UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

RE:

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

GENERAL ORDER No. 77

Upon approval of the Reviewing Panel designated in accordance with 18 U.S.C. §3165(c) and Rule 50(b) of the Federal Rules of Criminal Procedure, the time limits and procedures set forth herein shall become effective on July 1, 1979, and shall supersede those previously in effect.

DATED: May 5, 1978.

THOMAS J. MacBRIDE
CHIEF UNITED STATES DISTRICT JUDGE

Approved by The Judicial Council of the Ninth Circuit on June 29, 1978.

Attest:

James R. Grindstaff
Clerk, U.S. District Court
Eastern District of California

Plan for prompt disposition of criminal cases

Final plan pursuant to Speedy Trial Act of 1974 — 18 U.S.C. § 3165(e)(2)

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

Section I

Introductory Material

SECTION I

INTRODUCTORY MATERIAL

A. The Plan for Prompt Disposition of Criminal Cases in the United States District Court for the Eastern District of California, including the time limits set forth in Section II hereof, developed and recommended by the Speedy Trial Planning Group, has been approved and adopted by the Court on May 5, 1978, subject to approval as required by 18 U.S.C. § 3165(c).

B. The Speedy Trial Planning Group for the Eastern District of California which proposed this Plan was comprised of the following individuals:

Chief Judge Thomas J. MacBride, Chairman

Alan D. Christensen, United States Magistrate

Esther Mix, United States Magistrate

John F. Douville, Chief Probation Officer

James M. Grindstaff, Clerk of the Court

Robert T. Laroche, United States Marshal

Professor John Bilyeu Oakley, Reporter

William B. Shubb, Esq.

Herman Sillas, United States Attorney

E. Richard Walker, Federal Defender

C. Copies of the Plan shall be made available for public inspection at the Office of the Clerk, United States District Court for the Eastern District of California at Sacramento, California, and Fresno, California. A copy of Section II shall be made available to practicing members of the Bar.

Section II

Statement of Time Limits Adopted by the Court and Procedures for Implementing Them

SECTION II

STATEMENT OF TIME LIMITS ADOPTED BY THE COURT AND PROCEDURES FOR IMPLEMENTING THEM

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. §§ 3161-3174), and the Federal Juvenile Delinquency Act (18 U.S.C. §§ 5036, 5037), the judges of the United States District Court for the Eastern District of California have adopted the time limits and procedures set forth below as subsections 1 through 12 of Section II of this Plan, in order 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. [See 18 U.S.C. § 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.

(c) Definitions. A "judicial officer" is either a judge or a magistrate. The term "Court" includes any United States judge or magistrate assigned to the Eastern District of California. "Excludable time" means any period of delay set forth in 18 U.S.C. § 3161(h).

2. Priorities in Scheduling Criminal Cases

Preference shall be given to criminal proceedings as far as practicable, in accordance with Rule 50(a) of the Federal Rules of Criminal Procedure.

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 30 days of arrest or service. [See 18 U.S.C. § 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 filed in this district is unsealed; or

(3) The date of the defendant's first appearance before a judicial officer of this district. [See 18 U.S.C. § 3161(c).]

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

(1) A defendant who signs a written consent to be tried before a magistrate shall, if no indictment or information charging the offense has been filed, be deemed indicted on the date of such consent.

(2) An arraignment shall be considered to 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 officer of this district, the officer shall 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.

5. Time Within Which Trial Must Commence.*

(a) Time Limits. The trial of a defendant shall commence within 60 days of the arraignment. [See 18 U.S.C. § 3161(c).]

(b) Retrial. The retrial of a defendant shall commence within 60 days of the date the order occasioning the retrial becomes final. If the retrial follows an appeal or collateral attack, the Court may extend the period if unavailability of witnesses or other factors resulting from passage of time make trial within 60 days impractical. The extended period shall not exceed 180 days. [See 18 U.S.C. § 3161(e).]

(c) Withdrawal of Plea. If a defendant enters a plea of guilty or nolo contendere to any or all charges in an indictment or information and is subsequently permitted to withdraw the plea, the arraignment 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. [See 18 U.S.C. § 3161(i).]

(d) Superseding Charges. If, after an indictment or information has been filed, a complaint, indictment, or information is filed which 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 shall be determined as follows:

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* The commencement of 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 said 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. This Plan applies to such defendants only to the extent that the Speedy Trial Act of 1974 is held to apply to such defendants.

(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. [See 18 U.S.C. § 3161(d).]

(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. [See 18 U.S.C. § 3161(h)(6).]

(3) If the original indictment or information was dismissed on motion of the United States Attorney before the filing of the subsequent charge, the trial shall commence within the time limit for commencement of trial on the original indictment or information, but the period during which the defendant was not under charges shall be excluded from the computations. Such period is the period between the dismissal of the original indictment or information and the date the time would have commenced to run on the subsequent charge had there been no previous charge. [See 18 U.S.C. § 3161(h)(6).]

(4) In cases in which subparagraph (2) or (3) applies but no arraignment is held on the original indictment or information, the time limit for commencement of trial shall be computed as if such arraignment had been held on the last permissible day, as determined under subsection 4(a) herein.

(5) 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 subsection:

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

(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 shall be set for trial on a date certain. [See 18 U.S.C. § 3161(a).]

(2) Individual calendars shall be managed so that absent unusual circumstances every criminal case set for trial is reached within five (5) court days of the date originally set. A conflict in schedules of Assistant United States Attorneys shall not be ground for a continuance or a delay in the setting of a trial date except under circumstances approved by the Court and called to the Court's attention at the earliest practicable time. It is the duty of the United States Attorney to be familiar with the scheduling procedures of each judicial officer and to assign or reassign cases in such manner that the government will be ready for trial on the date set pursuant to subparagraph (1) above.

(3) The Chief Judge of the District shall have the ultimate responsibility for determining whether certain cases need to be reassigned in order to comply with the time requirements of this Plan.

