

NO. 2018

FOR RELEASE ON DELIVERY
Expected at 9:30 a.m., DST
Wednesday, July 11, 1979

STATEMENT OF
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BEFORE THE
SUBCOMMITTEE ON CRIME
HOUSE JUDICIARY COMMITTEE
~~CONFIDENTIAL~~
IMPLEMENTATION OF THE TIME FRAMES
LEGISLATED IN THE SPEEDY TRIAL ACT
OF 1974

H.J.C. 02504



Mr. Chairman and Members of the Subcommittee:

It's a pleasure to be here today to testify on the results of our review of the implementation of Title I of the Speedy Trial Act of 1974. Our report was issued on May 2, 1979, and I have attached a copy of our report digest. (See attachment V.)

As you know, the act represents an effort by Congress to address the problem of delays in the handling of Federal criminal cases. The act established uniform time frames that generally must be followed by Federal district courts in processing criminal cases. The Congress recognized that problems might develop with statutory time frames and therefore gave the criminal justice system over 4 years to prepare for the Speedy Trial Act's full implementation.

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SPEEDY TRIAL ACT OF 1974

In general, the act requires that, effective July 1, 1979, district courts must bring criminal defendants to trial within 100 days of arrest; however, the act does permit time extensions in certain situations. The 100-day time frame is divided into three intervals with a specific time limit for each interval: arrest to indictment (30 days); indictment to arraignment (10 days); and arraignment to start of trial (60 days).

The act prescribes sanctions if the time frames are not met. Effective July 1, 1979, the court must generally dismiss a case (1) if an indictment or information has not been filed within the allotted time or (2) at the defendant's request, if an indictment or information has been filed, but trial was not commenced within the act's time frames. Once a case is dismissed, the propriety of reprosecution depends in part on whether the charges, indictment, or information was dropped with or without prejudice. In addition, sanctions, in the form of fines, reduced compensation, and/or denial to practice before a particular court, can be levied against prosecuting and defense attorneys who knowingly delay a case without justification.

The Congress recognized that particular facts and needs of certain cases would prevent indictment, arraignment, and

trial from occurring within rigid and fixed time frames. The Speedy Trial Act therefore specifies events or contingencies, referred to as excludable periods of delay, that for the duration of their occurrence suspend the running of the act's timetables. Unavailability of a defendant or an essential witness would be one such contingency.

In addition to authorizing excludable periods of delay for specific events, the Speedy Trial Act permits the court to grant a continuance that will suspend the running of the act's timetables when, in the judgment of the court, the ends of justice will best be served by granting a continuance. The act further provides that in the event any district court is unable to comply with the time limits due to the status of its court calendar, the chief judge, where existing resources are being efficiently used, may apply for a suspension of the time limits, referred to as a judicial emergency.

I would now briefly like to summarize the results of our review.

CURRENT LEVEL OF COMPLIANCE WITH
THE PERMANENT TIME FRAMES

Our analysis of court statistics shows that there has been a marked improvement in all three intervals between the year ending June 30, 1977, and the year ending June 30, 1978.

For the year ending June 30, 1977, 4,013 defendants exceeded the arrest to indictment interval (30 days allowed) as compared to 1,604 for the year ending June 30, 1978. (See attachment I.) For the year ending June 30, 1977, 5,737 defendants exceeded the indictment to arraignment interval (10 days allowed) as compared to 2,589 for the year ending June 30, 1978. (See attachment II.) Finally, for the interval between arraignment to trial (60 days allowed), 11,422 exceeded the time frame for the year ending June 30, 1977, as compared to 5,469 for the year ending June 30, 1978. (See attachment III.) These statistics show that the courts are moving in the direction of complying with the 100-day time frame imposed by the act.

VIEWS OF DISTRICT
COURT OFFICIALS

District court officials cited the lack of a current dismissal sanction, the need for additional resources, and the changes in criminal caseload as difficulties in fully implementing the act's timetables during the 4-year transition period. These officials also stated that meeting the act's time frames may result in undesirable trade-offs that could decrease the system's ability to promote equal justice. These are:

--U.S. attorneys may be unable to prosecute all criminal defendants effectively leading to a greater number of cases being declined and/or pressures to accept undesirable plea bargains.

