PLAN FOR THE DISPOSITION OF CRIMINAL CASES

in the

UNITED STATES DISTRICT COURTS

and before

UNITED STATES MAGISTRATES

in the

DISTRICT OF MARYLAND

<u>REVISED</u>

Effective July 1, 1980

Pursuant to the Speedy Trial Act of 1974, 18 U.S.C. sections 3161 et seq. as amended by P.L. 96-43, 93 Stat. 327 (Aug. 2, 1979).

PLAN FOR IMPLEMENTATION OF

THE SPEEDY TRIAL ACT OF 1974, AS AMENDED,

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MARYLAND

I. INTRODUCTION

Pursuant to the requirements of Rule 50(b) of the Federal Rules of Criminal Procedure, the Speedy Trial Act of 1974 as amended, Title 18 U.S.C. sections 3161 et seq., and the Federal Juvenile Delinquency Act as amended, Title 18 U.S.C. sections 5036, 5037, the judges of the United States District Court for the District of Maryland have adopted the plan set forth in Section II herein, effective July 1, 1980, to minimize undue delay and to further the prompt disposition of criminal cases.

Speedy Trial Act Planning Group

This report and plan were developed by a District Planning Group composed of the following members:

Hon. Edward S. Northrop, Chief United States District Judge
Hon. Alexander Harvey, II, United States District Judge
Hon. Clarence E. Goetz, United States Magistrate
Jervis S. Finney, Esquire*
Russell T. Baker, Jr., Esq., United States Attorney
Paul R. Schlitz, Esq., Clerk of the Court
Charles G. Bernstein, Esq., Federal Public Defender
George L. Russell, Jr., Esq., Private Attorney

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*Former United States attorney, served 1974-1978

Paul Mark Sandler, Esq., Private Attorney

Francis P. Tunney**

J. Edward Muhlbach, Chief United States Probation Officer

John W. Spurrier, United States Marshall

Prof. Royal G. Shannonhouse, III, Esq., Reporter

Depositary

A copy of this Report, including the Planning Group's recommendations, will be available for inspection in the office of the Clerk of the Court. Those wishing to copy the document may do so at the customary per-page charge. Section II, the formal plan, when approved by the Judicial Council of the United States Court of Appeals for the Fourth Circuit, will be enacted as a Local Rule of the Court.

**Former Chief United States Probation Officer, served 1974-1978

II. TIME LIMITS AND PROCEDURES

Pursuant to the requirements of Rule 50(b) of the Federal Rules of Criminal Procedure, the Speedy Trial Act of 1974 as amended (18 U.S.C. chapter 208), and the Federal Juvenile Delinquency Act as amended, (18 U.S.C. sections 5036, 5037), the judges of the United States District Court for the District of Maryland have adopted the following time limits and procedures to minimize undue delay and to further the prompt disposition of criminal cases and certain juvenile proceedings:

1. Applicability.

a. Offenses. The time limits set forth herein are applicable to all criminal offenses triable in this court, including cases triable by United States magistrates, except for petty offenses as defined in 18 U.S.C. section 1(3) and offenses defined by State law over which this court has jurisdiction which would be classified as petty or minor offenses if defined by Federal law. Except as specifically provided, they are not applicable to proceedings under the Federal Juvenile Delinquency Act.

b. Persons. The time limits are applicable to persons accused who have not been indicted or informed against as well as those who have, and the word "defendant" includes such persons unless the context indicates otherwise.

2. Priorities in Scheduling Criminal Cases.

Preference shall be given to criminal proceedings as far as practicable as required by Rule 50(a) of the Federal Rules of Criminal Procedure. The trial of defendants in custody solely because they are awaiting trial and of high-risk defendants as defined in Section II.5 shall be given preference over other criminal cases.

3. Time Within Which an Indictment or Information Must be Filed.

a. Time Limits. If a person is arrested or served with a summons, and the complaint charges an offense to be prosecuted in this district, any indictment or information subsequently filed in connection with such charge shall be filed within thirty days of arrest or service.

b. Measurement of Time Periods.

