

## Nation's Leading Foundations Violate Donor Intent

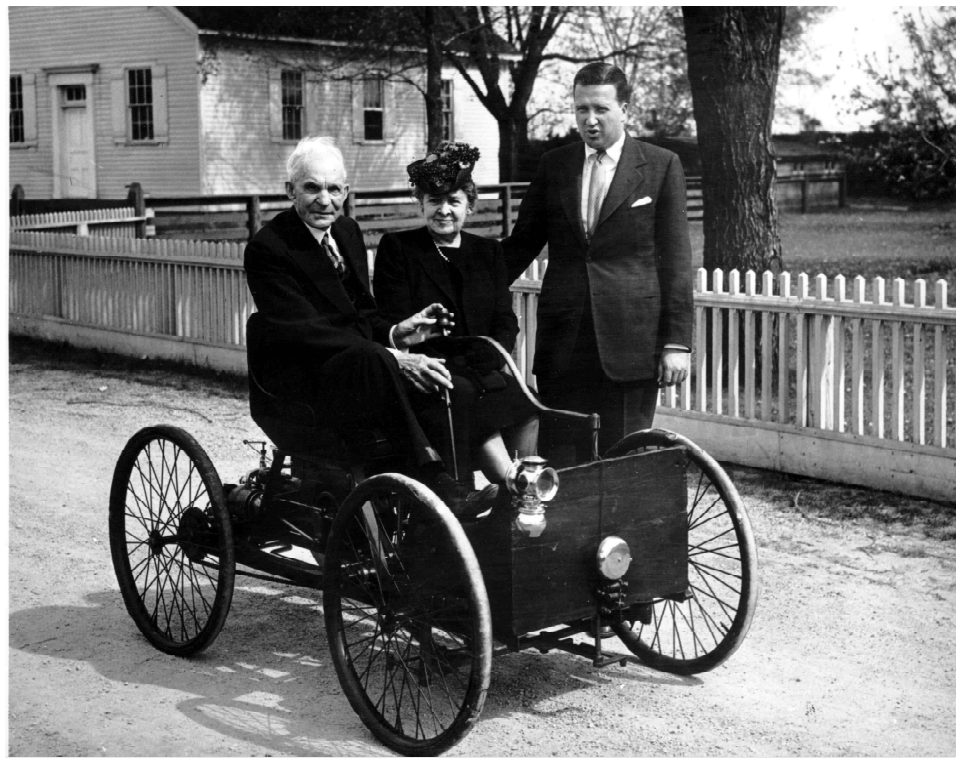
*Foundations Funding America's Left Have Conservative Origins*

by Martin Morse Wooster

*Summary: In The Great Philanthropists and The Problem of Donor Intent, published by Capital Research Center in 1994 and revised in 1998, Martin Morse Wooster examined how donors committed to free markets and traditional virtues, such as Andrew Carnegie, Henry Ford, John D. MacArthur, and J. Howard Pew, created foundations that ignored their founders' ideals and championed big-government liberalism. This article examines developments since 1998 in some of the foundations Wooster described in his book.*

**T**he gravest problem facing foundations today is the problem of donor intent. Why set up a foundation if, after you die and your friends and associates are gone, the foundation then supports causes that you oppose?

In my book, *The Great Philanthropists* and *The Problem of Donor Intent*, published in 1994 and revised in 1998, I looked at how such heroic entrepreneurs as Andrew Carnegie, Henry Ford, and J. Howard Pew, men who championed individual liberty and free market capitalism, created foundations that support expansion of the welfare state. Four years later, the evidence suggests that the Carnegie Corporation, the Ford Foundation, the MacArthur Foundation, and the Pew Charitable Trusts continue to fund causes their donors would have opposed. The heads of these large foundations are some-



Henry Ford II (standing) resigned from the Ford Foundation board in 1977 to protest its indifference to his father's capitalist ideas.

what defensive and apologetic about the big-government liberalism they champion, but these nonprofits are still among the leading funders of the left in America today.

