

# EASY REFERENCE

TO FIND

THE MEANING OF  
TEXAS TRAFFIC & OTHER SO-CALLED VIOLATIONS  
AGAINST NON-COMMERCIAL ACTIVITY

BEING UNCONSTITUTIONAL

BOOK # 777-A

INFORMATION COLLECTED

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# **TOO MUCH TO LEARN EASY REFERENCE**

## **DEALING WITH TRAFFIC & OTHER SO-CALLED VIOLATIONS**

This was created for reference only. It was never intended as legal advice or to replace legal advice. It is recommended to seek an attorney and show this information to it and let it show you where the information is wrong before using any of it. It is recommended that all information found in this Reference should be verified by the user before using any of it or believing in any of its contents.

### **BUYER BEWARE**

**THIS REFERENCE MAY SHOW YOU THAT YOUR GRANDPARENTS TAUGHT YOUR PARENTS WRONG, WHICH IN TURN, YOUR PARENTS TAUGHT YOU WRONG, WHICH MADE YOU TEACH YOUR CHILDREN WRONG ABOUT TRAFFIC AND OTHER LAWS.**

**IF YOU ARE THE POSTERITY OF THE PEOPLE WHO CREATED THIS GOVERNMENT, THEN YOU ARE NOW THE KING OR QUEEN WHO CREATED THIS GOVERNMENT. WHY WOULD THE KING OR QUEEN ALLOW A PUBLIC SERVANT TO MAKE A LAW THAT WOULD PUT THE KING OR QUEEN IN JAIL?**

**MAYBE THEY REALLY HAVEN'T. MAYBE WE ALLOW OURSELVES TO BE PUT IN JAIL BY CONSENT, OR THEY DO IT ONLY BECAUSE THEY HAVE GOT THE GUNS.**

**WHEN WAS IT THE LAST TIME YOU ASKED A PUBLIC SERVANT TO SHOW YOU THE LAW THAT YOU HAD VIOLATED? DID YOU GO LOOK IT UP? DID YOU SEE HOW THE LAW WAS PASSED? DID YOU FIND WHERE THE CONSTITUTION ALLOWED THAT PUBIC SERVANT TO PASS THAT LAW AGAINST YOU?**

**WOULD IT MAKE YOU MAD IF THAT LAW HAD NOTHING TO DO WITH YOU, BUT SOME LAWYER SAID IT DID AND MADE YOU PAY A FINE THAT YOU DIDN'T OWE?**

**HOW MANY SPEEDING TICKETS HAVE YOU PAID, WHERE YOU WERE BEING REASONABLE & PRUDENT, BUT JUST HAPPEN TO BE GOING FASTER THAN A NUMBER ON SOME SIGN?**

**WHAT IF IT WAS THE LAW THAT YOU COULD GO AS FAST AS YOU WANTED, NOT HAVE TO STAY AT A RED LIGHT WHEN NO ONE WAS COMING, STOP AT A STOP SIGN WHEN YOU COULD SEE NO ONE WAS COMING, NOT WORRYING ABOUT CROSSING A DOUBLE LINE IN THE ROAD, NOT SIGNALING WHEN NO ONE WAS AROUND TO SEE YOU SIGNAL, NOT TO MENTION, HUNDREDS OF OTHER TRAFFIC LAWS YOU COULD IGNORE, AS LONG AS YOU WERE REASONABLE AND PRUDENT?**

**OH, I KNOW WHAT YOU'RE THINKING !!**

**THERE OUGHT TO BE A LAW !!!!**

**YOU'VE GOT TIME TO KEEP YOUR BLINDERS ON; STOP; DON'T TURN THE PAGE !**

**NOW YOU DONE IT.**  
**WELCOME TO REALITY**

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# **FIRST THINGS FIRST**

## **KISS - KeeP It Simple Stupid**

**We Learn For Our Children's Sake**

**It is Our Job To Protect Them and To Teach Them To Protect Themselves**

This is not about saving time and money, it is about Right & Wrong, Good against Evil and what being a King is all about. There are people who want to take your Kingdom away from you and it is up to you to save it for your children.

You must study to update your knowledge of legal matters. You must go to court and watch procedures. You must learn why they do what they do. Telling someone how to do a certain thing and not being in, or having been in that situation is like: Making a map to a certain place but never having been there yourself. You may make some mistakes which may keep them from getting to their destination. Try to find someone that's been there and done that. Stop the Rumor.

Try to anticipate what the outcome will be if you do a certain thing, in a certain way.

The City Attorney must have the **delegated authority** from the County or District Attorney to represent the State as a prosecutor. Ask for it. – Per Rule 12 of the Texas Rules of Court

**Learn to ask effective questions** - If you cannot answer my questions, who can? Who is your supervisor ? What department are you in ?

1. Learn how to read for understanding.
2. Understand that there is a chain of command.
3. Everyone in that chain of command has a certain Duty.
4. Understand what those duties are and sue for what they **do not do**.
5. Write letters for information, if they do not answer, use the Uniform Commercial Code.
6. Write a Notice per the UCC-1-201.25,.26,&.27. Look it up.

States and Cities get their rights from Charters, not the Constitution.

Always answer a question with another Question: Isn't it?; Doesn't it?

**Always ask pertinent questions** such as: When was SO 'n SO Officer dispatched? What are their official duties? What are his duties? Who dispatched him? When was he dispatched? Who is his superior? What are his duties? By what authority was he ordered to that act? Can you send me the employment status of Officer SO 'n SO? Can you send me a copy of the order directing the officer to do this act? ...

Always state facts in the extreme mode - example: Instead of : The Officer asked for me to remove my clothes" - The same fact: " The Officer removed my clothes." If this is denied, then it establishes that if something was not done in this manner, then something must have been done in some other manner and whether or not it lawful. Make them transverse the issue.

A judge cannot be sued by what he does in his Judicial Capacity, but you can sue for what he does not do Administratively, like making sure your rights were not violated. If you don't know what they are suppose to do, how can you sue them for what they don't do ?

Remember you are suing for what they didn't do, not for what they did. You sue for - Omission to secure to the party injured, the Bill of Rights. - failure to perform a legal obligation to do or refrain from performance of some act.

The Government has the obligation to secure rights to the injured party as enumerated in the Constitution or specified in Article 9 of the Bill of Rights. If they don't, they have violated their Fiduciary Duty and can be sued.

The only way you can bring in violations of your Civil Rights in a Tort Claim, is not stating Title 42 in your statement but just the reasonable expectations of your Civil Rights, like to feel secure in my home. You want to incur, but not say directly.

**Precedence:** City to County, to State, to Federal, to Constitution to International.

Reference all document statements with exhibits proving each conclusive point.

Use Certified Mail Green Cards as Exhibits showing delivery of documents that were not responded to which shows, by Exhibits of such documents, Bad Faith on their part.

Remember **do not** put Your Personal Feelings into any documents which are sent to the Respondent. Keep it Business Like.

Re - Read your documents and take out or rephrase any items into which you have put Your Personal Feelings into it. Keep it to the Facts ONLY.

**TORT SUIT** Has to Have:

**Parties and Captions**

**Opening Statement** - factual statement.

**Jurisdictional Statement** - Federal - Title 28 -or- State - Texas Constitution Article 5 Section 8

**Venue Statement** - Where it happened, City & County

**Statement of Facts** - Separate Statements - Numbered. - How you have been damaged

**Cause of Action** - Numbered - How that you arrived that you were damaged. - Numbered

**Damages** - Actual, Expenses, Compensatory and Exemplary or Punitive - Numbered

**Declaratory Judgment** - state everything that is a Right to you and a Duty of the judge to do. - Numbered

**Any other** - Judgment that the Court deems necessary to Order.

When you send out a notice, you should specify in (Hours) as well as days to respond, from the time they receive it. That time span will include weekends and holidays in their response time. Normal time to respond is 30 days (720 hours) then 20 days (480 hours) then 10 days (240 hours) then 3 days (72 hours) then 48 Hours.

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**STANDING:** Standing is the prime consideration in federal Court and also in state court. Plaintiff must establish a personal stake in the outcome. You must satisfy the Constitutional standard. This derives from case and controversy from Article III and it has two components. They are:

1. The Plaintiff must establish injury in fact. This is generally economic injury but can also be esthetic, environmental, but the injury must arise from the governmental conduct being complained. The court is very liberal in this item.
2. Redress ability. The relief sought must eliminate the harmful effect. The court is very strict in this item.

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As Stated by Dan Meador “Consequently, there must be more focused strategy that engages the contest in judicial and political forums in such a fashion as to force **general disclosure**. We aren’t going to secure reliable individual remedies until we secure **general remedies**. But even before that, we’re going to have to come to grips with what we’re dealing with, and the mechanics of **how it operates**.”

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## **DRIVER LICENSE**

For many years, the Texas Legislature has used the appearance of power to "license" every thing the Texas state does, including using one's private property to travel upon the public highways, for one's own convenience and pleasure under the Right to Travel. The Right to Travel, to go from place to place as a means for a transportation permit, is a natural right subject to rights of others and to **reasonable** regulation under law. (See) **Shachtman v. Dulles**, 225 F. 2d. 938, 941 (1955).

The **Driver's Privacy Protection Act** was enacted by the U.S. Congress on August 24, 1994. The purpose of this legislation is to prohibit the disclosure of personal information from motor vehicle records except under specific circumstances.

General Rule Of **Texas Privacy Act**, Texas Transportation Code, Chapters 730 and 731:

Personal Information contained in Motor Vehicle Records may not be disclosed to the public.

The purpose of this chapter is to implement 18 U.S.C. Chapter 123 and to protect the interest of an individual in the individual's personal privacy by prohibiting the disclosure and use of personal information contained in motor vehicle records, except as authorized by the individual or by law.

### **Trans. Code, Sec. 521.001. Definitions**

(a) In this chapter:

...

(3) "**Driver's license**" means an authorization issued by the department for the operation of a motor vehicle. The term includes:

- (A) a temporary license or instruction permit; and
- (B) an occupational license.

...

(6) "**License**" means an authorization to operate a motor vehicle that is issued under or granted by the laws of this state. The term includes:

- (A) a driver's license;
- (B) the privilege of a person to operate a motor vehicle regardless of whether the person holds a driver's license; and
- (C) a nonresident's operating privilege.

(Susp/Rev): **Suspension or Revocation** at the discretion of the licensing agency. This action is based on either (1) on habitually reckless or negligent vehicle operation or (2) on habitual violation of the traffic laws.(8) Tran. Code §§521.163, 521.294(a) & (b)(4)(9)

**Suspension**-Not more than 1 year Tran. Code §521.306(b)

**A "license" is defined as:**

"... the permission by competent authority to do an act which, without such permission, would be illegal, a trespass, or a tort."

**PEOPLE v HENDERSON**, 218 NW. 2d, 4.

"Leave to do a thing which licensor could prevent."

**WESTERN ELECTRIC CO. v PACENT REPRODUCER CORP.**, 42 F.2d 116,188.

"...(its object) is to confer right or power WHICH DOES NOT EXIST without it and exercise of which, without license would be illegal." (emph added)

**INTER-CITY COACH LINES v HARRISON**, 157 SE 673,676.

A **license** confers no right and is, "mere leave to be enjoyed as a matter of indulgence at the will of the party granting it."

**CITY OF CARBONDALE v WADE**, 106, 111. App. 654.

"A permit, granted by an appropriate governmental body, generally for consideration, to a person, firm, or a corporation, to pursue SOME OCCUPATION or to CARRY ON SOME BUSINESS which is subject to regulation under the police power." (emph. added)

**ROSENBLATT v CALIFORNIA STATE BD. OF PHARMACY**, 158 P. 2d 199, 203.

"A license fee is a charge made primarily for regulation, with the fee to cover costs and expenses of supervision or regulation." **State vs. Jackson**, 60 Wisc.2d 700; 211 NW.2d 480, 487

**NOTE:** The word 'Driver License' as indicated on that card in your pocket, issued to you by the DPS has no basis in Texas Law when you read the Texas Drivers License Act below. There are only three types of licenses; operators, commercial operators & chauffeurs stated in Texas Law. When you find that operator is the owner of the business, commercial operator is the driver for the operator and chauffeur is someone who carries people for hire. Drivers License is used by color of law, but created no actual charge in and of itself.

**Trans. Code, Sec.524.001 – Definitions (1999 code) (2000 moved it to 521.001)**

" '**Driver's license**' has the meaning assigned by Section 1, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes). The term includes a license or license to operate a motor vehicle as defined by that section of that Act."



# **TEXAS DRIVERS LICENSE ACT**

**1941 Texas Legislature 47th Regular Session; Chapter 173;  
Veron's Ann. Civ. St. Art. 6887b; H.B. No. 20**

## **Drivers License Law**

An Act providing for licensing of operators, commercial operators, and chauffeurs; defining certain terms; providing for certain exemptions; prohibiting issuance of license to certain persons; making it unlawful for certain persons to operate a school bus or any motor vehicle while in use as a public or common carrier of persons; providing for application for operators', commercial operators', and chauffeurs' license; repealing Subsection (c) of Section 4 of Article 911A and Subsection (b) of Section 4 of Article 911B, Revised Civil Statutes; providing for signing of application of minors and cancellation of minor's license upon application and/or death of signatory; providing for examinations of applicants for operators', commercial operators', and chauffeurs' licenses, and providing the Director shall have the authority to re-examine licensee when said licensee is found incapable of operating a motor vehicle; providing for the issuance of operators', commercial operators', and chauffeurs' license, and duplicates thereof; providing for the issuance of restricted operators', commercial operators', and chauffeurs' license; providing a penalty for a violation of the restrictions imposed and for the revocation or suspension of restricted licenses; relating to the carrying of a license by the licensee and exhibiting same; prescribing the amount of fees and providing for the collection of same by the Department of Public Safety and the disposition of same; providing for the time of expiration of licenses and for renewal of same; providing for notice to the Department of changes of address or name of licensee; providing for certain records to be kept by the Department of Public Safety; relating to the authority of the Department of Public Safety to suspend, revoke, or cancel licenses; providing for time, place, and manner of holding hearings before the Department of Public Safety; providing for the period of suspension by the Department; providing for the automatic suspension of licenses upon conviction of certain offenses; providing for the surrender and return of license to the Department upon suspension; providing for court to forward license to Department and report convictions and defining "conviction" and providing that a suspended sentence shall not mitigate against automatic suspension of license on conviction of certain offenses; prohibiting the operation of motor vehicle under foreign license during suspension or revocation in the State; providing authority of the Department of Public Safety to suspend or revoke license and to suspend privileges of nonresidents and report convictions, and to suspend resident license upon conviction in another State; providing for the cancellation of licenses under certain conditions; providing for the right of appeal when license denied or cancelled, suspended or revoked by Department, except where such suspension or revocation is automatic; providing the filing of the petition of appeal shall abate said suspension until the trial herein provided for shall have been consummated and final judgement thereon shall have the right of trial by jury and his license shall not be suspended pending the appeal; prohibiting the driving of motor vehicle while license or privilege is cancelled, suspended or revoked; making it unlawful to commit certain other acts; providing authority of the Department of Public Safety to require accident reports and providing a penalty for failure to report; providing for forms of accident statistics and reports and making such reports confidential; providing for a penalty for violation of the Act, and providing for a maximum fine in certain instances; repealing all laws and parts of laws in conflict herewith, and particularly Senate Bill No. 15, Chapter 466, Page 1785, General Laws, Second Called Session, Forty-fourth Legislature, as amended by House Bill No. 16, Chapter 369, Page 752, Regular Session, Forty-fifth Legislature; providing a saving clause; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

**Article I**  
**Words and Phrases Defined**

**Section 1 Definition of words and phrases.**

The following words and phrases when used in this Act shall, for the purpose of this Act, have the meanings respectively ascribed to them in this title.

- (a) "**Vehicle.**" Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracts.
- (b) "**Motor Vehicle.**" Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operation upon rails.
- (j) "**Persons.**" Every natural person, firm, copartnership, association, or corporation.
- (l) "**Driver.**" Every person who drives or is in actual physical control of a vehicle.
- (m) "**Operator.**" Every person, other than a chauffeur or commercial operator, who is in actual physical control of a motor vehicle upon a highway.
- (n) "**Commercial Operator.**" Every person who is the driver of a motor vehicle designed or used for the transportation of property, including all vehicles used for delivery purposes, while said vehicle is being used for commercial or delivery purposes.
- (o) "**Chauffeur.**" Every person who is the driver for wages, compensation, or hire, or for fare, of a motor vehicle transporting passengers.

**Article II**  
**Issuance of License, Expiration, and Renewal**

**Sec. 2. Drivers must have license**

No person, except those hereinafter expressly exempted, shall drive any motor vehicle upon a highway in this State unless such person has a valid license as an operator, a commercial operator, or a chauffeur under the provisions of this Act.

**Article VI**

**Sec. 46. Constitutionality**

If any part or parts of this Act shall be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this Act and the Legislature hereby declares that it would have passed the remaining parts of this Act if it had known that such part or parts thereof would be declared unconstitutional.

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## OPERATING

### **OPERATOR**

Today we assume that a "traveler" is a "driver," and a "driver" is an "operator." However, this is not the case. "It will be observed from the language of the ordinance that a distinction is to be drawn between the terms `operator' and `driver'; the `**operator**' of the service car being the person who is licensed to have the car on the streets in the business of carrying passengers for hire; while the `**driver**' is the one who actually drives the car. However, in the actual prosecution of business, it was possible for the same person to be both `operator' and `driver.'"

Newbill vs. Union Indemnity Co., 60 SE.2d 658

### **Trans. Code, Sec. 542.002. Government Vehicles**

A provision of this **subtitle** applicable to an operator of a vehicle applies to the operator of a **vehicle** owned or **operated** by the United States, this state, or a political subdivision of this state, except as specifically provided otherwise by this subtitle for an authorized emergency **vehicle**.

### **Sec. 601.006. Applicability to Certain Owners and Operators.**

If an owner or operator of a motor **vehicle** involved in an accident in this state does not have a driver's license or **vehicle** registration or is a nonresident, the person may not be issued a driver's license or registration until the person has complied with this chapter **to the same extent** that would be necessary if, at the time of the accident, the person had a driver's license or registration.

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## SPEEDING

### **Trans. Code, Sec. 201.904 Speed Signs**

The department shall erect and maintain on the highways and roads of this state appropriate signs that show the maximum lawful speed for commercial motor vehicles, truck tractors, truck trailers, truck semi-trailers, and motor vehicles engaged in the business of transporting passengers for compensation or hire (buses).

**Basic Speed Rule:** No person shall drive a vehicle at a speed greater than is **reasonable and prudent** under the circumstances then existing or under the conditions and having regard to actual and potential hazards.

Tran. Code §545.351(a) & (b)(1)(1).

**Posted (Maximum) Speed Limit:** Based on engineering and traffic investigations, the Texas Transportation Commission may alter the prima facie speed limits on State highways and limited-access or controlled highways inside or outside of any municipality. Tran. Code §545.353(a) & (f)

**Minimum Speed Limit:** No person shall drive so slowly as to impede the normal and **reasonable** movement of traffic. Tran. Code §545.363(a)

**Civil/Criminal Adjudication of Violation:** All Speed Law Violations are Misdemeanors. Tran. Code §§542.301 & 750.002(b)

A "serious traffic violation" includes exceeding the speed limit by 15 or more MPH or reckless driving. Tran. Code §522.003(25)

**Tran. Code SUBCHAPTER H. SPEED RESTRICTIONS**

**Sec. 545.351. Maximum Speed Requirement.**

(a) An operator may not drive at a speed greater than is **reasonable and prudent** under the circumstances then existing.

(b) An operator:

(1) may not drive a **vehicle** at a speed greater than is **reasonable and prudent** under the conditions and having regard to actual and potential hazards then existing; and

(2) shall control the speed of the **vehicle** as necessary to avoid colliding with another person or **vehicle** that is on or entering the highway in compliance with law and the duty of each person to use due care.

(c) An operator shall, consistent with Subsections (a) and (b), drive at an appropriate reduced speed if:

(1) the operator is approaching and crossing an intersection or railroad grade crossing;

(2) the operator is approaching and going around a curve;

(3) the operator is approaching a hill crest;

(4) the operator is traveling on a narrow or winding roadway; and

(5) a special hazard exists with regard to traffic, including pedestrians, or weather or highway conditions.

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**SAFETY INSPECTION - VEHICLE**

**Transportation Code**

**CHAPTER 548. COMPULSORY INSPECTION OF VEHICLES**

**SUBCHAPTER A. GENERAL PROVISIONS**

**Sec. 548.001. Definitions.**

In this chapter:

(1) "**Commercial motor vehicle**" means a self-propelled or towed vehicle, other than a farm **vehicle** with a gross weight, registered weight, or gross weight rating of less than 48,000 pounds, if:

(A) the **vehicle** or combination of **vehicles** has a gross weight, registered weight, or gross weight rating of more than 26,000 pounds;

(B) the **vehicle** is designed to transport more than 15 passengers, including the driver; or

(C) the **vehicle** is used to transport hazardous materials in a quantity requiring placarding by a regulation issued under the Hazardous Materials Transportation Act (49 U.S.C. Section 1801 et seq.).

(2) "Commission" means the Public Safety Commission.

(3) "Conservation commission" means the Texas Natural Resource Conservation Commission.

(4) "Farm **vehicle**" has the meaning assigned by the federal motor carrier safety regulations. (5) "Federal motor carrier safety regulation" has the meaning assigned by Section 549.001.

(6) "Inspection station" means a facility certified to conduct inspections of **vehicles** under this chapter.

## **SUBCHAPTER B. VEHICLES AND EQUIPMENT SUBJECT TO INSPECTION AND REINSPECTION**

### **Trans. Code, Sec. 548.051. Vehicles and Equipment Subject to Inspection.**

(a) A motor **vehicle**, trailer, semi-trailer, pole trailer, or mobile home, registered in this state, must have the following items inspected at an inspection station or by an inspector:

- (1) tires;
- (2) wheel assembly;
- (3) safety guards or flaps, if required by Section 547.606; (4) brake system, including power brake unit;
- (5) steering system, including power steering;
- (6) lighting equipment;
- (7) horns and warning devices;
- (8) mirrors;
- (9) windshield wipers;
- (10) sun-screening devices, unless the **vehicle** is exempt from sunscreen device restrictions under Section 547.613;
- (11) front seat belts in **vehicles** on which seat belt anchorages were part of the manufacturer's original equipment;
- (12) tax decal, if required by Section 548.104(d)(1);
- (13) exhaust system; and
- (14) exhaust emission system.

(b) A moped is subject to inspection in the same manner as a motorcycle, except that the only items of equipment required to be inspected are the brakes, headlamps, rear lamps, and reflectors, which must comply with the standards prescribed by Sections 547.408 and 547.801.

### **Sec. 548.052. Vehicles Not Subject to Inspection.**

This chapter does not apply to:

- (1) a trailer, semi-trailer, pole trailer, or mobile home moving under or bearing a current factory-delivery license plate or current in-transit license plate;
- (2) a **vehicle** moving under or bearing a paper dealer in-transit tag, machinery license, disaster license, parade license, prorated tab, one-trip permit, antique license, temporary 24-hour permit, or permit license;
- (3) a trailer, semi-trailer, pole trailer, or mobile home having an actual gross weight or registered gross weight of 4,500 pounds or less; or
- (4) farm machinery, road-building equipment, a farm trailer, or a **vehicle** required to display a slow-moving-**vehicle** emblem under Section 547.703.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amendment by Acts 1995, 74th Leg., ch. 443, Sec. 3

V.T.C.A., Government Code Sec. 311.031(c) provides, in part, that the repeal of a statute by a code does not affect an amendment of the statute by the same legislature which enacted the code and that the amendment is preserved and given effect as part of the code provision.

Section 3 of Acts 1995, 74th Leg., ch. 443, eff. Sept. 1, 1995, amends Sec. 140(h) of Vernon's Ann.Civ.St. art. 6701d [now this section] without reference to the repeal of said article by Acts 1995, 74th Leg., ch. 165, Sec. 24(a). As so amended, Sec. 140(h) reads:

"The provisions of this article shall not apply to the **vehicles** referred to in Subsection (a) of this Section when moving under or bearing current 'Factory-Delivery License Plates' or current 'In-transit License Plates.' Nor shall the provisions of this article apply to farm machinery, road-building equipment, farm trailers, paper dealer in-transit tag, machinery license, disaster license, parade license, prorated tabs, one-trip permits, antique license, temporary 24-hour permits, permit license, and all other **vehicles** required to have a slow-moving-**vehicle** emblem under Section 139B of this Act, or to former military **vehicles**, as defined by Section 5a(h), Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-5a, Vernon's Texas Civil Statutes)."

**SUBCHAPTER C. PERIODS OF INSPECTION; PREREQUISITES TO ISSUANCE OF INSPECTION CERTIFICATE**

**Sec. 548.101. General One-Year Inspection Period.**

Except as provided by Section 548.102, the department shall require an annual inspection. The department shall set the periods of inspection and may make rules with respect to those periods.

**Sec. 548.254. Validity of Inspection Certificate.**

An inspection certificate is invalid after the end of the 12th month following the month in which the certificate is issued. An unused inspection certificate representing a previous inspection period may not be issued after the beginning of the next period.

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**REGISTRATION - VEHICLE**

**CHAPTER 502. REGISTRATION OF VEHICLES**

**SUBCHAPTER A. GENERAL PROVISIONS**

**Sec. 502.001. Definitions.**

In this chapter:

(2) "**Commercial motor vehicle** " means a motor vehicle , other than a motorcycle, designed or used primarily to transport property. The term includes a passenger car reconstructed and used primarily for delivery purposes. The term does not include a passenger car used to deliver the United States mail.

(13) "**Motor vehicle** " means a vehicle that is self-propelled.

(17) "Passenger car" means a motor vehicle , other than a motorcycle, golf cart, light truck, or bus, designed or used primarily for the transportation of persons.

(19) "Public property" means property owned or leased by this state or a political subdivision of this state.

(24) "**Vehicle** " means a device in or by which a person or property is or **may be transported** or drawn on a public highway, other than a device used exclusively on stationary rails or tracks.

**Sec. 502.002. Registration Required; General Rule.**

- (a) The owner of a **motor vehicle**, trailer, or semi-trailer shall apply for the registration of the **vehicle** for:
- (1) each registration year in which the **vehicle** is used or to be used on a public highway; and
  - (2) if the **vehicle** is unregistered for a registration year that has begun and that applies to the **vehicle** and if the **vehicle** is used or to be used on a public highway, the remaining portion of that registration year.
- (b) The application must be made to the department through the county assessor-collector of the county in which the owner resides.
- (c) A provision of this chapter that conflicts with this section prevails over this section to the extent of the conflict.

**Sec. 502.003. Registration by Political Subdivision Prohibited.**

- (a) Except as provided by Subsection (b), a political subdivision of this state **may not** require an owner of a **motor vehicle** to:
- (1) register the **vehicle**;
  - (2) pay a **motor vehicle** registration fee; or
  - (3) pay an occupation tax or license fee in connection with a **motor vehicle**.
- (b) This section does not affect the authority of a municipality to:
- (1) license and regulate the use of **motor vehicle s for compensation** within the municipal limits; and
  - (2) impose a permit fee or street rental charge for the operation of each **motor vehicle used to transport passengers for compensation**, other than a **motor vehicle operating** under a permit or certificate from the Railroad Commission of Texas or the **Interstate Commerce Commission**.

**Sec. 502.152 Certificate of Title Required for Registration.** Subsection (a) says, "The department may not register or renew the registration of a motor vehicle for which a certificate of title is required under Chapter 501 unless the owner: (1) obtains a certificate of title for the vehicle..." Since Chapter 501 applies only to vehicles owned by state or political subdivisions of the state, only those are required to obtain a certificate of title. All others without certificate of title may not be registered.

**NOTE:** This section above is the most important to remember in the code. If the vehicle is not state owned, then the vehicle can't have a certificate of title, which restricts registration, which restricts mandatory insurance. Your car then must be state owned or you wouldn't have a certificate of title, or have it registered or buy insurance for a car you don't own, RIGHT?

\*\*\*\*\*

## SEAT BELTS

**NOTE:** The following code is commercial by the statement in §545.413(a)(2). The word 'operated' has been previously discussed, by which an operator and driver term was defined as in commerce.

### **Trans. Code Sec. 545.413. Safety Belts; Offense.**

(a) A person commits an offense if the person:

- (1) is at least 15 years of age;
- (2) is riding in the front seat of a passenger car while the **vehicle** is being operated;
- (3) is occupying a seat that is equipped with a safety belt; and
- (4) is not secured by a safety belt.

(b) A person commits an offense if the person:

(1) operates a passenger car that is equipped with safety belts; and

(2) allows a child who is at least four years of age but younger than 15 years of age to ride in the front seat of the **vehicle** without requiring the child to be secured by a safety belt.

(c) A passenger car or a seat in a passenger car is considered to be equipped with a safety belt if the **vehicle** is required under Section 547.601 to be equipped with safety belts.

(d) An offense under this section is a misdemeanor punishable by a fine of not less than \$25 or more than \$50.

(e) It is a defense to prosecution under this section that:

(1) the person possesses a written statement from a licensed physician stating that for a medical reason the person should not wear a safety belt;

(2) the person presents to the court, not later than the 10th day after the date of the offense, a statement from a licensed physician stating that for a medical reason the person should not wear a safety belt; or

(3) the person is employed by the United States Postal Service and performing a duty for that agency that requires the operator to service postal boxes from a **vehicle** or that requires frequent entry into and exit from a **vehicle**.

(f) The department shall develop and implement an educational program to encourage the wearing of safety belts and to emphasize:

(1) the effectiveness of safety belts and other restraint devices in reducing the risk of harm to passengers in motor **vehicles**; and

(2) the requirements of this section and the penalty for noncompliance.

(g) Use or nonuse of a safety belt is not admissible evidence in a civil trial.

(h) In this section, "passenger car" includes a truck with a manufacturer's rated carrying capacity of not more than 1,500 pounds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amendment by Acts 1995, 74th Leg., ch. 751, Sec. 127

Section 127 of Acts 1995, 74th Leg., ch. 751, eff. Sept. 1, 1995, amends Sec. 107C(j) of Vernon's Ann.Civ.St. art. 6701d [now this section] without reference to the repeal of said article by Acts 1995, 74th Leg., ch. 165, Sec. 24(a). As so amended, Sec. 107C(j) reads:

**"Use or nonuse of a safety belt is not admissible evidence in a civil trial, other than a proceeding under Subtitle A or B, Title 5, Family Code."**

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## **FINANCIAL RESPONSIBILITY**

### **Trans. Code, Sec. 521.143. Evidence of Financial Responsibility Required**

- (a) An application for an original or renewal of a driver's license must be accompanied by evidence of financial responsibility or a statement that the applicant does not own a motor vehicle for which evidence of financial responsibility is **required** under Chapter 601.
- (b) Evidence of financial responsibility presented under this section must be in at least the minimum amounts required by Section 601.072 and must cover each motor vehicle owned by the applicant for which the applicant is **required** to maintain evidence of financial responsibility. The evidence may be shown in the manner provided by Section 601.053(a).
- (c) A personal automobile insurance policy used as evidence of financial responsibility under this section must comply with Article 5.06, Insurance Code.
- (d) A statement that an applicant does not own a motor vehicle to which the evidence of financial responsibility requirement applies must be sworn to and signed by the applicant.

**NOTE:** Remember **Sec. 502.152**, found under 'Registration', which indicates who owes the car, which indicates that only a state owned vehicle can have a certificate of title and this car has a certificate of title, so I guess the state owns the car which needs to pay for the financial responsibility.

\*\*\*\*\*

## **CERTIFICATE OF TITLE**

**NOTE:** Sections 501.004 & 502.152 shows that a certificate of title is only for a vehicle owned by the state.

### **CHAPTER 501. CERTIFICATE OF TITLE ACT**

#### **Sec. 501.002. Definitions.**

In this chapter:

(1) "Certificate of title" means an instrument issued under Section 501.021.

(14) "Motor vehicle " means:

(A) any motor driven or propelled vehicle required to be registered under the laws of this state;

(Notice: No definition of Vehicle )

\*\*\*\*\* **Sec. 501.004. Applicability.**

(a) This chapter applies to a motor vehicle owned by the state or a political subdivision of the state.

#### **Sec. 501.022. Certificate of Title Required.**

- (a) The owner of a motor vehicle **registered in this state** may not **operate** or permit the **operation** of the vehicle on a public highway until the owner obtains a certificate of title for the vehicle.
- (b) A person may not **operate** a motor vehicle registered in this state on a public highway if the person knows or has reason to believe that the owner has not obtained a certificate of title for the vehicle.

- (c) The owner of a motor vehicle that is **required** to be registered in this state must apply for a certificate of title of the vehicle before selling or disposing of the vehicle.
- (d) Subsection (c) does not apply to a motor vehicle **operated** on a public highway in this state with a metal dealer's license plate or a dealer's or buyer's temporary cardboard tag attached to the vehicle as provided by Chapter 503.

\*\*\*\*\*

## **FAILURE TO IDENTIFY**

### **Texas Penal Code**

#### **Sec. 38.02. Failure to Identify.**

- (a) A person commits an offense if he intentionally refuses to give his name, residence address, or date of birth to a peace officer **who has lawfully arrested the person** and requested the information.
- (b) A person commits an offense if he intentionally gives a false or fictitious name, residence address, or date of birth to a peace officer who has:
- (1) lawfully arrested the person;
  - (2) lawfully detained the person; or
  - (3) requested the information from a person that the peace officer has good cause to believe is a witness to a criminal offense.
- (c) Except as provided by Subsection (d), an offense under this section is a Class C misdemeanor.
- (d) If it is shown on the trial of an offense under this section that the defendant was a fugitive from justice at the time of the offense, the offense is a Class B misdemeanor.

#### **Kolender v. Lawson, 461 US 352 (1983)**

It is unconstitutionally vague for a state to require a person to produce "credible and reliable" identification when requested to do so by a police officer. This Court has invalidated, on vagueness grounds, any state law requiring persons on the street to present "credible and reliable" identification when asked by a police officer, which in its self, gives too much discretion to the police officer for arbitrary and selective enforcement.

\*\*\*\*\*

## **FAILURE TO APPEAR**

### **Texas Penal Code**

#### **Sec. 38.10. Bail Jumping and Failure to Appear.**

- (a) A person lawfully released from custody, with or without bail, on condition that he subsequently appear commits an offense if he **intentionally or knowingly** fails to appear in accordance with the terms of his release.

- (b) It is a defense to prosecution under this section that the appearance was incident to community supervision, parole, or an intermittent sentence.
- (c) It is a defense to prosecution under this section that the actor had **a reasonable excuse** for his failure to appear in accordance with the terms of his release.
- (d) Except as provided in Subsections (e) and (f), an offense under this section is a Class A misdemeanor.
- (e) An offense under this section is a Class C misdemeanor if the offense for which the actor's appearance was required is punishable **by fine only**.
- (f) An offense under this section is a felony of the third degree if the offense for which the actor's appearance was required is classified as a felony.

**NOTE:** The defense of a Failure to Appear is whereby the court did willfully withhold from you a copy of the complaint that you are supposed to have in your possession before you were scheduled to appear. Look at the Complaint section. 45.04 in the Code of Criminal Procedure.

\*\*\*\*\*

## **SPECIAL APPEARANCE**

**NOTE:** File all paperwork by special appearance in the nature of, but not limited to, rule 120(a) Texas Rules of Civil Procedure.

### **RULE 120a. SPECIAL APPEARANCE**

1. Notwithstanding the provisions of Rules 121, 122 and 123, a special appearance may be made by any party either in person or by attorney for the purpose of objecting to the jurisdiction of the court over the person or property of the defendant on the ground that such party or property is not amenable to process issued by the courts of this State. A special appearance may be made as to an entire proceeding or as to any severable claim involved therein. Such special appearance shall be made by sworn motion filed prior to motion to transfer venue or any other plea, pleading or motion; provided however, that a motion to transfer venue and any other plea, pleading, or motion may be contained in the same instrument or filed subsequent thereto without waiver of such special appearance; and may be amended to cure defects. The issuance of process for witnesses, the taking of depositions, the serving of requests for admissions, and the use of discovery processes, shall not constitute a waiver of such special appearance. Every appearance, prior to judgment, not in compliance with this rule is a general appearance.
2. Any motion to challenge the jurisdiction provided for herein shall be heard and determined before a motion to transfer venue or any other plea or pleading may be heard. No determination of any issue of fact in connection with the objection to jurisdiction is a determination of the merits of the case or any aspect thereof.
3. The court shall determine the special appearance on the basis of the pleadings, any stipulations made by and between the parties, such affidavits and attachments as may be filed by the parties, the results of discovery processes, and any oral testimony. The affidavits, if any, shall be served at least seven days before the hearing, shall be made on personal knowledge, shall set forth specific facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify.

Should it appear from the affidavits of a party opposing the motion that he cannot for reasons stated present by affidavit facts essential to justify his opposition, the court may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is just.

Should it appear to the satisfaction of the court at any time that any of such affidavits are presented in violation of Rule 13, the court shall impose sanctions in accordance with that rule.

4.If the court sustains the objection to jurisdiction, an appropriate order shall be entered. If the objection to jurisdiction is overruled, the objecting party may thereafter appear generally for any purpose. Any such special appearance or such general appearance shall not be deemed a waiver of the objection to jurisdiction when the objecting party or subject matter is not amenable to process issued by the courts of this State.

Instead of using or coming by Special Appearance, use the term: By Special Visitation.

\*\*\*\*\*

## **INDICTMENTS AND INFORMATIONS**

### **When you get a traffic citation**

1. Check the court records on that citation:

**(A.)** If there is an indictment or information

1. Examine the indictment or information and see if they follow the guidelines set out by the:

**(a.) TEXAS CONSTITUTION art 5 sec 12(b),**

### **Section 12. Judges as Conservators of the Peace; Indictments and Informations vest Jurisdiction**

**(b)** An indictment is a written instrument presented to a court by a grand jury charging a person with the commission of an offense. An information is a written instrument presented to a court by an attorney for the State charging a person with the commission of an offense. The practice and procedures relating to the use of indictments and informations, including their contents, amendment, sufficiency, and requisites, are as provided by law. The presentment of an indictment or information to a court invests the court with jurisdiction of the cause.

**(b.) Code of Criminal Procedures Art. 20 and Art. 21.**

### **CHAPTER TWENTY--DUTIES AND POWERS OF THE GRAND JURY**

**Art. 20.20.** [392] [444] [432] Indictment prepared.

The attorney representing the State shall prepare all indictments which have been found, with as little delay as possible, and deliver them to the foreman, who shall sign the same officially, and said attorney shall endorse thereon the names of the witnesses upon whose testimony the same was found.

### **CHAPTER TWENTY-ONE--INDICTMENT AND INFORMATION**

**Art. 21.01.** [395] [450] [438] "Indictment".

An "indictment" is the written statement of a grand jury accusing a person therein named of some act or omission which, by law, is declared to be an offense.

**Art. 21.02.** [396] [451] [439] Requisites of an indictment.

An indictment shall be deemed sufficient if it has the following requisites: 1. It shall commence, "In the name and by authority of The State of Texas".

2. It must appear that the same was presented in the district court of the county where the grand jury is in session.

3. It must appear to be the act of a grand jury of the proper county.

4. It must contain the name of the accused, or state that his name is unknown and give a reasonably accurate description of him.

5. It must show that the place where the offense was committed is within the jurisdiction of the court in which the indictment is presented.

6. The time mentioned must be some date anterior to the presentment of the indictment, and not so remote that the prosecution of the offense is barred by limitation.

7. The offense must be set forth in plain and intelligible words.

8. The indictment must conclude, "Against the peace and dignity of the State".

9. It shall be signed officially by the foreman of the grand jury.

**Art. 21.03.** [397] [452] [440] What should be stated.

Everything should be stated in an indictment which is necessary to be proved.

**Art. 21.20.** [413] [477] [465] "Information".

An "information" is a written statement filed and presented in behalf of the State by the district or county attorney, charging the defendant with an offense which may by law be so prosecuted.

**Art. 21.21.** [414] [478] [466] Requisites of an information.

An information is sufficient if it has the following requisites:

1. It shall commence, "In the name and by authority of the State of Texas";

2. That it appear to have been presented in a court having jurisdiction of the offense set forth;

3. That it appear to have been presented by the proper officer;

4. That it contain the name of the accused, or state that his name is unknown and give a reasonably accurate description of him;

5. It must appear that the place where the offense is charged to have been committed is within the jurisdiction of the court where the information is filed;

6. That the time mentioned be some date anterior to the filing of the information, and that the offense does not appear to be barred by limitation;

7. That the offense be set forth in plain and intelligible words;

8. That it conclude, "Against the peace and dignity of the State"; and

9. It must be signed by the district or county attorney, officially.

**Art. 21.22.** [415] [479] [467] Information based upon complaint.

No information shall be presented until affidavit has been made by some credible person charging the defendant with an offense. The affidavit shall be filed with the information. It may be **sworn to** before the district or county attorney who, for that purpose, shall have power to administer the oath, or it may be made before any officer authorized by law to administer oaths.

**Art. 21.23.** [416] [480] [468] Rules as to indictment apply to information.

The rules with respect to allegations in an indictment and the certainty required apply also to an information.

**(B.)** If there is no indictment or information then get two friends to view the file, and file affidavits or verifications stating this fact. This is to set the record and show proof that the court has no jurisdiction. (Do NOT use Penalties of perjury, because it puts the question of whether or not to prosecute in the hands of the attorney). **If they proceed without an indictment or information then any immunity that they claim does not exist: barratry for judge and/or prosecuting attorney. Hale v. Henkel 201 U.S. 43 (1906).**

**Art. 28.04.** [527] [592] [581] Quashing charge in misdemeanor.

If the motion to set aside, or the exception to an indictment or information is sustained, the defendant in a misdemeanor case shall be discharged, but may be again prosecuted within the time allowed by law.

**(C.)** Look at all records in the file

1. If there is a ticket with an affidavit, and the affidavit is from the cop, is the cop's affidavit in **the name of THE STATE OF TEXAS and against the peace and dignity? If so, then there is a violation of Penal Code 37.12 [impersonating an officer] because the County Attorney, District Attorney, the Attorney General, or a Grand Jury are the only ones who can bring an action in the name of THE STATE OF TEXAS and against the peace and dignity CCP 20.20 [C.C.P all of Art.20 and all of Art 21 and the TEXAS CONSTITUTION Art 5 sec12(b)].**

2. Send and file "Demand for Bill of Particulars and/or a More Definite Statement" by special appearance.

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## **COMPLAINTS**

**NOTE:** The main point here is the Information (21.21(9), the Affidavit (22.21) and/or Complaint (45.04 & 45.16) are needed to prosecute you. They never get it right.

### **Texas Code of Criminal Procedure**

**Art. 21.21. [414] [478] [466] Requisites of an information.**

An information is sufficient if it has the following requisites:

1. It shall commence, "In the name and by authority of the State of Texas";
2. That it appear to have been presented in a court having jurisdiction of the offense set forth;
3. That it appear to have been presented by the proper officer;
4. That it contain the name of the accused, or state that his name is unknown and give a reasonably accurate description of him;
5. It must appear that the place where the offense is charged to have been committed is within the jurisdiction of the court where the information is filed;
6. That the time mentioned be some date anterior to the filing of the information, and that the offense does not appear to be barred by limitation;
7. That the offense be set forth in plain and intelligible words;
8. That it conclude, "Against the peace and dignity of the State"; and
9. It **must be signed** by the district or county attorney, officially.

