Sheila Krumholz

Campaign Cash and Corruption: Money in Politics, Post-Citizens United

Money's ability to exert disproportionate and undue influence over US politics and policy is an open secret in Washington and far, far beyond the DC beltway. Countless examples of influence peddling can be found in American history books, but perhaps more important than documenting and uncovering cases of illegal influence is monitoring the day-to-day machinations of the federal political system. The Center for Responsive Politics (CRP), through the website OpenSecrets.org, has been doing this for 30 years, and in doing so has become one of the most credible and authoritative sources on money in US politics.

The center's many resources include the nation's most comprehensive sets of data and analysis on campaign contributions and campaign expenditures. These datasets can shed light not only on who is giving to federal politicians, but also which vendors benefit from the "Campaign Industrial Complex" based in and around Washington. Although most of our data come from publicly available and downloadable resources, including the Federal Election Commission, CRP has also recently begun collecting IRS Form 990s from politically active nonprofit organizations. These organizations exist outside the traditional disclosure regime but still spend millions of dollars on political activities, so the center has stepped in to provide better public access to these documents.
The center also tracks federal lobbying efforts and the revolving door, which keeps lobbying firms stocked with high-value former members and connected staffers from the government. In addition, CRP creates and publishes the data on personal finances of members of Congress and key government officials as one additional source of information on potential conflicts of interest. All this data is freely available on OpenSecrets.org in order to make good on the promise that public records are indeed the public's records and that access should be real and meaningful. It is not just the people's business but in fact their obligation to find and use all pertinent information available to them to inform themselves to better hold their representatives and their government accountable for what is being done in their names.

The connection to corruption is clear: when conflicts of interest abound, as they do when private money fills the coffers of public servants, the opportunities for rent-seeking and quid pro quo corruption and bribery are plentiful. When the public is unaware of or unable to effectively monitor these relationships, the appetite for risking legal or political liabilities grows. When politicians know that they can operate without the scrutiny brought by an effective watchdog system, they may be more likely to take advantage of the spoils of public office at the expense of the public good.

Given this perspective, it is only natural to explain who is giving how much to whom. Here, we will begin with a big picture view and then dive into details, in our ongoing attempt to illuminate money's role in our political system.

HOW MUCH DO FEDERAL ELECTIONS COST?
The CRP has calculated that the total cost of the most recent federal election, the 2012 cycle, was at least $6.3 billion. This is based on data showing that while the spending by presidential candidates fell slightly from 2008 levels, outside spending skyrocketed, as one would expect post-Citizens United. (Citizens United v. Federal Election Commission is a January 2010 US Supreme Court case in which the court ruled 5 to 4 to allow corporations and unions to use their general treasuries to pay
for independent expenditures, including political advertisements that expressly call for the election or defeat of a candidate, and electioneering communications immediately before an election.) The biggest increases in spending came from nonparty groups making independent expenditures. Compared to all previous cycles, spending soared.

Figure 1 shows a comparison for the past 16 years, or 8 election cycles, of the increases and decreases in campaign spending. As the figure shows, there is always a “two steps forward, one step back” quality to federal elections spending because of the extraordinary resources involved in the race for the White House every other cycle. Over time, there has been continued, substantial growth—between 2000 and 2008, spending increased by 70 percent. In 2000, $3 billion was spent on federal elections, then $4 billion in 2004, then nearly $5.3 billion in 2008. The spending in 2008 was largely driven by a wide open field on both sides of that presidential race. In 2012, the total hit $6.3 billion, a 19 percent increase over 2008 and a 188 percent increase over a decade. Despite a relatively lackluster group of fundraisers among
the Republican presidential candidates, Barack Obama’s repeat fundraising success and the much larger portion of funds spent by outside groups pushed what would have been a stagnant year of fundraising much higher.

The interests engaging in this spending are varied. The primary value CRP brings to research on money in politics is not only to aggregate it all in one location but to classify all itemized donations by industry and interest group. This allows researchers to answer critical questions about the source of federal election spending. Far and away, and consistently over time, most of the itemized (contributions of more than $200) money comes from political action committees (PACs) and individuals representing corporate interests, and at times, directly from the corporations themselves. In figure 2, the source of campaign funds over the past decade are shown, broken down by whether they came from business, labor, ideological, or other (BLIO) interests—other, in this case, being primarily money from retired individuals.
Figure 2 shows a stark trend: spending by business interests vastly overwhelms ideological or labor spending. Even among PACs, which have long been the favored means of delivering funds by labor unions, business still had more than a 5:1 fundraising advantage in 2012. However this data is sliced, business interests dominate, with an overall advantage over organized labor of about 15:1. This information should be caveated, however: CRP determines whether a donation comes from business or labor based on occupation and employer information provided by campaigns. Since nearly everyone works for someone, and since union affiliation is not listed on Federal Election Commission (FEC) reports, totals for business are somewhat overstated while labor is understated. Still, the base of large individual donors is predominantly made up of business executives and professionals.

