ENTERED
JUN 16 1980
TERESA L. DEPPNER, CLERK
U.S. District & Bankruptcy Courts
Southern District of West Virginia

IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA

IN THE MATTER OF THE PLAN FOR PROMPT DISPOSITION OF CRIMINAL CASES

O R D E R

The foregoing Plan for achieving prompt disposition of criminal cases in the Southern Judicial District of West Virginia, having been considered at length and approved by the Planning Group constituted by the Court pursuant to the provisions of 18 U.S.C. § 3168, is accepted, approved and adopted by this Court subject to approval by the Reviewing Panel as provided in Rule 50(b), Federal Rules of Criminal Procedure, and 18 U.S.C. § 3165(c).

ENTER: This 16 day of June, 1980.

Dennis R. Knapp

Dennis R. Knapp, Chief Judge

FINAL PLAN

Plan for prompt disposition of criminal cases

Final plan pursuant to Speedy Trial Act of 1974 — 18 U.S.C. § 3165(e)(3)

UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES DISTRICT COURT

PLAN FOR PROMPT DISPOSITION OF CRIMINAL CASES

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Section I

Introductory Material

PLAN OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA FOR ACHIEVING PROMPT DISPOSITION OF CRIMINAL CASES

I. INTRODUCTION.

A. Adoption of Plan.

Pursuant to the requirements of Rule 50(b) of the Federal Rules of Criminal Procedure, the Speedy Trial Act of 1974 (18 U.S.C., chapter 208), the Speedy Trial Act Amendments of 1979, (Pub. L. No. 96-43, 93 Stat. 327), and the Federal Juvenile Delinquency Act (18 U.S.C. §§ 5036, 5037), the judges of the United States District Court for the Southern District of West Virginia have adopted the following Plan providing for time limits and procedures to minimize undue delay and to further the prompt disposition of criminal cases and certain juvenile proceedings. This Plan shall have the force and effect of a rule of this Court and shall supersede rules or orders of this Court in conflict therewith.

B. Members of Planning Group.

This Speedy Trial Plan has been approved by the members of a Planning Group duly constituted under 18 U.S.C. § 3168, and has been recommended to the judges of this Court for adoption. The members of the Planning Group are:

Dennis R. Knapp, Chief Judge, Chairman
Paul J. Fourney, U. S. Magistrate
Robert B. King, U. S. Attorney
James A. McWhorter, Clerk
A. V. Dodrill, Jr., Chief U. S. Probation Officer
Richard G. Evans, Deputy U. S. Marshal
Rudolph L. DiTrapano, Private Attorney experienced in defense of criminal cases
Carl M. Duttine, Public Defender
Roger A. Wolfe, Reporter
Edward W. Eardley, Private Attorney experienced in civil matters

C. Public Inspection.

Upon approval by a reviewing panel of the Judicial Council of the United States Court of Appeals for the Fourth Circuit in accordance with the provisions of 18 U.S.C. § 3165(c), this Speedy Trial Plan shall be filed in the office of the Clerk of this Court as a public document and shall be available to the public for inspection. Copies may be obtained at cost.

Section II

Statement of Time Limits Adopted by the Court and Procedures for Implementing Them

II. STATEMENT OF TIME LIMITS ADOPTED BY THE COURT AND PROCEDURES FOR IMPLEMENTING THEM.

1. Applicability.

(a) Offenses. The time limits and procedures 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. § 1(3). 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 6 should be given preference over other criminal charges.

3. Time Within Which An Indictment Or Information Must Be Filed.

(a) Time Limits. If an individual 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 30 days of arrest or service.

(b) Grand Juries. A grand jury shall be convened regularly every 28 days to consider indictments charging offenses to be prosecuted in this District. A calendar of scheduled dates shall be prepared yearly and shall be distributed to the judges of the District, the United States Attorney, the United States Magistrate, the United States Marshal, the United States Probation Officer and the Federal law enforcement agencies in the District and the Public Defender and shall be filed in the Clerk's office for public inspection. Convening grand juries may be ordered at additional times upon motion of the United States Attorney granted by any judge of the Court.

(c) Measurement of Time Periods. 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; (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.

(d) 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) 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.

(3) Upon the arrest in this District of an individual wanted for prosecution in another district, the United States Marshal shall immediately notify the Clerk's office of such prosecuting district of the arrest of the individual. Upon receiving information that an individual wanted for prosecution in this District has been arrested in another district, the United States Marshal shall also notify the Clerk's office of this District of such arrest.

4. Arraignment.

(a) Arraignments shall be regularly scheduled on the Thursday of the week following a session of the grand jury, or on Friday of any such week with respect to arraignments held in Huntington, unless otherwise ordered by a judicial officer.

(b) An arraignment shall be considered to take place at the time a plea is taken or is entered by the judicial officer

on the defendant's behalf. Unless the defendant desires to plead guilty or nolo contendere, a plea of not guilty shall be entered by the judicial officer on defendant's behalf.

(c) At the time of the defendant's earliest appearance before a judicial officer of this District, the officer will take appropriate steps to assure that the defendant is represented by counsel and shall appoint counsel where appropriate under the Criminal Justice Act and Rule 44 of the Federal Rules of Criminal Procedure. The judicial officer will also inform the defendant of his rights under this Plan and pertinent legislation.

(d) At the time of arraignment, a time shall be set for the filing of pretrial motions. Hearings on motions shall not be scheduled unless ordered by the appropriate judicial officer. Hearings on motions may be held at a pretrial conference in accordance with the provisions of Rule 17.1 Federal Rules of Criminal Procedure. Briefs shall be filed in support of motions and responses on which a hearing has been ordered by a judicial officer.

