

Arrest, Search, and Investigation in North Carolina

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Robert L. Farb



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♻️ Printed on recycled paper

*For Bonnie, Debbie, Jessica,
Kevin, and Daphne*

Contents

Preface	xix	
Chapter 1		
An Introduction to Constitutional Law and North Carolina Criminal Law and Procedure	1	
Chapter 2		
Law of Arrest and Investigative Stops	11	
Chapter 2 Appendix: Case Summaries	83	
Chapter 3		
Law of Search and Seizure	171	
Chapter 3 Appendix: Case Summaries	239	
Chapter 4		
Search Warrants, Administrative Inspection Warrants, and Nontestimonial Identification Orders	357	
Chapter 4 Appendix: Case Summaries	437	
Chapter 5		
Interrogation and Confessions, Lineups and Other Identification Procedures, and Undercover Officers and Informants	527	
Chapter 5 Appendix: Case Summaries	567	
Chapter 6		
Rules of Evidence in Criminal Cases	671	
Index of Cases in the Case Summaries	691	
Subject Index	713	

Contents

Preface xix

Chapter 1

An Introduction to Constitutional Law and North Carolina Criminal Law and Procedure 1

Sources of Criminal Law	3
Statutes	3
Common Law	4
City and County Ordinances	4
Constitutional Restrictions on Enactment of Criminal Laws	4
Constitutional and Statutory Restrictions on an Officer's Authority	4
Constitutional Restrictions	5
United States Constitution	5
North Carolina Constitution	6
Statutory Restrictions	6
Criminal Pretrial and Trial Procedure	6
Misdemeanors and Infractions	6
Felonies	7
Appellate Review	8

Chapter 2

Law of Arrest and Investigative Stops 11

Introduction	13
Jurisdiction	14
Limits on Law Enforcement Officers' Jurisdiction	14

<i>Territorial Jurisdiction</i>	14
State law enforcement officers	14
Local alcohol beverage control officers	14
Sheriffs, deputy sheriffs, and county police officers	14
City law enforcement officers	15
Company police officers	15
The University of North Carolina campus law enforcement officers	15
Community college campus law enforcement officers	16
Private nonprofit college campus police officers	16
<i>Expanded Territorial Jurisdiction for DWI-Related Offenses</i>	16
<i>Arrest after Continuous Flight (Hot Pursuit)</i>	17
Hot pursuit within the state	17
Hot pursuit outside the state	17
<i>Subject-Matter Jurisdiction</i>	17
State Highway Patrol officers	18
State Bureau of Investigation agents	18
Alcohol law enforcement agents	18
Officers who specialize in enforcing motor vehicle laws	18
Wildlife law enforcement officers	18
Marine fisheries enforcement officers	18
Sheriffs, deputy sheriffs, and county police officers	18
Local alcohol beverage control officers	18
City law enforcement officers	18
Company police officers	19
Campus law enforcement officers	19
Probation and parole officers	19
<i>Special Jurisdictional Issues</i>	19
Violations of federal laws	19
Immigration enforcement by North Carolina law enforcement officers	19
Desertion and AWOL	20
Areas controlled by the federal government	20
Offenses that occur in other states (extradition)	22
Foreign diplomats	23
Federal officers and North Carolina's criminal laws	23

