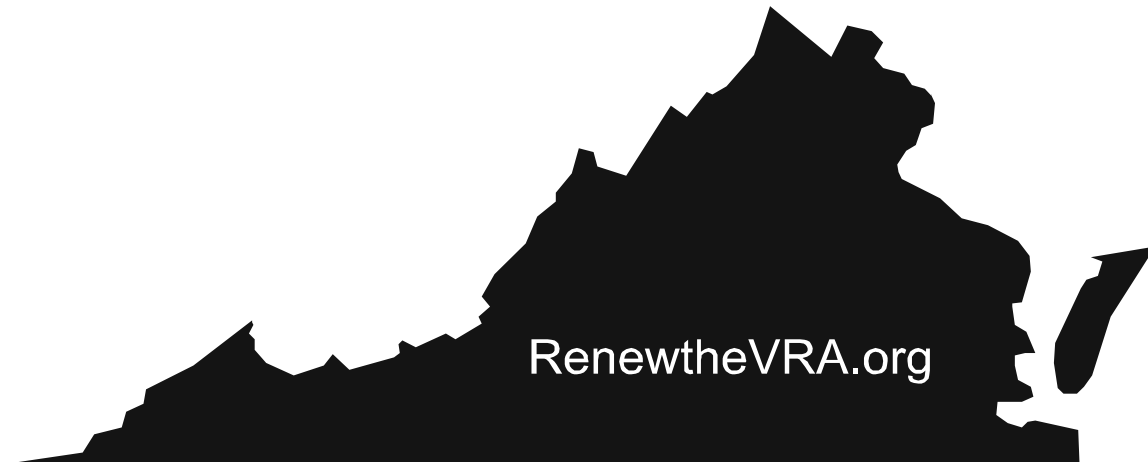


# VOTING RIGHTS IN VIRGINIA 1982-2006

A REPORT OF [RENEWTHEVRA.ORG](http://RENEWTHEVRA.ORG)  
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## INTRODUCTION TO THE VOTING RIGHTS ACT

Virginia was one of the six original states covered entirely by Section 5 of the Voting Rights Act<sup>2</sup> [hereinafter VRA] as a result of its long history of intentional discrimination against African Americans.<sup>3</sup> The VRA has succeeded in removing some of the direct and indirect barriers to voting by African Americans and other racial minorities. A period of forty years of VRA protection, however, has been insufficient to completely erase the effects and continued practice of voting discrimination. To the extent that there has been progress, it has come at the behest of the Department of Justice (DOJ) or the federal courts, sometimes after extensive litigation. For example, as detailed below, there have been numerous Section 5 objections in every decade since the last reauthorization of the VRA in 1982 and in a wide range of areas, including: redistricting, voting procedures, election schedules, and the structure of elected bodies. In addition to the Section 5 objections, there have been multiple successful Section 2 vote dilution challenges, consent decrees and even constitutional challenges to discriminatory voting practices in Virginia.

Overall, Virginia's progress in providing electoral practices and structures that can provide equal opportunities for minority voters is mixed. On the one hand, it is the only Section 5 covered jurisdiction to have elected an African-American governor in recent times. On the other hand, racially polarized voting persists and blacks are elected to Congress, the state legislature and to local governing bodies at rates significantly lower than their percentages in the population. In 2000, the state's population of more than seven million was 70.1 percent white (non-Hispanic), 20.1 percent black (non-Hispanic) alone or in combination, 4.7 percent Hispanic of any race, and 4.2 percent Asian (non-Hispanic) alone or in combination.<sup>4</sup> Population estimates for 2004 suggest that while the population in the state is growing overall, the relative percentages of each minority group did not shift significantly in the first part of the decade.<sup>5</sup>

There were eighteen objections to voting changes in Virginia issued by the Department of Justice under Section 5 of the Voting Rights Act from 1982 through 2004, most dealing with redistricting plans.<sup>6</sup> Voting rights litigation on behalf of minorities in the state has ranged from challenges to the state's legislative and congressional redistricting plans following the 1990 and 2000 Censuses,<sup>7</sup> to the Supreme Court's ruling in 1996 that the state Republican Party's requirement that delegates to the nominating convention pay a registration fee is subject to challenge under Section 2 of the Voting Rights Act.<sup>8</sup> The state is also one of the few that

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<sup>2</sup>Pub. L. 89-110, title I, Sec. 5, 79 Stat. 439, (Aug. 6, 1965) (codified at 42 U.S.C. §1973c); 30 Fed. Reg. 9897 (Aug. 7 1965).

<sup>3</sup>Thomas R. Morris & Neil Bradley, *Virginia*, in QUIET REVOLUTION IN THE SOUTH: THE IMPACT OF THE VOTING RIGHTS ACT 1965-1990 271, 271 (Chandler Davidson & Bernard Grofman eds., 1994) [hereinafter *Virginia*, QUIET REVOLUTION].

<sup>4</sup>U.S. Census Bureau, Census 2000, Profile of General Demographic Characteristics, Race Alone or in Combination and Hispanic or Latino, American Factfinder, available at <http://factfinder.census.gov>.

<sup>5</sup>See U.S. Census Bureau, Annual Estimates of the Population by Sex, Race and Hispanic or Latino Origin for Virginia: April 1, 2000 to July 1, 2004, available at:

[http://www.coopercenter.org/demographics/sitefiles/documents/excel/popestimatesagesexrace/varace\\_ethnicity.xls](http://www.coopercenter.org/demographics/sitefiles/documents/excel/popestimatesagesexrace/varace_ethnicity.xls).

<sup>6</sup>See Appendix 1 – Section 5 Objections in Virginia, 1982-Present.

<sup>7</sup>*Meadows v. Moon*, 521 U.S. 1113 (1997) (Mem); *Wilkins v. West*, 264 Va. 447, 571 S.E.2d 100 (Va. 2002); *Hall v. Virginia*, 385 F.3d 421 (4<sup>th</sup> Cir. 2004).

<sup>8</sup>*Morse v. Republican Party of Virginia*, 517 U.S. 186 (1996).

permanently disenfranchises former felons,<sup>9</sup> and was one of just a handful of states that unsuccessfully litigated against implementation of the National Voter Registration Act.<sup>10</sup>

Virginia is also noteworthy because ten local jurisdictions have made use of the bailout process to end their coverage under Section 5. The state as a whole unsuccessfully sought to bail out in 1974,<sup>11</sup> but since then a handful of cities and counties around the state have successfully petitioned for bailout. Evidence indicates that other jurisdictions in Virginia have considered bailout and decided not to pursue it.

## I. Factors Impacting Minority Political Participation in Virginia

Before turning to the specifics of Virginia's experience with the VRA since 1982, it is important to place the voting experiences of Virginia's African-American citizens in the context of their broader social and economic experiences. In 1988, in analyzing an alleged Section 2 vote dilution claim, the U.S. District Court for the Eastern District of Virginia described the socio-economic disparities among African-American citizens and white citizens in Virginia. The court found that African Americans

continue to suffer from the socio-economic consequences of past discrimination . . . [The] effects are evident in all facets of everyday life. They include depressed economic, educational and employment levels and inferior residential circumstances. In general, blacks have less education than do whites of the same age, have higher rates of unemployment, lower per capita income and lower quality of housing than do whites. . . . [T]hese depressed socio-economic conditions are likely to result (and have resulted) in lower voter registration and voter turnout on the part of blacks.<sup>12</sup>

And, in fact, throughout the 1980s, African Americans in Virginia were registered to vote in lower percentages than whites.<sup>13</sup>

African Americans (and other racial minorities) have not made significant socio-economic gains since the late 1980s.<sup>14</sup> In 1999, the median income of African Americans in Virginia was 36 percent lower than that of whites.<sup>15</sup> The unemployment rate for African Americans was more than double that of whites.<sup>16</sup> In 2003-2004, 25 percent of African Americans lived below the poverty level, as compared to only 10 percent of whites.<sup>17</sup> During that same time period, 19

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<sup>9</sup> VA. CONST. art. II, § 1; *See also* Va. Code Ann. § 24.2-427, (providing that the general registrar “shall cancel the registration of (i) all persons known by him to be . . . disqualified to vote by reason of a felony conviction.”)

<sup>10</sup> *Commonwealth of Virginia v. United States*, Civ. Action No. 3:95CV357 (E.D. Va. 1995).

<sup>11</sup> *Commonwealth of Virginia v. United States*, 386 F. Supp. 1319 (D.D.C. 1974), *aff'd mem.*, 420 U.S. 901 (1975).

<sup>12</sup> *Neal v. Coleburn*, 689 F. Supp. 1426, 1428 (E.D. Va. 1988).

<sup>13</sup> *See id.*

<sup>14</sup> *See generally*, Appendix 2, “Selected Socio-Economic Data: Virginia”, compiled May 5, 2003.

<sup>15</sup> Census 2000 Demographic Profile Highlights for Black or African Americans and Whites in Virginia, U.S. Census Bureau, American FactFinder, *available at* <http://factfinder.census.gov>.

<sup>16</sup> Unemployment Rate (Civilian Labor Force) Virginia, Selected Socio-Economic Data: Virginia African American and White, Not Hispanic, Chart 4, *available at* [www.fairdata2000.com](http://www.fairdata2000.com) (May 5, 2003).

<sup>17</sup> Virginia: Poverty Rate by Race/Ethnicity, states (2003-2004), The Henry J. Kaiser Family Foundation: [Statehealthfacts.org](http://Statehealthfacts.org).

percent of nonelderly African Americans were enrolled in Medicaid, while only 5 percent of white citizens were enrolled.<sup>18</sup> Whereas 73 percent of whites received employer-sponsored health insurance coverage in 2004, only 15 percent of African Americans and 5 percent of Hispanics received coverage.<sup>19</sup> In 2002, African Americans had a 62.5 rate of teen births per 1,000 population; Hispanics had a 75.7 rate per 1,000; whites had only a 27.3 rate per 1,000.<sup>20</sup> At 15.8 percent, the infant death rate of African Americans is roughly three times that of whites in Virginia and is higher than the national average.<sup>21</sup> In 2004, the rate of African Americans with AIDS was 42.2 per 100,000, as compared to 5.1 per 100,000 for white citizens.<sup>22</sup>

African Americans continue to lag behind whites in education and housing. In 2000, the median home value for homes owned by African Americans was \$85,700. It was \$132,400 for homes owned by whites.<sup>23</sup> 4.6 percent of African-American households lack telephone services; 16.7 percent lack vehicles – both more than three times the number of whites.<sup>24</sup> In 2002, the mean SAT scores for whites were over 100 points higher than for African Americans in both verbal and math.<sup>25</sup> Finally, as a further legacy of prior intentional discrimination in education, African Americans remain behind whites in all levels of higher education attainment.<sup>26</sup>

## II. Section 5 Coverage of Virginia

### A. History of Voting Discrimination Before the VRA

In 1870, the Virginia state legislature passed a statute providing for separate voting registration books for blacks and whites. Keeping separate logs made it easier to limit the number of African-American voters through such “technical delays” as misplacing the black voter list while limiting the time period allowed for voting.<sup>27</sup> During reapportionment in the late 1800s, pockets of African-American voters were “cracked” through racial and political gerrymandering, further

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<sup>18</sup> Health Insurance Coverage Rate of Nonelderly Medicaid Enrollees by Race/Ethnicity, states (2003-2004), The Henry J. Kaiser Family Foundation: [Statehealthfacts.org](http://Statehealthfacts.org).

<sup>19</sup> Health Insurance Coverage of Nonelderly with Employer Coverage by Race/Ethnicity, states (2003-2004), The Henry J. Kaiser Family Foundation: [Statehealthfacts.org](http://Statehealthfacts.org).

<sup>20</sup> Rate of Teen Births per 1,000 Population by Race/Ethnicity, 2002, The Henry J. Kaiser Family Foundation: [Statehealthfacts.org](http://Statehealthfacts.org).

<sup>21</sup> Infant Death Rate by Race/Ethnicity, 2001, The Henry J. Kaiser Family Foundation: [Statehealthfacts.org](http://Statehealthfacts.org).

<sup>22</sup> Adult and Adolescent Annual AIDS Case Rate per 100,000 Population by Race/Ethnicity (2004), The Henry J. Kaiser Family Foundation: [Statehealthfacts.org](http://Statehealthfacts.org).

<sup>23</sup> Median Home Value by Household Virginia, Selected Socio-Economic Data: Virginia African American and White, Not Hispanic, Chart 18, *available at* [www.fairdata2000.com](http://www.fairdata2000.com) (May 5, 2003).

<sup>24</sup> Lack of Telephone Service by Household Virginia, Selected Socio-Economic Data: Virginia African American and White, Not Hispanic, Chart 13, *available at* [www.fairdata2000.com](http://www.fairdata2000.com) (May 5, 2003); Lack of Vehicle By Household Virginia, Selected Socio-Economic Data: Virginia African American and White, Not Hispanic, Chart 14, *available at* [www.fairdata2000.com](http://www.fairdata2000.com) (May 5, 2003).

<sup>25</sup> Mean SAT Scores, By Race and Ethnicity, 2002, Virginia Education Statistics By Race, Ethnicity and Gender, *available at* <http://www.maec.org/vastats.html>.

<sup>26</sup> Educational Attainment (25 years and over) Virginia, Chart 3, *available at* [www.fairdata2000.com](http://www.fairdata2000.com) (May 5, 2003).

<sup>27</sup> *Virginia*, QUIET REVOLUTION, *supra* note 2, at 272. This practice was declared unconstitutional in 1964. See *Hamm v. Virginia State Bd. of Elections*, 230 F. Supp. 156 (E.D. Va. 1964), *aff'd sub nom. Tancil v. Woolls*, 379 U.S. 19 (1964) (declaring unconstitutional Virginia laws requiring separation of names by race on voter registration, poll tax and residence-certificate lists, and on property ownership and tax lists).

diluting the power and influence of minorities.<sup>28</sup> In 1876, legislators pushed through a state constitutional amendment making payment of a poll tax a prerequisite for voting.<sup>29</sup> The poll tax was repealed in 1882, but the overt discrimination against African Americans did not end.<sup>30</sup> In 1894, the legislature enacted the Walton Act, which allowed for publicly printed ballots to be marked secretly in booths. There were no party names or symbols allowed on the ballots and, although special election judges were allowed to assist illiterates, “the practical effect was to end voting by most blacks in Virginia.”<sup>31</sup>

Disenfranchisement efforts continued into the 1900s with the Virginia constitutional convention of 1901-02 including provisions for a framework of poll taxes, an “understanding clause,” and literacy tests designed explicitly for the purpose of disenfranchising African-American voters.<sup>32</sup> The Fourth Circuit has held that the purpose of the 1902 state constitutional convention was to “disenfranchise as many impoverished people, including most blacks,” as possible.<sup>33</sup> Thus, in the early to mid-1900s, African Americans were virtually eliminated from electoral participation in Virginia. As two leading commentators note, “between the 1870s and 1960s[ ] various suffrage restrictions effectively limited black voting to a level that was not threatening to white supremacists and virtually eliminated black officeholding.”<sup>34</sup>

When it was apparent in 1963 that the poll tax would be eliminated, Virginia convened a special session of the state legislature to design an alternative way of limiting participation by African Americans. They enacted legislation requiring each voter to file a certificate of residence six months before each federal election.<sup>35</sup> Although the provision was invalidated by a federal district court in 1964, it symbolized the continued resistance of the white population in Virginia to enfranchise African Americans. This was further underscored by the fact that almost the entire Virginia congressional delegation voted against the VRA and its three subsequent extensions.<sup>36</sup> Moreover, until 1974, the Virginia Constitution required proof of literacy for persons registering to vote, in violation of Section 5,<sup>37</sup> and before 1966, Virginia unconstitutionally maintained a poll tax that was specifically recognized as intended to discriminate against African American voters.<sup>38</sup> In fact, in the mid to late 1960s, in contrast with Virginia, Mississippi was considered a “hotbed of democracy.”<sup>39</sup>

Virginia’s racially discriminatory voting practices illustrate only a few examples of a long history of discriminatory traditions aimed at suppressing minority populations. As part of its “massive resistance” to school desegregation, Virginia shut down many of its public schools and created private academies for white students in the wake of the Supreme Court’s 1954 decision

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<sup>28</sup> *Id.* at 272.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.* at 273.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Irby v. Virginia State Bd. of Elections*, 889 F.2d 1352, 1354 (4<sup>th</sup> Cir. 1989).

<sup>34</sup> *Virginia*, QUIET REVOLUTION, *supra* note 2, at 275.

<sup>35</sup> *Virginia*, QUIET REVOLUTION, *supra* note 2, at 276.

<sup>36</sup> *Id.* at 279.

<sup>37</sup> See *Commonwealth of Virginia v. United States*, 386 F. Supp. 1319 (D.D.C. 1974), *aff’d* 420 U.S. 901 (1975).

<sup>38</sup> See *Harper v. Virginia State Bd.*, 383 U.S. 663 (1966).

<sup>39</sup> V.O. KEY, JR., SOUTHERN POLITICS IN STATE AND NATION 20 (Knoxville, TN, reprinted 1984).

in *Brown v. Board of Education*. Public schools in Prince Edward County, for example, did not reopen until 1964.<sup>40</sup> Furthermore, until 1963, Virginia statutes required racial segregation in places of public assemblage;<sup>41</sup> interracial marriage was prohibited by law until 1967.<sup>42</sup>

## B. History of Voting Discrimination After the VRA

### 1. “[P]our[ing] old poison into new bottles”<sup>43</sup>

After the enactment of the VRA, Virginia began a new phase of its campaign to minimize the African-American vote through the use of multi-member districts, municipal annexations, and at-large city elections.

In fact, Virginia’s record of legislative redistricting was one of the primary reasons cited for the need to extend the VRA in 1982. The state legislature failed to make significant improvements in the 1980’s round of redistricting. At the time of reapportionment in the 1980s, only 4 of the 100 members of the Virginia House of Delegates were African-American because “the drawing of legislative boundaries and the extensive use of multimember districts has limited black opportunities for elected office.”<sup>44</sup> The total number of African-American elected officials in Virginia (federal, state, county and municipal) was 124—the lowest number of such officials in any state covered by Section 5 of the Voting Rights Act.<sup>45</sup> Thus, although African Americans made up 18.9 percent of the population, African Americans only held 4.1 percent of elected offices.<sup>46</sup> Virginia had the dubious distinction of having the lowest level of black legislative representation in the South. Instead of remedying this situation in the process of redistricting following the 1980 Census, the legislature attempted to further suppress minority electoral participation. “In 1981-82 there were some fourteen legislative sessions, six redistricting plans, a ruling of unconstitutional population disparities by a three-judge panel, a gubernatorial veto, and Justice Department section 5 objections to plans for both houses.”<sup>47</sup>

In the early 1990s, there were only 151 black elected officials in Virginia, below the national average and again among the lowest number in jurisdictions covered by Section 5. African Americans held only three Senate and seven House of Delegates seats in the Virginia legislature and no Congressional offices.<sup>48</sup> The low numbers of African-American representatives reflected both the socio-economic disparities and structural impediments to effectively participating in the electoral process. As of 1991, only nine of the state’s forty-one cities abandoned at-large council elections.<sup>49</sup> Eight of the nine converted because of litigation under the equal protection clause,

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<sup>40</sup> Smith, Robert Collins, *The Crippled Generation*, in *THEY CLOSED THEIR SCHOOLS: PRINCE EDWARD COUNTY, VIRGINIA, 1951-1964* (University of North Carolina Press 1965).

<sup>41</sup> See *Brown v. City of Richmond*, 132 S.E.2d 495 (Va. 1963).

<sup>42</sup> See *Loving v. Virginia*, 388 U.S. 1 (1967).

<sup>43</sup> *Reno v. Bossier Parish Sch. Bd.*, 528 U.S. 320, 366 (2000).

<sup>44</sup> U.S. Commission on Civil Rights, *The Voting Rights Act: Unfulfilled Goals* ¶¶ 56-57 (Washington, D.C. Sept. 1981).

<sup>45</sup> *Id.* at 12, Table 2.1.

