

Reported instances of voter caging

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Voter caging is the practice of sending mail to addresses on the voter rolls, compiling a list of the mail that is returned undelivered, and using that list to try to purge or challenge voters' registrations on the grounds that the voters on the list do not legally reside at their registered addresses. The following is a compilation of reported instances of voter caging or attempted voter caging. As we become aware of further examples, we will add summaries to the compilation below.

- 1958** In 1958, nonforwardable campaign literature was sent to 18,000 registered Democrats.¹ The mail that was returned undelivered was used to generate a list of voters to be challenged at the polls.² Contemporary reports on the challenge program noted that challengers using these lists were active in certain precincts – but the precincts mentioned were those with substantial minority populations.³
- 1960** In 1960, postcards were sent to 349 registered Republicans in one particular Arizona district.⁴ These postcards specifically warned of “punishment” if the voters had moved but voted in the precinct in which they were formerly registered.⁵ A list of the postcards returned undelivered was compiled, presumably for challenges at the polls.⁶
- 1964** In 1964, a partisan campaign named “Operation Eagle Eye” sent 1.8 million pieces of mail to voters in what the campaign called “many of the more suspect precincts in 15 key cities, such as Chicago, Philadelphia, Detroit, Kansas City and St. Louis” – all cities with substantial minority populations.⁷ The undeliverable mail was returned to a local address, and – an anomaly in most voter caging programs – local campaign workers were instructed to make “personal checks” at the suspect addresses.⁸ Program officials stated that at least 2,963 names in Chicago alone were purged from the rolls before the election based on the caging lists generated by this campaign.

Volunteers were also instructed to challenge voters on the caging list at the polls on Election Day.⁹ The national director of Operation Eagle Eye claimed that program participants expected “to successfully challenge or discourage from voting 1,250,000 persons.”¹⁰ At least some of these challenges may have been racially motivated: in Washington, D.C., for example, one coordinator said that his challengers would “keep an eye out for ‘people who look like they don’t belong in the community or are not the kind of people who would register and vote.’”¹¹

1981

In 1981, the Republican National Committee sent mailings to New Jersey voters in predominantly African-American and Latino neighborhoods.¹² The 45,000 letters that could not be delivered were used to compile “a challenge list to remove those voters from the rolls.”¹³ As a result of a lawsuit filed against the effort, the Republican National Committee and New Jersey Republican State Committee entered into a consent decree with their Democratic party counterparts, prohibiting most racially targeted voter caging. In the decree, they agreed, in relevant part, to:

refrain from undertaking any ballot security activities in polling places or election districts where the racial or ethnic composition of such districts is a factor in the decision to conduct, or the actual conduct of, such activities there and where a purpose or significant effect of such activities is to deter qualified voters from voting¹⁴

1986

In 1986, the Chicago Board of Election Commissioners sent mailings to all registered voters in Chicago.¹⁵ 116,541 pieces could not be delivered.¹⁶ The corresponding voters were to be checked in a door-to-door canvass, and if their registration status remained in doubt, they were to be purged from the rolls.¹⁷ The extent to which voters were actually purged from the rolls is not clear from published reports.

Later in the year, the Republican National Committee hired a vendor known as Ballot Integrity Group Inc. to carry out a voter caging effort in Louisiana, Indiana, and Missouri; further efforts were apparently planned for Michigan.¹⁸ In Louisiana, the program entailed sending nonforwardable envelopes with emergency contact numbers to 350,000 voters registered in heavily Democratic districts.¹⁹ Most districts that fit the profile were African-American neighborhoods, and in at least one instance, the office producing the data for the mailing list was asked specifically for the listings of African-American voters.²⁰

An internal memorandum to the RNC’s southern regional political director recognized the effect of the caging program on the upcoming Senate race in Louisiana:

I know this race is really important to you. I would guess that this program will eliminate at least 60-80,000 folks from the rolls. . . . If it's a close race, which I'm assuming it is, this could keep the black vote down considerably.”²¹