Expanded Jurisdiction through Cooperating Law Enforcement Agencies	23		
Expanded Jurisdiction through Emergency Management Assistance Compact	24		
Private Person's Authority to Detain	24		
Legal Standards	25		
Introduction	25		
Objective Standard	26		
Investigative Stop or Arrest	26		
Determination Made at the Time of the Arrest or Investigative Stop	27		
The Authority to Make an Investigative Stop: Reasonable Suspicion	27		
Definition	28		
Determination of Reasonable Suspicion	28		
Hearsay evidence	29		
Collective knowledge of officers	29		
Appellate Court Cases on Reasonable Suspicion	29		
The Authority to Arrest: Probable Cause	36		
Definition	37		
Determination of Probable Cause	37		
With or without an arrest warrant	37		
Hearsay evidence	37		
Collective knowledge of officers	38		
Appellate Court Cases on Probable Cause	38		
Pretextual Arrest, Investigative Stop, or Search	41		
Mandatory Duty to Arrest for Domestic Violence Offense	42		
Special Aspects of Stopping Authority	43		
Investigative Stop Based on Reasonable Suspicion	43		
Length of Time Allowed for an Investigative Stop	43		
Officer's interaction with suspect after investigative stop is completed	44		
Officer's questions affecting length of time of investigative stop	45		
Scope of Investigative Stop: Investigative Techniques	45		
Ordering driver and passengers out of vehicle	45		
Using force	45		
Questioning	46		
Moving or handcuffing a suspect for safety or security reasons	46		
Using identification procedures	46		
Using drug dog	47		
Checking Division of Criminal Information or other information source	47		
Checking driver's license and other information during a vehicle traffic stop	47		
Frisk after an Investigative Stop	47		
Stop without Reasonable Suspicion	47		
Service of Legal Process	47		
Execution of a Search Warrant	48		
Public Emergencies	48		
Motor Vehicle Checkpoints, Including Driver's License and DWI Checkpoints	48		
Constitutional background	48		
North Carolina statute authorizing motor vehicle checkpoints	49		
Information-Seeking Checkpoints	50		
Wildlife and Marine Fisheries Officers	50		
		Custody without Probable Cause	51
		The Arrest Warrant and Other Criminal Process	51
		Criminal Process	51
		Arrest Warrant	51
		Paperwork	52
		Issuance and content	53
		Validity of warrant	54
		Criminal Summons	55
		Citation	55
		Order for Arrest	57
		Restriction on Obscenity Offenses	57
		Arrest without a Warrant or Order for Arrest	57
		Warrant or Order for Arrest Has Been Issued	58
		Felony	58
		Misdemeanor	58
		General Rules	58
		"In [the officer's] presence"	59
		"Will not be apprehended unless immediately arrested"	59
		"May cause physical injury to himself [or herself] or others"	60
		"May damage property"	60
		Arrest of a Resident of a Reciprocal State	60
		Delay in Making a Warrantless Misdemeanor Arrest	60
		Violation of Pretrial Release Order	60
		Escape from Arrest	60
		Probation, Parole, or Post-Release Supervision Violation	61
		Taking Custody of Juveniles for Delinquent Acts and Other Matters	61
		The Arrest Procedure	62
		Use of Force	62
		Generally	62
		Resistance or Flight from Arrest	63
		Escape of Convicted Felon from Custody	64
		Assistance from Private People	64
		Notice of Authority	65
		Before Stopping a Vehicle	65
		When an Arrest Is Made	65
		Before Entering a Dwelling	65
		Entering Premises to Arrest	66
		Entering Defendant's Home or Other Place of Residence without Consent or Exigent Circumstances	66
		Entering a Third Party's Home without Consent or Exigent Circumstances	68
		Consent to Entering Premises	69
		Exigent Circumstances That Justify Entering Premises	69
		Summary	73
		Entering Premises to Accompany the Arrestee	73
		Entering Premises with News Media	73
		Use of Force When Entering Premises to Arrest	74
		Completion of Custody of the Arrestee	74
		Searching and Investigating Incident to Arrest or Stop	74

Securing the Arrestee and Dealing with Companions of the Arrestee	74		
Protecting the Unconscious Arrestee	74		
Obtaining an Interpreter for a Deaf Person	75		
Informing the Arrestee of the Charge	75		
Informing a Foreign National of the Right to Have Consular Official Notified	75		
Taking Fingerprints and Photographs	75		
<i>Adults</i>	75		
<i>Juveniles</i>	77		
Taking DNA Samples for Certain Offenses	78		
Taking the Arrestee to a Judicial Official	78		
Conducting an Initial Appearance	79		
<i>Issuing a Magistrate's Order When the Arrest Is without a Warrant</i>	80		
<i>Delaying the Initial Appearance of a Drunk or Disruptive Arrestee</i>	80		
Considering Pretrial Release Conditions	80		
Permitting the Arrestee to Communicate with Counsel and Friends	81		
Informing a Minor's Parent and School Principal of a Criminal Charge	81		
<i>Notifying a Minor's Parent of a Criminal Charge</i>	81		
<i>Notifying the School Principal of a Felony Charge</i>	81		
Completing Custody of a Person Arrested in Another State	82		
Procedure for Charging and Processing People for Infractions	82		
Chapter 2 Appendix: Case Summaries	83		
Arrests, Investigative Stops, and Related Issues	89		
Jurisdiction	89		
Territorial Jurisdiction	89		
<i>Generally</i>	89		
<i>Arrest after Continuous Flight (Hot Pursuit)</i>	90		
Private People's Authority to Detain	90		
The Authority to Make an Investigative Stop: Reasonable Suspicion	90		
Determination of Reasonable Suspicion	90		
<i>Generally</i>	90		
<i>DWI Stops</i>	108		
<i>Non-DWI Traffic Stops</i>	112		
<i>Airport Investigative Stops</i>	117		
<i>School Search and Seizure Cases</i>	119		
Special Aspects of Stopping Authority	121		
<i>Length of Time Allowed for an Investigative Stop</i>	121		
<i>Scope of an Investigative Stop</i>	124		
<i>Ordering People Out of a Vehicle after a Lawful Stop</i>	131		
<i>Taking a Person to a Law Enforcement Facility</i>	132		
<i>Using Weapons or Handcuffs</i>	133		
When an Officer's Interaction with a Person Is a Seizure under the Fourth Amendment	134		
The Officer's Personal Knowledge of Facts Constituting "Reasonable Suspicion"	140		
The Authority to Make an Investigative Stop or Take Other Action without Reasonable Suspicion	141		
Detaining People Present When a Search Warrant Is Executed or Is Being Sought	141		
Ordering People Out of a Vehicle after a Lawful Stop	141		
Conducting Impaired-Driving and Driver's License Checkpoints	141		
Conducting Information-Seeking Checkpoints	146		
Stopping Vehicle for Safety Reason	147		
Wildlife Law Enforcement Stopping Authority	147		
Pretextual Stop or Arrest	148		
The Authority to Arrest: Probable Cause	150		
Determination of Probable Cause	150		
Collective Knowledge of All Officers	158		
Objective Standard in Determining Probable Cause or the Fact of Arrest	159		
The Arrest Warrant and Other Criminal Process	160		
Arrest Warrants	160		
<i>Validity of Warrant</i>	160		
<i>Service of Warrant</i>	161		
Arrest without a Warrant for a Felony	161		
Arrest without a Warrant for a Misdemeanor	161		
<i>In the Officer's Presence</i>	161		
<i>Outside the Officer's Presence: The Defendant "Will Not Be Apprehended Unless Immediately Arrested"</i>	161		
<i>"May Cause Physical Injury to Himself [or Herself] or Others"</i>	161		
<i>"May Damage Property"</i>	162		
The Arrest Procedure	162		
Use of Force	162		
The Right to Resist an Illegal Arrest	163		
Notice of Authority	163		
<i>When an Arrest Is Made</i>	163		
<i>Before Entering a Dwelling</i>	163		
Entrance onto Premises to Arrest	163		
<i>Generally</i>	163		
<i>Exigent Circumstances</i>	165		
Entrance onto Premises to Accompany the Arrestee	168		
Completion of Custody: Taking the Arrestee to a Magistrate without Unnecessary Delay	168		
Bringing News Media during Execution of Warrant	169		
Chapter 3			
Law of Search and Seizure	171		
Introduction	173		
Observations and Actions That May Not Implicate Fourth Amendment Rights	174		
Abandoned Property and Garbage	175		
<i>Abandoned Property</i>	175		
<i>Real property</i>	175		
<i>Personal property</i>	176		
<i>Garbage</i>	176		