<sup>46</sup> *Id.* at 15, Tables 2.3 & 2.4.

<sup>47</sup> *Virginia*, QUIET REVOLUTION, *supra* note 2, at 281.

<sup>48</sup> BLACK ELECTED OFFICIALS: A NATIONAL ROSTER 435 (Joint Center for Political and Economic Studies Press, 1990).

<sup>49</sup> *Virginia*, QUIET REVOLUTION, *supra* note 2, at 290.



or Justice Department intervention under the VRA. Without the VRA, African Americans would have undoubtedly been denied participation or accorded only token representation on governing bodies in these jurisdictions. Further, Virginia is one of only four states in which judges are elected by the state legislature. As a result of this practice, in 1990, “fewer than 5 percent of Virginia’s judges were black in a state whose black population was 19 percent . . . .”<sup>50</sup> According to Thomas Morris and Neil Bradley, as of 1990,

The virtual absence of blacks from the state’s town councils indicates a continuing racial polarization at the grass-roots level—a polarization also reflected in the difficulty blacks have in winning in majority-white jurisdictions . . . . The continuing underrepresentation of blacks on many at-large county and city governments drives this fact home, as does the resistance of at large jurisdictions to adopting an election structure that gives blacks a better chance of representation.<sup>51</sup>

This is still true today. African Americans make up 20.1 percent of the Virginia population, but only 11 percent of the state House Representatives, 12.5 percent of the state Senators and 9.1 percent of the U.S. House Representatives. Further, 91 percent of the African-American state House Representatives, 83 percent of the African-American state Senators and the only African-American member of Congress are elected from black-majority districts.<sup>52</sup>

Electoral structure, capitalizing on racially polarized voting patterns, plays a significant role in limiting the political power and influence of African Americans. A comprehensive study of minority elected officials in eight Southern states, including Virginia, found that although there has been an increase in the number of African American representatives since 1982, it is due largely to the effects of VRA litigation and enforcement.<sup>53</sup> The study found no indication that the increase was a result of a decline in racially polarized voting. A few high-profile examples of African Americans elected in majority-white jurisdictions, such as Virginia’s Governor L. Douglas Wilder in 1990, appear to be the exceptions to the general rule, and, according to leading scholars, should not be viewed as evidence that the protections of the Act are no longer needed.<sup>54</sup> In fact, “the noteworthy instances of Black electoral success in White jurisdictions, fully understood, often suggest that safe districts have played an important integrative role.”<sup>55</sup> Governor Wilder, for example, started his political career in a “safe” majority-minority district.<sup>56</sup> Moreover, Wilder’s victory was by the closest margin in a Virginia gubernatorial election in that century. It is estimated that he won only 41 percent of the white vote, and benefited from a

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<sup>50</sup> *Id.* at 286.

<sup>51</sup> *Id.* at 291.

<sup>52</sup> David Lublin, et al., *Redistricting in the 2000s*, Tbls. 1 & 3, available at <http://www.american.edu/dlublin/redistricting>.

<sup>53</sup> Lisa Handley & Bernard Grofman, *The Impact of the Voting Rights Act on Minority Representation: Black Officeholding in Southern State Legislatures and Congressional Delegations*, in *QUIET REVOLUTION IN THE SOUTH: THE IMPACT OF THE VOTING RIGHTS ACT 1965-1990* 340 (Chandler Davidson & Bernard Grofman eds., 1994).

<sup>54</sup> See, e.g., Richard H. Pildes, *The Politics of Race: Quiet Revolution in the South*, 108 *HARV. L. REV.* 1359, 1375-76 (1995).

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

turnout rate among black registered voters that was 8 percentage points higher than the figure for white voters.<sup>57</sup>

A more recent example of how electoral structures impede black representation comes from the testimony of the Chairman of the Danville Democratic Party, Sheila Baynes, at the January 19, 2006 public hearing in Danville, Virginia. The city of Danville holds at-large elections for city council, which limits the ability of segments of the African-American population to elect representatives of choice. There are currently two African-American representatives on the nine-member council - only one of the two was elected, the other was appointed – even though African Americans make up approximately 40 percent of the population of Danville.<sup>58</sup> The situation in Danville is certainly not an anomaly. Similar voting structures exist across the state.

Dr. John Boyd, of Mecklenburg County, Virginia, who testified at a January 26, 2006 public hearing in Raleigh, North Carolina, also provided a poignant illustration of the continued prevalence of racially polarized voting. In the past several years, Dr. Boyd has twice run to be the congressional representative from Virginia’s Fifth District.<sup>59</sup> While campaigning, he attended a political function in the Southwest part of the state. He encountered a white woman at the function who stated, “It’s a pleasure to meet you. You speak very well. You would have done a lot better if you had not made an appearance here because you have a White last name, which is Boyd, and we’re all voting for those candidates.”<sup>60</sup>

In general, despite the many Section 5 objections, successful Section 2 vote dilution claims, and other litigation challenging practices and structures that disadvantage minority voters, it is still true that racially polarized voting hinders the ability of minority voters to participate in the political process. The Virginia State Supreme Court observed, as recently as 2002, that there is “a high correlation between race and voting patterns.”<sup>61</sup> In these circumstances, the protections afforded by the preclearance requirement are still required to prevent any erosion in the ability of minority voters to have an equal opportunity to participate in the electoral processes at the local, state, and federal levels.

## **2. Section 5 Objections Since 1982**

As stated above, since 1982, Section 5 objections have helped prevent discriminatory changes in a wide range of areas, including: redistricting, voting procedures, and election schedules or structure of elected bodies. Below are examples from each decade since the last reauthorization of the VRA.

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<sup>57</sup> *Virginia*, QUIET REVOLUTION, *supra* note 2, at 278.

<sup>58</sup> Testimony of Sheila Baynes, Public Hearing on Reauthorization of the Expiring Provisions of the Voting Rights Act, p. 23, ln. 1-25, p. 24, ln. 1-8 (Danville, Va. Jan. 19, 2006).

<sup>59</sup> Testimony of Dr. John Boyd, Public Hearing on Reauthorization of the Expiring Provisions of the Voting Rights Act, p. 20, ln. 8-11, p. 24, ln. 22-25 (Raleigh, N.C. Jan. 26, 2006).

<sup>60</sup> *Id.* at p. 27, ln. 16-25.

<sup>61</sup> *Wilkins v. West*, 571 S.E.2d 100, 115 (Va. 2002).

### a. Redistricting

Most of Virginia's Section 5 objections since 1982 have involved redistricting. Officials have consistently attempted to limit African-American voters' political influence by "packing" them into a few districts or dispersing them among several majority-white districts to limit their ability to elect candidates of choice. This form of "vote dilution" is designed to cabin minority voting power, and is indeed "old poison in new bottles." Moreover, changes made during redistricting usually have an impact for a decade or even beyond. Section 5's role in ensuring that the political opportunities of African Americans are not further limited during redistricting has likely protected the rights of innumerable African-American voters.

- March 1982. The Petersburg City Council proposed an ordinance (Ordinance No. 8191) to realign the voting districts and change voting precinct boundaries and polling places for the City of Petersburg. The DOJ objected, finding that the proposed redistricting plan would lower the black proportions in the First District from 69.9 percent to 61.5 percent and in the Fourth District from 71.2 percent to 61.6 percent. According to the DOJ, such a diminution was intended by the majority-white city council to increase white voting strength in those districts and would, likewise, diminish the opportunity of African-American voters to elect candidates of choice and lead to a decline in African-American representation.<sup>62</sup>
- March 1982. The DOJ objected to portions of the 1981 reapportionment of the Virginia House of Delegates. Specifically, the DOJ noted that the city of Norfolk was retained as a large multi-member district, whereas a fairly apportioned plan of single-member districts would have provided for two districts with substantial black majorities. The multi-member district plan had the inevitable effect of limiting the potential of African Americans to elect their candidates of choice. Further, the DOJ rejected the stated rationale for the plan—that the city of Norfolk had a large population that did not vote locally—finding that this rationale was not applied uniformly throughout the state. The DOJ also objected to the packing of African-American populations in Hampton and Newport News into one 75 percent African-American district. The remainder of the African-American population was divided among three other districts, all of which had substantial white majorities. According to the DOJ, a fairly drawn plan in this area would have two districts with a substantial African-American majority. Finally, the DOJ found that although District 90 contained a sizeable African-American majority, it was so contorted as to likely confuse voters and candidates, exacerbating financial and other disadvantages experienced by many African-American candidates.<sup>63</sup>
- November 1982. Greensville County proposed a redistricting ordinance to change four single-member districts into two double-member districts and to add a fifth member to be elected at-large. The DOJ objected because the plan attempted to merge districts with politically active black voters with districts that were politically inactive, thereby

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<sup>62</sup> Letter from Wm. Bradford Reynolds, Assistant Attorney General, Civil Rights Division, U.S. DOJ., to John F. Kay, Jr., Esq. (March 1, 1982).

<sup>63</sup> Letter from Wm. Bradford Reynolds, Assistant Attorney General, Civil Rights Division, U.S. DOJ., to the Honorable Gerald L. Baliles, Attorney General, Commonwealth of Virginia (March 12, 1982).

reducing the electoral capability of African-American voters. According to the DOJ, because the current four single-member districts provided an opportunity for African Americans to elect their candidates of choice, the plan presented a clear retrogression of African-American voting strength.<sup>64</sup>

- March 1986. The city of Franklin proposed three annexations that would have reduced the city's African-American population by 3.7 percent - from 55.4 percent to 51.7 percent - causing the city's voting-age population to shift from a black majority (51.9 percent) to a white majority (51.7 percent). The DOJ objected, finding that under the city's at-large election system, African-American candidates had limited success because of racial bloc voting. The proposed annexations would have perpetuated and enhanced the existing restrictions on the ability of African Americans to realize their voting potential.<sup>65</sup>
- July 1991. The DOJ objected to a portion of the 1991 reapportionment of the Virginia House of Delegates. The DOJ found that the proposed configuration of district boundary lines appeared to have been drawn in such a way as to minimize black voting strength in Charles City County, James City County, and the Richmond/Henrico County areas. Specifically, there were large concentrations of African Americans placed in majority-white districts. The legislature rejected available alternatives that would have recognized this concentration of voters by drawing them into a district with African-American voters in the Richmond area. Such a configuration likely would have resulted in an additional district, providing African-American voters an equal opportunity to participate in the political process and elect candidates of their choice. The DOJ noted that the protection of incumbents, which the state explained was the reason for this districting, was not in itself inappropriate, but it could not be done at the expense of minority voting rights.<sup>66</sup>
- November 1991. The DOJ objected to the proposed redistricting of supervisor districts and precinct realignment in Powhatan County. The DOJ found that although the county had a 21.4 percent African-American population, no African American ever had been elected county supervisor. The county's African American population was concentrated in such a manner that available alternatives would have allowed African-American voters an opportunity to elect candidates of choice in one of the five supervisor districts. This result was avoided, however, through the division of the county's African-American population between Districts Three and Five. Even though District Three had a majority African-American total population, it was only 38 percent when the non-voting population of the Powhatan Correctional Center was excluded. The county rejected a plan that would have created a district that combined the African- American population in the northern portion of the county in one district, which could recognize better the voting potential of African American citizens. Again, the DOJ noted that the county's actions may have been motivated in large part by the desire to maintain districts conducive to the

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<sup>64</sup> Letter from Wm. Bradford Reynolds, Assistant Attorney General, Civil Rights Division, U.S. DOJ., to Charles Sabo, Chairman, Greensville County (Nov. 15, 1982).

<sup>65</sup> Letter from Wm. Bradford Reynolds, Assistant Attorney General, Civil Rights Division, U.S. DOJ., to Carter Glass, IV, Esq. of Mays, Valentine, Davenport & Moore (March 11, 1986).

<sup>66</sup> Letter from John R. Dunne, Assistant Attorney General, Civil Rights Division, U.S. DOJ., to K. Marshall Cook, Deputy Attorney General of Richmond, VA (July 16, 1991).

re-election of the incumbent supervisors who were all white, which was not per se improper. The protection of incumbents, however, could not be achieved at the expense of minority voting potential.<sup>67</sup>

- April 2002. Pittsylvania County proposed a redistricting plan for its board of supervisors and school board members which would have reduced the African- American population in the only majority-minority district in the county (Bannister District). The DOJ objected, finding the proposed reduction was retrogressive. In fact, according to the DOJ, even a minute reduction would have greatly impaired African-American voters' ability to elect candidates of choice. Furthermore, the existence of alternative plans that actually ameliorated minority voters' ability to elect their choice candidates underscored the DOJ's objection.<sup>68</sup>
- July 2002. The DOJ objected to Cumberland County's proposed redistricting plan for its board of supervisors. The DOJ found that District 3 was the only district in which African Americans constitute a majority (55.9 percent) of the population. The proposed plan would have reduced that majority to 55.3 percent and reduced the voting-age African-American population from 55.7 percent to 55.2 percent.<sup>69</sup>
- Sept. 2001, May 2003 & Oct. 2003. Northampton County proposed a change in the method of electing the board of supervisors by collapsing six districts into three larger districts. The DOJ objected, finding that three of the six districts were majority-minority districts in which African-American voters regularly elected their candidates of choice. The new plan would have diluted the minority-majorities and caused them to completely disappear in two of the three new districts—clearly having retrogressive effects. Two years later, the county provided a new six-district plan, which had the same retrogressive effects of the three-district plan. The DOJ objected and provided a model non-retrogressive, six-district plan, which has yet to be followed by the county.<sup>70</sup>

## **b. Voting Procedures**

In addition to redistricting, jurisdictions have also pursued new ways to prevent African-American voters from achieving electoral power. One particularly successful method in Virginia has been the use of at-large election methods. As the discussion above indicates, African Americans have been largely unsuccessful in electing candidates of choice in at-large elections mainly due to racially polarized voting.

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<sup>67</sup> Letter from John R. Dunne, Assistant Attorney General, Civil Rights Division, U.S. DOJ., to James N. Hopper of Parvin, Wilson, Barnett & Hopper (Nov. 12, 1991).

<sup>68</sup> Letter from Ralph F. Boyd, Jr., Assistant Attorney General, Civil Rights Division, U.S. DOJ., to William Sleeper, County Administrator, and Fred M. Ingram, Chairperson, Board of Supervisors of Chatham, VA (Apr. 29, 2002).

<sup>69</sup> Letter from Ralph F. Boyd, Jr., Assistant Attorney General, Civil Rights Division, U.S. DOJ., to Darvin Satterwhite, County Attorney, Goochland, VA (July 9, 2002).

<sup>70</sup> Letter from Ralph F. Boyd, Jr., Assistant Attorney General, Civil Rights Division, U.S. DOJ., to Bruce Jones, County Attorney for Northampton County, VA (Sept. 28, 2001); Letter from Ralph F. Boyd, Jr., Assistant Attorney General, Civil Rights Division, U.S. DOJ., to Bruce Jones, County Attorney for Northampton County, VA (May 19, 2003); Letter from J. Michael Wiggins, Acting Assistant Attorney General, Civil Rights Division, U.S. DOJ., to Bruce Jones, County Attorney for Northampton County, VA (Oct. 21, 2003).

- August 1984. A proposed change to Chapter 775 of the Virginia Laws would have excepted “a candidate for an office to be voted on at the election” from helping voters needing assistance to vote by reason of blindness, disability or inability to read or write. The DOJ objected, finding that this provision did not conform to the requirements of Section 208 of the Voting Rights Act.<sup>71</sup>
- February 1993. The DOJ objected to the proposed adoption of an at-large method of election of school board members in Newport News. African Americans made up 33 percent of the city’s population and 31 percent of its voting-age population. Under the then-existing appointment system for the school board, the city council had consistently (since 1982) appointed two African Americans to serve on the seven-member board. The DOJ found that under the proposed school board election system, members would be elected using the same at-large system as the city council. Since 1989, the minority community had been largely unsuccessful in electing candidates of choice to the city council under the existing at-large system. Moreover, the decision to propose an at-large election system was made without public hearings,<sup>72</sup> consideration of alternative electoral systems, or input from the minority community.<sup>72</sup>
- June 1994. The DOJ objected to the proposed adoption of an at-large method of election for the board of education in the city of Chesapeake. According to the 1990 Census, Chesapeake had a total population of 151,976, of which 27.2 percent were African American. African Americans comprised 25.6 percent of the voting age population. Under the existing plan, school board members were appointed by the city council, which had three African American members. The proposed plan would have elected a city school board at-large, composed of nine members serving four-year staggered terms. The council had adopted the at-large proposal over the objection of two of its African-American council members. The DOJ was particularly concerned with whether the at-large method would allow African-American voters an equal opportunity to elect their candidates of choice to the school board. At the time, an at-large system was used to elect the city council, and, according to the DOJ, there was evidence of persistent and severe polarization along racial lines in these elections. In fact, in each election in the preceding decade, one or more African-American candidates had been the leading candidates of choice among African-American voters, but these candidates generally had not finished among the group of candidates white voters favored for election to the council. For example, in 1994, an African-American candidate appeared to have received nearly unanimous black support but received almost no votes among white voters and, thus, was defeated.<sup>73</sup>

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<sup>71</sup> Letter from James P. Turner, Acting Assistant Attorney General, Civil Rights Division, U.S. DOJ., to William Bridge, Assistant Attorney General of VA (Aug. 3, 1984).

<sup>72</sup> Letter from James P. Turner, Acting Assistant Attorney General, Civil Rights Division, U.S. DOJ., to Verbena Askew, City Attorney of Newport News, VA (Feb. 16, 1993).

<sup>73</sup> Letter from Gerald W. Jones, Acting Assistant Attorney General, Civil Rights Division, U.S. DOJ., to Martin McMahan, Assistant City Attorney for Chesapeake, VA (June 20, 1994).

- October 1999. In 1999, the County Board of Supervisors of Dinwiddie County was forced to move the location of the polling center for the Darvills Precinct (No. 101) because the previous center burned down. Precinct voting was moved to the Cut Bank Hunt Club (“Hunt Club”). The Hunt Club was privately owned with a large African-American membership. Subsequently, one hundred and five citizens submitted their signatures to have the precinct moved to the Mansons United Methodist Church, located three miles southeast of the Hunt Club. The petition’s stated purpose for moving the precinct was for a “more central location.” Before the board’s meeting to discuss moving the polling place, the Mansons United Methodist Church withdrew its name as a possible location. The board then placed an advertisement for a public hearing on changing the polling place which stated that if any “suitable centrally located location [could] be found prior to July 15, 1999,” they would consider moving it there. On July 12, 1999, the Bott Memorial Presbyterian Church members offered their facilities for polling. On August 4, 1999, the board approved changing the polling place to Bott Memorial Presbyterian Church. The church is located at the extreme east end of the precinct, however, and 1990 Census data showed that a significant portion of the black population resides in the western end of the precinct. Thus, the DOJ objected to the change, finding that the polling place was moved for discriminatory reasons because the local officials failed to prove otherwise.<sup>74</sup>

### c. Election Schedules or Structure of Elected Bodies

Finally, where African Americans have had some success in electing at least one representative of choice under at-large voting systems, some jurisdictions have sought to reduce the number of board seats available, undeniably leading to retrogressive results for minority voters.

- April 1988. The DOJ objected to a proposed reduction in the number of council members from seven to six with three elected at-large to concurrent terms and three elected from single-member districts. The DOJ found that, although there did not appear to be any racial animus underlying the proposed 3-3 system, the opportunity for African-American voters to elect a representative of their choice to an at-large position would be limited because of the reduced number of seats to be filled at-large and less opportunity to participate in election of a representative from one of the districts as they were drawn. The 3-3 election system would have led to retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise.<sup>75</sup>
- July 1989. The DOJ objected to a proposed change in the method for staggering city council terms for the city of Newport News implemented in conjunction with a change from having the city council members elect one of their number as Mayor to direct election of the Mayor, who would also continue to serve as a member of the council. The Department found that the proposed change would cause the election system to go from four regular council members elected at-large as a group in one election year and three in

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<sup>74</sup> Letter from Bill Lann Lee, Acting Assistant Attorney General, Civil Rights Division, U.S. DOJ., to Benjamin W. Emerson of Sands, Anderson, Marks & Miller (Oct. 27, 1999).

