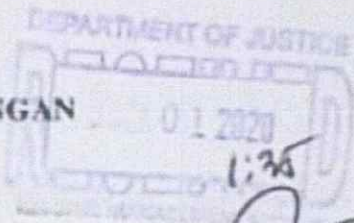




Republika ng Pilipinas  
KAGAWARAN NG KATARUNGAN  
Department of Justice  
Manila



20-00090  
OFFICE ORDER NO. 0488

**TO :** CITY PROSECUTORS, NATIONAL CAPITAL REGION

**SUBJECT :** ALTERNATIVE PROCEDURE FOR PRELIMINARY INVESTIGATION DURING THE PUBLIC HEALTH EMERGENCY

**DATE :** 01 June 2020

In the interest of the service and pursuant to existing laws, rules and regulations, including Office Order No. 0474 dated 15 May 2020, particularly *item C* thereof, the following alternative procedure for the conduct of preliminary investigation is hereby adopted in the National Capital Region (NCR) during the period of the public health emergency:

**I. APPLICABILITY:**

1. It is applicable only during the period of the public health emergency, particularly while the NCR is declared as an area under General Community Quarantine (*GCQ*) or Modified General Community Quarantine (*MGCQ*), subject to extension, if the need arises, and may be availed of by the City Prosecutors after crafting their own *specific guidelines* similar to and consistent with the procedure herein provided.
2. It is an alternative to the traditional (*face-to-face*) conduct of preliminary investigation.

**II. DEFINITION OF TERMS:**

1. ***E-submission*** is the filing or submission of counter-affidavit, or of subsequent pleadings (e.g. reply-affidavit and rejoinder-affidavit), if necessary, to the investigating prosecutor via email.
2. ***E-subpoena*** is the service of subpoena to the parties via email, with an order setting the date and time of e-submission of documents.
3. ***Prosecutor-of-the-day*** is the prosecutor designated on a daily basis to administer oaths in the complaint/s.

### III. PROCEDURE:

1. Upon the filing of the complaint and its supporting documents, the Docket/Records Section shall:
  - a. Ensure that the complaint was already subscribed and sworn to before a police officer authorized to administer oaths or before the prosecutor-of-the-day;
  - b. Request the complainant/s to submit a soft copy of the complete documents in a USB flash drive (if only possible);
  - c. Require the complainant/s to provide his/her/their contact details and email address/es, as well as those of the respondent/s (if only possible);
  - d. Assign a docket number to the case, and keep the complete documents for at least three (3) days at a designated place (e.g. inside a *dropbox*), and;
  - e. Refer the complaint for assignment/raffle to the investigating prosecutor.
  
2. Upon receipt of the complaint and its supporting documents, the investigating prosecutor shall:
  - a. Evaluate whether there is a need to conduct preliminary investigation and whether the cases may be dismissed outright on the basis of prescription, lack of jurisdiction, or other grounds;
  - b. Prepare the subpoena to the parties, which shall include:
    - i. the date and time that the complaint and its supporting documents may be picked up by the respondent/s at the Docket/Records Section;
    - ii. the date and time of the submission of the counter-affidavit to the Docket/Records Section;
    - iii. a directive that only respondent/s, his/her/their counsel/s, and/or authorized representative/s would be allowed to pick up the complaint and its supporting documents;
  - c. Forward the subpoena to the Docket/Records Section for scanning and service.
  
3. The Docket/Records Section, upon receipt of the subpoena, shall:
  - a. Take note of the schedules for the picking up of the complaint and submission of the counter-affidavit;

- b. Scan and send the subpoena via email to the parties (e-subpoena); and a hard copy thereof by personal service or registered mail at their given residential/office address/es;

The receipt of the hard copy of the subpoena shall be the period from which the filing or submission of the counter-affidavit shall commence to run, without prejudice to the early submission thereof upon receipt of the e-subpoena.

4. The respondent/s, upon receipt of the subpoena, shall:
  - a. Pick up the complaint and its supporting documents at the Docket/Records Section, and;
  - b. Submit his/her/their already subscribed and sworn counter-affidavit/s before a police officer authorized to administer oaths or any prosecutor, by e-submitting the same to the investigating prosecutor, and by forwarding the hard copies thereof to the Docket/Records Section;
5. The Docket/Records Section shall then log the actual date and time of pick up of the complaint, and the actual date and time of the submission of the counter-affidavit, and shall ensure proof thereof. For this purpose, the Docket/Records Section shall be assisted by the support staff of the investigating prosecutor.
6. The Docket Section shall make sure that the counter-affidavit is kept at a safe place for at least three (3) days before it is forwarded to the investigating prosecutor.
7. Upon receipt of the counter-affidavit, the investigating prosecutor shall determine if there are new issues of fact or questions of law which are material and substantial in the counter-affidavit<sup>1</sup>;

If yes, he/she shall prepare another subpoena to the parties for the submission of subsequent pleadings (i.e., reply-affidavit and rejoinder-affidavit), following the same procedure.

If none, he/she shall resolve the case immediately, except when there is a need to conduct *clarificatory* questioning.
8. The investigating prosecutor, when there is no need to conduct *clarificatory* questioning, shall submit the case for resolution and send notice of the said fact to the parties via email, registered mail, and/or personal service.

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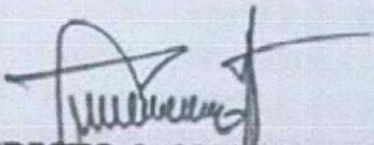
<sup>1</sup> 4.7.9.a, p. 39, 2017 Revised Manual for Prosecutors, Volume 1.

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[Handwritten signature]

On the one hand, when there is a need to conduct *clarificatory* questioning, the investigating prosecutor shall prepare an order to the parties which shall include the date/time of the videoconferencing for *clarificatory questioning*, including an invite (in the form of a link) to the videoconferencing.

9. The Docket/Records Section shall scan and send the order to the parties via email, and the hard copy thereof by personal service or registered mail.
10. The investigating prosecutor shall then conduct the *clarificatory* questioning through videoconferencing at home or in the office, which shall comply with the traditional face-to-face conduct thereof. If for one reason or another, the videoconferencing is not plausible/impracticable, the traditional conduct of *clarificatory* questioning shall be implemented.
11. After the case is submitted for resolution, the investigating prosecutor shall resolve the same, and forward the resolution, together with all the e-submissions and the hard copies thereof, to the reviewer and/or approving authority. The said hard copies must be disinfected, and should be handled following all safety protocols.
12. The Docket/Records Section shall then send the approved resolution to the parties by personal service or registered mail at their given residential/office addresses.

For guidance and immediate implementation.

  
**BENEDICTO A. MALCONTENTO**  
*Prosecutor General*