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REPORT

OF

THE SPEEDY TRIAL ACT STUDY COMMITTEE

TO

CHIEF JUSTICE JAMES G. EXUM, JR.  
THE SUPREME COURT OF NORTH CAROLINA

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March 8, 1989

MEMBERS  
OF  
THE SPEEDY TRIAL ACT STUDY COMMITTEE

W. Douglas Albright, Chairman  
Senior Resident Superior Court Judge  
Judicial District 18

F. Gordon Battle  
Senior Resident Superior  
Court Judge  
Judicial District 15B

Donald Jacobs  
District Attorney  
Prosecutorial District 8

Forrest A. Ferrell  
Senior Resident Superior  
Court Judge  
Judicial District 25

Isabel Scott Day  
Public Defender  
Judicial District 26

Joe Hackney  
Member, House of Representatives  
North Carolina General Assembly

Kathy Shuart  
Staff Assistant  
Administrative Office  
of the Courts

Committee Staff:

Robert E. Giles  
W. LeAnn Wallace  
Research and Planning Division  
N.C. Administrative Office of the Courts

## INTRODUCTION

The Speedy Trial Act Study Committee was appointed in November 1988 by Chief Justice Exum of the Supreme Court of North Carolina. The Chief Justice asked the Committee to study the Speedy Trial Act and determine whether that Act is having an adverse impact on the calendaring of criminal cases in superior courts. In addition, the Committee was asked to study the statutes relating to arraignment and determine whether those statutes are having an adverse impact on the calendaring of criminal cases in superior courts. The Committee was asked to recommend statutory or administrative remedies for any problems found to exist.

The Committee met on the following dates: December 29, 1988; January 27, 1989; February 10, 1989; February 17, 1989; and March 3, 1989.

The Committee received staff assistance from the Research and Planning Division of the Administrative Office of the Courts, which provided the Committee statistical data on speedy trial dismissals in the superior courts, ages of criminal cases pending in the superior courts, ages of criminal cases at the time of disposition, information on speedy trial statutes in other states, and information on the constitutional requirements for a speedy trial under the United States and North Carolina Constitutions. In addition, at the request of the Committee, the Administrative Office of the Courts obtained from clerks' offices

throughout the state a copy of all superior court criminal trial calendars and calendar minutes for the week of court beginning January 9, 1989, along with a copy of each order of case continuance pertaining to a case on that week's criminal trial calendars. This information was provided by the clerk of superior court in each county which had criminal court scheduled during the week of January 9, 1989.

Based upon the information and data provided to the Committee and the collective experience and judgment of committee members, conclusions have been reached on recommendations to be submitted to the Chief Justice.

#### IMPACT OF SPEEDY TRIAL ACT ON CALENDARING OF CASES IN SUPERIOR COURTS

The Committee concludes that the operation of the Speedy Trial Act does have an adverse impact on calendaring of cases in the superior courts. Large numbers of criminal cases are being placed on the trial calendars with no realistic expectation that the cases can be reached for trial. Rather, they are put on the trial calendar to establish a record of continuances of cases and resulting exclusions of time under the Speedy Trial Act. This practice has greatly increased paper work for clerks, judges, and district attorney offices, has increased the burdens on sheriffs for service of subpoenas, and has resulted in greater costs and inconvenience for witnesses and attorneys.

The Committee believes that a variety of factors has contributed to the development of this widespread calendar-ing problem: (1) the large caseloads and the limited resources of district attorneys; (2) a lack of courtrooms in counties with inadequate facilities, and a lack of superior court judges to assign to extra sessions of criminal court; (3) reduced superior court time for trial of cases because of court time required for arraignments and probation hearings; and (4) the great amount of trial time required for a capital case or other complicated felony case. And, on occasion, a district attorney may not plan ahead and manage the trial calendar as well as would have been possible with the resources at hand.

