

PLAN FOR THE DISPOSITION OF CRIMINAL CASES

in the

UNITED STATES DISTRICT COURT

for the

WESTERN DISTRICT OF VIRGINIA

* * * *

SPEEDY TRIAL ACT OF 1974 PLAN

Effective July 1, 1980

Pursuant to the Speedy Trial Act of 1974 (as amended),
18 U.S.C. §§3161 et. seq.

Section I

Introductory Material

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 Western District of Virginia have adopted the Plan set forth in Section II herein to minimize undue delay and to further the prompt disposition of criminal cases and certain juvenile proceedings, effective July 1, 1980.

B. SPEEDY TRIAL ACT PLANNING GROUP

Pursuant to §3168 of the Act, a duly constituted Planning Group has been appointed and has recommended to the Court adoption of this Plan. The Planning Group is composed of the following members:

Hon. James C. Turk, Chief United States District Judge,
Chairman
Hon. Samuel G. Wilson, United States Magistrate
John S. Edwards, Esq., United States Attorney
Paul J. Puckett, United States Marshal
James T. Woolwine, Chief United States Probation
Officer
Joyce F. Witt, Clerk of the United States District
Court
James W. Jennings, Jr., Esq., Roanoke, Virginia
Private attorney experienced in civil litigation
George I. Vogel, II, Esq., Roanoke, Virginia
Private attorney experienced in the defense of
criminal cases
William McC. Schildt, Esq., Reporter, former Assistant
United States Attorney

C. DEPOSITORY

This Plan becomes effective upon adoption and approval by a reviewing panel of the Judicial Council of the United States Court of Appeals for the Fourth Judicial Circuit. It shall be a public document on file in the office of the Clerk of this Court and 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**

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA

SPEEDY TRIAL PLAN

Rules of Practice and Procedure

Effective July 1, 1980

NOTE: All verbatim excerpts from the Speedy
Act of 1974, as amended, are single spaced.

II. STATEMENT OF TIME LIMITS AND PROCEDURES FOR IMPLEMENTING THEM

A. GENERAL PROVISIONS

1. Authority and Purpose.

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 Western District of Virginia 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.

2. 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. §1(3). Except as specifically provided, they are not applicable to proceedings under the Federal Juvenile Delinquency Act. [18 U.S.C. §3172]

(b) Persons. The time limits are applicable to persons and/or legal entities summoned or arrested 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.

3. 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 B3 should be given preference over other criminal cases.

[\$3164(a)]

4. Effect.

This Plan has the same effect as a rule of this Court. It supersedes rules or orders of this Court which are in conflict with its provisions.

5. Responsibility of Officers of Court.

All officers of this Court, including defense counsel, shall be diligent in the discharge of their responsibilities to ensure compliance with the provisions of the Speedy Trial Act and this Plan.

B. PROCEEDINGS IN CRIMINAL CASES: TIME LIMITS

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

(a) Information or Indictment: 30-Day Time Limit for Filing. Any indictment or information charging a defendant with the commission of an offense to be prosecuted in this District shall be filed within 30 days from the date on which such defendant was arrested or served with a summons in connection with such charge. If a defendant

has been charged with a felony and a grand jury has not been in session during such 30-day period, the period of time for filing of the indictment shall be extended an additional 30 days. [§3161(b)]

(b) Grand Juries. Grand juries will be convened on a regular monthly basis to consider and return indictments within the time limitations herein established.

(c) Informations: Regular Filing Dates. When practicable the United States Attorney will file informations on the dates indictments are filed so that arraignments on informations may be conducted on arraignment dates which are scheduled after the grand jury meets.

(d) Magistrate's Notice of Appearance or Service. The United States Magistrate shall give notice of the first appearance before him of a criminal defendant or of the return of a criminal summons indicating its service, by completing a form prescribed by the Court and by delivering copies of the form to (i) the United States Attorney, (ii) the Clerk of Court, and (iii) the Chief Probation Officer. In the event that intervening holidays or other circumstances make it apparent that the notice will not be received by those officers within two days, immediate notice shall be given by telephone or other expeditious means. When a criminal defendant first appears before the Magistrate, he and his attorney shall be given notice of the date, time, and place of the next scheduled session

of the grand jury and of arraignment date. The Magistrate shall require the defendant to be present for arraignment on the next scheduled arraignment date unless the defendant is otherwise notified.

(e) 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.

(f) 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.

2. Time Within Which Trial Must Commence.

(a) Trial: 70-Day Time Limit. Where a plea of not guilty is entered, the trial of the 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.

[18 U.S.C. §3161(c)(1)]

(b) Place of Trial. Trial will normally be held in the divisional court having territorial jurisdiction over the area where the offense occurred. The Court will order that a case be tried at another place when it finds that that would better serve to meet the requirements of the Act.

(c) Retrial; Trial After Reinstatement of an Indictment or Information.

(1) The retrial of a defendant following a declaration of a mistrial or an order for a new trial 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. The retrial of a defendant following an appeal or collateral attack shall also commence within 70 days from the date the order occasioning the retrial becomes final, but 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.

[18 U.S.C. §3161(d)(2), (e)]

(2) When a mistrial or a new trial is ordered, the Court will enter an appropriate order setting the time

for retrial or new trial.

(d) 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. [18 U.S.C. §3161(i)]

(e) 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. [18 U.S.C. §3161(d)(1)]

(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. [18 U.S.C. (h)(6)]

(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. [18 U.S.C. §3161(h)(6)]

(f) 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 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 day the case is called, provided that some step in the trial procedure immediately follows.

(g) Related Procedures.

(1) 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.

(2) After consultation with counsel for the defendant and the attorney for the Government, at the time of arraignment the Court will set each case in which a defendant has pled not guilty for trial on a day certain within the 70-day time limit for trial. [§3161(a)]

(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 Court finds that the new charge is not 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 Court of that circumstance and of his position with respect to the computation of the time limits.

(5) Hearings on pretrial motions will not be scheduled unless ordered by the Court upon its own initiative or upon request of counsel supported by a showing of need for hearing. All motions should be supported by authorities and may be supported by briefs, affidavits, or other competent documentary evidence. Pretrial hearings when ordered shall be conducted as soon after arraignment as practicable.