--Defense attorneys may not have sufficient time to prepare their clients' cases.

--Civil litigants, whose cases are not subject to statutory time frames, may have a longer wait for their day in court since criminal cases will receive priority.

--Criminal cases may cost more to process.

Lack of data to fully support these potential problems adversely affects the courts' ability to establish a sound basis for deciding the legislative modifications needed in the act or procedural changes necessary to allow for full compliance and minimize the potential adverse trade-offs.

The act has had a favorable impact on the court system. The 1978 implementation report of the Administrative Office of the U.S. Courts stated that there have been benefits from the act. These include

--a more rapid disposition of criminal cases and a decrease in the criminal backlog;

--more efficient administrative procedures and improved cooperation and planning between the courts, prosecutive attorneys, clerks' offices, and defense counsel;

--an improved quality of justice;

--witnesses' memories remaining fresh and the greater availability of witnesses; and

--a greater association between punishment and the crime, if the defendant is convicted.

ANALYSIS OF
SAMPLED CASES

We reviewed 393 cases terminated during the 6-month period ending June 30, 1977, in eight district courts. For each case, court statistics showed that the July 1979 time frame for one or more of the three intervals had been exceeded.

Because district court case files did not contain sufficient information to identify the specific reasons why defendants were not being processed within the act's time frames, we had to rely on opinions and observations from judicial officials. This detailed information was needed by the district courts to gain a perspective on the specific implementation problems that existed, and by the Administrative Office of the U.S. Courts to gain a comprehensive understanding of the extent of the problems nationwide. The Administrative Office's Speedy Trial Act Coordinator told us that he did not request this type of information but agreed that the information was needed for assessing implementation problems.

Court officials told us that many of these 393 cases would have been processed within the required intervals had the permanent time frames and the dismissal sanction been

in effect. However, officials in three districts said that additional resources would be needed, while officials in another district cautioned that changes in the volume and nature of criminal cases could affect the district's ability to meet the permanent time frames.

These officials told us that at least 103, or 26 percent, of the 393 defendants exceeded the time frames simply because the district was attempting to meet longer time frames and/or the dismissal sanction was not in effect. An additional 86, or 22 percent, of the defendants actually met the permanent time frames but had been reported as exceeding them because allowable excludable time had not been computed or had been computed improperly.

Specific problems cited as reasons for processing delays were: plea bargaining negotiations were in process (16 percent); case was unusual or complex (9 percent); investigative reports were received too late (8 percent); grand juries were not readily available (6 percent); and case could not be scheduled because of court congestion (4 percent).

DEPARTMENT OF JUSTICE STUDY OF
SPEEDY TRIAL ACT IMPLEMENTATION
PROBLEMS

The Department of Justice recognized the importance of compliance problem data and conducted its own study which was

recently released. This study notes that given the degree to which a more exhaustive analysis was precluded by such limitations as lack of systematic and accurate record-keeping in the districts visited and the time and budgeting constraints on the project, the description of the sources and types of delays that occurred in the districts visited must be regarded as tentative.

Nevertheless, the report points out that

--the most frequent causes of delay were time spent waiting for investigative reports, time spent considering plea offers, and time spent waiting for defense counsel,

--the single most significant source of delay, in terms of days of delay, was time spent considering plea offers, and

--the most significant cost of compliance with the act was continued and aggravated delay in the disposition of civil cases.

SUMMARY

In our opinion, the lack of sufficient data on implementation problems undercuts the ability of the judicial system to systematically evaluate the impact of the Speedy Trial Act. As a result, neither the courts nor the Congress has sufficient evidence for deciding legislative or procedural changes necessary to allow full compliance and minimize potential adverse trade-offs.

Two questions as to the act's effect on the judicial system persist:

- Will the criminal justice system be able to process all cases within the act's time frames when the dismissal sanction takes effect on July 1, 1979?
- What needs to be done to insure that all defendants receive a speedy trial without affecting the system's ability to administer justice equitably?

These basic questions cannot be answered with any degree of certainty because too little is known about the reasons for implementation problems incurred by the judicial system in attempting to meet the act's time frames. Information available deals basically with anticipated problems rather than information obtained from systematic evaluations of actual experience during the act's phase-in period.

