Update on Community Caretaking

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The court of appeals just decided another case on the community caretaking doctrine. It's the fourth published community caretaking case in the last five years, and there have been a couple of unpublished ones as well. The activity in the appellate division suggests that the doctrine is being invoked much more frequently in the trial courts. This post explains the new case and provides a quick refresher on the older ones.

State v. Brown. The new case is State v. Brown, __ N.C. App. __, __ S.E.2d __, 2019 WL 1915374 (April 16, 2019). It arose in the wee hours of a Saturday morning. An Alexander County deputy was standing outside his patrol car in the parking lot of a closed gas station. The deputy saw a vehicle come down an adjoining road. He "heard yelling from inside the vehicle," including "the words 'mother fucker.'" Concerned that the occupants of the vehicle might be in an argument that could involve domestic violence, the deputy stopped the vehicle. He found no evidence of domestic violence, but he determined that the driver of the vehicle was impaired and so arrested him for DWI.

The driver moved to suppress, arguing that the stop was unlawful and that all evidence of impairment should therefore be suppressed. A superior court judge disagreed, finding the stop justified under the community caretaking doctrine, which allows officers to conduct certain warrantless searches and seizures intended to protect the public rather than to gather evidence of criminal activity. The court of appeals reversed. It concluded that no "objectively reasonable basis for a community caretaking function" was present. The deputy did not know whether there were multiple occupants in the vehicle and did not know whether the profanity was directed at an occupant, at law enforcement, or at an interlocutor on the telephone. The court emphasized that the community caretaking doctrine should be applied narrowly and stated that "in cases where the community caretaking doctrine has been held to justify a warrantless search, the facts unquestionably suggest a public safety issue. There are no such facts in this case."

Other published cases. As noted above, we've had three other published cases on community caretaking in recent years:

- I wrote here about the community caretaking doctrine and *State v. Smathers*, 232 N.C. App. 120 (2014). *Smathers* held that the community caretaking doctrine supported a stop of a Corvette that had just struck a large animal at 45 m.p.h.
- Phil Dixon wrote here about *State v. Huddy*, __ N.C. App. __, 799 S.E.2d 650 (2017). *Huddy* held that the doctrine did *not* support an officer's decision to circle around a home and approach the back door after the officer saw a vehicle parked in the driveway with its doors open.
- The third case is *State v. Sawyers*, __ N.C. App. __, 786 S.E.2d 753 (2016). In that case, an officer saw the defendant walking down the sidewalk. Directly behind the defendant was "what appeared to be a homeless male dragging a female" who "appeared to either be very intoxicated or drugged." The defendant stopped at a car and opened it, and the defendant "and the other male put the female in the backseat of the vehicle." This led the officer to wonder whether she was being kidnapped, so he stopped the vehicle. The trial court ruled that the community caretaking doctrine supported the stop. The court of appeals agreed, stating that "the degree of public interest in ensuring the safety and well-being of the female was high and the fact that defendant was driving away in a vehicle with the female as a passenger contributed to the exigency of the situation."

Comment. As I mentioned in my post on *Smathers*, there's significant disagreement nationally about the proper scope of the community caretaking doctrine. Things are clearly still evolving in North Carolina as well. Important questions remain regarding the severity of the public safety threat that must exist before the doctrine applies and the extent to which the doctrine applies outside the motor vehicle context.

As a final aside, I think the profanity at the root of *Brown* is one word, not two. At least that's what Merriam-Webster says.