

Plan for prompt
disposition of
criminal cases

Pursuant to Speedy Trial Act of 1974
— 18 U.S.C. § 3161-74

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

PLAN FOR PROMPT DISPOSITION OF CRIMINAL CASES

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Section I

Introductory Material

APPROVAL BY JUDICIAL COUNCIL

The attached Interim Plan for Achieving Prompt Disposition of Criminal Cases, pursuant to Rule 50(b) of the Federal Rules of Criminal Procedure, the Speedy Trial Act of 1974, and the Federal Juvenile Delinquency Act, as submitted by the United States District Court for the District of New Mexico, was approved by the Judicial Council of the Tenth Circuit, sitting as a Reviewing Panel, on May 19, 1976.



Emory G. Hatcher
Circuit Executive and Secretary
to the Judicial Council

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO


I. INTRODUCTION.

Pursuant to Rule 50(b) of the Federal Rules of Criminal Procedure, the Speedy Trial Act of 1974 (18 USC Chapter 208), and the Federal Juvenile Delinquency Act as amended (18 USC §5036, 5037), the Judges of the United States District Court for the District of New Mexico, upon the advice and recommendation of the District Planning Group, have this 28th day of April, 1976, adopted the following Plan to minimize undue delay and to further the prompt disposition of criminal cases and certain juvenile proceedings.


This Plan shall become effective July 1, 1976, and supersedes the Plan for Achieving Prompt Disposition of Criminal Cases Pursuant to Rule 50(b) of the Federal Rules of Criminal Procedure, the Speedy Trial Act of 1974, and the Federal Juvenile Delinquency Act, as amended, adopted the 26th day of August, 1975.



Chief U. S. District Judge



U. S. District Judge



U. S. District Judge

Section II

Comparison of Current Performance of
the System with the Permanent Time
Limits under the Speedy Trial Act

II. COMPARISON OF CURRENT PERFORMANCE OF THE SYSTEM WITH THE PERMANENT TIME LIMITS UNDER THE SPEEDY TRIAL ACT.

The Court's current performance, as presented in the statistical tables in Section VIII, *infra*, is in substantial compliance with the permanent time limits of the Speedy Trial Act. A summary of these statistics reflects that:

(a) 82.6% of the defendants arrested prior to indictment were indicted within 30 days of arrest, while 100% were indicted within 35 days of arrest.

(b) 69.6% of the defendants were arraigned within 10 days of indictment and 97.8% within 21 days of indictment.

(c) 97.8% of the defendants were brought to trial within 60 days of arraignment.

Section III

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

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

1. Applicability.

(a) Offenses. The time limits set forth herein are applicable to all criminal defendants for offenses triable in this Court, including cases triable by United States Magistrates, except for petty offenses as defined in 18 USC 1(3). Except as specifically provided, they are not applicable to proceedings under the Federal Juvenile Delinquency Act.

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 Procedure. The trial of defendants in custody solely because they are awaiting trial and of high-risk defendants as defined in paragraph 7 of Section III of this Plan should be given preference over other criminal cases.

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 the following time limits:

(1) If the arrest or service occurs before July 1, 1976, within (30) days of July 1, 1976;

(2) If the arrest or service occurs on or after July 1, 1976, within (30) days of arrest or service.

(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;

(2) The date on which a sealed indictment or information is unsealed;

(3) The date of the defendant's first appearance on the pending charges before a judicial officer of this district; or

(4) July 1, 1976.

(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 offenses 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.

(c) Related Procedures. At the time of the defendant's earliest appearance before a judicial officer of this district, the officer will take appropriate steps to assure that the defendant is

represented by counsel and shall appoint counsel where appropriate under the Criminal Justice Act and Rule 44 of the Federal Rules of Criminal Procedure.

5. Time Within Which Trial Must Commence.

(a) Time Limits. The trial of a defendant shall commence within the following time limits:

(1) If the arraignment occurs before July 1, 1976, within 60 days of July 1, 1976;

(2) If the arraignment occurs on or after July 1, 1976, within 60 days of the arraignment.

(b) Retrial. The retrial of a defendant shall commence within 60 days from 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.

(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 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.

(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 limits shall be determined without regard to the existence of the original charge.

(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.

(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.

(4) In cases in which sub-paragraph (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, determined under paragraph 4(a) of Section III of this Plan.

(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 section:

(1) An arraignment shall be deemed to take place as provided in paragraph 4(b)(2) of Section III of this Plan.

(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.

(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 original setting. A conflict in schedules of Assistant United States Attorneys or counsel for a defendant 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 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 a complaint, indictment, or information described in sub-paragraph (3), supra, 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. Waiver of Time Limits.

(a) Waiver. From July 1, 1976, through June 30, 1979, an assigned Judge may waive the time limits imposed by paragraphs 3, 4, and 5, of Section III of this Plan for good cause shown. The waiver herein shall not extend beyond the pertinent time limits established in 18 USC 3161(f) and (g).

(b) Continuous Custody and "High-Risk" Defendants.

Waiver of time limits will not apply to defendants in continuous custody and/or "high-risk" defendants as defined in paragraph 7 of Section III of this Plan.

7. Defendants in Custody and High-Risk Defendants.

(a) Time Limits. Notwithstanding any longer time periods that may be permitted under paragraphs 3, 4, and 5, of Section III of this Plan, the following time limits will also be applicable to defendants in custody and high-risk defendants as herein defined:

(1) The trial of a defendant held in custody solely for the purpose of trial on a federal charge shall commence within 90 days following the beginning of continuous custody.

(2) The trial of a high-risk defendant shall commence within 90 days of the determination or designation as high-risk.

(b) Definition of "High-Risk Defendant."

A high-risk defendant is:

(1) One whose chances of appearing at his trial or other Court proceedings have been judicially determined to be poor; or

(2) One reasonably designated by the United States Attorney as posing a danger to himself or any other person or to the community.

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

(1) When a defendant is apprehended and held in custody outside this district, custody for the sole purpose of trial shall be deemed to begin (i) in proceedings under Rule 40(b) of the Federal Rules of Criminal Procedure, upon the finding and recommendation or order by the Magistrate or Judge that a warrant of removal shall issue or upon the defendant's arrest pursuant to a warrant issued on an indictment or information filed in this district, and (ii) in cases initially processed under Rule 20, at such time as the defendant rejects disposition under Rule 20.

