Final Report:
2004 Election Protection
North Carolina
March 31, 2005

Supported by the Z. Smith Reynolds Foundation
Problems Voting on Election Day?

If you have any problems voting or if you see anyone else having problems
CALL THE TOLL-FREE VOTING RIGHTS HOTLINE:
(866) OUR-VOTE
(866) 687-8683

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Advocates To Man Voting Hotline On Election Day

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Purpose of Election Protection NC

North Carolina has a history of voter disenfranchisement, both intentional and inadvertent. When voters are turned away or given false information, the result is a loss of votes. Vote loss can occur for a range of reasons, from unsuccessful voter registration attempts, to long lines that deter potential voters, to police intimidation. None of these problems should occur, but they can be remedied. This project was designed to protect voters’ rights. It begins with the premise that a person who believes she or he is registered to vote should never be deterred or prevented from voting.

In 2004, Election Protection NC ensured voter success by recruiting and training volunteers and then placing them either at precincts or on a statewide hotline. Precinct volunteers monitored polls, educated poll workers, answered voter questions, took complaints, collected data and notified cooperating attorneys as necessary. Volunteer attorneys stood ready to fight for the vote, from petitioning for extended polling hours to exploring legal action for disenfranchised voters. Hotline volunteers answered voter calls and contacted local organizers to send help as needed. The success of this project was due to every participant’s dedication to fair elections as the foundation of an effective democracy.

Partners

Many groups came together to make Election Protection NC a reality, including: the University of North Carolina Center for Civil Rights, the Institute for Southern Studies, Just Democracy, El Pueblo, North Carolina Fair Share, the Charlotte-Mecklenburg Branch of the National Association for the Advancement of Colored People (NAACP), the Wendell-Wake Branch of the National Association for the Advancement of Colored People (NAACP), Election Protection, Working Assets, numerous community-level voter education groups, and several law schools across the state. Please see Appendix A for more details about our Election Protection partners.

Thanks

The Center for Civil Rights wishes to thank the hundreds of volunteers who gave freely of their time, skills, enthusiasm and commitment to a fair democracy. Without them this project could not have helped citizens exercise their right to vote on Election Day. We also acknowledge the timely support and encouragement we received from the Z. Smith Reynolds Foundation Board and staff. Particular individuals who made significant contributions to this report include Sarah Zambon, Amanda Westervelt, Shannah Smith, Catherine Pierce and Ashley Osment. We are grateful for their hard work under difficult conditions.

A Nonpartisan Effort

Our volunteers worked to protect every vote, regardless of the political orientation of voters. No participant was allowed to express support, verbally or otherwise, for any candidate
or party. Even if a voter asked for an opinion, none was given. All participants wore t-shirts designating them as nonpartisan Election Protection volunteers.

The nonpartisan nature of this project was very important. Partisan efforts fail to protect voters’ rights for two reasons. First, a partisan volunteer may be interested only in the concerns of those who are voting for their candidate. Incomplete or incorrect information may be given to those who say they are voting for the opposing party. Second, voters are less likely to ask for or rely on information from those who are advocating for a particular candidate, whether it is the voter’s candidate or not. A nonpartisan volunteer’s purpose is only to answer questions and give assistance if the process goes awry.

Past Voting Problems in North Carolina

Many states have experienced election difficulty. North Carolina is hardly an exception. In 2002, North Carolina did not count 3.3% of its votes, while on average states left 2% of their votes uncounted.1 That year, North Carolina’s poor record resulted from the refusal of some polling officials to provide challenged voters with provisional ballots and/or the destruction of completed provisional ballots prior to being counted.2 It also resulted from polling sites getting moved without notice,3 ex-felons receiving incorrect information about their right to vote,4 and the purging from registration rolls names of voters who have not voted since 1998, including 60,000 African American voters.5

After the 2000 election, two county Boards of Elections -- in Harnett and Duplin counties -- were dismissed after a State Board of Elections investigation found serious voting procedure discrepancies.6 In 2002, “an error-ridden primary” led to the dismissal of the Robeson County Elections Director, where “malfunctioning electronic tabulators, improper ballots, inaccurate registration records, and polling places with no voting booths” prompted the State to order new elections in two local races.7

In general, North Carolina has history of malfunctioning voting machinery. Unfortunately, the State has not committed the resources needed to improve voting equipment.8

