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SAMPLE

**BCO 38-1 Commission Report &
Case Without Process Document for TE John Doe¹**

The attached CWOP Document, cosigned by the Commission and TE John Doe, contains six parts:

1. TE Doe's ____-word Confession
2. Summary Timeline
3. Report on how offended person(s) were informed
4. Commission's Assessment of Repentance
5. Decision regarding Censure
6. Signature of TE Doe and *BCO* 38-1 Commission Chairman RE John Calvin

Below is *BCO* 38-1, reformatted with subparagraphs for clarity. It includes paragraph (g) which was enacted by the 51st GA in June 2024 in Richmond.

- 38-1. When any person shall come forward and make his offense known to the court, a full statement of the facts shall be recorded, and judgment rendered without process.
- a) In handling a confession of guilt, it is essential that the person intends to confess and permit the court to render judgment without process.
 - b) Statements made by him in the presence of the court must not be taken as a basis of a judgment without process except by his consent.
 - c) In the event a confession is intended, a written Confession (i.e., a sufficient summary of the facts, the person's specific confession, and any expression or evidence of repentance) must be approved by the accused, and by the court, before the court proceeds to a judgment, and the cosigned document shall be appended to the minutes (regular or executive session).
 - d) No other information may be presented without written consent from the accused and the court, and this prohibition includes individuals, prosecutors, committees, and commissions.
 - e) A censured person has the right to appeal (*BCO* 42).
 - f) The person has the right to be assisted by counsel at any point, in accord with the stipulations of *BCO* 32-19.
 - g) - In any instances involving a personal offense (*BCO* 29-3), the court shall attempt to inform the offended person(s) of that part of the Confession the court deems pertinent to the offense against him or her.
 - The court shall invite the offended person to provide the court comment on the Confession prior to final approval of the Confession by the confessor and the court.
 - The court shall encourage the offended person to enlist the help of an advisor in preparing any such comments.
 - In all instances, the court shall report the way such offended persons were informed of the parts of the Confession pertinent to them.

¹ HD Dec 2, 2024 draft; very unofficial.

1 **CWOP Document**

2
3 **Confession Submitted by TE John Doe to _____ on _____, 2024**

4
5 .
6 .
7 .
8 .
9 .
10 .
11 .
12 .
13 .

14 **Summary of Facts & Timeline**

15
16 05/01/24 xxxxx
17 06/01/24 xxxxxx
18 07/01/24 xxxxx
19 08/01/24 xxxxxxxx
20 09/01/24 TE Doe inquired about a case without process.
21 10/01/24 The Commission informed TE Doe in writing that he had the right to be assisted by counsel
22 (BCO 32-19) and offered to assist him in procuring such.
23 12/31/24 TE Doe emailed a ____-word confession to Commission chairman.
24 01/05/25 xxxxx
25

26 **Commission Report on How Any Offended Person was Contacted**

27
28 (Example 1) Mrs. _____, a member of _____, volunteered to serve as advocate for the
29 offended person. The Commission sent to the offended person a copy of the Summary Timeline and
30 TE Doe's _____-word Confession and invited any comments. Mrs. _____ reported that the
31 offended person reviewed the documents and had nothing to add.
32

33 (Example 2) The Commission shared a copy of the Summary Timeline and TE Doe's ____-word
34 Confession with the offended person and invited any comments. The person suggested some changes
35 and additions, the Commission discussed these with TE Doe, and some of those suggested changes
36 were made.
37

38 **Commission's Assessment of Repentance**

39
40 .
41 .
42 .
43 .
44

1
2 **Commission's Intended Censure**

3
4 If TE Doe signs this CWOP Document, the Commission intends to impose the censure of indefinite
5 suspension from office based solely on the Confession Document. The Commission would then
6 administer the censure per *BCO* 36-5.
7

