

Panel One: Is the Small Donor Revolution Hype or Reality? Campaign Finance and Political Engagement

Michael Malbin of the Campaign Finance Institute, Author of "Small Donors, Large Donors and the Internet: The case for public financing after Obama":

One reason the small donors have such visibility stems from the spectacular success of the Obama presidential campaign. And, during the heat of the campaign, many were inclined to take the campaign's obvious successes as signs of a new era. And what we were asked on this panel is whether this was so. In some ways, the answer clearly is yes.

There's no doubt in my mind that the substance of the campaign finance debate has reached the decisive turning point. I've been writing professionally about this subject for 35 years. For most of that time, the main subject of conversation has been about reducing corruption or the appearance of corruption and the main tools used to serve those ends have been to limit contributions and spending. It has become clear, painfully clear to some, joyfully clear to others, that there are limits to what you can accomplish through limits. I support contribution limits. I think they do serve to decrease the specific problems that come from candidates asking for and receiving large sums of money, the dialing for dollars phenomena that previous speakers talked about, but contributions cannot and do not limit spending. The constitutional protections for independent spending including spending by parties assures this. But the real problem with the nearly exclusive focus on limits in the past has been the tunnel vision that had brought on the debate. The goals served by limits have largely been defined in terms of what they're trying to prevent: corruption, the appearance of corruption or undue influence. Those are real issues, yes. But when the Campaign Finance Institute (CFI) started that small donor project, we wanted to turn the focus away from what we thought was a nearly exclusive focus on trying to prevent bad things toward what kinds of positive goals were we trying to accomplish, what kind of democracy are we trying to foster?

Political scientists typically talk about the broad range of goals when they talk about money in politics. We talk about — I think of them for simplicity's term as the four Cs, corruption being one. The others being competition, candidate emergence and citizen participation. Now of those goals, CFI has spent a lot of its time on promoting equality through enhanced participation. Equality requires more than squeezing down the top. It doesn't matter how much you squeeze the top that will not mobilize the inactive to become active. Squeezing the top is intrinsically frustrating, and useful, though it may be for some purposes, it's marginal for many years.

The key, we suspected, was to think about building up the bottom. Notice the words, we suspected. There's a lot we didn't know. So in the next few years our three part research agenda asks the following: First, is there enough of a difference between small and large donors for us to care whether there are more large small donors in the system?

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The answer — I'm not going to go into all the research because of the time here, but I tell you this is on our website — is that yes, they are different and moreover, there is, or appears to be an organic connection between giving and doing, between contributing and volunteering, that is, getting active.

But the second question we asked— assuming that the small donors are different — is whether it's plausible to imagine a large enough increase in the small donor participation to have a noticeable impact on the system. In some ways the presidential race would seem to answer that, but the question is that is an anomaly. And, finally, we ask whether there's a role for public policy to play or does the Internet's success of a few candidates, such as Howard Dean and Barack Obama, mean the issue will take care of itself?

To answer some of those questions, I'll ask you to look at some data with me. This is funds raised by the presidential candidates during the primaries. The first few columns look at where the candidates got their money during the primary season, and it's listed by the contributions the candidates received. And this left — these three, these left three are the ones — this is the way the story got reported most of the year by the press including — and by us. It's 49% of the contributions received which Barack Obama were over \$200 or less and this shows — where did it go? This shows for all the other candidates. And one of the interesting things is this number accounts for the entire difference between Barack Obama and Hillary Clinton. That's his entire advantage came in those small contributions and those were the source of his volunteer advantage that led to his victories and the caucus states, which in turn led to his victory.

When you look at the numbers, when you take the numbers that a donor gives, when you pull together the multiple contributions by the same donor, the picture is slightly, somewhat different. Not radically different but it's somewhat different. One fact is he received 49% of his contributions in small amounts. The other fact is that he received 26% of his money from donors who aggregated to \$200 or less, and he received 27% from people who aggregated to between 201 and 999 and a very large number of those, about half, were people who were repeaters across the \$200 threshold. Again, that middle number is pretty high. This number of 200 or less is more or less equivalent to Bush but most are higher than other top tiered candidates in past years and part of that is reflecting the Internet. In Obama's case, you do have that enthusiasm catching on for multiple contributions.

