

Jasmine Cuenco

From: Dana Filkowski
Sent: Monday, December 28, 2020 11:46 AM
To: DA HT
Subject: Fwd: RPD In-Custody

Good morning Team -

If you haven't already had a chance to review the Racial Justice Act that goes into effect in 2021, here is a link to the bill text. PC 745 is created and the statutes relating to habeas corpus relief are expanded.

The legislation is intended to regulate the language and conduct of judges, attorneys, law enforcement officers, experts and jurors to prevent implicit bias as well as intentional discrimination in the charging, convicting and sentencing of a crimina. It also applies to the use of racially charged or coded language throughout the entirety of a criminal case, including language that refers to animals or animal attributes. In an all-Attoreny email this morning, Venus gave examples particular to gang and HT cases, including gorilla pimp, bottom, coyote, snake, brut, predator. Police reports and search warrants are included and body cam evidence will certainly face particular scrutiny. It is case specific.

Since Venus recognized that CVRU and HT Unit cases would be particularly impacted, I wanted to make sure our whole team is aware, not just the attorneys.

The defense can file a discovery motion to build a case for a PC 745 violation. Like all discovery motions, we are required to provide information in possession of the Prosecution Team which would extend to the investigating agencies. The discovery motion will be granted on a showing of "good cause." If we get one of these, the procedure is to inform Venus as there is a Committee working on this issue.

The defense can then file a motion and if a substantial likelihood of PC 745(a) violation is shown, a hearing is required. At the hearing, the defense can present statistics and / or expert testimony and we have the opportunity to present witnesses/evidence to rebut. If a violation is found, remedies are case-specific. If during trial, they could go from re-seating a juror to granting a mis-trial. If during prosecution itself, the remedy could range from vacating a conviction / sentence to striking imposition of enhancements or re-sentencing.

Please let me know if there are any questions and we can forward them to Venus/Committee.

Thanks all!

Dana

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB2542

Get [Outlook for iOS](#)

From: Dana Filkowski [REDACTED]
Sent: Monday, December 28, 2020 9:47:11 AM
To: DA HT <DA-HT@contracostada.org>
Cc: Alexis Bartley [REDACTED]
Subject: RPD In-Custody

Good morning all -

RPD had an in-custody 236.1(b)/266h/266i arrest over the weekend at Civic Center Motel, for which Det. Bartley was called-in. The victim is cooperative and was connected with CVS for services.

Det. Bartley and I conferenced the case over the weekend and again this morning and the investigation will not be complete for an in-custody filing so the suspect will be released. Investigation will involve arrest reports relating to similar conduct in other jurisdictions and an ECPA warrant for the suspect's locked Android phone, which Det. Bartley has begun. We will re-visit filing when more of this investigation is complete.

The one thing I neglected to get was victim and suspect identifying information so I will ask Det. Bartley to share that with the Team now.

Kevin - can you reach out and determine if there is a value to engaging federal partners? Some of the conduct is multi-state. Det. Bartley is testifying at a PX today, FYI, so may not immediately be available.

Reminder that I'm technically on vacation this week but if you need me for anything, I'm vacationing at home and am available.

Thanks -

Dana

Get [Outlook for iOS](#)