### **BARNES FOUNDATION**

The Barnes Foundation, created by chemist Albert C. Barnes (1872-1951), possesses a large collection of modern art located in Merion, Pennsylvania. In 1990, the foundation board installed Richard

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Glanton, an African-American, as president. Glanton was more interested in becoming a philanthropic empire-builder than in discharging the foundation's mission to preserve Barnes collection and champion his ideas about art. Glanton sent the Barnes Foundation paintings on an around-the-world tour, a project that raised much money but explicitly violated Barnes's intention that the art collection stay in one place and be displayed in the manner Barnes preferred. He also violated many other clauses of Barnes's will, such as trying to boost attendance – and income — at the Merion gallery. Glanton, however, was checked by the Lower Merion Township zoning board, which successfully limited attendance at the Barnes Foundation to 500 visitors per week. (It is located in a suburb surrounded by homes.) Glanton's effort to double the admission fee to the gallery to \$10 was also blocked by the courts. After launching a failed lawsuit under the Ku Klux Klan Act charging the zoning board with racism, Glanton resigned in early 1998.

Under the terms of Barnes's will, a majority of seats on the foundation board are controlled by Lincoln University, a historically black institution in southeastern Pennsylvania. After helping force

Glanton out of his job in early 1998, Lincoln University president Niara Sudarkasa was herself ousted from her position in September 1998, after the Pennsylvania state auditor-general charged that the university had spent \$500,000 in state funds refurbishing the Lincoln University president's mansion, and that Sudarkasa had allowed hazardous waste to be dumped on school property. Sudarkasa claimed that she lost her job because Glanton leaked this information, and in 2001 she launched a lawsuit against Glanton seeking \$5 million in damages. However, after 13 days of what *The American Lawyer* called "tales of alleged corruption, conspiracy, and backstabbing," Judge Howard W. Abramson dismissed the case, ruling that Sudarkasa, as a public figure, could not sue for defamation.

Sudarkasa's suit against Glanton may have slightly tarnished the Barnes Foundation's reputation, but the zoning board suits, resulting from Glanton's controversial tenure, drained money out of the foundation's endowment. A 2001 investigation by the *Philadelphia Inquirer* found that the Barnes Foundation spent at least \$5.9 million in legal fees fighting the zoning board. It is likely that the legal bills will continue to rise after a 2001 decision by the U.S. Court of Appeals, which reversed a district court decision and allowed five neighbors of the Barnes Foundation to sue the foundation for defamation and claim damages of \$125,000 each.

The Barnes Foundation's around-the-world tour netted between \$15-17 million. Courts ruled that the remaining funds could only be used for renovating the gallery building that displayed the foundation's paintings. To meet operating expenses of \$1.5 million a year, the foundation has spent out its \$10 million endowment and turned to fundraising for the first time. Under the leadership of CEO Kimberly Camp, who took charge in September 1998, the Barnes has gotten \$500,000 grants from the J. Paul Getty Museum, the Pew Charitable Trusts, and the Wilmington Trust bank, and a \$250,000 grant from the Andrew W. Mellon Foundation.

The foundation continues to chip away at Albert Barnes's donor intent. Courts have violated Barnes's wishes by allowing the museum to increase atten-

dance from 500 to 1,200 visitors per week and by authorizing fundraisers at the museum. The foundation has also thought about sending its art objects in storage on tour, and somehow it has found \$7 million to turn Ker-Feal, Barnes's country home, into a cultural center.

More radical changes may be on the horizon. Many prominent Philadelphians suggest that the Barnes building be moved piece by piece to downtown Philadelphia, and that the foundation become a part of the Philadelphia Museum of Art, an institution that Barnes condemned "as a house of artistic and intellectual prostitution." Philadelphia Museum of Art trustee Stanley Tuttleman told the *New York Times* that the move was necessary because the foundation was "facing death, so to speak, and if you've got a mortal disease, you'll try anything."