**Art. 21.22. [415] [479] [467] Information based upon complaint.**

No information shall be presented **until** affidavit has been made by some credible person charging the defendant with an offense. The affidavit shall be filed **with the information**. It may be sworn to before the district or county attorney who, for that purpose, shall have power to administer the oath, or it may be made before any officer authorized by law to administer oaths.

**Art. 21.23. [416] [480] [468] Rules as to indictment apply to information.**

The rules with respect to allegations in an indictment and the certainty required apply also to an Information.

**Art. 21.24. [417; 408a] [481] [469] Joinder of certain offenses.**

(a) Two or more offenses may be joined in a single indictment, information, or complaint, with each offense stated in a separate count, if the offenses arise out of the same criminal episode, as defined in Chapter 3 of the Penal Code.

(b) A count may contain as many separate paragraphs charging the same offense as necessary, but no paragraph may charge more than one offense.

(c) A count is sufficient if any one of its paragraphs is sufficient. An indictment, information, or complaint is sufficient if any one of its counts is sufficient.

**Art. 27.14. [518] [582] [571] Plea of guilty or nolo contendere in misdemeanor.**

(a) A plea of "guilty" or a plea of "nolo contendere" in a misdemeanor case may be made either by the defendant or his counsel in open court; in such case, the defendant or his counsel may waive a jury, and the punishment may be assessed by the court either upon or without evidence, at the discretion of the court.

(b) A defendant charged with a misdemeanor for which the maximum possible punishment is **by fine only** may, in lieu of the method provided in Subsection (a) of this article, mail or deliver in person to the court a plea of "guilty" or a plea of "nolo contendere" and a waiver of jury trial. **The defendant may also request in writing that the court notify the defendant, at the address stated in the request, of the amount of an appeal bond that the court will approve.** If the court receives a plea and waiver before the time the defendant is scheduled to appear in court, the court shall dispose of the case without requiring a court appearance by the defendant. The court shall notify the defendant either in person or by certified mail, return receipt requested, of the amount of any fine assessed in the case and, **if requested by the defendant, the amount of an appeal bond that the court will approve.** The defendant shall pay any fine assessed or give an appeal bond in the amount stated in the notice before the 31st day after receiving the notice.

(c) In a misdemeanor case for which the maximum possible punishment is **by fine only**, payment of a fine, or an amount accepted by the court constitutes a finding of guilty in open court, as though a plea of nolo contendere had been entered by the defendant.

(d) If written notice of an offense for which maximum possible punishment is **by fine only** or of a violation relating to the manner, time, and place of parking has been prepared, delivered, and filed with the court and a legible duplicate copy has been given to the defendant, **the written notice serves as a complaint to which the defendant may plead** "guilty," "not guilty," or "nolo contendere." If the defendant pleads "not guilty" to the offense, **a complaint shall be filed that conforms to the requirements of Chapter 45 of this code, and that complaint serves as an original complaint.** A defendant may waive the filing of a sworn complaint and elect that the prosecution proceed on the written notice of the charged offense if the defendant agrees in writing with the prosecution, signs the agreement, and files it with the court.

**Article 45.018 Complaint**

(a) For purposes of this chapter, a complaint is a sworn allegation charging the accused with the commission of an offense.

(b) A defendant is **entitled** to notice of a **complaint** against the defendant **not later than the day before the date of any proceeding** in the prosecution of the defendant under the complaint. The defendant may waive the right to notice granted by this subsection.

**Article 45.032 Directed Verdict**

If, upon the trial of a case in a justice or municipal court, the state fails to prove a **prima facie** case of the offense alleged **in the complaint**, the defendant is entitled to a directed verdict of "not guilty."

\*\*\*\*\*

**JURISDICTION**

**NOTE:** Jurisdiction is by what authority they can judge you. Make them work for it, by using "*by special appearance.*"

**Title 18 U.S.C.**

**§ 3231. District courts**

The district courts of the United States shall have original jurisdiction, exclusive of the courts of the States, of all offenses against **the laws of** the United States.

Need to designate statute # on indictment or information signed by the attorney with bond # and not in case file, the court is not vested with jurisdiction.

**Texas Penal Code, Sec. 1.03. Effect of Code**

(a) Conduct does not constitute an offense unless it is defined as an offense by **statute**, municipal **ordinance**, **order** of a county commissioners court, or **rule** authorized by and lawfully adopted under a statute.



(b) The provisions of Titles 1, 2, and 3 apply to offenses defined by other laws, unless the statute defining the offense provides otherwise; however, the punishment affixed to an offense defined outside this code shall be applicable unless the punishment is classified in accordance with this code.

(c) This code does not bar, suspend, or otherwise affect a right or liability to damages, penalty, forfeiture, or other remedy authorized by law to be recovered or enforced in a civil suit for conduct this code defines as an offense, and the civil injury is not merged in the offense.

## **Jurisdiction in the Texas Code of Criminal Procedure**

### **Art. 2.03. [27] [33] [34] Neglect of duty.**

(a) It shall be the duty of the attorney representing the State to present by information to the court having **jurisdiction**, any officer for neglect or failure of any duty enjoined upon such officer, when such neglect or failure can be presented by information, whenever it shall come to the knowledge of said attorney that there has been a neglect or failure of duty upon the part of said officer; and he shall bring to the notice of the grand jury any act of violation of law or neglect or failure of duty upon the part of any officer, when such violation, neglect or failure is not presented by information, and whenever the same may come to his knowledge.

(b) It is the duty of the trial court, the attorney representing the accused, the attorney representing the state and all peace officers to so conduct themselves as to insure a fair trial for both the state and the defendant, not impair the presumption of innocence, and at the same time afford the public the benefits of a free press.

### **Art. 2.04. [28] [34] [35] Shall draw complaints.**

Upon complaint being made before a district or county attorney that an offense has been committed in his district or county, he shall reduce the complaint to writing and cause the same to be signed and sworn to by the complainant, and it shall be duly attested by said attorney.

### **Art. 2.05. [29] [35] [36] When complaint is made.**

If the offense **be a misdemeanor**, the attorney shall forthwith prepare an information based upon such complaint and file the same in the court having **jurisdiction**; provided, that in counties having no county attorney, misdemeanor cases may be tried upon complaint alone, without an information, provided, however, in counties having one or more criminal district courts an information must be filed in each misdemeanor case. If the offense be a felony, he shall forthwith file the complaint with a magistrate of the county.

**NOTE:** The above should have been included in the Information & Complaint Sections – Very Important

### **Art. 2.10. [34] [42] [43] Duty of magistrates.**

It is the duty of every magistrate to preserve the peace within his **jurisdiction** by the use of all lawful means; to issue all process intended to aid in preventing and suppressing crime; to cause the arrest of offenders by the use of lawful means in order that they may be brought to punishment.

## **COURTS AND CRIMINAL JURISDICTION**

### **CHAPTER FOUR--COURTS AND CRIMINAL JURISDICTION**

#### **Art. 4.01. [51] [63] [64] What courts have criminal jurisdiction.**

The following courts have **jurisdiction** in criminal actions:

1. The Court of Criminal Appeals;
2. Courts of appeals;
3. The district courts;
4. The criminal district courts;

5. The magistrates appointed by the judges of the district courts of Bexar County, Dallas County, Tarrant County, or Travis County that give preference to criminal cases and the magistrates appointed by the judges of the criminal district courts of Dallas County or Tarrant County;
6. The **\*county courts**;
7. All **\*county courts at law** with criminal **jurisdiction**;
8. **\*County criminal courts**;
9. Justice courts;
10. Municipal courts; and
11. The magistrates appointed by the judges of the district courts of Lubbock County.

**Note:** \* Notice that there are 3 distinct County Courts. Which one did they direct you to?

**Art. 4.03. [53] [68-86-87] Courts of Appeals.**

The Courts of Appeals shall have appellate jurisdiction coextensive with the limits of their respective districts in all criminal cases except those in which the death penalty has been assessed. This Article shall not be so construed as to embrace any case which has been appealed from any inferior court to the county court, the county criminal court, or county court at law, in which the fine imposed by the county court, the county criminal court or county court at law does not exceed one hundred dollars, unless the sole issue is the constitutionality of the statute or ordinance on which the conviction is based.

**NOTE:** They (the judges) usually lower the fine to \$90 so you can't appeal their decision, but you can appeal the unconstitutional provision of the statute.

**Art. 4.04. [53a] Court of Criminal Appeals.**

**Sec. 1.** The Court of Criminal Appeals and each judge thereof shall have, and is hereby given, the power and authority to grant and issue and cause the issuance of writs of habeas corpus, and, in criminal law matters, the writs of mandamus, procedendo, prohibition, and certiorari. The court and each judge thereof shall have, and is hereby given, the power and authority to grant and issue and cause the issuance of such other writs as may be necessary to protect its jurisdiction or enforce its judgments.

**Sec. 2.** The Court of Criminal Appeals shall have, and is hereby given, final appellate and review jurisdiction in criminal cases coextensive with the limits of the state, and its determinations shall be final. The appeal of all cases in which the death penalty has been assessed shall be to the Court of Criminal Appeals. In addition, the Court of Criminal Appeals may, on its own motion, with or without a petition for such discretionary review being filed by one of the parties, review any decision of a court of appeals in a criminal case. Discretionary review by the Court of Criminal Appeals is not a matter of right, but of sound judicial discretion.

**Art. 4.05. [54] [88] [87] Jurisdiction of district courts.**

District courts and criminal district courts shall have original jurisdiction in criminal cases of the grade of felony, of all misdemeanors involving official misconduct, and of misdemeanor cases transferred to the district court under Article 4.17 of this code.

**Art. 4.07. [56] [98] [91] Jurisdiction of county courts.**

The county courts shall have original jurisdiction of all misdemeanors of which exclusive original **jurisdiction is not given to the justice court, and** when the fine to be imposed shall exceed five hundred dollars.

**Art. 4.08. [57] [101-897] Appellate jurisdiction of county courts.**

The county courts shall have appellate jurisdiction in criminal cases of which justice courts and other inferior courts have original **jurisdiction**.

**NOTE:** Notice the appellate jurisdiction of the county courts comes from a case from a justice court or other inferior court, which means that the county court does not have original jurisdiction to hear the trial de novo. This way the county court can only rule on your paperwork or dismiss the case.

**Art. 4.09. [58] [105] [95] Appeals from inferior court.**

If the **jurisdiction** of any \*county court has been transferred to the district court or to a \*county court at law, then an appeal from a justice or other inferior court will lie to the court to which such appellate jurisdiction has been transferred.

**Art. 4.10. [59] [99] [92] To forfeit bail bonds.**

\*County courts and \*county courts at law shall have **jurisdiction** in the forfeiture and final judgment of all bail bonds and personal bonds taken in criminal cases of which said courts have **jurisdiction**.

**Art. 4.11. [60] [106] [96] Jurisdiction of justice courts.**

(a) Justices of the peace shall have original jurisdiction in criminal cases:

(1) punishable by fine only; or

(2) punishable by:

(A) a fine; and

(B) as authorized by statute, a sanction not consisting of confinement or imprisonment that is rehabilitative or remedial in nature.

(b) The fact that a conviction in a justice court has as a consequence the imposition of a penalty or sanction by an agency or entity other than the court, such as a denial, suspension, or revocation of a privilege, does not affect the original jurisdiction of the justice court.

**Art. 4.12. [60a] Misdemeanor cases; precinct in which defendant to be tried in justice court.**

(a) Except as otherwise provided by this article, a misdemeanor case to be tried in justice court shall be tried:

(1) in the precinct in which the offense was committed;

(2) in the precinct in which the defendant or any of the defendants reside; or

(3) with the written consent of the state and each defendant or the defendant's attorney, in any other precinct within the county.

(b) In any misdemeanor case in which the offense was committed in a precinct where there is no qualified justice court, then trial shall be held:

(1) in the next adjacent precinct in the same county which has a duly qualified justice court; or

(2) in the precinct in which the defendant may reside.

(c) In any misdemeanor case in which each justice of the peace in the precinct where the offense was committed is disqualified for any reason, such case may be tried in the next adjoining precinct in the same county having a duly qualified justice of the peace.

**Art. 4.14. [62] [108] [98] Jurisdiction of municipal court.**

(a) A municipal court, including a municipal court of record, shall have exclusive original jurisdiction within the territorial limits of the municipality in all criminal cases that:

(1) arise under the ordinances of the municipality; and

(2) are punishable by a fine not to exceed:

(A) \$2,000 in all cases arising under municipal ordinances that govern fire safety, zoning, or public health and sanitation, including dumping of refuse; or

(B) \$500 in all other cases arising under a municipal ordinance.

(b) The municipal court shall have concurrent jurisdiction with the justice court of a precinct in which the municipality is located in all criminal cases arising under state law that:

- (1) arise within the territorial limits of the municipality; and
- (2) are punishable by fine only, as defined in Subsection (c) of this article.

(c) In this article, an offense which is punishable by "fine only" is defined as an offense that is punishable by fine and such sanctions as authorized by statute not consisting of confinement in jail or imprisonment that are rehabilitative or remedial in nature.

(d) The fact that a conviction in a municipal court has as a consequence the imposition of a penalty or sanction by an agency or entity other than the court, such as a denial, suspension, or revocation of a privilege, does not affect the original **jurisdiction** of the municipal court.

(e) The municipal court has **jurisdiction** in the forfeiture and final judgment of all bail bonds and personal bonds taken in criminal cases of which the court has **jurisdiction**.

**Art. 4.15. [63] [109] [99] May sit at any time.**

Justice courts and corporation courts may sit at any time to try criminal cases over which they have **jurisdiction**. Any case in which a fine may be assessed shall be tried in accordance with the rules of evidence and this Code.

**Art. 4.16. [64] [63] Concurrent jurisdiction.**

When two or more courts have concurrent jurisdiction of any criminal offense, the court in which an indictment or a complaint shall first be filed shall retain **jurisdiction** except as provided in Article 4.12.

**Art. 4.17. Transfer of certain misdemeanors.**

On a plea of not guilty to a misdemeanor offense punishable by confinement in jail, entered in a \*county court of a judge who is not a licensed attorney, on the motion of the state or the defendant, the judge may transfer the case to a district court having **jurisdiction** in the county or to a \*county court at law in the county presided over by a judge who is a licensed attorney. The judge may make the transfer on his own motion. The attorney representing the state in the case in \*county court shall continue the prosecution in the court to which the case is transferred. Provided, in no case may any such case be transferred to a district court except with the written consent of the judge of the district court to which the transfer is sought.

**Art. 21.26. [419] [483] [471] Order transferring cases.**

Upon the filing of an indictment in the district court which charges an offense over which such court has no jurisdiction, the judge of such court shall make an order transferring the same to such inferior court as may have **jurisdiction**, stating in such order the cause transferred and to what court transferred.

**Art. 21.30. [423] [487] [475] Cause improvidently transferred.**

When a cause has been improvidently transferred to a court which has no jurisdiction of the same, the court to which it has been transferred shall order it to be re-transferred to the proper court; and the same proceedings shall be had as in the case of the original transfer. In such case, the defendant and the witnesses shall be held bound to appear before the court to which the case has been re-transferred, the same as they were bound to appear before the court so transferring the same.

**Art. 27.08. [511] [575] [564] Exception to substance of indictment.**

There is no exception to the substance of an indictment or information except:

1. That it does not appear therefrom that an offense against the law was committed by the defendant;
2. That it appears from the face thereof that a prosecution for the offense is barred by a lapse of time, or that the offense was committed after the finding of the indictment;
3. That it contains matter which is a legal defense or bar to the prosecution; and
4. That it shows upon its face that the court trying the case has no jurisdiction thereof.

**Art. 36.11. [655] [731-733] Discharge before verdict.**

If it appears during a trial that the court has no jurisdiction of the offense, or that the facts charged in the indictment do not constitute an offense, the jury shall be discharged. The accused shall also be discharged, but such discharge shall be no bar in any case to a prosecution before the proper court for any offense unless termination of the former prosecution was improper.

**NOTE:** The above article should be used for a motion to dismiss, stating that a statute charged against someone not required by applicability of such charge creates no offense. Example: being charged for failure of having a log book or weight scale certificate in your car, when you are not required to do this, if not operating an eighteen wheeler on the highway, creates no offense. The same argument could be used with every statute in the transportation while not in commerce.

**Art. 44.0426. [834] [922] Filing bond perfects appeal.**

(a) When the appeal bond has been filed with the justice or judge who tried the case **not later** than the 10th day after the date the judgment was entered, the appeal in such case shall be held to be perfected.

(b) If an appeal bond is not timely filed, the appellate court does not have jurisdiction over the case and shall remand the case to the justice or municipal court for execution of the sentence.

(c) An **appeal may not be dismissed** because the defendant failed to give notice of appeal in open court. An appeal by the defendant or the state may not be dismissed on account of any defect in the transcript.

Art. 45.043. [915] [1010] [975] Effect of Appeal

When a defendant files the appeal bond required by law with the justice or municipal court, all further proceedings in the case in the justice or municipal court shall cease.

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**Jurisdiction in TEXAS**

**Jurisdictional Statement:**

Pursuant to Article 5 Section 8 of the Texas Constitution: The District Court jurisdiction consists of exclusive appellate and original jurisdiction of all actions proceedings and remedies, except in cases where exclusive appellate or original jurisdiction may be conferred by this Constitution or other law on some other court tribunal or administrative body. District Court did show power to issue writs necessary to enforce their jurisdiction. The District Court shall have appellate jurisdiction as general supervisory control of the County Commissioners Court with certain exceptions and under such regulation as may be prescribed by law.

**Venue Statement:**

Venue and instant action is proper in that, in all times enumerated herein, all actions have taken place within the City of \_\_\_\_\_ which is in the County of Harris.

1. **Lasher v. State**, 30 Tex. App. 387, 17 S.W. 1064 (1891):

State prosecution for forgery occurring at Fort McIntosh, in U.S. jurisdiction. Court took judicial notice of this fact and held state had no jurisdiction over the offense.

2. **United States v. Schwalby**, 8 Tex. Civ. App. 679, 29 S.W. 90 (1894):  
Schwalby claimed interest in real property alleged to be owned by U.S., for which a cession of jurisdiction existed. Suit commenced for trespass and Schwalby prevailed. On appeal, court held that jurisdiction within U.S. depended on title, and here the U.S. had only partial title; jurisdiction of state court upheld.
3. **Baker v. State**, 47 Tex. Cr. R. 482, 83 S.W. 1122 (1904):  
Assault with intent to murder prosecution, the crime occurring outside Fort Brown on a street. U.S. had title and jurisdiction of the street, and defendant attempted to prove this but trial court excluded evidence holding U.S. had jurisdiction only within fort. Court reversed and held that actual boundaries were all important as the state would have no jurisdiction for an offense occurring on any spot within U.S. jurisdiction.
4. **Curry v. State**, 111 Tex. Cr. 264, 12 S.W.2d 796 (1928):  
Defendant convicted of a fishing offense occurring on federal property, the land being owned by U.S., but there being no proof of cession of jurisdiction pursuant to state law. Court held that cession of jurisdiction by Governor pursuant to statute was essential to transfer jurisdiction, thus state court had jurisdiction here.
5. **United Services Automobile Ass'n. v. Harman**, 151 S.W.2d 609 (Tex. Civ. App. 1941):  
Soldiers stationed at Fort Hoyle, military reservation in Maryland, but in U.S. jurisdiction, involved in auto accident in Baltimore; suit in Maryland had process served upon soldier in enclave. Suits in Texas instituted to recover against insurer on Maryland judgments, and insurer attacked Maryland process. Court held that Maryland process regarding a non-resident was entirely proper.
6. **City of Wichita Falls v. Bowen**, 143 Tex. 45, 182 S.W.2d 695 (1944):  
City annexed adjoining military bases, and bus company owner was engaged in transportation between city and bases. His argument that city taxes on fares paid at bases were invalid on jurisdictional grounds was not sustained.
7. **Independent School Dist. of City of El Paso v. Central Education Agency**, 247 S.W.2d 597 (Tex. Civ. App. 1952):  
El Paso, in agreement with military officers at Fort Bliss, annexed the reservation to school district and then sought additional state funding. The court found nothing improper in such arrangement.
8. **Sandel v. State**, 158 Tex. Cr. R. 101, 253 S.W.2d 283 (1952):  
Auto accident on highway in Fort Hood; defendant was intoxicated and death resulted, hence murder prosecution. Defendant attacked state court's jurisdiction and proved title of land in U.S. and act of cession. State replied by showing that jurisdiction over the road was reserved to the state. Conviction upheld.
9. **Garcia v. State**, 169 Tex. Cr. R. 30, 331 S.W.2d 53 (1959):  
Defendants employed by U.S. government at El Paso International Bridge were prosecuted by state for assault with intent to rape. Because the U.S. Immigration Building at the bridge was only leased to the U.S., court held state court had jurisdiction.
10. **Board of Equalization v. General Dynamics Corp.**, 344 S.W.2d 489 (Tex. Civ. App. 1961):  
U.S. owned land and had obtained cession of jurisdiction, and General Dynamics had substantial amount of property located there which City of Fort Worth taxed. Court held that city had no jurisdiction to impose this tax.
11. **Calvert v. Adams**, 388 S.W.2d 742 (Tex. Civ. App. 1965):  
Amusement machines located at Fort Hood had tax imposed. In suit to recover taxes, court held same could not be recovered; reversed, Adams v. Calvert, 396 S.W.2d 948 (Tex. 1965).

12. **Humble Oil & Refining Co. v. Calvert**, 464 S.W.2d 170 (Tex.Civ.App. 1971):  
Held, state could not impose occupation taxes on company exploiting minerals at Corpus Christi Naval Air Station, in U.S. jurisdiction. Affirmed, 478 S.W.2d 926 (Tex. 1972).

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## **DUE PROCESS**

Due Process defined under **Goldsberg v. Kelly**, 397 US 254

1. Timely Notice.
2. Confront your adversary witnesses.
3. Oral Arguments.
4. Oral presentation of evidence.
5. Cross examination of adverse party
6. Right to an attorney.
7. Disclosure of evidence.
8. Determination of outcome of a Court of Record. (So you don't have to do it again.)
9. Right of finding facts and conclusions of law. (You have the right to ask the reasoning why a judge is doing what he is doing.)
10. Right to an impartial judge.

**Texas Code of Criminal Procedure, Sec. 2.01** - all other attorneys are charged, "with the primary duty not to convict but to see justice done. They shall not suppress facts or secrets witnesses capable of establishing the innocence of the accused."

**Chapter 45** of the Code of Criminal Procedures are the rules the Municipal Courts supposedly use.

**Tex. Cod. of Crim. Proc. 45.025** - Defendant may waive jury.

**Tex. Cod. of Crim. Proc. 45.024** - If defendant refuses to plead, the justice shall enter a plea of not guilty.

**Tex. Cod. of Crim. Proc. 45.020** - The defendant has a right to appear by counsel as in all other cases. State's counsel may open and conclude the argument.

**Tex. Cod. of Crim. Proc. 45.011** - The rules of evidence shall apply to such actions in justice courts.

**Tex. Cod. of Crim. Proc. 45.037** - An application for a new trial must be made within one day after the rendition of judgment and sentence, and not afterward.

**Tex. Cod. of Crim. Proc. 45.040** - In no case shall the State be entitled to a new trial.

**Tex. Cod. of Crim. Proc. 45.041** - All judgments and sentences and final orders of the justice shall be rendered in open court.

**Tex. Cod. of Crim. Proc. 45.051 Sec. 6** - Records relating to a complaint dismissed as provided by this article may be expunged under Article 55.01 of this code.

**Government Code** Book 2, Chapter 29, is on General Law, Chapter 30 gets into separate Court rules of Municipal Courts.

**Gov. Code 30.266** - If the defendant or the state requests a court reporter prior to trial, the judge shall appoint an official court reporter.

**Due process of law.** Due process of law implies the right of the party affected thereby to be present before the tribunal which pronounces judgment upon the question of life, liberty, or property, in its most comprehensive sense: to be heard, by testimony or otherwise, and to have a controvert right, by proof, every material fact which bears on the question of right in the matter involved. If any question of fact or liability be conclusively presumed against him, this is not due process of law.

An orderly proceeding wherein a party is served with notice, actual or constructive, and has an opportunity to be heard and to enforce and protect his rights before a court having power to hear and determine the case. **Kazubowski v. Kazubowski**, 45 Ill.2d 405, 259 N.E.2d 282, 290. Phrase means that no party shall be deprived of life, property or of any right granted him by statue, unless matter involved first shall have been adjudicated against him upon trial conducted according to established rules regulating judicial proceedings, and it forbids condemnation without a hearing. **Pettit v. Penn.** La. App., 180 So.2d 66, 69. The concept of “due process of law” as it is embodied in the Fifth Amendment demands that a law shall not be unreasonable, arbitrary, or capricious and that the means selected shall have reasonable and substantial relation to the object being sought. **U.S. v. Smith**, D.C.Iowa, 249 F.Supp. 516. Fundamental requisite of “due process “ is the opportunity to be heard, to be aware a matter is pending, to make an informed choice whether to acquiesce or contest, and to assert before the appropriate decision-making body the reasons for such choice. **Trinity Episcopal Corp. v. Romney**, D.C.N.Y., 387 F.Supp. 1044, 1084. Aside from all else, “due process” means fundamental fairness and substantial justice. **Vaughn v. State**, 3 Tenn. Crim. App. 54, 456 S.W.2d 879, 883. Refer. BLD. 6th page 500.

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## **BEFORE ARRAIGNMENT**

At the Clerks office, ask for and get the Verified Complaint and a list of all Judges and Attorneys that may confront you during trial.

If the Clerk will not give this to you, ask if they are an attorney. If not, then get their supervisor. If the supervisor will not help, ask to speak to the judge or someone with the authority to speak. DON'T TAKE NO FOR AN ANSWER!!! You must get the list, so you can check them out. Texas Const. Article 1, Section 10 verifies this right.



If you do not get this information, file a Motion to Dismiss for not following Article 1, Section 10.

Always check to see if the Judge is a judge in different courts, which is illegal. This can be done by checking with the City and State, under the authority of Article 16, Sec. 40. of the Texas Constitution. Use the 'Request for Access to Public Information' form. An example form is found in this reference book.

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## ARRAIGNMENT

Always ask, “By what authority do you speak to me on this matter?”

By **Texas Constitution, Article 5, Section 21**, a City Attorney cannot prosecute for the State of Texas, so I don’t have to talk to you.

I’ve done a search and he is not an Attorney.

I’ve done a search and you are not a judge.

You will state that you can not plead because the court is not properly set. The proper person is not present to represent the State.

I can’t plea, because I haven’t received a copy of the complaint, per 45.04 of the Texas code of Criminal Procedure.

Always let the Judge plead for you. This is in the Code of Criminal Procedures, to let him do this.

Inform the Judge that he does not have Subject Matter Jurisdiction since his clerk swore to the Verified Complaint and that the Clerk is an agent working for the Principal, which is the City or County. And the judge cannot preside or anything, where he is involved as being the damaged party, which is stated in the Code of Criminal Procedure.

**Texas Constitution, Art.1, Sec. 13** says that all trials will be OPEN, don't go in his Chambers unless you bring in a witness.

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## PRE-TRIAL

After arraignment, put in Motion To Show Cause using Rule 12 in the Texas Rules of Court, asking the judge to send an Order to the prosecutor to bring to a Show Cause Hearing, his delegated authority to represent the State of Texas in this court case. Usually the time limit is ten days until the Show Cause Hearing. If the judge won’t do it, you could always write up a Writ of Mandamus send it to District Court and make him do it. You know by now, or can find in this reference, that only the county attorney can represent the state and the city attorney doesn’t have the authority to represent it unless you consent.

Before Pretrial - Subpoena the Clerk, Cop, and whomever else you can show for violation of right to Due Process. If the attorney tries to squash the subpoenas, your argument is that you have the right to be faced with your accusers, per Article 1, Section 10 of the Texas Constitution.

You ask the person who swore to the complaint - Where & How do you know me or about the case? Did you see me do this? Do you know that a crime even happened? Why did you swear to my complaint? Whom did you swear to? How many complaints do you swear to that day?

When the Judge asked if you are ready for trial, "you are **NEVER** ready", because the court is not properly set.

**NOTE:** Rules of argument state that you get to open arguments of motions. Then after the prosecutor, you get to close, before the judge makes a ruling. Found in the Rules of Criminal Procedure in article **28.08** .

## **CCRP 28.01(2) Pre Trial**

**TCCrP Art. 28.01.** [522] [587] [576] Pre-trial.

**Sec. 2.** When a criminal case is set for such pre-trial hearing, any such preliminary matters not raised or filed seven days before the hearing will not thereafter be allowed to be raised or filed, except by permission of the court for good cause shown; provided that the defendant shall have sufficient notice of such hearing to allow him not less than 10 days in which to raise or file such preliminary matters. The record made at such pre-trial hearing, the rulings of the court and the exceptions and objections thereto shall become a part of the trial record of the case upon its merits.

*CCRP does not have an enacting clause and is not law. But by making special appearance and challenge jurisdiction, and telling them that they do not have the threshold prerequisites that are required for them to have jurisdiction.*

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## **AFFIDAVITS**

**A Bill of Exception** - is an affidavit, which states that the court room procedure was not followed as stated in the Texas Rules of Criminal Procedure. You need three witnesses or a court of record transcript.

Affidavits should be done at any and every incident which do occur in your life, where they may need to be remembered in the future (i.e. traffic ticket.) This entails writing down what you remember at the time or shortly thereafter. This will show credibility to your affidavit, rather than filling one out a month down the road.

Affidavits should be attached to each Motion to give it force and effect.

**EXAMPLE**

**AFFIDAVIT**

I, \_\_\_\_\_, a Natural Born Native, herein further known as Affiant, am more than twenty-one (21) years of age and fully competent to testify to the facts stated herein to which Affiant has direct and personal knowledge. The facts testified to are the truth, whole truth, and nothing but the truth to the best of Affiant's belief.

Affiant believes that Motion For \_\_\_\_\_ has been researched and verified to be correct in every way and should be considered as Prima Facie until such time as the prosecutor is able to rebut such information contained in such attached document.

Further Affiant Sayeth Naught.

\_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, Before me, \_\_\_\_\_, personally appeared as the above-signed affiant, known to me to be the one who's ascertained name is signed on this affidavit, and has acknowledged to me that s/he has executed under ascertained full faith and full knowledge of the same under such authority of fact would invoke.

**Witness**

**Witness**

\*\*\*\*\*

# MOTIONS

**NOTE:** The following are Boiler Plate Motions that have been used. Be sure to attach an affidavit with each Motion to give it force and effect. Attach a Certificate of Service and an Order for the judge to sign agreeing or disagreeing with you.

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## EXAMPLES

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IN THE \_\_\_\_\_ COURT IN AND FOR THE CITY OF \_\_\_\_\_  
STATE OF TEXAS

Cause No. \_\_\_\_\_

The STATE OF TEXAS	§	In the _____ COURT	
VS.	§		
	§		City of _____
The Accused	§		County of _____

### Judicial Notice

Pursuant under 201(d) of the Texas and Federal Rules of Evidence

#### MANDATORY

**Public Law 93-595: A Court shall take Judicial Notice if requested by a party and supplied with the necessary information.**

## **ACCUSED DEMANDS FOR DISMISSAL BILL OF ATTAINDER UNCONSTITUTIONAL**

Pursuant to the Constitution for the united States of America, Article 1, Section 9 and 10 and the Texas Constitution Article 1, Section 16; No Bill of Attainder shall be passed.

The Texas Legislature will make no law which is in conflict of the Constitution for the united States of America or the Texas Constitution.

The purported Ticket, Citation, Bill of Attainder, or otherwise, violates the Constitution for the united States of America and the Texas Constitution.

If the Accused refused to sign the bill of attainder, the Accused would be outlawed, without conviction. This is a direct conflict with the Constitution for the united States of America and the Texas Constitution.

**Sergeant v. Watson Bros. Transp. Co., 244 Iowa 185, 52 N.W. 2d 86,93 (1952)**

"Every confinement of the person is an imprisonment, whether it be in a common prison, or in a private house, or in the stocks, or even by **forcibly detaining one** in the public street. ...no matter how short in duration, makes the actor liable to the other."

**Marbury v. Madison : 5 US 137 (1803):**

"**No** provision of the Constitution is designed to be without effect," "Anything that is in conflict is **null** and **void** of law", "Clearly, for a secondary law to come in conflict with the supreme Law was illogical, for certainly, the supreme Law would prevail over all other laws and certainly our forefathers had intended that the supreme Law would be the bases of all law and for any law to come in conflict would be null and void of law, it would bare no power to enforce, it would bare no obligation to obey, it would purport to settle as if it had never existed, for unconstitutionality would date from the enactment of such a law, not from the date so branded in an open court of law, **no** courts are bound to uphold it, and **no** Citizens are bound to obey it. It operates as a near nullity or a fiction of law."

If any statement, within any law, which is passed, is unconstitutional, the whole law is unconstitutional by Marbury v. Madison.

**Shuttlesworth v. Birmingham Al., 373 US 262:(1962)**

"If the state **does** convert your right into a privilege and issue a license and a fee for it, you can **ignore** the license and a fee and **engage** the right with impunity."

**Bryars v. United States, 273USR 28: (Ken, I don't know the cite for this one!)**

"Constitutional provisions, where the security of a person and property are to be liberally construed, and it is the **duty** of the courts to be watchful for the constitutional rights of the Citizen and against any stealth encroachment therein."

**Norton v. Shelby County , 118 USR 425:**

"An unconstitutional act is **not** law. It confers **no** rights, it imposes **no** duties, it affords **no** protections, it creates **no** office. It is in legal contemplation as inoperative as though it has **never** been passed."

**11 Am. Jur. § 329; Slusher v. Safety Coach Transit Co. 229 Ky. 731, 17 S.W. 2d 1012, 66 A.L.R. 1378; Thompson v. Smith, 155 Va. 367, 154 S.E. 579, 71 A.L.R. 604**

"The right of a citizen to travel upon the public highways and to transport his property thereon, by horse-drawn carriage, wagon, or automobile, is not a mere privilege which may be permitted or prohibited at will, but a common right which he has under his right to life, liberty, and the pursuit of happiness."

**The Constitution of the united States of America**

**Article. I.**

**Section. 9. Clause 3. No Bill of Attainder or ex post facto Law shall be passed.**

**Section. 10. No state shall** enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; **pass any Bill of Attainder**, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

**The Constitution for the united States of America  
BILL OF RIGHTS  
Article Nine**

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

**CONSTITUTION FOR THE STATE OF TEXAS 1876  
ARTICLE I  
BILL OF RIGHTS**

**Section 16. No bill of attainder**, ex post facto law, retroactive law, or any law impairing the obligation of contracts, shall be made.

Wherefore, premises considered, the Accused respectfully demands judgment of the Court as follows:

1. That the action be dismissed with prejudice, and
2. That Accused recover all costs, together with such other and further relief to which Accused may be justly entitled.

Prayerfully Submitted,

\_\_\_\_\_  
, sui juris

\*\*\*\*\*

IN THE \_\_\_\_\_ COURT IN AND FOR THE CITY OF \_\_\_\_\_  
STATE OF TEXAS

Cause No. \_\_\_\_\_

The STATE OF TEXAS	§	In the _____ COURT
	§	
VS.	§	
	§	City of _____
_____	§	County of _____
The Accused		

### Judicial Notice

Pursuant under 201(d) of the Texas and Federal Rules of Evidence  
**MANDATORY**

**Public Law 93-595: A Court shall take Judicial Notice if requested by a party and supplied with the necessary information.**

#### ACCUSED DEMANDS FOR DISMISSAL COURT SET IN WRONG VENUE

Pursuant under United States Code, Title 4 Section 1, 2, 3 and Title 36, Section 173, 175 and 176, this Court can not be set while a Foreign Flag is present. Since the Presiding Judge and Prosecutor has taken an Oath by which protects and defends the Constitution for the United States of America and the State of Texas, the possibility of Constructive Treason could be brought forth by anyone present within the Court Room. The Accused respectively protests the presence of a desecrated American Flag as indicated by United States Code, Title 4, Section 1, 2, 3 and Title 36, Section 173, 175 and 176. The Codes are stated as follows:

#### **United States Code**

**TITLE 4 - FLAG AND SEAL, SEAT OF GOVERNMENT, AND THE STATES**  
THIS TITLE WAS ENACTED BY ACT JULY 30, 1947, CH. 389, SEC. 1, 61 STAT. 641

#### **Chapt. 1. The Flag**

#### **§ 1. Flag; stripes and stars on**

The flag of the United States shall be thirteen horizontal stripes, alternate red and white; and the union of the flag shall be forty-eight stars, white in a blue field.

#### **§ 2. Same; additional stars**

On the admission of a new State into the Union one star shall be added to the union of the flag; and such addition shall take effect on the fourth day of July then next succeeding such admission.

### **§ 3. Use of flag for advertising purposes; mutilation of flag**

Any person **who**, within the District of Columbia, in any manner, for exhibition or display, **shall place** or cause to be placed **any** word, figure, mark, picture, **design**, drawing, or any advertisement of any nature upon **any flag**, standard, **colors**, or ensign of the United States of America; or **shall expose** or cause to be exposed to public view any such flag, standard, **colors**, or ensign upon which shall have been printed, painted, or **otherwise placed**, or to which shall be **attached, appended, affixed**, or annexed any word, figure, mark, picture, **design**, or drawing, or any advertisement of any nature; or who, within the District of Columbia, shall manufacture, sell, expose for sale, or to **public view**, or give away or have in possession for sale, or to be given away or for use for any purpose, any article or substance being an article of merchandise, or a receptacle for merchandise or article or thing for carrying or transporting merchandise, upon **which shall** have been printed, painted, **attached**, or **otherwise placed a representation** of **any** such flag, standard, **colors**, or ensign, to advertise, call attention to, **decorate**, mark, or distinguish the article or substance on which so placed **shall be** deemed **guilty** of a misdemeanor and **shall be punished** by a fine not exceeding \$100 or **by imprisonment** for not more than thirty days, or both, in the discretion of the court. The words "flag, standard, **colors**, or ensign", as used herein, **shall include** any flag, standard, **colors**, ensign, or any picture or representation of either, or of **any** part or parts of either, made of **any** substance or represented on **any** substance, of **any** size evidently purporting to be either of said flag, standard, **colors**, or ensign of the United States of America or a picture or a **representation** of either, upon which shall be shown the **colors**, the stars and the stripes, in any number of either thereof, or of **any** part or parts of either, by which the average person seeing the same without deliberation may believe the same to represent the flag, **colors**, standard, or ensign of the United States of America.

#### **United States Code**

#### **Title 36**

#### **§ 173. Display and use of flag by civilians; codification of rules and customs; definition**

The following codification of existing rules and customs pertaining to the display and use of the flag of the United States of America is established for the use of such civilians or civilian groups or organizations as may not be required to conform with regulations promulgated by one or more executive departments of the Government of the United States. The flag of the United States for the purpose of this chapter shall be defined according to sections 1 and 2 of title 4 and Executive Order 10834 issued pursuant thereto.

#### **§ 175. Position and manner of display**

The flag, when carried in a procession with another flag or flags, should be either on the marching right; that is, the flag's own right, or, if there is a line of other flags, in front of the center of that line.

•(f) When flags of States, cities, or localities, or pennants of societies are flown on the same halyard with the flag of the United States, the latter should always be at the peak. When the flags are flown from adjacent staffs, the flag of the United States should be hoisted first and lowered last. **No such flag or pennant may be placed above the flag of the United States** or to the United States flag's right



**§ 176. Respect for flag**

No disrespect should be shown to the flag of the United States of America; the flag should not be dipped to any person or thing. Regimental colors, State flags, and organization or institutional flags are to be dipped as a mark of honor.

**•(g) The flag should never have placed upon it, nor on any part of it, nor attached to it any mark, insignia, letter, word, figure, design, picture, or drawing of any nature.**

At no time or place does the United States Code allow an American Flag to be displayed in a Court with a yellow fringe, other than in a Military Court. This is found in ARMY REGULATIONS 260-10, OCTOBER 1990, CH. 8 and in; ARMY REGULATIONS 840-10, CH. 2-1(a,b) CH. 2-5 (a,b,c), CHAPTER 2-6.

Judicial Notice has been given that Jurisdiction over a Citizen of Texas has been challenged and Jurisdiction of this Court using a Yellow Fringe American Flag will need to be proven by the Prosecutor. Not doing so, will be of risk of violating the "FOREIGN SOVEREIGN IMMUNITY ACT" of 1976.

If no Flag is present in the Court Room, clearly no Venue or Nature of the Court can be recognized and the matter must be dismissed.

Wherefore, premises considered, the Accused respectfully demands judgment of the Court as follows:

1. That the action be dismissed with prejudice, and
2. **That the Accused recover all costs, together with such other and further relief to which the Accused may be justly entitled.**

Prayerfully Submitted,

\_\_\_\_\_  
, sui juris

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IN THE \_\_\_\_\_ COURT IN AND FOR THE CITY OF \_\_\_\_\_  
STATE OF TEXAS

Cause No. \_\_\_\_\_

The STATE OF TEXAS                                    §                                    In the \_\_\_\_\_ COURT  
  §  
  §                                    VS.  
  §                                    City of \_\_\_\_\_  
\_\_\_\_\_  
  §                                    County of \_\_\_\_\_  
  §                                    The Accused

**Judicial Notice**  
Pursuant under 201(d) of the Texas and Federal Rules of Evidence  
MANDATORY  
Public Law 93-595: A Court shall take Judicial Notice if requested by a party and  
supplied with the necessary information.

**ACCUSED DEMANDS FOR DISMISSAL**  
**COMPLAINT IS FATALLY DEFECTIVE**

Pursuant under the Code of Criminal Procedure Article 45.16 which states: "Upon complaint being made, the justice or other officer shall reduce the same to writing and cause the same to be signed and sworn to by the complainant." The Accused hereby makes known that the complaint did not follow the Code of Criminal Procedure Article 45.16. The complaint was signed by a third party without first hand knowledge of the presumed crime. This in itself creates a faulty and fatally defective complaint, which is grounds for dismissal.

"If a misdemeanor citation or complaint omits a statutory element of the charged offense, the document is constitutionally defective for failure to state an offense and is subject to dismissal."

(**City of Auburn v. Brooke** 836 P.2d 212 (1992))

**Texas Code of Criminal Procedure**  
CHAPTER THIRTY-EIGHT--EVIDENCE IN CRIMINAL ACTIONS  
Art. 38.03. [705] [785] [765] Presumption of innocence.

"All persons are presumed to be innocent and no person may be convicted of an offense unless each element of the offense is proved beyond a reasonable doubt. The fact that he has been arrested, confined, or indicted for, or otherwise charged with the offense gives rise to no inference of guilt at his trial."

Wherefore, premises considered, the Accused respectfully demands judgment of the Court as follows:

1. That the action be dismissed with prejudice, and
2. That Accused recover all costs, together with such other and further relief to which the Accused may be justly entitled.

