VOTING RIGHTS IN NORTH CAROLINA 1982-2006

A REPORT OF RENEWTHEVRA.ORG
PREPARED BY ANITA S. EARLS, EMILY WYNES,
LEEANNE QUATRUCCI

MARCH 2006

VOTING RIGHTS IN NORTH CAROLINA 1982-2006

ANITA S. EARLS, EMILY WYNES, LEEANNE QUATRUCCI[1]

TABLE OF CONTENTS

[1]Center for Civil Rights, University of North Carolina School of Law

INTRODUCTION TO THE VOTING RIGHTS ACT

North Carolina's experience since the reauthorization of the Voting Rights Act in 1982 has been a mixed one of slow progress, setbacks and new challenges. Only 40 of the state's 100 counties are covered by Section 5 of the Act,[2] resulting in greater protections for some areas of the state. While many of the gains in minority representation at all levels have come about as the result of litigation under Section 2 of the Act, Section 5 has arguably had the greatest impact in the state because numerous objections have prevented the implementation of election changes that would have made it harder for black voters to participate in elections. Indeed, the ability of Section 5 preclearance to protect and thereby reinforce Section 2 gains has been an important part of the minority voting rights story in North Carolina.

Of the counties that are covered, most are rural counties in the eastern part of the state. Indeed, North Carolina's two largest cities, Charlotte and Raleigh, are not in covered counties. Durham and Winston-Salem are also not covered. Thus, it is remarkable that even though so few of the state's citizens are covered by Section 5, there have been forty-five objection letters issued since 1982 relating to an even greater number of changes in voting practices and procedures.[3] Of those 45 objection letters, ten involved multi-county or statewide changes, including state redistricting plans, changes relating to the election of judges, and proposed delays in implementing mail-in registration procedures.

There are ten instances of North Carolina Section 5 submissions being withdrawn from consideration since 1982 - five of them since 2000.[4] This is a strong indication of the beneficial effect of Section 5 review short of the Department of Justice issuing a formal objection. In at least one instance, the submission related to subsequent attempts by a local jurisdiction to modify an election method that had been put in place following litigation under Section 2 of the Voting Rights Act. The Department of Justice, by raising questions about the proposed change, was able to prevent the dismantling of a system that gave minority voters an opportunity to elect

[2] 28 C.F.R. pt. 51, appendix. For convenience, the North Carolina counties covered by Section 5 and their dates of coverage are listed in Appendix 1 to this report.

[3] A list of objections since 1982 is contained in Appendix 2; Appendix 3 contains a detailed summary of each objection. One objection letter may relate to several changes that were contained in a single submission.

[4] See Appendix 4 for a list of submissions from North Carolina that have been withdrawn and the date they were withdrawn.

candidates of their choice and, thereby, preserved the gains obtained through earlier litigation, without the need for the original plaintiffs to return to court.[5]

It is also clear from recent testimony by local activists that election officials in covered jurisdictions do consult with representatives of the local NAACP or other African-American leaders in the community before changing polling places or making other election-related changes.[6] Motivated by the fact that any change will be reviewed in Washington, local officials are more conscious of the impact that such changes may have on the ability of black voters to participate in elections. Although prior to 1982 there was significant non-compliance with Section 5's preclearance requirement,[7] local election officials in the covered counties are now generally in favor of keeping the process in place.[8]

There has been extensive voting rights litigation since 1982.[9] In recent years significant state court litigation has examined the interaction between state constitutional provisions, Sections 2 and 5 of the Voting Rights Act, and their implications for minority voting rights.[10] North Carolina has the dubious distinction of being the state that produced both the *Thornburg v. Gingles*[11] decision in 1986, which held that the state legislature unlawfully diluted the voting strength of minority voters in its legislative redistricting plan following the 1980 Census, and the *Shaw v. Reno*[12] litigation in the mid-1990s, which held that the state legislature violated the equal protection rights of white voters by creating non-compact majority-minority Congressional districts. There continues to be considerable controversy over redistricting, voter registration, provisional balloting and minority voter intimidation - all in a state where racially polarized voting has not significantly decreased since the *Gingles* decision.

Before examining the details of Section 5 objections since 1982, Section 2 litigation and the barriers that African-American and Latino voters in North Carolina continue to face, it is important to review the history of discrimination in voting in this state and to understand the current socio-economic factors that create the context for current minority political participation.

I. Discrimination in Voting in North Carolina [13]

[5] *See* Moore v. Beaufort County, 936 F.2d 159 (4th Cir. 1991) and Appendix 4, submission No. 2001-4063.
[6] Testimony of Bobbi Taylor of Yanceyville, North Carolina, at a Public Hearing on Reauthorization of the Expiring Provisions of the Voting Rights Act, North Carolina A&T University, Greensboro, North Carolina, November 14, 2005; transcript on file with the UNC School of Law Center for Civil Rights, at pages 41-42.
[7] *See* William Keech and Michael Sistrom, *North Carolina*, *in* Quiet Revolution in the South 162 (Chandler Davidson and Bernard Grofman eds. 1994) [hereinafter "Keech & Sistrom"].
[8] *See The Voting Rights Act: Section 5 of the Act – History, Scope, and Purpose: Hearing Before the Subcomm. on the Constitution of the House Comm. on the Judiciary*, 109th Cong. (2005) (Supplemental Statement of Anita Earls), attached hereto as Appendix 5.
[9] See Appendix 6 for a list of all federal court voting rights litigation in North Carolina since 1982 and Appendix 7 for detailed summaries of each case.
[10] *See, e.g., Stephenson v. Bartlett*, 582 S.E. 2d 247 (N.C. 2003); *Pender County v. Bartlett*, No. 04-696 (Wake Co. Sup. Ct. Dec. 2, 2005).
[11] 478 U.S. 30 (1986).
[12] 509 U.S. 630 (1993).
[13] Appendix 5 contains a more extensive review of pre- and post-1982 problems and incidents of discrimination in North Carolina.

A. Prior to 1982

Even after enactment of the Fifteenth Amendment to the Constitution in 1870, which gave all men, regardless of race, color or previous condition of servitude the right to vote, many states continued to use various methods to prevent people of color from voting, including literacy tests, poll taxes, the disenfranchisement of former inmates, intimidation, threats and even physical violence.[14] In North Carolina, African-American political activity was suppressed at every level.[15] Only 15 percent of North Carolina's African Americans were registered to vote in 1948, and only 36 percent in 1963.[16] It was virtually unheard of for an African American to attempt to run for political office.[17] In fact, no African-American person was elected to the North Carolina General Assembly from 1900 until 1968.[18]

In 1965, Congress passed the Voting Rights Act (hereinafter VRA).[19] The VRA primarily protected the right to vote as guaranteed by the Fifteenth Amendment, but it was also designed to enforce the Fourteenth Amendment and Article 1, Section 4 of the Constitution.[20] The VRA succeeded in removing some of the direct and indirect barriers to voting for African Americans. In fact, after enactment of the VRA, African-American voter registration in North Carolina reached 50 percent.[21]

Prior to 1982, the VRA was amended three times. The 1970 amendments instituted a nationwide, five-year ban on the use of tests and devices as prerequisites to voting.[22] In 1974, the first two black state senators, John W. Winters and Fred Alexander, were elected.[23] In 1975, the ban on literacy tests was made permanent and the coverage of the act was broadened to include members of language minority groups.[24] In 1980, African-American voter registration in North Carolina was 52 percent and, by 1990, the statewide proportion of eligible blacks registered was 63 percent.[25]

B. 1982 to the Present

In 1982, VRA amendments made it clear that proof of intent to discriminate was not required for a claim under the Act.[26] These amendments were necessary to strengthen and improve the VRA,

---

[14] J. Morgan Kousser, "A Century of Electoral Discrimination in North Carolina" in *Colorblind Injustice: Minority Voting Rights and the Undoing of the Second Reconstruction* (1999).
[15] Id.
[16] Id. at 245.
[17] Id.
[18] Keech and Sistrom, supra note 6.
[19] Pub. L. No. 89-110, 79 Stat. 437 (codified as amended at 42 U.S.C. §§ 1971,1973 to 1973bb-1 (1996).
[20] Williamson, "The 1982 Amendments to the Voting Rights Act: A Statutory Analysis of the Revised Bailout Provisions," 62 Wash. U.L.Q. 1 (1984).
[21] Id. at 246.
[22] Act of June 22, 1970, Pub. L. No. 91-285, §§ 2-5, 84 Stat. 314, 315 (codified as amended at 42 U.S.C. § 1973b (1996)).
[23] North Carolina Legislative Black Caucus, "North-Carolina African American Legislators 1969 – 2005."
[24] Act of Aug. 6, 1975, Pub. L. 94-73, Title II, §§ 203, 206, 207 89 Stat. 400, 401-02(codified as amended at 42 U.S.C. §§ 1973(a), 1973b(f), 1973d, 1973k, 1973l(c)(3)).
[25] Keech and Sistrom, supra note 6 at 161.
[26] Act of June 29, 1982, Pub. L. 97-205, § 3; 96 Stat. 131, 134 (codified as amended at 42 U.S.C. § 1973 (a) (1996)).

but they did not immediately result in greater rates of African-American voter registration in this state.[27] In 1985, only 56.5 percent of eligible African-American voters were registered to vote.[28]

In 1986, in *Thornburg v. Gingles*,[29] the Supreme Court upheld the constitutionality of the new Section 2 language of the Voting Rights Act. In this landmark decision, the Court concluded that "North Carolina had officially discriminated against its black citizens with respect to their exercise of the voting franchise from approximately 1900 to 1970 by employing at different times a poll tax, a literacy test, a prohibition against bullet (single-shot) voting, and designated seat plans for multimember districts."[30] The court observed that even after the removal of direct barriers to black voter registration, such as the poll tax and literacy test, black voter registration remained relatively depressed; in 1982 only 52.7 percent of age-qualified blacks statewide were registered to vote, whereas 66.7 percent of whites were registered.

In 1989, the number of African Americans in the state legislature increased to nineteen – at that time, the highest number of black legislators in the state's history.[31] Subsequently, the number of African-American elected officials continued to grow.[32] Currently, there are twenty-six black legislators, six senators and twenty representatives, representing 14 percent of 170 members of the General Assembly.[33] The average (mean) representation over all sessions is fifteen black members or 8 percent.

C. Current Socio-Economic Factors Affecting the Ability of African Americans to Vote

The VRA, when taken in tandem with the broader social and economic experiences of African-American voters, has been insufficient to remedy all the effects of voting discrimination.[34] Despite the VRA, African Americans are still experiencing the socio-economic consequences of past discrimination that critically impedes their political participation.[35]

Today, African Americans comprise more than 21.6 percent of North Carolina's total population.[36] The 2000 Census counted 1,738,000 residents of North Carolina who reported their race as African American alone and another nearly 19,000 who reported African American in combination with another race.[37] The African-American population of North Carolina has increased by approximately18 percent since 1990.[38]

---

[27] J.E. Hill, "Racial Diversity, Voter Turnout, and Mobilizing Institutions in the United Sates," *American Politics Quarterly* (Fall 1999).
[28] Id.
[29] 478 U.S. 30 (1986).
[30] Id.
[31] North Carolina Legislative Black Caucus, supra note 22.
[32] Joint Center for Political and Economic Studies, "Black Elected Officials: A Statistical Summary," (2001).
[33] Id.
[34] Kousser, *supra* note 13.
[35] See Appendix 8, "Selected Socio-Economic Data: North Carolina", compiled May 5, 2003.
[36] Office of Minority Health and Health Disparities and State Center for Health Statistics. *Racial and Ethnic Disparities in North Carolina: Report Card 2003*. North Carolina Department of Health and Human Services, January 2003.http://www.schs.state.nc.us/SCHS/pdf/FinalReportCard.pdf.
[37] Id.

Although the population of African Americans is growing, the percentage of African-American families living below the federal poverty level ($17,603 annual income for a family of four) in 1999 was 22.9 percent, compared to 8.4 for whites.[39] Approximately 42 percent of African-American families were headed by females, compared to 8 percent for white families.[40] Thirty-five percent of the families headed by African-American females lived in poverty.[41]

Even more disturbing is the fact that more than 60 percent of African-American adults (ages 25 and older) had a high school education or less, compared to 43 percent for whites.[42] Furthermore, the unemployment rate for African Americans was 2.6 times that for whites (10.3 percent vs. 3.9 percent in 2000),[43] leaving 19.0 percent of African Americans with no current health insurance and five times more likely than whites to use Medicaid.[44]

In sum, low income, low educational level and high unemployment are all factors associated with African Americans.[45] Moreover, low income, low educational level and high unemployment are all associated with a higher rate of health problems, ranging from mental disorders to physical aliments.[46] In fact, African-American children have a death rate 23 percent higher than the rate for white children.[47] All of these factors hinder the ability of African Americans to participate in political activities.

II. Section 5 Objections 1982 - Present

Four decades after its enactment, Section 5 of the Voting Rights Act remains one of the primary mechanisms for ensuring minority voters access to the political process. In North Carolina, Section 5 has prevented the implementation of numerous voting systems that would have diminished minority voters' ability to elect candidates of their choice. Section 5 has also guaranteed that, after minority voters have successfully brought Section 2 suits, cities and counties design systems that actually improve opportunities for minority residents to participate in the political process. Department of Justice Section 5 objection letters show that during the past two decades, voters in North Carolina's forty covered counties have relied on the preclearance provision to protect their right to vote in local, county and statewide elections.

Enforcement of Section 5 has continued to prevent the implementation of numerous election systems that would have cut minority voters out of the political process. Examples of dilutive practices Section 5 has protected against include: staggered terms, residency requirements,

---

[38] Kousser, *supra* note 13.
[39] *See* Appendix 8.
[40] Id.
[41] Id.
[42] Id.
[43] Id.
[44] Id.
[45] Gizlice Z, Ngui E. Relationships between health and perceived unequal treatment based on race: results from the 2002 North Carolina BRFSS Survey. *SCHS Studies*, No. 144. State Center for Health Statistics, North Carolina Department of Health and Human Services, September 2004. http://www.schs.state.nc.us/SCHS/pdf/SCHS144.pdf.
[46] Id.
[47] Id.

annexation of predominately white areas, majority vote and runoff requirements, unfair drawing of districts and maintenance of at-large voting. Residency requirements - systems under which the entire county or city votes for each seat but the candidate is required to reside in a particular area - have been especially common proposals used in this state to weaken black voting strength. Such requirements limit minority voters' ability to use single-shot voting to elect candidates of their choice. In the six-year period from 1982 through 1987, Section 5 enabled the Attorney General to interpose objections to residency districts in Beaufort, Bertie, Camden, Edgecombe, Guilford, Martin, Onslow, and Pitt Counties.

Section 5 has also forced county and local officials to implement fair voting systems in response to Section 2 suits. In Pasquotank County, for example, after black voters and the NAACP filed suit opposing Elizabeth City's at-large method of election, the city agreed in a consent decree to implement single-member districts.[48] Ultimately, however, the city adopted a plan with four single-member districts and four at-large residency districts. The plaintiffs to the suit opposed continued use of such extensive at-large voting because it unnecessarily diluted black voting strength. When the city applied for preclearance, the attorney general interposed an objection, explaining that the city had chosen a plan that would elect half the governing body "in a manner identical to that which the decree was designed to eliminate." Though the use limited at-large voting might be acceptable, the plan chosen contained "the very features that characterized the plan abandoned by the consent decree" and was adopted over readily available alternatives that would allow some at-large representation without "unnecessarily limiting the potential for blacks to elect representatives of their choice to office." The plan was, in fact, enacted "with knowledge of the disparate impact" it would have.[49] Elizabeth City has since adopted an election scheme with four wards that each elect two council members. There are currently four black members on the council.[50] In the case of Elizabeth City, and elsewhere, Section 5 has provided a long-term guarantee that the promises made in Section 2 suits are actually implemented.

In 1987, the Department of Justice acted under Section 5 to stop the Pitt County Board of Commissioners from implementing a plan "calculated to minimize minority voting strength."[51] That same year, Section 5 enabled the attorney general to halt the execution of changes to the method of electing the Bladen County Board of Commissioners, upon finding the Board had taken "extraordinary measures to adopt an election plan which minimizes minority voting strength."[52] As the following summaries of letters of objection from the Attorney General demonstrate, Section 5 has been repeatedly used in North Carolina to combat such invidious discrimination. Absent this protection, minority voters would have been repeatedly denied the

[48] *See NAACP v. Elizabeth City*, No. 83-39-CIV-2 (E.D.N.C. 1984).
[49] Letter from James P. Turner, Acting Assistant Attorney General, Civil Rights Division, to M.H. Hood Ellis (March 10, 1986) (Section 5 objection letter regarding the Elizabeth City Council, Pasquotank County, North Carolina).
[50] Information on the current Elizabeth City City Council and method of election available at http://www.cityofec.com/.
[51] Letter from Wm. Bradford Reynolds, Assistant Attorney General, Civil Rights Division, to Michael Crowell (December 29, 1987) (Section 5 objection letter regarding the Pitt County Board of Commissioners, Pitt County, North Carolina)
[52] Letter from Wm. Bradford Reynolds, Assistant Attorney General, Civil Rights Division, to W. Leslie Johnson (November 2, 1987) (Section 5 objection letter regarding the Bladen County Board of Commissioners, Bladen County, North Carolina).

opportunity to participate in elections and the promises of the Voting Rights Act would not have been fulfilled.

III. Voting Rights Act Cases 1982 - Present

North Carolina has been a major testing ground for the Voting Rights Act. With a history of racial segregation and violence, the state suffered well into the twentieth century from low rates of minority voter registration and it continues to endure voter intimidation and election schemes that effectively disenfranchise black voters. Since its inception in 1965, and especially since it was amended in 1982, the Voting Rights Act has been an effective tool for black voters to overturn election systems that dilute minority voter strength and prevent election of representatives of their choice.

Both Section 5 and Section 2 have been used by individual black voters, minority advocacy groups including the NAACP and the attorney general to halt or reverse the implementation of undemocratic voting systems. Section 5 has been important in shaping both statewide election systems and local elections in the forty covered counties. Section 2 has enabled black voters to win suits by proving the existence of dilutive voting systems and, even more important, it has formed the basis for dozens of consent decrees, whereby election officials and black voters agreed to change the voting system to provide minority voters a meaningful opportunity to elect their preferred candidates.

Individual voters have used Section 5 to ensure that they have a voice in statewide and local elections. The preclearance requirement has also enabled the attorney general to interpose objections to changes in voting processes that would weaken minority voting strength. For example, plaintiffs have filed several suits related to the whole county provision of the state constitution, which provides that no county can be divided in the formation of a Senate or Representative district. If implemented strictly, this provision could have serious consequences for black voters in areas where voting countywide would dilute their voting strength. The Department of Justice, therefore, upon review, disallowed use of the whole county criterion where following it would result in failure to comply with the Voting Rights Act, and courts have affirmed that result.[53] Section 5 has also been used by black voters to obtain an injunction to prevent state election officials from changing the procedure for electing Superior Court Judges without obtaining preclearance for covered counties.[54]

At the local level, Section 5 has prevented counties and cities from changing their voting systems to dilute black voter strength. In *United States v. Onslow County*, the court stopped elections under a voting system that had been changed in 1969 but never precleared.[55] The court agreed with the Attorney General that the use of staggered terms would deny black voters an equal opportunity to elect candidates of their choice and it ordered the county to hold elections for all

[53] Cases brought under Section 5 related to the whole county provision include: *Bartlett v. Stephenson*, 535 U.S. 1301 (2002) (where the Supreme Court refused to issue a stay to applicant state election officials seeking to invalidate the holding by the Supreme Court of North Carolina in *Stephenson v. Bartlett*, 355 N.C. 354 (2002)); *Cavanagh v. Brock*, 577 F. Supp. 176 (E.D.N.C. 1983); *Sample v. Jenkins*, 5:02-cv-383 (E.D.N.C. 2002); *Thornburg v. Gingles*, 478 U.S. 30 (1986).
[54] *See Haith v. Martin*, 618 F. Supp. 410 (E.D.N.C. 1985).
[55] *United States v. Onslow County*, 638 F.Supp. 1021 (E.D.N.C. 1988).

five seats on the Board of Commissioners. The county wanted to hold elections for only two of the seats whose members' terms would normally expire by the next election but the court found that because the staggered terms "deprived black voters of their best opportunity to elect a commissioner of their choice," it could not allow those elected under the unfair system to stay in office or "that evil would not be corrected." The suit ended with the removal of the unlawful voting system.

While Section 5 has helped prevent the enactment of dilutive voting systems, Section 2 has enabled black voters to remedy problematic voting systems already in place. North Carolina provided the first major test case for the Supreme Court of the 1982 amendments to Section 2, which made clear that a showing of purpose to dilute black voting strength was not required. In *Thornburg v. Gingles*, the Court articulated a test by which Section 2 claims would be evaluated.[56] This test has since been used to evaluate voter dilution claims in North Carolina and nationwide and has provided black voters with a means of effecting change.

In North Carolina, the significance of Section 2 is clear. In Halifax County, a change in the voting system allowed voters to elect the first black county commissioners of the twentieth century.[57] In Vance County, a Section 2 suit resulted in the first ever election of a black woman to the County Board of Commissioners.[58] In the Town of Benson, with a population that was over 32 percent black, a consent decree entered in a Section 2 suit enabled black voters to elect the first black town commissioner.[59] These cases are not aberrations but, rather, are generally representative of the outcomes of Section 2 cases.

Since the 1982 amendments to the Voting Rights Act, black voters have had regular success in bringing Section 2 suits. The majority of those suits have been voluntarily terminated when the parties reached an agreement to change the voting system. The most common solutions adopted in consent decrees are the removal of staggered terms and the creation of voting districts, both of which limit the effects of white bloc voting and increase black voters' opportunity to elect preferred candidates. Other changes have included the elimination of run-off elections and establishing longer terms to reduce the resource strain of frequent elections.

As the attached case summaries demonstrate,[60] the Voting Rights Act has unquestionably benefited black voters in North Carolina. Even in counties where black citizens comprise nearly half the population, black voters have relied on Section 2 and Section 5 to remedy the systemic denial of voting rights. And yet, the work of the Voting Rights Act remains incomplete. In Onslow County, for example, where staggered elections were halted, the at-large method of voting still prevents black voters from electing preferred candidates. No black individual

[56] *Thornburg v. Gingles*, 478 U.S. 30 (1986).
[57] *See Johnson v. Halifax County*, 594 F. Supp. 161 (1984 E.D.N.C.); information on the current Halifax County Board of Commissioners available at http://www.halifaxnc.com/board.html.
[58] *See Ellis v. Vance County*, 87-28-CIV-5 (E.D.N.C. 1987), information on the current Vance County Board of Commissioners available at http://www.vancecounty.org/.
[59] *See Johnson v. Town of Benson*, 88-240-CIV-5 (E.D.N.C. 1988); information on the current Town of Benson Commissioners available at http://www.townofbenson.com/government/commissioners.cfm.
[60] Appendix 7.

currently sits on the Board of Commissioners.[61] In Cumberland County, black voters were successful in bringing a Section 2 suit to change the method of election from at-large to a mixed district/at-large system but could not obtain a pure district system as they hoped. As the plaintiffs anticipated, black candidates have been successful in black majority districts but the at-large seats are occupied only by white members.[62]

In North Carolina, the Voting Rights Act continues to be necessary as a means for black voters to achieve equal opportunity in voting and, in those areas where greater equality has been obtained, to prevent a rollback of such advances.

IV. Current Barriers to Effective Political Participation by Minority Voters

Current problems facing minority voters in this state range from allegations of voter intimidation to a lack of assistance for disabled voters.[63] Research surrounding the 2000 elections documented a multitude of problems, many of which disproportionately affect minority voters such as poor voting equipment, confusing ballots, elimination of voters' names from voter registration lists, intimidation of voters at the polls and overall lack of funding for boards of elections.[64] These problems continue to plague North Carolina's elections. In 2002, North Carolina did not count 3.3 percent of its votes as a result of several problems, including the refusal of some polling officials to provide challenged voters with provisional ballots and the purging from registration rolls of names of voters who had not voted since 1998.[65] Other documented problems have included ex-felons receiving incorrect information about their right to vote and polling sites being moved with insufficient notice.[66]

Such voting irregularities generally affect African-American voters in greater percentages than white voters.[67] Today, despite the VRA, it is still difficult for African-American citizens to register, vote and elect candidates of their choice.[68] In North Carolina, African-American voters also report voter intimidation at an alarming rate.[69] Voter intimidation is not a relic of the past

---

[61] *See United States v. Onslow County*, 638 F.Supp. 1021 (E.D.N.C. 1988); information on the current composition of the Onslow County Board of Commissioners available at http://www.co.onslow.nc.us/boc/index.htm.
[62] *See Fayetteville, Cumberland County Black Democratic Caucus v. Cumberland County*, 927 F.2d 595 (4th Cir. 1991); information on the current Cumberland County Board of Commissioners available at http://www.co.cumberland.nc.us/commissioners.html.
[63] UNC Center for Civil Rights, "Final Report: 2004 Election Protection in North Carolina," March 31, 2005.
[64] Democracy South, "Voting Rights in the South," at www.democracy south.org/improving rights-disenfranchisment.html. *See also* Jo Becker and Dan Keating, "Problems Abound in the Election System," *Washington Post* (Fall 2004).
[65] Memorandum from Voter Task Force- Mecklenberg Voter Coalition, "Recommendations to correct irregularities and confusion in the voting process in the November 2000 General Election," March 28, 2001.
[66] Institute for Southern Studies – Voting Rights Project, "Protecting the Integrity of North Carolina's Elections: Top Ten Breakdowns and the Need for Election Protection."
[67] American Civil Liberties Union, "Reaffirmation or Requiem for the Voting Rights Act?" Public Policy Alert, May 1995, available at: http://archive.aclu.org/issues/racial/racevote.html
[68] Id. See also U.S. Commission on Civil Rights, *The Voting Rights Act: Ten Years After, January 1975*; Cameron, Charles, David Epstein, and Sharyn O'Halleran. "Do Majority-Minority Districts Maximize Substantive Black Representation in Congress." *The American Political Science Review*, Vol. 90, No. 4 (December 1996), 794-812.
[69] Citizens' Commission on Civil Rights, "Voting Intimidation Continues," available at http://www.cccr.org/justice/issue.cfm?id=17

but, rather, a strategy used with disturbing frequency in recent years. One stark illustration occurred in the context of the hotly contested Jesse Helms-Harvey Gantt U.S. Senate race, which involved the first African-American senatorial candidate with a realistic chance of success. In 1990, on the eve of the general election, 125,000 African-American voters were mailed postcards headed "Voter Registration Bulletin" that incorrectly stated that they could not vote if they had moved within 30 days of the election. As a result, many black voters were confused about whether or not they could vote. The Justice Department obtained a consent judgment banning the practice in *United States v. North Carolina Republican Party*.[70]

African-American voters are not the only minority group to be targeted for intimidation campaigns. In the weeks leading up to the November 2004 general election, the sheriff of Alamance County publicly announced that he would be sending deputies to the homes of every new registrant with an Hispanic surname in the county, to inquire whether they are citizens. He promised that illegal immigrants would be reported to the Department of Homeland Security Immigration and Customs Enforcement (ICE). Sheriff Terry Johnson, after being contacted by officials from the Civil Rights Division of the Justice Department, told the local newspaper that he decided not to have his deputies seek out illegal aliens because he didn't have sufficient resources for such an operation. Johnson had sent a list of 125 Hispanics registered to vote in the county to ICE and said that the agency could only confirm that 38 were in the country legally. He assumed the remaining voters were either using false names or in the country illegally. Latino advocates were outraged because Sheriff Johnson's actions were making Latino citizens fearful of being harassed if they tried to vote.

There were also numerous problems documented during the 2004 general election, including the exclusion of voters' names from the rolls of precincts where they had properly registered and voters' inability to find proper polling places due to insufficient notice and signage.[71] Significant problems also arose with provisional ballots and absentee ballots. Alarmingly, reports from across the state recounted voter intimidation and lack of assistance to handicapped voters.[72]

One example of the type of barrier encountered by black voters in this state involves an incident in 2004. Student leaders at North Carolina Central University (hereinafter NCCU) in Durham decided that a march to an early voting polling place would be a good way to honor and inspire their community. "Marching is unique in the African American tradition," said D'Weston Haywood, an NCCU senior and president of the university's Student Government Association. "We thought it would be special and symbolic if we marched to the polls to cast our votes."[73]

The NCCU student leaders worked diligently to plan and prepare for this march. The students contacted the board of elections on several occasions to give them notice of the

[70] 5:92-cv-00161 (E.D.N.C. 1992).
[71] Public Hearing on Reauthorization of the Expiring Provisions of the Voting Rights Act, North Carolina A&T University, Greensboro, North Carolina, November 14, 2005; transcript on file with the UNC School of Law Center for Civil Rights.
[72] Id.
[73] Testimony of Deondre Ramsey, Public Hearing on Reauthorization of the Expiring Provisions of the Voting Rights Act, Shaw University, Raleigh North Carolina, January 26, 2006, transcript on file with the UNC School of Law Center for Civil Rights, at pp. 51-55.

march. The students also requested that the board utilize extra staff to assist with the expected crowd of eager young voters.

The October 14th march drew approximately 1,400 students, faculty and citizens who walked two miles from NCCU's campus to an early voting site at Hillside High School.[74] When the students arrived at the site, they waited for hours in long lines of over a hundred voters. Despite NCCU's notice, the board of elections clearly made no attempt to prepare for this crowd. As a result, hundreds of voters were deterred from voting.

The action, or more appropriately inaction, of the board of elections is unexplainable. Indeed, there was plenty of time for preparation and planning. Furthermore, even if adding more staff and other reasonable preparation was not feasible, the board of elections could have easily warned or informed the student leaders. As it turned out, hundreds of students spent hours trying to cast their vote and many never cast a vote at all. This was discouraging, and even demoralizing, for the students and the leaders. As one student said, "My faith in the electoral process is completely diminished."

Another example of barriers to voting being encountered by African-American voters occurred in 2002 and resulted in the Duplin County Board of Elections staff being removed following a number of allegations of fraudulent and criminal behavior. The allegations included altered signatures, unauthorized voter address changes and voter intimidation at the polls.[75] For example, Mr. Jim Grant of Pender County reported the constant patrolling of a deputy sheriff's car during the early voting day in a primarily black neighborhood. The car reportedly "patrolled up and down the block for the entire day."[76]

Ms. Bobbie Taylor, president of the Caswell Count Branch NAACP, reported incidents "where on election day, the candidates – workers for the whites have been permitted to put up their tables, their tents, and whatever closer to the entrance of a polling place than we were allowed to."[77] In fact, as Ms. Taylor recounted, blacks were asked to move further away from the polling place. Black voters were also spoken to rudely and their questions were routinely dismissed.

Reverend Savalas Squires testified, at the pubic hearing held in Greensboro, that Davie County had experienced problems with voter intimidation. He recounted how black youth at Davie High School were given false information regarding when they could cast their vote. In Scotland County, black voters were not being allowed to choose who could assist them at the polls on Election Day. Instead, they were told that they did not have the right to assistance. In Forsyth County, black voters were turned away and told that polling places were out of provisional ballots.

---

[74]News accounts of the incident gave estimates that varied from 1,000 to 1,800 students, faculty and citizens.
[75] Democracy South, "Voting Rights in the South," available at: http://www.democracysouth.org/improving/rights-disenfranchisement.html
[76] Raleigh Hearing, *supra* note 72.
[77] Greensboro Hearing, *supra* note 70.

CONCLUSION

Section 5 has been an extremely effective measure to prevent the implementation of changes in voting practices and procedures that would unfairly disadvantage minority voters. It has served as a safety net to make sure that when plaintiffs are successful in Section 2 litigation and they obtain court orders changing the method of election, new redistricting plans are not adopted following the next census or, in the case of cities, following a substantial annexation, that essentially negate the hard-won gains from litigation. Effective implementation of the preclearance requirement has made local jurisdictions more sensitive to the impact of proposed changes on minority voters. The North Carolina experience demonstrates the powerful deterrent effect of Section 5. At this time, the failure to reauthorize the expiring provisions of the Voting Rights Act would have devastating consequences for this state's minority voters.

