

## Behind the Badge

By Jon Blum

### **Did the US Supreme Court recently decide that police officers can now arrest anyone who refuses to provide their name if asked?**

**Julia F.**

Dear Julia:

The Supreme Court did issue a decision on *Hiibel v. Nevada* this month. A little history if I may. Mr. Hiibel refused to provide police officers in Nevada with his name during a criminal investigation. Officers arrested and charged Mr. Hiibel for violating a Nevada State statute known as '**stop and identify**.' North Carolina, by comparison, does not possess a '**stop and identify**' statute.

There has been little or no emphasis placed, by the media or other sources, on the real issue surrounding Hiibel. The 5-4 decision was actually based on Nevada's '**stop and identify**' statute. Before officers in Nevada could charge a person with a '**stop and identify**' violation, reasonable suspicion needed to exist. In other words, officers in Nevada were still required to possess '**reasonable suspicion**' - a belief that the person committed a crime - before they could even charge a person with violating the stop and identify statute. In the case of Hiibel, there was reasonable suspicion to believe criminal behavior on the part of Hiibel. Consider the following:

Officer Adams responds to a reported larceny at K-Mart. The suspect is still inside the store when Adams arrives. The manager positively identifies the suspect and points him out to Adams. Adams approaches the suspect on foot and begins talking with him. The suspect refuses to provide Adams with a name or identification.

If the above situation occurred in Nevada, Officer Adams could charge and arrest the suspect with violating the '**stop and identify**' statute. Officer Adams clearly had 'reasonable suspicion' – under the 4<sup>th</sup> Amendment - to believe the suspect **may** be involved in a larceny. The suspect's reluctance to provide his name hindered Officer Adam's ability to investigate the crime thoroughly. Nevada's '**stop and identify**' statute simply provided police officers with another tool to apprehend suspected criminals and investigate further as needed.

Now, let's say Officer Adams was walking inside K-Mart during a lunch break. For no reason, Adams decides to casually speak with a man standing in a check-out line. During conversation, Adams asks the man for his name. The man refuses to tell Adams his name. Absent any other information, Adams cannot arrest, charge or otherwise detain the man, even if this hypothetical situation occurred in Nevada. Why? Because there was no reasonable suspicion to believe the man had been or was about to be implicated in criminal activity.

The Hiibel decision does not, by any stretch, provide police officers with blanket authority to arrest anyone who does not willingly provide their name when asked. Reasonable suspicion must be present first.

Officers in North Carolina can arrest persons for failing to provide their names under certain circumstances. For example, any person operating a motor vehicle must surrender his/her license or identify him/herself to an officer requesting identification during a traffic stop (NCGS 20-29). If the hypothetical larceny at K-Mart described above happened in the Tarheel State, Officer Adams could have charged the suspect with a misdemeanor - "**Resisting and Delaying**." A "**Resist and Delay**" charge does not need to possess actual physical resistance by suspects. Persons who obstruct, delay or otherwise hinder an officer's lawful ability to conduct an investigation – based on reasonable suspicion - can be charged with resisting and delaying. This includes lying, providing misleading information or an unwillingness to divulge non-incriminating details needed to establish guilt or innocence. Besides, what's in a name if you are truly innocent of any wrong doing?