<sup>75</sup> Letter from Wm. Bradford Reynolds, Assistant Attorney General, Civil Rights Division, U.S. DOJ., to James Pates, City Attorney of Fredericksburg (Apr. 7, 1988).

the following election year to three elected at-large as a group in each election. The DOJ noted that African-American voters had only limited success in electing candidates of their choice to office, that African-American candidates typically won by narrow margins, only a few votes ahead of their rivals, and that African-American candidates often came in fourth in election years where there were only three seats available. Because of these circumstances, the DOJ determined that a change from a 4-3 to a 3-3 system would diminish the electoral opportunity provided to African-American voters. The loss of the fourth seat would be retrogressive in the context of an at-large election system characterized by racially polarized voting and limited African-American success in electing candidates of choice to office.<sup>76</sup>

- February 1990. The city of Newport News requested the DOJ to reconsider its July 1989 objection to its proposed change in the method of staggering city council terms. The city contended that the DOJ erred in focusing solely on the success of the African-American candidates, because there had been white candidates elected for whom more than 50 percent of the African American voters had cast one of their available votes, and these candidates should also be considered “candidates of choice” for African-American voters. The city contended that there was no difference in African-American electoral opportunity when three or four seats are open for election. The DOJ declined to withdraw its objection, however, noting that except for possibly one white candidate elected in 1980, white candidates who received majority African-American voter support may not properly be considered “candidates of choice” by African-American voters. The white candidates with apparent African-American voter support ran in contests with no African-American candidates that also had abnormally low African-American voter turnout. Other white candidates elected with African-American voter support all received significantly fewer votes among African-American voters than the minority candidates running in the same election. Thus, according to the DOJ, the city had not satisfied its burden under Section 5 of showing that the proposed changes lacked a prohibited retrogressive effect.<sup>77</sup>

### **3. Withdrawn Pre-clearance Submissions Since 1982**

In addition to the Section 5 objections discussed above, other preclearance requests were withdrawn before the review period was over, when it became clear that the DOJ was likely to object. Since 1982, there have been at least four such withdrawals in Virginia involving polling place changes and a redistricting plan, with the most recent occurring in 2001.<sup>78</sup>

### **4. Section 5 Litigation Since 1982**

*Morse v. Republican Party of Virginia*, 517 U.S. 186 (1996). In 1994, all registered voters in Virginia who were willing to declare their intent to support the Republican Party’s nominees for

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<sup>76</sup> Letter from James P. Turner, Acting Assistant Attorney General, Civil Rights Division, U.S. DOJ., to Michael Korb, Jr., Assistant City Attorney of Newport News, VA (July 24, 1989).

<sup>77</sup> Letter from James P. Turner, Acting Assistant Attorney General, Civil Rights Division, U.S. DOJ., to Michael Korb, Jr., Assistant City Attorney of Newport News, VA (Feb. 9, 1990).

<sup>78</sup> See Appendix 3, Virginia Submissions Withdrawn 1982 – Present.



public office at the next election could participate in the nomination of the party's candidate for the office of U.S. Senator if they paid either a \$35 or \$45 registration fee. Plaintiffs filed suit in district court claiming that the imposition of the fee as a condition precedent to participation in the candidate selection process was a poll tax prohibited by the Voting Rights Act of 1965 and also violated the Equal Protection Clause of the Fourteenth Amendment and the Twenty-Fourth Amendment to the U.S. Constitution. A three-judge panel granted the defendants' motion to dismiss the claims, concluding that the Section 5 of the Voting Rights Act did not apply to the selection of delegates to a state nominating convention.

On review of the three-judge panel's decision, however, the U.S. Supreme Court reversed and remanded. The Court concluded that the party's decision to exact the registration fee was subject to Section 5 of the Voting Rights Act, which, among other things, prohibits Virginia and other covered jurisdictions from enacting or enforcing "any voting qualification or prerequisite . . . different from that in force . . . on" a specified date unless the change has been precleared by the DOJ. The Court held that the party was clearly "acting under authority explicitly or implicitly granted by a covered jurisdiction" and, thus, subject to the preclearance requirement. Further, Section 5 requires preclearance of any change bearing on the "effectiveness" of a vote cast in a primary, special or general election, including changes in the composition of the electorate that votes for a particular office. By limiting the opportunity for voters to participate in the convention, the party's filing fee undercut their influence on the field of candidates whose names will appear on the ballot, and thus weakened the "effectiveness" of their votes cast in the general election itself. The Court noted, significantly, that in light of the legislative history demonstrating that, in 1965, Congress was well aware of the White Primary Cases, the failure of case-by-case enforcement of the Fifteenth Amendment, and Mississippi's then-recent efforts to use an "all-white" convention process to help nominate a Democratic candidate for president, and that the Act's "party office" provision was adopted to cover the latter type of situation. Accordingly, the Act could not be interpreted to contain a loophole excluding all political party activity, but must be read to apply to certain convention-based practices and procedures with respect to voting.

## **5. Deterrent Impact of Section 5**

The need for Section 5's ongoing protection is further underscored when one considers that awareness of the necessity of Section 5 pre-clearance has likely deterred even greater levels of voting discrimination.

In fact, Sheila Baynes testified at the January 19 hearing that she believes the VRA's protections are still necessary to protect minority citizens from overt and covert discriminatory tactics aimed at limiting their political power and influence in Danville.<sup>79</sup> Danville was the site of the most violent episode of the civil rights movement, during the summer of 1963. "Not only did the city resist the so-called [Civil Rights] Movement's demands, but in a coordinated fashion every

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<sup>79</sup> Testimony of Sheila Baynes, Public Hearing on Reauthorization of the Expiring Provisions of the Voting Rights Act, p. 20, ln. 19-22 (Danville, Va. Jan. 19, 2006); see also Statement of Jerry L. Williams, Jr., Public Hearing on Reauthorization of the Expiring Provisions of the Voting Rights Act, p. 38, ln. 1-3 (Danville, Va. Jan. 19, 2006).

instrument of power was used to create an atmosphere of intimidation . . . .”<sup>80</sup> Today in Danville, African Americans are still the victims of overt and covert racial intimidation and discrimination campaigns. For example, Mr. Wyatt Watkins testified that, during the fall of 2005, hate literature was distributed in his neighborhood, threatening to “lynch” African Americans and warning that if citizens “did not vote in a certain way bad things would happen to them.”<sup>81</sup>

## 6. Section 5 Bailouts Since 1982

Since 1982, ten jurisdictions have successfully bailed out of Section 5 coverage and all of them are in Virginia.<sup>82</sup> Although Section 4 establishes specific bailout criteria, in general terms, jurisdictions must establish that they are free of racial discrimination in voting and that they have complied with the VRA. In some respects, the successful use of the bailout provision in Virginia reflects a degree of progress in overcoming the legacy of discrimination that may not exist in many other covered jurisdictions.

The successful bailouts in Virginia illustrate two points--first, it is possible for jurisdictions to successfully bailout under the current formula,<sup>83</sup> and second, that covered jurisdictions within Virginia are aware of bailout procedures. The low numbers of local jurisdictions that have actually applied for bailout do not appear to result from structural disincentives or inadequacies of the bailout process. Rather, at least in part, jurisdictions are making individualized assessments and informed decisions after weighing cost savings against concerns of their own citizens who believe the protections of the VRA are still necessary.

Some estimates indicate that as of 1984, 51 counties and about 16 cities in Virginia were eligible for bailout, yet only ten have bailed out since the 1982 VRA Amendments became effective.<sup>84</sup> Further, in 2002, the Virginia General Assembly passed a joint resolution requesting the Virginia Attorney General

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<sup>80</sup> *Danville*, The Civil Rights Movement in Virginia, Virginia Historical Society, available at [www.vahistorical.org/civilrights/danville.htm](http://www.vahistorical.org/civilrights/danville.htm).

<sup>81</sup> Testimony of Wyatt Watkins, Public Hearing on Reauthorization of the Expiring Provisions of the Voting Rights Act, p. 29, ln. 17-20; p. 30, ln. 1-3 (Danville, Va. Jan. 19, 2006).

<sup>82</sup> The jurisdictions that have successfully bailed out are Fairfax City (Oct. 1997), Frederick County (Sept. 1999), Shenandoah County (Oct. 1999), Roanoke County (Jan. 2001), Winchester City (May 2001), Harrisonburg City (Apr. 2002), Rockingham County (May 2002), Warren County (Nov. 2002), and Greene County (Jan. 2004). Augusta County (November 2005). See *The Voting Rights Act: An Examination of the Scope and Criteria for Coverage Under the Special Provisions of the Act: Hearing Before the Subcomm. on the Constitution of the House Comm. on the Judiciary*, 109<sup>th</sup> Cong. (2005) (Statement of J. Gerald Hebert).

<sup>83</sup> In 1973, the Virginia General Assembly passed a resolution directing the state attorney general to take the necessary steps to bail out Virginia from coverage of Section 5 of the Act. *Virginia*, Quiet Revolution at 279. The state filed suit in the U.S. District Court for the District of Columbia claiming that it met the statutory requirement of a ten-year absence of any evidence of discriminatory device for voting because its literacy test had been fairly administered before it was banned by the Act. *Commonwealth of Virginia v. United States*, 386 F. Supp. 1319, 1325 (DDC 1975). The court denied Virginia’s petition, however, finding that the state’s record of segregated, inferior education for blacks contributed to low literacy rates, negatively impacting the ability of African Americans to satisfy the literacy requirements. *Id.*

<sup>84</sup> See Timothy G. O’Rourke, *Voting Rights Act Amendments of 1982: The New Bailout Provision and Virginia*, 69 Va. L. Rev. 765, 795-97 (1983).

to collect and disseminate certain information pertaining to the bailout of Virginia localities from requirements of Section 5 of the Voting Rights Act. Specifically, the Attorney General is requested to (i) collect information, including historical data on preclearance submissions, that would be needed to obtain a bailout, (ii) notify localities on what assistance the Attorney General can provide to them in petitioning the court, (iii) advise localities on what corrective actions and improvements are needed to promote electoral integrity to qualify for bailout, and (iv) develop a model strategy for localities to utilize in applying for bailout status.<sup>85</sup>

Despite this statewide effort, not all jurisdictions are seeking bailouts. For example, at the January 19 Danville hearing, Jerry Williams, Jr. stated that one of the members of the electoral board proposed that Danville apply for bailout in order to save the expense of having to pre-clear all changes with the DOJ. During a public hearing in which the potential cost savings were explained to the community, citizens in attendance nevertheless overwhelmingly opposed the proposal to apply for bailout.<sup>86</sup> Danville remains subject to the preclearance requirement.

### III. Section 2 Voting Rights Litigation Since 1982

In addition to the fact that many changes affecting voting failed to obtain preclearance under Section 5 of the VRA, minorities in Virginia also have initiated successful vote dilution claims under Section 2 since 1982.<sup>87</sup> One of the most notable is *Collins v. City of Norfolk*.<sup>88</sup> In this case, filed in 1983 seven African-American citizens of Norfolk, Virginia and the Norfolk Branch of the NAACP, alleged that the at-large system of electing members of the Norfolk City Council unlawfully diluted black voting strength and that the system had been maintained for racially discriminatory purposes. Since 1952, the council had consisted of seven members elected at-large. Council members served four-year, staggered terms, so every two years three or four of the seven seats were contested. From 1918 until 1968, every member of Norfolk's city council was white. In 1968, a black citizen was elected to the council and from that time until the filing of the initial action, the council had one black member. Thus, although the city's population was 35 percent African American and the rate of African-American participation in the electoral process was high, African Americans were unable to elect more than one African American member to the seven-member council. One of the most significant legal issues in the case was how to identify a "candidate of choice" of black voters in a multi-seat election where each voter can vote for more than one candidate.

After lengthy litigation, including six reported opinions and one *vacatur* by the Supreme Court,<sup>89</sup> the plaintiffs eventually were able to establish a violation of Section 2. The Fourth Circuit ultimately reasoned that the critical factor was the difference between the African-American support for the candidate who received the most black votes yet lost and the candidates who won

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<sup>85</sup> H.J. Res. 95ER, Va. Gen. Ass. 2002 Session (March 15, 2002), available at <http://leg1.state.va.us/cgi-bin/legp504.exe?021+ful+HJ95ER>.

<sup>86</sup> Statement of Jerry L. Williams, Jr., Public Hearing on Reauthorization of the Expiring Provisions of the Voting Rights Act, p. 38, ln. 3-25 (Danville, Va. Jan. 19, 2006).

<sup>87</sup> See Appendix 4 for an extended summary of these cases.

<sup>88</sup> 883 F.2d 1232 (4<sup>th</sup> Cir. 1989), cert. denied, 498 U.S. 938 (1990).

<sup>89</sup> See *id.*, 883 F.2d at 1234, n.2.

with fewer black votes.<sup>90</sup> The court relied upon data showing that from 1968 until 1984, all of the minority-preferred candidates for a second seat on the council were defeated by candidates preferred by white voters and statistics showing that before 1984, white voters were able to defeat the combined strength of African-American voters and white crossover voters to deny the African-American community a second seat on the council. Furthermore, the court held that recent re-elections of African-American incumbents did not negate the existence of white bloc voting. Thus, the court reversed the district court's judgment and held that VRA Section 2 was violated.

The plaintiffs in a 1988 case, *McDaniels v. Mehfoud*,<sup>91</sup> were also successful in proving illegal vote dilution. Henrico County is an urban and suburban county bordering Richmond, Virginia. According to the 1980 census data, the total population of Henrico County was 180,735, of which 15 percent were African Americans. In analyzing the plaintiffs' Section 2 claim, the court found that the African-American population in Henrico County was sufficiently large and geographically compact to constitute a majority in one or more single-member districts. Further, voting patterns in the county revealed a severe and persistent pattern of racially polarized voting, there was a legacy of official discrimination in voting matters and, to a lesser extent, continuing effects of discrimination in education and employment. The court found that these factors, combined with the single-member districting scheme, impeded the ability of a geographically compact and politically cohesive group of African Americans to participate equally in the political process and to elect their candidates of choice in violation of the Voting Rights Act of 1965.

In *Neal v. Coleburn*,<sup>92</sup> the African-American plaintiffs successfully challenged the method of electing the Nottoway County Board of Supervisors. The county is predominantly rural. According to the 1980 Census, the total population was 14,666—39.04 percent of whom were African-American and 60.69 percent of whom were white. The five-member board of supervisors was elected from single-member districts for four-year terms. Despite the substantial African-American population, the supervisor districts had been drawn so that none of them contained a black majority.

In its analysis of the vote dilution claim, the court noted the extensive history of discrimination in Virginia and how its lingering effects on socio-economic conditions of African Americans contributed to the lack of opportunities for African Americans to effectively participate in the political process. Thus, “the Court [found] that the political processes in Nottoway County [had] been largely under white control and associated with white political dominance. . . . As a result of past official discrimination and continuing segregation, black[s] . . . still feel intimidated by the white domination of local politics.”<sup>93</sup> Moreover, the court found significant evidence of racially polarized voting, noting that “whites generally have not supported or voted for black candidates, nor will they.” The court ultimately ruled that the plaintiffs had satisfied their burden to prove a Section 2 violation and ordered adoption of the plaintiffs' proposed remedy.

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<sup>90</sup> *Id.*, 883 F.2d at 1238.

<sup>91</sup> 702 F. Supp. 588 (E.D. Va. 1988).

<sup>92</sup> 689 F. Supp. 1426 (E.D. Va. 1988).

<sup>93</sup> *Id.*, 689 F. Supp. at 1430.

*Neal v. Coleburn* is typical of many voting rights cases at the local level because the plaintiffs filed a companion case challenging the method of electing the town council for the county's largest town, Blackstone. In *Neal v. Harris*,<sup>94</sup> the defendants initially fought any change in the at-large method of electing the seven-member town council. This was a town where, when an African American ran for the town council for the first time in 1965, the all-white county elections board struck his name from the ballot on the grounds that he had not paid his poll taxes for the previous six months. Although African Americans constituted almost 45 percent of Blackstone's population, no African-American won election to the town council until 1984. On the eve of trial, the town agreed to settle the case, and the district court adopted a remedial plan that provided for five single-member districts and two at-large seats, with three of the five single-member districts having a majority African-American population.

In a recent Section 2 case, *Hall v. Virginia*,<sup>95</sup> plaintiffs challenged the Virginia legislature's Congressional redistricting plan enacted following the 2000 Census because it failed to draw a second district that would have allowed black voters to elect a candidate of their choice in combination with reliable crossover votes from non-black voters, even though the second district would not have been majority-black. Virginia's Congressional redistricting plan, adopted in 2001, changed the boundary lines of the Fourth District so as to shift a number of African-American citizens out of the Fourth District and into the Third and Fifth Districts. Before the redistricting, African Americans comprised 39.4 percent of the total population and 37.8 percent of the voting-age population. After the redistricting, they constituted 33.6 percent of the total population and 32.3 percent of its voting-age population.

Plaintiffs, nine registered voters who resided in the Fourth District or were shifted out of the district as a result of the redistricting, filed suit in district court alleging that the reconfiguration of the Fourth District diluted minority voting strength in violation of Section 2 of the VRA. Specifically, they claimed that that in the newly-drawn Fourth District, African Americans "are too small in number to form the same winning coalition with 'crossover' white voters that existed before the enactment of the 2001 Redistricting Plan." According to the plaintiffs, "the first *Gingles* precondition is satisfied not only when a minority group constitutes a numerical majority in a single-member district, but also when minorities are sufficiently numerous to form an 'effective' or 'functional' majority in a single-member district by combining voters from other racial or ethnic groups."<sup>96</sup> The district court rejected this argument, however, concluding that African Americans would not form a population of voting-age majority in the Fourth District even if the district was restored to the original boundaries. The Fourth Circuit affirmed, holding that "when minority voters, as a group, are too small or loosely distributed to form a majority in a single-member district, they have no ability to elect candidates of their own choice, but must instead rely on the support of other groups to elect candidates. . . . [they] cannot claim that their voting strength—that is, the potential to independently decide the outcome of an election—has been diluted in violation of Section 2."<sup>97</sup> This issue is now pending before the Supreme Court in the Texas redistricting case argued on March 1, 2006.<sup>98</sup>

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<sup>94</sup> 837 F.2d 632 (4<sup>th</sup> Cir. 1987) (per curiam).

<sup>95</sup> 385 F.3d 421 (4<sup>th</sup> Cir. 2004).

<sup>96</sup> *Id.*, 385 F.3d at 427.

<sup>97</sup> *Id.*, 385 F.3d at 429.

<sup>98</sup> *Jackson v. Perry*, No. 05-276.

#### IV. Consent Decrees

Courts have also approved numerous consent decrees in Virginia, whereby local jurisdictions have agreed to adopt electoral reforms to come into compliance with the provisions of the VRA. One of these cases demonstrates one important way that Section 5 reinforces the remedies available under Section 2. Prince Edward County is a jurisdiction where a combination of district and at-large seats was implemented following a consent decree. When a subsequent redistricting plan was enacted in 1993, the Department of Justice raised concerns about its fairness to minority voters and the submission was withdrawn before being put into effect.

These brief summaries demonstrate the changes accomplished by settlements in Section 2 cases:<sup>99</sup>

- *Harris v. City of Hopewell*, No. 82-0036-R (E.D. Va. Jan. 5, 1983): Issuing a consent judgment in which Hopewell agreed to create a mixed ward/at-large electoral system to replace its all at-large method of electing city council members.
- *Eggleston v. Crute*, No. 83-0287-R (E.D. Va. 1984): Consent decrees changed the methods of election for the Prince Edward County Board of Supervisors and the Farmville Town Council. The supervisors would be elected from a combination of single-member districts for county residents and a three seat, at-large district for city residents. The seven-member town council would be elected from five single-member districts, two of which were majority black, and two at-large seats.
- *Carr v. Covington*, No. 85-0011-D (W.D. Va. 1986): Consent decree established a new method of election for the town of Halifax, where no African-American had been elected to the town council since the town's incorporation in 1875. Replacing an at-large system, the seven member council would be elected from four single-member districts and three at-large seats, resulting in the election of one African-American to the town council in 1986.
- *Person v. Ligon*, No. 84-0270-R (E.D. Va. Jan. 12, 1988); Establishing a new method of election for the City of Emporia, just north of the North Carolina border in Brunswick County. The decree reduced the size of the city council from nine to eight members, and created an election system with three single member districts and two multi-member districts. Following implementation of the plan, three black candidates were elected to the city council.