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3 Id.
8 Institute for Southern Studies, Voting Rights Project. "Protecting the Integrity of North Carolina Elections: Top 10 Breakdowns and the Need for Election Protection." While North Carolina must address the problems with its machinery, this is not to suggest that electronic voting machines are the better choice. Caution must be exercised so that a voting method always involves paper votes that can be counted by hand if a machine fails. For a summary of
Despite known instances of voter disenfranchisement, there are few formal complaints. As a result, voting disenfranchisement often goes undocumented, with no State Board of Elections investigation or redress of current policies. Predictably, voting disenfranchisement recurs under these circumstances. While there is no substitute for aggressive monitoring and action by the State Board of Elections, Election Protection NC played a much needed role during the 2004 Election by documenting and confronting voter disenfranchisement in North Carolina.

**Federal and State Election Law**

Elections in the United States are governed by both federal and state law. The Voting Rights Act of 1965 (V.R.A.), enacted “to bolster the power of the 15th Amendment to the Constitution” is probably the most well-known of our elections laws. Amended in 1970, 1975, and 1982, the V.R.A. “provides federal enforcement for African Americans' voting rights.” For example, under the V.R.A., federal observers have monitored elections in Edgecombe County, North Carolina, since 1984. The V.R.A. is up for re-authorization in 2007.

The National Voter Registration Act of 1993 (N.V.R.A.), “often known as the ‘motor voter’ act,” was enacted “to improve voter turnout and eliminate lingering discrimination that lowered minority voter registration rates.” It allows people to register to vote (1) while filing driver's license application or renewals, (2) while applying for public assistance, or (3) by mail. The N.R.V.A. limits the removal of voters from registration rolls.

Finally, Congress enacted the Help America Vote Act of 2002 (H.A.V.A.) “in response to problems in the 2000 election.” H.A.V.A. provides states with federal funding to provide provisional ballots, amend voter registration law, train poll workers, and improve voting equipment. Most H.A.V.A. provisions, such as handicap access and provisional voting availability, were in place for the 2004 election. The deadline for full implementation of H.A.V.A. is January 2006.

Chapter 163 of the North Carolina General Statutes codifies most of the State’s voting and election laws, including the following:

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10 Id.
11 About the National Voter Registration Act," U.S. Department of Justice, Civil Rights Division, Voting Section.
12 "History and Legislation" Just Democracy. www.justdemocracy.org
13 Id.
14 Id.
Right to a Provisional Ballot: Provisional ballots in North Carolina are given by law with an affidavit by the voter. The ballot is not counted until proper registration is verified.\textsuperscript{15}

Assistance to Voters: Those who are physically disabled, blind, or illiterate can bring someone of their choosing into the voting booth with them to assist them in voting.\textsuperscript{16} Disabled or elderly people who are unable to get out of their cars are allowed to vote curbside.\textsuperscript{17}

Voter Education: Polling places must display a sample ballot and provide voters information about how to obtain a provisional ballot, how to use voting equipment, and what identification first-time voters need to provide.\textsuperscript{18}

Translation: Every county or municipality whose population is 6\% or more Hispanic must print voting instructions in Spanish and English.\textsuperscript{19}

Rights of Ex-felons: Once a felon has completed his or her sentence, including parole and/or probation, voting rights are automatically restored and he or she may re-register and vote.\textsuperscript{20}

**ELECTION PROTECTION NC IN 2004**

To get the word out about Election Protection NC, project organizers released public service announcements, ran newspaper ads, and held a press conference to make the Election Protection mission known and publicize the voter hotline.\textsuperscript{21}

**Deciding Where to Monitor Elections**

Election Protection NC sent its volunteers to counties and precincts that had experienced past problems with the greatest frequency or severity. It also sent volunteers to counties and precincts with the highest percentages of minority and/or new voters. Finally, we sent volunteers to sites based on guidance offered by voter rights groups with whom we were collaborating.

**Who Served as Election Protection Volunteers**

Election Protection volunteers included non-legal community volunteers, law students and attorneys who were trained to intervene in many types of anticipated problems. For example, the Help America Vote Act (HAVA), which went into effect in 2002, requires first-time voters to

\textsuperscript{17}N.C. Gen. Stat. § 163-166.9 (2004).
\textsuperscript{19}N.C. Gen. Stat. §163-165.5a (2004).
\textsuperscript{20}North Carolina General Statute 13-1 (2004).
\textsuperscript{21}See Appendix B for copies of media outreach.
show identification before they can receive a ballot.\textsuperscript{22} Even experienced county poll workers often lacked adequate training about the changes in our election laws.\textsuperscript{23} As a result, some poll workers were requiring identification from voters not required to present identification under the new law. Election Protection volunteers were trained to respond to this scenario, as well as to issues such as poll worker refusal to provide provisional ballots,\textsuperscript{24} voters not knowing where to vote (especially after the 2000 Census resulted in re-districting),\textsuperscript{25} and polling places opening late or closing early.

