



Apex Police Department General Order



Title Search and Seizure		Order Number 703-20
Effective Date: August 4, 2020	Amends: 703-13	
CALEA Standard: 1.2.4, 41.3.6	Rescinds:	
Reference:	Pages: 17	
Forms: F703 – Permission to Search Authorization F703a – Consent to Assume Online Presence F703b – Consent to Search Computer F801c – Receipt for Property AOC-CR-119 – Search Warrant AOC-CR-206 – Return of Search Warrant		

Search and Seizure

Purpose

The purpose of this directive is to set forth the procedures for conducting searches of persons, premises, and vehicles.

Policy

Employees of the Apex Police Department will abide by all current constitutional, statutory, and judicial guidelines regarding searches and seizures conducted either with or without a warrant. Employees will have a sound knowledge of all applicable laws, statutes, and constitutional requirements governing search warrants and non-warrant searches and seizures. Employees will not conduct a search without a warrant unless it meets criteria as an exception to the warrant requirement or is expressly authorized by statute. When there is a question regarding search and seizure without a warrant the Criminal Investigations Division and, if necessary, the District Attorney's Office will be consulted.

Definitions:

Consent – A statement to the officer, made voluntarily and in accordance with the requirements of GS 15A 222, giving the officer permission to perform a search. (SOURCE: NCGS 15A-221)

Search and Seizure

Consent Search – A clear and voluntary expression by an individual to allow an officer to search the person or property of the consenting party, or property over which the consenting party has apparent control. Consent may be requested at any time, and for evidentiary purposes, should be in writing and witnessed.

Frisk/Pat Down – A pat search of the outer clothing based upon reasonable suspicion that the subject may be armed. This term also applies to a vehicle or residence when a cursory search is being made for weapons. A frisk is a search under the Fourth Amendment.

High-Risk Warrant – An arrest and/or search warrant in which one or more of the following factors is reasonably likely to exist:

- The subject of the warrant has a history of violence, resisting arrest, and/or weapons charges
- The occupants of the vehicle, building, or area to be searched are probably armed with dangerous weapons
- The building to be searched is fortified or barricaded and special entry equipment is needed to gain entry
- The safe execution of the warrant requires the use of specialized skills, tactics, and/or equipment

Non-Consensual Entry – An entry into premises made by officers without first obtaining permission/consent from a person who has lawful authority to give consent. Such an entry may or may not involve some degree of force or damage to the premises.

Search – The organized, planned exploration of a person, vehicle, building, or area to locate a person, evidence, or other property.

Search Incident to Arrest – A warrantless search of an arrested person and the area within the arrestee's immediate control, made in the interest of officer safety, the prevention of escape, and the preservation of evidence (SOURCE: Farb; Arrest, Search, and Investigation in North Carolina, Fourth Edition, 2011).

Search Warrant – A written court order and process directing a law enforcement officer to search designated premises, vehicles, or persons for the purpose of seizing designated items or person(s), and accounting for any items seized to the court which issued the warrant. (SOURCE: NCGS 15A-241).

Vehicle Exception – A warrantless search of a vehicle located in a public place based on probable cause.

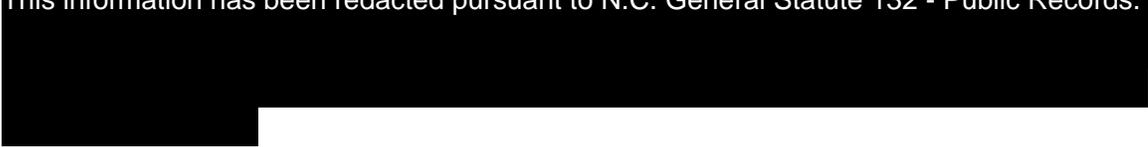
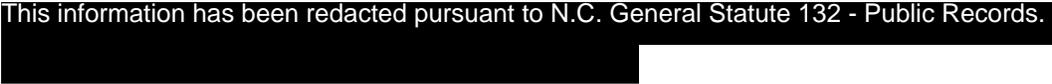
Procedure

Search and Seizure

Searches in General

1. The Fourth Amendment to the United States Constitution guarantees the right of the people to be free from “unreasonable searches and seizures”. Only in specific, well-defined exceptions will searches and seizures be permissible in the absence of a warrant. Warrantless searches that fall outside of these exceptions may be found to be unreasonable and unlawful, and may lead to the exclusion of any evidence obtained and may subject the officer to civil and criminal penalties.
2. The results of a search do not affect the initial validity of the search itself; a search is valid or invalid from its inception, and is not determined by its outcome. The burden of justifying the lawfulness of a warrantless search and seizure rests with the prosecution.
3. All information relative to a search and seizure will be documented within the officer’s report narrative and on Form F703 – *Permission to Search Authorization*.
4. All property seized will be processed pursuant to General Order 802 – *Collection and Preservation of Evidence*.
5. If damage to property is incurred, the damage will be photographed and applicable directives will be followed.

