

DOJ ACTIONS ON ELECTION LAW BENEFIT REPUBLICANS

With the presidential election less than a week away, key battleground states are embroiled in legal battles over provisional ballots and voter fraud and intimidation that might determine the outcome of the election. In each case, Attorney General John Ashcroft's Department of Justice has thrown its weight behind rules that will prevent many newly-registered voters from having their ballots counted and discourage many qualified voters from going to the polls at all.

**By Jordan Green
Southern Exposure
October 29, 2004**

Nanita Wilson, a registrar for the District of Columbia Board of Elections and Ethics, is frustrated. New voters have been registering in unprecedented numbers in the run-up to the 2004 elections, but her office has had trouble keeping up. Wilson says many people who think they're registered might show up at polling places on Election Day and find their names missing from the voting rolls.

With only two people in the office, the elections board had been deluged with hundreds of registrations and absentee ballots every day, Wilson says. The office's 16 phone lines are lit up with calls from people who want to know why their voter registrations haven't been processed. Wilson and her coworker just don't have time to get everything done, she says.

Despite the widespread interest in this election, actions taken by the U.S. Department of Justice (DOJ) under Attorney General John Ashcroft may mean that many of the ballots cast by first-time voters won't be counted. On two critical fronts – the Department's position on provisional ballots and its overzealous investigation of election fraud – hundreds of thousands of voters could end up disenfranchised.

The DOJ has focused significant resources on protecting language minority rights at the polls, but in its handling of provisional ballot issues – which affect the voting rights of students and immigrants who are expected to largely vote Democratic – the department has pursued a strategy of partisan disenfranchisement by narrowing access to the polls. Similarly, a U.S. Attorney's investigation in New Mexico, a coveted swing state, has aroused Democratic charges of partisanship against the Bush administration.

PROVISIONAL BALLOTS: COULD DECIDE THE ELECTION

Hundreds of thousands of votes in key battleground states are at stake, based on how local election officials count provisional ballots.

When election-day snafus occur, voters and local election workers like Wilson can look to the Help America Vote Act (HAVA), a law passed by Congress in 2002. Under HAVA, voters who believe they are registered, but whose names are not on the rolls are entitled to cast “provisional ballots,” which will be counted (or not) later, once their eligibility is confirmed.

After the 2000 election, when thousands of voters were turned away from the polls in Florida and other states due to outdated voting technologies or because their names were similar to those of convicted felons, provisional balloting, already used in some states, was put into federal law as a “fail-safe” measure to ensure that all eligible voters can cast ballots on Election Day.

Everyone seems to agree that provisional ballots will help more people vote, especially as this year’s surge in registrations threatens to overwhelm poorly-prepared local polling places. But a thicket of contradictory rules about how provisional ballots should be issued and counted could plunge the 2004 election into chaos. The rules have been the subject of court cases in half a dozen states, and may eventually be decided in the Supreme Court.

The Department of Justice, the agency empowered to clarify and standardize election law, has given state election officials little guidance on provisional balloting, except in three cases in which it threw its weight behind an interpretation of federal election law that will limit the number of votes counted in November.

The outcome of the Nov. 2 election may hinge on whether states count only provisional ballots that were cast in a voter’s proper precinct, or count all provisional ballots. Different states have different rules.

Say you live in Nevada and you need a provisional ballot. You might not go to the right precinct if you’re voting for the first time, you’ve recently moved, or your precinct or voting jurisdiction has been changed without much publicity. No problem. You can vote provisionally without a hitch.

“As long as it’s in the congressional district, then they can be counted,” says Steve George, a spokesman for the Secretary of State’s office in Reno. “We only have three in the state and they’re pretty widespread.”

Nevada has one of the least restrictive provisional balloting rules in the country. If the election is too close to call after the polls close, officials will try to verify all the provisional ballots over the next week. If they find your name on a Department of Motor Vehicles database or they can match your ballot with the last four digits of your Social Security number, your ballot will be counted. If not, they’ll post your name on their website with a note about why it was disqualified.

In Ohio, a critical swing state that is expected to help decide the outcome of the election, your experience will be a lot different. For one thing, you might be a victim of election dirty tricks, as were the residents of Columbus and Cleveland. They have reportedly received dinner-time phone calls from people falsely claiming to be employed by local boards of elections, telling them to go to the wrong precinct.

