

# City of Johns Creek Police Department

<i>Subject:</i> Probable Cause Affidavits	<i>Number:</i> 04-11	
<i>Reference:</i>	<i>Amends:</i>	
<i>Effective:</i> 04/08	<i>Review Date:</i> Annually	<i># of Pages:</i> 2

## PURPOSE:

Establish procedures for the implementation and use of the Probable Cause Affidavit.

## POLICY: (04-11)

The Probable Cause Affidavit is a sworn document accompanied by an oath and designed to eliminate the requirement an officer be present at initial appearance, probable cause hearings, and diminish the need for the judge to appear after hours for a probable cause hearings. The Probable Cause Affidavit shall be used to document probable cause and list in detail all elements of the defendants crimes for which he/she stands accused. The affidavit is a legal instrument to be used contemporaneously with the arrest and incarceration or booking of the arrested person.

## PROCEDURES:

### Philosophy Behind the Probable Cause Affidavit (04-11-01)

In order to use the Probable Cause Affidavit, the *arresting police officer* must establish:

- A. The Detention Officer is the keeper of all records pertaining to people arrested, and these records are not released to the Records Division until the prisoner has been released on bond.
- B. The Probable Cause Affidavit was completed at the time of the incident.
- C. The Probable Cause Affidavit is a standard form used regularly by the Department and not developed for one specific case.

### Conditions for Use (04-11-02)

The accused must be present at the incident location and the arrest was within the timeliness recognized by the courts before a Probable Cause Affidavit can be considered. In order for a Probable Cause Affidavit to be completed, one of the following must be applicable:

- A. A crime is committed in the presence of an officer.
- B. The suspect admits to a crime.

- C. The officer has the testimony of a person, other than a police officer, that witnessed a crime.
- D. The officer has a completed Retail Theft Affidavit supplied by the store representative, if applicable.

**Procedural Requirements (04-11-03)**

When issued, the Probable Cause Affidavit must be accompanied by a General Criminal Citation or Uniform Traffic Citation, and must be completed *only* by the arresting officer.

The arresting officer shall swear, under oath, with a raised right hand, the information contained in the affidavit is the truth. The affidavit shall contain all the elements of the crime(s) for which the defendant is charged, shall contain sufficient information to establish probable cause the defendant committed said crime(s), and shall contain sufficient information to reflect how the officer determined he/she is the perpetrator.

A notary shall administer the oath and should include the raised right hand of the officer swearing to the oath, and should contain the specific language of, "Do you solemnly swear or affirm the information contained in this affidavit is the truth?"

The original document will be left in the Detention Center and a copy will be attached to the incident report with the copy of the citation and Retail Theft Affidavit if applicable.

Use of the Probable Cause Affidavit does not preclude the possibility the arresting officer may be summoned to testify in any judicial hearing.

