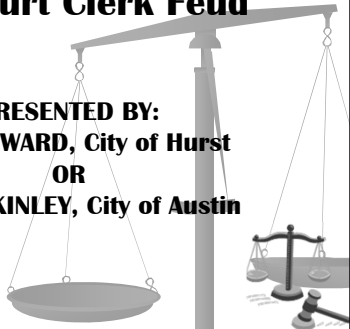


## **CITATIONS & COMPLAINTS: The Court Clerk Feud**

**PRESENTED BY:  
LISA HOWARD, City of Hurst  
OR  
DON MCKINLEY, City of Austin**



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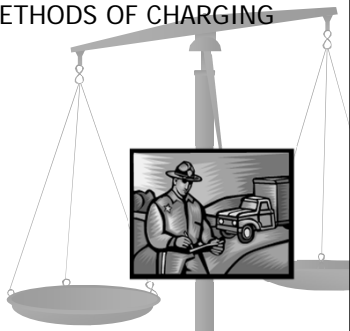
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## **WHAT IS A CHARGING INSTRUMENT?**

**2 PRIMARY METHODS OF CHARGING**

- CITATION
- COMPLAINT



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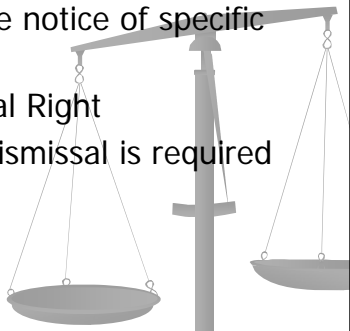
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## **CHARGING INSTRUMENT**

- Right to have notice of specific charges
- Constitutional Right
- If not met Dismissal is required



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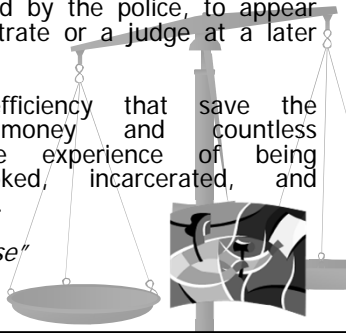
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## WHAT IS A CITATION?

- An order, issued by the police, to appear before a magistrate or a judge at a later date.
- Devices of efficiency that save the government money and countless individuals the experience of being arrested, booked, incarcerated, and released on bail.
- "Arrest & Release"



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Texas statutory law only authorizes "peace officers" to issue citations



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## CHARACTERISTICS OF A CITATION

- ◆ Date
- ◆ Name
- ◆ Offense
- ◆ Offense Location
- ◆ Signed by Officer
- ◆ Signed by Defendant
- ◆ Due Date



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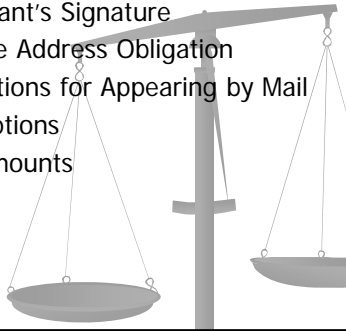
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### “Useful” Citation Information

- ◆ Defendant’s Signature
- ◆ Juvenile Address Obligation
- ◆ Instructions for Appearing by Mail
- ◆ Plea Options
- ◆ Fine Amounts



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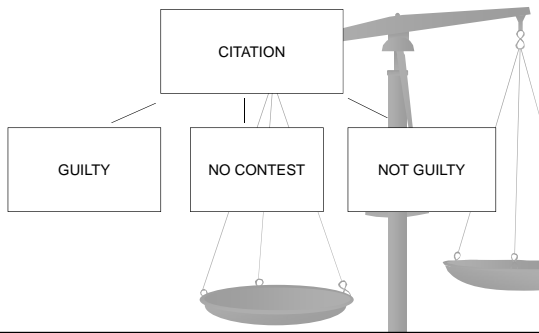
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### WHERE DOES IT GO FROM HERE?



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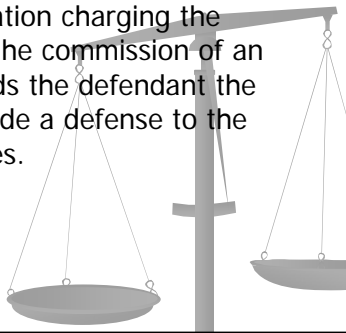
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### WHAT IS A COMPLAINT??

- A sworn allegation charging the accused with the commission of an offense. Affords the defendant the ability to provide a defense to the alleged charges.



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## WHO CAN FILE A COMPLAINT?

