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**VIA TRUE-FILING**

April 23, 2024

The Honorable Chief Justice Patricia Guerrero and Associate Justices
California Supreme Court
350 McAllister Street, Fourth Floor
San Francisco, CA 94102-4797

RE: *Office of the State Public Defender, et al. v. Bonta*
Supreme Court Case No. S284496
*Amicus Curiae* Letter in Support of Request for Review

To the Honorable Chief Justice and Associate Justices of the California Supreme Court:

Although the California State Legislature has sought over the years to combat racial inequities in the criminal justice system, there are limitations that prevent it from taking the steps necessary to address the constitutional harms described in *Office of the State Public Defender v. Bonta*, No. S284496. Fortunately, "[t]he duty to confront racial animus in the justice system is not the legislature's alone." (*Pena-Rodriguez v. Colorado* (2017) 580 U.S. 206, 222.) The Petition now before this Court provides the opportunity to determine whether racial disparities in capital punishment violate the California Constitution. Pursuant to Rule of Court 8.500, the members of the California State Legislature listed below therefore respectfully urge the Court to exercise its original jurisdiction and grant review in *Office of the State Public Defender v. Bonta*, No. S284496.

Amici curiae are eighteen members of the California State Legislature. **Senate President pro Tempore Emeritus Toni G. Atkins** served as the 51st leader of the State Senate from 2018 to 2024. She previously served as the 69th Speaker of the State Assembly from 2014 to 2016. **Senator Steven Bradford** chairs the Senate Energy, Utilities and Communications Committee, vice-chairs the California Legislative Black Caucus, and serves on the Senate Public Safety Committee and the Senate Appropriations Committee. He previously served in the Assembly from 2009 to 2014. **Assemblymember Isaac G. Bryan** chairs the Assembly Committee on Natural Resources, and serves on the Committee on Revision of the Penal Code, the Assembly Judiciary Committee, and the Assembly Appropriations Committee. **Assemblymember Damon Connolly** first assumed office in 2022 and serves on the Assembly Judiciary Committee and Assembly Budget Committee. He is currently the Vice-Chair of the Joint Legislative Committee on Climate Change Policy and Chair of the Select Committee on Wildfire Prevention. He was previously a Supervising Deputy California Attorney General. **Senator María Elena Durazo** is the Senate Assistant Majority Whip, chairs the Senate Local Government Committee, and serves on the Senate Judiciary Committee. From 2006 through 2014, she was the first woman Secretary-Treasurer of the Los Angeles County Federation of Labor, AFL-CIO. Senator Durazo assumed office in 2019, and served from 2021 to 2024 as Chair of the Senate Budget Subcommittee 5 on Corrections, Public Safety, Judiciary, Labor and Transportation. **Assemblymember Matt Haney** assumed office in 2022, is Assembly Majority Whip, and serves on the Assembly Judiciary Committee. **Assemblymember Chris Holden** assumed office