3. Defendants in Custody and High-Risk Defendants.

(a) Time Limits. Notwithstanding any longer time periods that may be permitted under sections 1 and 2, 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.

[§3164(b)]

(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 2(f)(3) and 4(f)(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.

4. Time Computations, Exclusions, and Clerk's Duties.

(a) Clerk's Duties. The Clerk of the Court shall be responsible for computing times within which significant events in the criminal process must occur and the periods of delay which may be excluded in accordance with the provisions of the Speedy Trial Act.

(b) Applicability. In computing any time limit under section 1, 2, or 3, the periods of delay set forth in 18 U.S.C. §3161(h) shall be excluded. Such periods of delay shall not be excluded in computing the minimum period for commencement of trial under section 5.

(c) 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.

(d) 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 co-defendant 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.

(e) 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 1, 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.

(f) Post-Indictment Procedures.

(1) At each appearance of counsel before the court, counsel shall examine the clerk's records of excludable time for completeness and accuracy and shall bring to the court's immediate attention any claim that the clerk's record is in any way incorrect.

(2) In the event that the Court continues a trial beyond the time limit set forth in section 2 or 3, the Court shall determine whether the limit 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.

(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. §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.

(g) Computing Numbers of Days. Time in numbers of days is computed as provided in Rule 45(a) of the Federal Rules of Criminal Procedure, i.e. by counting the days beginning with the day following the act or event from which the period of time begins to run and by including the last day of the period unless it is a Saturday, Sunday, or a legal

holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday. In counting the number of days in an excludable period, the first (beginning) and last (ending) days of the period shall be included.

(h) Excludable Times. The following periods of delay shall be excluded in computing the time within which an information or indictment must be filed, or in computing the time within which the trial of any such offense must commence:

(1) Any period of delay resulting from other proceedings concerning the defendant, including but not limited to--

(A) delay resulting from any proceeding, including any examinations, to determine the mental competency or physical capacity of the defendant;

(B) delay resulting from any proceeding, including any examination of the defendant, pursuant to section 2902 of title 28, United States Code;

(C) delay resulting from deferral of prosecution pursuant to section 2902 of title 28, United States Code;

(D) delay resulting from trial with respect to other charges against the defendant;

(E) delay resulting from any interlocutory appeal;

(F) delay resulting from any pretrial motion, from the filing of the motion through the conclusion of the hearing on, or other prompt disposition of, such motion;

(G) delay resulting from any proceeding relating to the transfer of a case or the removal of any defendant from another district under the Federal Rules of Criminal Procedure;

(H) delay resulting from transportation of any defendant from another district, or to and from places of examination or hospitalization, except that any time consumed in excess of ten days from the date an order of removal or an order directing such transportation, and the defendant's arrival at the destination shall be presumed to be unreasonable;

(I) delay resulting from consideration by the court of a proposed plea agreement to be entered into by the defendant and the attorney for the Government; and

(J) delay reasonably attributable to any period, not to exceed thirty days, during which any proceeding concerning the defendant is actually under advisement by the court.

(2) Any period of delay during which prosecution is deferred by the attorney for the Government pursuant to written agreement with the defendant, with the approval of the court, for the purpose of allowing the defendant to demonstrate his good conduct.

(3) (A) Any period of delay resulting from the absence or unavailability of the defendant or an essential witness.

(B) For purposes of subparagraph (A) of this paragraph, a defendant or an essential witness shall be considered absent when his whereabouts are unknown and, in addition, he is attempting to avoid apprehension or prosecution or his whereabouts cannot be determined by due diligence. For purposes of such subparagraph, a defendant or an essential witness shall be considered unavailable whenever his whereabouts are known but his presence for trial cannot be obtained by due diligence or he resists appearing at or being returned for trial.

(4) Any period of delay resulting from the fact that the defendant is mentally incompetent or physically unable to stand trial.

(5) Any period of delay resulting from the treatment of the defendant pursuant to section 2902 of title 28, United States Code.

(6) If the information or indictment is dismissed upon motion of the attorney for the Government and thereafter a charge is filed against the defendant for the same offense, or any offense required to be joined with that offense, any period of delay from the date the charge was dismissed to the date the time limitation would commence to run as to the subsequent charge had there been no previous charge.

(7) A reasonable period of delay when the defendant is joined for trial with a codefendant as to whom the time for trial has not run and no motion for severance has been granted.

(8) (A) Any period of delay resulting from a continuance granted by any judge on his own motion or at the request of the defendant or his counsel or at the request of the attorney for the Government, if the judge granted such continuance on the basis of his findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial. No such period of delay resulting from a continuance granted by the court in accordance with this paragraph shall be excludable under this subsection unless the court sets forth, in the record of the case, either orally or in writing, its reasons for finding that the ends of justice served by the granting of such continuance outweigh the best interests of the public and the defendant in a speedy trial.

(B) The factors, among others, which a judge shall consider in determining whether to grant a continuance under subparagraph (A) of this paragraph in any case are as follows:

(i) Whether the failure to grant such a continuance in the proceeding would be likely to make a continuation of such proceeding impossible, or result in a miscarriage of justice.

(ii) Whether the case is so unusual or so complex, due to the number of defendants, the nature of the prosecution, or the existence of novel questions of fact or law, that it

is unreasonable to expect adequate preparation for pretrial proceedings or for the trial itself within the time limits established by this section.

(iii) Whether, in a case in which arrest precedes indictment, delay in the filing of the indictment is caused because the arrest occurs at a time such that it is unreasonable to expect return and filing of the indictment within the period specified in section 3161(b), or because the facts upon which the grand jury must base its determination are unusual or complex.

(iv) Whether the failure to grant such a continuance in a case which, taken as a whole, is not so unusual or so complex as to fall within clause (ii), would deny the defendant reasonable time to obtain counsel, would unreasonably deny the defendant or the Government continuity of counsel, or would deny counsel for the defendant or the attorney for the government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

(C) No continuance under paragraph (8)(A) of this subsection shall be granted because of general congestion of the court's calendar, or lack of diligent preparation or failure to obtain available witnesses on the part of the attorney for the Government. [18 U.S.C. §3161(h)]

5. 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 2(e), 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. [18 U.S.C. §3161(c)(2)]

6. 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).