Prayerfully Submitted,

\_\_\_\_\_  
, sui juris

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IN THE \_\_\_\_\_ COURT IN AND FOR THE CITY OF \_\_\_\_\_  
STATE OF TEXAS

Cause No. \_\_\_\_\_

The STATE OF TEXAS

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In the \_\_\_\_\_ COURT

VS.

City of \_\_\_\_\_  
County of \_\_\_\_\_

\_\_\_\_\_  
The Accused

**Judicial Notice**

Pursuant under 201(d) of the Texas and Federal Rules of Evidence

**MANDATORY**

**Public Law 93-595: A Court shall take Judicial Notice if requested by a party and supplied with the necessary information.**

**MOTION FOR EXPUNGEMENT**

Pursuant to the Code of Criminal Procedure, Article 55.01, the defendant requests that all records, documents, notes, computer entries, or otherwise be removed and destroyed, as though the associated Cause never occurred.

Wherefore, premises considered, Defendant respectfully demands judgment of the Court as follows:

1. That all records, documents, notes, computer entries, or otherwise be removed and destroyed, and
2. That Defendant recover all costs, together with such other and further relief to which Defendant may be justly entitled.

Prayerfully Submitted,

\_\_\_\_\_  
, sui juris

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**NOTE:** Get the following Motion in, among all others. Some judges have be known to deny this Motion, by which you can then give a copy to other people to use as evidence 'Exhibit A,' to Recuse that judge from sitting in judgment over you, or them, ever again. Also, file barratry charges on him and file a complaint with the ethics committee.

IN THE \_\_\_\_\_ COURT IN AND FOR THE CITY OF \_\_\_\_\_  
STATE OF TEXAS

Cause No. \_\_\_\_\_

<p>The STATE OF TEXAS</p> <p style="text-align: center;">VS.</p> <p>_____</p> <p style="text-align: center;">The Accused</p>	<p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p>	<p>In the _____ COURT</p> <p style="text-align: right;">City of _____</p> <p style="text-align: right;">County of _____</p>
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**Judicial Notice**

Pursuant under 201(d) of the Texas and Federal Rules of Evidence  
MANDATORY

**Public Law 93-595: A Court shall take Judicial Notice if requested by a party and supplied with the necessary information.**

**MOTION FOR A FAIR TRIAL**

Accused, requests that the Honorable Judge of the Court will follow and be in compliance with the Constitution for the united States of America and the Constitution for the state of Texas. Accused, requests the Honorable Judge of the Court be impartial towards the Prosecutor and the Accused. Accused, requests the Honorable Judge of the Court by reminding the Prosecutor of Article 2.01 of the Texas Code of Criminal Procedure, that all attorneys are charged "with the primary duty not to convict but to see that justice is done." Accused, requests the Honorable Judge of the Court by reminding the Prosecutor by "not suppressing facts or secret witnesses capable of establishing the innocence of the Accused. Accused requests the Honorable Judge of the Court to follow Art. 2.03 (b) of the Texas Code of Criminal Procedure which states "It is the duty of the trial court, the attorney representing the accused, the attorney representing the state, and all peace officers to so conduct themselves as to insure a fair trial for both the state and the defendant, to not impair the presumption of innocence, and at the same time afford the public the benefits of a free press."

**Accused requests** the Honorable Judge of the Court, by reminding the Prosecutor, that all essential elements of the charge must be proven beyond a reasonable doubt.

Prayerfully Submitted,

\_\_\_\_\_  
, sui juris

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IN THE \_\_\_\_\_ COURT IN AND FOR THE CITY OF \_\_\_\_\_  
STATE OF TEXAS

Cause No. \_\_\_\_\_

The STATE OF TEXAS

VS.

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In the \_\_\_\_\_ COURT

City of \_\_\_\_\_  
County of \_\_\_\_\_

\_\_\_\_\_  
The Accused

**Judicial Notice**

Pursuant under 201(d) of the Texas and Federal Rules of Evidence  
**MANDATORY**

**Public Law 93-595: A Court shall take Judicial Notice if requested by a party and  
supplied with the necessary information.**

**MOTION FOR COURT’S WRITTEN OPINION OF**  
**TEXAS CODE OF CRIMINAL PROCEDURE**  
**ARTICLE 43.02**

I hereby make known my request and move the Court to make a written legal determination of the words “Lawful Money” as stated in Article 43.02 of the Texas Code of Criminal Procedure, which states as follows:

Art. 43.02. [786] [870] [848] Payable in money.

All recognizances, bail bonds, and undertakings of any kind, whereby a party becomes bound to pay money to the State, and all fines and forfeitures of a pecuniary character, shall be collected in the lawful money of the United States only.

If the Honorable Court binds the Accused to pay some amount in lawful money, the Accused prayerfully requests a written legal opinion from the Court as to the definition of the Dollar (\$) which will be required to pay. If the Accused were instructed to pay 100 Gallons, the Accused would ask, "A Gallon of What?" If the Accused were instructed to pay 100 Pounds, the Accused would ask "A Pound of What?" Since the Dollar is a unit of measurement and if the Accused were instructed to pay (\$)100 Dollars, the Accused asks, "A Dollar of What?"

Prayerfully Submitted,

\_\_\_\_\_  
, sui juris

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IN THE \_\_\_\_\_ COURT IN AND FOR THE CITY OF \_\_\_\_\_  
STATE OF TEXAS

Cause No. \_\_\_\_\_

The STATE OF TEXAS

VS.

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In the \_\_\_\_\_ COURT

City of \_\_\_\_\_  
County of \_\_\_\_\_

\_\_\_\_\_  
The Accused

**Judicial Notice**

Pursuant under 201(d) of the Texas and Federal Rules of Evidence  
MANDATORY

**Public Law 93-595: A Court shall take Judicial Notice if requested by a party and  
supplied with the necessary information.**

**MOTION FOR COURT TO DISALLOW  
STATE BAR MONOPOLY AND ALLOW COUNSEL OF CHOICE**

I hereby make known my request and move the Court to disallow the unconstitutional Monopoly of the State Bar Association and allow the Accused the constitutional right of Counsel of Choice. Texas is a Right to Work State. It is unconstitutional for any rule, statute, act or regulation to abridge the right to contract.

**CONSTITUTION OF THE STATE OF TEXAS, ARTICLE I, BILL OF RIGHTS**

**Section 10.** In all criminal prosecutions the accused shall have a speedy public trial by an impartial jury. He shall have the right to demand the nature and cause of the accusation against him, and to have a copy thereof. He shall not be compelled to give evidence against himself, and shall have the right of being heard by himself or counsel, or both, shall be confronted by the witnesses against him and shall have compulsory process for obtaining witnesses in his favor, except that when the witness resides out of the State and the offense charged is a violation of any of the anti-trust laws of this State, the defendant and the State shall have the right to produce and have the evidence admitted by deposition, under such rules and laws as the Legislature may hereafter provide; and no person shall be held to answer for a criminal offense, unless on an indictment of a grand jury, except in cases in which the punishment is by fine or imprisonment, otherwise than in the penitentiary, in cases of impeachment, and in cases arising in the army or navy, or in the militia, when in actual service in time of war or public danger.

**Section 26.** Perpetuities and monopolies are contrary to the genius of a free government, and shall never be allowed, nor shall the law of primogeniture or entailments ever be in force in this State.

**The Sherman Anti-Trust Act of 1890:** Prohibited monopolies or conspiracies in restraint of interstate and foreign commerce.

**MILLINERY CREATORS' GUILD v. FEDERAL TRADE COM'N, 312 U.S. 469 (1941)**

"...the Circuit Court of Appeals ( 2 Cir., 109 F.2d 175) affirmed a Federal Trade Commission decree ordering the petitioners to cease and desist from certain practices found to have been done in combination and to constitute 'unfair methods of competition' tending to monopoly."

**Swift & Co. v. United States, 196 U.S. 375, 396, 279:**

"Where acts are not sufficient in themselves to produce a result which the law seeks to prevent-for instance, the monopoly-but require further acts in addition to the mere forces of nature to bring that result to pass, an intent to bring it to pass is necessary in order to produce a dangerous probability that it will happen. Commonwealth v. Peaslee, 177 Mass. [334 U.S. 100 , 106] 267, 272, 59 N.E. 55. But when that intent and the consequent dangerous probability exist, this statute, like many others, and like the common law in some cases, directs itself against that dangerous probability as well as against the completed result."

**U.S. V. GRIFFITH , 334 U.S. 100 (1948)**

"It is, however, not always necessary to find a specific intent to restrain trade or to build a monopoly in order to find that the anti-trust laws have been violated."

**WILSON v. LOEW'S INC., 355 U.S. 597 (1958)**

"In Williams the court emphasized that a "closed shop agreement with a single employer is in itself a form of monopoly"; and it condemned attempts by a union 'to control by arbitrary selection the fundamental right to work.' 27 Cal. 2d, at 591, 165 P.2d, at 906. Here on the pleadings the respondents comprise a nationwide monopoly over the industry and arbitrarily place petitioners on a 'black list.'"

Accused moves the court to allow the Accused to have Counsel of Choice and to allow continuous consultation of such Counsel throughout the proceedings.

Prayerfully Submitted,

\_\_\_\_\_  
, sui juris

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IN THE \_\_\_\_\_ COURT IN AND FOR THE CITY OF \_\_\_\_\_  
STATE OF TEXAS

Cause No. \_\_\_\_\_

The STATE OF TEXAS

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In the \_\_\_\_\_ COURT

VS.

City of \_\_\_\_\_  
County of \_\_\_\_\_

\_\_\_\_\_  
The Accused

**Judicial Notice**

Pursuant under 201(d) of the Texas and Federal Rules of Evidence  
**MANDATORY**

**Public Law 93-595: A Court shall take Judicial Notice if requested by a party and  
supplied with the necessary information.**

**MOTION FOR COURT TO FOLLOW**  
**TEXAS CODE OF CRIMINAL PROCEDURE**

I hereby make known my request and move the Court to follow the Texas Code of Criminal Procedure starting with the arraignment, throughout all trial proceedings including pre-trial, main trial, testimony, voire dire examinations, objections, final arguments and any and all obligations brought forth upon the Plaintiff or the Accused, in the above captioned causes.

Prayerfully Submitted,

\_\_\_\_\_  
, sui juris

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IN THE \_\_\_\_\_ COURT IN AND FOR THE CITY OF \_\_\_\_\_  
STATE OF TEXAS

Cause No. \_\_\_\_\_

The STATE OF TEXAS

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In the \_\_\_\_\_ COURT

VS.

City of \_\_\_\_\_  
County of \_\_\_\_\_

\_\_\_\_\_  
The Accused

**Judicial Notice**

Pursuant under 201(d) of the Texas and Federal Rules of Evidence

**MANDATORY**

**Public Law 93-595: A Court shall take Judicial Notice if requested by a party and supplied with the necessary information.**

**MOTION FOR RECORDING**

I hereby make known my request, per Sec 30.266 of the Government Code, for a recording to be made of all trial proceedings including pre-trial, main trial, testimony, voire dire examinations, objections and final arguments in the above captioned causes.

Prayerfully Submitted,

\_\_\_\_\_  
, sui juris

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IN THE \_\_\_\_\_ COURT IN AND FOR THE CITY OF \_\_\_\_\_  
STATE OF TEXAS

Cause No. \_\_\_\_\_

The STATE OF TEXAS

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In the \_\_\_\_\_ COURT

VS.

City of \_\_\_\_\_  
County of \_\_\_\_\_

\_\_\_\_\_  
The Accused

## Judicial Notice

Pursuant under 201(d) of the Texas and Federal Rules of Evidence  
MANDATORY

Public Law 93-595: A Court shall take Judicial Notice if requested by a party and supplied with the necessary information.

### MOTION FOR NATURE AND CAUSE OF ACCUSATION(S)

Accused, requests that the Honorable Judge of the Court will follow and be in compliance with the Constitution for the united States of America and the Constitution for the State of Texas. Accused requests the Honorable Judge of the Court, by reminding the Prosecutor that all essential elements of the charge must be proven beyond a reasonable doubt and that the Accused will be informed of the Nature and the Cause of the accusations which are being brought forth for consideration by this Court.

#### BARTELL v. U S, 227 U.S. 427 (1913)

"It is elementary that an indictment, in order to be good under the Federal Constitution and laws, shall advise the accused of the **nature and cause** of the accusation against him, in order that he may meet the accusation and prepare for his trial, and that, after judgment, he may be able to plead the record and judgment in bar of further prosecution for the same offense."

"... however general the language used, is yet so described as reasonably to inform the accused of the **nature of the charge** sought to be established against him; and . . . in such case, the accused may apply to the court before the trial is entered upon for a bill of particulars,..."

As shown by Bartell v. U.S., (Cite needs to be here.) the obligation of the Prosecutor to inform the Accused the Nature and Cause of the accusation is elementary and not something extraordinary to be expected.

#### NYANZA S S CO. v. JAHNCKE DRY DOCK NO 1, 264 U.S. 439 (1924)

"And the judgment must be, not only in its **nature** final, but a complete disposition of the **cause**."

#### ROBERTSON v. CHAMBERS, 341 U.S. 37 (1951)

"These powers of the Retiring Board have been given a wide reach, so that the **nature and cause** of the disability may be ascertained."

"We think it would be more in harmony with the **nature** of the procedure, ..."

As shown by Nyanza S.S. Co. v. Jahncke Dry Dock No. 1 and Robertson v. Chambers, there is a distinct difference between the Nature and the Cause of the accusation.

**WESTERN UNION TEL CO. v. ANDREWS, 216 U.S. 165 (1910)**

"The various authorities we have referred to furnish ample justification for the assertion that individuals who, as officers of the state, are clothed with some duty in regard to the enforcement of the laws of the state, and who threaten and are about to commence proceedings, either of a civil or criminal **nature**, to enforce against parties affected by an unconstitutional act, violating the Federal Constitution, may be enjoined by a Federal court of equity from such action."

**HASTINGS v. SELBY OIL & GAS CO., 319 U.S. 348 (1943)**

"This is an action in the **nature** of an equity proceeding brought by the respondents ..."

**PETERS v. VEASEY , 251 U.S. 121 (1919)**

"The work in which defendant in error was engaged is maritime in its **nature**; ..."

As shown by Western Union Tel. Co. v. Andrews, Hastings v. Selby Oil & Gas Co. and Peters v. Veasey, the Nature of the accusation is the type of law where a violation could occur. There are many types of law, which have their own rules of procedure. Just some of the Laws that could be stated as the Nature of an accusation could be as follows:

- Administrative Law - •Antitrust & Trade Law - •Banking Law - •Bankruptcy Law - •Civil Rights Law - •Commercial Law - •Common Law - •Communications Law - •Constitutional Law - •Contract Law - •Corporation & Enterprise Law - •Criminal Law - •Cyberspace Law - •Dispute Resolution & Arbitration Law - •Education Law - •Entertainment & Sports Law - •Environmental Law - •Ethics & Professional Responsibility Law - •Family Law - •Government Benefits Law - •Government Contract Law - •Health Law - •Immigration Law - •Indian Law - •Injury and Tort Law - •Intellectual Property Law - •International Law - •International Trade Law - •Labor & Employment Law - •Probate Law - •Trusts & Estates Law - •Property Law - •Real Estate Law - •Securities Law - •Tax Law - •Admiralty Law - •Maritime Law.

The Accused request the Nature of the accusation as by the type of Law that was violated. The Cause of the accusation is the law, rule, code, ordinance, statute, regulation, policy, or by which means the prosecutor can find remedy of the action. The Accused request information from the prosecutor for the Cause of the Action. A mer statement of the Charge is vague and does not show all elements of the charge so that an actual defense of the true charges can be administered. The Accused request the Nature and Cause of the Accusation(s) from the Prosecutor before jurisdiction can be established.

Prayerfully Submitted,

\_\_\_\_\_  
, sui juris

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IN THE \_\_\_\_\_ COURT IN AND FOR THE CITY OF \_\_\_\_\_  
STATE OF TEXAS

Cause No. \_\_\_\_\_

The STATE OF TEXAS

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In the \_\_\_\_\_ COURT

VS.

City of \_\_\_\_\_

County of \_\_\_\_\_

\_\_\_\_\_  
The Accused

### Judicial Notice

Pursuant under 201(d) of the Texas and Federal Rules of Evidence

MANDATORY

**Public Law 93-595: A Court shall take Judicial Notice if requested by a party and supplied with the necessary information.**

**ACCUSED DEMANDS FOR DISMISSAL**  
**NO SUBJECT MATTER JURISDICTION**

Pursuant under the Texas Constitution Article 3, Section 29, 30, 32, and 36, the Legislature will make all laws which pertain to the State of Texas. The Accused questions the purported violation as not law which was not passed by the Texas Legislature. The Texas Constitution Article 4, Section 21 mandates by the Secretary of State: "He shall authenticate the publication of the laws, and keep a fair register of all official acts and proceedings of the Governor, and shall, when required, lay the same and all papers, minutes and vouchers relative thereto, before the Legislature, or either House thereof, and shall perform such other duties as may be required of him by law." The Accused requests the Prosecutor to provide the published law which indicates that the purported violation is a valid law which was passed by the Texas Legislature and authenticated by the Secretary of State.

**CONSTITUTION FOR THE STATE OF TEXAS 1876**

**ARTICLE III**

**THE POWERS OF GOVERNMENT**

**Section 29.** The enacting clause of **all laws** shall be: "Be it enacted by the Legislature of the State of Texas."

**Section 30.** **No law** shall be passed, except by bill, and no bill shall be so amended in its passage through either House, as to change its original purpose.

**Section 32. No bill shall have the force of a law, until it has been read on three several days in each House, and free discussion allowed thereon; but in cases of imperative public necessity (which necessity shall be stated in a preamble or in the body of the bill) four-fifths of the House, in which the bill may be pending, may suspend this rule, the yeas and nays being taken on the question of suspension, and **entered upon the journals**.**

**Section 36. No law shall be revived or amended by reference to its title; but in such case the act revived, or the section or sections amended, shall be re-enacted and **published at length**.**

Wherefore, premises considered, the Accused respectfully demands judgment of the Court as follows:

1. That the action be dismissed, and
2. That the Accused recover all costs, together with such other and further relief to which the Accused may be justly entitled.

Prayerfully Submitted,

\_\_\_\_\_  
, sui juris

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IN THE \_\_\_\_\_ COURT IN AND FOR THE CITY OF \_\_\_\_\_  
STATE OF TEXAS

Cause No. \_\_\_\_\_

The STATE OF TEXAS

VS.

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In the \_\_\_\_\_ COURT

City of \_\_\_\_\_  
County of \_\_\_\_\_

\_\_\_\_\_  
The Accused

**Judicial Notice**

Pursuant under 201(d) of the Texas and Federal Rules of Evidence  
**MANDATORY**

**Public Law 93-595: A Court shall take Judicial Notice if requested by a party and supplied with the necessary information.**

**NOTICE OF CORRECTION**

NOW, comes the Accused, known only by his proper Christian name spelled in upper and lower case letters, is appearing specially and not generally or voluntarily, but under threat of arrest, if he failed to do so. Accused, requests that the Honorable Judge of the Court will take NOTICE of the FACT , the Accused Christian Name is \_\_\_\_\_. The Accused does not recognize or respond to any other name and does not appear in the court as the representative of any fiction or corporation, etc.. Let the record be corrected that the name as shown is in upper and lower case letters and is known as the name of a true Natural Living Being and not a fictitious entity as indicated by all capitalized letters. When the Court speaks aloud or indicates on any document of the Accused by name, the Accused demands discovery as required by Texas Code of Criminal Procedure 28.01, that the Accused be informed if the Natural Living Being or the Fiction is being addressed or noticed. The Accused objects to using (A.K.A.) Also Known As, as a way to justify labeling the Accused as any fictitious entity. All other synonyms, that the Accused may have been called in the past are irrelevant and are not the Accused true Christian name and are not to be used in any legal matters, notwithstanding. Because the Accused will look or answer to the synonyms (Fire, Four, Dad, Hey You) does not mean that the Accused is excepting as being or represents that fictitious entity. It is only the natural response of a Natural Living Being. If the Accused responds to a synonym that the Court considers a fictitious entity, then the Court is hereby NOTICED that the Accused, a true Natural Living Being, objects and rejects any indication, thereof.

Prayerfully Submitted,

\_\_\_\_\_  
, sui juris

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IN THE \_\_\_\_\_ COURT IN AND FOR THE CITY OF \_\_\_\_\_  
STATE OF TEXAS

Cause No. \_\_\_\_\_

**The STATE OF TEXAS**  
Plaintiff

**VS.**

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**Accused Petition to Quash  
Complaint**

\_\_\_\_\_  
The Accused

## Judicial Notice

Pursuant under 201(d) of the Texas and Federal Rules of Evidence  
MANDATORY

**Public Law 93-595: A Court shall take Judicial Notice if requested by a party and supplied with the necessary information.**

### Accused Petition to Quash Complaint

To the Honorable Judge of said Court, now comes the Accused in the above titled cause, and moves this court to Quash the complaint sworn to by \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord 199\_\_, originally filed in the City of \_\_\_\_\_, \_\_\_\_\_ Court \_\_\_\_\_ and will show the Court good cause why this complaint should be Quashed as follows:

I

The Prosecutor has refused, and continues to refuse, to inform the Accused as to the Nature and Cause of this action by the State of Texas against the Accused. The Prosecutor's continued refusal to inform the Accused of the Nature and Cause of the accusation against him is not only in direct violation of the Texas Constitution, Art 1 Sec 10 and the United states Constitution, Art VII, Amendment V. & Amendment VI, it also violates the very principal of law that has been a cornerstone of our system of justice that dates back nearly 800 years to the Magna Carta dated June 15, 1215. Due process of Law requires that an accused party be advised of the nature and cause of an accusation against him. This requirement is no less an important issue today than at the time of the Magna Carta, or the adoption of our Constitutions.

The Accused asserts that the Prosecutor either does not understand the concept of the law that requires that he properly inform the Accused of the Nature and Cause of the accusation against him, or he is deliberately refusing to do his duty in order to hide the substantive system of law in which he intends to proceed. It is also asserted that the Prosecutor has failed to state a claim in which relief can be granted, by refusing to properly inform the Accused, he has created a legal defect that leaves the Court void of Jurisdiction to hear this case, see Texas Constitution Art. 5 Sec. 12.

The purpose of the Constitutional requirement to inform a person of the nature and cause of an accusation against him is very clear. With many differing substantive systems of law that were imported into our legal system upon the founding of our nation, one would have to know the proper legal aspects of that particular system of law in order to proceed in a case with fairness to the parties, or to have any hope of being successful.

This, the Nature being the substantive system of law that fixes the correlative rights and duties that are purported to be parties to the action, and the Cause being the theory of law within that system of law that ascribes to a person (The State of Texas) a right, and a remedy when that right is violated, and to the accused party a correlative duty to respect that right, and subjection to the remedy if he violates that right. The Accused can not even make a determination whether or not there is a personality attributed to him, or if he has any duty to perform within that personality, without knowing the substantive system of law the Prosecutor intends to proceed.

The Accused in this action is a Natural Born Native possessing all of the rights, privileges, and immunities as a rightful heir to the founding fathers of our nation. Inheriting both their political status of sovereign and civil status of unalienable rights to life, liberty, and pursuit of happiness granted by God. The Accused denies any change to his political or civil status, as inherited from the founding fathers, by way of label, contract, or any other means whatsoever. Any presumption or claim in regards to the Accused political or civil status to the contrary by this court, or anyone else is simply false.

The Prosecutor's conduct is repugnant to both our state and national constitutions, and if allowed, would leave the Accused wondering how to properly proceed, violating (?) of any concept of due process of law, to the derogation of the common law rights of the Accused.

## II

The Accused also moves that the complaint be quashed for being legally insufficient, and vagueness, see Accused Exhibit # 1. The complaint makes no code or statutory reference at all, and has illegal abbreviations (\_\_\_\_\_), the legal definition of such abbreviation can not be found in any statute or dictionary. The Prosecutor has refused to present the Accused with any statutory authority, or contract that ascribes the Accused a personality, a duty to perform within that personality, or the system of law that one would be ascribed any such personality or duty.

## Conclusion

It would be error, and an abuse of the Court's process in violation of Accused rights to proceed with this legally defective complaint. It would also be an abuse of the Court's process in violation of the Accused rights, in direct Conflict with the clear language of our state and national Constitutions, to allow this cause to proceed without informing the Accused of the Nature and Cause of this action.



Prayer

Wherefore premises considered the Accused prays that the Judge of this Honorable Court quash this complaint.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_

\*\*\*\*\*

IN THE \_\_\_\_\_ COURT IN AND FOR THE COUNTY OF \_\_\_\_\_  
STATE OF TEXAS

Cause No. \_\_\_\_\_

The STATE OF TEXAS

§  
§  
§  
§  
§

In the \_\_\_\_\_ COURT

VS.

City of \_\_\_\_\_  
County of \_\_\_\_\_

\_\_\_\_\_  
The Accused

Judicial Notice

Pursuant under 201(d) of the Texas and Federal Rules of Evidence  
MANDATORY

Public Law 93-595: A Court shall take Judicial Notice if requested by a party and  
supplied with the necessary information.

BRIEF IN SUPPORT OF ACCUSED DEMANDS FOR  
DISMISSAL OF ALL CHARGES PENDING IN THE COURT OF  
COUNTY AND QUASH ACCUSATION(S)

\_\_\_\_\_, a Creation of the Lord God Almighty, sui juris, in propria persona,  
under the rule of necessity, with no implied consent to involuntary servitude, and by special visitation moves this  
Court for complete dismissal of all charges against \_\_\_\_\_ pending in the  
\_\_\_\_\_ COURT OF \_\_\_\_\_ COUNTY.

For h\_\_ grounds \_he states and shows the following:

**1.**

The Constitution for the United States of America, of which this Court and its Officers swore an Official Oath to uphold, in Article III, Section II, Clause I, enumerates only three (3) judicial jurisdictions: 1. Common Law 2. Equity 3. Admiralty and Maritime. NOTE: Federal Rules Of Civil Procedure; Rule 9(h) in part: "If the claim is cognizable only in admiralty, or maritime claim for those purposes whether so identified or not."

**2.**

There is no evidence of any bona fide affidavit(s) sworn by any injured party to substantiate any of the above accusations and charges against \_\_\_\_\_. Without a Corpus Delecti, this Court cannot be operating under Rules of the Common Law. "affidavit is essential, and if the instrument treated by the court and the parties as an affidavit be void, the whole proceeding, under the decision in [Scroggins v. State, 55 Ga. 380 (1875)], is a nullity. Dixon v. State, 155 Ga. App. 17, 270 S.E. 2d 192, p.193; Quoting Gilbert v. State, 17 Ga. App. 143, 145, 86, S.E. 415, 416 (1915)

The above cases involve instances where there were affidavits but in some way they became the subject of dispute. In the instant case of THE STATE TEXAS v. \_\_\_\_\_ the Court record reflects no such affidavit(s) at all to substantiate the accusations and charges brought against \_\_\_\_\_.

Demand is/was made this \_\_\_\_ day of \_\_\_\_\_, 199\_\_, for the affidavits in support of the accusations and charges pending in the \_\_\_\_\_ COURT OF \_\_\_\_\_ COUNTY, sworn out by any injured party, injured or damaged in any way by the actions or behavior of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_ of the arrest, in support of the accusations and charges pending in the case sub judice in the \_\_\_\_\_ COURT OF \_\_\_\_\_ COUNTY against \_\_\_\_\_. There were no affidavits, from any injured party, presented before this Court to substantiate the accusations and charges against \_\_\_\_\_. As such this Court and its Officers cannot be operating under the Rules of the Common Law and this Court and its Officers, pursuant to the holding in Scroggins v. State, 55 Ga. 380, supra, have no jurisdiction with which to proceed in any way against \_\_\_\_\_.

In the event that this Court chooses to proceed against \_\_\_\_\_ in violation of clearly established law, both the State and this Court are given NOTICE of the following:

"Silence can only be equated with fraud where there is a legal or moral duty to speak or where an inquiry left unanswered would be intentionally misleading... This sort of deception

will not be tolerated and if this is the 'routine' it should be corrected immediately." U.S. v. Tweel, 550 F.2d 297, 299 (1977); quoting U.S. vs. Prudden, 424 F2d 1021, 1032 (1970)

"Silence is a species of conduct, and constitutes an implied representation of the existence of the state of facts in question, and the estoppel is accordingly a species of estoppel by misrepresentation. [cite omitted] When silence is of such a character and under such circumstances that it would become a fraud upon the other party to permit the party who has kept silent to deny what his silence has induced the other to believe and act upon, it will operate as an estoppel. Carmine vs. Brown, 64A. 932 (1906). [Emphasis added.]

**3.**

There is no evidence of any contract between \_\_\_\_\_ bearing his bona fide signature, and either the political bodies politic known as the COUNTY OF \_\_\_\_\_ and/or the STATE OF TEXAS submitted to substantiate the accusations and charges against \_\_\_\_\_ that would obligate \_\_\_\_\_ to compelled performance for the benefit of either the political bodies politic known as the COUNTY OF \_\_\_\_\_ and/or the STATE OF TEXAS. There is no involuntary servitude in the American Republic and Equity jurisdiction does not provide for criminal penalties. Therefore the political bodies politic known as the COUNTY OF \_\_\_\_\_ and/or the STATE OF TEXAS cannot bring a claim of breach of contract and this Court and its Officers, pursuant to the holding in Scroggins v. State, 55 Ga. 380, supra, have no jurisdiction with which to proceed in any way against \_\_\_\_\_. This Court and its Officers cannot be operating under the Rules of Equity in the above captioned case.

Since the only other jurisdiction remaining pursuant to the Constitution for the united States of America is admiralty and maritime, this Court and its Officers must be proceeding under the Rules of Admiralty and Maritime.

**4.**

There is no evidence in the Court record of any affidavit of injured party, any international / maritime contract to which \_\_\_\_\_ is a party; any evidence of an act or acts of belligerency, contraband or any state of war between \_\_\_\_\_ and the COUNTY OF \_\_\_\_\_ and/or the STATE OF TEXAS to substantiate the prize capture of \_\_\_\_\_ by Officer \_\_\_\_\_, ID# \_\_\_\_\_, a agent for the corporate COUNTY OF \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_ of the arrest, and the charges and accusations brought by the STATE against \_\_\_\_\_. Since there are none of the above elements of an international contract, belligerency or state of war demonstrated by the prosecutor and such claims supported by the STATE with an affidavit, this Court and its Officers, pursuant to the holding in Scroggins v. State, 55 Ga. 380, supra, have no jurisdiction with which to proceed in any way against \_\_\_\_\_.

BELLIGERENCY – “In international law, the status of de facto statehood attributed to a body of insurgents, by which their hostilities are legalized. The international status assumed by a state (i.e. nation) which wages war against another state. Quality of being belligerent; status of a belligerent; act or state of waging war; warfare. Black’s Law Dictionary, 6<sup>th</sup> Edition, p.155

Therefore since \_\_\_\_\_ is not subject to or object of TEXAS Administrative regulation, nor has he violated the Common Law, Officer \_\_\_\_\_, ID# \_\_\_\_\_, had no probable cause with which to arrest \_\_\_\_\_ and/or issue any citations on the \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_ of the arrest, and pursuant to the exclusionary rule all other charges against \_\_\_\_\_ should be dismissed with prejudice.

Wherefore, premises considered, the Accused respectfully demands judgment of the Court as follows:

1. That the action be dismissed with prejudice, and
2. That Accused recover all costs, together with such other and further relief to which Accused may be justly entitled.

Prayerfully Submitted,

\_\_\_\_\_  
, sui juris

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IN THE \_\_\_\_\_ COURT IN AND FOR THE CITY OF \_\_\_\_\_  
STATE OF TEXAS

Cause No. \_\_\_\_\_

The STATE OF TEXAS

VS.

\_\_\_\_\_  
The Accused

§  
§  
§  
§

In the \_\_\_\_\_ COURT

City of \_\_\_\_\_  
County of \_\_\_\_\_

**Judicial Notice**

**Pursuant under 201(d) of the Texas and Federal Rules of Evidence  
MANDATORY**

**Public Law 93-595: A Court shall take Judicial Notice if requested by a party and supplied with the necessary information.**

**ACCUSED DEMANDS FOR DISMISSAL**

**OF ALL CHARGES PENDING IN THE \_\_\_\_\_ COURT**

**OF \_\_\_\_\_ COUNTY AND QUASH ACCUSATION(S)**

\_\_\_\_\_, a Creation of the Lord God Almighty, sui juris, in propria persona, under the rule of necessity, with no implied consent to involuntary servitude, and by special visitation moves this Court for complete dismissal of all charges against \_\_\_\_\_ pending in the \_\_\_\_\_ COURT OF \_\_\_\_\_ COUNTY.

NOTE: Federal Rules Of Civil Procedure; Rule 9(h) in part: "If the claim is cognizable only in admiralty, or maritime claim for those purposes whether so identified or not."

This court is proceeding without any evidence of a common law controversy, i.e., sworn affidavit of an injured party, thus this action can only be cognizable under the rules of Admiralty. For h\_\_ grounds \_he states the following:

**1.**

There is no evidence before this court of any bona fide affidavit(s) duly sworn by any injured party, whose person or property was damaged, to substantiate any of the above accusations and charges against \_\_\_\_\_.

**2.**

There is no evidence of any bona fide contract, between \_\_\_\_\_ and either of the political bodies politic known as the COUNTY OF \_\_\_\_\_ or STATE OF TEXAS submitted to substantiate the accusations and charges against \_\_\_\_\_.

**3.**

There is no evidence of belligerency or state of war between \_\_\_\_\_ and either of the political bodies politic known as the COUNTY OF \_\_\_\_\_ or STATE OF TEXAS submitted to substantiate the accusations and charges against, or the capture of \_\_\_\_\_ on \_\_\_\_\_, 199\_\_ by Officer \_\_\_\_\_, private agent for the corporate known as the COUNTY OF \_\_\_\_\_.

Brief in support of Accused Demands is attached.

Wherefore, premises considered, the Accused respectfully demands judgment of the Court as follows:

1. That the action be dismissed with prejudice, and
2. That Accused recover all costs, together with such other and further relief to which Accused may be justly entitled.

Prayerfully Submitted,

\_\_\_\_\_  
, sui juris

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IN THE \_\_\_\_\_ COURT IN AND FOR THE CITY OF \_\_\_\_\_  
STATE OF TEXAS

Cause No. \_\_\_\_\_

The STATE OF TEXAS

VS.

§  
§  
§  
§  
§

In the \_\_\_\_\_ COURT

City of \_\_\_\_\_  
County of \_\_\_\_\_

\_\_\_\_\_  
The Accused

**Judicial Notice**

Pursuant under 201(d) of the Texas and Federal Rules of Evidence  
**MANDATORY**

**Public Law 93-595: A Court shall take Judicial Notice if requested by a party and supplied with the necessary information.**

**MOTION FOR DEMANDING RECOVERY OF COST**  
**BEING SUCCESSFUL PARTY IN ACTION**

Pursuant to the Texas Rules of Court, Rule 131, Successful Party to Recover; being the successful party in the above Cause, the Accused moves this court to grant recovery of costs associated with this action. The following are items claimed for recovery together with such other and further relief to which Defendant may be justly entitled by this Honorable Court:

Costs Incurred	Amount Being
_____	_____
_____	_____
_____	_____

Costs Incurred	Amount Being
_____	_____
_____	_____
_____	_____

Total Amount Incurred \*\*\*\*\* \_\_\_\_\_

Prayerfully Submitted,

\_\_\_\_\_  
, sui juris

\*\*\*\*\*

**NOTE:** The trick to the below Motion is to put your name in upper & lower case letters on the first line then put the all caps guys name in the second line. If the judge will allow you to represent the all caps guy, then put in a Notice of Recusal and state that you changed your mind, get someone else to represent him and I'll just watch from over here.

IN THE \_\_\_\_\_ COURT IN AND FOR THE CITY OF \_\_\_\_\_  
STATE OF TEXAS

Cause No. \_\_\_\_\_

The STATE OF TEXAS	§	In the _____ COURT
	§	
VS.	§	
	§	City of _____
_____	§	County of _____
The Accused		

**Judicial Notice**

Pursuant under 201(d) of the Texas and Federal Rules of Evidence

**MANDATORY**

**Public Law 93-595: A Court shall take Judicial Notice if requested by a party and supplied with the necessary information.**

**MOTION FOR REPRESENTING ENTITY**

Accused requests that the Honorable Judge of the Court will allow \_\_\_\_\_, a Natural Born Native of the land, to represent the ENTITY \_\_\_\_\_ during the course of the above Cause.

Prayerfully Submitted,

\_\_\_\_\_

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IN THE \_\_\_\_\_ COURT IN AND FOR THE CITY OF \_\_\_\_\_  
STATE OF TEXAS

Cause No. \_\_\_\_\_

The STATE OF TEXAS

§  
§  
§  
§  
§

In the \_\_\_\_\_ COURT

VS.

City of \_\_\_\_\_  
County of \_\_\_\_\_

\_\_\_\_\_  
The Accused

**Judicial Notice**

Pursuant under 201(d) of the Texas and Federal Rules of Evidence  
**MANDATORY**

**Public Law 93-595: A Court shall take Judicial Notice if requested by a party and supplied with the necessary information.**

**MOTION FOR REQUESTING PRE-TRIAL HEARING  
OF DISMISSAL CAUSES AND OF MOTIONS**

Pursuant to the Texas Code of Criminal Procedures, Article 28.01 I hereby make known my request that this first hearing in the above entitled and numbered cause be a pre-trial hearing of dismissal causes and of motions.

Prayerfully Submitted,

\_\_\_\_\_  
, sui juris

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IN THE \_\_\_\_\_ COURT IN AND FOR THE CITY OF \_\_\_\_\_  
STATE OF TEXAS

Cause No. \_\_\_\_\_

The STATE OF TEXAS

§  
§  
§  
§  
§

In the \_\_\_\_\_ COURT

VS.

City of \_\_\_\_\_  
County of \_\_\_\_\_

\_\_\_\_\_  
The Accused

**Judicial Notice**

Pursuant under 201(d) of the Texas and Federal Rules of Evidence

**MANDATORY**

**Public Law 93-595: A Court shall take Judicial Notice if requested by a party and supplied with the necessary information.**

**ACCUSED DEMANDS FOR DISMISSAL**  
**SERVICE OF PROCESS NOT TIMELY**

Pursuant to the Code of Criminal Procedure Article 45.04 which states: "A defendant is entitled to at least one day's notice of any complaint against him, if such time is demanded." The Accused hereby makes known that a copy of the complaint was demanded by the defendant before the hearing date. A copy of the complaint was not timely served by the Clerk of the Court to the defendant before or during the hearing date. A violation of Article 45.04 of the Code of Criminal Procedure is a violation of Due Process of the defendant. This in itself creates a lack of Due Process, which is grounds for dismissal.

Wherefore, premises considered, the Accused respectfully demands judgment of the Court as follows:

1. That the action be dismissed, and
2. That Accused recover all costs, together with such other and further relief to which the Accused may be justly entitled.

Prayerfully Submitted,

\_\_\_\_\_  
, sui juris

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IN THE \_\_\_\_\_ COURT IN AND FOR THE CITY OF \_\_\_\_\_  
STATE OF TEXAS

Cause No. \_\_\_\_\_

The STATE OF TEXAS	§	In the _____ COURT
	§	
VS.	§	
	§	City of _____
_____	§	County of _____
The Accused		

**Judicial Notice**

Pursuant under 201(d) of the Texas and Federal Rules of Evidence  
**MANDATORY**

**Public Law 93-595: A Court shall take Judicial Notice if requested by a party and supplied with the necessary information.**

**ACCUSED DEMANDS FOR DISMISSAL**  
**STATE STANDS UNREPRESENTED**

The Texas Constitution Art. V, Sec. 21 states "The County Attorneys *shall* represent the State in *all* cases in the District and *inferior courts* in their respective counties ..." The prosecutor represents the *State of Texas* against an alleged accused, who after being properly charged becomes a "defendant". The word "shall" is defined by Black's 4th Edition thusly: As used in statutes, contracts, or the like, this word is generally imperative or mandatory". The work "inferior" refers to all courts below the grade of District.

In *Meshell v State* 739SW2d 246 we read: "The County attorney, having been granted exclusive right within the judicial department to represent the state in all cases in the district and inferior courts, is protected from legislative encroachment on his prosecutorial discretion by the separation of powers doctrine." Of course, in counties without County attorneys, District attorneys must handle the prosecutorial duties for the State.

Today's "Government Code" and the "Code of Criminal Procedures" are mere derivative quotations, where dealing with Municipal Courts, of the Corporation Court Act" of 1899. In section 8 of that Act, we find a remarkable interjection hidden in a paragraph otherwise dealing with styling/wording of the new court's paperwork: "..all prosecutions in such court *shall* be conducted by the *city* attorney of such city, town or village, or his deputy; but the *county* attorney of the county in which said city, town or village is situated **may** (!), if he so desires, also represent the State of Texas in such prosecutions, but in all such cases the said county attorney *shall not be entitled to receive any fees or other compensation whatever ...*!!" (emphasis added)

The Constitution is the Supreme law of the land and no legislation or implementation of legislation can stand in contradiction thereof. In the above entitled and numbered causes the city attorney does not meet the qualifications laid out in the Constitution and therefore the Plaintiff stands unrepresented and has defaulted.

Wherefore, premises considered, the Accused respectfully demands judgment of the Court as follows:

1. That the action be dismissed, and

2. That the Accused recover all costs, together with such other and further relief to which the Accused may be justly entitled.

Prayerfully Submitted,

\_\_\_\_\_  
, sui juris

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IN THE \_\_\_\_\_ COURT IN AND FOR THE CITY OF \_\_\_\_\_  
STATE OF TEXAS

Cause No. \_\_\_\_\_

The STATE OF TEXAS

VS.

§  
§  
§  
§  
§

In the \_\_\_\_\_ COURT

City of \_\_\_\_\_

County of \_\_\_\_\_

\_\_\_\_\_  
The Accused

**MOTION OF SUBPOENA DUCES TECUM**

FOR

\_\_\_\_\_

Since Black's law dictionary defines and 'accuser' as: "one who makes and swears out a complaint", and it is the unalterable custom of law that those accused of criminal actions shall have the right to confront their accuser, motion is hereby made to subpoena one \_\_\_\_\_, the 'accuser' in the above entitled cause to the upcoming "Trial Hearing" requested for the date of \_\_\_\_\_.

As \_\_\_\_\_ avers to speak "IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS", this subpoena is to be used to determine the actual lawful authority of the alleged Officer to so speak:

\_\_\_\_\_ lack of *personal* knowledge of the facts, we may easily deduce from h\_\_ inability to determine a crime was committed, without the use of an electronic device, which is not 100% accurate, which is a cause of reasonable doubt. \_\_\_\_\_ used a human determination of decision to pick the alleged perpetrator of the purported crime, which is a cause of reasonable doubt. The inability of \_\_\_\_\_ to file a Complaint, indicates the uncertainty of the observation, which is a cause of reasonable doubt. But, according to Texas Jurisprudence, affidavits may only be made as to personal knowledge of facts stated therein unless made by an attorney or agent upon "knowledge (information) and belief".

