

## Chapter 1 : Sanitation Ministry trains health prosecutors; launches revised manual - [blog.quintoapp.com](http://blog.quintoapp.com)

*issuance or [blog.quintoapp.com](http://blog.quintoapp.com) this manual is designed to be revised and updated as the need arises. Rules on Criminal Procedure. A criminal action is one by which the state prosecutes a person for an act or omission punishable by law. the designation of the offense committed.*

Guidelines to be Observed in the Service of Subpoenas Suspension of Proceedings Due to the Existence of a Prejudicial Question! Elements of a Preliminary Investigation: When to Set Case for Clarificatory Questioning Records and Notes During the Clarificatory Hearing No Right to Counsel When Complaints May be Consolidated: Submission of the Case for Resolution Preparation of the Resolution When There is a Finding of Probable Cause Form of the Resolution and Number of Copies Contents of the Body of the Resolution Parts of a Resolution Signatures and Initials of Investigating Prosecutor Period to Conduct the Preliminary Investigation Meaning of Probable Cause in Inquest Cases Probable cause means an actual belief or reasonable grounds of suspicion People vs. Where Arrest of the Detained Person was Not Properly Effected Should the inquest prosecutor find that the arrest was not made in accordance with the aforesaid provisions of the Revised Rules on Criminal Procedure, he shall: Where the recommendation for the release of the. It is a Judicial Inquiry or Proceeding. Hence, in a preliminary investigation, the prosecutor or investigating officer acts as a quasi-judicial officer. It is not a Constitutional Right. The right to a preliminary investigation is not a constitutional right, meaning, it is not expressly provided for in the Constitution. It is not therefore guaranteed by the Constitution unlike for instance, the right to counsel or to remain silent which is expressly embodied under Sec. It is Merely a Statutory Grant. Rather, the right to a preliminary investigation is a statutory grant Salonga vs. Pano, SCRA Hence, a law denying the right to a preliminary investigation is not unconstitutional Lozada vs. It is a Personal Right. The right to a preliminary investigation is also a personal right, which can be waived expressly or impliedly. There is an implied waiver when an accused refuses to submit his counter-affidavit, or when he fails to invoke such right or to question the regularity of the preliminary investigation that was conducted, but instead submits himself for arraignment and go to trial People v. For violation of Batas Pambansa Big. Where the imposable penalty is only a fine, bail shall be computed as follows: Fine of more than Php2, Bail based on the maximum penalty, multiplied by Php10, What, in general terms, is the utility of the writ of habeas data? Habeas Data is useful. In short, it becomes a potent tool for the resolution of cases of enforced disappearances because it recognizes that, above national defense and security interests, the State places a greater premium on the protection of life, liberty and security of people. The family and loved ones of disappeared persons cannot be derailed in their search by official refusal to open public records because of the Writ of Habeas Data. As a preventive remedy, it may be filed by: It shall be unlawful to cause publicity of any case of trafficked persons; when prosecution or trial is conducted behind closed-doors. This guide is primarily intended for media practitioners in the reporting and coverage of cases involving children. Child Witness - is any person who at the time of giving testimony is below the age of eighteen 18 years

**Chapter 2 : Koffeebreyk: DOJ National Prosecution Service Manual**

*Revised Manual for Prosecutors 7 c. when the person to be arrested is a prisoner who has esrnped from a penal establishment or place where. he is serving final judgment or is temporarily.*