8 **Commission Recommendations to Presbytery**

- 9
10 1. That a review of the censure be docketed for each stated meeting, in executive session. At that
11 time, an ad hoc pastoral care committee (appointed beforehand by the Moderator) may report if it
12 recommends the censure should be removed. Regardless of whether that committee recommends
13 such, the TE may also give reasons at that time for why he deems it should be removed.
14
15 2. That the four-year "without call" period referenced in *BCO* 34-10 be suspended during the time
16 the minister is indefinitely suspended from office.
17
18 3. That Presbytery record, in its regular minutes, the Commission Decision on censure and
19 Presbytery's actions on Recommendations 1 and 2. This present document will be only recorded
20 in executive session minutes.
21
-

22
23 **Reminder to Presbytery about executive session.**

- 24
25 – Nothing that occurs in executive session may be divulged to anyone except those who were entitled
26 to attend [i.e. RE commissioners and TEs] ... If the assembly wishes to further lift the secrecy of
27 action taken in executive session, it may adopt a motion to do so, which is a motion to amend
28 something previously adopted. (RONR (12th ed.) 9:26)
29
30 – A member of a society can be punished under disciplinary procedure is he violates the secrecy of
31 an executive session. (RONR 9:27)
32
33 – Any member [i.e., TE or RE Commissioner or Session] has a right to examine Presbytery minutes
34 "including the minutes of executive session." (See RONR 47:36)
35
-

36 **** I have read and initialed each of the ___ pages above.**

37
38 The minister's signature does not necessarily mean he consents to the censure, simply that he is
39 aware that it will be imposed. He retains the right to appeal (*BCO* 42).
40

41
42 Signed: **John Doe**
43 Minister (print): TE John Doe
44

Date: 03/27/2025

45
46 Signed: **John Calvin**
47 Committee Chairman (print): RE John Calvin
48

Date: 03/27/2025

Handling a CWOP by *Committee*

If a CWOP is handled by a committee instead of a Commission, below is an example of how Committee recommendations to Presbytery might read (instead of commission decisions).

BCO 38-1 Committee Recommendations

Any debate on Committee recommendations risks introducing information not contained in the CWOP document, and that could invalidate the process.² Therefore, the Committee recommends Presbytery adopt the following procedural motion first.

Procedural Recommendation - That Presbytery consider Committee Recommendations 1, 2, 3, and 4 seriatim and without debate or amendment.

Note 1: It's the Committee's understanding that a motion to limit debate requires two-thirds majority for adoption and is not itself debatable.

Note 2: It's the Committee's understanding that if Committee Recommendation 2 below on censure is not adopted, a different censure motion could be made from the floor, but it too would be non-debatable if the Committee's recommendation to limit debate has been adopted.

Regardless of whether the Procedural Recommendation is adopted, the Committee recommends the following.

Committee Recommendations

1. That Presbytery judge the CWOP Document to be a sufficient statement of the facts for deciding an appropriate censure.
2. That Presbytery indefinitely suspend TE John Doe from office based solely on the CWOP Document co-signed by TE Doe and the Committee.
3. That a review of the censure be docketed for each stated meeting, in executive session. At that time, an ad hoc pastoral care committee (appointed beforehand by the Moderator) may report if it deems the censure should be removed. Regardless of whether that committee recommends such, the minister may also give reasons at that time for why he deems it should be removed.
4. That the four-year "without call" period referenced in *BCO* 34-10 be suspended during the time the minister is indefinitely suspended from office.
5. That Presbytery record in regular minutes its decisions on Committee Recommendations 1, 2, 3 and 4. This CWOP document will be only recorded in executive session minutes.

² See Complaints sustained by SJC in 38-1 cases: 2019-04: *Williams v. Chesapeake* (M48GA, 756), 2019-10: *Evans v. Arizona* (M48GA, 771), and 2020-07: *Wilbourne v. Pacific* (M49GA, 687).

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GENERIC

Preliminary Investigation Committee (PIC)
6 Standing Rules & 15 Recommended Guidelines¹

These six PIC Rules are part of Presbytery’s Standing Rules, and they can only be amended or suspended the same way as other parts of Standing Rules. Presbytery can amend the 15 Guidelines by simple majority.