in 2012 and serves on the Assembly Rules Committee. **Assemblymember Reggie Jones-Sawyer** assumed office in 2012, chairs the Assembly Select Committee on the Status of Boys and Men of Color, and serves on the Assembly Rules Committee. **Assemblymember Ash Kalra** first assumed office in 2016 and is the current Chair of the Assembly Judiciary Committee. He previously served as a Deputy Public Defender for Santa Clara County. Assemblymember Kalra was the primary author of the California Racial Justice Act of 2020 and its amending legislation, described below. **Assemblymember Alex Lee** chairs the Assembly Committee on Human Services, and is a former member of the Committee on Revision of the Penal Code. **Assemblymember Tina McKinnor** assumed office in 2022, serves on the Assembly Judiciary Committee, and has authored legislation related to system impacted communities. **Assemblymember Liz Ortega** assumed office in 2022 and previously served on the Assembly Committee on Public Safety. She is currently the Chair of the Assembly Committee on Labor and Employment. **Speaker Emeritus Anthony Rendon** served as the 70th Speaker of the California State Assembly from 2016 to 2023. **Senator Nancy Skinner** was elected to the Senate in 2016 and served as an Assemblymember from 2008 to 2014. She chaired the Senate Public Safety Committee and the Senate Budget Subcommittee 5, which oversees the budget of the California Department of Corrections and Rehabilitation and the Board of Parole Hearings, from 2017 to 2021. Senator Skinner continues to serve as a member of the Senate Public Safety Committee, as the Senate member on the Committee on Revision of the Penal Code, as Chair Emeritus of the Senate Budget and Fiscal Review Committee, and as Chair of the California Legislative Women's Caucus. **Senator Lola Smallwood-Cuevas** assumed office in 2022, chairs the Senate Labor, Public Employment and Retirement Committee, and serves on the Senate Budget and Fiscal Review Committee. **Assemblymember Phil Ting** assumed office in 2012 and serves on the Assembly Committee on Public Safety. He has authored several pieces of legislation seeking more fairness and equity through criminal justice reform. During his years as Assembly Budget Chair, he spearheaded funding for the implementation of changes to improve California's sentencing and incarceration policies. **Assemblymember Akilah Weber, MD** assumed office in 2021 and serves on the Assembly Budget Committee. **Assemblymember Lori D. Wilson** chairs the Assembly Transportation Committee and the California Legislative Black Caucus, and serves on the Assembly Committee on Public Safety.

In *McCleskey v. Kemp* (1987) 481 U.S. 279, 319, the United States Supreme Court deferred to state legislatures to address racial disparities in capital punishment. Mr. McCleskey, a Black man, was sentenced to death in Georgia for the homicide of a white man. The Court considered statistical evidence that showed Georgia defendants were more than four times as likely to receive a death sentence if the homicide victim was white. The Court accepted the data as accurate, but affirmed Mr. McCleskey's sentence. Mr. McCleskey had not shown intentional discrimination in his case, the Court held, as is required under federal constitutional law. (*Id.* at pp. 292-293.) In the Court's view, racial disparities in capital sentencing are "an inevitable part of our criminal justice system." (*Id.* at p. 312.) Arguments challenging those disparities, the Court declared, "are best presented to the legislative bodies." (*Id.* at p. 319.)

The California State Legislature has embarked on the project of addressing racial disparities through legislative solutions. *Amici*, with their diverse range of lawmaking experience, have authored and enacted innovative state bills that seek to do just that. All *amici* represent

communities impacted by racial bias in State systems; many are members and leaders of those communities. In their roles as legislators, *amici* are sworn to uphold the California Constitution. On behalf of their constituents, they have a vested interest in the proper interpretation of the State's equal protection clause.

*Amici* write to inform the Court of the limits to legislative solutions. There can be no dispute, given the evidence provided by Petitioners, that race influences whether the death penalty is sought and imposed in California. Because the consequences of that influence cannot be fully ameliorated through further legislative action, the question Petitioners raise is not one *amici* can answer. For the foregoing reasons, *amici* respectfully urge the Court to hear this critical case.

## I. STATEWIDE RACIAL DISPARITIES IN CALIFORNIA'S CRIMINAL JUSTICE SYSTEM HAVE BROAD, CORROSIVE EFFECTS

The California State Legislature, speaking with one voice, recently declared that the deleterious effect of discrimination extends beyond individual proceedings and "undermines public confidence in the fairness" of our criminal justice system.[1] The presence of racial bias in capital punishment is no exception.

Petitioners offer extensive statistical evidence to demonstrate clear patterns of differential treatment based on the race of victims and the race of those accused. In California, death sentences are many times more likely in cases that involve white victims, non-white defendants, or both. (Pet. at pp. 29-33.) Juries are significantly more likely to sentence a non-white defendant to death. (*Ibid*.) Prosecutors, more often than not, exercise their discretion in ways that make the death penalty available in cases with white victims. (*Ibid*.)