Frisking during the execution of a search warrant	231		
<i>Protective Search of a Vehicle</i>	232		
Search of a vehicle for a weapon when no arrest is made (car frisk)	232		
Search of a vehicle for a weapon when there is a danger to the public: community care-taking function	232		
Search of a vehicle to determine ownership	232		
<i>Entry or Search of a Home to Render Emergency Assistance or for Self-Protection</i>	232		
Entering a home to render emergency assistance to injured occupant or to protect occupant from imminent injury	232		
Entering a home to seize weapons for self-protection	233		
Protective sweep when officer is in a home to make an arrest	233		
<i>Impoundment and Inventory of Vehicles</i>	233		
Impounding vehicles	234		
Inventorying vehicles and containers within vehicles	234		
Abusing impoundment and inventory-search authority	234		
<i>Search of a Crime Scene</i>	234		
<i>Search of a Fire Scene</i>	235		
Inspection of Mail and Mail Covers	235		
<i>Mail</i>	235		
<i>Mail Covers</i>	236		
Special Search Authority during Emergencies and Riots	236		
<i>Special Frisk Authority</i>	237		
Frisk of people close to existing riots	237		
Frisk of curfew violators	237		
<i>Special Search Warrants to Search Vehicles</i>	237		
Chapter 3 Appendix: Case Summaries	239		
Search and Seizure Issues	247		
What Is a Search and Seizure and What Evidence May Be Searched for and Seized	247		
Definition of a Search	247		
Definition of a Seizure	248		
Evidence That May Be Searched for and Seized	248		
Observations and Actions That May Not Implicate Fourth Amendment Rights	249		
Private Search or Seizure	249		
Abandoned Property and Garbage Areas Outside the Home: Curtilage and Open Fields	255	252	
Plain View (Sensory Perception)	262		
Tracking Devices	272		
Dogs	273		
Thermal Imagers	276		
Recording of Conversations When One Party Consents	276		
Obtaining a Customer's Bank Records	276		
Prison or Jail Cell, Mail, and Telephone Calls	277		
Use of Lawfully Taken Blood Sample in Unrelated Investigation	279		
Search and Seizure by Valid Consent	279		
Voluntariness	279		
<i>Generally</i>	279		
<i>Officer's Statement about a Search Warrant</i>	286		
Validity of Nonverbal Consent	286		
Scope of the Search	286		
Delay in Conducting a Consent Search	290		
Airport Cases	290		
Undercover Officers and Informants	290		
Consent to Come to a Law Enforcement Facility	291		
Ordering Passenger out of Vehicle When Driver Gives Consent to Search	291		
Special Relationships	291		
<i>Landlord-Tenant and Hotel-Guest</i>	291		
<i>Spouses and Other Shared Relationships</i>	292		
<i>Miscellaneous</i>	295		
Reasonable Belief That Person Is Entitled to Give Consent	295		
Admissibility of Evidence of Refusal to Consent	296		
Requesting Consent to Search after Defendant Asserts <i>Miranda</i> Right to Silence or Right to Counsel	296		
Consent Given during Investigative Stop	296		
Whether Consent Search Is Tainted by Prior Illegality	297		
Search and Seizure of Evidence with Probable Cause, Reasonable Suspicion, or Other Justification	298		
Vehicles, Including Containers within Vehicles	298		
<i>Generally</i>	298		
<i>Probable Cause to Search a Vehicle</i>	302		
<i>Seizure of a Vehicle Subject to Forfeiture</i>	306		
<i>Search of a Vehicle for Its Identification</i>	306		
Containers (Other Than in Vehicles)	306		
<i>Probable Cause</i>	306		
<i>Reasonable Suspicion</i>	307		
Probable Cause to Search a Person	308		
Warrantless Entry with Exigent Circumstances to Search a Place for Evidence or Weapons	309		
Warrantless Entry for a Nonsearch Purpose	314		
Strip Search of a Person	315		
Search and Seizure of Evidence from a Person's Body	317		
Second-Look Doctrine	319		
Search and Seizure of Obscene Materials	320		
Objective Standard in Determining Probable Cause or Reasonable Suspicion	320		
Search of a Government Employee's Office or Electronic Devices	320		
Court Order to Obtain Corporate Records	321		
Probation or Parole Officer's Search of Home	321		
Wiretapping, Eavesdropping, and Video Surveillance	323		
Protective Searches	328		
Scope of Search Incident to Arrest	328		
<i>Generally</i>	328		
<i>Arrest of an Occupant of a Vehicle</i>	331		
Protective Sweep of Premises	333		
Frisk	334		
<i>Generally</i>	334		
<i>Plain Feel or Touch Doctrine</i>	343		