7. Juvenile Proceedings.

(a) Time Within Which Trial Must Commence. Notwithstanding any other provision of this Plan, 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, or within that time a motion to transfer may be filed by the United States Attorney. [18 U.S.C. §§5032 and 5036]

(b) Failure to Commence Trial Within 30 Days. Upon the expiration of such time limit, on the motion of the alleged delinquent or at the direction of the Court, the case shall be dismissed, unless the United States Attorney 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.

(c) 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).

C. SANCTIONS.

1. Findings by the Court.

When sanctions are imposed by the Court, it shall make findings of the facts resulting in the imposition of sanctions and shall identify the agency, officer, or other person responsible.

2. Reports.

The Court may require any officer of the court, including defendant's counsel, to report any circumstances resulting in a failure of compliance with the Speedy Trial Act of 1974.

3. 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 or a defendant released from custody in circumstances in which such action would not be required by 18 U.S.C. §§3162 and 3164.

4. 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. [18 U.S.C. §3164(c)]

5. Discipline of Attorneys.

(a) Conduct. Counsel for the defendant or the attorney for the Government may be punished as provided in paragraph (b) below if he:

(1) Knowingly allows a 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 totally 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 a continuance; or

(4) Otherwise willfully fails to proceed to trial without justification consistent with 18 U.S.C. §3161 and this Plan.

(b) Punishment. The Court may punish any such counsel or attorney as follows:

(1) In the case of an appointed defense counsel, by reducing the amount of compensation that otherwise would have been paid to such counsel pursuant to 18 U.S.C. §3006A in an amount not to exceed 25 per centum thereof;

(2) In the case of a counsel retained in connection with the defense of a defendant, by imposing on such counsel a fine of not to exceed 25 per centum of the compensation to which he is entitled in connection with his defense of such defendant;

(3) By imposing on any attorney for the Government a fine of not to exceed \$250;

(4) By denying any such counsel or attorney for the Government the right to practice before the court considering such case for a period of not to exceed ninety days;

(5) By filing a report with an appropriate disciplinary committee; or

(6) By imposing such other sanctions as are allowed by law.

[18 U.S.C. §3162(b) and (c)]

(c) Procedure. The Court shall follow procedures established in the Federal Rules of Criminal Procedure in punishing any counsel or attorney for the Government pursuant to the Speedy Trial Act and this Plan.

D. DEFINITION OF TERMS.

As used in this Plan, the following terms shall have the meanings stated:

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

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 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).

E. EFFECTIVE DATE.

1. The amendments to the Speedy Trial Act made by Public Law 96-43 became effective August 2, 1979. To the extent that this 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 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.

2. 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.

3. 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.

4. If a defendant was in custody on August 2, 1979, solely because he was awaiting trial, the 90-day period under section 3 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 TOWARD MEETING THE PERMANENT TIME LIMITS

Analysis of cases terminated during the six-month period from July 1, 1979 to December 31, 1979 reveals the following approximate degree of compliance with the permanent time limits prescribed by the amended Act:

1. Arrest to Indictment (30 days): 100%. The comparable figure for the 6 months preceding December 31, 1977 was 94.8%.

2. Indictment to Trial (70 days): 98% (all but one case). The comparable figure for the 6 months preceding December 31, 1977 was approximately 96%.

B. PROBLEMS ENCOUNTERED

The one case in which the time limits were not met resulted from the defendant's request for trial at a time later than 70 days after indictment.

C. EXTENSIONS OF TIME BEYOND THE DISTRICT'S STANDARDS 18 U.S.C. §3166(b)(1) and (4))

There were two extensions of time beyond the District's standards during the six-month period ending December 31, 1979. The extensions of time to trial were made to allow defense counsel reasonable time for effective preparation.

D. INADEQUACY OF EXCLUSIONS TO ACCOMMODATE DELAY (18 U.S.C. §3167(b))

Until the amendment of 18 U.S.C. §3161(h)(8) it was not clear that delays resulting from extensions of time for preparation were excludable except in an "unusual and complex" case. Section 3161(h)(8)(B)(iv) expressly

permits extensions in other cases for preparation to be excluded.

E. EFFECT ON CRIMINAL JUSTICE ADMINISTRATION OF THE PREVAILING TIME LIMITS (18 U.S.C. §3166(b)(5))

Before implementation of the Act, the time from arrest to indictment in this District consistently approximated the ultimate time limit of 30 days. The prevailing time limits have noticeably accelerated indictments (at least to the extent that sparse data available on time intervals prior to July 1, 1976 permit a reliable conclusion). In addition, more frequent grand jury sessions have increased costs.

F. EFFECT OF COMPLIANCE WITH TIME LIMITS ON CIVIL CALENDAR (18 U.S.C. §3166(b)(9))

There has been no adverse effect on the civil calendar from compliance with the time limits because the prior practice was to give preference to criminal cases.

G. FREQUENCY OF USE OF SANCTIONS (18 U.S.C. §3166(b)(3))

No sanctions have had to be imposed or considered for failure to comply with the time limits.

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 WITHIN THE DISTRICT TO EXPEDITE THE DISPOSITION OF CRIMINAL CASES IN ACCORDANCE WITH THE SPEEDY TRIAL ACT (18 U.S.C. §3167(b))

A. CHANGES ADOPTED BY THE COURT

1. Court Rules.

Various changes in the Court's rules governing practice and procedure for the disposition of criminal cases have been adopted including the following:

(a) Scheduling of grand juries, arraignments, and trials has been restructured.

(b) A new pre-trial and motion procedure has been established: The Clerk acting under the direction of the Chief Judge has the authority and responsibility for scheduling necessary hearings on pre-trial motions, arraignments, trials, and hearings on post-trial motions in all criminal cases. The Clerk prepares and distributes calendars to the Court, supporting personnel of the Court, and to concerned offices of the Department of Justice when appropriate.

(c) In view of the Act's mandate that ultimately every arrested defendant shall be indicted within 30 days and tried within the next 70 days, it was not possible to continue holding court in each division at regular intervals. Therefore, the following modifications have been implemented:

(1) Trial sessions are scheduled with sufficient regularity to meet trial time limits, and an effort is made to hold criminal sessions in the most centrally located

places of holding court within the district.

