

BENTON COUNTY SUPERIOR COURT
JUDICIAL RESOLUTION NO. 22-001
AUTHORIZING ELECTRONIC PROBABLE CAUSE APPLICATIONS

WHEREAS, Superior Court Criminal Rule (hereinafter CrR) 3.2.1 and Criminal Rule for Courts of Limited Jurisdiction (hereinafter CrRLJ) 3.2.1 both require, "[a] person who is arrested shall have a judicial determination of probable cause no later than 48 hours following the person's arrest, unless probable cause has been determined prior to such arrest;" and

WHEREAS, Benton County District Court Judges have historically made determinations of probable cause on all criminal cases filed in Benton County, whether misdemeanors or felonies; and

WHEREAS, probable cause determinations for felony cases filed in Franklin County have historically been made by the Judges of the Superior Court; and

WHEREAS, the Judges of the Superior Court for Benton and Franklin Counties have determined that the public would be best served by a uniform procedure whereby they would also make all probable cause determinations for felony cases filed in Benton County Superior Court; and

WHEREAS, Benton County District Court Judges have historically made probable cause determinations as required by the above listed court rule during weekends and other court holidays using non-electronic means; and

WHEREAS, both CrR 3.2.1(b) and CrRLJ 3.2.1(b) allow for the use of declarations in lieu of an affidavit to determine probable cause where the declaration complies with General Rule (hereinafter GR) 13; and

WHEREAS, in contrast to the rules regarding the issuance of warrants, neither CrR 3.2.1(b) and CrRLJ 3.2.1(b) provide authority for the submitting declarant to affix the judicial officer's signature; and

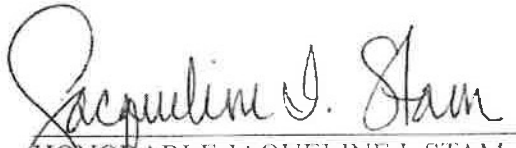
WHEREAS, it is desirable for the effective and efficient operation of Benton Franklin Counties Superior Court to adopt a protocol for electronically submitted probable cause applications.

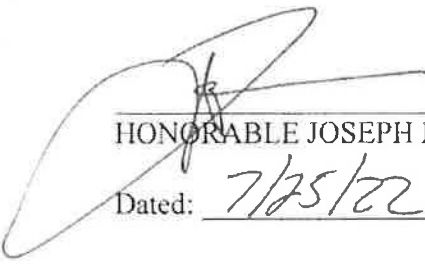
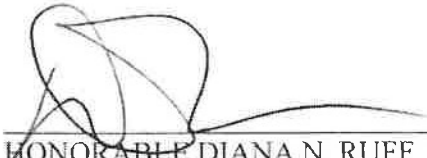
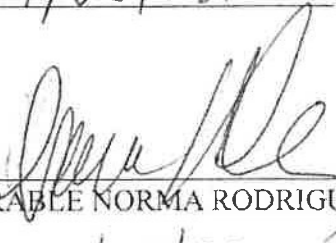
NOW, THEREFORE, BE IT RESOLVED, that effective July 25, 2022, Benton County Superior Court shall accept for consideration electronically submitted probable cause applications subject to the following:

1. **Types of Probable Cause Applications (48-Hour Applications Only):** Electronic submission of probable cause applications, both for adults and for juveniles, will be permitted only for arrests made in Benton County where an intervening weekend and/or holiday, alone or in combination, would not allow for a judicial officer to make a probable cause determination or for the arrested individual to appear in court for a probable cause determination within 48 hours following the person's arrest. No other probable cause determinations, including, but not limited to, 72-hour holds, may be submitted electronically to the Court.
2. **Hours Available:** Electronic probable cause applications will be reviewed on Saturdays and Sundays between the hours of 8:00 a.m. to 6:00 p.m. Applications can be submitted any time.
3. **Law Enforcement Agencies:** All law enforcement agencies will submit probable cause applications electronically. Documents may be submitted in either Microsoft Word or portable document format (pdf).

4. **Sworn Testimony:** Applications will be supported by declarations rather than sworn affidavits. Declarations shall comply with GR 13, which includes the affixing of a signature by the declarant that complies with GR 30. Each application will be accompanied by a corresponding proposed order finding probable cause. The Prosecuting Attorney in Benton County will develop the necessary forms.
5. **Email Address:** Benton County Information Technology has created a single address for all electronic probable cause applications. All probable cause applications will be sent to SCProbableCause@co.benton.wa.us. Outlook will be configured to automatically forward the emails to all Benton County Superior Court Judges.
6. **Stale Applications:** Probable cause applications will become stale one hour before the 48-hour period expires for any defendant. At that expiration of that period, the submitting agency will call a judicial officer to request review of the probable cause applications.
7. **Requests for Clarification:** If further information is necessary, the judicial officer will e-mail the agency requesting clarification. The agency's response must be in the form of a signed, amended declaration.
8. **Judicial Officer Duplication of Efforts:** The first judicial officer to read an application must immediately send a message to other judicial officers advising of such. This will prevent two judicial officers from reviewing the same probable cause application.
9. **Signing and Return of Orders:** The judicial officer will, as necessary, convert orders finding probable cause from Microsoft Word to .pdf format. If the judicial officer makes a finding of probable cause, that judicial officer will affix their signature to the order and save the document as a flattened pdf. He/she will email the signed orders back to the agency.
10. **Batching Applications:** Each law enforcement agency shall submit its own probable cause applications, creating a single batch for all declarations from each agency. However, all proposed orders in the batch shall be submitted separately so that the judges can convert to pdf, sign, and return them.
11. **Filing Documents with Clerk:** Law enforcement agencies shall file all documents created in the process, including e-mails, declarations, and orders with the Benton County Clerk.


HONORABLE JACKIE SHEA-BROWN
PRESIDING JUDGE
Dated: July 25, 2022


HONORABLE JAQUELINE I. STAM
ASSISTANT PRESIDING JUDGE
Dated: July 25, 2022
PVB
Telephone
approval
725-22
883


HONORABLE JOSEPH M. BURROWESDated: 7/25/22
HONORABLE DAVID L. PETERSENDated: 7/25/22
HONORABLE DIANA N. RUFFDated: 7/25/22
HONORABLE NORMA RODRIGUEZDated: 7/25/22