(4) In the event that a complaint, indictment, or information is filed against a defendant charged in a pending indictment or information or in an indictment or information dismissed on motion of the United States Attorney, the trial on the new charge shall commence within the time limit specified above in paragraph (d) of this subsection, unless the Court makes a finding on the record that the new charge is not for the same offense charged in the original indictment or information or an offense required to be joined therewith.

(5) At the time of the filing of a complaint, indictment, or information such as described in subparagraph (4) above, the United States Attorney shall give written notice to the Court of that circumstance and of the government's position with respect to the computation of the time limits set forth in this Plan.

(6) All pretrial hearings shall be conducted as soon after the arraignment as is possible consistently with the priorities of other matters on the Court's criminal docket.

(7) The date first set for trial pursuant to subparagraph (1) of this paragraph shall not thereafter be changed to a date more than five days later, or to a date which does not comply with the limits set by this Plan for the time within which trial must commence, without the Court having made a determination on the record as provided in subsection 6 of this section as to

whether excludable time has accrued or is accruing in the case, or whether a continuance is justified under 18 U.S.C. § 3161(h)(8). If the Court determines that no excludable time has accrued, it shall so rule on the record; if the Court determines that excludable time has accrued, or is accruing, it shall state on the record the amount of excludable time which has been found to have accrued.

(i) Any new trial date set pursuant to this subparagraph shall be within the limits set by this Plan for the time within which trial must commence, as adjusted to reflect any excludable time determined by the Court to have accrued or which will accrue by virtue of the granting of a continuance under 18 U.S.C. § 3161(h)(8).

(ii) If excludable time is accruing at the time of the Court's granting of a continuance, and the date the accrual of excludable time will cease cannot then be determined, the Court shall grant an indefinite continuance and it shall be the duty of the United States Attorney to move for a trial date to be set as soon as the accrual of excludable time appears to have ceased. At the time a trial date is then set, the Court shall make a determination on the record as to the amount of excludable time which has theretofore accrued.

6. Computation of Excludable Time.

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

(b) Procedures for Determination of Excludable Time.

(1) Determinations concerning excludable time shall be made on the record by the Court. Counsel shall have five days from the date of the order in which to object to such a determination of the amount of excludable time. It is the duty of all counsel appearing in this Court to assist the Court in accurately determining and classifying the accrual of excludable time.

(2) 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.

(3) When a defendant is released on bond in another district for the purpose of returning to this district, said defendant shall appear on the date set by the Court in this district. At the time of such appearance, the Court shall note the dates of arrest, indictment, removal order, and any other significant event, and a determination as to the amount of

excludable time shall be made forthwith, providing, however, that before a determination of excludable time is made the defendant shall have had the opportunity to consult with counsel and counsel shall have been given the opportunity to be heard on the matter.

(i) If the defendant appears without counsel, counsel shall be appointed, where appropriate. The case shall be set over to a date certain for a preliminary hearing if the defendant has not previously been indicted or had a preliminary hearing therein. If the defendant has previously been indicted or had a preliminary hearing therein, the case shall be set over to a date certain for arraignment.

(ii) If the defendant appears with counsel, the defendant shall be arraigned at that time if the defendant has previously been indicted or had a preliminary hearing therein. If the defendant has not previously been indicted or had a preliminary hearing therein, the case shall be set over to a date certain for a preliminary hearing.

(4) In any removal of a defendant under Rule 40 of the Federal Rules of Criminal Procedure, from this district to another, the Court before signing the warrant of removal shall make a determination on the record of the amount of excludable time accrued from the time of arrest to the time of the signing of the warrant of removal.

(5) When a defendant is returned to this district in custody, said defendant shall be brought immediately before a

judicial officer. The dates of arrest, indictment, removal order and any other significant event shall be noted by the officer, and a determination as to the amount of excludable time shall be made forthwith, providing, however, that before a determination of excludable time is made the defendant shall have had the opportunity to consult with counsel and counsel shall have been given the opportunity to be heard on the matter.

(i) If the defendant appears without counsel, counsel shall be appointed, where appropriate. The case shall be set over to a date certain for a preliminary hearing if the defendant has not previously been indicted or had a preliminary hearing therein. If the defendant has previously been indicted or had a preliminary hearing therein, the case shall be set over to a date certain for arraignment.

(ii) If the defendant appears with counsel, the defendant shall be arraigned at that time if the defendant has previously been indicted or had a preliminary hearing therein. If the defendant has not previously been indicted or had a preliminary hearing therein, the case shall be set over to a date certain for a preliminary hearing.

(c) 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 subsection 3 hereof, the United States Attorney may file a written motion with the Court for a determination of excludable time or for a continuance

under 18 U.S.C. § 3161(h)(8). The Court shall not grant such a motion until counsel for the defendant, whenever practicable, has been given the opportunity to be heard on the matter.

(2) The motion of the United States Attorney shall state (i) the period of time proposed for exclusion, and (ii) the basis of the proposed exclusion. If the motion is for a continuance under 18 U.S.C. § 3161(h)(8), it shall also state whether or not the defendant is being held in custody on the basis of the complaint. In appropriate circumstances, the motion may include a request that some or all of the supporting material be considered ex parte and in camera.

(3) The Court may grant a continuance under 18 U.S.C. § 3161(h)(8) for either a specific period of time or a period to be determined by reference to an event (such as recovery from illness) not within the control of the government. If the continuance is to a date not certain, the Court shall require one or both parties to inform the Court promptly when and if the circumstances that justify the continuance no longer exist. In addition, the Court shall require one or both parties to file periodic reports bearing on the continued existence of such circumstances. The Court shall determine the frequency of such reports in the light of the facts of the particular case.

(d) Records of Excludable Time.

(1) The clerk of the Court shall enter on the docket information with respect to any periods of excludable time as to each defendant which have been determined on the record by the Court. The clerk of the Court shall also enter on the docket any other information of record pertaining to excludable time.