(2) Special sessions will be held in other divisions as deemed necessary by the Court.

(3) Grand Jury sessions have been increased from six to twelve sessions per year.

(4) Unless otherwise directed by the Court, all grand jury sessions of the Court are held in the Roanoke division.

(5) With centralization of grand jury sessions at Roanoke, it has been necessary to modify the approved jury plan to summon grand jurors from the entire district to this location. A substantial increase in jury costs and an increase in jury efficiency has resulted from this change. (See the attached diagram showing relative distances).

(6) Use of petit juries has continued on a divisional basis as needed; therefore, no substantial changes have been needed in the petit jury plan of this District. Upon indictment or upon the filing of an information, each case not arising in the Roanoke division may upon motion be transferred to the divisional court wherein the offense occurred.

B. CHANGES IN PROCEDURE REQUIRED FOR THE UNITED STATES ATTORNEY

1. The Act has caused defense counsel in other than routine cases to file all motions which they reasonably feel are necessary as fast as possible. The pressure of time in such cases does not permit the careful assessment which would produce fewer motions. These motions require additional

research and court time on the part of the United States Attorney's staff.

2. The United States Attorney has established closer liaison with the agents of the various investigative agencies. Additionally, the various investigative agencies have been required to supply the United States Attorney with investigative reports more expeditiously to permit adequate preparation for indictments and informations and for trial within the prescribed time limits.

3. The Act has caused a major change in policy and attitude in the United States Attorney's Office. In the past a large number of cases could be handled by any one attorney without a great deal of hardship. Now, cases must be more individually sheparded by the attorney thereby reducing the number that each attorney can effectively handle. The attorney must become more aware of time limits. He must determine whether the case is best suited for pre-trial diversion, information, or indictment and advise the agent of his intent so that if an arrest is necessary dates may be determined.

4. An extensive pre-trial diversion program has been initiated by the United States Attorney. With the cooperation of the Probation Office, a plan has been established under the Department of Justice guidelines whereby some individuals who have no prior felony convictions are given the opportunity to be placed on voluntary probation for one year. If the individual satisfactorily completes this one year of supervised probation, there is a termination of any further efforts

to prosecute him and he is relieved of the stigma of a criminal record. Excellent results have been achieved with this program, and it has reduced the number of minor cases prosecuted in the District Court.

5. It is anticipated that in the future because of the Speedy Trial Act specialization by attorneys into separate civil and criminal divisions within the United States Attorney's Office will be required.

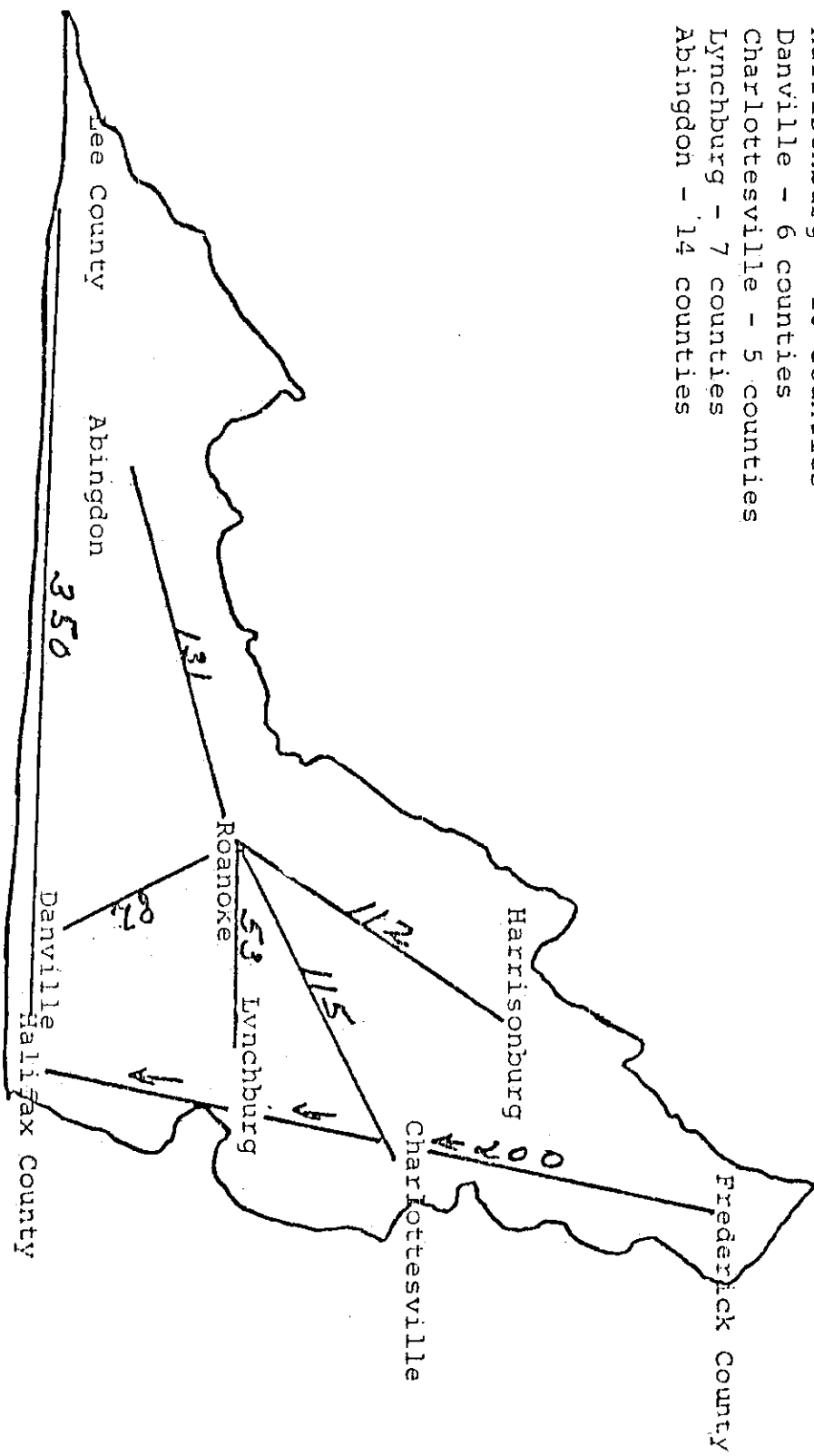
6. With increased emphasis being placed by the Department of Justice on the investigation and prosecution of white-collar, political corruption, and complex narcotics cases additional attorneys will be needed by the United States Attorney's Office not only because these cases ordinarily require more manpower than most other cases, but also because the time restrictions of the Act require that the work to be done on these cases be completed in a much shorter period of time.

