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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

IN RE

FINAL PLAN FOR ACHIEVING ) GENERAL ORDER NO. 168-E  
PROMPT DISPOSITION OF )  
CRIMINAL CASES AND )  
IMPLEMENTING THE SPEEDY )  
TRIAL ACT OF 1974 )  
\_\_\_\_\_ )

The attached Final Plan for the United States District Court, Southern District of California, for achieving prompt disposition of criminal cases and implementing the Speedy Trial Act of 1974, as approved by the Judicial Council of the Ninth Circuit, is effective in this District as of July 1, 1980.

DATED: JUL 1 1980

*[Signature]*  
EDWARD J. SCHWARTZ, Chief Judge  
United States District Court

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

FINAL PLAN FOR  
ACHIEVING PROMPT DISPOSITION OF CRIMINAL CASES  
AND IMPLEMENTING THE SPEEDY TRIAL ACT OF 1974

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SECTION I

INTRODUCTORY MATERIAL

1. The Final Plan for Prompt Disposition of Criminal Cases in the United States District Court for the Southern District of California, as set forth in Section II herein, developed and recommended by the Planning Group, has been approved and adopted by the Court, subject to approval as required by 18 U.S.C. §3165(c).

2. The planning group for the Southern District of California is comprised of the following individuals:

Hon. Edward J. Schwartz, Chief Judge  
Hon. Harry R. McCue, U. S. Magistrate  
William W. Luddy, Chief Clerk  
Michael H. Walsh, U. S. Attorney  
Joseph A. Milchen, Esq.  
Marshall L. Foreman, Jr., Esq.  
John J. Cleary, Dir., Federal Defenders, Inc.  
Sidney Sonnabaum, Chief Probation Officer  
James R. Laffoon, U. S. Marshal  
Professor Robert L. Misner, Reporter

3. Copies of the plan will be available for public inspection at the Office of the Clerk, United States District Court for the Southern District of California at San Diego, California. A copy of Section II will be made available to practicing members of the Bar.

## SECTION II

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

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), and the Federal Juvenile Delinquency Act (18 U.S.C. §§ 5036, 5037), the judges of the United States District Court for the Southern District of California have adopted the following time limits and procedures to minimize undue delay and to further the prompt disposition of criminal cases and certain juvenile proceedings:

#### 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 magistrates, except for petty offenses as defined in 18 U.S.C. §1(3). Except as specifically provided, they are not applicable to proceedings under the Federal Juvenile Delinquency Act. [§ 3172]

(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(a) of the Federal Rules of Criminal Procedures.

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 10 days of arrest or service. No more than two ten-day extensions of time shall be granted so that the gross limit of 30 days shall not be exceeded. [§ 3161(b)]

(b) 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.

(c) Related Procedures.

(1) At the time of the earliest appearance before a judicial officer of a person who has

been arrested for an offense not charged in an indictment or information, the judicial officer shall establish for the record the date on which the arrest took place.

(2) In the absence of a showing to the contrary, a summons shall be considered to have been served on the date of service shown on the return thereof.

4. Time Within Which Arraignment Must Be Held.

(a) Time Limits. A defendant shall be arraigned within 10 days of 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.

(4) No sanctions will be imposed for failure to meet the 10 day limit.

[§ 3161(c)]

(b) Measurement of Time Periods. For the purpose of this section:

(1) A defendant who signs a written consent to be tried before a magistrate shall, if no

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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 take 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) Related Procedures. At the time of the defendant's earliest appearance before a judicial office 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. The judicial officer will also inform the defendant of his rights under this plan and pertinent legislation.

5. Time Within Which Trial Must Commence.\*

(a) Time Limits.

(1) In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the defendant appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs. If a defendant consents in writing to be tried before a magistrate \_\_\_\_\_, the trial shall commence within seventy days from the date of such consent. [§ 3161(c)(1)]

(2) Unless the defendant consents in writing to the contrary, the trial shall not commence less than thirty days from the date on which the defendant first appears through counsel or expressly waives counsel and elects to proceed pro se. The periods of delay set forth in 18 U.S.C. §3161(h) are not applicable in computing this minimum time limit. [§ 3161(c)(2)]

\*The commencement of a trial of a defendant who is in custody pursuant to State law and who has requested trial pursuant to Article III of the Interstate Agreement on Detainers (18 U.S.C., Appendix), or whose presence for trial has been obtained pursuant to Article IV of the Agreement, may be affected by time limits established by Article III(a) or Article IV(c) of the Agreement. Any conflict between the Speedy Trial Act of 1974 and the Interstate Agreement on Detainers must be resolved by the decisional process.

(3) The trial of a detained person who is being held in detention solely because he is awaiting trial shall commence not later than ninety days following the beginning of such continuous detention. The periods of delay enumerated in section 3161(h) are excluded in computing the time limitation specified in this section. [§3164]

(b) Retrial and Trial on Charges Reinstated by Appeals Court.

If a defendant is to be tried upon an indictment or information dismissed by the trial court and reinstated following an appeal or if the defendant is to be tried again following a declaration by the trial judge of a mistrial or following an order of such judge for a new trial, the trial shall commence seventy days from the date the action occasioning the trial or retrial becomes final. If the defendant is to be tried again following an appeal or collateral attack, the trial shall commence within seventy days from the date the action occasioning the retrial becomes final except that the court retrying may extend the period for retrial not to exceed 180 days from the date the action occasioning the retrial becomes final if unavailability of witnesses or other factors resulting from the passage of time shall make trial within seventy days impractical. The periods of delay

enumerated in section 3161(h) are excluded in computing the time limitations specified in this section. [§ 3161(e), 3161(d)(2)]

(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 filing with respect to the entire indictment or information shall be deemed to have been held on the day the order permitting withdrawal of the plea becomes final. [§ 3161(i)]

(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. [§ 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. [§ 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.

[§ 3161(h)(6)]

(4) The time within which an indictment or information must be obtained on the subsequent charge, or within which an arraignment must be held on such charge, shall be determined without regard to the existence of the original indictment or information.

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

(1) An arraignment shall be deemed to take place as provided in section 4(b)(2).

(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) Related Procedures.

(1) 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.  
[§ 3161(a)]

(2) 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 the original setting. A conflict in schedules of Assistant United States Attorneys will not be grounds for a continuance or delayed setting except under circumstances approved by the court

and called to the court's attention at the earliest practicable time. The United States Attorney will familiarize himself with the scheduling procedures of each judge and will assign or reassign cases in such a manner that the government will be able to announce, "Ready for trial."

(3) In the event that a complaint, indictment, or information is filed against a defendant charged in a pending indictment or information or in an indictment or information dismissed on motion of the United States Attorney, the trial on the new charge shall commence within the time limit for commencement of trial on the original indictment or information, unless the court finds that the new charge is not for the same offense charged in the original indictment or information or an offense required to be joined therewith.

(4) At the time of the filing of the complaint, indictment, or information described in paragraph (3), the United States Attorney shall give written notice to the court of that circumstance and of his position with respect to the computation of the time limits.

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

6, Exclusion of Time From Computations.

(a) Applicability. In computing any time limit under sections 3, 4, 5(a)(1), and 5(a)(3), the periods of delay set forth in 18 U.S.C. §3161(h) shall be excluded.

(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) 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 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.

(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.

(e) Post-Indictment Procedures.

(1) In the event that the court continues a trial beyond the time limit set forth in section 5(a)(1), the court shall determine whether the limit may be recomputed by excluding time pursuant to 18 U.S.C. §3161(h). When the court orders a continuance of other previously set events, it will state the reason for the continuance, identify it as excludable or non-excludable, and state the duration in days of excludable periods of time.

(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.

7. Time Within Which a Defendant Should be Sentenced.

(a) Time Limit. A defendant shall ordinarily be sentenced within 45 days of the date of his conviction or plea of guilty or nolo contendere.

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

8. 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).