PIC RULES

1. **Membership** - PIC membership shall consist of two TEs and three REs. Quorum consists of three members (in any combination). Presbytery shall elect each PIC member to serve a two-year term, with one class consisting of two members and one consisting of three members. There are no term limits. Each year, the PIC shall elect its chairman within two weeks of the adjournment of the Presbytery meeting at which PIC members are elected. Such election may occur via email.
2. **Duties** - The PIC shall fulfill Presbytery’s investigative duties regarding a TE described in the first three sentences of BCO 31-2, the second sentence of BCO 34-3, and BCO 38-1.

31-2. It is the duty of all church Sessions and Presbyteries to exercise care over those subject to their authority. They shall with due diligence and great discretion demand from such persons satisfactory explanations concerning reports affecting their Christian character. This duty is more imperative when those who deem themselves aggrieved by injurious reports shall ask an investigation. ...

34-3. If anyone knows a minister to be guilty of a private offense, he should warn him in private. But if the offense be persisted in, or become public, he should bring the case to the attention of some other minister of the Presbytery.

38-1. When any person shall come forward and make his offense known to the court, a full statement of the facts shall be recorded, and judgment rendered without process. In handling a confession of guilt, it is essential that the person intends to confess and permit the court to render judgment without process. Statements made by him in the presence of the court must not be taken as a basis of a judgment without process except by his consent. In the event a confession is intended, a written Confession (i.e., a sufficient summary of the facts, the person’s specific confession, and any expression or evidence of repentance) must be approved by the accused, and by the court, before the court proceeds to a judgment, and the co-signed document shall be appended to the minutes (regular or executive session). No other information may be presented without written consent from the accused and the court, and this prohibition includes individuals, prosecutors, committees, and commissions. A censured person has the right to appeal (BCO 42). The person has the right to be assisted by counsel at any point, in accord with the stipulations of BCO 32-19.

In any instances involving a personal offense (BCO 29-3), the court shall attempt to inform the offended person(s) of that part of the Confession the court deems pertinent to the offense against him or her. The court shall invite the offended person to provide the court comment on the Confession prior to final approval of the Confession by the confessor and the court. The court shall encourage the offended person to enlist the help of an advisor in preparing any such comments. In all instances, the court shall report the way such offended persons were informed of the parts of the Confession pertinent to them.

¹ HD Dec 2, 2024 draft; very unofficial. This could be a standing or an ad hoc committee, with or without specific commission authorities. It could also be a commission.

- 1 **3. Initiation** - The PIC shall commence an investigation when tasked to do so by the Presbytery Moderator
2 and Clerk. If the Moderator and Clerk cannot agree on whether the PIC should investigate a matter, the
3 Chairman of the PIC shall cast the deciding vote. Neither the Moderator nor Clerk shall serve on the
4 PIC. By majority vote, Presbytery may also direct the PIC to commence an investigation. If a TE
5 member of PIC is being investigated, the Moderator shall appoint his replacement for that investigation.
6
- 7 **4. Indictment Decisions** - The Preliminary Investigative Committee has responsibility to investigate a
8 matter, but unless Presbytery appoints the PIC as a BCO 15-1 Commission, it does not have authority
9 to render a final determination on “strong presumption of guilt.” If the PIC deems an indictment is
10 warranted it shall *recommend* that Presbytery issue one. If the PIC deems an indictment is not warranted,
11 it shall simply report that finding and the matter will end, unless Presbytery adopts a separate motion
12 from the floor to indict. (RONR (12th ed.) 63:13)
13
- 14 **5. BCO 38-1 Cases w/o Process** - In such a case, the PIC will act as a BCO 15-1 commission to completion.
15 This includes determining if and when the TE has made a “full statement” as required by BCO 38-1 and
16 rendering any decision on censure.
17
- 18 **6. Guidelines** - Presbytery recommends the following Guidelines for the Moderator and the PIC to
19 consider. If circumstances warrant deviation from the Guidelines, the Moderator or the PIC may do so,
20 but shall eventually report their reasons to Presbytery. Presbytery can revise the Guidelines at any time
21 by a simple majority vote. Guidelines themselves are not part of Presbytery's Standing Rules.
22

