PLAN OF THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WASHINGTON

FOR THE REPRESENTATION OF DEFENDANTS IN CRIMINAL CASES

PURSUANT TO TITLE 18, U.S.C. § 3006 A

Pursuant to the Criminal Justice Act, Title 18, U.S.C. § 3006 A, 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 its discretion under the Act to provide such representation.

I.

PROVISION FOR FURNISHING COUNSEL

Legal services in Seattle and Tacoma will be furnished by a Federal Public Defender Organization, as authorized by the Judicial Council of the Ninth Circuit under the Criminal Justice Act, 18 U.S.C. § 3006A(h)(2)(A) (CJA), and by 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 Federal Public Defender or by a private attorney. Insofar as practicable, private attorney appointments will be made in at least 25% of the cases in this district. For the purpose of allocating cases between private attorneys and the Federal Public Defender, a "case" means each proceeding docketed and each "new trial" as defined in 18 U.S.C. § 3006A(d)(5).

II.

ESTABLISHMENT OF THE FEDERAL PUBLIC DEFENDER ORGANIZATION

Upon recommendation and request of this court, the Judicial Council of the Ninth Circuit, pursuant to 18 U.S.C. § 3006A(h)(2)(A), has established a Federal Public Defender office for the Western District of Washington capable of rendering legal services on appointment in Seattle and Tacoma.

Neither the Federal Public Defender nor any staff attorney appointed by him may engage in the private practice of law.

The Federal Public Defender shall submit to the Director of the Administrative Office, United States Courts, at the time and in the form prescribed by him, reports of his activities and 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.

The Federal Public Defender shall provide this court with a current roster of personnel of his office.

III.

DETAILS OF THE PLAN

A. PANEL OF ATTORNEYS.

Private appointed counsel shall be selected from a panel of attorneys designated by the court. The number of attorneys on the panel may vary according to the number of cases in which appointments are made. It shall be large enough to handle the CJA case load and small enough so that panel attorneys receive enough appointments to maintain their proficiency and provide a high quality of representation. 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 the court in such number and of such experience and background as the court may deem necessary for provision of adequate representation. 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.

B. DETERMINATION OF FINANCIAL ELIGIBILITY TO OBTAIN REPRESENTATION.

Counsel shall be provided to a person as soon as feasible after he is taken into custody, when he appears before a committing magistrate, when he is formally charged, or when he otherwise becomes entitled to counsel under the Act, whichever occurs earliest. The determination of whether a person is eligible for the appointment of counsel to represent him under the Act is a judicial function to be performed by a member of the court or a magistrate. Other officers of the court, however, when and as designated by the court, may obtain facts upon which such

determination is to be made. Any information bearing on the defendant's financial status should be reflected on CJA Form 23. Whenever practicable, fact finding should be done prior to the person's first appearance in court. The determination of eligibility ordinarily should be made by the judge or magistrate at the person's first appearance in court, or such time as the appointment of an attorney may be required, after making appropriate inquiries of the person as to his financial situation.

At the time of determining eligibility, the judge or magistrate should inform the person of his obligation to inform the court of any change in his financial status. If at any time after appointment counsel obtains information that a client is financially able to make payment, in whole or in part, for legal or other services, counsel shall advise the court if the source of the information is not a privileged communication.

C. SERVICES OTHER THAN COUNSEL.

Panel counsel are authorized to obtain services without prior authorization to a maximum of $150.00, as provided in 18 U.S.C. § 3006A(e)(2).

Applications for prior authorization for services other than counsel under § 3006A(e) shall be heard by the court in camera and shall not be revealed without the consent of the defendant. The application shall be placed under seal until the final disposition of the case in the trial court, subject to further order of the court.

D. COMPENSATION

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 45 days after conclusion of the case in the district court. All claims shall be made on forms approved by the Administrative Office of the United States Courts. In submitting such claims, panel counsel may compute their fees at the rates then

permitted under the Criminal Justice Act and this Court's rules, subject to other limitations set forth in the act.

In extended cases, the court may arrange for payment on an interim basis to counsel or other persons whose services are authorized by the court.

If appointed counsel contemplates filing a Rule 35 motion for modification of sentence, he may file a supplemental claim upon its completion without further order of the court.

E. ADMINISTRATION.

The full-time United States Magistrates shall have principal responsibility for administering the CJA panel.

IV.

EFFECTIVE DATE OF PLAN

This plan shall take effect immediately upon approval by the Circuit Council for the Ninth Circuit. Its provisions shall supersede all provisions of the Criminal Justice Act Plan now in effect in this district.

DATED this 1st day of June, 1981.

Walter T. McGovern
CHIEF UNITED STATES DISTRICT JUDGE

James S. Burns
UNITES STATES DISTRICT JUDGE

Barbara J. Rothstein
UNITED STATES DISTRICT JUDGE

Jack E. Tanner
UNITED STATES DISTRICT JUDGE