



BEHIND THE UNREST:

BLACK LIVES MATTER'S ORGANIZATIONAL STRUCTURE AND FUNDRAISING PAGE 13

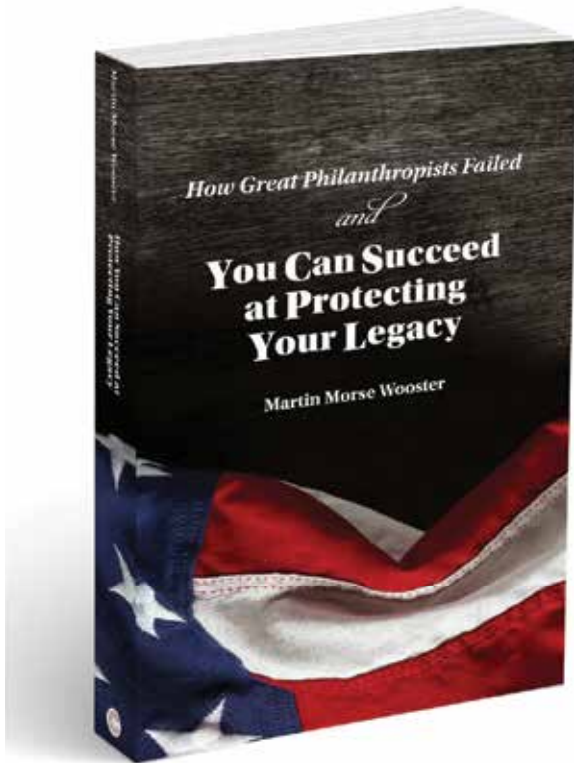
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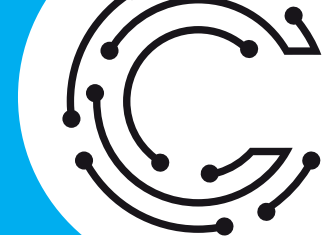
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THE VARIOUS FACES OF BLACK LIVES MATTER

By Robert Stilson

The horrific killing of George Floyd, combined with other recent fatal shootings of black men and women, has set off weeks of peaceful protests and violent riots across America. It has also thrust Black Lives Matter (BLM) back into the forefront of America's struggles with race relations. But just what is BLM as an organization? Turns out that's a difficult question to answer.

As covered here, Black Lives Matter can mean something different depending on what part of the movement is being referenced and who is doing the referencing. For instance, when the term is used to show opposition to police brutality or other racially charged issues, it does not necessarily imply connection with any particular organization. In this sense it serves more as an expression of one's views, rather than affiliations.

By way of example, Michael Jordan recently released a statement pledging \$100 million over 10 years "to organizations dedicated to ensuring racial equality, social justice and greater access to education," and he framed that commitment under the umbrella of "Black lives matter." As a result, this was sometimes reported as a \$100 million contribution to Black Lives Matter itself. Jordan clearly intends to give in conjunction with the broader goals of the Black Lives Matter movement, but he was not specific about which entities would be the recipients—and there are many, many out there that could fit his description. The unique way that Black Lives Matter straddles the border between decentralized protest movement and organized nonprofit entity makes this confusion understandable and likely to persist.

When "Black Lives Matter" is used to refer to an organization, it typically means the Black Lives Matter Global Net-



Credit: pxhere.com. License: <https://bit.ly/2YB2b>.

Black Lives Matter can mean something different depending on what part of the movement is being referenced and who is doing the referencing.

work Foundation (BLM Global Network Foundation). This is the central group that traces its beginnings to "three radical Black organizers—Alicia Garza, Patrisse Cullors, and Opal Tometi," and operates the BlackLivesMatter.com website.

The group has been a fiscally sponsored project of Thousand Currents, a 501(c)(3) nonprofit, since 2016. What this means in practice is that the organization does not have its own IRS tax-exempt status but is operating as a "project" of an organization that does. In the case of 501(c)(3) fiscally sponsored projects, this allows for tax-deductible donations.

Thousand Currents says on its website that the official name of this Black Lives Matter entity is "Black Lives Matter Global Network Foundation, Inc.," which is also the name the group has used on recent press releases.

Robert Stilson runs several of CRC's specialized projects, including a series on federal grants and nonprofits.

Here's where things get tricky: BLM Global Network Foundation also uses the name "Black Lives Matter Foundation, Inc." on its About page and "Black Lives Matter Global Foundation, Inc." in its website Privacy Policy.

Further complicating matters is a group called "Black Lives Matter Foundation," based in Santa Clarita, California, that insists it's unaffiliated with the larger BLM Global Network Foundation (although Thousand Currents, the fiscal sponsor of BLM Global Network Foundation, reported a combined \$90,130 in grants to the Santa Clarita-based Black Lives Matter Foundation on its fiscal year 2018 and 2017 tax filings).

As reported by BuzzFeed News here, this confusion has led some donors to give to organizations they didn't intend to. The Black Lives Matter Foundation in Santa Clarita and BLM Global Network Foundation "have very different stances on police relations," with the former wanting to "help bring the police and the community closer together" and the latter calling for police defunding.

According to grants reported on their respective tax filings and websites, organizations that have specifically earmarked contributions to Thousand Currents for Black Lives Matter (and thus presumably for BLM Global Network Foundation) include the NoVo Foundation (\$1,525,000 from 2015 to 2018), the W.K. Kellogg Foundation (\$900,000 from 2016 to 2019), and Borealis Philanthropy (\$343,000 from 2016 to 2018). And, given that BLM Global Network Foundation recently announced a new \$6.5-million grassroots organizing fund thanks to "the generosity and support of donors," its revenue is likely to significantly increase in 2020.

BLM Global Network Foundation is also positioned at the center of a network of 16 affiliated local chapters, such as Black Lives Matter Chicago and Black Lives Matter Detroit.



The unique way that Black Lives Matter straddles the border between decentralized protest movement and organized nonprofit entity makes this confusion understandable and likely to persist.

In some cases, these chapters are themselves fiscally sponsored by other nonprofit organizations.

There's also a second organization, the Movement for Black Lives, which operates under a fiscal sponsorship arrangement as a project of the Alliance for Global Justice, a 501(c)(3) nonprofit. On its website homepage, the Movement for Black Lives

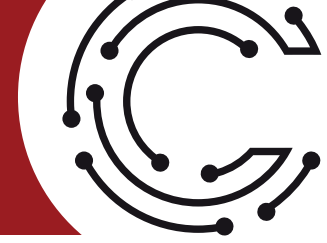
describes itself as "a collective of more than 50 organizations," while its donation page says it "is made up of over 150 organizations." One group listed among the 150 is the "Black Lives Matter Network," though it is unclear whether this refers to BLM Global Network Foundation. The Movement for Black Lives is itself listed as a "Partner" on BLM Global Network Foundation's website.

The situation is further complicated by the involvement of ActBlue Charities, another confusing entity that serves as a fundraising machine for left-leaning groups and politicians, and as the means through which donations to both BLM Global Network Foundation and the Movement for Black Lives get collected and dispersed. What all of this amounts to, should a supporter of the movement decide to donate like Michael Jordan did, is confusion about exactly who people are giving to when they decide to donate to "Black Lives Matter."

The upshot is that "Black Lives Matter" can mean the decentralized movement as a whole, or one of the many discrete legal entities that operate under that name. This duality of meaning can lead to confusion among observers, commentators, and even the movement's supporters. ■

This article first appeared in RealClearPolitics on June 21, 2020.

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TERROR OF THE UNBORN: WARREN BUFFETT'S BILLIONS FOR ABORTION

By Hayden Ludwig

Summary: *The Susan Thompson Buffett Foundation is possibly the biggest anti-people funder on the planet. For decades, the Buffett Foundation—supported by business magnate Warren and named for his late wife—has poured incredible sums into the most powerful abortion lobbies in the world. From pushing unrestricted abortion access to testing experimental abortion pills on impoverished Africans, these groups are advancing an extremist agenda with billions of dollars from one of America's most-celebrated philanthropists—and with almost no scrutiny from the media.*

He's not exactly the face of abortion activism. When most Americans think of Warren Buffett—the famed Wizard of Omaha and third-richest man on Earth—other things come to mind: the brilliant investor and founder of mega-conglomerate Berkshire Hathaway, outspoken Democratic Party donor, and accomplished philanthropist.

It's his charity that's earned this notoriously frugal arch-capitalist (he still lives in the house he bought in 1958 for \$31,500) the most acclaim from the otherwise free-market-skeptic media. Liberal pundits and philanthropoids gushed over Buffett's 2006 "Giving Pledge," an oath to gradually give away 99 percent of his wealth. (Other elites such as Bill and Melinda Gates, Paul Allen, and Michael Bloomberg have also taken the pledge.) In 2011, President Barack Obama even hosted Buffett in the White House for an "update" on the Giving Pledge's progress. CNBC has celebrated Buffett as America's "most charitable billionaire."

But there's a darker side to Buffett's multi-billion-dollar philanthropy. For decades, he's donated vast sums to a foundation created to address what one biographer called

CC *Given his enormous wealth and single-minded commitment, Warren Buffett may be the biggest funder of abortion in history.*



He's not exactly the face of abortion activism. When most Americans think of Warren Buffett—the famed Wizard of Omaha and third-richest man on Earth—other things come to mind: the brilliant investor and founder of mega-conglomerate Berkshire Hathaway, outspoken Democratic Party donor, and accomplished philanthropist.

Buffett's "Malthusian dread" of overpopulation—the thoroughly debunked idea that humans will reproduce themselves into mass starvation and death, named for the 19th century British scholar Thomas Malthus. Given his enormous wealth and single-minded commitment, Warren Buffett may be the biggest funder of abortion in history.

Billions for Millions of Abortions

According to CRC analysis, over the past two decades the Susan Thompson Buffett Foundation has poured an incredible **\$4 billion** into pro-abortion, pro-population control groups, easily making Warren Buffett the single most important supporter of abortion on demand in our day. In that period (2000–2018), the foundation's grants totaled \$5.5 billion, meaning 73 percent of the Buffett Foundation's grant money went to anti-life groups.

Hayden Ludwig is a research analyst at CRC.

To put that in perspective, Buffett's billions are enough to pay for 8 million abortions according to data from the Guttmacher Institute, a pro-abortion think tank, at an average cost of roughly \$500 per aborted fetus. That's the entire population of Arizona or the equivalent of the people in nine states: Wyoming, New Hampshire, Maine, Montana, Delaware, North Dakota, South Dakota, Alaska, and Vermont.

It's a stunning revelation from a foundation so shadowy that even its liberal admirers call it "secretive" and "publicity-shy." But these are understatements. A recent (and favorable) profile by the Inside Philanthropy website commented on the difficulty in simply contacting the Buffett Foundation: "Trying to penetrate this place is like being a tourist asking around for the Mafia in Little Italy."

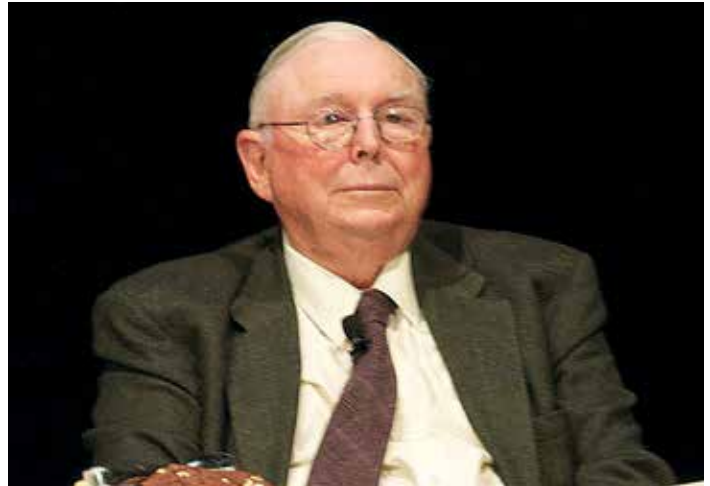
The Buffett Foundation is one of the largest grantmaking foundations in America. In 2018, it gave away \$624 million in grants, almost \$100 million more than the Ford Foundation (\$535 million) and enough to earn Warren Buffett infamy as the "King of Abortion" in pro-life circles. The president of Students for Life, a center-right college group, once deemed Buffett the "sugar daddy of the entire pro-abortion movement."

His largesse has also won him acclaim in the pro-abortion camp. "Have an IUD? Thank Warren Buffett," the *Washington Post* pronounced in 2015, referring to grants his foundation gave in the early 2000s to develop modern intrauterine devices for preventing pregnancies.

Even far-left Vox—whose writers often disparage the very existence of billionaires as "a policy failure"—grudgingly praises Buffett. "If you could snap your fingers and rid the world of billionaire philanthropists instantly," it wrote in 2019 of Buffett's philanthropy, "hundreds of millions of women worldwide would lose access to contraception."

Yet the Buffett Foundation is almost nonexistent in the mainstream news. Although it's been in operation since 1964, the group's simple, out-of-date website offers information about scholarships for college freshmen in Nebraska (Buffett's home state), nothing more: "The Susan Thompson Buffett Foundation responds to questions about college scholarships only. The Foundation does not respond to other inquiries."

Perhaps left-leaning NPR summarized it best in 2006: "You mean you didn't know Warren Buffett's foundation has been funding abortion rights organizations? Well, that's just the way the Buffetts wanted it."



Credit: Nick. License: <https://bit.ly/3eCFWk>.