If the district attorney has the evidence to justify prosecution on an offense, and the defendant has shown no desire for a prompt trial and can show no prejudice from additional time taken to get to trial, it does not appear to be in the public interest to have that case dismissed simply because the 120-day standard under the State's speedy trial statutes was not met. Under such circumstances, it is understandable that the district attorney would use the speedy trial statutes to obtain additional time by getting large numbers of cases continued. This particular procedure, however, has created the problems already described.

For the January 9 week of criminal superior court across the State, information was collected from the 37

counties holding court that week. Although there was much variation among the individual counties, a summary of the data statewide shows that approximately 50 percent of all trial cases and 48 percent of all trial defendants were continued from the week of January 9 (See Appendix B). About 55 percent of the orders for case continuance listed as the reason for case continuance, "the trial of other cases prevented the trial of this case during this session." While recognizing the limitations in a one-week sample, for purposes of drawing statistical conclusions about a period of, for example, a year, the Committee believes that the data collected does indeed suffice to illustrate the magnitude of the case continuance problem: the problem is statewide, it is significant, and it needs remedial attention.

Six of the seven members of the Committee recommend a revision of the current Speedy Trial Act, and the text of a draft bill for this purpose is contained in Appendix C. The main points of the proposed revision are as follows:

- (1) Repeals G.S. 15A-701 through G.S. 15A-703.
- (2) Adds a policy statement that "criminal charges be resolved without undue delay."
- (3) Increases from 120 days to 180 days the time limit within which the trial of a defendant charged with a criminal offense must begin.
- (4) Keeps the same starting points from which the time begins to run (arrest, service of process, indictment, etc.)

- (5) Eliminates all former exclusions of time except the period of time from the time the district attorney enters a dismissal with leave for the defendant's failure to appear until the district attorney reinstates the proceedings.
- (6) Adds a provision giving superior court judges discretionary authority to extend the time for trial of a case, upon motion of the state or defendant and for good cause shown.
- (7) Specifies some factors which a judge shall consider in determining whether to extend the time: a) miscarriage of justice, b) limited number of court sessions scheduled for the county, c) complexity of the case, d) a trial participant's obligation to the State of North Carolina, and e) an abused victim or witness.
- (8) Eliminates presumptions for counties with limited court sessions, other than as one factor to use when the judge is considering whether to extend the time for commencement of the criminal action.
- (9) Provides for dismissal with prejudice, dismissal without prejudice, or other appropriate order for failure to commence trial within the statutory period of 180 days (or extensions granted).
- (10) Retains the provision that failure of the defendant to move for speedy trial dismissal prior to trial or entry of a plea of guilty or no contest constitutes a waiver of the right to dismissal.
- (11) Retains the provision that the sanctions provided shall not apply to proceedings in the district court division.
- (12) Includes an express provision allowing the defendant to move for an expedited trial.

The majority of the Committee endorses this proposal because it alleviates the trial calendaring problem in several ways. Of foremost importance is the fact that, should district attorneys need an extension of time for some cases, they would place the cases on the motions calendar rather than on the trial calendar. This practice will eliminate the need for the subpoena of witnesses, which in turn

lessens the workload for the clerks' and sheriffs' offices and eliminates waste of time by persons subpoenaed. In addition, the trial calendar, with only the cases that could likely be reached, would be far more realistic.

Increasing the time limit from 120 days to 180 days gives the district attorney more time initially within which to try a case without intervention of any kind by the court: fewer cases would require extension orders. Case data from fiscal year 1987-88 shows that almost 80 percent of felony cases and 84 percent of misdemeanor cases were disposed within 180 days of being filed in superior court. (See Appendix A.)

The provision allowing defendants to petition for an expedited trial (in proposed G.S. 15A-703 of the draft bill) would protect defendants who could show good cause for a trial earlier than the 180-day limit.