From the outset, volunteers chose whether to work the hotline phone bank, monitor a polling site or be available for legal intervention. Once volunteers chose what they wanted to do, they attended one of three training sessions: for poll monitors, hotline volunteers or attorneys. The 2-hour trainings included a lecture, instructional handouts and question-and-answer sessions.

\textbf{Poll Monitors}

Election Protection assigned poll monitor volunteers to pre-selected polling places based on how far the volunteers were willing to travel. The main responsibilities of poll monitors were to answer voter questions, observe the polling places for abnormalities (long lines, voter coercion or intimidation, voter complaints, etc.), and alert attorneys when things went wrong that the lawyers could address, such as polls closing early, voters being denied provisional ballots, ballots being fed into a malfunctioning counting machine, etc. Poll monitors wore Election Protection t-shirts to identify them and to indicate their non-partisan status.\textsuperscript{26}

\textbf{Hotline Volunteers}

Hotline volunteers answered voters’ questions, recorded the reason for each call, and relayed problems to local Election Protection poll monitor volunteers or attorneys.

\textbf{Attorneys}

The purpose of legal volunteers was to address issues potentially requiring legal action. The most common problem handled by legal volunteers was polling places opening late or closing early.\textsuperscript{27}

\textsuperscript{22} "N.C. Senate panel passes changes to election laws." Associate Press State & Local Wire, June 10, 2003.
\textsuperscript{23} Institute for Southern Studies, Voting Rights Project. "Protecting the Integrity of North Carolina Elections: Top 10 Breakdowns and the Need for Election Protection."
\textsuperscript{25} Institute for Southern Studies, Voting Rights Project. "Protecting the Integrity of North Carolina Elections: Top 10 Breakdowns and the Need for Election Protection."
\textsuperscript{26} Law student volunteers wore Just Democracy t-shirts instead, but for the same reasons.
\textsuperscript{27} See, Appendix, \textit{Democratic Party of Guilford County v. Guildford County Board of Elections}, 342 N.C. 856, 467 S.E.2d 681 (1996) (injunction issued to keep the polling places in Guilford County open for an additional hour).
Statewide Involvement

We deployed an estimated 350 poll monitors throughout the state on election day, had approximately 60 people staffing the hotline call center in Chapel Hill, and had another 20 attorneys on call around the state to go to problem precincts. Of these 430 volunteers, approximately 120 were law students, and 40 were attorneys. We had a law student from Wake Forest Law School heading up the Winston-Salem field office, a law student from NCCU Law School heading up the Charlotte field office, and several law students from UNC Law School spending the entire day at the hotline. The law schools numbers break down approximately as follows:

UNC Chapel Hill: 65 students  
Wake Forest: 20 students  
NCCU: 25 students  
Duke: 10 students  
Campbell: 1 student

Data Collection

A primary goal of Election Protection NC was to collect data on election problems in North Carolina. This data will help us understand the challenges facing future elections in the State, inform voters about their rights, and advocate for meaningful reforms to voting laws and practices. We will use this data to build an even better, more targeted Election Protection force for the next election.

Election Protection volunteers serving as poll monitors carried three forms to their posts: an observation sheet, a complaint form, and a declaration form. The volunteers used the observation sheets to record the general condition of the polling place during their shift. Facts such as line length, availability of assistance for disabled voters, and the presence of partisan groups were recorded. Voters used the complaint form to record specific incidents. Volunteers watched for disgruntled voters exiting the polls and offered them these complaint forms. If the complaints were significant and the volunteer thought legal recourse might be available, the voter was asked to complete a declaration form. The declaration form was a sworn statement by the voter detailing any misconduct potentially worthy of legal action.

Hotline volunteers completed a complaint form for every call received. Information collected on this form included the voter’s polling location, time of complaint, nature of complaint, and contact information.