(2) When a defendant is apprehended outside this district and is released pursuant to the provisions of Chapter 207 of Title 18, USC, the times set out above shall begin to run when the defendant returns to this district.

(3) A trial shall be deemed to commence as provided in paragraphs 5(e)(2) and 5(e)(3) of Section III of this Plan.

(d) Related Procedures.

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

(2) The United States Attorney shall advise the Court at the earliest practicable time (usually at the hearing with respect to bail) if the defendant is considered by him to be high-risk.

(3) If the Court finds that the filing of a "high-risk" designation as a public record may result in prejudice to the defendant, it may order the designation sealed for such period as is necessary to protect the defendant's right to a fair trial, but not beyond the time that the Court's judgment in the case becomes final. During the time the designation is under seal, it shall be made known to the defendant and his counsel but shall not be made known to other persons without the permission of the Court.

(e) On or after July 1, 1979, the time limits prescribed under paragraphs 3, 4, and 5 of Section III of this Plan shall apply to all defendants, regardless of their custody or high-risk status.

8. Time Within Which 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.

9. Juvenile Proceedings.

(a) Time Within Which Trial Must Commence.

An alleged delinquent who is in detention pending trial shall be brought to trial within 30 days of the date on which such detention was begun, as provided in 18 USC 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 USC 5037(c).

10. Exclusion of Time From Computations.

(a) Applicability. In computing any time limit under paragraphs 3, 4, or 5 of Section III of this Plan, the periods of delay set forth in 18 USC 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 USC 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) Except for time excludable under 18 USC 3161(h)(8), the Court will not rule on the excludability of time in computing the time within which an indictment or information must be filed.

(2) In the event a continuance is sought under 18 USC 3161(h)(8), the movant shall file a written motion with the Court. The motion shall state (i) whether or not the defendant is being held in custody on the basis of the complaint, (ii) the period of time proposed for exclusion, and (iii) the basis of the proposed exclusion. In appropriate circumstances, it 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 USC 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 an arraignment or trial beyond the time limit set forth in paragraphs 4 or 5 of this Plan, the Court shall determine whether the limit may be recomputed by excluding time pursuant to 18 USC 3161(h). In the absence of a need for a continuance, the Court will not ordinarily rule on the excludability of any period 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 USC 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 light of the facts of the particular case.

11. Sanctions.

(a) The following sanctions shall be in effect from July 1, 1976, through June 30, 1979:

(1) Defendants in Custody. A defendant in custody whose trial has not commenced within the time limit set forth in 18 USC 3164(b) and paragraph 7(a)(1) of Section III of this Plan, shall, if the failure to commence trial was through no fault of the defendant or his counsel, be released subject to such conditions as the Court may impose in accordance with 18 USC 3164. Nothing herein shall require that a defendant in custody be released except as required by 18 USC 3164(c).

(2) High-Risk Defendants. A high-risk defendant whose trial has not commenced within the time limit set forth in 18 USC 3164(b) and paragraph 7(a)(2) of Section III of this Plan, shall, if the failure to commence trial was through no fault of the attorney for the Government, have his release conditions automatically reviewed. A high-risk defendant who is found by the Court to have intentionally delayed the trial of his case shall be subject to an order of the Court modifying his non-financial

conditions of release under Chapter 207 of Title 18, USC, to ensure that he shall appear at trial as required.

(b) Alleged Juvenile Delinquents. An alleged delinquent in custody whose trial has not commenced within the time limit set forth in 18 USC 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.

(c) Dismissal Not Required. Except as required by 18 USC 5036, failure to comply with the time limits prescribed herein shall not require dismissal of the prosecution. The Court retains the power to dismiss a case for unnecessary delay pursuant to Rule 48(b) of the Federal Rules of Criminal Procedure.

(d) Sanctions Effective July 1, 1979. The following sanctions shall become effective July 1, 1979:

(1) If, in the case of an individual against whom a complaint is filed charging such individual with an offense, no indictment or information is filed within the time limit set forth in 18 USC 3161(b) as extended by 18 USC 3161(h), the charge against that individual contained in such complaint shall be dismissed

or otherwise dropped. In determining whether to dismiss the case with or without prejudice, the Court shall consider, among others, each of the following factors: (i) the seriousness of the offense, (ii) the facts and circumstances of the case which led to the dismissal, and (iii) the impact of a reprosecution on the administration of this chapter and on the administration of justice.

(2) If a defendant is not brought to trial within the time limit required by 18 USC 3161(c) as extended by 18 USC 3161(h), the information or indictment shall be dismissed on motion of the defendant. The defendant shall have the burden of proof of supporting such motion but the Government shall have the burden of going forward with the evidence in connection with any exclusion of time under 18 USC 3161(h)(3). In determining whether to dismiss the case with or without prejudice, the Court shall consider among others each of the following factors: (i) the seriousness of the offense, (ii) the facts and circumstances of the case which led to the dismissal, and (iii) the impact of a reprosecution on the administration of this chapter and on the administration of justice. Failure of the defendant to move for dismissal prior to trial or entry of a plea

of guilty or nolo contendere shall constitute a waiver of the right to dismissal under this section.

(3) Attorney Sanctions.

In any case in which counsel for the defendant or the attorney for the Government (i) knowingly allows the case to be set for trial without disclosing the fact that a necessary witness would be unavailable for trial, (ii) files a motion solely for the purpose of delay which he knows is totally frivolous and without merit, (iii) makes a statement for the purpose of obtaining a continuance which he knows to be false and which is material to the granting of a continuance, or (iv) otherwise willfully fails to proceed to trial without justification consistent with 18 USC 3161, the Court may punish any such counsel or attorney as follows:

[a] In the case of an appointed defense counsel, by reducing the amount of compensation that otherwise would have been paid to such counsel pursuant to 18 USC 3006A in an amount not to exceed 25 percentum thereof;

[b] In the case of a counsel retained in connection with the defense of a defendant, by imposing on such counsel a fine of not to exceed 25 percentum of the compensation to which he is entitled in connection with his defense of such defendant.