If, for whatever reason, you're one of the voters who find themselves in the wrong precinct in Ohio – perhaps after waiting in line to vote, with little time to spare – you could be out of luck. Ohio's provisional balloting plan requires you to vote for federal candidates, including the presidential candidates, in your home precinct. Otherwise, your vote won't count.

A federal judge in Toledo granted an injunction against the restrictive plan, arguing it violated the spirit of the Help America Vote Act. But then a week later, an appeals court judge in Cincinnati stayed the injunction, so now the restrictive balloting plan is back on the table – at least until a higher court reverses the decision again.

By the count of the New York public policy organization Demos, restrictive provisional balloting plans are in place in 30 states and the District of Columbia, including the battleground states of Florida, Ohio, Michigan, and Iowa.

In a recent study, Demos surveyed different plans for provisional balloting in the 50 states and the District of Columbia, and concluded that a million people are likely to vote by provisional ballot, and 200,000 of those provisional ballots will probably go uncounted. That's "an amount that will far exceed the projected margin of victory in many of the battleground states," says author Ari Weisbard in a prepared statement.

Democrats have argued in favor of less restrictive provisional balloting plans, like Nevada's, that allow voters whose names are not on the rolls to vote in larger jurisdictions such as their city, county, or congressional district. They contend that those most likely to be disenfranchised by restrictive provisional balloting are newly-registered voters, students, and poor people, who tend to move often – constituencies they say are more likely than not to vote Democrat.

Voter registration in the battleground state of Ohio has increased by nearly 10 percent since the beginning of the year, according to an Oct. 18 report in the *New York Times*. About 85,000 new voters have been signed up in Cincinnati, 41 percent of whom are under the age of 25, Hamilton County Board of Elections spokesman John Williams says Monday. A spokesman for the Cuyahoga County Board of Elections put the number of new voters in Cleveland at 166,390. About 60 percent of new voters across the country are signing up as Democrats, the *New York Times* has reported.

In short, provisional ballots have the potential to either determine the outcome of the 2004 election – or throw the fight over how provisional votes will be counted into the Supreme Court, indefinitely delaying the final result.

STATES' RIGHTS AND SUPPORT FOR RESTRICTIVE PLANS

Making sure every eligible voter is able to cast a ballot in free and fair elections is the job of the Voting Section of the Department of Justice. Included in the Voting Section's mandate is enforcement of "statutory provisions designed to safeguard the right to vote of racial and language minorities, disabled and illiterate persons, overseas citizens, persons who change their residence shortly before a Presidential election, and persons 18 to 20 years of age." These are some of the voters expected to rely on provisional ballots the most.

The Voting Section, under the umbrella of the DOJ's Civil Rights Division, has taken what could be considered a "states' rights" position on provisional balloting. The department sided in late October with three Republican state election officials in the courts in defense of the most restrictive interpretation of who gets to vote by provisional ballot.

On the question of how provisional ballots should be used, the DOJ has maintained a consistent position that HAVA leaves it up to the states to decide whether voters should be required to cast them in the proper precinct or allowed to vote in wider jurisdictions.

The department stayed on the sidelines as federal judges ruled on the legality of restrictive provisional balloting in Florida, Colorado, and Missouri, states where the courts have upheld restrictive provisional balloting plans in recent weeks.

When a restrictive plan for Michigan issued by Republican Secretary of State Terri Lynn Land came under legal challenge from the state's Democratic Party, the DOJ finally waded into the controversy – on the side of Land's precinct-specific plans. Assistant Attorney General for Civil Rights R. Alexander Acosta argued in an Oct. 18 friend-of-the-court brief that HAVA is not enforceable by individual parties, meaning that Michigan Democrats don't have the legal standing to sue the state.

"Congress did not intend to authorize private enforcement," Acosta wrote. "Congress did not intend through HAVA to preclude states from choosing precinct-based voting systems."

Acosta filed similar friend-of-the-court briefs in support of the secretaries of state in Florida and Ohio on Oct. 19 and Oct. 22, respectively.

The day after Acosta weighed in on the Michigan case, Judge David M. Lawson ignored his counsel and granted an injunction to halt Secretary of State Land's plan to throw out provisional ballots cast in the wrong precincts. As long as voters could prove residency in the right city, village, or township, they could cast their ballots, the judge said.

"HAVA is remedial legislation that is intended [to] reduce the incidence of uncounted, legitimate votes in federal elections," Lawson wrote. "The public interest is served when citizens can look with confidence at an election process that ensures that all votes cast by qualified voters are counted."