9. Sanctions.

(a) Dismissal. Failure to comply with the requirements of Title I of the Speedy Trial Act may entitle the defendant to a dismissal of the charges against him as required by law. Nothing in this plan shall be construed to require that a case be dismissed in circumstances in which dismissal would not be required by 18 U.S.C. § 3162.\* This sanction shall become effective and apply to all cases commenced by arrest or summons and all information or indictments filed on or after July 1, 1980.

\*Dismissal may be also required in some cases under the Interstate Agreement on Detainers.

(b) 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 he knows is frivolous and without merit, (3) makes a statement for the purpose of obtaining a continuance which he knows to be false and which is material to the granting of 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). This sanction shall become effective and apply to all cases commenced by arrest or summons and all informations or indictments filed on or after July 1, 1980.

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

10. Persons Serving Terms of Imprisonment.

If the United States Attorney knows that a person charged with an offense is serving a term of imprisonment

in any penal institution, he shall promptly seek to obtain the presence of the prisoner for trial, or cause a detainer to be filed, in accordance with the provisions of 18 U.S.C. § 3161(j).

11. Effective Date

(a) Upon approval of the reviewing panel designated in accordance with 18 U.S.C. § 3165(c), this plan will take effect on July 1, 1980.

(b) This plan shall become effective and apply to all cases commenced by arrest or summons, and all informations or indictments filed, on or after July 1, 1980.

SECTION III

SUMMARY OF EXPERIENCE UNDER THE ACT  
WITHIN THE SOUTHERN DISTRICT OF CALIFORNIA

1. Progress Toward Meeting 1979 Standards.

(a) Arrest to Indictment

(1) Prior to July 1, 1976, 76.8% of all defendants were indicted within 30 days of arrest.

(2) For the period July 1, 1976 through December 31, 1977, 91% of all defendants (1254) were indicted or informed against within the 30 days limit required by the final plan.

(3) Experience to date indicates that the final plan limit of 30 days from arrest to indictment can be met with little or no difficulty. In the most recent period, January 1, 1979, through December 31, 1979, 98% of all defendants (797) were processed within the 30 day limit.

(b) Indictment to Arraignment

(1) Since July 1, 1976, it has been the experience of this district that 95% of all defendants are arraigned within the 10 day limit called for in this plan.

(c) Arraignment to Trial

(1) During the period July 1, 1976 through June 31, 1977, 56% of all defendants (1357) were tried or disposed of within 60 days of arraignment. In the same period 81.5% of all defendants were tried or disposed of within 100 days of arraignment.

(2) During the period July 1, 1977 through December 31, 1977, 79.5% of all defendants were disposed of within 60 days of arraignment and 95.6% within 100 days.

(3) The most recent reporting period, based upon the combined intervals and now designated "Indictment to Trial," indicates that 76% of all defendants are disposed of within the 70 day final plan limit. The data reveals, however, that during the last half of 1979 (July 1 through December 31) 95% of the 220 defendants reported were disposed of within the 70 day final plan limit.

(4) Of the 903 defendants convicted and sentenced during the January 1, 1979 through December 31, 1979 period, 69% were sentenced within 45 days.

(5) From the above summary, it can be seen that significant progress has been made toward achievement of the objectives set out in the interim plans. Despite the court's best efforts, only 76% of the defendants in the most recent period measured have been disposed of within the final plan's 70 day "Indictment to Trial" interval. The rate of improvement demonstrated

over the past years has leveled off. Every judge in this district is working to his full capacity. The final plan's 70 day interval cannot be met consistently without impacting the civil calendar negatively, unless the number of judges in this district is increased to the level authorized.

2. Problems Encountered. The principal problem encountered by the court in implementing the Speedy Trial Act has been the impact on the civil calendar. The judges have had to give priority to the handling of criminal cases despite the provisions of the Act to the contrary. In this district, a relatively large number of persons, defendants and material witnesses, are detained in custody pending trial because of their status as illegal aliens. An extraordinarily large number of material witnesses are detained in custody because they entered the United States illegally as participants in major alien smuggling ventures. Prior to the Ninth Circuit decision in the case of United States v. Mendez Rodriguez, 450 F.2d 1 (9th Cir., 1971), most of the aliens involved were returned to Mexico immediately, and only two to four witnesses were detained for the trial of the alleged smuggler. Mendez Rodriguez now requires that each and every alien involved in the smuggling venture be held and made available for the benefit of the defendant.

It should be noted that the major smuggling rings transport aliens by the truck full, and loads of fifty to one hundred persons, including three generations of the same family are not uncommon. The detention of men, women and children, ranging in ages from a few days to sixty years, poses serious problems for our trial judges. In addition, the judges, recognizing that in most cases the release of an illegal alien defendant might result in the defendant's removal from the jurisdiction of the United States, concentrated on the "in custody" cases; and every other case, civil or criminal, was thereby delayed to some extent. These cases simply had to be tried or disposed of within the 90 day period from arrest to trial, or earlier, not only to comply with the Speedy Trial Act, but also for humanitarian reasons. An analysis of the civil calendar statistics reveals that there was an increase of some 85% in civil filings during the year 1979 over the year 1978. Extra efforts have been made to move the civil cases along, but it can be seen that at the end of 1979, 54% more cases were pending than at the beginning; and that more cases were pending for longer periods of time. The Speedy Trial Act has adversely affected the processing time for civil cases.

3. Incidence of, and Reasons for, Requests for Allowances of Extensions of Time Beyond the District's Standards [18 U.S.C. §3106(b)(1), (4)]

(a) During the period from July 1, 1978 through December 31, 1979, the total number of defendants terminated was 1526. There were 285 incidents of excludable time involving 251 defendants.

(1) In the pre-indictment interval, there were 13 incidents of delays. Three were for determination of mental competency, seven were due to unavailability of witnesses, two were deferred prosecutions, and one was a result of a withdrawal of a guilty plea.

(2) In the post-indictment interval(s), there were 272 incidents of delay. Continuances granted in the "ends of justice" category accounted for 89 excludable incidents, 61 incidents involved unavailable defendants or witnesses, 28 incidents involved deferred prosecutions, interlocutory appeals accounted for 18 incidents, and delays due to mental examination after indictment accounted for 9 incidents.

The data suggests no unusual patterns, the longest periods of delay occur when the defendants are unavailable; or for processing of interlocutory appeals; or for deferred prosecutions. The more frequently reported "ends of justice" exclusion usually involve delays of 40 to 85 days, and this data confirms that the exclusion is being

properly applied.

4. The Effect on Criminal Justice Administration of the Prevailing Time Limits [18 U.S.C. §3166(b)(5)]

From a statistical viewpoint, it is clear that the prevailing time limits specified in the interim plan have had a beneficial effect on the administration of justice in this district. The cases that have been filed have been processed expeditiously and for the large part have been terminated within the limit. This has resulted in minimizing pre-trial detention time for defendants and material witnesses who are precluded from the benefits of the Bail Reform Act because of their immigration status. It has ensured the fairest trial on the merits, because of the minimum lapse of time from the offense to trial. It has removed to a great extent the stall strategy that was frequently encountered in the past. It has re-established the role of the trial judge in the management of the criminal calendar. The time limits replace the "reasonable time" standard that formerly prevailed and help to define in more precise terms the meaning of the Sixth Amendment speedy trial guarantee.

5. Frequency of Use of Sanctions Under the "Interim" Time Limits [18 U.S.C. §3166(b)(3)]

To date, there has not been a single instance reported concerning the imposition of sanctions for failure to comply with the time limits outlined in the interim plan.

#### SECTION IV

STATEMENT OF PROCEDURES AND INNOVATIONS THAT HAVE BEEN OR WILL BE ADOPTED BY THE DISTRICT COURT TO EXPEDITE THE DISPOSITION OF CRIMINAL CASES IN ACCORDANCE WITH THE SPEEDY TRIAL ACT [18 U.S.C. § 3167(b)]

The court has instituted many administrative procedures to comply with the provisions of the Speedy Trial Act. A computer monitored docketing procedure is being developed using the COURTRAN II Program. The principal procedures are:

1. A schedule of significant appearances is prepared for each defendant at the time of his initial appearance before the court. Based upon the defendant's date of arrest and custody status tentative arraignment, pretrial hearing and trial dates are established.