Inventory	347
<i>Vehicles</i>	347
<i>Personal Effects</i>	349
Entering Premises for Public Safety Reasons	350
Protection of the Public from Dangerous Weapons:	
The Community-Caretaking Function	351
Search of a Crime Scene	352
Search of a Fire Scene	354
Collective Knowledge of Officers	354
Motions to Suppress, Suppression Hearings, and Exclusionary Rules	355

Chapter 4

Search Warrants, Administrative Inspection Warrants, and Nontestimonial Identification Orders

Part I. Search Warrants	360
Introduction	360
Advantages of a Search Warrant	360
Consequences of an Unlawful Search or Seizure	360
<i>Generally</i>	360
<i>Exclusionary Rules</i>	361
Good faith exception under the United States Constitution	361
Exclusionary rules under the North Carolina Constitution	361
North Carolina statutory exclusionary rule	362
<i>Defendant's Standing to Exclude Evidence</i>	362
<i>Procedure for Excluding Evidence:</i> <i>Suppression Motions and Hearings</i>	363
The Issuing Official	363
Who May Issue a Search Warrant	363
Examination of the Applicant	364
Court Review of a Search Warrant's Legality	364
The Form and Content of the Application and Warrant	365
Preparation of the Search Warrant Worksheet	366
Description of the Property to Be Seized	366
Stolen Goods	366
Weapons and Other Instruments Used during Crimes	368
General Evidence	368
Documents Associated with White Collar Crimes	368
Evidence of Ownership or Possession of Premises	368
Evidence at a Crime Scene	368
Evidence in Computers	369
Evidence at the Scene of a Fire	370
Illegal Drugs and Drug-Related Items	371
Obscene Materials	371
Description of the Person to Be Arrested	372

Relation of the Property to a Crime	372
Description of the Premises, the Person to Be Searched, or the Vehicle	372
The Premises	373
<i>Vehicles on the Premises</i>	373
<i>Outbuildings on the Premises</i>	374
<i>Multiple Occupants in the Structure(s)</i>	374
<i>Multiple Structures on Separate Property</i>	375
The Person	375
The Vehicle	375
Other Places or Items to Be Searched	376
Statement of Facts Showing Probable Cause to Search	376
Definition	376
Sources of Information to Establish Probable Cause	377
<i>Affiant's Personal Observations</i>	377
Generally	377
Unconstitutionally obtained or false information	378
<i>Affiant's Use of Hearsay Information</i>	378
Information from other officers	378
Information from victims, witnesses, and other citizen-informants	378
Information from confidential informants	379
<i>The two-pronged test for informants</i>	379
<i>Informant's credibility or the reliability of the informant's information</i>	380
<i>Informant's basis of knowledge</i>	381
<i>When an informant's identity is revealed</i>	381
Information from records	382
Timeliness or Staleness of Information	382
The Connection between a Crime, the Evidence to Be Seized, and the Place to Be Searched	384
Future Events: Anticipatory Search Warrants	384
Restrictions on Issuing Search Warrants for Obscenity Offenses	385
Examples of Statements of Probable Cause	386
Execution and Return of the Search Warrant	390
Jurisdiction to Execute a Search Warrant	390
Time of Execution	390
Notice and Entry	391
Scope of the Search	393
<i>Outbuildings</i>	393
<i>Where Officers May Search</i>	393
<i>Assistance from Private People and Dogs</i>	393
<i>News Media Presence during Search</i>	393
<i>Seizure of Items in Plain View</i>	394
<i>Vehicles on the Premises</i>	395
<i>Length of Time to Search</i>	395
People on the Premises	395
<i>Public Place</i>	395
<i>Nonpublic Place</i>	395
Detaining and frisking	395
Searching people present for evidence	396