**CONNECTING DONATIONS TO INFLUENCE AND POLICY**

Over time, CRP has documented that the sector contributing the most money to federal candidates is the sector that has the most money to give: Wall Street. Banks, insurance, venture capital funds, loan servicers, real estate developers: the finance insurance and real estate (or FIRE) sector is the biggest donor of campaign cash to candidates, PACs and parties in the United States. Who do they give this money too? Not surprisingly, this sector recognizes that incumbents tend to hang on to their seats, and the money flows accordingly. However, as is true with most sectors, the bulk of their money flows to the members of Congress who have jurisdiction over their industries, companies, and issues. These members, who serve on committees related to financial services, receive the lion’s share of their donations from the FIRE sector, which blows all other sectors out of the water. A snapshot of these data are shown in figure 3.

Members of the House Financial Services committee have received a tremendous portion of their money from the FIRE sector. Does this mean that they only open their office doors to individuals from that sector? Of course not. But, it does imply that the same people charged with regulating the financial sector are dependent on
its continued generosity. Skeptics might argue that the members on this committee are receiving money from the FIRE sector because they share the same interests and vision. This may indeed be true, but the facts don’t lie: even if the interests of members of the financial services committee and business leaders from the FIRE sector are perfectly aligned, this alignment is necessarily complicated by the cozy monetary connections between members and financial interests.

The center also tracks lobbying expenditures and adds the same industry and sector coding to that arena. Although it can be very difficult to track money-to-member-to-policy outcome relationships, a few places exist where these relationships begin to take form. For example, Representative Don Young (R-AK) sponsored HR 39, the Polar Bear Delisting Act, which would remove polar bears from the endangered species list. The only group to lobby on that particular bill was Safari International, which happens to be a top donor to Don Young and presumably would like to shoot polar bears. Don Young also happens to be the only member of the House to represent a state home to polar bears, but the alignment between his policy proposals and the wishes of his top donors cannot be overlooked. This is just one example, but there are many more. The same patterns and anomalies exist for members

<table>
<thead>
<tr>
<th>PACs</th>
<th>Indivs</th>
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<tbody>
<tr>
<td>Agribusiness</td>
<td>$774,807</td>
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<tr>
<td>Communic/Electronics</td>
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<td>Construction</td>
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<td>Misc Business</td>
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<tr>
<td>Labor</td>
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<tr>
<td>Ideology/Single-Issue</td>
<td>$1,362,436</td>
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<td>Other</td>
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Table 1: Summary of Outside Spending, 2012 Election Cycle

<table>
<thead>
<tr>
<th>Type of Group Registered</th>
<th>Total Spent</th>
<th>Number of Groups Spending to Date</th>
<th>Number of Groups</th>
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<td>Super PACs</td>
<td>$17,735,506</td>
<td>880</td>
<td>44</td>
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<tr>
<td>Social Welfare 501(c)(4)</td>
<td>$2,319,547</td>
<td>N/A</td>
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<tr>
<td>Trade Assns 501(c)(6)</td>
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<tr>
<td>Unions 501(c)(5)</td>
<td>$344,573</td>
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<tr>
<td>Parties</td>
<td>$2,143,476</td>
<td>19</td>
<td>8</td>
</tr>
<tr>
<td>Other (corporations, individual people, other groups, etc)</td>
<td>$2,669,790</td>
<td>82</td>
<td>41</td>
</tr>
<tr>
<td>Grand Total:</td>
<td>$26,162,294</td>
<td>1,010</td>
<td>121</td>
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</tbody>
</table>

Source: Center for Responsive Politics

from both parties and in both houses of Congress. Do these outliers prove anything? Are they a smoking gun indicating an improper relationship? Not necessarily, and not on their own, but they offer a money trail that may point to a specific payoff. Or, they may just help explain how the money, and Washington, work.