Petitioners' studies control for an array of explanatory variables, from the details of each homicide to county demographics, for a comprehensive universe of data spanning nearly five decades. (Pet. at pp. 25-28) The findings are exhaustively replicated at the state level, as well as in data from Alameda, Los Angeles, Riverside, Santa Clara, San Diego, San Francisco, and San Joaquin counties.[2] (*Id*. at pp. 40-41, 34-39.) The conclusion is inescapable: racial factors affect critical steps in California's capital sentencing scheme, just as they pervade our entire system of criminal justice.

The shadow that disparate treatment casts is long and familiar. This Court's jurisprudence on the right to desegregated public schools is instructive. In *Crawford v. Board of Education* (1976) 17 Cal.3d 280, 302 (*Crawford*), this Court unanimously held that racial imbalances in public

[1] Stats. 2020, ch. 317, § 2, subds. (a), (h).

[2] Petitioners' statewide findings are corroborated with data from communities currently represented by *amici*, including Alameda County (Senator Skinner, Assemblymembers Lee and Ortega), Los Angeles County (Senators Bradford, Durazo, and Smallwood-Cuevas, Speaker Emeritus Rendon, Assemblymembers Bryan, Holden, Jones-Sawyer, and McKinnor), Santa Clara County (Assemblymembers Kalra and Lee), San Diego County (President pro Tempore Emeritus Atkins, Assemblymember Weber), and the City and County of San Francisco (Assemblymembers Haney and Ting). (Pet. at pp. 33-39.)

schools violate the California Constitution, including where districts do not intentionally segregate students based on race. The Court relied substantially upon *Jackson v. Pasadena City School District* (1963) 59 Cal.2d 876, 881, which held that the "right to an equal opportunity for education and the harmful consequences of segregation" impose an affirmative duty upon districts to eradicate racial disparities in schools.

The *Crawford* Court recognized that the harmful consequences of segregation "do not, of course, relate solely to objective measures of academic achievement." (*Crawford*, *supra*, 17 Cal.3d at p. 296.) It is the "presence of racial isolation, not its legal underpinnings, that creates unequal education." (*Id.* at p. 295, quoting *S.F. Unified Sch. Dist. v. Johnson* (1971) 3 Cal.3d 937, 949, italics omitted.) "Unequal education, then, leads to unequal job opportunities, disparate income, and handicapped ability to participate in the social, cultural, and political activity of our society." (*Johnson*, at p. 950.) Because the educational, psychological, and sociological consequences of racial isolation on schoolchildren are present under both *de jure* and *de facto* segregation, the Court held both are prohibited under the state Constitution. (*Crawford*, at p. 302.)

Just as the harms of segregation extend beyond the classroom door, the presence of racial bias in criminal proceedings reaches into our lives in devastating, if predictable, ways. The data presented by Petitioners demonstrates that capital proceedings are uniquely susceptible to the effects of implicit bias, showing more severe disparities than nearly every other point in the criminal system.[3] With so many opportunities for abuse, those in contact with the system may be justifiably skeptical that proceedings will be fair. Those who have suffered might have the valid concern that interacting with an unfair system will not serve their interests. All of us would be right to question our dedication to public safety and our confidence in the system if we permit race to influence the pursuit of justice.

When the State administers a two-tiered system of justice – as when it administered a two-tiered system of segregated education – that system creates stigma and psychological harms that affect communities of color throughout California. *Amici* have no doubt that police officers, prosecutors, judges, and juries – like the Legislature – know of their responsibility to eschew racial discrimination. But that awareness has not fully mitigated the harms sustained by implicit bias and racial disparities in our criminal justice system. These real and pervasive harms raise the imperative of deciding this case.