Ultimately, 30,000 letters were returned undelivered in Louisiana; as predicted, most of the returned letters were addressed to African-Americans.²² These letters were turned over to election officials with a request to purge the voters from the rolls; the letters were also compiled onto a list for investigation by law enforcement and for challenge at the polls.²³

A Louisiana state court judge enjoined the program, finding that the clear intent was “to remove blacks from the voting rolls.”²⁴ The national party organizations also returned to federal court in New Jersey, in litigation filed under the 1981 consent decree described above. In the short term, the RNC stipulated that it would not compile voter challenge lists or challenge voters on the basis of direct mail returned as undelivered.²⁵ Ultimately, the case again settled, with a modification of the 1981 decree prohibiting the RNC from undertaking any “ballot security” program without the court’s consent.²⁶

1990

In 1990, the Republican Party of North Carolina and Senator Jesse Helms’ re-election campaign committee mailed postcards to 125,000 voters; 81,000 cards were mailed to registered Democrats in precincts that were 94% African-American, and 44,000 cards were mailed to African-American voters exclusively.²⁷ Undelivered cards were then used to create a list of voters to be challenged.²⁸ The U.S. Department of Justice filed suit, again ending in a consent decree. This agreement prohibited the state party from targeting voters based on their “racial minority status,” and required it to obtain prior court approval for its anti-fraud activities.²⁹

2004

Evidence of voter caging or of preparation for voter caging surfaced in at least five states in 2004. In Ohio, letters were sent to all voters who registered between January 1 and August 31 of 2004; the 35,427 letters that were returned undelivered were used to create a challenge list.³⁰ The list included names from “mostly urban and minority areas,” including 17,717 challenges in Cuyahoga County.³¹ Some challenges were executed before Election Day, and others were withdrawn; due in part to an extended court challenge, almost no voters on the list were ultimately challenged at the polls.³²

In Nevada, a businessman “looking to take Democrats off the voter rolls” challenged 17,000 registered Clark County voters who had been sent mail that was returned undelivered.³³ The county’s Registrar of Voters denied all of the challenges.³⁴

In Pennsylvania, letters were sent to 130,000 newly registered Philadelphia voters.³⁵ Ten thousand letters allegedly could not be delivered, and were used to compile a challenge list.³⁶ There were no reports that the list was actually used for challenges on Election Day.

In Florida, letters were sent to newly registered voters in Duval County, and 2,663 voters for whom letters were returned as undeliverable were placed on a controversial list.³⁷ 1,833 of these voters were attached to disclosed emails labeled “caging,” and sent by Florida campaign staff to political and research staff at the Republican National Committee; Tim Griffin, the national research director for the RNC, acknowledged receipt.³⁸ No explanation has been given for why the list was forwarded to RNC headquarters. Later analysis using registration records coded for race showed that the list disproportionately captured minority voters.³⁹ State campaign spokespersons claimed that the list was not intended to be used for challenging voter eligibility, though they also acknowledged that the names were forwarded to county officials;⁴⁰ a Department of

Justice attorney sent to Florida in 2004 helped procure an agreement that voters would not be challenged at the polls using any such list.⁴¹

Wisconsin saw a variant of voter caging, relying not on undeliverable mail, but on a technological equivalent: attempts to match the addresses on Milwaukee's voter rolls to the U.S. Postal Service's database of street addresses.⁴² (Mail sent to these addresses would presumably have been returned as undeliverable.) 5,619 voters were challenged, with questions raised about approximately 31,500 additional entries.⁴³ The bipartisan Milwaukee Election Commission found insufficient evidence that the registrations were invalid, and rejected the challenges.⁴⁴

¹ CHANDLER DAVIDSON ET AL., *REPUBLICAN BALLOT SECURITY PROGRAMS: VOTE PROTECTION OR MINORITY VOTE SUPPRESSION—OR BOTH?* 17 (2004), available at http://www.votelaw.com/blog/blogdocs/GOP_Ballot_Security_Programs.pdf.

² *Id.*

³ *See id.* at 18-19.

⁴ *Id.* at 17 n.14.