(1) If a person has not been arrested or served with a summons on a Federal charge, an arrest will be deemed to have been made at such time as the person

(i) is held in custody solely for the purpose of responding to a Federal charge; or

(ii) is delivered to the custody of a Federal official in connection with a Federal charge; or

(iii)appears before a judicial officer in connection with a Federal charge.

(2) A defendant who signs a written consent to be tried before a Magistrate shall, if no indictment or information charging the offense has been filed, be deemed indicted on the date that such consent is filed with the Court.

c. Related Procedures.

(1) At the time of the earliest appearance before a judicial officer of a person who has been arrested for an offense not charged in an indictment or information,

the judicial officer shall establish for the record the date on which the arrest took place.

(2) At the time of the defendant's earliest appearance before a judicial officer of this District, the officer shall take appropriate steps to ensure that the defendant is represented by counsel and shall appoint counsel when appropriate under the Criminal Justice Act and Rule 44 of the Federal Rules of Criminal Procedure.

(3) In the absence of a showing to the contrary, a summons shall be considered to have been served on the date of service shown on the return thereof.

4. Time Within Which Trial Must Commence.

a. Time Limits. The trial of a defendant shall commence not later than 70 days after the last to occur of the following:

(1) the date on which an indictment or information is filed in this District; or

(2) the date on which a sealed indictment or information is unsealed; or

(3) the date of the defendant's first appearance before a judicial officer of this District;

(4) the date on which the defendant's consent in writing to be tried before a Magistrate is filed with the Court.

b. Retrial. The retrial of a defendant shall commence within 70 days from the date the order occasioning the retrial becomes final, as shall the trial of a defendant upon an indictment or information dismissed by a trial Court and reinstated following an appeal. If the retrial or trial follows an appeal or collateral attack, the court may extend the period if unavailability of witnesses or other factors resulting from passage of time make trial within 70 days impractical. The extended period shall not exceed 180 days.

c. Withdrawal of Plea. If a defendant enters a plea of guilty or nolo contendere to any or all charges in an indictment or information and is subsequently permitted to withdraw it, the time limit shall be determined for all counts as if the indictment or information were filed on the day the order permitting withdrawal becomes final.

d. Superseding Charges. If, after an indictment or information has been filed, a complaint, indictment, or information is filed which charges the defendant with the same offense or with an offense required to be joined with that offense, the time limit applicable to the subsequent charge will be determined as follows:

(1) If the original indictment or information was dismissed on motion of the defendant before the filing of the subsequent charge, the time limit shall be determined without regard to the existence of the original charge.

(2) If the original indictment or information is pending at the time the subsequent charge is filed, the trial shall commence within the time limit for commencement of trial on the original indictment or information.

(3) If the original indictment or information was dismissed on motion of the United States Attorney before the

filing of the subsequent charge, the trial shall commence within the time limit for commencement of trial on the original indictment or information, but the period during which the defendant was not under charges shall be excluded from the computations. Such period is the period between the dismissal of the original indictment or information and the date the time would have commenced to run on the subsequent charge had there been no previous charge.*

If the subsequent charge is contained in a complaint, the formal time limit within which an indictment or information must be obtained on the charge shall be determined without regard to the existence of the original indictment or information, but earlier action may in fact be required if the time limit for commencement of trial is to be satisfied.

e. Measurement of Time Periods. For the purposes of this section:

(1) If a defendant signs a written consent to be tried before a Magistrate and no indictment or information charging the offense has been filed, the time limit shall

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* Under the rule of this paragraph, if an indictment was dismissed on motion of the prosecutor on May 1, with 20 days remaining within which trial must be commenced, and the defendant was arrested on a new complaint on June 1, the time remaining for trial would be 20 days from June 1; the time limit would be based on the original indictment, but the period from the dismissal to the new arrest would not count. Although the 30-day arrest-to-indictment time limit would apply to the new arrest as a formal matter, the short deadline for trial would necessitate earlier grand jury action.

run from the date that such consent was filed with the Court.

(2) A trial in a jury case shall be deemed to commence at the beginning of the voir dire.