Such a move would totally obliterate Albert C. Barnes's intentions in setting up a foundation to support his art collection by ceding control to an institution he despised. Nicholas Tinari of Barnes Watch, an organization dedicated to upholding Barnes's donor intent, countered by telling *The Art Newspaper* that the current foundation board should practice frugality. If the Barnes Foundation "returned to its 1990 level of spending," Tinari said, "the foundation could support itself on its current steady income."

## CARNEGIE CORPORATION OF NEW YORK

Andrew Carnegie had strong, forceful views on charity. But Vartan Gregorian, who is president of the Carnegie Corporation, misstated them in a 1999 interview with the *Los Angeles Times*. According to Gregorian, Carnegie "wanted to help people help themselves, the whole Social Darwinist concept of providing ladders for people to climb in life toward respectability, toward enlightenment and so forth. Instead of fish, give them a fishing rod."

Gregorian's comments are misleading; Carnegie was not a Social Darwinist, and he wanted his wealth to be used in ways that discouraged dependency and encouraged the poor to acquire the skills they needed to advance in life. But under Gregorian's leadership, the Carnegie Corporation has done little to advance An-

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drew Carnegie's ideals.

For example, Carnegie championed libraries as a way for poor people to study and improve themselves. In 1999, the Carnegie Corporation gave a one-time grant of \$15 million to 23 libraries, including \$500,000 to the Carnegie Library of Pittsburgh to help preserve Carnegie's papers. But Carnegie Corporation spokeswoman Susan King told the *San Diego Union-Tribune* in 2002 that her foundation has stopped funding libraries even though many of the surviving Carnegie libraries are in aging buildings that could certainly use Carnegie Corporation aid.

By contrast, the Carnegie Corporation continues to support various liberal causes to expand the reach and power of government. Recent grants support public broadcasting, and, in the wake of the 2000 elections, seek to implement new electronic ballots. The corporation usually works in conjunction with better-endowed foundations. In combination with the MacArthur, Ford, and Rockefeller Foundations, the Carnegie Corporation is leading the effort to spend \$100 million to improve African universities. With the Bill and Melinda Gates Foundation as its partner, the Corporation is spending \$30 million to see if small public schools do a better job than larger ones.

The corporation has also launched two major programs on its own that recognize individual merit in keeping with Andrew Carnegie's belief in the importance of personal effort. In 2000, it launched the Carnegie Scholars program, giving grants to individuals for the first time since 1970. The program will award \$100,000 grants to 11 to 20 professors annually. Some grants have gone to non-liberals, such as prominent school-choice advocate Caroline Minter Hoxby, a Harvard economist. But other Carnegie Scholars include school-choice foe Amy Stuart Wells of the University of California (Los Angeles) as well as New School University's Adolph Reed, a regular contributor to *The Progressive* and other leftist magazines. Boston University economist Glenn Loury, who has been on several positions on the ideological spectrum, also received an award. (He's a liberal again.)

In December 2001, the corporation introduced the Andrew Carnegie Medal

for Philanthropy. It was given to seven prominent philanthropists, including David Rockefeller, William H. Gates, Sr., and Leonore Annenberg. Ironically, the first awards seem to argue against foundation perpetuity and support the view that donors should spend down their foundations during their lifetimes. Two of the seven recipients (Brooke Astor and Irene Diamond) already have spent out their foundations, while two others (George Soros and Ted Turner) have announced that their foundations will spend down their assets during their lifetimes.

## **DORIS DUKE CHARITABLE FOUNDATION**

The will of Doris Duke (1912-1993) was subject to an extraordinary complex probate case in 1994-96 (at one point, there were 100 motions on file in the case accusing various people of misdeeds), and it has continued to create news years after Duke's death. In May 2000, Manhattan Surrogate Court Judge Eve Preminger ordered a reduction from \$14.1 million to \$3.6 million in the fees paid to Katten Muchin & Zavis, the law firm primarily responsible for preparing the will. In addition, Surrogate Preminger ruled that the fees to be paid by the Doris Duke estate to the firm of Cravath Swaine & Moore be reduced from \$2.5 to \$2.2 million, while those to Willkie Farr & Gallagher be cut from \$2 million to \$900,000. Stern & Greenberg's bill will fall from \$790,000 to \$550,000, while fourteen other firms that submitted combined bills of \$500,000 were only allowed to receive \$240,000. All in all, Surrogate Preminger's ruling returned \$12.1 million to the Doris Duke estate—most of which will go to the Doris Duke Charitable Foundation.