2. The clerk monitors the progress of the case and compares actual performance with the schedule.

3. The trial judge in charge of the case is constantly reminded of the schedule by the appearance on his calendar of the date of defendant's arrest and the tentative trial date.

4. "Early warning" reports are provided by the clerk to alert the judges to problem cases, so that preventive measures can be taken to minimize delay of the problem cases.

5. Judges reassign cases involving detained defendants or detained witnesses, so as to assure the trial of such cases as expeditiously as possible.

The clerk of the court shall be prepared to provide promptly upon request of the Circuit Executive sufficient information on the status of all criminal cases in this district to permit the Circuit Executive to ascertain the degree of a district's compliance with this Plan and the Speedy Trial Act of 1974.

SECTION V

STATEMENT OF ADDITIONAL RESOURCES NEEDED, IF ANY, TO  
ACHIEVE COMPLIANCE WITH THE ACT BY JULY 1, 1980  
[18 U.S.C. § 3167(b)]

The Speedy Trial Act of 1974 has been implemented in this district since September 29, 1975. During this period of time, the criminal caseload has varied considerably. The criminal cases have decreased in number but have increased in complexity. The civil caseload has increased this past year and consists of numerous complex matters.

Visiting judges have continued to assist our five district court judges in handling both criminal and civil cases. Despite this valuable assistance, and the best efforts of each of our judges, the time limits specified in the Final Plan have been exceeded in approximately 10% of the cases terminated. Our judges can do no more under the existing circumstances.

With the explosive growth of the San Diego-Tijuana Metropolitan area, the level of criminal activity will increase in direct proportion. This means, of course, that the criminal caseload will also increase. This will put the judges of this district in an impossible position to consistently meet the permanent time limits.

The additional resources required by this district to meet the permanent limits of the Speedy Trial Act are four additional district court judges and supporting staff. This, of course, includes additional magistrates to augment the efforts of the present magistrates who are being fully utilized by the district court judges.

## SECTION VI

### RECOMMENDATION FOR CHANGES IN STATUTES, RULES, OR ADMINISTRATIVE PROCEDURES [18 U.S.C. §§3166(b)(7), (d)(e)]

#### Recommendations.

(A) The Speedy Trial Act is clear in that it mandates sanctions if the time limit for each of the prosecutive intervals is not met. It is silent, however, in the event that the actual time interval is shorter than the limit. The overall objective is to bring defendants to trial within 100 days of the date of arrest. The Act therefore has a certain rigidity that provides no incentive for bettering the time limits for each interval. It would not be inconsistent with the intent of the Act to provide that the time saved in the first interval would be accumulated in the second interval, so long as the overall 100 day limit was adhered to.

In addition, the experience to date indicates that the overall limit is simply not long enough to meet all of the objectives of the Speedy Trial Act. The 100 day limit may be met by the courts operating under "forced draft," but this will leave the civil litigants adrift with little or no effective recourse in the United States Courts. It is therefore recommended that the

100 day limit be extended by at least thirty (30) days to 130 days from date of arrest to date of trial. This can be accomplished by increasing the second interval from 70 to 100 days.

(B) Provisions should be made for continuation of funding for Planning Group beyond the current fiscal year.

(C) §3162(b) should be amended to limit fines for appointed defense counsel and retained counsel to \$250.

## SECTION VII

### INCIDENCE AND LENGTH OF, REASONS FOR, AND REMEDIES FOR DETENTION PRIOR TO TRIAL [18 U.S.C. §3166(b)(6)]

In the 6 month period from July 1, 1979 through December 31, 1979, 556 defendants were charged by the United States. Of that total, 91% or 504 persons were detained in custody prior to trial for varying periods of time. The breakdown of detention periods is as follows:

1. Forty-seven percent or 240 persons were released from pre-trial custody within ten days of the date of arrest.
2. An additional seventeen percent or 86 persons were released from pre-trial custody during the next 20 day period (less than 30 days in custody).
3. An additional 34% or 173 persons were released from pre-trial custody within the next 60 day period.
4. Ninety-eight percent or 499 of all persons originally detained pre-trial were released from pre-trial custody within 90 days of the date of arrest.
5. Two percent or 5 persons were detained

in pre-trial custody over 90 days.

The Southern District of California abuts the International Border separating the United States from the Republic of Mexico. It is immediately adjacent to the cities of Mexicali and Tijuana, B.C., Mexico. These cities, combined with the American cities of San Diego and cities of the Imperial Valley, constitute two major metropolitan areas totalling some three million inhabitants. Each area is bisected by the largely imaginary line referred to as the International Boundary. There is a constant flow and counter flow of people and commerce to and through these metropolitan areas each year. In calendar year 1979 there were 9,132,198 vehicular border crossings with 27,886,408 passengers and 4,700,144 pedestrian crossings - a total of 32,586,549 people crossing between Mexico and the Southern District of California. The Southern District of California is the major gateway into the United States from Mexico, Central and South America. It provides the major routes into the Los Angeles area. Geography dictates that the Federal law enforcement effort focus on International criminal activity and border-related crime. Consequently, a major percentage of defendants charged by the United States are citizens of countries other than the United States, most of whom have entered the United

States illegally. The significance of this lies in the fact that these persons are considered flight risks and generally not candidates for pre-trial release on anything other than a cash or corporate surety bond. This category of defendant accounts for the major share of the pre-trial detainees.

The balance of the pre-trial detainees are citizens of the United States who reside outside of the local area. In these cases it is necessary to verify the information supplied by the defendants so that conditions of release can be fashioned in accordance with the Bail Reform Act. In this category, the defendants are generally released within a matter of hours or days from the time of their arrest.

The explanation for the small number of defendants detained in excess of 90 days lies in the fact that they were detained for reasons other than simply awaiting trial.

The Speedy Trial Act is silent concerning the problems created by the detention of material witnesses. For the sake of thoroughness and to carry out the true objective of minimizing pre-trial detention of all persons involved in the administration of criminal justice in the United States Courts, a discussion of the detention of material witnesses will be presented

in this section.

Since the Ninth Circuit Court of Appeals ruled in the case of United States v. Mendez Rodriguez, 450 F.2d 1 (9th Cir., 1971), the United States is compelled to detain each and every illegal alien involved in alien smuggling ventures if it prosecutes the smuggler. This has resulted in the incredible situation of detaining hundreds of uncharged persons in custody pending the trial of the accused persons, who are frequently released on bail. For the calendar year 1975, 813 persons were held in custody for 21,117 man days (or 58 man years) awaiting the trial of the alleged smugglers. It is ironical to note that only 62 man days were attributable to actual trial testimony of the material witnesses. The detention periods varied from a low of 2 days to a maximum of 101 days.

During the period July 1, 1976 through December 31, 1977, 2,186 material witnesses were detained 46,819 man days (or 128 man years). Only 75 man days were expended for trial testimony. The detention periods varied from a low of 2 days to a maximum of 126 days.

During the period January 1, 1978 through April 30, 1978, 1,070 material witnesses were detained 20,743 man days (or 57 man years). Only 8 man days were expended for trial testimony. The detention periods varied from a low of 2 days to a maximum of 94 days.

For Fiscal year 1979, 5,097 persons were held in custody for 73,029 man days (or 200 man years) awaiting

the trial of the alleged smugglers; yet the average custody days per person was 2.87 days less for 1979 than 1978. Only 38 days were expended for trial testimony.

The detention periods varied from a low of 1 day to 88 days for females and 1 day to 157 days for males.