Charles Munger, a Republican, described his views in a 2000 interview: "It was emotionally hard for me to become pro-choice because I do have reverence for human life, but when I thought through the consequences, I found it necessary to overrule that part of my nature."

Abortion's Underground Railroad

Although Warren Buffett is better known for his investment strategies than his support for population control, his involvement in pro-abortion activism predates the *Roe v. Wade* decision in 1973 and is largely attributable to Charles Munger, Buffett's close friend and Number Two at Berkshire Hathaway. Munger, a Republican, described his views in a 2000 interview: "It was emotionally hard for me to become pro-choice because I do have reverence for human life, but when I thought through the consequences, I found it necessary to overrule that part of my nature."

Munger convinced Buffett to join him in paying for the legal defense of Leon Belous, a California doctor convicted in 1967 of administering an illegal abortion; Belous's appeal in that case led the California Supreme Court to declare the state's ban on abortion unconstitutional in a 4-3 vote two years later. The Left still hails Belous as a hero for advancing the nation's abortion laws, and his case was cited in the pro-choice appellants' brief in *Roe v. Wade* four years later.

At the same time as the Belous case, Munger and Buffett organized a "church" run by a minister who had broken with his congregation over his own pro-abortion views. By the pair's own admission, the so-called Ecumenical Fellowship was far from a religious institution; instead, it acted as a roving counselor on "family planning," aiding women in obtaining abortions outside the United States in the late 1960s.

Warren and I were revolutionaries. We created a church that was used as an underground railroad. We supported the Clergy Counseling Service [a group of liberal ministers who arranged abortions for women outside the U.S.]. The minister running it was cashiered by his own church for helping women get abortions. First I tried to persuade the church to let him continue. That failed. I called Warren and asked him to help me establish our own church. That we did. For years this minister ran the thing. That was our contribution, trying to help so that society didn't force women to give birth—to be held in a system [ecologist and overpopulation alarmist] Garrett Hardin called “mandatory motherhood.”

Although this “underground railroad” lost its purpose after abortion was legalized nationwide after *Roe v. Wade*, Munger continued his activism for years as a trustee and chief financial officer for the Los Angeles chapter of Planned Parenthood. He merged the Ecumenical Fellowship into the chapter and advised it on getting into the abortion business. Munger later bragged that “we were way ahead of the national office of Planned Parenthood in arranging abortions.”

A Quiet Malthusian

Unlike his business partner, Buffett himself hardly speaks publicly about abortion, perhaps (as some have speculated) out of concern that it would damage his investments and public image. “Certainly, I consider population and reproductive rights to be important issues, and I may eventually write something on them one day,” Warren Buffett once told *Barron's*. “But until then, I don't want to comment on the question or become a spokesman. I'd end up getting 50 letters a day. It would change my life too much.”

Population control was more the domain of his first wife, Susan (née Thompson), an outspoken population control advocate who regularly attended meetings on reducing global population growth around the world. “Warren feels that women all over the world get shortchanged,” she said in a Charlie Rose interview aired after her death. “That's why he's so pro-choice.”

The two had a curious, perhaps Aquarian relationship. They were married in 1952 and had three children; in 1977, the sometime-cabaret singer Susan left her husband in Omaha to pursue a singing career in San Francisco, though

they remained married and apparently on good terms. One year after leaving Nebraska, Susan introduced Warren to Astrid Menks, who soon moved into his house and married him after Susan died from a stroke in 2004.

In a 1988 interview with the Omaha *World-Herald*, Susan relayed the Buffetts' shared interest in addressing the world's “population problem”:

Success that can be shown statistically appeals to her husband, Mrs. Buffett said. “Warren likes numbers . . . he likes to see concrete results, and you can see them [population figures] change,” she said.

As president of the Buffett Foundation, which was giving away over \$1 million annually in the mid-1980s, Susan Buffett directed spending toward two goals: “preventing nuclear war and limiting population growth.” In 1986, that meant grants totaling \$300,000 (\$708,000 in 2020 dollars) to various Planned Parenthood affiliates, and another \$250,000 to the Population Institute (run by Rodney Shaw, a minister who pushed for population control policies in the United Methodist Church in the 1970s).

After Susan's death, her estate bequeathed \$2.9 billion to the Buffett Foundation over four years, which Warren rechristened the Susan Thompson Buffett Foundation. Between 2006 and 2018, Warren gave the Buffett Foundation another \$2.6 billion, nearly all of it in the form of Berkshire Hathaway shares.

Funding population control and abortion has become a Buffett family specialty. The family controls four foundations besides the Susan Thompson Buffett Foundation, all of which contribute to center-left political issues ranging from immigration to higher taxes to LGBTQ interests.

In a 1997 interview with the *Chronicle of Philanthropy*, Suzie Buffett—the couple's eldest daughter and Buffett Foundation chair—said that funding population control is “what my father has always believed was the biggest and most important issue, so that will be the [foundation's] focus.

I feel as his child that it's important to carry out his wishes. It's his money.”

That fidelity to her parents' donor intent also extends to Suzie's ex-husband, Allen Greenberg, a former public interest lawyer for Public

Citizen (one of the litigation groups created by arch-activist Ralph Nader in the 1970s) and staffer for then-Rep. Chuck Schumer (D-NY). Greenberg has quietly directed the Buffett

CC —————
Funding population control and abortion has become a Buffett family specialty.

Foundation since 1987 (2018 compensation: \$753,314) and was Inside Philanthropy's 2019 Foundation President of the Year for "leading the pushback" against abortion on demand with massive grants to pro-choice groups.

The Gates-Buffett Population Cabal

In his 2006 "Giving Pledge," Buffett promised to donate 99 percent of his wealth to four Buffett family foundations, including \$3 billion to the Susan Thompson Buffett Foundation. He also bought himself a seat on the board of trustees for the Bill and Melinda Gates Foundation with what observers noted was the largest donation in history. While the Gates Foundation does support genuine philanthropy—especially fighting disease in developing nations—it's also one of the world's largest funders of abortion activism and research. Buffett's gift of 10 million shares in Berkshire Hathaway effectively doubled its assets and ability to push global "family planning" schemes.

There's reason to suspect that the sudden influx of Buffett money encouraged the Gates Foundation to engage in abortion funding. While Bill and Melinda Gates have expressed personal support for abortion programs—they've criticized President Donald Trump's ban on federal funding of abortions and Bill Gates's father was a longtime Planned Parenthood board member—pro-abortion activists observed as late as 2006 that the Gates Foundation was "shyer of abortion rights funding" than the Susan Thompson Buffett Foundation, although it had no qualms about funding "family planning and sex education programs."

Whatever prompted its change of heart, the Gates Foundation's newfound support for abortion programs was most obvious at a 2012 conference in London it organized with the British government and United Nations. Dubbed "Family Planning 2020" (FP2020), the conference outlined a plan for elites and major governments to extend "reproductive health and rights" to 120 million people in poor countries by the end of 2020. While that includes less controversial things such as birth control and education for girls, FP2020 chiefly aims to loosen abortion restrictions overseas.

FP2020 has *very* deep pockets. In 2017, it spent \$3.8 billion on "family planning," of which \$475 million came

from the U.S. government and American foundations. In 2018, its total American funding rose to \$631 million, according to FP2020's latest annual report. (Almost all the federal funding was awarded under the Obama administration for future payout.)

FP2020 credits the Gates Foundation as a "core partner" on its website, and little wonder—it's almost certainly the largest foundation bankrolling FP2020. Between 2012 and 2017, the Gates Foundation granted a staggering \$127 million to the United Nations Foundation (UNF), a U.S.-based FP2020 conduit that collects donations for the campaign. FP2020 also gets hefty checks from the usual suspects in the abortion on demand camp, including Planned Parenthood and Marie Stopes International, a top abortion provider overseas.

Shamefully, FP2020's abortion program is even supported by the U.S. Agency for International Development (USAID)—the federal agency responsible for delivering foreign aid—to the tune of \$14 million, meaning *your tax dollars* are supporting its anti-life agenda in the name of humanitarian "development." That's particularly outrageous considering that shortly after taking office in 2017 President Trump reinstated the Mexico City Policy, a ban on federal funding of groups that perform abortions overseas. This axed \$75 million in U.S. funding for the U.N. Population Fund, the U.N. agency responsible for population control in poor nations and administering FP2020.

Documenting the anti-family attitude driving this campaign has revealed parallels between the campaign's rhetoric and beliefs and those expressed by the eugenicists, racists, and "Progressive" white supremacists of the 20th century. Even the term "family planning" is a euphemism invented by a cabal of leftists in the 1950s to disguise "population control" policies—itsself a term engineered by early 20th century Progressives like Margaret Sanger.

Take one pillar of FP2020: the "right to reproductive self-determination," which it defines as the right of "individuals and couples [to] choose whether, when, and how many children to have."

That's strikingly similar to the message promoted decades ago by the Population Council, eugenicist John D.



In 1967, the Population Council funded a Disney cartoon warning kids about overpopulation, particularly in India and Asia.

Rockefeller III’s “solution” to supposed world overpopulation. In 1967, the Population Council funded a Disney cartoon warning kids about overpopulation, particularly in India and Asia, touting the same themes as FP2020. The film lauded the benefits of “family planning” for allowing couples “to decide in advance the number of children [they] will have and when they will have them.” “You can have only the children you want,” the cartoon triumphantly concludes, “and only when you want them. That’s what family planning can mean to you.” FP2020 might have repeated that message word for word, 45 years later.

(It should be pointed out that funding neo-eugenicists is hardly beyond the pale for the Buffett-Gates cabal—since 2000, the Population Council has received nearly \$46 million from the Buffett Foundation and \$75 million from the Gates Foundation.)

So how close is FP2020 to accomplishing its original goal? According to its website, 53 million more women and girls are using birth control since it began in 2012 (the original target for 2020 was 120 million), preventing 119 million “unintended pregnancies,” 21 million “unsafe abortions” (what that means is unclear), and 134,000 maternal deaths. Naturally, FP2020 plans to continue well after 2020 ends—and with billions of dollars in funding.

Funding At-Home Abortions

Even acting alone, the Buffett Foundation is the unrivaled terror of the unborn. In the early 2000s it bankrolled efforts to legalize the abortifacient mifepristone (also called RU-486 or Mifeprex) for sale in the U.S. through grants to the drug’s developers, the Population Council, and the enigmatic pharmaceutical firm Danco Laboratories.

Once taken, the drug and its counterpart, misoprostol, induce a miscarriage. “Excessive bleeding” is a common side effect,



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Groups such as TelAbortion and Aid Access now offer online “consultations” and mail-order drugs for women looking to administer their abortions at home—a practice pro-life critics call a “chemical coat hanger.”

according to a RealClearInvestigations report, requiring large quantities of blood bags to avoid lethal hemorrhaging.

In September 2000, the Food and Drug Administration (FDA) approved mifepristone to the rapturous applause of the pro-choice camp, with one Planned Parenthood board member hailing the drug as a “literal lifeline for abortion rights . . . because it’s trained a whole new generation of doctors to perform abortion at a time when the first pioneering generation of doctors” was retiring. Since then, innovative abortion advocates have attempted to market mifepristone and misoprostol over the internet.

Groups such as TelAbortion and Aid Access now offer online “consultations” and mail-order drugs for women looking to administer their abortions at home—a practice pro-life critics call a “chemical coat hanger.” TelAbortion brags that it’s induced 3.5 million abortions this way across the United States. Pro-choice activists see it as a way to bypass abortion restrictions, particularly if the U.S. Supreme Court overrules *Roe v. Wade* and abortion again becomes a state-by-state issue.

However, it’s illegal for unlicensed sellers to distribute the drugs online since they must be prescribed by a health care specialist. (It isn’t available in regular pharmacies.) Georgia banned “telabortions” of fetuses with a detectable heartbeat in 2019, and other states may follow.

In 2019, the FDA raided the home of a woman in New York accused of selling mifepristone and misoprostol



Credit: C-SPAN. License: <https://cs.pn/#/3179Mku>.

Gynuity is well connected to the professional abortion industry: Beverly Winikoff, a Gynuity co-founder and board member, was a Population Council staffer for 25 years.

online without a license. In 2018, the agency seized illegal drugs belonging to Aid Access and demanded the Netherlands-based company cease distributing unapproved abortifacients to the United States. Aid Access sued the FDA for denying women their constitutional right to an abortion.

A War on Poverty ... or the Poor?

Even now abortion advocates are aiming to expand the scope of mifepristone and misoprostol to include second-trimester pregnancies, the period when fetuses develop hair, begin to hear, and may even learn to suck their thumbs and yawn. By the end of the second trimester, a typical fetus measures 13 to 16 inches, weighs 2 to 3 pounds, and has fully functioning organs, fingernails, and toenails, and fingerprints.

Clinical trials of the refined abortifacient are run by Gynuity Health Projects (also called Gynuity Institute), a New York-based company-turned-nonprofit that ultimately wants to sell the drugs online. Gynuity is well connected to the professional abortion industry: Beverly Winikoff, a Gynuity co-founder and board member, was a Population Council staffer for 25 years.

Because second-trimester abortions are illegal in most states, Gynuity has opted to test it overseas in Armenia, Burkina Faso, Nepal, Vietnam, Moldova, Uzbekistan, and Ukraine—all poor countries. For example, Burkina Faso is a small, utterly destitute, landlocked country of 20 million people in West Africa. According to the World Bank, its GDP per capita (economic output per person) is just \$715, compared with nearly \$63,000 in the United States. Almost

44 percent of its people were living at or under the global poverty rate (\$1.90 per day) in 2014. Life expectancy there is under 61 years.