(3) A trial in a non-jury case shall be deemed to commence when the first step in the trial procedure occurs after the case is called for trial.

(4) In the event of a transfer to this district under Rule 20 of the Federal Rules of Criminal Procedure, the indictment or information shall be deemed filed in this district when the papers in the proceeding or certified copies thereof are received by the clerk.

f. Related Procedures.

(1) The court shall have sole responsibility for setting cases for trial after consultation with counsel. At the time of arraignment or as soon thereafter as is practicable, each case will be set for trial on a day certain or listed for trial on a weekly or other short-term calendar.

(2) Individual calendars shall be managed so that it will be reasonably anticipated that every criminal case set for trial will be reached during the week of original setting. A conflict in schedules of Assistant United States Attorneys or defense counsel will be ground for a continuance or delayed setting only if approved by the court and called to the court's attention at the earliest practicable time.

(3) If a complaint, indictment or information is filed against a defendant charged in a pending indictment or information or in an indictment or information dismissed on motion of the United States Attorney, the trial on the new charge shall commence within the time limit for commencement of the trial on the original indictment or information unless the court finds that the new charge is not for the same offense charged in the original indictment or information or an offense required to be joined therewith.

5. Defendants in Custody and High-Risk Defendants.*

a. Time Limits. Notwithstanding any longer time periods that may be permitted under sections 3 and 4, the following time limits will also be applicable to defendants in custody and high-risk defendants as herein defined:

(1) The trial of a defendant held in custody solely for the purpose of trial on a Federal charge shall commence within 90 days following the beginning of continuous custody.

(2) The trial of a high-risk defendant shall commence within 90 days of the designation as high-risk.

b. Definition of "High-Risk Defendant." A high-risk defendant is one reasonably designated by the United States

*If a defendant's presence has been obtained through the filing of a detainer with state authorities, the Interstate Agreement on Detainers, 18 U.S.C., Appendix, may require that trial commence before the deadline established by the Speedy Trial Act. See U.S. v. Mauro, 436 U.S. 340, 356-57 n. 24 (1978).

Attorney as posing a danger to himself or any other person or to the community.

c. Measurement of Time Periods. For the purposes of this section:

(1) A defendant is deemed to be in detention awaiting trial when he is arrested on a Federal charge or otherwise held for the purpose of responding to a Federal charge. Detention is deemed to be solely because the defendant is awaiting trial unless the person exercising custodial authority has an independent basis (not including a detainer) for continuing to hold the defendant.

(2) If a case is transferred pursuant to Rule 20 of the Federal Rules of Criminal Procedure and the defendant subsequently rejects disposition under Rule 20 or the court declines to accept the plea, a new period of continuous detention awaiting trial will begin at that time.

(3) A trial shall be deemed to commence as provided in sections 4(e)(2) and 4(e)(3).

d. Related Procedures.

(1) If a defendant is being held in custody solely for the purpose of awaiting trial, the United States Attorney shall advise the court at the earliest practicable time of the date of the beginning of such custody.

(2) The United States Attorney shall advise the court at the earliest practicable time (usually at the hearing with respect to bail) if the defendant is considered by him to be high risk.

(3) If the court finds that the filing of a "high-risk" designation as a public record may result in prejudice to the defendant, it may order the designation sealed for such period as is necessary to protect the defendant's right to a fair trail, but not beyond the time that the court's judgment in the case becomes final. During the time the designation is under seal, it shall be made known to the defendant and his counsel but shall not be made known to other persons without the permission of the court.

6. Exclusion of Time from Computations.

a. Applicability. In computing any time limit under sections 3, 4 or 5, the periods of delay set forth in 18 U.S.C. section 3161(h) shall be excluded. Such periods of delay shall not be excluded in computing the minimum period for commencement of trial under section 7.

b. Records of Excludable Time. The clerk of the court shall enter on the docket, in the form prescribed by the Administrative Office of the United States Courts, information with respect to excludable periods of time for each criminal defendant. With respect to proceedings before the filing of an indictment or information, excludable time shall be reported to the clerk by the United States Attorney.

c. Stipulations.