#### Court Cases Generated

Organized Alien Smugglers	Fiscal Year 1979	1,498	
	Fiscal Year 1978	686	
		<u>812</u>	+ 108%

#### Fraudulent Documents

Aggravated Illegal Re-Entry	Fiscal Year 1979	3,216	
	Fiscal Year 1978	1,050	
		<u>2,166</u>	+ 200%

Total Increase 2,978 + 168%

The custody persons for this Court in calendar year 1979 was 11,593 as compared to 1978's 7,828 - an increase over-all of 48%. Criminals from Los Angeles impact on this district. In the year closing March 31, 1980 of 655 felony warrants executed by the U. S. Marshal of this district 156 (23.8%) were in Los Angeles; literally one out of four.

It is painfully obvious that this situation must be addressed by the Department of Justice, the Courts and Congress, to solve this cruel dilemma. The rationale of the Mendez Rodriguez case must be re-examined. Failing that, legislation should be enacted to define the criteria to be met before innocent persons can be deprived of their liberty.

The data relevant to this discussion is presented in Table 3.

SECTION VIII

STATISTICAL TABLES



# INCIDENCE OF AND REASONS FOR DELAY

DISTRICT  
CALIFORNIA, SOUTHERN

- CODE #REASON Under 18 USC 3161
- A Examination or hearing for mental or physical incapacity - (b)(1)(A).
  - B NARA examination - (b)(1)(B).
  - C State or federal trials on other charges - (b)(1)(D).
  - D Interlocutory appeals - (b)(1)(E).
  - E Motions (from filing to hearing or prompt disposition) - (b)(1)(F).
  - F Transfers from other districts (per FRCP rules 20, 21 & 40) - (b)(1)(G).
  - G Motion is actually under adjournment - (b)(1)(J).
  - H Misc. proceedings: probation or parole revocation, deportation, extradition - (b)(1)(I).
  - S Transportation from another district or to/from examination or hospitalization in ten days or less - (b)(1)(K).
  - 7 Consideration by court of proposed plea agreement - (b)(1)(L).
  - I Prosecution deferred by mutual agreement - (b)(1)(Z).
  - M Unavailability of defendant or essential witness - (b)(3)(A, B).
  - N Period of mental or physical incompetence of defendant to stand trial - (b)(3)(G).
  - O Period of NARA commitment or treatment - (b)(1)(C) & (6).
  - P Suspendng indictment end/or new charges - (b)(6).
  - R Defendant awaiting trial of co-defendant when no severance had been granted - (b)(1)(7).
  - T if more than one reason or note of reasons below given in support (A, B, B)
  - \*\*Ends of justice
  - T1 Failure to continue would stop further proceedings or result in miscarriage (B)(1)
  - T2 Case unusual or complex (B)(1)(I)
  - T3 30 days (B)(1)(H)
  - T4 Continuance granted in order to obtain or substitute counsel, or give major time to prepare
  - U Time up to withdrawal of guilty plea - 3161(i)
  - W Grand jury indictment time extended 30 more days - 3161(b)
  - X More than 1 exclusion with days aggregated

REPORT PERIOD  
 6 Months  
 July thru Dec '79

TOTALS

\*\*TERMINATED DEFENDANTS REPORTED DURING PERIOD WITHOUT EXCLUDABLE TIME WITH EXCLUDABLE TIME

DEFENDANTS 556 (A) OR "A"

DEFENDANTS 400 (B) 71.9

DEFENDANTS 156 (C) 28.1

INCIDENTS OF EXCLUDABLE TIME 174 (D) 96

CODE	LENGTH OF EXCLUDABLE DELAY PERIOD (NO. OF DAYS)							SUB-TOTALS OF "O"	OR "A"	INTERVAL IN WHICH EXCLUDABLE DELAY OCCURRED***
	0 to 10 days	11 to 21	22 to 42	43 to 84	85 to 120	121 + days	ONE			
A	2	3	0	0	0	0	5	2.9	2	
B	0	0	0	0	0	0	0	0	0	
C	0	0	0	1	1	0	2	1.1	2	
D	0	0	0	0	0	12	12	6.9	12	
E	5	25	3	0	0	0	33	19.0	33	
F	0	0	0	0	0	0	0	0	0	
G	5	0	0	0	0	0	5	2.9	5	
H	0	0	0	0	0	0	0	0	0	
S	0	0	0	0	0	0	0	0	0	
7	0	0	0	0	0	0	0	0	0	
I	1	0	0	0	0	16	17	9.8	2	
M	8	7	3	1	1	10	30	17.2	28	
N	1	0	0	0	0	0	1	0.6	1	
O	0	0	0	0	0	0	0	0	0	
P	0	1	0	0	0	0	1	0.6	1	
R	0	0	0	0	0	0	0	0	0	
T	7	10	12	27	4	4	64	36.8	64	
T1	0	0	0	0	0	0	0	0	0	
T2	0	0	0	0	0	0	0	0	0	
T3	0	0	0	0	0	0	0	0	0	
T4	0	0	0	0	0	0	0	0	0	
U	2	0	0	0	0	2	4	2.3	3	
W	0	0	0	0	0	0	0	0	0	
X	0	0	0	0	0	0	0	0	0	
TOTAL	31	46	18	29	6	44	174	100.0	167	

TABLE 2

Paragraph and subsection of 18 USC 3161, Speedy Trial Act of 1974, as amended, are shown with reason for delay below

\*\*An exclusion category newly created or modified by Aug. '79 amendment. \*\*DEFENDANT FIGURES DO NOT INCLUDE Juveniles, Appeals from U.S. Magistrate decisions, Rule 20 transfers out of district, pretrial diversion dispositions, removals from State courts and any petty offenses proceeded by information

\*\*\* Interval one: Averd to trial. Interval two: Indictment to trial

• SPEEDY TRIAL DATA ANALYSIS

TOTALS FOR

CALIFORNIA, SOUTHERN

# INCIDENCE OF AND REASONS FOR DELAY

During July 1, 1978 thru June 30, 1979

•• TERMINATED DEFENDANTS REPORTED DURING PERIOD 970 (A) <sup>5.6</sup> OF "A"  
 DEFENDANTS WITHOUT EXCLUDABLE TIME 875 (B) <sup>90.2</sup> OF "A"  
 DEFENDANTS WITH EXCLUDABLE TIME 95 (C) <sup>9.8</sup> OF "A"  
 INCIDENTS OF EXCLUDABLE TIME 111 (D) <sup>9.8</sup> OF "B"

••• INTERVAL IN WHICH EXCLUDABLE DELAY OCCURRED

REASON	LENGTH OF EXCLUDABLE DELAY PERIOD (NO. OF DAYS)						SUB-TOTALS OF "D"	% OF "B"	INTERVAL IN WHICH EXCLUDABLE DELAY OCCURRED		
	1 to 10 days	11 to 21	22 to 42	43 to 84	85 to 120	121 + days			ONE	TWO	THREE
A. Examination or hearing for mental or physical incapacity—(H)(1)(A)	5	1	4	0	0	0	10	9.0	1	0	0
B. NARA examination—(H)(1)(B)	0	0	0	0	0	0	0	0	0	0	0
C. State or federal trials on other charges—(H)(1)(C)	0	0	0	3	1	1	5	4.5	0	0	5
D. Interlocutory appeals—(H)(1)(D)	0	0	0	0	0	6	6	5.4	0	0	6
E. Hearings on pretrial motions—(H)(1)(E)	2	0	0	0	0	0	2	1.8	0	0	2
F. Transfers from other districts (per FRCP rules 20, 21 & 40), (H)(1)(F)	0	0	0	0	0	0	0	0	0	0	0
G. Motion is actually under advisement, (H)(1)(G)	0	0	3	0	0	0	3	2.7	0	0	3
H. Misc. proceedings: probation or parole revocation, deportation, extradition, (H)(1)	0	0	0	1	0	0	1	0.9	0	0	1
I. Prosecution deferred by mutual agreement, (H)(12)	0	0	0	1	1	1	3	11.7	0	0	3
M. Unavailability (includes fugitive) of defendant or essential witness, (H)(3)(A)(8)	9	3	2	2	0	22	38	34.2	5	9	24
N. Period of mental or physical incompetence of defendant to stand trial, (H)(4)	0	1	0	0	1	1	3	2.7	0	0	3
O. Period of NARA commitment or treatment, (H)(6)	0	0	0	0	0	0	0	0	0	0	0
P. Superseding indictment and/or new charges, (H)(6)	0	0	0	0	0	0	0	0	0	0	0
R. Delatant awaiting trial of co-defendant when no severance has been granted, (H)(7)	1	0	0	0	0	0	1	0.9	0	0	1
T. Continuance granted in the end of justice, (H)(8)	4	4	11	6	0	0	25	22.5	0	1	24
U. Time up to withdrawal of guilty plea (j)	0	0	0	0	0	0	0	0	0	0	0
W. Grand jury indictment time extended 30 more days, (B)	0	0	0	0	0	0	0	0	0	0	0
<b>TOTALS</b>	<b>21</b>	<b>9</b>	<b>20</b>	<b>13</b>	<b>3</b>	<b>45</b>	<b>111</b>	<b>100.0</b>	<b>6</b>	<b>13</b>	<b>92</b>