PIC GUIDELINES

- 23
- 24
- 25
- 26 1. **Initiation** - Ordinarily, investigations will only arise from non-anonymous written communications
27 setting forth allegations on a matter which would warrant one of the formal censures of BCO 30 if there
28 is a subsequent confession or a conviction at trial. See also RONR (12th ed.) §63.
29
- 30 2. **Moderator** - Ordinarily, the Moderator will
31 a) Confirm that the accuser has first contacted the accused, pursuant to the principles of Matthew
32 18, as applicable.
33 b) Promptly inform the accuser and the accused TE that a PIC investigation has been ordered
34 c) Promptly provide the accuser and the accused TE with a copy of, or a link to, PIC Rules and
35 Guidelines and provide them the contact information of the PIC chairman.
36 d) Promptly provide the PIC with all documents pertaining to the allegations.
37 e) Keep a record and timeline of the Moderator's actions in this matter.
38
- 39 3. **PIC Determinations** - Regardless of how allegations arose, the PIC shall investigate to the extent
40 necessary to determine:
41 a) if it is a personal or general offense
42 b) if personal, whether Matthew 18 has been followed
43 c) if the nature of the alleged offense rises to a level warranting judicial process
44 d) if the accuser is like any of those described in BCO 31-8
45 e) if there is a strong presumption of guilt
46 f) if it is reasonable to expect the offense can be proven through judicial process
47
- 48 4. **PIC Process** - When an investigation commences, the PIC will *ordinarily* perform the following:
49 a) PIC will keep the investigation as narrow as reasonably possible to make the six determinations
50 of item 4 above.

- b) PIC will record confidential Minutes of its meetings, especially when acting as a commission.
- c) PIC will conduct investigations expeditiously.
- d) PIC members will maintain confidentiality as much as feasible. (RONR (12th ed.) 63:8)
- e) PIC should inform the minister of the accusations and the name(s) of the accuser(s). If it does not do so, the PIC will record its reason(s) in its Minutes.
- f) PIC members will refrain from discussing or expressing opinions to anyone other than fellow PIC members concerning the subject or merits of the accusations it is investigating.
- g) No individual PIC member should discuss the matter with the accused or anyone outside the PIC unless assigned to do so by the PIC.
- h) PIC will keep a record of the names of people it contacts, the dates of such contacts, summaries of any statements those contacts make, and any material it reviews.
- i) Ordinarily, prior to interviewing someone, the PIC will:
 - o Inform the person that if there is a trial, the accused or the prosecutor could call him to testify as a witness, and that refusing to testify at such a trial could result in censure if he is a PCA member. (BCO 35-12: "An officer or private member of the church refusing to testify may be censured for contumacy.")
 - o Inform the person that any testimony he gives at trial would be provided under oath (BCO 35-6), be recorded, and become part of the Record of the Case (BCO 35-7).
 - o PIC will note for the record whether the person indicates he is willing to testify at trial.

5. **Representation & Counsel** – Before questioning an accused minister, the PIC will remind him of his right to recruit a TE or RE in that Presbytery to represent him in all matters and communications with the PIC, per rules and principles in BCO 32-19. The accused should inform the PIC of the name and contact information of any person serving as his Representative as soon as possible.

BCO 32-19. No professional counsel shall be permitted as such to appear and plead in cases of process in any court; but an accused person may, if he desires it, be represented before the Session by any communing member of the same particular church, or before any other court, by any member of that court. A member of the court so employed shall not be allowed to sit in judgment in the case.

[Note: Presbytery interprets the phrase, "as such," to mean the accused cannot hire and pay for professional counsel. But a person who falls in the membership categories described in BCO 32-19 can serve as unpaid Representative even if he happens to be an attorney.]