5. 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 dates:

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

(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.

(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 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 of the plea 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 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.

(4) If the subsequent charge is contained in a complaint, the formal time within which an indictment or information must be obtained on the subsequent 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 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 run from the date of such consent.

(2) 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.

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

(4) A trial in a non-jury case shall be deemed to commence on the date the case is called, provided that some step in the trial procedure immediately follows.

(f) Related Procedures.

(1) Each judicial officer 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 not be ground for a continuance or delayed setting except under circumstances approved by the judicial officer and called to his attention at the earliest practicable time. The United States Attorney and Public Defender will familiarize themselves with the scheduling procedures of each judicial officer and will assign or reassign cases in such manner that each will be able to announce ready for trial.

(3) In the event that 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 trial on the original indictment or information unless the judicial officer 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.

(4) At the time of the filing of a complaint, indictment, or information described in paragraph (3), the United States Attorney shall give written notice to the judicial officer of that circumstance and of his position with respect to the computation of the time limits.

(5) Except where circumstances do not permit, subpoenas and writs to be served in relation to a pending criminal matter shall be delivered to the United States Marshal's office for such purpose no later than 5 days for subpoenas and 10 days for writs before the return date of such subpoena or writ.

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

(a) Time Limits. Notwithstanding any longer time periods that may be permitted under sections 3 and 5, 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.

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*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).

(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 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 5(e)(3) and 5(e)(4).

(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 trial, 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.

7. Exclusion of Time From Computation.

(a) Applicability. The periods of delay set forth in 18 U.S.C. § 3161(h) shall be excluded from the computation of time limits as authorized by the Act. Such periods of delay shall not be excluded in computing the minimum period for commencement of trial under section 8.

(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 prior to 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. § 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) Pre-Indictment Procedures.

(1) In the event that 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. In the event that the United States Attorney seeks a continuance under 18 U.S.C. § 3161(h)(8), he shall file a written motion with the court requesting such a continuance.

(2) The motion of the United States Attorney shall state (i) the period of time proposed for exclusion, and (ii) the basis of the proposed exclusion. If the motion is for a continuance under 18 U.S.C. § 3161(h)(8), it shall also state whether or not the defendant is being

held in custody on the basis of the complaint. In appropriate circumstances, the motion may include a request that some or all of the supporting material be considered ex parte and in camera.

(3) The court may grant a continuance under 18 U.S.C. § 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 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) Post-Indictment Procedures.

(1) In the event that the court grants a continuance beyond the time limits set forth in this Plan, the court shall determine whether the limits may be recomputed by excluding time pursuant to 18 U.S.C. § 3161(h). In the absence of a need for a continuance, the court will not

ordinarily rule on the excludability of any period of time.

(2) 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. § 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.

8. 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 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 5(d), and 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.

9. Time Within Which Defendant Should Be Sentenced.

(a) Time Limit. A defendant shall ordinarily be sentenced within 45 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 of nolo contendere or a conviction.

10. 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 was begun, as provided in 18 U.S.C. § 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. § 5037(c).

11. Sanctions.

(a) Dismissal Or Release From Custody. Failure to comply with the requirements of Title I of the Speedy Trial Act may entitle the defendant to dismissal of the charges against him or to release from pretrial custody. Nothing in this Plan shall be construed to require that a case be dismissed in circumstances in which dismissal would not be required by 18 U.S.C. §§ 3162 and 3164.

(b) High-Risk Defendants. A high-risk defendant whose trial has not commenced within the time limit set forth in 18 U.S.C. § 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 (i) knowingly allows the case to be set for trial without disclosing the fact that a necessary witness would be unavailable for trial, (ii) files a motion solely for the purpose of delay which he knows

is frivolous and without merit, (iii) 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 (iv) otherwise willfully fails to proceed to trial without justification consistent with 18 U.S.C. § 3161, the court may punish such counsel as provided in 18 U.S.C. §§ ~~3126~~ 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. § 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.

12. 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. § 3161(j).

13. Monitoring Compliance With Time Limits.

(a) Responsibilities of District Planning Group. As part of its continuing study of the administration of criminal justice in this District, the District Planning Group will pay special attention to those cases in which there is a failure to comply with the time limits set forth herein. From time to time, the group may make appropriate recommendations to prevent repetition of failures.

(b) Responsibilities of Clerk. In addition to maintaining such statistical data as is required to be maintained by the Administrative Office of the United States Courts, the Clerk will from time to time report to the other members of the Planning Group each case in which there is a failure to comply with any time limit set forth herein. Additionally, the Clerk, with the assistance of the United States Attorney, will formulate and maintain on a biweekly basis a report or calendar showing the current status of all pending criminal defendants, including duration and reasons for detention, dates on which appropriate steps must be taken to assure compliance with the Speedy Trial Act and this Plan, and the judge to whom the defendant's case has been assigned.

(c) Responsibilities of United States Attorney. The United States Attorney shall furnish such assistance as may be necessary for the preparation of the biweekly report or calendar referred to in section 13(b), including sending a copy of the information required by Rule 46(g) Federal Rules of Criminal Procedure to the Clerk immediately upon its availability.