⁵ *Id.*

⁶ *Id.*

⁷ Cabell Phillips, *G.O.P. Opens Drive to Prevent Fraud*, N.Y. TIMES, Oct. 30, 1964, at 25.

⁸ *Id.* There is little readily available information to determine whether these personal follow-up checks were actually conducted – and if so, the means by which they were conducted.

⁹ *Id.*

¹⁰ *Democrats Charge G.O.P. Poll Watch Today Will Harass the Negroes and the Poor*, N.Y. TIMES, Nov. 3, 1964.

¹¹ *Id.*

¹² CHANDLER DAVIDSON ET AL., *supra* note 1, at 50; PEOPLE FOR THE AM. WAY FOUND. & NAACP, *THE LONG SHADOW OF JIM CROW: VOTER INTIMIDATION AND SUPPRESSION IN AMERICA TODAY* 14 (2004), available at http://www.pfaw.org/pfaw/dfiles/file_462.pdf; Jo Becker, *GOP Challenging Voter Registrations*, WASH. POST, Oct. 29, 2004, at A5.

¹³ Becker, *supra* note 12.

¹⁴ *Democratic National Committee v. Republican National Committee*, Civil Action No. 81-3876 (D.N.J. Nov. 1, 1982 (consent order)).

¹⁵ John Kass, *116,000 Chicago Voters Warned They Must Re-Register*, CHI. TRIBUNE, Feb. 17, 1986, at C7.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ CHANDLER DAVIDSON ET AL., *supra* note 1, at 60; PEOPLE FOR THE AM. WAY FOUND. & NAACP, *supra* note 12, at 12; Bernard Weinraub, *Suit Charging G.O.P. Sought To Cut Black Vote Is Settled*, N.Y. TIMES, July 24, 1987, at A15; Martin Tolchin, *The Political Campaign*, N.Y. TIMES, Oct. 26, 1986, at B19; Martin Tolchin, *G.O.P. Memo Tells of Black Vote Cut*, N.Y. TIMES, Oct. 25, 1986, at 17; Thomas B. Edsall, *"Ballot Security" Effects Calculated*, WASH. POST, Oct. 24, 1986, at A1.

¹⁹ CHANDLER DAVIDSON ET AL., *supra* note 1, at 60; PEOPLE FOR THE AM. WAY FOUND. & NAACP, *supra* note 12, at 12; Weinraub, *supra* note 18; Jon Margolis, *GOP Agrees to Limits on "Ballot Security" Plan*, CHI. TRIBUNE, July 24, 1987, at C6.

²⁰ Thomas M. Burton, *Democrats Sue Over GOP Bid to Mail Down the Vote*, CHI. TRIBUNE, Sept. 25, 1986, at C1.

²¹ Tolchin, *G.O.P. Memo Tells of Black Vote Cut*, *supra* note 18; Edsall, *supra* note 18.