Search Warrants (AOC-CR-119)

1. All requests for a search warrant will be conducted under the supervision of the Criminal Investigations Division.
2. When possible, and to ensure validity, the Criminal Investigations Division Commander, or in his/her absence, a Criminal Investigations Division supervisor, the Patrol Division Commander, or the on-call investigator, will review all search warrant applications prior to presentation to a judicial official and all warrants issued prior to execution.
3. The Criminal Investigations Division Commander or designee will designate an officer to be responsible for the case and the warrant. A Criminal Investigations Division supervisor will be designated to oversee and be present during the execution of the warrant.
4. This information has been redacted pursuant to N.C. General Statute 132 - Public Records.

 - This information has been redacted pursuant to N.C. General Statute 132 - Public Records.


Search and Seizure

- This information has been redacted pursuant to N.C. General Statute 132 - Public Records.
[REDACTED]
 - A briefing will be held for all officers and personnel to be involved in the search. The briefing will include a summary of the case and will provide instruction to each participant on his/her duties and responsibilities regarding the execution of the warrant.
 - Prior to execution of any search warrant, the on-duty supervisor or, if the warrant is to be executed in another jurisdiction, the on-duty supervisor of the agency with jurisdiction, will be notified.
 - Whenever possible, a marked police vehicle and at least one uniformed officer will be present at the execution of the search warrant.
 - All non-uniformed personnel will have proper POLICE identification.
 - Every reasonable effort will be made to ensure the correct premises are being entered by verifying the address and the building description.
 - This information has been redacted pursuant to N.C. General Statute 132 - Public Records.
[REDACTED]
 - The Apex Police Department will assist other law enforcement agencies executing a search warrant in the Town of Apex.
 - The applicable provisions of this section (Section A) and General Order will be followed.
5. An item is subject to seizure pursuant to a search warrant if there is probable cause to believe that the item:
- Is stolen or embezzled
 - Is contraband or otherwise unlawfully possessed
 - Has been used or is being possessed for the purpose of being used to commit or conceal the commission of a crime
 - Constitutes evidence of an offense or the identity of a person participating in an offense
- (SOURCE: NCGS 15A-242)
6. Applications for a search warrant must comply with the provisions of NCGS 15A-244 and will be presented to a judicial official by the case agent, investigating officer, and/or assigned investigator. Search warrant applications will contain:
- A description of the person, location, and/or vehicle to be searched
 - The name and title of the applicant
 - A statement that there is probable cause to believe that items subject to seizure may be found in or upon a designated or described place, vehicle, or person

Search and Seizure

- Allegations of fact supporting the probable cause statement which are supported by one or more affidavits specifically setting forth the facts and circumstances establishing the probable cause to believe that the items subject to seizure are in the place(s) or in the possession of the person to be searched
 - A request that the appropriate judicial official issue a search warrant directing a search for and the seizure of the items in question
7. Upon issuance, the applicant officer will review the entire warrant to ensure:
- The warrant lists and describes the correct address
 - The warrant is authorized with the signature from the judicial official
 - The validity of the warrant
8. Upon receipt of a search warrant, the applicant officer will ensure the following information is entered into department records:
- Date and time received
 - Nature of document (Search Warrant)
 - Source of document
 - Name of officer/complainant
 - Subject of search warrant (location of property or name of defendant)
 - Item(s) to be searched for and seized
 - Officer assigned for service (usually investigating officer)
 - Date of assignment (usually the date received and entered)
 - Court docket number
 - Date service due, if indicated by the court
9. Entry of the search warrant into department records can be accomplished by one of the following methods:
- Placing a copy of the search warrant into the master case file
 - Adding the necessary information to the investigative report
 - Another method, approved by the Criminal Investigations Division Commander that ensures the required information is made part of department records; to include but not limited to, digitally scanning and attaching a copy of the search warrant to the case documents in the RMS incident report
10. A search warrant may be executed by any law-enforcement officer acting within his/her territorial jurisdiction, whose investigative authority encompasses the crime or crimes involved. (SOURCE: NCGS 15A-247)
11. A search warrant must be executed within 48 hours from the time of issuance. Any warrant not executed within that time limit is void and must be marked “not executed” and returned without unnecessary delay to the clerk of the issuing court. (SOURCE: NCGS 15A-248)