There's a little tiff when we put out these numbers sometimes. And why do you look at these two numbers? They tell you two different things. If what you're interested in primarily is — are the donors the sort of people who will buy access? Then you really don't care much. If people give \$100 multiple times and get to \$500, those are not access buyers, so from the point of view that aspect of policy, that left column tells you a lot. But if you're interested in looking at participation down the ladder, the participation by most people, by average people, the other number's one that you want to look at. When I look at Obama's numbers compared to other presidential candidates' numbers, they are pretty impressive, but when I look at what I might want to abstractly hope for, you know, there's a way to go. Also, if I start looking at other races, if I ask the question, is this going to replicate, how is it going to replicate? If it replicates, will it be among some opportunistic candidates or more generally?

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I would just say the statement that there's a way to go applies substantially more to other races. Where we saw Obama up at 26% of his money raised by donors who accumulate to \$200 or less, you are seeing House candidates incumbents are at 6%. Average House candidate is at 8%. For Senate candidates who are more generally known than house candidates, it's 15% and it's 10% for the incumbents. The money from the congressional races is overwhelmingly from the \$1,000 and up or political action committees. In addition, if you want to think about this from a public policy point of view, you have to look at the fact that getting small donors requires visibility. It requires you to have a campaign that has already caught on or requires — so it's not as if anybody, sorry, started off simply with small donors. I mean, although Dean did it earlier than others in '04.

This table arrays the candidates over the course of the months. You can say that for the first three months, even Obama — and I say even because the other candidates' numbers are even lower, is raising most of his money from large donors at the beginning, first three months. That's when he established himself as the alternative, he and Edwards as the alternative to Clinton. And it was only then that the Internet really started to pick up. And for Clinton, the number's lower and this is true, candidate after candidate and the paper gives all the candidates. You start with the large contributions and then you start to build. So when you think about public policy, you have to think about question how do candidates reach a point of launching?

With the data now in front of you, let's now turn to the final section of the talk. If we do not believe the Obama phenomenon is automatically and easily replicated, and I don't, then there are some effective ways for public policy to help promote participation? And if so, is this a proper use of public support or public money?

On the last question first, is it appropriate to use public money to help support public participation? I can't see a single good reason why not. It's perfectly appropriate to extend the citizens in self government as long as it doesn't discriminate among citizens or candidates, and by participation, I do not just mean voting where we on obviously do use public resources. I'm talking about citizen participation beyond voting including citizens giving small amounts of money to foster candidates of their choice and et cetera. If liberty and self government are the ends, then policies that promote participation in self government are fully appropriate as means toward that end, or those ends.

Having said that, we have to be careful about not confusing the means with the ends. Public financing is only a means. It is not the only means to support participation. There are others. For example, involving communications policy and technology policy, and the various means are not mutually exclusive. Having said that, and in addition, so it's not — these are things that are not ends in themselves. Having said that, I support a number of forms of public financing. Whether they're grants, matching funds, rebates or vouchers, I support them when the system is designed carefully to structure and foster the end of participation but not when they're there to shoehorn other policies that defeat those very goals.

For example, I have problems with public funding as an excuse for hard and fast spending limits. Spending limits that are low enough to make a difference will drive candidates away and that makes it impossible to use the system to alter the incentive for candidates to engage citizens. More importantly, they stifle citizen participation at the end of a campaign, when public attention is at its peak, when it ought to be encouraged and not discouraged. Interestingly, the congressional public

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financing bill, previously discussed, as well as the presidential public financing bill likely to be introduced soon by Senator Feingold each in broad outline follows the approach I'm talking about. Each would do away with the hard spending caps that have been such a problem in current law. After 35 years, this is a huge shift in paradigm. Each would also follow New York City's successful example by using multiple matching funds, at least in part to multiply the value of small contributions.

I'm sure you'll hear more about both of these ideas today so I don't need to go into the details. I want to be clear I'm not making a pitch for any specific bill and there are plenty of questions we will have to ask about the details as we read them, but this is a pitch for a general thrust or approach. It is about structuring the law to encourage behavior we like and not simply to prohibit what we don't like. Our country has a truly great system of government, but we need to develop the public tools so that others may join in.

Lennox Yearwood, President of the Hip Hop Caucus:

Good morning.