## II. THE LEGISLATURE HAS ATTEMPTED TO ADDRESS RACIAL INEQUITIES IN THE CRIMINAL SYSTEM THROUGH APPROPRIATE LEGISLATION

"There is little doubt which side of the *McCleskey* debate our Legislature has aligned California with by statute." (*Young v. Superior Court* (2022) 79 Cal.App.5th 138, 152 (*Young*).) The

[3] See, e.g., California Committee on Revision of the Penal Code, Death Penalty Report (Nov. 2021) at p. 18 et seq., available at http://www.clrc.ca.gov/CRPC/Pub/Reports/CRPC_DPR.pdf; Magnus Lofstrom & Brandon Martin, *California's Future: Criminal Justice*, Public Policy Institute of California (Jan. 2021) (collecting studies); *People v. Triplett*, No. S262052, 2020 Cal. LEXIS 5546, at *18-23 (Aug. 31, 2020) (dis. opn. of Liu, J. from denial of review) (discussing overwhelming evidence showing differential treatment in the criminal system for Black Americans and resulting consequences).

California State Legislature has enacted a wealth of groundbreaking legislation designed to address racially discriminatory practices throughout our criminal justice system. Recent enactments reflect the strides we have made, and how far California still has to go.

Much of our lawmaking has focused on the myriad of opportunities that exist for bias to interfere with criminal proceedings. Under A.B. 2778, prosecutors must remove references to the race of suspects, victims, and witnesses from case files before considering some, but not all, potential charges. (Stats. 2022, ch. 806.) At the trial stage, A.B. 333 seeks to reduce the racially disparate application of gang enhancement statutes by permitting, and sometimes requiring, certain enhancements to be tried separately from the underlying offense. (Stats. 2021, ch. 699.) At sentencing, A.B. 2167 requires that trial courts consider alternatives to incarceration. (Stats. 2022, ch. 775 (Kalra).) With regard to jury selection, A.B. 3070 reduces the ability to strike potential jurors based on race, while A.B. 310 extends juror eligibility to those convicted of a felony, to combat the disproportionate exclusion of people of color from the juror pool. (Stats. 2020, ch. 318; Stats. 2019, ch. 591 (Skinner).)

Other legislation seeks to increase transparency and heighten awareness. A.B. 2418 imposes comprehensive reporting requirements for all prosecution agencies. (Stats. 2022, ch. 787 (Kalra).) To combat bias-based injustice among the legal profession, A.B. 242 requires all licensees of the State Bar to satisfy mandatory continuing education on implicit, explicit, and systemic bias. (Stats. 2019, ch. 418.)

The California Racial Justice Act of 2020 ("RJA") is the hallmark of these legislative achievements.[4] Under the RJA, the State is prohibited from seeking or obtaining a criminal conviction or sentence on the basis of race, ethnicity, or national origin. (Pen. Code, § 745, subd. (a).) The RJA then provides four categories of conduct that can establish an RJA violation, and remedies if a violation is proven.[5] Potential remedies include "vacating the conviction and sentence and imposing a new sentence not greater than that previously imposed." (*People v.*

[4] Among the many involved, *amicus* Assemblymember Kalra was the lead author of the RJA; co-authors included *amici* Assemblymember Ting and Senators Bradford and Durazo. While the RJA originally applied only to judgments rendered after January 1, 2021, the Legislature recently extended its protections to previous convictions. (Stats. 2022, ch. 739 (A.B. 256).) The amending legislation was also authored by Assemblymember Kalra and co-authored by *amici* Assemblymembers Bryan, Haney, Lee, McKinnor, Ting, and Senators Bradford and Skinner, among others.

[5] The first two categories focus on specific actions by key participants in a defendant's case. These apply if an attorney, expert witness, judge, police officer, or juror exhibits bias or animus, or uses discriminatory language, toward the defendant. (Pen. Code, § 745, subd. (a)(1)-(2).) Under the third category, the defendant must show (1) they were charged or convicted of a more serious offense than individuals of a different race, and (2) that within the same county, people who share the defendant's race are more frequently charged or convicted for more serious offenses. (*Id.*, § 745, subd. (a)(3).) The fourth applies to sentencing, where: (1) a longer or more severe sentence was imposed on the defendant than other similarly-situated individuals, and (2) within the county, such sentences were more frequently imposed on people who share the defendant's race, or in cases with victims of a certain race. (*Id.*, § 745, subd. (a)(4).)