(1) The attorney for the government and the attorney for the defendant may at any time enter into stipulations with respect to the accuracy of the docket entries recording excludable time.

(2) To the extent that the amount of time stipulated by the parties does not exceed the amount recorded on the docket for any excludable period of delay, the stipulation shall be conclusive as between the parties unless it has no basis in fact or law. It shall similarly be conclusive as to a codefendant for the limited purpose of determining, under 18 U.S.C. section 3161(h)(7), whether time has run against the defendant entering into the stipulation.

(3) To the extent that the amount of time stipulated exceeds the amount recorded on the docket, the stipulation shall have no effect unless approved by the court.

d. <u>Pre-Indictment Procedures.</u>

(1) If the United States Attorney anticipates that an indictment or information will not be filed within the time limit set forth in section 3, he may file a written motion with the court for a determination of excludable time. The motion shall state

(i) the period of time proposed for exclusion, and

(ii) the basis of the proposed exclusion.

(2) If the United States Attorney seeks a continuance under 18 U.S.C. section 3161(h)(8), he shall file a written motion with the court requesting such a continuance. The motion shall state

(i) the period of time proposed for delay,

(ii) the basis for the proposed continuance,

(iii) whether the defendant is in custody and, if so, where and on what authority. The motion may include a request that some or all or the supporting material be considered <u>ex parte</u> and <u>in camera</u>.

(3) The court may grant a continuance under 18 U.S.C. section 3161(h)(8) for either a specific period of time or a period to be determined by reference to an event (such as recovery from an illness) not within the control of the government. If the continuance is to a date not certain, the court shall require one or both parties to inform the court promptly when and if the circumstances that justify the continuance no longer exist. In addition, the court shall require one or both parties to file periodic reports bearing on the continued existence of such circumstances. The court shall determine the frequency of such reports in the light of the facts of the particular case.

e. <u>Post-Indictment Procedures.</u>

(1) When calculations of excludable time are entered of record in an Order of Court, counsel shall promptly examine the Court's Order of excludable time for completeness and accuracy and shall bring to the Court's immediate attention any claim that the record is in any way incorrect.

(2) If the court continues a trial beyond the time limit set forth in section 4 or 5, the court shall determine whether the limit may be recomputed by excluding time pursuant to 18 U.S.C. section 3161(h).

(3) If it is determined that a continuance is justified, the court shall set forth its findings in the record,

either orally or in writing. If the continuance is granted under 18 U.S.C. section 3161(h)(8), the court shall also set forth its reasons for finding that the ends of justice served by granting the continuance outweigh the best interests of the public and the defendant in a speedy trial. If the continuance is to a date not certain, the court shall require one or both parties to inform the court promptly when and if the circumstances that justify the continuance no longer exist. In addition, the court shall require one or both parties to file periodic reports bearing on the continued existence of such circumstances. The court shall determine the frequency of such reports in the light of the facts of the particular case.

7. Minimum Period for Defense Preparation.

Unless the defendant consents in writing to the contrary, the trial shall not commence earlier than 30 days from the date on which the indictment or information is filed, or, if later, from the date on which counsel first enters an appearance or on which the defendant expressly waives counsel and elects to proceed pro se. In circumstances in which the 70-day time limit for commencing trial on a charge in an indictment or information is determined by reference to an earlier indictment or information pursuant to section 4(d), the 30-day minimum period shall also be determined by reference to the earlier indictment or information. When prosecution is resumed on an original indictment or information following a mistrial, appeal, or withdrawal of a guilty plea, a new 30-day minimum period will not begin to run. The court will in all cases schedule trials so as to permit defense counsel adequate preparation time in the light of all the circumstances.

8. Time Within Which Defendant Should Be Sentenced.

a. Time Limit. A defendant shall ordinarily be sentenced within 60 days of the date of his conviction or plea of guilty or nolo contendere.

b. Related Procedures. If the defendant and his counsel consent thereto, a presentence investigation may be commenced prior to a plea of guilty or nolo contendere or a conviction.