I have always been an activist and a minister and I was a chaplain in the Air Force, and I had begun to speak out against what — the reason that we're here. When people can get an office it's literally a life or death issue. This is not a game. When you can assume to that position and be in that position of power, the decisions you make literally are life and death. There are now thousands of American soldiers. My job as a chaplain was to bury soldiers and so seeing soldiers come home and being in that position, it's life and death. For the millions of Iraqis who have now lost their homes and who are now dead, this process of ensuring that we have fair elections, so that we can have the people in power who are about the people's business and not about corporations' business or who has the most money. It's very serious, as we have seen for the past eight years. So, with that, obviously, as an activist, I just want to make a shoutout as we say in hip hop. Being an activist was very outspoken obviously for — you can hear the drawl in my voice. I'm originally from Louisiana as well, so being outspoken for those who were in the Gulf Coast and Katrina and obviously against this war, my lawyer, when I would get in trouble

And speak out, be there to protect me against the big guy was the Citizens for Responsibility and Ethics in Washington and I just want to make peace to Melanie Sloan, who is here in the audience who helped and would be there fighting for the little guy. Please, give her a round of applause. It's very important.

If she was not here, I would not be here. So that's very serious. Some might not understand how important that is. Let me say this in regard to what I want to discuss about this process. In the past election cycle, the reason this issue is so important and I'm so glad that we have a new president and that's wonderful, and a new Congress, Republicans and Democrats and independents, it's fantastic, but for a man and a person of color, the right to vote is very deep, and I just want to make sure at this moment, just evoke the names of those who gave their lives, James Chaney and Eldridge Cleaver, Medgar Evers, Andrew Goodman, Fannie Lou Hamer, Dr. Martin Luther King, Jr., Thurgood Marshall, A. Philip Randolph, Rosa Parks, Michael Schwerner, those who've given their lives, just so that men and women of color, women, people of bisexual, lesbian, Native

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Americans, Latinos, Latinas, could have the right to vote in this land called America.

So the discussion we're having today is not simply a discussion simply to discuss about the data which is so critical, but it's a discussion that people have given their lives for so we can be at a moment, so there could be possibly a person of color, which we now have in the White House. Hopefully one day a woman in the White House and hopefully one day maybe somebody who is lesbian or gay, bisexual, transgender and open about it, in the White House so everybody in this country can be who they need to be, and the reason that this discussion is important is we're moving from in that day they had a poll tax. For those who might not know it, a poll tax was a voting fee charge to reduce the numbers of blacks eligible to vote. That was the way. So now from that process, it was put forth that a poll tax, so if you would come to vote, they would put forth a poll tax and at that time, many of you who were still around at that time understood Jim Crow and Jim Crow was very powerful, and it was used to cut away from voting, but today my generation, the YouTube, Twitter, Facebook generation generation, we're not fighting Jim Crow. We're not fighting to end a poll tax. As a matter of fact, Jim Crow was beaten, but like you had children, so did Jim Crow and Jim Crow's children are much more sophisticated. Matter of fact, I don't call it Jim Crow anymore. We now have what we I call James Crow, Jr., Esquire.

James understands that he's not just going to put a poll tax and put barriers up in Maine and Arizona to stop him from voting. He's not going to put you up there and say, well, if you're black or if you're a woman, gay, lesbian, whatever the reasons may be, he or she won't do that. The Crows have a new way, so they won't impact the vote, but they will impact the entire election, and impacting the entire election, they have recognized, well, instead of us going to the voter, we can just go to the politician and impact them by giving them enough money so they are constantly fund raising and they will do the will of those. So James Crow, Jr., Esquire who is much more sophisticated with the drop top BMW, works on K Street, drinks Starbucks lattes, not like his father with the straw hat, has become much more sophisticated, so we must become much more sophisticated as well. And so we must put forth fair elections. Now at this time, it's critical because under the Fair Elections Now Act, which I am advocating, candidates for office would run for office without relying on large contributions. It's critical the money from the big money bundlers and the James Crow, Jr., Esquires of the world would be freed from constant fund raising in order to focus on the business of the people.

People died, literally, for us to have the right to vote and now in the 21st century what I believe is our lunch counter moment for the 21st century, we must be as vigilant to ensure fair elections in the 21st century as they were as vigilant to ensure people could vote in the 20th century. It's critical at this time. Now the Hip Hop Caucus is a small organization. We now have grown to about 700,000 people in 30 states and 48 cities. Most of them you have heard have not gone to college. Most of them have just been — in some cases, have rebuilt their lives or just good people, hard working in Detroit in factories or on the shipyards in Oakland or here in IKEA in Laurel Maryland, folks who want to have their say in this process and until we fix our elections process democracy is not going forward in America. We've got to change this so they can have a dream like Dr. King. People died so a young brother like me could be in a room like this and discuss elections to you. Not just black people died, but the white and black, male and female, Christians, Jews, atheists, theists, Muslims, Buddhists, they died for our country. We are now at that moment now, nine years into the 21st century, where if we do not pass the Fair Elections Act now, then we will have failed all of those who gave their lives. What does it matter if millions vote but the

election is not fair to begin with?

