

DISTRICT JUDICIARY, MARDAN

PTP-PLAN

6 Months Progress Report About

"Pre Trial Pursuit" - Plan

Donated to

KP Judicial Academy Peshawar

by

Syed Yahya Zahid Gilani

DISTRICT JUDICIARY MARDAN

Six months Progress Report
of
“Pre Trial Pursuit Plan”
(PTP-PLAN)

relating to the period,

from 1st January, 2007 to 30th June , 2007.

PREFACE.

In endeavors to curtail unnecessary delays in disposal of cases in our criminal jurisdiction, trial courts calculate age of the cases from the date of institution in court, up to the date of decision. But, public calculates it from the date of FIR, up to the date of decision.

We wrongly believe that we are not responsible for the pre-trial delays and public rightly calculates these delays in our account.

No doubt, in Pre Trial period, the case is in making with police, but the important question is that why a judicial magistrate plays the role of a silent spectator till the submission of challan, for which law has fixed (14+3) 17 days U/S 173 (1) Cr.P.C.

Magistrate's role of silent spectator becomes **shocking** when he mechanically grants judicial remands to incarcerated accused, ignoring directives of Honorable Peshawar High Court, on the subject.

DIRECTIVES.

Please see annexure "A"

DIWAL PESHI

The shocking apathy towards confined accused, at Pre Trial stage, has evolved the amazing indigenous terminology of "**DIWAL PESHI**", commonly used by the accused in jail, for Pre Trial magisterial court attendance for judicial remands, that connotes

appearance before a magistrate without progress of the case, as if the accused is produced before a **wall**.

This aboriginal terminology reveals the ground reality, which is actually a scream of confined human beings, to protest against lengthy Pre Trial period of confinement without any progress towards the conclusion of trial.

Judiciary must not put a deaf year to this **silent scream**. We, at District Mardan, have realized our responsibility and took steps to alleviate the problem. We know that the decades old problem will not solve in months, but we believe that each day's effort will bring us closer to the destination, i.e. its eradication.

RESEARCH.

District Judiciary Mardan, reorganized itself as a motivated team to strive for improvement of the prevailing criminal justice system within existing legal framework, for public welfare. This is requirement of Art.111 (a) of Police Order, 2002 and an important function of **Criminal Justice Coordination Committee** constituted under Art.109 (ibid). A study circle of district judicial officers has thus been formed for voluntary research work.

The study circle, entrusted with the task, exposed that "mechanical grant of judicial remands of Pre-Trial Prisoners and lack of concern of Judicial Magistrates towards cases of accused on bail at "Pre Trial" stage is the system actually inherited from the defunct Deputy

Commissioner's setup. After separation of judiciary from executive at Distt: level, our judicial officers brought no change in the inherited mechanism and attitudes. Hence, the dilemma exists.

PTP- PLAN.

Our study circle has devised "Pre Trial Pursuit Plan" (PTP-Plan) to change the working of Judicial Magistrates from sheer spectators to an exerting authority during pre-trial period of criminal cases. The plan, by the grace of Allah Rabbul Izzat, has been launched with effect from **1st January 2007**, with the **object** to pave ground for strict compliance of S.173 (1) Cr.P.C.

To highlight and understand details of PTP- Plan, the following documents have been annexed for perusal.

1. Relevant extract from minutes of the meeting of "Study Circle" of District Judiciary Mardan, dated, 01-12-2006. (Annexure- B)
2. The PTP-Plan and instruction to judicial magistrates to implement it. (Annexure-C)
3. Copy of Performa. (Annexure-D)
4. Format of PTP-Register. (Annexure-E)

Monitoring.

Naib courts have been made bound to maintain PTP Registers and prepare monthly reports to be submitted by judicial magistrates to Session's Judge to keep vigilant eye on sincere implementation of the plan.

The incharge judicial magistrate regularly checks that the entries in PTP Registers are up to date.

RESULTS.

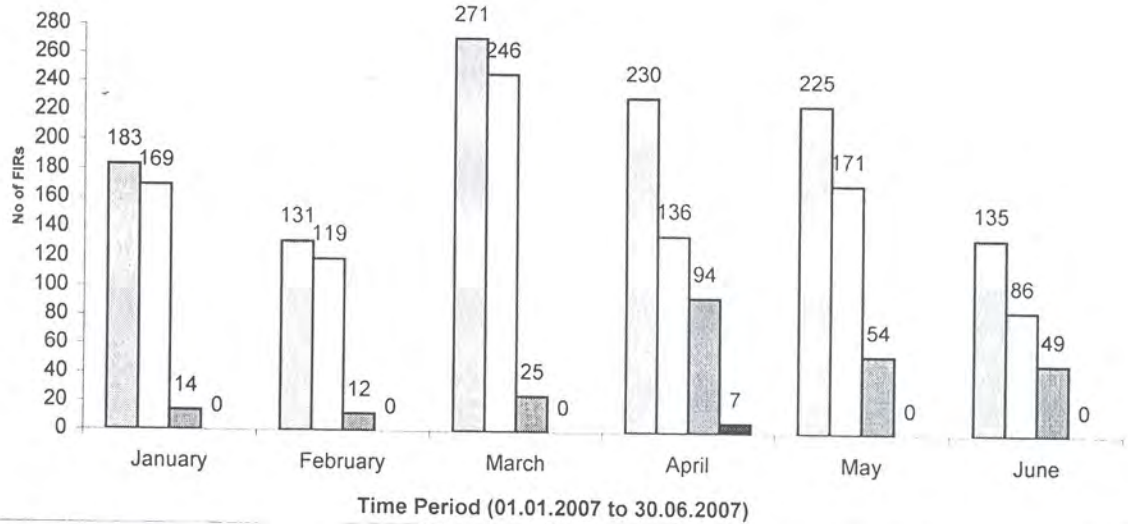
One cannot expect high degree of success in short span of 6 months time, however, we feel satisfied to report the "Encouraging Results."