The Judicial Conference, the Administrative Office of the U.S. Courts, and the Department of Justice have taken the position that the Congress should lengthen the act's time frames cumulatively from 100 to 180 days. Their opinions must be weighed carefully. However, this position was based largely on anticipated problems rather than systematic evaluation of actual experiences during the act's phase-in period. Without better empirical data neither they nor the Congress can be assured that the extended time frames are necessary or that an extension would avert the problems anticipated.

Officials from the Administrative Office of U.S. Courts, the Federal Judicial Center, ^{AGC00489} and the Department of Justice have told us that even though specific evidence is not available, they believe there is reasonable evidence to support the 180-day time frame. They further believe that if such a time frame is enacted, the impact on the judicial system would be less severe. We agree that such an extension would probably result in fewer cases exceeding the time frame. However, data, such as the additional resources needed and the administrative burdens resulting from more frequent grand juries, is not available to show the changes which would be needed to meet a specific time frame to assure that trials are conducted in an expeditious manner.

Neither the Congress nor the components of the criminal justice system want to achieve a speedy trial if it results in an ineffective criminal justice system. Logically, increasing the act's time frames by 80 percent would lessen the adverse trade-offs identified to date. However,

--is such a long extension in the time frames necessary?

--would a shorter time frame be possible if additional resources were made available?

--what combination of time extensions and additional resources would preserve both the quality of justice and the goals of the act?

--does existing law provide sufficient safety mechanisms with which to minimize or prevent adverse trade-offs?

still
The Congress needs answers to ~~these~~ *these* questions and the judicial system components need to do more to provide them. *the time frame*

RECOMMENDATIONS TO THE JUDICIARY

Therefore, we have recommended that the Judicial Conference of the United States, in cooperation with the Administrative Office of the U.S. Courts and the Judicial Councils, *DLG 01293*
AG-C00437

- develop data on a representative basis that clearly shows why cases are not processed within the act's 100-day arrest-to-trial time frame;
- quantify the problems and identify the various alternatives at the district court level, as well as systemwide, which could be used to overcome these problems and which would allow for the act's effective implementation without decreasing the quality of justice; and
- provide periodic reports to the Congress to demonstrate the problems with the act and needed improvements.

ALTERNATIVES FOR CONSIDERATION
BY THE CONGRESS

The Congress is faced with the decision as to whether the Speedy Trial Act should be implemented as now required on July 1, 1979, or be modified. The Judicial Conference and Department of Justice *AG-C00037* have taken the position that there is a need to increase the time frame from 100 to 180 days so

that a large number of criminal cases will not be dismissed, However, they have not specifically identified the problems that cannot be resolved within the framework of the act's safety mechanisms. In view of the unavailability of detailed data to support the position of the Judicial Conference and the Department of Justice, we believe that a viable alternative is to modify the act to require the courts to use the 100-day time frame and postpone the implementation of the dismissal sanction from 18 to 24 months.

The latter alternative would leave intact the 100-day time frame; however, because the dismissal sanction would not be in effect, criminal cases would not be dismissed. If the Congress adopts this latter alternative, it should require the courts to fully identify and document the problems encountered for those cases exceeding the 100-day time frame. That information would provide a more adequate basis for deciding what the appropriate time frame should be.

Mr. Chairman, this concludes our statement. We will be glad to respond to any questions you may have.

Defendants Processed Within the Permanent
Interval I Time Frame for District Courts Reviewed
July 1, 1976, to June 30, 1978

District	Year ending June 30, 1977			Year ending June 30, 1978 (note a)		
	Total defendants processed	Total defendants meeting 30-day time frame	Total defendants exceeding net 30-day time frame (note b)	Total defendants processed	Total defendants meeting 30-day time frame	Total defendants exceeding net 30-day time frame (note b)
Middle North Carolina	113	103	10	86	86	0
Eastern Virginia	571	499	72	115	81	34
Eastern Michigan	377	235	142	158	118	40
Western Michigan	126	104	22	55	47	8
Southern Iowa	18	17	1	23	22	1
Western Missouri	79	79	0	54	50	4
Arizona	778	680	98	271	258	13
Central California	<u>880</u>	<u>823</u>	<u>57</u>	<u>632</u>	<u>602</u>	<u>30</u>
Total	<u>2,942</u>	<u>2,540</u>	<u>402</u>	<u>1,394</u>	<u>1,264</u>	<u>130</u>
Total for 94 districts	18,849	14,836	4,013	9,169	7,565	1,604

a/Statistics do not reflect 15,847 pending cases, of which 2,436 were pending over 6 months without fugitive defendants. Thus, statistics for the period are subject to change.

b/Defendants exceeding interval after excludable time allowed by 18 U.S.C. 3161 had been deducted, as reported by district court.

