

SPEEDY TRIAL PLAN
of the
UNITED STATES DISTRICT COURT
for the
DISTRICT OF COLUMBIA

Local Criminal Rule 45.1

PLAN FOR THE DISPOSITION OF CRIMINAL CASES
ADOPTED PURSUANT TO THE SPEEDY TRIAL ACT OF 1974

Pursuant to the provisions of 18 U.S.C. § 3165(c), the Plan for the Disposition of Criminal cases was approved by the Court on May 5, 1980, by the Judicial Counsel on May 13, 1980, and became effective July 1, 1980.

This copy of the plan has been modified to incorporate the Court's practices as of October 30, 2002.

Angela D. Caesar, Clerk

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SPEEDY TRIAL PLAN

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SPEEDY TRIAL 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 Amendments Act of 1979 (Pub. L. No. 96-43, 93 Stat. 327), and the Federal Juvenile Delinquency Act, as amended (18 U.S.C. § 5036, 5037), the judges of the United States District Court for the District of Columbia have adopted the following plan to minimize undue delay and to further the prompt disposition of criminal cases and certain juvenile proceedings.

1. Applicability

(a) Other Rules

If any provision of this rule is inconsistent with the provisions of other present rules of this Court, the provisions of this rule will govern.

(b) Offenses

The time limits set forth herein are applicable to all criminal offenses triable in this court, including cases triable by United States Magistrates Judges, except for petty offenses as defined in 18 U.S.C. § 1(3) and for District of Columbia offenses while pending in Superior Court. Except as specifically provided, they are not applicable to proceedings under the Federal Juvenile Delinquency Act.

(c) Persons

The time limits are applicable to persons accused who have been arrested or served with a summons but not indicted, as well as those who have been indicted or informed against, 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), 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 9 should be given preference over other criminal cases.

3. Proceedings before the Magistrate Judges

(a) Time Limits Applicable to Preliminary Examinations

The magistrate judges shall insist upon compliance with the time limits of the Federal Magistrates Act and conduct preliminary hearings within ten days if a defendant remains in the custody in lieu of bond, and within 20 days if released on bail, except for good cause shown upon motion to a U.S. Magistrate Judge. Where scheduling permits, hearings shall be set as soon as practicable, with the time limits in the Federal Magistrates Act being the outside limits.

(b) Bail Reports and Hearings

Once every two weeks the Pretrial Services Agency shall submit to the magistrate judge who initially sets bail a report listing the names of all defendants held for grand jury action who remain in custody solely for want of bond, and the magistrate judge shall then decide, sua sponte, whether to conduct a further bail and status hearing, or whether other action may be appropriate.

4. 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 a federal offense to be prosecuted in this court, any indictment or information subsequently filed in connection with such charge shall be filed within 30 days of the arrest or service.

(b) Superseding Charges

If, after a complaint has been filed, an indictment or information is filed in connection with such charge, the time limit applicable to the subsequent charge will be determined as follows:

- (1) If the original complaint was dismissed, the time limit shall be determined without regard to the existence of the original charge.
- (2) If the original complaint is pending at the time the subsequent charge is filed, the indictment or information shall be filed within the original time limit.

(c) Measurement of Time Periods

If a person has not been arrested or served with a summons on a federal charge, an arrest on a federal charge 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 response to a federal charge. A charge of violation of the District of Columbia Code is not a federal charge within the meaning of this subsection, and the time limits of this rule shall not begin to run with respect to a person charged in Superior Court of the District of Columbia with a District of Columbia Code offense until such person is charged in this court.

(d) Related Procedures

(1) At the time of the earliest appearance before a federal 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 warrant or summons shall be considered to have been served on the date of service shown on the return thereof.

(e) Pre-Indictment Rulings on Excludable Time and Continuances

(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 4, the United States Attorney 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.

5. Time Within Which Arraignment Shall be Held

(a) Time Limits

A defendant shall be arraigned within 14 days of the last to occur of the following dates:

- (1) The date on which an indictment or information is filed;
- (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) Measurement of Time Periods

For purposes of this section:

- (1) A defendant who signs a written consent to be tried before a magistrate judge shall, if no indictment or information charging the offense has been filed, be deemed indicted on the date of such consent.
- (2) An arraignment shall be considered to have taken place at the time a plea is taken or is entered by the court on the defendant's behalf.
- (3) 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.

(c) Timing of the Return of Indictments

Insofar as is practicable, the United States Attorney shall attempt to schedule the return of indictments so as to facilitate compliance with the prescribed time limit.