The experiment's subjects are given repeat doses of the drug "every three hours" to induce the "complete evacuation of fetus and placenta . . . within 24 hours." Children are also eligible for the study, and it stopped recruiting only in December 2019.

Between 2003 and 2017, Gynuity raked in \$74 million in donations from five foundations (most of it in the last seven years), nearly half of which came from the Buffett Foundation. Its second-biggest foundation donor was the Gates Foundation, which has given Gynuity \$26.4 million. Grant descriptions from the foundations indicate that much of the money was intended to fund Gynuity's research into misoprostol, such as one from Gates "to evaluate misoprostol effectiveness for prevention of postpartum hemorrhage at the community level."

Worse, U.S. tax dollars also funded Gynuity's horrifying research. In 2012, the Obama administration's Department of Health and Human Services awarded Gynuity a \$368,000 grant for research into "misoprostol for treatment of fetal death at 14–28 weeks."

Funding Arabella Advisors' "Dark Money" Activism

In March 2020, CRC broke the story that in 2018 the Buffett Foundation was the single biggest donor to the Hopewell Fund—the abortion arm of the \$635 million "dark money" empire run by Arabella Advisors. CRC exposed Arabella Advisors, a for-profit consulting firm in Washington, DC, and the Arabella network—which runs a multitude of fake "pop-up" groups and websites made to look like real nonprofits—in the 2019 report *Big Money in Dark Shadows*. It's a small story that shines a lot of light on the Buffett Foundation's influence on the national abortion-on-demand debate.

The Hopewell Fund, which is controlled by Arabella Advisors, was actually started in 2015 with \$8.4 million in seed money from the Buffett Foundation. Under IRS rules, foundations are required to publicly disclose to whom they make grants, though 501(c)(3) nonprofits such as Hopewell *aren't* required to name their donors (only the amounts of their donations) in their annual Form 990 filings. This often obscures the money trail, making it nearly impossible for watchdog groups such as CRC to expose the funders behind an activist group.



Arabella Advisors is a for-profit consulting firm in Washington, DC, which runs a multitude of fake “pop-up” groups and websites made to look like real nonprofits.

In its 2018 IRS Form 990, the Hopewell Fund reported just two anonymous donors: One gave the group \$2.3 million, and the other nearly \$29 million.

The Buffett Foundation donated \$27 million in grants to Hopewell in 2018, making the foundation the largest donor to Hopewell in 2018. (The remaining \$2 million may have been gifted after the foundation filed its Form 990 with the IRS.) The description for each Buffett Foundation grant is the same: “project support,” likely referring to one of Hopewell’s nine known “pop-up” groups. But which one?

Obscuring which donor paid for which project is one strength of the Arabella “dark money” system, which is why its biggest clients are the biggest left-wing foundations in America. But considering the Buffett Foundation’s deep-pocketed support for abortion on demand, one Hopewell pro-abortion group stands out as the likely recipient: Resources for Abortion Delivery (RAD).

Almost nothing concrete is known about RAD. Its website is a one-page, 73-word, vague description of its mission: “improv[ing] access to quality abortion care in the United States . . . by supporting the abortion care delivery system” against outside challenges and restrictive laws.

A \$200,000 grant in 2017 from the Tara Health Foundation, an abortion funder, indicates that RAD advocates against “burdensome laws” and the “stigmatizing” of abortion. A job listing from earlier in 2020 notes that the group has eight employees and “provides legal and regulatory compliance advice to abortion providers” as well as loans to “independent abortion providers.”

RAD was created in 2016 and is run by Meagan Cavanaugh, the former national director of affiliate services for Planned Parenthood. Before that, she was a research manager for the Guttmacher Institute, Planned Parenthood’s think tank for pro-abortion research. The Buffett Foundation has given over \$112 million to Guttmacher in the last two decades.

RAD co-manages the Abortion Law Project, a public database of abortion laws and regulations across the country, along with the ACLU, National Abortion Federation, Planned Parenthood, and other aligned organizations. While much of the group’s activities remain shrouded, what is known about Resources for Abortion Delivery further

reveals the Left’s massive network of overlapping abortion groups—and the billions of dollars they receive from secretive mega-donors such as Warren Buffett.

Cynical “Charity”

Figure 1 shows the top recipients of the Buffetts’ donations from 2000 to 2018.

Figure 1. Buffett Foundation Top Abortion/Population Control Grants, 2000–2018

Recipient	Total Received (Millions of Dollars)
Planned Parenthood (& Affiliates)	672.7
Marie Stopes International	441.3
Population Services International	417.0
Ipas	364.7
National Abortion Federation	293.3
Guttmacher Institute	112.3
Society of Family Planning	76.2
Pathfinder International	47.7
Population Council	46.0
Center for Reproductive Rights	37.9
Gynuity Health Projects	36.4
NARAL Pro-Choice America (& Affiliates)	30.8
Physicians for Reproductive Choice and Health	28.0
Religious Coalition for Reproductive Choice	16.5
Population Reference Bureau	12.9
National Network of Abortion Funds	11.4
Total	2,645.2

Source: Susan Thompson Buffett Foundation, IRS Form 990, Schedule I, 2000–2018.

A Victory for Life

Although the pro-life movement has made impressive gains in recent years—including a rule barring federal funding of groups that perform abortion referrals, such as Planned Parenthood—there’s no doubt that the Susan Thompson Buffett Foundation has the wealth to keep the pro-abortion camp afloat for years. But here’s one positive anecdote for those fighting for the rights of the unborn.

In the 1980s and 1990s, a significant portion of the Buffett Foundation’s funding came from Berkshire Hathaway itself, which for decades made donations to nonprofits at the direction of the company’s shareholders. Between 2002 and 2003, for example, that totaled \$18.5 million. And since Warren Buffett himself has always maintained a plurality control of the company, that’s translated to tens of millions of dollars given to pro-choice and population control groups over the years.

But the scheme ended in 2003 in a curious set of circumstances.

In 2002, Steve Mosher, president of the pro-life Population Research Institute, gave a lecture before gathered Berkshire Hathaway shareholders that culminated in a resolution that would have barred the company from donating to abortion

and population control groups. “What sense does it make for you to be eliminating future Berkshire Hathaway customers? The success of Berkshire Hathaway depends on having customers to buy its products.” (The conglomerate owns dozens of name brand companies, including GEICO, See’s Candies, Dairy Queen, and Fruit of the Loom.)

Shareholders voted the resolution down. But the next year, Berkshire Hathaway acquired Pampered Chef (a kitchen tool manufacturer) and its network of 67,000 independent sellers, many of them stay-at-home mothers. One of these “kitchen consultants,” Cindy Coughlon, objected to association with Berkshire Hathaway since part of the profits from her sales for Pampered Chef would invariably benefit the conglomerate’s pro-abortion donations.

Coughlon drafted her own resolution barring Berkshire Hathaway donations to abortion and population control groups, and incredibly, it passed in July 2003. (Aghast, Buffett ceased making corporate contributions entirely.) One small victory for millions of people, born and yet to be born. ■

Read previous articles from the Foundation Watch series online at [CapitalResearch.org/category/foundation-watch/](https://www.CapitalResearch.org/category/foundation-watch/).



BEHIND THE UNREST: BLACK LIVES MATTER'S ORGANIZATIONAL STRUCTURE AND FUNDRAISING

By Hayden Ludwig and Robert Stilson

Summary: *The nationwide wave of protests and riots that thrust Black Lives Matter back into the forefront of America's consciousness. But what exactly is Black Lives Matter? In the broadest sense, Black Lives Matter refers to a protest movement spawned by recent and repeated instances of black men and women being killed under apparently controversial to outrageous circumstances. There are also a number of distinct entities that operate to one degree or another within the broader Black Lives Matter framework. Behind them are nonprofits, including Thousand Currents and an ActBlue nonprofit.*

The killing of George Floyd on May 25 by a police officer Derek Chauvin—who was subsequently charged with Floyd's murder—touched off a nationwide wave of protests and riots that have thrust Black Lives Matter (BLM) back into the forefront of America's consciousness. But what exactly is Black Lives Matter as an organization?

In the broadest sense, Black Lives Matter refers to a protest movement spawned by recent and repeated instances of black men and women being killed under apparently controversial to outrageous circumstances. It traces its origins to the 2012 fatal shooting of Trayvon Martin by George Zimmerman (who was acquitted of Martin's murder) and to “three radical Black organizers—Alicia Garza, Patrisse Cullors, and Opal Tometi.” The phrase “Black Lives Matter” is frequently employed to show opposition to police brutality, as well as in connection to other racially charged issues. Used in this way, it does not imply affiliation with any particular organization.

However, a number of distinct entities operate to one degree or another within the broader Black Lives Matter framework, and they make use of the term or a closely related variant. Two groups in particular—the Black Lives Matter Global Network Foundation and the Movement for Black Lives—appear to be networks of particular coalescence.



In the broadest sense, Black Lives Matter refers to a protest movement spawned by recent and repeated instances of black men and women being killed under apparently controversial to outrageous circumstances.

Black Lives Matter Global Network Foundation

Black Lives Matter Global Network Foundation is probably the central Black Lives Matter organization. It claims Garza, Cullors, and Tometi as co-founders and operates the BlackLivesMatter.com website. It has been a fiscally sponsored project of Thousand Currents, a 501(c)(3) nonprofit, since 2016. Fiscal sponsorship is an arrangement through

Hayden Ludwig is a research analyst at CRC. Robert Stilson runs several of CRC's specialized projects, including a series on federal grants and nonprofits.

Credit: Victoria Pickering. License: <https://bit.ly/2NzxD3F>



Credit: TED Conference. License: <https://bit.ly/2A7QJEV>.

The Black Lives Matter movement traces its origins to the 2012 fatal shooting of Trayvon Martin and to “three radical Black organizers—Alicia Garza, Patrisse Cullors, and Opal Tometi.”

which an organization that does not have its own IRS tax-exempt status can operate as a “project” of an organization that does. In the case of 501(c)(3) fiscally sponsored projects, this allows for tax-deductible donations.

According to the Thousand Currents website, the official name of this Black Lives Matter entity is “Black Lives Matter Global Network Foundation, Inc.” (hereafter referred to as BLM Global Network Foundation). This is also the name the group has used on recent press releases. The group’s name is itself a source of confusion, though, because it also uses the name “Black Lives Matter Foundation, Inc.” on its About page and “Black Lives Matter Global Foundation, Inc.” in its website Privacy Policy.

Things are further complicated by the existence of a separate 501(c)(3) nonprofit named “Black Lives Matter Foundation,” based in Santa Clarita, California (EIN: 47-4143254). Recent reported statements from both this organization and BLM Global Network Foundation have emphasized that they are not in any way affiliated. But Thousand Currents (the fiscal sponsor of BLM Global Network Foundation) reported a combined \$90,130 in grants to the Santa Clarita-based Black Lives Matter Foundation on its fiscal year 2018 and 2017 tax filings.

Comprehensive financial data for fiscally sponsored projects such as BLM Global Network Foundation are often difficult

or impossible to discern because projects do not file their own tax forms with the IRS. In a 2019 audit, Thousand Currents disclosed \$3,354,654 in donor-restricted assets for Black Lives Matter. That number was \$2,622,017 in 2018.

According to grants reported on their respective tax filings and websites, organizations that have specifically earmarked contributions to Thousand Currents for Black Lives Matter (and thus presumably for BLM Global Network Foundation) include the NoVo Foundation (\$1,525,000 from 2015 to 2018), the W.K. Kellogg Foundation (\$900,000 from 2016 to 2019), and Borealis Philanthropy (\$343,000 from 2016 to 2018). Given current circumstances, funding totals will likely be significantly higher in 2020, as BLM Global Network Foundation recently announced a \$6.5 million grassroots organizing fund thanks to “the generosity and support of donors.”

In addition to its own operations, BLM Global Network Foundation serves as the center of a network of 17 affiliated local chapters, such as Black Lives Matter Chicago and Black Lives Matter NYC. In some cases these chapters are themselves fiscally sponsored by other nonprofit organizations. For example, Black Lives Matter Detroit is sponsored by a 501(c)(3) called Allied Media Projects, while Denver-based Black Lives Matter 5280 is sponsored by the Rocky Mountain Peace and Justice Center. Donations made directly to these chapters would be routed through (and reported as contributions to) their respective fiscal sponsors, rather than through Thousand Currents.