[c] By imposing on any attorney for the Government a fine of not to exceed \$250;

[d] By denying any such counsel or attorney for the Government the right to practice before the Court considering such case for a period of not to exceed ninety days; or

[e] By filing a report with an appropriate disciplinary committee.

[f] The authority to punish provided for by this subsection shall be in addition to any other authority or power available to such Court.

[g] The Court shall follow procedures established in the Federal Rules of Criminal Procedure in punishing any counsel or attorney for the Government pursuant to this section.

12. 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 USC 3161(j).

13. Monitoring Compliance With Time Limits.

(a) Responsibilities of District Planning Group.

As part of its continuing study of the administration of criminal justice in this district, the district planning group will pay special attention to those cases in which there is a failure to comply with the time limits set forth herein. From time to time, the group may make appropriate recommendations to prevent repetition of failures.

(b) Responsibilities of Clerk. In addition to maintaining such statistical data as is required to be maintained by the Administrative Office of the United States Courts, the Clerk will from time to time report to the other members of the planning group each case in which there is a failure to comply with any time limit set forth herein.

(c) Responsibilities of United States Attorney.

The United States Attorney shall, within 5 days after the close of the reporting period, furnish the Court with a weekly report of persons in custody. The Marshal shall provide such assistance as may be necessary in the preparation of the report. The report shall indicate the Judge to whom each case has been assigned. The "Reason for Detention" column shall include an explanation in any

case for which the defendant's status appears to be inconsistent with the time limits set forth herein. A copy of the report shall be furnished to each Judge of the Court.

14. Effective Date.

Upon approval of the reviewing panel designated in accordance with 18 USC 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, 1976, and shall supersede those previously in effect.

Section IV

Experience with Interim Time Limits

IV. THE COURT'S EXPERIENCE WITH THE INTERIM TIME LIMITS
OF THE SPEEDY TRIAL ACT (18 USC 3164)

1. The Court's experience with the interim time limits is as follows:

(a) From the effective date of the interim time limits, September 29, 1975, until April 1, 1976, twenty-eight (28) individuals were held in continuous custody from the date of arrest until the commencement of trial because they failed to meet the conditions of bail.

(b) All of the above individuals were brought to trial within the 90-day limit imposed by the Speedy Trial Act. There were no instances which necessitated the imposition of the sanctions provided in the Act.

(c) During the interim period, no individuals were designated as "high-risk" by the United States Attorney or by judicial determination.

2. The interim limits did not have an appreciable impact on the administration of criminal justice in the district.

Section V

Changes in Practices and Procedures
that Have Been or Will Be Implemented
to Improve Efficiency or Otherwise
Facilitate Compliance with the Act

V. CHANGES IN PRACTICES AND PROCEDURES IMPLEMENTED
TO FACILITATE COMPLIANCE WITH THE SPEEDY TRIAL ACT.

Few changes in practices and procedures have been necessary because current performance is in substantial compliance with the permanent time limits of the Act.

1. Changes Adopted by the Court.

(a) Not guilty arraignments are now conducted weekly by the United States Magistrate.

(b) Two part-time United States Magistrates have been assigned the additional duty of conducting certain not guilty arraignments.

2. Changes Adopted by the Clerk of the Court.

(a) The cases of all criminal defendants are monitored continuously by the District Speedy Trial Act Coordinator to ensure compliance with the mandates of the Act.

(b) Statistics are maintained on all instances of excludable delay.

(c) New docketing procedures have been implemented to ensure recording of all pertinent information.

(d) Appropriate individuals are notified of the approach of significant events and deadlines under the Act.

3. Changes Adopted by the Office of the
United States Attorney.

(a) The bi-weekly report to the Court pursuant to Federal Rule of Criminal Procedure 46(g) is now submitted on a weekly basis.

Section VI

Additional Resources Needed to Achieve Compliance with the Permanent (1979) Time Limits

- Part A — Additional Resources Needed on a Permanent Basis, if Any
- Part B — Additional Resources Needed on a Temporary Basis, if Any, to Eliminate Backlog by 1979

VI. ADDITIONAL RESOURCES NEEDED TO ACHIEVE COMPLIANCE WITH THE PERMANENT TIME LIMITS OF THE SPEEDY TRIAL ACT.

A review of the statistical tables, presented in Section VIII, infra, discloses the Court's current performance to be in substantial compliance with the permanent time limits.

1. Additional Resources Required by the Office of the Clerk of the Court.

(a) An additional Deputy Clerk position has been established by the Clerk of the Court. In addition to duties not related to the Act, the person assigned to this position acts as the Speedy Trial Act Coordinator. This individual maintains statistics and records, prepares reports and plans, makes administrative determinations of periods of excludable delay, and monitors the status of criminal cases under the provisions of the Act.

2. Additional Resources Required by the Office of the United States Attorney.

The United States Attorney has advised that the following additional personnel will be required by that office in order to operate properly within the time limits of the Speedy Trial Act:

- (a) Eleven Assistant United States Attorneys
- (b) Twelve supporting personnel

Section VII

Recommendations for Changes in Statutes,
Rules, or Administrative Procedures

VII. RECOMMENDED CHANGES IN STATUTES, RULES, OR ADMINISTRATIVE PROCEDURES.

1. Speedy Trial Act.

(a) The interim time limits (18 USC 3164) should be amended to provide for unavoidable delays to be excluded from the counting of time under the section. Unavoidable situations occur which can prevent the commencement of trial within the 90-day time limit.

Examples of such situations are:

(1) delay resulting from a protracted examination of the defendant on his mental competency or physical incapacity.

(2) delay resulting from examination or treatment of the defendant pursuant to 18 USC 2902.

(3) delay caused by the illness or death of counsel immediately prior to trial.

(4) delay caused by illness of the defendant.

(5) delay caused by the unavoidable absence of key witnesses, etc.

(b) The permanent limits (18 USC 3161) should be amended to provide guidelines for the trial of minor offenses under Rule 2 of the Rules of Procedure for

the Trial of Minor Offenses Before United States Magistrates. In its present form, the Act does not provide guidelines for minor offenses tried upon a complaint.

