



BILLION-DOLLAR DEMOCRACY

The Unprecedented
Role of Money in the
2012 Elections

by: **BLAIR BOWIE**, U.S. PIRG Education Fund Democracy Advocate
ADAM LIOZ, Counsel at Dēmos

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EXECUTIVE SUMMARY

The first presidential election since *Citizens United* lived up to its hype, with unprecedented outside spending from new sources making headlines.

Dēmos and Georgia PIRG Education Fund analysis of reports from campaigns, parties, and outside spenders to the Federal Election Commission found that our big money system distorts democracy and creates clear winners and losers:

WEALTHY DONORS OVER AVERAGE CITIZENS

Newly minted Super PACs dominated outside spending reported to the FEC, aggregating huge sums from millionaires and billionaires.

- The top 32 Super PAC donors, giving an average of \$9.9 million each, matched the \$313.0 million that President Obama and Mitt Romney raised from all of their small donors combined—that's at least 3.7 million people giving less than \$200.
- Nearly 60% of Super PAC funding came from just 159 donors contributing at least \$1 million. More than 93% of the money Super PACs raised came in contributions of at least \$10,000—from just 3,318 donors, or the equivalent of 0.0011% of the U.S. population.
- It would take 322,000 average-earning American families giving an equivalent share of their net worth to match the Adelsons' \$91.8 million in Super PAC contributions.
- Super PACs accounted for more than 60% of outside spending reported to the FEC.
- For the 2012 cycle, Super PACs received more than 70% of their funds from individuals, and a significant percentage (12%) from for-profit businesses.

Fundraising for candidate campaigns was also dominated by an elite donor class and special interests.

- Candidates for both House and Senate raised the majority of their funds from gifts of \$1,000 or more; and 40% of all contributions to Senate candidates came from donors giving at least \$2,500, from just 0.02% of the American population.
- In the 2012 election cycle, 83.9% of House candidates and 66.7% of Senate candidates who outspent their general election opponents won their elections.
- Winning House candidates outraised major opponents by 108%, winning Senate candidates by 35%.

SPECIAL INTERESTS OVER THE PUBLIC INTEREST

Super PACs raised a significant portion of their funds from business interests.

- For-profits corporations were the second largest donors to Super PACs accounting for 12% of all contributions.

- Businesses provided a significant portion of the funds for some of the most active super PACs, including 18.0% of Restore Our Future's funds and 52.7% of Freedomworks for America's funds.

Candidates, and especially winning candidates, raised a significant portion of their funds from political action committees (PACs).

- Winners of federal House races raised on average 40% of their funds from PACs versus 19.9% raised by major opponents.
- Winners of Senate races raised on average 15.9% of their funds from PACs versus 8.3% for losers.

INCUMBENTS OVER CHALLENGERS & GRASSROOTS CANDIDATES

- In 2012 95.2% of incumbent senators and 91.2% of incumbent representatives who ran for office won re-election.
- In the 2012 cycle, incumbent representatives outraised major challengers \$1,732,000 to \$319,000, for an incredible 443% advantage. Senate incumbents outraised major challengers \$7.02 million to \$1.69 million, for a slightly smaller 316% advantage.
- Challengers depended upon self-financing for more than 20% of their funds, showing that it's important to be wealthy to run against an incumbent in our big-money system.

SECRET SPENDERS OVER VOTERS SEEKING ACCOUNTABILITY

Non-profit groups, which before 2010 were not allowed to directly spend on elections, spent big while hiding the identity of their donors.

- Of outside spending reported to the FEC, 31% was "secret spending," coming from organizations that are not required to disclose the original sources of their funds.
- Much of the spending by these non-profit groups went unreported as it fell outside a certain window of time before the elections. Further analysis shows that dark money groups accounted 58% of funds spent by outside groups on presidential television ads.

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INTRODUCTION

The first presidential campaign cycle since the Supreme Court's *Citizens United* ruling lived up to its hype, breaking previous records for total spending and exaggerating the undue electoral power of wealthy individuals and special interests to the point of awakening unprecedented public focus on the failings of our campaign finance system.

This report offers a comprehensive analysis of the fundraising and spending in federal races in the 2012 elections. The primary goal is to provide a quantitative analysis to describe tangibly what the vast majority of Americans already understand: political power in America is concentrated in the hands of an elite fraction of the populace—threatening the very concept of government of, by, and for the people.

While thankfully the amount of money raised and spent is not a perfect predictor of victory in our elections, it is undeniably a key to every step of the process of running for office—from deciding whether to put one's hat into the ring to qualifying for the ballot to securing a major party nomination and amplifying a message during a general election campaign. The rising cost of elections makes it increasingly difficult to raise the threshold amount of money necessary to compete at each stage of a campaign. Thus as the cost of elections soars our candidate pool shrinks, cutting off opportunities to serve for average Americans and narrowing the spectrum of views and perspectives offered to the public at the polls.

But, more important than the total amount spent in any election is where all this money comes from. If candidates for federal office were mostly raising money in small contributions from average citizens, and if outside spending groups were organizing these average citizens to give them a louder voice in the political process, the sheer volume of money raised and spent might not present such a troubling problem.

Unfortunately, if unsurprisingly, this is not the case. Spending on modern U.S. elections is dominated by a small minority of special interests and wealthy donors who use their economic clout to amplify their preferred messages and drown out the voices of ordinary citizens in the public square.

The wealthy translate their greater electoral role into increased influence over public policy in two basic ways: by helping elect candidates who share their values, and by limiting the range of acceptable policy positions that candidates may take if they want to remain competitive—effectively shaping the agenda in Washington and state capitals across the country.

This outsized role of wealthy individuals and special interests in U.S. elections is inherently unfair. One can view American history as a long and arduous struggle to fulfill the promise of true political equality. From the Declaration of Independence through the Reconstruction Amendments and the Supreme Court's one-person, one-vote, poll tax, property requirement, and candidate filing fee cases, we've struggled to push past restrictions on participation based upon race, gender, and wealth. The continued disproportionate influence of the wealthy violates the basic principle of political equality and shows we have not yet completed our journey. But the problems with big money dominance go beyond the theoretical. New

“The first third of your campaign is money, money, money. The second third is money, money and press. And the last third is votes, press and money.”

—Then-Representative Rahm Emanuel to campaign staff working to engineer a Democratic takeover of the House of Representatives in 2006.¹

research shows that because the wealthy hold different policy priorities than does the general public, their dominance of elections actually skews public policy. Those who aspire to win or keep public office are caught in a never-ending arms race, forced to spend precious time dialing for dollars, raising more and more money to keep up with both opposing candidates and a potential onslaught of outside spending fueled by any special interest they may have offended by word or deed. And, our analysis shows that incumbents fare quite well in the current big-money system. Meanwhile, non-wealthy Americans, grassroots candidates, and public faith in democracy fare significantly less well.

These problems came into stark relief during the Republican presidential primaries, when huge gifts to Super PACs shifted the dynamics of the entire campaign and Stephen Colbert provided a satirical lesson in modern civics to an outraged cadre of late-night viewers.² But, we didn't get here overnight. Our current problems stem from a lack of Congressional initiative combined with more than 40 years of misguided jurisprudence, which has tied the hands of citizens, advocates, and elected officials.

It doesn't have to be this way. A campaign finance system that empowers average citizens—by providing incentives for small contributions and strictly limiting both contributions to candidates and outside spending, for example—can promote political equality, enable candidates and elected officials to spend more time reaching out to a broad range of constituents, and better align policy outcomes with public preferences. We conclude our analysis by offering concrete policy recommendations to help create a “small donor democracy.”

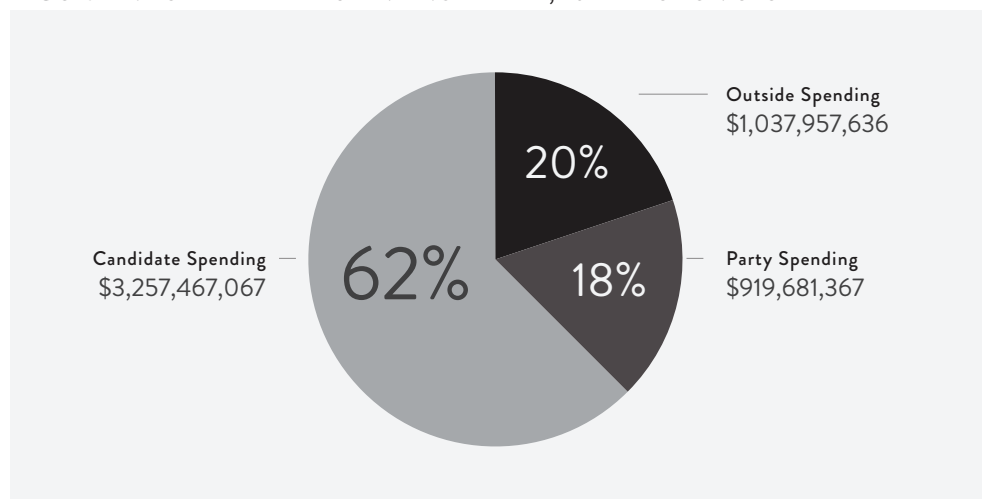
These solutions won't be easy to enact. But, the good news is that the American public is squarely on the side of reform.³ And, thanks to the conspicuously undemocratic role of money in the 2012 elections there is more attention to the problems with our democracy, and energy behind fixing them, now than perhaps at any time since the aftermath of Watergate in the mid-seventies.

Now is the time to finally build a democracy in which the size of a citizen's wallet does not determine the strength of her voice.

TOTAL 2012 CYCLE FEDERAL ELECTION SPENDING

Candidates, parties, and outside groups reported to the Federal Election Commission (FEC) spending a total of \$5.2 billion in the 2012 election cycle (*see Figure 1*). Note that this total does not include spending that is clearly intended to influence a federal election but falls outside of certain windows of time and therefore is not required to be reported to any public agency. It also does not include the many millions of dollars spent on state and local races. Figure 2 shows this spending broken down by branch of government.

FIGURE 1: TOTAL FEDERAL SPENDING BY TYPE, 2012 ELECTION CYCLE



Source: Dēmos and U.S. PIRG Education Fund analysis of FEC and Sunlight Foundation data.

FIGURE 2: TOTAL FEDERAL SPENDING BY OFFICE & TYPE, 2012 ELECTION CYCLE

	CANDIDATE	PARTY	OUTSIDE	TOTAL
House	\$1,149,212,122	\$127,290,719	\$201,195,024	\$1,482,080,735
Senate	\$734,022,256	\$84,082,783	\$265,813,625	\$1,084,004,545
President	\$1,374,232,689	\$708,307,866	\$570,948,988	\$2,653,489,543
TOTAL	\$3,257,467,067	\$919,681,368	\$1,037,957,637	\$5,219,574,823

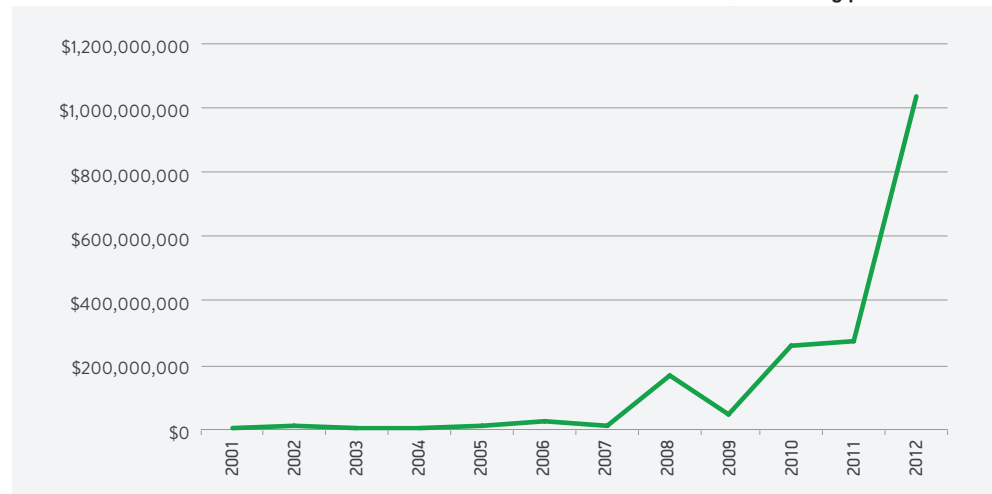
Source: Dēmos and U.S. PIRG Education Fund analysis of FEC and Sunlight Foundation data.