The following 12 graphs relating to each police station in Distt Mardan are showing the data pertaining to the period of 6 months, from **01-01-07 to 30-06-07** to monitor:

1. The total number of registered FIRs,
2. The total numbers of challans put in court,
3. The total number of challans not put in court, and,
4. The total number of the cases of imprisoned accused whose challans have not been put in court,

PTP Plan-Monitoring

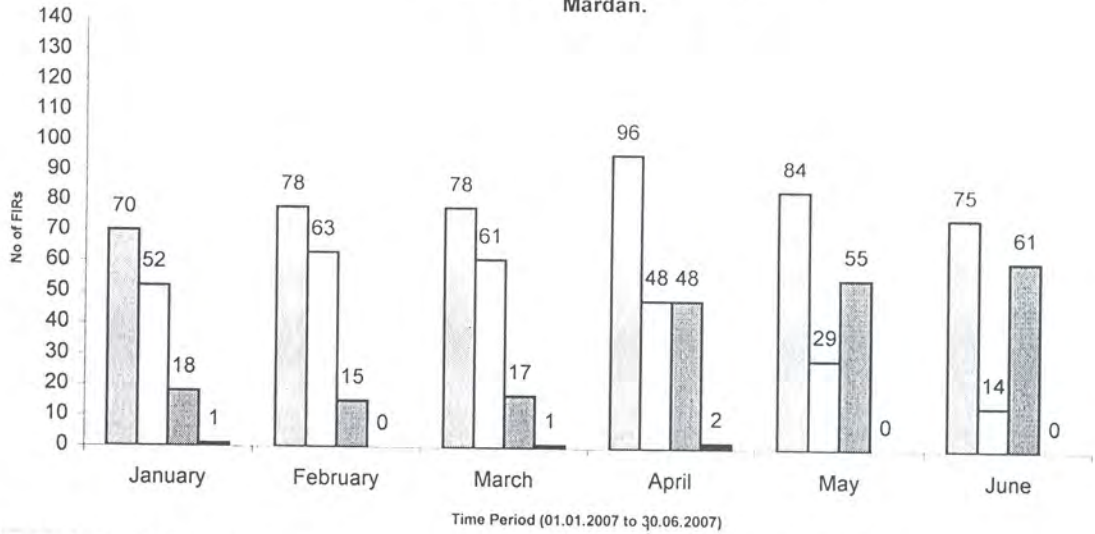
Court of Mr. Altaf-ur-Rahman SCJ, Mardan,
Police Station City
Mardan.



- No of FIRs registered
- Challan put in court
- Challan not put in court
- Challan of prisoners not put in court

PTP Plan-Monitoring

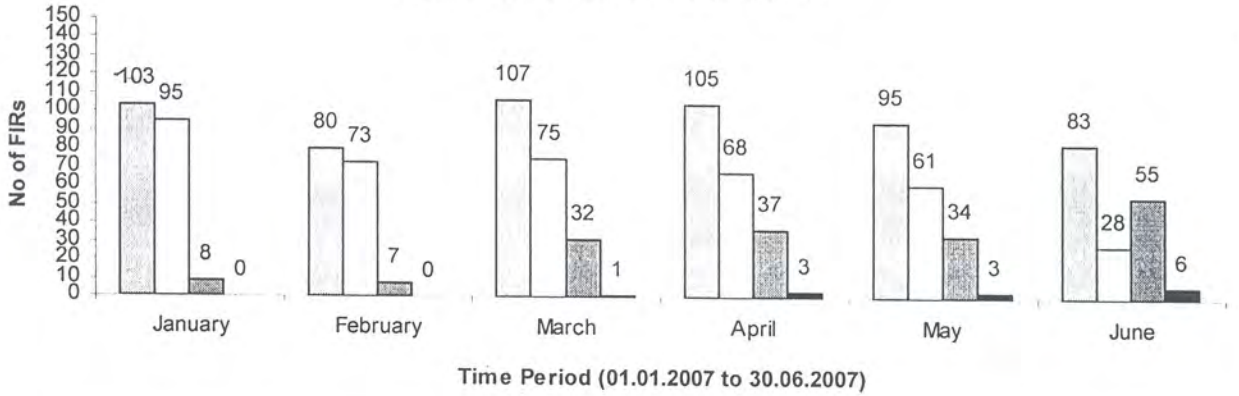
Court of Mr. Abdul Majid, JMIC-X, Mardan,
Police Station Sheikh Maltoon
Mardan.



- No of FIRs registered
- Challan put in court
- Challan not put in court
- Challan of prisoners not put in court

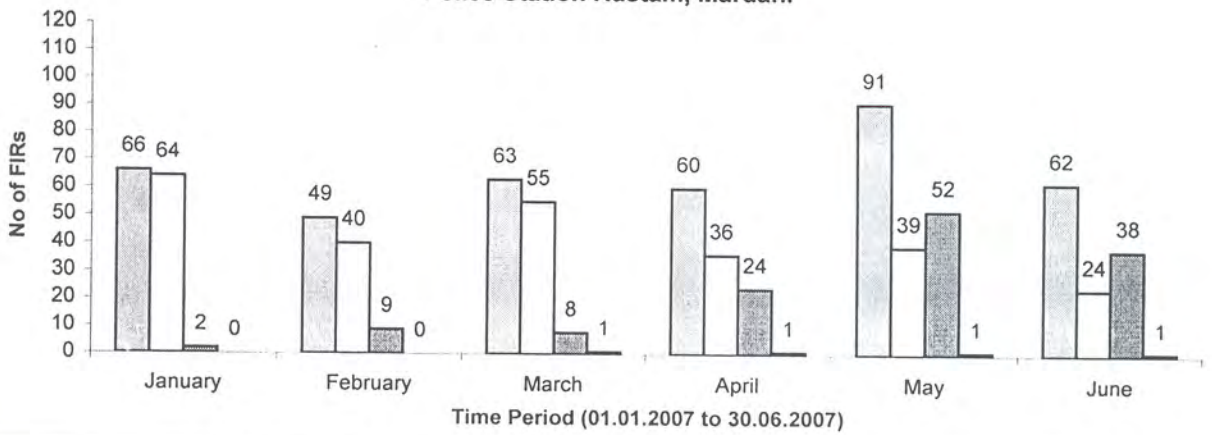
PTP Plan-Monitoring

Court of Mr. Abdul Majid, JMIC-X, Mardan,
Police Station Shehbaz Ghari Mardan.