Search and Seizure

12. The officer executing a search warrant must, before entering the premises, give appropriate notice of his/her identity and purpose to the person to be searched, or the person in apparent control of the premises to be searched. If it is unclear whether anyone is present at the premises to be searched, he/she must give the notice in a manner likely to be heard by anyone who is present. (SOURCE: NCGS 15A-249)

This information has been redacted pursuant to N.C. General Statute 132 - Public Records.

14. Before undertaking any search or seizure pursuant to the warrant, the officer must read the warrant and give a copy of the warrant application and affidavit to the person to be searched, or the person in apparent control of the premises or vehicle to be searched. If no one in apparent and responsible control is occupying the premises or vehicle, the officer must still read the warrant and must leave a copy of the warrant affixed or within the premises or vehicle. (SOURCE: NCGS 15A-252)
15. The scope of the search may be only such as is authorized by the warrant and is reasonably necessary to discover the items specified therein. Upon discovery of the items specified, the officer must take possession or custody of them. If in the course of the search the officer inadvertently discovers items not specified in the warrant which are subject to seizure under GS 15A-242, he/she may also take possession of the items so discovered. (SOURCE: NCGS 15A-253)
16. Upon seizing items pursuant to a search warrant, an officer must write and sign a receipt itemizing the items taken and containing the name of the court by which the warrant was issued. If the items were taken from a person, the receipt must be given to the person. If items are taken from a place or vehicle, the receipt must be given to the owner or person in apparent control of the premises or vehicle, if the person is present. If the owner or no one in apparent and responsible control is present, the officer must leave the receipt in the premises or vehicle from which the items were taken. (SOURCE: NCGS 15A-254)
17. An officer executing a warrant directing a search of premises or of a vehicle may, if the officer reasonably believes that his/her safety or the safety of others then present so requires, search for any dangerous weapons by an external patting of the clothing of those present. If in the course of such a frisk the officer feels an object which he/she reasonably believes to be a dangerous weapon, the officer may take possession of the object. (SOURCE: NCGS 15A-255).

Search and Seizure

- **NOTE:** Officers may also seize contraband or illegal substances found during a frisk
18. An officer executing a warrant directing a search of premises not generally open to the public or of a vehicle other than a common carrier may detain any person present for such time as is reasonably necessary to execute the warrant. If the search of such premises or vehicle and of any persons designated as objects of the search in the warrant fails to produce the items named in the warrant, the officer may then search any person present at the time of the officer's entry, to the extent reasonably necessary, to find property particularly described in the warrant which may be concealed upon the person, but no property of a different type from that particularly described in the warrant may be seized or may be the basis for prosecution of any person so searched. For the purpose of this section, all controlled substances are the same type of property. (SOURCE: NCGS 15A-256)
 19. If possible, photographs should be taken at the beginning and subsequent to the search. Any damage to premises will be photographed and documented.
 20. This information has been redacted pursuant to N.C. General Statute 132 - Public Records.
 21. A Search Warrant for Blood or Urine in DWI Cases (AOC-CR-155) may be applied for if a DWI suspect either refuses or is unable to submit to a breath analysis, when the officer has formed an opinion satisfactory to a judicial official that the suspect was operating a vehicle after having consumed a sufficient quantity of some impairing substance(s) to appreciably impair the person's physical and/or mental faculties, and that evidence of the impairing substance(s) would be present in the body or bodily fluids of the person.
 - The officer may apply for a search warrant under these circumstances and will execute it in compliance with all applicable NCGS.

