

Chapter 7

Speedy Trial and Related Issues

7.1 Statutory Protections against Delayed Prosecution	7-2
A. Statute of Limitations for Misdemeanors	
B. Compliance with Statute of Limitations	
C. Waiver of Statute of Limitations	
D. Statutory Limitations on Jurisdiction of Juvenile Court	
E. Rights of Prisoners	
F. Pretrial Release	
G. Other Statutory Deadlines	
7.2 Pre-Accusation Delay	7-13
A. Constitutional Basis of Right	
B. Proving Prejudice	
C. Reason for Delay	
D. Case Summaries on Pre-Accusation Delay	
E. Investigating Pre-Accusation Delay	
F. Motions to Dismiss	
7.3 Post-Accusation Delay	7-17
A. Constitutional Basis of Right	
B. Test for Speedy Trial Violation	
C. When Right Attaches	
D. Case Summaries on Post-Accusation Delay	
E. Remedy for Speedy Trial Violation	
F. Motions for Speedy Trial	
7.4 Prosecutor's Calendaring Authority	7-29
A. Generally	
B. <i>Simeon v. Hardin</i>	
C. Calendaring Statute	
D. Other Limits	
E. District Court Proceedings	

This chapter covers four related issues concerning trial delay:

- statutory protections against delayed prosecution of a criminal defendant;
- constitutional protections against prolonged delay between the commission of the offense and the defendant's arrest or indictment on the charge;

- constitutional protections against prolonged delay after arrest or indictment; and
- limits on prosecutors' use of their calendaring authority.

The Due Process Clause of the Fourteenth Amendment and the Sixth Amendment to the United States Constitution, as well as analogous provisions in North Carolina's Constitution (article I, sections 18 and 19), are the primary sources of law guaranteeing a defendant charged with a felony the right to a timely prosecution and a speedy trial. North Carolina has no statute of limitations for felonies, and the state's speedy trial statute, Sections 15A-701 to 15A-710 of the North Carolina General Statutes (hereinafter G.S.), was repealed effective October 1, 1989.

North Carolina has a two-year statute of limitations for misdemeanors, in addition to the above constitutional protections. There also are some statutory provisions governing the jurisdiction of the juvenile court that limit the ability of either the juvenile or superior court to try an adult for crimes committed when the adult was a juvenile.

The statutory protections against delayed prosecution are discussed in Section 7.1. Section 7.2 addresses the limitations on pre-accusation delay imposed by the Due Process Clause of the Fourteenth Amendment and the Law of the Land clause of article I, section 19 of the North Carolina Constitution. Section 7.3 discusses limitations on pretrial delay imposed by the speedy trial provisions in the Sixth Amendment and article I, section 18 of the North Carolina Constitution. Section 7.4 addresses constitutional and statutory limitations on the prosecutor's calendaring authority.