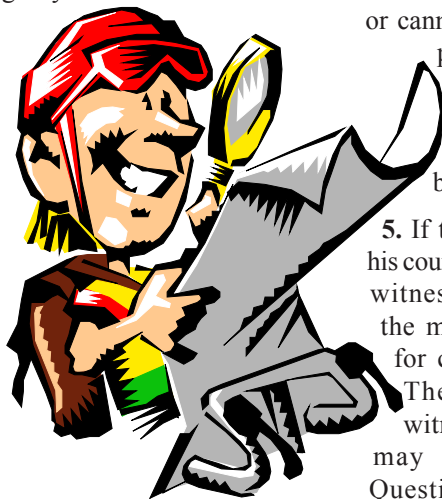
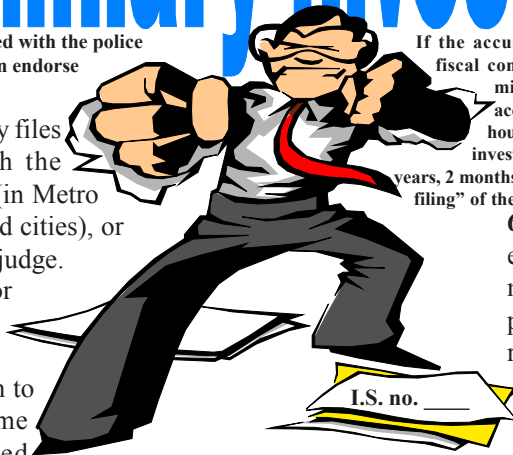


Preliminary investigation

The complaint may be filed with the police investigators who will then endorse it to the fiscal's office.

If the accused is arrested on the spot, the fiscal conducts an INQUEST, not a preliminary investigation. Charges against the accused must be filed within 18, 24 or 36 hours. The fiscal is not required to conduct an investigation for cases with a penalty below 4 years, 2 months and one day, and may resort to "direct filing" of the case in court.

1. The offended party files the complaint with the prosecutor's office (in Metro Manila and chartered cities), or with the municipal judge.
2. The prosecutor (or municipal judge) conducts a preliminary investigation to determine if a crime has been committed and if the accused is probably guilty of such crime.



3. If there is sufficient ground, the prosecutor (or municipal judge) issues a subpoena to the respondent, together with a copy of the complaint, affidavits of the witnesses and other supporting documents.

4. If the respondent does not submit his counter-affidavits, or cannot be subpoenaed, the prosecutor (or municipal judge) renders a resolution based only on evidence presented by the complainant.

5. If the respondent submits his counter-affidavit, that of his witnesses, and documents, the prosecutor may conduct a hearing for clarificatory purposes. The parties and their witnesses are present but may not cross-examine. Questions and answers are coured through the public prosecutor. The parties may file reply affidavits and rejoinder (or verified memoranda) after which the issues are resolved.

The respondent can file a counter-charge against the complainant.

6. Resolution recommending either dismissal or filing is submitted to the provincial or city prosecutor together with all the records and evidence.

7. The provincial or city prosecutor may dismiss the complaint within ten days from the receipt of the records.

8. If the complaint is dismissed, the complainant may appeal to the Department of Justice, through a petition for review by way of appeal.

9. If the provincial or city prosecutor approves the filing of information, the respondent may file a petition for review with the Department of Justice only in cases of grave abuse of discretion or manifest error by the prosecutor.

10. Upon filing of the information with the clerk of court of either the MTC or RTC, the case is raffled off to a judge who examines the records of the case and the investigation record. The judge may then issue a warrant of arrest against the accused. (Rule 112)