OUTSIDE SPENDING IN THE 2012 CYCLE

TOTAL OUTSIDE SPENDING

We define “outside spending” here as spending intended to influence a federal election that is not conducted by or coordinated with a candidate for federal office or a political party. The increase in total spending on the 2012 elections was driven by a sharp rise in spending by non-candidate, non-party groups. The trend is clear—a gradual increase until the sharp spike post-*Citizens United* (see Figure 3).

FIGURE 3: RISE IN OUTSIDE SPENDING OVER SEVERAL CYCLES, (excluding parties.)

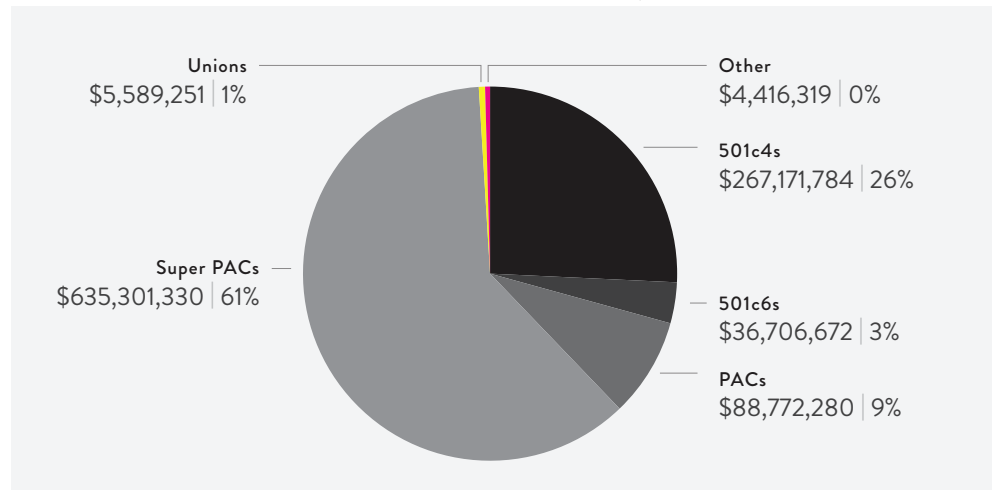


Source: Dēmos and U.S. PIRG Education Fund analysis of FEC and Sunlight Foundation data.

This increase in outside spending this cycle was driven by new forms of spending by Super PACs, 501(c)(4) “social welfare” nonprofits, and 501(c)(6) trade associations. These groups either did not exist (as in the case of Super PACs) or were not permitted to spend directly on elections prior to *Citizens United*.⁴

In Figure 4, we break down outside spending by source. Super PACs, 501(c)(4)s and 501(c)(6)s together account for nearly three-quarters of the outside spending.

FIGURE 4: REPORTED OUTSIDE SPENDING BY SOURCE, 2012 CYCLE



Source: Dēmos and U.S. PIRG Education Fund analysis of FEC and Sunlight Foundation data.

Outside spending received the most national attention during the presidential race—with notable focus on the role of Super PACs in the Republican primaries. First, Restore our Future, a Super PAC supporting Mitt Romney, ran millions of dollars of attack ads against Newt Gingrich in Iowa, opening the door for conservative alternative Rick Santorum.⁵ Then, casino billionaire Sheldon Adelson swept in to offer Mr. Gingrich a critical lifeline—in the form of a \$5 million contribution to Winning Our Future, the Super PAC supporting his candidacy⁶ at a time when his own campaign fund was mired in debt.⁷ The Adelsons would ultimately give more than \$16 million to Winning Our Future,⁸ and although they could not secure a victory for Newt Gingrich, they did fundamentally alter the dynamics of the race, keeping Mr. Gingrich in the contests long after he otherwise would have been able to run, and some would argue weakening Mitt Romney as he headed into the general election.

“in highly competitive House races in which candidates and outside groups spent greater than \$5 million in total, outside spending was greater than candidate spending 66% of the time.”

But, it’s important to remember that outside spending can have an even bigger impact in down-ticket races where a large expenditure by a Super PAC or other group can account for a significant percentage of the total money spent on the campaign. For example, in highly competitive House races in which candidates and outside groups spent greater than \$5 million in total, outside spending was greater than candidate spending 66% of the time. In 36% of similar Senate races outside spending trumped candidate spending.

FIGURE 5: SHARE OF TOP-SPENDING RACES* WHERE OUTSIDE SPENDING > CANDIDATE SPENDING

HOUSE	66%
SENATE	36%

*Total Spending >\$5 million

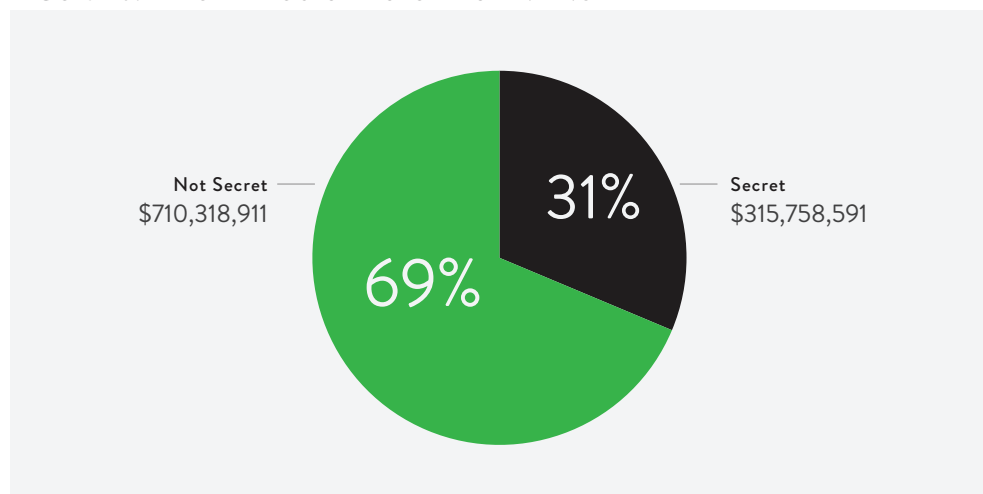
Source: Dēmos and U.S. PIRG Education Fund analysis of FEC and Sunlight Foundation data.

SECRET SPENDING

The outside money flooding our system is coming largely from organizations that may raise unlimited contributions from virtually any source. On top of this, however, certain outside spending groups are not required to disclose the original source of their funds.

For the 2012 election cycle, 31% of all reported outside spending was “secret spending,” coming from organizations that are not required to disclose the original source of their funds (see Figure 6).

FIGURE 6: REPORTED OUTSIDE SECRET SPENDING



Source: Dēmos and U.S. PIRG Education Fund analysis of FEC and Sunlight Foundation data.

These “dark money” groups are primarily 501(c)(4) nonprofits and 501(c)(6) trade associations such as the U.S. Chamber of Commerce—organizations that were not permitted to spend directly on federal elections before *Citizens United*.⁹

In addition, some donors and business interests chose to hide their identities behind for-profit corporations seemingly set up for this exact purpose. In 2012, several large donations to Super PACs, including the single largest business contribution to a Super PAC, came from corporations with no previous reputation or known business activities and which we will likely never hear from again. These “shell corporations” sprung up overnight, their coffers were filled with cash (by unknown donors), and then emptied into Super PACs. The added layers of anonymity did not stop reporters and investigators from uncovering the sources of some of the money, but many donors remain anonymous, and all are listed under names that will mean nothing to the average citizen attempting to follow the money.

A new U.S. PIRG and Center for Media and Democracy report found that donations from entities identified as shell corporations accounted for nearly a fifth of all business contributions to Super PACs in the 2012 election cycle, a total of nearly \$17 million.¹⁰

DOUBLY-SECRET SPENDING

The three components of outside spending are “independent expenditures,” “electioneering communications,” and “issue advocacy” that is in fact intended to influence elections. Unfortunately, current reporting standards are insufficient to describe the full picture.

An “independent expenditure” is defined by the FEC as an expenditure for a communication “expressly advocating the election or defeat of a clearly identified candidate that is not made in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a candidate’s authorized committee, or their agents, or a political party or its agents.”¹¹ An “electioneering communication” is any broadcast, cable or satellite communication that refers to a clearly identified federal candidate; is publicly distributed by a television station, radio station, cable television system or satellite system for a fee; and is distributed within 60 days prior to a general election or 30 days prior to a primary election for federal office.¹² Any entity that conducts either of these two types of spending must report the amount of the spending and the candidate(s) supported or opposed to the FEC with 24 or 48 hours.

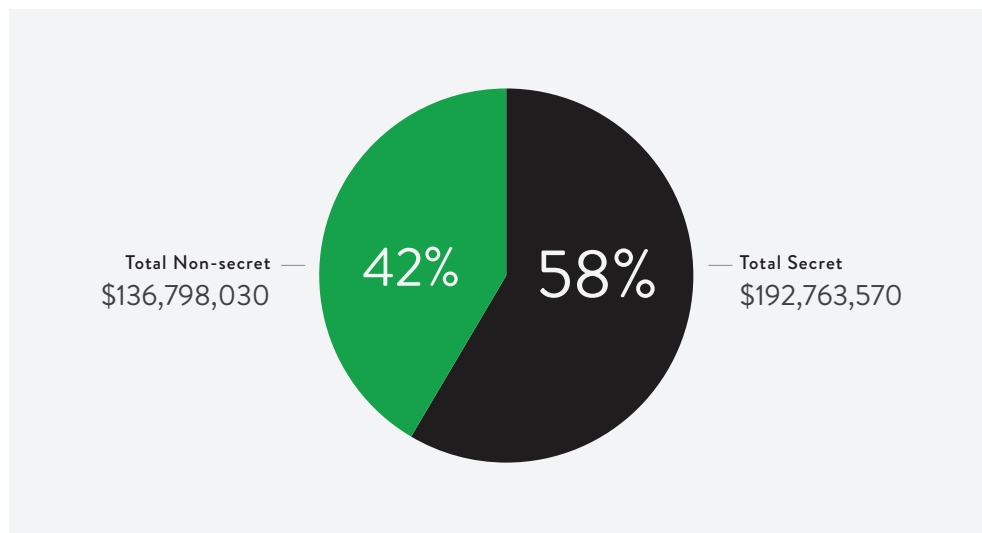
Some groups, however, attempt to influence elections through “issue advocacy.” Some of these communications are as they sound—legitimate efforts to influence elected officials to support or oppose legislation or other pending matters. But, other “issue advocacy” communications are actually thinly veiled efforts to convince voters to support or oppose a particular candidate. An ad that looks exactly the same as an electioneering communication is considered “issue advocacy” if it falls outside of the windows of time described above. This type of sham issue advocacy is not tracked by the FEC or any public agency. While there are some private organizations that track these issue ads, there is no free central public database.

