

1 **OVERTURE 34** from Pacific Northwest Presbytery (to CCB and OC)
2 "Amend *BCO* 38-1 re Confession Timing for Case Without Process"
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4 **Be it resolved** that *BCO* 38-1 be amended by adding a second paragraph and moving the last
5 sentence of the first paragraph to a third paragraph, as follows. (Addition underlined.
6 Moved sentence indicated by strike-through and underlining.)
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8 *BCO* 38-1 When any person shall come forward and make his offense known
9 to the court, a full statement of the facts shall be recorded and judgment
10 rendered without process. In handling a confession of guilt, it is essential that
11 the person intends to confess and permit the court to render judgment without
12 process. Statements made by him in the presence of the court must not be taken
13 as a basis of a judgment without process except by his consent. In the event a
14 confession is intended, a full statement of the facts should be approved by the
15 accused, and by the court, before the court proceeds to a judgment. ~~The accused~~
16 ~~has the right of complaint against the judgment.~~

17 A person may proffer a confession, and request the matter be handled as
18 a case without process, prior to an investigation, during an investigation, or after
19 process has commenced. If a confession is proffered after the court has
20 instituted process (*BCO* 31-2, second paragraph), the prosecutor shall ascertain
21 whether the accused is pleading guilty to the charge (*BCO* 32-3) or is seeking
22 to proceed via *BCO* 38-1. If the latter, and if the prosecutor accepts the
23 Confession, he shall suspend process and recommend the court approve the
24 Confession. He may also recommend a censure. However, if no agreement is
25 reached on the Confession, and the matter proceeds as a case of process,
26 confession discussions between the prosecutor and the accused are not
27 admissible as evidence.

28 The accused person has the right of complaint against the judgment.
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30 **Rationale:**
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32 The revision makes it clearer that the court can accept a confession, and handle it as a case
33 without process, at different stages – pre-investigation, during investigation, or even post-
34 indictment. But the court is never required to handle a confession as a case without process.
35 It always remains entirely the court’s discretion.
36

37 *Adopted and filed by a Commission of Presbytery on March 20, 2021*
38 *Attested by TE Nathan Chambers, Presbytery Interim Stated Clerk*