(2) Any and all documents and records prepared or maintained by the clerk relating to excludable time shall be for information purposes only and shall not constitute evidence that such excludable time has occurred where in fact no determination has been made by a judicial officer in the manner prescribed by paragraph (b) of this subsection.

7. Time Within Which Defendant Should be Sentenced.

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

(b) Related Procedures. If the defendant and defendant's 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. The failure of the government or the Court to comply with the requirements of Title I of the Speedy Trial Act of 1974, 18 U.S.C. § 3161 et seq., may entitle the defendant involved to dismissal of the charges against said defendant. Nothing in this plan shall be construed to require that a case be dismissed in circumstances in which

dismissal is not required by statute or the Interstate Agreement on Detainers. In particular, it should be noted that the time period for sentencing set in subsection 7 herein is a statement of this district's voluntarily assumed goal, and is not required or enforced by the Speedy Trial Act of 1974.

(b) Discipline of Attorneys. In a case in which counsel for the government or any defendant (i) knowingly allows the case to be set for trial without disclosing the fact that a necessary witness would be unavailable for trial, (ii) knowingly files a frivolous motion solely for the purpose of delay; (iii) makes a statement for the purpose of obtaining a continuance with knowledge that the statement is false and is material to the granting of the continuance, or (iv) otherwise willfully fails to proceed to trial without justification consistent with 18 U.S.C. § 3161 and this Plan, the Court may punish such counsel as provided in 18 U.S.C. §§ 3162(b) and (c).

(c) Alleged Juvenile Delinquents. An alleged delinquent in detention pending trial whose trial has not commenced within the time limit set forth in 18 U.S.C. § 5036 is entitled pursuant to that section to dismissal of the information against such person unless the United States Attorney shows that the delay was consented to or caused by the juvenile and the juvenile's counsel, or is 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 in this district is serving a term of imprisonment in any penal institution, the United States Attorney shall promptly seek to obtain the presence of the prisoner for trial, or cause a detainer to be filed, in accordance with the provisions of 18 U.S.C. § 3161(j).

11. Monitoring Compliance With Time Limits

(a) As part of its continuing study of the administration of criminal justice in this district, the district's Speedy Trial Planning Group shall pay special attention to those cases in which there is a failure to comply with time limits set forth herein. From time to time, the Group may make appropriate recommendations to prevent repetition of failures.

(b) In addition to maintaining such statistical data as is required to be maintained by the Administrative Office of the United States Courts and by this Plan, including paragraph (c) of this subsection, the clerk will from time to time report to the other members of the Speedy Trial Planning Group the circumstances of each case in which there has been a determination by a judicial officer of a failure to comply with any time limit set forth herein, and of each case in which it appears to the clerk from facts of record that such a failure has occurred although no judicial determination of non-compliance has been made. Said report shall include any order or opinion which sets forth such a determination of non-compliance by a judicial officer, together with any order or opinion imposing a sanction for non-compliance.

(c) The clerk 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 this district's degree of compliance with this Plan and the Speedy Trial Act of 1974.

12. Effective Date.

(a) Upon approval of the reviewing panel designated in accordance with 18 U.S.C. § 3165(c), this Plan shall take effect on July 1, 1979.

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

(c) If a defendant was arraigned before July 1, 1979, the time within which the trial must commence shall be determined under the Plan that was in effect at the time of such arraignment.

Section III

Summary of Experience Under the Act Within the District

SECTION III

SUMMARY OF EXPERIENCE UNDER THE ACT WITHIN THE DISTRICT

A. Progress Toward Meeting the 1979 Standards.

The various segments of Table 1 of Section VIII of this Plan show excellent progress toward meeting the 1979 standards. The 30-day limit on the period between arrest or service of summons and indictment or information has been in effect since July 1976. For the year ending with June 1977, the period was complied with in over 93 percent of cases, and in the latter half of 1977, a compliance rate of over 98 percent was achieved. Although there was some lag in compliance while new arraignment procedures were adopted to avoid delay in the entering of pleas, more than two-thirds of cases in 1976-77 and better than three-quarters of cases in the latter half of 1977 met the 1979 standard of ten days to arraignment from indictment or appearance. Although the district will not begin operating under a 60-day arraignment to trial period until July 1, 1978, 60 percent of cases in 1976-77 and two-thirds of cases in the latter half of 1977 were in compliance with the 60-day criterion. Compliance with the Plan-imposed interim 120-day limits was achieved in 86 percent of 1976-77 cases and better than 95 percent of cases in the latter half of 1977. For the year and one half ending with 1977, the district's voluntary 45-day goal for sentencing was met in almost 85 percent of cases.

B. Problems Encountered.

The major problem in the Eastern District of California remains the severe judicial understaffing of the district in relation to case filings. Compliance with Speedy Trial Act mandates has placed a great strain on the civil docket, aggravated by the protracted litigation arising out of the 1973 Roseville bomb disaster. So long as only three active judges are available to the Court, no margin of tolerance exists to assure continued progress toward full compliance with the 1979 limits. A judicial emergency could readily ensue should one of the currently active judges become temporarily disabled. The present high level of compliance has been possible only at the expense of the civil jury docket and by non-trial disposition of a high percentage of criminal filings. Table 4 of Section VIII herein shows that out of 627 criminal cases disposed of in 1976-77, only 48 or fewer than 8 percent were disposed of by conviction or acquittal at trial. Of the remaining 92 percent of cases, roughly 20 percent were dismissed without trial and roughly 80 percent were plea-bargained. Should this high rate of non-trial disposition change, the ability of this district to meet Speedy Trial Act standards with present personnel is extremely doubtful.

During the twelve-month period ending June 30, 1977, the average time from issue to trial in civil cases was 27 months. The national average during this period was 12 months. Additional data reflects that of all jury trials conducted during this period, 90.0% were criminal in nature. Notwithstanding a decrease in civil filings, the district's pending civil caseload increased by approximately 200 cases in the calendar year ending March 31, 1978. Thus, compliance with the Speedy Trial Act is accelerating this trend of additional delay in civil dispositions.

