

TEN GUIDELINES FOR FINDING PROBABLE CAUSE

1. IT'S ART, NOT SCIENCE:

PC is determined on a **case-by-case basis**, but there are rules to be followed.

2. FOUR CORNERS RULE:

If it's not in the affidavit, you don't know it.

Additional facts from the officer can't be considered.

3. THE FINDING OF PROBABLE CAUSE IS BASED ONLY ON FACTS:

Opinions and **conclusions** in the affidavit should be IGNORED.

4. HEARSAY CAN BE INCLUDED IN THE AFFIDAVIT:

Hearsay is information that comes from someone other than the person talking.

Example:

Bob assaults Mary and during the assault Bob made a threatening comment.

Mary tells the police the comment that Bob made.

What Bob said is considered hearsay when Mary repeats it to the police.

5. IF THE CRIME INVOLVES MONETARY LOSS, THE AFFIDAVIT MUST STATE THE VALUE OF THE PROPERTY STOLEN OR DAMAGE CAUSED.

Cash/property stolen: Stating the amount and how the amount was determined is good enough.

Property damage: cost of repair or fair market value (if completely destroyed) and the method for determining value must be stated.

6. CONFESSIONS

If a confession by the accused (written or oral), plus the elements of the offense are in the affidavit, probable cause is established.

7. LONG NARRATIVE DOESN'T ALWAYS = PROBABLE CAUSE

A long narrative may give lots of details but still fail to state essential information such as, how and where the information came from, and may be full of opinions and conclusions.

Look for specifics: the affidavit should give facts about the who, what, when, where, why, and how of the crime.

8. TOTALITY OF THE CIRCUMSTANCES:

Consider **all the facts** in the affidavit before making a decision.

9. REASONABLE INFERENCES:

Use common sense.

Don't be hyper-technical.

10. LEGAL WORDING IS NOT REQUIRED:

Fancy wording is not necessary.

Don't get worried about misspelled words or bad grammar.

If it makes sense and you determine PC, it's fine.