Title 12.

Criminal Procedure.

CHAPTER 1.

General Provisions.

§ 1. Definitions. — As used in this title, the following terms shall have the meanings set forth below:

(1) *"Complaint"* means a statement of the essential facts constituting a criminal offense by one or more persons named or described therein. It shall be made under oath before a court or an official authorized to issue a warrant. It may be either written or oral, but whenever the court or official hearing it deems practicable it shall be reduced to writing, signed by the complainant, and bear a record of the oath signed by the person who administered it. The complaint shall refer to the Code section, ordinance, district order, native custom, or other provision of the law which the accused is alleged to have violated, but any error in this reference or its omission may be corrected by leave of court at any time prior to sentence and shall not be ground for reversal of a conviction if the error or omission did not mislead the accused to his prejudice. If a felony is not charged, the court may accept a complaint in lieu of an information.

(2) *"Warrant of Arrest"* means a written order commanding that a person or persons be arrested and brought without unnecessary delay before a court named therein, or otherwise dealt with according to law. It shall be signed by the clerk of the court or by the official issuing it and shall contain the name of the accused, or if his name is unknown any name or description by which he can be identified with reasonable certainty. It shall describe the criminal offense charged and may do so by referring to either the original or a copy of the complaint or information attached to or on the same sheet as the warrant. Except where otherwise indicated, the word "Warrant" in this title refers to a "Warrant of Arrest."

(3) *"Search Warrant"* means a written order directed to a policeman, commanding him to search for and, if found, to seize and bring before a particular court or official certain articles supposed to be in the possession of a person or at a place named or described in the search warrant. It shall be signed by the clerk of court or by the official issuing it, and shall state the grounds or probable cause for its issuance and the name of the person or

persons whose statements, under oath, have been taken in support thereof It shall designate the court or official to whom it shall be returned.

(4) *"Penal Summons"* means a written order summoning a person or persons to appear before a court at a time and place named therein, instead of commanding an arrest. Otherwise it shall meet all the requirements of a warrant. It shall contain a warning that failure to obey it will render the accused liable to arrest upon a warrant.

(5) *"Citation"* means a written order to appear before a court at a time and place named therein to answer a criminal charge briefly described in the citation. It shall contain a warning that failure to obey it will render the accused liable to have a complaint filed against him upon which a warrant of arrest may be issued. The statement of the charge or charges in a citation or a copy thereof may be accepted by the court in place of an information in any misdemeanor tried in the first instance in a community court or a district court

(6) *"Judge"* means any member of the high court, a district court, or a community court.

(7) *"Policeman"* means any member of the Micronesia police or any person authorized by the High Commissioner or any district administrator to act as a policeman.

(8) *"Attorney General"* means the legal officer on the staff of the High Commissioner or any person appointed by the High Commissioner to supervise prosecutions throughout the Trust Territory.

(9) *"District Attorney"* means any person appointed by the High Commissioner to represent the government in any case, civil or criminal, in any court of the Trust Territory.

(10) *"Oath"* shall include a solemn affirmation.

(11) *"Personal Recognizance"* means a promise made before an officiall authorized to accept bail that in consideration of the release of the person he will appear in accordance with all orders of the court and that if he fails to do so he will pay a stated sum of money.

(12) *"Arrest"* means placing any person under any form of legal detention legal authority. (Code 1966, § 445; Code 1970, tit. 12, § 1.)

Error in reference to law violated. — In criminal prosecution, where there is error in reference to law allegedly violated, such error is not grounds for reversal of conviction if error did not mislead accused to his prejudice. Temengil v. Trust Territory, 2 TTR 31 (1959).

Requirement that accused be misled to his prejudice. — Where there is error in criminal complaint as a violation charged, error will be disregarded if accused is not misled to his prejudice on account of error. Itelbong v. Trust Territory, 2 TTR 595 (1964).

Correction of error or omission of provision of law in complaint. — Criminal complaint must refer to provision of law which accused is alleged to have violated, but error or omission may be corrected by leave of court any time prior to sentence, and is not ground for reversal if not misleading to accused's prejudice. Lornis v. Trust Territory, 2 TTR 114 (1959).

CHAPTER 2.

PROCESS; WARRANTS AND ARREST.

§ 51. Process obligatory upon police. — (1) All process in any criminal proceedings, in all contempt proceedings, and in juvenile delinquency proceedings, issued in accordance with law and the rules of procedure prescribed in accordance with law, shall be obligatory upon all policemen having knowledge thereof, and any policeman to whom such process is given shall promptly make diligent effort to execute or serve the same either personally or through another policeman.

(2) This section shall cover orders to show cause why a person should not be adjudged in contempt, orders of attachment of a person, summons, and all other orders (including an oral order in place of any of the foregoing), issued in either civil contempt proceedings or juvenile delinquency proceedings, as well as all forms of process in criminal proceedings. (Code 1966, § 489; Code 1970, tit. 12, § 51.)

§ 52. Limitation of arrests without a warrant. — No arrest of any person shall be made without first obtaining a warrant therefor, except in the cases authorized in this chapter or as otherwise provided by law. (Code 1966, § 456; Code 1970, tit. 12, § 52.)

§ 53. Authority to issue a warrant of arrest. — The following officials are authorized to issue a warrant of arrest:

(1) Any court;

(2) Any judge;

(3) The clerk of courts for a district, subject to such limitations as the chief justice of the high court may impose;

(4) Any other person authorized in writing by the High Commissioner, and a certified copy of whose authorization is filed with the clerk of courts for the district in which he acts. (Code 1966, § 446; Code 1970, tit. 12, § 53.)

§ 54. Warrant or penal summons upon complaint. — (1) Any person, other than the Attorney General or a district attorney, desiring the issuance of a warrant of arrest for a criminal offense shall personally appear and make a complaint within the district where the offense or some part thereof is alleged to have been committed, before an official authorized to issue a warrant.

(2) If the complaint states the essential facts constituting a criminal offense by one or more persons named or described therein, and if, in the opinion of the

official, there is probable cause to believe or strongly suspect that the offense complained of has been committed by such person or persons, the official may issue his warrant for the arrest of such person or persons, or may issue a penal summons as provided in this chapter.

(3) Any official, other than a judge of a district court, may refuse to act if he deems that the public interest does not require action before the matter can reasonably be presented to a judge of a district court. (Code 1966, § 448; Code 1970, tit. 12, § 54.)

Procedure for obtaining issuance of arrest warrant. — Anyone who desires issuance of warrant of arrest for criminal offense may personally appear and make complaint before some official authorized to issue warrant. Uaayan v. Trust Territory, 1 TTR 418 (1958).

Statement in complaint of essential facts constituting offense. — If criminal complaint states essential facts constituting criminal offense, official is authorized to issue warrant of arrest. Uaayan v. Trust Territory, 1 TTR 418 (1958).

§ 55. Investigation of complaint in doubtful cases. — (1) If a judge of a district court before whom a complaint is made is doubtful whether sufficient grounds in fact exist for the issuance of a warrant or penal summons, he may, if the complainant consents, refer the complaint to the Micronesia police for investigation and report and withhold action for a reasonable time pending such report.

(2) If the complainant does not consent to such a reference or if the report of investigation is not received within a reasonable time, the judge shall proceed to examine under oath the complainant, any witnesses offered by the complainant and such other witnesses as the judge deems best and may, in his discretion, give the accused an opportunity to be present and to be heard.

(3) If the judge is satisfied from the investigation made by the Micronesia police or that made by him as directed in subsection (2) of this section that there is probable cause to believe or strongly suspect that the offense complained of has been committed and that the accused committed it, he shall issue a warrant or a penal summons as provided in this chapter. (Code 1966, § 449; Code 1970, tit. 12, § 55.)

§ 56. Use of penal summons in lien of warrant of arrest. — (1) In the case of all criminal offenses for which the lawful punishment does not exceed a fine of one hundred dollars or six months imprisonment, or both, a penal summons to appear before a court at a time and place fixed in the penal summons shall be issued instead of a warrant of arrest, unless it shall appear to the court or official issuing the process that the public interest requires the arrest of the accused.

(2) Upon request of the complainant, a penal summons instead of a warrant may be issued in any case.

(3) If, after a penal summons has been served upon him, the accused fails to appear in response to the penal summons without an excuse known to and deemed adequate by the court named therein, a warrant shall be issued. (Code 1966, § 450; Code 1970, tit. 12, § 56.)

Policy concerning issuance of penal summons in place of warrant of arrest. — Courts and officials authorized to issue warrants have an obligation to give effect to the policy that in the case of offenses punishable by not more than one hundred dollars fine or six months' imprisonment or both, a penal summons shall be issued in place of a warrant of arrest unless there is special reason to believe that the public interest requires arrest. Eram v. Trust Territory, 3 TTR 442 (1968).

§ 57. Execution of warrants and service of penal summons. — A warrant of arrest shall be executed or the penal summons served by a policeman or by a person specifically authorized in the warrant or summons to execute or serve it. The warrant may be executed or the summons served at any place within the jurisdiction of the Trust Territory. A penal summons shall be served upon the accused by delivering a copy to him personally and orally explaining the substance thereof to him in a language generally understood in the locality and, if practicable, in one understood by the accused, or by leaving it at his dwelling house or usual place of abode or of business with some person of suitable age and discretion then residing or employed therein and orally explaining the substance thereof. (Code 1966, § 451; Code 1970, tit. 12, § 57.)