ATTACHMENT II

Defendants Processed Within the Permanent
Interval II Time Frame for District Courts Reviewed
July 1, 1976, to June 30, 1978

<u>District</u>	<u>Year ending June 30, 1977</u>			<u>Year ending June 30, 1978 (note a)</u>		
	<u>Total defendants processed</u>	<u>Total defendants meeting 10-day time frame</u>	<u>Total defendants exceeding net 10-day time frame (note b)</u>	<u>Total defendants processed</u>	<u>Total defendants meeting 10-day time frame</u>	<u>Total defendants exceeding net 10-day time frame (note b)</u>
Middle North Carolina	317	290	27	263	263	0
Eastern Virginia	969	939	30	885	865	20
Eastern Michigan	1,299	1,097	202	609	512	97
Western Michigan	227	186	41	126	109	17
Southern Iowa	102	92	10	74	69	5
Western Missouri	617	608	9	463	453	10
Arizona	1,403	1,323	80	667	644	23
Central California	<u>2,220</u>	<u>2,096</u>	<u>124</u>	<u>1,261</u>	<u>1,180</u>	<u>81</u>
Total	<u>7,154</u>	<u>6,631</u>	<u>523</u>	<u>4,348</u>	<u>4,095</u>	<u>253</u>
Total for 94 districts	44,859	39,122	5,737	25,966	24,377	2,589

a/Statistics do not reflect 15,847 pending cases, of which 2,436 were pending over 6 months without fugitive defendants. Thus, statistics for the period are subject to change.

b/Defendants exceeding interval after excludable time allowed by 18 U.S.C. 3161 had been deducted, as reported by district court.

Defendants Processed Within the Permanent
Interval III Time Frame for District Courts Reviewed
July 1, 1976, to June 30, 1978

<u>District</u>	<u>Year ending June 30, 1977</u>			<u>Year ending June 30, 1978 (note a)</u>		
	<u>Total defendants processed</u>	<u>Total defendants meeting 60-day time frame</u>	<u>Total defendants exceeding net 60-day time frame (note b)</u>	<u>Total defendants processed</u>	<u>Total defendants meeting 60-day time frame</u>	<u>Total defendants exceeding net 60-day time frame (note b)</u>
Middle North Carolina	334	321	13	276	276	0
Eastern Virginia	966	929	37	916	895	21
Eastern Michigan	1,337	707	630	697	392	305
Western Michigan	229	152	77	145	104	41
Southern Iowa	97	85	12	85	83	2
Western Missouri	642	568	74	514	487	27
Arizona	1,445	1,073	372	718	619	99
Central California	<u>2,273</u>	<u>1,833</u>	<u>440</u>	<u>1,396</u>	<u>1,200</u>	<u>196</u>
Total	<u>7,323</u>	<u>5,668</u>	<u>1,655</u>	<u>4,747</u>	<u>4,056</u>	<u>691</u>
Total for 94 districts	45,815	34,393	11,422	29,400	23,931	5,469

a/Statistics do not reflect 15,847 pending cases, of which 2,436 were pending over 6 months without fugitive defendants. Thus, statistics for the period are subject to change.

b/Defendants exceeding interval after excludable time allowed by 18 U.S.C. 3161 had been deducted, as reported by district court.

