

# **MUNICIPAL COURT CITY OF IOWA PARK, TEXAS**

**P.O. BOX 190  
Iowa Park, Texas 76367-0190  
(940) 592-5542**

## Filing a Complaint in Municipal Court

This letter contains a general explanation of the handling of cases in the Municipal Court of the City of Iowa Park, Texas:

- Step 1: Completing the probable cause affidavit
- Step 2: Pre-trial procedure.
- Step 3: Trial of the case.

### IS YOUR MATTER A PROPER CASE FOR THE MUNICIPAL COURT?

**Municipal Court Handles Criminal, Not Civil Cases.** The Municipal Court of the City of Iowa Park can only hear **criminal law** cases. Criminal laws are those laws and ordinances which prohibit certain activity to protect the **public safety**. If a criminal law is violated the State can impose a penalty.

**What Does it Mean to File a Case in Municipal Court?** Filing a complaint in Municipal Court means you are asking the State of Texas (acting through the City of Iowa Park) to prosecute someone for violation of a criminal law. A complaint that is accepted is not prosecuted by the individual filing the complaint, it is prosecuted by the State. Although you may be consulted about the case, the final decision on how it is handled rests with the State.

**What Are Civil Cases?** Civil law, on the other hand, deals primarily with disputes between individuals. Examples of civil law cases include: automobile accident cases, divorces, injunction cases (obtaining a court order to prevent someone from doing a particular activity) and suits for money damages. **The Municipal Court does not have the authority to hear any of these civil cases.** The Justice Courts, certain County Courts and State Federal District Courts hear and decide civil cases.

**Evaluation of Your Complaint.** Since the filing and prosecution of Municipal Court cases involves the use of public resources, law enforcement authorities have a responsibility to evaluate complaints before they are filed. If the case you want to file does not involve a significant threat to **public safety** or if it is determined to be primarily a dispute between individuals involving civil law, it may not be appropriate for the case to be filed in the Municipal Court. If so, the authorities may not accept the case for prosecution in the Municipal Court.

## **STEP 1: COMPLETING THE PROBABLE CAUSE AFFIDAVIT**

**Complete the Form Fully.** Attached to this letter is a blank probable cause affidavit with detailed instructions. This affidavit must be completed **fully** by you.

**Form Must be Sworn.** **After the form (and all the blanks) has been fully completed by you, it must be sworn to before a notary.** The notary must then complete the bottom portion of the form designed for the notary's signature and seal. By swearing to the information in this form, you are certifying to the Court that all the statements in the form are true under penalty of perjury if any statement is proven to not be true. City officers and employees may not serve as a notary public for this form.

**Return Form to Court Clerk.** After the form has been fully completed and sworn to before a notary public, return the completed form to the municipal court clerk at the Police Department.

## **STEP 2: PRE-TRIAL PROCEDURE.**

**Evaluation of the Information of the Case.** The probable cause affidavit will be reviewed by the Police Department and City Prosecutor to make sure all elements of a criminal offense are present and to determine if any additional investigation is required. **If it is determined that your complaint does state a violation of the law which can be proven in court, you will be asked to come in and sign a formal complaint which will be prepared by the Municipal Court Clerk.** The filing of that complaint begins the court proceedings.

### **Pre-Trial Procedure**

**Notice to the Defendant.** A copy of the complaint must be delivered to the Defendant. This will be done by our Police Department or by the clerk mailing the complaint to the Defendant.

**Defendant Must Enter a Plea.** After a Defendant receives the formal complaint he or she is required to come into court at a hearing called an "arraignment." At the arraignment the Defendant will be asked to enter a plea of: "Guilty", "Not Guilty", or "No Contest."

- A "Guilty" plea means the Defendant admits guilt.
- A "No Contest" plea means the Defendant does not admit guilt but will not contest the case or fight it in court.
- A "Not Guilty" plea means the Defendant denies the guilt and will contest the charges and the matter must be set for a trial.

If a "Guilty" plea or "No Contest" plea is entered the Judge will assess the fine or other appropriate punishment.

### **STEP 3: TRIAL OF THE CASE.**

**When is a Case Tried?** If the Defendant enters a plea of “not guilty” the case must be set for trial before the judge or before a jury, if the Defendant requests a jury.

**The Defendant’s Rights.** Under our law the Defendant in any criminal case has the right: (1) to have a jury decide the case, (2) to hire a lawyer to represent him or her during the trial of the case and (3) to ask questions (or have his or her attorney ask questions) of any witness that testifies against him or her. A Defendant cannot be required to testify if the Defendant chooses not to testify.

**Your Testimony Required.** At the trial of a case you will be required to appear and testify in person. The probable cause affidavit you complete is not sufficient evidence to prove a violation of the law in court.

**What Must be Proven Before a Defendant Will be Found Guilty?** A Defendant can only be found guilty if the evidence convinces the Judge or the jury, beyond a reasonable doubt, that a violation of the law has occurred. This means that the Judge or jury must not have any reasonable doubt that the law was violated.