The PIC will not ask this Representative to answer investigative questions or call him to testify without written permission from the accused, even though he is under direct or indirect jurisdiction of the Presbytery. Thus, BCO 35-12 will not ordinarily pertain to a Representative: "An officer or private member of the church refusing to testify may be censured for contumacy." Furthermore, no statement of the Representative will be entered into evidence without written permission from the accused.

This confidentiality protection also applies to any counsel or counselor used by the accused - lay or professional - regardless of where the counselor's membership lies. The accused is not obliged to inform the PIC of the name of anyone in such a role. But it is the accused's responsibility to inform his counsel and/or counselor of this confidentiality protection regarding questioning and testifying, and if questioned, the counsel or counselor should notify the PIC that the confidentiality protection of the PIC guidelines pertains. At the same time, the accused may not seek counsel primarily to prevent that person from testifying, and the court will render a decision in any instance where it appears to the court that such is the case, and it shall record its reasons for any decision on the question.

1
2 6. **Questioning the Accused TE** - As in secular investigations, the PIC should ensure the accused TE
3 knows that anything he says or writes can be used against him, and that members of the PIC could be
4 cited to testify at trial. No minister being investigated is required to meet with, or to answer questions
5 from, the PIC or an IT, pursuant to the principle in BCO 35-2: "The accused party is allowed, but shall
6 not be compelled, to testify..." (Note: When BCO 31-2 tasks a session or a presbytery to "demand ...
7 satisfactory explanations ..." Presbytery understands that to describe *the court's* responsibility, not an
8 obligation of the accused. In other words, the accused is not necessarily "contumacious" if he declines
9 to meet with the PIC or answer any of its questions.)

10 The PIC may invite the accused to meet with it, and/or send written interrogatories to him, to
11 which the accused has the option of responding to any, all, or none. The accused may even request
12 such. Use of these is at PIC's discretion.

13 The PIC should ensure the accused TE understands that ordinarily, no exculpatory statement or
14 writing he provides during the investigation can be entered as defense evidence at trial unless it can be
15 cross-examined, which would ordinarily mean he would need to take the stand for them to be accepted
16 as defense exhibits. (SJC Case 2012-08 *Sartorius v. Siouxlands*, M43GA, p. 548)

17
18 7. **Consultants** - In an investigation that would likely involve matters related to a TE's marriage or involve
19 a woman as an accuser or as the recipient of a personal offense (BCO 29-3), the PIC will ordinarily
20 consider recruiting at least one female, non-voting consultant for the investigation, provide her with
21 these Rules and Guidelines, and get her assurance that she will also comply with them.

22
23 8. **Shepherding Committee** - Members of Presbytery's shepherding/minister-and-churches committee
24 will not ordinarily be questioned by the PIC. This guideline is intended to allow the accused minister
25 to communicate more freely with this committee or one of its members.

26
27 9. **Non-Indictment** - After investigation, if the PIC deems no indictment is warranted, the PIC shall
28 simply *report* the following.

- 29 a) the date on which the Moderator assigned an investigation;
30 b) whether the PIC (or a PIC-assigned IT) performed the investigation;
31 c) the names of the investigators;
32 d) the PIC finding that the investigation did not result in a "strong presumption of guilt" warranting
33 an indictment on any allegation made, and thus, no recommendation exists; and
34 e) the PIC decision that it has, therefore, concluded the matter.

35
36 Unless the PIC makes an indictment recommendation, no motion is needed, and no Presbytery vote is
37 required. In such instance, the PIC's non-indictment *report* is simply entered into Presbytery minutes
38 without naming the accuser or the accused. At Presbytery's discretion, however, if these names are
39 already public, they may be entered into Presbytery's regular minutes. Below are some pertinent
40 excerpts from Robert's Rules pertaining to committee reports that *do not* contain a recommendation.

