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ARSON INVESTIGATIONS: INSPECTIONS AND SEARCH WARRANTS

by Michael Crowell

The problem. Firemen are called to a house that is burning. While extinguishing the fire, they notice several things that seem suspicious. A window appears to have been forced open, papers are piled at the apparent origin of the fire, the smell of gasoline hangs in the air. There are not yet enough facts to charge anyone with arson, but there is obviously good reason to investigate. And, unless the house is blocked to outsiders and the investigation begun quickly, there soon may be no more evidence to find. The need for a thorough search of the house is clear.

On the other hand, the owner of the house may not want anyone looking around. He has already been displaced from his home by the fire, he does not believe that arson is likely, and he just wants everyone to leave so he can begin assessing his damage. Or he may be trying to hide something by halting the investigation. In either event, he has a strong interest in the privacy of his dwelling. The Fourth Amendment to the United States Constitution says that a person is entitled to such privacy and should be left alone unless there is good reason for governmental interference.

Over the years the United States Supreme Court, the appellate courts of North Carolina, and the North Carolina legislature have developed certain rules to deal with the situation just described. All of these rules involve balancing law enforcement's interest in investigating apparent crimes with the property owner's expectation of privacy. This paper is a brief summary of those rules.

The initial investigation. There is no question that firemen and fire investigators called to a fire may look around to try to determine the cause. In fact, North Carolina General Statute 69-1 requires an investigation whenever property has been damaged or destroyed by fire. If the fire took place inside a city, the fire chief is responsible for the initial investigation; if there is no fire chief, the duty falls on the chief of police. For fires outside cities, the county fire marshal and the sheriff or the chief of the rural fire department are responsible. The preliminary investigation is to be made within three days, not counting Sunday, and a report made within a week to the Attorney General. State Bureau of Investigation agents may be used in the preliminary investigation or called for assistance later.

Officers need not worry about having permission or a warrant for this preliminary investigation. Recognizing the need for prompt action, the courts have held that at this point the State's interest in immediate investigation of the cause of the fire outweighs any privacy interest of the property owner.

How long this initial investigation may continue depends on the kind of fire and the extent of damage. The partial burning of a single dwelling may require only a few hours to gather the relevant evidence, but the destruction of a city block may mean days and days of investigation. It is not possible to set specific time limits for an initial investigation without knowing the exact circumstances of the fire, but the officer might consider that he is going beyond initial investigation if he spends more than a day on a single dwelling, more than three or four days on a large building, or more than a week or a week and a half on a group of buildings. Again, it should be emphasized that the length of the investigation depends on the circumstances of the individual fire and these limits are only suggestive; sometimes the initial investigation may take longer, other times it may not last nearly so long.

Once the initial investigation is begun, it should be continued until the cause of the fire is determined. Some delay is permissible in entering after the fire has been extinguished, and short breaks (a few hours) may occur during the course of the initial investigation, but if possible the investigation should be made without interruption. This prevents any later argument that the law enforcement action has moved beyond the initial investigation stage.

Later investigation. When the cause of the fire has been determined, or when the search for evidence has taken so long that it is no longer possible to still call it part of the emergency initial investigation, some other justification will be needed if officers want to continue their efforts. Nearly always that justification will be the consent of the person in control of the premises. If the person will not consent, the investigator will have to obtain an administrative inspection warrant or a search warrant. The inspection warrant, which is easier to obtain, can be used if the cause of the fire has not yet been determined or if the cause is known but it is not yet clear whether there has been any criminal activity. Once it has been established that the fire was started unlawfully, a search warrant is necessary for further investigation if the person in charge of the premises will not consent.

Consent. An investigator who relies on consent as justification for making a search needs to be certain that (1) he has the consent of the right person, (2) the consent has been given voluntarily, and (3) the search does not extend beyond the area for which consent has been given.