C. CHANGES REQUIRED BY OTHER AGENCIES

With disposal of guilty pleas immediately following the grand jury session, the only change in the Probation department has been an increase in travel funds if the officers are required to come into Roanoke or go to Abingdon for disposition of cases.

WESTERN DISTRICT OF VIRGINIA

Roanoke Headquarters - 9 counties
 Harrisonburg - 10 counties
 Danville - 6 counties
 Charlottesville - 5 counties
 Lynchburg - 7 counties
 Abingdon - 14 counties



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, IF ANY, TO
ACHIEVE COMPLIANCE WITH THE ACT (18 U.S.C. §3166(d))

A. BY THE COURT

1. Judgeships.

The Act has caused a substantial increase in the case workload for the two active judges now serving this District. With appointment of judges to the two newly created judgeships, it is expected that the judicial resources of this District will be sufficient to comply with the premanent requirements of the Act.

2. Supporting Staff.

It is anticipated that solving questions and problems of defense counsel will place a heavy burden on the Office of the Clerk. One full-time deputy clerk has been added, but it is not anticipated at this time that any additional deputies will be needed.

B. BY THE UNITED STATES ATTORNEY

The burdenson reporting procedures and additional paper-work necessitated by the Act required increasing the clerical criminal-matters staff by 50%. With this addition, the clerical staff is adequate to meet the increased workload generated by the Act.

C. OTHER AGENCIES

1. The Probation Office can now adequately handle the increase in caseload and additional work in completing presentence reports without additional personnel.

2. The Marshal's Service has added deputy marshals to serve the needs of the Court with accelerated proceedings and increased grand jury sessions. Further additions would not appear to be needed to achieve 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 (18 U.S.C. 3166(b)(7), (d), and (e))

A. THE SPEEDY TRIAL ACT

The Planning Group recommends amendment of the Act to limit its coverage to felonies only. Many of the non-felony cases are disposed of through a pre-trial diversion program, and thus the need to assure prompt trial of these cases does not exist. Moreover, because minor offenders are often first offenders it is doubtful that one of the stated objectives of the Act - to reduce the danger of recidivism - is promoted by including non-felony offenses in the Act. Finally, the statistical accounting requirements of the Act as applied to non-felony cases create a burden and incur costs greatly out of proportion to the importance of non-felony cases in the overall administration of criminal justice.

Although the merger of the arraignment and trial time limits is an improvement, the Planning Group continues to endorse strongly the increase of the arrest-to-indictment time limit from 30 to 60 days. Sixty days is simply more realistic. An increase of 30 days will permit more thorough law enforcement investigation and enable the United States Attorney to make a more intelligent assessment of the merit of individual cases for prosecution. Moreover, if the current trend toward stricter requirements for pretrial detention is continued, the significance of a shorter time between arrest and indictment becomes less significant.

B. FORMS, REPORTING PROCEDURES, AND REPORTING REQUIREMENTS

If non-felony cases are not excluded from the Act, then they should at least be excluded from the reporting requirements of the Act. The Administrative burden and cost of the statistical accounting for these offenses is greatly out of proportion to their importance.

Reporting procedures should incorporate the Rule 45(a) method of counting.

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 (18 U.S.C. §3166(b)(6))

During the six-month period ending December 31, 1979, 16.9% of the defendants charged in this District were detained prior to trial. Of those persons detained, 50% were detained for a period of one to ten days; 21.4% for eleven to thirty days; and 21.4% for thirty-one to ninety days. Thus, 92.8% of those detained were detained for no longer than 90 days prior to trial.

These detentions occurred in cases of serious crime where bond could not be posted. Since detention is appropriate in such cases, no "remedy" for these detentions is suggested.

Section VIII

Statistical Tables

DISTRICT

VIRGINIA, WESTERN

SPEEDY TRIAL DATA ANALYSIS (18 U.S.C. 3166(c)(1))
Processing time for defendants whose cases were terminated during one year period
January 1, 1979 through December 31, 1979

PROCESSING TIME

TABLE
1

NO. OF
DEFENDANTS
TERMINATED

SUBDIVIDED
BY WHEN
INTERVAL
BEGAN

INTERVAL
ONE
(ARREST
TO
INDICT-
MENT)

Before 1 July '79
On/After
1 July '79

| 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 | |
|-------------------|------|-------------------|------|-------------------|---|-------------------|---|-------------------|---|-------------------|---|-------------------|---|-------------------|---|
| DEFS. REPORTED | % | DEFS. REPORTED | % | DEFS. REPORTED | % | DEFS. REPORTED | % | DEFS. REPORTED | % | DEFS. REPORTED | % | DEFS. REPORTED | % | DEFS. REPORTED | % |
| 18 | 16.7 | 15 | 83.3 | - | - | - | - | - | - | - | - | - | - | - | - |
| 3 | 40.0 | 3 | 60.0 | - | - | - | - | - | - | - | - | - | - | - | - |
| 2 | | | | | | | | | | | | | | | |

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

HOW LONG IT TOOK TO BRING INDICTMENTS ON CRIMINAL DEFENDANTS #

HOW LONG IT TOOK TO BRING CRIMINAL DEFENDANTS# TO TRIAL

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

INTERVAL
TWO
(INDICT-
MENT TO
TRIAL)