The case now before this Court sprang from Criminal Case No. On April 13, , respondent issued the following order in Criminal Case No. Pursuant to Section 6, paragraph a in relation to paragraph b, Rule of the Revised Rules of Criminal Procedure, the Office of the City Prosecutor of Bacolod City is hereby ordered to present additional evidence, relevant records and documents to enable this Court to evaluate and determine the existence of probable cause, to wit: Copy of the Memorandum of Preliminary Investigation; 2. Jarder Jarder Resolution; 3. Memorandum of the transfer of case assignment from designated Investigating Prosecutor to the City Prosecutor; and 4. Exhibit to the Court, the copies of all documents submitted by the complainant and the respondents therein for comparison, authentication and completeness of the photocopies attached to the information. Compliance is required within five 5 days from receipt of this Order. With respect to item 3 thereof, complainant, in a letter also dated April 29, , explained that there was no memorandum of transfer of the case from the investigating prosecutor, Assistant City Prosecutor ACP Dennis S. However, complainant, upon review pursuant to Section 4, Rule of the Revised Rules of Criminal Procedure, 5 found otherwise; that is, there was probable cause against Palo. In an Order dated May 5, , 7 respondent stated that the Jarder Resolution dismissing the complaint was part and parcel of the official records of the case and, for this reason, must form part of the records of the preliminary investigation. Compliance is required within five 5 days from receipt hereof. Fail not under the pain of Contempt. This refers to your letter dated April 18, For your information, all resolutions prepared by an Investigating Prosecutor after preliminary investigation shall form part of the record of the case. Thus, in an Order 11 dated May 14, , he required complainant to explain within five days from the receipt thereof why he should not be cited for contempt under Section 3, Rule 71 of the Rules of Court. Aggrieved, complainant immediately filed a motion for inhibition 15 against respondent on May 20, claiming: That Complainant is now in a quandary because despite the fact that the production of the disapproved resolution is not required under Circular Resolution No. That the issuance of said order is capricious and whimsical and issued with grave abuse of discretion. Because as it appears now, the presiding judge is very much interested in the outcome of this case, thereby showing bias and prejudice against the prosecution. When a city or provincial prosecutor reverses the investigating assisting city or provincial prosecutor, the resolution finding probable cause replaces the recommendation of the investigating prosecutor recommending the dismissal of the case. The result would be that the resolution of dismissal no longer forms an integral part of the records of the case. It is no longer required that the complaint or entire records of the case during the preliminary investigation be submitted to and be examined by the judge. The rationale behind this practice is that the rules do not intend to unduly burden trial judges by requiring them to go over the complete records of the cases all the time for the purpose of determining probable cause for the sole purpose of issuing a warrant of arrest against the accused. The records thereafter make no mention of what happened in Criminal Case No. On July 10, , complainant executed the present administrative complaint and the same was received by the Office of the Court Administrator OCA on August 20, Respondent, in his Comment with Counter-Complaint for Disbarment of Prosecutor Abanado, 24 essentially reiterated the importance of the Jarder Resolution in deciding whether to issue a warrant of arrest in Criminal Case No. He stated that the document was "material and relevant in the proper conduct of preliminary investigation and the neutral, objective and circumspect appreciation of the Judge of the evidence x x x for a proper and just determination whether probable cause exist[s] or not for the possible issuance of a warrant of arrest. On February 2, , the OCA submitted its report and recommendation. In such case, the resolution recommending the dismissal is superseded, and no longer forms an integral part of the records of the case and it need not be annexed to the information filed in court. Thus, the OCA held that complainant cannot be held guilty of contempt. Nevertheless, because there was no showing that respondent was motivated by bad faith and settled is the rule that the acts of a judge in his judicial capacity are not subject to the disciplinary action, it recommended that:

We are tasked to determine whether respondent was administratively liable for gross ignorance of the law, gross misconduct and violation of Supreme Court Circular No. The conduct of a preliminary investigation is primarily an executive function. When There is Lack of Probable Cause If the investigating prosecutor does not find sufficient basis for the prosecution of the respondent, he shall prepare the resolution recommending the dismissal of the complaint. Form of the Resolution and Number of Copies The resolution shall be written in the official language, personally and directly prepared and signed by the investigating prosecutor. It shall be prepared in as many copies as there are parties, plus five 5 additional copies. Contents of the Body of the Resolution In general, the body of [the] resolution should contain: All material details that should be found in the information prepared by the Investigating Prosecutor shall be stated in the resolution. In both instances, there is no more need for the head of office concerned to conduct another preliminary investigation. Based on the foregoing, the guidelines for the documentation of a resolution by an investigating prosecutor, who after conducting preliminary investigation, finds no probable cause and recommends a dismissal of the criminal complaint, can be summed as follows: We find that there is nothing in the DOJ-NPS Manual requiring the removal of a resolution by an investigating prosecutor recommending the dismissal of a criminal complaint after it was reversed by the provincial, city or chief state prosecutor. Nonetheless, we also note that attaching such a resolution to an information filed in court is optional under the aforementioned manual. The DOJ-NPS Manual states that the resolution of the investigating prosecutor should be attached to the information only "as far as practicable. In view of the foregoing, the Court finds that respondent erred in insisting on the production of the Jarder Resolution when all other pertinent documents regarding the preliminary investigation have been submitted to his court, and in going so far as to motu proprio initiating a proceeding for contempt against complainant. However, not every judicial error is tantamount to ignorance of the law and if it was committed in good faith, the judge need not be subjected to administrative sanction. Furthermore, complainant did not abuse his contempt power as he did not pursue the proceedings in view of the May 29, and June 15, Gellada orders. As far as the disbarment charges against complainant are concerned, under the Rules of Court, complaints for disbarment against a lawyer are ordinarily referred to an investigator who shall look into the allegations contained therein. We find no merit in the countercharges. It likewise cannot be said that the filing of the present administrative case against Judge Bayona was tainted with improper motive or bad faith. The counter-complaint against City Prosecutor Armando P.

**Chapter 3 : Revised Manual for Prosecutors - Court Filings**

*Revised Manual for Prosecutors 7 c. when the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or is temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.*

Criminal Prosecution of Copyright Infringement: Response to Letter of September 14, Dear Mr. In your correspondence, you refer to the "updating of the prosecution guidelines regarding copyright infringement in the U. The forthcoming revision is expected to address the recent changes to the criminal copyright scheme; possible applications of the trademark counterfeiting statute, 18 U. It should be noted, however, that the contents of this monograph are not intended to constitute "prosecution guidelines" in the sense you might envision. Rather, Criminal Division monographs attempt to provide prosecutors with discussions of the applicable law, Department of Justice Policy, and suggestions for preferred practice. These documents routinely carry the disclaimer that they are not intended to confer any rights, privileges, or benefits to prospective or actual witnesses or defendants, and that they are not intended to carry the force of law or of United States Department of Justice directives. See *United States v. Attorneys* before being permanently incorporated into the text of the Manual. Each United States Attorney, acting within his or her own district, serves as the chief law enforcement officer for that district and, as such, has plenary authority with regard to federal criminal matters. With that said, we will attempt to respond to your questions in a manner that reflects some of the statements and preferences reflected in our forthcoming monograph. Absent some aggravating circumstance, felony prosecution at so minimal a level would seem to be inappropriate -- especially for a first time offender. Will the guidelines discourage felony prosecutions below a certain level, and encourage misdemeanor prosecutions in such instances? The numerical threshold exists, according to the legislative history, to exclude from felony prosecution "children making copies for friends as well as other incidental copying of copyrighted works having a relatively low retail value. A large number of federal criminal statutes, including many aimed at enforcement of laws against economic crime, carry no numerical or monetary thresholds. This fact does not prevent United States Attorneys, however, from exercising sound prosecutorial discretion in cases implicating these statutes. Accordingly, and as each case must be evaluated on its facts, the manual will not discourage felony prosecutions based solely on the number of unauthorized copies produced, the retail value of the works infringed, or the retail value of the infringing goods. You ask, "The legislative history quite clearly enunciates the principle that prosecutors should stay out of business disputes, such as where there is a licensing dispute see, e. Will the guidelines reflect that legislative intent? You ask, "The legislative history also disclaims the intent to impose criminal liability where civil liability is unclear. Will it be the policy of the Department that prosecutors refrain from prosecuting where the copying is only debatably unlawful? To a large extent, the criminal copyright scheme prevents this eventuality in at least two separate respects. In a criminal infringement case, the government must first prove that an act or acts of copyright infringement have occurred. The drafting committee did not intend to establish criminal liability "[i]n cases where civil liability is unclear--whether because the law is unsettled, or because a legitimate business dispute exists. Second, the statutory scheme also requires that the government prove, as an element to any criminal violation--felony or misdemeanor--that the infringement has occurred "willfully and for purposes of commercial advantage or private financial gain. The mens rea requirement serves to leave outside the reach of the criminal law losing parties in ordinary business disputes such as those involving reverse engineering of computer programs or contract disputes over the scope of licenses. We note, however, that the very notion of what constitutes an "ordinary business dispute" may be subject to rapid change, particularly in an area so closely tied to advancing technology and so prone to modification through legislative enactment or clarification through judicial pronouncement. You ask, "Several cases e. This would militate against prosecution in cases of adaptation rather than direct copying, such as in the case of parody. Will the guidelines indicate that evidence of intent to violate the law should be evaluated in making the assessment whether or not to prosecute? The sufficiency of evidence bearing on each element of a federal criminal offense is routinely