Along with the climate of endless wars, this election process is our lunch counter moment for the 21st century. So I conclude simply by saying this. I hope we take this moment seriously, and I hope in the audiences tonight there are Fannie Lou Hamers — this morning — and Andrew Goodmans and Medgar Evers. I hope this morning that we are gathered here today to do all we must do to ensure that the legislation that is being pushed forth now passes. Because if we don't pass it now, nine years into the 21st century we would have failed all those who gave their lives in the 20th century. Let's pass Fair Elections Now. Thank you.

Thomas Stratmann, Professor of Economics at George Mason University:

About a year ago, I partnered up with the Brennan Center to answer an open question both among legal and economic and scholars and social scientists. The question was, what is the effect of low contribution limits on electoral competition?

One group of scholars posits that low contributions would benefit incumbents and with low contribution limits, I mean contribution limits of \$500 or below. Another group of scholars thought just the opposite, namely that low contribution limits benefit challengers. This issue became particularly important after the recent Supreme Court decision that Laura just mentioned that invalidated Vermont's contribution limits as being unconstitutionally low. So whether the contribution limits are anti competitive or not, or pro competitive, is an empirical question. We sought to answer this by looking at data of state assembly general elections in 42 states over a 26 year period from 1980 to 2006.

This study has three components. First, I looked at the voting pattern in these races to see if the vote totals were closer in races governed by low contribution limits as compared to races governed by high contribution limits. And here with high contribution limits, I refer to limits for house assembly races over \$2,000 per individual and over \$2,000 per political action committee. The second component of this study looked at fund raising. Here, I considered the fund raising difference between incumbents and challengers to see if low contribution limits have any effect on the amount of money raised by these two candidates, by the challenger and by incumbent, and finally, the third component was focused on public financing issues. Here, I studied the competitiveness of elections in two states in this sample that had public financing available for state assembly races, namely Maine and Minnesota, in order to see if public funding has a pro competitive effect.

So one important background to keep in mind when I tell you some of the numbers is that the incumbency rate for state assembly races hovers around — the incumbency reelection rate hovers around 95% in state assembly races. And while some of the numbers I mention may seem small, I'd just like to let you know they're all what we in the business world refer to as statistically significant. Now, controlling for many variables, I found that in the first part of the study that races that were subject to low contribution limits were much more competitive relative to races that were subject to high limits, that is, those over \$2,000. And by more competitive, I mean, the following. There were more candidates in the races. There were more races with viable challengers. There were also more close races and more races where the challenger won. So the lower the limit, the

stronger these pro competitive effects were. For example, I found that in states with races that were governed with individual and PAC contribution limits of \$500 or less, challengers have had a ten percentage point higher chance of being elected than in races with high limits.

Conversely, incumbents, of course, had a ten percentage point increase in losing. The higher the limit, the less close the elections. One other number perhaps relative to races with a 2,000 contribution limit, a 500 limit lowers an incumbent's margin of victory by over 17 percentage points. In the second part of my study, I found, first of all, as a general matter that incumbents on average raise four times as much money as challengers, but when I measured again using regression analysis when I measured the effect of low contribution limits on the fund raising gap, the fund raising gap drops dramatically when these candidates are subject to low contribution limits. States that limit individual contributions to \$500 or less, they show a 20 percentage point smaller fund raising gap between incumbents and challengers relative to states with high contribution limits. And in the third part of my study I considered the effect of Minnesota's partial public financing law and Maine's full public financing system so which looked at these states, I found that the winner's margin of victory and the incumbent's margin of victory were about 16 percentage points lower than in states without public financing and states with public financing have a 4% higher likelihood of having a close election at 29% higher likelihood that the incumbent faces a viable challenger. So when I compare these public financing results with the findings on low contribution limits, we find that only individual and PAC contribution limits of \$500 and below are as effective as public financing in enhancing the competitiveness of elections.

