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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

IN THE MATTER OF } GENERAL ORDER NO. 11-05
PLAN FOR ACHIEVING } (Supersedes General Order No. 03-04
PROMPT DISPOSITION OF } and all prior General Orders Regarding
CRIMINAL CASES } the Speedy Trial Act Plan¹)

The Speedy Trial Act Plan of the United States District Court, Central District of California (“Plan”), attached hereto as Exhibit A, was approved by the Executive Committee of the Court on May 6, 2009; no objections to the Plan being received, approval by the full Court therefore became effective on May 20, 2009. The Plan was subsequently approved by the Judicial Council of the Ninth Circuit on July 9, 2009.

According to the terms of the Plan it became effective upon approval by the Judicial Council. (Plan § 1.) However, the Plan has not yet been formally adopted by General Order, and the General Order approving the prior version of the Plan, General Order No. 03-04, has not been effectively superseded. Therefore, in order to memorialize the approval of the 2009 Plan, and prevent any confusion over which version of the Plan is currently operative, the instant General Order shall be

¹Prior General Orders regarding the Speedy Trial Act Plan include 124, 150, 158, 191, and 209; all of these General Orders, to the extent not previously superseded or rescinded, are hereby superseded.

1 filed, and General Order No. 03-04 shall be hereby superseded, along with all prior
2 General Orders regarding the Speedy Trial Act Plan.

3
4 IT IS SO ORDERED.

5 

6 CHIEF UNITED STATES DISTRICT JUDGE

7 *Date of Plan Approval by the Court:* May 20, 2009

8
9 *Date of Plan Approval by the Judicial Council:* July 9, 2009

10 *Date of Filing by the Clerk:* June 17, 2011
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EXHIBIT A

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**



**SPEEDY TRIAL ACT
PLAN**

APPROVED BY THE COURT: May 5, 2009

APPROVED BY THE JUDICIAL
COUNCIL OF THE NINTH CIRCUIT: July 9, 2009

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1. AUTHORITY

Pursuant to the requirements the Speedy Trial Act of 1974 (18 U.S.C. § 3161 et seq.), the Speedy Trial Act Amendments of 1979 (Pub. L. No. 96-43, 43 Stat. 327), the Federal Juvenile Delinquency Act (18 U.S.C. §§ 5036 and 5037), and the Bail Reform Act of 1984 (18 U.S.C. §§ 3141-3156), the judges of the United States District Court for the Central District of California have adopted the following plan setting forth time limits and procedures to minimize undue delay and to further the prompt disposition of criminal cases and certain juvenile proceedings. This plan modifies and to the extent it contradicts, supersedes General Order No. 03-04, filed October 7, 2003. This plan shall take effect upon approval of the Judicial Council of the Ninth Circuit.

2. APPLICABILITY

- a. Offense. The time limits set forth herein are applicable to any criminal offense which is in violation of any Act of Congress and is triable by any court established by Act of Congress (other than a Class B or C misdemeanor or infraction, or an offense triable by court-martial, military commission, provost court, or other military tribunal).
- b. Judge. The terms “judge,” “judicial officer” or “court” mean, unless otherwise indicated, any United States district and magistrate judge.
- c. 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.

3. PRIORITIES IN SCHEDULING CRIMINAL CASES

Preference shall be given to criminal proceedings as far as practicable as required by Rule 50 of the Federal Rules of Criminal Procedure. The trial or other disposition of cases involving a detained person who is being held in detention solely because he is awaiting trial, and a released person who is awaiting trial and has been designated by the attorney for the Government as being of high risk, shall be accorded priority. (18 U.S.C. § 3164(a))

4. 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 the arrest or service. (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 the earliest of such times 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.

- i. 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 prosecuting agency shall inform the judicial officer of the date on which the arrest took place for the record.
- ii. 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. A summons served by mail shall be considered to have been served on the date shown on the receipt thereof.

5. TIME WITHIN WHICH TRIAL MUST COMMENCE

a. Time Limits.

- i. Unless the defendant consents in writing to the contrary, the trial shall not commence earlier than 30 days from the date on which the defendant first appears before a judicial officer of this district either through counsel or on which the defendant expressly waives counsel and elects to proceed *pro se*. (18 U.S.C. § 3161(c)(2))
- ii. In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with commission of an offense shall commence within 70 days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs. If a defendant consents in writing to be tried before a magistrate judge on a complaint, the trial shall commence within 70 days from the date of such consent. (18 U.S.C. § 3161(c)(1))
- iii. The trial of any detained person who is being held in detention solely because he is awaiting trial, and a released person who is awaiting trial and has been designated by the attorney for the Government as being of high risk shall commence not later than 90 days following the beginning

of such continuous detention or designation of high risk by the attorney for the Government. The periods of delay enumerated in 18 U.S.C. § 3161(h) are excluded in computing the time limitation specified in this paragraph. (18 U.S.C. § 3164(a) and (b))