(1) North Carolina General Statute 15A-222 says that consent to search premises must come from "a person who by ownership or otherwise is reasonably apparently entitled to give or withhold consent. . . ." That statement means that the consent must come from the person whose privacy is being invaded. If a building has been rented, the consent must come from the tenant--the person entitled to use of the building--and not from the landlord (unless the tenant has abandoned the premises). If the building is not rented but the owner cannot be reached, someone else may have been given sufficient control over the building to consent to the search. For example, a store burns and the owner is an out-of-state corporation whose president lives in Pennsylvania. In such a case,

the store manager, the person who is responsible for the store and who sees that it is opened and closed each day, has sufficient control to consent. The statute says that the consent is valid if it is given by a person "reasonably apparently" entitled to consent; in other words, if the investigator makes a reasonable mistake in determining whom to ask for consent, the consent is still valid.

If a vehicle is to be searched, the statute says the consent should come from "the registered owner . . . or . . . the person in apparent control of its operation and contents at the time the consent is given."

(2) To be valid, the consent must be voluntary. The request should be in the form of a question rather than a demand, but it is not necessary when asking for consent to repeat the Miranda warnings or recite any other particular set of words. It is necessary to be able to show that the person who consented realized that he could refuse to consent. Telling him that he can refuse is one way to be sure that he knows this, but the courts have found there to be voluntary consent even when the person who consented is not specifically told that he can refuse. Of course no threats or force may be used to elicit the consent.

(3) The search may extend only to that part of the building for which the person has given consent. If he chooses to limit the search to a particular part of the premises, or if he changes his mind half way through the investigation, his desires must be respected and the search must not go beyond what he approves.

It is possible that a person who has consented to officers might later deny that fact in court. Sometimes such duplicity can be discouraged by having witnesses to the consent or by getting written consent.

Consent is discussed more fully in the Institute of Government's publication entitled Laws of Arrest, Search, and Investigation in North Carolina.

Administrative inspection warrant. If the person in possession of the building refuses to consent to further investigation and use of a search warrant is not appropriate because there still is not probable cause--"probable cause" is a legal phrase meaning "more likely than not"--to believe a crime has been committed, it will be necessary to obtain an administrative inspection warrant. Unlike a search warrant, which is issued only when there is probable cause to believe that evidence of a crime will be found in a place, an inspection warrant is issued whenever an authorized inspection is to be made but the possessor refuses to allow it to be carried out. Various kinds of inspections are authorized by state law or local ordinance--housing and building code inspections, inspections of premises that sell liquor, for example--and most are made with the cooperation of the person being inspected. When the person refuses, an administrative inspection warrant orders him to allow the inspection.

The first requirement for an administrative inspection warrant is a legally authorized program of inspection. General Statute 69-1 authorizes an inspection to determine the cause of a fire in which there has been property damage. The next requirement is to show that the building or area to be inspected comes within the authorized program of inspection. Under G.S. 69-1 that requirement can be satisfied by simply showing that property has burned, that the cause

of the fire is uncertain, and that investigation beyond the initial investigation is needed to determine the cause. As with all search and inspection warrants, the warrant needs to describe specifically the place to be inspected, so that no confusion about place can arise. A correct street address is sufficient to identify it, but a brief description of the premises should also be included: "A two-story white frame dwelling occupied by Fred Graham." If there is no street address, a more detailed physical description of the premises is necessary. It is also helpful to state how far the building is from landmarks in the area.

There are two kinds of inspection warrants, one for periodic inspections and one for inspections of particular conditions. The warrant for periodic inspections is used when an inspection is to be made as a matter of routine on a periodic basis, such as a housing inspection made every two years. An inspection for a particular condition, the kind involved in a burning case, is made only when the particular condition justifying the inspection--here the fact that the building has burned--is shown to exist. A form for an administrative inspection warrant for a particular condition appears at the end of this paper along with a sample completed form for an inspection for arson.