C. Incidence of, and reasons for, periods of excludable time and continuances granted in the interests of justice.

As shown in Table 2 of Section VIII of this Plan, the principal categories of delay encountered in this district in the eighteeen months ending December 31, 1977, were delay attributable to the unavailability of the defendant or an essential witness, and delay attributable to the granting of a continuance in the interests of justice. The 31.4 percent of instances of delay attributed to the unavailablity of the defendant or an essential witness (line M of Table 2) reveals a heavy concentration of these instances during the period between indictment or information and arraignment, a period with respect to which the Speedy Trial Act as presently worded does not provide for any excludable time (see 18 U.S.C. § 3161(h)). Although it has been widely assumed that this was a drafting oversight, it should be noted that the omission of this period from the excludable time portions of the Act is consistent with the Act's failure to provide any sanction whatsoever for non-compliance with the time limit for arraignment. (See 18 U.S.C. § 3162(a)(1), mandating dismissal for failure to file timely information or indictment, and 18 U.S.C. § 3162(a)(2), mandating dismissal for failure to bring defendant to trial "within the time limit required by section 3161(c)," which specifies that trial must commence within "sixty days from arraignment.") Even if no sanction is imposed, there is nonetheless a statutory duty to arraign defendants within the specified period, and the accrual of excludable time is relevant to whether this district is complying with that duty. The high incidence of excludable time attributable to "unavailability" during the pre-arraignment period may reflect the problem of ten days being too short a period to allow consultation with counsel and entry of a meaningful plea.

It should be noted that such excludable time accrued in 54 cases out of 878 during the 18-month reporting period shown in Table 2. Assuming most instances of such excludable time are attributable to the fugitive status of the defendant rather than the unavailability of a witness, it does seem unusual that four times as many defendants would take flight during the relatively brief pre-arraignment period as during the period between arraignment and trial. Besides distortion of the statistics by judicial resort to this category of excludable time to permit delayed arraignments, these statistics may indicate some error in the computation of excludable time. Defendants who become fugitives after indictment or information, but before arrest and appearance before a judicial officer, are in Speedy Trial Act limbo because the ten-day period for arraignment to take place does not begin until the defendant named in an indictment or information (unless previously arrested) has been arrested and has appeared before a judicial officer. (See 18 U.S.C. § 3161(c) and Section II, subsection 4 of this Plan.) The reporting forms of the Administrative Office fail to make adequate provision for this situation.

The second major category of delay giving rise to excludable time is the continuance in the interests of justice under 18 U.S.C. § 3161(h)(8). It appears that judges have been granting continuances under this section of the Act when the delay in question is deemed excludable time under other sections of the Act, as for instance where the defendant is being examined for mental incompetency or physical incapacity (see 18 U.S.C. § 3161(h)(1)(A)) or for so long as any such mental incompetency or physical incapacity of the defendant continues (see 18 U.S.C. § 3161(h)(4)). This Plan includes new procedures designed to foster greater accuracy of classification of excludable time. (See Section II, subsection 5(f)(7)(ii); subsection 6(b)(1); subsection 9(b)(2).)

D. The effect on criminal justice administration of the advent of the Speedy Trial Act's time limits.

The effect of the Act and its time limits on criminal justice administration within this district has on the whole been good, if attention is limited solely to the criminal docket. The visibility of and priority accorded to criminal cases has manifestly been raised. Judicial willingness to tolerate delay, even at the request of defense counsel, has shrunk. However, the time limits set by the Act are almost inherently impracticable for complex cases, including most multiple defendant cases. In such cases, the Act merely complicates matters still further and may well detract from rather than add to the quality of justice accorded the litigants. Consideration must be given to the overall cost of (1) having counsel available as of course to enter a plea at a defendant's first appearance, in order to comply with the pre-arraignment time limit (see Section IV, infra; (2) the considerable resources which the clerk's office must devote to Speedy Trial Act record-keeping; (3) the additional pressure on the United States Attorney to plea-bargain* and more drastically not to bring charges at all, notwithstanding probable cause, because of a lack of sufficient trial personnel to meet Speedy Trial Act standards; and (4) the "second class" status to which all civil litigation has been relegated. In light of these costs, the Speedy Trial Act may mandate too much of a good thing.

E. Frequency of use of sanctions under the "interim" time limits.

"High-risk" designations (see 18 U.S.C. § 3164(a)(2) have not been used in this district. In one case, United States v. Soliah, it was

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* See subsection B of this Section III for statistics on this district's dependence on plea-bargaining.

held that a defendant held more than 90 days awaiting trial was entitled to be released notwithstanding good cause for the government's delay. See Section VII, infra.

Section IV

Changes in Practices and Procedures that Have Been or Will Be Adopted by the District Court to Expedite the Disposition of Criminal Cases in Accordance With 18 U.S.C. §3167(b)

SECTION IV

CHANGES IN PRACTICES AND PROCEDURES THAT HAVE BEEN OR WILL BE ADOPTED BY THE DISTRICT COURT TO EXPEDITE THE DISPOSITION OF CRIMINAL CASES IN ACCORDANCE WITH 18 U.S.C. § 3167(b)

In addition to the many changes in procedure made a part of this Plan, the Court adopted on April 25, 1977, a Speedy Trial Act Control and Monitoring System. The clerk's office is continuing to experiment with methods for apprising judges of the Speedy Trial Act status of any given defendant, both collectively by status reports and individually by conspicuous entry on the inside cover of each docket file. In order to improve compliance with the pre-arraignment period, representation by the Federal Public Defender is now provided at the time of first appearance so that a plea may be entered at that time. The United States Attorney and the Federal Public Defender have been reviewing discovery policy in order to determine if the number of cases in which discovery motions are made can be reduced.