Appendix 1 - Section 5 Covered Jurisdictions in North Carolina

Covered Counties in States Not Covered as a Whole			Applicable Date	Fed. Register	Date
North Carolina:					
	Anson County		Nov. 1, 1964	30 FR 9897	Aug. 7, 1965.
	Beaufort County		Nov. 1, 1964	31 FR 5081	Mar. 29, 1966.
	Bertie County		Nov. 1, 1964	30 FR 9897	Aug. 7, 1965.
	Bladen County		Nov. 1, 1964	31 FR 5081	Mar. 29, 1966.
	Camden County		Nov. 1, 1964	31 FR 3317	Mar. 2, 1966.
	Caswell County		Nov. 1, 1964	30 FR 9897	Aug. 7, 1965.
	Chowan County		Nov. 1, 1964	30 FR 9897	Aug. 7, 1965.
	Cleveland County		Nov. 1, 1964	31 FR 5081	Mar. 29, 1966.
	Craven County		Nov. 1, 1964	30 FR 9897	Aug. 7, 1965.
	Cumberland County		Nov. 1, 1964	30 FR 9897	Aug. 7, 1965.
	Edgecombe County		Nov. 1, 1964	30 FR 9897	Aug. 7, 1965.
	Franklin County		Nov. 1, 1964	30 FR 9897	Aug. 7, 1965.
	Gaston County		Nov. 1, 1964	31 FR 5081	Mar. 29, 1966.
	Gates County		Nov. 1, 1964	30 FR 9897	Aug. 7, 1965.
	Granville County		Nov. 1, 1964	30 FR 9897	Aug. 7, 1965.
	Greene County		Nov. 1, 1964	30 FR 9897	Aug. 7, 1965.
	Guilford County		Nov. 1, 1964	31 FR 5081	Mar. 29, 1966.
	Halifax County		Nov. 1, 1964	30 FR 9897	Aug. 7, 1965.
	Harnett County		Nov. 1, 1964	31 FR 5081	Mar. 29, 1966.
	Hertford County		Nov. 1, 1964	30 FR 9897	Aug. 7, 1965.
	Hoke County		Nov. 1, 1964	30 FR 9897	Aug. 7, 1965.
	Jackson County		Nov. 1, 1972	40 FR 49422	Oct. 22, 1975.
	Lee County		Nov. 1, 1964	31 FR 5081	Mar. 29, 1966.
	Lenoir County		Nov. 1, 1964	30 FR 9897	Aug. 7, 1965.
	Martin County		Nov. 1, 1964	31 FR 19	Jan. 4, 1966.
	Nash County		Nov. 1, 1964	30 FR 9897	Aug. 7, 1965.
	Northampton County		Nov. 1, 1964	30 FR 9897	Aug. 7, 1965.
	Onslow County		Nov. 1, 1964	30 FR 9897	Aug. 7, 1965.
	Pasquotank County		Nov. 1, 1964	30 FR 9897	Aug. 7, 1965.
	Perquimans County		Nov. 1, 1964	31 FR 3317	Mar. 2, 1966.

	Person County		Nov. 1, 1964	30 FR 9897	Aug. 7, 1965.
	Pitt County		Nov. 1, 1964	30 FR 9897	Aug. 7, 1965.
	Robeson County		Nov. 1, 1964	30 FR 9897	Aug. 7, 1965.
	Rockingham County		Nov. 1, 1964	31 FR 5081	Mar. 29, 1966.
	Scotland County		Nov. 1, 1964	30 FR 9897	Aug. 7, 1965.
	Union County		Nov. 1, 1964	31 FR 5081	Mar. 29, 1966.
	Vance County		Nov. 1, 1964	30 FR 9897	Aug. 7, 1965.
	Washington County		Nov. 1, 1964	31 FR 19	Jan. 4, 1966.
	Wayne County		Nov. 1, 1964	30 FR 9897	Aug. 7, 1965.
	Wilson County		Nov. 1, 1964	30 FR 9897	Aug. 7, 1965.

Source: 28 CFR pt. 51, appendix, also available at: www.usdoj.gov/crt/voting/28cfr/51/apdx_txt.htm.

Appendix 2 - Section 5 Objections in North Carolina, 1982 – Present

A. Objection Letters

State (81-1784)	Chapter 1130 (1981)--house reapportionment	1-20-82
Guilford County (81-1793)	At-large to residency district elections	3-1-82
State (82-2368)	S.B. No. 1 and H.B. No. 1--Senate and House redistricting	4-19-82
Greensboro (Guilford Cty.) (81-1797)	Three annexations	6-21-82 Withdrawn 4-8-83 upon change in method of election
New Bern (Craven Cty.) (82-2359)	Annexation	12-21-82 Withdrawn 9-22-83 after change in method of election
Windsor (Bertie Cty.) (82-2345)	Establishment of residency districts for the election of commissioners and to the districting plan	3-28-83
Edgecombe County School District (83-2606)	Establishment of residency districts and the election of six members from residency districts	1-16-84
Rocky Mount (Edgecombe and Nash Ctys.) (83-2608)	Eleven annexations	2-21-84 Withdrawn 5-9-85 upon change in method of election
Halifax County (83-2633)	1971 N.C. Sess. Laws 681, which readopted the existing at-large election system with an increase in the number of county commissioners from five to six	5-16-84
Robeson County (84-3124)	Consolidation of voting precincts and the elimination of the South Smiths polling place	9-21-84 Withdrawn 1-28-85
State (84-3093)	House Bill 2, Chapter 1 (1984)--reapportionment of House Districts 8 and 70	10-1-84
Cumberland County School District (84-3052)	Implementation schedule for the consolidated school district	4-8-85
Fayetteville (Cumberland Cty.) (84-3047)	Twenty-nine annexations	4-29-85 Withdrawn 3-3-86 upon change in form of government

Elizabeth City (Pasquotank Cty.) (85-3069)	Method of election--four single-member districts and four at large with residency districts; districting plan and implementation schedule	3-10-86
Wilson County (85-3137)	Method of election and districting plan	3-10-86
State (85-3050)	Chapter 262, H.B. No. 367 (1965)--numbered posts for superior court judges; Chapter 997, S.B. No. 557 (1967), and Chapter 1119, S.B. No. 125 (1977)--staggered terms for superior court judgeships in Districts 3, 4, 8, 12, 18, and 20	4-11-86
Pitt County School District (85-3077)(85-3078)	Chapter 2, H.B. No. 29 (1985)--which provides for the consolidation of the Pitt County School District and the Greenville City School District, the appointment of a twelve-member interim board, the election of a twelve-member permanent board, and the method of election (eight residency districts and one multi-member residency district electing four members by a plurality vote to staggered, six-year terms of office); Chapter 495, H.B. No. 1397 (1985)--which provides for the increase from twelve to fifteen appointed members to the interim consolidated board; Chapter 360, H.B. No. 769 (1971)--which changed the appointed Pitt County board to a nine-member board elected at large on a nonpartisan basis from residency districts with a plurality vote requirement to six-year, staggered terms, and specified the election schedule	5-5-86
Onslow County School District (85-3066)	Chapter 525, H.B. No. 1284 (1977)--residency districts	5-12-86
State (86-3915)	Schedule for holding special primary elections for a superior court position in District 18	5-23-86
Martin County School District (86-3896)	Chapter 380 (1971)--residency district requirement	10-27-86
Wayne County (87-3606)	Chapter 476, S.B. No. 303 (1965)--staggered terms (board of commissioners)	11-4-86
Onslow County (87-3528)	Chapter 151, H.B. No. 311 (1969) and Chapter 167, S.B. No. 209 (1969) --staggered terms (board of commissioners)	7-6-87

Beaufort County School District (86-3789)	Chapter 210 (1971)--residency districts	10-26-87
Bladen County (87-3340)	August 20, 1987, resolution which provides for a change in the method of electing the board of commissioners from at large to three double-member districts and one at-large, the districting plan, implementation schedule, and the increase in the size of the board from five to seven members	11-2-87
Camden County School District (87-3343)	Chapter 173, H.B. No. 490 (1977)--residency districts	11-9-87
Anson County (87-3322)	Chapter 216 (1977)--majority vote requirement	12-7-87
Pitt County (87-3544)	Chapter 432 (1987)--method of election	12-29-87
Granville County School Dist. (87-3443)	Change from at-large to single-member districts and the districting plan	8-1-88 Withdrawn 12-29-88
Lee County (89-3028)	Chapter 195, H.B. No. 595 (1989)--permits changes in method of election for county board of commissioners; June 26, 1989, Resolution -- increases number of commissioners from five to seven; changes method of election from at large by majority vote and staggered terms to four commissioners elected from single-member districts and three commissioners elected at large, all by plurality vote for staggered terms 4-3, with three at-large seats elected concurrently without numbered posts; a districting plan; an implementation schedule; and procedures for selecting party nominees in the event of a tie in the primary	12-4-89 Withdrawn 1-8-90
Ahoskie (Hertford Cty.) (89-3021)	Three annexations (Ordinance Nos. 1989-02, 1989-03, 1989-04)	12-18-89
Perquimans County (89-3064)	Act No. 104 (1989)--method of election (elimination of residency requirement and adoption of plurality vote requirement for primary elections, and method of staggering terms)	4-9-90
Perquimans County School District (89-4026)	Act No. 105 (1989)--method of election (elimination of residency requirement and method of staggering terms)	4-9-90

Anson County School District (89-2898)	Chapter 288 (1989)--at-large election with numbered positions and runoff requirement for two members	5-29-90
Franklin County (89-2966)	Chapter 306, H.B. No. 555 (1967)--majority-vote requirement in primary elections for county commission	6-28-90
Anson County School District (91-1241)	Chapter 33 (1991)--method of election (two at-large positions and the 40-percent plurality requirement for nomination for those positions)	9-23-91
State (91-2724; 91-3267)	1991 redistricting for the North Carolina State House, Senate and Congressional plans	12-18-91
State (91-3885)	Change in the length of the term of the judge elected in 1990 to fill a vacancy in multimember superior court District 3A thus creating staggered terms for the judgeships in that district	4-21-92
State (93-1943)	Delaying implementation of mail-in registration	11-16-93
State (93-2818-2820)	Six additional district court judges (in Districts 1, 3A, 8, 12, 18, and 20)	2-14-94 Withdrawn 5-30-95, as to District 1 judgeship; withdrawn 1-11-96, as to remaining judgeships
Laurinburg (Scotland Cty.) (94-0771)	Annexation (Ordinance No. 0-1994-01)	4-25-94 Withdrawn 6-23-94
Mt. Olive (Wayne Cty.) (94-1403)	Four districts, two at-large method of election, including an increase from five to six commissioners	9-13-94
State (95-2922)	Chapter 355 (1995)--prohibits state legislative and Congressional district boundaries from crossing voting precinct lines unless the districts are found in violation of Section 5 of the Voting Rights Act	2-13-96
Camp Butner Reservation (Granville Cty.) (96-3224)	At-large method of election and staggered terms	2-3-97
Harnett County School District (2001-3769)	2001 redistricting plan (board of education)	7-23-02
Harnett County (2001-3768)	2001 redistricting plan (board of commissioners)	7-23-02

Objections by County and Type of Change, 1982 to Present

Year	Action	County	Town	Election body/change objected	Reason for objection
1987	partial objection	Anson	N/A	Board of Education	runoff requirement
1988	objection	Anson	N/A	Board of Education	runoff requirement
1990	objection	Anson	N/A	Board of Education	at-large elections
1991	objection	Anson	N/A	Board of Education	at-large elections
1992	objection	Anson	N/A	Board of Education	at-large elections
1987	partial objection	Beaufort	N/A	Board of Education	residency requirement
1983	objection	Bertie	Windsor	Town Commission	residency requirement
1987	objection	Bladen	N/A	County Commissioners	entire plan problematic
1987	objection	Camdem	N/A	Board of Education	residency requirement
1982	objection	Craven	New Bern	Annexation	dilution of minority voting strength
1985	objection	Cumberland	Fayetteville	Consolidation of Cumberland County and Fayetteville City	delayed implementation
1985	objection	Cumberland	Fayetteville	Annexation	dilution of minority voting strength
1986	no objection, prior objection withdrawn	Cumberland	Fayetteville	City Council	N/A
1984	partial objection	Edgecombe	N/A	Board of Education	residency requirement
1984	objection	Edgecombe, Nash	Rocky Mount	Annexation	dilution of minority voting strength
1985	no objection, prior objection withdrawn	Edgecombe, Nash	Rocky Mount	City Council	N/A
1990	objection	Franklin	N/A	Board of Commissioners	majority vote requirement

Year	Action	County	Town	Election body/change objected	Reason for objection
1988	objection	Granville	N/A	Board of Education	entire plan problematic
1988	prior objection withdrawn	Granville	N/A	Board of Education	N/A
1997	partial objection	Granville	Camp Butner Res	Reservation Advisory Council	at-large elections, staggered terms
1982	objection	Guilford	N/A	Board of Commissioners	residency requirement
1982	objection	Guilford	Greensboro	Annexation	dilution of minority voting strength
1983	no objection, prior objection withdrawn	Guilford	Greensboro	City Council	N/A
1984	partial objection	Halifax	N/A	Board of Commissioners	expansion of Commission
2002	objection	Harnett	N/A	Board of Commissioners, Board of Education	discrimination in drawing districts
1989	objection	Hertford	Ashokie	Annexation	dilution of minority voting strength
1989	provisional objection	Lee	N/A	Board of Commissioners	request for more materials
1990	prior objection withdrawn	Lee	N/A	Board of Commissioners	N/A
1986	partial objection	Martin	N/A	Board of Education	residency requirement
1986	partial objection	Onslow	N/A	Board of Education	residency requirement
1987	partial objection	Onslow	N/A	County Commissioners	staggered terms
1986	partial objection	Pasquotank	Elizabeth City	City Council	at-large elections
1990	objection	Perquimans	N/A	Board of Commissioners, Board of Education	entire plan problematic
1986	objection	Pitt	Greenville	Board of Education	entire plan problematic
1987	objection	Pitt	N/A	Board of Commissioners	at-large elections

Year	Action	County	Town	Election body/change objected	Reason for objection
1984	objection	Robeson	Smiths Township	Consolidation of precincts	elimination of minority polling place
1985	prior objection withdrawn	Robeson	Smiths Township	Consolidation of precincts	N/A
1994	objection	Scotland	Laurinburg	Annexation	dilution of minority voting strength
1994	no objection, prior objection withdrawn	Scotland	Laurinburg	City Council	N/A
1986	partial objection	Wayne	N/A	Board of Commissioners	staggered terms
1994	objection	Wayne	Mount Olive	Town Commission	entire plan problematic
1986	objection	Wilson	N/A	Board of Commissioners	discrimination in drawing districts
1982	objection	Statewide	N/A	State House of Representatives reapportionment	entire plan problematic
1982	objection	Statewide	N/A	Statewide redistricting plan	discrimination in drawing districts
1984	objection	Statewide	N/A	State House of Representatives reapportionment	discrimination in drawing districts
1986	partial objection	Statewide	N/A	Election of Superior Court Judges	numbered posts, staggered terms
1986	partial objection	Statewide	N/A	Election of Superior Court Judges	staggered terms
1991	objection	Statewide	N/A	Statewide redistricting plan	dilution of minority voting strength
1992	partial objection	Statewide	N/A	Terms of Superior Court Judges	staggered terms
1993	objection	Statewide	N/A	Mail-in voter registration	delayed implementation
1994	partial objection	Statewide	N/A	Redistricting for Superior and District Court Judge elections	numbered posts, other dilutive mechanisms
1995	prior objection withdrawn	Statewide	N/A	Creation of District 1 Judgeship	N/A
1996	prior objection withdrawn	Statewide	N/A	Creation of Judgeships for Districts 3A, 8, 12, 18 and 20,	N/A

Year	Action	County	Town	Election body/change objected	Reason for objection
1996	objection	Statewide	N/A	State districting guidelines	entire plan problematic

Appendix 4 - North Carolina Submissions Withdrawn 1982 to 2005

Submission #	County	Type of Change	Date of Withdrawal
2001-4063	Beaufort	Redistricting	16-Apr-02
1985-2944	Cleveland	Election Admin.	21-Mar-95
2001-3957	Craven	Redistricting	30-Jul-02
2001-1474	Edgecombe	Redistricting	19-Dec-01
1991-2011	Halifax	Redistricting	8-Aug-91
1990-3761	Martin	MOE, Districting	26-Jun-91
1994-3735	Northampton	Poll Place (changed)	3-Sep-96
1996-2641	Pitt	Annexations (5)	8-Oct-96
1999-3975	Rockingham	Stag Terms, Term Office, Impl. Sched.	20-Jun-00
2000-0815	Rowan	Majority Vote Requirement	9-May-01

Source: U.S. DOJ, Civil Rights Division, FOIA request

Appendix 5

Supplement to Testimony prepared for U.S. House of Representatives
Committee on the Judiciary
Subcommittee on the Constitution
November 3, 2005

By
Anita S. Earls
Director of Advocacy, UNC Center for Civil Rights

On the Voting Rights Act: Section 5 of the Act – History, Scope, and Purpose
Hearing Date: Tuesday, October 25, 2005

I. More Information Letters

During the course of my testimony I referred to a study of cases in which the Department of Justice has requested that jurisdictions provide more information about a particular submission. Here are the details: The National Commission on the Voting Rights Act obtained information concerning all "more information" letters written by the Department of Justice from 1982 through the end of 2004 under the Freedom of Information Act. Those records revealed that during that period, 501 proposed changes affecting voting were withdrawn by jurisdictions after receipt of a "more information" letter. In these instances Section 5 review by the Department of Justice resulted in the abandonment of potential voting changes with discriminatory impact or purpose before an objection was issued.

II. Discrimination in Voting in North Carolina, 1995 – Present.

A. Section 5 Objections. Only 40 of North Carolina's 100 counties are covered by Section 5 of the Voting Rights Act. Since 1997 the Department of Justice has issued two objections to proposed changes affecting voting but this vastly underestimates the impact of the Section 5 review process on the ability of black voters to have an opportunity to participate in elections. These two objections are relevant to illustrate that polarized voting is still prevalent in the state and that left to their own devices, local jurisdictions are likely to dilute minority voting strength.

The most recent objection was issued in July of 2002 when Harnett County submitted a redistricting plan for the county school board and board of county commissioners with no majority-black districts. The county's population is 22.6% black and the voting age population is 20.7% black. In 1989 the county was required to implement single-member districts with one majority-black district as a result of a consent decree entered in *Porter v. Steward,* No. 89-950 (E.D. N.C.). The Justice Department's investigation determined that the county's proposed plan was retrogressive because the previously majority-black district was reduced by six percentage points from 52.7% black to 46.6% black in total population and that the plaintiffs in *Porter* provided the County during the redistricting process with two illustrative plans demonstrating

that a more compact plan than the enacted plan could be drawn that would include a majority-black district. In addition, review of election returns demonstrated that voting patterns in the county continued to be racially polarized. *See* Letter to Dwight W. Snow, Esq. from J. Michael Wiggins, Acting Assistant Attorney General dated July 23, 2002 (Copy attached, available at: http://www.usdoj.gov/crt/voting/sec_5/pdfs/l_072302.pdf.)

The earlier objection was issued in February 1997 finding that an at-large method of election with staggered terms for an Advisory Council for the Camp Butner Reservation, a newly created local governing entity. Thirty-three percent of the Reservation's 2,063 registered voters in 1996 were black, and the Department looked to other elections in the same county to determine that no black candidate had ever been elected to the at-large Granville County Commission or School Board, even though blacks were 43 percent of the county's total population and numerous black candidates had run for those offices. Both the county commission and the school board had been sued previously under Section 2 of the Voting Rights Act. The Department had evidence that voting in the county was racially polarized. Thus, they concluded that the proposed at-large election system for the Camp Butner Reservation violated Section 2 and Section 5 of the Voting Rights Act and that the jurisdiction failed to meet its burden to demonstrate that the proposed change had neither a discriminatory purpose nor a discriminatory effect. *See* Letter to Susan K. Nichols, Esq. from Isabelle Katz Pinzler, Acting Assistant Attorney General dated February 3, 1997 (Copy attached, available at: http://www.usdoj.gov/crt/voting/sec_5/ltr/l_020397.pdf.)

While these objections are instructive, as noted above, Section 5 review has a significant deterrent effect that is less obvious but very important.

B. Efforts to Dismantle Majority-Black Districts. There is a disturbing and mostly quiet counter-revolution underway among local jurisdictions in North Carolina to dismantle majority-black districts and return to at-large election methods, or alternative districting schemes that do not include majority-black districts. Recently a number of counties and one city who were previously sued under Section 2 of the Voting Rights Act to require them to abandon at-large systems have filed motions seeking to dissolve the consent decrees or court orders that currently bind them. In the case of *Montgomery County Branch of the NAACP v. Montgomery County*, No. C-90-27-R, (E.D.N.C.), the plaintiffs were able to oppose the motion sufficiently that the County backed down and negotiated a settlement with them. The Court's Supplemental Order, issued July 2, 2003, provides a new method of election that moves from an 4-1 system, with one commissioner elected at-large, to a 3-2 system that retains one majority black district, but has two at-large seats. The Order also provides that the case will be dismissed after five years, thereby dissolving any court order that there must be a majority black district for the board of county commissioners. Montgomery County is not covered by Section 5 of the Voting Rights Act.

A similar motion has now been filed to terminate the Consent Order in *NAACP v. City of Thomasville*, No. 4:86CV291 (M.D. N.C.). In two other counties, Beaufort County and Columbus County, efforts are underway to dismantle court orders requiring majority-black districts but no motions have been filed in court.

This is a disturbing development. Under Section 5, the Department of Justice has the power to prevent retrogression even where Federal Judges are ready to throw out voting rights remedies. Without Section 5, there would be no other limit on jurisdictions that seek to eliminate majority black districts.

C. Out of Precinct Provisional Ballots in the 2004 Election. In February the State Supreme Court ruled that around 12,000 ballots cast on Election Day by voters outside their home precincts would not be counted. *James v. Bartlett,* No. 602P04-2, (N.C. February 4, 2005). The ballots under question were cast disproportionately by black voters. Statewide, the estimates are that 36% of the ballots cast out of precinct on election day were cast by black voters although they were just 18% of the electorate. In some counties the disparity was even greater. For example, 41% of Wake County's provisional ballots were cast by black voters. Many of these voters were never notified where to vote by the state, due to a backlog of new registrants. In addition, many voters were advised by local election officials that provisional ballots votes cast outside their home precincts would count. As Bob Hall from Democracy North Carolina notes, out-of-precinct voting "especially helps working class, young and minority voters. Our research shows that black voters cast more than one third of the state's out-of-precinct ballots, while less than one fifth of all votes in November's elections came from African-Americans." Black voters disproportionately live in low income neighborhoods without access to transportation or flexible work schedules that might allow them to get to their home precincts.[1] While this case was ultimately resolved by legislative action, Section 5 of the Voting Rights Act should be a bar to any change in voting rules that rejects a disproportionate number of ballots cast by black voters.

D. Election Protection Efforts in 2004. Election administration in this state continues to need improvement, particularly because polling place officials turn voters away without justification. Volunteer election protection workers in November, 2004 were able to intervene in numerous cases to rectify the situation, but many other incidents were not satisfactorily resolved on election day. Miscellaneous "dirty tricks", such as altering polling place registers to make it appear that black voters had already voted when they had not, and posting signs saying that voting would take place on Wednesday, November 5th, occurred in predominantly black precincts in various parts of the state.

In the Leadership Conference of Civil Right's February 2004 memo to the Department of Justice, Wake County and Scotland County in North Carolina were both mentioned as potential violators of voting rights standards. LCCR reported possible voter intimidation at Latino polling places and a concern that the Wake County Board of Elections would not inform Latino voters in the area of incomplete registration applications before the November elections. The Scotland County Board of Elections was in disputes with black activists because black voters were not being allowed to choose who could assist them at the polls on Election Day – another issue of potential voter intimidation.[2]

---

[1] Bob Hall. "Voters Disenfranchised by N.C. Supreme Court." 11 Feb 2005 <http://minorjive.typepad.com/hungryblues/2005/02/voters_disenfra.html>

[2] Letter from Wade Henderson and Nancy Zirkin of LCCR to the Assistant Attorney General of the Civil Rights Division of the Department of Justice, 19 Oct 2004. <http://www.civilrights.org/tools/printer_friendly.html?id+25718&print+true>

E. Representation of Minority Interests in the North Carolina State Legislature. Attached to this statement is an expert witness report prepared by Kerry L. Haynie, PhD earlier this year for submission in a redistricting challenge currently pending in state court in North Carolina. He reports on the findings of his research on the North Carolina state legislature with two significant findings. First, a majority of African-American legislators introduced legislation concerning black interests in the three years he studied, and that at least twice as many African-American legislators did so than non-black legislators. This has important implications demonstrating that descriptive representation does translate into substantive representation for black voters. Second, he found that controlling for all other possible explanations, the perceptions by other legislators and by lobbyists of black legislators effectiveness was determined by race. In other words, black legislators were consistently rated as less effective than their white counterparts by their colleagues and by lobbyists.

III. Discrimination in Voting in North Carolina, 1982 – 1994.

A. Discrimination Affecting Ability of Blacks to Participate in Voting and Electoral Politics. The pervasive and persistent refusal of white voters in North Carolina to vote for black candidates has consistently operated to deny black voters an equal opportunity to elect candidates of their choice. Richard Engstrom's 1995 study of 50 recent elections in North Carolina in which voters have been presented with a choice between African-American and white candidates, including elections for the U.S. House of Representatives, statewide elections to high profile and low profile offices, and state legislative elections in both single-member and multi-member districts, found that 49 of them were characterized by racially polarized voting.

Black candidates ran for Congress in North Carolina in four elections during the 1980's. None was able to obtain enough white votes to win a primary. In 1982, Mickey Michaux ran in the Second Congressional District and received 88.55% of the black vote in the primary and 91.48% of the black vote in the run-off. In contrast, his support among white voters actually dropped slightly in the runoff, from 13.88% in the primary to 13.12% in the runoff. Ken Spaulding and Howard Lee, who ran in the Second and Fourth Congressional Districts in 1984 also were the clear choice of black voters. They received slightly higher percentages of the white vote than Michaux had, but not enough to win the Democratic Party nomination.

Every statewide election since 1988 where voters were presented with a biracial field of candidates has been marked by racially polarized voting. In all except two low-profile contests, racially polarized voting was sufficient to defeat the candidate chosen by black voters. Of every biracial state legislative district election since 1988, only one was not marked by racially polarized voting. The one exception was a 1992 multi-seat election in which Mickey Michaux received more white votes than two white challengers from the Libertarian Party. The polarized voting found in *Thornburg v. Gingles* is not a phenomenon of the past; it remains prevalent in the state today. Racial bloc voting still persists throughout the state with sufficient force normally to prevent the candidate of choice of black voters from being elected in both local and statewide elections. The choices of black voters and the hopes of black candidates continue to be frustrated by persistent racially polarized voting.

Elections since *Gingles* have involved campaign tactics deliberately and demonstrably designed to keep African-Americans from voting. Most significantly, in 1990, just days before the general election in which Harvey Gantt, an African-American, was running against Jessie Helms for U.S. Senate, post cards headed "Voter Registration Bulletin" were mailed to 125,000 African-American voters throughout the state. The bulletin suggested, incorrectly, that they could not vote if they had moved within 30 days of the election, and threatened criminal prosecution. Consent Order in *U.S. v. North Carolina Republican Party*, No. 91-161-CIV-5F (E.D.N.C.) (February 27, 1992), Tt. 1011. The postcards were sent to black people who had lived at the same address for years. As a result of the postcard campaign, black voters were confused about whether or not they could vote and some went to their local board of election office to try to vote there. Considerable resources were devoted to trying to clear up the confusion.

The most notorious examples of racial appeals in campaigns also come from the Gantt-Helms contest in 1990. Television ads which distorted Harvey Gantt's picture and voice, and others which were specifically designed to encourage racial stereotypes and fears had a dramatic impact on the 5% to 6% of the electorate which the polls indicated had been 'undecided'. After the ads ran, polls showed that virtually all of the undecided voters voted for Jessie Helms.

The impact of racial appeals in North Carolina must be assessed in light of the local context. Specific polls conducted in the 1990 election report substantial white North Carolinians who said they would simply not vote for a black candidate. The state has a large population of limited education which is more likely to utilize cues in their voting choices. There is a substantial mistrust across racial lines in North Carolina. A focus group study of the ads in the Gantt-Helms campaign showed how this series of ads effectively primed voters to react with negative racial characterizations. Moreover, the impact of these ads was explicitly given as a reason for supporting the decision to draw two majority black congressional districts in the State Senate debate prior to passage of the plan.

There are other examples of explicit racial appeals in political messages of the early 1990's at the state and local levels. An anonymous leaflet warned Columbus County voters in 1990 that blacks in the county have too much political power and "more Negroes will vote in this election than ever before". The overall effect of such racial appeals has been to diminish seriously the opportunities of black citizens for an equal exercise of their political rights. Racially polarized voting, campaign tactics designed to keep black voters from going to the polls, and racial appeals designed to encourage voting on the basis of racial stereotypes are all current features of political life in North Carolina.

B. Present Effects of Past Discrimination Affecting the Ability of Black Voters to Participate Effectively in the Political Process. Current forms of racial discrimination in matters affecting voting are all the more effective because of the long history of official and purposeful discrimination which ended in some cases less than twenty years ago. The "White Supremacy Campaign" of 1898 which swept North Carolina Congressman George W. White from office, the last southern black congressman before the passage of the Voting Rights Act, also resulted in the passage of a state constitutional amendment imposing a literacy test and poll tax requirement for the right to vote, with a "grandfather clause" allowing illiterate white men to

vote. The explicit purpose of the amendment was to disenfranchise black citizens in defiance of the Fourteenth and Fifteenth Amendments to the United States Constitution.[3] These measures, along with violence and threats of violence, effectively decimated the ranks of black voters in the state. Only 15% of the state's blacks were registered to vote in 1948, and only 36% in 1962.

After passage of the Voting Rights Act, the percentage of eligible blacks registered to vote passed 50% for the first time since 1900. However, use of the literacy test continued until the early 1970's[4]. In 1970 only 52.2% of the black voting age population was registered to vote. In 1980, only 51.3% of age-qualified blacks were registered, whereas that same year 70.1% of the age-qualified whites were registered. By 1993, the gap between white and black registration rates statewide had closed to slightly over ten percent, with 61.3% of the black voting age population registered, and 72.5% of the white voting age population registered.

As black voter registration increased, other official forms of discrimination were enacted, including numbered seat requirements, anti-single shot provisions, and at-large and multi-member districts. *See Gingles v. Edmisten*, 590 F. Supp. 345, 359-64 (E.D.N.C. 1984); Keech & Sistrom, *North Carolina,* in Quiet Revolution in the South 162 (C. Davidson & B. Grofman eds., 1994). The purpose and effect of these provisions was to prevent black voters from being able to elect their candidates to state and local offices. While Tennessee elected its first black of the century to the General Assembly in 1964 and abolished multi-member districts in urban counties in 1965 because they discriminated against black voters, North Carolina did not elect a black state legislator until 1968, and it refused at that time to abolish multimember districts for the state legislature. In 1967 the North Carolina General Assembly passed a numbered seat system, subsequently declared unconstitutional because it denied equal protection to black voters.[5] *See, Dunston v. Scott*, 336 F. Supp. 206 (E.D.N.C. 1972). Multimember state legislative seats in areas where they diluted the votes of black voters were not eliminated until this Court's decision in *Thornburg v. Gingles*, 478 U.S. 30 (1986).

The direct effect of these racially discriminatory provisions was that at the time the North Carolina General Assembly was considering the plan at issue here, African-Americans were still not being elected to political office in the state in numbers even remotely approaching their representation in the general population, despite the fact that capable and experienced African-American candidates were running for election. As of January 1989, African-Americans were 21% of the state's voting age population but only 8.1% of the elected officials.

---

[3]Proponents of the amendment promised that of the 120,000 negro voters in the state, it would disenfranchise 110,000 of them.

[4]Although literacy tests were finally discontinued in the early 1970's, the purpose for, and experience of, being required to write a sentence from the Constitution is remembered by many older black voters. Special voter registrars from Charlotte to Gatesville continue to encounter African-Americans who are reluctant to register for a variety of reasons. Over the past seven years, a special registrar in Charlotte has met potential voters who still express the belief that they could not register if they were unable to read or write.

[5]The same legislature that adopted the multimember districts and numbered seat system also refused to add Durham County to the Second Congressional District because it would allow too great a black voter influence in that district.

In the state House of Representatives, which has 120 members, the number of African-American legislators grew from three in 1981 to fourteen at the time of redistricting in 1991. After the 1992 redistricting, eighteen blacks served in the House, seventeen of whom were elected from single-member majority black districts. One was elected from a multi-member majority white district which allows for single-shot voting. On the Senate side, with fifty members, one African-American was serving at the time of the 1981 redistricting, and five were serving in 1991. After the 1992 redistricting plans were enacted, seven blacks were elected to the Senate, five of whom won in majority-black single-member districts, and two of whom won in multi-member majority-white districts. Three majority-black single-member districts elected white representatives, two in the Senate and one in the House. **No single-member majority-white district elected a black candidate to the state legislature.**

At the local level, in 1989, of 529 county commissioners throughout the state, 36 were black. Most of the African-Americans holding local offices were elected as a result of lawsuits or negotiated settlements changing the method of election from an at-large system to single member districts. Keech & Sistrom, *supra*, at 171-72 & 178-79. At the time the challenged plan was passed by the General Assembly, no candidate who was the choice of the black community had ever won election to a statewide non-judicial office since 1900. No African-American had been elected to Congress from North Carolina during the same period. Although candidates of choice of the state's African-American voters were elected to public office from single-member districts where black voters were in the majority, the relative percentages of black elected officials in North Carolina in the early 1990's had actually not increased over those present in 1984 when the district court in *Gingles* considered this factor as relevant to the totality of circumstances inquiry in a vote dilution claim. *Compare Gingles v. Edmisten*, 590 F. Supp. at 365 (Blacks hold 9% of city council seats, 7.3% of county commission seats; 4% of sheriff's offices, 9.2% of the state House; 4% of the state Senate) *with* D. I. Stips. 76-80 (in 1989 Blacks held 8.1% of all elected offices; 8.8% of the state legislative seats; 6.9% of county commission seats; 4% of sheriff's offices). *See also*, 42 U.S.C. ' 1973(b) ("The extent to which members of a protected class have been elected to office in the State or political subdivision is one circumstance which may be considered.")