As \_\_\_\_\_ has not vested this court with jurisdiction of the cause by use of such a 'knowledge and belief' affidavit, it is reasonable and necessary to my defense to determine if he is in fact, which should have filed the alleged complaint and failed to do so.

Accordingly, \_he is hereby requested to appear on the date of \_\_\_\_\_, at the "Trial Hearing", bringing with h\_\_:

- 1.) any books or records listing h\_\_ duties as an officer, which requires h\_\_ not to swear out complaints in criminal cases, when \_he issues traffic citations, and
- 2.) Any source authorizing h\_\_ to stop a non-commercial passenger automobile going faster than some alleged Speed Sign indicates; and
- 3.) A copy of his Oath of Office, as required by the Texas Constitution, indicating that \_he is authorized to stop the Accused; and
- 4.) The operator's manual used as a guide to verify the accuracy of the electronic device used to determine the alleged traffic violation, and

- 5.) Any documents which indicate the calibration record of the electronic device used to determine the alleged traffic violation, on the day of the alleged traffic violation.
- 6.) Any document which would indicate that \_\_\_\_\_ was on duty on the date of \_\_\_\_\_, of the alleged traffic violation, like a time sheet.

This Subpoena Duces Tecum is not requested for purpose of delay but rather for making the cold record of these proceedings crystal clear for the reviewing courts...

Prayerfully Submitted,

\_\_\_\_\_  
 \_\_\_\_\_, sui juris

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**Subpeona Duces Tecum**

Attn: Chief Clerk  
 In the \_\_\_\_\_ COURT

\_\_\_\_\_  
 \_\_\_\_\_

City of \_\_\_\_\_  
 County of \_\_\_\_\_  
 State of Texas, \_\_\_\_\_

RE: Case No. \_\_\_\_\_, Agency Report No. \_\_\_\_\_

Dear Chief Clerk:

Please issue a Subpeona Duces Tecum to subpoena \_\_\_\_\_ [the arresting officer] as a witness and to produce the following legal papers, documents, records under his control, for the Trial \_\_\_\_\_, 199\_\_, CASE NO. \_\_\_\_\_:

1. Any legal papers, documents and records under his control, other than documents obtained by fraud without full disclosure, that create the presumption that the Accused in the above Cause is a resident of the STATE OF TEXAS.
2. Any legal papers, documents and records under his control, other than documents obtained by fraud without full disclosure, that establish that the Accused in the above Cause is engaged in a revenue taxable activity and trafficking in commerce.
3. Any legal papers, documents and records under his control, other than documents obtained by fraud without full disclosure, that establish this case as an Adversary Proceeding, pursuant to Bankruptcy Rules Section VII, or is an in Rem proceeding.

4. Any legal papers, documents and records under his control that establish that the Accused in the above Cause is an artificial or fictitious person, referred to by the state the name of the Accused in all Capitalized letters, other than documents obtained by fraud without full disclosure.
5. Any legal papers, documents and records under his control, other than documents obtained by fraud without full disclosure, that establish that the Accused in the above Cause is a vassal.
6. Any legal papers, documents and records under his control, other than documents obtained by fraud without full disclosure, that establish that the Accused in the above Cause is Co-Bankrupt debtor with the STATE OF TEXAS.
7. Any legal papers, documents and records under his control, other than documents obtained by fraud without full disclosure, that establish this case and the Accused in the above Cause as in Rem and in personam liability.
8. Any legal papers, documents and records under his control, other than documents obtained by fraud without full disclosure, that establish that the Accused in the above Cause is a co-obligator with the State of Texas or \_\_\_\_\_ County.

DISCOVERY / INTERROGATORIES TO \_\_\_\_\_ [the arresting officer]

1. Under what TRUST(S) are the CORPORATIONS chartered as the STATE OF TEXAS and the COUNTY OF HARRIS operating under?
  - a. What is the name of this TRUST(S)?
  - b. Who are the TRUSTEES?
  - c. Does this TRUST(S) issue permits and licences?
  - d. Does this TRUST(S) place the REGISTERED OWNER or LICENSED AGENT in a FIDUCIARY position? Or Both?
  - e. If so, is the LICENSEE OR PERMITTEE an employee under CONTRACT?
  - f. What are the limitations imposed upon the licensed employee as stated in the CONTRACT issued under the authority of the TRUST(S)?
  - g. Is either the Chief Prosecutor or the Prosecutor in charge of this case a licensed agent?
  - h. If so, is this license for administrative enforcement of the Texas Revised Statutes of the state of Texas?
  - i. What is the Public Community?
  - j. Is this contract a commercial contract?
  - k. Is the Chief Prosecutor or the Prosecutor in charge of this case of the Municipal Corporation known as the Prosecuting Attorney's Office a Fiduciary and/or Trustee under the Trust?
  - l. Is the aforementioned Chief Prosecutor or the Prosecutor in charge of this case under contract to the municipal corporation known as County of \_\_\_\_\_?
  
2. Is the Chief Prosecutor or the Prosecutor in charge of this case under contract within a Trust chartered as a service corporation on behalf of a fictitious entity called the State of Texas?
  - a. Is the name of this fictitious entity called the State of Texas? Yes \_\_\_ No \_\_\_
  - b. What other name does this entity function under? List all names of fictitious entity and trust.
  - c. Where is this fictitious entity chartered?
  - d. Is this fictitious entity a municipal corporation?
  - e. What is the geographical location of this chartered fictitious entity?
  - f. Is said fictitious entity an alter ego of some other entity?
  - g. Is this fictitious entity a fictitious plaintiff?
  - h. Can a legal fiduciary bring a legal action on behalf an alter ego?
  - i. Can an attorney at law litigate as an agent on behalf of a fictitious plaintiff, or an alter ego?
  - j. Is the aforementioned Chief Prosecutor or the Prosecutor in charge of this case registered as an unregistered agent on behalf of their alter ego principal with the Attorney General of the United States?
  - k. Is the aforementioned Chief Prosecutor or the Prosecutor in charge of this case registered as an unregistered agent on behalf of their alter ego principal with the secretary of state for the State of Texas?
  - l. Is it contempt of court to litigate as an attorney at law for a fictitious plaintiff?

- m. If the aforementioned Chief Prosecutor or the Prosecutor in charge of this case is licensed under contract, what agency is the contract program administered under?
- n. Is the agency a trust for the State of Texas?
- o. Who is the beneficiary of the abovementioned and referenced Trust?
- p. If so, what is the name of this trust?
- q. Who is the trustee and CO-trustee?
- r. What is the Prosecuting Attorney's Office?
- s. What agency of the State of Texas issued the contract which is serviced by the aforementioned office?
- t. Is there a contractual relationship between \_\_\_\_\_ County and the Prosecuting Attorney's Office?
- u. If so, what is the contractual relationship between the Prosecuting Attorney's Office and the County of \_\_\_\_\_?
- v. What is the contractual relationship between the municipal corporations known as the State of Texas, the County of Harris and the corporation known as the State of Texas, the County of \_\_\_\_\_ and the corporation known as the United States?
- w. Were the abovementioned contractual relationships formed as a result of any type of bankruptcy action?
- x. If so, where is this action litigated and by whom?

If more time is needed to produce these legal papers, documents, records and interrogatories, please consider this is a request for postponement of the trial to a later date.

Respectfully submitted,

\_\_\_\_\_  
 \_\_\_\_\_; Sui Juris  
 \_\_\_\_\_  
 \_\_\_\_\_

\*\*\*\*\*

IN THE \_\_\_\_\_ COURT IN AND FOR THE CITY OF \_\_\_\_\_  
 STATE OF TEXAS

Cause No. \_\_\_\_\_

**The STATE OF TEXAS**

**VS.**

\_\_\_\_\_  
 The Accused

§  
 §  
 §  
 §  
 §

**In the \_\_\_\_\_ COURT**

**City of \_\_\_\_\_  
 County of \_\_\_\_\_**

**Judicial Notice**

**Pursuant under 201(d) of the Texas and Federal Rules of Evidence  
MANDATORY**

Public Law 93-595: A Court shall take Judicial Notice if requested by a party and supplied with the necessary information.

**MOTION FOR WAIVING TRIAL BY JURY**

**I hereby waive a trial by jury, according to the relevant provisions of the Texas Code of Criminal Procedures, in the above captioned causes and leave Justice to be served squarely upon the shoulders of the presiding judge.**

Prayerfully Submitted,

\_\_\_\_\_  
, sui juris

\*\*\*\*\*

**CERTIFICATE OF SERVICE**

**NOTE:** Each Court pleading needs a Certificate of Service document attached which tells the court how, when and to whom the pleading was sent or handed to.

**EXAMPLE**

**CERTIFICATE OF SERVICE**

I certify that I delivered, by hand, the original MOTION FOR \_\_\_\_\_, with the ORDER ON Accused's MOTION FOR \_\_\_\_\_, to the Clerk of the Court for filing in the \_\_\_\_\_ Court, at \_\_\_\_\_, \_\_\_\_\_, Texas, for Cause # \_\_\_\_\_, on \_\_\_\_\_, 199\_\_. I certify that I delivered, by hand, a true and correct copy of MOTION FOR \_\_\_\_\_, with the ORDER ON DEFENDANT'S MOTION FOR \_\_\_\_\_, to the Prosecutor of the \_\_\_\_\_ Court, at \_\_\_\_\_, \_\_\_\_\_, Texas, for Cause # \_\_\_\_\_, on \_\_\_\_\_, 199\_\_.

\_\_\_\_\_  
, sui juris

\*\*\*\*\*



**ORDER**

**NOTE:** The Order for the judge to sign is usually attached to the pleading, where the judge doesn't have to take the time to write one up. Most prosecutors do it and word it the way that the prosecutor would like it to say.

**EXAMPLE**

**IN THE \_\_\_\_\_ COURT IN AND FOR THE CITY OF \_\_\_\_\_  
STATE OF TEXAS**

Cause No. \_\_\_\_\_

**The STATE OF TEXAS**

§  
§  
§  
§  
§

**In the \_\_\_\_\_ COURT**

**VS.**

**City of \_\_\_\_\_  
County of \_\_\_\_\_**

\_\_\_\_\_  
The Accused

**ORDER ON DEFENDANT'S MOTION  
FOR NATURE AND CAUSE OF THE ACCUSATION(S)**

On this the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 199\_\_, came on to be heard Defendant's Motion for Nature and Cause of the Accusation(s) in the above entitled and numbered cause(s), and the court, having heard the said motion, and the evidence thereon submitted, is of the opinion that said Motion should be

\_\_\_\_\_ Granted

\_\_\_\_\_ Denied, Grounds Being \_\_\_\_\_  
\_\_\_\_\_

It is therefore considered, ordered and adjudged by the Court that the Defendant's Motion for Nature and Cause of the Accusation(s) is hereby

\_\_\_\_\_ Granted

\_\_\_\_\_ Denied, Grounds Being \_\_\_\_\_

\_\_\_\_\_

Signed and entered this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 199\_\_.

\_\_\_\_\_  
Judge Presiding  
City of \_\_\_\_\_  
\_\_\_\_\_ County, Texas

\*\*\*\*\*

### **BILL OF DISCOVERY**

**NOTE:** The below document can be sent to the judge, right after arraignment. Just to get his blood a pumping. You can revise it a little, then send it to the prosecutor, also.

#### **BILL OF DISCOVERY**

TO THE HONORABLE JUDGE OF SAID COURT:

**COMES NOW \_\_\_\_\_, sui juris, Aggrieved Party herein, appearing in propria persona and presents this BILL OF DISCOVERY to aid him in understanding the charges and thereby enabling him to prepare his defense to the charge to which he will be asked to plead, which is his right under Article 6 of the Bill of Rights of the Constitution for the United States of America, and Article I, Section 10 of the Texas Constitution.**

Aggrieved Party believes the statutes used for these charges in this supposedly criminal court (alleges offenses and collects fines) are from Vernon's Texas Civil Statutes. Since civil statutes are only for certain classes of people, Accused is not at all sure the statutes used in this instant case apply to him, in fact Accused believes the opposite, absent competent documentary proof.

Accordingly, if a plaintiff's allegations of jurisdictional facts are challenged by the defendant, the plaintiff bears the burden of supporting the allegations by competent proof.

**Thomson v Gaskill 315 US 442, 446**

Lack of jurisdiction is considered to be fundamental error with or without motion or assignment of error.

**County of Harris v Black 448 SW 2d 850 (1970)**

**In other words, even if not challenged by a party, without jurisdiction all subsequent proceedings are a nullity, and can be challenged at any later time by a defendant.**

It is noted the **1916 Texas Penal Code Title I, Article 3** states:

In order that the system of penal law in force in this state may be complete within itself, and that no system of foreign laws, written or unwritten, may be appealed to, it is declared that no person shall be punished for any act or omission, unless the same is made a penal offense, and a penalty is affixed thereto by the written law of this state.

Aggrieved Party cannot find this charge in the Penal Code. This BILL OF DISCOVERY is in keeping with the spirit of the mandate of Article I, Section 10 of the present Texas Constitution, wherein the Accused "shall have the right to demand the nature and cause of the accusation against him, and have a copy thereof."

That these questions are necessary and authorized, is clearly established law.

Every ingredient of which the offense is composed must be accurately and clearly alleged. It is an elementary principle of criminal pleading, that where the definition of an offense, whether it be at common law or by statute, 'includes generic terms, it is not sufficient that the indictment shall charge the offense in the same generic terms as in the definition; but it must state the species; it must descend to particulars'.

**U.S. v Cook 84 U.S. 539**

...and, second, to inform the court of the facts alleged, so that it may decide whether they are sufficient in law to support a conviction, if one should be had. For this, facts are to be stated, not conclusions of law alone. A crime is made up of acts and intent; and these must be set forth in the indictment, with reasonable particularity of time, place and circumstances.

**Arch. Criminal Practice and Pleadings, 291**

Accused demands the court, or in the alternative, the Plaintiff be directed to inform him:

1. Are the laws these charges are based on, laws foreign to the Texas Constitution?
2. If so, are they written or unwritten?
3. If so, which foreign jurisdiction are they based on?
4. If they are domestic laws, are they of the only civil jurisdiction with criminal penalties, ie. Admiralty?
5. If yes, how did this case get in Admiralty?
6. Does this court proceed according to the Constitutions for Texas and the United States of America?
7. Is the Alleged Plaintiff asking this Court to sit judicially or ministerially?

### IF THIS IS A CRIMINAL COURT

8. Does the Texas Constitution Article 5, Section 12 (b) mean that Aggrieved Party is entitled to have an information for a charging instrument filed with the court before the court has any jurisdiction in this matter? If not, why not?
9. Does 38 Am Jur page 621 mean the "nature" of a complaint is common law or equity, or possibly martial law or admiralty? If not, why not?

### IF THIS IS A CIVIL COURT

10. Is Aggrieved Party accused of some tort against Alleged Plaintiff?
11. Is Aggrieved Party accused of a breach of some alleged contract which the Alleged Plaintiff is attempting to enforce? If so, Aggrieved Party hereby demands production of a valid contract with his bona fide signature on it, and that it be entered into evidence so he can see if he did in fact enter into a contract. Absent such contract, Aggrieved Party is thinking of pleading non-assumpsit.
12. Is this charge brought under general law?
13. What is general law (Norton v Shelby County, 118 US 425, 439)?
14. Exactly who is the Plaintiff in this matter? Is it the people of Texas, or the corporate State of Texas, or some other entity?
15. If Alleged Plaintiff is the corporate State of Texas, why did the District Attorney's Office bring this suit in this court despite **Article III, Section 2, Clause 2** of the Supreme Law of the Land, the Constitution for the United States of America, wherein it commands:  
"In all cases ... and those in which a State shall be a \_\_\_\_\_ Party, the supreme Court shall have original Jurisdiction"?

You are reminded, that at the time this was enacted, there were no law dictionaries with funny definitions such as "shall" means "may" sometimes, and are reminded that the intent of the legislators is the law.

16. Does the ALLEGED PLAINTIFF have any treaties affecting this case with the totally bankrupt, functionally dead at law, foreign municipal corporation domiciled in Washington, D.C. called the "United States"?  
(See In re Merriam 36 NE 505, 20 CJS 1785; and **Congressional Record March 17, 1993 page H1303** at the start of Mr. Trafficant's remarks)
17. Were these treaties made before or after the bankruptcy?
18. In what ways do these treaties affect this case?
19. Does the prosecution consider this Aggrieved Party to be sui juris and one of the sovereign Public of Texas?
20. If not, why not?
21. Is this charge brought from the Texas Penal Code?
22. Was the Texas Penal Code created by and now controlled by the Texas Legislature?
23. Was the Texas Legislature created by and now controlled by the Texas Constitution?
24. Was the Texas Constitution created by and now controlled by the Sovereign Public of Texas?
25. Can a creation of a creation of a creation of the sovereign public control said sovereign public?
26. If so, how so?
27. If this is not what is happening, does this court have jurisdiction over all non-diplomatic personnel living in \_\_\_\_\_ County?
28. If this court does have such jurisdiction, how is it achieved?
29. When and where did the sovereign public grant it? ("All political power is inherent in the people" - Texas Constitution)

30. Are the God-given rights of said sovereign public under some earthly control?
31. Are the God-given rights of this Aggrieved Party under some earthly control?
32. If so, how is such control lawfully gained?
33. Is such control gained only by the cooperation of the members of the sovereign public individually?
34. How is personam jurisdiction established over this Aggrieved Party?
35. If it is gained by cooperation, what is the nature of this cooperation?
36. If it is not gained by cooperation, how are sui juris people brought within the scope and purview of statutes?
37. How does the law allow Alleged Plaintiff to exact the compelled performance of the seatbelt law?
38. Aggrieved Party hereby demands production of all notes, reports, books and laws the Alleged Plaintiff intends to use to establish that this court has the lawful authority to enforce compelled performance (compelled performance is slavery absent an agreement).
39. Will peace officers be immune from charges of perjury for false testimony on the witness stand?
40. This discovery shall be on-going and any new material including exculpatory material will be provided Accused forthwith, and in any case, at least 15 days before he is required to plead in order to give him time to study the law involved and properly prepare a defense.

Respectfully submitted,

\_\_\_\_\_  
, sui juris

\*\*\*\*\*

## **BILL OF PARTICULARS**

**NOTE:** This is used right after the arraignment, when the judge doesn't get you a copy of the complaint and pleads Not-Guilty for you. It's just a 'Need To Know' document. It's sent to the prosecutor.

Possibly FRCP Rule 12 e could be used in conjunction with demand for bill of particulars.

Federal Rules of Civil Procedure – Rule 12(e)

**(e) Motion For More Definite Statement.**

If a pleading to which a responsive pleading is permitted is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading, the party may move for a more definite statement before interposing a responsive pleading. The motion shall point out the defects complained of and the details desired. If the motion is granted and the order of the court is not obeyed within 10 days after notice of the order or within such other time as the court may fix, the court may strike the pleading to which the motion was directed or make such order as it deems just.

**NOTE:** If no answer provided to B of P, then that is denial of due process, Remedy is Mandamus to Appeals Court to force lower court to respond.

## An Example

### BILL OF PARTICULARS

Need to know the nature and cause of any civil or criminal charges being brought in any proceedings in which Requester herein might be named as a party. All questions should be referred to an instrument which the Requester is in receipt of, but reserves the right to refuse and not accept, if the nature and cause show that Requester is not the party named therein, not in the venue of the action, or if the Requester has any rights to respond by way of either a dilatory plea or a plea in bar prior to offering an Issueable plea.

- 1 Is the action civil or criminal?
- 2 If criminal, is it common law or admiralty?
- 3 Is the charging instrument an Affidavit, an information, an indictment, or a complaint?
- 4 Is the charging instrument signed?
- 5 Who signed the charging instrument?
- 6 Where was the charging instrument signed?
- 7 When was the charging instrument signed?
- 8 What is the title or position of the Person who signed the instrument?
- 9 Who is the damaged party?
- 10 Is the damaged party a natural person?
- 11 If the damaged party is a fiction, what is the name of the Relator for the damaged party?
- 12 If the damaged party is a fiction, is the Relator an officer, employee, agent, contractor, or subcontractor for the damaged party?
- 13 If the charging instrument is an affidavit, is it signed under penalty of perjury?
- 14 If the charging instrument is an affidavit, is it brought under first hand knowledge of the facts related therein?
- 15 If the charging instrument is an affidavit, which venue was the affidavit signed in?
- 16 If the charging instrument is a complaint, is it signed by a prosecuting attorney or law director?
- 17 In what venue did the acts or actions complained of arise ?
- 18 Who is the controlling sovereign of the venue in which the charging instrument is made?
- 19 In what venue is the action to be tried, (i.e. that venue arising from Article I, Section 8, Clause 2 of the Constitution for the United States of America setting forth the venue of the exclusive jurisdiction of Congress to the 10 miles square of the District of Columbia and its Federal territories, possessions)
- 20 Is this venue based upon acts or actions conducted in law or based upon treaties, contracts and consents of the parties?
- 21 Is this proceeding being heard in the jurisdiction of law, equity, admiralty, maritime, ecclesiastical, or military?
- 22 Is this court under the venue and jurisdiction of the President of the United States, or the people of Texas?
- 23 Is the named Defendant a statutory person?
- 24 How do you spell the name of the person charged?
- 25 How do you spell the appellation of the petitioner herein?
- 26 What facts are relied upon to determine that the Defendant is a statutory person?
- 27 Is the charging instrument an indictment?
- 28 Is the indictment signed by a grand jury foreman? (When, where, who, is he a citizen or resident of some venue / which venue)?
- 29 Is the indictment signed by a prosecuting attorney? (Who, where, when, in what venue, Is he a citizen or resident, of which venue)?

- 30 Is the indictment signed under penalty of perjury? (Is the indictment said to be true, correct, complete)
- 31 What is the true and correct spelling of the Defendant party appellation is upper and lower case letters?  
(Is this the appellation set forth on the charging instrument in correct spelling & punctuation)?
- 32 What material facts does the charging person rely upon to set forth that the acts and actions of the  
Defendant are a violation of <what ever charged with>?
- 33 If the action is criminal, did the crime take place in the venue of the people of Texas or in the venue of  
the STATE OF TEXAS?
- 34 If a warrant was issued for the Defendant, when was the warrant signed?
- 35 If a warrant was issued for the Defendant, who signed the warrant?
- 36 If a warrant was issued for the Defendant, and it was signed, what is the title of the person signing the  
warrant?
- 37 If a warrant was issued for the Defendant, and it was signed, by whom is the person who signed it  
employed, an official for, an officer for, or an agent or contractor or subcontractor for in the capacity of  
his signature?
- 38 If a warrant was issued for the Defendant, was a hearing held before the signing of the warrant? (Where,  
when, who was present, who testified, was it under penalty of perjury with first hand knowledge, was  
petitioner notified and given opportunity to testify & bring witnesses)?
- 39 If a warrant was issued for the Defendant and a hearing was held before the issuance, who testified  
under penalty of perjury at said hearing as to facts relied upon for the issuance of the warrant?
- 40 Were any of the persons associated with the petition for, the hearings of and testifying for the warrant  
public officials? (Where are copies of their bonds filed, who is in charge of the bond filings, how much  
is the face value of the bond, who bonds the action, is the funds behind the bond public - ie post office,  
or private i.e. – IMF?)
- 41 If a public official, what venue have they taken an oath to (i.e. United States or United States of  
America)? Is the oath in writing? Where are they kept, who is in charge of the filing of the oath?
- 42 Have any public officials taken any oaths that nullify, supersede, or cancel any written oaths on file? If  
so, what oaths, to what venues?
- 43 Have any public officials taken any oath to any venue or jurisdiction that would override or negate that  
official in his official duty from upholding petitioner's rights to unalienable rights set forth under the  
venue and jurisdiction of nature's God and nature's laws? What oaths have you taken, have you taken a  
Koll niedre oath, a Masonic oath, any others?
- 44 Do you have a duty as part of your job, to uphold the Constitution of the United States of  
America as set forth in 1787?
- 45 Do you recognize that I have unalienable rights? When did I lose them? What act or action did I take to  
loose them? What act or action did someone else take to make me loose my rights as they apply to this  
Statutory prosecution? What contract did I enter into that nullified my rights? Was I notified before I  
entered into the contract that I would loose my rights in this matter? When was I noticed? How was  
notification given? By which document?
- 46 What statute was I charged under? When was it passed into law, who passed it, who signed it, was it  
brought into law by proper process, does it have a legislative enactment clause, what venue &  
jurisdiction does it apply to, does it apply to me, is it constitutional as it applies to me, does it violate  
unalienable rights set forth by nature's God and nature's law, does it violate public policy, does it violate  
laws of nations, is it under police powers, is it under revenue powers, is there regulations adopted to  
enforce it, enforce it within what venue and jurisdiction?
- 47 Does the enforcement officer have proper delegation of authority to enforce the statute, ordinance, rule  
or regulation?
- 48 Was the enforcement officer within the proper jurisdiction and venue at the time of the acts or actions  
being enforced? Were you in that venue or jurisdiction at the time that the statute, ordinance, or  
regulation was being enforced?

- 49 Was the officer the one who personally saw the act or action complained of in the statute, ordinance or regulation? Was he/she in proper uniform/duty, etc. when any arrest or detention was made? Is the statute, ordinance, or regulation civil or criminal? Is it necessary for the officer to be in proper uniform, marked vehicle, etc. to enforce the statute, ordinance, or regulation?
- 50 What venue does the statute, ordinance, or regulation apply to? United States, de jure people, Texas, Puerto Rico, creation of the State or creation of nature?
- 51 Is the statute, ordinance, or regulation founded upon duties owed by a citizen, resident, or creation of the State? If so, what state? Where is the definition of that State found in the Statutes, ordinances, or regulations? Is that duty one created by a trust? What trust? When was it established? Where was it established? Am I a subject or resident of said trust? How did I join the trust? What instrument establishes my nexus to said trust that creates the duty and obligation to said court? Do I have my signature on said instrument? When did I sign it? Who holds the original copy of said instrument? Is it the policy of the fiduciaries to disclose the purpose, duties, privileges, and rights of the trust with full disclosure prior to soliciting my signature to said trust application?

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## BILL OF PARTICULARS

SEE ALSO: DISCOVERY

United States v. Madeoy, 652 F.Supp. 371 (D.D.C. 1987): The defendant was charged in a 121 count indictment involving fraud, conspiracy and RICO. The district court held that he was entitled to a bill of particulars specifying in detail the laws and regulations which were allegedly violated. In particular, one count of the indictment stated that the defendant had violated certain regulations, without specifying which regulations in the 700 page code were violated.

United States v. Feola, 651 F.Supp. 1068 (S.D.N.Y. 1987): In this narcotics prosecution, the defendants were entitled to the names of the persons whom the Government claimed were co-conspirators; whether the individuals present during the commission of overt acts were, in fact, informants or undercover agents; the names of witnesses to overt and substantive acts; and the exact dates that the defendants joined the conspiracy. The defendants were also entitled to the statements which the Government intended to rely upon to show an agreement among the conspirators; the quantity of cocaine distributed and possessed; and whether it was going to be the Government's contention that certain defendants were aiders and abettors. Finally, the Court held that the Government must specify the manner in which one defendant used a vehicle to facilitate a conspiracy, the names and place where the defendant met with others, and the time, place and manner in which the Government would claim at trial that two defendants became members of the conspiracy.

United States v. Williams, 113 F.R.D. 117 (M.D.Fla. 1986): This district court opinion in the Eleventh Circuit holds that the statements of co-conspirators must be produced to the defendant if the co-conspirator will not be called to testify. That is, Rule 16 which requires the production of a defendant's statements includes statements which will be introduced pursuant to Fed.R.Evid. 801(d)(2)(E).

United States v. Rogers, 636 F.Supp. 237 (D.Colo. 1986): The district court dismissed a tax fraud indictment in this case for failing to specify what deductions were fraudulent.



United States v. Santoro, 647 F.Supp 153 (E.D.N.Y. 1986): The defendants, charged with securities fraud, were entitled to a bill of particulars describing as specifically as possible inside information on that which the defendants were alleged to have traded.

United States v. Bortnovsky, 820 F.2d 572 (2d Cir. 1987): The Government was required to provide a bill of particulars in this mail fraud and RICO case specifying with connection to various insurance fraud counts which insurance claims were fraudulent, and which invoices were allegedly falsified. In this case, the Second Circuit held that the failure to provide this information was reversible.

United States v. Davidoff, 845 F.2d 1151 (2d Cir. 1988): The Second Circuit reversed the defendant's conviction based on the denial of his request for a Bill of Particulars. In order to prove the existence of a RICO offense, the Government introduced numerous instances of extortion which were not listed in the indictment but which the defendant requested in his Bill of Particulars. The Second Circuit holds that "it is simply unrealistic to think that a defendant preparing to meet charges of extorting funds from one company had a fair opportunity to defend against allegations of extortions against unrelated companies, allegations not made prior to trial.

United States v. Chavez, 845 F.2d 219 (9th Cir. 1988): The Government provided a Bill of Particulars to the defendant in this CCE prosecution. However, the Bill of Particulars misled the defendant by stating that there would be no other individuals who were "supervised" other than those listed in the bill and the indictment. At trial, the defendant was confronted with additional supervisees.

United States v. Bailey, 689 F.Supp. 1463 (E.D.Ill. 1987): Charged with mail fraud and conspiracy, the defendant was entitled to a bill of particulars describing how the defendants acted as an enterprise. The Government alleged that the enterprise was an "association in fact" and the bill of particulars appropriately sought something more specific than this general language.

United States v. Earnhart, 683 F.Supp. 717 (W.D.Ark. 1987): The defendant, charged with income tax evasion, was entitled to a Bill of Particulars setting forth the alleged gross income, the adjusted gross income, the alleged unreported income, the alleged availability of deductions and exemptions, and corporate expenditures which were alleged to have been "constructive dividends."

United States v. GAF, Corp, 928 F.2d 1253 (2d Cir. 1991): In the third trial of the corporation, the defense sought to introduce the bill of particulars which had previously been filed by the government in an earlier prosecution. The trial court erred in excluding this evidence. The bill showed that the government had abandoned its earlier broad (and inconsistent) theory of the offense.

United States v. White, 753 F.Supp. 432 (D.Conn. 1990): Defendant's bill of particulars would be granted with respect to the following matters: (1) co- conspirators; (2) the location of the acts performed by the principals; (3) the location of where the principal offense occurred.

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## NOTICES

**NOTE:** Notices are necessary to make a public servant lose their immunity to prosecution because they are under Good Faith. Giving Notice to a public servant of the law and then they ignore the law, they lose their Good Faith and show Bad Faith, whereby losing their immunity.

A Notice can be in any form, just put the word NOTICE in it.

Giving Notice is giving knowledge. Give them all the knowledge they can handle.

An Interesting Notice to send:

State of Texas	)	
ACCUSER	)	
	)	
V.	)	
	)	
	)	
_____	)	
ACCUSED	)	

**Cause #** \_\_\_\_\_

### **Notice Of Desire To Pay All Traffic Fines, Fees, Costs and Penalties**

I, \_\_\_\_\_, ACCUSED, if found guilty, gives this, my “Notice Of Desire To Pay All Traffic Fines, Fees, Costs and Penalties” to the Judge of the Court, on this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

However, due to the Constitution for the United States of America, at Article 1, Section 10, Clause 1, which mandates that “No state shall make any Thing but gold and silver Coin a Tender in Payment of Debts,” said Clause remaining UNREPEALED to date, and

Due to the Texas Code of Criminal Procedure at Article 43.02, which states that all fines, taxes, penalties and remuneration “shall be collected in the lawful money of the United States only”, said Article remaining UNREPEALED to date, and

Due to Federal Law, Title 12, Section 152, which defines “Lawful Money of the United States” to ONLY be “gold coin” and “silver coin”, said section remaining UNREPEALED to date, and

Due to 48 Stat. 2, (March 09, 1933) and 48 Stat. 113, (June 05, 1933) all gold coin was removed from common circulation, at par, at the banks in America, said Statutes, remaining UNREPEALED to date, and

Due to Public Law 8931, (July 23, 1965) Senate #2080, and Public Law 9029, (June 24, 1967) Title 50 Section 9898 H, and 60 Stat. 596, all silver coin was removed from common circulation at par, at the banks in America, said Public Laws Sections and Statutes remaining UNREPEALED to date,

I, the ACCUSED, AM THEREFORE CONSTRAINED BY LAW FROM PAYING THIS CLASS C fine, fee, cost or penalty, if found guilty.

Since Federal Reserve Notes, or checks, or money orders payable only in Federal Reserve Notes are not within the definition of those things allowed by law to be received by the court, any threat to incarcerate me for “failure to pay” those things will be deemed to be an attempt to solicit an honorarium in violation of Texas Penal Code, Title 8, Section 36.07 or 36.08.

This is neither contempt, nor default, but merely a declaration that until Congress returns America to a Constitutional monetary system, it is impossible for me to pay fines, and IMPOSSIBILIUM NULLA OBLIGATIO EST. That is, there is no obligation to do impossible things.

Further, ACCUSED sayeth naught.

---

---

Witness

---

Witness

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### **Theoretical Case**

The following theoretical case is provided for educational purpose to view the proper procedures that could be used to confront a charge of a class C misdemeanor offense punishable by fine only:

#### **TRAFFICE STOP**

A man is stopped by a police officer and the officer writes a citation for expired license plates and expired inspection sticker. The accused has two choices at this time:

- 1. Demand to be taken immediately before s magistrate pursuant to VTCS 6701d, Sec. 148, TCCP Articles 14.06 & 15.17.**
- 2. Sign the citation and promise to appear before a magistrate at a later date pursuant to VTCS 6701d, Sec. 148, TCCP Article 14.06.**

This theoretical case will deal with the later situation of being allowed to sign and promise to appear at a later date before a magistrate.

#### **THE NOTICE**

Sign the citation and go on your way. As soon as possible prepare a constructive notice similar to that in Appendix A, Figure 1. Examples are given of two constructive notices listed in Appendix A, Figure 1 is designed for the appearance before a magistrate. This gives the proper notice to the magistrate that you will be coming and informs him that you are aware of the ministerial duties that he is required to perform. It demands that those duties be performed.

**THE APPEARANCE**

When the accused appears, the appearance is for a specific purpose. An attempt by the magistrate will probably be made to change the purpose of this appearance. All the accused is required to do is demand to be "magistrated" and is required to give his name and address, nothing more. No other information is required by law and the right to silence should be maintained except the demand to be "magistrated." A signature should never be issued for any reason except for a future appearance in the county court.

Some magistrates will not even show their face and will hide in their office. Others will attempt to distract the accused into accepting something other than what is required by law. The accused should leave the court if the duties of the magistrate are not performed. If they attempt to make an arrest for leaving, the accused should again demand to be "magistrated" for the arrest that was just made and the process starts all over again.

**THE SECOND NOTICE**

When forty-eight hours have passed after appearing before the magistrate, the second constructive notice in Figure 2, Appendix A, should be prepared and mailed certified mail to the magistrate. This notices the magistrate that the accused did not appear before him and that the law has performed his duties for him, because of his neglect to do so.

At this time, the accused has received a full acquittal under the law pursuant to **Texas Code of Criminal Procedure 16.17**. Any reprisals taken by anyone within the office of the magistrate which includes the magistrate himself can result in serious criminal charges being filed against him and carries long prison terms if convicted.

**Appendix A, figure 1  
Constructive Notice for the first appearance**

CERTIFIED MAIL NO: \_\_\_\_\_

IN THE \_\_\_\_\_ COURT

\_\_\_\_\_ COUNTY, TEXAS

THE STATE OF TEXAS,

V.

\_\_\_\_\_  
name

§  
§  
§  
§  
§  
§

CAUSE NO. \_\_\_\_\_

**CONSTRUCTIVE NOTICE**

To the magistrate or the presiding magistrate:

In the above numbered causes #'s \_\_\_\_\_, wherein the accused is charged with a fine only, Class C misdemeanor(s), notices the magistrate that the accused will appear as promised on the citation(s) and demands to be brought before a magistrate in the county arrested and no other officer pursuant to the **Texas Code of Criminal Procedure Articles 14.06, and 15.17** and pursuant to **Vernon's Texas Civil Statutes Article 6701d, Section 148.**

The following points and authorities are furnished for the presiding magistrate to make a clear decision as to his or her duties:

**Article 14.06 – Must take offender before magistrate**

- (a) Except as provided by Subsection (b), in each case enumerated in this Code, the person making the arrest shall take the person arrested or have him taken without unnecessary delay before the magistrate who may have ordered the arrest, before some magistrate of the county where the arrest was made without an order, or, if necessary to provide more expeditiously to the person arrested the warnings described by **Article 15.17** of this Code, before a magistrate in a county bordering the county in which the arrest was made. The magistrate shall immediately perform the duties described in **Article 15.17** of this Code.
- (b) A peace officer who is charging a person with committing an offense that is a Class C misdemeanor, other than an offense under **Section 49.02, Penal Code**, may, instead of taking the person before a magistrate, issue a citation to the person that contains written notice of the time and place the person must appear before a magistrate, the name and address of the person charged, and the offense charged.

Acts 1965, 59<sup>th</sup> Leg., vol.2, p. 317, ch. 722. Amended by Acts 1967, 60<sup>th</sup> Leg., p. 1735, ch. 659, § 10, eff. Aug. 28, 1967; Acts 1987, 70<sup>th</sup> Leg., ch. 455, § 1, eff. Aug. 31, 1987; Acts 1991, 72<sup>nd</sup> Leg., ch. 84, § 1, eff. Sept. 1, 1991; Acts 1993, 73<sup>rd</sup> Leg., ch. 900, § 1.05, eff. Sept. 1, 1994.

**Article 15.17 – Duties of arresting officer and magistrate**

- (a) In each case enumerated in this Code, the person making the arrest shall without unnecessary delay take the person arrested or have him taken before some magistrate of the county where the accused was arrested or, if necessary to provide more expeditiously to the person arrested the warnings described by this article, before a magistrate in a county bordering the county in which the arrest was made. The arrested person may be taken before the magistrate in person or the image of the arrested person may be broadcast by closed circuit television to the magistrate. The magistrate shall inform in clear language the person arrested, either in person, or by closed circuit television, of the accusation against him and of any affidavit filed therewith, of his right to retain counsel, of his right to remain silent, of his right to have an attorney present during any interview with peace officers or attorneys representing the state, of his right to terminate the interview at any time, of his right to request the appointment of counsel if he is indigent and cannot afford counsel, and of his right to have an examining trial. He shall also inform the person arrested that he is not required to make a statement and that any statement made by him may be used against him. The magistrate shall allow the person arrested reasonable time and opportunity to consult counsel and shall admit the person arrested to bail if allowed by law. A closed circuit television system may no be used under this subsection unless the system provides for a two-way communication of the image and sound between the arrested person and the magistrate. A recording of the communication between the arrested person and the magistrate shall be made. The recording shall be preserved until the earlier of the following dates: (1) the date on which the pretrial hearing ends; or (2) the 91<sup>st</sup> day after the date on which the recording is made if the person is charged with a misdemeanor or the 120<sup>th</sup> day after the date on which the recording is made if the person is charged with a felony, The counsel for

the defendant may obtain a copy of the recording on payment of a reasonable amount to cover costs of reproduction.

- (b) After an accused charged with a misdemeanor punishable by fine only is taken before a magistrate under Subsection (a) of this article and the magistrate has identified the accused with certainty, the magistrate may release the accused without bond and order the accused to appear at a later date for arraignment in the county court or statutory county court. The order must state in writing the time, date, and place of the arraignment, and the magistrate must sign the order. The accused shall receive a copy of the order on release. If an accused fails to appear as required by the order, the judge of the court in which the accused is required to appear shall issue a warrant for the arrest of the accused. If the accused is arrested and brought before the judge, the judge may admit the accused to bail, and in admitting the accused to bail, the judge should say as the amount of bail an amount double that generally set for the offense for which the accused was arrested. This subsection does not apply to an accused who has previously been convicted of a felony or a misdemeanor other than a misdemeanor punishable by fine only.
- (c) When a deaf accused is taken before a magistrate under this article or Article 14.06 of this Code, an interpreter appointed by the magistrate qualified and sworn as provided in **Article 38.31** of this Code shall interpret the warning required by those articles in a language that the accused can understand, including but not limited to sign language.
- (d) If a magistrate determines that a person brought before the magistrate after an arrest authorized by **Article 14.051** of this code was arrested unlawfully, the magistrate shall release the person from custody. If the magistrate determines that the arrest was lawful, the person arrested is considered a fugitive from justice for the purposes of **Article 51.13** of this Code, and the disposition of the person is controlled by that article.

Acts 1965, 59<sup>th</sup> Leg., vol.2, p. 317, ch. 722. Amended by Acts 1967, 60<sup>th</sup> Leg., p. 1736, ch. 659, § 12, eff. Aug. 28, 1967; Acts 1979, 66<sup>th</sup> Leg., p. 398, ch. 186, § 3, eff. May 15, 1979; Acts 1987, 70<sup>th</sup> Leg., ch. 455, § 2, eff. Aug. 31, 1987; Acts 1989, 71<sup>st</sup> Leg., ch. 467, § 1, eff. Aug. 28, 1989; Acts 1989, 71<sup>st</sup> Leg., ch. 977, § 1, eff. Aug. 28, 1989; Acts 1989, 71<sup>st</sup> Leg., ch. 997, § 3, eff. Aug. 28, 1989; Acts 1991, 72<sup>nd</sup> Leg., ch. 16, § 19.01(2), eff. Aug. 26, 1991.

It is a violation of the law for any magistrate to willfully and knowingly create a deviation from those duties as outlined above, and will not be tolerated by the accused. The accused has a right to due process of law and will defend that right.

If the arresting officer, or magistrate, or presiding magistrate fails to comply with the requirements above, he/she will force the accused to seek Mandamus and other remedies such as, and not limited to, civil action pursuant to **Title 28 USCS** and **Title 42 USCS** in the federal courts.

\_\_\_\_\_  
NAME

Name \_\_\_\_\_

ADDRESS \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 1998

Notary Public \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

**Appendix A, figure 2**

**Second Constructive Notice**

CERTIFIED MAIL NO: \_\_\_\_\_

IN THE \_\_\_\_\_ COURT

\_\_\_\_\_ COUNTY, TEXAS

THE STATE OF TEXAS,

§  
§  
§  
§  
§  
§

V.

CAUSE NO. \_\_\_\_\_

\_\_\_\_\_  
name

**CONSTRUCTIVE NOTICE**

To the magistrate or the presiding magistrate:

A COPY OF THE PREVIOUS NOTICE AND THIS NOTICE IS BEING FORWARD TO THE \_\_\_\_\_ COUNTY COMMISSIONERS COURT FOR REVIEW!

On \_\_\_\_\_, 1998, the accused did appear with Next Friend(s) \_\_\_\_\_, pursuant to the **Texas Penal Code, Chapter 38.10, Vernon's Texas Civil Statutes, Article 6701d**, Section 148 and **The Texas Code of Criminal Procedures, Article 14.06 and 15.17**. The magistrate, nor any other presiding magistrate performed any duties of a magistrate pursuant to **T.C.C.P. 15.17** or ordered the accused to appear at a later date for arraignment in the county court or statutory county court. The order must state in writing the time, date, and place of the arraignment, and the magistrate must sign the order pursuant to the **T.C.C.P. Article 15.17**, Section (b). Pursuant to the failure on the part of the magistrate, or presiding magistrate, to issue such order, the law is self operative and finds no probable cause pursuant to the **T.C.C.P. Article 16.17**.