Opportunities for Improvement

This project was an overall success but could be improved in several ways. Because it was put together over a matter of months, the feasible scope of the project for the 2004 election was limited. Ideally, we would have had more training sessions and volunteer recruitment programs. The project objectives were also limited. Rather than attempt a “get-out-the-vote”

See Appendix C for sample complaint form.
project, we made the strategic decision to focus on Election Day and leave voter registration programs to other organizations.

Out of necessity, we limited our scope geographically. Without enough volunteers to monitor the entire state, we were forced to focus on a subset of counties and polling places known for recurring problems. Similarly, we had only enough hotline volunteers to staff a single phone bank, although this was not a major problem because calls were automatically sent to the national Election Protection hotline if all local lines were already in use. Therefore no voter was denied access to hotline support due to our limited manpower.

Finally, our data collection methods were limited by our desire not to overwhelm volunteers with paperwork, but also by our lack of experience with the forms we used. Our experience in the 2004 elections will help us design better forms in the future.

ELECTION PROTECTION RESULTS

Problems Discovered

Between the hotline’s 669 recorded incidents and the 149 reports to poll monitors in the field, Election Protection NC collected a total of 818 reports. Some incident reports described more than one problem and these are reflected in the analysis. There were 690 problems reported to the hotline and 139 problems reported to poll monitors. Therefore, the total of all problems for the purpose of the analysis by type is 829.

Table 1: Incidents Reported by Type*

<table>
<thead>
<tr>
<th>Type of problem</th>
<th>Hotline reports</th>
<th>Poll monitoring reports</th>
<th>% of total reports (n=829)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Registration</td>
<td>84</td>
<td>53</td>
<td>16.52%</td>
</tr>
<tr>
<td>Polling place problem</td>
<td>102</td>
<td>0</td>
<td>12.3%</td>
</tr>
<tr>
<td>Polling place inquiry</td>
<td>84</td>
<td>15</td>
<td>11.94%</td>
</tr>
<tr>
<td>Provisional Ballot</td>
<td>56</td>
<td>16</td>
<td>8.69%</td>
</tr>
<tr>
<td>Absentee issues</td>
<td>52</td>
<td>4</td>
<td>6.76%</td>
</tr>
<tr>
<td>Voter Intimidation</td>
<td>45</td>
<td>11</td>
<td>6.76%</td>
</tr>
<tr>
<td>Machine Problems</td>
<td>44</td>
<td>8</td>
<td>6.27%</td>
</tr>
<tr>
<td>Ballot problems</td>
<td>42</td>
<td>1</td>
<td>5.19%</td>
</tr>
<tr>
<td>Disability Access</td>
<td>26</td>
<td>9</td>
<td>4.22%</td>
</tr>
<tr>
<td>Long Lines</td>
<td>22</td>
<td>10</td>
<td>3.86%</td>
</tr>
<tr>
<td>Other</td>
<td>94</td>
<td>5</td>
<td>11.94%</td>
</tr>
</tbody>
</table>

*Percentages do not add up to 100% because other minor categories were omitted
Problems occurring during the 2004 Elections varied greatly, but certain patterns emerged. Registration problems were the most prevalent at 16.5% of the total reports, with the problem most reported being the exclusion of voters’ names from the rolls of precincts where they had properly registered. Other registration problems involved voters who had moved and but had not re-registered and voters not knowing they were required to register. Polling place problems ranged from unpleasant interactions with poll workers to people who could not find their precincts because of poor signage.

We had many hotline calls from voters who could not find their precincts. This type of problem is an example of where the hotline efforts were the strongest. Volunteers were able to assist voters in finding their precinct through the Internet. The hotline would have been even more efficient if not for delays created by speed of internet connections, as well as websites crashing due to overuse. The system did not anticipate the quantity of hits the sites would receive on Election Day. This problem must be rectified for the next election.

Significant problems arose with provisional ballots. Some of these problems were foreseeable, as this is the first election where provisional ballots have been used. Voters did not know what circumstances warranted a provisional ballot. Many were denied provisional ballots by poll workers. Many expressed concerns about whether their provisional ballots would count.

The most disturbing trends concerned voter intimidation and problems with disability access. Though clearly illegal, both were reported by voters across the state. Disability access issues arose regarding curbside voting, assistance to handicapped voters by poll workers, and the ability of family members to assist disabled voters. Voters felt intimidated when partisan observers within the polling precincts assisted voters with ballots or when the 50-foot “no campaigning” barrier around the voting precinct was not respected. Voter intimidation problems arose mainly from encounters with representatives of political parties.

