

BRENNAN CENTER FOR JUSTICE TWENTY YEARS

ANALYSIS

HERITAGE FRAUD DATABASE: AN ASSESSMENT

By Rudy Mehrbani

President Donald Trump’s “Fraud Commission” members are relying on a Heritage Foundation database that claims to contain [almost 1,100 instances](#) of voter fraud. But a close review of the database reveals that it substantially inflates and exaggerates the occurrence of voter fraud.

Hans von Spakovsky, one of the Commission’s members and a senior legal fellow at the Heritage Foundation, distributed a copy of the Foundation’s “database” – [“A Sampling of Election Fraud Cases from Across the Country”](#) – at the panel’s first meeting. Since its release, the database has been [routed](#) by von Spakovsky and others as widespread evidence of misconduct. Von Spakovsky said that it included [“almost 1,100 proven cases of voter fraud.”](#) Indeed, it has become its main piece of supposed evidence of voter fraud. The Commission’s Vice Chair, Kansas Secretary of State Kris Kobach, was photographed with a copy of the database the day of the panel’s first meeting. He later referred to the database in justifying the Commission’s existence by [claiming](#) “the commission presented 938 cases of convictions for voter fraud,” though the Commission did not review or even discuss a single case at the meeting.

The Brennan Center for Justice at NYU School of Law has conducted an analysis of the Heritage database and here’s our conclusion: There is nothing in the database to confirm claims of rampant voter fraud. In fact, it shows just the opposite. The database includes an assortment of cases, many unrelated or tangentially related, going back decades, with only a handful pertaining to non-citizens voting or impersonation at the polls. They add up to a molecular fraction of the total votes cast nationwide. Inadvertently, the Heritage Foundation’s database undermines its claim of widespread voter fraud.

SUMMARY OF FINDINGS

The database includes 749 “cases” involving almost 1,100 individuals.¹ A closer examination reveals:

- Only 105 cases come within the past five years, and 488 within the past 10 years. Thirty-two cases are from the 1980s and 1990s. Indicative of its overreach, the database even includes a case from 1948 (when Harry S. Truman beat Thomas Dewey) and a case from 1972 (when

¹ The database lists 754 cases involving 1072 individuals engaged in the alleged activity, but five cases are duplicates involving the same individual and the same allegations. In several instances, multiple cases are included for separate defendants part of the same conspiracy (see, e.g., James Vadella and Michael Vadella); these cases are included in our final count of 749.

Richard Nixon defeated George McGovern). Over the period considered by Heritage, there have been over [3 billion](#) votes cast in federal elections alone, and many more when you include the state and local elections also covered in the database. The number of cases in the database represent a miniscule portion of the overall number of votes cast during this time span.

- In reviewing decades of cases and billions of votes cast, the Heritage Foundation has identified just 10 cases involving in-person impersonation fraud at the polls (fewer than the number of members on the President’s Commission). Heritage thus confirms what extensive prior research has shown — it is more likely that an individual will be [struck by lightning](#) than impersonate another voter at the polls.
- The database includes only 41 cases involving non-citizens registering, voting, or attempting to vote. This is particularly striking given [the claims](#) made by President Trump in setting up the Commission that *millions* of illegal votes were cast in 2016; on other occasions, he said [3 to 5 million unauthorized immigrants robbed him](#) of the popular vote majority. The fact that only 41 such cases were identified over a time span of more than four decades highlights the absurdity of claims that millions of non-citizens voted in the 2016 election alone.

- The 51 cases referenced in the two previous bullets are the only examples in the database that would be addressed by the reforms most often trumpeted by the Heritage Foundation — laws requiring documentary proof of citizenship or government-issued identification to vote. It underscores that the potential harm from such proposals [greatly outweighs](#) any potential benefit.²
- At least a quarter of the cases in the database do not even involve ineligible people voting or attempting to vote — the conduct of concern to the president’s Commission.³ Instead, the database inflates the prevalence of voter fraud by including a broad variety of conduct. For example, it includes allegations of voter intimidation, vote buying, interfering or altering ballots by election officials, wrong-doing pertaining to the collection and submission of signatures on ballot petitions, and technical violations of ballot-assistance laws. These cases may identify misconduct and problems associated with election administration, but they are not the kind of voter fraud that the Commission members profess to seek to address.⁴