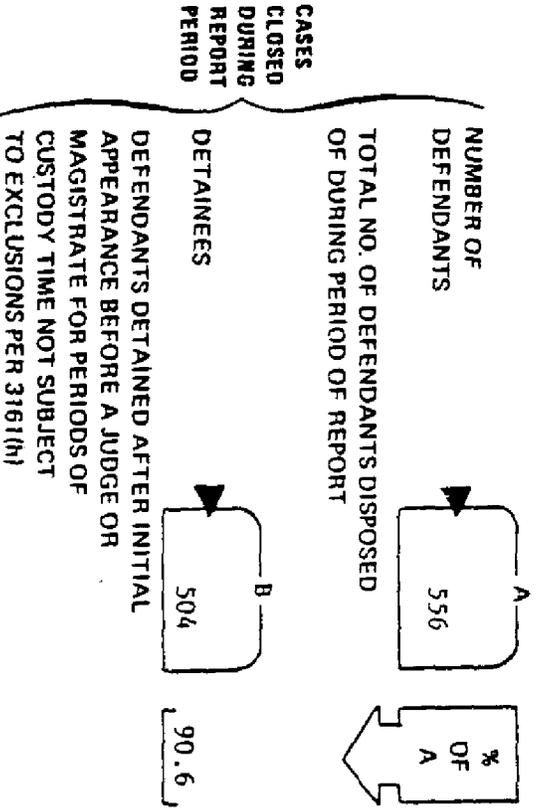
\* Paragraph and subsection of 18 USC 3161, Speedy Trial Act of 1974, are shown with reason for delay below.  
 \*\* DEFENDANT FIGURES DO NOT INCLUDE: Arraignment, Appoint from U.S. Magistrate's chambers, Rule 20 transfers out of district, pretrial diversion disposition, removals from State courts and any petty offenses processed by information.  
 \*\*\* Interval one: Arrest to indictment; Interval two: Indictment to Arraignment; Interval three: Arraignment to Trial.  
 Prepared by: Administrative Office of U.S. Courts

DISTRICT  
CALIFORNIA, SOUTHERN

SPEEDY TRIAL DATA ANALYSIS 31651(b)(8) & (c)(8)  
**PRETRIAL DETENTION**

TABLE  
3

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



DEFENDANTS GROUPED BY LENGTH OF NET\* TIME IN CONTINUOUS DETENTION STATUS

NUMBER OF DETAINÉES		% OF BOX B									
		NUMBER OF NET DAYS									
1 to 10	240	11 to 30	86	31 to 90	173	91 to 120	3	121 to 150	0	151 Plus	2
		47.6 %	17.1 %	34.3 %	.6 %	.0 %	.4 %				

\*"NET" IS GROSS TIME LESS EXCLUSIONS PER 3161(h). REPORT SHOULD INCLUDE ONLY DEFENDANTS HAVING NON-EXCLUDABLE ("NET") DETENTION TIME. WHEN DEFENDANT HAS MORE THAN ONE SUCH DETENTION PERIOD, INTERSPERSED WITH RELEASE TIME OR EXCLUDABLE TIME, DO NOT AGGREGATE THE SEPARATE DETENTION PERIODS. TAKE THE DEFENDANT'S LONGEST SINGLE PERIOD OF "NON EXCLUDABLE" DETENTION AS THE BASIS FOR DETERMINING WHICH ONE OF THE ABOVE COLUMNS TO PUT HIM IN.



# United States Department of Justice

UNITED STATES MARSHAL  
SOUTHERN DISTRICT OF CALIFORNIA  
SAN DIEGO, CALIFORNIA  
92189

## MATERIAL WITNESS SURVEY, 18 MONTH PERIOD FROM JULY 1, 1976 to DEC. 31, 1977

Material Witnesses = 16.02% of Total Prisoners  
 Material Witnesses - Average of days in custody 21.41  
 Material Witnesses @ \$1.00 per day = \$46,819.00  
 Court Witnesses @ \$20.00 per day = 1,500.00  
 Total Disbursements \$48,319.00

<u>Year</u>	<u>Mo.</u>	<u>Total Prisoners</u>	<u>Material Witnesses</u>	<u>Days in Custody</u>	<u>Court Days</u>
1976	July	576	28	864	
1976	Aug	516	15	153	
1976	Sep	622	39	1,169	11 @ 20.00 = \$220.00
1976	Oct	714	46	877	
1976	Nov	740	48	783	
1976	Dec	777	122	2,679	
1977	Jan	781	29	482	
1977	Feb	945	76	1,632	
1977	Mar	1,015	144	2,798	
1977	Apr	833	307	6,121	
1977	May	1,060	214	4,423	36 @ 20.00 = \$720.00
1977	Jun	702	200	4,290	5 @ 20.00 = \$100.00
1977	Jul	701	155	3,509	2 @ 20.00 = \$ 40.00
1977	Aug	769	148	3,013	7 @ 20.00 = \$140.00
1977	Sep	762	196	4,653	4 @ 20.00 = \$ 80.00
1977	Oct	589	131	3,233	10 @ 20.00 = \$200.00
1977	Nov	804	92	2,520	
1977	Dec	<u>738</u>	<u>196</u>	<u>3,620</u>	
		13,644	2,186	46,819	75
					\$1,500.00





# United States Department of Justice

UNITED STATES MARSHAL  
SOUTHERN DISTRICT OF CALIFORNIA  
SAN DIEGO, CALIFORNIA  
92189

## MATERIAL WITNESS SURVEY, 4 MONTH PERIOD FROM JAN. 1, 1977 TO APRIL 30, 1977

Material Witnesses = 23.39% of Total Prisoners  
 Material Witnesses - Average of days in custody 19.38  
 Material Witnesses @ \$1.00 per day = \$20,743.00  
 Court Witnesses @ \$20.00 per day = 160.00  
 Total Disbursements \$20,903.00

<u>Year</u>	<u>Mo.</u>	<u>Total Prisoners</u>	<u>Material Witnesses</u>	<u>Days in Custody</u>	<u>Court Days</u>
1978	Jan.	627	66	2,051	
1978	Feb.	1,147	168	3,631	8 @ 20.00 = \$160.00
1978	Mar.	1,914	495	9,068	
1978	Apr.	885	341	5,993	
		<u>4,573</u>	<u>1,070</u>	<u>20,743</u>	<u>8</u> <u>\$160.00</u>