14. Definition of Terms.

As used herein:

The terms "judge" or "judicial officer" or "court" mean, unless otherwise indicated, any United States magistrate or Federal district judge; and

The term "offense" means any Federal criminal offense which is a violation of any Act of Congress and is triable by any court established by any Act of Congress (other than a petty offense as defined in 18 U.S.C. § 1(3), or an offense triable by court-martial, military commission, provost court, or other military tribunal).

15. Effective Date.

(a) The amendments to 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. § 3165(c). However, the dismissal sanction and the sanctions against attorneys authorized by 18 U.S.C. § 3162 and reflected in sections 11(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 on or after that date.

(b) 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) 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) If a defendant was in custody on August 2, 1979, solely because he was awaiting trial, the 90-day period under section 6 shall be computed from that date.

Section III

Summary of Experience Under the Act Within the District

III. SUMMARY OF EXPERIENCE UNDER THE ACT WITHIN THE DISTRICT.

A. Progress Towards Meeting The Permanent Time Limits

1. Arrest to Indictment - Interval One.

Between January 1st through December 31, 1979, all criminal defendants were formally charged in timely fashion in accordance with the time limits set forth under the Speedy Trial Act Amendments Act of 1979. From January 1st through June 30th 45.8% of all criminal defendants were indicted the same day as their arrest while 54.2% were indicted or an information was filed within 30 days of their arrest or the service of a summons. Between July 1st through December 31st, 1979, 100% of all criminal defendants were indicted or an information was filed against them within 30 days of their arrest or a service of a summons.

2. Indictment to Trial - Interval Two.

With the enactment of Public Law 96-43 on August 2, 1979, the indictment-to-arraignment and arraignment-to-trial time limits were merged into a single seventy-day limit. Performance in this category was excellent since between January 1st through June 30, 1979, there was 100% compliance. Periods of delay or "excludable time" which is allowable under the Act were used in computing net days for 6.8% of the defendants reported in this category. Between July 1st and December 31, 1979, there was, again, 100%

compliance with only 7.7% of the reported criminal defendants having allowable excludable time.

B. Problems Encountered.

Fewer recordkeeping and reporting problems were encountered in the administration of the requirements of the Speedy Trial Act under the 1978 Plan than previously. Presumably, experience and more conscientious attention to detail eliminated most of the local problems experienced at the time the preceding Plan was put into effect. This was probably due to a better understanding by clerical employees of the provisions and purposes of the Act. As a result, most potential difficulties were anticipated and brought to the attention of appropriate officials. Nevertheless, the detail required on reporting forms continues to create administrative burdens. Additionally, problems continue to exist with regard to inter-district communications, communications between law enforcement agencies and the United States Attorney's office, and the transportation of prisoners, although to a lesser extent than under the previous Plan.

A problem which arose since the effective date of the 1978 Plan is also worthy of note. There were instances in which the Court, the United States Attorney's office, and the Public Defender's office were placed in a difficult situation because

only a few days remained within which to commence trial after the re-indictment of an individual whose previous indictment had been dismissed on the motion of the United States Attorney. Under the Act and past and current plans, trial must commence in such situations within the time limits for commencement of trial on the original indictment or information. Although intervening time is excluded, situations were encountered in which an indictment was properly dismissed on the government's motion only a few days before the time limit was to expire. Thus, when the defendant was properly re-indicted, only those few days remained within which to schedule trial, and scheduling conflicts inevitably followed.

C. Incidences Of, And Reasons For, Requests Or Allowances Of Extensions Of Time Beyond The District's Standards.

There have been no instances in which extensions of time beyond District standards, not involving excludable periods of delay, were requested or allowed by Court.

D. Reasons Allowable Exclusions Inadequate To Accommodate Reasonable Periods Of Delay.

Allowable exclusions were in all instances adequate to accommodate reasonable periods of delay.

E. The Effect On Criminal Justice Administration Of The Prevailing Time Limits.

Aside from the few problems previously described, the prevailing time limits have had no significant effect on the

administration of criminal justice in this District.

F. Effect Of Compliance With The Time Limits On The Civil Calendar.

Despite the increased administrative workload caused by the Speedy Trial Act, the statistics indicate that the District has actually been reducing the civil docket. As of June 30, 1978, there were 3,262 civil cases pending. As of June 30, 1979, there were 2,783 pending civil cases; and on April 30, 1980, there were 2,965 active civil cases. Between June 30, 1978, and June 30, 1979, 1,243 civil cases were filed. In that same period, 1,722 civil cases were terminated.

Although these statistics indicate that inroads are being made into the District's backlog of civil cases, other statistics indicate that attention still needs to be directed to the civil caseload. For example, the median time of 23 months for the disposition of civil cases during the 12-month period ending June 30, 1979, was among the longest in the nation. Also, the District was one of three districts having the largest percentage, 24.6%, of civil cases pending more than three years; and the number of such cases increased by 12.6% from the preceding 12-month period.

It may be safely assumed that the requirements of the Speedy Trial Act have contributed to the problems experienced by

the District in the handling of its civil caseload. With the recent addition of two full-time judges to the District, however, it is hoped that both the civil and the criminal dockets can be satisfactorily administered.

G. Frequency Of Use Of Sanctions Under 18 U.S.C. § 3164.

There have been no instances in which sanctions under 18 U.S.C. § 3164 have been utilized.

Section IV

Changes in Practices and Procedures that Have Been or Will Be Adopted by the District Court to Expedite the Disposition of Criminal Cases in Accordance With 18 U.S.C. §3167(b)

IV. STATEMENT OF PROCEDURES AND INNOVATIONS THAT HAVE BEEN OR WILL BE ADOPTED TO EXPEDITE THE DISPOSITION OF CRIMINAL CASES IN ACCORDANCE WITH THE SPEEDY TRIAL ACT.