**Article 16.17 – Decision of Judge**

After the examining trial has been had, the judge shall make an order committing the defendant to jail of the proper county, discharging him, or admitting him to bail, as the law and facts of the case may require. Failure of the judge to make or enter an order within 48 hours after the examining trial has been completed operates as a finding of no probable cause and the accused shall be discharged.

Acts 1965, 59<sup>th</sup> Leg., vol. 2, p. 317, ch. 722.

**Texas Code of Criminal Procedure, Article 2.09 – Who are magistrates:**

Each of the following officers is a magistrate within the meaning of this Code:

The justices of the Supreme Court, the judges of the Court of Criminal Appeals, the justices of the Courts of Appeal, the judges of the District Court, the magistrates appointed by the judges of the district courts of Bexar County, Dallas County, Tarrant County, or Travis County that give preference to criminal cases, the criminal law hearing officers for Harris County appointed under Subchapter L, Chapter 54, Government Code, <FN1> the magistrates appointed by the judges of the district courts of Lubbock County or Webb County, the magistrates appointed by the judges of the criminal district courts of Dallas County or Tarrant County, the masters appointed by the judges of the district courts and the county courts at law that give preference to criminal cases in Jefferson County, the county judges, the judges of the county courts at law, judges of the county criminal courts, the judges of statutory probate courts, the justices of the peace, the mayors and recorders and the judges of the municipal courts of incorporated cities or towns.

Acts 1965, 59<sup>th</sup> Leg., vol.2, p. 317, ch. 722. Amended by Acts 1981, 67<sup>th</sup> Leg., p. 801, ch. 291, § 100, eff. Sept. 1, 1981; Acts 1983, 68<sup>th</sup> Leg., p. 883, ch. 204, § 1, eff. Aug. 29, 1983; Acts 1989, 71<sup>st</sup> Leg., ch. 25, § 2, eff. Aug. 28, 1989; Acts 1989, 71<sup>st</sup> Leg., ch. 79, § 1, eff. May 15, 1989; Acts 1989, 71<sup>st</sup> Leg., ch. 916, § 1, eff. Sept. 1, 1989; Acts 1989, 71<sup>st</sup> Leg., ch. 1068, § 2, eff. Aug. 28, 1989; Acts 1991, 72<sup>nd</sup> Leg., ch. 16, § 4.01, eff. Aug. 26, 1991; Acts 1993, 73<sup>st</sup> Leg., ch. 224, § 2, eff. Aug. 30, 1993; Acts 1993, 73<sup>st</sup> Leg., ch. 413, § 1, eff. Sept. 1, 1993; Acts 1993, 73<sup>st</sup> Leg., ch. 468, § 1, eff. June 9, 1993; Acts 1993, 73<sup>st</sup> Leg., ch. 557, § 2, eff. Aug. 30, 1993.

Upon the failure of the magistrate, or the presiding magistrate, to follow these procedures, the law provides for the accused to have an extraordinary remedy against the magistrate or presiding magistrate and the County of \_\_\_\_\_, which he/she represents.

If the magistrate, or the presiding magistrate, participates in any follow-up actions that are detrimental and against the accused, knowing in advance that the law is self-executing for failure to act and issue such order contrary thereto. He/she is committing an illegal act, along with the denial of constitutional rights of the accused and this will not be tolerated. Furthermore, such actions would constitute a violation of **OATH** of office.

\_\_\_\_\_  
NAME

Name \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 1998

Notary Public \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

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## JUDGES

**NOTE:** Always be respectful to all Judges. It is best to ask how the judge would like to be addressed in court, at the beginning. It serves no purpose to get the judge mad, he will do that on his own. Remember, they (the judges) have been instructed (by the seminars they go to) that they can LIE to you, because you have the right to Appeal. **NEVER BELIEVE ANYTHING A JUDGE OR PROSECUTOR SAYS** (always **Object to everything**), Get everything in writing that is possible, but don't push it. Just make an Affidavit afterwards of what happened. Remember that a court of Non-Record means NOTHING to you unless you get a dismissal. When you appeal to a court of record, they act as though nothing happened before, which it really didn't. So don't worry about it, it's just time and money of which you also took from the court, by where you did your job. This is cheep training, for something major that might come along in the future. If you are doing this to save money and time, you didn't read the beginning of this document very well.

Judges duty is either Judicial, Administrative, Ministrative or Ministerial

He can do only one. You must show what he was supposed to do, and prove what he did or did not do in his capacity.

The main No No for a judge is Abuse of Discretion.

### **Abuse of Discretion**

**Texaco, Inc. v. Zah**, 5 F.3d 1374, 1376 (10th

Cir. 1993)(citing United States v. Plainbull, 957 F.2d 724, 725 (9th Cir. 1992)), aff'd after remand, Texaco, Inc. v. Hale, 81 F.3d 934 (10th Cir. 1996). Under this standard the district court **abuses its discretion** " if it does not apply the correct law or if it rests its decision on a clearly erroneous finding of material fact."

**United States v. Bank of New York & Trust Co.**, 296 U.S. 463, 480 (1936) ("Even where the District Court has acquired jurisdiction prior to state proceedings, the character and adequacy of the latter proceedings . . . may require in the **proper exercise** of the discretion of the federal court that jurisdiction should be relinquished in favor of state administration.").

"[T]he grant of jurisdiction to the District Court in suits brought by the United States does not purport to confer exclusive jurisdiction," Bank of New York , 296 U.S. at 479, and "leaves open the question of the **propriety of its exercise** in particular circumstances," id. at 480; see also Gulf Offshore Co. v. Mobil Oil Corp., 453 U.S. 473, 479 1981)("[T]he mere grant of jurisdiction to a federal court does not operate to oust a state court from concurrent jurisdiction over the cause of action.").

**ALSTON v. DEBRUYN** (No. IP 91 C 1269 Seventh Circuit US Court of Appeals)

CUMMINGS, Circuit Judge. Byron Alston, an Indiana state inmate, appeals the dismissal of his civil rights complaint as frivolous under 28 U.S.C. sec. 1915(d). This appeal questions the propriety of that dismissal, which was **with prejudice** and without leave to amend the complaint. We conclude that the district court **abused its discretion** in dismissing the complaint because Alston raised colorable claims and should have had the opportunity to cure the complaint's shortcomings by amendment.

The "**abuse of discretion**" standard simply means that we shall not second-guess the decision of a trial judge that is in conformity with established legal principles and, in terms of its application of those principles to the facts of the case, is within the range of options from which one could expect a reasonable trial judge to select. United States v. Koen, 982 F.2d 1101, 1114 (7th Cir. 1992).

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## **PROSECUTORS** **LIAR, LIAR, Pants on Fire!!!**

**NOTE:** It is the Prosecutor's duty and obligation to give you the exculpatory evidence.

**Meshell v. State 739 S.W.2d 246** - "County attorney, having been granted exclusive right within judicial department to represent State in all cases in the district and inferior courts, is protected from legislative encroachment on his prosecutorial discretion by the separation of powers."

"Under separation of powers doctrine, legislature may not remove or abridge district or county attorneys' exclusive prosecutorial function unless authorized by express constitutional provision."

"Once a defendant has raised a claim under the Act, the State must respond with proof of its readiness for trial."

"A defendant may only appeal those grounds either raised in a written pretrial motion or appealed by permission of the trial court."

"He, a judge, cannot ignore facts which bring into play laws he does not personally approve, or disregard certain laws in order to reach a desired result in a particular case..."

**State Board of Dental Examiners v. Bickham 203 S.W.2d 563** - "The Constitutional authority of county attorneys to represent the state in all cases in district and inferior courts cannot be abridged or taken away and the state may not be represented in such courts by any person other than county or district attorney unless such officer joins therein."

**TCCrP Art. 2.01** Duties of the District Atty.: It shall be the primary duty of all prosecuting attorneys, including any special prosecutors, not to convict but to see that justice is done. They shall not suppress facts or secrete witnesses capable of establishing the innocence of the accused.

**NOTE:** The County Attorney and not the city attorney must represent the State in JP, County & Municipal Criminal Cases.

**TCCrP Art. 2.02. [26] [32] [33] Duties of county attorneys.**

The county attorney shall attend the terms of court in his county below the grade of district court, and shall represent the State in all criminal cases under examination or prosecution in said county; and in the absence of the district attorney he shall represent the State alone and, when requested, shall aid the district attorney in the prosecution of any case in behalf of the State in the district court. He shall represent the State in cases he has prosecuted which are appealed.

**NOTE:** Notice above the word 'ALL'.

**Art. 2.03. [27] [33] [34] Neglect of duty.**

(a) It shall be the duty of the attorney representing the State to present by information to the court having jurisdiction, any officer for neglect or failure of any duty enjoined upon such officer, when such neglect or failure can be presented by information, whenever it shall come to the knowledge of said attorney that there has been a neglect or failure of duty upon the part of said officer; and he shall bring to the notice of the grand jury any act of violation of law or neglect or failure of duty upon the part of any officer, when such violation, neglect or failure is not presented by information, and whenever the same may come to his knowledge.

(b) It is the duty of the trial court, the attorney representing the accused, the attorney representing the state and all peace officers to so conduct themselves as **to insure a fair trial** for both the state and the defendant, not impair the presumption of innocence, and at the same time afford the public the benefits of a free press.

**NOTE: Document as described by 2.04 must be in the case file or Judge can not consider it!**  
**According to this code, the Judge and the Court are not vested with jurisdiction!**

**TCCrP Art. 2.04. [28] [34] [35] Shall draw complaints.**

Upon complaint being made before a district or county attorney that an offense has been committed in his district or county, he shall reduce the complaint to writing and cause the same to be signed and sworn to **by the complainant**, and it shall be duly attested **by said attorney**.

**TCCrP - Article 45.09 Officers' Fees**

Unless provided by special charter, the governing body of each city, town or village by ordinance shall prescribe the compensation and fees which shall be paid to the recorder, city attorney, city secretary and other officers of said court, to be paid out of the municipal treasury.

**1. City Attorney**

A city attorney is **not** entitled to fees for prosecuting criminals in the recorder's court in a county that has a county attorney. Harris County v. Stewart (1898) 17 C.A. 1, 43 S.W. 52.

**2. County Attorney**

The county attorney has the **exclusive** right to appear in person or by deputy, and represent the state in **all** cases pending in a corporation court to which the state is a party, but he is entitled to no fees for so doing. Howth v. Greer (1907) 40 C.A. 552, 90 S.W. 212, 213.

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# CLERKS

**NOTE:** Clerks have a duty, like all public servants. They have to file a bribery statement with the Secretary of State and have an Oath of Office filed. Here are a few things to keep in mind or have easy reference to.

## **CIVIL PRACTICE AND REMEDIES CODE**

### **CHAPTER 7. LIABILITY OF COURT OFFICERS**

#### **SUBCHAPTER A. LIABILITY OF OFFICER**

##### **Sec. 7.001. Liability for Refusal or Neglect in Performance of Official Duties.**

(a) A clerk, sheriff, or other officer who neglects or refuses to perform a duty required under Title 42, Revised Statutes, or under a provision of this code derived from that title is liable for damages in a suit brought by a person injured by the officer's neglect or refusal.

(b) The officer may be punished for contempt of court for neglect or refusal in the performance of those duties.

##### **Sec. 16.033. Technical Defects in Instrument.**

(a) A person with a right of action for the recovery of real property conveyed by an instrument with **one** of the following defects must bring suit not later than four years after the day the instrument was recorded with the county **clerk** of the county where the real property is located:

- (1) lack of the signature of a proper corporate officer, partner, or company officer, manager, or member;
- (2) lack of a corporate seal;
- (3) failure of the record to show the corporate seal used;
- (4) failure of the record to show authority of the board of directors or stockholders of a corporation, partners of a partnership, or officers, managers, or members of a company;
- (5) execution and delivery of the instrument by a corporation, partnership, or other company that had been dissolved, whose charter had expired, or whose franchise had been canceled, withdrawn, or forfeited;
- (6) acknowledgment of the instrument in an individual, rather than a representative or official, capacity;
- (7) execution of the instrument by a trustee without record of the authority of the trustee or proof of the facts recited in the instrument;
- (8) failure of the record or instrument to show an acknowledgment or jurat that complies with applicable law; or
- (9) wording of the stated consideration that may or might create an implied lien in favor of the grantor.

##### **Sec. 17.024. Service on Political Subdivision.**

(a) In a suit against a county, citation must be served on the county judge.

(b) In a suit against an incorporated city, town, or village, citation may be served on the mayor, clerk, secretary, or treasurer.

(c) In a suit against a school district, citation may be served on the president of the school board or on the superintendent.

##### **Sec. 17.027. Preparation and Service.**

(a) The plaintiff or his attorney may prepare the appropriate citation for the defendant.

(b) The citation must be in the form prescribed by the Texas Rules of Civil Procedure.

(c) The citation shall be served in the manner prescribed by law.

(d) The plaintiff or his attorney shall comply with the applicable Texas Rules of Civil Procedure governing preparation and issuance of citation.

(e) The **clerk** may charge a fee for the issuance of a citation except that the affixing of a seal shall not constitute issuance. The **clerk** shall not charge for signing his name and affixing the seal to a citation prepared by a plaintiff or his attorney under this section.

**CHAPTER 18. EVIDENCE**  
**SUBCHAPTER A. DOCUMENTARY EVIDENCE**

**Sec. 18.001. Affidavit Concerning Cost and Necessity of Services.**

(d) The party offering the affidavit in evidence or the party's attorney must file the affidavit with the **clerk** of the court and serve a copy of the affidavit on each other party to the case at least 30 days before the day on which evidence is first presented at the trial of the case.

(e) A party intending to controvert a claim reflected by the affidavit must file a counter affidavit with the **clerk** of the court and serve a copy of the counter affidavit on each other party or the party's attorney of record:

(1) not later than:

(A) 30 days after the day he receives a copy of the affidavit; and

(B) at least 14 days before the day on which evidence is first presented at the trial of the case; or (2) with leave of the court, at any time before the commencement of evidence at trial.

**Sec. 51.002. Certiorari From Justice Court.**

(a) After final judgment in a case tried in justice court in which the judgment or amount in controversy exceeds \$20, exclusive of costs, a person may remove the case from the justice court to the county court by writ of certiorari.

(b) In a county in which the civil jurisdiction of the county court has been transferred from the county court to the district court, a person may remove a case covered by this section from the justice court to the district court by writ of certiorari.

(c) If a writ of certiorari to remove a case is served on a justice of the peace, the justice shall immediately make a certified copy of the entries made on his docket and of the bill of costs, as provided in cases of appeals, and shall immediately send them and the original papers in the case to the **clerk** of the county or district court, as appropriate.

(d) This section does not apply to a case of forcible entry and detainer.

**Texas Code of Criminal Procedure**

**Art. 30.05. [556] [620-622] Record made by clerk.**

When a special judge is agreed upon by the parties, elected, or appointed as herein provided, the **clerk** shall enter in the minutes as a part of the proceedings in such cause a record showing:

1. That the judge of the court was disqualified, absent, or disabled to try the cause;
2. That such special judge (naming him) was by consent of the parties agreed upon, or elected or appointed;
3. That, in addition to any oath previously taken, the oath of office prescribed by law for the special judge, including a special judge who is a retired, former, or active judge, was duly administered to such special judge.

**Art. 33.07. Criminal docket.**

Each **clerk** of a court of record having criminal jurisdiction shall keep a docket in which shall be set down the style and file number of each criminal action, the nature of the offense, the names of counsel, the proceedings had therein, and the date of each proceeding.

**Art. 35.25. [636] [711] [691] Making peremptory challenge.**

In non-capital cases and in capital cases in which the State's attorney has announced that he will not qualify the jury for, or seek the death penalty, the party desiring to challenge **any** juror peremptorily shall strike the name of such juror from the list furnished him by the **clerk**.

**JUSTICE AND CORPORATION COURTS**  
**CHAPTER FORTY-FIVE--JUSTICE AND CORPORATION COURTS**

**Art. 45.01. [867] Complaint.**

Proceedings in a municipal court shall be commenced by complaint, which shall begin: "In the name and by authority of the State of Texas"; and shall conclude: "Against the peace and dignity of the State"; and if the offense is only covered by an ordinance, it may also conclude: "Contrary to the said ordinance". The municipal judge shall charge the jury when requested in writing by the defendant or his attorney. Complaints before such court may be sworn to before any officer authorized to administer oaths or before the municipal judge, **clerk** of the court or his deputy, city secretary, city attorney or his deputy, each of whom, for that purpose, shall have power to administer oaths.

**Art.45.02. [868] Seal.**

(a) The said court shall have a seal with a star of five points in the center and the words "Corporation Court in \_\_\_\_\_ Texas", the impress of which shall be attached to **all** papers issued out of said court except subpoenas, and shall be used to authenticate the official acts of the **clerk** and of the recorder.

**Art.45.49. [916] [1011] [976] Judgments in open court.**

(a) All judgments and sentences and final orders of the justice shall be rendered in **open court** and entered upon his docket.

(b) The **clerk** of the court shall note the date a judgment is entered on a docket.

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**PUBLIC INFORMATION ACT**

**NOTE:** Best Thing since sliced bread. Some people out of Austin with a group named Common Cause of Texas (<http://www.ccsi.com/~comcause/index.html#top>) got this passed for us to use to keep tabs on the public servants. Use it as often as you can. If a public servant tries to make you do something you don't like, file a request for information and see which section in the constitution allows them to do this to you. The rule, policy, requirement, demand or other persuasion has to have some paper trail leading back to the constitution to have any force and effect upon you. Remember, **Article 3 Section 30** of the Texas Constitution. Look for it in this documentation and find out how laws are made applicable to you.

**THE ROLE OF THE ATTORNEY GENERAL.** The Attorney General is responsible for ensuring that Texas government is open and accessible to all citizens. Several divisions of the agency are involved in this effort. The Open Records Division decides which records are open to the public under state law, takes action to enforce these decisions, and sponsors conferences that educate public officials about our state's open government laws. The Municipal Affairs Division and the County Affairs Section give legal advice to local government agencies and officials.

**The Attorney General provides an Open Records Hotline: (512) 478-OPEN**

**OPEN RECORDS MADE EASY.** Each year, the Municipal Affairs Division of the Attorney General's Office produces a publication that addresses certain key issues that city officials face in their day-to-day operations. This article provides answers in lay person's terms to the most frequently asked questions regarding the Open Records Act.

The stakes are high for city officials that handle open record requests. There are strict time lines for making determinations on what records to release and city officials must make such decisions knowing that there are potential criminal penalties if the city releases information that is considered confidential under state law. Similarly, city officers face criminal penalties if they refuse to release information that is considered open to the public.

In a question-and-answer format, this article will provide guidance to city officials on the most frequently asked questions on the Texas Open Records Act (sometimes referred to as the "Public Information Act"). For example, the article addresses: the types of records and entities that fall under the Act; the time deadlines and mandatory notices that apply when a city handles an open records request; and when a city is required to ask for an Attorney General open record ruling. Additionally, the article covers: what inquiries can be made of a requestor; whether a city must perform research or compile statistics pursuant to open record requests; how a city can deal with requests that may be made for harassment purposes; what information is generally confidential; the ability to release information within police records; information that can be withheld regarding pending or anticipated litigation; the ability to charge for copies of and access to public information; and finally, the penalties and enforcement remedies under the open records laws.

For additional copies of this article or for assistance on other municipal law issues, please do not hesitate to contact the Municipal Affairs Division of the Office of the Attorney General. The Municipal Affairs Division can be reached at (512) 475-4683.

**Accountability.** The Public Information Act lists 18 categories of information that are considered public by their very nature, including completed audits and reports, information about public employees and officials, contracts, tax information, agency organization charts, rules and opinions, policy statements and procedural manuals. S.B. 1851 mandates that this information must always be disclosed to the public, unless specifically made confidential by another law.

Other changes made by S.B. 1851 and other new state laws include:

- My office now has authority to maintain uniformity in the application, operation and interpretation of the Public Information Act. This will help reduce confusion and disagreement over what is public and what is not.
- All governmental bodies must post a sign informing the public of its basic rights under the Public Information Act. The signs will start going up early in the new year.
- Compliance with open records laws will be examined each time a state agency is reviewed by the Sunset Commission.
- Information related to lawsuits involving a public agency or official is only shielded from disclosure if the litigation is pending or reasonably expected at the time the request was filed.
- All of the provisions of the Public Information Act that apply to school districts also apply to open-enrollment charter schools.
- Affidavits filed in support of a search warrant must be made public once the warrant has been executed.

Government agencies sometimes use alternative dispute resolution (ADR) procedures to resolve legal matters involving private individuals and organizations. Under the law, a final written ADR agreement signed by a governmental body is now a public record.

Various records relating to the employment of executive heads of state agencies are now public. These include consulting service contracts, records relating to reassignment of the executive, and financial payments made to a former executive director.

If the Comptroller of Public Accounts produces a report which is subject to disclosure, it must be promptly published on the agency's Internet website. And public information that is filed or recorded electronically by a county clerk must be provided to the public in such a way that it can be accessed via commonly used software, such as a word processing or spreadsheet program.

**Information Requests By Citizens.** S.B. 1851 made important changes in the procedures for requesting public records. If the cost of responding to a request is over \$40, the governmental body must give you an itemized estimate of the charges. If a less costly way of producing the information is available, the estimate must say so. If the actual charges are higher than the estimate, the governmental entity must either prepare an updated estimate or opt to charge no more than 20% more than the original estimate. After getting the estimate, you must provide an address where the information can be sent. If this is not done within 10 days, the request is automatically withdrawn.

Large public entities may require a deposit if the total charges will exceed \$100.00. Smaller governmental entities may ask for a deposit if the charges will total more than \$50. These entities may also require a deposit if you owe more than \$100 for previous open records requests. You may be charged an inspection fee when the records are more than five years old or fill six or more archive boxes (three years old for small agencies). Governmental bodies may ask for advance payment of postage and copying costs before sending requested information by mail.

Sometimes, people file the same open records requests over and over again. To help control costs, a governmental entity may respond to a repetitious request with a letter stating that the information has already been provided, instead of creating a new copy of the information.

If a governmental body believes that information requested under the Public Information Act is exempt from disclosure, it must ask for a decision on the matter from the Attorney General. Under S.B. 1851, my office now has 45 days to determine whether the information should be disclosed. In addition, the governmental entity must notify you that an opinion has been requested. A governmental body may not request a new decision when my office or a court has already decided that the information must be released.

S.B. 1851 also creates a new procedure for filing a civil suit against a government body that violates the Public Information Act. **If you believe a local public entity has violated the Act, you may file a written complaint with your local district or county attorney.** If the violation involves a state agency, you must file a complaint with the Travis County District Attorney. Within 31 days, the prosecutor must decide whether a violation has occurred and whether to file a lawsuit. If a violation has taken place, the governmental body must be given three days to make amends before being sued. If the local prosecutor chooses not to take action, you may refile the complaint with my office.

**EXAMPLE**

**Texas Public Information Act Request**

**TO:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**FROM:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**RE:** Formal request for the production of documents.



**AUTHORITY:** Texas Public Information Act Request pursuant to **Texas Government Code § 552**

Dear Sir:

Under the Chapter 552, Public Information of the Texas Government Code as stated:  
Sec. 552.001. Policy; Construction.

(a) Under the fundamental philosophy of the American constitutional form of representative government that adheres to the principle that government is the servant and not the master of the people, it is the policy of this state that each person is entitled, unless otherwise expressly provided by law, at all times to complete information about the affairs of government and the official acts of public officials and employees. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created. The provisions of this chapter shall be liberally construed to implement this policy.

(b) This chapter shall be liberally construed in favor of granting a request for information. Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

In response to

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Further:

This is to assure you, that I will comply with Section **552.122**; as you are to comply with Section **552.261** and, for documents in excess of 50 pages, Section **552.271**. These documents should be delivered to the stated above (FROM) address.

I request **no** "speculative or hypothetical legal opinion". I request **no** "creation of documents", "legal research", opinion or advice. I request the documents showing the authority of all actions stated herein. If **no** documents are responsive to any document request, please indicate so in your written response.

**DOCUMENTS BEING REQUESTED:**

COPIES OF ALL DOCUMENTS that are in your possession, under your control, or within your system of records, such documents which would indicate or specify:

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## Texas Public Information Act Remedy for Failure to Comply

**Sec. 552.353.** Failure or Refusal of Officer for Public Information to Provide Access to or Copying of Public Information.

(a) An officer for public information, or the officer's agent, commits an offense if, with criminal negligence, the officer or the officer's agent fails or refuses to give access to, or to permit or provide copying of, public information to a requestor as provided by this chapter.

(b) It is an affirmative defense to prosecution under Subsection (a) that the officer for public information reasonably believed that public access to the requested information was not required and that the officer:

- (1) acted in reasonable reliance on a court order or a written interpretation of this chapter contained in an opinion of a court of record or of the attorney general issued under Subchapter G;
- (2) requested a decision from the attorney general in accordance with Subchapter G, and the decision is pending; or
- (3) not later than the 10th calendar day after the date of receipt of a decision by the attorney general that the information is public, filed a petition for a declaratory judgment, a writ of mandamus, or both, against the attorney general in a Travis County district court seeking relief from compliance with the decision of the attorney general, and a petition is pending.

(c) It is an affirmative defense to prosecution under Subsection (a) that a person or entity has, not later than the 10th calendar day after the date of receipt by a governmental body of a decision by the attorney general that the information is public, filed a cause of action seeking relief from compliance with the decision of the attorney general, and the cause is pending.

(d) It is an affirmative defense to prosecution under Subsection (a) that the defendant is the agent of an officer for public information and that the agent reasonably relied on the written instruction of the officer for public information not to disclose the public information requested.

(e) An offense under this section is a misdemeanor punishable by:

- (1) a fine of not more than \$1,000;**
- (2) confinement in the county jail for not more than six months; or**
- (3) both the fine and confinement.**

(f) A violation under this section constitutes official misconduct.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 25, eff. Sept. 1, 1995.

If you cannot produce this public information for inspection or duplication within 10 calendar days after the date of receiving this request, you shall so certify to me in writing and set a date and hour within a reasonable time when the information will be available for inspection, duplication, or be mailed to me per **§ 552.221** and **§ 552.308**.

You shall treat this request for information uniformly without regard to the position of the person who signs this request per § 552.223.

Sincerely,

\_\_\_\_\_

cc: Attorney General John Cornyn  
P.O. Box 12548  
Austin, Texas 78711

**CERTIFIED MAIL #** \_\_\_\_\_

**DATE SENT** \_\_\_\_\_

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## **OPEN MEETINGS ACT**

**NOTE:** Just some more information about public servants and their meeting. When you're the King, you need to be able to watch over your servants.

**OPEN MEETINGS MADE EASY.** Each year, the Attorney General's Municipal Advisory Committee asks the Attorney General's Office to produce a publication that addresses certain key issues that city officials face in their day-to-day operations. In a question-and-answer format, this article covers the most frequently asked questions on the Texas Open Meetings Act.<sup>1</sup> For example, the article addresses: when the Open Meetings Act generally applies, what constitutes reasonable notice of the subject matter of an open meeting, the application of the Act to informal gatherings of the city council, and the limited right of individual council members to place items on an agenda. Additionally, the article covers what are permissible subjects for executive sessions, who may attend an executive session, and the appropriate handling of a certified agenda. Finally, the article addresses the ability to "ratify" an action, civil enforcement of the Open Meetings Act, and criminal penalties for certain Open Meetings Act violations.

The stakes are high for city officials. Texas courts have ruled that in certain cases, a local public official can be convicted of participating in an illegal closed meeting even though the official may have believed at the time that the closed meeting was authorized. City officers can also face criminal penalties if they attempt to avoid open meetings requirements by meeting in numbers of less than a quorum for the purpose of secret deliberations about city business.

An article available will attempt to provide answers in lay person's terms to the most frequently asked questions regarding the Open Meetings Act. Copies of this article can be obtained by calling the Municipal Affairs Division of the Attorney General's Office at (512) 475-4683.

## **I. Application of the Open Meetings Act**

**When does the Open Meetings Act generally apply?** The Open Meetings Act (OMA) generally applies when a quorum of a governmental body is present and discusses public business. However, it does not apply to purely social gatherings or to the attendance of public officials at conferences or training if no formal actions are taken and if the discussion of public business is only incidental at such events.

**What is the relationship between the Open Meetings Act and the Open Records Act?** The Open Meetings Act and the Open Records Act are both intended to make government more accessible to the public. However, the two are completely separate statutes, and each operates independently of the other. The mere fact that a city may be able to withhold a document from the public under the Open Records Act does not mean that the city council has authority to meet in executive session regarding the subject covered in that document. Likewise, the fact that the Open Meetings Act allows a city council to have an executive session about a particular topic does not mean that documents reviewed in the executive session may be withheld from the public.

## **III. Effect of Quorum Provisions on Open Meetings Act Issues**

### ***General Quorum Provisions***

#### ***Managing Discussions at an Open Meeting***

**What right does the public have to speak on a particular agenda item?** The Open Meetings Act allows the public to observe the open portion of a city council meeting. However, the Texas Attorney General has concluded that the Open Meetings Act does not give members of the public a right to speak on items considered at an open meeting. Such a right only exists if a specific state law requires a public hearing on that item or if state law requires that public comment be allowed on that issue. If a city allows members of the public to speak on an item at a council meeting, the council may adopt reasonable rules regulating the number of speakers on a particular subject and the length of time allowed for each presentation. However, the city council must apply its rules equally to all members of the public.

**What is the general distinction between a public hearing and an open meeting?** A city council is generally not required by the Open Meetings Act to allow members of the public to speak on regular agenda items at an open meeting. However, during a public hearing, members of the public must be given a reasonable opportunity to speak.

Another difference between public hearings and general open meetings is the type of notice that must be provided. Many statutes which require a public hearing also require that special notice of the hearing be given. For instance, when a city is going to have an annexation hearing under section 43.052 of the Texas Local Government Code, it must publish notice of the hearing in a newspaper at some time between ten and twenty days before the hearing. On the other hand, the only notice generally required for a regular open meeting is the 72-hour posted notice at city hall.

#### ***Keeping a Record of Open Meetings***

**What duty does a city have to produce minutes of open meetings?** A city must either keep minutes or make a tape recording of every open meeting. If the governmental body chooses to keep minutes rather than make a tape, state law requires that the minutes state the subject of each deliberation and indicate every action that is taken.

**What access does the public have to the minutes of an open meeting?** The minutes or tape recording of an open meeting are open to the public and must be available for inspection and for copying. It should be noted that exceptions to required public disclosure in the Open Records Act do not apply to the minutes or recording of an open meeting. The city must permanently retain copies of its minutes for its meetings. However, the city is not required by state law to publicly post the minutes of an open meeting.

**What right does the public have to record open meetings?** The Open Meetings Act gives any member of **the public a legal right to make a video or audio recording of an open meeting.** However, the Act also gives a governmental body a right to adopt reasonable rules that are necessary to maintain order at a meeting. Thus, a city council may regulate the location of recording equipment and the manner in which the recording is conducted. However, the city may not adopt any rule that would unreasonably impair a person's right to record an open meeting.

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## **OBJECTIONS**

Objections to raise in court, pick one but always – **OBJECTION, Judge!**

**Ambiguous**  
**Asked & Answered**  
**Argumentative**  
**Best Evidence**  
**Compound**  
**Cross - Examination**  
**Dead-Man's Statue**  
**Harassment**  
**Hearsay**  
**Immaterial**  
**Impeachment**  
**Incompetent**  
**Incompetent Foundation**  
**Irrelevant**  
**Leading**  
**Misleading Facts or Testimony**  
**Motion to Strike Answer**  
**Narrative Answer (Question Excessively Broad)**  
**Non-Responsive Answer**  
**Opinion**  
**Parole Evidence Rule**  
**Self-Serving**  
**Speculation**  
**Witness Not Competent**  
**Witness Not Qualified**

\*\*\*\*\*

## **FINDINGS OF FACTS AND CONCLUSIONS OF LAW**

**NOTE:** Any cases which go to the County or District Courts, hold the judges feet to the fire by filing a request for findings of facts and conclusions of law within 20 days after final judgment. This will sometimes make them reverse their judgment if they ruled a certain way, just because they could.

### **Texas Rules of Court**

#### **RULE 296. REQUESTS FOR FINDINGS OF FACTS AND CONCLUSIONS OF LAW**

In any case tried in the District or County Court without a jury, any party may request the Court to state in writing its findings of fact and conclusions of law. Such request shall be entitled "Request for Findings of Fact and Conclusions of Law" and shall be filed within twenty days after judgment is signed with the clerk of the Court, who shall immediately call such request to the attention of the judge who tried the case. The party making the request shall serve it on all other parties in accordance with Rule 21a.

### **Federal Rules of Civil Procedure**

#### **Rule 52. Findings by the Court; Judgment on Partial Findings**

(a) Effect.

In all actions tried upon the facts without a jury or with an advisory jury, the court shall find the facts specially and state separately its conclusions of law thereon, and judgment shall be entered pursuant to Rule 58; and in granting or refusing interlocutory injunctions the court shall similarly set forth the findings of fact and conclusions of law which constitute the grounds of its action. Requests for findings are not necessary for purposes of review. Findings of fact, whether based on oral or documentary evidence, shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge of the credibility of the witnesses. The findings of a master, to the extent that the court adopts them, shall be considered as the findings of the court. It will be sufficient if the findings of fact and conclusions of law are stated orally and recorded in open court following the close of the evidence or appear in an opinion or memorandum of decision filed by the court. Findings of fact and conclusions of law are unnecessary on decisions of motions under Rule 12 or 56 or any other motion except as provided in subdivision (c) of this rule.

(b) Amendment.

On a party's motion filed no later than 10 days after entry of judgment, the court may amend its findings -- or make additional findings -- and may amend the judgment accordingly. The motion may accompany a motion for a new trial under Rule 59. When findings of fact are made in actions tried without a jury, the sufficiency of the evidence supporting the findings may be later questioned whether or not in the district court the party raising the question objected to the findings, moved to amend them, or moved for partial findings.

(c) Judgment on Partial Findings

If during a trial without a jury a party has been fully heard on an issue and the court finds against the party on that issue, the court may enter judgment as a matter of law against that party with respect to a claim or defense that cannot under the controlling law be maintained or defeated without a favorable finding on that issue, or the court may decline to render any judgment until the close of all the evidence. Such a judgment shall be supported by findings of fact and conclusions of law as required by subdivision (a) of this rule.

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## UNITED STATES DISTRICT COURT

**NOTE:** You will see a Magistrate or District Judge. The District Judge will sometimes appoint a Magistrate to hear a case. You can then appeal the decision back to the District Judge before appealing to the United States Court of Appeals. This is all found in the Federal Rules of Appellate Procedure.

Ask the Court Clerk for the local rules for the judge that you will be in front of.

You will be able to see your court file and get copies of documents which show up in it. You will need a copy of everything that is in your file, for the Appeal when you make your RECORD EXCERPTS report to be filed with the Appeals Court.

After you have your time in court, you should by the next day go to the Court Records Department and ask for a copy of the tape recording of your hearing. You will need to tell them the day and approximately the time of day that it occurred and who the Judge was. This will cost you about \$15.00 for about 90 minutes. This will help you pick the parts of the transcript that you want printed, because it will cost you about 4 to 5 dollars a page. If the hearing is long, just tell them what part you want printed for your appeal.

Use a Motion of Relief of Order – per Rule 60 of the Federal Rules of Civil Procedure to have the order of a Magistrate reversed.

Always put in a Motion for a Finding of Facts and Conclusions of Law after a Magistrate or District Judge signs an Order against you.

Most cases filed in Federal Court are Dismissed per Rule 12 (b) (6) of the Federal Rules of Civil Procedure – Failing to state a claim, whereby relief can be granted. The relief for which you ask **MUST BE** within the capability of the judge to grant such relief by law, and you must state where in the law that the judge has this right for such grant.

Always base your case upon points with the plan to always appeal, never expect to win in the lower courts. Everything that you do will be based on Procedure Violations of the Court and/or Prosecutor. You have to study the rules of the Federal Rules of Civil Procedure, to see where the Prosecutor or Court slipped up.

Examples are Rule 4(b), did they do service correctly? Did you waive service? Did they offer counsel to you?

Check the Due Process section.

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## APPEALS – FEDERAL

In a New Ball Park.

Paper Work Changes Greatly.

You need to contact the Clerk of the Appeals Court and get the Rules of the Court. You will follow the Federal Rules of Appellate Procedure, but you still need the Court Rules.

Your Appeal Brief has specific parameters, such as 14 Font, Double Spaced, Appellate Brief – Blue Cover, Appellee – Red Cover, Brief has to be Bound, so that it will lay flat. Check the Rules and follow them.

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## STATE COURTS – All

Texas, That Is !

### **Texas Transportation Code**

#### **Sec. 542.403. Court Costs.**

(a) In addition to other costs, a person convicted of a misdemeanor under this subtitle **shall pay \$3 as a cost of court.**

**NOTE:** Above is one of many court costs the legislature dreams up for you to pay. Go down to the clerk's office and get a copy of the list of court costs that could be stuck on you. Sometimes the courts attempt to double dip you with multiple charges on the same trial. Watch them closely, make them itemize each cost.

### **Texas Code of Criminal Procedure**

#### **Art. 4.01. [51] [63] [64] Which courts have criminal jurisdiction.**

The following courts have jurisdiction in criminal actions:

1. The Court of Criminal Appeals;
2. Courts of appeals;
3. The district courts;
4. The criminal district courts;
5. The magistrates appointed by the judges of the district courts of Bexar County, Dallas County, Tarrant County, or Travis County that give preference to criminal cases and the magistrates appointed by the judges of the criminal district courts of Dallas County or Tarrant County;
6. The county courts;
7. All county courts at law with criminal jurisdiction;
8. County criminal courts;
9. Justice courts;
10. Municipal courts; and
11. The magistrates appointed by the judges of the district courts of Lubbock County.



**Art. 4.02. [52] Existing courts continued.**

No existing courts shall be abolished by this Code and shall continue with the jurisdiction, organization, terms and powers currently existing unless otherwise provided by law.  
Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Article 45.07 Collection of Costs**

No costs shall be provided for by any ordinance of any incorporated city, town, or village, and none shall be collected.

**1. In General**

Corporation court's judgments complied with art. 45.50, which in case of conviction, the judgment shall be that the state shall recover fine and costs, although the judgments did not assess court costs, in view of provisions of this article that no court cost can be collected by corporation courts.

Deal v. State (Cr.App. 1968) 423 S.W.2d 929

**Art. 45.50 The Judgment.**

(a) The judgment and sentence, in case of conviction in a criminal action before a justice of the peace, shall be that the defendant pays the amount of the fine and costs to the state.

(b) The justice may direct the defendant:

- (1) to pay the entire fine and costs when sentence is pronounced; or
- (2) to pay the entire fine and costs at some later date; or
- (3) to pay a specified portion of the fine and costs at designated intervals.

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**APPEALS – STATE**

Go to the Local Appellate Court and ask for a copy of their Local District Rules.

One document that is filed is: The Appeals Mediation Program Docketing Statement. This tells, Which type of Case, how to Docket the case, how to schedule and everything else.

Do not get caught up in Mediation of the Case, this will only delay the case.

**Satty White v. State 600, SW, 2d, 277**

Fundamental Errors of Court are:

- 1. Actions of court which do not follow procedures, damage you.
- 2. If they deprive you of a fair and impartial trial, they damage you.

**NOTE:** In a **Non-Court of Record**, in an appeal, they try to say that nothing happened at the lower court, & let's start all over. You have a Motion to Dismiss, because the appellate court does not have original jurisdiction to start a proceeding, and that the previous court was not a court, the judge was not a judge, and the attorney was not an attorney.

In a **Court of Record** court, you must get a copy of the Government Code and read Chapter 30 at least three times, so that you don't miss any part of the appeal process. A Must!

To Appeal out of a **Non - Court of Record**, you only need a Surety Bond, then file the Motion/Notice to Appeal.

You must file a Notice to appeal.

**Notice of Intent to Appeal** - You must indicate to the clerk what you expect them to prepare for transmittal the proper documents/records for the Appeals Court.

You may take the Documents to the Appellate Court yourself and make copies on your way there, or have the Clerk of the Appellate Court make them for a small fee. Do not ask for copies from the clerk of the original court while they are getting them ready for the Appellate Court, or the copies may cost \$7.00 a copy.

The Docket in Texas is called a Transcript Docket - This document states when and what was done since the case started.

The Court Transcript - sometimes called the Statement of Facts - is a document which has all testimony type-written during the trial.

You have 120 days to prepare the documents for transmission to the Appeals Court.

After the papers have been submitted to the court, you have 30 days to file your Appeal.

### **Texas Code of Criminal Procedure**

#### **Art. 4.09. [58] [105] [95] Appeals from inferior court.**

If the jurisdiction of any county court has been transferred to the district court or to a county court at law, then an appeal from a justice or other inferior court will lie to the court to which such appellate jurisdiction has been transferred.

**Gov. Code 30.269** – (a) The county criminal court of the county has jurisdiction over an appeal.

(b) The appellate court shall determine each appeal from a municipal court of record conviction on the basis of the errors that are set forth in the defendant's motion for a new trial and are presented in the transcript an statement of facts prepared from the municipal court of record proceeding leading to the conviction.

(c) To perfect an appeal, the defendant **must** file a written motion for a new trial not later than the 10th day after the date on which judgment is rendered. The motion must set forth the points of error of which the defendant complains. A point of error not distinctly set forth in the motion is waved. The motion or an amended motion may be amended by leave of court at any time before action on the motion is taken, but no later than the 20th day after the date on which the original or amended motion is filed. If the court does not act on the motion before the expiration of the 20 days allowed for determination of the motion, the original or amended motion is overruled by operation of law.

(d) To perfect an appeal, the defendant **must** give a written notice of appeal and must file the notice with the court not later than the 10th day after the date on which the motion is overruled.

**Gov. Code 30.270** – (a) The defendant may not take an appeal until the defendant files an appeal bond with the municipal court of record. The bond must be approved by the court and must be filed not later than the 10th day after the date on which the motion for a new trial is overruled.

(b) The appeal bond must be in the amount of \$50.00 or double the amount of the fines and cost adjudged against the defendant, whichever is greater.

(c) The record on appeal consists of a transcript and, if necessary to the appeal, a statement of facts.

**Gov. Code 30.271** – (a) On **written request** of the defendant, the clerk of the municipal court of record shall prepare under his hand. The Transcript **must** include copies of:

- (1) the complaint;
- (2) material docket entries made by the court;
- (3) the jury charge and verdict in a jury trial;
- (4) the judgment;
- (5) the motion for new trial;
- (6) the notice of appeal;
- (7) written motions and pleas;
- (8) written orders of the court; and
- (9) any bills of exception filed with the court.

(b) The clerk may use mechanical or videotape recordings.

(c) The **bills of exception** must be filed with the clerk not later than the 60th day after the date on which the notice of appeal is given or filed.