- b. 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.
 - i. If the original indictment or information was dismissed on motion of the defendant before the filing of the subsequent charge, the time limit shall be determined without regard to the existence of the original charge. (18 U.S.C. § 3161(d)(1)) A dismissal of the indictment on order of the judge with the consent of the defendant shall be considered dismissed on motion of the defendant.
 - ii. If the original indictment or information was dismissed on motion of the United States Attorney and thereafter a charge is filed against the defendant for the same offense, or any offense required to be joined with that offense, the trial shall commence within the time limit for commencement of trial on the original indictment or information, but any period of delay from the date the charge was dismissed to the date the time limit would commence to run as to the subsequent charge shall be excluded from the computations. (18 U.S.C. § 3161(h)(6))
 - iii. 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 the trial on the original indictment or information. (18 U.S.C. § 3161(h)(6))
- 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 subsequently is permitted to withdraw it, the time limit shall be determined for all counts as if the indictment or information were filed on the day the order permitting withdrawal of plea became final. (18 U.S.C. § 3161(i))
- d. Retrial and Trial on Charges Reinstated. If a defendant is to be tried upon an indictment or information dismissed by the trial court and reinstated following an appeal or if the defendant is to be tried again following a declaration by the trial judge of a mistrial or following an order of such judge for a new trial, the trial shall commence 70 days from the date the order occasioning the trial or retrial becomes final. If the defendant is to be tried again following an appeal or collateral attack, the trial shall commence within 70 days from the date the action occasioning the retrial becomes final except that the court retrying may extend the

period for retrial not to exceed 180 days from the date the action occasioning the retrial becomes final if unavailability of witnesses or other factors resulting from the passage of time shall make trial within 70 days impractical. The periods of delay enumerated in 18 U.S.C. § 3161(h) are excluded in computing the time limitations specified in this section. (18 U.S.C. §§ 3161(d)(2) and 3161(e))

e. Measurement of Time Periods. For purposes of this section:

- i. If a defendant signs a written consent to be tried before a magistrate on a complaint and no indictment or information charging the offense has been filed, the time limit for trial shall run from the date of such consent.
- ii. 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 of the court.
- iii. A trial in a jury case shall be deemed to commence at the beginning of voir dire.
- iv. A trial in a non-jury case shall be deemed to commence on the day the case is called, provided that some substantial step in the trial procedure immediately follows.

f. Related Procedures.

- i. The court shall provide defendants with counsel as soon as feasible after they are taken into custody, when they appear before a district or magistrate judge, when they are formally charged or notified of charges if formal charges are sealed, or when a district or magistrate judge otherwise considers appointment of counsel appropriate under the Criminal Justice Act, whichever occurs earliest. (Criminal Justice Act, Rule 44 of the Federal Rules of Criminal Procedure and Criminal Justice Act Plan for the Central District of California)
- ii. The court shall have sole responsibility for setting cases for trial after consultation with the counsel for the defendant and the attorney for the Government. At the arraignment or as soon thereafter as is practicable, each case shall be set for trial. (18 U.S.C. § 3161(a))
- iii. A conflict in schedules of the Assistant United States Attorney or defense counsel shall not be grounds for a continuance or 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.

- iv. At or promptly after the time of the filing of a complaint, indictment, or information such as described in above subparagraph 5(b)(ii) or (iii), the United States Attorney shall inform the court of that circumstance and his or her position with respect to the computation of the time limits.
- v. Pre-trial hearings deemed necessary to assist counsel in the preparation or disposition of their case shall be conducted as soon after the arraignment as possible, consistent with the priorities of other matters on the court's criminal docket.

6. DEFENDANTS IN CUSTODY

- a. Time Limits. Notwithstanding any longer time periods that may be permitted under paragraphs 4 and 5 above, 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.
- b. Measurement of Time Periods. For the purposes of this section:
 - i. A defendant is deemed to be in detention awaiting trial when he is arrested on a Federal charge or otherwise held for the purpose of responding to a Federal charge. Detention is deemed to be solely because the defendant is awaiting trial unless the person exercising custodial authority has an independent basis (not including detainer) for continuing to hold the defendant.
 - ii. If a case is transferred pursuant to Rule 20 of the Federal Rules of Criminal Procedure and the defendant subsequently rejects disposition under Rule 20 or the court declines to accept the plea, a new period of continuous detention awaiting trial will begin at that time.
 - iii. A trial shall be deemed to commence as provided in subparagraphs 5(e)(iii) and (iv).

7. MINIMUM TIME FOR DEFENSE PREPARATION

Unless the defendant consents in writing to the contrary, the trial shall not commence earlier than 30 days from the date on which the defendant first appears before a judicial officer of this district either through counsel or on which the defendant expressly waives counsel and elects to proceed *pro se*. In circumstances in which the 70 day time limit for commencing trial on a charge in an indictment or information is determined by reference to an earlier indictment or information pursuant to subparagraph 5(b), the 30 day minimum period shall also be determined by reference to the earlier indictment or information.

