

Preliminary Charges and Precognition Investigation

Preliminary charges

Preliminary charges are the initial charges that an accused person faces. These may change following the precognition investigation.

When an accused person is charged with murder or culpable homicide their first appearance in court will be in private. They will be given a document (called a petition) that tells them what initial charge they will face. This is called "appearing on petition" and it will take place in the sheriff court in the area where the crime was committed.

At this first appearance, the solicitor for the accused will usually state that the accused "makes no plea or declaration".

The accused will then be ready for trial. The accused may be given bail or kept in custody (prison or a Young Offender's Institute) between court hearings.

Precognition Investigation

The precognition investigation is carried out by the procurator fiscal to examine all the available evidence and obtain any more evidence that is needed.

The procurator fiscal will arrange gathering all the evidence, interviewing all witnesses and for expert witnesses to prepare reports.

As part of this process, family members and friends may be interviewed by the procurator fiscal.

Decision on whether to prosecute

The procurator fiscal will consider the law, the evidence and whether it is in the public interest to prosecute. The procurator fiscal will then make a recommendation about whether there should be criminal charges and what they should be.

VIA officer will inform the next of kin about what happens to the case automatically by a letter. VIA will also give the next of kin dates for court hearings. These can sometimes change but VIA staff will do their best to keep the next of kin informed.