UNITED STATES MARSHALS SERVICE

SOUTHERN DISTRICT OF CALIFORNIA

FISCAL YEAR 1978

OCTOBER 1, 1977 THRU SEPTEMBER 30, 1978

PRISONER STATISTICS

<u>TOTAL</u> <u>ALIENS</u>	<u>FY</u> <u>1978</u>	<u>TOTAL</u> <u>PRIS.</u>	<u>NON</u> <u>ALIENS</u>	<u>% OF</u> <u>TOTAL</u>	<u>ALIENS</u>	<u>% OF</u> <u>TOTAL</u>	<u>MAT.</u> <u>WITS.</u>	<u>ALIEN</u> <u>SMUGG.</u>	<u>ILLEG</u> <u>ENTRY</u>
24,465	Oct	589	361	61%	228	39%	136	39	53
17,919	Nov	804	535	67%	269	33%	177	32	60
15,074	Dec	738	594	80%	144	20%	83	27	34
27,008	Jan	640	440	69%	200	31%	140	25	42
28,339	Feb	851	317	37%	534	63%	412	52	70
34,896	Mar	966	285	30%	681	70%	541	73	67
37,832	Apr	643	314	49%	329	51%	176	47	106
41,778	May	770	321	42%	449	58%	279	91	79
32,019	Jun	624	42	7%	582	93%	366	84	132
40,303	Jul	638	243	38%	395	62%	180	96	119
37,722	Aug	533	142	46%	381	54%	178	62	141
27,859	Sep	571	133	23%	438	77%	234	58	146
<u>365,214</u>		<u>8,367</u>	<u>3,727</u>	<u>46%</u>	<u>4,630</u>	<u>54%</u>	<u>2,902</u>	<u>686</u>	<u>1,050</u>
(1)		(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

- (1) Total Alien apprehensions by U. S. Border Patrol-Chula Vista and Imperial Valley Sectors
- (2) Total prisoners received by U. S. Marshal-Southern District of Cali
- (3) Total of non alien prisoners received by U. S. Marshal-Southern District of California
- (4) Percentage of non alien prisoners of the total of 8,367 prisoners
- (5) Total alien prisoners received by U. S. Marshal-Southern District of California
- (6) Percentage of alien prisoners of the total of 8,367 prisoners
- (7) Total Material Witnesses apprehended
- (8) Total alien smugglers apprehended and charged
- (9) Total entry apprehended and charged

SOUTHERN DISTRICT OF CALIFORNIA

PRISONERS RECEIVED

Mo.	FY'71	FY'72	FY'73	FY'74	FY'75	FY'76	FY'77	FY'78	FY'79	FY'80	FY'81	FY'8
Jul.	396	504	959	957	941	710	Oct.	714	589	557		683
Aug.	477	560	1,114	1,172	738	812	Nov.	749	804	470		345
Sep.	632	353	1,008	1,317	838	1,385	Dec.	777	738	565		605
Oct.	499	500	717	1,295	675	915	Jan.	781	640	1,077		845
Nov.	415	487	1,127	1,349	577	595	Feb.	945	851	1,082		
Dec.	346	368	938	1,118	686	564	Mar.	966	966	1,213		
Jan.	476	464	1,090	1,204	865	794	Apr.	833	643	1,085		
Feb.	645	646	956	1,331	726	658	May	1,060	770	1,652		
Mar.	741	759	1,137	1,333	659	729	Jun.	702	624	1,245		
Apr.	435	921	1,112	1,262	689	649	Jul.		638	868		
May.	538	969	1,196	1,052	685	637	Aug.		533	799		
Jun.	494	925	876	926	1,029	592	Sep.		571	939		
	6,094	7,456	12,230	14,316	9,108	9,040		8,367		11,552		

Transition Quarter

Jul. 1977	576	701
Aug. 1977	516	769
Sep. 1977	549	762
Sub-total	1,641	2,232
TOTAL	10,681	9,808

Prisoners Booked Annually

Mo.	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982
Jan.	277	391	476	464	1,090	1,204	865	794	781	640	1,077	845		
Feb.	285	325	665	646	956	1,331	726	658	945	851	1,082			
Mar.	312	428	751	759	1,137	1,333	659	729	1,015	966	1,213			
Apr.	295	410	435	921	1,112	1,262	689	649	833	643	1,085			
May	283	350	538	969	1,196	1,052	685	637	1,060	770	1,652			
Jun.	252	449	484	925	876	926	1,029	592	702	624	1,245			
Jul.	222	396	504	959	957	941	710	576	701	638	868			
Aug.	182	477	560	1,111	1,172	738	812	516	769	533	799			
Sep.	250	353	353	1,008	1,317	838	1,385	549	762	571	939			
Oct.	210	499	500	717	1,295	675	915	714	589	557	683			
Nov.	201	415	487	1,127	1,349	577	595	749	804	470	345			
Dec.	167	346	368	938	1,118	686	564	777	738	565	605			
	2,936	4,839	6,111	10,544	13,575	11,563	9,634	7,940	9,699	7,828	11,593			

UNITED STATES MARSHALS SERVICE  
SOUTHERN DISTRICT OF CALIFORNIA

FEMALE MATERIAL WITNESSES

Note 1: The Table figures are the release records of the Metropolitan Correctional Center for Fiscal Year 1979.

Note 2: The average detention days for all Material Witnesses for El Centro was 5.37 days. This includes 395 taken to El Centro to relieve conditions in San Diego. Not all of the 395 were women.

DAYS IN CUSTODY	MATERIAL WITNESSES	DAYS IN CUSTODY	MATERIAL WITNESSES	DAYS IN CUSTODY	MATERIAL WITNESSES
1	4	18	26	40	2
2	19	19	14	43	3
3	42	20	6	44	3
4	35	21	7	47	3
5	20	22	3	54	1
6	12	23	13	56	3
7	8	24	4	57	1
8	12	26	15	59	3
9	36	28	8	62	2
10	11	29	3	63	1
11	21	30	1	64	1
12	19	31	4	67	2
13	20	32	3	69	1
14	6	33	5	77	1
15	16	34	2	78	1
16	10	36	5	88	2
17	7	39	1		

UNITED STATES MARSHALS SERVICE  
SOUTHERN DISTRICT OF CALIFORNIA

MALE MATERIAL WITNESSES

Note 1: The Table figures are the release records of the Metropolitan Correctional Center for Fiscal Year 1979.

Note 2: The average detention days for all Material Witnesses for El Centro was 5.37 days. This includes 395 taken to El Centro to relieve conditions in San Diego. Not all of the 395 were men.

DAYS IN CUSTODY	MATERIAL WITNESSES	DAYS IN CUSTODY	MATERIAL WITNESSES	DAYS IN CUSTODY	MATERIAL WITNESSES
1	8	27	5	57	1
2	20	28	17	59	10
3	132	29	28	60	1
4	98	30	18	61	5
5	87	31	21	63	3
6	72	32	4	64	2
7	28	33	28	65	1
8	61	34	4	71	1
9	107	35	28	73	8
10	116	37	5	74	4
11	88	38	7	76	1
12	108	39	10	77	2
13	136	40	4	80	3
14	75	41	8	82	1
15	44	42	14	84	1
16	63	43	13	88	2
17	19	44	7	89	4
18	45	45	3	92	7
19	50	46	1	99	21
20	20	47	5	101	1
21	26	48	2	114	1
22	27	49	1	127	1
23	36	50	3	141	1
24	52	51	2	157	1
25	23	54	8		
26	20	56	5		

UNITED STATES MARSHALS SERVICE  
SOUTHERN DISTRICT OF CALIFORNIA

FISCAL YEAR 1979

OCTOBER 1, 1978 THRU SEPTEMBER 30, 1979

PRISONER STATISTICS

TOTAL ALIENS	FY 1979	TOTAL PRIS.	NON ALIENS	% OF TOTAL	% OF ALIENS	MAT. WITS.	ALIEN SMUGG.	ILLEG. ENTRY	
12,783	Oct.	557	128	23%	429	77%	205	57	167
17,830	Nov.	470	102	22%	368	78%	119	54	195
16,646	Dec.	565	121	21%	444	79%	148	61	235
19,730	Jan.	1,077	142	13%	935	87%	477	133	325
14,436	Feb.	1,082	149	14%	933	86%	519	151	263
16,930	Mar.	1,213	159	13%	1,054	87%	495	157	402
12,120	Apr.	1,085	168	15%	917	85%	401	171	345
19,474	May	1,652	155	9%	1,497	91%	949	166	382
19,050	Jun.	1,245	173	14%	1,072	86%	687	133	252
11,311	Jul.	868	180	21%	688	79%	323	137	228
13,576	Aug.	799	136	17%	663	83%	325	139	199
10,521	Sep.	939	128	14%	811	86%	449	139	223
14,407		11,552	1,741	15%	9,811	85%	5,097	1,498	3,216
(1)		(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