The political participation of African-American voters in North Carolina is further impeded by the fact that they continue to suffer from a disproportionately low position on virtually every measure of socio-economic status. There is a significant history of official discrimination in education, housing, employment and health services in North Carolina which has resulted in blacks as a group having less access to transportation and health care and being less well-educated, less-well housed, lower-paid, and more likely to be in poverty than their white counterparts.[6]

[6]For example, in 1989, 27.1% of African-Americans in North Carolina had incomes below the poverty level, while 8.6% of whites did. The average per capita income for whites was nearly twice that of blacks. Roughly three-quarters of the state's whites were high school graduates, while slightly over half the state's blacks had a high school education. Nearly a quarter of black households had no car available, while only six percent of white households were careless. Fifteen percent of black households had no phone, while only four percent of white households were without a telephone. Lacking financial resources, transportation and easy communication makes supporting an effective political campaign much more difficult.

These disparities make it more difficult for black citizens to register, vote, and elect candidates of their choice. For example, black citizens who are illiterate or semi-literate have been intimidated by the voting process because of their limited abilities. Many low-wage and hourly workers have limited access to transportation and cannot afford, or are not given, the time off to vote. Black citizens are hindered in their ability to field candidates and to participate effectively in the political process by their lower financial status, lower educational attainment, lack of employment security and lack of physical resources.

As noted by the *Gingles* court, lower socio-economic status both hinders blacks' ability to participate effectively in the political process and gives rise to special group interests. *Thornburg v. Gingles*, 478 U.S. 30, 39 (1986). Evidence at the trial of this case established that black residents of North Carolina have distinctive group interests and face unique problems that are addressed at the federal policy level and require effective representation in Congress. These include housing, access to credit, education of economically disadvantaged youth, unemployment, community economic development, neighborhood redevelopment, the unique concerns of historically black colleges and universities, discrimination in housing and employment, and civil rights.

Prior to the election of an African-American to Congress from North Carolina in 1992, North Carolina's congressmen demonstrated a lack of responsiveness to the particularized needs of their black constituents. In Guilford County, African American organizations regularly contacted their previous, white Congressman concerning civil rights measures and famine aid to Africa, with little success. Robert Albright, a past President of Johnson C. Smith University, an historically black institution in Charlotte, found little support for educational and community development efforts from his previous white congressman, even though the congressman served on the University's Board of Visitors. Black residents in many parts of the state found their pre-Chapter 7 Congressmen unresponsive to the particularized needs of their black constituents.

This anecdotal evidence is supported by the findings of Dr. Kousser's study of congressional roll call behavior which shows that today there is a difference in the effectiveness of representation of African-American interests by those elected by African-American voters as compared with those elected from districts in which African American voters are not in the majority.

The data reported by Dr. Kousser indicate that before 1993, even in the most heavily African-American plurality districts, voting patterns of North Carolina congressmembers on conservative roll call voting indices demonstrate diminished responsiveness to African- American concerns. The numbers show, for example, that throughout the 1970's and 80's, congressmembers elected from heavily African-American districts 1 and 2 consistently scored between 60% and 80% on conservative voting indices. In contrast, Representatives Watt and Clayton score 11% on these indices.

A review of national and North Carolina public opinion surveys indicates that there is marked divergence in the beliefs and opinions of blacks and whites, particularly in their beliefs about the degree of discrimination in American society and their beliefs about the causes of inequality, perceptions that influence the political programs that people favor. In the absence of majority

black districts, congressmembers lack the leeway to represent consistently and effectively the particular interests of their African-American constituents.

C. Racial Discrimination in Prior Congressional Redistricting. The history of discrimination against African-Americans in congressional redistricting in North Carolina goes back to 1872, when the state legislature intentionally packed black voters into the "Black Second". The Black Second effectively confined black voters' control, in a state that was approximately one-third African-American, to a maximum of one district in nine. The shape of the Black Second was described by Republican Governor Todd Caldwell as "extraordinary, inconvenient and most grotesque." Anderson, Eric, Race and Politics in North Carolina, 1872-1901: The Black Second, 3 (1981).

More recently, legislators took special pains in 1965-66 and 1981-82 to dilute black voting strength in order to diminish the political leverage of black voters and the political prospects of potential black candidates. In both instances, the issue was where to place the large and politically active black population in Durham County so that black voters would not have too much influence in the district. In 1965 the solution to the "problem" was to place Durham County in the Fifth District rather than create a district in the triangle (Raleigh-Durham-Chapel Hill) that might have elected a congressman responsive to black political interests. In 1981, the solution passed by the legislature was "Fountain's Fishhook", a strangely shaped district that curved around Durham to exclude it from L. H. Fountain's second district. The Justice Department denied that plan preclearance on the grounds that the plan had the purpose and effect of diluting minority voting strength.

Following the Justice Department's rejection, and in the face of a legal challenge on vote dilution grounds, the legislature redrew the plan to include Durham in the Second District, and simultaneously shift other black populations, notably Northampton County, one of the state's majority-black counties, out of the Second. The Justice Department precleared the second plan because it was approximately 40% black in total population.

As a result of this new Second district, great hope was generated that African-Americans finally had an opportunity to elect an candidate of their choice. There had been two earlier campaigns by African-American candidates for congress. In 1968, Eva Clayton was the first African-American to run for Congress since 1898. When she began her campaign, blacks constituted only 11% of the registered voters, though they comprised 40% of the Second District's population. The political climate was hostile and discouraging for black voters and candidates. Prior to 1968 several lawsuits had been brought in, in the Second district to protest overt barriers to black voter registration. Mrs. Clayton's candidacy was not taken seriously by the media or by political observers. Very few white voters were willing to be openly associated with her campaign. Although she was defeated, Eva Clayton's campaign resulted in increased levels of black voter registration in the district.

In 1972, after Orange County was added to the Second District, Howard Lee announced his bid for the Democratic party's nomination. Elected Mayor of the majority-white town of Chapel Hill in 1969, and re-elected in 1971, he was the first black mayor in the state during the twentieth century. He had been named vice-chairman of the state Democratic party in 1970. Lee worked

to establish relationships with the white community, and also expected to increase the registration of black voters in the district. His defeat in the primary was generally believed to be a result of voting along racial lines.

Following the 1981 redistricting, serious campaigns were mounted by Mickey Michaux and Kenneth Spaulding in the Second Congressional District, in 1982 and 1984 respectively. Both the Michaux and Spaulding campaigns were serious, strong, well-financed efforts of experienced, well-known candidates with broad support across the district. Despite employing careful and well considered strategies to appeal to voters of both races, neither candidate was able to obtain the Democratic party nomination because of racially polarized voting and the use of racial appeals in the campaigns. Subsequently, potential African-American candidates logically concluded that the expenditure of effort, time and money to run a congressional campaign was not feasible in the light of continued racially polarized voting and the strong perception that they could not win.

D. 1991 Congressional Redistricting Process. With the 1990 reapportionment and the increase of North Carolina's congressional delegation from eleven to twelve members came the opportunity to redress past wrongs and correct the effects of current discrimination. Members of the 1991 North Carolina General Assembly had lived through, and been active participants in, the history of electoral politics discussed above. Well over half had been in the General Assembly in 1986 when they were required by the *Gingles* litigation to create eight majority-minority districts; and fifty-eight had been members of the 1981 General Assembly which elected to redraw the congressional redistricting plan following the Justice Departments' refusal to preclear the first plan. In legislative floor debates, and in subsequent testimony, legislators explained their familiarity with the history of discrimination.

Representative David Flaherty said: "When my father served in the legislature 20 years ago, there was only, I think, one black, maybe two and only a couple of Republicans."

Senator Ralph Hunt stated that he was a product of, and participant in, a separate-but-equal school system:

> We are talking about books handed down after the black schools placed their orders for new books. Those from the white schools were sent to the black schools, the used ones, and the new order were sent to the white schools. The desks were the same way. ... And of course, our educational system was administered as it was then simply because there were not black people in the process to have input and be aware and take care of the interests of black people at that time.

Senator Kincaid stated:

> I don't think I've mentioned this on the floor of this Senate before, but back in 1967, when I was a high school teacher, I had the opportunity to teach the first integrated class in Caldwell County. And I saw firsthand how inferior the black schools were at that time.

Senator Walker, after explaining the experience with racial appeals in the Gantt/Helms campaign, stated:

> So, I just want to say I support this bill because I think so far as the blacks are concerned that yes, they deserve two black districts. After going through a 1990 race, they can see we still need to make some improvements in how our relationships are between our people.

IV. Implications of Redistricting Law Today in North Carolina.

Following enactment of the state legislative redistricting plan in 2001, a lawsuit was filed in state court seeking to enforce a provision of the State Constitution that previously had been found to be in conflict with the Voting Rights Act, namely the "whole county provision" which requires legislative districts to be made up, to the extent possibly, by whole counties. *Stephenson v. Bartlett*, 355 N.C. 354, 562 S.E.2d 377 (2002) (*Stephenson I*) and *Stephenson v. Bartlett*, 358 N.C. 219, 595 S.E.2d 112 (2004), (*Stephenson II*). As a result, the only counties that can be divided in drawing legislative districts are those covered by the non-retrogression requirement of Section 5 of the Voting Rights Act, or where there is potentially a Section 2 violation. Dividing counties is generally necessary to draw majority-black districts.

Last year the Fourth Circuit, in *Hall v. Virginia*, 385 F.3d 421 (4th Cir. 2004), held that in order to show a potential violation of Section 2 of the Voting Rights Act, plaintiffs must demonstrate that they constitute 50% or more in a single-member district, foreclosing the possibility of influence or coalition district claims. If Section 5 is not reauthorized, application of the whole county provision may result in the loss of eleven of the state's twenty-one districts that elect an African-American to the North Carolina General Assembly.

Appendix 6: Voting Rights Cases in Federal Court, 1982 - Present

Year	Parties	Citation	Published Opinion?	Court	Claim
2002	Bartlett v. Stephenson	535 U.S. 1301	yes	U.S.	Section 2, Section 5
1994	Campbell v. Cleveland Co. Board, et al	4:94-cv-00011	no	W.D.N.C.	Section 2
1997	Cannon v. NC State Board of Ed, et al	5:96-cv-00115, 959 F. Supp. 289	yes	E.D.N.C.	Section 2
1983	Cavanagh v. Brock	577 F.Supp. 176	yes	E.D.N.C.	Section 5
1996	Cleveland County Ass'n, et al v. Cleveland Co. Board, et al	4:95-cv-00006	no	W.D.N.C.	Section 2
1997	Cleveland County Ass'n for Gov't by the People v. Cleveland County Bd. of Commissioners	142 F.3d 468	yes	D.C. Cir.	Section 2
1998	Cleveland County Ass'n for Gov't by the People v. Cleveland County Bd. of Commissioners	965 F. Supp. 72	yes	D.D.C.	Section 2
1992	Daniels v. Martin Co. Bd. Comm.	4:89-cv-00137	no	E.D.N.C.	Section 2
1987	Ellis v. Vance County	87-28-CIV-5	no	E.D.N.C.	Section 2
1990	Fayetteville, Cumberland County Black Democratic Caucus v. Cumberland County	3:88-cv-00022, 927 F.2d 595	no	E.D.N.C., 4	Section 2
1995	Fussell v. Town of Mount Olive	5:93-cv-00303-DU	no	E.D.N.C.	Section 2
1995	Gause v. Brunswick County	7:93-cv-00080-DU, 1996 U.S. App.	yes	E.D.N.C., 4	Section 2
1985	Haith v. Martin	618 F. Supp. 410	yes	E.D.N.C., U	Section 5
1989	Hall v. Kennedy	3:88-cv-00117	no	E.D.N.C.	Section 2
1989	Harry v. N C. Bladen County	7:87-cv-00072-DU, 1989 WL 25342	no	E.D.N.C.	Section 2
1985	Haskins v. County of Wilson	82-19-CIV-9	no	E.D.N.C.	Section 2

Year	Parties	Citation	Published Opinion?	Court	Claim
1993	Hines v. Ahoskie	998 F.2d 1266	yes	4th Cir.	Section 2
1994	Hines, et al v. Callis	2:89-cv-00062-BO	no	E.D.N.C.	Section 2
1988	Holmes v. Lenoir County Board of Education	86-120-CIV-4	no	E.D.N.C.	Section 2
1984	Johnson v. Halifax County	594 F. Supp. 161	yes	E.D.N.C.	Section 2, Section 5
1988	Johnson v. Town of Benson	88-240-CIV-5	no	E.D.N.C.	Section 2
2005	Kindley v. Bartlett, et al	5:05-cv-00177-BO	no	E.D.N.C.	Section 5
1992	Lake v. North Carolina State Board of Elections	2:91-cv-00254-FWB-RAE, 798 F. Supp. 1199	yes	M.D.N.C.	Section 5
1995	Lewis v. Alamance County	2:92-cv-00614-WLO, 99 F.3d 600, 520 U.S. 1229	yes	M.D.N.C., 4	Section 2
1992	Lewis v. Wayne County Board, et al	5:91-cv-00165	no	E.D.N.C.	Section 2
1988	McGhee v. Granville County	860 F.2d 110	yes	4th Cir.	Section 2
1990	Montgomery County Branch of the N.A.A.C.P. v. Montgomery County Board of Elections	3:90-cv-00027-FWB-RAE	no	M.D.N.C.	Section 2
1991	Moore v. Beaufort County	4:88-cv-00030, 936 F.2d 159	yes	E.D.N.C.	Section 2
1988	N.A.A.C.P. of Stanley County v. City of Albemarle	4:87-cv-00468-RCE	no	M.D.N.C.	Section 2
1990	N.A.A.C.P. v. Anson County Bd of Educ	1990 WL 123822	no	W.D.N.C.	Section 2
1989	N.A.A.C.P. v. Caswell County Board	2:86-cv-00708-RCE-RAE,	no	M.D.N.C.	Section 2
1985	N.A.A.C.P. v. City of Statesville	606 F.Supp. 569	yes	W.D.N.C.	Section 2
1988	N.A.A.C.P. v. Duplin County	88-5-CIV-7	no	E.D.N.C.	Section 2

Year	Parties	Citation	Published Opinion?	Court	Claim
1984	N.A.A.C.P. v. Elizabeth City	83-39-CIV-2	no	E.D.N.C.	Section 2
1988	N.A.A.C.P. v. Forsyth County	6:86-cv-00803-EAG-RAE	no	M.D.N.C.	Section 2
1992	N.A.A.C.P. v. Reidsville	2:91-cv-00281-WLO-PTS	no	M.D.N.C.	Section 2
1988	N.A.A.C.P. v. Richmond County	3:87-cv-00484-RCE-RAE, 3:87-cv-00484-RCE-RAE	no	M.D.N.C.	Section 2
1992	N.A.A.C.P. v. Roanoke Rapids	2:91-cv-00036-BO	no	E.D.N.C.	Section 2
1994	N.A.A.C.P. v. Rowan Board of Education	4:91-cv-00293-FWB-RAE	no	M.D.N.C.	Section 2
1987	N.A.A.C.P. v. City of Thomasville	4:86-cv-00291-FWB-RAE	no	M.D.N.C.	Section 2
1992	N.A.A.C.P. v. Winston-Salem/Forsyth County Bd. Of Educ.	1992 U.S. App. LEXIS 6221	yes	4th Cir.	Section 2
1988	Pitt County Concerned Citizens for Justice v. Pitt County	87-129-CIV-4	no	E.D.N.C.	Section 2
2003	Porter v. Stewart	5:88-cv-00950-BO	no	E.D.N.C.	Section 2
1997	(Republican Party v. Hunt and Ragan v. Vosburgh, 1997 U.S. App. LEXIS 6626)	5:88-cv-00263-FO	yes	E.D.N.C.	Section 2
1994	Rowsom v. Tyrrell Co. Commissioners	2:93-cv-00033-DU	no	E.D.N.C.	Section 2
2002	Sample v. Jenkins	5:02-cv-00383-FB	no	E.D.N.C.	Section 5
1992	Sellars v. Lee County Board	1:89-cv-00294-FWB-RAE	no	M.D.N.C.	Section 2
1990	Sewell v. Town of Smithfield	5:89-cv-00360-DU	no	E.D.N.C.	Section 2
1994	Speller v. Laurinburg	3:93-cv-00365-WLO	no	M.D.N.C.	Section 2
1986	Thornburg v. Gingles	478 U.S. 30	yes	U.S.	Section 2, Section 5

Year	Parties	Citation	Published Opinion?	Court	Claim
1994	United States v. Anson Board of Ed.	3:93-cv-00210	no	W.D.N.C.	Section 2, Section 5
1990	United States v. Bladen County Board (see Harry v. N C. Bladen County)	7:87-cv-00101-DU	yes	E.D.N.C.	Section 2
1989	United States v. Granville County Board	5:87-cv-00353-BO	no	E.D.N.C.	Section 2
1987	United States v. Lenoir County	87-105-CIV-84	no	E.D.N.C.	Section 2
1992	United States v. NC Republican Party	5:92-cv-00161-FO	no	E.D.N.C.	
1988	United States v. Onslow County	683 F. Supp. 1021	yes	E.D.N.C.	Section 2, Section 5
1992	Ward v. Columbus County	7:90-cv-00020, 782 F.Supp. 1097	yes	E.D.N.C.	Section 2
1991	Webster v. Board of Education of Person County	1:91cv554	no	M.D.N.C.	Section 2
2004	White v. Franklin County	5:03-cv-00481	no	E.D.N.C.	Section 2
1996	Wilkins v. Washington County Commisioners	2:93-cv-00012-BO	no	E.D.N.C.	Section 2
1991	Willingham v. City of Jacksonville	4:89-cv-00046-BO	no	E.D.N.C.	Section 2

APPENDIX 7 – SUMMARIES OF VOTING RIGHTS ACT CASES

Research Methods

The data represented in these case summaries was gathered from a variety of published and unpublished sources. For published cases, we relied on the court opinion for the summary. For unpublished cases, we relied on documents filed with the court, including complaints, judgments, and consent decrees. Both plaintiff and defendant attorneys also provided details of cases where no documents were available.

Statistical data on racial composition of communities and voting populations were taken from court documents when available. Otherwise, that information was gathered from the 1980, 1990, and 2000 Census. Information on the current voting systems and numbers of minority members represented on government boards was obtained from government websites for the relevant area and from attorneys familiar with the case.

At the conclusion of our research, there were several cases that were listed on the district court docket as having been filed, but no information was available about the cases. These cases are noted at the end of the summaries.

Voting Rights Act Case Summaries 1982–2005

Bartlett v. Stephenson, 535 U.S. 1301 (2002)

> North Carolina state election officials appealed a ruling by the North Carolina Supreme Court that invalidated the state redistricting plan as a violation of the state constitution. The appellants alleged that the state court order violated the Voting Rights Act.
>
> The state Supreme Court held that the 2001 redistricting plan violated the "whole county provision" of the state constitution. The whole county provision provided that no county could be divided in the formation of a Senate or Representative district. Because the redistricting plan would have violated this provision, the state Supreme Court ordered a new plan that would preserve county lines to the maximum extent possible, except where those lines could not be preserved to comply with Section 2 of the Voting Rights Act. The court ordered that a new plan be drawn and that officials seek Section 5 preclearance of the plan in counties covered by the Voting Rights Act.
>
> Election officials appealed to the U.S. Supreme Court, contending that a 1981 letter from the Department of Justice (DOJ) disallowed consideration of the whole county provision in redistricting. The Supreme Court found, however, that the DOJ letter did not disallow the whole county criterion, but only rejected use of this criterion where following it strictly would result in failure to comply with the Voting Rights Act. Appellants sought a stay of the North Carolina Supreme Court decision, but the Supreme Court rejected this request, finding that the North Carolina Supreme Court properly ruled that the new plan should be developed and precleared before implementation.

Cannon v. Durham County Board of Elections, 959 F. Supp. 289 (E.D.N.C. 1997)

Plaintiffs brought suit alleging that a newly created method of electing members to the Durham County school board violated constitutional provisions and Section 2 of the Voting Rights Act. The method of election in question originated when the board of commissioners for the county of Durham submitted a plan to the North Carolina state Board of Education for the merger of Durham County public schools and the city of Durham public schools. The state board approved the plan, under which the school board would be composed of seven members. Durham County would be divided into four individual single-member districts, which would each elect one representative. The four districts would then be combined to form two larger districts, which would each elect one representative. The final member would be elected at-large. The new plan would create three majority-minority districts.

Some of the plaintiffs, white voters, challenged the merger plan in state court and received a favorable decision. While appeal was pending, the state General Assembly passed a "curative" statute. The North Carolina Supreme Court then remanded the case, without ruling on the merits, to the trial court for consideration of the effect of the new statute on the case. The defendants then filed a motion to dismiss for mootness. In response to the defendants' motion to dismiss for mootness, plaintiffs raised the argument that the school board election plan discriminated against white voters. The trial court granted defendants' motion to dismiss. The appellate court reversed that decision, but the North Carolina Supreme Court ultimately affirmed the dismissal because plaintiffs had failed to allege racial discrimination in their initial pleadings.

Plaintiffs then brought the immediate suit alleging that the method of electing school board members violated constitutional provisions and Section 2 of the Voting Rights Act. The court granted summary judgment to the defendant, finding that the plaintiffs failed to show that white voters were entitled to protection in this case. The white voters had failed to show that black voters in this case would act as a bloc to preclude election of preferred candidates of white voters. Defendants provided evidence permitting an inference that white voters were not a cohesive group. Generally, the court found that plaintiffs had failed to allege or prove the *Gingles* test standards for Section 2 cases. Plaintiffs further failed on their constitutional claims for a variety of reasons, including an inability to show purposeful discrimination. The Fourth Circuit affirmed the holding in an unpublished opinion.

Cavanagh v. Brock, 577 F. Supp. 176 (E.D.N.C. 1983)

Plaintiffs filed action in state court and it was removed to federal court, where several actions were consolidated. The action challenged the General Assembly's failure to adhere to provisions of the North Carolina Constitution in adopting a new state legislative apportionment plan. The plaintiffs contended that the state constitution prohibited the General Assembly from splitting counties in apportioning Senate and House districts and sought declaration that the 1982 plan, which split several counties, violated state law.

The court found, however, that the legal provisions relied upon by plaintiffs had been refused Section 5 preclearance by the attorney general and were, therefore, not binding. In 1981, the North Carolina Board of Elections applied for preclearance of the 1968 whole county amendments to the state constitution. The attorney general objected insofar as the provisions affected the forty counties in North Carolina covered by Section 5 of the Voting Rights Act. Accordingly, the General Assembly revised the reapportionment plans during a special session in 1982 and, after modifications, they were given preclearance. The 1968 whole county provision was still not precleared.

In the present suit, the question before the court was whether the effect of the attorney general's objection was to suspend the force of the 1968 amendments for the entire state or only for counties encompassed by the Section 5 preclearance requirement. The court found that under North Carolina law, when one portion of a statute is declared unconstitutional or otherwise stricken, the surviving portion will be given effect only if it is severable. Applying this rule, the court found that once the attorney general refused to preclear the amendments, they had no force or effect statewide. The plaintiffs also advanced an argument that the 1968 amendments did not present a change in voting as understood in the Voting Rights Act so the attorney general's objection had no effect, but the court did not have jurisdiction on that claim which must be heard by the U.S. District Court for the District of Columbia.

Cleveland County Ass'n for Gov't by the People v. Cleveland County Bd. of Commissioners, 142 F.3d 468 (D.C. Cir. 1998)

The lawsuit that gave rise to this dispute was initially filed in the Western District of North Carolina as *Campbell v. Cleveland Co.* Board of Commissioners, 4:49-cv-00011 (W.D.N.C. 1994), by black voters and the NAACP, contending that the method of electing county commissioners violated Section 2 of the Voting Rights Act.

In *Campbell*, black voters and the NAACP objected to the method of electing county commissioners. Under the old system, the board consisted of five members selected at-large every two years for staggered, four-year terms. Between 1988 and 1994, no African American was elected to the board, although African Americans constituted 20.9 percent of the county's population. From 1988 to 1994, five African Americans, all Democrats, attempted to win seats, but none survived the primary elections. The NAACP approached the board with its concern that at-large voting prevented representation of African Americans. A board committee studied the problem and recommended a new system of electing five commissioners from single-member districts and two commissioners from the county at-large. The committee also recommended consideration of redistricting. The board voted to accept the recommendations and asked the Cleveland County members of the General Assembly to introduce legislation authorizing the changes, which was done in 1993. The authorization expired in 1994, however, when the board could not agree to a redistricting plan, and no change was implemented. The NAACP and individual plaintiffs filed suit.

The *Campbell* case was transferred to the U.S. District Court for the District of Columbia in 1994. After mediation, the parties adopted a consent decree with the court's approval, which expanded the board from five to seven members and adopted limited voting. For the 1994 and 1996 elections, the old method of voting would remain in place with two exceptions: (1) the members of the Board of Commissioners elected in 1996 would serve only two years and (2) after the 1994 election, two additional Commissioners who were "representatives of the black community of Cleveland County" would be appointed to the board for four-year terms. Starting with the 1998 election, all seven seats would be elected at the same time, with the newly-elected commissioners to serve at-large. In both the primary and general election, each voter could cast up to four votes for different candidates, with the top seven candidates winning seats. The agreement also stated that after the 1998 election the district court could, on NAACP's petition, reduce from four to three the number of votes that could be cast by each voter if the new system had not provided equal opportunity for black citizens to elect candidates of their choice. The attorney general precleared the plan in 1994 and thereafter, the Board of Commissioners appointed the two new commissioners.

In 1996, the plaintiffs in the immediate suit, the Cleveland County Association for Government by the People, filed in the Western District of North Carolina. The plaintiffs were an unincorporated association of voters in the county, and six individual plaintiffs, all of whom were white. They brought suit against the board and the NAACP, challenging the adoption of the consent decree plan. They objected to the election plan because the two new members were to be appointed on the basis of race and subsequent elections could be conducted in a race-based manner.

The suit was again transferred to the D.C. District Court. The district court granted summary judgment for the board and the NAACP. On appeal, however, the D.C. Circuit vacated that holding and found for the plaintiffs. The court did not find that plaintiffs could prevail on constitutional grounds, but rather that they were entitled to summary judgment on state law claims. The board did not follow the statutorily mandated scheme when it altered the electoral system and state law did not permit the board to alter its structure and manner of election unilaterally. The court found that it was allowable for plaintiffs to bring the second suit because they were not properly represented in the *Campbell* suit, as they had diverging interests to the plaintiffs and board.

Daniels v. Martin County Board of Commissioners, 4:89-cv-00137 (E.D.N.C. 1992)

Plaintiffs filed suit under Section 2 of the Voting Rights Act challenging the method of electing the Martin County Board of Commissioners and the town boards of Jamesville, Robersonville, and Williamston, alleging the methods of election diluting the voting strength of black citizens. The parties entered consent decrees once it was determined that the plaintiffs were able to present a prima facie case that the methods violated Section 2. At the time of the suit, nearly 45 percent of the population of Martin County was black. In 1990, 279 of the 612 residents of Jamesville were black. Nearly 55 percent of the population of Robersonville and approximately 51 percent of the population of Williamston was black.

Under the new method of election, the county Board of Commissioners consists of five members, elected at-large under a system of limited voting. The county is divided into two districts. Two of the five members reside in the western district and three reside in the eastern district. Voters in the western district can cast one vote in the primary and one vote in the general election for the two seats, while voters in the eastern district cast two votes in the primary and two votes in the general election for the three seats. Candidates with the most votes are elected with no run-off elections. Members serve four-year terms.

The method of voting for the town of Jamesville was also changed. In the previous system, five members of the town board and a mayor were elected at-large for two-year terms. Under the new system, the town board consists of five members elected with at-large limited voting. All candidates are listed on a single ballot, but each voter can only vote for two candidates. The mayor is elected separately.

The town of Robersonville also agreed to abandon its system by which five members of the town Board of Commissioners were elected at-large for two-year terms. Robersonville adopted a method that elects give members, two from each of two districts and one at-large. Only candidates residing in a district are eligible to run for one of the two seats from that district. The districts were drawn to provide for one minority-majority district. The mayor is elected separately.

Ellis v. Vance County, 87-28-CIV-5 (E.D.N.C. 1987)

Black citizens from Vance County brought suit under Section 2 of the Voting Rights Act opposing the method of electing the county Board of Commissioners. Five board members were elected to four-year staggered terms in at-large partisan elections. Candidates were required to live in residency districts.

The parties entered a consent decree changing the method of election. Under the changed system, seven Commissioners are elected, one from each of seven districts. Elections are staggered. The change in voting has resulted in greater minority candidate success. There are currently three black Commissioners. The current representative of District One is the first female - and the first African-American female - ever to serve on the Vance County Board of Commissioners.

Fayetteville, Cumberland County Black Democratic Caucus v. Cumberland County, 1991 WL 23590 (4th Cir. 1991)

The Cumberland County Black Democratic Caucus and individual black voters filed suit alleging that the five member, at-large election of county commissioners for Cumberland County violated Section 2 of the Voting Rights Act. The plaintiffs favored a seven member, single-member district system. While the action was pending, the county voluntarily adopted a remedial mixed single member/at-large districting plan that was precleared by the Department of Justice (DOJ). Under this plan, the board would consist of seven members: two elected from District One, three elected from District Two, and

two elected at-large. District One would be predominantly black. Each member would serve a four-year term and terms would be staggered.

The plaintiffs, still seeking development of a single-member district plan, attempted to get a preliminary injunction to stop implementation of this plan, but the court denied this request and elections were held under the new plan. Once the DOJ cleared the county's plan, the district court granted the plaintiffs leave to amend their original complaint to address the lawfulness of the new precleared plan. The plaintiffs failed to amend their complaint and made other filing errors, resulting in the district court granting judgment in favor of the defendants. When the suit was terminated, the mixed single-member/at-large system remained in place. The Fourth Circuit affirmed this holding.

Under the new system, black voters have had a greater opportunity to elect candidates of their choice. However, racially polarized voting persists. Currently, both commissioners elected from District One are black but, as the plaintiffs anticipated, the three District Two and two at-large seats continue to be occupied only by white members.

Fussell v. Town of Mount Olive, 5:93-cv-00303 (E.D.N.C. 1995)

Nine individual plaintiffs and the Mount Olive Area of the Wayne County Minority Political Action Committee brought suit alleging discriminatory practices in the method of electing the Board of Commissioners for the town of Mount Olive and sought relief addressing this issue, including the institution of a new election format for the town. According to the 1990 Census, almost 52.5 percent of the population of Mount Olive was black. Despite numerous black candidacies, there had never been more than one black candidate elected to the Board of Commissioners at any one time. The at-large method of prevented black residents from electing representatives of their choice.

During the course of the suit, the proceedings were stayed to give the parties the opportunity to reach a compromise on a voting system for the town. The town and plaintiffs agreed to a plan with four single-member districts and one at-large seat. Following public hearings on the change in voting, the town learned of white opposition to the plan and selected a new plan, which it submitted for preclearance. Under the new plan, the commission would be expanded from five members to six, four elected from single-member districts, and two elected at-large.

The plaintiffs opposed the new plan which would retain a greater number of at-large seats and packed 97 percent of black voters into one district. In November 1993, black voters rallied in the at-large election to elect one black candidate, who was a plaintiff in the Section 2 suit, to the Town Commission. The board petitioned the Section 2 court to prohibit her from participating in board discussions or voting on the method of elections. The court denied the request.

When the Department of Justice reviewed the 4-2 plan, it concluded that the board had failed to provide adequate justification for shifting from the method agreed upon during the lawsuit. There was no convincing nonracial explanation. There were no substantive

changes between the July 1993 agreement with the plaintiffs and the September 1993 to explain the shift. The attorney general accordingly refused Section 5 preclearance. The town has since adopted a districting plan with four districts and one at-large seat. There is currently one black member of the Commission.

Gause v. Brunswick County, 1996 U.S. App. LEXIS 20237 (4th Cir. 1996)

Plaintiffs brought a claim under Section 2 of the Voting Rights Act challenging the modified at-large election system of Brunswick County. The Eastern District of North Carolina granted summary judgment to the defendant and the Court of Appeals affirmed because the plaintiffs could not show adequate injury.

The population of Brunswick County changed dramatically between 1960 and 1990. Due in part to a large influx of white retirees, the percentage of African Americans living in the county fell from 35 percent to 18 percent. By 1990, 83 percent of the county's voting-age population was white. In the county's 22 election precincts, African Americans constituted a majority in only one.