In connection with the submission of the preceding Plan, a number of procedures and innovations were adopted to expedite disposition of criminal cases. Those procedures will be continued under this Plan. Among the procedures established are the regular scheduling of grand juries, provided in section II 3(b); the procedure for establish a record of arrest date, provided in section II 3(d); the regular scheduling of arraignments, provided in section II 4(a); the procedure for conducting arraignments, provided in section II 4; provisions for handling the withdrawal of pleas and superseding charges, provided in section II 5(c) and (d); provisions relating to the scheduling of trials and handling of calendars, provided in section II 5(a) and (f); provisions relating to multiple indictments, provided in section II 5(d); provisions relating to service of subpoenas and writs, provided in section II 5(f)(5); provisions relating to excludable time, provided in section II 7; provisions relating to sentencing, provided in section II 9; provisions relating to juvenile proceedings, provided in section II 10; provisions relating to sanctions, provided in section II 11; provisions relating to the prompt trial of persons already imprisoned, provided in section II 12; and, as previously noted, the development of a criminal docket calendar or report in section II 13(b).

Section V

Additional Resources Needed, if any, to Achieve Compliance with the Act by July 1, 1979 (18 U.S.C. §3166(d))

V. STATEMENT OF ADDITIONAL RESOURCES NEEDED TO ACHIEVE COMPLIANCE WITH THE ACT OF JULY 1, 1979.

The agencies requesting additional resources are the Court, the Marshal's office and the Public Defender's office.

With the addition of two full-time judges, additional courtrooms are needed in Charleston and Huntington.

The Marshal requests a full-time administrator for its newly opened Bluefield office and an additional full-time administrator in its Huntington office, which is being enlarged. In addition, another deputy marshal for the district is needed.

The Public Defender requests an additional assistant to assure compliance with the Act.

Section VI

Recommendations for Changes in Statutes, Rules, or Administrative Procedures (18 U.S.C. §§3166(b)(7), (d)(e))

VI. RECOMMENDATIONS FOR CHANGES IN STATUTES, RULES OR ADMINISTRATIVE PROCEDURES.

A number of changes were proposed in the preceding Plan and to the extent that the 1979 amendments to the Act did not eliminate the need for those changes, those recommendations are carried forward as recommendations for proposed changes in this Plan.

Additionally, some change needs to be made to avoid the problem discussed earlier in III -- involving re-indictment after dismissal on the motion of the United States Attorney. To avoid situations in which only a few days remain of the original allowable trial time within which to try a defendant who has been re-indicted, it is proposed that the Act be amended to provide that in no event shall trial be required less than 30 days after re-indictment.

Section VII

Incidence and Length of, Reasons for, and Remedies for Detention Prior to Trial (18 U.S.C. §3166(b)(6))

VII. INCIDENCE AND LENGTH OF, REASONS FOR, AND REMEDIES FOR DETENTION PRIOR TO TRIAL.

As indicated in Table 3, in section VIII of this Plan, 27 of the 91 defendants in the six-month period between July 1, 1979, and December 31, 1979, were detained. Review of records maintained by the Clerk indicates that 46% of the defendants could not make bail; 22% were already incarcerated on other federal charges; 13% were being detained for various studies; and 19% were being held on writs of habeas corpus from states. The figures do not, therefore, indicate that present detention practices, especially bail procedures, require revision. If detention does become a problem, the District may need to re-examine its bail practices and explore other alternatives to detention prior to trial.

Section VIII

Statistical Tables

2/791

AO 281C (12/79)

DISTRICT

SPEEDY TRIAL DATA ANALYSIS (18 U.S.C. 3166(c)(1))

PROCESSING TIME

Processing time for defendants whose cases were terminated during one year period
January 1, 1979 through December 31, 1979

TABLE 1

HOW LONG IT TOOK TO BRING INDICTMENTS ON CRIMINAL DEFENDANTS

INTERVAL ONE (ARREST TO INDICTMENT) — SUBDIVIDED BY WHEN INTERVAL BEGAN

NUMBER OF *NET DAYS THAT ELAPSED TO INDICTMENT OR INFORMATION FROM ARREST OR SERVICE OF SUMMONS

	NO. OF DEFENDANTS TERMINATED	SAME DAY		1 to 30 days		31 to 35 days		36 to 45 days		46 to 60 days		61 to 90 days		91 to 120 days		121 days & over	
		DEF'S REPORTED	%	DEF'S REPORTED	%	DEF'S REPORTED		DEF'S REPORTED	%	DEF'S REPORTED	%	DEF'S REPORTED	%	DEF'S REPORTED	%	DEF'S REPORTED	%
Before 1 July '79	24	11	45.8	13	54.2	–	–	–	–	–	–	–	–	–	–	–	–
On/After 1 July '79	7	–	–	7	100	–	–	–	–	–	–	–	–	–	–	–	–

HOW LONG IT TOOK TO BRING CRIMINAL DEFENDANTS# TO TRIAL

INTERVAL TWO (INDICTMENT TO TRIAL) — SUBDIVIDED BY WHEN INTERVAL BEGAN

Number of *Net Days that Elapsed to Commencement of Trial (or other disposition) from Indictment or (if later) First Appearance