In early 2002, the Duke Foundation launched another lawsuit, this time in Los Angeles Superior Court, against Katten Muchin & Zavis. It charged that the firm was negligent in drafting the will leaving money to employees of the Duke Endowment, the charity created by Duke's father, James Buchanan Duke. The lawsuit charges that Doris Duke had a strained relationship and little involvement with the Duke Endowment and seeks \$5.9 million in damages.

Doris Duke left very vague instructions for the Doris Duke Charitable Founda-

tion to carry out. "Her will directed that money go toward the improvement of humanity," the *New York Times's* Judith H. Dobrzynski wrote in November 1998, "and made references to flora, fauna, and a few other causes close to her heart. That was about it."

That left the door wide open. Joan Spero, a former Assistant Secretary of State in the Clinton Administration who was named president of the Doris Duke Charitable Foundation, consulted with Ford Foundation president Susan Berresford, Mellon Foundation president William Bowen and Duke Foundation trustees before deciding to concentrate the foundation's activities on three areas: land preservation, medical research, and arts funding (particularly dance programs).

To preserve land, the foundation recently spent \$14 million for land in New Jersey, and, in collaboration with the Robert Woodruff Foundation, spent \$7 million to buy 14,200 acres of the Chickasawhatchee Swamp in Georgia from St. Joe, a major real estate operating company. The two foundations then donated the land to the Nature Conservancy, which sold the property to the state of Georgia for \$20 million. (See the November 2001 *Foundation Watch* article, "The Green Land-Grabbers," for more information about how the Nature Conservancy sells private land to government.)

In arts funding the foundation primarily aids nonprofit capital campaigns; it has given \$3.5 million to the Brooklyn Academy of Music to build up its endowment and \$1 million to the Library of Congress to help preserve dance impresario Martha Graham's papers. In collaboration with the Mellon Foundation, the Duke Foundation plans to give \$33.6 million to about 300 theaters over the next ten years, primarily as matching grants in endowment-building drives.

The Duke Foundation is also developing as museums Doris Duke's homes in Honolulu, Somerville, New Jersey, and Newport, Rhode Island. The Honolulu estate (housing Duke's collection of Islamic art) and the estate in Newport are open, while Duke Farms in New Jersey will open to the public in the near future.

# Foundation Watch

## FORD FOUNDATION

The Ford Foundation continues to fund mostly liberal groups but has become somewhat apologetic about it. In a 2000 interview with *Philanthropy* magazine, Ford president Susan Berresford was read Henry Ford II's 1977 statement resigning from the Ford Foundation board. Although "the Foundation is a creature of capitalism," said Ford, "it is hard to discern recognition of this fact in anything the foundation does." Berresford's response was that Henry Ford II's critique "doesn't fit now," even though "there are a number of things the foundation does that would be characterized as liberal—the work on human rights, the work on women's rights, the work on reproductive rights. If I look at the work we're doing on home ownership and IDA's [Individual Development Accounts], for example," Berresford added, "there is nothing more basic and closer to what I think conservative values are in this country than those kinds of things."

It is true that the Ford Foundation has retreated from the reflexive reliance on an expanding welfare state that characterized the foundation's grantmaking in the 1960s and 1970s. As Berresford notes, the foundation has given funds to help poor people own their own homes, and it also was responsible for grants that helped create Individual Development Accounts that the poor can use to pay for education or to start a business. Moreover, its two largest grants—\$280 million over ten years to help foreign graduate students study in the US and \$50 million to Harvard's Kennedy School to offer prizes for innovative government programs—represent support for personal effort and a more incremental and nuanced approach towards government expansion.