But the court-ordered injunctions against precinct-specific provisional balloting were to be reversed. The 6th U.S. Circuit Court of Appeals in Cincinnati overturned the Ohio decision on Oct. 23 and the Michigan decision on Oct. 24. Both secretaries of state say they plan to go forward with restrictive balloting requirements on Election Day.

Provisional balloting has also become an issue of partisan litigation in a sixth swing state, Iowa.

The might have been expected to side with Iowa's Democratic secretary of state, Chet Culver, who was sued by a group of Republicans trying to block his plan to allow voters to cast provisional ballots outside their precincts. Instead, Deputy Assistant Attorney General Bradley Schlozman issued a strongly-worded letter to the state's Democratic attorney general, Thomas Miller, warning that allowing provisional ballots to be cast anywhere in a voter's county violated Iowa law.

Rather than support the state's interpretation of HAVA, as it had for Republican election officials in other states who sought to impose restrictive rules, the DOJ chose to challenge a Democratic election officials' more open rules. While dressing down the state attorney, the federal lawyer made use of some familiar states' rights language.

"HAVA, however, does not preclude states from choosing precinct-based voting systems as Iowa has done," Schlozman wrote.

He speculated that Iowa might have based its plan on the federal district court opinions in Ohio and Michigan, and then noted that the 6th U.S. Court of Appeals in Cincinnati had swept those decisions aside.

Any previous doubts about where the DOJ stood on provisional balloting were dispelled in the final paragraph of Schlozman's letter: "If Iowa wants to pass legislation or regulations requiring election officials to count as valid any provisional ballot cast outside the voter's assigned precinct, it is certainly free to do so. However, HAVA does not require such legislation or regulations, nor does it preempt Iowa's current laws and regulations on this matter. Instead, the statute permits a state like Iowa to continue its long tradition of only counting votes (provisionally or otherwise) that were cast in a voter's assigned correct precinct."

Civil rights advocates, such as Elliot Minberg, a vice president of the Washington, D.C.,-based People for the American Way Foundation, argue that the DOJ's position on provisional ballots is too narrow.

"We are concerned about the attempt we think to misapply HAVA and say provisional ballots can only be cast if they're in the right precinct," Minberg says. "One of the problems voters sometimes have is not knowing where the right precinct is. Take Florida, for example, where hurricanes have destroyed polling places.

"Experience suggests that it is more likely to be minority voters" who have trouble figuring out where to vote, he says, "because their polling places are the ones most likely to be affected to redistricting, and because poll workers in those areas are more likely to be not as well trained."

JUSTICE'S CENTERPIECE: BATTLING FRAUD

The self-proclaimed focus of the DOJ's voting enforcement work in 2004 is voter fraud. Under Ashcroft's leadership, department officials have repeatedly stated as a top priority discouraging fraudulent voting, including people voting multiple times or voting on behalf of dead people or convicted felons whose names should have been removed from the rolls. Civil rights leaders argue these campaigns, if taken to an extreme, can intimidate legitimate voters who might stay away from the polls to avoid perceived harassment.

The department launched the Voting Access and Ballot Security Initiative shortly after Bush took office. The initiative reflects two central concepts of voting rights law, which often clash. "Voting Access" refers to removing barriers to voting (traditionally a concern of the Democratic Party), while "Ballot Security" refers to combating vote fraud (historically a Republican Party priority). Since 2001, the department appears to have made Ballot Security a higher priority.

In October 2002, the Department of Justice held a day-long "Voting Integrity Symposium" to train personnel in about 300 FBI and U.S. Attorney's offices on how "to prevent election offences and bring violators to justice," according to a recent report by the Center for Voting Rights and Protection that provides a history of Republican "ballot security" programs.

The DOJ's more pronounced interest in limiting the number of people who can vote rather than expanding ballot access is also seen in the professional background of Hans A. von Spakovsky, a top lawyer in the Voting Section.

Jeffrey Toobin, in the Sept. 20 edition of the *New Yorker*, reports that von Spakovsky is a longtime "voting integrity" activist from Georgia. Before coming to the Bush administration, he served on the board of advisers for an outfit known as the Voting Integrity Project (V.I.P.). In 1997, he wrote an article for the Georgia Public Policy Foundation advocating a campaign to "purge" felons from the voting rolls. The V.I.P. coordinated with Database Technologies, the company infamous for designing the program that disenfranchised thousands of legitimate Florida voters whose names were falsely matched with actual felons. During the 36-day recount in Florida, von Spakovsky worked as a volunteer for the Bush campaign.