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- ²² CHANDLER DAVIDSON ET AL., *supra* note 1, at 60.
- ²³ Edsall, *supra* note 18.
- ²⁴ *Id.*
- ²⁵ Democratic National Committee v. Republican National Committee, Civil Action No. 86-3972 (D.N.J. Oct. 20, 1986) (stipulation)(valid until March 1, 1987, at the latest).
- ²⁶ Weinraub, *supra* note 18; *see* Democratic National Committee v. Republican National Committee, Civil Action No. 86-3972 (D.N.J. July 27, 1987) (settlement stipulation and order of dismissal).
- ²⁷ ADVANCEMENT PROJECT, REPORT TO STATE AND LOCAL ELECTION OFFICIALS ON THE URGENT NEED FOR INSTRUCTIONS FOR PARTISAN POLL WATCHERS (2004); PEOPLE FOR THE AM. WAY FOUND. & NAACP, *supra* note 12, at 3.
- ²⁸ ADVANCEMENT PROJECT, *supra* note 27.
- ²⁹ *Id.* (citing United States v. Republican Party of North Carolina, Civil Action No. 92-161-CIO-5F (E.D.N.C. Feb. 27, 1992); CHANDLER DAVIDSON ET AL., *supra* note 1, at 75.
- ³⁰ Robert Vitale, *GOP Misfiled Some Voter Challenges, Board Says*, COLUMBUS DISPATCH, Oct. 24, 2004, at 1A.
- ³¹ Becker, *supra* note 12; Vitale, *supra* note 30; Democratic National Committee v. Republican National Committee, No. 04-4186, at 5 (3d Cir., Nov. 1, 2004) (denial of motion for stay pending appeal), *rev'd en banc* (3d Cir., Nov. 2, 2004).
- ³² John Riley, *Complications, Challenges Abound*, N.Y. NEWSDAY, Oct. 31, 2004, at A37; Sandy Theis, *Fraud-busters Busted*, CLEVELAND PLAIN DEALER, Oct. 31, 2004, at H1; Summit County Democratic Central & Executive Comm. v. Blackwell, 388 F.3d 547 (6th Cir. 2004); Democratic National Committee v. Republican National Committee, No. 04-4186 (3d Cir., Nov. 2, 2004) (en banc).
- ³³ *Sides Debate Registrations*, LAS VEGAS REVIEW-JOURNAL, Oct. 10, 2004, at 2B; Erin Neff, *Challenge to 17,000 Voters Blocked*, LAS VEGAS REVIEW-JOURNAL, Oct. 12, 2004, at 3B.
- ³⁴ Neff, *supra* note 33.
- ³⁵ ADVANCEMENT PROJECT, *supra* note 27; Becker, *supra* note 12.
- ³⁶ ADVANCEMENT PROJECT, *supra* note 27; Suzette Parmley et al., *Voting Access, Challenges Debated With Hours To Go*, PHILA. INQUIRER, Nov. 2, 2004; Kate Zernike & William Yardley, *Charges of Dirty Tricks, Fraud and Voter Suppression Already Flying in Several States*, N.Y. TIMES, Nov. 1, 2004, at A16; Tom Infield, *Both Parties Complain of Vote Fraud*, PHILA. INQUIRER, Oct. 25, 2004, at B1.
- ³⁷ Joni James & Tamara Lush, *Gov. Bush: Poll Watchers Can, Should Challenge Voters*, ST. PETERSBURG TIMES, Oct. 28, 2004.
- ³⁸ GeorgeWBush.org, Dead Letter Office, <http://2004.georgewbush.org/deadletteroffice/index.asp> (last visited June 19, 2007).
- ³⁹ Mark Johnston, Voter Suppression, June 26, 2007, at http://www.epluribusmedia.org/features/2007/20070621_supressing_the_vote_2004.html; Paul Kiel, TPM Muckraker.com, Cage Match: Did Griffin Try to Disenfranchise African-American Voters in 2004?, <http://www.tpmuckraker.com/archives/003523.php> (June 26, 2007, 11:21 EDT).
- ⁴⁰ Greg Palast, *New Florida Vote Scandal Feared*, BBC NEWS, Oct. 26, 2004, <http://news.bbc.co.uk/1/hi/programmes/newsnight/3956129.stm>; John M. Glionna, *The Race for the White House*, L.A. TIMES, Oct. 28, 2004, at A18; Tim Reynolds, *Parties Trade Pre-Election Accusations in Florida*, PITTSBURGH POST-GAZETTE, Oct. 29, 2004, at A12.
- ⁴¹ Kiel, *supra* note 39.
- ⁴² Greg Borowski, *GOP Demands IDs of 37,000 in City*, MILWAUKEE J. SENTINEL, Oct. 30, 2004.
- ⁴³ Greg Borowski, *GOP Fails to Get 5,619 Names Removed From Voting Lists*, MILWAUKEE J. SENTINEL, Oct. 28, 2004; Greg Borowski & Steven Walters, *Vote Inquiry Sharpens Focus*, MILWAUKEE J. SENTINEL, Oct. 29, 2004; Greg Borowski, *supra* note 42; Editorial, *Protect Voter Rights Today*, MILWAUKEE J. SENTINEL, Nov. 1, 2004.
- ⁴⁴ Borowski, *supra* note 43.