Section VIII

Statistical Tables

VIII. STATISTICAL TABLES.

The attached statistical tables reflect the Court's performance in regard to the provisions of the Speedy Trial Act. The tables are summarized as follows:

1. The Court's current performance, as presented in the tables for January and February of 1976, is in substantial compliance with the permanent time limits of the Act. A summary of these statistics reflects that:

(a) 82.6% of the defendants arrested prior to indictment were indicted within 30 days of arrest, while 100% were indicted within 35 days of arrest.

(b) 69.6% of the defendants were arraigned within 10 days of indictment and 97.8% within 21 days of indictment.

(c) 89.1% of the defendants were brought to trial within 60 days of arraignment; however, 97.8% were so brought to trial when excludable delay is subtracted.

2. The Court's past performance, as reflected in the tables for defendant terminations in calendar 1974, was as follows:

(a) 41.7% of the defendants were arraigned within 10 days of indictment, and 70.1% within 21 days of indictment.

(b) 78.3% of the defendants were brought to trial within 60 days of arraignment.

The figures for 1974 do not include adjustments for periods of excludable delay provided in the Act, as such records were not kept in 1974.

NEW MEXICO

**CRIMINAL CASE PROCESSING
TIME ---- ARREST TO TRIAL**

TABLE
1A

REPORT COVERS { ALL TERMINATIONS DURING
 FEB, 1976 OTHER SPECIFIED PERIOD OF { a) All Offenses c) All Misdemeanors (except petty offenses)
 CALENDAR YR. 1974... OR JAN. & FEB 1976 b) Felonies d) _____

INTERVAL	TIME SPAN CATEGORIES (DAYS)	GROSS TIME		NET TIME*	
		NUMBER OF DEFENDANTS	CUMULATIVE % OF DEFENDANTS	NUMBER OF DEFENDANTS	TIME SPAN CATEGORIES (DAYS)
I. INDICTMENT (OR INITIAL APPEARANCE) TO TRIAL, GUILTY PLEA, OR DISMISSAL	0- 40	20	42.6 %	30	0- 40
	41- 70	25	95.7	16	41- 70
	71- 90	1	97.9	1	71- 90
	91-130	1	100.0		91-130
	131-160				131-160
	161-190				161-190
	191-250				191-250
	251-310				251-310
	311 Plus				311 Plus
	PART I TOTAL		47	#	
II. ARREST (OR SERVICE OF SUMMONS) TO TRIAL, GUILTY PLEA, OR DISMISSAL	0- 40	3	13.0 %	4	0- 40
	41- 70	14	73.9	15	41- 70
	71-100	5	95.7	4	71-100
	101-125	1	100.0		101-125
	126-150				126-150
	151-175				151-175
	176-250				176-250
	251-310				251-310
	311 Plus				311 Plus
	PART II TOTAL		23	#	

DO NOT INCLUDE DEFENDANTS ARRESTED OR SERVED AFTER INDICTMENT

*"NET TIME" IS "GROSS TIME" LESS ANY EXCLUDABLE DELAY PER § 3161(h)
 #TOTALS FOR PART I & PART II WILL NOT NECESSARILY AGREE

NEW MEXICO

CRIMINAL CASE PROCESSING TIME --- ARREST TO TRIAL

TABLE
1A

REPORT COVERS ALL TERMINATIONS DURING FEB, 1976 OTHER SPECIFIED PERIOD OF a) All Offenses c) All Misdemeanors (except petty offenses)

CALENDAR YR. 1974 .. OR b) Felonies d) _____

INTERVAL	TIME SPAN CATEGORIES (DAYS)	GROSS TIME		NET TIME*	
		NUMBER OF DEFENDANTS	CUMULATIVE % OF DEFENDANTS	NUMBER OF DEFENDANTS	TIME SPAN CATEGORIES (DAYS)
I. INDICTMENT (OR INITIAL APPEARANCE) TO TRIAL, GUILTY PLEA, OR DISMISSAL	0- 40	195	48.2 %		0- 40
	41- 70	63	63.7		41- 70
	71- 90	33	71.9		71- 90
	91-130	25	78.0		91-130
	131-160	26	84.4		131-160
	161-190	14	87.9		161-190
	191-250	15	91.6		191-250
	251-310	4	92.6		251-310
	311 Plus	30	100.0		311 Plus
PART I TOTAL		405	#		

II. ARREST (OR SERVICE OF SUMMONS) TO TRIAL, GUILTY PLEA, OR DISMISSAL	0- 40		%	%	0- 40
	41- 70				41- 70
	71-100				71-100
	101-125				101-125
	126-150				126-150
	151-175				151-175
	176-250				176-250
	251-310				251-310
	311 Plus				311 Plus

PART II TOTAL #

DO NOT INCLUDE DEFENDANTS ARRESTED OR SERVED AFTER INDICTMENT

*"NET TIME" IS "GROSS TIME" LESS ANY EXCLUDABLE DELAY PER § 3161(h)
#TOTALS FOR PART I & PART II WILL NOT NECESSARILY AGREE

NEW MEXICO

**CRIMINAL CASE PROCESSING
TIME ---- ARREST TO TRIAL**

TABLE
1A

REPORT COVERS { ALL TERMINATIONS DURING FEB, 1976 OTHER SPECIFIED PERIOD } OF { a) All Offenses c) All Misdemeanors (except petty offenses) b) Felonies d) CALENDAR YR. 1974 .. OR ..