Andrew Hoppin, Chief Information Officer for the New York State Senate:

We've heard a lot about how small donors translate to participation and how those are linked and why that's important and certainly I was gratified from my experience with the Wes Clarke campaign and joining folks from the Howard Dean campaign to work on the CivicSpace project to see what happened Barack Obama and this line between donor and volunteer and how the aggregate impact of money and time can really transform what's possible in terms of who is a viable candidate in this country. And so what I'm working on now is analog of that in government and where we think also transparency and participation are inexorably linked, and we think there's also an analog between a small dollar donor in a campaign context, and if you will, a small activist in government context. Albany's very much a place where the old traditional lobbying process is alive and well. Literally, you see people out there doing it every day outside the Senate chamber. What we have not had is an opportunity for people that are not professionals in a political class of lobbyists to have influence outside the context of large, well organized organizations like for example, organized labor. We have not had the individual small donor, I'm interested in an issue, I care about government analog that gives that person a voice and gives that person power that in aggregate with other concerned citizens can really make an impact. So we're working on that in two forms.

One, transparency and obviously there's been a lot of great work going on in terms of government transparency, publishing of data that helps to expose the influence of money in the politics of governance, in the context of being an elected official, right, Center for Responsive Politics, MAPLight, Sunlight, Brennan Center, they're all doing great work in this realm. Corollary to that, though, we think is actually getting average citizens involved in their government in hands on

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ways so they actually perceive that influence so they can actually take action in response so yesterday, we launched new nysenate.gov. It's actually 97 websites for inn one. It's a website for the Senate and it's a website for 62 senators and a website for each of about 35 standing committees so there's massive volume of new information about what is going on day to day in the New York State Senate now available on line today, and you don't need to be a lobbyist there in the capital in Albany to find out what is going on. You can know when the committee hearing is happening. You can watch that committee hearing live on the web. You can actually submit responses to the legislation that is being proposed. You can mark it up, comment on it and vote on and rate those ideas.

A lot of things that have been done on the federal level and done in the campaign context we're now trying to do at a state level government context. We believe and we hope that the impact of that will be there will be a new class of active and involved participating citizens that will in aggregate be another powerful political force and a force that levels the playing field between lobbyists and citizens in terms of influencing government. So we think that's a good thing. There's a flipside to that, though, that we're encountering as we go down this road which has been challenging for us to deal with, frankly, and we would like your help, actually, in figuring it out and that is as you blur the line between civic participation in government and participation by small donors or, you know, volunteers, non large donor fat cats in campaigns, you make it much more challenging I think for an elected official to segregate their campaign work and non campaign work and for a citizen to segregate their campaign work and non campaign work. I will give you one example. We spend tax dollars in New York state to help our elected officials send out mail, paper mail exclusively, to date and that's going to change. It's going to become e mail and newsletters and all those good things, and there is a very gray policy area about what can be said in those newsletters so we got one the over day from a very prominent, high ranking member of the New York State Senate that listed a website that was blahblahblah.com. On that website there was no indication of what organization or what legal entity was behind that website. It was a privately registered domain, sow couldn't even go look it up and research and find out who was behind that website and that website was essentially a petition that said I want my rebate check for a government program in New York State that is in jeopardy now as a result of some of the budget negotiations for the most recent budget in New York State. And it asked people to sign up with their name, their e mail address, their postal mail address and stipulating that, yes, they want this rebate check and essentially was a knock against the Democratic majority who had put this program in jeopardy in their most recent budget.

Now that was using tax dollars or proposing to use tax dollars to send out solicitation that would drive people to a website that we have no idea who owns to build a mailing list, and that mailing list we posited very well could have been for a political campaign. So we think citizen participation in government is great and in fact, weighing in and advocating about political issues and this budget issue is a very important one in New York State is a great thing, but where do you draw those lines? And we can certainly say, no, that's not okay.. You can't send out this paper mailer but now we're allowing that same senator to blog without moderation on his website, you know, he can put that hyperlink on his website today and what do we do about that?

He can also go to the Senate floor today and mention that website and we cover the Senate sessions live and stream them on the web, in which case, he's promoting that website as well. So I don't have the answer to these questions and I'm not an attorney, my point is only that as we move

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into this realm I think citizens more and more are going to be participating in and empowered to participate in the work of their legislative bodies of all levels of political geography on a day to day basis. It also will introduce new challenges in terms of how we segregate the world of being an elected official and of being a citizen participating in government from the world of being a candidate and a citizen participating in campaigns and I think that we will need to come up with new policies and perhaps, you know, wrestle with some new ethical challenges in that regard. So thank you very much.

