

Contents

I. Abbreviation Guide.....	1
II. Introduction.....	1
A. <i>Jurisdiction</i>	1
III. Filing a Complaint Before a Magistrate in Chambers	2
IV. Procedure to be followed upon the lodging of Complaint (by a private person) under s 151(2).....	3
A. <i>Examination of the Complainant</i>	3
B. <i>Orders that Can Be Made By a Magistrate After Examining the Complainant</i>	4
C. <i>Dismissal of the complaint</i>	5
V. Orders Made by Magistrate to Compel Attendance or to Exercise Specific Powers	6
(1) Issuance of Summons or Warrant of Arrest.....	6
(2) Issue of Search Warrant	8
(3) Order to Show Cause for Breach of Peace.....	11
List of Sources	12
Appendix.....	13

I. Abbreviation Guide

“CPC” – [Criminal Procedural Code](#) (Cap. 68)

“CA” – [Copyright Act](#) (Cap.63)

“CMC” – Community Mediation Centre

“CMCA” – [Community Mediation Centres Act](#) (Cap. 49A)

“PC” – [Penal Code](#) (Cap. 224)

“CP(TDSR)A” – [Consumer Protection \(Trade Descriptions and Safety Requirements\) Act](#) (Cap. 53)

“SCPD” – [State Courts Practice Directions](#)

“CPCR 2018” – [Criminal Procedure Rules 2018](#)

[Note: All statutory references herein are to the CPC unless otherwise stated.]

II. Introduction

A. Jurisdiction

1. The CPC provides for the initiation of criminal proceedings against any person pursuant to:

- a. an arrest;
- b. a summons;
- c. an arrest warrant;
- d. a notice to attend court [see s 110]; or
- e. any other mode compelling the attendance of a person in court which is provided for under the CPC or any other written law.

[See s 150]

2. In the exercise of its jurisdiction, a District Court has all the powers which belong to a Magistrate’s Court.

[See s 8(2)]

III. Filing a Complaint Before a Magistrate in Chambers

3. Any person may make a Complaint to a Magistrate. In practice, the Complaint is made at the State Courts before a Magistrate in Chambers, in Form 41.

[See s **151(1)** and **Appendix A**]

4. Where the person making or lodging the Complaint is a private person acting in his / her personal capacity, that person (who is known as a “Complainant”) will be examined by the Magistrate. The procedure is set out in s **151(2)**, CPC.

5. The procedure in s 151(2) *does not* apply where the Complaint is made by a police officer, an officer from a law enforcement agency or a person acting with the authority of a public body (collectively “police officer or public officer”).

6. Where a Complaint is lodged by a police officer or public officer, and the Complaint is written and signed by that officer or person; then if the Magistrate finds sufficient reason to proceed, and the case is one where a summons should ordinarily issue in the first instance, the Magistrate should first issue a summons. [See s **153(1)(b)**]

- a. Complaint in person must affirm their complaint personally before the Magistrate and be subjected to examination on oath. Before a summons is issued, the State Courts will encourage mediation where possible. Draft charges will have to be tendered and a summons will only be issued thereafter if the draft charges are in order.

7. However, when any person who happens to be a police officer or public officer lodges a Complaint to a Magistrate acting as a private person in his / her *personal* capacity, the procedure in s 151(2) applies to him / her.

[See s **151(1), (2)** and **Appendix A**]

8. Complaints filed by private persons are usually made with a view to resolving disputes which could otherwise lead to a private prosecution. A private prosecution is the pursuit of criminal legal proceedings by a private individual, who believes that an offence has been

committed against him. If the complainant is a minor¹, the complaint must be filed through the complainant's parent or guardian. However, only cases involving offences which carry a maximum sentence which does not exceed 3 years' imprisonment or which are punishable with a fine only can be dealt with by way of a private prosecution.

[See s 11(1)]

9. Administratively, Complaints are processed at the State Courts Central Registry, at the Community Justice and Tribunals Division. A Complainant who acts in person will be referred to a Court interpreter who will assist him to write his Complaint down in the prescribed form, attaching any supporting documents. The Complaint must be signed by the Complainant. A filing fee of \$20 has to be paid.

10. Thereafter, the Complainant will be brought before a Magistrate in Chambers. If he is represented by a lawyer, his lawyer may also attend with him. The Complainant must then either swear or affirm on oath as to the truth of the matters set out in his Complaint before the Magistrate.