The county used a modified at-large system to elect members to the Board of Commissioners. There were five residency districts within the county and the candidate that won the most votes in each residency district compared to other candidates in the same residency district was elected. Voters were permitted, however, to vote for any candidate, regardless of where they lived. African Americans ran for board seats in nine elections since 1972 and were elected three times but, since 1982, no African American had been elected to the board. African Americans brought suit alleging the method of election diluted minority voting in violation of the Voting Rights Act.

The district court granted summary judgment to the county, holding that voters failed to show a dilution claim because they could not show the minority population was sufficiently large and geographically compact to constitute a majority in a single-member district. Because minority voters were unable to show the potential to elect representatives in the absence of the existing voting structure, they could not show injury resulting from the election system. The court could not approve the plaintiffs' alternative proposals for voting districts because they would create districts that deviated in size by greater than 10 percent, which would be unacceptable absent a showing of dilution.

There are currently no African Americans on the county's five-member Board of Commissioners.

Haith v. Martin, 618 F. Supp. 410 (E.D.N.C. 1985)

In this action, a black registered voter of Guilford County successfully demonstrated the need for an injunction to stop state officials of North Carolina from implementing changes to the procedure of electing Superior Court judges because the changes, including staggered voting which might dilute black voter strength, had not been precleared pursuant to Section 5 of the Voting Rights Act.

In 1964, North Carolina had 30 judicial districts, 28 of which were served by one judge each, with the remaining two served by two judges. All judges were elected simultaneously for eight-year terms. Candidates for the office of Superior Court judge in judicial districts with more than one judge were not required to announce for which vacancy they were filing and neither district had staggered terms for the judges.

In 1965, the North Carolina Assembly passed an act that established a system of numbered seat elections for the position of Superior Court judge in districts with two or more vacancies. In 1967, the General Assembly then enacted legislation which provided for an additional resident judge in the 12th, 18th, 19th, and 28th districts to serve eight-year staggered terms from the positions already in existence in those districts. In 1977, the General Assembly passed legislation providing for an additional resident judge in the 3rd, 10th, 12th, 14th, 19th, and 20th judicial districts to serve eight-year terms staggered from the positions already in existence in those districts. In 1977, the General Assembly also created judicial districts 15A and 15B out of former district 15, judicial districts 19A and 19B out of former district 19, and judicial districts 27A and 27B out of former district 27. In 1983, the General Assembly enacted passed a law that provided for additional judges in judicial districts 1, 9, 18 and 30.

Plaintiffs objected that in North Carolina, forty of the one hundred counties were subject to Section 5 of the Voting Rights Act, meaning changes to voting procedures in those counties, should have required preclearance by the attorney general. Defendants admitted that the 1977 laws and 1983 laws were not precleared, but contended that the 1965 and 1967 laws were precleared because they were included in later enactments of the General Assembly that were submitted to the attorney general. Defendants also argued that Section 5 was not intended to apply to judicial elections.

The court granted the plaintiffs injunctive relief. The court found that the Voting Rights Act governed changes to election of judges because its plain language stated that it applied to all voting, without limitation to the object of the vote. The court then found that the sections of law that the defendants claimed to have submitted were not precleared. The changed sections could not be put into effect without approval of the attorney general.

The decision was affirmed by the U.S. Supreme Court in *Martin v. Haith,* 477 U.S. 901, (1986).

Hall v. Kennedy, 3:88-cv-00117 (E.D.N.C. 1989)

Black voters brought action under Section 2 of the Voting Rights Act opposing the at-large method of electing the Clinton City Council and Clinton City Board of Education, arguing the system denied them the opportunity to elect candidates of their choice.

Under the existing system, the city council consisted of a mayor and four council members. The mayor was elected at-large for a two-year term. City Council members

were also elected at-large, but for four-year terms and the elections were staggered. At the time of the suit, 38 percent of the population of Clinton was black. Since 1973, black candidates had run at least eight times for city council, but had been elected only two times. The same individual had been elected both of those times and he had since been defeated for reelection. The court found that if the case were tried, it would find from the evidence that the method of election had the effect of denying black voters an equal opportunity to elect candidates of their choice. However, to avoid the costs of litigation, plaintiffs and the Clinton City Council agreed to a consent decree. Under the new system, the council is composed of a mayor and five council members. The mayor is elected at-large every two years. The council members are elected from five districts and only voters residing in the district may vote for a council member from that district. The council members serve staggered four-year terms. Two members of the current Clinton City Council are black.

A consent decree was also entered to resolve the suit against the Board of Education. At the time of the suit, the Board of Education consisted of five members, three elected at-large for four-year staggered terms and the other two appointed by the three elected members for four-year terms. Black citizens constituted 36 percent of the school administrative unit. Since the system of election was instituted in 1976, black candidates had run for election at least five times in the seven elections, but were elected only twice. The court again found that if the case were tried, it would find from the evidence that the at-large method of election had the effect of denying black voters an equal opportunity to elect candidates of their choice. The parties entered a consent decree imposing a new system of elections. Under the new system, the school board consists of six members elected for four-year terms. The elections are staggered so that three members are elected every two years. In each election, all three members are listed on a single ballot and each voter can only vote for one candidate. Two members of the current Board of Education are black.

Harry v. Bladen County, 1989 WL 253428 (E.D.N.C. 1989)

Black citizens of Bladen County filed action pursuant to Section 2 of the Voting Rights Act, challenging the method of electing members to the county Board of Commissioners.

The plaintiffs initially urged members of the county government to change the at-large system of election commissioners because it diluted minority voting strength. When they were unsuccessful in garnering change, they contacted legal services attorneys who agreed to represent them. In 1986, the Bladen County Board of Commissioners voted to appoint a committee to study the plaintiffs' concerns and determine if a change was needed and if so, recommend specific changes. A black citizens group determined that a five-district plan with two black majority districts could be drawn. They presented the plan to the committee and the committee reached a compromise agreement in 1987. It recommended a plan with five single-member districts (two minority) and one at-large seat to the board. The board then retained counsel to review alternative plans, interviewed other citizens, collected further data and held hearings. In April, 1987, the board decided

against the committee recommendation and adopted a plan composed of three two-member districts (one minority) and one at-large seat.

Black citizens opposed this plan because two white incumbents lived in the black district and only one of the seats in that district would be available in the 1988 election. The board decided to proceed with the plan. The county could not unilaterally change the election method without a referendum so the commissioners attempted to have the state General Assembly enact the proposal. When this failed, the county succeeded in obtaining authorization from the General Assembly to make the change by itself. The commissioners adopted the plan and applied for Section 5 preclearance. The defendants also sought to dismiss this pending Section 2 action. The court stayed action on this motion pending the Section 5 preclearance determination.

The attorney general did not approve the board plan because it appeared "the board had taken extraordinary measures to minimize minority voting strength." County officials then brought suit in the District of Columbia seeking Section 5 approval and moved to stay discovery in the Section 2 action. The plaintiffs did not want to dismiss the Section 2 suit objecting to the still-existing at-large system because if they did so, the 1988 election could proceed under that system. The D.C. District Court set a hearing date for plaintiffs' motion for interim relief. On the morning of the set hearing, the parties reached a settlement changing the election system. The new system would elect two members from each of three districts and three at-large members. The at-large seats would be elected by a plurality win method, in which voter could vote for only one candidate. The majority black district was modified so that one white incumbent would not run and the other agreed to run for an at-large seat, making both seats available. Under the new plan, black citizens would have a realistic opportunity to elect three of nine seats.

Once the consent order was entered, the court was still charged with determining whether to award attorneys' fees, costs, and expenses. Defendants argued that because the old system was never officially declared unlawful, plaintiffs were not a prevailing party. The court found, however, that plaintiffs succeeded in achieving a system that would give black citizens fair representation in the 1988 elections and without filing this action, that result could not have been achieved. Plaintiffs were, therefore, the prevailing party and entitled to reasonable attorneys' fees and costs.

Haskins v. County of Wilson, 82-19-CIV-9 (E.D.N.C. 1985)

The federal court held under Section 2 that the at-large method of electing the Wilson County Board of Commissioners denied black citizens an opportunity to participate in the political process and elect candidates of their choice. In response, Wilson applied for preclearance of an election system with two multi-member districts. The Department of Justice agreed that the proposed plan was better than the at-large system, but could not agree that it was adopted without a discriminatory purpose. Of the two districts created, one would elect five representatives and was 76 percent white. The other would elect two representatives and was 67 percent black. Nearly half of the county's black population

was placed in the larger white-majority district. The attorney general refused preclearance.

The county has since adopted a system with seven districts that each elect one commissioner. There are currently three black members of the board.

Hines v. Ahoskie, 998 F.2d 1266 (4th Cir. 1993)

Plaintiffs Edna Hines and several other black citizens, challenged the town's at-large election system. Ahoskie is a small town in Hertford County. At the time of suit, the town was 50.5 percent black and town's voting age population was 45.6 percent black. plaintiffs challenged the existing election system in which the town elected its mayor and five town council members through at-large elections. Ahoskie had a history of racially polarized voting – an average of 93 percent of blacks voted for black candidates and 93.4 percent of whites voted for white candidates. Throughout the history of Ahoskie, seven black candidates had run for Town Council, but only two were elected.

Hines originally filed suit in November, 1989 challenging the at-large system for impermissibly diluting black voting strength. Hines was successful in her claim in that in response, the town stipulated that the existing system impermissibly diluted black voting strength in violation of Section 2. Accordingly, the town devised a new election plan that would divide the town into two districts, one majority black and one majority white. Two Town Council members would be elected from each district by plurality vote within the district. The plan also provided for a fifth member to be elected at-large. The district court in 1991 determined the plan required preclearance and submitted it to the attorney general, who gave preclearance. The town then requested the district court approve its plan by granting summary judgment.

Plaintiffs opposed the town's motion for summary judgment, arguing the town plan still diluted minority voting due to the at-large seat. Plaintiffs presented two alternative elections plans, one that involved division of Ahoskie into three districts and a second that proposed five single-member districts. The district court held hearings and, after reviewing the evidence, found the at-large election of the fifth Town Council member, which Ahoskie originally proposed, to be "problematic" and not a complete remedy as required by the Voting Rights Act. The district court decided it would be best to retain the two districts created under the town plan, but eliminate the fifth council position.

On appeal, the Fourth Circuit overturned the lower court decision not to implement the 2-2-1 plan proposed by the town. The court found that the district court should have deferred to Ahoskie's chosen size for the Town Council because there was not evidence that the solution was chosen in order to diffuse black voting strength and that the plan was adequate to provide black voters with the maximum opportunity to elect representatives of their choice. Though evidence from hearings indicated the best solution might be to have a fifth district composed of a "swing vote," the small population of Ahoskie made the creation of such a district impossible. Since that solution was not possible, the court was required to accept Ahoskie's proposal, which was the next best

alternative to guarantee both racial groups could elect representatives of their choice. The court recognized that the new system could still prevent blacks from sometimes electing the candidate of their choice, but found that it a complete remedy under the Act. The court found that the alternative plans provided by Hines would provide minority voters with overproportional representation and the since the only justification for such a plan would be racial concerns, it would potentially violate the equal protection rights of white voters. Though plaintiffs did not win implementation of their preferred plan, they were successful in proving dilution and changing the at-large system.

Holmes v. Lenoir County Board of Education, 86-120-CIV-4 (E.D.N.C. 1988)

Plaintiffs filed action under Section 2 of the Voting Rights Act alleging that the method of electing the Lenoir County Board of Education denied minority citizens an equal opportunity to elect candidates of their choice. Under the existing system, the board consisted of five members elected at-large in partisan elections for staggered, four-year terms. At the time of the suit, over 39 percent of the population of Lenoir County was black.

The parties entered a consent decree that changed the method of election. Under the new system, the board is composed of seven members elected in partisan, at-large elections. The increased size of the board aimed to give minority voters a greater opportunity to elect candidates of their choice. Immediately following the suit, the consent decree ordered that the two new seats should be filled by representatives of the minority community until new elections could be held.

Johnson v. Halifax County, 594 F. Supp. 161 (1984 E.D.N.C.)

The United States and nineteen registered black voters successfully filed suit seeking preliminary injunction regarding elections for Halifax County Board of Commissioners. Both the United States and individual plaintiffs alleged the at-large method of election violated Section 2 of the Voting Rights Act and the Constitution, and the United States alleged that Halifax County failed to obtain preclearance of two components of its election method in violation of Section 5 of the Voting Rights Act.

Halifax is a predominantly rural county in northeastern North Carolina, with a 48.3 percent black population. In 1980, 44.1 percent of the voting age population of the county was black, and 34.6 percent of registered voters were black. The black voter registration rate was 50.8 percent, while the white voter registration rate was 77.3 percent. The county contained 12 townships, the largest of which was Roanoke Rapids. Roanoke Rapids was also the only township with a white population majority (79.4 percent). In 1980, 60 percent of whites in Halifax County lived in Roanoke Rapids, while 85 percent of the county's blacks lived in the other eleven townships.

The voters of Halifax County had not elected a black candidate to the Board of Commissioners during the 20th century. Factual findings in previous suits had determined that Halifax County election officials had a history of engaging in "a course

of conduct which discriminatorily deprives Negroes of Halifax County, North Carolina, of an opportunity to register to vote." *Alston v. Butts*, C.A. No. 875 (E.D.N.C. Temporary Restraining Order, May 8, 1964). As late as 1980, there were only 10 blacks (8.9 percent) of the 112 election officials in Halifax County. This court, and previous courts, found evidence of racial segregation and a general lack of opportunity for black residents of Halifax County in areas such as education and employment.

Members of the Board of Commissioners were nominated and elected on an at-large basis for two-year, concurrent terms from 1898 through 1944. In 1944, the county was divided into five districts based upon township lines. Each district nominated a commissioner, and general elections were still held on an at-large basis. At this time in history, nomination by the Democratic Party virtually assured election. After 1960, the county reverted to at-large nomination and election (in 1960, voters chose this system and they were not given the option of retaining the district nomination system that had been in effect since 1944, they could only choose between an at-large system with or without residence districts). Since 1960, the county had nominated and elected commissioners on an at-large basis, with at least one commissioner from each of the 5 residency districts. In 1968, terms of county commissioners were staggered and increased from two to four years. Preclearance for this change was not obtained until May 16, 1984, but it was implemented in 1968.

In 1971, the state legislature readopted and expanded the at-large election system by adding a sixth commissioner who would reside in Roanoke Rapids Township but be nominated and elected on an at-large basis. This change was implemented in 1972 but did not receive preclearance before this suit was filed. On May 16, 1984, the attorney general interposed a timely objection to the 1971 law stating that even though the law was intended to remedy malaportionment, it was not clear why this alternative was selected over other options which would have enhance black voting strength. Also, the law was not submitted for a referendum as was done in the past.

The court granted plaintiffs a preliminary injunction to stop elections under the existing system, finding they would suffer irreparable harm if the injunction was not granted and that they would likely succeed on the merits. The court found that the totality of the circumstances "demonstrate that defendants' at-large county commissioner election system with residence districts deprives Halifax County's black citizens of an equal opportunity to participate in the political process and elect county commissioners of their choice." The court further noted, that "[t]here is evidence which supports the view that racial bloc voting in the eight contests between black and white candidates between 1968 and 1982 is persistent and severe." Halifax County's at-large election system with residence districts was also found to have several "enhancing" features that made it more difficult for blacks to elect county commissioners of their choice. The county was geographically large, the use of residency districts, which operated like numbered-post requirements, precluded single-shot voting, and a majority-vote requirement applied in primary elections. The overall circumstances showed the election system diluted voting strength, hindering effective minority participation.

Johnson v. Town of Benson, 88-240-CIV-5 (E.D.N.C. 1988)

An individual black voter brought suit on behalf of himself and similarly situated voters contending that the method of electing the Benson Board of Commissioners denied black voters equal opportunity to elect representatives of their choice. Prior to the suit, the board consisted of four members elected at-large for staggered four-year terms. Despite the fact that black citizens constituted 32.1 percent of the town's population according to the 1980 census, no black person had ever been elected to the Benson Board of Commissioners.

The parties entered a consent decree changing the method of election. In the new method, the board consists of six members. Three members are chosen at-large and one member is chosen from each of three districts. The elections are staggered so that the three at-large members are all elected in the same year and the three district members are elected two years later. Terms are four years. Since the change in voting, black candidates have had regular success in being elected to the board.

Kindley v. Bartlett, 5:05-cv-00177 (E.D.N.C. 2005)

The chairman of the Guilford County Republican Party filed suit requesting that the district court issue an injunction to stop the state Board of Elections from implementing a law enacted by the General Assembly that would permit the counting of out-of-precinct provisional ballots prior to receiving Section 5 preclearance. The plaintiff also brought other due process claims related to the 2004 elections.

A national law provided that voters whose wanted to vote but whose name did not appear on precinct lists could cast provisional ballots that would later be counted for federal candidates if it turns out that the voter is in fact registered in that jurisdiction. The remaining question was whether such ballots would count in state elections. North Carolina decided to adopt such a provision, but did not apply for preclearance. A procedure for counting such ballots was implemented in the 2004 election.

The court determined that all disputed legislation was, at the time of suit, before the Department of Justice and pending preclearance. The court further found that it was unlikely the plaintiff could succeed in his voting rights claim because there was no evidence the law would have the effect of denying the right to vote based on race or color. The court declined to enter an injunction.

Lake v. North Carolina State Board of Elections, 798 F. Supp. 1199 (M.D.N.C. 1992)

Plaintiffs, an election candidate for the Republican Party and two voters, brought suit pursuant to Section 5 of the Voting Rights Act and also alleged violations of due process, equal protection, and state laws. During the November 6, 1990 election, voting machines in certain precincts in Durham and Guilford counties were not working, causing representatives of the Democratic Party to move to superior court judges to extend the voting hours. The plaintiffs complained that the granting of those motions and other

errors should cause the court to declare the election results void. Specifically, the plaintiffs argued that the superior court judge orders were changes under Section 5 and were not properly precleared. Plaintiffs sought to enjoin defendants from certifying election results for associate justice of the North Carolina Supreme Court.

The court granted summary judgment for the defendants. Durham County was not covered by the Voting Rights Act. In Guilford County, extension of the hours did not require preclearance because it mirrored a previously precleared state statute that provided for extended hours. The court also accepted the defendants' argument that this change fit into an exception to Section 5 review for exigent circumstances. Further, because extending the hours was a neutral decision, it did not have potential for discrimination on the basis of race or color.

Lewis v. Alamance, 99 F.3d 600 (4th Cir. 1996) (*cert. denied*, 520 U.S. 1229, May 19, 1997)

Black voters challenged the at-large method of electing Alamance County Commissioners. The five members of the Board of Commissioners were elected at-large in partisan elections for four-year staggered terms. Voters could cast votes for as many candidates as there were vacant seats, but could not vote more than once for a single candidate. Since 1965, black candidates had run for seats in 8 of the 14 elections, but only one black candidate was elected, although he was elected three times. White candidates supported by a majority of black voters had also repeatedly won seats. After the plaintiffs presented evidence to the district court, the court found that they had failed to show that black-preferred candidates were usually defeated. Plaintiffs appealed.

On appeal plaintiffs made several arguments, including: 1) white candidates who received support from black voters in general elections should not have been considered black-preferred candidates because they only won support because they were Democrats; 2) the court erred in not discounting the repeated success of one minority-preferred candidate because of the effects of incumbency; 3) the court improperly aggregated primary and general election results; 4) the court improperly viewed success in the primary election as electoral success; and 5) the court erred in failing to conduct an individualized determination into whether some candidates should be treated as black-preferred candidates.

The Fourth Circuit affirmed the district court's grant of summary judgment to the county because plaintiffs were unable to prove that black-preferred candidates were usually defeated. However, the court agreed that the district court erred in aggregating the primary and general election results; in failing to conduct individualized determinations into whether some candidates should be treated as black-preferred candidates; and by basing its decision exclusively on data from elections in which a black candidate was on the ballot. With regard to the last error, the court found that the district court failed to analyze a sufficient number of elections to determine whether white bloc voting usually operated to defeat minority-preferred candidates. This was the only election data proffered by the plaintiffs, so the court did not have before it sufficient evidence to determine if black-preferred candidates were usually defeated. The court stated that by

"failing to consider evidence of elections in which no minority candidate appeared on the ballot, the district court, insofar as can be discerned, could have understated (or overstated) the extent to which minority-preferred candidates were usually defeated in Alamance County." The court did not reverse, in spite of these errors, because plaintiffs, who carried the burden of proof, did not show sufficient evidence of violations under the Voting Rights Act.

Circuit Judge Michael dissented, finding that since the passage of the Voting Rights Act, only one minority candidate had ever been elected to the board and that candidate was initially appointed, not elected. Judge Michael could not conclude with the majority that black voters had the same opportunity as white voters to elect their preferred candidate. Judge Michael found that plaintiffs presented adequate statistical evidence of general and primary election results since 1972 to withstand a motion for summary judgment and give rise to dispute over whether minority voting had been diluted.

Lewis v. Wayne County Board, 5:91-cv-00165 (E.D.N.C. 1992)

Plaintiffs brought suit against the county Board of Elections and school board alleging that the method of voting for school board members impermissibly diluted black voting strength. In 1990, Wayne County had 33,793 black residents, comprising 32.2 percent of the population, but minority voters had been unable to elect representatives of their choice under the at-large method of election.

Black voters brought suit to change the method of election and took a dismissal when they were successful in winning a change. Under the new system, the board consists of seven members, elected from districts to serve four-year terms. The superintendent is selected by the board and serves as the chief executive officer of the school system. With the new district system in place, there are currently two black representatives on the board.

McGhee v. Granville County, 860 F.2d 110 (4th Cir. 1988)

The action was brought in 1987 by black registered voters of Granville County against the county, the county Board of Commissioners, the county Board of Elections, and the County Supervisor of Elections. Plaintiffs complained the at-large method of electing the Granville County Board of Commissioners resulted in diluting minority voting strength and denied black community members the opportunity to elect board members of their choice.

At the time of the suit, the board consisted of five members that were elected at-large, but required to reside in particular residence districts. Each member was elected for a four-year term and the terms were staggered. Black citizens constituted 43.9 percent of the county's total population and 40.8 percent of the voting population, and 39.5 percent of the registered voters. No black individual had ever been elected to the board, despite having run for election.

The district court ordered minority voters and county officials to agree on a remedial plan but, when they failed to agree on a remedy, the county submitted a proposed remedial plan. The proposed plan was a single-member district plan containing seven districts with members serving staggered terms. Plaintiffs opposed the plan because it would not provide black citizens a chance to elect a number of commissioners commensurate with their portion of the population and their voting strength. Plaintiffs favored a limited voting plan, which would provide for concurrent county-wide elections, with voters allowed to select up to three candidates. The district court rejected the county plan because it did not remedy the dilution of black voting strength and, instead, ordered a modified plan based upon "limited voting" in at-large elections. After the district court's plan was implemented, a primary election was held and black candidates won nomination for three seats. This appeal followed.

On appeal, the Fourth Circuit reversed the district court holding and remanded for implementation of the county's proposed remedial plan. The court did not reject the lower court's finding of facts with regard to the existing voter dilution or the difficulties faced by black voters in electing a candidate of their choice. Rather, the court found that the district court erred in not accepting the county's plan as a complete remedy because the plan was legally adequate. The district court was given the option of either canceling the primary results and enjoining the general election, and keeping the board members elected under the district court's plan in place until a special primary and general election could take place or permitting the general election and allowing members elected under the district court's plan to serve until successors were elected in a new primary and general election following the county plan.

Montgomery County Branch of the N.A.A.C.P. v. Montgomery County Board of Elections, 3:90-cv-00027 (M.D.N.C. 1990)

The NAACP and individual black voters filed suit in 1990 arguing that the at-large method of electing the county Board of Commissioners violated Section 2 of the Voting Rights Act. The board consisted of five members elected at-large. Candidates for four of the five seats were required to live in residency districts and the candidate for the fifth seat could live anywhere in the county. Black citizens constituted 24.6 percent of the county's population. Black candidates ran for seats eight times since 1976, but none had ever been nominated or elected and no black candidate was known to have been elected before that date either.

The parties entered a consent decree. The consent decree modified the method of electing Montgomery County Board of Commissioners, providing for four members to be elected from three districts (one district would elect two commissioners from different sub-district residency areas) and a fifth member to be elected at-large. Under the new system, plaintiffs agreed that black voters would finally have an opportunity to elect representatives of their choice.

In 2001, the case was reopened when the Board of Commissioners applied to the court for relief from the consent decree. Over the plaintiffs' objections, the court agreed in

2003 to modify the 1990 Consent Decree. Under the modified plan, the board consists of four members to each serve terms of four years, except for one transitional term for District 3. Since 2004, two commissioners have been elected at-large and one commissioner elected from each of three districts. To be an eligible candidate from a district, the candidate must live in the district, but at-large members can reside anywhere in the county. Elections are staggered with district representatives elected simultaneously and at-large members elected simultaneously.

The case was then placed on inactive status where it will remain for five years and be dismissed if, at that point, no party has sought to reopen it or alter the method of election.

Moore v. Beaufort County, 936 F.2d 159 (4th Cir. 1991)

Black voters filed suit under Section 2 of the Voting Rights Act against the county and Board of Commissioners, claiming the county's system of at-large elections denied black voters the opportunity to elect candidates of their choice. Plaintiffs provided evidence that although approximately 30 percent of the residents of Beaufort County were black, no black candidate had been elected to the Board of County Commissioners for at least 30 years. Plaintiffs blamed the at-large election system. The parties entered a settlement, but the board refused to honor the agreement. The U.S. District Court for Eastern North Carolina granted black voters' motion to enforce the settlement. This appeal followed.

In 1989, the county and the plaintiffs entered settlement negotiations based on a limited voting plan. Under such a plan, voters would be limited in the number of votes they could cast. For example, if several seats were up for election, each voter might only be able to vote for a single candidate, allowing minorities to rally around a candidate. In April, 1989, the board agreed to settle the suit by accepting limited voting and instructed their attorney to negotiate the details with the plaintiffs. The attorney, Mr. Crowell, informed the plaintiffs' attorney that the board was willing to adopt a new election plan that would enable black voters to better elect a candidate of their choice and commence a new election method in 1990. Plaintiffs accepted the offer to settle.

After this negotiation, however, when the completed agreement documents were presented to the board at a regularly scheduled board meeting, the board was dissatisfied with the wording of the documents and specifically concerned that the documents would expose them to liability for attorney's fees. While the board was attempting to have the documents reworded, it learned of public opposition to limited voting and, during a meeting, voted to reject the settlement. The board then refused to honor the settlement it had reached with plaintiffs.

The Fourth Circuit upheld the district court's ruling that the settlement must be honored. The court found that the parties intended to settle the litigation. There was an offer to settle that was accepted by the plaintiffs. Mr. Crowell was acting within his authority from the board to settle the case and he was empowered to bind the board to the settlement. The court found that the settlement should be enforced and remanded to the

district court for submission to the Justice Department for preclearance in accordance with Section 5 of the Voting Rights Act.

N.A.A.C.P. of Stanley County v. City of Albemarle, 4:87-cv-00468-RCE (M.D.N.C. 1988)

Individual voters and the Stanley County branch of the NAACP brought suit to challenge the at-large method of electing City Council members. The black community in Albemarle constituted over 17 percent of the population, and had strong voter turnout. In spite of this, the at-large method of voting prevented black voters from electing a candidate of their choice. When black voters appealed to the City Council for relief, some members were supportive, but not a sufficient number to force change.

Voters filed suit to challenge the system. The plaintiffs attempted to convince the court to issue a preliminary injunction to halt the upcoming election, but were unsuccessful. Despite this failure, the election worked to the plaintiffs' advantage when the remaining City Council members who opposed changing the system lost their seats. The newly elected members joined the previous members who had agreed to change voting procedure and the North Carolina General Assembly passed legislation implementing change. Plaintiffs then agreed to dismiss the suit.

Under the new system, there are seven members of the City Council. Three are elected at-large and four are elected by district. With election by district, black voters, who live in fairly compact communities, were able to elect a black member to the city council and have continued to have regular success in electing a candidate of their choice. The Albemarle City Council currently has one black member.

N.A.A.C.P. v. Anson County Board of Education, 1990 WL 123822 (W.D.N.C. 1990)

Individual black voters and the NAACP challenged the method and form of election to the county Board of Education under Section 2 of the Voting Rights Act and constitutional provisions. The plaintiffs alleged the method of electing members to the board for staggered terms diluted minority voting strength, had the purpose and effect of discriminating against black citizens and deprived black citizens of their constitutional rights. Plaintiffs argued for an at-large election without staggered terms. From 1984 to the time of suit, the board of Education consisted of seven white members and two black members.

During the suit, the state House passed House Bill 670. On November 15, 1989, the court entered a consent order that enjoined and restrained defendants from using its previous method of electing members to the Board of Education and ordered them to use the method in Bill 670, unless it did not achieve preclearance. The new system would elect nine members to the board of Education for a term of four years. Seven members of the board would be elected by voters from their specific voting district and two members would be elected at-large. Elections would be staggered and a candidate for an at-large seat needed 40 percent plurality to win. The plaintiffs claimed the staggered terms of the new voting procedure would unlawfully dilute minority voting rights. They presented

evidence to show segregation was ingrained in the culture of Anson County and that the county showed a pattern of polarized voting, socioeconomic differences between whites and blacks and cohesive voting among blacks.

The court concluded that the plaintiffs had not adequately shown that election by staggered terms would dilute minority voting. However, because the DOJ did not preclear the plan, leaving the county without a method of electing members to the board of Education, the court told defendants they must either submit a modification of the plan to DOJ or seek declaratory judgment of the U.S. District Court for the District of Columbia that the plan was, in fact, acceptable.

N.A.A.C.P. v. Caswell County Board, 2:86-cv-00708 (M.D.N.C. 1989)

Individual black voters and the NAACP brought suit alleging that the method of electing the Caswell County Board of Commissioners and the School board denied minority voters the equal opportunity to elect representatives of their choice. At the time of the suit, roughly 40.8 percent of the population of Caswell County was black and the black population had a high rate of voter turnout, but the at-large method of election prevented voters from being able to elect minority preferred candidates.

The suit was terminated when the parties were able to agree to a new method of election from districts. Since the suit, black candidates have had more regular success in being elected to both boards.

N.A.A.C.P. v. City of Statesville, 606 F. Supp 569 (W.D.N.C. 1985)

By consent order entered separately the same day of this decision, the parties resolved the major issues of the case. The plaintiffs succeeding in having the at-large method of electing members of the City Council for the city of Statesville declared a violation of Section 2. To remedy the problematic voting system, the parties reached a settlement, creating a new City Council composed of members representing a combination of single districts (wards) and the city at-large. Two of the wards were designed to contain a black majority voting age population. Candidates for ward seats were elected in staggered elections. The issue for the court to decide was the "least dilutive or discriminatory method and term for electing the two at-large members to the City Council."

The court held an evidentiary hearing to evaluate the remaining question, which was whether staggered terms or election as a group for the at-large seats would be least dilutive or discriminatory. The city advocated staggered terms, while plaintiffs favored a system where more than one candidate was elected at a time so that black voters would have a greater chance of having a candidate of their choice elected. The plaintiffs argued that with staggered terms, where only one person was elected at a time, the white majority electorate could always out-vote the black electorate. Plaintiffs also favored longer terms so that candidates with fewer resources would not be required to stand for reelection so often. The court found that while it could not guarantee the success of either plan, the group method of electing advocated by the NAACP was the least dilutive and

discriminatory and that elections every four years would be less demanding of resources scarce in the black community.

N.A.A.C.P. v. City of Thomasville, 4:86-cv-00291 (M.D.N.C. 1987)

Two black voters and the NAACP brought suit challenging the method of election of the City Council of Thomasville. The City Council consisted of five members and a mayor, all of whom were elected at-large. Four of the five council members were required to live in wards, but they were elected by the city at-large. Under the at-large system, in spite of having run for office several times, black candidates had never been elected to the council. Plaintiffs successfully showed that the system operated to dilute minority voting strength in violation of Section 2 of the Voting Rights Act.

With the consent of the parties, the court ordered that the City Council be expanded to eight members (a mayor and seven council members). Two council members would be elected at-large every two years and the remaining five members would be elected by wards every four years for staggered terms. One of the wards would have a majority-minority population. With the new system in place, minority voters were able to consistently elect a representative of their choice in the minority ward.

The case was reopened in 2003 when voters of Thomasville voted to change the method of voting to reinstate the at-large method of electing all members. In response, black voters filed a motion for preliminary injunction asking the court to halt implementation of the new method of voting. The court granted the preliminary injunction. An election was then held using the combination ward/at-large method adopted in the 1987 consent decree. In 2004, the town then filed a motion for relief from the consent decree.

After hearing evidence and over the objections of black voters, the court vacated the 1987 judgment. The plaintiffs showed evidence that the ward system had consistently given black voters the opportunity to elect a candidate of their choice in Ward 3. In spite of this important improvement, the court determined that because the at-large seats had also been won by individuals who appeared to be minority-preferred candidates, the judgment was no longer necessary. The court also concluded that the new at-large system would not be as problematic as the one existing prior to 1987 because it did not impose residency requirements or staggered terms.