SUBDIVIDED
BY WHEN
INTERVAL
BEGAN

Before 1 July '79
On/After
1 July '79

| 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 | |
|-------------------|-----|-------------------|------|-------------------|------|-------------------|-----|-------------------|-----|-------------------|-----|-------------------|-----|-------------------|-----|
| DEFS. REPORTED | % | DEFS. REPORTED | % | DEFS. REPORTED | % | DEFS. REPORTED | % | DEFS. REPORTED | % | DEFS. REPORTED | % | DEFS. REPORTED | % | DEFS. REPORTED | % |
| 1 | 0.8 | 50 | 38.8 | 41 | 31.8 | 8 | 6.2 | 12 | 9.3 | 2 | 1.6 | 10 | 7.8 | 5 | 3.9 |
| 129 | | | | | | | | | | | | | | | |
| 43 | | 24 | 55.8 | 17 | 39.5 | - | - | - | - | 1 | 2.3 | 1 | 2.3 | - | - |
| - | | | | | | | | | | | | | | | |

HOW LONG IT TOOK TO SENTENCE CRIMINAL DEFENDANTS #

NUMBER OF DAYS TO SENTENCE DATE FROM DATE OF CONVICTION

| SAME DAY | | 1 to 30 | | 31 to 45 | | 46 to 60 | | 61 & over | |
|-----------|------|---------|------|----------|-----|----------|-----|-----------|-----|
| NO. DEFS. | % | No. | % | No. | % | No. | % | No. | % |
| 118 | 81.9 | 15 | 10.4 | 7 | 4.9 | 1 | 0.7 | 3 | 2.1 |

SENTENC-
ING
INTERVAL

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

144

*NET MEANS GROSS DAYS LESS DAYS OF EXCLUDABLE
TIME UNDER 18 USC 316(h).

THESE FIGURES DO NOT INCLUDE DEFENDANTS WHO BEGAN THE INTERVAL DURING
THIS TIME BUT WHOSE CASES WERE PENDING AS OF DECEMBER 31, 1978

DEFENDANT FIGURES DO NOT INCLUDE PETTY OFFENDERS, AND ALSO DO NOT INCLUDE
JUVENILES, APPEALS FROM U.S. MAGISTRATE DECISIONS, RULE 20 TRANSFERS OUT OF
DISTRICT, PRETRIAL DIVERSION DISPOSITIONS, AND REMOVALS FROM STATE COURTS

INCIDENCE OF AND REASONS FOR DELAY

DISTRICT VIRGINIA
WESTERN

REPORT PERIOD
☒ 6 Months
(July thru Dec '79)

TOTALS

**TERMINATED DEFENDANTS
REPORTED DURING PERIOD
DEFENDANTS
WITHOUT EXCLUDABLE TIME 83
DEFENDANTS
WITH EXCLUDABLE TIME 73
INCIDENTS
OF EXCLUDABLE TIME 10
OF EXCLUDABLE TIME 12
OF "D" 96
OF "D" 88.0
OF "D" 12.0

TABLE
2

LENGTH OF EXCLUDABLE DEALT PERIOD (NO. OF DAYS)

| | 0 to 10 dys | 11 to 21 | 22 to 42 | 43 to 84 | 85 to 120 | 121 + days | SUB-TOTALS OF "D" | INTERVAL IN WHICH EXCLUDABLE DEALT OCCURRED*** |
|---|-------------|----------|----------|----------|-----------|------------|-------------------|--|
| | | | | | | | | ONE TWO |
| A Examination or hearing for mental or physical incapacity—(h)(1)(A). | 1 | 0 | 0 | 3 | 0 | 0 | 4 | 0 4 |
| B NARA examination—(h)(1)(B). | 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 |
| D Interlocutory appeals—(h)(1)(E). | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 0 |
| E Motions (from filing to hearing or prompt disposition)—(h)(1)(f). | 1 | 4 | 0 | 1 | 0 | 0 | 6 | 0 6 |
| F Transfers from other districts (per FRCP rules 20, 21 & 40)—(h)(1)(g). | 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 |
| H Misc. proceedings: probation or parole revocation, deportation, extradition—(h)(1). | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 0 |
| I 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 |
| * 7 Consideration by court of proposed plea agreement—(h)(1)(i). | 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 |
| M Unavailability of defendant or essential witness—(h)(3)(A & B). | 0 | 1 | 0 | 0 | 0 | 1 | 2 | 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 |
| O Period of NARA commitment or treatment—(h)(1)(C) & (B). | 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 |
| R Defendant awaiting trial of co-defendant when no severance had been granted—(h)(7). | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 0 |
| T if more than one reason or none of reasons below given in support (A & B). | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 0 |
| "Ends of justice" | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 0 |
| T1 Failure to continue would stop further proceedings or result in miscarriage (B)(i). | 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 |
| T3 Indictment following arrest cannot be filed in 30 days (B)(iii). | 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 |
| U Time up to withdrawal of guilty plea—3161(i). | 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 |
| | 2 | 5 | 0 | 4 | 0 | 1 | 12* | 0 12 |

*Paragr 1 subsection of 18 USC 3161, Speedy Trial Act of 1974, as amended
down with reason for delay below.

*An exclusion category created or modified by Aug. '79 amendment.
**DEFENDANT FIGURE NOT INCLUDE: Juveniles, Appeals from U.S. Magistrate decision, 20 transfers out of district, pretrial diversion dispositions, removal State courts and any petty offenses proceeded by information.

***Interval time: Arrest to Indictment; Interval from Indictment to Trial

*Percent Not Committed for

9
SPEEDY TRIAL DATA ANALYSIS

INCIDENCE OF AND REASONS FOR DELAY

During July 1, 1978 thru June 30, 1979

TOTALS FOR
VIRGINIA
WESTERN

**TERMINATED DEFENDANTS
REPORTED DURING PERIOD

DEFENDANTS WITHOUT EXCLUDABLE TIME

DEFENDANTS WITH EXCLUDABLE TIME

INCIDENTS OF EXCLUDABLE TIME

LENGTH OF EXCLUDABLE DELAY PERIOD (NO. OF DAYS)