IV. Procedure to be followed upon the lodging of Complaint (by a private person) under s 151(2)

A. Examination of the Complainant

11. Upon receiving a Complaint, the Magistrate will examine the Complainant on oath or affirmation and satisfy himself as to the veracity of the matters set out in the Complaint. The substance of the examination (including any additional facts disclosed in the course of the examination) must be reduced to writing and must be signed by both the Complainant and the Magistrate.

[See s 151(2)(a)]

12. Where a person has provided information at a police station about an offence, and that information in turn relates to a non-arrestable offence, that person (*i.e.* the informant) may by

¹ The age of majority that applies in Singapore is 21 years, in accordance with common law. Thus any person below the age of 21 years is considered a minor.

order of a police officer be referred to a Magistrate. Thereafter, the same procedure set out in s 151(2) applies.

[See s 16]

B. Orders that Can Be Made By a Magistrate After Examining the Complainant

13. After examining the Complainant, the Magistrate may proceed in accordance with one of four prescribed options set out in s 151(2), or he may dismiss the Complaint.

14. First, the Magistrate may, for the purpose of inquiring into the case himself, **issue a summons to compel the attendance of any person who may be able to help him determine whether there is sufficient ground for proceeding with the Complaint.**

[See s 151(2)(b)(i)]

15. Second, the Magistrate can also **direct any police officer to make inquiries to ascertain the truth or falsehood of the Complaint and the officer will thereafter report the results of the inquiry to the Magistrate.** In other words, the Magistrate may direct the police to investigate the matter and report the outcome of their investigations back to him.

[See s 151(2)(b)(ii)]

16. Third, the Magistrate can **proceed in accordance with s 15 of the CMCA** and order that the matter be mediated either at the CMC or at the State Courts' Centre for Dispute Resolution. A non-exhaustive list of disputes that are commonly considered suitable for mediation is set out at the CMC's website [here](#).

[See s 151(2)(b)(iii), s 15 CMCA]

[**Note:** Mediation is the preferred method to resolve disputes. Private prosecutions should only proceed as a last resort.]

- a. Section 15 CMCA provides that a Magistrate may refer a Complaint to a mediator of a Community Mediation Centre for mediation.
- b. The Magistrate may make such a referral if –
 - i. The offence is one for which a summons would ordinarily issue in the first instance, and

- ii. The Magistrate is of the opinion either from the nature of the case or the attitude of the parties or both that the matter may more appropriately be resolved by mediation.

17. Fourth – the Magistrate may **postpone consideration of the matter** to enable the Complainant and the person complained against (usually referred to as “the Respondent”) to try to resolve the matter amicably amongst themselves.

18. A Workflow Chart of the process of filing a Magistrate’s Complaint in the State Courts is set out on page 14.

C. Dismissal of the complaint

19. After examining the Complainant, and

- a. making an inquiry under s 151(2)(b)(i), or
- b. considering the result of police investigations under s 151(2)(b)(ii),

the Magistrate may dismiss the Complaint if he decides that there is insufficient reason to proceed. This could include *e.g.* there being insufficient grounds for proceeding as there is no offence disclosed after the Magistrate has examined the Complainant.

[See s 152(1)]

20. A Magistrate may also dismiss the Complaint if the Complainant does not provide reasonable grounds for his failure or refusal to attend a mediation session (after being referred to mediation by the Magistrate under CMCA or a police officer CPC).

[See s 152(2)]

21. The Magistrate must record the reasons for dismissal of a Complaint. [See s 152(3)]

V. Orders Made by Magistrate to Compel Attendance or to Exercise Specific Powers

(1) *Issuance of Summons or Warrant of Arrest*

22. If the identity and whereabouts of the Respondent is known and the Magistrate finds that there is sufficient ground for proceeding against him, a summons or a warrant may be issued by the Magistrate.

23. In the context of Complaints before a Magistrate, a summons must be issued where the Magistrate –

- a) finds sufficient reason to proceed with the Complaint of a private person,
- b) finds sufficient reason to proceed with the Complaint of a police officer or public officer, who has made a Complaint in writing and signed the said Complaint, or
- c) knows or suspects that an offence has been committed, and

the case appears to be one in which the fourth column of the First Schedule of the CPC provides that a summons should first be issued.