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<sup>99</sup> This is an illustrative list. Consent Decrees also were entered in the following cases: *Watkins v. Thomas*, No. 87-0709-R (E.D. Va. May 20, 1988); *King v. Blalock*, No. CA-88-0811-R (E.D. Va. June 6, 1989); *Feggins v. Horne*, No. CA-88-0865-R (E.D. Va. June 19, 1989); *Brunswick County League of Progress v. Town Council of Lawrenceville*, No. 3:91cv00091 (E.D. Va. Nov. 5, 1991).

- *Taylor v. Forrester*, No. 89-00777-R (E.D. Va. May 17, 1990): Expanding the Lancaster County Board of Supervisors from three to five members, to be elected from five single-member districts.
- *U.S. v. City of Newport News*, No. 4:94-cv-00155 (Nov. 4, 1994): Issuing consent judgment enjoining City of Newport from conducting future elections under the at-large method and establishing three two-member districts and one at-large seat for the Newport News town council. Currently the vice-mayor and one other council member are African-American.

## V. Additional Notable Voting Rights Litigation

### A. Redistricting Cases

After the 2000 Census, the Virginia General Assembly enacted new state legislative districts to comply with constitutional requirements. Shortly after adoption of the redistricting scheme, a group of citizens initiated suit in state court, claiming that certain districts failed to comply with the contiguous and compactness requirements of Article II, § 6 of the Virginia Constitution, and that other districts violated Article I, §§ 1 and 11 of the Constitution because the General Assembly subordinated traditional redistricting principles to race in drawing district lines. The trial court ruled in favor of the plaintiffs and enjoined the defendants from conducting any elections under the redistricting scheme. On appeal, however, the Supreme Court of Virginia reversed.<sup>100</sup>

With respect to the contiguous and compactness claim, the court noted that where “in a redistricting case, the validity of the legislature’s reconciliation of various criteria is fairly debatable and not clearly erroneous, arbitrary or wholly unwarranted, neither a trial court nor a reviewing court can conclude that the resulting electoral district fails to comply with the compactness and contiguous requirements” of the Virginia Constitution. The court also stated that physical access from one part of a voting district to all the other parts is not necessary for exercising the right to vote and is not an undue impediment to forming communities of interest or disseminating information in today’s world of mass media and technology. The court held that the evidence in this case was wholly insufficient to support a conclusion that the districts at issue clearly violated or were plainly repugnant to the compactness and contiguity requirements.

With respect to the racial gerrymandering claim, the court noted at the outset that *Hunt v. Cromartie* provided the framework for its analysis—“[a] party asserting that a legislative redistricting plan has improperly used race as a criterion must show that the legislature subordinated traditional redistricting principles to racial considerations and that race was not merely a factor in the design of the district, but was the predominant factor.” Significantly, the court held that race clearly was a consideration in drawing district lines because this was required under the VRA, which mandates that a redistricting plan not dilute African-American voter strength and that there be no retrogression. The court concluded, however, that race was not the predominant factor used by the General Assembly. In fact, race was considered “along with traditional redistricting principles of retaining core areas, population equality, compactness

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<sup>100</sup> *Wilkins v. West*, 571 S.E.2d 100 (Va. 2002).

and contiguity, partisan voting behavior, and protection of incumbents.” The significance of this case however, is that it demonstrates the vulnerability of black voters to being “packed” and “cracked” for political purposes when race correlates highly with partisan affiliation. Without the protection of Section 5 of the Voting Rights Act, Virginia’s state legislative districts may be redrawn without protecting minority voters.

The creation of a majority-minority Congressional District in Virginia following the 1990 Census was the subject of a racial gerrymandering challenge in the late 1990’s.<sup>101</sup> When State Senator Bobby Scott was elected in Virginia’s Third Congressional District in 1992, he became only the second African American to be elected to Congress from Virginia, and the first since Reconstruction. The case went to trial in September, 1996. The district court invalidated the district in February, 1997, finding that race predominated in drawing the districts and that the state could not adequately justify its use of race. The defendants appealed, but the Supreme Court affirmed without an opinion.<sup>102</sup> On remand, the general assembly redrew the Third Congressional District, making it more compact. It remained a majority-black district, however, and voters have continued to reelect the incumbent Congressman Bobby Scott.

## **B. Other Voting Rights Cases Affecting the Ability of Minority Voters to Register and Vote**

In *Howard v. Gilmore*,<sup>103</sup> a pro se plaintiff raised Voting Rights Act, constitutional, and other claims concerning Virginia’s felony disenfranchisement laws. His case was dismissed in a short, unreported opinion for failure to state a claim for relief. Virginia is one of only three states that permanently disenfranchise all people with felony convictions unless they receive clemency.<sup>104</sup> Every individual convicted of any level or grade of felony is permanently disenfranchised unless the individual requests to have his or her rights restored. Ex-felons who wish to vote must petition the circuit court, and even if the court approves the petition, they must obtain the approval of the Governor.<sup>105</sup> The governor of Virginia, however, has the sole discretion to grant or deny any such restoration and is not required to provide an explanation to anyone regarding how he reached his decision.<sup>106</sup> The decision of the governor cannot be appealed and the applicant must wait two years before re-applying.<sup>107</sup> Furthermore, only those who have been out of the system for five years (seven years for felony drug offenses) may apply.<sup>108</sup> Convictions for certain felonies can exclude individuals from eligibility altogether.<sup>109</sup>

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<sup>101</sup> *Moon v. Meadows*, 952 F. Supp. 1141 (E.D. Va. 1997) (three-judge district court).

<sup>102</sup> *Meadows v. Moon*, 521 U.S. 1113 (1997) (mem.).

<sup>103</sup> 205 F.3d 1333 (4<sup>th</sup> Cir. 2000) (unreported, text available at 2000 U.S. App. LEXIS 2680) (holding that in order to state a claim under the Fourteenth and Fifteenth Amendments, Howard must establish that the Commonwealth’s decision to disenfranchise felons was motivated by race which he cannot do because the felony disenfranchisement provisions predated blacks having the right to vote.)

<sup>104</sup> The Virginia Constitution provides that “[n]o person who has been convicted of a felony shall be qualified to vote unless his civil rights have been restored by the Governor or other appropriate authority.” VA. CONST. Art. II, §1.

<sup>105</sup> Va. Code Ann. § 53.1-231.2.

<sup>106</sup> *Id.*

<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

<sup>109</sup> *Id.*



As with poll taxes and literacy tests, evidence shows that the “ostensibly race-neutral” felony disenfranchisement rule was adopted in a segregated, Jim Crow Virginia to exclude African Americans from the political process. According to a transcript of proceedings from the Virginia Constitutional Convention of 1901-02, Carter Glass, a delegate to the convention, stated that the plan that included the felon disenfranchisement provision (as well as the literacy test and poll tax) “will eliminate the darkey as a political factor in this State in less than 5 years, so that in no single county . . . will there be the least concern felt for the complete supremacy of the white race in the affairs of government.”<sup>110</sup> Less than ninety days after the adoption of the constitutional amendments “more than 125,000 of the 147,000 black voters in the state had been stricken from the rolls.”<sup>111</sup>

Today, nearly 6 percent of the voting-age population in Virginia has lost the right to vote because of a felony conviction, barring as many as 310,000 citizens from the ballot box.<sup>112</sup> And, despite the fact that African Americans make up only 20 percent of Virginia’s total population, approximately 52 percent of those disenfranchised (160,000) are African American.<sup>113</sup> In fact 16 percent of all adult African Americans in Virginia cannot vote because of a felony conviction.<sup>114</sup>

Virginia’s disenfranchisement scheme “strips away the political power of communities of color.”<sup>115</sup> For example, 7 percent of all Virginians released from prison in 2002 were originally committed by Richmond City Court. Of those returning to the Richmond community, nearly half returned to neighborhoods where the population was between 46.6 percent and 98.9 percent African-American.<sup>116</sup> Another 8 percent of those released from prison were originally committed by Norfolk City Court, one-third of whom returned to communities that are 79 percent to 100 percent African-American.<sup>117</sup> The significance of Virginia’s practice of felony disenfranchisement is that it continues to deny African Americans their fair share of political power, yielding governments less responsive to their concerns.

During its 1999 session, the General Assembly of Virginia authorized the state board to conduct a pilot program requiring mandatory voter identification at the polling place. Pursuant to that authority, the board selected ten jurisdictions as participants in the pilot of the I.D. program. The Department of Justice precleared the pilot program. The Virginia Beach Democratic Committee subsequently sought to mail its own identification cards to persons with Democratic Party leaning. The board rejected the Democratic Committee’s proposal. The committee, along with

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<sup>110</sup> *Access Denied: The Impact of Virginia’s Felony Disenfranchisement Laws*, Advancement Project (December 2005), available at <http://www.advancementproject.org/pd/vrr/VAdisencosts.pdf>.

<sup>111</sup> *The Civil Rights Movement in Virginia*, The Virginia Historical Society online, at [www.vahistorical.org/civilrights/vote.htm](http://www.vahistorical.org/civilrights/vote.htm).

<sup>112</sup> *Access Denied: The Impact of Virginia’s Felony Disenfranchisement Laws*, Advancement Project (December 2005), available at <http://www.advancementproject.org/pd/vrr/VAdisencosts.pdf>.

<sup>113</sup> *Id.*

<sup>114</sup> *Id.* Virginia’s Department of Corrections does not collect data on Latino or Hispanic persons, thus it is difficult to assess the impact of the felon disenfranchisement law on Latino or Hispanic populations. See *Diminished Voting Power in the Latino Community: The Impact of Felony Disenfranchisement Laws in Ten Targeted States*, MALDEF (Dec. 2003), available at <http://www.maldef.org/pdf/LatinoVotingReport.pdf>.

<sup>115</sup> *Id.*

<sup>116</sup> *Id.*

<sup>117</sup> *Id.*

eleven individual voters, filed suit in state court seeking an injunction preventing the Board from implementing the pilot program. The court granted the injunction because “[g]iven the importance of the right to vote, the complainants’ claims raise the spectre of having different eligibility standards for some voters in Virginia and, moreover, for some voters voting in the same legislative district in different precincts for the same candidate.”<sup>118</sup>

In 1995, Virginia unsuccessfully sued the federal government claiming that the National Voter Registration Act, 42 U.S.C. §1973gg, violated the Tenth Amendment.<sup>119</sup> Several public interest groups immediately filed suit as well, seeking to require the state to implement the NVRA.<sup>120</sup> At this time, only 65.4 percent of eligible voters were registered in Virginia. Ultimately, the state was required to follow federal law and allow voters to register to vote by mail and at DMV offices.

## **VI. Sections 4(f)(4) and 203**

Virginia is not currently subject to Section 203 of the VRA. That does not mean that language minorities do not experience voting difficulties in Virginia. On November 2, 2004, the Asian American Legal Defense and Education Fund and the Asian Pacific Americans Legal Resource Center conducted an exit poll at five poll sites in two counties in Northern Virginia with significant numbers of Asian-American voters. Although their findings indicated that the 2004 general election proceeded mostly free of major incident in Northern Virginia, they did document at least nine complaints of the general lack of interpreters at poll sites. According to their poll statistics, they found significant limited-English-proficiency rates for Vietnamese-American voters in Falls Church and Annandale. In Falls Church, 55 percent of poll respondents had limited English proficiency. Of these, 29 percent needed an interpreter and 24 percent needed translated materials. In Annandale, 43 percent had limited English proficiency; 29 percent needed an interpreter; and 27 percent needed translated materials.<sup>121</sup>

## **CONCLUSION**

Virginia’s electoral processes at the state and local level have opened up somewhat for African-American voters. It is not a state where other minority groups currently live in large enough numbers to be a major factor in the political life of the state, although in future decades, and in some local instances, Hispanic and Asian voters will become more of a political force in years to come.

However, on virtually all measures of political empowerment, African-American voters remain at a significant disadvantage to their white counterparts. Racially polarized voting continues to dominate elections in Virginia and, with a few notable exceptions, most successful candidates of

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<sup>118</sup> *Democratic Party of Virginia v. State Bd. of Elections*, 1999 Va. Cir. LEXIS 551 (Va. Cir. Oct. 19, 1999).

<sup>119</sup> *Commonwealth of Virginia v. United States*, Civ. Action No. 3:95CV357 (E.D. Va. 1995).

<sup>120</sup> *Richmond Crusade for Voters v. Allen*, No. 3:95CV531 (E.D. Va. 1995) and *League of Women Voters of Virginia v. Allen*, No. 3:95CV532 (E.D. Va. 1995).

<sup>121</sup> Letter from Glenn D. Magpantay, Staff Attorney, Asian American Legal Defense and Education Fund & Nicholas Rathod, Language Access Project Director, Asian Pacific Americans Legal Resource Center to Michael Brown, Chairman, Virginia State Board of Elections, Allen H. Harrison, Jr., Chairman, Arlington County Electoral Board & Nancy Krakover, Chairwoman, Fairfax County Electoral Board (May 9, 2005).

choice of black voters are elected in districts that are majority-black. Virginia residents themselves believe that retrogressive changes in districting and other aspects of elections will occur if the protections of the Section 5 preclearance process are removed at this time.

Local jurisdictions in Virginia have demonstrated that the bailout process works well in those areas of the state where it is justified and that other areas wish to remain subject to preclearance. Virginia's experience also demonstrates the importance of Section 5 as a back-up to Section 2 litigation, ensuring that gains in won in litigation are not eroded when districts are redrawn to comply with the one-person, one-vote rule. Virginia remains an important argument for the need to keep Section 5 in place for the time being.

**APPENDIX 1 – SECTION 5 OBJECTIONS IN VIRGINIA, 1982-PRESENT**

<b>Jurisdiction &amp; Submission Number</b>	<b>Description of Change</b>	<b>Date of Objection</b>
Petersburg (81-2199) (Independent city)	Ordinance No. 8191 (1981) realignment of councilmanic districts, realignment of certain precinct boundaries, polling places	3-1-82
State (82-2748)	Chapter 16--House reapportionment	3-12-82
Southampton County (81-2235)	Redistricting	6-21-82 Withdrawn 9-7-82
Greensville County (82-2786)	Ordinance which redistricts the election districts into two double-member districts; the ordinance which creates an at-large position on the board of supervisors; and the ordinance which realigns voting precincts and creates Voting Precinct 4B and the polling place	11-15-82
State (84-3793)	Chapter 775 (1984)--prohibition on candidates assisting voters	8-3-84
Franklin (86-4549) (Independent city)	Three annexations	3-11-86 Withdrawn 5-18-87 upon preclearance of new method of election
Fredericksburg (87-4154) (Independent city)	1987 reduction in the size of the city council (from ten councilmembers and the mayor, to six councilmembers and the mayor) in the context of the 3-3 method of election and districting plan adopted for electing the council as so reduced	4-7-88
Newport News (88-5098) (Independent city)	Change from a 4-3 to 3-3 method of staggering council elections	7-24-89
State (91-1483)	Chapters 11 and 16 (1991)--redistricting plan for the State House of Delegates	7-16-91
Powhatan County (91-2115)	Redistricting plan (supervisor districts)	11-12-91
Newport News School District (92-3887) (Independent city)	Adoption of an at-large method of electing school board members	2-16-93

<b>Jurisdiction &amp; Submission Number</b>	<b>Description of Change</b>	<b>Date of Objection</b>
Chesapeake School District (93-4561) (Independent city)	At-large method of electing the board of education	6-20-94 Withdrawn 8-28-95
Dinwiddie County ( <a href="#">99-2229</a> )	Polling place	10-27-99
Northampton County ( <a href="#">2001-1495</a> )	Method of electing the board of supervisors from six single-member districts to three double-member districts and the 2001 redistricting plan for the board of supervisors	9-28-01
Pittsylvania County ( <a href="#">2001-2026</a> ) 2001-2501)	2001 redistricting plan for the board of supervisors and school board	4-29-02
Cumberland County ( <a href="#">2001-2374</a> )	2001 Redistricting plan for the board of supervisors	7-9-02
Northampton County ( <a href="#">2002-5693</a> )	2002 redistricting plan for the board of supervisors	5-19-03
Northampton County ( <a href="#">2003-3010</a> )	Redistricting plan	10-21-03

Source: U.S. Department of Justice, Section 5 Objection Determinations, available at: [http://www.usdoj.gov/crt/voting/sec\\_5/va\\_obj2.htm](http://www.usdoj.gov/crt/voting/sec_5/va_obj2.htm).