The district attorney member of the Committee does not endorse the proposed revision. He reported that district attorneys prefer to leave the Speedy Trial Act as it is, and to deal with calendaring problems administratively. The Committee acknowledges the problems created for district attorneys by their heavy caseloads and recommends that more resources be provided for personnel and case management training for district attorney offices.



## IMPACT OF ARRAIGNMENT STATUTES ON CALENDARING

The requirement in G.S. 15A-943 that arraignments be held at the beginning of a court session creates a situation in which the freshest and most productive time of a week of superior court is spent calling the arraignment calendar. The situation is further aggravated by the provision in the current law that "[n]o cases in which the presence of a jury is required may be calendared for the day or portion of a day during which arraignments are calendared."

After due consideration, all members recommend providing flexibility to district attorneys concerning the times arraignments are scheduled. Section 1 of the draft bill in Appendix D frees the district attorney to calendar arraignments on any day or days of the session so as to make the maximum best use of time during the session for the trial of cases.

Section 2 of the draft bill set out in Appendix D provides that arraignments in superior court would no longer be required in misdemeanor cases appealed from district court. Under the proposed revision, giving notice of appeal to superior court would create the presumption that a plea of not guilty is entered on behalf of the appellant. In addition, this section of the draft bill provides that the district court would determine whether the appellant was entitled, as an indigent, to appointment of counsel. If so, the district court would make such appointment.

Five members of the Committee support a change in the statutes to eliminate the present provision for arraignments in misdemeanor cases appealed to superior court, but one of the five members would leave to the district attorney the discretionary authority to schedule or not schedule arraignments in such cases. Four members of the Committee support a revision in the statute to authorize appointment by the district court of counsel for indigent defendants in misdemeanor cases appealed to superior court, and one member reserves judgment on this issue. The other two members of the Committee do not support Section 2 of the draft bill in Appendix D.

#### PROBLEM OF DELAY OF INDICTMENT AND TRIAL OF JAILED DEFENDANTS

During the course of its studies, the Committee has concluded that the operation of the Speedy Trial Act has had and is having an impact on jail populations throughout the State. The Speedy trial Act has, to a degree, contributed to the overcrowding of our jails. This situation has come about because district attorneys have a clear incentive under the Speedy Trial Act to try the older criminal cases first, even where the older cases involve defendants who are not in jail.

The Committee believes that priority in the trial of criminal cases should be given to those defendants who are

held in jail awaiting trial, in either district or superior court, and recommends draft legislation to achieve this result.

A draft bill is set out in Appendix E. All members of the Committee support Sections 2-7 of the draft bill, and all members of the Committee but one support Section 1 of the draft bill (mandatory review and action by the court on the list of jailed defendants).

#### SUMMARY OF LIST OF RECOMMENDATIONS

- I. A majority of the Committee recommends the draft bill set out in Appendix C, which would rewrite the current Speedy Trial Act. District Attorney Jacobs, preferring to retain the current statutes, does not support any part of this recommended draft. Representative Hackney supports the draft bill except proposed G.S. 15A-703 (which authorizes the court to order an expedited trial upon motion of a defendant who shows good cause).
  
- II. All members of the Committee recommend legislation to provide the district attorneys flexibility in scheduling arraignments and endorse Section 1 of the draft bill in Appendix D. As to eliminating arraignments in misdemeanor cases appealed to superior court, Judge Albright, Judge Ferrell, and District Attorney Jacobs support Section 2 of the draft bill in Appendix D. Judge Battle supports Section 2 except that portion

relating to appointment of indigent defense counsel (as to which he reserves his position for later decision). Representative Hackney supports Section 2, except that he would give the district attorney the discretionary authority to schedule, or not schedule, arraignments in misdemeanor appeal cases. Committee members Day and Shuart oppose Section 2 of the draft bill in Appendix D.

- III. All members of the Committee recommend legislation to give priority to defendants held in jail awaiting indictment or awaiting trial, and recommend the draft bill set out in Appendix E, except that District Attorney Jacobs is opposed to Section 1 of the draft bill (mandatory review of the jail list by the judges).