9. Juvenile Proceedings.

a. Time Within Which Trial Must Commence. An alleged delinquent who is in detention pending trial shall be brought to trial within 30 days of the date on which such detention began, as provided in 18 U.S.C. section 5036.

b. Time of Dispositional Hearing. If a juvenile is adjudicated delinquent, a separate dispositional hearing shall be held no later than 20 court days after trial, unless the court has ordered further study of the juvenile in accordance with 18 U.S.C. section 5037(c).

10. Sanctions.

a. Dismissal. Failure to comply with the time limits prescribed herein shall not require dismissal of the prosecution, except as required by 18 U.S.C. sections 3162, 3164, 5036, or the Interstate Agreement on Detainers. The court retains the power to dismiss a case for unnecessary delay pursuant to Rule 48(b) of the Federal Rules of Criminal Procedure.

b. High-Risk Defendants. A high-risk defendant whose trial has not commenced within the time limit set forth in 18 U.S.C. Section 3164(b) shall, if the failure to commence trial was through no fault of the attorney for the Government, have his release conditions automatically reviewed. A high-risk defendant who is found by the Court to have intentionally delayed the trial of his case shall be subject to an order of the Court modifying his nonfinancial conditions of release under Chapter 207 of Title 18, U.S.C., to ensure that he shall appear at trial as required.

c. Discipline of Attorneys. In a case in which counsel

(1) knowingly allows the case to be set for trial without disclosing the fact that a necessary witness would be unavailable for trial,

(2) files a motion solely for the purpose of delay which he knows is frivolous and without merit,

(3) makes a statement for the purpose of obtaining a continuance which he knows to be false and which is material to the granting of the continuance, or

(4) otherwise wilfully fails to proceed to trial without justification consistent with 18 U.S.C., Section 3161, the Court may punish such counsel as provided in 18 U.S.C., Section 3162(b) and (c).

d. Alleged Juvenile Delinquents. An alleged delinquent in custody whose trial has not commenced within the time limit set forth in 18 U.S.C., Section 5036 shall be entitled to dismissal of his case pursuant to that section unless the Attorney General shows that the delay was consented to or caused by the juvenile or his counsel, or would be in the interest of justice in the particular case.

11. Persons Serving Terms of Imprisonment.

If the United States Attorney knows that a person charged with an offense is serving a term of imprisonment in any penal institution, he shall promptly seek to obtain the presence of the prisoner for trial, or cause a detainer to be filed, in accordance with the provisions of 18 U.S.C. section 3161(j).

12. Effective Dates.

a. Time Limits and Procedures. The amendments of the Speedy Trial Act made by Public Law 96-43 became effective August 2, 1979. To the extent that this revision of the district's plan does more than merely reflect the amendments, the revised plan shall take effect upon approval of the reviewing panel designated in accordance with 18 U.S.C. section 3165(c). However, the dismissal sanction and the sanctions against attorneys authorized by 18 U.S.C. section 3162 and reflected in sections 10(a) and (c) of this plan shall apply only to defendants whose cases are commenced by arrest or summons on or after July 1, 1980, and to indictments and informations filed after that date.

b. Arrest Before July 1, 1979. If a defendant was arrested or served with a summons before July 1, 1979, the time within which an information or indictment must be filed shall be determined under the plan that was in effect at the time of such arrest or service.

c. <u>Arraignment Before August 2, 1979.</u> If a defendant was arraigned before August 2, 1979, the time within which the trial must commence shall be determined under the plan that was in effect at the time of such arraignment.

d. <u>Defendants in Custody August 2, 1979.</u> If a defendant was in custody on August 2, 1979, solely because he was awaiting trial, the 90-day period under section 5 shall be computed from that date.

III. SUMMARY OF EXPERIENCE UNDER THE ACT

A. Progress Toward Meeting the Permanent Time Limits

The following table reveals substantial and increasing compliance with the permanent time limits imposed by the Speedy Trial Act. Since less than five per cent of the cases reported were over the former ten-day limit to arraignment, the figures for arraignment to disposition within 60 days reflect substantial and increasing compliance with the present 70-day limit from indictment to disposition.

