

Kamala Harris wants public defenders to get paid as much as prosecutors

By Li Zhouli - Vox.com

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Public defenders are notoriously overworked, underpaid, and constantly juggling an overwhelming caseload. As a startling New York Times story found this past January, one attorney in Louisiana was working 194 felony cases, while another was balancing 413. Lawyers in certain places are often fielding two to five times the cases they can effectively handle. And they're doing it for pay that's far from comparable for the work.

Kamala Harris, a long-time prosecutor and current 2020 presidential candidate, wants to take a first step toward fixing this. Earlier this month, she introduced a bill aimed at limiting public defenders' workload and increasing their pay to be on par with that of prosecutors. Her proposal, dubbed the Equal Defense Act, is significant: The conversation about criminal justice reform has long omitted public defenders from the discussion, and this bill seeks to change that.

Thus far, the legislation has been widely lauded among members of the public defender community. At its core, the bill aims to make sure public defenders are fairly compensated and treated by the states and counties that employ them, thereby ensuring that those who rely on them are more fairly represented in their cases. "It is a constitutional right in our country that every American accused of a crime has the right to counsel; unfortunately, that right is being threatened by under-resourced public defender's offices"

Experts note that the bill only marks the beginning of an expansive effort to curb the inequities that public defenders experience. But, they emphasized, it's playing a key role in raising the profile of the problem. "I am hopeful that this Act prompts us all to continue to understand public defenders as a critical piece of the criminal justice solution, and to build on its important foundation to ensure marginalized communities have the advocates necessary to fulfill our democratic promise of equal justice," says Jonathan Rapping, a John Marshall Law School professor .

The Equal Defense Act would give state and local governments additional funding to close the pay gap between public defenders and prosecutors. The bill authorizes \$250 million in grants, with the goal of eliminating the pay gap between the two roles over the course of five years. That gap varies widely in offices across the country, and it can be huge: One Oregon study found, for example, that entry-level public defenders in one county were paid more than \$24,000 less than entry-level prosecutors. Access to these grant funds would have strings attached: if states were interested in the money, they would have to agree to limit public defender caseloads and gather data that tracks how much they're working.

One potential stumbling block for the bill might be congressional gridlock. But even if it doesn't move forward, the bill is significant, says ACLU counsel Kanya Bennett. "This is a good step to elevating the issue. The right to counsel is often on the back-burner when it comes to federal conversations about criminal justice reform". Law professor John Pfaff also noted the bill's symbolic importance. "As a proportion of overall spending, he says, it's not a huge amount, but it is one of the first major federal efforts to turn our attention to public defenders." [...]

The lower salaries and overwhelming workloads that public defenders deal with has a whole host of consequences. For one, it can deter talented lawyers from pursuing this route, simply because it isn't financially sustainable. Additionally, it could mean that countless clients aren't getting the type of representation they need because their lawyers are stretched so thin. "The system is not allowing us to provide competent representation," Edward Monahan, head of the Kentucky Department of Public Advocacy said when sweeping budget cuts were hitting public defenders' offices in 2011. Some public defenders were so busy that they only had seven minutes to prepare for each client's case.

Beyond independent case outcomes, the problems facing public defender offices are emblematic of a deeper issue within the US criminal justice system, which has prioritized incarcerating individuals who are convicted of crimes. With more people heading to court in need of representation, public defenders' caseloads have simply grown larger and larger.

Harris's bill could provide some remedy to the increasing untenable situation, though it's no sweeping fix, Bennett says. "We are talking about a band-aid on a piece of the criminal justice system in need of absolute overhaul"