An inspection warrant is issued by a judicial official--that is, a magistrate, a clerk of court, or a judge; the magistrate is the official most likely to be available. The magistrate (or whoever issues the warrant) must have jurisdiction (authority to act) in the county where the building is located. The magistrate will place the person who seeks the warrant under oath and ask him his justification for making the inspection. The officer may fill out the affidavit showing those reasons before he goes to the magistrate, or the magistrate may complete it after he has asked his questions. Because the magistrate may not be familiar with it, the investigator should have a copy of G.S. 69-1 with him to show the authority for the inspection.

In deciding whether to issue the inspection warrant, the magistrate should take into account how much time has been spent on the initial investigation and whether this extension of the investigation would mean unreasonable interference with the owner's privacy. The magistrate's job is to see that the investigator's authority to inspect is recognized but the inspection is done with minimum interference. If he feels that the investigators have already had sufficient time to determine the cause of the fire, he may refuse to issue the warrant. When applying for an inspection warrant, the investigator should be prepared to state why the initial investigation needs to continue.

Another reason for refusing the inspection warrant might be that a search warrant is more appropriate. An inspection warrant is to be used when there is not yet enough reason to charge anyone with a crime-- when the investigator is still trying to determine the cause of the fire or whether there is any criminal activity connected with the cause. Once there is reason to believe that arson or some other unlawful burning has taken place, the investigation shifts from an administrative inspection to a search for evidence for a criminal prosecution. If the investigation has gone beyond the initial investigation, if the possessor of the property will not consent to further investigation, and if there is enough evidence to charge someone with a crime, then the investigation may be continued only with a search warrant. The requirements for a search warrant are discussed briefly below.

Once the administrative inspection warrant is issued, the inspection must be made within 24 hours and may be made only between 8:00 a.m. and 8:00 p.m. Some people interpret the statute to mean that the inspection must be completed within 24 hours, others think it only means that the inspection must begin within that time. Obviously the safer course is to complete the inspection within 24 hours. The owner should be present during the inspection; but if he is not available, the inspection may still be conducted and a copy of the warrant left on the premises.

If the investigator looking through the burned building as part of the initial investigation, or later with a search warrant, finds evidence of some crime other than arson or burning--say a room full of stolen appliances--he may seize that evidence and it may be used to prosecute the possessor. But G.S. 15-27.2--the statute that provides for administrative inspection warrants, as opposed to initial investigations or search warrants--says that when the inspection is being made with an inspection warrant, evidence of another crime found during the inspection may not be used in court. Nor may the discovery be used as the basis for getting a search warrant or otherwise as evidence against the possessor of the property. However, this does not prevent the officer from seizing contraband he discovers, such as illegally possessed drugs and stolen property.

If the owner or possessor of the property, or anyone else, interferes with the investigator in his lawful inspection, that person is violating G.S. 14-223 by resisting, delaying, or obstructing a public officer in the performance of his duties. He may be arrested and charged with that misdemeanor. Usually a violation does not occur unless there is physical resistance; merely calling an investigator names or cussing at him is not sufficient interference to justify the charge.

Search warrants. To obtain a search warrant, an officer must show that there is probable cause to believe that evidence of a crime will be found in the place to be searched. The person who applies for the warrant must tell the judicial official his reasons for believing that evidence is in the place. If part of his information comes from an informer, he must tell the judicial official how the informer happened to get the information--was it personal knowledge or did he hear it from someone else?--and why the informer ought to be believed. The informer might be believed because of who he is, such as another law enforcement officer, or because he has previously given reliable information, or because part of what he has said has already been shown by other sources to be true. Generally, if an informer wants to remain unnamed, his reliability and the basis of his knowledge can be established without identifying him by name.

Like an inspection warrant, the search warrant must be issued by a magistrate or other judicial official. It is valid for 48 hours and allows a search at any time of day or night, regardless of whether anyone is at home. The search may include any part of the premises where the evidence could be hidden. If other evidence is inadvertently discovered during the search, it may also be seized and used in court.