There is not sufficient information in the database or its source documents to suggest “one-size-fits-all” policy prescriptions to most of the cases that may have involved ineligible registering, attempting to vote, or voting. Some of the cases demonstrate that

2 See, e.g., [Veasey v. Perry](#), 71 F. Supp. 3d 627, 659 (S.D. Tex. 2014) (under the Texas voter ID law passed in 2013 “608,470 registered voters in Texas, representing approximately 4.5% of all registered voters, lack qualified SB 14 ID and of these, 534,512 voters do not qualify for a disability exemption”) [aff’d in part, vacated in part, remanded sub nom. Veasey v. Abbott](#), 796 F.3d 487 (5th Cir. 2015), [on reh’g en banc](#), 830 F.3d 216 (5th Cir. 2016), and [aff’d in part, vacated in part, rev’d in part sub nom. Veasey v. Abbott](#), 830 F.3d 216 (5th Cir. 2016). The finding concerning the number of voters lacking qualified ID has not been disputed or altered by any of the appellate decisions.

3 The [mission](#) of this Commission is to identify “vulnerabilities in voting systems . . . that could lead to improper voter registrations and improper voting, including fraudulent voter registrations and fraudulent voting” and to also identify the “laws, rules, policies, activities, strategies, and practices” that “enhance” or “undermine” the American people’s confidence in the integrity of Federal elections.

4 *Id.*

the existing safeguards in place to ensure the integrity of our elections are functioning as designed — the ineligible voters or individuals engaging in misconduct were identified and prevented from casting a ballot. In others, including 114 cases stemming from a single election in Minnesota, reforms were subsequently adopted to prevent a recurrence.

In short, the database overstates the problem of voter fraud, and its own cases disprove the claims by President Trump and some of his “Fraud Commission” members that “large scale voter fraud” exists in America’s elections. It serves to perpetuate the false narrative of widespread fraud often used to justify voting restrictions and distract the public from other, more useful, policy proposals that would actually improve the administration of our elections.

OUR METHODOLOGY

The Heritage report consists primarily of a database of “cases” allegedly showing instances of voter fraud. Each “case” includes a description of the incident written by Heritage, and links to its primary sources. To assess the Heritage Foundation’s conclusions, the Brennan Center reviewed each “case” in the database, and categorized each into one of the categories listed below, according to the description and public sources provided by the Heritage Foundation. Where there was ambiguity as to the nature of the incident, we interpreted the “case” in the light most favorable to Heritage’s conclusions. Where there were no judicial or legal sources provided, we took the Heritage Foundation at its word and accepted the facts presented in the source material referenced in the database without conducting further research on individual cases.⁵

We coded each case in the database according to one of the following fourteen categories, which are defined in the next section below.⁶

1. Election insiders
2. Vote buying
3. Voter intimidation
4. Ballot petitions
5. In-person impersonation fraud
6. Non-citizens registering or voting
7. Criminal convictions
8. Double voting
9. Improperly assisting or coercing absentee voters
10. Absentee ballot fraud
11. Wrong address
12. Unlawful registrations
13. Official and judicial findings
14. Miscellaneous

Our categorization for each case is available in the [appendix](#) to this analysis.⁷ In many cases, there is insufficient information in the Heritage database to determine whether an ineligible vote was ever cast or counted; where the answer is clear, we so indicate.

BREAKDOWN OF THE “CASES”

It bears repeating at the outset of our breakdown — in reviewing decades of cases and billions of votes cast, the Heritage Foundation has identified just 10 cases involving in-person impersonation fraud at the

⁵ This includes cases citing unclear sources with poor or absent case descriptions, such as one case where the only source is an [article](#) in *The Daily Caller* in which the author writes that a defendant “played the race card” by referencing the race of her alleged attackers.

⁶ Each case was put into a single category that most accurately covered the alleged activity.

⁷ Please notify bcvoting@brennan.law.nyu.edu if you believe there is an error associated with the coding of any cases. We will correct legitimate errors identified.

polls and 41 cases involving non-citizens registering, voting, or attempting to vote.