§ 58. Return of service. — (1) The person executing a warrant shall endorse thereon and sign a statement of the arrest showing the date and place of arrest and shall have such warrant delivered to the court or official before whom the accused is brought pursuant to section 67 of this chapter, or to the court named in the warrant if the accused is released on bail or personal recognizance before being brought before a court or official.

(2) At or before the time stated in a penal summons for appearance of the accused, the person to whom a penal summons is delivered for service shall endorse and sign a report of his action thereon and have such summons delivered to the court named therein. If he has served the summons, his report shall show the date, place, and method of service. (Code 1966, § 452; Code 1970, tit. 12, § 58.)

Editor's note. — As enacted, this section contains a reference to "section 217 of this chapter," for which the editor substituted "section 67 of this chapter" as that seemed to be the section intended.

§ 59. Issuance of oral order in lieu of warrant or penal summons by community court. — (1) A community court or any judge thereof may, if the court or judge deems the public interest so requires, issue an oral order in place of either a warrant of arrest or a penal summons, which shall have the same force and effect within the territorial jurisdiction of that court as a warrant or penal summons.

(2) Such an oral order may be served by orally communicating the substance thereof to the accused and the report of execution or service of such an order may be made orally.

(3) Any person making an arrest on an oral order or serving such an order in place of a penal summons shall report all the essential facts to the court or official before whom the accused is brought or ordered to appear.

(4) Any person by going to trial before a community court without requesting a copy of the charges against him thereby waives his right to have a copy in advance of trial in that court, but he does not thereby waive his right to such copy before trial in a district court in the event of an appeal. (Code 1966, § 453; Code 1970, tit. 12, § 59.)

§ 60. Issuance of warrant or penal summons on information. — The Attorney General or a district attorney may file an information signed by him in any court competent to try the accused for a criminal offense or offenses charged therein. If the information states the essential facts constituting a criminal offense or offenses by one or more persons named or described therein and is supported by one or more written statements under oath showing to the satisfaction of the court that there is probable cause to believe or strongly suspect that the offense complained of has been committed by such person or person, the court shall, upon request of the Attorney General or district

attorney, issue its warrant or penal summons as upon a complaint. (Code 1966, § 454; Code 1970, tit. 12, § 60.)

Admissibility of evidence. — Evidence obtained in violation of rights of accused is inadmissible. Fontana v. Trust Territory, 2 TTR 616 (App. Div. 1959).

§ 61. Authority to arrest without warrant. — Arrest without a warrant is authorized in the following situations:

(1) Where a breach of the peace or other criminal offense has been committed, and the offender shall endeavor to escape, he may be arrested by virtue of an oral order of any official authorized to issue a warrant, or without such order if no such official be present.

(2) Anyone in the act of committing a criminal offense may be arrested by any person present, without a warrant.

(3) When a criminal offense has been committed, and a policeman has reasonable ground to believe that the person to be arrested has committed it, such policeman may arrest the person without a warrant.

(4) Policemen, even in cases where it is not certain that a criminal offense has been committed, may, without a warrant, arrest and detain for examination persons who may be found under such circumstances as justify a reasonable suspicion that they have committed or intend to commit a felony. (Code 1966, § 457; Code 1970, tit. 12, § 61.)

Arrest without warrant. — This section authorizes an arrest without a warrant by a policeman who has "reasonable grounds" to believe a criminal offense has been committed. Trust Territory v. Kaneshima, 4 TTR 340 (1969).

When an informant has advised the arresting officer that defendant was involved in a crime, this is sufficient to allow an arrest to be made without a warrant. In re Santos (App. Div., June, 1978).

Written statement from defendant at time of arrest. — Even if defendant is detained beyond the 24-hour period from the time of the arrest in violation of the statute, where defendant at the time of his arrest made a written statement admitting his involvement in the alleged break-in, statements adduced from his arrest were not improperly taken. In re Santos (App. Div., June, 1978).

Evidence obtained in violation of rights of accused is inadmissible. Fontana v. Trust Territory, 2 TTR 616 (App. Div. 1959).

Admission of exhibits which by themselves warrant guilty verdicts. — Code provisions justified admission of exhibits which by themselves, as distinguished from corroboration of the admission of the accused, were sufficient to warrant guilty verdicts on the information. Trust Territory v. Kaneshima, 4 TTR 340 (1969).

§ 62. Use of citations. — A policeman in any case in which he may lawfully arrest a person without a warrant, may, subject to such limitations as his superiors may impose, issue and serve a citation upon the person instead of making an arrest, if he deems that the public interest does not require an arrest. (Code 1966, § 455; Code 1970, tit. 12, § 62.)

§ 63. Complaints in cases of arrest without warrant. — When a person arrested without a warrant is brought before a court or official authorized to issue a warrant, a complaint shall be made against him forthwith, if that has not already been done. (Code 1966, § 465; Code 1970, tit. 12, § 63.)

§ 64. Arrested person to be informed of cause and authority of arrest. — (1) Any person making an arrest shall, at or before the time of arrest, make every reasonable effort to advise the person arrested as to the cause and authority of the arrest.

(2) A policeman making an arrest by virtue of a warrant need not have the warrant in his possession at the time of the arrest, but, after the arrest, the

person arrested may request to see the warrant, and that shall be shown to him as soon as possible. (Code 1966, § 458; Code 1970, tit. 12, § 64.)

Evidence obtained in violation of rights of accused is inadmissible. Fontana v. Trust Territory, 2 TTR 616 (App. Div. 1959).

§ 65. Use of force in making arrest. — In all cases where the person arrested refuses to submit or attempts to escape, such degree of force may be used as is necessary to compel submission. (Code 1966, § 459; Code 1970, tit. 12, § 65.)

§ 66. Disposition of persons arrested by private persons. — Any private person making an arrest shall deliver the arrested person to a policeman or an official authorized to issue a warrant without unnecessary delay and shall explain the cause of the arrest. Except where transportation difficulties are involved, or neither a policeman nor an official authorized to issue a warrant can be located promptly, such delay should not extend beyond a few hours during the daytime or early evening nor beyond ten o'clock on the following morning in the case of persons arrested during the nighttime. (Code 1966, § 462; Code 1970, tit. 12, § 66.)

§ 67. Disposition of arrested persons by policeman. — Persons arrested by a policeman, except under subsection (4), section 61 of this chapter, or delivered to him after arrest by a private person, shall be brought without unnecessary delay before a court competent to try the offender for the criminal offense charged, subject to the following:

(1) If bail has been fixed, it shall be accepted and the arrested person released to appear in accordance with all orders of the court named in the warrant or any court to which the case may be transferred. Reasonable opportunity to raise bail shall be afforded by permitting the person arrested to send a message or messages through a policeman or other persons by telephone, cable, wireless, messenger, or other expeditious means, to any person likely to assist in securing bail; provided, that such message can be sent without expense to the government or that the arrested person prepays any expense there may be to the government.

(2) If it appears that it will not be practicable to bring the arrested person promptly before a court competent to try him for the offense charged, and he has not been released on bail or personal recognizance, he shall be brought before an official authorized to issue a warrant without unnecessary delay. This official shall commit the arrested person, discharge him, or release him on bail or personal recognizance as provided in this title. Whenever a judge of a district court is available, the arrested person shall be brought before such a judge in preference to any other official authorized to issue a warrant. (Code 1966, § 463; Code 1970, tit. 12, § 67.)

Effect of determination of probable cause. — The purpose of section is to determine whether or not possible cause exists and, if it does not, to assure the prompt dismissal of charges against the accused person. Sonoda v. Trust Territory (App. Div., November, 1976).

Right of accused who is detained to a preliminary hearing. — If no justice of the high court is present at the place set for trial and if the person accused is actually detained or otherwise in a position where his liberty is substantially restrained, then he is entitled to a prompt determination as to whether or not there is probable cause that he is guilty of the crime with which he is charged. This is accomplished through a preliminary hearing which then becomes a matter of right. Sonoda v. Trust Territory (App. Div., November, 1976).

If a justice is physically present, preliminary hearing is in discretion of high court. — In recognition that a certain district

may be without the presence of a justice of the high court for extended periods of time, provision is made to protect the substantial rights of the person accused. Preliminary hearings are utilized to safeguard such rights. However, where a justice of the high court is physically present at the place set for trial the reason for utilization of a preliminary hearing ceases, for the presence of the justice of the high court will assure a speedy trial, and any substantial rights of the person accused that might otherwise be in jeopardy can be protected by the high court. Where a justice of the high court is physically present at the place of trial a preliminary hearing is not a matter of right; it is a matter of discretion that rests with the trial division of the high court. (Sonoda v. Trust Territory (App. Div., November, 1976).

§ 68. Rights of persons arrested. — (1) In any case of arrest, or arrest for examination, as provided in subsection (4), section 61 of this chapter, it shall be unlawful:

(a) To deny to the person so arrested the right to see at reasonable intervals, and for a reasonable time at the place of his detention, counsel, or members of his family, or his employer, or a representative of his employer;

(b) To refuse or fail to make a reasonable effort to send a message by telephone, cable, wireless, messenger or other expeditious means, to any person mentioned in subsection (1) of this section, provided the arrested person so requests and such message can be sent without expense to the government or the arrested person prepays any expense there may be to the government;

(c) To fail either to release or charge such arrested person with a criminal offense within a reasonable time, which under no circumstances shall exceed twenty-four hours;

(d) For those having custody of one arrested, before questioning him about his participation in any crime, to fail to inform him of his rights and their obligations under subsections (a) — (c) of this section.