*Garcia* (2022) 85 Cal.App.5th 290, 296 (*Garcia*); Pen. Code, § 745, subd. (e).) The RJA demonstrates particular concern with disparities in capital proceedings. A claimant who successfully proves an RJA violation cannot be eligible for the death penalty (Pen. Code, § 745, subd. (e)(3)), and existing death sentences were among the first cases to which the RJA retroactively applied. (*Id.* § 745, subd. (j)(2).)

The RJA is designed to tackle the type of racially-disparate treatment that *McCleskey v. Kemp* left unaddressed. There, Mr. McCleskey offered sophisticated, comprehensive statistical data that showed race likely influenced the imposition of his death sentence. After accounting for hundreds of factors, the now-famous study by Professor David Baldus showed death sentences were 4.3 times more likely in Georgia cases that involved white victims. (*McCleskey v. Kemp*, *supra*, 481 U.S. at p. 287.) The unadjusted data showed "an even more pronounced disparity by race." (*Id.* at pp. 326-327 (dis. opn. of Brennan, J.).) The capital sentencing rate in white-victim cases was nearly 11 times greater than Black-victim cases, and nearly 22 times greater for Black defendants. (*Ibid.*)[6] However, under federal constitutional law, a defendant must show *intentional* discrimination when challenging racial bias in their case. (*McCleskey v. Kemp*, *supra*, 481 U.S. at p. 292.) As a result, Mr. McCleskey's statistical showing was insufficient to reverse his death sentence. (*Ibid.*)

As the California State Legislature declared, this high standard is "nearly impossible to establish" – even when racism clearly infects a criminal proceeding. (Stats. 2020, ch. 317, § 2, subd. (c).) Crucially, the RJA allows defendants to discover and rely upon statistical evidence that shows countywide racial disparities in charging and sentencing decisions. (Pen. Code, § 745, subds. (a)(3), (4), (d); see also *Young*, *supra*, 79 Cal.App.5th at p. 148.) The defendant bears the burden of proving the RJA violation by a preponderance of the evidence, but need not prove intentional discrimination. (Pen. Code, § 745, subd. (c)(2).) The RJA was enacted to depart from the federal standard, and to reject the *McCleskey* Court's conclusion that racial disparities are "an inevitable part of our criminal justice system."[7]

While a momentous step forward, the RJA is no shortcut to equal protection. RJA victories are expensive and piecemeal; they rely on individuals to file and present claims. Because relief can be obtained based only on countywide racial disparities, those remedies will be limited to the given jurisdiction and the claimant. Even with assistance of counsel, RJA claims can be time consuming and resource-intensive. (See *Garcia*, *supra*, 85 Cal.App.5th at p. 294.) The RJA allows for gradual progress at the local level, but Petitioners present data establishing *statewide*

[6] "Individualized evidence relating to the disposition of the Fulton County cases that were most comparable to McCleskey's case was consistent with the evidence of the race-of-victim effect as well." (*McCleskey v. Kemp*, *supra*, 481 U.S. at pp. 356-357 (dis. opn. of Blackmun, J.).) Of the 17 defendants arrested and charged with the same type of homicide in Fulton County from 1973 to 1979, only two were sentenced, and only Mr. McCleskey was sentenced to death. (*Ibid.*) The other defendant, who received life imprisonment, had been convicted of killing a Black person. (*Ibid.*)

[7] *McCleskey v. Kemp*, *supra*, 481 U.S. at p. 312; Stats. 2020, ch. 317, § 2, subd. (i).

disparities of urgent constitutional concern. The glaring problems identified by Petitioners therefore remain.

