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FILED
Superior Court of California
County of San Francisco

OCT 26 2023

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Superior Court of California
San Francisco County

11 **People of the State of California,**

12 Plaintiff,

13 vs.

14 **JOSÉ CORVERA,**

15 Defendant.

Court No.: 22008460

**Motion to Dismiss for Violation of the
California Racial Justice Act (Pen. Code,
§ 745), Penal Code Section 13519.4, and
the Equal Protection Clause.**

Date: 10/26/2023

Time: 9:00 AM

Dept: ~~029~~ 2A

To the District Attorney of San Francisco and to the above-entitled Court:

Defendant, Jose Corvera, moves to dismiss the Information for violation of Penal Code section 745 of the California Racial Justice Act of 2020 ("CRJA"),¹ violation of Penal Code section 13519.4, and the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution.

This motion is based upon the facts and grounds set forth herein, the accompanying Memorandum of Points and Authorities, any exhibits attached thereto, documents on file with this court in the above captioned matter, as well as any additional evidence and/or testimony that this court deems just and proper.

¹ Assem. Bill No. 2542, (2019-2020 Reg. Sess.) ("CRJA"), codified in Pen. Code, § 745.

1 Dated: October 25, 2023

Respectfully submitted,



Bao Doan, Deputy Public Defender
Kathleen Natividad, Deputy Public Defender
Anjuli Webb, Certified Law Clerk

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Introduction

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2 The city of San Francisco wholeheartedly embraces a vibrant bike culture, where its residents
3 passionately participate in various bicycle-related activities, including riding, repairing, and even
4 racing them. In the Mission district, urban bicycling is an especially popular mode of
5 transportation – it’s a central hub for bike enthusiasts.² Hence, when law enforcement decided to
6 pay special attention to Corvera, who was riding a bicycle while also pushing another, such
7 actions beg critical examination of the officers’ motivations. Possessing two bicycles is not a
8 criminal offense, nor is the act of simultaneously riding one while pushing another unusual
9 behavior. Rather, Corvera, a 52-year-old unhoused Latinx³ man was unjustly singled out by the
10 police based on racial stereotypes linked to Latinx people, poverty, and their rights to possess
11 personal belongings. It was unfair and prejudicial to presume that his possession of two bicycles
12 instead of one must be connected to a criminal act. A white person travelling with two bicycles
13 along Marina Boulevard would be unlikely to encounter such treatment.

14 Aggressive actions by the state, like the ones Corvera experienced, without penalty, reinforce
15 harmful stereotypes about racial and ethnic groups, perpetuating bias, and discrimination. This
16 not only affects Corvera but also contributes to larger systemic inequalities and prejudices.

17 Accordingly, Corvera moves this court to hold a hearing on whether racial, ethnic or national
18 origin bias, in violation of the California Racial Justice Act (“CRJA”) under Penal Code section
19 745(a), has occurred in his case.⁴ As detailed below, Corvera has made the requisite prima facie
20 showing of racial, ethnic or national origin bias to trigger a mandatory hearing,⁵ at which
21 Corvera is prepared to present evidence and data to prove the violation by a preponderance of the
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23
24 ² San Francisco’s Mission District hosts a number of popular cycling spots, including The Bike Kitchen,
Valencia Cyclery, Don Rafa’s Cyclery, Third Rail EBikes, and Bay Wheels.

25 ³ Corvera was born on January 12, 1971 in a small town of Santo Domingo, which is a municipality in the
26 San Vicente department of El Salvador.

27 ⁴ Pen. Code, § 745(a) lists the various ways the CRJA can be violated.

28 ⁵ Pen. Code, § 745(c): “[I]f a motion is filed in the trial court and the defendant makes a prima facie
showing of a violation of subdivision (a), the trial court *shall* hold a hearing.” (Emphasis added).