ATTACHMENT IV

Criminal Defendants Meeting the July 1, 1979

Soeedy Trial Time Standards for the Two Year

Period Ending June 30, 1978

<u>Interval</u>	<u>Permanent time frames</u>	<u>Year ending June 30, 1977</u>		<u>Year ending June 30, 1978 (note a)</u>			
		<u>Total defendants processed</u>	<u>Total defendants meeting permanent time frame (note a)</u>		<u>Total defendants processed</u>	<u>Total defendants meeting permanent time frame (note b)</u>	
			<u>Number</u>	<u>Percent</u>		<u>Number</u>	<u>Percent</u>
Arrest to indictment	30	18,849	14,836	78.8	9,169	7,565	82.5
Indictment to arraignment	10	44,859	39,122	87.2	26,966	24,377	90.4
Arraignment to trial	60	45,815	34,393	75.0	29,400	23,931	81.4

a/Statistics do not reflect 15,847 pending cases, of which 2,436 were pending over 6 months without fugitive defendants.

b/Defendants meeting interval after excludable periods of delay authorized by 18 U.S.C. 3161(h).

COMPTROLLER GENERAL'S
REPORT TO THE CONGRESSSPEEDY TRIAL ACT--ITS IMPACT
ON THE JUDICIAL SYSTEM STILL
UNKNOWND I G E S T

Four years ago, the Congress passed the Speedy Trial Act, which requires that a Federal criminal case be processed within the established time frames totaling 100 days. Generally, cases not processed within this period, as extended by allowable delays, must be dismissed with or without prejudice.

To allow district courts to move smoothly toward the 100-day limit, the act provided a 4-year phase-in period during which specific steps within the time limit were to become effective gradually. GAO found that the district courts did not develop sufficient data to identify the reasons for implementation problems. During the phase-in period, the courts relied on limited data and subjective judgments of court officials, judges, and U.S. attorneys rather than on a systematic evaluation of empirical data to document the problems in meeting the time frames. As a result, limited evidence exists for suggesting either procedural or legislative time frame changes.

ACT REQUIRES PROCESSING
DEFENDANTS WITHIN ESTABLISHED
TIME FRAMES

Beginning on July 1, 1979, the Speedy Trial Act requires the dismissal of certain Federal criminal cases where a defendant is not processed within the following time frames:

- arrest to indictment, 30 days;
- indictment to arraignment, 10 days;
- arraignment to start of trial, 60 days. 1/

At dismissal, a district judge will determine if the defendant will be freed from future prosecution.

If large numbers of cases are dismissed, the purposes of the act could be frustrated. Criminal defendants, if guilty, will escape justice or the criminal justice system will incur additional costs to retry the case.

Court statistics show that many criminal defendants have not been processed within the act's permanent 100-day arrest-to-trial time frame. At least 5,469, or 18.6 percent, of the cases completed during the year ended June 30, 1978, exceeded one or more time frames. (See p. 9.)

COURT OFFICIALS ANTICIPATE PROBLEMS
IN IMPLEMENTING THE ACT

Some district court officials dismiss the fact that full implementation had not been achieved on the grounds that had the permanent time frames and the dismissal sanction been in effect, steps would have

1/Delays occasioned by certain statutorily prescribed contingencies or "excludable periods of delay" are not included in the time frame computations.

been taken to insure implementation of the act's time frames. Officials in three districts cautioned that additional resources would be needed, while officials in another district cautioned that changes in the volume and nature of criminal cases could affect the district's ability to meet the permanent time frames.

However, many court officials and U.S. attorneys believe that achieving full compliance with the act will be a reactive process resulting in the following undesirable trade-offs.

- U.S. attorneys may be unable to prosecute all criminal defendants effectively (e.g., more cases declined for prosecution or more lenient plea bargains accepted).
- Defense attorneys may not have sufficient time to prepare their client's case.
- Civil litigants whose cases are not subject to statutory time frames may have a longer wait for their day in court since criminal cases will receive priority.
- Criminal cases may cost more to process (e.g., additional travel costs or multiple trials). (See pp. 15 to 21.)

LACK OF OBJECTIVE, DOCUMENTED DATA
FRUSTRATES EFFORTS TO COPE WITH
PROBLEMS

District courts have not developed the data essential to identify problems that will hinder compliance when the permanent 100-day time frame becomes effective. As a result, no objective evidence exists for deciding if the act's permanent time frames should be adjusted or if procedures should be

changed to effectively process defendants within the existing time frames. (See p. 9.)