These are shockingly small numbers when one considers the scope and breadth of the cases in the database. In fact, we identified several categories of cases that do not involve ineligible voters registering or casting ballots — the activity the president’s Commission is charged with addressing.

Cases that have nothing to do with ineligible people registering or voting:

Vote buying: The defendants in 55 cases bribed voters, or attempted to bribe voters, by offering them money (or other things of value) in exchange for votes. These cases are not examples of ineligible people voting or attempting to vote — instead, they involve illegal agreements by eligible citizens to buy or sell their votes. The vast majority of the defendants in these cases are candidates or campaign staff involved in a scheme to purchase votes.

Voter intimidation: The defendants in 4 cases intimidated or threatened eligible voters, or attempted to do the same, for the purpose of obtaining a particular vote. Like vote-buying, these cases involve illegal activity by defendants to obtain votes by eligible voters; the cases do not involve ineligible voters registering or voting.

Election insiders: The defendants in 19 cases were election officials or poll workers (sometimes referred to as “election insiders”) who engaged in unlawful activity in connection with their official duties, sometimes abusing their position of power. Examples include a poll worker unlawfully assisting voters, an election commissioner falsifying a report, an election officer serving in a polling place where the individual does not reside, and an election official unlawfully altering or tampering with ballots.⁸

Ballot petitions: The defendants in 56 of the cases unlawfully completed or submitted ballot petitions for a candidate or issue to be included on a ballot, or for a petition calling for a recall. Almost all of these cases involve individuals who filed petitions with forged signatures or other false information. None involved illegal registration or voting.

Cases likely involving ineligible people registering or voting or attempting to do so:

In-person impersonation fraud: In 10 cases, the defendants voted in-person in the name of other individuals in one or more elections. It is unclear if the illegal votes were counted in two of the cases.

Non-citizens registering or voting: The defendants in 41 cases are non-U.S. citizens who voted, attempted to vote, or registered to vote in one or more elections. In at least 5 of these cases, the defendants did not cast any ballots.

Criminal convictions: In 174 cases — more than 20 percent of the cases in the database — involved citizens who were temporarily ineligible to register or vote due to past criminal convictions. The database does not indicate how many of these cases involved ineligible voters who mistakenly cast ballots believing they were entitled to do so. The Brennan Center has previously documented the [confusion caused](#) by the varying state laws that disenfranchise voters for different convictions for different lengths of time.

Of the 174 cases involving citizens who were ineligible to vote due to past criminal convictions, 114 of them — more than 15 percent of the cases in the database — stem from a single election in Minnesota in 2008. Local prosecutors [thoroughly investigated](#) claims of misconduct in that election. Their review, along with independent research, verified that claims

⁸ The most disturbing of the cases in this category is a broad conspiracy in 1982 perpetrated by a group of corrupt election insiders, including city precinct captains and election judges, that resulted in the conviction of 63 individuals.

of “massive fraud” were unfounded. [Not a single person](#) was convicted for voter impersonation in that election. Since then, Minnesota has adopted reforms to prevent a recurrence. Starting in the spring of 2010, the state began providing better data to county election administrators to enable them to more accurately and efficiently review data from the Minnesota Department of Corrections to identify any ineligible individuals with criminal convictions on the rolls. Instead of receiving data in a paper format once every one or two months, administrators [now receive](#) electronic data on a daily basis. And in Hennepin County — Minnesota’s most populous county — probation officers are [now required](#) to distribute informational pamphlets explaining the law to offenders. The Heritage Foundation’s database includes just 3 cases of voting by people ineligible because of criminal convictions in Minnesota since 2008.

Double voting: 80 cases include allegations of double voting either in the same state or same jurisdiction, or in different states or different jurisdictions.⁹ Prior analyses by the Brennan Center on double voting cases have shown that clerical errors and confusion are more often the culprit than intent to defraud the election system. The same may be true for some of the cases here. For example, in at least 8 of the cases, the defendants owned property or conducted business or other activities in multiple states or counties, and may have believed they were entitled to vote in both places. In one of those cases, the defendant thought he was permitted to cast a ballot in the two states where he owned property, so long as he did not vote for president more than once. In a case separate from those 8, the defendant’s property literally straddled two towns, and he said he believed he was entitled to vote in each jurisdiction.

