PRE ARREST

This is a warrant application hearing. At this time no warrant has been issued for anyone. The purpose of this hearing is to determine if there is sufficient evidence to establish probable cause for a criminal warrant to issue. The court cannot and will not compel the attendance of either the Applicant or the Accused. If you are the applicant and have decided not to proceed, please make that announcement and the case may be dismissed.

The court will allow both the Applicant and the Accused to present evidence, call and question witnesses, offer explanations for conduct or events, and propose resolutions to their conflict, including but not limited to arrest warrant(s).

Before commencing with testimony, I must advise both parties, and especially the accused, of certain constitutional rights. The accused must be aware that the applicant is seeking a warrant for his/her arrest. However, there is always the possibility that during the course of the hearing, evidence may be presented by the accused and witnesses that incriminate the Applicant. If that evidence is sufficient to establish probable cause that the accused has committed a criminal act, a criminal warrant could be issued for the accused.

Neither the Applicant nor the Accused can be compelled to testify; both have the right to remain silent. No one has to say or do anything that incriminates themselves, or makes it appear that they are guilty of a crim. A recording will be made of this proceeding. Subsequently, if the Applicant or the Accused says anything that incriminates themselves, that information may be sued against them in the hearing today, as well as any subsequent hearings or trials that may be the result of the findings of this court. The Applicant and/or accused may waive their right to remain silent and offer testimony if they choose. Everyone who testifies will be placed under oath, and once they testify, they will be subject to cross-examination by the other party, and the Court may also ask them questions. Anyone who is offering testimony may stop answering questions at any time and invoke their right to remain silent’ however, any refusal to answer questions may result in rejection of testimony already given.

Either the Applicant or the Accused may seek the advice of an attorney before testifying. However, the hearing will not be automatically continued while they seek legal counsel, and counsel will not automatically be appointed prior to the issuance of a warrant for those unable to afford counsel. The Court will consider any request for continuance o for appointment of counsel for the accused but may choose to proceed in the hearing today. If the Accused wishes not to testify, he or she may do so without giving up the right to question or call witnesses.

(Swear all witnesses If the accused affirmatively waives the right to remain silent and wishes to testify, allow him or her to do so. The Applicant and his or her witnesses should be heard first. If the accused is not present do not issue a warrant by default, listen to testimony and determine probable cause)