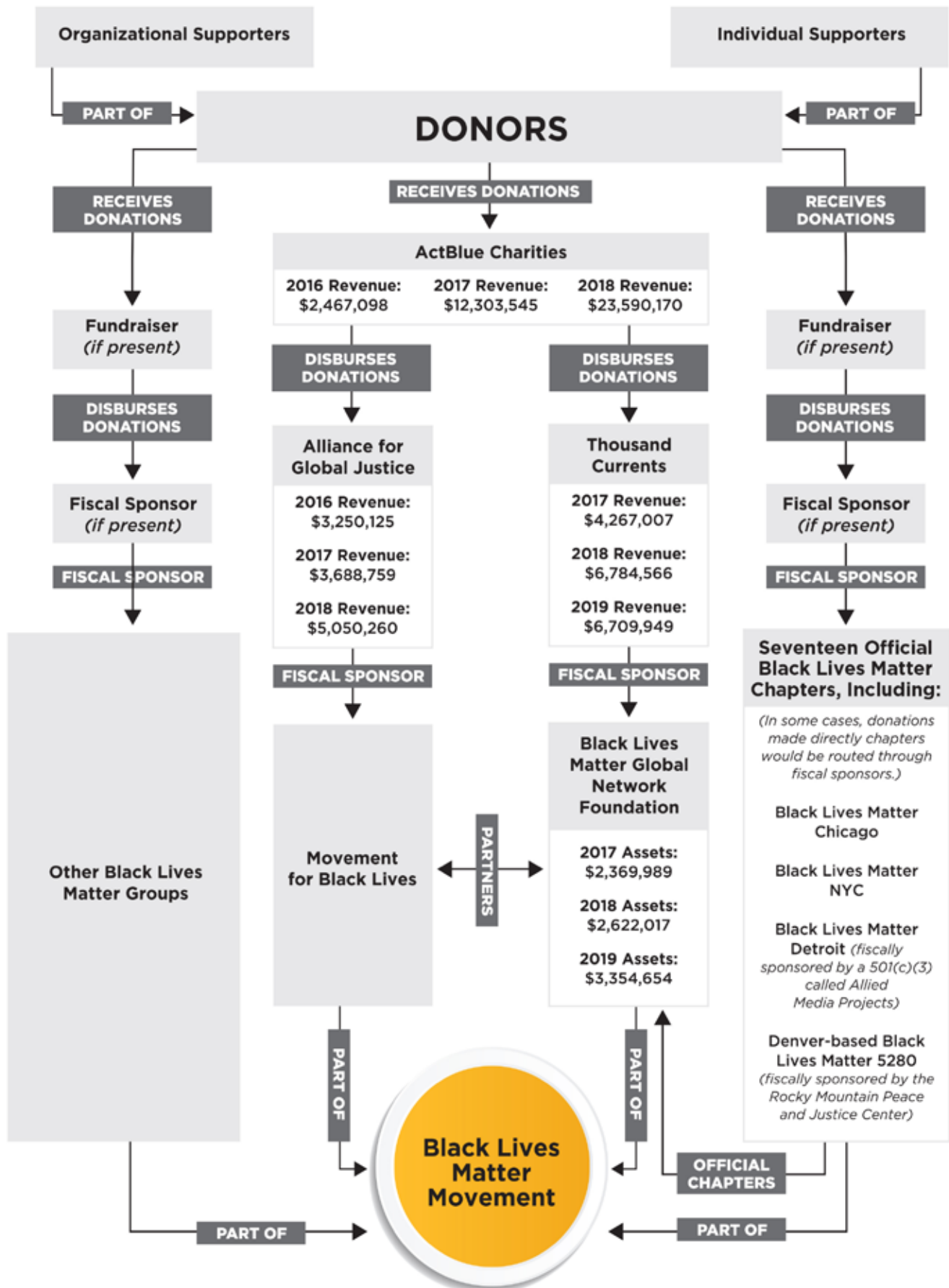
The Movement for Black Lives

A second organization that functions as something of a hub for official Black Lives Matter organizing is the Movement for Black Lives. This group also operates under a fiscal sponsorship arrangement as a project of the Alliance for Global Justice, a 501(c)(3) nonprofit. On its website



Fiscal sponsorship is an arrangement through which an organization that does not have its own IRS tax-exempt status can operate as a “project” of an organization that does.

THE FUNDING OF BLACK LIVES MATTER ORGANIZATIONS



homepage, the Movement for Black Lives describes itself as “a collective of more than 50 organizations,” while its donation page says it “is made up of over 150 organizations.” One group listed among the 150 is the “Black Lives Matter Network,” though it is unclear whether this refers to BLM Global Network Foundation.

The Movement for Black Lives and BLM Global Network Foundation do appear to share a common history, and there is some level of organizational overlap between the two. Black Lives Matter Boston, for example, is listed as a chapter of BLM Global Network Foundation, while also explaining on its website that “Black Lives Matter Boston remains committed to being active in the Movement for Black Lives (M4BL) and its broad mission platform.”

The Movement for Black Lives does not disclose its financial statements due to its status as a fiscally sponsored project. The Alliance for Global Justice, though, has reported in its tax filings giving \$326,078 to the group from 2016 to 2018. Other organizations that have reported grants to the Movement for Black Lives (through the Alliance for Global Justice) include Borealis Philanthropy and the San Francisco Foundation.

Movements Versus Legal Entities

The upshot of this is that the structure of Black Lives Matter means something different depending on what part of the movement is being referenced. To the person using it on social media or the protestor writing it on a sign, it might simply reflect that individual’s anger at events such as George Floyd’s killing or serve as a way of expressing support



The structure of Black Lives Matter means something different to the person using it on social media or the protestor writing it on a sign, depending on what part of the movement is being referenced.



Michael Jordan is committing \$100 million over 10 years “to organizations dedicated to ensuring racial equality, social justice and greater access to education.” While it’s clear that Jordan intends to give in conjunction with the broader goals of the Black Lives Matter movement, he did not indicate which entities would be the recipients.

for policy changes. But this ambiguity can cause confusion among observers and commentators when decentralized movements are conflated with actual existing legal entities that accept tax-deductible donations.

Consider a recent example: Michael Jordan released a statement saying “Black lives matter” and committing \$100 million over 10 years “to organizations dedicated to ensuring racial equality, social justice and greater access to education.” This was sometimes reported as a \$100 million contribution to Black Lives Matter. While the context makes clear that Jordan intends to give in conjunction with the broader goals of the Black Lives Matter movement, he did not indicate which entities would be the recipients—and there are many, many out there that could fit his description. The unique way that Black Lives Matter straddles the border between decentralized protest movement and organized nonprofit entity makes this confusion understandable and likely to persist.

Enter ActBlue: The Left’s Favorite “Dark Money” Machine

One story from early June is how activist groups are capitalizing on the recent BLM protests and far-left riots to raise millions of dollars from sympathetic donors. The website BlackLivesMatter.org, which purports to be the center of a



Credit: ActBlue. License: <https://bit.ly/2YvWfzG>.

ActBlue is a service for left-wing groups and Democratic politicians to fundraise without setting up an online donation infrastructure themselves.

more-or-less headless and decentralized movement, recently reported a major uptick in donations since protests began over the death of George Floyd. Multiple conservative pundits have noted that the donation page on BlackLivesMatter.org redirects to a page run by ActBlue, which is *also* the name of a political action committee (PAC) that collects funds for Democratic Party campaigns, and so the pundits assumed that donations to BlackLivesMatter.org benefit Democrats such as Joe Biden and the Democratic National Committee.

So what is ActBlue, anyway?

As InfluenceWatch explains, ActBlue is a service for left-wing groups and Democratic politicians to fundraise without setting up an online donation infrastructure themselves. Money passes through ActBlue to the ultimate recipient and ActBlue collects a fee as payment. This also has the added effect of obscuring the ultimate recipient, since money passing through ActBlue looks like a donation to ActBlue—not to, say, Black Lives Matter.

Hundreds of groups ranging from left-leaning to far-left use this platform, funneling an incredible \$1.5 *billion* into political causes so far in the 2019–2020 election cycle. Its proved so successful that it spawned a conservative analog, WinRed, which has raised \$235 million for Republicans in the same period.

But the trick to ActBlue is understanding that it’s a single brand encompassing **three separate nonprofits**: a 501(c)(3) called ActBlue Charities, a 501(c)(4) called ActBlue Civics, and a PAC (also called a “527”) simply called ActBlue. These groups all share leadership and office space but are legally distinct entities.

Disclaimer language at the bottom of BlackLivesMatter.org’s ActBlue donation page indicates that funds are processed through ActBlue Charities, the 501(c)(3) arm, so donations are tax-deductible. Similarly, left-wing advocacy groups such as Demand Justice fundraise through ActBlue Civics, the 501(c)(4) arm, while Democratic PACs and campaigns fundraise through the ActBlue PAC.

Here’s the bottom line: these are three money “pots” which don’t spill over into each other. Money raised by a 501(c)(3) cannot be donated to a PAC or campaign; that would violate laws governing nonprofits and elections.

No Accountability?

The *real* story missed by the media and pundits is far more disturbing.

ActBlue Charities and ActBlue Civics file Form 990 reports with the IRS, meaning that their top-line finances are publicly disclosed. (ActBlue PAC is governed by the Federal Election Commission and so files different reports.) In 2018 (the latest year available), ActBlue Charities reported almost \$24 million in revenues and ActBlue Civics took in an impressive \$49 million.

But nearly all the money ActBlue Charities and ActBlue Civics *paid out* is reported generically in one lump, as “passed-through contributions”—meaning those ActBlue nonprofits don’t have to disclose which groups they passed money to or how much each group received in total.

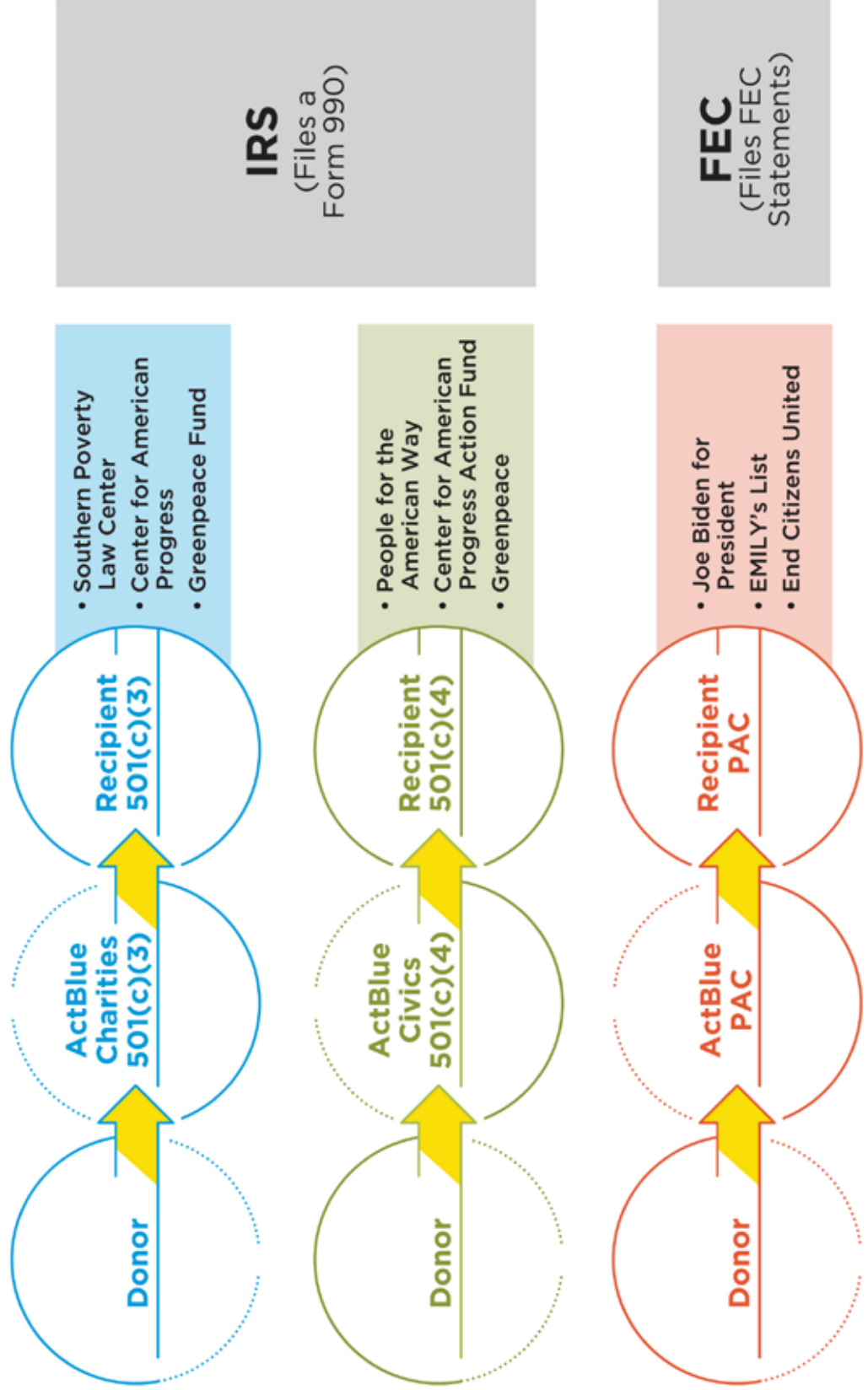
Considering the Left’s loathing for untraceable “dark money,” that lack of transparency from ActBlue Charities and ActBlue Civics is shocking hypocrisy.

Other nonprofits largely function as pass-throughs, but they normally report the end-recipient of the money flows. I’m not aware of any other nonprofits that hide that lumping everything into the generic expense of “passed-through contributions” the way ActBlue does. In fact, I wonder if any reporter has ever asked ActBlue Charities and ActBlue Civics if the IRS has explicitly okayed their highly convenient non-reporting?

By contrast, nonprofits such as the Tides Foundation and DonorsTrust—pass-through funders for liberal and conservative causes, respectively—attach a list of grant recipients to their Form 990 (on the form’s “Schedule I”).

ActBlue

- Same Brand
- Same Leadership
- Same Office Space





*Considering the Left’s loathing for untraceable “dark money,”
that lack of transparency from ActBlue Charities and
ActBlue Civics is shocking hypocrisy.*

To take just one of the ActBlue groups, here’s the text from ActBlue Civics’ latest Form 990 describing that program:

Developed online fundraising tools and methods, trained and educated fundraisers, and **accepted 228,045 pass-through contributions totaling \$45,878,740 for 649 organizations** from grassroots supporters [emphasis added].

