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Jury selection bias mulled

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The state Supreme Court weighed in last week with some highly critical comments about a jury selection procedure that dates back to 13th century English law.

Several of the justices suggested it's time to alter or altogether eliminate the ability of lawyers to dismiss up to three prospective jurors without cause during selection of a trial jury.

Too often, those peremptory challenges used in trial courts are based on racial stereotypes that have the effect of keeping qualified members of a jury pool from serving. They also add administrative costs for the courts because the challenges require more potential jurors in jury pools. Questionable use of the challenges can also lead to more criminal cases being appealed to higher courts.

Just as important, jury pools that lack diversity are eroded even further by juror dismissals based on race.

The justices' discussion of racial bias in jury selection, which spanned five opinions and 110 pages of written commentary, represented an important discussion of a flaw in the legal system that deserves a fix.

Some of the judges said the court should create new trial rules to better protect against bias in jury selection.

Or the problem could be resolved by giving judges authority to overrule peremptory challenges, if there was a likelihood that it was racially motivated.

Justice Debra Stephens cautioned that rule making isn't the answer because the challenges are codified in state law.

Regardless, the state high court has raised an important issue that should receive a more exhaustive legal review that leads to a legal remedy.

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