

Steve Bolen

From: Venus D. Johnson
Sent: Thursday, July 22, 2021 1:06 AM
To: Simon OConnell
Subject: Fw: AB 2542 - Racial Justice Act - Further Guidance & Updates

You should send out a refresh with your name. We had a small committee we pulled together if you recall - me, you, Colleen, Andrea, Jeremy, Scott, Ryan - I think that is everyone. Might be good to pull the committee back together.

From: Venus D. Johnson
Sent: Sunday, December 27, 2020 11:01 PM
To: DA-All-Attorneys <DA-All-Attorneys@contracostada.org>
Subject: AB 2542 - Racial Justice Act - Further Guidance & Updates

Hello everyone -

As promised, here are some further updates. Some of you may have already received discovery requests pursuant to PC 745. Our committee met last week and discussed a few points we want you to be mindful of:

1. Make sure you thoroughly review PC 745 and the CDAA training materials preciously sent. Understanding the legislative history of the bill will provide important guidance as you proceed through your cases going forward.
2. PC 745 creates new code sections regulating language and conduct of judges, attorneys, officers, experts & jurors. It also provides new discovery and hearing rights and creates mandatory remedies for conduct and language violations, as well as remedies for disparate outcomes based on race, ethnicity, or national origin.
3. The bias alleged can be explicit or implicit - but remember, it only applies to the limited group of actors in YOUR SPECIFIC CASE and must be based on the actual race, ethnicity, or national origin of the D in YOUR case.
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5. Please specifically review 745(a)(3-5). These sections specifically address prosecutors and when a violation under the act will be deemed to have occurred.

Discovery Motions

1. Step 1: A discovery motion shall only be granted when the court finds good cause to believe evidence relevant to a potential violation is in the possession or control of the state. The discovery motion should describe the violation of 745(a) with specificity and the evidence requested must be material to the actors in YOUR case and YOUR defendant. Good cause is not defined in the statute - but there is plenty of case law defining good cause. See slide 38 in the CDAA training materials.
2. Step 2: If the discovery motion is granted, the defense has the burden of filing a motion showing that based on the discovery there is a substantial likelihood that a violation of 745(a) occurred. If the burden is met, the court

MUST hold a hearing to determine if a violation has occurred. **There is a sample motion for your use in the CDAА materials previously shared.**

3. Step 3: At the hearing, the defense must prove by a preponderance of the evidence that a violation has occurred. Statistical evidence, aggregate data, expert testimony, etc. are examples of what both sides will likely need to present and rebut during the hearing. Please see slides 41-54 of the CDAА training materials for further context and explanation.

The committee is actively working on consulting with other DA offices, in addition to looking into data experts and statisticians. Please understand that at this point there are likely more questions than answers. But please know, the committee is working diligently to offer further guidance.

In the meantime, if you receive a discovery motion please let me know and send me a copy. The committee will be keeping track of the motions and working to offer assistance where we can. Having a universal perspective of what is happening office-wide will assist us in assisting you and the office as a whole. The committee has a healthy representation of attorneys from our entire office; including the Law and Motion Unit, supervisors, vertical units, and our misdemeanor teams.

If you personally are the subject of the motion, please let me know immediately. You should not be representing yourself during any proceedings where the bias alleged is against you personally.

If you have not already, I strongly encourage you to read through the new statute and the CDAА training materials.

Venus

Venus D. Johnson
Chief Assistant District Attorney
Contra Costa County District Attorney's Office

Steve Bolen

From: Alana Mathews <alana@prosecutorsalliance.org>
Sent: Wednesday, May 26, 2021 1:25 AM
To: Venus D. Johnson
Subject: Racial Justice Act Training

Hi Venus,

I know you are extremely busy, just wanted to know if you have a few minutes to jump on a quick call to check in. I want to make sure the work I'm doing is helpful and complimentary. DA Becton expressed interest in the California Racial Justice Act training the Prosecutors Alliance conducted in San Francisco and I wanted to get started on that for Contra Costa. This may be a more helpful training to start with. Can you connect me with the training coordinator or if that's you- perhaps we can connect this week for a 15 min call and I can share 1) what the training covers and 2) discuss some possible dates in June to make it happen. lol forward to connecting soon.

