

OFFICE OF CHIEF OF POLICE
OAKLAND POLICE DEPARTMENT

MEMORANDUM

TO: All Personnel

DATE: 15 Jul 11

SUBJECT: New Departmental General Order E-7,
PROBABLE CAUSE DECLARATION

The subject order has been published to set forth Departmental policy and procedures for the completion of Probable Cause Declarations using the eProcess application in the Consolidated Records Information Management System (CRIMS) to ensure compliance with California Penal Code Section 964.

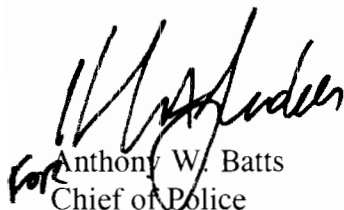
The Evaluation Coordinator for this order shall be the Bureau of Field Operations Administrative Division Commander, who, without further notice, shall forward the required report to the Chief of Police on or by 16 Jan 12.

The Evaluation Coordinator shall receive, review and document the acceptance or rejection of all comments and/or recommendations received prior to submitting his/her six-month evaluation report.

The Evaluation Coordinator shall forward a copy of the six-month evaluation report, along with the comments/recommendations received, to the Research and Planning Division, Policy and Publication Development Unit to be maintained in the appropriate Departmental General Order archive folder.

Personnel shall acknowledge receipt, review, and understanding of this directive in accordance with the provisions of DGO A-1, DEPARTMENTAL PUBLICATIONS.

By order of


for Anthony W. Batts
Chief of Police

Date Signed: 7/13/11



DEPARTMENTAL
GENERAL
ORDER

E-7

Index as:

Probable Cause Declaration

Effective Date:
15 Jul 11

Evaluation Coordinator:
BFO Administrative Division Commander

Evaluation Due Date:
16 Jan 12

Automatic Revision Cycle:
3 Years

PROBABLE CAUSE DECLARATION

The purpose of this order is to set forth Department policy and procedures for the completion of Probable Cause Declarations using the eProcess application in the Consolidated Records Information Management System (CRIMS) to ensure compliance with California Penal Code Section 964.

I. PROBABLE CAUSE DECLARATION

A Probable Cause Declaration (PCD) provides a brief synopsis containing factual and conclusion statements of the incident to support the arrest or the probable cause for an arrest submitted for a complaint with the District Attorney's Office or Juvenile Probation.

PCDs are completed and submitted for judicial review under the following circumstances and classified as one of the following:

A. Daily

1. Whenever an adult arrestee will be charged and brought before a magistrate within 48 hours of arrest; or
2. Whenever a juvenile offender is to be delivered to Juvenile Hall for Booking.

B. Holdover

A Holdover PCD is streamlined to include essential facts necessary to alert the judicial officer as to the reason for detention.

Whenever an adult arrestee is not to be charged and seen by a magistrate within 48 hours of arrest (due to weekend/holiday).

C. Out of Custody (Request for Complaint)

When no person is in custody and a request for complaint is to be presented for charging to the District Attorney's Office (adult) or Juvenile Probation (juvenile).

II. POLICY

- A. A PCD shall be prepared using the "eProcess" application tab in CRIMS.
- B. A PCD is not required if the arrest is for a warrant only; however, an appropriate PCD shall be completed when a new charge accompanies a warrant arrest.
- C. A PCD shall be prepared by an arresting officer.
- D. Supervisors shall review and endorse all required PCDs submitted by subordinates.
- E. In the event of the CRIMS database or other system has failed preventing access to CRIMS, members shall utilize the paper Probable Cause Declaration (TF-2080).
- F. In the event of a complete CRIMS database or other system failure causing a delay which would prevent the On-Call Judge from reviewing a Holdover PCD within the required 48 hours of arrest, the arresting member shall prepare a PCD form and deposit the form at the designated receptacle at the PAB or Eastmont Patrol Desk. A designee shall contact the On-Call Judge to make arrangements for the PCD review between the hours of 0800-1700 unless circumstances prevent the review at this time.
- G. PCDs for anticipated mass arrest incidents require:
 - 1. The preparation of paper PCD forms when CRIMS PC Declaration is not practical.
 - 2. Prior special arrangements with the On-Call Judge for delivery of PCDs.

III. RESPONSIBILITIES

A. Member

The PCD can be recalled and corrected anytime prior to the Judge's finding of probable cause.

Example: If a Holdover is approved by a supervisor and sent to a Judge for review and the arrestee is later released from Santa Rita Jail on either a citation or bail, the PCD can be recalled from the Judge and changed to a Daily.

B. Supervisors

1. Supervisors shall review all pending subordinate PCDs in the supervisory queue within 12 hours of arrest¹ to ensure completeness, the correct classification, and the necessary information is in the PCD Narrative.
2. Supervisors shall approve, append, or return the PCD to the author for correction.

C. Investigative Follow-Up

Investigators may print additional PCD copies and include them with the investigative file being submitted for charging to the District Attorney's Office or Juvenile Probation.

D. Supervisor Follow-Up

1. Supervisors are responsible for monitoring pending Holdover PCDs to ensure the On-Call Judge issues a finding on the PCD within 48 hours of the suspect's arrest.²

¹ The court requests this to be done within the first 12 hours of the arrest to allow enough time for the court to review the PCD.

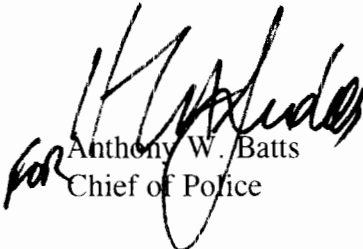
² The online PCD system has an early warning in place advising law enforcement agencies of the impending expiration of an unapproved Holdover PCD. Supervisors may call the On-Call Judge up to 10 PM alerting them of soon-to-expire Holdover PCD.

2. In the event the On-Call Judge denies the PCD, the arresting officer and ALL supervisors will be notified of the denial via email. The immediate supervisor shall contact the On-Call Judge as soon as possible to discuss the reason(s) for the denial.
 - a. In the event the supervisor and arresting officer are off-duty, the Watch Commander shall direct another supervisor to contact the On-Call Judge to discuss the reason(s) for the denial, correct the identified PCD deficiency, and re-submit a new corrected PCD to the on-call Judge.
 - b. If the reason(s) for the denial can be corrected, the supervisor shall have the arresting officer revise and re-submit the PCD for approval.
 - c. In the event the reason(s) for the denial cannot be corrected, the supervisor shall notify the Watch Commander of the PCD denial.
 - d. The Watch Commander or at his/her direction, the supervisor, shall immediately notify the facility where the individual is being held and make arrangements for the individual to be released.

Notification to the facility where the individual is being held shall be notified of the 849(b) (1) PC release by telephone **AND** a copy an Order to Release Prisoner form (TF-2007).

- e. The supervisor shall review the details of the denial and determine whether any MOR violation exists to proceed with an internal investigation.

By Order of


for Anthony W. Batts
Chief of Police

Date Signed: _____

7/13/11