TABLE A

Percentage of Cases in Compliance with Permanent Time Limits

Which were disposed of in the twelvemonth ending June 30,	1977	1978	1979
Arrest to Indictment	93.4	95.0	96.1
Indictment to Arraignment	96.3	96.6	97.6
Arraignment to Disposition	83.9	82.8	91.6

(Source: Administrative Office of the United States Courts, Statistical Tables Released to Speedy Trial Planning Groups, December, 1979)

Further progress is revealed by Table 1, Section VIII, below, in which it is shown that of the cases filed on or after July 1, 1979 and disposed of on or before December 31, 1979, 100% were in compliance with the 30-day limit to indictment and 99% were in compliance with the 70-day limit to disposition.

B. Problems Encountered

The problems reported in the previous Speedy Trial Plan have been overcome by previously reported procedures adopted in this District and by the Amendments of the Speedy Trial Act. Limited experience with the 1979 amendments has revealed no new problems.

C. Extensions of Time Beyond the District's Standards

This District has not requested extensions of time for compliance with the final standards of the Speedy Trial Act and does not contemplate doing so.

D. Reasons Why the Exclusions Were Inadequate to Accommodate Reasonable Periods of Delay

Eighty-six per cent of the delinquent cases in the District of Maryland between July 1 and December 31, 1979, were terminated by negotiated plea (76%) or by deferred prosecution order (10%). The exclusions were inadequate to accommodate reasonable periods of delay for the negotiation of the terms of such dispositions and the approval of the Pretrial Services Agency and the Court. The excludable time allowed for the court's consideration of a proposed plea agreement (18 U.S.C. sec. 3161(h)(1)(I)) is misplaced because little time is needed for such purpose. Time is needed for conferences of the attorneys, consultation between the defense counsel and his client, consideration of the proposal by the defendant and investigation by the Pretrial Services Agency. Excludable time is not provided for such purposes and it is doubtful that a continuance under section 3161(h)(8) would be appropriate.

E. The Effect on Criminal Justice Administration of the Prevailing Time Limits

Criminal justice administration has been accelerated by the

Speedy Trial Act. It is doubtful that the quality of due process has improved; that it has been impaired is more theoretical than observed. For example, in many cases, thirty days is not sufficient time for the government to achieve a thorough investigation, review and determination regarding prosecution and for a grand jury to hear the evidence. In such cases, whenever possible, an arrest is deferred until the government is ready to file an indictment or information. Such delay has at least three undesirable consequences: (i) the defendant remains free to continue the activity for which his arrest was desired; (ii) the risk of flight to avoid prosecution is increased; (iii) defendant's time to prepare his defense is limited to the 70 days allowed from indictment to trial, plus excludable time and whatever additional time his counsel may be able to wring from an unwilling judge, while the government had almost unlimited time to prepare its case before the indictment was filed.

Furthermore, criminal cases commenced, closed and pending declined by 41 or 42 per cent over the five year period, 1975-1979 (See Table B, page 23, below). Since the number of cases closed and pending kept pace with the declining number filed, it would appear that the Speedy Trial Act failed to improve the efficiency of the system of case processing. If it had any effect, it may have deterred the filing of new criminal cases.

F. Effect on the Civil Calendar of Compliance With Speedy Trial Time Limits

Table 6, Part VIII, below, reveals that although the number of civil cases filed declined over 1978 and 1979, the number of pending civil cases increased by 14.5%. Obviously, the rate of disposition of civil cases slowed during this period.

The foregoing conclusion is buttressed by the fact, also shown on Table 6, that the number of cases pending less than three months declined, while those pending longer than three months increased, especially those pending for six to 12 months and 12 to 18 months.

A five year tabulation of criminal and civil case status figures, compiled by Paul R. Schlitz, Clerk of the District Court of Maryland, appears as Table B, page 23, below. These figures show that while the number of pending criminal cases was declining by 42%, the number of pending civil cases was increasing by 57.5%. Furthermore, that respective decline and increase was steady over the five year period, despite a 1978 surge in civil case activity. Finally, while the number of new civil cases declined by 7% in 1978-1979, the number of such cases closed in the same period declined by 18%, with a concomitant rise of 14% in the number of pending civil cases.