considered before charging decisions are made, and is considered by grand juries prior to the return of a federal indictment. Intent elements are often the most difficult to prove, as evidence of intent is quite often circumstantial. It is therefore prudent for federal prosecutors to consider carefully evidence bearing on the "willfulness" element, particularly in jurisdictions that construe "willfulness" to require the government to demonstrate a "voluntary, intentional violation of a known legal duty. Our revised intellectual property prosecution manual will encourage investigators and prosecutors to remain vigilant to evidence bearing on willful intent in whatever form such evidence might be found. Is the intent of the Department that felony prosecution be avoided where the copying is purely for private use and there is no sale or exchange? This is not a matter of Department policy, but of Congressional mandate. Your question, however, contains the presupposition that evidence of a commercial or financial purpose "is always proved by evidence of a sale or other exchange of an infringing copy. It would apparently not matter that each of the wayward employees did not know of the unlawful activities of the others under the doctrine enunciated in *U. Bank of New England, F.* Is it the policy of the guidelines to discourage imputation of knowledge to establish willfulness under the criminal copyright statute, since no individual would have the requisite criminal intent? It is not entirely clear, for example, whether you envision each of the ten employees in your hypothetical to be engaged in non-criminal conduct that is, copying without the requisite mens rea, or whether some or all of them are copying with the mens rea to constitute infringement actionable as a misdemeanor. Considerations such as these might well make a difference, as in the first instance, a Bank of New England-type rule might serve to establish felony liability where no criminal liability heretofore existed, whereas in the latter case, individual misdemeanors committed on behalf of the corporation would merely be aggregated to compose a more serious offense. Facts such as these would obviously carry substantial weight in any charging decision, along with any and all evidence bearing on direct involvement by the corporation in either encouraging or discouraging such employee behavior. Prosecution of the corporation might prove appropriate, for example, if substantial evidence were to reveal that supervisory employees acting within the scope of their employment systematically encouraged other employees to reproduce or use illicitly reproduced or distributed software to further corporate ends. Prosecution of the corporation might be inappropriate if this reproduction or distribution were to occur despite genuine efforts of supervisory employees to deter such employee misconduct. We thank you for your thoughtful inquiries, and for affording us an opportunity to respond to these important issues.

### Chapter 4 : DOJ-NPS Manual for Prosecutors - PDF Free Download

*manual for public prosecutors. series of note this manual is designed to be revised and updated as the need arises. when changes occur in the relevant law.*

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*should handle by reclusion perpetua under Article of the Revised Penal Code) filed by Their Assistants) and by Section.*

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*Manual for Public Prosecutors. The elements of the crime of theft as provided for in Article 9 of the Revised Penal Code are as follows: (1) t.*