

Fire Investigation Recruit Training Guide

How to Complete a Probable Cause Affidavit for an Arrest Warrant

Purpose and Overview

A Probable Cause (PC) Affidavit is a sworn written statement that establishes the legal basis for arresting a suspect. As a fire investigator, your affidavit must convince a judge that:

1. A crime (arson) was committed
2. The named defendant likely committed it
3. The evidence meets the elements of a specific arson statute

Key Components of the Affidavit

1. Header Information

Fill out completely:

- Defendant's full legal name (Last, First)
- Race/Sex
- Date of Birth
- Physical description (Height/Weight, Hair/Eyes)
- SSN/Driver's License number (if known)
- Current address
- Specific charge and statute number (e.g., "Second Degree Arson 21 O.S. § 1402")

2. Opening Statement

Begin with the standard sworn statement:

"I, [Your Name] #[Commission Number], the Affiant, being first duly sworn, upon oath, depose and say:"

3. Credentials Paragraph

Establish your expertise and authority:

- Current position and agency
- Years of service (total and in fire investigation)
- Number of fires investigated
- Relevant certifications (CLEET, IAAI, etc.)

- Specialized training
- Education

Example: "I am a Fire Investigator and Peace Officer for the City of Oklahoma City. I have been employed with the Oklahoma City Fire Department for X years and assigned to the Fire Investigation Unit for X years. I have investigated approximately X fires..."

4. Probable Cause Introduction

Use this standard language:

"That the facts known to the Affiant which establish probable cause to believe that a criminal offense was committed, and that the offense was committed by the above-named person, are the following:"

5. Case Facts Section

This is the most critical part. Organize chronologically and include:

A. Initial Response

- Date and time of fire
- Exact location (full address)
- Responding units
- Initial observations

B. Scene Investigation

- Fire patterns observed
- Origin determination (be specific about location and methodology)
- Cause determination (eliminate accidental causes)
- Evidence of accelerants or ignition devices
- Photos/video documentation

C. Witness Information

- Statements from firefighters, neighbors, occupants
- Suspicious behavior observed
- Timeline of events
- 911 call information

D. Evidence Collection

- Physical evidence collected
- Chain of custody
- Lab results (if available)
- Surveillance footage
- Electronic data (cell phone records, social media, etc.)

E. Suspect Information

- How the suspect was identified
- Motive (financial, revenge, concealment of crime, etc.)
- Opportunity (access to property, timeline)
- Prior incidents or threats
- Statements made by suspect

6. Linking Facts to Statutory Elements

Explicitly connect your facts to each element of the charged offense:

For First-Degree Arson (21 O.S. § 1401):

- State how the act was willful and malicious
- Describe the fire setting/burning/destruction
- Identify any devices/accelerants used
- PROVE the building was inhabited/occupied
- Show defendant's involvement

For Second-Degree Arson (21 O.S. § 1402):

- Same as above BUT
- PROVE the building was uninhabited/unoccupied

For Third-Degree Arson (21 O.S. § 1403):

- Willful and malicious act
- Property value of \$50+ OR insurance fraud intent
- Defendant's involvement

For Fourth-Degree Arson (21 O.S. § 1404):

- Attempt or preparation to commit arson

- Placement of materials with intent
- Defendant's actions

7. Closing Statement

"Based upon the information provided, your affiant believes there is probable cause to arrest the above-listed defendant, [Full Name], for [Specific Charge and Statute Number]."

Writing Tips

DO:

- Use clear, factual language
- Write in chronological order
- Include specific times, dates, locations
- Use active voice ("I observed" not "It was observed")
- Define technical terms
- Be thorough but concise
- Proofread for accuracy

DON'T:

- Include opinions without factual basis
- Use fire investigation jargon without explanation
- Make conclusory statements without supporting facts
- Include hearsay unless explaining its investigative purpose
- Forget to establish each element of the offense
- Leave out negative evidence that you've ruled out

Common Mistakes to Avoid

1. Insufficient Detail on Origin and Cause

- Wrong: "The fire was arson"
- Right: "Based on burn patterns, witness statements, and elimination of accidental causes..."

2. Failing to Establish Occupancy Status

- Critical for distinguishing between 1st and 2nd degree
- Include evidence like utility records, witness statements, personal belongings

3. Weak Link to Defendant

- Must show more than opportunity
- Include multiple connecting factors

4. **Missing Elements**

- Review the statute and ensure EVERY element is addressed
- Use a checklist before submission

Pre-Submission Checklist

- ☐ All defendant information complete
- ☐ Your credentials clearly stated
- ☐ Each statutory element addressed
- ☐ Facts presented chronologically
- ☐ Evidence properly described
- ☐ Witness statements included
- ☐ Clear connection between defendant and crime
- ☐ Proper legal language used
- ☐ Document proofread for errors
- ☐ Supervisor review completed

Remember

Your affidavit is often the first detailed account a prosecutor sees. A well-written affidavit:

- Speeds up the legal process
- Reduces questions from prosecutors
- Strengthens the case
- Reflects professionalism on you and the department

When in doubt, consult with experienced investigators or the prosecutor's office before submission.