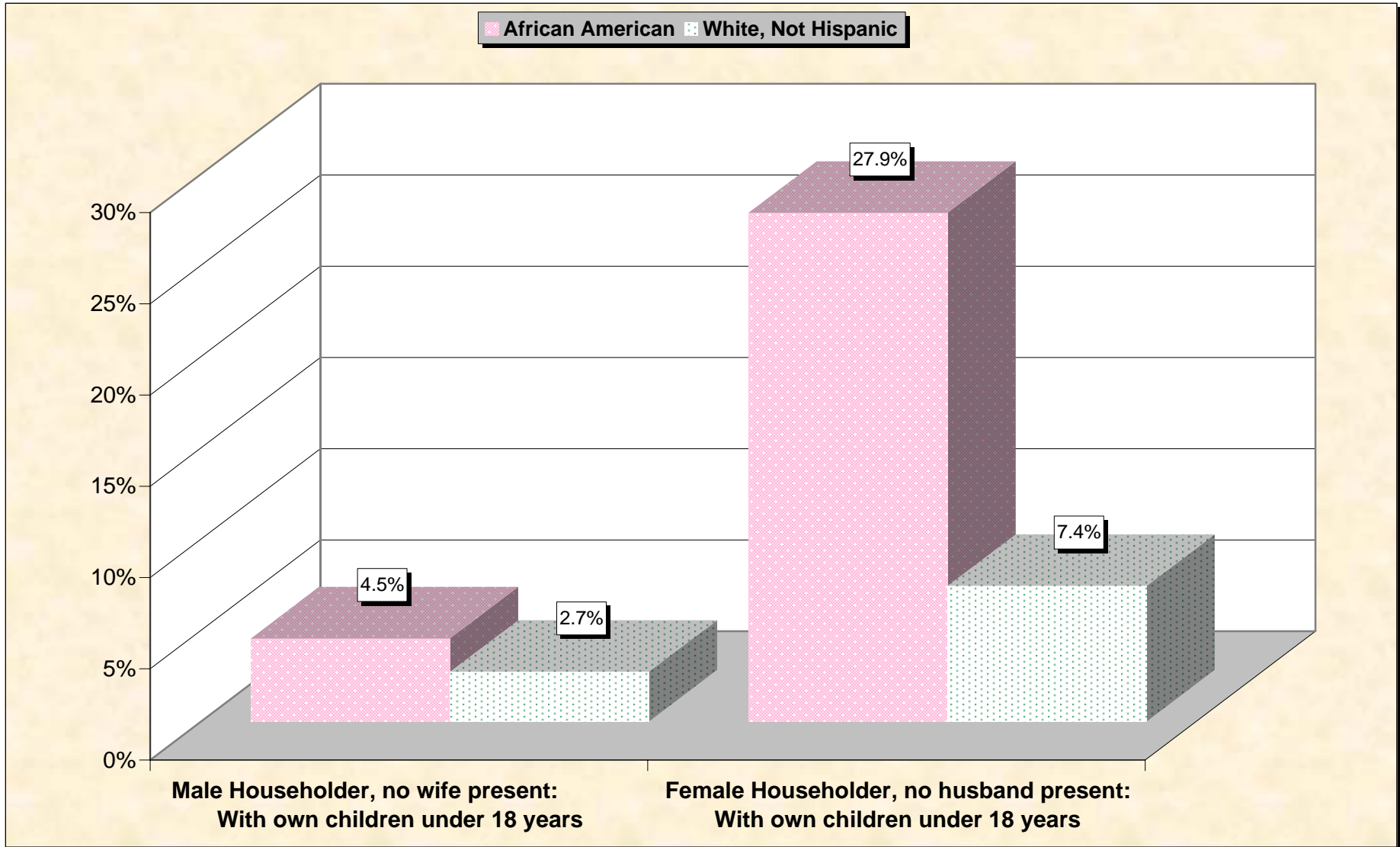
# **Selected Socio-Economic Data**

## **Virginia**

### **African American and White, Not Hispanic**

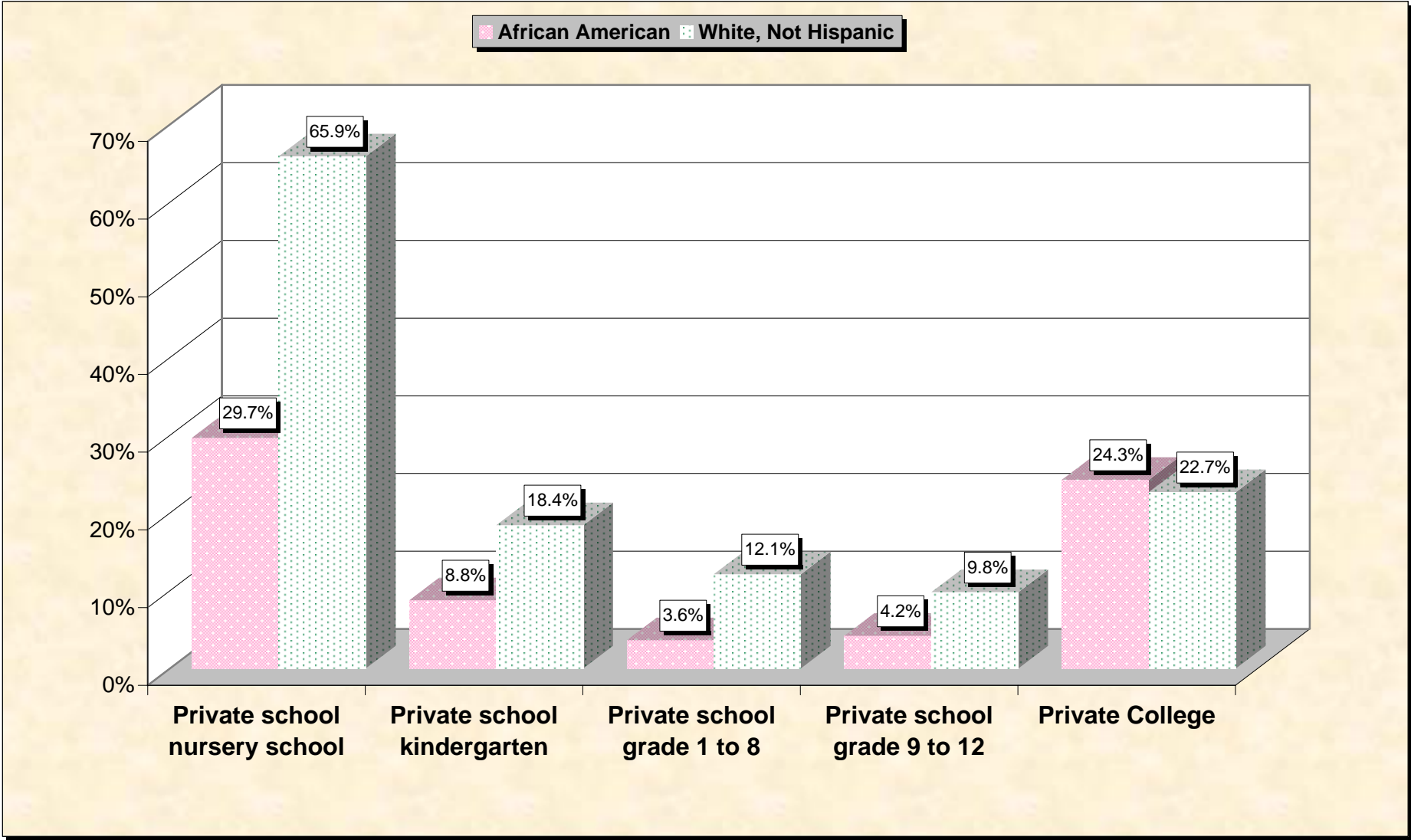
**Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data**

# Chart 1 -- Single-Parent Family Households (Householder 15 to 64 years) Virginia



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.

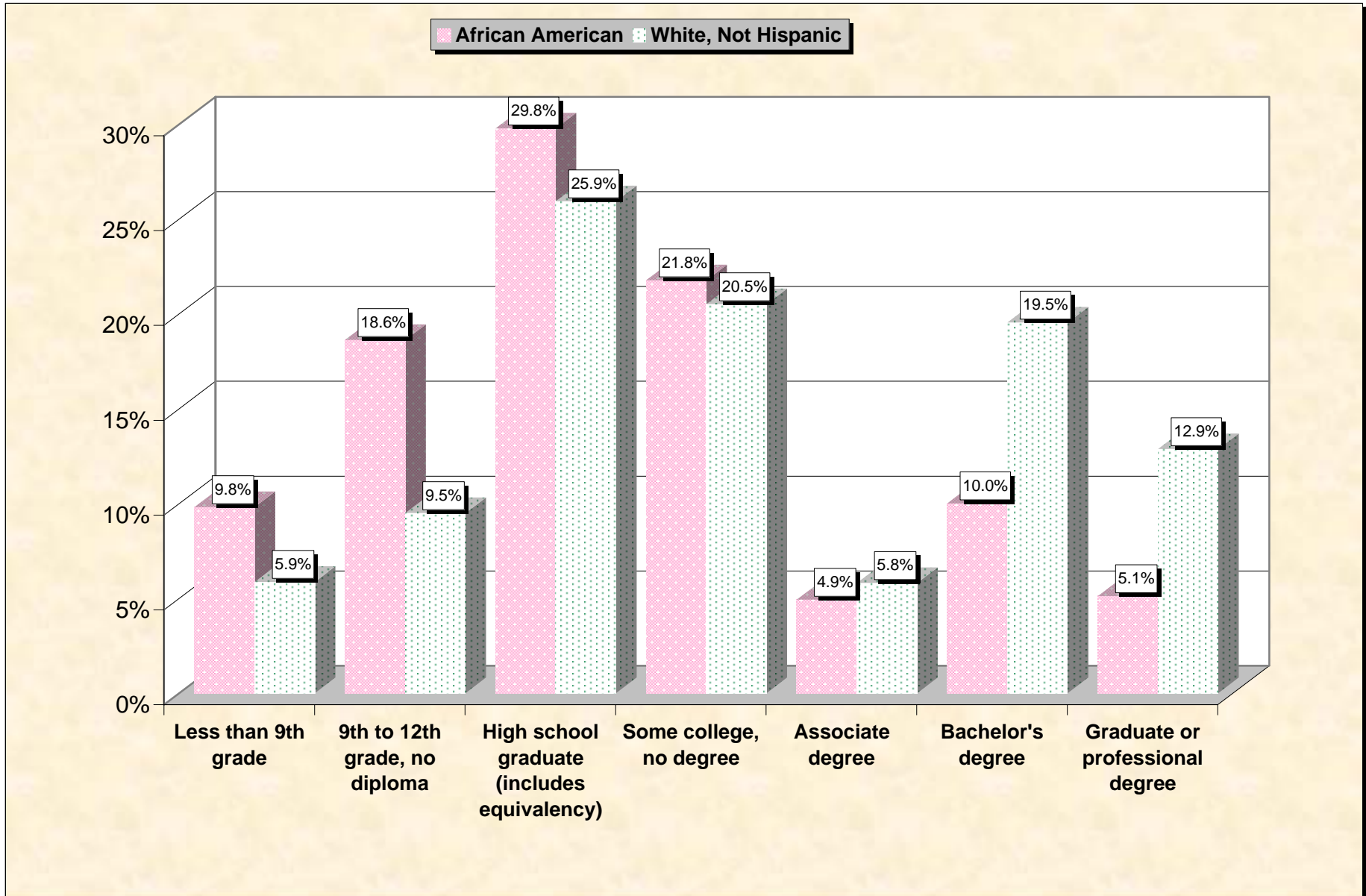
# Chart 2 -- Private School Enrollment (3 years and over) Virginia



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.

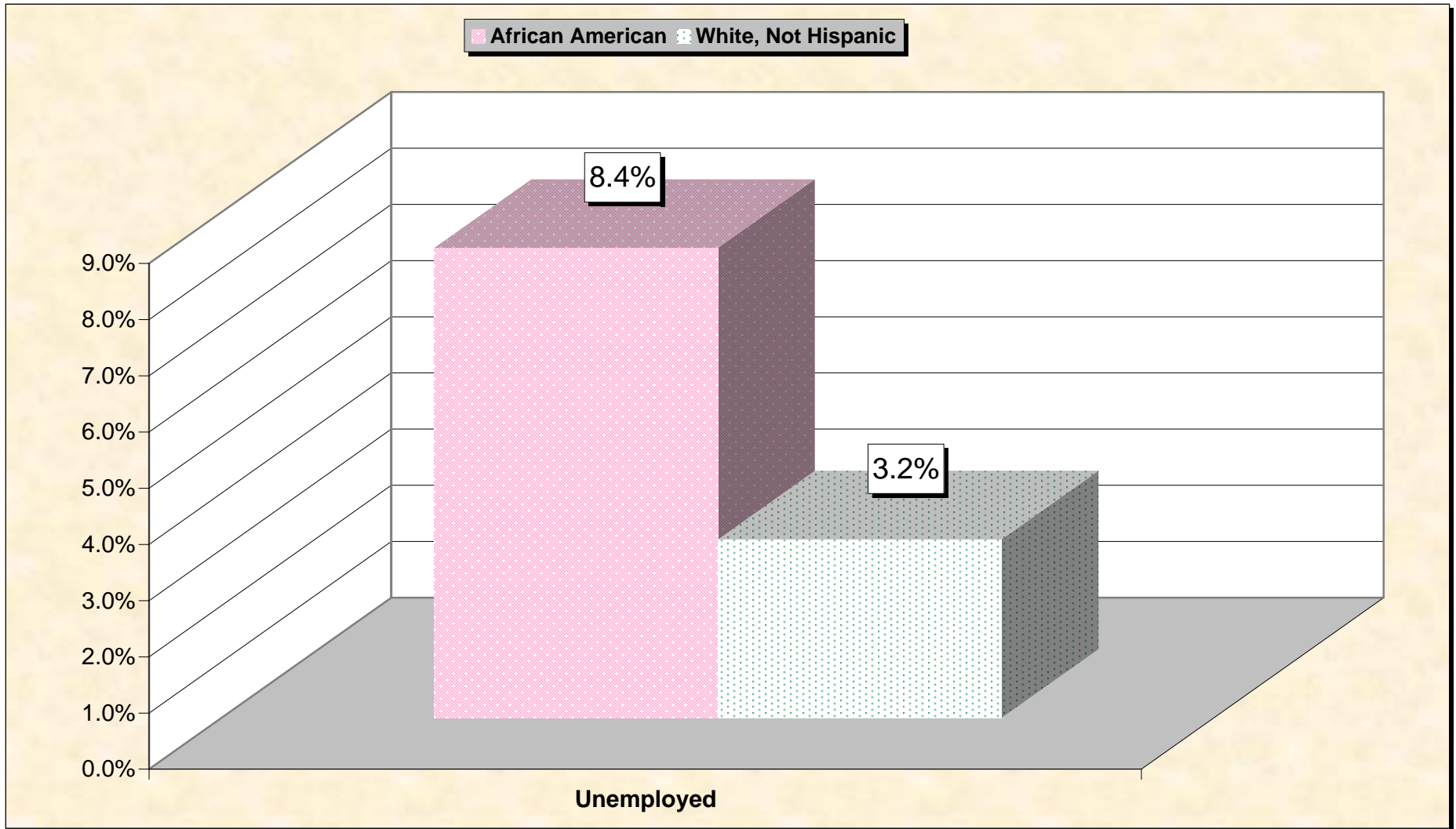


## Chart 3 -- Educational Attainment (25 years and over) Virginia



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.

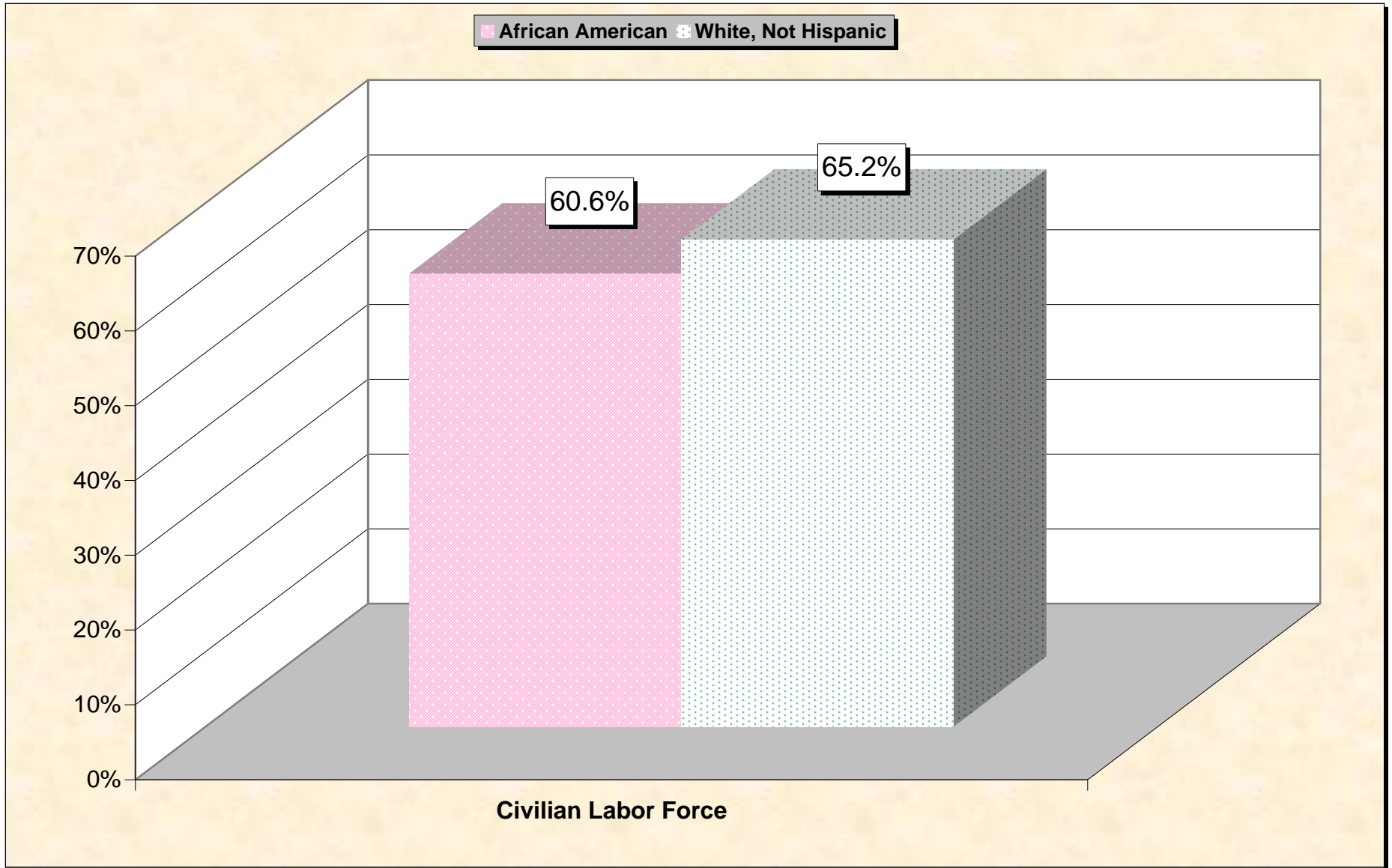
# Chart 4 -- Unemployment Rate (Civilian Labor Force) Virginia



**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.

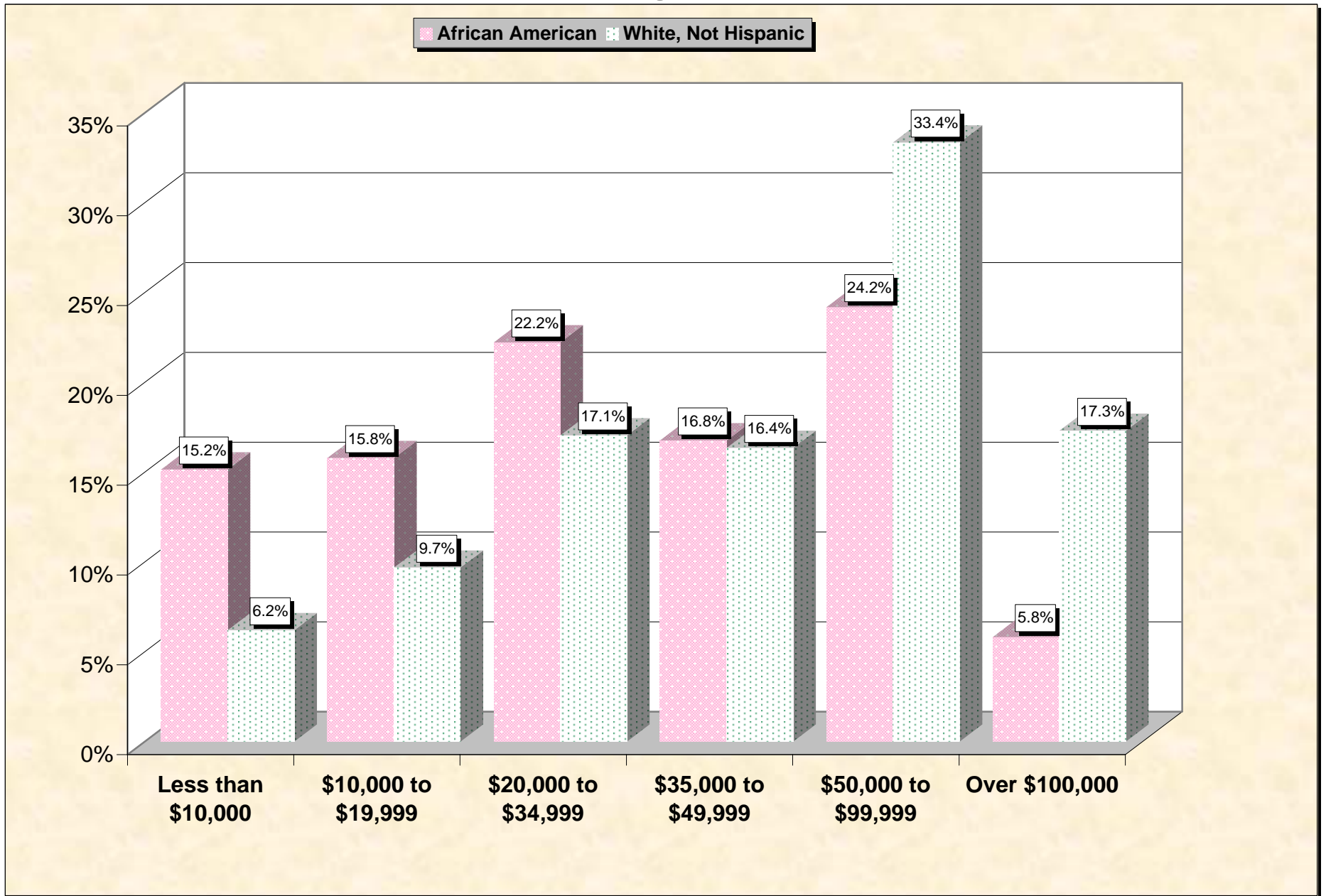
# Chart 5 -- Labor Force Participation (Civilian Labor Force) Virginia