N.A.A.C.P. v. Duplin County, 88-5-CIV-7 (E.D.N.C. 1988)

Black voters and the NAACP brought suit under Section 2 of the Voting Rights Act opposing the method of electing the Duplin County Board of Commissioners and the Board of Education. Under the existing elections system, both boards consisted of five members nominated in primaries held in districts and elected at-large countywide. The members of both boards served four-year staggered terms. Recognizing that the system had the effect of denying black voters the opportunity to elect candidates of their choice, the parties entered a consent decree. At the time of suit, roughly 33 percent of the county population was black.

Under the new system, both boards consist of six members elected from six districts and only voters who reside in a district may vote in the party primaries and general election for that district. Since the change to the election system, black candidates have had greater success and black commissioners currently represent Districts five and six on the board.

N.A.A.C.P. v. Elizabeth City, 83-39-CIV-2 (E.D.N.C. 1984)

The NAACP brought suit under Section 2 opposing the at-large method of election, which prevented black voters from electing candidates of their choice. During the course of the suit, the parties agreed to a consent decree that would involve the creation of districts for voting. In spite of this agreement, the city proceeded to select a method of election with four single-member districts and four at-large seats with residency requirements.

When the city applied for preclearance pursuant to Section 5, the attorney general interposed objection finding that by maintaining the four at-large seats, the system chosen would unnecessarily limit the potential for black voters to elect representatives. The proposed system still contained the discriminatory features of the pure at-large system. The city was unable to show that the 4-4 system was adopted without the purpose of denying or abridging the right to vote on account of race. The city has since adopted a ward system. The city is divided into four wards that each elect two representatives. Four of the members of the current City Council are black.

N.A.A.C.P. v. Forsyth County, 6:86-cv-00803-EAG-RAE (M.D.N.C. 1988)

Black voters filed suit against the county Board of Commissioners and the school board to change the method of elections from an at-large system that diluted minority voting strength. The population of Forsyth County was almost 25 percent black, but the system of election prevented minority voters from electing representatives of their choice. During the course of the suit, the parties agreed to a settlement that changed the method of voting from at-large to election by district.

Under the new system, the Board of Commissioners is composed of seven members elected in partisan elections. Six of the commissioners are elected from two multi-member districts and one is elected at-large. Board members serve four-year staggered terms. Minority candidates have had consistent success under this system and tow members of the current board are black.

N.A.A.C.P. v. Reidsville, 2:91-cv-00281-WLO-PTS (M.D.N.C. 1992)

The NAACP and individual plaintiffs filed suit to change the at-large method of electing City Council and county board members. The population of Reidsville was nearly 40 percent black, but only one black member had previously been elected to the seven-member council. While the suit was progressing, the city was in the process of an

annexation. Outlying areas to be annexed also opposed the at-large method of electing members because it favored entrenched council members who were potentially less responsive to the newly annexed communities.

Black voters and voters to be annexed formed an alliance favoring election by district that would allow them to elect City Council members and county board members that represented their compact communities. In response to this united front, the City agreed to a new voting system. The current City Council is composed of seven members serving four-year terms. There are two districts that each elect two members, two members elected at-large, and a mayor elected at-large. Since the change in the voting system, black candidates have had consistent success and there are currently two black members on the City Council.

N.A.A.C.P. v. Richmond County, 3:87-cv-00484 (M.D.N.C. 1988)

Plaintiffs brought action opposing the method of electing the Richmond County board of Education. The board of Education consisted of five members elected at-large in nonpartisan elections subject to majority-vote and run-off requirements. Candidates for four of the five seats were required to reside in districts, but candidates for the fifth seat could reside anywhere in the county. Candidates served four-year terms and were elected in staggered elections with two elected in a given year and three elected two years later.

Black citizens constituted 26.7 percent of the Richmond County population according to the 1980 census, but no black person had been elected to the board of Education under the existing method of election. Under a previous method of election, which did not use residency districts and more seats were elected in each election, black candidates were elected to the board in 1972, 1980, and 1982.

A consent decree was adopted changing the method of election in order to allow black voters of Richmond County the equal opportunity to elect candidates of their choice. Following the 1990 election, the board would consist of seven members elected at-large. In each election, all candidates would be listed together on a ballot and each voter could vote for as many candidates as there were seats being filled in that election. The candidates with the highest number of votes would be elected with no run-off elections. The elections would be staggered so that four members would be elected in a given year and three members elected two years later. Candidates would serve four-year terms. There is currently one black member on the board.

N.A.A.C.P. v. Roanoke Rapids, 2:91-cv-00036-BO (E.D.N.C. 1992)

Individual black voters and the NAACP filed suit pursuant to Section 2 of the Voting Rights Act against the city of Roanoke Rapids and the Halifax County Board of Elections challenging the method of election of the City Council of Roanoke Rapids. At the time of the suit, the Roanoke Rapids City Council consisted of four members elected at-large for four-year terms. Elections were staggered, with two council members elected every two

years. The mayor was elected in a separate at-large election. Approximately 17 percent of the population of Roanoke Rapids was black.

During the course of the suit, the parties entered a consent decree changing the method of election. Under the new system, five council members are elected from three districts. Districts 1 and 2 each elect two members and District 3 elects one. The mayor is still elected in a separate at-large election. Under the new system, black candidates have had more regular success and there is currently one black member of the council.

N.A.A.C.P. v. Rowan Board of Education, 4:91-cv-00293-FWB-RAE (M.D.N.C. 1994)

Plaintiffs filed suit to change the method of electing members to the Rowan County Board of Education. The previous method was at-large election. Under the at-large system, black voters had been unsuccessful in electing members to the board. Black residents of Rowan County constituted 16 percent of the population and lived in highly compact communities, primarily in Salisbury.

The school district was divided into attendance zones. The plaintiffs wanted election districts that would match the attendance zones so that black voters would have the opportunity to elect members to the board of Education that were representative of the attendance zones. Because the black population of Rowan County was highly concentrated, election by districts matching the attendance zones would provide black voters with a realistic opportunity to elect at least one representative of their choice.

The case ended when the court entered a consent decree that changed the method of election. Consistent with Chapter 890 of the 1987 Session Laws of the General Assembly, candidates would be elected by districts matching attendance districts. Under the changed system, black voters were able to successful elect representatives to the board. Some problems arose during 2004 when the county sought to redraw attendance zones, but the issues were resolved without changing election districts.

N.A.A.C.P. v. Winston-Salem/Forsyth County Bd. Of Educ., 1992 U.S. App. LEXIS 6221 (4th Cir. 1992)

Four black registered voters of Forsyth County, North Carolina and the Winston-Salem Branch of the NAACP alleged the voting system - electing at-large members to the nine-member Winston-Salem/Forsyth County Board of Education with staggered terms - deprived black citizens of representation. Beginning in January, 1990, the NAACP branch and other citizens requested the board of Education to adopt a district system of electing members, but the board consistently tabled the motions. A research committee was then appointed by the board to study the problem and agreed that the board should abandon the at-large method of electing members. The plaintiffs filed suit in 1991 and while the suit was pending, the state legislature passed a compromise bill to address the plaintiffs' concerns about the negative impact of staggered elections. The state legislature's bill changed the election system to provide simultaneous election of board members by district.

The question in this appeal was whether the district court had properly dismissed the plaintiffs' suit without naming the plaintiffs as the prevailing party after the legislative changes. Plaintiffs sought to be named the prevailing party so that they would be able to obtain attorneys' fees. The court affirmed the district court holding that the plaintiffs could not be declared the prevailing party because the defendants had not acted to end the suit and give plaintiffs relief, and the defendants continued to argue for affirmative defenses.

Pitt County Concerned Citizens for Justice v. Pitt County, 87-129-CIV-4 (E.D.N.C. 1988)

Plaintiffs filed suit, pursuant to Section 2 of the Voting Rights Act objecting to the method of electing the Pitt County Board of Commissioners. Under the existing method, the board consisted of six members elected at-large, but required to live in residency districts. The members served four-year staggered terms.

In 1987, at the request of the board, the state General Assembly enacted a new method of electing the board. The new bill provided for a nine-member board. Six members would be elected from districts and three at-large. The change was submitted for preclearance, but no response had been received at the time of filing. After filing, the attorney general objected to the change so it could not be implemented.

The parties entered a consent decree to change the method of election because it did not provide equal opportunity for black voters to elect representatives of their choice. At the time of suit, the population of Pitt County was roughly 33 percent. Under the new system, the board consists of nine members. One member is elected from each of six districts and only voters residing in a district may vote for that seat. One member is then elected from three consolidated districts. Districts 1 and 2 are combined to form Consolidated District A, Districts 3 and 6 are combined to form Consolidated District B, and Districts 4 and 5 are combined to form Consolidated District C. Terms are four years. Black representatives currently hold seats on the board for District 1 and Consolidated District A.

Porter v. Steward, 5:88-cv-00950 (E.D.N.C. 2003)

In 1988, the plaintiffs instituted this suit to challenge the at-large method of electing members to the Harnett County Board of Commissioners and Board of Education. Plaintiffs argued that the at-large method of election prevented black voters from electing representatives of their choice. Black candidates had run for election to both boards, but no black candidate had ever been elected to either board.

After negotiation, the parties reached an agreement in 1989 to change the method of election. The county was divided into five single-member districts that would each elect one member and only voters residing in the particular district could cast votes in that district. The districts were drawn based on the 1980 Census data. Under the new plan, District 1 was established with a black majority. In the 1990 election immediately

following the suit, District 1 successfully elected a black candidate to the Board of Commissioners and to the board of Education.

After the release of 1990 Census data, the defendants filed an action to modify the previous consent order plan so that districts could be changed slightly due to population shifts. The plaintiffs did not oppose.

When the census was released in 2000, the board again sought to change the districts. The census showed that 22.5 percent of the population of Harnett County was black. It also showed that the five districts that had been drawn deviated greatly. The population deviation between District 2 and District 5, for example, was over 57 percent. The Board of Commissioners hired a consultant who designed four plans for redistricting. The board initially selected Option 4, which was submitted to the Department of Justice, but not approved because it would not preserve minority voting strength. The board then considered several other plans.

In 2002, the Harnett County Board of Commissioners approved a new set of modifications to the five-member district plan and in 2003, the attorney general approved the plan. The new plan proposed to equalize the voting districts, while still providing one majority-minority district, meaning it would not reduce black voters' opportunity to elect a candidate of their choice. The court approved the plan in August 2003. The continued participation of the district court in Harnett County voting procedures has allowed black voters to preserve the gains they made in the initial suit and continue to elect a representative of their choice.

Republican Party of North Carolina v. Martin, 980 F.2d 943 (4th Cir. 1992)

The Republican Party and others challenged state officials, alleging that the state election system of Superior Court judges on a statewide partisan ballot effectively disenfranchised minority party voters by diluting their strength, and that minority judges would have been elected in some districts if the elections were district-wide rather than statewide.

Since 1868, the Constitution of North Carolina had allowed the General Assembly to choose between statewide or district-wide popular elections to select Superior Court judges. In 1877, the General Assembly implemented the statewide election scheme and in 1915 that system was modified to include a requirement that candidates for the office be nominated through primaries. The primaries were held by local district, resulting in a system where voters nominated candidates for judgeships in local party primaries in each district and the successful primary candidates ran against each other in a general, statewide election. Judges were required to reside in the district in which they were elected, but the state constitution granted them statewide jurisdiction and permitted rotation from district to district within a judicial division, of which there were four.

During the mid-1980s, the North Carolina Association of Black Lawyers and others brought suit against Governor Martin, complaining the system of elections had the purpose and effect of abridging nonwhite voting strength in violation of the Voting

Rights Act and the Constitution. This litigation ended by a consent decree and upon adoption by the General Assembly of Chapter 509 of the North Carolina Session of Laws of 1987. See *Alexander v. Martin*, No., No. 86-1048-CIV-5 (E.D.N.C. Nov. 25, 1987). Chapter 509 eliminated staggered terms within multimember judicial districts and mandated the redrawing of judicial districts. See state *ex rel. Martin v. Preston*, 325 N.C. 438, 385 S.E.2d 473, 476-77 (N.C. 1989); N.C. Gen. Stat. § 7A-41 (setting forth superior court divisions and districts). As a result, the number of judicial districts increased from 34 to approximately 70. Unlike past configurations, the new district lines often split counties and some of the new districts consisted of parts of more than one county. Chapter 509 also set forth the requirement that all individuals seeking nomination for the position of superior court judge must, at the time of filing, reside in the district for which they seek election.

The Republican Party contended that judges did not, in fact, serve statewide because they rarely served outside the judicial division they were assigned to and judges held unique statutory powers within their own districts, to appoint the local defender, for example. They also questioned the validity of some of the new districts created in Chapter 509, alleging that sixteen of the new districts did not have a courthouse, a clerk of court, or any other official associated with the district except for the local superior court judge. The Republican Party argued that, from 1900 to 1987, only one Republican had been elected to a Superior Court judgeship (that position was later eliminated during redistricting) and that if elections had been conducted district-wide rather than statewide, four of ten Republican candidates for judgeships since 1968 would have won. The party claimed that Republicans cast a large number of votes, but the election system structurally diluted their votes and prevented election of candidates of their choice.

The defendants essentially argued that because Superior Court judges were not representative governmental officials, the issues presented to the court did not raise questions of fair representation on the part of the elected officials and did not, therefore, necessarily involve a justiciable political question. The district court dismissed the case. On appeal, the Fourth Circuit disagreed, finding there was a prima facie claim of voter dilution resulting from a defective election scheme and that manageable standards did exist for resolving the case. The court found that election of judges did implicate the goal of equal protection and issues of fair effective representation. It remanded for consideration of this claim, while dismissing other First Amendment claims.

Rowsom v. Tyrrell County Commissioners, 2:93-cv-00033 (E.D.N.C. 1994)

Black citizens of Tyrrell County brought suit pursuant to the Voting Rights Act, and the First, Thirteenth, Fourteenth, and Fifteenth Amendments contending that the method of electing the Tyrrell County Board of Commissioners and Board of Education denied black citizens an equal opportunity to elect candidates of their choice. Under the existing system, the Board of Commissioners consisted of five members elected at-large in staggered elections for four-year terms. The elections were partisan and preceded by primaries. The Board of Education also consisted of five members elected at-large for

staggered four-year terms, but those elections were nonpartisan and there were no primaries.

According to the 1990 census, black citizens constituted 40 percent of the county's population and 37 percent of the voting age population. Since 1984, however, black candidates ran for seats on the Board of Commissioners at least seven times and were elected only once. Since 1982, black candidates had run for positions on the board of Education at least nine times and were elected twice.

The court stated that if the case were tried, the plaintiffs could present evidence that would establish a plausible claim that the method of election had the effect of denying black citizens the equal opportunity to elect candidates of their choice. The parties entered a consent decree that changed the method of election. The parties agreed that while single-member district elections are generally favored to remedy voting rights cases, it would not be possible to do so in Tyrrell County because, among other concerns, the population was so sparse and districts would potentially divide communities with similar interests.

The system was changed, subject to preclearance. Under the new system, the Board of Commissioners consists of five members elected in partisan elections for staggered four-year terms. In the primary election, all candidates are listed on a single ballot, but voters may only vote for one candidate and the candidate with the most votes is the general election candidate, with no run-off held. In the general election, all candidates nominated by parties or otherwise qualified are listed on a single ballot and voters can vote for a single candidate. The two candidates receiving the most votes are elected and in the following election held two years later, the three candidates receiving the most votes are elected.

The method of electing members to the Board of Education was also changed. Five members are elected for staggered four-year terms in nonpartisan elections. All candidates are listed on a single ballot, but voters may only vote for one candidate. The candidates with the most votes are elected, with no run-offs.

Sample v. Jenkins, 5:02-cv-00383 (E.D.N.C. 2002)

A black registered voter of Cumberland County brought suit complaining that the voting changes resulting from the North Carolina Supreme Court holding in *Stephenson v. Bartlett* (No. 94PA02) were being implemented prior to preclearance. In *Stephenson*, Republican voters and state representatives brought suit alleging Democrats overseeing reapportionment of state voting were creating a reapportionment scheme that unfairly favored Democratic candidates. Much of their complaint was based on the argument that the potential plan would violate the whole county provision of the state constitution, a provision providing that no county could be divided in the formation of a Senate or House district. That case resulted in the postponement of primary elections because, according to the North Carolina Supreme Court, certain aspects of the reapportionment were unacceptable under the state constitution. The plaintiffs in the immediate suit

contended that the changes resulting from *Stephenson* were the most sweeping since the Voting Rights Act was enacted and needed preclearance.

The NAACP intervened in the suit. The NAACP had several concerns, among them that the cancellation of a runoff primary could have negative effects on African-American candidates by forcing candidates to run against each other in the general election, which would divide the black vote; and that the elimination of the primary election was not precleared. Cumberland County is covered by Section 5 and changes to voting there must be precleared prior to implementation. The plaintiffs argued the court order should not have been able to serve as a remedial plan absent preclearance. They sought an injunction to halt the court and state officials from implementation of these changes until preclearance was obtained.

Defendants moved to dismiss the suit when preclearance was obtained.

Sellars v. Lee County Board, 1:89-cv-00294 (M.D.N.C. 1992)

Black voters filed suit to change the at-large method of electing members to both the Lee County Board of Commissioners and the Sanford City Council. Claims against the county were dismissed. In 1989, the Lee County Board of Commissioners had already undergone a change in the system of election to increase black voters' opportunity to elect representatives of their choice. The 1989 resolution removed the previous method of electing five members at-large to staggered four-year terms, and in its place implemented a system that elects seven members, four from single-member districts and three at-large.

In the immediate suit, however, the plaintiffs were successful in having a change implemented to the system of electing the Sanford City Council. In 1990, the black population of Lee County was 22.7 percent of the population. More than half of the black population of Lee County lived in the city of Sanford. Almost 35 percent of the city of Sanford was black. However, black voters had been unable to elect representatives of their choice due to voter dilution.

As a result of the suit, the plaintiffs were able to garner a change in the method of election. The city of Sanford is now represented by a seven-member council. Five of the members are elected from wards and two at-large. Members serve four-year terms. As a result of the change to a ward system of voting, two of the current members of the city council are black.

Sewell v. Town of Smithfield, 5:89-cv-00360 (E.D.N.C. 1990)

Plaintiffs filed suit to change the method of election in the town of Smithfield, arguing that the at-large method of election impermissibly diluted black voter strength. In 1990, the town of Smithfield was 35 percent black but, due to the method of election, black voters had been unable to elect representatives of their choice. The case was closed when plaintiffs were able to successfully obtain a change in the method of election.

As a result of the suit, the town of Smithfield changed its method of election to a system that mixes at-large election and election by ward. Under the new system, seven members are elected to the council, four by district and three at-large, for four-year staggered terms. A mayor is selected at-large to serve every two years.

There is currently one black member of the City Council in Smithfield, which in 2000 had a population that was 31 percent black.

Speller v. Laurinburg, N.C., 3:93-cv-00365 (M.D.N.C. 1994)

Black voters brought suit opposing the at-large method of electing members to the Laurinburg City Council. In 1990, the population of Laurinburg was 45 percent black and other minority populations composed an additional almost 5 percent of the population. The method of election, however, served to dilute minority voting, leaving nearly half the population of the town unable to elect representatives of their choice.

The case resulted in a change of the method of electing City Council members. The new council is composed of five members and a mayor. Two districts each elect two representatives and the fifth member is elected at-large. The new system has enabled black voters to successfully elect representatives of their choice. Three of the current council members are black.

Thornburg v. Gingles, 478 U.S. 30 (1986)

The *Gingles* case was the first major test of the 1982 amendments to the Voting Rights Act.

The plaintiffs, individually and as representatives of a class of black citizens in North Carolina, filed suit on September 16, 1981, claiming that the state's redistricting plan diluted the vote of black citizens. The plaintiffs were specifically concerned about seven districts, one single-member and six multimember, which they believed would impair black voters' ability to elect representatives of their choice. The plaintiffs raised several arguments against the new plan, including: that the population disparities between the legislative districts violated the one-person, one-vote requirement; that multimember districts would dilute minority voting strength; and that the "whole county" provision of the state constitution prohibiting division of counties in drawing districts had not been precleared pursuant to Section 5. This action was consolidated with another case then pending, *Pugh v. Hunt*, No. 81-1066-CIV-5.

After the plaintiffs filed suit, the state submitted the 1968 "whole county" provision to the Department of Justice (DOJ) for preclearance. The DOJ interposed an objection on November 30. The DOJ followed this objection with subsequent letters objecting to the entire state reapportionment plan. In response, the state Senate and House developed new plans, but the DOJ again rejected those in April 1982. When the legislature reconvened to again adopt a new plan, it selected one that provided for black majority districts in some of the Section 5 covered counties. This plan was precleared. The state also modified its

reapportionment plan to better conform to the one-person, one-vote standard. The focus of the trial became seven specific districts where plaintiffs complained black voter strength was not adequately protected.

After the suit was filed, Congress enacted the 1982 amendments to the Voting Rights Act, which changed Section 2 to remove the requirement that plaintiffs show intent to discriminate as a necessary component of a voter dilution claim. Prior to these amendments, plaintiffs were required to show not only a discriminatory dilutive effect traceable to some aspect of the election system, but also a specific intent on the part of officials to create that effect. The *Gingles* case became the first major test of the amendments.

The district court made extensive factual findings about racial discrimination in the challenged districts and the ability of state legislators to develop plans that would have protected minority voting power. The court found that black citizens constituted a distinct population and registered voter minority in each. In each of the multimember districts, there were concentrations of black citizens within the boundaries that were sufficiently large and contiguous to constitute effective voting majorities in single-member districts lying wholly within the boundaries of the multimember districts. With respect to the challenged single-member district, the court found that it contained a concentration of black citizens within its boundaries and within those of an adjoining district sufficient in numbers and continuity to constitute an effective voting majority in a single-member district. Generally, the court found that in each of the challenged districts, there were sufficient minority populations so that black majority, single-member districts could have been drawn.

The court also made findings with regard to the history of voter discrimination in the challenged areas, including: 1) there was a clear history of voter discrimination in North Carolina; 2) there existed a history of segregation in North Carolina and the state's black population occupied a lower socioeconomic status; 3) voting procedures operated to lessen the opportunity of black voters to elect candidates of their choice; 4) white voters generally did not vote for black candidates; 5) black candidates had low rates of election; and 6) there was a persistence of severely racially polarized voting. Based on these factors and the problems with the new districting plans, the district court found for the plaintiffs.

The case was appealed to the Supreme Court, where the district court's findings were affirmed. In the majority opinion, Justice Brennan reviewed the Senate Judiciary Committee majority report that accompanied the Amendments to the Voting Rights Act. That report provided typical factors that might be probative of a Section 2 violation. Justice Brennan then laid out certain factors that were necessary for a showing of a Section 2 violation. These factors continue to guide Section 2 cases to this day. In the context of multimember election districts, those factors are: 1) the minority group must be able to show it is sufficiently large and compact to constitute a majority in a single-member district; 2) the minority group must be able to demonstrative political cohesiveness; and 3) the minority group must be able to demonstrate that the white majority votes in a bloc that would usually enable it to defeat the minority's preferred

candidate. The guarantee of an equal opportunity was not the guarantee that minority candidates would be elected, but rather that minority voters would at least have the opportunity to elect candidates of their choice. Moreover, the fact that some minority candidates had been elected in the challenged area did not foreclose a Section 2 claim.

The Supreme Court outlined how courts should evaluate minority vote dilution claims, including analyzing the presence of racially polarized voting, the presence of systems that operate to dilute minority voter strength, the percentage of minority registered voters, the size of the district and whether vote dilution persisted over more than one election. The Supreme Court affirmed the strength of the new Amendments by holding that intent is not a component of proving a Section 2 claim. With regard to the specific facts in *Gingles*, the court held that, with one exception, the redistricting plan violated Section 2 by impairing black voters' ability to participate in the political process and elect representatives of their choice.

The *Gingles* decision created a framework for courts to evaluate Section 2 claims.

United States v. Anson Board of Education, 3:93-cv-00210 (W.D.N.C. 1994)

The United States brought suit under Section 2 against the Anson County Board of Education. Although the population of Anson County was over 47 percent black, the method of election of school board members denied black voters the equal opportunity to elect representatives of their choice.

During the course of the suit, the parties entered a consent decree establishing a new method of election. In the new system, the board consists of nine members. Seven are elected from single member districts and two are elected at-large. The at-large elections use limited voting, with each voter having one vote.

United States v. Granville County Board of Education, 5:87-cv-00353 (E.D.N.C. 1989)

The United States brought action under Section 2 contending that the at-large method of electing members to the Granville County Board of Education denied black voters the equal opportunity to elect candidates of their choice. The parties entered a consent decree.

Under the new method of election, the seven members of the Board of Education are elected from separate districts. Elections are staggered and terms are six years. The parties agreed that the district system would give black voters the equal opportunity to elect preferred candidates.

United States v. Lenoir County, 87-105-CIV-84 (E.D.N.C. 1987)

The United States filed suit to enforce Section 2 of the Voting Rights Act, alleging that the at-large method of electing the Lenoir County Board of Commissioners denied black citizens equal opportunity to participate in the political process and elect candidates of

their choice. According to the 1980 Census, 38.1 percent of the population of Lenoir County was black and 34.8 percent of the voting age population was black. Under the existing system, the board was composed of five members elected at-large to four-year, staggered terms. Black candidates had run in every election since 1972, but due to racially polarized voting, only one black candidate had ever been elected using the at-large system.

In response to the suit, the county agreed to change the method of election and apply for preclearance of the newly selected system. The Board of Commissioners currently consists of seven members elected for staggered, 4-year terms. Two commissioners are elected countywide and five commissioners are elected from districts. Commissioners elected by district must reside within the boundaries of respective district. As a result of the change, black candidates have had greater success and there are currently two black board members, one of whom serves as chairman.

United States v. North Carolina Republican Party, 5:92-cv-00161 (E.D.N.C. 1992)

In 1990, just days before the general election in which Harvey Gantt, an African American, was running against Jessie Helms for U.S. Senate, postcards headed "Voter Registration Bulletin" were mailed to 125,000 African-American voters throughout the state. The bulletin suggested, incorrectly, that they could not vote if they had moved within 30 days of the election and threatened criminal prosecution, J.S. 93a-94a, n. 57; J.A. 673-74; Ex. 526, Consent Order in *U.S. v. North Carolina Republican Party*, No. 91-161-CIV-5F (E.D.N.C.) (February 27, 1992), Tt. 1011. The postcards were sent to black voters who had lived at the same address for years. Ex. 502, statements of J. Foxx, J.C. Harris, & G. Simpkins. As a result of the postcard campaign, black voters were confused about whether or not they could vote and some went to their local board of election office to try to vote there. Considerable resources were devoted to trying to clear up the confusion. Ex. 502, statements of Jane Burts, Charles Johnson, Ellen Emerson, Melvin Watt. J.A. 495-96.

United States v. Onslow County, 638 F.Supp. 1021 (E.D.N.C. 1988)

In the mid-1980s, Onslow County's population was twenty percent black, but a black candidate had not been elected to either the county Board of Education or the county commissioners since the passage of the Voting Rights Act. In fact, just one year after the Act was passed, the method of electing candidates was changed from a single-member district system to an at-large system, pursuant to a consent decree entered in a then-pending lawsuit, *Mendelson v. Walton*, No. 666 (E.D.N.C. Feb. 23, 1966). In 1969, the General Assembly passed legislation increasing the terms of board members to four years and imposing staggered terms. The changes were implemented in 1970 without being precleared as required by Section 5 of the Voting Rights Act. For nearly twenty years, the county operated in violation of the preclearance requirement. When, in 1987, the county sought preclearance of the 1969 legislation, the attorney general objected to the county's use of staggered terms because they made it more difficult for black voters to have an

equal opportunity to elect their candidates of choice, but approved the at-large nomination method and use of four-year terms.

The United States filed this suit against the county to force it to hold elections for all five seats on the Board of Commissioners in 1988. The county wanted only to hold elections for two of the seats whose members' terms would normally expire under the illegal staggered term system. The court held that since proper preclearance pursuant to Section 5 had not been obtained, all five seats must now be declared vacant and a new election held in 1988. The court found that because the attorney general had opposed the staggered terms on the grounds that they "deprived black voters of their best opportunity to elect a commissioner of their choice," it could not allow those elected under the unfair system to stay in office or "that evil would not be corrected." The court held that the voting procedure did not have proper clearance and was, therefore, legally unenforceable and enjoined defendants from further implementation of staggered terms.

Thus, it took the passage of 18 years and the entry of a court order for Onslow County to finally hold elections for its Board of Commissioners that were in compliance with the Voting Rights Act. Today, the Board of Commissioners is still elected at-large. The county is 18 percent black according to the 2000 census. No African American currently serves on the five-member board.

Ward v. Columbus County, 782 F.Supp. 1097 (E.D.N.C. 1991)

Eight registered black voters brought suit challenging the method of electing members to the Board of County Commissioners in Columbus County as a violation of Section 2 of the Voting Rights Act. The board consisted of five members elected from residency districts. Each candidate for the board had to run for the seat assigned to the area in which he resided, but all of the voters of the county voted at-large for each representative. The commissioners served four-year, staggered terms and were nominated in partisan primaries. The plaintiffs contended that the method of election combined with racially polarized voting made it virtually impossible for black voters to elect a candidate of their choice.

At the time of the suit, the population of Columbus County was 30.61 percent black and 27.58 percent of the voting population was black. No black person had been elected to the board, or had been nominated in the Democratic primary for the board, in the twentieth century. The black community was also underrepresented on boards and committees appointed by the Board of Commissioners. Of the 229 people appointed by the board, only 13.97 percent were black and 2.18 percent were Native American.

The court found that voting among black voters in Columbus County was consistently cohesive since 1985 and irregularly cohesive prior to that time. Since the mid-1980s, black voters had overwhelmingly voted for black or other minority candidates in elections. Prior to that time, when voting for black candidates seemed futile to black voters, it was often difficult to recruit black candidates. Those candidates who did run had difficulty mounting effective campaigns. Accordingly, black voters often sought to

gain some political influence by supporting a white candidate who had a realistic chance of winning. White voters fairly consistently failed to vote for black candidates. White voters had the opportunity to vote for a black candidate in a county-wide or larger Democratic primary or runoff election twelve times from 1980 through 1990 and in seven of those twelve elections, the black candidate received votes from less than 10 percent of white voters. The court found that racial bock voting was "extreme and persistent" among white voters of Columbus County. The county also suffered a long history of intimidation and violence toward black voters and candidates and through the modern era, racial appeals in elections where a minority candidate or a candidate thought to sympathize with minorities ran for office.

The at-large method of election was problematic because Columbus County was one of the largest counties in North Carolina, making campaigning county-wide for Board of Commissioners and Board of Education difficult for minority candidates who had less access to resources for traveling and advertising. Also, the residency requirement for elections prevented black voters from maximizing their voting strength by use of single shot voting.

The court found that the plaintiffs had sufficiently proven the at-large election method of selecting county Board of Commissioners violated Section 2 by denying black citizens an equal opportunity to participate in the political process and elect representatives of their choice, and that there was no compelling governmental need for this system. The black community in certain parts of the county was sufficiently large and geographically compact to allow creation of a majority black single-member district. The county could, for example, be divided into five districts of equal population with at least one majority black voting-age population district. The plaintiffs presented two plans suggested for division. The court ordered defendants to create a method of election for presentation to the court that would remedy these problems. Commissioners are currently elected from seven districts and there is one black member of the board.

Webster v. Board of Education of Person County, 1:91-cv-554 (M.D.N.C. 1991)

Black citizens of Person County brought suit against the Board of Education and county Board of Education, arguing that the method of electing the Board of Education denied black citizens equal opportunity in voting. At the time of suit, the board consisted of five members elected at-large in partisan elections for staggered four-year terms. The population of Person County was 30.2 percent black and 28.5 percent of the voting age population was black. Black candidates had run in nine of the eleven school board elections since 1974, each time in the Democratic primary, but only one black candidate was ever nominated or elected.

The parties entered a consent decree to change the method of election to enhance the opportunity for black citizens to elect candidates of their choice. Under the new method of election, all five members of the Board of Education are elected for concurrent four-year terms in nonpartisan elections determined by plurality voting. The candidates are elected at-large with the top five candidates elected without run-offs. In addition to the

voting change, the Person County Board of Commissioners, which was not party to the suit, agreed to establish a Task Force on Education to study and address concerns that the board of Education was not responsive to interests of the black community.

White v. Franklin County, 5:03-cv-00481 (E.D.N.C. 2004)

Black and white voters of Franklin County brought suit under Section 2 of the Voting Rights Act challenging the at-large election plan for the Franklin County Board of Commissioners. The at-large system had been in place for 100 years and operated to dilute black voting strength. On April 21, 2003, the Board of Commissioners adopted a new voting plan, but minority voters complained it was not submitted for Section 5 preclearance and it would not operate to improve voting strength for black voters.

According to 2000 Census data, the population of Franklin County was 30 percent black and 4 percent other minorities, and 29 percent of the voting age population was black. From the formation of the existing method of election in the late 1800s to the filing of suit, only one African American was elected to the board and no black person was currently serving on the board. The board was composed of five members elected at-large, but each seat was assigned to a residency district where the commissioner had to live. board members served for four years and the elections were staggered.

