

Tracy, Mary

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Sent: Monday, May 01, 2017 11:02 AM
To: Tracy, Mary
Subject: FW: Comments on GR 36

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From: Khandelwal, Anita [mailto:Anita.Khandelwal@kingcounty.gov]
Sent: Monday, May 01, 2017 10:39 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comments on GR 36

DPD represents approximately 20,000 individual clients every year. Individuals represented by DPD are disproportionately from communities of color. Our attorneys routinely try cases before juries and have been deeply concerned about the lack of diversity in King County juries, and about prosecutors striking jurors on grounds that deepens the under-representation of individuals of color on our jury. Clients and their families often do not believe that trials are fair because all-white juries decide the fates of men and women of color. Proposed GR 36 will help increase the diversity of our juries and, as a result, will improve clients' perceptions of the fairness of their trials.

In *State v. Saintcalle*, this Court held that *Batson* provides insufficient protection against racism "that is often unintentional, institutional, or unconscious." GR 36 responds to the Court's call to strengthen *Batson* and to recognize these more prevalent forms of discrimination that result in all-white juries. As a result, it would meaningfully reduce the number of jurors of color who are excluded on bases that apply disproportionately to communities of color. For example, one of our attorneys was recently in a trial where multiple jurors of color were stricken by the prosecutor on the basis of their prior contact with law enforcement and about charges that did not result in convictions. Given that individuals of color are disproportionately contacted by law enforcement, these were clearly race-based peremptory strikes. While these strikes survived a *Batson* challenge, they would likely have been evaluated differently under GR 36 and at least one of the several jurors of color who were struck would likely have been on the jury.

For clients watching jury selection, the process often appears designed to remove people of color from the jury. This deepens clients' perception that the criminal justice system is designed to perpetuate racial disparity and that it is fundamentally unfair. GR 36 is a first and important step towards addressing this problem and moving towards a more procedurally fair system.