[See s 153(1)]

24. In deciding whether there is sufficient reason to proceed to issue a summons in a Complaint lodged by a private person, the Magistrate shall also take into account whether the Respondent has failed to refused to attend any mediation session that he may have been ordered to attend.

[See s 153(2)]

25. Where the Complainant is represented by a lawyer, the lawyer will prepare a charge and a Summons will be issued with the charge attached. If the Complainant is not represented by a lawyer, he would have to prepare a draft charge himself. The staff at the Registry may provide him with simple sample charges as a guide.

26. A summons in a private prosecution can generally only be served on a Respondent who resides in Singapore. Where the Respondent does not reside in Singapore, or where his address cannot be determined, the Complaint cannot proceed.

[See [State Court website](#) and **Appendices B, C, D**]

27. The form of a summons is set out in Form 37 or Form 42 (Appendix C and B).

28. The summons remains valid and in force unless it is cancelled by the Court or until the person summoned is discharged by a Court. It may be served by a police officer, an officer of the Court, or by any other person directed to do so by the Court. In cases where the summons is issued in connection with an offence under any written law enforced by a public body (e.g. for carpark offences under the Parking Places Rules), the summons may be served by an officer of that public body.

[See **s 115 CPC** and **Appendix B and C**]

29. For summonses (in a private prosecution) that are to be served by a solicitor's clerk, the following State Courts Practice Directions apply –

- a) The summons must be served at least 7 days before the return date of the summons.
- b) Once the summons has been served, it must be returned to the Crime Registry immediately after service, so that the case will be listed for mention.
- c) If the summons cannot be served on the respondent 1 week before the mention date, the authorization to serve will lapse.
- d) In order to obtain further authorization for the firm's clerk to serve the summons on the respondent or to obtain an extension of the return date, the solicitor must appear before the Duty Magistrate not later than 5 days before the return date.
- e) Failure to comply with this may result in the Complaint being struck off the list.

[PD 126(3), State Courts Practice Directions]

30. For offences under the PC, whether a summons or warrant is to be issued is determined by reference to the fourth column of the First Schedule of the CPC.

[See **s 153** and **First Schedule**]

31. For offences in statutes other than the PC, whether a summons or warrant of arrest is to be issued is determined by reference to the respective statutes and the fourth column of the First Schedule of the CPC.

[See s 153 and **First Schedule**]

32. Examples of cases in which a summons would be issued include - complaints in respect of less serious offences under the PC (eg criminal force, voluntarily causing hurt), or offences under the Protection from Harassment Act.

33. Where the Magistrate decides to issue a warrant of arrest, he will consider whether bail should be offered. If bail is offered, the amount of bail will be stated in his order. In practice, for minor offences which are the usual subjects of private prosecutions, bail in the region of \$5,000 would often be set. The practice in the State Courts is that for bail sums that are less than \$15,000; no cash needs to be paid to Court.

34. Any person who is arrested for any offence (save for non-bailable offences) must be released on bail (in conventional circumstances) by a police officer in cases determined by the Commissioner of Police or by the court. Bailable offences are set out in the fifth column of the First Schedule of the CPC. In addition, s 93 of the CPC lays out exceptions where a person accused of a non-bailable offence may be released on bail.

[See s 92, s 93 and **First Schedule**]

35. The form of a warrant of arrest is set out in Appendix D. The warrant will remain in force until executed or cancelled by the Court.

[See s 71 and **Appendix D**]

(2) *Issue of Search Warrant*

36. A Magistrate may issue a search warrant where:

- a. the court has reason to believe that a person to whom an order has been issued, or a summons is addressed would not produce any document or thing as required;

[See s 20(1), (1A), (3), (3A) or s 235(1) and s 24(1)(a)]

b. the document is not known by the Court to be in the possession of any person;

[See s 24(1)(b)]

c. the court considers that the purposes of justice or of any investigation, inquiry, trial or other proceeding under the code will be served through a general or specific search or inspection; or

[See s 24(1)(c)]

d. the Court has reasons to believe that the person is wrongfully confined.

[See s 30(1) and **Appendix F**]

37. A search warrant issued by the Court must be in writing and signed by the Magistrate. It is ordinarily issued to the Commissioner of Police and to other designated police officers for execution. The warrant will remain in force for the number of days as stated, subject to conditions specified in court.

[See s 26(1), (2) and (5)]

38. The Magistrate may specify in the search warrant the particular place or part to be inspected and the execution of the warrant must be limited to those specifications.