(2) In addition, any person arrested shall be advised as follows:

(a) That the individual has a right to remain silent;

(b) That the police will, if the individual so requests, endeavor to call counsel to the place of detention and allow the individual to confer with counsel there before he is questioned further, and allow him to have counsel present while he is questioned by the police if he so desires; and

(c) That the services of the public defender, when in the vicinity of his local representative, are available for these purposes without charge. (Code 1966, § 464; Code 1970, tit. 12, § 68.)

Cross reference. — Due process of law, see 1 TTC 4.

Confession inadmissible where induced after prolonged detainment. — Under interim regulation no. 2-51, if person is deliberately held in custody for four days and thereby induced to make a confession of crime on the fourth day and is not charged with any criminal offense until the fifth day, confession is clearly involuntary and inadmissible. Haruo v. Trust Territory, 1 TTR 565 (App. Div. 1952).

Requirement that suspect be charged within 48 hours of detainment. — Under interim regulation no. 2-51 a person arrested for examination may lawfully be held only 48 hours without being charged with a criminal offense. Any evidence obtained in violation of this regulation is inadmissible. Haruo v. Trust Territory, 1 TTR 565 (App. Div. 1952).

Meaning of "charge". — The meaning of "charge" in this section is interpreted in the sense that the accused is informed of the accusation to be made against him and not that a complaint or formal written information has been filed with the court. Trust Territory v. Kaneshima, 4 TTR 340 (1969).

Charge which informs accused that he would be accused in formal proceeding is sufficient. — The charge brought against the accused in question, informing him he would be accused in a formal proceeding with violation of two sections of this Code, was sufficient compliance with section 464 under the circumstances even though it was not a literal compliance with the statute. Trust Territory v. Kaneshima, 4 TTR 340 (1969).

Section 464 imposed no obligation to inform arrested person of rights. — Section 464 of this Code relating to rights of persons arrested for examination imposed no express obligation on anyone to inform the arrested person of his rights under the section. Trust Territory v. Poll, 3 TTR 387 (1968).

Right to counsel construed. — The Escobedo decision established that as far as state courts in the United States are concerned the right to counsel extends to those in custody on suspicion and not yet charged with a specific crime and that statements obtained from them after their request to consult counsel had been disreguarded or denied by the police cannot be admitted in evidence against them. Trust Territory v. Poll, 3 TTR 387 (1968).

U.S. Supreme Court decision not considered. — In recognizing Trust Territory realities, court will not consider recent United States Supreme Court decision (Escobedo v. Illinois) on exclusion of confessions as evidence in criminal proceedings. Meyer v. Trust Territory, 3 TTR 586 (App. Div. 1965).

Custodial interrogation requirements. — The Miranda decision concerning "custodial interrogation" requires that prior to any questioning the person must be warned that he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has right to the presence of an attorney, either retained or appointed, however, the person may waive those rights provided the waiver is made voluntarily, knowingly and intelligently. Trust Territory v. Poll, 3 TTR 387 (1968).

Right to remain silent until consultation with attorney not waived by prior statements or answers to questions. — Under the Miranda decision the mere fact that an accused person may have answered some questions or volunteered some statements on his own does not deprive him of the right to refrain from answering any further inquiries until he has consulted with an attorney and thereafter consents to be questioned. Trust Territory v. Poll, 3 TTR 387 (1968).

Need to inform accused that if he is indigent he can have an attorney appointed. — Under the Miranda decision it is necessary to warn an accused person not only that he has a right to consult with an attorney but also that if he is indigent a lawyer will be appointed to represent him. Trust Territory v. Poll, 3 TTR 387 (1968).

Test for Miranda-type situations is whether constitutionally required warning was given. — Situations to which Miranda applies are governed not by the general test of voluntariness but rather by the more precise test of whether the constitutionally required warning was given and, if given, whether voluntarily waived. Trust Territory v. Sokau, 4 TTR 434 (1969).

No federal equivalent of 48 hours for examination. — There is no equivalent in the federal system of the arrest for examination for 48 hours permitted by this Code. Trust Territory v. Poll, 3 TTR 387 (1968).

Court will apply traditional standards until prosecuting authorities have reasonable notice of opinion changing standard. — Court would apply traditional standards regarding right to counsel in the case of all confessions or admissions obtained by the police from persons in the Trust Territory until prosecuting authorities had reasonable notice of opinion changing standard. Trust Territory v. Poll, 3 TTR 387 (1968).

Confession not inadmissible because accused was in custody or because of illegal detention after confession. — The mere fact that an accused was in custody of the police when he made his confession does not make it inadmissible; or does any illegal detention there may have been after the confession was given make it inadmissible. Eram v. Trust Territory, 3 TTR 442 (1968).

Requirement that accused be informed of nature of formal criminal complaint within reasonable time. — The statutory provision requiring that a person arrested shall be charged or released within 24 hours of his arrest means that he shall be informed of the nature of the formal criminal complaint to be brought against him "within reasonable time," such time being as soon as circumstances permit making a formal written complaint and bringing the accused before a committing judge or official. Trust Territory v. Kaneshima, 4 TTR 340 (1969).

Unlawfulness of detention bears on admissibility of statement. — The lawfulness, or unlawfulness, of the detention of an accused person beyond a 24-hour period without a formal complaint before a court may be one of the circumstances bearing on the admissiblity of any incriminating statement the accused may have made during his detention. Trust Territory v. Kaneshima, 4 TTR 340 (1969).

Statement within 24 hours of arrest. — A statement made within 24 hours of the time of arrest may be considered voluntarily made, assuming the accused is fully apprised of his rights. Trust Territory v. Kaneshima, 4 TTR 340 (1969).

Statement made after 24 hours detention. — A statement made after more than 24 hours' detention without charge is suspect, is prima facie obtained by coercion, subject, always, however, to the entitlement of the prosecutor to negative coercion by an appropriate showing. Trust Territory v. Kaneshima, 4 TTR 340 (1969).

Detention after statement made within 24 hours does not render statement inadmissible. — Where accused's incriminating statement was made within 24 hours of his arrest the detention beyond that period did not constitute coercion sufficient to create an involuntary, and therefore

inadmissible, statement. Trust Territory v. Kaneshima, 4 TTR 340 (1969).

Police detention, even after inquiry, is an arrest. — Police detention is an arrest, even though inquiry is only being made to determine whether a charge should be filed. Trust Territory v. Remengesau, 6 TTR 94 (1972).

Police not obligated to persuade accused to have counsel. — Neither the cases nor the statute obligate the police to persuade an accused that he needs counsel. Trust Territory v. Sokau, 4 TTR 434 (1969).

Confession made before police persuaded accused to have counsel. — Where the confession was made before the police persuaded the accused he needed counsel, it was admissible. Trust Territory v. Sokau, 4 TTR 434 (1969).

Where attorney is requested prior to questioning, waiver is impossible. — Where there is a request for an attorney prior to any questioning, a finding of knowing and intelligent waiver of the right to an attorney is impossible. Trust Territory v. Sokau, 44 TTR 434 (1969).

Indigents' right to counsel on appeal. — Statutes allowing indigents free counsel at trial should not be read to impliedly bar free counsel for an appeal, and under the bill of rights of this Code an indigent has the right to free counsel for an appeal. In re Application of Matagolai, 6 TTR 577 (1974).

Statements made after request for counsel not admissible despite previous waiver. — Statements made after a knowing and intelligent waiver of counsel are admissible However, when the accused changes his mind and requests counsel, any statement he makes thereafter is not admissible until consultation with counsel. Trust Territory v. Sokau, 4 TTR 434 (1969).

Admissions made after accused has been advised of rights. — The admissions of the accused could have been received in evidence if there had been a showing they were voluntarily made after the warnings to the accused had been given as required by this section. Ridep v. Trust Territory, 5 TTR 61 (1970).

Police questions as to source of counterfeit bill before Miranda warning is given. — It was improper for police to ask arrested person who gave her counterfeit bill before they gave her a Miranda warning. Trust Territory v. Remengesau, 6 TTR 94 (1972).

§ 69. Effect of irregularities in issuance of warrant of arrest. — The proceedings before a court or an official authorized to issue a warrant of arrest shall not be invalidated, nor any finding, order, or sentence set aside, for any error or omission, technical or otherwise, occurring in such proceedings, unless in the opinion of the reviewing authority or a court hearing the case on appeal or otherwise it shall appear that the error or omission has prejudiced the accused. (Code 1966, § 497; Code 1970, tit. 12, § 69.)

Purpose of statute. — Trust Territory statute providing that criminal conviction will be reversed only where injustice to accused results from error committed during proceedings, is designed to afford full protection to accused and prevent guilty from escaping punishments. Willianter v. Trust Territory, 3 TTR 227 (1966).

Trial court error will not be set aside unless it results in injustice to accused. — Finding of trial court will not be set aside for error or omission occurring during proceedings unless appellate court determines error has resulted in injustice to accused. Willianter v. Trust Territory, 3 TTR 227 (1966).

Criminal proceedings before trial court will not be invalidated by appellate court for error or omission occurring in such proceedings unless error or omission results in injustice to accused. Ropon v. Trust Territory, 2 TTR 313 (1962).

Only those errors or omissions resulting in injustice to accused in criminal proceedings are grounds for reversal or invalidation of any court order, finding or sentence. Yinmed v. Trust Territory, 2 TTR 492 (1963).