**What Penalties Can the Municipal Court Impose?** If a Defendant is found guilty, the Judge or the Jury can impose a fine. Generally, a Municipal Court can only impose a fine. It cannot put someone in jail for violation of a law. **Further, a Municipal Court cannot issue injunctions or make a Defendant pay you damages. Those are matters that only a civil court can do.**

**Appeal.** If a Defendant is found guilty, a Defendant has the right to appeal a decision of the Municipal Court to the County Courts. The State does not have the right to an appeal. If a case is appealed, a complete new trial must be conducted in the County Court with all the evidence being presented again.

## **Probable Cause Affidavits**

### 1. “Probable cause affidavit” defined

A “probable cause affidavit” is a written signed under oath before an official authorized to administer the oath that recites the facts upon which the Affiant bases his/her belief that a criminal offense has been committed by a particular person.

### 2. Purpose

The purpose of a probable cause affidavit is to describe and explain to a magistrate why a certain individual is suspected of committing a particular criminal offense. The probable cause affidavit must specify who, what, when, where and how the offense to the extent that a magistrate can find that there is “probable cause” to believe that the suspect committed an offense and that there are grounds to issue a summons for his/her appearance in court.

### 3. When required

Probable cause exists where, at that moment, the facts and circumstances within the knowledge of the complaint and of which he has reasonable trustworthy information would warrant a reasonable and prudent man in believing that a particular person had committed or is committing a crime.

### 4. Procedure

When a complaint has charged a criminal offense has occurred, and when evidence is developed establishing probable cause that a suspect (at large) has committed the offense, a probable cause affidavit is prepared and submitted to the municipal court clerk. The affidavit is then reviewed by the Chief of Police and if appropriate, a complaint is issued. If the Chief of Police determines there is a problem establishing probable cause, he shall record his findings and refer the affidavit to the prosecuting attorney who will have the final say as to whether a case is rejected or accepted for prosecution.

### 5. Preparation

A probable cause affidavit requesting the issuance of a summons for an accused shall be sufficient if it contains these substantial requisites.

- A. It must state the name of the accused.
- B. It must show that the accused has committed some offense against the laws of the state, either directly, or that the Affiant has good reason to believe, and does believe, that the accused has committed the offense.
- C. It must state the time and place of the commission of the offense, as definitely as can be done by the Affiant.
- D. It must be signed by the Affiant by writing his name or affixing his mark.

A probable cause affidavit must set forth the facts constituting each element of the criminal offense (including the identity of the suspect and the time and place of the commission of the offense) for which the summons is to issue. It must also contain allegations that the Affiant speaks with personal knowledge of the facts or indicate the source of the affiant’s belief. The facts may come from the personal knowledge and observations of the Affiant, or may come from persons with whom the Affiant has

spoken (hearsay), or both. Care should be taken to state facts and show where the Affiant gathered the information. The Affiant should personally contact any witnesses to verify the facts and whenever possible obtain a written statement from them.

The Affiant should state when he/she learned of the information. The facts alleged in the affidavit cannot be stale. They must be so closely related to the time of the issuance of the summons as to justify a finding of probable cause at the time. What is or is not “stale” information is a fact question in each case.

Simply stated, an Affiant can write a good probable cause affidavit by asking himself two questions. In the affidavit the answers to these questions should be written so that a person who is unfamiliar with the case would be able to understand it without resorting to any outside sources. The two questions are:

1. Why do you believe that this suspect committed this offense?
2. Where did you receive the facts on which you base this belief?

A. The facts constituting the elements of the offense

It is not enough to simply state a conclusion. The affidavit must relate the facts and circumstances under which the crime was committed so that the magistrate, who is reading about the incident for the first time, will have enough information to make his or her own determination of probable cause, as opposed to simply relaying on a bare conclusion stated by the Affiant. An Affiant that does little more than state a conclusion that a suspect has violated the law is insufficient. The affidavit must state the underlying facts constituting probable cause to support the belief that the suspect has violated the law. Again, the purpose of the rule is to make available to the magistrate sufficient facts for his/her to make an independent determination of whether there are reasonable grounds to believe that the person to be summoned has committed a particular crime.

B. The source of the facts

The second requirement of a probable cause affidavit is to state the source from which the facts giving probable cause were obtained. This is required so that the magistrate will know whether the facts stated are within the affiant's personal knowledge or were obtained from a third party (witness), and are, therefore, hearsay.

The affidavit may be based upon the direct personal observations of the Affiant. An affidavit may also be based on hearsay (witness) information and need not reflect the direct personal observation of the Affiant. However, in an affidavit based upon hearsay information, the magistrate must be informed of:

1. Some of the underlying circumstances from which the witness concluded that a specific person committed a particular crime; and
2. Some of the underlying circumstances from which the complainant (Affiant) concluded that the informant, was credible or his information reliable.