| | 1 to 10 days | 11 to 21 | 22 to 42 | 43 to 84 | 85 to 120 | 121 + days | SUB-TOTALS OF "D" | % OF "D" | ONE | TWO | THREE |
|--|--------------|----------|----------|----------|-----------|------------|-------------------|----------|-----|-----|-------|
| *REASON Under 18 USC 3161 | | | | | | | | | | | |
| A. Examination or hearing for mental or physical incapacity—(H)(1)(A) | 0 | 1 | 1 | 5 | 0 | 0 | 7 | | 0 | 1 | 6 |
| B. NARA examination—(H)(1)(B) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | 0 | 0 | 0 |
| C. State or federal trial on other charges—(H)(1)(C) | 1 | 0 | 0 | 0 | 0 | 0 | 1 | | 0 | 0 | 1 |
| D. Interlocutory appeals—(H)(1)(D) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | 0 | 0 | 0 |
| E. Hearings on pretrial motions—(H)(1)(E) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | 0 | 0 | 0 |
| F. Transfer from other districts (per FRCP rules 20, 21 & 40). (H)(1)(F) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | 0 | 0 | 0 |
| G. Motion is actually under advisement. (H)(1)(G) | 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 |
| I. Prosecution deferred by mutual agreement. (H)(2) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | 0 | 0 | 0 |
| M. Unavailability (includes fugitive) of defendant or essential witness. (H)(3)(A)(B) | 0 | 0 | 0 | 1 | 0 | 0 | 1 | | 0 | 0 | 1 |
| N. Period of mental or physical incompetence of defendant to stand trial. (H)(4) | 0 | 1 | 0 | 0 | 0 | 0 | 1 | | 0 | 0 | 1 |
| O. Period of NARA commitment or treatment. (H)(5) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | 0 | 0 | 0 |
| P. Superseding indictment and/or new charges. (H)(6) | 1 | 0 | 0 | 0 | 0 | 0 | 1 | | 0 | 0 | 1 |
| R. Defendant awaiting trial of co-defendant when no severance has been granted. (H)(7) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | 0 | 0 | 0 |
| T. Continuances granted in the ends of justice. (H)(8) | 0 | 0 | 0 | 1 | 0 | 0 | 1 | | 0 | 1 | 0 |
| U. Time up to withdrawal of guilty plea (I) | 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 |
| TOTALS | 2 | 2 | 1 | 7 | 0 | 0 | 12 | | 0 | 2 | 10 |

N.C. Not Computed

*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

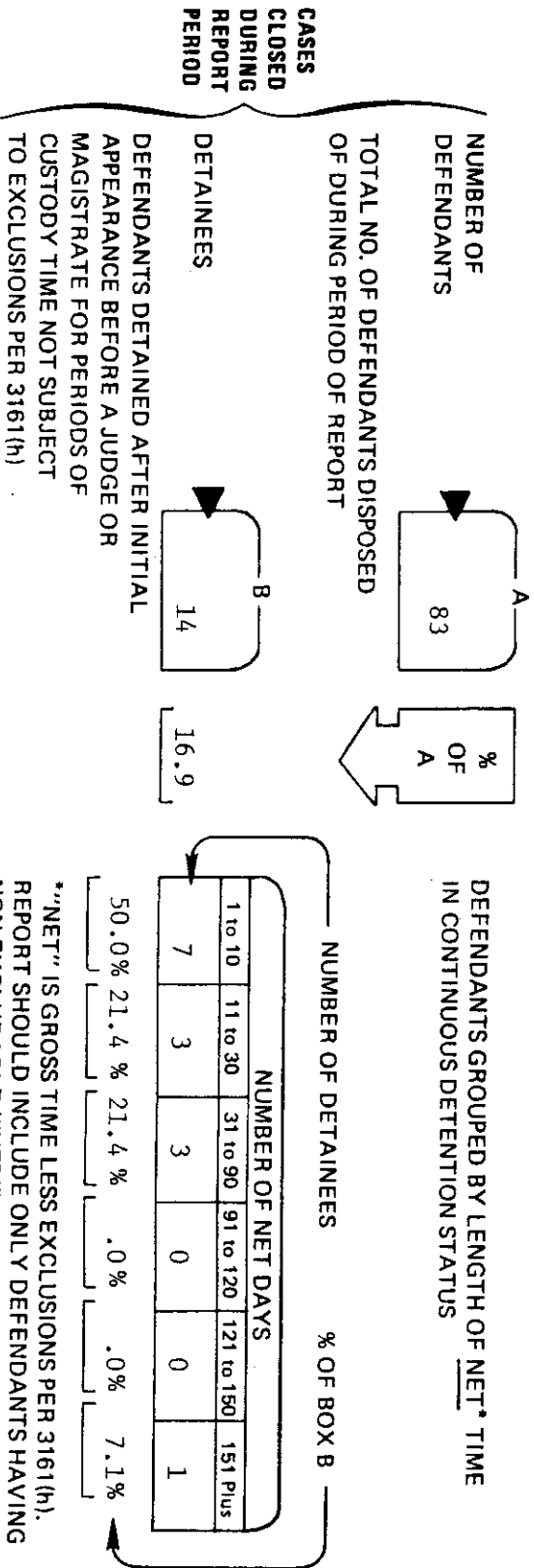
VIRGINIA, WESTERN

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

PRETRIAL DETENTION

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

TABLE
3



DISTRICT

VIRGINIA, WESTERN

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

CRIMINAL DISPOSITIONS

TABLE
4

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

NUMBER
OF DE-
FENDANTS
DISPOSED
OF

167

| NOT CONVICTED | | | | | | |
|---------------|----------------------|--------|----------------|--------|--------------------|------|
| % OF A | B | | DISMISSED | | ACQUITTED AT TRIAL | |
| | TOTAL NOT CON-VICTED | % OF B | TOTAL | % OF B | COURT | JURY |
| | | | NO. DIS-MISSED | | | |
| 10.8 | 18 | 66.7 | 12 | 33.3 | - | 6 |

| CONVICTED | | | | | | |
|--------------|-------------------------|--------------|-----------------------------------|--------------|--------------------|------|
| % OF A | C | | CONVICTED by PLEA | | CONVICTED at TRIAL | |
| | TOTAL CON- VICTED | % OF C | PLEA of GUILTY or NOLO CON. | % OF C | COURT | JURY |
| 89.2 | 149 | 85.2 | 127 | 14.8 | 10 | 12 |

DISTRICT WESTERN VIRGINIA
Roanoke, VA.