41
42 A motion whose only effect is to propose that the assembly *refrain* from doing something should
43 not be offered if the same result can be accomplished by offering no motion at all. RONR (12th
44 ed.) 10:11

45
46 If after investigation, the committee's opinion is favorable to the accused, or if it finds that the
47 matter can be resolved satisfactorily without a trial, it reports that fact. RONR (12th ed.) 63:13 -
48 RONR Footnote: If the investigating committee submits a report that does not recommend
49 preferal of charges, it is within the power of the assembly nevertheless to adopt a resolution that
50 does prefer charges.

1 Even if a report contains only an account of the work done or a statement of fact or opinion for
2 the assembly's information, it should be in writing. Apart from filing such a report, however, no
3 action on it is necessary and usually none is taken. RONR (12th ed.) 51:53

4
5 When the assembly *hears* the report thus read or orally rendered, it *receives* the report. The terms
6 *presentation* and *reception* accordingly describe one and the same event from respective
7 viewpoints of the reporting member and the assembly." RONR (12th ed.) 51:09

8
9 A common error is to move that a report "be received" after it has been read - apparently on the
10 supposition that such a motion is necessary in order for the report to be taken under consideration
11 or to be recorded as having been made. In fact, this motion is meaningless and is therefore not in
12 order, since the report has already been received. RONR (12th ed.) 51:15

- 13
14 **10. BCO 38-1 Cases Without Process** - At any point prior to indictment, the PIC may suggest, or the
15 accused TE may ask, that the matter might be handled as a "case without process" pursuant to BCO
16 38-1. The PIC may offer to assist the TE in preparing a "written Confession" and may suggest changes
17 to his draft, or even propose one to him.

18
19 If the PIC is acting as a BCO 15-1 commission and authorized to decide the censure, it should ordinarily
20 inform the TE of the censure it intends to impose if he signs the Confession Document.

21
22 If the PIC is acting as a committee regarding censure, it should ordinarily inform the TE of any censure
23 it intends to recommend to Presbytery if he signs the Confession Document.

24
25 BCO 38-1 also includes an important stipulation related to discussions: "... Statements made by him in
26 the presence of the court must not be taken as a basis of a judgment without process except by his
27 consent. ..." This is understood to mean that no statements, admissions, and/or confessions made by
28 the accused during any discussion *related to BCO 38-1* would be presented to the Presbytery, or to any
29 trial court, or disclosed by any PIC members if they testify at trial.

- 30
31 **11. Indictment Recommendation** - The PIC will recommend an indictment only if, (a) it deems there is
32 sufficient evidence of a sin, which, if proven, would warrant a formal censure, and (b) it deems the
33 evidence and witnesses available to testify at trial are likely to result in a conviction.

34
35 If the PIC adopts a motion to recommend an indictment to Presbytery, the PIC will ordinarily provide
36 its report to the accused TE at least 14 days prior to any Presbytery meeting at which PIC intends to
37 present that recommendation. The accused, in his sole discretion, should be given the opportunity to
38 address the PIC regarding that record at least 7 days prior to that Presbytery meeting, to afford the
39 accused further opportunity to provide the "satisfactory explanation" mentioned in BCO 31-2. If the
40 PIC withholds any part of its report from the accused, the PIC will record its reason(s) in its Minutes.
41 The PIC will not ordinarily share its report with anyone prior to executive session at the Presbytery
42 meeting.

43
44 Once the PIC adopts a motion to recommend indictment, it should consider requesting a called meeting
45 of Presbytery if a stated meeting is more than 30 days hence.

46
47 When the PIC recommends an indictment to Presbytery, it will also recommend a prosecutor for
48 Presbytery to consider appointing. A PIC member may be appointed to serve as the prosecutor, and
49 PIC members may assist the prosecutor at his request. The prosecutor will ordinarily serve as
50 Presbytery's Representative if a conviction or censure is appealed to the SJC.

1 The prosecutor, and not the PIC, has the ultimate responsibility for evaluating evidence, crafting the
2 indictment, preparing prosecution exhibits, requesting the court to cite prosecution witnesses, and
3 proving the allegations at trial. The prosecutor may, after reviewing the case and the evidence, report
4 to the PIC that he does not think he could prove the allegations.