The African-American population was largely concentrated in a few geographically compact parts of the county. White bloc voting operated to ensure defeat of African-American candidates to both the county board and Board of Education. Though 37 percent of school-aged children in the county were black, since 1993, African Americans were generally only able to elect one out of seven (14 percent) members to the county Board of Education.

In March 2003, one of the plaintiffs presented the board with three alternative election plans for the county commissioners. Each contained five single-member districts with at least one district majority-minority. The board took no action on these suggested plans. In April 2003, the board instead adopted a new plan that increased the number of commissioners from five to seven. Four of the commissioners would be elected from single-member districts and the remaining three would be elected at-large. In this plan, no district would contain a majority of African-American residents. The plan would instead further fracture black voters. The plan went so far in dividing black voters as to split contiguous African-American communities. When the board discussed this plan in a closed executive session, only 1.5 hours of discussion were held and members of the public were not allowed to provide input about alternative election plans.

Plaintiffs wanted the court to immediately halt the use of the new plan and the old system so they could not be used in the 2004 election. The complaint was filed in June 2003. While the suit was pending, a referendum was held in November 2003 that changed the method of voting. The suit was stayed pending the outcome of the vote. The new method would elect five commissioners from districts and two from the county at-large, pending

preclearance. Once the method of election was changed, the parties took a dismissal with each party paying its own attorney's fees, expenses, and costs.

Wilkins v. Washington County Commissioners, 2:93-cv-00012 (E.D.N.C. 1996)

Black citizens of Washington County filed suit pursuant to Section 2 of the Voting Rights Act. The Washington County Board of Commissioners consisted of five members elected in staggered elections with partisan primaries for four-year terms. Four of the five commissioners were nominated in party primaries held within districts and then elected at-large. The fifth commissioner was both nominated and elected from the county at-large.

By consent order entered in 1994, the court determined that the four districts violated the requirement of one-person, one-vote and had to be redrawn. The court delayed further relief, however, to allow the parties the opportunity to resolve the claims under the Voting Rights Act.

According to the 1990 Census, 45.4 percent of the Washington County population was black and 41.6 percent of the voting age population was black. Only two black candidates had, however, been elected to the Board of Commissioners. As a result of the suit, the parties entered a consent decree agreeing to a new method of election.

Under the new method, five members are elected for four-year staggered terms in partisan elections. One Commissioner is elected from each of four districts and the remaining commissioner is elected at-large. Black voters constitute a majority of the voting age population in two of the four districts.

Willingham v. City of Jacksonville, 4:89-cv-00046 (E.D.N.C. 1991)

Plaintiffs filed suit pursuant to Section 2 of the Voting Rights Act, opposing the method of election of the City Council. In response to the suit, the City voluntarily changed the method of election in May of 1991. Under the new system, four council members are elected from wards and two are elected at-large. The mayor is elected in a separate at-large election.

The city had previously attempted in 1989 to change to a ward system, but the new system was not implemented until 1991 due to problems with preclearance. These problems were resolved when a significant portion of the Camp Lejuene Marine Corps Base was annexed into the city in 1990 and that territory was used to help create minority wards. The two minority wards that exist under the final plan actually have large majorities of white residents when the total population is considered, but are effectively minority districts because so much of the population consists of military personnel who do not vote in city elections. There are currently two black members of the City Council representing Districts One and Four.

Information on the following cases was not available:

Hole v. NC board of Election, 1:00-cv-00477 (M.D.N.C. 2001)
Kingsberry v. Nash County Board of Education, 5:89-cv-00173 (E.D.N.C. 1989)
Person v. Moore County Commission, 3:89-cv-0135 (M.D.N.C. 1989)
Patterson v. Siler City, 1:88-cv-00701-NCT (M.D.N.C. 1989)

Selected Socio-Economic Data

North Carolina

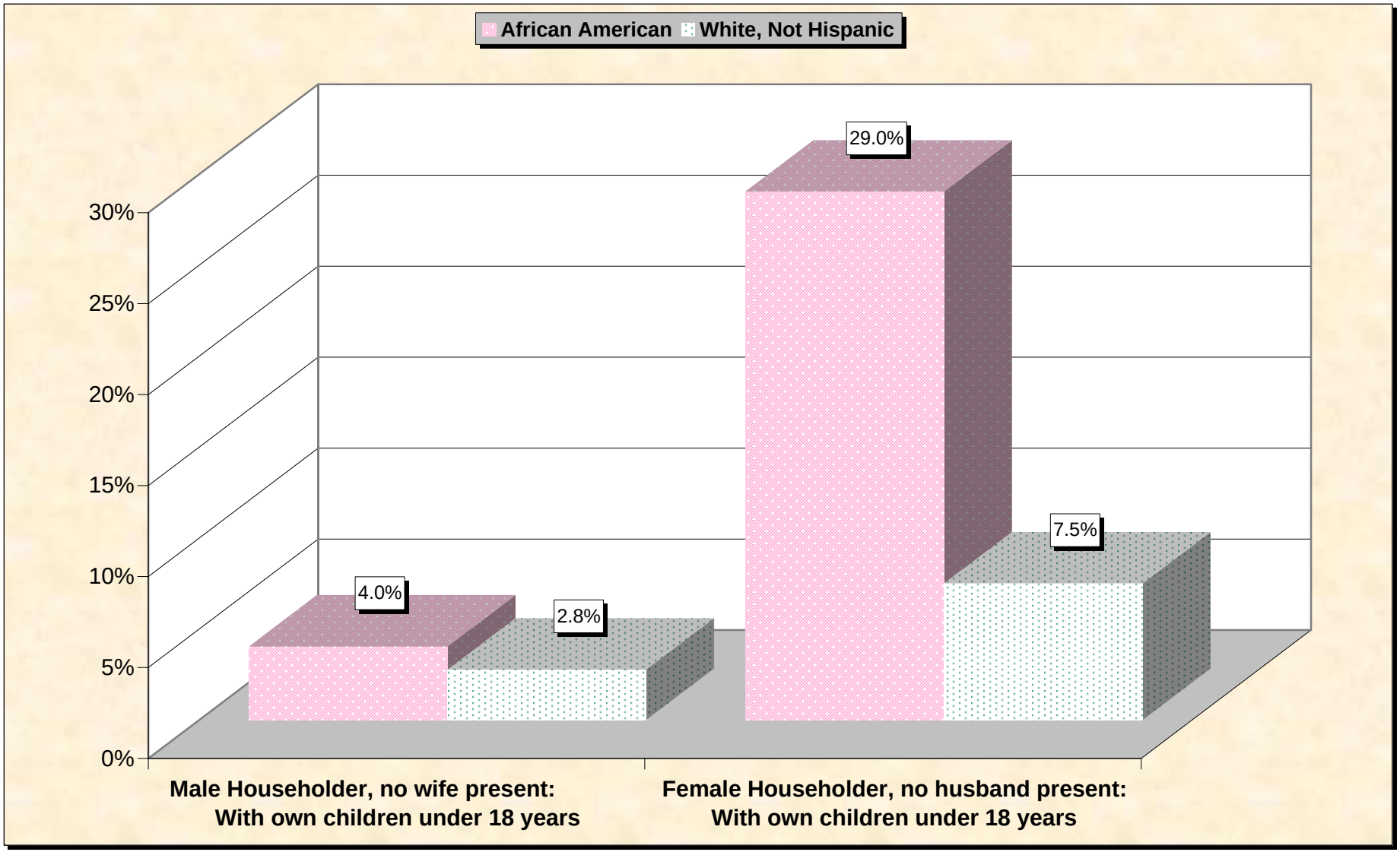
African American and White, Not Hispanic

Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data

www.fairdata2000.com

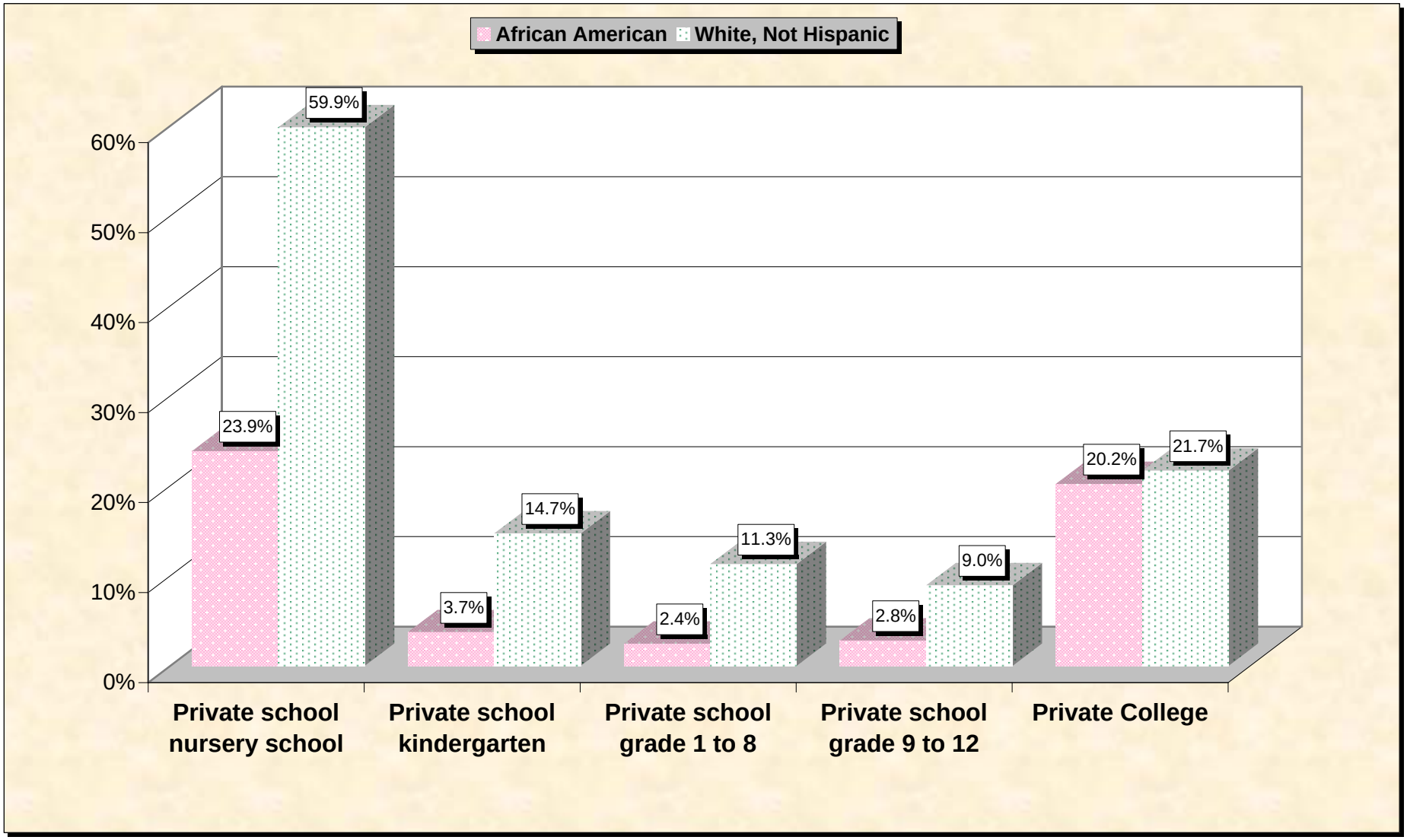
5-May-03

Chart 1 -- Single-Parent Family Households (Householder 15 to 64 years)
North Carolina



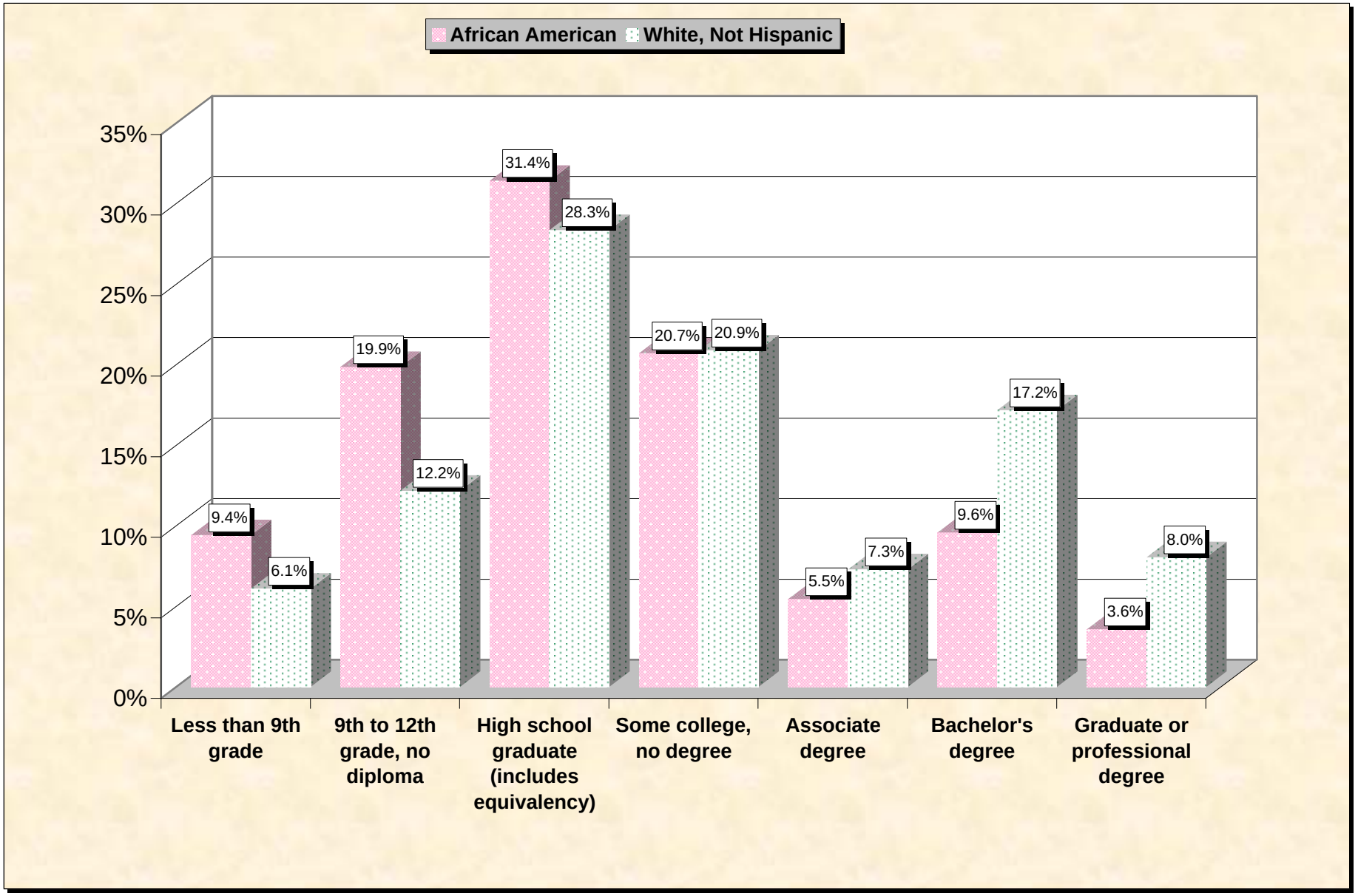
Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data - P146B. HOUSEHOLDS BY AGE OF HOUSEHOLDER BY HOUSEHOLD TYPE (INCLUDING LIVING ALONE) BY PRESENCE OF OWN CHILDREN UNDER 18 YEARS (BLACK OR AFRICAN AMERICAN ALONE HOUSEHOLDER) [31] - Universe: Households with a householder who is Black or African American alone; P146I. HOUSEHOLDS BY AGE OF HOUSEHOLDER BY HOUSEHOLD TYPE (INCLUDING LIVING ALONE) BY PRESENCE OF OWN CHILDREN UNDER 18 YEARS (WHITE ALONE, NOT HISPANIC OR LATINO HOUSEHOLDER) [31] - Universe: Households with a householder who is White alone, not Hispanic or Latino.

Chart 2 -- Private School Enrollment (3 years and over)
North Carolina



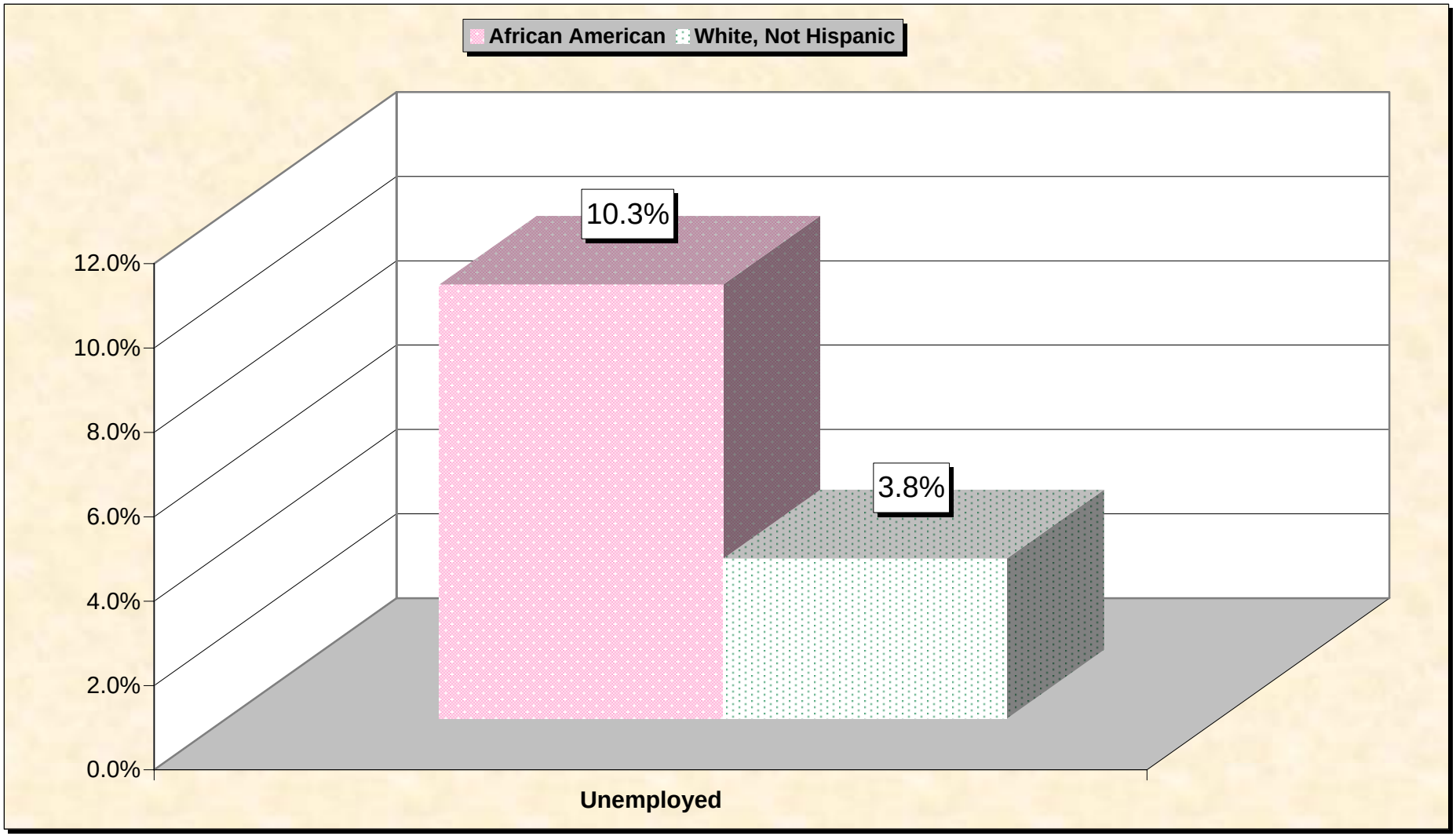
Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- P147B. SCHOOL ENROLLMENT BY LEVEL OF SCHOOL BY TYPE OF SCHOOL FOR THE POPULATION 3 YEARS AND OVER (BLACK OR AFRICAN AMERICAN ALONE) [17] - Universe: Black or African American alone 3 years and over; P147I. SCHOOL ENROLLMENT BY LEVEL OF SCHOOL BY TYPE OF SCHOOL FOR THE POPULATION 3 YEARS AND OVER (WHITE ALONE, NOT HISPANIC OR LATINO) [17] - Universe: White alone, not Hispanic or Latino population 3 years and over.

Chart 3 -- Educational Attainment (25 years and over)
North Carolina



Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- P148B. SEX BY EDUCATIONAL ATTAINMENT FOR THE POPULATION 25 YEARS AND OVER (BLACK OR AFRICAN AMERICAN ALONE) [17] - Universe: Black or African American alone 25 years and over; P148I. SEX BY EDUCATIONAL ATTAINMENT FOR THE POPULATION 25 YEARS AND OVER (WHITE ALONE, NOT HISPANIC OR LATINO) [17] - Universe: White alone, not Hispanic or Latino population 25 years and over.

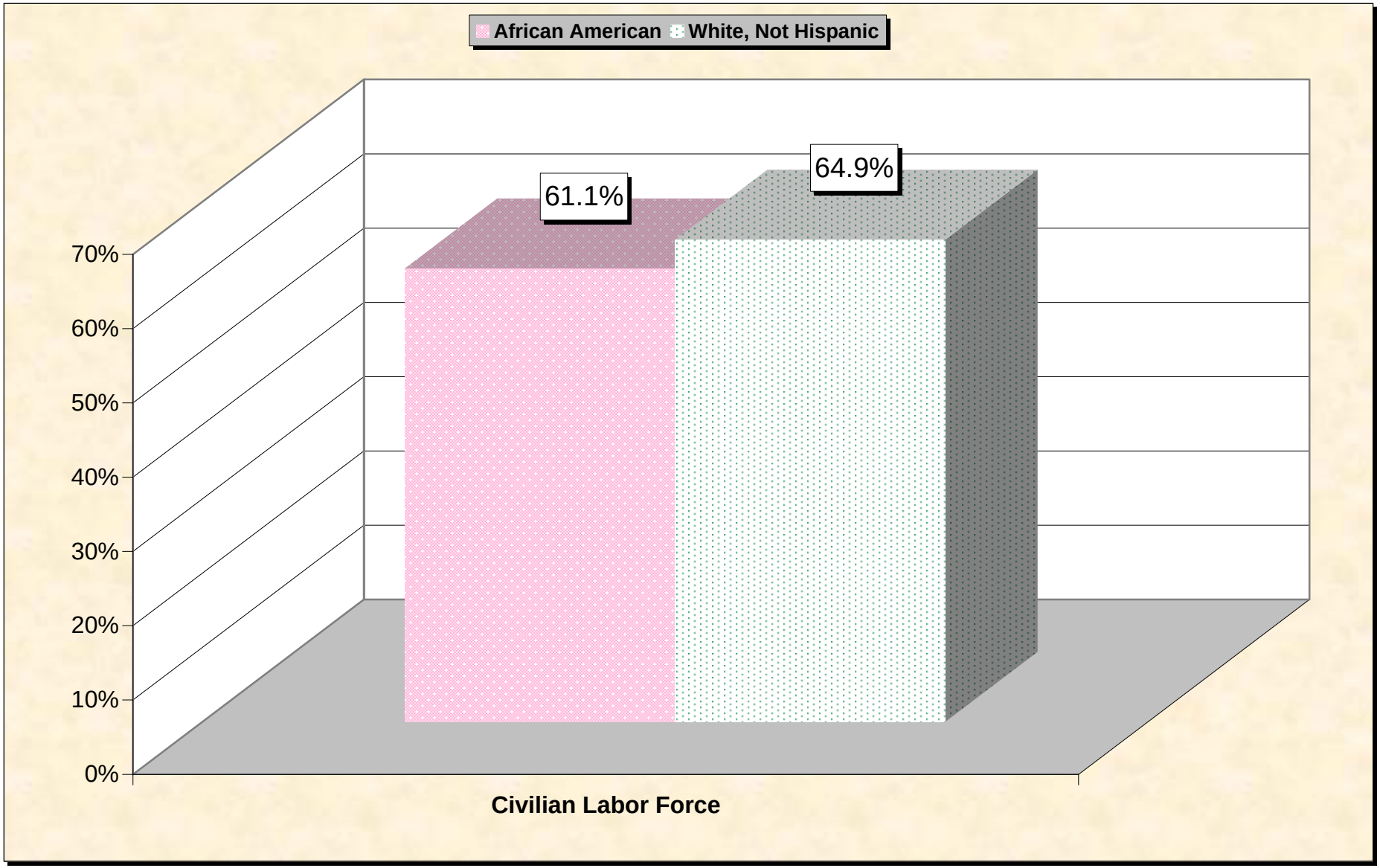
Chart 4 -- Unemployment Rate (Civilian Labor Force)
North Carolina



Note: Unemployment rate is defined as a percentage of the civilian labor force.

Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- P150B. SEX BY EMPLOYMENT STATUS FOR THE POPULATION 16 YEARS AND OVER (BLACK OR AFRICAN AMERICAN ALONE) [15] - Universe: Black or African American alone 16 years and over; P150I. SEX BY EMPLOYMENT STATUS FOR THE POPULATION 16 YEARS AND OVER (WHITE ALONE, NOT HISPANIC OR LATINO) [15] - Universe: White alone, not Hispanic or Latino population 16 years and over.

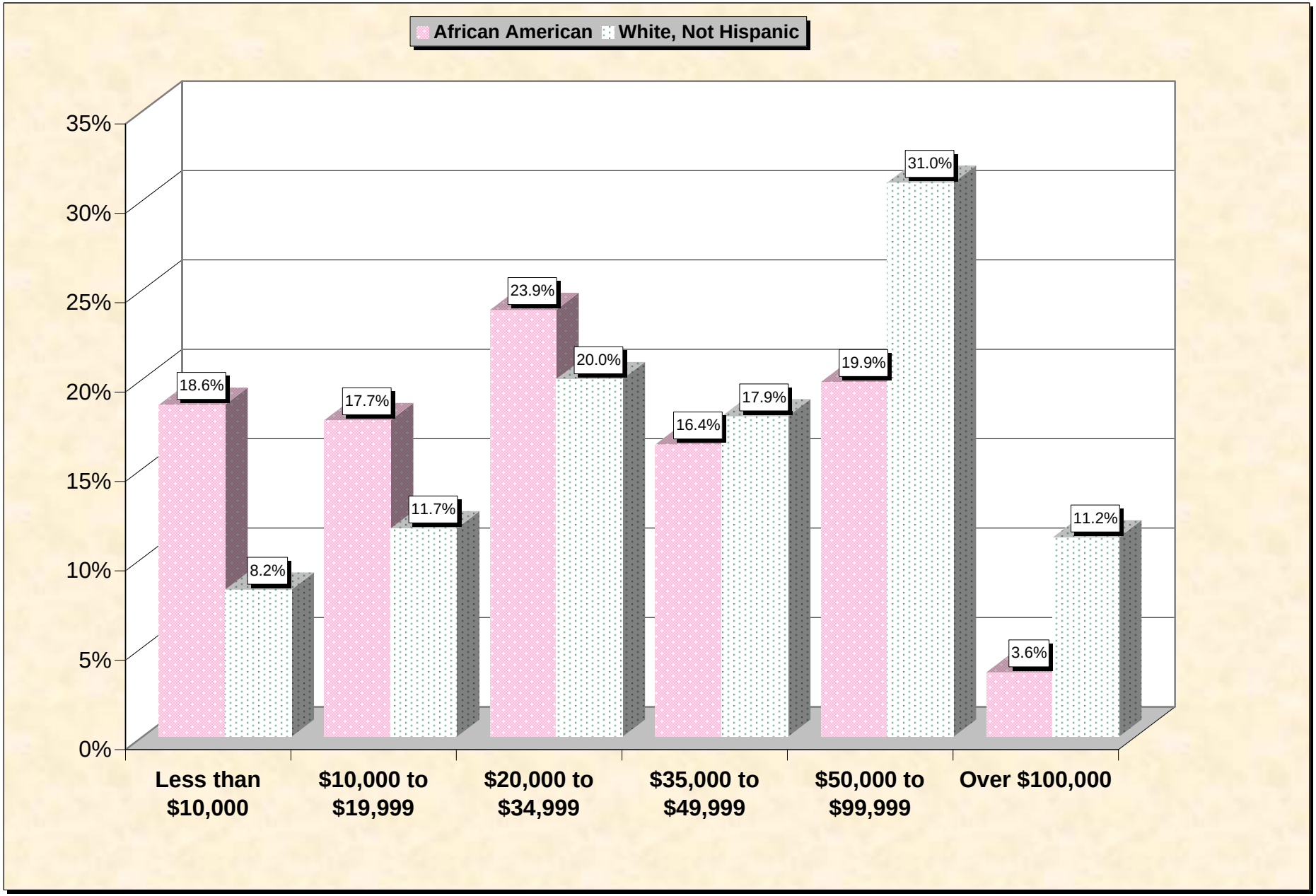
Chart 5 -- Labor Force Participation (Civilian Labor Force)
North Carolina



Note: Labor force participation rate is defined as a percentage of the civilian population over 16.

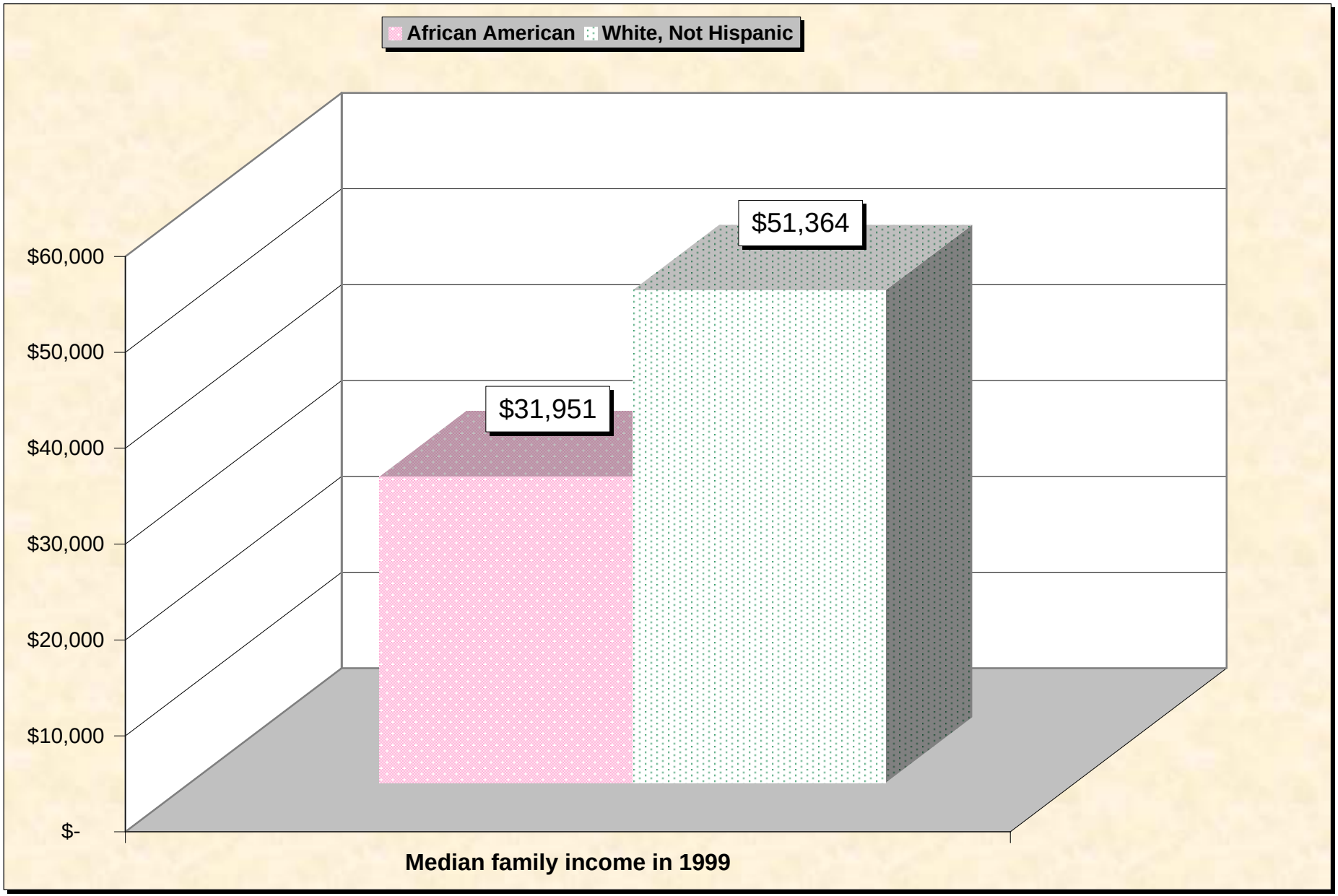
Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- P150B. SEX BY EMPLOYMENT STATUS FOR THE POPULATION 16 YEARS AND OVER (BLACK OR AFRICAN AMERICAN ALONE) [15] - Universe: Black or African American alone 16 years and over; P150I. SEX BY EMPLOYMENT STATUS FOR THE POPULATION 16 YEARS AND OVER (WHITE ALONE, NOT HISPANIC OR LATINO) [15] - Universe: White alone, not Hispanic or Latino population 16 years and over.