The requirements for valid search warrants and instructions for completing warrant applications are discussed in detail in the Institute of Government publication Search Warrants in North Carolina. That book also discusses administrative inspection warrants. The problem most likely to arise in completing an application for a search warrant for an arson case will be not knowing exactly what kind of evidence is to be found. That is, the investigator has determined that the fire was set intentionally and may have some idea of what kind of material was used, but he will not be sure what kind of container he is looking for or what other evidence he might find to show how the fire was set and spread. The sample warrant application at the end of this paper suggests one way in which an investigator can use his expertise to predict the kinds of evidence that will be found to give a sufficiently precise description of what is being looked for. When an investigator uses this approach, it is important, when he applies for the warrant, to state in the application that these conclusions as to the kind of evidence likely to be found are based on his experience in investigating such cases.

Summary. When first called to the scene of a fire and for a short while thereafter, firemen and investigators may look around to try to determine the cause of the fire. How long that initial investigation may last depends on the size of the fire and the extent of the damage. If the investigation needs to be extended beyond this initial period, usually the person in possession of the property will consent to further examination of the property. But if he refuses, the investigator will have to obtain either an administrative inspection warrant or a search warrant. He is to get an inspection warrant if he still is not certain of the cause of the fire or does not have probable cause to charge anyone with a crime. To get an inspection warrant, he need only show that there has been property damage in the fire, that G.S. 69-1 authorizes inspections in such cases, and that the person in charge of the premises has refused to permit the inspection. A search warrant is needed when the investigator has determined that there is probable cause to believe that a crime has been committed--either arson or some other unlawful burning--and that additional particular evidence of that crime can be found in the building.

SELECTED NORTH CAROLINA STATUTES

CONCERNING ARSON INVESTIGATIONS

Investigations of burned property:

§ 69-1. **Fires investigated; reports; records.** — The Attorney General, through the State Bureau of Investigation, and the chief of the fire department, or chief of police where there is no chief of the fire department, in municipalities and towns, and the county fire marshal and the sheriff of the county and the chief of the rural fire department where such fire occurs outside of a municipality, are hereby authorized to investigate the cause, origin, and circumstances of every fire occurring in such municipalities or counties in which property has been destroyed or damaged, and shall specially make investigation whether the fire was the result of carelessness or design. A preliminary investigation shall be made by the chief of fire department or chief of police, where there is no chief of fire department in municipalities, and by the county fire marshal and the sheriff of the county or the chief of the rural fire department where such fire occurs outside of a municipality, and must be begun within three days, exclusive of Sunday, of the occurrence of the fire, and the Attorney General, through the State Bureau of Investigation, shall have the right to supervise and direct the investigation when he deems it expedient or necessary.

The officer making the investigation of fires shall forthwith notify the Attorney General, and must within one week of the occurrence of the fire furnish to the Attorney General a written statement of all facts relating to the cause and origin of the fire, the kind, value and ownership of the property destroyed, and such other information as is called for by the forms provided by the Attorney General. Departments capable of submitting the required information by the utilization of computers and related equipment, by means of an approved format of standard punch cards, magnetic tapes or an approved telecommunications system, may do so in lieu of the submission of the written statement as provided for in this section. The Attorney General shall keep in his office a record of all reports submitted pursuant to this section. These reports shall at all times be open to public inspection.

Consent searches:

§ 15A-221. **General authorization; definition of "consent".** — (a) Authority to Search and Seize Pursuant to Consent. — Subject to the limitations in the other provisions of this Article, a law-enforcement officer may conduct a search and make seizures, without a search warrant or other authorization, if consent to the search is given.

(b) Definition of "Consent". — As used in this Article, "consent" means a statement to the officer, made voluntarily and in accordance with the requirements of G.S. 15A-222, giving the officer permission to make a search.

§ 15A-222. **Person from whom effective consent may be obtained.** — The consent needed to justify a search and seizure under G.S. 15A-221 must be given:

- (1) By the person to be searched;
- (2) 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;
- (3) By a person who by ownership or otherwise is reasonably apparently entitled to give or withhold consent to a search of premises.

§ 15A-223. Permissible scope of consent search and seizure. — (a) Search Limited by Scope of Consent. — A search conducted pursuant to the provisions of this Article may not exceed, in duration or physical scope, the limits of the consent given.

