

THE UNITED STATES DISTRICT COURT

FOR THE

WESTERN DISTRICT OF TENNESSEE

Plan for the Speedy Disposition of
Criminal Cases
In the Western District of Tennessee

Prepared in Compliance with the
Speedy Trial Act of 1974,
Effective July 1, 1980
Revised June 21, 2005

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE

I. INTRODUCTION

A. Composition of the Planning Group.

The Speedy Trial Planning Group which prepared this plan, effective July 1, 1980, consisted of Chief Judge Robert M. McRae, Jr.; Magistrate Judge Aaron C. Brown, Jr.; Mr. W. J. Michael Cody, United States Attorney for the district; Mr. J. Franklin Reid, Clerk; Mr. Edward C. Duke, Federal Public Defender; Mr. Eugene G. Shaw, Chief Probation Officer; Mr. Albert C. Harvey, Attorney at Law and of the firm Thomason, Crawford & Hendrix; Mr. Walter Bailey, Attorney at Law and of the firm Bailey and Bailey; and Mr. Kemper Durand, Attorney at Law and of the firm of Rosenfield, Borod and Kremer, who has served as reporter for the group. Mr. Durand served as chairman of the group. The Clerk served as secretary for the group.

B. Composition of the Committee to Review and Propose Revisions to the Plan.

On June 17, 2004, Chief Judge James D. Todd signed Administrative Order No. 2004-08, in which the judges of this court appointed a committee ("Review Committee") to review the court's Speedy Trial Plan and to submit recommendations and proposed revisions of the plan for consideration by the judges of this court. The following were appointed to serve on the Review Committee: Judge Jon P. McCalla, Chair; Magistrate Judge Tu M.

Pham, Vice Chair; Mark C. Donahoe, Esq.; Jerry Stokes, Esq.; Glen G. Reid, Esq.; Lorna McClusky, Esq.; Terrell Harris, United States Attorney; Steve Shankman, Federal Public Defender; Anna B. Wells, Chief Probation Officer; and Robert Di Trollo, Clerk of Court. Mr. Di Trollo served as recorder for the Review Committee.

C. Availability.

This plan will be on file in the Clerk's Office, Clifford Davis Federal Building, Room 242, 167 North Main Street, Memphis, Tennessee 38103, and may be inspected during normal business hours. Copies of the plan may be obtained from that office upon payment of a nominal charge. Additionally, the plan will be available on the court's internet web site at www.tnwd.uscourts.gov.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE

II.

**STATEMENT OF TIME LIMITS AND PROCEDURES
FOR ACHIEVING PROMPT DISPOSITION OF CRIMINAL CASES**

Pursuant to the requirements of the Speedy Trial Act of 1974 (18 U.S.C. §§ 3161-3174), the Speedy Trial Act Amendments Act 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 Tennessee have adopted the following time limits and procedures to minimize delay and to further the prompt disposition of criminal cases and certain juvenile proceedings:

1. Applicability

(a) Offenses The time limits set forth herein are applicable to all criminal offenses triable in this court, including cases triable by United States magistrate judges, except for Class B and Class C misdemeanors and infractions as defined by 18 U.S.C. § 3559, or an offense triable by court-martial, military commission, provost court or other military tribunal.[18 U.S.C. § 3172] Except as specifically provided, they are not applicable to proceedings under the Federal Juvenile Delinquency Act. [18 U.S.C. § 5036].

(b) Persons The time limits are applicable to persons accused who have not been indicted or informed against as well as those who

have, and the word "defendant" includes such persons unless the context indicates otherwise.

2. Priorities in Scheduling Criminal Cases

Preference shall be given to criminal proceedings as far as practicable as required by Rule 50 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 5 of this plan should be give preference over other criminal cases [18 U.S.C. § 3164(a)].

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

(a) **Time Limits** If an individual is arrested or served with a summons and the complaint charges an offense to be prosecuted in this district, any indictment or information subsequently filed in connection with such charge shall be filed within thirty days of arrest or service. [18 U.S.C. § 3161(b)]

(b) **Grand Jury Not in Session** If the defendant is charged with a felony to be prosecuted in this district, and no grand jury in the district has been in session during the thirty-day period prescribed in subsection (a), such period shall be extended an additional thirty days. [18 U.S.C. § 3161(b)]

(c) **Measurement of Time Periods** If a person has not been arrested or served with a summons on a federal charge, an arrest will be deemed to have been made at such time as the person (i) is held in custody solely for the purpose of responding to a federal

charge; (ii) is delivered to the custody of a federal official in connection with a federal charge; or (iii) appears before a judicial officer in connection with a federal charge.