Chart 6 -- Household Income in 1999
North Carolina



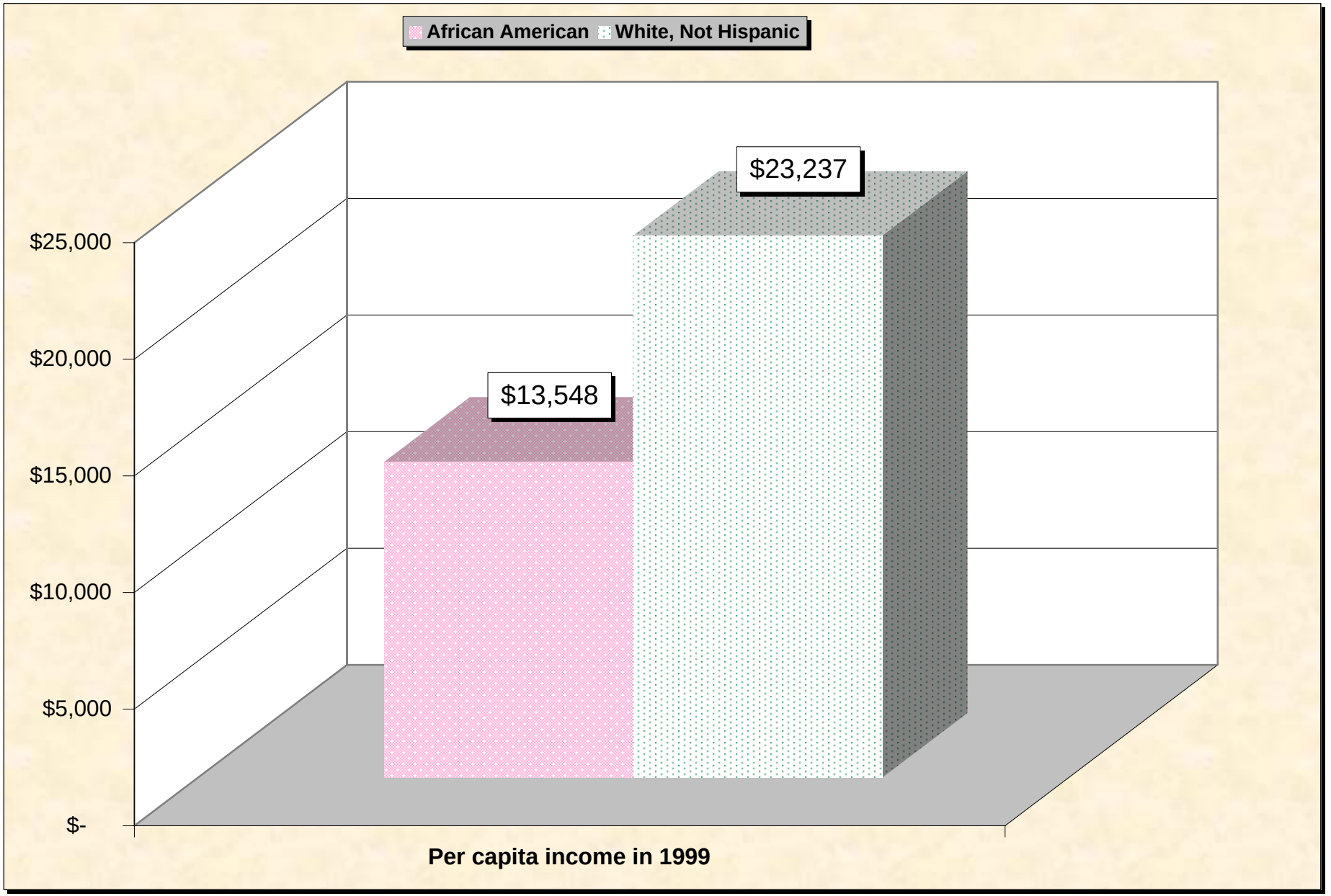
Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- P151B. HOUSEHOLD INCOME IN 1999 (BLACK OR AFRICAN AMERICAN ALONE HOUSEHOLDER) [17] - Universe: Households with a householder who is Black or African American alone; P151I. HOUSEHOLD INCOME IN 1999 (WHITE ALONE, NOT HISPANIC OR LATINO HOUSEHOLDER) [17] - Universe: Households with a householder who is White alone, not Hispanic or Latino.

Chart 7 -- Median Family Income In 1999
North Carolina



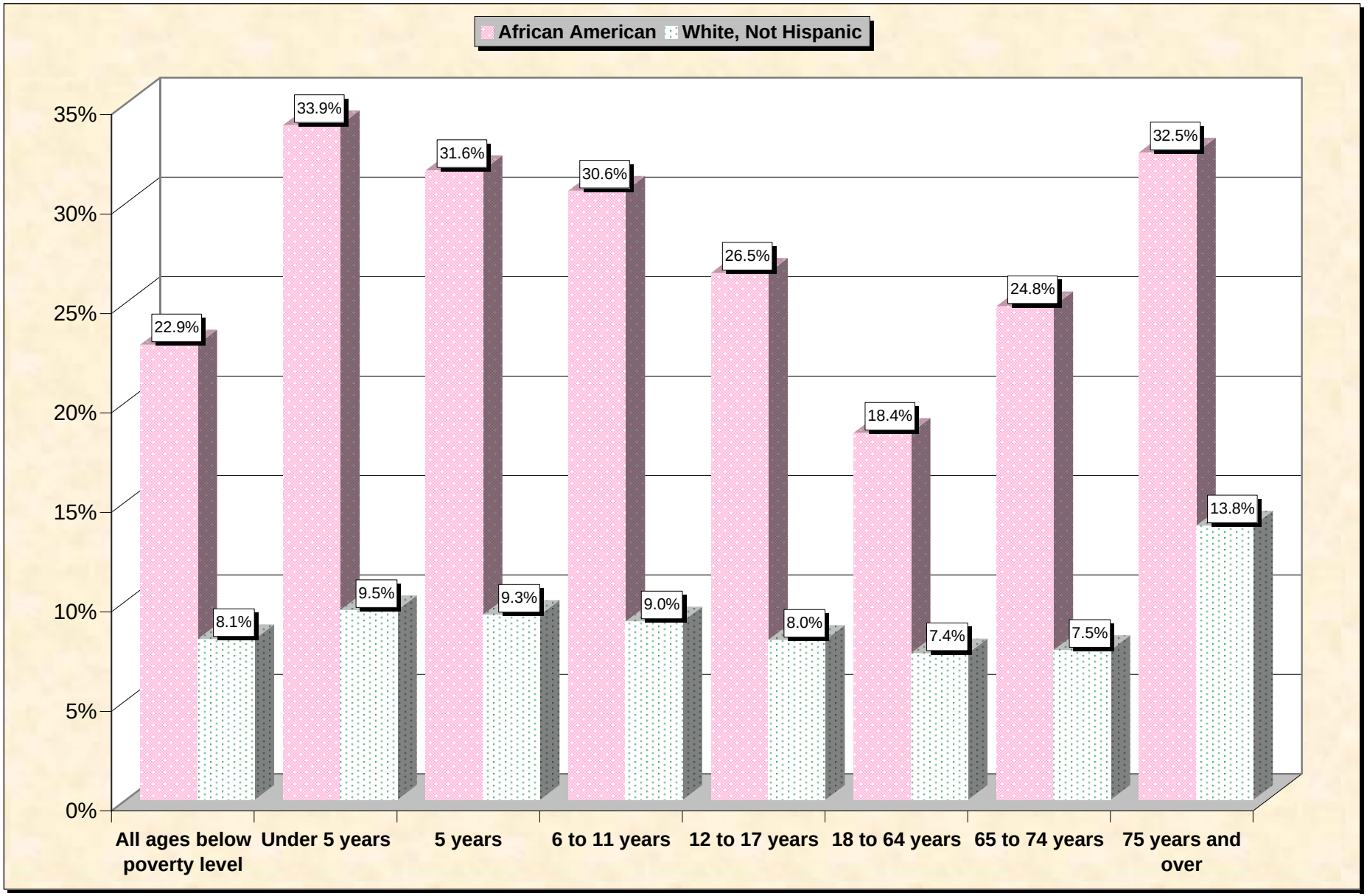
Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- P155B. MEDIAN FAMILY INCOME IN 1999 (DOLLARS) (BLACK OR AFRICAN AMERICAN ALONE HOUSEHOLDER) [1] - Universe: Families with a householder who is Black or African American alone ; P155I. MEDIAN FAMILY INCOME IN 1999 (DOLLARS) (WHITE ALONE, NOT HISPANIC OR LATINO HOUSEHOLDER) [1] - Universe: Families with a householder who is White alone, not Hispanic or Latino.

Chart 8 -- Per Capita Income In 1999
North Carolina



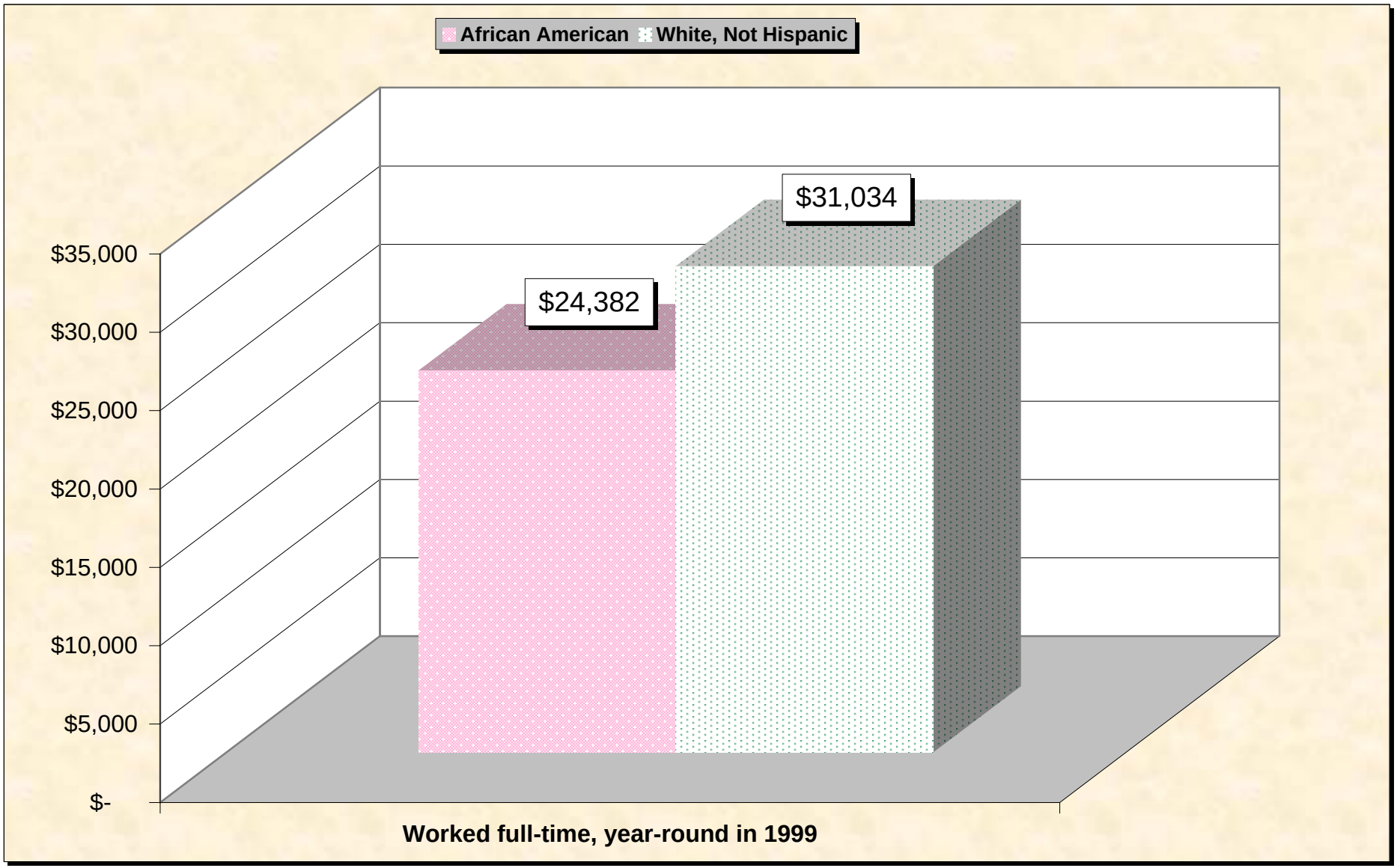
Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- P157B. PER CAPITA INCOME IN 1999 (DOLLARS) (BLACK OR AFRICAN AMERICAN ALONE) [1] - Universe: Black or African American alone; P157I. PER CAPITA INCOME IN 1999 (DOLLARS) (WHITE ALONE, NOT HISPANIC OR LATINO) [1] - Universe: White alone, not Hispanic or Latino population.

Chart 9 -- Income in 1999 Below Poverty Level by Age
North Carolina



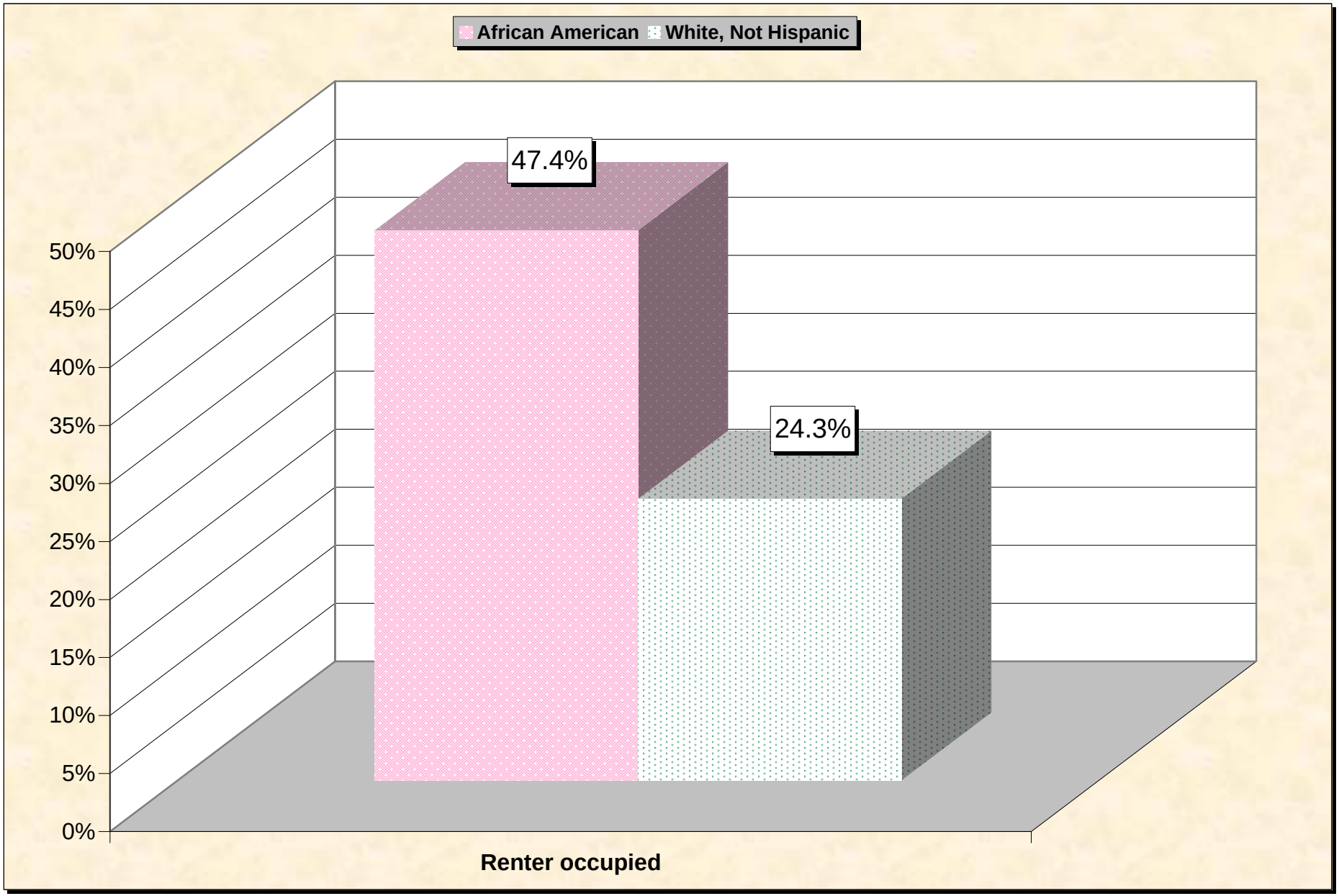
Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- P159B. POVERTY STATUS IN 1999 BY AGE (BLACK OR AFRICAN AMERICAN ALONE) [17] - Universe: Black or African American alone for whom poverty status is determined;P159I. POVERTY STATUS IN 1999 BY AGE (WHITE ALONE, NOT HISPANIC OR LATINO) [17] - Universe: White alone, not Hispanic or Latino population for whom poverty status is determined.

Chart 10 -- Median Earnings in 1999
North Carolina



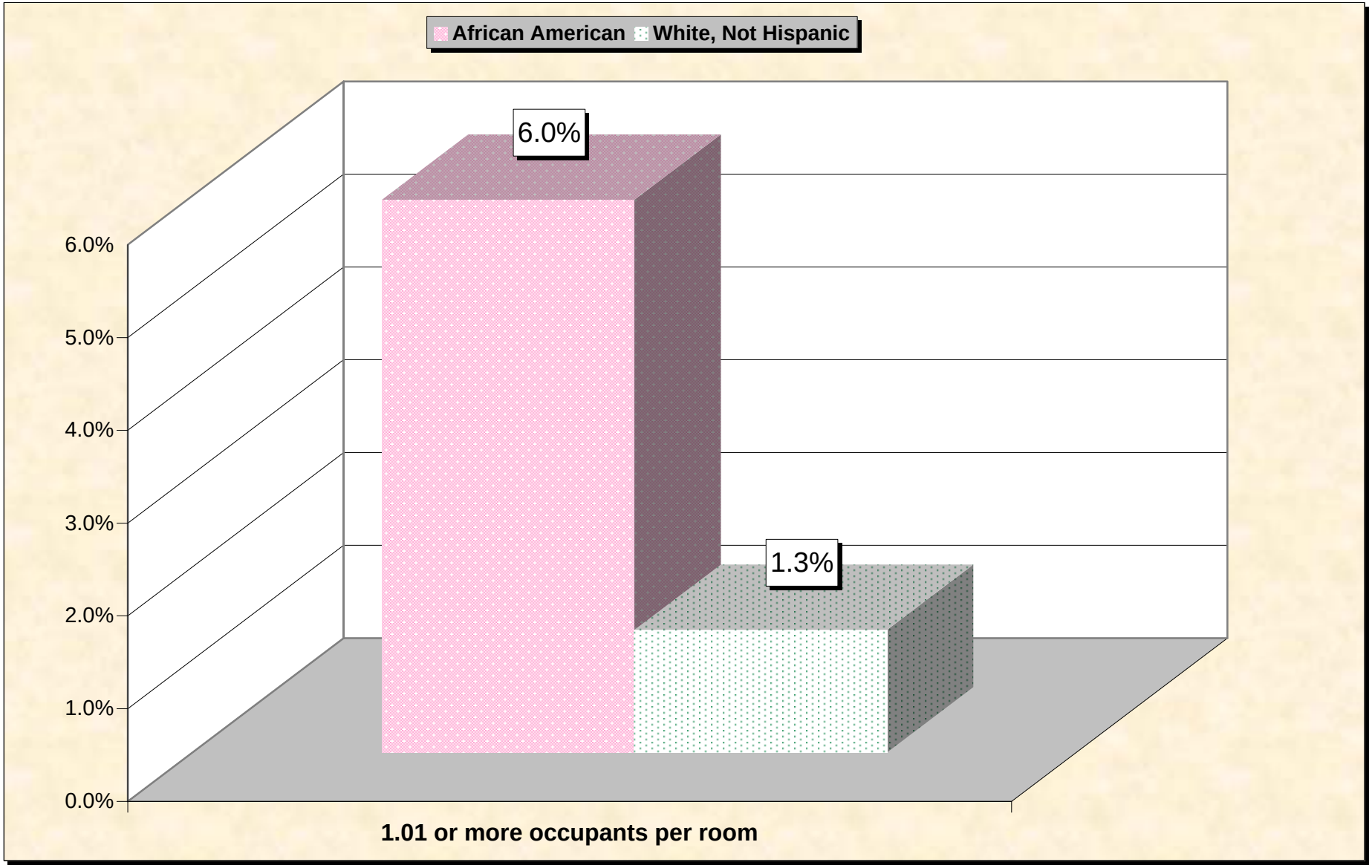
Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- PCT74B. MEDIAN EARNINGS IN 1999 (DOLLARS) BY WORK EXPERIENCE IN 1999 BY SEX FOR THE POPULATION 16 YEARS AND OVER WITH EARNINGS (BLACK OR AFRICAN AMERICAN ALONE) [6] - Universe: Black or African American alone 16 years and over with earnings in 1999; PCT74I. MEDIAN EARNINGS IN 1999 (DOLLARS) BY WORK EXPERIENCE IN 1999 BY SEX FOR THE POPULATION 16 YEARS AND OVER WITH EARNINGS (WHITE ALONE, NOT HISPANIC OR LATINO) [6] - Universe: White alone, not Hispanic or Latino population 16 years and over with earnings in 1999.

Chart 11 -- Renter-Occupied Housing
North Carolina



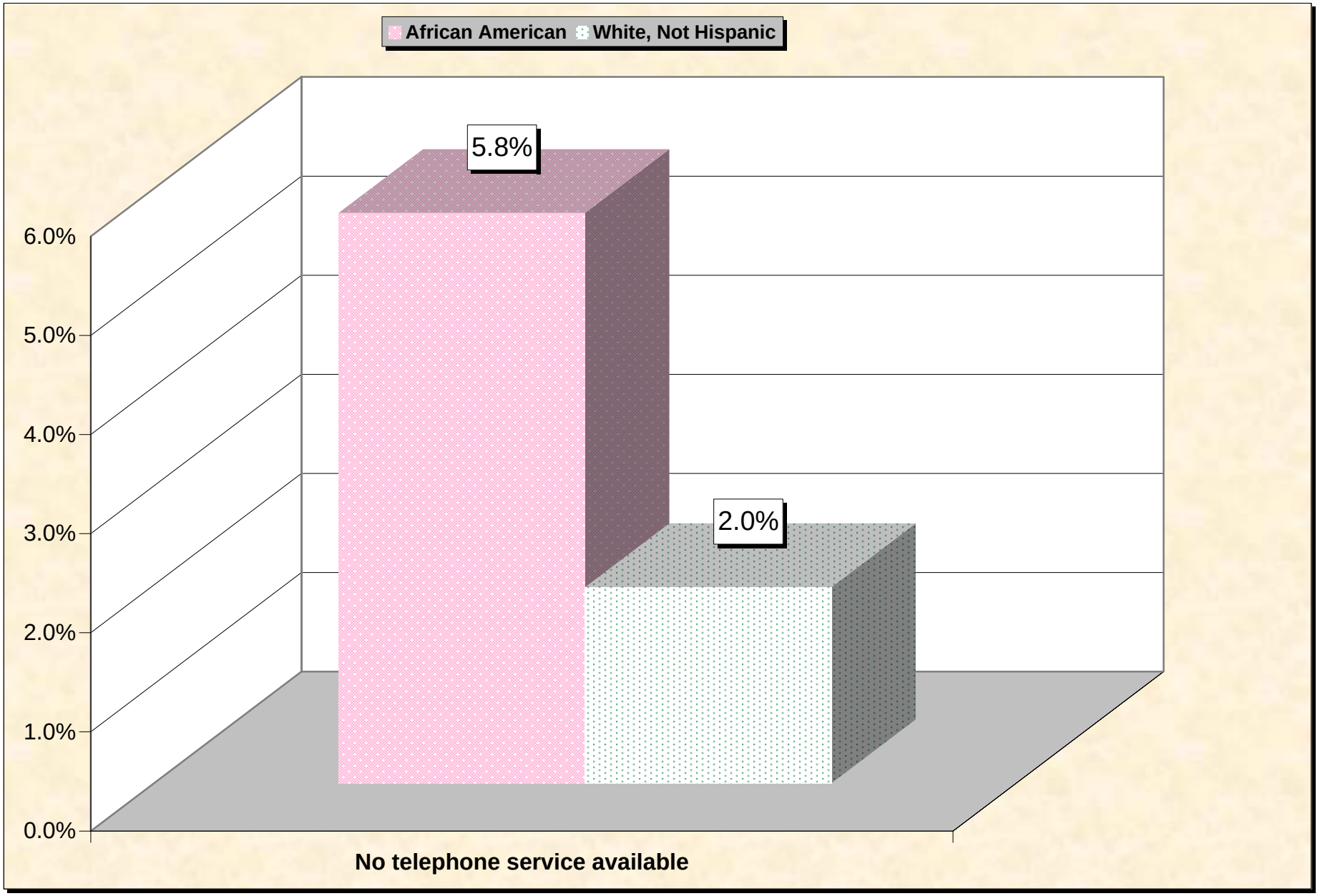
Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- H11. TENURE BY RACE OF HOUSEHOLDER [17] - Universe: Occupied housing units; H13. TENURE (WHITE ALONE, NOT HISPANIC OR LATINO HOUSEHOLDER) [3] - Universe: Occupied housing units with a householder who is White alone, not Hispanic or Latino.

Chart 12 -- Occupants Per Room (Crowding) by Household
North Carolina



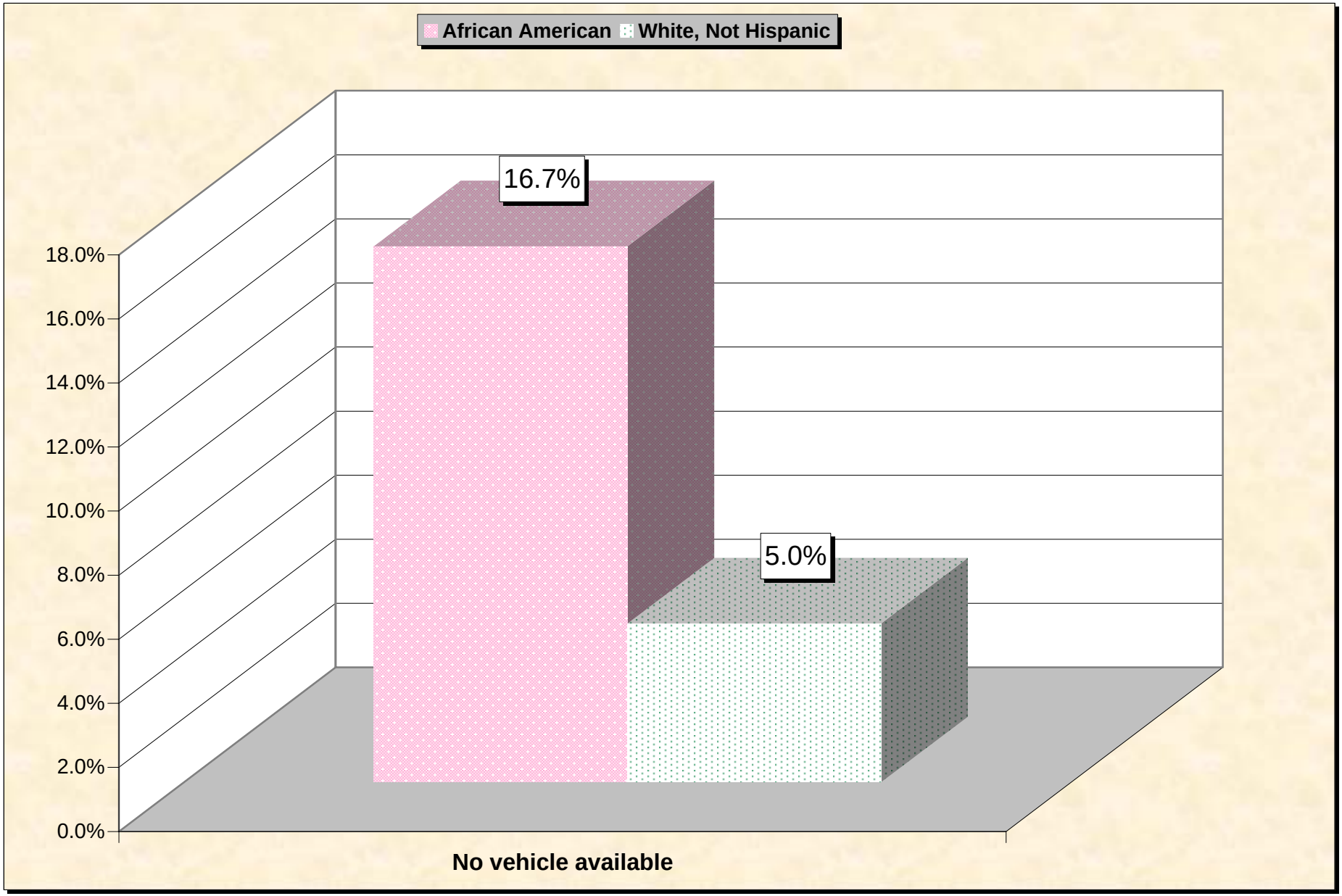
Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- HCT29B. OCCUPANTS PER ROOM (BLACK OR AFRICAN AMERICAN ALONE HOUSEHOLDER) [3] - Universe: Occupied housing units with a householder who is Black or African American alone; HCT29I. OCCUPANTS PER ROOM (WHITE ALONE, NOT HISPANIC OR LATINO HOUSEHOLDER) [3] - Universe: Occupied housing units with a householder who is White alone, not Hispanic or Latino.

Chart 13 -- Lack of Telephone Service by Household
North Carolina



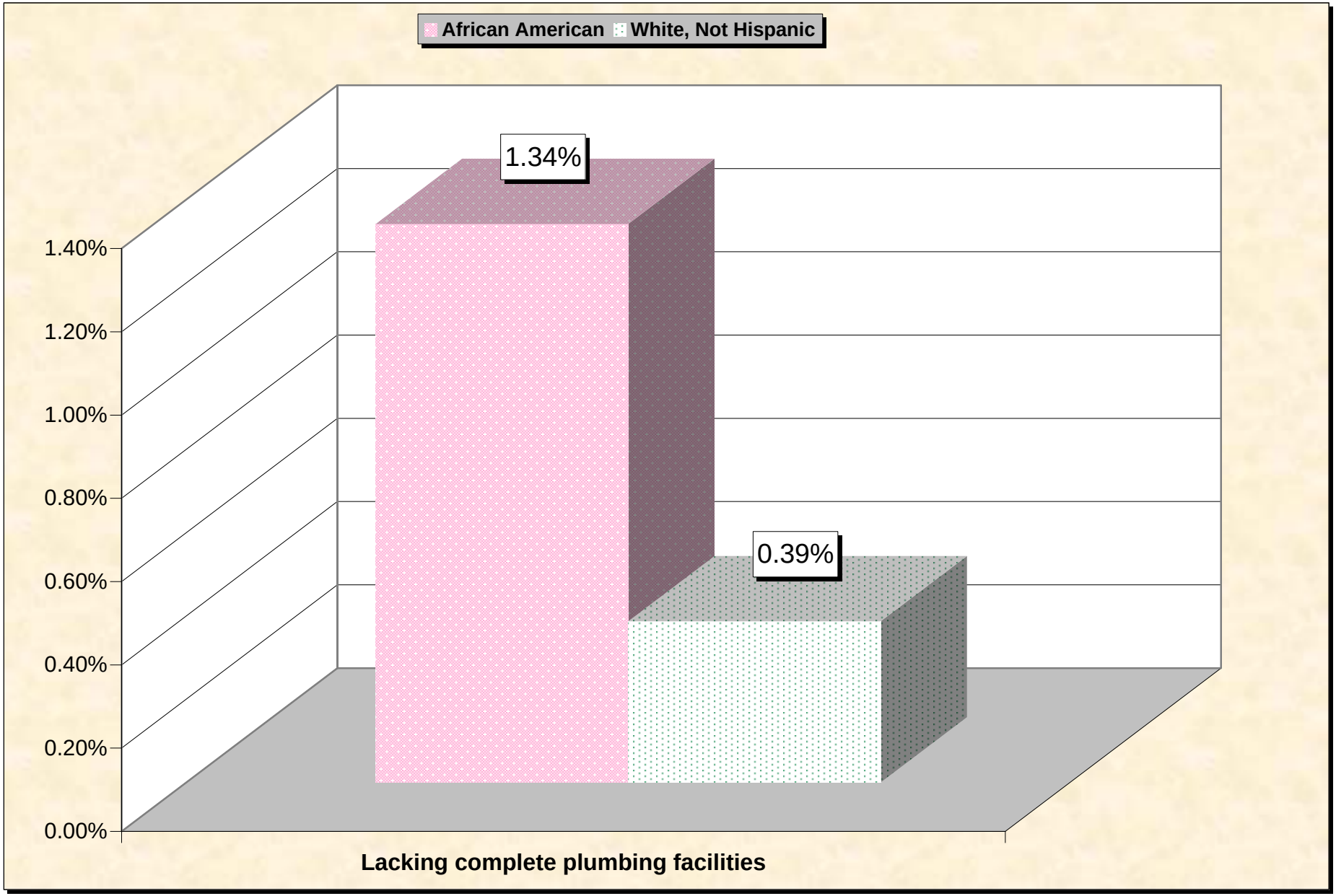
Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- HCT32B. TELEPHONE SERVICE AVAILABLE (BLACK OR AFRICAN AMERICAN ALONE HOUSEHOLDER) [3] - Universe: Occupied housing units with a householder who is Black or African American alone; HCT32I. TELEPHONE SERVICE AVAILABLE (WHITE ALONE, NOT HISPANIC OR LATINO HOUSEHOLDER) [3] - Universe: Occupied housing units with a householder who is White alone, not Hispanic or Latino.

