

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR DIVISION

IN RE: \_\_\_\_\_ }  
SEARCH WARRANTS ISSUED }  
IN CONNECTION WITH THE }  
INVESTIGATION INTO THE }  
DEATH OF NANCY COOPER }

RESPONSE TO MOTION TO  
UNSEAL SEARCH WARRANTS

Now comes the State, by and through the District Attorney, responding to the motion to unseal search warrants. The State shows the Court the following:

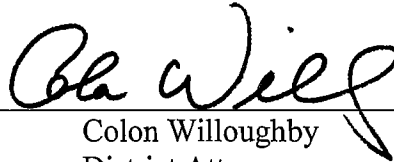
1. The Cary Police Department initiated an investigation on July 12, 2008, into the disappearance of Nancy Cooper, a resident of Cary, N. C.
2. That Nancy Cooper's remains were found near Cary, N. C. on July 14, 2008.
3. That Nancy Cooper's death is believed to be a homicide and is being investigated as such by the Cary Police Department.
4. That pursuant to statutory duties imposed in North Carolina General Statute §7A-61 and the Rules of Professional Conduct, the Office of District Attorney for the 10<sup>th</sup> Prosecutorial District (Wake County) has and continues to advise the Cary Police Department during the course of this investigation.
5. That the Cary Police Department prepared applications for three search warrants in this investigation and presented them to Senior Resident Superior Court Judge Donald W. Stephens on July 16, 2008, July 21, 2008, and July 25, 2008.
6. That the applications for search warrants include affidavits of the applicant that contain information of facts, circumstances, test results, interview of witnesses, observations of crime scenes and numerous other facts pertaining to the investigation of a particular crime.
7. The premature release of that information publicly, before sufficient evidence has been gathered, evaluated, preserved, and presented to a judicial official or grand jury for appropriate action, could, and most

likely would, impede the ability of officials to professionally conduct the investigation and properly prosecute any offender against whom charges were warranted.

8. The ability of investigators to properly evaluate statements from witnesses and compare those statements to facts known only to investigators, but not to the general public, would be compromised by releasing confidential details of the investigation to the public and news media outlets.
9. The release of confidential information may alert an offender and cause that person to flee or destroy potentially crucial evidence.
10. That once an investigation is concluded and an arrest has been made, the need for confidentiality may be lessened and a judicial official can balance the various public interests.
11. That to release confidential information during the course of the investigation could bring public condemnation to individuals who are innocent and it may materially prejudice an adjudicative proceeding of someone who is subsequently charged with a crime.
12. That prosecutors for the 10<sup>th</sup> District have advised the Cary Police Department that information gathered in this investigation, and the information contained in the affidavits for search warrants, should be kept confidential during the course of the investigation.
13. On information and belief, the Cary Police Department notified the judge issuing the search warrants of the prosecutors' request that the search warrants be sealed.
14. On information and belief, the State alleges that the immediate release of information contained in search warrants in this investigation will undermine an ongoing investigation and may jeopardize the State's ability to prosecute an offender, or the offender's ability to receive a fair trial.
15. That the records of the search warrants are preserved by the Clerk of Court and will be available for public review and evaluation when the investigation is complete.
16. That the public's interest in having immediate access to details of a pending homicide investigation is outweighed by the public's interest in having a properly conducted investigation and fair prosecution of an offender.

WHEREFORE, the State prays that the motion be denied and that the search warrants remain sealed at the current time.

This is the 30 day of July, 2008



Colon Willoughby  
District Attorney

#### CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Response was served by hand delivery upon Hugh Stevens, Attorney for Capitol Broadcasting Company, Incorporated, and the News and Observer Publishing Company on the 30 day of July, 2008, by personal delivery of the Response to the offices of Everett, Gaskins, Hancock & Stevens, LLP, 127 W. Hargett Street, Suite 600, Raleigh, North Carolina 27602



Colon Willoughby  
District Attorney