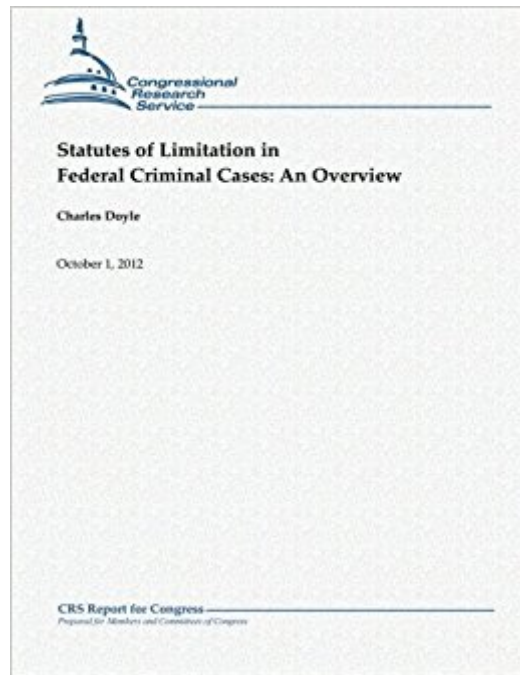




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Statutes Of Limitation In Federal Criminal Cases: An Overview



Synopsis

A statute of limitations dictates the time period within which a legal proceeding must begin. The purpose of a statute of limitations in a criminal case is to ensure the prompt prosecution of criminal charges and thereby spare the accused of the burden of having to defend against stale charges after memories may have faded or evidence is lost. There is no statute of limitations for federal crimes punishable by death, nor for certain federal crimes of terrorism, nor, since passage of the Adam Walsh Child Protection and Safety Act (2006) (P.L. 109-248), for certain federal sex offenses. Prosecution for most other federal crimes must begin within five years of the commission of the offense. There are exceptions. Some types of crimes are subject to a longer period of limitation; some circumstances suspend or extend the otherwise applicable period of limitation. Arson, art theft, certain crimes against financial institutions and various immigration offenses all carry statutes of limitation longer than the five year standard. Regardless of the applicable statute of limitations, the period may be extended or the running of the period suspended or tolled under a number of circumstances such as when the accused is a fugitive or when the case involves charges of child abuse, bankruptcy, wartime fraud against the government, or DNA evidence. Ordinarily, the statute of limitations begins to run as soon as the crime has been completed. Although the federal crime of conspiracy is complete when one of the plotters commits an affirmative act in its name, the period for conspiracies begins with the last affirmative act committed in furtherance of the scheme. Other so-called continuing offenses include various possession crimes and some that impose continuing obligations to register or report. Limitation-related constitutional challenges arise most often under the Constitution's ex post facto and due process clauses. The federal courts have long held that a statute of limitations may be enlarged retroactively as long as the previously applicable period of limitation has not expired. The Supreme Court recently confirmed that view; the ex post facto proscription precludes legislative revival of an expired period of limitation. Due process condemns pre-indictment delays even when permitted by the statute of limitations if the prosecution wrongfully caused the delay and the accused's defense suffered actual, substantial harm as a consequence. A list of federal statutes of limitation in criminal cases and a rough chart of comparable state provisions are attached. This report is available in an abbreviated form as CRS Report RS21121, *Statutes of Limitation in Federal Criminal Cases: A Sketch*, without the attachments, footnotes, or attributions to authority found here.

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