Q&A:

Laura MacCleery:

Professor Malbin, your paper includes a very compelling discussion of how changes in the primary calendar for presidential candidates, which you called front loading put an unanticipated design on of the presidential public funding system helping to make it far less of a benefit. You're careful also to provide many examples of occasions in which the program also provided a crucial boost to competitors and even to some eventual frontrunners who were not ahead in the money race early on. I wondered if you would take a minute just to expound on some of the observations in that part of your paper to go through some of that history for us.

Michael Malbin:

I thought it was interesting to go through — there were claims made and I was partly writing against those who said that public financing really didn't make much of a difference in competition. It was all about some other things and it was actually stifling competition. And I just decided to take a look at, okay, which candidates didn't have money when they were dark horses running against frontrunners.

And the simple list in this paper, if you pick it up on page 5, Ronald Reagan was dead meat in January of 1976 running against an incumbent president until he got public funds. George — Jimmy Carter was also. George H. W. Bush was running against the frontrunner and was totally out of money. We're talking about two people who were not viable candidates four years later who never would have been presidents of the United States without public funds. I thought it was also useful to point out that this tends to suggest it is not a pro Democratic Party program. The other candidates who were like this — we were talking about people who were at less than \$100,000 facing frontrunners were at a million at that time or more, multimillions. Gary Hart, Jesse Jackson, Paul Tsongas, Pat Buchanan and John McCain and '04 John Edwards, Wesley Clarke, Richard Gephardt, and none of these people would have — and John Edwards this time around. None of them would have had a chance to bring their case before the public had they not had an infusion of public funds.

This very clearly helped second tier candidates over the decades, and what happened and what has happened to make the program less relevant is that the campaign finance system is a system designed to serve other systems. It's not standing out there all by itself. Candidates have to devise their strategies given the rules of whatever election they're in and in the case of presidential primaries, most decisively affected by the calendar. As primaries moved forward, candidates had to have enough money to go up against the frontrunner not only in Iowa but in this case whatever

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was going to the next year of candidates before you could raise the next round of money. Jimmy Carter had what was it? Five weeks between Iowa and New Hampshire and the campaign ended in June and Ronald Reagan didn't lose to Gerald Ford until August. Now there are five days between Iowa and New Hampshire and half of the delegates are chosen within five weeks instead of three months. So if you have to raise your money early in order to face that kind of a calendar, you remember the one I put up earlier about until you were known you don't get to do small donors?

It meant that you had raise the bulk of your money looking at a potential \$100 million opposition before you have momentum. So it tends — it tended to — you would look at the numbers over the years and candidates went more and more for the \$1,000 contributors. There is an interplay between those and other aspects of the process, campaign finance. This system was designed after only one year of a primary dominated system. It was designed for 1976. The first primary dominated election was 1972. It is outmoded and the fact that it is outmoded because other aspects of the system changes tells you absolutely nothing about whether public financing per se is outmoded.

Laura MacCleery:

I think that's very helpful as a backdrop to potential efforts to move forward with reform of the presidential public financing system. I also want to talk about this name that clearly came up at a number of presentations about political engagement. While we sometimes talk about the Internet and the power of the Internet in rather breathless terms, the truth is it's a communications tool and a very powerful one. One question that immediately arises if we look back on this last election cycle concerns the relationship between off line and on line organizing efforts and so I wanted to solicit some comments from Mr. Eisen, Mr. Hoppin or Reverend Yearwood that might help us understand more clearly the role, the intersection here between what was going on on line and what was happening in terms of the person to person organizing efforts and certainly, your comments, Mr. Eisen got into some of that.

Norm Eisen:

We attempted to make it a continuous feedback loop where the on line and the off line would feed each other. It picked up — as I said, there were frustrations with how well that was working and just the cost of building really a 21st century on line operation which is not inconsiderable. But then once we picked up momentum, once we had the breakthrough in Iowa that really did work so you would get, you know, instant feedback. You'd have people sign up on Tuesday on the Internet and Wednesday, they would be knocking on doors, and conversely, we would go door to door in Iowa and we'd fill out these pledge cards and the youngsters would stay. We'd bring them back at the end of the day, come straggling in at 8:00, 9:00 with these cards, and the youngsters would stay there and enter that data. They would update it all those people would be on our e mail list by the time you came back the next morning. And you would come back to these doors and they would say oh, I started getting e mails from you. We attempted to the start a virtuous cycle. Now thinking about ways to do that in government — in government as well.

Laura MacCleery:

Reverend Yearwood, did you want to add anything.