(d) Related Procedures

(1) At the time of the earliest appearance before a judicial officer or 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.

4. Time Within Which Trial Must Commence

(a) **Time Limits** In any case in which a plea of not guilty is entered, the trial of a defendant shall commence not later than seventy 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) Retrial; Trial After Reinstatement of an Indictment or Information

The retrial of a defendant shall commence within seventy days from the date the order occasioning the retrial becomes final, as shall the trial of a defendant upon an indictment or information dismissed by a trial court and reinstated following an appeal. If the retrial or trial follows an appeal or collateral attack, the court may extend the period if unavailability of witnesses or other factors resulting from passage of time make trial within seventy days impractical. The extended period shall not exceed 180 days. [18 U.S.C. § 3161(d)(2), (e)]

(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. [18 U.S.C. § 3161(i)]

(d) Superseding Charges If, after an indictment or information has been filed, a complaint, indictment, or information is filed which charged 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. § 3161(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. [18 U.S.C. § 3161(h)(6)]

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

(e) **Measurement of Time Periods** For the purposes of this section:

(1) If a defendant signs a written consent to be tried before a magistrate judge 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.

(f) 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) The court shall have sole responsibility for setting cases for trial after consultation with counsel. At the time of arraignment or as soon thereafter as is practicable, each

case will be set for trial on a day certain or listed for trial on a weekly or other short-term calendar. [18 U.S.C. § 3161(a)]

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

(4) 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 for the same offense charged in the original indictment or information or an offense required to be joined therewith.

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

(6) All pretrial hearings shall be conducted as soon after the arraignment as possible, consistent with the priorities of other matters on the court's docket.

5. Defendants in Custody and High-Risk Defendants¹

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

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

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

[18 U.S.C. § 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 herself, or any other person or to the community.

(c) **Measurement of Time Periods** For the purposes of this section:

¹If a defendant's presence has been obtained through the filing of a detainer with state authorities, the Interstate Agreement on Detainers, 18 U.S.C., Appendix, may require that trial commence before the deadline established by the Speedy Trial Act. See United States v. Mauro, 436 U.S. 340, 356-57 n.24 (1978).

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

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

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

(d) Related Procedures

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

(2) The United States Attorney shall advise the court at the earliest practicable time (usually at the hearing with respect to bail) if the defendant is considered by the government 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 public knowledge without the permission of the court.

6. Exclusion of Time from Computations

(a) **Applicability** In computing any time limit under Section 3, 4, or 5, 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 for trial under Section 7.

(b) **Pre-Indictment Procedures**

(1) In the event that the United States Attorney anticipates that an indictment or information will not be filed within the time limit set forth in Section 3, he or she 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 or she 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 on the facts of the particular case.

(c) Post-Indictment Procedures

(1) In the event that the court continues a trial beyond the time limit set forth in Section 4 or 5, the court shall determine whether the limit may be recomputed by excluding time pursuant to 18 U.S.C. § 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 the light of the facts of the particular case.

(3) If the defendant is absent (as defined by 18 U.S.C. § 3161(h)(3)) on the day set for trial, and the defendant's subsequent appearance before the court on a bench warrant or other process or surrender to the court occurs more than twenty-one days after the day set for trial, the defendant shall be deemed to have first appeared before a judicial officer of the court in which the information or indictment is pending within the meaning of § 3161(c) on the date of the defendant's subsequent appearance before the court.

If the defendant is absent (as defined by 18 U.S.C. § 3161(h)(3)) on the day set for trial, and the defendant's subsequent appearance before the court on a bench warrant or other process or surrender to the court occurs not more than twenty-one

days after the day set for trial, the time limit required by § 3161(c), as extended by § 3161(h), shall be further extended by twenty-one days.

