expose the arrester to criminal responsibility as well as to civil liability. Though the common law recognized the citizen's right to enforce the law, that right was balanced against the danger that officious intermeddlers might abuse the rights of other citizens. Hence, a conflict between two rights existed which was resolved by the common law's recognition of the right to arrest as qualified by certain limitations. In time this ultimately led to a dual policy bearing an inherent inconsistency which resulted in judicial limitations prevailing over the legal recognition of the citizen's qualified right to arrest.

An arrest made by a private citizen is as binding and valid as one made by a peace officer, provided that it arises under the authority of the common law or a statute. To constitute an arrest there must be an intent to arrest, under real or assumed auhority, accompanied by a seizure, detention, or taking into custody of a person, which seizure is understood to be an arrest by the arrestee.[10]

These basic rules have been carried into the law of most states in the United States with little modification. However, the history of citizen's arrest in the United States developed unevenly because the law of arrest became almost exclusively concerned with the acts of public agents and state action, neglecting the law of citizen's arrest. This dereliction left a wide disparity between two categories of actors, namely public agents and private persons, in the performance of an identical function, even though their roles in the social scheme are quite different.

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[10] *See* Jenkins v. United States, 161 F.2d 99 (10th Cir. 1947).

III

STATUTORY ANALYSIS OF THE LAW OF THE CITIZEN'S ARREST IN THE UNITED STATES

AN EXAMINATION OF cases in the last two decades reveals that only a few citizen's arrest cases reach the higher courts of the various states each year. Most of these cases fall primarily into three categories: (1) retail store managers who suspect shoplifters;[11] (2) public agents who perform an arrest outside their jurisdiction or beyond their legal authority; and (3) public agents using "private citizens" (or informants) to perform the arrest for fear of the consequences of what might be an unlawful arrest, thus seeking to evade the effects of certain constitutional sanctions such as the "exclusionary rule."[12]

Only a few cases in recent years involve the traditional concept of the citizen who, by his or her own choice, without any relation to law enforcement, performs an arrest for a crime committed in his or her presence or believed to have been committed and delivers the arrestee to the custody of public agents. In all three categories of cases, the conduct of the person performing the arrest has been in reliance upon the common law or statutory authority.

By 1976, thirty-one states had enacted legislation covering an arrest by a private person, and of these, twelve had almost identical provisions. (See the chart, "Statutory Arrest Authority of the Private Citizen," in Appendix A.) A common feature in

[11] *See* Sims v. Skaggs Payless Drug Center, Inc., 82 Idaho 387, 353 P. 2d 1085 (1960); Jefferson Dry Goods Co. v. Stoess, 304 Ky. 73, 199 S.W. 2d 994 (1947).

[12] *See* United States v. Burgos, 269 F. 2d 763 (2d Cir. 1959), wherein Federal customs officers in the capacity of private citizens arrested an alien; Richardson v. United States, 217 F. 2d 696 (8th Cir. 1954); United States v. Hayden, 140 F. Supp. 429 (1956).

all statutes is the conferring of the right to make a lawful arrest upon a private citizen acting on his or her own initiative.

A majority of these states allow an arrest for a felony (even as the offense actually occurred or there were reasonable grounds to believe that the arrestee committed the offense), and for any other "public offense" committed in his or her presence. The words "public offense" could be replaced by the word "crime," as used by Alaska,[13] only if the statutory definition of the word "crime" includes that of a "public offense."[14] Oregon,[15] which also refers to "crime" rather than to a "public offense," requires the "crime" to have been committed. Other jurisdictions, such as Illinois, distinguish between "misdemeanors" and "offenses" in the nature of city ordinances or quasi-criminal offenses and do not allow for a citizen's arrest in these cases even though they may have been committed in the citizen's presence. This indicates that with increased criminalization there emerges a tendency to restrict the application of the privilege within the grant of authority by statutes, as manifested by a classification of prohibited conduct through the use of terms such as: crime, offense, public offense, felony, misdemeanor, and criminal violation.

An analysis of the statutes and decisions of the fifty states reveals a substantial similarity in the privilege of citizen's arrest but it also discloses some divergence in its application. There are several approaches followed by the states.

A. STATES WHICH PERMIT A PRIVATE PERSON TO PERFORM AN ARREST WITHOUT A WARRANT WHEN THE FELONY WAS, IN FACT, COMMITTED BY THE PERSON ARRESTED

Connecticut,[16] Maine,[17] Massachusetts,[18] Missouri,[19] New Mexico,[20] New York,[21] and Michigan[22] adhere to this view. Only New York and Michigan have specific statutes on this point,

[13] *Alaska Stat.* Sec. 12.25.030 (1962).
[14] *Alaska Stat.* Sec. 11.75.020 (1962).
[15] *Ore. Rev. Stat.* Sec. 133.225 (1975).
[16] Wrexford v. Smith, 2 Root 171 (Conn. 1795).
[17] Palmer v. Maine Central R.R., 92 Me. 399 (1899).
[18] Morley v. Chase, 143 Mass. 396 (1887).
[19] Pandjiris v. Hartman, 196 Mo. 539, 94 S.W. 270 (1906).
[20] Territory v. McGinnis, 10 N.M. 269 (1900).
[21] People v. Governale, 193 N.Y. 581 (1908).
[22] *Mich. Stat. Ann.* Sec. 764.16 (1968).