PLAN OF THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON FOR THE REPRESENTATION OF DEFENDANTS IN CRIMINAL CASES, PURSUANT TO THE CRIMINAL JUSTICE ACT OF 1964, 18 U.S.C. §3006A, AS AMENDED.

Pursuant to the Criminal Justice Act of 1964, 18 U.S.C. §3006A as amended, see Pub. L. 91-447, 84 Stat. 916, the United States District Court for the Western District of Washington proposes to adopt the following amended plan for furnishing representation in all cases in which provision of representation is required by the Act; and in all cases in which the Court exercises the discretion it has under the Act to provide such representation. The Court and its Magistrates shall comply with the Act, a copy of which is attached hereto and incorporated by reference.

FILED IN THE
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

DEC 11 1974

EDGAR SCOFIELD, Clerk
By _____ Deputy

RECEIVED

DEC 11 1974

OFFICE OF CLERK
U. S. DISTRICT COURT
SEATTLE, WASHINGTON

I. Provision for Furnishing Counsel.

A. SEATTLE AND TACOMA. This plan provides that legal services in Seattle and Tacoma will be furnished by a Federal Public Defender Organization when and if said Organization is appointed by the Judicial Council of the Ninth Judicial Circuit under the terms of 18 U.S.C. §3006A(h)(2)(A) as amended by P.L. 91-447. In addition, this plan provides for the continued appointment and compensation of private counsel in a substantial proportion of cases.

The Court in its discretion will determine whether any party entitled to representation will be represented by the Public Defender, or by a private attorney. Insofar as practicable, private attorney appointments will be made in at least 25 percent of the cases in this District. For the sole purpose of allocation of cases as between private attorneys on the one hand, and the Public Defender on the other, a "case" shall be deemed to be each proceeding actually docketed in the United States District Court, and each "new trial" as defined in 18 U.S.C. §3006A(d)(5).

II. Establishment of the Federal Public Defender Organization.

The Court has determined that the use in Seattle and Tacoma of a Federal Public Defender Organization, as defined in 18 U.S.C. §3006A(h)(2)(A) will facilitate the representation of persons entitled to the appointment of counsel under the Criminal Justice Act of 1964, as amended, and that the Western District of Washington is a district in which at least two hundred persons annually require the appointment of counsel pursuant to 18 U.S.C. §3006(h)(1) as amended.

The Court has submitted its recommendation to the Judicial Council of the Ninth Circuit pursuant to 18 U.S.C. §3006A(h)(2)(A)

for the establishment of a Federal Public Defender's Office with headquarters in Seattle, Washington, capable of rendering legal services on appointment in Seattle and Tacoma. On the appointment of the Federal Public Defender by the Judicial Council, and the organization of his office as provided by the Act, the said Public Defender will be available for appointment as provided in the Act (18 U.S.C. §3006A(a)(2)). Neither the Federal Public Defender nor any staff attorney appointed by him may engage in the private practice of law.

The Public Defender shall submit to the Director of the Administrative Office of the United States Courts, at the time and in the form prescribed by him, reports of his activities and the financial position and proposed budget of his office. Copies of such reports shall be furnished to this Court and to the Judicial Council of the Ninth Circuit.

Therefore, subject to the approval of this Plan by the Judicial Council, this Court designates the Federal Public Defender Organization to act in Seattle and Tacoma when the Federal Public Defender is appointed by the Judicial Council and notifies this Court that his office is organized and ready to accept appointments under this Plan.

III. Details of the Plan.

A. Panel of Attorneys.

Counsel to be furnished shall be selected from a panel of attorneys designated by the Court. Such a panel is in existence, under the plan presently in effect, consisting of an adequate number of attorneys willing to accept appointments under the Act in every place where proceedings are regularly held by the Court or its

Magistrates. This panel is confirmed as the panel of attorneys referred to in 18 U.S.C. §3006A(b). Attorneys may be added to the panel from time to time by any member of the Court, upon recommendation of the Bar Association or otherwise. Attorneys may be removed from the panel from time to time by the Court. Any attorney shall be removed from the panel automatically without further action whenever he ceases to be a member of the bar of this Court or asks to be removed from the panel.

The panel contains a special sub-panel of attorneys specially qualified by experience to act in out-of-the-ordinary cases.

B. List of Personnel of the Federal Public Defender Organization.

The Federal Public Defender shall furnish to this Court the initial roster of personnel of his office and shall thereafter report any changes therein.

C. Information on Which Findings Regarding Financial Ability to Obtain Representation May be Based.

The Court or Magistrate shall make findings regarding financial ability to obtain representation and/or funds available for payment from or on behalf of a person furnished representation only on the basis of affidavits sworn to before a judge, clerk, or deputy clerk, United States magistrate or notary public, or statements under oath in open court.

D. Hourly Rates.

The Suggested Minimum Fee Schedule of the Seattle-King County Bar Association, as amended June, 1968, lists a general

hourly rate of $25 per hour, and provides that trial time in the United States District Court should generally be charged at a rate of at least $225 per full day, with a minimum charge of one-half day. The Court has determined that claims for the maximum allowable rate of $30 per hour for time expended in court or before a United States magistrate and $20 per hour for time reasonably expended out of court will usually be approved only in out-of-the-ordinary cases which place unusual burdens on counsel. Claims for $20 per hour for time expended in court or before a magistrate and $15 per hour for time reasonably expended out of court will be approved as a matter of course. Higher hourly rates will be approved only on a showing of unusual burdens.

E. Duty of Counsel.

It is the duty of appointed counsel to advise the court or magistrate whenever he has reason to believe that his client is financially able to obtain representation or make a partial payment.

F. Services Without Prior Request.

This Court interprets 18 U.S.C. §3006A(e)(2) as allowing counsel to obtain investigative and other services without prior request only when an adequate defense requires proceeding without prior request only when an adequate defense requires proceeding without prior request.

G. Other Services.

Claims for payment for fees and expenses for representation under this plan and for other authorized or approved services shall

be submitted not later than 60 days after conclusion of the case in the District Court or before the U. S. Magistrate. All claims shall be made on approved forms wherever possible.

H. Effective Date.

This plan as amended this 9th day of December, 1974, shall take effect when approved by the Judicial Council of the Ninth Circuit, and the previous plan and amendments thereto are hereby revoked.

William N. Goodwin
CHIEF JUDGE, FOR THE JUDGES OF THE
WESTERN DISTRICT OF WASHINGTON