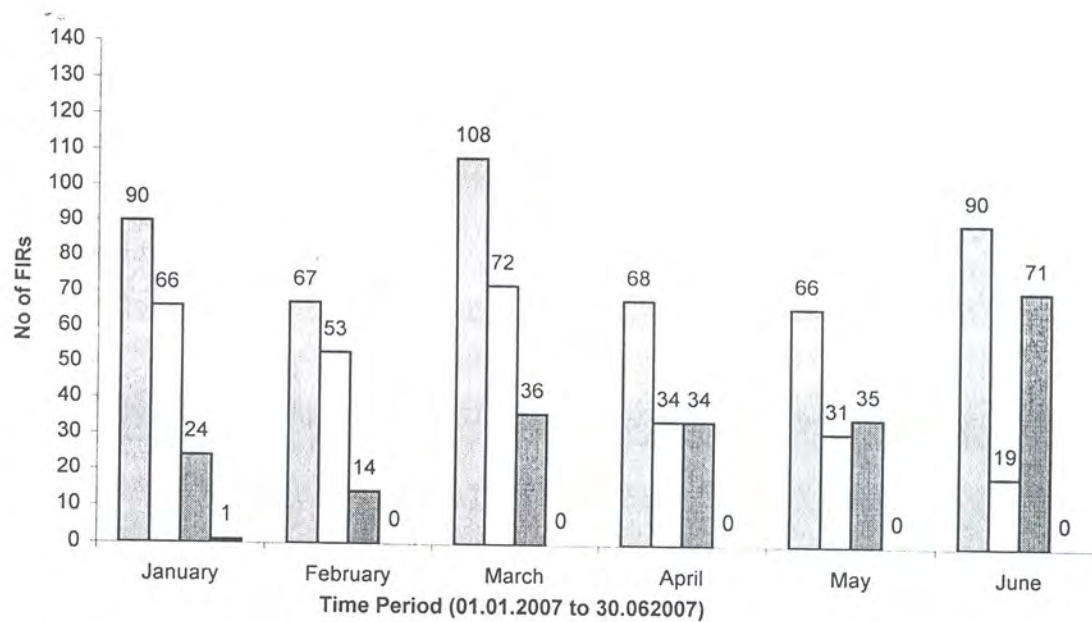
PTP Plan-Monitoring

Court of Mr. Abdul Majid, JMIC-X, Mardan,
Police Station Rustam, Mardan.



PTP Plan-Monitoring

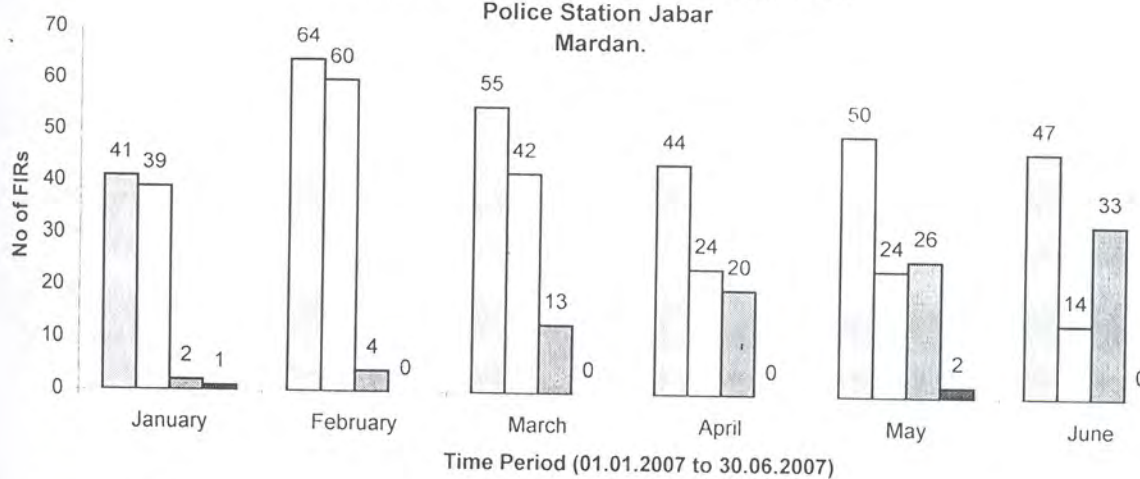
Court of Mr. Abdul Majid, JMIC-X, Mardan,
Police Station Katlang
Mardan.



No of FIRs registered Challan put in court
 Challan not put in court Challan of prisoners not put in court

PTP Plan-Monitoring

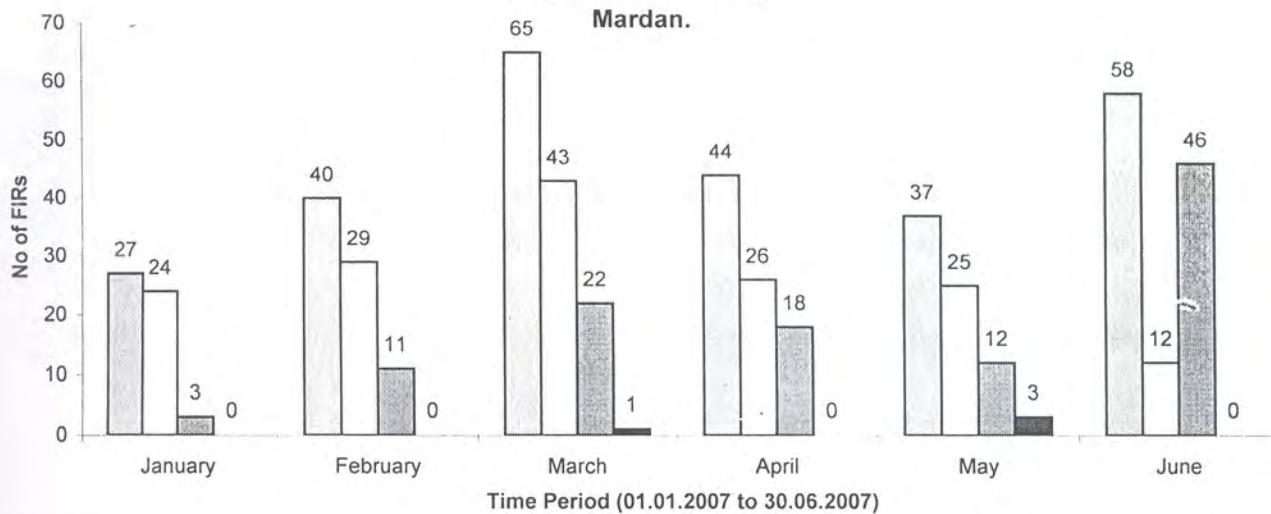
Court of Mr. Ghulam Abbas JMIC-III, Mardan,
Police Station Jabar
Mardan.