Who are those 649 groups ActBlue Civics paid in 2018? That’s impossible to answer since it doesn’t report its paid grants. The same is true of ActBlue Charities. All the tens of millions of dollars a year in cash funneled into public policy debates by these two groups are cloaked in total darkness.

And note that the ActBlue Civics boast—\$46 million contributed by 228,045 donors—works out to an average contribution of over \$200. Guess what? The \$200 line is where the Federal Election Commission requires political campaigns to report individual donors, so had those donors instead given directly to candidates, their contributions would be publicly known.

(The ActBlue PAC maintains an online directory of clients but does not report how much they’ve received via ActBlue’s platform. It likely reports those clients because the Federal Election Commission requires such an accounting anyway.)

And keep in mind that the original definition of “dark money” was money flowing through 501(c)(4) groups, since they’re not required to disclose their donors. Yet ActBlue Civics *brags* about the \$46 million in “dark money” it funneled in 2018, without criticism from the biggest “dark money” hawks in Congress, such as Sen. Sheldon Whitehouse (D-RI). In fact, Whitehouse’s 2018 reelection campaign *still* accepts donations via ActBlue!

Where’s the hue and cry from the liberal money-in-politics crowd when it’s most deserved? The Left’s most consistent principle seems to be hypocrisy. ■

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BIG MONEY IN DARK SHADOWS

Arabella Advisors' Half-billion-dollar
"Dark Money" Network

Hayden R. Ludwig

According to media personalities and politicians, nameless, faceless donors wield outsized influence over the American political process due to the so-called "dark money" they use to fund think tanks and advocacy groups. But that's far from the whole story. "Dark money" exists on both sides of the aisle. In fact, the Left seems to have deeper and darker pockets of cash than anyone suspected. Learn more about liberal "dark money" in CRC's original report.



CAPITAL RESEARCH CENTER
AMERICA'S INVESTIGATIVE THINK TANK



THE DYNAMICS OF CIVIL FORFEITURE REFORM

By Robert Stilson

Summary: *Civil asset forfeiture is one of the most controversial and least understood U.S. law enforcement practices. Touted as an effective way to hamstring criminal enterprises, it also regularly ensnares the innocent in its proceedings. Many conservatives and liberals have called for its reform or abolition. Yet the various state and federal debates on civil forfeiture laws demonstrate how a relatively small number of influential and generally respected interest groups can work outsized effects on public policy. These organizations have their own good reasons for supporting what most Americans apparently view as a bad practice.*

Civil asset forfeiture is as paradoxical an issue as they come. It is simultaneously one of the most controversial and least understood law enforcement practices in the United States today. Touted as an effective way to hamstring criminal enterprises, it also regularly ensnares the innocent in its proceedings. Calls for its reform or abolition have reached receptive ears across the political spectrum but have divided both conservatives and liberals along their own internal ideological fault lines.

What is perhaps most interesting about the various state and federal debates surrounding civil forfeiture laws, though, is how a relatively small number of influential and generally respected interest groups can work outsized effects on public policy. These organizations have their own good reasons for supporting what most Americans apparently view as a bad practice. This has complicated what might otherwise be a straightforward (and bipartisan) march to reform or eliminate civil forfeiture nationwide.

How Civil Forfeiture Works

Simply put, civil forfeiture is a process through which law enforcement can seize property that it suspects is involved in criminal activity. This is distinguished from criminal forfeiture in that it legally operates as a lawsuit against the property itself, rather than as part of a criminal proceeding against a defendant. In many cases, this means that civil



Credit: Pictures of Money. License: <https://bit.ly/2B4fFux>.

Civil asset forfeiture is simultaneously one of the most controversial and least understood law enforcement practices in the United States today. Simply put, civil forfeiture is a process through which law enforcement can seize property that it suspects is involved in criminal activity.

forfeiture can be employed to confiscate property without a conviction for—or even a charge of—a crime. Cash and automobiles are two commonly forfeited assets, but civil forfeiture can be (and often has been) applied to real estate.

As is typical in the American legal system, each of the states and the federal government have their own laws governing forfeiture. These vary widely from those that are very deferential to law enforcement to those that have abolished civil forfeiture entirely. In jurisdictions that use it, the value of seized property can be staggering: The state of Texas reported over \$50 million in combined civil and criminal forfeitures in 2017 alone. At the federal level, the U.S. Treasury and Justice Departments took in a combined \$4.5 billion in 2014, and the Justice Department reported over \$2.2 billion worth of deposits into its Asset Forfeiture Fund in Fiscal Year 2019.

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Growing Opposition

At the conceptual level, data indicate that most Americans are deeply skeptical of the practice. The libertarian Cato Institute notes that “Few [Americans] understand the concept of civil asset forfeiture,” but once it is explained to them they “overwhelmingly” reject it—to the tune of 84 percent of respondents in a recent survey. That degree of public consensus is difficult to come by on any political issue that might remotely be described as unsettled, and it should be influential on politicians weighing reform legislation.

Many argue that Americans’ intuitive suspicion of civil forfeiture is fully justified. The Institute for Justice, a libertarian public interest law firm that has been among its most active opponents, uses three key criteria to evaluate civil forfeiture laws. These criteria are good proxies for the principal objections against the practice, and one or more of them is usually at play in instances of alleged abuse.

The first is the often direct financial incentive for law enforcement, or government in general, to pursue forfeiture. Many states allow police departments to keep some or all of the property they seize, creating an incentive that even supporters recognize as an important motivator for police to pursue forfeiture. Some states have attempted to remove this incentive with laws that, for example, mandate that forfeited assets be deposited in the state’s general fund. However, this merely spreads the incentive across the entire state government rather than removing it. In any event a critical wrinkle of federal law often takes the teeth out of such reforms: the equitable sharing program.

Under the equitable sharing framework, the federal government can “adopt” property forfeited to local police departments, keep a portion of it for themselves, and then return up to 80 percent of the proceeds to the department that made the initial seizure. Importantly, this allows the whole process to operate under federal law, which in many cases is less restrictive than the state forfeiture law under which the property was seized. This program is often characterized as a loophole that allows agencies to circumvent state laws.

The second criterion deals with the standard of proof that the government must meet to keep the seized property if the forfeiture is challenged in court. In some states, the govern-

ment need only demonstrate that the property is more likely connected to criminal activity than not. This is a far lower standard than what is required for a criminal conviction, and it explains how individuals can lose property for “criminal activity” without ever being convicted of or even charged with a crime.

The third involves the burden that civil forfeiture laws place on innocent owners. These are people who neither gave permission for nor even had knowledge of the illegal purposes to which someone else was using their property. In many states, the government can nonetheless pursue civil forfeiture against the property in question, requiring the owner to affirmatively prove they had nothing to do with the crime. In addition to flipping the traditional “innocent until proven guilty” presumption on its head, this can be a difficult and expensive burden for an innocent owner to meet, especially when court costs exceed the value of the property itself.

Examples of Abuse

Sadly, real-life examples of innocent people ensnared by civil forfeiture are easy to find; they form the basis of many lawsuits brought by groups such as the Institute for Justice.

In one case, police seized a New Jersey mother’s car after her son used it to sell marijuana without her knowledge or consent. A college student had \$11,000—his entire life savings—seized at an airport and held for over two years without ever being charged with a crime. Another man was pressured to sign away almost \$92,000 in cash to the state of Wyoming during a traffic stop and then required to prove in court that he had earned the money lawfully. In 2012, the IRS seized \$446,000 from two brothers who operate a convenience store distribution business, sat on the money for more than two and a half years without charging either with a crime, and returned the money only after the brothers filed suit demanding it.

Recent lawsuits have challenged dubious civil forfeiture schemes that extended to entire law enforcement departments. A suit seeking to force U.S. Customs and Border Protection to reform how it conducts forfeiture stemmed from an American man whose truck was seized and held



Credit: Institute for Justice. License: <https://bit.ly/2Vnu01u>.

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for over two years because he had left five rounds of legally possessed ammunition in his center console. He was never charged with a crime, but it took a lawsuit to get his truck returned.

Another class action lawsuit is challenging the civil forfeiture regime in Detroit, under which law enforcement allegedly routinely seizes vehicles from owners on extremely thin pretexts, never charges them with crimes, and then requires payment of over \$1,000 in fees for the owners to recover their property.

A particularly egregious example comes out of Philadelphia, where police and prosecutors operated a “draconian civil forfeiture machine” that took in over \$72 million from 2002 to 2014. In addition to cash, the city pursued forfeiture against over 3,500 automobiles and over 1,200 homes and other real property during that period. Often, the property owners were never charged with crimes, yet to challenge the forfeitures they were required to appear at an average of five separate hearings overseen by a prosecutor, not a judge, whose decisions were not appealable. Over 35 percent of forfeiture proceeds were spent on salaries, including “the very officials doing the seizing and forfeiting.” Following a major class action settlement in 2018, the city of Philadelphia agreed to “dismantle” its civil forfeiture apparatus through a series of reforms and set up a multi-million dollar fund “to compensate forfeiture victims.”

Recent Developments in the Law

Cases such as these touch an ideological nerve for many on both the right and the left, and they have prompted a flurry

of activity in state legislatures and the courts. New laws have come with often bipartisan support. State-level changes to civil forfeiture tracked by the Institute for Justice reveal that 35 states and the District of Columbia have passed some type of asset forfeiture reform since 2014. At present, at least 15 states require a criminal conviction to forfeit most types of property in civil court, while at least 13 place the burden of proof for innocent owner claims on the government. Three states—New Mexico, North Carolina, and Nebraska—have done away with civil forfeiture entirely.

At the federal level, the response has been more muted. Former U.S. Attorney General Jeff Sessions was a vocal proponent of civil forfeiture, reversing some Obama-era limits on the equitable sharing program in 2017, but also updating it with modest safeguards designed to help protect innocent property owners. That program’s revival met with bipartisan skepticism in Congress, but apparently received the support of President Donald Trump.

There has been some federal activity on the legislative front, as recently cataloged by the Heritage Foundation. In 2019 Congress passed the Clyde-Hirsch-Sowers RESPECT Act, which limited how the IRS can use civil forfeiture to seize assets from bank accounts. Two other pieces of legislation have also been introduced: The Fifth Amendment Integrity (FAIR) Act (H.R. 1895) and the Detering Undue Enforcement by Protecting Rights of Citizens from Equitable



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Sharing and Seizures (DUE PROCESS) Act (H.R. 2835). Both would “substantially overhaul” federal civil forfeiture through reforms such as raising the standard of proof to “clear and convincing” evidence, shifting the burden of proof from the property owner to the government, and, in the case of the FAIR Act, abolishing the equitable sharing program. These bills have attracted some bipartisan support.

Finally, the Supreme Court also weighed in on state civil forfeiture laws in 2019. In *Timbs v. Indiana*, the Court unanimously ruled that the Eighth Amendment’s prohibition of excessive fines applied to state governments, specifically in the context of civil asset forfeiture. While *Timbs* will



Credit: License: <https://bit.ly/2Vmv40s>

*(Sam Gedge, Counsel for Institute for Justice in *Timbs v. Indiana* on left, and William Freivogel, Professor of Journalism, Southern Illinois University on right.) While *Timbs* will go down in legal history as the case that “incorporated” that clause against the states, its practical implications for civil forfeiture are also significant. Without a doubt, it is one of the more dynamic fronts in the multipronged world of criminal justice reform.*

go down in legal history as the case that “incorporated” that clause against the states, its practical implications for civil forfeiture are also significant. Without a doubt, it is one of the more dynamic fronts in the multipronged world of criminal justice reform.

Support for Civil Forfeiture

Of course, nothing would be dynamic about civil forfeiture reform without a distinct set of interests pushing back against those reforms. Chiefly and quite logically, these interests represent law enforcement and government.

Supporters argue that the system, whatever its flaws or potential for abuse, provides society with several benefits that on balance justify its retention. They point to the fact that forfeiture can remove from criminal hands assets used in furtherance of criminal activity or proceeds derived from criminal activity. This, they argue, is a powerful deterrent. Civil forfeiture can also allow the seizure of criminally linked property when the criminal or owner is beyond the reach of police, perhaps because he or she has fled the country. And because many jurisdictions use seized assets to fund law enforcement or some other public purpose, civil forfeiture helps defray costs that taxpayers would otherwise need to bear. Finally, in some cases, relevant law allows forfeiture

proceeds to compensate victims of crime. One notable example involves assets seized in connection to the Ponzi scheme operated by Bernie Madoff.

The Law Enforcement Lobby

Given their inextricable connection to the issue, it is not surprising that all levels of law enforcement prominently make these arguments. Federal agencies such as the U.S. Drug Enforcement Agency and the FBI defend forfeiture as a powerful weapon against wrongdoers and cite examples of how civil forfeiture has disrupted serious criminal enterprises.

National law enforcement associations have been active on the issue at the federal level. According to the Senate’s lobbying disclosure database, groups such as the National Association of Police Organizations, the Fraternal Order of Police, the National Association of Assistant United States Attorneys, and the National Sheriffs’ Association have lobbied Congress on asset forfeiture over the past few years, sometimes identifying it as a particular legislative priority. The National District Attorneys Association, which represents America’s prosecutors, maintains that civil forfeiture, including the equitable sharing program, “should remain intact at its core” and that probable cause—a quite low bar for law enforcement to meet—should be the standard required for employing civil forfeiture.

