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Probable cause example

The term "probable cause" refers to the right that a police officer has to make an arrest, search a person or his property, or obtain a warrant. Probable cause requires that facts and evidence presented in a case are of the type that would lead any reasonable person to believe that the suspect had committed a crime. As an example of probable cause, a police officer might have probable cause to arrest a suspect, after noticing obvious drug paraphernalia on the suspect's person. To explore this concept, consider the following probable cause definition.NounA reasonable ground to suppose that a charge of criminal conduct is well-founded.The right of a police officer to make an arrest, issue a warrant, or search a person or his property.OriginCirca 1676 Latin probābilisProbable cause is legal justification for a police officer to make an arrest, obtain a warrant, or search a person or his property. An example of probable cause might include a police officer's suspicion that an individual is in possession of drugs, if that person smells strongly of marijuana. Essentially, if a situation presents itself where any reasonable person would believe a suspect to have committed a crime, then a police officer may be justified in requesting a warrant or making an arrest.Unlike other situations where the police need a warrant to search a person or his property, in the case of a traffic stop, all that is needed is probable cause for an officer to search the vehicle. However, the driver of the car must give his consent before his vehicle is searched. Once consent is given, then the search is automatically considered legal in the eyes of the law.If the driver refuses to give consent, but the police conduct a search anyway, any contraband the police uncover can potentially be thrown out in court. The reason for this would be because the search was conducted in violation of the probable cause requirements as defined by the Fourth Amendment to the Constitution. In this case, unless the prosecution has other evidence against the driver, then the charges against the driver would ultimately be dismissed.An affidavit of probable cause is a sworn statement, normally made by a police officer, that explains the facts relating to an arrest. There are different situations that would call for an affidavit of probable cause. For instance, the affidavit of probable cause can offer reasons as to why a judge should consent to a police officer making an arrest. An affidavit of probable cause can explain to a judge why a search warrant is needed, and should be granted.An affidavit of probable cause can also outline the facts surrounding an arrest that is made during a crime already in progress. The officer can use the affidavit to list the evidence that served as the foundation for the officer's belief that the person in custody is indeed the person who is most likely to have committed the crime.A probable cause hearing is part of the pre-trial stages of a criminal case. During a probable cause hearing, a judge will decide whether probable cause exists or existed with regard to an officer's arrest or search of the suspect's person or property. There are two instances wherein a probable cause hearing is necessary. The first is before an arrest is made. A judge is required to issue a warrant before the suspect can be arrested. In this case, the police need to establish probable cause to the judge in order to obtain the warrant.The second instance wherein a probable cause hearing is necessary is after an arrest has been made. Here, the legality of the arrest is determined, as well as whether the police had probable cause to arrest the suspect. This type of hearing is often called a preliminary hearing, and it often follows the arraignment of a suspect.In addition to the main finding of probable cause, another issue that is decided in a probable cause hearing is whether the crime occurred within the court's jurisdiction. This ensures that the case is presented before the appropriate court before it is heard and decided.In a probable cause hearing, the defendant has the right to contest whether probable cause existed. He also has the right to waive the probable cause hearing altogether. If the defendant waives his right, it does not mean that he is admitting guilt.A formal plea of guilty or not guilty is not entered until the arraignment process has been completed. If, however, the prosecution is unable to prove that probable cause existed, then the case will more than likely be dismissed even if the defendant is, in fact, guilty.Reasonable suspicion is different from probable cause. While probable cause must exist before the police can arrest someone or obtain a warrant, all an officer needs is reasonable suspicion to stop someone and question him. The officer is even permitted to search for weapons if he believes the person to be armed, or to be capable of presenting an immediate threat. Reasonable suspicion is the reasonable belief that a crime has been, is currently being, or will soon be committed.A police officer can form reasonable suspicion based on his training as an officer, and his experience in the field, in addition to the facts and circumstances at hand. As opposed to probable cause, which must be established, reasonable suspicion is more like a guess or a hunch on the officer's part. Probable cause refers more to there being concrete proof of a crime, whereas reasonable suspicion is a phrase used to justify an officer's investigation into a person's seemingly suspicious behavior.Another important difference between probable cause and reasonable suspicion is the standard by which each are measured. In other words, probable cause establishes whether another reasonable person would suspect a person of committing a crime. Reasonable suspicion, however, refers to whether another reasonable police officer would suspect a person of committing a crime.An example of probable cause coming into question took place on November 10, 1961. Here, William Beck was driving his car in Cleveland, Ohio. While driving, he encountered the local police, who identified themselves to Beck and ordered him to pull over. Unbeknownst to Beck at the time, the officers had been "tipped off" to Beck's gambling habits, as well as given information about his appearance. The officers did not have an arrest warrant with them, nor did they obtain a search warrant.The officers placed Beck under arrest and searched his car, but ultimately found nothing of interest. Beck was then taken to a nearby police station, where he was personally searched. The officers found an envelope containing several clearing house slips tucked into one of Beck's socks. Beck was then criminally charged in the Cleveland Municipal Court with being in possession of the slips, which violated the state's criminal statute.Beck filed a motion to have the charges dropped, arguing that the police had obtained the slips after conducting an unreasonable search and seizure. Beck also claimed that both his Fourth and Fourteenth Amendments were violated. After a hearing on the matter, Beck's motion was overruled, the slips were admitted as evidence, and Beck was ultimately convicted of the charges that were brought against him.On appeal, the Ohio Court of Appeals affirmed Beck's conviction, as did the Supreme Court of Ohio. The Supreme Court of the United States granted certiorari to hear Beck's case and to decide if, in fact, the slips were wrongly admitted into evidence against Beck. In its decision, the Court quoted itself in saying:"The rule of probable cause is a practical, nontechnical conception affording the best compromise that has been found for accommodating ... often opposing interests. Requiring more would unduly hamper law enforcement. To allow less would be to leave law-abiding citizens at the mercy of the officers' whim or caprice."The Court ultimately reversed the decisions made by the lower courts. The Court noted that, during the trial, the arresting officer testified that "someone" had told him "something" about Beck, but he was unspecific as to what and whom. The Court did not hold the officer's knowledge as inadmissible or irrelevant insofar as probable cause was concerned. However, it noted:"To hold knowledge of either or both of these facts constituted probable cause would be to hold that anyone with a previous criminal record could be arrested at will."Further, the Court stated that, because the constitutionality of the arrest came into question during the trial, the prosecution should have been held responsible for showing exactly what was said. The prosecution should have also uncovered why the officer thought that the information that was given was credible. The Court considered its decision by saying:"We may assume that the officers acted in good faith in arresting the petitioner. But 'good faith on the part of the arresting officers is not enough.' ... If subjective good faith alone were the test, the protections of the Fourth Amendment would evaporate, and the people would be 'secure in their persons, houses, papers, and effects,' only in the discretion of the police."Defendant – A party against whom a lawsuit has been filed in civil court, or who has been accused of, or charged with, a crime or offense.Hearing – A proceeding before the court at which an issue of fact or law is heard, evidence presented, and a decision made.Overrule – A court's disallowing an objection to a witness' testimony.Writ of Certiorari – An order issued by a higher court demanding a lower court forward all records of a specific case for review. The term "probable cause" refers to the right that a police officer has to make an arrest, search a person or his property, or obtain a warrant. Probable cause requires that facts and evidence presented in a case are of the type that would lead any reasonable person to believe that the suspect had committed a crime. 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