Problems by County

Of the 818 reports to Election Protection, the majority came from the larger metropolitan areas, namely Mecklenburg and Wake Counties. These urban areas were the primary focus of Election Protection volunteer and advertising resources. However, problems were reported across the state and significant numbers of incidents were recorded in Guilford and Cumberland Counties.

Table 2: Incidents Reported by County*

<table>
<thead>
<tr>
<th>County</th>
<th>Number of Hotline Reports</th>
<th>Number of Poll Monitor Reports</th>
<th>Percent of Total Reports (818)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mecklenburg</td>
<td>146</td>
<td>51</td>
<td>24%</td>
</tr>
<tr>
<td>Wake</td>
<td>129</td>
<td>5</td>
<td>16%</td>
</tr>
<tr>
<td>Durham</td>
<td>60</td>
<td>47</td>
<td>13%</td>
</tr>
<tr>
<td>Forsyth</td>
<td>57</td>
<td>10</td>
<td>8%</td>
</tr>
<tr>
<td>Guilford</td>
<td>41</td>
<td>0</td>
<td>5%</td>
</tr>
<tr>
<td>Cumberland</td>
<td>25</td>
<td>0</td>
<td>3%</td>
</tr>
</tbody>
</table>

*Percentages do not equal 100% because counties with an insignificant amount of incidents have been omitted.
Due to the diligence of State and local election officials, suppression of the Hispanic vote through translation problems did not appear to cause the problems many had feared. Translation issues for Spanish-speaking voters had the potential to disenfranchise Hispanic voters, but few complaints were made to Election Protection regarding this issue. The State Board of Elections prevented much of this problem by printing general election materials in English and Spanish for all counties, not just for counties required by law to have these materials. One lingering concern, however, is that current election law does not specify that Spanish-speaking individuals may bring someone to assist them in voting. Laws allowing disabled and illiterate individuals to have assistances should include those with translation difficulties.

Overall, voters across the State faced similar obstacles to voting. These problems can be broken down into several broad areas: voter eligibility, voter education and information, election administration, and election malfeasance.

Voter Eligibility

Concerns regarding registration status, inactive voter status, and provisional ballots were the most significant problem in this election and must be addressed for all future elections. These problems represent systemic obstacles to voting. Voters complaining of these complications knew their rights, were prepared to vote and wanted to vote but were prevented because of cracks in the voting system. For example, despite automatic restoration of rights in North Carolina for ex-felons, information about this is so poor so that many ex-felons, election officials, and those working with ex-felons do not understand the current law regarding the voting rights of ex-felons.

Another form of electoral disenfranchisement involved provisional ballots. Some voters who went to the wrong precincts were offered provisional ballots and others were not. Some provisional voters were rightly concerned about the difference between regular and provisional ballots and whether their votes would count. Provisional voters also had confidentiality concerns after they had to write their name, address and sometimes their political affiliation on the envelope containing their ballot.

Voter Education and Information

The vast majority of calls made to the hotline were from voters confused about their polling location. Many of these problems may have arisen from redistricting efforts that have changed many precincts since the last major election. Voters called to complain that they had been sent to several different precincts before finding the correct one. The complaints and calls received by Election Protection reflect only a fraction of voters who were confused as to where to vote, doubtlessly discouraging many from voting. Some callers, especially from Durham, reported difficulty finding polling sites due to poor signage. Greater efforts need to be taken to educate voters about their precinct assignments and locations.

29 State law requires any North Carolina county or town with a Hispanic population of six percent to have ballot instructions in both English and Spanish.
ELECTION ADMINISTRATION

Paperwork Issues

Voters complained to Election Protection that they had not received their absentee ballots on time, and some were concerned because their party affiliations were listed in plain site on the outer envelope.\textsuperscript{30} Other voters registered properly, yet their names did not appear on the rolls when they went to vote.\textsuperscript{31}

Relatively few machine problems were brought to the attention of Election Protection volunteers on Election Day. Some complaints were made about the optical scan machines correctly reading ballots. The most alarming problem involved procedures for repairing broken machines. Concerns arose over votes being lost, election officials "fixing" the machines, and votes being placed in ballot boxes while the machines were broken.

A serious concern with voting technology follows the media attention surrounding voting machines. Voters feel insecure, adding to the public anxiety and decreasing public confidence in the integrity of our elections.