Sensing a rightward tilt at the DOJ, the Washington, D.C.-based Leadership Conference on Civil Rights and others have also expressed concern that minority voters may be disenfranchised on Election Day, not only by restrictive provisional balloting plans, but also by intimidation from armed police officers responding to heightened terrorist alerts at polling places in Virginia and other parts of the country.

In an Oct. 19 letter to Acosta, Conference Executive Director Wade Henderson and Deputy Director Nancy Zirkin cite more than half a dozen reports of places where intimidation of minority voters might occur. The letter notes that voter intimidation is heightened in states where the election is closely contested and where minorities tend to vote as a bloc.

Henderson and Zirkin write that they anticipate disputes at the polls involving challenges to citizenship and the possibility that poll workers will selectively enforce an ID requirement

against minority voters in New Mexico. In Ohio, they say, they are concerned that poll workers unfamiliar with a state law that allows felons to vote may turn them away at the polls. Both are states where polls show Bush and Kerry running neck-in-neck.

The two also express concern about a dispute between election officials and black activists in Scotland County, S.C., over who is being allowed to assist voters during early voting. Civil rights activists are also alarmed by reports that supporters of an anti-immigrant referendum in Arizona may be planning to selectively challenge Latino voters at the polls.

Henderson and Zirkin mention the potential for intimidation in these areas of the country, and encouraged the 's Civil Rights Division to deploy federal observers effectively.

Eric Holland, a spokesman for the Division, says a list of precincts where the DOJ would assign observers was not finalized and would not be released until shortly before the election.

The only information about the DOJ's plans for Election Day monitoring comes from Senator Edward Kennedy (D-Mass.) and civil rights advocates, who have met with Acosta to discuss concerns about minority voter suppression.

An Oct. 8 letter from Kennedy to Acosta notes a plan by the assistant attorney general to "increase the number of Division personnel to monitor these elections." Henderson and Zirkin say in their letter they understand the Civil Rights Division would send observers to areas where the DOJ has been investigating possible violations of the Voting Rights Act from past elections.

Minberg, of the People for the American Way Foundation, says the Department of Justice might be planning a response to possible voter intimidation in Arizona.

"Justice at least has expressed concern about it, and has indicated that they plan to have monitors at polling places," he says. "Justice tends to be a little more looking backwards [by] having monitors, but usually not taking legal action until later on. They hope to deter intimidation by their presence, but they rarely file lawsuits until later on."

Federal court orders have authorized the DOJ to send federal observers to monitor elections in 11 different jurisdictions across the country. Among them is Hamtramck, Mich., where Arab voters have experienced intimidation, says Anita Earls, who served as deputy assistant attorney general for civil rights under former Attorney General Janet Reno. Another is Passaic County, N.J., where the department is enforcing a consent decree to ensure the county provides Spanish-language voting materials and trains bilingual poll workers to accommodate Latino and immigrant voters.

The Voting Section has paid particularly close attention to language minority rights in an effort to broaden access to the polls under the direction of Acosta in his capacity as assistant attorney general for civil rights.

The Department of Justice has received grudging praise for its efforts to provide bilingual ballots from liberals like Kennedy, who also have called on the agency to do a better job of preventing harassment and intimidation of minority voters at the polls.

Schlozman, Acosta's deputy in the Civil Rights Division, boasts in an Aug. 27 letter to the Government Accountability Office that the Division's Voting Section has filed as many Section 203 cases since May as were filed in the previous eight years. Section 203 is a federal law that requires political subdivisions with significant numbers of limited English proficient citizens to provide translated voting materials.

"Overall, their focus now is on language issues and preventing voter fraud," says Earls. "That's what they have publicly announced repeatedly as their priorities. That's different from prior administrations, where there was at least some concerns about voter intimidation and denial of voting rights."

In a recent report assessing President Bush's civil rights record, the U.S. Commission on Civil Rights notes that Native American names were mocked by voter registrars, black voters in Arkansas were photographed by election observers in 2002, and a Texas prosecutor threatened to arrest black students for voting at Prairie View A&M University earlier this year. The Department of Justice must be prepared to address similar tactics of vote suppression in this election, the report says, while suggesting that the Bush administration's neglect of electoral infrastructure makes it more likely that incidents of intimidation will fly under the radar.