NEW TRENDS IN AMERICAN CAMPAIGNS

Outside spending is a relatively new phenomenon in American politics. A plethora of super PACs and social welfare-focused 501(c)(4) organizations entered the political scene in the wake of the 2010 court decision *Citizens United v. the Federal Election Commission*. Super PACs, or PACs that can receive unlimited donations but must disclose the source of their money, accounted for almost exactly half of the outside money reported to the FEC in the 2012 election cycle. Party committees and social welfare nonprofits are nearly tied as the next highest source of spending on independent expenditures and electioneering communications. The total amount of disclosed money spent last election cycle can be seen in table 1.

All told, more than 800 groups reported spending nearly $1.3 billion to influence the outcomes of the 2012 elections. Most of this money was spent on independent expenditures, which included television ads advocating for or against a specific candidate, even though the groups making these expenditures are not technically allowed to
coordinate with the candidates they support. This ban on coordination, while perhaps technically obeyed, is complicated by the fact that many of the staff who work for super PACs used to work for the candidate whom the super PACs supports. The founders of Priorities USA, a super PAC devoted to the re-election of Barack Obama, were both former White House officials prior to the 2012 campaign.

The advertisements produced by these super PACs are usually negative. A review of the top races targeted by outside spending groups shows clearly that most of the spending is against candidates in specific races.

Outside of the presidential race, the top targets were Senate races, beginning with the Virginia Senate race. In that contest, $52 million was spent by outside groups, mostly against Tim Kaine. By comparison, all candidates in the race only spent $32 million, in total. In Wisconsin, $46 million was spent, mostly against Tommy Thompson, and in Ohio, $39 million was spent, mostly against Sherrod Brown. In 2013, the top target of outside spending was the Markey-Gomez race to replace Senator John Kerry in Massachusetts, where $8.3 million was spent, mostly against the Republican, with big money coming from out of state.

Even though the candidates are not directly involved in this spending, it is clear that in US elections, the role of outside groups has dramatically altered the political landscape. Now, it is not just the case that the candidates need to worry about well-funded opponents, but candidates from both parties are on alert. These outside groups have ample funding, are willing to run advertisements that truly “go for the jugular” and are not accountable in the same way that candidate committees can be. And, in some cases, the ultimate source of the money is unknown or mired in shadows.

This money has largely been spent on these independent expenditures, as opposed to spending on electioneering communications and communication costs. In figure 4, these trends can be seen more clearly. Throughout the 1990s, elections saw very little reported outside spending, but this money increased in 2004 (largely driven by 527 organizations spending on electioneering communications), at which point
slightly more than $196 million was spent. In 2012, when more than $1 billion was spent, independent expenditures explode, vastly outpacing spending on other types of expenditures.

Is this money truly new? Groups have operated outside of the traditional disclosure regime for decades. Another more conservative and arguably more consistent way to look at outside spending is to focus on all of the different kinds of outside money that were prevalent in years past. This view shows more continuity, and accounts more fully for national party soft money spending.

When examining other types of outside money that were prevalent in years past, one can see more continuity over time. During the 1990s, and especially in 2000 and 2002, national soft party spending exploded. In 2002, the Bipartisan Campaign Reform Act (also known as McCain Feingold) banned soft money, but the money then shifted to federally focused 527s, especially in 2004 but continuing to the current cycle.

The big story here remains the growth in independent expenditures, beginning in 2004 and then skyrocketing in 2012. This includes
parties; when they are removed from the analysis, the comparative increase in 2012 is even greater.

One caveat, as always, is that CRP is only able to track spending that is reported. CRP estimates of money spent on “unreported ads referencing candidates” account for a mere $100 million, but that figure is likely higher. More important, this money has been spent on “issue ads” for years, just not to the degree seen in 2012. The key takeaway remains: even after including all kinds of money from previous cycles, we still see a dramatic spike in spending in 2012. And that trend continues: even though the 2014 election cycle is still young, spending at this point in 2013 is still twice the rate of the last two cycles.

**ARE SINGLE-CANDIDATE SUPER PACS THE NEW LEADERSHIP PAC?**

As the data show, much of the money and attention was focused on the race for the White House in 2012, but outside spending enjoys more bang for its buck in Congressional races. In 2012, of the 1,307 super PACs, only 106 were ostensibly independent, single-candidate super PACs, but they spent 45 percent of all super PAC money—in total, $247 million. Of these, 52 were congressionally focused. Going forward, every member of Congress—every candidate, even, if they can find a deep-pocketed donor to spearhead the PAC—all have incentives to try to encourage the creation of these single-minded, unrestricted spenders. This trend raises the question: Are single-candidate super PACs the new leadership PAC?