But Ford continues to be a champion of the multicultural left. It has awarded \$1 million to the Columbia Journalism School for programs to teach budding reporters how to produce "excellent coverage on race and ethnicity." Another foundation grant, this time for \$500,000, went to the University of Michigan to "help fund public education and outreach" to support the university's affirmative-action scholarship awards program to less qualified minori-

ties against two lawsuits seeking to end it.

A May 2002 article in the *Chronicle of Philanthropy* notes that Ford Foundation is active in the "living wage" movement. Living wages are locally-mandated minimum wages considerably higher than the federal minimum wage. The foundation has awarded \$1 million over the past three years to various living-wage activists, including a \$100,000 grant to the Los Angeles Alliance for a New Economy, which led the effort to impose living wages in Los Angeles. The alliance has also donated \$92,000 to Santa Monica's Allied for Responsible Tourism, which is leading a campaign to mandate a \$9.88/hour minimum wage in Santa Monica, California. Santa Monica's will vote on the measure in the November 2002 elections.

Ford is also active in opposing the movement for public school single-sex education. A 2001 Ford-funded report charged that California's experimental program of single-sex education was a failure. But American Enterprise Institute fellow Christina Hoff Sommers charged in *Education Week* (September 26, 2001) that the report's authors offered no evidence of whether students in single-sex classes did better or worse in school. In addition, she says "the report classifies as sexist any teacher who believes that there may be basic differences between boys and girls that call for different approaches" in teaching.

The Ford Foundation did, however, give one grant of which Henry Ford would have approved. In 1998, it gave \$500,000 to the University of Michigan (Dearborn), which now owns Fair Lane, Ford's estate. The money, noted Ford's great-grandson, Edsel Ford II, would be used for historic preservation and to teach students about Ford's life and work.

## JOHN D. AND CATHERINE T. MACARTHUR FOUNDATION

Like Henry Ford, John D. MacArthur was a crusty conservative who made money in a free market economy and then left it to a grantmaking foundation that does not represent his outlook or values. The MacArthur Foundation is yet another example of an institution that distributes wealth to grantees who have little sym-

thy for the system that created it.

However, like the Ford Foundation, the MacArthur Foundation has become somewhat apologetic about its liberal political faith. In a 2001 interview with *Philanthropy*, MacArthur president Jonathan Fanton (a former president of New School University who became foundation president in 1999) explained that the foundation gave grants to organizations such as the Aspen Institute that "promote conversation on the issues and have all points of view represented."

Does the MacArthur Foundation give money to "all points of view"? Consider the \$5.1 million the foundation awarded after 9/11. Among the organizations receiving grants:

\* Center for Budget and Policy Priorities: \$250,000 "to analyze and make policy recommendations about managing national security-related pressures on federal and society budgets."

\* Human Rights Watch: \$250,000 for "a program of outreach, litigation, and legal analyses focused on the rights of Arab-Americans, immigrants," and 9/11 detainees.

\* Physicians for Human Rights: \$200,000 to "send three two-man teams into Afghanistan." (A press release from the organization's website adds that the money will be used to aid the group's campaign to ban land mines.)

\* Lawyers Committee for Human Rights: \$100,000 for "analysis, advocacy, and information on human rights aspects of counter-terrorism."

\* Chicago Lawyer's Committee for Civil Rights Under Law: \$65,000 "for work that will focus on helping reduce incidents of hate crime through its Project to Combat Bias Violence."

The MacArthur Foundation's most famous program, the MacArthur Fellows Program, continues to evolve. In the mid-1990s, it largely awarded grants to political activists and the race-and-gender left. (See my article "The MacArthur Foundation: The Oscars of the Multicultural Elite," *Philanthropy, Culture, and Society*, January 1996.) The MacArthur Fellows Pro-

gram, now under the leadership of Daniel Socolow, appears to have shied away from these controversial choices in recent years, instead picking credentialed older academics. Fourteen of the 23 MacArthur Fellows in 2001 are college professors, and seven of the 23 are over age 50. “Many of the people they have supported are the usual suspects,” Princeton public affairs professor Stanley Katz told the *Chronicle of Higher Education*, “and many are senior people who aren’t going to produce much more. The program’s track record on unknowns is not much better than anyone else’s.”