	NO. OF DEFENDANTS TERMINATED	SAME DAY		1 to 30 days		31 to 70 days		71 to 80 days		81 to 100 days		101 to 120 days		121 to 180 days		181 days & over	
		DEF'S REPORTED	%	DEF'S REPORTED	%	DEF'S REPORTED	%	DEF'S REPORTED	%	DEF'S REPORTED	%	DEF'S REPORTED	%	DEF'S REPORTED	%	DEF'S REPORTED	%
Before 1 July '79	183	23	12.6	66	36.1	81	44.3	3	1.4	5	2.7	2	1.1	2	1.1	1	0.5
On/After 1 July '79	39	–	–	17	43.6	19	48.7	–	–	2	5.1	1	2.6	–	–	–	–

HOW LONG IT TOOK TO SENTENCE CRIMINAL DEFENDANTS

SENTENCING INTERVAL — FOR ALL PERSONS TERMINATED & SENTENCED DURING THE 12 MOS. PERIOD

NUMBER OF DAYS TO SENTENCE DATE FROM DATE OF CONVICTION

NO. OF DEFENDANTS TERMINATED	SAME DAY		1 to 30		31 to 45		46 to 60		61 & over	
	NO. DEF'S	%	No.	%	No.	%	No.	%	No.	%
172	37	21.5	29	16.9	58	33.7	15	8.7	33	19.2

*NET MEANS GROSS DAYS LESS DAYS OF EXCLUDABLE

#THESE FIGURES DO NOT INCLUDE DEFENDANTS WHO BEGAN THE INTERVAL DURING

#DEFENDANT FIGURES DO NOT INCLUDE PETTY OFFENDERS, AND ALSO DO NOT INCLUDE

SPEEDY TRIAL DATA ANALYSIS – 18 U.S.C. 3166(b)(2)

INCIDENCE OF AND REASONS FOR DELAY

DISTRICT: WEST VIRGINIA SOUTHERN

REPORT PERIOD: X 6 Months (July thru Dec '79)

TOTALS

			% OF "A"
**TERMINATED DEFENDANTS REPORTED DURING PERIOD	91	Ⓐ	
DEFENDANTS WITHOUT EXCLUDABLE TIME	48	Ⓑ	52.7
DEFENDANTS WITH EXCLUDABLE TIME	43	Ⓒ	47.3
INCIDENTS OF EXCLUDABLE TIME	50	Ⓓ	

TABLE 2

LENGTH OF EXCLUDABLE DEALY PERIOD (NO. OF DAYS)

CODE	#REASON Under 18 USC 3161	0 to 10 dys	11 to 21	22 to 42	43 to 84	85 to 120	121 + days	SUB-TOTALS OF "D"	% OF "D"	INTERVAL IN WHICH EXCLUDABLE DELAY OCCURRED*** ONE	TWO
A	Examination or hearing for mental or physical incapacity—(h)(1)(A)	0	1	1	1	0	0	3	6.0	0	3
B	NARA examination—(h(1)(B)	0	0	0	0	0	0	0	0	0	0
C	State or federal trials on other charges—(h)(1)(D)	0	0	0	0	0	0	0	0	0	0
D	Interlocutory appeals—(h)(1)(E)	2	0	1	0	0	0	3	6.0	0	3
*E	Motions (from filing to hearing or prompt disposition)—(h)(1)(f)	22	7	3	3	0	0	35	70.0	0	35
F	Transfers from other districts (per FRCP rules 20, 21 & 40)—(h)(1)(G)	0	0	0	0	0	0	0	0	0	0
G	Motion is actually under advisement—(h)(1)(J)	0	0	0	0	0	0	0	0	0	0
H	Misc. proceedings: probation or parole revocation, deportation, extradition—(h)(1)	0	0	0	0	0	0	0	0	0	0
*6	Transportation from another district or to/from examination or hospitalization in ten days or less—(h)(1)(H)	0	0	0	0	0	0	0	0	0	0
7	Consideration by court of proposed plea agreement—(h)(1)(I)	0	0	0	0	0	0	0	0	0	0
I	Prosecution deferred by mutual agreement—(h)(2)	0	0	0	0	0	0	0	0	0	0
M	Unavailability of defendant or essential witness—(h)(3)(A & B)	0	1	1	0	0	0	2	4.0	0	2
N	Period of mental or physical incompetence of defendant to stand trial—(h)(4)	0	0	0	0	0	0	0	0	0	0
O	Period of NARA commitment or treatment—(h)(1)(C) & (5)	0	0	0	0	0	0	0	0	0	0
P	Superseding indictment and/or new charges—(h)(6)	0	0	0	0	0	0	0	0	0	0
R	Defendant awaiting trial of co-defendant when no severance had been granted—(h)(7)	0	0	0	0	0	0	0	0	0	0
T	"Ends of justice continuance, per 3161 (h)(8): T if more than one reason or none of reasons below given in support (A & B)	1	0	1	5	0	0	7	14.0	0	7
	T1 Failure to continue would stop further proceedings or result in miscarriage (B)(i)	0	0	0	0	0	0	0	0	0	0
	T2 Case unusual or complex (B)(ii)	0	0	0	0	0	0	0	0	0	0
	T3 Indictment following arrest cannot be filed in 30 days (B)(iii)	0	0	0	0	0	0	0	0	0	0
	T4 Continuance granted in order to obtain or substitute counsel, or give major time to prepare	0	0	0	0	0	0	0	0	0	0
U	Time up to withdrawal of guilty plea—3161(i)	0	0	0	0	0	0	0	0	0	0
W	Grand jury indictment time extended 30 more days—3161(b)	0	0	0	0	0	0	0	0	0	0
		25	9	7	9	0	0	50	100.0	0	50

#Paragraph and subsection of 18 USC 3161, Speedy Trial Act of 1974, as amended, are shown with reason for delay below.