(b) Items Seizable as Result of Consent Search. — The things subject to seizure in the course of a search pursuant to this Article are the same as those specified in G.S. 15A-242. Upon completion of the search, the officer must make a list of the things seized, and must 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.

Administrative inspections:

§ 15-27.2. Warrants to conduct inspections authorized by law. — (a) Notwithstanding the provisions of Article 4 of this Chapter, any official or employee of the State or of a unit of county or local government of North Carolina may, under the conditions specified in this section, obtain a warrant authorizing him to conduct a search or inspection of property if such a search or inspection is one that is elsewhere authorized by law, either with or without the consent of the person whose privacy would be thereby invaded, and is one for which such a warrant is constitutionally required.

(b) The warrant may be issued by any magistrate of the general court of justice, judge, clerk, or assistant or deputy clerk of any court of record whose territorial jurisdiction encompasses the property to be inspected.

(c) The issuing officer shall issue the warrant when he is satisfied the following conditions are met:

- (1) The one seeking the warrant must establish under oath or affirmation that the property to be searched or inspected is to be searched or inspected as part of a legally authorized program of inspection which naturally includes that property, or that there is probable cause for believing that there is a condition, object, activity or circumstance which legally justifies such a search or inspection of that property;
- (2) An affidavit indicating the basis for the establishment of one of the grounds described in (1) above must be signed under oath or affirmation by the affiant;
- (3) The issuing official must examine the affiant under oath or affirmation to verify the accuracy of the matters indicated by the statement in the affidavit;

(d) The warrant shall be validly issued only if it meets the following requirements:

- (1) It must be signed by the issuing official and must bear the date and hour of its issuance above his signature with a notation that the warrant is valid for only 24 hours following its issuance;
- (2) It must describe, either directly or by reference to the affidavit, the property where the search or inspection is to occur and be accurate enough in description so that the executor of the warrant and the owner or the possessor of the property can reasonably determine from it what person or property the warrant authorizes an inspection of;
- (3) It must indicate the conditions, objects, activities or circumstances which the inspection is intended to check or reveal;
- (4) It must be attached to the affidavit required to be made in order to obtain the warrant.

(e) Any warrant issued under this section for a search or inspection shall be valid for only 24 hours after its issuance, must be personally served upon the owner or possessor of the property between the hours of 8:00 A.M. and 8:00 P.M. and must be returned within 48 hours. If the owner or possessor of the property is not present on the property at the time of the search or inspection and reasonable efforts to locate the owner or possessor have been made and have failed, the warrant or a copy thereof may be affixed to the property and shall have the same effect as if served personally upon the owner or possessor.

(f) No facts discovered or evidence obtained in a search or inspection conducted under authority of a warrant issued under this section shall be competent as evidence in any civil, criminal or administrative action, nor considered in imposing any civil, criminal, or administrative sanction against any person, nor as a basis for further seeking to obtain any warrant, if the warrant is invalid or if what is discovered or obtained is not a condition, object, activity or circumstance which it was the legal purpose of the search or inspection to discover; but this shall not prevent any such facts or evidence to be so used when the warrant issued is not constitutionally required in those circumstances.

(g) The warrants authorized under this section shall not be regarded as search warrants for the purposes of application of Article 4 of Chapter 15 of the General Statutes of North Carolina.

Search warrants:

§ 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.

§ 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.

§ 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.

§ 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.

§ 15A-245. Basis for issuance of a search warrant; duty of the issuing official. — (a) Before acting on the application, the issuing official may examine on oath the applicant or any other person who may possess pertinent information, but information other than that contained in the affidavit may not be considered by the issuing official in determining whether probable cause exists for the issuance of the warrant unless the information is either recorded or contemporaneously summarized in the record or on the face of the warrant by the issuing official.

(b) If the issuing official finds that the application meets the requirements of this Article and finds there is probable cause to believe that the search will discover items specified in the application which are subject to seizure under G.S. 15A-242, he must issue a search warrant in accordance with the requirements of this Article. The issuing official must retain a copy of the warrant and warrant application and must promptly file them with the clerk. If he does not so find, the official must deny the application.