## III. THIS COURT PROVIDES THE ONLY AVENUE FOR RESOLUTION AND RELIEF OF RACIAL DISPARITIES IN APPLICATION OF THE DEATH PENALTY

The Legislature's ability to take the additional serious steps necessary to reduce racial disparities in application of the death penalty is severely limited. First, the death penalty has been the subject of numerous popular initiatives that make it difficult or impossible for the Legislature to limit its application without popular approval. Most of these measures have broadened the number and type of crimes that are eligible for the death penalty. Second, and most importantly, even if the number of death-qualifying special circumstances could be limited, that in itself would not prevent racial disparities in charging and sentencing for the remaining defendants. That is because prosecutorial and sentencing discretion are an integral part of our criminal justice system, and as long as human beings are involved, there is the unhappy prospect that bias – usually unconscious – will work its way into the decision-making process.

The history of death penalty initiatives in California demonstrates that a majority of those who voted on these measures wanted to have the death penalty incorporated into state law.[8] There is no evidence to suggest, however, that those same Californians want the death penalty to be administered in such a way that it has a disparate impact on any racial or ethnic group. Quite the opposite. Particularly when it comes to the ultimate punishment, Californians need some assurance that it is administered as fairly and neutrally as possible. A racially skewed death penalty necessarily affects the public's view of our criminal justice system – and therefore our society – as a whole.

As described above, the Legislature has done what it could to try to control for implicit bias. The Racial Justice Act is an important first step, but it cannot be applied to the systemic problem at issue here; it can only work on an individual basis, even if county-wide data become available, and only where defendants have the means necessary to uncover evidence of bias and pursue relief. Assembly Bill 2778, which will inaugurate a system of race-blind prosecutorial charging requirements to be put into effect by January 1, 2025, is another critical step. The bill adds section 741 to the Penal Code to require prosecutors to "implement a process by which an initial review of a case for potential charging is performed based on information, including police reports and criminal histories from the Department of Justice, from which direct means of identifying the race of the suspect, victim, or witness have been removed or redacted." The bill specifies, however, that homicides and a number of other crimes may be excluded in each prosecuting agency "due to increased reliance on victim or witness credibility, the availability of

[8] Since 1972, there have been at least six popular initiatives that added to or strengthened California's death penalty laws: Proposition 17 (Nov. 1972), Proposition 7 (Nov. 1978), Proposition 115 (June 1990), Proposition 21 (March 2000), Proposition 66 (Nov. 1966). These measures are all available at UC Law San Francisco's California Ballot Measures Database, at https://www.uclawsf.edu/academics/library/ca-ballots/.

additional defenses, the increased reliance on forensics for the charging decision, or that relevance of racial animus to the charging decision[.]"[9]

Even if homicides are not excluded in a particular jurisdiction, A.B. 2778 will only reach the charging decision; it will not affect the jury's decision-making. Nor is it possible to incorporate race-blind decision-making in the jury process itself, because defendants are entitled to be in the courtroom and the circumstances of the crime will generally reveal the race or ethnicity of the victim.

Finally, legislative efforts to build safeguards into the existing judicial system have often been forward-looking. For example, A.B. 3070 will help prevent racial bias in the selection of *future* juries, and A.B. 310 will help combat the disproportionate exclusion of people of color from the juror pool by allowing those convicted of a felony to serve. (Stats. 2020, ch. 318; Stats. 2019, ch. 591 (Skinner).) For the most part, these efforts have not corrected the mistakes of the past, and any other prophylactic measures that the Legislature may take to change the conduct of new proceedings will not help the 650 inmates currently on death row. Yet the disparities themselves are glaring, and they demand attention. For that reason, *amici* have reluctantly concluded that the problem is one that only this Court can resolve.

