



Honorable Anthony Portantino
California State Senate
State Capitol, Room 412
Sacramento, CA 95814

March, 2022

RE: Support AB 256 (Kalra), the California Racial Justice Act for All

Dear Senator Portantino:

The California Innocence Coalition writes in strong support of AB 256 (Kalra), a bill that builds upon the landmark California Racial Justice Act (CRJA). Passed with in 2020, the CRJA prohibited the discriminatory use of race, ethnicity, or national origin in sentencing and conviction; yet it only did so prospectively. AB 256 would allow the CRJA to be applied retroactively, thereby extending its protections to those who have been impacted by discriminatory convictions or sentences in the past. Under AB 256, such retroactive applications would be phased in over the next three years.

The California Innocence Coalition consists of the three innocence projects in California, the California Innocence Project, the Northern California Innocence Project and the Loyola Project for the Innocent. The mission of our projects is to protect the rights of the innocent by litigating their cases to bring them home and to promote a fair and effective criminal legal system by advocating for change in California laws and policy. Collectively, the California Innocence Coalition has won the freedom of over 70 wrongly imprisoned individuals who collectively lost over 800 years in prison for crimes they did not commit.

According to the National Registry of Exonerations, there have been 212 individuals wrongfully convicted, that we know of, in our state since 1989. **More than 60% of exonerees in California are Black, Indigenous or Latinx.**¹ Statistics like these reflect the underlying reality that far too many Californians have their convictions or sentences upheld despite blatantly racist statements made by attorneys, judges, jurors and expert witnesses at trial, the discriminatory exclusion of people of color from service on juries, and stark statistical evidence showing systemic bias in charging and sentencing.

¹ National Registry of Exonerations, California, (Last visited February 19, 2020).
<https://www.law.umich.edu/special/exoneration/Pages/detailist.aspx?View={FAF6EDDB-5A68-4F8F-8A52-2C61F5BF9EA7}&FilterField1=ST&FilterValue1=CA&FilterField2=Race&FilterValue2=Black>

We at the CIC believe that the CRJA marked an important first-step in addressing such institutionalized racism within our criminal justice system. However, this legislation was only prospective – under current law, habeas petitions based on alleged CJRA violations are permitted only for judgements entered on or after January 1, 2021.

If prohibiting racism in our courts and providing a person a means to remedy racial bias in their case is the right thing to do, it is the right thing to do for everyone. To that end, AB 256 allows the CRJA to apply retroactively, meaning that individuals will be able to file habeas petitions based on alleged CJRA violations even if their judgements were entered before 2021. To ensure that courts are not unduly burdened by this new legislation, AB 256 applies such retroactivity in three phases:

- (1) Starting in 2022, retroactive applications of the CJRA will be permitted for (a) those sentenced to death, (b) those serving a sentence pursuant to the 2011 Realignment Legislation, (c) those committed to the Division of Juvenile Justice for a juvenile disposition, or (d) those who are no longer in custody due to immigration consequences related to their conviction or sentence.
- (2) Starting in 2023, retroactive applications will be permitted for those whose felony conviction or juvenile disposition was entered after January 1, 2013.
- (3) Starting in 2025, retroactive applications will be permitted for all felony convictions or juvenile dispositions regardless of the date of judgment.

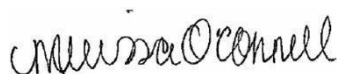
Those with prior, racially biased convictions and sentences have waited long enough; they deserve equal protection under the law and the chance to have their discriminatory convictions or sentences reviewed. For these reasons, we strongly support AB 256.

If you have any questions or concerns, please contact us.

Sincerely,
The California Innocence Coalition



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