

It is an inquiry or proceeding to determine if there is sufficient ground to engender a well-founded belief that a crime has been committed and that the respondent is probably guilty and should be held for trial.

I. Nature and Purpose

- **Purpose:** Its primary objective is to protect the innocent from the inconvenience, expense, and stress of a formal trial until the reasonable probability of their guilt is passed upon by a competent officer.
- **Right to Investigation:** While not a constitutional right, it is a **statutory right** and a component of substantive due process. It is also **waivable**.
- **Executive Function:** The conduct of a preliminary investigation is a function of the **public prosecutor**, belonging to the executive department.

II. Who May Conduct (Section 2)

The following officers are authorized to conduct preliminary investigations:

- Provincial or City Prosecutors and their assistants.
- National and Regional State Prosecutors.
- Other officers as may be authorized by law (e.g., PCGG or Ombudsman).
- **Note:** While the Rules of Court (Section 2) traditionally included Municipal Trial Court Judges, current practice under the provided syllabus emphasizes the role of the prosecution office.

III. When Required vs. When Not Required

- **When Required (Section 1):** It is mandatory for offenses where the penalty prescribed by law is **at least four (4) years, two (2) months, and one (1) day**, without regard to the fine.
- **When Not Required:**
 - **Lower Penalties (Section 9):** For offenses with lower penalties, the case is initiated by direct filing with the prosecutor or the court.
 - **Lawful Warrantless Arrests (Section 6):** If a person is arrested lawfully without a warrant, an Information may be filed without a preliminary investigation, provided an **inquest** is conducted.
 - **Summary Procedure:** Cases covered by the Rules on Summary Procedure do not require a preliminary investigation.

IV. Procedure (Section 3)

1. **Filing (Section 3a):** The complaint must state the respondent's address and be accompanied by affidavits from the complainant and witnesses, sworn before an authorized officer.
2. **Initial Action (Section 3b):** Within ten days, the investigating officer may either **dismiss** the complaint or **issue a subpoena** to the respondent.
3. **Counter-Affidavits (Section 3c):** The respondent must file a counter-affidavit within ten days; **motions to dismiss are prohibited** in lieu of this.

4. **Resolution (Section 3f):** Within ten days of the investigation's termination, the officer determines if there is sufficient ground for trial.

V. Determination of Probable Cause

- **Executive Determination:** The prosecutor determines if there is a *prima facie* case to file an Information. Recent DOJ circulars (e.g., Circular No. 2024-015) emphasize finding "Prima Facie Evidence with Reasonable Certainty of Conviction".
- **Judicial Determination (Section 6):** After an Information is filed, the judge **personally evaluates** the resolution and supporting evidence to determine if a **warrant of arrest** should issue. The judge may (1) dismiss the case, (2) issue a warrant, or (3) require additional evidence.

VI. Review and Withdrawal (Section 4)

- **Approval:** No Information may be filed or dismissed without the written authority of the Provincial/City Prosecutor or the Ombudsman.
- **Appeal:** Resolutions may be appealed to the **Secretary of Justice**, who has the power of control and supervision to reverse or modify them.
- **Withdrawal of Information:** Once the Information is filed in court, any motion to withdraw or dismiss rests within the **exclusive discretion of the trial court**.

Gerry A. Salapuddin vs. The Court of Appeals, Gov. Jum Akbar, and Nor-Rhama J. Indanan G.R. No. 184681 February 25, 2013

FACTS: Petitioner Gerry A. Salapuddin (Salapuddin) filed the instant petition assailing the Decision and Resolution of the Court of Appeals (CA). Gov. Jum Akbar and Nor-Rhama J. Indanan are the respondents. A bomb exploded near the entrance of the South Wing lobby of the House of Representatives (HOR) in the Batasan Complex, leading to the death of Representative Wahab Akbar and others. Respondents Jum Akbar and Nor-Rhama Indanan questioned the Secretary of Justice's Resolution before the CA and they argued in the main that matters relating to the admissibility of evidence and credibility of witnesses are best determined by the courts during trial, and not at the stage of determining probable cause. The Secretary of Justice had issued a Resolution excluding Salapuddin from the Information, thus modifying the Supplemental Resolution of the Investigating Panel. The Court of Appeals reversed the resolution of the Secretary of Justice and affirmed the inclusion of petitioner Salapuddin in the amended information. The Supreme Court granted the petition and reinstated the Resolution of the Secretary of Justice.

ISSUES: WHETHER the Court of Appeals committed error in reversing the resolution of the Secretary of Justice finding absence of probable cause against petitioner under the syllabus topic "Preliminary Investigation: Remedy from Investigator's Action; Appeal from Investigator's Resolution."