Because of this insufficient reporting, we know that the total dark money we calculated in the previous section underestimates the true total, but it is difficult to know to what extent these groups actually spent on the election.

FLASHES OF LIGHT IN THE DARK MONEY UNIVERSE

One way we may see a more accurate representation of what percentage of the total spending was conducted by dark money groups is by looking at a complete set of television advertisement buys for any given race. For example, while the FEC reports show 31% of all outside money spent on the federal elections was dark money, our analysis of data from the private tracking firm Kantar CMAG (accessed through the Washington Post's "Mad Money" website) shows that dark money groups accounted for 58.5% of all money spent by outside groups on television ad buys in the presidential race (*see Figure 7*).

FIGURE 7: **DARK MONEY ON PRESIDENTIAL TV ADS**



Source: *The Washington Post*, "Mad Money."

This means that for all of the thousands of television ads that Americans saw about the 2012 presidential race that were not sponsored by a candidate or a political party, well more than half the time it was not possible for viewers to determine who financed the communications intended to influence their votes.

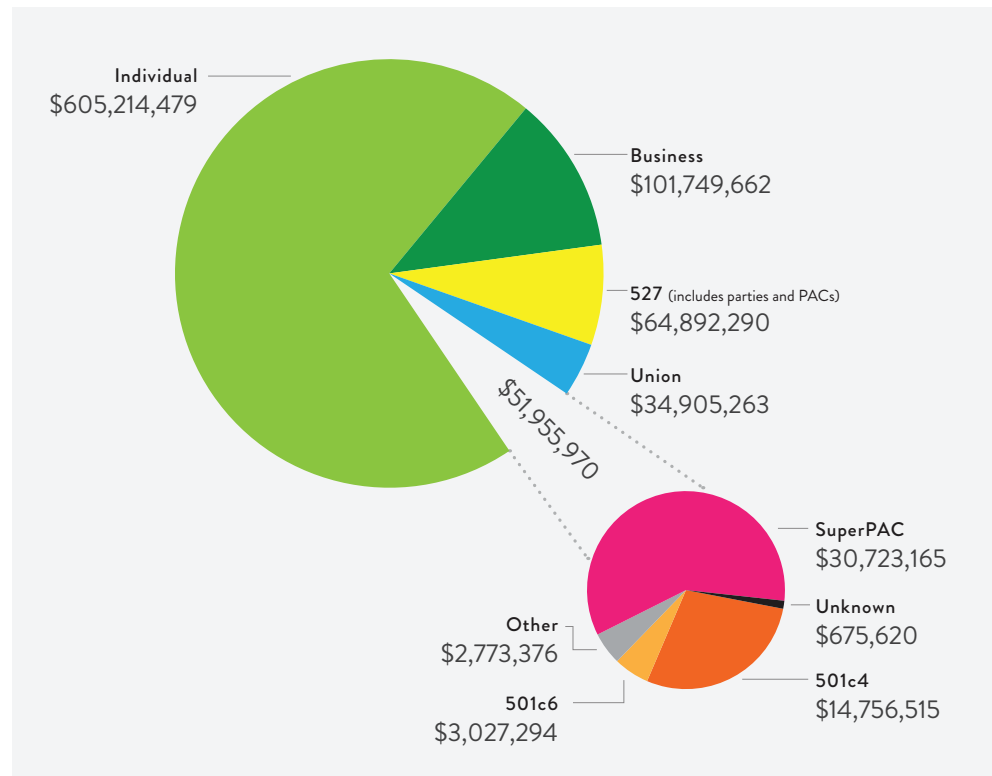
This does not necessarily mean that if we had sufficient reporting standards we would see that dark money groups account for such a large portion of all election spending. However, as television advertising was one of the primary battlegrounds in the presidential race, this percentage may be closer to the truth than what was reported to the FEC.

HOW SUPER PACS FUND THEIR OUTSIDE SPENDING

Unlike other organizations that may spend unlimited funds on federal elections, Super PACs are required to disclose all of their donors. This means that we can analyze exactly where these entities get their funds, except when these funds come from other organizations which are not required to disclose their donors (*see Figure 8*).

For the 2012 cycle, Super PACs received more than 70% of their funds from individuals, and a significant percentage (12%) from for-profit businesses (*see Figure 8*). More than \$48 million was either transferred from other Super PACs in a rudimentary shell game or given by dark money groups.

FIGURE 8: SUPER PAC FUNDRAISING BY SOURCE (2012 CYCLE)



Source: Dēmos and U.S. PIRG Education Fund analysis of FEC and Sunlight Foundation data.

LARGE DONOR DOMINATION

A small wealthy elite has long dominated campaign funding, but Super PACs have made a bad situation much worse. Now, a billionaire who wishes to help a friend, associate, or ideological ally get elected to federal office can contribute an unlimited amount to a Super PAC closely aligned (although not technically coordinated) with her favorite candidate's campaign. In addition the “merely rich” can make their voices heard loud and clear by contributing \$20,000 or \$50,000 for a single election—drowning out the voices of average citizens and ensuring that the candidate or candidates they support have a better chance to win. And, candidates know they need to court these wealthy donors in order to remain competitive, enabling this “donor class” to shape candidates’ agendas and play a critical filtering role.¹³

In 2012, 58.9% of Super PAC funding came from just 159 donors contributing at least \$1 million. More than 93% of the money Super PACs raised came in contributions of at least \$10,000—from just 3,318 donors, or the equivalent of 0.0011% of the U.S. population. See Figure 9 for additional totals.

FIGURE 9: SUPER PAC FUNDING BY LARGE DONORS

DONOR CONTRIBUTING AT LEAST...	\$5,000	\$10,000	\$20,000	\$50,000	\$100,000	\$500,000	\$1,000,000
Number of Donors	4469	3318	2378	1578	1089	304	159
Aggregate Amount Contributed	\$805,786,834	\$799,411,918	\$788,803,873	\$767,172,386	\$738,588,904	\$596,705,372	\$505,425,549
Share of all Individual Contributions	93.8%	93.1%	91.9%	89.3%	86.0%	69.5%	58.9%

Source: Dēmos and U.S. PIRG Education Fund analysis of FEC and Sunlight Foundation data.

In a country of more than 300 million people, nearly all of the money raised by Super PACs came from just a few thousand—less than half the number of people who work at Google’s headquarters in Mountain View, California.¹⁴

In fact, Super PACs provided such a convenient avenue for large donors to dominate the political process that the top 32 Super PAC donors, giving an average of \$9.9 million each, matched the \$313.0 million that President Obama and Mitt Romney raised from all of their small donors combined—that’s at least 3.7 million people giving less than \$200 (see Figure 10).

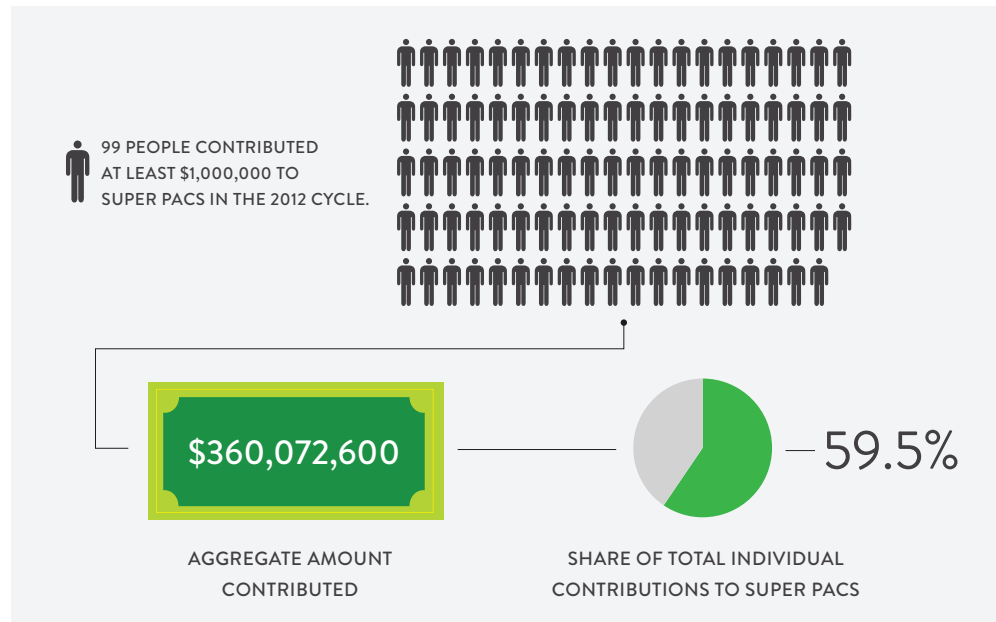
FIGURE 10: **SMALL DONORS MATCHED BY A FEW LARGE CONTRIBUTORS**



Source: Dēmos and U.S. PIRG Education Fund analysis of FEC and Sunlight Foundation data.

In addition, a select group of individual millionaires and billionaires has used Super PACs to exert massive influence over federal elections. For example, 99 people contributed at least \$1 million, accounting for nearly 60% of all the individual contributions to Super PACs (*see Figure 11*).

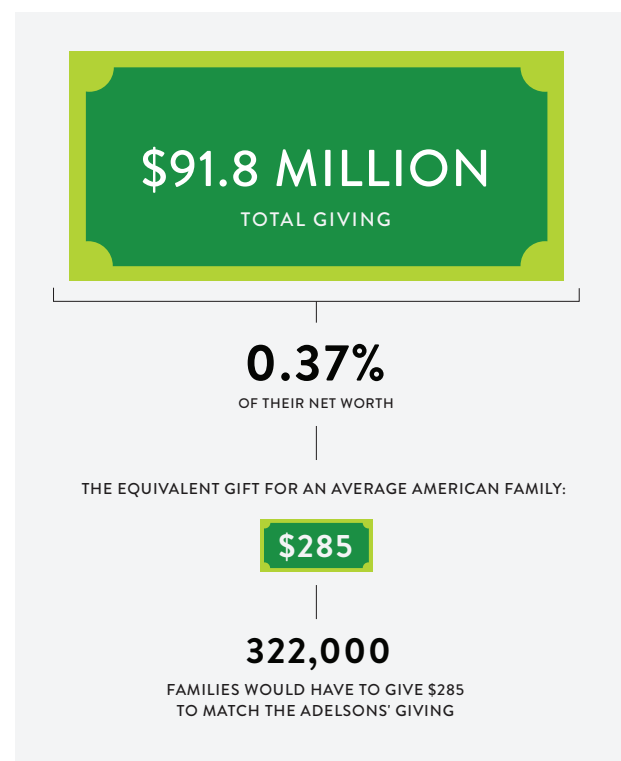
FIGURE 11: THE CLOUT OF THE VERY WEALTHY: THE MILLIONAIRES' CLUB



Source: Dēmos and U.S. PIRG Education Fund analysis of FEC and Sunlight Foundation data.