Illegal arrest must prejudice arrested person to constitute reversible error. — Under this section there was no reversible error where illegal arrest without a warrant did not prejudice arrested persons. Henry v. Trust Territory, 6 TTR 78 (1972).

Order resulting in technical irregularity does not injure accused. — District courts' ordering item forfeited to Trust Territory was a "technical irregularity" that resulted in a fine in the amount of the sale proceeds of the seized item rather than the specified sum allowed by law and as such irregularity did not result in injury to accused, order would be affirmed. Trust Territory v. Hartman, 5 TTR 226 (1970).

Where information improperly obtained cannot contribute to conviction it is not fruit of poisonous tree. — The name of a person who may be a witness or even who becomes a defendant is not evidence subject to suppression as fruit from a poisonous tree, for such information, though improperly obtained in absence of a Miranda warning, is at most harmless error because there is no possibility

that the information might contribute to conviction of the person named. Trust Territory v. Remengesau, 6 TTR 94 (1972).

§ 70. Effect of violation of title. — No violation of the provisions of this title shall in and of itself entitle an accused to an acquittal, but no evidence obtained as a result of such violation shall be admissible against the accused; provided, that any person detained in custody in violation of any provision of this title may, upon motion by any person in his behalf, and after such notice as the court may order, be released from custody by the court named in the warrant, or before which he has been held to answer. The release shall be upon such terms as the court may deem law and justice require. The relief authorized by this section shall be in addition to, and shall not bar, all forms of relief to which the arrested person may be entitled by law. (Code 1966, §§ 498 and 499; Code 1970, tit. 12, § 70.)

Evidence obtained in violation of rights of accused is inadmissible. Fontana v. Trust Territory, 2 TTR 616 (App. Div. 1959).

Violation of title does not by itself entitle accused to acquittal. — No violation of the provisions in this title, including provisions for a motion to suppress, will and and of itself entitle an accused to an acquittal. Trust Territory v. Techur, 5 TTR 212 (1970).

No violation of provisions in this title, including failure to give notice to accused, will and and of itself entitle accused to acquittal in criminal proceedings in the Trust Territory. Yinmed v. Trust Territory, 2 TTR 492 (1963).

Violation of certain sections of this Code by constabulary does not mean accused must be acquitted or that any evidence obtained thereafter during detention must be excluded. Fontana v. Trust Territory, 2 TTR 616 (App. Div. 1959).

Failure to give accused copy of complaint only entitles him to continuance. — Where accused is not given copy of complaint or is given copy while drunk, he is only entitled to continuance until he receives copy and has time to prepare for trial. Yinmed v. Trust Territory, 2 TTR 492 (1963).

Failure to give bail receipt does not bear on defendant's guilt. — Since purpose of giving bail receipt is to protect against possible loss or misappropriation of bail, failure to do so has no bearing whatever on defendant's guilt. Yinmed v. Trust Territory, 2 TTR 492 (1963).

Confession obtained while under illegal detention. A confession obtained while a defendant was under illegal detention because, after his arrest on a warrant, he was not brought without unnecessary delay before a court or official authorized to issue a warrant as required by section 67 of this title would be inadmissible under the doctrine of McNabb v. United States. Eram v. Trust Territory, 3 TTR 442 (1968).

CHAPTER 3.

SEARCHES AND SEIZURES.

Cross reference. — Unreasonable search and seizure, 1 TTC 3.

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§ 101. Searches and seizures in connection with arrests. — (1) Every person making an arrest may take from the person arrested all offensive weapons which he may have about his person and may also search the person arrested and the premises where the arrest is made, so far as the premises are controlled by the person arrested, for the instruments, fruits, and evidences of the criminal offense for which the arrest is made, and, if found, seize them.

(2) Any property taken or seized shall be promptly delivered to a policeman or an official authorized to issue a warrant, to be disposed of according to law.

(3) No search warrant shall be required for the actions authorized by this section. (Code 1966, § 460; Code 1970, tit. 12, § 101.)

Authorization of searches and seizures in connection with arrest. — This section authorizes searches in connection with an arrest and seizure of the "fruits" and evidences of the criminal offense. Trust Territory v. Kaneshima, 4 TTR 340 (1969).

Admission of exhibits sufficient to warrant guilty verdicts by themselves. — Code provisions justified admission of exhibits which by themselves, as distinguished from corroboration of the admission of the accused, were sufficient to warrant guilty verdicts on the information. Trust Territory v. Kaneshima, 4 TTR 340 (1969).

§ 102. Forcing entrance to make arrest. — Whenever it is necessary to enter a building or ship to make an arrest and entrance is refused, any person making an arrest for a felony committed in his presence or a policeman making an arrest may force an entrance. Before breaking any door or other barrier, he shall first demand entrance in a loud voice and state that he desires to execute a warrant of arrest or an oral order in place of a warrant, or, if it is a case in which arrest is lawful without a warrant, he must substantially state that information in a loud voice. Whenever practicable, this demand and statement shall be made in a language generally understood in the locality. (Code 1966, § 461; Code 1970, tit. 12, § 102.)

§ 103. Authority to issue a search warrant. — The following officials are authorized to issue a search warrant:

(1) Any court;
(2) Any judge;
(3) The clerk of courts for a district subject to such limitations as the chief justice of the high court may impose;
(4) Any other person authorized in writing by the High Commissioner provided a certified copy of such authorization is filed with the clerk of courts for the district in which he acts. (Code 1966, § 446; Code 1970, tit. 12, § 103.)

§ 104. Property for which search warrant may be issued. — (1) Except where otherwise expressly authorized by law, search warrants shall be issued only to search for and seize the following:
(a) Property the possession of which is prohibited by law; or
(b) Property stolen or taken under false pretenses or embezzled or found and fraudulently appropriated; or
(c) Forged instruments in writing, or counterfeit coin intended to be passed or instruments or materials prepared for making them; or
(d) Arms or munitions prepared for the purpose of insurrection or riot; or
(e) Property necessary to be produced as evidence or otherwise on the trial of anyone accused of a criminal offense; or
(f) Property designed or intended for use as, or which is, or has been used as, the means of committing a criminal offense.
(2) The term "property" as used herein includes documents, books, papers and any other tangible objects. (Code 1966, § 477; Code 1970, tit. 12, § 104.)

§ 105. Procedure for issuance of search warrants. — Anyone desiring the issuance of a search warrant shall personally appear and make application therefor under oath, within the district where the property sought is alleged to be, before an official authorized to issue a warrant. The application shall set forth the grounds for issuing the warrant and may be supported by statements of others made under oath before the official. The application and statements may be either written or oral, but, whenever the official hearing the application deems practicable, they shall be reduced to writing, signed by the person or persons making them, and bear a record of the oath signed by the person who administered it. If the official hearing the application is satisfied that grounds for the application exist or that there is probable cause to believe that they exist, he shall issue a search warrant identifying the property and naming or describing the person or place to be searched, except that any official other than a judge of a district court may refuse to act if he deems that the public interest does not require action before the matter can reasonably be presented to a judge of a district court. (Code 1966, § 478; Code 1970, tit. 12, § 105.)

§ 106. Contents of search warrant. — A search warrant shall command a policeman to search forthwith the person or place named, for the property specified. The warrant shall direct that it be served in the daytime, except that, if the statements under oath in support of the application are positive that the property is on the person or in the place to be searched, the warrant may, at the discretion of the official issuing it, direct that it be served at any time. It shall designate some official authorized to issue a warrant, to whom it shall be returned, and, whenever consistent with the reasonable expeditious handling of the matter, the official so designated shall be a judge of a district court. It shall designate the time within which it may be executed and returned. This time shall not exceed ten days, plus whatever time the official issuing the warrant determines will be reasonably required for the policeman to travel to the point where the search is to be made and to return such warrant to the appropriate official. (Code 1966, § 479; Code 1970, tit. 12, § 106.)

§ 107. Execution of search warrant and return with inventory. — The policeman taking property under a search warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken, or shall leave the copy and receipt at the place from which the property was taken. The policeman executing a search warrant shall promptly, upon completion of his search, endorse upon the warrant and sign a brief statement of the action he has taken pursuant to the warrant, showing the date on which the search was made, the person or place searched, the person to whom he gave a copy of the warrant and a receipt for the property taken, or the place where he left the copy and receipt. He shall then deliver the warrant, accompanied by a written inventory of any property taken, and the property seized, to the official before whom the warrant is returnable. The inventory shall be made in the presence of the applicant for the warrant and the person from whose possession or premises the property was taken, or in the presence of at least one credible person other than the applicant for the warrant or the person from whose possession or premises the property was taken, and shall be verified by a statement signed and sworn to by the policeman to the effect that the inventory is a true account of all property taken by him under the warrant. The official before whom a search warrant is returned shall, upon request, deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant. (Code 1966, § 480; Code 1970, tit. 12, § 107.)

§ 108. Hearing upon return of search warrant. — If the grounds on which the warrant was issued are controverted, the official to whom a search warrant is returned shall proceed to take testimony in relation thereto, and the testimony of each witness shall be reduced to writing and subscribed by the witness. If it appears that the property taken is not the same as that described in the warrant or that there is no probable cause for believing the existence of the grounds on which the warrant was issued, the official must cause the property to be restored to the person from whom it was taken; but if it appears that the property taken is the same as that described in the warrant and that there is probable cause for believing the existence of the grounds on which the warrant was issued, then the official shall order the same retained in the custody of the person seizing it or otherwise disposed of according to law. (Code 1966, § 481; Code 1970, tit. 12, § 108.)