State-level reform proposals often prompt similar resistance. In Alabama, some sheriffs and district attorneys spoke out against “well-meaning” proposals to require a criminal conviction prior to forfeiture and to route proceeds into the state treasury rather than directly to police departments. Law enforcement reacted to proposed reforms in Utah by feeling “slapped down really for doing a very important part of the criminal justice process.” The Honolulu Police Department supported Hawaii Governor David Ige’s veto of a reform bill. Similar law enforcement opposition surfaced against reform efforts in Virginia and Pennsylvania, to name just two. These groups can exert powerful lobbying forces on state legislatures, as illustrated by recent events in Missouri.

Missouri is among the minority of states requiring a criminal conviction prior to any civil forfeiture, as well as man-

dating that any property seized in this way be used to fund public schools rather than police department expenses. Despite these restrictions, one county reportedly seized \$2.6 million in 2018 alone from 39 passing motorists, none of whom were ever charged with crimes. Because these drivers had in some way implicated federal law—typically by transporting money across state lines—these local police were able to send the seized assets to the federal government through the equitable sharing program and receive up to 80 percent directly back to their departments. This effectively sidestepped both Missouri’s criminal conviction requirement and the mandatory transfer to the state’s schools.

A 2019 effort by a Republican state lawmaker to amend Missouri’s laws to eliminate this federal workaround initially looked promising: The bill passed unanimously in committee. What reportedly followed, however, was an intensive “behind-the-scenes lobbying” campaign by police and prosecutors to characterize such reforms as “anti-police and soft on the war on drugs.” That lobbying, which took place in private rather than at public hearings, was clearly effective: The chair of a separate committee—a fellow Republican—killed the bill before it was ever brought to the floor.

Sometimes law enforcement and reform advocates have reached amicable compromises on civil forfeiture. When legislation overhauling California’s civil forfeiture laws was proposed in 2016, the California Police Chiefs Association, the California Sheriffs Association, the California District Attorneys Association initially opposed it. But after negotiating some changes with lawmakers, these organizations dropped their opposition, and the bill passed as “one of the nation’s most significant reforms of its kind.”

Local Government and *Timbs v. Indiana*

Another related set of interest groups—local government organizations—has recently and prominently shown support for civil forfeiture as *amici* in the 2019 Supreme Court case of *Timbs v. Indiana*. *Amici* are organizations or individuals who are not parties to a case but nevertheless have an interest in its outcome. They are permitted to file *amicus curiae* (“friend of the court”) briefs with the Supreme Court to present arguments not covered by the actual parties. These briefs can be persuasive in how the justices ultimately rule.

The fact pattern that gave rise to *Timbs* is a classic example of civil forfeiture in practice. Tyson Timbs pled guilty to certain drug offenses in Indiana, for which the maximum possible fine under applicable law was \$10,000. The state, however, brought a civil forfeiture action against a Land

CC

One revealing and overlooked piece of information from the Timbs case was the slate of amici lined up on both sides of the litigation: It was dramatically one-sided.

Rover he had recently purchased for \$42,000. After the Supreme Court held that the excessive fines clause of the Eighth Amendment applied to state civil forfeiture actions, a series of judicial remands ultimately led to a trial court order to return the Land Rover to him. The judge found that the vehicle’s forfeiture was “grossly disproportional to the gravity [of Timbs’ offenses],” but that decision is currently being appealed to the Indiana Supreme Court.

One revealing and overlooked piece of information from the *Timbs* case was the slate of *amici* lined up on both sides of the litigation: It was dramatically one-sided. Of the 20 *amicus* briefs filed with the U.S. Supreme Court by over 100 different organizations and individuals across the ideological spectrum, only one brief signed by five local government associations representing their eponymous constituents was submitted in support of the state of Indiana. That brief came from the National Association of Counties, the National League of Cities, the U.S. Conference of Mayors, the International City/County Management Association, and the International Municipal Lawyers Association. As part of their argument, these groups asserted that “forfeiture of this character advances legitimate governmental interests” and that “nothing about the forfeiture at issue is constitutionally excessive.” Indeed, they argued that forfeiture of a vehicle worth more than four times the maximum allowable fine was “appropriately proportioned” to Timbs’ offenses.

Political Opposition and Support

Finally, with civil forfeiture reform as a political issue, perhaps the most interesting thing to note is that it does not line up well along traditional Democrat and Republican lines. The only two states to earn an “F” for their civil forfeiture laws in 2015 from the Institute for Justice—North Dakota and Massachusetts—could not be more different politically. Civil forfeiture has been abolished in light-blue New Mexico, light-red North Carolina, and deep-red Nebraska. Both the Republican and Democratic parties endorsed civil forfeiture reform as part of their official platforms during the 2016 election cycle.

It has also united and divided individual politicians into some strange assortments. President Trump appears to support the practice, while both of the major bills pending in Congress to restrict it have attracted multiple Republican co-sponsors. Loretta Lynch defended civil forfeiture during her confirmation as attorney general during the Obama administration, placing her in the same camp as her Trump Administration successor, Jeff Sessions. When Representative Tim Walberg (R-MI) introduced a 2019 amendment that would have cut funding for federal adoptive seizures (a process through which the equitable sharing loophole is frequently exploited), the representative who rose to speak in opposition was fellow Republican Robert Aderholt (R-AL).



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What this likely reflects is the subjective judgments of individual politicians as to what degree the ends can justify the means. Civil forfeiture undoubtedly removes significant resources from legitimate criminals, but it clearly traps innocent property owners. The proper balance of these two sides to the practice is merely an extension of the age-old law enforcement tradeoff: Give government too much power, and it will trample the rights of its citizens; give it too little, and it cannot adequately protect those rights.

The Path Forward

If polling and political momentum are any indication, the weight of American opinion seems to clearly fall on the side of abolishing or dramatically reigning in civil forfeiture. For those who place the highest premium on individual rights, the fact that some criminals will keep their ill-gotten gains and that government will need to find other methods of balancing its books is an acceptable price to pay in order to prevent innocent (or for that matter, criminal) property owners from losing their possessions without a more sub-

stantial due process than that most civil forfeiture laws afford.

Doing away with civil forfeiture may be the best thing in the long run for the very law enforcement interests that support it. Police have a remarkably difficult job that frequently requires balancing competing legitimate interests at the departmental level and in split-second situations on the ground. Excluding instances of abuse, it's certainly not fair to pass judgment on law enforcement's use of civil forfeiture as a tool to do its primary job: stopping crime. Legislatively abolishing or significantly reforming civil forfeiture would remove a persistent source of controversy plaguing an already overcriticized profession.

Good police (who represent the vast majority) operate within the limits set for them by the people, and it may be time to redraw those lines to exclude civil forfeiture. ■

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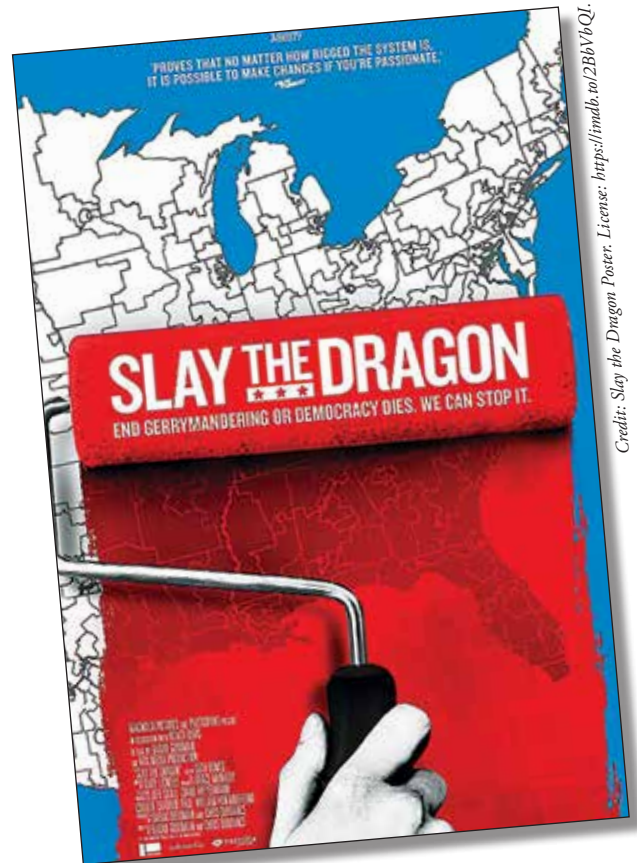
SLAY THE DRAGON: SAVE DEMOCRACY BY ELIMINATING DEMOCRACY

By Ken Braun

Summary: *Slay the Dragon* is a profile of the 2018 Voters Not Politicians (VNP) redistricting amendment to the Michigan constitution. The film makes a mighty effort to conceal its major argument: When it comes to political mapmaking, we must save democracy by eliminating democracy. *Slay the Dragon*'s critical supporting points are similarly hidden within ironies and misdirections. Everything about VNP—down to the name itself—was meant to convince Michigan voters they could inflict a staggering blow on the political machines. But as with the slanted portrayal in *Slay the Dragon*, VNP kept quiet about the fact that one of those machines was pouring a stupendously lopsided fortune into the effort to advance its own partisan objectives.

The tale told in the new documentary *Slay the Dragon* is that all the evil in America—or at least most policy decisions leftists assume to be evil—is the fault of political maps drawn by the people's elected representatives—that is, state legislatures. The film is a deceptively presented apologia for removing representative government from this process. Although the United States has survived and thrived despite two centuries of the partisan map drawing named after former Massachusetts Gov. Elbridge Gerry (who later became President James Madison's vice president), the producers of *Slay the Dragon* argue gerrymandering has now become an assault on democracy itself.

The film makes a mighty effort to conceal its major argument: When it comes to political mapmaking, we must save democracy by eliminating democracy. Similarly, *Slay the Dragon*'s critical supporting points are hidden within ironies and misdirections. At some points, the film devolves into *Slay the Strawman*.



Credit: *Slay the Dragon* Poster. License: <https://imdbb.no/2B4V6QL>.

The tale told in the new documentary Slay the Dragon is that all the evil in America—or at least most policy decisions leftists assume to be evil—is the fault of political maps drawn by the people's elected representatives—that is, state legislatures.

Ken Braun is CRC's senior investigative researcher and authors profiles for InfluenceWatch.org and the Capital Research magazine.



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Myth of the Grassroots Underdogs

The movie's central fable is the portrayal of a supposed grassroots underdog army of apolitical Michigan activists whose 2018 alteration to the state's constitution put political redistricting decisions into the hands of an unelected commission. Just over a half hour into the film, one top staffer on what became the Proposal 2 ballot campaign declares his committee—Voters Not Politicians—will be decisively outspent by the opposition. He predicts Voters Not Politicians would be “lucky” to face a funding disparity of merely four to one. He confidently fears it will probably be 10 or 20 to one.

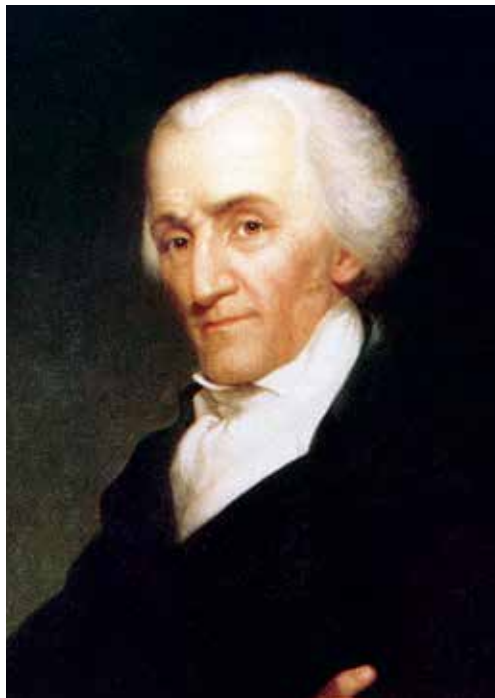
What you won't learn from watching *Slay the Dragon* is that there was indeed a better than four to one funding disparity . . . but it went the other way. Keep this undisclosed fact in mind, as it informs many of the film's deceptions.

Voters Not Politicians received \$13.9 million in its quest to pass Proposal 2, versus an opposition that raised \$3.2 million. In its report on this development, *Bridge Magazine*, a Michigan political publication for big government sympathizers, characterized the \$13.9 million as a “staggering” total.

These figures were reported 11 days before the November 2018 election. *Slay the Dragon* shows the Voters Not Politicians campaign all the way through its victorious party on election night yet never corrects the record. The film even doubles down on the misperception, showing an anti-Proposal 2 video as an example of what the supposedly out-muscled grassroots heroes were up against.

The charitable interpretation of this omission is to say it is an example of recklessly incompetent propaganda. But that's much too generous. There is no innocent excuse for professional filmmakers documenting this story from start to finish to somehow mangle the fundraising disparity into exactly the opposite of what happened.

It wasn't a mere fact-checking error. The producers of *Slay the Dragon* flat out lied, deliberately disrespecting their audi-



Credit: Public Domain. License: <https://bit.ly/3exLFWF>

Although the United States has survived and thrived despite two centuries of the partisan map drawing named after former Massachusetts Gov. Elbridge Gerry (who later became President James Madison's vice president), the producers of Slay the Dragon argue gerrymandering has now become an assault on democracy itself.

ence and seeking to turn the viewers into misinformed fools.

The Big Money Funders

There was a powerful motive for telling that lie. Looking into the truth about the big money that poured into Voters Not Politicians would raise an obvious question about *where* that money was coming from.