Sheldon Adelson, the billionaire casino magnate, and his wife Miriam were the two largest donors to Super PACs in the 2012 cycle, giving a combined \$91.8 million. That's a lot of money—but, as *Mother Jones* magazine has pointed out, not to them. The Adelson family has an estimated net worth of \$24.9 billion,¹⁵ which means that \$91.8 million is just 0.37% of their total wealth. That's the equivalent of the average middle class family (with a net worth of \$77,300) spending \$285 on this election. It would take 322,000 average-earning American families giving \$285 to match the Adelson family's giving (*see Figure 12*).

FIGURE 12: ADELSONS' INFLUENCE



Source: Dēmos and U.S. PIRG Education Fund analysis of FEC and Sunlight Foundation data.

BUSINESS CONTRIBUTIONS TO SUPER PACS

Allowing for-profit businesses to spend general treasury funds to influence elections allows those who have generated wealth by making widgets or selling cell phones to translate this economic success directly into amplification of their political voice, and therefore power. This runs afoul of the proper role of money in a capitalist democracy and contrary to basic principles of political equality.

As noted above, for-profit businesses accounted for 12% of contributions to Super PACs. This is a small but significant overall share. Business contributions to Super PACs have actually decreased over time, as businesses have taken advantage of other, less transparent, vehicles for political spending. Due to this lack of transparency, there is no way to tell how much for-profit business money has made it into our federal electoral system overall.

In addition businesses provided a significant percentage of the funds of the most active Super PACs (*see Figure 13*).

FIGURE 13: **BUSINESS-FRIENDLY SUPER PACS: Most Money Raised From For-Profit Businesses**

SUPERPAC	VIEW	TOTAL DONATIONS	DONATIONS FROM BUSINESSES	SHARE OF BUSINESS DONATIONS
Restore Our Future, Inc.	C	\$169,143,666	\$30,478,545	18.0%
American Crossroads	C	\$117,466,728	\$15,144,085	12.9%
Freedomworks for America	C	\$23,499,983	\$12,392,830	52.7%
Workers' Voice	L	\$20,814,653	\$4,880,104	23.4%
Majority Pac	L	\$42,101,325	\$4,321,546	10.3%

Source: Dēmos and U.S. PIRG Education Fund analysis of FEC and Sunlight Foundation data.

DARK MONEY IN SUPER PACS

In addition to spending directly on elections, non-profit corporations under the post-*Citizens United* rules are also allowed to contribute to Super PACs. While most dark money in the election was spent directly by non-profits, nearly \$18 million was funneled into Super PACs. The benefit of doing this for a donor may be an additional layer of secrecy, which further shields their true intentions and identity from the public.

Another source of dark money in super PACs is shell corporations, for-profit entities that appear to have been set up for the sole purpose of hiding the identity of a donor. A recent U.S. PIRG and Center for Media and Democracy report found that at least 17% of all business money in Super PACs, a total of nearly \$17 million, passed through a shell corporation and was thus not traceable to a legitimate original source.¹⁶

CANDIDATE ACTIVITY IN THE 2012 CYCLE

CANDIDATE SPENDING

Although the role of outside spending was clearly one of the big political stories of 2012, candidates for federal office were still responsible for more than 60% of the money spent (and reported to the FEC) over the entire election cycle—a total of nearly \$3.3 billion. *For a breakdown of candidate spending by party and branch of government, see Figure 14.*

FIGURE 14: **FEDERAL CANDIDATE SPENDING by Party and Branch of Government**

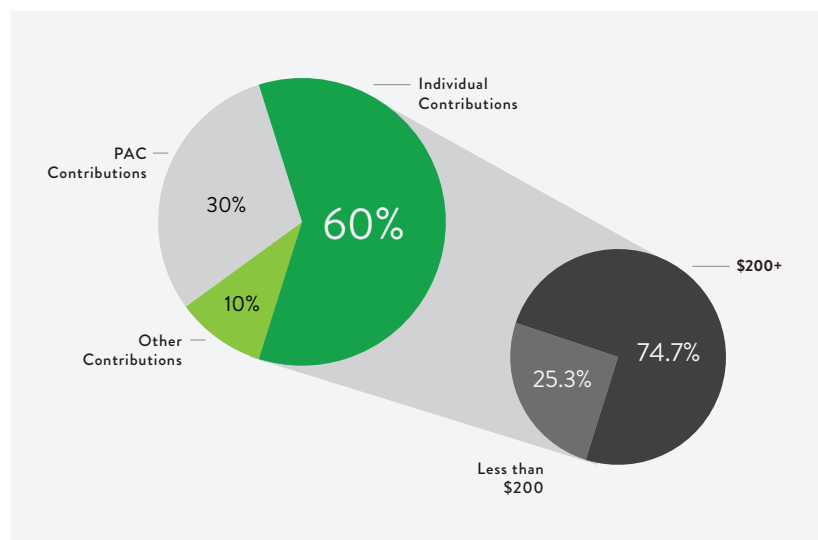
	DEMOCRATS	REPUBLICANS	INDEPENDENTS	TOTAL
HOUSE	\$516,125,801	\$612,809,765	\$20,276,556	\$1,149,212,122
<i># of candidates</i>	772	850	130	1752
SENATE	\$321,785,552	\$398,036,259	\$14,200,445	\$734,022,256
<i># of candidates</i>	85	153	35	273
PRESIDENT	\$736,284,590	\$632,248,976	\$5,699,123	\$1,374,232,689
<i># of candidates</i>	13	42	61	116
TOTAL SPENDING	\$1,574,195,943	\$1,643,095,000	\$40,176,124	\$3,257,467,067.

Source: Dēmos and U.S. PIRG Education Fund analysis of FEC data.

CANDIDATE FUNDRAISING

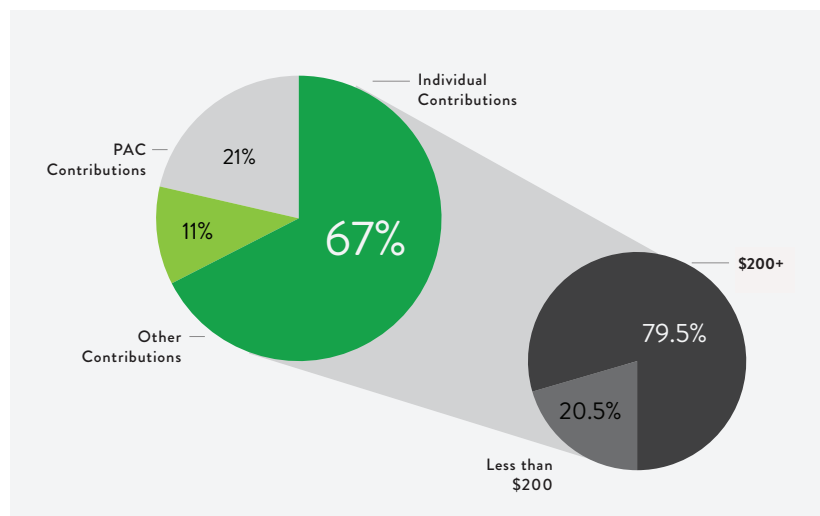
The predominance of candidate spending makes it critical to investigate exactly where candidates get their money. Candidate funding is limited and disclosed, so this realm of our campaign finance system is free from the worst excesses of unlimited, secret outside money. Like Super PACs, candidates for both House and Senate raised the majority of their funds from individuals (see Figures 15 & 16).

FIGURE 15: **HOUSE CANDIDATE FUNDRAISING**



Source: Dēmos and U.S. PIRG Education Fund analysis of FEC data.

FIGURE 16: SENATE CANDIDATE FUNDRAISING



Source: Dēmos and U.S. PIRG Education Fund analysis of FEC data.

But, unfortunately, the limited nature of candidate fundraising does not mean that it is significantly more democratic. Candidates have long raised the majority of their funds from a small minority of wealthy donors giving \$1,000 or more in contributions. For example, in 2002, congressional candidates raised 55.5% of their individual funds in contributions of at least \$1,000 (the per-election legal limit at the time)—from just 0.09% of the U.S. population.¹⁷ Even President Obama’s 2008 campaign, which featured unprecedented mobilization of small donors, raised just over one quarter of its funds from those giving less than \$200 and nearly half its money from donors contributing at least \$1000.¹⁸

The 2012 election cycle was no exception. Candidates for both House and Senate raised the majority of their funds from gifts of \$1,000 or more; and 40% of all contributions to Senate candidates came from donors who gave at least \$2,500, the contribution limit for a single election,¹⁹ from just 0.02% of the American population (see Figure 17).

FIGURE 17: LARGE DONOR DOMINANCE OF CONGRESSIONAL FUNDRAISING

	Total Individual Donations	Less than \$200	\$200+	\$1,000+	\$2,500+
HOUSE					
TOTAL	\$720,383,765	\$181,974,119	\$538,409,646	\$396,983,972	\$233,321,097
Share	59.7%	25.3%	74.7%	55.1%	32.4%
Number of Donors	N/A	N/A	455,098	183,654	68,308
Percent of Population	N/A	N/A	0.14%	0.06%	0.02%
SENATE					
TOTAL	\$492,193,358	\$100,854,528	\$391,338,830	\$396,983,972	\$233,321,097
Share	67%	20.5%	79.5%	63.8%	40.0%
Number of Donors	N/A	N/A	280,661	133,299	52,308
Percent of Population	N/A	N/A	0.09%	0.04%	0.02%

Source: Dēmos and U.S. PIRG Education Fund analysis of FEC data.

Fundraising for the presidential race was slightly more democratic, as we would expect given the high profile of the race, but not significantly so. According to the Center for Responsive Politics, the two major party candidates raised 27% of their funds from contributions of less than \$200.²⁰

HOW OUR BIG MONEY SYSTEM DISTORTS DEMOCRACY

“democracy must write the rules for capitalism, not the other way around”

In the previous pages we’ve demonstrated how wealthy donors are responsible for a vastly disproportionate percentage of the funds that fuel federal elections. In this section, we explore why this matters. We discuss the proper role of money in a capitalist democracy; detail exactly how large donations translate into outsized influence over policy; examine who benefits from our big-money system and whom it hurts; and discuss why citizens and proponents of representative democracy should remain concerned, even after an election in which the dollar was not always almighty.

A central theme of this report has been that a small number of large donors are giving funds way out of proportion to their numbers. A fair question is, so what? If a small number of individuals and institutions want to take on the burden of funding our (very expensive) elections, perhaps they are doing us all a favor, saving us the trouble. The answer, of course, is that these donors are not being purely altruistic—they are getting something for their checks, and that “something” is disproportionate influence that skews public policy, influence that violates the core democratic value of political equality embodied in principle of one person, one vote.

THE ROLE OF MONEY IN A CAPITALIST DEMOCRACY

We live in a representative democracy with a capitalist economy. This means that we hold different values dear in the economic and political spheres.

In the economic sphere, most Americans will tolerate some inequality (and many will tolerate quite a bit), so long as it results from meritocratic competition, because we respect that other values such as efficiency and proper incentives have a role to play in structuring our economy. One’s political ideology to a certain extent determines how much inequality one is willing to sanction in the name of other values—with self-identified conservatives generally comfortable with a wider income gap than self-identified liberals or progressives. Few argue that everyone should receive the same income regardless of effort, talent, or other factors.

