

1 **OVERTURE 22** from Pacific Northwest Presbytery (Revised) (to CCB, OC)  
2 "Amend *BCO* 32-20 Regarding Time Considerations for Offenses"  
3

4 **Be it resolved** that *BCO* 32-20 be amended as follows (strike-through for deletion;  
5 underlining for additions):  
6

7 ~~**BCO 32-20.** Process, in case of scandal, shall commence within the space of one year  
8 after the offense was committed, unless it has recently become flagrant. When,  
9 however, a church member shall commit an offense, after removing to a place far  
10 distant from his former residence, and where his connection with the church is  
11 unknown, in consequence of which process cannot be instituted within the time above  
12 specified, the recent discovery of the church membership of the individual shall be  
13 considered as equivalent to the offense itself having recently become flagrant. The  
14 same principle, in like circumstances, shall also apply to ministers.~~

15  
16 There is no statute of limitations, per se, for prosecuting offenses. However, the  
17 accused or a member of the court may object to the consideration of a charge, for  
18 example, if he thinks the passage of time since the alleged offense makes fair  
19 adjudication unachievable. The court should consider factors such as the gravity of the  
20 alleged offense as well as what degradations of evidence and memory may have  
21 occurred in the intervening period.  
22

### 23 **Background & Rationale**

- 24
- 25 1. Some people mistakenly think *BCO* 32-20 provides a one-year "statute of limitations"  
26 for *all* offenses. But the current requirement to commence process within a year only  
27 applies to specific situations (i.e., "cases of scandal"). If an alleged offense is not a  
28 case of scandal, *BCO* 32-20 allows the court to prosecute it when it deems appropriate.<sup>1</sup>  
29
  - 30 2. Even in a case of scandal, what might effectively be a one-year statute of limitations for  
31 prosecution makes little sense. Expedious process is certainly important in a such a case,  
32 but if the cause of Christ is jeopardized by the Church's neglect of timely discipline, how  
33 would disallowing prosecution on day 366 repair the matter? The scandal would continue,  
34 unabated.<sup>2</sup> Thus, this Overture deletes reference to a case of scandal.  
35
  - 36 3. The question of whether an indictment should be brought for an offense committed in the  
37 distant past, is, and should be, a matter of judgment and discretion for the original court  
38 — regardless of whether the offense was personal or general, private or public (*BCO* 29).  
39 Granted, the court might decide that commencing process for an offense alleged to have

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<sup>1</sup> *BCO* 29-4 seems to refer to such offenses as "notorious."

<sup>2</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 occurred in the distant past would be unfair to the accused (for various reasons) or too  
2 challenging for effective prosecution. And the accused could raise that objection.  
3

- 4 4. It would be difficult to codify any time-requirement based on when a court "learns" of an  
5 alleged private offense. In a "case of scandal," the court presumably learns of it when the  
6 broader public learns of it (if not earlier). But it would be difficult to determine, for  
7 example, when a presbytery, *as a body*, becomes aware of a private offense, unless the  
8 matter is raised at a meeting or to a commission.  
9
- 10 5. If the accused or a member of the court objects to the consideration of a charge, the court's  
11 ruling could be subject to eventual review by the higher court(s), according to the  
12 procedures of *BCO* Rules of Discipline. But this does not need to be explicitly stated in  
13 *BCO* 32-20 because it is assumed, just like any other objections that might be filed in the  
14 course of judicial process.  
15
- 16 6. The phrase presently near the end of *BCO* 32-20 — "recently become flagrant" — is vague  
17 and has also caused some confusion. It is unnecessary in the new revision.  
18
- 19 7. Disputes in four recent SJC Cases demonstrate the need for a clarification of *BCO* 32-20.<sup>3</sup>  
20
- 21 8. The OPC, ARP, EPC, and PCUSA each address the subject (below), but the revision  
22 proposed by this Overture is preferable. Neither the RPCNA nor URCNA address it.  
23

24 **OPC** Book of Discipline, II.2. "No charge shall be admitted by the judicatory  
25 if it is filed more than two years after the commission of the alleged offense,  
26 unless it appears that unavoidable impediments have prevented an earlier filing  
27 of the charge." (Emphasis added.)  
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<sup>3</sup> **Case 2016-05** *Complaint of TE Tom Troxell v. Presbytery of the Southwest* (M45GA, 2017, pp. 514-520.)  
*Excerpt from SJC Reasoning:* "[*BCO* 32-20] establishes a standard for timeliness in dealing with offenses while allowing the court the ability to deal with allegations of sin when they become flagrant. ... [T]he record before us does not indicate that the offense in question did recently become flagrant. ... We are therefore left with a record that shows that PSW voted to institute process in September 2015 for an offense that occurred in June 2014; the 15-month delay does not meet the standard specified in *BCO* 32-20."