1 evidence.⁶ Upon the court finding that a violation has been proved,⁷ Corvera will request
2 dismissal, which is an appropriate remedy within the meaning of Penal Code section 745(e).⁸
3 The court has broad discretion to fashion an appropriate lawful remedy.⁹

4 **Summary of the Police Report**

5
6 The police report is the first document that evinces the racial biases that guided the police
7 officers' actions this case. According to Police Incident Report #220523076, the incident
8 allegedly unfolded as follows:

9 On August 06, 2022 at around 7:55 a.m., Field Training Officer ("FTO") Rotschi and Officer
10 Schrachta, both in uniform and in a marked patrol car, reported they were in pursuit with a
11 "suspect," later identified as Jose Corvera, a 51-year-old Latino male of limited English
12 proficiency, who had two bicycles. The call was initially broadcasted at 16th and South Van
13 Ness Avenue. The officers, in their patrol car, continued to pursue Mr. Corvera who was
14 traveling on South Van Ness Avenue towards 17th Street. Mr. Corvera passed 17th street,
15 continued on his bicycle turning left onto 18th Street, while the officers followed. The officers
16 pulled their vehicle left into the opposing lane of traffic, narrowing their distance between
17 themselves and Mr. Corvera, but not stopping. He then made a left onto Shotwell Street, while
18 the officers continued to follow him. The officers finally stopped their vehicle in the rightmost
19 lane of Shotwell, a lane already partially blocked by the parklet. The officers then proceeded to
20 exit their patrol car, both with their weapons on their holster, one officer shouting "stop, stop
21 right there," in English. In that moment, Mr. Corvera dropped his bikes and proceeded through

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23 ⁶ Pen. Code, § 745(c)(1) and (2): "At the hearing, evidence may be presented by either party, including,
24 but not limited to, statistical evidence, aggregate data, expert testimony, and the sworn testimony of
witnesses...[T]he defendant shall have the burden of proving a violation of subdivision (a) by a
preponderance of the evidence.

25 ⁷ Pen. Code, § 745(c)(3): "At the conclusion of the hearing, the court shall make findings on the record."

26 ⁸ Pen. Code, § 745(e): "...if the court finds, by a preponderance of evidence, a violation of subdivision
27 (a), the court *shall* impose a remedy..." (emphasis added).

28 ⁹ Pen. Code, § 745(e)(4): "[T]he remedies available under this section do not foreclose any other remedies
available under the United States Constitution, the California Constitution, or any other law."

1 the parklet on foot a few feet down to 381 Shotwell, turning himself around facing the officers
2 near a patch of bushes, eventually hiding behind a red car. Mr. Corvera did not continue to flee
3 or run down Shotwell Street towards 17th Street.

4 At no point in Police Incident Report #220523076 do officers cite a particularized reason for
5 pursuing Mr. Corvera besides being a “suspect” with two bicycles.

6 Officers allege that once Mr. Covera hid behind the vehicle in front of 381 Shotwell Street he
7 appeared armed with what appeared to be a gun. The Body Worn Camera footage displays the
8 officers continuing to shout at Mr. Corvera, at one point stating “drop that gun or you will be
9 shot.” The initial detaining officers reported that Mr. Corvera fired shots at them. On Body Worn
10 Camera during the first volley of gunfire, it appears three shots were fired. Both Officer Rotschi
11 and Officer Schrachta fired their guns during the first volley. In response, numerous officers
12 were deployed to the scene and surrounded Mr. Corvera. 17 officers drew their firearms at Mr.
13 Corvera. 4 officers fired shots at Mr. Corvera, with at least 15 bullet holes piercing nearby cars,
14 buildings, and the inside of an apartment.

15 Mr. Corvera eventually threw the object that appeared to be a gun into the street and the
16 Tactical Team placed him under arrest without incident. Officers recovered Mr. Corvera’s
17 alleged gun and determined it to be an imitation firearm. The imitation firearm displayed an
18 orange cap on the barrel and apparently shot blanks, not bullets. No officers or witnesses were
19 injured as a result of the incident.

20 Officers interviewed several witnesses at the scene. Several witnesses reported being unsure
21 whether the officers or Mr. Corvera were firing shots. One witness reported that Mr. Corvera’s
22 responses to the officer’s requests to stand down were “often quiet, as if he was speaking to
23 himself.”

