

A Preliminary Examination of the New Procedure of Preliminary Investigation

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16 ATENEO L.J. 125 (1967)

*TAGS(s): CRIMINAL LAW, CRIMINAL PROCEDURE, RIGHT TO CROSS-
EXAMINE WITNESSES*

The Article examines the relevance of Republic Act No. 5180 (R.A. No. 5180) as a means to remedy one of the flaws in conducting preliminary examinations under the Rules of Court. Originally, a right is given to the defendant to cross-examine the witnesses presented by the prosecution. However, this right was abused and used merely to harass the complainant and his witnesses, thus forcing them not to appear at the investigation and to eventually drop the case. With the enactment of R.A. No. 5180, the injured party need not personally testify at the preliminary investigation. Instead, his sworn statement or affidavit may be presented, and the cross-examination may only be made based on the facts contained therein.

However, although this new method shortens the length of time needed in conducting the preliminary investigations, the Author posits that it does little in actually reducing the danger of harassment that the complainant and his witness face. In the end, the real solution to this problem is not by amending the methods of conducting these investigations but by assessing and improving the demeanor, attitude and overall quality of those who conduct them.