In the political sphere, on the other hand, equality is a core American value. Regardless of partisan or ideological affiliation, the vast majority of Americans agree that it is critical that we all come to the political table as equals and have an approximately equal say over the decisions that affect our lives. Through multiple amendments and Supreme Court decisions, the concept of political equality (“one person, one vote”) has become a core constitutional principle.

But, we cannot maintain a democracy of equal citizens in the face of significant (and rising) economic inequality if we allow those who are successful, or even just lucky, in the economic sphere to translate wealth directly into political power. Our democratic public sphere is where we set the terms for economic competition. It is where we decide—as equals—how much inequality, redistribution, regulation, pollution we will tolerate. These choices gain legitimacy from the fact that we all had the opportunity to have our say. Allowing the already-powerful to rig the rules in favor of their own success undermines the legitimacy of the economic relations in society.

In short, democracy must write the rules for capitalism, not the other way around. And, the only way to ensure this happens is to have some mechanism for prevent-

ing wealthy individuals and institutions from translating their wealth into political power. Common sense restrictions on the unfettered use of private wealth for public influence are the bulwarks or firewalls that enable us to maintain our democratic values and a capitalist economy simultaneously. Without these protections, we risk creating a society in which private wealth and public power are one and the same—which looks more like plutocracy than democracy.

LARGE DONORS USE POLITICAL CONTRIBUTIONS TO DOMINATE PUBLIC POLICY

Unfortunately we currently lack the key protections we need to prevent private wealth from becoming public power. Through our current campaign finance system, wealthy individuals and special interests are able to translate their policy preferences—which differ from average citizens—into public policy.

The Donor Class Holds Different Policy Preferences

We have long known that large campaign contributors are different than average Americans in important ways. First, they are more likely to be wealthy, white, and male. According to a nationwide survey funded by the Joyce Foundation during the 1996 congressional elections, 81% of those who gave contributions of at least \$200 reported annual family incomes greater than \$100,000.²¹ This stood in stark contrast to the general population at the time, where only 4.6% declared an income of more than \$100,000 on their tax returns.²² Ninety-five percent of contributors surveyed were white and 80% were men.²³

Recent Sunlight Foundation research confirms that ultra-elite donors who give \$10,000 or more—“The One Percent of the One Percent”—are quite different than their fellow citizens. In the 2010 election cycle, these 26,783 individuals were responsible for nearly a quarter of all funds contributed to politicians, parties, PACs, and independent expenditure groups.²⁴ Nearly 55% of these donors were affiliated with corporations and nearly 16% were lawyers or lobbyists.²⁵ More than 32% of them lived in New York City, Los Angeles, Chicago, San Francisco, or Washington, DC.²⁶

And now a growing body of research shows that wealthy Americans have different opinions and priorities than the rest of the nation. Investigators for the Joyce study cited above found that large donors are significantly more conservative than the general public on economic matters, tending to favor tax cuts over anti-poverty spending.²⁷

A recent report by the Russell Sage Foundation confirms this finding. The authors surveyed “a small but representative sample of wealthy Chicago-area households.”²⁸ They found meaningful distinctions between the wealthy respondents they surveyed and the general public on key economic issues.

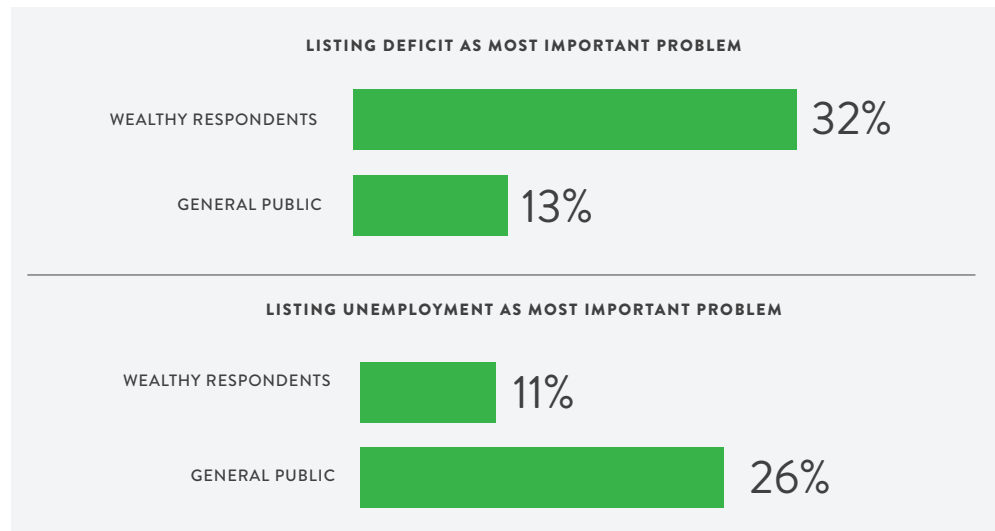
For example, wealthy respondents “often tend to think in terms of ‘getting government out of the way’ and relying on free markets or private philanthropy to produce good outcomes.”²⁹ In spite of majority public support for raising taxes on millionaires, among respondents, “[t]here was little sentiment for substantial tax increases on the wealthy or anyone else.”³⁰ And, in spite of recent scandals on Wall Street, “more than two thirds of [survey] respondents said that the federal government ‘has gone too far in regulating business and the free enterprise system.’”³¹

A follow up report finds even more evidence of divided preferences on economic issues. For example, more than twice the percentage of the general public than the

wealthy believe that “the government should provide a decent standard of living for the unemployed;” and more than three times the percentage of the general public than the wealthy believe that “the government in Washington ought to see to it that everyone who wants to work can find a job.”³²

Given the current conversation in Washington, perhaps the most significant discrepancy between the policy preferences of the wealthy and other Americans is the relative priority each puts on reducing deficits and creating jobs (see Figure 18). Significantly more wealthy respondents than average Americans listed deficits as the most important problem facing our country. Among those who did, “none at all referred only to raising revenue. Two thirds (65%) mentioned only cutting spending.”³³

FIGURE 18: **WEALTHY INDIVIDUALS HAVE DIFFERENT PRIORITIES THAN AVERAGE-EARNING AMERICANS**



Source: General public numbers from Gallup average of January to May 2011:
<http://www.gallup.com/poll/148001/subgroups-say-economy-jobs-important-problem.aspx>

“under most circumstances, the preferences of the vast majority of Americans appear to have essentially no impact on which policies the government does or doesn’t adopt.”

The Wealthy Wield Disproportionate Influence

It is not surprising that the wealthy have different policy priorities—after all, top-earners do not live or work like most other citizens. It’s also unsurprising that these elites have more influence over public policy than average-earning citizens—as they likely do in many aspects of life, probably since the beginning of private wealth. But, a growing body of relatively new research has shown how shockingly disproportionate this influence truly is.

In an important new book called *Affluence and Influence*, Princeton political scientist Martin Gilens explores what he terms the “preference/policy link,” and examines the varying degree of political influence of Americans at different points on the economic spectrum.³⁴ Studying decades of public opinion surveys and measuring them against actual policy outcomes, Professor Gilens concludes that “[t]he American government does respond to the public’s preferences, but that responsiveness is strongly tilted toward the most affluent citizens.”³⁵ In considering whether this could be because higher-income Americans are more educated and hence more informed on issues, Gilens notes that “[c]learly both income and education matter in determining the strength of the preference/policy link. But equally clearly, income is the more important determinant of how strong the link is.”³⁶

The flip side to the disproportionate influence of the wealthy is the truly disturbing political impotence of the rest of American society. Gilens writes that “under most

circumstances, the preferences of the vast majority of Americans appear to have essentially no impact on which policies the government does or doesn't adopt."³⁷ "The complete lack of government responsiveness to the preferences of the poor," he notes, "is disturbing and seems consistent only with the most cynical views of American politics."³⁸ But, this is not just about the powerlessness of the poor. Gilens points out that "median-income Americans fare no better than the poor when their policy preferences diverge from those of the well-off."³⁹

Further, just as wealthy individuals' policy preferences diverge most sharply from other Americans around economic issues, this is where their differential influence is at its peak. Gilens finds that "the starkest difference in responsiveness to the affluent and the middle class occurs on economic policy, a consequence of high-income Americans' stronger opposition to taxes and corporate regulation..."⁴⁰

Gilens findings are hardly idiosyncratic. In a 2008 book called *Unequal Democracy*, economist Larry Bartels found that "the preferences of people in the bottom third of the income distribution have no apparent impact on the behavior of their elected officials."⁴¹ These studies confirm through rigorous empirical research what many Americans perceive intuitively: a narrow wealthy elite drives political decision-making in America, and most of the rest of us are left on the sidelines.

How Large Donations Translate to Policy Influence

So, the wealthy have more influence. Why? After studying the issue, Gilens concludes that our system of funding elections is a significant source of this inequality of influence, noting that "political donations, but not voting or volunteering, resembles the pattern of representational inequality"⁴² that his book has identified and that "any effort to strengthen the influence of less-affluent Americans over federal policy must address the highly skewed sources of individual campaign donations."⁴³

There are two primary ways that large donors are able to wield influence. First, donors help candidates who share their views win election, and hence assume positions of power. Helping to elect likeminded candidates is the most basic way that citizens of all types attempt to influence policy. This is the motivation for the vast majority of the millions of Americans who make political contributions, large and small, each election cycle. Making donations for this reason is similar to exercising one's right to vote—except of course that while every eligible citizen can in theory exert an equal political voice through the franchise, not everyone has an equal ability to contribute money.

Money does not guarantee victory, but all else equal, it improves a candidate's prospects. It is nearly impossible for a candidate to run a competitive race without raising a threshold amount of money. And, although there are diminishing returns, more is likely better. If nothing else, the constant fundraising arms races shows that those with the most at stake in the game—candidates and their staff and political consultants—believe money to be a key factor critical to success. And, as long as key players believe money to be important, it is—if for no other reason than that this belief shapes their behavior.⁴⁴

In the 2012 election cycle, winning House candidates raised an average of \$1,613,000 versus \$774,000 for significant opponents—a 108% fundraising edge. Winning Senate candidates raised an average of \$10.4 million versus \$7.7 million for significant opponents, a more modest 35% fundraising advantage (See Figure 19).

In the 2012 election cycle, 83.9% of House candidates and 66.7% of Senate candidates who outspent their general election opponents won their elections. When

outside spending is factored in, 79.3% of the House candidates and 54.6% of the Senate candidates with a total spending edge won their races.

FIGURE 19: MEAN FUNDS RAISED AND BREAKDOWN OF FUNDRAISING, WINNERS VERSUS LOSERS

		Average Total Fundraising	% from Individuals	% from PACs	% from Party Committees	% from Candidate Self-Financing	% from Candidate Self-Lending
HOUSE	Winners	\$1,612,927	52.6%	40.0%	0.2%	1.4%	2.2%
	Losers	\$774,383	66.0%	19.9%	0.4%	3.9%	7.3%
SENATE	Winners	\$10,431,974	77.7%	15.9%	0.2%	0.0%	1.9%
	Losers	\$7,741,389	56.0%	8.3%	0.3%	0.4%	30.7%

Source: Dēmos and U.S. PIRG Education Fund analysis of FEC data.

The picture is somewhat more complex when we look just at close races (defined as those within a ten point margin). In these races, 63.6% of House candidates and 50.0% of Senate candidates who outspent their opponents won their races. Including outside spending, 48.2% of House candidates and 18.8% of Senate candidates with a total spending edge won their races.