The precise correlation between the Speedy Trial Act and increasing congestion in the civil calendar is speculative; but the facts of declining criminal cases and rising civil cases over a five year period clearly suggests that there is a correlation. The clue is corroborated by the repeated experience of civil cases interrupted or deferred to permit the hearing of criminal cases in which the expiration of speedy trial limits is imminent.

TABLE B

Criminal and Civil Cases Commenced, Closed and Pending, 1975 through 1979.

CIVIL CASES

Year	Commenced	Closed	Pending
1975	1920	1651	1647
1976	2014	1696	1965
1977	2226 +28%	1973 +30%	2218 +57.5%
1978	2656	2602	2272
1979	-7% 2464	-18% 2142	+14% 2594

CRIMINAL CASES
(Instituted by indictment or information)

1975	855	862	405
1976	671	680	396
1977	596 -42%	716 -41%	276 -42%
1978	542	572	246
1979	496	506	236

G. Frequency of the Use of Sanctions for Excessive Detention (18 U.S.C. sec. 3164)

No defendant has been designated "as being of high risk" and sanctions have not been imposed in the rare cases (two between July 1 and December 31, 1979) when a defendant has been detained more than 90 days.

IV. PROCEDURES ADOPTED TO IMPLEMENT THE SPEEDY TRIAL ACT

Procedures adopted and reported in the prior plan enabled the District of Maryland to achieve better than 90 per cent compliance with the Act. Those procedures continue to prove effective under the 1979 Amendments Act, which created no discernable new problems. Consequently, no innovations under the Amendments appear to be necessary.

V. ADDITIONAL RESOURCES NEEDED TO ACHIEVE COMPLIANCE

This District now has more judges (11) than courtrooms (10) and needs yet another judge. Therefore more courtrooms and related facilities would help to reduce the caseload and the incidence of delinquency under the Act.

Much, if not all, of the remaining delinquency results from the difficulty in monitoring time limits and excludable time after indictment. Additional resources needed, therefore, are additional people in the United States Attorney's office to supervise a case-management system, including at least the following components: a case-status calendar, showing terminal date, excludable periods and related data; prompt drafting of informations in minor offense cases received from the magistrates; close supervision of cases initiated by arrest with inadequate data for an indictment; a speedy trial coordinator to supervise the foregoing, provide liaison with the speedy trial section of the Clerk's office and provide the data prescribed by 18 U.S.C. section 3170(b).

VI. RECOMMENDATIONS FOR CHANGES

A. Speedy Trial Act

The Act should be amended to add an excludable time period or specifically authorizing a continuance of 30 days for the negotiation of disposition by plea or deferred prosecution.

B. Reporting Requirements

The Administrative Office of the United States Courts continues to require the reporting in detail of the incidence of excludable time in cases which are in compliance with the Act. This collection of seemingly useless data adds appreciably to the work load in the Clerk's office and diverts, pro tanto, work which otherwise would be spent on procedures to assure compliance with the Act. It also adds to the expense of implementing the Act without increasing compliance. Consequently, reporting requirements should be changed to eliminate the reporting of detailed data in cases which meet Speedy Trial Act limits.

VII. INCIDENCE AND LENGTH OF, REASONS FOR AND REMEDIES FOR PRETRIAL DETENTION

The incidence and length of pretrial detentions during the six months which ended on December 31, 1979 is shown in Table 3, Part VIII, below. The table reveals that only two (2.6%) of the pretrial detainees were held more than 90 days; 64% were held not more than 30 days; 42% not more than ten days.