Election officials have no excuse for more typical problems. Long lines and delays on Election Day occurred in the early morning, lunch hour, and after work. Some voters could not wait in the long lines because they had to return to work. At least one complaint in Charlotte reported that the paper ballots being distributed were incomplete. Again in Charlotte, one voter was told by election officials that they could not assist him in voting, while in Robeson County, elections officials “helped” voters by telling them who to vote for in each race. Poor signage and confusion prevented many voters from going to their home precinct. While some voters contacted Election Protection volunteers, surely numerous frustrated voters left without voting. Voters generally complained that precincts were disorganized, and that elections officials were rude, unhelpful, and did not know election law. Finally, voters expressed concerns about the accessibility of county boards of election on Election Day; when voters tried to contact county boards, they were met by busy signals. Without guidance from the local boards of elections, voters were sent to another wrong precinct; sometimes citizens had to try four or five precincts before being allowed to vote.

Election Malfeasance and Political Parties

Problems with election malfeasance were rare, even though hypersensitivity about this election and election practices lead many voters to be very alert to any suspicious behavior. We received complaints regarding political parties pressuring voters, not obeying the 50-feet “no campaigning” line around precincts, and marking and distributing ballots. Some callers expressed concern about partisan election observers who, in several instances, were assisting voters. On the other hand, in some polling precincts, voters wearing political clothing were required to cover it up.

\textsuperscript{31} Id. at 58.
Some complaints were received about election officials being rude or harassing voters. There were also complaints of votes being collected in receptacles other than the counting machines. There were complaints that not all elected offices had political affiliation listed on the ballots. This may be explained by the fact that certain positions, such as judgeships, are not politically affiliated.

Area Specific Problems

Voters in specific counties or cities had individualized concerns that were not seen in other parts of the state, as follows:

- **Alamance** - Before the Election, the County Sheriff intimidated Latino voters by threatening to investigate new registrants with Spanish last names in order to report illegal immigrants to the Department of Homeland Security Immigration and Customs Enforcement.32

- **Carteret** - 4,500 votes were lost after machine malfunction.

- **Craven** - All the screens in electronic machines had to be replaced and a software problem caused a double count in nine precincts.

- **Charlotte/Mecklenburg** - Substantial numbers of voters became concerned about signs at the voting precincts that voters would only have five minutes to vote. In some instances, voters were timed upon entering the voting booth. These illegal practices were reported to the State Board of Elections, who contacted the county board to rectify the problem. However, many of the signs remained up the entire day even after efforts to have them removed. During early voting, double counting affected approximately 4,000 ballots.

- **Durham** - Long lines of over 100 voters delayed or deterred many from voting.

- **Forsyth** - Complaints were received about precincts opening late or closing mid-day. Winston Salem especially saw miscommunication between voters and election officials.

- **Gaston County** - Several complaints were received about early voting, where long lines - some requiring 6 hours’ wait - plagued voters. In addition, over 13,000 votes were not included in official counts on Election Day. This count was later corrected.

- **Guilford** - Computer problems affected between 6,000 and 20,000 votes cast during early voting.

Early Voting and One-Stop, No Questions Absentee Voting

While Election Protection did not monitor early voting procedures within the state, we received several complaints from voters about long lines during early voting, electioneering outside early voting locations, and poor access for disabled early voters. These problems increased greatly as the early voting period neared an end. While some of these problems, especially the long lines to vote, were unforeseeable since the system had never been tried before, North Carolina is now on notice about the popularity of early voting. Few could anticipate the push by political parties for early voting or how popular early voting would be with citizens.

Some voters discovered after the election that their properly voted one-stop provisional ballots were not considered valid. In other words, they voted correctly but their votes were taken away after the fact. The basis for one-stop voting was that a voter from any precinct in a given county could vote prior to the election at the county’s one-stop precinct, even if the one-stop precinct was outside of the voter’s home precinct. If a one-stop voter’s name did not appear on the rolls but the voter knew she was entitled to vote in that county, she was entitled to vote a provisional ballot. After the election, these one-stop provisional ballots were unaccountably stored with provisional ballots from Election Day. After the election, when the North Carolina Supreme Court ruled that out of precinct provisional ballots were not valid, these one-stop provisional voters’ ballots were discarded while the votes of out of precinct one-stop voters using a traditional ballot were counted. The courts have not resolved this obvious inequity at the time of this writing.