[See s 26(4)]

39. The occupier or person in charge of the place must allow free entry and provide all reasonable facilities for the person in charge of executing the warrant to search in it. In the case where free entry cannot be obtained, the person executing the warrant is allowed to use any reasonable means to gain entry into the place.

[See s 31]

40. A list of all the things seized during the search, along with the location of the item, must be signed by the person making the search. The occupier or person in charge of the place is allowed to attend the search and must sign a copy of the list.

[See s 37]

41. In addition to all the above, upon information and further necessary inquiry, if a Magistrate has reasons to believe that any place is use for:

- a. the deposit or sale of stolen property, property unlawfully obtained or goods in respect of which an offence has been committed under CP(TDSR)A;
- b. the deposit, sale or manufacture of any forged document, false seal, counterfeit stamp or coin, or any instrument or material for counterfeiting coins or stamps or for forging; or
- c. concealing, keeping or depositing any stolen property or property unlawfully obtained, forged document, false seal, counterfeit stamp or coin, or any instrument or material used for counterfeiting any coin or stamp or for forging;

[See s 25(a), (b), (c)]

42. The Magistrate may also authorise by warrant a person to:

- a. enter the place with assistance as required;
- b. search in the manner as specified in the warrant;
- c. take possession of the goods stated in [21] which he reasonably suspects to be the subject of an offence (committed under CP(TDSR)A);
- d. convey the items seized in (c) before a Magistrate's Court, or to guard them on the spot until the offender is taken before a Magistrate's Court or until they are disposed of in a safe place; and
- e. take into custody and produce before a Magistrate's Court every person found in the place who appears to be a privy to the deposit, sale, manufacture or keeping any of such items knowing or having reasonable cause to suspect that the items to have been a subject of an offence as laid out in [21].

[See s 25 (i)-(v)]

43. For the issue of a warrant in respect of offences for the *infringement of trade mark or copyright*, the guidelines are as follows:

- a. Complaints involving infringement of trademark or copyright must be sworn by authorised representatives. A letter of authorisation must be attached.

[See **PD 126** of [SCPD](#)]

- b. Where there is reasonable cause for suspecting that there is evidence of an offence committed under the CA from information given upon oath to the Court, a warrant can be issued to authorise a search of the premises for articles specified in the warrant and to seize such articles.

[See **s 136(9)** of CA]

- c. When a warrant is issued under the CA and no proceeding has been instituted within 6 months of the seizure, the articles or documents shall be returned to the person from whom it was seized or disposed of in accordance with the law for disposal of lost or unclaimed property with the police.

[See **s 136(10), (11)** of CA]

(3) *Order to Show Cause for Breach of Peace*

44. The Magistrate may require a person to execute a bond to keep the peace (for a period of up to 2 years) when that person appears likely to breach the peace or do a wrongful act that might lead to the breach of peace, subject to that person showing cause on why the bond should not be executed.

[See **s 43** and **Appendix G**]

45. When the Magistrate requires the person to show cause, the order must be set out in writing with:

- a. the information received on which the court is acting;
- b. the amount of the bond to be executed;
- c. how long the bond will be in force; and
- d. the number of sureties, if any, required.

The Order will be **Form 10** of the CP(PF)R.

[See s 46 and **Appendix H**]

List of Sources

Criminal Procedure Code (Cap. 68, 2012 Rev Ed)

Jennifer Marie, and Mohamed Faizal Mohamed Abdul Kadir. *The Criminal Procedure Code of Singapore: Annotations and Commentary*, Singapore: Academy Publishing (2012).

Complaints to Magistrates, Law Society Singapore (Old version of practice guide)

Other possible sources

State Courts website on [Magistrate's Complaint](#) and [mediation](#) (for a brief introduction on Magistrate's Complaint)

Criminal Procedure Rules 2018

Copyright Act (Cap.63, 2006 Rev Ed)

Community Mediation Centres Act (Cap. 49A, 1998 Rev Ed)

Penal Code (Cap. 224, 2008 Rev Ed)

Consumer Protection (Trade Descriptions and Safety Requirements) Act (Cap. 53, 2013 Rev Ed)

[State Courts Practice Directions](#)