No of FIRs registered Challan put in court
 Challan not put in court Challan of prisoners not put in court

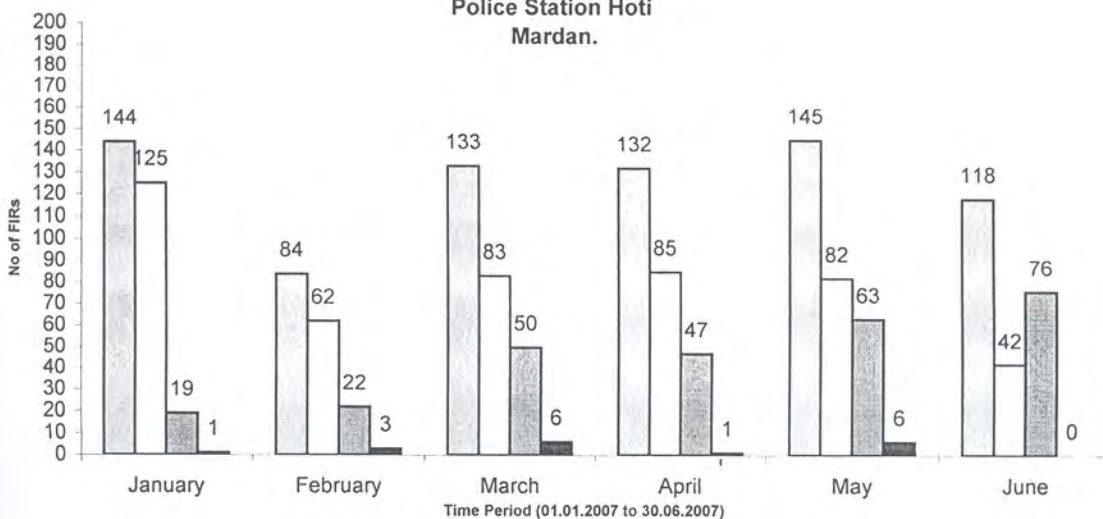
PTP Plan-Monitoring

Court of Mr. Ghulam Abbas JMIC-III, Mardan,
Police Station Chura
Mardan.



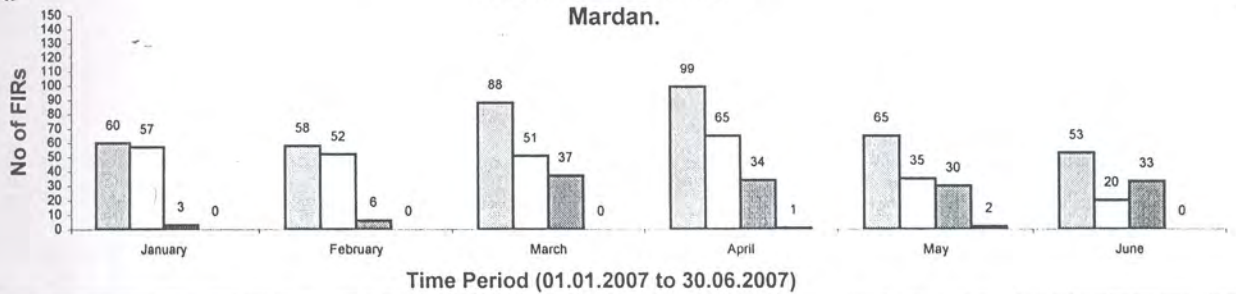
PTP Plan-Monitoring

Court of Mr. Ghulam Abbas JMIC-III, Mardan,
Police Station Hoti
Mardan.



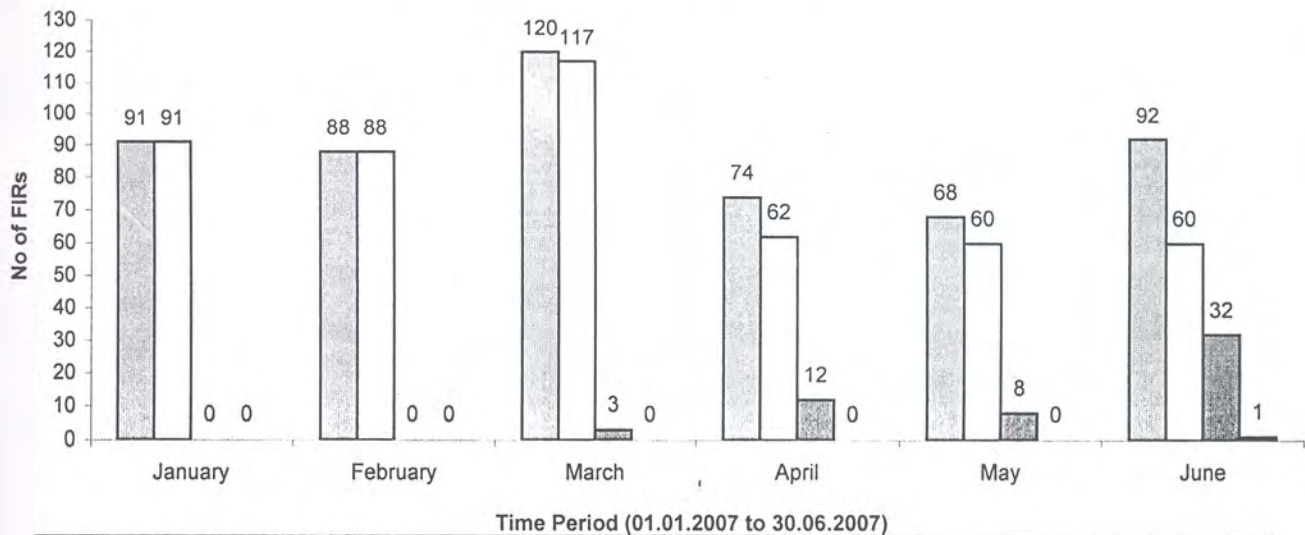
PTP Plan-Monitoring

Court of Mr. Ghulam Abbas JMIC-III, Mardan,
Police Station Saddar
Mardan.