- ◆ Police
- ◆ City Employee
- ◆ Citizen



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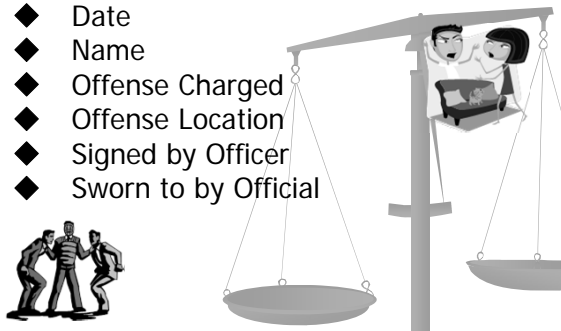
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## CHARACTERISTICS OF COMPLAINTS

- ◆ Date
- ◆ Name
- ◆ Offense Charged
- ◆ Offense Location
- ◆ Signed by Officer
- ◆ Sworn to by Official



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## COMPLAINT REQUIREMENTS

- ◆ Name of the Accused
- ◆ That Accused Committed the Offense
- ◆ Committed in the Territorial Limits of the City
- ◆ Date of Offense
- ◆ That the Affiant has Good Reason and, Does Believe, that the Accused has Committed the Offense



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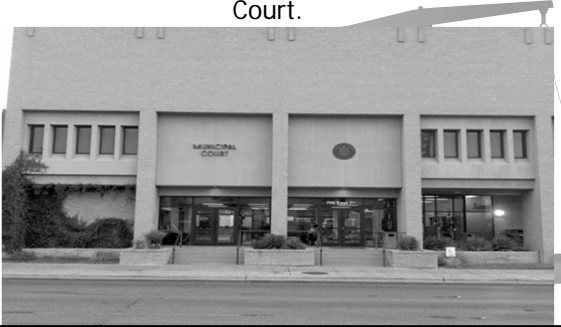
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A sworn Complaint must be filed with the Municipal Court to vest jurisdiction in the Court.



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## What is Written Notice to Appear?



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## Public intoxication and a written Citation.



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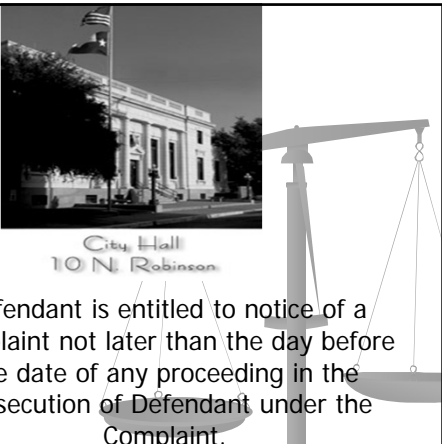
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City Hall  
10 N. Robinson

- Defendant is entitled to notice of a Complaint not later than the day before the date of any proceeding in the prosecution of Defendant under the Complaint.

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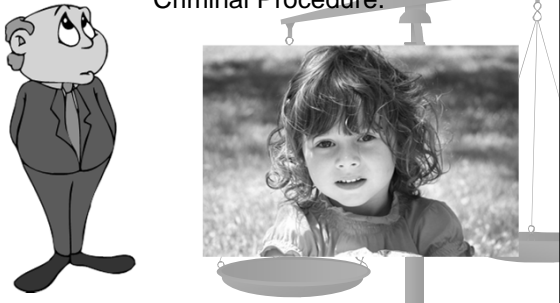
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When a Defendant pleads “not guilty,” the Court must file a Complaint that complies with the requirements of Chapter 45 of the Code of Criminal Procedure.



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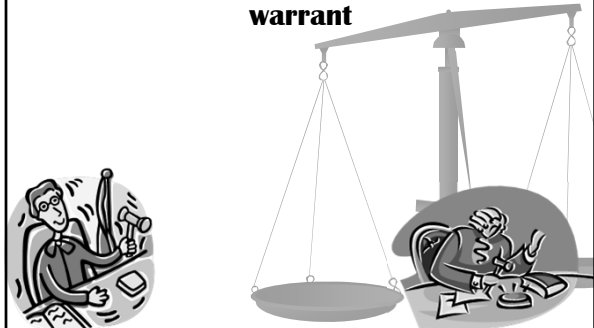
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**You need a probable cause affidavit and complaint to produce and issue warrant**



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**WHO IS RESPONSIBLE FOR WORDING IN THE COMPLAINT?**

**Preparation of the Complaint is a ministerial duty – typically done by the Clerk.**



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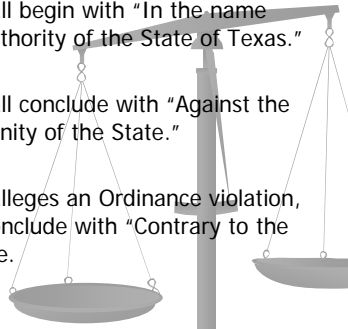
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**Complaints are required to have the following**

- ◆ Complaint shall begin with "In the name and by the Authority of the State of Texas."
- ◆ Complaint shall conclude with "Against the peace and dignity of the State."
- ◆ If Complaint alleges an Ordinance violation, it shall also conclude with "Contrary to the said Ordinance."