REPORT COVERS 1-1-7 - 12-31-79
PERIOD OF:

SPEEDY TRIAL DATA ANALYSIS - 3166(d)(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 | ON HAND & NEW | | DECLINED MATTERS | | | | | | NEW | | |
|--|--|--|--|--------------------------------|----------------------------|--|-----|-----|---|---|---|
| | MATTERS ¹ ON HAND AT START OF PERIOD ¹ | MATTERS REC'D OR ORIGI- NATED BY U.S. ATTY DURING PERIOD | (i.e. DETERMINATIONS THAT NEW PROSECUTIONS WOULD NOT BE INITI- ATED IN THIS DISTRICT.) | | | | | | OTHER DISPOSI- TIONS ² | PROSECU- TIONS INITIATED DURING PERIOD ⁴ | MATTERS ON HAND AT END OF PERIOD ⁵ |
| | | | REFERRED TO OTHER FEDERAL DISTRICT | STATE/ LOCAL AU- THORITY | PRETRIAL DIVER- SION | ALL OTHER DECLINA- TIONS ³ | | | | | |
| Forest Service | 5 | 6 | | | | 2 | 3 | 5 | 1 | | |
| Other Agriculture | 3 | 11 | | | | 1 | | 3 | 10 | | |
| Defense | 1 | 1 | | | | | 1 | | 1 | | |
| H.E.W. | 5 | 10 | | | 3 | | | 4 | 8 | | |
| Nat'l Park Service | 38 | 71 | | 3 | | 4 | 62 | 14 | 26 | | |
| F.B.I. | 115 | 153 | | 20 | 2 | 33 | 12 | 55 | 147 | | |
| Immigration | 1 | | | | | | | | 1 | | |
| All other Justice | 3 | 10 | | | | 2 | 1 | 7 | 3 | | |
| Post Office | 26 | 38 | | 2 | 4 | 8 | 7 | 13 | 30 | | |
| All other Transportation | 1 | | | | | | | | 1 | | |
| TOTALS | (a) | (b) | (c) | (d) | (e) | (f) | (g) | (h) | (i) | | |

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 INFORMATION FILLED 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 WESTERN VIRGINIA
Roanoke, VA.

REPORT COVERS 1-1-79 - 12-31-79
PERIOD OF:

SPEEDY TRIAL DATA ANALYSIS - 3166(d)(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 | ON HAND & NEW | | DECLINED | | | | | NEW | | MATTERS ON HAND AT END OF PERIOD ¹ |
|--|--|--|--|--------------------------------|----------------------------|--|-----|---|---|---|
| | MATTERS ¹ ON HAND AT START OF PERIOD ¹ | MATTERS REC'D OR ORIGI- NATED BY U.S. ATTY DURING PERIOD | (i.e. DETERMINATIONS THAT NEW PROSECUTIONS WOULD NOT BE INITI- ATED IN THIS DISTRICT.) | | | | | OTHER DISPOSI- TIONS ³ | PROSECU- TIONS INITIATED DURING PERIOD ⁴ | |
| | | | REFERRED TO OTHER FEDERAL DISTRICT | STATE/ LOCAL AL- THORITY | PRETRIAL DIVER- SION | ALL OTHER DECLINA- TIONS ² | | | | |
| Drug Enforcement | (a) 1 | (b) 3 | (c) | (d) | (e) | (f) 1 | (g) | (h) | (i) 3 | |
| Customs Bureau | 1 | | | | | | | | 1 | |
| I.R.S. | 13 | 17 | | | | 3 | | 9 | 18 | |
| A.T.F. | 54 | 38 | | | 2 | 15 | 2 | 45 | 28 | |
| Secret Service | 13 | 53 | 2 | | 2 | 4 | 5 | 35 | 18 | |
| Farm Credit Admin. | 1 | | | | | 1 | | | | |
| H.U.D. | 1 | | | | | | | 1 | | |
| Securities & Exchange | 1 | | | | | 1 | | | | |
| Selective Ser. Sysm. | 2 | | | | | | | 1 | 1 | |
| Farmers Home | | 2 | | | | | | 1 | 1 | |
| Soil Conservation | | 4 | | | | | | | 4 | |
| TOTALS | (a) | (b) | (c) | (d) | (e) | (f) | (g) | (h) | (i) | |

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 INFORMATION FILLED 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)

SPEEDY TRIAL DATA ANALYSIS - 3186(d)(2)(3) & (5)

TABLE
5

REPORT COVERS
PERIOD OF: 1-1-79 - 12-31-79

| ON HAND & NEW | | DECLINED | | | | MATTERS | | | |
|--|--|--|---|--------------------------------|----------------------------|------------------------------------|-----------------------------|--|---|
| NAME OF AGENCY PRESENTING MATTER TO U.S. ATTORNEY FOR PROSECUTION | MATTERS' ON HAND AT START OF PERIOD' | MATTERS REC'D OR ORIGI- NATED BY U.S. ATTY DURING PERIOD | (i.e., DETERMINATIONS THAT NEW PROSECUTIONS WOULD NOT BE INITI- ATED IN THIS DISTRICT.) | | | | OTHER DISPOSI- TIONS' | NEW PROSECU- TIONS INITIATED DURING PERIOD' | MATTERS ON HAND AT END OF PERIOD' |
| | | | REFERRED TO OTHER FEDERAL DISTRICT | STATE/ LOCAL AL- THORITY | PRETRIAL DIVER- SION | ALL OTHER DECLINA- TIONS? | | | |
| All Other Labor | | 15 | | | | 2 | | 7 | 6 |
| Other Revenue Service | | 1 | | | | | | 1 | |
| Environmental Protection | | 2 | | | | | | | 2 |
| G.S.A. | | 1 | | | | | | 1 | |
| Veteran's Admin. | | 2 | | | | | 1 | | 1 |
| Army | | 2 | | | | | | | 2 |
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DISTRICT

VIRGINIA, WESTERN

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) 1978 1,094 | (2) 1,628 | (3) 1,161 | (4) 6.1 |
| 1979 1,161 | 1,551 | 1,291 | 11.2 |

| 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 369 | 270 | 229 | 106 | 77 | 110 |
| 1979 299 | 260 | 305 | 175 | 89 | 163 |