REASONS FOR PRETRIAL DETENTION

A study of the reasons given* for pretrial detention of 156 defendants between January 4, 1977 and December 6, 1977 reveals that "seriousness of the offense" and "high risk of flight" are by far the most frequent justifications for pretrial detention. (See Table C, pages 27-28, below). Since "seriousness of the offense"

* Source: Bi-weekly reports of the United States Attorney to the Clerk, U.S. District Court, on persons in custody pending indictment, arraignment or trial.

was almost always joined with another reason for detention and the details underlying these conclusions were sufficient to persuade a United States District judge to impose pretrial detention, no substantial reduction of pretrial detention can be anticipated.

TABLE C

Reasons for Pretrial Detention in 1977 Reported by U.S. Attorney to Clerk, U.S. District Court January 4 - December 6 (156 Defendants)

(More than one reason for each Defendant was usually reported.)

Reason	No.	Per Cent
Likely to flee (Sometimes reported simply as "risk of flight"; sometimes this was specifically explained, e.g., "no ties to community." Other reasons which were compiled here: illegal alien; escapee; no fixed address; unemployed; presently serving sentence in another case; prior flight.)	119	76%
Seriousness of offense (Usually joined with "flight risk.")	83	53%
strong case	15	9%
prior/extensive criminal record	16	10%
mental capacity in doubt	9	5%
menace/danger to society/community	6	3%
being held for obstruction of justice	3	1%
remanded to E.D. Tenn., but stayed for possible Rule 20. disp.	1	-
"foreign travel"	1	-
serious charges pending in another case	1	-
offense committed while on parole/probation	2	-
previous conviction of mail fraud	1	-
threatened government witness	1	-
narcotics addict	1	-
lack of stable home in family situation	1	-
hospitalized	1	-
resisted arrest	1	-
probation - violation case	3	1%

failed to appear for arraignment	1	-
two bank robberies 10 days apart by same person on same bank	1	-
defendant(s) came from Tenn. for express purpose of robbing a bank	4	2%
no reason stated	6	3%

REMEDIES FOR PRETRIAL DETENTION

As long as some defendants (30.8% in the District of Maryland) have motivation to flee, rather than face prosecution, little or no ties to the community, and either no assets or a willingness to forfeit security for their appearance, no remedy for pretrial detention is apparent. The cases of detainees should therefore have priority over those of defendants who are free while awaiting trial; and they are generally given such priority. That priority and the provisions of the Bail Reform Act (18 U.S.C. sub-section 3141. et seq.) are deemed to be adequate protection of such defendants.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

IN RE: :
:
LOCAL RULES : MISCELLANEOUS NO. 642
:

O R D E R

The revised plan for the Disposition of Criminal Cases for the District of Maryland, effective July 1, 1980, has been submitted by the Speedy Trial Act Planning Group and recommended for approval.

IT IS THIS 7th day of May 1980, ORDERED that the above-noted Plan be and is hereby approved, to become effective in this District on July 1, 1980, subject, of course, to final approval by the Fourth Circuit Review Panel. The Clerk is directed to forward this Plan to the Review Panel, forthwith.

Chief Judge	Judge
Judge	Judge
Judge	Judge
Judge	Judge
Alexander Harvey II Judge	Judge
Judge	

BEFORE THE REVIEWING PANEL

OF THE FOURTH CIRCUIT

In the Matter of the Review of
Final Speedy Trial Plans by
District Courts (per Speedy
Trial Act Amendments Act of 1979)

ORDER

The Final Plan of the United States District Court for the District of Maryland for achieving prompt disposition of Criminal Cases in compliance with Rule 50(b) of the Federal Rules of Criminal Procedure, the Speedy Trial Act of 1974 (Chapter 208, Title 18, U.S.C.), the Speedy Trial Act Amendments Act of 1979 (Pub.L.No. 96-43, 93 Stat. 327), and the Federal Juvenile Delinquency Act as amended (18 U.S.C. § 5036, 5037) is hereby approved by the Judicial Council of the Fourth Circuit and shall become effective on the 1st day of July, 1980.

It is so ORDERED this 5th day of June, 1980.

FOR THE REVIEWING PANEL:

Chief Judge, Fourth Circuit

FILED

JUN 30 1980

U. S. COURT OF APPEALS
FOURTH CIRCUIT

RECEIVED

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ead 19 July 1980