relief to outlaw discrimination in jury selection, instead of depending on defendants to raise the issue.[1676]

A *prima facie* case of deliberate and systematic exclusion is made when it is shown that no African-Americans have served on juries for a period of years[1677] or when it is shown that the number of African-Americans who served was grossly disproportionate to the percentage of African-Americans in the population and eligible for jury service.[1678] Once this *prima facie* showing has been made, the burden is upon the jurisdiction to prove that it had not practiced discrimination; it is not adequate that jury selection officials testify under oath that they did not discriminate.[1679] Although the Court in connection with a showing of great disparities in the racial makeup of jurors called has voided certain practices that made discrimination easy to accomplish,[1680] it has not outlawed discretionary selection pursuant to general standards of educational attainment and character that can be administered fairly.[1681] Similarly, it declined to rule that African-Americans must be included on all-white jury commissions that administer the jury selection laws in some states.[1682]

In *Swain v. Alabama*,[1683] African-Americans regularly appeared on jury venires but no African-American had actually served on a jury. It appeared that the absence was attributable to the action of the prosecutor in peremptorily challenging all potential African-American jurors, but the Court refused to set aside the conviction. The use of peremptory challenges to exclude the African-Americans in the particular case was permissible, the Court held, regardless of the prosecutor's motive, although it indicated that the consistent use of such challenges to remove African-Americans would be unconstitutional. Because the record did not disclose that the prosecution was responsible solely for the fact that no African-American

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[1676] Carter v. Jury Comm'n of Greene County, 396 U.S. 320 (1970); Turner v. Fouche, 396 U.S. 346 (1970).

[1677] Norris v. Alabama, 294 U.S. 587 (1935); Patton v. Mississippi, 332 U.S. 463 (1947); Hill v. Texas, 316 U.S. 400 (1942).

[1678] Pierre v. Louisiana, 306 U.S. 354 (1939); Cassell v. Texas, 339 U.S. 282 (1950); Eubanks v. Louisiana, 356 U.S. 584 (1958); Whitus v. Georgia, 385 U.S. 545 (1967); Alexander v. Louisiana, 405 U.S. 625 (1972). For an elaborate discussion of statistical proof, *see* Castaneda v. Partida, 430 U.S. 482 (1977).

[1679] Norris v. Alabama, 294 U.S. 587 (1935); Eubanks v. Georgia, 385 U.S. 545 (1967); Sims v. Georgia, 389 U.S. 404 (1967); Turner v. Fouche, 396 U.S. 346, 360–361 (1970).

[1680] Avery v. Georgia, 345 U.S. 559 (1953) (names of whites and African-Americans listed on differently colored paper for drawing for jury duty); Whitus v. Georgia, 385 U.S. 545 (1967) (jurors selected from county tax books, in which names of African-Americans were marked with a "c").

[1681] Carter v. Jury Comm'n of Greene County, 396 U.S. 320, 331–37 (1970), and cases cited.

[1682] 396 U.S. at 340–41.

[1683] 380 U.S. 202 (1965).