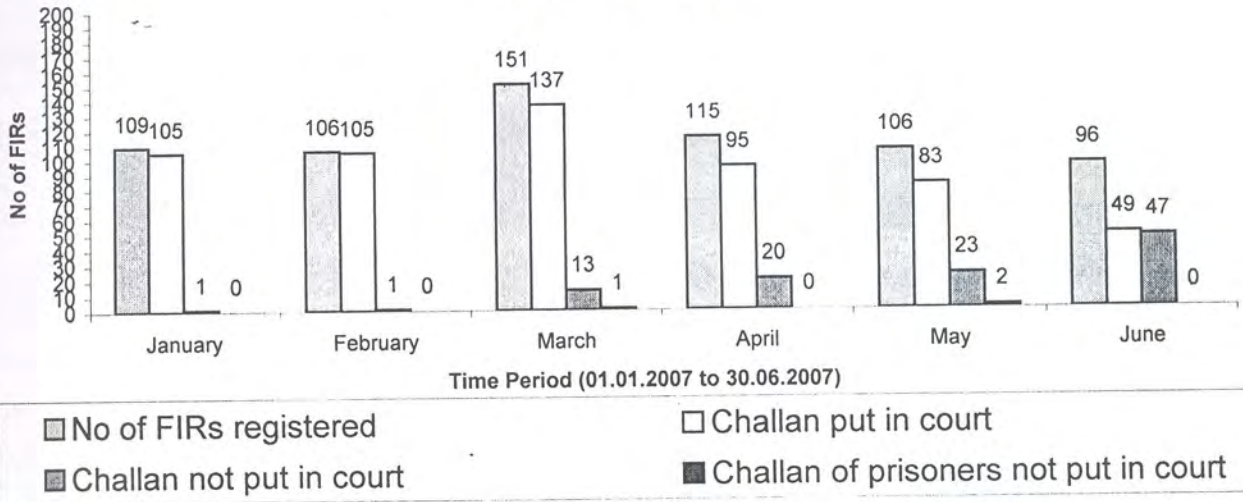
PTP Plan-Monitoring

Court of Mr. Naseer Ahmad, JMIC-I, Takht Bhai,
Police Station Sher Ghar, Takht Bhai.



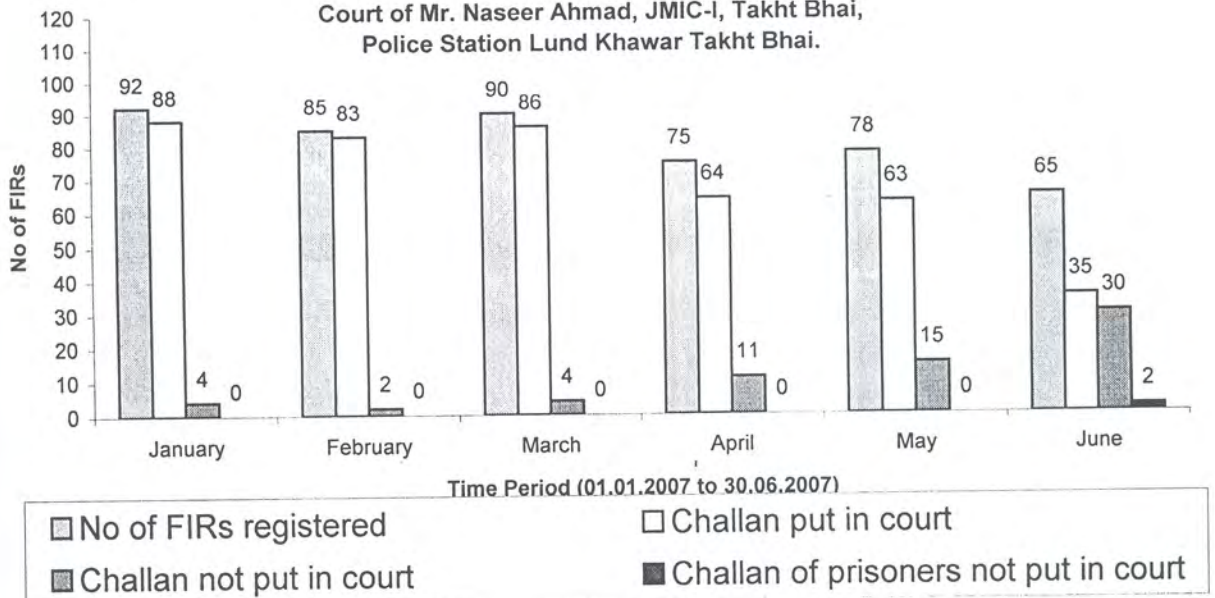
PTP Plan-Monitoring

Court of Mr. Naseer Ahmad, JMIC-I, Takht Bhai,
Police Station Takht Bhai.