§ 109. Filing of search warrant and accompanying papers. — The official to whom a search warrant is returned shall attach to the warrant the inventory and all other papers in connection therewith, including any order made as to the disposition of the property seized, and shall file such documents with the clerk of courts for the district in which the property was seized. (Code 1966, § 482; Code 1970, tit. 12, § 109.)

§ 110. Oral order in lieu of search warrant. — (1) A community court or any judge thereof may, if the public interest so requires, issue an oral order in place of a search warrant. Such oral order shall have the same force and effect within the territorial jurisdiction of that court as a search warrant and shall be returnable before the issuing court or judge.

(2) An oral order in place of a search warrant may be orally communicated to the person from whom or from whose premises the property is taken, and no inventory shall be required in such case, but the property seized shall be brought promptly before the court or judge issuing the order, and the policeman executing it may orally report his actions thereon.

(3) The court or judge shall, upon request, allow the applicant for the order and the person from whom or from whose premises the property was taken to view the property taken, and shall report all actions in the matter to the clerk of courts for the district as soon as possible.

(4) If the grounds on which the order was issued are controvered, the court or judge shall proceed to take testimony orally. Such testimony need not he reduced to writing. (Code 1966, § 483; Code 1970, tit. 12, § 110.)

§ 111. Entering building or ship to execute search warrant. — If a building or ship or any part thereof is designated as the place to be searched– the policeman executing the warrant or oral order in place of a warrant may enter without demanding permission if he finds the building or ship open. If the building or ship be closed, he shall first demand entrance in a loud voice and state that he desires to execute a search warrant or an oral order in place thereof as the case may be. If the doors, gates, or other bars to the entrance be not immediately opened, he may force an entrance, by breaking them if necessary. Having entered, he may demand that any other part of the building or ship, or any closet, or other closed space within the place designated in the search warrant in which he has reason to believe the property is concealed, be opened for his inspection, and, if refused, he may break them. Whenever practicable these demands and statements shall be made in a language generally understood in the locality. (Code 1966, § 484; Code 1970, tit. 12, § 111.)

§ 112. Motion for return of property and to suppress evidence. — A person aggrieved by an unlawful search and seizure may move the trial division of the high court or a district court in the district in which the property was seized for the return of the property and to suppress for use as evidence anything so obtained. The motion to suppress evidence may also be made in the court where the trial is to be held and in which the evidence is sought to be used. The motion shall be made before trial or hearing unless opportunity therefor did not exist before trial or hearing or the accused was not aware of the ground for the motion, but the court in its discretion may entertain the motion at the trial or hearing. Upon such motion the court shall review any order previously made by the official before whom any search warrant, or oral order in place thereof, was returned, and shall receive evidence on any issue of fact necessary to the decision of the motion. If the motion is granted the property shall be restored unless otherwise subject to lawful detention and it shall not be admissible in evidence at any hearing or trial. (Code 1966, § 485; Code 1970, tit. 12, § 112.)

Discretion of trial court to suppress evidence obtained by illegal search and seizure. — Trial court in criminal prosecution has discretion to refuse to entertain motion to suppress evidence obtained by illegal search and seizure when motion is presented at trial. Nichig v. Trust Territory, 1 TTR 572 (App. Div. 1953).

Motion for return of property and suppression of its use as evidence. — Person aggrieved by illegal search and seizure may move for return of property and to suppress its use as evidence, but such motion must be made before trial unless opportunity therefor did not exist or accused was not aware of grounds for motion, except that court, in its discretion, may entertain motion at trial or hearing. Nichig v. Trust Territory, 1 TTR 572 (App. Div. 1953).

"Pause" to consider motion to suppress. — Court could properly "pause" to consider motion to suppress raised during trial. Trust Territory v. Techur, 5 TTR 212 (1970).

Rule requiring that motion to suppress be brought prior to trial is only procedural. — The rule that a motion to suppress must be brought prior to the trial is only a rule of procedure and therefore it is not to be applied as hard and fast formula to every case. Trust Territory v. Techur, 5 TTR 212 (1970).

Violation of title does not by itself entitle accused to acquittal. — No violation of the provisions in this title including provisions for a motion to suppress, will in and of itself entitle an accused to an acquittal. Trust Territory v. Techur, 5 TTR 212 (1970).

§ 113. Sale of perishable property. — Seized property which is perishable may be ordered sold and the proceeds brought into court. (Code 1966, § 490; Code 1970, tit. 12, § 113.)

§ 114. Effect of irregularities in proceedings to issue search warrant. — The proceedings before a court or an official authorized to issue a search warrant shall not be invalidated, nor any finding, order, or sentence set aside for any error or omission, technical or otherwise, occurring in such proceedings, unless in the opinion of the reviewing authority or a court hearing the case on appeal or otherwise it shall appear that the error or omission has prejudiced the accused. (Code 1966, § 497; Code 1970, tit. 12, § 114.)

Error resulting in injustice to accused. — It is duty of court on appeal not to set aside any finding, order or sentence for any error or omission unless error or omission has resulted in injustice to accused. Flores v. Trust Territory, 1 TTR 377 (1958).

Court order which constitutes a technical irregularity will be affirmed. — District court ordering item forfeited to Trust Territory was a "technical irregularity" that resulted in a fine in the amount of the sale proceeds of the seized item rather than the specified sum allowed by law and, as such irregularity did not result in injury to accused, order would be affirmed. Trust Territory v. Hartman, 5 TTR 226 (1970).

Violation of title does not by itself entitle accused to acquittal. — No violation of the provisions in this title including provisions for a motion to suppress, will in and of itself entitle an accused to an acquittal. Trust Territory v. Techur, 5 TTR 212 (1970).

CHAPTER 4.

RIGHTS OF DEFENDANTS.

Sec.
151. Enumerated.

§ 151. Enumerated. — Every defendant in a criminal case before a court of the Trust Territory shall be entitled:

(1) To have in advance of trial a copy of the charge upon which he is to be tried;

(2) To consult counsel before the trial and to have an attorney at law or other representative of his own choosing defend him at the trial;

(3) To apply to the court for further time to prepare his defense, which the court shall grant if it is satisfied that the defendant will otherwise be substantially prejudiced in his defense;

(4) To bring with him to the trial such material witnesses as he may desire or to have them summoned by the court at his request;

(5) To give evidence on his own behalf at his own request at the trial, although he may not be compelled to do so;

(6) To have proceedings interpreted for his benefit when he is unable to understand them otherwise; and

(7) To request the appointment of an assessor in trials before the trial division of the high court in the event that one has not been appointed by the trial judge under the provisions of section 353, chapter 5, title 5 of this Code. (Code 1966, § 187; Code 1970, tit. 12, § 151.)

Cross references. — Due process of law, 1 TTC 4.

Rights of persons arrested, 12 TTC 68.

When defendant may testify. — Defendant in criminal proceedings may testify at any time when testimony for defense is being received. Rungun v. Trust Territory, 1 TTR 601 (App. Div. 1957).

Indigent's right to counsel on appeal. — Statutes allowing indigents free counsel at trial should not be read to impliedly bar free counsel for an appeal, and under the Bill of Rights of this Code an indigent has the right to free counsel for an appeal. In re Application of Matagolai, 6 TTR 577 (1974).

CHAPTER 5.

PRELIMINARY MATTERS.

Cross references. — Unreasonable Search and Seizure, 1 TTC § 3.

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§ 201. Name in which prosecution conducted. — All criminal prosecutions shall be conducted in the name of the "Trust Territory of the Pacific Islands." (Code 1966, § 486; Code 1970, tit. 12, § 201.)

§ 202. Duties of official at preliminary hearing. — When an arrested person is brought before an official authorized to issue a warrant but such official is not competent to try the arrested person for the offense charged, the official shall:

(1) Inform the arrested person of the charge or charges;

(2) Inform the arrested person of his right to retain counsel and of his right to be released on bail as provided by law, and allow him reasonable time and opportunity to consult counsel, if desired;

(3) Inform the arrested person of his right to have a preliminary examination, and of his right to waive the examination and the consequences of such waiver;

(4) Inform the arrested person that he is not required to make a statement and that any statement that he does make may be used against him; and

(5) Fix the amount of bail as provided by law if the arrested person so requests or alter the bail previously set if the official deems best. (Code 1966, § 466(a); Code 1970, tit. 12, § 202.)

Denial of preliminary examination not proper basis for habeas corpus. — There was no right to preliminary examination of arrested person brought before court competent to try him for offense charged, and habeas corpus was properly denied where denial of preliminary examination was alleged as the ground for seeking it. Court thus properly denied motion to dismiss based on alleged denial of right of habeas corpus. Borja v. Trust Territory, 6 TTR 584 (1974).

§ 203. Plea not to be taken. — The arrested person shall not be called upon to plead at the preliminary hearing. (Code 1966, § 466(b); Code 1970, tit. 12, § 203.)

§ 204. Pre-trial procedure. — (1) If the arrested person does not waive preliminary examination, the official shall hear the evidence within a reasonable time.

(2) A reasonable continuance shall be granted at the request of the arrested person or the prosecution to permit preparation of evidence. The arrested person has the right to be released on bail as provided by law during the period of a continuance.

(3) The arrested person may cross-examine witnesses against him and may introduce evidence in his own behalf.