*An exclusion category newly created or modified by Aug. '79 amendment.
**DEFENDANT FIGURES DO NOT INCLUDE: Juveniles, Appeals from U.S. Magistrate decisions, Rule 20 transfers out of district, pretrial diversion dispositions, removals from State courts and any petty offenses proceeded by information.
***Interval one: Arrest to Indictment; Interval two: Indictment to Trial.

Table 2

SPEEDY TRIAL DATA ANALYSIS

INCIDENCE OF AND REASONS FOR DELAY

During July 1, 1978 thru June 30, 1979

TOTALS FOR
WEST VIRGINIA
SOUTHERN

			% OF "A"
**TERMINATED DEFENDANTS REPORTED DURING PERIOD	199	(A)	
DEFENDANTS WITHOUT EXCLUDABLE TIME	147	(B)	73.9
DEFENDANTS WITH EXCLUDABLE TIME	52	(C)	26.1
INCIDENTS OF EXCLUDABLE TIME	83	(D)	

LENGTH OF EXCLUDABLE DELAY PERIOD (NO. OF DAYS)

*REASON Under 18 USC 3161	1 to 10 days	11 to 21	22 to 42	43 to 84	85 to 120	121 + days	SUB-TOTALS OF "D"	% OF "D"	***INTERVAL IN WHICH EXCLUDABLE DELAY OCCURRED: ONE	TWO	THREE
A. Examination or hearing for mental or physical incapacity–(H)(1)(A)	3	1	1	3	0	0	8	9.6	0	0	8
B. NARA examination–(H)(1)(B)	0	0	0	0	0	0	0	0	0	0	0
C. State or federal trials on other charges–(H)(1)(C)	0	0	0	0	0	0	0	0	0	0	0
D. Interlocutory appeals–(H)(1)(D)	0	0	0	0	0	8	8	9.6	0	0	8
E. Hearings on pretrial motions–(H)(1)(E)	20	1	1	0	0	0	22	26.5	0	0	22
F. Transfers from other districts (per FRCP rules 20, 21 & 40). (H)(1)(F)	0	0	0	1	0	0	1	1.2	0	0	1
G. Motion is actually under advisement. (H)(1)(G)	0	0	0	0	0	0	0	0	0	0	0
H. Misc. proceedings: probation or parole revocation, deportation, extradition. (H)(1)	0	0	0	0	0	0	0	0	0	0	0
I. Prosecution deferred by mutual agreement. (H)(2)	0	7	0	0	0	0	7	8.4	0	0	7
M. Unavailability (includes fugitive) of defendant or essential witness. (H)(3)(A)(B)	1	0	2	1	0	0	4	4.8	0	2	2
N. Period of mental or physical incompetence of defendant to stand trial. (H)(4)	0	0	1	0	0	0	1	1.2	0	0	1
O. Period of NARA commitment or treatment. (H)(5)	0	0	0	0	0	0	0	0	0	0	0
P. Superseding indictment and/or new charges. (H)(6)	0	0	0	0	0	0	0	0	0	0	0
R. Defendant awaiting trial of co-defendant when no severance has been granted. (H)(7)	2	0	0	1	0	0	3	3.6	0	0	3
T. Continuances granted in the ends of justice. (H)(8)	5	9	9	4	2	0	29	34.9	0	0	29
U. Time up to withdrawal of guilty plea (i)	0	0	0	0	0	0	0	0	0	0	0
W. Grand jury indictment time extended 30 more days. (B)	0	0	0	0	0	0	0	0	0	0	0
TOTALS	31	18	14	10	2	8	83	100.0	0	2	81

*Paragraph and subsection of 18 USC 3161, Speedy Trial Act of 1974, are shown with reason for delay below

**DEFENDANT FIGURES DO NOT INCLUDE Juveniles, Appeals from U.S. Magistrate decisions, Rule 20 transfers out of district, pretrial diversion dispositions, removals from State courts and any petty offenses proceeded by information.

***Interval one: Arrest to Indictment, Interval two: Indictment to Arraignment, Interval three: Arraignment to Trial

Prepared by: Administrative Office of U.S. Courts

DISTRICT

WEST VIRGINIA, SOUTHERN

SPEEDY TRIAL DATA ANALYSIS 3166(b)(6) & (c)(6)

PRETRIAL DETENTION

TABLE 3

REPORT PERIOD { 6 MONTHS – 1 JULY '79 THRU 31 DECEMBER '79

CASES CLOSED DURING REPORT PERIOD

	A	% OF A
NUMBER OF DEFENDANTS	91	
TOTAL NO. OF DEFENDANTS DISPOSED OF DURING PERIOD OF REPORT		
DETAINEES	B 27	29.7
DEFENDANTS DETAINED AFTER INITIAL APPEARANCE BEFORE A JUDGE OR MAGISTRATE FOR PERIODS OF CUSTODY TIME NOT SUBJECT TO EXCLUSIONS PER 3161(h)		

DEFENDANTS GROUPED BY LENGTH OF NET* TIME IN CONTINUOUS DETENTION STATUS

NUMBER OF DETAINEES	NUMBER OF NET DAYS					
	1 to 10	11 to 30	31 to 90	91 to 120	121 to 150	151 Plus
	9	5	12	1	0	0
% OF BOX B	33.3%	18.5 %	44.4 %	3.7%	.0%	.0%

*"NET" IS GROSS TIME LESS EXCLUSIONS PER 3161(h). REPORT SHOULD INCLUDE ONLY DEFENDANTS HAVING NON-EXCLUDABLE ("NET") DETENTION TIME. WHEN DEFENDANT HAS MORE THAN ONE SUCH DETENTION PERIOD, INTERSPERSED WITH RELEASE TIME OR EXCLUDABLE TIME, DO NOT AGGREGATE THE SEPARATE DETENTION PERIODS. TAKE THE DEFENDANTS LONGEST SINGLE PERIOD OF "NON EXCLUDABLE" DETENTION AS THE BASIS FOR DETERMINING WHICH ONE OF THE ABOVE COLUMNS TO PUT HIM IN.