INTERVAL	TIME SPAN CATEGORIES (DAYS)	GROSS TIME		NET TIME*	
		NUMBER OF DEFENDANTS	CUMULATIVE % OF DEFENDANTS	NUMBER OF DEFENDANTS	TIME SPAN CATEGORIES (DAYS)
I. INDICTMENT (OR INITIAL APPEARANCE) TO TRIAL, GUILTY PLEA, OR DISMISSAL	0- 40	8	40 %	11	0- 40
	41- 70	11	95	9	41- 70
	71- 90	1	100		71- 90
	91-130				91-130
	131-160				131-160
	161-190				161-190
	191-250				191-250
	251-310				251-310
	311 Plus				311 Plus
PART I TOTAL		20 #			

II. ARREST (OR SERVICE OF SUMMONS) TO TRIAL, GUILTY PLEA, OR DISMISSAL	0- 40	1	0.83 %	2	0- 40
	41- 70	9	83.3	8	41- 70
	71-100	1	91.7	2	71-100
	101-125	1	100.0		101-125
	126-150				126-150
	151-175				151-175
	176-250				176-250
	251-310				251-310
	311 Plus				311 Plus

PART II TOTAL ▶ 12 #

DO NOT INCLUDE DEFENDANTS ARRESTED OR SERVED AFTER INDICTMENT

*"NET TIME" IS "GROSS TIME" LESS ANY EXCLUDABLE DELAY PER § 3161(h)
#TOTALS FOR PART I & PART II WILL NOT NECESSARILY AGREE

**CRIMINAL CASE PROCESSING
TIME BY PROSECUTIVE INTERVALS**

REPORT COVERS { ALL TERMINATIONS DURING FEB, 1976 } OTHER SPECIFIED PERIOD OF JAN. & FEB 1976 { a) All Offenses c) All Misdemeanors (except petty offenses) }
 { CALENDAR YR 1974... } OF { b) Felonies d)

INTERVAL	TIME SPAN CATEGORIES (DAYS)	GROSS TIME		NET TIME*	
		NUMBER OF DEFENDANTS	CUMULATIVE % OF DEFENDANTS	NUMBER OF DEFENDANTS	TIME SPAN CATEGORIES (DAYS)
1. ARREST (OR SERVICE OF SUMMONS) TO INDICTMENT DO NOT INCLUDE DEFENDANTS ARRESTED OR SERVED AFTER INDICTMENT	0- 30	19	82.6 %	19	0- 30
	31- 35	3	95.7	4	31- 35
	36- 45	1	100.0		36- 45
	46- 60				46- 60
	61- 90				61- 90
	91 Plus				91 Plus
	INTERVAL 1 TOTAL		23 #		
2. INDICTMENT (OR INITIAL APPEARANCE) TO ARRAIGNMENT (OR PRE-ARRAIGNMENT DISMISSAL)	0-10	32	69.6 %	32	0-10
	11-21	13	97.8	13	11-21
	22-42	0	100.0	1	22-42
	43-84	1	100.0		43-84
	85 Plus				85 Plus
INTERVAL 2 TOTAL		46 #			
3. ARRAIGNMENT TO TRIAL, GUILTY PLEA, OR DISMISSAL	0- 30	24	52.2 %	31	0- 30
	31- 60	17	89.1	14	31- 60
	61- 80	3	95.7	1	61- 80
	81-120	2	100.0		81-120
	121-180				121-180
	181-300				181-300
	300 Plus				300 Plus
INTERVAL 3 TOTAL		46 #			
4. CONVICTION TO SENTENCING	0-30	18	64.3 %		
	31-45	2	71.4		
	46-84	2	78.6		
	84 Plus	6	100.0		

*SEE NOTE ON TABLE 1A
INTERVAL TOTALS WILL NOT NECESSARILY AGREE

NEW MEXICO

**CRIMINAL CASE PROCESSING
TIME BY PROSECUTIVE INTERVALS**

TABLE
1B

REPORT
COVERS

ALL TERMINATIONS DURING
 FEB, 1976
 CALENDAR YR 1974 ... OR
OTHER SPECIFIED PERIOD

a) All Offenses c) All Misdemeanors
(except petty offenses)
b) Felonies d)

INTERVAL	TIME SPAN CATEGORIES (DAYS)	GROSS TIME		NET TIME*	
		NUMBER OF DEFENDANTS	CUMULATIVE % OF DEFENDANTS	NUMBER OF DEFENDANTS	TIME SPAN CATEGORIES (DAYS)
1. ARREST (OR SERVICE OF SUMMONS) TO INDICTMENT DO NOT INCLUDE DEFENDANTS ARRESTED OR SERVED AFTER INDICTMENT	0- 30	11	91.7%	11	0- 30
	31- 35	1	100.0	1	31- 35
	36- 45				36- 45
	46- 60				46- 60
	61- 90				61- 90
	91 Plus				91 Plus
INTERVAL 1 TOTAL →		12 #			
2. INDICTMENT (OR INITIAL APPEARANCE) TO ARRAIGNMENT (OR PRE-ARRAIGNMENT DISMISSAL)	0-10	12	63.2%	12	0-10
	11-21	7	100.0	7	11-21
	22-42				22-42
	43-84				43-84
	85 Plus				85 Plus
INTERVAL 2 TOTAL →		19 #			
3. ARRAIGNMENT TO TRIAL, GUILTY PLEA, OR DISMISSAL	0- 30	9	47.4%	12	0- 30
	31- 60	7	84.2	7	31- 60
	61- 80	2	94.7		61- 80
	81-120	1	100.0		81-120
	121-180				121-180
	181-300				181-300
300 Plus				300 Plus	
INTERVAL 3 TOTAL →		19 #			
4. CONVICTION TO SENTENCING	0-30	6	54.5%		
	31-45	0			
	46-84	0			
	84 Plus	5	100.0		

*SEE NOTE ON TABLE 1A

NEW MEXICO

CRIMINAL CASE PROCESSING TIME BY PROSECUTIVE INTERVALS

TABLE
1B

REPORT COVERS { ALL TERMINATIONS DURING
 FEB, 1976
 CALENDAR YR 1974... OR
 OTHER SPECIFIED PERIOD } OF { a) All Offenses c) All Misdemeanors (except petty offenses)
 b) Felonies d)