§ 15A-246. Form and content of the search warrant. — A search warrant must contain:

- (1) The name and signature of the issuing official with the time and date of issuance above his signature; and
- (2) The name of a specific officer or the classification of officers to whom the warrant is addressed; and
- (3) The names of the applicant and of all persons whose affidavits or testimony were given in support of the application; and
- (4) A designation sufficient to establish with reasonable certainty the premises, vehicles, or persons to be searched; and
- (5) A description or a designation of the items constituting the object of the search and authorized to be seized.

§ 15A-247. Who may execute a search warrant. — A search warrant may be executed by any law-enforcement officer acting within his territorial jurisdiction, whose investigative authority encompasses the crime or crimes involved.

§ 15A-248. Time of execution of a search warrant. — 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.

§ 15A-249. Officer to give notice of identity and purpose. — The officer executing a search warrant must, before entering the premises, give appropriate notice of his 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 must give the notice in a manner likely to be heard by anyone who is present.

§ 15A-250: Reserved for future codification purposes.

§ 15A-251. Entry by force. — An officer may break and enter any premises or vehicle when necessary to the execution of the warrant if:

- (1) The officer has previously announced his identity and purpose as required by G.S. 15A-249 and reasonably believes either that admittance is being denied or unreasonably delayed or that the premises or vehicle is unoccupied; or
- (2) The officer has probable cause to believe that the giving of notice would endanger the life or safety of any person.

§ 15A-252. Service of a search warrant. — 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 leave a copy of the warrant affixed to the premises or vehicle.

§ 15A-253. Scope of the search; seizure of items not named in the warrant. — 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 G.S. 15A-242, he may also take possession of the items so discovered.

§ 15A-254. List of items seized. — 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; or if he is not, the officer must leave the receipt in the premises or vehicle from which the items were taken.

§ 15A-255. Frisk of persons present in premises or vehicle to be searched. — An officer executing a warrant directing a search of premises or of a vehicle may, if the officer reasonably believes that his 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 he feels an object which he reasonably believes to be a dangerous weapon, he may take possession of the object.

§ 15A-256. Detention and search of persons present in private premises or vehicle to be searched. — 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. (1973, c. 1286, s. 1.)

§ 15A-257. Return of the executed warrant. — 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. (1973, c. 1286, s. 1.)

§ 15A-258. Disposition of seized property. — Property seized shall be held in the custody of the person who applied for the warrant, or of the officer who executed it, or of the agency or department by which the officer is employed, or of any other law-enforcement agency or person for purposes of evaluation or analysis, upon condition that upon order of the court the items may be retained by the court or delivered to another court. (1973, c. 1286, s. 1.)

§ 15A-259. Application of Article to all warrants; exception as to inspection warrants and special riot situations. — The requirements of this Article apply to search warrants issued for any purpose, except that the contents of and procedure relating to inspection warrants are to be governed by the provisions of Article 4A of Chapter 15 and warrants to inspect vehicles in riot areas or approaching municipalities during emergencies are subject to the special procedures set out in G.S. 14-288.11. Nothing in this Article is intended to alter or affect the emergency search doctrine. (1957, c. 496; 1969, c. 869, s. 8; 1971, c. 872, s. 4; 1973, c. 1286, s. 1.)

STATE OF NORTH CAROLINA

County of _____

In the General Court of Justice
District Court Division

AFFIDAVIT TO OBTAIN ADMINISTRATIVE
INSPECTION WARRANT FOR PARTICULAR
CONDITION OR ACTIVITY

_____, being duly
(name and position of applicant)
sworn and examined under oath says that there is probable cause for believing

that there is _____
(describe condition, object, activity, or circumstance which
search is intended to check or reveal)

at the property owned or possessed by _____
(name owner or possessor)

and described as follows: _____

(precisely describe the property to be inspected)
The facts which establish probable cause for believing this are as follows:

(signature of applicant)

Subscribed and sworn to before me this ____ day of _____, 19__.