What many current MacArthur Fellows—who all receive \$500,000 grants over five years—have in common is their ability to attract donors. University of Michigan music professor Bright Sheng has won fellowships from the Guggenheim Foundation, the AT & T Foundation, and the National Endowment for the Arts. University of California (Berkeley) biologist Michael Dickinson has received a \$1 million grant from the Packard Foundation for his research. Biographer Jean Strouse has been a long-time judge of Guggenheim Foundation fellowships.

The MacArthur Foundation prides itself on its environmental activism, but it has had to face one unfortunate legacy of its founder. The foundation remains a major property-owner in South Florida, thanks to land acquired by its founder in the 1960s and 1970s. In April 2002, the *Miami Daily Business Review* reported that the city of Palm Beach Gardens, Florida, filed a lawsuit against the foundation to clean up land it sold the city for \$10 in 1990 in return for the right to develop other southern Florida properties. The city converted the land into soccer fields, but in 1997 discovered that it was contaminated with carcinogenic solvents used by dry cleaners and to clean jet engines. Palm Beach Gardens claimed that the foundation was in breach of contract in its land transfer with the city, and it sued the foundation when it refused to pay \$1.3 million in cleanup costs.

## PEW CHARITABLE TRUSTS

When the family members who founded the Pew Charitable Trusts were alive, they supported traditional charities

and extolled the principles of free markets and limited government. These days the Pew Charitable Trusts practice publicity-seeking feel-good communitarianism.

In a 2000 interview with *Philanthropy*, Pew president Rebecca Rimel explained why it was acceptable to ignore the ideals of the Pew family. She said J. Howard Pew “was a man of strong convictions and his successors on the board are following in his tradition by having strong convictions.” J. Howard Pew was a forceful advocate of liberty. (In a 1957 deed establishing the J. Howard Pew Freedom Trust he wrote that the trust was established “to acquaint the American people” with “the evils of bureaucracy” and “the values of a free market.”) But despite Pew’s thoughtful writings, Rimel claims that “we cannot divine” what J. Howard Pew “would or would not have done in current circumstances,” leaving Pew Charitable Trusts program officers free to spend money on programs the Pews would have abhorred.

The common theme of most Pew grants in recent years is this: If Americans get together to think about issues, they will become more interested in politics and actively support bigger government. In fact, in July 2001 the Pew Partnership for Civic Change issued a report listing ten reforms “crucial to building stronger communities.” Seven involve expanded government: universal pre-kindergarten; subsidized health insurance for low-income families; subsidized after-school care; subsidized homeownership programs; expanded parenting education programs; expanded job training programs for hard-to-employ workers; and subsidized job training for entry-level workers looking for their next job.

Pew does try to find common ground by bringing together all sides of a controversial issue. In 1999, for example, the Trusts announced a five-year, multi-million dollar effort to resolve the culture wars by strengthening “political and financial support for nonprofit culture.” Some critics claimed at the time that Pew was trying to transform itself into a ministry of culture. But in the following years, grants under this program went to little more than collecting statistics about the size and scope of the nonprofit arts sector.

Pew’s environmental grants have

been more controversial. In a February 2002 article in the *Wall Street Journal*, John Fialka showed how Pew in 1994 led the effort to create the National Environmental Trust (NET), a lobbying group which has called for stringent reductions in air pollution. In 2000, the NET received \$6 million from Pew. According to Fialka, the NET, which has more than 70 staffers, “coordinates its attacks with other Pew-funded organizations, including the National Resources Defense Council and the U.S. Public Interest Research Group.”

Other Pew-created environmental groups include the Pew Forum on Climate Change, which calls for restrictions on global warming, and the Heritage Forests Campaign, which wants to limit timber harvests in national forests. The *New York Times*’s Douglas Jehl reported that Pew, which spent \$52 million on environmental programs in 2000, “with its deep pockets and focus on aggressive political advocacy is not only the most important new player but also the most controversial, among fellow environmentalists and its opponents in industry.”