**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.

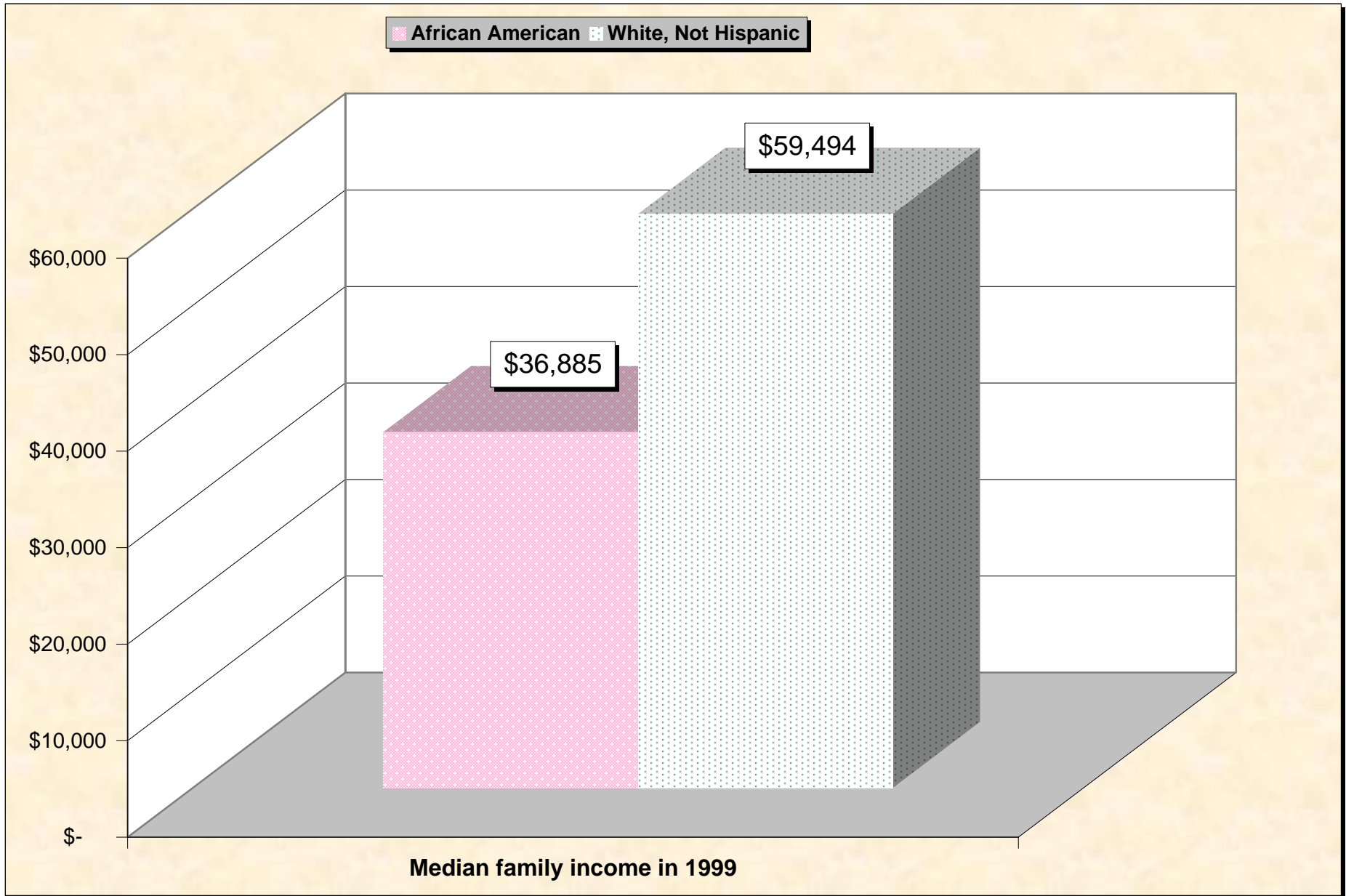
## Chart 6 -- Household Income in 1999 Virginia



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.

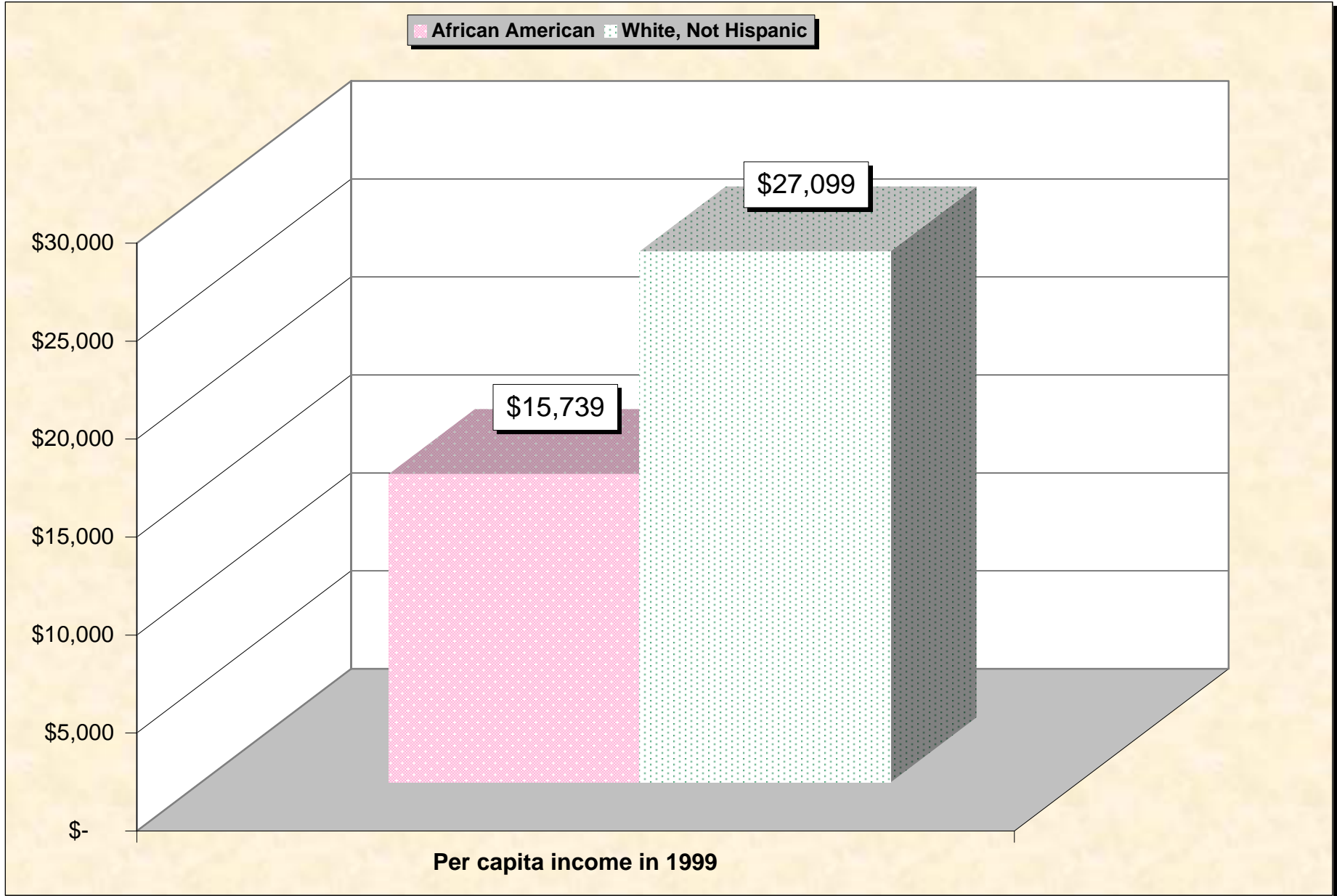
# Chart 7 -- Median Family Income In 1999

## Virginia



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 Virginia



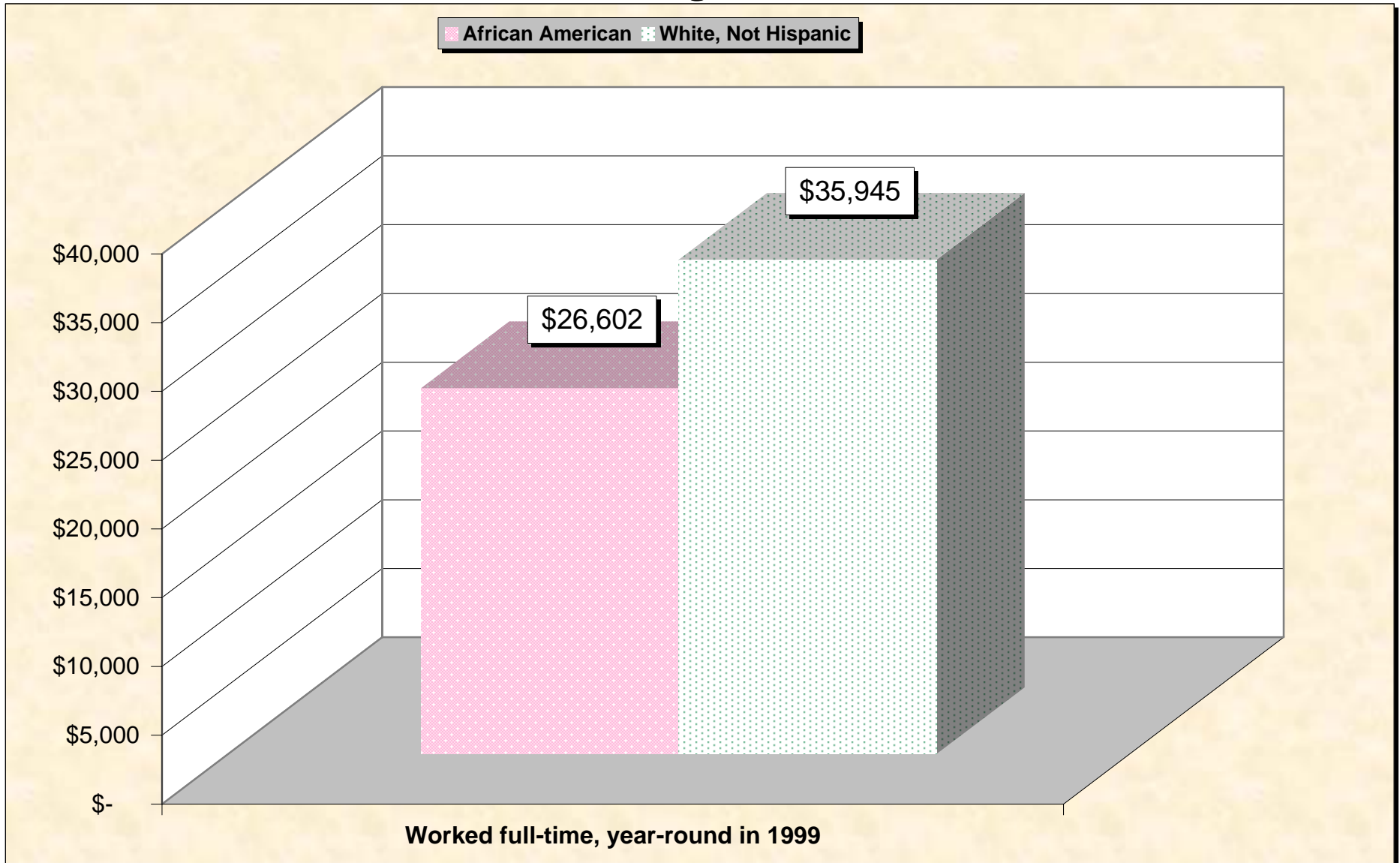
Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- P157B. PER CAPITA INCOME IN 1999 (DOLLARS) (BLACK OR AFRICAN AMERICAN ALONE) [1] - Universe: Black or African American alone; P157I. PER CAPITA INCOME IN 1999 (DOLLARS) (WHITE ALONE, NOT HISPANIC OR LATINO) [1] - Universe: White alone,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

# Chart 9 -- Income in 1999 Below Poverty Level by Age Virginia



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.

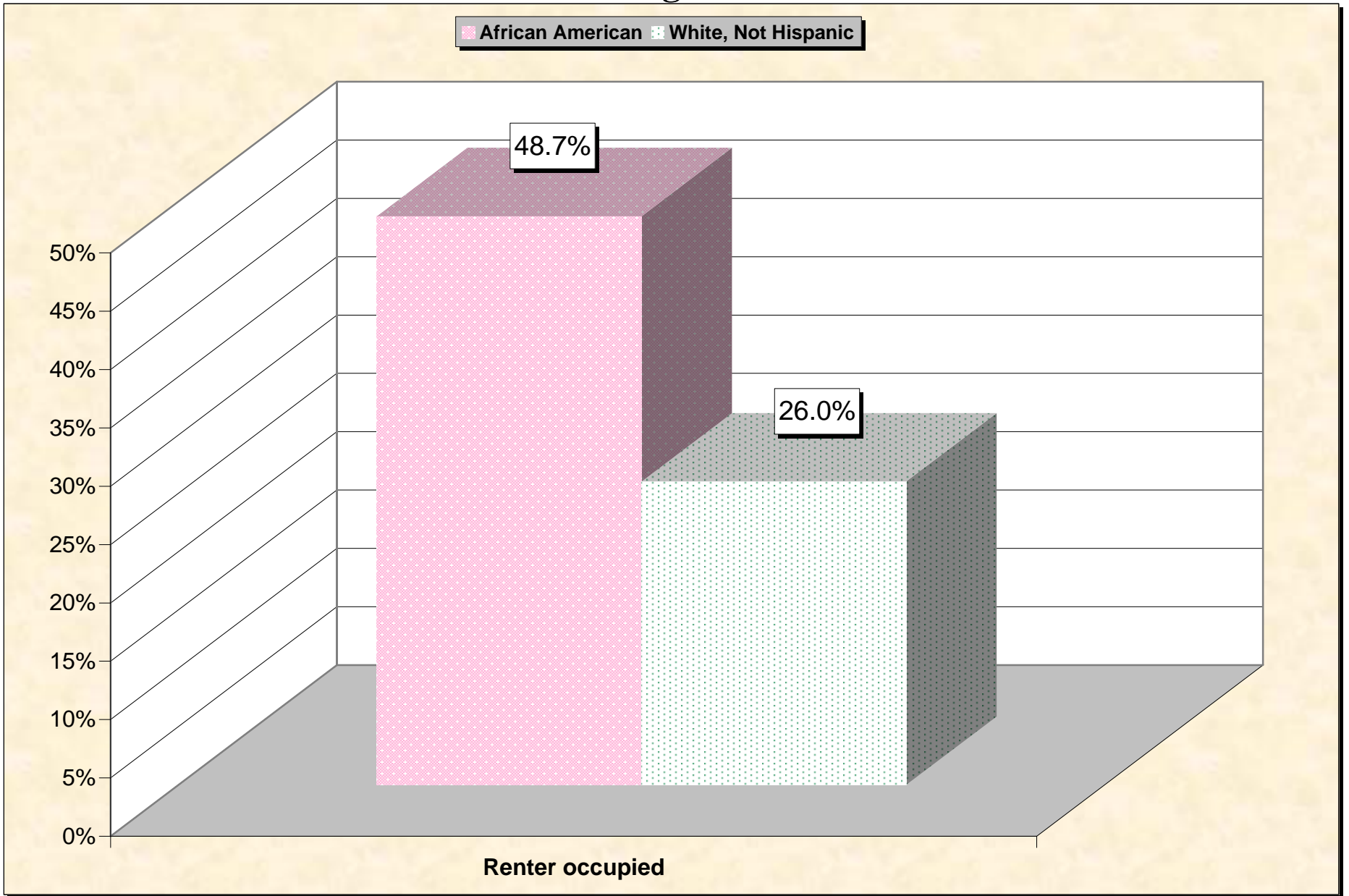
# Chart 10 -- Median Earnings in 1999 Virginia



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.