Lennox Yearwood:

No. It's important to know that a lot of communities are facing that institutional void. A lot of them are not in the churches or the mosques or synagogues or in the unions or community centers and so within that, the off line and on line component is very critical, particularly for the generations born in the '80s, '70s and even to some degree the '60s, as well. So the off line/on line process is critical because it actually creates an institution to some degree. It actually creates a place where they can almost gather so you used to do these things in the church or a synagogue or a mosque or you used to do this thing in the community center, the off line/on line community actually had not in essence created its own institution which is very important but very scary. One of the things we say, mentioned about YouTube, that's obviously our generation and it will be not televised. It will be uploaded, you know, so I just wanted to say that's a very important piece.

Let me just say one thing that I didn't mention with the actual — with the Fair Elections Now Act which is in the house. It's H.R. 1826, but I just wanted to mention one of the key things why this is so important with the off line on line component. It changed the paradigm. It goes from a small number of large donors to a large number of small donors. So there's a paradigm shift and I want to make sure so the off line/on line process enforces and promotes more of the large numbers of small — because then obviously that makes it so that I just can't sit up here and find four white guys to give me some money and run an election and then you go out there and find all of you and I'm just the guy who wins because I just found four guys who've got a lot of money. You then because you've gotten all of you together and small donors so you have encompassed that, I then am now forced out of that model. I can't wear the fur coat in Iowa and show up, which is the old model, me just coming up here and finding a candidate who looks good but behind him is these four money people. You now have then gone out and you now have touched this entire audience and gotten each one to give you up to \$100. You now become the one who changes and you now become the one who has the power to change our process.

Michael Malbin:

I just want to add Lennox has more credibility on this because when you were doing all your Twitter speak, he knew what you were talking about.

[LAUGHTER]

Lennox Yearwood:

And was Twittering actually. Trying to at least.

Laura MacCleery:

So we have the small donor revolution is a reality and we have this inversion of the paradigm really of you know, the low cost of communication on the Internet making it possible really to move to a mass and more collaborative mode of campaigning. Andrew, did you want to speak to this in terms of the governance paradigm and the challenges there.

Andrew Hoppin:

Yeah. I mean, I'm a huge believer in using all my tools to do off line organizing, right, to get more people together more easily, more quickly, learn more about it, you capture more data. It's very powerful. What I think is interesting in the context of new technology and an off line organizing, though, is back to Twitter that some the — some of what's powerful about getting together off line and meeting each other face to face and building that kind of relationship which leads to giving campaign contributions and gives you all the sort of experience of being a human being that doesn't come from just reading or listening to somebody on TV, that's actually making its way back to the on line world in an interesting way, specifically with Twitter. So Twitter is, you know, it's a way to send pithy little updates about what you are doing moment and moment, and it's the sort of raw, unfiltered, near real time experience of somebody else's life if you are paying attention to somebody's Twitter feed, and that, I think, is certainly doesn't supplant but it certainly does augment our ability to feel like we know a person in public life, an elected official, a candidate and some candidates particularly at local levels actually in New York State are starting to use that technology to really build closer relationships with constituents in a way that I think is going to build more de facto one to one relationship us that might have heretofore only get by going to a town hall or knocking on people's doors. I think that's interesting in terms of who it empowers and enables to be a viable candidate.

Laura MacCleery:

Great. Well, I think we can take one question. Do we have a microphone set up, Zach? Great, thank you, Monica. So this is [Monica Youn], an attorney who is actually a litigator defending public financing in several states as we speak but she's going to do us the job of running the mic. We can take one question. We've got a question here. Monica, down in front. Andy is another attorney with the Brennan Center, so we really put our attorneys to work.

Question:

There's a feedback loop that we're missing here and that is that there are consequences to the status quo of big money and the effects in terms of policy in people's lives and the wars and everything going on. To a great extent, that's part of the reason why Barack Obama was so successful in getting all of those small contributors, because he was seen as the antithesis of the status quo. And that includes the Republicans and Senator Clinton. Therefore, what I would Norm is to what extent is he going to use his influence on Obama, which I'm sure he has lots of, to use his bully pulpit to educate — to have some — a series of policy speeches on these topics of money in politics to get the electorate more incensed so that that tsunami, that perfect storm can happen in 2010 into 2012.

I think you get the question.

Norm Eisen:

I think I get the question, yes.