INTERVAL	TIME SPAN CATEGORIES (DAYS)	GROSS TIME		NET TIME*	
		NUMBER OF DEFENDANTS	CUMULATIVE % OF DEFENDANTS	NUMBER OF DEFENDANTS	TIME SPAN CATEGORIES (DAYS)
1. ARREST (OR SERVICE OF SUMMONS) TO INDICTMENT DO NOT INCLUDE DEFENDANTS ARRESTED OR SERVED AFTER INDICTMENT	0- 30		%		0- 30
	31- 35				31- 35
	36- 45				36- 45
	46- 60				46- 60
	61- 90				61- 90
	91 Plus				91 Plus
INTERVAL 1 TOTAL →			#		
2. INDICTMENT (OR INITIAL APPEARANCE) TO ARRAIGNMENT (OR PRE-ARRAIGNMENT DISMISSAL)	0-10	169	41.7 %		0-10
	11-21	115	70.1		11-21
	22-42	39	79.8		22-42
	43-84	27	86.4		43-84
	85 Plus	55	100.0		85 Plus
INTERVAL 2 TOTAL →		405	#		
3. ARRAIGNMENT TO TRIAL, GUILTY PLEA, OR DISMISSAL	0- 30	220	58.2 %		0- 30
	31- 60	76	78.3		31- 60
	61- 80	23	84.4		61- 80
	81-120	28	91.8		81-120
	121-180	12	95.0		121-180
	181-300	5	96.3		181-300
	300 Plus	14	100.0		300 Plus
INTERVAL 3 TOTAL →		378	#		
4. CONVICTION TO SENTENCING	0-30	169	73.5 %		
	31-45	20	82.2		
	46-84	9	86.1		
	84 Plus	32	100.0		

*SEE NOTE ON TABLE 1A
INTERVAL TOTALS WILL NOT NECESSARILY AGREE

INCIDENCE OF AND REASONS FOR DELAY

REPORT COVERS TERMINATIONS DURING PERIOD OF: FEBRUARY, 1976

OTHER SPECIFIED PERIOD

OR JAN & FEB 1976

TOTAL NO. DEFENDANTS TERMINATED DURING PERIOD OF REPORT

(X)

47

I. NUMBER OF DEFENDANTS FOR WHOM PERIODS OF DELAY (PER 3161(h) OCCURRED	AGGREGATE NO. OF DAYS						NUMBER DELAYED (b) thru (f)
	Zero Days (a)	1 to 10 (b)	11 to 21 (c)	22 - 42 (d)	43 - 84 (e)	85 Plus (f)	
* columns (a) thru (f) equal box (X)	27	8	8	4			20
PERCENTAGE OF TOTAL DEFENDANTS	57.5%	17.0%	17.0%	8.5%	%	%	42.6%

II. NUMBER OF DEFENDANTS EXPERIENCING DELAY, GROUPED BY REASONS FOR DELAY AND LENGTH OF THE DELAY PERIOD(S)

REASON	NO. OF DAYS						TOTAL DEFENDANTS
	Zero Days	1 to 10	11 to 21	22 to 42	43 to 84	85 Plus	
A. Examination or hearing for mental or physical incapacity—3161(h)(1)(A)				1			1
B. NARA Examination 3161(h)(1)(B)							
C. State or Federal trials on other charges 3161(h)(1)(C)							
D. Interlocutory appeals 3161(h)(1)(D)							
E. Hearings on pretrial motions 3161(h)(1)(E)		9*	6	2			16
F. Transfers from other districts (per FRCP Rules 20, 21 & 40). 18 USC 3161(h)(1)(F)			2				2
G. Defendant Motion is actually under advisement. 18 USC 3161(h)(1)(G)				1			1
H. Misc. Proceedings: Probation or Parole revocation, Deportation, Extradition. 18 USC 3161(h)(1)							
I. Prosecution deferred by mutual agreement. 18 USC 3161(h)(2)							
M. Unavailability (includes fugitive) of defendant or essential witness. 18 USC 3161(h)(3)(A)(B)							
N. Period of mental or physical incompetence of defendant to stand trial. 18 USC 3161(h)(4)							
O. Period of NARA Commitment or Treatment. 18 USC 3161(h)(5)							
P. Superseding indictment and/or new charges. 18 USC 3161(h)(6)							
R. Defendant awaiting trial of Co-defendant when no severance has been granted. 18 USC 3161(h)(7)							
T. Continuances granted in the ends of justice. 18 USC 3161(h)(8)							
J. Time up to withdrawal of guilty plea. 18 USC 3161(i)							
W. Grand Jury indictment time extended 30 more days. 18 USC 3161(b)							
							20

*One defendant had two separate periods of delay--E-5 and G-30

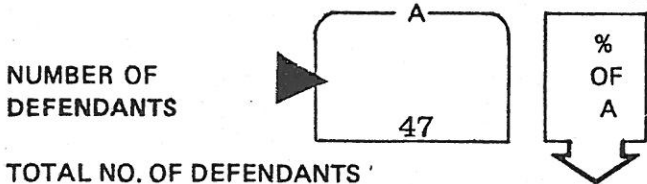
PRETRIAL DETENTION & RELEASE

OTHER SPECIFIED PERIOD

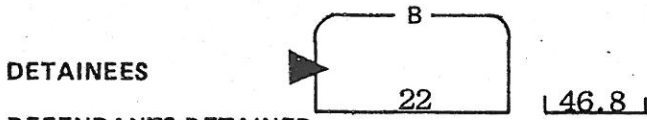
REPORT COVERS ALL TERMINATIONS DURING FEBRUARY, 1976... OR January and February, 1976

