

## CRIMES WHICH REQUIRE PRELIMINARY INVESTIGATION

Preliminary investigation is required for offenses where the penalty prescribe by law is imprisonment of at least 4 years, 2 months, and 1 day without regard to the fine.

### FILING OF A COMPLAINT

The complaint shall:

1. State the address of the respondent
2. Accompanied by the affidavits of the complainants and his witnesses as well as other supporting documents to establish probable cause. Affidavits shall be subscribed and sworn to before any prosecutor or government official authorized to administer oath, or in their absence or unavailability, before a notary public.
3. in such number of copies as there are respondents + 2 copies for the official file.

### WITHIN 10 DAYS AFTER THE FILING OF COMPLAINT, THE INVESTIGATING OFFICER SHALL:

#### DISMISS

If he finds no ground to continue with the investigation.

#### ISSUE SUBPOENA TO THE RESPONDENT

Attaching to it the copy of the complaint and its supporting documents. The respondent shall have the right to examine the evidence submitted by complainant which he may not have been furnished and to copy them.

If the respondent cannot be subpoenaed or he does not submit the same within the 10-day period, the investigating officer shall resolve the complaint based on the evidence presented by complainant.

#### SUBMIT COUNTER-AFFIDAVIT

Within 10 days from receipt of the subpoena, the respondent shall submit his counter-affidavit and that of his witnesses and other supporting documents relied upon for his defense. The counter-affidavit shall be subscribed and sworn to. Copies furnished by him to complainant.

Note: The respondent is not allowed to file a Motion To Dismiss in lieu of a counter-affidavit.

If the respondent cannot be subpoenaed or he does not submit the same within the 10-day period, the investigating officer shall resolve the complaint based on the evidence presented by complainant.

#### CLARIFICATORY HEARING

Within 10 days from submission of counter-affidavit, the investigating officer may set a hearing if there are facts and issues to be clarified from a party or witness. The party can be presented at the hearing but without right to examine or cross-examine. However, they may submit questions to the investigating officer which may be asked to the party or witness concerned. The hearing shall be terminated within 5 days.

#### DETERMINATION WHETHER OR NOT THERE IS SUFFICIENT GROUND TO HOLD RESPONDENT FOR TRIAL

Within 10 days after the investigation, the investigating officer shall determine whether or not there is sufficient ground to hold respondent for trial.

# Criminal Procedure Checklists 1994

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