



PROBABLE CAUSE ARRESTS

POLICY.

All law enforcement officers (LEOs) who bring an arrestee into the Deschutes County Sheriff's Office – Adult Jail (AJ) on a warrantless arrest between Friday at 0600 hours and Saturday afternoon (Sunday afternoon on three-day weekends), must provide a probable cause statement so a judge can determine whether probable cause exists for the arrest. Deputies must not delay judicial review for probable cause. Improper documentation and unreasonable delay can result in a person being unlawfully detained.

PURPOSE.

The purpose of this policy is to provide guidelines to members on how to process certification of probable cause forms and have a judge review them.

OREGON JAIL STANDARDS:

- B-203 Warrantless Arrests
- B-204 Probable Cause Reviews

REFERENCES:

- ORS 131.005(11), General Definitions (probable cause)
- ORS 133.310, Authority of Peace Officer to Arrest Without Warrant
- ORS 135.175, Discharge (of defendant because of no probable cause)
- ORS 135.711 to 135.743, Sufficiency of Accusatory Instruments

DEFINITIONS:

Certification of Probable Cause. (CPC) A form used to explain the reason for an arrest and existing probable cause to support the arrest.

Order of Probable Cause Determination. A form provided by the court that is reviewed by a judge to determine if probable cause exists for an arrest.

Probable cause. (PC) Substantial objective basis for believing that more likely than not an offense has been committed and a person to be arrested has committed it. (ORS 131.005(11))

PROCEDURES:

SECTION A: PROBABLE CAUSE AFFIDAVIT

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- A-1.** An arresting LEO is required to complete a custody intake form. Additionally, the LEO is required to complete a *Certification of Probable Cause Form (CPC)* on any PC arrestee when the PC arrest occurs between Friday at 0600 hours and Saturday afternoon (Sunday afternoon on three-day weekends). The AJ provides intake custody and *Certification of Probable Cause Forms* to arresting LEOs. The forms are available in the intake area.
- A-2.** The arresting LEO submitting a CPC must write the facts, as the LEO knows them. A copy of the arrest report may be included to support, but not replace the CPC to explain probable cause and why the person was arrested. The arresting LEO will complete the form and provide:
- a) The arresting agency case number
 - b) The arrestee's name
 - c) The arresting LEO's name
 - d) The date and time of the arrest
 - e) The charge or charges the arrestee was arrested on
 - f) A statement explaining why probable cause exists for the arrest
 - g) The arresting LEO's printed name
 - h) The arresting LEO's signature
- A-3.** Before accepting the CPC, a deputy will check it for completeness. Members will not review the CPC for accuracy of the information or justification for PC arrest.
- A-4.** Probable cause affidavits (CPC) are public records available to the media. The arresting LEO may have a legitimate investigative reason to keep the CPC from being released to the media. The arresting LEO may stamp the CPC, "Do Not Release. Ongoing Investigation."

SECTION B: JUDICIAL REVIEW OF THE CERTIFICATION OF PROBABLE CAUSE

- B-1.** Supervisors will contact the on-call judge to review the CPC on each arrestee in custody within 48 hours of the arrest if the inmate will not be arraigned before a judge. Delays may only occur for emergency or extraordinary circumstances, not including weekends, holidays, or to combine a PC review with an arraignment.
- B-2.** During weekdays, if the arresting LEO submits a CPC, members will place the completed form in the Court mailbox in the booking room. Each weekday, the Release Assistance Officer (RAO) or Court Security/Transports deputies will collect the completed forms and forward them to the court for a judicial review.
- B-3.** The on-call judge will contact the jail by phone on weekends; a shift supervisor will review the CPC with the judge. After reviewing the CPC with the judge, the supervisor will place the date, time, judge's name, and sign the Order of Probable Cause Determination Form. The supervisor will place reviewed forms in the Court mailbox.

- B-4.** On weekends, a supervisor will contact the on-call judge if a judge did not call in for the PC review, ensuring inmates receive probable cause reviews within 48 hours of their arrest.

SECTION C: NO PROBABLE CAUSE

- C-1.** If a judge reviews the CPC and determines that no probable cause exists for the arrest, the shift supervisor will take immediate steps to release the arrestee. As a courtesy, the supervisor may inform the arresting LEO of the judge's decision and the release of the arrestee. The supervisor will then submit a detailed report explaining all relevant information concerning the release.

FORMS USED:

- Certification of Probable Cause form (PC), Circuit Court Form (October 30, 2007)
- Order of Probable Cause Determination, Circuit Court Form