

## **PROBABLE CAUSE ARRESTS**

### **POLICY.**

All officers who bring an arrestee into the jail on a warrantless arrest between Friday arraignment and Saturday afternoon (Sunday afternoon on three-day weekends), must provide a probable cause statement in a timely manner so a judge can determine whether probable cause exists for the arrest. Corrections 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 staff 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 explains that probable cause exists 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***

- A-1.** In addition to the completed intake custody form that will always be completed by the arresting officer, the intake deputy will receive a completed *Certification of Probable Cause Form (CPC)* from the arresting officer on any PC arrestee if the PC arrest occurs between Friday arraignment and Saturday afternoon (Sunday afternoon on three-day weekends). The jail will provide intake custody and *Certification of Probable Cause Forms* to the arresting officer. The forms are available in the intake area.
- A-2.** The arresting officer writing a CPC must write the facts, as the officer knows them. A copy of the arrest report may be used to support, but not replace the CPC to explain probable cause and why the person was arrested. The arresting officer will complete the form and provide:
- a) The arresting agency case number
  - b) The arrestee's name
  - c) The arresting officer's name
  - d) The date and time of the arrest
  - e) The charge or charges the arrestee was arrested on
  - f) The statement that explains why probable cause exists for the arrest
  - g) The arresting officer's printed name
  - h) The arresting officer's signature
- A-3.** Before accepting the CPC, the intake deputy will check it for completeness, but not for the accuracy of the information or justification for PC arrest.

***SECTION B: JUDICIAL REVIEW OF THE CERTIFICATION OF PROBABLE CAUSE***

- B-1.** Corrections supervisors will have a judge review the CPC on an 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 officer submits a CPC, the booking staff will place the completed form in the Court box in the booking room. Each weekday, the DCAJ transport deputies will collect the completed forms and forward them to the court for a judge to review.
- B-3.** The on-call judge will contact the jail by phone on weekends; a shift supervisor will review the CPC with the on-call 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 box, for the DCAJ transport deputies to pick up the following business day and deliver to the courts.

**B-4.** On weekends, a shift supervisor will contact the on-call judge if a judge did not call in for the PC review, ensuring that 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 on the court order that no probable cause exists for the arrest, the shift supervisor must take immediate steps to release the arrestee without reasonable delay. As a courtesy, the supervisor may inform the arresting officer of the judge's decision and the release of the arrestee. The shift supervisor will then submit a detailed report explaining all relevant information concerning the release and how it was ordered.

**FORMS USED:**

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