Nonetheless, the Judicial Conference, the Administrative Office of the U.S. Courts, and the Department of Justice have taken the position that Congress should lengthen the act's time frames cumulatively from 100 to 180 days. While this position comes from those whose opinion must be given great weight, neither they nor the Congress can be assured that the action called for is necessary and that it would have the desired effect. (Simp. 12.)

Neither the Congress nor the components of the criminal justice system want a speedy trial if it results in an ineffective system. Logically, increasing the act's time frames by 80 percent would lessen the adverse trade-offs identified to date. However,

- is such a long extension in the time frames necessary?
- would a shorter time frame be possible if additional resources were made available?
- what combination of time extensions and additional resources would preserve both the quality of justice and the goals of the act?
- does existing law provide sufficient safety mechanisms with which to minimize or prevent adverse trade-offs?

The Congress needs answers to these questions and the justice system components need to do more to be able to provide them.

RECOMMENDATIONS TO THE
JUDICIARY

GAO recognizes that implementing the act as scheduled entails some risk. Numerous problems associated with meeting the act's time frames may adversely affect the justice system. However, without information on the magnitude and severity of the impact, neither GAO, the justice system, nor the Congress can adequately weigh the adverse effects to formulate appropriate remedial actions.

The Judicial Conference of the United States, in cooperation with the Administrative Office of the U.S. Courts and the Judicial Councils should

- develop data on a representative basis that clearly shows why cases are not being processed within the 100-day arrest-to-trial time frame;
- assess the cause, severity, and impact of these problems to formulate and justify rule changes, additional resources, or amendments to the act;
- quantify the problems and identify the various alternatives at the district court level, as well as systemwide, which could be used to overcome these problems and allow effective implementation of the act without decreasing the quality of justice; and
- periodically report the problems with the act and improvements needed to the Congress.

AGENCY COMMENTS

The Administrative Office of the U.S. Courts, the Federal Judicial Center, and the Department of Justice all disagreed with GAO's conclusions that there was insufficient data available to consider proposed amendments to the Speedy Trial Act. All three agencies contend that data now available provides a substantial enough basis for formulating and considering recommendations for remedial action by Congress before July 1, 1979. In this regard, all three agencies have suggested that the time frames be extended from 100 to 180 days. (See ch. 3 and apps. VI, VII, VIII.)

GAO disagrees and believes that because there is limited data on the implementation problems, neither the Congress nor the courts have enough evidence to decide what legislative time frames or procedural changes are necessary to allow for full compliance and to minimize potentially adverse trade-offs. As a result, no one can be assured that an extended time frame is necessary or that it will avert the expected problems. Increasing the time frame by 80 percent would logically lessen the adverse trade-offs identified to date. However, no one knows what combination of time extensions and additional resources would preserve both the quality of justice and the goals of the act.

GAO believes more attention should be paid to the system's ability to resolve problems within the framework of existing law and within the permanent time frames. GAO points out that the act specifically suspends the running of the time frames for any 1 of 15 specified contingencies. This includes an authorization to provide a continuance when,

among other matters, it would serve the "ends of justice" to do so. In situations involving an especially congested court calendar, there are circumstances where a judicial emergency may be declared, thus suspending the applicability of certain permanent time frames. However, the problems that cannot be resolved within this framework of safety mechanisms have not been specifically identified.

ALTERNATIVES FOR CONSIDERATION
BY THE CONGRESS

The Congress is faced with the decision as to whether the Speedy Trial Act should be implemented as now required on July 1, 1979, or modified. The Judicial Conference, Administrative Office of the U.S. Courts, and the Department of Justice have taken the position that there is a need to increase the time frame from 100 to 180 days so that a large number of criminal cases will not be dismissed. However, problems that cannot be resolved within the act's safety mechanisms have not been specifically identified. Therefore, GAO believes in view of the unavailability of detailed data to support the position of increasing the time frame by 80 percent, that a viable alternative would be to modify the act to require the courts to use the permanent 100-day time frame and postpone the implementation of the dismissal sanction for 18 to 24 months.

This alternative would leave intact the 100-day time frame; however, because the dismissal sanction would not be in effect, criminal cases would not be dismissed. If the Congress adopts this alternative, it should require the courts to fully identify and document the problems encountered for those cases exceeding the 100-day time frame. This information would provide a more adequate basis for deciding what the appropriate time frame should be.