



**Testimony of District Judge Marilyn L. Huff, Southern District of California
before the United States Sentencing Commission
Concerning Fast Track or Early Disposition Programs
January 20, 2010**

Thank you for the invitation to provide testimony before the United States Sentencing Commission concerning district court experience with the advisory guidelines in sentencing. I am a district judge in the Southern District of California and a former chief judge of that district. As a district court judge in a border court for more than eighteen years, I have substantial experience in sentencing under the current advisory and the previous mandatory guidelines. I appreciate the Sentencing Commission's willingness to take testimony from participants in the criminal justice system in order to further the goal of a fair system of sentencing.

Today, I will update the Commission on the benefits of a fast track program as authorized under the PROTECT Act, Pub. L. No. 108-21, 117 Stat. 650 (2003) noted in Sentencing Guideline Section 5K3.1. I previously had the opportunity to discuss a fast track or early disposition program with the Sentencing Commission in 2003 shortly after the enactment of the PROTECT Act. Then and now, a fast track program provides an effective means to fairly administer a high volume of criminal cases in an authorized district without unnecessarily providing unwanted sentencing disparities.

The most recent published statistics (2008) for the Sentencing Commission indicate that the judges in the Southern District of California sentenced more defendants in 2008 (3,757) than the judges in the entire First Circuit (1,735), Third Circuit (3,152), Seventh Circuit (3,041), or D.C. Circuit (276). This high volume of criminal cases justifies a fast track or early disposition program.

Despite the high volume of cases, the Federal Court Management Statistics indicate that in 2008 the Southern District of California was the fastest court in the Ninth Circuit for criminal dispositions and third in the nation for criminal dispositions in criminal felony cases. Significantly, the court had 308 criminal felony cases per district judge, compared to 42 per judge the Northern District of California, 63 per judge in the Central District of California, and 140 in the Eastern District of California. In other words, a district judge in the Southern District of California handled more criminal felony cases in 2008 than all of the other California districts combined.

The fast disposition time in the Southern District of California is due in part to a successful early disposition or fast track as authorized by the Attorney General. The median time from filing to disposition for a criminal felony case in the Southern District of California in 2008 was 3.9 months, compared to 7.5 months in the Central District of California, 10.9 months in the Eastern District of California, and 11.2 months in the Northern District of California.

The current fast track program adopted by the U.S. Attorney in the Southern District of California consists of four parts: (1) a program for criminal aliens charged under Title 8 U.S.C. Section 1326; (2) a program for criminal alien smugglers charged under Title 8 U.S.C. Section 1324; (3) a program for drug cases charged under Title 21 U.S.C. Sections 952 or 960; and (4) a program for misuse of passport cases charged under Title 18 U.S.C. Sections 1542 or 1544.

The court did not create these fast track or early disposition programs. Rather, since 1994, all of the U.S. Attorneys in our district have established fast track programs. In 1995, the Ninth Circuit in United States v. Estrada-Plata, 57 F.3d 757, 761 (9th Cir. 1995), noted that a fast track “policy benefits the government and the court system by relieving court congestion.” Additionally, the U.S. Attorneys in the Southern District of California have obtained authorizations under the law for these programs from the Attorney General since 2003.

The justification for a fast track program results from the district’s proximity to the Southwest border. The Southern District of California includes San Diego and Imperial Counties with a combined population of over three million residents. The City of San Diego ranks as the seventh largest city in the United States. The district includes six ports of entry along the Southwest border with Mexico. Significantly,

the ports of entry at San Ysidro in San Diego County and Calexico in Imperial County are the busiest land ports of entry in the world. Arrests at the district's ports of entry result in a large number of federal criminal cases for the district. Absent significant changes in the law or prosecutorial policies, the district will continue to face a high volume of criminal felony cases and, as a result, will benefit from early disposition or fast track programs as authorized by law.

The fast track or early disposition programs benefit the criminal justice system in a number of ways. By encouraging early disposition, the programs reduce the time and related expenses for grand jurors, petit jurors, interpreters, deputy U.S. Marshals, prosecutors, Criminal Justice Act panel attorneys, material witness attorneys, Federal Defenders, and the court. The authorized departure under 5K3.1 has helped to ease congestion and permits our court to effectively manage a high volume of cases not seen in the typical district. Overall, the participants value the benefits of fast track or early disposition programs within the advisory guideline system as authorized by law. In conclusion, our district thanks the Sentencing Commission for the opportunity to be heard on the impact of a fast track program under the advisory guidelines.