## APPENDICES

- APPENDIX A      CASE DATA FROM THE ANNUAL REPORTS  
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- APPENDIX B      SUMMARY OF CALENDARING AND CONTINUANCE  
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- APPENDIX D      DRAFT BILL ON AN ACT TO PROVIDE FOR  
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APPENDIX A

CASE DATA FROM THE ANNUAL REPORTS  
OF THE ADMINISTRATIVE OFFICE OF THE COURTS  
1979-80 -- 1987-88

Number of Speedy Trial Dismissals in Superior Court . . .	A1
Ages of Felony Cases Disposed in Superior Court . . . . .	A2
Ages of Misdemeanor Cases Disposed in Superior Court . .	A3

**Number of Speedy Trial Dismissals in Superior Court**

	<u>Felonies</u>	<u>Misdemeanors</u>	<u>Total</u>
1979-80	40	39	79
1980-81	22	24	46
1981-82	48	15	63
1982-83	72	20	92
1983-84	41	41	82
1984-85	42	29	71
1985-86	24	30	54
1986-87	23	25	48
1987-88	39	13	52

**Ages of Felony Cases Disposed in Superior Court**

	<u>Total Disposed</u>	<u>Mean Age</u>	<u>Median Age</u>	<u>120 Days or Less</u>	<u>121-180 Days</u>	<u>181-365 Days</u>	<u>&gt;365 Days</u>
1979-80	36,169	102.9	68.2	27,428 (75.8%)	4,222 (11.7%)	3,092 (8.5%)	1,427 (3.9%) <sup>1</sup>
1980-81	41,341	100.4	71.0	31,063 (75.1%)	5,333 (12.9%)	3,794 (9.2%)	1,151 (2.8%)
1981-82	40,715	104.6	73.0	29,693 (72.9%)	5,468 (13.4%)	4,178 (10.3%)	1,376 (3.4%)
1982-83	42,966	115.6	81.0	29,290 (68.2%)	6,664 (15.5%)	5,321 (12.4%)	1,691 (3.9%)
1983-84	41,698	120.8	80.0	27,859 (66.8%)	6,075 (14.6%)	5,878 (14.1%)	1,886 (4.5%)
1984-85	40,603	123.0	84.0	26,362 (64.9%)	6,243 (15.4%)	5,844 (14.4%)	2,154 (5.3%)
1985-86	43,402	125.6	86.0	28,253 (65.1%)	6,894 (15.9%)	6,082 (14.0%)	2,173 (5.0%)
1986-87	48,890	129.9	91.0	31,598 (64.6%)	7,365 (15.1%)	7,346 (15.0%)	2,581 (5.3%)
1987-88	53,420	124.4	86.0	34,473 (64.5%)	8,208 (15.4%)	8,110 (15.2%)	2,629 (4.9%)

<sup>1</sup>Percentages shown for a given year may not add to 100% due to rounding.



**Ages of Misdemeanor Cases Disposed in Superior Court**

	<u>Total Disposed</u>	<u>Mean Age</u>	<u>Median Age</u>	<u>120 Days or Less</u>	<u>121-180 Days</u>	<u>181-365 Days</u>	<u>&gt;365 Days</u>
1979-80	25,047	93.5	59.2	19,610 (78.3%)	2,528 (10.1%)	2,118 (8.5%)	791 (3.2%) <sup>1</sup>
1980-81	25,223	93.7	64.0	19,423 (77.0%)	2,906 (11.5%)	2,226 (8.8%)	668 (2.6%)
1981-82	26,468	92.9	62.0	20,494 (77.4%)	2,895 (10.9%)	2,290 (8.7%)	789 (3.0%)
1982-83	27,154	96.7	66.0	20,611 (75.9%)	3,182 (11.7%)	2,608 (9.6%)	753 (2.8%)
1983-84	25,311	97.5	65.0	19,150 (75.7%)	2,882 (11.4%)	2,557 (10.1%)	722 (2.9%)
1984-85	30,366	124.4	67.0	22,334 (73.5%)	3,634 (12.0%)	3,325 (10.9%)	1,073 (3.5%)
1985-86	30,598	100.6	67.0	22,389 (73.2%)	3,811 (12.5%)	3,493 (11.4%)	905 (3.0%)
1986-87	32,246	105.8	71.0	23,044 (71.5%)	4,163 (12.9%)	3,925 (12.2%)	1,114 (3.5%)
1987-88	31,703	106.3	70.0	22,674 (71.5%)	3,937 (12.4%)	3,914 (12.3%)	1,178 (3.7%)