There are a few things to say about these numbers. First, the candidate figures are on the low side historically. According to the Center for Responsive Politics in 2010 85% of the biggest spenders won House races and 83% won Senate races; in 2008 93% won House races and 86% won Senate races; in 2006 94% win House races and 73% won Senate races; and in 2004 98% won House races and 88% won Senate races.⁴⁵ This means that the average between 2004 and 2012 was 91% for the House and 79% for the Senate.

Next, there is clearly some correlation rather than causation here. Candidates who will surely win can more easily attract contributions for lots of reasons, and incumbents (who nearly always win) also tend to raise much more than challengers (more on this below).

In addition, even when total fundraising or spending does not determine the eventual winner of a given race, it almost certainly played a key role in deciding who ran for office in the first place. When aspiring office holders are sitting in quiet living rooms deciding whether to put their hats in to the ring—long before the first voter goes to the polls—the first question they must ask themselves is “How much money can I raise, and where will I get it?” Many qualified potential public servants without extensive networks of large donors lose primaries, drop out of races, or decide not to run in the first place because of the central role of fundraising from large donors in modern elections.⁴⁶

Finally, the figures suggest that outside spending is not as closely correlated with victory as is candidate fundraising. There may be several reasons for this, but one is likely that much outside spending tends to be concentrated in highly competitive races where there is already a high level of spending and hence each additional dollar spent has declining marginal utility. Another reason may be that the ways candidates spend their money may be more critical to campaign success than the ways outside groups spend. Building a quality staff and a significant donor and volunteer base may be more helpful in the end than another television or radio ad.

Clearly, large donors are not always able to elect their favored candidates by providing a fundraising edge. This, however, does not mean that they wield no power in these instances. The second major way that large donors can influence policy is by helping to set the agenda in Washington by determining the set of acceptable

“affluent contributors...serve as a political filter mechanism; without the support of a sufficient core of well-off contributors, a prospective candidate has little chance of mounting a competitive campaign.”

positions that candidates must take in order to become or remain viable contenders for public office. Simply put, successful candidates “know where their bread is buttered” and know that taking certain policy positions can turn on or off the spigot of money flowing into their campaigns—from either special interest PACs or wealthy individuals. This is because, as Gilens notes, “affluent contributors...serve as a political filter mechanism; without the support of a sufficient core of well-off contributors, a prospective candidate has little chance of mounting a competitive campaign.”⁴⁷

One piece of evidence for this contention is that even losing general election candidates had to raise a significant amount of money to even get to that stage and play the game—\$7.7 million for Senate losing candidates and \$774,000 for House losing candidates. They, too, are raising the majority of this money from a narrow slice of wealthy donors.

WHO BENEFITS FROM THE BIG-MONEY SYSTEM: WINNERS AND LOSERS

Our current system for financing federal election campaigns isn’t just unfair and skewed towards the wealthy—it also creates a clear set of winners and losers.

Wealthy Donors Versus Average Citizens

The most obvious beneficiaries of the current system are the large individual donors who are able to set the policy agenda in Washington. As described extensively in *Affluence and Influence*, these large donors have tremendously disproportionate influence on public policy. Wealthy individuals often give for a mix of self-interested economics and ideological reasons. Sometimes their influence benefits them materially through paying lower taxes or facing fewer regulations on their business activities. Other times they simply enjoy the benefit of living in a country that looks more like they hope it will than it does for their fellow citizens.

The flip side, of course, is that average-earning citizens are largely bystanders in our political process. As Gilens demonstrates, in spite of the right to vote, measured through the preference/policy link non-wealthy Americans have essentially no influence on public policy in the United States.

Special Interests Versus the Public Interest

Special interests are corporations or other institutions that have a financial stake in federal policy. They make contributions or expenditures primarily to improve their bottom lines.

For-profit businesses should not be permitted to spend treasury funds to influence elections. First, most businesses are constrained to participate only to maximize private profit rather than out of regard for the public good. If we want our government to reasonably weigh all the values implicated by any given policy—such as public health, economic effect, environmental impact, safety, and individual privacy—we should not give entities which are legally obligated to maximize their own profit the power to unleash significant resources to affect elections and hence policy.

More important, this spending undermines political equality by allowing those who have achieved success in the economic sphere to translate this success directly into the political sphere.

Corporations are prohibited from contributing directly to candidates at the federal level, but the post-*Citizens United* system leaves plenty of avenues for for-profit businesses to exert influence.

First, employees and shareholders may give to candidates in the corporation's name through Political Action Committees (PACs). As Figure 19 above demonstrates, candidates (and especially winning candidates, who are often incumbents), raise a significant amount of their funds from PACs.

There is nothing inherently wrong with PACs. They are simply a tool for organizing people to collectively pursue their interests or policy preferences. The problem with current federal PACs is that, with a contribution limit of \$5,000, they serve primarily as a tool for aggregating the political power of wealthy individuals, many of whom are associated with for-profit corporations or other special interests.

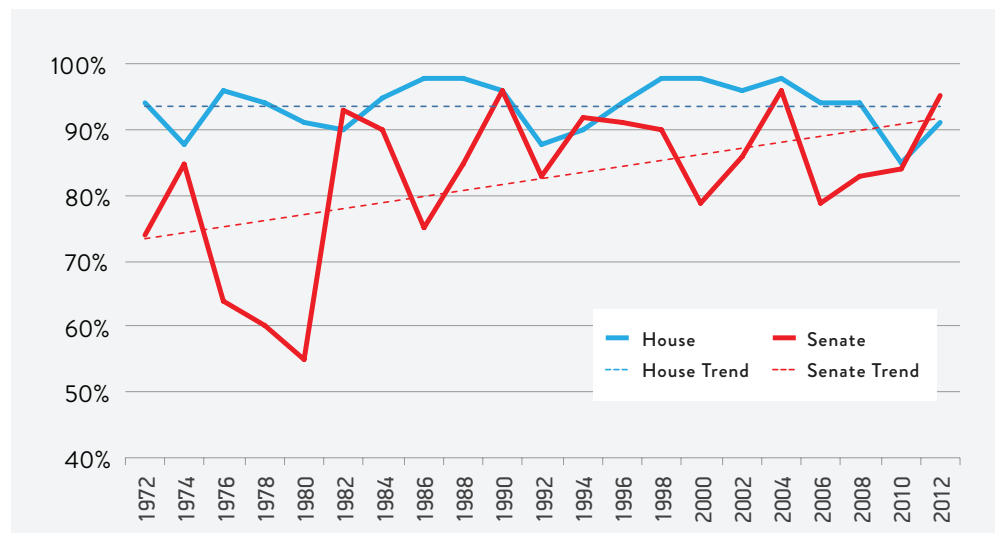
After *Citizens United*, in addition to using traditional PACs, corporations are now permitted to spend directly on political campaigns, contribute to Super PACs, or give to 501(c)(4) nonprofits or trade associations which may spend their money to influence federal elections without revealing the source of the contribution.

The bottom line is that our current system provides plenty of opportunities for special interests to pursue their narrow, profit-driven policy preferences at the expense of the greater good for the vast majority of Americans.

Incumbents Versus Challengers & Grassroots Candidates

Another group that benefits from our big money system is incumbents. In 2012 95.2% of incumbent U.S. senators and 91.2% of incumbent U.S. representatives who ran for office won re-election. This continues a longstanding trend of incumbent success under permissive campaign finance regimes (see Figure 20).

FIGURE 20: INCUMBENT REELECTION RATES OVER TIME



Source: Dēmos and U.S. PIRG Education Fund analysis of FEC and Center for Responsive Politics data.

Those seeking to loosen restrictions on money in politics often argue that more money helps challengers and strict campaign finance laws operate as “incumbent protection” measures.⁴⁸ This line of argument has some initial intuitive appeal. Challengers tend to have lower name recognition and, the argument goes, experience more marginal benefit from money spent to get their message out. The Supreme Court has even cited this argument when striking contributions limits in Vermont set at levels that average Vermonters can afford give.⁴⁹

But academic research and recent experience show that this argument does not

hold up to the facts on the ground. The reality is that incumbents simply have much more access to big money donors and tend to raise so much more money than challengers that any theoretical advantage to challengers is swamped by this differential.

In the 2012 cycle, for example, incumbent representatives outraised major challengers \$1,732,000 to \$319,000, for an incredible 443% advantage. Senate incumbents outraised major challengers \$7.02 million to \$1.69 million, for a slightly smaller 316% advantage (see Figure 21).

FIGURE 21: MEAN FUNDS RAISED AND BREAKDOWN OF FUNDRAISING, INCUMBENTS VERSUS MAJOR CHALLENGERS

		Average Total Fundraising	% from Individuals	% from PACs	% from Party Committees	% from Candidate Self-Financing	% from Candidate Self-Lending
HOUSE	Incumbents	\$1,732,084	54.9%	39.5%	0.2%	0.6%	0.6%
	Challengers	\$318,862	62.4%	12.8%	0.4%	5.5%	17.0%
SENATE	Incumbents	\$7,024,473	72.1%	19.7%	0.2%	0.1%	2.2%
	Challengers	\$1,689,546	69.0%	6.7%	0.2%	4.1%	16.6%

Source: Dēmos and U.S. PIRG Education Fund analysis of FEC data.

Also of note is that in our current system challenging an incumbent often requires an aspiring officeholder to be personally wealthy. As Figure 21 shows, both House and Senate challengers depended upon self-financing (both contributions and loans) for more than 20% of their funds.

Thomas Stratmann of George Mason University has looked into the relationship between contribution limits and competitiveness and found that stricter limits on big money contributions help challengers rather than harm their campaigns.⁵⁰

Further, the last several federal election cycles have featured significant changes in campaign finance law and hence provided a helpful window into the question of how challengers and incumbents fare in different regimes. In 2002, Congress banned large soft money contributions and increased the hard money contribution limit from \$1,000 per election (\$2,000 per cycle) to \$2,000 per election indexed for inflation (the limit is now \$2,500).⁵¹ Then, in 2010 the courts expanded corporations' and unions' ability to spend unlimited sums directly on federal elections in *Citizens United* and related cases.⁵² Incumbents, however, have fared about equally well under all of these big-money regimes. As Figure 20 shows, challengers have not seen increased election rates post-*Citizens United*, and if anything Senate incumbents have had more success.

A system that provides incumbents with an easy and nearly universal path to reelection is problematic because it reduces the competition that fosters accountability to constituents. This factor is particularly consequential for non-wealthy Americans since the prospect of needing and earning their votes is the only leverage they have over their elected representatives. Martin Gilens, in fact, documents that the only time that middle and lower income Americans have any influence whatsoever over policy outcomes is in competitive electoral environments.⁵³ So, a system that benefits incumbents is not just bad in the abstract; it actually diminishes equality of representation and responsiveness.

Secret Spenders Versus Voters Seeking Accountability

In the otherwise controversial arena of campaign finance, there has been a near-consensus across the political and ideological spectrum regarding the benefits of robust disclosure of the sources and amounts of campaign funds. The Supreme Court lauded these benefits in the *Citizens United* decision.⁵⁴

But, ironically, *Citizens United* compromised the very transparency it extolled. In opening the door for corporations to spend directly on elections the ruling allowed organizations which are not required to disclose the source of their donors to funnel anonymous cash into federal elections.

