

Language-based claims and the California Racial Justice Act

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LINGUISTIC BIAS IN THE CRIMINAL LEGAL SYSTEM

Linguistic bias in courtrooms has drawn attention across the law-linguistics interface (King & Jacobs 2024).

Here, we analyze the impact of the California Racial Justice Act (RJA), an ambitious statutory effort to address racial bias in the criminal legal system.

- How do judges react to language-based RJA claims? How can linguists help build successful RJA cases?

THE RACIAL JUSTICE ACT (RJA)



The RJA(Cal. Penal § 745) is a statute designed to address racism in the criminal legal system through a series of substantive and procedural innovations. **The statute defines four violations.**

1. Bias because of race, ethnicity, or national origin (§ 745(a)(1)).
2. Use of racially discriminatory language (§ 745(a)(2)).
3. Disparate charging and convictions (§ 745(a)(3)).
4. Disparate sentencing (§ 745(a)(4)).

RACIALLY DISCRIMINATORY LANGUAGE IN THE RJA

The RJA prohibits the use of racially discriminatory language by judges, attorneys, law enforcement, jurors, and expert witnesses (§ 745(a)(2)).

- This includes “racially charged or racially coded language, language that compares the defendant to an animal, [and] language that references the defendant’s physical appearance, culture, ethnicity, or national origin” (§ 745(h)(4)).



METHODS & NEXT STEPS

We identify and assess judicial opinions in which the RJA is cited.

- Cases assessed for whether they involve linguistic issues.
- Contents of opinion and procedural details to be coded (*i.e.*, venue, court level, context, relief sought, decision, and reasoning).
- In addition, we plan to conduct interviews with legal practitioners.

PRELIMINARY FINDINGS

Many linguistic issues related to the RJA remain unsettled.

- Disagreement about what constitutes racially discriminatory language.
- Even when language is found to be racially discriminatory, judges do not always impose a remedy.

“We agree that some jurors who were familiar with the [language at issue], based on their lived experiences and perceptions, could have believed it was race based.”
- *People v. Thompson* (2022)

“Now that term, I've heard minorities use [“proactive enforcement”] to encourage police to do more policing. So[,] why is there a racial interpretation of that term?”
- *In the Matter Concerning Former Judge Howard H. Shore* (2025)

GET INVOLVED!

Want to get involved with this ongoing project? We’d love to hear from you! Scan the QR code for our handout, interest form, bibliography, and data.