In the most recent cycle, the top single-candidate super PAC opposed Texas Senate candidate David Dewhurst. Although not entirely responsible for the defeat of Dewhurst, and eventually the election of Ted Cruz, it is hard to imagine that this PAC did not play a critical role. Given the new realities of the federal election process, the next few years could experience a race to the bottom, with candidates proactively encouraging the creation of these super PACs to avoid being “primaried” by candidates who would not have been able to win in primaries prior to *Citizens United*. More important, given that single-candidate super PACs tend to rely on the same big donors and often
the same staff as the campaign, are they essentially just shadow candidate committees designed to evade contribution limits? And, as previously mentioned, most of the money was spent against candidates—75 percent of money was spent against either Democrats or Republicans. This leads to an increasingly negative campaign environment, potentially leading to a deterioration of the political process.

THE OUTSIDE SPENDING BIG PICTURE
Not all outside spending is created equal. Overall, when looking at groups by viewpoint, it is clear that conservative money vastly outpaced liberal money in 2012. When the data are limited to nondisclosing groups, fully 85 percent of the money is conservative. By comparison, thus far in 2013, the trends have flipped, with 67 percent of the money spent by liberal outside groups, mostly on special elections in blue-state races like those in Massachusetts and New Jersey.

When exploring the disclosure of this outside spending, although the ultimate source of most of it is indeed disclosed, not all of it is. Super PACs, by law, must disclose their donors, but 501(c)(4) nonprofits do not need to do so, and they do spend in elections. The center has found that only 40 percent of all outside spending is fully disclosed, meaning that the donor to the outside group is an identifiable person or company. Another 30 percent was not disclosed at all, and the rest had “incomplete” disclosure, where the donor was listed but was a nonprofit or shell company, so the original source(s) of their funds were unknown.

In sum, voters were hamstrung. They were carpet-bombed with negative, deceptive advertising, yet had one hand tied behind their back because the lack of disclosure meant they couldn’t consider the source about the messengers and ulterior motives that drove them to sponsor political ads.

THE INCREASING ROLE OF NONPROFIT POLITICAL SPENDING
Nonprofit 501(c)(4) groups are allowed to participate in elections but do not need to disclose their donors to the FEC. In 2000, these groups
spent less than $50 million on political spending, and the vast majority of their donors were disclosed. Conversely, in 2012, they spent nearly $350 million, and the vast majority of donors were *not* disclosed. This spending, of course, is only what is reported to the FEC—the center is probably undercounting $100 or $200 million that were spent on issue ads identifying a federal candidate by nonprofits that never reported that spending.

Although these groups do not need to disclose their donors, CRP has blazed a new data trail based on 990 and 1024 tax forms and, through our Shadow Money Trail project, has found $417 million going to politically active nonprofits for the last few years that data is available. Much of that money is churned back and forth between organizations and connected groups, termed "disregarded entities," and this process is something that tax experts say may suggest money laundering.

The CRP Shadow Money Trail team has spent countless hours exploring the major networks of politically active groups. Figure 5 was produced with the *Daily Beast*, and represents just one network, largely from 2010.
In figure 5, the darkest circles are grantors, such as the Center to Protect Patients Rights (a 501(c)(4), which has doled out tens of millions over the last 3 years, PHARMA (a trade association), and others that are providing the money. The lightest dots represent their grantees, and the medium-shaded dots represent both. These groups are representative of the aforementioned churning, which occurs when middlemen transfer large amounts of money back and forth among a dense network, or “daisy chain,” of secret groups.

And the now famous case of the Center to Protect Patients Rights taking $11 million from Americans for Job Security in Virginia and passing it on to Americans for Responsible Leadership in Arizona, which sent it to the Small Business Action Committee in order to shape two California ballot initiative battles, is par for the course. This is how it works. What’s different is former California Fair Political Practices chair Ann Ravel’s hard-nosed approach to defending transparency. California sued to make the committees disclose their original donors, many of which they did, and to pay a hefty penalty and disgorge the money.