- (1) Total Alien apprehensions by U. S. Border Patrol-Chula Vista and Imperial Valley Sectors
- (2) Total prisoners received by U. S. Marshal-Southern District of California
- (3) Total of non alien prisoners received by U. S. Marshal-Southern District of California
- (4) Percentage of non alien prisoners of the total of 15% prisoners
- (5) Total alien prisoners received by U. S. Marshal-Southern District of California
- (6) Percentage of alien prisoners of the total of 85% prisoners
- (7) Total Material Witnesses apprehended 5,097
- (8) Total alien smugglers apprehended and charged 1,498
- (9) Total Fraudulent Documents and Illegal Re-entry 3,216

DISTRICT

CALIFORNIA, SOUTHERN

SPEEDY TRIAL DATA ANALYSIS 31661(14) & (15)

CRIMINAL DISPOSITIONS

TABLE 4

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

A NUMBER OF DE-FENDANTS DISPOSED OF

1,038

		NOT CONVICTED		ACQUITTED AT TRIAL	
% OF A	B TOTAL NOT CON-VICTED	DISMISSED		ACQUITTED AT TRIAL	
		% OF B	TOTAL NO. DIS-MISSED	% OF B	COURT JURY
10.8	112	98.2	110	1.8	- 2

		CONVICTED		CONVICTED AT TRIAL	
% OF A	C TOTAL CON-VICTED	CONVICTED by PLEA		CONVICTED AT TRIAL	
		% OF C	PLEA of GUILTY or NOLO CON.	% OF C	COURT JURY
89.2	926	88.6	820	11.4	62 44

DISTRICT

SOUTHERN DISTRICT OF CALIFORNIA

REPORT COVERS Calendar 1979

SPEEDY TRIAL DATA ANALYSIS - 3186(d)(2)(C) & (S)  
 NUMBER OF MATTERS PRESENTED TO U.S. ATTORNEY FOR PROSECUTION, AND THE NUMBER ON WHICH PROSECUTION WAS INITIATED

TABLE 5

NAME OF AGENCY PRESENTING MATTER TO U.S. ATTORNEY FOR PROSECUTION	ON HAND & NEW		DECLINED				NEW		
	MATTERS ON HAND AT START OF PERIOD <sup>1</sup>	MATTERS RECD OR ORIGINATED BY U.S. ATTY DURING PERIOD	(1) * DETERMINATIONS THAT NEW PROSECUTIONS WOULD NOT BE INITIATED IN THIS DISTRICT	REFERRED TO OTHER FEDERAL DISTRICT	REFERRED TO STATE/LOCAL AUTHORITY	PRETRIAL DIVERSION	ALL OTHER DECLINATIONS <sup>2</sup>	OTHER DISPOSITIONS <sup>3</sup>	NEW PROSECUTIONS INITIATED DURING PERIOD <sup>4</sup>
Forest Service	2	15					13	2	2
Agriculture - All Other	1	3					1	2	110
Navy	2	11					1	2	5
Social Security Admin.	3	2					2	1	1
National Park Service	1	3					2	1	110
Drug Enforcement Admin.	68	386	2	2		1	57	285	275
FBI	177	341				3	75	163	291
Immigration & Naturalization	150	4348				8	78	4120	45
All Other Justice	27	144				1	55	70	1
All Other Labor	1								
<b>TOTALS</b>	<b>1</b>	<b>1</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>1</b>	<b>13</b>	<b>2</b>	<b>110</b>

\* "MATTER" REFERS TO INDIVIDUAL MATTER -- I.E. IF CHARGED OFFENSE INVOLVES 2 DEFENDANTS COUNT IT AS 2 MATTERS.  
 \* COL (1) INCLUDES MATTERS OF CIVIL OR FEDERAL NATURE, LACK OF EVIDENCE, JURISDICTIONAL PROBLEMS, ETC.  
 \* COL (2) INCLUDES MATTERS DISMISSED BY MAGISTRATE, NOT ON INITIATIVE OF U.S. ATTY., AND MATTERS RESOLVING IN NO TRUE BILL BY GRAND JURY.  
 \* COL (3) INCLUDES INDICEMENTS AND INDICIMENTS FILED AND MATTERS ADJUDICATED BEFORE U.S. MAGISTRATE.  
 \* COL (4) INCLUDES FEDERAL MATTERS THAT ARE STILL PENDING BEFORE GRAND JURY, AND ALL OTHER MATTERS NOT YET DECLINED -- PER COLS (C) THRU (F) -- NOT FALLING WITHIN SCOPE OF COL (G) OR (H).

DISTRICT

SOUTHERN DISTRICT OF CALIFORNIA

REPORT COVERS Calendar 1979

SPEDDY TRIAL DATA ANALYSIS - 3166(12)(1) & (5)  
 NUMBER OF MATTERS PRESENTED TO U.S. ATTORNEY FOR PROSECUTION, AND THE NUMBER ON WHICH PROSECUTION WAS INITIATED

TABLE 5

NAME OF AGENCY PRESENTING MATTER TO U.S. ATTORNEY FOR PROSECUTION	ON HAND & NEW		DECLINED				NEW			
	MATTERS ON HAND AT START OF PERIOD*	MATTERS RECD. OR INITIATED BY U.S. ATTY DURING PERIOD	(1) DETERMINATIONS WOULD NOT BE INITIATED IN THIS DISTRICT	REFERRED TO OTHER FEDERAL DISTRICT	REFERRED TO STATE/LOCAL AUTHORITY	PRETRIAL DIVERSION	ALL OTHER DECLINATIONS†	OTHER DISPOSITIONS‡	PROSECUTIONS INITIATED DURING PERIOD*	MATTERS ON HAND AT END OF PERIOD‡
Post Office	16	53	(a)	(a)	(a)	(a)	(a)	8	24	37
All Other State	1									1
Customs Bureau	139	81						16	65	139
Income Tax Unit	4	16						2	6	12
Alcohol Tax Unit	11	14	Record					4	13	8
Secret Service Bureau	35	129	No Record			3		24	98	42
All Other Treasury	1									1
Public Building Service	2	24						20	1	5
Interstate Commerce Comm.	2									2
Selective Service System	3									3
	(a)	(a)	(a)	(a)	(a)	(a)	(a)	(a)	(a)	(a)

\* "MATTER" REFERS TO DEFENDANT MATTER - I.E. IF CLAIMED OFFENSE INVOLVES 2 DEFENDANTS COUNT IT AS 2 MATTERS  
 † COL (1) INCLUDES MATTERS DECLINED FOR WANT OF PROSECUTIVE MERIT, LACK OF EVIDENCE, JURISDICTIONAL PROBLEMS, ETC.  
 ‡ COL (2) INCLUDES MATTERS DISMISSED BY MAGISTRATE, NOT ON INITIATIVE OF U.S. ATTY., AND MATTERS RESULATING IN NO TRUE BILL BY GRAND JURY  
 § COL (3) INCLUDES INDICTMENTS AND INFORMATION FILED AND MATTERS ADJUDICATED BY FINE U.S. MAGISTRATE  
 ¶ COL (4) INCLUDES DEFERRED MATTERS THAT ARE STILL PENDING BEFORE GRAND JURY, AND ALL OTHER MATTERS NOT YET DECLINED - PEN COLS (C) THRU (F) - NOT FALLING WITHIN SCOPE OF COL (G) OR (H)

DISTRICT

SOUTHERN DISTRICT OF CALIFORNIA

REPORT COVERS Calendar 1979  
PERIOD OF:

SPEEDY TRIAL DATA ANALYSIS - 31661(2)(3) & 151

NUMBER OF MATTERS PRESENTED TO U.S. ATTORNEY FOR PROSECUTION, AND THE NUMBER ON WHICH PROSECUTION WAS INITIATED

TABLE 5

NAME OF AGENCY REPRESENTING MATTER TO U.S. ATTORNEY FOR PROSECUTION	ON HAND & NEW MATTERS		DECLINED MATTERS					NEW MATTERS	
	MATTERS ON HAND AT START OF PERIOD <sup>1</sup>	MATTERS RECEIVED ORIGINATED BY U.S. ATTY DURING PERIOD	(1) DETERMINATIONS THAT NEW PROSECUTIONS WOULD NOT BE INITIATED IN THIS DISTRICT <sup>1</sup>	REFERRED TO OTHER FEDERAL DISTRICT	STATE/LOCAL AUTHORITY	PRETRIAL DIVERSION	ALL OTHER DECLINATIONS <sup>1</sup>	OTHER DISPOSITIONS <sup>1</sup>	PROSECUTIONS INITIATED DURING PERIOD <sup>4</sup>
Veterans Administration	2	4						2	4
White House		1						1	
Environmental Science Ser. Adm.		2							2
All Other Defense		2						2	
All Other HEW		3				1		1	1
Fish & Wildlife Service		3					3		
Department of Transportation		7					1	2	4
Federal Communication Comm.		3						2	1
General Services Admin.		2					1	1	
State/County/Municipal Authorities		8						5	3
<b>TOTAL</b>									

<sup>1</sup> "MATTERS" REFERS TO DEFENDANT MATTER - I.E. IF CLAIMED OFFENSE INVOLVES 2 DEFENDANTS COUNT IT AS 2 MATTERS  
<sup>2</sup> COL (F) INCLUDES MATTERS DECLINED FOR WANT OF PROSECUTIVE MERIT, LACK OF EVIDENCE, JURISDICTIONAL PROBLEMS, ETC.  
<sup>3</sup> COL (G) INCLUDES MATTERS DISMISSED BY MAGISTRATE, NOT ON INITIATIVE OF U.S. ATTY., AND MATTERS RESULTING IN NO TRUE BILL BY GRAND JURY  
<sup>4</sup> COL (H) INCLUDES INDICTMENTS AND INFORMATION FILED AND MATTERS ADJUDICATED BEFORE U.S. MAGISTRATE  
<sup>5</sup> COL (I) INCLUDES DEFERRED MATTERS THAT ARE STILL PENDING BEFORE GRAND JURY, AND ALL OTHER MATTERS NOT YET DECLINED - PER COLS (G) THRU (F) - NON FALLING WITHIN SCOPE OF COL (G) OR (H)

DISTRICT

SOUTHERN DISTRICT OF CALIFORNIA

REPORT COVERS Calendar 1979

SPEEDY TRIAL DATA ANALYSIS - 31661(12/13) & 161  
 NUMBER OF MATTERS PRESENTED TO U.S. ATTORNEY FOR PROSECUTION, AND THE NUMBER ON WHICH PROSECUTION WAS INITIATED

TABLE 5

NAME OF AGENCY PRESENTING MATTER TO U.S. ATTORNEY FOR PROSECUTION	ON HAND & NEW MATTERS		DECLINED MATTERS				NEW PROSECUTIONS		
	MATTERS ON HAND AT START OF PERIOD <sup>1</sup>	MATTERS REC'D OR ORIG. NATED BY U.S. ATTY DURING PERIOD	DETERMINATIONS THAT NEW PROSECUTIONS WOULD NOT BE INITIATED IN THIS DISTRICT <sup>2</sup>	REFERRED TO OTHER STATE/ FEDERAL DISTRICT	PRETRIAL DIVERSION	ALL OTHER DECLINATIONS <sup>3</sup>	OTHER DISPOSITIONS <sup>4</sup>	PROSECUTIONS INITIATED DURING PERIOD <sup>5</sup>	MATTERS ON HAND AT END OF PERIOD <sup>1</sup>
Unknown Agency		7	No Record	No Record			6	1	
TOTALS	648	5612			14	14	370	4866	1105

<sup>1</sup> "MATTERS" RELIES TO DEFENDANT MATTER - I.E. IF CHARGED OFFENSE INVOLVES 2 DEFENDANTS COUNTY IT AS 2 MATTERS  
<sup>2</sup> COL (D) INCLUDES MATTERS IN WHICH DEFENDANT WANT OR PREFERATIVE MEF, LACK OF EVIDENCE, JURISDICTIONAL PROBLEMS, ETC.  
<sup>3</sup> COL (G) INCLUDES MATTERS DISMISSED BY MAGISTRATE, NOT ON INITIATIVE OF U.S. ATTY., AND MATTERS RESULTING IN NO TRIAL BY GRAND JURY  
<sup>4</sup> COL (H) INCLUDES INDICTMENTS AND INFORMATION FILED AND MATTERS ADJUDICATED BEFORE U.S. MAGISTRATE  
<sup>5</sup> COL (I) INCLUDES MATTERS THAT ARE STILL PENDING BEFORE GRAND JURY, AND ALL OTHER MATTERS NOT YET DECLINED - PER COLS (C) THRU (F) - NON FALLING WITHIN SCOPE OF COL (G) OR (H)

DISTRICT

CALIFORNIA, SOUTHERN

SPEEDY TRIAL DATA ANALYSIS 3167(b)(6)

STATUS OF CIVIL CALENDAR

TABLE  
6

REPORT PERIOD { COMPARISON OF TWO CALENDAR YEARS: 1 JAN THROUGH 31 DEC 1978, AND 1 JAN THROUGH 31 DEC 1979.

	NUMBER OF CIVIL CASES				PERCENTAGE INCREASE OR DECREASE
	PENDING AT START OF REPORT PERIOD	FILED DURING REPORT PERIOD	PENDING AT END OF REPORT PERIOD		
1978	(1) 1,185	(2) 1,124	(3) 1,097	(4) -7.4	
1979	1,097	2,088	1,687	53.8	

	LENGTH OF TIME CASES IN COLUMN 3 ABOVE HAVE BEEN PENDING					
	Under 3 Mos	3 to 6 Mos	6 to 12 Mos	12 to 18 Mos	18 to 24 Mos	24 Mos & Over
1978	276	161	192	135	77	256
1979	287	623	296	135	86	260

SECTION IX

EFFECTIVE DATE OF PLAN

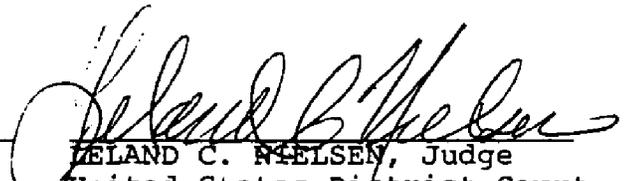
Upon approval by the reviewing panel designated in Title 18, United States Code, Section 3165(c), this Final Plan shall become effective July 1, 1980.

DATED:

  
EDWARD J. SCHWARTZ, Chief Judge  
United States District Court

  
GORDON THOMPSON, JR., Judge  
United States District Court

(absent from District)  
HOWARD B. TURRENTINE, Judge  
United States District Court

  
HELAND C. NIELSEN, Judge  
United States District Court

  
WILLIAM B. ENRIGHT, Judge  
United States District Court

OFFICE OF THE CIRCUIT EXECUTIVE  
UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT  
P.O. Box 42068  
SAN FRANCISCO, CALIFORNIA 94101

WILLIAM B. LUCK  
CIRCUIT EXECUTIVE

June 26, 1980

Honorable Edward J. Schwartz  
Chief Judge  
Southern District of California  
940 Front Street  
San Diego, California 92189

Dear Judge Schwartz:

The Judicial Council of the Ninth Circuit has today approved the Southern District of California's Final Plan for Achieving Prompt Disposition of Criminal Cases. This plan was sent to the Council for approval on April 4, 1980.

Sincerely,

  
William B. Luck

WBL/lym