(d) Notification of Counsel and the Defendant

The Clerk shall attempt to expedite notification of counsel and the defendant of the time set for arraignment.

(e) Transfer of Cases for Arraignment

If it appears that compliance with the time limit before the judge to whom the case is assigned will not otherwise be possible, that judge will make arrangements for transfer of the case to another member of the court for purposes of arraignment.

(f) Related Procedures

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, Federal Rules of Criminal Procedure.

(6) Time Within Which Pretrial Motions Must be Filed

Unless the court otherwise directs, all pretrial motions shall be filed within 11

days of arraignment, and the opposing party shall have 5 days to respond. Except for good cause shown, the court may refuse to consider motions filed in violation of the time requirements of this section.

(7) Status Conference

(a) Initial Conference

A conference in the nature of a status hearing shall be held in every case within three weeks of arraignment. The defendant, defense counsel, and the Assistant United States Attorney responsible for the trial of the case shall be present. Dispositions which do not involve the judge in plea bargaining shall be encouraged, all motions shall be scheduled or resolved, and stipulations sought. After consultation with counsel for the parties a firm trial date shall be set by the court at this time. These requirements may be modified by the court for good cause shown.

(b) Further Hearings

If further pretrial hearings are required, they shall be conducted as soon as practicable, consistent with the priorities of other matters on the court's docket.

(8) Time Within Which Trial Must Commence

(a) Time Limits

(1) Time Limit Applicable to District Court

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

- (A) The date on which an indictment or information is filed in this district;

(B) The date on which a sealed indictment or information is unsealed; or

(C) The date of the defendant's first appearance before a judicial officer of this district.

(2) Time Limit Applicable to Trials Before Magistrate Judges

If a defendant signs a written consent to be tried before a magistrate judge and no indictment or information charging the offense has been filed in District Court, the trial shall commence not later than 70 days from such consent.

(b) Retrial and Trial After Reinstatement of an Indictment or Information

The retrial of a defendant shall commence within 70 days from the date the order occasioning the retrial becomes final, as shall the trial of a defendant upon an indictment or information dismissed by a trial court and reinstated following an appeal. If the retrial or trial follows an appeal or collateral attack, the court may extend the period if unavailability of witnesses or other factors resulting from the 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 became 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 computation. 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.
- (4) If the subsequent charge is by 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.
- (5) At the time of the filing of a complaint, indictment, or information

described in subparagraph (1), (2) or (3), the United States Attorney shall give written notice to the court of that circumstance and of the United States Attorney's position with respect to the computation of time limits.

(e) Measurement of Time Periods

For the purposes of this section:

- (1) 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.
- (2) A trial in a jury case shall be deemed to commence at the beginning of voir dire.
- (3) 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.

(f) Meeting the Scheduled Trial Date

(1) In General

Individual calendars shall be managed so that it will be reasonably anticipated that every criminal case set for trial will be reached on the date of original setting. A conflict in schedules of attorneys for the government or defense counsel will not be grounds for a continuance or delayed setting except under circumstances approved by the court and call to the court's attention at the earliest practicable time. The United States Attorney will become familiar with the scheduling procedures of each judge in order that the

government will be able to announce it is ready for trial.

(2) Transfer of Cases for Trial

If it appears that compliance with the time limit before the judge to whom the case is assigned will not otherwise be possible, that judge may make arrangement for transfer of the case to another member of the court for purposes of trial. Such transfer is not required if a continuance pursuant to 18 U.S.C. § 3161(h)(8) is ordered.

(g) Pretrial Rulings on Excludable Time and Continuances

(1) In the event that the court continues a trial beyond the time limit set forth in section 8 or 9, the court shall determine whether the limit may be recomputed by excluding time pursuant to 18 U.S.C. § 3161(h).

(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 light of the facts of the particular case.

(9) Special Time Limits Applicable to Defendants in Custody and High-Risk

Defendants

(a) Time Limits

Notwithstanding any longer time periods that may be permitted under sections 4 and 8, the following time limits will also be applicable to defendants in custody and high-risk defendants as herein defined:

- (1) The trial of a defendant held in custody solely for the purpose of trial on a federal charge shall commence within 90 days following the beginning of continuous custody.
- (2) The trial of a high-risk defendant shall commence within 90 days of the designation as high-risk.

(b) Definition of "High-Risk Defendant"

A high-risk defendant is one reasonably designated by the United States Attorney as posing a danger to himself/herself 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 arrested on a federal charge or otherwise held for the purpose of responding to a federal charge. Detention is deemed to be solely because the defendant is awaiting trial unless the person exercising custodial authority has an independent basis (not including a detainer) for continuing to hold the defendant.
- (2) If a case is transferred pursuant to Rule 20 of the Federal Rules of Criminal Procedure and the defendant subsequently rejects

disposition under Rule 20 or the court declines to accept the plea, a new period of continuous detention awaiting trial will begin at that time.