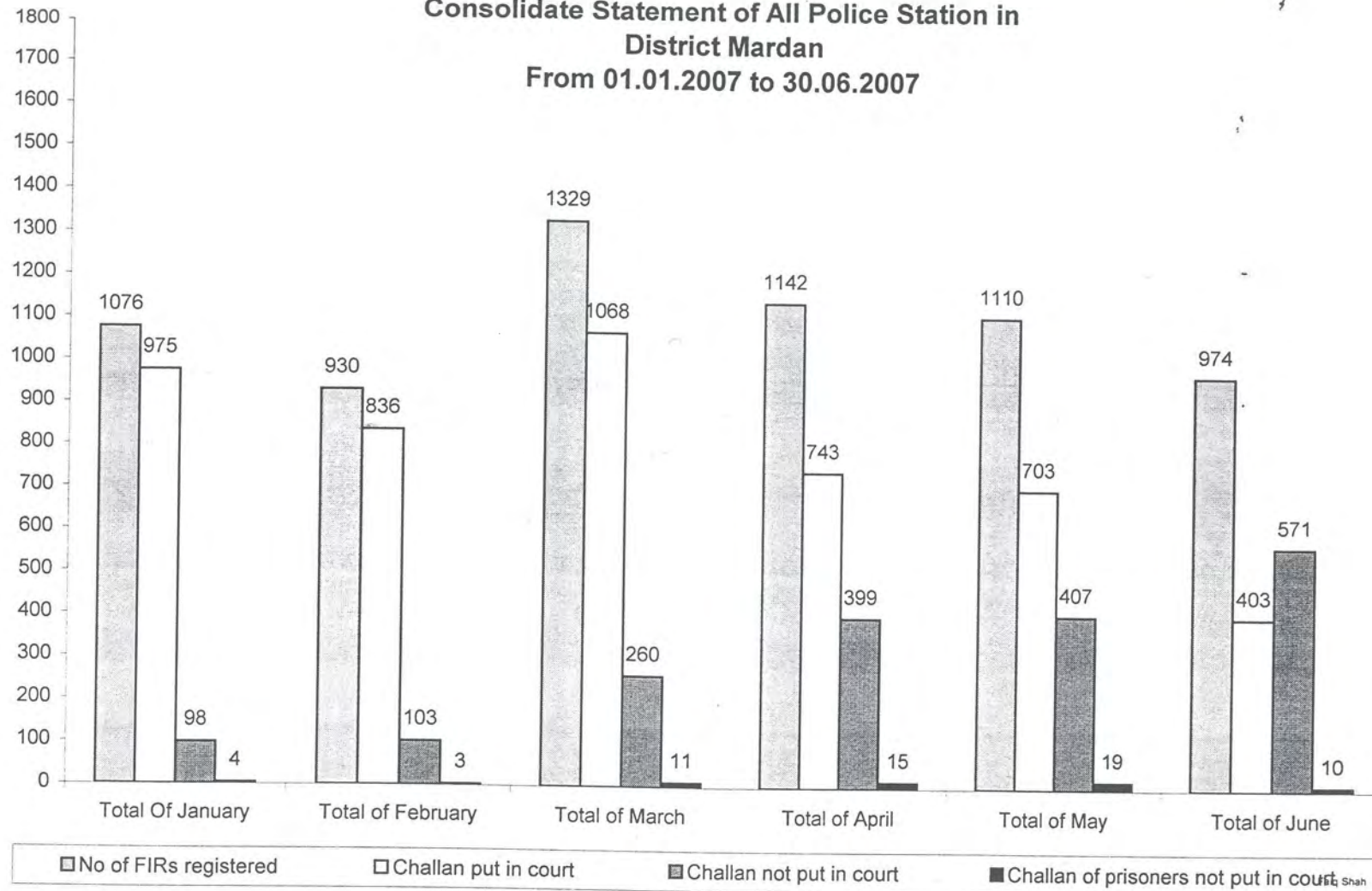


PTP Plan-Monitoring

Court of Mr. Naseer Ahmad, JMIC-I, Takht Bhai,
Police Station Lund Khawar Takht Bhai.



**Consolidate Statement of All Police Station in
District Mardan
From 01.01.2007 to 30.06.2007**



ACHIEVEMENTS.

Every organization needs relevant statistics for reformation in any sector. Our major achievement is that now we have a complete database, always ready for use & follow up of the cases at pre trial stage.

Now, the Judicial Magistrates have given up their obsolete role of indifferent spectators. They are currently in active pursuit of the Pre-Trial process of criminal cases to exert their authority:

1. Because, they have opened file of each FIR registered in their jurisdiction. They are vigilantly overseeing the progress of the cases through the data recorded in their files till the challan is put in court for trial.
2. Because, they can themselves choose cases of petty nature from PTP Registers and requisition specific case files for disposal during jail visits. As such, now they are not at the mercy of police officers who used to send cases of petty nature of their own choice for disposal during jail visits.
3. Because, a careful and strict inspection of the PTP- Registers maintained by each Judicial Magistrate can update the concerned Judicial Magistrate of the period of delay in the submission of challan in any case, he can point out and insist upon the early submission of challans in the cases that do not require lengthy investigations.

4. Because, they can easily locate and send a list of acute cases depicting unnecessary delays to **Criminal Justice Coordination Committee** to review the personal role of the concerned investigation officer for necessary action.
5. Because, they can exert their authority for completion of investigation of the cases of prisoners on priority basis and thereby remove the perception of "DIWAL PESHI" emerged from inside the walls of prisons.

We are confident that slowly and gradually we shall be able to achieve the ultimate target of strict compliance of Section 173 (1) Cr. P. C.



ANNEXURE-A

DIRECTIVES^{*}

(INVESTIGATION AND JUDICIAL REMAND)

C. No 1(4-17)

AMENDMENT IN SECTION 173(1) Cr.P.C. COMPLIANCE THEREOF.

I have been directed to invite the attention of the Provincial Government to the recent amendments incorporated in Section 173(1) Cr.P.C. through Act No. XXV of 1992. Copy of the said amendment is enclosed.

2)- the amendments in question have its sacred objectives, particularly, that they have met the long standing demand of the public in relation to the expeditious disposal of criminal cases both at the stages of investigation as well as during the trial. The newly added proviso provides a stipulation that in the event of the non-completion of investigation within a period of 14 days from the date of recording of the FIR, the Officer Incharge of the Police Station shall, within three days of the expiry of such period forward to the Magistrate through the Public Prosecutor, an interim report stating therein the result of the investigation made until then and the court shall commence the trial on the basis of such interim report, unless

* (Annexure-A has been copied from Pages # 392-396 of the Judicial Estacode, 2006).

for the reasons to be recorded, the court decides that the trial should not so commence. It has further been provided in the said amendment that while forwarding a report, the SHO shall produce the witnesses in the case, except the public servant, and the Magistrate shall bind such witnesses for appearance before him or some other court on the date fixed for trial. Besides, a new provision for the quick disposal of petty cases has been provided in the newly added section 250-A.

3)- Needless to mention that the disposal of a criminal case from the start till its conclusion required meaningful coordination on the part of the investigation/prosecuting agencies as well as the trial and the Sessions Courts. The law has also provided for an effective role for the public prosecutor as against the earlier role of the prosecuting Inspector/Sub-Inspector.

4)- the Honorable Chief Justice has therefore emphasized for a strict compliance of the Law referred to above, by all concerned in the public interest. The Honorable Chief Justice has further directed that necessary instructions be also issued to the concerned police agencies in the Province, to the effect that they should strictly adhere to the newly added provisions in section 173(1) Cr. P.C. In the context of the above, according to the instructions of the Honorable Chief Justice, a Senior Judicial Officer would soon visit some of the Police Stations at Peshawar to check and report about the pendency of the investigation of cases and about the cases in which strict compliance to section 173(1) Cr.P.C. has not been made.