The largest funder (at \$5.5 million) was the Sixteen Thirty Fund, a left-wing lobbying and advocacy fund that *Politico* credited with spending “\$140 million” on “Democratic and left-leaning causes” during the November 2018 midterms. Sixteen Thirty is managed through the massive Arabella Advisors network of left-wing advocacy organizations. (Arabella Advisors is the subject of *Big Money in Dark Shadows*, a comprehensive research report from the Capital Research Center.)

Another \$1.4 million in combined funding was given by four decisively left-leaning or Democratic Party–

favoring funds. The National Redistricting Action Fund, the advocacy arm of the National Democratic Redistricting Committee, kicked in \$250,000. An affiliate of the SEIU, a major left-leaning labor union, gave \$500,000. The Quadrivium Foundation, also a generous donor to the left-leaning Environmental Defense Fund, gave \$500,000. And the big labor bosses at the National Education Association chipped in \$125,000.

With a donation of \$5.1 million, the Action Now Initiative was nearly as generous as the Sixteen Thirty Fund. The *Bridge Magazine* report revealed that the busybody Action Now was also the source of funding for a proposal to place a new tax on sugary soft drinks in Oregon and similar redistricting proposals in other states.

In revealing the big financial advantage from lefty funders enjoyed by Voters Not Politicians, *Bridge Magazine* noted that the group had been promoting itself “as a bipartisan coalition fueled by a grassroots army bent on reforming Michigan's redistricting system.” Scene after scene rolls by in *Slay the Dragon* to reinforce this perception. Campaign

leader Katie Fahey is introduced in the film as a political neophyte who doesn't "do politics for a job." During an interview on *Off the Record*, a public television political roundtable in Michigan, she cleverly pivots from a question about whether big money will be raised by her campaign, sticking with an answer that keeps her amateur-hour, grassroots image in place.

But beyond the truckloads of lefty money raining down on Ms. Fahey's project, there is more that rattles apart her "grassroots" mythology, yet—and this becomes a theme—is conspicuously absent from *Slay the Dragon*:

- In a short report the morning after the November 2016 election, the Associated Press managed to find and quote only one example of the dejected attendees at the ill-fated Hillary Clinton campaign victory party in New York City: Katie Fahey. "My disappointment makes me not trust the rest of the world," said Fahey, who had flown to the event from Michigan. That very day, *Bridge Magazine* reports Fahey began floating social media posts for the idea that became Voters Not Politicians.
- Ten months later the *Detroit News* reported Voters Not Politicians was working with . . . well . . . politicians: (1) a former state government official who had given nearly \$4,000 to Democratic gubernatorial nominees; (2) a former Democratic candidate for the state legislature with his own history of donations to other Democratic candidates, and; (3) Joe Schwarz, a former Republican congressman from Michigan with a high-profile history of endorsing Democrats in top-of-ticket races (most recently Hillary Clinton in 2016 and current Michigan Gov. Gretchen Whitmer in 2018).

Katie Fahey may not literally have been doing professional political work before launching into her richly funded left-wing crusade. The *Bridge Magazine* report says she was "working in environmental sustainability." But at a minimum she was a strongly partisan supporter of Hillary Clinton. And the least suspicious characterization of what happened afterward is that she became the Forrest Gump of Michigan politics, fortuitously tripping over board members friendly to Democrats and a stupendous pile of partisan-left money that she used to bury her opposition.

Life is indeed a box of chocolates, and you never know what you'll find. But if it contradicts the myth that Voters Not Politicians was a bunch of underfunded, grassroots underdogs, you won't find it in *Slay the Dragon*.

The Big Business Myth

What you *will* find is a tired old conspiracy about the Left's favorite bogeymen, such as the Koch brothers and the U.S. Chamber of Commerce. *Slay the Dragon* singles out those two and others as donors behind an effort by Republicans to win majority control of numerous state legislatures during the 2010 election cycle and then use those victories to redraw congressional and state legislative boundaries. Michigan was one of those states.

This is neither news nor nefarious. Democrats and their big donors also make an extra special effort to seize control of state legislatures and gubernatorial offices every 10 years. But you'll wait nearly 20 more minutes after hearing about the Koch dollars before *Slay the Dragon* provides the film's one and only (grudging, halfway) admission of this fact: "In a few states where Democrats controlled maps, they did their own gerrymanders."

This raises a question that reveals another of the movie's major misdirections: How much did those Republicans and their business allies really spend? The tally unveiled in *Slay the Dragon* pegs it at \$30 million for the nationwide effort.

So now, remember the \$13.9 million raised by Voters Not Politicians just for the 2018 Michigan ballot measure? The allegedly grassroots Michigan campaign was able to raise almost half of what Republicans supposedly spent for the entire nation.

More striking still is that the Republican cabal of national donors from back in 2010 was apparently so nonplussed by this 2018 threat to their accomplishment in Michigan that they chipped in no more than \$3.2 million to try to save it?

But again, you wouldn't know this from watching *Slay the Dragon*. The film sets up the Michigan Chamber of Commerce as a local villain. Another truth withheld from the viewer is that the Michigan Chamber gave a comparatively tiny \$100,000 of the \$3.2 million raised by the committee that organized against Proposal 2. Similarly, the chamber



Just the production budget for Slay the Dragon may have exceeded what the Michigan Chamber of Commerce spent trying to stop Proposal 2.



Credit: American Promise. License: <https://bit.ly/3fUkQjo>.

Revenge of the Sore Losers

Those strawmen are needed because they advance the film's message that Republicans have been winning elections they should be losing and thus taking unfair advantage of the political system. To defend this point, *Slay the Dragon* spins the story of two elections: 2008 and 2010.

In the *Slay the Dragon* account, Republicans are knocked back on their heels after President Obama is elected in 2008, taking with him 53 percent of the popular vote and both chambers of Congress for Democrats. Just over 15 minutes into the film this outcome is portrayed as an epochal historic breaking point where Republicans become an endangered species for the foreseeable future. Forty minutes later this assertion is reinforced with an interview subject declaring Republicans to be demographic dinosaurs, no longer capable of winning a fair fight in a nation that has become less white and thus irretrievably more left-leaning.

In this version of the legend, the 2010 U.S. Census and political redistricting that followed in 2011 should have delivered a decade of mostly Democratic majorities in Congress and many state legislatures. Instead, Republicans and their donors responded to the 2008 challenge with Operation Red Map, the previously described \$30 million plot to pull off strategic victories in state legislative and gubernatorial races during the 2010 midterm election.

The allegation is that this unjustly stole the mapmaking power from Democrats. *Slay the Dragon* presents left-leaning journalist David Daley to inform viewers this \$30 million was possibly the biggest bargain in American political history.

But why did Democrats, supposedly holding a royal flush of electoral advantages after 2008, fail to counter the Republican move with their own relatively low-budget plan to win important races in 2010? It wasn't as if there was no warning: The U.S. Census and subsequent political redistricting have been occurring every decade for the past two centuries. Both major parties knew the state-level races in 2010 were critical. Anticipating and executing in this environment, particularly from Democrats' alleged position of popular support, is the bare minimum that might be expected of an organized political party, else why does it exist?

In addressing these points, the film banks again on a credulous audience.

First, there is the *Slay the Dragon* interview with Margaret Dickson, a former Democratic state senator from North Carolina who was beaten during the 2010 election. More than 200 years earlier, during the 1800 U.S. presidential election, a surrogate of challenger Thomas Jefferson attacked

Campaign leader Katie Fahey is introduced in the film as a political neophyte who doesn't "do politics for a job." During an interview on Off the Record, she cleverly pivots from a question about whether big money will be raised by her campaign, sticking with an answer that keeps her amateur-hour, grassroots image in place.

spent another \$135,000 in an earlier (failed) legal crusade to keep the proposal off the ballot.

Just the production budget for *Slay the Dragon* may have exceeded what the Michigan Chamber of Commerce spent trying to stop Proposal 2.

As noted earlier, the \$13.9 million raised by Voters Not Politicians to pass the proposal dwarfed the \$3.2 million raised to stop it. Almost \$3 million of that \$3.2 million was given by the Michigan Freedom Fund, an avowedly conservative, limited government committee that has been active in Michigan on a variety of issues over many years. A reader that's gotten this far won't be surprised to learn that, even though the Michigan Freedom Fund provided nearly all the financial arrows aimed to slay Proposal 2, this is yet another subject *Slay the Dragon* did not cover.

The true story of Proposal 2 wasn't the fiction featuring outgunned Katie Fahey versus the Koch brothers and the Michigan Chamber of Commerce. In truth, the battle was a mismatched financial skirmish between a reasonably well-funded limited government advocacy organization on one side and Fahey's stupendously rich, left-leaning ballot committee on the other. That's not the message advanced in *Slay the Dragon* because telling it that way would have killed off the strawmen the film's producers needed to slay.



Credit: Dickson Campaign. License: <https://bit.ly/333lo83>.

In Slay the Dragon Margaret Dickson gins up a mighty affectation of either ignorance or insincerity as she tells the camera that her campaign “had no idea what was about to hit us,” “nobody had ever seen anything like it,” and mailings from the opposition were arriving “every day.”

incumbent President John Adams as “a hideous hermaphroditical character which has neither the force and firmness of a man, not the gentleness and sensibility of a woman.” Since at least then, competitive political races involving less exalted characters have featured rough attacks and counter attacks. It was as predictable as a sunrise that Republicans in North Carolina would run an aggressive campaign in 2010 against an incumbent lawmaker they wished to defeat.

But this reality was apparently lost on Margaret Dickson. In *Slay the Dragon* she gins up a mighty affectation of either ignorance or insincerity as she tells the camera that her campaign “had no idea what was about to hit us,” “nobody had ever seen anything like it,” and mailings from the opposition were arriving “every day.”

Did Democrats attack her opponent as well? Did her side just stick to happy talk and never say anything bad about the Republican? *Slay the Dragon* doesn’t raise, let alone answer, those questions. An obtuse viewer is left with the impression that negative campaigns were first introduced to American politics by Republicans during the 2010 election cycle. A less naïve observer will conclude Dickson is a sore loser who put up an inferior effort when the stakes were high.

More faux outrage is presented in fables told about what Republicans did with their wins following the 2010 election.

David Daley makes an appearance to provide a wide-eyed account of how Republicans used census data and computer programs to draw maps that advantaged them. The point is reinforced by Stephen Wolf, another left-leaning journalist from the *Daily Kos*. Both advance the notion that these were new developments.

These assertions are as insincere as Dickson being confused by aggressive campaigning. The politicians in the majority after each U.S. Census draw the political maps and have done so at least since the early 1800s, when the term “gerrymandering” was born and almost half a century before the Republican Party even existed. Sophisticated mapping software has been used for the last few redistricting cycles and like all software it has gotten better, but census data were being used long before that to draw these maps.

There was nothing particularly unique about how this all happened in 2010.

It might be fair to debate whether the elected representatives of the people should control drawing these maps, whether those lawmakers should be adhering to different mapping rules, and how much harm gerrymandering does. But movie isn’t aimed at addressing this argument—*Slay the Dragon* needs villains, and those villains need to be Republicans. The film relentlessly asserts that Republicans have uniquely abused the map-drawing power to win elections they should not win and that once in power the GOP politicians inflict uniquely horrible policies.

The very first moments of the movie advance a profoundly deceptive and evil assertion that gerrymandering after 2010 permitted Michigan Republicans to allow lead into the drinking water of Flint. Hey Margaret Dickson, how’s *that* for negative campaigning? Do the lefties play that rough in North Carolina?

The Myth of the Obsolete GOP

Slay the Dragon more innocently stumbles into some of the fictions because of a lie the filmmakers have told themselves. Contrary to their mythology, the 2008 election results did not presage a long-term political majority favoring their big



Slay the Dragon *needs villains, and those villains need to be Republicans.*

government ideology, nor electoral obsolescence for Republicans. It didn't even ring in a short-term trend.

The film portrays the 2010 midterm election as just an isolated success in state legislative and gubernatorial races by Republicans aiming to seize control of redistricting. It was far more than that. Republicans won an outright majority of all votes cast for candidates from every political party in all 435 congressional seats in 2010, trouncing Democrats by more than 5.7 million nationwide. Just in Michigan, the GOP advantage over Democrats for all congressional seats was more than 250,000. Republican congressional candidates even scored the most votes in New Jersey. Republicans picked up 63 additional U.S. House seats in 2010 and control of the chamber, the largest changeover of seats in 72 years.

The central argument of *Slay the Dragon* is that Republicans needed to draw biased redistricting maps in 2011 because the party had scant hope of otherwise winning congressional majorities. This premise was demolished before the mapmaking ever occurred. More pointedly, Republicans won control of the mapmaking after the 2010 midterms precisely because they were able to win a majority when it counted.

And that's not the most powerful evidence against the "dead GOP" narrative. Googling "Hillary Clinton won the popular vote" will return more than 69,000 results. Although obviously a very trendy talking point on the left, it is a rhetorical security blanket with big holes.

The 2016 presidential election featured the two highest unfavorable rankings for major party nominees in the history of Gallup polling, with Trump disliked by 61 percent and Clinton by 52 percent. Either running against just about anyone else would likely have faced electoral annihilation. Democrat Walter Mondale, who lost 49 states to Ronald Reagan in 1984, did so despite a 66 percent favorable rating from Gallup. Republican Mitt Romney, loser to Barack Obama in 2012, had a 55 percent favorable rating.

