

## Search Warrants

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August 2024



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## What is a search warrant?

- ▶ "A search warrant is a court order . . . directing a law-enforcement officer to search designated premises, vehicles, or persons for the purpose of seizing designated items."
- ▶ G.S. 15A-241

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## When do officers need warrants?

- ▶ To search areas subject to a "reasonable expectation of privacy"
- ▶ To trespass on private property in search of information
- ▶ To track a person's location over an extended period of time
- ▶ Officers can do some searches without a warrant

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## Where do the rules about warrants come from?

1. North Carolina General Statutes 15A-241 et seq.
2. United States Constitution (Fourth Amendment)
  - a. No "unreasonable searches and seizures"
  - b. No warrants without "probable cause"
  - c. Warrants must particularly describe place to be searched and items to be seized

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## Why it is important that you follow the law of search warrants

- ▶ Issuing faulty warrants violates citizens' rights
- ▶ Evidence seized under faulty warrants may be excluded from court
- ▶ Issuing faulty warrants exposes officers to civil and criminal liability

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## Plan for learning the law

- ▶ Walk through the search warrant form
- ▶ Discuss legal issues as they arise

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## Premises

- ▶ Include
  - ▶ Street number
  - ▶ Apartment or suite number, if applicable
  - ▶ Possessor/resident
  - ▶ Description
  - ▶ Directions
- ▶ Consider
  - ▶ Outbuildings?
  - ▶ Separate warrant for each premise?

and is located (Check appropriate box(es) and fill in specified information)

☐ in the following premises (Give address and, if useful, describe premises)


(and)

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## Person

- ▶ Include
  - ▶ Name
  - ▶ Alias, if known
  - ▶ Description (age, race, sex, etc.)

(and)

☐ on the following person(s) (Give name(s) and, if useful, describe person(s))


(and)

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## Vehicles

- ▶ Best ways to describe
  - ▶ Plate number
  - ▶ VIN number
- ▶ Other ways to describe
  - ▶ Owner
  - ▶ Make and model
  - ▶ Year and color
  - ▶ Distinguishing features, dents, scratches

(and)

☐ in the following vehicle(s) (Describe vehicle(s))


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## Other items

- ▶ Examples: luggage, laptops, etc.
- ▶ Provide as much detail as possible

### OR SEARCH WARRANT

(and)  
☐ (name and/or describe other places or items to be searched, if applicable)


The applicant swears or affirms to the following facts to establish probable cause for

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## Statement of probable cause (I)

- ▶ Determining whether probable cause exists is a critical task
- ▶ The application must show a fair probability that the object of the search is evidence of a crime and is located in the place to be searched

The applicant swears or affirms to the following facts to establish probable cause for the issuance of a search warrant:


ISSUED AND RETURNED TO RECTOR MR [Date]

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## Statement of probable cause (II)

- ▶ Probable cause (or "fair probability") is a common-sense standard, no tidy legal rules
- ▶ More than suspicion, less than beyond a reasonable doubt

The applicant swears or affirms to the following facts to establish probable cause for the issuance of a search warrant:


ISSUED AND RETURNED TO RECTOR MR [Date]

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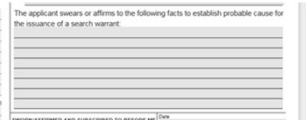
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## What you need to determine probable cause

- ▶ The whole story, in order
- ▶ Plenty of details
- ▶ Think who, what, when, where, how, why
- ▶ Don't accept the officer's conclusion or opinion that he thinks there's probable cause



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## More about probable cause

- ▶ Consider all of the circumstances
- ▶ Consider timeliness of information
- ▶ Consider the quality of the information
  - ▶ Hearsay can be considered
  - ▶ Special rules for informants
- ▶ Consider whether another magistrate has refused

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## Informants (I)

- ▶ Officers may use informants
- ▶ Types
  - ▶ Citizen informants (witnesses, victims, other officers)
  - ▶ Confidential informants
  - ▶ Anonymous informants (tipsters)
- ▶ The more you know about the informant, the more likely their information establishes probable cause

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## Informants (II)

- ▶ Always consider quality of information
- ▶ Citizen informants
  - ▶ may presume they are telling the truth
- ▶ Confidential informants
  - ▶ need a reason to believe they are telling the truth, usually past reliability or corroboration
- ▶ Anonymous informants
  - ▶ must have corroboration

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## Additional pages

- ▶ Common to use additional pages

**NOTE:** If more space is needed for any section, continue the statement on an attached sheet of paper with a notation saying "see attachment." Date the continuation and include on it the signatures of applicant and issuing official.

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## Additional affidavits

- ▶ Not as common, but still OK

☐ Magistrate ☐ Dep. CSC ☐ Asst. CSC ☐ Clerk Of Superior Court ☐ Judge

☐ In addition to the affidavit included above, this application is supported by additional affidavits, attached, made by \_\_\_\_\_

☐ In addition to the affidavit included above, this application is supported by sworn \_\_\_\_\_

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## Additional testimony

- Usually happens when officer prepares shoddy application and you need to get more information from him
- But the better practice is to have the officer amend the application

☐ In addition to the affidavit included above, this application is supported by sworn testimony, given by \_\_\_\_\_

This testimony has been (check appropriate box) ☐ reduced to writing  
☐ recorded, and I have filed any such writing/recording with the clerk.

**NOTE:** If more space is needed for any section, continue the statement on an attached sheet of paper

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## Decide whether to issue the warrant

- Decide whether probable cause exists
- Decide whether the descriptions of the place to be searched and the items to be seized are adequate

This Search Warrant is issued upon information furnished under oath or affirmation by the person(s) shown.

Date Issued: \_\_\_\_\_ Time Issued: ☐ AM ☐ PM Name (Type or print): \_\_\_\_\_ Signature: \_\_\_\_\_

☐ Deputy CSD ☐ Assistant CSD ☐ CSD ☐ Magistrate ☐ District Ct. Judge ☐ Superior Ct. Judge

**NOTE:** When issuing a search warrant, the issuing official must retain a copy of the warrant and warrant application and must promptly file them with the clerk. G.S. 15A-245(b).

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## Issue the warrant

- Fill out the warrant side of the form
- Make enough copies
- Distribute them correctly

**SEARCH WARRANT**

IN THE DISTRICT OF \_\_\_\_\_

To any officer with authority and jurisdiction to conduct the search and seizures by this Search Warrant.

I, the undersigned, do hereby certify that I am a Magistrate or District Court Judge and that I have examined the information furnished to me by the person(s) named above and believe that the search and seizures described in the application are justified by probable cause.

The person(s) named above are the person(s) who provided the information upon which this warrant is issued. I have examined the information and believe that the search and seizures described in the application are justified by probable cause.

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**NOTE:** When issuing a search warrant, the issuing official must retain a copy of the warrant and warrant application and must promptly file them with the clerk. G.S. 15A-245(b).

**APPLICATION FOR SEARCH WARRANT**

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## Execution and Return

- ▶ An officer must execute the warrant within 48 hours of issuance
- ▶ The officer must prepare an inventory, or list of items seized, and must leave a copy with the person in control of the premises
- ▶ The officer must also return the executed warrant and a copy of the inventory to the clerk



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## Search Warrants

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