24 Memorandum of Points and Authorities

25 **1. The police officers violated Penal Code section 13519.4, which recognizes racial 26 profiling as a Constitutional violation.**

27 The Legislature codified an outright prohibition on racial profiling by officers.
28 Penal Code section 13519.4, subdivision (f) orders that a “peace officer shall not
engage in racial or identity profiling.”¹⁰ Racial profiling for purposes of this section

¹⁰ *Id.*, §13519.4 (f)

1 is described as “consideration of, or reliance on, to any degree, actual or perceived
2 race, color, ethnicity, national origin...*in deciding which persons to subject to a stop*
3 (emphasis added) or in deciding upon the scope of substance of law enforcement
4 activities following a stop, except that an officer may consider or rely on
5 characteristics listed in a specific suspect description. The activities include, but are
6 not limited to, traffic or pedestrian stops.”¹¹

7 The law stresses that “[r]acial or identity profiling is a practice that presents a
8 great danger to the fundamental principles of our Constitution and a democratic
9 society. It is abhorrent and cannot be tolerated.”

10
11 **2. Newly enacted California Racial Justice Act (CRJA) requires that the court remedy
explicit and implicit racial bias at all stages of criminal proceedings.**

12 On September 30, 2020, the Governor signed into law AB 2542, the California Racial Justice
13 Act, which took effect on January 1, 2021.¹² The legislative findings in the CRJA recognize that
14 race discrimination has had a “deleterious effect” on our entire criminal justice system and that
15 current law has “proven insufficient in addressing the systemic bias.”¹³

16 In broad, sweeping language aimed at eradicating racial bias from California’s criminal
17 justice system, the CJRA finds that “intolerable racism” infects decision-making at every stage
18 of criminal proceedings and states an express intention to ameliorate bias-based injustice in the
19 courtroom. The CRJA acknowledges that “all persons possess implicit biases, and that these
20 biases impacting the criminal justice system “tend to disfavor people of color.”¹⁴

21 In the CRJA, the Legislature dispensed with the burden to show *purposeful* discrimination
22 because, “when racism clearly infects a criminal proceeding, under current legal precedent, proof
23 of purposeful discrimination is often required, but nearly impossible to establish.”¹⁵

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25 ¹¹ *Id.*, §13519.4 (e)

26 ¹² CRJA, *supra*, § 2(a), (c).

27 ¹³ *Ibid.*

28 ¹⁴ CRJA, § 2(g).

¹⁵ CRJA, § 2(c).

1 The legislative intent behind the law is clear:

2 “*It is the intent of the Legislature* to eliminate racial bias from California’s criminal justice
3 system because racism in any form or amount, at any stage of a criminal trial, is intolerable,
4 inimical to a fair criminal justice system, is a miscarriage of justice under Article VI of the
5 California Constitution, and violates the laws and Constitution of the State of California.
6 Implicit bias, although often unintentional and unconscious, may inject racism and unfairness
7 into proceedings similar to intentional bias.

8 “*The intent of the Legislature* is not to punish this type of bias, but rather to remedy the
9 harm to the defendant’s case and to the integrity of the judicial system.

10 *It is the intent of the Legislature* to ensure that race plays no role at all in seeking or
11 obtaining convictions or in sentencing.

12 *It is the intent of the Legislature* to reject the conclusion that racial disparities within our
13 criminal justice are inevitable, and to actively work to eradicate them.”¹⁶

14 *It is the further intent of the Legislature* to provide remedies that will eliminate racially
15 discriminatory practices in the criminal justice system, in addition to intentional
16 discrimination.

