

**SMITH, RODGERS & STRICKLAND, PLLC**

**REPRESENTATIVE CALLS FOR ASSISTANCE**

- **search warrant** - for drug house; 'drug buyer' vehicle has just pulled onto scene during execution of our warrant - "Quick! ... is this car subject to search under our warrant? - by some other search theory?"
- **probable cause to arrest** - resist, delay, obstruct charge (subject ran upon being approached on "beat cab fare" call); "Subject is with me now; he is not the party from the cab, but ran anyway; is this a valid arrest, or should I let him go?"
- **involuntary commitment** - Order issued in County A; respondent located in County B; "Can we serve?; we don't have order in our possession; civil liability if we use force to enter?; to which county do we take respondent anyway?"
- **6th amendment** - defendant jailed on embezzlement, has 6th Amendment counsel; officer to question about credit card fraud while still in custody; "What effect if suspect invokes Miranda counsel? May we even approach him where embezzlement attorney has ordered us to stay away?"
- **execution** - \$9 million execution sale in conflict with trustee action on same real estate; "Something doesn't sound right about this! What do we do? Can we postpone? Then what?"
- **exigent entry** - knock & talk; officers saw drug packaging on motel bed when door briefly opened; "Can we go in without a warrant - kick in the door right now?"
- **trespass or eviction?** - boyfriend's name is not on girlfriend's lease, but he has helped with rent in past; "Does this make a difference legally? Can we arrest him for trespass if girlfriend is ordering him out tonight, and he refuses to leave?"
- **fitness for duty** - 9 pm: Officer Jones arrived at roll - call with a doctor's note specifying that he be assigned to a desk job for the next three weeks; "How do I respond to this?"
- **police canine** - manager of hotel called to report "suspicious characters" staying at hotel; "Can we use canine to sniff cars in parking lot? Doors to occupied hotel rooms? Visitors coming and going from these rooms?"
- **service of summons** - posting of ejectment, a single common entranceway to several apartments, not just defendant's; "Is this valid posting? Landlord is insisting that I get personal service anyway - I've already been out here six times."
- **vehicle stop** - car due to arrive tonight from SC with drugs, per anonymous tip; "Can we stop this car? Can we search it? What about trunk? What corroboration is required?"
- **fire scene** - G.S. § 15 - 27.2 - "Paragraph (c)(1) requires a finding of 'probable cause' for issuance of the administrative warrant; so what's the difference between this and a criminal search warrant under Article 11? Which do we need?"
- **probable cause** - constructive possession of drugs; cocaine in console, the three occupants claim to "know nothing about it." "We're standing by with the car now; can anyone be charged? ...all of them? ...what did that 'NC v. Jackson' case say about this?"
- **forcible entry of premises to arrest** - copy of arrest warrant in hand; "We're down the street from the house right now; warrant is from Carteret; it's just a faxed copy of a warrant ... a misdemeanor larceny; the guy's definitely inside; can we go in?"

- **security guard** - question about use of force and handcuffs; "This guy is basically a bouncer; he's putting people in handcuffs, then calling us to make trespass arrests. Can he do that under G.S. §15A - 404? Are we going to get in trouble if we continue to participate in this?"
- **jurisdiction** - question about "1 mile" and G.S. § 15A - 402(c); "We've arrested this guy, and it turns out we were about 1.2 miles outside; should we let him go? What about the evidence?"
- **vehicle search based on marijuana smell** - "We don't know who was smoking it; but can't we go ahead and search the car anyway, even without arresting anyone?"
- **attachment** - invalid "post-judgment" attachment order; \$178,464; "Can I fax this to you - will you see if you think this order is really legit? Doesn't attachment have to be pre-judgment? There's a judgment right in the court file, and the clerk thinks I'm crazy."
- **search warrant** - to recover lost police equipment (badge fell from uniform) inside private home; "Can we use a search warrant to recover this? If not, can you draft us a motion for a special order?"
- **SRO** - imminent felony drug arrest to occur on school property; "Help us think through this; we don't have a warrant; do you agree with our probable cause?"
- **execution** - alienability of inter vivos contingent remainder; \$480,000 judgment; "Attorney is pissed, insists that the Sheriff begin the execution process immediately; I have no idea what an 'inter vivos - thing' is; something I can sell? How do I begin? Will you talk to this attorney for me?"
- **consent search** - 15-year-old; parents' home; "Can we rely on consent from this girl just to go inside the living room, and no further?"
- **trespass v. eviction** - parent-child situation; 20-year-old son; "He moved back in two years ago, has been on drugs and now threatened to 'tear the house up'; can we arrest him for trespass before he hurts someone? What if we don't arrest him?"
- **search incident to arrest** - pager and cell phone; "It's okay for us to 'download' all these phone numbers, right?"
- **report documentation** - use of force; "We pepper-sprayed this guy when he tried to swallow ten crack rocks; how should we document this in our reports?" Are there any key legal facts that we should be sure to address?"