

3/8/82

Memorandum 82-34

Subject: Consultant for Study on Statutes of Limitations on Felonies

Attached is a statement of Scope of Study for the study of Statutes of Limitations on Felonies. The material in brackets in the statement might well be omitted from the statement.

The staff does not have any suggestions as to who might serve as a consultant on this topic. We checked with Professor Kaplan at Stanford and he has no further recommendations as to consultants. At the last meeting, the Chairperson indicated that she would attempt to find a competent professor willing to serve as the consultant on this study.

It is unlikely that there will be any significant amount of money for consultants in the 1982-83 budget. In addition, the Legislature, by statute, directed that this study be given priority. Accordingly, it is essential that the Commission make some plan for immediate active progress on this study.

An alternative to having the study prepared by a consultant would be to have the study prepared by the staff. A law student has been researching to determine whether any article has been written that might serve as a background study. He has discovered an article almost 30 years old that is useful but would not be adequate as a study. Mr. Sterling would be willing to prepare the study. He estimates that it would take about two months of full time work to complete. Having the study prepared by Mr. Sterling would give the Commission an excellent background study but would result in a significant reduction in the Commission's recommendations to the 1983 session.

Respectfully submitted,

John H. DeMouilly  
Executive Secretary

EXHIBIT 1

Scope of Study

Statutes of Limitation for Felonies

The objective of this study is a comprehensive and in-depth examination of the underlying rationale for statutes of limitation for felonies in California. The study should identify any general considerations, whether evidentiary, public policy, or otherwise, that affect the limitations period for felonies. The study should also identify special considerations applicable to the limitations period for specific felonies or for categories of felonies, such as differences attributable to the character and quality of evidence applicable to the type of crime, factors that affect when the statute commences to run for the type of crime, and any circumstances that would cause the statute to be tolled or otherwise extended. The general and special considerations identified should be evaluated and ranked in relative importance, and should be elaborated sufficiently to enable the California Law Revision Commission to make reasoned determinations of what the statutes of limitation for specific felonies and categories of felonies should be.

The study should include a discussion of the history and experience of California law governing limitations periods for felonies. The study should include a discussion of the approach taken in other major jurisdictions. The study should also take into consideration any recent comprehensive and in-depth studies or revisions of the law made in other jurisdictions and any modern trends in the law, including comparative law of other countries where relevant. And the study should take into account the views of knowledgeable and experienced prosecutors, defense attorneys, and judges.

[The study may, but need not, evaluate existing statutes of limitation applicable to specific felonies or categories of felonies in California. The study may, but need not, make specific recommendations as to the statutes of limitation that should be applicable to specific felonies or categories of felonies. The study may, but need not, deal with crimes other than felonies.] The study may deal with any other matter that appears relevant to the objective of the study, so long as the specific matters identified in this statement of the scope of the study are included in the study.