Assistant Deputy Clerk of Superior Court
Magistrate / District / Superior Court Judge

IMPORTANT: ATTACH THE AFFIDAVIT TO THE WARRANT.

STATE OF NORTH CAROLINA

ADMINISTRATIVE INSPECTION WARRANT FOR PARTICULAR CONDITION OR ACTIVITY

County of _____

In the General Court of Justice
District Court Division

TO ANY LAWFUL OFFICIAL EMPOWERED TO CONDUCT THE INSPECTION AUTHORIZED BY THIS WARRANT:

Whereas, the applicant named on the attached affidavit, being duly sworn, has stated to me that there is a condition, object, activity, or circumstance legally justifying an inspection of the property described in the attached affidavit; and whereas I have examined this applicant under oath or affirmation and thereby verified the accuracy of the matters in the affidavit indicating the basis for the establishment of legal grounds for this warrant, YOU ARE HEREBY COMMANDED TO INSPECT THE PROPERTY DESCRIBED IN THE ATTACHED AFFIDAVIT.

This inspection is authorized in order to check or reveal the conditions, objects, activities, or circumstances indicated in the attached affidavit.

This warrant must be served upon the owner or possessor of the property described in the attached affidavit and must be duly returned within 48 hours of the time and date of issuance, indicated below.

THIS WARRANT MUST BE EXECUTED ONLY BETWEEN THE HOURS OF 8:00 A.M. AND 8:00 P.M. AND WITHIN 24 HOURS OF THE TIME AND DATE OF ISSUANCE.

Issued this _____ day of _____, 19 _____
at _____ o'clock _____
(a.m. or p.m.)

Assistant Deputy Clerk of Superior Court
Magistrate/District/Superior Court Judge

OFFICIAL'S RETURN

I certify that this warrant was executed on the _____ day of _____
19 _____ at _____ o'clock _____
(a.m. or p.m.)

(signature of inspecting official)

This warrant has been returned this _____ day of _____
19 _____ at _____ o'clock _____
(a.m. or p.m.)

Assistant Deputy Clerk of Superior Court

IMPORTANT: ATTACH THE AFFIDAVIT TO THE WARRANT.

STATE OF NORTH CAROLINA

File # _____

County of _____

Film # _____

In The General Court of Justice
District Court Division

In The Matter Of

SEARCH WARRANT

To any officer with authority and territorial jurisdiction to conduct the search authorized by this Warrant:

THE UNDERSIGNED FINDS THAT THERE IS PROBABLE CAUSE TO BELIEVE that the property described in the application on the reverse hereof and related to the commission of a crime is located as described in the application.

Therefore, you are commanded to search (those premises) (that vehicle) (that person) described in the application for the property in question. If this property is found, seize it and keep it subject to court order.

YOU ARE DIRECTED TO EXECUTE THIS WARRANT WITHIN FORTY-EIGHT (48) HOURS FROM THE TIME INDICATED BELOW AND MAKE DUE RETURN TO THE CLERK OF THE ISSUING COURT.

Issued this _____ day of _____, 19____, at _____ o'clock ____m., upon information furnished under oath by the person or persons named below.

Name of Applicant

Assistant Deputy Clerk of Superior Court
Magistrate/District/Superior Court Judge

Name of Additional Affiant or Attestant

Name of Additional Affiant or Attestant

STATE OF NORTH CAROLINA

County of Wake

In the General Court of Justice
District Court Division

AFFIDAVIT TO OBTAIN ADMINISTRATIVE
INSPECTION WARRANT FOR PARTICULAR
CONDITION OR ACTIVITY

Robert Montjoy, Special Agent, State Bureau of Investigation, being duly
(name and position of applicant)
sworn and examined under oath says that there is probable cause for believing
that there is real and personal property that has been damaged or
(describe condition, object, activity, or circumstance which
destroyed by fire
search is intended to check or reveal)

at the property owned or possessed by Mr. J. K. Lamp, Jr.
(name owner or possessor)

and described as follows: a one-story yellow frame residence located at
919 Symon Lane, Raleigh, NC, and occupied by J.K. Lamp, Jr.
(precisely describe the property to be inspected)