The dislike for Trump and Clinton produced unusually high votes for minor-party candidates. Libertarian Gary Johnson, the former Republican governor of New Mexico, took almost 4.5 million votes, besting his 2012 total by more than 3.2 million. Less dramatically, Green Party nominee Jill Stein polled slightly less than 1.5 million, improving on her 2012 total by almost a million.

The U.S. presidential high-water mark for the Green Party was the 2000 election, when Ralph Nader won 2.9 million votes nationwide and was widely blamed by Democrats for denying Al Gore a win in Florida, which could have secured him the presidency. Similarly, Libertarians are often credibly blamed for draining votes from Republicans, never more so than in 2016 when the ticket featured two former GOP governors.

Assigning the 2016 Libertarian votes to Trump and the Green votes to Clinton gives the hypothetical libertarian/Republican "smaller government" coalition the lead in the popular vote (with more than 49 percent of the total votes cast) and provides Trump with 20 additional electoral college votes because he would have added wins in Nevada, Minnesota, and New Hampshire. Further adding the popular votes of independent candidate Evan McMullin (a former U.S. House Republican staffer who became popular with many otherwise GOP voters) and Constitution Party candidate Darrell Castle (another right-of-center candidate) yields more than 50 percent of all votes cast for U.S. President in 2016.

Candidates running on small-government conservative or libertarian ideologies won an outright majority of the popular vote in 2016. Hillary Clinton's *plurality* was achieved due to the unprecedented and extraordinary unpopularity of the Republican nominee she was lucky enough to run against, but still incapable of defeating.

Deeply flawed though it may be, the "GOP is demographically dead" myth spun by *Slay the Dragon* is essential to the film's argument that Republicans had to engage in some historically unprecedented level of gerrymandering to ward off their demise. Essentially arguing the Republican mapmakers were cheating, the moviemakers needed a motive for the alleged evildoing. But exhibit A in their evidence is bunk.

About Those Maps

There's another problem with the "Republicans drew cheater maps" argument: They weren't very good at it. Once again, the selective half of the story told in *Slay the Dragon* turns the truth on its head.

More than an hour in, the film reveals a 2011 email exchange between Bob LaBrant of the Michigan Chamber

Figure 1. Michigan Congressional Districts for the 113th Congress.



Credit: nationaldata.gov. License: data.gov.

many of the immediate northern and southern suburbs of Detroit. It was relatively easy for congressional mapmakers in 2011 to gather a disproportionate share of Michigan’s Democrats into a tightly drawn little box in the southeast corner of the state. It wasn’t some clever manipulation of census data. Democratic voters did almost all the hard work before the mapping computers ever fired up.

This relatively tiny patch of the state’s land contains 28 percent of its population, but roughly 35 percent of its Democratic voters (as measured by the 2018 midterm congressional election) and just 14 percent of the Republican voters. Overall, it voted 71.8 percent Democratic in the last congressional election. The Republican in the *least* Democratic seat of the bunch (the 9th) still got less than 37 percent of the vote. While the internal lines between these four districts are jagged and ugly (as they must be when densely packed communities need to be divided evenly by population) the outside borders of the whole provide a reasonably compact representation of where a large hunk of the people of Michigan live.

of Commerce and Jeff Timmer, a Michigan political advisor and redistricting professional affiliated with Republicans. [Disclosure: Jeff has been a friend for more than 30 years but was not consulted for this film review.] In the back-and-forth messages, Timmer presents maps he says will provide a “solid 9-5” congressional delegation from Michigan.

Smoking gun? Proof the Michigan Chamber of Commerce and Republicans were cooking up extra biased maps?

Not exactly.

Michigan’s Democratic voters have been cooking up their own biased maps by stubbornly living next to each other.

Four of Michigan’s most densely populated (and thus geographically smallest) current congressional districts—the 9th, 12th, 13th and 14th—are packed together in the southeast corner of the state (see Figure 1). Taken as a whole, these four encompass the entire city of Detroit, the city of Ann Arbor, most of the suburbs in between the two, plus

Could a Democratic map maker have gotten a slightly more favorable map for Democrats? Sure. Would that have happened if Democrats had won the map-drawing power in 2010? Absolutely. Would it change the fact that it’s tough to geographically unpack and divide-up Michigan’s tightly clustered Democratic voters? No.

An interview with LaBrant shown in *Slay the Dragon* has him briefly saying “Democrats tend to cluster in urban cities” and “Republicans are more spread out.” The film makes zero effort to examine how profoundly correct this is or even to challenge the assertion. It’s a key reason why a representative map might be expected to sometimes return nine Republicans out of the 14 seats. But LaBrant’s highly relevant point is dismissed with a horribly misleading statement that appears on the screen: “He [LaBrant] blames skewed election results on geography.”

And the maps didn’t always work. In the 2018 midterm election, Republicans won only seven of Michigan’s 14 congressional seats. Two years earlier, a limited government



It's easy to run out of ways to keep pointing out the deceptions that repeatedly leave the film's viewers more ignorant about the subject than if they had merely read the back of a box of Froot Loops.

majority of Donald Trump and the Libertarian Party candidate won more than 50 percent of the vote in Michigan. Right now, Democrats hold a 7-6 advantage over Republicans in the state's congressional delegation. (Shortly after the 2018 election, Republican Congressman Justin Amash declared himself an independent.)

But once again *Slay the Dragon* fails to reveal that the Michigan map didn't return a Republican majority or mention the 2018 election results at all. It's unpleasantly easy to run out of original ways to keep pointing out the deceptions that repeatedly leave the film's viewers measurably more ignorant about the subject than if they had merely read the back of a box of Froot Loops.

“Way to [expletive deleted] Change the Michigan Constitution!”

Near the end of *Slay the Dragon*, while giving a victory speech after passage of Proposal 2, Katie Fahey reads aloud the opening sentence of Article I of the Michigan constitution: “All political power is inherent in the people.”

That word “all” is particularly meaningful. Michigan's constitution errs strongly on the side of empowering the people—the voters. Unlike many states (and as demonstrated by the passage of Proposal 2), Michigan voters have the unilateral authority to amend their constitution and even to pass or reject laws without the support of lawmakers or the governor. Changes to the document have generally enhanced this power: A 1978 amendment requires voter approval for any increase in the taxing power of a local government. And every policymaking official in state government derives all his or her authority from a vote of the people, either directly (elected officials) or indirectly (policymakers appointed by elected officials).

The political redistricting process was not an exception. After prior decennial U.S. Census years, state representa-

tives and senators passed mapping plans designed to adhere to legal restrictions originally mandated by the Michigan Supreme Court (also an elected body) and later codified into law. Those maps had to be approved by the governor and were still often subjected to state court challenges before being ratified. Directly elected representatives of the people, from all three branches of state government, were the authorities at every stage of this lawmaking endeavor.

Proposal 2 (now Article IV § 6 of the Michigan constitution) removed representative democracy from this process. In its place is an unelected 13-member redistricting commission selected through random draws from pools of self-appointed applicants. This will be the rarest of political beasts empowered by a document that otherwise vests “all political power” in the people: a lawmaking authority selected with neither a direct nor an indirect connection to a vote of those people.

Not 10 minutes before Fahey is shown speaking about the empowerment of the people, another scene in *Slay the Dragon* shows a hearing in front of the Michigan Supreme Court. One of the justices is briefly heard voicing a concern over whether the proposal disenfranchises 10 million people in favor of empowering just 13 of them. The film does not reveal how (or if) this concern was addressed, let alone attempt to resolve the irony.

Explicit empowerment of major political parties is another ironic vandalism inflicted by Proposal 2.

Before Fahey and Voters Not Politicians got into the act, the only references to political parties in the Michigan constitution were *restrictions* on their power. Describing the membership of four gubernatorially appointed boards and commissions, the document repeatedly prohibits majority control for “the same political party.” (Each of these boards has an even number of seats).

Otherwise, these bodies may be comprised exclusively of minor-party representatives or members of no discernible party affiliation at all. Before passage of Proposal 2, no political party of any size was given any power at all by the Michigan constitution.

But the new redistricting commission requires that three pools of applicants be created, with two coming from persons who affiliate with “major parties” (i.e., “one of the two political parties with the largest representation in the legislature”). The third pool is to be comprised of persons who affiliate with neither major party. Through a process of random selections, each of the major parties will receive four representatives on the commission, and the supposedly independent pool will provide five more.

Neither the term “major parties” nor the notion of same occurs in any other section of the Michigan constitution. Passage of Proposal 2 resulted in unprecedented recognition for Michigan’s two most powerful political parties and for the first time *infused them with constitutionally protected authority*. This unique outcome in a document vesting “all political power” in the people doesn’t get mentioned in *Slay the Dragon*, and it obviously wasn’t a selling point promoted to the voters by ... (ahem) ... Voters Not Politicians.

Instead, the film repeatedly portrays Fahey and Voters Not Politicians as selling an “independent” commission. Although deceptive, that’s not an accident. Support for a third major political party has been at or near 50 percent in Gallup polling for more than a decade and began reliably bouncing near 60 percent after the 2012 election. This furious resentment with the performance and influence of the two largest parties was surely some—and possibly almost all—of the fuel that fired support for Proposal 2.

Everything about Voters Not Politicians—down to the name itself—was meant to convince Michigan voters they could inflict a staggering blow on the political machines. But as with the slanted portrayal in *Slay the Dragon*, it kept quiet about the fact that one of those big machines was pouring a stupendously lopsided fortune into the effort to advance its own partisan objectives.

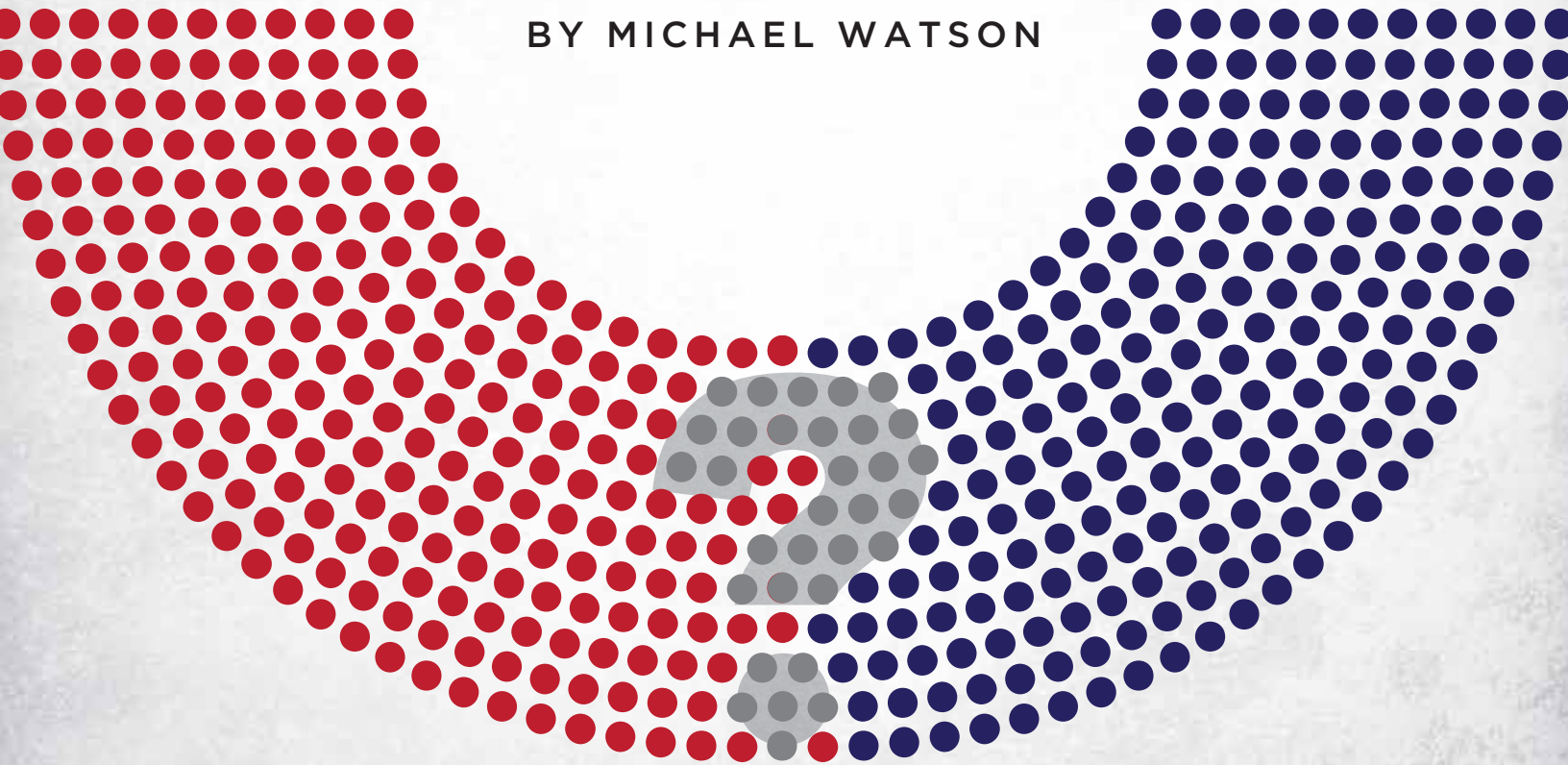
At the end of her victory speech in *Slay the Dragon*, Fahey shouts enthusiastically to the crowd: “Way to [expletive deleted] change the Michigan Constitution!” Said with angry sarcasm, this would have been a fitting statement to end a profoundly deceptive film. ■

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