For many of the other cases in this category, there is not enough information in the database to determine the facts around the alleged double vote.

Remaining categories involving ineligible or eligible voters:

Wrong address: In 60 cases, the defendants registered at a wrong or false address, or voted based on a wrong or false address. In 6 of these cases, it is unclear whether the individual involved cast a ballot. In addition to the 60 cases, 21 other cases pertain to individuals registering at a wrong address to qualify as a candidate in an election.¹⁰ None of the defendants in this category voted more than once in an election.

Improperly assisting or coercing absentee voters: The defendants in 71 cases unlawfully assisted, coerced, or deceived voters who were completing or casting their absentee ballots. In 43 of the cases, the descriptions in the database of the defendants’ conduct do not include evidence of coercion or deception. Many of these cases involve activity that people may assume is legal, like mailing someone else’s absentee ballot. The following cases, as described by Heritage or its sources, serve as examples:

- Raul Peña Jr., a County Commissioner, failed to sign the outside of the absentee ballot envelopes of those he assisted, as required by Texas law, in 2010. In the [case](#), the “Starr County grand jury declined to indict Peña on felony voter fraud charges, saying it did not believe the commissioner knowingly violated election guidelines.”
- Connecticut State Rep. Minnie Gonzalez was unlawfully in the same room as four voters who were completing their absentee ballots at the clerk’s

9 These cases do include instances in which a voter impersonated someone else.

10 The cases involving candidates who registered at a false or wrong address may warrant adoption of residency verification for candidates, but it does not warrant measures restricting the right to vote.

office in City Hall in 2006. The State Elections Enforcement Commission ruled that Gonzalez was “knowingly present” while the voters filled out their ballots. She was fined \$4,500 in 2009 and lost her appeal.

- Melinda Hunter illegally assisted elderly voters in Texas during the 2004 presidential elections by requesting mail-in ballots on their behalf and then mailing the ballots once the residents completed them. There is no indication of any impersonation or coercion. She was placed in a six-month pre-trial diversion program.
- Eva Corrigan failed to co-sign the absentee ballots of those she assisted in Connecticut and was ordered to pay a \$100 civil penalty in 2003.

In at least 38 cases, the defendant was a candidate for office or a member of a candidate’s campaign.

Absentee ballot fraud: The defendants in 58 cases unlawfully cast an absentee ballot in another voter’s name or attempted to do so.¹¹ Some of these cases involve individuals requesting and casting absentee ballots on behalf of recently deceased family members, some cases involve conspiracies to collect and harvest absentee ballots from legitimate voters, and for some cases, there is insufficient information in the database or its accompanying sources to ascertain how the fraud was perpetrated. Defendants in 13 other cases unlawfully applied for an absentee ballot for themselves or another individual. Of these 71 cases, the unlawful activity did not result in an actual vote being counted in at least 7 cases.

In some of the cases, the defendants requested or completed absentee ballots for close family members, though there is insufficient information in the database to determine the circumstances around these cases, such as whether consent was provided by the voter. The defendants in at least 28 of the 71 cases were candidates, campaign staff or campaign volunteers. There are 4 additional cases in the database that pertain to other forms of absentee ballot fraud.¹²

Unlawful registration drives or registrations: 54 cases involve other conduct pertaining to voter registrations. These cases include voter registration drives that were organized in violation of state law (e.g., giving bonuses to employees for satisfying registration quotas), tampering or altering voter registrations (often by candidates or campaigns), and providing false information on voter registration forms.¹³ The available evidence in the database suggests that a ballot was cast in only 3 of these cases.

Official and judicial findings: 10 of the cases are findings in which a judge or state elections board ordered a new election or voided an election result. These cases do not involve allegations against a specific defendant; rather, they are formal findings of irregularities in an election, including but not limited to improper ballots being cast or counted in an election. In at least 2 of the cases, voter fraud was not the cause for the judicial action: In North St. Louis, Missouri, according to the Heritage report, the judge’s “ruling placed the blame on mistakes made by election officials, not on voters or the [candidate’s] campaign perpetrating fraud,” and in Hardee County, Florida, a grand jury found that no criminal intent was involved in the election irregularities.