<sup>1</sup>Percentages shown for a given year may not add to 100% due to rounding.

APPENDIX B

SUMMARY OF  
CALENDARING AND CONTINUANCE DATA FROM ONE-WEEK  
STATEWIDE SAMPLE OF SUPERIOR COURT CRIMINAL CALENDARS

(37 counties)

SUMMARY OF CASES CALENDARED AND CONTINUED

GRAND TOTAL OF 37 COUNTIES  
Superior Court Criminal Calendars  
January 9-13, 1989

	TRIAL		ARRAIGNMENT		OTHER		GRAND TOTALS	
	TOTALS	PERCENTAGES	TOTALS	PERCENTAGES	TOTALS	PERCENTAGES	TOTALS	PERCENTAGES
1. No. of cases on calendar	4268	--	1178	--	859	--	6305	--
2. No. of defendants on calendar	1999	--	620	--	547	--	3166	--
3. No. of cases cont. (minutes)	2119	% of trial cases 49.6%	376	% of arr'nt cases 31.9%	200	% of other cases 23.3%	2695	% of total cases 42.7%
4. No. of defendants cont. (minutes)	956	% of trial def. 47.8%	195	% of arr'nt def. 31.5%	123	% of other def. 22.5%	1274	% of total def. 40.2%
5. No. of orders of case continuance	807	% of trial def. 40.4%	163	% of arr'nt def. 26.3%	52	% of other def. 9.5%	1022	% of total def. 32.3%
a. Defense request	229	% of orders 28.4%	91	% of orders 55.8%	21	% of orders 40.4%	341	% of orders 33.4%
b. State request	520	64.4%	61	37.4%	28	53.8%	609	59.6%
c. Judge request	0	0.0%	0	0.0%	0	0.0%	0	0.0%
d. State & defense request	2	0.2%	0	0.0%	0	0.0%	2	0.2%
e. Unknown	56	6.9%	11	6.7%	3	5.8%	70	6.8%
6. Reasons for continuances		% of reasons		% of reasons		% of reasons		% of reasons
a. Inadequate prep. time--defense	94	11.6%	25	15.3%	9	17.3%	128	12.5%
b. Counsel cannot be present	33	4.1%	9	5.5%	3	5.8%	45	4.4%
c. Other trials prevented trial	443	54.9%	42	25.8%	24	46.2%	509	49.8%
d. Other trials & lim. no. ct. sess.	31	3.8%	0	0.0%	0	0.0%	31	3.0%
e. Need pretrial motion hearing	14	1.7%	1	0.6%	0	0.0%	15	1.5%
f. Defendant unavailable	9	1.1%	0	0.0%	0	0.0%	9	0.9%
g. Essent. state witness unavailable	9	1.1%	0	0.0%	0	0.0%	9	0.9%
h. Essent. def. witness unavailable	4	0.5%	0	0.0%	0	0.0%	4	0.4%
i. Def. undergoing exam. or trmt.	11	1.4%	2	1.2%	0	0.0%	13	1.3%
j. Prosecution deferred	1	0.1%	0	0.0%	0	0.0%	1	0.1%
k. Other specified reason	133	16.5%	71	43.6%	15	28.8%	219	21.4%
l. Not reported	26	3.2%	13	8.0%	1	1.9%	40	3.9%
7. No. of cases cont. by orders	1806	% of trial cases 42.3%	317	% of arr'nt cases 26.9%	77	% of other cases 9.0%	2700	% of total cases 34.9%