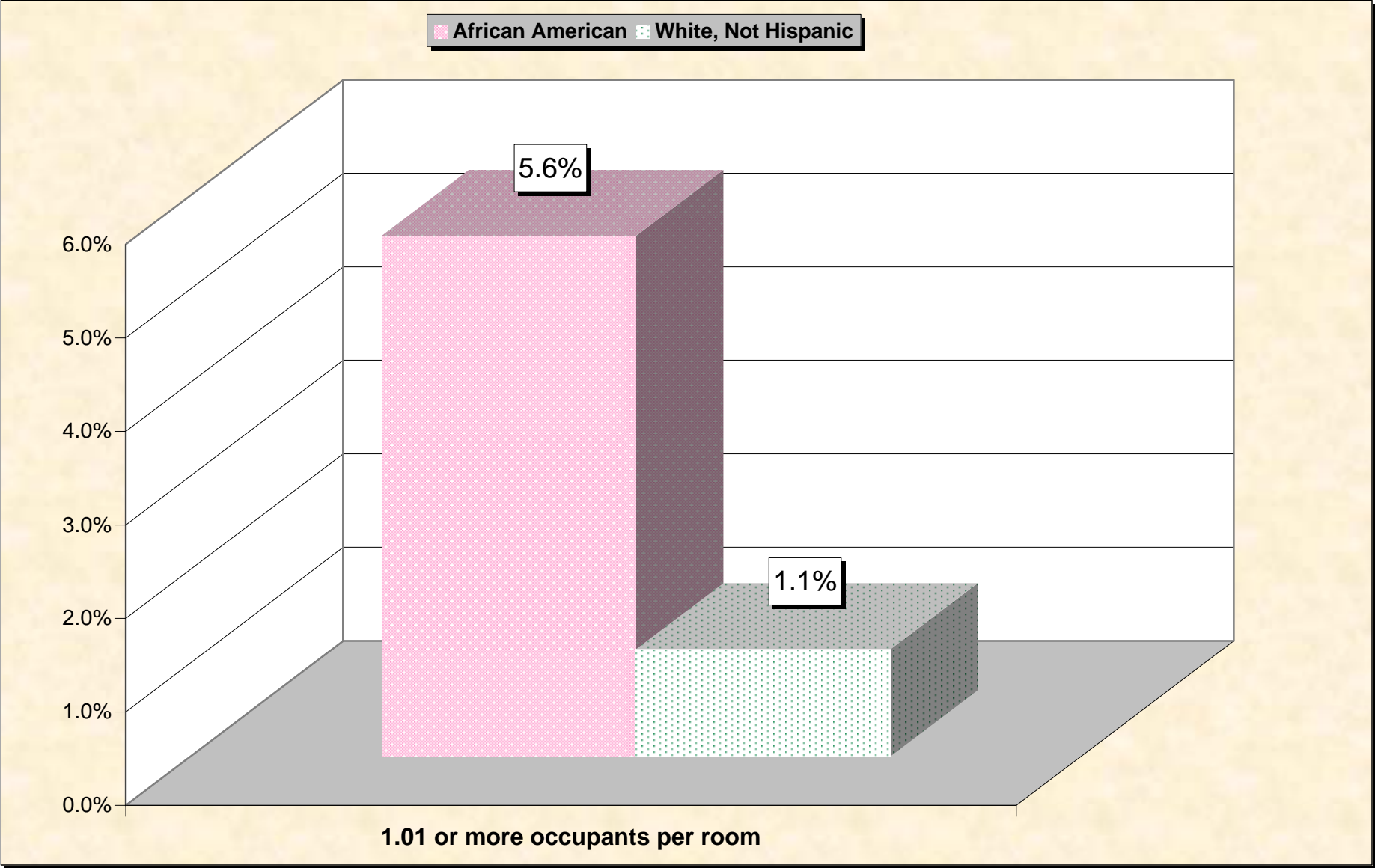


# Chart 11 -- Renter-Occupied Housing Virginia



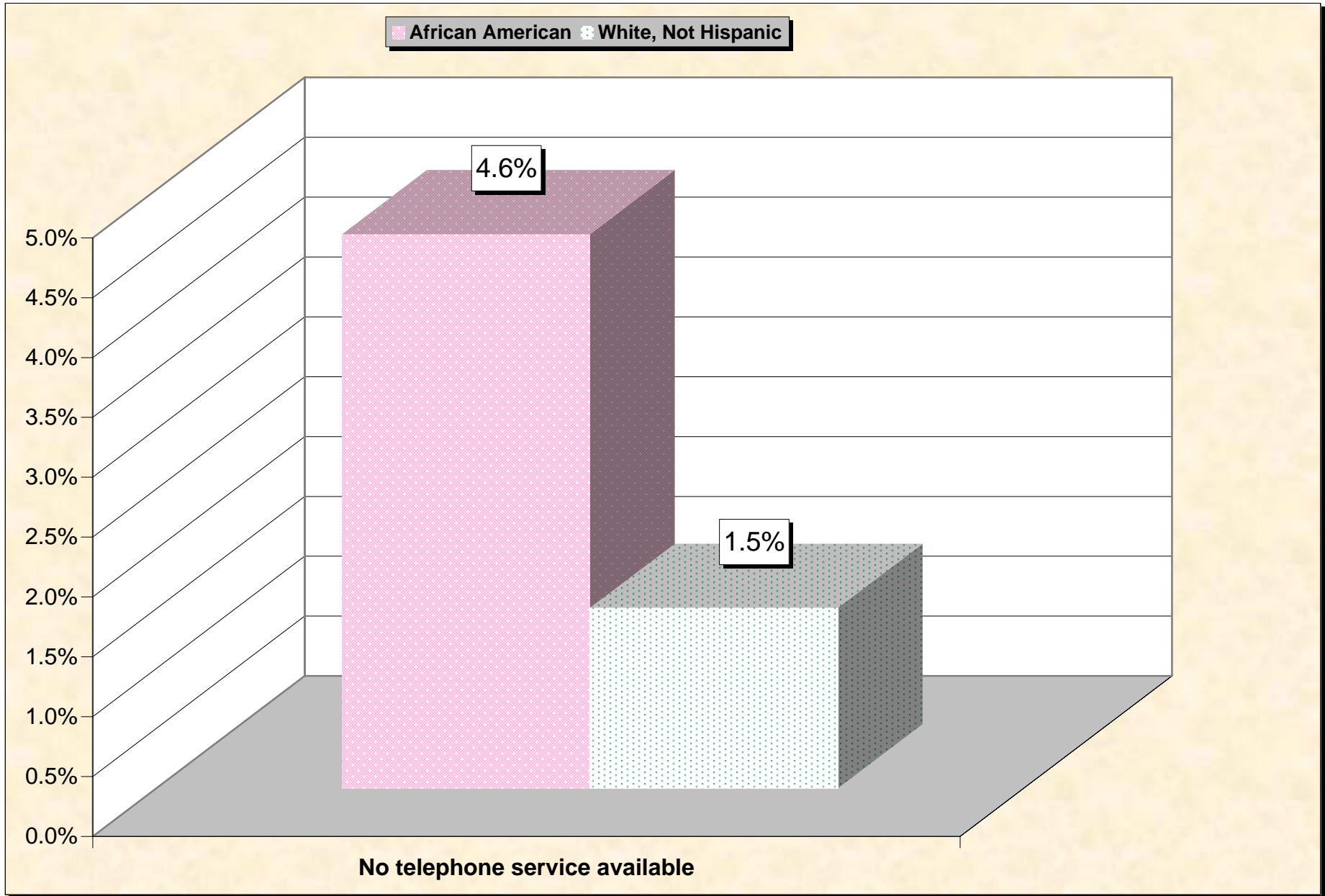
Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- H11. TENURE BY RACE OF HOUSEHOLDER [17] - Universe: Occupied housing units; H13. TENURE (WHITE ALONE, NOT HISPANIC OR LATINO HOUSEHOLDER) [3] - Universe: Occupied housing units with a householder who is White alone, not Hispanic or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

# Chart 12 -- Occupants Per Room (Crowding) by Household Virginia



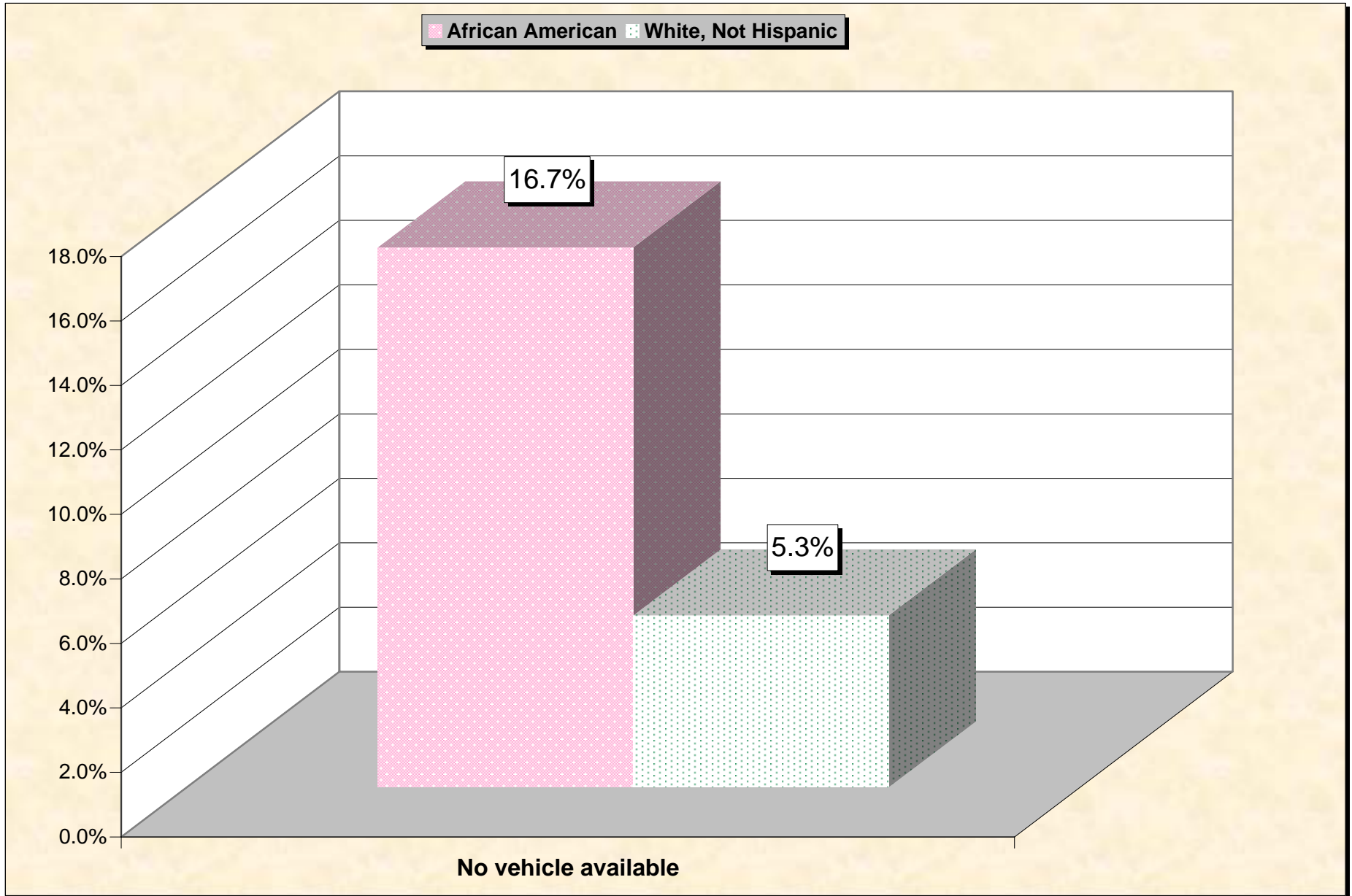
Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- HCT29B. OCCUPANTS PER ROOM (BLACK OR AFRICAN AMERICAN ALONE HOUSEHOLDER) [3] - Universe: Occupied housing units with a householder who is Black or African American alone; HCT29I. OCCUPANTS PER ROOM (WHITE ALONE, NOT HISPANIC OR LATINO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



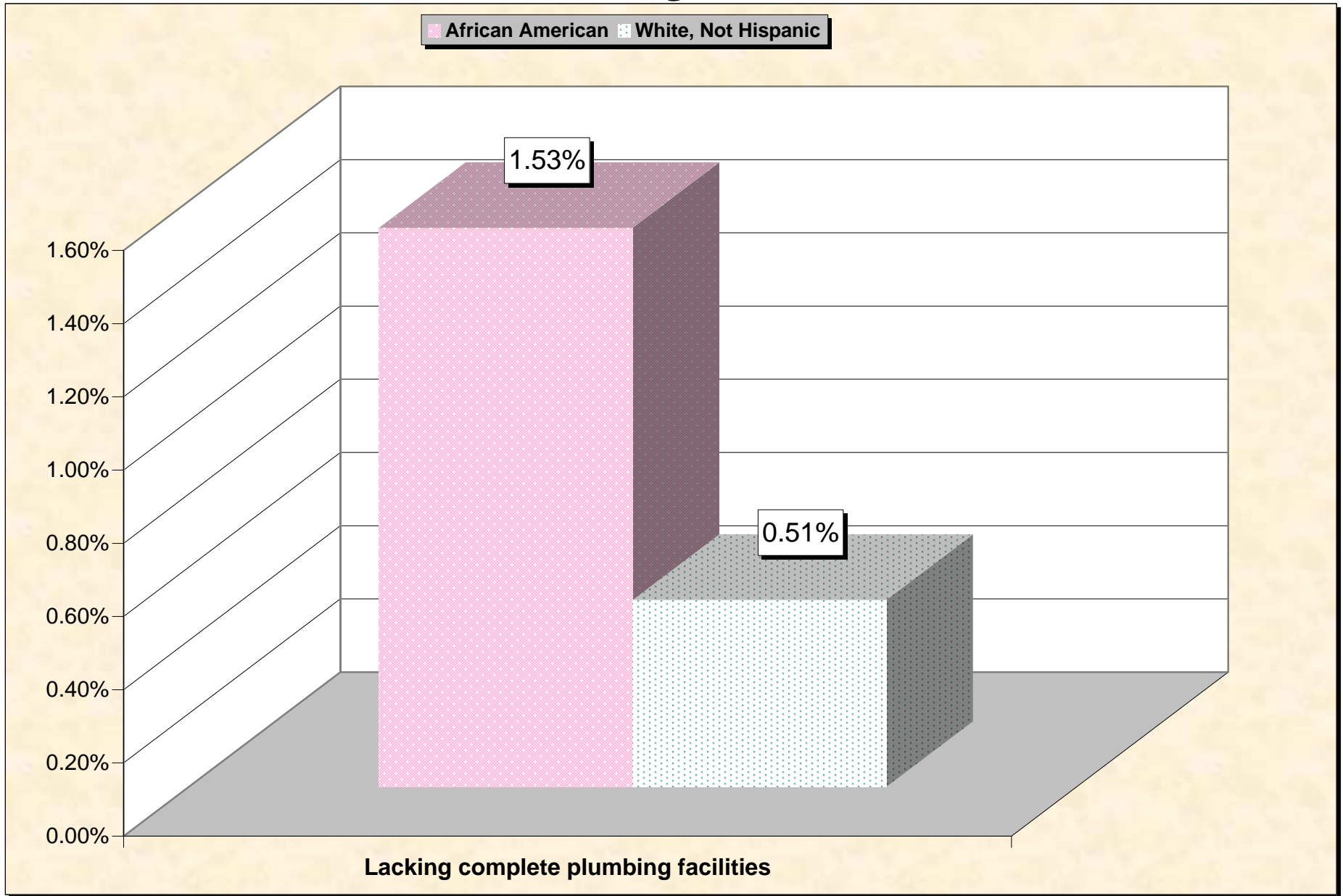
Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- HCT32B. TELEPHONE SERVICE AVAILABLE (BLACK OR AFRICAN AMERICAN ALONE HOUSEHOLDER) [3] - Universe: Occupied housing units with a householder who is Black or African American alone; HCT32I. TELEPHONE SERVICE AVAILABLE (WHITE ALONE, NOT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



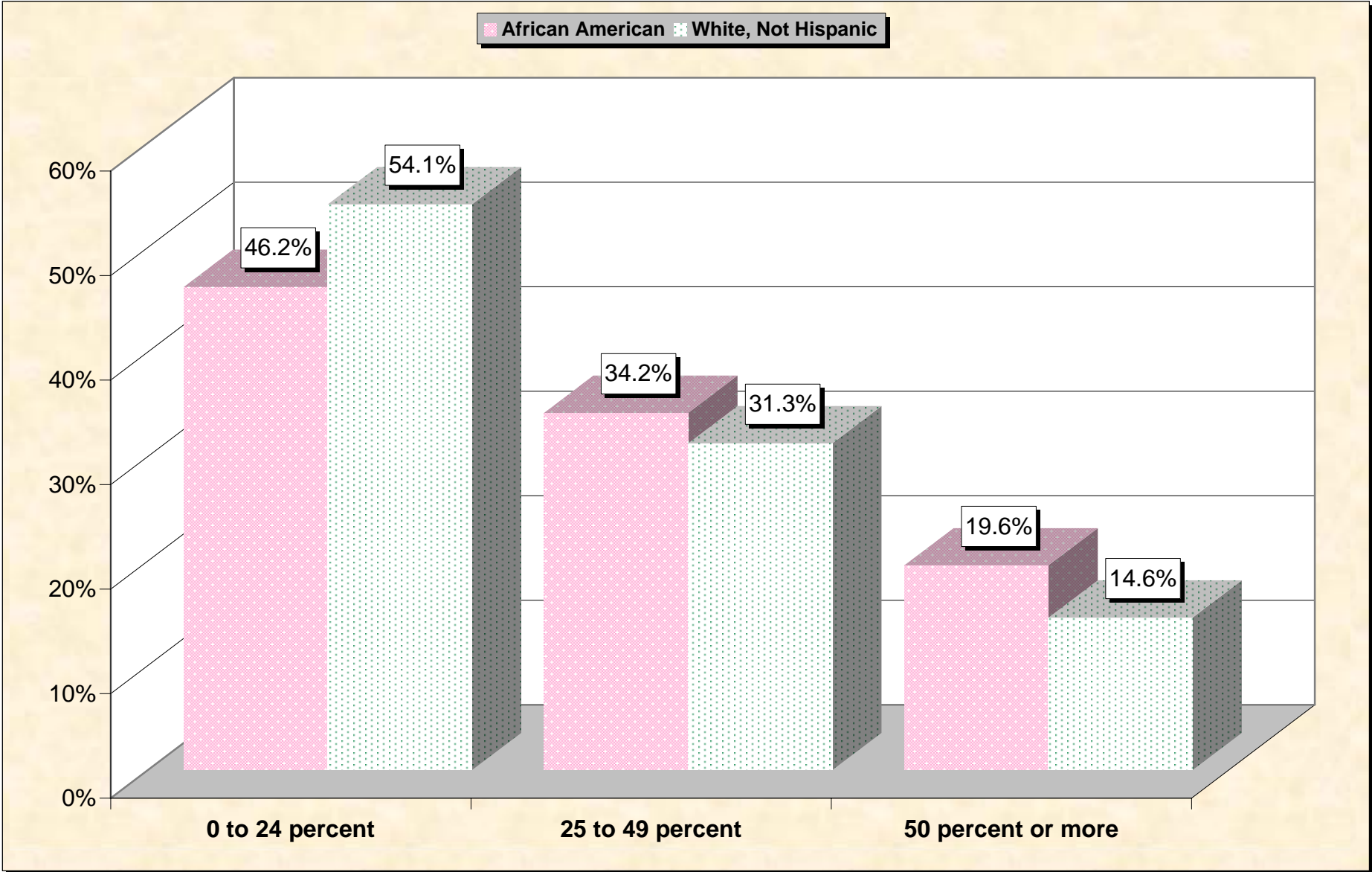
Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- HCT33B. VEHICLES AVAILABLE (BLACK OR AFRICAN AMERICAN ALONE HOUSEHOLDER) [3] - Universe: Occupied housing units with a householder who is Black or African American alone;; HCT33I. VEHICLES AVAILABLE (WHITE ALONE, NOT HISPANIC OR LATINO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

# Chart 15 -- Lack of Plumbing By Household Virginia



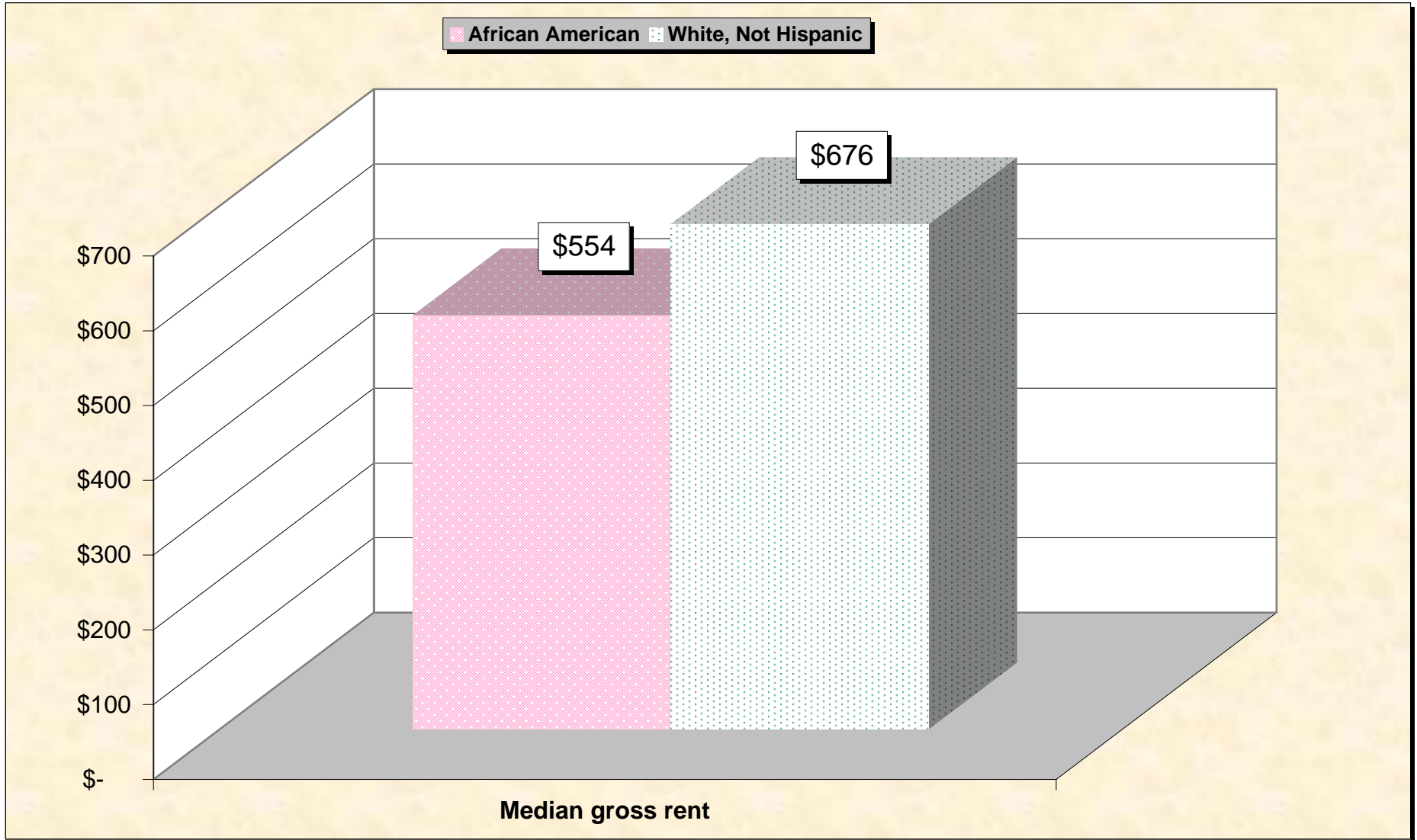
Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- HCT34B. PLUMBING FACILITIES (BLACK OR AFRICAN AMERICAN ALONE HOUSEHOLDER) [3] - Universe: Occupied housing units with a householder who is Black or African American alone; HCT34I. PLUMBING FACILITIES (WHITE ALONE, NOT HISPANIC OR LATINO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