Section V

Additional Resources Needed, if any, to Achieve Compliance with the Act by July 1, 1979 (18 U.S.C. §3166(d))

SECTION V

ADDITIONAL RESOURCES NEEDED TO ACHIEVE COMPLIANCE WITH THE PERMANENT (1979) TIME LIMITS

A. Additional Resources Needed on a Permanent Basis.

Although total filings for the twelve-month period ending June 30, 1977 declined by 21.8 percent, this district established a numerical standing of 2nd and 29th within the circuit and United States, respectively, in total filings per judgeship. In criminal filings per judgeship, this district, in the above-mentioned period, was ranked 4th in the circuit and 6th nationally. During this same period, the three active judges and one senior judge compiled a total of 403.6 trial days, placing the district highest in the Ninth Circuit in the category of trial days per judgeship.

Great difficulty has been experienced in securing visiting judges to assist. However, during the twelve-month period ending March 31, 1978, this district received the assistance of ten visiting judges, who were assigned a total of 57 cases.

The Senate and House of Representatives have passed two bills (S. 11 and H. R. 7843) authorizing three additional judgeships to this district. It is uncertain at this time as to when a Joint Conference Committee of the two houses will reconcile the differences in the bills. All three additional judgeships are desparately needed if full compliance with the 1979 time limits is to be feasible without all civil litigation coming to a standstill.

When these judges are provided, additional resources to support them will be required as follows:

(1) One additional full-time Magistrate with clerical support staff.

(2) Five Deputy Clerks.

(Deputy Clerks should be provided on a services rendered basis rather than the "100 to 1" staffing ratio.)

(3) Nine Assistant U. S. Attorneys with clerical support staff.

(4) Two Assistant Federal Defenders, one Investigator and clerical support staff.

(5) Eight Deputy U. S. Marshals.

(6) Probation Officers in accordance with workload formulas.

The foregoing resources are needed and have been justified independently of the Speedy Trial Act. It is difficult at this time to ascertain what additional resources can be attributed solely to that Act. Because of the uncertainty of when the district will receive additional judges, it is difficult to make projections.

The accessibility and accuracy of information relating to Speedy Trial Act compliance is particularly important to this district because of the current critical shortage of judges. Efficient management must compensate for deficiencies in manpower. This district is accordingly requesting that it be included among those districts with direct, long-line connections to the Administrative Office's COURTRAN computer.

B. Additional Resources Needed on A Temporary Basis.

Apart from the general necessity for visiting judges and perhaps temporary personnel to support them in order to deal with the load until new regular judges are authorized and appointed, it is difficult to project resource needs. The district needs so many temporary resources just to cope with the caseload that it is hard to isolate resources needed especially because of the Speedy Trial Act.

Section VI

Recommendations for Changes in Statutes, Rules, or Administrative Procedures (18 U.S.C. §§3166(b)(7), (d)(e))

SECTION VI

RECOMMENDATIONS FOR CHANGES IN STATUTES, RULES, OR ADMINISTRATIVE PROCEDURES

1. The judicial emergency provision (18 U.S.C. § 3174) appears too time-consuming to deal with a genuine emergency, such as would almost certainly occur in this district should one of our current allotment of three judges in regular active service become disabled or otherwise unavailable. We suggest that the Judicial Council of the Circuit be given authority to declare an emergency effective for a limited period pending action by the Judicial Conference of the United States.

2. We endorse and adopt the first and fourth amendments to the Speedy Trial Act which were proposed by the Judicial Conference of the United States on September 15-16, 1977, to wit: "The ultimate time strictures of § 3161 of 30 days arrest-to-indictment, ten days indictment-to arraignment, and sixty days arraignment-to-trial should be changed instead to sixty days from arrest to indictment, twenty days from indictment to arraignment, and not less than thirty nor more than one hundred days from arraignment to trial. . . . The minimum time period of thirty days for trial following arraignment provided in § 3161(b) should be waivable by the defendant."

3. We agree with the second amendment proposed by the Judicial Conference insofar as it provides that the Act should be amended to make it clear that the exclusions of §3161(h) apply to the time periods before arraignment and retrial. We do not think it useful to include in our final Plan proposals for legislation to remedy problems under the interim provisions of the Speedy Trial Act.

4. We agree with what we believe to be the intent of the third amendment proposed by the Judicial Conference, but we think that intent would be better effectuated by amending § 3161(h)(1)(A) to read as follows: "(A) delay resulting from an examination of the defendant as to his mental competency or physical incapacity, as computed from the time the examination is ordered to the time of a judicial finding as to the defendant's competency or incapacity;".

5. We disagree with the fifth proposed amendment of the Judicial Conference, which is inartfully worded and would apparently conflict with subsection 4(b)(1) of Section II of this Plan. The cited provision of this Plan, which was adopted in this district's 1976 Plan and carried over to this final Plan at the suggestion of the Administrative Office, allows a defendant charged by complaint with a minor offense to be given more than ten days within which to decide whether or not to consent to the jurisdiction of the magistrate. At the time of the defendant's first appearance before the magistrate, the opportunity to make such a choice is announced to the defendant. The decision as to such consent must be made before arraignment occurs, but not necessarily within 10 days of the defendant's first appearance before the magistrate. If the defendant consents to the jurisdiction of the magistrate, subsection 4(b)(1) provides that the date of such consent is treated as if it were the date of the filing of an indictment for purposes of beginning the 10-day period during which arraignment must occur. If the defendant does not consent to the jurisdiction of the magistrate, the case must be put before the grand jury for possible indictment. Because any such indictment must be filed within 30 days of the defendant's first appearance before the magistrate, pursuant to subsection 3(b)(iii) of Section II of the Plan, there obviously cannot be a substantial delay permitted while the defendant decides whether or not to consent to the magistrate's

jurisdiction, but the defendant can and often is given more than 10 days to decide before the case is sent to the grand jury. If the grand jury does return a timely indictment, then arraignment must follow within 10 days under subsection 4(a)(1) of Section II of the Plan. This procedure has been in effect in this district since July 1, 1976, and has been working well. We believe--and apparently its author, the Administrative Office, likewise believes--that it is consistent with the existing language of § 3161(c).