Inventory of Seized Property	397	
Return of the Search Warrant	397	
Sealing Search Warrant from Public Inspection	397	
Disposition of Seized Property Pending Trial	397	
Search Warrants in Areas of Riot or State of Emergency	398	
Special Frisk Authority	398	
<i>Frisking People Close to Existing Riots</i>	398	
<i>Frisking Curfew Violators</i>	398	
Special Search Warrants to Search Vehicles	398	
Magistrate's Order to Seize Cruelly Treated Animal	399	
Part II. Administrative Inspection Warrants	425	
Authority for Issuing Administrative Inspection Warrants	425	
Issuing an Administrative Inspection Warrant	426	
The Judicial Official's Territorial Jurisdiction Warrant Forms	426	426
Completing Warrant Forms	426	
<i>Periodic Inspection Warrant</i>	426	
<i>Warrant Based on a Particular Condition or Activity</i>	427	
Generally	427	
Inspection of a fire scene	427	
Execution of an Administrative Inspection Warrant	428	
Emergency Inspection without a Warrant	429	
Warrantless Inspections of Pervasively Regulated Industries	429	
Part III. Nontestimonial Identification Orders	429	
Introduction	429	
Authority to Conduct Nontestimonial Identification Procedures	431	
Application for the Order and Issuance of the Order; Adult and Juvenile Suspect Forms	431	
Service of the Order and Modification of the Order	432	
The Nontestimonial Identification Procedure	433	
Criminal and Civil Contempt	433	
Return of the Order and the Inventory of Results	434	
Defendant's Request for a Nontestimonial Identification Order	434	
Other Lawful Identification Procedures	434	
Juveniles and Nontestimonial Identification Procedures	434	
Blood Samples	435	
Juvenile's Age	435	
Showup Identification Conducted Shortly after Crime without Nontestimonial Identification Order	436	
Transfer of Juvenile's Case to Adult Court	436	
Chapter 4 Appendix: Case Summaries	437	
I. Search Warrants	445	
Probable Cause	445	
Generally	445	
Timeliness or Staleness of Information	452	
Information from a Confidential Informant	454	
<i>Informant's Credibility or the Reliability of the Informant's Information</i>	454	
<i>Informant's Basis of Knowledge</i>	454	
Information from a Citizen Informant	455	
Probable Cause for Premises to Be Searched	455	
Probable Cause for Property to Be Seized	459	
Probable Cause for Body-Cavity Search	459	
Objective Standard in Considering an Officer's Information	459	
Anticipatory Search Warrants	460	
Descriptions in a Search Warrant	462	
Description of the Premises to Be Searched	462	
Description of the Property to Be Seized	462	
Description Incorporated by Reference to Affidavit	463	
Search Warrants for Computers	464	
Search Warrants for Obscene Materials	465	
A Neutral and Detached Magistrate	466	
Executing a Search Warrant	467	
Notice and Entry	467	
People Present during the Execution of a Search Warrant	470	
<i>Detaining People Present</i>	470	
<i>Searching People Present</i>	472	
<i>Frisking People Present</i>	472	
<i>Strip Search of Person Named in Search Warrant to Be Searched</i>	473	
Territorial Jurisdiction to Execute a Search Warrant Motive in Executing a Search Warrant	473	473
Second Entry under Same Search Warrant	474	
Service of a Search Warrant and Completion of an Inventory	474	
Objectively Reasonable Conduct in Executing a Search Warrant	475	
Using a Search Warrant to Take Blood	475	
Bringing News Media or Third Parties during Execution of a Search Warrant	476	
Scope of the Search and Seizure with a Search Warrant	476	
Seizing Items in Plain View	476	
Searching Buildings Not Named in the Warrant	478	
Searching Vehicles Not Named in the Warrant	479	

