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From: Bernstein, Alexander <abernste@kingcounty.gov>
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To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Public Comment on Suggested Amendments to Standards for Indigent Defense Services

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To the Justices of the Washington State Supreme Court,

I am a lousy lawyer.

Assuming a 50-hour work week, I have one hour per week to spend on each of my roughly 50 clients. To walk to the jail, get through security, wait for my client to be brought out, explain that I have had no time to work on their case so I have to request a continuance, and walk back to my office—takes about an hour.

Though I work more than 50 hours a week, I provide an appallingly poor quality of representation. I am almost scared to admit to you how little discovery I review, how few witnesses I interview, how many weeks pass between jail visits, how much longer my clients wait for trial because I am their lawyer. A more conscientious person would quit.

Now that you know how little time I spend on each case, I want you to see the human cost of that failure. Below are the sentences my clients face if convicted:

1. Life without the possibility of release
2. Life without the possibility of release
3. Indeterminate life sentence
4. Indeterminate life sentence
5. Indeterminate life sentence
6. Indeterminate life sentence
7. Indeterminate life sentence
8. Indeterminate life sentence
9. 575 mos.
10. 536 mos.

11. 380 mos.
12. 378 mos.
13. 378 mos.
14. 320 mos.
15. 244 mos.
16. 240 mos.
17. 234 mos.
18. 231 mos.
19. 220 mos.
20. 183 mos.
21. 171 mos.
22. 171 mos.
23. 147 mos.
24. 144 mos.
25. 136 mos.
26. 120 mos.
27. 120 mos.
28. 120 mos.
29. 120 mos.
30. 120 mos.
31. 116 mos.
32. 101 mos.
33. 70 mos.
34. 68 mos.
35. 57 mos.
36. 48 mos.
37. 43 mos.
38. 38.25 mos.
39. 36 mos.
40. 29 mos.
41. 21 mos.
42. 21 mos.
43. 20 mos.
44. 18 mos.
45. 14 mos.
46. 14 mos.
47. 12 mos.
48. 12 mos.
49. 9 mos.
50. 8 mos.

It is unconscionable. These cases are too serious, complex, and time-consuming for any one person to handle by themselves. Most of my clients face ten or more years in prison and barely have an attorney. Many will give up their right to trial because it will take years before I am prepared, and they are too poor to afford bail in the meantime. Many will plead guilty to crimes they did not commit.

You may think I am entrusted with such a serious caseload because I am more experienced. In some sense you are correct. At just 2.5 years of felony practice, I am one of the most experienced attorneys who carries a felony caseload in my firm. It is rare that I see someone make it longer than five years in public defense, which is about how long it takes someone to take on a class A caseload. Indeed, in the next couple months, four more class A attorneys are leaving my firm (that I know of).

The purpose of a system is what it does. The purpose of our system is to deny indigent defendants effective representation so that they do not assert their constitutional (and expensive) rights. If that is our intent, then reject the revised caseload standards. If, however, our intent is something nobler, then adopt the revised standards. We already have waited too long. Do not join the mayors, judges, and the other proponents of delay, most of whom do not have the faintest idea what it means to have a client, let alone a public defense caseload, or what it means to be charged with crime and wither in jail for years without trial.

Those whom we would banish from society or from the human community itself often speak in too faint a voice to be heard above society's demand for punishment. It is the particular role of courts to hear these voices, for the Constitution declares that the majoritarian chorus may not alone dictate the conditions of social life.

McCleskey v. Kemp, 481 U.S. 279, 343 (1987) (Brennan, J., dissenting). All of us know the current state of things cannot continue, but I fear an inertia disguised as reform. I fear you will settle on a half-measure that scratches the problem and at many years remove. This crisis we have devised merits a solution proportional in scope. If you do not grant this relief, then no one else will. Adopt the revised standards.

Thank you,

Alexander Bernstein | Attorney

[King County Department of Public Defense](#) | Associated Counsel for the Accused (ACA)
710 Second Avenue, Suite 1000
Seattle, WA 98104
Email: abernste@kingcounty.gov