

2.4 Overview of Protections Against Unreasonable Searches and Seizures

The Fourth Amendment to the U.S. Constitution protects “the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.” U.S. CONST. amend. IV. The parallel state constitutional provision provides that “[g]eneral warrants, whereby any officer or other person may be commanded to search suspected places without evidence of the act committed, or to seize any person or persons not named, whose offense is not particularly described and supported by evidence, are dangerous to liberty and shall not be granted.” N.C. CONST. art. I, § 20. Both constitutional provisions “require[] the exclusion of evidence obtained by unreasonable search and seizure.” *State v. Carter*, 322 N.C. 709, 712 (1988).

Attorneys should raise challenges to unreasonable searches and seizures under both state and federal constitutional provisions and argue specifically that the protections afforded by the state constitution are broader than those guaranteed by the federal constitution. North Carolina appellate courts have ordinarily construed search and seizure provisions in the North Carolina and federal constitutions as protecting the same rights, but state courts may interpret their state constitutions as providing greater protections. *See, e.g., Virmani v. Presbyterian Health Servs. Corp.*, 350 N.C. 449, 475 (1999) (stating that “the United States Constitution provides a constitutional floor of fundamental rights guaranteed all citizens of the United States, while the state constitutions frequently give citizens of individual states basic rights in addition to those guaranteed by the United States Constitution”); *Jones v. Graham Cnty. Bd. of Educ.*, 197 N.C. App. 279, 289–93, (2009) (noting that “[i]f we determine that the policy does not violate the Fourth Amendment, we may then proceed to determine whether Article I, Section 20 provides basic rights in addition to those guaranteed by the [Fourth Amendment]” (quotation omitted)).