[LAUGHTER]

The answer to the question is, is that the president is not — is a very sophisticated communicator, and is not only going to use the bully pulpit of speeches and it's very interesting that you point to the bully pulpit, which is a TR, a Teddy Roosevelt formation because I think the last time we've had a reformer in the oval office, in the White House at least, the last time really we've had somebody who but for his busy schedule would be in the audience here today and was, you know, an active participant in reform discussions over the past 20 years. Made many a trip to Brookings, for example, he was a favorite to talk about these issues there — was Teddy Roosevelt who used the bully pulpit. But like Teddy Roosevelt, the president understands that you don't only communicate through your speeches and he, by the way, continued to be vocal and really has focused on the role of special interests and the theme of the special interests and the public interests and has not let up one whit in focusing on lobbyists' role. That really has been a theme of the first 100 days, but you don't only talk about it.

You also address it in your policies which is why we've had a series of policies. Again, really to pick up on this theme, not only the executive order which he signed, you know, right after swearing all of the senior staff in. CNN was there and then he signed the executive order on ethics. He followed with the policy restricting setting up the restrictions and the rules for stimulus lobbying, and then so you talk. You act, and then the third part of powerful communications is you inspire a discussion so there was an article a couple weeks ago in “The New York Times” that was above the fold that was critical, predominantly critical of some of our own. It had some praise in it, too, of some of our lobbying rules, but I was fascinated that day because on the far left of the front page of “The New York Times,” you had a column with that article and then on the far right, you had another article about that had to do with lobbying that was critical of the lobbyists. And if you had any doubt that we had driven the conversation and the public debate, you only had to flip back to page A18 where both articles were continued next to each other, side by side. So that is the third part of the effective communication and I guess the only other thing that I would add to that is the best is yet to come. We're going to continue this fight. We are not going to stop. We are not going to quit no matter what.

Laura MacCleery:

You heard it here, folks.

[APPLAUSE]

We can do one more question if there is interest.

Bob Stern:

Hi. I'm Bob Stern. I'm with the Center for Governmental Studies of Los Angeles and was working on campaign finance with Henry Waxman back in 1971 when he was in the legislature, and I was interested, Tom, in your comments and particularly, I was looking at the report saying that high contribution limits don't have a meaningful impact and that in California, we were thinking of lowering our very high contribution limits to what the federal limits are for legislators. I gather what you're saying is it's not going to have much of an impact on competition. Is that correct?

Thomas Stratmann:

Yeah. That's right. I mean, basically, the study clearly shows that only if you lower the contribution limits significantly to about \$500 or less, you will have the big bang for the buck. If you have high limits, basically like \$2,000 or \$3,000, basically, you maintain the status quo, and that is because incumbents often get — it's in a handful of states including California to get moneys at about \$1,000 or \$2,000 and the limit only bites if they actually can obtain less money.

Laura MacCleery:

So I'll just note as well, Bob, that you know, this concerns the impact on competition per se in terms of vote ranges between incumbents and challengers, but we don't really know the question that I was posing earlier, which is what lowering of contribution limits encourages a change in political incentives to create energy around recruiting smaller donors as opposed to just large contributors so you know, there may be some benefits that we're not capture in this study. I would hate to discourage you from your efforts of lowering contribution limits. Well, thank you so much. We will be reconvening in just five minutes or so. We'll take a very short break and then we will have our democracy director at the Brennan Center, Susan Liss who will introduce our keynote speaker, professor Lawrence Lessig.

[APPLAUSE]

Susan Liss:

I'd like to welcome you all back and urge to you take your seats, those who have not yet. I am Susan Liss and I'm director of the Democracy Program at the Brennan Center and our campaign finance work falls under our side of the aisle called Democracy and so I I'm incredibly thrilled to be working with fantastic colleagues and I really want to thank all of my colleagues who have put this program together today. My mind is just twirling on the things that we can do and we've only had one panel and two wonderful kickoff speakers. I'm here to introduce our keynote, and we are delighted and honored that professor Lawrence Lessig from Stanford Law School has been willing to fly across the country to share his knowledge with us. I know many of you are very familiar with his contributions to this field all right. He is currently a professor of law at Stanford Law School and the founder of the school's Center for Internet and Society, and he is one of the foremost intellectuals on intellectual property and intellectual property law and the Internet and from what I understand that tremendous knowledge base has segued into a fascination and interest

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with these very important underlying issues involving campaign finance reform. He will be moving to Harvard to start a study on ethics and to start a center on ethics and institutional corruption in the fall, and we are really very honored and so pleased to welcome him here and thank him for coming.

[APPLAUSE]