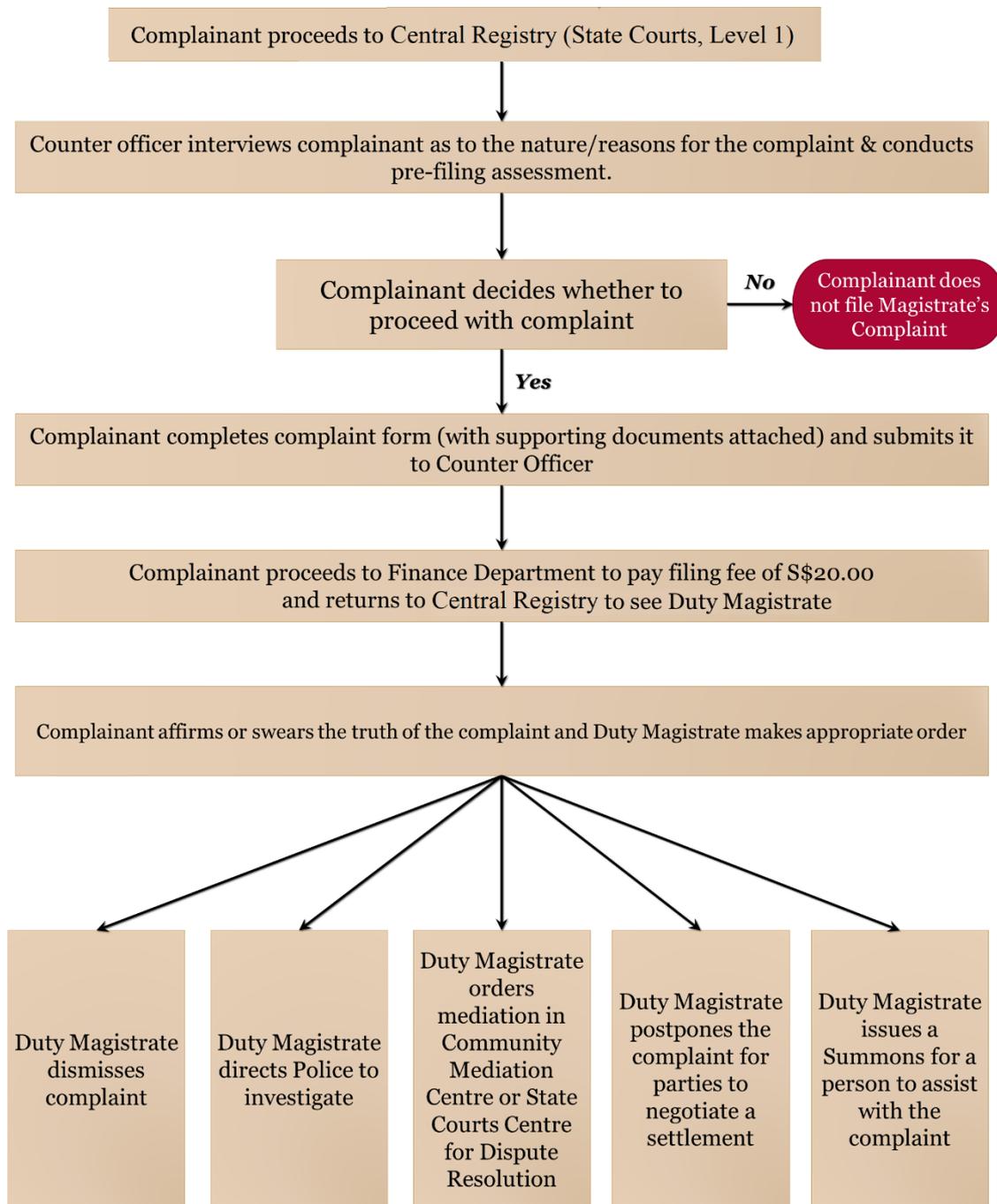
Appendix

All forms can be found in the Criminal Procedure Rules 2018.

(See <https://sso.agc.gov.sg/SL/CPC2010-S727-2018?DocDate=20190620#Sc->)

Community Justice & Tribunals Division

FILING A MAGISTRATE'S COMPLAINT



FORM 41

COMPLAINT TO MAGISTRATE
(SECTIONS 151(1) AND 153(1))

Complainant

Please : Mr/Mrs/Miss/Mdm* _____
state

Address : _____

NRIC No. : _____ Tel: _____ Date: _____ Time: _____

Solicitors (if any)

Name : _____

Firm : _____

ID : _____ File Ref No.: _____

Respondent

Please : Mr/Mrs/Miss/Mdm* _____
state

Address : _____

NRIC No. : _____ Tel: _____ Relationship: _____

Complaint

Related : _____ / _____
Case No.