(4) If the arrested person waives preliminary examination, or if from the evidence it appears to the official that there is probable cause to believe that a criminal offense has been committed and that the arrested person committed it, the official shall forthwith:

(a) Hold the arrested person to answer in a court competent to try him for the offense charged;

(b) Fix, continue, or alter the bail as provided by law; and

(c) If bail is not provided, or a personal recognizance accepted, commit him to jail to await trial.

(5) If during the preliminary examination it appears to the official that the warrant of arrest, complaint or other statement of the charge or charges does not properly name or describe the person arrested or that although not guilty of the offense specified there is probable cause to believe he has committed some other offense, the official shall not discharge such person but shall forthwith hold him to answer for the offense shown by the evidence.

(6) If the arrested person does not waive preliminary examination and from the evidence it does not appear to the official that there is probable cause to believe that a criminal offense has been committed and that the arrested person committed it, the official shall discharge him. (Code 1966, § 466(c) Code 1970, tit. 12, § 204.)

Denial of preliminary examination not proper basis for habeas corpus. — There was no right to preliminary examination of arrested person brought before court competent to try him for offense charged, and habeas corpus was properly denied where denial of preliminary examination was alleged as the ground for seeking it. Court thus properly denied motion to dismiss based on alleged denial of right of habeas corpus. Borja v. Trust. Territory, 6 TTR 584 (1974).

§ 205. Disposition of the record. — After concluding the proceedings, the official shall transmit forthwith to the clerk of courts for the district all papers in the proceedings and any bail taken by him; provided, that when a person has been held to answer in a community court, the papers and any bail taken shall be transmitted to the clerk of the community court. (Code 1966, § 466(d); Code 1970, tit. 12, § 205.)

§ 206. Preliminary examination upon request of person released on bail or personal recognizance. — If it appears it will not be practicable to bring an arrested person promptly before a court as indicated in subsection (2) of section 67 of this title, and he has been released on bail or personal recognizance, he may apply to a judge of a district court, if one is available, otherwise to any official authorized to issue a warrant, and request a preliminary examination. Thereupon the judge or official shall set a time and place for preliminary examination, give the complainant and accused reasonable notice thereof, and proceed as outlined in sections 351-354 of this subchapter. (Code 1966, § 467; Code 1970, tit. 12, § 206.)

Editor's note. — The reference to sections 351-354 is published as enacted.

CHAPTER 6.

BAIL.

Cross reference. — Excessive bail, excessive fines and cruel and unusual punishments, 1 TTC 6.

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§ 251. Right to bail. — (1) Any person arrested for a criminal offense, other than murder in the first degree, shall be entitled as a matter of right to be released on bail before conviction; provided, however, that no person shall be so released while he is so under the influence of intoxicating liquor or drugs that there is a reasonable ground to believe he will be offensive to the general public.

(2) A person arrested for murder in the first degree may be released on bail by any judge who is authorized to be assigned by the chief justice to sit in the appellate division of the high court; provided, that the district attorney shall be given reasonable opportunity to be heard before any application for bail is granted. (Code 1966, § 468; Code 1970, tit. 12, § 251.)

Effect of bail construed in accordance with American principles. — As matter of bail is well understood in United States and entirely foreign to Micronesian customs, incidents and effect of release on bail must be construed in accordance with American principles. Meyer v. Epsom, 3 TTR 54 (1965).

Mandatory showing of considerations upon which bail decisions are based. — With respect to the factual considerations surrounding any determination of bail, a positive showing, of record, of the factual information and considerations upon which bail decisions are based is mandatory. Marbou v. Termeteet, 5 TTR 655 (1971).

§ 252. Who may fix bail; allowing bail after conviction. — In the case of any person arrested for a criminal offense, other than murder in the first degree, any court or any official authorized to issue a warrant may fix the bail prior to conviction. This may be done at the time of issuing the warrant and endorsed on the warrant or may be done at any time prior to conviction. After conviction bail may be allowed only if a stay of execution of the sentence has been granted and only in the exercise of discretion by a court authorized to order a stay or by a judge thereof. (Code 1966, § 469; Code 1970, tit. 12, § 252.)

Substantial question test for bail pending appeal. — Whether bail should be granted pending appeal depends upon whether there is a substantial question which should be determined by the appellate court. Lino v. Trust Territory, 6 TTR 206 (1972).

§ 253. Notice by police of requests to have bail fixed. — When any arrested person for whom bail has not been fixed, or to whom bail has been once

denied in the case of murder in the first degree, notifies any policeman or jail attendant that he desires to give bail, an official authorized to fix bail shall be promptly notified by the police authorities. The arrested person shall be brought before the official for this purpose if the official so requests. (Code 1966, § 470; Code 1970, tit. 12, § 253.)

§ 254. Amount of bail. — The amount of bail shall be such as, in the judgment of the court or official fixing it, will insure the presence of the accused in the future. The determination of the court or official should take into account the nature and circumstances of the offense charged, the weight of the evidence against him, the financial ability of the accused to give bail and the character of the accused. (Code 1966, § 471; Code 1970, tit. 12, § 254.)

Editor's note. — In the 1970 Code, this section read: "The amount of bail shall be such as, in the judgment of the court or official fixing it, will insure the presence of the accused, having regard to the nature and circumstances of the offense charged, the weight of the evidence against him, the financial ability of the accused to give bail and the character of the accused." The present language was substituted for clarification.

Mandatory showing of considerations upon which bail decisions are based. — With respect to the factual considerations surrounding any determination of bail, a positive showing, of record, of the factual information and considerations upon which bail decisions are based is mandatory. Marbou v. Termeteet, 5 TTR 655 (1971).

§ 255. Form and disposition of bail; sufficiency of sureties. — Cash or bonds or notes of the United States may be accepted as bail. If a bail bond is given, one or more sureties may be required. A person of good standing in the community who is in a position of moral or customary authority over the accused, such as his father, the head of his extended family group, or the chief of his lineage or clan, may be accepted as surety without the disclosure of property by way of justification, if the official taking bail or determining the sufficiency of the surety considers that such surety will reasonably guarantee the appearance of the accused. Otherwise, no surety or sureties are to be accepted unless their combined net worth over and above all just debts and obligations is not less than the amount of the bond. Any surety may be required to furnish proof of his sufficiency, either by his own oath or otherwise. If the official to whom the bail is tendered refuses to accept the surety or sureties offered, the question of their sufficiency shall, at the request of the accused, be referred promptly to a judge for determination. The determination of the judge shall be final. Any bail accepted shall be promptly transmitted to the clerk of courts for the district; provided, that when a person has been released to appear in accordance with the orders of a community court, the bail shall be transmitted to the clerk of the community court. (Code 1966, § 472; Code 1970, tit. 12, § 255.)

Editor's note. — In the 1970 Code, the first sentence read: "One or more sureties may be required on a bail bond, or cash or bonds or notes of the United States may be accepted as bail." This sentence was modified and the present second sentence added for purposes of clarification.

§ 256. Modification of bail. — The court before which a criminal case is pending may, for cause shown, either increase or decrease the bail or require an additional surety or sureties or allow substitution of sureties. If increased bail or an additional surety or sureties is required, the accused may be committed to custody unless he gives bail in the increased amount or furnishes additional surety or sureties as required. (Code 1966, § 473; Code 1970, tit. 12, § 256.)

Motion for modification of bail. — A motion for modification of bail, not habeas corpus, is the proper procedure through which to seek review of a bail determination. Marbou v. Termeteet, 5 TTR 655 (1971).

Trial division of high court must consider request to modify bail. — As the trial division of the high court has discretion to modify a determination of the district court regarding bail, it was an abuse of discretion for the trial division to refuse to consider such matter. Marbou v. Termeteet, 5 TTR 655 (1971).

§ **257. Exoneration and release of bail.** — When the condition for which the bail was given has been satisfied, the court shall exonerate the obligors and release any bail. A surety may be exonerated by a deposit of cash in the amount of the bail bond or by a timely surrender of the accused into custody. (Code 1966, § 473; Code 1970, tit. 12, § 257.)

§ **258. Personal recognizance.** — In the case of an arrest for any criminal offense, the lawful punishment for which does not exceed a fine of one hundred dollars or six months imprisonment or both, any court or official authorized to fix bail may, in the exercise of discretion, order that the arrested person be released on his personal recognizance in such sum as the court or official may fix, without security, into the custody of a responsible member of the community, provided the arrested person has a usual place of abode or of business or employment in the Trust Territory. (Code 1966, § 475; Code 1970, tit. 12, § 258.)

CHAPTER 7.

WITNESSES.

Sec.

§ 301. Witness summons. — A witness summons in a proceeding before an official authorized to issue a warrant, who is not a court, may be issued by such an official. Failure by any person without adequate excuse to obey such a witness summons may be deemed a contempt of the district court within whose territorial jurisdiction it was issued. (Code 1966, § 487; Code 1970, tit. 12, § 301.)

§ 302. Detention and release of witness. — (1) Whenever the court has reason to believe that a witness may be intimidated or become unavailable at the trial, he may be detained as a material witness; provided, that no such person shall be detained for a period of more than twenty-one days without a further order being made. A report of such detention shall be made forthwith in the manner provided for the transmission of the record.

(2) A person detained as a material witness shall be entitled to be released as a matter of right upon giving bail for his appearance as witness in an amount fixed by the court ordering the detention or any higher court. The court ordering the detention, or any higher court, may order the witness' release without bail if he has been detained for an unreasonable length of time and may modify at any time the requirement as to bail. (Code 1966, § 488; Code 1970, tit. 12, § 302.)

CHAPTER 8.

DISMISSAL.

Sec.