Pew had to rescind at least one grant during this period. In 2001, Minnesota state auditors found that the Minnesota Department of Children, Families, and Learning took \$89,564 of a Pew grant “for activities that would enhance family and child outcomes in Minnesota” and then deposited the funds in the Olmsted County, Minnesota United Way. Auditors charged that state employees used the funds to pay for personal cell-phone bills, computers, and printers, and other personal expenses. There is no evidence that the Pew Charitable Trusts knew about this fraudulent spending.

The sorry record of large foundations in preserving donor intent reinforces the conclusions I made in my book. Donors should expect that their wishes will be ignored by strangers who will take over a foundation after their friends and associates die. The best way donors can ensure that their wishes will be followed is to spend their fortunes within their lifetimes.

*Martin Morse Wooster is a Visiting Fellow at Capital Research Center.*

# PhilanthropyNotes

The **Chronicle of Philanthropy** reports that the nation's 30 largest charities raised \$2.2 billion for families of the **September 11 victims**. An estimated \$1.4 billion has been disbursed. The **American Red Cross**, which has raised \$1 billion, will release by the end of the year an additional \$200 million to aid the 3,300 families whose loved ones were killed or injured, and the tens of thousands who lost their jobs or homes in the attack. The Red Cross has pledged to distribute 90 percent of its Liberty Fund donations to affected families, with an average of \$121,000 going to a family that lost a loved one. The studies note the speed at which Americans rushed to aid their countrymen. Within one month of the attack, \$1 billion had flowed to dozens of charities. The **Center on Philanthropy at Indiana University** reports that 66 percent of U.S. households gave an average \$134 gift to September 11 relief efforts. Overall, Americans praised the charities' response though with some qualifications. A survey by the **Independent Sector** found that 71 percent thought that the charities were "honest and ethical" in how they used donations. However, a Chronicle survey found that 42 percent of Americans now had "less confidence" in charities because of the handling of September 11 donations.

A June 2002 report by the **Pew Initiative on Food and Biotechnology** reports that regulatory agencies might have difficulty evaluating the potential of foods produced by biotechnology to cause allergic reactions. But, says the **Hoover Institution's Henry Miller** who takes sharp issue with the scientific accuracy of Pew's research, the mainstream press is making a mistake in giving credence to the Pew Initiative as a "disinterested middle ground in the biotechnology debates." Miller writes that an "anti-innovation, pro-regulation bias is found consistently in Pew's biotechnology-related activities." Participants in Pew's biotechnology forums and speakers at its workshops tend to be "uncompromising, mendacious anti-biotechnology activists." In addition, Pew's cosponsoring of a workshop with the FDA and USDA reflects Pew's role "as a shill for the interests of regulators – namely, expanded mandates, bigger budgets, and larger bureaucratic empires."

The **U.S. Department of Health and Human Services (HHS)** is reviewing the government's financial support of 16 AIDS service organizations whose members staged a noisy demonstration against HHS Secretary Tommy Thompson during his speech at the July international AIDS conference in Barcelona, Spain. Many of the groups provide services to AIDS patients through government contracts. But HHS officials are reportedly angry that the government is funding these groups. Groups targeted for auditing include the **National Minority AIDS Council** which receives \$6 million a year and **Gay Men's Health Crisis** which receives about \$2 million a year in federal money. Says Robert Dabney of the National Minority AIDS Council, "The question we have to ask is what is the intent of this? Our fear is that audits will have a chilling effect on these organizations."

**Norman O. Taylor** is stepping down as head of the scandal-plagued **United Way of the National Capital Area**, bowing to criticism of financial mismanagement that includes artificial inflation of fund-raising totals, discriminatory pricing of services and excessive pension payments. During Taylor's 19-month tenure, United Way's staff increased from 67 to 90 and its budget soared as Taylor hired consultants and five public relations firms to deal with the chapter's mounting problems. The Washington chapter's problems cast a shadow over the entire United Way, whose 1,400 affiliates are entering the peak fundraising season.