17 *It is the further intent of the Legislature* to ensure that individuals have access to all relevant
18 evidence, including statistical evidence, regarding potential discrimination in seeking or
19 obtaining convictions or imposing sentences.”¹⁷

20 **3. Upon a Prima Facie Showing of a Violation of the CRJA, the Court *Shall* Hold a
21 Hearing to Determine Whether a Violation Occurred.**

22 The Legislature codified the CRJA by creating Penal Code section 745, which declares that
23 “[T]he state shall not seek or obtain a criminal conviction or seek, obtain, or impose a sentence
24 on the basis of race, ethnicity, or national origin.”¹⁸ Sections 745(a)(1) through (a)(4) list the
25 various ways the CRJA can be violated.¹⁹

26 Section 745(a)(1) of the CRJA provides: “The judge, an attorney in the case, a *law*
27 *enforcement officer involved in the case*, an expert witness, or juror exhibited bias or animus
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25 ¹⁶ CRJA, § 2(i), emphases added.

26 ¹⁷ CRJA, § 2(j), emphases added.

27 ¹⁸ Pen. Code, § 745(a).

28 ¹⁹ Pen. Code, § 745(a)(1)-(4).

1 towards the defendant because of the defendant’s race, ethnicity, or national origin.”²⁰ The bias
2 or animus must be directed toward the defendant, *but the statute does not require a showing of*
3 *intentional prejudice.*

4 Here, as shown below, the CRJA has been violated under section 745(a)(1): San Francisco
5 Police Officers exhibited racial bias or animus shown toward Corvera.²¹

6 **Argument**

7 **1. San Francisco Police Officers exhibited racial bias toward Jose Corvera by initiating a** 8 **stop for no apparent reason apart from his race.**

9 Section 745(a)(1) of the CRJA provides: “The judge, an attorney in the case, a law
10 enforcement officer involved in the case, an expert witness, or juror exhibited bias or animus
11 towards the defendant because of the defendant’s race, ethnicity, or national origin.”²² The bias
12 or animus must be directed toward the defendant, but *the statute does not require a showing of*
13 *intentional prejudice.*

14 The police report is the first document that evinces the racial biases that motivated the police
15 officers’ actions. Significantly, the officers did not even mention the word “theft” in their initial
16 interaction with Corvera; they merely labeled him as a “suspect” due to his possession of two
17 bicycles. Riding a bicycle is unrelated to any theft-related activity, and the mere presence of two
18 bicycles does not constitute a criminal offense.

19 The law enforcement officers’ actions in this situation are indicative of racial profiling,
20 whereby individuals are targeted or treated unfairly based on their racial or ethnic background. In
21 this case, Corvera, a Latinx individual, drew “suspicion” because of his appearance, leading to a
22 presumption of criminal activity based on stereotypes associated with his ethnicity.

23 The officers’ aggressive and racially biased behavior persisted until the events leading to the
24 charges in this case unfolded, including the police firing at Corvera. To the extent that Corvera
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27 ²⁰ Pen. Code, § 745(a)(1).

28 ²¹ Pen. Code, § 745(a)(1).

²² Pen. Code, § 745(a)(1).

1 took action, he was reacting against individuals who initiated an unwarranted, alarming, and
2 unprovoked confrontation with him, which, in his perception, lacked any justifiable reason.

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4 **2. The pursuit of Mr. Corvera is rooted in racial bias that is palpable and rampant; Latinx**
5 **people in California (and specifically San Francisco) are more likely to be stopped than**
6 **their white counterparts.**

7 Latinx people in San Francisco are stopped by police at a higher rate than their white
8 counterparts. This discrepancy pertains to numerous aspects of policing. According to a report
9 from Axios, Black and Latinx San Francisco drivers had a higher likelihood of being pulled over
10 for offenses such as a malfunctioning taillight or lacking proper registration compared to
11 individuals of other racial backgrounds. These specific types of traffic stops are “not in the
12 public interest” and significantly exacerbate racial disparities within our community, as stated by
13 Police Commissioner Kevin M. Benedicto.²³

14 Further relevant evidence is found in San Francisco Police Department’s (SFPD) own most
15 recent data analysis.²⁴ SFPD’s own most recent available data set reveals that 28% of stops and
16 searches conducted in the second quarter of 2023 involved Hispanic/Latino people, despite
17 making up less than 15.9% of the population.²⁵