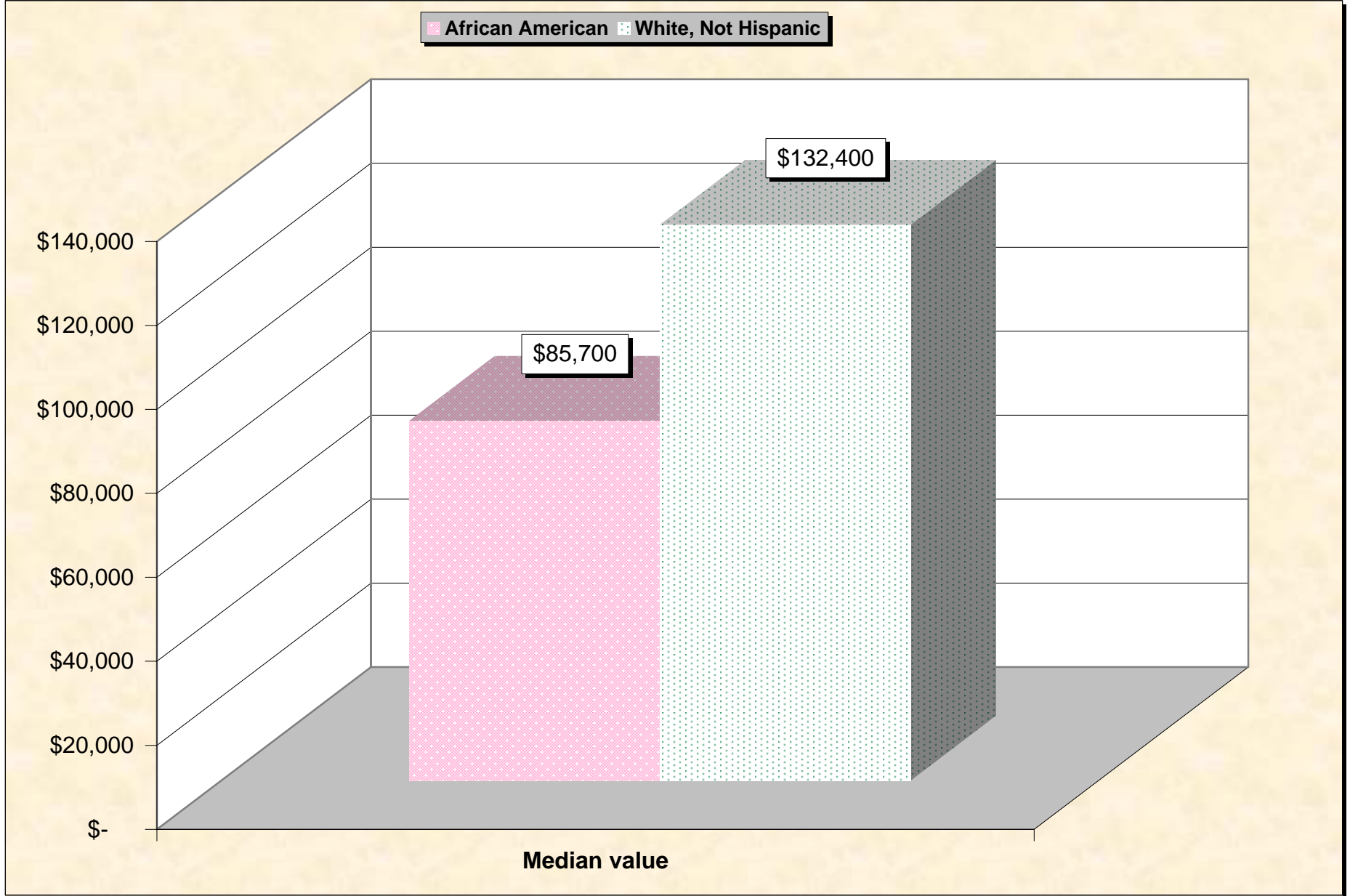
Source: Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data -- HCT39B. GROSS RENT AS A PERCENTAGE OF HOUSEHOLD INCOME IN 1999 (BLACK OR AFRICAN AMERICAN ALONE HOUSEHOLDER) [11] - Universe: Specified renter-occupied housing units with a householder who is Black or African American alone; HCT39I. 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 Virginia



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 Virginia



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

	Virginia	Virginia
Total:	493,797	2,004,156
Householder 15 to 64 years:	413,095	1,593,454
Family households:	298,748	1,137,803
Married-couple family:	158,043	957,975
With own children under 18 years	92,098	495,952
No own children under 18 years	65,945	462,023
Other family:	140,705	179,828
Male householder, no wife present:	23,493	52,736
With own children under 18 years	13,581	30,945
No own children under 18 years	9,912	21,791
Female householder, no husband present:	117,212	127,092
With own children under 18 years	83,261	84,526
No own children under 18 years	33,951	42,566
Nonfamily households:	114,347	455,651
Householder living alone	92,064	337,611
Householder not living alone	22,283	118,040
Householder 65 years and over:	80,702	410,702
Family households:	43,972	225,724
Married-couple family:	24,858	190,070
With own children under 18 years	625	1,507
No own children under 18 years	24,233	188,563
Other family:	19,114	35,654
Male householder, no wife present:	3,528	7,288
With own children under 18 years	228	193
No own children under 18 years	3,300	7,095
Female householder, no husband present:	15,586	28,366
With own children under 18 years	148	70
No own children under 18 years	15,438	28,296
Nonfamily households:	36,730	184,978
Householder living alone	34,786	179,050
Householder not living alone	1,944	5,928

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
	Virginia	Virginia
Total:	1,324,067	4,790,338
Enrolled in nursery school, preschool:	27,621	83,127
Public school	19,428	28,345
Private school	8,193	54,782
Enrolled in kindergarten:	23,962	63,556
Public school	21,862	51,843
Private school	2,100	11,713
Enrolled in grade 1 to grade 8:	196,647	515,536
Public school	189,547	453,100
Private school	7,100	62,436
Enrolled in grade 9 to grade 12:	93,352	245,249
Public school	89,444	221,187
Private school	3,908	24,062
Enrolled in college:	87,515	299,803
Public school	66,280	231,747
Private school	21,235	68,056
Not enrolled in school	894,970	3,583,067

*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
	Virginia	Virginia
Total:	833,512	3,418,030
Male:	382,449	1,645,543
Less than 9th grade	40,854	103,399
9th to 12th grade, no diploma	75,645	158,122
High school graduate (includes equivalency)	120,076	401,615
Some college, no degree	76,982	317,679
Associate degree	16,821	85,606
Bachelor's degree	34,099	325,814
Graduate or professional degree	17,972	253,308
Female:	451,063	1,772,487
Less than 9th grade	40,869	97,025
9th to 12th grade, no diploma	79,551	166,312
High school graduate (includes equivalency)	128,042	484,663
Some college, no degree	104,409	383,189
Associate degree	24,265	112,819
Bachelor's degree	49,285	342,030
Graduate or professional degree	24,642	186,449

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
	Virginia	Virginia
Total:	1,023,750	3,973,735
Male:	477,970	1,931,375
In labor force:	309,494	1,450,424
In Armed Forces	24,134	74,018
Civilian:	285,360	1,376,406
Employed	260,601	1,333,731
Unemployed	24,759	42,675
Not in labor force	168,476	480,951
Female:	545,780	2,042,360
In labor force:	342,131	1,223,004
In Armed Forces	7,007	10,186
Civilian:	335,124	1,212,818
Employed	308,018	1,173,298
Unemployed	27,106	39,520
Not in labor force	203,649	819,356

*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
	Virginia	Virginia
Total:	493,797	2,004,156
Less than \$10,000	74,863	124,345
\$10,000 to \$14,999	38,833	95,182
\$15,000 to \$19,999	39,182	99,153
\$20,000 to \$24,999	39,208	109,723
\$25,000 to \$29,999	36,904	114,946
\$30,000 to \$34,999	33,690	117,277
\$35,000 to \$39,999	30,176	115,623
\$40,000 to \$44,999	27,539	111,777
\$45,000 to \$49,999	25,114	100,460
\$50,000 to \$59,999	40,505	189,577
\$60,000 to \$74,999	42,810	233,500
\$75,000 to \$99,999	36,190	245,543
\$100,000 to \$124,999	14,458	138,314
\$125,000 to \$149,999	6,235	75,137
\$150,000 to \$199,999	4,219	69,493
\$200,000 or more	3,871	64,106

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
	Virginia	Virginia
Median family income in 1999	\$ 36,885	\$ 59,494

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
	Virginia	Virginia
Per capita income in 1999	\$ 15,739	\$ 27,099

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
	Virginia	Virginia
Total:	1,306,107	4,826,931
Income in 1999 below poverty level:	250,903	323,226
Under 5 years	28,826	21,504
5 years	5,963	4,389
6 to 11 years	38,285	27,477
12 to 17 years	30,235	25,301
18 to 64 years	122,861	201,279
65 to 74 years	13,070	19,658
75 years and over	11,663	23,618
Income in 1999 at or above poverty level:	1,055,204	4,503,705
Under 5 years	69,356	264,211
5 years	15,616	56,189
6 to 11 years	105,474	351,689
12 to 17 years	100,221	347,143
18 to 64 years	672,467	2,918,554
65 to 74 years	55,023	322,845
75 years and over	37,047	243,074

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
	Virginia	Virginia
Median earnings in 1999 --		
Worked full-time, year-round in 1999 --		
Total	\$ 26,602	\$ 35,945
Male	\$ 29,357	\$ 40,793
Female	\$ 24,140	\$ 29,946
Other --		
Total	\$ 9,781	\$ 10,217
Male	\$ 10,462	\$ 11,364
Female	\$ 9,273	\$ 9,485

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

	<b>Virginia</b>
Total:	2,699,173
Owner occupied:	1,837,958
Householder who is White alone	1,504,263
<b>Householder who is Black or African American alone</b>	<b>252,367</b>
Householder who is American Indian and Alaska Native alone	4,705
Householder who is Asian alone	44,185
Householder who is Native Hawaiian and Other Pacific Islander alone	468
Householder who is Some other race alone	12,663
Householder who is Two or more races	19,307
Renter occupied:	861,215
Householder who is White alone	542,039
<b>Householder who is Black or African American alone</b>	<b>240,004</b>
Householder who is American Indian and Alaska Native alone	3,537
Householder who is Asian alone	33,580
Householder who is Native Hawaiian and Other Pacific Islander alone	527
Householder who is Some other race alone	20,332
Householder who is Two or more races	21,196

### White alone, not Hispanic

### White, Not Hispanic

		<b>Virginia</b>
Total:		2,006,000
Owner occupied		1,484,322
Renter occupied		521,678

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
	Virginia	Virginia
Total:	492,371	2,006,000
1.00 or less occupants per room	464,969	1,983,025
1.01 or more occupants per room	27,402	22,975

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
	Virginia	Virginia
Total:	492,371	2,006,000
With telephone service available	469,581	1,975,761
No telephone service available	22,790	30,239

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
	Virginia	Virginia
Total:	492,371	2,006,000
No vehicle available	82,431	106,925
1 or more vehicles available	409,940	1,899,075

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
	Virginia	Virginia
Total:	492,371	2,006,000
Complete plumbing facilities	484,852	1,995,751
Lacking complete plumbing facilities	7519	10,249

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
	Virginia	Virginia
Total:	237,559	506,891
Less than 10 percent	14,138	30,589
10 to 14 percent	24,178	66,336
15 to 19 percent	32,613	82,721
20 to 24 percent	30,689	72,552
25 to 29 percent	26,610	54,269
30 to 34 percent	19,016	36,945
35 to 39 percent	12,905	24,554
40 to 49 percent	16,608	29,937
50 percent or more	43,066	68,017
Not computed	17,736	40,971

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
	Virginia	Virginia
Median gross rent	\$ 554	\$ 676

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
	Virginia	Virginia
Median value	\$ 85,700	\$ 132,400

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.

**Appendix 3 - Virginia Submissions Withdrawn 1982- Present**

<b>Submission #</b>	<b>State</b>	<b>County</b>	<b>Type of Change</b>	<b>Date of Withdrawal</b>
1993-2632	Virginia	Cumberland, Prince Edward	Redist.	22-Nov-93
2001-1838	Virginia	Henrico	Poll Place (changed)	28-Aug-01
1989-3822	Virginia	Lunenburg	Poll Place	1-May-89
1987-4154	Virginia		Poll Place (changed) (3)	9-Mar-88

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

#### Appendix 4 – Summary of Voting Rights Litigation in Virginia 1982 to Present

- *McDaniels v. Mehfoud*, 702 F. Supp. 588 (E.D. Va. 1988). Plaintiffs, African American citizens and registered voters of Henrico County, Virginia, brought suit in district court claiming that the county’s 1981 redistricting plan impermissibly denied their right to vote on account of race, in violation of Section 2 of the Voting Rights Act, and was adopted and maintained purposefully to dilute African-American voting strength. Henrico County is an urban and suburban county bordering Richmond, Virginia. According to the 1980 census data, the total population of Henrico County was 180,735, of which 15% were African Americans. In analyzing the plaintiffs’ Section 2 claim, the court found that the African-American population in Henrico County was sufficiently large and geographically compact to constitute a majority in one or more single-member districts. Further, voting patterns in the county revealed a severe and persistent pattern of racially polarized voting, there was a legacy of official discrimination in voting matters and to a lesser extent continuing effects of discrimination in education and employment. These factors, combined with the single-member districting scheme, impeded the ability of a geographically compact and politically cohesive group of African Americans to participate equally in the political process and to elect their candidates of choice in violation of the Voting Rights Act of 1965.
- *Neal v. Coleburn*, 689 F. Supp. 1426 (E.D. Va. 1988). The plaintiffs, African American citizens and registered voters of Nottoway County, Virginia, initiated suit in district court, alleging that the method for electing the board of supervisors for Nottoway County impermissibly diluted the voting power of the county’s African-American voters, in violation of Section 2 of the Voting Rights Act and the U.S. Constitution. The county was predominantly rural, located in Southside Virginia. According to the 1980 Census, the total population was 14,666—39.04% of whom were African American and 60.69% of whom were white. The county was governed by a five-member board of supervisors; each supervisor was elected by a plurality vote for a four-year term from a single-member district. The terms were not staggered. Despite the fact that the county’s population was nearly 40% African American, the districts were not drawn such that any of them contained a black majority. In its analysis of the vote dilution claim, the court noted the extensive history of discrimination in Virginia and how its lingering effects on socio-economic conditions of African Americans contributed to the lack of opportunities for African Americans to effectively participate in the political process. Thus, “the Court [found] that the political processes in Nottoway County [had] been largely under white control and associated with white political dominance. . . . As a result of past official discrimination and continuing segregation, black[s] . . . still feel intimidated by the white domination of local politics.” Moreover, the court found significant evidence of racially polarized voting, noting that “whites generally have not supported or voted for black candidates, nor will they.” The court ultimately ruled that the plaintiffs had satisfied their burden to prove a Section 2 violation and ordered adoption of the plaintiffs’ proposed remedy.

- *Collins v. City of Norfolk*, 883 F.2d 1232 (4<sup>th</sup> Cir. 1989), cert. denied, *City of Norfolk v. Collins*, 498 U.S. 938 (1990). Plaintiffs, seven African-American citizens of Norfolk, Virginia and the Norfolk Branch of the NAACP, initiated an action in the district court, alleging that the at-large system of electing members of the Norfolk City Council unlawfully diluted black voting strength and that the system had been maintained for racially discriminatory purposes. Since 1952, the council had consisted of seven members elected at-large. Council members served four-year, staggered terms, so every two years three or four of the seven seats were contested. From 1918 until 1968, every member of Norfolk's city council was white. In 1968, a black citizen was elected to the council and from that time until the filing of the initial action, the council had one black member. Thus, although the city's population was 35% African American and the rate of African-American participation in the electoral process was high, African Americans were unable to elect more than one African American member to the seven-member council. Despite this evidence, the district entered judgment in favor of the defendants finding that African Americans were able to elect representatives of their choice because some white candidates had received more than 50% of the African-American vote. The district court's holding was affirmed by the Fourth Circuit. The United States Supreme Court, however, vacated and remanded. On remand, the district court again entered judgment for the defendants. This time, the Fourth Circuit reversed. Specifically, the court held that the presumption that successful white candidates who received more than 50% of the black vote were not "representatives of their choice" where candidates who received much higher percentage of the black vote were defeated was not overcome by testimony that successful candidates were endorsed by black political organizations and had black support greater than some of the African-American candidates. Instead, the critical factor was the difference between the African American support for the candidate who received the most black votes yet lost versus the candidates who won with fewer black votes. The court cited statistics showing that from 1968 until 1984 all of the minority-preferred candidates for a second seat on the council were defeated by candidates preferred by white voters and statistics showing that before 1984, white voters were able to defeat the combined strength of African-American voters and white crossover voters to deny the African-American community a second seat on the council. Furthermore, the court held that recent re-elections of African-American incumbents did not negate the existence of white bloc voting. Thus, the court reversed the district court's judgment and held that VRA Section 2 was violated. The case was remanded with these instructions: the district court should enjoin at-large elections for city council, allow the city a reasonable time to prepare a remedial plan, and submit the plan for clearance under Section 5 of the VRA.
- *Hall v. Virginia*, 385 F.3d 421 (4<sup>th</sup> Cir. 2004). In 2001, the Virginia General Assembly adopted a redistricting plan, changing the boundary lines of the Fourth District so as to shift a number of African-American citizens out of the Fourth District and into the Third and Fifth Districts. Before the redistricting, African Americans comprised 39.4% of the total population and 37.8% of the voting-age population. After the redistricting, they constituted 33.6% of the total population and 32.3% of its voting-age population. Plaintiffs, nine registered voters who resided in the Fourth District or were shifted out of



the district as a result of the redistricting, filed suit in district court alleging that the reconfiguration of the Fourth District diluted minority voting strength in violation of Section 2 of the VRA. Specifically, they claimed that that in the newly-drawn Fourth District, African Americans “are too small in number to form the same winning coalition with ‘crossover’ white voters that existed before the enactment of the 2001 Redistricting Plan.” According to the plaintiffs, “the first *Gingles* precondition is satisfied not only when a minority group constitutes a numerical majority in a single-member district, but also when minorities are sufficiently numerous to form an ‘effective’ or ‘functional’ majority in a single-member district by combining voters from other racial or ethnic groups.” The district court rejected this argument, however, concluding that African Americans would not form a population of voting-age majority in the Fourth District even if the district was restored to the original boundaries. The Fourth Circuit affirmed, holding that “when minority voters, as a group, are too small or loosely distributed to form a majority in a single-member district, they have no ability to elect candidates of their own choice, but must instead rely on the support of other groups to elect candidates. . . . [they] cannot claim that their voting strength—that is, the potential to independently decide the outcome of an election—has been diluted in violation of Section 2.”

### Consent Decrees

- *Harris v. City of Hopewell*, Civ. No. 82-0036-R (E.D. Va. Jan. 5, 1983).
- *Eggleston v. Crute*, Civ. No. 83-0287-R (E.D. Va. 1984).
- *Watkins v. Thomas*, Civ. No. 87-0709-R (E.D. Va. May 20, 1988).
- *Person v. Ligon*, Civ. No. 84-0270-R (E.D. Va. Jan. 12, 1988).
- *King v. Blalock*, Civ. No. CA-88-0811-R (E.D. Va. June 6, 1989).
- *Feggins v. Horne*, Civ. No. CA-88-0865-R (E.D. Va. June 19, 1989).
- *Taylor v. Forrester*, Civ. No. 89-00777-R (E.D. Va. May 17, 1990).
- *Brunswick County League of Progress v. Town Council of Lawrenceville*, Civ. No. 3:91cv00091 (E.D. Va. Nov. 5, 1991).
- *U.S. v. City of Newport News*, Civ. No. 4:94-cv-00155 (Nov. 4, 1994).