Alana
916-897-0132

On Mon, May 24, 2021 at 2:45 PM Alana Mathews <alana@prosecutorsalliance.org> wrote:

Hi Venus,

I am following up on my email last week about the Survivor-Informed Criminal Prosecution that PAC is offering this week and we hope the Contra Costa Office will be able to participate. Please let me know if I can be of assistance in helping you distribute this opportunity to your deputies. As my earlier email indicated, we were hoping to offer this training this Thursday but are happy to offer another date if that works better with your general training schedule.

Alana

On Tue, May 18, 2021 at 11:48 AM Alana Mathews <alana@prosecutorsalliance.org> wrote:

Hello All,

The Prosecutors Alliance has developed a new Survivor-Centered training series which we hope to offer our members and each affiliated office to supplement your training programs. The first in this series is entitled Survivor-Informed Prosecutions which will develop guidance for prosecutors to incorporate trauma-informed best practices into their work in order to better serve crime survivors, witnesses and all community members.

We were hoping to start this series this month with a tentative training date of THURSDAY, MAY 27, 2021 from 4:00-5:00 pm. Please let me know if your office has a conflicting training scheduled for that day as our goal is to supplement your efforts. If this date does work for your office, I will send an official flyer which you can distribute to your office.

Apologies for the short notice and please rest assured that moving forward we will provide much more advance notice and coordinated efforts for future trainings.

Best,
Alana

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Alana Mathews

Director of Membership
Prosecutors Alliance

Prosecutors Alliance of California

Twitter

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Instagram

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Steve Bolen

From: Venus D. Johnson
Sent: Tuesday, June 1, 2021 11:27 AM
To: Alana Mathews
Subject: Re: Racial Justice Act Training

Good morning Alana -

Thank you for the email! Here are my responses below:

1) I see no reason why that time would not work. Of course not every person will be able to attend, but it's at the end of the day and I think that time frame is best to attract as many people as possible.

2) The WG sounds great. Those days/times work for me.

Venus D. Johnson
Chief Assistant District Attorney
Contra Costa County District Attorney's Office

On Jun 1, 2021, at 10:44 AM, Alana Mathews <alana@prosecutorsalliance.org> wrote:

Hi Venus just following up to see if Noon today works for you or 2:00 or 3:00. To make it a little more easier for you here are a few action items I wanted to discuss and if you reply by email we don't need to have a convo (unless you have questions or want more info).

1. TRAINING

We want to offer regularly scheduled trainings to supplement what your office offers. These trainings would be every 3rd Thursday from 4:00-5:00 pm. Does this work for your office?

2. CRJA WORK GROUP

We want to start a Racial Justice Act working group that meets monthly so that all of the offices can share/brainstorm responses and best practices. So far **noon on Tues, Wed, or Thurs** works best for everyone. Is there a specific day that works best for you?

Thanks
Alana

Thanks
Alana

On Wed, May 26, 2021 at 11:10 AM Alana Mathews <alana@prosecutorsalliance.org> wrote:

How about next Tuesday at 8:00, or 8:30, 9:00, noon, 2:00 or 3:30. 30 minutes is all I need if that, It will be quick and dirty:) I know you have the little one, so early morning may be a busy time but I offer it as an option because I am a morning person and I get so much done between 7 and 9am when the rest of my house is quiet:) Wednesday I have the same availability. Let me know what works!

Alana

On Wed, May 26, 2021 at 8:53 AM Venus D. Johnson <Venus.Johnson@contracostada.org> wrote:
Good morning Alana -

I can't do a meeting this week, but next week would work. Please let me know what days work for you next week.

Venus D. Johnson
Chief Assistant District Attorney
Contra Costa County District Attorney's Office

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Steve Bolen

From: natasha.minsker@gmail.com
Sent: Thursday, April 16, 2020 2:24 PM
To: Venus D. Johnson
Cc: Diana Becton; sfaucher@8thamendment.org
Subject: RE: following up on legislation

Hi Venus,

Thanks for following up. We expect the Legislature to return on May 4 and the bills will hopefully be set for a hearing soon after that. So it would be great if we could get your thoughts by May 4 if possible.