5
6 **12. BCO 31-10**

7
8 BCO 31-10. When a member of a church court is under process, all his official functions
9 may be suspended at the court's discretion; but this shall never be done in the way of
10 censure. *and this requires a two-thirds (2/3) majority.* (Emphasis added.)

11
12 Presbytery understands the phrase "under process" to mean after Presbytery has ordered the
13 appointment of a prosecutor. (BCO 31-2) The super-majority requirement was enacted at the Memphis
14 50th GA in 2023. While some circumstances might warrant the non-censure suspension described in
15 BCO 31-10, Presbytery understands the important caution of the final clause because such an
16 "administrative" suspension could easily have the same effect as the dissolution of a TE's call. Formal
17 judicial process and any subsequent appeal could take several months. The time between when
18 Presbytery orders the appointment of a prosecutor, and when it votes on a recommended judgment and
19 censure from a trial commission, would likely be at least four months (say, from a January to a May
20 stated meeting). And if a convicted TE appeals to the SJC, that process would likely take another 6-7
21 months. Many churches could not afford to continue full compensation to the accused minister during
22 those many months while he's suspended from "official functions" if the church is also paying an
23 interim replacement.

24
25 **13. Trial Commissions** - Ordinarily, PIC members and members of any IT will not sit as judges if the
26 matter goes to trial, but they may be called to testify. This preclusion is prudent and fair for several
27 reasons, including the reasons referenced in the following BCO paragraphs.

28
29 32-13 stipulates trials should be "fair and impartial."

30
31 32-16. Either party may, for cause, challenge the right of any member to sit in the trial of the case,
32 which question shall be decided by the other members of the court. *(It's not unlikely that a*
33 *defendant would make this challenge for PIC members.)*

34
35 32-17. Pending the trial of a case, any member of the court who shall express his opinion of its
36 merits to either party, or to any person not a member of the court; ... shall be thereby disqualified
37 from taking part in the subsequent proceedings. *(PIC members will likely have expressed their*
38 *opinion on the merits of the case to the accused, especially if they have discussed a BCO 38-1*
39 *statement with him.)*

40
41 **14. Other Considerations** - Among many factors in making decisions, the Moderator and PIC shall
42 specifically consider these six BCO provisions: BCO 29-1, 31-8, 34-2, 34-3, 34-5, and 35-1.

43
44 BCO 29-1. ... Nothing, therefore, ought to be considered by any court as an offense, or admitted
45 as a matter of accusation, which cannot be proved to be such from Scripture.

46
47 BCO 31-8. Great caution ought to be exercised in receiving accusations from any person who is
48 known to indulge a malignant spirit towards the accused; who is not of good character; who is
49 himself under censure or process; who is deeply interested in any respect in the conviction of the
50 accused; or who is known to be litigious, rash or highly imprudent.

1 BCO 34-2. As no minister ought, on account of his office, to be screened in his sin, or slightly
2 censured, so scandalous charges ought not to be received against him on slight grounds.

3
4 BCO 34-3. If anyone knows a minister to be guilty of a private offense, he should warn him in
5 private. But if the offense be persisted in, or become public, he should bring the case to the
6 attention of some other minister of the Presbytery.

7
8 BCO 34-5. Heresy and schism may be of such a nature as to warrant deposition; but errors ought
9 to be carefully considered, whether they strike at the vitals of religion and are industriously
10 spread, or whether they arise from the weakness of the human understanding and are not likely
11 to do much injury.

12
13 BCO 35-1. ... The accused party may be allowed, but shall not be compelled, to testify; but the
14 accuser shall be required to testify, on the demand of the accused. ...