APPENDIX C

DRAFT BILL  
ON  
REVISION OF THE NORTH CAROLINA SPEEDY TRIAL STATUTES

DRAFT BILL

## REVISION OF THE NORTH CAROLINA SPEEDY TRIAL STATUTES

G.S. 15A-701 through G.S. 15A-703 are repealed and in lieu thereof the following provisions are enacted.

G.S. 15A-701--TIME LIMITS

A. It is the public policy of the State of North Carolina that criminal charges be resolved without undue delay.

B. Unless the time is extended by an order of a superior court judge as provided by Section D of this statute, the trial of the defendant charged with a criminal offense shall begin within 180 days of the following:

- (1) The date the defendant is arrested, served with criminal process, waives an indictment, or is indicted, whichever occurs last;
- (2) The first regularly scheduled criminal session of superior court, for which a calendar has not been published at the time of notice of appeal, held after the defendant has given notice of appeal in a misdemeanor case for trial de novo in the superior court;
- (3) When a charge is dismissed, other than under G.S. 15A-702 or a finding of no probable cause pursuant to G.S. 15A-612, and the defendant is afterwards charged with the same offense or an offense based on the same act or transactions connected together

or constituting parts of a single scheme or plan, then from the date that the defendant was arrested, served with criminal process, waived an indictment, or was indicted, whichever occurs last, for the original charge;

(4) The date a mistrial is declared; or

(5) From the date the action occasioning the new trial becomes final when the defendant is to be tried again following an appeal or collateral attack.

C. The period of time from the time the district attorney enters a dismissal with leave for the nonappearance of the defendant until the district attorney reinstates the proceedings pursuant to G.S. 15A-932 shall be excluded in computing the time within which the trial of a criminal offense must begin.

D. Upon motion of the state or the defendant and for good cause shown, a superior court judge assigned to hold court in the district or a resident superior court judge of the district may enter a written order specifying a later date within which the criminal trial shall begin. For good cause shown, additional extension orders may be entered.

In considering whether to extend the time for commencement of the trial, the judge shall consider whether the ends of justice will be served by the extension of time and whether the reasons for the extension outweigh the interests of the public and the defendant in an earlier trial. The

factors, among others, which a judge shall consider in determining whether to extend the time are as follows:

- (1) whether the failure to extend the time would be likely to result in a miscarriage of justice;
- (2) whether the delay is due to the limited number of court sessions scheduled for the county;
- (3) whether the case taken as a whole is so unusual and so complex, due to the number of defendants or the nature of the prosecution or otherwise, that it is unreasonable to expect adequate preparation within the time limits established;
- (4) good cause for extending the time shall include those instances when the defendant, a witness, or counsel of record has an obligation of service to the State of North Carolina, including service as a member of the General Assembly; and
- (5) whether the case involves physical or sexual child abuse when a victim or witness is under sixteen (16) years of age, and whether further delay would have an adverse impact on the well-being of the child.

G.S. 15A-702--SANCTIONS

A. If a defendant is not brought to trial within the time required by G.S. 15A-701, then upon motion of the defendant the court shall:

- (1) enter an order dismissing the action with prejudice; or

- (2) enter an order dismissing the action without prejudice; or
- (3) enter such other order as may be appropriate under the circumstances.

In determining the order to be entered, the court shall consider, among other matters, the seriousness of the offense, the facts and circumstances of the case which led to the failure to begin the trial within the time allowed, and the impact of reprosecution on the administration of justice.