Thanks very much,

Natasha

From: Venus D. Johnson <Venus.Johnson@contracostada.org>
Sent: Thursday, April 16, 2020 10:31 AM
To: natasha.minsker@gmail.com
Cc: Diana Becton <Diana.Becton@contracostada.org>; sfaucher@8thamendment.org
Subject: Re: following up on legislation

Good morning Natasha -

We'll try to get our thoughts back to you as soon as we can. Is there a date by which you'd like to have feedback?

Thank you!! ^

Sent from my iPad

On Apr 13, 2020, at 10:25 AM, "natasha.minsker@gmail.com" <natasha.minsker@gmail.com> wrote:

Hello DA Becton and Venus,

I hope you are doing well in these difficult times. It seems like a lifetime ago when we all met.

I am following up on the racial justice bills that I mentioned that our coalition is supporting. The bills are:

- [AB 2200 \(Kalra\) The California Racial Justice Act](#): This bill will prohibit racial discrimination in convictions and sentences and create a process to challenge racial discrimination at trial or following conviction.
- [AB 3070 \(Weber\) Anti-Discrimination in Jury Selection Act](#): This bill will create a specific process for addressing racial bias in jury selection.

- AB 2512 (Stone) Intellectual Disability & Death Row: This bill will prohibit prosecutors from making race-based arguments to keep people with intellectual disabilities on death row and make other changes to modernize our statute on intellectual disabilities and the death penalty.

I know you may be completely swamped with the immediate crisis so understand if you have no bandwidth to consider legislation. If you do have time to engage on legislation, we would love to get your feedback on these bills and see if it would be possible for you to support any or all.

Thanks very much and be well,

Natasha Minsker
Minsker Consulting
510-206-6270

Steve Bolen

From: Venus D. Johnson
Sent: Thursday, February 4, 2021 7:47 AM
To: Patrick Robinson
Subject: Re: Help?

Hi Patrick -

Thank you for the quick reply! Yes, I would welcome you introducing me.

The restructuring is HUGE! Looking forward to seeing what comes next.

TY!!!

Venus D. Johnson
Chief Assistant District Attorney
Contra Costa County District Attorney's Office

On Feb 4, 2021, at 6:05 AM, Patrick Robinson <probinson@chanzuckerberg.com> wrote:

Hi Venus:

Definitely a big challenge! I recommend checking out the California Policy Lab (<https://www.capolicylab.org/>) or Santa Clara University (specifically Colleen Chien <https://law.scu.edu/faculty/profile/chien-colleen/>).

I can facilitate intros if helpful, but CZI wouldn't be in a position to support financially at this time -- we're in the midst of a big restructuring (\$350 million investment into CJR, in the form of a new organization to be lead by Ana Zamora).

I'm happy to chat on the phone too -- let me know how I can help!

patrick

On Wed, Feb 3, 2021 at 10:50 PM Venus D. Johnson <Venus.Johnson@contracostada.org> wrote:
Good evening Patrick!

I hope all is well with you. With the enactment of the Racial Justice Act, AB 2542, our office has put together a small committee to work through the new requirements and directives for prosecutors under the law. As you may know, data collection and potential disclosure of data to the defense are central parts of the new law and will greatly impact DA offices throughout the state. We are looking to consult and potentially retain a statistician/data expert to review our data, advise us on best practices to collect data, and also potentially testify in court if the need arises.

I know a number of academics attended our meeting last year (wow, has it already been a year??) and I was wondering if there was anyone you could recommend I speak with from UCB, Stanford, or any other local institution. Any guidance would be greatly appreciated.

Thank you!