## IV. THE COURT SHOULD EXERCISE ITS DISCRETION TO ADDRESS THE ALARMING EMPIRICAL EVIDENCE PRESENTED BY PETITIONERS

As this Court has recognized, "death is a different kind of punishment from any other, both in terms of severity and finality." (*Keenan v. Superior Court* (1982) 31 Cal.3d 424, 430.)[10] Each branch of our government has noted the particular gravity of wielding state power to take a person's life.[11] Such stark, statewide disparities in this singular form of punishment reinforce the persistence of racial inequality, and warrant the urgency and attention Petitioners request.

The California Constitution is the supreme law of our state; this Court, the final arbiter of its meaning.[12] The Legislature heeded the call for legislative solutions. It now faces limits to its

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[9] Senate Committee on Public Safety, Analysis of A.B. 2778 (June 10, 2022), available at https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=202120220AB2778.

[10] See *California v. Ramos* (1983) 463 U.S. 992, 1021 (dis. opn. of Blackmun, J.); *McCleskey v. Kemp*, *supra*, 481 U.S. at p. 347 (dis. opn. of Blackmun, J.); *People v. Horton* (1995) 11 Cal.4th 1068, 1134; *People v. Bigelow* (1984) 37 Cal.3d 731, 743.

[11] See, e.g., *Keenan v. Superior Court*, *supra*, 31 Cal.3d at p. 431, fn. 9 (providing examples "of the Legislature's different treatment of capital cases"); *People v. Chadd* (1981) 28 Cal.3d 739, 750 (describing legislative amendment as "further independent safeguard against erroneous imposition of a death sentence"); Press Release, Office of Governor Gavin Newsom, Governor Gavin Newsom Orders a Halt to the Death Penalty in California (Mar. 13, 2019), https://www.gov.ca.gov/2019/03/13/governor-gavin-newsom-orders-a-halt-to-the-death-penalty-in-california/.

[12] See, e.g., *Raven v. Deukmejian* (1990) 52 Cal.3d 336, 352.

role. The Court is the only institution that can determine whether racially disparate treatment in capital proceedings violates California's equal protection guarantee.

For these reasons, the above-referenced members of the California State Legislature respectfully urge the Court to exercise its original jurisdiction and grant review in *Office of the State Public Defender v. Bonta*, No. S284496.

Sincerely,

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## PROOF OF SERVICE

I, the undersigned, declare under penalty of perjury that:

I am a citizen of the United States, over the age of 18, and not a party to the within cause of action. My business address is 1901 Harrison Street, Suite 1550, Oakland, CA 94612.

On April 23, 2023, I served a true copy of the following document(s):

**Amicus Letter of Members of the California State Legislature Supporting Request for Review in *Office of the State Public Defender v. Bonta*, Case No. S284496**

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☐ **BY UNITED STATES MAIL:** By enclosing the document(s) in a sealed envelope or package addressed to the person(s) at the address above and

☐ depositing the sealed envelope with the United States Postal Service, with the postage fully prepaid.

☐ placing the sealed envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, located in Oakland, in a sealed envelope with postage fully prepaid.

☐ **BY OVERNIGHT DELIVERY:** By enclosing the document(s) in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

☐ **BY MESSENGER SERVICE:** By placing the document(s) in an envelope or package addressed to the persons at the addresses listed and providing them to a professional messenger service for service.

☐ **BY FACSIMILE TRANSMISSION:** By faxing the document(s) to the persons at the fax numbers listed based on an agreement of the parties to accept service by fax transmission. No error was reported by the fax machine used. A copy of the fax transmission is maintained in our files.

☐ **BY EMAIL TRANSMISSION:** By electronically mailing the document(s) to the persons at the e-mail addresses listed above based on a court order or an agreement of the parties to accept service by e-mail. No electronic message or other indication that the transmission was unsuccessful was received within a reasonable time after the transmission.

I declare, under penalty of perjury, that the foregoing is true and correct. Executed on April 23, 2024, in Gardnerville, Nevada.

_____

Nina Leathley