Challenging the Validity of a Search Warrant	479	
Truthfulness of the Information	479	
Use of Unconstitutionally Obtained Evidence	480	
Revelation of a Confidential Informant's Identity at a Suppression Hearing or Trial	481	
Possible Defects in a Search Warrant or the Procedure in Issuing a Search Warrant	483	
Generally	483	
An Officer's Civil Liability	484	
Exclusionary Rules Particularly Applicable to Search Warrants	484	
Exclusionary Rules under United States Constitution	484	
Exclusionary Rules under the North Carolina Constitution	486	
North Carolina's Statutory Exclusionary Rule	486	
Fifth Amendment Issues When Personal or Business Records Are Seized	489	
II. Administrative Inspections	489	
Probable Cause	489	
Warrantless Administrative Inspections	490	
Generally	490	
Inspection of a Fire Scene	491	
Descriptions in Administrative Inspection Warrants	492	
Consent to Authorize Inspections	492	
Procedure in Issuing or Executing Administrative Inspection Warrants	492	
III. Nontestimonial Identification Procedures and Orders	492	
Constitutional Issues	492	
The Sixth Amendment Right to Counsel and Statutory Right to Counsel	496	
Requiring Defendant to Undergo Nontestimonial Identification Procedure before Jury	497	
Authority to Conduct Nontestimonial Identification Procedures	497	
Mandatory and Permissive Use by the State	497	
Using Force to Take Blood	498	
Juveniles	499	
Alternative of Using a Search Warrant	499	
Defendant's Request for a Nontestimonial Identification Order	499	
The Nontestimonial Identification Procedure	500	
Suppression Motions	500	
IV. Suppression Motions and Hearings; Exclusionary Rules	500	
Contents of Suppression Motion	500	
Timing of Suppression Motion	501	
Suppression Motion Made during Trial	502	
Suppression Motion Based on Newly Discovered Evidence	502	
Trial Court's Ruling on Suppression Motion	502	
When Trial Court's Ruling Must Be Made	502	
Trial Court's Findings of Fact and Conclusions of Law	503	
Whether Another Jurisdiction's Ruling Is Binding on North Carolina Courts	503	
Trial Court Modifying Its Own Suppression Ruling	503	
Trial Court Modifying Another Trial Court's Suppression Ruling	504	
Suppression Hearings	504	
Admissibility of Hearsay at Suppression Hearing	504	
Appellate Review of Suppression Motions and Rulings	505	
Standing to Contest Fourth Amendment Violations	506	
Standing to Contest Fifth Amendment Violations	514	
General Exclusionary Rules	514	
Scope of Fourth Amendment Exclusionary Rule	514	
Direct Evidence	515	
Derivative Evidence: Fruit of the Poisonous Tree	515	
The Independent-Source Exception	516	
The Inevitable-Discovery Exception	520	
Impeachment with Unconstitutionally Obtained Evidence	523	
Other Exclusionary Rule Exceptions	523	
North Carolina's Statutory Exclusionary Rule	525	
Chapter 5		
Interrogation and Confessions, Lineups and Other Identification Procedures, and Undercover Officers and Informants	527	
Part I. Interrogation and Confessions	529	
Introduction	529	
Unconstitutional Seizure and the Resulting Statement	530	
Consequences of Violating North Carolina's Statutes	531	
Recording Custodial Interrogations at a Place of Detention	531	

Voluntariness of the Defendant's Statement	533
The <i>Miranda</i> Rule and Additional Statutory Rights	534
Overview	534
<i>The Public-Safety Exception</i>	535
<i>The Booking-Questions Exception</i>	535
<i>A Young Arrestee's Additional Statutory Warnings and Rights</i>	536
<i>Whether Miranda Warnings Must Be Repeated If There Is a Lapse in Interrogation</i>	536
<i>Deliberate Technique of Question Arrestee First, Give Miranda Warnings Later</i>	537
When the <i>Miranda</i> Rule Applies:	
Custody and Interrogation	537
<i>The Meaning of "Custody"</i>	537
The seizure of a person under the Fourth Amendment	537
Functional equivalent of custody	538
The focus of the investigation	539
The officer's unarticulated knowledge or beliefs	539
General on-the-scene questioning	539
Inmate in jail or prison	539
Age of a juvenile	540
<i>The Meaning of "Interrogation"</i>	540
Volunteered statements	540
Questions by undercover law enforcement officers or by non-law enforcement officers	541
Request for consent to search	542
Waiver of <i>Miranda</i> Rights	542
A Defendant's Assertion of the Right to Remain Silent and the Right to Counsel	542
<i>Asserting the Right to Remain Silent</i>	543
<i>Asserting the Right to Counsel</i>	543
When assertion of right to counsel may be made	543
Equivocal and unequivocal requests for counsel	543
Partial assertion of right to counsel	544
Request to speak to a person who is not a lawyer	544
Resumption of Interrogation after the Defendant's Assertion of Rights	544
<i>The Right to Remain Silent</i>	545
<i>The Right to Counsel</i>	546
<i>Edwards v. Arizona</i> and prohibiting interrogation after assertion of right to counsel	546
<i>Arizona v. Roberson</i> and prohibiting interrogation about unrelated crimes while defendant remains in continuous custody	547
<i>Minnick v. Mississippi</i> and defendant's consultation with a lawyer after asserting the right to counsel	547
<i>Maryland v. Shatzer</i> and break in custody permitting reinterrogation	547
Defendant's initiation of communication with officers	549
A Defendant's Sixth Amendment Right to Counsel	550
Separate Determination for Each Criminal Charge	551
Assertion of the Sixth Amendment Right to Counsel	551
<i>Patterson v. Illinois</i>	551
<i>Montejo v. Louisiana</i>	552
Sixth Amendment Right to Counsel and the Defendant's Custody Status	552
Waiver of the Sixth Amendment Right to Counsel	553
The Sixth Amendment Right to Counsel and the Use of Informants to Obtain Statements	553
Part II. Lineups and Other Identification Procedures	557
Introduction	557
Legal Requirements	557
Juveniles	558
Nonsuggestiveness of the Identification Procedure under Due Process Clause	558
The Sixth Amendment Right to Counsel at Identification Procedures	559
Sixth Amendment Right to Presence of Counsel at Lineups or Showups	559
<i>Separate Determination for Each Criminal Charge</i>	560
Photo Lineup	560
Waiver of the Right to Counsel	560
A Defendant's Refusal to Participate	560
North Carolina Statutory Procedures for Live Lineups and Photo Lineups	561
Part III. Undercover Officers and Informants	562
Constitutional Issues	563
Fourth Amendment Issues	563
Fifth Amendment Issues	563
Sixth Amendment Issues	563
Entrapment	563
Confidentiality of Informants	564
Challenge of Probable Cause	564
Defense at Trial	565
Chapter 5 Appendix: Case Summaries	567
I. Interrogation and Confessions	573
Voluntariness of the Defendant's Statement	573
Generally	573
Use of Deception	577
Mental Capacity to Confess	577
Intoxication	577
Confession Made after an Involuntary Confession	578