B. A dismissal with prejudice shall bar further prosecution of the defendant for the same offense or an offense based upon the same act or transaction, or on the same series of acts or transactions connected together or constituting parts of a single scheme or plan. A dismissal without prejudice shall not bar further prosecution.

C. Failure of the defendant to move for dismissal prior to trial or entry of a plea of guilty or no contest shall constitute a waiver of the right to dismissal under this section.

D. The sanctions authorized by this section shall not apply to proceedings in the district court division of the General Court of Justice.

G.S. 15A-703--EXPEDITED TRIAL

Upon motion of the defendant and for good cause shown, a judge may enter an order for an expedited trial of a pending criminal case. In ruling on such a motion, the judge



shall consider, among other matters, prejudice to the defendant if an expedited trial is not ordered and the ability of the State, with available resources, to expedite the trial.

APPENDIX D

DRAFT BILL

ON

AN ACT TO PROVIDE FOR TIMELY CALENDARING OF  
ARRAIGNMENTS AND TO ELIMINATE ARRAIGNMENTS  
FOR MISDEMEANOR APPELLANTS IN SUPERIOR COURT

DRAFT BILL

AN ACT TO PROVIDE FOR TIMELY CALENDARING OF  
ARRAIGNMENTS AND TO ELIMINATE ARRAIGNMENTS FOR  
MISDEMEANOR APPELLANTS IN SUPERIOR COURT

The General Assembly of North Carolina enacts:

Section 1. Subsection (a) of G.S. 15A-943 is amended to read as follows:

"(a) At trial sessions of superior court at which criminal cases are heard, the district attorney shall calendar arraignments on any day or days of the session so as to make the maximum best use of time during the session for the trial of cases."

Sec. 2. Subsection (c) of G.S. 15A-943 is rewritten to read as follows:

"(c) Arraignments shall not be held in misdemeanor cases appealed from district court. Upon giving notice of appeal to superior court in a misdemeanor case, the defendant shall be presumed to have entered a plea of not guilty. The district court shall determine whether the defendant is entitled, as an indigent, to appointment of counsel for the misdemeanor appeal, and shall appoint such counsel if the defendant is so entitled."

Sec. 3. This act shall be effective July 1, 1989.

APPENDIX E

DRAFT BILL  
ON

AN ACT TO PROVIDE FOR SPEEDY CRIMINAL CASE PROCESSING FOR  
DEFENDANTS HELD IN JAIL AWAITING INDICTMENT OR TRIAL

DRAFT BILLAN ACT TO PROVIDE FOR SPEEDY CRIMINAL CASE PROCESSING FOR  
DEFENDANTS HELD IN JAIL AWAITING INDICTMENT OR TRIALThe General Assembly of North Carolina enacts:

Section 1. The judge receiving a list of jailed defendants from the clerk of superior court, as provided by G.S. 7A-109.1, shall make a timely review of such list and shall enter such orders as are determined to be necessary for compliance with the provisions of this act.

Sec. 2. Any defendant held in jail awaiting indictment shall be released from custody if indictment is not returned at the next term of superior court following arrest or returned within 60 days following arrest, whichever is later. The judge may impose conditions on such release pursuant to G.S. 15A-534; provided, no condition shall be imposed that prevents the defendant's release from custody.

Sec. 3. Defendants held in jail awaiting trial, in either district or superior court, shall have priority on the criminal case trial calendars.

Sec. 4. G.S. 15-10 is hereby repealed.

Sec. 5. G.S. 7A-109.1(a) is amended by adding the following sentence:

"Persons held in confinement prior to trial or awaiting some further court proceeding shall be listed separately."

Sec. 6. G.S. 7A-109.1(b) is amended to read as follows:

"(b) the clerk must file the report with the superior court judge, or senior superior court judge, presiding over a mixed or criminal session at the beginning of each session; and must file the report with the district court judge, or senior district court judge, at each criminal session of district court, or weekly, whichever is the less frequent."

Sec. 7. This act shall be effective July 1, 1989.