

CPL ARTICLE 100:
COMMENCEMENT IN LOCAL CRIMINAL COURTS.

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A criminal is commenced with the filing of the first accusatory instrument.

Filing a Grand Jury Indictment where the defendant was never before held on the same charge(s) by a Local Criminal Court is the *only* method of commencing such a proceeding in a Superior Court.

Otherwise, an action in Local Criminal Court is commenced by filing: Information; Simplified Information; Prosecutor's Information; Misdemeanor Complaint; or Felony Complaint.

Criminal Court have concurrent jurisdiction with Family Court over Article 8 (Family Offense) proceedings.

An Information is a **verified** instrument charging one or more offenses, but NO felonies. An Information may commence a proceeding, and/or be the basis of prosecution therefor.

Simplified Traffic/Parks/Environmental Conservation Informations are written accusations by Police Officer **or** Public Servant in simplified form as determined by appropriate Commissioner; which contain no evidentiary factual allegations, and charge only misdemeanors or traffic infractions. Simplified Information commence an action, and *may* serve as the basis for prosecution.

Prosecutor's Information is written by the District Attorney, at own behest, **OR** at direction of: Grand Jury; Superior Court; Local Criminal Court. It charges only non-felony offenses, and serves as the basis of prosecution therefor. It only *commences* an action however, **IF**: it was directed by the Grand Jury, **AND**: there was no pending Local Criminal Court proceeding.

Misdemeanor Complaint is a verified charge of non-felony offenses which commences an action; however it only serves as prosecutorial basis **IF**: the Defendant waives the filing on an Information.

Felony Complaints are filed with a Local Criminal Court, and allege felonies ONLY. It commences a case, but **never** serves as the basis for prosecution.

All Informations and Complaints shall specify: name of court where filed; and title of action. They must be subscribed and verified by a complainant (including on "information & belief"). They contain both an Accusatory and Factual parts; only the Factual part is so verified.

A Factual part is a single account which supports all charges and every element thereof by non-hearsay allegations in order to be facially sufficient. The Accusatory part shall designate multiple allegations in separate counts. It may charge multiple defendants only if all are jointly accused of each and every offense.

A Violent + Armed felony so charged must be so designated in the accusatory instrument.

A Supporting Deposition is verified by a *non*-complainant, and may accompany an Information, or Misdemeanor/Felony Complaint.

However, with regard to a Simplified Information, the Defendant shall be entitled to a Supporting Deposition by the complainant officer; any time within 30 days after date for appearance (also timely if mailed within such period) **AND:** *before* pleading guilty, or trial commencing. Court shall order officer to comply by 1) serving such deposition within 30 days of request, and no less than 5 days before trial; & 2) filing with Clerk together with proof of such service. If the charge is a misdemeanor, Court *may* allow Defendant's request up to 90 days from appearance. Any appearance ticket on a Simplified Information must advise the defendant of the right to a supporting deposition, and ask if one is thereby requested.

Verification of Information, Misdemeanor/Felony Complaint, Supporting Deposition, or proof of service, **UNLESS:** Court specifies method, can be any of the following:

- 1) before Court where filed;
- 2) by Police Desk Officer or Superior;
- 3) if filed by a Public Servant after issuance of an appearance ticket, may be by another public servant;
- 4) if the document contains a notice that false statements are punishable as Class A Misdemeanor, subscription thereto constitutes verification;
- 5) by Notary Public.