

1 **OVERTURE 22** from Pacific Northwest Presbytery (to CCB, OC)

2 “Vacate *BCO* 32-20 to Clarify that There is No ‘Statute of Limitations’  
3 for Offenses”  
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5 **Be it resolved** that *BCO* 32-20 be vacated, as follows:  
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7 ~~***BCO* 32-20. (Vacated) Process, in case a matter of scandal, shall commence**~~  
8 ~~within the space of one year after the offense was committed, unless it has~~  
9 ~~recently become flagrant. When, however, a church member shall commit an~~  
10 ~~offense, after removing to a place far distant from his former residence, and~~  
11 ~~where his connection with the church is unknown, in consequence of which~~  
12 ~~process cannot be instituted within the time above specified, the recent discovery~~  
13 ~~of the church membership of the individual shall be considered as equivalent to~~  
14 ~~the offense itself having recently become flagrant. The same principle, in like~~  
15 ~~circumstances, shall also apply to ministers.~~  
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17 **Background & Rationale**

- 18 1. This paragraph has caused some confusion in the PCA and should be stricken.<sup>1</sup> According  
19 to the first sentence in the current paragraph, the date of an alleged offense is not material  
20 *unless* the offense is a "case of scandal." Thus, if it is not a case of scandal, the first  
21 sentence of *BCO* 32-20 does not apply.<sup>2</sup>  
22
- 23 2. The wording of this paragraph is 140 years old, dating back to the PCUS Book of 1879.  
24 Properly understood, the *BCO* 32-20 requirement to commence process within a year  
25 was never intended to shield an offender, but rather, it was intended to *spur the court*  
26 to promptly prosecute *particular* offenses – ones that bring discredit on the Church (i.e.,  
27 "a case of scandal").<sup>3</sup> But there has been confusion about some aspects of this 1879  
28 paragraph, including the meaning of the phrases "case of scandal" and "recently become  
29 flagrant." In addition, some people mistakenly think there is a one-year "statute of  
30 limitations" on the prosecution of *all* offenses.  
31
- 32 3. When prosecution is warranted, it should be reasonably expeditious – especially in a cause  
33 of public scandal. But if the cause of Christ is made scandalous by the Church's neglect  
34 of timely discipline in a case of scandal, how would disallowing prosecution on day 366  
35 repair the matter? The scandal continues, unabated.  
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<sup>1</sup> See recent SJC *Case 2019-08 Appeal of TE Neal Ganzel v. Central Florida*, including Concurring Opinion.

<sup>2</sup> scandal = "discredit brought upon religion by unseemly conduct in a religious person" (Miriam-Webster online); scandalous = "shocking" (Miriam-Webster online)

<sup>3</sup> F.P. Ramsay's 1898 *Exposition of the Book of Church Order* - "The principle is that, if the Church neglects to commence process against scandal (which is any flagrant public offence or practice bringing disgrace on the Church) within a year, she is debarred from thereafter doing it. This is not to shield the offender, but to incite to the prompt prosecution of such offences. Offences not so serious or scandalous the Church may bear with the longer while seeking to prevent scandal; but for no consideration is the Church to tolerate such offences as are scandalous." (<http://pcahistory.org/BCO/rod/32/20.html>)

- 1 4. The question of whether an indictment should be brought for an offense committed in the  
2 past, even in the distant past, is a matter of judgment and discretion for the original court  
3 – regardless of whether the offense was personal or general, private or public (*BCO* 29-2,  
4 3, 4). There should be no difference between the court's options on day 364 vs. day 366.  
5 Granted, the original court might determine that commencing process now would be unfair  
6 to the accused (for various reasons). And the accused could raise that objection. The court  
7 would need to judge whether the alleged offense occurred too long ago to permit effective  
8 prosecution and justice, given, for example, the complexity in gathering old evidence,  
9 memory difficulties of witnesses, challenges in finding or deposing some witnesses, etc.  
10 The court's exercise of judgment and discretion would be reviewable by the next higher  
11 court, following normal procedures in *BCO* Chapters 39-43.  
12
- 13 5. It would be difficult to codify any time-requirement based on when a court "learns" of an  
14 alleged offense. In a case of scandal, the Church learns of it when the broader public  
15 learns of it (if not earlier). But it would be difficult to determine when a presbytery, *as a*  
16 *body*, becomes aware of a private offense, unless the matter is raised at a meeting or to a  
17 commission.  
18
- 19 6. The phrase, "having recently become flagrant," has caused confusion, and is another  
20 reason to strike/vacate the paragraph.  
21
- 22 7. This revision would have another important benefit. If a person alleges that a church  
23 officer abused them two years ago, the accused officer might presently contend, citing  
24 *BCO* 32-20, that because the offense allegedly occurred two years ago, it can't be  
25 prosecuted by the church. Vacating this paragraph would more clearly allow the church  
26 court to commence process, regardless of the date of the offense and regardless of when  
27 the court learns of the alleged offense.  
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- 29 8. By inserting the word "Vacated," no other *BCO* section would need to be renumbered or  
30 revised, other than the *BCO* Index.  
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32 *Proposed to the Pacific Northwest Presbytery at its stated meeting on January 24, 2020*

33 *Final version adopted by an Administrative Commission of Presbytery on April 8, 2020*

34 *Attested by /s/s TE Nathan Chambers, interim stated clerk*