**Gov. Code 30.272** – A statement of facts included in the record on appeal **must** contain:

(1) a transcription of all or part of the court proceedings in the case that is prepared from mechanical or videotape recordings of the proceedings.

**Gov. Code 30.273** – (a) Not later than the 60th day after the date on which the notice of appeal is given or filed, the parties **must** file with the clerk of the municipal court of record:

- (1) the statement of acts;
- (2) a written description of material to be included in the transcript in addition to the required material;

and

- (3) any material to be included in the transcript that is not in the custody of the clerk.

(b) On completion of the record, the municipal judge shall approve the record in the manner provided for record completion notification and approval in the court of appeals.

(c) After the court approves the record, the clerk shall promptly send it to the appellate court clerk for filing. The appellate court clerk shall notify the defendant and the prosecuting attorney that the record has been filed.

**Gov. Code 30.274** - (a) A defendant's brief on appeal from a municipal court of record **must** present points of error in the manner required by law for a brief on appeal to the court of appeals.

(b) The defendant **must** file the brief with the appellate court clerk not later than the 15th day after the date on which the transcript and statement of facts are filed with that clerk. The clerk shall notify the prosecuting attorney of the filing.

(c) The prosecuting attorney **must** file the appellee's brief with the appellate court clerk not later than the 15th day after the date on which the defendant's brief is filed.

(d) Each party, on filing the part's brief, shall deliver a copy of the brief to the opposing party.

**Gov. Code 30.278** – The defendant has the right to appeal to the court of appeals if the fine assessed against the defendant **exceeds** \$100 and if the judgment is affirmed by the appellate court.

(1) the record and briefs on appeal in the appellate court and the transcript of proceedings in the appellate court constitute the record and briefs on appeal to the court of appeals unless the rules of the court of criminal appeals provide otherwise; and

- (2) the record and briefs **shall be** filed directly with the court of appeals.

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## MUNICIPAL COURT

After the trial, by the next day, file a Motion for New Trial because of errors of the court. This is part of exhausting your administrative remedies. (But do this ONLY if found guilty.)

In a Court of Record court, you must get a copy of the Government Code and read Chapter 30 at least three times, so you don't miss any part of the appeal process. A Must!

To Appeal out of a Non - Court of Record, you only need a Surety Bond, then file the Motion to Appeal.

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## JUSTICE OF THE PEACE

**NOTE:** This guy may or may not be an attorney. He has only been to a minimal amount of schooling to know what the law is. Don't assume that he knows a tenth of what's in this book. Don't get mad if he doesn't understand what you're trying to say. You're mainly there to educate him and keep him from getting money from someone else. You could do more damage to this guy with a counter claim than most any judge. Most of the time he will let his cronies, the city attorneys, or even his clerks, arraign the people and run the sheep through the shearing. Refuse to talk with the city attorney. You want to see the judge. They are your adversary and they do not have the authority to do what they are doing and they will not dismiss your case.

**Texas Constitution, Art.1, Sec. 13** says that all trials will be OPEN! Don't go into his Chambers unless you bring in a witness.

### **Texas Code of Criminal Procedure**

#### **Art. 4.11. [60] [106] [96] Jurisdiction of justice courts.**

(a) Justices of the peace shall have original jurisdiction in criminal cases:

(1) punishable by fine only; or

(2) punishable by:

(A) a fine; and

(B) as authorized by statute, a sanction **not consisting** of confinement or imprisonment that is rehabilitative or remedial in nature.

(b) The fact that a conviction in a justice court has as a consequence the imposition of a penalty or sanction by an agency or entity other than the court, such as a denial, suspension, or revocation of a privilege, **does not** affect the original jurisdiction of the justice court.

**Tex. Cod. of Crim. Proc. 45.38** - The rules of evidence shall apply to such actions in justice courts.

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## COUNTY COURTS

**NOTE:** You will notice below that there are three distinct county courts in Texas.

### **Texas Code of Criminal Procedure**

**Art. 4.03. [53] [68-86-87] Courts of Appeals.**

The Courts of Appeals shall have appellate jurisdiction coextensive with the limits of their respective districts in all criminal cases except those in which the death penalty has been assessed. This Article shall not be so construed as to embrace any case which has been appealed from any inferior court to the county court, the county criminal court, or county court at law, in which the fine imposed by the county court, the county criminal court or county court at law **does not exceed one hundred dollars**, unless the sole issue is the constitutionality of the statute or ordinance on which the conviction is based.

**Art. 4.07. [56] [98] [91] Jurisdiction of county courts.**

The county courts shall have original jurisdiction of all misdemeanors of which exclusive original jurisdiction is not given to the justice court, and when the fine to be imposed shall exceed five hundred dollars.

**Art. 4.08. [57] [101-897] Appellate jurisdiction of county courts.**

The county courts shall have appellate jurisdiction in criminal cases of which justice courts and other inferior courts have original jurisdiction.  
Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

**Art. 4.10. [59] [99] [92] To forfeit bail bonds.**

County courts and county courts at law **shall** have jurisdiction in the forfeiture and final judgment of all bail bonds and personal bonds taken in criminal cases of which said courts have jurisdiction.

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## STATE DISTRICT COURTS

The State District Courts are sometimes like the Federal District Courts whereby the District Judges appoint a magistrate to do their dirty work, so you then appeal to the district judge about what the magistrate did before appealing to the State Appellate Court. The main thing is to find the District Clerk and get the local rules of court. Then follow the yellow brick road.

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# TEXAS SUPREME COURT

**Main thing:** get a copy of the rules and go by those rules!

<http://www.supreme.courts.state.tx.us/>

**\* If you have questions or comments regarding the Procedure and Rules, please contact Bob Pemberton, Rules Attorney, Supreme Court, at 512-463-6645.**

Supreme Court Building  
201 West 14th., Rm. 104  
Austin, Texas 78701

Supreme Court  
P.O. Box 12248  
Austin, Texas 78711

Phone: (512) 463-1312  
Fax: (512) 463-1365

**Clerk of the Court** John T. Adams  
**Chief Deputy Clerk** Elizabeth Saunders

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## MANDAMUS

You must file a Notice of Writ of Mandamus, if you want something done and the agent refused to comply.

**Writ of Mandamus** - This is an Order of a High Court to a Lower Court, ordering them to do certain things. If a lower court refuses to accept certain documents to be filed into evidence, you do a Writ of Mandamus to make the lower court do what's right.

**Procedures** -the writ must have a statement of facts of the allegations against the parties the writ is directed. The writ must be accompanied with an Application of Request which states why you are bringing the writ. Then you need an Affidavit which is in support of the writ. Next is an Order for the writ. That Order has to be with every Writ you put in because the judge will not write one up. The Last thing is the Writ itself - the writ demands performance or the non performance of some act by the persons to whom the writ is directed.

### **Texas Code of Criminal Procedure**

#### **TCCrP Art. 4.04. [53a] Court of Criminal Appeals.**

Sec. 1. The Court of Criminal Appeals and each judge thereof shall have, and is hereby given, the power and authority to grant and issue and cause the issuance of writs of habeas corpus, and, in criminal law matters, **the writs of mandamus**, procedendo, prohibition, and certiorari. The court and each judge thereof shall have, and is hereby given, the power and authority to grant and issue and cause the issuance of such other writs as may be necessary to protect its jurisdiction or enforce its judgments.

**United States Code**

**Title 28 § Sec. 1361. Action to compel an officer of the United States to perform his duty**

The district courts shall have original jurisdiction of any action in the nature of **mandamus** to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff.

You must file a Notice of Writ of Error, when errors occur in the proceeding.

**Writ of Error** - is errors in the transcript or the proceedings. It is not Appealable. This has to do with the error of the proceedings not the error of the procedure. Goes to the same court. You have the Right to file a Writ of Error.

**Writ of Error Quarum Novus** - a Writ of Error on the King's Bench. A procedural tool, the purpose of which is to correct errors of fact only, which has to be without negligence on the defendant's part, was not made under duress, fraud or excusable mistake, where facts did not appear of the face of the record, and as such is known.

**Writ of Error Quarum Vocus** - a Writ of Error for a higher court to go back and review the **Quarum Novus** of the lower court.

**Motion for Reconsideration** - is used like a Writ of Error but to motion the same court to Consider what it has done so it can change the errors which had occurred during the trial.

You must file a Notice of Writ of Certiorari

**Writ of Certiorari** - is a write up of Procedural Error. It is Appealable. This has to do with the error of the procedure not the error of the proceedings. Goes to a higher Court. This is not a Right but determined by a higher court if it will be accepted.

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**TEXAS ETHICS COMMITTEE**

This is where you squeal on the Judge and the Attorneys.

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**Filing a Complaint on a Texas Judge**

The State Commission on Judicial Conduct is mandated by the Texas Constitution to investigate and prosecute allegations of misconduct by judges in Texas. The Commission has authority over Texas judges, including appellate, district, county, justice and municipal level judges, visiting judges, and associate judges. The Commission has no jurisdiction over federal officials, mediators, arbitrators, or administrative judicial officers. There is a complaint form which is used to open a file. The form may be obtained from and should be mailed to:

**STATE COMMISSION ON JUDICIAL CONDUCT  
P.O. BOX 12265  
AUSTIN, TEXAS 78711-2265**

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Check out: The Texas Center For Ethics and Professionalism  
P.O. Box 12487  
Austin, Texas 78711-2487

1414 Colorado, Suite 600A  
Austin, Texas 78701

1-800-204-2222 ext. 2161  
Fax 512-463-1459

<http://www.txethics.org/>

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**CODE OF JUDICIAL CONDUCT**  
**&**  
**JUDICIAL ETHICS OPINIONS**  
\*  
**APPLICABILITY TO EMPLOYEE OF JUDGE**

**Opinion No. 106 (1987)**

**QUESTION:** Is a person who is an employee of a judge or a group of judges subject to the provisions of the Code of Judicial Conduct?

**ANSWER:** Canon 3B(2) states, "A judge should require his or her staff and court officials subject to the judge's direction and control to observe the standards of this code." (Emphasis added).

The committee is informed that the person is hired by a group of judges and appears to be under the direction and control of the judge(s). Under such circumstances, **it is the duty** of the judge(s) who employ that person to see that the employee complies with the provisions of the code.

The code makes no provisions for the sanctions against the employee for non-compliance with the code, but **it does provide sanctions against the judge(s)** in the event of non-compliance by the judge(s) in not requiring personnel under the direction and control of the judge(s) to adhere to the provisions of the code.

**DISCIPLINARY ACTION AGAINST LAWYER**  
**Opinion No. 45 (1979)**

**QUESTION:** Does a judge subject to the Code of Judicial Conduct have an obligation to initiate disciplinary measures against a lawyer when he becomes aware that such lawyer has been guilty of unprofessional conduct or has presented false information to the court in order to obtain the entry of a judgment?

**ANSWER:** Under Disciplinary Rules promulgated by the Supreme Court of Texas, "**A lawyer shall not engage in conduct that is prejudicial to the administration of justice.**" DR 1-102(5).

Canon 3B(3) of the Code of Judicial Conduct reads: "**A judge should take or initiate appropriate disciplinary measures against a lawyer for unprofessional conduct of which the judge may become aware.**"



The Committee is of the opinion that the knowing presentation of false information to a court in order to obtain the entry of a judgment is unprofessional conduct as defined in DR 1-102(5) and that when the judge becomes aware thereof, **it becomes his duty** to "initiate appropriate disciplinary measures" against such lawyer.

**Judicial Neutrality Prohibits J.P. "War On Hot Checks"**  
**Ethics Opinion No. 225 (1998)**

**QUESTION NO. 1:** May a county-wide decal issued as a part of a "declared war on hot checks" that includes the names of the district attorney, sheriff and constable and contains a generic warning against passing hot checks also include the justice of the peace's name?

**ANSWER:** No. Canon 3A provides that **a judge must act at all times in a manner that promotes impartiality of the judiciary**. If a justice of the peace allows his or her name to appear on a decal, along with the names of the prosecutor and law enforcement officials, the clear implication is that the judge is acting in conjunction with these entities to prevent and prosecute issuance of hot checks. This violates Canon 3A by implying that the judge is partial to law enforcement, the judge will assume the accused is guilty, and that the judge is indeed assisting law enforcement in hot check prosecution efforts. Thus, a judge should not permit use of his or her name in a general law enforcement program.

**QUESTION NO. 2:** Justices of the peace across Texas "in reality.... conduct an executive branch prosecutorial function in hot check cases." The victim files the complaint and all relevant evidence in the justice of the peace office, the J.P. office then investigates and prosecutes the case by interviewing potential witnesses and contacting the accused "to pay restitution... ." Is this appropriate judicial conduct?

**ANSWER:** Canon 1 of the Code of Judicial Conduct states that **a judge should observe standards to preserve the independence of the judiciary**. When canon 1 speaks of independence, it refers to the judicial branch of government that **must remain separate from the other two branches** under Article II, Sec. 1, of the Texas Constitution. The executive branch includes prosecutors, sheriffs and constables; therefore, a judge cannot at any time act as a prosecutor in any capacity.

If the inquiring justice of the peace, or any judge, is prosecuting cases within its jurisdiction, especially contacting the accused for guilty plea arrangements, then the judge is absolutely, unequivocally, and indefensibly violating both the Code of Judicial Conduct and the Texas Constitution. Further activity in this vein must immediately cease.

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2d Session  
**H. R. 3396**

To establish standards of conduct for Department of Justice employees, and to establish a review board to monitor compliance with such standards.

**IN THE HOUSE OF REPRESENTATIVES**

**March 5, 1998**

Mr. MCDADE (for himself and Mr. MURTHA) introduced the following bill; which was referred to the Committee on the Judiciary

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**A BILL**

To establish standards of conduct for Department of Justice employees, and to establish a review board to monitor compliance with such standards.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## **SECTION 1. SHORT TITLE.**

This Act may be cited as the `Citizens Protection Act of 1998'.

## **SEC. 2. INTERPRETATION.**

It is the intent of this Act that the term `employee' shall be interpreted so as to include, but not be limited to, an attorney, investigator, special prosecutor, or other employee of the Department of Justice as well as an attorney, investigator, accountant, or a special prosecutor acting under the authority of the Department of Justice.

### **TITLE I--ETHICAL STANDARDS FOR FEDERAL PROSECUTORS**

#### **SEC. 101. ETHICAL STANDARDS FOR FEDERAL PROSECUTORS.**

(a) IN GENERAL- Chapter 31 of title 28, United States Code, is amended by adding at the end the following:

##### **`Sec. 530B. Ethical standards for attorneys for the Government**

`(a) An attorney for the Government shall be subject to State laws and rules, and local Federal court rules, governing attorneys in each State where such attorney engages in that attorney's duties, to the same extent and in the same manner as other attorneys in that State.

`(b) The Attorney General shall make and amend rules of the Department of Justice to assure compliance with this section.

`(c) As used in this section, the term `attorney for the Government' includes any attorney described in section 77.2(a) of part 77 of title 28 of the Code of Federal Regulations.'.

(b) CLERICAL AMENDMENT- The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

`530B. Ethical standards for attorneys for the Government.'.

### **TITLE II--PUNISHABLE CONDUCT**

#### **SEC. 201. PUNISHABLE CONDUCT.**

(a) VIOLATIONS- The Attorney General shall establish, by plain rule, that it shall be punishable conduct for any Department of Justice employee to--

- (1) in the absence of probable cause seek the indictment of any person;
- (2) fail promptly to release information that would exonerate a person under indictment;
- (3) intentionally mislead a court as to the guilt of any person;
- (4) intentionally or knowingly misstate evidence;
- (5) intentionally or knowingly alter evidence;
- (6) attempt to influence or color a witness' testimony;
- (7) act to frustrate or impede a defendant's right to discovery;
- (8) offer or provide sexual activities to any government witness or potential witness;
- (9) leak or otherwise improperly disseminate information to any person during an investigation; or
- (10) engage in conduct that discredits the Department.

(b) PENALTIES- The Attorney General shall establish penalties for engaging in conduct described in subsection (a) that shall include--

- (1) probation;
- (2) demotion;
- (3) dismissal;

- (4) referral of ethical charges to the bar;
- (5) loss of pension or other retirement benefits;
- (6) suspension from employment; and
- (7) referral of the allegations, if appropriate, to a grand jury for possible criminal prosecution.

## **SEC. 202. COMPLAINTS.**

- (a) WRITTEN STATEMENT- A person who believes that an employee of the Department of Justice has engaged in conduct described in section 201(a) may submit a written statement, in such form as the Attorney General may require, describing the alleged conduct.
- (b) PRELIMINARY INVESTIGATION- Not later than 30 days after receipt of a written statement submitted under subsection (a), the Attorney General shall conduct a preliminary investigation and determine whether the allegations contained in such written statement warrant further investigation.
- (c) INVESTIGATION AND PENALTY- If the Attorney General determines after conducting a preliminary investigation under subsection (a) that further investigation is warranted, the Attorney General shall within 90 days further investigate the allegations and, if the Attorney General determines that a preponderance of the evidence supports the allegations, impose an appropriate penalty.

## **SEC. 203. MISCONDUCT REVIEW BOARD.**

- (a) ESTABLISHMENT- There is established as an independent establishment a board to be known as the 'Misconduct Review Board' (hereinafter in this Act referred to as the 'Board').
- (b) MEMBERSHIP- The Board shall consist of--
  - (1) three voting members appointed by the President, one of whom the President shall designate as Chairperson;
  - (2) two non-voting members appointed by the Speaker of the House of Representatives, one of whom shall be a Republican and one of whom shall be a Democrat; and
  - (3) two non-voting members appointed by the Majority Leader of the Senate, one of whom shall be a Republican and one of whom shall be a Democrat.
- (c) NON-VOTING MEMBERS SERVE ADVISORY ROLE ONLY- The non-voting members shall serve on the Board in an advisory capacity only and shall not take part in any decisions of the Board.
- (d) SUBMISSION OF WRITTEN STATEMENT TO BOARD- If the Attorney General makes no determination pursuant to section 202(b) or imposes no penalty under section 202(c), a person who submitted a written statement under section 202(a) may submit such written statement to the Board.
- (e) REVIEW OF ATTORNEY GENERAL DETERMINATION- The Board shall review all determinations made by the Attorney General under sections 202(b) or 202(c).
- (f) BOARD INVESTIGATION- In reviewing a determination with respect to a written statement under subsection (e), or a written statement submitted under subsection (d), the Board may investigate the allegations made in the written statement as the Board considers appropriate.
- (g) SUBPOENA POWER-
  - (1) IN GENERAL- The Commission may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any matter under investigation by the Commission. The attendance of witnesses and the production of evidence may be required from any place within the United States.
  - (2) FAILURE TO OBEY A SUBPOENA- If a person refuses to obey a subpoena issued under paragraph (1), the Commission may apply to a United States district court for an order requiring that person to appear before the Commission to give testimony, produce evidence, or both, relating to the matter under investigation. The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business. Any failure to obey the order of the court may be punished by the court as civil contempt.

(3) SERVICE OF SUBPOENAS- The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) SERVICE OF PROCESS- All process of any court to which application is made under paragraph (2) may be served in the judicial district in which the person required to be served resides or may be found.

(h) MEETINGS- The Board shall meet at the call of the Chairperson or a majority of its voting members. All meetings shall be open to the public. The Board is authorized to sit where the Board considers most convenient given the facts of a particular complaint, but shall give due consideration to conducting its activities in the judicial district where the complainant resides.

(i) DECISIONS- Decisions of the Board shall be made by majority vote of the voting members.

(j) AUTHORITY TO IMPOSE PENALTY- After conducting such independent review and investigation as it deems appropriate, the Board by a majority vote of its voting members may impose a penalty, including dismissal, as provided in section 201(b) as it considers appropriate.

(k) COMPENSATION-

(1) PROHIBITION OF COMPENSATION OF FEDERAL EMPLOYEES- Members of the Board who are full-time officers or employees of the United States, including Members of Congress, may not receive additional pay, allowances, or benefits by reason of their service on the Board.

(2) TRAVEL EXPENSES- Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(l) EXPERTS AND CONSULTANTS- The Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed \$200 per day.

(m) STAFF OF FEDERAL AGENCIES- Upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Board to assist it in carrying out its duties under this Act.

(n) OBTAINING OFFICIAL DATA- The Board may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Chairperson of the Board, the head of that department or agency shall furnish that information to the Board.

(o) MAILS- The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(p) ADMINISTRATIVE SUPPORT SERVICES- Upon the request of the Board, the Administrator of General Services shall provide to the Board, on a reimbursable basis, the administrative support services necessary for the Board to carry out its responsibilities under this Act.

(q) CONTRACT AUTHORITY- The Board may contract with and compensate government and private agencies or persons for services, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

[ ( ) SUBPOENA POWER-

(1) IN GENERAL- The Commission may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any matter [under investigation by the Commission] [which the Commission is empowered to investigate by section ]. The attendance of witnesses and the production of evidence may be required from any place within [the United States] [a State] [a judicial district] at any designated place of hearing within the [United States] [that State] [that judicial district].

(2) FAILURE TO OBEY A SUBPOENA- If a person refuses to obey a subpoena issued under paragraph (1), the Commission may apply to a United States district court for an order requiring that person to appear before the Commission to give testimony, produce evidence, or both, relating to the matter under investigation. The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business. Any failure to obey the order of the court may be punished by the court as civil contempt.

(3) SERVICE OF SUBPOENAS- The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) SERVICE OF PROCESS- All process of any court to which application is made under paragraph (2) may be served in the judicial district in which the person required to be served resides or may be found.]

END

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## **BARRATRY**

**NOTE:** This is what you charge the attorney with for trying to represent the State of Texas when they have no delegated authority to do so.

### **Texas Penal Code, Sec. 38.12. Barratry**

- (a) A person commits an offense if, with intent to obtain an economic benefit the person:
- (1) knowingly institutes a suit or claim that the person **has not been authorized to pursue**;
  - (2) solicits employment, either in person or by telephone, for himself or for another;
  - (3) pays, gives, or advances or offers to pay, give, or advance to a prospective client money or anything of value to obtain legal representation from the prospective client;
  - (4) pays or gives or offers to pay or give a person money or anything of value to solicit employment;
  - (5) pays or gives or offers to pay or give a family member of a prospective client money or anything of value to solicit employment; or
  - (6) accepts or agrees to accept money or anything of value to solicit employment.
- (b) A person commits an offense if the person:
- (1) is an attorney, chiropractor, physician, surgeon, or private investigator licensed to practice in this state or any person licensed, certified, or registered by a health care regulatory agency of this state; and
  - (2) knowingly:
    - (A) finances or invests funds the person knows or believes are intended to further the commission of an offense under Subsection (a); or
    - (B) accepts employment within the scope of the person's license, registration, or certification that results from the solicitation of employment in violation of Subsection (a).
- (c) It is an exception to prosecution under Subsection (a) or (b) that the person's conduct is authorized by the Texas Disciplinary Rules of Professional Conduct or any rule of court.
- (d) A person commits an offense if the person:
- (1) is an attorney, chiropractor, physician, surgeon, or private investigator licensed to practice in this state or any person licensed, certified, or registered by a health care regulatory agency of this state;

(2) with the intent to obtain professional employment for himself or for another, sends or knowingly permits to be sent to an individual who has not sought the person's employment, legal representation, advice, or care a written communication that:

- (A) concerns an action for personal injury or wrongful death or otherwise relates to an accident or disaster involving the person to whom the communication is addressed or a relative of that person and that was mailed before the 31st day after the date on which the accident or disaster occurred;
- (B) concerns a specific matter and relates to legal representation and the person knows or reasonably should know that the person to whom the communication is directed is represented by a lawyer in the matter;
- (C) concerns an arrest of or issuance of a summons to the person to whom the communication is addressed or a relative of that person and that was mailed before the 31st day after the date on which the arrest or issuance of the summons occurred;
- (D) concerns a lawsuit of any kind, including an action for divorce, in which the person to whom the communication is addressed is a defendant or a relative of that person, unless the lawsuit in which the person is named as a defendant has been on file for more than 31 days before the date on which the communication was mailed;
- (E) is sent or permitted to be sent by a person who knows or reasonably should know that the injured person or relative of the injured person has indicated a desire not to be contacted by or receive communications concerning employment;
- (F) involves coercion, duress, fraud, overreaching, harassment, intimidation, or undue influence; or
- (G) contains a false, fraudulent, misleading, deceptive, or unfair statement or claim.

(e) For purposes of Subsection (d)(2)(E), a desire not to be contacted is presumed if an accident report reflects that such an indication has been made by an injured person or that person's relative.

(f) An offense under Subsection (a) or (b) is a felony of the third degree.

(g) Except as provided by Subsection (h), an offense under Subsection (d) is a Class A misdemeanor.

(h) An offense under Subsection (d) is a felony of the third degree if it is shown on the trial of the offense that the defendant has previously been convicted under Subsection (d).

(i) Final conviction of felony barratry is a serious crime for all purposes and acts, specifically including the State Bar Rules and the Texas Rules of Disciplinary Procedure.

"Creating or confirming by words or conduct, a false impression of law or fact that is likely to affect the judgment of another, in the transaction." **Texas State Law on Larceny & Extortion (TPC) Section 31.01 (2)(a):**

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## **DAMAGES**

**Damages** - Actual, Expenses, Compensatory and Exemplary or Punitive.

Be ready with examples of court case judgments that have awarded similar amounts for such damages.

Average rewarded claim of damages from a jury is around 30% of asked amount.

When plea bargaining the amount, never take the first offer, which is usually 10% of the amount they will go to. But you should take the usual 30% that the jury would allow.

All Damages should be stated as Wantonly, Maliciously, Knowingly and stated in a manner to show actually damage; such as, they failed to do their duty or they did actions that were not in their duty.

If the Judge does not have an Oath of Office, he may not follow due process, using faulty procedures, and not following the laws of the U.S. Constitution or the constitution and laws of the State of Texas.

All errors of due process can and will damage you.

If the Court Clerk signs the Verified Complaint, you are damaged if he/she did not see the offense, when she/he is the Agent of the Principal, which is the Judge or the city. This makes the Judge the damaged party, and the judge cannot sit in judgment, when he is the damaged party.

If the Judge sends you to his chambers, he is violating Article 1, Section 13, which states that all trials will be OPEN. If you have to go into his chambers, request to have a witness of your choice.

The City Attorney is impersonating a Public Servant, by Article 5, Section 21, which is a Class A Misdemeanor.

You are damaged if you are not allowed to have legal counsel of choice since the State Bar Assoc. has been unconstitutional since 1939.

You do not want a jury trial because the jury can determine the fine, this could damage you.

The City Attorney is not authorized to prosecute for the State by Art. 5, Sec. 21 of the Texas Constitution, you are damaged because the City Attorney is not bound by Oath to the Constitution.

No Local Rules or Laws of any court can be passed because of Art. 3, Sec. 56 of the Texas Constitution.

Court of Record Courts damage you because:

1. Art.3, Sec. 56 declares "where a general law can be made applicable, no local or special law shall be enacted."
2. According to Chapter 45 of the Texas Code of Criminal Procedure, a general law exists to control the appellate procedure of all Texas municipal courts.
3. The \_\_\_\_\_ Court of Record Act is a "local law" operating in open conflict with the general law of Chapter 45 of the Texas Code of Criminal Procedure.

4. Therefore, the Texas state legislature lacked the Constitutional authority to pass the "local law" that authorized \_\_\_\_\_ to establish its own Court of Record.

5. Therefore, the \_\_\_\_\_ Court of Record Act any court resulting there from is unconstitutional and therefore lacks lawful authority to try cases.

6. Further, the \_\_\_\_\_ Municipal Court of Record's local rules are overly complex, unnecessary, and unconstitutional because they place an unreasonable procedural burden upon me and others similarly situated which chills of effectively denying our due process right to appeal.

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## **REDEMPTION**

Redemption is the only way to overcome these corrupt courts. Learn the words of Redemption.

1. What is your name ?
2. Do you have a claim against me ?
3. Do you know of anyone who has a claim against me ?
4. Is there anyone that is present in this court, that has a claim against me ?
5. I request the Order of the Court to be released to me.
6. Being no further Public business, I'm leaving.

\*\*\*\*\*

## **CASE CITES**

Personal liberty largely consists of the right of locomotion -- to go where and when one pleases -- only so far restrained as the rights of others may make it necessary for the welfare of all other Natural Born Natives and/or Citizens/citizens. THE RIGHT OF THE AFFIANT TO TRAVEL UPON THE PUBLIC HIGHWAY AND TRANSPORT HIS PROPERTY THEREON, by horse--drawn carriage, wagon, or AUTOMOBILE, IS NOT A MERE PRIVILEGE which may be permitted or prohibited at will, BUT A COMMON RIGHT which he has under the right to life, liberty and the pursuit of happiness. Under this constitutional guarantee one may, therefore, under normal conditions, travel at his inclination, along the public highways or in public places, and while conducting himself in an orderly manner, neither interfering with, nor disturbing another's rights, he will be protected, not only in his person, but in his safe conduct. (emph. added) **11 AM. JUR.** (1st). Const. L., Sec. 329 (Page 1135).



It is a rule as old as the law that no one shall be personally bound until he has had his day in court, by which is meant, until he has been duly cited to appear and has been afforded an opportunity to be heard. Judgment without such citation and opportunity lacks all the attributes of a judicial determination, it is JUDICIAL USURPATION and is oppressive and can never be upheld where justice is fairly administered, **12 Am. Jur. 1st, Const. L., Sec.573, p. 269.**

"While an emergency cannot create power and no emergency justifies the violation of any of the provisions of the United States Constitution or States Constitutions. Public emergency such as economic depression for especially liberal construction of constitutional powers and it has been declared that because of national emergency, it is the policy of the courts of times of national peril, so liberally to construed the special powers vested in the chief executive as to sustain an effectuate the purpose there of, and to that end also more liberally to construed the constituted division and classification of the powers of the coordinate branches of the government and in so far as may not be clearly inconsistent with the constitution." **16 Am. Jur. 2d., Sec. 98:**

"Any constitutional provision intended to confer a benefit should be liberally construed in favor of the clearly intended and expressly designated beneficiary." **16 Am. Jur. 2d., Sec. 97:**

"Since the constitution is intended for the observance of the judiciary as well as other departments of government and the judges are sworn to support its provisions, the courts are not at liberty to overlook or disregard its commands or counteract evasions thereof, it is their duty in authorized proceedings to give full effect to the existing constitution and to obey all constitutional provisions irrespective of their opinion as to the wisdom or the desirability of such provisions and irrespective of the consequences, thus it is said that the courts should be in our alert to enforce the provisions of the United States Constitution and guard against their infringement by legislative fiat or otherwise in accordance with these basic principles, the rule is fixed that the duty in the proper case to declare a law unconstitutional cannot be declined and must be performed in accordance with the delivered judgment of the tribunal before which the validity of the enactment it is directly drawn into question. If the Constitution prescribes one rule and the statute the another in a different rule, it is the duty of the courts to declare that the Constitution and not the statute governs in cases before them for judgment. (emph. added)

**16 Am. Jur. 2d., Sec. 155:**

"In all instances, where the court exercises it's power to invalidate legislation on constitutional grounds, the conflict of the statute, with the constitution must be irreconcilable. Thus a statute is not to be declared unconstitutional unless so inconsistent with the constitution that it cannot be enforced without a violation thereof. A clear incompatibility between law and the constitution must exist before the judiciary is justified holding the law unconstitutional. This principle is of course in line with the rule that doubts as the constitutionality should be resolved in favor of the constitutionality and the beneficiary." **16 Am. Jur. 2d., Sec. 255:**

"The word "LIBERTY" as used in the due process clauses, includes, among other things, the liberty of the citizen to pursue any livelihood or lawful occupation AS A FUNDAMENTAL RIGHT PROTECTED BY THE CONSTITUTION, and many authorities consider the preservation of such right to be one of the INHERENT OR INALIENABLE RIGHTS PROTECTED BY THE CONSTITUTION. Likewise, the courts have recognized that the right to follow a chosen profession FREE FROM UNREASONABLE GOVERNMENTAL INTERFERENCE comes within the "liberty" (and property) concept of the Fifth Amendment." (emph. added) **16A Am. Jur. 2d Sec. 562.**

"The right of privacy, as an independent and distinctive legal concept, has two main aspects: (1) the general law of privacy, which affords a tort action for damages resulting from an unlawful invasion of privacy, and (2) THE CONSTITUTION RIGHT OF PRIVACY WHICH PROTECTS PERSONAL PRIVACY AGAINST UNLAWFUL GOVERNMENT INVASION.

While the Federal Constitution does not explicitly mention any Right of privacy, the Supreme Court of the United States has declared that THE RIGHT OF PRIVACY IS A FUNDAMENTAL RIGHT GUARANTEED BY THE FEDERAL CONSTITUTION. This declaration was adopted by Congress when it enacted the Privacy Act of 1974. The Constitutional was a protected right of privacy has been described by the Supreme Court as THE RIGHT TO BE LET ALONE."

(emph. added) **16A Am. Jur.** Section 601.

"In addition to the REQUIREMENT that the regulations governing the use of the highway MUST NOT BE VIOLATIVE OF CONSTITUTIONAL GUARANTEES, the prime essentials of such regulations are REASONABLENESS, impartiality, and definiteness or certainty." (emph. added)

**25 AM. JUR. 1st**, Highways, Sec 260

"The terms "Travel" and "traveler" are usually construed in their broad and general sense... so as to include all THOSE WHO RIGHTFULLY USE THE HIGHWAYS vertically and who have occasion to pass over them FOR THE PURPOSE OF BUSINESS, CONVENIENCE, or PLEASURE." (emph. added)

**25 AM. JUR. 1st**, Highways, Sec. 427

"Personal liberty, or the right to the enjoyment of life and liberty, is one of the fundamental constitutional strengths, and natural rights, which has been protected by its inclusion as a guarantee in the various constitutions, which is not derived from, nor dependent on the US Constitution, and may not be submitted to a vote, and may not depend upon the outcome of an election. IT IS ONE OF THE MOST SACRED AND VALUABLE RIGHTS... and is regarded as inalienable". (emph. added) **16 CJS**, Const. L., Sec. 202 (page 987).

"The word 'automobile' connotes a pleasure vehicle designed for the transportation of persons on highways." (emph. added)

**American Mutual Liability Ins. Co., vs. Chaput**, 60 A.2d 118, 120; 95 NH 200

"It may be stated, as a general principle of law, that it is for the legislature to determine whether the conditions exist which warrant the exercise of this power; but the question as to what are the subjects of its exercise, is clearly a judicial question. ONE MAY BE DEPRIVED OF HIS LIBERTY AND HIS CONSTITUTIONAL RIGHTS THERETO MAY BE VIOLATED, WITHOUT ACTUAL IMPRISONMENT OR RESTRAINT OF HIS PERSON." (emph. added) **IN RE AUBREY**, 36 Wn 308, 314-315, 78 P. 900 (1915).

"In **Barber v. State**, 149 Tex.Cr.R. 18, 191 S.W 2d 879, a complaint charging the operation of an automobile and failure to display operator's license on demand of a peace officer was held insufficient to charge an offense in the absence of an allegation that accused was, on the date of the alleged offense, a licensee.

"There should be no arbitrary deprivation of life or LIBERTY..." (emph. added)

**BARBOUR v CONNOLLY**, 113 US 27, 31;

**YICK WO v HOPKINS SHERIFF**, 118 US 356.

"In **BARBOUR v WALKER**, 126 Okl. 227, 259 P. 552, 56 ALR 1049, 1053, THE DISTINCTION BETWEEN THE RIGHT OF THE CITIZEN TO USE THE PUBLIC HIGHWAYS for private rather than commercial purposes IS RECOGNIZED..." (emph. added) **Washington AGO** 59-60, No.: 88, P. 10.

"When the public highways are made the PLACE OF BUSINESS the state has a right to regulate their use in the interest of safety and convenience of the public as well as the preservation of the highways." "Heretofore the court has held, and the affiant would think correctly, that while a citizen has the RIGHT to travel upon the public highways and to transport his property thereon, that right does not extend to the use of the highways, either in whole or in part, AS A PLACE OF BUSINESS FOR PRIVATE GAIN." (emph. added)

**BARNEY v BD OF RR COMM'RS**, 17 P. 2d 82;

**WILLIS v BUCK**, 81 MONT. 472, 263 P. 982.

"Then a constitution should receive a literal interpretation in favor of the Citizen, is especially true, with respect to those provisions which were designed to safeguard the liberty and security of the Citizen in regard to person and property." **Bary v. United States** - 273 US 128

"It is the duty of the courts to be watchful for the Constitutional Rights of the affiant, and AGAINST ANY STEALTHY ENCROACHMENT THEREON." (emph. mine) **BOYD v US**, 116 US 616 (1886).

"Constitutional provisions, where the security of a person and property are to be liberally construed, and it is the duty of the courts to be watchful for the constitutional rights of the affiant and against any stealth encroachment therein." **Bryars v. United States** 273 USR 28:

"Proof of the driving of an automobile while the driver's license was suspended does not sustain the allegations of the information. This proof is insufficient to sustain the allegations of the offense charged in the information because a driver's license is not an operator's license. There is in Texas no such license as a 'driver's license'. The evidence being insufficient to support the conviction, the judgment is reversed and the cause remanded."

**Campbell v. State of Texas**, 274 S.W. 2d 401, 402.

"The use of the highway for the purpose of travel and transportation IS NOT A MERE PRIVILEGE, but a COMMON AND FUNDAMENTAL RIGHT of which the public and INDIVIDUALS CANNOT RIGHTFULLY BE DEPRIVED." (emph. added)

**CHICAGO MOTOR COACH v CHICAGO**, 337 111, 200. 169 NE 22, 66 ALR 834;

**LIGARE v CHICAGO**, 139 111, 46 28 NE 934;

**Boon vs. Clark**, 214 SW 607;

**25 AM. JUR.** (1st) HIGHWAYS, Sec. 163

The term 'motor vehicle' is different and broader than the word'automobile.'" (emph. added)

**City of Dayton vs. DeBrosse**, 23 NE.2d 647, 650; 62 Ohio App. 232

The term Drivers License is not a specific single License to be required by law. The license means to confer on a person the right to do something which otherwise he would not have the right to do. (See) **City of Louisville v. Sebree**, 214 SW 2d. 248; 308 Ky. 420.

"As the affiant has said on more than one occasion, it may be difficult, if not impossible, to give to the terms "due process of law" a definition which will embrace every permissible exertion of power affecting private rights and exclude such as are forbidden... In this country, the requirement is intended to have a similar effect against legislative power, that is, to secure the affiant AGAINST ANY ARBITRARY DEPRIVATION OF HIS RIGHTS, whether relating to his LIFE, LIBERTY, or his PROPERTY.... the great purpose of this requirement is to exclude everything that is arbitrary and capricious as would be ambiguous in nature, IN LEGISLATION, affecting the rights of citizens." (emph.mine)

**DENT v STATE OF WEST VIRGINIA**, 129 US 114, 123-124,32 L.Ed 623, 9 S.Ct 231 (1888).

"All [person's] born or naturalized in the United States. Being subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. NO STATE SHALL MAKE OR ENFORCE ANY LAW WHICH SHALL ABRIDGE THE PRIVILEGES OR IMMUNITIES OF THE CITIZENS OF THE UNITED STATES..." (emph,added) **EDWARDS v CALIFORNIA**, 314, US 160, 182 (1941).

"The Right of the citizen to travel upon the highway and to transport his property thereon, in the ordinary course of life and business, DIFFERS RADICALLY AND OBVIOUSLY from one who makes the highway his place of business and uses it for private gain... The FORMER IS THE USUAL AND ORDINARY RIGHT OF THE CITIZEN, A RIGHT COMMON TO ALL, while the latter is special, unusual, and extraordinary." (emp.added) **EX PARTE DICKEY (DICKEY v DAVIS)**, 76 W.Va 576, 85 SE 781 (cited by Washington decisions) (See also **TECHE LINES v DANFORTH**, supra, and **THOMPSON v SMITH**, supra).

The rights to freedom of speech, freedom of the press, freedom of assembly, and freedom of religious worship are not privileges. (See) **Douglas v. City of Jeannette**, 130 F. 2d. 652, 655.

The Right of affiant to use the highways, including the streets of the city or town, for travel and to transport his goods, is an **inherent right which cannot be taken from the native**, (See) **Florida Motor Lines v. Ward**, 137 So. 163, 167; **State v. Quigg**, 114 So. 859, 862; **Davis v. City of Houston**, 264 SW 625, 629 (Tex. Civ. App.).

"It is not contended by any one that the city would have the right to prevent the appellant from riding in his automobile on any street in the city... for the streets were builded (sic) for that purpose."  
**GREEN v SAN ANTONIO**, 178 SW 6

"... There is a opinion that there is a CLEAR DISTINCTION... between an [individual] and a corporation..."  
The Constitution is the distinction stating the corporation is treated like an unnatural person, and has no constitutional rights guaranteed under this document for the people.  
THE INDIVIDUAL MAY STAND UPON HIS CONSTITUTIONAL RIGHTS AS THE AFFIANT. He is entitled to carry on his private business in his own way. His power to contract is unlimited. HE OWES NO DUTY TO THE STATE or to his neighbors to divulge his business, or to open his doors to an investigation, so far as it may incriminate him. HE OWES NO SUCH DUTY TO THE STATE, SINCE S/HE RECEIVES NOTHING THEREFROM, beyond the protection of his life and property. HIS RIGHTS ARE UNALIENABLE UNDER THE CONSTITUTION AS EXISTED BY THE LAW AND CAN ONLY BE TAKEN AWAY FROM HIM BY DUE PROCESS OF LAW, AND IN ACCORDANCE WITH THE CONSTITUTION... HE OWES NOTHING TO THE PUBLIC SO LONG AS HE DOES NOT TRESPASS UPON THEIR RIGHTS." (Emph. Added)  
**HALE v HENKEL**, 201 US 43, 74 (1906).

"Information alleging that defendant operated a motor vehicle upon public highway without a 'driver's license' charged no offense under Drivers' License Act, since a driver's license is not known to the law because the act only authorizes issuance of operators', commercial operators', and chauffeurs' license and use of term 'driver' interchangeably with term 'operator' would not be authorized in view of definition in the act of term driver as meaning every person who drives or is in actual physical possession of a vehicle. There being no such license known to the law, it follows that the information, in charging the driving of a motor vehicle upon a public highway without such a license, charges no offence. Because of the defect in the information, the judgment is reversed and prosecution ordered dismissed." **Hassell v. State of Texas**, 194 S.W. 2d 400, 401.

"That statutes which would deprive a citizen of the rights of a person or property, WITHOUT A REGULAR TRIAL, according to the course and usage of the common law, would not be the law of the land." (emph. added) **HOKE v HENDERSON**, 15 N.C. 15.

"The information was insufficient to charge an offense for operating a motor vehicle while the appellant's driver's license was suspended, in that it does not allege that appellant has been issued a driver's license or that he drove a motor vehicle while such license was suspended.

**Holloway v. State of Texas**, 237 S.W. 2d 303, 304

"The state CANNOT diminish RIGHTS of the PEOPLE."  
(emph. added) **HURTADO v CALIFORNIA**, 110 US 516.

"A motor vehicle or automobile for hire is a motor vehicle, other than an automobile stage, used for the transportation of persons for which remuneration is received."