PERCENTAGE OF DEFENDANTS DETAINED, RELEASED, OR FUGITIVE

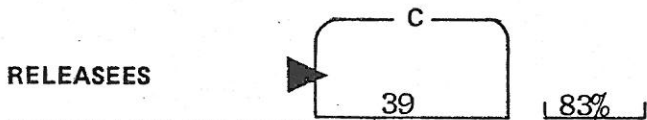
CLOSED CASES



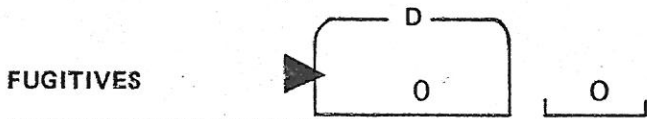
TOTAL NO. OF DEFENDANTS DISPOSED OF DURING PERIOD OF REPORT



DEFENDANTS DETAINED AFTER INITIAL APPEARANCE BEFORE A JUDGE OR MAGISTRATE

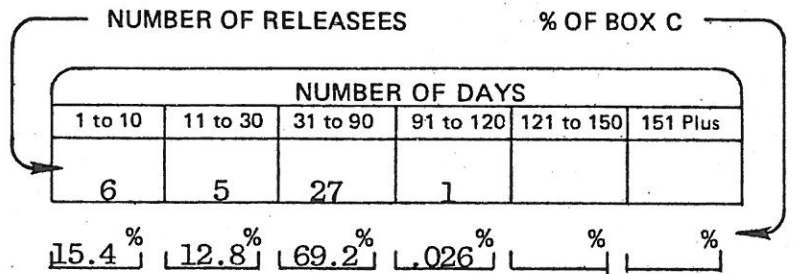
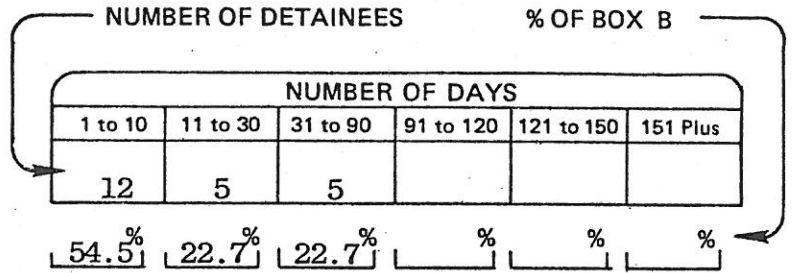


DEFENDANTS RELEASED ON BAIL OR RECOGNIZANCE DURING ANY PRETRIAL STAGE

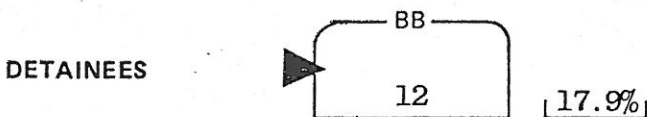
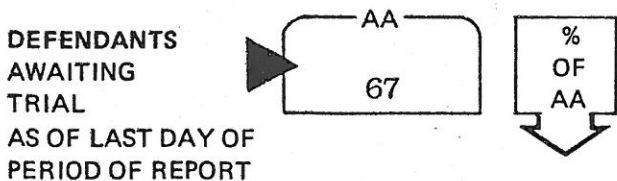


PERSONS WHO WERE NEVER APPREHENDED

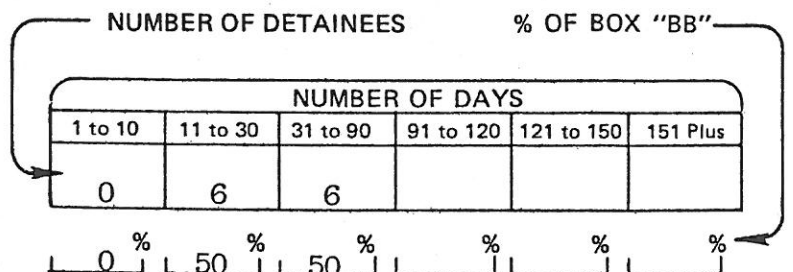
DEFENDANTS GROUPED BY LENGTH OF TIME IN DETENTION OR RELEASE STATUS



PENDING CASES



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



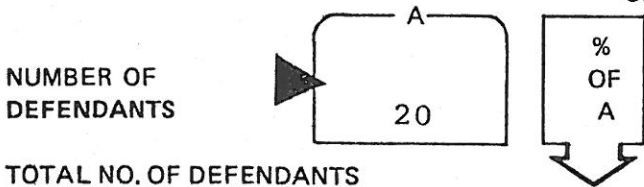
PRETRIAL DETENTION & RELEASE

OTHER SPECIFIED PERIOD

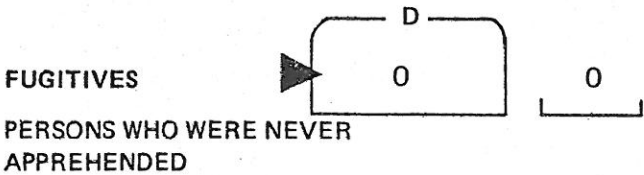
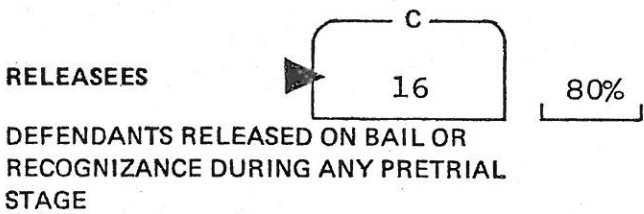
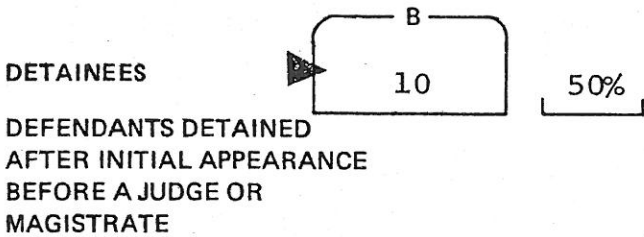
REPORT COVERS ALL TERMINATIONS DURING FEBRUARY, 1976... OR

PERCENTAGE OF DEFENDANTS DETAINED, RELEASED, OR FUGITIVE

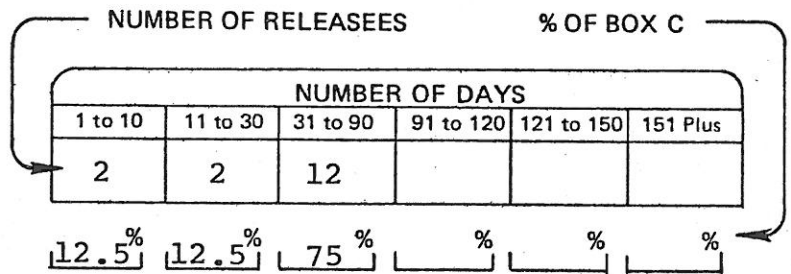
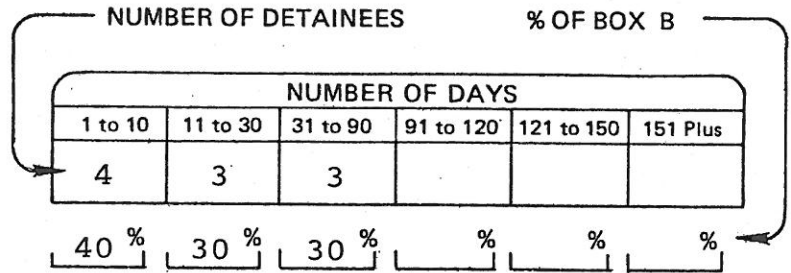
CLOSED CASES