DISTRICT

WEST VIRGINIA, SOUTHERN

REPORT PERIOD { ONE YEAR PERIOD
1 JAN 1979 THROUGH 31 DECEMBER 1979

SPEEDY TRIAL DATA ANALYSIS 3166(c)(4) & (5)

CRIMINAL DISPOSITIONS

TABLE 4

A NUMBER OF DEFENDANTS DISPOSED OF
175

NOT CONVICTED						
	B	DISMISSED		ACQUITTED AT TRIAL		
% OF A	TOTAL NOT CONVICTED	% OF B	TOTAL NO. DISMISSED	% OF B	COURT	JURY
13.1	23	82.6	19	17.4	–	4

CONVICTED						
	C	CONVICTED by PLEA		CONVICTED at TRIAL		
% OF A	TOTAL CONVICTED	% OF C	PLEA of GUILTY or NOLO CON.	% OF C	COURT	JURY
86.9	152	88.2	134	11.8	–	18

DISTRICT

Southern District of West Virginia

REPORT COVERS PERIOD OF: 1/1/79 through 12/31/79

SPEEDY TRIAL DATA ANALYSIS – 3166(c)(2)(3) & (5)

NUMBER OF MATTERS PRESENTED TO U.S. ATTORNEY FOR PROSECUTION, AND THE NUMBER ON WHICH PROSECUTION WAS INITIATED

TABLE 5

NAME OF AGENCY PRESENTING MATTER TO U.S. ATTORNEY FOR PROSECUTION	MATTERS: ON HAND & NEW		MATTERS: DECLINED (i.e. DETERMINATIONS THAT NEW PROSECUTIONS WOULD NOT BE INITIATED IN THIS DISTRICT.)				MATTERS: OTHER DISPOSITIONS[3]	MATTERS: NEW PROSECUTIONS INITIATED DURING PERIOD[4]	MATTERS: MATTERS ON HAND AT END OF PERIOD[5]
	MATTERS[1] ON HAND AT START OF PERIOD[1]	MATTERS REC'D OR ORIGINATED BY U.S. ATTY DURING PERIOD	REFERRED TO OTHER FEDERAL DISTRICT	REFERRED TO STATE/LOCAL AUTHORITY	PRETRIAL DIVERSION	ALL OTHER DECLINATIONS[2]			
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
Forest Service		1				1			0
Agriculture	1	3				1			3
Army	2	6				3	4	1	0
Social Security	4	5			1	5			3
National Park Service	1	1				1	1		0
Interior	2								2
Drug Enforcement Administration	26	115			1	48		53	39
Federal Bureau of Investigation	259	505			9	235	9	84	427
Other Justice Department Agencies	1	1				1		1	1
Labor	5	16			1	5		3	12
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
TOTALS									

[1] "MATTER" REFERS TO DEFENDANT MATTER – I.E. IF CLAIMED OFFENSE INVOLVES 2 DEFENDANTS COUNT IT AS 2 MATTERS

[2] COL (F) INCLUDES MATTERS DECLINED FOR WANT OF PROSECUTIVE MERIT, LACK OF EVIDENCE, JURISDICTIONAL PROBLEMS, ETC.

[3] COL (G) INCLUDES MATTERS DISMISSED BY MAGISTRATE, NOT ON INITIATIVE OF U.S. ATTY., AND MATTERS RESULTING IN NO TRUE BILL BY GRAND JURY

[4] COL (H) INCLUDES INDICTMENTS AND INFORMATIONS FILED AND MATTERS ADJUDICATED BEFORE U.S. MAGISTRATE

[5] COL (I) INCLUDES REFERRED MATTERS THAT ARE STILL PENDING BEFORE GRAND JURY, AND ALL OTHER MATTERS NOT YET DECLINED – PER COLS (C) THRU (F) – NOR FALLING WITHIN SCOPE OF COL (G) OR (H)

DISTRICT

Southern District of West Virginia

REPORT COVERS PERIOD OF: 1/1/79 through 12/31/79

SPEEDY TRIAL DATA ANALYSIS – 3166(c)(2)(3) & (5)