These so-called dark money non-profits are sometimes legitimate, long-standing advocacy organizations with public reputations that allow citizens to understand the motivations of the donors (for example, the agendas of the League of Conservation Voters and the National Rifle Association are well known) and thus better understand the values of the candidate supported by those funds. However, spending by so-called social welfare organizations that appear to have been set up for the sole purpose of electioneering became a common phenomenon in the 2012 election.

Other non-profits became vessels for corporations to spend freely on the elections while hiding the usage of treasury funds for political purposes from shareholders and consumers. The U.S. Chamber of Commerce, which is primarily funded by a handful of unknown multi-national corporations, emerged as one of the largest dark money spenders in several key Senate and House races in 2012.⁵⁵

This secrecy insulates big spenders from accountability and denies voters both critical information to make informed choices and a holistic picture of just how distorted the system is. For more on the shell corporations and straw non-profits that spent funds to influence federal elections in 2012, see the *Elections Confidential* report from the Center for Media and Democracy and the U.S. PIRG Education Fund.

Faith in Democracy

There is one final loser in our big-money system, and that is faith in democracy. Recent polling has revealed a strong consensus among Americans across the political spectrum that there is too much corporate money in politics; the secret flow of corporate political spending is bad for democracy; corporate political spending drowns out the voices of average Americans; and corporations and corporate CEOs have too much political power and influence.⁵⁶ And, more than 80% of Americans worry that special interests are able to buy elections.⁵⁷

Democracy works best when members of the general public have the warranted view that they are engaged in the common project of self-governance. It suffers when ordinary citizens doubt their own influence over the decisions that affect their lives.

CONCLUSION

Our analysis has demonstrated that a small number of wealthy donors—contributing at levels far beyond what the average American can afford—are responsible for the vast majority of money in federal campaigns, counting both outside spending and candidate fundraising.

This big-money system presents a fundamental challenge to basic notions of political equality. Wealthy donors have different policy preferences than the general public and significantly more influence on policy outcomes than average-earning citizens. The affluent exert this influence both by helping to elect candidates who support their views (as opposed to the views of the general public) and by creating incentives for elected officials to take positions and legislative action that pleases, or at least does not alienate, them. At the end of the day, policy outcomes are significantly more responsive to the preferences and priorities of the wealthy than to those lower down the economic ladder. After studying this extensively, Princeton political scientist Martin Gilens concludes that “[t]he concentration of political influence among Americans at the top of the income distribution is incompatible with the core democratic principle of political equality”⁵⁸ and that “the patterns of responsiveness [he has uncovered] often correspond more closely to a plutocracy than to a democracy.”⁵⁹

Some have suggested that our permissive campaign finance system is not a big problem after the 2012 election cycle in which spending more money did not always translate into winning, specifically in several high-profile races. But, this analysis is shortsighted for several key reasons.

First, historically speaking, the candidates who raise and spend the most money still win the vast majority of the time. And, even when money does not determine the ultimate victor, it plays a huge role in determining who runs for office in the first place.⁶⁰ When candidates are deciding whether to throw their hats into the ring, the first question they must ask themselves is “How much money can I raise, and where will I get it.” When parties are recruiting candidates, the first question is, “can this person raise money, or does (s)he already have a large personal bank account from which to draw?”

Next, when both winning and losing candidates are raising hundreds of thousands or even millions of dollars, both need to appeal to the same class of wealthy donors. This means that this narrow set of wealthy individuals and institutions gets to set the agenda in Washington by filtering the acceptable set of positions these candidates can take. There is no better example than the current debate in Washington about debt and deficits, when the majority of Americans care much more about getting their friends and neighbors back to work.

Money will continue to matter as long as candidates believe that it matters and act accordingly—by spending an excessive amount of their time courting large donors rather than reaching out to a broad swath of their constituents. We’ve already seen news reports of 2016 presidential candidates making pilgrimages to meet with key donors to lock up their support.⁶¹

Also, big outside spenders can have a better track record in down-ballot races where a significant expenditure can make a larger marginal difference. We can expect large donors and Super PAC staff to notice this and start deploying their resources more strategically.

Finally, allowing the wealthy few to amplify their voices in the public square threatens basic American values. Turning your megaphone up to eleven won't always mean you get your way—but it sure increases your chances, and it sure makes it hard to hear the rest of us.

For these reasons and others, anyone who cares about the future of our democracy should remain concerned about the critical and growing role of big money in our political system.

The good news is that more so than at any time in recent memory Americans are concerned, even outraged, about this problem. What remains is to push our leaders in Washington and across the country to take concrete action to finally build a small donor democracy that honors the principle of political equality and makes good on the promise of government of, by, and for the people. In the following section we provide recommendations of how to do just that.

RECOMMENDATIONS

1. *Educate the judiciary so that future Supreme Court justices understand the importance of political equality as a constitutional value and will respect the people's right to restrict the role of big money in our political system.* The vast majority of Americans agree that, properly interpreted, the U.S. Constitution (and specifically the First Amendment) does not bar reasonable, content-neutral restrictions on using private wealthy to dominate public policy. Any future Supreme Court justice must understand this as well, and those responsible for appointing and confirming justices and lower court judges must prioritize this understanding in the vetting process.
2. *Amend the Constitution to clarify that the people have the right to democratically enact content-neutral limitations on campaign contributions and spending by individuals and corporations in order to promote political equality.* Short of the type of turnover on the U.S. Supreme Court described above, the only complete solution to the problems presented by unlimited outside spending is to amend the U.S. Constitution to clarify that the First Amendment was never intended as a tool for corporations and the wealthy to dominate the political arena. Towns, cities, and states should join the growing list of states and municipalities that have passed resolutions calling on Congress to send the states such an amendment to ratify.
3. *Match small contributions with public resources to empower small donors and help grassroots candidates run viable campaigns.* Low-dollar contributions from constituents should be matched with public funds, and candidates who demonstrate their ability to mobilize support in their districts should receive a public grant to kick-start their campaigns. These measures would amplify the voices of non-wealthy citizens, encourage average Americans to participate in campaigns, change candidate incentives, and enable aspiring public servants without access to big-money networks to run viable campaigns for federal office. Congress should enact this policy at the federal level, and states and cities may also pass matching systems to run fairer elections under their jurisdictions.
4. *Encourage small political contributions by providing vouchers or tax credits.* Encouraging millions of average-earning Americans to make small contributions can help counterbalance the influence of the wealthy few. Several states provide refunds or tax credits for small political contributions, and the federal tax code did the same between 1972 and 1986.⁶² Past experience suggests that a well-designed program can motivate more small donors to participate.⁶³ An ideal program would provide vouchers to citizens up front, eliminating disposable income as a factor in political giving.⁶⁴
5. *Protect the interests of shareholders whose funds may currently be used for political expenditures without their knowledge or approval.* Congress should require for-profit corporations to obtain the approval of their shareholders before making any electoral expenditures, including contributions to other organizations that engage in political activity (such as 501(c)s and Super PACs); and require any for-profit corporation to publicly disclose any contributions to a 501(c)(4) or 501(c)(6) organization that makes an independent expenditure, funds an electioneering communication, or contributes to a Super PAC. If Congress fails to act, the states may pass legislation enacting these requirements in their elections. The Securities and Exchange Commission is considering and

should pass a rule requiring that publicly-traded corporations disclose their political spending to their shareholders.

6. *Tighten rules on coordination.* Current rules prohibiting coordination between Super PACs and candidates are riddled with loopholes. The Federal Election Commission should issue stronger regulations that establish legitimate separation between candidates and Super PACs. For example, the Commission could prevent candidates from raising money for Super PACs; prevent a person from starting or working for a Super PAC supporting a particular candidate if that person has been on the candidate's official or campaign staff within two years; and prevent candidates from appearing in Super PAC ads (other than through already-public footage). If the FEC refuses to act, Congress can pass these same rules through statute.
7. *Expand the "electioneering communications" windows to account for the length of modern campaigns.* To facilitate full disclosure of election-related activity in the modern campaign era, Congress should expand the electioneering communications windows to begin 120 days before the first presidential primary and January 1st of each election year for congressional elections.
8. *Require Super PACs to include basic information about the tax and political committee status of their institutional donors in disclosure filings.* This simple adjustment in FEC filings would make it far easier for concerned citizens to "follow the money."

METHODOLOGY

DATA SETS

Total Spending Figures

Our total spending figure came from the combination of four data sets: all federal independent expenditures, all federal electioneering communications, all federal candidate spending, and all federal committee spending. The data came from the following sources and were downloaded on the following dates:

- All federal independent expenditures: the FEC via the Sunlight Foundation; downloaded from Sunlight on 12/14/12
- All federal electioneering communications: the FEC; downloaded on 12/14/12
- All federal candidate spending: the FEC; downloaded on 1/7/13
- All federal committee spending: the FEC; downloaded on 1/7/13

Total spending figures do not include convention spending or expenditures listed by parties in their committee reporting (the fourth database listed above) that are likely to be captured in the other three databases. Examples of this include gifts to state parties (which would have been captured if and when those groups spent the funds on federal races) and independent expenditures (which are captured in the Sunlight Foundation's IE database). Party spending that is coordinated with candidates is not included in our totals because this was a relatively insignificant amount of total spending that was complicated to separate out from other spending within the FEC files.

In addition, we analyzed data on 2012 presidential ad buys from the Washington Post's "Mad Money" site, accessed on 1/10/13 at <http://www.washingtonpost.com/wp-srv/special/politics/track-presidential-campaign-ads-2012/>.

Fundraising figures

Our total fundraising figures came from two data sets:

- All Super PAC donations: the FEC via the Sunlight Foundation; downloaded from Sunlight on 1/3/13
- All individual donations: the FEC; downloaded 12/14/12

DATA ANALYSIS

Outside Spending

We defined outside spending as non-party, non-campaign independent expenditures and electioneering communications. Note that in our earlier reports we considered party spending on independent expenditures or electioneering communications to be outside spending because it was not conducted by or coordinated with a candidate. In this report, however, we incorporated data on all election spending, which includes party spending that is either coordinated with candidates and/or spent on party building activities that do not support any particular candidate(s). This type of party spending does not appear in the independent expenditure or electioneering communications databases we were working with previously, and is difficult to classify as coordinated or uncoordinated. This complication prompted us to separate all out party spending into a third category, separate from both candidate

spending and outside spending. We felt that presenting these three distinct categories is clearer and also allows us to maintain the distinction that outside spending not coordinated with candidates (to the extent that non-coordination rules actually prevent candidates and third-party groups from coordinating.)

Secret Money and Donor Type

In order to determine the percentage of secret money spent directly or contributed to Super PACs, we coded each spender or contributor as one of the following types: individual, for-profit business, 501(c)(4) nonprofit, 501(c)(5) union, 501(c)(6) trade or membership association, Indian tribe, family trust, 527 organization (this include non-party PACs, and non-federal political organizations, or political party.

We define secret contributions or spending as expenditures of funds that are not traceable back to their original sources. An original source can be an individual or the treasury of a for-profit business, union, family trust, or Indian tribe.

While we generally consider contributions from the treasuries of for-profit corporations to be traceable gifts, there were several instances over the course of the election where investigators uncovered gifts to Super PACs from shell corporations. These corporations appeared to do no business and were set up for the sole purpose of funneling money to Super PACs while hiding the identity of the original donor(s). We considered gifts to Super PACs to be secret that came from entities identified as shell corporations by U.S. PIRG Education Fund and Center for Media and Democracy in their concurrent report *Elections Confidential*. In order to correctly estimate how much of the funds from shell corporations that Super PACs raised were actually spent on the elections, we calculated the total percentage of all Super PAC funds shell corporations accounted for and multiplied total Super PAC spending by that figure.