§ 351. Dismissal by Attorney General or district attorney. — The Attorney General or the district attorney may by leave of court file a dismissal of an information, or complaint, or citation and the prosecution shall thereupon terminate. Such a dismissal may not, however, be filed during the trial without the consent of the accused. (Code 1966, § 491; Code 1970, tit. 12, § 351.)

Federal court decisions applicable in interpreting federal rules of criminal procedure. — This section, relating to dismissal by Attorney General or district attorney, was adopted from Rule 48(a), federal rules of criminal procedure, and thus court may be guided in its interpretation by the decisions of the federal courts. Kap v. Trust Territory, 4 TTR 336 (1969).

Purpose of rule allowing dismissal of an indictment. — The purpose of the rule allowing the Attorney General or district attorney, by leave of court, to file a dismissal of an indictment, is to prevent harassment of a defendant by charging, dismissing and recharging without placing a defendant in jeopardy. Kap v. Trust Territory, 4 TTR 336 (1969).

Where government has valid reason for not proceeding with prosecution. — Where the government has valid reason for electing not to proceed with the prosecution of an action, the government's motion to dismiss should be granted. Kap v. Trust Territory, 4 TTR 336 (1969).

Dismissal equivalent to nolle prosequi at common law. — A dismissal under this section is the equivalent of the nolle prosequi under common law, since the defendant has not been placed in jeopardy, and does not prohibit the prosecution from filing another information at a later date. Kap v. Trust Territory, 4 TTR 336 (1969).

Court's function to assess prosecutor's decision not to proceed. — It should be the function of the court, in determining whether leave to dismiss would be granted, to assure itself that the prosecutor has a valid reason for choosing not to proceed and that his motion to dismiss is not a part of a course of conduct designed to harass the defendant. Kap v. Trust Territory, 4 TTR 336 (1969).

Discretion of court in assessing motion to dismiss by Attorney General. — A motion to dismiss an indictment made by the Attorney General is addressed to the sound judicial discretion of the court, bearing in mind the purpose and intent of the statute, and in exercising that discretion the court should take care that it does not infringe upon the proper exercise of executive discretion. Kap v. Trust Territory, 4 TTR 336 (1969).

Effect of dismissal by court. — A dismissal under section 352 of this title would be a dismissal with prejudice, would prohibit any refiling of the same charge, and thus fulfill the intent of this section. Kap v. Trust Territory, 4 TTR 336 (1969).

§ 352. Dismissal by court. — If there is unnecessary delay in bringing an accused to trial, the court may dismiss an information, or complaint, or citation. (Code 1966, § 492; Code 1970, tit. 12, § 352.)

Court's discretion to dismiss. — Court has discretion to dismiss information, complaint or citation if there is unnecessary delay in bringing accused to trial. Trust Territory v. Ogo, 3 TTR 287 (1967).

Effect of dismissal under this section. — A dismissal under this section would be dismissal with prejudice, would prohibit any refiling of the same charge, and would thus fulfill the intent of section 351 of this title. Kap v. Trust Territory, 4 TTR 336 (1969).

CHAPTER 9.

INSANITY.

Sec.

§ 401. Insanity at time of offense. — If it is ascertained by the court upon competent medical or other evidence that the accused at the time of committing the offense with which he is charged was so insane as not to know the nature and quality of his act, the court shall record a finding of such fact and may make an order pursuant to section 402 of title 63 of this Code. (Code 1966, § 493; Code 1970, tit. 12, § 401.)

§ 402. Insanity at time of trial. — If the court ascertains that the accused is insane at the time of trial, the court shall adjourn the trial and order the accused to be detained as in section 401 of this chapter. (Code 1966, § 494; Code 1970, tit. 12, § 402.)

CHAPTER 10.

CRIMINAL EXTRADITION.

§ 451. Definitions. — Where appearing in this chapter:

(1) *High Commissioner.* The term "High Commissioner" includes any person performing the functions of the High Commissioner by authority of the law of the Trust Territory;

(2) *Executive authority.* The term "executive authority" includes the governor, and any person performing the functions of governor in any state, territory or possession of the United States of America;

(3) *State.* The term "state" refers to any state of the United States of America, its territories and possessions, organized or unorganized, including the District of Columbia, Virgin Islands, Commonwealths of Puerto Rico and the Northern Mariana Islands, American Samoa and Guam. (Code 1970, tit. 12, § 451; P.L. No. 7-4, § 1.)

§ 452. Fugitives from justice; duty of the High Commissioner. — Subject to the provisions of this chapter the High Commissioner shall have arrested and delivered up to the executive authority of any state any person charged in that state with treason, felony, or other crime, who has fled from justice and is found in the Trust Territory. (Code 1970, tit. 12, § 452.)

§ 453. Form of demand. — (1) No demand for the extradition of a person charged with or convicted of crime in a state shall be recognized by the High Commissioner unless in writing alleging, except in cases arising under section 457 of this chapter, that the accused was present in the demanding state at the time of the commission of the alleged crime and that thereafter he fled from such state. Such demand shall be accompanied by:

(a) A copy of an indictment found;

(b) A copy of an information supported by an affidavit filed in the state having jurisdiction of the crime;
(c) A copy of an affidavit made before a magistrate in such state together with a copy of any warrant which was issued thereon; or
(d) A copy of a judgment of conviction or of a sentence imposed in execution thereof together with a statement by the executive authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of his bail, probation or parole.
(2) The indictment, information or affidavit made before the magistrate must substantially charge the person demanded with having committed a crime under the law of that state and the copy must be authenticated by the executive authority making the demand, which shall be prima facie evidence of its truth. (Code 1970, tit. 12, § 453.)

§ 454. Official investigation of demand for extradition. — When a demand shall be made upon the High Commissioner by the executive authority of a state for the surrender of a person charged with or convicted of a crime the High Commissioner may call upon the Attorney General or any prosecuting officer in the Trust Territory to investigate or assist in investigating the demand and to report to him the situation and circumstances of the person so demanded, and whether he ought to be surrendered. (Code 1970, tit. 12, § 454.)

§ 455. Extradition of person imprisoned or awaiting trial in a state. When it is desired to have returned to the Trust Territory a person charged in the Trust Territory with a crime and such person is imprisoned or is held under criminal proceedings then pending against him in a state, the High Commissioner may agree with the executive authority of such state for the extradition of such person before the conclusion of such proceedings or his term of sentence in such state, upon condition that such person be returned to such state at the expense of the Trust Territory as soon as the prosecution in the Trust Territory is terminated. (Code 1970, tit. 12, § 455.)

§ 456. Extradition of persons who have left demanding state involuntarily. — The High Commissioner may also surrender on demand of the executive authority of any state any person in the Trust Territory who is charged, in the manner provided in section 474, with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily. (Code 1970, tit. 12, § 456.)

§ 457. Extradition of persons not present in demanding state at time of commission of crime. — The High Commissioner may also surrender, on demand of the executive authority of any state, any person in the Trust Territory charged in such state, in the manner provided in section 453 of this chapter, with committing an act in the Trust Territory, or in a third state, intentionally resulting in a crime in the state whose executive authority is making the demand. The provisions of this chapter not otherwise inconsistent shall apply to such cases, even though the accused was not in that state at the time of the commission of the crime, and has not fled therefrom. (Code 1970, tit. 12, § 457.)

§ 458. High Commissioner's warrant of arrest; issuance; recitals. — If the High Commissioner decides that a demand for extradition of a person charged with, or convicted of, a crime in a state should be complied with, he shall sign a warrant of arrest, which shall be sealed with the Trust Territory seal, and be directed to the Attorney General, superintendent of public safety, chief of police, or other person whom he may think fit to be entrusted with the

execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance. (Code 1970, tit. 12, § 458.)

§ **459. Same; manner and place of execution.** — Such warrant shall authorize the officer or other person to whom it is directed to arrest the accused at any time and at any place where he may be found within the Trust Territory, and to command the aid of all peace officers or other persons in the execution of the warrant, and to deliver the accused, subject to the provisions of this chapter, to the duly authorized agent of the demanding state. (Code 1970, tit. 12, § 459.)

§ **460. Same; assistance to arresting officer.** — Every officer or other person empowered to make the arrest, as provided in section 459 of this chapter, shall have the same authority in arresting the accused to command assistance therein as the Attorney General, superintendent of public safety, the chief of police and other officers have by law in the execution of any criminal process directed to them, with like penalties against those who refuse their assistance. (Code 1970, tit. 12, § 460.)

§ **461. Same; rights of accused persons; application for writ of habeas corpus.** — No person arrested upon such warrant shall be delivered over to the agent whom the executive authority demanding him shall have appointed to receive him unless he shall first be taken forthwith before a judge of the High Court of the Trust Territory, who shall inform him of the demand made for his surrender and of the crime with which he is charged and that he has the right to demand and procure legal counsel; and if the prisoner or his counsel shall state that he or they desire to test the legality of his arrest, the court shall fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. When such writ is applied for, notice thereof and of the time and place of hearing thereon shall be given to the Attorney General of the Trust Territory and to the agent of the demanding state. (Code 1970, tit. 12, § 461.)

§ **462. Same; penalty for noncompliance.** — Any officer who shall deliver a person in his custody under the High Commissioner's warrant to the agent for extradition of the demanding state in disobedience of section 461 of this chapter shall be guilty of a misdemeanor, and on conviction thereof shall be fined not more than one thousand dollars, or be imprisoned not more than six months, or both. (Code 1970, tit. 12, § 462.)