18 The California Racial and Identity Profiling Advisory Board’s 2023 Annual Report, which
19 analyzes data collected under the Racial and Identity Profiling Act (“RIPA”), has demonstrated
20 racial disparities in policing throughout California. Specifically, the 2023 Report analyzes the
21 RIPA stop data from January 1, 2021 to December 31, 2021 collected and reported by 58 law
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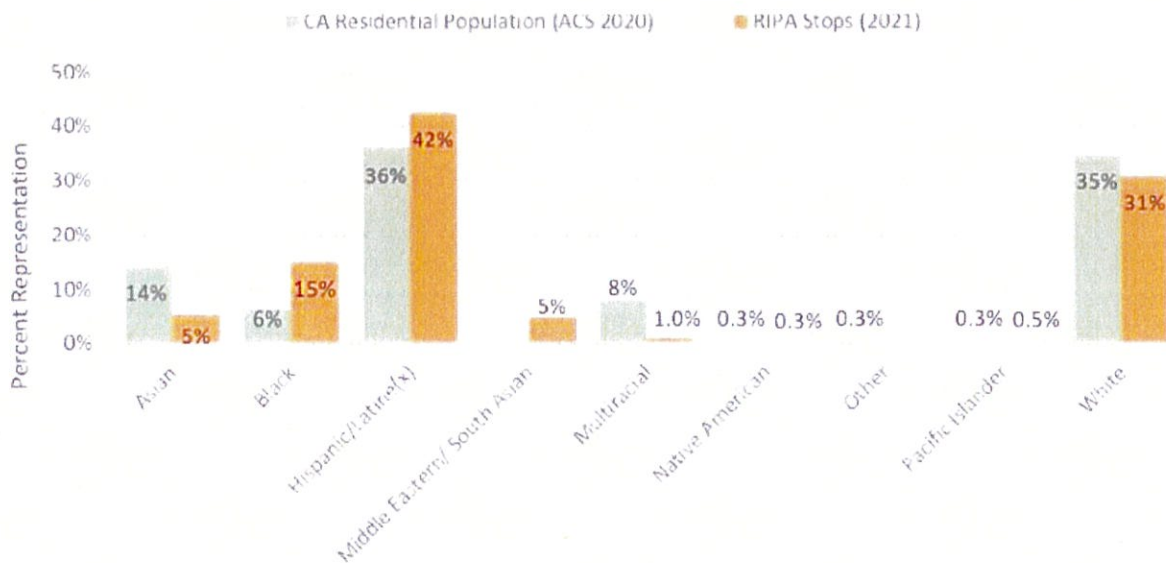
23
24 ²³ Axios. (2023, January 13). San Francisco step closer to restricting low-level traffic stops. Retrieved
25 from <https://www.axios.com/local/san-francisco/2023/01/13/low-level-traffic-stops-restriction-san-francisco-police#>

26 ²⁴ SFPD Quarterly Accountability and Discipline Report - 2nd Quarter 2023. Retrieved from
27 https://www.sanfranciscopolice.org/sites/default/files/2023-09/SFPDQADReport_2023Q2_20230920.pdf, p. 60.

28 ²⁵ U.S. Census Bureau. (n.d.). QuickFacts: San Francisco County, California - Race and Hispanic Origin. Retrieved from
<https://www.census.gov/quickfacts/fact/table/sanfranciscocountycalifornia/RHI725222#RHI725222>

1 enforcement agencies, including the 23 largest law enforcement agencies in California. The
2 report made the following findings²⁶:

3 “Black and Hispanic/Latine(x) individuals represented a higher proportion of stopped
4 individuals than their relative proportion of the weighted California residential population.”²⁷



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18 **3. The pursuit of Mr. Corvera, based on a perceived “suspicion” of a bicycle-related**
19 **violation is consistent with statewide racial disparities, whereby police officers stop people**
20 **for bicycle-related violations more often than their white counterparts.**

21 The 2023 RIPA report noted that “analysis also reveals a continued trend from the 2020 data
22 and now 2021 data that out of all stops, bicycle-related stops are a larger percentage among those
23 who are perceived to be Multiracial, Hispanic/Latine(x), or Black than those who are perceived
24 as White.”²⁸