C. Common facts usually needed in a probable cause affidavit

The following is a list of facts which are usually needed in a probable cause affidavit and may serve as a check-list:

1. Location of the offense: “(street address), (city), Wichita County, Texas.”
2. How the suspect was identified, if not caught in the act.  
  
E.g., suspect found with stolen property or contraband  
E.g., suspect is ex-spouse, former employee, etc., of complainant or witness  
E.g., witness knows suspect personally or by name
3. Identify the complainant, owner, witnesses, and accomplices, and their respective roles in the offense.
4. Are each of the elements of the offense covered in the stated facts?
5. Property offenses require a statement that the owner did not give permission or consent to the act.
6. State the source from which the facts were obtained.

It is preferred that the affidavit be typed. However, hand written affidavits will be accepted but must be legible. Additional pages may be attached if necessary. Each page should be signed by the Affiant and identified by a page number (example: page 1 of 5, page 2 of 5, and so on). If there are any witnesses to the offense, a completed “Witness Information Sheet” should be completed and attached to the affidavit. It is advisable to acquire written statements from all the witnesses to the offense.

**PROBABLE CAUSE AFFIDAVIT**

\_\_\_\_\_  
\_\_\_\_\_  
**MUNICIPAL COURT USE ONLY**

**THE STATE OF TEXAS  
COUNTY OF WICHITA**

**MUNICIPAL COURT  
CITY OF IOWA PARK**

I, \_\_\_\_\_, do solemnly swear that I have good reason to believe, that  
(name of suspect) \_\_\_\_\_ on or about the \_\_\_\_\_ day of  
\_\_\_\_\_ A.D., 20 \_\_\_\_\_, and before the making and filing of this affidavit in the  
County of Wichita and State aforesaid, did then and there unlawfully commit the offense of:  
\_\_\_\_\_

This is based on the following information: *(give a general statement as to who and how the offense was  
committed & attached a list of witness(es)).*

\_\_\_\_\_  
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Location of Offense: \_\_\_\_\_

**All of the above events occurred within the corporate limits of the City of Iowa Park, Texas and  
were observed by me unless otherwise indicated.**

\_\_\_\_\_  
**Affiant**

Sworn to and subscribed before me by \_\_\_\_\_, a credible person  
this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20 \_\_\_\_.

\_\_\_\_\_

\_\_\_\_\_  
Name and title of official authorized to administer the oath

**Complainant Information**

*(Must be adult at least 17 years of age, unless an exception to minor status if filed)*

Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
Address: \_\_\_\_\_ City: \_\_\_\_\_  
State: \_\_\_\_\_ Zip code: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_ Business Phone Number: \_\_\_\_\_

**Victim Information**

*(if different than Complainant)*

Adult     Minor Child

Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
Address: \_\_\_\_\_ City: \_\_\_\_\_  
State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_ Business Phone Number: \_\_\_\_\_

**Defendant Information**

Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
Address: \_\_\_\_\_ City: \_\_\_\_\_  
State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_ Business Phone Number: \_\_\_\_\_

**WITNESS INFORMATION SHEET**

COMPLAINANT NAME: \_\_\_\_\_ CASE # \_\_\_\_\_

(1)  
NAME: \_\_\_\_\_ DATE OF BIRTH: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_ TELEPHONE NO: \_\_\_\_\_  
EMPLOYMENT: \_\_\_\_\_ TELEPHONE NO: \_\_\_\_\_

EXPLAIN WHAT THE WITNESS CAN TESTIFY TO:

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(2)  
NAME: \_\_\_\_\_ DATE OF BIRTH: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_ TELEPHONE NO: \_\_\_\_\_  
EMPLOYMENT: \_\_\_\_\_ TELEPHONE NO: \_\_\_\_\_

EXPLAIN WHAT THE WITNESS CAN TESTIFY TO:

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(3)  
NAME: \_\_\_\_\_ DATE OF BIRTH: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_ TELEPHONE NO: \_\_\_\_\_  
EMPLOYMENT: \_\_\_\_\_ TELEPHONE NO: \_\_\_\_\_

EXPLAIN WHAT THE WITNESS CAN TESTIFY TO:

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**WITNESS INFORMATION SHEET CONTINUED**

(4)

NAME: \_\_\_\_\_

DATE OF BIRTH: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE NO: \_\_\_\_\_

EMPLOYMENT: \_\_\_\_\_

TELEPHONE NO: \_\_\_\_\_

EXPLAIN WHAT THE WITNESS CAN TESTIFY TO:

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(5)

NAME: \_\_\_\_\_

DATE OF BIRTH: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE NO: \_\_\_\_\_

EMPLOYMENT: \_\_\_\_\_

TELEPHONE NO: \_\_\_\_\_

EXPLAIN WHAT THE WITNESS CAN TESTIFY TO:

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(6)

NAME: \_\_\_\_\_

DATE OF BIRTH: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE NO: \_\_\_\_\_

EMPLOYMENT: \_\_\_\_\_

TELEPHONE NO: \_\_\_\_\_

EXPLAIN WHAT THE WITNESS CAN TESTIFY TO:

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