**International Motor Transit Co. vs. Seattle**, 251 P. 120

**Keith Brooks v. State**, 158 Tex. App. 546; 258 SW 2d. 317: (1953); Tex. Crim. App. LEXIS 1688. "An information charging the driving of a motor vehicle upon a public highway without a driver's license charges no offense, as there is no such license as a driver's license known to the law."

"The Right to "travel" is part of the "liberty" of which a citizen cannot be deprived without due process of law under the Fifth Amendment, This Right was emerging as early as the Magna Charta." (emph. added)

**KENT v DULLES**, 357 US 116, 125.

It is unconstitutionally vague for a state to require a person to produce "credible and reliable" identification when requested to do so by a police officer. Where the Court invalidated, on vagueness grounds, a state law requiring persons on the street to present "credible and reliable" identification when asked by a police officer. The Court said this law, in its vagueness, gave too much discretion to the police for arbitrary and selective enforcement.

**Kolender v. Lawson**, 461 US 352 (1983)

"No person shall be held to answer for a capital or otherwise infamous crime unless or a presentation or indictment of a grand jury." (See) **Mackin v. United States**, 117 US 348; 6 S. Ct. 777; 29 L. Ed. 909; and **Brede v. Powers**, 263 US 4; 44 S. Ct. 8; 68 L. Ed. 132.

"No provision of the Constitution is designed to be without effect," "Anything that is in conflict is null and void of law", "Clearly, for a secondary law to come in conflict with the supreme Law was illogical, for certainly, the supreme Law would prevail over all other laws and certainly our forefathers had intended that the supreme Law would be the bases of all law and for any law to come in conflict would be null and void of law, it would bare no power to enforce, in would bare no obligation to obey, it would purport to settle as if it had never existed, for unconstitutionality would date from the enactment of such a law, not from the date so branded in an open court of law, no courts are bound to uphold it, and no Citizens are bound to obey it. It operates as a near nullity or a fiction of law." **Marbury v. Madison** : 5 US 137 (1803):

"As a rule, fundamental limitations of regulations under the police power are found in the spirit of the constitutions, not in the letter, although they are just as efficient as if expressed in the clearest language."

**MEHLOS v MILWAUKEE**, 156 WIS 591, 146 NW 882, 51 LRA 9N.S.0 1009.

"The claim and exercise of a constitutional right CANNOT BE CONVERTED INTO A CRIME."  
(emph. added) **MILLER v US**, 230 F. 486, 489.

The Constitution is the supreme law of the State and therefore its "provisions prevail over any legislative action." (See) **Miners & Merch. Bank v. Board of Supervisors**, 101 P. 2d. 461, 462.

"Where rights secured by the constitution are involved, there can be no rule or law making or legislation which would abrogate or abolish them."  
**MIRANDA v ARIZONA**, 384 US 436.

"The automobile is not inherently dangerous."  
**MOORE v RODDIE**, 106 Wn. 518;  
**COHEN v MEADOR**, 89 SE 867;  
**BLAIR v BROADMORE**, 93 SE 632.

Inalienable, means incapable of being surrendered or transferred, at least without one's consent. (See) **Morrison v. State**, 252 SW 2d. 97, 101 (Mo. App.)

"A state may not impose a charge for the enjoyment of a right granted by the Federal Constitution and that a flat license tax here involves restraints in advance the constitutional liberties of Press and Religion and inevitably tends to suppress their existence. That the ordinance is non-discriminatory and that it applies also to peddlers of wares and merchandise is immaterial. The liberties granted by the first amendment are and in a preferred position. Since the privilege in question is guaranteed by the Federal Constitution and exist independently of the states authority, the inquiry as to whether the state has given something for which it cannot ask a return, is an irrelevant exchange for cause and nature of such a claim. No state may convert any secured liberty into a privilege and issue a license and a fee for it." **Mudook v. Penn.**, 319 US 105:(1943)

"An unconstitutional act is not law. It confers no rights, it imposes no duties, it affords no protections, it creates no office. It is in legal contemplation as inoperative as though it has never does not exist, can have no validity whatever in law." **Norton v. Shelby County**, 118 USR 425:

"The right of action created by statute relating to deprivation under color of law, of a right secured by the constitution and the laws of the United States and comes claims which are based solely on statutory violations of Federal Law and applied to the claim that claimants had been deprived of their rights, in some capacity, to which they were entitled." "**Officers of the court have no immunity when violating constitutional right, from liability**"  
(emph. added)

**Owen v. Independence** 100 Vol. Supreme Court Reports. 1398:(1982)  
**Main v. Thiboutot** 100 Vol. Supreme Court Reports. 2502:(1982)

"Moreover, a "distinction MUST BE OBSERVED between the REGULATION of an activity which may be engaged in as a MATTER OF RIGHT and one carried on by government sufferance or permission." (emph. added)  
**PACKARD v BANTON**, 264 US 140, 145.

"The police power of the state must be exercised IN SUBORDINATION to the provisions of the U.S. Constitution."

**PANHANDLE EASTERN PIPELINE CO. v. STATE HIGHWAY COMMISSION**, 294 US 613, 79 L.Ed 1090, 55 S.Ct. 563;

**BUCHANAN v WARLEY**, 245 US 60, 62 L.Ed 149, 38 S.Ct.16.

The object of a license is to confer a power which does not exist without it. (See) **Payne v, Massey**, 196 SW 2d. 493; 145 Tex, 273.

"A license... is no more than a temporary permit to do that which would otherwise BE UNLAWFUL..." (emph. mine) **RAWSON vs DEPT OF LICENSES**, 15 Wn.2d 364, 371 (1942).

"The only limitations found restricting the right of the state to condition the use of the public highways as a means of vehicular transportation FOR COMPENSATION are (1) that the state MUST NOT exact of those it permits to use the highways for hauling FOR GAIN that they shall SURRENDER ANY OF THEIR INHERENT U.S. CONSTITUTIONAL RIGHTS as a condition precedent to obtaining permission for such use..." (emph.added).

**RILEY v LAWSON**, 143 SO. 619;

**STEPHENSON v BINFORD**, 287 US 251, 87 ALR 721, 736.

"Complete freedom of the highways is so old and WELL ESTABLISHED a blessing that the affiant has forgotten the days of the robber barons and toll roads, and yet, under an act such as this, arbitrarily administered, the highways may become completely monopolized. If, through LACK OF INTEREST, the people submit, THEY MAY LOOK TO SEE THE MOST SACRED OF LIBERTIES TAKEN FROM THEM, ONE BY ONE, BY MORE OR LESS RAPID ENCROACHMENT".

(Emph. Mine) **ROBERTSON v DEPARTMENT OF PUBLIC WORKS**, 180 Wn 133, 147 (1934) Dissenting Op.

"There can be no sanction or penalty imposed upon one because of this exercise of constitutional Rights."

(emph. added) **Sherar vs. Cullen**, 481 F. 946

The essential elements of "due process of law" are:

- 1) NOTICE, and...
- 2) the opportunity to defend

**SIMON v CRAFT**, 182 US 427.

"The citizen will find it intolerable that one constitutional right should have to be surrendered in order to assert another."

**SIMMONS v US**, 390 US 389 (1968).

"Life liberty, property, and the equal protection of the law, grouped together within the Constitution law status, are so related that the deprivation of any one of those separate and independent rights may extinguish or lessen the value of the other three. In so far as a man is deprived of the Right to labor, his liberty is restricted, his capacity to earn wages and acquire property is lessened, and he is denied the protection which the law affords those who are permitted to work. Liberty means more than just freedom from servitude, and the Constitutional guarantee is an assurance that the citizen shall be protected in the right to use his powers of mind and body in any lawful calling."

**SMITH v TEXAS**, 233 US 630, 636, 58 L. Ed 1129 (1913).

**Stanek v. White** , 215 North Western Reporter, pg. 784 (Oct. 14, 1927)

States: "There is a distinction between a debt discharged and one paid. When discharged, the debt still exists....."

"First, IT IS WELL ESTABLISHED LAW that the highways of the state are public PROPERTY, that their primary and preferred use is FOR PRIVATE PURPOSES, and that their use for PURPOSES OF GAIN is special and extraordinary which, generally at least, the legislative edits of the legislature can prohibit or condition as it sees fit." (emph. added)

**STEPHENSON v BINFORD**, 287 US 251, 77 L. Ed 288, 53 S. CT. 181, 87 ALR 721, 727;

**PACKARD v BANTON**, 264 US 140, 144, 68 L. Ed 596, 607, 44 S. Ct. 257 and cases cited;

**FROST 7 F. TRUCKING CO. v R.R. COMM.**, 271 US 583, 592, 70 L.Ed 1101, 1104, 47 ALR 457, 46 S. Ct. 605.

"If the state does convert your right into a privilege and issue a license and a fee for it, you can ignore the license and a fee and engage the right with impunity." (emph. added)

**Shuttlesworth v. Birmingham Al.**, 373 US 262:(1962)

"All sorts of restrictions and burdens are imposed under it (police power), and when these are NOT IN CONFLICT with any CONSTITUTIONAL PROHIBITIONS, OR FUNDAMENTAL PRINCIPLES, they cannot be successfully assailed in a judicial tribunal. ... but under the pretense of prescribing a police regulation, the State cannot be permitted to ENCROACH UPON ANY OF THE JUST RIGHTS OF THE AFFIANT which the Constitution intended to secure against abridgement." (emph. added).

**SLAUGHTER HOUSE CASES**, 16 WALL 36, 87.

"The RIGHT of the citizen to TRAVEL upon the highway and to transport his property thereon, in the ordinary course of life and business, DIFFERS OBVIOUSLY AND RADICALLY from that of one who makes the highway his place of business and uses it for private gain..." (emph. added)

**STATE v CITY OF SPOKANE**, 109 Wn 360, 186 P. 864.

"... for while a citizen has the RIGHT to TRAVEL upon the public highways and to transport his property thereon, the Right does not extend, in whole or in part, AS A PLACE OF BUSINESS FOR PRIVATE GAIN. For the latter purpose, no person has a vested right to use the highways of the state, BUT AS A MERE PRIVILEGE OR LICENSE which the Legislature may grant or withhold at its discretion..." (emph. added)

**STATE v JOHNSON**, 75 Mont. 240, 243 P 1073;

**HADFIELD v LUNDIN**, supra;

**CUMMINS v JONES**, 79 Ore 276, 155 P 171;

**PACKARD v BANTON** 44 S. Ct 257, 264 US 140, 68 L. ED 598

"The right to earn a living by working for remuneration is not a "substantive privilege granted by the state." It is, as described by the Supreme Court of Wyoming: "...one of those inalienable rights covered by the statements in the Declaration of Independence and secured to all those living under our form of government, by the liberty, property, and happiness clauses of the national and state constitutions."

**STATE v SHERIDAN**, 25 WYO. 347, 357, 170 p.1, 1 ALR 955."

**CARY v BELLINGHAM**, 41 Wn.2d 468, 472, 250 P.2d 114 (1952).



"The use of the highways of the state FOR PURPOSES OF GAIN is special and extraordinary, and may generally be prohibited or conditioned by the legislature as it sees fit." (emph. added)

**STEPHENSON v BINFORD**, SUPRA;

**R.R. COMMISSION v INTER-CITY FORWARDING Co.**, 57 SW. 2d 290;

**PARLETT COOPERATIVE v TIDEWATER LINES**, 165 A. 313.

"(The roads)... are constructed and maintained at public expense, and no person, therefore, can insist that he has, or may acquire, a vested right to their use in CARRYING ON A COMMERCIAL BUSINESS." (emph. added.)

**EX PARTE STERLING**, 53 SW 2d 294;

**BARNEY v R.R. COMM'RS**, 17 P. 2d 82;

**STEPHENSON v BINFORD**, supra.

"The RIGHT of the affiant to TRAVEL upon the public highways and to transport his property thereon, in the ordinary course of life and business IS A COMMON RIGHT which he has under the Right to enjoy life, liberty, to acquire and possess property, and to pursue happiness and safety. IT INCLUDES THE RIGHT, in so doing, TO USE THE ORDINARY AND USUAL CONVEYANCES OF THE DAY and under the existing modes of travel, INCLUDES THE RIGHT...TO OPERATE AN AUTOMOBILE THEREON, for the usual and ordinary purposes of life and business." (emph. added)

**TECHE LINES v DANFORTH**, 12 So. 2d 784;

**THOMPSON v SMITH**, supra.

"The RIGHT of the affiant TO TRAVEL UPON THE PUBLIC HIGHWAYS and to transport his property thereon, either by horse-drawn carriage OR BY AUTOMOBILE, IS NOT A MERE PRIVILEGE which the city may prohibit or permit at will, BUT IS A COMMON RIGHT which he has under the Right to life, liberty, and the pursuit of happiness" guaranteed by the Constitution. (emph. added)

**THOMPSON v SMITH**, 155 Va 367, 154 SE 579, 71 ALR 604.

"It is well and amply settled that the Constitutional rights protected by invasion by the police power, include rights safeguarded both by express and implied prohibitions in the constitutions."

**TIGHE v OSBORN**, 131 A. 801, 43 ALR 819.

"Under its power to REGULATE private uses of our highways, our legislature has required that motor vehicle operators to be licensed... Undoubtedly, the primary purpose of this requirement is to insure, as far as possible, THAT ALL MOTOR VEHICLE OPERATORS WILL BE COMPETENT AND QUALIFIED, thereby reducing the potential hazard or risk of harm, to which other users of the highway MIGHT otherwise be subject. But once having complied with this regulatory provision, by obtaining the requisite license, a motorist enjoys the PRIVILEGE of traveling freely upon the highways..."

Washington AGO 59-60, No: 88, p.11.

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# U.S. CONSTITUTION

**Article 1, Section. 1.** All legislative Powers **herein granted** shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

**Article 1, Section. 8.** The Congress shall have Power to lay and collect Taxes, Duties, imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Impost and Excises shall be uniform throughout the united States.

**To** borrow Money on the credit of the United States;

**To** regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

**To** establish a uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

**To** coin Money, regulate the Value thereof. and of foreign Coin, and fix the Standard of Weights and Measures;

**To** provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

**To** establish Post Offices and post Roads;

**To** promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

**To** constitute Tribunals inferior to the Supreme Court;

**To** define and punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations;

**To** declare War, grant Letters of Margue and Reprisal, and make Rules concerning Captures on Land and Water;

**To** raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two years;

**To** provide and maintain a Navy;

**To** make Rules for the Government and Regulation of the land and naval Forces;

**To** provide for calling forth the Militia to execute the Laws of the Union, suppress insurrections and repel invasions;

**To** provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

**To** exercise exclusive Legislation in all Cases whatsoever, over such District (riot exceeding ten Miles square) as may, by Cession of particular States. and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock Yards and other needful Buildings;- -And

**To** make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

**Article 1, Section. 9.** The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

No Bill of Attainer or ex post facto Law shall be passed.

No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

**Article 1, Section. 10.** No state shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; **make any Thing but gold and silver Coin a Tender in Payment of Debts**; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

**Article 3, Section. 2.** The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; -- to all Cases affecting Ambassadors, other public Ministers and Consuls; -- to all Cases of admiralty and maritime Jurisdiction; - - to Controversies to which the United States shall be a Party, --- to Controversies between two or more States; between a States and Citizens of another state; between Citizens of different States -- between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

In all Cases affecting Ambassadors. other public Ministers and Consuls, **and those in which a State shall be Party**, the supreme Court shall have original jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

The Trial of all Crimes, except in Cases of Impeachment; shall be **by** Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

**Article 4, Section. 2.** The Citizens of each State shall be entitled to all Privileges and immunities of Citizens in the several States.

**Article 6, Clause 2.** This Constitution, and the Laws of the United States which shall be made **In Pursuance thereof**; and all Treaties made, or which shall be made, under the Authority of the United States, **shall be** the supreme Law of the Land; and the Judges in every State **shall be bound thereby**, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

**Bill of Rights, Article 1.** Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freelim of speech, or of the press. or the right of the people peaceably to assemble. and to petition the Government for a redress of grievances.

**Bill of Rights, Article 2.** A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, **shall not be infringed**.

**Bill of Rights, Article Four:** "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized."

**Bill of Rights, Article Five:** "No person shall be held to answer for a capital, or otherwise infamous, crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service, in time of War, or public danger; nor shall any person be subject, for the same offense, to be twice put in jeopardy of life or limb; nor shall be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

**Bill of Rights, Article Six:** "In all criminal prosecutions, the affiant shall enjoy the right to a speedy and public trial, by an impartial jury of their peers and district wherein the offense as a misdemeanor or criminal in nature shall have been committed, which district shall have been previously ascertained by law; and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of Counsel for his defense."

**Bill of Rights, Article Seven:** In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a Jury shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law.

**Bill of Rights, Article Eight:** Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

**Bill of Rights, Article Nine:** The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

**Bill of Rights, Article Ten:** The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

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## **TEXAS CONSTITUTION**

**NOTE:** You want to get the Annotated Version of the Texas Constitution, because you want court cases which point out certain things, like a deputy sheriff has to take is oath, like every one else.

**Article 1, Section 8.** Every person shall be at liberty to speak, write or publish his opinions on any subject, being responsible for the abuse of that privilege; and no law shall ever be passed curtailing the liberty of speech or of the press. In prosecutions for the publication of papers, investigating the conduct of officers, or men in public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence. And in all indictments for libels, the jury shall have the right to determine the law and the facts, under the direction of the court, as in other cases.

**Article 1, Section 9.** The people shall be secure in their persons, houses, papers and possessions, from all unreasonable seizures or searches, and no warrant to search any place, or to seize any person or thing, shall issue without describing them as near as may be, nor without probable cause, supported by oath or affirmation.

**Article 1, Section 10.** In all criminal prosecutions the accused shall have a speedy public trial by an impartial jury. He shall have the right to demand the nature and cause of the accusation against him, and to have a copy thereof. He shall not be compelled to give evidence against himself, and shall have the right of being heard by himself or counsel, or both, shall be confronted by the witnesses against him and shall have compulsory process for obtaining witnesses in his favor, except that when the witness resides out of the State and the offense charged is a violation of any of the anti-trust laws of this State, the defendant and the State shall have the right to produce and have the evidence admitted by deposition, under such rules and laws as the Legislature may hereafter provide; and no person shall be held to answer for a criminal offense, unless on an indictment of a grand jury, except in cases in which the punishment is by fine or imprisonment, otherwise than in the penitentiary, in cases of impeachment, and in cases arising in the army or navy, or in the militia, when in actual service in time of war or public danger.

**Article 1, Section 11.** all prisoners shall be bailable by sufficient sureties, unless for capital offenses, when the proof is evident; but this provision shall not be so construed as to prevent bail after indictment found upon examination of the evidence, in such manner as may be prescribed by law.

**Article 1, Section 12.** The writ of habeas corpus is a writ of right, and shall never be suspended. The Legislature shall enact laws to render the remedy speedy and effectual.

**Article 1, Section 13.** Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted. all courts shall be open, and every person for an injury done him, in his lands, goods, person or reputation, shall have remedy by due course of law.

**Article 1, Section 14.** No person, for the same offense, shall be twice put in jeopardy of life or liberty, nor shall a person be again put upon trial for the same offense, after a verdict of not guilty in a court of competent jurisdiction.

**Article 1, Section 15.** The right of trial **by** jury shall remain inviolate. The Legislature shall pass such laws as may be needed to regulate the same, and to maintain its purity and efficiency. Provided, that the Legislature may provide for the temporary commitment, for observation and/or treatment, of mentally ill persons not charged with a criminal offense, for a period of time not to exceed ninety (90) days, by order of the County Court without the necessity of a trial by jury.

**Article 1, Section 18.** No person shall ever be imprisoned for debt.

**Article 1, Section 19.** No citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land.

**Article 1, Section 23.** Every citizen shall have the right to keep and bear arms in the lawful defense of himself or the State; but the Legislature shall have power, by law, to regulate the wearing of arms, with a view to prevent crime.

**Article 1, Section 29.** To guard against transgressions of the high powers herein delegated, we declare that everything in this "Bill of Rights" is excepted out of the general powers of government, and shall forever remain inviolate, and all laws contrary thereto, or to the following provisions, shall be void.

**Article 3, Section 22.** A member who has a personal or private interest in any measure or bill, proposed, or pending before the Legislature, shall disclose the fact to the House, of which he is a member, and shall not vote thereon.

**NOTE:** [ Above verifies that the State Bar Assoc. is unconstitutional, because in 1939 when the State Bar was established, there were 27 lawyer in the Texas Senate out of 31 Senators. It takes 2/3 rd of a body to make a Quorum to do business which means there would have to be 21 non-lawyers to vote on this issue, this act was unconstitutional.]

**Article 3, Section 29.** The enacting clause of all laws shall be: "Be it enacted by the Legislature of the State of Texas."

**Article 3, Section 30.** No law shall be passed, except by bill, and no bill shall be so amended in its passage through either House, as to change its original purpose.

**Article 3, Section 43.** (a) The Legislature shall provide for revising, digesting and publishing the laws, civil and criminal; provided, that in the adoption of and giving effect to any such digest or revision, the Legislature shall not be limited by sections 35 and 36 of this Article. (b) In this section, "revision" includes a revision of the statutes on a particular subject and any enactment having the purpose, declared in the enactment, of codifying without substantive change statutes that individually relate to different subjects.

**Article 3, Section 51.** The Legislature shall have no power to make any grant or authorize the making of any grant of public moneys to any individual, association of individuals, municipal or other corporations whatsoever.

**Article 3, Section 56.** The Legislature shall not, except as otherwise provided in this Constitution, pass any local or special law, authorizing:

Creating offices, or prescribing the powers and duties of officers, in counties, cities, towns, election or school districts.

And in all other cases where a general law can be made applicable, no local or special law shall be enacted; provided, that nothing herein contained shall be construed to prohibit the Legislature from passing special laws for the preservation of the game and fish of this State in certain localities.

**Article 4, Section 21.** There shall be a Secretary of State, who shall be appointed by the Governor, by and with the advice and consent of the Senate, and who shall continue in office during the term of service of the Governor. He shall authenticate the publication of the laws, and keep a fair register of all official acts and proceedings of the Governor, and shall, when required, lay the same and all papers, minutes and vouchers relative thereto, before the Legislature, or either House thereof, and shall perform such other duties as may be required of him by law. He shall receive for his services an annual salary in an amount to be fixed by the Legislature.

**Article 5, Section 1.** The judicial power of this State shall be vested in one Supreme Court, in one Court of Criminal Appeals, in Courts of Appeals, in District Courts, in County Courts, in Commissioners Courts, in Courts of Justices of the Peace, and in such other courts as may be provided by law.

**Article 5, Section 3-b.** The Legislature shall have the power to provide by law, for an appeal direct to the Supreme Court of this State from an order of any trial court granting or denying an interlocutory or permanent injunction on the grounds of the constitutionality or unconstitutionality of any statute of this State, or on the validity or invalidity of any administrative order issued by any state agency under any statute of this State.

**Article 5, Section 10.** In the trial of all causes in the District Courts, the plaintiff or defendant shall, upon application made in open court, have the right of trial by jury; but no jury shall be empaneled in any civil case unless demanded by a party to the case, and a jury fee be paid by the party demanding a jury, for such sum, and with such exceptions as may be prescribed by the Legislature.

**Article 5, Section 11.** No judge shall sit in any case wherein he may be interested, or where either of the parties may be connected with him, either by affinity or consanguinity, within such a degree as may be prescribed by law, or when he shall have been counsel in the case.

**Article 5, Section 12.** (a) All judges of courts of this State, by virtue of their office, are conservators of the peace throughout the State.

(b) An indictment is a written instrument presented to a court by a grand jury charging a person with the Commission of an offense. An information is a written instrument presented to a court by an attorney for the State charging a person with the Commission of an offense. The practice and procedures relating to the use of indictments and informations, including their contents, amendment, sufficiency, and requisites, are as provided by law. The presentment of an indictment or information to a court invests the court with jurisdiction of the cause.

**Article 5, Section 15.** There shall be established in each county in this State a County Court, which shall be a court of record; and there shall be elected in each county, by the qualified voters, a County Judge, who shall be well informed in the law of the State; shall be a conservator of the peace, and shall hold his office for four years, and until his successor shall be elected and qualified.

**Article 5, Section 16.** The County Court has jurisdiction as provided by law. The County Judge is the presiding officer of the County Court and has judicial functions as provided by law. County court judges shall have the power to issue writs necessary to enforce their jurisdiction.

**Article 5, Section 17.** The County Court shall hold terms as provided by law. Prosecutions may be commenced in said court by information filed by the county attorney, or by affidavit, as may be provided by law. Grand juries empaneled in the District Courts shall inquire into misdemeanors, and all indictments therefor returned into the District Courts shall forthwith be certified to the County Courts or other inferior courts, having jurisdiction to try them for trial; and if such indictment be quashed in the County, or other inferior court, the person charged, shall not be discharged if there is probable cause of guilt, but may be held by such court or magistrate to answer an information or affidavit. A jury in the County Court shall consist of six men; but no jury shall be empaneled to try a civil case unless demanded by one of the parties, who shall pay such jury fee therefor, in advance, as may be prescribed by law, unless he makes affidavit that he is unable to pay the same.

**Article 5, Section 19.** Justice of the peace courts shall have original jurisdiction in criminal matters of misdemeanor cases punishable by fine only, exclusive jurisdiction in civil matters where the amount in controversy is two hundred dollars or less, and such other jurisdiction as may be provided by law. Justices of the peace shall be ex officio notaries public.

**Article, Section 21.** A County Attorney, for counties in which there is not a resident Criminal District Attorney, shall be elected by the qualified voters of each county, who shall be commissioned by the Governor, and hold his office for the term of four years. In case of vacancy the Commissioners Court of the county shall have the power to appoint a County Attorney until the next general election. The County Attorneys shall represent the State in all cases in the District and inferior courts in their respective counties; but if any county shall be included in a district in which there shall be a District Attorney, the respective duties of District Attorneys and County Attorneys shall in such counties be regulated by the Legislature. The Legislature may provide for the election of District Attorneys in such districts, as may be deemed necessary, and make provision for the compensation of District Attorneys and County Attorneys. District Attorneys shall hold office for a term of four years, and until their successors have qualified.

**Article 8, Section 1-e.** 1. No State ad valorem taxes shall be levied upon any property within this State.

**Article 15, Section 7.** The Legislature shall provide by law for the trial and removal from office of all officers of this State, the modes for which have not been provided in this Constitution.

**Article 16, Section 1.** (a) Members of the Legislature, and all other elected officers, **before they** enter upon the duties of their offices, **shall take** the following Oath or Affirmation: "I, \_\_\_\_\_, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of \_\_\_\_\_ of the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this State, so help me God."

(b) Each member of the Legislature and all other elected officers, **before taking** the Oath or Affirmation of office prescribed by this section and entering upon the duties of office, **shall subscribe** to the following statement: "I, \_\_\_\_\_, do solemnly swear (or affirm) that I have not directly or indirectly paid, offered, promised to pay, contributed, or promised to contribute any money or thing of value, or promised any public office or employment for the giving or withholding of a vote at the election at which I was elected so help me God."

(c) The Secretary of State, and all other appointed officers, before entering upon the duties of their offices, **shall take** the following Oath or Affirmation: "I, \_\_\_\_\_, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of \_\_\_\_\_ of the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this State, so help me God."

(d) The Secretary of State, and all other appointed officers, **before taking** the Oath or Affirmation of office prescribed by this section and entering upon the duties of office, **shall subscribe** to the following statement: "I, \_\_\_\_\_, do solemnly swear (or affirm) that I have not directly or indirectly paid, offered, or promised to pay, contributed, or promised to contribute any money, or valuable thing, or promised any public office or employment, as a reward to secure my appointment or confirmation thereof, so help me God."

(e) Members of the Legislature and all other elected officers **shall file** the signed statement required by Subsection (b) of this section with the Secretary of State **before taking** the Oath or Affirmation of office prescribed by Subsection (a) of this section.

(f) The Secretary of State and all other appointed officers **shall file** the signed statement required by Subsection (d) of this section with the Secretary of State **before taking** the Oath or Affirmation of office prescribed by Subsection (c) of this section.



**Article 16, Section 28.** No current wages for personal service **shall ever be** subject to garnishment, except for the enforcement of court-ordered child support payments.

**Article 16, Section 40.** No person shall hold or exercise at the same time, more than one civil office of emolument except that of the Justice of the Peace..... and other persons list in this section.

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## **UNITED STATES CODE**

### **Title 3**

#### **§ 301. General authorization to delegate functions; publication of delegations**

The President of the United States is authorized to designate and empower the head of any department or agency in the executive branch, or any official thereof who is required to be appointed by and with the advice and consent of the Senate, to perform without approval, ratification, or other action by the President (1) any function which is vested in the President by law, or (2) any function which such officer is required or authorized by law to perform **only** with or subject to the approval, ratification, or other action of the President: Provided, That nothing contained herein shall relieve the President of his responsibility in office for the acts of any such head or other official designated by him to perform such functions. **Such designation and authorization shall be in writing, shall be published in the Federal Register, shall be subject to such terms, conditions, and limitations as the President may deem advisable, and shall be revocable at any time by the President in whole or in part.**

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### **TITLE 4 - FLAG AND SEAL, SEAT OF GOVERNMENT, AND THE STATES**

THIS TITLE WAS ENACTED BY ACT JULY 30, 1947, CH. 389, SEC. 1, 61 STAT. 641

#### **Chapt. 1. The Flag**

##### **§ 1. Flag; stripes and stars on**

The flag of the United States shall be thirteen horizontal stripes, alternate red and white; and the union of the flag shall be forty-eight stars, white in a **blue** field.

##### **§ 2. Same; additional stars**

On the admission of a new State into the Union one star shall be added to the union of the flag; and such addition shall take effect on the fourth day of July then next succeeding such admission.

##### **§ 3. Use of flag for advertising purposes; mutilation of flag**

Any person **who**, within the District of Columbia, in any manner, for exhibition or display, **shall place** or cause to be placed **any** word, figure, mark, picture, **design**, drawing, or any advertisement of any nature upon **any flag**, standard, **colors**, or ensign of the United States of America; or **shall expose** or cause to be exposed to public view any such flag, standard, **colors**, or ensign upon which shall have been printed, painted, or **otherwise placed**, or to which shall be **attached, appended, affixed**, or annexed any word, figure, mark, picture, **design**, or drawing, or any advertisement of any nature; or who, within the District of Columbia, shall manufacture, sell, expose for sale, or to **public view**, or give away or have in possession for sale, or to be given away or for use for any purpose, any article or substance being an article of merchandise, or a receptacle for merchandise or article or thing for carrying or transporting merchandise, upon **which shall** have been printed, painted, **attached**, or **otherwise placed** a **representation** of any such flag, standard, **colors**, or ensign, to advertise, call attention to,

**decorate**, mark, or distinguish the article or substance on which so placed **shall be** deemed **guilty** of a misdemeanor and **shall be punished** by a fine not exceeding \$100 or **by imprisonment** for not more than thirty days, or both, in the discretion of the court. The words "flag, standard, **colors**, or ensign", as used herein, **shall include** any flag, standard, **colors**, ensign, or any picture or representation of either, or of **any** part or parts of either, made of **any** substance or represented on **any** substance, of **any** size evidently purporting to be either of said flag, standard, **colors**, or ensign of the United States of America or a picture or a **representation** of either, upon which shall be shown the **colors**, the stars and the stripes, in any number of either thereof, or of **any** part or parts of either, by which the average person seeing the same without deliberation may believe the same to represent the flag, **colors**, standard, or ensign of the United States of America.

#### •CHAPTER 4 - THE STATES

##### § 110. Same; definitions

As used in sections 105-109 of this title -

- (a) The term 'person' shall have the meaning assigned to it in section 3797 of title 26.
- (b) The term 'sales or use tax' means any tax levied on, with respect to, or measured by, sales, receipts from sales, purchases, storage, or use of tangible personal property, except a tax with respect to which the provisions of section 104 of this title are applicable.
- (c) The term 'income tax' means any tax levied on, with respect to, or measured by, net income, gross income, or gross receipts.
- (d) The term 'State' **includes** any Territory or possession of the United States.
- (e) The term 'Federal area' means any lands or premises held or acquired by or for the use of the United States or any department, establishment, or agency, of the United States; and any Federal area, or any part thereof, which is located within the exterior boundaries of any State, shall be deemed to be a Federal area located within such State.

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#### Title 5

##### § 552. Public information; agency rules, opinions, orders, records, and proceedings

- (a) Each agency shall make available to the public information as follows:
  - (1) Each agency **shall** separately state and currently **publish in the Federal Register** for the guidance of the public -

Courts lose jurisdiction if they do not follow Due Process Law.

**Title 5, US Code Sec. 556(d), Sec. 557, Sec.706:**

##### **Sec. 556. Hearings; presiding employees; powers and duties; burden of proof; evidence; record as basis of decision.**

(d) Except as otherwise provided by statute, **the proponent of a rule or order has the burden of proof**. Any oral or documentary evidence may be received, but the agency as a matter of policy shall provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence. A sanction may not be imposed or rule or order issued except on consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with the reliable, probative, and substantial evidence. The agency may, to the extent consistent with the interests of justice and the policy of the underlying statutes administered by the agency, consider a violation of section 557(d) of this title sufficient grounds for a decision adverse to a party who has knowingly committed such violation or knowingly caused such violation to occur. A party is entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. In rule making or determining claims for money or benefits or applications for initial licenses an agency may, when a party will not be prejudiced thereby, adopt procedures for the submission of all or part of the evidence in written form.

##### **Sec. 706. Scope of review**

To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall -

- (1) compel agency action unlawfully withheld or unreasonably delayed; and
- (2) hold unlawful and set aside agency action, findings, and conclusions found to be -
  - (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
  - (B) contrary to constitutional right, power, privilege, or immunity;
  - (C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;
  - (D) without observance of procedure required by law;
  - (E) unsupported by substantial evidence in a case subject to sections 556 and 557 of this title or otherwise reviewed on the record of an agency hearing provided by statute; or
  - (F) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court. In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

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## **Title 15**

### **§ 1671. Congressional findings and declaration of purpose**

- (a) Disadvantages of garnishment

The Congress finds:

- (1) The unrestricted garnishment of compensation due for personal services encourages the making of **predatory** extensions of credit. Such extensions of credit divert money into excessive credit payments and thereby hinder the production and flow of goods in interstate commerce.
  - (2) The application of garnishment as a creditors' remedy frequently results in loss of employment by the debtor, and the resulting disruption of employment, production, and consumption constitutes a substantial burden on interstate commerce.
  - (3) The great disparities among the laws of the several States relating to garnishment have, in effect, destroyed the uniformity of the bankruptcy laws and frustrated the purposes thereof in many areas of the country.
- (b) Necessity for regulation

### **§ 1692. Congressional findings and declaration of purpose**

- (a) Abusive practices

There is abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors. Abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy.

- (b) Inadequacy of laws

Existing laws and procedures for redressing these injuries are inadequate to protect consumers.

•(c) Available non-abusive collection methods

Means other than misrepresentation or other abusive debt collection practices are available for the effective collection of debts.

•(d) Interstate commerce

Abusive debt collection practices are carried on to a substantial extent in interstate commerce and through means and instrumentalities of such commerce. Even where abusive debt collection practices are purely intrastate in character, they nevertheless directly affect interstate commerce. •(e) Purposes

It is the purpose of this subchapter to eliminate abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses.

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## **Title 18**

### **§ 4. Misprision of felony**

Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both.

### **§ 31. Definitions**

"Motor vehicle" means every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways in the transportation of passengers, passengers and property, or property or cargo;

### **§ 241. Conspiracy against rights**

If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured -

They shall be fined not more than \$10,000 or imprisoned not more than ten years, or both; and if death results, they shall be subject to imprisonment for any term of years or for life.

### **§ 242. Deprivation of rights under color of law**

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, **shall be** fined not more than \$1,000 or imprisoned not more than one year, or both; and if bodily injury results shall be fined under this title or imprisoned not more than ten years, or both; and if death results **shall be** subject to imprisonment for any term of years or for life.

**§ 246. Deprivation of relief benefits**

Whoever directly or indirectly deprives, attempts to deprive, or threatens to deprive any person of any employment, position, work, compensation, or other benefit provided for or made possible in whole or in part by any Act of Congress appropriating funds for work relief or relief purposes, on account of political affiliation, race, color, sex, religion, or national origin, shall be fined under this title, or imprisoned not more than one year, or both.

**§ 600. Promise of employment or other benefit for political activity**

Whoever, directly or indirectly, promises any employment, position, compensation, contract, appointment, or other benefit, provided for or made possible in whole or in part by any Act of Congress, or any special consideration in obtaining any such benefit, to any person as consideration, favor, or reward for any political activity or for the support of or opposition to any candidate or any political party in connection with any general or special election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, shall be fined under this title or imprisoned not more than one year, or both. **(Do People running for office promise to give people something if they will vote for them?)**

**§ 876. Mailing threatening communications**

Whoever, with intent to extort from any person any money or other thing of value, knowingly so deposits or causes to be delivered, as aforesaid, any communication, with or without a name or designating mark subscribed thereto, addressed to any other person and containing any threat to injure the property or reputation of the addressee or of another, or the reputation of a deceased person, or any threat to accuse the addressee or any other person of a crime, shall be fined under this title or imprisoned not more than two years, or both.

**§ 912. Officer or employee of the United States**

Whoever falsely assumes or pretends to be an officer or employee acting under the authority of the United States or any department, agency or officer thereof, and acts as such, or in such pretended character demands or obtains any money, paper, document, or thing of value, shall be fined under this title or imprisoned not more than three years, or both.

**§ 913. Impersonator making arrest or search**

Whoever falsely represents himself to be an officer, agent, or employee of the United States, and in such assumed character arrests or detains any person or in any manner searches the person, buildings, or other property of any person, shall be fined under this title or imprisoned not more than three years, or both.

**§ 1001. Statements or entries generally**

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

**§ 2381. Treason**

Whoever, owing allegiance to the United States, levies war against them or adheres to their enemies, giving them aid and comfort within the United States or elsewhere, is guilty of treason and shall suffer death, or shall be imprisoned not less than five years and fined not less than \$10,000; and shall be incapable of holding any office under the United States.

### **§ 2382. Misprision of treason**

Whoever, owing allegiance to the United States and having knowledge of the commission of any treason against them, conceals and does not, as soon as may be, disclose and make known the same to the President or to some judge of the United States, or to the governor or to some judge or justice of a particular State, is guilty of misprision of treason and shall be fined under this title or imprisoned not more than seven years, or both.

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## **Title 22**

### **§ 286. Acceptance of membership by United States in International Monetary Fund**

The President is hereby authorized to accept membership for the United States in the International Monetary Fund (hereinafter referred to as the "**Fund**"), and in the International Bank for Reconstruction and Development (hereinafter referred to as the "**Bank**"), provided for by the Articles of Agreement of the Fund and the Articles of Agreement of the Bank as set forth in the Final Act of the **United Nations** Monetary and Financial Conference dated July 22, 1944, and deposited in the archives of the Department of State.

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## **Title 28**

### **§ 1330. Actions against foreign states**

•(a) The district courts shall have original jurisdiction without regard to amount in controversy of any nonjury civil action against a foreign state as defined in section 1603(a) of this title as to any claim for relief in personam with respect to which the foreign state is not entitled to immunity either under sections 1605-1607 of this title or under any applicable international agreement. •(b) Personal jurisdiction over a foreign state shall exist as to every claim for relief over which the district courts have jurisdiction under subsection (a) where service has been made under section 1608 of this title. •(c) For purposes of subsection (b), an appearance by a foreign state does not confer personal jurisdiction with respect to any claim for relief not arising out of any transaction or occurrence enumerated in sections 1605-1607 of this title.

### **§ 1331. Federal question**

The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

### **§ 1332. Diversity of citizenship; amount in controversy; costs**

•(a) The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between -  
•(1) citizens of different States; •(2) citizens of a State and citizens or subjects of a foreign state; •(3) citizens of different States and in which citizens or subjects of a foreign state are additional parties; and •(4) a foreign state, defined in section 1603(a) of this title, as plaintiff and citizens of a State or of different States. For the purposes of this section, section 1335, and section 1441, an alien admitted to the United States for permanent residence shall be deemed a citizen of the State in which such alien is domiciled.  
•(b) Except when express provision therefor is otherwise made in a statute of the United States, where the plaintiff who files the case originally in the Federal courts is finally adjudged to be entitled to recover less than the sum or value of \$75,000, computed without regard to any setoff or counterclaim to which the defendant may be adjudged to be entitled, and exclusive of interest and costs, the district court may deny costs to the plaintiff and, in addition, may impose costs on the plaintiff. •(c) For the purposes of this section and section 1441 of this title -

- (1) a corporation shall be deemed to be a citizen of any State by which it has been incorporated and of the State where it has its principal place of business, except that in any direct action against the insurer of a policy or contract of liability insurance, whether incorporated or unincorporated, to which action the insured is not joined as a party-defendant, such insurer shall be deemed a citizen of the State of which the insured is a citizen, as well as of any State by which the insurer has been incorporated and of the State where it has its principal place of business; and
- (2) the legal representative of the estate of a decedent shall be deemed to be a citizen only of the same State as the decedent, and the legal representative of an infant or incompetent shall be deemed to be a citizen only of the same State as the infant or incompetent.
- (d) The word "States", as used in this section, includes the Territories, the District of Columbia, and the Commonwealth of Puerto Rico.

### **§ 1343. Civil rights and elective franchise**

- (a) The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person:
  - (1) To recover damages for injury to his person or property, or because of the deprivation of any right or privilege of a citizen of the United States, by any act done in furtherance of any conspiracy mentioned in section 1985 of Title 42;
  - (2) To recover damages from any person who fails to prevent or to aid in preventing any wrongs mentioned in section 1985 of Title 42 which he had knowledge were about to occur and power to prevent;
  - (3) To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States;
  - (4) To recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights, including the right to vote.
- (b) For purposes of this section -
  - (1) the District of Columbia shall be considered to be a State; and
  - (2) any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

### **§ 1361. Action to compel an officer of the United States to perform his duty**

The district courts shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff.

### **§ 1366. Construction of references to laws of the United States or Acts of Congress**

For the purposes of this chapter, references to laws of the United States or Acts of Congress do not include laws applicable exclusively to the District of Columbia.

### **§ 1737. Copy of officer's bond**

Any person to whose custody the bond of any officer of the United States has been committed shall, on proper request and payment of the fee allowed by any Act of Congress, furnish certified copies thereof, which shall be prima facie evidence in any court of the execution, filing and contents of the bond.

### **§ 2007. Imprisonment for debt**

- (a) A person **shall not be** imprisoned for debt on a writ of execution or other process issued from a court of the United States in any State wherein imprisonment for debt has been abolished. All modifications, conditions, and restrictions upon such imprisonment provided by State law shall apply to any writ of execution or process issued from a court of the United States in accordance with the procedure applicable in such State.
- (b) Any person arrested or imprisoned in any State on a writ of execution or other process issued from any court of the United States in a civil action shall have the same jail privileges and be governed by the same regulations as persons confined in like cases on process issued from the courts of such State. The same requirements governing discharge as are applicable in such State shall apply. Any proceedings for discharge shall be conducted before a United States commissioner for the judicial district wherein the defendant is held.