(7) Minimum Period for Defense Preparation

Unless the defendant consents in writing to the contrary, the trial shall not commence earlier than thirty 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 seventy-day time limit for commencing trial on a charge in an indictment or information is determined by reference to an earlier indictment or information pursuant to Section 4(d), the thirty-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 thirty-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 circumstances. [18 U.S.C. § 3161(c)(2)]

(8) Time Within Which Defendant Should be Sentenced

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

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

9. Juvenile Proceedings

(a) Time Within Which Trial Must Commence An alleged delinquent who is in detention pending trial shall be brought to trial within thirty 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 twenty court days after trial, unless the court has ordered further study of the juvenile in accordance with 18 U.S.C. § 5037(c).

10. Sanctions

(a) Dismissal or Release from Custody Failure to comply with the requirements of Title I of the Speedy Trial Act may entitle the defendant to dismissal of the charges against the defendant or to release from pretrial custody. This relief constitutes an affirmative matter which should be brought to the court's attention by counsel for the defendant. The court will not normally release a defendant upon its own motion, but it is not precluded from doing so in the proper circumstances.

(b) High-Risk Defendants A high-risk defendant whose trial has not commenced within the time limit set forth in 18 U.S.C.

§ 3164(b) shall, if the failure to commence trial was through no fault of the attorney for the government, have his or her 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 or her nonfinancial conditions of release under 18 U.S.C. §§ 3141-3160, to ensure that he or she shall appear at trial as required. [18 U.S.C. § 3164(c)]

(c) **Alleged Juvenile Delinquents** An alleged delinquent in custody whose trial has not commenced within the time limit set forth in 18 U.S.C. § 5036 shall be entitled to dismissal of his or her 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.

11. Persons Serving Term 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 or she 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).

12. Effective Date

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

revision of the district's plan does more than merely reflect the amendments, the revised plan shall take effect upon approval of the reviewing panel designated in accordance with 18 U.S.C. § 3165(c). The dismissal sanction and the sanctions against attorneys authorized by 18 U.S.C. § 3162 and reflected in Section 10(a) of this plan, however, shall apply only to defendants whose cases are commenced by arrest or summons on or after July 1, 1980, and to indictments and informations filed on or after that date.

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

(c) If a defendant was arraigned before August 2, 1979, the time within which the trial must commence shall be determined under the plan that was in effect at the time of such arraignment.

(d) If a defendant was in custody on August 2, 1979, solely because he or she was awaiting trial, the ninety-day period under Section 5 shall be computed from that date.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE

III.

PROCEDURES ADOPTED TO FACILITATE
COMPLIANCE WITH THE SPEEDY TRIAL ACT

The following procedures are to be followed in order to improve the efficiency of the court and facilitate compliance with the Speedy Trial Act:

A. Procedures Adopted by the Court

(1) Responsibility of Attorney Attorneys accepting employment in criminal cases in this district will be expected to be aware of the requirements of the Speedy Trial Act, the plan adopted thereunder, and the sanctions provided therein, and will be responsible for complying therewith.

(2) **Continuances.** The court will not permit any person charged with an offense triable in this court, whether by indictment or information, to waive the time requirements of the Speedy Trial Act of 1974 or this plan in order to delay a trial or for any other purpose. Delays beyond the time limitations of this plan will be granted only on a specific finding by the court that the reason given for a delay comes within the grounds specified in the Speedy Trial Act for exceeding time limitations, specifically 18 U.S.C. § 3161(h). Any requests for a continuance shall be by written motion or by oral motion in open court. If the motion for a continuance is granted, the court shall enter a written order

setting out the reason for the continuance.

(3) Instructions to Juries Instructions to juries in criminal cases will be as precise as practical.

(4) Guilty Pleas and Nolo Contendere The procedure for the acceptance of pleas of guilty and nolo contendere and the disposition of cases following such pleas will be uniform in each division of the court so far as practical.

(5) Interchange The clerk, with the approval of the judges involved, may reassign a case from one division to another when necessary to comply with the act or this plan.

(6) Pre-Trial Conferences Pre-trial conferences may be utilized when it appears that the trial time can be saved and the case expedited.

B. Miscellaneous Provisions

(1) Grand Juries It is expected that a grand jury will meet in the Western Division no less frequently than once every thirty days and in the Eastern Division at such times as the court elects. When necessary to comply with the time limitation from arrest to indictment, presentments may be made to a grand jury convened in either division. Persons indicted under those circumstances may be tried in either the Eastern or Western Division as the court sees fit, if necessary to comply with the Speedy Trial Act or this plan.

