

**Editor's note: The following is the Heritage Foundation's full response to a USA Today/Columbia Journalism Investigations/Frontline investigation into the foundation's Voter Fraud Database. Portions of this response were incorporated into the story. Due to length, the entirety of the statement could not be included but can be read in full here.**

*From: Bluey, Rob*

*Date: Sun, Oct 18, 2020*

*Subject: Heritage Election Fraud Database*

*Thank you for contacting us about The Heritage Foundation's Election Fraud Database. Our research team has thoroughly reviewed the issues you raised and provided a detailed response to each one in the attached document.*

*The allegations you make about the database are either false or easily explained. We are using this opportunity to set the record straight and strongly urge you to reconsider publishing a story that repeats any of the false claims. As you will see from the attached response, our Election Fraud Database is systematic, accurate, and based on verifiable information.*

*The Heritage Foundation is a world-renowned research and education organization. Our authority rests on the quality, rigor, depth, and independent nature of our research and analysis. We have consistently been recognized for our leadership on a range of policy issues, including our work on election integrity. For the past three years, the University of Pennsylvania's Think Tanks and Civil Societies Program has ranked Heritage as the No. 1 think tank for impact on public policy.*

*Our Election Fraud Database is thoroughly sourced and is backed up by detailed references to government documents and media reports. For this reason, it is regularly cited by academics, the news media, and government leaders across the ideological spectrum. That includes USA Today, which has referenced it as source, most recently in an Aug. 15 fact-check article.*

*The Heritage Foundation wants everyone to exercise his or her right to vote. We are committed to making sure our elections are free and fair and that each vote is counted.*

*In fact, Heritage Foundation President Kay C. James recently called voting one of the most sacred rights we enjoy as Americans. “Protecting the integrity of our elections should matter to everyone, because every single instance of it amounts to canceling out a legitimate vote. Ask yourself how you’d feel if that vote were yours,” she wrote.*

*We stand by our research and will continue to fight on behalf of all Americans to ensure everyone’s vote counts.*

*Thanks,*

*Rob*

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*Rob Bluey*

*Vice President, Communications*

*and Executive Editor, The Daily Signal*

*The Heritage Foundation*

The following responses can be attributed to Hans von Spakovsky, manager of The Heritage Foundation’s Election Law Reform Initiative and a senior legal fellow in the Meese Center for Legal and Judicial Studies.

1. Allegation: The cases categorized as “Fraudulent use of absentee ballots” include haphazard, misleading and flawed information.

Response: This allegation is false. Our database is factual, backed up by proof of convictions or findings by courts or government bodies in the form of reports from reputable news sources and/or court records, and include a wide variety of election fraud cases, including absentee ballots. Just as important is what our database does NOT contain. It does not contain allegations of election fraud—some of which may be true—that are made all the time. Instead, our database includes only actual convictions or official findings. Our database, which is now approaching 1,300 cases, provides a sampling of different kinds of election fraud with brief, accurate summaries of each case. Citations to the supporting materials are provided for those who want more detailed information about what happened.

2. Allegation: Individuals who were never accused of criminal (or civil) fraud are included in the list. Serious cases of fraud are lumped together with minor civil cases, in some cases where no actual ballots were involved and where a judge specifically found no fraudulent intent.

Response: This allegation is false. Every single case in our database is a case of election fraud. Some cases resulted in criminal convictions or overturned elections. Some suffered civil sanctions. Others suffered administrative rebukes. With respect to the criminal convictions, there are varying degrees of election fraud, and our database does not discriminate between serious and minor cases. State law varies on what constitutes election fraud and the quantum of proof needed for a conviction; we simply report cases of which we become aware. The case description and sources provide all relevant, obtainable information, and we list the charges in the description to add the necessary context for all of our cases. In some instances, individuals have been allowed to plead down to lesser charges for their involvement in election fraud, and this too is accurately described.

Our database covers all types of election fraud, from ballot petition fraud to voter registration fraud to other types of fraud involving ballots cast absentee or in-person. All such fraud can potentially affect an election even if it is caught before fraudulent ballots can be cast. Your view that, for example, voter registration fraud is not voter fraud if it is discovered before a ballot can be cast ignores the fact that many crimes, including voter registration fraud, are completed once the requisite intent is formed and a person takes an action in furtherance of that act. As an analogy, it is fair and accurate to say that somebody was convicted of bank robbery, even if that individual was, in fact, apprehended by the authorities in the bank, and most people would describe that individual as a bank robber (albeit an unsuccessful one). We also make it clear that in addition to criminal prosecutions, our database includes cases where official government bodies made findings of fraud or where courts have overturned elections due to fraud or serious questions about the validity of the outcome due to potential fraud, and those instances are also accurately described.

3. Allegation: Cases are older than they seem. Dates used are frequently the date of an arrest or sentencing, which may be years after the original incident. This gives the impression that cases are more recent than they are.

Response: This allegation is false. The cases are listed consistently by year of conviction or official finding. Many of our descriptions list the election in which the fraud occurred and other information to help give as many relevant facts to the case as possible, when such information is available.

4. Allegation: In some instances, a case with multiple defendants has been counted multiple times—each person is counted as a separate case. This is not consistently done. Sometimes, multiple defendants are listed as one case. But when it is done, it has the effect of inflating the number of cases.

Response: This allegation is partially true, but, if anything, demonstrates that we are understating the number of individuals who have committed voter fraud. When the database began, co-conspirators were, as you note, listed together and counted as one “case.” Eventually, we decided to list co-conspirators as separate entries. This was

done because while it is common for co-conspirators to be charged together, each individual is a separate case and involved different (albeit perhaps coordinated) acts of voter fraud.

