

Warrants, Capias' and Capias Pro Fines



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Class Review

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- Probable Cause
- Judges and Magistrates
- Types of "Warrants"
 - ✦ Warrant of Arrest
 - ✦ Capias
 - ✦ Capias Pro Fine
 - ✦ SERVICES OF "WARRANTS"
 - ✦ FEES / COSTS

Probable Cause

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The amount of evidence necessary to cause a person to believe someone has committed a crime.

Probable Cause

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- Required by.....

- U.S. Constitution, IV Amendment
- Texas Constitution , Article I, Section 9
- Texas Code of Criminal Procedure, Article 1.06

Probable Cause

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Who determines if there is enough evidence:

- **Judge**
- **Magistrate**

Probable Cause Affidavit

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- Must swear that there is sufficient evidence to charge a crime – How do you do that?
 - Affidavit (sworn written statement)
 - Citations are not probable cause affidavits but may have an affidavit as part of the citation
 - Complaints not usually sufficient to act as probable cause affidavits but can be if “cause” is included

Probable Cause Affidavit

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Who prepares/signs affidavits/complaints:

- **Officer**
- **Clerks based on citations**

Probable Cause Affidavit

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• Documents requiring:

➤ **Warrants**

- Warrants of Arrest
- Capias
- Capias Pro Fine
- Warrant for Seizure of Animals

➤ **Search Warrants**

- Art. 18.01(b), C.C.P

AVAILABLE TO PUBLIC AFTER EXECUTED

Judges
And
Magistrates

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Judges

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Authority over cases in their jurisdiction

- ✦ Article 45.014, Code of Criminal Procedure
- ✦ Article 4.14, Code of Criminal Procedure

Magistrates

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- Authority is county-wide
- Accept Complaints and Issue Warrants
 - Class A and B misdemeanors
 - Felonies
- Issue Search Warrants

Judges and Magistrates

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Municipal Judges and Mayors are magistrates in Texas

- Article 2.09, C.C.P

Types of Class C Misdemeanor Warrants

Types of "Warrants for Arrest"

- Capias
- Capias Pro Fine
- Arrest Warrant

Types of "Warrants for Arrest"

- **Capias**
 - Issued (signed) by Judge only
 - ✦ Chapter 23, C.C.P.
 - Pre-judgment
 - ✦ Usually failed to come to court/appear
 - Need complaint for Class C Misdemeanor
 - ✦ Art. 27.14(d) C.C.P.
 - Need probable cause (affidavit/complaint)
 - Requirements: Article 45.014, C.C.P.

Types of “Warrants for Arrest”

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• **Capias Pro Fine**

- Issued (signed) by Judge only
- Post Judgment
- Do not need complaint if have guilty or no contest plea on the citation
- Should have probable cause (affidavit) unless judge personally reviews case for probable cause
- Requirements: Article 43.05, C.C.P

Types of “Warrants for Arrest”

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• **Arrest Warrant**

- Pre-judgment
- Issued (signed) by Magistrate
- Need probable cause (affidavit)
- Requirements: Article 15.02, C.C.P.

Clerks Role – Preparation

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• **Prepare documents (or make sure prepared)**

- Probable cause (affidavit/complaint)
- Complaint (for Capias)
- Correct “warrant” type

• **Check information entered on forms for errors**

- Typing or spelling errors
- Information accurate

Warrant Service/ Execution

Authority

Authority to serve Municipal Court process (warrants and summons)

- City police and marshals under the same rules as sheriffs and constables
- Anywhere in county or counties where city situated

Article 45.202, C.C.P.

Execution of all Arrest Warrant Types

- Warrants are “good” in every part of state
 - Any peace office may serve (execute)
 - Do not need original warrant to serve
 - Warrant good “forever” if complaint filed appropriately
- * “Forever” is until Judge recalls the warrant

Out-of-County Execution - Capias

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- **Fine-only offense**
 - The magistrate has the authority to take a plea, set and collect a fine, and grant jail credit on non-adjudicated cases only
 - Paperwork and money must be sent within 11 business days to court with jurisdiction
 - Article 15.18, C.C.P

Clerks Role – Execution

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- **Coordinate with police department**
 - Original, copy, electronically connected
 - Ensure prompt recall when served/paid
- **After service of the warrant**
 - Ensure correct costs/fees
 - Affidavit and warrant public information
 - Public may view

Arrest Fee

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- \$5.00 arrest fee (part of the total “court costs”)
- Collected upon conviction
- City keeps if local officer issued citation or made warrantless arrest
- If peace officer with statewide authority issues citation or makes arrest , \$1.00 goes to state

“Warrant” Fee

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- Article 102.011(a)(2), C.C.P.
- \$50.00 fee upon conviction for:
 - For services of a peace officer to serve or process a warrant
 - Capias
 - Capias Pro Fine
 - Warrant of Arrest

Collect “Warrant” Fee

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- Arresting law enforcement agency other than one where warrant issued
 - May request \$50; may request mileage
 - Must make request within 15 days of arrest
 - Paid upon conviction
 - Article 102.011 (a) (2), C.C.P.
- If peace officer with statewide authority makes the arrest, court remits \$10 of the \$50 to the State Comptroller
 - Article 102.011(a) (2), C.C.P.

Fee for Summons

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- Summons for defendant or parents or guardian of Juvenile
- Fee of \$35.00
 - Service of Summons
- Defendant must be convicted
- Article 102.011(4), C.C.P.

Special Expense Fee

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- Collected on:
 - Failure to Appear
 - Violate Promise to Appear
- Ordinance required
- Amount – not to exceed \$25.00
- Warrant must be Executed
- Article 45.203, C.C.P.

RECAP

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- Probable Cause:
 - The amount of _____ necessary to cause a person to believe someone has committed a _____. (slide 3)
 - Needed for _____ and _____. (slide 8)
- “Warrant “ Types
 - _____ issued by _____ (slide 15)
 - Capias Pro Fine issued by _____ (slide 16)
 - _____ issued by _____ (slide 17)

Recap

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- Only a _____ or _____ can sign (issue) any type of warrant (slides 15,16,17)
- A _____ must be prepared before a capias is issued (slide 18)
- Warrants may be served anywhere in the _____ but your peace officer can only serve in the _____. (slide 20)

Recap

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- **Four Costs/Fees**

- \$5.00 _____ (slide 24)
- \$ _____ "warrant fee" (slide 25)
- \$ _____ summons service fee (slide 27)
- \$25.00 additional service fee for _____ and _____ warrants (slide 28)

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Questions?
