

North Carolina

SEARCH WARRANT GUIDE

ANTHONY BANDIERO, ESQ.

*with Amendment
the people to be secure in
houses, papers, and effects, against
unreasonable searches and seizures, shall not
be violated, and no Warrants*

North Carolina Search Warrant Guide

A REFERENCE FOR LAW ENFORCEMENT



Anthony Bandiero, JD, ALM

Blue to Gold Law Enforcement Training, LLC
SPOKANE, WASHINGTON

North Carolina Search Warrant Guide

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— Anthony Bandiero

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PART I

Common Search Warrant Questions

Application Procedure

1) Who may apply?	No express provision
2) Who has the authority to issue?	Any justice of the supreme court, judge of the court of appeals, judge of the superior court, judge of the district court, clerk, or magistrate (§ 15A-243); clerk of superior court in district court matters in clerk's county (§ 7A-180(5))
3) Is an affidavit necessary?	Yes, or sworn oral testimony (§§ 15A-244(3), 15A-245(a), 15A-304(d))
4) Can sworn oral testimony replace an affidavit?	Issuing official may consider information not contained in the affidavits if that information is recorded or summarized and oral testimony is before issuing official or by audio or video transmission (§§ 15A-245(a), 15A-304(d)(2))
5) Are there special provisions for obtaining a warrant by	Oral testimony may be offered by audio or video transmission

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telephone?	(§ 15A-245(a)(3)) Any signature required for issuance of warrant may be signed by electronic signature (§ 14-12.11)
6) What property can be seized?	–Stolen or embezzled –Contraband or otherwise unlawfully possessed –Used or possessed for use in commission or concealment of a crime –Evidence of a crime or participation in a crime (§ 15A-242)
7) Contents of application	
a) Who or what is to be searched?	Yes (§ 15A-244(2))
b) State the items being sought?	Yes (§ 15A-244(2))
c) State the basis for probable cause?	Yes (§ 15A-244(2))
d) Are there additional requirements?	Name and title of applicant, affidavit or other testimony, formal request for issuance of search warrant (§§ 15A-244(1), 15A-244(3), 15A-244(4))

The Search Warrant

1) Does it require a standard format?	No
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2) Required contents	<ul style="list-style-type: none">–Name and signature of issuing official–Time of issuance–Date of issuance–Name of officer or class of officers to whom warrant is addressed–Names of applicant and affiants–Person/place to be searched–Property to be seized <p>(§ 15A-246)</p>
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Execution of Search Warrant

1) How soon must search warrant be executed?	Within 48 hours from the time of issuance (§ 15A-248)
2) Who may execute?	Any law enforcement officer acting within his territorial jurisdiction and legal authority (§ 15A-247)
3) Where is the search warrant applicable?	<p>Any warrant issued by a justice of the supreme court, judge of the court of appeals, or judge of the superior court— statewide (§ 15A-243)</p> <p>Any warrant issued by a district court judge— districtwide (§ 7A-291)</p> <p>Any warrant issued by a magistrate or clerk—</p>

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countywide (§§ 7A-180, 7A-273)

4) When may warrant be executed?

a) Is execution limited during daytime?

No express provision

b) Is execution limited during nighttime?

No express provision

5) Is forced or unannounced entry allowed under the warrant?

Executing officer may break and enter any premises or vehicle when necessary to execute the warrant if:

—After announcing his identity and purpose, he reasonably believes that admittance is being denied or unreasonably delayed or that the premises or vehicle is unoccupied or

—He has probable cause to believe that giving notice would endanger the life or safety of any person

(§ 15A-251)

6) Are there limitations or specific rules regarding the search?

While conducting a lawful search, items inadvertently discovered, not listed in the warrant but subject to seizure (see § 15A-242), may be seized (§ 15A-253)

Executing officer may, if he reasonably believes the safety



PART II

N.C.G.S.A. § 15A-241

Definition of search warrant

A search warrant is a court order and process directing a law-enforcement officer to search designated premises, vehicles, or persons for the purpose of seizing designated items and accounting for any items so obtained to the court which issued the warrant.

N.C.G.S.A. § 15A-242

Items subject to seizure under a search warrant

An item is subject to seizure pursuant to a search warrant if there is probable cause to believe that it:

- (1) Is stolen or embezzled; or
- (2) Is contraband or otherwise unlawfully possessed; or
- (3) Has been used or is possessed for the purpose of being used to commit or conceal the commission of a crime; or
- (4) Constitutes evidence of an offense or the identity of a person participating in an offense.

N.C.G.S.A. § 15A-243
Who may issue a search warrant

(a) A search warrant valid throughout the State may be issued by:

(1) A Justice of the Supreme Court.

(2) A judge of the Court of Appeals.

(3) A judge of the superior court.

(b) Other search warrants may be issued by:

(1) A judge of the district court as provided in G.S. 7A-291.

(2) A clerk as provided in G.S. 7A-180 and 7A-181.

(3) A magistrate as provided in G.S. 7A-273.

N.C.G.S.A. § 15A-244
Contents of the application for a search warrant

Each application for a search warrant must be made in writing upon oath or affirmation. All applications must contain:

- (1) The name and title of the applicant; and
- (2) A statement that there is probable cause to believe that items subject to seizure under G.S. 15A-242 may be found in or upon a designated or described place, vehicle, or person; and
- (3) Allegations of fact supporting the statement. The statements must be supported by one or more affidavits particularly setting forth the facts and circumstances establishing probable cause to believe that the items are in the places or in the possession of the individuals to be searched; and
- (4) A request that the court issue a search warrant directing a search for and the seizure of the items in question.



ABOUT THE AUTHOR

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Anthony is an attorney and retired law enforcement officer with experience as both a municipal police officer and sergeant with a state police agency. Anthony has studied constitutional law for over twenty years and has trained countless police officers around the nation in search and seizure.

View his bio at BlueToGold.com/about

North Carolina
SEARCH WARRANT
GUIDE

This booklet is a straightforward and essential resource for anyone involved in writing or executing search warrants in North Carolina. Consolidating relevant statutes and procedural rules and offering clear answers to common questions and addressing real-world challenges.

Designed to be a quick reference, this booklet covers key topics such as warrant application, execution, and return procedures, as well as critical provisions from the North Carolina Code and North Carolina Rules of Criminal Procedure. Whether clarifying authority to issue warrants, addressing defects, or ensuring compliance with execution and return requirements, this guide provides the tools you need for accuracy and legal compliance.



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