NUMBER OF MATTERS PRESENTED TO U.S. ATTORNEY FOR PROSECUTION, AND THE NUMBER ON WHICH PROSECUTION WAS INITIATED

TABLE 5

NAME OF AGENCY PRESENTING MATTER TO U.S. ATTORNEY FOR PROSECUTION	MATTERS: ON HAND & NEW		MATTERS: DECLINED (i.e. DETERMINATIONS THAT NEW PROSECUTIONS WOULD NOT BE INITIATED IN THIS DISTRICT.)				MATTERS: OTHER DISPOSITIONS[3]	MATTERS: NEW PROSECUTIONS INITIATED DURING PERIOD[4]	MATTERS: MATTERS ON HAND AT END OF PERIOD[5]
	MATTERS[1] ON HAND AT START OF PERIOD[1]	MATTERS REC'D OR ORIGINATED BY U.S. ATTY DURING PERIOD	REFERRED TO OTHER FEDERAL DISTRICT	REFERRED TO STATE/LOCAL AUTHORITY	PRETRIAL DIVERSION	ALL OTHER DECLINATIONS[2]			
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
Postal Service	65	124			1	70	22	41	55
Internal Revenue Service	12	21				5		6	22
Alcohol, Tobacco and Firearms	56	104			2	57	3	48	50
Secret Service	19	61			1	34	16	11	18
Environmental Protection Agency	5	5				1	1	4	5
Federal Trade Commission	3					3			0
Securities and Exchange Commission	3								3
State/County/Municipal	4	1				1			4
Navy		1				1			0
State Department		1					1	1	0
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
TOTALS									

[1] "MATTER" REFERS TO DEFENDANT MATTER – I.E. IF CLAIMED OFFENSE INVOLVES 2 DEFENDANTS COUNT IT AS 2 MATTERS

[2] COL (F) INCLUDES MATTERS DECLINED FOR WANT OF PROSECUTIVE MERIT, LACK OF EVIDENCE, JURISDICTIONAL PROBLEMS, ETC.

[3] COL (G) INCLUDES MATTERS DISMISSED BY MAGISTRATE, NOT ON INITIATIVE OF U.S. ATTY., AND MATTERS RESULTING IN NO TRUE BILL BY GRAND JURY

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[5] COL (I) INCLUDES REFERRED MATTERS THAT ARE STILL PENDING BEFORE GRAND JURY, AND ALL OTHER MATTERS NOT YET DECLINED – PER COLS (C) THRU (F) – NOR FALLING WITHIN SCOPE OF COL (G) OR (H)

DISTRICT

Southern District of West Virginia

REPORT COVERS PERIOD OF: 1/1/79 through 12/31/79

SPEEDY TRIAL DATA ANALYSIS – 3166(c)(2)(3) & (5)

NUMBER OF MATTERS PRESENTED TO U.S. ATTORNEY FOR PROSECUTION, AND THE NUMBER ON WHICH PROSECUTION WAS INITIATED

TABLE 5

NAME OF AGENCY PRESENTING MATTER TO U.S. ATTORNEY FOR PROSECUTION	MATTERS: ON HAND & NEW		DECLINED (i.e. DETERMINATIONS THAT NEW PROSECUTIONS WOULD NOT BE INITIATED IN THIS DISTRICT.)				OTHER DISPOSITIONS[3]	NEW PROSECUTIONS INITIATED DURING PERIOD[4]	MATTERS ON HAND AT END OF PERIOD[5]
	MATTERS[1] ON HAND AT START OF PERIOD[1]	MATTERS REC'D OR ORIGINATED BY U.S. ATTY DURING PERIOD	REFERRED TO OTHER FEDERAL DISTRICT	REFERRED TO STATE/LOCAL AUTHORITY	PRETRIAL DIVERSION	ALL OTHER DECLINATIONS[2]			
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
Federal Highway Admin.		1							1
Federal Communications Commission		1						1	0
Federal Deposit Insurance Coropration		1							1
Housing and Urban Development		8				6			2
Unidentified Agency	1								1
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
TOTALS	469	982			16	478	57	254	648

[1] "MATTER" REFERS TO DEFENDANT MATTER – I.E. IF CLAIMED OFFENSE INVOLVES 2 DEFENDANTS COUNT IT AS 2 MATTERS

[2] COL (F) INCLUDES MATTERS DECLINED FOR WANT OF PROSECUTIVE MERIT, LACK OF EVIDENCE, JURISDICTIONAL PROBLEMS, ETC.

[3] COL (G) INCLUDES MATTERS DISMISSED BY MAGISTRATE, NOT ON INITIATIVE OF U.S. ATTY., AND MATTERS RESULTING IN NO TRUE BILL BY GRAND JURY

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[5] COL (I) INCLUDES REFERRED MATTERS THAT ARE STILL PENDING BEFORE GRAND JURY, AND ALL OTHER MATTERS NOT YET DECLINED – PER COLS (C) THRU (F) – NOR FALLING WITHIN SCOPE OF COL (G) OR (H)

DISTRICT

WEST VIRGINIA, SOUTHERN

REPORT PERIOD { COMPARISON OF TWO CALENDAR YEARS: 1 JAN THROUGH 31 DEC 1978, AND 1 JAN THROUGH 31 DEC 1979.

SPEEDY TRIAL DATA ANALYSIS 3167(b)(6)

STATUS OF CIVIL CALENDAR

TABLE 6

	NUMBER OF CIVIL CASES			PERCENTAGE INCREASE OR DECREASE
	PENDING AT START OF REPORT PERIOD	FILED DURING REPORT PERIOD	PENDING AT END OF REPORT PERIOD	
	(1)	(2)	(3)	(4)
1978	3,170	1,260	2,651	-16.4
1979	2,651	1,329	3,015	13.7

	LENGTH OF TIME CASES IN COLUMN 3 ABOVE HAVE BEEN PENDING					
	Under 3 Mos	3 to 6 Mos	6 to 12 Mos	12 to 18 Mos	18 to 24 Mos	24 Mos & Over
1978	235	253	410	314	314	1,125
1979	281	307	498	338	277	1,314