(2) Arraignments The magistrate judge upon completion of an arraignment will enter an order directing that all pre-trial motions shall be filed in accord with this plan and the rules of

the court. If it appears that counsel for an accused may be from outside the district or may not be aware of the procedures followed in this district, the magistrate judge shall call attention of counsel to the Speedy Trial Act, this plan, and the Local Rules of this court.

(3) **Setting of Cases for Trial** Within five (5) days following arraignment the Clerk of the Court shall set a trial date and promptly mail or send via facsimile notices thereof.

(4) **Report Date** When the Clerk sets a case for trial, there shall also be set a report date, at which time the attorney(s) and defendant(s) shall appear before the court and report on the status of the case. Unless waived by the court in advance, the defendant(s) must be present. If, at the initial report date, one or more parties move the court for a continuance of the trial, the parties at that time shall provide the court with a realistic trial date. If the court grants the motion, the court will set a firm trial date and will schedule a final report date no less than seven (7) calendar days prior to the trial date.

(5) **Pre-Trial Motions**

(a) **Filing:** The piecemeal filing of pre-trial motions is looked upon with disfavor. To the extent possible, all pre-trial motions should be filed at one time.

(b) **Hearings:** The judges will to the extent practical examine all pre-trial motions within five (5) days from filing and notify the clerk of those motions which require a hearing. The

clerk will then set a hearing on the motion at the earliest practical time. All pretrial motions should be filed and disposed of prior to the report date.

(6) **Discovery Procedures** Discovery procedure to be followed in the court, pursuant to Rule 16, Federal Rules of Criminal Procedure, will be as follows:

(a) Any attorney seeking discovery shall make such a request within ten days after arraignment in writing addressed to the United States Attorney and mailing a copy to the Clerk of the Court. The request shall state specifically what items are being requested for discovery.

(b) The United States Attorney shall respond to the request for discovery within ten (10) days, which response will be in the following form:

(1) Identification of the date the request for discovery was received by the United States Attorney and the name of the attorney making the request.

(2) Specification of what items, if any, are enclosed with the response.

(3) What items, if any, are unavailable for discovery and why.

(4) What items are available for inspection in the office of the United States Attorney but not included with the response and why.

(5) What information, if any, requested by an attorney is unavailable but is to be obtained by the United States Attorney and made available at a later date.

(6) What information was requested but will not be produced voluntarily by the United States Attorney.

(7) What extent, if any, the United States Attorney seeks reciprocal discovery under Rule 16(b).

C. Procedures Adopted by the United States Attorney

The United States Attorney will establish procedures in that office sufficient to:

(1) Meet all of the reporting requirements of the Speedy Trial Act of 1974 required of the United States Attorney.

(2) Assist the Clerk of the Court in monitoring the timely flow of all criminal cases through the criminal justice process.

(3) Establish procedures to insure that all agencies within the Western District of Tennessee which have authority to arrest persons charged with federal offenses report any such arrest to the United States Attorney promptly so that he or she can ensure that no person is detained beyond the statutory limits of the act.

(4) Assist the United States Marshal by providing, on a timely basis, information required by the Marshal to facilitate the appearance of detained persons before the court as scheduled.

(5) Assist, to the extent the law and professional ethics permit, the United States Public Defender and the Federal Probation Officer, in obtaining information necessary to the mission of those

officers.

(6) See that the Government shall promptly seek the dismissal of any pending cases it has decided against prosecution.

(7) Ensure that where a superseding indictment is returned by a Grand Jury on request of the Government, the original indictment shall be promptly dismissed.

(8) Ensure that guilty plea sentence recommendations made by the Government should be realistic, and take into consideration all relevant facts and circumstances.

D. Procedures to be Followed by the United States Marshal

In order to facilitate the computation of excludable time and insure that the time limitations required by the act and this plan are complied with, the United States Marshal will notify the clerk on the next day on which the office is open for business of every person whom the Marshal has taken into custody who has an indictment or information pending against him or her in this district. The Marshal will also notify the clerk when a person, against whom an indictment or information is pending, is delivered out of the Marshal's custody to another agency.