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

(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 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 defense counsel but shall not be made known to other persons without the permission of the court.

10. 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 8(d), the 30 day minimum period shall also be determined by reference to the earlier indictment or information. When prosecution is resumed on an original indictment or information following a mistrial, appeal, or withdrawal of a guilty plea, a new 30 day minimum period will not begin to run. The court will in all cases schedule trials so as to permit defense counsel adequate preparation time in light of all the circumstances.

11. Special Time Limits Applicable to 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).

12. Time Within Which Defendant Should be Sentenced

(a) Time Limit

A defendant shall ordinarily be sentenced within 45 days of the date of

conviction.

(b) Probationers

(1) Notice to the Court

The Probation Office shall promptly notify the court of all alleged serious violations of probation.

(2) Time of Hearing

The court shall ordinarily hold a hearing within 30 days of receipt of such notice, under procedures prescribed in LCrR 32.1.1(c). If the probationer is alleged to have committed a new offense, the court shall either proceed to hearing evidence relating to such offense or continue the hearing pending independent adjudication of such offense. The court shall not delay the hearing pending such independent adjudication unless it finds that the ends of justice served by such delay outweigh the best interests of the public and the defendant in a prompt hearing.

(3) Time of Disposition

The court shall ordinarily order probation be continued, with or without modification, or revoke probation and impose sentence within 30 days of a finding of probation violation.

13. Exclusion of Time from Computations in General; Continuances

(a) Applicability

In computing any time limit of section 4, 8, or 9, 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 10.

(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) Continuances

(1) Findings

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.

(2) Length

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.

(3) Reports from the Parties

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 light of the facts of the particular case.

14. Monitoring Compliance With Time Limits

(a) Responsibilities of the Clerk

The Clerk shall:

- (1) Maintain and compile such statistical data as is required to be maintained by statute and by the Administrative Office of the United States Courts.
- (2) Monitor, on a continuing basis, the progress of each defendant

toward trial and review the status of each defendant so as to anticipate problems which may be developing and make recommendations to the court for reassignment of cases for arraignment or trial.

(b) Responsibility of the United States Marshal for Notification of Arrest of Defendants Subject to Removal to Distant Districts

The Marshal shall expedite the notification of the Clerk of the Court of prosecution of the arrest within this district of a defendant subject to a warrant issued by another district.

15. Presence of Defendant; Bench Warrant

(a) Presence of Defendant

Unless otherwise provided by the court, the defendant shall be present at all scheduled matters including omnibus hearings, status conferences, and hearings on motions.

(b) 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 , the United States Attorney 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).

(c) Bench Warrant

When the defendant fails to appear for any proceeding for which the defendant was notified, and there appearing no adequate excuse, a bench

warrant shall issue. Within five days following the issuance of the bench warrant, the United States Attorney shall provide the United States Marshal with all information about the defendant which might aid the Marshal in locating the defendant. Within 30 days of each bench warrant, the United States Attorney with the cooperation of the United States Marshal shall report to the court in writing as to the efforts that have been made to locate the defendant. Thereafter, the United States Attorney with the cooperation of the United States Marshal shall report to the Calendar Committee in writing every 90 days regarding the efforts made to locate the defendant.

16. Sanctions

(a) Dismissal.

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

(b) Late Arraignment.

Failure to comply with the time limit for arraignment shall not require dismissal.

(c) Release from Custody.

Except as required by 18 U.S.C. § 3164, nothing in this plan shall be construed to require that a defendant be released from custody.

(d) Released Defendants.

Subject to the provisions of 18 U.S.C. § 3164, if the court finds that a defendant who is not in custody is responsible for failure to comply with the time limits, such defendant may have his/her release revoked unless there is good cause shown for failure to comply.

(e) Discipline of Attorneys

In a case in which counsel (1) knowingly allows the case to be set for trial without disclosing the fact that a necessary witness would be unavailable for trial, (2) files a motion solely for the purpose of delay which counsel knows is frivolous and without merit, (3) makes a statement for the purpose of obtaining a continuance which counsel knows to be false and which is material to the granting of the continuance, or (4) 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. § 3162(b) and (c).

(f) 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 the case pursuant to that section unless the Attorney General shows that the delay was consented to or caused by the juvenile or defense counsel, or would be in the interest of justice in the particular case.