To use an analogy, if 50 individuals were charged and convicted in one “case” as part of a broad drug conspiracy, you would still say that there were 50 drug offenders, not one. Each individual defendant requires proof that that individual committed an offense, regardless of whether he was charged or tried with separate individuals. So while it is true that there are some early entries in the database where co-defendants were listed as one “case” (which we may correct, since you have gone to the trouble of pointing it out), we believe that, far from overcounting the number of instances of voter fraud, the database, if anything, actually undercounts the number of instances of proven voter fraud.

5. Allegation: The list has been repeatedly described as the tip of the iceberg, but there is no data to support the idea that it is a sample and not, as one critic suggested, the whole iceberg.

Response: This is a silly allegation. By that logic, there is also no data to support the idea that the number of convictions for drug dealing, robbery, assault, identify theft, and virtually every other crime is not the “whole iceberg.” We know from experience that for every person convicted of those crimes, there are thousands of others who commit these offenses who were not caught, much less convicted. Anybody who thinks, for example, that the people who have been caught and convicted of drug dealing represents the “whole iceberg” of drug dealers is simply out of touch with reality.

The Heritage Election Fraud Database is a sampling of election fraud cases, designed to highlight to the public the risks to fair and free elections and the people’s right to self-government. We have never claimed it is a comprehensive database (although some of our critics have made that erroneous claim). While we do our best to track potential cases by examining local news stories, court records (when available) and government documents, we do not have the resources or the access to all the records necessary for tracking potential cases in every county in every state to add to the database.

The database also does not list potential cases that election officials fail to refer to law enforcement or that prosecutors fail to investigate or prosecute. Because of vulnerabilities in the system, election fraud is relatively easy to commit and difficult to detect after-the-fact. Moreover, some public officials appear to be unconcerned with election fraud and fail to pursue cases that are reported to them. It is a general truism that you don’t find what you don’t look for.

Since our database contains only proven instances of election fraud, we have also written articles about numerous potential cases that have recently been reported in the news to bring more awareness to cases that are not brought to prosecution. If you want

to see examples of other cases of possible fraud that have never been investigated or prosecuted by law enforcement, you should review the numerous reports released by the Public Interest Legal Foundation on noncitizens who were found to have illegally registered and voted in numerous states, as well as their latest report that details thousands of individuals who may have illegally voted more than once. That website is here: <https://publicinterestlegal.org/>. You should also review the report released in 2017 by the Government Accountability Institute, which reported on approximately 8,500 individuals who may have voted twice in the 2016 election. That report is here: <https://www.g-a-i.org/wp-content/uploads/2017/07/Voter-Fraud-Final-with-Appendix-1.pdf>.

6. Allegation: The list is partly based on scans of newspaper articles, an approach described by Mr. Von Spakovsky in 2017 as essentially part time, and included gathering news clips when they surfaced, as well as press releases and tips. USAT/CJI examined news clips as well and found instances where key information was omitted from the Heritage list. In certain cases, follow ups that could have clarified mistakes did not occur. When Attorney General William Barr cited a Heritage-listed case recently, for instance news reports and interviews confirmed Miguel Hernandez had not been involved with 1,700 cases, as the memo given to Mr. Barr stated. Prosecutors said he was not involved in 700 cases, either, but the error has not been taken off the Heritage website as of Oct 15.

Response: This allegation is false. We rely on a variety of sources to substantiate our database, including newspaper accounts, court records, Westlaw and reported cases, and more. We do not mislead anyone with the information in the database and do not leave out information that is relevant to an entry, which contains just a short summary of the case. Citations are provided for anyone who wants a more detailed description. In the description involving Miguel Hernandez, we do not state that he was involved in 700 cases. Instead, we relate that he was one individual involved in a larger scheme of absentee ballot fraud. The entry in the database states, “Hernandez was the first person arrested as part of a larger voter fraud investigation in the Dallas area, stemming from claims by elderly voters that someone was forging their signatures and the return of nearly 700 mail-in ballots all signed by the same witness using a fake name.” As the entry further states, Hernandez was charged with one count in relation to the scheme, so there is and was nothing misleading about the entry for Mr. Hernandez. We, of course, are not privy to what information was provided to Attorney General Barr, nor are we responsible for any misstatements he may have made.

7. Allegation: Critics maintain that the list actually proves that absentee ballot fraud is not widespread, typically involves very few ballots and misunderstanding of laws related to ballot handling and assistance, that it is typically on a local level, and easily caught.

Response: This allegation is false. The database shows a disturbing and large variety of different types of absentee ballot fraud cases, some involving just a few ballots and others involving a much larger number of ballots. For example, as has been widely reported, the 2018 congressional race in the 9th District of North Carolina was

overturned by the state board of elections because of “concerted fraudulent activities related to absentee by-mail ballots” in an election where the margin of victory was 905 votes. We would also direct you to the Miami Herald, which won a Pulitzer Prize for its investigative reporting of the 1997 Miami mayor’s race, which was overturned by a court after evidence of widespread, massive fraud involving 5,000 absentee ballots was uncovered. You can find the facts of that case as well as three other cases in which elections were overturned due to absentee ballot fraud in this Heritage study, “Four Stolen Elections: The Vulnerabilities of Absentee and Mail-in Ballots.” Such fraud can and has made the difference in close elections, and we have close elections all the time.

As for the laughable claim that such fraud is “easily caught,” we would refer you to the New York Post’s August 29 report about a political consultant who talked about how easily he has engaged in absentee ballot fraud and gotten away with it without being caught in numerous elections. You can find that story here:  
[nypost.com/2020/08/29/political-insider-explains-voter-fraud-with-mail-in-ballots/](https://nypost.com/2020/08/29/political-insider-explains-voter-fraud-with-mail-in-ballots/).

We appreciate your interest in our work and look forward to your response.