The facts which establish probable cause for believing this are as follows:
G.S. 69-1 authorizes inspections to determine the causes of fires in which
property has been damaged or destroyed. The premises described above was almost
totally destroyed by fire three nights ago on Friday night, June 8, 1979. A
preliminary investigation made by Deputy Lewis R. Simpson of the Wake County
(continued on attached sheet)

Robert Montjoy
(signature of applicant)

Subscribed and sworn to before me this 11 day of June, 1979.

Martin C. Jackson
Assistant Deputy Clerk of Superior Court
Magistrate / District / Superior Court Judge

IMPORTANT: ATTACH THE AFFIDAVIT TO THE WARRANT.

Application for administrative inspection warrant, continued

Sheriff's Department immediately after the fire was extinguished showed that gasoline was smelled by firemen when called to the fire and that wood and paper were found stacked in the living room at the apparent origin of the fire, indicating that the fire may have been intentionally set. Additional investigation is necessary to determine the cause of the fire. I intend to look for matches, traces of gasoline, other chemical residue, foot prints, tool marks, hair samples, and any other evidence that would help establish the cause of the fire and the identity of any person who might have set the fire. Deputy Simpson halted the initial investigation to request my assistance. The owner of the premises, Mr. Lamp, refuses to allow entry for the inspection.

Robert Montjoy

Robert Montjoy
June 11, 1979

APPLICATION FOR SEARCH WARRANT

I, Samual T. Carr, Special Agent, State Bureau of Investigation, being
(Insert name and address; or, if a law officer, insert name, rank and agency)

duly sworn, hereby request that the court issue a warrant to search the ~~(person)~~ (place)
~~(vehicle)~~ described in this application and to find and seize the items described in this
application. There is probable cause to believe that certain property, to wit: ashes,
fuses, fuse trails, adhesive tape, burned furniture, fibers, hairs, residue of flammable
chemical substances, patterns of burning, layout of premises, fire alarm and extinguishers,
and other evidence tending to show how the fire started and spread
(constitutes evidence of) ~~(constitutes evidence of the identity of a person participating~~
in) a crime, to wit: G.S. 14-62, burning of a building used in trade, Harrison's

Furniture Mart, 1456 W. Gastonia Blvd., Charlotte, NC, June 12, 1979,
and the property is located (in the place) ~~(on the vehicle) (on the person)~~ described as
follows: (Unmistakably describe the building, premises, vehicle or person -- or combina-
tion -- to be searched.) Harrison's Furniture Mart, 1456 W. Gastonia Blvd., Charlotte,
NC, a one-story large rectangular store now approximately 3/4 destroyed by fire

The applicant swears to the following facts to establish probable cause for the
issuance of a search warrant: On June 12, 1979, the premises described above burned
and was 3/4 destroyed. Immediately after the fire was extinguished, Jay Wilkins of
the Charlotte Fire Dep't made a preliminary investigation and found 2 plastic containers
of flammable liquid. On the morning of June 13 he also found burn marks on the carpet
and pieces of tape with burn marks on the stairway to the basement. These are signs
of a fuse trail. Within the last 2 days I have talked with an employee of Harrison's
who says that at Fred Harrison's direction about 30 valuable pieces of furniture were
moved from the store described above to a warehouse several days before the fire. The
employee also told me that on the day of the fire Harrison directed several employees
to stack mattresses on furniture, telling one that the mattresses would "make things
burn better." My 6 years of investigating arson cases makes me believe that the kind
of evidence described above might be found on the premises.

(*Continue if necessary.)

Sworn to and subscribed before me
this 16 day of June, 19 79.

Larry L. Jenkins
Assistant/Deputy Clerk of Superior Court
Magistrate/District/Superior Court Judge

Samual T. Carr
Signature of Applicant