Return of a Search Warrant

1. An officer who has executed a search warrant must, without unnecessary delay, return to the clerk of the issuing court the warrant together with a written inventory of items seized. The inventory, if any, and return must be signed and sworn to by the officer who executed the warrant. (SOURCE: NCGS 15A-257).
 - AOC-CR-206 or other acceptable format will be used as an inventory of items seized pursuant to a search.
2. Property seized will be held in the custody of the person who applied for the warrant, the officer who executed the warrant, or the agency, the department by which the officer is employed, or any other law-enforcement agency or person for purposes of evaluation or

Search and Seizure

analysis, upon condition that upon order of the court the items may be retained by the court or delivered to another court. (SOURCE: NCGS 15A-258)

3. General Order 802 – *Collection and Preservation of Evidence*, will be followed for all property seized.

Exceptions to Search Warrant Requirement

Consent

1. There must be a voluntary statement of consent or nonverbal conduct clearly intended as a statement of consent:
 - By the person to be searched
 - By the registered owner of a vehicle to be searched or by the person in apparent control of its operation and contents at the time the consent is given
 - By a person who, by ownership or otherwise, is reasonably, apparently entitled to give or withhold consent to a search of premises (SOURCE: NCGS 15A-222)
2. Scope
 - A person may refuse to give consent and may limit the scope or duration of the search.
 - A search conducted pursuant to the provisions of NCGS may not exceed, in duration or scope, the limits of the consent given.
 - Upon completion of the consent search, the officer must make a list of the things seized and deliver a receipt embodying the list to the person who consented to the search, and if known, to the owner of the vehicle or premises searched. (SOURCE: NCGS 15A-223)
 - Form F801c – *Receipt for Property* may be used for this purpose.
3. An item is subject to seizure if there is probable cause to believe that it:
 - Is stolen or embezzled
 - Is contraband or otherwise unlawfully possessed
 - Has been used or is possessed for the purpose of being used to commit or conceal the commission of a crime
 - Constitutes evidence of an offense or the identity of a person participating in an offense (SOURCE: NCGS 15A-242)
4. The voluntary nature of consent is a question of fact that will be determined from the totality of the circumstances in any particular case.
5. The standard for voluntariness is objective. Did an officer say or do anything that would have caused a reasonable (i.e. innocent) person to believe that he/she was not free to decline? No single factor, in and of itself, will determine whether the consent is voluntary. The factors considered may include but are not limited to any of the following:

Search and Seizure

- Whether or not the subject is in custody
 - Whether or not the subject was threatened or coerced by the police
 - The number of police officers present
 - Whether or not there is a threat of force or a substantial show of force (i.e. police officers have their guns drawn, etc.)
 - Existence of deception by the police
6. The form in which consent to search is given also does not determine the voluntary nature of the consent and may be written, oral, or implied by specific conduct.
 7. If possible, written consent will be obtained. Form F703 – *Permission to Search Authorization*, F703a – *Consent to Assume Online Presence*, F703b – *Consent to Search Computer*, or a related consent form will be used for this purpose. However, it is recognized that there may be circumstances where it is not possible or it is inappropriate to obtain consent in a written form. Oral consent is legally permissible and an officer may proceed with a search based upon oral consent.
 8. When written consent is not possible and the person gives consent to search orally, the consent will be documented in the officer's report narrative. Documentation will include the actual words used by the officer and the subject granting consent; and whenever possible, the subject's authority and competency to grant consent and the identities of witnesses to the consent, if any.
 9. Consent may be withdrawn at any time. If consent is withdrawn, the search must be terminated unless independent probable cause has been obtained.

Motor Vehicle Exception

1. There is a lower expectation of privacy in one's vehicle than in one's home. In part due to this reduced expectation of privacy and the extensive regulation and inspection that they receive, the courts have carved out an automobile exception to the search warrant requirement.
2. A traffic stop is considered a "seizure" and must be supported by reasonable suspicion or probable cause.
 - When a police officer determines that the driver's paperwork is in order and has issued a traffic summons, the initial justification for stopping the vehicle has ended. If the driver is further detained against his/her will for additional questions, the ensuing search and seizure may be deemed unlawful.
 - However, if the driver's paperwork offers a false identity, a founded suspicion that criminal activity is afoot will exist, entitling the officer to conduct an investigative detention.