The report is not kind in its judgment of the president.

"History offers myriad examples of using equipment, people and processes to manipulate elections and disenfranchise voters," it states. "If measured by the pace at which it enacted and funded HAVA, or is promoting implementation, the administration appears unmotivated by political pressure, sense of duty, morality, law, or personal agenda to ensure that America has robust, well-designed election systems to preserve the vote, the bedrock of the nation's democracy."

The Voting Section's commitment to ballot integrity has played out in the current election with the creation of a crime task force investigation by U.S. Attorney David Iglesias to look into vote fraud in New Mexico. Iglesias held a press conference in September to announce the investigation following the revelation that a 13-year old boy in Albuquerque had registered to vote. Allegations of fraud were also publicized by Bernalillo County Sheriff Darren White, coordinator for the local Bush campaign in Albuquerque.

In their Oct. 19 letter to Acosta, Henderson and Zirkin raise concerns about a memo rumored to have been sent out by the DOJ to all 93 U.S. Attorneys requiring them to send out a press release "immediately prior to the November elections" that "will advise citizens of the 's interest in deterring voting rights abuses and fraud during these elections."

The Department of Justice did not respond to a request for comment on the memo.

The *Albuquerque Journal* recently quoted New Mexico Republican Party director Greg Graves as saying: “If this is a really close election the ballot box may not decide it. When you have shoddy election laws you’re going to have challenges. We have lawyers that understand the law and we’re going to be engaged.”

SLIPPERY SLOPE FROM “BALLOT INTEGRITY” TO VOTE SUPPRESSION

To Democrats, GOP promises to deploy lawyers to challenge fraud at polling places, coupled with a federal investigation, calls to mind an ugly era of GOP “ballot protection programs” in which party activists harassed blacks and Latinos at the polls by asking for proof of registration or demanding they read sections of the Constitution aloud to prove their literacy.

During William H. Rehnquist’s Senate confirmation hearings for chief justice of the Supreme Court in 1986, a former assistant U.S. Attorney named James Brosnahan told how Rehnquist had harassed black voters in South Phoenix, Ariz., as a Republican lawyer during a 1962 election.

As recounted in a report on Republican ballot security programs issued in September by the Center for Voting Rights and Protection, Brosnahan testified to the Senate that “based on interviews with voters, polling officials, and my fellow assistant U.S. attorneys, it was my opinion that the challenging effort was designed to reduce the number of black and Hispanic voters by confrontation and intimidation. The thrust of the effort was to confront voters, to challenge them, in hope that they would be intimidated, that they would not stand in line, that they would be fearful that they would be embarrassed.”

In other GOP ballot security programs from the 1960s through the 1980s, party operatives sought out sympathetic county sheriffs to provide law enforcement presence or hired private security forces with official-looking badges to stake out minority precincts where they hoped to discourage minorities from voting, according to the report.

More recent ballot security programs, whether intended to suppress the vote in Democratic strongholds or not, don’t appear to have had the effect of keeping minority voters away from the polls.

In South Dakota’s 2002 senatorial contest, Democratic candidate Tim Johnson staked his campaign on support from Sioux Indians on the Pine Ridge Reservation, where the Democrats had conducted an aggressive registration campaign over the previous year. Before the election, the state’s attorney general, Mark Barnett, announced an investigation into voter fraud. Soon afterward, state Democratic Party officials came forward and disclosed that one of the party’s employees, Rebecca Red Earth-Villeda, had turned in two invalid absentee ballots. Red Earth-Villeda was later fired.

The two invalid absentee ballots launched a media firestorm, despite cautioning by the attorney general that the investigation was incomplete, with partisan writers for the *Wall Street Journal* and the *National Review* describing “widespread fraud” in South Dakota. Johnson eked out a narrow victory over his Republican opponent, John Thune, on the strength of unprecedented

voter turnout on the reservations. Following Election Day, Barnett concluded no illegal ballots had been cast. After the election the attorney general prepared to prosecute Red Earth-Villeda, but she was exonerated by a handwriting expert, and the state ended up dropping all charges against her.

In another ballot security program during Kentucky's 2003 gubernatorial election, Republican efforts to challenge alleged vote fraud in predominantly black precincts in Louisville so enraged African Americans that black political leaders redoubled their get-out-the-vote efforts, and voter turnout surged in the precincts under observation. The heavy black turnout helped Democratic candidate Ben Chandler carry Louisville's Jefferson County, while Republican candidate Ernie Fletcher won the state as a whole. Observers from both parties found nothing out of the ordinary in black Louisvillians' efforts to cast their ballots.