(PHC letter No.2628/ Admn.Brh. Dated Peshawar the 10th May, 1993.)

C.No.2(4-17)

INSTRUCTIONS(PRODUCTION OF PRISONERS AT THE TIME OF JUDICIAL REMAND)

I am directed to say that it has come to the notice of this Court that Prisoners waiting trial are not produced before Courts at the time of obtaining Judicial remand. Such state of affairs on one hand deprived prisoners of their right of audience before Courts authorizing detention and on the other hand, complete freedom to police to defer investigation for indefinite period is allowed. I am, therefore, to request that all the concerned Criminal Courts may be directed to :-

- (i) ensure presence of accused at the time of remand for affording them an opportunity of hearing.
- (ii) observe progress in investigation, and
- (iii) authorize further detention of accused only if considered necessary for completion of investigation.

(PHC letter No.5374-5395 Dated Peshawar the 23rd July, 1998)

C.NO. 3(4-17)

IMPLEMENTATION OF THE DECISIONS OF THE CHIEF JUSTICES' COMMITTEE (TIMELY SUBMISSION OF CHALLAN)

I am directed to say that in the meeting of the Chief justices Committee held at Islamabad on 24th March, 2000, Honourable Chief justice of Pakistan informed the Committee that during hearing of a criminal case in the Supreme Court it was noted that the challan had not been put in Court even after the lapse of more than months by the prosecution agency which is under the control of Deputy Commissioner concerned to the complete indifference of the Presiding Officer of the Court who had been granting jail remand mechanically all along without having any regard to the plight of the accused who was behind the bars. It was, therefore, decided that the Chief Justice of the respective High Courts shall require the following information from the subordinate Courts: -

- 1) The date of registration of the FIR.
- 2) The date of arrest of the accused.
- 3) The date of submission of supplementary challan in the court;
and
- 4) The date of submission of complete challan in the trial court, to enable the High Court to see as to whether the statutory provision of putting in challan within 14 days is or is not being complied with. In case of defiance of the statutory provision aforesaid, the High Court should take appropriate action in accordance with law against the delinquent

investigating/prosecuting officials/officers, who are found, by and large, instrumental in delaying the cases.

I am, therefore, to request that the requisite information may be obtained and furnished to the liaison officer (Member Inspection Team) at the earliest.

(PHC letter No.3011-32 Dated Peshawar the 19.4.2000)

C.No.4 (4-17)

CHIEF JUSTICE DIRECTIVES NO.22

(TIMELY SUBMISSION OF POLICE CHALLAN /INTERIM REPORT....FOLLOW UP)

I am directed to refer to the subject noted above and to say that Honorable the Chief Justice, during his recent visit to various Districts, has been pleased to observe that the provisions regarding submission of police report within 14 days & in case of failure of submission of such report within the prescribed period, submission of interim reports are not properly followed. In order to keep a vigilant watch in this regard, the Magistrates are required to evolve a systemized mechanism for the purpose.

I am, therefore, to ask all the Magistrates to keep chronological record of all the FIRs of their respective police stations and to regularly check the same as a follow up towards the timely submission of Police Reports. Needless to mention that police is required to send the copies of all the FIRs to concerned Magistrates under section 157 Cr.P.C. read with Rule 24.1 and 24.5 of Chapter XXIV of the Police Rules, 1934.

I am further to request you to please circulate the above directive amongst all the Magistrates of your District.

(PHC letter No.876-99/MIT Dated 21st May 2004)

C.No.6(4-17)

NON-PRODUCTION OF ASCCUSSED IN COURT WHILE SEEKDING JUDICIAL REMAND.

I am directed to refer to the subject and to say that it has been observed with concern that some of the Courts, at times, extend judicial remand of accuses without being physically produced before the Court.

Needless to say that Courts are required to strictly adhere to the relevant provisions of Code of Criminal Procedure, violation whereof may result in legal complications, besides hampering justice.

I am, therefore, to reiterate that the relevant provisions on the subject may be followed in letter and spirit.

(PHC letter No.1395-1418/Admn Dated 17-02-2005)

ANNEXURE-B**DISTRICT JUDICIARY MARDAN**STUDY CIRCLE MEETING DATED 1.12.2006

1: - With reference to Para No.2 of minutes of District Judiciary Mardan Meeting dated 10.11.2006, the special meeting of "Study Circle" took place on Friday, 1st December, 2006, at 5.30 P.M at Circuit House, Mardan. All the Judicial Officers participated with keen interest excepting Abid Zaman Civil Judge/ Judicial Magistrate-V, Mardan who was on leave.

2: - The Chairperson, Syed Yahya Zahid Gilani, District & Sessions Judge, Mardan highlighted the utility of Study Circle towards capacity building of Judicial Officers, motivation and teamwork. The Chairperson proposed the following motto for the Study Circle.

لیس لل انسان الاماسعی

The participants unanimously adopted this motto. The Chairperson explained this verse of Holy Quran and emphasized that no one can achieve anything unless he strives for it.

He hoped that the Study Circle shall zealously carry out necessary research work for eradication of public problems akin to prevailing District Judicial System and stressed for efforts for improving efficiency by Judicial Officers themselves.

خدا نے آج تک اُس قوم کی حالت نہیں بدلی
نہ ہو جس کو خیال خود اپنی حالت کے بدلنے کا۔

The Study Circle discussed in detail the following reports:

- (a) Reports of Mr. Abid Zaman, CJ/JM-V and Mr. Shahrukh Arjumand, CJ/JM-I, Takht Bhai on the topic of **“Role of Judicial Magistrate in early submission of Challans”**

After deliberations, it was unanimously agreed that as indicated in the reports, submission of challan by the SHO u/s 173 Cr.P.C is a constitutional/legal obligation, requiring stiff implementation, as time to time ordained by the superior courts.

The meeting observed that both the reporting officers have highlighted importance of early submission of challan and have further stressed for uniform, meaningful and effective pursuit by the judicial Magistrates while granting judicial remands, for submission of challan in stipulated period.

