in the jury-selection process."[130] Further, once a plaintiff demonstrates a *prima facie* violation, the defendant faces a formidable burden: the jury selection process may be sustained under the Sixth Amendment only if those aspects of the process that result in the disproportionate exclusion of a distinctive group, such as exemption criteria, "manifestly and primarily" advance a "significant state interest."[131] Thus, in one case the Court voided a selection system under which no woman would be called for jury duty unless she had previously filed a written declaration of her desire to be subject to service, and, in another it invalidated a state selection system granting women who so requested an automatic exemption from jury service.[132]

Second, there must be assurance that the jurors chosen are unbiased, i.e., willing to decide the case on the basis of the evidence presented. The Court has held that in the absence of an actual showing of bias, a defendant in the District of Columbia is not denied an impartial jury when he is tried before a jury composed primarily of government employees.[133] A violation of a defendant's right to an impartial jury does occur, however, when the jury or any of its members is subjected to pressure or influence which could impair freedom of action; the trial judge should conduct a hearing in which the defense participates to determine whether impartiality has been undermined.[134] Exposure of the jury to possibly prejudicial material and disorderly courtroom activities may deny impartiality and must be inquired into.[135] Private communications, contact, or tam-

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[130] Duren v. Missouri, 439 U.S. 357, 364 (1979). To show that underrepresentation resulted from systematic exclusion requires rigorous evidence beyond merely pointing to a single factor or a host of factors that might have caused fewer members of a distinct group to have been included. Berghuis v. Smith, 559 U.S. ___, No. 08–1402, slip op. (2010).

[131] 439 U.S. at 367–68.

[132] Taylor v. Louisiana, 419 U.S. 522 (1975); Duren v. Missouri, 439 U.S. 357 (1979).

[133] Frazier v. United States, 335 U.S. 497 (1948); Dennis v. United States, 339 U.S. 162 (1950). On common-law grounds, the Court in Crawford v. United States, 212 U.S. 183 (1909), disqualified such employees, but a statute removing the disqualification because of the increasing difficulty in finding jurors in the District of Columbia was sustained in United States v. Wood, 299 U.S. 123 (1936).

[134] Remmer v. United States, 350 U.S. 377 (1956) (attempted bribe of a juror reported by him to authorities); Smith v. Phillips, 455 U.S. 209 (1982) (during trial one of the jurors had been actively seeking employment in the District Attorney's office).

[135] *E.g.*, Irvin v. Dowd, 366 U.S. 717 (1961); Sheppard v. Maxwell, 384 U.S. 333 (1966). Exposure of the jurors to knowledge about the defendant's prior criminal record and activities is not alone sufficient to establish a presumption of reversible prejudice, but on *voir dire* jurors should be questioned about their ability to judge impartially. Murphy v. Florida, 421 U.S. 794 (1975). The Court indicated that under the same circumstances in a federal trial it would have overturned the conviction pursuant to its supervisory power. Id. at 797–98, citing Marshall v. United States,