Venus

Venus D. Johnson
Chief Assistant District Attorney
Contra Costa County District Attorney's Office

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Warmly,

patrick

Patrick Robinson

Justice and Opportunity
Service Design and Innovation



Steve Bolen

From: Venus D. Johnson
Sent: Sunday, December 27, 2020 11:01 PM
To: DA-All-Attorneys
Subject: AB 2542 - Racial Justice Act - Further Guidance & Updates

Follow Up Flag: Flag for follow up
Flag Status: Flagged

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If you have not already, I strongly encourage you to read through the new statute and the CDAA training materials.

Venus

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Chief Assistant District Attorney
Contra Costa County District Attorney's Office

Steve Bolen

From: Dana Filkowski
Sent: Monday, December 28, 2020 1:02 PM
To: Susun Kim
Subject: AB 2542: The Racial Justice Act

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

Hello - I wanted to know if you were aware of AB 2542, which is anticipated to have an impact on investigations and prosecutions in cases involving interpersonal violence starting in 2021. The bill prohibits implicit as well as explicit bias based on "RENO" (race, ethnicity, national origin) in the investigation, charging, prosecution, conviction and sentencing of criminal cases.

CDAA gave a prosecution training 12/18 that I couldn't attend but I have now reviewed all of the materials provided and will watch the training video as soon as they make it available.

Our office has a Committee that is coordinating with other DA's Offices to support prosecutions under the new mandates. I don't believe that law enforcement has had any training in this arena.

I'm thinking that FJC could assist our law enforcement partners in avoiding falling prey to implicit bias in investigations involving interpersonal violence. We have offered implicit bias training in the DV context but there is a much greater (and more urgent) need to expand such training now given these these particular statutory mandates. I continue to believe that FJC is particularly well suited to synthesize culturally competent trainers with law enforcement messaging in a safe space for these sensitive but important topics.

Dana

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Steve Bolen

From: natasha.minsker@gmail.com
Sent: Tuesday, May 26, 2020 4:12 PM
To: Venus D. Johnson
Cc: Diana Becton; sfaucher@8thamendment.org
Subject: Following up on AB 3070 (Weber) to address racial bias in jury selection
Attachments: 2020.05.19 Final Exec Summary, Findings, Recommendations .pdf

Hello DA Becton and Venus,

I hope you are well. I am following up on AB 3070 (Weber) the bill to address racial bias in jury selection.

I have attached the executive summary, findings and recommendations from a new study by the UC Berkeley Death Penalty Clinic documenting the persistent and ongoing problem of racial bias in jury selection in California. This is why this bill is so urgently needed.

We are considering amendments in the next few weeks. If there are any changes that would make it possible for you to support the bill, we would love to discuss.

Thanks very much and stay well,

Natasha

From: natasha.minsker@gmail.com <natasha.minsker@gmail.com>
Sent: Saturday, May 9, 2020 2:20 PM
To: 'Venus D. Johnson' <Venus.Johnson@contracostada.org>
Cc: 'Diana Becton' <Diana.Becton@contracostada.org>; sfaucher@8thamendment.org
Subject: RE: following up on legislation

Hello DA Becton and Venus,

It was great speaking with DA Becton on Friday during the group call.

I'm following up with an update on these bills (you may have heard this from CDAA as well).

- AB 2200 (Kalra) The California Racial Justice Act is not moving forward. The chair of the Assembly Public Safety Committee declined to set it for a hearing. We will be bringing this bill back next year and would still welcome any feedback (though there is no urgency).
- AB 3070 (Weber) Anti-Discrimination in Jury Selection: This bill is moving forward and will be heard in the Assembly Judiciary Committee on Monday. The only opposition is CDAA.
- AB 2512 (Stone) Intellectual Disability and the Death Penalty: This bill is moving forward and will be heard in the Assembly Public Safety Committee on May 19. There is currently no opposition – CDAA is still reviewing.

Please let me know if you have questions or would like to discuss by phone. Thanks and stay well,

Natasha

From: Venus D. Johnson <Venus.Johnson@contracostada.org>
Sent: Thursday, April 16, 2020 10:31 AM
To: natasha.minsker@gmail.com
Cc: Diana Becton <Diana.Becton@contracostada.org>; sfaucher@8thamendment.org
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