- 15
16 **15. Mandatory Reports to Civil Authorities** - If at any point the PIC determines a “mandatory report” is
17 required by pertinent State law, the PIC should promptly ensure compliance therewith (and is
18 authorized herein to seek Presbytery-paid legal counsel on the question as it deems warranted).
19 <https://www.childwelfare.gov/topics/systemwide/laws-policies/statutes/clergymandated/>
20
21 **16. PIC-appointed IT** - By a unanimous vote, the PIC may appoint any three non-PIC presbyters (TEs,
22 REs or both) as an Investigative Team (“IT”) to investigate allegations and report a recommendation
23 *to the PIC*. In such instances, the PIC will record and report to Presbytery the reasons why it delegated
24 such. The choice of IT members will likely depend on several factors - the nature of the alleged offense,
25 the accused, the accuser, the location of potential witnesses, any preliminary evidence, etc. An IT shall
26 comply with all parts of PIC Rules and should follow the Guidelines as the PIC would. But it is the
27 PIC that makes any recommendations to the Presbytery, not the PIC-appointed IT.²

² A PIC-appointed IT is perhaps more pertinent in presbyteries with larger geographic areas. However, if an IT includes TEs in close proximity to the accused, and the IT eventually recommends an indictment, it will likely affect their future relationships.

BCO 15-1 & Two Different Clocks

- a) A commission differs from an ordinary committee in that while a committee is appointed to examine, consider, and report, a commission is authorized to deliberate upon and conclude the business referred to it.
- b) A commission shall keep a full record of its proceedings, which shall be submitted to the court appointing it.
- c) Upon such submission this record shall be entered on the minutes of the court appointing, the date of the submission being the date of “the meeting of the court” for filing requirements under the rules of discipline, **with exception of** the “notification” dates of BCO 42-4 and 43-3.^{1 2} [*i.e., for carrying an appeal or complaint to the higher court; emphasis added*]
- d) The effective date of dismissal of a commission of Session or Presbytery shall be not before the time allowed for the filing of a complaint or appeal against that commission’s decision has expired.
- e) Any complaint or appeal so timely filed, **shall be** adjudicated by that commission until the matter is settled by that commission or a higher court. (*emphasis added*)
- f) When a commission is appointed to serve as an interim Session, its actions are the actions of a Session, not a Presbytery.
- g) Every commission of a Presbytery or Session must submit complete minutes and a report of its activities at least once annually to the court which commissioned it.

¹ BCO 42-4. Notice of appeal may be given the court before its adjournment. Written notice of appeal, with supporting reasons, shall be filed by the appellant with both the clerk of the lower court and the clerk of the higher court, within thirty (30) days of notification of the last court’s decision.

Notification of the last court’s decision shall be deemed to have occurred on the day of mailing (if certified, registered or express mail of a national postal service or any private service where verifying receipt is utilized), the day of hand delivery, or the day of confirmed receipt in the case of e-mail or facsimile. Furthermore, compliance with such requirements shall be deemed to have been fulfilled if a party cannot be located after diligent inquiry or if a party refuses to accept delivery. No attempt should be made to circularize the courts to which appeal is being made by either party before the case is heard.

² BCO 43-3. If, after considering a complaint, the court alleged to be delinquent or in error is of the opinion that it has not erred, and denies the complaint, the complainant may take that complaint to the next higher court. If the lower court fails to consider the complaint against it by or at its next stated meeting, provided that the complaint has been filed with the clerk at least ten (10) days in advance, the complainant may take that complaint to the next higher court. If the complaint is filed with less than ten (10) days’ notice, the court may consider the complaint at a later meeting not more than 60 days later. Written notice thereof shall be filed with both the clerk of the lower court and the clerk of the higher court within thirty (30) days of notification of the last court’s decision.

Notification of the last court’s decision shall be deemed to have occurred on the day of mailing (if certified, registered or express mail of a national postal service or any private service where verifying receipt is utilized), the day of hand delivery, or the day of confirmed receipt in the case of e-mail or facsimile. Furthermore, compliance with such requirements shall be deemed to have been fulfilled if a party cannot be located after diligent inquiry or if a party refuses to accept delivery.