Problems Emerging Post-Election

In the aftermath of the 2004 Election, a controversy arose regarding provisional ballots. Several losing candidates initiated a lawsuit that out-of-precinct provisional ballots were unconstitutional and should be subtracted from vote totals. An out of precinct provisional ballot is one that was voted within a voter’s home county, but not at their home precinct. If these votes are discarded, over 11,000 North Carolina voters will be disenfranchised. A disproportionately high percentage of these disenfranchised voters are minorities. Therefore, proportionally more African Americans will lose their votes than white voters.

Data is available for 90% of the 6,504 total out-of-precinct provisional ballots cast from 96 counties (excluding the urban areas of Forsyth, Guilford, Wake, and Mecklenburg). Of these provisional ballots, 64.8% of votes were cast by white voters; 28.7% were cast by Black voters, and 6.6% were cast by voters of other races. These numbers vary greatly from the general election data. For all voters in the November 2004 election, 80.7% were white, 16.8% were black, and 2.5% were other races. Since minorities cast a substantially larger proportion of provisional out of precinct votes, the State’s failure to count these votes further dilutes the Black vote in North Carolina.

In Mecklenburg County, data is available for 100% of the 1,777 provisional votes cast out of precinct. Of these, 48.1% were cast by white voters, 46.9% by Black voters, and 5.1% by other voters. In the Mecklenburg County election as a whole, voters were 69.4% white, 27.8% Black, and 3.8% other. Once again the provisional out of precinct votes contained much larger
percentages of minority votes than the overall election results, further diluting the vote of people of color in North Carolina.

Wake County has data available on 90% of the 2,120 out of precinct provisional ballots cast. Of these, 53.9% of the votes were cast by white voters, 40.8% by Black voters, and 5.3% by voters of other races. Overall, Wake County voters were 78.2% white, 17.5% Black, and 4.3% other races. Wake County graphically illustrates a disproportionate number of out of precinct votes getting cast by minority voters. In Wake, the percentage of provisional votes cast by Black voters was more than twice as high as the percentage of Black non-provisional votes, grievously diluting Black voting power in Wake County.
Racial Breakdown of Provisional Ballots Cast Out of Precinct

November 2, 2004
Excludes Forsyth, Guilford, Mecklenburg and Wake

<table>
<thead>
<tr>
<th>Race</th>
<th>Percentage Out of Precinct Provisional Ballots</th>
<th>Percentage All Ballots</th>
</tr>
</thead>
<tbody>
<tr>
<td>White</td>
<td>64.8%</td>
<td>80.7%</td>
</tr>
<tr>
<td>Black</td>
<td>28.7%</td>
<td>16.8%</td>
</tr>
<tr>
<td>Other</td>
<td>6.6%</td>
<td>2.5%</td>
</tr>
</tbody>
</table>
Racial Breakdown of Provisional Ballots Cast Out of Precinct
November 2, 2004
Mecklenburg County

<table>
<thead>
<tr>
<th>Race</th>
<th>Out of Precinct Provisional Ballots</th>
<th>All Ballots</th>
</tr>
</thead>
<tbody>
<tr>
<td>White</td>
<td>48.1</td>
<td>69.4</td>
</tr>
<tr>
<td>Black</td>
<td>46.9</td>
<td>27.8</td>
</tr>
<tr>
<td>Other</td>
<td>5.1</td>
<td>3.8</td>
</tr>
</tbody>
</table>
Racial Breakdown of Provisional Ballots Cast Out of Precinct
November 2, 2004
Wake County

<table>
<thead>
<tr>
<th>Race</th>
<th>Out of Precinct Provisional Ballots</th>
<th>All Ballots</th>
</tr>
</thead>
<tbody>
<tr>
<td>White</td>
<td>50%</td>
<td>16%</td>
</tr>
<tr>
<td>Black</td>
<td>40%</td>
<td>16%</td>
</tr>
<tr>
<td>Other</td>
<td>5%</td>
<td>16%</td>
</tr>
</tbody>
</table>
POLICY RECOMMENDATIONS

Voter Outreach and Education
One of the more alarming results from the Election Protection effort is the number of citizens who do not vote because they lack information or are misinformed. These problems are preventable. Voter education presents an important opportunity for non-governmental organizations to ensure that greater numbers of people have the information they need to vote.