The Chairperson opened general discussion and invited views of the participants. The Chairperson observed that extension of judicial remand period only on jail warrants is the practice inherited from defunct Executive Magistracy, which is the root cause of neglect in follow up of investigation. Ultimately accused remains at the mercy of I.O and prosecution, while the custodian judicial magistrate remains as an unconcerned spectator. Finally, a workable plan was devised for hot pursuit on the basis of each FIR. The plan was thoroughly discussed and unanimously accepted for implementation under the nomenclature **“Pre-trial pursuit”**. The Chairperson was

requested to issue details of the discussed plan with instructions for *effective implementation w.e.f 1st January 2007.*

Result of the plan shall be regularly studied by the Study Circle for further improvement, if needed.

- (b) The report of Mr. Ghulam Abbas, CJ/JM-III, Mardan on the topic of "Stamp duties on the power of attorney deeds" was also discussed in detail. Presently, stamp duty of Rs.250 is leviable under the Finance Act, 2002, which is still holding the field but the power of attorney deeds are being submitted with deficient stamps. All the members of the Study Circle endorsed the report and requested for issuance of instructions to Bench and Bar for implementation of the law, as it is.
- (c) The research work of Mr. Muhammad Zeb Khan, Additional Distt: & Sessions Judge-II, Mardan about **"Improvement of summons/warrant execution system in criminal cases"** consumed much time in deliberations. His three steps plan has been devised firstly to educate the ministerial staff about all legal implications of service of summons and execution of warrants; 2ndly to strengthen office of SWE (Summon Warrant Executor); and lastly, to launch smart management by the judges, availing coordinated efforts of Bar, prosecution and executing Agency, to achieve the desired end.

The plan was applauded and unanimously approved for implementation. Practical steps towards its implementation was decided to be launched in January, 2007 because, presently, Muhammad

Zeb Khan, AD&SJ-II, Mardan is involved in the task of proposed Workshop on delay reduction, a joint venture of Bench and Bar.

4: - The meeting ended at 7.00 P.M. with a declaration that the Study Circle has been found very beneficial and its meeting shall be regularly held, duly motivated by the motto mentioned in the heading of these minutes, to improve the system.

5: - The members of Study Circle had a dinner at 8.00 P.M. which was arranged by the Senior Civil Judge, Mardan on self-contribution basis and thereafter the members dispersed.

Syed Yahya Zahid Gilani,
District & Sessions Judge, Mardan.

No. _____ /

Dated _____ / _____ / 2006

OFFICE OF THE DISTRICT & SESSIONS JUDGE, MARDAN.

Copy to: -

1. The Registrar, August Peshawar High Court Peshawar alongwith "Pretrial pursuit plan, (Enclosed) with reference to Para No.2 of minutes of monthly meeting of Judicial Officers, Mardan dated 10.11.2006, copy already endorsed vide No.5102 dated 10.11.2006.
2. All Judicial Officers posted at Mardan, alongwith "Pre-trial pursuit plan for implementation.

District & Sessions Judge, Mardan.

ANNEXURE-C

“PRE-TRIAL PURSUIT PLAN”

Whereas Section 173(1) Cr.P.C read with Article 9 of Constitution of Islamic Republic of Pakistan ordains submission of challans for trial in cognizable criminal cases within the stipulated time, and whereas the Hon'ble Peshawar High Court Peshawar has directed vide worthy letters No.

- (i) 2628/ Admn. Brh, dated 10th May, 1993,
- (ii). 5374-5395, dated 23rd July, 1998,
- (iii). 3011-32 dated, 19th April, 2000 and
- (iv). 876-99/MIT dated 21st May, 2004.

To evolve a systemized mechanism for pre-trial pursuit of criminal cases, for timely submission of challan in relevant courts for trials, the following instructions are issued to all Judicial Magistrates at Mardan Distt. to be followed in public interest, in letter and spirit:-

- (1). On receipt of each copy of FIR u/s 157 Cr.P.C read with Rule 24.1 and 24.5 of **Chapter XXIV of the Police Rules, 1934**, the Naib Court shall enter it in a register separately maintained for each police station in the form Annexure-I to be called as **“Pre-trial Pursuit Register (PTP-Register)”**.
- (2). After registration, an order sheet and a Proforma, as Annexure-II, shall be attached with copy of FIR. It shall be put up before the Magistrate by Naib Court at the time of production of accused for judicial remand and its time to time extension. The Magistrate shall record his notes in the order sheet, keeping strict eye over progress of investigation, by

filling up relevant columns in the attached Proforma (Annexure-II) in letter referred above.

- (3). If the Accused is bailed out, the Naib Court shall place file of his FIR on the dates fixed in order sheet on fortnightly basis for up-dating Proforma Annexure-II as well as the **Pre-trial Pursuit Register (PtP-Register)**.
- (4). The Magistrate shall time to time check "**Pre-trial Pursuit Register**" to ascertain petty nature cases for requisitioning record and their quick disposal in jail visits.
- (5). If SHO is found negligent and delinquent in submitting any challan, without valid reasons, extreme cases with the name of SHO shall be reported to Criminal Justice Co-ordination Committee through, liaison Officer, nominated by the Sessions Judge, Mardan.
- (6). The Pretrial Pursuit Plan shall be implemented w.e.f 1st January, 2007.

Syed Yahya Zahid Gilani,
Sessions Judge, Mardan.

ANNEXURE-D

**Proforma to be attached with copy of FIR to be received by Magistrate
u/s 157 Cr.P.C, for Pretrial Pursuit.**

1	Serial No. of the register.			
2	Particulars of the Case.	FIR #:		
		Date:		
		Offence:		
		P.S:		
3	Name of Accused.	Date of confinement in Jail.	Date of release on bail.	Absconder
4	Date of completion of investigation and signing of report u/s 173 Cr.P.C by the SHO.			
5	Date of receiving in PDSP office.			
6	Date of sending to Distt.PP			
7	Date of return by DPP to SHO for any rectification			
8	Date of re-sending by SHO to Distt.PP after rectification.			
9	Date of forwarding by Distt.PP to court of Judicial Magistrate.			
10	Date of receiving by Moharrir of Judicial Magistrate.			
11.	Date of hearing in court or sending to Sessions Court.			

Signature of Judicial Magistrate No____, Mardan.