6. We agree with the apparent intent of the sixth proposed amendment of the Judicial Conference, but find that the amendment as worded by the Judicial Conference is incomplete, and that its effect would be to render § 3161(c) incomprehensible. We think the proposed amendment should be modified to read as follows: "The phrase in §3161(c), 'has been ordered held to answer and', should be eliminated."

Section VII

Incidence and Length of, Reasons for, and Remedies for Detention Prior to Trial (18 U.S.C. §3166(b)(6))

SECTION VII

INCIDENCE AND LENGTH OF, REASONS FOR, AND REMEDIES FOR DETENTION PRIOR TO TRIAL

Pretrial detention is not a major problem in this district. In the year ending June 30, 1977, only 43.1 percent of defendants were detained for any period prior to trial. This was the lowest percent of detained defendants of any district in California, and was considerably below the Circuit-wide figure for that period of 53.6 percent.

In United States v. Soliah, No. 75-523, January 14, 1976, it was held in this district that under the Speedy Trial Act and additionally under our Speedy Trial Plan, a defendant held in custody more than 90 days awaiting trial was entitled to release from custody regardless of the reason for delay in trial. However, it has been our experience in this district that some defendants do not wish to avail themselves of their right to immediate release after having been held in custody more than 90 days awaiting trial. These defendants are subject to detainers on charges in other jurisdictions. Rather than be technically released only to be immediately held on the outstanding detainers and possibly transferred to another jurisdiction for prosecution there, these defendants prefer to remain in custody in this district until the charges against them here are resolved, possibly in a fashion which might lead to dismissal of the charges against them elsewhere. This phenomenon accounts for isolated instances (a total of 13 defendants, or 5.2 percent of all detained defendants, during the year ending June 30, 1977) of defendants being detained over 90 days while awaiting trial in this district.

Section VIII

Statistical Tables

AO 281A (1/78)

TABLE 1A

CASE PROCESSING TIME – Interval 1

CRIMINAL DEFENDANTS TERMINATED DURING EIGHTEEN MONTHS ENDED DEC. 31, 1977, IN EASTERN, CALIFORNIA DISTRICT

NET TIME TO INDICTMENT OR INFORMATION FROM ARREST OR SERVICE OF SUMMONS

ALL DEFENDANTS

PROCEDURAL INTERVAL BEGAN	NO. DEFENDANTS	SAME DAY		1 to 30		31 to 35		36 to 45		46 to 60		61 to 90		91 to 120		121 to 180		181 & over	
		No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
BEFORE JULY 1 '76	1	9.1	3	27.3	-	-	3	27.3	-	-	3	27.3	-	-	-	-	1	9.1
BETWEEN JULY 1 '76 & JUNE 30 '77	16	5.6	250	87.7	7	2.5	3	1.1	1	.4	6	2.1	2	.7	-	-	-	-
BETWEEN JULY 1 '77 & DEC 31 '77	8	14.3	47	83.9	-	-	1	1.8	-	-	-	-	-	-	-	-	-	-

(NET DAYS)

PERMANENT LIMITS: 30 DAYS

TRANSITIONAL LIMITS: 7-77 to 7-78: 30; 7-78 to 7-79: 30 DAYS

WITH MINOR OFFENSES EXCLUDED

PROCEDURAL INTERVAL BEGAN																			
BEFORE JULY 1 '76	1	10.0	3	30.0	-	-	3	30.0	-	-	3	30.0	-	-	-	-	-	-
BETWEEN JULY 1 '76 & JUNE 30 '77	16	5.8	245	88.1	7	2.5	1	.4	1	.4	6	2.2	2	.7	-	-	-	-
BETWEEN JULY 1 '77 & DEC 31 '77	7	13.2	45	84.9	-	-	1	1.9	-	-	-	-	-	-	-	-	-	-
	SAME DAY		1 to 30		31 to 35		36 to 45		46 to 60		61 to 90		91 to 120		121 to 180		181 & over	

CASE PROCESSING TIME—Interval 2

CRIMINAL DEFENDANTS TERMINATED DURING EIGHTEEN MONTHS ENDED DEC. 31, 1977, IN EASTERN, CALIFORNIA DISTRICT

TABLE 1B

NET TIME TO ARRAIGNMENT FROM LATER OF INDICTMENT OR INITIAL APPEARANCE

ALL DEFENDANTS

PROCEDURAL INTERVAL BEGAN	NO. DEFENDANTS	NET DAYS: SAME DAY No.	SAME DAY %	1 to 10 No.	1 to 10 %	11 to 15 No.	11 to 15 %	16 to 20 No.	16 to 20 %	21 & over No.	21 & over %
BEFORE JULY 1 '76		3	8.1	9	24.3	4	10.8	-	-	21	56.8
BETWEEN JULY 1 '76 & JUNE 30 '77		69	12.0	316	55.1	48	13.6	25	4.4	85	14.8
BETWEEN JULY 1 '77 DEC 31 '77		11	10.5	69	65.7	10	9.5	4	3.8	11	10.5

PERMANENT LIMITS : 10 DAYS

WITH MINOR OFFENSES EXCLUDED

PROCEDURAL INTERVAL BEGAN											
BEFORE JULY 1 '76		3	8.6	9	25.7	4	11.4	-	-	19	54.3
BETWEEN JULY 1 '76 & JUNE 30 '77		62	11.3	309	56.5	76	13.9	22	4.0	78	14.3
BETWEEN JULY 1 '77 & DEC. 31 '77		10	10.1	65	65.7	10	10.1	3	3.0	11	11.1
		SAME DAY		1 to 10		11 to 15		16 to 20		21 & over	