§ **463. Same; confinement in jail authorized when necessary.** — The officer or person executing the High Commissioner's warrant of arrest, or the agent of the demanding state to whom the prisoner is to be delivered may, when necessary, confine the prisoner in any jail of the government of the Trust Territory and the warden of such jail shall receive and safely keep the prisoner until the officer or person having charge of him is ready to proceed on his route, such officer or person being chargeable with the expense of keeping the prisoner. (Code 1970, tit. 12, § 463.)

§ **464. Arrest prior to requisition; by warrant.** — A justice or magistrate shall issue a warrant directed to the Attorney General, superintendent of public safety or chief of police commanding him to apprehend the person named therein wherever he may be found in the Trust Territory and to bring him before the high court to answer the charge or complaint and affidavit. A certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant whenever:

(1) Any person within the Trust Territory shall be charged on the oath of any credible person before any judge or magistrate of the Trust Territory with the

commission of a crime in any state, and, except in cases arising under section 457 of this chapter, with having fled from justice, with having been convicted of a crime in that state and with having escaped from confinement, or with having broken the terms of his bail, probation, or parole; or

(2) Complaint shall have been made before the high court setting forth on the affidavit of any credible person in a state that a crime has been committed in such other state and that the accused has been charged in such state with the commission of the crime, and, except in cases arising under section 457 of this chapter, has fled from justice, or that the accused has been convicted of a crime in that state and has escaped from confinement, or has broken the terms of his bail, probation or parole, and that the accused is believed to be in the Trust Territory. (Code 1970, tit. 12, § 464.)

§ 465. Same; without a warrant. — The arrest of a person may also be lawfully made by any policeman or private citizen without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term of exceeding one year. When so arrested the accused must be taken before the high court with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in the preceding section and thereafter his answer shall be heard as if he had been arrested on a warrant. (Code 1970, tit. 12, § 465.)

§ 466. Same; commitment to await requisition. — If from the examination before the high court it appears that the person held pursuant to either of the two preceding sections is the person charged with having committed the crime alleged and, except in cases arising under section 457 of this chapter, that he has fled from justice, the high court shall, by a warrant reciting the accusation, commit him to jail for such a time not exceeding forty-five days specified in the warrant as will enable the arrest of the accused to be made under a warrant of the High Commissioner on a requisition of the executive authority of the state having jurisdiction of the offense, unless the accused shall give bail as provided in section 467 of this chapter, or until he shall be legally discharged. (Code 1970, tit. 12, § 466.)

§ 467. Bail; when allowed; conditions of bond. — Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, the high court may admit the person arrested to bail by bond or undertaking, with sufficient sureties, and in such sum as the court deems proper, conditioned upon his appearance before it at a time specified in such bond or undertaking, and upon his surrender for arrest upon the warrant of the High Commissioner. (Code 1970, tit. 12, § 467.)

§ 468. Same; discharge, recommitment or renewal. — If the accused is not arrested under warrant of the High Commissioner by the expiration time specified in the warrant, bond, or undertaking, the high court may discharge him or may recommit him to a further day, or may again take bail for his appearance and surrender, as provided in section 467 of this chapter. At the expiration of the second period of commitment, or if he has been bailed and appeared according to the terms of his bond or undertaking, the court may either discharge him, or may require him to enter into a new bond or undertaking, to appear and surrender himself at another day. (Code 1970, tit. 12, § 468.)

§ 469. Same; forfeiture. — If the prisoner is admitted to bail and fails to appear and surrender himself according to the condition of his bond, the high

court shall declare the bond forfeited and order his immediate arrest without warrant if he be within the Trust Territory. Recovery may be had on such bond in the name of the Trust Territory as in the case of other bonds or undertakings given by the accused in criminal proceedings within the Trust Territory. (Code 1970, tit. 12, § 469.)

§ **470. Persons under criminal prosecution in the Trust Territory at time of requisition.** — If a criminal prosecution has been instituted under the laws of the Trust Territory against a person subject to extradition and is still pending, the High Commissioner, in his discretion, either may surrender him on the demand of the executive authority of another state or may hold him until he has been tried and discharged or convicted and punished in the Trust Territory. (Code 1970, tit. 12, § 470.)

§ **471. Inquiry into guilt or innocence of accused.** — Except as that may be involved in identifying the person held as the person charged with the crime, the High Commissioner shall make no inquiry into the guilt or innocence of the accused as to the crime of which he is charged, nor may any such inquiry be made in any proceeding after presentation to the High Commissioner of the demand for extradition accompanied by a charge of crime in legal form as provided in this chapter. (Code 1970, tit. 12, § 471.)

§ **472. High Commissioner may recall warrant or issue additional warrant.** — The High Commissioner may recall his warrant of arrest or may issue another warrant whenever he deems it proper. (Code 1970, tit. 12, § 472.)

§ **473. Fugitives from the Trust Territory; issuance of warrant to receive and convey.** — Whenever the High Commissioner shall demand from the executive authority of any state a person charged with crime or with escaping from confinement or breaking the terms of his bail, probation or parole in the Trust Territory, he shall issue a warrant under the seal of the Trust Territory to some agent commanding him to receive the person so charged if delivered to him and convey him to the proper officer of the government of the Trust Territory. (Code 1970, tit. 12, § 473.)

§ **474. Same; applications for requisition; return of person charged with crime.** — When the return to the Trust Territory of a person charged with a crime in the Trust Territory is required, the Attorney General or his assistant shall present to the High Commissioner his written application for a requisition for the return of the person charged, in which application shall be stated the name of the person so charged, the crime charged against him, the approximate time, place and circumstances of its commission, the state in which he is believed to be, including the location of the accused therein at the time the application is made, and certifying that, in the opinion of the Attorney General or his assistant, the ends of justice require the arrest and return of the accused to the Trust Territory for trial, and that the proceeding is not instituted to enforce a private claim. (Code 1970, tit. 12, § 474.)

§ **475. Same; same; escaped convict.** — When the return to the Trust Territory is required of a person who has been convicted of a crime in the Trust Territory and who has escaped from confinement or broken the terms of his bail, probation or parole, the Attorney General shall present to the High Commissioner a written application for a requisition for the return of such person, in which application shall be stated the name of the person, the crime of which he was convicted, the circumstances of his escape from confinement or of the breach of the terms of his bail, probation or parole, and the state in which he is believed to be, including the location of the person therein at the time application is made. (Code 1970, tit. 12, § 475.)

§ 476. Same; same; form of applications; copies, etc. — The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two certified copies of the information and affidavit filed, or of the complaint made to the judge or magistrate charged, or of the judgment of conviction, or of the sentence. The Attorney General or his assistant may also attach such further affidavits and other documents in duplicate as he shall deem proper to be submitted with such application. One copy of the application with the action of the High Commissioner indicated by endorsement thereon and one of the certified copies of the indictment, or complaint, or information and affidavits, or of the judgment of conviction, or of the sentence shall be filed in the office of the deputy high commissioner of the Trust Territory to remain of record in that office. The other copies of all papers shall be forwarded with the High Commissioner's requisition. (Code 1970, tit. 12, § 476.)

§ 477. Same; costs and expenses. — The expenses incident to the extradition of any person under sections 473 to 476 of this chapter shall be paid out of the Trust Territory treasury. (Code 1970, tit. 12, § 477.)

§ 478. Immunity from service of process in certain civil actions. — A person brought into the Trust Territory by or after waiver of extradition based on a criminal charge shall not be subject to service of personal process in civil actions arising out of the same facts as the criminal proceeding to answer which he is being or has been returned, until he has been convicted in the criminal proceeding, or, if acquitted, until he has had ample opportunity to return to the state from which he was extradited. (Code 1970, tit. 12, § 478.)

§ 479. Waiver of extradition proceedings. — (1) Any person arrested in the Trust Territory and charged with having committed any crime in any state or alleged to have escaped from confinement, or broken the terms of his bail probation or parole may waive the issuance and service of the warrant provided for in sections 458 and 459 of this chapter and all other procedure incidental to extradition proceedings by executing or subscribing in the presence of a trial justice of the high court within the Trust Territory a writing which states that he consents to return to the demanding state; provided, however, that before such waiver shall be executed it shall forthwith be forwarded to the office of the deputy high commissioner and filed therein.

(2) The justice shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent of the demanding state, and shall deliver or cause to be delivered to such agent a copy of such consent; provided, however, that nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an executive procedure or to limit the powers, rights or duties of the officers of the demanding state or of the Trust Territory. (Code 1970, tit. 12, § 479.)

§ 480. Procedures of chapter not deemed waiver of Trust Territory's rights. — Nothing in this chapter shall be deemed to constitute a waiver by the Trust Territory of its right, power or privilege to try such demanded person for crime committed within the Trust Territory, or of its right, power or privilege to regain custody of such person by extradition proceedings or otherwise for the purpose of trial, sentence or punishment for any crime committed within the Trust Territory; nor shall any proceedings had under this chapter which result in, or fail to result in, extradition be deemed a waiver by the Trust Territory of any of its rights, privileges, or jurisdiction in any way whatsoever. (Code 1966, § 30; Code 1970, tit. 12, § 480.)

§ 481. Immunity from other criminal prosecutions while in the Trust Territory. — After a person has been brought back to the Trust Territory by or after waiver of extradition proceedings, he may be tried in the Trust Territory for other crimes which he may be charged with having committed therein as well as that crime specified in the requisition for his extradition. (Code 1970, tit. 12, § 481.)