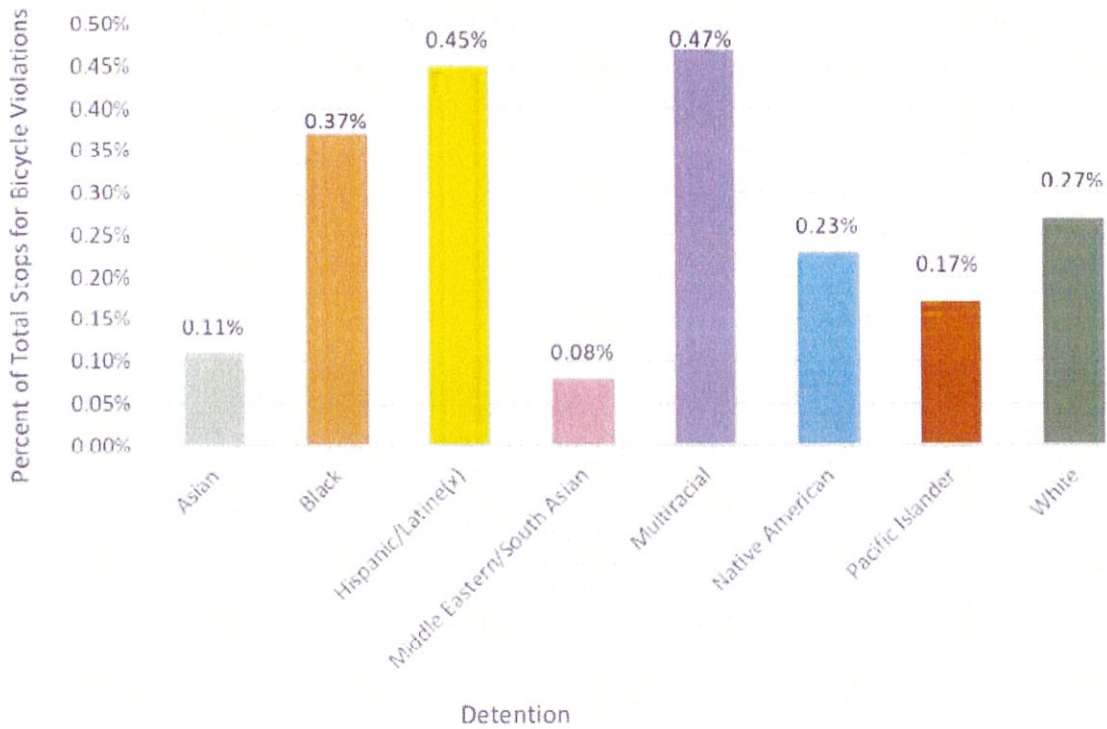
25
26 ²⁶ The 2023 RIPA report, which is 223 pages, may be downloaded here:
<https://oag.ca.gov/system/files/media/ripa-board-report-2023.pdf>.

27 ²⁷ 2023 RIPA report, page 8.

28 ²⁸ 2023 RIPA report, page 74.

1 The 2023 RIPA report further notes that during bicycle-related stops, “[a]cross the board,
 2 those who are Multiracial, Hispanic/Latine(x), or Black were more likely to be searched,
 3 detained in a patrol car or on the curb, and handcuffed than any other race or ethnicity. These
 4 data are consistent with patterns we would observe if officer biases based on perceived race and
 5 ethnicity contributed towards additional actions taken toward Multiracial, Hispanic/Latine(x),
 6 and Black individuals.”²⁹

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 8 *Figure 29. Bicycle-Related Violations by Race/Ethnicity*



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 23 **4. The aggressive police tactics used on Mr. Corvera are consistent with racial disparities**
 24 **across the state, whereby police officers are more likely to use force, or other invasive /**

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 28 ²⁹ 2023 RIPA report, page 76

1 **aggressive police tactics on Latinx individuals during a stop than they do on their white**
2 **counterparts.**

