

1 **OVERTURE 2021-34 (48th GA]** from Pacific Northwest Presbytery (to 49th OC)
2 "Amend *BCO* 38-1 re Confession Timing for Case Without Process"
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4 **[Editorial Note: This overture was originally submitted to the 48th General**
5 **Assembly (2021), which referred it to the 49th GA Overtures Committee.]**
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7 **Be it resolved** that *BCO* 38-1 be amended by adding a second paragraph and moving the last
8 sentence of the first paragraph to a third paragraph, as follows. (Addition underlined.
9 Moved sentence indicated by strike-through and underlining.)
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11 *BCO* 38-1 When any person shall come forward and make his offense known to the
12 court, a full statement of the facts shall be recorded and judgment rendered
13 without process. In handling a confession of guilt, it is essential that the person
14 intends to confess and permit the court to render judgment without process.
15 Statements made by him in the presence of the court must not be taken as a
16 basis of a judgment without process except by his consent. In the event a
17 confession is intended, a full statement of the facts should be approved by the
18 accused, and by the court, before the court proceeds to a judgment. ~~The accused~~
19 ~~has the right of complaint against the judgment.~~

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

31 The accused person has the right of complaint against the judgment.
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33 **Rationale:**
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35 The revision makes it clearer that the court can accept a confession, and handle it as a case
36 without process, at different stages – pre-investigation, during investigation, or even
37 post-indictment. But the court is never required to handle a confession as a case
38 without process. It always remains entirely the court’s discretion.
39

40 *Adopted and filed by a Commission of Presbytery on March 20, 2021*

41 *Attested by TE Nathan Chambers, Presbytery Interim Stated Clerk*