Search and Seizure

3. A vehicle may be stopped for an "investigative stop" when the officer has a reasonable suspicion that its occupants have been, are presently, or are about to be engaged in a violation of the law.
 - An officer's approach to a stationary vehicle is comparable to approaching a citizen on the street, and may be based upon a level one "request for information" police-citizen encounter. However, an investigative stop of a moving vehicle must be based upon the higher standard of "reasonable suspicion."
 - A stop made for this purpose is considered a limited detention for the purpose of making inquiries. Once these inquiries have been answered satisfactorily, the purpose of the stop has been achieved. However, if the driver's paperwork offers a false identity, a founded suspicion that criminal activity is afoot will exist, entitling the officer to conduct an investigative detention.
4. A vehicle may be stopped by the use of a checkpoint.
 - The validity of a checkpoint stop will be based in large part whether the officer had no discretion to select which cars to stop and which ones to let pass.
 - A patterned, uniform approach to stopping vehicles is required.
 - The use of checkpoints is governed by General Order 1005 – *Checking Stations*.
5. A police officer may stop a vehicle any time there is reasonable suspicion that the driver of an automobile or someone else inside of it has committed a violation of law. The primary motivation of the officer is no longer a relevant concern for the courts when evaluating the legality of the stop.
 - The use of a traffic infraction as a mere pretext for stopping a motor vehicle for the investigation of a more serious crime is no longer considered a violation of the Fourth Amendment.
6. Once a motor vehicle has been stopped, the officer may undertake a number of actions with regard to the operator of the vehicle. The officer may:
 - Open any of the doors to the vehicle (if not a safety issue, this may constitute a "search" and probable cause is needed)
 - Require the driver to turn off the ignition and step out of the vehicle, or to remain inside the vehicle and turn on the interior lights
 - Shine a flashlight into the vehicle
 - Once the occupants have been removed from the vehicle, if an officer puts his/her head inside the vehicle to conduct a visual inspection, opens the door to check a vehicle identification number, or places a flashlight inside the vehicle to better view the interior, the courts have held that a search has been conducted
 - Require the driver to produce identification
 - Conduct a brief inquiry with regard to the basis for the stop

Search and Seizure

- Grab a container when the occupant of the vehicle makes a sudden effort to seize it, when there are "suspicious circumstances" arising in or from the traffic stop
 - The officer may not reach into the vehicle and examine the contents of a bag or container (unless reasonable suspicion for a weapon frisk or probable cause for another search exists)
 - Search the immediately accessible area of the passenger compartment of a vehicle, incident to a recent occupant's arrest, only if it is reasonable to believe that the arrestee had access to the vehicle immediately prior to the arrest, or that the vehicle contains evidence of the offense for which the subject has been arrested (SOURCE: AZ v. Gant, 2009)
7. The officer may also take a number of actions with regard to the passengers of the stopped vehicle. The officer may:
 - Order any passengers to keep their hands in view while the driver's paperwork is examined
 - Order any passengers to remain in or get out of the vehicle
 - Any passenger can be detained for the time necessary to establish safe control of the vehicle stop scene
 8. Motor vehicles may be searched without a warrant based upon probable cause that the vehicle contains anything that is subject to seizure as outlined in this General Order.
 9. Under the automobile exception to the search warrant requirement, a police officer may search a vehicle and any containers found inside when:
 - There is probable cause to believe that it contains contraband, a weapon, or evidence of a crime
 - It is readily movable (operable), AND
 - It is in a public place
 10. The circumstances which give rise to the probable cause may be independent from the arrest, and may exist before any arrest is made.
 11. The circumstances which give rise to the probable cause to arrest the occupants of a car may also give rise to the probable cause required to search the vehicle itself.
 12. Where probable cause exists, a police officer may search a locked trunk, glove compartment, and any containers found in the vehicle, but it must be clear that the probable cause would justify the search of the vehicle. If questionable, a search warrant should be obtained.
 13. A police officer may search the driver or any other occupant of the vehicle incident to a lawful arrest.
 - This exception to the warrant requirement exists to protect against the destruction of evidence and prevent the suspect's access to a weapon.

Search and Seizure

- This search is limited to the suspect's person and his/her reachable area (the space within his/her immediate access). Space outside of the subject's immediate reach should not be searched without probable cause. If contraband is located, then probable cause is established to search the entire vehicle.

Plain View

1. Under certain circumstances, a police officer may seize contraband, evidence, or instrumentality of a crime without a warrant under the plain view exception to the warrant requirement. Two factors must exist for the seizure to be lawful under the “plain view” exception:
 - The items seized are in plain, open view
 - The police officer observes the items from a lawful vantage point (the officer has a right to be in the position from which the observations are made)
2. For items to be lawfully seized under this exception, it must be “immediately apparent” to the officer (i.e. there must be probable cause to believe) that the items observed are evidence, contraband, instrumentality of a crime, or otherwise subject to seizure.