3 According to the 2023 RIPA report: “The Board analyzed when officers reported using force
4 during a stop. Findings indicate that: Black and Hispanic/Latine(x) individuals were more likely
5 to have force used against them compared to White individuals, while Asian and Other
6 individuals were less likely to have force used against them. Specifically, the odds of having
7 force used during a stop were 1.24 times and 1.09 times as high for Black and Hispanic/Latine(x)
8 individuals, respectively.”³⁰

9 Racial disparities also exist in the level of invasiveness used during police stops: “The RIPA
10 data reveals that 15-17 year old Black youth are searched at nearly six times the rate of White
11 youth, and 15-17 year old Hispanic/Latine(x) youth are searched nearly four times the rate of
12 White youth.”³¹

13 There are even racial disparities in how far police officers will pursue investigations of
14 relatively minor and non-violent infractions: “The RIPA data reveal Black individuals were 4
15 times as likely, Hispanic/Latine(x) individuals were 2.4 times as likely, and Multiracial
16 individuals were 2.2 times as likely as White individuals to be asked for consent to search during
17 a traffic stop.”³²

18
19 **5. Mr. Corvera, who is Latino, was “suspicious” to the officers, because of deep-seated,**
20 **historical racial biases whereby Latinx people are *criminalized* – they are associated with**
21 **perception of criminal activity.**

22 “Suspicious” is a subjective, qualitative judgment, that is applied differently to white people
23 than Latino people. Academic literature shows that “suspicious” behavior by a Latino person
24 may seem entirely innocent when done by a white person. Racial bias Expert Samuel Maull

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27 ³⁰ 2023 RIPA report, Page 9.

28 ³¹ 2023 RIPA report, Page 9.

³² 2023 RIPA report, Page 12.

1 explains how Mr. Corvera, by virtue of his race, was criminalized by the police officers in this
2 case³³:

3
4 “[C]riminalization is ‘the process by which behaviors and individuals are transformed
5 into crime and criminals.’ In this case, the process by which a Latino man, Mr. Corvera, is
6 transformed into a criminal (a ‘suspect’), and his pushing a bike transformed into a crime
7 (officers Rotschi and Schrachta’s liking Mr. Corvera to a burglary based on nothing more
8 than his possession of a bicycle). The key point here is that he was considered a ‘suspect’ –
9 treated as a criminal – without any evidence of any particular crime, and only the most
10 tenuous connection to crime in the area.

11 The process of criminalization is best explained through hypotheticals and comparisons. A
12 white woman who is traveling around the Marina District with two bicycles would unlikely draw
13 the suspicion of police, and would unlikely be pursued. Expert Samuel Maull elaborates³⁴:

14 A comparison highlights the racial element of our perception and crime: Bikes are frequently
15 stolen on Stanford campus, yet the Sheriff’s Deputies there do not regularly stop the
16 predominantly white and Asian students when they see those students pushing a bike while
17 cycling another. The fact that bikes have been stolen in the area of Stanford campus isn’t
18 enough to produce a heightened suspicion. The person stopped, in himself, must be perceived
19 as a ‘suspect.’ Race is the underlying factor here, the prism through which crime is perceived
20 in one action and not in another.

21 **6. Corvera has made a prima facie showing of racial bias in violation of the CRJA**
22 **sufficient to trigger a hearing.**

23 A defendant filing a motion in the trial court alleging a Penal Code section 745(a) violation
24 must first make a prima facie showing, after which the trial court *shall* hold a hearing.³⁵ “Prima
25 facie showing” means that the defendant alleges facts that, if true, establish a substantial
26 likelihood that a violation of subdivision (a) occurred. A “substantial likelihood” requires more
27 than a mere possibility, but is less than “more likely than not.”³⁶

28 ³³ Exhibit A: Affidavit of Racial Bias Expert Samuel Maull, with curriculum vitae.

³⁴ Exhibit A: Affidavit of Racial Bias Expert Samuel Maull, with curriculum vitae.

³⁵ Pen. Code, § 745(c).

³⁶ Pen. Code, § 745(h)(2).