RULINGS: Yes. Pursuant to the last paragraph of Section 4, Rule 112 of the Rules of Court, if the Secretary of Justice reverses or modifies the resolution of the investigating prosecutor(s), he or she can direct the prosecutor(s) concerned "to dismiss or move for dismissal of the complaint or information." This action is not subject to the review of courts unless there is a showing that the Secretary of Justice has committed a grave abuse of his discretion. The institution of a criminal action depends upon the sound discretion of the fiscal, and the courts will not interfere with the executive determination of probable cause in the absence of grave abuse of discretion.

Dr. Jaime T. Cruz vs. Felicisimo V. Agas, Jr. G.R. No. 204095 June 15, 2015

FACTS: Petitioner Dr. Jaime T. Cruz (Dr. Cruz) filed this petition for review on certiorari assailing the Decision and Resolution of the Court of Appeals (CA). Dr. Felicisimo V. Agas, Jr. (Dr. Agas) is the respondent. Petitioner Dr. Jaime T. Cruz (Dr. Cruz) filed a complaint for Serious Physical Injuries through Reckless Imprudence and Medical Malpractice against respondent alleging that internal bleeding occurred during a colonoscopy procedure. Dr. Agas countered that Dr. Cruz failed to prove the basic elements of reckless imprudence or negligence and established that the bleeding was due to the configuration of petitioner's colon. The Office of the Prosecutor of Quezon City issued a resolution dismissing the complaint, which the Department of Justice (DOJ) let stand. Dr. Cruz filed a petition for certiorari before the CA questioning the unfavorable DOJ resolutions, and the CA rendered a decision affirming the said DOJ resolutions.

ISSUES: WHETHER the Court of Appeals was correct in affirming the decision of the DOJ that no probable cause exists for filing an Information against the respondent under the syllabus topic "Preliminary Investigation: Determination of Probable Cause; Nature; Non-interference."

RULINGS: Yes. Under the doctrine of separation of powers, courts have no right to directly decide on matters over which full discretionary authority has been delegated to the Executive Branch of the Government. The settled policy is that the courts will not interfere with the executive determination of probable cause for the purpose of filing an Information, in the absence of grave abuse of discretion. In this case, the public prosecutor's finding of lack of probable cause was in accordance with law as the alleged negligence was not established.

FACTS

Petitioner Gina Villa Gomez filed a Petition for Review on Certiorari under Rule 45 assailing the Decision and Resolution of the Court of Appeals, which reversed the Regional Trial Court's Order granting her Motion to Quash the Information for Corruption of Public Officials. The respondent is the People of the Philippines. Gomez argued that the Information filed against her was void because it was signed only by the Assistant City Prosecutor and did not bear the written approval and signature of the City Prosecutor, as allegedly required under the Rules of Court and Department of Justice regulations. She maintained that the absence of the City Prosecutor's approval rendered the Information invalid and deprived the trial court of jurisdiction over the case. The RTC sustained Gomez's argument and granted the Motion to Quash, resulting in the dismissal of the criminal case. On appeal, however, the Court of Appeals reversed the RTC, holding that the lack of the City Prosecutor's signature did not invalidate the Information and ordered the reinstatement of the criminal case. Gomez then elevated the case to the Supreme Court. The Supreme Court denied the petition and affirmed the Court of Appeals, holding that the absence of the City Prosecutor's written approval or signature on the Information is not a jurisdictional defect but merely concerns the authority of the prosecuting officer, which is a procedural matter that may be waived if not timely raised.

ISSUE

WHETHER the absence of the written approval and signature of the City Prosecutor on the Information filed after the preliminary investigation under Rule 112 of the Rules of Court renders the Information void and deprives the trial court of jurisdiction over the criminal case.

RULING

NO.

The Supreme Court held that the absence of the written approval and signature of the City Prosecutor on the Information does not render the Information void nor deprive the trial court of jurisdiction over the criminal case. The Court explained that Rule 112 of the Rules of Court requires the investigating prosecutor, after finding probable cause, to prepare and file the corresponding Information. Any defect relating to the authority or approval of the prosecutor concerns only the regularity in the filing of the Information and does not affect the court's jurisdiction over the offense or the accused. Such defect is waivable if not raised before arraignment in accordance with Rule 117 of the Rules of Court.

Ratio: Jurisdiction is conferred by law and cannot be affected by procedural defects in the Information. The lack of the City Prosecutor's written approval relates only to the authority of the prosecutor who filed the Information and does not invalidate the criminal proceedings.

Doctrine: The absence of the written approval or signature of the Provincial or City Prosecutor on an Information filed after the conduct of a preliminary investigation under Rule 112 is not a jurisdictional defect. It merely concerns the authority of the prosecuting officer and constitutes a waivable procedural defect if not timely raised before arraignment.