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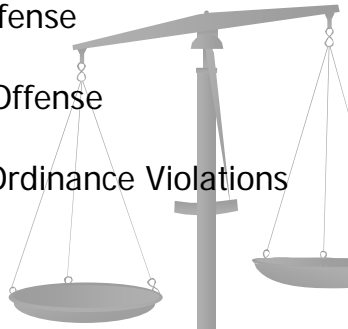
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**DOES THE COMPLAINT REQUIRE A CULPABLE MENTAL STATE?**

- ◆ Traffic Offense
- ◆ Criminal Offense
- ◆ Code or Ordinance Violations



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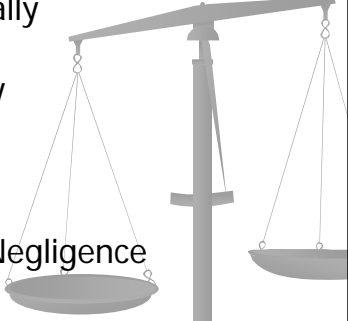
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**CULPABLE MENTAL STATE  
(HIGHEST TO LOWEST)**

- ◆ Intentionally
- ◆ Knowingly
- ◆ Reckless
- ◆ Criminal Negligence



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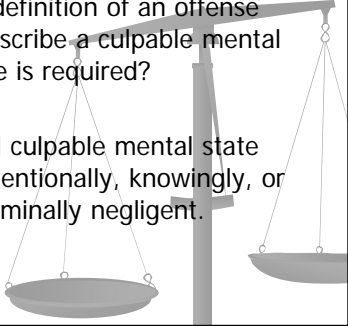
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**CULPABLE MENTAL STATE?**

- ◆ What if the definition of an offense does not prescribe a culpable mental state but one is required?
- ◆ The required culpable mental state must be intentionally, knowingly, or recklessly criminally negligent.



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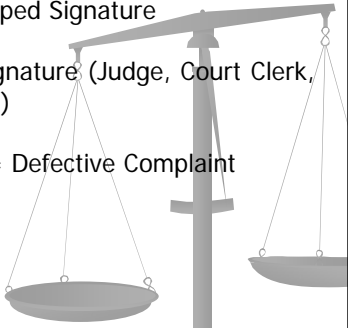
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**COMPLAINT MUST BE SIGNED**

- ◆ Rubber Stamped Signature
- ◆ Electronic Signature (Judge, Court Clerk, or Defendant)
- ◆ Not Signed = Defective Complaint



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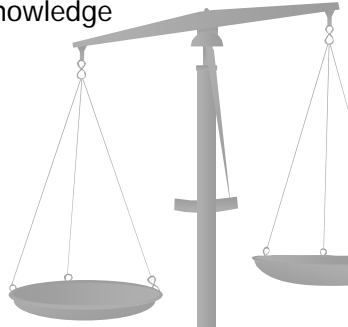
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**COMPLAINT MUST BE SWORN TO BY AFFIANT**

- ◆ Personal Knowledge
- ◆ Hearsay



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**HOW TO ADMINISTER AN OATH TO AN AFFIANT**

- ◆ Affiant Reviews Complaint
- ◆ Both Affiant and Person Administering the Oath Raise their Right Hands
- ◆ Affiant Signs the Complaint
- ◆ Person Administering the Oath Signs Jurat



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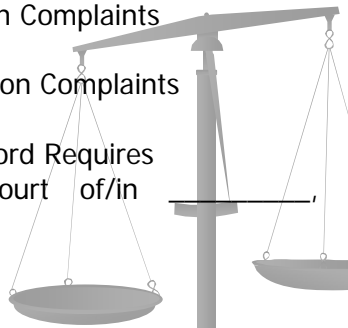
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**COURT SEAL**

- ◆ Required on Complaints
- ◆ Impressed on Complaints
- ◆ Court of Record Requires "Municipal Court of/in Texas"



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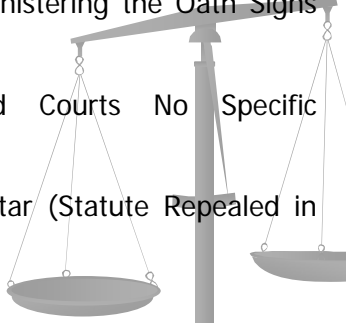
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## COURT SEAL

- ◆ Person Administering the Oath Signs Jurat
- ◆ Non-Record Courts No Specific Language
- ◆ Five Point Star (Statute Repealed in 1999)



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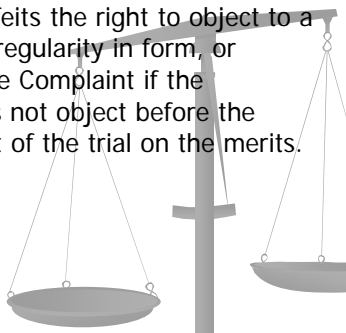
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## OBJECTIONS BY DEFENDANT

- Waives and forfeits the right to object to a defect, error, irregularity in form, or substance of the Complaint if the Defendant does not object before the commencement of the trial on the merits.



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