TABLE 1C

CASE PROCESSING TIME—Interval 3

CRIMINAL DEFENDANTS TERMINATED DURING EIGHTEEN MONTHS ENDED DEC. 31, 1977, IN EASTERN, CALIFORNIA DISTRICT

NET TIME TO COMMENCEMENT OF TRIAL (OR OTHER DISPOSITION) FROM ARRAIGNMENT

ALL DEFENDANTS

NET DAYS

PROCEDURAL INTERVAL BEGAN	NO. DEFENDANTS	SAME DAY		1 to 30		31 to 60		61 to 80		81 to 100		101 to 120		121 to 180		181 to 240		241 & over	
		No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
BEFORE JULY 1 '76		6	4.8	5	4.0	17	13.6	9	7.2	14	11.2	7	5.6	26	20.8	7	5.6	34	27.2
BETWEEN JULY 1 '76 & JUNE 30 '77		141	23.9	121	20.5	97	16.4	72	12.2	74	12.5	21	3.6	41	6.9	21	3.6	3	.5
BETWEEN JULY 1 '77 & DEC 31 '77		11	9.9	47	42.3	17	15.3	14	12.6	9	8.1	8	7.2	4	3.6	1	.9	–	–

PERMANENT LIMITS: 60 DAYS

TRANSITIONAL LIMITS 7-77 to 7-78, 7-78 to 7-79 ——— DAYS

WITH MINOR OFFENSES EXCLUDED

PROCEDURAL INTERVAL BEGAN	SAME DAY		1 to 30		31 to 60		61 to 80		81 to 100		101 to 120		121 to 180		181 to 240		241 & over	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
BEFORE JULY 1 '76	6	4.9	5	4.1	17	13.9	9	7.4	13	10.7	7	5.7	25	20.5	7	5.7	33	27.0
BETWEEN JULY 1 '76 & JUNE 30 '77	133	23.5	117	20.6	97	17.1	69	12.2	71	12.5	17	3.0	40	7.1	20	3.5	3	.5
BETWEEN JULY 1 '77 & DEC 31 '77	8	7.8	44	42.7	16	15.5	14	13.6	8	7.8	8	7.8	4	3.9	1	1.0	–	–
	SAME DAY		1 to 30		31 to 60		61 to 80		81 to 100		101 to 120		121 to 180		181 to 240		241 & over	

AO 281D (1)

CASE PROCESSING TIME—Interval 4

CRIMINAL DEFENDANTS TERMINATED DURING EIGHTEEN MONTHS ENDED DEC. 31, 1977, IN EASTERN, CALIFORNIA DISTRICT

TABLE 1D

TIME TO SENTENCING FROM CONVICTION

ALL DEFENDANTS

(NET DAYS)

NO. DEFENDANTS	SAME DAY		1 to 30		31 to 45		46 to 60		61 & over	
	No.	%	No.	%	No.	%	No.	%	No.	%
CONVICTED DURING PERIOD FROM JULY 1, '76 THRU DEC 31, '77	188	24.4	242	31.5	210	27.3	61	7.9	68	8.8

WITH MINOR OFFENSES EXCLUDED

	165	22.4	236	32.1	205	27.9	61	8.3	68	9.3
	SAME DAY		1 to 30		31 to 45		46 to 60		61 & over	

DISTRIC[redacted]

EASTERN, CALIFORNIA

REPORT COVERS
PERIOD OF: January 1977 through December 1977

SPEEDY TRIAL DATA ANALYSIS – 3166(c)(2)(3) & (5)

TABLE 5

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

NAME OF AGENCY PRESENTING MATTER TO U.S. ATTORNEY FOR PROSECUTION	MATTERS: ON HAND & NEW — MATTERS ON HAND AT START OF PERIOD[1]	MATTERS: ON HAND & NEW — MATTERS REC'D OR ORIGINATED BY U.S. ATTY DURING PERIOD	MATTERS: DECLINED (i.e. 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[2]	OTHER DISPOSITIONS[3]	NEW PROSECUTIONS INITIATED DURING PERIOD[4]	MATTERS ON HAND AT END OF PERIOD[5]
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
FBI	333	1016	16	158	0	618	102	199	253
SECRET SERVICE	32	294	2	25	2	140	3	131	24
POST OFFICE	18	139	0	25	3	22	7	82	21
DEA	9	145	0	2	0	1	7	134	9
ATF	4	88	0	0	0	1	15	64	12
INS	31	296	0	0	0	32	119	135	41
AGRICULTURE/FOREST SERVICE	11	46	0	0	0	35	2	12	8
DEFENSE DEPT.	12	36	0	0	1	34	5	4	5
HEW	15	33	0	4	0	28	6	4	13
FISH & WILDLIFE/NATL. PARK	0	45	0	0	0	7	0	31	0
IRS	8	41	0	0	1	1	1	32	14
CUSTOMS	2	7	0	0	0	1	0	7	1
HUD	0	4	0	0	0	0	0	4	0
DEPT. OF TRANSPORTATION	0	3	0	0	0	1	0	2	0
STATE DEPT.	2	2	0	0	0	0	1	3	0
OTHER INDEPENDENT AGENCIES	2	7	0	0	0	1	0	1	7
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
TOTALS	479	2202	18	214	7	922	268	845	408

[1] "MATTER" REFERS TO DEFENDANT MATTER – I.E. IF CLAIMED OFFENSE INVOLVES 2 DEFENDANTS COUNT IT AS 2 MATTERS
[2] COL (F) INCLUDES MATTERS DECLINED FOR WANT OF PROSECUTIVE MERIT, LACK OF EVIDENCE, JURISDICTIONAL PROBLEMS, ETC.
[3] COL (G) INCLUDES MATTERS DISMISSED BY MAGISTRATE, NOT ON INITIATIVE OF U.S. ATTY., AND MATTERS RESULTING IN NO TRUE BILL BY GRAND JURY
[4] COL (H) INCLUDES INDICTMENTS AND INFORMATIONS FILED AND MATTERS ADJUDICATED BEFORE U.S. MAGISTRATE
[5] COL (I) INCLUDES REFERRED MATTERS THAT ARE STILL PENDING BEFORE GRAND JURY, AND ALL OTHER MATTERS NOT YET DECLINED – PER COLS (C) THRU (F) – NOR FALLING WITHIN SCOPE OF COL (G) OR (H)