Defendant's Statements: <i>Miranda</i>	
Warnings and Waiver	578
Generally	578
Adequacy of <i>Miranda</i> Warnings	582
<i>Generally</i>	582
<i>Warnings in Foreign Languages</i>	582
<i>Necessity to Repeat Warnings</i>	583
Waiver of <i>Miranda</i> Rights	583
<i>Generally</i>	583
<i>Waiver When There Are Foreign Language Issues</i>	586
The Public Safety Exception	587
The Booking-Questions Exception	589
Questioning by Non-Law Enforcement Officers	590
The Meaning of "Custody" under <i>Miranda</i>	592
Generally	592
Traffic Cases	604
Prisoners and Jail Inmates	606
Juveniles	606
Military Personnel	608
Polygraph Cases	608
The Meaning of "Interrogation" under <i>Miranda</i>	609
Generally	609
Request for Consent to Search	614
Volunteered Statements	615
Assertion of <i>Miranda</i> Rights	616
Assertion of the Right to Remain Silent	616
Assertion of the Right to Counsel	620
Evidentiary Use of a Defendant's Silence or Assertion of Right to Counsel or Right to Remain Silent	634
Use of Evidence Obtained as the Result of a <i>Miranda</i> Violation	637
North Carolina Statutory Warnings for Young Arrestees	640
Fifth Amendment Issues and Court-Ordered Mental Examinations	642
The Defendant's Sixth Amendment Right to Counsel	643
Generally	643
Polygraph Examination Issues	650
Mental Examination Issues	651
Use of Informants to Obtain Statements	652
Use of Evidence Obtained as the Result of a Violation of the Sixth Amendment Right to Counsel	654
Admission of Defendant's Statements after an Alleged Unconstitutional Arrest	655
When an Unconstitutional Arrest Occurred	655
When an Unconstitutional Arrest or Seizure Did Not Occur	655
Defendant's Statements after a North Carolina Statutory Violation	656
Voluntariness of a Witness's Statement	657
Defendant's Trial Testimony Allegedly Induced by Introduction of Illegally Obtained Statement	657
Scope of Fifth Amendment Privilege of a Defendant or Witness at Trial	658
Admissibility of Written Confession	663
Foreign National's Notification under Vienna Convention and Admissibility of Defendant's Statements	663
Motions to Suppress and Suppression Hearings	664
II. Lineups and Other Identification Procedures	664
The Sixth Amendment Right to Counsel at Identification Procedures	664
Nature of the Identification Procedure	664
<i>In-Person Lineup or Showup</i>	664
<i>Photographic Lineup</i>	665
When the Right to Counsel Attaches	665
The Exclusionary Rule When the Right to Counsel Is Violated	665
Due Process Review of Identification Procedures	665
Generally	665
Identification after an Unconstitutional Arrest	668
Statutory Procedures Involving Lineups	668
Statutory Restrictions on the Use of Identification Procedures with Young People	669
Chapter 6	
Rules of Evidence in Criminal Cases	671
Introduction	673
Kinds of Evidence	674
Direct and Circumstantial Evidence	674
Testimonial, Real, Documentary, Illustrative, and Substantive Evidence	674
Judicial Notice	674
Witnesses	674
Competence of Witnesses	674
<i>Generally</i>	674
<i>Spouses</i>	674
Direct Examination of Witnesses	675
<i>Leading Questions</i>	675
<i>Support of a Witness's Testimony</i>	675
Cross-Examining Witnesses	675
<i>Impeaching a Witness's Testimony</i>	675
<i>Impeaching a Witness with a Prior Conviction</i>	676
<i>Impeaching One's Own Witness</i>	676
Recollection	676
<i>Refreshing Recollection</i>	676
<i>Recorded Past Recollection</i>	676
Opinion Evidence, Including Expert Testimony	677
<i>Lay Opinion</i>	677
<i>Expert Opinion</i>	677