1 In the recent 2023 *Finley* case, the appellate court granted the defendant’s writ of mandate on
2 the ground that the trial court applied the incorrect standard of review in deciding whether
3 defendant made a prima facie showing of a violation of the RJA: “**The court should accept the**
4 **truth of the defendant's allegations**, including expert evidence and statistics, unless the
5 allegations are conclusory, unsupported by the evidence presented in support of the claim, or
6 demonstrably contradicted by the court's own records.”³⁷ The appellate court further
7 admonished: “And again, the court should not make credibility determinations at the prima facie
8 stage.” The court went on to stress “[a]s we have repeated, **the focus at this stage of the Racial**
9 **Justice Act proceedings should have been on the allegations and supporting evidence**
10 **proffered by Finley, not evidence supporting the People's argument.**”³⁸

11
12 **7. The appropriate remedy here is to dismiss the Information for violation of the CRJA.**

13 Upon showing that section 745(a) has been violated, the court must fashion an appropriate
14 remedy. Section 745(e) states that: “...if the court finds, by a preponderance of evidence, a
15 violation of subdivision (a), the court *shall* impose a remedy specific to the violation found from
16 the following list:

17 (1) Before a judgment has been entered, the court may impose any of the following remedies:

18 (A) Declare a mistrial, if requested by the defendant.

19 (B) Discharge the jury panel and empanel a new jury.

20 (C) If the court determines that it would be in the interest of justice, dismiss enhancements,
21 special circumstances, or special allegations, or reduce one or more charges.”³⁹

22 The Legislature signaled that the above is not an exclusive list of remedies by giving courts
23 broad discretion to fashion any appropriate remedy. Section 745(e)(4) provides: “The remedies
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26 ³⁷ *Finley v. Superior Ct. of City & Cnty. of San Francisco*, 95 Cal. App. 5th 12, 23, 312 Cal. Rptr. 3d 907,
915 (2023).

27 ³⁸ *Finley v. Superior Ct. of City & Cnty. of San Francisco*, 95 Cal. App. 5th 12, 23, 312 Cal. Rptr. 3d 907,
915 (2023)

28 ³⁹ Pen. Code, § 745(e)(1), emphasis added.

1 available under this section *do not foreclose any other remedies* available under the United States
2 Constitution, the California Constitution, or any other law.”⁴⁰


3 Here, once Corvera has proved by a preponderance of the evidence that section 745(a)(1) and
4 (3) has been violated by San Francisco Police Officers Michael Rotschi (#1514) and Christopher
5 Schrachta (#1183), Corvera will request that the court dismiss the Information to remedy the
6 violation. Dismissal is an appropriate remedy because the only way to teach SFPD to stop
7 detaining, searching, and using force on Latinx people at such disproportionate rates is to hold
8 them accountable for their behavior.

9 **Conclusion**

10 Corvera, having made a prima facie showing of racial bias in violation of section 745(a),
11 moves for a hearing at which Corvera will present evidence to prove the violation by a
12 preponderance of the evidence, and where Corvera will demonstrate that dismissal is the just
13 remedy. Dismissal is also warranted because of a violation of Penal Code section 13519.4, which
14 prohibits racial profiling. Moreover, the conduct of the police officers violate Mr. Corvera’s
15 rights under the Equal Protection Clause of the Fourteenth Amendment of the United States
16 Constitution.

17
18 Dated: October 25, 2023

Respectfully submitted,

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21 Bao Doan, Deputy Public Defender
22 Kathleen Natividad, Deputy Public Defender
23 Anjuli Webb, Certified Law Clerk

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⁴⁰ Pen. Code, § 745(e)(4), emphasis added.

Proof of Service

I say:

I am over eighteen and not a party to this action. My business address is 555 Seventh Street,
San Francisco, California 94103.

I caused to be filed and served the attached document on

Assistant District Attorney
San Francisco District Attorney
350 Rhode Island Street
North Building, Suite 400N
San Francisco, CA 94103

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 26, 2023 in San Francisco, California.



Kathleen Natividad

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