The Center for Voting Rights and Protection describes Republican vote suppression as combining several tactics: making loud and unsubstantiated claims about vote fraud in predominantly minority precincts; running campaigns of misinformation or fear that target vulnerable minority constituencies; posting armed and uniformed off-duty police officers outside of polling places; photographing, tape-recording or videotaping voters; and using aggressive, face-to-face challenging techniques at polls.

“However legitimate the [GOP's] desire to guard against Democratic election fraud, these programs have sometimes degenerated into efforts to suppress the votes of blacks and Latinos – often the poorest and most vulnerable among them,” the report concludes.

DOJ ACTIONS: SUPPRESSING THE VOTE?

Vote fraud is narrowly defined as the attempt to falsify registrations or ballots to affect the final outcome of an election. A broader definition, such as one suggested by the Center for Voting Rights and Protection, might include efforts by officials and partisan poll watchers to suppress voting by keeping people away from the polls or undercounting their ballots.

While the Department of Justice has trumpeted its efforts to combat vote fraud in places like New Mexico, where Republicans are concerned about unqualified voters tipping the race to Kerry, the has intervened to stop the New Hampshire Democratic Party from getting information about Republican operatives suspected of illegally interfering with Democratic voting.

According to an Associated Press report, the requested that a U.S. District Court in New Hampshire delay taking depositions of GOP operatives suspected of orchestrating a phone jamming campaign that overwhelmed phone banks manned by Democratic volunteers for an hour and a half during a November 2002 state election, and prevented elderly voters from arranging rides to the polls.

Steve Gordon, a lawyer for the Democratic Party, was quoted in the Oct. 21 edition of the Manchester *Union-Leader* as saying he needed information about the alleged vote suppression operation to file an injunction to stop the Republicans from using similar tactics on Nov. 2.

In this current election, Democratic Party officials in New Mexico view the U.S. Attorney's investigation as a partisan effort to suppress the Democratic vote. The stakes for both parties are high in New Mexico, a state with five electoral votes where the race for the presidency is in a dead heat.

"Judging by the Republican Party's sordid history of voter suppression activities across the country, the investigation suggests it's motivated by partisan aims," says Matt Farrauto, spokesman for the New Mexico Kerry campaign. "The Republicans have run to the press, not the proper authorities, and it's uncertain what the task force offers other than another means to intimidate voters.

"It's the long arm of the law being used on honest citizens," he adds. "If you're going to create a hysteria about voter fraud, you ought to have a good reason."

To the Democratic charge that investigations into fraud can constitute an indirect but effective vote suppression campaign, spokesman Mark Corallo has in the past said: "The only people who were intimidated were the people who were going to cast fraudulent ballots. And that's the point here."

Norm Cairnes, a spokesman for the U.S. Attorney, says the task force was set up in response to the improper voter registration by the 13-year old boy in Albuquerque, in addition to a series of questionable registrations submitted by Sheriff White. He declines to say what if any fraud the task force has discovered.

"If anything emerges, it will be in the form of indictments," he says. "There have been no indictments yet."

Threats of prosecution just before an election, say civil rights advocates, can easily morph into a vote suppression campaign.

"Overly-aggressive 'voting integrity' efforts, instead of reducing fraud, tend to intimidate lawful voters and ultimately suppress voter turnout," Henderson wrote in an October 2002 letter to Acosta. "This is especially true when investigations and prosecutions appear to target voters of a particular racial, disability or minority group."

* * *

Jordan Green is an associate editor of *Southern Exposure*. Jordan's writing on domestic policy issues has appeared in dozens of publications including *ColorLines*, *The Independent Weekly* (Durham, N.C.), *La Lutta Dispatch*, (Lexington), *The Herald-Leader*, *Newsday*, *The Nation*, *The Rio Grande Sun*, *The New Mexican* (Santa Fe), and *Southern Exposure*.

This special investigative report was made possible with the support of the Fund for Investigative Journalism and the Bob Hall Investigative Action Fund.

© Southern Exposure, 2004. Southern Exposure is the award-winning magazine of politics and culture published by the Institute for Southern Studies, a non-profit research and education center. Subscriptions/membership: \$21/year at www.southernstudies.org or at P.O. Box 531, Durham, NC 27702.