Exigent Circumstances

1. Under certain circumstances, officers have the authority to make a warrantless entry of premises when probable cause to enter exists, but due to the urgency of the situation, officers do not have the time or opportunity to obtain a warrant. Such circumstances are exigent, and examples include when someone is in danger, when there is a need to quell violence, and when immediate police action is necessary to prevent virtually certain destruction of evidence or contraband. The burden of showing the exigency of why a warrant could not be obtained remains with the prosecution.
 - **NOTE:** A search warrant needs to be obtained after the area is secured and the exigency no longer exists.
2. When an officer reasonably believes that doing so is urgently necessary to save life, prevent serious bodily harm, or avert/control public catastrophe, the officer may take one or more of the following actions:
 - Enter buildings, vehicles, or other premises
 - Limit or restrict the presence of persons in the premises or area
 - Exercise control over the property of others
 - **NOTE:** An action taken to enforce the law or to seize a person or evidence cannot be justified by authority of this section (SOURCE: NCGS 15A-285)
3. Once responding to such an emergency, a police officer has the right to take actions in order to restore control to the situation.

Search and Seizure

Frisk/Pat Down

1. An officer may frisk a person, vehicle, residence, business or any other structure if there is reasonable suspicion to believe there is a weapon and a subject may be dangerous.

Search Incident to Arrest

1. An officer may search a person and any area within the arrestee's immediate control for weapons and/or evidence incident to a lawful, custodial arrest. Generally, the area within immediate control is considered that area within the arrestee's reach. If the arrestee is permitted to move from room to room or is given access to particular areas, such as a drawer or closet, then the area that can be searched incident to arrest is expanded.

Inventory Searches

1. Inventory searches have been held to be an exception to the warrant requirement, as they serve several interests:
 - An inventory search protects the owner's property while it is in the custody of the police or tow agency
 - It insures against claims of lost, stolen, or damaged property
 - It protects the police from danger
 - The legitimacy of an inventory search will depend upon a determination of its reasonableness
2. An inventory search of a vehicle must be conducted in a manner consistent with General Order 1006 – *Supplemental Traffic Services*.

Crime Scene

1. Non-consensual entry without a warrant into premises determined to be a crime scene is permissible if an exigency exists. For example to:
 - Locate and/or secure suspects reasonably believed present
 - Provide assistance to injured persons or others requiring emergency assistance
 - Locate and preserve evidence which is virtually certain to be lost, contaminated, or destroyed
2. Once the purpose described above has been completed, no further search can be conducted until one of the following:
 - A search warrant for the premises is on the scene
 - Consent to search has been given
 - Emergency circumstances arise that creates a need for an additional, warrantless search

Search and Seizure

Entry to Preserve Evidence

1. Non-consensual entry without a warrant into premises to secure evidence may be made only if there is probable cause to believe:
 - Critical evidence of a serious and/or violent offense is located within the premises; AND
 - The evidence is virtually certain to be destroyed or removed unless immediate, warrantless action is taken
2. The entry is only for the purpose of securing the premises while awaiting the arrival of a search warrant.
3. Once the premises is secured, no further search can be conducted until one of the following:
 - A search warrant for the premises is on the scene
 - Consent to search has been given
 - Emergency circumstances arise that creates a need for an additional, warrantless search

Entry to Secure a Building

1. Non-consensual entry without a warrant into unoccupied premises during the investigation of an alarm or an unsecured building may be made for the purpose of investigating the circumstances and attempting to secure the premises.
2. Unless a report is generated due to the outcome of the investigation, the officer will report the circumstances of the entry and the conclusion/status of the premises in the CAD entry.

Abandonment

1. Abandoned property is not protected by the Fourth Amendment of the US Constitution and may be searched and/or seized by a police officer.

Entry to Serve an Arrest Warrant or Make an Arrest

1. Entry into premises to serve an Arrest Warrant (OFA/WFA) may be made with consent.
2. Non-consensual entry into a suspect's residence may be made only if an arrest warrant for the person has been obtained, a copy of the warrant is at the scene, the warrant has been "confirmed" as valid, and there is probable cause to believe that the suspect is at the premises.
 - Exigent circumstances may justify entry without an arrest warrant. If the officer believes exigent circumstances exist, he/she will contact the on-duty Watch

Search and Seizure

Commander for direction prior to entry unless not feasible due to an emergency situation, etc.