Chart 14 -- Lack of Vehicle By Household
North Carolina



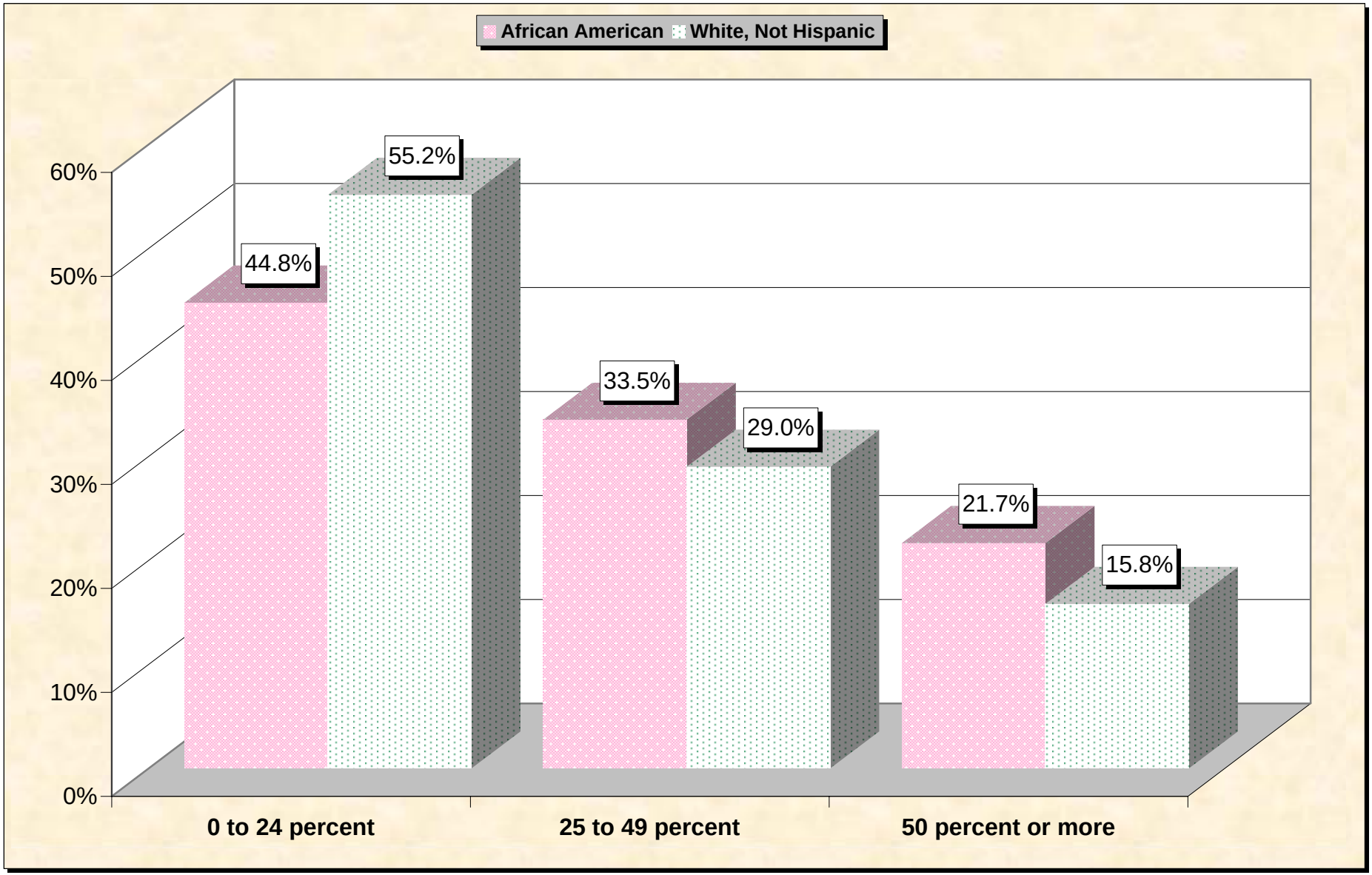
Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- HCT33B. VEHICLES AVAILABLE (BLACK OR AFRICAN AMERICAN ALONE HOUSEHOLDER) [3] - Universe: Occupied housing units with a householder who is Black or African American alone;; HCT33I. VEHICLES AVAILABLE (WHITE ALONE, NOT HISPANIC OR LATINO HOUSEHOLDER) [3] - Universe: Occupied housing units with a householder who is White alone, not Hispanic or Latino.

Chart 15 -- Lack of Plumbing By Household
North Carolina



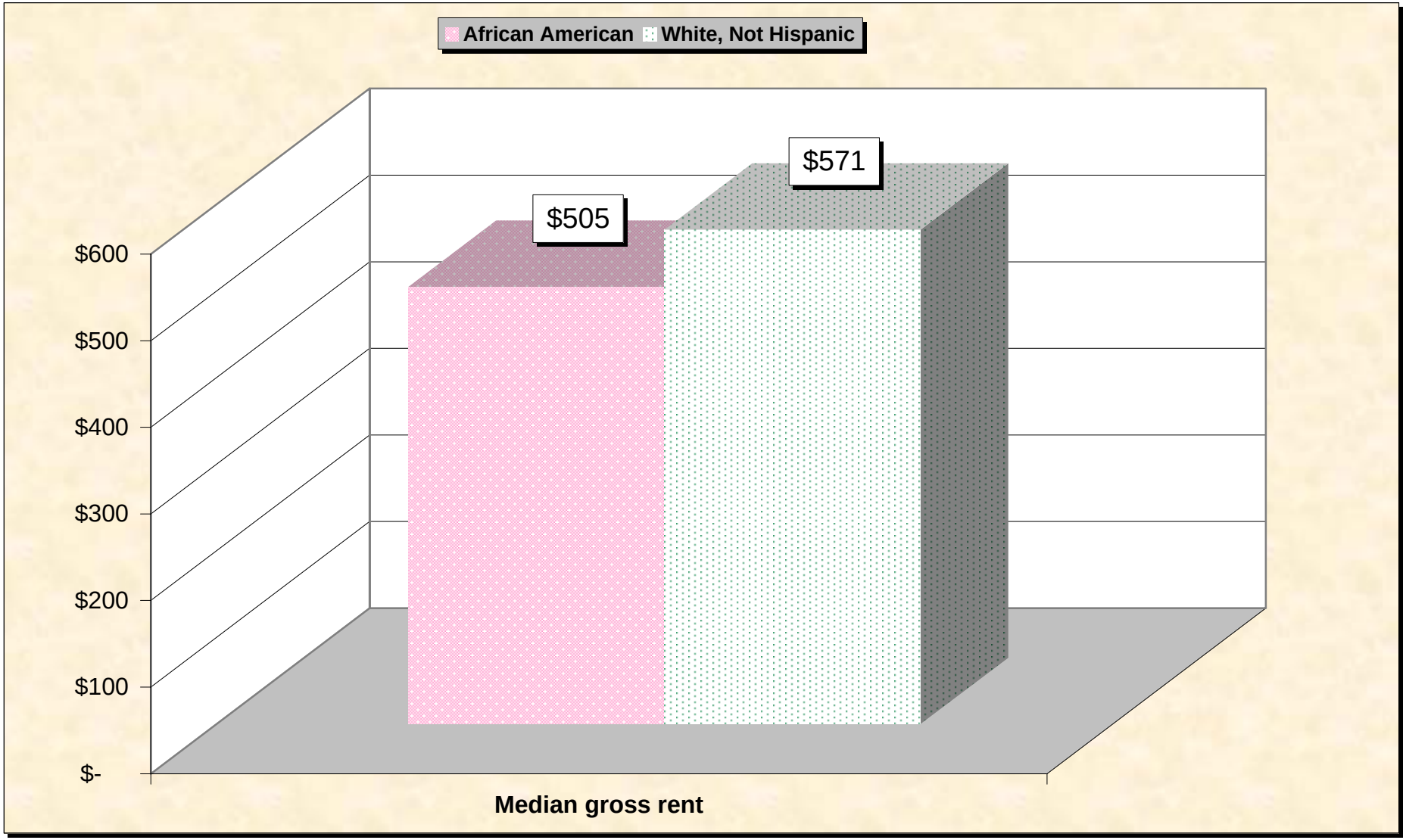
Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- HCT34B. PLUMBING FACILITIES (BLACK OR AFRICAN AMERICAN ALONE HOUSEHOLDER) [3] - Universe: Occupied housing units with a householder who is Black or African American alone; HCT34I. PLUMBING FACILITIES (WHITE ALONE, NOT HISPANIC OR LATINO HOUSEHOLDER) [3] - Universe: Occupied housing units with a householder who is White alone, not Hispanic or Latino.

Chart 16 -- Gross Rent as a Percentage of Household Income in 1999
North Carolina



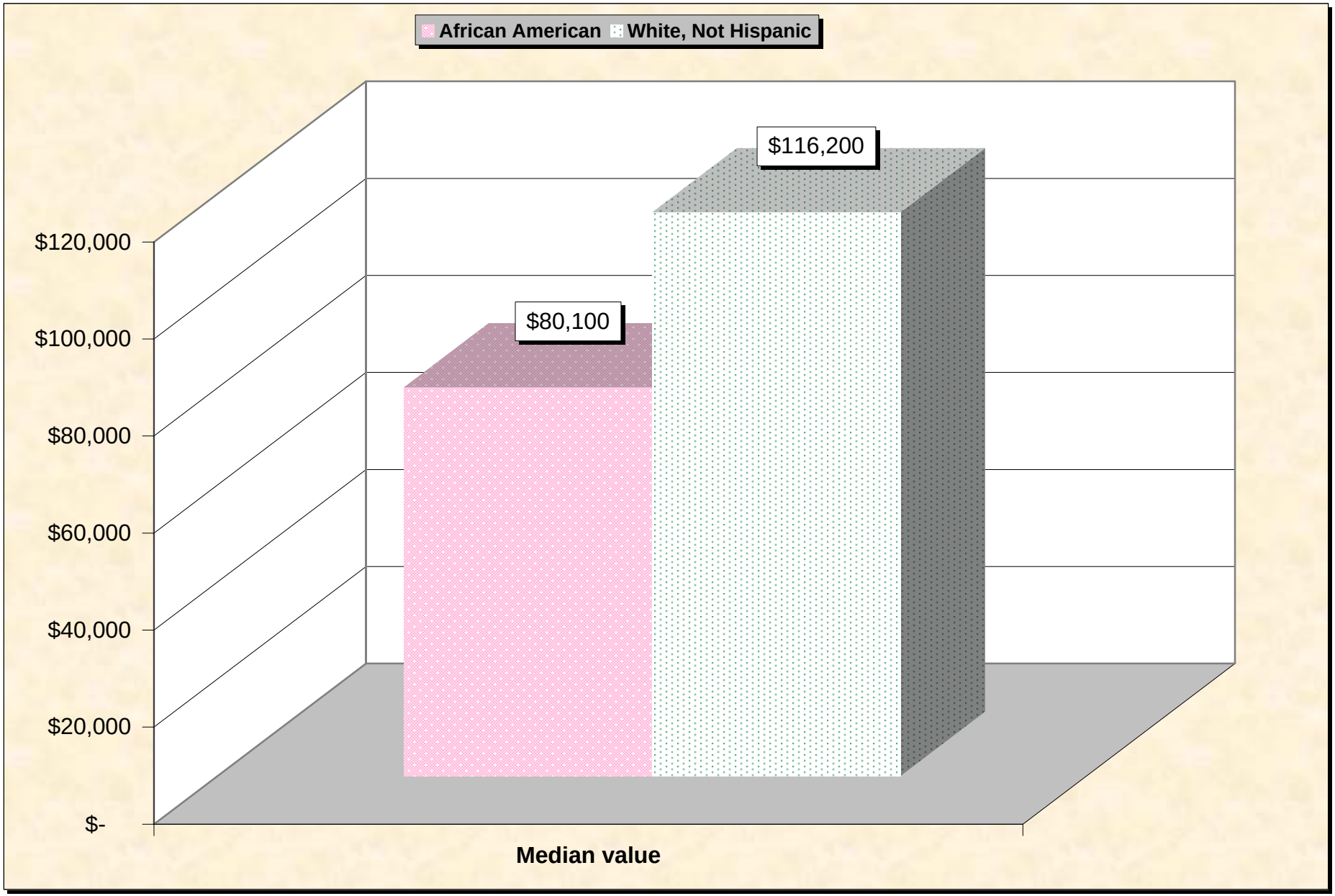
Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- HCT39B. GROSS RENT AS A PERCENTAGE OF HOUSEHOLD INCOME IN 1999 (BLACK OR AFRICAN AMERICAN ALONE HOUSEHOLDER) [11] - Universe: Specified renter-occupied housing units with a householder who is Black or African American alone; HCT39I. GROSS RENT AS A PERCENTAGE OF HOUSEHOLD INCOME IN 1999 (WHITE ALONE, NOT HISPANIC OR LATINO HOUSEHOLDER) [11] - Universe: Specified renter-occupied housing units with a householder who is White alone, not Hispanic or Latino.

Chart 17 -- Median Gross Rent By Household
North Carolina



Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- HCT37B. MEDIAN GROSS RENT (DOLLARS) (BLACK OR AFRICAN AMERICAN ALONE HOUSEHOLDER) [1] - Universe: Specified renter-occupied housing units paying cash rent with a householder who is Black or African American alone; HCT37I. MEDIAN GROSS RENT (DOLLARS) (WHITE ALONE, NOT HISPANIC OR LATINO HOUSEHOLDER) [1] - Universe: Specified renter-occupied housing units paying cash rent with a householder who is White alone, not Hispanic or Latino.

Chart 18 -- Median Home Value By Household
North Carolina



Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- HCT42B. MEDIAN VALUE (DOLLARS) (BLACK OR AFRICAN AMERICAN ALONE HOUSEHOLDER) [1] - Universe: Specified owner-occupied housing units with a householder who is Black or African American alone; HCT42I. MEDIAN VALUE (DOLLARS) (WHITE ALONE, NOT HISPANIC OR LATINO HOUSEHOLDER) [1] - Universe: Specified owner-occupied housing units with a householder who is White alone, not Hispanic or Latino.

HOUSEHOLDS BY AGE OF HOUSEHOLDER BY HOUSEHOLD TYPE (INCLUDING LIVING ALONE) BY PRESENCE OF OWN CHILDREN UNDER 18 YEARS

Source data for Chart 1

	African American	White, Not Hispanic
	North Carolina	North Carolina
Total:	627,854	2,321,636
Householder 15 to 64 years:	525,233	1,810,306
Family households:	378,764	1,317,491
Married-couple family:	194,681	1,109,267
With own children under 18 years	111,051	552,336
No own children under 18 years	83,630	556,931
Other family:	184,083	208,224
Male householder, no wife present:	28,160	61,429
With own children under 18 years	15,298	36,463
No own children under 18 years	12,862	24,966
Female householder, no husband present:	155,923	146,795
With own children under 18 years	109,996	98,941
No own children under 18 years	45,927	47,854
Nonfamily households:	146,469	492,815
Householder living alone	120,430	376,093
Householder not living alone	26,039	116,722
Householder 65 years and over:	102,621	511,330
Family households:	54,977	281,556
Married-couple family:	28,132	240,805
With own children under 18 years	608	1,359
No own children under 18 years	27,524	239,446
Other family:	26,845	40,751
Male householder, no wife present:	4,278	7,283
With own children under 18 years	246	139
No own children under 18 years	4,032	7,144
Female householder, no husband present:	22,567	33,468
With own children under 18 years	222	85
No own children under 18 years	22,345	33,383
Nonfamily households:	47,644	229,774
Householder living alone	45,991	223,607
Householder not living alone	1,653	6,167

Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data - P146B. HOUSEHOLDS BY AGE OF HOUSEHOLDER BY HOUSEHOLD TYPE (INCLUDING LIVING ALONE) BY PRESENCE OF OWN CHILDREN UNDER 18 YEARS (BLACK OR AFRICAN AMERICAN ALONE HOUSEHOLDER) [31] - Universe: Households with a householder who is Black or African American alone; P146I. HOUSEHOLDS BY AGE OF HOUSEHOLDER BY HOUSEHOLD TYPE (INCLUDING LIVING ALONE) BY PRESENCE OF OWN CHILDREN UNDER 18 YEARS (WHITE ALONE, NOT HISPANIC OR LATINO HOUSEHOLDER) [31] - Universe: Households with a householder who is White alone, not Hispanic or Latino.

SCHOOL ENROLLMENT BY LEVEL OF SCHOOL BY TYPE OF SCHOOL FOR THE POPULATION 3 YEARS AND OVER

Source data for Chart 2

	African American	White, Not Hispanic
	North Carolina	North Carolina
Total:	1,655,443	5,450,650
Enrolled in nursery school, preschool:	36,712	86,492
Public school	27,950	34,724
Private school	8,762	51,768
Enrolled in kindergarten:	30,912	70,152
Public school	29,755	59,831
Private school	1,157	10,321
Enrolled in grade 1 to grade 8:	253,247	571,564
Public school	247,043	506,930
Private school	6,204	64,634
Enrolled in grade 9 to grade 12:	118,931	263,499
Public school	115,601	239,889
Private school	3,330	23,610
Enrolled in college:	109,592	314,688
Public school	87,452	246,443
Private school	22,140	68,245
Not enrolled in school	1,106,049	4,144,255

Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data - P146B. HOUSEHOLDS BY AGE OF HOUSEHOLDER BY HOUSEHOLD TYPE (INCLUDING LIVING ALONE) BY PRESENCE OF OWN CHILDREN UNDER 18 YEARS (BLACK OR AFRICAN AMERICAN ALONE HOUSEHOLDER) [31] - Universe: Households with a householder who is Black or African American alone; P146I. HOUSEHOLDS BY AGE OF HOUSEHOLDER BY HOUSEHOLD TYPE (INCLUDING LIVING ALONE) BY PRESENCE OF OWN CHILDREN UNDER 18 YEARS (WHITE ALONE, NOT HISPANIC OR LATINO HOUSEHOLDER) [31] - Universe: Households with a householder who is White alone, not Hispanic or Latino.

SEX BY EDUCATIONAL ATTAINMENT FOR THE POPULATION 25 YEARS AND OVER

Source data for Chart 3

	African American	White, Not Hispanic
	North Carolina	North Carolina
Total:	1,025,276	3,920,336
Male:	458,381	1,873,207
Less than 9th grade	45,398	120,210
9th to 12th grade, no diploma	94,585	234,457
High school graduate (includes equivalency)	154,799	511,180
Some college, no degree	89,000	383,250
Associate degree	22,197	124,702
Bachelor's degree	37,675	330,171
Graduate or professional degree	14,727	169,237
Female:	566,895	2,047,129
Less than 9th grade	51,168	118,709
9th to 12th grade, no diploma	108,993	242,658
High school graduate (includes equivalency)	167,262	600,208
Some college, no degree	123,354	435,290
Associate degree	33,745	161,283
Bachelor's degree	60,496	342,780
Graduate or professional degree	21,877	146,201

Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- P148B. SEX BY EDUCATIONAL ATTAINMENT FOR THE POPULATION 25 YEARS AND OVER (BLACK OR AFRICAN AMERICAN ALONE) [17] - Universe: Black or African American alone 25 years and over; P148I. SEX BY EDUCATIONAL ATTAINMENT FOR THE POPULATION 25 YEARS AND OVER (WHITE ALONE, NOT HISPANIC OR LATINO) [17] - Universe: White alone, not Hispanic or Latino population 25 years and over.

SEX BY EMPLOYMENT STATUS FOR THE POPULATION 16 YEARS AND OVER

Source data for Charts 4 and 5

	African American	White, Not Hispanic
	North Carolina	North Carolina
Total:	1,269,882	4,549,492
Male:	578,213	2,197,369
In labor force:	372,332	1,633,812
In Armed Forces	14675	55,110
Civilian:	357,657	1,578,702
Employed	319,926	1,524,382
Unemployed	37,731	54,320
Not in labor force	205,881	563,557
Female:	691,669	2,352,123
In labor force:	420,702	1,379,720
In Armed Forces	3016	4,329
Civilian:	417,686	1,375,391
Employed	375,689	1,317,721
Unemployed	41,997	57,670
Not in labor force	270,967	972,403

Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- P150B. SEX BY EMPLOYMENT STATUS FOR THE POPULATION 16 YEARS AND OVER (BLACK OR AFRICAN AMERICAN ALONE) [15] - Universe: Black or African American alone 16 years and over; P150I. SEX BY EMPLOYMENT STATUS FOR THE POPULATION 16 YEARS AND OVER (WHITE ALONE, NOT HISPANIC OR LATINO) [15] - Universe: White alone, not Hispanic or Latino population 16 years and over.

HOUSEHOLD INCOME IN 1999

Source data for Chart 6

	African American	White, Not Hispanic
	North Carolina	North Carolina
Total:	627,854	2,321,636
Less than $10,000	116,636	191,185
$10,000 to $14,999	56,327	131,995
$15,000 to $19,999	54,908	138,859
$20,000 to $24,999	54,699	152,911
$25,000 to $29,999	50,727	155,907
$30,000 to $34,999	44,527	155,806
$35,000 to $39,999	39,017	146,038
$40,000 to $44,999	35,294	143,802
$45,000 to $49,999	28,383	126,432
$50,000 to $59,999	47,169	231,262
$60,000 to $74,999	44,752	254,356
$75,000 to $99,999	32,756	234,150
$100,000 to $124,999	11,168	111,420
$125,000 to $149,999	4,430	52,572
$150,000 to $199,999	3,137	45,341
$200,000 or more	3,924	49,600

Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- P151B. HOUSEHOLD INCOME IN 1999 (BLACK OR AFRICAN AMERICAN ALONE HOUSEHOLDER) [17] - Universe: Households with a householder who is Black or African American alone; P151I. HOUSEHOLD INCOME IN 1999 (WHITE ALONE, NOT HISPANIC OR LATINO HOUSEHOLDER) [17] - Universe: Households with a householder who is White alone, not Hispanic or Latino.

MEDIAN FAMILY INCOME IN 1999

Source data for Chart 7

	African American	White, Not Hispanic
	North Carolina	North Carolina
Median family income in 1999	$ 31,951	$ 51,364

Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- P155B. MEDIAN FAMILY INCOME IN 1999 (DOLLARS) (BLACK OR AFRICAN AMERICAN ALONE HOUSEHOLDER) [1] - Universe: Families with a householder who is Black or African American alone ; P155I. MEDIAN FAMILY INCOME IN 1999 (DOLLARS) (WHITE ALONE, NOT HISPANIC OR LATINO HOUSEHOLDER) [1] - Universe: Families with a householder who is White alone, not Hispanic or Latino.

PER CAPITA INCOME IN 1999

Source data for Chart 8

	African American	White, Not Hispanic
	North Carolina	North Carolina
Per capita income in 1999	$ 13,548	$ 23,237

Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- P157B. PER CAPITA INCOME IN 1999 (DOLLARS) (BLACK OR AFRICAN AMERICAN ALONE) [1] - Universe: Black or African American alone; P157I. PER CAPITA INCOME IN 1999 (DOLLARS) (WHITE ALONE, NOT HISPANIC OR LATINO) [1] - Universe: White alone, not Hispanic or Latino population.

POVERTY STATUS IN 1999 BY AGE

Source data for Chart 9

	African American	White, Not Hispanic
	North Carolina	North Carolina
Total:	1,657,228	5,501,865
Income in 1999 below poverty level:	379,349	444,465
Under 5 years	43,856	30,999
5 years	9,159	6,170
6 to 11 years	56,434	37,650
12 to 17 years	43,889	32,342
18 to 64 years	185,114	259,821
65 to 74 years	20,901	32,638
75 years and over	19,996	44,845
Income in 1999 at or above poverty level:	1,277,879	5,057,400
Under 5 years	85,447	294,144
5 years	19,783	60,208
6 to 11 years	127,845	382,320
12 to 17 years	121,766	370,190
18 to 64 years	818,263	3,268,760
65 to 74 years	63,330	401,325
75 years and over	41,445	280,453

Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- P159B. POVERTY STATUS IN 1999 BY AGE (BLACK OR AFRICAN AMERICAN ALONE) [17] - Universe: Black or African American alone for whom poverty status is determined;P159I. POVERTY STATUS IN 1999 BY AGE (WHITE ALONE, NOT HISPANIC OR LATINO) [17] - Universe: White alone, not Hispanic or Latino population for whom poverty status is determined.

MEDIAN EARNINGS IN 1999

Source data for Chart 10

	African American	White, Not Hispanic
	North Carolina	North Carolina
Median earnings in 1999 --		
Worked full-time, year-round in 1999 --		
Total	$ 24,382	$ 31,034
Male	$ 26,654	$ 35,532
Female	$ 21,968	$ 26,089
Other --		
Total	$ 9,508	$ 10,348
Male	$ 10,044	$ 11,634
Female	$ 9,163	$ 9,519

Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- PCT74B. MEDIAN EARNINGS IN 1999 (DOLLARS) BY WORK EXPERIENCE IN 1999 BY SEX FOR THE POPULATION 16 YEARS AND OVER WITH EARNINGS (BLACK OR AFRICAN AMERICAN ALONE) [6] - Universe: Black or African American alone 16 years and over with earnings in 1999; PCT74I. MEDIAN EARNINGS IN 1999 (DOLLARS) BY WORK EXPERIENCE IN 1999 BY SEX FOR THE POPULATION 16 YEARS AND OVER WITH EARNINGS (WHITE ALONE, NOT HISPANIC OR LATINO) [6] - Universe: White alone, not Hispanic or Latino population 16 years and over with earnings in 1999.

TENURE BY RACE OF HOUSEHOLDER

Source data for Chart 11

	North Carolina
Total:	3,132,013
Owner occupied:	2,172,270
Householder who is White alone	1,776,042
Householder who is Black or African American alone	329,069
Householder who is American Indian and Alaska Native alone	24,235
Householder who is Asian alone	16,302
Householder who is Native Hawaiian and Other Pacific Islander alone	403
Householder who is Some other race alone	12,544
Householder who is Two or more races	13,675
Renter occupied:	959,743
Householder who is White alone	589,713
Householder who is Black or African American alone	296,844
Householder who is American Indian and Alaska Native alone	10,586
Householder who is Asian alone	15,641
Householder who is Native Hawaiian and Other Pacific Islander alone	504
Householder who is Some other race alone	30,399
Householder who is Two or more races	16,056

White alone, not Hispanic **White, Not Hispanic**

		North Carolina
Total:		2,327,753
Owner occupied		1,762,580
Renter occupied		565,173

Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- H11. TENURE BY RACE OF HOUSEHOLDER [17] - Universe: Occupied housing units; H13. TENURE (WHITE ALONE, NOT HISPANIC OR LATINO HOUSEHOLDER) [3] - Universe: Occupied housing units with a householder who is White alone, not Hispanic or Latino.

OCCUPANTS PER ROOM

Source data for Chart 12

	African American	White, Not Hispanic
	North Carolina	North Carolina
Total:	625,913	2,327,753
1.00 or less occupants per room	588,620	2,296,984
1.01 or more occupants per room	37,293	30,769

Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- HCT29B. OCCUPANTS PER ROOM (BLACK OR AFRICAN AMERICAN ALONE HOUSEHOLDER) [3] - Universe: Occupied housing units with a householder who is Black or African American alone; HCT29I. OCCUPANTS PER ROOM (WHITE ALONE, NOT HISPANIC OR LATINO HOUSEHOLDER) [3] - Universe: Occupied housing units with a householder who is White alone, not Hispanic or Latino.

TELEPHONE SERVICE AVAILABLE

Source data for Chart 13

	African American	White, Not Hispanic
	North Carolina	North Carolina
Total:	625,913	2,327,753
With telephone service available	589,896	2,281,696
No telephone service available	36,017	46,057

Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- HCT32B. TELEPHONE SERVICE AVAILABLE (BLACK OR AFRICAN AMERICAN ALONE HOUSEHOLDER) [3] - Universe: Occupied housing units with a householder who is Black or African American alone; HCT32I. TELEPHONE SERVICE AVAILABLE (WHITE ALONE, NOT HISPANIC OR LATINO HOUSEHOLDER) [3] - Universe: Occupied housing units with a householder who is White alone, not Hispanic or Latino.

VEHICLES AVAILABLE

Source data for Chart 14

	African American	White, Not Hispanic
	North Carolina	North Carolina
Total:	625,913	2,327,753
No vehicle available	104,727	115,400
1 or more vehicles available	521,186	2,212,353

Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- HCT33B. VEHICLES AVAILABLE (BLACK OR AFRICAN AMERICAN ALONE HOUSEHOLDER) [3] - Universe: Occupied housing units with a householder who is Black or African American alone;; HCT33I. VEHICLES AVAILABLE (WHITE ALONE, NOT HISPANIC OR LATINO HOUSEHOLDER) [3] - Universe: Occupied housing units with a householder who is White alone, not Hispanic or Latino.

PLUMBING FACILITIES

Source data for Chart 15

	African American	White, Not Hispanic
	North Carolina	North Carolina
Total:	625,913	2,327,753
Complete plumbing facilities	617,517	2,318,749
Lacking complete plumbing facilities	8396	9,004

Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- HCT34B. PLUMBING FACILITIES (BLACK OR AFRICAN AMERICAN ALONE HOUSEHOLDER) [3] - Universe: Occupied housing units with a householder who is Black or African American alone; HCT34I. PLUMBING FACILITIES (WHITE ALONE, NOT HISPANIC OR LATINO HOUSEHOLDER) [3] - Universe: Occupied housing units with a householder who is White alone, not Hispanic or Latino.

GROSS RENT AS A PERCENTAGE OF HOUSEHOLD INCOME IN 1999

Source data for Chart 16

	African American	White, Not Hispanic
	North Carolina	North Carolina
Total:	295,136	552,082
Less than 10 percent	17463	38,006
10 to 14 percent	29,724	73,604
15 to 19 percent	37552	85,475
20 to 24 percent	35103	72,403
25 to 29 percent	30489	51,666
30 to 34 percent	21798	34,670
35 to 39 percent	16318	24,289
40 to 49 percent	21081	31,133
50 percent or more	57,965	77,289
Not computed	27643	63,547

Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- HCT39B. GROSS RENT AS A PERCENTAGE OF HOUSEHOLD INCOME IN 1999 (BLACK OR AFRICAN AMERICAN ALONE HOUSEHOLDER) [11] - Universe: Specified renter-occupied housing units with a householder who is Black or African American alone; HCT39I. GROSS RENT AS A PERCENTAGE OF HOUSEHOLD INCOME IN 1999 (WHITE ALONE, NOT HISPANIC OR LATINO HOUSEHOLDER) [11] - Universe: Specified renter-occupied housing units with a householder who is White alone, not Hispanic or Latino.

MEDIAN GROSS RENT

Source data for Chart 17

	African American	White, Not Hispanic
	North Carolina	North Carolina
Median gross rent	$ 505	$ 571

Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- HCT37B. MEDIAN GROSS RENT (DOLLARS) (BLACK OR AFRICAN AMERICAN ALONE HOUSEHOLDER) [1] - Universe: Specified renter-occupied housing units paying cash rent with a householder who is Black or African American alone; HCT37I. MEDIAN GROSS RENT (DOLLARS) (WHITE ALONE, NOT HISPANIC OR LATINO HOUSEHOLDER) [1] - Universe: Specified renter-occupied housing units paying cash rent with a householder who is White alone, not Hispanic or Latino.

MEDIAN HOME VALUE

Source data for Chart 18

	African American	White, Not Hispanic
	North Carolina	North Carolina
Median value	$ 80,100	$ 116,200

Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- HCT42B. MEDIAN VALUE (DOLLARS) (BLACK OR AFRICAN AMERICAN ALONE HOUSEHOLDER) [1] - Universe: Specified owner-occupied housing units with a householder who is Black or African American alone; HCT42I. MEDIAN VALUE (DOLLARS) (WHITE ALONE, NOT HISPANIC OR LATINO HOUSEHOLDER) [1] - Universe: Specified owner-occupied housing units with a householder who is White alone, not Hispanic or Latino.