

§ 15A-293. Issuance of order for electronic surveillance; procedures for implementation.

(a) Upon application by the Attorney General pursuant to the procedures in G.S. 15A-291, a judicial review panel may enter an ex parte order, as requested or as modified, authorizing the interception of wire, oral, or electronic communications, if the panel determines on the basis of the facts submitted by the applicant that:

- (1) There is probable cause for belief that an individual is committing, has committed, or is about to commit an offense set out in G.S. 15A-290;
- (2) There is probable cause for belief that particular communications concerning that offense will be obtained through such interception;
- (3) Normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous; and
- (4) Except as provided in G.S. 15A-294(i), there is probable cause for belief that the facilities from which, or the place where, the wire, oral, or electronic communications are to be intercepted are being used, or are about to be used, in connection with the commission of such offense, or are leased to, listed in the name of, or commonly used by the individual described in subdivision (1) of this subsection.

(b) Each order authorizing the interception of any wire, oral, or electronic communications must specify:

- (1) The identity of the person, if known, whose communications are to be intercepted;
- (2) The nature and location of the communications facilities as to which, or the place where, authority to intercept is granted, and the means by which such interceptions may be made;
- (3) A particular description of the type of communication sought to be intercepted and a statement of the particular offense to which it relates;
- (4) The identity of the agency authorized to intercept the communications and of the person requesting the application; and
- (5) The period of time during which such interception is authorized, including a statement as to whether or not the interception automatically terminates when the described communication has been first obtained.

(c) No order entered under this Article may authorize the interception of any wire, oral, or electronic communication for any period longer than is necessary to achieve the objective of the authorization, nor in any event longer than 30 days. Such 30-day period begins on the earlier of the day on which the investigative or law enforcement officer first begins to conduct an interception under the order or 10 days after the order is entered. Extensions of an order may be granted, but only upon application for an extension made in accordance with G.S. 15A-291 and the panel making the findings required by subsection (a) of this section. The period of extension shall be no longer than the panel determines to be necessary to achieve the purpose for which it was granted and in no event for longer than 30 days. Every order and extension thereof must contain a provision that the authorization to intercept be executed as soon as practicable, be conducted in such a way as to minimize the interception of communications not otherwise subject to interception under this Article, and terminate upon attainment of the authorized objective, or in any event in 30 days, as is appropriate. In the event the intercepted communication is in a code or foreign language, and an expert in that foreign language or code is not reasonably available during the interception period, minimization may be accomplished as soon as practicable after the interception. An interception under this Article may be conducted in whole or in part by State or federal government personnel, or by an individual

operating under a contract with the State or federal government, acting under the supervision of an investigative or law enforcement officer authorized to conduct the interception.

(d) Whenever an order authorizing interception is entered pursuant to this Article, the order may require reports to be made to the issuing judicial review panel showing that progress has been made toward achievement of the authorized objective and the need for continued interception. Such reports must be made at such intervals as the panel may require.

- (1) The contents of any wire, oral, or electronic communication intercepted by any means authorized by this Article must be recorded on tape, wire, or electronic or other comparable device. The recording of the contents of any wire, electronic, or oral communication under this subsection must be done in such way as will protect the recording from editing or other alterations. Immediately upon the expiration of the period of the order, or extensions thereof, the recordings must be made available to the judicial review panel and sealed under its direction. Custody of the recordings is wherever the panel orders. They may not be destroyed except upon an order of the issuing panel and in any event must be kept for 10 years. Duplicate recordings may be made for use or disclosure pursuant to the provisions of G.S. 15A-294(a) and (b) for investigations. The contents of any wire, oral, or electronic communication or evidence derived therefrom may not be disclosed or used under G.S. 15A-294(c) unless they have been kept sealed.
- (2) Applications made and orders granted under this Article must be sealed by the panel. Custody of the applications and orders may be disclosed only upon a showing of good cause before the issuing panel and may not be destroyed except on its order and in any event must be kept for 10 years.
- (3) Any violation of the provisions of this subsection may be punished as for contempt.

(e) The State Bureau of Investigation shall own or control and may operate any equipment used to implement electronic surveillance orders issued by a judicial review panel and may operate or use, in implementing any electronic surveillance order, electronic surveillance equipment in which a local government or any of its agencies has a property interest.

(f) The Attorney General shall establish procedures for the use of electronic surveillance equipment in assisting local law enforcement agencies implementing electronic surveillance orders. The Attorney General shall supervise such assistance given to local law enforcement agencies and is authorized to conduct statewide training sessions for investigative and law enforcement officers regarding this Article. (1995, c. 407, s. 1; 1997-435, s. 2.1; 2005-207, ss. 2, 3.)