11 This includes several cases of mail-in ballot impersonation committed in vote-by-mail states, since that conduct is similar to absentee ballot impersonation.

12 The Brennan Center has previously recommended increasing the security of absentee ballots. See Myrna Perez, Election Integrity: A Pro Voter Agenda (Feb. 2017), at <https://www.brennancenter.org/publication/election-integrity-pro-voter-agenda>.

13 These do not include cases in the other categories (such as registrations with false or wrong addresses, or registrations by non-citizens).

Miscellaneous: 19 other cases remain in the database. At least 7 of these cases involve ineligible voters. For many of these cases, there is not enough information in the database to ascertain the nature of the alleged unlawful activity or whether any ineligible votes were cast. 3 of the cases demonstrate, once again, that this “voter fraud” database includes conduct that has nothing at all to do with fraudulent voting. They include:

- 1 case where a U.S. Postal Service carrier pled guilty to a federal bribery charge.
- 1 case where the defendant was convicted for distributing false information to voters.
- 1 case involving the New York City Department of Investigation, whose agents aimed to test the general integrity of New York City elections and were not investigating specific conduct by any particular voters.

WHY DOES THIS MATTER?

The Commission members’ past actions provide a blueprint, and prescient warning, for how they are likely to deploy the Heritage Foundation’s exaggerated claims of voter fraud. At least some of the leading members are likely to take for granted Heritage’s claim that it found “almost 1,100 proven cases of voter fraud” and to argue these “findings” demonstrate the need for [further restrictions on voting](#).

Kansas Secretary of State Kris Kobach, the Commission’s Vice Chair, [repeatedly claimed](#) in his 2010 campaign for secretary of state that thousands of dead people and non-citizens were voting in Kansas’s elections, despite [evidence to the contrary](#). Once in office, Secretary Kobach relied on his exaggerated claims of voter fraud to successfully push for the adoption of a strict photo ID law in Kansas, which required voters to show government-issued identification to cast a ballot.

He has also drafted and promoted laws requiring documentary proof of citizenship to vote, the legality of which are under [judicial review](#).

Von Spakovsky, a former Georgia county election official, similarly relied on claims of voter fraud to advocate for voter ID laws around the country, [including](#) a 2005 law in Georgia. While serving as a senior attorney at the Department of Justice in the Bush Administration, von Spakovsky [helped secure](#) DOJ’s approval of Georgia’s strict voter ID law over the objections of a majority of reviewing attorneys, and pushed for federal investigations into dubious claims of voter fraud.

Other appointees to the Commission have also shown a penchant for inflated claims of voter fraud and restrictions on voting. Commission member J. Christian Adams’s went so far as [publishing a report](#), entitled “Alien Invasion,” complete with UFO-themed covers and alien clip art, claiming thousands of non-citizens have voted in Virginia. Commission member J. Kenneth Blackwell, the former Ohio Secretary of State, [famously instructed](#) state officials to reject voter registration forms printed on card stock that was not of a requisite thickness in the run-up to the 2004 election.

It cannot be ignored that the Commission’s establishment was preceded by President Trump’s assertions that the 2016 election was “[rigged](#),” that “[large scale voter fraud](#)” was occurring around the country, that [he won](#) the popular vote in the election “if you deduct the millions of people who voted illegally,” and that millions of unauthorized immigrants [robbed him](#) of a popular vote majority. Needless to say, it’s reasonable to assume from these statements that President Trump is supportive of efforts to prevent the “fraud” he claims is occurring.

But there is still no evidence confirming claims of widespread voter fraud, which is likely why President

Trump implored the Commission members at their first meeting to find “[something](#).” “There’s something. There always is,” said President Trump.

As we have shown, the Heritage Foundation’s database is not that “something.” Far from it, it confirms that widespread voter fraud does not exist and the solutions promoted by the Commission’s most outspoken members — voter ID and documentary proof of citizenship laws — do not address real problems in the administration of our elections.

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