

## CPL ARTICLE 30: SPEEDY TRIAL.

Copyright 2007, Yosef Seigel. MAY BE FREELY DISTRIBUTED.

Prosecution of " Class A" felonies can be commenced at any time; also: Rape 1; Criminal Sexual Act 1; Aggravated Sexual Abuse 1; and Child Sexual Conduct 1.

Any other felony shall be commenced within 5 years of commission.

Misdemeanors = 2 years; petty offense: 1.

Larceny by Fiduciary, within 1 year of discovery (or from time when should reasonably have been so discovered).

Public Officer Misconduct: any time while still in office; else up to 5 years after termination, but NOT more than 5 from commission.

Environmental Conservation Law: up to 4 years from discovery.

Tax Law misdemeanor (including NYC Administrative Code) = 3 years.

A "course" of Child Sex Conduct in the second degree: within 5 years from most recent act.

For any sex crime against a child, the period within which an action must be commenced starts counting from the time the child turns 18, unless it was earlier reported to Police or State Register of Child Abuse/Maltreatment.

Terrorism: 8 years; **EXCEPT:** where charging death (or foreseeable risk therefor) = any time.

These time periods toll, up to a maximum of additional 5 years, where Defendant: continuously out-of state; whereabouts unknown and unascertainable by due diligence.

Time periods NOT counted: from commencement of prior action on related charges until dismissal.

In courts of both civil and criminal jurisdiction, criminal cases get preference over civil. Criminal cases wherein the defendant is committed get preference over other criminal cases as well.

Once proceedings commence, the People must be "ready for trial" within:

- 1) felony = 6 months (**NOT:** Homicide);
- 2) Misdemeanor where allowable sentence is greater than 3 months = 90 days;
- 3) Misdemeanor where allowable sentence is less than 3 months = 60 days;

4) violation = 30 days.

If not so ready, motion for dismissal **MUST** be granted; however if the People were *previously* ready it **MAY** be denied.

Where defendant is committed (unless for another crime) **SHALL** be released if People not ready within:

1 = 90; 2 = 30; 3 = 15; 4 = 5.

The following time periods do not count against these limits:

a) delays by defendant, for competency hearings, pre-trial motions, appeals, demand to produce, request for bill of particulars, etc...

b) continuance requested OR consented to by defendant, provided that pro-se defendant must have been advised by the Court of their right to speedy trial;

c) postponement "in the interests of justice" (with the consideration that the overriding public interest is the "prompt" disposition of criminal charges);

d) absence/unavailability of defendant (including while incarcerated, IF not known to D.A.;

e) escape of defendant from custody, starting from issuance of bench warrant and terminating upon appearance.

\*\* For d) & e), a "reasonable" period shall also toll regarding a co-defendant if there is no good cause to sever the actions. \*\*

f) where defendant has no attorney (unless acting as own counsel with leave of the Court);

g) "exceptional circumstances" necessitating extra time for D.A. to procure evidence / prepare case;

h) period of Adjournment in Contemplation of Dismissal ("ACD" in NYC, "ACOD" elsewhere).

i) time prior to appearance, even if defendant had previously been directed to appear;

j) time of Family Offense proceeding, prior to filing concurrent criminal action;

k) if guilty plea withdrawn, time commences from such time of withdrawal;

l) if mistrial, from time order thereupon becomes final;

Special provisions:

When a Felony Complaint is converted to - or replaced by - an Information/Prosecutor's Information/Misdemeanor Complaint, **OR** an Indictment is reduced to only a Misdemeanor/Petty Offense **AND** filed:

Time limits commence from *NEW* instrument, **EXCEPT**: if the aggregate of the time *already* elapsed on prior instrument (not counting excluded period), together with the allowable limit on the current action would **exceed** 6 months (90 days if defendant committed): time limits remain from the filing of the initial accusatory instrument.