**Case 2019-08** *Appeal of TE Neal Ganzel v. Central Florida* (SJC's 2020 Report to 48<sup>th</sup> GA, pp. 73-88.)  
*Excerpt from SJC Reasoning:* "We agree that in the normal pattern *BCO* 32-20 bars a court from prosecuting an alleged offense that occurred more than one year previously. The honor of Christ, the protection of His Church, the cause of justice, and the concern that memories could fade, and testimony become unreliable, all support that conclusion. At the same time, we do recognize that there may be situations in which a court could not reasonably have known about an alleged offense until long after it occurred (e.g., cases of child abuse or embezzlement). In such cases we would have sympathy for [Presbytery's] broader reading of *BCO* 32-20 and would conclude that the *Troxell* precedent would not apply. Given, however, the clear language and logic of *BCO* 32-20, any effort by a court to avail itself of a broader reading of the time limits must, of necessity, be accompanied by a clear showing as to why the court could not have known of the alleged offense(s). ... In sum, *BCO* 32-20 exists to protect the honor of Christ, the cause of His Church, and those alleged to be offenders by mandating that prosecution of matters of scandal not be delayed beyond one year." (pp. 83, 85)

**Case 2020-07** *Complaint of TE Wilbourne v. Pacific* (Pending)

**Case 2020-14** *Appeal of TE Aaron Myers v. Illiana* (Pending)

1           **ARP** BoD 5-13. “Prosecution for the alleged offense should begin as soon as  
2 possible, but it must begin within one year from the time of the alleged  
3 commission of the offense or from the date it is reported to the court of  
4 jurisdiction.” (Emphasis added.)  
5

6           **EPC** BoD 6-2. “An action for discipline must be commenced within three years  
7 after the acts constituting the offense were committed, unless the acts were  
8 unknown and were not reasonably knowable by the offended person or court.  
9 In the event that the offended person is under the age of 18, the action for  
10 discipline must be commenced before that person’s twenty-first birthday.”  
11 (Emphasis added.)  
12

13           **PCUSA** BoD D-10.0400 “Charges - No charges shall be filed later than five  
14 years from the time of the commission of the alleged offense, nor later than one  
15 year from the date the investigating committee was formed, whichever occurs  
16 first, except as noted below.

17           In situations where civil proceedings have commenced, the investigating  
18 committee may request of its permanent judicial commission or session and  
19 receive an extension of its time for filing charges of up to six months from the  
20 conclusion of any investigation or resulting trial undertaken by civil authorities.

21           The investigating committee shall maintain contact with civil authorities to  
22 determine when such civil proceedings have concluded.

23           For instances of sexual abuse of another person, the five year time limit  
24 shall not apply. There is also no time limit for charging that a person who knew  
25 or reasonably should have known of the reasonable risk of sexual abuse of  
26 another as defined in D-10.0401c(1) or (2) failed to take reasonable steps to  
27 minimize the risk. Both charges may be brought regardless of the date on which  
28 an offense is alleged to have occurred.”

29           (Emphasis added.)  
30

31 9. This revision could help in cases of alleged abuse, even abuse of a child. For example, if  
32 a person alleges a church officer abused them two years ago, the accused officer might  
33 cite the present text of *BCO* 32-20 and contend that because the offense allegedly occurred  
34 two years ago, was not publicly known (not a case of scandal), and has not “recently  
35 become flagrant,” and therefore it can’t be prosecuted in the PCA.<sup>4</sup>  
36

37 10. We understand *RAO* 11-5 (below) would permit the PCA Stated Clerk, or the GA  
38 Overtures Committee itself, to refer this Overture to the Standing Judicial Commission  
39 and to the Ad Interim Committee on Domestic Abuse and Sexual Abuse, for them to give  
40 their advice to the 48<sup>th</sup> or the 49<sup>th</sup> GA Overtures Committee(s), which could include  
41 recommended revisions.  
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43           *RAO* 11-5 ... An Overture proposing amendment to the Constitution shall be  
44 referred only to the Overtures Committee for consideration and

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<sup>4</sup> Church courts should always consider reporting allegations of criminal physical or sexual abuse to the appropriate local civil authorities, regardless of the date of alleged occurrence.

Overture 22 Revised, Pacific Northwest Presbytery

1 recommendation; such an overture, however, may be referred to other  
2 Committees of Commissioners, other permanent Committees or Agencies, or  
3 other ad interim committees for advice only, to the Overtures Committee. ...  
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5 *First version proposed to Pacific NW Presbytery at its stated meeting on January 24, 2020.*

6 *First version adopted and filed by a Commission of Presbytery on April 8, 2020.*

7 *Revision adopted and refiled by a Commission of Presbytery on March 26, 2021.*

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