Contributions from traditional political action committees are traceable because these entities are only permitted to accept contributions from traceable or original sources.

Contributions from 501(c)(4)s and 501(c)(6)s are untraceable because these entities do not need to disclose their donors.

In the vast majority of cases, the type of spender or contributor was obvious from the FEC filing. When this was not the case, we researched the entity using the FEC website,⁶⁵ IRS website (both the search function for 527 filings⁶⁶ and the list of 501(c) exempt organizations broken down by state⁶⁷), and general Google searching.

In a few cases, after a reasonable effort to research the entity using all of the information available from Sunlight data or FEC filings we were still not sure what type of organization the spender or contributor was. We coded these contributors as “unknown,” and included these in the “other” category, which we considered to be not secret since there are other organizations in the same category that are not secret (and so this makes our secret spending numbers conservative).

In a few cases contributions were listed from a 501(c)(3) organization. Since this would violate the organization’s tax status we presume that these contributions are recorded in error and were meant to originate with a 501(c)(4). Either way, the entity would not have to disclose its donors, so we counted these contributions as secret. In at least one case, a sizeable contribution from a 501(c)(3) was returned to that organization and we did not count that contribution in our totals.

In a few other cases, contributions came from personal or family trusts. We labeled these donations as “not secret” since the primary donor is obvious.

Contribution Size

All average contribution figures refer to the mean of the itemized contributions reported to the FEC. It is not possible to determine overall averages since contributions of under \$200 may be reported in bulk.

We determined the number of contributors making certain levels of contributions by aggregating the contributions of single donors to single Super PACs or candidates. We determined the percentage of the U.S. population by dividing these donors by 315.1 million, which the Census Bureau lists as the current population of the United States (found at <http://www.census.gov/main/www/popclock.html>, accessed 1/11/13).

When determining how many small donors gave to the Obama and Romney campaigns we made a conservative estimate, at 3.7 million people. The campaigns are not required to report the number of donors who make contributions smaller than \$200, just the total funds raised from these unitemized gifts. President Obama publicly claimed to have reached 4 million donors on October 13, 2012 (http://www.huffingtonpost.com/2012/10/13/obama-2012-campaign-says-_n_1964284.html). On October 17 the total number of President Obama’s itemized donors was 690,572 (http://www.cfinst.org/pdf/federal/president/2012/Pres12_12G_Table4.pdf). This gives us a total of 3,309,428 donors who gave less than \$200. We then took the total amount of small donor money raised by Mitt Romney (\$79,806,091, according to Center for Responsive Politics) and divided it by 200 to determine, at minimum, how many people had made these gifts: 399,030. Adding these together gets us just over 3.7 million donors. The true total is likely much larger as President Obama has since claimed more donors and most small donors do not contribute \$199.99 (and so Mitt Romney’s total is likely larger as well).

Winners vs. Losers

To calculate average fundraising for winners and losers, we used the following procedure. We took the mean of the fundraising of all winners. For losers, we did not want insignificant candidates to artificially drag down the average and hence make the differential seem more extreme than it actually is. So, we only counted candidates who garnered 10 percent or more of the vote in the general election.

To calculate the percentage of time that candidates who had the most overall money spent on their behalf (candidate and outside spending), we added candidate spending and outside spending for a candidate and subtracted from that total outside spending against a candidate to produce a “net total spending” figure. We chose to subtract outside spending against candidates from their total rather than adding it to their challengers’ due to the existence of many races with more than two candidates (including primary candidates), thus it is not always clear which other candidate benefited from negative outside spending against a particular candidate.

Incumbents vs. Challengers

To calculate average fundraising for incumbents and challengers, we used the following procedure. We took the mean of the fundraising of all incumbents. For challengers, we did not want insignificant candidates to artificially drag down the average and hence make the differential seem more extreme than it actually is. So, we only counted challengers who garnered 10 percent or more of the vote.

ENDNOTES

1. Quote originally from the book *THE THUMPIN* by Naftali Bendavid, cited by Frank James at NPR.org (<http://m.npr.org/news/front/160770861>) and also by Lee Drutman on the Sunlight Foundation blog (<http://sunlightfoundation.com/blog/2012/11/15/why-money-still-matters/>).
2. Colbert actually won a prestigious Peabody Award for his satirical work on Super PACs: <http://www.reuters.com/article/2012/04/04/entertainment-us-peabodyawards-idUSBRE83314Y20120404>.
3. See e.g. *Citizens Actually United*, available at <http://www.demos.org/publication/citizens-actually-united-bi-partisan-opposition-corporate-political-spending-and-support>
4. As a result of the 1986 Supreme Court case *FEC v. Massachusetts Citizens for Life* a limited class of 501(c)(4) organization called a “qualified nonprofit corporation” was permitted to spend directly on elections (known as the “MCFL” exemption), but these expenditures did not account for a significant percentage of total spending.
5. http://www.nytimes.com/2011/12/31/us/politics/restore-our-future-attack-ads-harm-gingrich-in-iowa.html?_r=0
6. http://www.boston.com/news/politics/articles/2012/01/10/casino_mogul_fuels_newt_gingrichs_offensive/?camp=pm
7. http://www.washingtonpost.com/politics/gingrich-campaign-paid-off-some-debts-still-owes-600000/2012/02/03/gIQAj-CyMqQ_story.html
8. <http://articles.latimes.com/2012/mar/28/news/la-pn-sheldon-adelson-newt-at-the-end-of-his-line-video-20120328>
9. As noted above, this is subject to the limited “MCFL” exemption for certain 501(c)(4)s prior to *Citizens United*.
10. Center for Media and Democracy & U.S. PIRG Education Fund, *Elections Confidential*, January 2012, available at www.uspirg.org/usp/elections_confidential
11. 11 CFR 100.16(a)
12. <http://www.fec.gov/pages/brochures/electioneering.shtml>
13. See e.g. Spencer Overton, *The Donor Class: Campaign Finance, Democracy, and Participation*, University of Pennsylvania Law Review (2004), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=569021
14. <http://bits.blogs.nytimes.com/2008/06/04/google-plans-major-expansion-in-its-backyard/?em>
15. <http://www.motherjones.com/mojo/2012/06/charts-sheldon-adelson-super-pac-money>
16. *Elections Confidential*.
17. Adam Lioz, *The Role of Money in the 2002 Congressional Elections*, U.S. PIRG Education Fund (2003).
18. http://www.cfinst.org/press/PReleases/09-04-22/Small_Donors_Large_Donors_and_the_Internet_The_Case_for_Public_Financing_after_Obama.aspx
19. A single donor may contribute \$5,000 to a single candidate over the course of an election cycle—\$2,500 for the primary and \$2,500 for the general election.
20. <http://www.opensecrets.org/pres12/index.php>
21. John Green, Paul Herrnson, Lynda Powell, and Clyde Wilcox. *Individual Congressional Campaign Contributors: Wealthy, Conservative and Reform-Minded* (1998).
22. Id.
23. Id.
24. <http://sunlightfoundation.com/blog/2011/12/13/the-political-one-percent-of-the-one-percent/>
25. Id.
26. Id.
27. Green et. Al.
28. Benjamin I. Page, Fay Lomax, Cook, and Rachel Moskowitz, *Wealthy Americans, Philanthropy, and the Common Good*, September 25, 2011 at 6; available at <http://www.scribd.com/doc/75022549/Wealthy-Americans-Philanthropy-and-the-Common-Good>.
29. Id. at 11.
30. Id. at 13.
31. Id. at 15.
32. Benjamin Page, L. Bartels, and J. Seawright, “Democracy and the Policy Preferences of Wealthy Americans.”
33. Id. at 12.
34. Martin Gilens, *AFFLUENCE & INFLUENCE: ECONOMIC INEQUALITY AND POLITICAL POWER IN AMERICA*, Russell Sage Foundation & Princeton University Press (2012).
35. Id. at 1.
36. Id. at 94.
37. Id. at 1.
38. Id. at 81.
39. Id. at 81.
40. Id. at 101.
41. Larry M. Bartels, *UNEQUAL DEMOCRACY: THE POLITICAL ECONOMY OF THE NEW GUILDED AGE*, Russell Sage Foundation & Princeton University Press (2008) at 285.
42. Gilens at 239.
43. Id. at 247.
44. Lee Drutman makes this point on Sunlight Foundation’s blog: <http://sunlightfoundation.com/blog/2012/11/15/why-money-still-matters/>
45. <http://www.politifact.com/truth-o-meter/statements/2011/oct/17/occupy-wall-street/occupy-wall-street-protesters-sign-says-94-percent/>
46. See e.g. Adam Lioz, *Look Who’s Not Coming to Washington: Qualified Candidates Shut Out by Big Money*, U.S. PIRG Education Fund (2003).
47. Gilens at 244.
48. See e.g. Bradley R. Smith, “Why Campaign Finance Reform Never Works,” Cato Institute; available at <http://www.cato.org/publications/commentary/why-campaign-finance-reform-never-works>
49. *Randall v. Sorrell*, 548 U.S. 230 (2006).
50. See e.g. *Contribution Limits and Competitiveness*, U.S. PIRG Education Fund (2002); and *Campaign Contribution Limits: No Harm to Challengers*, U.S. PIRG Education Fund & National Voting Rights Institute (2006).
51. Bipartisan Campaign Reform Act of 2002, popularly known as McCain-Feingold.
52. *Citizens United v. FEC*, 558 U.S. 310 (2010); *Speech Now v. FEC*, available at <http://www.fec.gov/law/litigation/speechnow.shtml>.
53. Gilens at 170-74. Note that competitiveness and resulting accountability is not the only legitimate value served by an election system. In the context of single-member, winner-take-all districts, for example, there is a tradeoff between competitiveness and the number of people in a given district who are accurately represented by the eventual winning candidate.
54. In the majority opinion, Justice Kennedy wrote that “transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages.”
55. Public Citizen. *U.S. Chamber of Commerce Pumps Millions into Elections*, October 2012, available at <http://www.citizen.org/>

documents/us-chamber-spends-millions-in-elections-report.pdf

56. *Citizens Actually United*, available at <http://www.demos.org/publication/citizens-actually-united-bi-partisan-opposition-corporate-political-spending-and-support>

57. *Id.*

58. *Id.* at 83.

59. *Id.* at 234.

60. See e.g. *Look Who's Not Coming to Washington*; Adam Lioz & Alison Cassady, *The Wealth Primary: The Role of Big Money in the 2002 Congressional Primaries*, U.S. PIRG Education Fund (2002).

61. Kenneth P. Vogel, "2016 contenders court mega-donors," POLITICO (December 3, 2012), available at <http://www.politico.com/story/2012/12/2016-contenders-courting-mega-donors-84497.html>

62. Thomas Cmar, *Towards a Small Donor Democracy: The Past and Future of Incentives for Small Political Contributions*, U.S. PIRG Education Fund (2004).

63. *Id.*

64. See Bruce Ackerman and Ian Ayres, *Voting with Dollars: A New Paradigm for Campaign Finance* (2002).

65. <http://www.fec.gov/finance/disclosure/adv-search.shtml>

66. <http://forms.irs.gov/politicalOrgsSearch/search/basicSearch.jsp?ck>

67. <http://www.irs.gov/taxstats/charitablestats/article/0,,id=97186,00.html>

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