WHY TRANSPARENCY?
Why is transparency important to the political system? In short: because there are risks inherent in this new world order. Forty years ago, Congress was trying to combat corruption and prevent even just the appearance of corruption. It was concerned about the levels of financial impact that could be had by very narrow interests—using campaign donations, lobbying, and the revolving door to grease the skids on their legislative agendas. In the 1972 campaign there was off-the-books activity and desperate strongarming before the Federal Election Campaign Act (FECA) was going to take effect, with bags of cash dropped in phone booths in Washington that CREEP (the Committee for the Re-Election of the President) would swoop in and pick up. They could do that because the limits and disclosure had not yet taken effect. So that says something about the nature of the relationship. The campaign was telling them, “you have to come through and you gotta do it NOW.” That is what the law was designed to avoid, the nature of this exchange
relationship. Congress tried to limit spending and failed, but did put in place contribution limits and disclosure. And now, 40 years later, continual challenges and agreeable judges have chipped away at those rules and show that memories are short, strategies are long term, and nothing is guaranteed.

The current phenomena challenge what the system was supposed to guard against:

- Outside organizations are supposed to be independent but actually can be very closely tied to specific candidates or elected officials, where the separation is more technical than real.
- Those organizations are able to accept contributions with essentially no limits and no prohibitions on sources. Money can be used explicitly for campaign activities, where they don’t have to finesse the spending or worry about the funding.
- Furthermore, they don’t even have to worry about the disclosure side.
- Next up is the Supreme Court’s McCutcheon Decision, to be decided in 2014, which will peel back yet another layer of limits—the overall limits on what an individual can give to all candidates, PACs and parties combined, paving the way for another class of super-elite super-donors.

A strong case can be made that we’ve moved a large part of the way back to where we were in 1971. And what does that mean? The same logic applies: unaccountable people and entities with unknowable resources bringing pretty extraordinary influence in real policy terms. How does it show itself today? Well, why don’t we have, even now, a fully formed financial regulatory system post-2008? Because that process—of developing legislation and, now, implementing the rules—was extraordinarily complicated, in no small part because the parties are intimately involved. Is political behavior affecting that? We can know up to a point but we cannot know everything. We’re also having arguments about fossil fuel—for example, what is the place of
cheap coal and ethanol in America's energy future? They have different objective policy problems related to them. Are they magnified because of the political nature of these decisions? How confident can we be that we know the answer to that?

There is also the issue of corruption of the legislators. They have to depend upon the kindness of strangers, and there's a price to pay for that, in terms of how ambitious they can be, what they can realistically achieve. And there's a cost in terms of how they spend their day, how minimized their utility to govern becomes, because they're sometimes too busy "dialing for dollars" to even read the bills they're voting on.

Democracy—that is, one person, one vote; how policy decisions should get made and how representation works—is diminished. Those goals are harder to reach because the range of participants who can run for office and the range of choices they might make—policy options presented to a legislature—are narrowed by forces other than standard democratic practices.

Why is transparency so essential? So many reasons have been put forth. It's so important because voters cannot consider the source of the message. The Center for Responsive Politics thinks it is important it is important, as the court suggested, for "the electorate to make informed decisions and give proper weight to different speakers and messages." Voters are now being asked to judge political messages for themselves without any information about the messenger or their motives. The only way they can do that is if they know meaningfully where the spending is coming from.

We empower, encourage, goad citizens to exercise their right to vote, but now we tie one hand behind their back, forcing them to interpret election messaging without the benefit of knowing what ulterior motives or hidden benefits may be driving the messenger to air these ads.

Of course, we must never censor information. And more information is good, but only to the degree that it is reliable, not deceptive, and complete, not hiding crucial details.
Many say that the recent elections are proof that the money did not win. But, after a certain threshold level, it’s no longer about which candidate had more money. Obama and Romney both had sufficient resources to wage a successful campaign.

And it’s also not about the bottom line cost.

- It’s about the sources of that money—are they legit? Are they foreign? Who are they?
- It’s about what influence that money buys.
- It’s about protecting our ability to monitor and hold government accountable.
- It’s about the Sword of Damocles hanging over the heads of any legislator who dares step out of line, where even implied threats by outside groups with resources to spend big need to be taken seriously.
- And it’s also the uncertainty of how this system now works, about what it does to the process. The rules and the money have changed the course of how electoral campaigns and even policy battles will be waged—possibly for a very long time.

Of one thing we can be certain, though: we can’t have a system where only chumps follow the rules. That breeds cynicism at a time when we need citizens to engage—and to capitalize on technology that makes it easier than ever to do so.