

STUDY GUIDE FOR WEEK 7 (SI students)

COJ02 Courts & their Processes

Week 7 Sentencing

Adapted from - Colvin, *Criminal Law of Solomon Islands, Kiribati & Tuvalu*

CHAPTER 21

Sentencing: Process, Purposes, Principles and Methodology

21.1 Sentencing in Solomon Islands is governed by several sources: the provisions setting penal liability in the legislation creating each offence; some general provisions of the Penal Code (mainly dealing with non-custodial options); some provisions of the Criminal Procedure Code (dealing mainly with the sentencing powers of Magistrates Courts); and in certain important respects by common law. This chapter outlines the general process of sentencing and the general principles and methodology that shape sentencing in particular cases: these are matters governed mainly by common law. The chapter focuses on sentencing for the more serious offences that commonly lead to sentences of imprisonment.

The sentencing process and options

21.2 Following a conviction, a court must determine a sentence. This involves a separate proceeding from that of the trial:

- new arguments are made by counsel;
- the range of matters in issue is broader than for a trial;
- allegations of fact by the prosecution must be proved if not agreed but need not necessarily meet the test of 'beyond reasonable doubt';
- the rules for the admissibility of evidence are much looser.

The Criminal Procedure Code SI s 282 provides: 'The court may, before passing sentence, receive such evidence as it thinks fit, in order to inform itself as to the sentence proper to be passed.'

21.3 The purposes for which a sentence may be imposed are generally understood to be:

- just punishment;
- protection of the community;
- general and specific deterrence;
- rehabilitation of the offender;
- denunciation of the conduct;
- or a combination of these.

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**Geri LoBiondo-Wood, Judith
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Table of Contents Parole Study Guide

1. Understanding the eBook Parole Study Guide
 - The Rise of Digital Reading Parole Study Guide
 - Advantages of eBooks Over Traditional Books
2. Identifying Parole Study Guide
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Parole Study Guide
 - User-Friendly Interface
4. Exploring eBook Recommendations from Parole Study Guide
 - Personalized Recommendations
 - Parole Study Guide User Reviews and Ratings
 - Parole Study Guide and Bestseller Lists
5. Accessing Parole Study Guide Free and Paid eBooks
 - Parole Study Guide Public Domain eBooks
 - Parole Study Guide eBook Subscription Services
 - Parole Study Guide Budget-Friendly Options

6. Navigating Parole Study Guide eBook Formats
 - ePub, PDF, MOBI, and More
 - Parole Study Guide Compatibility with Devices
 - Parole Study Guide Enhanced eBook Features
7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Parole Study Guide
 - Highlighting and Note-Taking Parole Study Guide
 - Interactive Elements Parole Study Guide
8. Staying Engaged with Parole Study Guide
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Parole Study Guide
9. Balancing eBooks and Physical Books Parole Study Guide
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Parole Study Guide
10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
11. Cultivating a Reading Routine Parole Study Guide
 - Setting Reading Goals Parole Study Guide
 - Carving Out Dedicated Reading Time
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 - Fact-Checking eBook Content of Parole Study Guide
 - Distinguishing Credible Sources
13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
14. Embracing eBook Trends
 - Integration of Multimedia Elements

- Interactive and Gamified eBooks

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