When prosecution is resumed on an original indictment or information following a mistrial, appeal or withdrawal of a guilty plea, a new 30 day minimum period will not begin to run. The court will in all cases schedule trials so as to permit defense counsel adequate preparation time in the light of all the circumstances. (18 U.S.C. § 3161(c)(2))

8. EXCLUSION OF TIME FROM COMPUTATIONS

- a. Applicability. In computing any time limit under above paragraphs 4, 5, and 6, the periods of delay set forth in 18 U.S.C. § 3161(h) shall be excluded. Such periods of delay shall not be excluded in computing the minimum period for commencement of trial under paragraph 7 above.
- b. Basis for Excludable Time. At the time it orders time excluded from the computation of any time limit under 18 U.S.C. § 3161, the court shall set forth on the record, in writing or orally, the basis for the finding of excludable time.
- c. Stipulations.
 - i. The attorney for the Government and the attorney for the defendant may at any time enter into stipulations with respect to excludable time.
 - ii. To the extent that the amount of time stipulated exceeds the amount listed in the case record, the stipulation shall have no effect unless approved by the court.
- d. Pre-Indictment Procedures.
 - i. 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 paragraph 4 herein, the United States Attorney shall file a written motion with the court for a determination of excludable time. In the event that the United States Attorney seeks a continuance under 18 U.S.C. § 3161(h)(8), the United States Attorney shall file a written motion with the court requesting such a continuance.
 - ii. The motion of the United States Attorney shall state:
 - (1) the period of time proposed for exclusion;
 - (2) the basis of the proposed exclusion; and
 - (3) if the motion is for a continuance under 18 U.S.C. § 3161(h)(8), it shall also state whether 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*.

iii. The court will grant an extension of time within which an indictment or information must be filed under 18 U.S.C. § 3161(h)(8) only for a specific period of time.

e. Post-Indictment Procedures.

i. In the event the court extends the time for a trial beyond the time limit set forth in paragraphs 5, 6 and 7, the court shall determine whether the limit may be recomputed by excluding time pursuant to 18 U.S.C. § 3161(h). If it is determined that an extension is justified, the court shall state for the record, either orally or in writing, the fact or facts on which the determination is made. Any *ex parte* determination that time is excludable shall be subject to a motion to vacate the determination made within five days of the entry of the decision on the docket. No action following the determination that time is excludable will be deemed final until the time for such motion to vacate has passed. In the absence of a need for an extension of time, the court will not ordinarily rule on the excludability of any period of time.

9. TIME WITHIN WHICH DEFENDANT SHOULD BE SENTENCED

a. Time Limit. A defendant shall ordinarily be sentenced within 120 days of conviction. In particular, it should be noted that the time period for sentencing set forth herein is a statement of this district's voluntarily assumed goal, and is not required nor enforced by the Speedy Trial Act.

b. Related Procedures. For good cause, the court may order a presentence investigation commenced prior to a conviction.

10. JUVENILE PROCEEDINGS

a. Definitions. "Juvenile" is a person who has not attained his 18th birthday, or for the purpose of proceedings and disposition for an alleged act of juvenile delinquency, a person who has not attained his 21st birthday, and "juvenile delinquency" is the violation of a law of the United States committed by a person prior to his 18th birthday which would have been a crime if committed by an adult or a violation by such a person of 18 U.S.C. § 922(x). (18 U.S.C. § 5031)

b. 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. (18 U.S.C. § 5036)

- c. Time of Dispositional Hearing. If a juvenile is adjudicated delinquent, a separate dispositional hearing shall be held no later than 20 days after trial, unless the court has ordered further study of the juvenile in accordance with 18 U.S.C. § 5037(d).

11. SANCTIONS

- a. Dismissal. Failure to comply with the requirements of the Speedy Trial Act, 18 U.S.C. § 3161 et seq., may entitle the defendant to dismissal of the charges against him. Nothing in this plan shall be construed to require that a case be dismissed in circumstances in which dismissal would not be by 18 U.S.C. § 3161 et seq. or the Interstate Agreement on Detainers.
- b. Alleged Juvenile Delinquents. If an alleged delinquent in detention pending trial is not brought to trial within 30 days from the date upon which such detention was begun, the information shall be dismissed on motion of the alleged delinquent or at the direction of the court, unless the United States Attorney shows that additional delay was caused by the juvenile or his counsel, or consented to by the juvenile and his counsel, or would be in the interest of justice in the particular case. (18 U.S.C. § 5036)
- c. Discipline of Attorneys. The court may punish counsel as provided in 18 U.S.C. §§ 3162(b) and (c) 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 U.S.C. § 3161.

(18 U.S.C. § 3162)

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, the United States Attorney shall promptly undertake 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).