DISTRICT

EASTERN, CALIFORNIA

SPEEDY TRIAL DATA ANALYSIS 3166(c)(4) & (5)

CRIMINAL DISPOSITIONS

TABLE 4

REPORT COVERS
PERIOD OF: July 1976 - June 1977

A NUMBER OF DEFENDANTS DISPOSED OF
627

NOT CONVICTED						
	B					
	TOTAL NOT CONVICTED	DISMISSED		ACQUITTED AT TRIAL		
% OF A		% OF B	TOTAL NO. DISMISSED	% OF B	COURT	JURY
20.3	127	95.3	121	4.7	1	5

CONVICTED						
	C					
	TOTAL CONVICTED	CONVICTED by PLEA		CONVICTED at TRIAL		
% OF A		% OF C	PLEA of GUILTY or NOLO CON.	% OF C	COURT	JURY
79.7	500	91.6	458	8.4	8	34

DISTRICT

EASTERN, CALIFORNIA

SPEEDY TRIAL DATA ANALYSIS 3166(b)(6) & (c)(6)

PRETRIAL DETENTION

TABLE 3

REPORT COVERS PERIOD OF: July, 1976 - June, 1977

PERCENTAGE OF DEFENDANTS DETAINED

CLOSED CASES

NUMBER OF DEFENDANTS — A: 878 — % OF A

TOTAL NO. OF DEFENDANTS DISPOSED OF DURING PERIOD OF REPORT

DETAINEES — B: 376 — 42.8

DEFENDANTS DETAINED AFTER INITIAL APPEARANCE BEFORE A JUDGE OR MAGISTRATE

DEFENDANTS GROUPED BY LENGTH OF TIME IN DETENTION STATUS

	NUMBER OF DAYS					
	1 to 10	11 to 30	31 to 90	91 to 120	121 to 150	151 Plus
NUMBER OF DETAINEES	109	110	132	19	3	3
% OF BOX B	29. %	29.3 %	35.1 %	5.1%	.8 %	.8 %

PENDING CASES

DEFENDANTS AWAITING TRIAL AS OF LAST DAY OF PERIOD OF REPORT — AA: 222 — % OF AA

DETAINEES — BB: 18 — 8.

DEFENDANTS IN DETENTION STATUS PER LAST REPORT FROM U.S. ATTORNEY PER RULE 46(g)

	NUMBER OF DAYS					
	1 to 10	11 to 30	31 to 90	91 to 120	121 to 150	151 Plus
NUMBER OF DETAINEES	0	6	8	2	2	0
% OF BOX "BB"	0 %	33.3 %	44.4 %	11.1 %	11.1 %	0 %

SPEEDY TRIAL DATA ANALYSIS

INCIDENCE OF AND REASONS FOR DELAY

TOTALS FOR

CRIMINAL DEFENDANTS TERMINATED DURING EIGHTEEN MONTHS ENDED DEC. 31, 1977,

			% OF "A"
**TERMINATED DEFENDANTS REPORTED DURING PERIOD	878	(A)	
DEFENDANTS WITHOUT EXCLUDABLE TIME	731	(B)	83.2
DEFENDANTS WITH EXCLUDABLE TIME	147	(C)	16.7
INCIDENTS OF EXCLUDABLE TIME	172	(D)	

TABLE 2

*REASON Under 18 USC 3161	LENGTH OF EXCLUDABLE DELAY PERIOD (NO. OF DAYS)						SUB-TOTALS OF "D"	% OF "D"	***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	TWO	THREE
A. Examination or hearing for mental or physical incapacity—(H)(1)(A)	3	6	7	4	1	0	21		0	8	13
B. NARA examination—(H)(1)(B)	0	0	0	0	0	0	0		0	0	0
C. State or federal trials on other charges—(H)(1)(C)	1	0	2	6	1	8	18		0	9	9
D. Interlocutory appeals—(H)(1)(D)	0	0	0	0	0	0	0		0	0	0
E. Hearings on pretrial motions—(H)(1)(E)	6	0	1	0	0	0	7		0	0	7
F. Transfers from other districts (per FRCP rules 20, 21 & 40). (H)(1)(F)	0	0	0	1	0	1	2		0	2	0
G. Motion is actually under advisement. (H)(1)(G)	2	1	6	0	0	7	16		0	1	15
H. Misc. proceedings: probation or parole revocation, deportation, extradition. (H)(1)	0	0	0	0	0	0	0		0	0	0
I. Prosecution deferred by mutual agreement. (H)(2)	0	0	1	0	0	9	10		0	0	10
M. Unavailability (includes fugitive) of defendant or essential witness. (H)(3)(A)(B)	11	13	7	6	7	10	54		0	43	11
N. Period of mental or physical incompetence of defendant to stand trial. (H)(4)	1	1	4	1	0	0	7		0	5	2
O. Period of NARA commitment or treatment. (H)(5)	0	0	0	0	0	0	0		0	0	0
P. Superseding indictment and/or new charges. (H)(6)	0	1	0	0	0	0	1		0	0	1
R. Defendant awaiting trial of co-defendant when no severance has been granted. (H)(7)	0	0	0	0	0	0	0		0	0	0
T. Continuances granted in the ends of justice. (H)(8)	4	0	4	6	3	17	34		0	0	34
U. Time up to withdrawal of guilty plea (i)	0	0	0	2	0	0	2		0	0	2
W. Grand jury indictment time extended 30 more days. (B)	0	0	0	0	0	0	0		0	0	0

*Paragraph and subsection of 18 USC 3161, Speedy Trial Act of 1974, are shown with reason for delay below.
**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: Arrest to Indictment; Interval two: Indictment to Arraignment; Interval three: Arraignment to Trial.

Prepared by: Administrative Office of U.S. Courts