

'Citizen's Arrest' Not Now In Effect In North Carolina

By DAVID WILLIAMSON
Every once in a while, North Carolina residents witness crimes being committed and wonder what to do.

Should they put on their Clint Eastwood hats and make a "citizen's arrest?" Should they call the law? Or look the other way quickly and ease on down the road?

Can they be sued if they make a mistake? Can they be charged for doing nothing?

"As a general rule, it is wisest simply to notify police, give them the appropriate information and let them do what they have been trained for," said Robert L. Farb, assistant director of the Institute of Government at the University of North Carolina at Chapel Hill.

"Probably most people consider that the duty of a good citizen and common sense," Farb said. "With a few exceptions like child abuse and neglect, however, there is no statute requiring that crimes be reported."

It may come as a surprise to some, but there is no longer a "citizen's arrest" provision in state law, he said.

In 1975, the state legislature abolished that power, which began in English common law, replacing it with the concept of "citizen's detention." The newer statute was intended to reduce the chance that people would act without authority and place themselves or others in danger unnecessarily.

According to Chapter 15A of the state's Criminal Procedure Act, a private person may detain another person when he has "probable cause"—a legal term for good reason—to believe that the person in his presence has committed a felony, a breach of the peace, a crime involving physical injury to another person, theft or destruction of property.

The detention must be done reasonably, considering the offense, Farb said and the citizens must immediately notify a law enforcement officer and surrender the suspect.

It is important to remember that the offense has to have been committed in the person's presence.

"Except for merchants, who have a bit more leeway, being told

that someone stole something, for example, is not good enough, and not good enough, and detaining him wrongly can result in criminal charges or a civil suit," he warned.

Exactly what constitutes a "breach of the peace" is open to question in some cases, said Farb, who advises court and law enforcement officials across the state. Inciting a riot or fighting in public certainly qualify, but playing a radio too loudly would not. An argument on a public street might or might not be a breach of the peace, depending on how violent it became.

The most important thing to remember is not to use deadly or excessive force in trying to detain someone, he said. It is legal to hold a suspect with just enough force to prevent escape, but it is definitely not legal to use a weapon to prevent escape.

The consequences of acting rashly can be staggering.

In 1981, for example, the N. C. Supreme Court upheld the first degree murder conviction and life imprisonment sentence of a convenience store operator in Charlotte who had fired at and killed a young man who was fleeing with two six packs of stolen beer.

Although the killing was not premeditated, the fact that the man had fired into an occupied vehicle, which is a felony, made it first degree murder automatically.

"Since just pointing a gun at someone intentionally may make you guilty of assault with a deadly weapon or assault by pointing a gun, I would advise private citizens not to use guns or any deadly weapon to exercise their power to detain," Farb said.

The only lawbreakers private persons can still arrest are fugitives from other states who have been charged with crimes punishable by death or more than one year in prison, he said. They also can assist law enforcement officers in making arrests if asked.

Nugget City

San Francisco began in 1835 as Yerba Buena—a modest settlement near a 1776 Spanish mission and fort. Phenomenal growth spawned by the gold rush continued into the late 1800s, and the city emerged as a financial and commercial colossus of the Far West.

People do have the right to resist an unlawful arrest or detention with reasonable, but not deadly, force, Farb said. As a result, citizens need to be more than just suspicious before trying to detain anyone.

They also need to "You can be a hero and you can be a dead hero," the attorney said. "My personal philosophy is that if someone has just stolen my car, for example, I'm not going to risk my life or serious injury trying to detain him."



Mrs. Eva M. Clayton, chairperson of the Warren County Commissioners, was sworn in as a member of the Board of Directors of the N. C. Housing Finance Agency last Thursday at the Warren County Courthouse. She is shown above taking the oath of office from District Court Judge J. Larry Senter of

Franklinton. The agency provides housing finance assistance to low and moderate income families in conjunction with private lenders as well as commercial lending institutions. Mrs. Clayton was appointed recently by Governor Jim Hunt for a two-year term on the board. (Staff Photo)

Plans Announced For Homecoming

Sulphur Springs Baptist Church will observe homecoming this Sunday, Sept. 16 according to the Rev. Julian R. Mills, Sr., pastor. Guest speaker will be the Rev. Edward Laffman, retired director of missions for the Cullom Baptist Association.

Dinner will be served in the Fellowship Building following the morning worship service. At 2 p. m. there will be a special singing in the church with The Thompson Family Singers.

Also, the homecoming is a time for special giving to the church's building fund. This year's receipts will go towards remodeling the sanctuary.

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