3. Non-consensual entry into a third party's premises to arrest the subject of an arrest warrant may be made only if a search warrant for the premises has been obtained, a copy of the warrant is at the scene, and there is probable cause to believe that the suspect is at the premises.
 - Exigent circumstances may justify entry without a search warrant. If the officer believes exigent circumstances exist, he/she will contact the on-duty Watch Commander for direction prior to entry unless not feasible due to an emergency situation, etc.
4. Non-consensual entry without a warrant into a premises to arrest someone who is at the premises may be made only if:
 - Someone is likely to be seriously injured or killed unless immediate, warrantless action is taken
 - A serious and dangerous criminal offender is likely to escape apprehension and/or prosecution unless immediate, warrantless action is taken AND:
 - There is probable cause to arrest the person sought, AND
 - There is probable cause to believe that the person to be arrested is physically present in the premises at the time of the entry

Special Warrants During State of Emergency

1. If a State of Emergency has been lawfully declared, a warrant may be requested for the purpose of discovering any dangerous weapon or substance likely to be used by one who is or may become unlawfully involved in a riot. The warrant may be sought to inspect:
 - All vehicles entering or approaching a municipality in which a state of emergency exists
 - All vehicles which might reasonably be regarded as being within or approaching the immediate vicinity of an existing riot (SOURCE: NCGS 14-288.11)
2. Requests for special warrants during a state of emergency will be forwarded to the Chief of Police.

Seizures

1. ABC Violations
 - The following kinds of property are subject to seizure and forfeiture:
 - Motor vehicles, boats, airplanes, and all other conveyances used to transport nontax-paid alcoholic beverages in violation of the ABC laws
 - Containers for alcoholic beverages which are manufactured, possessed, sold, or transported in violation of the ABC laws

Search and Seizure

- Equipment or ingredients used in the manufacture of alcoholic beverages in violation of the ABC laws (SOURCE: NCGS 18B-504)

2. Seizure of a motor vehicle under NCGS Chapter 20

- A motor vehicle is subject to seizure under the following sections:
 - Prearranged Speed Competition – NCGS 20-141.3
 - Felony Speed to Elude – NCGS 20-141.5(g)
 - Driving While Impaired, subsequent to a Magistrate's Order (exceptions apply, refer to NCGS)

3. Controlled Substances Act

- The following will be subject to forfeiture:
 - All controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of the provisions of this NCGS 90-112
 - All money, raw material, products, and equipment of any kind which are acquired, used, or intended for use, in selling, purchasing, manufacturing, compounding, processing, delivering, importing, or exporting a controlled substance in violation of the provisions of NCGS 90-112
 - All property which is used, or intended for use, as a container for property described in subdivisions (a) and (b) of NCGS 90-112
 - All conveyances, including vehicles, vessels, or aircraft, which are used or intended for use to unlawfully conceal, convey, or transport, or in any manner to facilitate the unlawful concealment, conveyance, or transportation of property described in (a) or (b) of NCGS 90-112 (See EXCEPTIONS in NCGS)
 - All books, records, and research, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of NCGS 90-112 (SOURCE: NCGS 90-112)

4. Larceny and similar crimes

- All conveyances, including vehicles, watercraft, or aircraft, used to unlawfully conceal, convey, or transport property in violation of NCGS 14 71, 14 71.1, or 20 106, or used by any person in the commission of armed or common law robbery, or used in violation of NCGS 14 72.7, or used by any person in the commission of any larceny when the value of the property taken is more than two thousand dollars (\$2,000) will be subject to forfeiture (See EXCEPTIONS in NCGS). (SOURCE: NCGS 14-86.1)

5. Situations where forfeiture under these statutes is being considered will be forwarded to the on-duty Watch Commander for review.

Search and Seizure

Evidence/Property Seized

1. Any evidence or property seized, or otherwise taken into official custody, subsequent to a search, with or without a warrant by any means, will be handled in accordance with General Order 802 – *Collection and Preservation of Evidence*.

NOTE: For more information on this or other topics related to search and seizure, refer to Arrest, Search & Seizure, UNC School of Government.

Text in “Green” denotes a significant change in policy

BY ORDER OF:



John W. Letteney
Chief of Police