Nature : Maintenance/Enforcement/Variation/Suspension/Protection*

Police : _____
Report
No.

FOR OFFICIAL USE:

MSS/SS/PSS/C* _____ / _____ DIV

Summons Serial No.: _____

Date of Service and Time: ____/____/____ 9.00 a.m./2.00 p.m.*

Court Date and Time: ____/____/____ 9.00 a.m./2.00 p.m.*

Court No.: _____

Issue Search Warrant/Warrant/Summons*

against : _____

under : _____

District Judge/Magistrate

*Delete where applicable

Complaint Form

The complainant being examined on oath states:

Signature of complainant

Before me

Interpreted by _____

District Judge/Magistrate

Interpreter of Court _____

FORM 42

SUMMONS TO AN ACCUSED PERSON
(SECTION 153(1))

To: Name and address of accused.

Whereas your attendance is necessary to answer to a charge [*mention shortly the offence charged*], you are hereby required to appear on (*date*) at (*time*) in person before Court No. _____ at the State Courts, (*address*).

Dated this _____ day of _____ 20 ____ .

(*Signature*)

District _____ Judge

Magistrate

Entered No. _____

(*Seal of Court*)

Clerk

FORM 4

WARRANT TO SEARCH ON
INFORMATION GIVEN OF AN OFFENCE
(SECTIONS 24 AND 26(1))

To: The Commissioner of Police and
(other police officers to be designated by name).

Whereas information has been laid [*or complaint has been made*] before me of the commission [*or suspected commission*] of the offence of (*mention the offence concisely*), and it has been made to appear to me that the production of the articles specified in the Schedule below is essential to the inquiry now being made [*or about to be made*] into the said offence [*orsuspected offence*]:

This is to authorise and require you to search for the said articles specified in the Schedule below in the (*describe the particular place or part thereof, to which the search is to be confined*), and, if found, to produce the same forthwith before Court No. at the State Courts, Singapore, and to return this warrant with an endorsement certifying what you have done under it immediately upon its execution.

This warrant shall remain in force (*state number of days*) from the date of issue.

Issued this day of 20 .

(*Signature*)

District Judge
Magistrate

(*Seal of Court*)

The Schedule

[*state the articles to be produced*]

FORM 5

WARRANT TO SEARCH PLACE SUSPECTED OF
BEING USED TO CONFINE A PERSON
(SECTION 30)

To: The Commissioner of Police
and all other police officers in Singapore.

Whereas I have received information and I have reason to believe that (*describe the place or house*) has been used to wrongfully confine one (*name of person*).

This is to authorise and require you to enter the said (*place or house*) with such assistance as shall be required and to use, if necessary, reasonable force for that purpose and to search every part of the said (*place or house*) for the said (*name of person*) and to take into custody and bring before a Magistrate's Court every person found in the said (*place or house*) who appears to have been privy to the confinement of the said (*name of person*) and to return this warrant immediately upon its execution with an endorsement certifying what you have done thereunder.

This warrant shall remain in force for days.

Issued this day of 20 .

Entered No.

(*Seal of Court*)

(*Signature*)

Magistrate

Clerk

FORM 8

BOND TO KEEP THE PEACE
(SECTIONS 41, 42 AND 43)

Whereas I, (*name and address of person*), have been called upon to enter into a bond to keep the peace for the term of (*state the period*), I hereby bind myself not to commit a breach of the peace [*or do a wrongful act that might lead to a breach of the peace*] during the said term; and in case of my making default therein, I hereby bind myself to forfeit to the Government the sum of _____ dollars.

Dated this _____ day of _____ 20 .

(*Signature*)

FORM 10

ORDER TO SHOW CAUSE
(SECTION 46)

To: Name and address of person to show cause.

Whereas information has been received by Court No. _____ at the State Courts, (*address*),
that (*set out the substance of the information received*).

It is hereby ordered that you attend this Court on (*date*) at (*time*) to show cause why you
should not be ordered to execute a bond for your good behaviour in the sum
of _____ dollars to be in force for the term of _____ months with sufficient
sureties being (*here state number, character and class of sureties required*).

Dated this _____ day of _____ 20 .

(*Signature*)

District _____ Judge
Magistrate

(*Seal of Court*)