- **Polling Precincts Should be Easy to Find** - Greater efforts are necessary to ensure that all registered voters know when and where to vote. In every election there must be a hotline that can look up precincts for voters. Election boards must redouble their efforts to inform voters of polling locations well in advance of Election Day. Precincts should always be located where they are easy to find and are well known to communities. Where this is not possible, locations and directions to polling precincts should be available to voters online and in hard copy at county board of election locations.

- **Disability Access Must Be a Priority** - Voters with physical disabilities continue to have difficulty voting in North Carolina. Both hotline and poll volunteers received complaints from about regarding curbside voting facilities and voting machines. This is a clear violation of North Carolina and federal election law. Election machines must accommodate people with physical handicaps. Election workers must understand the rights of disabled voters.

- **Permit Voting Assistance for Language Minorities** - As non-English speaking populations continue to grow in North Carolina, it is important that language minority voters are not disenfranchised because of language difficulties. Current election law permitting disabled and illiterate individuals to use an assistant should be expanded to voters lacking English proficiency.

- **Expand Early Voting** - Early voting was very popular because of the importance placed on this election and because extended hours - including weekend hours - made it easier for people to vote. Early voting should be expanded to more locations and there should be more machines at polling sites to decrease long lines and delays. Furthermore, early voting should be moved up by at least a week so votes cast in early voting can be counted and voters whose ballots cannot be counted can remedy the problem and vote on Election Day if necessary.

- **Ensure Voters Receive Absentee Ballots Prior to Election Day** – Some applicants for absentee ballots did not receive their ballot before Election Day. When they then went to cast regular ballots, they were told they were ineligible due to their earlier request for an absentee ballot. Election officials must ensure that sure voters receive requested absentee ballots in time to cast them.
• **Correct Voting Machine Problems** - Voting machines should be standardized across the state. In the 2004 election, North Carolina voters used any of five different voting procedures. Standardizing machines across the state will facilitate training and repairs. Election officials and state legislators must be vigilant in addressing concerns about voting technology - regardless of the type of machine used. Without further education, public confidence in elections will be irrevocably shaken. Voters should have more opportunities to practice on the machines before Election Day. One possible solution is to place sample voting machines in public libraries or in county board of election offices for voters to use a month before the general election.

• **Permit Same-Day Registration** - Potential voters in North Carolina were prevented from voting in this election because they had either never registered or had moved since their last registration. Voters who had registered became frustrated at the polls when their names were not on rolls and they were required to cast provisional ballots. Same-day registration would prevent many of these problems and increase the number of North Carolina residents who vote.

• **Allow Nonpartisan Observers in Polling Precincts** – Under current North Carolina law, the only people allowed inside precincts on Election Day are voters, poll workers and an observer from each party. These observers caused considerable concern this election when they tried to assist voters. Voters felt intimidated by their presence. This problem needs to be rectified for future elections by allowing nonpartisan observers inside polling precincts who can assist voters and poll workers and who can monitor for any problems. More thought should be given to whether partisan observers should be permitted inside precincts.

• **Encourage Employers to Give Employees Time Off to Vote** - The busiest and most problem-laden times of Election Day are before work, during lunch, and after work. To ease the pressure on poll workers, to prevent voters from becoming frustrated by long lines, and to encourage potential voters to vote, people should not have to work on Election Day. If voting is something we value as a civic duty, we should allow people to take the day off.

• **Increase Pay and Training to Election Workers** - Election officials work long hours, often with cranky voters, and receive very little compensation or training. These factors limit the number and type of people who can be poll workers. Pay scales should be increased and training, especially on recent changes on election law, enhanced so that poll workers feel confident and informed on Election Day.

• **Move from a County-Focused to a Statewide Model** - Several problems in the North Carolina election, from registration problems, inconsistencies in the distribution of provisional ballots, and the variety of machines used, occur largely because of the disjointed nature of elections in North Carolina. If elections were run on a unified statewide system, several current obstacles in the election process
could be remedied. Some interest in this has been shown through the statewide registration system.

CONCLUSION

The 2004 Election Protection Campaign in North Carolina was a success. Volunteers helped many voters determine their correct precincts, worked with election officials to rectify major problems like the five-minute wait rule that was in effect in some jurisdictions, made it possible for voters to vote provisional ballots, and soothed voter concerns regarding the voting process. Some of the problems observed by volunteers or reported to the hotline need further follow-up. We need to make greater investments in poll worker training and voter education. Same-day registration and better polling-place location information would greatly facilitate voting. It is our responsibility to make the exercise of the right to vote fair and open to all citizens.