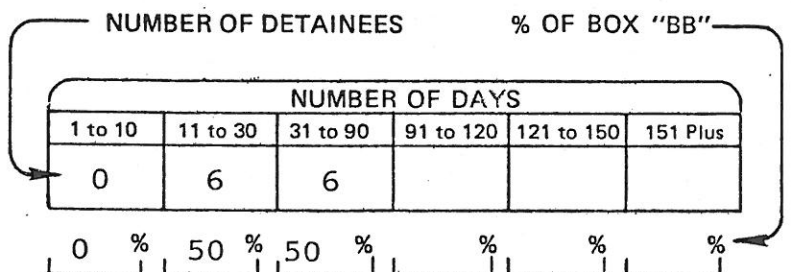
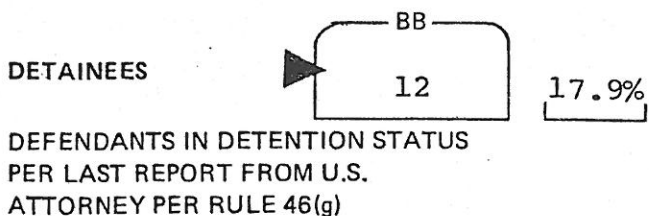
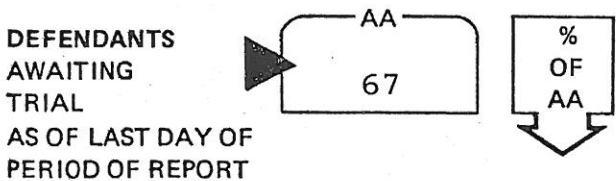
TOTAL NO. OF DEFENDANTS DISPOSED OF DURING PERIOD OF REPORT



DEFENDANTS GROUPED BY LENGTH OF TIME IN DETENTION OR RELEASE STATUS



PENDING CASES



CRIMINAL DISPOSITIONS

REPORT
COVERS

FISCAL 1975.....OR OTHER SPECIFIED PERIOD

A
NUMBER
OF DE-
FENDANTS
DISPOSED
OF

358

% OF A	NOT CONVICTED					
	B TOTAL NOT CON- VICTED	DISMISSED		ACQUITTED AT TRIAL		
		% OF B	TOTAL NO. DISMISSED	% OF B	COURT	JURY
25.1	90	97.8	88	2.2	1	1

% OF A	CONVICTED					
	C TOTAL CON- VICTED	CONVICTED by PLEA		CONVICTED at TRIAL		
		% OF C	PLEA of GUILTY or NOLO CON.	% OF C	COURT	JURY
74.9	268	88.4	237	11.6	8	23

NEW MEXICO 51

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

REPORT COVERS MONTH OF OCTOBER, 1975

PART I

MATTERS¹

NAME OF AGENCY PRESENTING MATTER TO U.S. ATTORNEY FOR PROSECUTION	ON HAND & NEW		DECLINED				OTHER DISPOSITIONS ³ Terminated	NEW PROSECUTIONS INITIATED DURING PERIOD ⁴	MATTERS ON HAND AT END OF PERIOD ⁵
	MATTERS ¹ ON HAND AT START OF PERIOD ¹	MATTERS REC'D OR ORIGINATED BY U.S. ATTY DURING PERIOD	(i.e. DETERMINATIONS THAT NEW PROSECUTIONS WOULD NOT BE INITIATED IN THIS DISTRICT.)						
			REFERRED TO OTHER FEDERAL DISTRICT (c)	STATE/LOCAL AUTHORITY (d)	PRETRIAL DIVER-SION (e)	ALL OTHER DECLINATIONS ² (f)			
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	
FBI 312	83	20	7	26	1	68	1	16	102
Narcotics 310	46	15					1	9	60
Immigration 314	9	1					1	1	9
Indian Service 240	1								1
Internal Revenue 421	1								1
Securities & Exch. 790	1								1
Forest Service 032	7								7
Packers & Stockyards 035	10								10
Post Office 360	4	2	2					2	6
Customs 415	1								1
ATF 423	17	6						5	23
Secret Service 440	6	1	3						7
IOC 680	2								2
Selective Serv. 800	1		4						1
All Others 049	3	--							
Dept. H.E. & W.			1						
Dept. of Agric.			1						
TOTALS	192	45	18	26	1	68	3	33	231

¹"MATTER" REFERS TO DEFENDANT MATTER - I.E. IF CLAIMED OFFENSE INVOLVES 2 DEFENDANTS COUNT IT AS 2 MATTERS
²COL (F) INCLUDES MATTERS DECLINED FOR WANT OF PROSECUTIVE MERIT, LACK OF EVIDENCE, JURISDICTIONAL PROBLEMS, ETC.
³COL (G) INCLUDES MATTERS DISMISSED BY MAGISTRATE, NOT ON INITIATIVE OF U.S. ATTY., AND MATTERS RESULTING IN NO TRUE BILL BY GRAND JURY
⁴COL (H) INCLUDES INDICTMENTS AND INFORMATIONS FILED AND MATTERS ADJUDICATED BEFORE U.S. MAGISTRATE
⁵COL (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)

PART II

OPTIONAL REPORT

AGE OF MATTERS PENDING INDICTMENT AS OF OCTOBER 31, 1975

TOTAL DEFENDANTS PENDING INDICTMENT OR INFORMATION MORE THAN 30 DAYS AS OF ABOVE DATE	NO. OF DEFENDANTS	LENGTH OF TIME (DAYS) PENDING AS OF ABOVE DATE, COMPUTED FROM DATE OF ARREST OR SERVICE OF SUMMONS						
		NOT ARRESTED OR SERVED	30 DAYS & UNDER	31-35	36-45	46-60	61-90	91 PLUS
A								
B	TOTAL DEFENDANTS PENDING INDICTMENT OR INFORMATION MORE THAN 30 DAYS AFTER ARREST OR SERVICE							