Character Evidence	678	
<i>Character Traits of Testifying Witnesses</i>	678	
<i>Character Traits of Criminal Defendants</i>	678	
<i>Character Traits of Homicide or Assault Victims</i>	678	
<i>Prior Sexual Behavior of Sexual Assault Victims</i>	678	
<i>Rule 404(b): Other Offenses or Bad Acts Committed by the Defendant</i>	679	
Privileges	679	
<i>Confidential Communications between Spouses</i>	679	
<i>Attorney–Client Privilege</i>	679	
<i>Physician–Patient Privilege</i>	680	
<i>Other Privileges</i>	680	
Hearsay	680	
Definition	680	
Exceptions to the Hearsay Rule	681	
<i>When It Is Unnecessary to Prove That Hearsay Declarant Is Unavailable to Testify</i>	681	
Admissions, including statements by co-conspirators	681	
Statement made for medical diagnosis or treatment	681	
Excited utterance	682	
Existing mental, emotional, or physical conditions	682	
Present sense impression	682	
Business records	682	
Public records or reports	682	
Residual hearsay exception	683	
<i>When It Is Necessary to Prove That Hearsay Declarant Is Unavailable to Testify</i>	683	
Former testimony	683	
Statement under belief of impending death (dying declaration)	683	
Statement against interest	683	
Residual hearsay exception	684	
Constitutional and Related Statutory Issues	684	
Constitutional Duty to Provide Evidence Materially Favorable to a Defendant; Related Statutory Obligations	684	
Lost or Destroyed Evidence; Related Statutory Obligations	684	
Confessions That Implicate Another at a Joint Trial	685	
Miscellaneous Evidentiary Issues	685	
Introduction of Forensic and Chemical Analysis Reports and Affidavits through Notice and Demand Statutes	685	
<i>Forensic Analyses</i>	685	
<i>Chemical Analyses of Blood or Urine</i>	686	
<i>Chemical Analyst’s Affidavit in District Court</i>	686	
<i>Chemical Analyses in Drug Cases</i>	686	
Breath-Testing Instrument Records and Permits	686	
Division of Motor Vehicles Records	686	
Public Records	686	
Authentication of Physical Evidence or Documents: Chain of Custody	687	
<i>Statutory Methods for Establishing Chain of Custody for Evidence Concerning Forensic and Chemical Analyses</i>	688	
Authentication of Audio and Video Recordings	688	
Polygraph (Lie Detector) Evidence	688	
Hypnotically Refreshed Testimony	689	
Admissibility of a Defendant’s Written Confession	689	
Best Evidence Rule	689	
Proof of Local Ordinances	690	
Return of Property to Owner	690	
Indexes		
Index of Cases in the Case Summaries	691	
Subject Index	713	

Preface

This book explains the legal rules that govern an officer's authority to enforce laws and to investigate criminal offenses. It also explains the basic rules of evidence in criminal cases. In addition, it provides—in the footnotes to the text and in the case summaries sections—appellate cases and statutory references to assist in researching particular issues. However, a new law enforcement officer need only read the text to understand the basic legal rules.

The text describes what I believe is the prevailing law in North Carolina state courts and, if the law is unclear, what appears likely to be the prevailing law. The text relies primarily on North Carolina and federal statutory law and on cases of the United States Supreme Court, North Carolina Supreme Court, and North Carolina Court of Appeals, although other appellate court cases are sometimes cited and discussed. The text is current with statutory law and case law through June 2011.

I sometimes cite legal treatises in the footnotes and case summaries. The reader should be aware, however, that treatises sometimes criticize United States Supreme Court and other appellate court rulings and thus disagree with prevailing law. Therefore, they do not necessarily state what is the law in North Carolina state courts. Still, they are valuable aids in understanding legal issues.

The footnotes may refer to appellate cases that are not mentioned in the case summaries, and vice versa. Thus the reader may want to check both sources for reference material on particular issues.

This is the fourth edition of a book originally published in 1986. The second edition was published in 1992 and the third edition in 2003. The book modifies the organization of prior editions by placing supplementary material in footnotes at the bottom of the text instead of as notes at

the end of each chapter. It also places relevant case summaries sections at the end of each chapter (there are no case summaries for Chapters 1 and 6) instead of placing all of the case summaries sections at the end of Chapter 6. I hope the reorganization facilitates a reader's access to relevant information.

I thank the following people for their assistance. School of Government faculty member Jeff Welty read several excerpts and offered helpful comments, and his publications—particularly about electronic devices, communications, and surveillance—facilitated my writing about these issues. The following people also read excerpts and offered helpful comments: School of Government faculty members Shea Denning, Jamie Markham, and Janet Mason; John H. Watters, Special Deputy Attorney General and Legal Counsel to the State Bureau of Investigation, North Carolina Department of Justice; Ike Avery, Special Deputy Attorney General (retired), North Carolina Department of Justice; Matt Osborne and Troy D. Page, both Associate Counsel, Administrative Office of the Courts. I also thank School of Government faculty members John Rubin and Jessica Smith, whose publications facilitated my writing about pertinent legislation.

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I welcome comments about this book's scope, organization, or content. Comments may be sent to me at farb@sog.unc.edu.

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