**Title 36**

**§ 173. Display and use of flag by civilians; codification of rules and customs; definition**

The following codification of existing rules and customs pertaining to the display and use of the flag of the United States of America is established for the use of such civilians or civilian groups or organizations as may not be required to conform with regulations promulgated by one or more executive departments of the Government of the United States. The flag of the United States for the purpose of this chapter shall be defined according to sections 1 and 2 of title 4 and Executive Order 10834 issued pursuant thereto.

**§ 175. Position and manner of display**

The flag, when carried in a procession with another flag or flags, should be either on the marching right; that is, the flag's own right, or, if there is a line of other flags, in front of the center of that line.

•(a) The flag should not be displayed on a float in a parade except from a staff, or as provided in subsection (i) of this section. •(b) The flag should not be draped over the hood, top, sides, or back of a vehicle or of a railroad train or a boat. When the flag is displayed on a motorcar, the staff shall be fixed firmly to the chassis or clamped to the right fender. •(c) No other flag or pennant should be placed above or, if on the same level, to the right of the flag of the United States of America, except during church services conducted by naval chaplains at sea, when the church pennant may be flown above the flag during church services for the personnel of the Navy. No person shall display the flag of the United Nations or any other national or international flag equal, above, or in a position of superior prominence or honor to, or in place of, the flag of the United States at any place within the United States or any Territory or possession thereof: Provided, That nothing in this section shall make unlawful the continuance of the practice heretofore followed of displaying the flag of the United Nations in a position of superior prominence or honor, and other national flags in positions of equal prominence or honor, with that of the flag of the United States at the headquarters of the United Nations. •(d) The flag of the United States of America, when it is displayed with another flag against a wall from crossed staffs, should be on the right, the flag's own right, and its staff should be in front of the staff of the other flag. •(e) The flag of the United States of America should be at the center and at the highest point of the group when a number of flags of States or localities or pennants of societies are grouped and displayed from staffs. •(f) When flags of States, cities, or localities, or pennants of societies are flown on the same halyard with the flag of the United States, the latter should always be at the peak. When the flags are flown from adjacent staffs, the flag of the United States should be hoisted first and lowered last. No such flag or pennant may be placed above the flag of the United States or to the United States flag's right. •(g) When flags of two or more nations are displayed, they are to be flown from separate staffs of the same height. The flags should be of approximately equal size. International usage forbids the display of the flag of one nation above that of another nation in time of peace. •(h) When the flag of the United States is displayed from a staff projecting horizontally or at an angle from the window sill, balcony, or front of a building, the union of the flag should be placed at the peak of the staff unless the flag is at half staff. When the flag is suspended over a sidewalk from a rope extending from a house to a pole at the edge of the sidewalk, the flag should be hoisted out, union first, from the building. •(i) When displayed either horizontally or vertically against a wall, the union should be uppermost and to the flag's own right, that is, to the observer's left. When displayed in a window, the flag should be displayed in the same way, with the union or blue field to the left of the observer in the street. •(j) When the flag is displayed over the middle of the street, it should be suspended vertically with the union to the north in an east and west street or to the east in a north and south street. •(k) When used on a speaker's platform, the flag, if displayed flat, should be displayed above and behind the speaker. When displayed from a staff in a church or public auditorium, the flag of the United States of America should hold the position of superior prominence, in advance of the audience, and in the position of honor at the clergyman's or speaker's right as he faces the audience. Any other flag so displayed should be placed on the left of the clergyman or speaker or to the right of the audience. •(l) The flag should form a distinctive feature of the ceremony of unveiling a statue or monument, but it should never be used as the covering for the statue or monument. •(m) The flag, when flown at half-staff, should be first hoisted to the peak for an instant and then lowered to the half-staff position. The flag should be again raised to the peak before it is lowered for the day. On Memorial Day the flag should be displayed at half-staff until noon only, then raised to the top of the staff. By order of the President, the flag shall be flown at half-staff upon the death of principal figures of the United States Government and the Governor of a State, territory, or possession, as a mark of



respect to their memory. In the event of the death of other officials or foreign dignitaries, the flag is to be displayed at half-staff according to Presidential instructions or orders, or in accordance with recognized customs or practices not inconsistent with law. In the event of the death of a present or former official of the government of any State, territory, or possession of the United States, the Governor of that State, territory, or possession may proclaim that the National flag shall be flown at half-staff. The flag shall be flown at half-staff thirty days from the death of the President or a former President; ten days from the day of death of the Vice President, the Chief Justice or a retired Chief Justice of the United States, or the Speaker of the House of Representatives; from the day of death until interment of an Associate Justice of the Supreme Court, a Secretary of an executive or military department, a former Vice President, or the Governor of a State, territory, or possession; and on the day of death and the following day for a Member of Congress. The flag shall be flown at halfstaff on Peace Officers Memorial Day, unless that day is also Armed Forces Day. As used in this subsection -

•(1) the term "half-staff" means the position of the flag when it is one-half the distance between the top and bottom of the staff; •(2) the term "executive or military department" means any agency listed under sections 101 and 102 of title 5; and •(3) the term "Member of Congress" means a Senator, a Representative, a Delegate, or the Resident Commissioner from Puerto Rico.

•(n) When the flag is used to cover a casket, it should be so placed that the union is at the head and over the left shoulder. The flag should not be lowered into the grave or allowed to touch the ground. •(o) When the flag is suspended across a corridor or lobby in a building with only one main entrance, it should be suspended vertically with the union of the flag to the observer's left upon entering. If the building has more than one main entrance, the flag should be suspended vertically near the center of the corridor or lobby with the union to the north, when entrances are to the east and west or to the east when entrances are to the north and south. If there are entrances in more than two directions, the union should be to the east.

#### **§ 176. Respect for flag**

No disrespect should be shown to the flag of the United States of America; the flag should not be dipped to any person or thing. Regimental colors, State flags, and organization or institutional flags are to be dipped as a mark of honor.

•(a) The flag should never be displayed with the union down, except as a signal of dire distress in instances of extreme danger to life or property. •(b) The flag should never touch anything beneath it, such as the ground, the floor, water, or merchandise. •(c) The flag should never be carried flat or horizontally, but always aloft and free. •(d) The flag should never be used as wearing apparel, bedding, or drapery. It should never be festooned, drawn back, nor up, in folds, but always allowed to fall free. Bunting of blue, white, and red, always arranged with the blue above, the white in the middle, and the red below, should be used for covering a speaker's desk, draping the front of the platform, and for decoration in general. •(e) The flag should never be fastened, displayed, used, or stored in such a manner as to permit it to be easily torn, soiled, or damaged in any way. •(f) The flag should never be used as a covering for a ceiling. •(g) The flag should never have placed upon it, nor on any part of it, nor attached to it any mark, insignia, letter, word, figure, design, picture, or drawing of any nature. •(h) The flag should never be used as a receptacle for receiving, holding, carrying, or delivering anything. •(i) The flag should never be used for advertising purposes in any manner whatsoever. It should not be embroidered on such articles as cushions or handkerchiefs and the like, printed or otherwise impressed on paper napkins or boxes or anything that is designed for temporary use and discard. Advertising signs should not be fastened to a staff or halyard from which the flag is flown. •(j) No part of the flag should ever be used as a costume or athletic uniform. However, a flag patch may be affixed to the uniform of military personnel, firemen, policemen, and members of patriotic organizations. The flag represents a living country and is itself considered a living thing. Therefore, the lapel flag pin being a replica, should be worn on the left lapel near the heart. •(k) The flag, when it is in such condition that it is no longer a fitting emblem for display, should be destroyed in a dignified way, preferably by burning.

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## Title 42

### § 408. Penalties

#### •(a) In general

Whoever -

- (1) for the purpose of causing an increase in any payment authorized to be made under this subchapter, or for the purpose of causing any payment to be made where no payment is authorized under this subchapter, shall make or cause to be made any **false** statement or representation (including any false statement or representation in connection with any matter arising under subchapter E of chapter 1, or subchapter A or E of chapter 9 of the Internal Revenue Code of 1939, or chapter 2 or 21 or subtitle F of the Internal Revenue Code of 1954) as to -
  - (A) whether wages were paid or received for employment (as said terms are defined in this subchapter and the Internal Revenue Code), or the amount of wages or the period during which paid or the person to whom paid; or
  - (B) whether net earnings from self-employment (as such term is defined in this subchapter and in the Internal Revenue Code) were derived, or as to the amount of such net earnings or the period during which or the person by whom derived; or
  - (C) whether a person entitled to benefits under this subchapter had earnings in or for a particular period (as determined under section 403(f) of this title for purposes of deductions from benefits), or as to the amount thereof; or
- (2) makes or causes to be made any **false** statement or representation of a material fact in any application for any payment or for a disability determination under this subchapter; or
- (3) at any time makes or causes to be made any **false** statement or representation of a material fact for use in determining rights to payment under this subchapter; or
- (4) having knowledge of the occurrence of any event affecting
  - (1) his initial or continued right to any payment under this subchapter, or
  - (2) the initial or continued right to any payment of any other individual in whose behalf he has applied for or is receiving such payment, conceals or fails to disclose such event with an intent fraudulently to secure payment either in a greater amount than is due or when no payment is authorized; or
- (5) having made application to receive payment under this subchapter for the use and benefit of another and having received such a payment, knowingly and willfully converts such a payment, or any part thereof, to a use other than for the use and benefit of such other person; or
- (6) willfully, knowingly, and with intent to deceive the Commissioner of Social Security as to his true identity (or the true identity of any other person) furnishes or causes to be furnished false information to the Commissioner of Social Security with respect to any information required by the Commissioner of Social Security in connection with the establishment and maintenance of the records provided for in section 405(c)(2) of this title; or
- (7) for the purpose of causing an increase in any payment authorized under this subchapter (or any other program financed in whole or in part from Federal funds), or for the purpose of causing a payment under this subchapter (or any such other program) to be made when no payment is authorized thereunder, or for the purpose of obtaining (for himself or any other person) any payment or any other benefit to which he (or such other person) is not entitled, or for the purpose of obtaining anything of value from any person, or for any other purpose -
  - (A) willfully, knowingly, and with intent to deceive, uses a social security account number, assigned by the Commissioner of Social Security (in the exercise of the Commissioner's authority under section 405(c)(2) of this title to establish and maintain records) on the basis of **false** information furnished to the Commissioner of Social Security by him or by any other person; or
  - (B) with intent to deceive, **falsely** represents a number to be the social security account number assigned by the Commissioner of Social Security to him or to another person, when in fact such number is not the social security account number assigned by the Commissioner of Social Security to him or to such other person; or

•(C) knowingly alters a social security card issued by the Commissioner of Social Security, buys or sells a card that is, or purports to be, a card so issued, counterfeits a social security card, or possesses a social security card or counterfeit social security card with intent to sell or alter it; or

•(8) discloses, uses, or compels the disclosure of the social security number of any person in violation of the laws of the United States; shall be guilty of a felony and upon conviction thereof shall be fined under title 18 or imprisoned for not more than five years, or both.

•(b) Violations by certified payees

Any person or other entity who is convicted of a violation of any of the provisions of this section, if such violation is committed by such person or entity in his role as, or in applying to become, a certified payee under section 405(j) of this title on behalf of another individual (other than such person's spouse), upon his second or any subsequent such conviction shall, in lieu of the penalty set forth in the preceding provisions of this section, be guilty of a felony and shall be fined under title 18 or imprisoned for not more than five years, or both. In the case of any violation described in the preceding sentence, including a first such violation, if the court determines that such violation includes a willful misuse of funds by such person or entity, the court may also require that full or partial restitution of such funds be made to the individual for whom such person or entity was the certified payee.

•(c) Effect upon certification as payee; definitions

Any individual or entity convicted of a felony under this section or under section 1383a(b) of this title may not be certified as a payee under section 405(j) of this title. For the purpose of subsection (a)(7) of this section, the terms "social security number" and "social security account number" mean such numbers as are assigned by the Commissioner of Social Security under section 405(c)(2) of this title whether or not, in actual use, such numbers are called social security numbers.

•(d) Application of subsection (a)(6) and (7) to certain aliens

•(1) Except as provided in paragraph (2), an alien -

•(A) whose status is adjusted to that of lawful temporary resident under section 1160 or 1255a of title 8 or under section 902 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, •(B) whose status is adjusted to that of permanent resident -

•(i) under section 202 of the Immigration Reform and Control Act of 1986, or •(ii) pursuant to section 1259 of title 8, or

•(C) who is granted special immigrant status under section 1101(a)(27)(I) of title 8, shall not be subject to prosecution for any alleged conduct described in paragraph (6) or (7) of subsection (a) of this section if such conduct is alleged to have occurred prior to 60 days after November 5, 1990.

•(2) Paragraph (1) shall not apply with respect to conduct (described in subsection (a)(7)(C) of this section) consisting of -

•(A) selling a card that is, or purports to be, a social security card issued by the Commissioner of Social Security,

•(B) possessing a social security card with intent to sell it, or

•(C) counterfeiting a social security card with intent to sell it.

•(3) Paragraph (1) shall not apply with respect to any criminal conduct involving both the conduct described in subsection (a)(7) of this section to which paragraph (1) applies and any other criminal conduct if such other conduct would be criminal conduct if the conduct described in subsection (a)(7) of this section were not committed.

### **§ 1983. Civil action for deprivation of rights**

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the **deprivation** of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

### **§ 1985. Conspiracy to interfere with civil rights**

#### **•(1) Preventing officer from performing duties**

If two or more persons in any State or Territory conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof; or to induce by like means any officer of the United States to leave any State, district, or place, where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or while engaged in the lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties;

#### **•(2) Obstructing justice; intimidating party, witness, or juror**

If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;

#### **•(3) Depriving persons of rights or privileges**

If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.

### **§ 1986. Action for neglect to prevent**

Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action; and if the death of any party be caused by any such wrongful act and neglect, the legal representatives of the deceased shall have such action therefor, and may recover not exceeding \$5,000 damages therein, for the benefit of the widow of the deceased, if there be one, and if there be no widow, then for the benefit of the next of kin of the deceased. But no action under the provisions of this section shall be sustained which is not commenced within one year after the cause of action has accrued.

### **§ 1989. United States magistrate judges; appointment of persons to execute warrants**

The district courts of the United States and the district courts of the Territories, from time to time, shall increase the number of United States magistrate judges, so as to afford a speedy and convenient means for the arrest and examination of persons charged with the crimes referred to in section 1987 of this title; and such magistrate judges are authorized and required to exercise all the powers and duties conferred on them herein with regard to such offenses in like manner as they are authorized by law to exercise with regard to other offenses against the laws of the United States. Said magistrate judges are empowered, within their respective counties, to appoint, in writing, under their hands, one or more suitable persons, from time to time, who shall execute all such warrants or other process as the magistrate judges may issue in the lawful performance of their duties, and the persons so appointed shall have authority to summon and call to their aid the bystanders or posse comitatus of the proper county, or such portion of the land or naval forces of the United States, or of the militia, as may be necessary to the performance of the duty with which they are charged; and such warrants shall run and be executed anywhere in the State or Territory within which they are issued.

### **§ 1990. Marshal to obey precepts; refusing to receive or execute process**

Every marshal and deputy marshal shall obey and execute all warrants or other process, when directed to him, issued under the provisions of section 1989 of this title. Every marshal and deputy marshal who refuses to receive any warrant or other process when tendered to him, issued in pursuance of the provisions of this section, or refuses or neglects to use all proper means diligently to execute the same, shall be liable to a fine in the sum of \$1,000, for the benefit of the party aggrieved thereby.

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## **Title 44**

### **§ 1501. Definitions**

As used in this chapter, unless the context otherwise requires -

"document" means a Presidential proclamation or Executive order and an order, regulation, rule, certificate, code of fair competition, license, notice, or similar instrument, issued, prescribed, or promulgated by a Federal agency;

"Federal agency" or "agency" means the President of the United States, or an executive department, independent board, establishment, bureau, agency, institution, commission, or separate office of the administrative branch of the Government of the United States but not the legislative or judicial branches of the Government;

"person" means an individual, partnership, association, or corporation; and

"National Archives of the United States" has the same meaning as in section 2901(11) of this title.

### **§ 1505. Documents to be published in Federal Register**

•(a) Proclamations and Executive Orders; Documents Having General Applicability and Legal Effect; Documents Required To Be Published by Congress. There shall be published in the Federal Register -

•(1) Presidential proclamations and Executive orders, except those not having general applicability and legal effect or effective only against Federal agencies or persons in their capacity as officers, agents, or employees thereof;

•(2) documents or classes of documents that the President may determine from time to time have general applicability and legal effect; and

•(3) documents or classes of documents that may be required so to be published by Act of Congress. For the purposes of this chapter every document or order which prescribes a penalty has general applicability and legal effect.

- (b) Documents Authorized To Be Published by Regulations; Comments and News Items Excluded. In addition to the foregoing there shall also be published in the Federal Register other documents or classes of documents authorized to be published by regulations prescribed under this chapter with the approval of the President, but comments or news items of any character may not be published in the Federal Register.
- (c) Suspension of Requirements for Filing of Documents; Alternate Systems for Promulgating, Filing, or Publishing Documents; Preservation of Originals. In the event of an attack or threatened attack upon the continental United States and a determination by the President that as a result of an attack or threatened attack -
  - (1) publication of the Federal Register or filing of documents with the Office of the Federal Register is impracticable, or
  - (2) under existing conditions publication in the Federal Register would not serve to give appropriate notice to the public of the contents of documents, the President may, without regard to any other provision of law, suspend all or part of the requirements of law or regulation for filing with the Office or publication in the Federal Register of documents or classes of documents. The suspensions shall remain in effect until revoked by the President, or by concurrent resolution of the Congress. The President shall establish alternate systems for promulgating, filing, or publishing documents or classes of documents affected by such suspensions, including requirements relating to their effectiveness or validity, that may be considered under the then existing circumstances practicable to provide public notice of the issuance and of the contents of the documents. The alternate systems may, without limitation, provide for the use of regional or specialized publications or depositories for documents, or of the press, the radio, or similar mediums of general communication. Compliance with alternate systems of filing or publication shall have the same effect as filing with the Office or publication in the Federal Register under this chapter or other law or regulation. With respect to documents promulgated under alternate systems, each agency shall preserve the original and two duplicate originals or two certified copies for filing with the Office when the President determines that it is practicable.

#### **§ 1510. Code of Federal Regulations**

- (a) The Administrative Committee of the Federal Register, with the approval of the President, may require, from time to time as it considers necessary, the preparation and publication in special or supplemental editions of the Federal Register of complete codifications of the documents of each agency of the Government having general applicability and legal effect, issued or promulgated by the agency by publication in the Federal Register or by filing with the Administrative Committee, and are relied upon by the agency as authority for, or are invoked or used by it in the discharge of, its activities or functions, and are in effect as to facts arising on or after dates specified by the Administrative Committee.
- (b) A codification published under subsection (a) of this section shall be printed and bound in permanent form and shall be designated as the "Code of Federal Regulations." The Administrative Committee shall regulate the binding of the printed codifications into separate books with a view to practical usefulness and economical manufacture. Each book shall contain an explanation of its coverage and other aids to users that the Administrative Committee may require. A general index to the entire Code of Federal Regulations shall be separately printed and bound.
- (c) The Administrative Committee shall regulate the supplementation and the collation and republication of the printed codifications with a view to keeping the Code of Federal Regulations as current as practicable. Each book shall be either supplemented or collated and republished at least once each calendar year.
- (d) The Office of the Federal Register shall prepare and publish the codifications, supplements, collations, and indexes authorized by this section.
- (e) The codified documents of the several agencies published in the supplemental edition of the Federal Register under this section, as amended by documents subsequently filed with the Office and published in the daily issues of the Federal Register shall be prima facie evidence of the text of the documents and of the fact that they are in effect on and after the date of publication.

- (f) The Administrative Committee shall prescribe, with the approval of the President, regulations for carrying out this section.
- (g) This section does not require codification of the text of Presidential documents published and periodically compiled in supplements to Title 3 of the Code of Federal Regulations.

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## **Title 50**

### **Sec. 1520. Use of human subjects for testing of chemical or biological agents by Department of Defense; accounting to Congressional committees with respect to experiments and studies; notification of local civilian officials**

- (a) Not later than thirty days after final approval within the Department of Defense of plans for any experiment or study to be conducted by the Department of Defense, whether directly or under contract, involving the use of human subjects for the testing of chemical or biological agents, the Secretary of Defense shall supply the Committees on Armed Services of the Senate and House of Representatives with a full accounting of such plans for such experiment or study, and such experiment or study may then be conducted only after the expiration of the thirty-day period beginning on the date such accounting is received by such committees.
- (b)
  - (1) The Secretary of Defense may not conduct any test or experiment involving the use of any chemical or biological agent on civilian populations **unless** local civilian officials in the area in which the test or experiment is to be conducted are notified in advance of such test or experiment, and such test or experiment may then be conducted only after the expiration of the thirty-day period beginning on the date of such notification.
  - (2) Paragraph (1) shall apply to tests and experiments conducted by Department of Defense personnel and tests and experiments conducted on behalf of the Department of Defense by contractors.

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## LETTER TO DPS

To: Texas Department of Transportation, Chief Legal Counsel, 125 E. 11th St., Austin, TX 78701-2483

Dear Sir or Madam:

It is my intent to comply with all laws and statutes which apply to me. My concern is how the Texas Transportation Code is made to apply to me in my use of the common ways in the pursuit of my personal business or for pleasure and not engaged in any commercial activity of transporting goods or passengers for hire.

We have been trained since childhood to believe that all automobiles are “motor vehicles” and that ownership of such automobile is legitimized by applying to the State for a “certificate of title” and then registering the “certified” “motor vehicle” by purchasing license plates from the County Tax Assessor. The fallacy is that words used in law may not mean what we normally take them to mean. Rather, they mean what they are defined to mean in the pertinent law.

In this case, we must comply with the definitions provided in the respective chapters of the Texas Transportation Code. To begin, I do not find the word “transportation” listed in the index of the Code, and it appears that the Code does not define the word. Relying then on Black’s Law Dictionary we find, “Transportation – the movement of goods or persons from one place to another by a carrier” followed by a number of U. S. Supreme Court cases. Likewise, the word “carrier” is not listed in the index and appears not to be defined in the Code. Again relying on Black’s, we find, “Carrier. Individual or organization engaged in transporting passengers or goods for hire. ‘Carrier’ means any person engaged in the transportation of passengers or property by land, as a common, contract, or private carrier, or freight forwarder as those terms are used in the Interstate Commerce Act, and officers, agents and employees of such carriers. 18 U.S.C.A. § 831.”

Since the major headings of Titles in the Transportation Code relate to Aviation, Navigation, Railroads, Roadways, and Vehicles and Traffic, one might begin to suspect that the entire Code relates only to these various commercial activities and that an individual using an automobile to travel on the public highways in pursuit of his private affairs or for pleasure may not come under the Code’s authority at all. Study of the definitions provided in the Code confirms.

Chapter 501 is the codification of the Certificate of Title Act. At §501.002 Definitions we find, “(14) ‘Motor vehicle’ means: (A) any motor driven or propelled vehicle required to be registered under the laws of this state:” (underline added). The word “vehicle” remains to be defined, but it would appear from this that if an automobile is not “required to be registered,” it would not meet the definition of “motor vehicle.”

Chapter 502, Registration of Vehicles, provides a different definition of “motor vehicle,” - at §502.001 Definitions, (13) “Motor vehicle means a vehicle that is self propelled.”

The word “vehicle” is defined at “(24 ) ‘Vehicle’ means a device in or by which a person or property is or may be transported or drawn on a public highway, other than a device used exclusively on stationary rails or track.” The key word here is “transported” which means it is used in transportation, which in turn means that it is used to carry passengers or products for hire.

Continuing our search for the true meaning and application of the Code, we return to Chapter 501 Section 501.022. Certificate of Title Required. “(a) The owner of a motor vehicle registered In this state may not operate or permit the operation of the vehicle on a public highway until the owner obtains a certificate of title for the vehicle.” and “(b) A person may not operate a motor vehicle registered in this state on a public highway if the person knows or has reason to believe that the owner has not obtained a certificate of title for the vehicle.”

Since the word “vehicle” means a device used in transportation, none of this would apply to an automobile or truck not engaged in transportation.

Section 502.002 Registration Required; General Rule states, “(a) The owner of a motor vehicle (etc.) ... shall apply for the registration of the vehicle...” Again, the word “vehicle” means a device used in transportation, so the ordinary use of an automobile or truck for private business or pleasure would not be affected by this requirement.



The clincher in this argument is found at Section 501.004, Applicability. “(a) This chapter applies to a motor vehicle owned by the state or political subdivision or the state.” (underline added). Since the meaning of statutes cannot be expanded to mean more than the clear meaning of the words of the statute, this negates any requirement imposed upon anyone other than the State, its political subdivisions, and the “motor vehicles” owned by them.

(1.) **Gould v. Gould**, 245 US 151- "In the interpretation of statutes levying taxes it is the established rule not to extend their provisions by implication beyond the clear import of the language used, or to enlarge their operation so as to embrace matters not specifically pointed out. In case of doubt, they are construed most strongly against the government and in favor of the citizen."

(2.) **United States v. Varbel**, 780 F2d 758 on P.761 (9thCir.)- “We begin our interpretation by reading the statutes and regulations for their plain meaning.”

The plain meaning rule has its origin in U.S. v. Missouri Pacific Railroad, 278 U.S. 269 (1929). There the Supreme Court stated that ‘where the language of an enactment is clear and construction according to its terms does not lead to absurd or impracticable consequences, the words employed are to be taken as the final expression of the meaning intended’ ..The principle was more recently affirmed in **Dickerson v. New Banner Institute Inc.** 460 U.S. 103 S.Ct. 986, 74 L.Ed.2d 815 (1983), where the Court stated, ‘In determining the scope of a statute, one is to look first at its language. If the language is (un)ambiguous, ... it is to be regarded as conclusive unless there is a clearly expressed legislative intent to the contrary.’

Chapter 521 relates to Driver’s Licenses and Certificates. Now we get into a serious play on words. In chapter 501 we found that a “motor vehicle” is one required to be registered; in 502, it is a “vehicle” that is self propelled; also in 502, vehicle means a devise for transportation of persons or property. “Section 521.001 Definitions (a) In this chapter (6) “License” means an authorization to operate a motor vehicle that is issued under or granted by the laws of this state. The term includes: (A) a driver’s license.” The terms “operate” and “motor vehicle” are not defined in Chapter 521; however, subsection (b) says, “A word or phrase that is not defined by this chapter but is defined by Subtitle C has the meaning in this chapter that is assigned by that subtitle.”

Subtitle C. Rules of the Road contains Chapter 541. Definitions. In Section 541.001 Persons. In this subtitle (1) “Operator” means, as used in reference to a vehicle, a person who drives or has physical control of a vehicle.” At Section 541.201. “Vehicles. In this subtitle (11) “Motor vehicle” means a self propelled vehicle . . .“ and (22) “Vehicle” means a device that can be used to transport or draw persons or property on a highway.” Therefore, a driver’s license is required of one who is engaged in the commercial activity of “operating” a “vehicle” for the transportation of goods or persons for hire.

Significantly, the terms “automobile” and “travel” are not mentioned in the Transportation Code precisely because they are not commercial terms and therefore are not subject to the code.

The obvious question, then, is “Why would the legislature write this statute in this manner?” The answer lies in the many court cases protecting the right of individuals to use the common ways, (streets and highways) in pursuit of their private business affairs or for pleasure without regulation by the State. The statute had to be written in such a way as not to conflict with such cases as:

(1) “The streets of the cities of this country belong to the public. Primarily, every member of the public has the natural right to the free use of such streets in the normal pursuit of his private or personal business or pleasure.

...The right of the public at large to the free use of the streets is paramount to the natural right of the individual,...

...The power of the city in exercising such control is limited only by the Constitution and general laws of the state,... But neither the Legislature nor the city commissioners has the power to take away or unreasonably abridge, the natural rights of the citizen to the use of the streets in the manner and for the purposes we have set forth above., **City of San Antonio v. Fetzer**, 241 SW 1034; See also **United States v. Guest**, 383 US 745, 16 L 2d 239.

(2) “In all the States from the beginning down to the adoption of the Articles of Confederation the citizens thereof possessed the fundamental right, inherent in the citizens of all free governments, peacefully to dwell within the limits of their respective States, to move at will from place to place therein, and to have free ingress thereto and egress therefrom, with a consequent authority in the State to forbid and punish violations of this fundamental right. **Corfield v. Corvell**, 4 Wash. C.C 4 Wash. CC. **House Cases**, 16 Wall, 36,76.” See also **United States v. Guest** 383 US 745,16 L 2d 239.

(3.) “The right to travel is a part of the ‘liberty of which the citizen cannot be deprived without due process of law under the Fifth Amendment. Freedom of movement across frontiers in either direction, and inside frontiers as well, was a part of our heritage. Travel abroad, like travel within the country, may be as close to the heart of the (378 U.S. 506) individual as the choice of what he eats, or wears, or reads. Freedom of movement is basic in our scheme of values.” **Kent v. Dulles**. 357 U.S. 116, 125-126; 78 S.Ct. 1113. 1118-1119; 2 L.Ed. 2d 1204 (1958).

(4.) “Since this case involves a personal liberty protected by the Bill of Rights, we believe that the proper approach to legislation curtailing that liberty must be that adopted by this Court in **NAACP v. Button**, 371 U.S. 415, 8 S. Ct. 328, 9 L. Ed., 2d 405, and **Thornhill v. Alabama**. 310 U.S. 88, 60 S.

Ct. 736, 84 L. Ed. 1093. (S)ince freedom of travel is a constitutional liberty closely related to rights of free speech and association, we believe that appellants should not be required to assume the burden of demonstrating that Congress could not have written a statute constitutionally prohibiting their travel.” **Aptheker v. Secretary of State**, 378 U.S. 500, 505-506, 516-517; 84 S.Ct.1659, 1663, 1669; 12 L.Ed. 994 (1964).

(5.) “Right to move about freely and right to travel are protected by Constitution.” **State v. McBride**, Wash. App. Div. 3, 1994, 873 P.2d 589,74 Wash. App. 460.

(6.) “Freedom to move about is a basic right of citizens which was not added by enactment of first 10 amendments, but is inherent in Bill of Rights and in original constitution itself.” **Ervin v. State** 1968,163 NW. 2d. 207; 41 Wis. 2d, 194.

(7.) “The use of the highway for the purpose of travel and transportation is not a mere privilege, but a common fundamental right of which the public and individuals cannot rightfully be deprived.” **Chicago Motor Coach v. Chicago**, 169 N.E. 221.

(8.) “The right of the citizen to travel upon the public highways and to transport his property thereon either by carriage or by automobile, is not a mere privilege which a city may prohibit or permit at will, but a common law right which he has under the right to life, liberty and the pursuit of happiness.” **Thompson v. Smith**, 154 S.E. 579.

(9.) ‘The right to travel is a well-established common right that does not owe its existence to the federal government. It is recognized by the courts as a natural right.” **Schactman v. Dulles**, 96 App. D.C. 287; 225 F 2d, 938 at 941.

(10.) “The state cannot diminish the rights of the people.” **Hertado v. California**, 110 U.S. 516.

(11.) “Statutes that violate the plain and obvious principles of common right and common reason are null and void.” **Bennett v. Boggs**, 1 Baldw. 60.

(12.) “The assertion of federal rights, when plainly and reasonably made, is not to be defeated under the name of local practice.” **Davis v. Wechsler**, 263 U.S. 22 at 24.

(13.) “Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them.” **Miranda v. Arizona**, 384 U.S. 36 at 491.

(14.) “The claim and exercise of a constitutional right cannot be converted into a crime.” **Miller v. U.S.**, 230 F 486 at 489.

It is deemed that ten (10) days is sufficient time to comply with the above. If additional time is required, please so indicate in writing or by FAX when such compliance should be expected.

Sincerely,

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## **DEFINITIONS**

**Abuse of Discretion** – A failure to exercise a sound, reasonable, and legal discretion; a commission of an error of law by the trial court.

**Appear** - to be properly before a court, as a fact or matter which it can take place, to be in evidence to be proved, coming into court by the parties in a suit, whether plaintiff or defendant.

**Appearance** - a coming into court as a party to a suit. Either in person or by attorney, whether as a plaintiff or defendant, the formal proceeding by which a defendant submits himself to the jurisdiction of the court. The voluntary submission to a court jurisdiction.

**Attorn** - to change from understanding to another, to twist.

**Attorneys Oath** - 1st - Highest Fiduciary Duty to the Supreme Court of Texas. 2nd. - Fiduciary Duty to Fellow Professionals. 3rd - Best of my ability to defend my client. 4th - Best of my ability to support the Constitution.

### **CARRIER**

"An individual or organization engaged in transporting passengers or goods for hire."

**Black's Law Dictionary – 6th Edition**

"**Carrier**": "One undertaking to transport persons or property. Windam v. Pace, 192 S.E. 271, 6 S.E.2d 270, 274; or one employed or engaged in the business of carrying goods for others for hire. Roeske v. Lamb, 39 N.M. 111, 41 P. 2d. 522, 523."

**Black's Law Dictionary 4th Edition.**

**Charter** - gives guidelines for which an entity to operate. (The public is directly or indirectly effected by what the Charter has in it. It may have rules which require a person to hop on one leg in a certain area.)

### **COMMERCE**

**Texas Transportation Code Sec. 501.005. Conflicts With Business & Commerce Code.**

Chapters 1-9, Business & Commerce Code, control over a conflicting provision of this chapter. (This shows that Chapter 501 is only commercial)

**Corpus delicti** – The substance or foundation of a crime.

**Demur** - The shifting of the burden. (end a statement with a question)

**DRIVER**

The term "driver" in contradistinction to "traveler," is defined as:

"Driver -- One employed in conducting a coach, carriage, wagon, or other vehicle..."

**Bovier's Law Dictionary**, 1914 ed., Pg. 940

"It will be observed from the language of the ordinance that a **DISTINCTION** is to be drawn between the terms "**operator**" and "**driver**"; the "**operator**" of the service car being the person who IS LICENSED to have the car upon the streets IN THE BUSINESS OF CARRYING PASSENGERS FOR HIRE; while the "**driver**" is the one who actually drives the car. However, in the actual PROSECUTION OF BUSINESS, it is possible for the same person to be both "operator" and "driver". (emph. added).

**NEWBILL v UNION INDEMNITY CO.**, 60 SW 2d 658.

**Fictitious name.** A counterfeit, alias, feigned, or pretended name taken by a person [or party who admits to be person], differing in some essential particular from his true name (consisting of Christian name and patronymic), with the implication that it is meant to deceive or mislead.

**Black's Law Dictionary – 6th Edition**

**Jurisdiction** - Power by which a court and a judge operates.

**Jurisdiction, in personam.** Power which a court has over a defendant's person and which is required before a court can enter a personal or in personam judgment. It may be acquired by an act of the defendant within the jurisdiction under a law by which the defendant implicitly consents to the personal jurisdiction of the court.

**Black's Law Dictionary – 6th Edition**

**Jurisdiction, In Rem** - The presumed Thing or property which the action involves.

**Jurisdiction, Subject Matter** - The presumed Instrument(s) that has initiated the action.

**Latches** – Neglect to assert right or claim.

The word "**license**," means permission, or authority; and a license to do any particular thing; and if granted by a person having power to grant it, transfers to the grantee the right to do whatever it purports to authorize, (See)

**Gibbons v. Ogden**, 22 US 1, 213.

**Malfeasance** - evil deeds.

**Misfeasance** - Not doing what, by law, was meant for them to do.

"**Motor vehicle**" means every description or other contrivance propelled or drawn by mechanical power and used for commercial business purposes on the highways, byways, roads, streets, or thoroughfares herein the transportation of passengers, or passengers and property. **Title 18 USC 31**

"(14) "Motor vehicle" means: (A) any motor driven or propelled vehicle required to be registered under the laws of this state." **Sec. 501.002, Texas Transportation Code**

**Texas Transportation Code Sec. 501.004. Applicability.**

\* (a) This chapter applies to a motor vehicle **owned by the state** or a political subdivision of the state.

**Non-assumpsit** – A plea by which the defendant avers that ‘he did not undertake’ or promise as alleged.

**OPERATOR**

Today we assume that a "traveler" is a "driver," and a "driver" is an "operator." However, this is not the case. "It will be observed from the language of the ordinance that a distinction is to be drawn between the terms ‘operator’ and ‘driver’; the ‘operator’ of the service car being the person who is licensed to have the car on the streets in the business of carrying passengers for hire; while the ‘driver’ is the one who actually drives the car. However, in the actual prosecution of business, it was possible for the same person to be both ‘operator’ and ‘driver.’"

**Newbill vs. Union Indemnity Co.**, 60 SE.2d 658

"**Personal liberty**-- consists in the power of locomotion, of changing situation, of removing one's person to whatever place one's inclination may direct, without imprisonment or restraint, unless by due course of law."

**1 Blackstone's Comm.** 134;

**Hare-- Const. L.** 777;

**Bouvier's Law Dict.** (1914);

**Black's Law Dict.** 5th Ed. (1983).

**Plea in Abatement** - An attempt to correct a mistake.

A **privilege** is something that can only be lawfully done by obtaining a license to authorize it, and hence the business of exhibiting a circus, which can only be done by obtaining a license, is taxable as a privilege. (See)

**Robertson v. Heneger**, 36 Tenn. (5 Sneed) 257, 258.

**Prima Facie** – At first sight, on the first appearance; on the face of it; so far as can be judged from the first disclosure; presumably; a fact presumed to be true unless disproved by some evidence to the contrary.

**PROHIBITION**--Forbidden to do:...

**BOUVIER'S LAW DICTIONARY** (1914) P. 2739

**IN PRO PER PROPRIA PERSONA**

{In Pro Per Prowpriya Persona}

In one's own proper person. It was formerly a rule in pleading that pleas to the jurisdiction of the court must be plead in propria persona, because if pleaded by attorney they admit the jurisdiction, and an attorney is an officer of the court, and he is presumed to plead after having obtained leave, which admits the jurisdiction.

**PRUDENT** – Practically wise, judicious, careful, discreet, circumspect, sensible.

**REASONABLE** – Fair, proper, just, moderate, suitable under the circumstances.

**Relevancy** - When relevancy of evidence becomes the fulfillment of the condition of fact, the court shall administer upon or subject to the introduction of evidence sufficient to support the finding of fulfillment of the condition. (like writing letters to gain information, which will make the fact of the documents relevant)

**Relevant Evidence** - Evidence having any tendency to make the existence of any Fact, that is any consequence to the determination at the action more probable or less probable than it would be without the evidence.

**Sui juris** – Of his own right, possessing full social and civil rights, not under a power of another.

**Straw man** – A ‘front’; a person who is put up in name only to take part in a deal.

**Tort Action** - a suit under equity, Under chapter 175, you can sue a federal employee for doing something in their official capacity.

**TORT Law** - General Law Violations - Bad Faith remedy for Damages

**Tort Liability** - 74 Am Jur, Sec. 6-37 - Basis of liability - The primary concern of a law of force is the prudence of wrongful acts or omissions harmful to others. Not every act causing injury to another is however actual. The general test determines Tort liability is whether the defendant has disregarded a duty owed the plaintiff in causing such harm. Acts giving rise to Tort Liability may be an unlawful act as in violation of a statute or ordinarily lawful act that is performed in such a manner that under such circumstances as to make it wrongful, as in the negligence failure to observe a standard of care prescribed by the law or an act that is a manner of public policy will give rise to liabilities without fault. As in certain cases involving extra hazardous activity. As in addition, a cause of action arises when one person by an act not in the exercise of a lawful right causes a loss or does damage to another with an intent to produce such harm without justifiable cause. To be actionable the wrongful act of the defendant must :

- 1) infringe upon the legal rights of the plaintiff,
- 2) must approximately cause the injury complained of, interest protected by law in grace property, personal and political and family rights. Contractual interest are a property right and a breach of contract may as well acts constituting a Tort when circumstances surrounding the contractual relationship give rise to a duty apart from performance of a contract.

Note: Intent of the law of Torts have been said not to prefer something to the fact that the act itself is intensely done rather tortious intent means the act of acts for the purpose of causing an invasion of another's interest, or know that such an invasion is resulting or substantially certain to result from his or her conduct. Set intent need not be motivated by ill will to the actable conversely the presence of a good will or rather the absence evil motive does not render a lawful act that is otherwise an invasion of another's rights legally. On the contrary, there are cases that have been stated that several liabilities in Tort is determined by the conduct and not by the mental state of the tortfeasor. However, just as the case of negligence, it is essential in actions involving potential or malicious injury that the injury complained of be proximate results of the wrongful acts. There is no liability for remote harm, even intentional force.

**TRAFFIC**--Commerce, trade, sale or exchange of merchandise, bills, money, and the like; the passing of goods and commodities from one person to another for and equivalent in goods or money...

**BOUVIER'S LAW DICTIONARY**, (1914) p. 3307.

"the word "**traffic**" is manifestly used here in a secondary sense, and has reference to the BUSINESS OF TRANSPORTATION rather than to its primary meaning of interchange of commodities." (emph. supplied)

**ALLEN v THE CITY OF BELLINGHAM**, 95 Wn 12, 163 P. 18.

"**Transportation**": "The removal of goods or persons from one place to another, by a carrier. **Railroad Co. v. Pratt**, 22 Wall. 133 22 L. Ed.827; **Interstate Commerce Com'n v. Brison**, 14 S. Ct. 1125, 154 U.S. 447, 38 L. Ed. 1047; **Gloucester Ferry Co. v. Pennsylvania**, 5 S. Ct. 826, 114 U.S. 196, 29 L. Ed. 158."

**Black's Law Dictionary 4th Edition.**

**The Transportation Code Act is defined as:**

"An Act relating to the adoption of a non-substantive revision of statutes relating to transportation . . ."

"**Traveler**--one who passes from place to place, whether for pleasure, instruction, business, or health."

**BOUVIER'S LAW DICTIONARY** (1914) p. 3309.

**TRAVELER**: One who passes from place to place, whether for pleasure, instruction, business, or health.

**TRAVEL**: To go from one place to another unencumbered at some distance; to journey. Spoken within the voluntary change of place. Within the meaning of such a constitutional right to travel, means migration with intent to settle and abide. (See) **Strong v. Collatos**, D.C. Mass., 450 F. Supp. 1356, 1360.

"**TRAVEL**--to journey or to pass through or over; as a county, district, ROAD, etc. To go from one place to another, whether on foot, on horseback, or in any conveyance as a train, AN AUTOMOBILE, carriage, ship, or aircraft; make a journey."

**CENTURY DICTIONARY** P. 2034.

**Traverse** - agree to disagree; argue.

**VEHICLE**: "Term refers to every device in, upon, or by which a person or property is or may be transported upon a highway." . **Black's Law** (6th Ed.)

**Venue** - Location

**Visit** - (In International Law) the right of a cruiser or warship to stop a vessel sailing under another flag upon the high seas., and until such officer of such vessel to ascertain whether the nationality is what it is supposed to be. Visitation, Inspection, Superintendent, Direction, and Regulation. ( In the same sense, you are using, By Special Visitation, to check out the Venue and Jurisdiction of the Court (warship).)

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