



# We Have the Ammunition

by Cate Wollam

This year we had both the best of times and the worst of times, not in that order. Ballot Measure 57 passed, and then was suspended. In my county the DA's office set up a committee to determine the appropriate sentence for a client charged with a BM 57 crime. (What an appropriate appellation! BM indeed.) That way, each DA can deny responsibility for the draconian sentence recommendations and also say they lack the authority to mitigate the sentence.

Negotiations must all go back to the "committee" so that there is "uniformity" in the sentence recommendations. It is BM 11 all over again. They learned some wonderful lessons. The sentences are so possibly life-changing that clients will take almost anything that looks merely harsh.

My first foray into the snake pit of BM 57 negotiations was a bi-polar man in his 30's with a record of 20 or so thefts and no record of treatment. He was never inside long enough to get to someplace with treatment and had been self-medicating for years. He committed car prowls. This day he committed a car prowl and was caught by the personal-trainer/owner who beat the crap out of him and waited for the police. Client had three credit cards that were not his on him. He had not used them. The offer was 50 months, no AIP, contract plea—a manslaughter-type recommendation! I started asking folks not in our business (admittedly an unscientific poll) what they thought a sentence should be. Nobody got close to what actually ended up being the sentence (36 months, no AIP). The answers were interesting, and mostly very thoughtful.

Last year, before BM 57, this would have been a 13-month RPO case, in my opinion. (DA thinks it would have been a 26-month RPO case.) My answers ranged from a low of 60 days and probation and treatment (everyone wanted that) to a high of a very thoughtful one year and a day (amazingly close to that 13 months) with, again,

probation and treatment. The DA eventually came "down" to 36 months, no AIP, no good time, and the client took it. I wanted to go to trial, but he was just too fragile and couldn't stand not knowing what would happen. That was my first. I now have several more.

In addition to all this, I have clients trying to keep track of other BM 57 sentences. Many of these folks are in jail, and they talk to all the other folks in jail about their charges (I know, against legal advice) and about the DA's offers. One of my men is sitting on an offer of 10 years, no good time, no AIP, more than a rape case would bring, and is trying to gather information from the other inmates about their sentence recommendations.

We can do it better than they can, and I think we should. I would like to see what happens when intrepid clients go to trial on loser cases. So far none of mine have, but I am still pushing for it. If these cases start being trials, even hopeless-loser trials, we can start winning the sentencing because we will not have agreed to the consecutive sentences on counts that are part of the draconian recommendations.

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I am saving and collating these stories for Gail Meyer, and I ask the rest of you to do the same. Send them to: [glmlobby@nwlink.com](mailto:glmlobby@nwlink.com) and please send me a copy at [ckwollam@ntglt.org](mailto:ckwollam@ntglt.org). We have a rare opportunity here to affect the legislature regarding this measure and it is the stories that will convince them. Gail needs the stories. Please send them to her and copy me as I will keep them organized by county, but she needs to have them as soon as they come in so they will be at her fingertips to use when she meets with legislators during this interim. We have the ammunition. Let's use it!

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